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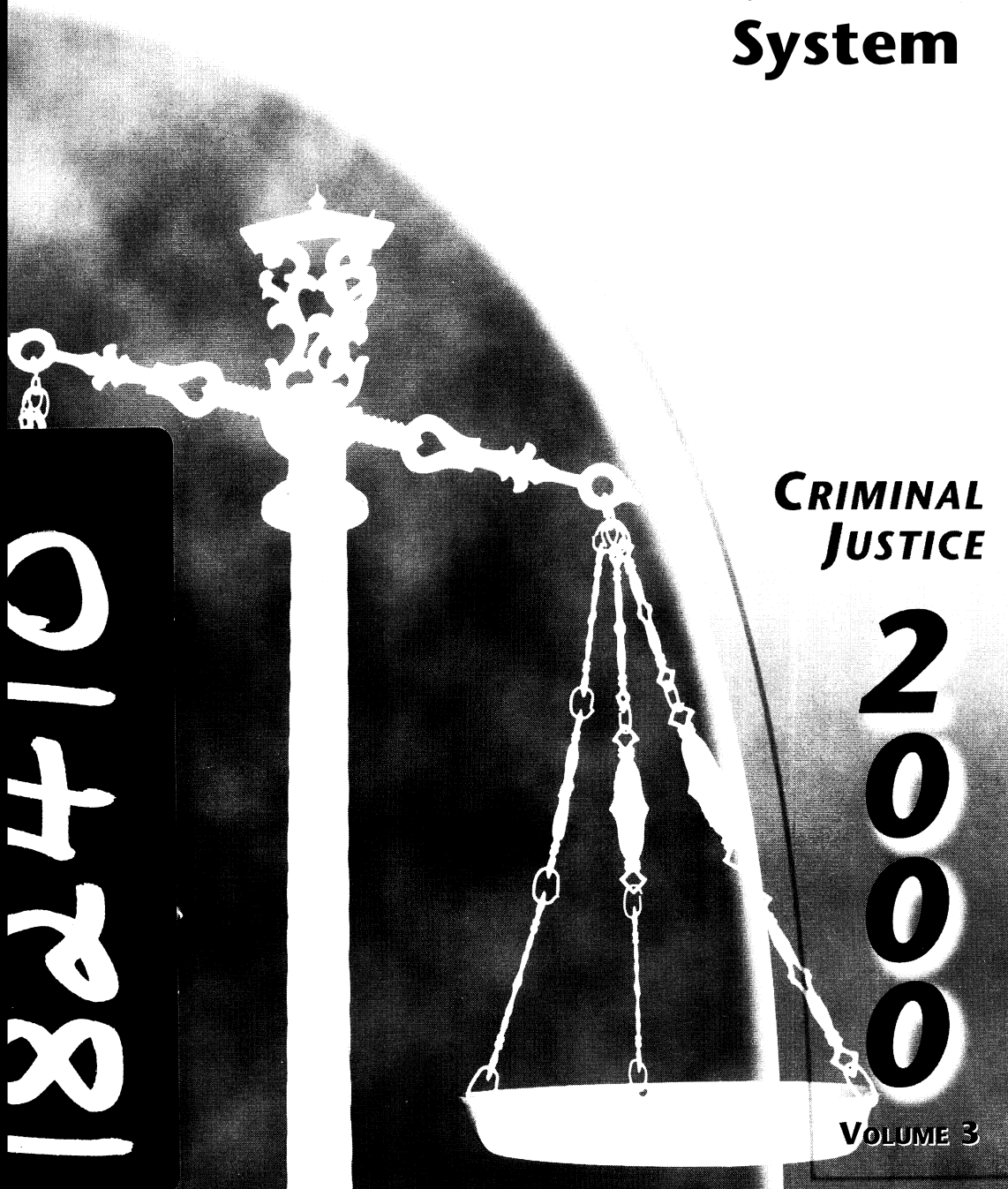
# Policies, Processes, and Decisions of the Criminal Justice System

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**CRIMINAL  
JUSTICE**

**2000**

**VOLUME 3**



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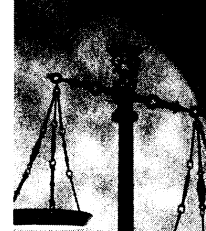
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# **Policies, Processes, and Decisions of the Criminal Justice System**

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

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

## **From the Director**

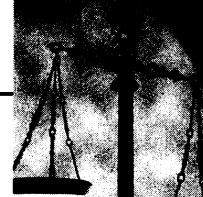
The celebration of the National Institute of Justice's 30th anniversary in the autumn of 1999 provided the Institute and the criminal justice community the perfect opportunity to reflect on three decades of criminal justice research accomplishments. A few months later, the dawn of the new millennium seemed the appropriate stage from which to look forward to what lies ahead for criminal justice in the United States.

As preparations were made to commemorate the Institute's anniversary, it became increasingly apparent to NIJ staff and the criminal justice research, policymaker, and practitioner communities that there needed to be one compilation comprising a comprehensive, scholarly examination and analysis of the current state of criminal justice in the United States. Consequently, NIJ conceived and launched a project to produce the four-volume *Criminal Justice 2000* series to examine how research has influenced current policy and practice and how future policies and practices can be built upon our current state of knowledge.

The themes developed for these volumes were purposefully broad in scope, to allow contributors the intellectual freedom to explore issues across criminal justice disciplines. In its competitive solicitation, NIJ asked the authors to explore and reflect on current and emerging trends in crime and criminal justice practice, based on scientific findings and analyses. An editorial board of eminent criminal justice researchers and practitioners then selected the proposals that displayed exceptional scholarly merit and contributed to the substantive themes of the volumes.

The result, the *Crime and Justice 2000* series, reflects the state of knowledge on a broad spectrum of crime and criminal justice issues. While the volumes do not comprehensively chronicle all topics vital to criminal justice in the United States at the year 2000, we hope the essays contained in these four volumes will stimulate thought and discussion among policymakers, practitioners, and scientists in the coming years and shape future research endeavors.

**Julie E. Samuels**  
Acting Director  
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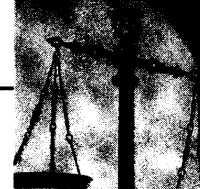
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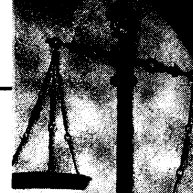
# **Policies, Processes, and Decisions of the Criminal Justice System**

*by Julie Horney, Ruth Peterson, Doris MacKenzie,  
John Martin, and Dennis Rosenbaum*

**T**his volume examines issues related to decisionmaking in criminal justice. We began with the idea of producing a volume that would examine “changes in decisionmaking and discretion in the criminal justice system.” However, we quickly recognized that such a focus suggests a far too narrow, traditional view of decisionmaking, in which criminal justice officials make choices about processing individuals through various sanctioning stages—arrest, charging, sentencing, and parole release. Criminal justice decisionmaking at the turn of the century must be viewed in a broader context of policies and emerging processes. This volume, *Policies, Processes, and Decisions of the Criminal Justice System*, emphasizes this broader perspective. In this introduction, we provide a brief overview of the individual chapters and point to overriding themes that emerge from them.

