

# SCANNING FOR CORRECTIONAL FUTURES

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## EXECUTIVE SUMMARY

### PURPOSE

This report has multiple purposes: (1) to survey perspectives on Corrections as well as the broader Criminal Justice System of which Corrections is an integral part; (2) to develop a knowledge base of current trends and emerging issues from which the Office of Corrections Services Commissioner can develop long-term strategic directions; and (3) to provide a knowledge base to be used to develop divergent scenarios and a shared vision of the future of Corrections for the Victoria Department of Justice. In effect, this document serves as a ‘State of the Futures of Corrections’ Report.

Scanning as a prerequisite for planning the future has a history of at least twenty years. The Hawaii Judiciary and the US Council of State Policy and Planning Agencies were leaders in this approach – commencing in the 1980s. The Virginia Courts followed in the 1990s and, by 2001, twenty-four American states had established Judicial Foresight Commissions, generally chaired by the Chief Justice, with broad based judiciary and public input. Further, the National Center for State Courts, also in the USA, is currently engaged in scanning the future, and the Singapore Subordinate Courts now engage regularly in Foresight activities and develop scenarios and action plans based on these scans. The United Kingdom has a national foresight commission that has prepared reports in a variety of areas including health systems as well as the futures of crime. Internationally, UNESCO – through its Futuresco project – engaged in cross-cultural scanning along a variety of topics, including education, ecology, communication and human rights. In Australia, The Department of Justice, Victoria, has conducted a scan of the Judicial System, and Brisbane City Council commissioned a scan of City Futures.

Nonetheless, no Corrections department nationally, in Australia or globally, has used environmental scanning to develop its strategic plan. This is partly because Corrections has only relatively recently – over the past decade or so – moved towards professionalization: coming to its organizational own, as it were. However, in 1998 the United States Department of Justice embarked on a futures of community corrections project. Through a participatory workshop futures process, five scenarios were developed for Corrections.

Executive branches of government have generally been less prone to engage in futures planning as pressures generally come through the political electoral process and short-term budgetary cycles. Longer-term interests are often lost sight of.

In this climate, scans are of utility as they provide the knowledge base for planning the future. They alert decision and policy-makers to the latest trends, to swings in citizen concerns. The scans prepared for this report help determine what strategies should be pursued to further the goals of the Victorian Correctional System.

## PLANNING CONTEXT

Scans must be seen in the context of planning for the future. There are four main approaches:

1. **Problem-oriented planning.** In this approach, the problems facing the system are assembled and prioritized by the stakeholders. The utility of this approach is that the functional efficiency of the system increases; however, structural problems are often not noticed (meta-problems) and gains are often for the short-term. The system tends to remain in perpetual crisis in the problem oriented approach. This is especially so for Corrections, since it is the final stop for those who enter as offenders into the criminal justice system.
2. **Mission-oriented planning.** In this approach, the system's fundamental core missions are determined. For example, the Correctional system as a bureaucracy with a responsibility to be accountable and transparent, or Corrections as a public institution with the responsibility to anticipate and respond to the changing judicial needs of the public. The utility of this approach is that there is clarity of core competence and mission – individuals know why they are doing what they do. The weakness in this approach is that it is static, not accounting for technological or economic changes or for the changing needs of citizens. In Corrections, this planning perspective is difficult as stakeholders (government, media, the national public, the local community, professionals, criminologists) tend to have different perspectives on the mission of corrections – punishment versus rehabilitation versus what works as a professional ideology.
3. **Vision-oriented planning.** In this approach, strategic directions of the system are developed by discerning what stakeholders would prefer the system to move toward. While this approach moves the organization forward, it is often difficult to get buy-in from day-to-day managers who prefer the problem-oriented approach. Corrections in the USA and the UK are just now starting to move toward the visionary approach.
4. **The Future-oriented approach.** Strategic directions are determined by anticipating the short and long-term future. Environmental scanning aids in creating a map of the probable future. This map gives the tools to analyze how specific trends might impact core missions, which missions need to be emphasized, which directions need to become a focus of human and budgetary resources. The weakness of this approach is that it can be overwhelming, as well it is difficult to ascertain what is relevant versus what is merely interesting; what is urgent and indeed what is doable, given budget constraints and political pressures.

Table 1, below, sets out these four approaches and their utility.

TYPE OF PLANNING	PROBLEM	UTILITY
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Problem	Reactive Politicized Banal focus	Solves immediate concerns Recognized by managers Puts “runs on the board”
Mission	Static	Clarity of core competence
Vision	Can be too lofty Hard sell to some managers, often leaving them behind	Moves organization in desired direction Active
Future	Overwhelming Relevance versus just interesting	Proactive Clarity of operating environment System wide big picture

## SCANNING

Scanning seeks to identify issues and trends as evidenced in published material. These may be, for example, speeches by experts, items in newspapers, scholarly journal articles, magazine editorial pieces, as well as interviews with leading thinkers. Scanning is both volume driven — seeking to focus on issues where frequency is high (for example, alternatives to incarceration) — as well as leading indicator driven — searching for new issues of which there is only marginal support in the literature (pharmaco-genomics, for example). Scanning also seeks to understand which issues are located in the current paradigm, which issues *challenge* the current paradigm, and which topics are outside current understandings of issues facing Corrections (outside the doxa). Scanning requires an understanding of the micro dimensions of a particular field *as well as* the macro ‘big picture’. Scanning needs to be conducted on a regular basis, so as to enable the tracking of issues from being “beyond the horizon” to “on the horizon” to “today’s problems”. Regular tracking can also help identify anomalous issues. Scanning is similar to the more academic literature review; however, the issues presented are more focused and news item driven.

However — and this is crucial — scanning is, as far as possible, an objective assessment of the social, political, economic and technological environment. It is important to note that given the politicized nature of discussion of Corrections, and highly publicized failures (as well as a lack of publicized success), the scans presented do not represent the social and political views of the researcher. While subjectivity is, of course, present in all forms of research, as much as possible this is an objective assessment of what is out there — not what should be out there or whether what is out there is good or bad. This report must be seen as part of an iterative action learning process.

The full utility of scans is their role in developing strategic long-term directions. From the scans, alternative futures of Corrections can be derived as well as a preferred vision of Corrections.

Scanning is generally less concerned with the search for specific information bits and more with gaining a thorough understanding of the future justice terrain. While individual scans are important, far more noteworthy are the trends and patterns — the themes — that emerge from environmental scanning. These themes define future action.

## The Themes

The following themes have emerged from the scans:

1. The big picture on Corrections – trends and issues.
2. Public policy, media and public opinion.
3. The prison – design, transformations in, end of, and other trends and issues.
4. Ownership of prisons.
5. Interventions that work.
6. Restorative justice and community alternatives.
7. Technological alternatives: Electronic, artificial intelligence and biological advances.
8. Drugs.
9. Juvenile Justice issues and reforms.
10. New arenas and types of crime.
11. Explaining and predicting violence.
12. Forecasts of the futures of Corrections.
13. Scenarios and visions.

A summary of each of these thirteen themes is given in the following sections.



## THEME 1 – THE BIG PICTURE

*The current system of incarceration-at-all-costs is not working. Alternatives are possible but the political economy of corrections, public attitudes and rhetoric of politicians make reform difficult. If changes are not made now, crime will worsen, as released prisoners will be a threat to public safety.*

### 1. Some Recommendations to Reduce Imprisoned Population

Growth rate of imprisonment per population is attributed by many experts to the belief that prison is preferable to alternatives:

- First of all, less use can be made of pre-trial (or remand) imprisonment.
- Second, when a person is held in pre-trial imprisonment the period should be as short as possible.
- Next, it is important to increase the availability of alternatives to prison sentences.
- Next, where prison sentences are unavoidable, they can be made as short as possible.
- Again, high prison populations can be reduced by increasing the use of early release procedures - parole and conditional release.
- If the above measures are ineffective in bringing prison populations down, or cannot be applied (e.g. because the necessary legislation is lacking), then consideration can be given to the use of amnesties for less serious offenders who are approaching the end of their sentences.
- Finally, one must consider a measure which can be an alternative not only to the use of imprisonment but to the use of the criminal justice system itself. Restorative justice is recognised increasingly as the way forward in a number of circumstances, not all of them involving minor offences.

#### *Getting Measures Accepted*

There is a requirement for criminal justice experts to:

- ensure that the key people are well-informed;
- provide information to, and stimulate discussion among, opinion formers, the media and the general public;
- challenge media misrepresentations;
- draw attention to how similar countries or jurisdictions cope differently;
- bring the key people together to promote policy discussions, leading to decisions as to the direction in which policy ought to move.

2. Reliance on penal measures is likely to harden race/ethnic divisions.
3. Emphasis on rehabilitation in prisons has continued to wane despite clear refutation of claims that rehabilitation does not work.
4. The history of juvenile justice has turned full circle: many of the progressive elements introduced at the beginning of the century have been undermined or reversed, as juvenile institutions come to resemble the adult prisons they were designed to replace.

5. On the other hand, creation of a number of smaller local "community prisons" in urban centers appears to be gaining considerable support among penal reformers, not only to accommodate different populations but for greater access by family and friends.
6. Criminal justice system is badly out of balance, and should place more emphasis on preventing crime, just sentencing, rehabilitation, and community-oriented policing.
7. Prevention must start early, focused on child abuse and neglect plus early intervention for children at risk, and investing in programs for vulnerable adolescents and youths.
8. Move beyond prisons without compromising safety.
9. Educate Public.
10. Challenge the political-economic interests of the prison and criminal justice industry. Crises brewing as we are warehousing mentally ill – when they get out, they will pose a threat to society.
11. Rise of Right throughout world will reinforce law and order perspectives.
12. Future Corrections Issues likely to be at the local level.
13. Prisons should be seen as a last resort.
14. Two models for the futures of corrections – a war model or a peace model.
15. Women and men offenders require different approaches to sentencing, rehabilitation.
16. Big money creates a prison-industrial complex, which holds back reform and the true costs of law and order policies.
17. Soft methods that stress alternative sentences and community involvement work better than harsher methods challenging broken window argument.
18. However, mass incarceration followed by mass release into subcitizenship will undermine the great democratic achievements of the past half century – the future is grim, and getting worse.
19. Education instead of incarceration rally (and movement?).
20. Drops in crime in the U.S.A. are due to:
  - denying handgun purchase;
  - incarceration;
  - decline of adult violence;
  - decay of crack markets;
  - innovation in policing;
  - economic opportunity; and
  - demographic shifts.
21. Criminality best explained by dynamic markets not a sociology of deviance.
22. Risk management is the next wave of the future – it can be compatible with restorative justice and other alternatives.
23. US states reversing get tough sentencing and corrections reforms.
24. Sentencing laws are ineffective crime deterrents.
25. Sentencing alternatives are viable such as community service and electronic tagging.
26. Sentencing alternatives especially for non-violent women offenders recommended.
27. Mental health crises being created in jails and prisons – we are sitting on a time bomb. Recommendations:
  - upgrade mental health services;
  - revitalize rehabilitation programs;

- end supermax security unity;
- upgrade public mental health system; and
- end prison-industrial complex.

28. National Guidelines for mentally ill in prisons required.

#### THEME 2 – PUBLIC POLICY, MEDIA AND PUBLIC OPINION

*The public is generally misinformed on crime and the criminal justice system – this misinformation is fueled by the media and politicians. However, through education and political initiatives, changes are possible. The public embraces alternatives when offered.*

1. Ordinary citizens in the USA assume that the criminal justice system works; however, the system is not working. For example, college enrollment while incarcerated leads to fewer management problems and better chance of success after prison; but there is strong public opinion against college education for inmates.
2. Media reports tend to be inaccurate.
3. Correctional courses can give students tools to better understand the crime problem – views shift pre- and post course.
4. Public embraces alternatives where education and political initiatives are present.
5. The American Society of Criminology has recommended impact analysis of get tough laws, informing the public of the true costs of mandatory sentences, more flexible and less arbitrary sentencing, alternative and less costly sentencing policies, and early youth intervention efforts.
6. Media bias found in reporting on youth crime – positive stories need to be told. Race bias is also present.
7. Prison populations respond, not to the real levels of crime, but to the same public perceptions that lead electorates to vote left or vote right.
8. Demographics, social and economic trends, and technology, along with the power play between interest groups such as the police and the media explain crime trends.

#### THEME 3 – THE PRISON

*Prisons do not work, indeed, they are often schools for crime. What are the choices then? Transforming prisons – ensuring justice in prison, appropriate physical design, educational opportunities, counseling and other therapeutic services including restorative justice – and possibly in the long run eliminating the prison. These are the alternatives if decreased recidivism and community re-integration of offenders is desired.*

1. Prisons are often schools for crime, off-setting any crime reductive effect.
2. Prison is used to prevent future crime through incarceration.
3. Prisons don't work – What is needed is: less building of prisons, more locally based corrections, better organizational management, and better education for prisoners.

4. Prisons don't work anywhere, in fact, they are very expensive, not a good solution to crime, often unjust and can lead to fundamental abuse of human rights.
5. There must be justice in prisons.
6. Prison space is decreasing rapidly.
7. Prisons can be designed in ways that decrease violence in the prison – design is crucial for an effective prison.
8. Offenders have higher probability to commit suicide in prison.
9. Prisons can become restorative – restorative justice in prisons.
10. Videoconferencing can be used successfully in prisons.
11. Doctors should apply professional standards in prisons – health is a major issue.
12. Prisons will disappear just as witchcraft and the inquisition did.

#### THEME FOUR – OWNERSHIP OF PRISONS

*Privatization is increasingly questioned – in terms of the profit made and the quality of justice (treatment of the most vulnerable). Still, privatization continues. New forms of ownership are suggested – partnerships and community ownership.*

1. Community owned jails is one possible future.
2. Privatization is being increasingly questioned – reviews are mixed, especially with regard to treatment of most vulnerable.
3. Some even suggest a moratorium on private jails.
4. Others argue that private jails are more efficient, and responsive, now entering the therapeutic restorative field, for example.
5. Privatization of policing creates a scenario of public policing for the poor and private policing for the rich.
6. Big growth is expected for privatization industry.

#### THEME 5 – INTERVENTIONS THAT WORK

*There is an increasing amount of scientific research that gives evidence for what works and what does not work, and what is promising. This moves the debate between political or worldview positions.*

1. “What works” is the new professional ideology in Corrections.
2. Multi-prong approaches to reduce recidivism – employment, therapy, restorative justice and partnerships – are recommended.
3. Work is essential to a good corrections program – gardening and other interventions that lead to purpose, community building, responsibility and self-worth should be encouraged.
4. Community policy with proactive alternative policies of restorative justice can reduce crime and rebuild communities.
5. Cognitive therapy is an effective intervention.
6. With respect to crime prevention the US National Institute of Justice asserts the following:

- frequent home visits to infants by trained nurses to reduce child abuse;
  - preschool attendance to reduce chances of later arrests;
  - family therapy and parent training;
  - school-wide initiatives for positive behavior;
  - life-skills training;
  - behavior modification for high-risk youth;
  - ex-offender job training;
  - extra police patrols in high-crime hot spots;
  - monitoring high-risk repeat offenders; and
  - in-prison drug treatment.
7. Supervision for offenders upon release reduces the chances of them re-offending.
  8. Corrections as an organization itself must transform, becoming a learning and healing organization.

#### THEME SIX – RESTORATIVE JUSTICE AND COMMUNITY ALTERNATIVES

*A new trend in the criminal justice system is restorative justice. This can have many levels from simply restoring the victim, to community capacity building. It means moving from retributive (punishment) to restorative (healing for all) responses. It is future oriented since only the future can be shared. The past is full of blame, the present of conflict, while the future is still open. However, far more resources and research is needed to support restorative justice (and other community alternatives).*

1. Restorative justice recommended as an alternative to prison.
2. Restorative justice is future oriented.
3. Restorative justice must seek to avoid domination.
4. Restorative justice has limits, for example, at times the rights discourse is more appropriate, as with children.
5. Restorative Justice is Good for the Victim, Good for the Offender and Good for the Community.
6. Restorative justice has better rehabilitation possibilities than traditional sanctions.
7. Restorative justice is also an appropriate crime prevention strategy (builds communities through increased motivation and empowerment).
8. Restorative justice is a grassroots community trend as well as active at the larger institutional level.
9. More research is needed into the efficacy of restorative justice so that it can become part of the criminal justice system (instead of as an alternative).
10. Indigenous practices of justice are focused on restorative justice.
11. Private correctional corporations are moving to restorative justice.
12. More budget monies are now provided for human services in corrections however far more resources are needed for community alternatives.
13. Just as the jail is now going into the community, the community should be brought into the jail. This will reduce negative media bias.
14. Family relationships of offender should be sustained since eventually he will be released into the community.

15. Restorative process can develop community social capital.
16. Restorative justice is far more appropriate for women offenders. It is therapeutic rather than punitive, and involves community members and service providers in both prison and community-based settings.
17. Community sentencing is increasing.
18. The emerging new demographic category, the cultural creatives, are likely to push for community and other soft alternatives to imprisonment.

**THEME SEVEN – TECHNOLOGICAL ALTERNATIVES: ELECTRONIC, ARTIFICIAL INTELLIGENCE AND BIOLOGICAL ADVANCES**

*Advances in technology promise to dramatically change the prevention of crime, the nature of sentencing, the nature and shape of prisons, indeed, even doing away with the prison. Cyber, pharmacological, genetic, nano and even psychic technologies are likely to change the landscape of corrections. The key is to develop multi-therapeutic strategies – redesigning prisons, community corrections, chemical interventions, electronic monitoring, and dietary change – so that the offender can be reintegrated into the community.*

1. Psychopharmacology promises to treat those with genetic disorders and chemical imbalances.
2. Pharmacies in the body will ensure that medication is taken regularly.
3. Electronic monitoring linked to GPS will allow real time tracking of offenders.
4. Corrections will need to transform its management practices to take advantage of these technologies.
5. Prison jobs may even disappear because of nano-implants to restrain convicts.
6. Diets will aid in reducing violence for offenders.
7. Loss of individual rights, what it means to be human, and a police state are all possibilities, for example, do we want a world where germ line intervention is used to weed out negative genes or a world in which those with positive genes are cloned. Will there be restrictions (reproductive, for example) for those with genes that predispose them toward criminal behavior?
8. Indeed, the futures of law, criminal justice and gene therapy is still being written. Most social commentators assert that a genetized view of crime is misleading, there is no simple gene to fix crime. It certainly is not in the “what works” column yet, or is it likely to be in the future.
9. However, in the USA all the states agree that DNA should be collected from persons convicted of violent sex offenses, on the grounds that these convicts are statistically disposed to recidivism. Risk management using the new technologies has already entered criminal justice practice.
10. Moreover, there appears to be evidence that biological rather than environmental factors are at the root of why men are historically 10 times more likely to commit violent crimes than women. However, the policy implication that is derived from this is: "this means stopping the glorification of violence and recognizing neglect and abuse as major risk factors to be addressed, especially in families where there is a history of violence. Because we often don't see men as having a predisposition to

violence we don't put enough time, effort and thought into how we, as a society, should respond to these unfortunate limitations".

11. Far less intrusive than genetic testing is telehypnosis, which could be used for inmates for behavior modification
12. Finally not only will technology be used to modify criminal behaviour but cyber-judges may be the one's handing out cyber-sentencing for virtual crimes.

#### THEME EIGHT – DRUGS

*There appears to be some agreement in the literature that drugs need to be decriminalized. There are range of alternative approaches that are likely to work better. Wars on drugs create a policed state. Most important for any long term strategy is community building, healing, the capacity for the community to police itself, to discover its own creativity.*

1. Australian national drug policy is considered a failure. There are alternatives:
  - the most important step is to redefine illicit drug use as primarily a health and social issue rather than a criminal justice problem;
  - set appropriate penalties, with more emphasis on non-custodial sentencing to divert selected offenders from the criminal justice system to drug treatment;
  - decriminalization of the cannabis industry: regulation and taxation of cannabis production and sale may be a long-term inevitability, but progress to this end will be incremental;
  - better allocation of drug response funding, with equal funds for law enforcement, prevention, and treatment;
  - adequately-funded, research-based drug education for schools and the community;
  - improving the range, capacity, and quality of drug treatment; and
  - evaluation of new treatment options.
2. War on drugs turns nations into police states.
3. Reduce damage of drugs not punish the users.
4. Strong communities are the best war on drugs. Communities' capacity to heal, police and take care of its members is essential in any strategy.
5. End prohibition, only education, moral persuasion and social pressure work.
6. 'Speed' is the most used 'serious' drug in Australia, and its distribution is being internationalized.

#### THEME NINE – JUVENILE JUSTICE ISSUES AND REFORMS

*Youth offender numbers are likely to double as youth populations increase. Trying juveniles as adults has led to the deterioration of the criminal justice system. There appears to be a strong correlation between the family context of the individual and the*

*likelihood to offend. There are positive steps that can help – juvenile justice needs to move from 'nothing works' to what works.*

1. Youth offender numbers are likely to double in the USA by 2010, if current trends continue.
2. Youth offenders are more likely to spend time in prison in the USA, largely because of changes in state laws.
3. Prevention programs are more likely to be successful than intervention programs.
4. However, intervention programs in the USA have produced 20-30% reductions in recidivism rates.
5. Fifteen per cent of serious, violent and chronic juvenile offenders account for 75% of all juvenile violent offenses.
6. Trying juveniles as adults has led to the deterioration of the criminal justice system.
7. Eighty-five per cent of all children with behavioral problems come from fatherless homes.
8. Some solutions include restorative justice, non-violent conflict resolution, peer counseling, community-school partnerships, and mentoring of all children.
9. Criminal justice system needs to address the child's capacity for change.
10. Minority children are jailed more often.
11. Recidivism is closely related to custodial sentences according to a study of 52,935 juveniles from NSW. The more lightly the offenders were treated, the less likelihood of reoffending.

#### THEME TEN – NEW ARENAS AND TYPES OF CRIME

*Globalization is both creating new institutions to battle crime – an international criminal court, for example – and new possibilities for transnational organized crime. New technologies such as cyber, genetic, and even nano are all or will be associated with new types of crime. The best responses are those that are both global and local – global in scope and institution building and local in terms of community building.*

1. A Global Criminal Justice Neighborhood is being created, global criminal justice alliance must also be created.
2. Growth of cybercrimes such as cyberstalking.
3. All new technologies will be associated with new crimes.
4. New global institutions are needed to respond to cyber criminals.
5. Global-local responses are best.
6. Decriminalization of drugs, gambling and prostitution.

#### THEME ELEVEN – EXPLAINING AND PREDICTING VIOLENCE

*The study of violence has moved into the sciences and social sciences. It is seen as multi-causal – based on individuals' development, community environments, situational dynamics.*



1. An actuarial assessment instrument, the Violence Risk Appraisal Guide has been developed.
2. Risk management can be improved by combining what is already known about predicting violence, clinical decision making, and program evaluation.
3. Scientific knowledge about psychopathy increases the possibility that future interventions to reduce the likelihood of violent recidivism could be based on a causal explanation of psychopathy.
4. Training staff in interview, security, and physical management can reduce assaults and staff injury.
5. Teenagers who watch an hour or more a day of television are four times more likely to be violent as adults than those who spend less time staring at the set.
6. Violence can be explained by individual development (genes, parenting) combined with community environments (that condone or discourage violence) and situational dynamics (weapons entering a conflict).
7. Violence is pathological: normal aggression gone awry.
8. Brain chemical are implicated in violence as is neglect and abuse in childhood, harsh and inconsistent discipline, and associating with anti-social peers.
9. Violence flourishes in vulnerable individuals in resource poor neighborhoods, like a virus.

#### THEME TWELVE – FORECASTS AND FUTURES OF CORRECTIONS

*Changes are likely to be quite dramatic – increased aged, increased women, increased litigation, increased search for alternatives, increased technological solutions, increased multi-door approaches to offenders and the movement to limited risk management. But perhaps most important is Corrections itself becoming a learning, future-oriented organization, developing its own visions of desired futures and internal capacity building so that it can adapt successfully to change.*

1. Increasing focus on community based corrections.
2. Increased focus on technological solutions to crime and criminal justice problems.
3. Influence of aging on the criminal justice system – elderly will be a new category of offenders as well having special needs in prisons.
4. Incarceration rates related to public policy.
5. Challenge of creating real community-based system.
6. Interpersonal skills, public relations training and change management programs are crucial for correctional officers.
7. Female offender population likely to increase.
8. Transition from institutional safety and security to community safety and security.
9. Varied approaches to handling growing prison population will be required – jail, reprogramming facilities, prisons, community-based programs, halfway houses, day reporting center, or electronic home centres. One such division of incarceration and rehabilitation is the following:
  - pretrial diversion programs – electronic home arrest, community service;
  - pretrial detention facilities – holding units during court proceedings;

- short-term sentenced facilities – programs based, direct supervision, regional;
  - intensive supervision programs – real time tracking, home arrest, supervision;
  - term reprogramming centers – shorter term, therapeutic rehabilitative units;
  - radical reprogramming centers – discretionary term brain wave altering centers; and
  - prison – life sentence, no chance of parole.
10. Rapid rate of incarceration is unlikely to continue.
  11. Correctional managers will need to manage risk more wisely.
  12. Limited risk management is the appropriate professional strategy, that is, from treat/rehabilitation to punishment to risk management.
  13. Correctional facilities will be increasingly involved in litigation.
  14. Goals need to be proactive.
  15. Triple bottom line perspective likely to impact corrections.

### THEME THIRTEEN – SCENARIOS AND VISIONS

*Scenarios are possible, probable and preferred futures. Scenarios help manage uncertainty, increasing the choices that can be made today. Scenarios assume different drivers. Scenarios are created through uncertainties, for example, 'muddling through' assumes a low morale correctional field that is risk averse; community justice and public safety assume more asserting correctional communities. The Department of Justice Scenarios are based on the viewpoint of Corrections. Dator provides social scenarios focused on two variables – technology for High-Tech Surveillance, and Values shift for Green Equity Multicultural Justice. The preferred futures are the Canadian, and those of Rowen and Coleman– visions of desired future, from the viewpoint of those in Correctional management.*

1. U.S. Department Of Justice:
  - Muddling Along.
  - Principled Minimalism.
  - Enforcing Court Orders.
  - Community Justice.
  - Advancing Public Safety.
2. James Dator, University Of Hawaii:
  - High-Tech Surveillance.
  - Green Equity Multicultural Justice.
3. Canadian Correctional Preferred Vision:
  - Justice.
  - Fairness.
  - Honesty.
  - Dignity of individuals.

- Training.
- Risk management.
- Public participation.
- Partnership with criminal justice system.
- Community justice.
- Anticipating the future.

4. Joseph Rowen<sup>1</sup>, Preferred Scenario-Vision from the View point of Corrections:

- Direct supervision.
- Exercise.
- Extensive counseling.
- Training of correctional officers.
- Participatory management for Corrections.

5. Vision of Ray Coleman, former President of the American Jail Association:

- Jails and prisons will no longer be seen or act as isolated entities, but as collaborative members of the community, by providing for community safety and security, by reducing the number of victims both in the community and in correctional institutions, and by providing effective offender programs.

The core values are:

- Community safety and security, offender outcomes, and fewer victims.

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<sup>1</sup> Joseph Rowan, former line jail officer, detention supervisor, institutional superintendent, commissioner of state detention and correctional systems, and administrator of four private correctional agencies - member, American Correctional Association.

## PRELIMINARY ANALYSIS OF THEMES

Based on these Themes we can begin to analyse the data. The following methods will be used: the futures triangle, a two-by-two drivers chart, scenarios and causal layered analysis.

Figure 1: The Futures Triangle – Corrections Futures

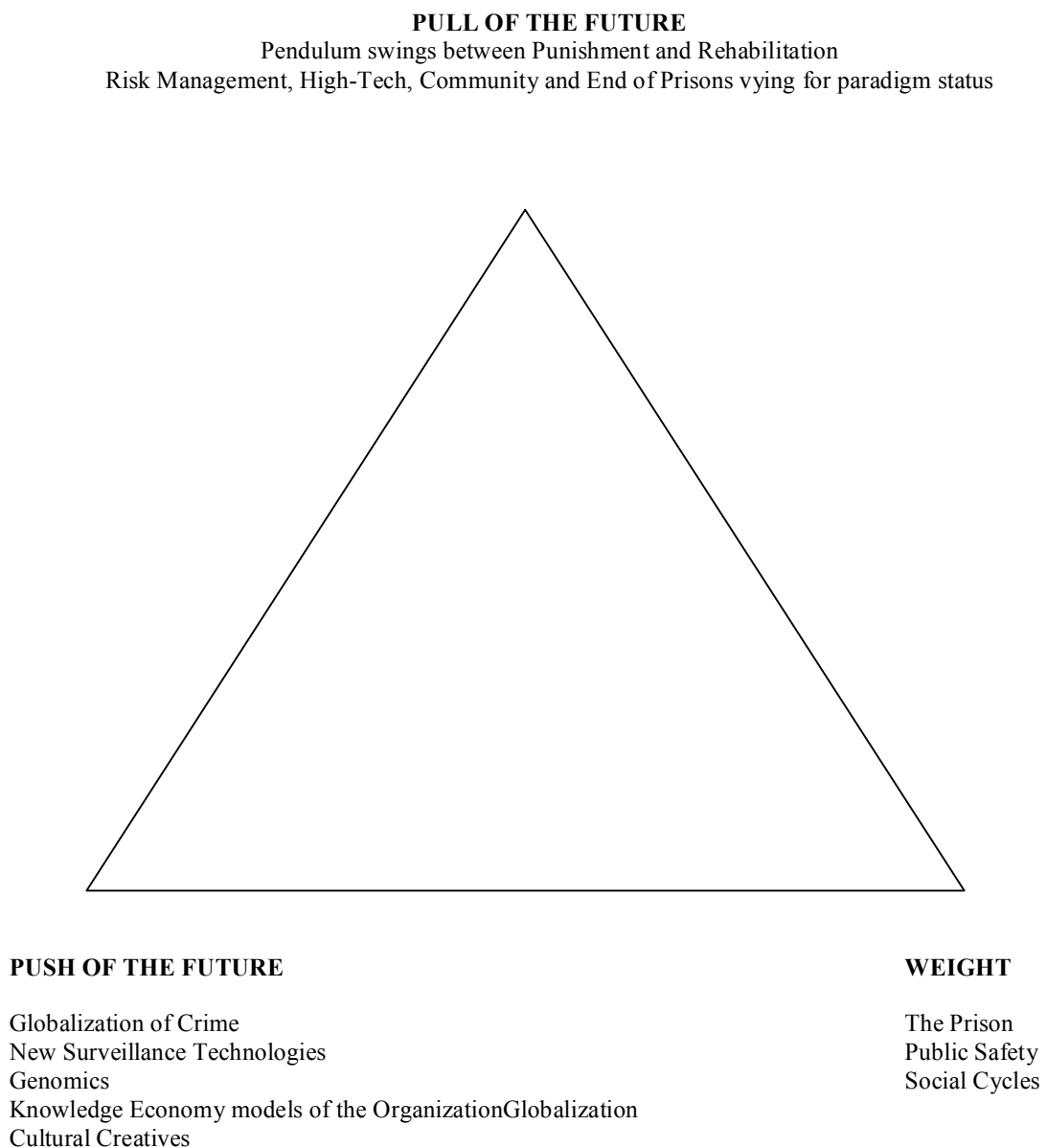
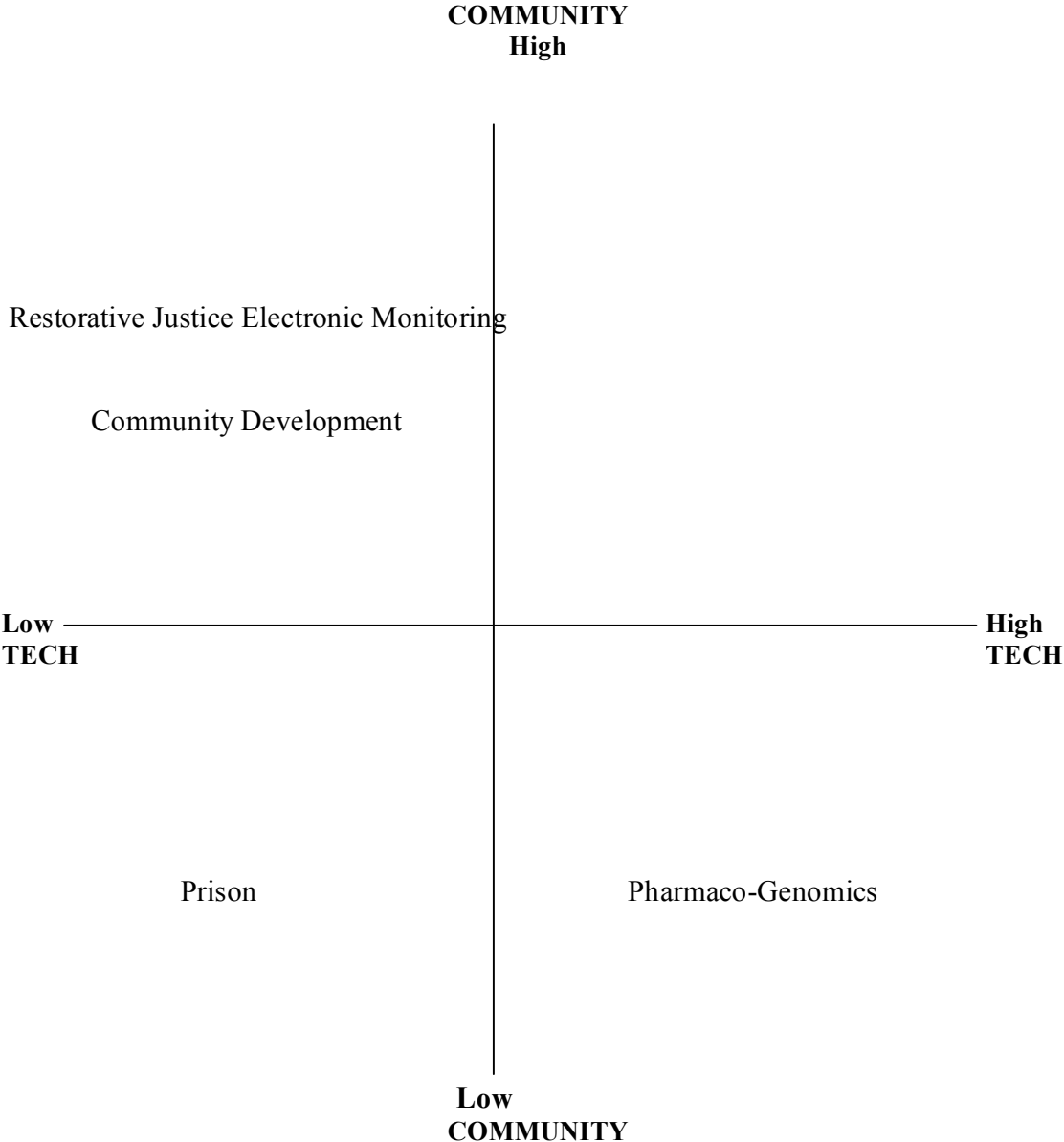


Figure 2: Mapping Correctional Futures across Two Variables –Technology and Community (Illustrative only – for discussion)



## SCENARIOS

What scenarios can be derived from the themes? Four stand out.

### PRISONS FOREVER

First is the Continued Growth scenario. This is more prisons, more overcrowding, more law and order, with occasional minor swings to rehabilitation but generally the focus is on the victim, crime prevention through increased policing, and incarceration. It is both low tech and low community. The end result is increased crime as offenders are not effectively rehabilitated. Only 25% of the variation of crime can be explained by increased incarceration.

**Drivers:** Law and Order discourse, punishment, prison-industrial complex, media, politicians and political rhetoric.

### PRISONS TRANSFORMED

This second scenario does not focus on alternatives outside the prison per se but rather on achieving better outcomes within prisons. This could be through better prison design, cognitive therapy, health and human right needs of prisoners, education and other positive intervention.

**Drivers:** Overcrowding in prisons, violence in prisons, cost of prisons, globalization of human rights and human rights organizations, and what works as an ideology.

### COMMUNITY ALTERNATIVES

The third scenario is focused on community alternatives, including restorative justice and community building. Electronic monitoring and other high-technologies that allow increased movement, and the possibility of community reintegration are commonplace. Surveillance comes from the neighborhood and new technologies. A small percentage of highly violent offenders still end up in prisons.

**Drivers:** Criminologists; professional ideology of ‘what works’; search for community in increasingly fragmented world; cost savings; demographic changes and cultural creatives and new technologies.

### PREVENTION

This fourth scenario is focused on ensuring that societal conditions have changed so that individuals rarely must go to prison. Prevention has numerous dimensions, from keeping families together, counseling for abused adolescents, to better policing and surveillance (reducing the opportunities of crime) to creating a better more equitable society, to transforming prisons to bioscience intervention through identifying high risk individuals.

**Drivers:** A swing away from punishment, evidence based criminology, social welfare state, and the human genome project and other scientific breakthroughs in the life sciences.

## CAUSAL LAYERED ANALYSIS

Finally, it is important to see scenarios not in flat space but as layered. The causal layered analysis method seeks to identify the systemic levels, the worldviews, and the myths/stories that underlie particular governmental policy. The following is an illustrative causal layered analysis.

### Causal Layered Analysis and Corrections

#### *LITANY (media reports and magazine representations)*

- Parolee Escapes.
- Funding for Prisons to go up.
- Overcrowding impacting human rights of prisoners.
- Victims decry lenient sentencing.

#### *SYSTEM*

Causes are based on social, political, economic and societal factors.

- Resource poor neighborhoods, lack of income, income inequality.
- Hormonal imbalance or genetic or environmental conditions.
- Corrections not properly managed, or under budgeted.

Solutions are: Public education, privatization, public-private partnerships, professional management and training in corrections, more evidence based interventions in corrections, alternatives to prisons, including community prisons, restorative justice, electronic monitoring ....

#### *WORLDVIEW*

Often unexamined deeply held positions:

1. Rehabilitation (humanist).
2. Punishment (Right).
3. Bio-correction (right plus science).
4. AI surveillance (home rights but protect community).
5. Quaranteeing – fear of the other (postcolonial).
6. Inequity (left).
7. What works – pragmatism (action learning).

#### *STORIES*

Unconscious positions:

- Anyone can change.
- They deserve it.
- Technology can solve everything.
- Father needs to help those that can't help themselves.
- We project what we fear.
- The world is not fair.
- Just solve the problem.

Therefore, the best interventions is to be able to understand the level of analysis being discussed as well being able to move up and down levels, thus creating integrated long lasting change.

## CONCLUSIONS

The futures tools used in this report offer us a map of how to understand what Corrections may look like in the future. While they point to the importance of myths and metaphors as well as worldviews that can often inhibit institutional change – the weight of history – the pull and push of the future point to a dynamic that is changing the face of Corrections. Scenarios help us understand the full range of the alternative futures of Corrections. Taken together, the futures approach leads us to one overwhelming fact: change is possible, individuals and institutions have the capacity to create their desired future(s).



## THEME ONE

### THE BIG PICTURE ON CORRECTIONS: TRENDS AND ISSUES

#### GLOBAL OVERVIEW OF IMPRISONMENT TRENDS – HOW TO REDUCE IMPRISONMENT AND HAVE MEASURES ACCEPTED

An overview of world imprisonment: global prison populations, trends and solutions. Roy Walmsley. A paper presented at the United Nations Programme Network Institutes Technical Assistance Workshop, Vienna, Austria, May 10, 2001.

The countries of Oceania (including Australia and New Zealand) have a median rate [of imprisonment per head of population] some 30% below the world average.

Elsewhere, the growth [over the 1990s] has been, for example, over 50% in Australia, 38% in New Zealand, 33% in South Africa and 10% in Japan. The general trend during the 90s, at least in many of the developed countries, has been for a rise in prison populations, often with 40% growth over the decade.

To turn now from the figures to the explanations; why are prison populations so high and why are they growing? It is well established that crime rates alone cannot explain the movements in prison populations. In many countries crime rates, including rates for the more serious crimes, have been stable or even decreasing while the prison populations have risen steadily. Part of this rise in the prison population is attributed by many experts to an increasing belief in a number of countries **that prison is preferable to the alternatives.**

As Kuhn pointed out, an increased fear of crime, a loss of confidence in the criminal justice system, disillusionment with positive treatment measures, the strength of retributionist philosophies of punishment, all lie behind this belief. Loss of confidence in the system may lead to harsher legislation being passed, and retributionist philosophies can readily be translated into popular demands for longer, tougher sentences.

Sometimes people say: why does it matter if you have large prison populations? The more criminals you lock up the less crime they can commit. But research has shown that to have a significant effect on crime levels you would have to lock up far more people for longer periods – at great public expense – than even the countries who are most enthusiastic about imprisonment have been willing to do.

Again, what does it say about the nature of a country if it finds it necessary to lock up a high proportion of its people? The countries with the highest prison populations are locking up as many as 1 in 80 of their male citizens – and the proportion is of course much higher if you leave out of the calculation boys too young to be imprisoned and

older men, of whom very few will be in prison. What does this say about the social cohesion of these countries? Does social cohesion matter? Should the emphasis be more on promoting social cohesion and less on locking people up?

#### RECOMMENDATIONS TO REDUCE IMPRISONED POPULATION

1. First of all, less use can be made of pre-trial (or remand) imprisonment.
2. Second, when a person is held in pre-trial imprisonment the period should be as short as possible.
3. Next, it is important to increase the availability of alternatives to prison sentences.
4. Next, where prison sentences are unavoidable, they can be made as short as possible.
5. Again, high prison populations can be reduced by increasing the use of early release procedures - parole and conditional release.
6. If the above measures are ineffective in bringing prison populations down, or cannot be applied (e.g. because the necessary legislation is lacking), then consideration can be given to the use of amnesties for less serious offenders who are approaching the end of their sentences.
7. Finally, one must consider a measure which can be an alternative not only to the use of imprisonment but to the use of the criminal justice system itself. Restorative justice is recognised increasingly as the way forward in a number of circumstances, not all of them involving minor offences.

#### GETTING MEASURES ACCEPTED

To do this there is a requirement for criminal justice experts to:

- ensure that the key people are well-informed;
- provide information to, and stimulate discussion among, opinion formers, the media and the general public;
- challenge media misrepresentations;
- draw attention to how similar countries or jurisdictions cope differently;
- bring the key people together to promote policy discussions, leading to decisions as to the direction in which policy ought to move.

#### IMPRISONMENT NOT WORKING IN THE UK

Policy behind bars. Prison populism has overfilled the cells. Leader. *Guardian Unlimited* Thursday November 1, 2001. <http://www.guardian.co.uk/> accessed 17/4/02.

Hence the new surge: ministers stoked up public lust for retributive justice and were hoist with their own petard. The demeaning debate took place when crime was actually falling - by a startling 33% over five years according to last week's British crime survey. This owed nothing to imprisonment - for only two out of 100 crimes end up with a conviction - but to more secure cars and homes plus intelligently designed crime prevention programmes.

## PRISON AS A LAST RESORT

Conditions of detention in Council of Europe member States Council of Europe Parliamentary Assembly Committee on Legal Affairs and Human Rights Hearing held in Paris on 19 March 2002. Statement by Dr Andrew Coyle, International Centre for Prison Studies, University of London. Kings College London International Centre for Prison Studies. [http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/world\\_brief.html](http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/world_brief.html). accessed 16/4/02.

The lesson to be learned from [research into prisons is that] the problems facing any prison system can never be resolved from within that system but need to be tackled in a strategic manner. Such a strategy will have several elements.

The first of these is that imprisonment should only be used as a place of last resort, when no other option is reasonable.

As far as persons under investigation or awaiting trial are concerned, this means that they should not be detained in custody unless there is a real danger that they will commit further crime, that they will try to disappear or that they will interfere with potential witnesses against them.

As far as those who have been convicted are concerned, imprisonment should only be imposed for the most serious crimes or when the offender poses a real threat to public safety.

In all other cases the court should consider a sentence other than imprisonment. This is already the case in a number of countries, such as Sweden, where short prison sentences are replaced by close supervision in the community.

In many countries in Eastern Europe a variety of alternatives to prison are already provided for in legislation. These alternatives are appropriate for the needs of the region. What is required is encouragement to the judiciary to use these provisions and support for the administrative infrastructure to make sure that they are properly implemented. The Ministry of Justice in Russia currently has a number of important initiatives to help these things to happen. Similarly, in Latvia recent developments in community service are to be applauded. The Council of Europe should support and encourage such initiatives as they have a far greater possibility of success than any attempt to transplant costly alternative Western models to Central or Eastern Europe.

If these changes are to happen there has to be a determined effort to convince other parts of the criminal justice system to make less use of pre-trial detention and of prison. Those who have to be convinced include the procuracy and judges. The Council of Europe Directorate of Legal Affairs has been active in this field of work and should be encouraged to continue this.

## PERPETUAL CRISIS AND OVERRELIANCE ON PENAL MEASURES SPELL CONFLICTUAL FUTURES

*The Culture of Control: Crime and Social Order in Contemporary Society*. David Garland (Prof of Law/Sociology, NYU). Chicago: U of Chicago Press, June 2001/307p/\$30.00. Abstracted by Michael Marien, *Future Survey* 23:7/317 July 2001.

"The last three decades have seen an accelerating movement away from the assumptions that shaped crime control and criminal justice for most of the 20<sup>th</sup> century." Indeed, the trajectory of crime control in both the US and Britain "has been almost exactly the contrary of that which was anticipated as recently as 1970." The most important currents of change over the last 30 years:

- 1) decline of the rehabilitative ideal (although rehab programs continue to operate, they no longer express the overarching ideology of the system); this fall from grace of rehabilitation is "hugely significant";
- 2) re-emergence of punitive sanctions and expressive justice (penalties that appeared explicitly retributive or deliberately harsh--the death penalty, chain gangs, corporal punishment--were once seen as anachronisms);
- 3) changes in the emotional tone of crime policy (fear of crime has come to have new salience, despite declining rates of violent crime);
- 4) the return of the victim to center stage of policy (the new political imperative is that victims must be protected, their voices heard, their memory honored, their anger expressed);
- 5) above all the public must be protected (a new and urgent emphasis on the need for security, containment of danger, management of risk; in turn, probation and parole have de-emphasized social work functions while emphasizing control and risk-monitoring);
- 6) politicization and the new populism (crime policy has ceased to be a bipartisan matter for professional experts and has become a prominent issue in electoral competition, especially in the form of sound-bite statements such as "no frills prisons" and "zero-tolerance"; the populist current in penal politics now denigrates experts and claims the common sense of the people);
- 7) reinvention of the prison (the long-term tendency away from incarceration (toward monetary penalties, probation, and community supervision) has been reversed in the past 25 years, first in the US and then in the UK as well);
- 8) the transformation of criminological thought - the theories that now shape official thinking and action deem crime and delinquency to be problems not of deprivation but of inadequate controls; welfare state criminology tended to assume the perfectability of man, while control theories are based on a much darker view of the human condition;
- 9) the expanding infrastructure of crime prevention and community safety (crime prevention, Neighborhood Watch, etc. at the local level pursue a quite different strategy than prosecution and punishment);
- 10) civil society and the commercialization of crime control (de-monopolization of crime control by specialized government agencies, especially through expansion of the private security industry);

- 11) new management styles and working practices (a new and all-pervasive managerialism affecting every aspect of criminal justice);
- 12) a perpetual sense of crisis (a growing sense that modern arrangements for crime control may no longer be adequate);
- 13) the widening gap between those who can afford to protect themselves and those who cannot (as the market in private security expands and the crime complex reproduces itself, we may be locked into a new "iron cage").

Reliance on penal mechanisms to maintain social order is likely to lead to hardening of social and racial divisions, reinforcement of criminogenic processes, alienation of large social groups, discrediting of legal authority, and a tendency toward authoritarianism, an apartheid state, and the dystopian images of the 1980s movie *Blade Runner*. The social and political costs make it less likely that these policies will continue; "there is a prospect that current trends will be tempered and perhaps eventually reversed

#### REHABILITATION MODEL IS WANING, THE FUTURE IS SUSPENDED BUT LOCAL COMMUNITY ALTERNATIVES ARE GROWING

*Doing Time: An Introduction to the Sociology of Imprisonment*. Roger Matthews (Prof of Sociology, Middlesex U). London: Macmillan & NY: St. Martin's Press, July 1999/288p/\$69.95. Abstracted by Michael Marien, *Future Survey* 22:2/067 February 2000.

Matthews offers "a general introduction to some of the main issues and debates relating to the process of imprisonment," with a focus on England and Wales, but noting a number of European and US trends:

- 1) "*the most notable change in recent years has been the development of 'mass incarceration' in America and the repositioning of the prison as a punishment of first rather than last resort*";
- 2) the second most prominent development has been a marked change in the composition of the prison population on both sides of the Atlantic, involving an increased level of racial disproportionality;
- 3) there has been growing expansion of the correctional complex with a growth of both community-based sanctions and the prison population in a number of different countries;
- 4) among commentators who recognize some or all of these developments, there are contrasting predictions on the direction of future social control strategies: some see a reduced reliance on the prison, others forecast its expansion;
- 5) the decrease in the availability of secure, well-paid work and consequent forms of personal and social instability have undermined the viability of the two-parent household; growing involvement of ethnic minorities in the criminal justice system and development of what appears to be a two-tier system of incarceration across Western Europe has been linked to the changing forms of employment;
- 6) emphasis on rehabilitation in prisons has continued to wane despite clear refutation of claims that rehabilitation does not work;

- 7) there is a disturbing tendency, especially in the US, to lobby for the construction of a prison in economically-stressed communities; thus the prison becomes both a product of and a solution to the problem of increasing unemployment, widening the distinction between the "respectable" and the "disorganized" working class;
- 8) the history of juvenile justice has turned full circle: many of the progressive elements introduced at the beginning of the century have been undermined or reversed, as juvenile institutions come to resemble the adult prisons they were designed to replace;
- 9) "politically the future has been suspended;" the prospect of a qualitative social transformation under socialism has dissolved, and utopia has been abolished; the future appears to offer only more of the same;
- 10) on the other hand, creation of a number of smaller local "community prisons" in urban centers appears to be gaining considerable support among penal reformers, not only to accommodate different populations but for greater access by family and friends.

