

Peter C. Kratcoski

# Correctional Counseling and Treatment

*Sixth Edition*

 Springer

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ISBN 978-3-319-54348-2      ISBN 978-3-319-54349-9 (eBook)  
DOI 10.1007/978-3-319-54349-9

Library of Congress Control Number: 2017935719

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Printed on acid-free paper

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The registered company is Springer International Publishing AG

The registered company address is: Gewerbestrasse 11, 6330 Cham, Switzerland

*This book is dedicated to the memory  
of my brother, John E. Kratcoski*

# Preface

*Correctional Counseling and Treatment*, Sixth Edition, is designed to provide information on the counseling and treatment methods currently being used in community and institutional corrections in the United States. The treatment methods and approaches that are most often used by criminal justice agencies are presented. The book is not comprehensive, since some treatment and counseling methods are not included. Those that appear to be the most useful to correctional personnel who provide supervision and counseling to those under supervision of justice agencies are examined. The treatment methods presented in the chapters and illustrated through information obtained from interviews with practitioners employed in criminal justice agencies appear to be those most relevant to the current practices of correctional agencies.

In the Sixth Edition of *Correctional Counseling and Treatment*, all of the chapters are new and original, written by the author of the book or by invited authors.

When the first edition of *Correctional Counseling and Treatment* was published in 1981, there was a debate over the purposes and effectiveness of correctional treatment. Kratcoski (1981, p.vii) noted, "A key element in the controversy that has arisen over the comparative effectiveness of various treatment programs is the fact that the purpose of correctional treatment has come to be regarded as prevention of recidivism." This statement on the purposes of corrections was not accepted by everyone. Kratcoski, (1981, p.vii) noted "At that time, many of the persons employed in correctional agencies maintained that the goals of correctional treatment must be more broadly defined, and that successful treatment should be measured not only in terms of a lack of recidivism, but also by such progress as improved mental health, ability to perform adequately in a work situation, successful adjustment in the community, and appropriate handling of interpersonal relationships."

The debate over the purposes and effectiveness of correctional counseling and treatment continued during the latter part of the twentieth century. The direction the criminal justice system took in regard to punishment and treatment of juvenile and

adult criminal offenders was influenced by research conducted at that time that supported the contention that the treatment of offenders in the least restrictive setting possible would, in the long run, be likely to lead offenders toward becoming productive members of the community and help create a more secure society than if offenders were harshly punished through long sentences in correctional facilities.

In 2004, the year the fifth edition of *Correctional Counseling and Treatment* was published, it was noted by Kratcoski (2004, p. xiii) that, "The trend in recent years toward determinate sentencing and retributive justice seemed for a time to reduce the importance of treatment and counseling in corrections. However, when prisons became overcrowded alternatives to the handling of criminal offenders had to be found. This corrections dilemma had the latent effect of stimulating the development of new innovative approaches in community corrections and growth of the use of tried and trustworthy older approaches to community corrections. New community based programs, often labeled 'intermediate sanctions,' emphasized 'enhanced' supervision and mandatory involvement in treatment programs. Although the strongest emphasis of these programs was on supervision of the offender, the treatment goals of the programs were also apparent."

The current emphasis in corrections embraces many of the original goals. However, the goals have been expanded, and new approaches to providing supervision and treatment have been added. The emphasis on providing restorative justice in the processing of juvenile and criminal offenders through the criminal justice system has continued and gained widespread acceptance during the first part of the twenty-first century. This approach addresses the needs of the offender, the needs of the victim, and the needs of the community in the decisions pertaining to the treatment and sanctioning of offenders, and attempts to balance the treatment goal of corrections with appropriate sanctioning of the criminal offenders in the correctional process.

Closely related to the restorative justice approach is the recognition that victims of crime have rights and that these rights of victims should be considered in any decisions made regarding the processing of criminal offenders. Recognition of the rights of victims to be present or heard at any stage of the processing of criminal offenders has had an effect on the types of sentences convicted criminal offenders receive and the provisions of their sanctions.

The emphasis on restorative justice has resulted in the creation of many new programs and approaches to the processing of offenders. The mental health approach in the treatment of some categories of offenders, particularly the mentally ill, homeless, and substance abusers, has gained more acceptance by the legislators who provide funding for special programming for such offenders as well as by law enforcement agency personnel and judicial officials. Programs and special courts for the mentally ill, drug and alcohol abusers, some categories of sex offenders, abusers of family members, mentally disturbed military veterans, and others have been established. The goals of these special programs are to provide counseling and treatment for the purpose of rehabilitating these offenders by diverting them from criminal justice processing or by having them processed and treated in community-

based programs. If they are sentenced to prison, special treatment programs for these offenders have been established in institutions.

During the first part of the twenty-first century, many new approaches to correctional treatment and programs have been created. The large majority of these pertain to community corrections, with the emphasis on diversion and programs for special problem offenders.

The current emphasis on providing community sanctions, such as probation, or commitment to a community-based residential treatment center in place of sentencing to a correctional facility for a large number of offenders, particularly, those convicted of minor drug offenses, has led to questions about the effectiveness of the treatment programs provided. Critics of those who embrace the treatment (rehabilitation) approach to corrections can cite numerous correctional treatment programs started in the past that, despite the huge amounts of funding given to implement and operate the programs, showed minimal positive results when critically evaluated. The current emphasis on evidence-based programming has gone a long way toward reducing the probability that a new approach to correctional treatment and the establishment of programs will result in failure. Currently, proposals for federal and state funding require pretesting and evaluation before being fully implemented. It must be shown that they are based on theory and research. For example, institution of a statewide case management system for probation may take several years of evaluations and feedback before the final version is decided upon and adopted.

Kent, Ohio  
February 2017

Peter C. Kratcoski

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# Acknowledgments

The writing of this book would not have been possible without the assistance of the many individuals who contributed their time and ideas and who provided invaluable information.

Special thanks is extended to Susan Crittenden, Debra White, and Susan Worstall. These former Kent State students had illustrious careers working with either federal or state correctional agencies. When asked to co-author a chapter for this book, they eagerly accepted the offer. There is no better way to learn about an occupation than to gain knowledge about the work through experience. If this is not possible, a second approach is to have an experienced worker provide the information.

In addition to those who contributed to the book by writing a chapter, there were many others who contributed by way of interviews or provision of forms, documents, policies, and information on programs. I am proud to announce that many of these individuals were my former students at Kent State University or are current students. They include:

Dr. Thomas Anuszkiewicz, president of Marion Psychological Services and psychologist in Stark County Jail

Melissa S. Bleininger, student, Kent State University

Jennifer Boswell, reentry specialist, Ohio Department of Rehabilitation and Correction

Christa Cross, chief forensic interviewer, Stark County Job and Family Services

Kelly Crawl, police officer/student resource officer, Louisville Police Department, Louisville, OH, Kent State student

Arlune R. Culler, program director of Intensive Supervision Probation, Stark County, OH, Adult Probation Department

John G. Haas, judge of Stark County Common Pleas Court, former judge of Drug Court

Alison Jacob, director of Day Reporting Program, Stark County Common Pleas Court

James J. Lawrence, president and CEO of Oriana House, Inc.

Stacie Manfull, coordinator of Victim Services-Adult Division, Prosecutor's Office  
Stark County

Allison Pollard, student, Kent State University

Susan Watkins, municipal court/youth court judge, Independence and Jackson  
County, MO

Special thanks to Katherine Chabalko, editor of Springer, Inc., for her invaluable guidance and to Neil and Carol Rowe of Waveland Press, Inc., for their support in publication of the earlier editions of *Correctional Counseling and Treatment* and facilitation of the production of this sixth edition by Springer, Inc.

And very special thanks to my wife, Lucille Dunn Kratcoski, for her assistance and support during the many years we have co-authored books, book chapters, and journal articles.

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## Contributors

**Susan Crittenden** was born and raised in Lodi, Ohio. After graduating from high school, she attended Kent State University and earned a bachelor of arts in social work and a master of arts in corrections. She began working for the Dallas County (Texas) Adult Probation Department in 1981. She was employed with that department until her retirement in 2008. During her many years of service, she served as a line probation officer and as a supervisor in several different departments. She has been a consultant/trainer for the state of Texas and has been a speaker at various functions during the course of her career.

Susan has presented papers at professional conferences and has co-authored several publications. She is currently employed as a part-time collection specialist with the Dallas County Community Supervision and Corrections Department.

**Debra White** received her bachelor of arts degree in criminal justice and her master of arts degree in criminal justice from Kent State University. Prior to assuming her position as a probation officer with the US Probation Office, she served as a correctional officer and case manager at the Federal Correctional Institution located in Morgantown, West Virginia. She resigned her position with the Federal Bureau of Prisons and accepted a position with the US Probation Service, Youngstown, Ohio district, in 1989. She retired from the US Probation Service after completing thirty years of probation work. She is currently employed as a caseworker manager for the Community Corrections Association located in Youngstown, Ohio.

**Susan Worstall** received her bachelor of arts degree and master of arts degree from Kent State University. Both degrees were in corrections. She served as a probation officer with the Summit County (Ohio) Adult Probation Office from 1981 to 1991. She was employed with the US Pretrial and Probation Service from 1991 until her retirement in August, 2014. During her employment with the US Pretrial and Probation Department, Northern District Headquarters, located in Akron, Ohio, she served as a probation officer and as a probation supervisor.

## About the Author

**Peter C. Kratcoski** earned a PhD in sociology from Pennsylvania State University, University Park, Pennsylvania; an MA in sociology from the University of Notre Dame, Notre Dame, Indiana; and a BA in sociology from King's College, Wilkes-Barre, Pennsylvania. He was selected for several postdoctoral grants by the National Science Foundation. He taught at the College of St. Thomas, St. Paul, Minnesota, and at Pennsylvania State University before assuming the position of assistant professor of sociology at Kent State University in 1969. He retired as professor of criminal justice studies and chairman of the Department of Criminal Justice Studies at Kent State University in 1997, where he is currently a professor emeritus and adjunct professor. He has published many books, chapters in books, and journal articles in the areas of juvenile delinquency, juvenile justice, international policing, crime prevention, corrections, and victimology. His most recent writing and research have centered on juvenile justice, collaborative policing, correctional counseling, financial crimes, corruption and fraud, and victimization of the elderly.

# Part I

## Correctional Counseling and Treatment: Past and Present

In this part, the history of correctional treatment is reviewed and the economic, social, and political factors that had an influence on the way the criminal justice system responded to those who commit criminal offenses are explored.

In Chap. 1, the goals of correctional treatment and the techniques used to assist correctional workers in the achievement of the goals are delineated. These goals are broadly defined in terms of assisting the offender in establishing a lifestyle that is personally satisfying and conforms to the rules and regulations of society and protecting the community from the harmful activity of offenders. The models of treatment that have been utilized to punish and rehabilitate criminal and delinquent offenders are explained. The “medical” model, with its concentration on treatment, that was emphasized during the 1960s gave way to the “just deserts” model and the “justice” model during the 1970s, as the crime rates and fear of crime increased and crime control became a theme used by politicians seeking election to political offices. The change in emphasis was reflected in the passage of new laws that provided for mandatory prison sentences for certain categories of offenses and a de-emphasis on providing treatment programs in prisons and in community corrections. In the late 1990s and up to the present time, a different model, referred to as the “restorative Justice” model, gained much support from criminal justice personnel and legislators. This approach combines the treatment and punishment models.

In Chap. 2, the restorative justice model is explained. Under this model, the criminal offender, the victim, and the community are involved in the offender’s rehabilitation process. The offender is held responsible for the harm caused to an individual or the community and must compensate for the crime in some way, either through monetary payback or service to the community.

The restorative justice movement in the United States was the result of a number of factors, including the realization that neither the punishment oriented models nor the treatment oriented models by themselves produced the results desired.

The restorative justice model attempts to provide a balance between the needs of the victim, the needs of the offender, and the needs of the community.

Several of the programs used in restorative justice include mediation, compensation, restitution, and family group counseling. These approaches to balancing the

treatment and punishment given to offender are grounded in-evidence-based programs.

In Chap. 3, the emergence of victims of crime as a key component of the criminal justice process is explored. The movement toward assisting victims of crime and guaranteeing rights for victims of crime is closely tied in with other movements that occurred in the United States during the latter half of the twentieth century.

As the mass media drew attention to the inequalities of the justice system, the needs of minorities, women, children, and other groups, the victims of crime gained attention. Federal and state legislation passed in the 1970s and during later years provided funding for the implementation of victim services programs and also provided opportunities for the victims of crime to take an active part in the criminal justice process, rather than merely fulfilling their tradition role of being witnesses.

# Chapter 1

## The Scope and Purposes of Correctional Treatment

### Introduction

This book is designed to present and describe some of the counseling and treatment techniques that are available to assist correctional workers in accomplishing the goals they have established for their work. These goals are broadly defined as (1) to assist the offender in establishing a lifestyle that is personally satisfying and conforms to the rules and regulations of society and (2) to protect the community from harmful activity by offenders placed under correctional workers' supervision. These dual demands of correctional work—to provide assistance, counseling, and treatment and, at the same time, to act in a manner that will minimize the offender's threat to the community—are present for correctional workers who serve as youth counselors, correctional officers, probation officers, juvenile aftercare supervisors, parole officers, social workers, psychologists, or coordinators of educational or employment programs.

**Definitions of Corrections, Counseling, Treatment, and Rehabilitation** The concepts corrections, counseling, treatment, and rehabilitation can assume different meanings, depending on the context in which the terms are being used and the person who is using the terms. In the most general sense, the term *correction* refers to changing a mistake made by another. For example, a student may correct a professor who provides information on a subject that the student knows to be false, or a newspaper reporter who wrote a story about a person or event before carefully obtaining the facts may later have to retract false information in the story. As with the concept *corrections*, the term *treatment* can convey many different meanings. For example, if prison inmates were asked if they were given any treatment, they might think of the times they were intimidated, shunned by other inmates, or harassed by correctional officers. The administrator of a correctional facility might think of treatment in terms of any type of planned activity that is used to maintain security and control of the inmates. Those employed in an institution may have different perceptions of treatment, based on their positions and duties.

Correctional workers within the same institution may consider methods used to maintain order and control over the inmates as a form of treatment, while a professional social worker or psychologist is likely to define treatment in terms of specific planned intervention techniques that are used to bring about the desired changes in the behavior of the inmates. In this sense, the treatment is being given by a person who has been trained in administering treatment modalities. The term *counseling* can also take on a variety of meanings and must be interpreted within a specific context. In a general sense, to counsel is to give advice or to provide some information that will assist the person being counseled in making a decision on working out a problem. A counselor does not have to be professionally trained. For example, a parent giving advice to a child or a friend providing a person some advice on the course of action to take in trying to solve a problem is providing counseling. Within the field of corrections, counseling and treatment are very closely related. Counseling of some type may be employed as one of the treatment modalities used in the correctional process.

Generally, counseling and treatment are not guaranteed as rights to those accused of a criminal offense or those convicted of a criminal offense. However, there are exceptions. For example, a person accused of a crime who is destitute and cannot afford an attorney is guaranteed the right to have appointed counsel. If the accused is suspected of being mentally ill or incompetent, the state must provide a psychologist or psychiatrist to conduct an evaluation to determine if the person has the mental capacity to distinguish between right and wrong. In the examples given above, the counseling and treatment being provided do not specifically focus on the correction of the person's behavior. However, it is important to note that some form of counseling and treatment may be employed throughout the criminal justice process, and, as will be shown in later chapters, even those who are diverted out of the official justice system may be required to engage in some form of counseling and treatment, such as being required to perform community service or engage in drug or alcohol counseling as part of their official sanction.

Finally, the term *rehabilitated* is used to show that the counseling and various forms of treatment used in the correctional process were instrumental in some way in bringing about desired changes. The criminal offender is now ready and willing to function in society in accordance with the standards and laws of that society.

According to Allen (1964), the theoretical basis of rehabilitation is a complex of ideas that assumes human behavior to be a product of antecedent causes that are in turn part of the physical-social environment. This idea also presupposes that, given knowledge of the causes of human behavior, it is possible to control human behavior scientifically. Measures designed to treat the convicted offender should therefore serve a therapeutic function and should effect changes in his or her behavior that will be in his or her own best interests.

The notion of correctional rehabilitation as a return to a point in an individual's development when his or her behavior was satisfactory has been challenged by those who have observed that many offenders never experience anything in their lives resembling satisfactory adjustment and that such persons are candidates for "habilitation" rather than rehabilitation. "Habilitation" here would refer to

familiarity with and adjustment to normal society and the holding of values in line with the norms and laws of the community. Correctional work concerned with “habilitation” could well involve an attack on the causes of an individual’s poor adjustment to society (family problems, unemployment, lack of education) in addition to guidance toward acceptable behavior.

**Correctional Treatment Seen as Activity with the Goal of Rehabilitation** Correctional treatment can be defined as any planned and monitored program of activity that has the goal of rehabilitating or “habilitating” the offender so that he or she will avoid criminal activity in the future.

Correctional counseling and treatment are often provided by a government agency (federal, state, or local) that has the responsibility to control offenders. Although the majority of delinquent and criminal offenders receive this treatment from persons employed by government agencies, there has been a significant trend in recent years toward contracting correctional or counseling services with private agencies or corporations. As a result, many of the professionals who work with offenders have credentials in fields other than criminal justice and corrections, including psychology, rehabilitation counseling, education, sociology, and social work. Occupations that involve some contact with offenders through counseling or treatment activity also include parole officers, child welfare caseworkers, recreation leaders, social group workers, academic teachers, vocational instructors, correctional counselors, and psychiatrists.

Traditionally, the correctional worker’s role was viewed as one of supportive assistance and surveillance supervision. The correctional worker had to balance these two facets of the role and decide whether allowing certain behavior to occur was in the best interests of the offender or of the residents of the community.

Over the years, the goals of corrections have not changed appreciably, but the methods used and the emphasis on certain elements of corrections have undergone considerable alteration. No individual type of treatment has proved to be a panacea for reducing criminal activity. A debate has raged regarding the possibility that correctional treatment may be ineffective in reducing recidivism (additional criminal behavior) by those who receive it. If this is true, should correctional treatment attempts be abandoned, or is a lack of recidivism by offenders the only factor to be considered in assessing treatment success? Is partially successful adjustment of the offender to his or her social environment justification for providing correctional treatment, even if some recidivism does occur? We must also consider another question that has gained considerable attention in recent years—is the application of correctional treatment better or more effective in changing offenders’ behavior than doing nothing at all? If so, should we revert to a punishment-centered correctional philosophy?

Correctional treatment and the possibilities for rehabilitation of offenders came under scrutiny in the 1970s when Robert Martinson, a sociology professor, wrote a series of articles that described and commented on his extensive examination of correctional treatment programs in English-speaking countries in the years 1945 through 1967. While the evidence presented in these articles was grounded in



empirical research and eventually published in the book, *The Effectiveness of Correctional Treatment* by Douglas Lipton, Robert Martinson, and Judith Wilks, their conclusion that “with few and isolated exceptions, the rehabilitative efforts that have been reported so far have no appreciable effect on recidivism” (Lipton, Martinson, & Wilks, 1975, p. 15) created a furor in correctional circles. Those who felt that the criminal justice system had gone too far in terms of protecting the rights and interests of offenders at the expense of the victims of crime seized upon the authors’ conclusion, simplified it to contend that “nothing works” to change the behavior of criminals, and used this contention as the basis for calls to abandon the efforts to rehabilitate offenders and to focus instead on harsher punishments.

There is no doubt that *The Effectiveness of Correctional Treatment* (Lipton et al., 1975), and the (Martinson, 1974) publication known as “The Martinson Report,” had a strong impact. The trends away from probation and toward sentencing to institutions called for determinate sentences, and shifts in emphasis in many correctional programs to punishment rather than rehabilitation closely followed circulation of the view that “nothing works” or that very little can be done to change the behavior or offense patterns of juveniles or adults who have been involved in offenses serious enough to warrant their formal handling by the justice system.

When Adams (1976) systematically compared the evaluations of specific programs cited in *The Effectiveness of Correctional Treatment* with evaluations of the same programs by other researchers, he found considerable variations in the conclusions reached regarding the effectiveness of the programs. For example, Palmer (1978) reported that 40% of the 231 program evaluations in *The Effectiveness of Correctional Treatment* showed at least partial positive results and termed them “partially or fully successful,” while Martinson characterized the same programs as “few and isolated” instances of success. In addition, Adams (1976) concluded that the key factor in programs that achieved some success was the change agent—the rare individual who could inspire, goad, coax, frighten, or bully an offender enough to make him or her change.

Martinson continued to explore the degree of success of correctional treatment programs. In the article, “New Findings, New Views: A Note of Caution Regarding Sentencing Reform” (Martinson, 1979), he reported the results of additional research, which included not only evaluative research studies that matched control groups with the experimental groups receiving treatment but also studies that reported on the progress of sentenced offenders. Believing that the term “recidivism” was a confusing one, Martinson (1979, p. 257) systematically compared the evaluations of specific studies, with “reprocessing” defined as “subjecting an offender to further arrest, conviction or imprisonment.” Based on his new information from 555 studies, Martinson retreated from his earlier conclusion that “with few and isolated exceptions, the rehabilitative effects that have been reported so far have no appreciable effect on recidivism.” Instead, he declared that some programs were beneficial, others were neutral (had no impact), and still others were detrimental. He identified the key factor in the success of treatment programs as the “conditions under which the program is delivered.”

Gendreau and Ross (1987) reviewed the research pertaining to offender rehabilitation for the period of 1981 through 1987. They assessed the literature that pertained to the effectiveness of a wide variety of treatment programs. They concluded that the “nothing works” statement on the effectiveness of treatment programs was fallacious. They also discovered that many innovative approaches being used in correctional treatment showed great promise. Some of these approaches were not being used during the period when Lipton, Martinson, and Wilks conducted their research.

Gendreau and Ross (1987, p. 395) summarized their findings by stating, “It is downright ridiculous to say ‘nothing works.’ This review attests that much is going on to indicate that offender rehabilitation has been, can be, and will be achieved. The principles underlying effective rehabilitation generalize across far too many intervention strategies and offender samples to be dismissed as trivial.”

Palmer (2000) reviewed the debate sparked by Martinson’s findings and concluded that two quite divergent points of view regarding the effectiveness of correctional treatment emerged in the late 1980s. Those who belonged to the “skeptical” camp concluded either that rehabilitation should be given a minor role because it held little promise or that the research into its effectiveness or the implementation of rehabilitation programs was so flawed that we do not know if it can work. In contrast, Palmer’s “sanguine” camp maintained that some programs have been shown to work with certain offenders, even though many or most offenders will not be positively affected. The specific approach and external conditions were viewed as the key factors that dictated whether offenders would respond positively, neutrally, or negatively to treatment programs.

## **Punishment vs. Treatment**

In *We Are the Living Proof*, Fogel (1975) noted that two camps developed in regard to the advisability of undertaking rehabilitative correctional treatment with all types of offenders. One side, disillusioned by revelations of the inadequacy of policies in criminal justice and corrections and buttressed in its arguments by high crime rates, citizens’ fear of crime, and the apparent ineffectiveness of correctional treatment in preventing recidivism, advocated a very punitive, severe sentencing approach. The opposite camp had not given up on the possibilities of effective correctional rehabilitative treatment but contended that the failure of correctional policies and programs was linked to inadequate resources, poorly trained personnel, political interference, and the existence of huge, brutalizing, and dehumanizing prisons, which were schools for crime. This group was convinced that, with improvements in these areas, attempts at rehabilitative correctional treatment could still be successful.

**The Justice Model** Between these two points of view, Fogel saw an approach that would place renewed emphasis on an offender’s responsibility and accountability

for his or her actions, coupled with an emphasis on rehabilitative treatment that is *available* but not *mandatory*. Fogel (1975, p. 247) termed this the “justice model for corrections.” In this model, “justice and fairness should be the goal of all attempts at corrections and all agencies of criminal law should perform their assigned tasks with offenders lawfully.” Fogel addressed the area of the offender’s responsibility for his or her actions and noted that restitution might often be substituted for harsh punishment, depending on the nature of the offense. He suggested an alternative to indeterminate sentences. In their place, Fogel advocated a return to “flat time,” a set length of time in prison, which could be shortened only by good time (lawful behavior credit), not by participation in treatment programs. This justice model, which emphasizes responsibility under the law, could reasonably be applied in programs outside institutions, including probation, parole, and community residential programs.

Many states and the federal prison system were quick to accept the assumptions underlying the “justice model” and proceeded to adopt determinate sentencing policies for all convicted offenders (Champion, 1990, p. 123). Other states, while not totally eliminating indeterminate sentencing, instituted measures that tended to reduce the emphasis given to the treatment and rehabilitation of convicted offenders and increased measures to deal more harshly with them (See Hamm, 1987; Moore & Miethe, 1987).

The enthusiasm for the “justice model” waned somewhat as a result of the increasing evidence that determinate sentencing did not produce the anticipated results. For example, Wakefield (1985), who surveyed sentencing reforms for 44 states, found that, rather than being treated more harshly by being given longer sentences, the lengths of the sentences given to drug traffickers were actually shorter than they were before the sentence reforms were instituted.

Treatment programs for convicted offenders did not disappear. As the evidence accumulated that much criminal activity is directly or indirectly related to such factors as substance abuse, illiteracy, mental illness, or unemployment, which must be addressed if there is any hope of the offender becoming a productive person, the number and variety of treatment strategies employed increased. While the justice model proposes a “no right to treatment” policy and maintains that convicted offenders under local, state, or federal supervision either in institutions or in the community should not be required to become involved in treatment programs, correctional agencies in the United States have not abandoned the concepts of treatment and rehabilitation. In the late 1990s and early 2000s, some reemphasis on treatment and rehabilitation began to occur, and the “restorative justice” model, which sought to balance treatment and punishment, emerged. In some instances, the nature of offender programs changed. Many of these programs appear to be punishment rather than treatment oriented, but they are well-thought-out projects that are geared toward making the offender accept responsibility and become disciplined and self-reliant. No one says treatment has to be pleasurable. The definition of treatment has also been expanded so that work and educational programs are now encompassed under the treatment label.

Work- or education-related rehabilitation activities have been shown to be the most conducive to preparing inmates for successful adjustment in the community after release. Those directly involved in corrections, from the institutional administrators to the corrections officers, realize that the prison experience must include elements beyond punishment. Inactivity and boredom contribute strongly to prison disruptions. Involvement of the inmates in some type of productive activity, such as prison industries or educational programs, has benefits for both the system and the inmates.

Seiter (1990, p. 12) described how federal prison industries (FPI) have provided productive work programs for the Federal Bureau of Prisons. He noted that the FPI operates much like a business, but “nevertheless, it is not ‘in business’ to maximize profits, but to fulfill its correctional mission of employing and training inmates.” There are thousands of inmates employed in federal prison industries, and hundreds of products are manufactured in the various industries housed in the federal prisons located throughout the United States. The products include textiles (mattresses, clothing, sheets, towels), wooden furniture, metal lockers and seating, and complicated electronic equipment such as data input systems. Prison industries are also found in the state prison systems. However, they generally are not as developed as those in the federal system, and they do not offer the number and variety of jobs present in the federal prisons. The scarcity of prison industry jobs and other work programs often leads to situations in which two or three persons may be given part-time work assignments for work that one person working full-time could effectively handle.

Among offenders housed in correctional institutions, as well as in the case of convicted felons under community supervision, the problem of illiteracy exists. This makes it difficult for them to complete forms or even read written rules and regulations, and their opportunities for meaningful employment are minimal. Some states and the US Bureau of Prisons have instituted mandatory educational programs for the functionally illiterate.

The halfway house movement, which began in the 1960s under the sponsorship of religious or public service groups and initially involved providing for the basic physical needs of homeless or alcoholic individuals, enjoyed a renaissance in the 1990s as another type of treatment program designed to meet the needs of offenders and correctional institutions. Courts began to place offenders in halfway houses as a last resort before incarceration (halfway in); parole authorities allowed certain offenders to live in such settings before they were returned to the community and independent living (halfway out). As government agencies and private foundations offered grants for the development of such facilities to local communities, residential treatment began to emerge as the new hope for correctional treatment. The small-group setting characteristic of most residential treatment centers seemed to be ideally suited to using group treatment techniques, and new hope emerged for rehabilitative treatment in community settings. The lower cost of placing offenders in community treatment compared to institutionalization also has an appeal, and the possibilities for job placement or educational opportunities for offenders provided an added dimension.

**Role of the Correctional Counselor in Community Treatment** Today, the roles of correctional workers, particularly those who work in community settings, have become more complex. Very important facets of correctional counseling in community corrections are assessment, classification, and referral activity. In many instances a correctional counselor must be aware of the possibilities for referral and make decision as to the most appropriate therapy, rather than attempt personally to provide specialized types of counseling to offenders.

Correctional treatment personnel continue to serve many of their traditional functions in community treatment settings, but they are also called upon to assume other roles. One such role is that of “client advocate,” not in terms of taking an offender’s part in struggles against those in authority, but in terms of helping the client locate needed services and find the means to obtain such services. The treatment-oriented community corrections worker is called upon to act as a “service broker,” who discovers what is available and links those in need of specific services with the exact agency in the community that can provide those services most efficiently and effectively. Such activity presupposes that the community correctional workers have a great deal of knowledge and well-developed agency contacts. The types of services for which the “service broker” must have connections would include psychological testing and treatment, social welfare, vocational rehabilitation, and educational testing and placement. Telling offenders where to seek help at the exact time when they are ready or willing to accept it may be the key activity a correctional treatment counselor performs. In all of this coordination, the offender’s contribution and efforts toward self-help and self-motivated change cannot be overlooked. Now that the emphasis appears to be on “justice,” an offender who has received and accepted a just punishment for his or her misdeeds should also be able to expect a just and compassionate reaction to his or her efforts to secure treatment or assistance that, although no longer required or even regarded as a right of an adult offender, is available when sought in a sincere manner.

## **The Focus of Correctional Treatment**

When correctional treatment is discussed, terms such as humanitarian reform, corrections, rehabilitation, and treatment are often used interchangeably, creating some confusion as to just what correctional treatment involves. Also at issue is the part played by incarceration and mandatory supervision in the correctional treatment process.

Humanitarian reforms are usually thought of in terms of what directly benefits and affects the physical welfare of the offender. Such initial modifications of the penal system as elimination of long periods of solitary confinement, flogging, or bread-and-water diets obviously fall within this definition, as do more contemporary changes that provide recreational facilities for inmates and allow prisoners to wear personal clothing rather than uniforms. Such liberal practices as allowing attendance at college classes outside the institution and weekend home visits for

selected prisoners have caused some critics to observe that humanitarian reforms have gone too far and that the “country club” atmosphere of many institutions has minimized or virtually eliminated the impact of incarceration as punishment. Such thinking ignores or downplays the importance of personal motivation as an important factor in correctional treatment.

As implied in the word itself, “corrections” means to change a condition that is considered to be undesirable or has been a mistake and to bring things back to a state that is considered desirable or appropriate. In the correctional process, measures are taken to change the behavior of the offender to that which conforms to the standards and laws of society. Corrections involve care, custody, and supervision of convicted offenders who have been sentenced or whose sentences have been suspended. The correctional process can occur in a federal or state correctional institution, as part of parole from such an institution; in a local jail or workhouse; or as part of probation at the federal, state, or local level. With the advent of diversion, pretrial intervention, deferred prosecution, and similar types of programs, it is logical to say that corrections has an opportunity to occur at any stage within the criminal justice process after a contact has been made between the offender and a law enforcement official. The primary goal of corrections is to change the offensive behavior of the offender to a behavior that is designated appropriate by the laws of society. Before the eighteenth century, punishment was considered the central ingredient of corrections in European countries. The dispensation of justice involved some form of physical torture or mutilation, banishment, or enslavement in galleys or on work farms. Prisons were used almost exclusively for those awaiting trial and for political prisoners. It was not until the eighteenth century that Cesare Beccaria (1738–1794) proposed the pleasure-pain principle—that is, that punishments should only be severe enough to deter offenders from repeating their unacceptable behavior (Sutherland & Cressey, 1974, p. 50).

At the same time, Jeremy Bentham (1748–1832) expounded his theory of utilitarianism in England. Both Beccaria and Bentham assumed that, given a free choice, a reasonable person would choose to avoid behavior for which he or she was sure to be punished. Bentham envisioned the prison as a correctional institution, located within the community, where citizens who had chosen to violate the law would be punished, while others would view the prison as a daily reminder of the penalties for violation of the law (Reid, 1976, p. 106). The idea that the punishment should “fit the crime” became an accepted part of correctional practice, and various types of prisons and workhouses were built for the express purpose of being correctional centers or “houses of correction.”

In the above context, “correction” did not include rehabilitation as a key component. As time passed, it became apparent that punishment alone did not guarantee a reduction in the criminal behavior of offenders, and there was gradual acceptance of the notion that those who eventually would be returned to society must be given some guidance and opportunities that would lead them toward a socially acceptable future lifestyle. While present-day “corrections” is not synonymous with “rehabilitation,” it is very closely linked to it.

In the late 1990s and early 2000s, a renewal of interest in community corrections and correctional treatment modalities occurred, with emphasis on close supervision and surveillance of those allowed to remain in the community instead of being institutionalized. The types of programs regarded as correctional treatment now include a variety of intermediate sanctions, such as shock incarceration, electronic monitoring, mandated substance abuse counseling/treatment, and activities provided at community corrections treatment centers. In addition, there is renewed interest in diversion, manifested in the advent of legislation that allows deferred prosecution for offenses; drug courts, which require that participants receive mandated treatment for their substance abuse problems; and the use of mediation as a means of diverting minor criminal offenders out of the criminal justice system. As a result of these changes in emphasis, the term “correctional treatment” must be viewed in a much broader context than in the past.

## **Assessment of the Effectiveness of Correctional Treatment**

Evaluations of treatment programs in corrections have generally focused on their effectiveness in reducing the criminal or delinquent behavior of those participating in the programs. However, administrators of correctional programs have come to realize that program assessment or evaluation can be useful in other ways, including development of new policies or modification of existing policies.

Generally, correctional treatment programs for which full or partial state or federal funding is being sought must contain some provisions for evaluation. Statistical reports, which concentrate on numbers of clients served, hours worked by staff, estimates of the number of community members affected directly or indirectly by the program, and recidivism rates of the clients, are familiar to those involved in correctional treatment. It has become very important to examine whether a certain type of treatment works as well as or better than another type and whether clients given a specific mode of therapy or supervision are likely to adjust in the community and remain offense-free more frequently than those given a different type of treatment or no treatment at all.

Producing a meaningful and effective evaluation of any type of treatment program is beset with problems. It is difficult and often impractical to establish control groups with which those receiving treatment can be meaningfully compared, and there is concern about the ethics of giving treatment to some offenders and withholding it from others for the sole purpose of evaluative research. The short length of time between the initiation of a program and the required evaluation report frequently makes it difficult to establish comparative experimental and control groups. The ideals of random placement of those treated in experimental or control groups, or even matching of offender populations according to age, number of prior offenses, or background characteristics, must frequently give way to less meaningful comparisons.

If measures other than recidivism rates are used for purposes of evaluation, the problem of bias by the evaluators increases. Such instruments as personal adjustment checklists and case reports by probation or parole officers, which report the offender's readjustment to the community or degree of effort put forth in working on solutions to his or her problems, are obviously colored by the reporter's reaction to the offender. Even when a program has been judged to be successful by what appears to be objective evaluators and firm criteria, the reasons for its success may lie in the dedication or ability of the program's directors or workers or in certain ethnic or environmental characteristics of those being treated, and the likelihood of attaining the same level of success in other settings may be low.

Hubbard (2007, p. 2) notes that, despite the skepticism of many regarding the effectiveness of correctional treatment, there is a large amount of scientific empirical research (Andrews & Bonta, 1999; Bonta, 1995; Gendreau, 1996) that indicates that some correctional treatment programs are effective, provided that the appropriate treatment modalities are used to treat the specific types of offenders being treated, and the programs offer guidelines for assessing the effectiveness of the treatment programs employed. Hubbard (2007, pp. 2–3) states that the “principles of effective intervention” are intended to guide the treatment programs for criminal offenders. He observes that, “These principles include such things as using assessment to classify offenders on their level of risk to recidivate, targeting offenders’ criminogenic needs in treatment, and matching offenders to the appropriate staff and/or type of treatment.”

Andrews, Bonta, and Hogue (1990) suggest that using the responsivity principle in the development and implementation of correctional treatment programs will likely lead to a much higher success rate than programs that are implemented without having a way of measuring the factors that contribute to the success or failure of the treatment program. Hubbard (2007, p. 2) states, “General responsivity refers to the idea that treatment programs will be most successful if they utilize behavioral techniques such as role-playing, role-modeling, problem-solving and graduate reinforcement techniques, while specific responsivity suggests that it is the personal characteristics of the client that should be addressed in the treatment process, since these personal factors will be important in determining the appropriate techniques to be used in the treatment process.” Hubbard (2007, p. 2) also observes, “For programs to be effective, these responsivity characteristics must be addressed through assessment and through matching offenders to appropriate staff and the right type of treatment for the offender.” Hubbard indicates that race, gender, having been sexually abused, depression, self-esteem, intelligence, age, and other personal factors are important in deciding what type of treatment program is likely to produce the results desired.

When preparing a treatment program for offenders, structural factors, such as the types of offenses the participants have committed; situational factors, such as the number and severity of the offenses committed and where the treatment program will be located (in the community or in a secure facility such as a jail or correctional facility); and the characteristics of the participants must all be considered. The program structure may differ if the participants are juveniles rather than adults, or a



homogenous group of men or women rather than a heterogeneous group of men and women, or held in the community as opposed to in a secure correctional facility, where the security measures and restrictions may interfere with the treatment process. This point is illustrated by McCold's finding in "An experiment in police-based restorative justice: The Bethlehem (PA) project." McCold (2004) reports the findings of an experimental evaluation of a diversion program for juveniles that focused on conferencing as a police practice, the effects of this practice on the attitudes and role perspectives of the officers who implemented it, and the willingness of offenders, victims, and the community at large to accept conferencing as a viable option. His findings on these points were compared with data on juveniles who had been formally adjudicated or handled through other approaches. It was concluded that the police officers were effective in using conferencing, and, although the officers' attitudes and role perceptions were not radically altered, those with the most experience with conferencing seemed to develop a trend toward community-oriented policing. The offenders evaluated were motivated to make financial reparations and apologies to victims, and the victims and parents of the youths evaluated expressed high levels of satisfaction with the outcomes.

## Summary

The emphasis placed on treating and rehabilitating criminals has changed from time to time during the years since providing treatment was set up as the preferred way to respond to those convicted of crimes.

During the 1950s, a rehabilitative ideal was accepted by state legislatures and criminal justice administrators. Federal and state legislation was enacted to implement policies and programs directed toward providing the treatment programs envisioned to address crime problems. During the 1970s, the public as well as federal and state policy makers became disillusioned with the rehabilitative ideal, since the results expected from the treatment programs did not seem to materialize. A reversal of emphasis occurred, and the "justice model," which emphasized punishment, resulted. Again, this orientation did not produce the expected effects and resulted in unexpected consequences, such as overcrowded prisons and an increase in prison violence.

In the late 1990s a new emphasis, often referred to as restorative justice, emerged. This model centers on the needs of the individual, the victim, and the community in determining the manner in which criminal and juvenile offenders should be sanctioned. Programs to provide for the basic physical needs of homeless or alcoholic individuals enjoyed a renaissance in the 1990s as another way to meet the needs of offenders. Courts began to place offenders in halfway houses as a last resort before incarceration, and evidence-based specialized treatment programs were created.

## Discussion Questions

1. Discuss how public opinion can affect legislation pertaining to corrections.
2. Discuss how court decisions can affect correctional counseling and treatment.
3. Contrast the “justice” and “restorative justice” treatment models.
4. Define and discuss the meaning of rehabilitation and treatment.
5. What is the meaning of evidence-based treatment? Why is it important that treatment programs in corrections be evidence-based?
6. What factors influenced the development of the recent trend toward community-based treatment in the United States?
7. What are the activities of a probation or parole officer in the role of “service broker”?
8. Discuss the drawback in producing a meaningful and effective evaluation of a correctional treatment program. How can some of these drawbacks be overcome?
9. Do you think that lack of recidivism is the most important goal of correctional treatment? Why or why not?
10. How important are prison industries in the rehabilitation process? If an offender cannot find employment after leaving prison doing the type of work he or she was trained to do in the prison, what are some other benefits to the offender that might have occurred through involvement in prison industries?

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## Chapter 2

# Applying Restorative Justice Models in the Correctional Process

### Introduction

#### *Restorative Justice: The Balanced Approach*

It is difficult to find a definition that covers all of the aspects of the concept “restorative justice.” The essential facets of restorative justice are that the offender, the victim, and the community take part in the process. The offender must take responsibility for his/her actions and actively be involved in attempting to repair the damage to the victim and the community that has occurred. Braithwaite (2004, p. 1) describes the restorative justice process in the following way, “In the restorative justice process, the citizens who have been affected by a crime must take an active role in addressing that crime. Although law professionals may have secondary roles in facilitating the restorative justice process, it is the citizens who take up the majority of the responsibility in healing the pains caused by crime.” Umbreit (1995, p. 213) states, “Within the context of restorative justice, both victim and offender are placed in active-problem solving roles. All interventions focus upon the restoration of material and psychological losses to individuals and the community following the damage that results from criminal behavior.”

Bazemore (1997, p. 126) presents the concept “balanced approach,” a form of restorative justice, and shows how it advances the three overall purposes of juvenile justice intervention. According to Bazemore (1997, p. 127), “Balance is achieved at a system level when administrators ensure that resources are allocated equally among efforts to ensure accountability to crime victims, to increase competency in offenders, and to enhance community safety.”

The intervention strategies for changing behavior for both juvenile and adult offenders when a restorative justice model is used require much more emphasis on making the offender accountable for the deviant behavior. While the restorative justice model suggests that the victim become more directly involved in the restorative process, the realities are that most victims do not want to have any

additional contact with the offender, unless there is a family or close acquaintance relationship between the victim and the offender. From the perspective of the victim, even when a close family relationship exists, depending on the nature of the offense, reestablishing a trusting relationship with a family member who has abused the victim or stolen money or property may be difficult. Ideally, justice and service agencies must take on extensive responsibility in the operation of the restorative justice model. Umbreit (1995, p. 216) states, "More emphasis would be placed on the brokering of services for victims and offenders. Probation staff would periodically be involved in community organizing and program development efforts, as well as continual networking with other social service staff."

## **Restorative Justice Development Plans**

Evidence of the application of restorative justice models can be found for every component of the justice system. The development of diversion programs for both juvenile and adult offenders, as well as mediation and victim services programs, has grown significantly in the past several decades.

### ***Community Restitution and Service Work as a Form of Restorative Justice***

A large number of juvenile delinquent and adult offenses do not involve a person as the victim. This is the case in destruction of property such as damage to school buildings or grounds, public buildings, or public parks. Other forms of victimization such as credit card theft or auto theft, many forms of property theft, and personal and property damage, while directly involving a victim, are not likely to be handled by requiring the offender to make direct compensation to the victim, since the loss to the victim is often covered by some form of insurance. The victim in most cases prefers to work with the certainty of the insurance coverage rather than having to rely on payment from the offender, who often does not have the resources to pay for huge property damages or medical expenses that may have occurred. However, working on the restorative justice principle that the entire community is victimized when a crime is committed, the courts can require some form of restitution and/or community service from the offender as a way of emphasizing responsibility and accountability principles.

Other innovative methods have been developed to apply the principles of restorative justice. The Dallas County (Texas) Victim Services Unit of the Supervision and Corrections Department is staffed by supervision officers (formerly titled probation officers) who work with and provide services to those individuals who were victims of offenders who were tried and convicted of a crime in Dallas

County and are being supervised by the Dallas County Supervision and Corrections Department. The Victim Services Unit provides a wide range of services to the victims, including:

- Providing information on matters relating to court appearances of the offender, information about how the criminal justice system works, about plea bargaining, restitution, appeal process, and informing the prosecutor that protection from harm by the offender is needed if the offender makes threats
- Assuring that the victim is notified and, if necessary, setting up protection for the victim and family when the offender is given bail
- Providing information about the Texas Crime Victims' Compensation Fund
- Providing information on how to complete a victim impact statement
- If requested by the victim, making referrals to those social service agencies that can provide assistance to the victim
- If requested, informing the victim of the offender's parole hearing in those cases in which the offender was sent to prison

(Source: [www.oag.state.tx.us/victims:1-2](http://www.oag.state.tx.us/victims:1-2))

### ***Approaches to Restorative Justice Applications Within Groups and Organizations***

The principles of restorative justice can be applied most effectively when the offender, the victim, and the community are interlocked in some way by a set of rules, role expectations, and norms that are applicable to all components. Family conferencing, school programs, and programs on restorative justice principles in juvenile institutions and adult prisons have tended to be effective.

**Restorative Justice Conferences** McGarrell (2001, p. 10) notes, "In a restorative justice conference, an offending youth, his or her victim, and supporters of both the offender and victim are brought together with a trainer facilitator to discuss the incident and the harm it has brought to the victim and the group of supporters." The format followed in conferences may differ, but typically the following steps are followed:

- The victims have an opportunity to tell how they were harmed.
- The offender has an opportunity to present information that relates to the motivation for committing the offense.
- The supporters of both the victim and the offender have an opportunity to explain how they were affected by the incident.
- Through discussion, which often requires the victims making some concessions and the offenders making restitution and changes in behavior that will satisfy the victim, the case is closed.

In restorative justice conferences, the legal authorities do not act in an official capacity. The role of the prosecutor or judge is to provide an opportunity for the parties to settle the dispute in a nonjudicial manner. If the offender does not follow through on the agreement reached, the case could be set for an official hearing. Restorative conferences are most likely to have positive outcomes if the contesting parties have a stake in maintaining the relationship after the dispute has been settled, as in the case of family members, students attending the same school, or neighbors being involved in a dispute. The following case illustrates a restorative justice conference involving a dispute between neighbors:

**Box 2.1: The Apple Tree**

Jake and his wife Sue have lived at the same address for more than 25 years. Jake retired after working with a large manufacturing corporation for more than 35 years. After his retirement, Jake and Sue devoted most of their time to beautifying their home, where they planned to enjoy the peace and quiet of life in retirement. Jake focused on the yard and spent a considerable amount of time and money landscaping, creating rock gardens, and planting ornamental trees.

Not long after Jake retired, the people who owned the house next door sold it to a young, newly married couple. The relationship of Jake and Sue with the new neighbors was cordial, but not as close as it had been with the old neighbors. Joe and Amy, the new neighbors, worked long hours and apparently did not have the time or desire to socialize. Sue and the new neighbor, Amy, interacted on a few occasions and had developed a friendly relationship, but the interaction of Jake and Joe was limited to a hello or a nod.

Jake gradually became more and more upset about the appearance of the new neighbor's property, particularly the yard. Often the grass was not mowed for weeks at a time, and the flower beds and bushes that had meticulously been cared for by the old neighbor were neglected. A major source of contention stemmed from a large apple tree situated near the backyard fence that separated the two yards. The tree was on the neighbor's property, but large limbs hung over the fence onto Jake's property. Since the tree was never sprayed, the large apples were not fit to eat and generally were worm infested by the time they fell into Jake's yard and rotted during the fall season. Jake spoke with Joe on a few occasions about the mess made by the apples and the extra work required of Jake to keep his yard looking nice. The neighbor, however, did not seem to be concerned and more or less indicated that it was not his problem. The whole matter came to a head when Jake crossed over into the neighbor's yard and cut down all of the branches that hung over into his yard. While Jake was cutting the limbs, a large one fell and destroyed a portion of the fence that separated the two properties. Joe became

(continued)

**Box 2.1** (continued)

angry when he saw the cut tree limbs and broken fence and filed a complaint against Jake for trespassing and destruction of property.

On reviewing the complaint, the court determined that the case might be suitable for a restorative justice conference, since there did not appear to be any benefit to either the complainant or the community to try the case officially. A conference was scheduled, and both parties agreed to appear and present their stories.

By this time, both Jake and Joe had cooled down somewhat. During the restorative justice conference, the victim stated that it was his right to decide how much attention to give to his property and that Jake had no right to trespass on his property. Jake acknowledged that he overstepped his rights. He indicated that he became more and more frustrated with constantly cleaning up the mess made by the rotting apples. Jake's wife, Sue, and the neighbor's wife, Amy, urged Jake and Joe to settle their differences without resorting to legal avenues. They used the argument that, since neither family planned to sell its property, they would be neighbors for a considerable period of time. The women had a desire to become better acquainted, and this would be difficult if Jake and Joe were not on friendly terms.

The final outcome of the conference was that Jake agreed to pay for the cost of fixing the fence and do the work on the fence himself. He also offered to take care of the apple tree so that, with proper treatment, it might produce edible apples. The neighbor agreed to the terms and even offered to assist Jake in fixing the fence.

### *Restorative Justice Conferencing with Juvenile Offenders*

Forms of restorative justice programs can be found throughout the United States within the juvenile justice system. These programs are generally grounded on the theory that the benefits to the victim, the offender, and the community of diverting a juvenile offender away from the official juvenile justice system far outweigh the benefits received if that juvenile is official processed, found responsible for the deviant act by the court, and thus labeled a delinquent. A statistical analysis of juvenile offenders in the United States for any given year reveals that the proportion of hard-core, serious offenders is very small. The large majority of those referred to the juvenile court have committed minor offenses, some of which would not be criminal acts if committed by an adult.

McGarrell (2001, p. 3) describes the functions of restorative justice conferences. He states, "Conferences . . . are expected to address the emotional needs and tangible losses of victims and hold youth accountable for their misdeeds more effectively than the traditional juvenile court system. Conferences also allow youth



to learn how their offending has negatively affected others. Finally, conferences create a supportive community for offending youth.”

Braithwaite (1989) argues that if a youth offender has strong ties to family members and community institutions and he/she is likely to feel shame for engaging in acts that violate the values and norms of those with whom the juvenile has emotional feelings and commitment, the punishment provided by the family and community is far more effective in deterring the youthful offender from future deviant activities than the official punishments given in the juvenile justice system. Also, since the restorative justice process provides an avenue for the offender to regain acceptance in the community without being labeled a deviant, this gives the youth a strong reason to cooperate in the process.

McCold (2004, p. 15) reported on the findings of the Bethlehem, Pennsylvania restorative justice program with juvenile offenders. In this program, first-time juvenile offenders arrested by the police were given an opportunity to participate in the police-sponsored conferencing program. Felony-level offenders, sex offenders, and drug and alcohol offenders were not eligible. Felony-level assaults and assaults in which a firearm was used were also excluded. The majority of the youths accepted into the program were property crime offenders. Youths selected for the program were told that participation in the program was optional, and they could leave the program at any time and have their cases heard in the juvenile court. They were required to admit that they were guilty of the behavior that brought them to police attention. Victims of the offenses committed by these youths could also leave the conferencing at any time, if they were dissatisfied with the proceedings. A conference generally lasted for less than an hour.

McCold (2004, p. 21) commented that the 18 police officers selected to work in the program could have been provided with better training before starting the program, but in general, they did a sufficient job in adhering to the principles of restorative justice and ensuring due process. If the outcome of the conference was positive, with a solution mutually satisfactory to the victim and the offender reached during the conference, the youth signed a form that spelled out the requirements of the agreement and the consequences for the youth if the conditions were not adhered to. If the victim experienced a property loss, making restitution was generally a requirement. The large majority of victims were satisfied with the restitution required. In cases in which there was no loss to the victim, community service was required as part of the process.

## **Police Diversion of Juvenile Offenders**

A key component of the 1974 Juvenile Justice and Delinquency Prevention Act (JJDP Act of 1974, amended Public Law 93-414) was to provide funding for agencies to establish programs for the diversion of status offenders and minor delinquent offenders from formal processing in the juvenile justice system. The underlying theoretical perspective of diversion embraces restorative justice.

According to Kratcoski, Ammar, and Dahlgren (2004, p. 157), “The term diversion has a variety of implications. Diversion may be total or partial. *Total diversion* is carried out by the police or school officials through warnings that further misbehavior will lead to court involvement or referral to some agency other than the juvenile court for assistance. On the other hand, *partial diversion* occurs when a school official or justice agency takes some official action and the youth is partially brought into the juvenile justice system, but the degree of penetration into the system is not great. The youth receives some form of punishment and treatment, but is not officially labeled a delinquent.”

Various research studies (Snyder & Sickmund, 1999, p. 167; Office of Juvenile Justice and Delinquency Prevention, 1998) reveal that a large portion of deviant acts committed by youths are never detected or, if detected, are never officially processed. For example, minor offenses that occur on school property such as minor destruction of property, students threatening other students, and infractions of rules are often handled internally, unless the school administration has adopted a “zero tolerance” policy. The police also have considerable discretionary power to decide a course of action to take when they confront juveniles who have committed minor infractions of the law. For example, a police officer seeing a group of youngsters in the street after curfew hours has several choices on what course of action to take. Depending on the circumstances, such as the amount crime in the neighborhood or the youths being known to have caused trouble in the past, the officer can tell the youths to go home immediately and not even record the incident, tell them to get off the streets immediately and record the interaction, detain the youths and contact their parents, or take a more extreme course of action by having the youths transported to the juvenile detention center. In the first instance, the youths are totally diverted from the juvenile justice system, and there will not be any future contact with the police unless there are violations that occur in the future. If the officer records the names of the youth before sending them home, total diversion is still occurring since the youths are not required to have any more contact with a justice official. However, if the police respond to a complaint, such as a citizen accusing a neighbor boy of destroying some flower beds, the police are obliged to respond. If there is sufficient evidence to show that the boy committed the alleged act, the officer must take some official action. The officer must write an official citation charging the youth with delinquency. However, the youth may be given the option of having the case referred to the police department’s juvenile diversion bureau rather than being officially processed through the juvenile court. In this instance, partial diversion has occurred. With partial diversion, the goals are basically the same as total diversion. The youth is given an opportunity to correct the deviant behavior without being labeled a delinquent. Many believe that official action that labels a youth as a delinquent caused more harm to the youth and the community than the delinquent behavior the youth engaged in that brought him/her to the attention of the justice agencies.

The underlying purpose of police juvenile diversion programs is to provide intervention strategies and treatment to youths who appear to be at high risk for engaging in delinquent behavior in the future. They may take the form of programs

to assist families whose children have committed school-related offenses, with the goals of helping the young people remain in school and graduate, or they may target young people perceived to be in the early stages of delinquency. Feld (1999, p. 174) contends that diversions for juvenile offenders is one way of providing efficient mechanisms to screen cases at the first contact with the juvenile justice system, and those who are sorted out can avoid being labeled and stigmatized as offenders.

While the large majority of police departments throughout the United States have established a juvenile bureau or diversion program, their specific goals and operating procedures vary, and it is difficult to describe the typical youth diversion program under police auspices. Kratcoski (2012, pp. 144–145) states, “Police diversion programs are generally housed within the police department building. They are staffed by either police officers, civilians who are trained in counseling and community service, or a combination of officers and civilian professionals. In these programs, the police officers complete the initial screening of referrals and make the decisions on the eligibility of the youths for the program. Felony and repeat offenders are generally excluded. If the youth is found to be acceptable, the determination of the youth’s activities and supervision will be completed by the professional (social workers, counselors) staff.”

The Stow (Ohio) Police Department Juvenile Diversion Program was established in 1972 and continues to operate. It has been recognized for the comprehensive restorative justice approach followed in the program (Kratcoski et al., 2004, p. 163). The large majority of the referrals to the program are made by the Stow police patrol officers or by school resource officers assigned to various schools in the Stow School System. Some referrals are made by school administrators, parents, or the Summit County Juvenile Court. Almost 500 juvenile cases are referred to this program each year (Kratcoski et al., 2004, p. 163).

Following a restorative justice model, the case workers meet weekly with the juvenile participants, and, for some youths, there are mandatory programs that require parental involvement. Other activities include drug and alcohol education, victim-offender mediation, and group discussions on conflict resolution. All of the youths are required to complete a number of hours of community service. Another condition is that the youth become involved in a relevant community service project.

If the youth completes all of the requirements of the program, the initial charge is dropped, and no record of the youth being involved is filed. Generally, a participating youth will be given a second chance if he/she violates one or more of the conditions of the diversion program, depending on whether the youth committed a program rule violation or a new offense. Youths are placed in the program for a specified period of time, but the time period may be extended, or additional contract requirements may be imposed. If the conditions of the program are not met, or if a youth is terminated from the program for cause, the initial charges are reinstated.

Research completed on 16 youth diversion programs, in which 2258 youth participated (Kratcoski et al., 2004, p. 138), revealed that 70% of the referral to the programs were males. More than 90% of the referrals came from police departments. The most common period of time required for involvement in the

program was 3–6 months. Although the specific requirements for successful completion of the programs varied, approximately 75% of the participants were required to complete community service. Other activities required of some youth included writing letters of apology to victims and having youths write essays regarding the inappropriateness of their behavior. “Such activities as group counseling, restitution, mediation, family counseling, electronic monitoring and tutoring were not required for the large majority of the youths” (Kratcoski et al., 2004, p. 166).

During the course of the study, 16% of the youths in the programs recidivated one or more times. The offenses were concentrated in theft, property destruction, and alcohol- and drug-related offenses. Some of the offenses related to incorrigibility, school truancy and other school-related infractions, or running away from home. Only 16% of the new offenses were of a felony level.

## **Mediation**

### ***Definition and History***

One definition of mediation that captures the essence of the process used in criminal justice mediation is, “A process in which a neutral third party assists the parties in developing and exploring their underlying interests (in addition to their legal positions), promotes the development of options, and assists the parties toward settling the case through negotiations” (Civil Justice Reform Act Plan W.D. MO, 1992).

In his discussion of mediation, Kovach (1994, p. 21) noted that the early colonists in North America were able to settle disputes through a mediation process and thus able to maintain peace within their communities. Kovach states, “The very close proximity of living arrangements, along with the need for joint efforts in survival against the crown, contributed to peacekeeping endeavors. The cultural priority of community consensus over an individual adversarial approach to conflict served as the basis for the use of mediation and other informal means of dispute settlement.”

Kovach (1994) observed that, as the population increased and became more mobile, the sense of community dissipated, and, as commerce and industry became more complex, the use of informal methods to settle disputes declined, and a formal process based on commercial and criminal law and formal judicial procedures became the standard method for settling disputes. Thus, the current emphasis given to mediation to settle some disputes is in essence a throwback to earlier times.

## *The Mediation Process*

The mediation process can be structured in several different ways, depending on the setting, purpose, and type of dispute involved and the role of the mediator. For example, mediation in a labor union-corporation dispute is generally more complex and formal than mediation in a juvenile court case in which a juvenile has caused some minor damage to a neighbor's property. Mediation in a marriage in which there is a great deal of highly charged emotion may require an approach beyond mediation over property disputes. If the mediation is court ordered or court supervised, the process may require a different set of operations. A mediation model given by Kovach (1994, pp. 24–25) is as follows:

- **Preliminary arrangements**—This includes everything that must be settled before the mediation begins such as fees, selecting the mediator, reviewing the matter in dispute, and selecting a setting.
- **Mediator's introduction**—The mediator introduces him/herself, other parties if not acquainted, and legal representatives and discusses the mediation process and the ground rules to be followed.
- **Opening statements by the parties**—The parties or their representatives are allowed to give uninterrupted statements on their positions and views on the disputed matter.
- **Informal gathering**—The parties have an opportunity to clarify their positions, interact with the opposing party, and ventilate their feelings, frustrations, and emotions in a controlled setting.
- **Issue identification**—The mediator defines the issues presented by the parties in the dispute.
- **Option generation**—The mediator moves the parties toward a discussion of the possible ways to settle the dispute and what would be required on their part if an option were selected.
- **Bargaining and negotiation**—The mediator takes a more active role by spelling out in detail what would be required if a particular option would be agreed upon. The mediator assists the parties by answering questions and presenting the likely costs and rewards for each party if the dispute is resolved.
- **Agreement**—The agreement is formalized by each party signing a statement, and the mediator writes a memorandum of settlement. If no agreement is reached, the mediator will make note and, depending on the origins of the case, is either referred back to a court or another agency.
- **Closure**—A written statement pertaining to the outcome is constructed by the mediator.

## Summary

The restorative justice movement in the United States was the result of a number of factors. Foremost was the realization that none of the approaches to punishing and rehabilitating adult criminal and juvenile offenders was by itself sufficient to produce the results desired. The “just deserts model,” under the guise of protecting the community, often resulted in offenders receiving harsh punishments and sometimes long-term incarceration in correctional institutions as a penalty for conviction of a crime that was not a major threat to the community. The prison experience did nothing to change the person’s behavior, and research revealed that many came out of prison more antisocial and oriented toward criminal activity than they were before being sentenced. On the other hand, the “medical model” of treatment did not provide sufficient emphasis on placing the responsibility of the criminal act on the shoulders of the offender or on the need for the offender to compensate the victim and the community in some way for the harm caused. Neither of the models gave much attention to the victim.

The “restorative justice” model attempts to provide a balance between the needs of the victim, the needs of the offender, and the needs of the community. Grounded in an evidence-based approach, restorative justice practices include diversion for those juvenile and adult offenders who may have committed an offense as a result of impulsiveness or ignorance of the law or as a result of immaturity, mental illness, or mental incompetence. These individuals are likely to need assistance more than punishment. Depending on the situation, such practices as mediation and family conferences that involve the offender and the victim can lead to satisfactory solutions to the problems and assure that the victim is adequately compensated.

## Discussion Questions

1. Do you think a restorative justice approach is appropriate for juveniles who have long histories of offending?
2. If a crime victim is so traumatized that he/she has no desire to be involved in any of the restorative justice approaches, what can be done to assist such a victim?
3. If total diversion of juveniles is used by some police officers and partial or no diversion is used by others in the same department for the same type of situation, what can be done to assure equal justice for all of the juveniles who come into contact with the police?
4. Discuss the reasons why mediation is beneficial to the offender, the victim, and the community.
5. Discuss the importance of the family and the community in the processing of juvenile and criminal offenders when using a restorative justice approach?

6. Discuss the “balanced approach” to criminal justice. Juan, an 18-year-old boy of Mexican descent, was convicted of trespass and property destruction after he threw eggs on the house of his next-door neighbor. He stated that the reason for his action was that he became angry when his neighbor insulted him with a derogatory name and told him that his family should go back to Mexico where they belonged. If you were the judge, what type of sentence would you give Juan, using the restorative justice approach?
7. Define mediation and outline the mediation process. What are the advantages of using mediation in the processing of criminal cases?
8. Outline the typical procedures followed in the police diversion programs of juvenile offenders. What are the benefits for the youth brought into the diversion programs? What are the benefits for the justice system? What are the benefits for the community?
9. Discuss the purposes of restorative justice conferences. Refer to the following case. After 20 years of marriage, Samuel divorced his wife and remarried. Samuel and his first wife had five children at the time of their divorce. The two boys, aged 16 and 14, elected to live with their father, while the three girls, aged 10, 7, and 4, continued to live with their mother. Samuel’s second wife had one male child, aged 12, who lived with his mother and stepfather. The problem of the new family arrangement is that the two sons of the father constantly harangue the 12-year-old about not having a real father and say nasty things about the boy’s mother. When the 12-year-old gets angry and responds with nasty remarks, the older boys push him around and have on occasion physically hurt him. When the boy’s mother informed Samuel of the situation, he did not seem concerned, stating, “boys will be boys.”

How would restorative justice conferences be used in this family matter in which two teenage children are physically and psychologically abusing a younger 12-year-old stepbrother?

10. Why is it important for offenders who are processed through a restorative justice program to have strong ties in the family and in the community?

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## Chapter 3

# The Criminal Justice System in Transition: Assisting Victims of Crime

### Introduction: Historical Perspective

Victims of crime did not receive much attention from the US justice system until the latter half of the nineteenth century. During the 1950s and into the 1960s and 1970s, various social movements such as the civil rights movement, women's rights movement, the war on poverty, and the gay liberation movement led to a more focused view of the role of victims in the criminal justice system.

Jerin (2009, p. 109) traces the role of the victim in the criminal justice system during different historical periods. He notes that during the so-called Golden Age, dating back several thousand years, the early criminal codes such as the Babylonian Code of Hammurabi made the victim, or in the case of a murder the survivors of the deceased, responsible for bringing the charges against the offender. If the offender was not caught and punished, the state had the responsibility for compensating the victim for the losses received. In later periods of history, the role of the victim changed. Criminal offenses were now regarded as against the state, and the state brought the charges against the alleged offender. The role of the victim was that of a witness and no longer a part of the decision-making process. If the victim sought compensation for losses, the case would have to be filed in a civil court.

During the colonial period as well as in early history of the United States, the role of the victim in the criminal justice process was very similar to that found in Europe, particularly England. As the justice systems of the various states became more formal and the justice system functionaries were employed by the political administration of the state, the role of the victim of a crime was relegated to that of a witness, especially if the crime were a felony. Victims still could file criminal charges against the offender for many misdemeanor-level crimes.

In his book *Criminology*, the American sociologist Edwin Sutherland (1924) completed an academic analysis of crime victimization. Sutherland made a distinction between direct victimization of the individual and victimization of society. *Direct or individual victimization* included being a victim of murder, robbery, rape,

or hundreds of other crimes, while *indirect victimization* results in citizens paying higher taxes to fund the criminal justice system, being overcharged for goods and services, and cheated in many other ways, Sutherland's analysis of crime victimization drew attention to some of the inequalities in the justice system and helped to stimulate the victim's rights movements that developed in the 1950s and 1960s and continue today.

In its beginnings, the civil rights movement in the United States focused on obtaining equal treatment for African-Americans and other minority groups and demonstrated how members of these groups were victimized by the various components of the justice system through unjust laws, biased law enforcement officials, and discriminatory judgments by members of the judiciary. Kratcoski (2009, p. 114) notes, "In the 1950s, many practices existed that contributed to the victimization of minority group members, the poor, and juveniles." To address these injustices, African-Americans and other minority groups engaged in public demonstrations, such as lunch counter sit-ins, freedom rides to organize voter registration, and other forms of protests. Kratcoski (2009, p. 114) further observes, "Toward the end of the 1950s, the mass media played an important role in informing the general public of the injustices that existed and in motivating citizens to become involved in movements to correct these problems." It was during the 1960s and 1970s that many of the laws and practices in the justice system that tended to victimize certain categories of people were reduced if not eliminated.

During the 1960s and 1970s, new social and political movements emerged in the United States, including the war on poverty, the women's rights movement, and protests against the Vietnam War. They coexisted with and generally supported the goals of other movements, but also had distinct organizational structures, strategies for achieving goals, and independent leaders. The major thrust of all of these movements was that individuals and society in general were being victimized by discriminatory laws, corrupt political and business practices, and inequalities in the operation of the criminal justice system.