Policies are the result of numerous decisions. These decisions are often made by actors outside the criminal justice system, and although they are not directed at individuals, they define the parameters within which decisions about individuals must be made. One of the most important policy shifts of the past quarter century is the dramatic increase in the use of incarceration. This shift does not represent a unitary policy enacted by any single statute or administrative regulation; rather, it is a result of numerous decisions made at many levels. Its impact has been dramatic, both within and outside the criminal justice system. In chapter 1, “Prison Use and Social Control,” James P. Lynch and William J. Sabol raise critical questions about what the high rates of incarceration have

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meant for U.S. communities. Whereas traditional evaluations have examined the impact of crime control policies on communities in terms of crime rates, Lynch and Sabol assess the impact of removing a significant portion of young males from a community on that area's processes of informal social control. In so doing, they also ask about the policy's impact on future generations.

***Concurrent with the shift toward higher incarceration rates has been a shift away from rehabilitative efforts.***

males from a community on that area's processes of informal social control. In so doing, they also ask about the policy's impact on future generations.

Policies set outside of the criminal justice system also can have major impacts on the system and its processes. In chapter 2, "Changing the Contours of the Criminal Justice System To Meet the Needs of Persons With Serious Mental Illness," Arthur J. Lurigio and James A. Swartz illustrate this principle by examining such a policy: the deinstitutionalization of mental patients. The authors suggest that the

boundaries between the criminal justice system and the mental health system have become blurred. They explore the implications of these blurred boundaries, suggesting how decisionmakers at several levels will need to respond to mentally ill persons caught up in criminal justice processes.

The processes of criminal justice are shaped by system policies and provide the immediate context in which decisions are made about individuals. Two chapters in this volume examine the correctional process, but they focus on very different aspects. In chapter 3, "Assessing Correctional Rehabilitation: Policy, Practice, and Prospects," Francis T. Cullen and Paul Gendreau address the central goals of the correctional process. Today, as Lynch and Sabol demonstrate dramatically, the criminal justice system relies more heavily than ever on incarceration of offenders. Concurrent with the shift toward higher incarceration rates has been a shift away from rehabilitative efforts. Cullen and Gendreau look at the historical roots of these changes, ask whether they have been justified, and assess what is currently known about treatment effectiveness. Their work suggests a rethinking of correctional goals in the next century.

In chapter 4, "The Evolution of Decisionmaking Among Prison Executives, 1975–2000," Kevin N. Wright focuses on the decisionmakers who have been called on to implement changing correctional policy. Examining criminal justice decisionmaking at the organizational level rather than at the level of individual offenders, he asks how the roles of prison officials have changed as a result of policy shifts and cultural changes of the past quarter century. He also discusses what qualities will be needed in these leaders in the coming years.

In contrast to our increasing reliance on incarceration, this country also has seen the emergence of a movement to adopt "community justice" and "restorative justice" approaches in dealing with crime and delinquency. In chapter 5,

“Community Justice and a Vision of Collective Efficacy: The Case of Restorative Conferencing,” Gordon Bazemore offers a look at one increasingly popular application that could have a dramatic impact on the criminal justice system in the 21st century. Restorative conferencing seeks to deprofessionalize criminal justice decisionmaking regarding sanctioning, rehabilitation, and community reintegration of offenders. Bazemore’s attempt to link microlevel and macrolevel theories of intervention offers a new framework for understanding, and possibly improving, criminal justice decisionmaking.

Police processes are examined in chapter 6, “Community Policing in America: Changing the Nature, Structure, and Function of the Police,” by Jack R. Greene. Greene assesses how police processes have been affected by a major shift in the conceptualization of policing: the shift to community and problem-oriented policing. He provides an analysis of the historical roots, assumptions, and promises of this paradigm, while comparing traditional, community, problem-oriented, and zero-tolerance models in terms of a host of distinguishing variables. In particular, Greene examines how the implementation of these philosophies are expected to change the structure and function of policing.

***Probably the largest body of research on criminal justice decisions has been in the sentencing area.***

Police decisions are also a focus of chapter 7. In “Criminal Justice and the IT Revolution,” Terence Dunworth asks how new developments in information technology might change how a range of day-to-day criminal justice system decisions are made. Although it concentrates on police decisions, Dunworth’s chapter addresses issues that are relevant throughout the criminal justice system as he describes the gap between the promise of information technology and the reality of day-to-day practice. Dunworth addresses the organizational, interorganizational, and work culture-based obstacles to effective use of new technologies. He also describes unintended and sometimes destructive consequences that may accompany their adoption.

The traditional view of criminal justice decisionmaking as the processing of individuals through the system is best represented in “Thirty Years of Sentencing Reform: The Quest for a Racially Neutral Sentencing Process,” by Cassia C. Spohn. Probably the largest body of research on criminal justice decisions has been in the sentencing area. In chapter 8, Spohn provides us with a critical review of sentencing studies, bringing us up to date on what is known about the role of race in sentencing. The past quarter century has seen numerous efforts to control discretion in sentencing; at the century’s end, Spohn asks what progress has been made and how such progress should be measured.

In the final chapter, “The Convergence of Race, Ethnicity, Gender, and Class on Court Decisionmaking: Looking Toward the 21st Century,” Marjorie S. Zatz addresses similar issues regarding decisionmaking and also explores the roles of gender, class, and ethnicity and their intersections. She draws our attention to a broader array of decisionmakers and decision points by considering arrest and prosecution stages in addition to sentencing. Zatz also raises important but usually neglected policy- and research-related issues regarding the very basic process of categorizing individuals by race. Throughout the essay, she provokes readers to think not just about the meaning of race but also about what she terms racialized, gendered, and classed policies and how these are expressed in processing individuals in different decisionmaking contexts (e.g., drug and gang wars and transfer of juveniles).

## **Cross-Cutting Themes**

These chapters offer a broad, and we believe rich, set of perspectives on policies, processes, and decisions of criminal justice for a number of levels of decision-making. Several important themes emerge from these chapters that cut across levels.

## **Minorities and criminal justice**

An “old” theme that is perhaps more critical than ever is the question of how minorities are affected by policies, processes, and decisions of the criminal justice system. In light of the importance of this issue, two chapters focus explicitly on minorities. Both the Spohn and Zatz chapters address the more traditional question of how race, ethnicity, class, and gender influence decisions about individuals being processed through the criminal justice system. Both chapters raise important questions about how researchers study these decisions and about what criteria should be used to judge their fairness. Zatz reminds us that in considering solutions, we must confront the issue of “dual frustration”—the fact that “both crime and crime control fall disproportionately on poor blacks and Latinos.”