#### PREVENTION IS REQUIRED, ESPECIALLY OF CHILD ABUSE AND NEGLECT – LONG-TERM VIEW IS REQUIRED

*Crime and Punishment in America.* Elliott Currie (Legal Studies Program, UC-Berkeley). NY: Metropolitan Books/Henry Holt, Feb 1998/230p/\$23.00. Abstracted by Michael Marien, *Future Survey* 21:1/042 January 1999.

In the past 25 years, the US has built the largest prison system in the world, yet many Americans are calling for harsher treatment and more prisons, as high levels of violent crimes persist. "America's punitive and reactive response to crime is an integral part of the new social Darwinism, the criminal-justice counterpart of an increasingly harsh attack on living standards and social supports, especially for the poor, often justified in the name of 'personal responsibility' and the 'free market'." Public discussion is rife with myths, misconceptions, and half-truths, while the real story is often buried in specialized literature. Those who study crime closely are learning more and more about what needs to be done if we are serious about tackling violence. "The possibilities for preventing violent crime are great and still largely untapped, while the potentials of the criminal-justice system to control crime... is inherently limited." Half of this book considers *alternatives to over-reliance on prisons*:

- 1) **Prevention:** the first priority is to invest serious resources in preventing child abuse and neglect (the evidence is compelling that this is where much violent crime begins); the second priority is to expand early intervention for children at risk; the third priority is investing in programs for vulnerable adolescents and youths who have begun a serious delinquent career;
- 2) **Social Action:** extreme deprivation inhibits child development and breeds violence; urgent strategies include enhancing the labor market (living wage campaigns, a shortened work week, full benefits for part-time jobs, public employment) and strengthening provision of key social services and supports;

- 3) ***The Justice System***: the system is badly out of balance, and should place more emphasis on preventing crime, just sentencing, rehabilitation, and community-oriented policing. The urgency of these needed investments should not be obscured by recent declines in crime, which may not last long.

## TO MOVE BEYOND PRISONS WITH PUBLIC SAFETY

Opening address. Ole Ingstrup, Commissioner of the Correctional Service of Canada. On the occasion of: Beyond Prisons Symposium, March 16 - 18, 1998, Kingston, Ontario. <http://www.csc-scc.gc.ca/text/speeches/commish/beyonde.shtml> accessed 10 May 2002.

We are here to move beyond prisons. But I want to emphasize, that we are here to do so without compromising public safety. Indeed, we are here to look at the possibilities of reducing the prison population in a number of countries at the same time as we enhance public safety in those countries. This must be understood throughout our deliberations.

The number of people in prison and incarceration rates are increasing in most countries, even in those where the crime rate is stable or decreasing, as it is here in Canada. Even some countries that have taken initiatives such as alternatives to incarceration are experiencing rising rates. This despite the fact that, first, there is no proven link between the incarceration rate and a safe society. Second, the evidence is that incarceration has little impact upon the overall crime rate, and, third, lengthy incarceration has no more deterrent or rehabilitative effect than shorter incarceration.

We have to move beyond prisons. ... For us the destination is clear. Less clear may be the forces that seem to have an impact on our journey. Let me mention some of them:

- Public perception of the causes of crime and what kinds of solutions are needed. There is no doubt that this is a major force and should be a major factor in the way in which we and our political masters make decisions.
- How we interpret these signals from the public. The public may be calling for harsher sentences, longer sentences, more frequent sentences of incarceration, but have we really done what we were supposed to do to find out whether they want something else than what they seem to be asking for? Are they really asking for safer communities? I would take the liberty to believe that that is the case.
- I think that many people would be surprised if they were confronted with the knowledge that harsher sentences do not lead to safer communities, but may actually have adverse effects. That is a global statement, and global statements cannot be used in individual cases. I want to emphasize that. It's still important to hold that particular force clear in our minds.
- Some people's response to public fear. Some people seem to be seeking to benefit from appearing tough, knowing or not knowing that the toughness is just playing to the misconception that people are safer when the system is tougher. But we have an obligation as professionals to help those who make the final decisions to fully understand these complex relationships.

- Others have a financial interest in seeing the growth of what is actually called the prison *industry* or the criminal justice *industry*. We should never overminimize that particular aspect.
- We are all subject to limited funding, which in the end will give limited choices. This is a fact of life, and obviously we, as part of public services, should not be dealt with in any way different than our colleagues in other departments that have equally important objectives to pursue.
- There is nowadays in the rapidly moving world, the CNN world, the five-second clip world, a tendency to be looking for quick fixes. I think that is one of the forces that we have to look at on our journey. It does not prevent us from doing the right things, but it may influence the way we go about it.
- There is a focus on panaceaphilia, the search for the one single, wonderful solution that is going to get us out of all misery. Criminal justice is not immune to that.
- Lastly, we are working in an area where everyone thinks that they are an expert and makes pronouncements on how the criminal justice system should work. It might be a good thing for us to exert ourselves, what we do as a profession, as experts who actually know what we are doing and who know more about it than the people who are not doing it. It seems that we have had a tendency to feel very comfortable playing the underdog role instead of standing up for what we know to be right and what we know to be effective.

Our destination is a just and a safe society.

We share the reality that we must deal with the public perception and the public fear. The one that leads people to believe that crime is a great deal greater than it actually is. This perception is probably built on what could be called secondary victimization. We are affected by the crime that we hear or read about. We should never forget that being the victim of unrealistic fear of crime is almost as bad as being the victim of crime itself.

The impact of doing less than our best will include huge expenses. The use of scarce resources to incarcerate people while diverting increasing amounts from programs, such as education and community building and other ways that might reduce crime at the front end, is a consequence of not acting on the system that we have at this stage. We will be seeing more of the same, getting further and further behind with our energy focused on overcrowding problems, population management and what not. We will see excessive social costs affecting the nature and quality of our society and I don't mind saying, excessive harm to individuals that we were supposed to correct but just kept in prison longer than needed.

## FROM ALTERNATIVES TO PRISON TO TOUGH JUSTICE

The rise of the right. Lenore Taylor. *The Weekend Australian Financial Review*. 27-28 April 2002, 26.



The Rise of the Right through Europe will lead to a change in correctional policies, returning to get tough policies.

Writes Taylor, There's a crop of Pauline Hansons sprouting across Europe: earthy, nationalistic, anti-immigration, tough-on-crime, non-politicians, who are finding fertile ground in electorates alienated from the mainstream political process. France, Netherlands, Belgium, Romania, Germany, Portugal, Denmark, Austria, Italy, are all seeing the return of the Right.

#### IMPLICATIONS

This will dampen the possibility for reform, as mainstream parties will not engage in risky public policy. While the research suggests that alternatives to incarceration is appropriate public policy, politics suggests that another tack is likely to be followed.

#### CHANGES IN CORRECTION POLICY ARE BASED ON MACRO SOCIAL CHANGES

*The Handbook of Crime and Punishment*. Edited by Michael Tonry (Prof of Law and Public Policy, U of Minnesota; Director, Institute of Criminology, U of Cambridge). NY: Oxford U Press, 1998/803p/\$75.00;\$29.95pb). Abstracted by Michael Marien, *Future Survey* 23:7/316 July 2001.

Attempts in a single volume "to distill current knowledge on most important subjects relating to crime and punishment in modern America." The 27 big picture essays are in seven parts:

- 1) **The Context**: public opinion and criminal justice (public opinion plays a vital role in policy and practice), minorities and crime (on disparities in victimization and offending), gender and crime;
- 2) **Topical Crime Problems**: street gangs (continuing to proliferate in more and more jurisdictions), white collar crime (remains a marginal area for research, although it exacts a heavy aggregate financial toll "that dwarfs comparable losses to street criminals"), organized crime (on the decline of the Cosa Nostra), family violence (receiving increasing professional, public, and policy attention), drug control (there is little debate about most aspects of drug policy, and little change in US drug policy is expected: it is likely to remain highly punitive, despite reasonable doubts about effectiveness);
- 3) **Causes of Crime**: individual differences and criminal potential (biological and psychological influences), community variation in offenders and crimes (rates vary significantly between communities, depending on rules, resources, and routines), economic conditions and crime (on various research issues);
- 4) **Crime Reduction**: restorative justice (the dominant model of criminal justice through most of human history for all the world's peoples; in the 21<sup>st</sup> century, "restorative traditions will be a more valuable resource than retributive traditions"), deterrence and incapacitation, crime prevention, treatment of sex offenders;
- 5) **Preconviction Processes and Institutions**: the changing nature of American policing, the organization of prosecution, jails and jail inmates;

- 6) **Postconviction Processes and Institutions:** the juvenile court and the emergence of punitive juvenile justice policies, the vast changes in sentencing in the last 25 years, probation and parole (a greater number of people on probation and parole is expected, with increasingly serious social and personal problems, and fewer services to help), the massive growth of imprisonment in the US, prison privatization (the three established markets--the US, UK, and Australia--are likely to expand);
- 7) **Punishment:** penal theories, intermediate sanctions (punishments that fall between prison and probation), correctional treatment (there are promising signals that some interventions reduce recidivism), capital punishment pro and con. In the introduction, Tonry notes that US crime and punishment policies are "vastly harsher" than in other Western countries: the US is unique among Western countries in using the death penalty, routinely sentencing offenders to prison terms longer than two years, holding more than 125 residents per 100,000 in its jails and prisons ("in 1998, nearly 700 per 100,000 Americans were behind bars on a typical day") and making crime and punishment central issues in partisan politics.

Since the development of the modern prison system, corrections policy has undergone a number of significant changes. This article has provided an analytical framework for examining ongoing changes in corrections policy. Based on the concept of problem ownership, the analysis indicates that changes in corrections policy are guided by macroscopic shifts in the social and political context.

#### IMPLICATIONS

Visions and strategic plans by Corrections are likely to be limited by the the broader political context.

#### FUTURE CORRECTIONS ISSUES LIKELY TO BE AT THE LOCAL LEVEL

The Symbolic Ownership of the Corrections 'Problem': A Framework for Understanding the Development of Corrections Policy in the United States. Pratt, Travis C.; Maahs, Jeffrey; Stehr, Steven D. *Prison Journal*, Dec 98, Vol. 78 Issue 4, 451-465.

Despite the fact that the prison industry is still booming, that local communities are likely to be the arena in which the struggle for control over the future direction of corrections policy will take place. Overall, differences in community characteristics are likely to affect levels of systemic punitiveness, the success (or lack thereof) of offender reintegration and/or treatment, the degree of private-sphere involvement in the provision of correctional services, the structure and severity of intermediate sanctions, the scope of the role of probation and parole, and the expansion of community-level prisons. Thus, researchers interested in understanding correctional policy will need to address community-level variables.

The use of the concept of problem ownership contributes three important elements to the corrections literature that are relevant to both academic researchers and corrections policy stakeholders, including (a) a more coherent strategy for examining how social-contextual changes dictate which group, or groups, of individuals come to define the intellectual and ideological boundaries around a particular policy area; (b) a more realistic explanation of the current status of corrections policy, which takes into account the lack of consensus regarding which policy alternatives should be adopted; and (c) a more useful method of predicting future trends in corrections policy.

## WAR OR PEACE MODEL FOR CORRECTIONS

Visioning 21<sup>st</sup> Century Crime & Justice.

<http://www.policefuturists.org/fall99/21crime.htm> accessed 17/4/2002.

Dr. Levin predicts trouble brewing between minority groups. By the year 2000 there will be more Hispanic children in the U.S. than there will be black children. Hispanics will likely become a more effective force and blacks will be likely to lose political power, thus causing social disruption. For the next decade or two at least, Dr. Levin predicts that law enforcement efforts will be concentrated disproportionately on blacks and Hispanics. Given our national focus on respect and diversity and our strong negative reaction to racial profiling, there will also be increased tension between police and these two minority groups.

Despite this changing environment and population, Dr. Bud Levin thinks police organizations will not change much. More agencies will develop crime analysis or intelligence units as they recognize they are in the information business. Their mission will be challenged by private sector competitors mostly where the market can afford private policing such as in high-tech and specialized policing (e.g., cattle and horse industries, insurance, banking.) There will be increased hiring of security guards for both the wealthy and inner cities.

We'll see more laws regulating technology and more technology-based crimes. Public policing will be increasingly hamstrung by its intrinsic tie to jurisdiction as it faces internationalization of business and people, decreasing the relevance of geopolitical boundaries.

Dr. Gene Stephens says that while the trends may seem to be negative, that we need to remember that we can change the trend. You can take the data and ask the question, if this happens what does it mean? You need to define the potential issues that can be changed by our policy and actions.

He discusses **two models of crime control** for the future. These models exist within our paradigm or our "world view." We live in a democratic capitalistic paradigm. The current criminal justice paradigm – war on crime, war on drugs. Underlying assumptions are that there is a mean world out there; that individuals are personally responsible for crime and that retribution for crime is required that we need to punish. We

also believe that deterrence works. This is the traditional war model, bent on using military tactics to curb crime and punish offenders.

The alternative model or paradigm that Stephens proposes is the peace model dedicated to identifying and remedying problems leading to crime. In this model, if the crime occurs, you take action to restore the victim, community and the offender in the quest to create a peaceful environment in the community. Stephens says that waging war to achieve peace is simply not possible; it is an oxymoron.

Real peace becomes possible when neighbors treat each other as neighbors through the methods of peace – restitution, reformation and reconciliation. The first and best line of defense against crime is to keep it from occurring. Police, citizens, community organizations, and a wide range of public and private agencies (such as health care, education, housing, vocational training, job placement, child care, teen counseling, recreation) must become partners in order to develop and execute a coordinated effort to solve crime-breeding problems.

## WOMEN AND MEN ARE DIFFERENT REQUIRING DIFFERENT APPROACHES

Children, young people and crime in Britain and Ireland: from exclusion to inclusion - 1998. Exploring diversity: Understanding and responding to offending among young women and girls. Professor Gill McIvor, Director of Social Research Centre, University of Stirling, Scotland.  
[http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/world\\_brief.html](http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/world_brief.html) accessed 16/4/02.

It is on the basis of findings such as these that Anne Worrall (1995) has suggested that community service is permeated by the ideology that it is a 'young man's punishment' and, as such, is a highly gendered disposal. Asquith and Samuel (1994) have also suggested that community service does not fit with the 'conventional view of female offenders which finds them needy, not fully responsible for their actions, and requiring, above all else, special protection and support' arguing that 'as long as the welfare model predominates, then female offenders will be in prison for offences which do not justify incarceration' (p.77). In support of their argument, Asquith and Samuel report that in 1988 16-17 year-old females against whom a charge was proved in Scottish courts were five times more likely to receive a custodial sentence than a community service order. Males of the same age, on the other hand, were only twice as likely to be detained in custody than ordered to perform community service.

The available evidence thus points clearly to differences in the characteristics of men and women considered for and sentenced to community service and to differential access to community service for male and female offenders. These differences may result from decisions reached at various points in the sentencing process and may reflect a variety of factors, including the conceptualisation of community service as a young man's punishment and an emphasis upon the domestic responsibilities of women offenders which precludes them from being considered suitable for a community service order.

The nine women interviewed did not consider themselves to be 'criminals' and valued practical help aimed at enabling them to take greater control over their lives. Empowerment was a key theme, with most women describing the process by which they had been enabled through probation to become more assertive in their personal relationships, to pay more attention to meeting their own needs and to begin making decisions for themselves. Social workers - in all but one instance women themselves - did not encourage the women to become dependent on them, but helped them gain the confidence and self-esteem to start re-building their lives. Women did not, in general, want their social workers to do things and make decisions for them: they wanted options and the confidence to begin taking responsibility for themselves.

The picture painted through the accounts of these female probationers appears to call into question the appropriateness for women of probation practice based on a justice model, with its attendant emphasis upon offending behaviour and strict adherence to standards. What, arguably, is required, is the availability of a graduated response by the courts which recognises and embraces the nature and circumstances of women's offending. The current tariff system represents such a graduated response - albeit with its imperfections - to offending by men but its relevance to women's offending is increasingly being questioned. The reluctance of the courts to fine women offenders or to make use of community service for women offenders who are at risk of custody effectively removes important steps from the penological ladder.

There is a need for more imaginative approaches to women offenders through, for instance, the increased use - where appropriate - of diversion from prosecution, supervised attendance orders, voluntary supervision and supervision in the context of a deferred sentence. In other words, responses which are inclusionary in intent and which recognise both the minor and transitory nature of much offending by women and the economic, social and personal circumstances in which that offending occurs. The marginal status of women prisoners has been highlighted in studies in the United States (Owen and Bloom, 1995), Canada (Shaw, 1994) and Australia (Edwards, 1995) and in recent studies of women prisoners in England and Wales (Morris et al., 1995; Caddle and Crisp, 1997) and in Scotland (Loucks, 1998). In comparison with men, women prisoners are more likely to have a history of physical or sexual abuse and are more likely to self harm (Dembo et al., 1993; Leibling, 1994). Moreover, imprisonment often serves to further weaken or destroy women's existing ties to the community (Wilkinson, 1988; Eaton, 1993).

A delicate balance must be struck when considering the issue of female offending. On the one hand, one must be cautious not to demonise women offenders by exaggerating the nature and scale of female offending. On the other hand, there is a need for offending among women and girls to be better understood in order that more appropriate and effective responses can be developed and potential sources of discriminatory practice addressed. It is my hope that developments which follow on from the publication of the Scottish Office report will achieve the right balance and will result in the provision of

services for young women who offend which are both effective and appropriate to their needs.

## POLITICAL ECONOMY OF CORRECTIONS

*The Perpetual Prisoner Machine: How America Profits from Crime.* Joel Dyer (Editor, *Boulder Weekly*). Boulder CO: Westview Press/Perseus Books Group, Jan 2000/318p/\$26.00. Abstracted by Michael Marien, *Future Survey* 22:2/069 February 2000

The US now incarcerates between 1.8 and 2 million people in its prisons and jails on any given day, and over 5 million are currently under the supervision of the criminal-justice system. The number of prisoners is half a million more than in China, and represents a prison and jail system 10 times larger than that in the US 30 years ago. The US now locks up 5-7 times as many people as most other industrialized nations whose crime rates are often similar to ours. Other nations have chosen to deal with nonviolent offenders outside of prison walls through drug rehabilitation programs, various forms of community service, and well-supervised probation and parole--alternatives that are both more effective and cost far less. So why does the US favor a policy of mass imprisonment? The most likely motive is the \$150 billion being expended annually on criminal justice, much of which goes to large private corporations willing to fund the construction of prisons that the majority of voters are hesitant to bankroll. If managed properly, politicians can divert funds to these prisons without voter approval. Yet, after three decades and over 1,000 new prisons and jails, the system is now more overcrowded than it was when the expansion began (most jurisdictions now operate at 15-30% over capacity). In many states, corrections expenditures have increased by more than seven times since 1980, and they are still growing at 7-10% per year in many jurisdictions. Chapters describe the myths of rising violent crime and prisons decreasing crime, significant differences between the FBI's Uniform Crime Report and the Census Bureau's National Crime Victimization Survey, the manufacture of fear by the media, characteristics of the prison population (at the time of arrest, 33% were unemployed and another 32% were making less than \$5,000 per year; 65% have never completed high school; 70% of those now sent to prison are black or Hispanic), the hidden costs of private prisons, and how to pull the plug on the perpetual prisoner machine. [NOTE: Columnist William Raspberry of *The Washington Post* (13 Dec 1999, A25) reports a Justice Policy Institute estimate that America's prison and jail population will top 2 million in February 2000, up from 200,000 in 1970 and 740,000 in 1990; at that time, the US, with less than 5% of world population, will have a quarter of the world's prison inmates. ALSO SEE: *Race to Incarcerate* by Marc Maurer of the Sentencing Project in Washington (New Press, Aug 1999/224p/\$22.95), who attributes the prison boom to mandatory sentencing statutes and the war on drugs.]

## POLITICAL-ECONOMY OF PRISONS – VESTED INTERESTS HOLD BACK REFORM AND TRUE COSTS OF LAW AND ORDER REFORMS

The Prison Industrial Complex. Eric Schlosser. *The Atlantic Monthly* digital edition. <http://www.theatlantic.com/issues/98dec/prisons.htm> accessed 10/5/02 (Copyright © 1998 by The Atlantic Monthly Company. All rights reserved. The Atlantic Monthly; December 1998; *The Prison-Industrial Complex*; Volume 282, No. 6; pages 51 - 77.)

Over the past twenty years the State of California has built twenty-one new prisons, added thousands of cells to existing facilities, and increased its inmate population eightfold. Nonviolent offenders have been responsible for most of that increase. The number of drug offenders imprisoned in the state today is more than twice the number of inmates who were imprisoned for all crimes in 1978. California now has the biggest prison system in the Western industrialized world, a system 40 percent bigger than the Federal Bureau of Prisons. The state holds more inmates in its jails and prisons than do France, Great Britain, Germany, Japan, Singapore, and the Netherlands combined.

"We have embarked on a great social experiment," says Marc Mauer, the author of the upcoming book *The Race to Incarcerate*. "No other society in human history has ever imprisoned so many of its own citizens for the purpose of crime control."

The economist and legal scholar Michael K. Block, who believes that American sentencing policies are still not harsh enough, offers a straightforward explanation for why the United States has lately incarcerated so many people: "There are too many prisoners because there are too many criminals committing too many crimes." ... The level of violent crime in the United States, despite recent declines, still dwarfs that in Western Europe. But the proportion of offenders being sent to prison each year for violent crimes has actually fallen during the prison boom. ... Crimes that in other countries would usually lead to community service, fines, or drug treatment -- or would not be considered crimes at all -- in the United States now lead to a prison term, by far the most expensive form of punishment. "No matter what the question has been in American criminal justice over the last generation," says Franklin E. Zimring, the director of the Earl Warren Legal Institute, "prison has been the answer."

"In the councils of government," Eisenhower said, "we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex." Eisenhower had grown concerned about this new threat to democracy during the 1960 campaign, when fears of a "missile gap" with the Soviet Union were whipped up by politicians, the press, and defense contractors hoping for increased military spending. Eisenhower knew that no missile gap existed and that fear of one might lead to a costly, unnecessary response.

The prison-industrial complex is not a conspiracy, guiding the nation's criminal-justice policy behind closed doors. It is a confluence of special interests that has given prison construction in the United States a seemingly unstoppable momentum. It is composed of politicians, both liberal and conservative, who have used the fear of crime to gain votes;

impoverished rural areas where prisons have become a cornerstone of economic development; private companies that regard the roughly \$35 billion spent each year on corrections not as a burden on American taxpayers but as a lucrative market; and government officials whose fiefdoms have expanded along with the inmate population. Since 1991 the rate of violent crime in the United States has fallen by about 20 percent, while the number of people in prison or jail has risen by 50 percent.

The lure of big money is corrupting the nation's criminal-justice system, replacing notions of public service with a drive for higher profits. The eagerness of elected officials to pass "tough-on-crime" legislation -- combined with their unwillingness to disclose the true costs of these laws -- has encouraged all sorts of financial improprieties.

### SHATTERING THE BROKEN WINDOWS ARGUMENT – SOFT METHODS WORK BETTER

*Shattering "Broken Windows": An Analysis of San Francisco's Alternative Crime Policies.* Dan Macallair and Khaled Taqi-Eddin. San Francisco, California: The Justice Policy Institute, 1999.

In March of 1982, conservative theorists James Q. Wilson and George L. Kelling published an article in the *Atlantic Monthly* introducing a new crime fighting theory known as "broken windows." The theory states:

if the first broken window in a building is not repaired, then people who like breaking windows will assume that no one cares about the building and more windows will be broken. Soon the building will have no windows....

The theory endorsed the belief that crime was the result of lax police efforts and that stricter law enforcement policy is the primary ingredient to promoting safer communities. Wilson and Kelling theorized that if rude remarks by loitering youth were left unchallenged, they will be under the impression that no one cares and their behavior will likely escalate to more serious crimes. As crime became a major political issue during the 1980's and 90's, many politicians quickly echoed the commonsense nature of the "broken windows" theory.

Nowhere has "broken windows" become more prominent than in New York City. Upon his election in 1994, Mayor Rudolph Giuliani instituted sweeping changes in his police department adopting a zero tolerance approach stressed by "broken windows." Giuliani ordered his police to enforce even the lowest level offences including jaywalking, vagrancy and public intoxication. Coinciding with these policies was a dramatic drop in overall crime, particularly serious crime. These declining crime rates catapulted Mayor Giuliani into the national spotlight as his policies seemed to confirm the assumptions of conservative commentators and law enforcement advocates.

During the time that New York City was being heralded as a national model, similar crime rate declines were occurring in other cities around the country. These equally



dramatic crime rate decreases occurred despite the absence of "broken windows" policies. The most notable antithesis to New York City is San Francisco. In recent years, San Francisco adopted less strident law enforcement policies that reduced arrests, prosecutions and incarceration rates. Long derided by conservatives for its alternative crime policies, San Francisco registered reductions in crime that exceed or equal comparable cities and jurisdictions - including New York.

The study is the first analysis of San Francisco's crime rates in relation to more traditional or conservative jurisdictions that are typically cited as national models. San Francisco is also compared to other comparable California jurisdictions.

**Methodology:** This analysis is based on data gathered from the Federal Bureau of Investigation, the United States Census Bureau, California Criminal Justice Statistics Center, California Youth Authority and California Department of Corrections Data Analysis Unit. To measure changes in crime by city and county, Part I serious offenses reported to police are analyzed. Ten national comparison cities were chosen based on their designation by the United States Department of Justice as models of effective crime policy. These cities are Boston, Charlotte, Chicago, Dallas, Denver, Jacksonville, New Orleans, New York City, Phoenix, and Washington, DC. In addition, San Francisco was also compared to the three largest California cities – Los Angeles, San Diego and San Jose and to the eight largest California counties.

**The National Comparison:** Crime has been a problem for politicians at the national, state, and local levels. Politicians who have made the most use out of the crime issue have been "law and order" politicians who embrace a conservative approach (Conklin, 1992). Conservative approaches (i.e. "broken windows) emphasize deterrence through arrests, incapacitation through imprisonment, and just desserts through harsh sentencing, and rely on the criminal justice system to mete out certain, severe, prompt, and just penalties (Conklin, 1992). The "broken windows" approach stresses increasing the number of officers on the streets and arresting and prosecuting all crimes. Between 1990 and 1996, New York City increased its number of police officers by 7,000 and police have been directed to crack down on public drinking, graffiti, vandalism, and other public disorders (Council on Crime in America, 1996). While there is no evidence supporting the claims that the number of officers and arrests per capita affects the crime rate, public perception seems to accept this premise. San Francisco on the other hand utilized an alternative approach to crime that stresses alternative sentences and community involvement. Conservative critics like Guiliani have labeled this approach as "soft on crime" and continuously claim that they do not work.

Since 1992, San Francisco has outperformed New York City in violent crime rate declines and has received virtually no media attention. For example, in reported violent crime between 1992 and 1998 San Francisco's rates decreased 47% while New York's rate declined 46% (see Table 2 below). Since 1995, one year after Guiliani was elected, San Francisco recorded a 33% decrease in reported violent crime compared to only 26% in New York City. These declines were occurring at a time when New York City was

vigorously pursuing "broken windows" policy and being cited by commentators as a national model.

San Francisco's violent crime decreases exceeded most of the nations in the 1990's. For the better part of the decade, San Francisco had greater declines in all Part I offenses and reported violent crime than most of the comparison cities. Between 1992 and 1998, San Francisco's violent crime decreases were unmatched by the ten national comparison cities. San Francisco's declines coincided with declining misdemeanor and felony arrest rates. New York City, on the other hand, increased its felony and misdemeanor arrest rates and yet only equaled San Francisco's violent crime rate declines.

**The California Analysis -- County-by-County Comparison:** Among large California counties, San Francisco is unique because it is the only combined city and county. Comparing San Francisco to other counties is difficult in this context since it is the only combined city and county and it is solely a large urban area and population. Historically, crime rates in San Francisco have always been higher than the mixed urban suburban counties. However, in recent years San Francisco's crime rate reductions exceeded those of California's largest counties.

Between 1994 and 1998, San Francisco witnessed a 35% reduction in reported violent crime rates, second only to Orange County (see Tables 5 and 7). In the last decade, reported crime rates in San Francisco fell 33% exceeding or equaling every other county except for Los Angeles where crime rates fell 40% (see Tables 6 and 8)

**Prison as Crime Control:** While crime throughout the United States continues to decline, the prison population also continues to rise. Jurisdictions that utilize the conservative approach attribute their declining crime rates partly to the use of incarceration as a mechanism of its crime fighting policy. The conservative approach stresses that imprisonment offers at least four types of social benefits which are retribution, deterrence, rehabilitation and incapacitation (Council on Crime in America, 1996). Former Attorney General William Barr stated that California should serve as a model and that the country had a choice of either building more prisons or tolerating higher violent crime rates (Irwin, 1994). Commensurate with its declining crime and arrest rates, San Francisco also reduced its state commitments. For example, in 1993 San Francisco sent 2136 individuals to prison while in 1998 only 703 were committed. In contrast other counties increased or maintained their prison commitments during the same period (see Table 9).

As seen above, San Francisco's crime rate declined as arrest rates and prison commitments decreased. Declining prison commitments coinciding with falling crime rates is counter to conservative tenets about crime control. In 1995, following the election of liberal San Francisco District Attorney Terrence Hallinan, neighboring conservative Santa Clara County District Attorney George Kennedy stated, "We're trying to decide if some of the benefit here wouldn't be that some of our problem persons would be drawn up there." However, contrary to this assumption, San Francisco outperformed Santa Clara County in almost all aspects of crime reduction since 1993.

Conservative critics such as George Kennedy assume that straying away from the normal approaches to "law and order" will result in crime increases. But as the data above illustrates, since Hallinan took office, San Francisco declines in violent crime rates are unmatched by his predecessor. More poignantly, San Francisco declines under Hallinan in Part I crime offenses far surpassed those of Santa Clara County. The views expressed by Kennedy are typical of conservative critics' disbelief in the effects of liberal crime policies on crime rates. The comparison of crime in Santa Clara County and San Francisco under Hallinan are important to illustrate these effects compared to those of a more conservative approach.

**Juvenile Crime Declines:** "Broken window" approaches to crime control have a great impact on how youth are handled by the police and the criminal justice system. While many legislative efforts aimed at trying youth as adults have been introduced in the last decade, juvenile crime has continued to decline sometimes at a greater rate than those of adults. Recent studies have shown that juvenile crime declines are driving the national crime rate declines contrary to popular sentiments that youth crime is on a rise. Conservative jurisdictions such as Santa Clara County rigorously enforce status offense arrests (i.e. curfew violations) under the impression that they prevent more serious crimes from occurring.

By abandoning a curfew law nearly ten years ago when other counties were increasing enforcement, San Francisco Juvenile crime was expected to rise relative to California's other large counties. According to the "broken windows" theory, youth in San Francisco should have had a message sent to them that no one cares and crime should have risen accordingly. However, as the following graph illustrates below, by almost abandoning the enforcement of status offenses all together, San Francisco has witnessed similar if not greater drops in juvenile felony arrests. Homicides decreased by 57% (7 -1989, 3 -1998) over a ten year period and 79% (14 -1994, 3 -1998) over five years.

San Francisco has also lowered its number of commitments to the California Youth Authority from both juvenile and adult court more so than most of the comparison counties. San Francisco District Attorneys have opted to rely on more diversionary programs that stress prevention and not detention. While these policies were being adopted, juvenile crime declined in San Francisco.

**City-by-City Analysis:** While San Francisco crime rate declines equaled or exceeded those of California's eight largest counties, a comparison between SF and Los Angeles, San Diego and San Jose revealed more striking results. In the comparison, San Francisco's violent crime reductions matched or exceeded all three jurisdictions. All three cities are noted for their stringent enforcement policies and high number of state prison commitments. In the last decade, San Francisco crime rate declines were unequaled by most of California's large cities. The declines in San Francisco far exceeded those of San Jose, Santa Clara County's largest city in all three time periods examined. Since 1992, San Francisco violent crime declines were unmatched by all three California comparison cities.

**Conclusion:** San Francisco Mayor Willie Brown recently sent his Director on Homelessness to New York to observe how the city handled its homeless problem. Shortly thereafter, a new policy arose in San Francisco to confiscate shopping carts from the homeless. Later, when subjected to intense criticism, Mayor Brown backed off from the policy saying, "I am not trying to gain the Guiliani vote." Importing a "broken windows" approach to San Francisco is unnecessary as the evidence above illustrates. Utilizing alternative crime policy, San Francisco crime declines matched and exceeded those of comparable national cities. These results suggest a new evaluation of popular assumptions and crime policy.

#### IMPLICATIONS

This study is valuable especially in terms of public education.

#### PROBLEMS OF MASS RELEASE

Crime: When They Get Out. Sasha Abramsky (NYC), *The Atlantic Monthly*, June 1999, 30-36. Abstracted by Michael Marien, *Future Survey* 22:2/071 February 2000

A sequel to *The Prison-Industrial Complex* (see above) on how prisons produce crime rather than fight it. "Crime is a complex issue, and responses to it that might instinctively seem sensible, or simply satisfying, may prove deeply counterproductive." Locking ever more people away will, in the long run, ultimately increase the number of sociopaths in our midst. (A case study is provided of a highly disturbed California drug user who evolved into a "human time bomb" and murderer while incarcerated in Pelican Bay and "kept in a sensory deprivation box for years on end.") Since 1985, America's prison population has increased by about 6-7% a year. Despite "truth-in-sentencing" laws mandating that prisoners serve 85% of their sentences before being eligible for parole, more than 40% of prison inmates are released in any given year. In 1995, 463,000 inmates were released. Assuming that this rate remains constant, and using a worst-case scenario, 660,000 will be released in 2000, 887,000 in 2005, and 1.2 million in 2010.

Even factoring in lower release rates because of "three-strikes laws" and estimates that 60% of prisoners have been in prison before, *"there will still be somewhere around 3.5 million first-time releases between now and 2010, and America by then will still be releasing from half a million to a million people from its prisons each year (not to mention hundreds of thousands more from short stints in jail). That is an awful lot of potential rage coming out of prison to haunt our future."* Releasing over several decades millions of people who never acquired job skills or lost their skills in prison, and who will face employer suspicion, "is almost guaranteed to produce localized but considerable economic problems." Adding to this grim picture, wholesale incarceration decimates voter rolls, in that people convicted of felonies lose the right to vote in all but four states (in some 30 states, though, they can reapply once off parole). "Quite simply, mass incarceration followed by mass release into subcitizenship will undermine the great democratic achievements of the past half century." With a large, uneducated army of

enraged ex-cons flooding the streets of the inner cities, we are creating a disaster that will accumulate over time. [NOTE: Abramsky cites a paper by sociologists Bruce Western (Princeton U) and Katherine Beckett (Indiana U), arguing that US unemployment statistics look good in comparison with other industrial democracies because 1.6 million mainly low-skilled workers have been incarcerated and thus not considered part of the labor force. "Rendering such a large group of people invisible, the authors claimed, creates a numerical mirage in which unemployment statistics are as much as 2% below the real unemployment level."]

## FROM INCARCERATION TO EDUCATION

“Education Works, Prisons Don’t” Harlem Teach-In. Manning Marable. *Znet Daily Commentaries*, Nov 1 2000. <http://www.zmag.org/ZSustainers/ZDaily/2000-11/01marable.htm> accessed 13/5/02.

The public exchange focused on a broad range of issues, linking the underfunding of New York’s public schools by state government, to the massive expenditures for new prison construction.

The conference participants resolved to focus on four central objectives for action for 2001: to campaign to force the next president to sign an executive order outlawing racial profiling; to campaign to defeat New York City Mayor Giuliani’s efforts to privatize forty of the city’s worst schools; to participate in a broad coalition to overturn the repressive Rockefeller Drug Laws; and to fight for adequate funding for public schools and reversal of the policies that reduce public education budgets at the expense of prison construction.

The multiracial, BRC-led conference marks the first teach-in in recent years in New York City that brought together a broad spectrum of activists involved in education reform, anti-police brutality and criminal justice work. This successful first step will reinforce the progressive new movement in the city to demand “education, not incarceration.”

### IMPLICATIONS

Is this the beginnings of a social movement or merely a one-shot rally?

## MUTLIPLE CAUSES FOR DROPS IN CRIME

*The Crime Drop in America*. Edited by Alfred Blumstein (University Prof, Carnegie Mellon U) and Joel Wallman (The Harry Frank Guggenheim Foundation, NYC). NY: Cambridge U Press, Oct 2000/330p/\$54.95; \$19.95pb. Abstracted by Michael Marien, *Future Survey* 22:12/584 December 2000.

Violence has been a major theme in public discussion for decades, intensified by the sharp rise in the 1980s--especially pronounced among inner-city minority youth. A preoccupation with violence persists among the citizenry (aggravated by a spate of school

shootings), despite a remarkable overall decline in violence that began in the early 1990s, especially among young offenders. This volume seeks to identify the *plausible causes of the crime drop* and to assess the contribution of each:

- 1) **The Role of Handguns:** handgun violence took a sharp downturn about the time the Brady Bill became effective in 1994: denying handgun purchases to those with a high risk of dangerous behavior does prevent gun crime;
- 2) **The Role of Prisons:** radical expansion of the prison population was largely due to expansion of the rate of commitment of offenders and an increase in time served; perhaps 25% of the crime drop can be attributed to incarceration;
- 3) **The Steady Decline of Adult Violence:** some of the reduction in adult homicide can be credited to growing availability of services for abused women and a decline in the marriage rate ("*the sharpest declines have occurred in the rate wives kill their husbands*"); it is also possible that we are witnessing a "civilizing" trend of growing aversion to violence;
- 4) **The Role of Drugs:** a significant part of the reduction in youth violence in the 1990s is due to the decay of crack markets (marijuana is now the illegal substance of preference);
- 5) **The Role of Policing:** the 1990s has seen substantial innovation in policing (more cops on the street, targeting of drugs and guns, zero-tolerance policing), although it is difficult to substantiate claims made for any particular strategy;
- 6) **The Role of Economic Opportunity:** the upturn in the economy in the 1990s brought higher wages and more jobs;
- 7) **The Role of Demography:** crime has dropped as the baby-boom generation moved out of the high-crime age range (but the 20-year decline in the number of 18- to 24-year-olds is now in reverse, and this bulge will continue until c.2010).

In sum, "*no single factor can be invoked as the cause of the crime decline of the 1990s. Rather, the explanation appears to lie with a number of factors, perhaps none of which alone would have been sufficient and some of which might not have been of noticeable efficacy without reinforcement from others.*" But we cannot expect current downward trends to continue indefinitely, and it would be prudent to develop early-warning signals of a reversal, "which would probably occur first in the larger cities, involve young people, and be associated with new street markets for serious drugs."

#### MULTIPLE CAUSES EXPLAIN CRIME DROP IN NEW YORK

*New York Murder Mystery: The True Story Behind the Crime Crash of the 1990s.*  
Andrew Karmen (Prof of Sociology, John Jay College of Criminal Justice, CUNY).  
NY: New York U Press, Nov 2000/316p/\$27.95. Abstracted by Michael Marien,  
*Future Survey* 22:12/585 December 2000.

At the dawn of the 1990s, New Yorkers were killing one another at a record pace; a body count of 2,245 violent deaths made 1990 the bloodiest year in the City's history. But an astonishing turnaround took place, with murders plunging to 1,177 by 1995 and 633 by 1998 (28% of the 1990 total). Mild metaphors such as "ebbing" and "subsiding" didn't capture the novelty of this momentous reversal. Never before had double-digit declines,

year after year, taken place in a major metro area. But no expert commission was set up to figure out why the crash took place, and discover its underlying causes so even more lives could be saved. Karmen shoulders the task, concluding that "*no single factor deserves the lion's share of credit for the rapid improvement in public safety.*" The turnaround at first took place gradually but then accelerated suddenly as a number of positive developments all kicked in and pulled together in the same direction. Every one of the *causal factors known to affect crime rates* moved in the desired manner:

- 1) the local economy recovered, and problems of unemployment and poverty in inner-city neighborhoods were not as severe;
- 2) the dream of occupational mobility motivated increasing numbers of students to finish high school and enroll in college;
- 3) the crack epidemic that devastated entire communities in the late 1980s subsided;
- 4) although pot smoking and beer drinking remained popular, consumption of another crime-facilitating drug--hard liquor--kept declining;
- 5) the NYPD was reengineered, and became energized, better managed, more technologically advanced, and more proactive
- 6) upstate prisons continued to fill up with dangerous persons;
- 7) a predicted contraction took place in the ranks of young people in their most crime-prone years; most important of all,
- 8) a shrinking number of young people expressed their angst via drugs/guns/gangs.

But "*it is probable that another crime wave will engulf the City in the near future.*"

Indeed, the murder rate turned upward in 1999 and early 2000. Several of the following would bode ill for the foreseeable future: a bursting of the prosperity bubble, a predictable boomlet of more young people, more restrictive admission and retention policies at NYC's public colleges, a new drug epidemic (perhaps of "crank" or "ice"), an upsurge in binge drinking, a return to a reactive mode by a deenergized NYPD, and/or a shift in the values and lifestyles of adolescents and young adults.

## NEW REPORT FINDS STRONGER LINK BETWEEN CRIME AND POVERTY

*Honolulu Advertiser*. December 5, 1999, p. A16. Abstracted by James Dator, University of Hawaii.

"Rosy assessments of the nation's declining crime rate wrong focus on short-term drops from crime peaks early in the decade and ignore the overall rise of violence since the 1960s, according to a new report...by the national Commission on the Causes and Prevention of Violence." "Violent crime in major cities reported to the FBI has risen by 40 percent since 1969." "This is the kind of crime rate that we would have said is a disaster when we went to work on that crime report 30 years ago." "The report also notes the continued prevalence of crime in the United States relative to other industrial countries. It states, "In 1995, handguns were used to kill 2 people in New Zealand, 15 in Japan, 30 in Great Britain, 106 in Canada, 213 in Germany and 9,390 in the US." "Nearly one-quarter of all young children live in poverty and that income, wage and wealth are distributed more inequitably in the US than in any other industrialized country.

## CRIMINALITY PART OF DYNAMIC MARKET BEHAVIOR NOT SOCIOLOGY OF DEVIANCE

*Crime and Markets: Essays In Anti-Criminology*. Vincenzo Ruggiero. New York: Oxford University Press, 2000. Reviewed by Jonathan Simon, School of Law, University of Miami. Abstracted by James Dator

These essays plumb the terrain between crime and markets, and between sociologically oriented criminology and economic public policy analysis. Most of the chapters are drawn from empirical studies Ruggiero has conducted during the 1980s and 1990s on two major forms of market-oriented crime, i.e., drug dealing and political corruption.

The sub-title of Ruggiero's book describes another organizing axis of these essays, namely criminology as a discipline and research tradition with its convoluted history as both a central form of "official" knowledge and of radical critiques of liberal capitalist societies. Anti-criminology is not so much a theory (like labeling theory) or an ideology (like the anti-psychiatry movement of the 1960s) as it is a rejection of the premise that "crime" can be the subject of a distinct scientific theory with the aim of producing covering laws or even generalizations of an ultimately predictive nature.

The growth of the drug economy and a whole array of semi-legal and semi-illegal markets that Ruggiero describes challenges the very sustainability of the premise of criminology (official and critical) that there is a criminal subject to be interpreted at all. The young worker moving between selling drugs in clubs, fake designer tee-shirts at flea-markets, and at other times using skills as a carpenter to do urban loft improvements without proper permits, does not need to be explained as such.

However, if Ruggiero abandons the sociological tradition of seeking a general theory of deviance, it is not for a priori economic reasoning or moralistic sermons on the character of the poor, he remains committed to empirically exploring the way particular crime choices get made. A good example is the subject of political corruption that Ruggiero addresses in the second half of the book. The business executives offering bribes and the local officials taking them to arrange contracts do not suffer from a deficit of resources or opportunities that criminology has presumed must underlie the deviance of the poor. Indeed Ruggiero suggests that corruption reflects a surplus of both resources and opportunities, a criminality of the affluent.

What makes the whole of high interest is the effort to see criminal activity in the context of intense competition for advantage in highly dynamic fields rather than as an expression of a stultifying marginality. In this regard particularly Ruggiero's anti-criminology offers a potentially influential model of its own for how to retool the study of crime by reintegrating it with the study of law and politics.



## INTERVENTIONS – RISK SOCIETY

The Risk Society: Implications for justice and Beyond. Pat O’Mally. Report Commissioned for the Department of Justice, Victoria. 2000.

O’Mally argues that more and more governments, professions, individuals and commercial enterprises are managing their tasks through frameworks and techniques of risk management.

Risk-based government is:

- Future-oriented, geared toward harm prevention and minimisation
- Concerns itself with individuals or situations primarily as members of risk categories
- Is primarily concerned with the manipulation of statistical risk distributions rather than dealing with individuals problems.
- Appears to be amoral and merely technical in nature
- Is not focused on identifying causes but locating risk factors

In the criminal justice system, risk based government has entered the following areas:

1. crime prevention
2. actuarial justice – using statistical predictors of offending has become central in the usa, and is appearing in Australia.
3. risk based sanctions – that is, forms of intervention that govern former offenders on the basis of risk considerations.
4. actuarial policing – random BAC drug tests, risk profiling of offender types, and reshaping police work around gathering and distributing security related information.

In terms of future directions, O’Mally suggests that risk based justice need not be incompatible with individually based justice and should never be the sole consideration in decisions related to criminal justice. Also: risk reduction is compatible with rehabilitative, re-integrative and restorative justice.

## SENTENCING LAWS ARE INEFFECTIVE CRIME DETERRENTS

*Sentencing Reform in Overcrowded Times: A Comparative Perspective*. Edited by Michael Tonry (Prof of Law, U of Minnesota) and Kathleen Hatlestad. NY: Oxford U Press, April 1997/288p/\$45.00;\$19.95pb. Abstracted by Michael Marien, *Future Survey* 20:2/085 February 1998.

In recent decades, reform of sentencing has been on the policy agendas of many countries. These short, nontechnical essays are reprinted from *Overcrowded Times*, a bimonthly journal on sentencing and corrections policy aimed at reducing US overreliance on imprisonment as a penal sanction. About half concern sentencing reform

in various US states (every US state has considered fundamental changes since 1975, and most have enacted some). About a quarter of the articles concern developments elsewhere: substantial overhaul of sentencing laws in Finland (1976), Sweden (1988), and England (1991); smaller but significant changes in Germany, the Netherlands, New Zealand, South Africa, and Switzerland; attempts at change in Canada. Other articles discuss the worsening of racial disparities in US prisons and jails, how drug policies increase racial disparities, and public opinion surveys (in Alabama, Delaware, Pennsylvania, and Oregon) showing strong support for alternatives to incarceration for nonviolent offenders, once they are understood.

In the US, reforms of the 1970s and 1980s were concerned with remedying unfairness to offenders. Recent reforms have been mostly concerned with making penalties harsher. Although the best evidence everywhere shows such laws to be ineffective crime deterrents, every American state in the past 15 years has enacted mandatory penalty laws as proof of toughness. Few elected public officials dare oppose any proposal to get tough; "the result has often been a race to the bottom." Outside the US, idealistic and human rights concerns have shaped changes in many countries, with a principal focus on noncustodial penalties. Reforms such as expanded use of the death penalty, three-strikes laws, mandatory minimum sentences, and boot camps have not been widely used elsewhere. Sentences in the US are much longer than elsewhere: in 1991, 43% of US state prisoners were serving terms of ten or more years, while only 1% of prison sentences in Germany were for two or more years.

## US STATES MOVE AWAY FROM GET TOUGH APPROACHES

State Sentencing and Corrections Policy.

<http://www.sentencingproject.org/news/news.html> accessed 22/5/02.

A new report by The Sentencing Project finds that a significant number of states have enacted sentencing and corrections reforms in the past year that are shifting the political landscape and beginning to reverse the 30-year era of "get tough" sentencing policies. The report, *State Sentencing and Corrections Policy in an Era of Fiscal Restraint*, documents legislative initiatives that have scaled back or reversed mandatory sentencing policies and have expanded the role of drug treatment as a sentencing option. But the report also warns that "the prospects for expansion of these developments have become far less clear in the midst of an uncertain economic future."

## DIVERSITY OF SENTENCING ALTERNATIVES FROM HOLLAND

Punishment in the Netherlands. Willem Pompe Institute for Criminal Law and Criminology, Utrecht University December 1996.

[http://www.minjust.nl:8080/a\\_beleid/fact/cfact5.htm](http://www.minjust.nl:8080/a_beleid/fact/cfact5.htm) accessed 9/5/02.