Crowley (2009, p. 118) stated, "The civil rights, women's rights and the antiwar movements all challenged the traditional social order." The public displays in support of the goals of the movements through marches, rallies, and speeches publicized by the mass media influenced both federal and state government legislatures to pass laws that helped bring the goals of the movements to fruition. Kratcoski (2009, p. 118) noted that "The civil rights movement had developed tools for grassroots involvement to create change. The women's rights movement brought to the surface the mistreatment of women victims of violence by the criminal justice system and began to develop a network to support those victims outside traditional channels." The women's movements also uncovered information on the widespread victimization of children. Child protection movements emerged during the 1970s and continue up to the present time.

Criminal justice practitioners have always recognized the importance of the victims of crime in the justice process, but the importance attached to the victims most often was viewed in terms of how they could assist the practitioner in the performance of his/her duties. For example, a police officer might view the

cooperation provided by the victim as a means to making an arrest of a suspect, while the prosecutor regarded the victim as important in providing testimony during a trial that will lead to a conviction. Providing for the victims' needs and assuring the rights of victims were often minor concerns.

The first serious attempts by the federal government to provide funding for programs to assist victims of crime were funded by the Law Enforcement Assistance Administration, beginning in 1974 (Crowley, 2009, p. 120). Many grassroots organizations, including rape crisis centers and domestic violence shelters, could now serve the needs of victims of crime.

The Federal Victim and Witness Protection Act of 1982 (Wilson, 2009, p. x) and the Victims of Crime Act of 1984 (Wilson, 2009, p. x) provided initiatives and funding for states and local governments to develop and implement victim services programs. Stimulated by federal and state funding, victim services programs of various types with titles such as victim assistance, victim advocacy, victim services, and victim/witness programs were developed throughout the United States. Some of the victim services programs were operated by independent private agencies, but the majority tended to be housed under the umbrella of a government agency, generally the county prosecutor. These programs tended to focus on assuring that victims of crimes would be good witnesses if they had to testify in court, but they also provided the needed services victims requested. The private victim services agencies tended to focus more directly on the needs of the victims.

## **Training of Police in Servicing Victims of Crime**

A police officer is often the first responder to a criminal incident in which there are victims. The officer may have been well trained in the professional and legal matters of gathering evidence, interviewing the victim, and writing the report. However, Milne and Bull (2007) note that the training of police patrol officers, the officers who are likely to be the first responders to crime scenes in which the victim was subject to physical violence and/or sexual assault, is often very basic and is not extensive enough to prepare the officers for the emotional responses of the victim or provide them with the skills on how to conduct the questioning of the victim in such a manner that the information required is obtained and support for the victim is also provided. Philips (2009, p. 197) contends that it was not until the 1980s, when community policing became a significant factor in the training and operations of police work, that the victims of crime were treated less as objects whose only purpose was to provide information and serve as witnesses rather than as "real people" with needs of receiving assistance, protection, and support from those who were charged with providing these elements as part of their job. Others (Hazelwood & Burgess, 2008) contend that unless the investigators assigned to rape cases belong to a specialized unit for violent crime, they will probably have been trained in the interrogation of suspects, collecting evidence, and securing the crime scene rather than in interviewing the victim and recognizing the needs of the victim

and the trauma the victim experienced in cases of violent assaults and sexual crimes. Rich (2016, pp. 229–230), reporting on police response to rape victims, notes, “Sexual assault and rape can result in devastating sequelae for survivors, including anxiety, depression, sexual difficulties, sleep disorders, substance abuse, isolation, shame, and mistrust.” Rich (2016, p. 230) states, “Victims may feel unsafe, need reassurance, and require delicate emotional handling before they are capable of making a police report.” However, she found in her research on police officers response to victims of these crimes that the police were either incapable of giving the type of support the victim needed or just were not interested in providing the support because it was not considered part of the police officer’s role. Rich and Seffrin (2013), in their study of police officers and victim advocates collaborating on responding to victims of sex crimes, found that more than two-thirds of the officers who completed the questionnaire reported some reluctance to work with victim advocates on rape cases. Rich (2016, p. 23) found that in some cases, even when a victim advocate was present when the officer reported to the crime scene of a woman who was raped, the officer appeared to be unsupportive of the victim’s needs. For example, Rich (2016, p. 235) revealed that one victim advocate interviewed reported, “I sit and watch them (police officers) interrogate the victims like criminals. Sometimes I want to yell at them, stop! Don’t you see what you are doing? But instead I ask for a minute of their time . . . to step outside and explain to them that she is a person. Sometimes they decline, or pretend not to hear me.”

Boda (2016, p. xxxvii) states, “Police philosophies, strategies, and operations may change over time, but the basic principles of policing -to protect and serve-remain constant.” He continues by emphasizing that extensive cooperation and collaboration between community leaders, service providers, academics, and professional practitioners in police training and program implementation is necessary in order for the police to be effective in the performance of their tasks of protecting and serving. Such cooperation has gradually developed in recent years, particularly in regard to the training and program implementation of police programs in protecting and servicing victims of crime.

## **Services Provided by Victim Services Agencies**

The typical victim services agency is structured to provide some form of assistance to victims of crime from their initial contact with a representative of the justice system to their final contact with the justice system. For example, a victim services worker might be assigned to the “hot line” and be available to assist in crisis situations, or a victim services worker might respond to crime situations along with police officers in cases of domestic violence, rape, or robbery and when the victimized person is likely to need immediate support. Victim service persons also appear in court as victim advocates and may assist the victim in writing a victim impact statement or help a victim who is applying for victim’s compensation. A survey of victim services agencies located in Northeast Ohio revealed that “The

vast majority of the agencies included in the study provided such services as advocacy, court ordered services, counseling, assistance in completing compensation claims, locating transitional housing for victims, notification of victims of court hearings, community education on crime prevention, training of volunteers, maintaining “hot lines,” and crisis intervention” (Kratcoski, 2016, p. 254).

Victim services agencies are housed in and administrated by both government agencies and private agencies. The victim services agencies under a state or local government may be a division of the prosecutor’s office, a municipal or county court, or even housed within the department of corrections. A privately administrated victim services program might be only one component of a larger agency or an independent agency, not having ties to either public government agencies or other private agencies. The Stark County, Ohio Victim/Witness Program and the Summit County, Ohio Victim Assistance Program illustrate the differences between the functioning of private and public victim services agencies.

The Summit County (Ohio) Victim Assistance Program located in Akron, Ohio, is a private agency. It is located in a building that once served as a mission for the homeless during the economic depression of the 1930s. During the 1960s the facility was transformed into a halfway house for criminal offenders and in the 1970s became the location of the Victim Assistance Program (Kratcoski, 2016, p. 255).

Direct or indirect services provided by the Summit County, Ohio, Victim Services Agency (Kratcoski, 2016, p. 259) include:

- Crisis intervention counseling
- 24 h hotline services
- Mediation with offender
- Assistance with landlord disputes
- Assistance with protection orders
- Legal advocacy
- On-hand crime scene support (assists at hospital, employment sites, victims of violence)
- Medical care referrals
- Financial assistance
- Completing victim compensation applications
- Occasional emergency housing
- Victim protection education
- Individual counseling
- Making referrals to other victim services agencies
- Conducting public education programs pertaining to victimization
- Domestic violence intervention
- Legislative advocacy
- Training of police officers in victim assistance

Many victim service programs are attached to components of the justice system other than the prosecutor’s office. For example, the Dallas County Supervision and Corrections Department Victim Services Unit (Dallas County Supervision and

Corrections Department, 2016, p. 1) is charged with assisting all persons who had been criminally victimized by offenders who are under the supervision of an officer of the Dallas County (Texas) Supervision and Corrections Department. Those who provide services to victims of crime must develop a broad range of contacts with other agencies through the community. A victim services unit attached to a government agency such as the prosecutor's office, juvenile court, or criminal court or the department of corrections will tend to have goals that are closely aligned with the goals of the parent organization. Victim services programs attached to a prosecutor's office tend to focus more on preparing victims of crime for their court appearances as witnesses than on assisting the victim to cope with the effects of the victimization. Victim services agencies that are privately funded and administered have considerable leeway in determining their missions and goals. Depending on the specific goals of the agency, the amount of interaction and cooperation needed depends on the agency. The personnel of a battered women's shelter may have very limited contact with the personnel of the justice agencies, since referrals will tend to come from the court and be filtered through another service agency.

For the majority of victim services agencies that tend to offer a broad range of services, the interaction with other justice agencies is continuous and frequent. The Executive Director of the Summit County (Ohio) Victim Services Agency (Victim Assistance Program 2014, P1), Leanne D. Graham (Kratcoski, 2016, p. 260), stated that communications and cooperation with the various justice agencies and community service agencies are absolutely required if the agency is to be successful in its work. In response to a specific question regarding cooperating with the police, she observed, "We interact with the police departments in Summit County every day. In fact, we have an office in the Detective Bureau at the Akron Police Department and at the administrative offices of the Summit County Sheriff's Department. The Akron police and the Sheriff's Department provide us with daily incident reports, which allow us to make calls to each victim and offer services. Victim advocates may be regularly assigned to both municipal and county criminal courts to assist the victim through the court process and to help with other matters relating to the victimization. In addition, they must interact and cooperate with other agencies serving victims through making referrals to counseling agencies and/or agencies providing basic necessities such as food, shelter, and medical assistance".

## **Duties of Victim Advocates**

The tasks victim advocates perform vary. A victim services agency located in a large city may have several dozen advocates. In such large agencies, some of the advocates may be highly specialized and are assigned exclusively to the courts; others may be specialized in legal work and devote their skills to helping victims with impact statements, completing compensation forms, and working with the courts and correctional workers to assure that protective orders are adhered to by

the offender or child support is provided by the offender in cases where the offender happens to be the spouse of the victim. In jurisdictions in which the population is rather small and several victim advocates are responsible for serving all of the victims of crime, the advocates, by necessity, must be generalists.

It is not uncommon, especially if the victim and offender are related, for one or both of the partners to be both a victim and an offender. In some cases, such as domestic violence, each of the individuals involved in the altercation may threaten the other, and both may become physically violent. If one of the partners was arrested, as required by the laws of many states, the other partner, while theoretically being defined as a victim, may also be a perpetrator of a crime. In such situations, victim advocates might either engage the couple in mediation, anger management counseling, some other form of counseling, or refer the couple to another agency.

The Stark County Victim/Witness Program is located within the Stark County prosecutor's office. It is one of the four divisions of the prosecutor's office. An assistant prosecutor serves as the director of the Victim/Witness Program. Funds for the program come from the prosecutor's operating budget and from state and federal grants. The following interview with Staci Manfull, an advocate of the Stark County Victim/Witness Program, illustrates the way the program is structured and the range of services provided to victims.

### **Box 3.1: Victim Advocate Staci Manfull Interview**

Staci Manfull received a Bachelor of Arts degree in Justice Studies from Kent State University in 2005. She accepted a position with the Stark County Prosecutor John D. Ferrero's Office as an advocate with the Victim/Witness Program in 2005 and continues to work as an advocate up to the present time.

Interview completed electronically 7/31/2016.

Interviewer, Peter Kratcoski (PK); Interviewee, Staci Manfull (SM).

QPK: Staci, when you applied for work in the justice system, why did you choose to work with victims?

ASM: I had the opportunity to do my undergraduate internship at the Stark County Prosecutor's office. While there, I realized that working with victims was my calling. Each day, I am able to work with many different people who have been victimized by crime. It gives me a real sense of satisfaction knowing I am able to help them through very difficult times in their lives.

PCK: What credentials (education, experience) are required for a position with the Stark County Victim/Witness Program?

ASM: At minimum, a 2-year degree in social work or a related field. However, a 4-year degree is preferred. If one is a licensed social worker, or licensed counselor, it is a definite plus, but other factors such as having the ability to be comfortable working with many different, types of people, including professionals and victims, is perhaps more important than the

(continued)

**Box 3.1** (continued)

degrees. Candidates who have completed volunteer or work experience in the criminal justice system are given close attention when the administrators are interviewing candidates for open advocate positions.

QPK: Did you have any special training for becoming a victim advocate with the Victim/Witness Program?

ASM: I have my BA in Justice Studies and the internship as basic preparation. In addition, I had the opportunities to take advantage of training programs conducted by different agencies such as those conducted by the Ohio Attorney General's office, the National Organization for Victim Assistance (NOVA), and the Stark County Domestic Violence Collaborative where training is conducted throughout the year. There is a training program put on by the Ohio Attorney General's Office called B.A.S.I.C.S. It is a week training program held at the Ohio Police Officers Training Academy. This particular training is for new advocates. It exposed them to the topic and issues that they will encounter. While in the training, the advocates have an opportunity to network with other advocates in the state and in other states.

QPK: Does the Victim/Witness Program have specialized units?

ASM: Yes, there are advocates who are assigned to all of the municipal courts, an advocate in the family court, an advocate in the felony courts, a domestic violence advocate, and a child abuse advocate.

QPK: What unit are you assigned to?

ASM: I am the coordinator of the Victim Services for the Adult Felony Division. I represent victims of crime for all felony crimes other than felony domestic violence and child physical/sexual abuse cases. My duties include, but are not limited to, coordinating case management for adult felony crime victims, maintaining case files and statistical information, and developing, executing, and maintaining outreach services for all Stark County victims of felony crimes. I do this through personal contact, letters, and telephone calls. In addition, I am a member of a team with assistant prosecutors and support staff in the Criminal Division of the Stark County prosecutor's Office. I act in the capacity of a liaison when such service is requested. I also inform victims of their Constitutional Rights for Ohio's crime victims and assist victims with the completion of victim impact statements, help victims complete their applications for victim compensation, have them register with Victim Information Notification Everyday (VINE), and provide victims with a Victim Satisfaction questionnaire. Other duties include making referrals for victims who need community resources and providing victims with information about the final disposition of their case and the Department of Rehabilitation and Corrections notification forms.

(continued)



**Box 3.1** (continued)

QPK: In your opinion, what type of personality traits should an advocate have to be effective?

ASM: Some of the characteristics that I feel are important as an advocate are:

Empathy—Possessing the ability to see a situation from another’s perspective. We can never assume we know how a victim feels or how a crime impacts their lives.

Nonjudgmental—The ability to remain neutral. Never place the responsibility for a crime on a victim.

Objectivity—The court system is based on the adversarial concept. There will always be differences of opinion. As an advocate you must be able to listen objectively and fairly to all points of view. Even if you disagree with another, you can do it with principle and honesty.

Versatility—The ability to assess situations and “shift gears” when unexpected situations arise. There are times when the best laid plans fall apart. At times like these, the advocate needs to be able to change direction. There may be times when victims require additional support because of the criminal justice process, fear of the unknown, or the process might trigger stress or trauma reactions. It is important to know that certain events might trigger additional crisis reactions on a continuing basis or discretely occur many years after the person was victimized. At times like these, it is important for advocates to be knowledgeable about community resources and be able to refer the victim to other sources of support in addition to those we provide.

Sensitivity—The ability to remain sensitive to their situation. Many times in addition to being victimized, they have suffered a loss (this could be a loss of a loved one, a prized possession, or a relationship). Be respectful of their feelings, and allow them the opportunity to discuss their feelings in a supportive and nonjudgmental environment. The role of an advocate is to empower victims. Give them choices and allow them to make decisions on their own. The needs of victims vary. What might be a minor thing for one victim may be a major devastation for another victim.

Honesty—An advocate must answer questions or requests honestly. Sometimes the advocate might have to be selective, but the advocate can still be honest. Never promise something you cannot deliver.

Articulate—The advocate represents the best interests of the victim and must be able to convey their opinions, feelings, and information known about the victim to other professionals. This may mean speaking on the victims’ behalf in court and explaining their situation to the judge, prosecutor, and other professionals involved in the case.

(continued)

**Box 3.1** (continued)

Realistic—An advocate must be aware of one’s limitations and have a realistic grasp of the situation. Victim advocates must realize that they are human, have feelings, and can share the hurt of the victim, but also realize that they cannot undo what has been done and must think of the situation as a new starting point in the person’s life. Advocates must accept their own limitations, know their biases or prejudices, and know when to recuse themselves from a victim, a case, or a situation.

QPK: Staci, to what extent do advocates interact and cooperate with police officers?

ASM: Occasionally. The officers investigate a case and turn it over to the prosecutor. Our direct contact with the police is minimal unless the officer is a victim of a crime.

QPK: To what extent do advocates interact and cooperate with assistant prosecutors?

ASM: Regularly. We are the oldest prosecutor-based victim assistant program in the state of Ohio. We are the liaisons between the victims and the prosecutors. The advocates inform the prosecutor how the victim is feeling about the case through their Victim Impact Statements. We will also notify the prosecutor when a victim is planning to attend a court hearing. In addition, prosecutors will have us call victims for various reasons or have us sit in on meetings with victims.

QPK: To what extent do advocates interact and cooperate with defense attorneys?

ASM: Rarely. We see them in court, but do not have much interaction with them.

QPK: To what extent do advocates interact with judges?

ASM: Occasionally. Judges may call on us at court if they have questions about the victim’s thoughts and feelings in regard to the sentencing of the defendant or the amount of restitution expected.

QPK: To what extent do advocates interact with corrections personnel?

ASM: We occasionally interact with probation and parole officers. We may need to call a PO to ask about restitution payments or to inquire if there has been any contact between the victim and defendant. The victim may want to know if the defendant is following the conditions of probation, so we will call the PO and inquire. We may also call the PO if a victim informs us of an offender harassing or intimidating them.

QPK: To what extent, if any, do you have contact with defendants?

ASM: Rarely do we have any contact with defendants.

QPK: Staci, what are the major sources of satisfaction you have in your position as a victim advocate?

(continued)

**Box 3.1** (continued)

ASM: Knowing that I helped someone and they are grateful for my help is my major source of satisfaction. There are times when victims are upset with the sentence and advocates get the blunt of their feelings. When a jury comes back with a guilty finding and the victim or their family is happy, this makes me happy. It is very rewarding when a victim feels safe and that the justice system has served the victim well.

QPK: What do you find to be the major sources of frustration (problems) related to your position as a victim advocate?

ASM: When a defendant does not pay restitution to a victim, it can be upsetting. The victim is rightfully owed the money and for the defendant to not pay or make minimal payments can be frustrating. Another source of frustration is when a victim is upset about a sentence given to the defendant and blames the advocate. Also, some victims have a negative attitude toward the justice system and are hard to work with or satisfy regardless of what we do to assist them. It is my job to help them through the process and provide what assistance I can, but it is not a perfect system and some victims will be dissatisfied no matter what we do for them.

Sometimes it is difficult to develop good communications with assistant prosecutors. Prosecutors look at the case in a more legalistic way than the advocate, who must consider the victims emotions and feelings as well as obtaining factual information.

QPK: Staci, are there any topics/areas that you would like to comment on that have not been covered in the interview?

ASM: Yes, I would like to mention victim rights. According to the Ohio Revised Code, all victims of felony crimes shall be entitled to certain rights. The majority of the rights pertain to the criminal justice process and the protections, benefits the victim is entitled to. These include the right to be present at all hearings; to participate in a meaningful way during a trial; to be informed of the outcome of the trial, sentence given; and to be notified when a person is being considered for release from a correctional facility or parole. Other rights relate to receiving information about medical, counseling, housing, emergency services, being eligible to receive compensation, restitution, and other services. It is my job to make sure the victims I serve are provided these rights to the best of my ability.

## Community Service Agencies

Justice agencies, including the police, courts, and community corrections, must develop ongoing cooperative relationships with the public and private agencies providing services to those who were directly or indirectly victimized by crime. Decisions regarding who is in need of service and the types of service needed are

often made by a police officer who is the first responder to a criminal event. For example, if an officer is dispatched to a suspected domestic violence call and discovers that a woman has been seriously physically harmed, the obvious decision by the officer would be to call for paramedics and have the woman transported to a hospital. If there are small children in the home, the officer, after determining if they were physically harmed by the offender, would need to call the county children's services agency to arrange for the children to receive temporary shelter. If the offender is present, that person would be arrested.

Other circumstances require a different set of decisions. For example, if the victim does not need medical treatment, but needs temporary housing because she is fearful that she and her children will be victimized again by the abusive person, the officer can contact a shelter for women and arrange for emergency temporary housing for the woman and children. If it is determined by the officer that none of the participants in a domestic violence case are in need of immediate medical attention or that there is a strong likelihood that they will not be physically harmed by the offender, the officer might decide to not take any immediate action, regarding the victim/s, but only arrest the offender and submit a report.

Once the report is reviewed by an official in the prosecutor's office, other decisions regarding the welfare of the victim/s may ensue. For example, the county child welfare agency could begin an investigation to determine if the children will be endangered if they remain in the home. Generally, it is at this time in the case when a victim services agency will become involved with the victim.

**Temporary Shelter for Victims** A key function of victim services agencies is to assist in the placement of victims of crime in a secure environment, if the lives of the victim or children of the victim are in danger. Shelter homes of various types have been established by both public and private agencies in response to the needs of the homeless, battered women, alcohol- and drug-addicted persons, physically and sexually abused children, and the mentally ill. For example, the Women's Shelters (2016, pp. 1, 2) website provides the location and contact information for the 2294 women's shelters located in the 50 states. The particulars regarding what types of services a shelter provides and who is eligible to receive the services vary. For example, some women's shelters only allow adult women to reside there, while others allow adult women and their young children to be admitted. The maximum stay at some shelters is limited to several days, while others may allow stays of several months. Some are equipped to provide counseling and treatment, while others offer room and board only.

**Expanding Victim Services** Several categories of victims, including child victims of physical abuse, neglect, sexual abuse, and abandonment, have advocates in the juvenile and family courts as well as in child protection agencies. The caseworkers who are assigned to work with juvenile victims of crime are trained and have experience in interviewing and counseling child victims. The advocates working with juvenile courts and child service agencies have established an extensive network of service agencies to which they can refer child victims who have special needs that the agency cannot fill. For example, some victims need medical care,

others may need extensive psychological counseling, and others may need temporary shelter.

Although the state has a legal obligation to provide protection and services to child victims of crime in those cases in which the parents or legal guardian is the perpetrator of the crime or is unable to provide for the basic needs of a child, such as food, clothing, shelter, and supervision, the obligation does not extend to other family members who, while not direct victims of a crime, are affected in many ways by the incident. This is especially relevant if the offender is a member of the victim's family. Parents who abuse or neglect their children often have extensive personality problems that must be addressed before the family can reunite. These problems often stem from the abuse of alcohol or drugs.

McGee (1997, p. 66), a district court judge, realizing that a large number of the parents in the abuse and neglect cases that came to his bench were alcohol or drug abusers, decided to develop a family drug treatment model. Instead of being sent to jail, the abusers were given the option of participating in the drug court program. Families accepted in the program "enter a one-year program of intensive intervention with the goal of reuniting participants and their children as a healthy, stable, productive family unit. A comprehensive assessment is conducted to identify family needs. An individualized case plan is established and services provided." He concluded, "Involving families, including children, as decision makers is often the best solution for finding help for children and for establishing an ongoing support system." McGee notes that for the program to be effective, a great deal of collaboration is needed between the court and other service agencies, including children's service, case managers with flexible resources and authority, and probation or parole officers.

The Women's Prison Association has been assisting female criminal offenders for more than a century and a half. A fairly new program titled Justice Home, located in New York City, works with female offenders who were convicted of a felony offense for which they could have received 6 months or more in prison. In place of incarceration, the women are given home probation, with the goal of providing help rather than punishment. Walshe (2015, p. 2), who completed an evaluation of the program, noted that two-thirds of the participants were of color, the majority were lone parents, 74% of the participants in the Justice Home program had a history of substance abuse, 57% had a history of physical or sexual abuse, 25% had a history of mental illness, and two-thirds did not graduate from high school. It was clear that a large majority of the women were at one time or another victims of crime, and the large majority had physical and mental health needs that needed to be treated.

According to Walshe (2015, p. 2), the supervision of the Justice Home clients includes home visits to check on whether they are in a safe environment. The women are given random drug screening and are required to attend treatment sessions that address their specific problems. The major focus of the program is to provide assistance and to establish trust. There are no restrictions on the movement of the participants and electronic monitoring is not used. Walshe (2015, p. 2) notes that "They are hooked up with cash assistance, housing and food stamps and

to counseling sessions for domestic violence, substance abuse or whatever is deemed appropriate for their case.” A 2-year follow-up on the program revealed that a majority of the substance abuse participants relapsed and had to be given additional sanctions. Some were terminated from the program. However, 40% did graduate and, considering the characteristics of the women who participated and the types of problems they had, the program was considered to be successful.

Family members are often indirectly victimized as a result of having a member of the family member incarcerated in jail or prison. Weintraub (1976, p. 28) notes there are four specific crisis points for the families of an individual who is passing through the criminal justice system. They are arrest and arraignment, sentencing, initial incarceration, and immediate/pre/post release. Those individuals related to an individual who has been arrested and charged with a crime that resulted in immediate incarceration in a short-term facility such as the jail and possible incarceration for a considerable length of time in prison if convicted will generally experience anxiety, uncertainty, loss of status in the community, loss of friends, and loss of financial security, particularly in the offender who was the primary source of income for the family. This victimization may be applicable not only to members of the immediate family but also to the parents, in-laws, and close relatives of the offender.

Victim services agencies, both private and public, are structured to provide assistance to a family member who was victimized by another member of the family, but generally, they do not provide assistance to those who have to cope with the effects of having a family member arrested, tried, sentenced, and incarcerated. For example, the typical victim service agency will walk the victim of a crime through the justice process and provide the information and services needed to reduce the amount of harm experienced to the extent possible. However, with the exception of volunteer organizations, this service is not extended to the families of the offenders.

For families not familiar with the criminal justice process who have a family member arrested and held in jail, receiving such information as the location of the jail, visiting hours, who is allowed to visit the inmate, knowing the name of the defense attorney, and who to contact to obtain bail money is vital to help reduce the anxiety and confusion of the family. Later in the process, the family members may know more about the workings of the justice system, but still need information about the trial date, the courtroom where hearings are scheduled, and other matters related to the status of the offender. If the offender is convicted and sentenced to a correctional facility, the family members need to obtain additional information such as the location of the prison, visiting hours at the prison, who is eligible to visit, and how to get to the prison. The effect on the children of families in which either the mother or father is incarcerated can often be devastating.

Travis (2005, p. 31) notes, “In the simplest human terms, prisons places an indescribable burden on the relationships between these parents and their children. Incarcerated fathers and mothers must learn to cope with the loss of normal contact with their children. Infrequent visits in inhospitable surroundings, and lost opportunities to contribute to their children’s development.” Travis (2005, pp. 32–33)

reported that 55% of all state prisoners are parents and the large majority (93%) of state prisoners are men. In some cases, both parents are incarcerated, and in other cases, the reason for the parent being incarcerated was for being abusive toward the spouse, children, or both. In these cases, having the source of family disruption out of the household may bring immediate relief and give the family members an opportunity to reestablish some normalcy in their lives, but it also may create many new problems, particularly if the incarcerated spouse was the primary source of income for the family. In cases where the mother is incarcerated, the children may be remanded to the supervision of a child service agency and placed in foster homes. Another factor that affects the stability of the families with incarcerated parents is the difficulty of maintaining ties with the incarcerated parent. Since the majority of offenders sent to prison come from urban areas and many of the correctional facilities are located in rural areas, transportation of the family to the prison for visits may be a significant problem. Travis (2005, p. 36) notes, "Geographic distance inhibits families from making visits and, for those who make the effort, imposes an additional financial burden on already strained financial budgets."

Several volunteer agencies that work with families of offenders offer transportation on a regular basis to spouses, parents, and other family members who are in need of transportation to visit family members incarcerated in correctional facilities. Sullivan et al. (2002, p. 4) completed an evaluation of the La Bodega de la Familia program located in New York City. This program, funded by the Vera Foundation, "engages both substance abusers and their family members in family case management and other services as a supplement to probation, parole, or pre-trial supervision. By providing support to the families of drug users in the criminal justice system, Bodega aims to increase the success of drug treatment, reduce the use of incarceration to punish relapse, and reduce the harms addiction causes within families." The participants selected for the program had a long history of drug abuse and often, as a result of their activities, "sent a message to other family members that drug use is acceptable and put other family member in physical danger." An evaluation of La Bodega (Sullivan et al., 2002, p. 4) found that the program resulted in improvements in family members' lives. They received more medical and social services and their health had improved. The evaluation also found that drug use in the target population declined and program participants were less likely to be arrested and convicted on a new offense than were members of the comparison group. The researchers concluded, "The reduction in drug use was not produced, as originally anticipated, by the greater use of drug treatment among Bodega participants, but instead appears to be a direct result of pressure and support from Bodega case managers and family members themselves."

## Elderly Victims of Crime

The elderly (generally defined as 65 years old and older) is the fastest-growing segment of the US population. The National Institute of Justice (2015, p. 10) predicts that in 2025 more than 62 million Americans will be aged 65 or older and 7.4 million will be 85 or older.

The amount of criminal victimization of the elderly (generally defined as 65 years old and older) is not known for various reasons. These include (National Institute of Justice, 2015, p. 10):

- Many older persons who were victimized (property theft, fraud, physical assault) did not realize they were the victim of a crime.
- The offender is a spouse, relative, or caretaker, and the victim did not want to get the person in trouble.
- The older victim does not report the crime, for example, vandalism, in order to avoid being harmed by additional victimization as a form of retaliation.
- The older victim does not want to admit the victimization (swindled out of money, taken in by a scam).
- At times, the older person is involved in a criminal activity, and to inform the police and have the police investigate the victimization might lead to uncovering of the victim's criminal activities.

A research report completed by Mason and Morgan (2013, pp. 4–6) on the amount of crimes against the elderly during the years of 2003–2013 found that specific categories of the elderly had the highest amount of victimization. These categories were:

- Individuals living in low-income households
- Individuals who were unemployed or retired
- Individuals who reported being in poor health
- Individuals who had low levels of social support
- Individuals who had prior traumatic experiences

The authors reported that less than one-half of the elderly victims of crimes reported the victimization to the police. The predominate reasons why elderly people are becoming more vulnerable to becoming crime victim centers relate to the changes in the lifestyles of the older population and the circumstances surrounding their lives, as listed above.

Until recently, the elderly were not singled out for special consideration in crime prevention programs. Likewise, while victim services agencies were established in the United States and serve a wide range of victims, including the elderly, their mission and the training of their staff generally do not consider the special needs and problems of elderly victims of crime. Kratcoski and Edelbacher (2016, p. 63) state, "It is now recognized that some older victims have needs for assistance that are quite different from the needs of younger victims. These include assistance with transportation, special housing, financial security, personal physical care, and



psychological counseling. Having a sense of security and being able to live without fear for one's personal safety are also major concerns." In reference to the safety and security of the elderly, the National Crime Prevention Council (2015, p. 1) states that a viable crime prevention program should include a communication network to keep the elderly alert to potential crime; information and training on how to report crime; services to support elderly victims in dealing with the physical, emotional, and financial impacts of crime; and access to products, training, and other services to help to prevent victimization.

## **Victims with Intellectual and Developmental Disabilities**

Those who have some form of physical or mental disability often may be victimized when the first responder to the crime scene, typically a police officer, fails to recognize that the victim has a disability that in some way interferes with the communications between the victim and the first responder. If the first responder to the scene does not recognize that the victim has a physical or mental handicap that interferes with communication, the officer may consider the victim evasive or uncooperative if he or she does not provide the requested information during the interview. For example, a person who has problems hearing, is unable to speak clearly due to a major brain damage, or who just does not have the mental capacity to grasp the content of the questions asked by the first responder may struggle to provide information needed by a first responder such as a police officer, a paramedic, or service provider. If the victimization pertains to physical or sexual abuse and the victim is in a state of trauma in addition to having a disability, communication with those who are trying to provide assistance may be even more difficult.

The Ohio Association of County Boards of Development (OACB) has developed a proposal to train police officers, professionals, and other first responders on methods for responding to those victims of abuse who have intellectual and developmental disabilities. The OACB (2016, p. 2) states, "The nature and timing of the first response creates a lasting impression for the victim and the family. The information gathered by law enforcement organizations at this stage often makes or breaks an investigation as evidence collected and managed forms the foundation for case building. It also lays the groundwork for the next step, giving first responders what they need to effectively carry out their jobs of protecting the child or adult with a developmental disability and determining if a crime has occurred." Participants will be trained to recognize signs that a victim has a disability and familiarized with techniques that will enable first responders to communicate with victims who have disabilities. Law enforcement officers, prosecutors, and service providers will take part in the training.

## Summary

In contrast to the past, the victims of crime are now included in every phase of the criminal justice process. Beginning in the 1950s with such social movements as the civil rights movement and the women's rights movement, social activists have continued to draw attention to the inequalities of the justice system in the United States, including treatment of the victims of crime. The victims' rights movement resulted in many changes in the justice system as well as the passage of state and federal legislation for the establishment of agencies to assist victims of crime.

It is expected that victim services agencies will continue to be an integral component of the criminal justice system. Victim service advocates will continue to assist law enforcement and judicial agents in the interviewing process when victims are involved, especially in cases involving child abuse, sexual assault, domestic violence, and elder abuse.

There is a need for victim services agencies to expand and refine the services to special categories of victims such as the elderly, families of offenders, and victims with mental and physical disabilities.

## Discussion Questions

1. Why has the involvement of a victim in the criminal justice process changed from one of witness to concerns about the personal welfare of the victim?
2. Differentiate between direct victimization and indirect victimization. Is any treatment or assistance available for those who are indirectly victimized by a criminal offense?
3. What types of assistance does a victim involved in the processes of the Federal Witness Protection Act receive? Why might a victim decline the protections offered?
4. Why is alcohol and/or drug abuse regarded as such an important factor in cases of domestic violence? Do you think treatment programs for families with a history of domestic violence should focus treatment on this problem before attempting other types of treatment for the families?
5. What services do child advocates attached to the juvenile court perform? How does the child advocate become involved in a case of child physical or sexual abuse?
6. If there are no programs designed to assist family members who are indirectly affected by criminal offenses, where could these people possibly go for help?
7. When elderly people are victimized, what are the reasons that they may not report the victimization? What are the types of scams that might make an elderly person too embarrassed to report being victimized?

8. Now that victim services agencies are recognizing the needs of elderly offenders, what are the topics that should be focused on in the design of programs for them?
9. What are the physical and/or intellectual disabilities that may inhibit communication between victims and first responders?
10. Is there a need for professionals throughout the justice system to become more aware of the needs of persons with disabilities? What are the possible consequences of justice system functionaries being unable or unwilling to recognize the problems and needs of such persons?

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## Part II

# The Diverse Roles of Counselors in Correctional Treatment

In this part, the roles of correctional personnel and the approaches used in the counseling and treatment of different groups of offenders are considered.

In Chap. 4, the history of the development of correctional personnel is traced, the personnel traditionally associated with corrections are defined, and their roles explained. Many of the first correctional workers, particularly those who provided services for offenders in the community, were unpaid volunteers who provided services solely for humanitarian reasons or who were committed to providing services as part of the activity of their religious organizations. With the advent of paid professional correctional work, correctional workers were broadly defined as those who worked in the community as probation officers or parole officers and those who worked in prisons, generally as guards and as prison administrators. At the present time, correctional work is broadly defined to include any person who has some positive effect on the behavior change of a juvenile offender or an adult criminal. Police officers who are assigned to juvenile diversion programs, officers who work in schools as student resource officers, school teachers, judges, volunteers, probation and parole officers, residential treatment center staff, and the youth leaders in juvenile correctional facilities are considered correctional personnel.

In Chap. 5, the diversion and formal processing of juvenile offenders is considered. The juvenile court was created with the underlying mission of serving as a parent substitute for those youths in need of supervision and parental care. Although the juvenile justice system was not punishment oriented in theory, the end result for youths processed in the juvenile or criminal justice systems was basically some form of punishment, even though it was labeled treatment. The juvenile justice systems in each state function under the laws of that state. Some systems are more oriented toward punishing youthful offenders, while others emphasize providing treatment.

The philosophy of the juvenile justice system has changed from time to time, depending on the social and political climate. Currently, the underlying approach to the processing of juvenile offenders centers on the concept of minimizing the penetration of juvenile offenders into the system. The emphasis in this chapter is to explain and discuss various diversion programs such as police diversion, youth (teen) courts, mediation, school resource programs, and court diversion programs.

In addition, programs for special offenders such as drug courts, family counseling, and programs for sex offenders are considered.

Chapter 6 describes classification and assessment models currently in use that are evidence-based. The purposes and uses of classification as used in community corrections and institutional corrections are explained and illustrated.

The focus of Chap. 7 is on programs for criminal offenders with special needs. Alternative methods for processing several categories of offenders are explored in the chapter. These include alternative processing of the mentally ill to avoid jail commitments, special courts for the mentally ill, substance abuse offenders, family violence offenders, military veterans whose offenses may be related to post-traumatic shock, and community courts for those who commit minor offenses.

Chapter 8 focuses on the traditional community-based sanctions given to offenders. These include probation in lieu of incarceration in a correctional facility and parole (post-release supervision) for those released from a correctional facility. The origins of probation from its early development to the present time are considered and the organization and operations of municipal, state, and federal probation organizations are explained. The role of the probation officer and the ways the role has changed are examined. The use of evidence-based assessment instruments is illustrated, and extensive interviews with community corrections personnel provide insight into the ways the roles have changed and some of the current problems relating to community corrections.

Chapter 9 traces the origins and development of residential treatment facilities in the United States. Many of the halfway houses that opened in the past, such as Dismas House, are still functioning, although the types of offenders and the type of programs offered by these early residential facilities have expanded.

Some of the community residential facilities operate as all-purpose facilities, taking in both those released directly to community corrections and those released from a correctional facility who are in need of some form of temporary housing. Many residential facilities that started as a single unit now have dozens of units housing special needs offenders.

The characteristics of programs designed to treat offenders incarcerated in state or federal treatment facilities are discussed and illustrated in this chapter. An extensive interview with the president of a privately owned non-profit residential treatment corporation provides a good illustration of the operation and programming of the housing units that offer specialized treatment for the residents.

## Chapter 4

# Continuity and Change in the Roles of Correctional Personnel

### Introduction: Nature and Scope of Correctional Work

The types of occupations related to corrections expanded tremendously during the latter part of the twentieth century, and this broadening of occupations is expected to continue throughout the twenty-first century. Up until the 1950s, correctional personnel were divided into two categories, institutional workers, the majority being prison guards, and community corrections officers, these being predominately probation and parole officers. The educational requirement for obtaining a position in corrections generally was a high school diploma or less.

During and following World War II, there was a growing interest in understanding the causes of criminal behavior and the most effective methods to address these causes. It was hypothesized that the criminal behavior of some veterans was related to their wartime experiences. This period saw the rise of the “medical model” approach to corrections, that is, the belief that criminal behavior should be diagnosed and treated by professionals such as psychologists or social workers, just as a physical disease is diagnosed and treated by a medical doctor. In the latter part of the twentieth century, there was a great deal of emphasis on developing diagnostic instruments for predicting various types of behavior such as violence, aggressiveness, drug addiction, and the traits associated with a criminal personality. Methods to treat (cure) criminal behavior were also developed. The end result was the expansion of occupations that were connected to the counseling and treatment of adult criminal and juvenile offenders. These include counselors, teachers, psychologists, social workers, classification specialists, case managers, family counselors, and alcohol and substance abuse treatment specialists.

Pastore and Maguire (2002, p. 19) reported that in 2001, 700,000 (32.2%) of more than 2,000,000 personnel employed in the justice system in the United States were employed in corrections. About two-thirds of these correctional workers were employed by state agencies, most often employed as corrections officers in prisons, and slightly less than one-third were employed by local governmental agencies, the

majority of these being employed as probation officers by municipal or county agencies. Kratcoski (2004, p. 58) notes, “persons employed as correctional officers in federal, state, or local correctional institutions make up the largest proportion of correctional workers. Probations and parole workers constitute the majority of positions in community corrections.” Glasze and Herberman (2013) reported that, of the seven million people who were under supervision in the criminal justice system, 4.8 million (more than two-thirds) were being supervised by a community-based agency.

## The Correctional Worker’s Role

Kratcoski (2004, p. 58) states,

The role of the correctional worker has generally been couched in terms of Investigation, managing, controlling and assisting. The emphasis placed on each facet of the role varies, depending on the specific position within a correctional agency to which the person is assigned, the goals and mission of the agency, and the current philosophical model of corrections that is in vogue. In the second half of the twentieth century, the goals of corrections changed from the *medical/scientific* model, with emphasis placed on the rehabilitation of the offender by providing treatment, to the *justice model*, which focused on a “just deserts” (just punishment for the offender), to the present *restorative justice model*, in which deterrence and rehabilitation and the needs of the victim are equally emphasized.

In their research on the statutory changes made by the states in recent years pertaining to the legally mandated roles of probation officers, Hsieh et al. (2015, p. 24) found that, “the statutorily mandated roles of probation officers have converged its ‘ideology’ of the law with the ‘reality’ of the practice over the past 30 years. From 2012 to 2015, the state legislatures in 24 states increased both rehabilitation- and law enforcement-oriented functions prescribed by law, and 37 states increased rehabilitative and law enforcement practices, respectively.”

Johnson (1998, pp. 117–120) served for more than 30 years as a juvenile probation officer, starting in 1960. During this time she was able to observe many changes in her job descriptions and expectations regarding her performance. She recalls, “a memory of the mothers of the 1960s (very few fathers), mostly black or Hispanic, who worked hard though on welfare, loved their children, and yet did not know how to be parents and in control of their day-to-day lives.” In the 1960s, there was a more informal orientation toward juvenile justice, and although the issue of racial justice was just as complex as at the present time, the juvenile court judges and court personnel were less controlled by legislation and judicial decisions and had more discretion in making decisions regarding the handling of youths who were adjudicated delinquent. Johnson (1998, p. 118) writes “Today’s ‘new poor’ are better informed regarding the justice system, are represented by counsel, and are informed regarding their children’s rights, yet the issues continue to be the



consequences of poverty and racism, as evidenced by the minority overrepresentation in the juvenile probation system.” She notes (p. 118),

Advanced technology has also been a factor in the recent years of my career in that we have entered the age of technology, including electronic voice mail, electronic monitoring of clients, telephone probation reporting, and computerized management of caseloads. During the time that I began my career, there was a people-to-people response, and my experience with the introduction of technology in probation is [that it is now] a system that has depersonalized client contact. Clients are discussed in the context of data, in the abstract, rather than a more personalized discussion. In spite of our advanced technology, the questions remains, are our clients better served?

## **Preparation for Positions in Correctional Work**

The substantial increase in the number of persons employed in corrections created an increase in employment opportunities with correctional agencies or organizations that provide professional services to justice agencies. Kratcoski (2004, pp. 60–61) notes, “When closely related positions, such as employment in group homes, diversion programs, substance abuse programs, and others that are not specifically designated as correctional workers are considered, the number increases even more.” In addition to the standard supervision positions that require direct contact with those being supervised found in adult and juvenile corrections, such as warden, guard, correctional officer, detention supervisor, jail corrections officer, juvenile probation officer, or parole officer, the number of professional positions that require more specialized training and education, such as teachers, psychologists, social workers, and counselors, has increased. Other specialized positions include training officer, classification manager, unit manager, and therapist serving those with special needs, such as the mentally ill or substance addicted. Those in positions that do not require direct contact with those under correctional supervision, such as communications director and grants manager, also provide valuable assistance to the functioning of an agency.

## **Education and Training for Correctional Work**

It is difficult to make a clear distinction between education and training when referring to correctional work. Kratcoski (2007, p. 4) states, “In general, education refers to developing the ability to conceptualize and expand the theoretical and analytic learning process, while training involves gaining the skills needed to accomplish the immediate tasks and goals pertaining to one’s job description.” The amount of specialized education and training needed to perform in the multiple positions in corrections is so varied that a definitive statement separating education and training cannot be made. For some of the subject matter presented to corrections workers, it is often difficult to distinguish between what constitutes training

and what is considered basic education. The criminal justice degree programs offered in colleges and universities in the United States will generally require a number of courses that are basically education, such as criminology, juvenile delinquency, social control, and criminal law, and will either require or offer courses in concentration areas such as criminal justice administration, criminal investigation, and interviewing. Internship courses are designed to give the student an opportunity to learn the basic skills pertaining to a specific position in a justice agency and to apply some of the theoretical knowledge gained in the classroom. On the other hand, when the basic training programs for police officers or corrections workers are reviewed, it is apparent that the subject matter contains both theoretical educational material and applied, "how to do it," topics.

Kratcoski (2004, p. 61) reports that, "Specialized academic programs in corrections were not available until the 1960s. Before that time, students drawn to the general area of correctional work were likely to major in sociology, social work, or psychology. There were few textbooks dealing specifically with corrections, and those available took a non-theoretical approach to the subject." If one pursued a major in sociology or social work, it was generally possible to find a course in criminology and a course in juvenile delinquency. A portion of the text used in the course usually covered corrections.

Kratcoski (2004, p. 61) states,

It was not until the 1960s, when increased federal funding created many new programs in law enforcement and corrections, that varied career opportunities in criminal justice appeared. As new higher education programs in law enforcement and corrections developed, a debate over what should be the major emphasis of these program occurred, that is, should the emphasis be on providing theoretical knowledge to the students or on offering training. Since a majority of the professors who were hired to teach courses in the law enforcement and criminal justice programs were former police officers or corrections administrators, the majority of the college degree programs in law enforcement and justice created in the 1970s tended to be more focused on training rather than on theory.

He further states (2004, p. 61),

During the second half of the twentieth century, program emphasis changed from a concentration on training to the current emphasis of most criminal justice higher educational programs, frequently characterized as professional. These higher education programs stress a strong interdisciplinary curriculum and frequently include courses that examine all components of the criminal justice system.

In 1998, the Academy of Criminal Justice Sciences developed Minimum Standards for Criminal Justice Education to serve as guidelines for higher education programs throughout the country. The Standards (Academy of Criminal Justice Sciences, 1998, p. 167) proposed that all higher education programs in criminal justice, law enforcement, and corrections have core requirements that focus specifically on:

- Criminal justice and juvenile justice processes (law, crime, and administration of justice)
- Criminology (the causes of crime, typologies, offenders, and victims)

- Law enforcement (police organization, discretion, subculture, and legal constraints)
- Law adjudication (criminal law, prosecution, defense, and court procedures and decision-making)
- Corrections (incarceration, community-based corrections, and treatment of offenders)

Students majoring in undergraduate degree programs as well as graduate degree program in criminal justice, criminology, or administration of justice are required to complete the core requirements and then have the opportunity to specialize in the criminal justice area they want to prepare for as their career choice.

## Education and Training for Correctional Officer Work

The large majority of the states have set a high school diploma or equivalent as the minimum education for an entry-level position as a correctional officer. Some college education is also required in many states, although the content of the specific academic programs that qualify is very broad. In addition to formal academic education, the states require the completion of a basic training program.

Henry and Hinkle (2001, p. 25) note that, “Those states with the highest standards require at least 2 years of college education and provide 4–6 weeks training in such areas as self-defense, crisis intervention, riot control, report writing, departmental policies, and health care”. The basic training programs of the states generally include development of basic skills needed to be effective as a correctional officer, procedures for handling rule infractions, contraband, searches, self-defense, procedures for responding to emergencies, and many other areas that are applicable to the everyday operations of a correctional institution. Some of the training relates to cognitive areas, such as when the use of force is appropriate and policies and laws that pertain to inmate rights.

The primary goal for a correctional administrator is to assure that the inmates, staff, and the community are secure. The mechanisms needed to provide for the safety and security of the institution take top priority in the training of correctional officers. Providing counseling is not one of the major tasks of the correctional officer. However, some training in communications and human relations is offered in the basic training. Correctional administrators and policy makers in general realize that the treatment of inmates with respect and fairness will lead to a more positive atmosphere in the institution resulting in more cooperation from the inmates.

Hambrick (2000, p. 74) noted,

As correctional workers, all staff, including the warden, take responsibility for the security of the institution and supervision of the inmates. If the unit officer or any other staff member needs emergency assistance, all available staff respond. Department heads leave a meeting, case workers leave their desks, construction and maintenance personnel leave their projects—all respond to help the officer.

According to Hambrick, it is important that all new employees, including secretaries, doctors, lawyers, and psychologists as well as correctional officers, start their careers with the Bureau of Prisons from the same frame of reference by completing the basic training offered at the Federal Law Enforcement Center. It includes several weeks of training on basic correctional techniques and a few weeks of more specific training geared toward having the new employee becoming familiar with the specific operations and procedures followed at the institution in which they are employed.

## **Educational and Training for Professional Staff**

Pavalko (1971, pp. 18–26) characterized professional occupations as those that have a systematically obtained body of knowledge, based on theory and research. Those engaged in the profession work toward the realization of social values and must complete specialized education and training programs before being allowed to work in the occupation. Professional work requires a great deal of autonomy in the performance of the tasks associated with the work and freedom to regulate one's work behavior. Kratcoski (2016, p. 248) notes that those who enter professional occupations, such as medical doctors, lawyers, teachers, social workers, or psychologists, are primarily motivated to provide service to their clients and the community. They tend to have a common identity and adhere to the code of ethics established by a professional association that established the guidelines for behavior that is appropriate for those working in the professional field. Champion (2005, p. 206) observed that, "These professional organizations can censure the person for misconduct and provisions in the law relating to licensing require a license to practice be revoked for misconduct."

Those in the traditional professions, such as medical doctors, lawyers, psychologists, and social workers, can be found working in all areas of the criminal justice system. For example, attorneys are employed by police agencies, medical doctors are employed in jails and correctional institutions, and psychologists and social workers are employed by various judicial agencies, including juvenile and criminal courts. In some cases, these professionals are independent and contract with the employing agency to provide specific services, and in other instances the professionals are employees of the agency. Regardless, of being contracted workers or employees, they are expected to follow the professional standards and code of ethics of the occupational group to which they belong.

The question of professionalization frequently comes up in regard to occupations associated with community corrections. Community corrections positions cover a wide range of activities, including offender supervision, academic teaching, various types of diagnostic, counseling and treatment work, classification and supervision of prisoners in jails and community correctional facilities or youths in detention, social work, job placement activities, and networking to find and coordinate

programs for offenders and their families. The largest group of community corrections workers consists of juvenile and adult probation officers.

The education and training required for community corrections positions varies with the responsibilities of the position. Jail correctional officers or youth detention leaders may only need a high school education and training to perform the tasks assigned, but social workers, chemical abuse specialists, sex offender treatment specialists, and psychologists require professional education and training. Before an applicant is even considered for these positions, he/she must prove that they have the credentials required, which normally requires licensing.

The role of a probation officer is broadly defined in terms of providing supervision and service to the clients/probationers under his/her care. In an analysis of the tasks mandated by state legislations for probation officers, Hsich et al. (2015, p. 2), in a nationwide research project on probation officers roles, found that probation officers were required to perform many of these tasks:

- Supervise offenders, including surveillance and investigation
- Assist in rehabilitation
- Develop/discuss probation conditions
- Counsel and make home/work visit
- Arrest probationers
- Make referrals
- Write presentence investigations
- Keep records
- Perform other court duties
- Collect restitution payments
- Serve warrants
- Maintain contact with the courts
- Recommend sentences
- Development community service programs
- Assist law enforcement agencies
- Assist court in transferring cases
- Enforce criminal laws
- Assist in locating employment
- Initiate revocations
- Complete risks/needs assessments
- Make individual case adjustments/case management

In many ways, probation officer positions fit the characteristics generally associated with professionals. The officers must possess a specialized body of knowledge, provide service to the clients and the public, and are governed by rules and laws that, if violated, will bring sanctions. However, a major difference is that there is no standard educational program that is required for entry into the occupation. Also, probation officers are not required to be licensed, although some licensed social workers or counselors have positions as probation officers. An online search of job opening under the heading of Probation Officer produced such job titles as US Pretrial Services and Probation Officer, Intensive In-Home Counselor,

Probation Counselor, Case Officer, Probation Supervisor, Probation/Parole Specialist, Presentence Investigator, Correctional Probation Officer, Deputy Probation Officer, Administrative Specialist Work Leader, and many others. The minimum educational requirement given for those listing the requirement was a BA in social services or related degree. Some positions required experience and others required a specialized degree in counseling, social work, or psychology (Probation Officer Jobs, 2016, pp. 1–3).

**Box 4.1: Interview with Susan Crittenden, Community Services Officer, Dallas, Texas**

Susan Kay Crittenden was born and raised in the small town of Lodi, Ohio. After graduating from high school, she attended Kent State University and received a BA in social work and a MA in corrections. She was offered and accepted an internship by the Director of the Dallas County Jail, Charles Newman. During the time of the internship, she lived in the jail in order to gain some knowledge of the experience of being incarcerated. Shortly after completing the internship, she accepted a position working with the Dallas County Adult Probation Department, a position she held until her retirement in 2008.

During the course of her career, she served as a consultant, trainer, and part-time professor. In addition she authored or coauthored several publications. She is currently employed as a part-time Collection Specialist with the Dallas County Community Supervision and Corrections Department.

**Interviewer—Peter Kratcoski (PK) Interviewee—Susan Crittenden (SC) Interview completed 7/21/2016**

QPK: Susan, why did you pursue a career as a probation officer?

ASC: When I was 9 years old, I told my dad that I was going to be a probation officer because I was going to change criminals into law-abiding citizens. He laughed and said, “You will change your mind before you go to college.” To his dismay, I did not change my mind. To my dismay, I do not think I changed many criminals into law-abiding citizens.

QPK: Did your formal education have an effect on your career choice?

ASC: While I was pursuing my undergraduate degree in social work, I realized I did not have the mindset for being a social worker. The more criminal justice classes I took, the more I realized that I wanted to pursue a career working with criminals, and being a probation officer was indeed the direction I was going to pursue.

QPK: Have you worked your entire career with the Dallas County Probation Department?

ASC: While attending graduate school, I worked at a group home for delinquent children. I realized that the parents were worse than the kids and that working with juveniles was not a good career choice for me. When I

(continued)

**Box 4.1** (continued)

moved to Dallas, I worked for a pretrial diversion program for 1 year while I adjusted to life in Dallas. I was hired by the Dallas County Adult Probation Department in 1981 and never looked back.

QPK: Briefly describe the positions you held within the department during your career.

ASC: I started my career as a probation officer conducting orientation in our transfer unit. I was basically giving out reporting instructions and reviewing the conditions of probation. Within 6 months, I was selected to be one of the woman officers assigned to a new intensive supervision unit. I was now doing the work of a probation officer. I talked with the probationers during their required office visits and also conducted home visits. Later, I was transferred to the court unit, conducted presentence interviews, and was present in the courtroom to serve motions to revoke and motions to adjudicate and often testified in revocation hearings. Within a few years, I was promoted to assistant supervisor within the court unit and supervised the officers assigned to the court unit. Later, I was assigned the position of assistant supervisor in several satellite offices and ended up as a supervisor in the intensive supervision unit. After years of working in the satellite offices, I transferred into the training coordinator position. I was responsible for training all of the new hires within the department as well as scheduling advanced training for veteran probation officers. During that time, I became a resource officer with Sam Houston State University and conducted several training classes at their probation academy. Later, I worked as a field work officer and was the first woman to hold that position. We conducted all field visits for the satellite offices and were assigned to a specific satellite office.

I worked as the first grant writer for the department. However, I did not like the routine office work, and I transferred back to supervise the probation officers. I was also the first female assigned to work in a newly established absconder unit. This was an exciting job, as we learned how to track down absconders and get them back in jail for the judge to decide their futures.

QPK: Susan, it appears as if you had some experience with all of the units of the department, what were your duties at the time of your retirement?

ASC: I was still working in the absconder unit. I had gained a good reputation for being able to get misdemeanor absconders to turn themselves in and collecting the money they owed in supervision fees, restitution, court costs, fines, and other money owed. At the time of my retirement, I had collected over \$1,000,000 in court ordered monies and was known as “The Million Dollar Baby.”

QPK: Thinking back over your career, have you noticed any great changes in the characteristics of the defendants/probationers who are placed under the

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**Box 4.1** (continued)

supervision of the Dallas County Community Supervision and Corrections Department?

ASC: Absolutely! Initially the probationers were basically first time offenders who were not too street-smart and for the most part were willing to comply with the conditions of probation. There were very few drug cases, and, while we saw probationers with assault cases, they were not too violent. As the years passed, the probationers under supervision were very “wise” to the system, and this was generally “not their first rodeo.” Some probationers had very long criminal histories, were very streetwise, and had extensive knowledge of the drug culture in Dallas. They were definitely not as compliant and did not hesitate to challenge your authority as an officer of the court. Generally, the probationers I supervised in the intensive supervision unit were more violent, more deceitful, and often more difficult to supervise than the probationers I supervised earlier in my career.

QPK: Have the courts changed their philosophy and mission during the years you served the court?

ASC: As time progressed, the department and court philosophy have changed from punishment to treatment back to punishment and now it’s more treatment oriented. Basically the shift back to the treatment mode has been the result of the overcrowding of the county jails and the state correctional facilities. At the present time, the probationers are often given more than one chance to complete the probation program before a stiffer sanction is initiated.

Another factor impacting the treatment/punishment decision is the makeup of the judiciary. Prior to 2004, Dallas County was very conservative, and the county government leaned toward punishment more than rehabilitation. Since 2004, the county government and many of the judges are more liberal and tend to try treatment programs for offenders before making a more punishment-oriented sentence.

QPK: Has your orientation, personal philosophy about probation work, and the people placed under your supervision changed during your career?

ASC: Yes, it has changed. I used to see the good in everyone and wanted to believe the offenders would be grateful for being given another chance, and they would walk the straight and narrow and do what was expected. I must admit even though I spent time working in the Dallas County Jail when I was completing my graduate studies internship and also worked at the Portage County Jail in the commissary, I was pretty naïve when I started this job. Perhaps that is based on growing up in a small town and not a big city like Dallas.

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**Box 4.1** (continued)

Over the years I learned to trust my gut reaction to everyone (I learned the hard way after leaving a glass of iced tea on my desk . . . I left the offender sitting there while I went to make a copy of something and ended up in the ER freaking out on the LSD he put in my tea). After that episode, I proceeded with caution with everyone and learned that everyone will lie to try to improve their situation and you cannot accept anything the probationers say at face value. Many of the offenders have spent a long time perfecting the art of telling a lie, so it takes time to determine who can be trusted at face value. To this day, that is how I approach a new person I meet in my personal and professional life.

As an old-timer in the profession, I believe in giving an offender one chance to prove he/she wants to be successful in society and stay out of jail. If they blow that chance, I would just as soon lock them up as keep them on the street. In short, many offenders should be happy that I am not the judge in their court!

However, my orientation and personal philosophy have not changed. I still believe offenders can change if given the opportunity and incentive. I have met and supervised the probation of some really great people over the years, and I know they will be successful in the future. Hopefully, I have helped in some way for them to turn their lives around.

QPK: Has the introduction of evidence-based models (risk, needs, case management strategies) helped to improve the success of the probation department?

ASC: We utilized a risk/needs assessment from the day I began working at the department. We used a model developed in Texas, and it was still being used in 2014. The more recent implementation of evidence-based practices and motivational interviewing has made it difficult for many officers to adjust to these innovations. The longer a person has been employed, the harder it is to adapt to the new model of supervision. It seems as if they would prefer to use the old methods and resist the changes. Thus, the department supervisors have to devote a lot of time getting them to comply and use the new methods.

When dealing with the community, we often hear that we are treating the offenders too easy. They refer to the probationer officers as “social workers” and “hand-holders” and often express an opinion that we should get “tough” with the probationers. It is hard to explain that we are bound by the policies of the department and the laws formulated by the state legislature. It seems as if the victims of crime often feel that they are being shortchanged by the justice system. It is particularly frustrating for the victim of an offense who has been told they will receive restitution payments each month from the offender and often never receive it. If an offender is not paying, the victims think they

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**Box 4.1** (continued)

should be ordered to jail, but it is not the case. The victims think the probationer officers have the power to send the offenders to jail, but it is not our decision. We can recommend revocation, but it is the judge's decision. I do not think the new case management strategies are lowering recidivism, in that in many cases the offender is not held accountable when they commit a new offense and thus does not accept the responsibility for their actions.

QPK: In your opinion, has the nature of probation work changed?

ASC: Probation work has definitely changed in the 36 years I have been a probation officer. It has become more political as the judges are taking a bigger role in overseeing the department and micromanaging the director's job. Sometimes it seems as if our hands are tied by judicial decisions and restrictions placed on them. Over the years, the administration bureaucracy has grown to a point where it is difficult to keep up with who handles what and who you should consult when there is a problem. It is easy to avoid following the chain of command when the administration is so large.

Probation work has become much more specialized in the past 15 years. We have so many specialized courts, specialized caseloads, and specialized divisions in which to work. In the 1980s you were an officer who worked in the courts or the field and you were expected to complete all of the duties related the position. Now, there are specialized divisions for practically everything.

On the other hand, I believe there is more personal interaction between the probation officer and the probationer than in the past. In the past, when a violation was filed, the offender often went to jail or the penitentiary. Today, they are sent back to us and we continue to work with them. The progressive sanctions model that is used by the department gives the offenders many chances before punitive action is taken, so there are many opportunities to interact with the probationers and try to get them on the right path. Also, the caseload is significantly smaller than it was in the past. In that the probation officers' caseloads are set by the level of supervision required for the probationers; those who supervise the high supervision probationers will have a small number of probationers to supervise, while those who supervise the low supervision probationers will have a much larger number to supervise.

QPK: During the times you served in a supervisory position, how much autonomy did you have?

ASC: Normally as a supervisor you were given a great deal of autonomy in conducting your job. Some of the directors of the department took a more hands-on approach than others and those directors took away some of the autonomy of the supervisors, and thus, we lost some of our ability to use our

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**Box 4.1** (continued)

own professional experience to make decisions on some matters. (One director micromanaged so much you needed permission to turn the page.) So in response to your question, it depends on the upper administration on how much autonomy the middle management will have.

QPK: What, if any, are some of the major problems the Dallas Department faces or perhaps will face in the future?

ASC: There may be a problem with financing the department if the judges do not place an emphasis on collecting the fees from those placed on community supervision. We rely on fees for almost two-thirds of our operating budget, and it appears that it is getting more difficult for probation officers to convince the offenders that they must pay their fees or there will be a penalty. The judges have to be firm on this matter.

We are seeing a larger number of offenders declining probation and opting to go to jail and serve their time. There are several reasons for this trend. Some of the offenders just want to get it over with by going to jail for a shorter period than the time they would be under community supervision. Also, some of the offenders do not have the money (or claim they do not have the money) to pay the fees, even though they can pay over monthly installments.

Probationers transferring out of the Texas's community supervision system also account for the lower amount of fees collected. The state legislature may have to do something. The CSCD is the only government agency in Texas that relies on the collection of fees for a large portion of the operations budget.

QPK: Would you advise a new graduate to seek a career in community corrections?

ASC: I enjoyed my career with the Dallas County Community Supervision and Corrections Department. There were times when the work was not enjoyable, but overall, the good times outweighed the bad. (The bad times were mostly associated with the administration.) I would encourage anyone who wants to work with offenders to follow a career in community corrections. It is a challenge, but when an offender takes the time to say "thank you" or writes a note telling you how much you changed their life, it is worth it. I often tell new officers to keep those notes in a drawer and when they are having a bad day to read the notes to remind them that they made the right career choice.

I also found that the pay and benefits we received are much better than what one would have even with working with large corporate organizations. I was able to retire at age 51, and my monthly retirement check is actually more than 100% of the monthly salary check I made when I was employed. I also receive my medical insurance free for the remainder of my life.

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**Box 4.1** (continued)

I would encourage a new graduate interested in a position in the criminal justice system to look beyond the salary when making a career choice. The benefits associated with being a public servant, such as medical insurance, vacation time, sick days, retirement compensation, and early age retirement, enhance the attractiveness of the job. I would advise a person who likes variety in their work experience and who is willing to accept challenges to consider probation work.

QPK: Before closing the interview, do you have anything else you would like to comment on?

ASC: I just want to comment that I appreciate the knowledge and support you have given me over the years. As a graduate student, the work in the jail commissary, having an opportunity to coauthor a journal article, present a paper at a professional meeting, assist in research projects, and participate in field trips, provided learning experiences difficult to obtain in the classroom.

## Correctional Work with Children and Juveniles

Community corrections positions for those who work with children who come into contact with the juvenile justice system either as offenders or victims are much more encompassing than those found in the adult justice system. Kratcoski (2012, p. 61) states, “A systems theory approach can be used to illustrate how a young person is likely to participate in or be affected by numerous social systems in the course of everyday life. The first and primary system, referred to as a micro system, involves the child as a member of a family.” The experiences of most children as family members are generally based on intimate, supportive, and satisfying relationships. For those children who do not have these experiences and instead experience conflict or become involved in deviant behavior that is detected by a children services or justice agency, the family in a broad sense becomes involved in the juvenile justice system. When a child enters school, the school officials assume some of the responsibilities of parents, under the *in loco parentis* doctrine. School officials are given the responsibility to provide a safe environment for the children while they are attending school and also have the right to take disciplinary action when a student violates the rules established for the students attending the school. A child also is a member of a community, which as an independent political entity has the power to establish ordinances and laws that pertain to the conduct of a juvenile, such as curfews, conduct in public places, or loitering. In a broader sense, the youth is a member of political entities such as the county, state, and the United States.

The contacts a child may have with justice system agencies as either a victim or law offender may be with a community agent, such as a police officer; a county agent, such as a school official; a child service protection agency, or the juvenile

court or a state official, as in the case of being incarcerated in a correctional facility administrated by a state agency. Kratcoski (2012, p. 63) states, "Juvenile justice agencies can be categorized in terms of their mission and goals. Juvenile justice agencies, such as child welfare and children and family services, are predominated oriented to giving assistance to children who are in need." These agencies service children who are brought into the juvenile justice system for no other reason than that they have been victimized. The programs used by these agencies that are serving "not-at-fault" children are oriented toward assisting the youths and families under their care, and the personnel selected to staff these agencies must have the credentials, in terms of education and training, to provide the assistance needed.

Positions found in child welfare and family service agencies include those in administration, direct services, and community/residential networking. They include:

- Service agency administrators
- Intake officer
- Investigator
- Caseworker supervision
- Case worker/social worker supervisor
- Out of home placement coordinator
- Psychologist
- Group work counselor
- Juvenile/family court liaison officer
- Adoption coordinator
- Group home and shelter home house parents
- Group home/shelter home administrator

Juvenile justice agencies that focus directly on youths who have committed either delinquent acts, that is, acts that would constitute criminal behavior if committed by an adult, such as theft, assault, and destruction of property, or acts that are illegal for juveniles, such as running away from home or being truant from school, must be concerned with the deviant behavior of the child, the needs of the victims who were affected by the child's behavior, and protection of the community in those cases in when the behavior is considered threatening to the safety of those in the community, in addition to considering the needs of the youths who are brought into the juvenile justice system.