Although not the central focus of other chapters, issues concerning minorities, especially poor minorities, arise in several of them and point to questions that should be researched in coming years. Dunworth’s chapter suggests particularly important questions about how new developments in information technology might change how race influences criminal justice decisions. The poignancy of this question is well illustrated when we also consider Zatz’ discussion. She points out that police department lists of suspected gang members consist largely of minority youths. If technological advances lead to such lists being

more widely used and shared with other agencies, then any racial bias involved in creating those lists will be magnified many times. Alternatively, of course, the general effects of technology may be such that when more information is available, decision-makers will be less likely to rely on race (and other status characteristics) in making their decisions.

At the policy level, as opposed to the individual decisionmaking level, Lynch and Sabol make explicit how incarceration policies of recent years have had their major impact on young black males, and their chapter asks how those policies are affecting the social structure of poor minority communities. While Lynch and Sabol focus on the communities from which young minority males are removed, Cullen and Gendreau lead us to consider the implications for incarcerated individuals. In examining the “new penology,” which focuses on assessment of danger and crime control instead of the rehabilitation of individuals, they emphasize that the large segments of the minority community who are imprisoned are unlikely to receive treatment while locked up or to receive help during the reentry process.

In addressing treatment effectiveness, Cullen and Gendreau raise the question of whether treatment programs work equally well for persons of different racial, ethnic, or class backgrounds. Whether gender-specific programs are required is also an important question. Analogous issues arise at different levels. Bazemore’s chapter on community justice encourages us to think about whether restorative justice programs work equally well across communities that differ in racial makeup and socioeconomic status. Greene’s discussion of community policing evokes similar questions. The papers in this volume do not necessarily answer the questions raised about minorities and justice decisions; they suggest, however, that doing so will be critical in the new century.

***The papers in this volume do not necessarily answer the questions raised about minorities and justice decisions; they suggest, however, that doing so will be critical in the new century.***

## **The role of communities**

The position and functions of communities is another theme that emerges in the chapters in this volume. Lynch and Sabol indicate that communities are affected by criminal justice policies; other chapters also consider how communities can influence criminal justice policies, processes, and decisions. Bazemore reviews efforts to develop community-centered responses to youth crime as alternatives to expanded justice system surveillance and incapacitation. These efforts suggest a dual place for communities: (1) in decisionmaking, and (2) in

furthering the goal of reintegration of troubled youths into the community. Similarly, Cullen and Gendreau report on the effectiveness of a program that keeps juvenile delinquents in the community, where they benefit from an extensive array of programs designed to help them with family, school, employment, and leisure activities. Along different lines, Lurigio and Swartz show how the management and treatment decisions for those suffering serious mental illness is a community problem that has landed on the doorsteps of the criminal justice system—a system that is not well equipped to handle the problem.

Finally, Greene examines the role of communities in “community policing,” noting that one of the central promises of this model is to strengthen the capacity of communities to resist crime and social disorder. Community building and collective efficacy are believed possible if empowered and analytically skilled police officers work more closely with empowered community residents to solve neighborhood problems and engage in mutual education. Greater effectiveness in addressing crime-related problems is the expected long-run payoff for police willingness to “share power” regarding policy decisions and tactical priorities with the community (and with other municipal service providers and organizations committed to solving neighborhood problems). As Greene notes, however, the obstacles to greater community involvement and stronger partnerships are substantial, both inside and outside the police bureaucracy.

## **A Final Note**

We are certain you will find many additional overlapping themes as you read the chapters in this volume. The ones we have pointed to are undoubtedly central to many criminal justice issues, but they also illustrate ways that specific concerns unite these chapters. More generally, this volume treats criminal justice decision-making in broad terms and is thereby able to shed light on a number of traditional processing issues as well as on issues not generally addressed in volumes that focus on legal decisionmaking. Some of the questions addressed have a long history in criminal justice research (e.g., sentencing). Others are new and result from recent changes in the environmental and organizational context of criminal justice (e.g., the impact of new information technology). However, there is no suggestion of simple answers to the questions raised; all aspects of criminal justice policies, processes, and decisions are complex. Our authors do not purport to provide all the answers. Rather, they give attention to important questions and concerns and offer their works to set the stage for future theoretical, empirical, and practical examination of the issues raised. Collectively, these contributions help us to understand criminal justice decisions more fully, and they point us in directions for more fruitful exploration of the topics during the 21st century.



# **Prison Use and Social Control**

*by James P. Lynch and William J. Sabol*

Over the past 20 years, the United States has experienced a massive increase in imprisonment. The number of people incarcerated and the clustering of that incarceration in the inner-city black population raise the prospect that incarceration may be undermining less coercive institutions of social control such as families or communities. The long-term result of this incarceration policy, then, would be increases, rather than the expected decreases, in crime. There is some empirical evidence to support this position. Increases in incarceration have been clustered in groups and places and have been of the magnitude that could affect less coercive institutions in those areas. Large proportions of the imprisoned population are involved in families and communities at the time of their imprisonment. Incarceration has been shown to reduce family formation for blacks but not for whites. Research to date, however, has not demonstrated that increasing incarceration has led to more crime in the long run or that the apparent effects of incarceration on other institutions are not due to other factors. If research ultimately establishes that these allegations are true, then future increases in incarceration must be considered in light of their likely long-term effects on these institutions and not just their immediate effect on crime rates.

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**O**ver the past 20 years, the United States has experienced a massive increase in imprisonment (Gilliard and Beck 1996; Lynch and Sabol 1997; Blumstein and Beck 1999). It is not clear what caused this increase, e.g., increases in crime or changes in policy, and it is even less clear what the effects of this policy have been or will be. Traditionally, evaluations of incarceration assess its effects in terms of the recidivism of individual offenders or the reductions in aggregate crime rates (Nagin 1998; Blumstein, Cohen, and Nagin 1978; Levitt 1996). More recently, the number of people incarcerated and the clustering of that incarceration in inner-city black populations raise the prospect that incarceration may be undermining less coercive institutions of social control, such as families and communities (Lynch and Sabol 1992; Rose and Clear 1998a, 1998b; Clear 1996; Moore 1996; Nightingale and Watts 1996). To the extent that these less coercive institutions of social control are the first line of defense against crime, then disrupting them may mean that the long-term consequences of the massive increases in incarceration of the past 15 years will be increased crime (Rose and Clear 1998a).

Allegations that incarceration undermines less coercive institutions of social control are largely speculative. The purpose of this paper is to review and evaluate the existing evidence that recent increases in incarceration have had such effects. We will also suggest research that should be done to test this contention further.

The first of the following sections reviews evidence that the level of incarceration has increased and that this increase has been clustered in social and geographic space. Establishing these facts is crucial for the argument that incarceration can plausibly affect less coercive institutions of social control. The second section reviews and evaluates the evidence that increases in incarceration have had detrimental (or beneficial) effects on less coercive institutions of social control. The third and final section outlines the research required to better assess the impact of incarceration on less coercive institutions of social control.