The Minister of Justice, who is responsible for enforcing custodial sentences, is in favour of having a wide range of sentences. For example, community service can replace or supplement custodial sentences. Under a community service order, the defendant is

ordered to perform work of benefit to the community. The possibilities must be examined from case to case. The enforcement of sentences – enforcement policy – calls for precision.

The following measures are being taken to meet the growing demand for prison capacity:

- "Capacity '98": a building programme under which the cell capacity is being increased by 3,500 places divided over 50 penal institutions;
- more community service orders instead of short custodial sentences (planned saving: 650 cells);
- certain prisoners may be released early provided they follow a rehabilitation programme (planned saving: 250 cells);
- rate of transfer of "hospital order" (TBS) patients from secure institutions to mental health institutions to be increased (people serving hospital orders (TBS) are convicted persons whose crimes are due wholly or partly to mental factors and have accordingly been sentenced to compulsory mental treatment);
- nationwide introduction of electronic tagging (see below);
- extra cell space for people who are repeated offenders in the major cities and are sentenced to short periods of imprisonment in expedited proceedings;
- more reception facilities for drug addicts; and
- cell space (in the major cities) for illegal aliens who have committed a criminal offence.

Alternatives:

*Electronic tagging.* Some people see this as the punishment of the future. For the time being it is a 2-year experiment. Electronic tagging is a form of house arrest under which the offender is required to wear an ankle bracelet containing a chip. The offender's whereabouts are checked on a random basis by a central computer. A trial project with 50 participants was started in July 1995.

*Working custody.* All penal institutions are in the process of adopting a new standard regime. Austerity will be the rule. Good behaviour will earn extra facilities. Work will be given a greater place in the daily routine: 26 hours a week. The disciplining nature of the work may facilitate the prisoner's return into society.

*Community service* is gaining ground. Two developments have speeded up this process. First there was the demand for more humane and effective punishments than mere incarceration. And later there was the problem of the increasing shortage of cells. A community service order consists of punishment involving work or training or a combination of the two. Instead of being incarcerated, the offender can make a form of restitution to the society which he has harmed. By performing useful work or by attending courses to learn the consequences of his actions. The aim is to bring about a change of behaviour.

The corrective element therefore plays a clear role. It is this preventive factor which is indeed the main strength of community service. The effect is greater if there is a link

between the community service and the nature of the offence, for example if a person convicted of a drunken driving offence is put to work in a rehabilitation clinic.

*Juveniles.* Work orders are also the most commonly applied form of community service for young people. However, the number of training orders is much larger than in the case of adults. This is because it is felt that punishment may also involve an element of instruction, particularly for young people. There are three "standard" training orders which are imposed throughout the Netherlands:

- social skills training
- sexual education
- focus on victims.

Projects involving heavier training orders (lasting 3 months) are also under way in Amsterdam and Rotterdam.

*"HALT":* the Alternative Sentence. This is an expedited (tit-for-tat) arrangement for dealing with juveniles aged between 12 and 18 years who come into contact with the police for the first time. It is intended primarily for offences such as vandalism, graffiti, shoplifting and arson. The HALT Bureau arranges the punishment: repair of the damage, removal of graffiti, working in the shop from which the goods were stolen, or working in a burn centre.

## WOMEN AND SENTENCING – CONSIDERING ALTERNATIVES

Women behind bars: The female prison population is expanding faster than ever. The lord chief justice is right to call a halt. Libby Brooks. *Guardian Unlimited* 26/02/02, <http://www.guardian.co.uk/> accessed 17/04/02

In an unprecedented intervention, the lord chief justice recently urged sentencers to consider the explosion in the female prison population before jailing women, particularly if they had been convicted of a non-violent offence, were first-time offenders or the sole supporter of young children.

What is remarkable is that there remains the remotest controversy over whether it is a good idea to give women such as these a custodial sentence. And why it is that, in crown and magistrates courts up and down the country, it is happening on an unprecedented scale.

We know, too, that because inmates are held far from home, imprisoning mothers has a disproportionately disruptive effect on family life. We know that women react more adversely to custody than men, not least because of the higher incidence of mental health problems among female prisoners. We know that more than half the women in prison have experienced physical or sexual abuse.

This increase is partly the result of the courts' new emphasis on deterrence.

While no figures are available for the numbers issued to women, probation officers have already expressed concerns about the high numbers dropping out of the programme because of the strict attendance requirements. Women in particular stand little chance of success once the chaotic lifestyle of a drug user is compounded with childcare demands. There are 69,752 people in prison this morning. For most, what happens to them today won't make them yearn to be better citizens. Only around 6% of those people are women. That population has very particular needs. But it is also small enough to allow a level of experiment that would be unmanageable on a larger scale. There are lessons to be learnt and applied to the prison population as a whole.

## MENTAL HEALTH CRISIS IN PRISONS

*Prison Madness: The Mental Health Crisis Behind Bars and What We Must Do About It.* Terry Kupers, M.D. (Wright Institute, Berkeley CA). San Francisco: Jossey-Bass, March 1999/301p/\$25.00. Abstracted by Michael Marien, *Future Survey* 22:2/070 February 2000.

A forensic psychiatrist warns that "*A major crisis is brewing in our prisons. We are warehousing and mistreating a huge number of mentally ill people in correctional facilities, and many people are unaware of the ramifications.*" Moreover, current prison policies are traumatizing formerly "normal" prisoners and making them angry, violent, and vulnerable to severe emotional problems. "*The mental health crisis in our jails and prisons is already creating a public menace, and it will get worse. We are sitting on a time bomb.*" The deinstitutionalization of the public mental health system, combined with changes in the law making it far less likely that a defendant's mental illness will be considered a mitigating factor when sentences are decided, has put an unprecedented number of Americans with major psychiatric problems in the criminal justice system.

"Prisons and jails have become the largest mental asylums and providers of psychiatric services in the US." The number of hospitalized mental patients has fallen from a high of 560,000 in 1955 to less than 80,000 today. In those same years, the proportion of prisoners who suffer from major mental disorders has climbed to five times that of the general population, and their numbers range from 120,000 to 200,000. If all mental illnesses that warrant intensive psychiatric intervention are counted, "there are more than 300,000 American prisoners in need of intensive psychiatric services." Most of these prisoners receive grossly deficient treatment, and suffer horribly on account of increasingly harsh prison conditions. Indeed, harsh prison conditions have an extremely deleterious effect on the mental health of all prisoners. In addition to massive prison crowding, education and rehabilitation programs have been dismantled, leaving prisoners with few if any meaningful activities and no opportunity to prepare themselves for "going straight" once released. "*Prison constitutes meanness training; the meaner a prisoner becomes, the greater the chance for survival.*" With prison overcrowding, the meanness proliferates, and more prisoners crack under the strain, leading to lockup in solitary or segregation units. "*The majority of prisoners who are forced to spend their young adulthood in hellish prisons will get out, reenter our communities, and pose a more serious threat to public safety than they did before they were incarcerated.*"

Concluding recommendations:

- 1) upgrade correctional mental health services and psychiatric rehabilitation;
- 2) revitalize general rehabilitation programs and end the use of supermaximum security units;
- 3) put an end to prison crowding and racial disparities in sentencing;
- 4) substantially upgrade the public mental health system;
- 5) reverse the destructive imprisonment binge of recent years by exposing the entrenched interests of the prison-industrial complex.

## GUIDELINES FOR PSYCHIATRIC SERVICES

Psychiatric Services in Jails and Prisons: A Task Force Report of the American Psychiatric Association, by The American Psychiatric Association Task Force, 77 pages, 2nd edition, June 15, 2000.

Since the first edition of these unique guidelines was published in 1989, the number of men and women in U.S. jails and prisons has risen from 1.2 million to 1.8 million. Of these men and women, approximately 20% have serious mental illnesses—and up to 5% are actively psychotic. What are our duties and responsibilities toward these men and women? The answer is especially compelling because 75% of prison inmates have co-occurring substance use disorders and therefore are likely to stay incarcerated four to five times longer than similarly charged people without mental disorders.

In the face of these overwhelming numbers, this second edition provides both a call to action and a practical reference guide for mental health care providers. It fulfills this dual purpose by explaining how best to meet the needs of these badly underserved patients and by providing a comprehensive resource for use in educational, reference, planning, and litigation contexts.

Section 1, Principles Governing Delivery of Psychiatric Services in Jails and Prisons, covers a full range of issues, including access to and quality of care; cultural awareness; informed consent and confidentiality; suicide prevention; and ethical, research, and administration issues. Understanding the correctional setting, especially its legal context, is critical for successful delivery of all mental health (including substance abuse) services.

Section 2, Guidelines for Psychiatric Services in Jails and Prisons, details the actual services that should be provided in particular settings, including assessments and referrals, treatment, and discharge planning for both jails and prisons.

Section 3, Special Applications of the Principles and Guidelines, discusses substance use disorders; co-occurring disorders; HIV/AIDS; issues related to women, young, and elderly inmates; and mental retardation and developmental disabilities. Here readers will learn which services best meet the diverse needs of these special patient populations. Complete with an appendix of selected APA activities, suggested readings, and a

thorough index, this compact second edition is, like the first edition, compiled and edited by the Task Force to Revise the APA Guidelines on Psychiatric Services in Jails and Prisons. It will find a wide audience among mental health care professionals who want to improve their understanding of how mental health care should be delivered to the men and women in U.S. jails and prisons.

Intended to prod to action and to provide comprehensive guidance on how to fulfil responsibilities to mental health services and underserved patients. Guidelines are intended to help overcome many sources of resistance through informed action.

## THEME TWO

### PUBLIC POLICY, MEDIA AND PUBLIC OPINION

#### PUBLIC OPINION LEADS TO POOR CORRECTIONAL OUTCOMES

Changing public opinion. Jack Cowley. *Corrections Today*, Feb98, Vol. 60 Issue 1, p38-40.

The ordinary citizen assumes that the prison system works to a greater degree than it fails. In other words, that more people stay out of prison than return. Unfortunately, that is not the case. Recidivism, as elusive a statistic as it is, is 50 percent and higher in many states. Most prison administrators recognize that it is very difficult for inmates to survive the prison experience and lead successful lives once released. The current system is not working, and yet more prisons are being constructed and more people are being incarcerated.

Public policies on crime and justice, so often enacted as a reaction to public opinion, have led to longer and tougher sentences for offenders, even as those who work in the criminal justice system acknowledge that locking people up does little to rehabilitate them.

For example, most correctional administrators acknowledge that inmates who are enrolled and participate in college programs demonstrate fewer management problems. Administrators also know that these inmates have higher success rates once released from prison than those who did not attend college while incarcerated. Yet due to strong public opposition to inmates' access to college courses at taxpayer expense, Congress passed a law disallowing inmate qualification for Pell Grants. Consequently, fewer inmates are enrolled in college programs today.

#### PUBLIC HOLD ON TO MYTHS ABOUT YOUTH CRIME BOOM

Youth Crime boom a public policy myth. Jane Twomey. *The China Post*. 20 May, 2001.

Most Americans think that young people are becoming more violent. 62% of Americans believe that youth crime is on the rise. However, the data is that youth crime is at its lowest level in decades.

The reasons for this misperception are:

1. Media reports which tend to be inaccurate. Reporters focus on sensational crime, race based and they construct young people as criminals. For example, 68% of stories on violent crime in California focused on young people although they



- accounted for only 14% of all arrests. This is partly as minority reporters have decreased in the USA.
2. The issue of race is crucial. A study by the Department of Justice found that black and Hispanic youth are treated more harshly by the justice system than their white counterparts.
  3. This leads to states viewing non-whites as dangerous and in need of punishment. This has led to legislation to treat young persons as adults, because of the “growing epidemic of teen violence” says one newspaper.

Professor Twomey hints that the part of the reason why public perception is that teen crime is increasing is that the privatised prison industry is booming. Are there some vested interests at work here, stoking the flames of fear?

The solution--more of the same. Linda Slobodian. *Alberta Report / Newsmagazine*, 02/08/99, Vol. 26 Issue 7, 13.

Next up at the Summit was federal Justice Minister Anne McLellan, who cited results from a recent Alberta Justice-Environics poll which showed that "89% of Albertans support crime prevention," not harsher sentencing, as the best way to reduce crime. In fact, however, the poll found that only 37% of the 750 respondents said crime prevention would be "very effective." More than half, 52%, said it would be only "somewhat effective." Ms. McLellan likewise neglected to mention that in the same poll 84% called for tougher sentencing. And she ignored the 80% who wanted to hire more police and build additional jails.

## CORRECTIONS COURSE CAN CHANGE VIEWS ON CORRECTIONAL MEASURES

Can you make a horse drink? The effects of a corrections course on attitudes toward criminal punishment. Jodi S. Lane. *Crime & Delinquency* Vol. 43, No. 2, April 1997, 186-202.

The study examined students' views of appropriate correctional measures before and after undertaking a university corrections course. They found: Because the media have been found to be a “primary force ... in shaping people's views of crime” (Heath 1984, p. 263; see also Roberts 1992; Roberts and Doob 1990), it is likely that ... continual media hype was a major unmeasured factor ... [however] the fact that the students were more likely to choose lesser punishments at Time 2 is significant given this political environment. It shows that even when real-life, celebrated crime problems occur, people can change their opinions when given information concerning the entire context of the punishment system. At the very least they can separate the nonviolent from the violent criminals in their abstract desire to remedy the ‘crime problem’ (p. 198)

## NEW STUDY SHOWS THAT ALTERNATIVES ARE POSSIBLE

Crime, Punishment and Public Opinion. A Summary of Recent Studies and their Implications for Sentencing Policy. <http://www.sentencingproject.org/brief/brief.htm>  
The full report is at: <http://www.sentencingproject.org/brief/pub1005.pdf>

The Sentencing Project researchers present the following findings:

- The Public is generally misinformed on crime and criminal justice policy
- Public opinion is more complex than policy makers assume
- Politicians misjudge public attitudes
- Public opinion shifts in relationship to political initiatives
- Public opposition to rehabilitation and prevention is exaggerated.
- Public embraces sentencing alternatives options when offered.

The Implications for the Criminal Justice system are quite important.

1. Education of policymakers and the public is a must
2. The support in the public can be used to craft alternative sentencing programs, focused on public safety and individual assessment of offenders, especially in non-violent cases.
3. Encourage parliament to explore complex and multidimensional public attitudes.

## VENGEANCE

*Three Strikes and You're Out: Vengeance as Public Policy.* Edited by David Shichor and Dale K. Sechrest (both Profs of Criminal Justice, Cal State U-San Bernardino). Thousand Oaks CA: Sage Publications, Sept 1996/290p/\$21.95pb. Abstracted by Michael Marien, *Future Survey* 97-243 May 1997.

Public concern with violent crime, the inability of the criminal justice system to curb violence, and the widespread perception of leniency toward repeat criminals--fueled by political rhetoric--have led to a wide range of legislation aimed at dealing with habitual offenders, grouped under the rubric of "three strikes and you're out" (notably the California ballot initiative passed in 1994 by a 72% to 28% margin). Essays discuss the costs and benefits of California's new law, effects on local criminal justice as early warning (likely to create a crisis in jails, courts, and legal support services), effects on the courts and corrections, the role of the visceral electronic media ("massive emotional coverage of heinous crimes overwhelms any analytical coverage of legislation"), the race and class bias of three-strikes laws (giving a "base on balls" to white-collar criminals). Three-strikes laws are handling fewer violent offenders than expected, and incarceration costs may prove prohibitive in time. The American Society of Criminology has recommended impact analysis of these laws, informing the public of the true costs of mandatory sentences, more flexible and less arbitrary sentencing, alternative and less costly sentencing policies, and early youth intervention efforts.

## PUBLIC POLICY, MEDIA AND HARSH JUSTICE

“All the news that’s fit to print”: Content analysis of the correctional debate in the *New York Times*. M. Welch, L. Weber and W. Edwards. *The Prison Journal* Vol. 80, No. 3, September 2000, 245-264.

The researchers examined media responses and reporting of crime and corrections. It found that:

Media discourse on corrections provides additional opportunities or high ranking government figures to institutionalise their authoritative position. ... in our sample, government sources pronounced repeatedly their agenda to expand the correctional system and to harshen the nature of incarceration, both of which are prominent features of coercive social control. ...The politicization of punishment and criminal justice agenda setting in the media have significant implications to correctional policy and practice. ... (p. 260).

That is, full debate of correctional alternatives was minimal, as was the presence of research findings or opinion from researchers into the effectiveness or outcomes of specific forms of corrections.

## MEDIA BIAS

Study: Media coverage of youth crime unbalanced. *USA Today* 06/19/2001 - Updated 04:01 PM ET <http://www.usatoday.com/> accessed 17/4/02.

The result of the skewed coverage is a public that believes youth crime is on the rise and supports policies based on that notion, the Berkeley Media Studies group asserted Tuesday. The research project, "Off Balance: Youth, Race and Crime in the News," examined crime coverage in media outlets across the nation. "People rely on the news media for accurate information," said Lori Dorfman, an author of the report and director of the Berkeley research branch. "When it comes to crime, youth and people of color, they're getting confusion rather than clarity — part of the story, not the whole story."

For example, a study of Indianapolis newspapers found that if a suspect in a violent crime was black, the average article length was longer. Also, newspapers rarely reported violent crime when the suspect was white, the study said.

The study makes several recommendations for print and broadcast news organizations:

- Balance crime stories with stories about youth accomplishments.
- Conduct voluntary audits of news content.
- Put crime into context by providing statistics of crime rates with crime stories.

The report drew support from civil rights groups that have long argued that media coverage is unfair.

"The news media's routine portrayal of African-Americans and people of color as criminals is an outrage," said Hilary Shelton, director of the Washington D.C. chapter of the National Association for the Advancement of Colored People.

#### IMPLICATIONS

Is this true in Australia for aboriginal and asian communities?

#### PUBLIC POLICY AND FORECASTING CRIME

Trends in Crime and Justice in Australia: Projecting Future Crime Rates, by John Walker. <http://members.ozemail.com.au/~bom1820/prisfor.htm> accessed May 17, 2002.

**Projections of Prison Populations:** Simple mathematical projections of prison populations are a waste of time. Past trends are not a good indication of future trends in prison populations, precisely because politicians often use statistics of past trends to show why changes should be made to sentencing or parole rules. Those on the left will use rising trends in prisoner numbers to demonstrate that imprisonment does not reduce crime, and suggest "more constructive" penalties which will reverse the trend. Those on the right will discover rising crime figures whenever prison populations are reducing, to suggest that tougher penalties are necessary, and these will increase the figures. And when they are in government, they generally implement policies that reflect these beliefs. Prison populations will therefore respond, not to the real levels of crime, but to the same public perceptions that lead electorates to vote left or vote right.

Projections of prisoner numbers should be based on properly thought out assumptions regarding:

- future demographic trends and trends in patterns of offending and;
- trends in patterns of policing and sentencing, resulting from political and community perceptions.

Age and sex are by no means the only determinants of crime, however, but criminologists do not know nearly enough about the other apparent determinants of crime, including economics, technological change and lifestyles, to be able to accurately forecast the effect they may have on trends in patterns of offending. As these factors may combine to either increase or decrease rates of offending, the most conservative hypothesis is that they cancel each other out, leaving the demographic changes as the "driving force" behind changing patterns of offending.

Other credible hypotheses need to be tested, however, to see if they would vary the picture significantly. We need to incorporate all that we know about likely changes in age/sex-specific rates of offending, by modifying the offender data we use in our model, and noting the effect it has on prison projections. If we have evidence, for example, that

more people will work at home in the future, this may reduce the opportunities for residential burglaries by increasing the level of informal suburban surveillance. We can further assume that the age-groups most affected would be the school-age offenders who presently take advantage of unattended streets during the working day.

Statistics of sentencing also show clearly that different types of offending attract different types and severity of sentences so that, for example, if patterns of offending change, then we can expect changes in the proportions and numbers of offenders who will be sentenced to terms of imprisonment and the lengths of the sentences they will serve. We know, however, that patterns of sentencing for a given type of offence are stable over time - indeed sentencing is a carefully controlled process which acknowledges the importance of consistency in sentence severity for similar offences.

This is not to say that sentencing does not change at all - quite the contrary, as both the judiciary and the parliament can decide that change is appropriate as community attitudes change. The most conservative hypothesis about future sentencing patterns, however, is that they will not be markedly different from those in force today, so that the probability of imprisonment for a given type of offence will not change.

Other foreseeable possibilities must be tested, however, to see if they would have any significant effect on prison populations. Governments, particularly early in their tenure, have a stated program of reform which can indicate which directions sentencing may take. They may, for example, declare an intention to change the sentence ranges available to the courts for a given offence type. They may declare an intention to decriminalise certain offence types or create new offences. Such changes should be tested in the model.

As a Base Run, then, we may assume that future patterns of offending are related only to the future changing demography, and that patterns of sentencing do not change from the current structure. It is a relatively simple procedure then to work out how the changes in population structure will change patterns of offending, and how this will affect the number of persons being received into prison each year and the times they will be expected to serve. From this we can calculate the expected size and composition of the prison population on a given date each year.

To test the results' sensitivity to other hypotheses, we need firstly to be able identify them and then to express these hypotheses in terms of future changes in both patterns of offending and patterns of sentencing. One can then generate results in terms of future prison population sizes and compositions and compare them with the Base Run results. If they differ significantly, then we need to consider the likelihood of the new hypothesis actually occurring and the consequences to prison management if indeed it did turn out to be an accurate hypothesis of future events.

In order to model prison populations, a range of data items are required. The key items are:

- Population projections, by detailed age/sex categories,
- Age/sex-specific rates of reception into prison per 100,000 by offence type,

- Time expected to be served by persons commencing sentence, by offence type, and
- Base-year caseloads by most serious offence and time remaining to serve.
- Knowledge of the likely political, legislative, administrative and judicial changes that would affect these trends in the future.

## UNDERSTANDING TRENDS

Never Underestimate the Complexity of Crime Trends Interpretation! John Walker.  
<http://members.ozemail.com.au/~born1820/screwth1.htm> accessed May 17, 2002.

These pages are intended to show how crime trends occur, and how easily they are misinterpreted, owing to the interplay of changes in **demographics, social and economic trends, and technology**, along with the **power play between interest groups** such as the police and the media.

These misinterpretations (almost inevitably exaggerations) of the "real" trends in crime help to explain the "ratchet effects" seen in recent years in numerous western countries, where politicians of both left and right have been obliged to outbid each other in an effort to convince voters that they have the toughest policies on crime. It is ironic that, if they had made a real effort to understand what was really going on, taxpayers might have had a genuine reason to vote for them, as we might have been spared the sorts of hysterical responses to crime that have been so obviously unsuccessful in countries such as the U.S.A. Taken at face value, crime statistics in Australia over the last 20 years have shown increases of around 450% in rates of reported crime.

Changes in social structure, economics and technology can all alter the age/sex profiles of offenders by making crime more or less accessible or more or less profitable for each community group.

Undoubtedly, some crimes have increased in recent years, notably offences like household burglary which has been affected by our changing lifestyles (e.g. the "dormitory" suburb and the two-income household, which combine to leave whole streets empty during working hours, to become therefore a burglar's paradise). Other data, however, including crime victim surveys, show that most offences (and violence in particular) have increased little in these twenty years.

What appears to have happened is that people have been encouraged to report crimes, either by specific campaigns (such as in respect of domestic violence) or because of the increased vigilance of insurance companies, which require victims of crime to report the incident to police as a condition of the policy. Ironically, deregulation of business dealings over the same period effectively reduced the community's vigilance over offences involving fraud, allowing real, but mostly unreported, increases in these types of crimes.

In order to understand what drives crime and the public response to crime, ... [we need to have a dynamic modeling approach . My] model was constructed in 1984, and was based on observation of the effects of the strong cyclical demographic trends resulting from the post WW-2 baby boom and immigration to Australia.

During the 1970s, we adopted the two-income household, commuting to work from a dormitory suburb, as our predominant way of life. The baby boomers from that decade reached their teens during the 1980s, and no-one who has looked at the age-profiles of arrestees would be surprised to find a rise in petty crime in this period. The moral panics which exaggerated the response to this wave of petty crime were based on the assumption that society was completely falling apart. Yet it was perfectly foreseeable that crime rates would fall again after this wave of young people had passed the peak ages of arrest. Unfortunately, the ratchet effect has left us with unnecessary increases in public expense due to longer prison sentences, a generation which largely distrusts the Police, and the "real" criminals just keep sending their money to Swiss banks or off-shore tax havens!

## THEME THREE

### THE PRISON: DESIGN, TRANSFORMATIONS IN, END OF, AND OTHER TRENDS AND ISSUES

*Prisons*. Edited by Michael Tonry (Prof of Law and Public Policy, U of Minnesota) and Joan Petersilia (Prof of Criminology, U of California-Irvine). Crime and Justice Series, Vol 26. Chicago: U of Chicago Press, Fall 1999/554p/\$50.00. Abstracted by Michael Marien, *Future Survey* 22:12/583 December 2000.

Tens of millions of Americans are directly affected each year by prisons and jails, as inmates, institutional employees, immediate families of both groups, and residents of communities in which prisons are important employers. Despite spending tens of billions of taxpayer dollars, *"in recent decades, there has been comparatively little research in the US on prisons, and on important questions astonishingly little is known."* Because the US prison population has increased by at least five times since 1972 as a result of deliberate policy decisions, it is natural to ask how these decisions have affected crime rates, and whether they have been cost-effective, but *"the literatures on both subjects have are tiny and contested."* Literature on other subjects is more sizable, but some is relatively old or specialized. This volume summarizes what is known about a range of important topics:

1. ***Effects of Imprisonment***: imprisonment reduces ex-offenders' subsequent income and employment and often leads to breakup of families, various laws deny ex-offenders the right to vote or hold office, effects on spouses and children are likely to be negative, **prisons** are often "schools for crime" (at least partly off-setting any crime reductive effects);
2. ***Crime Control Effects of Imprisonment***: most authoritative reviews conclude that deterrence and incapacitation effects are probably modest; there are grounds for cautious optimism about the positive effects of various rehabilitation programs; the effect on crime rates is much more modest than is widely understood, and cost-benefit calculations provide few relevant findings;
3. ***Prisoners and Prison Staff***: compared with earlier times, many prisons are much larger, and inmate populations and staff are more disproportionately black and Hispanic, gangs are larger and their influence more pervasive, the proportion of mentally ill prisoners has risen, and a large and growing fraction of prisons are privately managed;
4. ***The Political Economy of Prisons***: prisons and punishment policies have been political staples since the mid-1960s, and nearly every detail of prison management now comes under intense and often critical scrutiny by federal judges. Chapters explore the costs imposed on children of incarcerated parents, prison management trends and possibilities, increasing prison suicide rates, medical care in prisons (provision has greatly expanded in the past 25 years, but the trend to "no frills" may expand to include health care), and the parole system (*"a rising tide of parolees is washing back into prison, putting pressure on states to build more prisons"*). [ALSO



SEE: *Doing Time: An Introduction to the Sociology of Imprisonment* (St. Martin's, 1999), on trends in the US and Europe.]

## FROM PUNISHMENT TO PREVENTION –USING PRISONS TO PREVENT CRIME

Crime, Punishment, and Prevention. Paul H. Robinson (Prof. of Law, Northwestern U), *The Public Interest*, #142, Winter 2001, 61-71. (Long version: *Harvard Law Review*, Apr 2001.) Abstracted by Michael Marien, *Future Survey* 23:7/320 July 2001.

"Over the last decade, a remarkable change has occurred in the US criminal justice system. Traditionally devoted to the punishment of past crime, it has begun to focus as well on the prevention of future crime by incarceration and control of dangerous offenders." This is being done by habitual offender statutes (like "three strikes" laws), lowering the age at which juveniles may be tried as adults, criminalizing gang membership and recruitment, "sexual predator" statutes (detaining offenders who remain dangerous after their criminal term), and increasing the sentence of offenders with a prior criminal history. But punishment can only exist in relation to a past harm or evil. Dangerous people likely to cause injury and pain offer only a threat of future harm. One can detain or incapacitate a dangerous person, but one cannot logically punish dangerousness. Yet our criminal justice system increasingly blurs the difference between punishment and prevention.

Every society has a right to defend itself, and our society has good reason to feel it needs protection. "Even with the most recent declines, the violent crime rate remains more than three times higher than during the decade following WWII...the declining crime rate of the last eight years would have to continue unbroken for another three decades before we returned to the crime levels the Baby Boomers enjoyed as children." From this perspective, it is understandable that Americans should demand greater protection, yet the trend of the last decade--of shifting the criminal justice system toward detention of dangerous offenders--is a move in the wrong direction. "The difficulty lies not in the laudable attempt to prevent future crime, but rather in using the criminal justice system to achieve the goal." What is preferable is a segregation of the punishment and prevention systems. If preventive detention is needed beyond the prison term of deserved punishment, it should be provided by a separate system that is open about its preventive purpose and specially designed for that function. This would benefit the community by offering more justice and better protection from dangerous offenders (although there is a risk of government abuse in creating a *Gulag*). A segregated system also benefits detainees, in that the preventive nature of detention suggests a right to treatment, nonpunitive conditions, and minimum restraint.

## ALTERNATIVES TO PRISONS – THEY DON'T WORK

Leader. *Guardian Unlimited* Wednesday June 20, 2001. <http://www.guardian.co.uk/> accessed 17/4/02.

A farewell to prison. Forget what the chief inspector of prisons said last night. Listen to what his wife told him: "If prison worked, we would be shutting prisons not opening more."

His important idea of community prisons - based on Home Office research showing offenders who maintain links with their families are six times less likely to reoffend - is even further away.

Solutions that derive from this are: less building of prisons, more locally based corrections, better organizational management, and better education for prisoners (given their low levels of literacy)

## PRISONS DON'T WORK ANYWHERE

Why penal reform is a necessity. Penal Reform International  
<http://www.penalreform.org/english/pri.htm> accessed 17/4/2.

This group concludes that:

- Prisons are very expensive.
- Prisons are not a good solution to crime.
- Imprisonment is often unjust.
- Imprisonment causes fundamental abuses of human rights.

Over-use of prison endangers society. All over the world, hundreds of thousands of people are being held in prisons which are: Squalid, overcrowded, dilapidated, insanitary, inhumane, unjust, very expensive, and ineffective in tackling crime.

## JUSTICE IN PRISONS

Prisons and the Democratic Process. Dr Andrew Coyle. Presentation at the International Conference: New Initiatives in Penal Reform and Access to Justice, Hyderabad, India, 20 October 2001. Kings College London International Centre for Prison Studies. [http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/world\\_brief.html](http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/world_brief.html) accessed 16/4/02.

If we are serious in our objective that prisoners should be encouraged to lead law-abiding lives after they have completed their sentences we have to treat them justly while they are in prison. The Woolf Report of 1991 into the prison system in England and Wales paid particular attention to this issue of justice in prison. The report came to a simple conclusion:

There must also be justice in our prisons. The system of justice which has put a person in prison cannot end at the prison doors. It must accompany the prisoner into the prison, his cell, and to all aspects of his life in prison.

The key to justice in prisons had been picked up much earlier by the American criminologist David Fogel, who wrote: "Properly understood, the justice perspective is not so much concerned with the administration of justice as it is with the justice of administration."

This "justice of administration" is precisely what has to be subjected to independent scrutiny.

Prisoners should be able to apply to the appropriate authority in a variety of ways about matters which concern them:

- They should be able to **request** access to facilities or activities for which special permission is necessary.
- They should be able to **appeal** against the substance of a decision which has been reached by some official and seek to have it reconsidered.
- They should be able to **complain** about something that has happened to them or about the way in which an official has dealt with some issue which concerns them.
- They should be able to make an **allegation** of misbehaviour either by a member of staff or by another prisoner.
- If they remain dissatisfied with the outcome of any of the above, they should be able to enter a **grievance** against an individual or against the prison authorities in general.

Let me now sum up. Why should we be concerned about the human rights of prisoners, of men and women who are criminals or who are accused of being criminals? The answer to that question goes straight to the root of our civilisation. It is relatively easy for human beings to show respect and humanity to those who deserve that respect or who themselves show it to others. But what sets us apart as human beings is our ability to differentiate between who a person is and what he or she does and in so doing to recognise the need to show respect and humanity even to those who, by our estimation, do not deserve it.

## NO MORE PRISON SPACE

■ Alabama clears docket of jury trials to cut costs. *USA Today*. USATODAY.com.

MONTGOMERY, Ala. (AP) Juror waiting rooms were empty Monday, as a statewide moratorium on jury trials began in Alabama Chief Justice Roy Moore's attempt to save money.

Moore, known for his fights to post the Ten Commandments in public buildings, claims the courts are in a fiscal crisis because the governor and Legislature underfunded them by \$2.7 million. He ordered an end to jury hearings in civil court until Oct. 1 and restricted criminal jury trials to two weeks.

Moore's decision has forced delays in everything from million-dollar lawsuits to a long-awaited murder trial from a 1963 church bombing.

Judges are continuing to hold hearings and have non-jury trials, but waiting rooms for jurors are empty.

Gov. Don Siegelman has called the suspension of jury trials "outrageous," but he and the chief justice have no plans to discuss the cutback, spokesmen for both sides said Monday. Siegelman maintains that funding is an internal problem that judges must resolve on their own.

## PRISON AS LARGEST EMPLOYER OF COMMUNITY

Rural Prison as Colonial Master. Christian Parenti. Zmagazine.  
<http://www.lbbs.org/ZMag/articles/june97parenti.htm> accessed 13/5/02.

Christian Parenti teaches sociology at the New College of California in San Francisco and is working on a PhD for the London School of Economics.

Pelican Bay is now an international model of sensory deprivation and isolation; half the inmates are deemed incorrigible and locked in their cells 23 hours-a-day. The prison is also Crescent City and Del Norte county's largest employer—and, some say, its new colonial master.

### IMPLICATIONS

More and more evidence of a prison-industrial complex, changing the nature of the pressures on the criminal justice system.

## RETHINKING PRISON DESIGN

*Correctional Facility Design and Detailing*. Peter Charles Krasnow, 373 pages, McGraw-Hill Professional Publishing. Reviewed in *Architects Know Best*, August 12, 2001, Reviewer: Nancy Moran, Baltimore, Maryland, USA.

Peter Krasnow is an architect with 25 years hands-on experience in designing and executing correctional structures. He starts with an overview of the Justice process and system, goes on to differentiate jails from prisons and spends a lot of time discussing material organization. Now continuing to Planning and Design Principles (inventorying personnel needs and types of settings desired), he talks about facility operations costs including salaries and benefits. He is extremely well-versed in the types of programs and their architectural needs. Subchapters including physical plant and maintenance. He includes basic blueprints of true-to-life real prisons and jails for which he has had to deal with. Everything is here: phones, electronics, acoustics - you name it. The Glossary and Bibliography are worth reading, too.

[From the Back Cover]: Get the Hands-On Expertise Required for the Design and Renovation of All Types of Jails and Prisons. Now you can acquire the savvy needed to capitalize on the boom in correctional facility construction and renovation! This practical reference offers you comprehensive ideas for designing, detailing, and specifying

correctional facilities of all kinds. Ranging from rural settings to urban high-rises, the book takes you systematically through architectural plans for building first-rate facilities. You'll find: coverage of all major facilities of typical jails & prisons, including inmate housing, support functions, and security requirements. Graphical approach based on modules, with photographs, details, specifications, and design issues shown together for easy use; wide range of informative case studies of both new and remodeled projects. Extensively illustrated, this practical resource also gives you design solutions for administration and public areas. . .traffic control. . .intake and release. . .communications and information systems. . .armory and locksmith services. . .records management. . .engineering and plant maintenance. . .and more.

## DESIGN FOR A CRIME FREE AND SAFE ENVIRONMENT

Violence in Prisons: Architectural Determinism. Randy Atlas. <http://www.cpted-security.com/publications.htm#Prisons1>.

Interviewed in Newsweek, Atlas believes that the USA workplace is becoming a far more dangerous place. Homicide is the third leading cause of death in the American workplace. Atlas with a phd in criminology and a Masters in Architecture designs violence proof work environments.

The key for prison design is a space that is well lit, well signed and well marked. People will know where they're supposed to be and where they're going.

His works seeks to do the following:

- Recognize the nature of security threats to the built environment and the relative risks associated with those threats.
- Develop strategies and methods to plan, design, and construct buildings to mitigate or reduce security threats.
- Apply knowledge to the specific issues that arise in new, existing, and renovation projects.
- Advise clients about security threats and the integration of security concerns throughout the building lifecycle.

His 1982 PhD dissertation explored designs and prisons. His conclusions were:

1. The results of the study determined that there was no association between the increase in prison population and the number and rate (per 100 inmates per prison) of violent incidents. It was found that there was no intraprison association between the total number of square feet of living space and the number and rate of violent incidents.
2. The type of housing did influence the frequency and rate of violence; dorms had a consistently higher rate of assault than other housing types. Air-conditioned housing units also had a lower rate of assault than non air-conditioned housing units.
3. While the study reflected a trend for assaults to occur in areas of little to no supervision, highly supervised areas were also frequent sites of violence. The effects

of rainfall, temperature, and moonphase apparently had no relationship with the rate of violent incidents.

However, he cautions:

- The results of this study should be accepted with caution since they represent only four prisons in Florida. Further research is needed to determine if these results are unique or universal.

## FUTURE DESIGN OF PRISONS

Changes in Prison Facilities as a Function of Correctional Philosophy. Randall Atlas Ph.D., AIA. Atlas Safety & Security Design, Inc. Miami, Florida. <http://www.cpted-security.com/prisons5.htm> accessed May 23, 2002.

Atlas forecasts the following changes for prison design.

### *Future Change*

Correctional philosophies and the functions of facilities are in a continual state of change, with the exception of the basic mission of confinement. This process of change can be expected to continue. The movement for increased civil rights of inmates has brought a new consciousness to the public, and to the administrators who are responsible for providing and operating facilities. Philosophies may differ with respect to various segments of the public, geographical regions, and the size of facilities. But within these parameters, changes will continue with regard to the living environment, levels of security, and physical appearance. The trend has been to emphasize open and normal living conditions. By all reasonable estimates, this policy should continue.

A fourth generation of correctional facilities is starting to unfold. As direct-supervision modular designs are time-tested at numerous facilities, improvements and modifications will occur. Direct supervision has been used successfully in dormitories and other building environments not originally designed for this mode of control. Despite overcrowding and physical limitations, direct supervision has worked successfully. The next generation of correctional facilities will house more inmates per housing pod. Direct supervision units are now proposed that will hold 64 to 100 inmates. Another feature of the fourth-generation designs that is a major departure from earlier designs are cells without sinks and toilets. Toilets and sinks can be centrally provided; the logic for this feature is to more closely replicate normal living conditions. Most homes do not have toilets in the bedrooms: people walk to the bathroom as needed. Inmates will be able to do the same. If a lockdown is needed, the inmates can wait the brief time necessary for a head count to be finished.

Furthermore, natural light and ventilation are being designed to be more normal. If a jail or prison has a double-perimeter fence with electronic detection, exterior windows can be installed with nonsecurity windows. Personal control over living environments is one of the main behavioral tools that makes direct supervision effective. For many years, the shape of prisons and jails was dictated by the need for light to pass through exterior windows. A typical security window, which is five inches wide and forty inches long, has

only two or three square feet of lighting surface. The fourth-generation facilities will use light-wells in dayrooms, with interior windows in cells. Inside windows typically provide 17 square feet of window space and allow more light to enter cells. The advantage of inner windows is that cells do not have to be exterior oriented and can be stacked back to back. Both space and money can be saved by this maneuver.

Fixtures in future correctional facilities for general population inmates will be commercial grade. Doors may be wooden, but will have electronic locks to secure cells during a head count. Wall construction between cells would not need to use reinforced concrete. Administrative services can be located outside the security perimeter to permit easy access to public functions. Future facilities will provide more complete services for staff in the form of weight rooms, mess halls, and better quality training spaces. The emphasis within the facility will be on academic and vocational programs. The computerization of data, video court arraignments, and inmate video-information networks represent developments that will be available in the near future.

The use of more sophisticated electronic aids, such as closed circuit television, personal staff alarm systems, and dual-technology perimeter security systems, will allow the general appearance of the physical facility to be softened without sacrificing security. Such advancements in technology will need to be balanced with staff requirements and the characteristics of the physical facility, so that architects can create environments that will be perceived as residential in character.

Electronic technology enhances the security of facilities, yet allows more contact and communication between staff and inmate populations. Perimeter security, in terms of identification capabilities and barrier lines, may in the future assume the form of laser fields that will replace more conventional methods of fencing used in the 1980s. The continuing development of vision panels composed of plastics or glass are reducing the hard physical barriers of steel grating that were commonplace ten years ago. New technology in locking systems and the control of these systems using metal keys, plastic keys, various biometric systems such as fingerprint or retinal eye identification, and bar coding will be used more exclusively as time goes on.

The identification and location of inmates via electronic methods, such as ankle or wristband sensors, may in the future allow certain inmates to reside in their home settings, thus avoiding detention or holding in a jail facility. In the future, the corrections facilities in the United States will be used to confine more sophisticated inmates requiring higher levels of security. Activities of terrorists will bring another generation of security requirements and philosophies to the jail and detention facility. With the concern of intrusion security coupled with containment security, philosophies will undoubtedly undergo extensive revision.

Change in correctional design and management is generally slow and costly. Prisons and jails are designed to last decades and do not lend themselves easily to change. They reflect the management and design philosophies prevalent at the time they were built. As a result, there is usually a lag between changing philosophies, new technology, and the

facilities that are in operation at any time. In spite of this, there have been major advances in the field of correctional design and operation since the 18th century, and many significant changes have occurred in the last twenty years.

## NO GO WITH VOLUNTEERING

Progress barred. Prisoners denied chance to volunteer. Raekha Prasad. *Guardian Unlimited* Wednesday March 20, 2002. <http://www.guardian.co.uk/> accessed 17/4/02.

The first national study of the opportunities for prisoners to become active citizens through volunteering concludes that there is "institutional reluctance" in the prison service.

Volunteering by prisoners, inside and outside jails, is widely recognised to assist resettlement and reduce reoffending. Yet opportunities exist for only a minority of inmates and there is no strategic leadership or coordination of activities, the report by the Prison Reform Trust suggests. One prison governor is quoted as saying that there is "nil support from the prison service, which neither knows, cares, nor understands". Concerns were raised at several prisons that the management favoured commercial workshops over charity ones, because they brought in income. Only one in three prisons considered the skills and experience prisoners gained from volunteering when assessing their progress during their sentence.

Of prisoners entitled to temporary release, a mere 1% volunteered in the community. Although such community placements help prepare inmates for returning to the wider world, the report says they are "not functioning to their potential". Finola Farrant, co-author of the report, says: "Prison strips people of responsibility. It makes sense to start building up a sense of the needs of others while people are still in prison, rather than dumping them back on the streets and hoping it will just come to them."

## OFFENDER DEATHS IN COMMUNITY CORRECTIONS

The Deaths of Offenders Serving Community Corrections Orders. David Biles, Richard Harding and John Walker. *Trends and Issues in Crime and Criminal Justice* No 107. <http://members.ozemail.com.au/~born1820/core.htm>

" Research into deaths in custody has shown that people in prison or police custody are much more likely to die than are people of the same age and gender in the broader community. This study finds that offenders serving community corrections orders - particularly parole - have an even higher probability of death than those in prison.

"The authors analysed data from Victoria, and found that among an average of around 7000 persons serving community corrections orders there were between 50 and 70 deaths per year since 1991. Between 1995 and 1998, there were 198 deaths - 62 from drug/alcohol causes and 29 from suicide.



This paper identifies the risks faced by these offenders, especially high risk drug and alcohol behaviour. But whose responsibility is the appropriate care? There are significant issues related to duty of care, given that one-third have orders requiring no supervision.

The study focuses in detail on Victoria, but points out that we know very little about the issue, or about the situation in other States and Territories. A case is made for further research in other jurisdictions.

A number of individual telephone interviews were conducted and a number of group discussions were held with the staff during visits to community corrections centres, to obtain some indication of the views of community corrections officers on preventing the deaths of their clients, and on appropriate responses if death occurs.

The most important finding from these visits and interviews was the severe level of distress experienced by the overwhelming majority of community corrections officers when confronted with the news that one of their clients had committed suicide. At one level this could be seen as a welcome finding as it demonstrates that the staff working in this field have a commendable level of personal commitment to their work and to their clients. They are certainly not detached from the emotional aspects of working with people and, in the interests of their own wellbeing, it is essential that the distress which officers experience be recognised and responded to appropriately. [CORE management advises that CCS staff are routinely offered post-trauma counselling, which is optional, following any traumatic event, including an offender death.]

Deaths in the community corrections population predictably continue to exceed those amongst both the prison and the comparable general populations. Preliminary analysis enables identification of some higher risk groups and situations. Duty of care issues are complex, and have not yet been fully worked through. Public administration standards are muddying the waters of strategy and responsibility. The capacity of community corrections regimes to become an effective source of diagnosis and prevention is limited.

Nevertheless the issue is one of legitimate concern. There would be benefit in corrections authorities collaborating to produce a definitive national database which, after analysis, would enable a considered debate to take place as to their appropriate role in this area. The likelihood is that, with the correctional dollar increasingly being allocated to prisons, their capacity to absorb additional responsibility will be very limited.

## RESTORATIVE PRISONS

The Restorative Prison Project. *The Myth of Prison Work*. Andrew Coyle. May 2001. Kings College London International Centre for Prison Studies.  
[http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/world\\_brief.html](http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/world_brief.html) accessed 17/5/02.

Throughout the 20<sup>th</sup> century a stream of commentators on social and penal issues, including Rusche & Kirchheimer, Foucault, Ignatieff, Melossi and Pavarini, Dobash,

Garland, Simon and most recently van Zyl Smit and Dünkel, have described from a series of different perspectives the importance of work in the prison setting.

Most training prisons were, and still are, divorced from their local communities. Prisoners, many of whom are serving comparatively long sentences far from their home areas, will not be able, even if they wanted to, to settle in the community around the prison on release. The link between the work skills which such a prisoner learns in prison and the work which will be available to him on release will be at best tenuous. Another objective of the training given to prisoners may simply be that it provides them with skills which they can use in other prison work shops. This is a very self-contained objective, but it can have a short term benefit.

In recent years the Prison Service has made great strides in developing strategies which are aimed at reducing re-offending. These stretch from basic skills education to a variety of what are known as offending behaviour and life skills programmes and the new initiative of the Custody to Work unit. All of these developments are aimed either at providing prisoners' with skills which will enable them to find work after release, in the hope that this will reduce the likelihood that they will re-offend, or at helping them to change their behaviour in the hope of realising the same objective. These are worthy initiatives and the Prison Service is to be commended for developing them in a much more sophisticated manner than it has done in the past. However, they still involve a relatively small proportion of those who are currently in our prisons for relatively short periods.

A suitable alternative model of activity for prisoners needs to have certain features. It should have a purpose. It should be a good use of time. It should involve 'real work'. It should give prisoners the opportunity to 'do good', to restore some of the damage done by the unjust act which led to their imprisonment. This last feature is particularly important for the prisoners. One of the reasons that they do not work hard at present is because they know that much of what they are asked to do is rather pointless. There is evidence that they will work with enthusiasm when asked to do something worthwhile, especially if they know that it is going to be of benefit to people whom they consider to be more disadvantaged than they are. This was recognised in the initiative of the Prison Charity Shops in the 1990s and more recently by the Inside Out Trust, which is involved in the Restorative Prison project. However, if this model is to be successful, it needs to be part of a whole change of culture within the prison setting, rather than something which is developed in a marginal fashion.

This is the model being explored in the Restorative Prison project, which is considering the extent to which the inclusive principles of what has become known as restorative justice can be applied in the prison environment.

## RESTORATIVE JUSTICE IN THE PRISON

Restorative Justice in the Prison Setting. Dr Andrew Coyle. A Paper presented at the conference of the International Prison Chaplains Association (Europe), Driebergen,

The Netherlands, 13 May 2001. Kings College London International Centre for Prison Studies. [http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/world\\_brief.html](http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/world_brief.html) accessed 16/4/02.

To what extent is the traditional model of imprisonment still relevant at the beginning of the 21<sup>st</sup> century? Is it possible that, like the public stocks or public execution or transportation in other ages, imprisonment is now a concept which has outlived any usefulness which it ever had? Has the time come for a radical re-think of the concept of imprisonment and the prison?

In terms of attitudes to the place of imprisonment in civil society and its role in helping to create safer, more equal communities, the countries of the world fall into four broad categories. The first category includes those countries which are beginning to question the central place which prison has traditionally held in many justice systems. The second category includes those countries which are showing a willingness to tackle prison conditions which are sometimes appalling in terms of overcrowding and shortage of resources.

[category 3] In a number of these countries public prosecutors, who are responsible for committing accused persons to prison, are now examining ways to avoid such high levels of pre-trial detention. Several countries are also in the course of introducing new legislation to encourage judges to use sentences other than imprisonment.

[category 4] According to this thesis, those who commit crime are a specific class of human being. If only they can be identified and taken out of society, so the argument goes, law abiding citizens will be able to go about their daily business in safety and security. The original notion of prison as a place of exclusion has been restored. For an increasing number of men and women the period of exclusion is becoming longer and longer.