Personnel who hold positions with police agencies that focus on deviant youth or at-fault youth hold job titles such as Police Juvenile Diversion Officer, School Resource Officer, Youth Gang Control Officer, and Police Athletic Activities Supervisor.

Officials attached to the county or state prosecutors hold such titles as prosecutor for juvenile cases and prosecutor for child victims of crime, such as physical or sexual abuse.

In addition to the juvenile court judges and magistrates, other positions associated with the juvenile or family court are:

- Juvenile mediator
- Guardian ad litem
- Juvenile court administrator
- Intake officer supervisor
- Diversion programs supervisor
- Court psychologist
- Chief probation officer
- Probation officer
- Placement supervisor
- Restitution/community service supervisor
- Family services coordinator
- Detention center administrator
- Detention center school teacher
- Detention center youth supervisor/leader
- Transport officer
- Court security officer

Positions relating to juvenile institutional and community residential corrections include:

- Juvenile correctional institution administrator
- Community placement director
- Residential/group home/treatment director
- Social worker/counselor
- Recreational supervisor
- Parole/aftercare officer
- Security officer
- Youth leader
- Institutional school teacher
- Group home counselor
- Group home youth leader

## **Correctional Work with Adult Offenders**

Kratcoski (2004, p. 65) reports that,

Probation officers, who supervise adult or juvenile offenders who are given community sanctions instead of jail or prison, and parole officers who supervise adults or juveniles (aftercare) released after some period of incarceration, hold important positions in community corrections. Their duties include interviewing, supervising and counseling clients, cooperating with other community agencies to arrange for services (substance abuse monitoring or counseling, medical or mental health services, family-related assistance), working with clients to help them find employment or enroll in educational programs, housing, monitoring and evaluation of clients progress, keeping case files on the clients, reporting probation/rule violations, testifying in court, and writing progress reports and revocation reports for those who violated the conditions of probation or parole.

In addition to educational requirements, newly hired probation officers will generally have to complete a basic training program. This is especially true for probation/parole officers who are federal and state employees, but also true for county or municipally employed probation officers. An example of the training course titles for the Ohio Probation Officer Training Program is given below:

#### Mandatory Online Courses

- The Principles of Effective Intervention
- Risk Assessment Basics
- The Ohio Court System
- The Ohio Criminal Justice System and Its Partners
- The Authority of Probation Officers and Their Role Within the Court
- Probation Officer Ethics
- The Basics of Officer Safety
- Courtroom Presentation Basics
- Electronic Offender Information Systems
- Drug Identification and Testing
- Search and Seizure for Probation
- Special Populations

#### Mandatory Face-to-Face Courses

- Introduction to Assessment and Case Planning
- Professional Communication: Oral and Written Communication Skills
- Introduction to Motivational Interviewing
- Introduction to Offender Skill Building
- Introduction to Offender Behavior Management

(Ohio Probation Officer Training Program, 2016, pp. 1–2)

Klockars (1972, pp. 550–551) developed a probation officer typology that defines types of work styles, based on the particular facet of the role emphasized. The typology can also be applied to parole officers. His law enforcement type focuses on the policing and surveillance facet of the role, insists on strict compliance with rules, quickly reports violations, and acts on them. The time-saver type views his/her work as a job and meets the basic requirements, but does not devote much time to improve his/her skills. The emphasis is toward law enforcement rather than assistance to the client. The therapeutic agent emphasizes the assistance facets of the role and works to help the client cooperate with authority figures. The synthetic officer goes beyond expectations in providing assistance and support, but will invoke his/her legal authority when necessary.

## Role Conflict in Correctional Work

The goals of corrections and the multiple expectations placed on those working in corrections may appear to be incompatible. How can one person be a counselor, investigator, and supervisor and what amounts to being a police officer? If the correctional worker cannot perform well in all the expected areas, what aspects of the role should be emphasized? What is the result if one's personal orientation toward the job does not correspond to the expectations of the supervisor?

These factors and many more are the reasons why many correctional workers experience *role conflict*. At the present time, the occupational role of correctional workers has become more complex than in the past. Snarr (1996, p. 263) states, "In pursuing the expected goals, a correctional worker may experience some role conflict. The concept *role conflict* refers to the incompatibility of two or more roles that a person is expected to perform. Performing one role interferes with or is antagonistic to others." Correctional personnel may experience some role conflict, regardless of the specific type of correctional agency in which they are employed, but the extent of conflict experienced depends on a number of factors relating to the specific agency as well as the personal characteristics of those employed in correctional work. Correctional officers working in a maximum security prison are well aware that security is first and foremost emphasized by the administration, and if this role is acceptable to them, role conflict is not likely to be a huge problem for those pursuing a career in institutional corrections. On the other hand, the role expectations for those employed in community corrections are much more complex. Role conflict may be a larger problem for many community corrections workers. Some of the factors specifically related to role conflict include:

- Role is poorly defined.
- Changes in goals, resulting in changes in expectations.
- Changes in administration of an agency resulting in either confusion on goals or a radical shift in the goals of the agency.
- New technology that results in a different mode of interaction with clients.
- New legislation that results in a different set of expectations.
- Disillusionment with the job or the clients.

Johnson (1998, p. 18) touches on this subject when comparing her experiences and impressions of her probation officer position in the 1960s with her present experiences. She states,

When I began as a probation professional the 1960s, I experienced a great deal of pride and honor in the profession. People in the community recognized a probation officer as a respected professional and I was proud and confident in my role. Today, the public, the courts, and the legislature define probation with ambivalence, confusion, and unrealistic expectations. We are expected to totally correct our clients' behavior without adequate resources . . . In the 1960s, my role in probation was that of service provider. In subsequent years, as a manager, the expectations have changed considerably. The management today involves the "alphabet soup" of compliance regulations, including the following: EEOC, MOU (labor contracts), ADA, FLSA, FMLA and OSHA. Each of these guidelines comes



with a separate set of expectations and mandates, many times in conflict with one another and certainly not considering the goals and mission of probation. Legislation and bureaucracy's response to the issues continues to involve quick-fix solutions and rarely considers the research that clearly defines program models that have been successful.

## Summary

The traditional roles of correctional personnel in terms of providing supervision and assistance to juvenile and adult offenders under some form of community or institutional supervision have remained relatively constant. However, the emphasis placed on supervision of the offender and providing service and treatment to the offender has changed from time to time, depending on several factors, including the political climate, legislative changes that mandated either harsher penalties for criminal offenders or more treatment programs relating to health, counseling, recreation, and basic necessities for those incarcerated in secure facilities. New approaches to treating the physically and mentally disabled have resulted in more specialized personnel working in the field of corrections.

## Discussion Questions

1. What is the "medical model" of correctional treatment? Why do you think it is not in favor today?
2. What were the unexpected results when the "justice model" that favored appropriate punishment rather than treatment was introduced?
3. What types of correctional work would be appropriate for a person who has only a high school education but wishes to be a correctional officer?
4. Do you think that adult offenders should have a "right" to treatment? Why?
5. Do you believe that the juvenile courts have a responsibility to rehabilitate all juvenile offenders, even those with extensive records of violent offenses, or is it impossible to reach some of these youths? If they cannot be rehabilitated, is long-term imprisonment the only solution?
6. A probation officer is often referred to as a "service broker." What does this mean? How can an officer connect offenders with the many types of services they may require?
7. Although a probation officer may be committed to the helping facets of his/her role, do you think the position requires a certain attitude of impersonality in dealing with the offenders supervised because of the danger that they may reoffend and be returned to prison?
8. What are the advantages to the community of having offenders placed in community corrections rather than institutionalized? What are the disadvantages to the community?

9. Why are community corrections officers likely to experience more role conflict than officers working in institutional corrections?
10. What changing conditions influenced the growth in popularity of the “restorative justice model” in corrections?

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## Chapter 5

# Treatment of Juvenile Offenders: Diversion and Formal Processing

### Introduction

The term *diversion*, when applied to the justice system, is used to indicate any method used to move a person, either juvenile or adult, who has allegedly committed a criminal offense away from formal court processing. The term diversion has a variety of implications, depending on how diversion is applied and at what stage in the criminal justice process it is introduced. For example, *total diversion* occurs when a person engaged in a crime is detected by a police officer or authority figure, but no official action is taken against the offender. For example, a police officer may observe a motorist exceeding the speed limit or not stopping for a stop sign, but instead of giving the person a ticket, the officer only warns the individual. Total diversion is often applied by police in dealing with juveniles who are involved in minor infractions such as being out after curfew, loitering, or engaging in minor disturbances in the community, such as making excessive noise. Many times, the situation is handled by a warning. School officials also have opportunities to divert students who engaged in school-related infractions such as truancy or disorderly conduct in the classroom and even criminal offenses, such as petty theft, by not referring the violators to a legal authority and handling the violators by using methods that are administered internally by school officials. *Partial diversion* occurs when some action is taken by a justice agent, normally a police officer. The person is not referred to a court for processing but instead referred to a nonjudicial agency. The decision to divert specified offenders is either based on the officer's discretion, policies of the policing agency, or, in some cases, the statutes of the state or local government. Regardless of the basis of the decision to divert, generally there are established criteria for who is eligible for diversion and procedures to follow for the diversion process.

The typical categories most likely to be diverted from the juvenile justice process are juveniles who have committed minor offenses or status offenses (acts that would not be illegal for an adult) or those juvenile offenders who are so

immature or mentally incompetent that they are not likely to understand the difference between right and wrong.

## Police Diversion of Delinquent Youth

The US Congress enacted the Juvenile Justice and Delinquency Prevention Act (JJDP) in 1974. It was in that year that the Office of Juvenile Justice and Delinquency Prevention (OJJDP) was created by Congress. “In the reauthorization of the OJJDP ACT of 1974 in 1992, the mandates of deinstitutionalization of status offenders, removal of juveniles from adult jails, and the separation of juveniles from adults in all types of correctional facilities were affirmed” (Kratcoski et al., 2004, p. 156). In addition, the legislation required that the states complete research on the overrepresentation of minority youths incarcerated in juvenile detention and long-term correctional facilities, jails, and adult correctional facilities. The federal government would provide funding to agencies that established programs that addressed the diversion, decriminalization, deinstitutionalization, and reduction of minority youth goals of the Juvenile Justice Delinquency Prevention Act (Public Law 93–415, Section 223 [a], 23). Other more recent OJJDP initiatives focus on means to reduce the violence and delinquency of Native American and Alaska Native American youth. A provision for receiving an OJJDP grant for this population requires that grantees include “provisions for tribal youth in their mentoring practices and provide funding to expand Tribal Healing courts. These courts provide developmentally appropriate, community-based and culturally appropriate services for youth who come into contact with the tribal juvenile justice system because of substance use” (OJJDP Newsletter 249801, 2016).

Research on early intervention programs for youths who have either shown symptoms of delinquent behavior or who have been detected engaging in delinquent behavior generally shows that the intervention in the youth’s life by a school authority or a law enforcement authority has positive effects.

A study of youth diversion programs administered by a number of police departments located in Northeast Ohio (Kratcoski et al., 2004, p. 158) had the purpose of:

- Analyzing the structure and administration of police diversion programs in Ohio and describing the manner in which youths are referred, screened, and selected for the programs; the makeup of the staff of the programs; and program activities, including the supervision and services provided to the youth participating
- Determining the extent to which minority youths, particularly African-American youth, are included in police diversion programs
- Determining if the police juvenile diversion programs are effective in curtailing delinquent and antisocial behavior

While having common goals, the 16 police diversion programs included in the study were structured differently and received funding from different sources.

Some of the programs were staffed entirely by civilian professional counselors, others were staffed entirely by sworn police officers, and others used both civilians and police officers to staff their programs. Some of the programs were funded through federal or state grants, and others were funded entirely by the police agency administering the program.

Almost all of the 16 juvenile diversion programs included in the study required that the youths complete some type of community service or restitution to the victim, if appropriate, as part of the informal disposition, and almost three-fourths of the youths in all of the programs were placed on an "informal probation." Otherwise, the focus and activities of the programs varied considerably. Some of the programs required strict adherence to the program rules and placed little emphasis on providing counseling for the youth referred to the program. In these programs, if a youth violated the rules or engaged in any type of delinquent or unruly behavior, the youth was terminated and referred to the juvenile court for formal processing.

Other programs included in the study required community service, but also tended to emphasize providing services to the youths and their families. These programs were generally staffed by trained counselors who tried to use their skills to motivate the youths to change. They tended to be more supportive than the staff of the programs that were administered by police officers and, if possible, gave those youths who violated the rules of the program or who committed a minor offense while in the program another opportunity to succeed in the program. Generally, new restrictions and an extension of the informal probation period were additional penalties given to those who violated the conditions of the informal probation but were not terminated.

An analysis of the status of the youths who were involved in the programs was completed for a 6-month period after they successfully completed the program and were released from the diversion program. The same analysis was completed for those who did not complete the program and were terminated. As expected, the recidivism for those who completed the program was significantly lower (less than 20%) than that of those who were terminated.

It was concluded that those who did not recidivate during the 6-month follow-up period after their release were most likely to have strong family support, were succeeding in school, and had positive relations in the community. These youths may have been successful in making an adjustment and continuing throughout their adolescent years without having the assistance of the diversion program. However, their involvement in the program did offer an additional supportive system and also allowed them to emerge from the juvenile justice system without having a delinquent record.

## School Resource Officer Programs

School resource officer programs have been developed in schools throughout the United States with the purpose of establishing communications and cooperative relations between the police, school administrators, the juvenile court, and other juvenile justice agencies and community service agencies.

In the 2008–2009 school year, 3.9% of students ages 12 through 18 were victims of crime at school (DeVoe & Bauer, 2011, p. 314). Part Q of Title 1 of the Omnibus Crime Control and Safe Streets Act of 1968, amended, provided funding for school resource officers (SROs), defined as “a career law enforcement officer, with sworn authority, deployed in community-oriented policing, and assigned by the employing police department or agency to work with the school and community-based organizations.”

School resource officers are specifically trained to interact with youths in a school setting. Many SROs have received their training from the nonprofit National Association of School Resource Officers founded in 1991. Girouard (2012, p. 3) states, “The mission of the National Association of School Resource Officers (NASRO) is to provide the highest quality of training to school-based law enforcement officers, school administrators, and school security/safety professionals working together as partners to protect students, faculty and staff, and their school community.”

SROs’ responsibilities include law enforcement, teaching, and mentoring. The specific duties of the officers who are generally assigned to middle and high schools may vary, but the mission for all SRO programs includes providing a safe school environment, providing assistance to schools, developing a positive relationship with the students and school personnel, and assisting in the prevention of crime and other problems on the school grounds. SROs work closely with juvenile justice, child protection agencies, and community volunteer groups. For example, SROs often have opportunities to detect child abuse or neglect, and they participate in school-related activities that benefit the community.

SROs are assigned to schools at the request of school administrators. The salaries of school resource officers come from several sources, including grants and the employing police agency. They also may be either fully or partially paid by the school system.

Findings of research on the effectiveness of school resource officer programs (Finn, 2006) include a reduction in the frequency patrol officers are called to the schools; a reduction in referrals to the juvenile courts by school officials; the prevention of minor and major criminal acts within school buildings and on school grounds; an improvement in the relationships, including mutual trust, between students and the police; and an improvement in the image of the police in the community.

**Box 5.1: Interview with Student Resource Officer (SRO) Kelly Crowl  
Interviewer: P Kratcoski, Interviewee Kelly Crowl Completed  
July 19, 2016**

QPK: How long have you served as a Louisville (Ohio) police officer?

AKC: I first started working as a deputy with the Stark County Sheriff's Office. I worked as a deputy for 2 years and was offered a position with the Louisville Police in 2008.

QPK: How long have you served as a SRO?

AKC: I have been assigned to work with the schools since 2009. I was afforded the opportunity to work in the schools as a SRO under a crime prevention grant. This allowed me to do crime prevention in the schools and become a SRO.

QPK: Did you receive any special training for the SRO position? Please explain.

AKC: In addition to the required Ohio Peace Officers Training Academy, I attended a 1-week training session related to working in the schools.

QPK: What are your specific duties as a SRO?

AKC: The duties of a school resource officer are similar to a police officer, as I have to uphold the law. My job can be as simple as charging a juvenile with a crime to as complicated as uncovering a convoluted bullying incident. I network with the children through walking the halls, sitting in lunch mods, or even engaging in classroom activities with them. I have even been known to get holes in my uniform pants while diving for volleyballs in gym class. I educate them on drugs and alcohol through our annual Red Week activities and also through presentations. I also educate our younger students of middle school age on anti-bullying with a presentation that I developed from "A Bug's Life" from Disney. When I address the older children during the cyber portion of the anti-bullying presentation, I utilize the time to speak about the inappropriate digital pictures that they take of themselves. There is a phrase coined "sexting" that adults use to refer to children who take nude photographs of themselves and send them to others. I talk about all the legal and social ramifications of this activity, because it is a problem among our youth culture. I work with our administration on policies relating to safety such as active "shooter" situations. I am trained in ALICE (Alert, Lockdown, Inform, Counter, and Evacuate) and have taught our school personnel as well as our students about this. I am on a safety committee with our school administration as well as local fire departments, school board members, and city personnel that meet to make sure we are working together to keep the schools safe. I also work with social services and other agencies to help families in the community.

QPK: Do you have the authority to handle minor delinquent offenses and school infractions without referring them to the family court (fights, minor theft, bullying)?

(continued)

**Box 5.1** (continued)

AKC: I work with the schools to best serve the needs of the school and the students. Although I am a law enforcement official, there are times I do have a choice to not intervene. The school is located in the city limits; therefore, I have jurisdiction in the schools. If a situation is severe enough for law enforcement intervention, I am bound by law to handle the situation. If someone wants to pursue charges of a crime that has happened in the school or on school property, regardless of whether the school has given disciplinary action or not, I have a duty to investigate and pursue charges through the prosecutor's office. However, the prosecutor assigned to the juvenile division also works with the schools. Thus, if a first-time offender charged with a misdemeanor crime receives disciplinary action at school, the prosecutor's office may be satisfied and may not take any further action. It does depend on the severity of the issue. A good example would be an assault or fight. If two students should engage in a fight, which is against the school rules and also against the law, depending on how serious the injuries are, or even if there is any injury, and if the parents want to file a charge, a determination will be made on whether or not to file charges. The same situation would apply to theft and whether or not the victim or victim's parents want to pursue charges. When it comes to bullying, there is no law against bullying per se. It depends on the situation to determine if we can file charges. For example, did an assault occur due to physical bullying? If so, perhaps an assault charge can be filed. If it is a telecommunications situation and the person being harassed informed the caller not to call again, perhaps a charge of telephone bullying can be filed. Many times I confer with the juvenile prosecutor's office, and they ultimately decide whether they will pursue charges or if there is enough evidence to charge the offender. The prosecutor has "prosecutorial immunity," so it is up to that office to decide whether to charge or not to charge. The school can sometimes hand out a more severe disciplinary action by suspending or even expelling the student, and this is taken into account when the prosecutor's office is making a decision on the matter. Many times, the student's behavior does not constitute a crime, and I will inform the school officials and they can handle it, based on school policies. However, when a crime has occurred, it is always best to speak with a prosecutor and allow that office to decide what action to take, since the prosecutor has the immunity. That office generally works well with us. So, to sum up the question, there are a number of variables I take into factor and articulate to the school officials and the prosecutor.

QPK: To what extent can you make referrals to juvenile diversion agencies (teen court)?

(continued)



**Box 5.1** (continued)

AKC: Usually the juvenile prosecutor makes the determination, but I can speak with a prosecutor ahead of time and inquire about a recommendation.

QPK: Do you patrol on school grounds (outside the school building)?

AKC: I usually patrol from within the building, but also will do perimeter checks.

QPK: What are the most challenging aspects of the SRO job?

AKC: There are many challenges relating to the SRO position. One of the most challenging is working with some of the parents. When the children are in school, the school works to provide the children with a meal if they have not eaten, gets the child established in the classroom setting, and sets appropriate boundaries for them to learn in a safe environment. When they go home and there is no follow-through on the simplest of items such as homework or even having food available, it would appear as if the child is set up to fail all over again. There is also the issue of how parents forget that the school is responsible for children during the day, and so it is not appropriate for the parents to try to dictate to the school officials how to discipline their children if they misbehave at school. Some parents from disadvantaged households still put their children first and do everything possible to have their children succeed, and there are parents from all socioeconomic households who do not seem to care what happens to their children in the schools and do not want to be bothered with them while at home. It is ultimately the parents and not the schools that should be raising the children, so I feel this is a challenging aspect. Another problem is communication, that is, having the resources to talk with one another. There are multiple agencies that work within Stark County to assist children. However, many of these agencies are unaware that SROs are working in the schools and can offer assistance to child and family-related problems.

QPK: What are the most rewarding aspects of the SRO job?

AKC: The most rewarding aspects of the job are shown through the children. A school resource officer has the unique opportunity in policing to be proactive and do proactive work. The work can be engaging and as creative as you want it to be. The more you educate and get involved, the more the children and the community can engage with you. Some rewarding aspects come in the form of young children getting excited when they see you because they know you work in their school or even having past graduates coming up and talking with you about their futures. To be able to help a child through a difficult transition or hold them accountable to make better choices is rewarding as well. I have often said I guard our city's most precious resources, our children. No bank or business holds the value that I protect on a daily basis. It is a challenging, humbling, and rewarding job that involves a multifaceted role. At times I am their teacher, their counselor, their social worker, and of course always their police officer, and I hope they learn that police are here to help them, to listen to them, and to protect them.

## Juvenile Court Diversion

Almost half of the youths who are referred to the juvenile court by the police, school administrators, and parents are not judicially processed and not adjudicated delinquent by the courts (Snyder & Sickmund, 1999).

The juvenile and family courts in the United States have jurisdiction over youths in a specified age category (the majority of the states use the 18th birthday as the upper age for jurisdiction). The legal jurisdiction of the courts encompasses children referred to the court who are “at fault” for violating a law and children who are “not at fault” but need the protection or services of the courts. “Not at fault” children who come to the attention of the court are those who have been abused, neglected, or abandoned or those whose parents (caretakers) are incapable of caring for them for various reasons such as mental illness, physical handicaps, or abject poverty. Once an “at fault” or “not at fault” case is referred to the court, an intake official will conduct an intake interview and, after assessing the information obtained in the intake interview, will make a decision (based on court policies and guidelines) to place the youth on the court docket for formal court processing or place the youth into the informal processing (diversion) category. If the youth is diverted from formal processing, the court will determine what court administered or outside agency programs will be the most beneficial to the youth and make the appropriate placement. Generally, the records for those who are diverted from formal processing are destroyed if the youth completes the requirements ordered by the court.

## Teen (Youth) Courts

According to the Global Youth Justice Advocacy Organization (2016, p. 1) “A record 1,600+ Adult and Youth Volunteer-Driven Youth Courts, Teen Courts, Student Courts, Peer Courts and Peer Jury Diversion Programs are now operation on 4 continents.” These youth courts are structured to divert special categories of youthful offenders from official processing through the juvenile justice system. They may be attached to the juvenile court, a police agency, or even the prosecutor’s office. While each court will have its own specific goals, guidelines for eligibility, and operating procedures, there are some common characteristics that can be found in the large majority of the special youth courts. These characteristics are:

- Youths between the ages of seven and 18th birthday are eligible.
- Youths who have committed a status offense (beyond control of parents, curfew violation, truancy, runaway) are eligible.
- Youths who have committed minor offenses (disorderly conduct, minor property damage, theft [shoplifting], simple assault, vandalism, harassment, loitering, possession and use of illegal substances) are eligible.

- Referrals to the youth court come from police departments, school officials, and in some jurisdiction parents or caretakers and are made at initial juvenile court intake screenings.
- The youths who are eligible for teen court can select not to participate and can opt for a formal juvenile court hearing.
- Youths charged with an offense will either plead true to the charges and sanctions by a jury of peers or be tried by a peer court (judge, prosecuting and defense attorneys) and if the charges are found to be true sanctioned by a peer jury.
- Typical sanctions require some form of community service and participation in some type of counseling (alcohol and substance abuse counseling, anger management, family counseling, truancy prevention, or shoplifting prevention) program or educational program, depending on the nature of the youth's offense.
- A parent, guardian, or caretaker is required to be present at the teen court hearing.
- The youths are supervised by an official of the court or agency administering the teen court program.
- Typically, a number of community service agencies will be involved in providing the counseling, education, and community services projects required of the youth.
- If the youth completes the program, the initial charges will be dropped, and the youth will not have a delinquent record.
- If the youth does not successfully complete the program, the youth will be referred to the juvenile (family) court and formally processed through the court.

Although there are common characteristics in the large majority of the teen (youth) courts, there are also several major variations in the way the courts are structured. For example, in some jurisdictions, the juvenile charged with an offense will have to admit to the offense before becoming eligible for sanctioning by the youth court. In these cases, the peer jury only has the responsibility to determine the appropriate sanction, while in other courts those youths charged with an offense and found to be eligible for the youth court will have an option of pleading true or not true to the charge. If the plea is not true, the complete court process, including the examination of witnesses by the prosecution and defense attorneys, having the right to testify, and deliberation by a jury will be completed. Other differences include the involvement of adult officials in the youth court process. In some youth courts, the judge from the juvenile court is involved. In other youth courts, all of the participants, including the judge, are peers. However, in these cases a court official will be present during the hearing to assure that the court hearing is completed in a fair manner and that the sanctions given by the jury are in line with the severity of the charges.

Judge Susan Watkins, a municipal court judge in Independence, Missouri, for 21 years, has served as the Director of the Independence Youth Court for 29 years and as Executive Director of the Eastern Jackson Youth Court for 17 years.

The following interview with Susan Watkins was completed on July 3, 2016.

**Box 5.2: Judge Watkins Interview****Peter Kratcoski—Interviewer Judge Susan Watkins, Interviewee**

PKQ: Judge Watkins, What are your duties as Director of the Independence and Eastern Jackson County Youth Courts?

SWA: As director of these peer court programs, I oversee all courtroom sessions, but do not act as judge. Both courts utilize the student judge program, and all courtroom personnel are 8th- to 12th-grade students. However, they are supervised at all times by adults.

PKQ: What was your motivation for taking on this responsibility in addition to your municipal court position?

SWA: I was the Director of the Independence Youth Court for 8 years before I became a judge at the adult court. I have always had a passion for working with youth, both in my professional life and in my personal life. I feel that adults should be positive mentors to young people and assist in the difficult journey of growing up whenever possible. The youth court provides juveniles with the opportunity to make a mistake, learn from it, and have a clean slate in life. If a juvenile successfully completes the youth court program, then at the age of 17, all records will be destroyed.

PKQ: You mentioned that you are the judge over two youth courts. What are the two courts? Are they structured differently? Explain.

SWA: The two peer court diversion programs are the Independence Youth Court (IYC) and the Eastern Jackson County Youth Court (EJC) that are both located in Jackson County, Missouri. I helped to start the EJC Youth Court in 1990. The programs are very similar. The juvenile cases are handled in the same way, and the courtroom procedure is the same, as are the volunteer training and the sentences and the educational classes provided. The main difference between the two programs is that the IYC is operated in the city of Independence only for juvenile cases that happen in Independence. The EJC Youth Court is a multi-jurisdictional program and handles cases from several smaller areas that include the Blue Springs Public Safety Department, the city of Buckner, the city of Grain Valley, the city of Greenwood, the city of Oak Grove, the city of Sugar Creek, and the areas in Jackson County Missouri that are patrolled by the Jackson County Sheriff's Office.

PKQ: Does the Independence Youth Court have peers of the teen offenders fill all of the court positions?

SWA: Yes, teens (8th–12th graders) fill all of the courtroom roles, which include bailiff, clerk, prosecuting attorney, defense attorney, and judge. The judge is typically a senior with experience in all of the roles.

PKQ: How are the youth court participants selected?

SWA: The teens are recruited from the local high schools, middle schools, and the home school association. Students in grades 8–12 must apply for admission, have good attendance and passing grades, and submit a letter of

(continued)

**Box 5.2** (continued)

reference from a teacher. All new attorneys must complete a 3-month training program, successfully pass a written bar exam with a score of at least 75%, take an oath of confidentiality, and be sworn in to practice as youth court attorneys by an adult judge.

PKQ: Do the court participants receive any training before they assume their positions?

SWA: I conduct the training program, assisted by guest speakers from the family juvenile court, the police department, and the local attorneys' legal association. In addition, the students observe courtroom dockets and participate in mock cases to prepare themselves before becoming assistant attorneys. Each student then works with an older, veteran attorney for 2 to more than 4 months before handling cases on his/her own. There is always a volunteer adult attorney and a police officer in the courtroom to assist with any questions.

PKQ: How many cases are referred to these youth courts in a year?

SWA: The Independence Youth Court on average handles 400–600 juvenile cases per year. There are two evening dockets per month held in the Independence Municipal Court. The Eastern Jackson County Youth Court on average handles 150–250 cases per year. There is one evening docket per month held in the Grain Valley Municipal Court.

PKQ: Do the teen defendants have an opportunity to plead not guilty to the charges: If yes, what percent of those tried plead not guilty?

SWA: All juvenile offenders have the opportunity to enter a plea of not guilty after the charges are read to them by the judge at the arraignment. Less than 8% of the juveniles enter a plea of not guilty and go to a full trial. Some juveniles who pleaded not guilty change their minds when they come back for the trial and see that the witnesses are at court to testify. The actual number of cases that have a trial is 5% or less per year.

PKQ: For those who receive a full trial, are there any issues or problems that occur from time to time during the trial?

SWA: The trial is supervised by an adult volunteer attorney, myself (to supervise the youth judge), and a police officer. The students spend a lot of time in preparation for any trials, and the actual trial process is very smooth and professional. The only issue during a trial is if someone is unhappy with testimony or evidence that might be presented that points to their guilt or if they are unhappy with the verdict. That is no different than in adult court cases, since no one really wants to be found guilty after a trial.

PKQ: How confident are you that the judgments and sanctions made by the youth court participants are fair and reasonable?

(continued)

**Box 5.2** (continued)

SWA: I feel confident that the judgments and sanctions are both fair and reasonable in the peer court process. The process is supervised at all times by adults, and volunteer attorneys utilize a sentencing guideline on all cases that has been set and approved by the Youth Court Executive Director and the entire Board of Directors. The IYC celebrated 30 years of operation in May 2016, and the recidivism rate for repeat offenders after successful completion of youth court average has remained between 4 and 7% each year. This is a juvenile offender success rate (to not be convicted of any other juvenile offenses as measured 1 year after completion of the youth court process) of 93–96% in the various years. The IYC was also part of a study on the effectiveness of youth courts that was financed by the Department of Justice and conducted by the Urban Institute of Washington, D.C., from 2000 to 2003. The IYC was found to be more effective than the Jackson County Family Juvenile Court in handling youth with minor offenses as to successful completion of the process and a lower recidivism rate. In addition, there are now more than 1600 similar youth court diversion programs in the United States. This volunteer-driven peer process provides juvenile offenders with accountability for action, positive peer pressure, and positive peer mentoring.

PKQ: What percent of the defendants successfully complete the program?

SWA: Of those eligible for youth court services that are adjudicated by the IYC, on average 86–94% of the youth will complete all parts of the youth court process, including court sanctions of community service and educational classes. One year after completion of the youth court process, less than 7% of those youths will have any repeat convictions of a juvenile crime.

PKQ: Do you have any additional comments you would like to make regarding the youth court?

SWA: The youth court exists to provide high-risk youth with intervention, education, and an alternative to entering the traditional juvenile justice system. The goals are to have juveniles take responsibility for criminal conduct by performing restitution to the community in the form of community service hours and to attend free educational programs that teach resistance skills to prevent future criminal activity. The city of Independence provides a yearly operations grant to the Independence Youth Court, along with office space and the use of the courtroom. In addition, the Jackson County COMBAT (Community Backed Anti-Drug Tax) provides a yearly grant for operations and the costs of educational programs for juvenile offenders.

## Treatment Programs for Special Offenders

Although the underlying mission and goals of juvenile courts follow the restorative justice model, the notion of the courts providing treatment to youths in need has not been abandoned. The courts typically use the traditional treatment modalities that provide both supervision and treatment for those youths who are processed formally and adjudicated delinquent, as well as for those youths who are diverted from the formal court process but remain under some form of court supervision.

Juvenile court administrators have adopted evidence-based tools to assist in the determination of the likely risk the juvenile will present to the community if given a community-based disposition, as well as the specific needs of the adjudicated juvenile offender that must be addressed. The risk and needs assessment tools employed by juvenile courts throughout the United States, while varying somewhat on particular items, are similar in content. The statewide model assessment of risk and needs instruments adopted in the state of Ohio was developed at the University of Cincinnati Center for Criminal Justice Research and was adopted by the state in 2011 (Pitocco, 2011). The risk assessment tool covers areas relating to delinquent history, including number of prior offenses, supervision under probation, commitments to a juvenile institution, substance abuse problems, amount of family and social support, education, employment, peer associations, and general attitude. The needs assessment instrument considers such matters as low intelligence, physical handicaps, low ability to function in school due to reading and writing limitations, cultural barriers, mental health, and personality issues that may affect a juvenile's ability to make positive changes in his/her life.

Based on the risk and needs assessments that are generally completed at intake, some of the youths may be placed in a special needs category, and the treatment provided will address these needs. For example, those who have exhibited special problems relating to sexual abuse will be supervised by court staff who have training and experience with supervising youths with sexual problems, or these youths will be referred to an agency that provides the counseling needed. The same would be true for youths experiencing alcohol or drug abuse problems and for those youths whose problems and needs center on family relations.

## Treatment for Sexual Abusers

Harris and Bezuidenhout (2010, p. 33) completed research pertaining to the factors that contribute to the risk of a juvenile becoming a sex offender. After interviewing a number of juvenile sexual offenders, the authors identified an incomplete family structure, substance abuse, early exposure to pornography, peer influences, previous sexual conduct, previous sexual victimization, and growing up in a culture of violence as the predominate factors contributing to the youths becoming sex offenders. In regard to the treatment of juvenile sex offenders, Harris and

Bezuidenhout (2010, p. 38) conclude, "Not all children are exposed to the same risk factors; however, there are certain social dynamic risk factors which appear to be prevalent in the lives of youth sex offenders such as substance abuse, early exposure to pornography, and an influential peer network." Lundrigan (2002, p. 200), after reviewing the literature and research findings on adolescent sexual offenders, concluded, "The adolescent who commits sexual offenses tends to be different from other young delinquents and thus the types of treatment that work best with this population must likewise be different." He proposes a multicomponent model for treating the juvenile sexual offender, citing the inconsistencies of the individual model in which the therapist counsels the offender in a one-on-one counseling setting. Lundrigan (2002, p. 200) explains, "The multi-component model is an effort to maximize the range of services provided to the client, while allowing for the highest possible level of continuity and coordination among these various services."

The components suggested for a treatment program for adolescent youth who are sexual abusers include (Lundrigan, 2002, p. 202):

- Sexual offense-specific group: a standard in the treatment of this population
- Family therapy education: very important for adolescents in treatment
- Individual therapy: has many important functions when used in conjunction with group therapy
- Adjunct/therapy treatment: addresses wider issues and treats the whole person
- Milieu treatment: an essential component for group care programs dealing with a treatment environment
- Assessment and treatment planning: a component ensuring quality treatment
- Retreatment: prepares clients to engage in treatment (usually only needed in the first intervention setting with clients who are not yet ready to enter full-scale treatment)
- Aftercare/follow-up: bridges the gap between programs on the continuum and ensures adequate support for clients transitioning to their next setting to enable success
- Staff training gives the staff needed tools to work with the adolescent
- General resident education: assists group care programs with a mixed population to create a healthy, tolerant, and safe milieu

The ability of the juvenile courts or service agencies offering treatment for juvenile sex offenders to include all of the components listed above into a comprehensive treatment program is often not feasible. However, many of the components can be included in the program. For example, the juvenile is usually tested for risk and needs by the court and placed under the supervision of a court official, even if the youth is referred to an agency offering sex offender treatment. The agency will have staff that can provide both group and individual counseling and also provide family counseling, if required, or refer the youth to an agency that specializes in family counseling. The integration of the components given by Lundrigan (2002) may not be as feasible for sex offender treatment programs for those sexual offending youths who are placed in community treatment facilities or long-term



correctional facilities, since the resources and the opportunities for the personnel associated with the various components to interact may not be available.

Van Ness, a social worker at a state juvenile correctional institution, who supervised and provided group therapy for violent sex offenders housed in the facility, provides the following topics that were discussed in the treatment sessions (Van Ness, 1983, p. 14):

- Being honest with yourself about the offense
- Taking personal responsibility for your actions without blaming others
- Understanding the laws and why you were sent to the institution
- Dealing with your reputation in the community
- Being honest with your family
- Learning what makes you angry
- Learning to solve problems without using force
- Chemical abuse and your offense
- Building good relationships with people

While Van Ness conducted her therapy sessions within the walls of a secure correctional facility and without the assistance of counselors from other agencies, she nevertheless was able to integrate many of the components recommended in Lundrigan's multicomponent model, including family, anger, violence, and blaming others, including the victims, for the behavior, and problems with substance abuse, into the group therapy given to the sex offenders.

## Drug Courts for Juvenile Offenders

The creation of a drug court to divert some categories of substance abusers was first used in courts for adult criminal offenders and quickly spread to the juvenile courts. Since there was considerable federal funding available for the development of specialized courts for juvenile offenders who also had some type of substance abuse problem, drug court programs for juveniles were developed and implemented even though there were questions about the likely effectiveness of the juvenile drug courts to reduce delinquency and the use of illegal substances by adolescent youths.

Juvenile drug courts have many of the same characteristics as adult drug courts, have similar goals, and use the same methods in their treatment as the adult drug courts. A major difference is a larger emphasis on the role of the family in providing the supervision, support, and assistance the youth needs during the treatment process. Butts and Roman (2004, p. 8) describe the juvenile drug court process in the following way:

The cases begin with an arrest, followed by some form of screening and assessment to determine each youth's eligibility for drug court. The court meets with each offender regularly, often weekly, in open hearings. Before each hearing, the judge may meet with the drug court team (probation officer, case manager, prosecutor, defense attorney, treatment provider, school representative, and so on) to review the sanctions and services

ordered for each youth, assesses the effectiveness, and make any needed modifications to treatment and supervision arrangements.

Typically, the team meetings will continue until the judge determines that the youth has made the necessary adjustments and is capable of having a “drug-free” life in the community without needing the supervision and assistance provided by the court.

## Mission of Juvenile Drug Courts

Some experimentation with drugs and or alcohol has been made by a large majority of adolescent youths. However, for most of these youths, the drug and alcohol use is not so extensive that it interferes with the normal functioning of the adolescent user in regard to family relations, school progress, and community relations. The juvenile courts do not have the resources to offer the special and extensive treatment given to those referred to the drug courts to all of the youths brought to the courts who have had some contact with drugs. When a youth is referred to the court for some type of violation and it is discovered that he/she has used illegal drugs, a decision must be made on whether or not the drug court would be an appropriation sanction.

Butts and Roman (2004, p. 176) note that the mission of juvenile drug courts presents a number of challenges for policy and practice. Some of the challenges mentioned by Butts and Roman are:

- Adolescents are more likely than adults are to engage in health-risk behaviors of all sorts, including drug use.
- Juvenile drug courts are designed to reduce a problem among young offenders that is highly prevalent among teenagers in general (substance abuse).
- The diagnostic methods used to distinguish drug use from drug abuse and dependence may be inexact and subject to social and cultural influence.
- The youths at greater risk of severe problems from drug use appear to be those that go beyond alcohol and marijuana to use other illegal drugs.
- The majority (80–90%) of youths involved in juvenile drug court programs have used alcohol and marijuana only.
- Unless the target clients for juvenile drug courts are identified clearly, juvenile justice systems may end up using considerable resources to serve a broad population of young offenders, including many who are unlikely to have serious problems with substance abuse.

## Residential Treatment for Juvenile Delinquents

Community residential facilities include halfway houses, residential treatment centers, and community corrections centers. They will generally house youths with different characteristics and needs. For example, the term “halfway house” can be applied to a facility for delinquent youths convicted of an offense who are considered to need supervision beyond that of probation, but not considered such a threat to the community as to require commitment to a secure correctional facility. The same facility might house youths who have been released on parole from a correctional facility, but for some reason do not have a suitable home or residence available. Generally, halfway house residents are between the ages of 14 and 18. Some facilities accept younger juveniles, while others focus on older youths who are still under the control of either a probation or a parole agency. Typically, specialized treatment programs are not offered for those housed in these facilities. The residents are supervised by the halfway house staff and either a probation officer or a parole officer. The youths either attend school during the day or go to work, if employed. During the evenings, some group counseling is provided by either the staff or volunteer groups. The major emphasis of the counseling offered focuses on conforming to the rules, accepting responsibility, and getting along with others.

A community residential treatment center is similar to a halfway house, but specialized treatment is provided for the youths housed at such facilities. For example, a community residential treatment center may house youths with psychological problems, personality disorders, or drug abuse or sexual abuse problems. The staff members are trained in specific treatment techniques that are utilized in the programs offered. Such facilities are generally under private auspices, and the administrators of the facilities will have the final say on who will be accepted.

A more recent development is the community corrections center. These secure facilities are located in the community and administered by local officials. The youths committed to the facility have been adjudicated delinquent on a serious offense and are considered to be in need of supervision beyond that provided by probation. The stimulus for the development of such facilities came from several sources. It was determined by state authorities that it would be less expensive to send a youth to a facility located in the community than to a state-administered facility. Agreements are made between state and local authorities to have the state build the community corrections center, but have it operated by local staff. The state pays the local community a stipend for each youth housed at the facility.

Research has shown that it is preferable to keep the youths in their own community for several reasons. The youths are able to maintain contacts with family and others in the community. The residential corrections centers house fewer residents than is the case at the state-administered youth corrections facilities (generally less than 50 compared to 200 or more at the state facilities), and it is easier for the staff to maintain order and control and hold the occasional disruptions to a minimum. Also, there is less opportunity for residents to victimize each other. Most important, there is more personal interaction between the staff and the residents.

## Summary

The juvenile justice movement that began in the mid-nineteenth century had the goal of providing a separate and distinct justice system for children who for various reasons violated the laws as well as for children who were not at fault but nevertheless needed protection and assistance. The “*parens patriae*” (parent substitute) approach, with the exception of a few periods of a “get tough on young criminals” philosophy, has been the cornerstone of the juvenile justice system. Various diversion programs have been established for the purpose of minimizing the penetration of juvenile offenders into the formal juvenile justice system. These diversion programs are implemented by the police, schools, and the courts. Many of the programs, such as the school resource officers and teen courts, require collaboration between several agencies.

It is not possible to divert all juvenile offenders from official processing. For some, formal processing is required because of the severity of the offense, the likely danger to the community if the juvenile is not placed under some form of secure supervision, and the treatment needs of the offender. Risk and needs instruments are used to assess which offenders will be likely to benefit most from community-based supervision and treatment and which youths are in need of some form of institutionalization. The courts have also developed special treatment programs for juveniles with problems related to sexual abuse, drug abuse, and family violence. These programs can be implemented in the community as well as in a secure facility.

## Discussion Questions

1. Differentiate between total diversion and partial diversion. Under what conditions should each of these be applied?
2. What are the dangers of involving youths in programs for juveniles who have not committed offenses but are perceived and “delinquency endangered”?
3. How can a school resource officer balance the roles of law enforcement officer and mentor for the youths he/she supervises? Which role is more important?
4. When “at fault” youths are referred to the juvenile court, what are the diversion options open to the judge?
5. How are risk and needs instruments used to determine the types and levels of supervision used for juvenile offenders? What can be done if a juvenile has perceived needs that cannot be met?
6. Discuss the risk factors that have been identified as making a youth vulnerable to becoming a sexual abuser?
7. Why is constant monitoring so important in the supervision of drug-abusing juveniles?
8. What are the factors that place juveniles at risk for severe drug abuse behavior?

9. When juveniles housed in halfway houses who have never been institutionalized are in the same facility with youths who are on parole after a period of institutionalization, is there a possibility that the youths who have been more severe offenders in the past may negatively influence the behavior and thinking of those who have committed less serious offenses?
10. What are the advantages of placing youths in community corrections facilities as an alternative to institutionalization? Are there any disadvantages for the youth and the community?

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## Chapter 6

# Diverting Special Categories of Offenders to Community Treatment Programs

### Introduction

The trend toward diversion of special categories of adult criminal offenders from formal judicial processing has come about for several reasons. Perhaps the primary reason is that it is not cost-effective to place in jail the large number of mentally ill, alcohol and substance abuse, indigent, and homeless offenders who crowd the municipal courts each day. They are convicted of a minor offense, fined, and sentenced to time in jail, where there is no treatment available for their mental problem or substance abuse problems. After being released, many of them are rearrested and go through the same process, often only a few days after their prior release from jail.

Not only are the courts backlogged with cases that often require the use of an “assembly line” court process just to keep up, but the local jails tend to be filled to overcapacity. The result is that some low-risk offenders are released before they complete their sentences or are remanded to a jail facility in another county that is not filled to capacity.

While these moves may reduce the overcapacity problem, it is extremely costly to the local government that has to use this alternative. As a result, there has been a recent trend toward decriminalizing some minor offenses and diverting the special problem offenders who need some form of treatment.

Administrators of justice agencies have had to use various mechanisms to assure that their agencies can faithfully follow their missions. For example, from time to time, the sheriff of a county jail will announce that no new defendants will be admitted to the jail, since the number of inmates held in the jail has reached the maximum capacity, and if more are admitted, it would constitute a violation of the law. Another method used to deal with the jail overcrowding problem is to release some offenders before the end of their sentences. This approach tends to draw criticism, particularly if an inmate who was released early commits another serious crime shortly after being released. For these reasons, the diversion of special

categories of offenders from formal processing makes sense, particularly if those diverted are carefully screened and meet the criteria established for either total diversion or partial diversion by being placed in a specialized program.

## **Mentally Ill Criminal Offenders**

The jails in the United States, particularly those located in large metropolitan areas, tend to be overcrowded and dangerous for both inmates and correctional staff. The concern regarding having the mentally ill held in jails has increased nationwide. A National Initiative to Reduce the Number of People with Mental Illnesses in Jails was launched in 2015 by the Center for State Governments Justice Center. This initiative was designed to rally support for achieving a reduction in the number of people with mental illness held in jails. By 2016, more than 240 urban and rural counties, representing about 30% of the US population from 41 states, have passed resolutions to achieve this goal (Center for State Governments, 2016, p. 1).

## **Diverting the Mentally Ill**

Jail diversion programs that target mentally ill offenders were created during the latter part of the twentieth century and in the early twenty-first century in response to research findings regarding the hazards posed by mentally ill criminal offenders as they await court appearances. Scherer (2009, p. 5) notes: “Arrest is often the most damaging moment for a person with a mental illness. First, in many cases, it is confrontational, accusatory, and humiliating, as the individual is being criminalized for a behavior they often can’t control. Second, once an arrest is made, booking as well as the more formal court processes begin, which further criminalizes the illness.”

The police working in many counties throughout the United States, particularly those counties that have relatively small populations, face a dilemma when they encounter a law violator whose behavior shows all of the signs of the individual being mentally ill. Although the police realize that arresting the person and transporting him/her to jail is not the ideal course of action to take, it may be the only option available, since the community does not have other means for dealing with such cases. Police officers also have to consider the potential for the mentally ill person becoming violent and a danger to the community in making a decision to arrest or divert the mentally ill persons they encounter. Although a lack of financial resources in the community to support alternative placements for mentally ill offenders may be the primary reason for not diverting offenders who are mentally ill away from the jail, another factor may be lack of knowledge on the part of police about possible alternatives that are available in the community. Box 6.1 describes a mental health evaluation unit developed in Los Angeles (O’Neill, 2015, pp. 1–3).

**Box 6.1: LA Police Unit Intervenes to Get Mentally Ill Treatment, Not Jail Time**

The Los Angeles Police Department's mental evaluation unit consists of 61 sworn officers and 28 mental health workers from the county. It is the largest mental health policing program in the nation. The unit provided crisis intervention and services to more than 14,000 people with mental illness who came into contact with the police during the year 2014.

Sworn officers who are part of the mental evaluation unit are assigned to the triage desk located at the LAPD headquarters. These officers help police officers on the scene evaluate and deal with people who may be experiencing a mental health crisis. The mental evaluation unit officer stationed at the triage desk asks the officer on the scene to report on the person's behavior in regard to acting disorganized, speaking incoherently, or being aggressive or uncooperative. The officer is also asked to question the person suspected of being mentally ill about such matters as medication, being under the influence of drugs, or having experienced recent crises.

Another task of the triage officers is to decide which calls require an in-person visit from one of the "co-clinician" teams. These teams serve as second responders to the scene. During 2014, these teams assisted patrol officers in more than 14,000 calls. The majority (2/3) of the cases that only required assistance from the triage desk officer and those that required an on-site visit from a co-clinician team were resolved successfully. Low-grade misdemeanor cases will generally be diverted from jail. However, in felony-level cases in which it is apparent that the criminal acts are in some way related to the person's mental illness, the case will not be diverted. The triage officers also assist SWAT teams in high-profile situations such as potential suicide cases, hostage-taking situations, and other cases in which the alleged law violator is potentially dangerous as well as suspected of being mentally ill.

There does not appear to be much opposition to the diversion of mentally ill criminals from the justice system by those who represent the criminal justice agencies, such as the police, prosecutors, and correctional personnel. It is obvious that jail is inappropriate for people with mental illness who commit minor, nonviolent offenses. Such individuals need to be diverted from jail whenever possible and referred through networking to available community services such as crisis intervention of social services agencies; to a continuum of services which include crisis intervention, outreach, residential, vocational training, family support, and case management; and to other community support services.

The primary reason why there has not been a more extensive development of diversion programs appears to be lack of resources. Federal and state grants to local criminal justice agencies have helped to fund police and court diversion programs.



## Processing the Mentally Ill Criminal Offender

Scherer, in a document titled *Jail Diversion Programs for Those with Mental Illness: An Emphasis on Pre-booking Diversion and Other Diversion Models*” (2009, pp. 1–2), outlines ten strategies police departments, sheriffs, district attorneys, judges, and county mental health officials can follow to provide a continuum of appropriate responses to the mentally ill offender. The strategies are presented below:

- Proactive efforts by outreach teams to homeless shelters and other places for those at high risk of criminal justice system contact to provide services before a crime has been committed.
- Police officers direct diversion at the commission of a crime that is considered minor or for which the officer does not file charges and directly transfers the individual to mental health services.
- Police officers direct diversion at the commission of a crime that is considered minor but threaten to file charges if the individual does not cooperate.
- Police response (often accompanied by mental health officials) through CIT programs responding to 911 calls or other situations and making the referral to treatment instead of taking the person into court and also an alternative to taking a person to the hospital for a 51/50.
- Taking the individual into custody and filing charges and transferring the individual to a mental health treatment program with legal action initiated but not court action.
- After the filing of charges, a diversion at the time of arraignment or the initial pleading of the case but before there has been a trial; after trial mental health court determination in lieu of entering a conviction.
- The more common form of the mental health court which is an alternative sentencing approach after there has been a conviction.
- Not guilty by reason of insanity plea bargain.
- Incompetent to stand trial (debatable as to whether this is really diversion versus delay, but when initiated, it does result in treatment instead of incarceration and could lead to one of the other forms of diversion).

Mental health courts were developed in the latter part of the twentieth century to meet the needs of the millions of criminal offenders who are processed through the justice system each year who have some form of mental illness that directly or indirectly relates to their criminal behavior. The American Law Enforcement and Mental Health Project (2000) was signed into law by the US Congress, and this act provided funding for the development and implementation of 100 mental courts. The mental health court philosophy quickly spread throughout the nation, and the number of courts established increased significantly in the ensuing years. Staton and Lurigio (2015, p. 22) completed a survey of mental health courts located in the state of Illinois. They found that “Officials reported that their respective MHCs received funding from a number of sources including dedicated county funding,

federal grants, local mental health funding, and in-kind contributions from local health care agencies.”

The Council of State Governments Justice Center (2005, p. 1) describes a mental health court as “A specialized court, which employs a problem-solving approach to court processing in lieu of the more traditional court procedures for certain defendants with mental illness.” Mental health courts are community based and judicially administered and employ a team of court staff and mental health professionals to implement treatment plans for those mentally ill defendants placed under the drug court supervision. The treatment program consists of providing incentives (often dropping or suspending the criminal charges), regular meetings before the mental health court judge, and a type of graduation celebrated in the courtroom for those who successfully complete the treatment program. Those who do not complete the program are sanctioned.

McAler (2016, p. 2) notes that each mental health court functions independently within its own district, but the mental health courts have similar characteristics and goals that make them different from the typical criminal courts. These characteristics are:

- Each court requires voluntary participation, so the defendant must consent to be a part of the program and consent to treatment.
- Each court has eligibility criteria; all include mental illness as defined by the DSM IV-TR, and some include developmental disabilities.
- Traumatic brain injury as possible qualifiers for participation in mental health court.
- Mental health courts employ legal and mental health professionals to address a specialized docket that focuses solely on preventing incarceration of mentally ill individuals, offering court-mandated treatment as an alternative.
- Mental health courts also place public safety in the highest regard when considering treatment/housing options for mentally ill offenders.
- In general, most mental health courts offer a higher level of supervision, requiring clients to attend regular status hearings to assess the progress of treatment and to update treatment plans.
- Finally, most programs have defined criteria for completion of the program, marked with a graduation or certificate of completion.

Staton and Lurigio (2015, p. 22) found in their study of mental health courts located in Illinois that the first-generation MHCs generally did not accept felony offenders, particularly if they had committed a violent offense. The reason for the rejection of felony offenders was the fear that they would be a danger to the community. However, the large majority of the second-generation MHCs accepted felony offenders, including those who had committed violent offenses. They also found that the MHCs accepted clients who had substance abuse disorders concurrent with their mental health problems.

Staton and Lurigio (2015, p. 22) stated, “In all the MHCs, mental health workers screened referrals to determine client eligibility. Referrals to Illinois MHCs can originate from judges, probation officers, public defenders, state’s attorneys, private

attorneys, and potential clients' family members." Once accepted into the MHC program, the clients followed the treatment program prescribed by the MHCs. They were generally supervised by a special probation officer or by a combination of court personnel and community or county mental health workers.

## Drug Courts

The development and implementation of drug courts that required those who were brought before a drug court judge as a result of being charged with a drug-related offense (alcohol included) to agree to participate in a program that provided sanctions as well as treatment was stimulated by the passage of the Violent Crime Control and Law Enforcement Act in 1994 (Kratcoski & Dahlgren, 2004, p. 596). This act provided funding to local jurisdictions to set up community-based programs for drug-using offenders. The drug court concept was embraced by justice officials across the nation. The drug courts that were developed varied in structure and operation but tended to have some common characteristics. These included that, to be eligible for the drug court, the offense must be drug related. Participation was voluntary, that is, the defendant had the option of being tried in the drug court or in the regular criminal court. For those who chose the drug court, the determination of guilt or innocence would be deferred, and, if the person successfully completed the program, the charges might be dropped. The presiding judge of the drug court had wide discretion in deciding who was eligible for the court (generally violent offenders were excluded) and the types of sanctions and treatment programs in which the defendants were required to be involved. The treatment programs were staffed by both court officials (probation officers) and professionals such as psychologists, counselors, and social workers.

As with many criminal justice initiatives for which federal money became available, the initial drug courts were established more on the idea that such an approach to handling the offender who was under the influence of some form of drug seemed to be reasonable than on empirical research that demonstrated the effectiveness of drug courts (drug traffickers were generally not eligible for the drug court programs). A US Department of Justice report (US Department of Justice, 1999, p. 97) showed that 200 drug court programs examined had an average retention rate of more than 70%. This study cited completion rates for 55 of the programs. The completion rates ranged from a low of 8% to a high of 95%.

Travis (1995, p. 1) states, "The drug court approach departed from the traditional court approach by systematically bringing drug treatment to the criminal justice population entering the court system. Traditionally, the court has referred selected offenders 'out' to treatment as a condition of probation. In the drug court, treatment is anchored in the authority of the judge who holds the defendant or offender personally and publicly accountable for treatment progress."

A US Department of Justice examination of drug courts (1997, p. 9) states, "The mission of drug courts is to stop the abuse of alcohol and other drugs and related

criminal activity. Drug courts promote recovery through a coordinated response to offenders dependent on alcohol and other drugs. Realization of these goals requires a team approach, including cooperation and collaboration of the judges, prosecutors, defense counsel, probation authorities, other correctional personnel, law enforcement, pretrial services agencies, TASC programs, evaluators, an array of local service providers, and the greater community.”

The evaluation of the success of drug courts is very difficult, since criteria for referral eligibility to the courts are often quite different. For example, some courts only accept defendants who engaged in a felony crime that was related to drugs, while others generally exclude defendants charged with a felony-level crime, particularly if it involved some form of violence. The resources for the treatment portion of a drug court program can make a difference on the likely success or failure of the participants. Also, the characteristics of the participants and the support systems they have (family, job, community support) will have an effect on the outcome. Kratoski and Dahlgren (2004, p. 597) state, “The differences in eligibility criteria, program structure, treatment offered, types of supervision, and the incentives given for completion of the program must always be considered when gauging the effectiveness of drug court programs in comparison with the traditional handling of drug offenders.”

The manner in which success or failure is defined is important and should always be considered when deciding if the program should be continued. One of the requirements of drug court participants is that they periodically appear before the presiding judge in open court and discuss their progress in the program. During this meeting, the judge will question them on the degree to which they have made progress toward fulfilling the conditions set by the court, such as finding employment, completing community service, staying away from others who have been convicted of criminal offenses, and not using any illegal drug. These open court experiences consist of a one-on-one interaction between the judge and the offender. The judge will either applaud or condemn the efforts of the participant. The judge can consider mitigating circumstances for those who have shown some progress, but not at the level expected. Harrell (1998) notes that administrators of drug courts expect some of the participants to fail or test positive on required drug tests. For these cases, rather than terminating such persons from the program, other options can be used, such as sending the person to jail for a short period or requiring the person to participate in a detoxification program. Those who are terminated from drug court programs have either committed a new felony-level offense, failed to comply with the program requirements, or have tested positive on several urine tests.

## **The Stark County CHANCE Drug Court Program**

The Stark County Drug Court and Day Treatment Center (CHANCE) was implemented in 1998. The primary goals of the Center are:

To identify nonviolent felony offenders with substance abuse problems who are likely to benefit from the program, to offer individualized treatment to those selected by referrals to community service agencies, to encourage participants to make needed adjustments in their lifestyles by seeking employment and looking for educational opportunities, to closely monitor the participants to ascertain whether the recommended treatment is followed and they have discontinued their substance abuse, and to rehabilitate them by reducing or eliminating their criminal activity, so that incarceration is not needed (Kratcoski & Dahlgren, 2004, p. 596).

Referrals to the CHANCE Drug Court are made by the county prosecutor. The typical process followed is that after the police make an arrest, the defendant may be released on bail or held in jail awaiting arrangement. A pretrial service personnel member screens the offender and determines if the person meets the criteria for a drug court referral. If so, the case is referred directly to the prosecutor's office. A prosecutor will review the case. If the prosecutor is convinced that the offense of the defendant who has been charged with a criminal offense is in some way related to drug use and abuse, and the offender meets the criteria for participation in CHANCE, the case is scheduled to be heard by the drug court judge. The criteria for eligibility are:

- The current felony-level offense is one for which probation is allowed under the Ohio criminal code.
- The offense of the alleged offender cannot be more serious than a third-degree felony (Ohio criminal law has five degrees of felony crimes, the most serious being the first degree).
- The offender has no more than two prior felony offenses within the past 6 years.
- The charge against the offender is drug related or drug driven; but offenders with drug trafficking charges are excluded.
- The offender is charged with an offense that does not carry a mandatory jail sentence of more than 10 days.
- The offender is charged with a nonviolent offense and has no history of violent behavior patterns.
- The offender is capable of participating in and completing the drug court program (those with serious patterns of criminality, mental illness, mental disability, or physical health are excluded from participating in the program).
- The offender demonstrates an interest in and willingness to participate in a 12-month treatment program.
- The offender must have an established Stark County residence (Kratcoski & Dahlgren, 2004, p. 600).

An evaluation of the CHANCE Drug Court program completed several years after its implementation found that the CHANCE participants had either chronic or minor problems relating to the following (listed in order of most frequent to least frequent):

- Alcohol abuse
- Housing
- Mental health

- Drug abuse
- Family disruption
- Physical health
- Employment
- Education

The Stark County CHANCE Drug Court has not changed significantly over the more than 15 years of its operation, with the exception that the criteria for acceptance were broadened after it was realized that a large number of those with drug or alcohol abuse problems were multiproblem offenders. As a result, more counseling and treatment programs for those with mental health and family violence problems that translated into criminal behavior were added.

The typical sanctions given to the large majority of the participants include intensive supervision – and/or requirements that the offender pay court costs and fines; pay a program fee; pay restitution, if relevant; complete a specified number of hours of community service; and submit to periodic drug screens and drug treatment, if drug abuse is a problem – or driver’s license suspension (used for those with alcohol problems).

The treatment programs for the participants are individualized and based on the assessment of the offender’s needs that was completed when the person first entered the program. Typically, those with multiple problems are required to attend the Day Care Center, where a variety of treatment modalities are provided, including individual and group counseling pertaining to anger management or family violence, and programs that help the offender develop social skills or prepare for a job interview.

In an interview with Allison Jacob, Director of the Stark County Day Reporting Program (Kratcoski 2016; Jacob 2016) she stated that the anger management program follows an educational and self-evaluation procedure in the treatment process. The participants are given several situational case scenarios in which those involved in the situation express anger in some way. For example, a person does not respond to an insult made by his boss but later picks a fight with a fellow worker over some trivial matter. The participants are asked to discuss the situations and try to determine why the person is responding with anger. They also have the opportunity to complete a self-assessment of the sources of their anger and the appropriateness of their responses to anger-producing situations.

The domestic abuse (Family Abuse Management) program uses the program *Creating a Process of Change for Men Who Batter* (Pence et al., 2011, p. 18). The theoretical framework for the treatment program is based on the notion that men who batter their spouses or significant others follow a pattern of violent behavior or sexual abuse toward those family members over whom they have power. When frustrated, disappointed, or experiencing prolonged periods of anxiety, the man explodes and expresses the pent-up anger.

The treatment uses a series of lesson plans in which examples of domestic violence occur, and the participants are asked to discuss the appropriateness of the responses and their implications. The overall purpose of the treatment is to have

the abusers alter their behavior and respond to their spouse and family members with respect, trust, sharing of responsibilities, and fairness. Another recent emphasis of the CHANCE program is alternative processing for those who have mental health problems.

Research completed by Kratcoski and Dahlgren (2004, p. 610) on the recidivism of the participants of the CHANCE (Drug Court) program revealed that more than two-thirds of the participants did not commit another criminal offense and the offense for those who did commit a new offense either while in the program or after completing the program was of a minor nature. This finding is consistent with other reports on the recidivism of drug court participants. It is worth noting that only 15% of those who graduated from the program had committed a new offense at the time the research was completed. Kratcoski and Dahlgren (2004, p. 614) concluded, “The questionnaires completed by the CHANCE participants who successfully completed the program and graduated revealed that the relationships they developed with the judge, probation officers, and CHANCE treatment staff were as important in assisting them in making positive changes in their lives as were the treatments they received during their period of participation. These relationships, according to the CHANCE participants, were grounded in respect, caring assistance, and being treated as human beings rather than criminals.”

Judge John G. Haas was instrumental in establishing the Stark County Drug Court and CHANCE program. He served as the presiding judge for several years and has continued to give his support and expertise to the program. The following interview with Judge Haas reveals his impressions of the program.

**Box 6.2: Interview with Judge Haas, Court of Common Pleas, Stark County, Ohio**

John G. Haas graduated from Miami University, Ohio, with a BA teaching certificate in 1966. He received a Juris Doctorate from the Ohio State Law School in 1970. He was elected to the Common Pleas Bench in Stark County, Ohio, and serves in that position at the present time. He was the first judge to serve as the judge of the Stark County Drug Court program in 1998 and currently serves as the judge of the Stark County Domestic Relations Court and the Reentry Court. Judge has received many honors and awards during his career.

**Interviewer: Peter Kratcoski (PK). Interviewee: Judge John G. Haas (JH). Interview completed—9/15/2016.**

QPK: Judge Haas, do you recall why you became interested in developing a special docket for drug/alcohol abusers in Stark County?

AJH: Yes, I recognized that treatment coupled with potential punishment with court supervision could be an effective way to minimize recidivism.

QPK: What factors motivated you (and court staff) to pursue the plan to develop a drug court?

(continued)

**Box 6.2** (continued)

AJH: The availability of a federal grant that could be used to study other programs already in operation and to observe what factors make them successful and to implement the best program for Stark County without impacting the County budget.

QPK: Have there been any significant changes in the structure of the drug court and in its policies since its inception?

AJH: We have expanded the program to include minor trafficking cases. The admission criteria is essentially the same. We have added several new programs in the day reporting program.

QPK: I know you no longer preside over the Drug Court, but have you been following the progress of the court?

AJH: Yes, I follow the progress very closely as with all of the special courts under the Stark County Court of Common Pleas.

QPK: In your opinion, have the goals of the court been accomplished? (If available, back up your answer with statistics on the numbers of defendants, recidivism, noteworthy examples of success stories.)

AJH: The statistics would indicate that the Drug Court is successful. In 2016, there were 68 participants in the drug court (CHANCE) program. Thirty-six (63%) have successfully completed the program and graduated.

To date, we conducted 3,382 drug screens and only 190 (5.6%) were positive. Our recidivism rate for a 3-year period (2013–2015) ranged from a low of 12% to a high of 15%. This is far below the recidivism rate for drug courts nationally, which is about 25%.

In addition, since 1998 we have graduated 528 participants and saved the taxpayers an estimated \$24,063,500 or 952 years of incarceration, if these participants were incarcerated in a state correctional facility.

QPK: Since developing the drug court, Stark County Court of Common Pleas has started other specialty court dockets (veterans' court, etc.). In your opinion, is the movement toward specialty courts a positive move for the people of Stark County?

AJH: We have added the Reentry Court and Domestic Violence Court, which I oversee, as well as the Mental Health Track (Hope Program) and the Honor (Veterans) Court. I believe these special courts are beneficial to the defendants and the citizens of the county. The mandated appearances before the judge make the defendants more accountable. The interaction in the court is more personable than what is usually found in the traditional courts. The supervisors and providers of service who appear in court are also held accountable.