## **Trends in the Level and Distribution of Incarceration**

The use of incarceration has increased massively over the past 15 years, both in terms of the number of persons in prison on a given day and in terms of the cumulative number of persons experiencing incarceration over that period. This intrusion of incarceration into society has not been randomly distributed in social and geographic space. It has been greatest for young black males, first in central cities and more recently in smaller urban areas (Lynch and Sabol 1997; Lynch, Sabol, and Shelley 1998). The level of incarceration for these groups

has approached 10 percent on a given day and 30 percent in their lifetimes (Lynch and Sabol 1992; Bonczar and Beck 1997). Over time, incarceration has touched more persons who have relatively strong ties to society (Lynch and Sabol 1997; Harer 1993). These trends suggest that changes in the use of incarceration have made imprisonment so prevalent in some groups as to disrupt less coercive institutions of social control.

## Evidence from stock rates

The population in correctional institutions has increased substantially since 1980 (see exhibit 1). The number of persons in State and Federal prisons increased from 315,074 in 1980 to 1,138,984 in 1996. The incarceration rate per 100,000 increased from 139 to 423—a 204-percent increase. During the same period, the jail population increased from 182,288 to 557,974. The total incarcerated population increased from 497,362 to 1,696,958.

This increase in the use of incarceration has not been uniform across groups. For blacks, the risk of being incarcerated increased from 554 per 100,000 to

**Exhibit 1. Rate of incarceration in State and Federal prisons, by gender, race, and Hispanic origin, 1980 and 1996**

	Number of sentenced prisoners <sup>a</sup>			Number of prisoners per 100,000 residents <sup>b</sup>		
	1980	1996	% change	1980	1996	% change
Male	303,643	1,069,257	252	275	810	195
Female	12,331	69,727	465	11	51	364
White <sup>c</sup>	132,600	378,000	185	73	193	164
Black	145,300	524,800	261	554	1,574	184
Hispanic	30,700	200,800	554	206	690	235
Total	315,974	1,138,984	260	139	423	204

<sup>a</sup> Based on prisoners with a sentence of more than 1 year. The numbers for race and Hispanic origin were estimated based on the State inmate surveys in 1979 and 1997 and the Federal inmate survey in 1997. Estimates have been rounded to the nearest 100.

<sup>b</sup> Based on census estimates of the U.S. resident population on July 1 of each year and adjusted for the census undercount.

<sup>c</sup> Excludes Hispanics.

Source: Blumstein and Beck 1999, table 1.

1,574 per 100,000. For whites, it increased from 73 per 100,000 to 193 per 100,000 (Blumstein and Beck 1999). Although blacks are about seven times more likely than whites to be incarcerated, this disproportionality has remained relatively constant over time. In absolute terms, however, the increase in the rate of people incarcerated has been much greater for blacks than whites. For purposes of assessing the disruption of less coercive institutions of social control resulting from incarceration, absolute increases are much more important than increases relative to some base number of incarcerated persons at an earlier period.

While the racial disproportionality in the prison population has remained reasonably constant overall, it has increased for drug offenders. The incarceration rate for black drug offenders has increased much more than the rate for whites. This is consequential for our argument because there is some evidence that drug offenders tend to be more integrated into the community than violent offenders (Cohen and Canela-Cacho 1994; MacCoun and Reuter 1992). Removing integrated persons is more disruptive of less coercive institutions of social control than removing less integrated persons.

Lynch and Sabol (1992) examined the changes in the race *and* class composition of the State prison population between 1979 and 1986. They distinguished between “underclass” and “non-underclass” inmates and presented the change in the incarceration rates for these class groups, holding race and age constant.<sup>1</sup> The incarceration rate for underclass males increased 139 percent between 1979 and 1986, from 560 to 1,340 per 100,000 (see exhibit 2).<sup>2</sup> During the same period, the non-underclass incarceration rate increased by 33 percent, from 330 to 440 per 100,000. When these rates were distinguished by race and class, the risk of incarceration increased the most for the black underclass, followed by the white underclass, the black non-underclass, and the white non-underclass (see exhibit 3).

There was a marked change in this pattern of incarceration use from 1986 to 1991. The incarceration of the underclass slowed while the imprisonment of the non-underclass increased (Lynch and Sabol 1994). When these changes in incarceration rates are disaggregated by offense, we see that the greatest increase in incarceration rates is for the black non-underclass sentenced for drug offenses, followed closely by the black non-underclass imprisoned for violent offenses (see exhibit 4).

Over time, the State prison population has included a larger proportion of inmates who did not have a violent incarceration offense and who had not been incarcerated previously (Lynch and Sabol 1997). In 1979, 5.7 percent

**Exhibit 2. Adult male incarceration rates per 100,000 for underclass and non-underclass, 1979 and 1986**

Underclass status	Year		% change
	1979	1986	
Underclass	560	1,340	139
Non-underclass	330	440	33

**Exhibit 3. Adult male incarceration rates per 100,000 by race and class, 1979 and 1986**

Race*	Class	1979	1986	Change
White	Underclass	281	706	425
	Non-underclass	194	256	62
Black	Underclass	1,634	3,242	1,608
	Non-underclass	1,824	2,116	292

\* Other race categories were not included because of small numbers and the unreliability of the Hispanic classification over time and place.

of inmates were admitted for a drug offense and had no prior convictions for violence. By 1986, that proportion had changed little, to 7.0 percent. In 1991, however, 17.8 percent of inmates were in for drug offenses and had no prior incarcerations for violence. This is consistent with the previous finding that, after 1986, incarceration increased for the black non-underclass, if we can assume that this group had less prior criminal involvement than the underclass.

### **Evidence from admissions rates**

Consistent with national data on the incarcerated population, the increases in admissions to prison differ considerably across race and offense, but they also differ across size of place and over time.<sup>3</sup> Admissions rates for blacks are higher than those for whites for both drugs and violence and across all types of places. These differences change in magnitude, however, across crimes, places, and times. In 1984, the ratio of black-to-white incarceration rates for violence in larger urban areas (Primary Metropolitan Statistical Areas [PMSAs]) was 11.4, and in smaller urban areas (Metropolitan Statistical Areas [MSAs]), the ratio of black-to-white admissions was somewhat less at 9.4. By 1987, the

**Exhibit 4. Adult male incarceration rates per 100,000 by race, class, and offense: 1979, 1986, and 1991**

Offense	Race*	Class	1979	1986	1991
Violent	White	Underclass	139	335	334
		Non-underclass	106	132	191
	Black	Underclass	899	1,934	1,258
		Non-underclass	1,015	1,291	1,738
Property	White	Underclass	109	268	245
		Non-underclass	67	81	117
	Black	Underclass	554	953	609
		Non-underclass	592	554	816
Drugs	White	Underclass	18	57	180
		Non-underclass	14	25	71
	Black	Underclass	123	206	877
		Non-underclass	147	161	919
Other	White	Underclass	16	46	71
		Non-underclass	7	18	415
	Black	Underclass	59	149	169
		Non-underclass	70	109	222

\* Other race categories were not included because of small numbers and the unreliability of the Hispanic classification over time and place.

differences in admissions rates across races lessened somewhat (8.9 in PMSAs and 7.1 in MSAs). These ratios remained roughly similar through the period 1987 to 1993.