So, what should be our vision for the future? First of all, we have to decide what it is we expect of our criminal justice system and how it can best serve society. The most important point to make is that criminal justice processes have a relatively narrow part to play in underpinning the values of society. The formal justice process can support and reinforce the value system of a society, but it cannot be a substitute for it. Society should not look to the criminal justice process to resolve all its ills. We need to acknowledge the distinction between the punishment of criminals and the protection of the public on the one hand, and the prevention of crime on the other.

These are that people in prison:

- should not be made worse by the experience of imprisonment,
- should be encouraged to face up to the crimes which they have committed,
- should consider ways to repair the damage they have done and to provide satisfaction for the victims of crime,
- should be given opportunities to improve themselves,
- should be encouraged to prepare themselves for return to the community.

Prisons as we know them today are based on the notion of exclusion from society. Such a notion sits very uneasily with the concept of a society which is integrated and in which everyone is meant to contribute to the good of others.

A truly restorative regime in a prison would, on a daily basis, present prisoners with a series of duties, challenges and learning opportunities. It would invest trust in the prisoners' capacity to take responsibility for performing tasks, for meeting challenges and for using learning opportunities. The task for prison staff at every level and in all departments would be to work with prisoners to identify the skills, guidance and support they need to restore their lives, equipping themselves for renewed citizenship and a life away from crime. Potentially a restorative regime would offer growth of mutual understanding, learning and co-operation between prisoners, prison staff and society, with rich opportunities to experience the value of working together and developing positive attitudes and behaviour of lasting influence.

## TENSIONS OF RESTORATIVE JUSTICE AND PRISON ADMINISTRATION

Responding to the crisis – Belgium establishes restorative prisons. Tim Newell, Governor, HMP Grendon and Spring Hill. Kings College London International Centre for Prison Studies. [http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/world\\_brief.html](http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/world_brief.html) accessed 16/4/02.

As well as there being a greater awareness of the way to help put things right for victims and their communities there has been much evidence that imprisonment does not work in deterring those who have experienced it from future crime. There is also much research that shows that the custodial experience does not generally help with the treatment and rehabilitation of the individual prisoner, in fact the opposite may well be the case, - they may be damaged further. This awareness of the failure of custody to change offenders to be safer people and the demands of victims for greater measures for personal and community safety prompted movement into new alternative ways of operating within the justice system.

The research team has reported on its preliminary work and has described the difficulty of reconciling the basic values of restorative justice within prison law and administration. Restorative justice requires respect, the assuming of responsibility and the freedom to solve the problems by those involved in the conflict. These attitudes are opposed to the deprivation of freedom and limited personal responsibility that form the basis of current prison practice. The tension between the new policy and past practice is clearly evident and further dynamic growth will be required to reconcile the issues. The restorative justice paradigm is very demanding, requiring policies about offenders, about victims and about the restoration between victims and offenders. The challenging concept is that prisoners are fully responsible for their own lives and for their acts and that those who are not yet prepared to assume their responsibilities should get the opportunity during the time in prison to work on their basic problems. Thus prisons should provide legal information, mediation, professional training and therapeutic treatment. Victims need an

environment of support to get through their bad experience so they can give themselves and the offender new chances to take up their lives in a community of trust.

## VIDEO CONFERENCING IN PRISONS

*Justice* Videoconferencing. A Technology Whose Time Has Come. Anthony Ventetuolo Jr. and Anthony P. Trivisono. *Corrections Today*, Jul 98, Vol. 60 Issue 4, p94-96.

Videoconferencing also can be a great aid in staff training and distance learning for the inmate population. For example, the National Institute of Corrections several years ago installed systems at its major training centers to enhance video presentations and classroom discussions across the country. One can easily see the tremendous advantage in both cost reduction and program application, using one instructor to simultaneously conduct classroom instruction at several correctional facilities hundreds of miles apart. In Missouri, the Department of Corrections is using videoconferencing as a way to allow inmates and their families to visit without the hardship and cost of traveling hundreds of miles. With the recent outsourcing and transfer of inmates to other jurisdictions, the use of video visitation can help maintain family support and ties, promote communication and reduce the risk of contraband and other security concerns.

Interactive video offers the possibility of exploring innovative applications within corrections, as daily operations become more technologically driven. Already, videoconferencing arraignments and other courtroom applications have improved court security conditions as well as the efficiency and cost of judicial activity.

## HEALTH IN PRISONS

Dilemmas for Clinical Practice in Custodial Settings: International Perspectives. Andrew Coyle. A Paper presented to the Royal Society of Medicine Conference on Dilemmas for Clinical Practice in Custodial Settings, London, 30 January 2001. Kings College London International Centre for Prison Studies.  
[http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/world\\_brief.html](http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/world_brief.html) accessed 16/4/02.

“Since I have been asked to present an international perspective on dilemmas for clinical practice in custodial settings, I thought it might be helpful to begin with three brief quotations from relevant international human rights instruments. The first is from Article 12 of the *International Covenant on Economic, Social and Cultural Rights*, which recognises:

the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

The second is Principle 9 of the *UN Basic Principles for the Treatment of Prisoners*, which provides that:

Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation

Finally, Rule 22(1) of the *UN Standard Minimum Rules for the Treatment of Prisoners*

requires that:

The medical services (in a prison) should be organised in close relationship to the general health administration of the community or nation.

These three statements provide the context for what I am about to say. Put succinctly, they indicate that doctors working in a custodial setting are required to apply the same professional standards there as they do when working in the community.”

## PRISONS TO DISAPPEAR

Towards the 21<sup>st</sup> Century – Abolition, an Impossible Dream. Thomas Mathiesen. Paper presented at the VIII International Conference on Penal Abolition, Auckland, New Zealand, 18-21 February, 1997.

Mathiesen compares the irrationality of prisons with the irrationality of the Spanish witch hunts, with the Inquisition. While public opinion has switched to the "law and order" paradigm, abolition of prisons is not an impossible dream. The Spanish witch hunts ended because of a growing cultural restraint against this practice. This restraint led to changes within the institutional leadership of the inquisition.

The Achilles heel of prisons is that it is irrational. It does not fulfill the goals it claims. It fails or succeeds ever so modestly in its five stated goals:

1. Rehabilitation – studies clearly show that this does not happen.
2. Individual deterrence – that the offender is brought to prison will be scared away and will not commit crimes upon release – again very little evidence of this, especially as the inmate social system and subculture is especially important.
3. General Prevention – studies suggest that preventive effect of prison is very modest or even minimal in population groups where we might want the effect to be strong – groups predisposed to crime, groups of intensive law-breakers – while it is somewhat more of a force for groups that are law abiding anyway.
4. Incapacitation of offenders – collective and selective. The collective is embraced by the USA, and while between 1973-1982 while prisons doubled, crime rate increased. One study concludes that reductions require 10-20% increases in inmate population for 1% reduction in crime. Moreover, there are new generations of criminals – one would never catch up. With this policy, one gets huge number of prisoners and no reduction in crime. Individual incapacitation is plagued by issues of false-positives and false negatives – that is, errors in prediction.
5. Balanced justice, that is, prison balances a reprehensible act. However, does it, questions Mathiesen, as these acts cannot be compared.

The alternatives he offers are:

1. Increased support of all varieties for victims (financial, support center, counseling).
2. A war on poverty - minimum basics for all – and dramatic changes in drug policy so that drug-related crimes are dramatically reduced. This would also challenge

organized crime. Where will the funds come from. From the prisons themselves since dismantling them would release billions on billions of dollars.

Of course, argues Mathiesen, a few individuals would remain, but there should be ceilings on the number of cells.

To make these changes, three layers that maintain the irrationality of the prisons must be challenged.

1. Administrators who control the criminal justice system.
2. Social scientists who research the system.
3. The Mass media which shapes the debates, encultures us as to how the world should be like. To change the system, efforts must be made at all these levels. Done so, just as the spanish witch hunts came to an end, so can the institution of the prison.

## NO MORE PRISONS

William Upski Wimsatt, *No More Prisons*, September 15, 1999, 165 pages.  
Abstracted from amazon.com

Following the successful release of his first self-published book (*Bomb the Suburbs*), Wimsatt, the self-proclaimed "cool rich kid" takes on the American penal system and its emphasis on punishment at the expense of hope and rehabilitation. However, much of the impact is lost when Wimsatt suddenly turns guru: "For every road and zoo and gated community and fence and lock and alarm system and prison we build, we are installing another prison cell in our hearts." His new book recounts his evolution from idealistic urban wanderer/graffiti writer to community organizer and full-fledged writer. He chose his title to promote a hip-hop CD of the same title produced by the Prison Moratorium, a nonprofit organization supporting young activists working to reverse the alarming expansion of our demoralizing "prison industry." Wimsatt thinks that Generation X could surpass the Sixties generation in effectiveness. What is needed, he argues, is political youth organizations with "hyper-grassroots" involvement using pop culture innovations such as hip-hop to raise consciousness. His zany writing is a refreshing voice for Generations X-style activism (by Chogollah Maroufi, California State Univ., Los Angeles, Copyright 1999 Cahners Business Information, Inc.).

## THEME FOUR

### OWNERSHIP OF PRISONS

#### COMMUNITY OWNED PRISONS (NEITHER PUBLIC NOR PRIVATE)

*Cornucopia of Ideas: A Global Ideas Bank Compendium*. Edited by Nicholas Albery, Nick Temple, Stephanie Wienrich, and Retta Bowen (all ISI). Preface by Brian Eno. London: The Institute for Social Inventions, Sept 2001/300p/£15pb (www.globalideasbank.org). Abstracted by Michael Marien, *Future Survey* 23:12/596 December 2001.

The annual collection of "new ideas that could make a big difference," Two are relevant.

1. war and peace – virtual peacekeeping by webcam.
2. The 2001 Social Innovations Award goes to a Brazilian project that puts communities in charge of the local prison.

#### IMPLICATIONS

Is this a new model outside of the public and private prison model debate?

#### PRIVATIZATION AS INCREASING QUALITY OF PRISONS

*To Serve and Protect: Privatization and Community in Criminal Justice*. Bruce L. Benson (Distinguished Prof of Economics, Florida State U; Senior Fellow, Independent Institute, Oakland CA). Foreword by Marvin E. Wolfgang (U of Pennsylvania). An Independent Institute Book. NY: New York U Press, Aug 1998/372p/\$37.50. Abstracted by Michael Marien, *Future Survey* 21:1/043 January 1999.

Questions about crime policy almost invariably ask what the government should do about crime, which immediately eliminates a huge number of potential options. In contrast to government's predominant role in criminal justice today, for many centuries crime control was almost entirely private and community based. Public provision of criminal justice is a recent social experiment that has not worked. The increasing role of private security that we see today is a return to historical practices, as entrepreneurs have discovered new ways to deliver protection. Many police departments now encourage citizen crime prevention programs that they disparaged as vigilantism not too many years ago, e.g.: the new Chicago Alternative Policing Strategy emphasizes the need for community involvement in a proactive effort to prevent crime. Over 900 private security organizations are now interacting with the NYC police department through monthly meetings and other communications. Government units are beginning to return many



criminal justice functions to the private sector through contracting out drug treatment facilities, halfway houses, and other community-based intermediate sanction programs. The provision of secure prisons by private firms is clearly a growth industry, and governments are contracting with private security firms for other functions such as airport security. Yet political resistance to private actions in criminal justice is widespread, no matter what service is provided. Critics of privatization often contend that for-profit firms cut corners and reduce quality. A primary purpose of this book is to explore the validity of such critiques. Chapters discuss evidence for the benefits of privatization, alleged market failures in privatized systems, and effective privatization in prevention, pursuit, prosecution, punishment, restitution, and rehabilitation.

## PROFITS IN PRIVATIZATION

Private jail makes huge profit. MPs condemn Altcourse consortium's finance deal. David Hencke, Westminster correspondent. *Guardian Unlimited*. Wednesday July 4, 2001. <http://www.guardian.co.uk/> accessed 17/04/02.

The builders of Britain's first privately financed and run prison have made more legitimate profit out of crime than the small-time crooks incarcerated there could ever dream about, a parliamentary report reveals today.

Profits from Altcourse prison in Fazakerley, Liverpool, the first prison to be built under the government's private finance initiative, have been so enormous that the companies building it have recovered all their costs in two years.

This will leave them with 23 years of pure profit from the construction, plus extra profits to come from the running of the £247m prison for 600 local inmates. The deal - condemned by the Commons public accounts committee - was described by Alan Williams, MP for Swansea West, as "like coming up with the lottery several times a year".

## PRIVATIZATION QUESTIONED

*You Don't Always Get What You Pay For: The Economics of Privatization*. Elliott D. Sclar (Prof of Urban Planning, Columbia U). A Century Foundation Book. Ithaca NY: Cornell U Press, May 2000/184p/\$25.00. Abstracted by Michael Marien, *Future Survey* 23:6/268 June 2001.

The dawning of the 20<sup>th</sup> century brought a widespread belief in the power of government to serve as an agent of positive social change through application of rational analysis to social problems. For most of the century the only real debate among reformers concerned how much intervention would be sufficient. Even the advocate of unbridled capitalism, Joseph Schumpeter, observed in 1947 that it was only a matter of time before capitalism succumbed completely to socialism. But things changed quickly in the 1980s with the newfound belief in the efficacy of the market, leading to enthusiasm for introducing market relationships into the production of public services (perhaps the staunchest

proponent was Robert Poole's libertarian Reason Foundation). Virtually every public service is now considered a candidate for privatization: schools, hospitals, social services, prisons, police and fire departments, and transit systems. All these initiatives are proposed in the name of managerial efficiency and effectiveness. Sclar examines the reasons why privatization as a reform strategy in the form of public contracting often bogs down, concluding with *rules for improving the public sector*:

- 1) carefully delineate the output of any public service considered for reorganization;
- 2) understand activity-based cost accounting;
- 3) fully address the reality of transaction costs;
- 4) recognize that public contracting is different from private contracting;
- 5) always compare three alternatives (the agency as it now exists, contracting out as it is likely to exist, and feasible improvement using "best practice");
- 6) make meaningful employee participation possible (if best practice is to be pursued, employees must be integral to the reorganization process);
- 7) remove politics from contracting, and the management of public services from the ideological battle about the size of government. About half of all public money is dispensed via contracts, and this practice is unlikely to change.

We need to move forward on two tracks: improving the environment of public service and improving the public contracting process.

## MORATORIUM ON PRIVATIZATION

Prison privatisation. Stephen Nathan.

[http://www.penalreform.org/english/frset\\_art\\_en.htm](http://www.penalreform.org/english/frset_art_en.htm) accessed 17/4/2

Stephen Nathan ([stephennathan@compuserve.com](mailto:stephennathan@compuserve.com)) is a freelance journalist and researcher and editor of Prison Privatisation Report International ([www.penlex.org.uk/pages/prtprep.html](http://www.penlex.org.uk/pages/prtprep.html)) published by The Prison Reform Trust in the UK. Here he calls for a moratorium on private prisons.

Even within the flawed concept that 'prison works', privately run prisons have generally failed to match the claims made for cost efficiency, innovative regimes and lower recidivism rates. In their short history, private prisons have mirrored and even, on occasions, gone beyond the systemic human rights abuses found in the worst of the state sector.

In December 2000, a federal grand jury concluded that Corrections Corporation of America, the largest private prison company in the US, had operated a corporate policy of using excessive force to control teenagers at a Columbia, South Carolina facility. At the First Correctional Summit of the Americas in San Juan, Puerto Rico in September 2000, Wackenhut Corrections Corporation promoted itself as operating to both UN and CPT criteria.

Yet, just months earlier, juveniles under Wackenhut Corrections Corporation's care in Louisiana had been subjected to such abuses that the US Justice Department filed a lawsuit ordering the company and the State to end the use of corporal punishment,

excessive force and gas grenades; to limit the use of chemical and mechanical restraints; to eliminate suicide hazards; to hire sufficient staff to provide adequate safety and security; and to provide adequate mental health treatment, supervision and housing. In Victoria, Australia, the government had to buy back a privately financed, designed, built and run women's prison from Corrections Corporation of Australia after four years of persistent problems. And these are not isolated examples.

There are, however, dire social, economic and political implications, including: the loss of public accountability; poor wages and conditions for employees; fewer jobs; inadequate services; money which could be allocated to services is creamed off in profits and fees for consultants and advisors to schemes; the private sector becomes even more entrenched in criminal justice policy making; and the fuse is lit on a financial time bomb. Aside from the moral and ethical arguments about prison privatisation, there is ample operational evidence that the policy is wrong. The fact that the human rights dimension has not been fully examined is a derogation from duty. Pending such an examination there should, at the very least, be a moratorium on private prisons.

#### PROBLEMS OF PUBLIC-PRIVATE PARTNERSHIPS ESPECIALLY FOR MOST VULNERABLE

*Public-Private Policy Partnerships*. Edited by Pauline Vaillancourt Rosenau (U of Texas Health Science Center, Houston). Cambridge MA: The MIT Press, Aug 2000/256p/\$19.95pb. Abstracted by Michael Marien, *Future Survey* 23:6/269 June 2001.

Western industrialized nations have almost 30 years of experience with public-private policy partnerships. It is time to make an assessment. Chapters analyze the experience of commercial nuclear power, transportation (highway assistance, mass transit assistance, more fuel-efficient vehicles), provision of public infrastructure (toll routes, bridges, airports), environmental policy (emissions trading in clean air management), education (subsidies to private schools, vouchers), health policy, welfare reform, and prisons. Some conclusions: 1) an unequivocal commitment to privatization in all circumstances may be too great a reaction to poor performance of the public sector and too naïve a trust in the private sector; 2) when the profit motive is absent, more consequential and significant forms of partnering are possible; 3) public-private partnerships have not resolved problems with regard to equity, access, participation, and democracy; indeed, they may achieve cost reductions at the expense of democracy and equity; 4) there is no evidence that the minimalist forms of public-private partnerships that now exist increase access or successfully provide services to vulnerable populations without risk to quality and without being closely monitored; 5) public-private policy partnerships do not seem to reduce regulation, and instances of increased regulation are reported; 6) the worst case scenario, to be avoided, is where vulnerable populations (children, the elderly, the disabled, the cognitively impaired) are dependent on providers whose main goal is to make a profit or cut costs in a context of low regulation and monitoring.

## PUBLIC PLUS PRIVATE IN SUPER JAILS

Super jails plan to replace 30 prisons. Dilapidated institutions face closure in 'new for old' scheme. Alan Travis, home affairs editor, *Guardian Unlimited* Wednesday February 27, 2002. <http://www.guardian.co.uk/> accessed 17/4/2

The introduction of large scale 1,500 place prisons would be a departure for British prisons. The average size of existing jails in England and Wales is around 500. But the report argued that this new generation of "super jails" could be community prisons' carrying out the combined roles of remand, local, training and resettlement jails. The report, by Patrick Carter, a non-executive director of the Home Office's correctional services strategy board, also said that the prison service should ditch its full scale privatisation approach to new prisons.

Instead he suggested that the super jails should be opened using a French style mixed management approach which would see the public sector taking care of security and custody of inmates and private companies providing maintenance, healthcare, prison shops and workshops.

Mr Carter said that the private finance initiative and market testing have proved successful in the prison service in driving down costs and improving the performance of public sector prisons.

## PRIVATIZATION OF SECURITY

*Police for the Poor, Security for the Rich.* Thomas M. Seamon (2001)

Excerpted from a review by Virginia Fairweather, *The Pennsylvania Gazette* Home Page.

Thomas M. Seamon, Penn's former vice president for public safety, envisions a future in which the police force could become the "police of the poor," while private security would be for those who can afford it. Even now, he says, people live in gated communities, or buildings with private security forces, and work for companies with private security protection. He thinks that publicly provided police should cooperate with private sector counterparts now to avoid his own "police for the poor" scenario. Seamon also offers a capsule history of the police in America. At first, the police were untrained forces set up to enforce the wishes of elected officials; "buying a job" was part of the process. "Keeping the peace" often meant oppressing immigrants and other people in lower economic groups, preserving order at any price. While the advent of the civil service system changed the standards for the police, Seamon recommends national standards for more rigorous training, giving the example of Germany's two-year program. He also recommends a national safety code, similar to fire and building codes. Seamon also thinks police departments often have the wrong idea of what the public wants. When questioned, he says, people rank "feeling comfortable and safe in the city environment" higher than the desire for control of serious crimes such as murder.

IMPLICATIONS

A future without the possibility of tackling crime at its roots. The too-hard basket. Exacerbation of the rift between the Haves and Have-Nots.

BIG GROWTH EXPECTED FOR PRIVATZATION

Cornell Corrections CEO talks about his firm's future. David M. Cornell, Cornell Corrections, Inc. <http://www.twst.com/notes/articles/gas644.html> accessed 9 May 2002.

TWST: What is the ultimate potential for this business or this industry?

Mr. Cornell: I think government should be the benchmark. I think government should set the standards, although I think the private sector has done a better job of that through the American Correctional Association. I think governments, in the plural sense, should be the benchmark and I think that will continue. But in the outright management of jails and prisons tying up so much of the public sector funds - whether it's in construction or operations - when outsourcing has proved the savings can be at least between 15 and 25 percent, that is just not going to be justifiable in the future. So, do we become eventually, say 75 percent of the overall business, down the road some time in the future? I wouldn't be surprised.

## THEME FIVE

### INTERVENTIONS THAT WORK

#### WHAT WORKS – PRAGMATISM IN CORRECTIONS

From Nothing Works to What Works. Changing Professional Ideology in the 21<sup>st</sup> Century. Francis T.Cullen and Paul Gendreau. *The Prison Journal*. Vol.81, No.3, 2001, 313-338.

The writers assert the following. Positive criminology eventually was displaced by “nothing works” as a professional ideology. The new emergent ideology is that of “What works.”

1. Scientific criminology is the bases for effective correctional intervention.
2. Scientific criminology should be used to destroy knowledge that is not evidence based (many correctional interventions are based on faulty theories and techniques inconsistent with social psychological reseracher (boot camp, scared straight, for example).
3. Scientific criminology should be used to construct knowledge about what does work.
4. Although pure research is a noble activity, it is equally legitimate for criminologists to produce research that can reduce crime.
5. “What works” scientific criminology is not limited, a priori, to any one level of analysis or theoretical perspective.

This approach should lead the field. Otherwise crime policy will go to those whose practice and knowledge are suspect.

#### MULTI-PRONG APPROACH TO REDUCE RECIDIVISM – EMPLOYMENT, THERAPY, RESTORATIVE JUSTICE AND PARTNERSHIPS

Offender rehabilitation: Northem Territory Correctional Services. Wendy Hunter, Christine Fitzgerald and Tom Redston. *Corrections Today* February 2001, 92-96.

‘Ending Offending’ launched in September 1999, focuses on providing skills that are most appropriate to the location and lifestyle of the individual ... ongoing dialogue between facilitator, training provider, participant and home community (via a web site [www.ourmessage.org](http://www.ourmessage.org)). Program is designed to accommodate the changing needs of individual participants as well as the needs and expectations of the community. Sales of artwork and music generate an income that is given to the Victims of Crime Assistance League ...

25% of NT prison population is involved in the scheme, producing stories, paintings, songs and music CDs that address alcohol and drug use and offending. Product is marketed via the web site. “the content of much of the music and art work reflects the choices made by offenders prior to imprisonment, the effect of their crimes on victims and the realities of prison life.” At the same time, offenders undertake vocational (VET) training in literature, music, art and trade skills, in nationally accredited modules.

Intentions of the scheme are:

- Reducing recidivism through increased employment prospects
- Reducing negative consequences of substance abuse via exploring relationship between abuse and offending and via therapeutic programs
- Enhancing process of restitution and reparation to the community (this is all based on restorative justice)
- Fostering partnerships in aboriginal development.

“The Ending Offending – Our message project involves indigenous people in decision-making, achieves flexible delivery outcomes, exposes participants to information technology and forges a closer link between VET outcomes for indigenous people and their community development and employment opportunities.”

## GROWING PEOPLE THROUGH GARDENING

“Is it time to close the prisons ~ seeds of change”, in *Positive Futures Network*, Fall 2000, by Catherine Sneed

In this article, gardening and connecting to the land is used as an intervention to give purpose to the lives of prisoners.

### **The problem:**

I knew something wasn't working. As a young counsellor in the San Francisco County Jail, I repeatedly saw the same people return. I had come to work at the jail in 1980, out of law school, enthusiastic about working for my former teacher, the new sheriff of San Francisco. I thought I would be making a difference in the lives of the prisoners – helping them address the issues that got them into jail so they would never have to return. It was not so simple. When prisoners are released from jail, they're dropped off downtown in the clothes they came in. They have no money, no job experience, no training, and no place to live. And they are expected to be reformed.”

### **The solution:**

The prisoners and I began to clear the weeds and debris, and the Horticulture Program at the San Francisco County Jail was born. Every day, the prisoners and I went out to work on the farm on the jail's grounds, growing vegetables that we donated to soup kitchens and homeless shelters.

Today, for most prisoners, the work begins in a greenhouse with small plants that need constant nurturing. Each person cares for particular plants and learns, by watching them

grow, the true nature of this life: growth, renewal, and perseverance. Somewhere during the time spent quietly working the earth, something happens and something changes. Witnessing the cycle of growth and renewal allows the prisoners to see their own potential for growth and change. People often ask me what I did to inspire people to work. I tell them that it wasn't me, it was the plants.

**Out to the streets:** The program seemed to be working. One day the sheriff came out to see us in action. One of my students told him the program had changed his life. So much, in fact, that even though he was to be released in the coming weeks, he did not want to leave. He asked the sheriff if he could stay and work on the farm and take care of his plants. He had nothing on the outside.

It was then that I recognized the need for a post-release program where participants could continue the work they began in the jail, continue to help poor communities, and earn a living wage. So in 1992, we began a post-release program called the Garden Project. The Garden Project gives former prisoners the job, the support, and the life skills they need to remain out of jail. Meanwhile, their work continues to benefit poor communities.

Today the participants in the Garden Project work to grow food that feeds hundreds of low-income seniors and families each week. We have a thriving community garden, and we've planted more than 7,000 street trees in San Francisco. The work of the Garden Project proves that change can happen: Garden Project participants are 25 percent less likely to return to jail than those who didn't participate in the project.

The current trend in criminal justice calls for us to think big – to think in the same way we've thought since the penal system was established. It teaches us we need more prisons. It teaches us we need harsher sentencing. Most of all, it teaches us to give up on our fellow human beings, because that is what the system is really about.

When we lack the faith that these people can change, we're really expressing our lack of faith in our own humanity. With one in three young African-American men in prison, jail, or on parole, even the youngest get the message: they are more likely to end up in the city jail than the city college. National trends indicate that this pattern will continue. It is our national shame.

It's past time for another message. My friend, the poet Wendell Berry, wrote, "Out of a history so much ruled by the motto Think Big, we have come to a place and a need that requires us to think small."

At the Garden Project, we are thinking small. We didn't have a choice – we didn't have any fancy tools or equipment. We started with what we did have: land, work to be done, and people eager to do it. We didn't know when we started our garden what impact we would have. We only knew we had to begin somewhere. But beginning somewhere is enough. The economist E. F. Schumacher once wrote, "Perhaps we cannot raise the winds. But each of us can put up the sails so that when the wind comes we can catch it." We have put up our sail. And we're not just growing plants – we're growing people.



Preventing Crime: The Promising Road Ahead. Gene Stephens (Prof of Criminal Justice, U of South Carolina), *The Futurist*, 33:9, Nov 1999, 29-34. Abstracted by Michael Marien, *Future Survey* 22:2/074 February 2000.

US criminal justice professor Gene Stephens summarizes studies of numerous experiments in crime prevention. He concludes that community policing with well trained staff and a proactive alternative policy of restorative justice can reduce crime and fear, as well as revitalize communities.

Street crime in the US dropped to historically low levels by the end of the 1990s. Perhaps the best explanation for this decrease lies in the budding success of the "weed and seed" movement envisioned in the 1960s by James Q. Wilson, which weeds out drug dealers, addicts, and drunks, while seeding communities with programs that help residents keep their streets crime-free. At first weeding got more attention through "get tough" legislation, but the "seed" idea received increased attention in the late 1980s and early 1990s. In a July 1998 briefing, the National Institute of Justice reviewed over 500 crime-prevention programs (see the complete study at [www.preventingcrime.org](http://www.preventingcrime.org)), with the following findings:

- 1) **What Works:** frequent home visits to infants by trained nurses to reduce child abuse, preschool attendance to reduce chances of later arrests, family therapy and parent training, school-wide initiatives for positive behavior, life-skills training, behavior modification for high-risk youth, ex-offender job training, extra police patrols in high-crime hot spots, monitoring high-risk repeat offenders, in-prison drug treatment;
- 2) **What Doesn't Work:** gun-buyback programs, inner-city community mobilization, school counseling, summer jobs and short-term job training for at-risk youths, Neighborhood Watch programs if not initiated and sustained by citizen groups, "scared straight" programs bringing minor juvenile offenders to visit prisons, increased arrests of drug dealers, correctional boot camps using a military basic-training approach, home detention with electronic monitoring;
- 3) **What's Promising:** gang monitoring, community-based mentoring, after-school recreation programs, shelters for battered women, schools within schools, Job Corps and prison-based vocational programs, enterprise zones, dispersing public-housing residents out of inner cities, attaching fines to offenses as done in Europe, a philosophy of restorative justice.

## COGNITIVE THERAPY AND EDUCATION

Where does the prison service go from here? An Interview with Martin Narey, director-general of the [British] prison service. Interview by Esther Addley. *Guardian Unlimited* Friday February 2, 2001. <http://www.guardian.co.uk/> accessed 17/05/02.

The bigger problem is that for too long, overcrowding has been an excuse not to treat prisoners properly. If people are going to be imprisoned, there is an obligation to make it a decent and constructive experience for them.

The prison service has two main jobs. Firstly, we have to keep people securely in custody.

But most of us didn't join the prison service just to lock people away. We joined because we believed that people could be changed.

The second area is the offending behaviour programmes. David Wilson in yesterday's G2 criticised these courses, arguing they were based on an assumption that criminals were somehow psychologically different from the rest of us. In fact, the programmes use established skills of cognitive processing (which are being applied very successfully in the field of mental health). And it is an fact that reconviction rates for those who have taken the courses are noticeably lower. Clearly they don't cure everybody, but they are having a significant impact on reoffending.

Finally, we are doing important educational work. A large proportion of Britain's prisoners have been permanently excluded from school, and two-thirds of them have very low levels of literacy and numeracy. This year, 60,000 educational qualifications will be awarded to prisoners, for many of them the first qualification they will ever have had.

## COGNITIVE THERAPY FOR INMATES

Thinking for a Change: NIC Cognitive Behavioral Change Program for Offenders, National Institute of Corrections - [nicic.org](http://nicic.org)

Thinking for a Change Program (T4C) is an integrated, cognitive behavior change program for offenders that includes cognitive restructuring, social skills development, and development of problem solving skills. T4C is designed for delivery in small group settings over 22 basic one-day lessons, with the capacity for unlimited continuing sessions that meet the particular needs of each group of participants. The curriculum was developed in the late 1990s by Barry Glick, Ph.D., Jack Bush, Ph.D., and Juliana Taymans, Ph.D., in cooperation with the National Institute of Corrections.

More than 30 field test sites have been working in partnership with NIC to deliver the T4C program to offenders since 1997. These agencies include state correctional systems, local jails, community based corrections programs, and probation and parole departments. Offender populations include adults and juveniles, both male and female. As of January 2001, more than 600 correctional staff have been trained to facilitate offender groups. Sixty (60) individuals have participated in the Thinking for a Change: Advanced Practicum (Training for Trainers) with five correctional systems currently capacitated to train their own staff to deliver the program to offenders.

NIC provides the Thinking for a Change program as one option correctional agencies may consider as they develop their continuum of interventions to address the diverse cognitive, social, and emotional needs of the increasingly difficult correctional population.

## REDUCING VIOLENCE

Reducing Gun Violence: What Works, What Doesn't, What's Promising. Lawrence W. Sherman. Fels Center of Government, University of Pennsylvania. A Lecture in the Perspectives on Crime and Justice Series National Institute of Justice, U.S. Department of Justice. April 5, 2000. <http://www.preventingcrime.org/exsummary.html>

As the window of opportunity for new gun policy grows wider, the year 2000 is a crucible for science and its role in making public policy. Research on the effects of various gun policies has been left far behind. To the extent that research has been cited at all, it has appeared in the usually suspect pattern of selective invocation of the mantle of science to support one argument or another. Far too often, there has been simply no research to cite on the major policy proposals.

My review covers two kinds of research methods: epidemiology and experiments. I was the senior author of the congressionally-mandated 1997 report, Preventing Crime: What Works, What Doesn't, What's Promising ([www.preventingcrime.org](http://www.preventingcrime.org))

### *Epidemiology*

The epidemiology of gun violence--which traces the patterns of risk factors associated with its incidence-- can prod us to invent new policies that may be more effective than any we now have, or any we are now debating. Previous public health successes have always linked the policy intervention to the epidemiology of the problem. From this perspective, it is appropriate to use epidemiology to judge the "safe guns" strategy. These strategies seem aimed at middle-class gun owners--and their neighbors--who would use a triggerlock as conscientiously as they use their automobile safety belts. Triggerlocks can be turned off, and even a "personal gun" can be abused by the person authorized to use it.

From an epidemiological perspective, the premise of these "safe gun" strategies is the corollary of "safe people," or the people who can be trusted to use the gun lawfully and safely. If safe guns are safe because only safe people can activate them, a great deal hangs on our current definition of safe people.

What the epidemiology shows is that current legal boundaries between people declared "safe" and "unsafe" for gun ownership fall very wide of the mark. The Brady bill and the instant background check battle has been focused on the no-felony-conviction definition of safe people. Yet by that definition, the majority of crimes with guns are committed by people who are legally "safe," law-abiding citizens for purposes of present gun ownership policy. Samples of persons arrested for using guns in crime consistently find that the majority have no prior felony conviction. The U.S. Bureau of Justice Statistics reports that in 1992, fully two-thirds of felony weapons offenders had no prior felony conviction. This means two things. One is that using a felony conviction to define unsafe people allows gun crime to happen at a much higher rate than a more epidemiologically-based

definition. The other is that the use of a gun in crime can never be predicted simply from previous criminal history, and that strategies other than restricting sales to "safe people" must be used to reduce gun violence. A California study shows that the sale of a gun to person with at least one prior misdemeanor conviction was six times more likely to be followed by a violent offense than the sale of guns to people with no prior criminal history. Those who had two or more prior misdemeanor convictions on the day of sale were 15 times more likely than the people with clean records to be charged subsequently with homicide, rape, robbery, or aggravated assault. Yet even if all misdemeanants were barred from buying guns, we would still have the highest rates of gun violence in advanced economies.

The most important epidemiological fact is that gun violence is geographically concentrated in the areas of greatest inequality in our nation, the hyper-segregated poverty areas of inner cities. Half of all homicides occur in the nation's 63 largest cities, which house only 16% of the population. Most of those homicides are committed with handguns, often obtained illegally. Ample epidemiological data show that the greater the density of guns in a population, the greater the level of gun injury and gun death, other things being equal. Thus the key epidemiological question for any new gun policy is whether it will increase gun density in areas of the greatest gun crime.

Gun policy needs to respond to the key epidemiological facts – that most gun crime is committed by people with minimal criminal records, who are unlikely to be hampered by safe gun technology or current proposals for restricting sales of new guns.

#### *Evaluation Research: What Works*

The two policies that are known to work are epidemiologically focused on high risks of gun violence. One is focused on high-risk times and places, while the other is focused on high risk people.

**Uniformed Gun Patrols.** The first formal test of uniformed patrols against guns was the Kansas City Gun Experiment. In 1992 police in a high crime area worked on overtime to increase gun seizures by 65%, and found a 49% reduction in crimes committed with guns. This study found no change in either gun seizures or gun crimes in a similar area several miles away.

A modified replication of the Kansas City Gun Experiment was conducted in Indianapolis in 1996. Two target areas either maintained or increased the level of gun seizures, while gun seizures dropped in a comparison area by 40%. According to an independent evaluation, gun assaults, armed robberies and homicides dropped by 50% in one area and 25% in the other, even as those crimes rose 22 percent in the comparison area and remained constant city-wide.

In this connection, it is worth noting that the Boston Police Department's well-known reduction in homicides in the early-1990s was statistically related to a major increase in weapons arrests, in a pattern that mirrors the national trend in the rise of weapons arrests

and the fall of homicides. The same pattern is found in New York City. The fact that plainclothes patrols and drug enforcement have recently been associated with controversial cases of police-citizen encounters should not be confused with the results from uniformed patrol experiments. Experiments in several cities show there is no logical conflict between police enforcing gun laws more frequently--sometimes misnamed as "aggressive patrol"-- and being polite to citizens, explaining what they are doing as they go along.

**Criminal History Checks.** The second policy known to be effective at reducing gun violence is background checks for gun buyers. The Brady bill is often acclaimed as a success because it stopped over 300,000 people from buying guns illegally in a five year period nationwide. But the true test of its success, however, is not the number of gun sales blocked, but the number of gun crimes prevented.

According to a sample of 2,640 California background checks, the 170 convicted felons who were prevented from buying new guns were 18% less likely to be charged with a gun offense over the next three years than the gun buyers who had felony arrests but no convictions. In other words, using arrested felons as a control group, gun crime by convicted felons appears to have been reduced by the background check policy. A Florida impact evaluation found that when Florida adopted a mandatory waiting period and background check for handgun purchases, homicide rates dropped relative to controls. Taken together, these two studies give background checks a secure status as a means of reducing gun violence.

There is an immediate policy implication of placing background checks on the list of "what works." -- closing the loopholes. If background checks reduce crime for gun sales in licensed gun dealerships, it is a reasonable hypothesis that they would do the same for gun shows and third-party gun transfers. One-third of all gun sales are currently excluded from federal law on background checks, either at gun shows, through classified ads, or other legal avenues.

#### *What Doesn't Work*

The program that is best known to be ineffective is **gun buybacks**. In three separate, moderately strong scientific evaluations, there was no reduction in gun violence following the purchase of large quantities of guns.

From an epidemiological perspective, buyback programs receive low marks for relating resources to risk factors. Nothing in the structure of gun buyback programs attempts to focus the intervention on the risk. Guns are bought from anyone, regardless of where they live or whether the gun was readily accessible to persons at high risk for crime. These programs are often justified rhetorically by saying that "every gun bought back is a potential life saved." Yet not all guns are at equal risk of being used in crime, a risk that varies widely by geographic area, type of gun, recency of manufacture, and prior criminal records of the gun owners.

In 1999, the federal government encouraged local agencies to spend many millions of federal dollars on buybacks in public housing authorities. Such a program might conceivably have some effect on gun violence if it was limited to residents of the small percentage of all public housing projects nationwide that suffer gun violence problems. But based on the city-wide program nature of the program, that seems unlikely.

### *What's Promising*

The 1994 **ban on the sale of newly manufactured "assault weapons"** of specific manufacture and design was the subject of a national evaluation mandated by the Congress when it enacted the legislation. A leading research team found that requests for ATF traces of the banned weapons after use in crime dropped by 20% in the first year, steeper than the 10% drop in all homicide and in trace requests for all other gun types. Moreover, gun murders dropped 11 percent below projected levels in the 38 states that had not previously passed a similar ban, but did not drop in states where such weapons were already banned. There was also a reduction in the rate at which police were murdered with guns.

### *Conclusion*

It is important to note that far more federal funds could be invested in these uniformed gun patrols, in the 1,000 or so census tracts at highest risk, and far more gun sales could be subjected to background checks. Thus the available research points the way to major policy changes that could work wonders.

Ironically, in a year in which the policy choices have been framed as more laws versus more enforcement, the research evidence suggests that both enforcement and legislation can make a difference. The choice between them is clearly false, for nothing makes them mutually exclusive.

## SUPERVISION WORKS WHEN OFFENDERS LEAVE PRISON

Straw spells out prison plans. Staff and agencies. *Guardian Unlimited* Monday February 26, 2001. <http://www.guardian.co.uk/> accessed 17/4/02.

The home office minister, Paul Boateng, said: "The evidence shows prisoners are less likely to reoffend if you do make sure that they are supervised when they leave prison. All prison sentences ought to carry with them an element of supervision and control when they come to an end."

## SUCCESSSES FROM CANADA

*Reflections of a Canadian Prison Warden: The Visionary Legacy of Ron Wiebe: An Unfinished Conversation.* Jacinthe Allard, Carole Dolan and Pierre Cremer (eds.). Correctional Service of Canada, 2000. [http://www.csc-scc.gc.ca/text/pblct/ronweibe/3\\_e.shtml](http://www.csc-scc.gc.ca/text/pblct/ronweibe/3_e.shtml) accessed 10 May 2002.

The key conclusions to this book:

Things That Work:

- Approach – The taxpayers is the beneficiary of our work.
- Work is essential to a good corrections program.
- Community service.
- Cognitive therapy.
- Corrections as an organization itself must transform, becoming a learning organization.

We look much more at the science of what works and what doesn't work. Canada is far ahead of the pack in its research — another of our advantages. When we developed the cognitive-based approach, it relied on research defining successes and failures over the past years: readjusting criminal thinking and improving moral reasoning. It became the foundation for all our programming.

We can even make the argument that our Aboriginal programming is cognitive-based because it has to do with moral reasoning and thinking within a particular culture or value system. Nevertheless, it is still based on good thinking, consistently applied across Canada. I know that someone is delivering a cognitive skills program to an offender in Nova Scotia, and when I get the offender here, I know basically what he has been through. I can have confidence that the program has been carried out consistently, another clear advantage of our Correctional Service. The fact that our coaches are trained similarly from one end of the country to the other helps in our evaluating an assessment of an offender's potential risk in the future.

## THEME SIX

### RESTORATIVE JUSTICE AND COMMUNITY ALTERNATIVES

#### RESTORATIVE JUSTICE

Top judge urges courts to cut minor jail terms. Rebecca Allison. *Guardian Unlimited*. Friday October 26, 2001. <http://www.guardian.co.uk/> accessed 17/4/2.

The Lord Chief Justice yesterday urged judges and magistrates to cut short-term jail sentences by as much as half and to ensure they are only sending people to prison "if it is really necessary".

Sending criminals into an already overcrowded prison system should always be a last resort, Lord Woolf reminded his colleagues at a Youth Justice Board conference in London.

Among the choices to be considered should be "restorative justice" in which the offender acknowledged the wrong done to the victim and tried to take the appropriate steps to remedy the situation.

Lord Woolf also expressed his belief that the offender should make reparation in an "appropriate way" to the community.

#### INTERNATIONAL STANDARDS FOR RESTORATIVE JUSTICE

Standards for Restorative Justice. United Nations Crime Congress: Ancillary Meeting Vienna, Austria, 2000. John Braithwaite, Australian National University <http://www.restorativejustice.org> accessed 17/4/2

We must be careful in how we regulate restorative justice now so that in another decade we will be able to say again that the healing edge programs are more profoundly restorative than those of today. Unthinking enforcement of standards is a new threat to innovating with better ways of doing restorative justice. It is a threat because evaluation research on restorative justice is at such a rudimentary stage that our claims about what is good practice and what is bad practice can rarely be evidence-based.

This means that a fundamental standard is that restorative processes must seek to avoid domination. We do see a lot of domination in restorative processes, as we do in all spheres of social interaction. But a program is not restorative if it fails to be active in preventing domination.



It follows that restorative processes must be structured so as to minimize power imbalance.

When risks of power imbalance are most acute our standards should expect of us a lot of preparatory work to restore balance both backstage and frontstage during the process. Restorative justice processes must be prohibited from ever imposing punishments which exceed the maximum punishment the courts would impose for that offence. In general, I think UN Human Rights instruments give quite good guidance on the foundational values and rights restorative justice processes ought to observe. The first clause of the Preamble of the Universal Declaration that most states have ratified is: “Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,”

## LIMITS TO RESTORATIVE JUSTICE

Neglecting due process for minors: A Possible Dark Side of the Restorative Justice implementation? Els Dumontier. Free University of Brussels. United Nations Crime Congress: Ancillary Meeting Vienna, Austria, 2000

The absence however of basic penal principles of due process (presumption of innocence, legality, equality for the law, proportionality, the relation between the offence and penal punishment, right of legal assistance, etc.), was and is a source of growing fundamental criticism. At the centre of this criticism stands the observation that ‘the child receives the worst of both worlds; he gets neither protection (due process) accorded to adults, nor the solicitous care and treatment postulated for children’.

Community Service is considered as a restorative measure because youngsters get the chance to repair in a symbolic way the damage they have caused to the community by working a number of hours to the benefit of that community (Geudens, Schelkens and Walgrave, 1997). Although CS might incorporate these restorative elements, the repressive elements obviously remain present. After all CS implies a limitation of freedom and it is far from clear whether minors really ‘feel’ the restorative character of Community Service (Eggermont, 1994, 1997). Therefore only a judge should take this ‘restorative’ sanction/punishment.

Can or should pure restitution be the sole aim of a judicial mediation process? If not, then the other goals (like punishment or rehabilitation) should be clarified and taken into account when establishing a legal framework?

Therefore, in future, government and research should focus on creating legal rights for minors and victims, together with rules and/or guidelines concerning the organisation of judicial victim-offender-mediation. After all, to declare that a judicial mediation procedure is always ‘voluntary accepted’, never leads to a punishment and always serves ‘the best interest of the child’ resembles too much the classical paternalistic thoughts, which have shown to be not that respectful for children’s and youngsters’ rights.

## RESTORATIVE JUSTICE AS FUTURE ORIENTED

Children, young people and crime in Britain and Ireland: From exclusion to inclusion – 1998. Restorative Justice in Ireland. Dr. Valerie Bresnihan, Chairperson, Irish Penal Reform Trust. <http://www.scotland.gov.uk/cru/kd01/crime-09.htm> accessed 1/5/02.

The Irish Penal Reform Trust believes that there is no such thing as a 'good' prison and that ultimately a prison operates as a deformed society which is unarguably and universally damaging, however decent are those administering it.

Retributive justice is based on the assumption that if the punishment is sufficiently high it will deter future offending. Clearly this type of punishment doesn't work. One of the reasons may be that prisoners, by definition, are isolated from the consequences of their actions. With retributive justice, both victims and offenders are put in a passive role because the offence is seen primarily as an offence against the state. Restorative Justice, on the other hand, emphasises ways in which crime harms relationships in the context of the community. It is underpinned by three assumptions: firstly, offenders are capable of accepting responsibility for their behaviour; secondly, reparation by offenders to victims is a substantive and healing form of justice for both victim and offender; and thirdly, all communities are entitled to, and are capable of, self-empowerment relative to appropriate preventative crime measures.

Howard Zehr, one of the earliest and most influential thinkers and writers in the field, describes the shift from retributive to restorative justice as requiring a 'change of lenses' so that our focus is on the future and solving problems, rather than on the past and allocating blame.

## RESTORATIVE JUSTICE AS MAIN TREND

Restorative Justice - reflections on national and international developments. Kay Pranis, Restorative Justice Planner. Minnesota Department of Corrections. May, 1999. <http://www.corr.state.mn.us/organization/commjuv/restorativejustice/rjreflectionsonnational.htm> accessed 19/4/2

In New Zealand all juvenile offenses except murder and manslaughter involve those closest to the incident in deciding an appropriate response through the family group conferencing process. Judges routinely accept the outcomes of the community-based process.

In the United States progress has been made at both the grassroots and institutional level. Barely on the scene five years ago, restorative justice is now a major consideration in criminal justice planning and future forecasting. A group of leading corrections policymakers from around the country, exploring possible futures for corrections, identified restorative justice as a major trend influencing the future of corrections.

But the most exciting news is at the local level - neighborhoods taking responsibility, individual judges sharing power, system/community partnerships forming to design their own way of helping victims and holding offenders accountable, educators taking the ideas of restorative justice into schools, professionals taking the values of restorative justice into their personal lives, managers applying the values of restorative justice in the work place, churches reexamining their responsibility to teach about the redemptive value of making amends and forgiving in public as well as private life.

## RESTORATIVE JUSTICE: GOOD FOR THE VICTIM, GOOD FOR THE OFFENDER AND GOOD FOR THE COMMUNITY

Children, young people and crime in Britain and Ireland: From exclusion to inclusion – 1998. Restorative Justice: Issues of definition and effectiveness – the victim’s perspective. David McKenna, Assistant Director (Operations), Victim Support Scotland, Scotland. <http://www.scotland.gov.uk/cru/kd01/crime-08.htm> accessed 1/05/02.

The value of restorative justice to the victim of crime is relatively straightforward and understandable in that it provides an opportunity for explanation, reassurance and resolution of the offences. Victims want to know:

- why me?
- that it's not going to happen again;
- that the offender knows the impact the crime has had; and
- what the offender proposes to do to make the harm done.

In the formal criminal justice system, none of these primary needs of victims are met. Surprisingly, many victims do not want the offender to have a criminal record or to have to go to court and even in some serious cases, they don't want the offender to go to prison.

## DEINSTITUTIONALIZATION AND RESTORATIVE JUSTICE

“Go straight ... back to jail,” Tim Anderson, *The Sydney-Morning Herald* (November 15, 2001), 15.

Anderson reviews perspectives on crime. He argues that the get tough approaches, as in the USA have not worked. Over the last twenty years the USA has doubled its imprisonment rate yet now has a higher rate of violent crime.

Anderson concludes that there is a link between prison and violent crime: crimes of violence are often committed by those who have been institutionalized.