## **Diversion of Minor Offenders**

### ***Community Courts***

Another example of the trend toward diverting some categories of criminal offenders rather than processing them through the criminal justice system is the implementation of “community courts.” As with mental health courts and drug courts, the community courts established throughout the United States and in Europe, Canada, Australia, and South America have different titles, structures, and different criteria for eligibility. Lee et al. (2009, p. 1) state, “Community courts are a type of problem-solving courts that seek to address crime, public safety, and quality of life problems at the community level.” Community courts do not specialize in addressing one specific problem, such as is the case with drug courts, mental health courts, or family courts. While the goals of community courts in general may be similar, that is, to develop communications between the judiciary and the community, speed up the processing of the low-level misdemeanor offenders, and provide assistance to those offenders who are in need of social and psychological help, the specific goals of individual community courts may differ.

Lee et al. (2009, p. 11) note that most community courts have several key features. They are:

- **Individualized Justice:** Community courts base judicial decision-making on access to a wide range of information about defendants.
- **Expanded Sentencing Options:** Community courts have an enhanced range of community and social service diversion and sentencing options, some of which are co-located at the court and some of which involve referrals to community-based providers. Conversely, community courts seek a corresponding reduction in conventional sentences such as jails, fines, and time served.
- **Varying Mandate Length:** Community courts develop a multitrack system, in which a (typically small) proportion of defendants receive medium- or long-term judicially supervised treatment for drug addiction, mental illness, or other problems, while the majority of defendants receive short-term social or community service sanctions, typically 5 days or less in length.
- **Offender Accountability:** Community courts emphasize immediacy in the commencement of community or social service mandates and strict enforcement of those mandates through the imposition of further sanctions in response to noncompliance.
- **Community Engagement:** Community courts establish a dialogue with community institutions and residents, including obtaining community input in identifying target problems and developing programs.
- **Community Impacts:** Community courts seek community-level outcomes, such as reductions in neighborhood crime or repairing conditions of disorder through community service.

The Midtown Community Court (Center for Court Innovation, 2016) was established in 1993 through the joint efforts of community leaders, neighborhood residents, and justice officials in the Times Square area of New York City to deal with quality of life issues in that neighborhood such as prostitution, illegal vending, vandalism, and shoplifting from the neighborhood business establishments. The Court was established to provide a rapid response to those involved in such offenses by having the cases heard as soon as possible in the community court and to mete out appropriate sentences that fit the nature of the crimes and the needs of the offenders. For example, in the Center for Court Innovation Midtown Community Court, offenders who are convicted are required to provide community service such as cleaning subway stations, cleaning streets and parks, and removing graffiti from public buildings. The court can also order drug treatment and health-care education for those who need such assistance.

The Brownsville Community Court, located in Brooklyn, is similar in operation to the Midtown Community Court with some variations for younger offenders between the ages of 18 and 24. Supported by an in-house clinic of social workers and case managers, the court provides judges in Kings County Criminal Court with a broad range of alternative sentencing options, including short-term social services, community restitution, psychoeducational group sessions, and more intensive longer-term clinical interventions for younger offenders age 16–24 living or arrested in Brownsville. Clinic staff also receive referrals from the Department of Probation, Crossroads Juvenile Detention Facility, the Office of Children and Family Services, and community-based organizations (Brownsville Community Justice Center, 2016, p. 1).

The Downtown Austin Community Court deals primarily with those in homeless situations and some college students. Its jurisdiction (Elmore, 2016, p. 2) is “to hear Class C misdemeanors, such as public intoxication, minor drug possession, and possession of drug paraphernalia charges.” The homeless community make up a large portion of those who appear before the Downtown Austin Community Court judge. These defendants are given an option of receiving either a conventional or a judicially unconventional sanction.

A comprehensive evaluation of the Red Hook Community Justice Center located in Brooklyn, NY (Lee et al., 2009, pp. 5, 6), revealed that the court goals of establishing community engagement, providing alternative sanctions, reducing costs, and engaging the defendants were largely achieved. The research showed that the large majority of the defendants brought before the Red Hook Community Justice Center court received alternative sentencing such as a community service mandate and were given jail time primarily as a secondary sentence if the defendant failed to complete the requirements of the original sentence. Also in keeping with the restorative justice philosophy, a large proportion of defendants received an ongoing court involvement sanction, meaning they had to give back something to the community. The court provided individualized treatment, and those who needed special services, such as drug treatment, were required to participate in a treatment program as a condition of their sentence. In addition, the Justice Center was successful in diverting a large proportion of juvenile delinquency cases from

prosecution, but still provided supervision and services to the diverted youths through the probation department.

## Veterans' Courts

Veterans' courts are similar to community courts in that they are not directed toward addressing a wide range of offenders but directed toward a specific category of offenders, that is, military veterans. However, those veterans who go before the specialty problem-solving courts are likely to receive treatment similar to that provided in the mental health and drug courts.

The criteria for eligibility for a veterans' court vary in accordance with the laws established in the state and local jurisdiction in which the court is established. For example (Marchman, 2012, p. 617), quoting Senate Bill 1940, Chapter 617 of the Texas Health and Safety Code, notes that, according to the Code, "A veteran who has been arrested for or charged with any misdemeanor or felony offense may be eligible if the attorney for the state consents to the defendant's participation and the court finds the defendant is a veteran or current member of the U.S. armed forces and suffers from a traumatic brain injury (TBI), post-traumatic stress disorder (PTSD), or other mental illness or disorder that is a result of military service in a combat zone or other hazardous area and affected the criminal conduct at issue. Upon the defendant's successful completion of a veteran's court program, the court will dismiss the criminal action."

In a document titled *What Is a Veterans Treatment Court?* (Harrell, 2016, p. 1), it is stated that "The Veterans' Treatment Court model requires regular court appearances (a bi-weekly minimum in the early phases of the program) as well as mandatory attendance at treatment sessions and frequent and random testing for substance use (drugs and alcohol)."

The benefits of such courts for veterans are that they appear before a judge who has a good understanding of the sources of their problems, that is, how their experiences in the military are connected in some way to their present problems that led to their involvement in the justice system. Since the judges and staff of the veterans treatment court have established relations with the Veterans Health Administration, Veterans Benefits Administration, and state departments of veterans services, the veterans brought before the court who are in need of physical services or psychological counseling can make the necessary referrals and be assured that the veterans receive the counseling and treatment they need.

An example of the process followed in a Veterans Treatment Court is given in Box 6.3.

**Box 6.3: Stark County Honor (Veterans) Court**

\*Information was abstracted from *Stark County Honor Court* document, published by the Stark County Common Pleas Court General Division.

The Stark County Honor Court is housed in the Stark County Court of Common Pleas Special Docket for Military Veterans.

**Process.** “The Honor Court provides individualized judicial oversight with regular court appearances before a treatment team and a volunteer veteran mentoring program connecting offenders to volunteer veterans from the local community.”

The defendant enters a plea of guilty to the offense(s) and signs an agreement to participate in the Honor Court program for a minimum of 12 months and a maximum of 24 months.

Defendants can be placed in one of three tracks depending on the offense (s) to which they have pled guilty.

**Track 1** is a diversion program for nonviolent fourth and fifth felony charges. These offenders will have the charges dismissed and the record sealed if they complete the program.

**Track 2** defendants charged with all others felony offenses not excluded from Honor Court eligibly are placed under Intensive Supervision Probation. They are released from probation on the successful completion of the program.

**Track 3** defendants meet the criteria for judicial release, ISP, or post-release control and are discharged from probation upon completion of the Honor Court program.

**Eligibility.** In order to be eligible for appearance before the Honor Court, the defendant must be a veteran or on active duty of a branch of the US military; enter a plea of guilty to the offense(s); sign waivers, releases, and agreements; be a Stark County resident; and not have received a dishonorable or bad conduct discharge from the US military. Persons who have prior felony offenses of violence, had prior participation in a diversion program, and have a prior conviction for a sex offense and who are unwilling to permanently release firearms confiscated or used in the current offense are excluded from participation in the Honor Court.

**Treatment Program.** The Stark County Court of Common Pleas collaborates with a number of organizations and service agencies to administer the program and to provide the services needed in the treatment. These agencies include the Veterans Administration; Stark County Veterans' Center; law enforcement agencies, including the Canton Police Department and the Stark County Sheriff's Office; legal agencies including the Stark County Prosecutor's Office, Stark County Public Defender's Office, and Community Legal Aid; court-administered programs, including Stark County Pretrial Release, Stark County Day Reporting Program, and Stark County Intensive

(continued)

**Box 6.3** (continued)

Supervision Probation; and other medical facilities or service agencies that provide medical care and psychological and employment counseling.

**Expected Results.** It is expected that the services provided to the participants, coupled with supervision and mentoring, will result in a successful completion of the program and an adjustment in the lives of the participants to the extent that they will be able to continue their lives without additional engagement in criminal activity and in line with the values of their community and the nation.

## Programming for the Older Offender

Kratcoski and Edelbacher (2016, p. 4) note that although the portion of all arrest of those who are 65 years old or older in the United States in any year is relatively small (slightly more than 5%), the number of crimes committed by this age group is increasing each year, and the trend is likely to increase. They note, “As a result of improvements in health, communications, and education, changes in life styles, including the types of employment, and changes in social relationships, the life span for the populations of most countries of the world has increased. People are living longer, working longer, and in general have more formal and informal contact with many people outside their primary social relationships.”

The factors mentioned above result in older people having more opportunity to commit some types of crimes such as theft, fraud, drug- and sex-related crimes, and even violent crimes.

In addition to opportunity, the motivation to commit crimes must also be considered. For example, people who may have had a steady income during their productive years may not have had much motivation to steal, but in their older years, if they find themselves living on an income that is barely sufficient to cover the increasing cost of living and with no backup funds for emergencies, the motivation to fulfill their basic needs such as food and shelter through stealing may increase. The ability to commit specific crimes is also a factor to consider when analyzing the criminal activity of the elderly. One might expect that the amount of personal violent crimes of the elderly would decrease significantly as members of this age group grow older and are less able to physically engage in violence. However, in the United States, because of the easy access to firearms, an older person is not inhibited from committing a violent act. A study of older homicide offenders (Kratcoski & Walker, 1988, p. 73) found that the predominate weapon used by the older persons in the study to kill their victims was by far (89%) a firearm.

A study by Fattah and Sacco (1989, p. 69) found that for less serious offenses, such as shoplifting, drunk driving, family violence, vagrancy, alcohol-related offenses, and illegal behavior by those who were apparently mentally confused,

the police were generally sympathetic toward the older offenders and believed that they needed supervision rather than harsh punishments. Cutshell and Adams (1983, p. 3) found that prosecutors were more likely to drop the charges for older offenders who were arrested for shoplifting than for younger offenders charged with the same offense.

There has not been any concerted movement to develop specialty courts for elderly criminal offenders. Aday and Krabill (2006, p. 240) note that, "The decision to hold an older adult responsible for his actions, send him to trial, and issue him a prison sentence is neither quickly nor easily made. The complexity of the crimes and the diverse characteristics of the perpetrators makes establishing any uniform policy extremely difficult." Aday and Krabill (2006, p. 241) point out that some research findings suggest that judges give older offenders, even those who commit minor offenses, more harsh sentences than they give to offenders in other age groups who commit similar offenses, while other research indicates that judges tend to take mitigating circumstances into consideration and give the older offenders less harsh sentences.

In addition to the factors of age, health, type of crime committed, and the character of the older offender that a judge must consider when sentencing an older offender, the matter of the difficulties a jail or prison sentence creates for those who administrate jail and prison facilities must be taken into consideration. For example, elderly offenders may suffer from chronic physical and mental health problems, be in need of special diets, or unable to participate in the normal activities required of someone incarcerated in a jail or prison.

## Summary

There has been a concerted movement to divert special categories of criminal offenders from official court processing during the past several years. These special categories include persons who commit minor offenses, persons who exhibit mental health problems, those who commit alcohol- and drug-related offenses, and special categories of adults who are diverted because of the triviality of the offenses they committed or because of their age. There are several reasons for the changes in philosophy and changes in the laws that brought about the movement away from incarceration and toward treatment in the community for drug abuse offenders, those with mental health problems, and other categories of offenders. First, the cost of holding such offenders in jail and in long-term correctional institutions is prohibitive; second, there is considerable evidence that the punishment received did more harm than good to the inmates, their families, and the community; third, the type of treatment such offenders needed to eliminate or reduce the effects of the problem is generally not available in correctional facilities; and fourth, the prediction that those offenders with mental health problems and drug abusers diverted to community treatment would in some way pose a special threat to the security of the community just did not materialize.

With the assistance of federal, state, and local funding, justice agencies have been able to establish specialty courts such as mental health courts, drug courts, veterans' courts, and community courts. All of these special courts rely on community resources and cooperation from various service agencies to provide the type of treatment offenders with special problems need. Research on the effectiveness of specialty courts reveals that the large majority of those who complete the programs attached to the courts do not recidivate.

## Discussion Questions

1. Discuss the factors that have contributed to the creation of specialty courts for certain types of offenders. Do you think the diversion of these special types of offenders is justified?
2. Why is the process of arrest and confinement so traumatic for a mentally disturbed person? How can the police act to make these processes less disturbing?
3. When mentally ill persons are released back into the community, do you think those who live near that mentally disturbed person should be notified that this condition exists, as they are when a sexual predator is released? Why or why not?
4. Why do you think that drug courts and day reporting have been successful in helping many drug offenders? Discuss the elements of the programming that you think hold the key to their success.
5. Do you think the length of supervision should be longer for offenders handled through community courts than for offenders who have committed similar offenses who are handled through regular courts and placed on probation? Why?
6. What do you think is the most important function of veterans' courts? How can veterans' organizations assist these offenders, once they have come to the attention of the courts because of committing criminal offenses? Do you think veterans' criminal offenses should be erased from court records if they are successfully treated?
7. If veterans who have committed criminal offenses do not meet the eligibility requirements for referral to a veterans' court, should they still be given special consideration in criminal courts, even if they have committed very serious offenses?  
What could be done to assist them?
8. Discuss why extension of the life span for Americans has resulted in increased criminality by this age group.
9. What do you think are the types of criminal activity that may decrease as a person ages? Do you think the availability of the Internet has had an influence of the types of crimes committed by older adults? In what ways?

10. Incarceration of older offenders creates many problems for jail and prison administrators. What are these problems? Do you think older offenders should be housed in separate facilities or kept in the general prison population? Why?

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## Chapter 7

# The Functions of Classification and Assessment Models in Correctional Treatment

### Introduction: The Development of Classification Models

Seiter (2002, p. 138) states, “Classification is a process that is used throughout the criminal justice decision making process to identify and match offender needs with correctional resources, resulting in the assignment of offenders into groups of individuals with similar traits or characteristics.” Kratcoski (2004, p. 207) notes, “Classification of offenders, if properly executed, enables correctional agencies to maximize the use of their personnel and resources to provide treatment that will enable the offender to fulfill his or her specific needs and to assure, as well, that the concerns of other interested parties are met.”

At the first contact between a juvenile or adult offender, some form of classification, even if it is not written into policy, is used to determine if the offender should be transported to jail or a juvenile detention facility, be diverted from formal processing, or have the case put on the docket for formal processing. If the person is convicted of a crime, a classification system to determine those eligible for community sanctions and those requiring institutional sentences is used. If placed under community supervision, the offender is classified on the basis of risk to the community and treatment needs. If sentenced to a prison or correctional facility, the offender is classified on the basis of security risks as well as needs for specific types of programming.

The use of classification systems in the field of corrections for purposes of control, punishment, and rehabilitation of inmates housed in jails and correctional facilities dates back several hundred years in the United States. For example, the Walnut Street Jail, located in Philadelphia, and the Eastern Penitentiary, located near Philadelphia, used the solitary confinement model, which provided for treatment focused on offender penitence coupled with a work program to prepare the inmate to earn a living after release.

In the twentieth century, Gill (1970) developed a classification system to separate prisoners according to their potential for treatment and training. Kratcoski

(2004, p. 208) indicated that, "Gill's plan included the separation of prisoners into distinct groups, either within an institution or by housing them in separate facilities. Gill believed new prisoners should be isolated from the others for purposes of observing their behavior and determining their potential for rehabilitation. From this point, prisoners would be classified as tractable to respond to treatment efforts and change their behavior, intractable-resistant to change and requiring strong methods of control, defective-mentally ill, retarded, or physically handicapped, and those who could be handled best in some form of work release or community placement facility." It is likely that some form of Gill's system, with modifications and with different labels used to identify the categories, is being used at the present time.

Gradually, multifunctional classification systems were developed that assessed the inmates' potential for dangerousness. These instruments were used for assigning inmates to different cell blocks within the prison or for assigning convicted offenders to different security level prisons. Assessment models used for assigning inmates to specific treatment programs within the prison were gradually developed and put into use. In the latter part of the twentieth century, classification and treatment assessment tools were developed and implemented in community corrections.

The classification systems now used in both correctional facilities and community corrections are more complex and multipurpose than the earlier models. Kratcoski (2004, p. 213) notes, "A distinction can be made between those that are used for administrative and management purposes and those designed to treat and rehabilitate the offender. Those of a management nature are designed to enhance control and to predict the likelihood that an offender will commit new criminal acts after release. The treatment-rehabilitation systems try to differentiate offenders on the basis of their needs, attitudes, motivations, and attributes and then provide the treatment necessary to bring about the desired changes in values, attitudes and skills that will inhibit the offenders from recidivating."

The same model or assessment system can be used throughout the prison system of a state and in the various community correction programs, with a given state making slight modifications to adjust for demographic differences, including the population size of the community, the number of people being supervised, the departmental and community resources available for the agency to draw on, the level of supervision needed by the majority of those being supervised, the level of training and skills of the supervising officers, and other factors. However, if the model does not provide for differential assessment and programming based on the needs of those being assessed and treated, the model is not likely to produce the outcome desired in terms of bringing about the desired changes. The offenders must be matched with the specific treatment program which best addresses their problems and needs.

Flynn (1978, p. 86) stated that, to be effective, a classification system should have several key components, including:

- An explicit statement regarding the function and purpose of the classification system.
- The classification system should be theoretically based.
- The classification system should be dynamic so that the system's predictive powers in determining how best to reduce recidivism will increase as the conditions of supervision change.
- The assumption on which the classification is based must be explicit.
- The critical variables of the classification typology applied must be specific so that the utility of the system can be empirically tested.
- The classification system should be useful and feasible in order to facilitate efficient management and optimum use of available resources.

## Use of Classification in the US Probation System

Eaglin and Lombard (1982, p. 1) noted that, prior to 1980, a variety of case management classification methods were used in the supervision of probationers in the various US court districts throughout the United States. These ranged from purely subjective methods that depended on the experience of the probation officers to determine the type and amount of supervision needed to several statistical predictive instruments. In 1980, the federal probation system adopted a risk prediction scale (RPS) that uses a classification system to place offenders *into high activity and low activity supervision*. The criteria used for the classification of offenders are a number of criminogenic factors, such as prior criminal history, nature of the current offense, and personal needs factors.

A report (IBM Business Consulting Services, 2004) addressing the need for the federal probation system to develop a comprehensive system of assessment of those under federal supervision stated that the primary goal of the assessments was to determine the most effective ways to reduce the recidivism of those under probation supervision as well as those under post-incarceration supervision. Cohen and VanBenschoten (2014, p. 41), after reviewing prior research and recommendations of the IBM report, stated, "To meet the key goal of recidivism reduction, three major principles had to become guiding tenets of federal probation: officers should work most intensively with high-risk offenders (the risk principle), focus on the criminogenic needs of high-risk offenders (needs principle), and match treatment modalities with the ability and learning styles of offenders (responsivity principle)."

The Post-Conviction Risk Assessment (PCRA system) adopted by federal probation developed four categories of risk of recidivism for those placed on federal probation. These categories are *low risk, low/moderate risk, moderate risk, and high risk* (Cohen and VanBenschoten 2014, p. 52). The amount and type of supervision required for those placed in each risk category is based on both prior criminal history and criminogenic factors requiring intervention such as substance abuse, family instability, anger management, and need for preparation for employment.

Cohen and VanBenschoten (2014, p. 52), in a nationwide study of more than 20,000 offenders placed on federal supervision between May 2010 and December 2011, found that, “the majority of offenders under federal supervision (78 %) were classified as either *low* or low/moderate risk at the start of their supervision period.” The authors stated that, “The study also found that many offenders initially placed in the higher risk categories are reclassified into lower risk categories by their next assessment. This was especially true for *high risk* offenders; about half of these received a reduction in risk by their second assessment and nearly two-thirds were moved into a lower risk category by their third assessment.” They also found that few of those initially placed in the low-risk categories were moved up into higher-risk categories during the time of their supervision.

In 2014, the US Department of Probation developed a *Guide to Judiciary Policy* in which it was recommended that, for purposes of supervision, the four risk categories in the PCRA that were used to classify those convicted of violating a federal law be combined into one of two categories—“high activity” supervision and “low activity” supervision. This instrument was to be used by all US courts throughout the United States (Cohen, Cook, & Lowenkamp, 2016, p. 3). The scale used to determine if a person needed high supervision or could be supervised under low supervision consisted of information about the offender such as completion of a high school education, age, number of prior arrests, steady employment, and freedom from opiate use. The response to each item was weighted, and, depending on the score received after the offender was assessed, the offender would be given either high supervision or low supervision by a US probation officer. For example, if a convicted offender received a zero on the large majority of items, this would indicate that the person was not likely to recidivate and could be given low supervision. If the person received a high score on the majority of items, the likelihood of the person recidivating was much greater, and a high supervision was recommended (Cohen et al., 2016, p. 4).

Cohen and VanBenschoten (2014, p. 4) note that, for those classified as low-risk offenders, the judicial policy recommends that officers initially apply minimum levels of supervision and increase the amount of supervision if the offender’s behavior warrants an increase. In a study of what effect the new policy had on federal probation officers’ approach to supervising low to low/medium probationers, the researchers compared the amount and types of supervision used by probation officers with low-/medium-risk offenders before the new policy guidelines were established with the amount and types of supervision given to these categories of offenders after the guidelines were put into effect. The research confirmed that federal probation officers appeared to be following the guidelines for supervision of low-risk offenders recommended in the *Guide to Judiciary Policy*. The authors concluded, “This research shows that low and low/medium risk offenders in the post policy group had fewer officer/offender contacts than those in the pre-policy group.” Cohen and VanBenschoten (2014, p. 9) concluded, “Importantly, the policy of supervising low risk offenders less intensively has not compromised community safety. Post policy low-risk offenders were no more likely to recidivate compared to their pre-policy counterparts.”

## State Classification Systems for Probation and Parole

In 1982, the National Institute of Corrections provided grants for states to develop statewide classification systems for probation and parole. The vision of NIC was that statewide classification systems would be useful tools for probation and parole officers, who would have objective criteria to assist them in making decisions on case management plans. Also, it was hoped that with the use of standardized instruments throughout the state, the likelihood of officer prejudices being a factor in the decisions would be reduced.

The statewide systems that were developed considered both control and treatment in the classification. Typically, two instruments were used, one to assess the risk the offender living in the community would present and the amount and type of supervision that was required to assure that the community would not be harmed. The other instrument was used to assess the needs of the probationer. The information gleaned from the two instruments served as the basis for the development of a case management plan.

## The Wisconsin Classification System

One of the states to first receive funding to develop a classification instrument for probation was Wisconsin. After a period of evaluation as to the predictive value of the model developed in Wisconsin, the model was implemented in 1977 (Eaglin & Lombard, 1982). The Wisconsin model gained wide attention throughout the United States, and many states developed their own probation and parole classification system models after the Wisconsin prototype.

The Wisconsin Classification System contained the following integrated components: (Crooks, 2000, p. 251):

1. A risk assessment scale developed by multiple regression analysis to identify and weight offender characteristics and criminal history items that best predict further criminal behavior.
2. A risk reassessment scale developed to identify and weight offender items that reflect overall adjustment during the course of supervision.
3. A needs assessment scale
4. Treatment guidelines developed by supervising agents to identify noncrisis offender problem and needs areas and potential strategies and resources to service them.
5. A client management classification (CMC) system and treatment strategies developed empirically in the form of a semi-structured interview and agent impressions to assist in placing offenders in one of five differential treatment groups and to provide information concerning appropriate treatment strategies for casework planning.

6. A standardized classification and reclassification process was developed for probationers and parolees. At admission to supervision, the risk and needs assessment scales are scored, and the offender is assigned to one of three supervision levels (specific agent contact required at each level). At 6-month intervals during supervision, the risk reassessment scale and needs scale are scored, and an offender is reclassified if appropriate and assigned to the appropriate level.
7. A workload budgeting and deployment system developed as a result of time studies that measured the time required by agents to perform activities and meet supervision standards and used in the budgetary process and to deploy staff.
8. A management information system generated as a product of the classification and reclassification process and used as a foundation for evaluation, planning, and operations.

Crooks (2000) notes that follow-up evaluation research completed several years after the Wisconsin Classification System was implemented revealed that the use of the plan resulted in a significant impact on probation and parole outcomes. Probationers and parolees under high-risk/needs supervision had fewer new convictions and probation and parole revocations. Also, fewer absconded when compared with the period before the system was implemented. In addition, the low supervision given to those who scored low appears to be the appropriate supervision, since there did not appear to be any adverse effects for these probationers and parolees, even though they were not supervised closely.

Although the Wisconsin Classification System generally served as the model for the probation and parole classification systems developed by other states, there were several concerns about the model. These concerns centered on the length of time and the amount of paperwork needed with each case to complete the classification and case management process. For example, some of the officers argued that the outcome for many cases was predictable, for example, for first time offenders who were involved in a situational criminal offense, and it was a waste of their valuable time, time that could be used more effectively in supervision of the more serious offenders. Another major concern was that there were major variations in the laws, law enforcement, and judicial procedures of the various states, and a nationwide, even statewide, system could not respond to the variations that existed among the states or even within a given state.

## **The Ohio Experience**

Under the direction of the Ohio Department of Rehabilitation and Correction, the Adult Parole Authority administration began the development of the Adult Parole Authority Case Management System (CMS) in 1979. A Case Management Task Force composed of management and line staff along with consultants was formed. The first step was to review classification instruments used in the Wisconsin system

and instruments used in the federal system and to select those items from these instruments that appear to be the most useful, modify the items if necessary, and, once a classification system was constructed, complete research on the model before fully implementing the Case Management System. Crooks (2000, p. 252) noted that, "It was generally understood that the completed case management product would contain components applicable to both the probation and parole populations served by the Adult Parole Authority." When fully implemented, the CMS would be used in all of the counties in Ohio in which the Adult Parole Authority supervised probationers and parolees who had been convicted of felony offenses. While the Adult Parole Authority (APA) supervised parolees in all of the 88 counties of Ohio, the APA supervised probationers in almost two-thirds of the Ohio counties. The remaining counties, predominately those with large populations, maintained their own probation departments. During the development process, the county and state staff assigned to the Case Management Task Force worked together to iron out differences in the data collection methods used, manner in which the information on the probationers in the various counties was recorded, and other factors that might interfere in the attempt to standardize the proposed case management instruments so that they would be readily understood and useful to those who planned to adopt the Case Management System.

Before the CMS was implemented, county and state staff members assigned to the task force arranged for all state and county personnel who would be using the system to be trained in its use. This training was provided by either state and county staff or consultants. Several of the trainers who were involved in the training of officers in Wisconsin were employed to provide the initial training for the Ohio probation and parole officers.

Crooks (2000, p. 264) indicated that county and state staff also jointly developed a CMS entrance training program for the purpose of orientating the new state and county staff on the use of the risk assessment, needs assessment, and needs reassessment instruments. He also noted that, "In addition to participating in the training during the transfer process, the urban and rural counties came together to discuss common issues and problems as they reached the same level of implementation."

The Case Management System was implemented throughout Ohio during 1980 and 1981. The Adult Parole Authority administration decided to introduce the system gradually, that is, in one district of the state at a time, so there would be ample time to complete research on the CMS and make adjustments if necessary.

The final items selected for the risk assessment scale consisted of:

1. Number of prior felony convictions (or juvenile adjudications)
2. Arrested within the five (5) years prior to arrest for current offense (exclude traffic)
3. Amount of time employed for the last 12 months (prior to incarceration for parolees)
4. Alcohol usage problems (prior to incarceration for parolees)
5. Other drug usage problems (prior to incarceration for parolees)



6. Number of prior adult incarcerations in a state or federal institution
7. Age at admission to institution or probation for current offense
8. Number of prior probation/parole supervisions
9. Number of prior probation/parole revocations resulting in imprisonment (adult or juvenile)

Each of the items listed was weighted with a score of 0 indicating that the factor was not of any concern and was an indicator that the probationer or parolee was not likely to recidivate and thus did not need a great deal of supervision. A score between 2 and 6 on a factor indicated that the likelihood of the probationer or parolee recidivating was greater and thus more supervision was needed. Once the scores for all items were tabulated, the probationer or parolee would be placed in one of three categories, low supervision, medium supervision, or high supervision. There was a standard set of expectations for the supervising officer pertaining to number and types of contacts the officer was to complete with those being supervised for each category.

The final version of the needs assessment consisted of:

1. Emotional and mental stability
2. Domestic relationship
3. Associations
4. Drug abuse
5. Alcohol usage
6. Employment
7. Academic/vocational skills/training
8. Financial management
9. Attitudes
10. Residence
11. Mental ability (intelligence)
12. Health
13. Sexual behavior
14. Officer's impression of needs

As with the risk assessment, the officer obtained the information for each item from several sources. These included official documents; information found on a presentence investigation; and interviews with the family, employer, or other acquaintances and from a personal interview. As with the risk assessment instrument, the items on the needs assessment were weighted. A low score on a factor would indicate no problem, and a high score would indicate that the probationer or parolee had a significant problem with the factor, be it drug abuse, alcohol abuse, domestic relations, and others. The higher the total score, the more attention was required to address the problem or multiple problems of the person under supervision.

After the risk and needs assessments were completed on the probationer or parolee, a case management plan was developed. Those assessed were placed into one of three supervision levels. These consisted of:

- **Maximum:** High failure potential or great number of problem/needs requiring services
- **Medium:** Lower failure potential or problem/needs areas, but requiring officer involvement
- **Minimum:** Least failure potential or few significant problem/needs areas

The development of a case management plan for those assessed was based on the information gleaned from the assessments of the risks and needs of the individual. The interpretation of the items on the scales, particularly the needs instrument, presented difficulty for some officers. Since several of the items were highly subjective, reliable information was not available for some items, and in some areas, the officers just did not have the knowledge base to make a viable judgment. Another major problem that often occurred was that, even though the assessment of the needs was correct, the supervising officer did not have the skills to provide the services needed, and often there were no service agencies in the community to which referrals could be made.

Evaluations of the Case Management System were completed (Kratcoski 2004). As a result of the findings of these evaluations, several modifications in the CMS were made. The CMS was revised several times during the ensuing years, and in 2015 Ohio House Bill 86, passed by the Ohio state legislature, authorized the implementation of the case supervision and management model throughout Ohio. The model provides opportunities for criminal justice personnel to assess adult offenders who are at different stages in the criminal justice process. As noted in a document published by the University of Cincinnati Corrections Institute (2016, p. 1), “More specifically, the ORAS is composed of 5 tools: 1) pre-trial; (2) prison intake; 3) community supervision; 4) reentry from a long-term prison stay (4+years); and 5) reentry from a short-term prison stay (less than 4 years).”

## Comparison of Evidence-Based Classification Models

The comprehensive evidence-based classification and treatment models used in various states are very similar in content. This is no doubt due to states developing systems borrowing items for their models from those states that have already developed and implemented classification models. Of course, another reason for the models being similar is that when research is completed to determine what factors best predict outcomes such as recidivism, or likelihood to benefit from a specific form of treatment, the same items show up. What does differ is the scoring on the items and the scores that are used to place offenders in different supervision categories. For example PEW (2016, p. 3) notes that, “Research has identified both changeable (dynamic) and unchangeable (static) risk factors related to criminal behavior. The seven dynamic risk factors closely associated with criminal conduct that can be assessed and altered through effective intervention are:

1. **Antisocial Personality Patterns**—impulsive, adventurous pleasure seeking, restlessly aggressive and irritable behavior
2. **Pro-criminal Attitudes**—offering rationalizations for crime and expressing negative attitudes toward the law
3. **Social Supports for Crime**—having criminal friends and being isolated from prosocial peers
4. **Substance Abuse**—abuse of alcohol and/or drugs
5. **Poor Family/Marital Relationships**—poor family relationships and inappropriate parental monitoring and disciplining
6. **School/Work Failure**—Poor performance and low levels of satisfaction with school or work
7. **Lack of Prosocial Recreational Activities**—a lack of involvement in prosocial recreational and leisure activities.”

Several states and the District of Columbia have passed legislation that requires the use of a comprehensive evidence-based risk and needs assessment system. For example, the Court Services and Offender Supervision Agency (CSOSA) for the District of Columbia requires that offenders undergo a comprehensive assessment within 25 days of being assigned to community supervision. The risk/needs assessment, referred to as the *AUTO Screener*, “is an “intelligent” risk and needs assessment tool that determines the appropriate level of supervision for offenders and generates an individualized prescriptive supervision plan (PSP) that identifies the offender’s needs and includes recommendations for treatment and support services. The PSP provides valuable information to assist the community supervision officer in supervising the offender. AUTO Screener measures include the offender’s:

- Educational status
- Employability
- Community and social networks
- Patterns of thinking about criminality and authority
- Attitudes and associations (Court Services and Offender Supervision Agency for the District of Columbia, 2016, p. 1)

The PEW (2016, p. 6) lists Arkansas, Kentucky, New Hampshire, and South Carolina as states that have enacted legislation for the implementation of comprehensive risk/needs assessment systems.

## **Institutional Classification**

The classification of those sentenced to correctional facilities is used to facilitate the management of inmates as well as to determine which correctional facilities have the security and resources to best facilitate the rehabilitation process for the inmates.

During the periods before the development of *reception centers*, sentenced offenders would be transported directly to the correctional facility. A classification team, composed of security and treatment personnel, would assess the treatment needs of the inmate as well as the institutional housing placement needed to assure the safety of other inmates and the prison staff. Currently, those convicted offenders who are sentenced to a correctional facility may be first processed and classified at a reception center. The stay at the reception center is usually a short period, a few weeks or less. During their time at the center, offenders are interviewed and given several tests to determine what type of institution placement is appropriate for them in terms of security level and what types of treatment the inmate needs. The security level will generally be determined on the basis of past criminal history, nature of the current offense, and the length of the sentence. At the initial classification, *actuarial* methods are used in conjunction with personal interviews to decide the appropriate risk level. *Actuarial* measures are based on the same principles as those used by insurance companies, i.e., using the information obtained from a large number of past insurers to predict the probability of future events. For example, companies selling life insurance establish premium payment rates based on the age of the insured and the estimated date the insurer will die. The *actuarial* instruments used in the classification of new prisoners are based on comparing the characteristics and behavior patterns of past prisoners who had similar personal factors and criminal histories with those of the inmates currently being classified to predict the likely behavior of the new inmates. If the actuarial score is high, predicting the likelihood that the inmate will be troublesome and in need of high security housing, even though the needs score may be high, the security concerns of management will override the needs of the inmate for treatment. For example, it is likely that a convicted felon sentenced to a long period in prison as a result of committing a series of violent crimes such as armed robbery or aggravated assault with a deadly weapon will be placed in a maximum security facility, even though the programs and personnel needed to treat the offender's disorders are not available. In this case, security is the overriding factor.

If the correctional system does not utilize reception centers and the sentenced felons are classified on their arrival at the facility, the inmate will be classified upon arrival at the institution. Typically, the security level of the correctional facility in which the offender will be housed is determined before the offender actually arrives at the placement facility. In some states, the information from the risk/needs assessments, particularly that which applies to prior offenses and the level of seriousness of the current offense(s), is completed before the placement. What facilities have housing available also determines the type of facility to which the offender is sentenced. In addition, the penal code of a particular state may be the dominant factor in the decision on placement. In some states, the law may require that a person convicted of first-degree murder be sentenced to a penitentiary.

Once the offender is placed in a specific correctional facility, an internal classification is completed. The two major factors considered in this classification process are institutional safety and needs of the inmate. The initial classification is completed to assure that the appropriate security levels are decided upon, and the

individual's needs are identified. For example, medium security level correctional facilities will generally have different levels of security housing units. Some units may be of a dormitory style, while others consist of multi-person or individual cells. Typically, those housed in the dormitory-type units will be the inmates who are classified as lower security risks. These units often have a few hundred inmates who are supervised by one or two correctional officers. In regard to the needs of these inmates, once it has been determined that the inmate has a special problem such as mental health issues or substance abuse, that inmate may be assigned to a special unit in which the programming centers on counseling and treatment for the special problem. Even the low security facilities have a housing unit for those who may become violent or extremely aggressive while in the institution.

Phillips and Roberts (2000, pp. 73–74) report that there are also special housing units within an institution characterized as disciplinary detention units, administrative segregation units, and special management units. They state that, “Disciplinary Detention Units are used to confine inmates who have been determined by the disciplinary hearing officer to have committed serious violations of the correctional agency’s policies and who warrant segregation from the general population for a specified period of time. Administrative Segregation Units are used to house protective custody cases, inmates who are en route to other institutions [and] inmates whose separation from the general population is necessary for the safety, security, or orderly operation of the institution. Special Management Units provide ultra-secure housing and high-supervision programming exclusively for those inmates, who if confined in any less secure setting, would present the most extreme threats to others or to the orderly operation of the institution.”

Another way classification is used by management is for serving as the basis for decisions relating to making changes in the inmates’ housing placement within an institution or in relation to transferring inmates to another institution. After the initial classification, inmates are periodically reviewed on a number of factors, including behavior in the institution, time remaining on sentence, eligibility for parole, and progress in the treatment. Based on an assessment of the factors mentioned, the inmates may be transferred to a lower security housing unit, sent to a prerelease housing unit, or even transferred to another correctional facility. If an inmate causes a serious disturbance within the institution, attacks another inmate or correctional officers, tries to escape, or is difficult to supervise on a daily basis, it is likely that the inmate will be transferred to a higher level security facility or to a higher level security unit within the present facility. For example, inmates housed in a maximum security institution may be transferred to a super-maximum unit. In such units, there is no interaction with other inmates, and the interaction with the institution’s personnel is very limited. They will probably eat their meals in their cell, complete exercising in their cell, or even engage in treatment programs in the cell by way of closed-circuit TV.

The initial classification can be very helpful in facilitating the treatment process. Seiter (2002, p. 142) states that the contact between the inmate and the staff during the classification process can serve as a way of “breaking the ice” by providing an opportunity for personal interaction in a situation where there may be suspicion and

uncertainty about what to expect. Seiter (2002, p. 142) observes, “However, the classification process facilitates the beginning of a process of positive interaction. With both clinical and actuarial approaches to classification, inmates and staff participate in an interview and discussion to clarify certain background factors and identify present needs.”

In institutions organized around *unit management* models, it is likely that several of the units will house inmates with special problems, such as drug or alcohol abuse, mental health problems, or physical health problems. The classification team for such units will normally be composed of the unit manager, a case manager, and a member of the security staff. In addition, a representative of the education department, psychology/social worker staff, medical staff, and recreation department may serve on the classification team. As with other initial classifications, the team reviews all of the files and other information on the inmate that may be useful in determining the needs of the inmate in terms of counseling and treatment. Mental and physical health problems are given special attention, and the inmate may be given physical examinations and psychological testing beyond those given in the normal processing if it is suspected that the inmate has problems that were not detected in previous examinations.

In a research project completed by the National Institute of Corrections on Offender Needs Assessment: Models and Approaches (Clements et al., 2010, p. 98), an assessment for substance abuse is completed that is used to guide the classification team. This guide defines three (3) levels of drug usage: no significant problems, moderate problems, and serious problems. The assessment factors include motivation for using drugs, patterns of drug use, educational background, work history, physical appearance, leisure time activities, and other factors that might throw some light on the type of treatment approach that can be used. Those who would fall into the “no significant problem” category would have never used drugs or have used them infrequently. Those who fall into the “moderate problems” category have used drugs frequently, with negative effects on employment, behavior, and family life. Those who fall into the “serious problem” category have continuously used drugs in the past, with significant negative effects on almost every aspect of the offender’s life. After being assessed in regard to needs and extensively interviewed by the classification team, the inmate is placed in the appropriate unit and a case management plan is implemented.

## **Classification of Juvenile Offenders**

Watcher (2014) noted that if a comprehensive risk/needs assessment is developed for use in the juvenile justice system, it can be used at every stage in the process. Risk assessments have been used for diversion of a youth by police officers at the time of arrest, at the intake interview, to determine if diversion can be used or if the youth must be officially processed and to decide if the youth should be held in detention before an official hearing, and at the dispositional hearing after a youth

has been adjudicated delinquent to assist the judge in a decision on community supervision, probation, placement in a residential treatment facility, or commitment to a youth correctional facility. As with adult offenders, classification models and risk/needs assessments have been used to determine the appropriate correctional facility in terms of security level and the type of treatment plan needed to best facilitate rehabilitation of the youth offender.

Juvenile risk and needs assessment instruments take into consideration the static risk factors (age, gender, ethnicity, prior history of offending), the dynamic risk factors (substance abuse, delinquent peer associates, poor school performance, attitude), and the criminogenic needs factors (substance abuse, delinquent peer groups) that contribute to the youth's deviant behavior. If these factors are removed or even modified, the risk of recidivating may decline. Protective factors are also included in the risk/needs assessment instruments. An Office of Juvenile Justice and Delinquency Prevention (OJJDP, 2016, p. 4) report states, "protective factors are characteristics of the youth or the environment surrounding the youth that interact with risk factors to reduce the odds of involvement in delinquent or criminal activities. Some examples of protective factors are the presence of caring and supportive adults in the community and at school; having a stable family; and having a positive/resilient temperament."

The approaches used in the development and administration of risk/needs assessments for juvenile offenders are similar to those used for adults: "The *actuarial* approach involves scoring items related to reoffending from an assessment tool, then weighting and summing the items. A statistical formula is then used to calculate a total risk score. The risk score is cross-referenced with an actuarial table that provides an estimate of risk over a specified time frame, such as 5 or 10 years. The estimate is based on the number of individuals who received the same risk score and recidivated during the development of the assessment tool" (OJJDP, p. 4).

In the *structured professional judgment* approach, sometimes referred to as the objective approach, experienced practitioners rate the factors considered to be related to delinquency causation on their importance in predicting further delinquent behavior (OJJDP, 2016). The final risk/needs assessment factors used in the instruments are those considered to be the most important by the practitioners involved in the development of the risk/needs assessment. Each item is weighted in regard to importance.

Many of the risk/needs assessment models used in the juvenile justice system by juvenile and family courts were developed through the integration of the *actuarial* and *judgment* approaches. Generally, the 10 or 12 items considered most important in predicting further delinquency are used for the risk assessment, and 10 or 12 items considered the most important pertaining to the needs of the youth are included in the needs instrument. The categories for risk are generally high, medium, and low. A specific score on the weighted items would designate placement in a particular risk category, with higher scores indicating greater risk and need for more supervision. The same format is followed in the scoring and categorizing of the needs instrument.

The combination of the risks and needs instruments (in some jurisdictions, risk and needs assessments are combined into one instrument) is used to develop the case management plan for the juvenile being supervised. A specific model might be adopted for statewide use, as is the case in Ohio. For example, “The Youthful Level of Service/Case Management Inventory (YLS/CMI) is a dynamic risk/needs assessment and case management inventory for juvenile offenders. The assessment is based on the same principles and theory behind the LSI-R with modifications to make the instrument responsive to juvenile offenders” (University of Cincinnati Corrections Institute, 2016, p. 2).

Some of the experienced professionals working with juvenile justice agencies, particularly those serving as probation officers and counselors of special programs, express concern because the case management of those being supervised has become somewhat mechanical. That is, a lot of the individual decision-making on a case and discretion has been eliminated, and basically the professional is required to follow the plan produced by the risk/needs assessment model. In addition, if the model is adopted statewide, it often will not consider the differences in importance of some factors, such as the influence of peer groups for a youth growing up in the lower income area of a large city as opposed to that of a small town and even the influence of the school experience in a small-sized community in which the teachers may have much more information about students and their families than would be found in large school systems. In answer to these concerns, the case management plans derived from the risk/needs assessments normally will have an override provision. If a supervisor does not believe the plan is right for the youth, an adjustment in the plan can be made, providing the supervisor can provide reasons for making the adjustment.

## Summary

Some form of classification, the process of placing objects, individuals, or groups with similar characteristics into categories, is used in all phases of the criminal justice process beginning with the classification of types of criminal behavior (personal crimes, property crimes, public order crimes) and continuing through classification of the severity of crimes (misdemeanor, felony) and types of sentences (community based, institutional) given of for those convicted of crime.

In corrections, various forms of classification are used to determine those who are diverted from the criminal justice process and those who are officially processed and the type and amount of supervision a person on probation might receive (minimum level of supervision, medium level of supervision, or high [intensive] supervision). In correctional facilities, the security levels of correctional facilities are classified as super maximum, maximum, medium, and low security. Classification models are also used internally to place inmates into different housing units (dormitory, single cells, double-occupancy cells) and to place residents into specific treatment programs (education, anger management, substance abuse).



The current evidence-based classification models used in supervising and treating probationers and parolees grew out of the actuarial instruments that were able to predict with a high degree of accuracy which offenders placed on probation would be likely to recidivate. Those assessment tools currently being used are similar than those used in the past, with the current models being pretested and modified, when needed, before being implemented. The tests currently used to determine the power of each item in the assessment tool to provide a predictive value are much more refined than those of models used in the past.

Risk/needs assessment models and case management models have been developed for use in the supervision and treatment of juvenile offenders. Generally, these models are similar in construction to those found for adults, with some modifications to take into account the fact that the youthful offender is in a developmental process, and thus some of the behavior patterns and attitudes are more subject to change than are likely to be the case with adult offenders.

Another trend in the use of statewide assessment systems is to classify offenders at each step of the criminal justice process. Various instruments are used at the pretrial phase, sentencing phase, institutional phase, and post-institutional phases. The information collected at each is shared with those at a later phase, depending on the final outcome of the process. For example, the information collected at the sentencing phase regarding risks, needs, and other relevant information will be sent to the correctional facility if the person is sentenced to prison. The information collected on the person while incarcerated will be sent to the parole division on release from the institution.

Since the nature of correctional supervision and treatment has become more complex, involving input from personnel physical health, mental health, and social service agencies, there is a need for those in the correctional agencies to share information pertaining to risk/needs and case management plans with these other agencies.

## Discussion Questions

1. Compare the actuarial and structured professional judgment approaches used in developing risk/needs assessment instruments. Which approach is likely to produce the most accurate predictions of future criminal/delinquent behavior?
2. Why are some criminal justice practitioners somewhat critical of case management plans derived from risk/needs assessments?
3. Harry is a 24-year-old white male. He separated from his wife 2 years ago and has been living with his mother in a rented apartment in a low-income area of a large city. His father deserted the family when Harry was a small child. Harry has not completed high school and does not have steady employment. He worked at several fast-food restaurants, but was fired because of poor work habits. Harry spends most of his leisure time hanging around with the guys at various taverns. Occasionally he will get quite intoxicated and has become very

belligerent toward his mother when she lectures him about being a lazy worthless drunk (just like his father). Harry was arrested for theft of property (grand theft) and attempting to escape from the scene of a crime. Harry had two appearances in the juvenile court for theft and property destruction, but this his first appearance in the criminal justice system.

You were asked to select the most important factors to consider in placing Harry in a risk category (high, medium, low). Rank the importance of each factor by giving a score of 1–3 for each item. Would you recommend a high level of supervision, medium level of supervision, or low level of supervision?

4. Discuss how classification systems are used in correctional facilities for purposes of management.
5. Outline the characteristics of the unit management administrative model used in correctional facilities in regard to the security needs of the institution and the treatment needs of the residents.
6. Discuss the initial classification process followed for new inmates. Why is this process important? What are some of the major reasons for reclassifying an inmate?
7. Identify the special units within a correctional facility given in the text and discuss the functions related to each unit.
8. Discuss what information a classification official would use to determine if a new inmate should be placed in the special unit for drug/alcohol abusers. If you were conducting an interview with the inmate, what questions would you ask that pertain to the drug/alcohol problem?
9. Why is it necessary for criminal justice personnel and service providers (medical, mental health, psychological, social services) to share and exchange information about their clients?
10. Discuss the differences between static and dynamic risk factors. Provide the dynamic risk factors that research has shown to be highly predictive of future criminal or delinquent behavior.

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## Chapter 8

# Community-Based Sanctions: Probation and Post-release Supervision

### Introduction

The term probation, as used in the field of corrections, refers to a formal disposition given to a person who has been convicted of a criminal offense, in which the person is allowed to remain in the community under court supervision. The specific court having jurisdiction over the convicted offender is determined by the seriousness of the offense and the political jurisdiction of the state or federal criminal code violated.

The US legal system can be categorized into federal courts and state courts on the basis of jurisdiction. Kratcoski, Randol., and Block (2015, p. 197) note that “The United States has a federal court system for the entire nation, and each of the 50 states has its own judicial structure.” They further observe that “The U.S. District Courts are the trial courts of the federal court system . . . There are 94 federal judicial districts, with each state, the District of Columbia, and Puerto Rico having at least one district.”

In regard to the state courts in the United States, each of the 50 states has its own set of laws and court structure. Each court operating within a state is subject to the laws of that state, and the criminal code for the state is applicable to all of the courts operating within the state.

There are strong similarities in the ways the individual courts at the municipal and county level are structured within a particular state. For example, misdemeanor offenses are generally prosecuted in municipal courts, that is, courts under the jurisdiction of a local political government such as a city or town. Generally, felony offenses are prosecuted in courts of common pleas, with the jurisdiction of the court extending to the entire county in which the court exists. If an individual is prosecuted for an offense defined as a criminal offense against a federal law, a US district court has jurisdiction. In each case, the supervision of the convicted offender remains under the jurisdiction of the court that convicted the offender. In the case of juveniles who have been adjudicated delinquent by a juvenile court

judge or magistrate, the supervision of these offenders is the responsibility of the juvenile court.

At times, court administrators can elect to turn over their authority to supervise those placed on probation to a private agency or a public agency having statewide jurisdiction. This is often the case with smaller municipalities that do not have the resources to staff their own probation departments.

## Historical Development of Probation

Instances of using probation as an alternative to incarceration in a jail or prison occurred in the thirteenth and fourteenth centuries in England and other European countries. According to Kratcoski and Walker (1978, p. 202), “Benefit of clergy was used in the thirteenth century to allow members of the clergy to escape capital punishment and other severe sentences by transferring their cases to church courts, where they were routinely acquitted.” Since one of the requirements for being eligible to receive benefit of clergy was the ability to read, most of those who benefitted from this practice were clergy and some members of the nobility. The practice of release on recognizance developed in the fourteenth century. This was a forerunner of bail. A person released from custody had to swear that he/she would follow law-abiding conduct and appear in court when summoned to be tried on the charges. If the person did not engage in unlawful behavior for an extended period of time, it was likely that the case would never come to trial. As with benefit of the clergy, release on recognize was limited mostly to the nobility. Most of the lower strata offenders were tried and physically punished soon after their arrest. Another forerunner of probation that developed in later centuries was judicial reprieve, a practice in which the sentence of the convicted person was suspended and the offender was allowed to remain in the community. During the ensuing period, the convicted offender was allowed to make a request for a pardon from the king. If the pardon was granted, the sentence never was served.

An early forerunner of probation in the United States originated in Boston in 1841 under the direction of John Augustus. Burns (1975, p. 229) stated that John Augustus, a shoemaker and also a member of a reform group known as the “Total Abstinence Society,” noticed that many drunkards were appearing regularly in court on various charges such as disorderly conduct and public intoxication. Augustus asked the judge to allow one drunkard to be released to him for a period of 3 weeks. During the 3-week period, the offender would work in Augustus’s shop, and, if at the end of the period when the offender returned to court for sentencing the offender was sober and appeared to be willing to continue to work, a jail sentence would be suspended, and the person would be given a fine as a punishment for the crime. Augustus provided 15 years of volunteer probation service until his death in 1859. During that period of time, he secured the release of an estimated 2000 offenders.

John Augustus's work was recognized not only in Boston but throughout Massachusetts and many other states. In 1878 (Kratcoski & Walker, 1978), the city of Boston hired two full-time paid probation officers, and 2 years later, the Massachusetts State Legislature passed legislation for the appointment of probation officers throughout the state. By the end of the first decade of the twentieth century, almost half of the states had established probation systems.

## Types of Probation

There is common agreement that an offender convicted of a misdemeanor offense or a felony offense does not have a constitutional right to be placed on probation. State statutes have generally listed certain types of offenses, such as murder and kidnapping, as those for which a mandatory prison sentence is required, but for most other offenses, the sentencing judge has an option of determining whether to place the individual on probation or sentence him/her to prison.

During the late 1970s, when the states and the federal government revised their criminal codes and introduced various forms of determinate sentencing and sentencing guidelines, much of the discretion in sentencing for serious criminal convictions was taken away from the sentencing judge. However, for less serious felony crimes and for misdemeanor offenses, the presiding judge still has almost unlimited discretion to impose a community-based sentence or remand the offender to a correctional facility.

Several types of probation plans are available to the sentencing judge. Those convicted of lower level misdemeanor offenses may be placed on *summary* or *bench* probation. The offender may be required to pay a fine and pledge not to commit the offense again. There is no regular supervision by a probation officer, but occasionally the offender may be required to report to the court. If the court has an established probation department, the judge may sentence the offender to a period of time in jail or prison, followed by a period of supervision in the community by a probation officer. This is referred to as a "split sentence."

A sizable proportion of those who are convicted in the municipal courts as well as in the courts that try felony offenders has personal characteristics that have contributed in some way to their criminal behavior. For many, appearance in the courts is a regular occurrence, and it is unlikely that their behavior will change unless some counseling and/or treatment is provided.

The options that a judge can use in sentencing those convicted of misdemeanor offenses or felony offenses for which probation is allowed are set forth in the criminal codes and also depend on the range of programs available in the community in which the court is housed. If the community has the resources to develop and implement a variety of programs for those convicted of drug and alcohol abuse, domestic violence, and other family-related matters such as child endangering, minor assault, and some sex-related offenses, the long-term goal of the court to

correct the behavior of the offenders is more likely to be achieved than if the sentence is entirely geared toward punishment.

## **Probation Officer Roles**

We noted earlier that, at its inception, probation emerged as a form of work with offenders that focused on rehabilitation, separation from unwholesome influences, and employment for the offender. In the 1970s, the effectiveness of treatment was questioned by some research, and the state legislatures were ready to pass legislation that defined the role of probation officers more in terms of intensive surveillance and strict control of probationers than of providing treatment. In a survey of probation officers in 45 states, Steiner, Purkiss, Kifer, Roberts, and Hemmens (2004) found that probation officers were much more likely to define their role in terms of law enforcement tasks such as surveillance of probationers, investigating new offenses, and enforcing criminal laws than in providing service and assisting in rehabilitation. Miller (2015) contends that the dichotomous roles of probation officers as law enforcement officers and social workers have gradually merged into what is known as the “balanced” approach. Support for this contention is offered by Hsich et al. (2015), who surveyed the statutory definitions of the adult probation officers’ functions and roles in all of the 50 states and the District of Columbia. They found (Hsich et al., 2015, p. 24) that, from 2002 to 2013, 26% of the state statutes have added tasks related to rehabilitation to the law enforcement tasks traditionally assigned to probation officers and “Even though state legislation mandated probation officers to perform more peace officer tasks (18) than social worker tasks (6), very few states define probation functions dichotomously, as either strictly a therapeutic agent or law enforcer.”

## **County/State Probation Services: Structure/Organization of Dallas, Texas, Probation**

Descriptions of probation services in the state of Texas are given in this section as examples of county and state probation services in the United States. Adult probation in Texas is under the jurisdiction of the district judge or district judges trying criminal cases in each judicial district and the statutory county court judges trying criminal cases in the county or counties served by the judicial district (Texas Government Code 76.002, 2005). Therefore, even though the department’s official title is the Dallas County Community Supervision and Corrections Department (DCCSCD), they are not county employees but rather judicial district employees. The 71st Texas Legislature changed the term adult probation to community

supervision in 2003, making a probation officer a community supervision officer. A person on probation is now on community supervision.

The Texas Department of Community Supervision and Corrections has established Regional Community Supervision and Corrections districts throughout the state. The Dallas County Community Supervision and Corrections Department (DCCSCD) is one of the three largest departments in the state of Texas. The DCCSCD Division employs a director, two deputy directors who report to the director and are also responsible for the supervision of three area managers, the Victim Services Division, and the Absconder/Warrant Unit. The area managers supervise 17 division managers who are responsible for the supervision of the community supervision officers and the day-to-day operation of the department. There are also budget, finance, and contract services managers and a human resources and an area manager of operations. All of the business and human resource managers report directly to the DCCSCD director.

The Dallas County CSCD is charged with public protection through the supervision of more than 50,000 offenders residing in Dallas County. The Community Corrections Department enforces the court-ordered conditions of community supervision and provides offenders with a wide range of rehabilitative services and resources. The Dallas County CSCD is staffed by more than 530 community supervision officers, supervisors, district managers, and administrators and more than 100 support staff. The approximately half billion dollar yearly budget for the Dallas County CSCD is partially offset by the millions collected from fees.

### ***Dallas County Judicial System***

There are 17 felony courts and 14 misdemeanor courts in the Dallas County criminal justice system. There are seven primary field supervision offices located throughout Dallas County where supervision officers are responsible for ensuring that the offenders comply with the conditions of supervision that are given to every person who is placed under community supervision by the courts.

### ***Texas Sentencing Guidelines***

The judges' decisions on sentencing of convicted offenders must be in conformity with the Texas sentencing guidelines. Although the sentencing judges can use some discretion, being allowed to consider mitigating and aggravating circumstances surrounding each individual case, generally the more serious the offense, the less the opportunity the judge has to use discretion in making sentencing decisions.

According to the Texas Code of Criminal Procedure, Article 42.12 Section 3. (a), a judge, in the best interest of justice, the public, and the defendant, after conviction or a plea of guilt or nolo contendere, may suspend the imposition of the



sentence and place the defendant on community supervision or impose a fine applicable to the offense and place the defendant on community supervision. Both felony and misdemeanor offenders may be placed on community supervision by either the judge or a jury. The maximum period of community supervision for a felony offense is 10 years (TCCP Art. 42.12 3(b)). The maximum period of community supervision for a misdemeanor is 2 years (TCCP Art. 42.12 3 (c)).

A defendant is not eligible for community supervision from a judge if the defendant is sentenced to a term of imprisonment that exceeds 10 years or the defendant is sentenced to a term of confinement under the state jail felony statutes.

### ***Offenses for Which the Code Does Not Allow Community Supervision***

A judge may not grant regular community supervision if the defendant is adjudged guilty of:

- Murder
- Capital murder
- Indecency with a child by contact
- Aggravated kidnapping
- Aggravated sexual assault
- Aggravated robbery
- Certain drug offenses committed within a drug-free zone
- Sexual assault of a child
- When a deadly weapon is used during the commission of the offense (TCCP Art. 42.12 3G)

Criminal convictions on all other criminal offenses are theoretically eligible for community supervision. However, before an offender can be granted community supervision from a jury, the defendant must file a sworn motion stating that he/she has not been previously convicted of a felony offense, and the jury must find the motion to be true. If these two conditions are met, the jury may recommend to the judge that the judge suspend the imposition of the prison sentence and place the defendant on community supervision. The provisions of Section 3G of Article 42.12 do not apply to a jury when recommending community supervision (TCCP Art. 42.12 4).

A jury may not grant community supervision if the defendant is:

- Sentenced to more than 10 years confinement.
- The defendant is found guilty of a state jail felony.
- The defendant is guilty of certain drug offenses committed within a drug-free zone.

## ***Types of Community Supervision***

In Texas, there are two types of community supervision: (1) deferred adjudication and (2) regular community supervision. Deferred adjudication is typically considered a better deal than regular community supervision because, if the defendants finish their probation conditions successfully, they do not have a criminal conviction on their records. Subject to certain restrictions, the judge may grant deferred adjudication for a misdemeanor or felony offense including aggravated (3G) offenses (TCCP Art. 42.12 5). However, a judge cannot grant deferred adjudication if the defendant is charged with an alcohol-related driving offense or convicted of a specified drug offense. Deferred adjudication may not be granted for the offenses of indecency with a child, sexual assault, or aggravated sexual assault if the defendant had previously been placed on community supervision for one of these offenses (TCCP Art. 42.12 5 (d)). For these offenses, deferred adjudication cannot be granted by a jury under any circumstances.

## ***Felony Community Supervision Punishment Ranges, Sanctions, and Alternatives***

The sanctions provided for convicted criminals in the Texas criminal code consist of a range of community-based sanctions as well as jail and prison sentences. A summary of the major provisions of the law for the severity level of felony crimes for which a community sanction is allowed is presented below (Fig. 8.1).

Being placed on community supervision allows the judge to impose sanctions to the standard conditions of community supervision. When a defendant is sentenced to serve time in the county jail, state jail, or the institution division as a condition of community supervision, that time must be served day for day. These offenders are not eligible for good time credit.

Those offenders convicted of first-degree, second-degree, or third-degree felonies can receive up to 180 days in jail as a condition of being granted community supervision. Those convicted of an offense falling under the *state jail felony* category can receive up to 90 in jail as a condition of being granted a community supervision sanction. All felony offenders may be given 90–180 days up front as a condition, and 3G offenders who were granted community supervision by a jury may be given 60–120 days in the Institution Division (state penitentiary). In addition, sentencing judges have the option of modifying a community supervision sentence if the circumstances warrant a change from that initially imposed on the convicted offender. For example, first-, second-, and third-degree felons can have their community supervision suspended for a period and be given up to 180 days in jail as a condition of community supervision. State jail felons can be given

**Felony Community Supervision Punishment Ranges, Sanctions and Alternatives**

**First Degree Felony:** The range of punishment is 5 to 99 years of confinement or life with a fine up to \$10,000.00. In order to receive community supervision, there must be a finding of guilt for 5-10 years and the defendant must be placed on community supervision for up to 10 years.

**Second Degree Felony:** The range of punishment is 2 to 20 years of confinement with a fine up to \$10,000.00. In order to receive community supervision, there must be a finding of guilt for 2-10 years and the defendant must be placed on community supervision for up to 10 years.

**Third Degree Felony:** The range of punishment is 2 to 10 years confinement with a fine up to \$10,000.00. In order to receive community supervision, there must be a finding of guilt for 2-10 years and the defendant must be placed on community supervision for up to 10 years.

**State Jail Felony:** The range of punishment is 180 days to 2 years of confinement in a state Jail, with a fine up to \$10,000.00. A State Jail Felony may be reduced to a Class A misdemeanor and the defendant will be sentenced for a misdemeanor offense. In order to receive community supervision there must be a finding of guilt for 2-5 years and the defendant must be placed on probation for up to 10 years. If the defendant has been charged with possession of a controlled substance by aggregate weight, including adulterants or dilutants is less than one gram, the defendant is charged with possession of no more than 50 pounds and no less than 5 pounds of marijuana or the defendant is charged with possession of no more than 5 pounds of marijuana and no less than 4 ounces of marijuana.

**Fig. 8.1** Felony community supervision punishment ranges, sanctions, and alternatives

90–180 days in the state jail as a condition of community supervision. Also, if the conditions warrant a change, a judge may extend the period of supervision for up to 10 additional years. Community supervision extensions are allowed by law for sex offenders, substance abuse treatment referrals, and outpatient or residential treatment, including placement in a Substance Abuse Felony Punishment Facility. A judge may also amend the conditions of community supervision if the defendant continues to commit technical violations of the conditions of probation.

## *Pretrial/Sentence Services*

The department uses the traditional presentence investigation for those defendants for which it is mandated by law to complete for those being considered for probation. This form is completed by the assessment center. It includes information relating to criminal history, prior probation and incarcerations, nature of current offense, and a number of personal items such as education, employment, marital status, and alcohol and drug abuse. The Dallas Colony CSCD also has instituted an evidence-based case management plan based on a verified risk/needs assessment instrument (Fig. 8.2).

The Texas Risk Assessment Felony Screener for Community Supervision consists of seven weighted items. They are:

- Most serious Charge or arrest age 16 or younger

0=None

1= Yes, Misdemeanor

2=Yes, Felony

- Highest Education

0=High School graduate or Higher

1=GED or No High School Diploma

Employed at Time of Arrest

0=Yes

1=No

- Drug Use Caused Problems

0=None

1=Past2=Current

**Fig. 8.2** Texas Risk Assessment System: community supervision felony screener. Source: University of Cincinnati and Texas Department of Criminal Justice; TRAS Score Sheet—Felony Screener (Rev. 3/1/2015)

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Kratcoski, Crittenden, Worstall

- Criminal Activities
  - 0=Strong Identification with Prosocial Activities
  - 1=Mixture of prosocial and Antisocial Activities
  - 2=Strong Identification with Criminal Activities
- Criminal Attitudes
  - 0=Minimal Attitudes that Support Crime
  - 1=Some Attitudes that Support Crime
  - 2=Strong Attitudes that Support crime
- Walks Away from a Fight
  - 0=Yes
  - 1=Sometimes
  - 2=Rarely

Research has revealed that males receiving a score of 0 to 2 (Low Risk Category) had a re-arrest rate of 15.1%, females scoring 0 to 2 had a re-arrest rate of 11.0% while males scoring 3+ (Moderate/High Risk category) had a Rev-arrest Rate of 36.2% and Females scoring 3+ had a re-arrest rate of 28.3%.

**Fig. 8.2** (continued)

The roles of the probation officers employed by the Dallas County Community Supervision and Corrections Department are defined by the Texas statutes and policies of the Dallas County CSCD. The role embraces both providing treatment and supervision of the offender. In regard to supervision, a person placed on probation is given a set of general conditions of probation that must be adhered to, as well as special conditions that apply specifically to the individual. A violation of either the standard or special rules could result in some form of penalty and even revocation of probation. The general rules and special rules are presented in Fig. 8.3.

The following case illustrates the general and special conditions of probation given to Denny, a 25 year old male who was placed on community supervision after being convicted of theft of property (\$1500-\$2,000). He was given regular probation with medium to high supervision.

The Dallas County, Texas General Conditions for regular community supervision can be placed into several categories. The first pertains to avoiding criminal activity and criminal associations;. They are:

- (a) Commit no offense against the laws of this or any other State or the United States, and do not possess a firearm during the term of Supervision;
- (b) Avoid injurious and vicious habits, and do not use marijuana, narcotics, dangerous drugs, inhalants or prescription medication without first obtaining a prescription for said substances from a licensed physician;
- (c) Avoid persons or places of disreputable or harmful character and do not associate with individuals who commit offenses against the laws of this State or the United States;

The second category of General Community Supervision rules pertainsto the relationship between the Community Supervision Department and the probationer. They are:

- (a) Obey all rules and regulations of the Supervision Department, and report in the manner and time as directed by the judge of the Supervision officer, to-wit Monthly, twice Monthly, or Weekly;
- (b) Permit the Supervision Officer to visit you at your home or elsewhere, and notify the Supervision Officer not less than twenty-four (24) hours prior to any changes in your home or employment address;
- (c) Work faithfully at suitable employment as far as possible, and seek the assistance of the Supervision Officer in your efforts to secure employment when unemployed;
- (d) Remain within a specified place: to-wit Dallas County, Texas, or Approved Supervising County, and do not travel outside Dallas county, or Approved Supervising County, without first having obtained written permission from the Court or Supervising Officer.