During the same period, drug admissions rates changed dramatically, as did the differences in these rates across race groups and place. From 1984 to 1987, the black admissions rates more than doubled in MSAs (77.8 per 100,000) and increased *more than four times* in the largest urban areas (114.3 per 100,000). This is in a period when violence admissions rates were relatively stable, and the drug admissions rates for whites increased by 42 percent in PMSAs and 12.6 percent in MSAs. By 1990, black admissions rates for drugs had doubled again. In 1993, the black drug admissions rate remained stable in the largest places (203.3 per 100,000) but increased substantially in the MSAs, to 190 per 100,000—approximately the rate observed in the PMSAs.

## **Taking account of accumulation**

In assessing the effects that prison has on society, we often forget that some effects may not come from the number entering prison in a given year or the number incarcerated on a given day, but from the volume of persons passing through or exposed to prison. To the extent that prison leaves a “taint,” this is an appropriate way to assess its possible effects (Freeman 1992).

Bonczar and Beck (1997) estimate that nearly 30 percent of the black male population 20 years of age and older will be incarcerated at least once in their lifetime. If serving a sentence in jail (as opposed to State or Federal prison) were included in this calculation, the proportion ever incarcerated would be greater. Whatever the true lifetime prevalence of incarceration, it is clear that imprisonment is so commonplace among black men that any taint resulting from imprisonment could substantially affect these men and the groups to which they belong.

These changes in the level and distribution of incarceration are consistent with the contention that incarceration has changed in ways that can undermine less coercive institutions of social control. The level of incarceration has increased massively, which increases the likelihood of disrupting groups rather than individuals. These increases are highly clustered in social and geographic space, which further increases the likelihood of group disruption. The proportion of the population removed has been much greater for blacks than for whites and much greater in central cities than other places.<sup>4</sup> Moreover, the increases in incarceration have, over time, moved into population segments that were formerly immune. Greater numbers of the non-underclass and non-central city populations have been incarcerated, as well as persons with little criminal history who were incarcerated for nonviolent (largely drug) offenses. Removing more such people, who were integrated into social groups prior to imprisonment, increases the likelihood that those groups will be disrupted.

***The level of incarceration has increased massively, which increases the likelihood of disrupting groups rather than individuals. These increases are highly clustered in social and geographic space, which further increases the likelihood of group disruption.***

## **Evidence of the Breakdown in Noncoercive Institutions of Social Control**

Although the foregoing description of changes in the level and distribution of incarceration suggests that incarceration increases have disrupted less coercive

institutions of social control, it is more akin to establishing probable cause than to proving that it is the case. Much more evidence is required to say that incarceration has undermined less coercive institutions of social control in certain places and within specific groups. The nature of the evidence required will depend on the specific processes that link incarceration with the demise (or robustness) of less coercive institutions of social control. Consequently, we must review the conceptual models that link incarceration with less coercive institutions of social control, then proceed to the relevant empirical evidence.

## **Models of the effect of incarceration on less coercive institutions of social control**

Although this review is focused on the potentially negative effects of incarceration on less coercive institutions of social control, it is essential that we also consider the possible positive effects of imprisonment on these institutions. Therefore, we review models explaining both the possible negative and positive effects of incarceration policies.

### ***Models of positive effects***

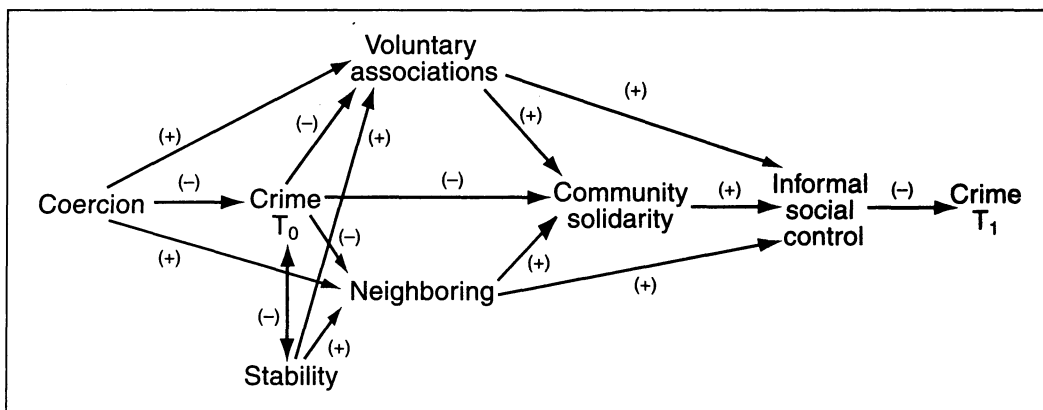
Traditionally, the principal benefit of incarceration has been crime reduction through incapacitation or deterrence. Until recently, this has been reason enough to warrant imprisonment. Beneficial effects of imprisonment were believed to occur because of increases in the certainty and severity of punishment or because the offender was simply removed from society. Nagin (1998) acknowledges the evidence in support of deterrence but cautions against overgeneralizing its applicability. He asserts that the deterrent effect of incarceration may depend on the social context in which it is applied and, specifically, whether imprisonment stigmatizes the offender in his family and community. Absent this stigmatization, deterrence will not occur (Zimring and Hawkins 1973). Nagin's argument is not that imprisonment will bolster less coercive institutions of social control, but that without these less coercive institutions of social control, imprisonment may not deter crime. The novelty of Nagin's argument is the linkage of imprisonment to less coercive institutions of social control, rather than viewing it alone as an instrument of crime reduction.

There is virtually no theory or empirical work that associates imprisonment directly with building or supporting less coercive institutions of social control. Most of the beneficial effects of imprisonment on less coercive institutions of social control are expected to occur through crime reduction. So, removing an abusing spouse from the home will improve the functioning of a family. Likewise, the realistic threat of imprisonment for assaulting other family



members may be sufficient to stop the behavior and thereby help the family (Sherman 1995). The improved functioning of the family should provide for socialization and supervision of children and thereby lower crime rates. Similarly, actually removing criminals from communities or plausibly threatening incarceration can reduce crime rates in neighborhoods or the fear of crime. This, in turn, would permit the interaction among neighbors that provides the informal controls to promote community organization and reduce neighborhood crime. These types of causal processes underlie programs like Weed and Seed (Dunworth and Mills 1999) and are summarized in exhibit 5. Although these models have been discussed, they have never been tested empirically.<sup>5</sup>