There is also a link between legal processing of young people and recidivism. He argues that a “better considered response is to reduce levels of institutionalization” and use “diversionary programs for young offenders which are consistent with the

recommendations of many official inquiries, and the with Convention of the Rights of the Child.”

He also cites a recent study by the Australian Institute of Criminology which shows that restorative justice has a better rehabilitative potential than traditional sanctions.

## CRIME PREVENTION AND RESTORATIVE JUSTICE

Linking Crime Prevention to Restorative Justice. John Braithwaite  
Australian National University.

[http://www.realjustice.org/Pages/mn98papers/nacc\\_bra.html](http://www.realjustice.org/Pages/mn98papers/nacc_bra.html)

### *Direct Versus Indirect Pursuit of Objectives*

Restorative justice will never become a mainstream alternative to retributive justice unless long-term R and D programs show that it does have the capacity to reduce crime. Restorative justice theorists, including me, have long advanced the claim that restorative justice conferences can deliver their benefits without directly attempting to pursue those benefits.<sup>1</sup> This is true of reintegrative shaming, for example. The worst way to accomplish reintegrative shaming is to urge conference participants to shame the offender. That is a prescription for minimizing reintegrative shaming and maximizing stigmatization. No, reintegrative shaming comes as a by-product of confronting the consequences of the crime and what is to be done to put them right.

There is a similar paradox of procedural justice. Court proceedings are explicitly designed to achieve procedural justice outcomes such as equality before the law. With conferences, in contrast, there is no direct pursuit of equality before the law. Yet we know from the RISE experiment that conference participants are more likely to feel that they have experienced equality before the law in conference cases than in court cases (Sherman & Barnes, 1997). Victim-offender mediation studies have also produced encouraging results on procedural justice (Braithwaite, forthcoming).

There is a temptation to generalize these analyses to the claim that all the benefits of restorative justice are rather like the benefits of being spontaneous—the more directly we try to be spontaneous, the less spontaneous we will be. In some ways our work may have fallen victim to a generalized tendency to expect the benefits to flow as an indirect outcome of simply pursuing restoration. In this paper, I will discuss the linkage between crime prevention interventions and restorative justice. My argument will be that crime prevention must be directly pursued as an objective of conferences. Crime prevention benefits do not flow inevitably simply as a result of a restorative dialogue. Before moving on to explaining why the best way to make crime prevention work may be to link it to restorative justice, I will make some remarks about why crime prevention programs that are not linked to restorative justice generally fail.

### *Why Crime Prevention Programs Mostly Fail*

Crime prevention programs tend to be either police-initiated or community-based, or, perhaps most commonly, some mixture of the two. However originated, my contention will be that crime prevention programs mostly fail for four reasons:

1. Lack of Motivation
2. Lack of Resources
3. Insufficiently Plural Deliberation
4. Lack of Follow-Through

### *Conclusion*

Restorative justice can remove crime prevention from its marginal status in the criminal justice system, mainstreaming it into the enforcement process. It can deliver the motivation and widespread community participation crime prevention needs to work and to protect itself from capture by organized interests (including the crime prevention industry itself). Motivation and participation also improve follow-through on conference agreements in comparison with follow-through on court orders. Sometimes, but all too rarely, motivation and participation engendered by restorative process can deliver the political clout to crime prevention that it needs to tackle systemic problems systemically. Plural participation in conferences fosters a capacity to see a crime as many things at once, caused in context by a variety of different true explanations, each of which suggests preventive options. Deliberation in conferences has the potential to increase the effectiveness of crime prevention by a contextual wisdom that better matches the right preventive options (therapeutic, situational or structural) to the right case. That potential seems to be rarely realised at the moment.

## INDIGENEOUS PRACTICES OF RESTORATIVE JUSTICE

A Journey in Aboriginal Restorative Justice. Harley Eagle. *Conciliation Quarterly* Vol. 20, No. 3. Reprinted at [restorativejustice.org](http://restorativejustice.org) accessed 17/4/02.

The Oglala Lakota Nation Mennonite Central Committee unit has been working at restorative justice for many years through efforts the past program coordinators and continuing with my wife and me as the current program coordinators. We find ourselves using the concepts of restorative justice in many situations and are called on often by the people in the community to share what knowledge we may have-as well as our contacts and resources. Teaching restorative justice at the local Lakota College where we use an indigenous model is one area of focus in our work on the Pine Ridge Reservation, also known as the Oglala Lakota Nation.

It is a common thread of wisdom through all cultures and teachings that we grow from our mistakes. If conflict is handled in a "good way" it promotes healing and reestablishes harmony within a community. Long before contact with white Europeans, we as Native people understood this and would use the circle process in dealing with our conflict. Sadly, because of contact and the subsequent tearing down of our way of life, we have lost much of our indigenous way of working through conflict. Today, for the most part, we still depend on the adversarial style of the dominant society to deal with our problems.

We are finding that we can be a part of reestablishing the old way of healing justice and, as a result, excitement and hope is building for this Lakota Nation. We are observing and interacting with people from other indigenous nations who have reinstated their cultural customary practices of holistic ways of dealing with conflict.

## CONNECTION WITH FAMILY – CORRECTIONS AS COMMUNITY BUILDING

█ Criminal Justice in Australia: an interview with Peter Norden. *America* June 19, 1999.

In Scandinavia, people who commit crimes are still considered members of the community, so there's a strong emphasis on maintaining ties through means like conjugal visits. There are regular home leaves, too, even for long-termers, and, amazingly, it works. The number of 'incidents', like failures to return, are minimal. In Australia we're not at that point, but ... we realize that the imprisoned person is going to be returning to the community and that it's important to sustain family relationships. ... punishment should bring about reform, restoration and cohesion.

## CRIME, COMMUNITY AND SOCIAL CAPITAL

█ Using crime to reweave the social fabric: Developing social capital/informal social control through restorative processes - Stories from the street. Minnesota Department of Corrections  
<http://www.corr.state.mn.us/organization/commjuv/restorativejustice/rjusingcrime.htm>  
accessed 19/4/2.

This article presents stories demonstrating the beneficial effects of social capital / community building on crime.

Twelve middle school students were involved in vandalizing an empty home in the community. During the peacemaking circle process the students and their parents identified the lack of a place for students to hang out together as a contributing factor. Members of the community justice council worked with Community Education to develop additional teen activities in their summer program and are exploring the feasibility of a teen center in the community.

In a suburban community the victim, offender, offender's mother and neighborhood residents gathered to resolve vandalism of a neighborhood tree house which had caused extensive conflict in the community. While the police officer was working to find a suitable place to meet, a neighborhood resident, who had participated in the process in another case, suggested that they could resolve the case themselves without the police, and they did. The agreement addressed both the individual responsibility of the offender and the responsibility of the neighborhood to be more connected and get to know one another. The agreement was accepted by the police. Extensive use of family group conferencing by the police department as the response to juvenile crime has resulted in an increase in community skills in problem solving and conflict resolution.

In spite of difficulties with the offender, participants in a peacemaking circle project in a diverse inner city community express confidence that through this process the community will be strengthened. "What's most important here is the community coming together. The details of how we do it are not as important as the community doing something." Use of the circle process as a response to crime has increased the community's sense of capacity to address very difficult community problems.

"What do you do here?" the woman asked. She noted that the atmosphere around the building had changed. "There were always lots of kids hanging around, making a lot of noise and they never helped open the door when my arms were loaded. Now it's quieter and when they are around, they run to open the door for me and want to know if you are in there doing circle." The woman she was speaking to had done several circles with neighborhood kids and it had apparently changed the climate of the neighborhood.

## PRIVATE CORPORATIONS AND THE THERAPEUTIC COMMUNITY

David M. Cornell is Chairman and CEO of Cornell Corrections (see above), Inc. ( [NYSE:CRN](#)).

Mr Cornell: I think we will do more in education for not just teenagers at risk, but children at risk. I think that's going to be a big dimension for us. We're going to become more active in non-residential care. We'll do more in therapeutic community. We will become a broad-based national company, and I say broad-based in the sense that we will continue growing very aggressively and successfully, as we have done in secure institutional, pre-release and juvenile.

Interviewer: Do you expect this market to change much over the next couple of years?

Mr. Cornell: Speaking right now, I think that as I've described our Company in these earlier comments, I think that's the way this business will grow for us. Now, we're there. We're going down this road cautiously, and emphasizing rehabilitation and education and the return-to-society needs of these individuals so that they don't recidivate. Our data, our outcome measurements are clearly the best in the business. I'm not sure anybody else is thinking that way.

## SATISFYING JUSTICE

A hundred and one things we can do instead of putting or keeping someone in jail. *Interactive Corrections*. <http://www.csc-scc.gc.ca/text/pblct/interactive/iasep96e.shtml> accessed 10/5/02.

The Correctional Service of Canada and the Church Council on Justice and Corrections in their book *Satisfying Justice*, promote credible alternatives to incarceration and intended to mobilize more effective strategies for changes to justice and sentencing in Canada and elsewhere. They analyzed whether an initiative is presently reducing the use

of imprisonment, but also whether it addresses related safety and bio-socio-economic intervention needs, and:

- Does it have a reparative orientation for victim and community?
- Does it attend to related social, emotional and practical repercussions for others affected by the events?
- Does it provide an opportunity to experience "satisfying justice"?

Accordingly, the sample initiatives have been organized into four sections:

1. Initiatives that attempt to repair harm from crime, attend to related needs and avoid or significantly reduce the use of custody - Thirteen Canadian and international programs mindful of community safety issues are documented.
2. Initiatives that attempt to repair harm from crime and attend to related needs, with some implications for the reduced use or length of custody - Victim and Offender Mediation - Circle Sentencing - Family Group Conferencing - Community Sentencing Panels and Youth Justice Committees.
3. Initiatives that attempt to avoid the use of custody, with or without some reparative elements - Diversion Programs - Community Service Orders - Intensive Supervision Probation - Family Preservation Model - Alternative Placement / Residential Programs - Bail Option Programs and Administrative Sanctions - Client Specific Planning Programs.
4. Initiatives that attempt to reduce the length of custody by alleviating the enforcement of imprisonment - Community-based Supervision Programs - Release Preparation for Successful Community Reintegration. - Wilderness Camps - House Arrest.

"Most importantly", the authors say, "we found that in pockets of the world, including examples in Canada, some communities as a whole are trying to forge an entirely different kind of partnership with their local justice officials. Some are aboriginal communities drawing on their traditions. Others are urban groups of citizens who want more ownership for their own justice work to ensure the safety and well-being of their neighborhoods, schools and communities."

*Satisfying Justice* is both good news and bad news about credible alternatives to imprisonment now in place in Canada and elsewhere. These alternatives are still not significantly reducing prison populations.

*Satisfying Justice* explains why and is intended to stimulate more imaginative approaches and new directions in sentencing. The report goes on to say that "the information we give to ordinary members of the public does not allow them to evaluate the nature of crime in our society or the operation of the criminal justice system".

"Criminal justice officials have a particular responsibility to serve the public with accurate information about the impact of the present system, what it can and cannot do in the community's interest".



## JUDICIALLY CREATED PUBLIC HUMILIATIONS

Crime and Punishment: Shame Gains Popularity. *New York Times*, 16 Jan 1997, p1.

This article presents the notion of judicially created public humiliations as an alternative to prison.

### IMPLICATIONS

Would it work in Australia?

Civic Repentance. Edited by Amitai Etzioni (University Professor, GWU). *Rights and Responsibilities: Communitarian Perspectives Series*. Lanham MD: Rowman & Littlefield, 1999/218p/\$23.95pb. Abstracted by Michael Marien, *Future Survey* 23:2/095 February 2001.

In the world of religion, repentance is a key element, involving the expression of remorse for violation of religious beliefs, doing penance, and--most important-- restructuring one's life. Unfortunately, this notion of repentance is not accepted in our civic culture. A wayward young person can show true remorse, serve time meted out to him by a judge, lead an exemplary life thereafter, and still be an "ex-con." Many of his civil rights are not restored. He cannot join several professions, and potential employers may deny him employment. *Etzioni's main thesis is that "we should adopt the religious concept of repentance into our civic culture."* For example, we could seal the police files of those who stay out of trouble for at least ten years (longer if the offense is a severe one). There are two basic reasons to give people opportunities to be restored to as full a membership in the community as possible:

- 1) it is grossly unfair to treat people who have met the full requirements of repentance as if they were no different from repeat offenders;
- 2) the lack of opportunities for full restoration and continued treatment as outsiders exacts social costs (closed doors are a major reason ex-cons hang around other ex-cons, reinforcing one another's criminal tendencies).

These essays discuss current state laws for 20 professions regulating moral character, the status of voting rights for ex-convicts (varying from state to state, though more states appear to disenfranchise ex-cons today than 20 years ago), mechanisms through which ex-offenders can regain their former status, the elements of restorative justice (which could play a much larger role, at least for first-time and non-violent offenders), the promise of experimental reintegrative justice programs, the criminal justice system in Japan (where repentance and redemption, in the form of apology and pardon, play a vital cultural role--which helps to explain Japan's very low crime rates), psychotherapy as a secular path to psychic wholeness, repentance rituals for racial reconciliation, and a physician rehabilitation program in Maryland.

## IMPLICATIONS

Important work on a new (but traditional) notion of justice. As individuals search for communities of learning and meaning, civic repentance may find a welcome place in the range of alternatives to prison, certainly in new age and other communities.

## COMMUNITY JUSTICE AND BUILDING HOPE

Building Hope through Community Justice. Donald G. Evans. *Corrections Today* February 1999, 73.

Summarises the keynote address delivered to the American Probation and Parole Association's 23<sup>rd</sup> Annual Institute, August 30-September 2, 1998, by Mark Carey, Director of Dakota County Community Corrections in Hastings Minnesota.

Acknowledging that there are many definitions of "community justice", Carey offered his definition. For Carey, it means "a community-led, decision-making process to address interpersonal conflict which is marked by: a problem-solving orientation, decentralised authority, accountability to each other, and is consensus driven." He went on to say that, "Under community justice, the public has a viable perspective ... the community's permission should be received whenever feasible, before the legal and authoritarian system takes action." Carey said community justice implies "that a properly engaged and informed community can make good decisions about individual cases as well as about what is best for harmed relationships and community building."

Underlying this movement is a value base that needs to be made visible and explicit. Communities shape their values and determine what ones will inform actions. In that sense, each community is unique and it is not easy to transport values from one community to another. Having noted this, Carey went on to suggest three such values: inclusivity, continuity and pragmatic hope. In order for the process to be inclusive, he said it must have the following principles:

- It must be voluntary.
- It needs to be accessible to all who are affected.
- It must be consensual.
- It involves active listening.
- It must be honest.
- It must be user-friendly and understandable.
- It brings about respect for each other and our differences and is culturally sensitive.

Continuity, he noted, includes the concepts of:

- fairness and equality;
- Consistency between means and ends; and
- Local norms held accountable to universal norms.

Pragmatic hope, said Carey, includes the following concepts:

- Bringing closure and shared ownership to the process.
- Building understanding and empathy to the community.

- Providing an opportunity for reintegration and the removal of stigma.
- Removal of stigma.
- Being future oriented.

... if the process is respectful and inclusive, honest and fair, pragmatic and timely, then the product will be satisfactory.

“we have seen initiatives in the name of community justice become an excuse for vengeance, whether that be the intimidation and removal of sex offenders through community notification laws, editorials in the newspaper stating that the most restorative process we could implement is forcing inmates on death row to give up their organs, or intrusive measures in the name of public safety such as aggressive searches, gun sweeps and DUI roadside checks.”

## REINTEGRATING OFFENDERS

■ Jails Next Door. Shelly Hodgson. *Sunday Herald Sun*. 5 May 2002, 1.

Neighborhood mini jails are set to open in Melbourne suburbs. One resident said that they did not want any trouble. Another believed that if they are low-risk prisoners, they should be integrated.

Crime victims support association president said that the plan would create an uproar if the state government did not consult the community. An opposition leader criticized the plan saying it would jeopardize public safety. The government is putting the rights of prisoners ahead of community safety.

### IMPLICATIONS

Community consultation, proactive education are crucial for the success of alternatives to incarceration.

## HOLISTIC JUSTICE AND ABORIGINAL SEX OFFENDERS

■ Aboriginal sex offenders: Melding spiritual healing with cognitive-behavioural treatment. Conclusions. Correctional Service Canada. <http://www.csc-scc.gc.ca/text/pblct/sexoffender/aboriginal/toce.shtml> accessed 10 May 2002.

This report has provided a review of the sparse literature on aboriginal sex offenders. As there are few studies, it is obviously an area in the earliest phase of development. Although there are few programs currently available, increasing awareness of the need for programming is inspiring (Zellerer, 1994). As already mentioned, initiatives have begun which can offer insight for future programs.

Some recurring themes emerged from this review. The aboriginal people believe in a holistic approach based upon healing. Aboriginal programs must be holistic in the sense

that it must reach all the aspects of the human being: mentally, spiritually, physically and emotionally. Treatment programs are also holistic because they are not centered around the male perpetrator, but encompass women and children, the extended family and even in certain cases the whole community.

For service providers, it is of paramount importance that they understand and respect the aboriginal culture and values of the community with which they are working. On the whole, the training and resources required to work with aboriginal sex offenders should eventually, when feasible, be transferred to aboriginal caregivers or Service Providers.

The approach which has most consistently been endorsed, combines mainstream or contemporary methods with traditional aboriginal approaches. Non-aboriginal treatment protocols and insights can be utilized in the context of programs which are culturally-specific and which incorporate spiritual teachings and ceremonies. However, it is recognized that aboriginal sex offenders differ in their interest in traditional healing and should be given the choice to participate in healing rituals.

Some argue that until an aboriginal justice system is created, the current system will have to be used, particularly as a "back-up" (Zellerer, 1994), but overall, there is a resounding call for alternatives to current judicial practice, specifically for community-based programs.

The aboriginal people must participate in the decision-making process at all levels of development and program implementation. Attaining that goal will require respect, understanding and patience between aboriginals and non-aboriginals. Ultimately, both groups have a strong vested interest in providing the most effective means of healing both perpetrators and victims, thereby reducing further victimization.

#### COMMUNITY ALTERNATIVES FOR WOMEN (PRISON AS THE ALTERNATIVE)

National Symposium on Women Offenders Conference Proceedings, Monograph, Office of Justice Programs, April 2000, 187 pages. From Executive Summary of above symposium

The National Symposium on Women Offenders was a landmark event for the USA Department of Justice--the first major discussion of women offender issues in the Department's history. At the end of a decade when the number of women offenders reached record high levels, more than 300 criminal justice policymakers gathered in Washington for the 3-day Symposium—one designed “to build capacity by building bridges”. The number of women being arrested, detained, convicted and incarcerated in the last decade has increased dramatically and, at the same time, there has been a developing awareness that the criminal justice system is not designed to meet women offenders' needs.

Conference participants identified several effective interventions that are working well with women offenders:

- diverting them from prison, or
- working with them in prison or
- working with them in community settings.

Characteristically, these programs are comprehensive, interdisciplinary or multidisciplinary, involve community providers and decision-makers in multiple systems--criminal justice, health care, education, etc.--and are tailored specifically to meet a wide range of women's needs.

They support women in relationships and are family-focused, provide them with good role models and mentors, help them work through problems with sexual abuse and provide substance abuse treatment, provide job training and education for productive work, and address problems of low self-esteem.

Participants described a wide range of innovations and programs for working more effectively with women offenders: more effective assessment tools; information-sharing among agencies; contracting with community providers to provide a continuum of care from prison through women's transition back into the community; insuring that children can visit their mothers and helping the mothers become more effective parents; comprehensive treatment for substance abuse and mental illness; tougher policies to deal with correctional officers who abuse inmates, and many others.

The most effective environments for helping women offenders are, participants noted, therapeutic rather than punitive, and involve community members and service providers in both prison and community-based settings. Ideally, women offenders should be treated in the least restrictive environment with an individualized, multidisciplinary approach. Repeatedly, participants argued that prisons should be reserved for women who present a risk to public safety. They urged that the bias should favor community placement and that prison should be seen as the "alternative." Throughout the Symposium, teams of participants from federal, state and local jurisdictions met to consider how they could develop more effective programming for the women offenders in their jurisdictions. Several teams presented their priorities to Attorney General Janet Reno. The plans were wide-ranging and included the following priorities:

- Work to reduce the number of women incarcerated in the state;
- Develop a community-based residential center for drug-addicted mothers and their children;
- Begin tracking women in the correctional system to find out what they need, what they are lacking and what can be done to help;
- Accentuate collaborative efforts, with an emphasis on cutting red tape and making sure that the people for whom specific programs are designed actually get access to them;
- Educate state leaders, beginning with the governor, about the needs of women offenders and the impact of incarceration on families;

- Re-examine how state dollars flow across state agencies and work to get money focused on services rather than systems;
- Develop a gender-friendly assessment form for women entering correctional facilities
- Focus on establishing local, multi-disciplinary teams that develop and implement wrap-around services for women offenders.

The vision of the future was: by 2025 through evidence-based reforms in women's prison, policy might accomplish the following:

- a reliance on fewer, smaller prisons that house mainly violent criminals, while people who commit property and public-order crimes, as well as battered women who "strike back," will be given probation, put in half-way houses, or assigned to treatment;
- a recognition that prisons cause crime (are "**criminogenic**") and that both offenders and members of the community will benefit from rehabilitative alternatives to incarceration; and
- a savings of vast sums of money which might be used for drug treatment and other resources for women at risk.

## RESOURCES NEEDED FOR ALTERNATIVE PROGRAMS

Sensible Justice: Alternatives to Prison. David C. Anderson (former *NY Times* Editorial Board). NY: The New Press, Jan 1998/182p/\$25.00. Abstracted by Michael Marien, *Future Survey* 20:2/086 February 1998.

Author of the systemic look at *The Crime Funnel* (*NYT Magazine*, 12 June 1994; FSA95/13165), which shows how only 2% of the 25 million serious crimes/year result in imprisonment, looks at creative efforts to develop probation-based sanctions for criminals. Such programs "make it possible to engage offenders closer to the top of the funnel, at an early point in their criminal careers," thus sparing society more of their criminal behavior. The discouraging history of prisons has stigmatized the concept of rehabilitation, which may or may not work in prison. But there is an important role for rehabilitation programs in the practice of corrections outside of prison. Explorations of alternative sanctions commonly show promising examples of individual programs working very well, along with research suggesting that most such programs succeed only minimally or fail miserably. Chapters discuss various programs in ascending order of severity: community service, intensive supervision and house arrest, day-reporting centers, court-ordered treatment for drug and sex offenders, residential restitution programs, and boot camps.

The successful programs are those that result from deliberate and intelligent planning, adequate funding and human resources, and support of public officials who believe in them--much is possible where someone is willing to lead. The practical benefits of

alternative programs will not be realized with only a token commitment. "*Where alternative sanctions are given the resources they need and are allowed to work, they easily prove their value, taking the pressure off jails and prisons...They give offenders the chance to turn their lives around, to the benefit of everyone.*" A massive expansion of drug treatment and other intermediate sanctions could bring rehabilitation into the criminal justice process in a big way, where it would do the most good in terms of crime prevention. "It is unenlightened in the extreme to deny the capacity for change or prohibit the chance to exercise it."

## REHABILITATION RETURNS

Tender and tough. Mr Blunkett steers a sensible new course. Leader, *Guardian Unlimited* Friday July 6, 2001. <http://www.guardian.co.uk/> accessed 17/4/2.

Mr Blunkett emphasised the importance of rehabilitation. ("I question whether sending someone to jail for less than six months, costing them their job and in some cases their family, is helpful in rehabilitating and stopping them offending.")

There was a tough section as well as a tender one to the package: abolition of the early release scheme; longer sentences for violent and dangerous offenders, who will no longer be free after serving two-thirds of their sentences; sterner punishment for the 100,000 persistent offenders who account for 50% of recorded crime.

But there were also new community sentences, a new custody-plus sentence - half spent in prison but half under strict supervision in the community - and possibly a custody minus - no prison unless supervision rules are breached.

The emphasis will be on tackling the factors which cause crime - like the poor literacy and numeracy skills which mean two-thirds of all inmates are ineligible for 90% of job vacancies.

Courts may be tempted to make much more use of custody-plus because of its rehabilitation programmes and stricter supervision, thus pushing up prison numbers. Serious breaches to custody-minus rules could have the same effect.

## CHANGE IN EXPENDITURES IN CORRECTIONS – BUDGETS FOR HUMAN SERVICES

Closing address. Ole Ingstrup, Commissioner of the Correctional Service of Canada, On the occasion of: Beyond Prisons Symposium, March 16 - 18, 1998, Kingston, Ontario <http://www.csc-scc.gc.ca/text/speeches/commish/beyondclosee.shtml> accessed 10 May 2002.

We have heard over and over again that incarceration without human services is totally meaningless. And that there is a fair amount of success associated with imprisonment, which has significant amounts of human services.

I would like to mention that in the Correctional Service of Canada, we have moved resources around in a significant way. We now have 25 per cent of our budget related directly to human services. We have in case management, in programs, in case preparation and in community supervision and programs 25 per cent of the 1.2 billion dollars we administer on an annual basis. We can safely say that we have results that are encouraging

## ALLOW THE COMMUNITY INTO THE GAOL

■ Large Jail Network Bulletin 2000. National Institute of Corrections. [www.nicic.org](http://www.nicic.org)

“If our local jails are to be in integral piece of the community policing paradigm, we need not only to be involved with our communities, but also to allow our communities to be involved with our jails.

We must open the doors of our facilities and let our communities see and be involved with what is taking place. We need to let our communities know about the positive things that are taking place, rather than allowing them to hear only the negative things reported by the media.



ALTERNATIVE ORIENTATIONS TOWARDS SANCTIONING

Exploring the implications of four sanctioning orientations for community corrections. M. Kay Harris, and Ronald P. Corbett, Jr. *Federal Probation*, Dec98, Vol. 62 Issue 2, 81-95.

TABLE 1. IMPLICATIONS OF FOUR ORIENTATIONS TO SANCTIONING

	Primary Aims	Dominant Philosophy	Primary Outcome Measures	Implications for Policy Development	Key Decisionmakers	Decisionmaking Tools	Key Items of Information	Technical or Substantive Knowledge Required	Implications for Staffing & Training	Implications for Correctional Operations	Characteristics of Appropriate Sanctions	Examples of Appropriate Sanctions	Examples of Programs or Processes With this Orientation
<i>Risk Control/Limited Risk Management</i>	Provide effective supervision to minimize new crimes & violations by offenders while under supervision; provide swift response when violations occur	Incapacitation & Specific Deterrence	Effective sorting/movement of offenders on continuum of control; revocation/resentencing as needed to control risk	Requires development of refined supervision policy, with supervision standards linked to risk levels	Judge makes In/Out decision & may impose conditions; corrections personnel determine risks & set/modify supervision levels	Requires development and use of validated risk assessment instruments	Offender risk level	Ability to design or select, validate, & use risk assessment instruments	Suggests retraining to emphasize monitoring, surveillance, & enforcement duties	Implies redeployment of staff based on risk-adjusted workload indicators & detection of activities not linked to risk control	Incapacitative; oriented toward surveillance, restriction, & detection of violations & crimes & swift enforcement	Intensive supervision; house arrest with electronic monitoring	NY Probation's ISP for high-risk cases & kiosk reporting for the rest
<i>Effective Correctional Intervention</i>	Reduce rates of reoffending through effective risk management & appropriate correctional intervention & treatment	Rehabilitation & Specific Deterrence	Improved cognitive and life skills; reduced reoffending	Requires assessing risks, needs, & other offender & staff characteristics & formation of policies to address risk, needs, & responsivity	Judge makes In/Out decision & may impose conditions; corrections personnel determine risks, needs, and most appropriate interventions	Requires development of validated risk, needs, & other assessment tools (e.g., to match offenders, staff, & interventions)	Offender risk level & "criminogenic needs" & key characteristics of offender, treatment provider, & setting	Knowledge of what works to reduce reoffending; interpersonal skills & effective treatment skills	Requires retraining of staff in effective intervention approaches & referrals or contracts for services	Requires reorienting operations and external services to focus on "criminogenic" needs, risks, & responsivity	Rehabilitative; responsive to risks, needs, & other characteristics of offenders & treaters	Probation with cognitive or behavioral programming	Drug courts; cognitive probation; women offenders treatment network
<i>Restorative or Community Justice</i>	Engage victims, offenders, & community in repairing harm caused by crime, healing relationships, & addressing causes of crime & conflict	Restitution, Community Needs, Reconciliation	Participant & community satisfaction/confidence; improved quality of community life	Requires fundamental rethinking of traditional operations, activities, & desired outcomes & delineation of new ones	Victims, community members, CJ reps, & offenders involved in determining how to respond to crime; judge has formal authority	Requires skilled facilitators, safe setting, & communication linkages with victims & community members	Type & extent of harm; preferences of victims, community, & offender; offender needs	Skill in problem solving, mediation processes, community participation, & collaboration	Demands redefining roles & ways of working & new skills for (e.g., in mediation, collaboration, & problem solving)	Requires reorganization to focus on needs as defined by victims, citizens, & community members; may involve physical decentralization	Restorative, compensatory, rehabilitative, reconciliatory, reintegrative, & preventive	Restitution, community service, & agreements struck among victims, offenders, & community	Circle sentencing; victim-offender mediation; family group conferencing
<i>Structured Sanctioning Policy Development</i>	Promote equity and predictability through development of guidelines or policies to govern dispositional decisionmaking	Retribution/Just Deserts & Deterrence	Extent of conformity of decisions with guidelines & acceptability of reasons for exceptions	Requires purposive redefinition & scaling of sanctioning options and their target populations	Commissions or policy boards establish overall policies; judge retains formal sentencing authority (appealable) within the policies	Requires structured array of sanctioning options & policies to guide their use (often in the form of a grid)	Offense gravity and offender's criminal history; may include risk assessment, other items	Talent in policy development & guideline construction, monitoring, & adjustment	Requires training in application of guidelines & how to monitor and enforce sanctions employed	Requires restructuring activities as defined by guidelines (e.g., for collection, enforcing conditions, surveillance, or treatment)	Proportionate to offense gravity, equitable, & certain	Punitive penalties that can be scaled easily (e.g., fines, jail terms)	PA's sentencing guidelines; OR's revocation guidelines

## CULTURAL CREATIVES

*Cultural Creatives. How 50 million people are changing the world.* Paul Ray and Sherry Henderson. Harmony, New York. 2000. [www.culturalcreatives.org](http://www.culturalcreatives.org).

In contrast to these identity formations, Paul Ray and Sherry Anderson argue that in the United States there are three main demographic categories. They are the traditionalists, modernists and cultural creatives. The traditionalists have been in decline and cultural creatives in rapid increase.

What's most important to **moderns** is (a) making lots of money; (b) climbing the ladder of success with measurable steps toward one's goal; (c) having lots of choices (as a consumer, or voter or on the job); (d) being on top of the latest trends, styles and innovations; (e) supporting economic and technological progress at the national level; (f) rejecting the values and concerns of native people, rural people, Traditionals, New Agers, and religious mystics.

Moderns represent 48% of the U.S. citizenry (93 million adults) and, in 1995, they had a median family income of \$42,500.

The **Traditionals** represent 24.5% of U.S. citizens (48 million adults). "Many Traditionals are not white bread Republicans but elderly New Deal Democrats, Reagan Democrats, and old-time union people as well as social conservatives in politics...."

Traditionals tend to believe (among other things) that:

(a) patriarchy should again dominate family life; (b) FEMINISM is a swearword; (c) men need to keep their traditional roles and women need to keep theirs; (d) family, church, and community are where you belong; (e) customary and familiar ways of life should be maintained; (f) it's important to regulate sex -- pornography, teen sex, extramarital sex-- and abortion; (g) men should be proud to serve in the military; (h) all the guidance you need for your life can be found in the Bible; (i) preserving civil liberties is less important than restricting immoral behavior; (j) freedom to carry arms is essential; (k) foreigners are not welcome.

Many Traditionals are pro-environment and anti-big business. They are outraged at the destruction of the world they remember, both natural areas and small-town life. Traditionals tend to be older, poorer, and less educated than others in the U.S. At the end of World War II, Traditionals were 50% of the population, but today they are 25%, and their numbers are shrinking as older Traditionals die and are not being replaced by younger ones.

The **Cultural Creatives**: What Ray and Anderson discovered during a decade of research is that the Moderns and Traditionals have now been joined by a third subculture within the U.S., 50 million strong (26% of all adults) -- a population the size of France, and

growing. Ray and Anderson have labeled them "Cultural Creatives." Here is a list of 18 characteristics; if you have 10 or more of them, you're probably a cultural creative:

- (a) love nature and are deeply concerned about its destruction;
- (b) are strongly aware of the problems of the whole planet and want to see action to curb them, such as limiting economic growth;
- (c) would pay more taxes or higher prices if you knew the money would go to clean up the environment and stop global warming;
- (d) give a lot of importance to developing and maintaining relationships;
- (e) place great importance on helping other people;
- (f) volunteer for one or more good causes;
- (g) care intensely about psychological or spiritual development;
- (h) see spirituality and religion as important in your own life but are also concerned about the role of the religious Right in politics;
- (i) want more equality for women at work and want more women leaders in business and politics;
- (j) are concerned about violence and the abuse of women and children everywhere on Earth;
- (k) want politics and government to emphasize children's education and well being, the rebuilding of neighborhoods and communities, and creation of an ecologically sustainable future;
- (l) are unhappy with both left and right in politics and want a new way that is not the mushy middle;
- (m) tend to be optimistic about the future and distrust the cynical and pessimistic view offered by the media;
- (n) want to be involved in creating a new and better way of life in our country;
- (o) are concerned about what big corporations are doing in the name of profit: exploiting poor countries, harming the environment, downsizing;
- (p) have your finances and spending under control and are not concerned about overspending;
- (q) dislike the modern emphasis on success, on "making it," on wealth and luxury goods;
- (r) like people and places that are exotic and foreign, and enjoy experiencing and learning about other ways of life.

Cultural Creatives are not defined by particular demographic characteristics -- they are accountants and social workers, waitresses and computer programmers, hair stylists and lawyers and chiropractors and truck drivers, photographers and gardeners. The large majority of them are very mainstream in their religious beliefs. They are no more liberal or conservative than the U.S. mainstream, though they tend to reject "left-right" labels.

Really, their one distinguishing demographic characteristic is that 60% of them are women, and most Cultural Creatives tend to hold values and beliefs that women have traditionally held about issues of caring, family life, children, education, relationships, and responsibility. In their personal lives, they seek authenticity -- meaning they want their actions to be consistent with what they believe and say. They are also intent on finding wholeness, integration, and community. Cultural Creatives are quite clear that

they do not want to live in an alienated, disconnected world. Their approach to health is preventive and holistic, though they do not reject modern medicine. In their work, they may try to go beyond earning a living to having "right livelihood" or a vocation.

Ray and Anderson summarize the forces that have given rise to Cultural Creatives: "In the twenty-first century, a new era is taking hold. The biggest challenges are to preserve and sustain life on the planet and find a new way past the overwhelming spiritual and psychological emptiness of modern life. Though these issues have been building for a century, only now can the Western world bring itself to publicly consider them. The Cultural Creatives are responding to these overwhelming challenges by creating a new culture." New businesses, new management styles, new technologies, new forms of social organization (for example, leasing products, such as carpets and refrigerators, to consumers instead of selling them, to make sure they are recycled), and new decision-making techniques (the precautionary principle, for example) -- the Cultural Creatives are constructing a new world in our midst, largely ignored by the media.

By different paths, fifty million Cultural Creatives emerged from (or were influenced by) social movements of the '60s and '70s. Ray and Anderson describe 20 such movements that have spawned

Cultural Creatives who, in turn, have begun to put a positive spin on movements that have been mainly oppositional. "Slowly a lesson has been drifting in on one movement organization after another. At some point, opposing something bad ceases to be enough, and they must stand for positive values, or produce a service that is important to their constituency," Ray and Anderson note.

Ray and Anderson see this shift occurring in the environmental movement, and we see it too. "Cultural Creatives are urging the environmental movement into a new phase. Having educated us through protests and information, some are moving beyond that now, to develop new kinds of businesses, technologies, and cooperative ventures." To put labels on these innovations, they are the Natural Step, clean production, and zero waste. Together, they are beginning to rebuild the industrial infrastructure of the Western world. There's a long way to go, but it's a start.

#### IMPLICATIONS

Cultural creatives will push for decriminalization, for restorative justice, for community solutions to issues currently defined as law and order and framed as public or private. The influence of cultural creatives cannot be underestimated.

## THEME SEVEN

### TECHNOLOGICAL ALTERNATIVES – ELECTRONIC, ARTIFICIAL INTELLIGENCE AND BIOLOGICAL ADVANCES

#### ADVANCES IN TECHNOLOGIES AND SENTENCING PROGRAMS

How Advances in Technology will impact future alternative sentencing programs.  
Wade Engelson. *Futures Research Quarterly*. Spring 2001. 19-29.

In the USA in the late 1990s, there are more than six million adults incarcerated on parole, or on probation. 1.2 million are in prison, four million people on probation or parole, and almost 10 million booked into jail each year. With operational costs to house one prisoner exceeding 25000 per year, several American states are spending more money on corrections than on higher education. These populations continue to grow at a rate of 4% a year, if current trends continue. Moreover, 5% of all Americans will go to prison during their lifetime.

A current alternative is community based alternative sentencing program, especially for mentally ill prisoners. But the primary concern is recidivism. Any future program will be expected to reduce recidivism while maintaining public safety.

Engelson argues that emerging technologies will be the driving force. They can dramatically increase public safety, alleviate overcrowding in prisons and save money.

He suggests the following technologies:

1. Psychopharmacology. "Custom designed psychiatric medications will provide effective treatment of genetic disorders and chemical imbalances. This could potentially lead to the reduction of the need to house mentally ill offenders in correctional facilities.
2. Technologies to ensure that medications are taken regularly. Implanted pumps placed inside a person's body that would regularly dispense appropriate amounts of medication would reduce the possibility of offenders engaging in dysfunctional behavior that might threaten public safety.
3. Electronic monitoring. While current electronic monitoring is restricted to monitoring a single location, future technology will provide comprehensive real-time tracking by displaying the precise physical location of the offender at any time. Bracelet, anklet or implanted transmitters will remotely verify an offender's specific geographical location and immediately notify authorities should an offender violate his or her electronic parole or probation.

However, to ensure that there are not luddite responses to these technologies, organizational changes have to be made. These include: changing of employee attitudes, development of political support, strategic planning and effective transition management strategies.

As well, shared databases will be required. Programs will need to demonstrate positive outcomes in terms of **reducing overcrowding, saving taxpayer monies and improving public safety**.

Without organizational changes (and responding to legal issues – civil liberties of the mentally ill in terms of privacy, for example), however, technological changes will only succeed in muddling through fashions. They will not have a dramatic impact on the criminal justice system.

## GROWTH OF ELECTRONIC MONITORING OF OFFENDERS

Electronic Monitoring of Offenders. Prison Reform Trust web site <http://www.prisonreformtrust.org.uk/main.html> accessed 17/4/02. See also: Intensive Supervision with Electronic Monitoring. Kriminalvarden. And: An annotated bibliography of electronic monitoring research and literature, 1983-1995, *Journal of Offender Monitoring*, 1.9.1996, 11-28.

"The latest statistical figures from the United States suggest that electronic tagging is being used in virtually every state. Not all offenders are tagged. Violent or drug/alcohol dependent offenders, or those known to live with drug dealers/ prostitutes, are not tagged as doing so has resulted in a series of assaults in the past...

In the USA, "there is a debate about creating a national database of offenders who are/ have been electronically tagged. Although this would enable greater administrative efficiency, there are many legal and ethical considerations yet to be debated, foremost of which are the fear of vigilante attacks on known offenders and the effects such a database might have on an offender's rehabilitation."

### *Two Success Stories:*

"Canada has involved those convicted of non-serious offences in its electronic tagging programme since 1987. Pilot studies undertaken so far have indicated the potential value of electronic monitoring as being a suitable replacement for the system of halfway houses, especially since 94% of tagged offenders have completed their sentences without violation.

In Sweden, electronic monitoring has been introduced nation-wide. Although the practice was imported from the US, it has been adapted to Swedish conditions and has been largely successful in the face of the willingness of the probation service to co-operate. Electronic tagging is also seen as a lesser violation of human rights as opposed to imprisonment, and the striking of a balance between rehabilitation and tough conditions

for offenders has served to convince the Swedish general public of the viability of the electronic tagging option. The method is now used mainly for those sentenced to up to 2 months' imprisonment. A selection procedure ensures that offenders who are unwilling or unable to succeed in the programme are denied the option of taking part. There is a 90% success rate. Recidivism rates are also very low. A high degree of "personal" monitoring is kept, and the probation service visits offenders 2-3 times a week. It has been estimated that electronic tagging has cut the daily prison population by 10% and that it will eventually reduce the prison population by a third, resulting in a lower cost to public expenditure."

## ELECTRONIC MONITORING BECAUSE OF OVERCROWDED JAILS

Adrienne Schwisow, *The Daily Progress*, November 13, 2001.  
<http://www.loper.org/~george/trends/2001/Nov/62.html> accessed 9/5/02.

'On the one hand, we've got to be open to technology,' said William G. Barkley, general district judge for Albemarle County, and formerly the general district judge in Charlottesville. 'On the other hand, I don't think it's appropriate for judges to sentence based on the census of the jail.'

Home electronic incarceration targets non-violent criminals sentenced to less than two years who live within 35 miles of the jail. They are not allowed to have committed crimes involving sex, abduction, drug distribution, weapons, escapes, parole violations or domestic assaults within the past five years, according to the jail's written policy. They cannot have a record of using psychotropic drugs.

Bad check writers often are touted as the ideal candidates for home electronic monitoring. The inmate must pay for the service, a deposit for the bracelets and equipment ranging from \$84 to \$112 and daily fees ranging from \$10 to \$14, plus \$25 per week toward court costs and fines.

A recent count indicates 16 inmates from the regional jail are on home electronic monitoring. But Edgar S. Robb, Albemarle County's sheriff and a member of the jail board authority who has been outspoken in pursuing 'alternatives to incarceration' said he calculated several months ago that as many as 35 inmates were eligible for the program when only about 14 were in it.

## WALKING PRISONS AND ELECTRONIC ALTERNATIVES

*Walking Prisons: The Developing Technology of Electronic Controls*. Max Winkler (Colorado Dept of Corrections), *The Futurist*, 27:4, July-Aug 1993, 34-36. Abstracted by Michael Marien, *Future Survey* 94-093 February 1994.

The cost of incarcerating criminals in the US has steadily spiraled upward. Maximum-security incarceration is now at \$25,000 per year per inmate, in addition to an initial cost of \$100,000 to construct a one-person cell. The costs of local detention and jail units now

average \$18,000 per year per inmate. These costs encourage alternatives: shorter prison terms, incarceration for only the most dangerous criminals, work-release, or Electronic Supervision Programs. Three generations of such programs are envisioned:

- (1) the first generation now in use employs an ankle transponder electronically linked to a telephone modem that alerts a central station when the detainee moves outside a 100-foot radius;
- (2) a second generation system is likely between 1995 and 2000, using computer-controlled radio receivers that instantly record every place the offender goes, and the time he or she is there (as a result, "the end of the 1990s will likely see a hugely improved system of parolee and probationer supervision at a greatly reduced cost");
- (3) the third generation will likely be in place sometime after 2001, integrating radio monitors, fuzzy logic, and medical implants. Custom-programmed microprocessor chips would monitor the subject's physiological patterns and recognize the advent of a violent or severely aberrant phase. It may be feasible to implant the monitor under the skin to reduce tampering, and control behavior by releasing a tranquilizer or sexually dampening chemical. Such a system risks the danger of exploitation, but "offers great benefits and can enlarge people's freedom."

#### IMPLICATIONS

Potentially cheaper costs and a necessary part of the community corrections program. Third generation technology is here but programs lag behind.

### INTEGRATED, ELECTRONIC AND VIDEOCONFERENCING IN CORRECTIONS

Corrections in the 21<sup>st</sup> Century. Rodney Gibbons and Frank Pisciotta. *Corrections Today* July 1999, 62-67.

Using technology to transform: Delaware Department of Correction implementing an automated offender management system. Stages:

1. Tracking offenders through intake, classification, pretrial, escapees, grievances, transports, scheduling, disciplinary case management etc
2. All other offender modules like communication and food services

“using technology as an enabler by integrating the various processes so that they can share information, the operation can be re-engineered to be more efficient ... With the new automated correctional system ... data from courts or state police can be significantly streamlined ...

Electronic tracking for

1. Field monitoring (bracelets and phone devices)
2. Automated kiosks (for reporting parolees)
3. Global satellite tracking

Benefits include much reduced costs to correctional systems.



Videoconferencing “allows correctional agencies to perform interviews, court hearings and offender orientations without necessitating the movement of offenders into and out of facilities. The key benefits of this feature include reduced transportation costs, increased security and timely completion of activities.”

## HOME DETENTION AND WEEKEND JAILS IN ENGLAND

Blunkett unveils prison reform plans. Staff and agencies. *Guardian Unlimited*. Monday February 4, 2002. <http://www.guardian.co.uk/> accessed 17/4/02.

### *Key elements:*

- To allow some prisoners to work from home during the week, and send home some prisoners three months early at the end of their sentences.
- To balance the proposals, the home secretary also promised to crack down on gang crime in cities, particularly south London, by threatening tougher sentences and harsher prison regimes.
- Non-dangerous inmates who have been carefully screened will be released three months early, rather than the current two months, under the home detention curfew.
- The scheme sees offenders under curfew for up to 12 hours a day currently by electronic tagging which could be expanded to use new technology such as voice recognition

Mr Blunkett gave further details of his plans to expand open prisons and weekend jails which allow inmates to stay at work and keep the family links.

"There's no reason why we shouldn't have hostels on and off prison premises," he said. "There's no reason why we shouldn't develop 'light touch', reasonably secure facilities outside cities and towns. The facilities are available on RAF bases and other stations."

His emphasis on out-of-town sites could avoid disputes with local residents and planning permission problems which have blighted earlier schemes for new jails.

Mr Blunkett added he was still negotiation with the chancellor, Gordon Brown, for the funds to put his schemes into practice.

As a concrete break from the "prison works" mantra of the former Tory home secretary, Michael Howard - which was not disavowed by Mr Straw - the plans were welcomed by some in the sector.

The director general of the prisons service, Martin Narey, said the jails were in crisis and welcomed Mr Blunkett's initiative to reduce prison numbers.

He revealed he was currently talking to the Treasury to secure funds for "thousands more additional prison places".

"I have told the home secretary that if we cease to build prisons as fast as we can, but if the population continues to mushroom despite these new measures, there will be a point at which I will say we are full and in the interests of dignity and basic decency we cannot take more prisoners," he said.

The service was struggling to cope with the "insanity" of a prison population that has risen from 44,000 in 1991 to 68,000 today.

The number in prison may top 70,000 by the summer, said Mr Narey.

He said: "I believe the measures the home secretary has outlined will work.

"I believe the third way between community sentences and prison will work and I am an enthusiast for the potential of weekends or midweek imprisonment."

Mr Blunkett's ideas could have a "huge effect" on the prison population, particularly the number of women in jail, he added.

The prison service already has new jails under construction which could see the capacity grow to 74,000 inmates, he added, but said: "We can't forever continue building and building prisons."

Mr Narey said: "What the home secretary is offering today is a choice between community sentences and prison and that's what gives me a lot of hope.

"The prison population could plateau out and we can concentrate on running decent prisons."

## GEOGRAPHIC INFORMATION SYSTEMS POSSIBILITIES

Geographic Information Systems: Helping Corrections Inside and Outside Prison Walls. Jae Russo. *Corrections Today* December 2001, 140-148.

"GIS combines traditional database systems with a graphic component that allows visual representation and analysis of tabular data on a map, allowing agencies use geography to observe, analyse and provide solutions to challenges they face. ... One of the most publicized examples of GIS in criminal justice is the CompSat program created in New York in 1994. ... This capability allowed the department to better identify and assess crime patterns, trends and hot spots as they emerged [and has been] given much credit for the sharp decline in crime in New York."

Community corrections and institutional corrections are two distinct areas in which mapping technology can be used in correctional settings.

In community corrections GIS can be used to:

- Map the spread and concentrations of offender's residences

- Assign cases more equitably thereby minimising travel (for probation officers), increased familiarity for parole/probation officers with offenders' locations (thereby gaining understanding of the offender's environment, greater involvement with local treatment providers, and developing more effective relationships with local police agencies).
- Useful for resource allocation and agency planning (i.e. siting).
- Identify concentrations of offenders (and therefore areas in need of increased neighbourhood supervision and other responses)(this has been done in Wisconsin with improved completion outcomes).
- Sex offender tracking and proximity to high risk areas (schools, playgrounds etc).

In institutional corrections GIS can be used to create a complete map of the institution which can then be built up to include information on:

- Demographics
- Gang affiliations
- Assault locations
- Attempted escapes

And used therefore to predict or prevent future incidents.

This article then goes on to detail the technology and training requirements, and to list possible implementation barriers including institutional, ideological, community and geocoding.

## CONTROLLED SOCIETY

■ <http://www.policefuturists.org/fall99/21crime.htm> accessed 17/4/2.