**Fig. 8.3** General and special conditions of probation

The remaining items pertain to financial matters such as court and supervision fees, support of a community prevention program, and financial support of family. Those placed under community supervision must pay court costs, fines, and in some cases attorney fees. In addition they pay a supervision fee and are assessed a monetary contribution to support the Dallas Area Crime Stoppers Inc.

Denny was required to complete 120 hours of community service, fined \$ 55.00 to be paid to the Volunteer Center and required to make restitution of almost three thousand dollars to the victim. He was required to report to the Community Supervision and Corrections Department Comprehensive Assessment and Treatment Services program and after being found to be drug dependent was ordered to “participate in intensive outpatient substance counseling through a court approved program and continue making observable deliberate and diligent efforts to comply with the directives and instructions provided by said program or its staff, until released successfully by the agency or the Court.” In addition, he was required to submit “a non-diluted random urine sample/and/or medical test at the request of the Supervision Officer. . . participate in the ANTI-THEFT program and was assessed other fees related to the special treatment programs he was required to participate in as part of his special conditions of community supervision.”

The case of Denny clearly shows how evidence-based tools are used in the assessment and treatment of an offender under supervision with the Dallas County Community Supervision Department. The case also illustrates how the public agencies and private agencies collaborate in the supervision and treatment of those convicted offenders placed under the supervision of the department.

\*(Several of the facts pertaining to the case provided above have been changed to disguise the identity of the person)

**Fig. 8.3** (continued)

## ***Problems and Issues Relating to the Dallas Community Supervision Department***

The fact that the Dallas County Community Supervision and Corrections Department is a government agency at times creates issues with the professional staff and the administration of the department. The actions of the Texas Legislative Budget Board directly impact the department's budget and the ability to effectively bring about change in the lives of the offenders. There is always a need for more funding and resources than the legislature is willing to provide. There is an endless need for resources to deal with the many indigent offenders. This lack of free and sliding scale resources is often related to the offender's return to criminal activity, and the cycle of crime starts all over again.

A second issue is the fact that the judiciary is elected for a 4-year term, and depending on the political climate at the time of the election, many seasoned judges are not reelected, and the "learning curve" for the judges begins. Depending on the backgrounds of the judges, there may be an overwhelming number of prior defense attorneys and public defenders or an influx of prior prosecutors in these positions. In many instances, those whose prior experience has been on the "defense" side of the coin tend to be more lenient and do not make the offenders adhere to all of the conditions of community supervision. There have been instances where a judge will tell an offender in open court that he/she does not have to worry about paying their full supervision fee or completing their community service, as this will not impact their ability to successfully complete their term of community supervision. This lack of support for the payment of the supervision fee negatively impacts the financial operations of the CSCD and places the supervision officer in an awkward position. If a supervision officer tries to enforce the conditions of community supervision, as they have been directed to do, and a judge is telling the offender not to worry about the special conditions, there is a chance for conflict between the officer and the offender. Since the supervision officer is not in the courtroom when the defendant is placed on community supervision, the supervising officer does not know what the judge told the offender, and there is no way to validate whether the offender is telling the truth.

Another problem that often occurs when working in a large department is a breakdown in communications between the lower level officers and upper level supervisory officers. Those on the low end of the totem pole need to have open communications with management level superiors, but because of the many layers in the chain of command, communication between the two levels of personnel is often difficult to achieve. Those who are employed in the satellite offices of the community supervision department find it even more difficult to establish the open communications desired by the field officers. When there is no face-to-face interaction between the line staff and the upper level management, both sides tend to form opinions about each other on the basis of the formal communications that are transmitted. Thus, it is possible for a lower level supervision officer to work in the department for many years and never meet the majority of people who work in the



department. Turnover in staff at the management level has also been a problem. Since the department was developed in the 1950s, there have been six directors and two interim directors. The two most recent directors were selected from outside the department and made many significant changes in the way the department was structured and also the personnel who were employed at the administrative level. The changes in structure and operations made it difficult for many of the staff to understand the new operating directives and make the adjustments in their approach to community supervision needed to adhere to them. In short, every time there is a change in the director's position, many of the staff feel as if they are working in a totally new department with new policies, procedures, and work expectations. For example, one recent change in policy was that supervision officers are no longer allowed to complete some of their work from their homes. Also, officers no longer have the opportunity to work on a flextime schedule. These benefits provided a great incentive for people to want to work for the CCSCD, since officers were able to work any time of the day or night from their homes. The new directives regarding not being allowed to complete some of the tasks at home created a major burden for some of the officers, particularly those with young children, and thus the morale among these officers declined.

As with all professionals, those dedicated to their work are able to make adjustments to the policy and organizational changes that occur. Perhaps some of the "old timers" chuckle about some of the directives and operational procedures that are implemented, often without having any evidence that they will lead to an improvement in the department.

There are many perks attached to being employed with a state agency in Texas. One perk for working with CSCD is that you can retire when your age and years of service total 80 with at least 90% of your salary. An employee is also "vested" with retirement contributions after 10 years of service. If one decides to stop working for the judicial district, the person can take the money or leave it in the system, which matches one's retirement deductions by 200%, and medical insurance is paid for the duration of the person's life.

## **The US Probation and Pretrial System**

The US Probation and Pretrial System is charged with carrying out three main tasks: pretrial services, presentence investigation, and post-conviction supervision.

### ***History***

Prior to the signing of the Probation Act of 1925 by President Calvin Coolidge, neither federal judges nor Congress could agree on the establishment of a probation system in the federal courts. This act gave these courts the power to suspend the

implementation and execution of custody sentences and instead place defendants on community supervision with such terms and conditions as they deemed best. It also authorized courts to appoint one salaried probation officer and one or more probation officers to serve without compensation. The first federal probation officer, Richard McSweeney, was appointed in the District of Massachusetts in 1927. The administration of the federal probation system originally was the responsibility of the office of the attorney general of the United States. In 1940, oversight of the system was transferred to the Administrative Office (AO) of the US Courts.

### ***Federal Pretrial Services***

The federal system has grown and evolved in many ways over the past 90 years. In 1974, the Congress enacted the Speedy Trial Act, which included the authorization of the director of the AO to establish demonstration pretrial services agencies in ten judicial districts. This followed the Bail Reform Act of 1966, which directed the assessment of risk of flight and nonappearance, identified the nature of information to be utilized in an informed decision-making process, and provided for imposition of release conditions. The goals of federal pretrial services were to reduce inequities in bail-setting practices, lessen pretrial detention, and reduce criminal activity by those released to the community pending case resolution. The Pretrial Service Act of 1982 authorized expansion of pretrial services to every federal district except the District of Columbia and allowed each district to determine whether it would establish separate pretrial services offices or provide pretrial tasks within the existing probation office.

Today, the federal pretrial services system continues to evaluate its policies and programs to ensure it is an objective, empirically based organization. It continues to operate on the principle that special conditions of pretrial release are to be based on using the least restriction necessary to ensure law-abiding behavior and appearance in court during the pendency of the pretrial client's case.

### ***Federal Sentencing Guidelines***

Probation officers have historically provided federal judges with presentence reports subsequent to findings of guilt, as the result of trial or guilty plea, and prior to sentencing. The reports initially noted circumstances of offense(s), the defendant's personal history, and a confidential sentencing recommendation. In 1986, the Sentencing Reform Act of 1984 was passed in response to congressional concern about fairness and judges' unlimited discretion in sentencing. It completely changed the way federal courts sentenced defendants by establishing the US Sentencing Commission, which sets sentencing guidelines for every federal offense. Guidelines went into effect on November 1, 1987. Also changed were

- (1) The nature and circumstances of the offense and the history and characteristics of the defendant;
- (2) The need for the sentence imposed to reflect the four primary purposes of sentencing, i.e., retribution, deterrence, incapacitation, and rehabilitation;
- (3) The kinds of sentences available (e.g., whether probation is prohibited as a mandatory minimum term of imprisonment is required by statute);
- (4) The sentencing range established through application of the sentencing guidelines and the types of sentences available under the guidelines;
- (5) Any relevant “policy statements” promulgated by the Commission;
- (6) The need to avoid unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar conduct; and
- (7) The need to provide restitution to any victims of the offense.

**Fig. 8.4** Federal sentencing guidelines: seven factors for consideration at sentencing

officers’ preparation of presentence investigation reports, which became available to defense and government attorneys for feedback and objections prior to sentencing and often require defense by the officer at sentencing hearings. Both statutory and guideline information regarding the offense(s) of conviction are contained in the presentence reports (Fig. 8.4).

The Act also replaced parole with supervised release, a term of community supervision to be served by prisoners after completion of custody terms. Jurisdiction for post-conviction supervision moved from the US Parole Commission to the sentencing judges for those offenders who committed their offenses after November 1, 1987. Sentencing guidelines are amended every year, in response to legislation (e.g., Patriot Act of 2001 and PROTECT Act of 2008) and Commission recommendations.

As early as 1990, the Judicial Conference Committee on Criminal Law voted to urge Congress to reconsider the wisdom of the mandatory minimum sentences that it had established for many criminal offenses. Mandatory minimum sentences had been prescribed for a core set of serious offenses, such as murder and treason. The Congress, over the years, also expanded its use of these penalties to controlled substances, firearms, identity theft, and child sex offenses. In 1993, Judge Vincent L. Broderick, chairman of the Judicial Conference Committee on Criminal Law, testified before Congress that mandatory minimum sentences were “the major

obstacle to the development of a fair, rational, honest and proportional federal criminal justice sentencing system” (Hughes & Henkel, 1997, p. 48).

In 2005, the US Supreme Court, in *United States vs. Booker*, declared that the existing guideline system violated the Constitution by permitting judges to find facts that raised the maximum guideline range by a preponderance of evidence. The Court opted to remedy the constitutional defect by rendering the federal sentencing guidelines advisory. The *Booker* “three-step process” in sentencing requires “respectful consideration” of the Guidelines Manual in (1) initially calculating the sentencing range, (2) considering policy statements or commentary in the manual about departures from the guideline range, and (3) considering *all* of the 18 U.S.C. 3553(a) factors (the federal sentencing statute).

The Supreme Court stressed that the advisory guidelines remain the “starting point and the initial benchmark” in the federal sentencing process and that “district courts must . . . remain cognizant of them throughout the sentencing process” (United States Sentencing Commission, 2015).

As a result of *Booker*, the US Sentencing Commission investigated and reported on the impact of mandatory minimum penalties on federal sentencing. The report revealed that almost half (46.7%) of offenders convicted of an offense carrying a mandatory minimum penalty were actually relieved from the application of such a penalty because they provided substantial assistance to the government and/or qualified for the safety valve provision. The latter provides for exemption from mandatory minimums if the defendant has a limited record, did not use violence or a firearm or cause bodily injury, was not an organizer of others, and provided the government with truthful information regarding the criminal conduct (18 U.S.C. 3553(f), 2011 Report to the Congress: Mandatory Minimum Penalties in the Federal Criminal Justice System, [ussc.gov](http://ussc.gov)).

### ***Structure of the US Probation and Pretrial Services System***

Officers, officer assistants, and senior managers in the federal system are both federal law enforcement officers and US district court employees. They are charged with providing services that protect the community, help the courts ensure the fair administration of justice, and investigate and supervise adults charged with and convicted of crimes against the United States as defined in the US Code. They undergo extensive initial training, both in district and for 6 weeks at the National Federal Law Enforcement Training Center in Charleston, South Carolina, and are required to complete at least 40 h of additional training each year.

The US Probation and Pretrial System has close to 8000 staff members, two-thirds of whom are officers. More than half hold masters or doctoral degrees, and on the average, officers worked more than 7 years in local community corrections, social services, or police departments before joining the federal system. In some districts, pretrial and probation offices are separate. However, in the majority of districts, the services are combined into one office. District chiefs manage their

offices and are directly responsible to the courts they serve (US Probation and Pretrial System, 2016).

Each district has some autonomy in its operations. For example, district chiefs do their own hiring, manage their own budgets, and decide how to organize their offices. The Criminal Law Committee of the Judicial Conference of the United States oversees the system, and the Administrative Office of the US Courts provides district courts with a broad range of administrative, management, and program support. Federal probation officers are authorized by law to carry firearms. Each individual district decides whether its officers may be armed.

Pretrial services officers work with defendants after they are charged with federal crimes and while they are awaiting trial. They conduct bail investigations before the defendant's initial appearance in court and must presume the defendants are innocent until proven guilty. They do not discuss the alleged offense(s) or the defendants' guilt or innocence during the interview and may not give any legal advice. The bail investigation includes prior criminal record, employment, education and family status, and any substance abuse and mental health issues, as well as a recommendation for release or detention and, if applicable, conditions of release. A Pretrial Risk Assessment (PTRA) tool is completed during the investigation to provide the investigating officer with the anticipated level of community risk if the defendant is released on bail. Pretrial services officers also supervise defendants released to the community, to help ensure they commit no crimes and return to court as required. As with post-conviction clients, judges direct conditions of release (e.g., substance abuse and/or mental health treatment, no contact with case victims and location monitoring) which the officers are also required to implement and monitor. Home, community, and collateral contacts are made during supervision, and the officers monitor court status.

The federal system also provides for the ability of judges to place defendants on pretrial diversion. If successfully completed, the charges are dismissed. Some federal districts have established specialized courts, such as drug courts and mental health courts. Such courts are structured similarly to those set up in the state courts, with the difference being that the defendant is charged with violation of federal laws.

### ***Probation Services***

Officers who conduct presentence investigations and prepare the related reports for the courts also gather and verify information about the defendants and do so after a finding or plea of guilty. These investigations are extensive and begin with a review of the criminal conduct and an interview with the defendant, with the defense attorney present if desired by the defendant. Guideline computations are made and noted in the report based on the offense level and client's criminal history. Offense levels are defined in the US Sentencing Commission's *Guideline Manual* (2015). These include the defendant's criminal history. Offense levels fall

between I, the least severe, and VI, the most serious. Factors used in defining the supervision levels are the severity of the offense and the age of the defendant at the time of prior convictions. The presentence investigation report is comprehensive and also includes information about family, employment, substance abuse and mental health history, and present status. Also noted are sentencing options as per federal sentencing guidelines, the offense's impact on the victim, the defendant's ability to pay fines and restitution, and recommendations by the probation officer who prepared the report regarding giving a custody or probation sentence and conditions of release. These conditions are tailored to the offense and the individual.

In 2014, for the time period ending December 1, 2014, almost half of the convictions were for a drug offense, and the rank order for the remaining convictions was property offenses, firearms, crimes of violence, sex offenses, immigration offenses, public order, escape/obstruction, and other unspecified offenses.

### *Levels of Supervision*

Those convicted defendants placed on community supervision are given an assessment to determine the risk to the community and the level of supervision considered necessary to assure the safety of the community and to reduce recidivism. This evidence-based assessment model, referred to as the RNR (risk, needs, responsivity), became operational in the early twenty-first century (Alexander & Van Benschoten, 2008) and has been modified several times. The model currently in use is actually a modification of the earlier models. Cohen et al. (2016, p. 4) state that "The PCRA is a fourth generation risk assessment instrument used by federal probation officers to classify offenders into one of the four following recidivism risk categories; low, low/moderate, moderate, and high." The directives for probation officers are to develop their case management plans for the probationers they supervise, based on the outcome of the risk and needs assessment. For example, those probationers who are placed in a low-risk category will receive a minimum of supervision and treatment, whereas those placed in the high-risk category will be closely monitored and have several special conditions attached to their supervision status. Offenders are periodically reassessed, and if the results indicate that the supervision level should be changed, either to a higher or lower risk level, a change in the case management plan is made. In addition, there is a provision in the policy for an override of the initial risk assessment. Cohen et al. (2016, p. 4) note that "In particular, judicial policy provides officers with discretion to place low risk offenders in a higher supervision level when the officer determines through his or her professional judgment, that the offender's proclivity to reoffend is underestimated." Cohen et al. (2016, p. 9) completed the research on the effect of the "low-risk" policy that was put in operation in 2012 that encourages probationer officers to have minimal contact with those being supervised. They stated that "This finding suggests that the low-risk policy is influencing officer behavior by

encouraging federal officers to engage in fewer interactions with offenders on the lower end of the risk continuum. The policy of supervising low risk offenders less intensively has not compromised community safety.” The findings of the research suggest that officers can spend less time with the low-risk offenders and there is not likely to be any increase in recidivism for these offenders.

The following interview with Debra White, a former US Probation Officer, illustrates the continuity and changes that occurred during her 30 years of probation work.

Debra White received her undergraduate and her Masters of Arts degree in Criminal Justice from Kent State University, Ohio, in 1986. Prior to assuming her work as a probation officer with the US Probation Office, she served as a correctional officer and case manager at the Federal Correctional Institution located in Morgantown, West Virginia. She left the Federal Bureau of Prisons and assumed a position with the US Probation Youngstown, Ohio Office in 1989. She retired from US Probation in 2015 and is currently employed as a caseworker for the Community Corrections Association in Youngstown, Ohio.

**Box 8.1: Interview of Debra White, US Probation Officer: Peter Kratcoski (PK), Interviewer, and Debbie White (DW), Respondent—Interview Completed August 13, 2015**

QPK: Debra, why did you pursue a career as a probation officer with the US Probation Office?

ADW: My undergraduate and graduate education focused on preparing me for working with people and providing assistance. After graduation, I started my career with the Bureau of Prisons and, although I obtained a great deal of experience working first as a correctional officer and later as a case manager, I did not feel as if I had the autonomy to provide the type of service I desired, so when a position came open with US Probation, I applied and was given the position.

QPK: Did your formal education have an effect on your career choice?

ADW: Definitely yes. My education at Kent provided a well-rounded knowledge base to pursue any type of corrections-related employment. The classes were informative and provided opportunities for experiential learning. For example, I completed several internships during my undergraduate and graduate work. I interned in a juvenile residential treatment facility for drug abusers, as a Parole Officer with the Ohio Adult Parole Authority, and as a case manager with the Bureau of Prisons. Thus, I had some experience in both community and institutional corrections before assuming my first position with the Bureau of Prisons.

QPK: Please give a summary of the positions you held within US Probation during your career.

(continued)

**Box 8.1** (continued)

ADW: I started as a probation officer and after 10 years was promoted to Aftercare Specialist, the position I held at retirement. This position involved supervision of a specialized caseload of drug, mental health and sex offenders. I had the tasks of procuring and overseeing treatment contracts for detoxification, inpatient drugs, outpatient drugs, outpatient mental health, cognitive therapy groups, outpatient sex offenders, and polygraph analysis. I also helped to establish the Reentry Court in Youngstown, Ohio and supervised offenders who participated in this court.

QPK: Think over your career. Have you noticed any great changes in the characteristics of those probationers/institutionalized released offenders placed under the supervision of the US Probation department?

ADW: During the years I served as a probation officer and reentry specialist I supervised organized crime figures, drug gang members, such as the CRIPs, bank robbers, gun offenders, drug traffickers, professional athletes, white collar offenders, government officials, doctors, and lawyers. One thing I learned over the years is that people from all income groups and professions engage in criminal behavior. Perhaps there have been many more drug offenders and probationers with mental health problems in recent years. The greatest challenges were the sex offenders and cybercrime offenders.

QPK: Have the courts and department changed their philosophy and mission during the years you were employed with US Probation?

ADW: The philosophy of the courts swings between law enforcement and social work. For the past 5 years social work or *reentry* has been the “buzz” word, especially with the establishment of the re-entry courts and the push to send sex offenders and rather severe mental health offenders to halfway houses. Another example of the push toward the social work (treatment) goal of the department is that offenders are being released from institutions to home confinement under a case management plan.

QPK: Has your orientation and personal philosophy about probation work and the people placed under your supervision changed during your career?

ADW: I still believe, given the right incentives and assistance, people can change. While my philosophy has not changed, I became more realistic over the years as to what can be accomplished. First, not all offenders want to change their lives and others are not ready to give up the criminal life style. I also learned that the protection of the community outweighs the desire to assist those offenders who present a real threat to the community and should be locked up. Finally, I realized that I should not be working harder than the defendant in trying to bring about the desired change.

QPK: Has the introduction of evidence-based models (risk, needs, case management strategies) helped to improve the success of the department?

(continued)



**Box 8.1** (continued)

ADW: Probation faces decreases in financial and staffing resources. Evidence-based practices permit the use of resources where needed. They also permit districts to try new approaches, tailor programs to those areas of the country where they are needed, and tailor the programs to the offenders' needs for service and supervision.

QPK: In your opinion, has the nature of probation work changed?

ADW: Yes and no. Probation work still necessitates field work. Officers working today must now know more about Supreme Court decisions affecting probation and parole. Also, they must network with law enforcement and local resources. Safety still remains a high priority. Now most officers carry firearms, in contrast to the past. This is a sign of the changing times.

QPK: How much autonomy did you have in your work?

ADW: Probation officers have a lot of autonomy. However, manuals are there for a reason and a professional officer must have a good working knowledge of the policies and procedures of the department.

QPK: What, if any, are some of the major problems US Probation faces or perhaps will face in the future?

ADW: Resources, in terms of staff and money, will be an on-going problem. I think you will see more specialized caseloads for officers who will need special training in cybercrime and sex-offenders. We will see more specialization in the prosecution of specific categories of offenders such as terrorists, hate groups, and even groups who violate the Constitution on religious or moral grounds.

QPK: Would you advise a new graduate to seek a career in community corrections?

ADW: Yes, I would recommend the field to new graduates. The field offers the availability of jobs at all levels. It is an ever changing field with opportunities for new experiences. It is challenging, rewarding, and never boring.

***Post Conviction (US Probation)***

Post-conviction supervision officers monitor offenders who are sentenced to a term of probation by the court or who are on parole or supervised release after they are released from federal prison. Post-conviction supervision is designed to carry out the court's sentence, protect the community, monitor the activities of clients, and provide the opportunity for reintegration, treatment, and assistance. Officers meet with clients in their homes, the community, and their offices. They monitor compliance with the court's release conditions and step in to control and correct if noncompliance occurs. Release conditions are both mandatory (per US Code) and

individualized. They may include restitution, fines, treatment, community service, and/or location monitoring (home confinement). The officer is responsible for building professional relationships with his/her clients and significant others, community social service and employment agencies, treatment providers, and law enforcement agencies. As with pretrial services officers, the level of supervision and frequency of contacts is based on release conditions and risk assessment. Risk assessments are conducted at the beginning of the release period and periodically during the supervision term. Case plans, which address risk, treatment, and other needs, are also completed during supervision. The officer staffs these plans with his/her supervisor. Some officers have specialized caseloads in which they supervise a smaller number of offenders, provide more intensive monitoring, and receive special training to manage the needs of these individuals and any threat they pose to the public. Serious substance abusers, the mentally ill, and gang members are among the special groups that provide unique challenges to officers charged with supervising them.

Johnson and Baber (2015) note that the federal system's recidivism rate has been half that of many states. The three-year rearrest rate has consistently been measured at between 20 and 21%. The percent of federal cases closed by revocation annually is less than 30%. Judges are informed by officers of violation behavior and decide whether to hold a violation hearing. If so, the court then determines whether or not supervision has been violated and, if so, whether to continue and/or modify conditions of supervision, revoke it, and sentence the defendant to a period of custody or return the client to supervision upon completion of the prison term.

### ***Problems and Issues***

The federal court's criminal dockets have increased over the years, and as a result, so too has the workload of the probation and pretrial services offices. While efforts have been made to keep hiring at a pace with the workload, few districts have consistently been able to do so due to budget constraints, the lengthy process of hiring, officer retirements, and the number of incoming clients. The system operates within the federal budget that is passed by Congress every year. The Congress often refuses to pass the budget prior to the beginning of the fiscal year (October 1) and does not do so until several months later. While under continuing resolution, the pretrial and probation offices are permitted essential spending only, which for community-based sanctions generally does not include hiring. Additionally, with federal law enforcement status, officers and officer assistants must retire at age 57. The system, which hired many officers in the early 1990s, is losing many officers to retirement, and replacements are not immediately available. Many districts have also offered "buyouts" in the last several years, so they may retire long-term officers

and hire new officers at much lower salaries. Existing staff must cover workloads until new officers are hired and trained.

The system has embraced evidence-based practices over the past several years, especially focusing on risk determination and control. Assessment tools have been designed, and officers periodically administer them to clients. The Post-Conviction Risk Assessment (PCRA) tool is complex, with client and officer completion required. The officer section requires review of the presentence report, calculations, an interview, and specific understanding of terminology. It takes quite a bit of time to complete, and, though the officer understands the value of the tool, it is one more thing to get done in a very busy day. The resulting scores and case plans then drive supervision level, referrals, and contact frequency. The client is to be supervised by risk level. However, some districts have increased required contacts per local policy, i.e., low risk level cases are to be seen more frequently than noted in the national monograph.

Liability concerns by the Administrative Office and chiefs have also impacted supervision officers. This has resulted in districts developing nontraditional hours and other policies that make it difficult for officers to dedicate the time required to respond to new arrests and other violation behavior, write related court reports, attend court hearings that may be several miles away, conduct lengthy initial and risk assessment interviews, make treatment referrals, complete case plans, respond to location monitoring violation alerts 24 h a day, and make field contacts.

Officers involved in pretrial services and presentence investigations find workloads and time demands increase when large numbers of arrests occur, as in drug conspiracy cases. Pretrial officers must interview several clients, submit related reports, and be in court for initial appearances on the day of arrest. Presentence officers will have several investigations assigned as the defendants plead or are found guilty. While the federal system has educated staff about the importance of physical and mental wellness, attention to this has primarily been left up to the officers. Supervision officers have shouldered most of the additional responsibilities of the past several years while also receiving increased caseloads. Though specialized caseloads exist in most districts, general supervision officers have clients with significant substance abuse and mental health issues, sex offenders, sophisticated white-collar offenders, and those with employment, family, and other concerns. They also have clients with location monitoring conditions and must respond to alerts on a 24-h basis, often receiving calls in the middle of nights and weekends. They are, in reality, never off the clock.

As in local community corrections systems, federal pretrial services and probation officers face many challenges. Integrity, professionalism, mental and physical fitness, resilience, and a strong work ethic are necessary for wellness and success in this career. Recognition and support from lawmakers, judges, and senior managers are necessary to maintain the strength of the system and the staff.

## Conditional Release, Parole, and Post-incarceration Supervision

Kratcoski and Walker (1984, p. 357) define parole as “the practice of releasing an offender from incarceration in a correctional facility before expiration of full sentence to serve the remainder of the sentence under supervision in the community.” The roots of modern day parole can be traced back to the mid-nineteenth century, when prisoners of the British Empire were sent to Norfolk Island in Australia. When they were nearing the end of their sentences, they were given a “ticket of leave” and allowed to work and live in the community as free people, on the condition that they did not commit any other crimes. The practice of granting a conditional release for inmates spread to other countries, including the United States.

The roots of modern parole can be traced to the Reformatory Era of the late nineteenth century, in particular to the Elmira Reformatory located in Elmira, New York. This correctional facility that housed young males between the ages of 16 and 25 instituted a version of parole in 1876. Kratcoski and Walker (1984, p. 358) state that “Prisoners released from the Elmira Reformatory remained under supervision for a period of six months, and during that time parole could be revoked if any of the conditions of release were violated. Civilian personnel rather than police officers supervised the parolees in the community and were responsible for securing monthly verification of parolees’ employment and wages.” The Elmira Reformatory parole model became the prototype for the parole systems that were implemented throughout the United States.

Although the emphasis on parole or post-incarceration supervision changed from time to time during the twentieth century and up to the present time, the goals of parole and post-incarceration release as well as the methods used in the administration of parole have not changed significantly. The purposes of granting parole remain the same, that is, giving the person released from prison before having served the full sentence an opportunity to reenter the community, find employment, and make a new life. The fact that the person is still under supervision and can be returned to prison, if there is cause, provides assurance that the community is protected from any harm the ex-inmate may cause.

The conditions of parole (post-incarceration release) as well as the process to be followed in the revocation of parole are defined by federal statutes in regard to offenders who were under supervision of the federal government after having been convicted of violating a US criminal law. What has changed over the years is the process followed in the selection of those eligible for post-incarceration release, the criteria used in selecting those eligible, and in some cases the person or group that has the authority to grant parole (conditional release).

Caplan (2007, p. 18) completed an analysis of the empirical research on the factors that most significantly related to decisions made by the authorities (parole boards, parole commissions) that determine if parole will be granted or denied. He found that the research generally confirmed that “institutional behavior,

incarceration length, crime severity, criminal history, mental illness, and victim input are among the highest influencing factors affecting parole release for parole-eligible inmates.” One of the most significant factors to emerge is the influence of the victim’s input, particularly if the victim attended the parole board hearing.

## **A State-Supervised Reentry Plan**

The Ohio Risk Assessment System Supplemental Reentry Tool (SRT) is used to assist in developing a supervision and treatment plan for offenders prior to their release from prison. Ohio revised its criminal code in 1987 and made several other changes at a later date. Currently, inmates housed in the Ohio correctional facilities are eligible for release under parole/compact parole (RRR) and judicial release. These are offenders who have served less than 6 months of their sentence. The levels of supervision and specific treatment plan for those released into the community after a period of incarceration in one of Ohio’s correctional facilities are based on a number of factors, including a file review, a self-report interview, and a structured interview. A risk assessment developed by the Cincinnati University Center for Criminal Justice Research (Center for Criminal Justice Research, 2011, p. 1) consists of current age of the offender and 31 additional items across four domains: (1) criminal history, (2) education employment and social support, (3) substance use and mental health, and (4) criminal lifestyle.

The Ohio Adult Parole Authority (APA) is required to complete a case plan within 30 calendar days of release for those offenders sentenced from 6 months to 4 years in prison. After the offender is released into the community and supervised by the Adult Parole Authority (APA), an updated case plan is required to be completed within 12 months after release and every 12 months until the person is released from supervision. If the offender’s sentence was more than 4 years and the Reentry Tool (RT) assessment was completed by the parole supervisor, a case plan must be completed within 30 calendar days of release and updated within 90 days after release and again updated every 12 months until released from supervision. For those offenders who have served less than 6 months of their sentence and are being considered for judicial release, the APA staff is required to complete the Supplemental Reentry Tool within 30 calendar days after release and update the case plan within 12 months from the date of the initial completion.

The Supplemental Reentry Tool (SRT) consists of two parts, a self-report instrument and a structured interview. Not all inmates being considered for supervised release are required to complete the self-report questionnaire. The offender being considered for release from prison is being asked to provide information about self, including education, employment, friends, family, and beliefs. Some of this information may have been available at the time of the initial assessment before the person was convicted and sentenced, but depending on the length of time in prison and the experiences while in prison, many of the factors may have changed.

The second part of the assessment consists of a face-to-face interview between the APA staff member and the offender being considered for release. This occurs within the institution. In contrast with the self-report assessment instrument, the ORAS-SRT focuses primarily on past criminal history, criminal attitudes, behavior patterns, factors such as drug abuse or alcohol addiction, and mental health problems that may have contributed directly or indirectly to the person's criminal behavior as well as other factors such as level of education, occupation prior to being incarcerated, and family relations. The APA officer can verify the truthfulness of much of the information provided by the inmate because it is on file in official records.

Based on the score received on the ORAS-SRT, the offender, if released to the community, is placed on either low supervision, medium supervision, or high supervision. The case plan developed includes the type of supervision required as well as an individualized treatment plan.

The Adult Probation and Parole Division of the Ohio Department of Rehabilitation and Correction assigns a reentry coordinator to each Adult Parole Authority (APA) region. The home offices for these regions are located in various sections of the state. The reentry coordinators develop contacts with community service providers located in the regions and assist the regional parole officers in the reentry process for those being released from the correctional communities back into the communities.

When an inmate becomes eligible to be considered for release from the correctional institution, a hearing is completed with a parole board officer to determine if the inmate will be released on parole or post-release control. During this hearing, information on such matters as the inmate's planned place of residency, employment potential, and other matters relating to reentry into the community will be planned. At times, the plan will require that the person be housed in a halfway house or treatment facility rather than being reunited with family. After the reentry plan is completed, it is sent to the parole unit for the region in which the inmate will reside and an investigation is completed by an officer in that unit to assure that the reentry plan is feasible.

In some cases, an offender may be required by the parole board to reside in a halfway house. This will generally be the case if the inmate does not have another residential option or if the inmate has high scores on the Ohio Risk Assessment and the structure and supervision provided in a halfway house are considered necessary. Inmates released under post-release control or parole will be under the joint supervision of parole officers and the halfway house caseworkers. Some offenders are released to halfway houses as transitional control offenders. Such offenders are part of an early release program that allows the inmate to be transferred to a halfway house for various reasons while serving the last portion of a prison sentence. Offenders who were on probation, committed a new offense and were sent to prison, and now are ready for reentry into the community must now complete their term of probation under the supervision of the county parole department in addition to being supervised by a parole officer.

The barriers to offenders' ability to successfully reintegrate into the community are similar to those of the past. Finding adequate housing; reassuming relationships with immediate family members, particularly in those cases in which the offender was involved in abuse or violence against family members; finding employment; dealing with the stigma of being an ex-offender; and gaining the trust of other community members are all problems that must be faced. Some of those reentering the community had serious mental health or addiction problems and need continued support and treatment from service agencies. The reentry officers and probation and parole officers must take all of these matters into account in their efforts to produce successful outcomes for their clients.

## Summary

The practice of providing those convicted of a criminal offense an opportunity to remain in the community under supervision rather than being incarcerated in jails or prisons has a long history in the United States. The work of John Augustus demonstrated that if given an opportunity to work and provided with supervision and guidance, even the habitual offender can become a respected, productive person in the community. The practice of probation quickly spread throughout the United States. Probation departments became attached to state, federal, and county courts, and probation became another option to use when sentencing convicted offenders. In contrast to the earlier probation officers who were volunteers, probation officers became public officials who were trained to perform their duties. These duties were broadly defined in terms of providing monitoring and assistance to those offenders under their supervision.

The general goals of probation have not changed significantly since its inception. At times, new laws, policies, and directives resulted in more emphasis on the supervision (control) portion of probation work, and at other times, more emphasis has been placed on the assistance and treatment aspect of probation. What have changed are the methods used to select those placed on probation. Evidence-based assessment systems are now used to determine the probable risk of a convicted criminal recidivating and also to help decide the amount and type of supervision needed to reduce the risk of the offender recidivating if placed on probation.

The role of probation officers has also changed, in the sense that many of them are now specialists, particularly those in large departments who are trained to supervise a specific type of offender (drug abuse, sex offender, mental disability) or who are trained in screening and completing the assessments of those being considered for probation.

Post-incarceration supervision (parole) has a long history in the United States. Its origins can be traced back to the Reformatory Era (late nineteenth century). Initially, those released from prison before the expiration of their prison sentences were released back into the community under the strict supervision of a parole officer. If they violated the conditions of their parole, they could be sent back to

prison to complete the remainder of their sentences. Parole officers performed a role similar to that of probation officers. As with the prisons and correctional institutions, the parole departments are generally under state or federal government jurisdiction. As with probation, the emphasis on either the supervision or treatment facet of the role changed, depending on state or federal legislation passed, new policies of the state parole departments, and the climate in the community. Many states and the federal government have dropped the term “parole” and now use such terms as “reentry supervision” or “post-incarceration supervision.”

As with probation, evidence-based assessment tools are used to determine the amount and type of supervision to be given to those released from the institutions. In addition, the states now employ reentry specialists who work with the inmates long before they are released and try to prepare the inmates for the reentry into the community.

## Discussion Questions

1. What are pretrial services? How do they relate to the criminal justice process?
2. Discuss the origins of the US Probation and Pretrial Services Office.
3. Define the role of the probation officer. Several of the probation officers cited in the text have indicated that probation work has changed dramatically over the past decades. Discuss the changes.
4. Discuss the factors that affect the way probation officers are oriented toward their job.
5. Compare the role of a reentry specialist with that of a parole officer (post-incarceration supervisor).
6. Trace the history of the development of parole in the United States. Has parole supervision changed since it was first implemented in the late nineteenth century?
7. Differentiate between the US Probation Service and the Texas Community Supervision Service in terms of jurisdiction, types of offenders supervised, roles of the probation officers, and organization of the departments.
8. Discuss how evidence-based risk/needs assessment instruments, such as those used in Dallas County, Texas, assist in the supervision of probationers.
9. Differentiate between general and special conditions of probation. Tony, a 40-year-old male is convicted of assault as a result of being found guilty of physically abusing his wife and children. It appears that every time Tony becomes angry, he either verbally or physically abuses his family. Tony is placed on probation with special conditions. What types of special conditions would be appropriate for Tony?
10. What are sentencing guidelines? How do sentencing guidelines affect judges' sentencing decisions?



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## Chapter 9

# Community Residential Treatment and Institutional Treatment

### Introduction: Development of Community Residential Housing for Criminal Offenders

The origins of community corrections can be traced to the involvement of private citizens or groups who took on the role of supervising and treating criminal offenders. For some groups, the motive was philanthropic, for others it was a duty related to their religious organization, and for still others the motive was to make a profit. With the exception of the jail, community residential facilities were generally not evident in the United States until the mid-nineteenth century. The Society of Friends (Quakers) established the T. Hopper Home in New York City in 1845, and the Volunteers of America opened facilities known as Hope Halls in many cities in the late nineteenth and early twentieth centuries (Ohio Division of Parole and Community Services, 1974, p. 6). The main function of the early halfway house facilities consisted of providing living quarters for those released from prison. The centers were similar to boarding houses, with rooms and meals provided. There was no professional treatment staff, and although the staff might offer some assistance for those residents seeking employment and occasionally provide some financial assistance for those recently released from prison, the predominate rehabilitative effects came from the acceptance of the staff and the mutual help the residents gave each other.

The halfway house movement (Seiter, Petersilla, & Allen, 1974, p. 11) suffered a setback during the Great Depression of the 1930s. Since these facilities were under private auspices and depended on contributions for operating expenses, the money to operate the facilities just was not available, and many had to close. The fact that the large majority of the states had developed a parole system and the ex-inmates were now placed under the supervision of a government official, the parole officer also contributed to the demise of the early halfway houses, since there was less reliance on the private sector to assist the ex-inmates in their adjustment back into the community.

In the 1950s, there was a resurgence of interest by public officials in residential centers for criminal offenders. This occurred for several reasons. A facility named Dismas House was opened in St. Louis, Missouri, in 1959 (Dismas House.org, 2016). This facility received considerable positive attention, since its program was orientated toward rehabilitation rather than punishment. This was in line with the “medical model” philosophy that gained acceptance in the correctional field in the 1950s and 1960s. Dismas House of Saint Louis still offers assistance to clients, particularly those who have drug and alcohol abuse issues.

The Dismas House network (Dismas House.org, 2016) serves more than 5000 criminal offenders by providing assistance in finding employment, housing placement, academic and vocational education, substance abuse counseling, managing personal financial matters, and public health issues.

In addition to the positive press given to Dismas House and other halfway houses that followed, research showing that a large percentage of those released from prison directly back into the community commit additional crimes and are eventually recommitted led to the conclusion that many ex-inmates needed a period of time to readjust, under guidance and supervision, beyond that which could be provided by a parole officer, before they were ready for full involvement in the community.

The early community residential facilities for criminal offenders in the United States were often referred to as halfway houses, since they were privately administered and tended to accept criminal offenders who were halfway in the prison, if sent to the residential facility in place of a prison sentence, and halfway back into the community if they were released to the residential facility after serving a portion of a prison sentence. Typically, offenders who were released from prison and allowed to reside at a halfway house were theoretically still inmates and could be sent back to prison for any infraction committed while under the supervision of the house administrator and a parole officer.

### ***Current Status of Halfway Houses***

The first halfway houses were established to house and provide treatment to a variety of criminal offenders. The programs were quite general in programming and focused on providing a stable environment and preparing the residents for their transition to independent living in the community. If residents needed specialized treatment for substance abuse or mental health matters, they were referred to therapists who were employed by private and public agencies in the community, or were transferred to another facility that provided the type of treatment needed.

Gradually, some of the residential centers either expanded their activity by offering the type of treatment many of the residents needed or narrowed the scope of their mission by becoming specialized in offering one treatment modality such as substance abuse treatment. The general purpose of community correctional facilities was to provide some form of supervision of the residents, generally in

conjunction with a county agency supervisor such as a probation or parole officer. For example, Oriana House (2016) began in 1981 as a one facility establishment that accepted convicted offenders who were placed on probation. Currently, this nonprofit organization owns several buildings located in different cities and provides supervision and assistance for various types of offenders in more than 40 programs.

The residential centers with a broad mission will generally accept:

- Offenders who are diverted from formal processing but under the provision that they receive treatment for a problem relating to their criminal offense.
- Low-risk offenders who are placed on probation and generally are in need of some type of consistency in their lives, including regular living quarters and meals.
- Probationers who were placed on intensive supervision and are at a high risk of being sent to prison if they commit additional law violations.
- Those who are on prerelease status from a correctional facility and are in need of a period of time to readjust to the community. This may be the case in particular for those who were institutionalized for a long period of time.
- Those who are released on parole or require post-release supervision.
- Probationers who as a condition of their probation were required to live at the center and receive specialized treatment for a problem relating to their criminal behavior such as alcoholism, drug addiction, or mental health.
- Convicted offenders who are housed in the residential center while a presentence investigation is being completed before they are sentenced.

### *Specialized Programs*

**Rap House** opened in 1980 in Tacoma, Washington (Lippold, 1985), to provide residential treatment for criminal offenders with developmental disabilities. Lincoln Park House, another residential facility, was opened in 1981 to provide treatment for criminal offenders with problems related to mental illness. The original residents were referred by probation and parole officers as well as by the administrators of the correctional institutions in Washington State that had developed specialized programs in the correctional institutions for those inmates with mental and learning disabilities. Criteria for placement include testing at an IQ level of 69 or below for acceptance to Rap House and an evaluation by a psychiatrist or clinical psychologist for the severity of mental illness for those referred to Lincoln House.

The structures of the programs for both facilities were similar, with the exception that the treatment program for each facility was geared toward addressing the specific types of problem of the residents housed in the residential facility. Lippold (1985, p. 46) stated, “The DOC (Department of Corrections) contracted a Tacoma-based corporation to provide the houses, correctional staff, and the support services,

including therapists and cooks. A state supervisor and three parole officers provide ongoing program supervision. In addition, a developmental disabilities specialist functions as a community liaison for both programs and develops community resources. A consulting psychiatrist and nurse provide medication.”

On acceptance into Rap House or Lincoln Park House, the offender is placed in phase one of a five-phase program. This phase consists of a period of stabilization during while the resident becomes familiar with the program staff and learns the regular routine of activities at the facility. The other phases consist of progressing through different levels of treatment and supervision. With each level, the supervision diminishes, and the amount of rewards and privileges increases until eventually the residents are considered able to leave the house and live in their communities. Residents who violate the rules of the facilities or the conditions of parole are sanctioned in accordance with the severity of the violation.

Currently, Rap House and Lincoln Park House serve as *work release* facilities operated under the jurisdiction of the Washington Department of Corrections. Rap House has 20 beds (17 males and 3 females), and Lincoln Park has 30 beds (24 males and 6 females) for offenders with developmental or mental health disabilities.

**Oxford House** Oxford House, Inc. (OHI) provides an excellent example of a privately owned and administrated corporation that has as a goal to provide residential facilities to recovering alcoholics and drug addicts. The first Oxford House was started in Silver Springs, Maryland, more than 40 years ago. By the end of the calendar year, 2015, OHI had established development contracts with twenty-two states as well as with treatment providers and the administrators of numerous drug courts. At the end of the calendar year 2015, the Oxford House network consisted of a total of 1959 individual Oxford Houses with a combined total of 15,389 recovery beds (Oxford House, Inc., 2015, p. 3).

**Box 9.1: The Oxford House Experiment (Adapted from *The Oxford House Experiment* by Peter Carlson in Washington Post Magazine, Nov. 12, 1989, pp. 44–47)**

**Founder of Oxford House, Paul Molloy’s Story.** In 1973, Paul Malloy, while celebrating Christmas with his family, became drunk, and in a rage turned over the Christmas tree and destroyed his wife’s record album. He continued on his “drunken binge” until he eventually needed hospitalization. After several months in two hospitals and several more “drunken binges,” he realized he was an alcoholic. He started attending AA (Alcoholics Anonymous) meetings, checked into a halfway house, and eventually worked his way back to a normal life style and landed a job. However, he realized that he still needed help with his alcohol problem and checked into a halfway house for alcohol and drug abusers.

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The idea for Oxford House came about when the residents of the halfway house found out that the facility would soon be closing due to a lack of funding to run the facility. Rather than being kicked out on the streets, the half dozen residents of the facility recruited seven new residents and decided to rent the house and manage it by themselves. They elected officers and established policies and rules for those individuals who were currently living in the house as well as for all future residents. Two of the basic rules were that the residents had to work and pay rent and anyone who used drugs or alcohol was immediately “kicked out” of the house.

The original residents were motivated to succeed, particularly because many of the professionals who treated alcoholics and drug addicts could not accept the notion that the residents could do it alone. However, after 6 months of operation, Oxford House had a surplus of \$1200 in its treasury, and, rather than investing it in improving the original house, the residents voted to use the money to open another facility. The Oxford House Experiment proved to be worthy, as witnessed by the almost 2000 houses that opened during the years after the first Oxford House.

The mission of Oxford House, Inc. is to provide living quarters and an organizational structure that is supportive of those individuals who are recovering from alcohol or drug addiction. While the residents may have been referred to an Oxford House by a court as a condition of their probation, all residents enter the house on a voluntary basis, and there is no time limit regarding how long they can stay. Residents are free to leave when they feel they are no longer in need of the support and services offered at the Oxford House. Some residents stay for a short period, a few months or less, and others may stay for a few years. Some are forced to leave because of returning to alcohol or drug use.

All of the Oxford Houses are rented. They consist of single-family dwellings located in good neighborhoods. The rules and restrictions for those living in the Oxford Houses are grounded in its charter. According to an Oxford House, Inc., publication (about Oxford House, Inc., 2016, p. 1), “The charter conditions require that: (1) the group must be democratically self-run following the policies and procedures of the Oxford House Manual, (2) the group must be financially self-supporting; and (3) the group must immediately expel any resident who returns to using alcohol or illicit drugs.”

The Oxford House document (About Oxford House, Inc., 2016, p. 1) further states, “Oxford House charters provide the missing elements needed by most alcoholics and drug addicts to develop behavior to assure long term abstinence. They provide the time, peer support and structured living environment necessary for long-term behavior change to take place.”

Much of the funding for the administration of the Oxford House network comes from state and federal grants, foundation grants, and private contributions. The central office, located in Silver Springs, Maryland, trains and supervises field staff who complete outreach assignments throughout the United States and in several foreign countries.

### ***The Community Corrections Association***

The Community Corrections Association Incorporated (CCA), located in Youngstown, Ohio, is one of more than 19 halfway houses in the State of Ohio. It was founded in 1974 and is a private nonprofit agency. It consists of several facilities with a bed total of 217. The facilities include administration, which houses administrative personnel, house arrest officers, and probation officers; graphics, which offers on-the-job training program to residents in color printing; a Day Reporting Center, which houses an 8-week-long day reporting program for misdemeanants and felony offenders; a Community-Based Correctional Facility (CBCF) for county probationers; Unit I, which houses federal and state male offenders; Unit II, which houses male post-release offenders; and Unit III, which houses women from all jurisdictional authorities. The length of stay for residents is 3–6 months on the average, but is also dependent upon the jurisdictional authority and needs of the resident.

The CCA mission (Community Corrections Association, 2016, p. 1) is:

- To assist individuals who have been convicted of crimes to refrain from future criminal activity and to achieve their highest level of personal development
- To provide resources to local, state, and federal correctional systems for alternative sentencing programs
- To provide such services safely within the community and at the highest level of professional standards
- To meet the needs of the local community in those areas of expertise where the agency programs are compatible

CCA offers a wide variety of programming for its residents. The programming is cognitive-based and focuses on anger management (*Cage Your Rage*), financial management/budgeting (*Bridges Out of Poverty*), the identification of criminal thinking errors (*Thinking for a Change*), parenting skills, vocational training (Job Readiness and Retention), and associations (Peer Associations). All residents are required to attend a monthlong orientation program during their stay as well as a prerelease program 6 weeks prior to their release date. The agency offers substance abuse treatment in the form of individual and group counseling, relapse prevention, aftercare, and in-house recovery meetings. The agency offers a structured community services program which has helped to beautify the downtown area of Youngstown. The agency offers Adult Basic Education and General Equivalency Diploma classes. A graduation ceremony follows the completion of the educational program.

Residents are also provided information regarding AIDS and HIV. Residents are expected to complete 40 h of programming weekly.

CCA is administrated by the chief executive officer and his administrative staff that includes a chief operations officer, compliance officer, personnel officer, and financial officer. The agency has a food service staff and transportation staff. Each unit is run by a program director with the assistance of an operations director, case managers, vocational director, and residential supervisors (RS). The unit director has complete oversight of the unit and its staff. The operations director has oversight of the physical structure and grounds, safety, sanitation, and RS staff. Case managers ensure resident participation in programs aimed at meeting individual needs while in-house and in the community upon release. The vocational director prepares residents for job search via in the community and online and fosters relationships with potential employers. RS staff has the task of resident accountability at all times. A substance abuse counselor is also assigned to each unit. The unit staff meets weekly to discuss the unit, residents, and any problems. Each staff specialty meets at least once each month. There is also a monthly unit meeting with administration. A full food service staff prepares meals. CCA staff must complete 40 h of training annually, which consists of CPR, first aid, and position-specific training.

The residents of CCA have been convicted of a wide variety of crimes that include drug offenses, property offenses, computer offenses, fraud, and firearms offenses. CCA will accept some sex offenders. Sex offender applicants are carefully screened and are admitted on a case-by-case basis. CCA will not accept offenders diagnosed with schizophrenia.

## Oriana House History and Programs

### **Box 9.2: Interview with James Lawrence, President of Oriana House**

James J. Lawrence is President and Chief Executive Officer of Oriana House, Inc. Currently there are 34 residential facilities and/or nonresidential programs being administered by Oriana House, Inc.

James received his undergraduate and graduate degrees from Kent State University in the early 1970s. He worked for a short period as a counselor for a halfway house for juvenile delinquents and later took a position with the Summit County Probation Department. When an opportunity opened up to be an administrator of Oriana House, he accepted the position and has continued to work for Oriana House up to the present time. James served as an adjunct faculty member at Kent State University, is active in professional

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**Box 9.2** (continued)

organizations, and has been invited to speak at numerous community and professional meetings.

**Interviewer, Peter Kratcoski, and Interviewee, James Lawrence (Interview Completed: August 4, 2016)**

QPK: Jim, Please give me a brief history of when Oriana House first began operating.

AJL: The YMCA and YWCA received a grant to operate a general halfway house in the YWCA building back in 1976 for adult female offenders. When the federal grant money was discontinued, the administration of the organizations could not make ends meet without having federal money and had to close. Several of us decided to try to keep the facility open and applied to various funding agencies, including the state and county. We wanted to establish Oriana House as its own agency in order to continue to offer services to offenders in the community. We asked the YWCA for permission to use the Oriana House name. They gave us permission, and we incorporated Oriana House as its own nonprofit organization. The mission was to provide community corrections and chemical dependency treatment programs. The first program we were able to offer was a 3-day residential DUI (driving under the influence) program for alcohol-related traffic offenders. We moved from the YWCA building to Bryan School, which was formerly an elementary school in Akron. The Akron Board of Education was closing several schools due to declining enrollment, and we were able to convince the new owner of this old school building to rent the facility to us for our DUI program. As Oriana House expanded and began offering a variety of residential and nonresidential programs, we needed more space and purchased the entire school building and eventually purchased other buildings, including a former church and school, as well as building new facilities.

QPK: Jim, why did you decide to devote your career to working in residential community corrections?

AJL: Partly due to interest and partly due to opportunities. I had a number of courses in community corrections, and this part of corrections appealed to me more than institutional work. As I mentioned, I worked in a juvenile halfway house and it was interesting, but I preferred to work with adults. I also had an opportunity to complete a research project for the Summit County Probation Department and decided probation officer work did not involve as much of the personal day-by-day contact with the offenders one finds in the community residential centers. Thus, when an opportunity came up to become an administrator of a residential center, I took the job.

QPK: How many different facilities or programs are included in Oriana House, Inc.?

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AJL: We have 15 residential facilities located in three different counties in Northeast Ohio and 19 nonresidential programs located in five different counties in Northeast Ohio. We are currently in the planning stage to open a residential facility in Southwest Ohio.

QPK: What are the major sources of funding for the programs?

AJL: Federal, state, county, and city general funds. We basically have fees for service contracts with all levels of governments, as well as self-pay for the community corrections and Behavioral Health Services provided by Oriana House. Since the passage of the Affordable Care Act (ACA), the vast majority of our clients are now eligible for Medicaid. This has become a significant source of funding for the behavioral health-care services provided by Oriana House.

QPK: Briefly describe the duties of the operational positions (supervisors and treatment staff). What are the credentials needed for each position?

AJL: Oriana House is split into program and administrative services. Most of the supervisory positions require a bachelor's degree. The day-by-day line staff in the residential positions requires a high school diploma. All of the treatment and medical staff (psychologists, nurses, teachers, social workers, substance abuse counselors) are required to be licensed or certified by the appropriate state agency.

For those staff who work in an area of treatment that does not require a license, they must undergo training in the specific subject matter and pass an examination and also engage in ongoing clinical supervision training. Case-worker supervisors are trained in ORAS (OHIO Risk Assessment System) and *Effective Practices in Community Supervision (EPICS)*. They are evaluated quarterly and must maintain an acceptable proficiency rating. Other staff are trained in community correctional practices and are mentored and also given proficiency ratings.

The services provided in the treatment are varied, depending on the particular problems and needs of the resident. A case management plan is developed for everyone. There are four different curriculum plans utilized. The specific treatment plan used for a resident depends on the risk level of the individual that was determined during the screening process. Also, some special programming is used in the women's facility. Generally all of the programs are based on cognitive-based therapy, behavior modification, and the development of basic living skills. Some of the specific treatment tools used are *Thinking for a Change*, *Good Intentions*, *Bad Choices*, *Thinking Error*, *Education*, *Employment Counseling*, *Anger Management*, *Crisis Counseling*, *Trauma Recovery*, and *A Women Journey*. Some of the programs are narrow in scope and only applied for specific groups of residents. The educational services such as GED preparation and GED testing are only given

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**Box 9.2** (continued)

to those who do not have a high school diploma. Also, not everyone is in need of the life skills educational classes offered.

QPK: Do new staff receive any special training before starting work? Is the training specialized to correspond with the type of treatment provided in the different programs?

AJL: All of the new staff are given 40 h of training at the Training Academy. Once they finish that training, the line staff spend 40 h with a supervisor who provides structured “on-the-job training (OJT).” During the third and fourth week, the trainees perform the tasks related to the job, but are monitored by a staff supervisor. The clinical staff (TX and COG) are also required to learn the curriculum specific to their position. Their training is structured and takes 45–60 days to complete. Once the clinical staff has been rated as being proficient, they can conduct group therapy, but are still observed and rated by senior staff for a period of time.

QPK: Is there a particular personality type that is best suited for working with offenders in a residential setting?

AJL: Yes, those persons who can express empathy, but who know how to hold clients accountable for their behavior. They must believe that people can change for the better. The strong authoritarian personalities generally do not work out well when working with offenders in a residential facility. The daily interaction between the staff and residents requires cooperation and mutual respect for each other.

QPK: During the many years you have been the Chief Executive Officer of Oriana House, have you noticed any particular changes in the laws, policies, or requirements pertaining to the programs offered at Oriana House?

AJL: Yes. When the mandatory sentences, draconian drug laws, and the general movement to mass incarceration went into effect, these changes had a severe and long-term damaging effect on the minority communities, in particular, and on American society in general. However, the laws and policies have changed somewhat. Such recent initiatives as Second Chance that gives some offenders an opportunity to be diverted and reintegrated into the community and other criminal justice reforms have begun to address the problems caused by the mass incarceration movement. From my perspective, drug addiction should always have been treated as a public health problem and not as a criminal problem. The recent initiatives in Ohio of treating drug addiction as a public health problem and not as a criminal justice problem, if expanded throughout the United States, will become one of the most effective ways to reverse the long-term damage caused to American communities by the mass incarceration movement.

QPK: How much authority do you have as the administrator of Oriana House to develop specific programs?

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AJL: We have full authority to design and present programming. Of course, we must follow the guidelines of the state or federal agency that will fund the new programs. These guidelines address the prior research on the program being proposed. The proposal must be COG based, with the expected outcomes being measurable, based on evidence-based or promising practices. During the years I have been at Oriana House, we have developed several new CD and family programs.

QPK: Jim, describe the type of treatment and counseling that is given at the Oriana House residential facilities.

AJL: We have 15 residential facilities, and the residents of these facilities do not all have the same problems and need all of the different types of treatment programs we offer. However, perhaps as high as 80–85% of the residents have some problems with either alcohol or drug abuse, so I will concentrate on the individual and group counseling programs that focus in some way on this problem. I think the Cliff Skeen facility for women that houses women involved in drug/alcohol abuse would make a good program to illustrate. The residents follow a daily schedule that is based on their ORAS score and other assessments they received when they are being processed through the justice system. All of the residents are required to have 50 h of structured programming each week. The treatment is centered on four experiential treatment educational sections. They consist of:

**The Motivation for Success Treatment Program.** It targets clients by engaging them immediately after intake into programming. The class serves as a pretreatment group to help maintain or enhance their motivation to succeed. The class covers the following topics: Role Playing, Building Motivation to Change, Ways to Change and Barriers to Change, and the Roles of Thinking on Behavior and Thinking Reports. The clients are required to complete all five lessons in order to advance through the program. Another treatment program that is mandatory is Family Group. It addresses family support and accountability and transition into the family and the community. The group also discusses possible warning signs of drug/alcohol use and what to do if the family members feel that the client may have relapsed. The client requirements and expectations of supervision are also discussed at length. If a client needs special marital or family services, the client is referred out to agencies providing the type of service needed.

**The Family Orientation Program.** It consists of an effort to promote family interaction and involvement with Oriana House programs. The purpose is to develop, strengthen, and encourage family support and involvement by creating an awareness of Oriana House as it relates to community corrections and the criminal justice system. The target population is clients within the first 30 days of their placement.

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**Family Case Plan Meetings.** This consists of having a person related to the client or who serves the client in a supportive capacity, who is law abiding and not involved in alcohol or drug abuse, and become involved with case management planning. Through these meetings the family support person is involved in the development of the case treatment plan and is helping the client to prepare for release from the supervision of the residential facility.

**Substance Abuse Treatment.** This treatment modality is used for both males and females who have some degree of dependence on opiates. The opiate specific group is an IOP level of care and uses the same curriculum as the other IOP groups, with the primary difference in the treatment being the intensity of the services/dosage (hours) devoted to the treatment. Clients are required to complete individual sessions, conjoint sessions, and family planning prior to phase two of their treatment. Phase two is more intense for the opiate dependent group than that given to those not using opiates prior to their admission to Oriana House. Phase three of the treatment involves more dosage and increased family involvement for the opiate dependent group as well as an increase in family support involvement and recovery coach support.

**Conjoint Sessions.** Conjoint sessions are another component of substance abuse programming. In order to promote positive family interaction and involvement with the client's recovery process, two methods of family interaction are incorporated into the curriculum. Conjoint sessions are held in treatment readiness, IOP, and aftercare. The client brings his/her positive support person or family member during the conjoint session.

**Family Matters.** We place a great deal of emphasis on using family support to assist in the treatment process. Research has shown that family support was identified by criminal offenders as the most important thing that kept them from engaging in criminal behavior again and returning to prison. Based on the findings of research, we do everything possible to assist the families of released prisoners who are sent to our facilities in the providing of support with the physical, mental, and emotional problems and what the offender and the members of the family deal with when the offender returns to the family.

The curriculum used in the program is from the *Family Education Treatment Manual (SAMHSA)*. Family Matters groups meet once a week for 2 h over the course of 9 weeks for families of the clients. The weekly sessions use the Oriana House treatment counselors as leaders of the groups, and they are designed to help family members to understand more about addiction and how to provide support to those members of the family who are addicted to drugs. The ways that the family members can provide encouragement and recognize the symptoms of the times the addict may be experiencing craving

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for drugs and how to establish communications during the difficult times are part of the activity when the family members engage in this educational experience. At times they *role-play* different scenarios related to the problems of adjustment that may occur once the person returns home. Social skills are taught to the family members, and the role-playing is used to reinforce the skills that must be used to give the support needed.

**Recovery Coaching.** This is another component of the substance abuse treatment plan. Experiential knowledge is information acquired about addiction recovery through one's own recovery or received when interacting with others (group meetings) during their recovery period. Clients are referred to a recovery coach by their treatment counselors or caseworker. The clients also have the opportunity to attend weekly recovery coaching group sessions.

**Counseling on Housing, Health, and Employment Matters.** Caseworkers provide an array of services pertaining to their housing, health, employment, and financial budgeting needs as well as opportunities to engage in acceptable leisure activities. Clothing banks have been established in all of the Oriana House residential facilities. Clients are taught how to apply for Medicaid and how to request services from social service agencies and how to prepare for a job interview. If the services needed are not offered by Oriana House, the clients are referred to the appropriate agency providing the service needed. Each client is provided with a list of the names and addresses of the agencies they may need after being released from an Oriana House facility. Info-Line maintains a computerized database which contains over 1100 health and human service organizations and programs which clients can access by dialing 211.

Caseworkers also assist in the clients' community functioning through their one-on-one interactions during case management meetings. Through the use of EPICS II, the caseworkers are able to identify specific targets that include the people, situations, personality traits, thoughts, feelings, and/or beliefs which have led the client into trouble in the past. Targets relating to the client's residence, personal budget, and or leisure activities will be addressed by the client, who will be taught to develop detailed avoidance and coping skills. Hopefully these skills will ensure that the clients will successfully complete the program and be able to return to the community and function in the community without resorting to any criminal behavior.

**Coping Skills.** The coping skills program consists of 13 sessions. The sessions address personal and emotional needs such as self-esteem, feeling identification, decision-making, anger, assertiveness/aggressiveness, conflict resolution, and managing stress. The groups are open ended, and not all clients need to complete all 13 sessions. At times, a client may be having problems with only one or a few personal and emotional matters. A crisis

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intervention counselor is also available to assess clients who have been identified as “at risk” for suicidal or ideation.

**Distorted Thinking Group.** The distorted thinking class was developed from the Commitment to Change curricula created by Dr. Stanton Samenow (author of *The Criminal Personality*). Through lectures and cognitive restructuring, the group works on correcting six patterns of “thinking errors”; they are referred to as Robin Hood, cut off, seemingly unimportant decisions, no one was harmed, closed thinking, and fast and easy.

QPK: Jim, what do you perceive will be the trend in the future regarding corrections?

AJL: There will be (already the case in Ohio) more emphasis on treatment and rehabilitation and reintegration of inmates back into their local communities. There will be an expansion of community corrections programs to divert offenders from even going to prison as well as an expansion of reintegration of offenders back into the community from prison. More offenders, especially low-level felony offenders and drug offenders, will be provided treatment and other rehabilitative services in their own communities, rather than being sent to prison. In Ohio, the state legislative body has already recognized that a large number of offenders who were sent to prison could have been treated in the community at a much lower cost and with better results, that is, less recidivism.

QPK: In regard to the day-by-day operations of the Oriana House facilities and programs, what do you perceive as the major problems (concerns)?

AJL: Most of the concerns center around qualified staff to fill the huge need and lack of appropriate funding to cover the increasing cost of operating the organization. For example, there are just not enough people who are qualified in the AOD field to fulfill the demand. The Affordable Care Act makes many substance abuse offenders eligible for treatment, but we have to put them on a waiting list to get into our program. We would like to open several pretreatment homes, to keep the drug abusers from going back to their old environment while awaiting treatment, but do not have the funds or staff to operate the homes.

Another concern is that the cost of living increases we receive from the funding sources do not keep up with the increased costs of operating the Oriana House programs. We have a relatively high turnover of entry level staff (both line and caseworkers) because we are not always able to remain competitive in pay and fringe benefits. We are a nonprofit organization and depend on the various government funding and grants to remain in operation. Also, we have to constantly keep our staff updated in the newest developments in the field through advanced training.

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QPK: Do you have any plans for changes in the Oriana House operations?

AJL: We are always expanding when there is a request for us to open a new facility or offer a new program. For example, we started with one program, in Summit County, and currently we have 34 programs or facilities in several counties in Ohio. We will be opening a new residential facility in Southwest Ohio soon. In light of the trend toward more emphasis on community corrections, the demand for our services keeps increasing. However, we have to do considerable strategic planning to assure that we will have the staff and resources to provide the service requested before we take on any new ventures.

## Programming in Institutional Settings

Recent statistics reveal that on any given day, there are more than two million persons incarcerated in the local, state, or federal jails and prisons in the United States. The majority of these persons are in state-administered correctional facilities, with almost three-fourths of a million being in jails (Minton & Zeng, 2015, p. 1). Approximately one and one-fourth million offenders are housed in state and federal correctional facilities (Carson, 2015, p. 1).

Although the total number of inmates in prisons and jails has been declining for several years, the proportion of older inmates has been increasing. In 2014 (Carson, 2015, p. 1), older inmates aged 55 or older constituted 10 % of the total population, and inmates aged 65 or older constituted 2 % of the total population. Almost one-third of the inmates had some form of physical or mental disability that required some form of special treatment.

The purposes of prisons (correctional facilities) have always centered on providing punishment, incapacitating the offenders in order to protect the community, and providing the inmates with an experience that will prepare them for reentry into the community. As with other forms of corrections, the policies, direction, and administrative structures of correctional facilities have changed from time to time, and, as a result of these changes, the major trust of the programming within the institutions has also changed.

A mandatory requirement for any correctional facility is that the administration must provide the inmates with the basics in terms of food, clothing, and shelter. However, there were no minimum standards that defined what these basics consisted until several US Supreme Court decisions established minimum standards for correctional facilities. Before the standards were mandated by law, other matters pertaining to the safety and welfare of the inmates, including the amount and type of punishment allowed, health-care policies and providing opportunities to engage in work, and/or educational and recreational programs, were more or less determined by the warden (superintendent). At certain periods of time, the major focus of



prison administrators was on security, while at other times more emphasis was placed on programs that were defined as treatment, with the goal of rehabilitating the inmates.