**Exhibit 5. Model of the positive effects of incarceration on less coercive institutions of social control**

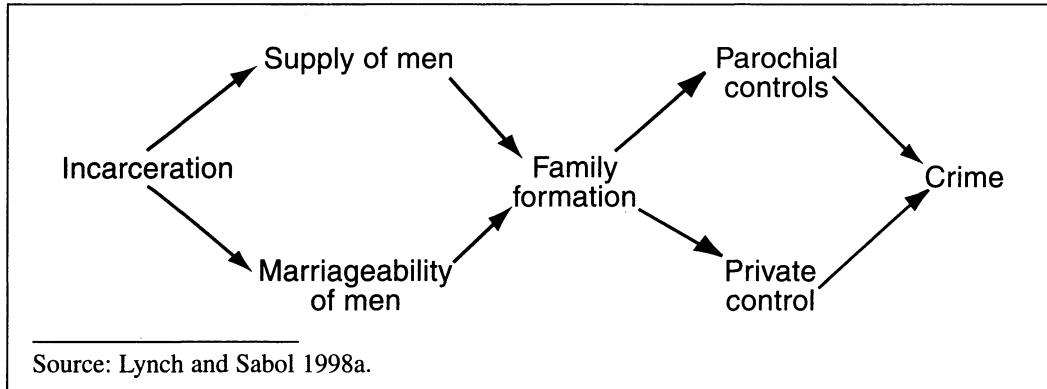


**Models of negative effects**

There are various routes and processes by which incarceration can adversely affect less coercive institutions of social control. Lynch and Sabol (1992; 1997; 1998b) speculated that incarceration would reduce the marriageability of men and thereby reduce marriage formation. This, in turn, would increase the number of female-headed households in areas with high incarceration rates and, ultimately, increase crime rates due to an absence of supervision for young males in these areas (Sampson 1987). They speculated that the marriageability of men would be reduced by (1) their removal through incarceration, and (2) the taint of a prison record in the job market. This simple model is summarized in exhibit 6.

Rose and Clear (1998a) describe a much more elaborate set of processes through which incarceration affects less coercive institutions of social control. They expanded Bursik and Grasmick's (1993) general systems model to consider the

### Exhibit 6. Model of negative effects of incarceration on institutions of social control



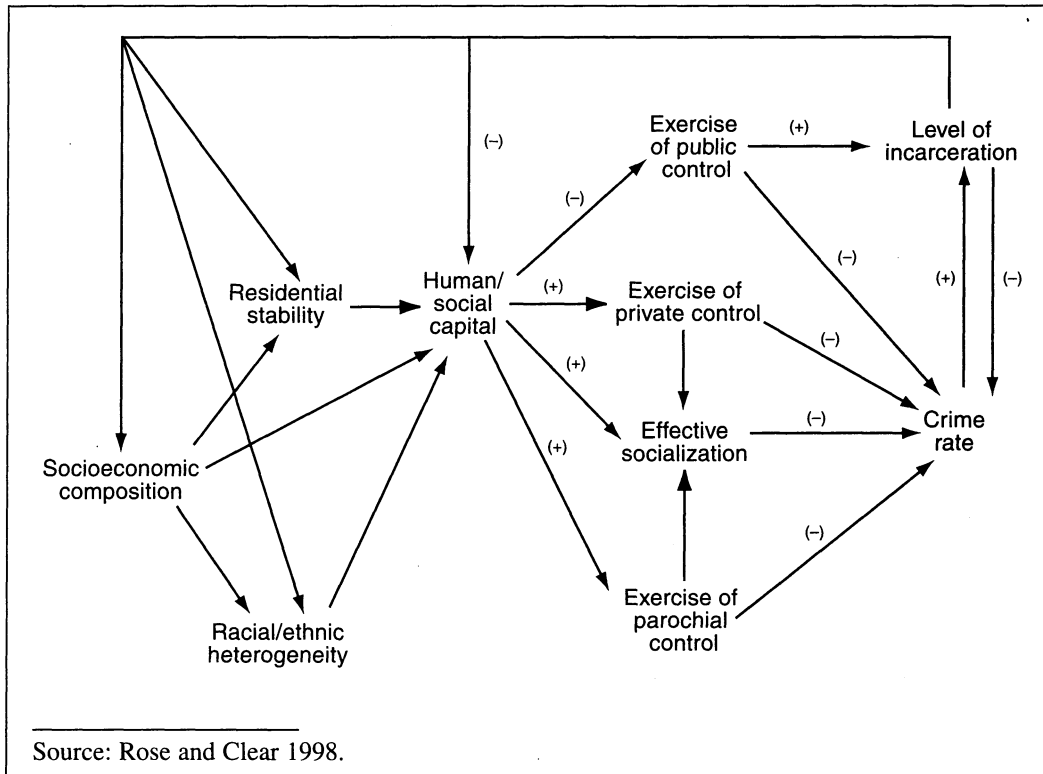
effects of incarceration. This model describes how community disorganization leads to crime. The principal exogenous variables in the model are heterogeneity, mobility, and socioeconomic status. These variables can facilitate or inhibit interaction in communities that allow residents of that community to set and achieve collective goals. They can enhance private control within intimate groups as well as “parochial” control outside of intimate groups but in the area. Parochial control would include control in the context of neighboring and in voluntary associations. Heterogeneity, mobility, and socioeconomic status can also affect the amount of public control in a community by influencing that community’s ability to negotiate services with municipal bureaucracies,

including the criminal justice system. In Bursik and Grasmick’s model, the levels of private, parochial, and public control in a community determine the crime rate. Communities that are stable and homogeneous will have high levels of private and parochial control as well as optimum levels of public control, resulting in relatively low levels of crime.

***Incarceration will weaken families by removing men from families and by reducing the supply of marriageable men. This will make families less effective as socializing agents and less able to supervise teenage children.***

Rose and Clear (1998a) elaborate on this basic model by hypothesizing that incarceration will introduce mobility and heterogeneity into communities, and thereby abet the process of disorganization (see exhibit 7). They focus specifically on certain institutional arrangements that will be weakened by incarceration and how this weakness, in turn, will reduce private, parochial, and public control in these communities. Incarceration will weaken families by removing men from families and by reducing the supply of marriageable men. This will make families

**Exhibit 7. Nonrecursive model of crime control, social disorder, and crime**



less effective as socializing agents and less able to supervise teenage children. Removal through incarceration will also affect economic institutions in communities by removing people who bring money to families and the community. Political institutions will be affected by removing people from networks that mobilize the community in response to external threats. There will be gaps in the network so that mobilization of the community will be incomplete. Moreover, removing persons from the area will mean that those who take up their tasks have less time for the mobilization process. Rose and Clear (1998a) also hypothesize that massive use of incarceration in communities will lessen the stigma (and hence the effectiveness) of this type of public control for community residents.

### **Evidence for the positive effects of incarceration on less coercive institutions of social control**

There is almost no direct empirical evidence that incarceration strengthens less coercive institutions of social control where incarceration, crime reduction, and changes in such institutions are included in the same study. The negative

association between imprisonment (and other forms of coercion) and crime has been the subject of extensive study (Blumstein, Cohen, and Nagin 1978; Ehrlich 1973; Levitt 1996; Nagin 1998). That crime reduction has beneficial effects on less coercive institutions of social control has been largely assumed.