Technology will make it possible to exert more controls – but at what price? With the advent of cell phone technology, police are encouraging people to call to report criminal activity. We could even go back to the system of fining those who fail to report a crime. The cashless society will make monitoring of people's financial transactions easier. We have the ability to create birth to death dossiers on people now. High tech surveillance with hidden camera monitors and devices that can hear through walls is possible now.

Dr. Stephens suggests that with the possibility of telepathy in the future, we could make it a crime to even think about committing a crime. The Dick Tracy communicator is already available. Universal translators are under development. Eventually translator chips may be implanted in people's brains. We may have universal DNA imprinted on our birth certificates and other records. Hand-held body scanners like the one in Schwarznegger's movie Total Recall will soon be available. Organic memory chips could be implanted in police's brains. Forced memory recall and transfer to another individual may be possible in the future.

Where we gonna keep all these people? We could build undersea prisons and have them grow aqua culture – or we could build prisons in space. We could have robot run prisons if we're just going to warehouse people. We could use artificial aging to age violent

young criminals and lower their potential for aggression and violence. We could put people in stasis and bring them back when their prison term is up. Or, we can use 24 hour monitoring with electro-shock attached to it. We could have drug behavior control, giving people the sober up drug. How about subliminal implants that have you not even think about committing the crime – or serotonin pumped into the blood stream. Or genetic engineering to alter people's genes to reduce criminal tendencies – then clone the the good ones.

But – do you want to live in such a future world? The downside of these are loss of privacy, total control and gestapo tactics, and dehumanization of citizen treatment.

#### PRISON GUARD JOBS TO DISAPPEAR BECAUSE OF NANO-IMPLANTS

Visions 21: Our Work, Our World (Visions for the 21<sup>st</sup> Century Series), *Time*, 22 May 2000, 66-122. Abstracted by Michael Marien, *Future Survey* [22:7/339](#) July 2000.

**To the question, what Jobs Will Disappear?** Experts responded: middlemen such as stock brokers and auto dealers, teachers as distance learning becomes more popular, printers with the switch to digital paper, stenographers with voice recognition software, CEOs in favor of a global team of quick-thinking experts, orthodontists due to 3-D simulation programs, prison guards due to microscopic implants to restrain convicts, truckers due to computer-driven vehicles in smart lanes, housekeepers due to nanorobots, fathers due to IVF and cloning.

The fourth in a five-part series, with interesting questions and big-name writers addressing them: *1) What Will We Do For Work?* (Tom Peters predicts that "90% of white-collar jobs in the US will be either destroyed or altered beyond recognition in the next 10 to 15 years," due to dotcoms, enterprise software or white-collar robots, outsourcing to India and elsewhere, B2B electronic commerce, and time compression;

#### CURING CRIMINALS – FORECASTS FROM THE 1980s – BETTER PRISON DESIGN, DIETS, CHEMICAL, ROBOTS, MULTI-THERAPEUTIC CHANGES

Curing Criminals. Reid Montgomery and Ellis MacDougal. *The Futurist*. January-February, 1986.

The authors offer far away future suggestions such as: banishment to other planets or housed in the ocean, that is distance will be crucial.

Closer to today, the offer design considerations of prisons – colors that have calming effects, increased use of skylights so that inmates do not feel like caged animals.

Over time, correctional officers will be replaced by robots, equipped with video cameras.

Prisons will be reserved for the most dangerous criminals, others will be housed in community-based corrections.

Changing diets as well could lead to decreased criminal behaviors.

Parolees will have their behavior modified through appropriate brain stimulation. Electrodes implanted in a parolee could evoke a specific emotion, reducing the chances of a specific behavior.

Through chemical and electronic control, offenders would be able to provide a useful role in society.

The key is to develop multi-therapeutic strategies – redesigning prisons, community corrections, chemical interventions, electronic monitoring, and dietary changes.

One conclusion is evident: The primary goal of corrections in the future will not be to punish in today's sense of the word but rather to integrate the offender into society as a useful citizen, able to contribute to the betterment of the community.

#### IMPLICATIONS

This article written in 1986 shows how little change has occurred since then. The prison remains defining.

#### TECHNOLOGICAL ALTERNATIVES

Shoppers have finger on new technology. Eddie Firzmaurice. *The Sun-Herald*, 21 October 2001, 15.

Biometrics is set to take off in every field, whether it is retina scanning or using finger prints instead of credit cards.

#### IMPLICATIONS

Misuse or inaccurate use could lead to cases against the Department of Justice. Efficiencies could also result in monitoring.

#### DNA, DATABASES AND OFFENDERS

Law and the genetics of identity: The Science of DNA fingerprinting. Larry Massett. *Producer's Journal*. November 1998.  
<http://www.dnfiles.org/about/pgm6/journal.html> accessed 17/4/2002

*Databanks & Privacy*

The FBI's "new" national DNA database is really a collection of fifty state databases already in existence. What's new is that the FBI has established common standards for forensic testing and computer software so that the data can now be pooled. In theory, this is a great step forward in efficiency. Investigators will be able to search a wider collection of genetic evidence more rapidly. In reality, it will be some time before forensic analysts notice much improvement.

For one thing, the FBI standards will require gene samples to be analyzed by a new technique called STR. The conventional technique most used in forensic analysis today, known as RFLP, gives results that cannot simply be converted into STR results. To make their old data usable in the new FBI databank, state laboratories will have to go back to their samples and redo all the tests using STR. This takes time. Worse yet, it takes money; many states are already swamped with genetic evidence lying around unanalyzed because their laboratories have inadequate staff and budget.

There's another hitch, too. All the states agree that DNA should be collected from persons convicted of violent sex offenses, on the grounds that these convicts are statistically disposed to repeat themselves. Beyond this, however, there is no agreement. A few states have begun collecting gene samples from all convicted felons. Obviously, there will be legal challenges. It likely will be years before there are clear guidelines about exactly which DNA samples will be part of a national databank.

All of these problems should be some comfort to those who worry about the possible misuses of genetic data: whatever the future will bring, at least it won't be bringing it all that fast. On the other hand, the potential power - both for good and ill - of databanks is greater than most people think. Consider this scenario, from Sir Alec Jeffries, a geneticist at the University of Leicester and one of the founders of DNA profiling:

Sir Alec Jeffries: "I can see five or ten years down the line. It's not impossible to imagine a device which would enable the forensic scientist to get out of the laboratory and go to the scene of a crime. ... The OJ Simpson trial is a good case in point. Where you have evidence collected at the scene of a crime and then taken to lab, there are all sorts of questions about the chain of evidence and whether samples are swapped and so on and so forth. And you have to take it to the lab because the equipment required to analyze DNA is big, it's bulky - you can't carry it around.

"But in five or ten years, we could be looking at a hand-held device, a sort of DNA sniffer if you like, which you could take to the scene of the crime. You could sniff over your sample and up comes - within minutes - the genetic profile of a person. And if you've got a fully global database, you can immediately tap into that, and within a second you can identify your assailant or your perpetrator.

"And that's a very interesting concept, a fine concept. But what does worry me is that the technology could equally well be used to interrogate DNA not for characters that specify your biological identity - you are you, or you are related to whoever.... But equally well we could look at variations that are important in predisposing you to disease, like heart

disease and so on. And that really does worry me. Because one could imagine a device which could be used really remotely from the medical community. So again, technology is always a two-edged sword. There are going to be advantages and disadvantages. On the forensics side I see real advantages.

"There are arguments to say, 'Why don't we broaden the database, why don't we put absolutely everybody on it?' So that if you have a crime, you just simply look through the entire population and say, 'Right, that's your man, or woman; go and arrest them.'

"I think that raises a few interesting questions, but I do know a country - not England and certainly not the United States - but I do know one country that's actually passed legislation enabling exactly that sort of database to be established."

## SURVEILLANCE FROM TECHNOLOGY – CAMERAS, DNA SAMPLES

*The Culture of Surveillance: Discipline and Social Control in the United States.* William G. Staples (Dept of Sociology, U of Kansas). Contemporary Social Issues Series. NY: St. Martin's Press, March 1997/144p/\$35.00. Abstracted by Michael Marien, *Future Survey* 97-248 May 1997.

Many people view surveillance as revolving around the criminal justice system and invoking the image of George Orwell's "Big Brother." Staples explores the relatively small and often mundane procedures and practices: the "Tiny Brothers" that are increasingly present in our daily lives. These common techniques are used by government and private organizations to "keep us in line," monitor our performance, gather evidence, assess deviations, and exact penalties. In some ways, they are logical extensions of modern solutions to the problems of crime and social control, yet in other ways they are new:

1. in contrast to the "personal" social control once typical of small communities, the hypervigilant gaze of video security cameras watches everyone but is rarely seen;
2. the new practices are increasingly technology-based, methodical, automatic, and sometimes anonymously applied, usually generating a permanent record of evidence;
3. these new meticulous rituals of power often involve our bodies in new and important ways (beepers, DNA samples).

## NEW GENETICS AND THE JUSTICE

*Genes and Justice: The Growing Impact of the New Genetics on the Courts.* Denise K. Casey. Series in *Judicature* November-December 1999, 83(3).  
<http://www.ornl.gov/hgmis/publicat/judicature/article2.html> accessed 17/4/2.

"From crime scene to courtroom: Integrating DNA technology into the criminal justice system" by Christopher H. Asplen presents the goals of the National Commission on the Future of DNA Evidence. The Commission's purpose is to determine how the Department of Justice can best encourage the effective use of DNA identification technology in postconviction proceedings as well as in crime scene investigations. The article describes the enormous potential value --and the challenges-- of implementing the

newly established database [Combined DNA Index System (CODIS)] for fighting crime. CODIS stores identification data on DNA samples from offenders convicted of particular crimes. Both the United Kingdom and China have similar databases.

In "The impact of behavioral genetics on the law and the courts" by Mark A. Rothstein, the author observes that in the past the law has succumbed to cultural pressures to facilitate and legitimize "genetic determinism" --a mistaken belief that genes are the sole determinants of behavior. The article goes on to frame the legal issues surrounding behavioral genetics and suggests how the law might be expected to respond to new discoveries.

DNA technology will someday enable us to change the physical and possibly the behavioral characteristics of ourselves and future generations. "The Human Genome Project and the courts: Gene therapy and beyond" by Maxwell J. Mehlman examines a broad range of potential issues arising from enhancement technologies. It predicts that courts will be called on to settle an array of disputes involving patients, health care professionals, institutional providers, insurers and other third-party payers, and the government. Some issues include access; safety of human experimentation; new expectations for standard of care for healthcare providers in a dynamic, unsettled scientific environment; and parental vs. child rights.

## GENETICS AND IDENTIFICATION OF CRIMINALS

Hope, fear and genetics: Judicial responses to biotechnology. E. Richard Gold. *Judicature* (series: Genes and Justice: The Growing Impact of the New Genetics on the Courts) November-December 1999 Vol. 83(3). Reproduced on the Human Genome Project Information Web site. <http://www.ornl.gov/hgmis> accessed 16/4/02.

### *Judicial responses*

Given the impact that genetics will likely have on many aspects of life, it will not be long before judges confront issues involving genetics on a regular basis within their courts. Obviously, there is some benefit in thinking through how, in general, courts should approach these issues before the tidal wave of genetics-related litigation hits.

The goal of the judge is to find the appropriate balance between further advances in biotechnology and protecting the environment and human health. Judges must decide in the reality of the moment and not simply in pursuit of some far off goal. And the reality is that biotechnology is advancing quickly, and not only in terms of scientific knowledge. Biotechnology is big business and will become even bigger. The biotechnology industry—which includes the business aspects of genetics—hires a large number of highly skilled employees, paying salaries that match. In addition, the genetic revolution will change the ways other industries do business, most notably insurance (more accurate assessments of risk), health care (more targeted therapies), security (better identification techniques), and agriculture (more profitable seeds or less costly pesticides). Government



too will not be immune, as genetics provides an opportunity (or a risk) of easy identification whether in the criminal or social benefits context.

Given this reality, what is the mindset that a judge might bring to both the positive potential of biotechnology and to the fears that biotechnology engenders? Specifically, to what extent ought a judge to accept either the predictions of better health made by the biotechnology industry or the forecasts of disaster put forward by those opposed to biotechnology? And second, is a judge wise to rely on law to adequately deal with the dangers posed by biotechnology?

## MOLECULAR BASIS OF AGGRESSION

R. J. Nelson and S. Chiavegatto, *Trends in Neurosciences*, Vol. 24, No. 12, December, 2001.

Aggression is a primitive, yet highly conserved vertebrate behavior, and it is reasonable to expect that the molecular mechanisms underlying aggression are similar (and possibly ancient) among vertebrates. Species-specific features of aggression might be the result of adaptive cooping of novel molecules as modulators that have been incorporated into ancestral, pre-existing, neural circuits.

Although many other molecules can affect aggressive behavior, most appear to influence aggression by affecting the signaling properties of 5-HT. Understanding the interactions of 5-HT receptor subtypes should lead to novel insights into the molecular mechanisms underlying aggression.

## GENETICS AND CRIME – A SKEPTICAL VIEW

Genetics and the control of crime. Experts say other fields of research may be more useful in dealing with certain social problems. Tabitha M. Powledge.  
<http://www.aibs.org/biosciencelibrary/vol46/jan.96.crime.html>

If any of those who attended the now-notorious recent conference on genetics and criminal behavior had hoped to learn how genetic research can solve our crime problems, they must have gone away sorely disappointed.

The take-home message for those who actually listened to the meeting's content, however, was that the field of genetics is unlikely to contribute significantly to reducing or preventing crime. In short, crime is never going to be very big in the genetics business, and genetics is never going to be very big in the crime business, forecast Franklin E. Zimring, of the University of California School of Law in Berkeley.

It is not simply that scientists lack facts about the relation of dna to crime (with, to be sure, one noteworthy exception: more than 80% of those arrested for any crime, and more than 90% of those arrested for violent crime, possess a Y chromosome). Nor is it just that ignorance renders it premature to incorporate genetics into crime policy.

The difficulty is considerably more basic. The more that is learned, the clearer it becomes that the knowledge gained is unlikely to generate practical strategies for dealing with that motley mass of disparate actions--ranging from stock fraud to serial homicide--we lump under the catchall rubric crime.

### *Genes and crime*

Take, for example, the much-mentioned 1993 study that described an X-linked mutation associated with mild retardation and aggressive, sometimes criminal, behavior in one large Dutch family. The mutation causes complete deficiency of the enzyme monoamine oxidase A (maoa), which metabolizes the neurotransmitters serotonin, dopamine, and noradrenaline. Much excitement about its possible social implications attended this publication (*Science* 262: 578-580), and geneticists around the world rushed to scour their own populations for a similar maoa defect. So far, they have been utterly unable to find it.

No one disputes that the Dutch team identified a real single-gene defect that results in antisocial behavior. But it now looks as if the abnormal gene is what geneticists call a "private" mutation, likely to be found at most in a handful of other families, with approximately zero relevance to crime control.

Even if the mutation were far more common than it appears to be, it is not clear what crime fighters could or would do about it. The Dutch men who possess this abnormal gene may typically engage in impulsive aggression, but the time, place, type, and seriousness of their crimes (which include exhibitionism, attempted rape, and arson) have been diverse and unpredictable, as David Goldman, a geneticist at the National Institute of Alcoholism and Alcohol Abuse, pointed out.

Although this onetime genetics bombshell has dwindled into something of a dud, not everyone has been deterred from trying to make policy with it. Contrary to frequently expressed fears that genetic research will be wielded by a malicious state against poor and powerless minorities, however, it is actually creative (or desperate) defense attorneys who have dragged the maoa mutation into the public arena. They claim that in 1991, the gene drove their client to shoot a Domino's pizza manager in the face. According to Goldman, several genetics labs have been asked to test the man for the maoa mutation, but all have declined.

The type of data that genetics research provides is actually not the sort that crime fighters need, because genes are not a proximate cause of crime, Zimring argued. Those professionally concerned about reducing crime, he said, seek short-term solutions with an impact on known offenders.

Also, genes relevant to criminal behavior--those that affect aggression, for instance--are likely necessary to normal functioning. According to Dorothy Nelkin, a sociologist and historian of science at New York University, one of the arguments in favor of the Dutch

mutation being present in the family of the convicted man was that a lot of his relatives were successful businessmen.

Genetic information is also not predictive enough. Finding a single-gene defect like the *maoa* mutation is an exceedingly rare event in behavioral genetics. Like other complex traits, most behaviors appear to result from the actions of multiple genes, with generous input from outside the dna as well. One of the meeting's favorite metaphors was lemonade--compounded from distinct ingredients like lemon juice and sugar, but melded irrevocably, and ultimately inseparable. For one thing, what matters is not whether someone possesses a gene, but whether that gene is expressed, as Margaret McCarthy, of the University of Maryland School of Medicine, showed.

In a stunning five-minute exegesis, McCarthy reviewed several studies of the role of testosterone in aggressive behavior among experimental animals. Testosterone, it turns out, unlike cocaine or heroin, does not act directly on the brain to trigger behavior. Like other steroid hormones, testosterone instead regulates gene expression, acting on many different sites in a cell's dna. "We have very little clue as to what these sites are, but they are multiple in the brain," she said. "That turns on the gene products, and it is these gene products that then alter the behavior."

Everyone who reads newspapers, McCarthy pointed out, thinks that there is a direct relationship between testosterone levels and aggression. The real story is considerably more complicated. When two male experimental animals with similar genes and similar testosterone levels fight, the winner's testosterone rises and the loser's falls, resulting in different levels of gene expression. The fight also stimulates production of other steroids, the glucocorticoids, the so-called stress hormones, which turn on another set of genes, and initiate another set of gene products.

The two animals, whose genetic endowment is similar, are now in quite different states. If the aggression does not recur, a stable social hierarchy will be established and the testosterone levels of the two animals will return to approximately their original similarity. If this social hierarchy is disrupted, however--by repeatedly introducing strange males, or by limiting resources, for example--testosterone will end up having a large effect on gene expression, as will the glucocorticoids.

"Given enough of these encounters, you can exert more-or-less permanent effects on gene expression in these animals," McCarthy said. The result: animals that are genetically similar respond to the same stimulus quite differently.

"We keep talking about genes, and genetic variability, but genes are not static," McCarthy noted. "It doesn't matter a whit if you have a gene if it doesn't get turned on. It has to be regulated. What genes we inherit are only relevant in terms of their expression." It is possible that genetic research may eventually contribute something to our knowledge of crime, and perhaps even to its control. But the contribution will be indirect. Research on genetic aspects of behavior such as mental disorders, or alcoholism and other addictions, could ultimately have some impact on the social consequences of those conditions, which can include breaking the law. Diana Fishbein, of the US Department of

Justice, one of the few criminologists who is a biology enthusiast, called for more research into conduct disorder, attention-deficit disorder, and certain other temperamental traits like impulsivity.

### *Crime and biology*

Although genetics per se is unlikely to tell us much of practical value about crime, other aspects of human biology may be more useful. Adrian Raine, of the University of Southern California at Los Angeles, showed pet scans comparing brain activity in 42 murderers with that in an equal number of normal controls. The murderers tended to have less prefrontal activity, consistent with Raine's hypothesis that a damaged prefrontal cortex can lead to impulsive aggressive behavior.

Because murderers, like the rest of us, are a heterogeneous group of people, Raine cautioned strongly against regarding such scans as diagnostic. "You cannot do brain imaging on people and predict who is normal and who's a murderer," he said. "We cannot use any single measure to predict who's going to become violent, who's going to be a criminal." In short, applying research of this kind to crime control often raises exactly the same ethical and policy issues whether the study focuses on genes or on other aspects of human biology.

Raine acknowledged that prefrontal dysfunction might be genetic, but he believes it is much more likely to be produced by nongenetic events such as accidents, head injuries, and child abuse. Vigorously shaking a young child can lacerate the delicate nerve fibers that link the prefrontal cortex to the limbic system, he noted, and so perhaps generate aggressive violent behavior.

Birth itself may play a role. A 1993 report from the National Academy of Sciences found indications that birth complications predisposed to violence. In a follow-up, Raine and his colleagues studied more than 4200 Danish men born between September 1959 and December 1961. They found highly significant interacting effects among men whose birth had been difficult and who had also experienced maternal rejection in infancy (using measures such as whether the pregnancy was unwanted and whether the infant was institutionalized for at least four months). Members of this group were much more likely than others in the cohort (including those with birth complications alone or maternal rejection alone) to have engaged in violent crime by the age of 18. They accounted for only 4.5% of the sample, but committed 18% of the violent crimes.

The researchers speculate that violence may erupt from brain dysfunction brought on by birth trauma when it is combined with disruption of the mother-infant bond. Although in 1994 (*Archives of General Psychiatry* 51: 984-988) they cautioned that they do not yet know whether the findings might apply across cultures. When Raine reported on this study, he urged greater public attention to reducing birth complications--and on teaching parenting skills--as a way of reducing violence.

Metals known to have a toxic effect on the brain and cognitive processes may also cause violence, according to an unpublished study by Roger D. Masters and his colleagues at Dartmouth that was circulated at the meeting. Intrigued by the variability in the homicide rate between similar-seeming US cities--the murder rate of 19/100,000 population in Jersey City is twice that of Newark, with comparable differences between St. Louis and Kansas City, or Atlanta and New Orleans--the researchers used data from the Environmental Protection Agency's Toxic Release Inventory to look at geographical variations in lead and manganese. (Other researchers have reported these two neurotoxins in the hair of violent criminals, although not consistently.)

Masters and his colleagues found high correlations between violent crime and releases of the two toxic elements and their compounds in a sample of 573 counties with a total population of 80 million from eight states. Counties with only one of the metals had violent crime rates of between 340 and 380 per 100,000, not significantly higher than average. The higher rates were found principally in the 23 counties with moderate rates of manganese and high rates of lead (on average, 520 violent crimes per 100,000), and especially in the 18 counties with high rates of both (700 per 100,000).

The researchers speculate that any effects of the neurotoxins may be increased due to an interaction between the metals and poor diet, especially during childhood. In particular, they say, vitamin and mineral (especially calcium) deficiencies play a central role in manganese uptake.

A few other factors were associated with violence in this study, among them alcohol-related deaths, population density, and poverty among African Americans. No significant effects were found for some variables widely believed to be associated with crime, such as number of African Americans, per capita income of Hispanics or African Americans, and unemployment rates. The study also tossed a small bouquet to the much-denigrated Welfare State: higher monthly expenditures for Aid to Families with Dependent Children were associated with lower rates of violent crime.

*Policy implications, if any*

Given the meeting's intended focus on genes, there was a surprising degree of agreement among biologists and nonbiologists alike that society already knows much about how to reduce and prevent violent crime, and most of it has nothing to do with biology or genetics. Gun control topped the list. (In fact, it can be asserted that, rather than the criminal's genes, easy access to a handgun led to the murder of the manager at Domino's.) Several meeting participants called for renewed attention to social programs. Said Fishbein, "I think bleeding hearts are very underrated in this society."

The meeting did not settle the controversy, simmering since 1992, about whether such a conference should have been held at all. The demonstrators claimed that even the thought of genetic research on crime is irredeemably racist and genocidal. As they penetrated the meeting room, they chanted, "Maryland conference, you can't hide. We know you're pushing genocide," and later, "Jobs yes, racism no."

Several participants, including Paul R. Billings of the Palo Alto Veteran's Affairs Medical Center, argued that any discussion of these issues may make them seem important enough for society to take seriously. Others were appalled at the idea that some subjects should be off limits for debate and research. Adrienne Asch, of Wellesley College, told the demonstrators, "You're not going to solve the problem by closing down ideas."

There is of course no guarantee that, just because they are foolish and useless, there will be no attempts to base crime policy on genes. "We're not conducting our academic research in a vacuum. It will have very real political implications," warned Kathryn Russell, a criminologist at the University of Maryland. Jerome G. Miller, of the National Center on Institutions and Alternatives, agreed, arguing that the making of social policy has nothing to do with scientific facts, but that policy makers must use any facts that can bolster an ideological position.

Participants gave considerable attention to cautionary tales of the eugenics movements here and abroad earlier in this century, which resulted in discrimination, forced sterilization, and genocide. Russell pointed out that a lot of well-meaning people espoused eugenics, and a lot of defenseless people were hurt as a result.

"How do we know that the bad old days are over?" asked Billings. The perspective of many scientists is narrow, he said, and there is no evidence that today they are any more aware of the side effects and malevolent uses of their work than were scientists in the past. Moreover, society's old beliefs about this subject have not been corrected either by public education or the media, he noted.

But several participants argued that today in the United States, people face little danger of a government-imposed eugenics program. The greatest potential for bigotry and injustice lies elsewhere. Reproductive consumerism is one potent force. Important social questions about genetics, predicted Diane Paul, a political scientist at the University of Massachusetts, will arise from the desires and demands of individual families.

Genetic discrimination is also likely to emerge from economic pressures. Insurance companies are likely to seek to exclude persons they deem genetically vulnerable in order to keep down their costs. Said Nelkin, "Genetic explanations are very convenient at the moment of the dismantling of the Welfare State."

Toward the meeting's end, Asch called on participants to draw up a "to-do list" of useful genetic research that would help deal with crime. One participant suggested calcium supplements and advice on breast-feeding and child rearing for pregnant teenagers. Not genetic, Asch pointed out.

Another declared something should be done about violence on TV and in the movies. That is not genetic either, Asch replied. She waited expectantly for a long moment. Only silence filled the air."

Can Genetics Cause Crime ? Introduction to Criminal Justice System. Dr. Mike Carlie  
[http://www.essaymill.com/free\\_essays/inmers/m1065.htm](http://www.essaymill.com/free_essays/inmers/m1065.htm)

Are genetic factors more likely to make one person perform violent acts? Many doctors and researchers in the field of genetics have searched for an answer to this question.

During 1989-93 one such researcher named Dr. Sullivan found some interesting points about genetics and crime. Sullivan while working for the Bush administration's secretary of health and human services during 1989-1993 was appalled by the epidemic of violent crimes he saw taking place in American cities. According to Dr. Sullivan, "more than 26,000 Americans were murdered, and six million violent crimes were committed with young men and minorities falling victim most frequently". Sullivan also reported that about one in every 27 black men, compared to one in every 205 white men, died violently also 1 in 117 black women met an untimely end as compared to white women which only 1 in 496 were killed due to violent crimes.

This is not surprising that young males commit most of the serious crimes. According to an article in *Scientific American*, only 12.5 percent of violent crime in the U.S. in 1992 was committed by females. What is also surprising according to W.W. Gibbs the author of "Seeking the Criminal Element," in *Scientific American*, (1995 March) pp 100-107, is that a very small number of criminals are responsible for the majority of the violent crime. Sullivan who is now the president of the Morehouse School of Medicine in Atlanta wanted to try and address the violence as a public health issue. In an interview after he left office in 1993, Dr. Sullivan explains that his rationale for this was that the higher increases in violent crimes and specifically homicide in the young male population in large cities. Which was higher than any other social group in America at this time.

Dr. Sullivan then began to organize his department's research resources under the banner of the so called "Violence Initiative" as he put it. With the predominant thought of looking at unemployment, poverty, the use of drugs and any other factors that might help to contribute to the likelihood of causing violence. Primarily Sullivan's research was directed towards the psychological and sociological point of view. Sullivan primarily working with the before mentioned points and only worked lightly with the biological aspects, such as race, gender, brain chemistry and genetic make up.

Dr. Sullivan's research, did find some links between aggressive behavior, and disturbances in the level of a chemical called Serotonin. Which is directly related to certain genes. Although there was no conclusive proof that this abnormal gene was completely responsible for an increase in violence, Another study in 1993 also found a link between genes and violence. The X chromosome mutation which was discovered in a certain Dutch family was found to be associated with mild retardation and aggressive, sometimes violent criminal behavior. The mutation causes complete deficiency of the enzyme monoamine oxidase also called (maoa), which metabolizes the neurotransmitters serotonin, dopamine, and noradrenaline.

According to David Goldman, a geneticist at the National Institute of Alcoholism and Alcohol Abuse points out, “ men who possess this abnormal gene may typically engage in impulsive aggression, but the time, place, type, and seriousness of their crimes ( which include exhibitionism, attempted rape, and arson) have been diverse and unpredictable.” Although these are examples of gene related violence, genetic information so far has been fairly unpredictable. Finding a defect such as the maoa mutation is an exceedingly rare event. Also according to Margret McCarthy of the University of Maryland School of Medicine, what matters is not whether someone possesses a gene, but whether that gene is expressed.

Although seems that genetics is unlikely to tell us much of practical value about crime, other aspects of human biology may be more useful. Adrian Rain of the University of Southern California at Los Angeles, showed cat scans comparing brain activity in 42 murderers with that of an equal number of normal controls. The murderers tended to have less prefrontal activity, was consistent with Raine’s Hypothesis that a damaged prefrontal cortex can lead to impulsive aggressive behavior. But murderers, like the rest of us, are a heterogeneous group of people, Rain cautioned strongly against regarding such scans as diagnostic. And that you can’t do brain scanning on everyone and tell if they will commit murder. In short applying this kind of research to crime control often raises ethical and political issues and the same can be expected of genetic scanning and other aspects of biological research when it’s related to controlling crime.

It is possible that genetic research may eventually contribute something to our knowledge of crime, and perhaps even to its control. But the contribution will most likely be indirect. And any aspects of genetic disorders or other biological factors, most likely will be contributed to other things such as alcoholism and addictions rather than genes being blamed for the violent behavior. Diana Fishbein, of the US Department of Justice states that, criminologists need to call for more research into behavioral disorders and attention disorders and certain other temperamental traits like impulsivity that might be more likely to turn up better results in the fight against crime.

Male violence caused by biology, genetics. Carol Thorbes. June 29, 2000 Vol . 18, No. 5. <http://www.sfu.ca/mediapr/sfnews/2000/June29/boyd.html>

Bone chilling stories like the one about Doug Holtam, a B.C. man who bludgeoned his pregnant wife and six-year-old daughter to death and left his eight-year-old son for dead leave you wondering how a man could do this?

In his new book *The Beast Within, Why Men Are Violent*, SFU criminologist Neil Boyd argues that biological rather than environmental factors are at the root of why men are historically 10 times more likely to commit violent crimes than women.

Boyd's book, published by Greystone Books, also contends that biology and genetics can be as important as environmental factors in assessing why some men are more violent than others. "As a society we've tended to believe that socialization and exposure to bad



experiences are the main reasons why people are violent. It goes against our cultural ideology to give much weight to biological factors," explains Boyd.

The well-known criminologist says he at one time subscribed to the same bias. However, four years of researching evolutionary theory, the biology of sex differences, testosterone and rethinking his own research on male homicide changed his mind. Boyd brings that research to bear and cites examples like Holtam's slayings in making his case that there are often no female counterparts for male perpetrators of violent crimes.

Boyd examines the striking parallels in violence among men and male chimpanzees; the universally observed correlation between testosterone and adolescent violence, and corresponding increased crime among young males; and genetic predisposition to criminal behaviour.

"One of the most startling series of research studies I came across demonstrates that children of adoptive parents are more likely to have a criminal record as adults, regardless of their adoptive experience, if their biological fathers committed crimes," notes the criminology professor.

No stranger to taking a controversial stance on high profile crime-related topics, Boyd has authored books condemning current mandatory minimum sentences for homicide and capital punishment (*The Last Dance*) and advocating the decriminalization of illegal drugs (*High Society: Legal and Illegal Drugs in Canada*). In *The Beast Within, Why Men Are Violent*, Boyd takes issue with mainstream criminology's failure to consider biological interpretations of crime. He suggests that the perpetuation of the view that biology and genetics have little or nothing to do with violence among men has led to "misdiagnoses and wrong-headed solutions".

As examples, he cites our tendency to blame others for our mistakes rather than a willingness to see ourselves as a complex amalgam of genes and environment. Boyd is also highly critical of wrongful convictions based on evidence obtained through repressed memory therapy. "Our culture of victimization has directly contributed to the absurdity of these claims," says Boyd.

Boyd's book concludes with a discussion of how the solutions to mitigating men's predisposition to violence are rooted in changing their environment.

"That means stopping the glorification of violence and recognizing neglect and abuse as major risk factors to be addressed, especially in families where there is a history of violence. Because we often don't see men as having a predisposition to violence we don't put enough time, effort and thought into how we, as a society, should respond to these unfortunate limitations," comments Boyd.

## TELEHYPNOSIS FOR INMATES?

Telehypnosis "more effective" than face-to-face therapy. *New Scientist*. 29 January 2002 <http://www.newscientist.com/news/news.jsp>

Telehypnosis, conducted via a videoling is more effective than face-to-face therapy, a small UK Study suggests. As patients are more relaxed in a television study, the therapy works better.

#### IMPLICATIONS

How might this impact using videoconferencing for inmates. Should tele-therapy be used.

#### FORENSIC DEVELOPMENTS

█ Even dead eyes can tell a story. *Sunshine Coast Daily*, 30 March, 2002, 136.

While most of the excitement is on DNA evidence, at a recent international forensic medicine conference, audiences heard that ophthalmology has been a long neglected tool of forensic medicine.

Masatake Tsuginaka, of the department of legal medicine at Japan's Gifu university argued that ocular findings can provide valuable information on both the cause of death and identification of the body.

In one case, for example, an examination of the eyes established that a murdered woman died of strangulation.

Examination of the eyes can also provide information about brain injuries, shaken baby syndrome, arteriosclerosis, diabetes mellitus and other diseases.

#### CYBER JUDGING AND SENTENCING

█ How to think like a futurist and some things to think usefully about. Jim Dator. Background reading for the legal services futures session, American Bar Association, May 12, 2000). [www.futures.hawaii.edu](http://www.futures.hawaii.edu)

Writes Dator: "In connection with the vision of the future of law and courts found at the end of that essay, I call your attention to this following item about a currently-existing 'Cyber Judge':

Under the headline, "Laptop is cyber judge and jury" the BBC TV1(BBC One Tv Online News World News Summary -Wednesday, 26 April, 2000, 18:02 GMT 19:02 UK [http://news.bbc.co.uk/hi/english/sci/tech/newsid\\_726000/726837.stm](http://news.bbc.co.uk/hi/english/sci/tech/newsid_726000/726837.stm)) carried the following news story:

An artificial-intelligence program called the "Electronic Judge is dispensing justice on the mean streets of Brazilian cities. The program is installed on a laptop carried by a roaming human judge and helps to assess swiftly and methodically witness reports and forensic evidence at the scene of

an incident. It then issues on-the-spot fines and can even recommend jail sentences.

The software is being tested by three judges in the state of Espirito Santo. It is part of a scheme called Justice-on-Wheels, which is designed to speed up Brazil's overloaded legal system by dealing immediately with straightforward cases.

Most people are happy to have the matters sorted out on the spot, says the program's creator, Judge Pedro Valls Feu Rosa, who sits in the state's Supreme Court of Appeals. He adds that the idea is not to replace judges but to make them more efficient.

After police alert the rapid justice team to minor accidents, they can be on the scene within 10 minutes. Most cases require only simple questions and no interpretation of the law - the decision-making process is purely logical, Judge Feu Rosa claims in *New Scientist* (April 29, 2000, on which this news item is based).

The program, written in the Visual Basic language, presents the judge with multiple choice questions, such as "Did the driver stop at the red light?" or "Had the driver been drinking alcohol above the acceptable limit of the law?"

These sorts of questions need only yes or no answers, says Judge Feu Rosa: "If we are concerned with nothing more than pure logic, then why not give the task to a computer?" He notes that the program gives more than a simple judgement: it also prints out its reasoning. If the human judge disagrees with the decision it can simply be overruled.

He admits, however, that some people who have been judged by the program do not realise that they have been tried by software.

It could be some time before a similar system takes the place of an English court. "It would have to satisfy the authorities that it was absolutely foolproof first," says a spokesman for the Lord Chancellor's office, which oversees courts in England and Wales.

But it could be put to use in the US, where Judge Feu Rosa says he is in discussion with insurance companies to set up a mobile system to resolve disputes over traffic accidents.

#### IMPLICATIONS

Cybersentencing is long term possibility.

Judges as Futurists and A Futurist's View of the Early 21<sup>st</sup> Century. Clement Bezold. Advanced Judicial Studies, Judicial Department Education Center, May 4-5, Missouri.

Bezold offers these trends likely to impact courts.

1. Virtual reality leading to virtual offenses (as well virtual reality leading to real offenses).
2. The Virtual Jury.
3. The Holographic Courthouse.
4. End of some geographic boundaries (ecommerce, taxes, professional regulation).

His forecasts of new issues for the courts to consider include:

1. Privacy of predispositional test data (from gene testing).
2. Discrimination and rights.
3. Patent on new life forms.

He asks: will political participation become increasingly net based, what impact will that have on the courts. Virtual jury chat groups? Electronic voting on cases?

He also asks: What is the next civil rights movement that will impact the workload on the courts.

#### IMPLICATIONS

How will it impact sentencing and corrections?.

■ Sausage Part of World Forum. *The AustralianIT*, February 8, 2000, 55.

In the near term future, sensors will be developed that detect health problems through the smell of breath and alert doctors for early diagnosis. These are as well being developed for cars such that automobiles will turn off once they detect certain levels of alcohol. Insurance companies will either require this of those already convicted of drunk driving, or for certain age-groups, or will reduce premiums for those willing to be fitted with such devices.

■ Someone to Watch Over Me. Margaret Carlson. *Time*, July 16, 2001, 84.

Writes Margaret Carlson: "Civil libertarians would also like to do away with the Sniffer, a 600 US\$ flashlight that illuminates the inside of a car and the blood-alcohol level of the person in it quicker than a weaving driver can say he has had only two beers. A man's car is his castle after all."

However, with 42000 Americans dying from road deaths a year, there may be other factors here. As well as Supreme Court Rulings, which have not afforded privacy protection. The USA Supreme Court protected a house from a high-tech surveillance device capable of detecting a marijuana lamp from afar, but extended no such protection to a car.

IMPLICATIONS

Will this dramatically reduce drunk driving cases?

## THEME EIGHT

### DRUGS

*Drugs and Democracy: In Search of New Directions.* Geoffrey Stokes (Centre for Democracy, U of Queensland), Peter Chalk (RAND Corp, Washington), and Karen Gillen (U of Queensland), editors. Melbourne: Melbourne University Press, October 2000. Abstracted by Michael Marien, *Future Survey*, Vol. 23, No. 7, July 2001, 13

"Australia's national drug policies are considered to be a failure. They were not adopted. Commitment to these policies has become increasingly entrenched, at the same time as community support for them appears to be eroding. Essays discuss the global heroin and cocaine trade, security issues related to drug trafficking in Southeast Asia, distribution and use of illicit drugs in Australia, the history and politics of drug prohibition, balancing individual rights and community norms, the profound impacts of illicit drugs trade on social and political life, evaluating the national drug strategy, and law enforcement and by a careful assessment of previous policies and evaluation of options. accountability.

*Some strategies for better outcomes:*

- 1) the most important step is to redefine illicit drug use as primarily a health and social issue rather than a criminal justice problem;
- 2) set appropriate penalties, with more emphasis on non-custodial sentencing to divert selected offenders from the criminal justice system to drug treatment;
- 3) decriminalization of the cannabis industry; regulation and taxation of cannabis production and sale may be a long-term inevitability, but progress to this end will be incremental;
- 4) better allocation of drug funding, with equal funds for law enforcement, prevention, and treatment;
- 5) adequately-funded, research-based drug education for schools and the community;
- 6) improving the range, capacity, and quality of drug treatment;
- 7) evaluation of new treatment options;
- 8) renewed commitment to reduce harm

### POLICE STATE

*The New Social Contract: America's Journey from Welfare State to Police State.* Joseph Dillon Davey (Prof of Criminal Justice, Western New England College). Westport CT: Praeger, Aug 1995/182p/\$59.95;\$17.95pb. Abstracted by Michael Marien, *Future Survey* 96-414 September 1996

"Frequent punishments," Rousseau observed in 1762, "are a sign of weakness or slackness in the government." Throughout history, the disruptive poor have been persuaded by elites to abandon civil turmoil through an increase in social provision, and

jobs with livable wages. Today, however, the message to the poor is to behave because the US now has more jail and prison cells per capita than any nation on earth. This massive punitive infrastructure is the new social contract. It was accomplished by intensifying fear of crime among citizens, streamlining penal codes to enhance police authority, and reducing the level of constitutional protection for those who are charged with breaking the law. Although more than 300,000 inmates are doing time for drug offenses, there are still about 12 million regular drug users and perhaps up to 50 million occasional drug users. When in the future people take to the streets to protest homelessness, hunger, or exporting of jobs, "the war on drugs will be ended and hundreds of thousands of cells will be made available for participants in the civil turmoil."

## DEMOGRAPHIC CHANGES AMONG POLICE OFFICERS LEADS TO NEW VIEW ON FIGHTING DRUG CRIME

We should aim to reduce the damage from drugs, not punish the users. *The Independent online* <http://www.independent.co.uk/> accessed 17/4/02.

It has become obvious that our drugs laws are not working. *The Independent* has long argued for a free-minded debate on the issue of drugs and, in particular, the need to differentiate between addictive narcotics and those milder substances where much of the problem is caused by their illegality. There was always something odd about cannabis being treated in the same way as opiates.

The younger generation of Conservative frontbenchers apart, the most striking aspect of the increasingly sensible drugs debate has been the outspoken interventions by serving police officers. Their experience fighting crime in places like Brixton, south London, has propelled the police and the Home Secretary into modifying the law on cannabis.

Now Commander Brian Paddick of the Metropolitan Police, who pioneered the scheme in which police cautioned rather than arrested people for cannabis possession, says that arresting people with, say, a few ecstasy tablets is a "waste of resources". And Chief Superintendent Kevin Morris, the president of the Superintendents' Association has said it would support safe injecting rooms, or so-called "shooting galleries", where heroin users could inject in controlled conditions.

This revolution in thinking has been forced on frontline police officers by the failure of our existing approach, especially the 1971 Misuse of Drugs Act and the Government's faltering "war on drugs".

## DRUGS AND THE FUTURE

*Reducing Illegal Drug Use in the United States: Blueprint for a Drug-Free Future.* Edmund F. McGarrell and Jason D. Hutchens. Indianapolis: Hudson Institute, Feb 2001/101p/\$11.95pb. Michael Marien, *Future Survey*, Vol. 23, No. 7, July 2001, 12.

"Illegal drug use and distribution has dominated the criminal justice system in the last quarter century, and significantly reduced levels of safety in American neighborhoods.

Despite huge expenditures for interdiction, street-level enforcement, incarceration, and drug treatment, the problem remains at alarming levels. The persistence of the drug problem has led some, such as New Mexico Governor Gary Johnson, to "wave a white flag and essentially accept illegal drug use as a normal and acceptable feature of American life." The authors argue, instead, for a *true commitment* to reducing the demand for illegal drugs, and less emphasis on supply-side approaches.

- 1) **General Proposals:** clear and consistent moral leadership from the White House on down (reinforcing the message that drug use is harmful and wrong), reject calls to legalize medical marijuana and needle exchange, target education campaigns to reduce demand for illegal drugs, adequate treatment slots for drug users, hold treatment providers accountable for results, support faith-based efforts to reduce drug use, government benefits contingent on recipients remaining drug-free;
- 2) **Hard-Core Users:** routine drug testing for all arrestees coupled with coerced abstinence and treatment for drug offenders, expansion of accountable drug courts and/or rigorous probation supervision, drug-free prison zone projects, coerced treatment for substance-abusing pregnant women (their drug use should be treated as child abuse), coerced abstinence for neglectful or abusive parents (such parents should be subject to drug testing), research on chemicals that reduce addiction and block drug effects;
- 3) **Recreational Drug Users:** support drug-free workplaces, drug tests after motor vehicle accidents (similar to blood alcohol tests), eliminate open-air drug markets, seize vehicles of drug users who travel to drug markets to purchase illegal drugs, publish the names and pictures of users when arrested;
- 4) **Youth-Specific Measures:** drug testing for driver's license applicants, a national anti-drug media campaign, character-building institutions for youth, enforce laws against youth drug possession and use.

## DRUGS AND CLOSING PRISONS

Is it time to close the prisons? Carol Estes. *YES!*, The Positive Futures Network, Fall 2000. From ©2000 Positive Futures Network P.O. Box 10818, Bainbridge Island, WA 98110-0818, USA - phone 206/842-0216 - fax 206/842-5208

How do you know if you're winning a war? That's easy. The enemy is on the run, taking heavy casualties, consistently losing ground. The harder questions are about losing. How do you know when to quit fighting? Or should you simply fight harder, throwing more guns, more money, more personnel onto the battlefield? At what point do you face the terrible possibility that your war was wrong all along?

Once we asked ourselves these hard questions about Vietnam. Now people across the political spectrum are asking them about the 30-year war we're waging against our own population: the war on drugs. Who's winning and who's losing in this strange, sad war where the enemy is us?



Among the winners, as in all wars, are those who profit financially: the traffickers involved in the \$450 billion per year drug trade; the corporations and financial institutions laundering the estimated \$250 billion in drug money that flows through the US economy each year; the prison industry, which now employs more people than any Fortune 500 company except General Motors and generates an estimated \$40 billion per year; the corporations that rely on cheap prison labour for both manufacturing and billing operations. And so on.

Among the losers, certainly, are our inner-city African-American and Hispanic communities, along with the police, drug dealers, and innocent bystanders killed in action. Certainly the 400,000 prisoners of the drug war sitting in jail or in prison or awaiting trial, more than 100,000 of them for mere possession. Certainly the individuals and their families whose lives were ruined by drugs. The tax payers, too, of course. And when the smoke clears, how fares our declared enemy, drugs? The enemy is thriving.

Deaths from drugs have never been higher. In 1996, they numbered 14,843, more than double the drug-related deaths reported in 1979, the year considered the height of the current drug epidemic. In a survey conducted annually for 25 years, teenagers reported that heroin, marijuana, and crack cocaine were easier to get in 1998 than at any time in the past decade.

Mike Ruppert, a narcotics-investigator-turned-anti-drug-war activist, agrees: "There are more, better, cheaper drugs on the street today than in 1972." Ruppert, who received 13 citations and four commendations during his years of active service with the Los Angeles Police Department, says it doesn't surprise him that our war hasn't made a dent in the drug trade. "There is no war on drugs and there never will be," he says, because the so-called war on drugs is not about drugs. It's about money. It's also about power. And it's about race.

Maximum toughness, minimum justice In the scramble for political power, being "tough on drugs" is a free ticket to the winner's circle. Small wonder, then, that in almost every election cycle since 1984, crime and drug legislation has been enacted in the month before the election, each bill tougher than the last.

The showpiece of the toughness legislation is mandatory minimum sentencing and its variants: harsh penalties for selling drugs near a school or public housing, and three-strikes-you're-out laws. These sentencing innovations remove discretionary power from the judge and hand it over to the prosecutor. These are designed to increase the likelihood of offenders going to prison and staying there for a long, long time. And they all hit hardest in low-income and minority communities.

Mandatory minimums are set by statute. The length of the sentence is determined solely by the amount and type of drug involved in the offense and the number of prior convictions, and it must be served in its entirety. The only way a defendant can get a sentence reduced is to help the prosecutor convict someone else. It is the prosecutor who

decides if the assistance rendered is “substantial” enough to warrant a shorter sentence and what charge to file.

In theory, mandatory minimums are simply tough and equitable. In reality, as one federal judge pointed out, they “make a judge a computer, automatically imposing sentences without regard to what is right and just.”

They also fail to distinguish between major and minor players. The worst offenders — those deeply involved in the drug business — have information to trade and, as a result, are in the best position to bargain down their sentences. The users and small-time dealers, their girlfriends and family have little information to offer and commonly end up going to jail for longer terms than the “kingpin.”

Critics of mandatory minimums point to serious injustices. Federal District Judge Stanley Marshall remarked, “I’ve always been considered a fairly harsh sentencer, but it’s killing me that I’m sending so many low-level offenders away for all this time.”

Marshall is not alone. More than 100 senior federal judges now refuse to hear drug cases; the American Bar Association also opposes mandatory sentences. Religious groups, too, have begun to see the drug war as an immoral crusade, and more than 500 Jewish and Christian clergy have joined a group called Religious Leaders for a More Just and Compassionate Drug Policy. Cops, front-line soldiers of the drug war, are also voicing their opposition. Of the police chiefs from major and middle-sized cities attending a 1999 conference on drug policy reform, 90 percent repudiated the federal war on drugs.

Even the US Sentencing Commission, adviser to Congress, opposes mandatory minimums. But Congress has ignored its recommendations and repeatedly voted, instead, for harsher minimums. The result? More people are sent to prison in the US for non-violent drug offenses than for crimes of violence, and penalties for drugs now sometimes exceed those for violent crimes like rape and murder.

**The prison-industrial complex:** What drives the incarceration boom? The US has developed “a set of bureaucratic, political, and economic interests that encourage increased spending on imprisonment regardless of the actual need,” writes Eric Schlosser in the *Atlantic Monthly*. It’s not a secret conspiracy, but a “confluence of special interests that has given prison construction in the United States a seemingly unstoppable momentum.”

Everybody’s got a finger in the pie. Some companies exploit prison labor. Others build prisons. Wackenhut Corrections Corporation, Corrections Corporation of America, and a few smaller companies build and run private prisons for profit, an enterprise one booster called “a hotel with a guaranteed occupancy.” Some phone companies charge up to six times the normal long distance rate to the captive inmate market. Even the CIA is involved, according to investigative journalist Gary Webb.