Since the advent of the Reformatory Movement in the late nineteenth century until the present time, there have been a number of changes in the structures and operations of correctional facilities. In regard to structures, the institutions, although they are given different labels depending on the state or federal agency under which they are administered, were classified on a range from super maximum to minimum security. The number of treatment programs found in a facility will typically correspond to the level of security. For example, in super-maximum prisons the inmates may be locked in their individual cells for as long as 23 h each day. They are required to eat in their cells and in some cases even engage in a short period of recreation or exercise in their cells. Typically, the administration of the lower security level facilities will place more emphasis on programs for the inmates, including work, education, recreation, and treatment. Some facilities may be structured to house special needs offenders, such as inmates with mental health problems or physical disabilities, substance abusers, or older inmates. If these special needs inmates are not housed in a separate facility, they will generally be placed in a separate unit within the correctional facility. Typically, the treatment programs for them will be designed to address their specific problems, and treatment staff, that may include social workers and psychologists, will have special training to work with the inmates with special needs.

Before a convicted offender is sent to a correctional facility, there will be considerable testing. This may occur at the time of sentencing or take place when the offender is sent to a diagnostic center to be observed and classified. If mental and physical health problems are diagnosed, the information is transferred to the institution to which the offender is assigned. It is likely that the inmate will receive the treatment needed, assuming that the correctional facility has the staff and programs to provide it. For example, the Ohio Department of Rehabilitation and Correction makes use of the Ohio Risk Assessment System (2016, p. 1). There are seven tools in the Ohio Risk Assessment System. They consist of:

Pretrial Tool (PAT)

Community Supervision Screening Tool (CSST)

Community Supervision Tool (CST)

Prison Screening Tool (PST)

Prison Intake Tool (PIT)

Reentry Tool (RT)

Supplemental Reentry Tool (SRT)

Since the potential inmate is being assessed at several different times and by different personnel, it is unlikely that the mental and physical health problems of the person will not be recognized, unless the person makes a deliberate attempt to hide the problems. However, if the state and federal laws do not specifically require special treatment either in a separate facility or in a separate section of the correctional facility, the special needs offenders are often housed in the same

units as the other inmates. It is only after they gain attention by disrupting the daily routine, physically attacking another inmate or correctional officer, or attempting self-destruction (suicide, self-mutilation) that some action is taken to separate them from the general population. For example, inmates who are deaf or who have severe loss of hearing may appear to be deliberately disobeying the commands of the correctional staff when in fact they just do not hear what the officers are commanding. Likewise, inmates with severe learning disabilities may not be able to grasp the meaning of some of the directions and orders given. Older inmates may have such severe physical health problems that they cannot complete basic daily routine activities such as marching to the dining hall, cleaning the cell block, or engaging in physical exercise. Others, while not being in need of hospitalization, have mental problems that limit their ability to engage in the daily routine of the prison. If they are not given the therapy needed, their mental health generally deteriorates, and eventually it will be necessary to place them in a mental hospital.

Through research and planning, many state correctional departments and the US Bureau of Prisons have placed facilities and treatment program for special needs inmates into operation.

## The US Bureau of Prisons

The Federal Bureau of Prisons (BOP) was established under the Department of Justice in 1930 (Federal Bureau of Prisons, 2016a, 2016b, 2016c, p. 1). At that time, there were 11 federal prisons housing slightly more than 10,000 inmates. By the end of 1930, the number of prisons increased to 14, and the number of inmates reached 13,000. The BOP system did not grow substantially until the 1980s, with the number of inmates being less than 25,000 at that time. In 1984, the Sentencing Reform Act resulted in establishing determinate sentencing, abolishing parole, and reducing “good time.” This Act had a continuing effect on the number of inmates and the number of facilities needed to house them. Both inmate numbers and correctional facility numbers have increased substantially up to the present time. In August of 2016 (Federal Bureau of Prisons, 2016a, 2016b, 2016c, p. 1), there were 193,461 inmates under BOP supervision, with 81 % housed in federal facilities, 11 % housed in private facilities, and 8 % housed in other facilities such as reception centers, transfer centers, and medical centers. The Bureau of Prisons is the largest correctional system in the United States, employing almost 40,000 staff and having an annual budget consisting of billions of dollars.

The US Bureau of Prisons facilities range in security levels from super maximum to low security. As with state correctional systems, the FBP has often changed policies and emphases regarding the security and treatment of inmates in accordance with legislative changes pertaining to those convicted of violations of federal laws and mandated changes as a result of US Supreme Court decisions. The Bureau of Prisons has generally taken the lead in establishing programs and facilities for special need offenders. For example (Toch, 1992, p. 15), unit management was first

established at the National Training School for Boys in 1966 and was fully implemented at the Robert Kennedy facility for young offenders located in Morgantown, West Virginia, in 1970. The functional units adopted at the Robert F. Kennedy Facility were based on a classification model developed by Herbert Quay and first used at the National Training School for delinquent boys. Gerard (1970, pp. 37–40) notes that counselors were assigned to the units (cottages) in accordance with the needs of the youths housed in the units. For example the “inadequate-immature youths were assigned counselors who were “instructive, patient, reassuring and supportive,” the “unsocialized aggressive (psychopathic) youth were assigned counselors who were tough minded, direct, and able to avoid being manipulated,” and the “socialized, subcultural” and “subcultural-immature” delinquents were assigned counselors who exercised firm control and who were wise to the attempts to manipulate them. The composition of the population of the Robert F. Kennedy Facility changed when the Bureau decided to house other young offenders, rather than delinquent offenders, at the facility. However, the functional unit model remains. Toch (1992, p. 15) notes, “The idea of functional units was simple: take a prison and divide it into smaller groups of inmates and staff members. Each group of inmates (50-100) in 1970) would have its own staff members. The inmates would stay with their units and would be individually programmed. Each unit would become a specialized “mini-prison” within a larger prison and share the institution’s facilities with other units.” The US Bureau of Prisons (United States Bureau of Prisons, 1977, p. 6) described units as being “self-contained,” that is, each having its own management, specialized staff, and a special function to perform, such as substance abuse counseling, mental health counseling, and being semiautonomous, but still coordinated with the central administration of the institution.

The unit management (functional units) model became a standard organizational plan for many of the Bureau of Prisons institutions, although some of the specific provisions may have changed. For example, each unit is designed to treat a specific problem or need of the inmates; each unit will have a unit manager, one or more unit counselors, and several correctional officers who work exclusively with the unit. The number of inmates in each unit will consist of 100–200, a substantially larger number than the unit size of the original units. The unit management model was also adopted in many of the state correctional facilities. These special housing units (also referred to as pods) are organized to provide treatment for substance abusers, those with mental or physical health problems, older inmates with special needs, and even veterans experiencing post-traumatic stress syndrome.

## Units for Veterans

Several of the correctional institutions in the Ohio system have established special units for military veterans. Bleininger (2016, p. 10), who was completing an internship at the Noble Correctional Institution, an institution in the Ohio

Department of Rehabilitation and Correction System, described the inmates housed in E1-the Veterans Unit. "The housing unit E1 houses many veterans in the West Bay known as 'Veterans Row,' and these inmates have more space than those housed in other areas of the bay, other bays, and other housing units. Inmates in this subculture unit (Veterans Row) seem to have a strong sense of pride, respect for self and others, and self-discipline. They lead other inmates in E1 by setting a positive example and act as unofficial mentors to those around them. In addition, they give back to the outside community through fundraisers within the prison, and this is accomplished through their veterans' organization NIVO. A number of the inmates (veterans) I had the opportunity to speak with in this organization appeared remorseful for their crime(s), were trying to atone for it, and had a positive outlook on their futures."

## The Prison Experience

McCullum (1992, p. 34), who researched the long-term effects of the prison experience on the lives of those who were incarcerated in prisons and correctional facilities, suggested that "post release outcomes should not be correlated with any one prison program or situation . . . It was the total experience as well as the families and communities to which prisoners returned, general economic conditions at time of release, and the prevailing community attitude toward ex-offenders that significantly contributed to post-release success or failure." The rehabilitation programs in prisons have always centered around education, work, recreation, and counseling for those who needed such services. A general principal relating to prison life is that activity is more conducive to positive adjustment than is idleness. During the period when the majority of states and the federal prison system followed indeterminate sentencing guidelines, participation in educational programs, treatment, and work, either industrial or prison maintenance, was used as a criterion for parole consideration. However, when determinate sentencing is employed, involvement in educational programs, work, and treatment is not mandatory and theoretically should not be used as a criterion for early release or parole.

Recognizing the difficulty of those who are illiterate to establish a life after leaving the institution, many states systems and the Bureau of Prisons have established a mandatory literacy requirement as a condition for early release from an institution. Several research studies have shown that 50 % or more of the inmates do not have a high school diploma or its equivalent, the GED (McCullum, 1992, p. 35). The inmates housed in secure correctional facilities are so deficient in reading and writing that they cannot read basic information in a newspaper or can barely write their own name. The Federal Bureau of Prisons started the mandatory literacy standard in 1982 (McCullum, 1992). There were important reasons for instituting the requirement. Involvement in literacy programs reduced the hours of inmate idleness in the prisons after the institution of mandatory sentencing under *the Federal Sentencing Guidelines*, and it also improved the quality of the inmate

workforce in the institutions. As noted by McCollum (1992, p. 35), “Illiterate workers who cannot read instructions, fill in job-related forms, prepare brief reports, or perform work-related math are unnecessary strains on correctional systems that are already carrying heavy resource burdens.” After several revisions of the literacy standard requirement for those who were illiterate, McCollum, 1992, p. 33) notes, “In 1991, a high school diploma or its equivalent, the General Educational Development Certificate,(GED) was made the new literacy standard, and the required enrollment period was raised to 120 days to accommodate the anticipated longer time necessary to achieve the higher standard.”

The Bureau of Prisons connected the mandatory literacy requirement with the work programs. Since jobs in the prison, both prison maintenance and industrial, are competitive, with the higher-paying jobs generally being in prison industry, the BOP set a standard that to obtain a job above the entry level position the inmate must meet the literacy standard. This rule resulted in a drastic increase in the number of inmates enrolled in school and a significant increase in the proportion of inmates in federal correctional facilities who did not have a high school diploma or GED being granted the GED.

## Special Programming for Older Inmates

A report by Human Rights Watch (2012, p. 1) on older prisoners in the United States notes, “The number of federal and state prisoners who are age 65 or older grew an astonishing 94 times faster than the total sentenced prisoner population between 2007 and 2010. The older prisoner population increased 635 while the total prison population grew by 0.7 percent during the same period.” The report stated that between 2004 and 2007, 8486 prisoners age 55 and older died in prisons. One reason for the expected increase in the proportion of older inmates in correctional facilities is that a larger proportion of the older inmates had been convicted of crimes against persons and thus were given long sentences.

Kratcoski (2004, p. 558) noted, “The presence of ever-increasing numbers of older inmates in federal and state institutions continues to present dilemmas for administrations and planners. Older inmates have unique physical, social, and emotional needs. The declining physical health of persons age 50 and older may create a need for changes in the physical plants, since a number of the prisoners may be unable to climb stairs and ramps or wheel chair accessibility may be required. Expanded medical and mental health services and recreational, educational, and social programs for the older inmates will also be needed.” In a research report on older inmates (Vito & Wilson, 1985, p. 18), it was reported that older inmates housed in the general housing units complained of constant noise, lack of friends, and fears of being victimized by the younger inmates. Sabath and Cowles (1988) and Kratcoski and Pownall (1989) reported that older inmates adapted to prison life by not becoming involved, poor health limited their ability to become involved in

work, and recreational activities and lack of friends and visitors increased their emotional dependency and sense of isolation.

Kratcoski (2004, p. 559) noted that correctional administrators have responded to the older inmate population in one or more ways. Some have ignored the problem, placed the older inmates in the general population, and have not made any special concessions for the housing or needs of the elderly. Some states have either constructed new facilities for the elderly or remodeled existing facilities, and other states have created special housing units for the older inmates as well as special work, educational, and treatment programs for the older inmates.

In a summary of research completed by Kratcoski (2004) that included older inmates housed in several federal and state correctional facilities, with some of the older inmates housed in either separate facilities for older inmates or separate living units, it was reported that, while a small number of the older inmates housed in separate units and those housed in the general population were threatened or were assaulted by younger inmates, there was little difference in the proportion of older inmates housed in separate units or housed in a separate facility for older offenders who indicated that they were intimidated, exploited, or abused by the younger inmates than in the proportion of older inmates housed in the general population units. As found in other research, the older inmates housed in the general population units were more likely to complain about noise, bad air (many of the prisons have now banned smoking in the housing units) that affected their breathing, poor quality of the food, and in general the overall quality of prison life. The older inmates housed in separate units were more likely to have health problems and were less likely than other inmates to engage in recreational, educational, and social activities or in the entertainment features that were occasionally offered at the facility.

Kratcoski (2004, p. 562) reported "A large percentage of the older inmates housed in the specialized facilities claimed that their health had declined since coming to the institution. The most persistent health problems mentioned by those in the older inmate institution pertained to mental factors such as worry, depression and anxiety." A significant percent of the older inmates were imprisoned for the first time, and many of these first timers in prison inmates were convicted on a sexual offense, murder, rape, or for molesting a child, and these factors may have contributed to their worry, depression, and anxiety. Almost half of these older inmates in the separate facility were given some form of treatment in a prison hospital.

One of the state correctional facilities studied by Kratcoski (2004) was structured to accommodate older inmates and inmates with physical handicaps. The older inmates at this facility generally participated in work activities (prison industry jobs requiring a minimal amount of physical labor), educational programs (inmates who were functionally illiterate were encouraged to attend school to prepare themselves for their release back into the community), and even physical exercise and recreational programs (The walking track was shortened, the softball field had shorter distances between bases.) The older inmates in the separate facility were more likely to participate in the group therapy programs offered than were older inmates housed in the general population. The difference was significantly

noticeable in their participation in self-help groups such as Alcohol and Drug Addiction Anonymous.

Three of the correctional facilities included in the study housed women. A significantly larger proportion of the older women who completed the questionnaire or who were interviewed stated that they were having more difficulty adjusting to prison life than that reported by the men. The older women were much less likely than the older men to engage in work, have visitors, participate in recreational or educational activities, or be friendly with other inmates. A larger proportion of the older women reported being in poor health than the proportion of men who claimed to be in poor health.

In summary, there are good reasons for keeping the older inmates mixed in with the general population, since they generally do not have any more problems in adjusting to prison life than the other inmates, particularly if they had been previously incarcerated, they provide a calming effect on the population, are often viewed as “father figures,” and, unless they are in poor health, they are capable of participating in the work, educational, and treatment programs offered to other inmates. On the other hand, as the institutional population grows older, health care for older inmates will become a major concern, including preparing food for those on a special diet providing the special programming and treatment programs and staff needed to serve the needs of the older inmates may be a good reason to develop separate facilities or separate units for older inmates.

## Summary

During any given day, there are more than two million persons under justice agency supervision who are housed in local, state, federal, or private facilities such as jails, correctional facilities, hospitals, and community residential centers. The larger majority are in secure correctional facilities.

Profiles of the characteristics of those under supervision reveal a complexity of criminal types who have diverse needs. The population of the prisons has changed with a growth in the proportion of inmates who have substance abuse, physical health, and mental problems, an increase in those who have committed violent offenses, and an increase in the proportion of older offenders. The diversity of the inmate population and the complexity of the special needs for many of the offenders have created many challenges for prison administrators in providing treatment and health services required by law. The use of specialized units (unit management) has helped to assure that those who need special treatment receive it. The fact that many correctional facilities are operating overcapacity, with inadequate funding for special programs, reduces their ability to provide the services needed. This factor, as well as the recent trend toward reducing some of the mandatory prison sentencing for low- and medium-risk offenders, has resulted in a resurgence of the use of community residential centers.

The use of community residential facilities in the United States to house those convicted of criminal offenses began in the middle of the nineteenth century. The early halfway houses generally admitted those released on parole. These facilities were started by various philanthropic groups or by religious organizations. Making a profit was not a major concern, and often they had to struggle month by month just to cover operating costs. Those released to these facilities were theoretically still inmates of the prison and were allowed to live at the halfway house to prepare for reentry into the community. The houses provided room and board, but not much in the way of treatment. The residents could be sent back to prison for even minor violations of the rules.

Some residential centers that were established for criminal and juvenile offenders in the 1950s and continue to operate up to the present time exist as all-purpose facilities, housing both those on probation and those on parole (after-care). They provide the residents with an opportunity to seek employment, continue their education, and become adjusted in the community. Other community residential facilities offer specialized treatment facilities for those offenders who have substance abuse, mental health, or other problems.

The recent changes in correctional policies and in laws that have decriminalized some offenses, especially those related to drugs, and which de-emphasize institutionalization, will continue to create increased needs for community corrections facilities and programs.

## Discussion Questions

1. What were the motivations behind the creation of the first halfway houses?
2. Why was there a resurgence of interest in halfway houses in the 1950s?
3. Why did professionals believe that offenders who decided to operate Oxford House on their own would not succeed?
4. Why do halfway houses have such a strong appeal to correctional administrators?
5. Do you think that placement of offenders in the community under supervision is more effective than institutional treatment? Discuss the reasons for your opinion.
6. What are the general roles of probation officers? Why is it necessary for probation officers to refer their clients to community service agencies in order to achieve the goals related to probation?
7. What are some of the dangers to the community when offenders are placed under community supervision?
8. Discuss how evidence-based programming has helped in the achievement of the goals of probation and parole.
9. What are the reasons why researchers have concluded that older offenders should be kept in the general prison population rather than placed in separate facilities?



10. What can be done to reduce the fears of community residents when halfway houses are established in their neighborhoods?

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## Part III

# Treatment Models Used in Corrections

The chapters in this part focus on the tools and the methods used to provide counseling and treatment to juvenile and adult criminal offenders. In Chap. 10, the focus is on the interview. Often referred to as the basic tool used by criminal justice agency personnel to obtain information, different approaches to interviewing are used in accordance with the types of information the interviewer is trying to obtain from those being interviewed.

In this chapter, types of interviews are described and an explanation of the interview cycle is given. The basic approaches to interviewing, including face to face, telephone, electronic, and self-completed interviews, are explained and the positive aspects, as well as the disadvantages and limitations of each method, are discussed. Various styles used by those conducting interviews are considered.

Chapter 11 focuses on the use of behavior modification programs in corrections. Behavior modification has been and continues to be used as a management tool as well as a treatment modality. Although there are many variations in the specific behavior modification programs used in juvenile and adult corrections, the underlying principle of all behavior modification treatment programs is the notion of costs and rewards.

Behavior modification is used in corrections with offenders who are under community corrections supervision, as exemplified in probation condition contracts, and in programming used in community residential settings and secure institutions. Regardless of the setting and characteristics of the offenders in the programs, the participants are rewarded for good behavior and sanctioned for bad behavior. Examples of behavior modification programs are given in the chapter.

In Chap. 12, the use of group counseling is discussed, and several specific group therapies are illustrated. Group counseling is often the preferred method for providing treatment to juvenile and adult offenders with special problems, including substance abusers, sex offenders, aggressive individuals, and those who are emotionally despondent.

Group counseling can be employed in various locations, including public buildings in the community, the conference rooms of private therapists, community residential facilities, and institutions settings.

Specific types of group treatment used with juveniles and/or adults are guided group interaction, transactional analysis, positive peer culture, family therapy, and various forms of self-help group counseling.

In Chap. 13, the application of brief therapy and crisis intervention approaches to counseling and treatment is discussed and illustrated. Crisis intervention counseling and brief therapy are similar in the sense that the counselor must develop rapport very quickly with the person being counseled in order to offer some relief to the person who is in a traumatic state.

In crisis intervention, the main function of the counselor is to try to bring the person to a point at which he/she is stabilized enough to begin engaging in some form of therapy in order to deal with the source of the person's trauma. Once the person's behavior and state of mind have been calmed, the counselor can begin some form of brief therapy which may involve a number of sessions. Case studies are given to illustrate how the therapist approaches a crisis situation and defuses the crisis through counseling.

Chapter 14 focuses on cognitive behavioral therapy, which explores both cognitive (thinking) and behavioral (action) aspects of a person. There are a number of variations in the approaches to the use of cognitive behavioral therapy. When applied to adult criminals and juvenile delinquents, the characteristics of the offender (adult or juvenile), the setting (community or institutional), the manner of applying the therapy (in a group or individually), and the therapist's training and preferences are all determinants of what type of cognitive behavioral approach will be used. Several of the approaches are illustrated in this chapter.

Chapter 15 discusses trends in correctional counseling and treatment. The current trend toward using a public health model for mentally ill criminal offenders by way of diverting them away from jails and providing mental health treatment is expected to continue. In addition, the movement toward community corrections and more extensive cooperation between criminal justice agencies and public and private service agencies such as medical, educational, and social services agencies is expected to continue.

The movement toward the professionalization and specialization of those employed in the corrections related occupations is likely to continue. For example, those working in residential treatment facilities who provide counseling and treatment for special categories of offenders will need to be certified or licensed.

# Chapter 10

## The Interview: A Basic Tool Used in Correctional Counseling and Treatment

### Introduction

An interview is used for a number of purposes and is applicable for use in a variety of situations. Gorden (1992, p. 342) defines interviewing in the following way: “Interviewing is conversation between two people in which one person tries to direct the conversation to obtain information for some specific purpose.”

The purpose for which the information is being sought determines to a great extent how the interview will be constructed. For example, if a police officer is interviewing a person who had just witnessed a crime, the officer does not obtain a great deal of personal information about the witness. The name, address, and telephone number of the witness may be sufficient.

### *The Five Ws of Interviewing*

The interview should focus on questions pertaining to what is referred to as the five “W” words critical to any interview. They are as follows:

**Who:** The officer will ask the witness to describe the alleged perpetrator of the crime in detail, including approximate age, gender, clothing worn, and other identifying characteristics. The officer will also ask if the witness is acquainted with the alleged offender.

**When:** The police officer wants to know the exact time the incident occurred. If the exact time cannot be ascertained, the officer wants as close an approximation of the time as possible. Often the officer’s immediate course of action will depend on the timing of the event. If an officer arrives on the scene a few minutes after a person was robbed, the offender may still be in the immediate vicinity, and other officers will be quickly dispatched to the area to conduct a search.

**What:** The police officer may ask the witness, “What did you observe?” The officer will ask the witness to give as detailed an account of the crime incident as possible.

**Where:** When an officer is called to the scene of a crime, the “where” generally becomes known. However, when the police receive complaints regarding certain alleged crimes, such as child physical or sexual abuse, the location of the alleged crime may not be discovered until after the interview is completed.

**Why:** The police officer responding to the scene of a crime will try to discover why the crime occurred. At times this may be relatively easy to determine. If the crime was a robbery, the officer can surmise that the robbery was motivated by the desire to obtain money. The officer is not concerned about why the offender wanted or needed the money and thus does not ask the offender such questions. The motivations for committing a criminal act may be as diverse as the possible ways to respond to crime. For example, the witness may have seen an auto accident following which the driver of the auto who was not at fault got out of the car and punched the driver who was at fault in the face. The motivation for the assault might have been a response to feelings of anger or frustration, or some other reason.

If the person being interviewed is the victim of the crime, the police officer will still want to obtain the same information, but now there will be a need to obtain much more personal information from the victim. If it was a violent crime, the officer will ask about injury, the victim’s possible relationship to the offender, and other types of personal information. If a rape or other types of sexual crime have occurred, the officer might call in a victim assistance advocate to help with the interview. If the person being interviewed by the police officer is the criminal suspect, the nature of the interview will change, with the questions being directed toward the criminal event. It is likely that the suspect is going to be uncooperative and try to avoid answering the interview questions as much as possible. The officer then must use all of the tricks of the trade, including deception, to try to solicit the information desired.

### *Interviewing in Justice System Settings*

If we now concentrate on functions of interviewing related to the prosecutorial and the judicial components of the justice system, the types of questions asked during an interview will depend largely on who is being interviewed and for what reason. For example, a prosecutor interviewing a victim of a crime on a direct examination will ask the victim many of the same questions previously asked by the police, with the answers already recorded in the initial police report. However, the defense attorney, on cross-examination, may ask the victim questions with the hope that the answers will discredit the victim’s story as presented to the police. If the alleged offender is convicted of the crime, the judge may ask the offender some questions before sentencing. These may relate to the motivation for committing the crime and the circumstances surrounding the criminal event. This information, along with other

factors such as the offender's age, prior offenses, employment, and family situation, may be useful to the judge in deciding upon a just sentence.

The judge may also ask the victim questions as part of a *victim impact statement*. These questions, addressed to the victim, pertain to the way the crime has affected his/her life. If the defendant has been convicted of a serious felony offense such as robbery, rape, aggravated assault, or homicide, the judge will postpone the sentencing and order that more information be obtained on the offender before a sentence is given.

Those who collect the information for presentence investigations and risk/needs assessments are generally community corrections personnel. A major function of the presentence investigation is to determine if the convicted offender would be a major threat to the community if allowed to remain in the community rather than being incarcerated in a secure correctional facility and if the convicted offender would be likely to benefit by having the opportunity to remain in the community. Some courts use risk and needs assessments as part of the presentence investigation. The court personnel, usually probation officers skilled in interviewing, have the primary purpose of gathering information from those being interviewed. Generally, they will use several information-gathering instruments that are highly structured and have been tested for reliability. The interview is very directed. The interviewer tries to verify the truthfulness of the information being provided to the extent possible. The main purpose of this form of interviewing is to collect information that will be helpful to the sentencing judge when making a decision on the sentence and to provide information to those who will be supervising the convicted criminal in the community or in a correctional institution.

Those correctional personnel who interact with and supervise sentenced criminals in correctional facilities, including probation officers, alcohol and drug abuse counselors, and social work counselors, must develop interviewing skills that far exceed those needed for information gathering. Shearer (1993, p. 15) suggests seven primary interviewing skills that are needed for counselors and other treatment personnel to be effective. They are as follows:

- The interviewer must have empathy, that is, be interested in the welfare of the person being counseled.
- The interviewer must focus on concrete experiences, needs, and changes that will lead to the adjustment of the person being counseled.
- The interviewer must know how to adjust the speed and pacing of the interview so that the counseling is given in a timely manner.
- The interviewer must know how to summarize the information provided by the person being interviewed, as well as the information provided by the counselor to the person counseled.
- The interviewer must know when an immediate response is needed, such as in a crisis situation, and have the skills to draw out the response.
- The interviewer must know when to confront the person being interviewed, particularly when it is apparent that the person is "playing a game" or not taking the counseling session seriously.
- The interviewer must be assertive when the situation demands assertiveness.

The initial goal of the person who is conducting an interview, regardless of its purpose, is to obtain as much information about the person as possible. Nasheri and Kratcoski (1996, p. 45) state, "Initially, an interviewer may ask open-ended questions in order to stimulate conversation." These questions may be rather broad and are predominately used to stimulate the person to cooperate, to respond, to feel relaxed, and to develop some rapport. It also provides an opportunity for the interviewer to observe the body language of the respondent. For example, in a counseling interview, the interviewer may ask some personal questions related to self, family, friends, or habits, even though the interviewer may already have knowledge of the information requested as a result of having reviewed the files on the person. The initial interview between a representative of a criminal justice agency and a person accused or convicted of a crime may be one of the most important interactions of the offender's life. Typically, the person will be anxious, embarrassed, not sure what is going to happen, and perhaps distrustful of the authority figure conducting the interview. Although the initial interview is used primarily to obtain information that will be passed on to another official or a professional counselor who may supervise or counsel the client, the initial interview is important because it sets the general tone and provides a learning experience for the offender as to what will be likely to follow in subsequent interactions with members of the justice system. Mauer (2005) emphasizes the importance of the interviewer providing information pertaining to the purpose of the interview, what is expected of the interviewee, and why the interview is important. Mauer also emphasizes the importance of conducting the interview in an environment that would assure a minimum of distractions.

According to Mauer (2005, pp. 31–32) the objectives of the initial interview are the following:

- To establish a good working relationship with the client
- To obtain information about the client's background
- To provide information about what to expect during the interview
- To identify the general nature of the client's problems
- To obtain a detailed history of the facts leading up to the present problem and any factors that may have contributed to the problem the client is facing
- To ask follow-up questions on areas in which the information provided is not complete or fully understood and to probe when necessary

## The Skill Learning Cycle

In his book, *The Nature of Interviewing*, Gorden (1992) introduces the skill learning cycle. The cycle involves four basic phases, planning, doing, analyzing, and reflecting.



## ***Planning***

The planning phase is most critical in those cases in which the person completing the interview does not have a set of questions on the subject that were previously constructed. The interviewer is starting completely from scratch. In the planning stage, the interviewer originally has a topic or problem that must be covered and a set of objectives, that is, what is expected to be accomplished through the interview. According to Gorden, the planning stage involves several steps. They include:

**Formulating Relevant Questions.** To arrive at relevant questions, the interviewer must (1) clearly define the objectives of the interview, (2) translate each objective into specific points of information needed, and (3) translate those points into questions to be asked.

Using the presentence Investigation as a starting point, the person completing the interview of a convicted defendant who is awaiting sentencing has several objectives that must be accomplished. The interviewer must gain information that will be helpful to the sentencing judge regarding the defendant's risk to the community if sentenced to community corrections rather than to a term in a secure correctional facility. Another major objective of the interview is to determine if the person will be amenable to treatment in the community. To accomplish this, the interviewer must obtain information about the major sources or causes of the criminal behavior, such as drug and/or alcohol abuse; violence toward others, including family members; failure to hold a job; and other problems. The interviewer thus develops specific questions to tap these problem areas.

**Formulating Motivating Questions.** Another quality of a useful question is that it helps to motivate by making the respondent either more willing or more able to answer the question.

When interviewing those who are not there voluntarily, this is not as easy task. In regard to those who are being interviewed as a result of a court order, the interviewer may find the behavior of the interviewee to range from outright hostility at one extreme to being very cooperative on the other extreme. The interviewer must also be aware of the possibilities that the interviewee is lying or being evasive. Even those who have considerable experience in interviewing may find it difficult to find the right questions that will motivate the respondent to be cooperative.

**Establishing a Communicative Atmosphere.** Before the first question is asked, the interviewer can increase the chances of obtaining the needed information by establishing a physical and verbal setting that helps the process.

Often it is difficult to conduct interviews with those who are defendants or under supervision of a criminal justice agency. For example, those accused of a crime who are being considered for pretrial release are often interviewed in their cells or in a tiny room reserved for such activities. Even when those incarcerated in jail or a prison are being interviewed by a psychologist or social worker, the emphasis on security may make the atmosphere tense and thus not conducive to the development of a trusting relationship between the service provider and the person being

interviewed. Despite the situational and environmental factors that might interfere with the interviewing process, the experienced interviewer can generally make the adjustments needed to establish a communicative atmosphere.

## *Doing*

The doing phase of the skill learning cycle is the heart of the interviewing process. It requires the interviewer to use a number of skills simultaneously. These include delivering the question, listening to the respondent, observing the respondent, evaluating the response, probing the response, and recording and coding the information.

**Delivering the Question.** The format used in the structuring of questions for an interview may take several different forms, depending on the purpose of the interview. For example, when interviewing for a survey of people's political opinions on a matter such as who they are likely to vote for in the upcoming elections, the questions are highly structured, and each respondent is asked exactly the same questions in the same manner. The questions are generally closed-ended, that is, the respondent must choose an answer from the finite categories of responses provided. If the interview is being completed electronically or by telephone, the delivery of the questions by the interviewer becomes less important. However, in face-to-face interviewing situations, the nonverbal factors accompanying the questions become much more important. Nonverbal factors (Gorden, 1992, pp. 304–305) “include the interviewer's body position, eye contact, facial expression, tone of voice and pacing.”

**Listening to the Respondent.** Normally a person has to be trained to become a good listener. Most people would prefer to talk themselves rather than listen to someone else talk. If one observes the conversations of people in informal settings, the person asking the question often interrupts the respondent and begins talking before the respondent finishes. Gorden (1992, p. 305) states, “Listening is the active, intellectual phase of seeking meaning in what another person says; it is hearing with a purpose. The good interviewer tries to understand what the words mean to the speaker as well as how this meaning is related to the objectives of the interview.” The following are a number of hints of how to be a good listener. Do not anticipate what the respondent will say in response to a question. Do not interpret what the respondent is saying before the entire answer to the question is given. Ask for a clarification of the answer, if the meaning of the response is not fully understood. Either repeat the question or rephrase it if it is apparent that the respondent is not answering the question asked. Use facial and body language expressions to show that you are sincerely interested in the answers to the questions given by the respondent.

**Observing the Respondent.** During an interview, it is important to notice the body expressions of the respondent. Gorden (1992, p. 305) states, “Clues such as body posture, movements of hands and feet, facial expressions, and eye movement all constitute a nonverbal context that provides clues to the meaning and validity of the verbal message as well as to the energy level, mood, and attitude of the respondent.” An interpretation of these nonverbal body expressions can provide the skilled interviewer with considerable information regarding whether the person is being evasive, is in need of support, needs to be challenged, or is in need of encouragement.

**Evaluating the Response.** Gorden (1992, p. 305) notes that, when evaluating the response of the person being interviewed, there are three evaluative questions the interviewer must constantly keep in mind. They are “Is the response relevant to the objective of the question? Is the information valid (true)? Is the information complete?” Criminal Justice practitioners will generally have other sources of information to rely on when evaluating the responses of those being interviewed regarding the completeness of the response and the truthfulness of the response. For example, the police report regarding the incident, prior convictions, prior incarcerations, school record, employment history, and the person’s health records is generally available to the practitioner. For questions regarding aspects of the individual’s personal life such as family life, dependence on alcohol or drugs, and aggressive tendencies, it may be more difficult to obtain a truthful answer, and the interviewer will have to use various methods to try to elicit truthful responses from the respondent. Also, the interviewee may not recognize that there is a problem with controlling anger or dependence on alcohol. There may also be a tendency on the part of some of those being interviewed to blame others for the inappropriate behavior. For example, a respondent charged with assault for beating his spouse may blame the spouse because she was always nagging him.

**Probing the Response.** If, during the interview, the interviewer realizes that the responses to the questions are either incomplete, evasive, or not consistent with the prior knowledge the interviewer has on the matter, the interviewer must probe in order to obtain more reliable and complete information. Gorden (1992, p. 305) notes, “To probe effectively, the interviewer needs to have command of a variety of probe forms that will encourage the respondent to elaborate and clarify without biasing the response with subtle suggestions or assumptions.”

**Recording the Response.** The appropriate way to record the responses of the interviewee may have been determined during the planning stage of the skill learning cycle. Gorden (1992, p. 305) states, “If the interviewer records a response by simply checking a predetermined category in order to classify a response into some analytical scheme, then recording and analyzing are done simultaneously. On the other hand, if the interviewer writes verbatim quotes from a response or tape records the interview, then recording the information is separate from the analysis phase of the Skill Learning Cycle.”

### ***Analyzing and Reflecting***

A critical analysis of the results of the interview is necessary before the information gleaned from the interview can be used. For example, if the interview was conducted to determine the respondent's need for counseling or treatment for a mental health problem, one should be certain that the information collected is correct, relevant, and complete. Gorden (1992, p. 305) notes, "Before conducting a second interview on a topic, the interviewer should critically analyze the results obtained from the first interview. This critical analysis has two main aspects: objectively analyzing one's own interviewing behavior and evaluating the total amount of relevant information obtained." The analysis of the interview to determine to the extent possible the validity, relevance, and completeness of the interview is especially important when interviews of defendants in the criminal justice system are completed. For example, a convicted defendant being considered for probation may be interviewed by a probation officer who specializes in presentence investigations. The information on the presentence investigation is given to the sentencing judge, who uses it to assist in making a decision on the sentence. If probation is granted, the information on the defendant will be given to another person who specializes in probation supervision. The information will be used to determine the special conditions of probation and the special needs for counseling and treatment. Thus, several justice functionaries are making decisions on the basis of the original information obtained in the first interview.

### ***Recording and Coding Information***

Referring back to the skill learning cycle, the manner in which the information obtained will be recorded depends on the purpose of the interview. If the purpose of the interview was to obtain basic information on the individual, it is likely that the majority of the interview involved closed-ended questions. If the information is being used for assessment of risks or classification, the format of the questions will consist predominately of closed-ended response categories, and the coding format for the answers can be established even before the interview is conducted. On the other hand, if the purpose of the interview is to serve as a source of information for selecting the appropriate type of counseling and treatment to be given to the person interviewed, the questions asked in the interview may pertain to both subjective and objective matters, and many of the responses may require long narratives from the interviewee. In coding the responses, the interviewer, who may be a trained psychologist, social worker, or counselor, will interpret the responses, summarize them, and place them into categories suggesting the types of counseling and treatment needed to address the causes of the person's deviant behavior.

## Types of Interviewing

The data collection instrument used for an interview should be designed to address the issues, attitude, opinions, and beliefs of the respondents on the specific problem or topic being considered. Questions are asked to obtain information. The type of information being sought depends on the purpose of the interview, who is being interviewed, and how the knowledge obtained from the interview/s will be applied. Information requested from the respondent can relate to behavior, such as what the person has done, such as being previously arrested, or what the individual is planning to do, such as going to college after graduation; opinions, such as whether the state should allow students to bring firearms on a university campus; feelings, emotions, and attitudes, such as “What were your feelings toward the person who robbed you at gunpoint and stole your purse?” and “Are you afraid that the USA will be targeted for another terrorist attack?”; or knowledge, such as “Who is the governor of the state in which you reside?.” The form of the questions asked can be either open-ended or closed-ended. For example, if a respondent is asked the question, “How old are you?,” the open-ended format is being used. On the other hand, if the respondent is asked to choose from one of several specific age categories, under 18, 18–35, 36–65, and 66 and older, this is a closed-ended format.

Most interview instruments will consist of a combination of open-ended and closed-ended questions. If the purpose of the interview is to obtain information on an individual for assessment or case work planning, the majority of the questions will probably be open-ended, since this form of questioning will allow the interviewer to obtain more in-depth responses, probe into areas the interviewee may want to avoid, and also provide an opportunity to study the body language of the respondent. However, if the interviewer is not skilled, there may be some drawbacks related to this form of questioning, such as there is difficulty in keeping the respondent focused on the subject, the interview may be very time consuming, much of the information provided may not be relevant to the problem, and often the responses to the questions may be difficult to interpret. If the interview schedule is predominately composed of closed-ended questions, as is generally the case when conducting surveys, the advantages are related to the interview being less time consuming, easier to code and analyze, and more reliable. However, there are some disadvantages to using closed-ended questions. For questions relating to feelings, attitudes, and behavior, the respondents do not have a chance to express their knowledge, feelings, opinions, and behavior in depth. Also, there is little opportunity to introduce new topics not covered in the interview schedule. Most interview schedules will utilize both open-ended and closed-ended questions, with the purpose for completing the interview being the primary factor determining which form of question will predominate.

## *Cognitive Interviewing*

Hess (1997, p. 19) suggests that the *cognitive interview*, in which specific memory-enhancing techniques are used in an attempt to enhance the memory of events, experiences, thoughts, and feelings of the person being interviewed, may be effective when trying to obtain more in-depth information on a matter. Specific memory-enhancing techniques used in the cognitive interview include:

- Restating the context of the event
- Recalling the event in a different sequence
- Looking at the event from a different perspective

If the purpose of the interview is to obtain information that will be useful for counseling the interviewee at a later date, then the cognitive interview format may be quite helpful, since the counselor may obtain information that the client was confused, could not recall, or was hesitant to disclose information.

Hess (1997, p. 20) states that restating the context simply means that the interviewer should try to establish a particular mood, so that the person being interviewed, victim, witness, or client, will mentally relive the events that occurred before, during, and after the event and be able to provide the information to the interviewer.

In *cognitive interviewing*, the interviewee is often asked to provide the information sought in a different time sequence. Instead of asking the person to start at the beginning and provide information on everything considered important until the time is reached when the critical event (victimized, committed a crime, had a mental breakdown) occurred, the interviewer might start at the end point and ask the person to go back in memory to the starting point. The interviewer must keep the person on track, occasionally probe, or ask for clarification.

In *cognitive interviewing*, the interviewer will try to get the client, victim, or offender to look at the situation from a different perspective than the original perspective provided. Hess (1997, p. 22) states, "By prompting a witness to physically change the positioning in his or her memory, the interviewer gives him or her the opportunity to recall more of his or her experience. Interviewers can change the witness' perspective by asking him or her to consider the view of another witness, victim, or an invisible eye on the wall."

Hess (1997, p. 23) concludes, "The cognitive interview often helps interviewers to avoid traps normally associated with routine interviewing, specifically, rushing the witness and interrupting his or her account. Witnesses must feel confident that they have the time to think, speak, reflect, and speak again without annoying impatient interviewers." In addition, Hess states, "Experience shows that the cognitive technique allows interviewers to continue discussing events without feeling or sounding redundant. This continued conversation often prompts additional recall."

## *Motivational Interviewing*

Motivational interviewing is similar to cognitive interviewing in the sense that some of the same techniques are used to obtain information. However, motivational interviewing has assisting the persons to bring about changes in their lives as a major goal. The International Institute for Restorative Practices (2016, pp. 1–2) states, “Motivational Interviewing (MI) is a collaborative dialogue process that supports people in identifying their goals and achieving positive changes in their lives. Practitioners in a wide range of settings—including juvenile justice, drug and alcohol recovery, health care, education and the workplace—are employing MI to help people discover for themselves what stops them from making progress, so they can move forward.”

## *Counseling Interviewing*

The counselor who is interviewing a client for the purpose of obtaining information needed to provide appropriate counseling can use a variety of methods and techniques to achieve this goal. The counseling interview in corrections is used to obtain information that will be useful in developing a case management plan for the offender and for use in the actual counseling of the client. Depending on the personal characteristics of the client, the environmental setting, the type of information needed, and the changes in the client desired, the specific approach to the interview may differ. For example, in interviewing a defendant who has been found guilty of sexually molesting a child, the offender may be very reluctant to admit any fault and try to place the blame on the victim. In such situations, a direct, matter of fact approach in the questioning, in which the person does not have an opportunity to avoid the subject and the interviewer forces the person to report about the occasion or occasions in a straightforward, objective way, may result in the offender realizing that denial of responsibility for the act is not possible. A plan for treatment can then be developed. The interviewer might want to use a more nondirective approach with other clients, such as those who appear to be mentally disturbed or addicted to drugs or alcohol.

The National Center for Alcohol Education (1978, pp. 1–2) lists eight basic communication skills that are needed in the counseling of alcoholic clients. They are as follows:

- **Attending.** Demonstration of the counselor’s concern for and interest in the client by eye contact, body posture, and accurate verbal following
- **Paraphrasing.** A counselor statement that mirrors the client’s statement in exact or similar words
- **Reflection of feeling.** The essence of the client’s feeling, either stated or implied, as expressed by the counselor

- **Summarizing.** A brief review of the main points discussed in the session to insure continuity in a focused direction
- **Probing.** A counselor's response that directs the client's attention inward to help both parties examine the client's situation in greater depth
- **Counselor self-disclosure.** The counselor's sharing of his/her personal feelings, attitudes, opinions, and experiences for the benefit of the client
- **Interpreting.** Presenting the client with alternative ways of looking at his/her situation
- **Confrontation.** A counselor's statement or question intended to point out contradictions in the client's behavior and experiences for the benefit of the client

Mastering of these basic communication skills is also essential for those who are completing counseling interviews, regardless of the types of client being counseled.

## Hints on Structuring and Conducting Interviews

Typically, an interview should follow a four-stage process. These are as follows:

### *An Introduction Statement*

The reasons for completing the interview are given to the respondent with an appeal for cooperation and assistance. How much explanation is needed for the respondent is dependent on the circumstances. If a convicted felon is being considered for probation and the judge ordered a presentence investigation, the felon is aware of the reasons for the interview and is likely to be quite cooperative. In contrast, when interviewing a victim of crime, the prosecutor or victim services advocate is likely to devote considerable time to an explanation of the purpose of the interview and the importance of the information provided.

### *Demographic (Personal) Questions*

These are questions relating to age, gender, education, employment, and occupation. This information may not always be needed and in many cases can be obtained from other sources, such as public records.



## ***Body***

These questions pertain to information relating to the subject matter. They will focus on eliciting information on the behavior, opinions, feelings, and knowledge of the person being interviewed.

## ***Closing Statement***

This portion includes asking the respondent if there is any other information that he/she would like to add, a thank you for being cooperative, and a statement on the possibility of further contact.

The actual interview should flow as close to a conversation as possible. Even though the interviewer may dominate the flow of questioning in interviews relating to the criminal justice system, the interviewer can assist in the questioning process by providing some information on the purpose for asking specific questions, by being sensitive to the respondent's feeling when asking potentially embarrassing questions, using transition statements when moving from one topic to another, avoiding leading questions, and using open-ended questions when appropriate.

## **Methods for Completing Interviews**

When interviewing large numbers of respondents, the typical door-to-door method of completing face-to-face interviews is becoming obsolete. This is true for several reasons, including the expense of hiring trained interviewers, the amount of time needed to complete the surveys, and the high refusal rate. However, there are many advantages to conducting face-to-face interviews, including having a higher response rate, having an opportunity to probe if not satisfied with the response to a question, having the chance to clarify questions if it is apparent the respondent did not understand the question, having the opportunity to observe the body movements of the respondent, and having the opportunity to develop more personal interaction with the respondent. There are some situations that demand face-to-face interaction, such as in specialized interviewing in which the subject matter is very technical or in cases in which the topic is very sensitive. For example, a victim of rape is not likely to be very responsive if asked to respond to a telephone or electronic interview. Even in face-to-face interviews, if the interviewer appears to be more concerned with inserting the information into a computer than with listening and understanding the response, the respondent may quickly become dissatisfied with the process.

Although it is becoming more difficult to complete face-to-face interviews for large numbers as a result of the factors mentioned above, it is still possible, if the

interviewers have an opportunity to have the potential responders together in one location and have a major block of time to complete interviews. For example, the author was given permission to interview older inmates at several state and federal correctional facilities. The older inmates were interviewed in an area of the prison in which they had privacy. Engaging in the interview was voluntary, and the inmates did not receive any special reward for participating, with the exception of having a few hours away from their normal routine in the prison. The questions pertained to their adjustment in the correctional facility and some of the major problems they were experiencing.

While face-to-face interviews may be preferred, other methods for obtaining information can be used for the majority of cases involving criminal justice participants and personnel. There are some situations in which an electronic interview (with the interviewee receiving a questionnaire via computer) may be quite suitable and in fact preferable to a face-to-face interview. For example, an electronic interview of an administrator of a correctional facility, a court judge, a professional practitioner, or the public prosecutor may be the only way the person can find time to respond to the questions. In addition, having an opportunity to think about the questions and to structure a response is a definite benefit. Having an opportunity to review a transcript of the interview and correct any errors or misinterpretations of information made by the interviewer is also a positive motivation to cooperate for administrators and officials who may be sensitive to the impressions they make on the public.

## **Interview Schedules**

Interview schedules are designed for a variety of purposes. When seeking to obtain in-depth information from a particular individual, such as a convicted felon who appears to have mental health problems, the case study approach would be utilized. This would require the use of a number of open-ended questions as well as structured, closed-ended questions. One might also be interested in knowing how a work group operates, and this would require not only asking questions about the individuals in the group but also questions about the interactions of the members in the group. Interviews may also be structured to obtain information about the opinions, feelings, and behavior of a larger population. In this case, a representative sample of the larger population will be selected, and the interview instrument will generally be composed largely of closed-ended questions. If the interview schedule consists mostly of closed-ended questions, the responses can be easily placed into the appropriate category, and the total number responding to each category can be readily tabulated, allowing for a less time-consuming analysis of the information.

A discussion with Crista Cross, a forensic interviewer who serves as a member of a team that interviews and provides counseling with sexually abused children, reveals the process the team uses to elicit information from these children.

When asked how the preparation for the interview with the child is completed, Crista responded: “A report comes through the Child Services Hotline and is assigned to an intake social worker or detective of the jurisdiction in which the alleged abuse occurred. Contact is made with the caretaker of the alleged victim, and the interview is scheduled for the child to come into my office” (Kratcoski, 2016, p. 252). There is a pre-interview with the child’s caretaker before the interview of the alleged victim is completed. “The victim’s caretaker and members of the Child’s Network multi-disciplinary team discuss exactly what will happen during the interview of the child and answer any questions the caretaker may have. The interviewer informs the caretaker that the interview will be videotaped, but the child will not be aware that it is being taped. Before, proceeding with the interview of the child, the family advocate takes the caretaker into her office and explains the entire process to him or her, while I go and get the child for the interview. Usually with small children I stop along the way and talk about all the jungle animals I have in my hallway, because it breaks the ice and gets them talking about regular things and I am able to observe their body language, eye contact, and just overall presence. I then take the child into the room, and as I walk in there is a switch on the outside wall that I flip and that starts the video-taping. During the interview, I ask general questions about everything to do with the child’s life--family, friends, school, sports, hobbies--and then get into more sensitive issues such as fears, worries, secrets, and safe and unsafe touches” (Kratcoski, 2016, p. 252). Crista notes that she always tells the child being interviewed that he/she only needs to tell the truth and that they will not get into any trouble for telling the truth. If the information from the interview reveals that the child may be in need of a medical examination, the caretakers are informed, and a nurse assigned to the multidisciplinary team completes an examination.

The child forensic interviewer does not conduct any counseling of the child beyond that which may occur during an interview. For example, a child may become hysterical and would be in need of crisis intervention counseling. However, typically, the case is turned over to a case worker or psychologist depending on the needs of the child.

## Summary

The interview is the basic tool used for those who provide counseling and treatment in corrections. There are several purposes for interviewing persons who are processed through the criminal justice system, and those conducting the interviews do not all have to have the same level of skill and proficiency. All interviewers must have enough proficiency in communication and interpersonal skills to be effective listeners, to be able to clarify information, to probe for a more in-depth answer, to recognize when the interviewee is lying, to be able to establish some rapport, and to be able to summarize material if a summary is needed. Interviewers who are merely seeking information about the client, such as those involved in the intake process,

do not have to have the same interviewing skills needed when completing counseling interviews. Those interviewers who counsel special problems clients such as substance abusers, sexual offenders, or those with mental health problems need special training in interviewing as well as in counseling.

## Discussion Questions

1. What are the advantages of conducting face-to-face interviews in corrections?
2. Assume you are interviewing a child who was sexually victimized. Discuss what procedures you would follow to assure that you obtain reliable and valid information as well as being able to protect the child from trauma as a result of recalling the experience.
3. Why is it so important to be a good listener when conducting interviews?
4. You are employed with the county adult probation department. Your job is to conduct interviews with the criminal offenders who are being considered for probation. You are responsible for completing the presentence investigation as well as the risk and needs assessment. Discuss when it would be appropriate to use open-ended questions and when closed-ended questions would be appropriate. When would you have to be directive (aggressive) in your questioning, and when would it be appropriate to be more nondirective (passive) in your questioning?
5. What are evidence-based approaches to correctional programs? Discuss why risk and needs assessments are considered evidence-based tools used in corrections.
6. Identify the four major parts of a structured interview. Assume you are interviewing an adult male who has been convicted of assaulting his wife during an argument. When would it be appropriate to vary the order in which the questions are asked during the interview?
7. Discuss the types of communication skills that are needed to be an effective interviewer. Is it necessary to have a certain type of personality to be effective at interviewing criminal offenders?
8. What are the differences between the informational interview and the counseling interview? What type of credentials would be required to be qualified to complete counseling interviews with drug abusers who are in a rehabilitation program?
9. If you are employed as a social worker/counselor in a low-security correctional facility that houses older inmates with multiple problems relating to physical health, mental health, and alcohol and drug abuse, when would it be appropriate to use persuasive interviewing? Assume one of the inmates on your caseload is depressed, is fearful of other inmates, and does not engage in recreational and

social activities. How would you conduct a persuasive interview to try to convince the person to become more involved?

10. What are the major methods that can be used to complete interviews? What are the reasons why the interviewer might use electronic interviewing? When would the use of a highly structured questionnaire be appropriate?

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# Chapter 11

## Behavior Modification Programs Used in Corrections

### Introduction

Brown et al. (1976, p. 2) state, “Behavior modification is a special form of behavior influence that involves primarily the application of principles derived from research in experimental psychology to alleviate human suffering and to enhance human functioning. Behavior modification emphasizes systematic monitoring and evaluation of the effectiveness of these applications.”

Although change in behavior is the focal point of any behavior modification program, there is a rational element that should not be overlooked. For example, most children learn from experience that there are certain behaviors that will result in positive rewards and others that result in punishment and should be avoided. Children who learn that if they smile and “act cute” when adults are around this will result in a positive reward such as being given a toy or being picked up and held will realize that if they act in the same manner the next time the occasion arises, they will receive the same type of reward. A child who receives a punishment for running out in the street, by way of a small spanking, will probably not run out into the street again, even though the child does not understand the reason for being spanked. However, both children and adults often let their emotions rather than their intellects influence their behavior. When this happens, their behavior often appears to be irrational and contrary to the use of “common sense.” Brown et al. (1976, p. 3) explain the difference between behavior modification principles and the use of common sense by stating, “Behavior modification, (unlike common sense) like other scientific approaches, imposes an organization on its subject matter. While common sense often includes contradictory advice (both out of sight, out of mind, and absence makes the heart grow fonder), the principles of behavior modification codify and organize common sense, showing under what conditions and in what circumstances which aspects of ‘common sense’ should be applied.” The authors go on and explain that mothers who use their common sense to reward and discipline their children for their behavior may not apply the positive rewards

and negative sanctions consistently (punishing the child for an act on one occasion and ignoring the act on another occasion).

The basic concept underlying behavior modification theory is *operant conditioning*. Cherry (2016, p. 1) defines operant conditioning in the following way, “Operant conditioning (sometimes referred to as instrumental conditioning) is a method of learning that occurs through rewards and punishment for behavior. Through operant conditioning, an association is made between a behavior and a consequence for that behavior.” The behavior modification concept follows the basic scientific principle of cause and effect. Through experience, a subject learns that a certain behavior will lead to either a positive or a negative result. Cherry (2016, p. 2) contends, “Operant conditioning relies on a fairly simple premise—actions that are followed by reinforcement will be strengthened and more likely to occur again in the future.” Conversely, actions that result in punishment or undesirable consequences will be weakened and less likely to occur again in the future.

Cherry (2016, pp. 5, 6) notes that “Skinner distinguished between two different types of behaviors: *respondent behaviors* and *operant behaviors*. Respondent behaviors are those that occur automatically and reflexively. You don’t have to learn these behaviors, they simply occur automatically and involuntarily. Operant behaviors, on the other hand, are those under our conscious control. Some may occur spontaneously and others purposely, but it is the consequences of these actions that then influence whether or not they occur again in the future.”

An example to illustrate this can be taken from a fight situation. Any person who is caught up in an unanticipated physical fight will automatically use reflexive actions (respondent behavior) to try to ward off blows by an opponent, regardless of whether the person had any training or prior experience in fighting. However, a professional boxer will have been trained (operant behavior) in developing the best ways to protect himself/herself and will continue to use these methods as long as they bring about the outcome desired. The behavior is strengthened every time the methods used bring about the reward. Of course, situations change, opponents develop new methods of attack, and the boxer must develop new methods of defense.

## **Implementation of Behavior Modification Programming**

Behavior modification had its beginnings in laboratory experiments with animals that were later expanded to include work with severely disturbed persons and autistic children (See Lindsley & Skinner, 1954). The field of behavior modification gradually extended to new populations. Brown et al. (1976, pp. 8–9) described how application of the concept expanded to include “delinquents in halfway houses, the mentally handicapped, preschool and deaf children, and drug abusers.” They added, “Researchers are attempting to develop better behavioral techniques for dealing with asthma, insomnia, and hypertension, as well as evaluating new child rearing

techniques and classroom management methods. Behavioral treatment for problems of alcoholism, drug addiction, and juvenile delinquency are being studied.”

Kratcoski and Kratcoski (1990, p. 352) state, “Behavior modification may involve the use of positive reinforcements or aversion stimuli. In positive reinforcement, a subject is given some type of reward each time a desired behavior takes place. In an institutional setting, this might involve a point system, which increases privileges given for a certain number of points, for school truants, a certain amount of money may be given for each day of prompt attendance at school each week. The reward (reinforcement) given is selected to appeal to the age and needs of the person whose behavior is being modified. In the use of some aversion stimuli, some unpleasant occurrence is associated with improper behavior. In an institutional setting, it could take the form of a short period of isolation, denial of smoking privileges, or restriction of privileges such as television viewing or sports participation.”

A number of behavior modification programs for delinquent youths, both community based and institutional based, were implemented in the 1960s and 1970s. Some of these programs were discarded after evaluations found that the high expectations of the programs in terms of huge reductions in the recidivism of the youths who completed the programs did not materialize. Others, with some modifications, are still in operation. Specialized counseling and treatment is provided for those youths who need such counseling, and it is integrated into the general activities of the behavior modification program.

The former Robert F. Kennedy Federal Correctional Facility located at Morgantown, West Virginia, provides an example of an institution for juvenile offenders in which the program was essentially based on behavior modification principles. The residents were assigned to different cottages based on an assessment of their prior behavior. The cottage security and treatment staff (unit management) were selected for each cottage on the basis of how their training and experience corresponded to the type of supervision and treatment that research showed was likely to produce the type of behavior desired.

A form of token economy based on points earned for positive behavior was put into effect in each cottage. Residents could earn points for such behavior as keeping living space clean, attending all meals and other functions on time, having a positive attitude during attendance at academic and vocational school, and obeying the rules and regulations. Those who earned a certain number of tokens (points) could use the tokens to buy commissary goods, attend special entertainment events, and even secure a better housing unit. (Some of the housing units were dormitory style and others separate rooms.) Perhaps the ultimate reward, with the exception of being released, was a transfer to the honor cottage.

After the Federal Bureau of Prisons made a policy change regarding the supervision of juveniles convicted of federal offenses, the name of the facility was changed to Federal Correctional Facility at Morgantown. The facility now houses low-security adult offenders. The unit management organization still is in operation, but the formalized behavior modification program has been discontinued.



Kratcoski and Kratcoski (2004, p. 377) state, "Another method of group treatment that has aroused considerable public interest was the creation of boot camps designed to imitate the physical and emotional challenging programs the armed forces use for their new recruits." Hengesh (1991) describes the boot camps programs as consisting of a "no nonsense" tough discipline routine with highly structured activities (physical, educational, and recreational) and strict adherence to rules and regulations expected. Youth were committed to boot camps in lieu of being placed in a state-operated juvenile correctional facility. The length of commitment was generally 60–90 days, similar to that of military boot camps. The camp director and staff wore military-type uniforms and even had military ranks to identify their authority positions in the organization. Interaction between the residents and staff was formal, with a mandatory "Sir" being used when addressing male staff and "Miss, Ms., or Mrs." when addressing female staff. Most boot camps were located in the communities in which the youths committed to the camps resided, and visitation from parents and others who qualified during scheduled visiting hours was encouraged.

The goals of "boot camps" were to assist in facilitating positive behavior changes in those delinquent youths sent to the camps. The behavior of the youths was closely monitored, and positive behavior, that is, behavior in conformity with the expectations of the staff, was rewarded with extra privileges, and nonconforming behavior was punished, generally through withdrawal of privileges.

Follow-up research on the effectiveness of boot camps for youths revealed mixed findings (Hengesh, 1991, p. 108). Positive changes cited are the development of positive self-images and self-esteem, learning to adjust to a highly structured environment, developing self-discipline, physical development of the body, learning to work with a group, and, for some, identification with the staff, who they perceived as being "tough, but fair and sincerely interested in their welfare." In addition to having fairly high recidivism rates, negatives of the boot camps were that the behavioral changes that were recorded while in the program did not continue once the youth returned to their community environment and began to associate again with the old peer group. Usually there was no court-ordered supervision of the youths once they were returned back into the community. Hengesh (1991) concluded that, although the initial boot camp experience generally resulted in positive changes in the youths' behavior, there was a need for an intensive period of supervision in the community after release from the program. A study by Burton, Marquart, Cuvelier, Malarid, and Hunter (1993) confirmed that boot camp participants' attitudes, perceptions of future opportunities, and views of their own abilities changed during their time in the boot camp, and, if a structured supervision and treatment program is provided once they are released, these changes may persist.

The majority of boot camp programs that were in operation during the 1990s were eventually discontinued as a result of funding cuts. Many of the programs were funded through federal or state grants, and once this funding was discontinued, the local governments did not have the financial resources to continue with the operation of the programs. Another factor that may have contributed to the

demise of boot camps is the movement of state governments toward funding community correctional facilities for juvenile delinquents. The programs implemented in these facilities tended to center on providing treatment for youth with special needs, rather than the more generalized programs boot camps offered.

## Behavioral Contracting

Rutherford (1975, p. 28) states, "Behavioral contracting involves the systematic negotiation between mediator (parent, teacher, probation officer, social worker, unit counselor, or supervisor) and a target (delinquent, adolescent) of the behaviors to be performed within a given environment and the specific reinforcing consequences or 'payoffs' to be provided when performance requirements are met." Alexander (2000, p. 78) states, "Behavioral contracting is a signed agreement between the clinician and client specifying the desired behavior and the re-enforcers to be given for the desired behavior. An advantage of contracting is the necessity of being concrete and specific. Also the contract may be revised to create a new understanding of the behavior to be achieved."

If the juvenile and criminal justice processes in responding to alleged and convicted offenders are closely examined, it is apparent that there is some form of behavioral contracting between a justice official and the juvenile or adult offender at every step of the process. For example, if a youth is diverted from the juvenile justice system and placed in a diversion program, there will be provisions established pertaining to the youth's behavior that must be maintained. Before being placed in the diversion program, the youth or caretaker will be informed that the acceptance of the placement in the diversion program is optional and that the youth can choose to opt for formal justice processing.

An adult offender arrested and held in jail until bail can be arranged must enter into a contract by agreeing to show up for court and trial at the appropriate scheduled times. Likewise, a convicted offender who is placed on probation must agree to adhere to a set of general and special rules relating to behavior. The convicted offender who is sentenced to prison is given a list of rules that must be adhered to during the incarceration period as well as the possible consequences if the rules are not followed. All of the behavioral contracts, regardless of the type of offender and situation under which the behavioral contract was established, require behavior change of the type specified on the part of the person under the justice system's authority. The behavioral contracts (also referred to as contingency contracting) also specify the negative sanctions (either explicitly listed or implied) that will likely result if the behavior does not change in the manner established or regresses toward unacceptable behavior. For example, negative sanctions for a diverted offender would be to have the offender officially processed through the courts; for an offender with a suspended sentence, it would involve having the prison sentence activated, while an imprisoned inmate could lose privileges, be reassigned to a more secure section of the prison, or even transferred to a more secure facility.

Positive reinforcements (rewards) can be immediate or long range. A juvenile under juvenile court supervision in the community may earn the immediate reward of being able to stay out 1 h later than initially contracted in the probation rules, a resident of a community residential facility may earn an intermediate reward of being allowed a home visit, and an inmate may be given the extra privilege of going to the library unescorted, or being given a more favorable work assignment. In all of the cases mentioned above, the intermediate rewards serve as reinforcers for obtaining the long-range goal, which in all cases is to be released from the authority of the justice system.

## Behavior Modification as a Treatment Modality

Behavior modification programs have been used in corrections as a method of treatment as well as a control mechanism. Generally, behavior modification is used in conjunction with some other treatment modality when applied to juvenile or adult offenders.

The underlying theoretical basis for any behavior modification , treatment is the application of *operant conditioning*. Aumilier (2016, p. 1) states, “Operant conditioning relies on something called the *Law of Effect* which states that a response will increase if followed by a positive consequence and decrease if followed by a negative consequence.” He continues, “There are two main ‘consequences’ out there; reinforcement, which is consequences that increase the rate with which you will respond the desired way, and punishments, which are consequences that decrease the rate of responding. Both of these include positive (add a stimulus) and negative (remove a stimulus) options, so we really have four possibilities: positive -reinforcement, negative reinforcement, positive punishment, and negative punishment.”

Aumilier (2016, p. 2), in referring to schedules of reinforcement, states:

There are two main schedules of reinforcement. The first one is *continuous reinforcement*, when you reward someone every time they do the desired activity. The other schedule of reinforcement is *intermittent reinforcement*. There are four further schedules of intermittent reinforcement.

*Fixed-ratio* is when the number of responses needed to receive reinforcement stays the same. This could mean rewarding [police officers] every time they write ten tickets or catch five DWI’s, *Fixed-interval* is when the time to receive reinforcement stays the same after a fixed period . . . *Variable-ratio* is when the number of responses needed to receive reinforcement changes, but will average out overall . . . The last schedule of reinforcement is *variable-interval*. This is when the time to receive reinforcement changes, but will average out in the end.

Behavior modifications principles are used in some way in every facet of the criminal justice process. Beginning with the initial assessment of offenders brought under the jurisdiction of a justice agency, scientifically derived evidence-based instruments are used to determine how much stimulation the offender needs

(supervision and direction by a justice official) to produce the changes desired. Those convicted offenders placed under community-based supervision are placed into low-, medium-, and high-risk categories, and the appropriate amount of supervision contacts (number of face-to-face interactions, frequency of administering drug screens, number of home visits) are established based on the risk of the offenders committing new offenses. The results of a companion instrument, the needs assessment, provide information on what forms of counseling and treatment the offender needs to bring about the change desired. Correctional personnel who use these assessment instruments for assistance and guidance in developing case management plans for those offenders under their supervision may not be thinking in terms of behavior modification principles such as positive and negative reinforcements and other concepts used in explaining how behavior modification techniques are used, but they nevertheless understand the basis of the supervision models and the reasons for differentiating the offenders supervised on the basis of their risks and needs and in providing variable positive and negative reinforcements to those they supervise.

The more experienced correctional workers also realize that every offender in some ways is very similar to other offenders, but in many other ways is quite different. The assessment instrument may predict with a high probability those who are likely to succeed in terms of changing their behavior in the manner desired and those who have a greater chance of failing, but some of the individual factors that may have an effect on the individual's behavior, such as family support, personal values, desire to please others, and motivation to change, are much harder to measure and difficult to take into consideration when developing a case management plan.

**Box 11.1: Illustration of Behavior Modification Programming  
(Sid's Experience in the Drug Court)**

Sid, a 32-year-old janitor at a high school, was arrested by the police as he was loading school office equipment into his pickup truck. He also was in the possession of marijuana and drug paraphernalia. Sid was transported to the county jail. The following day he was released on his own recognizance. The school administrator, on being notified of his arrest, immediately suspended him from his position, pending a further investigation. Sid's case was sent to the county prosecutor's office to determine if he would be eligible for the drug court. The court's pretrial department reviewed Sid's past history, focusing on the factors that would make him eligible for drug court consideration and the factors that could eliminate him from drug court participation. Factors that were considered in the decision to refer the case to the prosecutor's office with a recommendation for acceptance into the drug court were:

- The offenses were lower-level felonies.
- The prior criminal history revealed only one offense of disorderly conduct.