Incarceration is alleged to reduce crime either through the process of incapacitation or deterrence. Incapacitation assumes that incarceration reduces crime by removing an individual from society so that the crime he would have committed will be prevented or moved to an institutional setting. Imprisonment can also reduce crime if the threat of punishment is sufficient to prevent would-be criminals from engaging in crime. There is considerable empirical evidence for and against both the incapacitation and deterrent effects of incarceration. Much of this evidence is seriously flawed so that unequivocal inclusions are difficult to draw. The preponderance of the evidence, however, is that incarceration both incapacitates criminals and deters crimes, but it is not clear when and under which conditions incarceration will lead to reduced crime.

### ***Evidence for incapacitation***

Empirical support for the incapacitation effects of incarceration has been obtained from simulations and from time-series analyses. The simulations seek to establish the magnitude of crime reduction that could be expected from incarcerating. To do this, researchers estimate (1) rate of participation in crime ( $P$ ), (2) age at initiation ( $A_o$ ), (3) age at termination ( $A_n$ ), (4) associated career length ( $T$ ), and (5) frequency of offending ( $\lambda$ ). These parameters are used to estimate a crime rate ( $C$ ) as follows:

$$C = P\lambda$$

They are also used to estimate career length for a given individual:

$$T_i = A_n - A_o$$

The crime reduction that occurs from removing a given individual for a specified amount of time can be estimated by multiplying the sentence length ( $S$ ) by the frequency of offending for that individual ( $\lambda_i$ ), under the assumption that the total sentence is served during the active career length  $T_i$ .

Much of the controversy concerning these simulations of incapacitation effects comes from disagreements over the magnitude of  $\lambda$  as well as the nature of criminal careers and the homogeneity of  $\lambda$  across persons and crimes. Many of the early simulations estimating incapacitation effects used estimates from inmate surveys and police arrest records (Chaiken and Chaiken 1982; Greenwood 1982; Blumstein and Cohen 1979; Blumstein et al. 1986). Both of these

sources of data produce distributions with long tails, such that a small number of high-volume offenders affect the mean of  $\lambda$  and substantially affect the estimates of crime reduction that flow from incarceration. Moreover, some believe that police arrest data and inmate survey data are affected by selection biases and response biases that inflate estimates of  $\lambda$  (Horney and Marshall 1991).

Others have criticized this research for using overly simplistic assumptions about the nature of criminal careers (Gottfredson and Hirschi 1986). Some early work in this area assumed a criminal career that started abruptly, continued at a constant  $\lambda$ , and then ended abruptly (Blumstein et al. 1986). Critics argued that criminal careers were more like the cross-sectional age-crime curve, with a peak in the youngest ages and then a rapid dropoff (Zimring and Hawkins 1995). Others argued that incarceration lengthened the active criminal career by the length of the sentences. Again, this would produce different estimates of the incapacitation effect.

There is also considerable disagreement as to whether  $\lambda$  is the same across persons and offenses (Greenwood 1982; Cohen and Canela-Cacho 1994). Drug dealers, for example, may have a different  $\lambda$  than burglars so that incarcerating burglars would affect the crime rate differently than removing drug dealers. At the same time, there is some agreement that identifying high-rate offenders is difficult (Greenwood and Turner 1987). Finally, some have taken issue with the assumption that offenders removed by incarceration are not immediately replaced by other offenders with similar  $\lambda$ s (Zimring and Hawkins 1995). Disagreement over these essential parameters clouds the evidence from these simulations. Work is progressing to resolve these various issues, but much more needs to be done.

### ***Evidence for deterrent effects***

Nagin (1998) reviewed the evidence on the deterrent effects of punishment on crime, including the effects of incarceration. He concluded that there is evidence for a general negative effect of imprisonment on crime but that these results tell us little about the wisdom of any given policy. To assess the likely deterrent effect of specific policies, Nagin argues that we need to know (1) the long-term as well as the short term effects of incarceration, (2) the link between risk perceptions and actual policy, (3) the form in which policies are implemented across population units, and (4) the link between intended and actual policy.

Twenty years earlier, Nagin was much more cautious even about a marginal negative effect of incarceration on crime (Blumstein, Cohen, and Nagin 1978). His misgivings at the time resulted from the inability of most empirical studies

of the effects of incarceration on crime to account for the identification or endogeneity problem. Most studies of the deterrent effect observe the change in incarceration and the change in crime over time or across units. While punishment affects crime, crime can also affect punishment. In assessing the deterrent effects of punishment, it is important to determine the effects of punishment on crime independent of the effects of crime on punishment. The usual method is to employ instrumental variables correlated with one of the variables (i.e., the prison population) but not the other (crime). By including the instrumental variable in the model, we can consider any exogenous factors that act on both crime and punishment.

Levitt (1996) made clever use of court-ordered reductions in prison populations due to overcrowding to address the endogeneity problem. Since court-ordered reductions in prison populations will be correlated with shorter sentences, but not with the crime rate, increases in crime in those States under court order cannot be due to the prior crime rate in these areas. Levitt found that States that did *not* shorten sentences to comply with court orders had lower crime rates than those that did. This supports the general idea that increases in punishment will result in decreases in crime. Levitt estimated that the deterrent impact on violent crime of adding 1 additional prisoner amounts to a reduction of approximately 2 violent crimes and 15 crimes overall.

While Levitt's work provides impressive evidence for deterrence generally, Nagin (1998) cautions against applying this evidence to other policies, crimes, and situations. He notes that Levitt's results pertain more to policies that lengthen sentences for persons in prison than to incarcerating additional people. Cohen and Canela-Cacho (1994) found that deterrent effects differed according to the type of offenders sentenced. Incarcerating violent offenders was associated with crime reduction, but imprisoning drug offenders had no effect on crime.

Empirical support for the crime reduction effects of incarceration indicates that, in general, imprisonment has a negative effect on crime. This general finding, however, cannot be directly and unequivocally applied to the increases in incarceration during the past 15 years. The specific combinations of sanction, criminal behavior targeted, and social context of the punishment have not been subject to specific testing to demonstrate the crime reduction effects. Lengthening prison sentences of drug offenders in central city areas, for example, may be extremely effective in deterring violence, but increasing prison admissions for violence in less disorganized places may not affect the crime rate. Moreover, no studies to date have explicitly linked incarceration with both crime reduction *and* the strengthening of less coercive institutions of social control.

Thus, there is no evidence to conclude that current incarceration policies have reduced crime and thereby bolstered less coercive institutions of social control. At the same time, evidence on the general deterrent effects of incarceration is persuasive, suggesting that incarceration has the potential to positively affect less coercive institutions of social control. However, studies of more specific incarceration policies in various social contexts are needed. Such studies must explicitly address the effects of incarceration on less coercive institutions of social control and not simply the aggregate crime rate.

### **Evidence for the negative effects of incarceration on less coercive institutions of social control**

The evidence that imprisonment has negative effects on less coercive institutions of social control is incomplete and uneven. In some cases there is no empirical evidence. Where evidence exists, it can differ in quality. For example, evidence differs with respect to whether it is direct or indirect. Direct evidence refers to the relationship between imprisonment and a particular institution, whereas indirect evidence refers to generalization from a similar event. Direct evidence of the effect of imprisonment on families would study families of inmates and compare them with families without incarcerated members. Indirect evidence would be generalization of evidence from other absences (e.g., military service) to absence through imprisonment.