Burning the inner cities to save them In all major Western European nations, incarceration rates are at or below 100 per 100,000. In the US in 1995, the incarceration rate for African American men was 6,926 per 100,000. The primary cause is an 8-fold rise in drug arrests.

According to a report recently released by Human Rights Watch, black men are sent to state prison on drug charges at 13 times the rate of white men. In some states the ratio is even more skewed, with black men admitted to prison on drug charges at rates that range from 20 to 57 times greater than those of white men.

“It is not an exaggeration to say that drug laws are the ‘Jim Crow’ laws of the last third of the twentieth century,” says Eric Sterling, president of the Criminal Justice Policy Foundation. “Because of drug prohibition and drug enforcement, people of color are hounded by the police, their neighbourhoods are destroyed by drug violence, their families are broken up, they are put at greater risk of disease, they are displaced from their homes, and their opportunities for education and employment are ruined.”

What causes the disparity? Certainly not higher rates of drug use among African Americans. Only 11 percent of the nation’s drug users are black, but blacks constitute 37 percent of those arrested for drug violations, 42 percent of those in federal prisons for drug violations, and 60 percent of those in state prisons for drug felonies.

Overt racism is the easiest explanation but only part of the answer. According to the Sentencing Project, the inequity is a result of three overlapping policy decisions: the concentration of drug law enforcement in inner-city areas; the drug war’s emphasis on law enforcement at the expense of prevention and treatment; and harsher sentencing policies, particularly for crack cocaine.” (Penalties for possession or sale of crack cocaine are much harsher than for powder, but because crack is marketed in less expensive quantities, it is more often used in low-income and minority communities.)

Whether the racism is overt or inadvertent, the result is devastating. With so many black men in prison, there is now a substantial imbalance of females to males in African-American communities; intervention of federal and outside law enforcement has undermined informal community mechanisms of crime control; and a generation of children is growing up with incarcerated parents. Furthermore, at a time when serious attacks have been mounted against affirmative action, welfare, and other gains of the Civil Rights era, 1.4 million black males — 13 percent — can no longer vote as a result of felony disenfranchisement laws.

After 30 years of war, the reconnaissance report is bleak: casualties are enormous, costs are astronomical, yet the drug trade prospers.

**Where did we go wrong?** War is a ham-fisted, wrong-headed solution for a medical and social problem. “When you’re telling cops that they’re soldiers in a Drug War, you’re destroying the whole concept of the citizen peace officer, a peace officer whose fundamental duty is to protect life and be a community servant,” says Joseph McNamara,

former chief of police in San Jose and Kansas City. A soldier's job is to kill the enemy, so when cops start thinking of themselves as soldiers, "anything goes."

**So what now?** For starters, we could quit ignoring what we know: treatment works ten times better than interdiction. Repeatedly, treatment has been shown to decrease drug-selling, shoplifting, assaults, arrests for any crime, and welfare use, and at the same time, to increase employment. Better yet, it costs only one fifteenth as much as the law-enforcement approach to achieve the same reduction in societal costs, according to a recent Rand Corporation study.

Then we could look closely at a few of the many successful programs that view drug use not as a crime but as a medical and social problem. The results are hard to ignore. A few examples:

During the first year Arizona law mandated drug treatment instead of prison for nonviolent offenders, Arizona taxpayers saved \$2.6 million, and 77 percent of drug possession probationers tested negative for drug use after the program.

In Switzerland, a heroin maintenance program, which provided controlled amounts of heroin to addicts, reported that the health of participants improved, their housing situations stabilized (there were no longer any homeless participants), and the number of unemployed fell by half.

In New Haven Connecticut, police chief Nick Pastore achieved a 22 percent drop in crime rates by training his officers in sensitivity and understanding of special populations, from addicts to homeless people. "Every drug user should have some place to go and be embraced when there," Pastore says. "We should police to be engineers of social change and improvement."

So the choice is not between a drug war and sitting on our hands. We have many options. But strong communities are fundamental to the best of them. We must restore our communities' ability to heal themselves, to police themselves, and to care for their members. This is the strategy of wholeness, the strategy that deserves our time, our personnel, our money, and our creativity. After all, most of these people in trouble with drugs are not the enemy. They're our sons and daughters, our neighbors, the kids down the block. They are us.

*After Prohibition: An Adult Approach to Drug Policies in the 21<sup>st</sup> Century.* Edited by Timothy Lynch (Director, Cato Institute Project on Criminal Justice). Foreword by Milton Friedman (Hoover Institution). Washington: Cato Institute, Nov 2000/Michael Marien, *Future Survey*, Vol. 23, No. 7, July 2001, 12.

In contrast, Lynch and others take a libertarian perspective.

"Billions of dollars have been spent on drug law enforcement, with the result that the criminal justice system has grown much larger. Yet the demand for illegal drugs remains

strong, and the supply has not been hampered in any serious way despite a record number of seizures. It is lamentable that drug use and addiction rates would likely increase if the criminal sanctions were lifted. But a fair appraisal of the drug war must take all of the negative impacts into account: the black market in illegal drugs generates billions of dollars for gangster organizations, rival gangs use violence to usurp and defend territory for drug sales (with innocent people caught in the crossfire), billions of taxpayer dollars are squandered in a futile attempt to keep drugs from entering the US, a large number of undesirable police practices have become routine (paramilitary raids, roadblocks, property seizures), police departments suffer from drug-related corruption, and limited resources for criminal justice are diverted from investigating other criminal activity. "*The time has come to put an end to this tragic revisit of Prohibition.*" Americans rejected alcohol prohibition because the laws proved to be unenforceable and led to gang wars and corruption. The war on drugs has created similar problems. The law should treat substances such as marijuana and cocaine the same way it treats tobacco, beer, and whisky: by restricting sales to minors and jailing any user who endangers the safety of others. "Education, moral persuasion, and social pressure are the only appropriate ways to discourage adult drug use in a free and civil society." Follow-on essay by Gov. Gary Johnson of New Mexico calls for legalization and redirection of the \$50 billion that is presently being set on an old set of laws to enforce a new set of laws. "*Alcohol killed 150,000 people last year ... The health effect of tobacco killed 450,000 people...but I don't know of anybody who ever died from a marijuana overdose.*"

## DRUGS AND GLOBALIZATION

■ Speed now the top crime drug. Martin Chulov. *The Australian*, 13 March 2002, 5.

There were more arrests for amphetamine use than heroin use last year in a trend criminologists believe could point to a major change in the Australia's illicit drug market. The nation's police force continues to point to bikie gangs as the most significant producers and distributors of speed. A new report however suggests that these gangs may be forming alliances with south-east asian organized crime.

These issues would be the focus of a summit in June in South Australia. However, Australian Medical Association State President Michael Rice said that the summit would be a waste of time.

## THEME NINE

### JUVENILE JUSTICE ISSUES AND REFORMS

#### JUVENILE ARRESTS TO DOUBLE IN THE USA

■ *New York Times* Op-Ed, 31 July 1996, A15.

Princeton criminologist John J. DiIulio Jr warns that, due to the growing number of juveniles, "most experts now agree that the number of juveniles arrested for murder, rape, robbery, and aggravated assault will more than double by 2010"

■ Youth in Prison Doubles. Imprisonment of Juveniles Doubles, Research Finds. Anjetta McQueen. February 28, 2000  
<http://cnews.tribune.com/news/tribune/story/0,1235,tribune-nation-39668,00.html>

As states moved steadily to prosecute more young people as adults, the number of prison inmates under 18 more than doubled between 1985 and 1997. In 1985, 3,400 youths 17 or younger were committed to adult prisons on conviction in either juvenile or adult courts. By 1997, the number of such youths had more than doubled to 7,400, the Justice Department reported Sunday. Young inmates by no means are overrunning the prisons' adult population of 2 million, and just 5 percent of all young offenders serve sentences in adult facilities, researchers said. But data suggest that today's violent young offenders are more likely to do prison time than in years past. That's partly because of an increasing number of state laws that take away their legal status as minors and make them more accountable, researchers say. The crackdown, fueled in part by high-profile school violence, has placed children as young as 11 on trial in criminal courts.

There's some justification for public frustration with the juvenile system," said Vincent Schiraldi, director of the Justice Policy Institute, a think tank opposed to mandatory sentencing. "But sending them to the adult system en masse is no solution. It's hardly a resounding success for the people it's got."

■ *Juvenile Justice & Youth Violence*. James C. Howell (formerly US Dept of Justice, Office of Juvenile Justice and Delinquency Prevention). Thousand Oaks CA: Sage Publications, July 1997/251p/\$32.50. Abstracted by Michael Marien, *Future Survey* 20:2/086 February 1998.

Chapters discuss juvenile justice reform movements, landmark Federal legislation, the high rate of violence in the US, the reality of juvenile violence (in 1994, less than 0.5% of all US juveniles ages 10-17 were arrested for a violent offense; only 6% of all juveniles were arrested for any offense), juvenile delinquency trends, the juvenile justice system, youth gangs, risk factors for youth violence, and developmental criminology. Some conclusions:

- 1) most violent juvenile offending is not brought to the attention of authorities;
- 2) scarce resources are often wasted on noncareer juvenile delinquents who are unlikely to commit further offenses;
- 3) prevention programs are much more likely to be successful than intervention programs that attempt to reduce and offset risk factors;
- 4) to significantly reduce the overall level of violence in the US, we must intervene successfully in the careers of serious, violent, and chronic juvenile offenders who constitute about 15% of high-risk populations but account for 75% of all juvenile violent offenses;
- 5) juvenile justice has been dominated by the popular but erroneous notion that "nothing works," but the best intervention programs produced 20-30% reductions in recidivism rates and similar improvements in other outcomes;
- 6) treatment programs found to be most effective were characterized by multimodal and intensive services;
- 7) the current punitive US juvenile crime policy, particularly the use of adult prisons to punish adolescents, is ineffective, morally wrong, and unjust.

*Balancing Juvenile Justice*. Susan Guarino-Ghezzi (Stonehill College) and Edward J. Loughran (Director, National Juvenile Justice Project, Robert F. Kennedy Memorial). New Brunswick NJ: Transaction Publishers, Jan 1996/213p/\$29.95. Abstracted by Michael Marien, *Future Survey* 96-407 September 1996.

The US juvenile justice system has become a detrimental experience that often reinforces youth defiance of authority. Trying juveniles as adults and overcrowded juvenile detention facilities have led to deterioration of a system whose original intent was to protect immature youngsters. Indeed, most juvenile justice "systems" do not function as systems because their components lack unity of purpose. Chapters discuss trends in philosophy and politics (finding fault with liberal, libertarian, conservative, and fundamentalist views), various state and local reforms in juvenile corrections, the changing role of the juvenile court, and balanced decision-making and corrections. Proposes a balanced juvenile justice system that fulfills competing missions: protecting the community, providing rehabilitation, reintegrating youths back into their communities, and punishing youths and holding them accountable for their behavior.

"Just like good families, effective juvenile justice systems manage to achieve complex goals by developing multidimensional programs and policies that adhere to basic, unwavering principles." While it is important that young offenders "pay" for their crimes, it is equally urgent that they not fall victim to mistakes of parents, politicians, and other overseeing adults, well-intentioned or otherwise. Some emerging trends for juvenile justice: an expanded range of surveillance and service programs, more private sector involvement, and rational decision structures for accountable placement decisions.

*Youth on Trial: A Developmental Perspective on Juvenile Justice*. Edited by Thomas Grisso (Law and Psychiatry Program, U of Mass Medical School) and Robert G. Schwartz (Executive Director, Juvenile Law Center, Philadelphia). Chicago: U of

Chicago Press, Sept 2000/462p/\$35.00. Abstracted by Michael Marien, *Future Survey* 22:12/589 December 2000

At the dawn of the 20<sup>th</sup> century, US states embarked on a sweeping social experiment to develop a totally new and separate system of courts, laws, and correctional programs designed specifically for "juveniles." This new juvenile justice system was fashioned to work more like a social-welfare agency than an institution of justice, meeting the needs of youths in a way that was expected to mitigate their continued involvement in criminal behavior. Even youths who committed serious offenses were considered "wayward," not criminally responsible, and they were to be assisted, not prosecuted.

At the end of the 20<sup>th</sup> century, legal responses to youth offenses took a dramatic turn. Responding to an apparent increase in violent offenses by youths, most state legislatures re-created juveniles laws to decrease differences between dispositions of adolescent cases and the sentences of adults in criminal cases. Their response was based largely on a belief that the modern adolescent was more adultlike than adolescents of earlier generations and that the juvenile justice system was too lenient to be effective. *Beginning in the late 1980s, "both of these perceptions led almost all states to expand the charges for which juveniles could be tried as adults in criminal courts, lower the age at which it could be done, and increase the range of legal mechanisms that could be deployed."* Many states changed the purposes of their juvenile codes to emphasize punishment and de-emphasize rehabilitation. Most states resorted to more punitive training schools and boot camps. Some states made courtrooms and juvenile records more accessible to the public. *"The age at which youths may be tried in criminal court crept ever lower in many states, as low as 10 or 12 in some and, in a few, no lower age limit at all."* Youth advocates have begun to raise fundamental questions about the implications and assumptions of these reforms, especially in light of the developmental status of adolescents. This book, sponsored by the MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice (begun in 1996), addresses two of these questions: adolescent capacities as trial defendants, and the more fundamental issue of blameworthiness (are youths in fact adultlike in their decisions and judgment). The transformation in juvenile law has largely ignored the fact that adolescents do not suddenly become adults when they engage in offenses. *"By automatically prosecuting youths in criminal court for serious offenses, we run the risk of degrading the integrity of the justice system."* Much legal thinking and empirical research will obviously be needed to resolve the questions raised in this volume, which challenge the direction of the current trend in juvenile justice policy.

*Youth at Risk: Saving the World's Most Precious Resource.* Gene Stephens (Prof of Criminal Justice, U of South Carolina), *The Futurist* (Special Report), 31:2, Mar-Apr 1997/7-pg insert/\$3.00 with quantity discounts). Abstracted by Michael Marien, *Future Survey* 97-244 May 1997.

Growing numbers of children are being neglected, abused, and ignored, which leads to delinquent behavior. As the number of teenagers grows in the first decade of the 21st century, "the result could be a juvenile crime wave such as the US has never seen."



According to the Centers for Disease Control, 85% of all children with behavioral disorders come from fatherless homes. Such children are 32 times more likely to run away, 20 times more likely to end up in prison, and 10 times more likely to be substance abusers. Some other problems: one in three children under 6 lives below the poverty line, at least 25 million US children have no health care (which results in stunted ability to learn and greater likelihood of crime and drug abuse), reports of alleged child abuse have more than quadrupled in the past 20 years to over 3 million cases a year reported and 1 million substantiated, and the young lack faith in tomorrow ("the Gallop Poll reported that 70% of 16- to 24-year-olds believe that the world was a better place when their parents were their age, and 56% said it will be worse for their own children;" at-risk youth in particular live for today and see no hope in the future).

Stephens offers a "comprehensive plan" to cope with at-risk youth: 1) commit to positive reinforcement through school programs and parent education; 2) promote nonviolent conflict resolution; 3) encourage mentoring for all children; 4) establish community-school partnerships; 5) develop proactive policing programs; 6) initiate ethical and cultural awareness programs; 7) design youth opportunity programs; 8) set up peer counseling hotlines. Other promising approaches include Healthy Start programs, teenage parenting classes, character education in schools, and "restorative justice" that focuses on restitution to victims and community service. [NOTE: A good overview of many negative trends and positive proposals, but the "comprehensive" plan omits any mention of jobs and livable incomes, which may well be at the heart of at-risk youth lacking faith in the future. ALSO SEE: *The State of Americans: This Generation and the Next* by Urie Bronfenbrenner *et al.* (Free Press, July 1996; FS 18:11, #96-535), *Great Transitions: Preparing Adolescents for a New Century* (Carnegie Council, Oct 1995; FS 18:2, #96-094), and *Alternatives to Violence: Empowering Youth to Develop Healthy Relationships* by David A. Wolfe *et al.* (Sage, May 1997/182p/\$19.95pb), for a Canadian perspective.]

## KIDS IN PRISON

KIDS DOING TIME: Children with parents in prison. Ann Cunningham. Master of Criminology thesis, 2000. From University of Melbourne: Arts> Dept> Criminology> Research> MA Theses> Abstracts.

The children of prisoners have often been referred to as invisible. Through an examination of the literature, this study looks at what is known of the impacts of parental imprisonment on children. It looks at how an awareness of their needs has emerged and who has contributed to the debate. Responses, remedies and impacts on policy are examined. It is noted that an acknowledgment of children of prisoners as a group with special needs was evidenced in Australia early in the debate. The progress of the debate and responses in Australia are given particular attention. This paper argues that a change in the way we see prisoners' children is necessary. They must be viewed independently of their parents' crime and punishment if the stigma which keeps them hidden is to be removed. Only then will responses be effective in addressing their undoubted needs.

## TREATING CHILDREN OFFENDORS AS CHILDREN AND NOT AS ADULTS

Adult Juvenile Delinquents? Why courts should treat violent youths as children.  
*Christian Science Monitor*, 6/28/2001, Vol. 93 Issue 150, p10.

The American public is too complacent about a trend toward trying young teens in adult courts.

[Recent] cases should encourage another look at the founding purpose of the juvenile justice system. The world's first juvenile court was established in Chicago in 1899, through the efforts of social reformers. Other states soon followed, and by 1950 all the states had juvenile courts.

These courts were designed to allow more time for judges to hear from teachers, family and community members, and social workers, and to look deeply into why a particular youth had gone astray. Judges also had few sentencing guidelines, leaving them free to devise more thoughtful ways of dealing with young offenders than just incarceration. In 1909, Chicago Juvenile Judge Julian Mack explained that his court's purpose was to focus less on the offense than on the offender - to ask "what is he, how has he become what he is, and what had best be done in his interest and in the interest of the state to save him from a downward career?"

By the late 1960s, the differences between juvenile and adult systems were eroding. Curiously, the change began with pro-juvenile activists lobbying for due process guarantees, like protection against self-incrimination, for young offenders. Many state juvenile court laws were put to the constitutional test and failed, because they didn't provide checks on the misuse of judicial power

Despite a sharp decline in juvenile crime rates, and despite evidence that young people prosecuted as adults are more likely to return to prison than those tried for comparable offenses in the juvenile system, 45 states have recently passed or amended legislation making it easier to prosecute young teens as adults. As a result, the number of youths under 18 in adult prisons is now 5,400 - more than double what it was 10 years ago. But has childhood changed so much over the past hundred years that this harsher treatment of the young is justified?

The system could use reforms: First, the discretion to try juveniles as adults should be taken from prosecutors and returned to judges. Second, states should explore blended sentences - combining juvenile prison time and intensive treatment with the threat of adult prison if no progress is made - like those currently used in Minnesota. Above all, neither legislators nor prosecutors should use weaknesses in the juvenile system as an excuse to push young offenders into adult courts. If the best social and scientific evidence suggests that youth is a distinct, often tender, stage of life, then the treatment of young people who have committed violent crimes ought to reflect both a society's capacity for mercy and a child's capacity for change.

## JUVENILE INJUSTICE

Study reveals 'juvenile injustice'. Minorities are jailed more often. Patrick Crowley. *The Cincinnati Enquirer* online accessed 17/4/02

A black youthful offender is six times more likely to be jailed than a youthful offender who is white, even if they commit the same crimes and have the same criminal backgrounds, according to the nationwide study. Latino youths are three times more likely than white youths to do time.

The odds don't improve much in the Tristate, according to figures for Ohio, Kentucky and Indiana.

In Kentucky, African-Americans are four times more likely to be jailed. That compares with five times more likely in Ohio and four times more likely in Indiana.

Kim Adams, a staff attorney at the Children's Law Center [Kentucky], said she has no idea why minority youths are treated differently, but she believes improvements probably could be wrought by educating police, court personnel and other law enforcement officials involved in arresting and detaining minority youths.

## YOUTH AND RECIDIVISM

Crime & justice. Adrian Colman. *Youth Studies*, Vol. 16 No. 1, p. 4.

An examination of 52,935 juveniles coming before the New South Wales Children's Court over nine years to December 1994 showed that recidivism was not a problem of epidemic proportions but, so far as it was, the tendency was closely related to custodial sentences.

Seven of every 10 youths coming before the Children's Court did not come before the courts again. One appearance, apparently, was enough to make them desist. Of the remainder, about half were in trouble again just once, and only a small proportion became persistent or chronic offenders. But of those who were put in some form of custody, eight out of 10 became persistent or chronic offenders.

Indeed, the more lightly the offenders were treated, the less likely it was that they would reoffend. About one in eight offenders given purely nominal penalties reoffended. About one in four given unsupervised good-behaviour bonds did. Two in every five who were fined came back before the courts on another criminal matter later. Of those given supervised orders, nearly half were likely to reoffend, while 72% of youths put on community-service orders and 79% of those put in custody later reoffended (*Australian*, 20/1/97, p.3; *Canberra Times*, 21/1/97, p.4 & Leader, p.8).

## JUVENILE SEX OFFENDER HOME

■ House of Hope for young offenders. *Sunshine Coast Daily*. 30 March 2002, 36.

Many young sex offenders act out behavior learned at the hands of others, and for this reason, some believed it was normal. The development of effective early intervention is essential to prevent, or at least minimize, the incidence of sexual abuse.

The result of this view of juvenile offenses has been Australia's first residential care center for juvenile sex offenders.

## THEME TEN

### NEW ARENAS AND TYPES OF CRIME

#### GLOBAL CRIMINAL [JUSTICE] NEIGHBORHOOD

Opening address. Ole Ingstrup, Commissioner of the Correctional Service of Canada. On the occasion of: Beyond Prisons Symposium, March 16 - 18, 1998, Kingston, Ontario. <http://www.csc-scc.gc.ca/text/speeches/commish/beyonde.shtml> accessed 10 May 2002.

Criminal justice professionals, especially those of us in corrections, used to stay behind our tall stone walls, but in the past decades, globalization has created a criminal justice neighbourhood. We must now create a global criminal justice brotherhood in order to better serve and protect the citizens that we are here to serve and to protect.

#### IMPLICATIONS

Global-Local Strategies called for. This requires local, state, national, and transnational partnerships.

#### GLOBAL CRIMINAL COURT

Global Criminal Court Established. *The Economist*. 13 April 2002.

On April 11, 2002, the global criminal court was established. Sixty-six nations ratified the treaty. It will go into force July 1. The USA is not a signatory, fearing that its military personnel will be tried by rogue nations.

However, the court could be used a powerful weapon to bring tyrants to jail, says the Economist. The USA should work through diplomacy to amend design problems it does not like.

The Global Criminal Court is here to stay.

#### TRANSNATIONAL CRIME GROWING

*State of the Future at the Millennium*. Jerome Glenn and Theodore Gordon. American Council for the United Nations University, 2000. <http://millennium-project.org>

Glenn and Gordon publish an annual review of the state of the future. They identify fifteen global challenges (sustainable development for all, emerging water crisis, globalization for all, for example). Of relevance for this scan is challenge number twelve.

How can organized crime be stopped from becoming more powerful and sophisticated global enterprise? They write: According to Christian de Brie's 'Crime the World's Biggest Free Enterprise' in *Le Monde Diplomatique*, April 2000, transnational crime is the world's fastest-growing industry with a total of \$1 trillion income. Estimates for annual income in billions include: money laundering 870, drugs (cannabis, cocaine, heroin) 500-800, computer piracy 200, counterfeit goods 100, animal smuggling, 20, and E.C. budget fraud 10-15. Christian de Brie estimates half of the incomes are net profits of \$500 billion.

They recommend the decriminalization of drugs, prostitution and gambling, as that will take the most out of organized crime. They also recommend new international institutions are needed to manage global cooperation against organized crime.

### GLOBALIZED ORGANIZED CRIME TO GROW TO NIGHTMARISH PROPORTIONS

Twenty-First Century Law to Meet the Challenges of Twenty-First Century Organized Crime. Richard Moore. *Technological Forecasting and Social Change*, Vol. 53, No. 2/3, June/July 1996, 185-198.

Moore outlines possibilities for the future of organized crime. He argues that organized crime will excel in a digital environment (as we are seeing from the Al-Qaida network) with illegal trade in body parts, children, refugee smuggling, and technological products (for example, spare parts for aircraft, high tech guidance systems – in 1992 the estimate was put at 400 million us\$).

The author writes: Just as the telegraph at the beginning of the twentieth century opened up the realm of off-track betting and led to the creation of criminal organizations based on gambling, **twenty-first century technology will lead to nightmarish global criminal enterprises that cannot be controlled by the traditional criminal law and judicial systems of the nation-state.**

The only reasonable solution is international criminal law to deal with the internationalization of crime, especially as culprits may head organizations more powerful than the government (as in Afghanistan today or Khum Sa of Burma).

Writes Moore, " trial courts must be established at a number of sites throughout the world, with locations depending on caseload. The courts must be completely free from any domestic jurisdiction of the state in which they are located, although the same act could be a crime under both the domestic law of the site of the commission of the crime and the international criminal code. "

The greatest obstacle to the creation of these courts (at trial and appellate levels) is, says Moore, "the political challenge of getting nation states to reduce their sovereignty by allowing an alien enforcement body within their territory to enforce a law other than their own, most likely against their citizens."

## TRANSNATIONAL CYBERCRIME HYPERGROWTH

*State of the Future at the Millennium*. Jerome Glenn and Theodore Gordon. American Council for the United Nations University. 2000. <http://millennium-project.org>

Glenn and Gordon also alert us to the growth in transnational cybercrime. They write:

"French President Jacques Chirac called for the world's leading industrial nations to narrow the differences in national laws to combat cybercriminals who use loopholes to launch global Internet attacks. Many cybercriminals operate from countries where Internet violations are not covered by existing legislation. FBI said it is impossible to measure the global impact of Internet crime, but 3,700 complaints were received in the first week since a new International Fraud and Complaint Center opened in Washington.... Alec Miles, United Kingdom managing director of the anti-virus company Symantec, said governments could do more to harmonize international laws and circulate crime information quickly. "They have to react in Internet time and not government time."

A survey of systems professionals shows 70% report being victimized by serious computer crimes, especially on the Internet. When equipment theft, viruses and other pilfering are factored in, the figure rises to 90%, according to the fifth annual Computer Crime and Security survey by the FBI and the Computer Security Institute (CSI) of San Francisco.

Those claiming financial losses reported totals exceeding \$265 million, more than double that of 1999....

Even with the best protection money can buy, thieves will always follow the money, says Richard Power, who directs the annual CSI survey in cooperation with the FBI: "As long as we have had storefront businesses, you've had people in the neighborhood trying to sell you protection. Why should it be any different in cyberspace?"

### IMPLICATIONS

Increased cyber crimes are more likely, especially as broadband becomes routine. How should the courts deal with cyber crimes and how should the criminal justice system respond to cybercriminals?

## CYBER CRIME FUTURES

Lying, Cheating, Stealing with Computers – Who You Gonna Call? World Future Society. [http://www.policefuturists.org/pfi\\_newsletters.htm](http://www.policefuturists.org/pfi_newsletters.htm) accessed 17/4/2

Internet and high-tech crime may become the most challenging thing law enforcement will face in the new millennium. The question for the panel, Gene Stephens, Dave Pettinari and Bill Oakes, was are our local, state, and federal agencies up to the task?

Gene Stephens, PFI member and Professor at the College of Criminal Justice, University of South Carolina examined the trends that were creating the opportunities – and the challenges. We have become an information society with 80% of our workers being information workers. We are also suffering from information overload.

The same technology that creates great progress also generates opportunities for criminals and the unscrupulous. Cybercriminals clone your phones, counterfeit money and documents, steal laptop computers and software, falsify information for financial gain, steal your identify and your credit rating, hack or crack into your computer wreaking havoc, cyberstalk children and women, disseminate pornography and pedophile materials. (Stephens distinguishes hackers – who may not have criminal intent from crackers who definitely do have criminal intent.)

Future misuse of the technology could lead to CyberTerrorism, Cyberwar and even a Cyber Pearl Harbor. There are concerns that terrorists might use Y2K as an opportunity to backdoor a Y2K bug or to heist billions of dollars.

With the technology is getting ever smaller and the notion of implanting chips in the human body, Stephens says a crime of the future might even be mindstalking or mind control. Imagine, he says, what it would be to have someone able to program your thoughts or cause you to malfunction by deleting important information from your brain.

Another challenge of this Information Society is the loss of privacy and Stephens sees the answer in finding a balance between ethics and technology.

Dave Pettinari sees the explosive growth in computers causing prosecutors, judges, and law enforcement to deal with new investigative and evidentiary issues. Increasingly sophisticated, computer-literate criminals employ the new technologies as soon as they appear; investigators lacking the technical skills and knowledge scramble to keep up.

Some law enforcement investigative units are cutting edge with adequate staffing, training and funding. Most high tech crime units are created in reaction to reports of high-tech crimes, staffed only part time, lack comprehensive training and are not technology-current.

Upcoming computer-crime problems include the sheer volume of evidence to sort through as a result of rapidly expanding storage capacity. Encryption precludes searching for and analyzing data strings. Often evidence is stored at a remote site. Too few people are trained or available to work computer forensics. The techno-crime caseload is rising rapidly.

"How do we ensure that people control the technology and that the technology doesn't control people?" Pettinari asks. While electronic crime effects are not as apparent as violent or property crime, electronic crime costs are estimated at \$10 billion per year. And, electronic crime can inspire violent crimes including violent factory invasions, and truck hijackings. Stolen chips can become barter in criminal drug transactions.



Organized criminal enterprises are also becoming automated. Drug traffickers' hard drives are packed with financial, customer and shipment records; bookmakers track bets and bettors; prostitution rings track prostitutes and customers; murderer's computers sometimes contain detailed murder plans. On the Internet, criminals embezzle, do insider trading, smuggle, distribute drugs, and terrorize.

Bill Oakes, principal Data Sleuths, member of the High Tech Crime Consortium and formerly with the DEA says that in the private sector, often employees are the cybercriminals. He cited the case of a woman who, given a password supposedly useful for only the current date to modify records, simply changed the computer's date so she could continue using the password and alter data to embezzle thousands of dollars. A definite need exists, says Pettinari, to expedite staffing and training of computer crime investigators and to also ensure that a career path exists for officers with these technical skills. Also needed are interagency and inter-jurisdictional cooperating, information networking and public and political understanding and support.

## DIGITAL CRIME

*Crime in the Digital Age: Controlling Telecommunications and Cyberspace Illegality*/. P. N. Grabowsky and Russell G. Smith (both Australian Institute of Criminology, Canberra). New Brunswick NJ: Transaction Publishers & Annandale NSW: The Federation Press, April 1998/259p/\$24.95pb. Abstracted by Michael Marien, *Future Survey* 21:1/009 January 1999.

"One may confidently assert that the future will see a substantial increase in the number of potential targets and potential perpetrators of digital crime." Moreover, digitization has greatly facilitated the ease with which crime may be committed. Nine forms of illegality are examined in individual chapters: illegal interception of telecoms, electronic vandalism and terrorism, stealing telecom services, telecom piracy (stealing intellectual property), pornography and other offensive content, telemarketing fraud, electronic funds transfer crime, electronic money laundering, and telecommunications in furtherance of criminal conspiracies (marketing illicit goods and services, obstructing criminal investigations, infiltration of legitimate business, etc). Developments in infotech have not so much enabled new types of crime to emerge, but "rather have enabled existing forms of deviance to be carried out more extensively, more efficiently, more quickly, with great ease of concealment, and thus with greater difficulty of detection. Not to mention with more profound impact in terms of the harm caused." Although technology may be able to detect some crimes in the years to come, substantial resources will be needed for law enforcement to keep pace with technological developments. Conventional law enforcement agencies have a limited capacity to control cyberspace and identify telecom criminals. Preventive countermeasures include self-help, better system design, self-regulation by service providers, and citizen co-production of regulatory services (e.g., a code of computer ethics). "There will be no single best strategy for control or prevention; indeed, any single policy instrument is likely to have its shortcomings."

## COMPUTER CRIME

State of Nevada - Attorney General/Hi-Tech Crime/Executive State of Nevada, Office of the Attorney General.

Crimes involving computers and other high technology crime are the fastest growing criminal movement in the country. Computer crimes cost private industry between \$5 billion and \$10 billion annually. This number is expected to rise to \$200 billion by the year 2000. Over \$1 trillion is transferred every week by electronic wire. In the last five years technology theft has increased 323%. Only 1% of computer crime is being detected and only 7% of the detected crimes are reported to law enforcement. Of the cases which are detected and prosecuted, only 3% result in a jail sentence. Theft of long distance service is estimated at \$3.7 billion a year. The average bank robber nets \$2500, the average bank fraud nets \$25,000--the average computer crime nets \$500,000 and the average theft of technology loss is \$1.9 million.

## CYBERCRIME TREATY

Few Nations Have Good Cyber Crime Laws – Study. Brian Krebs. *Newsbytes* Staff Writer, Thursday, December 7, 2000; 2:24 PM. Washtech.com Reported by Newsbytes, <http://www.newsbytes.com/> accessed 9/5/02.

Only a small percentage of nations have passed laws sufficient to prosecute computer crimes, a deficiency that allows cyber criminals to operate with impunity, according to a study of 52 countries just released.

The study, conducted by consulting firm McConnell International, found that of the 52 countries surveyed, only nine have adapted their legal system to cover even half of the computer crimes most prevalent on the Internet.

The study comes at a time when the Council of Europe is about to wrap up a lengthy drafting process for an international cyber crime treaty, to be signed and eventually ratified by more than 41 nations. The treaty has been hailed as a long overdue means through which countries can work together to prosecute computer crime across borders.

The treaty's 24th - and likely final - draft, released in late November, takes aim at several copyright infringement issues, and also includes language that would prohibit ISPs from serving as a conduit for illegal or potentially destructive material - such as child pornography or programs used to deface or disrupt Web sites. In addition, the draft stipulates the length of time ISPs should be made to hang on to connection data from their subscribers, and contains a number of measures aimed at increasing cooperation between ISPs and domestic law enforcement.

## GLOBAL IDENTITY CRIME – GROWTH AND NEW FORMS

Just Around The Corner – A Consultation Document. Crime Prevention Panel. *Foresight Making The Future Work For You*. [www.foresight.gov.uk](http://www.foresight.gov.uk) accessed September 20, 2001.

The UK panel forecasts increases in violence and disorder, increases in fraud, personation and extortion; more crime committed by those outside national jurisdictions and theft targeting electronic services.

"Your identity, in whatever form it takes, will increasingly have value and therefore a target for crime. Identity crimes may be facilitated either by counterfeit identifiers or the misuse of legitimate identifiers. "

## SURVEILLANCE CAMERAS

Always on the lookout. Mark Mitchell. *Time*, April 1, 2002, 34.

Taiwanese are spying on each other with tiny video cameras, and the populace is getting paranoid. Indeed, one of the hottest toys last Christmas was a Winnie the pooh plus doll with cameras in its eye sockets.

A recent study found that more than 40% of Taiwanese women won't use public toilets because they fear hidden cameras; nearly all the women say delaying micturition has resulted in urinary tract infections.

In China, spy cameras are a hit, says the China Daily where spouses are tracking their mates and store owners watch out for shoplifters.

### IMPLICATIONS

What are the limits to the minaturization of technology. As it reaches nano- levels, will there be any security, or will a watched recorded society in itself be secure. With everything recorded will this reduce certain types of crime – opportunistic crime – or creates new types of criminal activities.

## GOVERNMENTALIZATION

Misbehave in class and dad could be fined. *The Straits Times*. 29 March 2002, 10.

British parents could find themselves facing fines if their children misbehave in school.

## CYBER STALKING

Cyber Stalking. Prevention and Investigation. David Pettinari. *Police Futurists Newsletter*. Spring 2001. [http://www.policefuturists.org/pfi\\_newsletters.htm](http://www.policefuturists.org/pfi_newsletters.htm)  
[spfi@acs.eku.edu](mailto:spfi@acs.eku.edu).

Cyberstalking is a relatively new form of crime. But like stalking itself, it generally affects women. As well, cyberstalking can real to real world stalking. On-line harassment can lead to badgering, and has lead to homicide.

Cyberstalking should be taken seriously, especially given the amount of information available to anyone on the Net. As the net becomes more a part of our lives, cyberstalking is likely to increase.

## STATE CRIME

*Controlling State Crime* (Second Edition). Edited by Jeffrey Ian Ross (Center for International and Comparative Law, U of Baltimore). New Brunswick NJ: Transaction Publishers, May 2000/Michael Marien, *Future Survey*, December 2000.

First published in 1995, this paperback edition makes a work that breaks new conceptual ground more widely available. There is opposition to the concept of state crime, because of indiscriminate use of the term and typological confusion. One author in this volume distinguishes among those governmental or political actions prohibited by the state's laws, those defined as criminal by international law, and those regarded as criminal by some other criteria of harmfulness. "*Governmental crime*" can include the whole range of crime committed in a governmental context, but "*state crime*" more accurately describes activities carried out by the state or on behalf of some state agency (and is more inclusive than the concept of human rights violations), while "*political white-collar crime*" includes illegal activities carried out by officials and politicians for direct personal benefit. National security, military, and police organizations are collectively referred to as "*state criminogenic organizations*," in that national security agencies in many countries have broken the law (or engaged in practices considered to be state crimes), crimes have been committed by the military since creation of the first army, and police are in a highly advantaged position to commit state crimes.

Chapters discuss whether certain state actions should be called crimes, controlling crimes by the police and military, control and prevention of crimes committed by state-supported educational institutions (disinformation, sexism, negligence, biased curricula, grade inflation), crimes of the capitalist state against labor, state crimes against the environment during military operations, and international organizations to control state crime (the European convention on human rights, the International Court of Justice). Methods for controlling state crime include victimization studies of citizens, criminal and military trials, judicial or legislative commissions of inquiry, special agencies or social auditors, greater quantity and quality of resources for controlling state crime, and analyses of state crimes in individual states.

## GROWTH AREA – HEALTH FRAUD

Sleuths eye Taliban Money. Mark Fention-Jones, *The Sun-Herald*, 21 October 2001, 15.

Deloitte Touche is predicting that the next big increase in fraud will come from the health care area. Tim Phillipps, a partner with Deloitte Forensic, said: Australia was likely to follow the US trend, where health care fraud is a US\$ 24 billion problem. Frauds can involve overservicing, the false registration of doctors and ghost practices that make claims for non-existent patients. "

Indeed the ingredients for growth are already here in Australia. These include: a large pool of federal money for health care and claims that are not subject to intense processing.

## NEW TYPES OF CRIME

■ Crush Videos the new pornography. *Taipei Times*. 21 May, 2002. 10.

Animal snuff is becoming the latest trend in pornography. They generate hundreds of thousands of dollars of sales despite being illegal. They occupy the cross-over point between animal cruelty and extreme fetish pornography.

"An undercover investigator who managed to penetrate a ring was asked to crush a dog and was given step by step instructions on how to carry out torture that would last 90 minutes before the animal actually died, in order to produce a feature length film.

## HAVE IPOD, WILL SHOPLIFT?

■ *Wired.com* 28 Feb 2002. <http://www.wired.com/news/mac/0,2125,50688,00.html>  
Abstracted by James Dator, University of Hawaii, Virginia Courts.

It turns out that Apple's new iPod device is well-suited to electronic shoplifting, with its roomy 5GB hard drive capable of serving as portable storage for very large files, such as the latest Mac OS. A CompUSA shopper describes watching a young man equipped with an iPod walk over to a nearby display Macintosh, plug his iPod into the machine with a FireWire cable, and copy Microsoft's new Office for OS X suite, which retails for \$500. The whole process took less than a minute. "Watching him, it dawned on me that this was something that was very easy to do," said witness Kevin Webb. "In the Mac world it's pretty easy to plug in and copy things. It's a lot easier than stealing the box." And while the iPod has a built-in anti-piracy mechanism that prevents music files from being copied, there are no such protections for software. "This is the first we have heard of this form of piracy," said a Microsoft product manager. "And while this is a possibility, people should be reminded that this is considered theft."

## INTERNET GAMING IS INCREASING

■ Gambling on the Internet. Sue Kelly. *FDCH Congressional Testimony*. 7/12/2001.  
Abstracted by James Dator, University of Hawaii, Virginia Courts

Internet gaming is growing. Internet gambling sites could generate an estimated 5 billion in revenues by 2003. The figure approximates roughly half of last year's casino earnings in Nevada. In the United States, where many states have banned internet gambling operations, MGM Mirage and Harrah's have announced new on-line play-for-free or play for prizes operations that are but a short step away from internet gambling. In addition, Nevada recently became the first state in the nation to enact legislation to open the door to Internet gambling.

E-Mail Sharing Banned By Law In Australia. Abstracted by James Dator, University of Hawaii, Virginia Courts.

Forwarding e-mail to friends, family or colleagues without permission from the sender is now illegal in Australia, thanks to a new law that took effect yesterday. Penalties for violation could be as much as five years' jail time or fines of AU\$60,000 (US\$31,400). The motivation behind the law is copyright protection for the sender of the original e-mail. But in addition to material that already has copyright protection, such as excerpts from books or song lyrics, the new measure also affects personal messages. "It's quite possible that the forwarding of an e-mail could be a technical infringement of copyright," says a legal advisor for Australia's attorney general. "E-mailing something is a 'communication' under the Digital Agenda Act and so is putting something up on a Web site." This new interpretation means a simple e-mail about office gossip or holiday plans also carries personal copyright protection. It is estimated that 5 million or more e-mail messages are forwarded around Australia every day.

Ways to Make a Baby, *Fairlady*, 24 October 2001, 102-104.

The title says it all. While historically there has only been one way to make a baby, there is now ten with each method potentially leading to legal consequences. These ways include: 1. Adult cells – transferring genetic material from ordinary adult cells into sex cells. 2. Insemination – semen is introduced into the mother's reproductive tract. 3. Donor insemination – sperm from an anonymous donor is used to. The sperm is kept in frozen banks. 4. In vitro fertilization. Hormonal drugs are used to stimulate a woman's ovaries to produce large number of eggs, these are surgically extracted and taken to a lab, where they are fertilized by exposure to sperm, normally the partner's, after which several embryos are implanted in the mother's womb. 5. IVF with pre-implantation. Similar as above but genetic testing is undertaken to test for various diseases – only embryos free of the condition under investigation are implanted. 6. Intra-cytoplasmic sperm injection. A variation of IVF but used for women who produce no sperm in their semen but are not completely sterile to have children. Sperm are thus extracted surgically from the testicle or epididymis. 7. Egg donation and surrogacy. This involves a standard IVF procedure but instead of the mother's own eggs, donated eggs are fertilized by the father's sperm and implanted. 8. Frozen eggs. Eggs are taken from the ovaries, frozen and stored in liquid nitrogen to be defrosted later for use in an IVF procedure. 9. The future – cloning. 10. Sex.

IMPLICATIONS

New technologies will lead to new crimes. What should be done to those who contravene the emerging regulatory mechanism for the new genetics. Their impacts on society are likely to be huge – new viruses, new species – what is the appropriate punishment?

## THEME ELEVEN

### EXPLAINING AND PREDICTING VIOLENCE

#### PREDICTING VIOLENCE

*Violent offenders: Appraising and managing risk.* (xviii ed.) Quinsey, V. L., Harris, G. T., Rice, M. E., & Cormier, C. A. (1998). Washington, DC, USA: American Psychological Association. <http://psyc.queensu.ca/faculty/quinsey/vlqabstracts.htm>

Abstract: (from the jacket) The primary focus of this book is on criminal violence of both mentally disordered and criminal inmates, whose histories of criminal violence raise serious societal concerns about the commission of future acts of violence. It is difficult for legal experts, psychologists, and policy makers to make decisions that strike the proper balance between an offender's civil liberties and community safety. Such a balance requires an accurate assessment of the likelihood that an individual offender will commit a new violent or sexual offense. On the basis of their research on mentally disordered offenders, sex offenders, fire setters, and psychopathic offenders, the authors have devised an actuarial assessment instrument, the Violence Risk Appraisal Guide. The authors argue that risk management can be improved by combining what is already known about predicting violence, clinical decision making, and program evaluation. They conclude that the results of their applied research have implications for our understanding of the etiology of violent criminal behavior.

The prediction and explanation of criminal violence. V. L. Quinsey. *International Journal of Law and Psychiatry*, 18 (1995), 117-127.  
<http://psyc.queensu.ca/faculty/quinsey/vlqabstracts.htm>

Abstract: Reviews research on the explanation of violent crime and the prediction of violent behavior among mentally disordered and non-mentally disordered male offenders. Some predictors of violent recidivism pertain to childhood and teenage adjustment: separation from parents before age 16 yrs, elementary school maladjustment, early behavior problems, and juvenile delinquency. The dangerousness of serious criminal offenders has been associated with a psychopathy category, the members of which manifest a stable constellation of predatory, exploitative, and impulsive characteristics. Some research has suggested that psychopathy is a psychiatric disease. A nonpathological explanation for psychopathy is that it is an adaptation. The speed with which scientific knowledge about psychopathy has accumulated raises the possibility that future interventions to reduce the likelihood of violent recidivism could be based on a causal explanation of psychopathy.

Institutional violence and the mentally ill. Quinsey, V.L., in S. Hodgins (Ed.). *Effective prevention of crime and violence among persons with major mental*



*disorders*. Dordrecht, The Netherlands: Kluwer, 2000.  
<http://psyc.queensu.ca/faculty/quinsey/vlqabstracts.htm>

Abstract: Only a few studies rise above simple description in the large literature on institutional violence among the mentally ill. However, these studies demonstrate that:

- (a) actuarial methods can estimate the long-term likelihood with which individuals will be assaultive;
- (b) dynamic variables signal the imminence of very serious assaults;
- (c) certain medications can reduce assaults among patients with particular diagnoses;
- (d) behavioral methods can markedly reduce or eliminate assaults among chronic schizophrenics; and
- (e) that training staff in interview, security, and physical management can reduce assaults and staff injury. A theoretically motivated typology of institutional aggression is required to further advance our understanding of institutional violence.

## TELEVISION AND VIOLENCE

Blame it on the box. Alison Motluk. *New Scientist*. 6 April 2002, 16. Also at <http://www.edweek.org/ew/newstory.cfm?slug=30media.h21> (Study: Even Hour of TV Daily Is Linked to Later Violence, by Rhea R. Borja)

“Teenagers who watch an hour or more a day of television are four times more likely to be violent as adults than those who spend less time staring at the set, a new study suggests.

And teenagers who view three or more hours daily fare even worse: More than a quarter of early-adolescent boys who do so are more likely as young adults to fight or assault and injure another person, according to Jeffrey G. Johnson, an associate professor of clinical psychology at Columbia University and a research scientist with the New York State Psychiatric Institute.

He led a team of researchers that studied 707 people over 17 years, examining the correlation between TV viewing and aggressive behavior. Their results were published in the March 29 issue of the journal *Science*.

Although considerable research on the subject of television viewing and violence has been conducted over the years, the study is described as one of the first to examine how TV might affect teenagers' behavior over the long term. The researchers used state and federal crime data, along with their own statistics, to compile their results.

American children watch television 3 1/2 hours a day on average, or 25 hours a week, according to the National Institute on Media and the Family, a Minneapolis-based nonprofit group.

Among the most noteworthy findings of the new report is that TV viewing is correlated with a heightened risk of violence in teenagers regardless of whether they come from

stable, middle-class homes or from low-income families with a history of childhood neglect.

Other findings include:

- Boys who had watched less than an hour of TV a day had a 5.7 percent rate of fighting or assaulting someone as young adults. That proportion jumped to 18.4 percent in those who had watched one to three hours of TV, and rose to 25.3 percent for boys who had watched more than three hours of TV daily.
- Girls who watched less than an hour of television had a 2.3 percent rate of fighting or committing an assault, while those who watched more than three hours had a 9.3 percent rate.

The conclusion: Viewing violence makes people more likely to behave that way. It does not disappear after 30 years.

### *Robbery and threats*

Each family in Johnson's study had a child between the age of one and 10 when the study began. In 2000, when the volunteers' average age was 30, they filled out a questionnaire about their aggression, and the researchers double-checked it with FBI and state records. Johnson found that 45 per cent of the men who had watched three hours or more at age 14 went on to commit an aggressive act against another person, compared to just nine per cent of the men who had spent less than an hour in front of the tube. Over 20 per cent of the three-hour-a day group went on to commit robbery, threaten to injure someone or use a weapon to commit a crime.

For women aged 30, the strongest TV predictor of violence was watching three hours of more at age 22. Of these women, 17 per cent had committed an aggressive act, compared to none in the group watching less than an hour a day.

Television viewing seemed to have no bearing on subsequent property crimes, such as arson, vandalism and theft. [Journal reference: *Science* (vol 295, p 2468)]

#### IMPLICATIONS

An important study with difficult to implement policy recommendations, the easiest being limit the amount of television children watch.

Violence: A New Frontier For Scientific Research. Abstracted from *Science* by James Dator, University of Hawaii.

Why humans kill and assault one another has long been a matter of intense debate. Is it natural and inevitable, and thus only barely controllable? Is it a moral defect in the individual criminal? Or is what is termed violence in one society (or context) behavior that is rewarded in other environments or situations?

*Science* magazine recently devoted an entire issue to the scientific study of violence with conclusions of significance to courts, lawyers and lawmakers.