(continued)

**Box 11.1** (continued)

- The offenses did not require a mandatory jail or prison sentence, if he were convicted.
- The offenses were drug or alcohol related. (The prior disorderly conduct charge was the result of public intoxication, and the school principal indicated that Sid was reprimanded on two separate occasions for using alcohol while at work.)
- Sid would most likely benefit by participating in the drug treatment program.

Sid had already received some information about the drug court from his attorney when he appeared before the court to make a plea. The judge informed him of his rights and the options available. He informed the court that he would plead guilty to the charges and opted for the drug court program. After reviewing the conditions pertaining to his participating in the drug court program, he signed a document (contingency contract) that spelled out his commitments and the reward for successful completion of the program (positive reinforcement). He was informed that a successful completion of the program, with no additional criminal charges, would result in the charges being dropped and his not having a criminal record.

Since Sid was now unemployed, he was required to attend the day treatment program under the auspices of the court. Several specific requirements were completion of 150 h of community service (restorative justice), participation in a group drug treatment therapy program, submission to periodic drug screening tests, meeting with a probation officer, and attending the regularly scheduled drug court sessions. His performance would be closely monitored by the day treatment staff and by his probation officer.

Sid's commitment to the drug court program was for 1 year. However, the length of time could be shortened or extended, depending on his performance in the program. Also, Sid understood that he could be terminated from the program for cause (commitment of a new offense or failure to adhere to the conditions of the contract).

At the drug court sessions held weekly, all of the drug court participants who were required to attend would have their cases reviewed before the judge. Their supervising probation officers would state the positive and negative behavior for each participant. Those who received negative reports were punished. They could have privileges taken away and in more severe cases ordered to jail for several days (negative reinforcements). Reasons for receiving negative reinforcements included not showing up at the day treatment center, not completing their community service, and relapsing into drug or alcohol use. At the end of each session, the judge would provide some sort of food for the participants (continuous reinforcement).

(continued)

**Box 11.1** (continued)

Sid's progress during the first few months of participating in the drug court program was extraordinary. Each time he appeared before the judge in a drug court session, the probation officer gave a glowing report, and the judge praised him for his progress (continuous reinforcement). He had completed his community service obligation, and the school administrator had promised to consider taking him back at his old job as janitor. After 2 months, Sid's obligation to attend the drug court session every week was changed to every 2 weeks (intermittent reinforcement). The judge informed him that, if he completed the drug abuse counseling and continued to receive positive evaluations from his probation officer, the court appearance requirement would be dropped to once a month (shaping—a continuous reinforcement toward a desired goal).

After 5 months in the program, Sid's performance continued to be above satisfactory, and the drug court judge lowered Sid's mandatory appearance to once a month. However, shortly after this he tested positive when he was given an unscheduled drug screening. The probation officer reported this to the drug court judge, and Sid was ordered to appear at the next scheduled court session. He did not appear, and the judge issued a warrant for his arrest. He was arrested and placed in jail (negative reinforcement).

Sid was brought before the drug court judge and was given the opportunity to explain his behavior, particularly his reasons for relapsing. After Sid stated that several family-related matters had created a great deal of anxiety, the judge decided to have him continue in the drug court program, but changed the conditions of the contract by increasing by 2 months the time before completion and requiring Sid to attend the drug court sessions every week (negative reinforcement).

Sid did not have any more relapses during the following months. He seemed to benefit by participating in the drug treatment sessions that were grounded in rational behavioral theory. He eventually had the privileges he lost reinstated, and the judge shortened the time period required of Sid to complete the program by 2 months (intermittent reinforcement).

After graduation (during the graduation ceremony, the judge gave him special praise for his motivation to succeed in the program, despite a few setbacks—positive reinforcement), the criminal charges were dropped, and Sid now did not have a criminal record for the offenses. He did not get his old job back, but was successful in obtaining employment as a janitor with a local business establishment. When asked to comment on the drug court program, he indicated that the positive interaction with the judge, probation officer, and day treatment personnel and their willingness not to give up on him were the primary reasons why he succeeded.

## Behavior Modification for Special Treatment

Kratcoski (2012, p. 429), in reference to treating juvenile delinquents, states, “The treatment modalities used in juvenile corrections generally center on cognitive and behavior therapies. Many of the programs used in residential treatment centers combine the two modalities.” In the development of a case management plan, the counselor (supervisor, probation officer) will enter into a contract that specifies the type of changes required on the part of the juvenile and which holds the juvenile responsible for adhering to the provisions laid out in the plan. As with most contracts, there are provisions for making modifications if for some reason it is not possible for the youth to meet the requirements specified in the original provisions.

Similar treatment modalities apply to adults under supervision of a justice agency. In the Cliff Skeen Community Based Correctional Facility, a secure facility that houses female offenders who have been convicted of drug-related offenses, behavior modification programming is intermixed with special treatment for substance abusers.

### **Box 11.2: Cliff Skeen Community Based Correctional Facility**

The Cliff Skeen Correctional Facility is one of the several residential facilities operated by Oriana House, Inc., a nonprofit organization headquartered in Akron, Ohio, that provides community-based services for adult offenders. It houses 86 women who have been referred to the facility by judges from Summit County and several surrounding counties. Some of the women have been sentenced after being convicted in the regular Court of Common Pleas, others processed in a drug court, and others in a specialized family court. Before entering the program, the women were assessed for risks and need with the Ohio Risk Assessment System (ORAS) used as the assessment tool.

On entering the facility, the women are assigned to different housing areas based on the scores received on the ORAS. Those who scored in a high-risk category are housed in a separate area of the facility. This housing area holds 20 women who live in four housing units. The residents are eligible for 180 days of residency. However, a resident can complete the program in less than 180 days. Residents who have not completed the program in 180 days for reasons related to lack of motivation to complete the required programming, failure to comply with the rules, or other reasons will be taken into custody and placed in the county jail.

The risk levels also determine the types and amount of programming they will be required to complete before becoming eligible for release. Those who scored in the low-risk category will need 1–100 dosage h, low/moderate and moderate category will need 100–200 dosage h, moderate category will need 200–300 dosage h, and the high-risk category will need 200–300 dosage h.

(continued)

**Box 11.2** (continued)

In addition to the risk assessment, each resident is given a chemical dependency assessment, an employment assessment, an educational needs assessment, a mental health assessment, a medical assessment, and a behavior assessment. These assessments are used in developing an individualized case management plan for the resident.

Every woman housed in the facility is assigned a caseworker. During the first meeting, the resident is provided with a list of programs offered at the facility. The resident may be required to participate in several of the programs and has the option of participating in others that are not required. Generally, the more hours of dosage required the more treatment programs will be required. A plan for specified program achievements during the week is developed and agreed upon by the resident.

The caseworker meets with the resident either weekly or biweekly to review the resident's activities from the previous meeting, progress made in mandatory programs assigned, changes in programming, rewards reports, and disciplinary measures levied against the resident.

**Treatment Programs.** Treatment programs offered are geared toward developing skills related to changing behavior, such as Anger Management, Planned Parenting, and Motivation for Success; toward changing attitudes and values, such as Character Building, Reflections, and Healthy Outlets; and toward physical and mental development, such as Nutrition, Recreational Activities, and HIV/AIDS information, and other treatment programs focus on the development of cognitive skills, such as Thinking for a Change and Thinking Errors. Some of the programs are conducted by the professional staff having the expertise and certification to conduct the treatment sessions. Other more specialized treatment problems, such as those that may require some expertise in treating the mentally ill or in specialized drug treatment, are provided by professional therapists who are employed by other agencies, but come into the facility to conduct either individual or group counseling. The goal of all of the treatment programs is to have the clients be able to discuss the changes in their lives that have occurred as a result of having participated in the program.

**Phase Progression.** The program at the Cliff Skeen Facility consists of three phases. During phase I, the orientation phase, the women are confined to the facility for a minimum of 30 days. They are required to attend the programming that was determined for them from the needs assessments that were administered when they first entered the facility. They also have to participate in facility upkeep and comply with the rules of the facility. Women who have completed all of the requirements of phase I can apply for admittance into phase II. However, the movement is not automatic, and a

(continued)



**Box 11.2** (continued)

woman can be held back for such reasons as failure to obey the rules, failure to complete required programming, and other reasons Cliff Skeen Behavior Modification program: Phase I such as trying to escape.

Phase II is referred to as the treatment phase. In Phase II, the women are given more privileges as well as more freedom. They are allowed to leave the facility for structured community service and educational/vocational training, to search for employment, and other matters. After the residents have completed more than 50% of their core programming, they can advance to Phase III. This level provides additional rewards such as being eligible to earn social pass time outside of the facility on a biweekly basis. However, the movement to Phase III is not automatic, and to be eligible to receive these extra rewards, the women must demonstrate appropriate behavior and have completed their weekly program objectives.

**Transitional Services.** Some residents will be required to participate in transitional services upon release from the facility. These are nonresidential components of the program, and the services required may consist of continued case programming, mandatory urine screens, reporting to a probation officer, and participation in other activities related to treatment.

(The information in Box 11.2 was abstracted from the Cliff Skeen Community Based Correctional Facility New Client Orientation Manual, Most recent revision 6/17/2015).

## Application of Operant Conditioning in Probation/Aftercare Supervision

The underlying principles of probation supervision are grounded in operant conditioning. However, department policies as well as individual officers may emphasize the positive reinforcements (rewards) over the negative reinforcements (punishments) in the completion of the tasks related to the supervision of probationers.

Research completed by Wodahl, Garland, Culhane, and McCarty (2011) with criminal offenders under intensive supervision revealed the likelihood of the offenders successfully completing the program increased as the ratio of rewards given to punishments given widened. Carter and Sankovitz (2014) contend that the model of case management supervision developed by the National Institute of Corrections and the Center for Effective Public Policy, in which face-to-face contact between the client and the supervisor in case management is highly recommended, can have a positive impact on the outcomes of the supervision.

Roberson et al. (2015, p. 4) reported that, even though research would indicate that an emphasis on positive reinforcements in the supervision of clients is likely to lead to more positive results than an emphasis on the negative reinforcements (sanctions), the typical community corrections officer does not know how to respond to non-compliance to probation rules except through use of negative

sanctions. Roberson et al. (2015, p. 4) stated, “Community corrections officers still face a knowledge gap in the attempt to use operant conditioning to supervise clients. Specifically, with a few exceptions, the literature lacks an understanding of the way the offenders perceive commonly used community supervision responses. The offenders’ thoughts and perceptions are important when we apply incentives and sanctions because they help us better understand the kinds and magnitude necessary to extinguish undesirable behaviors and encourage replication of more desirable replacement behaviors, and the clients’ likely reaction. That is, what one person might consider a strong reinforcement another might consider a weak reinforcement or even a punishment.” Roberson et al. (2015, p. 10) completed a survey of clients under community supervision and asked the subjects to respond to each item of a total of 45 actions used by community-based supervisors in their management of their clients in terms of their “like” or “dislike” of the item. The action items could conceptually be categorized as reinforcements (verbal praise, supervision fees removed, letter of recognition from judge) or punishments (jail time, removal of driving privileges, verbal reprimand, increased curfew hours, and referral for service for inpatient treatment or counseling). The researchers concluded that for many of the items the clients did not make huge distinctions in their like or dislike of the actions probation officers used in the supervision and treatment of the clients. In addition, the clients, with the exception of several of the most severe punishments such as going to jail or prison, often did not distinguish between a reinforcement action, a neutral action, and a punishment.

Their recommendations, based on the finding of the research, include (Roberson et al., 2015, pp. 7–8):

- An actuarial risk/needs assessment tool should serve as the foundation for the development of an effective case management plan.
- In the development of case management plans, supervisors should be aware of what supervisory actions are punishments and what actions are reinforcements and what actions are essentially treatment.
- Community supervision officers must have a good understanding of what motivates the individual and give the offender the opportunity to participate (have some input) in the selection of the required actions and programs selected for the case management plan.
- Establishing good communications with the clients is essential. Even when giving punishments, the supervisor can try to understand the client’s perception of the action taken and try to explain why it is necessary in the achievement of the behavior changes required of the client.

## **Honest Opportunity Probation with Enforcement (HOPE)**

The Honest Opportunity Probation with Enforcement program referred to as the HOPE model was started in 2004. The program places emphasis on close monitoring of the probationers placed under the community supervision, frequent testing

for drug use, and immediate consistent sanctioning of those who violate the rules of probation. It is definitely a punishment-oriented model, and according to Zajac et al. (2015, p. 31), “The Hope model contrasts with the more traditional approaches to probation in which multiple violations of conditions and positive drug tests are tolerated.” Zajac et al. (2015, p. 34) state, “The underlying premise of HOPE is that it provides a framework within which probationers develop an understanding of the relationship between their behavior and official responses, learning that violations will be met with sanctions, even if the severity of the sanctions is low.” An essential feature of the HOPE program is providing the offenders under community supervision with information on the consequences (negative reinforcements) they can expect if they violate the conditions. The sentencing judge conducts a hearing and informs the probationers that their behavior will be closely monitored, that non-compliance of the conditions of probation will result in their arrest, and that they will be given a short sentence in jail. Each time there is a violation, the jail time will be lengthened, and new conditions of probation will be added. If the probationer commits multiple violations, probation will be revoked.

The HOPE program is not drastically different from many of the probation programs in operation throughout the United States, that is, sanctions will be given for violations of probation conditions, and if the violations are severe and frequent, the probation will be revoked. The major difference is that the probationer is provided with information about the type of sanction that will be given, the reason for the sanction, and the certainty that the sanction will be given.

Several concerns, if not criticisms of HOPE and other probation programs fashioned on HOPE features, are:

- The body of research on HOPE is not sufficient to accept the HOPE model as being more effective than other more traditional models (Duriez, Cullen, & Manchak, 2014).
- The program is similar to police surveillance with not much emphasis on providing service or treatment to the clients, thus reverting back to the punishment era of corrections (Duriez et al., 2014).
- Not all districts will have the opportunity to use the jail as a sanctioning instrument, since many of the jails are always filled to capacity and there is no room for minor offenders.
- A different form of sanction, such as a community residential treatment center placement, would provide a more positive response for the frequent drug abuse offender.
- The major decisions are made by the court and probation staff, and the roles of others such as medical and psychology treatment providers are secondary in the case management of the persons being supervised (Zajac et al., 2015).
- Factors specifically related to local conditions, such as resources available, cooperation and coordination of justice agencies, and other factors have an effect on the extent the HOPE model can be implemented (Zajac et al., 2015).

## Behavior Modification Programming in a Community Treatment Correctional Facility

A study of youths housed in residential placement completed by Sedlak and McPherson (2010) revealed that the community-based secure facilities and open facilities that are essentially oriented toward providing treatment for the youths housed in the facilities will utilize several different treatment models in their treatment programs. Sedlak and McPherson (2010, p. 3) state, “Generally, the treatment programs utilized in these facilities were specialized and required the use of a professional staff with specialized training.” The treatment programs generally were directed toward providing counseling and other forms of therapy to sex offenders, substance abusers, and violent offenders. Kratcoski (2012, p. 452) observed that those youths housed in treatment facilities being provided with individual and group counseling, depending on their problems and needs, are all expected to adhere to the rules and policies of the institution at which they are housed. A management/treatment model is typically used to obtain compliance with the rules and to motivate the youths toward positive change. Such plans are generally grounded in operant behavior modification.

### Box 11.3: Multicounty Community Corrections Facility

The Multicounty Community Corrections Center, located in Canton, Ohio, is one of several facilities of the Multicounty Juvenile Attention System. It is administered by a board of trustees consisting of the juvenile court judges of the six counties included in the system, several government officials, and selected citizens of the six counties.

The youths housed in the facility are selected on the basis of the seriousness of their current and/or past offenses. Their commitment to the Community Corrections Center is an alternative selected by the judges of the six counties to being committed to a state-operated juvenile correctional institution.

The daily routine for the youth begins at 6 a.m. and ends at either 10 or 11 p.m., depending on the youth’s level in the program. During a typical day, time is devoted to meals, attendance at school, individual and group counseling, recreation, and free time when in the housing unit. The routine does not vary much each day, with the exception of when an occasional volunteer group comes into the facility to offer religious services, mentoring in school subjects, or participation in quiet games. Attendance at these functions is optional. The number and types of privileges (positive reinforcements) received are dependent on the resident’s position in the level system.

All new residents start at Level I. This is the level with the least amount of extra privileges. The youth’s behavior is evaluated daily and based on the

(continued)

**Box 11.3** (continued)

positives (honor points) earned each day. The youth can earn points by adhering to the rules, being cooperative in school, in recreation, and in treatment programs, and in general showing that he is motivated to change. After a period of time and with positive evaluations, the youth is moved to Level II, which provides more privileges; Level III youth may be given passes to attend activities outside the facility, as well as short home visits. Eventually the youth will be placed in Level IV, unless there are setbacks. In these cases, such as in serious violations of the rules, causing a disturbance, stealing, fighting with another resident, or physically attacking a staff member, the youth will be sent back to a lower level or terminated from the facility.

Level IV residents have the most privileges. These include a 10 p.m. bedtime, extra free time, home visits, and special passes for out of residence entertainment and sporting events. Those residents on Level IV are preparing for release and reentry into their families and the community. Thus, the home visits are a vital part of the treatment program.

(Abstracted from Peter C. Kratcoski (2012) *Juvenile Justice Administration*, CRC Press, p. 469).

**Summary**

Behavior modification programming is used in juvenile and adult corrections as a management tool as well as a treatment modality. The use of behavior modification in correctional supervision can best be illustrated in community-based supervision of probationers and parolees, in juvenile and adult correctional facilities, and in community-based residential facilities. Programs based on behavior modification principles (operant conditioning) are given different titles and structured in various ways. Generally, the behavior modification treatment provided is combined with other forms of treatment such as those treatment modalities relating to cognitive behavioral therapy. Such therapies require that the person being treated think about the causes of his/her deviant behavior and why behavior changes are necessary if he/she is to function in the community.

The research on programs that emphasized behavior modification such as “boot camps” and institutional programs in which other forms of group or individual counseling were not provided reveals that the changes in behavior that occurred during the time the participants were in the program were not sustained after the participants were no longer under supervision, thus indicating that the behavior patterns were not ingrained.

## Discussion Questions

1. The behavior of humans has been divided into two types: respondent behaviors and operant behaviors. Discuss the differences in these types of behavior. What types of behaviors are being changed through the use of behavior modification programs?
2. What are the basic principles underlying behavior modification programming? Give an example of how a behavior modification approach could be used for a 14-year-old boy who is frequently tardy or truant from school.
3. The unit management organizational model used at the Robert F. Kennedy Federal Institution for delinquent boys used a classification system that placed the delinquents housed at the facility in different cottages based on their behavior patterns. A form of token economy was used in the facility. Why did the token economy serve as a behavior modification program? For what type of youth housed at the facility would the token economy be effective in motivating positive behavior changes? What types of youths would be more likely to respond to some other types of reinforcements?
4. Discuss the characteristics of “boot camps” designed to house delinquent youth. Discuss the reasons why the positive changes that the youth made in their behavior while at the camps did not carry over to their behavior in the community after they were released from the “boot camps.”
5. What is behavior contracting? Give an example of a type of behavior contract used in community corrections.
6. What are the four reinforcements mentioned by Aumiller presented in this chapter? When trying to produce behavior change with a group of criminal offenders who have been convicted of offenses related to their substance abuse, do you think positive reinforcements or negative reinforcements would be more likely to produce the behavior changes desired? When would it be appropriate to use a negative reinforcement for a substance abuser under drug court supervision? What types of negative reinforcements could be used?
7. Discuss the behavior modification program employed at the Cliff Skeen Community Correctional Facility for Women.
8. The Honest Opportunity Probation with Enforcement (HOPE) implemented in Hawaii has been adopted in several other states because the program has been considered to be highly effective in reducing the proportion of offenders in the program who commit new offenses after being released from the program. What are the major characteristics of the HOPE program? Why have some critics been skeptical of the HOPE approach?
9. Outline the behavior modification program used for delinquent youths housed at the Multicounty Community Corrections facility for delinquent boys located in Ohio. What are some of the positive reinforcements used in the program?
10. Assume you are the leader of a group behavior modification program for adult males who have been convicted of abusing their significant others (wives, girlfriends) and have been ordered by the court to complete the behavior

modification program as a condition of their probation. You have decided to use both material reinforcements and nonmaterial reinforcements when conducting the group counseling sessions. Give some examples of what types of material reinforcements and nonmaterial reinforcements you would use.

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# Chapter 12

## Group Counseling in Corrections

### Definitions of Group Counseling

Group counseling differs from individual counseling in a number of ways. Hatcher (1978, p. 152) defines group counseling in the following way:

Group counseling is a planned activity in which three or more people are present for the purpose of solving personal and social problems by applying the theories and methods of counseling in a group. It can be either structured or relatively unstructured in regard to purpose or leadership. It can be an intensive emotional experience or a superficial “bull session.” Its primary focus, ideally, is upon the presentation of personal and interpersonal reality in such a way that one has an opportunity to learn about self and others.

Berne (1966, p. 3) makes a distinction between *individual therapy* and *group therapy*, but also tries to define the parameters of a group involved in group therapy. He states:

Group treatment is thus distinguished on the one hand from individual therapy, in which a single patient is seen by the therapist at a private session, and on the other hand from large group meetings (from twenty to five hundred) of patients or clients. It is also distinguished from meetings of small groups which are held for purposes other than the alleviation of psychiatric disabilities.

However, he does acknowledge that group treatment can be used in the program of a therapeutic community.

Many of the offenders who are processed through the justice system are required to partake in some form of counseling and treatment and might participate in both individual counseling and some form of group treatment. The decision as to which form of treatment is likely to produce the best outcome is based on a number of factors, including the nature of the offense, the setting in which the supervision will be provided, the personal characteristics of the participants, and the range of treatment opportunities. For example, in some communities those offenders who are sentenced to community corrections may not have an opportunity to engage in group counseling because such programs are not available. In other communities,



the judge can mandate group counseling for offenders charged with substance abuse, sex offenses, domestic violence, or offenses that are related to anger management, knowing that the agencies providing the counseling will accept the people who were ordered by the court to participate in the counseling and treatment program. Group counseling programs for those who are sentenced to a secure institution are less difficult to structure and implement, since those who are to be counseled are all under one roof and thus accessible. However, group counseling programs still may not be implemented because of a lack of trained counselors, the belief that the programs would create an unnecessary security risk, or the fact that providing treatment in the institution is not a major goal of the administration.

## Origins of Group Counseling

Kratcoski (2004, p. 405) notes that “Group counseling and group treatment techniques evolved during World War II and the postwar years. A type of group therapy termed *guided group interaction* was developed by McCorkle and Wolf as a method of treating offenders who were members of the armed forces”. Following World War II, the technique was modified and adopted for civilian institutions.” In the 1950s, McCorkle and Bixby implemented a “*guided group therapy*” program at a halfway house for delinquent youths referred to as Highfields. The main thrust of the Highfields *guided group interaction* program was that the group members were expected to work together toward specific goals and give each other encouragement as they move toward achieving positive goals. A professional counselor helped the group members define and attempt to achieve the goals rather than dictating what goals were to be achieved and how they were to be achieved. According to McCorkle (1958) the key element of guided group interaction is the problem-solving activity that takes place in the group meetings.

Kratcoski (2004, pp. 405–406) maintains:

Group counseling was introduced into the correctional system in the late 1940s and 1950s for reasons of increased efficiency in handling prisoners rather than because treatment personnel had strong convictions that it would be more effective than individual counseling. Initially, group counseling had a strong educational or training emphasis and only incidentally included efforts to assist offenders in solving their emotional problems.

Gradually, group treatment that specifically focused on the emotional and psychological problems of the inmates was introduced into treatment programs in many correctional facilities.

Moreno (1957) developed a therapy referred to as “psychodrama.” This was a type of group counseling in which the subject acts out his or her problems. The other members of the group serve as character actors who represent the people in the subject’s life who had some bearing on the main actor’s life and problems. During the course of the treatment, each member of the group will have a chance to play the leading role.

Two other forms of group treatment emerged in the 1960s and were introduced into many treatment programs located in the community and in correctional institutions. These were *reality therapy*, developed by William Glasser in 1965, and *transactional analysis*, developed by Eric Berne (1961). Kratcoski (2004, p. 406) states:

Reality therapy involves having the correctional client gain an idea of what his or her immediate needs and behavior requirements are and accept responsibility for them. A group may be the ideal setting for a client to learn just how his or her behavior is perceived by others, realize that others care about what happens to him or her, and develop a plan for better behavior in the future.

Reality therapy gained support and was utilized in community corrections as well as institutional correctional programs for both adults and juvenile delinquents. A major positive aspect of reality therapy is that the leader does not have to be a trained psychologist or social worker, but only needs the training to understand how the process works. For example, probation officers can hold reality therapy sessions with a small group of probationers and group leaders can implement reality therapy in community treatment centers. Some form of reality therapy or a modification of the original process is still widely used at the current time. This is particularly true for juvenile corrections.

Transactional analysis was originated by Eric Berne (1961, p. 19), who believed that one's behavior is directed by either the *adult ego state*, characterized by rational, mature, responsible behavior, the *parent ego state*, characterized by being judgmental of the behavior of others, or the *child ego state*, which involves emotional, self-centered behavior. In transactional analysis therapy, the dialogues taking place in the group situation are constantly analyzed and categorized by the group and group leader as being representative of one of the ego states. The overriding focus of the group therapy sessions is for the participating members to learn to interact at the adult ego level.

As with reality therapy, transactional analysis was implemented in institutional and community settings, but it tended to be predominately used in secure juvenile correctional facilities and in community treatment centers. In order for the transactional analysis group to function well, the leader must fully understand the theory underlying the treatment and be able to correctly interpret the behavior of those participating in the group.

*Positive peer culture*, developed by Vorrath and Brendtro in 1974, is based on the guided group interaction principles but is much more structured. Kratcoski (2004, pp. 406–407) notes that “This approach, used with juveniles, involves interaction of small groups of youths (approximately nine) under the guidance of a group leader. The influence of groups is brought to bear in identifying problems, deciding how to solve them, developing interest in and concern for all members of the group, and promoting the feeling of having a stake in the success of others.”

Those involved in the positive peer culture groups define their difficulties and seek to solve them with the aid of a list of general and specific problems that are defined for them at the beginning of the group sessions. With the help of the group,

they determine if any of the problems apply specifically to them. At the end of the session, they discuss whether or not the problems have been resolved. The group and group leader review the Positive Peer Culture Problem-Solving List and the changes that should occur if the positive peer culture group counseling is successful.

Vorrath and Brendtro (1974, pp. 36–37) sought to develop a group counseling method based on the notion that peers have strong influences on each other. The peer influence can have a negative effect as well as a positive effect on the behavior of the group. The Positive Peer Culture approach centers on a set of concepts (labels) that are used in the group counseling process. These labels are used to describe problems individuals may have that are easy for youths to understand. There are 12 problem areas considered in the counseling sessions. The problems areas are categorized into *General Problems* and *Specific Problems*.

The first general problem is having a *low self-image*, that is, having a poor opinion of self. When the problem is solved, the person is self-confident and is able to solve problems and make decisions and make positive contributions to others. The next general problem is being *inconsiderate to others*. This centers on the person doing things that are damaging to others. When the problem is solved, the person shows concern for others, even if he/she is not liked. Those youth who are *inconsiderate of self* tend to engage in behavior that is damaging to self. When the problem is solved, the person will show concern for self, tries to correct mistakes and improve self, and is willing to discuss problems with others. The youth with the *general problem of authority* does not want to be managed by anyone. When this problem is solved, *the person has the ability to get along with those in authority*. Another general problem for some youths relates to *misleading of others*. *This person draws others into negative behavior*. When the problem is solved, *the person accepts responsibility for the effect of his or her behavior on others who follow him or her and does not lead others into negative behavior*. Those youths having the general problem of *being easily misled* are drawn into negative behavior by others. When the problem is solved, they seek out friends who care enough not to hurt them, and they do not follow others just to have friends.

A specific problem addressed in positive peer culture sessions pertain to those who *aggravate others*. These youths treat people in negative hostile ways. When the problem is *solved*, they get along well with others and do not need to get attention by irritating or annoying others. Those youth with the specific problem of being *easily angered* are often irritated or provoked or have tantrums. When the problem is solved, they are not easily frustrated, know how to control and channel their anger, and do not let it take control of their behavior. Another specific problem some youth have is *stealing*. When this problem is solved, these youths see stealing as hurting another person. They no longer have a need to be sneaky or to prove themselves by stealing. The specific problem of *misuse of alcohol or drugs*, substances that could hurt them, is common among youths. When this problem is solved, they *realize* that they do not need to be high to have friends and enjoy life. The specific problem of *lying*, resulting in others not trusting them to tell the truth, is another area addressed in positive peer culture group sessions. When the problem is solved for those who were constantly lying, they become concerned about others

not trusting them and now have the strength to face mistakes and failures without trying to cover up. The specific problem of *fronting*, that is, putting on an act rather than being real, is common among youths who are insecure. When the problem is solved, these individuals do not have to constantly keep trying to prove themselves. During the positive peer culture sessions, the group identifies the problems of the members and helps them solve their problems.

## **Benefits and Disadvantages of Group Counseling and Treatment**

Some of the benefits attributed to using group treatment rather than individual treatment in corrections are:

- Group treatment is more cost effective, since a single counselor can treat a number of clients at one time and in one setting.
- Group counseling completed in correctional facilities allegedly helps reduce the influence of the inmate subculture, since those involved in the group are receiving support, assistance, and even friendship from other inmates in a manner that is acceptable and encouraged by the correctional staff. If the counseling is successful, the inmates develop a loyalty to the group and even take pride in belonging to the group.
- The openness and willingness to change that develops among the group participants may be the result of encouragement by the group members more than the input from the group leader.
- Through brainstorming of ideas, possible solutions to the problems individual members are having can often be generated from group discussions. Members of the group who experienced the same problems provide information on how their problems were solved.
- Trained therapists are not needed for all groups. Some groups are self-help groups, and others can be conducted by regular staff. Some groups can even be led by offenders who have received training in group treatment techniques.

There may be disadvantages as well as advantages associated with group treatment. If the group leader is not experienced and does not have the skill to move the group toward the achievement of its goals, the group can become nothing more than a “bull session,” and the main motivation for the members joining the group may be escaping the regular prison routine. If the group meeting is held in a prison setting, some members may be so afraid of saying something that may offend another member that they do not end up contributing to or benefiting from the group experience.

Sometimes the personality characteristics of an offender make it difficult for that individual to feel comfortable in a group setting, with the result that the person does not participate in the discussions or contribute anything of value to the group.

## Types of Treatment Used in Group Therapy

Kratcoski (2004, p. 408) notes:

The choice of the specific treatment technique to be used in a group setting is dependent upon the leader's training, preference, assessment of the group's needs, and the goals set for the group activity. Treatment possibilities for groups designed to be primarily instructive or to attack a specific problem (alcohol or drug abuse, anger management) are necessarily more limited than for groups structured for the more general purpose of improving offenders' adjustment within the correctional setting. Problem solving group work such as reality therapy and guided group interaction that require everyone to participate and contribute will require a group leader who has specific training in the methods and techniques used for leading the group, while group counseling that focuses on more general goals, such as making an adjustment to life, can have groups leaders who have credentials and experience in counseling, but do not have specialized training in certain treatment modalities.

## The Group Counseling Process

Trotzer (1972, p. 10) describes the stages of the group process for problem-solving groups. This process emerged from his wide range of experiences with counseling clients in various settings who were from several age groups and had different characteristics. He completed group counseling with elementary and junior and senior high schools students, as well as with inmates in a prison setting. The group treatment processes he developed were based on his group work observations and experiences. Trotzer (1977 in Kratcoski, 2004, p. 410) states, "The model described presents a developmental perspective of group counseling which is intended for use as an aid in understanding and directing the group process and as a framework for many different theoretical approaches and techniques."

## The Group Development Process

According to Trotzer (1977 in Kratcoski, 2004, p. 410), the group process is divided into five stages. However, the stages are not independent of each other, and it may be difficult, even for an experienced counselor, to determine when one stage is completed and another stage begins.

Trotzer's five stages in the group counseling process include:

## ***The Security Stage***

The first stage in a group counseling situation may be characterized by the members being tentative, anxious, resistant, and even suspicious of one another and of the leader. For example, even professionals, administrators, and line workers who are involved in some form of training may be reluctant to express their feelings and emotions or develop a trusting relationship with other members of the group because of fear that something they may say or do will in some way come back to work against them. In problem-solving counseling groups, many of the participants may have some deep-seated problems that are so personal that sharing them with other members would be unthinkable. Thus, it is necessary for the leader of the group to begin to establish a trusting relationship among the members during the first sessions by concentrating on objective matters such as the purposes of the group, rules for conduct during the group sessions, the format followed during each session, and what is expected to be accomplished. Trotzer (1977 in Kratcoski, 2004, p. 413) states, “The security stage is a period of testing for the group members, and much of the testing takes the form of resistance, withdrawal, or hostility.” The leader must take these factors into account during the initial periods of the counseling. To open up lines of communication, the leader might ask each member to describe something about his/her job or interests, staying away from personal problems. The leader also must be able to recognize the members who appear to be ready to participate in the problem-solving process and those who are hesitant. The reluctant members should be allowed to be quasi-participants for a period during this first stage, when the group is still developing mutual trust and establishing the foundation for the group problem-solving process.

Trotzer (1977 in Kratcoski, 2004, p. 414) states:

During the security stage the leader must play a vital role in making the group members feel secure. Leaders must be able to gain the confidence of the members, display warmth and understanding, provide for the various needs of the members, and create and maintain a friendly and safe atmosphere in the group. Sensitivity, awareness, and an ability to communicate feelings and observations to the group without dominating it are important qualities of group leadership at this stage of the group’s development.

When all of the members feel they are ready to engage in the group discussions that will center on the dissatisfactions and problems they are experiencing, the group is ready to move on to the second stage of the counseling process.

## ***The Acceptance Stage***

Trotzer (1977 in Kratcoski, 2004, p. 415) notes:

Generally this stage is characterized by a movement away from resistance and toward cooperation on the part of the group members. As members begin to overcome the discomfort and threat of the group, the grounds for their fears dissipate and they become

more accepting of the group situation. As they become more familiar with the group's atmosphere, procedures, leader, and members, they become more comfortable and secure in the group setting. They accept the group structure and the leader's role.

According to Trotzer (1977 in Kratcoski, 2004, pp. 411–412), the acceptance of self should also develop during the acceptance stage. “When each member can accept feelings, thoughts, and behaviors, whether good or bad, as part of themselves and still feel accepted and respected as a person of worth, a giant step has been taken in the helping process of the group.”

### ***The Responsibility Stage***

During this stage, members move from acceptance of self and others to acceptance of the responsibility for self. This requires acceptance of the responsibility of their behavior that is causing problems and acceptance of responsibility for doing something about it in order to bring about positive changes in their lives.

During the responsibility stage, the group begins to accept its responsibility to move the process along and begins to tackle the problems that confront the members of the group. Trotzer (1977 in Kratcoski, 2004, p. 419) states, “The leader's role during this stage centers around helping members realize self-responsibility.” “The leader must help members maintain a focus on themselves and their problems at this point, rather than on events, people, or situations external to the group and beyond its influence.” The responsibility stage sets the tone for the remaining group counseling sessions.

### ***The Work Stage***

According to Trotzer (1972, p. 105) “The basic purposes of the work stage are to give group members the opportunity to (1) examine personal problems closely in an environment free of threat, (2) explore alternatives and suggestions for resolving the problems, and (3) try out new behaviors or attitudes in a safe setting prior to risking changes outside the group.” During this stage, the group members and the leader give each other feedback, clarification, suggestions on how to address the problems they are experiencing, and mutual support. The leader's role is very important during this stage, since the leader helps facilitate the work process and is able to offer advice and direct the group toward exploring alternative solutions to the problems the members are experiencing. At times, the group might recommend a solution to a problem that appears to be reasonable and easy to implement, but the group fails to explore the negatives that might be connected to the solution of the problem the group selects. The leader can direct the group toward exploring these negative consequences, and, if they outweigh the positives derived from the course

of action selected to solve the problem, the leader can suggest alternative solutions to the problem.

If the process works as expected during the work stage, the members of the group will experience positive feelings about themselves because they were instrumental in assisting others in the group and will also be more receptive to accepting assistance from the other members. Finally, the work phase is completed when the group members feel confident that they have developed the self-confidence, resources, and skills needed to work out their problems on their own.

### *The Closing Stage*

The role of the counselor during the final stage of the group treatment process consists of being supportive, offering encouragement and feedback, and assisting the group members in assessing what they have achieved during the group counseling sessions. The leader as well as the group will also explore the applicability of the solutions to the problems worked out in the group sessions to the lives of the group members after they are on their own outside the group and no longer have the group's support. The counselor and the group can help prepare each other for how to handle situations when the problems are not solved according to plans.

At some time, it becomes apparent that the group should be terminated, and a closing date should be selected. The appropriate time for closing is when the group members feel confident in their ability to handle their own problems and thus no longer need to depend on the group.

## **Leadership Styles in Group Counseling**

The role of the leader (counselor) will vary in group treatment, depending on the purpose and goals of the group and the characteristics of the group members. In some groups, such as self-help groups, the leader is very passive, and once the session is started, the leader serves predominately as an information giver when asked by the group to provide information and occasionally assists the group to refocus on its goals if it has drifted away from the main purpose for which it was organized. In other groups, particularly if the members were court-ordered to receive treatment for a specific problem such as substance abuse, sexual molestation of children, or assaultive behavior to their spouses, the style of the leader is directive.

Stordeur and Stille (1989, p. 439), in discussing the counselor's leadership style in group counseling for assaultive men, suggest that for assaultive men, who generally have such traits as lacking in the ability to be self-reflective and self-motivated and generally tend to blame others as the cause for their assaultive behavior, a nondirective counseling style is not appropriate. In order to keep such



groups of assaultive men focused, a directive counseling approach must be followed. Stordeur and Stille (1989, p. 439) state:

The directive-counselor is actively involved in the group process. The counselor teaches not only through words but also by modeling or demonstrating skills. Interaction among members is facilitated through structured activities. The counselor assigns homework, follows up on assignments, and confronts individual men and the group on their resistance to changing thought and behavior. When appropriate, the counselor tells members what to do and what not to do. Furthermore, the counselor sets clear limits on behavior and enforces consequences for violation of these limits.

## **Group Counseling for Sex Offenders**

Group counseling with sex offenders can be utilized in the community or in a residential facility. Generally, the participants in the group have been convicted of a sex-related offense and have been ordered by the court to complete the counseling as a condition of receiving a community-based disposition. Group counseling for sex offenders in a residential facility, either a hospital or correctional center, may follow a somewhat different format, depending on the security level of the facility and the credentials of the group leader. Group therapy with juvenile sex offenders may include both the offenders and parents of the offenders.

Regardless of the specific group being counseled, the first sessions will generally focus on group dynamics and group processing. The discussions are used to more or less get everyone on the same page and involve becoming aware of the problem behavior, gaining an understanding of the treatment goals, and obtaining an understanding of the role each person plays within the group. As some amount of cohesiveness develops in the group, the members become more open, accept constructive criticism from each other, begin to accept responsibility for their deviant behavior, and accept responsibility to change their behavior. Usually the group members will engage in acting out of different scenarios, with some group members taking the role of the offender and others the role of the victim.

The major benefits of group therapy for sex offenders, as opposed to individual therapy, are related to the group setting providing an opportunity to relate to other sex offenders who perhaps can understand the motivates and problems of the sex offender. In the group setting, they can discuss their inner conflicts, emotions, and reasons for engaging in the deviant behavior without fear of being ridiculed, scorned, and condemned. If the process is played out as planned, the group's members realize they have the responsibility to change and will have developed the desire to voluntarily change their behavior.

## Group Counseling for the Family

The importance of the family in the prevention of delinquency and crime as well as in the rehabilitation of delinquent and adult criminals has been recognized. Comprehensive therapy and treatment plans for offenders will generally include the family members of those being treated. Satir (1972) used the concept *conjoint family therapy* to describe the notion that the family constitutes a complex dynamic system. As in any system, there are a number of parts, and each family member contributes in some way to the positive functioning of the family. The inappropriate behavior of one or more family members can lead to the family becoming dysfunctional. Satir (1972, pp. 59–79) identified five communication patterns that might exist in any family. These consist of “the blamer, the placater, the computer, the distracter, and the leveler.” The *blamer* points the finger at some other member of the family when something goes wrong. The *placater* sacrifices his/her needs for the good of the family and has a goal of making everyone else happy, even though his/her needs are not satisfied. The *computer* relies on following a rational approach to every situation and will very seldom express emotions or feelings on a matter. The *distractor* will try to change the subject rather than deal with the problem or concern of the family. The *leveler* responds to family situations in a rational but also considerate manner, trying to provide support for the needs of all of the members of the family.

If the family therapist is aware of the different roles the family members may take, this assists the therapist in understanding the family dynamics. Some families will have members who only engage in a few of the five roles given above. In some families two or more members may take the blamer role. These families will likely be filled with conflict and be dysfunctional. When counseling families in which one or more of the members are criminal offenders, the blamer may be the offender, who rationalizes that the spouse or children are the reasons for him/her becoming an alcoholic, drug addict, or abuser of the family members. The spouse may take the role of placater and be willing to accept the blame and even physical and emotional abuse just to keep the blamer happy.

The family counselor can use several approaches to help the family members understand the dynamics of the family processes. One method is to have the family members “role play” a typical situation that occurs within the family, not having the family members play the roles they would typically play in real life but having them take on different roles. For example, the placater is given the role of the blamer, and the blamer is given the role of the placater. By switching the roles and putting the family members in different roles, they have an opportunity to experience how they affect other members of the family in either a positive or negative way. After the role playing scenarios is completed, the family counselor assists the family members in trying to understand the dynamics of the family interaction and what changes have to be made to make the family more functional through an increase in support of each other or a reduction of conflict.

Other forms of family counseling are primarily directed to assist one or several members in providing for their needs.

## Issues Relating to Group Counseling

A number of matters need to be addressed before a group treatment session begins. These include determining the maximum number of participants, will the group be closed or open, will there be criteria that must be met in order to qualify as a member of the group, the time allocated for each group session, the maximum number of sessions, the gender of the group leader, heterogeneity of the group members, and matters of confidentiality of the information presented at each group session.

There are no hard and fast answers as to how these matters should be handled. The characteristics of the group members, the mandatory or voluntary participation in the group, the location of the group sessions, the source and amount of funding provided for the group, and the nature of the problem/s being addressed in the group sessions will all have a bearing on how the group will be structured, who should be allowed to participate, and how much time is needed before the group disbands. For example, Stordeur and Stille (1989), in reference to group counseling of assaultive men, believe the groups should be closed and no new members should be added after the initial formation of the group. An exception to this guideline could be made if several of the members were to drop out for some reason, and the group size would be so small that it would not be able to function. They recommend a maximum of 12 members for the group counseling of assaultive men, suggest that the length of each session should not exceed two and a half hours, and the number of sessions should be determined by the resolution of the problems of the group members. Since the sessions may be emotionally charged, confrontational at times, and have occasional outbursts of anger directed toward other group members and the group leader, two and a half hours is ample time to for the group members to focus on their problems. Of course, there may be other factors determining the time allocated for each session. If the counseling is court-ordered and the court is remunerating the leader, a contract will be established stating the amount of time for each session and the number of sessions. If the group sessions are being held in a secure correctional facility, the matter of the time allocated for each session and number of sessions will be established by the correctional institution's administrators. If the group leader is contracted, these matters will be specified in the contract.

## Summary

Group counseling (therapy) is used in corrections for a number of reasons. Group counseling enables the counselor to work with a larger number of clients than individual counseling, it is less expensive, it can be applied in a variety of settings, and for many groups the group leader does not have to have the professional training required for psychologists and other therapists who provide specialized individual counseling. The leaders of self-help groups such as alcoholics and drug abusers anonymous rely on their own experiences as the credentials needed to lead the group.

Another reason why group counseling is used so frequently is that the participants in group sessions benefit from interaction with the other group members. If the group is functioning in the manner expected, each member of the group is a counselor and contributes to fulfilling the needs of the other members.

The purposes for the group meetings, the characteristics of the members, the size of the groups, and the specific treatment modalities may differ, but the group processes are essentially the same for all groups.

## Discussion Questions

1. What personal characteristics of an offender should be considered when making a decision to use individual or group therapy?
2. Are there some types of offenders who would not benefit from either individual or group counseling?
3. How can a therapist determine if the members of a group are making progress or are merely saying things they think the group leader wants to hear?
4. Why are some types of group therapy more appropriate for juveniles than for adult offenders?
5. What are the factors that might make a therapist decide to disband a group because the group process is not working?
6. If group therapy has been applied in a community setting, what steps can the group leader take to help the offender use what he/she has learned in the group after the therapy is completed?
7. How should a therapist determine whether family counseling is appropriate or inappropriate for a certain offender?
8. How does the therapist decide which leadership style to adopt with a particular group?
9. How can a therapist lead group members to “open up” during the group sessions and reveal information that may be embarrassing and might cause the other group members to dislike them?
10. If the therapy is mandated by the court and the offender, during the group sessions, reveals serious prior offenses that are not known to the court, is it the responsibility of the therapist to reveal this information to the court, or does the promised confidentiality prevent such revelations?

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## Chapter 13

# Brief Therapy and Crisis Intervention

### Brief Therapy: Definition

According to the National Institutes of Health (Center for Substance Abuse Treatment, 1999a, 1999b, Chapter 3, p. 1), brief therapy is, “a systematic, focused process that relies on assessment, client engagement, and rapid implementation of change strategies.” Brief therapy techniques can be applied when the therapist is following one or a combination of several therapies, including cognitive-behavioral therapy, brief strategic and interactional therapies, brief humanistic and existential therapies, brief psychodynamic therapy, short-term family therapy, and time-limited group therapy. When used in correctional counseling, it is appropriate for both juvenile and adult offenders.

In its discussion of brief therapy, the National Institutes of Health (Center for Substance Abuse Treatment, 1999a, 1999b, Chapter 3) notes that various names have been used to describe brief therapy, including reality therapy, crisis intervention, and other names, and that the number of therapy sessions with clients may range from one to several or even 20 or more. It was also noted that some interventions are brief and may only involve one session, as is the case with many crisis intervention sessions. However, the main difference between brief therapy and therapy that comes about in a situation where the client needs immediate counseling as a result of some unexpected tragedy is that brief therapy is planned and time limited. The National Institutes of Health (Center for Substance Abuse Treatment, 1999a, 1999b, Chapter 1, pp. 1–2), referring to the use of brief therapy in substance abuse counseling, distinguishes a difference between brief interventions and brief therapy, stating that “Interventions are generally aimed at motivating a client to perform a particular action (e.g. to enter treatment, change a behavior, think differently about a situation), whereas therapies are used to address larger concerns (such as altering personality, maintaining abstinence, or addressing long-standing problems that exacerbate substance abuse).” Other differences between brief interventions and brief therapies include:

- Length of the sessions (from 5 min for an intervention to more than six 1-h therapy sessions)
- Extensiveness of assessment (which will be greater for therapies than for interventions)
- Setting (nontraditional treatment settings such as a social service or primary care setting, which will use interventions exclusively, versus traditional substance abuse treatment settings where counseling and treatment will be used in addition to interventions)
- Personnel delivering the treatment (brief interventions can be administered by a wide range of professionals, but therapy requires training in specific therapeutic modalities)
- Materials and media used (certain materials such as written booklets or computer programs may be used in the delivery of interventions but not therapies)

A number of approaches to counseling and treating criminal and juvenile offenders that are similar to the approach followed in brief therapy have been advocated and implemented. For example, Rachin (1974, pp. 45–53) claimed that David Glasser's reality therapy concentrates on the present, on the "here and now" rather than the "there and then." He notes that nothing can change the past and the major purpose of therapy is to have the client adjust to the present and prepare for the future. When working with criminal and juvenile justice law offenders, the therapist should become personally involved; reveal self; concentrate on the here and now; emphasize behavior; rarely ask why the deviant behavior occurred, but how it can be changed; help the person evaluate the behavior, particularly how it has affected others; help develop a plan for future behavior that will be rewarding as well as law abiding; reject excuses for past behavior; offer no tears of sympathy; praise and approve responsible behavior; believe people are capable of change; try to work in groups; not label people and even if the person recidivates; and not give up (Rachin, pp. 50–51).

Bersani (1989, p. 179), commenting on Glasser's conception of reality therapy, states, "A major difference between reality therapy and conventional therapy is the type of client-counselor involvement desired in reality therapy. To varying degrees, conventional therapists remain impersonal and objective. For Glasser, the eventual achievement of involvement begins with a distinctive type of client-counselor relationship that goes beyond understanding and empathizing with the client. Mutual trust and respect are achieved through a process of involvement where both the counselor and the client convey respect, genuineness, and acceptance of each other as unique persons."

Clark (1996, p. 57) observes, "In the steady stream of publications that pour from our nation's universities, criminal justice scholars seldom mention using offender strengths as an aspect of 'what works' in offender rehabilitation. Brief therapy focuses on the strengths of the client being counseled. The concept brief therapy, also referred to as competency-based brief therapy, brief family therapy, and other titles, as with reality therapy, focuses on the strengths of the client, mutual respect of client and counselor, cooperation and goal setting."

The description of brief therapy given by National Institutes of Health (Center for Substance Abuse Treatment, 1999a, 1999b, p. 1) states “Brief therapy differs from longer term therapy in that it focuses more on the present, downplays psychic causality, emphasizes using effective therapeutic tools in a shorter time, and focuses on a specific behavioral change rather than large-scale or pervasive change.” This description is similar to that given by Glasser in describing reality therapy.

## Utilization of Brief Therapy in Family Counseling and with Juvenile Offenders

Clark (1996, p. 58) using the concept *brief solution-focused work* describes the guiding principles of the strengths-based method. The principles are:

- **Focus on Strengths.** Clark notes that “All offenders and families have some resources such as skills, capabilities, interests, and positive character traits, even perseverance and hope, which can be brought to bear for exiting our system”. “It is a simple yet profound truth that solutions are not reached through offenders’ weaknesses and failures but through offenders’ strengths and healthy patterns.”
- **Utilization.** Utilize the skills, traits, and talents the offender (family) brings to the counseling session. Clark (1996, p. 58) states, “Problem-solving abilities are called from the past to be utilized in the present . . . Although teaching and skill building will always have a place in our field, consider that it is far easier to utilize what is already present or what has been successful than to import vocabulary, methods, or strategies foreign to those we work with. Finding and capitalizing on what is already present is one aspect of what makes brief work brief.”
- **Cooperation.** Clark (1996, p. 59) concludes that “The most influential contributor to change is the client, not the therapy, nor the technique, not the therapist—but the client.” Applying brief therapy with juveniles and families requires considerable input from the youth and family members as to having them determine what are their most immediate needs and goals. For a parent, they might have to isolate their child from a deviant peer group and how to get the child to adhere to the rules established by the family. For the juvenile, the most immediate needs may be self-serving such as how to get parents “off my back” or how to gain more freedom from parental control. Cooperation is gained by allowing the client to offer suggestions on the means that can be used to address the immediate problem and to draw on their personal skills and traits.
- **Task Orientation.** Clark (1996, p. 59) notes, “A Solution-Focused approach does not belabor the past, nor does it fully need to understand the problem before solution work can begin.” For example, when a youth is brought before a justice agency, the problem, that is, the deviant behavior, has been identified. Some of the initial interviewing by a law enforcement agent or juvenile court intake officer might reveal some of the causes for the deviant behavior. Brief solution-



focused counseling can now be applied by focusing on the present situation and what changes need to be made in the future. If the youth's problem behavior is related to family situations in some way, both the youth and parents have the responsibility for finding the methods to bring about the changes in behavior desired, and both must be held accountable. Clark (1996, p. 59) states, "It would be a mistake to believe that greater offender participation and developing a cooperative relationship is enough to bring about behavior change. For real change to happen, the offender and family need to change the way they think about and perceive the problem(s) and to do something that is behaviorally different than before."

- **Goal Setting.** Clark (1996, p. 60) gives two basic criteria to follow when a counselor is working with a juvenile offender and family on setting up goals. First, the goals must be meaningful to the youth and parents and be realistic in terms of the youth's problem/s with the family, school, police, juvenile court, or the community. For example, a juvenile referred to a police diversion program for curfew violation will generally have an opportunity to have input on developing a plan to change the behavior that will be acceptable to the diversion counselor and parents. However, if the youth is referred to the juvenile court for allegedly sexually molesting a small child, the amount of input the juvenile offender will have on the best method to correct the problem will probably be minimal. A second principle to be followed when the counselor and client are engaged in goal setting is that goals must be small and interactional. Therapists often speak of short-term goals, intermediate goals, and long-range goals. In the case of a delinquent offender, the long-range goals for a youth might be not to engage in any delinquent behavior and establish a good relationship with the family and the school administrators. The brief solution therapist does not ignore long-range goals but is most concerned with short-range goals, that is, what behavioral changes can be made now, immediately. If the youth's problem is related to constantly losing his temper and physically hitting his younger siblings when angry, the short-range goal for behavioral change must pertain to the problem on anger and physical violence and how to change the behavior.

## **Brief Therapy in Substance Abuse Treatment**

In a National Institutes of Health Report (Center for Substance Abuse Treatment, 1999a, 1999b) on the use of brief therapy for substance abuse treatment, the authors do not advocate brief therapy be used over all other existing therapy approaches. The circumstances surrounding the need for treatment, whether the treatment is mandated by a court or voluntary, the ability of the individual to pay for the treatment, and the strength of the dependency on the drug or alcohol may all be factors determining the type of treatment given. For example, some substance abusers, such as occasional binge alcohol drinkers, may not need more than a few sessions with a therapist. It may be determined on assessment that some abuser

would benefit the most by long-term counseling, but the individual's insurance will only cover a small limited number of sessions. If the therapist is in private employment and still decides to follow a long-term model, it is likely that the sessions will terminate once the insurance coverage is ended, even though only a portion of the therapy plan has been completed. If the person is incarcerated, the demand for alcohol/drug counseling is likely to be high, and the resources and therapists available to fill the needs of the substance abuser inmates are so limited that brief therapy is the only option. Still in other cases, the person may have several problems that may not be related, and several brief therapies are used, each addressing a separate problem.

The National Institutes of Health Report (Center for Substance Abuse Treatment, 1999a, 1999b, Chapter 3, p. 5) states that "regardless of the specific brief therapy approach used, all brief therapies have common characteristics. In addition, brief therapies should incorporate several stages, including screening and assessment, an opening session that includes the establishment of treatment goals, subsequent sessions, maintenance strategies, ending treatment and follow-up." A short explanation of the steps listed above is given here.

**Screening and Assessment** "Screening is a process in which clients are identified according to characteristics that indicate that they are possibly abusing substances" (Center for Substance Abuse Treatment, 1999a, 1999b, Chapter 3, p. 5). Screening identifies the risk of the person being an abuser, but does not identify the depth of dependency or extent of abuse. Often the information used in the screening process can be found in official records such as an arrest form or a health report. After screening and assessment, which involves a thorough analysis of the factors contributing to the person's substance abuse problems, an evaluation of the depth of the problem takes place. The information is obtained through a face-to-face interview as well as the completion of standardized instruments. The resources the client has available that will assist in the therapy are also gathered during the assessment. For example, if it is determined that the person's problems are likely to be of short duration and the person has strong support in the family, at place of employment and in the community, it is likely that brief therapy can be used and a positive outcome expected. Also, the person's financial situation may be a factor in determining if brief therapy will be followed.

**Opening Session.** The therapist generally will have a certain amount of information on the client before they meet for the opening session. "This information comes from the intake worker, who probably would have completed the screening and assessment, or from the referral source, a service agency, or a court, if the therapy is mandated Other information gathering options include asking intake workers to administer questionnaires, using computerized assessments, or asking the client to complete an assessment form before the first session. During the first session, the main goals for the therapist are to gain a broad understanding of the client's present problems, begin to establish rapport and an effective working relationship, and implement an initial intervention" (Center for Substance Abuse Treatment, 1999a, 1999b, Chapter 3, p. 6).

Several critical tasks to complete during the first session are:

Produce rapid engagement.

Identifying, focusing, and prioritizing problems.

Working with the client to develop possible solutions to substance problems and a treatment plan that requires the clients' active participation.

Negotiating the route toward change with the client (which may involve a contract between client and therapist).

Eliciting client concerns about problems and solutions

Understanding clients' expectations.

Explaining the structural framework of brief therapy including the process and its limits (i.e., those items not within the scope of that treatment segment or the agency's work).

Making referrals for critical needs that have been identified but cannot be met within the treatment setting.

**Goals of Treatment** The client must be involved in the establishment of the goals of the therapy. The therapist helps guide the client toward the desired outcomes and recommends specific goals that, if accomplished, will address the changes the client must make to alleviate the problem. For example, goals might consist of making measurable changes in behavior; helping the client gain a better understanding of the issues relating to the problem; improving personal relationships with family, friends, and work associates; and resolving other problems such as those pertaining to employment, management of anger, and hostility.

**Subsequent Sessions.** After the initial session, additional brief therapy sessions are geared toward:

- Work with the client to help maintain motivation and address identified problems, monitoring whether any accomplishments are consistent with the treatment plan and the client's expectations.
- Reinforce—through an ongoing review of the treatment plan and the clients' expectations—the need to do the work of brief therapy (e.g., maintain problem focus, stay on track).
- Remain prepared to rapidly identify and troubleshoot problems.
- Maintain an emphasis on the skills, strengths, and resources currently available to the client.
- Maintain a focus on what can be done immediately to address the client's problem.
- Consider, as part of an ongoing assessment of progress, whether the client needs further therapy or other services and how these services might best be provided.
- Review with the client any reasons for dropping out of treatment (e.g., medical problems, incarceration, emergence of severe psychopathology, treatment noncompliance).

**Maintenance Strategies** The therapist must continue to provide support and assistance throughout the brief therapy sessions through providing feedback on progress, identifying problems that may be interfering with the attainment of the goals, developing new strategies when needed, helping the client to use personal strengths and skills to the upmost capacity, emphasizing self-sufficiency, and developing plans for future support from other help groups, family, and the community.

**Ending Treatment (Center for Substance Abuse Treatment, 1999a, 1999b, Chapter 3, p. 9)** It is recommended that the termination date for treatment be planned well in advance of the actual date. When planning termination, the therapist should:

- Leave the client on good terms, with an enhanced sense of hope for continued change and maintenance of changes already accomplished.
- Leave the door open for possible future sessions dealing with the clients' other problems.
- Elicit commitment from the client to try to follow through on what has been learned or achieved.
- Review what possible outcomes the client can expect.
- Review possible pitfalls the client may encounter (e.g., social situations, old friends, relationship issues), and talk about the likelihood of a good outcome and indicators of a poor outcome.
- Review the early indicators of relapse (e.g., depression, stress, anger).

## **Brief Therapy in Jails, Mental Health Facilities, Community Treatment Centers, and Correctional Facilities**

Criminal and juvenile delinquent offenders who are under some form of criminal justice supervision in the United States experience many forms of mental health problems. These mental health problems including depression, anxiety, extreme stress, fear, and hostility may be associated with the problem that brought them into contact with the justice system, such as substance abuse, driving under the influence, molesting of children, or violent behavior. The problems might also have been brought on by the present situation and the unknown future they now face with after being charged with or convicted of a crime. For many of those under the supervision of a justice agency, it is their first experience with law and justice agencies, and they are often not prepared to respond to their new situation. This is particularly true for those held in jail awaiting a hearing. When separated from family and other support groups, individuals who fear for their personal safety or feel despondent and shamed after being detected or exposed who do not have a supportive person to turn to for guidance may decide to take drastic action and end it all by suicide. Byrne, Lurigio, and Pimentel (2009, p. 40) note, "The elevated risk

of suicide among detainees is significantly higher than the risk in the general population. Heightened risk stems from a variety of dispositional and situational factors. With respect to the former, jail detainees have a disproportionately high rates of psychiatric, substance use, and personality disorders as well as histories of unemployment, weak social ties, and homelessness--all of which increase the risk for suicide.”

Although less than half of those charged with a crime are held in jail for an extended period of time while in pretrial status (Kyuckelhahn & Cohen, 2008), many of those who are released into the community on bail or some form of pretrial supervision may be in need of some form of intervention or counseling by professional counselors. In regard to suicide, Byrne et al. (2009, p. 41) found that, for those released into the community awaiting trial on their offense, “On one hand the risk of suicide might be lower than the people in confinement. They might have less serious criminal histories and greater levels of financial resources and family support than those in custody. On the other hand, their risks for suicide might be higher than the people in confinement. They might be less likely to be assessed for suicide risk and to receive service to lower the risk of suicide. Furthermore, pre-trial defendants in the community have more access to the means to commit suicide and cannot be watched to prevent or respond to attempts.”

Dr. Thomas Anuskiewicz, president of Marion Psychological, Inc. and a licensed clinical psychologist, serves as the chief psychologist for the Stark County Jail located in Canton, Ohio. Prior to receiving his Ph.D. and obtaining his license as a clinical psychologist, he was employed at a school for delinquent youth and problem behavior youth and as the administrator for an alternative education school.

### **Box 13.1: Interview with Thomas Anuskiewicz**

**Interview completed by Peter C. Kratcoski on April 30, 2016**

*QPK = question; ATA = answer*

QPK: As president of Marion Psychological, Inc., what are your major responsibilities?

ATA: Marion is a small organization. It became incorporated in 1987. I wanted to have my own business to give me the opportunity to be able to have my own clients as well as to obtain contracts with other private and public organizations that provide psychological services to their clients. I looked at it as a challenge. I wanted to be able to provide service to those who needed the type of counseling that related to most of my experiences. Thus, I handle a large portion of the cases as well as serve as the chief psychologist with the Stark County Jail and manage the business.

PCK: What types of services do you provide that are related in some way to the justice system?

(continued)

**Box 13.1** (continued)

ATA: I and other Marion psychologists work with jails, prisons, police and sheriff's departments, and the courts. We provide services such as crisis intervention, counseling, and case management, provide 24-h on-call service, and complete psychological evaluations and preemployment counseling to the inmates and staff at the correctional settings. We have provided training for correctional officers in the areas of human relations and how to recognize the symptoms of mental health problems. We also have consulted with the administration of correctional facilities on policies and program development. Our work with the courts consists mainly of providing court-ordered forensic evaluations, evaluating for mental competency, sex offender assessments, presentence evaluations, and completing risk assessments for violent offenders, and I have served as an expert witness for the prosecutor as well as for defendants. Occasionally, I have been asked to provide psychological evaluations for police departments when a "high-ranking officer" was involved in a situation that, if not resolved, could become a problem for the department.

PCK: Are there other psychologists employed at the Stark County Jail?

ATA: Yes, but only as part-time employees. I considered hiring a full-time psychologist to assist me at the jail, but it is difficult to find the person with the credentials who is willing to take on the pressure and liability of decisions a professional must deal with when working in a correctional institution. Many of the inmates can be intimidating and some do not give the staff much respect. The fact that one is working in a secure locked-up building where one does not have the freedom to move about is not the type of work situation desired by many professionals. Also, there is the matter of professional attitude. The psychologist must perceive each person counseled as being deserving of the services provided, regardless of what type of crime was committed. The psychologists who work part-time at the jail were selected because they had experience working in correctional settings and were able to obtain the rapport and mutual respect from the inmates and staff.

QPCK: Do you make a distinction between crisis intervention and brief therapy?

ATA: Crisis intervention focuses on immediate psychological (emotional/behavioral/cognitive) stabilization. Brief therapy focuses on solving or resolving a current concern, need, or problem. This could also include helping a client gain insight into a stated concern or problem through discussion, reflection, or education.

QPCK: Do you use brief therapy in the jail setting or with your other patients?

(continued)

**Box 13.1** (continued)

ATA: Yes. To assist with short-term coping problems in the jail and also to discuss concerns related to home or their case situation.

QPCK: Please give an example of how you used brief therapy with a jail inmate.

ATA: The problem consisted of an inmate who perceived that a correctional officer who was assigned to his unit was giving him unfair and harassing treatment. I allowed the inmate to express his feelings and thoughts on the matter. I asked the inmate what he felt were his immediate needs. The inmate was allowed to provide some suggestions on how the impact of the alleged harassment of the officer could be reduced. We also discussed if the actions by the corrections officer were definitely harassing or perhaps just his way of doing his job. I also gave some suggestions on avenues that could be taken, such as sending a kite (message) to the supervisor or even filing a grievance.

QPCK: When working in the jail setting, how often are you required to provide crisis intervention counseling?

ATA: It depends. Some days it is quiet; other days intervention is required frequently. For example, one inmate threatens to harm another inmate or threatens to harm himself. Other situations which require crisis intervention are when something sets them off, and they become hysterical. Often it is related to something that happened at home with their families.

PCK: What factors are related to crisis situations in the jail?

ATA: There are many; the most frequent are:

Emotional instability resulting from receiving a heavy sentence

Acute psychotic episodes (hallucinations/delusions)

Conflicts between inmates and staff and inmates

Drug/alcohol detoxification

High-profile inmates who have extensive media coverage resulting in threats by other inmates

Incidents of inmate-to-inmate sexual abuse

Borderline personality disorder inmates who self-mutilate

Q: PCK: Please give a specific example of a crisis situation you handled and give a step by step explanation of how the crisis was resolved.

ATA: A person had a cell mate who demanded a single cell for himself. There was no reason for him to be assigned a single cell (no health reason, no disability, no mental health history). When the inmate's request was denied, he began a cycle of self-mutilation and disruption (cutting himself, putting items up his penis and anal cavity, banging on all doors, urinating under the cell door). I spoke to him several times regarding the situation and his

(continued)

**Box 13.1** (continued)

perceived needs. Finally, when the behavior did not change, I placed him in isolation on limited foods and no clothes except for a special psychiatric blanket. If his disruptive behavior resumed, he was to be placed in a restraining chair. I continued to talk with the inmate to calm him and gave him ways to cope with the incarceration. Finally, his behavior stabilized and he was able to return to the general population housed with a cell mate.

Baillargeon, Penn, Williams, and Murray (2009), on reviewing the outcomes of a more than 75,000 criminal offenders over a 6-year period, found that those with a major mental disorder such as depression, bipolar disorders, schizophrenia, and other psychotic disorders had a substantially higher risk of being reincarcerated than those criminal offenders who did not have mental health problems. Stewart and Wilson (2014, p. 79) concluded in their study of institutionalized inmates in a Canadian facility that “The current study found that offenders with mental disorders had poorer institutional and community outcomes than non-mentally disordered offenders, even when other factors related to criminality were controlled. The results demonstrate the complex needs of mentally disordered offenders and the requirement for correctional agencies to be prepared to provides specialized interventions that address both their mental health and criminogenic needs.”