"One is the past failure of our funding agencies to adequately support research on violence--its causes and the effects of various means to control it. The second is the failure of our legislators and public officials to apply even the limited knowledge that we do have to policies that address violence." "Understanding the biological underpinnings of individual violent behavior is an important aspect of the problem. Eventually, clarifying the biological basis of violent behavior may even lead to some effective therapies." "One direct response to violent acts is incarceration, and this has been the sledgehammer most often chosen. We also must learn more about individual development (biological factors and parenting styles, for example) and how these interact with community environments (that condone or discourage violence) and situational dynamics (when a gun enters a teenage dispute, events move much more quickly and lethally than only fists are involved)."

From the introduction by Alfred Blumstein (545) to a special section with six articles on violence (*Science*, 289, 28 July 2000. pp. 545, 569-594). Abstracted by James Dator.

"A small band of researchers is pursuing provocative theories that implicate dysfunction of serotonin-containing brain circuits in violent behavior; suggest that violence is pathological, in that it is 'normal' aggression gone awry." (569)

"Surgeon General David Satcher, meanwhile, is preparing a major report on strategies for treating violence as a disease--an approach he has long advocated." "The view that violent behavior can best be understood and prevented if it is attached as if it were a contagious disease that flourishes in vulnerable individuals and resource-poor neighborhoods." (571)

"Decades' worth of NIMH-funded studies on risk factors that appear to contribute to aggressive behavior, such as neglect and abuse in childhood, harsh and inconsistent discipline, and associating with anti-social peers." (572f)

"Some well-meaning programs designed to control aggressive children may be worse than useless; They may be doing harm. For example, collecting young people in group homes or sending them to boot camps or on wilderness ordeals--popular in many states--may intensify rather than reverse antisocial behavior." (573) "We are sending them to graduate schools for violence and delinquency."

"A bullying-prevention program focuses on elementary schools and attempts to change the social climate so that intimidation is a less acceptable way to solve problems." "Boys in foster care were far less likely to run away than those in group homes. Most important, boys in foster care were less likely to get into trouble." (573) "Therapeutic foster care, costing \$1934 per delinquent is a bargain. The economists calculated that standard law enforcement costs an additional \$27,000 per delinquent." (574)

"Scientists have long know that damage to certain brain regions can result in violent behavior." "Most violent individuals have no obvious brain damage." "Most violent youths do not become murders." (580)

"Imprisonment alone can't explain the recent drop in violent crime because the boom in incarceration started in the 1970s and crime rates started falling almost 20 years later." The cause may be "the legalization of abortion." (583) "Legalized abortion accounts for 50% of the recent drop in crime." (584)

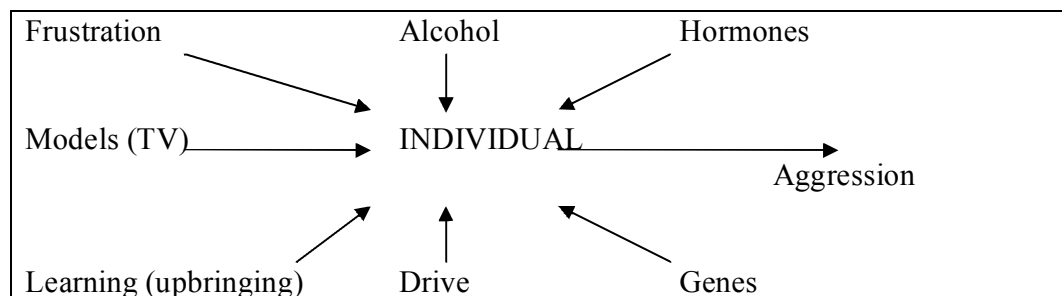
"Although incarceration and abortion are debatable contributors to the decline in violent crime, perhaps the most important factor is a drop in the number of guns on the streets." (584)

"The FBI Unified Crime Statistics report for 1999 suggests that the recent crime drop may be slowing in big cities."

"The US is currently undergoing a 'civilizing process'. Historians have traced the rise of cultural intolerance for interpersonal violence in Europe and the same phenomenon seems to be happening here." "Violence is increasingly not tolerated in the US." "Fewer people report hitting their adolescent children." "Fewer husbands hit their wives." "Intimate partner homicides has also declined steadily" (585)

But the economic boom is a big contributor to the decline "and we can't institute a robust economy." (585)

Much research focuses on individuals, but "the vast majority of aggression involves familiar individuals, which means that aggressors and victims share a past and can be expected to share a future." (586)



"The conclusion from this growing area of research is that human aggressive conflict is best understood as an integral part of the social network. It operates within a set of constraints as old as the evolution of cooperation. Certain forms of aggression, such as warfare and random shootings, fall outside this framework, but the majority of aggression arises within the face-to-face group or family. It is this context that shaped human social psychology for millions of years, including both discordant and integrative social

tendencies." " Without denying the human heritage of aggression and violence, this research demonstrates an equally old heritage of countermeasures that protect cooperate arrangements against the undermining effects of competition." (590)

## PROFILE INVESTIGATORS

█ Killer Instinct. Patrick Carloyn. *The Bulletin*. May 7, 2002.

Former Victoria detective, Claude Minisini is a leading criminal profiler. Profiling works by focusing on what is found on the crime scene, the behavior exhibited at the scene of the crime, the kind of weapon used, the relative violence of the killing and the nature of the initial approach to the victim. Signature behaviors offer insights into his mind, as do efforts to cover up the crime.

Profiling is not in favor these days. Minisini had hoped Australia would lead the world in profiling research but tentative plans to interview prisoners did not eventuate

### IMPLICATIONS

With the move back to the right, profiling may take on a new lease of life, especially with terrorists.

## PROMISING WAYS OF DEALING WITH VIOLENCE

█ *Crime & Politics: Big Government's Erratic Campaign for Law and Order*. Ted Gest (Center of Criminology, U of Pennsylvania). NY: Oxford U Press, July 2001/296p/\$30.00. Abstracted by Michael Marien, *Future Survey* 23:7/318 July 2001.

Former writer and editor for *U. S. News & World Report* and the *St. Louis Post-Dispatch* describes how crime control, once purely a local issue in the US, has become a national concern resulting in federalized crime policy. Chapters discuss how politicians made crime a national issue with little more than simplistic debate, new sets of sentencing guidelines and mandatory terms that have generated a huge prison expansion, the "get-tough" 1980s that filled federal prisons with drug offenders, the creeping federalization of local crime prosecutions, the drug war, gun control, and the history of "three strikes" penal policies for habitual offenders. Some promising *ways of dealing with violence*:

- 1) cohesive community campaigns (until recently, rhetoric usually prevailed over action, and the most extensive campaigns were waged in places that needed them least, but many citizen-government collaborations have produced good results);
- 2) targeted drug treatment (only a small fraction of prisoners who might benefit from treatment have been able to get it; despite the growing number of inmates with drug problems, those getting treatment dropped from 24.5% of state prisoners in 1991 to 9.7% in 1997);

- 3) early prevention (in most cases, there is some indication of a troubled youth, but criminal-justice and social service agencies typically become involved too late);
- 4) bolstering the justice system (public agencies cannot eliminate crime, but an efficient justice system can help: better police training, more courts, nonprison punishment, restorative justice, more attention to domestic violence, better and more up-to-date statistics, refined evaluation measures);
- 5) better media reporting (balancing easily obtainable news of individual crimes with discussion of smart anticrime practices; and
- 6) wise use of the private sector (private security firms employ 1.5 million people and dwarf the public sector); 7) dampen political rhetoric (perhaps the single most important reform--and the most difficult to achieve.

## THEME TWELVE

### FORECASTS OF THE FUTURES OF CORRECTIONS

#### TRENDS IN CORRECTIONAL SERVICES

Emerging Trends and Challenges for Corrections. Debbie King. In Barry Ellem (ed.), *Beyond Catching and Keeping: Police, Corrections and Community*. Melbourne: Monash University, 1995.

King identifies four trends.

- An increasing focus on community based corrections. Offenders managed in communities through control the opportunity to offend and reduce the likelihood of future offending. This comes out through realization that rates of imprisonment has no direct bearing on the rate of crime.
- An Increasing focus on technological solutions to crime and criminal justice problems – electronic bracelets; new biogenetic understanding of crime.
- The influence of an aging population on the correctional system - increased demand for prison health services for the aged; less crime as society ages; new types of crime.
- The effects of political influence on the criminal justice system – incarceration rates are related to social policy.

King also identifies challenges that Victoria will face:

- Maintain credibility of the community based system without giving into pressures for harsher and harsher penalties.
- Keep community based system really community based, not just another version of the prison.
- Selective and appropriate use of technology, for example, teleconferencing in prisons (for legal matters medical matters and distance learning). Security systems using thumb or handprint or voice recognition.
- Community education and information so as maintain confidence in the system, especially as it moves to alternatives to the prison.
- On-going monitoring of service delivery – the citizen as customer.

*Corrections in Australia*. Sean O’Toole. Butterworth, Australia, 2002. Part 5: Emerging issues, 256- 263.

O’Toole makes the following observations:

1. Because of the growth of area management, interpersonal skills will be more important than they were previously.

2. Departmental managers will need to recognize and reward correctional officers because of changes in correctional management.
3. Restorative justice, mobile camps, programs for indigenous offenders, alternatives to/diversion from imprisonment are some of the new trends.
4. Public relations is crucial for corrections, as is training and development and change management strategies.
5. The best way forward for change management is management through communication, essentially it is participative. However, this is best for incremental change, when bigger changes are afoot, leadership is more important – setting visions, goals and leadership by example.

## FORECASTS OF CORRECTIONS

Corrections in the 21st Century. Ray Coleman. *American Jails*. January/February 1999, 47-49.

Coleman forecasts the following as crucial issues in the future. His context is that Corrections are responsible for special populations. These populations are likely to increase.

Special health needs of juvenile prisoners especially in terms of diet, exercise and mental health.

The Elderly. Just as the mentally ill came to the attention of the criminal justice system in the last quarter of the century, the elderly will stand out in the first quarter of this century. Their care and confinement will challenge corrections staff in the areas of supervision, classification, dietary demands and increased costs of incarceration.

The causes of crime will likely be lack of income and retirement planning, homelessness, alzheimer's, domestic violence, and other aging debilitating conditions that cause an individual to become violent or unable to behave according to community standards.

Female offender population will also likely increase in the 21st century. As states reduce the income floor – in the USA taken off welfare, in Australia less chance for 'the Dole' – they will commit crimes of theft, cheque writing, and other types of fraud.

But perhaps the biggest challenge will be the move from institution to community, particularly to broaden our vision from institutional safety and security to community safety and security.

“We will be challenged to demonstrate how the jail and prison work collaboratively with community agencies to reduce the number of victims in the community.”

His vision of the future is:



Jails and prisons will no longer be seen or act as isolated entities, but as collaborative members of the community, by providing for community safety and security, by reducing the number of victims both in the community and in correctional institutions, and by providing effective offender programs.

The core values are:

- community safety and security;
- offender outcomes; and
- fewer victims.

To honour the core values, far more collaboration with the community and other dimension of the criminal justice system will be needed.

Jails and the Criminal Justice System in the 21<sup>st</sup> Century. Ron Carroll. *American Jails*. March/April 1997, 26-31.

Carroll focuses on technological advancements and their impacts on prisons.

He writes: “with the appropriate technologies applied at the right time, we could identify track, and process inmates at a more efficient and cost-effective rate. In effect this is moving to a centralized information management tracking system.”

He also forecasts varied approaches to handling the growing prison population. This could be jail, regional reprogramming facility, prison, community based program, halfway house, day reporting center, or electronic home center.

He also sees: “combined public and private business cooperation ventures as budget dollars become scarce.

He also, in a bit of science fiction, predicts the development of a truth machine that is “flawless in its ability to accurately predict whether the truth is spoken.”

His main conclusion is that the next century will bring many different types of incarceration and rehabilitative techniques. Some of these can be grouped into the following categories:

- Pretrial diversion programs – electronic home arrest, community service.
- Pretrial detention facilities – holding units during court proceedings.
- Short term sentenced facilities – programs based, direct supervision, regional.
- Intensive supervision programs – real time tracking, home arrest, supervision.
- Term reprogramming centers – shorter term, therapeutic rehabilitative units.
- Radical reprogramming centers – discretionary term brain wave altering centers.
- Prison – life sentence, no chance of parole.

## CORRECTIONAL FUTURES

City Shock: Corrections XX1. Ronald Powell. *American Jails*. November/December 1993 9-13.

While an older piece, this article still has merit. Powell makes the following points:

- The 21<sup>st</sup> century will not see business as usual for corrections.
- The rapid rate of offender population growth is unlikely to continue in the future.
- Organized crime syndicates are likely to grow.
- With the demographic transition in the USA (and other OECD nations), management of prisons will need to be more focused on training for cross-cultural issues.

He concludes by saying that if it is true that long term imprisonment increases rather than decreases recidivism, we should take a different route in the 21<sup>st</sup> century. But we have to overcome the public's fear of crime, the politicians' and the media's propensity to exploit it, and our inability to prevent celebrated failures that call into question any alternative but jail or prison.

To do so, correctional officers will need to act more responsibly in their use of community alternatives. Violent offenders belong in prisons, non-violent ones do not.

We need to manage risk more wisely and have more definitive data on who is dangerous and who is not, that is, decrease the margin of error.

However, Powell forgets that conditions may create violence, it may not only be innate but created.

The Future of Community Corrections. David Dillingham. *Perspectives*, Spring 1995. 48-49.

Argues for limited risk management. This is possibly the third phase of correctional practice, moving from treatment and rehabilitation to punishment and now to risk management.

There are two aspects to this. The first is non-utilitarian, carrying out symbolic punishment as a way of expressing moral indignation and the second is utilitarian – engaging in activities managing the risk of future criminal behavior by individuals.

Dillingham identifies the growing body of knowledge of successful interventions. These include:

- Identifying and serving those with the greatest risk of re-offending.
- Targeting criminogenic needs (working on those characteristics, attitudes, behaviors and circumstances that are linked to criminal behavior and 3 delivering those interventions in ways that are appropriate for the individual involved.

Corrections Trends for the Twenty-First Century: Our future behind the walls and wire. Peter Carlson. Assistant Director, US Department of Justice. *The Keepers' Voice*. Winter 1996. 5-8.

Carlson makes the following points.

- A successful corrections program must plan for the twists and turns of the path of the future.
- Increased use of private prisons.
- Increased use of maxi prisons for violent gang related offenders.
- An increasingly conservative public.
- Greatly enhanced involvement of public officials in prison management, and thus a need for different skills for correctional officers.
- Harsher, sentence practices, longer determinate sentencing and a trend to abolish parole.
- Tighter budgets and conservative management.

#### IMPLICATIONS

This is the rare continued growth future. Most assume that these trends will change. However, it has been quite accurate given it was written in 1996.

Large Jail Network Bulletin 2000. National Institute of Corrections. [www.nicic.org](http://www.nicic.org)

More and more correctional institutes have been on the wrong side of the law, forced to defend their efforts in the application of the Americans with Disabilities Act.

Unless, managers take a proactive approach towards anticipated litigation against prisons, things will only get worse.

#### IMPLICATIONS

With Australia following the USA in becoming a litigious society, corrections more and more will have to deal with law suits against them. Proactive legal analysis is a possible solution

Proactive training is also needed for correctional officers.

**For too long, jails have operated on a reactive basis by primarily dealing with problems after they have happened. Jails operating under a community policing philosophy take a more proactive stance and attempt to deal with problems before they happen, or at least look for some long-term solutions to the issues.**

#### LEARNING AND HEALING – PEOPLE, PLANET AND PROSPERITY

*Questioning the Future*. Sohail Inayatullah. Tamsui: Tamkang University Press, 2002.

Of most relevance to the Corrections, is the chapter on the learning and healing organization.

Inayatullah argues that while Peter Senge has offered us the learning organization as a model for the future, this is missing the healing dimension. The healing dimension includes the following:

1. personal health (sick days are huge costs on the system);
2. relations with employees (bullying also leads to huge costs on the system);
3. environmental health (from sick buildings to recycling to impact of organization on the health of the community); and
4. spiritual and broader health issues of the meaning of work – transpersonal issues.

Generally, this means taking the triple bottom line seriously, at an organizational and personal level, ie people, planet and prosperity. For government organizations, prosperity however is not profit but efficacy, the sense, that **one can make a difference.**

This is evidenced in ‘The Whitehall Studies’ completed in the early 1990s. Professor Marmot and his colleagues followed the health of thousands of British civil servants for three decades and found health was directly related to sense of individual agency or ‘destiny’ which in turn was largely determined by socio-economic position. Standard allowances for health such as smoking, diet, exercise were found to account for only 1/4 of the variation in health – agency and it’s related socio-economic position accounted for most of the rest. [See Marmot, M., & Wilkinson, R. (Eds.). (1999). *Social determinants of health*. New York: Oxford University Press; also Australian Broadcasting Commission <http://www.abc.net.au/science/slab/stress/whithall.htm>]

## THEME THIRTEEN

### SCENARIOS AND VISIONS

Rethinking Probation: Community Supervision, Community Safety. US Department of Justice, December 1998. Dangerous Opportunity: Five Futures for Community Corrections. By Walter Dickey and Michael Smith. The Report of the Focus Group. <http://www.ojp.usdoj.gov/probation/chap3.htm>

#### *Introduction*

For two days in December 1998, thoughtful leaders and innovators in probation and parole gathered for a strategic discussion sponsored by the Office of Justice Programs, U.S. Department of Justice. We put to them the following questions:

- Are we at the dawn of a golden age of probation and parole? Has practical and scientific knowledge accumulated to the point where improved community supervision of offenders can make a big difference to the public?
- Or is this a moment of great risk and vulnerability?
- With correctional resources increasingly allocated to imprisonment, does community corrections have the operational capacity to produce something the public wants?
- Would public value flow from reinvestment in probation and parole supervision?

The ensuing conversation did not rehash the recent "what works" literature, on which many of the participants are drawing as they devise new correctional programs, nor was it given over to show-and-tell--though the participants' accomplishments are many. And it did not wallow in wishful thinking: "If only we were given enough resources ...." The conversation was, instead, a critical examination of community corrections at the end of the 20th century--a session rich in practical wisdom and candor.

In this report, we explore five possible futures:

- Muddling Along.
- Principled Minimalism.
- Enforcing Court Orders.
- Community Justice.
- Advancing Public Safety.

#### (1) Muddling Along

Dangerous opportunities need not be embraced, and risk-taking is not always rewarded. Though optimism was in the air when this group met in December 1998, it might dissipate by summer, or by the millennium. Where probation and parole are demoralized and confused, where they work without clear purpose, under-resourced and lacking

political support, uncertain of who the client is but focused on individual offenders, the future might look very much like the recent past. At first, we labeled this possibility the "shut-down future"--caseloads increasing to 500:1 and beyond, expectations falling to match, and resources finally vanishing. We have been present, as have many others, when budget officials ask whether anything the public values would be lost if the probation or the parole budget were zeroed out. Those are dispiriting moments for anyone who appreciates the public's need for effective community supervision of offenders. But it almost never happens. Extinction is not a likely future for probation and parole or their equivalents by other names: It is unacceptable to do nothing, and be seen doing nothing, when a convicted offender comes before a court for sentencing. "Probation" is undeniably useful to judges needing formal dispositions for offenders who are not to be fined or imprisoned; and post-confinement supervision has appeal for politically accountable officials, who are unlikely to commit to a public safety policy built on the idea that offenders emerge from prison sufficiently "corrected" to be dumped, unsupervised, in our midst.

So, "muddling along" is certainly possible. Of the current conditions which favor this future, the most important may be the difficulty leaders of the profession have agreeing on what the public would value, which community corrections is prepared to "own." A muddle is inescapable when the answer is any and all of: enforcing court orders, holding offenders accountable, reducing recidivism during the term of supervision, permanent reformation of offenders, creating or maintaining public safety, punishment, restitution, restoration of victims, restoration of community, crime prevention, fear reduction, harm reduction, embodying community values, keeping offenders drug free, and involving individual victims in correctional decisionmaking. The muddle is not without its appeal--to be accountable for everything is to be free of clear responsibility for anything. In addition, the future is tethered to the past by perverse but comfortable performance measures and accountability systems:

We have created a comfort level for ourselves, and particularly for our employees in leading them to seeing "accountability" as "accounting." We ... tout the financial collection that probation officers do, how many contacts they have with probationers, how many drug tests we run each year... and how well they do meeting the supervision standards.... [W]e want to make our work count more, but the legislature wants us to continue counting "contacts" we're making in the field, because this is what has defined our role.

Police agencies face a similar problem, in trying to shift from reactive patrol to community-oriented problem solving: For decades, police were content (even eager) to be accountable for arrests rather than for safety and for swift response to crime scenes rather than for prevention of crime, and they now find the political environment slow to abandon the familiar measures of performance.

To escape a "muddling along" future, community corrections would need a coherent strategy for producing something valued by the public at large, something it has the authority and resources to produce, or which can be brought within its capacity by

combination with others--by combination with other government agencies, or with "the community," or with both.

## (2) Principled Minimalism

This future is a stark but logical response to the "muddle." It would result from rejecting responsibility for advancing public safety, or restoring the community, or attending effectively to victims, or anything else so ambitious. To reduce the risk of failure, probation and parole would take responsibility for one easily measured (but possibly valuable) product, or take responsibility only for "catching backsliders" and delivering them to custody, or take no responsibility at all:

Years ago, Norval Morris said ... that judges, by and large, when they placed somebody on probation, they never wanted to see the person again. In the early days, probation was a "second chance." So no one expected anything. Our problem is that once we professionalized, we wanted to take probation and turn it into reality--and we blew it. But as a symbol of a community's response to give people another chance ... we're a success.

It was clear in the conversation, however, that minimalism need not be cynical, and the most principled course might be to specify a single objective for community corrections--preferably an achievable one which has a chance of creating public value--in order to limit as well as focus probation and parole responsibilities. A healthy skepticism about the operational capacity of probation and parole agencies, together with a conviction that unreformed offenders commit crimes and that substance abusing probationers and parolees are unreformed in exactly this way, led one participant to this declaration of what we have label "principled minimalism:"

The most elegant variation on principled minimalism was this: probation and parole would get out of the business of supervising offenders, but would give them vouchers for the purchase of services which might be useful to them in going straight and staying sober. Substantial savings would surely flow from reducing to zero the budget for personnel to supervise individual offenders, and those savings could be re-directed to the purchase of services by and for offenders who believe they need them: drug treatment, education, employment assistance, and the like. Any funds left over could be re-budgeted, for primary prevention in the communities from which future offenders are likely to come--programs ranging from Head Start, to teen pregnancy prevention, to community policing. The duration of probation or parole would be brief, and the only grounds for revocation would be a new crime, or behavior that creates substantial likelihood of a new crime.

This future leaves no room for innovation in supervision techniques, or for probation and parole agents to "co-produce" public safety with naturally-occurring guardians of the communities in which the offenders are found. It flows from a bleak assessment of community corrections' operational capacity, but it has the virtue of clarity and, arguably, the value of a deliverable service--one for which probation and parole can be and would be willing to be held accountable.

There are good reasons to doubt this is the likely future of community corrections: Its appeal for the larger community--the community fearful of unsupervised offenders--seems too weak to displace even "muddling along." While other program providers are a constituency, and would be attracted by a reallocation to them of the funds now supporting probation and parole personnel, it might be hard for them to believe that the reallocation of any liberated funds would be rational, or that, in a rational reallocation of funds, crime prevention programs would be the winners.

### (3) Enforcing Court Orders

The future of community corrections might be left to sentencing courts to define--with or without input from community corrections. This future would be the sum of activities undertaken to enforce courts' probation orders (and, in some jurisdictions, court-specified terms of post-confinement supervision). Particularly in jurisdictions where probation is an arm of the court, housed within the judicial branch, this appears a likely way for the future to be defined. But because court orders can be as various as the characteristics and circumstances of offenders coming before judges for sentencing, the specifics of this future are unknowable--unless courts impose generic orders, which many do. But generic supervision orders--community supervision without court specification of means and objectives in the particular case--make uncertainty about purpose, and confusion of ends with means, inescapable.

The most promising variation on the "court ordered" future emerged from a realization that probation agencies might do much more with the opportunities they have to specify the court's purpose and its choice of the means of supervision in each case. Control over the content of supervision orders might be shared with the court in such a way that the courts' authority is bent to the purpose of re-engineering community corrections, while the greater operational capacity in probation (which should result) is put at the courts' disposal. Seen this way, a "court-ordered" future is unspecified only until community corrections and the courts come to an agreeable vision of it. But sentencing courts are understandably focused on individual offenders, while probation and parole agencies must engage many others as well, if they are to be effective in advancing public safety, attending to victims, or restoring communities. And the reality in many courts is that the sentencing is, in effect, done by the prosecutor or the prosecuting and defense attorney together. These are all points of difficulty, but not insurmountable difficulty for the strategic use of court orders to force a shift of focus and objectives in community corrections agencies.

Before moving to the next possible future, a word of caution needs to be added about this one. The plain vanilla future of "enforcing court orders" is a dangerous one, if the courts' supervision orders are not so much meant to be enforced as to shield the court from criticism--criticism for having done nothing to punish the offender, to hold him accountable, to reform him, to restore the victim he has wronged or the community he has disrupted, or otherwise use its sentencing authority for public benefit. Under those circumstances, it is the order that has value--not its enforcement--and sufficient resources



would not be likely to flow to community corrections for the supervision of offenders to be effective. And neither the courts nor the public would be likely to hold community corrections harmless when things go wrong. So, if probation is passive in a future defined by enforcement of court orders, it may in the end be hard to distinguish it from "muddling along."

#### (4) Community Justice and Restorative Justice

"Community justice" proved hard to define in this conversation, and we are therefore cautious to suggest it as defining a possible future for probation and parole. Part of our unease arises from a sense that both words--"community" and "justice"--refer to things people almost universally say they want, but they do not all want the same things. Still, in the conversation, there were repeated references to a future in which probation and parole draw their authority and their resources (including the political resources from which appropriations flow) from the community--not from the court. There is much to recommend this view.

First, although offenders' future behavior might be shaped by community corrections agents directly, greater powers to control and socialize offenders are found in their families, schools, labor markets, and networks of naturally-occurring guardians over them, their potential victims, and the places where they come together. To create value for the public, then, probation and parole need to invoke these forces, support them, and act in concert with them when they are available to help enforce court orders, maintain public safety, or achieve any other purpose community corrections "owns."

Second, all of the resources probation and parole require, if they are to achieve any purpose at all, flow in the end from the communities in which offenders under their supervision are found. Financial resources are made available or not through a political process; a failure to produce something of value to the public assures reduced financial support in the appropriations process. But money is of marginal utility at best, if authority and legitimacy are lacking--and while community corrections agencies get their formal authority from law and from the courts, their authority to command offenders' compliance with court orders, and their authority to engage the informal agents of social control in that effort, flow directly from the community:

The building of community is important for community corrections agencies to attend to, but it is, at the same time, an end in itself, an instrument for advancing public safety, and a source of authority to do that. [I]t is important to attend to each dimension.

The "community justice" future would be constructed from a direct exchange relationship, or a set of them, between communities on the one hand, and probation and parole on the other. The participants in this conversation placed quite a bit of emphasis on the value of community service projects as a window into this future--probation and parole projects in which offenders visibly and directly produce things the larger community wants, such as gardens, graffiti-free neighborhoods, less dangerous alleys, habitable housing for the homeless. There was general agreement that compelling

offenders to labor for the good of the communities they have wronged can punish and restore at the same time, and provides openings for more complex cooperation between community corrections agencies and the public they depend on for authority and resources. Projects of this kind have also helped build stronger communities, and have carved channels into the labor market for the offenders engaged in them--which suggested to some participants that imposing and enforcing community service obligations has public safety value as well.

If community service by offenders is an important example, and perhaps a useful starting point for a future of "community justice," it is a relatively small part of the final product. The larger ambition of the "community justice" being pursued by some participants is "restorative justice." In a restorative justice future, probation and parole supervision of an offender would still aim for his rehabilitation and his accountability to the court, but they focus equally on restoring his victims' lives, and on restoring his relationships with them and with the community of which he remains a part or to which he will surely return.

Both "community justice" and "restorative justice" require a new or renewed alignment of probation and parole with the informal institutions of social control and social cohesion. In each, the relationship of an offender to his victim and to his community is the engine of value creation, not the offender's relationship to the court or the court order. Both are grounded in conviction that the criminal justice system is an insufficient response to crime, to the harm it causes, and to the future threats to public safety presented by the offenders enmeshed in it.

We find it difficult to gauge the likelihood of these futures. But there is no denying their power to capture the imagination of some of today's community corrections leaders.

*Community Justice:*

I want to talk about partnership with the community and how that [contributes to] public safety. We have a monthly meeting in one of our neighborhoods that started with the police and the probation department--about six police officers who have community policing responsibilities in this neighborhood and [the same number] of probation officers. They opened this meeting up ... and now the entire community is involved. And where there's maybe nine professionals around that table, there's probably at an average meeting 40, 45 citizens from that community.... [Their neighborhood] is as tough as any neighborhood in any city you want to deal with--gang-infested, drugs, prostitution, the whole thing--and they identify every month the four worst spots.... [The] first part of the meeting is about the police and probation responses--what they've done in the last month with hot spots identified the month before: "What we've done, we've closed down that crack house, or we've told these people to turn down their radios for the tenth time and the next time we're taking the damn radio ... or that gang's not going to be allowed anymore to park their damn cars across the sidewalk.... The whole neighborhood's coming together [to get these things done]....

*Restorative Justice:*

We hired a guy [who] did time as a kid and then he went into the military and retired as a Sergeant Major. He has no training in social work or probation, right? So he's caught up in the new lingo about repairing harm, getting the victim paid back, getting the community back, and here's how he handles his day: He goes to where Habitat for Humanity's got two or three houses going all the time, ... and he's got four, five, six probation guys on each site. Then he goes downtown and cuts a deal with the lady who runs the downtown [association]--that the guys will do downtown clean-up projects. Two weeks ago, we had a bunch of [probationers] putting Christmas tree lights up under [her] supervision, right? Then he goes over to the domestic violence group who want a safe house, and they're going to put together a safe house paid for by offenders' fees and built by the offenders themselves. So what he does during his day is he visits with the people who are stakeholders in each project. Now, to me, in terms of supervision, that's the highest form of supervision. It's not his relationship with these probation guys on the crews, it's the relationship between these naturally-occurring forces, the community people, and these guys performing the work. And, even if this doesn't have long-term effect on these offenders, the people involved in this are getting a sense that, "Hey, there's some good coming from the money that we've been putting into this [community corrections agency] that we used to know nothing about.... We never had these guys come out before and work alongside of us; everything was done around the government offices...." Let me put it this way, if the public knew that when you commit some wrongdoing, you're held accountable in constructive ways and you've got to earn your way back through these kinds of good works, ... we wouldn't be in the rut that we're in right now with the public....

Allowing for a 'Meld' Before specifying the final possible future for community corrections, we should identify an important variation on "muddling along"--a meld of selected features of the muddle into a more coherent whole:

I'd like to make the case for modified muddle. Because, I was thinking: we all know that community policing is practiced at varying degrees of efficacy. But where it's really practiced well, they didn't walk away from their duties to enforce the law. They realized that they had to get into problem solving [but] if you look at really good community policing, when community police officers hear about a burglary, they immediately deal with [the] responsibility they have of doing something about the burglary. But during the rest of [the] day, they spend their time problem-solving at the community level. And I think the same could and should be the case [in probation and parole] because I tell you we cannot walk away from enforcement of the court order.... The question becomes, [as in] community policing, how do you get the community into it, how do you maintain your basic duties and get into doing some other things that contribute to public safety? We have going for us that a lot of us know neighborhoods, we know communities, we know generations of offenders. We're in a pretty good position to promote partnerships that can rally around the

larger issue of public safety while maintaining the responsibility of enforcement. So, it's enforcement plus public safety [and] it's difficult to be responsive to the community if we have probationers getting high and not working, or kids that are not in school, or if we're not collecting restitution.

#### (5) Public Safety

The fifth possible future for community corrections is framed by the following definition of "public safety": public safety is the condition found in a place where persons are free from attack or theft and know it. This idea of public safety is that it is something different from a lower crime rate: we do not, after all, enjoy public safety when there are no robbery complaints but we are locked in our homes while adolescents prowl the area looking in vain for folks to rob. This idea of public safety is that it is something different from offenders' compliance with court orders: we do not enjoy public safety when adolescents convicted or paroled last month are counted in attendance at anger management programs, but no one knows they are stockpiling weapons at home. This idea of public safety is that it exists where naturally-occurring guardians are in protective relationships with offenders under supervision, with their potential victims and with the places they are likely to come together. The idea is that public safety is a local, not a statistical phenomenon, and that it is found when and where there exist generally-agreed rules of behavior, a shared appreciation that rule-breaking will be punished, and a further appreciation that playing by the rules will be rewarded. This is our definition of public safety, but participants in this conversation were for the most part familiar with it from articles distributed before the meeting (Rhine and Paparozzi, 1999).

With "public safety" understood this way, a future in which the production and maintenance of public safety is the core purpose of community corrections would require very substantial re-engineering of most probation and parole agencies. (Smith and Dickey, 1998) Place would replace offender as the focus of agency activity; and the agencies would be held accountable for the conditions of places, not the number of offender contacts, the number of successful urine screens, or the number of employment program referrals. Probation and parole would have to be concerned that the lessons of responsibility and accountability are convincingly conveyed to offenders under their supervision--and to the offenders' peers who are not. But community corrections would have to acknowledge that this is principally the task of parents, neighbors, schools, churches, employers, and other informal agents of social control, in the places where the offenders are found. We have on another occasion summarized the implications this view of public safety has for probation and parole:

1. The nature and character of an offender's supervision should be directly related to and tailored to the gravity of harm he might cause and the likelihood of its occurring without supervision;
2. The more grave the harm he might cause, the more active must be the supervision when he is not in prison;
3. Staff need a configuration of legal authority and resources that permits swift, flexible tailoring of correctional measures to changes in the circumstances of

offenders and of the conditions in which they are found;

4. Active supervision should aim to reduce offenders' anonymity, for offenders can hide from the naturally-occurring agents of social control as well as from probation and parole agents;
5. Active supervision requires broad engagement with offenders in the settings, in which they are found, as well as the operational capacity to secure their stable housing, to require their continuing engagement in the labor market (and their receipt of legitimate income), and to surround them with supportive networks of family, neighbors and others; and
6. Active supervision invokes the naturally-occurring agents of social control found in even the most crime-ridden neighborhoods, and therefor requires familiarity with the shifting forces operating in the lives of the offenders under supervision. (Smith and Dickey 1998: 18-21)

If the future of community corrections is the creation or maintenance of public safety, the prospects for success would surely be increased by some borrowing from "principled minimalism" and from the collaborative approaches that characterize "community justice" and "restorative justice." It is a possible future, but a daunting one. It risks failure. But its strategic virtue is obvious: by aligning their modest operational capacity with the greater operational capacity of communities, for the purpose of making places in the community safer, and by "co-owning" management of the risks posed by offenders under supervision (and by others, not currently under supervision), probation and parole have a chance of creating enough public value to secure the political and material support they require.

When Crime Doesn't Pay Enough. Report for the 1991 Safety Action Seminar, "Prevention--Implications for the Year 2000" Sponsored by the Department of the Attorney General, Crime Prevention Division, October 21, 1991. Abstracted by Jim Dator <http://www.soc.hawaii.edu/future/dator/courts/crimedontpay.html>

Dator, in this classic pieces, offers possible alternative futures of crime and crime prevention in the US and Hawaii:

The first future I want you to consider might be called a **High Tech, Anticipatory Surveillance Society**.

Because of years of neglect, we had to spend a whole lot of money on the military while at the same time cutting back on taxes. As a consequence, the federal bureaucracy has not exactly been reduced. Rather, it was transferred: from toiling in the service of the civilian welfare state into servitude for the military-corporate welfare state. Moreover, the total number of federal bureaucrats greatly grew over the Reagan years so that now most of the federal bureaucrats work, as civilians, for the Department of Defense or for one of the law enforcement agencies, of the Justice or Treasury Departments--like some folks in this room, I suppose. As promised, they are off your backs and out of your pocketbooks, and into your cars and bedrooms, and into your lustful and deviant minds.

We're talking about the privatization of the legal/judicial system too. We are talking about reconstructing all areas of governance, including law and justice, along good business lines. We're talking about the end of the state's monopoly and the beginning of the freedom of choice of judicial systems. We're talking efficiency, responsibility, diversity, courtesy (where appropriate--firmness [not nastiness] elsewhere). We're talking certainty and promptness (of apprehension, of conviction, of punishment, of correction for the guilty, as well as retribution, restitution, and reward for the victims).

We're talking about using modern science and technologies to anticipate and prevent crime. We are talking about being able to identify and correct potential criminals before any crime is committed. That means constructing computer profiles which predict and monitor people likely to commit crimes. That means routinely and automatically monitoring all phone calls and other electronic messages. It also means putting sensors in roads and cars which can track the location of every vehicle--indeed, every person--in the jurisdiction. It means using our knowledge of how weather causes crime both to prepare for increased anti-social behavior and to control weather so as to decrease crime.

**We're talking genetic screening, genetic modification, genetic engineering if needs be to see that violent or deviant crimes simply don't happen any more.**

**We're talking about brain drugs--manipulating the naturally-occurring drugs in the brain to make violent people gentle, crazy people sane, drunk people sober, depressed people happy, and guilty people penitent and reformed.**

And of course we are talking about the re-design of cities so that it discourages crime through intelligent design which makes citizen and professional surveillance easier--indeed, unavoidable. Which utilizes what we know about the relationship between the opportunity for crime and its occurrence: which uses colors, shapes, space, technology so as to design and construct mass transit, buildings, streets, and neighborhoods so that vandalism, graffiti, mugging, rapes, burglaries, and other crimes will be greatly discouraged to begin with, and, if and when they were to occur, simply cannot happen without being observed, and the perpetrator immediately apprehended and arrested, and soon thereafter tried, convicted, sentenced, punished, corrected, and returned, never to deviate again, to the community of decent people.

We're talking about the rapid rise to dominance of private security officers and the rapid demise of public police. And we mean Robocops as well as the old organic kind, with more of both highly visible everywhere: kindly, elderly neighborhood helpful cops; big, mean, menacing, crowd-control cops; nerdy, innocuous white-collar cops--you name it: let the cop-style fit the crime.

And along with that, we're talking about the continued rise of private methods and agencies for dispute resolution--professional and semi-professional mediators, counsellors, conflict-resolution specialists along general or highly specialized lines who are so effective that they do not need the presumed (and alienating) Majesty of the Law

behind them to obtain the disputants' compliance. All good businesses will take the Alternative Dispute Resolution Pledge. All will subscribe to the Certified Protection Professional Program and the American Society for Industrial Security which presently exist.

But imprisonment too is privatized, taken over by large corporations for profit and by various community helping agencies for compassion's sake and the rapid reintegration of marginal people into the commonweal. Prisons at home--in the garage, attic, or spare bedroom (after the children are gone, a prisoner or two would be no less unruly, and would bring in extra income)--and, of course there will be prisons on floating platforms, on the seabed, and in outer space.

Why the need for all this vigilance and novelty? Because crime will increase, though the state (as it should) will wither away. Organized crime, national and international terrorism, vandalism, and new technocrimes will increase: computer hackers will falsify records, drain your bank account, or just disrupt for the fun of it; crazy biotechnicians will intentionally release uncontrollable new diseases--unless we take care.

As America ages, white collar crime of the aged will increase. We can expect more and more outbreaks of swarming and wilding, as happened even among the normally docile teenagers of Toronto recently.

And as American continues to yellow, brown, and blacken, good old WASP values and crimes (along with the WASPs themselves) will, unless we are vigilant, wither away as well.

Life will be so unsafe that the outmoded justice system based upon individual rights and presumptions of innocence, maybe all right for a slower paced, face-to-face society, will have to go. All will be guilty until proven innocent. No one is above suspicion. Decent people (but who are they for sure?) can't continue to be held ransom by the growing number of crazies with which the present so-called "justice" system is too lax, too slow, too unpredictable. It is an increasingly fearful world. Only the strong can survive. We need a new, efficient, effective, stern and swift judicial system that stops crime before it starts. There is no other way.

Some people think there is, which leads us to our **Second Future for today: The Rambo-less Equity Society**. This future actually comes in two attractive models. One, in ceramic/metallic silver, is at the high tech, globally-integrated, biotech-driven, post-homosapien level while the other, of course in natural Green, is for the decentralized, localized, down-to-earth set.

**I'll start with the Green version first.**

How is it possible for any sane and compassionate person to argue we have a satisfactory, much less a desirable or laudable, justice system anywhere in the US? Our system is, if anything, a disgrace to humanity and ourselves. The US, with the most lawyers and

lawsuits in the world, also has the highest crime rate and largest proportion of citizens in prison in the world. And, not content with that, we have vastly upped the percentage over the past eight years by imprisoning more (or attempting to), and reinstating the death penalty. We now far outstrip the former Soviet Union, South Africa, or virtually any petty dictatorship in our use of the criminal sanction. And still criminals abound and flourish.

It is also the case that there is an almost linear relationship between the level of economic development and the rate of crime: low development, low crime; high development, high crime. It is quite clear that economic development causes crime. It just seems that we in the US are better at producing crime than are most other developed countries, and in thus producing a criminal justice system to "combat" it. Make no mistake about it: Crime definitely pays! Our lives depend on it!

How economic development causes crime is no mystery either. Development destroys traditional, smoothly-working ways of life, communities, natural environments, values, and institutions without the slightest concern about cushioning the shocks, or creating appropriate new conditions or values. Sink or swim, we say. Adapt or die. Unless you are wealthy and powerful. Great concern is given to the welfare of the rich and famous. So much so that there are clearly two systems of justice in the US today. One for the rich and the other for the poor. That means, of course, one for some of the whites, and one for everyone else. As pointed out before, "everyone else" is growing in numbers. And that means they will certainly grow in discontent, and probably in crime, but maybe also in power and the ability to create a system more equitable, or, following our example, more favorable for themselves.

The words of Milton Eisenhower's old 1969 Violence Commission are as true now as ever – and getting truer every minute as I speak: "To be a young, poor male; to be undereducated and without means of escape from an oppressive urban environment; to want what the society claims is available [but legally only to others]; to see around oneself illegitimate and often violent methods being used to achieve material success; and to observe others using these means with impunity--all this is to be burdened with an enormous set of influences that pull many toward crime and delinquency."

As some one has said, shoplifting, burglary, and mugging are simply the poor person's functional equivalent of a credit card. We steal from the future via plastic, they steal from the present via force.

But their forceful thefts are nothing compared with those of the rich. Far more damage is done from legal drugs than from illegal ones. More people die and are maimed in their cars on our highways than by other people walking down our streets. Developers and freeway builders do more real and lasting damage to the life support systems of earth than any vandal can. Billboards and neon signs that urge us to waste our resources by buying unneeded items are more nearly true ugly graffiti than anything a kid can do with a can of paint. By wholly mortgaging the future beyond redemption, junk bonds have injured all our children far more severely than any drug any street junky could possibly



provide. And military contractors! Saints preserve us! Who can match their feats of daring-do? Whether they operate legally or illegally, it really doesn't matter: the magnitude and success of their thefts causes even the most skillful burglar to doff his cap in shame. There is so much to be learned about how to be a successful criminal merely by following the examples of people in high places.

It is frequently said that what is wrong with our prisons is the kind of people who go there. If we had a better class of criminals, our prisons would be in much better shape. The recent Federal sentencing guidelines may now provide us the opportunity we've been waiting for!

Professor Wendell Bell, of Yale – that university which recently has given us some of the best performers ever to appear on prime time television – some time ago suggested that we could easily do something about the quality of our prisoners by applying the principles of Equal Opportunity and Affirmative Action to all parts of the legal/judicial process. We know very well who is likely to be stopped by a policeman, booked, arraigned, tried, judged guilty, and sentenced to prison or executed. He is (on the mainland) black (here, Hawaiian), young, male, undereducated, and unemployed. Is he truly more likely to have broken the law than non-black, non-Hawaiian, older, well-educated, and employed people? Not at all. In fact, to the contrary. While he may commit more violent crimes (though that is not as clear as you might suppose), he does not commit more crimes per se.

So let's be fair, says Prof. Bell. A crime is a crime. So the judge, in sentencing, should look over the demographic composition of people already in prison, and, since there is not room enough to imprison all persons guilty of a crime, let's see that the prison population fairly represents the public at large. The judge should therefore look down the list of the guilty for a rich old white lady, a yuppie business executive, or (God forbid!) an aging hippie college professor. A better class of prisoner: a better prison environment. Is that absurd? More absurd than what we do now? I'm not sure it is.

But let's do better than merely be absurd. We know very well what we should do to lower the incidence of all crimes: If people have good jobs (or otherwise are able to be meaningfully contributing members of their society); if life makes sense, has purpose, satisfactions that do not harm or injure others--if everyone can win, at least to some real extent, and no one has to lose for good--then crime is almost nil. We know that's the case.

So let's create a new society where equity is truly possible and greed is recognized for what it is.

In typical, well-ordered tribal societies, crime of any kind was (and is) almost nonexistent. While we cannot all return to tribal societies (or can we, if we so choose?), The Greens, and many native Hawaiian groups, do envision the creation of a world

## A VISION FOR CORRECTIONS

▮ Towards improved corrections: a strategic framework. The International Centre for Criminal Law Reform and Criminal Justice Policy. University of British Columbia.

“There is clear evidence that the increased use of imprisonment does not reduce the level of crime, and, therefore, does little to contribute to the long term protection of society. Corrections has limited potential for the control of crime: Sanctions come into play far too late and leave the sources of the problem untouched. The majority of offenders can be safely managed in the community where appropriate sanctions can be imposed and effective programs provided. Offenders must demonstrate responsibility, repair the harm done to the community and comply with stipulated expectations.

One of the greatest challenges to society is to develop more effective and credible community sanctions. Imprisonment, while the ultimate sanction in most societies, is probably the least promising, productive or effective. Thus it should be used with restraint. ... society is best protected in the long term by the timely and safe release of offenders to serve the balance of their sentence in the community, under appropriate supervision and control. The vast majority of offenders will return to the community. The prison regime should facilitate their safe return to society by creating, to the extent possible within prison, an environment reflective of the community-at-large. It is equally important to provide a range of [programs and activities that motivate offenders to address the factors that led to their criminal behaviour and to maintain family and community ties.”

The paper then sets out a series of values governing ‘ideal’ corrections. These are:

Value 1: Justice as the core value. Corrections is that component of the criminal justice system which has the greatest impact on freedoms, liberties and rights in individuals. Therefore those who are involved in corrections must respect fundamental human rights in every aspect of their work and must be guided by a belief in:

- Fairness and equality under and before the law,
- The dignity and worth of individuals, and
- Managing with honesty, openness and integrity.

Value 2: Fundamental to an effective corrections and justice system is a firm commitment to the belief that offenders are responsible for their own behaviour and have the potential to live as law-abiding citizens.

Value 3: the majority of offenders can be dealt with effectively in the community by means of non-custodial correctional programs; imprisonment should be used with restraint.

Value 4: In the interest of public protection, decisions about offenders must be based on informed risk assessment and risk management.

Value 5: Effective corrections is dependent on working in close cooperation with criminal justice partners and the community in order to contribute to a more just, humane and safe society.

Value 6: Carefully recruited, properly trained and well-informed staff members are essential to an effective correctional system.

Value 7: The public has a right to know what is being done in corrections and should be given the opportunity to participate in the criminal justice system.

Value 8: The effectiveness of corrections depends on the degree to which correctional systems are capable of responding to change and shaping the future.

## CORRECTIONAL VISION OF THE FUTURE

Corrections in the 21st Century. Joseph Rowan. *American Jails*. March/April 1997, 32-36.

Written as forecasts, this article is in fact a statement of a desired vision for Corrections. Rowan desires the following.

### Context:

Time will probably show that the “mean-spirited” era now impacting jail operations will continue for several more years, but will then reverse itself and return to a more balanced approach.

1. 16-24 hour crisis intervention and counseling programs which can prevent the onset of many mental/emotional problems.
2. Training of correctional officers to recognize and manage inmates’ mental problems.
3. Direct supervision jails since through these types of jails assaults on both inmates and staff, suicide attempts/deaths, disciplinary sanctions and same-sex incidents will decline. Less staff burnout will mean higher morale and lower staff turnover. Higher inmate morale can also be expected.
4. Removing exercise equipment and televisions will only produce more idleness and can only worsen management of jail inmates. Unoccupied inmates will “let off steam” one way or the other: (a) on each other, (b) on staff and/or (c) on jail property. Inmates must be fruitfully occupied.
5. Training and periodic refresher training on the identification and management of suicidal inmates.
6. Participatory management is important – jail administrators need to include their own staff in policy, program, procedure, and facility changes. Ownership in decisionmaking results in greater work production, higher morale, less staff turnover and fewer law suits.

7. Proactive management through citizen advisory committees. These lead to greater involvement and understanding of the jail system.
8. Parity of salary and parity of training for jail officers as compared to other branches of criminal justice system.
9. Follow up investigations of those hired by jail management.

The most important factor for jail personnel is moving from the I-me officer to the I-We officer. This is fundamentally about self-respect and teamwork. Both are essential. Research for improving operations.

IMPLICATIONS

This vision is detailed, providing specific suggestions for improving jails –their management and particularly how to ensure that jail officers are the best that they can be.