Anno (2001) notes that the US Supreme Court has determined that the criminal justice system is responsible for health care from the point at which a police pursuit begins until the individual is released from a correctional facility. However, when a person is released from incarceration, the state or local justice agencies are no longer required to provide health care to the person released from jail or prison. Research by Potter (2014, p. 92), in which there is an attempt to uncover the role of public health care providers and social service providers for persons who are in the criminal justice system and living in the community, showed that only a small proportion of men involved in the criminal justice system who were supervised in the community utilized health services and other social services. There may be various reasons for non-usage of mental health and social services by offenders who are under some form of community supervision. The services required may not be available in the community, or, if services are available, the offender may not have access to the services because of a lack of health insurance or insufficient funds to pay for the health services. Another reason for not obtaining treatment even when treatment is needed is a lack of motivation. He notes, “Many criminal justice involved individuals come to the system with a track record of failure to follow-through on educational, health, and social welfare activities that have been recommended for them” (Potter, 2014, p. 92).



## Crisis Intervention

Roberts (1991, p. 778) defines a personal crisis as “An acute disruption of psychological homeostasis in which one’s usual coping mechanisms fail and there exists evidence of distress and functional impairment.” There may be a number of reasons why a “crisis” may occur in a person’s life, but in general the cause of a crisis is related to a traumatic stressful situation, engagement in a hazardous event, or involvement in a situation for which the person cannot control the outcome or feels he/she does not have the skills to determine the outcome. Roberts (1991, p. 778) states, “A crisis often has five components: a hazardous or traumatic event, a vulnerable or unbalanced state, a precipitating factor, an active crisis state based on the person’s perception, and the resolution of the crisis.” A personal crisis should be distinguished from a crisis situation, such as a disaster brought on by a flood, fire or earthquake, or economic depressions. Depending on personal strengths, some people can quickly adjust, start rebuilding their lives, and plan for the future. However such situations experienced by other individuals may result in those persons feeling unable to cope with the situation, trying to escape from the situation through drugs, alcohol, or even suicide. The following observations of a person experiencing a personal crisis were made by a student completing an internship and observing the operations of a county jail (Pollard, 2016, p. 3): “I saw one female in particular withdrawing from opiates. In my schooling and education, I’ve read much about opiate withdrawals, and what they can do to the body. This woman showed almost all of the classic withdrawal effects. She was cold, had diarrhea, vomiting all over herself and her dorm, she had the chills and was very weak. All the nurse could do for her was give her Gatorade to keep her hydrated and Pepto-Bismol for nausea. She looked absolutely consumed by this addiction and withdrawal. This was dreadful to see. I’ve learned a lot about drug addiction in several of my courses. These classes teach you the repercussions of drugs, but is not something you can understand until you actually see it. You don’t understand until you actually watch someone’s life fall apart.”

It should be noted that a person may use a coping mechanism that was the initial cause of the crisis to try to deal with a crisis. For example, excessive use of alcohol or drugs for recreation may result in loss of employment, estrangement from spouse and family, and rejection by friends. The person feeling rejected and isolated may believe that the only way to cope is to continue and even increase the alcohol or drug consumption.

Crisis intervention counseling can be applied in a variety of settings. The specific setting and nature of the crisis will determine the type of immediate response to the crisis that the counselor or caregiver will take. One of several models may be followed. For example, in the Training Guide for Crisis Intervention written by the Michigan Department of Community Health for Health (1985, p. 2), it states that crisis intervention may be used in mental hospitals:

- To provide for self-defense or the defense of others
- To prevent an individual from causing self-harm

- To stop a disturbance that threatens physical injury to any person
- To obtain possession of a weapon or any dangerous object that is in possession of the individual causing the crisis
- To prevent “serious” property destruction

In the training document, it is emphasized that physical intervention should be used only as determined to be necessary and only the amount that is needed until the persons involved in the crisis situation are under self-control. Once the immediate crisis is under control, a rehabilitative crisis intervention plan should be followed. The training guide (Michigan Department of Community Health, 1985, pp. 3–4) lists a variety of responses that can be used in a crisis intervention situation. Several of those most likely to be followed are aversive techniques, providing an unpleasant stimulus and blocks; defensive techniques that protect the staff person from objects that may be thrown at them; hands down—a light touching technique used to stop the person who appears to be out of control and likely to hurt self or others; intrusive techniques that encroach upon the bodily integrity of the personal space of the individual; nonphysical intervention; and a gentle approach to calming the individual/s involved in the crisis situation. Physical management, a technique used to restrain the movement of the individual, restraint, prone immobilization, standard wraparounds, and seclusion are recommended for use only in the more extreme cases.

The factors mentioned above as reasons for initiating crisis intervention are applicable to any community correctional facility, including jails, community correctional facilities, juvenile detention centers, group homes, and residential treatment centers, as well as long-term correctional facilities and prisons. In addition, most of the techniques used to respond to a crisis are applicable to most of the correctional facilities mentioned above. The exceptions would be in nonsecure juvenile or adult residential treatment facilities, where the behavior of a resident may be so threatening to him/herself or others that the person needs to be transported to a secure facility.

Slaikeu (1983) states crisis intervention should not be considered a response to the immediate crisis. Rehabilitative crisis intervention should focus on assisting the individual to stay focused and, through being successful in problem-solving, learn skills that are transferable to all areas of their lives and can be used to resolve future crises. Even though the focus is on current problems, many clients come to understand how past, unresolved trauma contributed to maladaptive attempts to solve the present crisis.

Slaikeu (1983), in discussing the goals and steps of crisis intervention with mental health patients, alcohol and drug abusers, and gambling addicted patients and with families, notes that not only can a variety of techniques and methods be used in providing therapeutic counseling services, but also a variety of personnel can provide useful services. Not all of the personnel need to be licensed counselors and trained in counseling. Other personnel and volunteers can provide support and service to those who experienced a crisis, had responded to the crisis by engaging in some type of maladaptive behavior, and who are now trying to make a new adjustment to their life situation. The assistance can come from many corners.

Slaikue (1983, p. 2), in discussing a multidisciplinary team approach to therapeutic crisis intervention with families, notes, "Some crisis workers excel at using community resources for providing concrete services. Others excel at assessing problems, helping families communicate better, or listening in a way that makes families willing to talk openly. Some crisis workers are especially good at accompanying clients to a well-baby clinic, to a physician's office, to prospective employment, or even to a grocery store, thereby helping them feel successful in accomplishing a task. Some crisis workers are better at supportive confrontation or placing limits on inappropriate behaviors. Drawing on each team member's strengths greatly enhances service delivery." Roberts and Ottens (2005, p. 334) developed a crisis intervention model consisting of several stages, including planning and conducting a thorough biopsychosocial and lethality/imminent danger assessment, establishing interpersonal contact and rapidly establishing a collaborative relationship, identifying the major problem areas and the factors that precipitate the crisis, encouraging the person in a crisis state to express his/her feelings and emotions, generating and exploring new ways to cope with the crisis, and implementing an action plan that will help client to eventually lead to the restoring of the person's normal state. A follow-up plan is also suggested and, if needed, booster sessions.

## Summary

Brief therapy modalities and crisis intervention counseling are designed to assist an individual in dealing with an immediate problem or problems that have affected his/her life to the extent that the person can no longer function in a normal way. Crisis intervention and brief therapy are frequently used with persons experiencing mental health problems, those who have attempted suicide, or those who are addicted to drugs or alcohol, as well as with those who have had a recent traumatic experience, such as being a victim of a violent crime or the death of a family member. Crisis intervention is used to bring some relief to the problem and uncover the cause of the maladaptive behavior as quickly as possible. The manner in which professionals respond to the person's crisis depends on the situation and the type of behavior being manifested. If the person is exhibiting behavior that appears to be dangerous or life-threatening to self or others, an immediate response that will eliminate or reduce the danger is required. Once the immediate problem is eliminated or reduced, the therapist can begin to work on the elimination of the source of the problem. If it is impossible to change the situation, the therapist can help the individual to accept the situation, stabilize his/her life, and adapt to other problems the person may be experiencing. For many of the clients, the crisis intervention and brief therapy provided are the first steps toward making an adjustment to his/her life situation. If the client learns how to focus on problems that are likely to emerge throughout his/her life and to find solutions to the problems by either using his/her own resources or knowing when to ask for assistance from others, the crisis intervention and brief counseling provided can be considered successful.

## Discussion Questions

1. Discuss the similarities and differences between brief therapy and crisis intervention.
2. If you were employed as a correctional officer in a jail and an inmate began to scream, tear off his clothes, and become hysterical, what crisis intervention methods would you employ to try to calm the person and bring him under control?
3. Discuss how brief therapy differs from other forms of therapy.
4. Discuss the difference between a personal crisis and a crisis situation. Give an example of each, and discuss how a counselor would likely proceed with counseling in the examples provided.
5. Why does incarceration in jail often become a crisis for those incarcerated? What steps can jail personnel take to prevent those who are mentally ill from creating a crisis situation?
6. Discuss how a typical person might react to a crisis situation such as a terrorist attack in a subway station.
7. What are the characteristics of reality therapy? Assume you were the counselor who was providing reality therapy to James, a 15-year-old boy who was arrested for shoplifting at a department store. How would you approach the counseling relationship with James?
8. The behavior of Alice, a 16-year girl, has caused a great deal of conflict in Alice's family. She has been sneaking out at night and at times coming home in the early evening hours. She has gained a reputation of being sexually promiscuous, a source of embarrassment for her twin brother. However, her younger sister admires Alice for the way she dresses and her defiance toward her father. Alice's father blames Alice for all of the conflict in the family and would like to establish some strict behavior rules with the ultimatum that, if she does not adhere to the rules, she will be forced to leave the family. However her mother sides with Alice and tries to convince her husband that Alice is just going through a phase. When Alice is referred to the juvenile court for curfew violation and drinking alcohol, the court diversion director recommends family counseling. Assume you are the family counselor. How would you proceed in counseling the family? What counseling technique might be effective in counseling this family?
9. Discuss how rehabilitative crisis intervention would be applied in a case of an individual who has experienced a traumatic crisis such as being a victim of battery by her husband.
10. Discuss the multidisciplinary approach to crisis intervention. Why is this approach necessary in situations in which the criminal justice system responds to crises?

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# Chapter 14

## Cognitive Behavioral Therapies Used in Correctional Treatment

### Introduction

Hollon and Beck (2013, p. 393) define cognitive behavioral therapy as an intervention approach that draws on the psychological and social aspects of the personality to assist in the development of strategies to solve current problems and to change cognitive (thinking) patterns and behaviors (actions) that are not conducive to having a satisfactory and socially acceptable lifestyle.

Schacter, Gilbert, and Weger (2010, p. 600) define CBT as a “problem-focused” and “action-oriented” therapy. Cognitive behavioral therapy is used to treat specific problems a person is experiencing that are related to the distortion in the person’s cognition (thinking), and how this distortion affects the person’s behavior. The role of the therapist is to assist the client (patient) in developing strategies to change the distorted thinking so that it will correspond to a notion of reality that is closer to the generally accepted beliefs about the “real world.”

Cognitive behavioral therapy has been used to treat persons with various forms of mental disorders, including those experiencing severe depression, anxiety, or posttraumatic stress disorders, substance abusers, borderline personality disorders, bipolar disorders, aggressive behavior, and conduct disorders.

The theoretical foundation for cognitive behavioral therapy is predominately found in several social-psychological theories of learning and behavior. Freeman (1983) suggests that all people distort reality to some degree in their thinking, some to the extreme that they lose contact with reality such as the schizophrenic, others to a lesser degree such as those with borderline personality disorders. At times, distortion in thinking is healthy, such as when children or adolescents rationalize about the reasons they did not make a sports team, or why they were not asked to go to a dance. Freeman (1983) gives examples of common distortions in thinking that, if not corrected, can lead to maladaptive behavior. For example, if a person’s thinking is characterized as “all or nothing,” that person perceives everything in extreme polarities. People are either good or bad; behavior is either moral or

immoral. The person who “over-generalizes” thinks that one negative experience related to an activity will result in a negative experience anytime that activity is engaged in. Other distortions in thinking include “emotional reasoning,” that is, interpreting one’s emotions about a matter as factual, for example, “I feel that the person is evil, thus the person is evil,” and “personalization,” that is, attributing negative events to oneself without justification or taking the blame for some mishap when there is no reason why the person was connected to the mishap.

## **Rational Emotive Behavioral Therapy**

Rational emotive therapy (REBT), “sometimes called rational behavioral therapy, is a form of therapeutic psychology that emerges from behaviorism. It attempts to use reason and rationality to recognize self-defeating cognitive processes and learn to emote more appropriately.” (Psychological Issues-Psychologist World, 2016, p. 1). The rational emotive therapy school of thought was established by Albert Ellis, a behavioral psychologist who believed there is an integral connection between beliefs, emotions, and behavior. Mulhauser (2016, p. 1) states, “rational emotive behavior therapy (REBT) views human beings as ‘responsibly hedonistic’ in the sense that they strive to remain alive and to achieve some degree of happiness. However, it also holds that humans are prone to adopting irrational beliefs and behaviors which stand in the way of their achieving their goals and purposes. Often, these irrational attitudes and philosophies take the form of extreme or dogmatic ‘musts,’ ‘should,’ or ‘ought,’ and they contrast with rational and flexible desires, wishes, preferences, and wants.”

Rational emotive behavioral therapy (REBT) follows an ABC model, with A referring to an actual event and the client’s immediate interpretation of the event, B referring to the evaluations of the event, both those that are rational and those that are irrational, and C referring to the consequences, such as emotions, behaviors, and other thoughts (Mulhauser, 2016, p. 2).

REBT tends to focus on the way a person consciously or unconsciously selects irrational beliefs when interpreting events. Events from one’s past and present life conditions may have a strong influence on the way a person interprets the reasons why the event occurred. If the person is persistent in using irrational beliefs in the interpretation of the events, and these irrational beliefs affect the behavior of the person in a negative way, the role of the therapist is to help the person understand that there is a problem and to use various counseling techniques to bring about the desired changes.

Mulhauser (2016, pp. 6–7) states that the REBT process, which can be used in either individual or group counseling, begins with the client acknowledging having a problem and being able to identify some of the effects of the problem (depression, anger, sadness). Next the client, with the assistance of the therapist, identifies the irrational belief that caused the original problem and begins to understand why the belief was irrational and why a more rational belief about the cause of the problem

would be preferable, and finally, “The client challenges their irrational belief and employs a variety of cognitive, behavioral, emotive, and imagery techniques to strengthen their conviction in a rational alternative.”

Rational emotive behavior therapy is used in the counseling and treatment of juvenile and adult offenders for a number of reasons. Several of these reasons include:

- It can be used in individual and group counseling;
- It is designed to bring about changes in a relatively short period of time;
- It can be employed in a variety of different settings, including institutional and out-patient settings;
- The outcome (results) of the therapy can be empirically measured;
- It has been shown to be effective in the counseling of patients exhibiting addictive behavior, mental disturbance, or personality disorders, patients suffering from stress, anxiety, or burnout, and those who engage in deviant behavior; and
- The training of the therapist can be adapted to address the characteristics and needs of the individuals or groups being counseled.

A book written by Yochelson, a neuro-psychiatrist and Samenow, a psychologist, titled *The Criminal Personality : A Profile for Change* (1976) and another book written by Samenow, titled *The Criminal Mind* (1984), focused on the notion that the thinking patterns of criminals are different from those of “normal” people. This conclusion was based on their 16 years of work at Saint Elizabeth’s hospital in Washington, D.C., a hospital that housed those committed for being criminally mentally ill. After treating hundreds of patients who had committed very serious criminal offenses, Samenow (1984, pp. 26, 39, 42) concluded that the patients were not mentally ill, but for all of them certain deviant thinking patterns were present to an extreme degree. Their research led them to be able to identify 52 “errors of thinking” that were part of the thinking patterns of the large majority of the offenders. These thinking errors not only contributed to the criminal lifestyle (It is alright to hurt someone who interferes with your goals, criminal behavior is o.k. if you do not get caught), but also affected their everyday interaction with family, friends, or coworkers (It is o.k. to lie, cheat, and steal from family and friends if, by doing so, it brings pleasure or other rewards).

Yochelson and Samenow developed an approach in their therapy that tended to work well in group settings. The leader, with the support of the group, listens to individuals in the group tell their stories and, during a discussion, tends to “debunk” or challenge the reasons given by the person for committing the criminal act. For example, one common thinking error was to blame the victim for the outcome of an attempted crime that was not successful (the victim resisted when I tried to rob him, so I had to shoot him). Many of the sessions were confrontational. However, to some degree, the counseling was instrumental in changing the thinking patterns of those who were counseled.

According to Lawrence (Kratcoski, 2016), the executive officer of Oriana House, a halfway house for criminal offenders, the therapists at the house use



counseling instruments grounded to some extent in the notion of “thinking errors” as the basis for therapy for the behavior problems experienced by the clients who participate in the Oriana House programs. In response to a question about treatment programs used at Oriana House, Lawrence stated, “generally all of the programs are based on cognitive based therapy, behavior modification, and the development of basic living skill. Some of the specific treatment tools used are titled, Thinking for a change, Good Intentions, Bad Choices, Thinking Errors, Education, Employment Counseling, Anger Management, Crisis Counseling, Trauma Recovery and, for the women in the program, A Woman’s Journey.” (Kratcoski, 2016).

**Box 14.1: Bryon’s Case: Rational Emotive Behavior Treatment of a Substance Abuser (Source: Unpublished Case)**

Bryon, a 16-year-old male, was arrested by the police and charged with breaking and entering, possession of illegal drugs, aggravated assault, and attempting to escape from the scene of a crime. The events leading up to his arrest follow.

Bryon’s father is a master sergeant in the US Army. He has served for almost 20 years. As with most career military personnel, he was frequently transferred to different duty stations. By the time Bryon reached the age of 16, the family had moved more than 6 times.

Each time the family moved to a different community, Bryon and his younger sister had to attend a new school, make new friends, and make an adjustment in the community. Bryon generally handled these transitions in his life fairly well. Having an outgoing personality, many interests, and more than average ability to perform well in sports activities, he was well liked and quickly made friends each time the family moved to a new community.

However, things seemed to change for Bryon during the family’s final move to a new community. Bryon’s father was assigned to a recruiter position in a Midwestern city. Since he would have more than 20 years of service at the end of the assignment, Bryon’s father indicated that he would retire at the end of this assignment and make the Midwestern city their permanent home. Bryon’s mother and sister were excited about the possibility of having a permanent home. Bryon’s father purchased a house in a middle-class suburban neighborhood.

Bryon did not find the transition to the new school and community as easy as in the past. Despite his efforts to make friends, he was treated as an outsider. Bryon’s mother and sister also were having difficulty “fitting in.” One evening they were discussing their situation, trying to understand why it was so difficult to meet new people and make friends, and they concluded that it might be because the community was not like the other communities where they had lived in the past. There was no military base, and few of the residents were military personnel who had the same interests and enjoyed the same

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**Box 14.1** (continued)

type of activities as those normally found in communities where a number of activities were centered on military-related matters.

Bryon kept trying. He was active in school and tried out for the school football team. He did not make the team, but after a period of disappointment and feelings of being rejected, he still kept trying to do his best in school and to make new friends, but nothing seemed to go right for him and eventually he lost much of his enthusiasm for school and motivation to do well in his classes.

One day, during the lunch hour, Bryon was approached by a student named Rod, who informed Bryon that he has been noticing that Bryon did not seem to have any friends and asked if he might want to hang out with his group. Bryon was introduced to the other guys in the group. At first they were rather cold to Bryon, but, since Rod liked Bryon and Rod was the leader of the group, the others became more friendly.

The group members, and Rod in particular, were defined as “losers” by many of the teachers and fellow students. Rod’s gang seemed to scorn the typical goals of most students, such as earning good grades and participating in school extra-curriculum activities. In fact, Rod’s gang took pride in the number of rules they could violate, the fact that they received poor grades in their subjects, and that they had a reputation of being trouble makers. Rod would occasionally challenge the authority of several of the teachers, and openly stated that he disliked everyone who was an authority figure, including his father, who he claimed was always “pushing his weight around and lording it over others.”

Bryon began to hang around with the group during the evening hours as well as in school. He soon learned that the group was experimenting with many different types of prescription drugs and other drugs such as “crack.” Generally, these drugs had been stolen from the medicine cabinets of their parents.

At first, Bryon did not participate when the drugs were being passed around, but gradually, after being teased for being a sissy, he began to take the drugs. He discovered that he liked the “feeling” that the drugs gave him and he lost all his reluctance to use the drugs when the group met. The group continued to experiment with a wider variety of drugs and, in an attempt to obtain a larger supply, broke into several drug stores and stole whatever over the counter drugs they could find.

Over a short period of time Bryon changed from an obedient son, and an enthusiastic, highly motivated student, to a defiant son and poorly motivated student. He started using drugs regularly, even when he was not with the group. He had been disciplined for being disruptive in school and taking part in a school disturbances caused by Rod, who started a fight with another student. On one occasion, when his mother tried to force him to stay home

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**Box 14.1** (continued)

rather than go out with his “trouble making” friends, he pushed her away and knocked her to the floor.

The matter came to a head one evening when the group decided to break into another drug store. On that evening, the manager decided to stay late (perhaps suspecting a possible break-in) and caught the group inside the store. They had filled their pockets with a number of over the counter drugs and were attempting to leave when the manager tried to stop them. The manager called the police. Rod punched the manager several times and knocked him to the floor. The police arrived before the group could escape. They were all arrested and transported to the juvenile detention center.

The four boys appeared before the juvenile court judge on the following morning. The arresting officer had charged each youth with several delinquent acts, including breaking and entering, assault, and attempted escape.

Each of the boys received an individual formal hearing. The charge of aggravated assault was dropped for the boys, with the exception of Rod. All of the boys pled true to the charges. A predisposition report and a risk and needs assessment was completed on each of the boys before the judge pronounced a disposition sentence. Bryon and the other two boys were placed on probation. Rod, who had prior appearances before the juvenile court and who had pled true to the aggravated assault charge, was committed to a secure community corrections center. One of the special conditions of Bryon’s probation was that he receive counseling for his substance abuse at a privately administered agency offering such services.

The risk and needs assessment completed on Bryon indicated that substance abuse was a major problem that had to be addressed, but other problems such as having a poor self-image, loneliness, feelings of being discriminated against, self-pity, and a tendency to be somewhat depressed were contributing factors for the drug abuse, since Bryon admitted the drugs not only gave him pleasure, but made him feel good about himself, a state of mind he did not experience when not using drugs.

On reporting to his first counseling session, Bryon was rather skeptical about the likely benefit of the trip to the “shrink.” He did not think he was mentally disturbed, and he viewed a psychologist as being a person who treated crazy people. However, he found the therapist to be easy to talk with and a person who really seemed interested in him. After a half-hour or so, Bryon felt comfortable enough to talk about his problems.

The therapist began to dwell on the reasons Bryon gave for each of the problems he was experiencing. For example, Bryon stated that the reason he did not make the football team was probably because the coach was prejudiced and did not like kids who had a family member in the military. He informed the therapist that he always made the team at other schools he

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**Box 14.1** (continued)

attended. The therapist asked Bryon to think about some other possible reasons why he did not make the team. He also asked Bryon if there were other boys selected for the team who had military connections and Bryon admitted that there were a few. Asked why these boys were not discriminated against by the coach, Bryon had to admit that they were probably better players than he was. After asking Bryon if there was any sport in which he felt he could really excel, Bryon mentioned soccer, since he was a fast runner, but he did not want to play soccer because all of the dopey kids who could not make the football team played on the soccer team. After a period of questioning and answering as to why the kids on the soccer team were dopey, he admitted that several of the soccer team members were leaders in the school and well liked even by the football players, Bryon realized his error in thinking and even concluded that getting on the soccer team would be a way to meet new friends.

Eventually, the connection between Bryon's drug use and other problems, particularly a tendency to being depressed, and problems relating to interpersonal relationships were uncovered. Bryon admitted that he did not receive much pleasure by having the label "troublemaker" in school and would much prefer to engage in the regular school activities in which most of the students participated. However, he did not want to lose the friendship of Rod's friends and thus went along with what they did. The use of the drugs was at first a way of assuring the continuation of the friendships, but gradually drug use brought about a "good feeling" independent of the pleasure that was obtained when interacting with the members of Rod's group.

The therapist's goal in the counseling was to have Bryon realize that he could experience similar pleasure without the use of drugs and without interacting with a group of friends with values and behavior patterns like those of Rod's group. The method used by the therapist was to have Bryon think about some of the happiest times in his life and what factors contributed to his happiness. After Bryon related several of the most happy experiences, the therapist asked what factors, if any, inhibited achieving the same degree of happiness in his present life and, if there were inhibiting factors, how could they be overcome.

Bryon apparently benefited from the therapy. He realized how his "errors in thinking" contributed to some of the problems he experienced in his interpersonal relationships in the school as well as in his family and what behavior changes would have to be made to get back on the right track. Perhaps it was a combination of therapy and becoming more mature, but Bryon also began to realize that there would be up and down experiences in his life. The down periods may be difficult, but can be overcome and never should be considered so difficult that one should just give up.

(continued)

**Box 14.1** (continued)

Rod received somewhat different treatment than Bryon. He was placed in a community corrections center. As with all new residents, Rod began his commitment by being placed at the lowest level in the behavior modification program. Those residents at this level have the least amount of privileges and the most restrictions on their daily living, compared to the residents at any other level. Rod was placed in two special treatment programs during his time at the correctional center. Since he continued to defy authority figures and often violated the rules, he was placed in a cognitive behavior therapy group that focused on anger management. He was also placed in a cognitive behavior therapy group for those with substance abuse problems.

The counselor of the anger management group followed an aggressive directive approach. Using a technique recommended by Samenow, the “thinking errors” of the group members were challenged and “debunked” with the goal of having the group members view matters more objectively and take responsibility for their behavior rather than blaming others as the cause of their deviant behavior.

The leader of the cognitive behavior group focusing on substance abuse followed the same cognitive behavior format as that of the anger management group, but used a non-directive approach, that is, having the group members be more introspective about their deviant behavior by analyzing how their errors in thinking had an effect on their behavior.

The group therapy seemed to have worked with Rod. His leadership qualities were quickly recognized by the counselors of the groups as well as by the members of the groups. In the sessions of the groups, Rod tried to take control by being disruptive and uncooperative, but when this type of behavior did not produce the results desired, his behavior changed and he became more responsive to achieving the goals of the groups as well as his personal goals of moving up in the level system and getting released from the correctional facility. The positive feedback he received from the group leaders, group members, and others in the facility seemed to motivate Rod toward wanting to engage in acceptable behavior.

Rod was released from the community correctional facility after 6 months and placed on intensive supervision probation. During his time in the facility, he completed both of the treatment programs, performed well in the school and was promoted to the highest level (level 1).

## Cognitive Behavioral Therapy with Substance Abusers

The *Regulation of the Cognitive State* model developed by Toneatto (1995, p. 93) is based on the theory that undesirable or distorted cognitive states related to thoughts, perceptions, sensations, memory, and emotions are instrumental in producing a

psychological need for the state of mind experienced after consuming alcohol or using drugs. He identifies metacognition as, “a person’s beliefs about the other cognitive states.” Thus, a person drinks alcohol because of losing a job, becoming depressed, and perceiving him/herself as being a loser. The use of alcohol may soften the feelings of degradation, but the continued excessive use of alcohol may result in other problems, other failures, and an enhanced need for the feeling that comes from the use of the alcohol. Toneatto (1995, p. 93) states that the therapist assists the client by helping the client become aware of his/her desirable, pleasurable, disturbing and undesirable thoughts, feelings, memories, and perceptions. The therapist also assists the client in understanding the nature of cognition, that is, knowing that some beliefs about things, people and his or herself may be grounded in an erroneous information base, and that feelings such as, anger, sadness and other states of mind are temporary. The therapist also assists the client in learning how cognitive states and the person’s environment are related to the substance abuse and helps the client learn how to deal with an unpleasant state of mind without resorting to substance abuse as a way of trying to make the unpleasant memories, feelings of hopelessness, anxiety, sadness go away.

## **Addiction Recovery: Self-Help Methods**

“Springer (2016, p. 1) defines “free-range psychology” as an approach to practice that prioritizes flexibility and range of response over adherence to any particular way of doing therapy.” Since therapists have a diversity of backgrounds, training, and preferences in approaches to treatment, the therapist should realize that clients also have different needs and personalities, and are not all likely to respond to a specific therapy in the same way. Free-range psychology not only emphasizes flexibility in the use of different modalities used by psychologists, basing their decisions on the research on what treatments are most likely to work with client’s specific problems, but also stresses the importance of involving the client in the decision making on the therapy approach to be followed. The client becomes a partner in the therapy.

Several alcohol and drug addiction self-help groups and organizations such as Alcoholics Anonymous, Drug Addiction Anonymous, and others utilize a combination of behavior modification and rational emotive therapies. The participants use rationality to recognize how their behavior (use of drugs/alcohol) is destroying their lives rather than producing the feeling of well-being desired and what behavior changes must be made to restore their well-being. Alexander (2010, p. 281) in reference to the AA and DA approaches indicates that the alcoholics and drug addicts who attend these meeting realize that they need the positive stimulus of being in the group as a barrier to relapse. Alexander (2010, p. 281) states, “strategies for behavior involve shaping one’s own behavior. An example of shaping one’s behavior is establishing several achievable objectives related to a significant goal. Recovery is a goal, but it cannot be achieved in one step. It takes a series of

smaller steps. Another strategy is developing competing responses. This involves engaging in positive behaviors when one normally engaged in negative behavior in the past.”

SMART Recovery (2016, p. 1) claims to be one of the leading self-management for addiction recovery organizations in a worldwide community. The SMART organization states, “The SMART Recovery 4-Point Program helps people recover from all types of addictions and addictive behaviors, including drug abuse, drug addiction, substance abuse, alcohol abuse, gambling addiction, cocaine addiction, prescription drug abuse, and problem addictions to other substances and activities.”

The four point list consists of (SMART Recovery, 2016, p. 1):

- Building and Maintaining Motivation;
- Coping with Urges;
- Managing Thoughts, Feelings, and Behaviors; and
- Living a Balanced Life.

SMART Recovery sessions are held on-line and face-to-face group sessions are organized by various sponsors.

The Marworth Center, a residential facility that provides treatment for uniformed professionals (police, firefighters, and others) who are alcohol or chemical dependent (Marworth Treatment Center 2011, p. 3) uses “A network of recovering uniformed professionals who serve as contacts and assist our professional staff as 12-step support members.”

## **Cognitive Behavioral Treatment for Juvenile Sex Offenders**

In the majority of cases, juvenile sex offenders are brought into the justice system for some offense other than a sex related offense. The typical sex offender has multi-problems relating to deviant behavior. Juvenile multi-problem offenders generally will commit a specific offense that brings them into the juvenile justice system. If the offense is of a serious nature and the youth is not diverted out of the system, the juvenile court personnel will begin an exhaustive search for information on the youth that will be used in the decisions that will be made regarding the sanctions and treatment the youth will receive. It is during this examination of the youth’s past history and present life situation that many behavior problems of the youth, including those of a sexual nature, might be discovered. In those cases in which the primary offense is a serious sex related offense, an extensive examination of the circumstances surrounding the current offense, such as information on the victim/s, when the offense/s occurred, whether other offenses were committed during the incident, and the youth’s motivation for committing the offense, will be examined. The court officials will also try to determine if the current sex related offense is the only sex offense the youth committed or if there were numerous offenses that were never reported and did not come to the attention of justice officials. For example, an inquiry into a case in which a 14-year-old boy was

initially charged with assaulting a student who attended the same school brought out information that resulted in a charge of gross sexual imposition against the youth for sexually molesting his 8-year-old sister during a time when both of the parents were at work. An investigation revealed that the boy had committed this offense on numerous occasions, but the sister never mentioned it to the parents until the boy made the sister angry when he hit her for hiding one of his video games and she told the parents what had occurred. In this case, the boy was placed in a community residential treatment facility and given several types of treatment, including a group treatment for sex offenders.

Lundrigan (2001, p. 300) notes that, "Sex offense treatment can be delivered by a number of various treatment modalities. Most common are sex offense specific groups, individual and family therapy." Cognitive behavioral group treatment has been shown to be effective with most adolescent boys, providing that they are not mentally disturbed or have severe learning disabilities. Although there are several variations in the methods used, cognitive behavioral therapy focuses on the "thinking errors" of the sexual offender. For example, the adolescent boy might blame the victim, claiming, "Everyone is doing it, why is it wrong?" "I saw the behavior on TV," "the girl encouraged the sex and when she asked me to stop I couldn't control myself," or some other rationalization for not blaming himself for the deviant behavior.

Lundrigan (2001, p. 106) states, "Directive, structured approaches to group therapy work better with sex offenders. Often we are dealing with persons who can be highly manipulative, who lack a genuine investment in treatment, who are disorganized and ill prepared to properly interact in group settings, and who would love to avoid discussing some of these very embarrassing and distressing topics."

Structuring elements for the group therapy mentioned by Lundrigan (2001, p. 106) include contracting, establishing firm rules for group behavior, clear expectations of behavior during the group sessions, the use of a directive approach by the therapist, and use of visual aids, workbooks, and conceptual models. Other authors have listed goals that the group and the therapist should consider as the end product for the cognitive behavior group for sexual offenders. Green (1995, pp. 1–9) lists five major goals: admitting guilt, accepting responsibility, understanding the dynamics, identifying the deviant cycle, and making restitution. Those therapists who combine the directive approach with an educational approach suggest improving social competence, anger management, and learning about what types of romantic relationships are appropriate and how to express one's sexual interests in an appropriate manner.

## **Treatment of Elderly Offenders**

Kratcoski and Edelbacher (2016, p. 60) in a comparison of arrests of the elderly (65 and older) for the years 2000 and 2013 found that the arrests of the elderly increased significantly for almost all types of crime, including violent crimes and



property crimes. The number of older offenders under community or institutional supervision has increased drastically and is expected to continue to increase in the future. In a document by the Department of Justice (United States Bureau of Justice Statistics (2012, p. 1), it was reported that, “The number of federal and state prisoners who are 65 or older grew at an astonishing rate of 94 times faster than the total sentenced prisoner population between 2007 and 2010.” It was also noted that, “Prison officials are hard pressed to provide conditions of confinement that meet the needs and respect the rights of their older prisoners.”

The supervisor or counselor who provides the supervision and treatment of elderly offenders in the community as well as those committed to correctional facilities might have to employ techniques that are not normally used in general practice. Several treatment modalities have been used in the counseling of the older offenders that have a cognitive behavior component are *logotherapy* and *existential psychotherapy*. According to Frankl (Victor Frankl Institute of Logotherapy, 2016, p. 1), logotherapy “is based on the premise that the human person is motivated by a ‘will to meaning,’ an inner pull to find a meaning in life.” Frankl stated that, “We can discover this meaning in life in three different ways: (1) by creating a work or doing a deed; (2) by experiencing something or encountering someone; and (3) by the attitude we take toward unavoidable suffering . . . to choose one’s attitude in any given set of circumstances.”

Diamond (2016, p. 2) states that existential psychotherapy is a concrete, positive, and practical approach to dealing with the “existential facts of life.” He states, “Existential psychotherapy is concerned with more deeply comprehending and alleviating as much as possible (without naively denying reality and la condition humaine) pervasive postmodern symptoms such as excessive anxiety, apathy, alienation, nihilism, avoidance, shame, addiction, despair, depression, guilt, anger, rage, resentment, embitterment, purposelessness, madness (psychosis) and violence as well as promoting the meaningful, life-enhancing experiences of relationship, love, caring, commitment, courage, mental health and others.”

Since the older offender is likely to be struggling with many of the feelings, thoughts, and emotions mentioned above, Alexander (2000, p. 317) suggests that existential counseling and logotherapy, with their emphases on viewing the clients in terms of humans who have the ability to rationally think about their problems and to think about possible solutions to these problems and make choices, are appropriate for counseling the elderly. Alexander (2000, p. 317) states, “The relationship between the social worker and the client is the essence in existential counseling. Also looming in the background is the realization that people live in three worlds—the natural, the interpersonal, and the private, personal environment. These three spheres of living are interconnected. The objectives of logotherapy with the elderly are to activate the elderly’s capacity to accept responsibility and to make decisions about those conditions that confront them.”

## Treatment of Justice Personnel Using Cognitive Behavioral Therapy

Those who work in public service, including personnel of criminal justice agencies, are quite aware of the demands of the job that result in stress. Morris (1988, p. 123) states, “Some stressors found in correctional work are also found in other occupations, including administrative policy concerning work assignments, procedures and policy, and lack of administrative backing and support, including the relationship and rapport between correctional officer and supervisor). Other common stressors in the workplace are inactivity, physical and mental work underload, and idleness, shift work, working hours other than the normal work schedule, responsibility for the lives and welfare of others, inequities in pay or job status, and being underpaid and under-recognized in one’s work.”

One of the major causes of stress in correctional work (as well as in many other occupations) is the doubt that many workers have about themselves and their ability to perform their tasks according to the standards of performance they have imposed on themselves. Those working in corrections, both community and institutional, will soon realize that the positive feedback for doing a good job expected from clients and supervisors is infrequent and at times non-existent. If expectations of outcomes are not realistic, the correctional worker might begin to believe that it is his/her fault for the discrepancy. For example, when a probation officer who has worked with a probationer and given time and effort beyond what is required finds that the person committed another crime or relapsed into drug use, the officer may accept the blame for the failure rather than placing it where it belongs. Failure to handle a problem situation, such as a fight between two residents in a correctional facility, might be interpreted by the correctional officer in charge as his not having the ability to handle the job, but if interpreted objectively, the reason for the failure might be better explained by his not having the proper training for handling such situations.

Another factor that may result in mental dysfunctioning is the reaction to a traumatic experience, such as being attacked and physically beaten by an inmate, not being able to prevent a prison disruption, having a suicide occur during one’s watch, or having a probationer or parolee under one’s supervision commit a heinous crime such as a sexual assault on and murder of a child. An outcome of such an event might be post-traumatic stress disorder (PTSD). The American Psychiatric Association (2013, p. 3) defines PTSD as “being directly exposed, witnessing, or indirectly exposed to trauma that is persistently re-experienced after the trauma.”

Pollard (2016, pp. 6–7), while riding with police patrol officers as part of her internship in a justice studies program, described this incident. “We got a call from his concerned wife about a man threatening suicide. He said he was going to go to the bar, get drunk, and walk out into traffic. When we finally located the man, traveling by foot, who was clearly intoxicated, he proceeded to call the officers names and told them to “F” off. He also asked me if I enjoyed the show. He resisted arrest and physical restraint, until finally he settled and sat down. The EMT was

called, and in most cities they can take them to the hospital after suicide talk, but in this case we had to call Mobile Crisis to come pick him up before they could take him to the hospital. During the time we talked with him he mentioned he was a veteran who did five tours overseas. It was obvious, through the knowledge I have acquired in school, that he was experiencing PTSD or Post Traumatic Stress Disorder. In several of my college courses, Women in Crime, Sociology of Mental Illness, and Treatment Methods, to mention a few, we explored the PTSD causes and signs. This man obviously was exposed to many different traumatic experiences while deployed and expressed many signs of PTSD, including detachment from loved ones and thoughts of suicide. He also clarified that he had thoughts of suicide prior to today, this attempt. Today was definitely an experience I won't forget."

Research on how police, fire fighters, military personnel and correctional personnel respond to experiencing stress and trauma reveals that the most common ways of responding are to discuss it with family, friends and coworkers, to try to erase the memories through the use of alcohol or drugs, not to admit that the trauma is affecting their lives, or in extreme cases committing suicide. Heffren and Hausdorf (2014, p. 429) observed that, "Police officers are frequently exposed to traumatic events and many do not acknowledge the trauma or attempt to deal with it on their own. For those who sought help, the most typical sources were friends and family outside of work rather than professional services. In addition, the help was sought more often when officers were comfortable sharing distressful information with others." Morris (1988, p. 123) notes, "Stress can be a prime factor in employee absenteeism, employee turnover, and increased costs for overtime and early retirements. In addition, research has found that criminal justice personnel, police and corrections in particular, have higher than average rates of alcoholism, drug dependence, heart attacks, divorce, and other family problems."

Morris (1988, p. 125) states "Most stress management programs have three common ingredients. First, the components of stress are defined. Second, warning signals and the effects of stress are explained. Third, participants in the program are taught methods of overcoming, reducing, and/or dealing with stress."

The Cognitive Processing Therapy (CPT) (Center for Deployment Psychology, 2016, p. 1) is an evidence-based manualized treatment protocol that has been found effective for the treatment of posttraumatic stress disorder (PTSD) and other corollary symptoms following traumatic events. It focuses on how the traumatic event is construed and copied with a person who is trying to regain a sense of mastery and control in his or her life.

CPT can be conducted in individual or group counseling sessions. The CPT process involves several stages. In the early stages, the theory of cognitive-behavioral therapy is discussed and cognitive therapy techniques are used to show how faulty thoughts about self can disrupt the process when one is trying to recover from a traumatic event. According to The Center for Deployment Psychology (2016, p. 2), "Processing the trauma involves identifying and allowing for the dissipation of the natural emotions related to the trauma as well as identifying those thoughts that are preventing recovery ... This cognitive restructuring process

continues while honing cognitive techniques in identifying struck points in larger trauma themes such as beliefs about safety, trust, power, control, self-esteem, and intimacy. In this stage of therapy, the patient really takes over the reins in sessions and becomes his/her own therapist with [the] clinician acting in more of a consultative role.”

## Summary

Cognitive behavioral programs have been used extensively in the counseling and treatment of juvenile and adult offenders for a variety of reasons. It has been found to be successful in reducing recidivism, the cognitive behavioral approach to treatment is compatible with other treatment modalities, and it often can be used in conjunction with other behavioral treatments and learning theories. A variety of techniques can be used in the therapy sessions, such as role-playing and modeling. The therapy can be employed in a number of different settings, including community and institutional settings. It has been shown to be effective with many different special problem offenders such as sex offenders, drug and substance abuse offenders, and those with mental disorders. The training required to be a cognitive behavioral counselor is not as extensive and difficult as with some of the psychiatric based therapies, and the leader can vary his/her style, depending on the characteristics of the person or group being counseled. For example, when counseling a group for anger management, the leader may take a confrontational role, debunking the rationalizations given by the group members for physically harming others, while in counseling correctional personnel who are “burned out” or suffering from post-traumatic stress the counselor may take on a more supportive role during the counseling sessions. Cognitive behavior principles and techniques have been employed with many self-help groups.

## Discussion Questions

1. A counselor working in a community treatment facility housing adult males who have been convicted of aggravated assault on their spouses is responsible for conducting cognitive behavioral group therapy with the residents. Discuss the steps the counselor should take in the preparing for the group sessions. Should the counselor take a directive approach in leadership or a non-directive role? Explain.
2. Discuss the meaning of “errors in thinking.” What types of thinking errors might be portrayed when counseling criminal offenders who have committed armed robbery?
3. Discuss how cognitive behavior therapy is used when counseling a correctional officer who was taken hostage during a prison riot.

4. Discuss the similarities and differences between rational behavioral therapy and existential therapy.
5. Joan is a 38-year-old female who has been employed as a correctional officer in a maximum security prison for men for the past 15 years. She is assigned to the late afternoon (4 p.m. to midnight shift). Leroy, the senior officer who is the immediate supervisor of the shift, sent a message to the captain of the shift that Joan appears to be experiencing “burnout.” On receiving the message, the captain called Leroy into his office and asked Leroy to give the reasons why he thinks Joan is experiencing “burn out.” What types of behavior on Joan’s part would be the symptoms of burnout?

The Captain is in agreement with Leroy and refers Joan to a psychologist for counseling. What steps would the psychologist take (using cognitive behavior counseling) in the treatment of Joan?

6. Discuss the major reasons why rational behavior therapy is one of the major therapies used by counselors who are providing treatment to juvenile and adult criminal offenders.
7. What types of information would a counselor using cognitive behavioral therapy try to obtain from the juveniles receiving treatment for sex offenses? Would a directive or non-directive approach by the counselor be more likely lead to the type of positive behavior change sought for the juvenile?
8. Define “free-range” psychology and discuss why it is applicable in the treatment and counseling of juvenile and adult criminal offenders.
9. Refer to Bryon’s case cited in this chapter. Would you consider Bryon to be a multi-problem offender? If so, discuss what problem should be addressed first when counseling Bryon.
10. Discuss the four point program used by SMART in the cognitive behavior counseling of drug addicts, alcoholics, and those with other addictions.

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# Chapter 15

## Future Perspectives on Counseling and Treatment of Criminal and Delinquent Offenders

### Introduction

The emphasis on punishment as opposed to the treatment function of corrections changed during various periods, beginning in the latter part of the twentieth century. The *medical model* of treatment, based on the notion that criminal behavior was similar to a disease that was caused by the physical and social conditions the offender experienced, emphasized the notion that criminals could be rehabilitated through social engineering (cleaning up the slums, providing better schools and employment, ending poverty), and treatment of the offender would lead to a change in values and behavior. However, as Kratcoski (2000, p. 663) noted, “The increasing crime rates of the 1970s, which may have resulted from a wide variety of factors, were interpreted by many to be a direct outcome of the failure of correctional treatment, coddling of offenders, and too little emphasis on punishment. Politicians and correctional administrators were quick to realize that they were on safe ground if they took a “hard line” approach. In the 1980s, citizens’ fear of crime and the demand to “get tough” on criminals resulted in the enactment of new legislation in the majority of states and at the federal level. This legislation emphasized punishment as a way of deterring criminals and de-emphasized treatment as a means to rehabilitation.” The most pronounced changes in the way offenders were processed consisted of the adoption of *determinate sentencing* in place of indeterminate sentencing, the use of sentencing guidelines, mandatory prison sentences, abandonment of parole and good time, and a reduction of the discretionary power of the judge in sentencing.

After these changes were put in operation, the prison population in the United States, which had remained relatively stable for a number of years, increased dramatically, and dozens of new correctional facilities had to be constructed. Even with the new facilities, a large number of the prisons operated over-capacity. With too many prisoners and too few staff, the prisons experienced increases in

disruption and violence. Faced with these problems, correctional administrators and planners looked for alternatives to imprisonment.

Kratcoski (2000, p. 664) stated, "In the 1990s, correctional planners and administrators began to turn to community based treatment as an alternative to institutionalization. Economic considerations played an important part in this emerging trend. Prison overcrowding and lack of funds for building new facilities made placement of many offenders in the community a practical necessity."

Despite the changes in laws that were more favorable to community corrections and the reduction in the amount of crime that occurred in the 1990s and into the first decade of the twenty-first century, the number of inmates in state and federal correctional facilities continued to increase until the end of the first decade of the twenty-first century. The primary reason for the increase was that a very large number of inmates had received long mandatory prison sentences, leaving little space in the prisons for those recently sentenced. The composition of the prison population is now more diversified than in the past. A larger proportion of the population is older (55 years and above), there are more white collar criminals in prisons, and a large number of the inmates have physical and mental health problems.

The incorporation of mandatory prison sentences for those convicted of many types of felony crimes, as specified in the sentencing guidelines, also had an effect on the variety of treatment programs offered in the prisons. The participation of inmates in various treatment programs no longer was required and the rehabilitative programs emphasized were work or education related. Although involvement in work has been shown to be highly related to adjustment in prison and adjustment in the community after release, many of the inmates who had special needs were not receiving the treatment needed.

## **Community Corrections Centers**

Several states, including Ohio, passed legislation that authorized the creation of regional community corrections facilities. The purpose of such facilities was to ease the burden of the over-populated, understaffed correctional institutions and to place more responsibility for the supervision and treatment of selected offenders in the hands of the local community. In Ohio (Ohio Department of Rehabilitation and Correction, 2016), new community corrections facilities were constructed in selected locations throughout the state to serve several counties. Generally, the new facility was located in the largest city in the region being served. The funding for the construction and operation of the facility was provided by the state, but the staffing and administration of the facility was locally controlled. The executive board was composed of the common pleas court judges of the several counties that sentenced convicted felons to the community treatment centers. The amount of funds received for the operation of the facility was determined by a formula that pays a specified amount for each convicted felon that could have been sentenced to



a state administered correctional facility, but was sentenced instead to the community correctional facility.

The Stark County Regional Correctional Center serves four counties. It houses both males and females and has a 124 bed capacity. The screening for admittance is completed by the Facility Governing Board in accordance with the Ohio Revised Criminal Code. Those admitted to the center are given an orientation and then assigned to one or more of the treatment groups, depending on the score received on the needs assessment. Treatment programs include individual counseling, adult basic and literacy education, community justice education, job readiness preparation, job seeking activities, mental health counseling, substance abuse counseling and relapse prevention, and development of social living skills such as budgeting money and money management. The treatment programs related to personality disorders include anger management and development of cognitive skills (Ohio Department of Rehabilitation and Corrections, 2016).

The Stark Regional Corrections Center was first opened in 1992. Since that time, the bed capacity has been increased, but the facility still is small enough in population for the staff to provide the offenders with individualized attention in terms of treatment and supervision. The safety of the staff and inmates has not been a major concern. Suicides, disruptions, and violent attacks against other inmates or staff are rare. Some of the residents are on suspended prison sentences and in-house probation that will be continued once they are released from the facility. A serious violation of the rules or policies can result in a transfer to a state correctional facility.

It is expected that facilities such as the one described above will continue to be built in the future. Such facilities can be conceived of as an in-between treatment centers that are more secure than typical halfway houses. Being located in the community provides those committed to the centers with opportunities to maintain ties with their families and their communities. Many of the treatment programs are conducted by professional or volunteers (AA, NA) from local agencies and organizations.

## **Institutional Treatment**

Although the emphasis on providing treatment in the prisons and correctional institutions is not as strong as during the period when the “medical model” was in vogue, resources are still directed toward providing for the physical health, mental health, and other needs of those incarcerated. This is especially true for those housed in low and medium security institutions and for those inmates with special needs. However, the nature of the counseling has changed. Much more emphasis is now placed on such programs as educational development, preparation for employment, and social adjustment. Less emphasis is given to individual therapy, with the exception of treatment for inmates who need crisis intervention counseling.

Kratcoski (2000, pp. 664–665) notes, “In the prison setting, rehabilitation activities emphasized today often are work or education related., since such programs have been shown to be the most conducive to preparing the inmates for successful adjustment in the community after release. Those directly involved in corrections, from the institutional administration to the correctional officers, realize that the prison experience must include elements beyond punishment. Inactivity and boredom contribute strongly to prison disruptions. Thus, involvement of the inmates in some type of productive activity, such as prison industries or education programs, has benefits for both the system and inmates.”

Seiter (1990, p. 2) emphasized the importance of prison industry in the Bureau of prisons institutions. He noted that the Federal Prison Industries (FPI) operate in a manner similar to a corporation to produce a high quality product, to maximize profits, and to minimize costs. The only exception is that the profits are turned back into improving prison industries. The FPI workers are obtaining work experiences similar to those they may have after being released from the institutions and earn money for their labor. The goals of the Federal Prison Industries are in line with those of the Bureau of Prisons—to protect society, reduce crime, aid in the security of the prisons, decrease taxpayers burdens by providing opportunities for inmates to develop work skills that can be used once they reenter society, and to produce quality goods and services. Federal Prison Industries, Inc. (U.S. Department of Justice, 2015, p. 2) reported that over 12,200 federal inmates were working in FPI factories at the end of fiscal year 2015. Production of goods and the provisions of services were concentrated in agriculture, clothing and textiles, electronics, office furniture, and recycling of materials. According to the 2015 fiscal report for FPI, there is every reason to believe that the growth in prison industry will continue.

Almost every state correctional system has developed prison industry programs. With the relaxation of the interstate commerce rules regarding the sale of prison-made products across state lines, prison industries in the state systems and in the federal system have expanded. It is likely that the growth of prison industries will continue in the future. However, as the prison population continues to change its characteristics, with a larger proportion of the inmates being older and physically or mentally handicapped, work opportunities must be made available for these special needs residents.

A report by the Urban Institute (2016) titled *Transforming Prisons, Restoring Lives* contains a number of recommendations for change in the Federal Bureau of Prisons. Many of the changes recommended have been made in various states and to some degree are already in either the planning or early operational phases within the BOP. The key recommendations are:

- Reserve prison beds for those convicted of the most serious federal crimes. To achieve this objective would require judges having to use more discretion when sentencing those convicted of lower levels of felony offenses. A large proportion of such offenses pertain to drug law violations;
- The Federal Bureau should promote a culture of safety and rehabilitation and assure that programming is allocated in accordance with individual risks and

needs. To a great extent, the BOP is fairly successful in providing a safe environment that is also conducive to rehabilitation. Inmates are classified on the basis of risks and needs assessments and generally provided with treatment. Those with extreme mental or physical health problems are generally transferred to either a prison hospital or a mental health facility. A major problem is having sufficient staff and resources to provide the treatment programs;

- The BOP policies should provide incentives to inmates to participate in risk reduction programs that have been identified to be effective through evidence-based research. The recommendation suggests that inmates can be motivated to participate in treatment programs if participation is linked with a reduction in the required portion of one's sentence, providing a major incentive to get out of prison sooner than expected.
- The evidence-based programs suggested are cognitive behavior therapy, education classes, faith-based programs, and other self-help programs;
- Evidence-based practices should be used in the prior release phase of an offender's preparation for prison release as well as in the after release phase. During the community supervision time period, there needs to be cooperation with all of the criminal justice and service agencies that are likely to be involved in the supervision and treatment provided;
- The federal criminal justice system should enhance performance and accountability through better coordination across agencies and increased transparency. Federal agencies and local law enforcement agencies have established task forces for the purposes of sharing information and resources in crime prevention efforts and in the investigation and tracking down specific types of criminal offenders. For example, federal agencies such as the FBI, US Marshals, ATF, and others have cooperated with state and local law enforcement and at times correctional personnel in task force programs aimed at drug traffickers, terrorist groups, organized crime, and fugitives. The BOP and state corrections departments have not generally been involved with such activities, and the recommendations suggest that such cooperation and coordination should be pursued; and
- Congress should reinvest savings (Assuming there will be substantial reduction in costs if the federal prison population declines significantly after the recommendations are put into operation) to support the expansion of necessary programs, supervision, and treatment. The report suggests that with the proper planning and changes in policies and practices the BOP can be an effective instrument in reducing crime and increasing the proportion of offenders who make a satisfactory crime-free life in their community.

## **Diversion of Special Offenders**

In the past, those who committed offenses related to drugs and alcohol and offenders with mental health problems were either treated in the same manner as other offenders or sometimes singled out for special treatment. The current practice

of diverting the mentally ill and substance abusers as well as other special categories of offenders, such as the elderly, from formal processing is likely to continue into the future, barring any great change in the political climate. State and federal legislatures are now receptive to diverting special categories of offenders from prison and even from formal processing. The creation of special courts, such as drug courts, mental health courts, family courts, veterans courts, and community courts, as well as the development of community based programs and facilities such as community corrections centers, intensive supervision probation, and various community residential treatment facilities were partly based on research that these approaches would produce better result in terms of recidivism and partially because the legislators were convinced that it would cost the state and federal governments considerably less money to treat such offenders in the community.

Kratcoski (2000, pp. 665–666) noted that the increase in the emphasis on community corrections during the 1990s was stimulated by the need to reduce the number of inmates housed in the crowded institutions. He contends, “Such intermediate sanctions as shock incarceration (boot camps), electronic monitoring, drug courts, intensive probation supervision, day reporting centers, and community treatment centers have been developed to retain some offenders in the community who otherwise would have been institutionalized. The intensified supervision needed for such offenders and the mandatory treatment they require for special problems have created renewed interest in and expansion of community treatment and has resulted in increased funding for such programs.”

A recent development is the creation of special courts (dockets) for human trafficking. These special courts address the problem of young women and men who become victims, generally as a result of their involvement in prostitution and drug dependency. Warsmith (2016a, p. A1) writes, “Human trafficking is often referred to as a form of modern-day slavery in which people profit from controlling and exploiting others. Traffickers use force, fraud or coercion to lure their victims and force them into labor or prostitution according to the U.S. Department of Homeland Security.” The Restore Court program in the Summit County (Ohio) Juvenile Court is an example of a human trafficking court. According to Warsmith (2016a, p. A1) “The program provides participants with services, rewards and punishments to try to steer them onto the right path.” Another goal of the Restore Court program is to try to convince those who have been victimized by human traffickers to work with law enforcement officials by identifying the traffickers and thus helping to eliminate the source of the problem.

Human trafficking courts for adult offenders were implemented in Columbus, Ohio and Cleveland, Ohio. The Franklin County Municipal Court (Columbus, Ohio) is referred to as CATCH. Warsmith (2016b, p. A4) states, “Most of the participants faced soliciting charges before entering the program. Many also have drug problems.”

The majority of the community corrections programs mentioned have continued to operate up to the present time, but some of the programs, such as “boot camps,” are no longer in vogue. A major difference between the “medical model” period and the resurgence of the popularity of treatment since the 1990s is that the

effectiveness of correctional treatment programs must now be demonstrated by the findings of empirical research. Funding for continuation of programs will not be granted unless there is an evaluation of the program and the results of the evaluation demonstrate that the outcomes are positive enough to warrant continuation. In the past, state and federal funding agencies, state legislatures, and local political leaders were willing to support programs if the idea appeared to be sound and had support from community representatives. Some of the programs were somewhat unrealistic in their expectations and for others it was impossible to empirically measure the outcomes. The current approach to supporting only evidence-based programs will likely continue into the future.

## **Diverting the Mentally Ill from Jail**

There are approximately 750,000 people housed in the jails in the USA on any given day. (Bureau of Justice Statistics, 2016, p. 1). Perhaps as many as 1/3 of these may have some mental health problem.

Steadman (1990, p. 1) states, "Jails are locally based. Their detainees are picked up on nearby streets by law enforcement personnel who live in the same communities. These facilities are not distant prisons, staffed by strangers, which hold offenders for years at a time. Finally, the dollars that pay for jails come from county and municipal budgets. This means that increases in their costs become easily identifiable components of a property tax bill. Jails are not nebulous institutions. They are highly visible facilities whose problems have immediate local impacts."

The comprehensive report on jail diversion for the mentally ill (Steadman, 1990, p. 4) found that:

- Both diversion and in-jail mental health services are desperately needed;
- Inadequate resources are a problem, but often a greater issue is the poor use of existing resources and the lack of integration of mental health and criminal justice programs;
- Mentally disordered offenders require a full array of services, but the priorities vary by the point at which they are in the criminal justice system;
- Community safety and individual rights to treatment are both able to be addressed when the pieces of the two systems are properly coordinated and funded;
- Good mental health treatment does not conflict with security concerns; and
- The jail and mental health problems of its detainees must be seen as a community problem.

Since the publication of Steadman's report, more than 25 years ago, considerable progress has been made in processing and care of the mentally ill criminal offenders. The establishment of specialized courts, particularly mental health, drug, and family courts, has resulted in a large number of those criminal offenders

who have some type of mental illness being screened at an early stage of the criminal justice process and treated in an appropriate program.

Mental health services in the jail have become more common. Psychologists and social workers are either employed as regular members of the staff or are on contract. As a result, those jail inmates who were mentally ill at the time of admittance to the jail, as well as those inmates who may have developed extreme anxiety, depression or other form of mental disorder, such as attempting self-destruction after being incarcerated, have professionals trained in mental health services available to provide crisis intervention counseling as well as emotional support.

The matter of inadequate resources, as well as the lack of sufficient professional staff to provide the treatment for the mentally ill criminal offender, is still a major problem, even though state and federal legislation has resulted in large increases in funding to provide for the care and treatment of those criminal offenders who have mental health problems. The National Affordable Health Care plan now covers people who would normally not have the insurance to receive the health care needed.

## **The Role of the Private Sector in Treatment of Substance Abusers, Sex Offenders, and Offenders with Mental Health Problems**

A fairly large proportion of inmates in the jails and correctional facilities have some form of a substance abuse problem (Bureau of Justice Statistics, 2016, p. 4). The number of those with substance abuse problems who received some form of treatment for their problems during the time they were incarcerated in jail or prison varied, depending on the time period. A survey by Mumola (1999) found that more than half of the state prisoners and one fourth of the federal prisoners had taken part in some form of substance abuse program. The research does not state whether the participation occurred during the time of incarceration or during some time prior to or after incarceration, nor does the research provide any information about the quality of the treatments programs in which the inmates participated.

Sechrest and Robby (2001) express concern about the quality of the substance abuse treatment provided in correctional facilities, as well as that provided in community correctional programs. Lucken (1997, p. 248) takes note of the increase in the use of the private sector for providing treatment for special category offenders such as substance abusers, those with mental health problems, and sex offenders. He states “These private programs provide needed intermediate sanctions which reduces the burden on public correctional personnel (probation, parole, and community service workers), and are more focused on comprehensive models of intervention and treatment.” Lucken (1997, p. 248) notes that the contracts

relating to providing programming and treatment made between the public sector and private sector have led to a new partnership.

Sechrest and Robby (2001, p. 616) while acknowledging the importance of the private sector in providing programming and treatment for special offenders, expressed concerns about the “new partnership” between the public and private agencies in the supervision and treatment of offenders. They state, “Several philosophical and operational questions can be raised about the use of private programs for criminal offenders. These range from moral opposition to private agency involvement in treatment to operational problems. Political considerations are a concern when private sector vendors become involved in creating a demand for their services by influencing public agencies.”

The profit motive must always be considered when public agencies contract with private agencies for services. Several large profit making corporations have made hundreds of millions of dollars by providing services to correctional agencies. As the prison populations continue to decline, the need for state and federal agencies to contract with private corporations to administer correctional facilities will also decrease. For example, an Associated Press news item (Akron Beacon Journal 2016, p. A5) reports that, “The Obama administration announced Thursday it will phase out its use of some private prisons, affecting thousands of federal inmates.” In a memo to the Bureau of Prisons, Deputy Attorney General Sally Yates stated that the Bureau of prisons will start reducing and ultimately will end the Justice Department’s use of private prisons. The announcements followed a recent Justice Department audit that found that private facilities have more safety and security problems than government run ones. At the time of the report 12% of federal inmates were housed in private facilities (Akron Beacon Journal, 2016, p. A5).

The expected decline in the use of private correctional facilities, however, will not extend to the use of privately administered, profit, and non-profit community correctional facilities and treatment programs. Even with occasional corruption and at times provision of poor service, the partnership between the private and the public sectors has grown during the first part of the twenty-first century and will continue to grow in the future because the scarce numbers of personnel and resources give no other alternative. It is the only way that the services and treatment needed for offenders under supervision can be provided. Arrangements between the state departments of corrections and county justice officials such as community corrections centers that are funded by the state but administered by the local officials are likely to expand in the future, since such facilities provide for security as well as community based treatment. An additional positive factor is that it is much easier for the offender to maintain ties with the family and community if housed in a facility located in the community.

During an interview with Richard DeHeer, Director of the Stark County Family Court (retired), he mentioned several significant changes needed in the strategic planning for the juvenile and family courts in the future (Kratcoski 2012, pp. 233–243). These included greater cooperation with social service agencies, in particular those agencies providing specialized treatment for substance abusers, sexual offenders, and those who are in need of family counseling, the need to

develop specialized supervision and counseling units within the courts to manage the types of offenders mentioned above, increased dependence on state and federal funding to help finance the specialized programs and personnel that will be needed, and a need to continue to develop state-of-the-art technology and diagnostic tools for the treatment programs.

The use of scientific-based diagnostic tools such as the risks and needs assessments of offenders at all stages of the criminal justice process has had many positive effects in assuring positive outcomes in the supervision and treatment of juvenile and criminal offenders in the most efficient and inexpensive manner possible. The trend toward the implementation of state-wide systems that will serve as the basis for sentencing and case management of criminal and delinquent offenders will continue into the future. However, concern is expressed by many correctional personnel that the personal interaction between the correctional worker and the person being corrected will become so routinized that it will no longer be of significant value in the rehabilitation of criminal and juvenile offenders.

## Summary

The current trend toward providing treatment for criminal offenders in the community rather than in secure correctional facilities is likely to continue well into the twenty-first century, since it appears that the political climate is supportive of such a change and research findings show that community corrections is more cost effective and produces results more in line with the overall goals of corrections than does institutional corrections.

The goals of community corrections agencies have not changed, but some of the methods and tools used to achieve the goals have changed. While correctional personnel, such as probation officers, parole officers, correctional officers, social workers, teachers, psychologists, will continue to interact on a face-to-face basis with clients, much of the supervision and treatment will be completed by the use of electronic devices. The current trend toward public justice agencies, such as the police, courts and correctional agencies cooperating and sharing information, resources and even personnel will continue. With the wide variety of special and multiple problem offenders placed under the supervision of probation and parole departments, these departments do not have the personnel with the expertise to provide the treatment required. As a result, the public correctional agencies will continue to serve as brokerage agencies, making referrals to either public health agencies or private agencies that can provide the specialized treatment needed by the offenders referred to them.

The changes in laws and policies by the state and federal courts away from mandatory determinate sentencing toward a more discretionary sentencing policy will require the expansion of all of the community based correctional agencies and in particular residential community treatment facilities. Such facilities, which were predominately privately administered but supported to a large extent by public



funding, have traditionally been used by multiple municipal, state, and federal agencies to provide housing and treatment for probationers, parolees, and even those who were diverted from official processing. However, the current trend toward developing facilities that offer a specialized type of treatment for the residents who have special needs, such as substance abuse treatment, will continue. The treatment personnel that staff the residential facilities will have to have the specialized training that certifies them to conduct the treatment programs.

## Discussion Questions

1. What factors caused the “medical model” for offender treatment to lose favor? Do you think it will ever gain complete favor again? Why?
2. Why did prison administrators turn to community corrections as a solution to the problems of overcrowding and violence that emerged in prisons in the 1990s?
3. Does the new emphasis on treatment rather than punishment in corrections mean that the judicial system can no longer be “tough on crime”?
4. If an offender refuses to take part in treatment offered within an institution, should sanctions within the prison be applied to get him/her to conform?
5. When an offender receives a sentence of “life in prison without the possibility of parole,” what type of treatment should be provided to such an offender?
6. Why is local control such an important factor in making community correctional centers successful?
7. When treatment is provided in an institutional setting, how can the therapists increase the motivation for inmates to take part in the therapy?
8. How can offenders who are given intermediate sanctions that are applied in the community be successfully monitored so that they do not pose a threat to the common good?
9. Research on the effectiveness of boot camps found that they had little long-term effect on the behavior of the youths enrolled in them, even though they were very effective in changing behavior during and shortly after youths participated in them. What do you think was their “fatal flaw”?
10. When mentally ill offenders are diverted from jail and given treatment, what can be done to assure that they will receive adequate care and supervision after they are released?

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