Evidence will also vary according to whether it assesses the effects of incarceration on the related social group (i.e., family or community) or simply on the individual, leaving one to infer the effects on the group. For example, prison has negative effects on the an individual's job future, but we can only infer how this affects the family unit. Finally, empirical evidence can offer varying degrees of support for causal statements. Here we are especially concerned that the other possible causes of negative consequences be taken into account. This would include problems of simultaneous causality between imprisonment and the demise of less coercive institutions of social control. There are few instances where existing evidence satisfies all of these conditions.

#### ***Economic institutions: Labor force participation and income***

There is some evidence at the individual level that imprisonment reduces an inmate's connection to the labor force. Recidivism studies find that incarcerated offenders have lower levels of labor force participation and lower incomes than the nonincarcerated population with similar characteristics (Witte and Reid 1980). Moreover, length of time in prison is also negatively related to labor

force participation and income. Since these studies do not assess the labor force participation of inmates prior to incarceration, one cannot know whether the low employment and income is the result of incarceration or of preexisting characteristics of the incarcerated.

Panel studies of cohorts of convicted persons and population cohorts have also found negative effects of incarceration on income and attachment to the labor force, but some of this evidence is mixed. Using data from the National Longitudinal Survey of Youth (NLSY), Freeman (1992) found being incarcerated had large negative effects on employment and income. Waldfogel (1994) used data from probation officer reports on Federal offenders to assess the effects of incarceration on wages and employment. Comparing observations from the sentencing report prior to sentencing with postsentencing observations from probation reports, he found significant negative effects of incarceration on both employment and income. Nagin and Waldfogel (1995) found in a cohort of British youths that convictions were negatively related to employment but had a positive effect on wages in the short term. They attributed the positive effect on income and the negative effect on employment to result from former inmates taking jobs in "spot" labor markets where initial salaries are high but long-term potential is minimal. These spot labor markets are also characterized by considerable instability.

Although these findings seem to support the contention that incarceration can negatively affect economic institutions in communities, it is still quite a leap to say that incarceration has had these effects. First, some inconsistencies in the findings suggest that the negative effects of incarceration on income and labor force participation may be greatest for those groups with the lowest risk of incarceration, e.g., higher income offenders. Lott (1992) found that negative effects of incarceration on income were greatest for inmates with higher incomes prior to their incarceration. Waldfogel (1994) found that negative effects on employment and income were greatest for white-collar offenses such as fraud. This would make it unlikely that incarceration would have the negative influences on collectivities posited by Rose and Clear (1998a) and others. Second and more importantly, these studies use the individual as the unit of analysis, whereas theories that connect incarceration with the disruption of less coercive institutions of social control assume families and communities as the unit of analysis. The experience of individuals may or may not affect the social organization of collectivities. Although it makes sense that social disruption should be greatest in those places where individual disruption is greatest, this need not be the case. As Rose and Clear (1998a) point out, removing two persons from a community with dense social networks will not be as disruptive to social organization as removing two individuals from a community in which



the networks are less dense. In sum, evidence from individual-level studies of the influence of incarceration on economic institutions cannot be used to test the effects of incarceration on the social organization of families and communities. Community and family-level analyses are required.

Lynch and Sabol (1998a) examined the interrelationship of incarceration and labor force participation at the county level. They used the National Corrections Reporting Program (NCRP) data collected by the Bureau of Justice Statistics to estimate prison admission rates and release rates for counties in 1983 and 1990. Admissions to prison could have a positive effect on labor force participation if unemployed men were removed and a negative effect if employed men were removed. Releases from imprisonment were included along with admissions because they hypothesized that men tainted by imprisonment will have less success in the job market upon release. Census data in 1980 and 1990 were used to estimate labor force participation and demographic characteristics of the counties for 1983 and 1990. They estimated a pooled time-series regression model and a change model. The models predicted participation in the labor force for the county, using releases from prison as well as economic and demographic variables. Separate models were estimated for blacks and for whites, with the suspicion that higher rates of incarceration for blacks were much more likely to affect county-level labor force participation than for whites. In the pooled time-series model, offender release rates were negatively related to labor force participation and statistically significant for blacks ( $p=0.1$ ) but positively related to labor force participation and statistically significant for whites ( $p=0.001$ ).

Interpreting the results of these models is complicated by the fact that incarceration and employment can be reciprocally related. Incarceration can affect employment and employment can affect incarceration. In an effort to account for this nonrecursiveness, an instrumental variable was introduced—whether the State had introduced structured sentencing. This should be related to incarceration but should have nothing to do with employment. When the instrumental variable was introduced into the pooled time-series model, the effect of releases on labor force participation was negative and significant for blacks ( $p<0.1$ ) and insignificant for whites. When the instrument was included in the change model, similar effects were observed.

The results from this county-level analysis are not particularly robust, but they are consistent with the contention that incarceration can negatively affect the social organization of black communities and not white ones. The participation of black men in the labor force is lower in counties characterized by the tainting of large numbers of black men through incarceration. What was observed by Freeman (1996) and others at the individual level also holds at the county

level. It remains to be seen if these relationships hold at the community level, as Rose and Clear (1998a) have suggested.

### ***Family formation***

There is substantial literature that links the absence of men to declines in the number of two-parent families, but there is much less direct evidence that incarceration is a major factor in reducing the presence of men. Darity and Myers (1995) show that the ratio of unmarried men in the labor force or attending school to unmarried women is highly correlated with two-parent families. The effect of this marriageability ratio is much greater than the effects of welfare benefits in determining family structure. Kiecolt and Fossett (1995) found similar results in both individual and county-level analyses. The male-to-female ratio in a county had a strong positive effect on the marital status of females. In an analysis of data from 171 cities, Sampson (1995) found that the ratio of men to women had a large negative effect on single-parent households for blacks and a much smaller effect for whites. Sex ratios had more effect on family structure than did employment rates. Darity and Myers (1995) attribute the absence of men to higher rates of infant mortality among black men than women, high levels of mortality from violence and accidents, military service, and incarceration, but they do not include these factors in a model of sex ratios. Sampson (1995), too, refers to the role of incarceration in producing low ratios of marriageable men to women, but does not offer empirical evidence.

***Incarceration would also increase female-headship by tainting persons released from prison and thereby reducing their prospects in the job market. As their employability declines, so does their attractiveness as a partner.***

Lynch and Sabol (1998b) used county-level data to test the effects of admissions to and releases from prison on the percent of female-headed households. NCRP and census data in 1990, as well as lagged female-headship and incarceration rates, were used to predict the percent of female-headed families in 1990. They found that both the level of admissions and the level of releases were positively related to female-headship for blacks but not for whites. The greater the number of admissions to prison in a given county, the greater the number of families headed by single females. Similarly, the greater the number of releases, the greater the number of female-headed families. Recognizing that female-headship and incarceration can be reciprocally related, Lynch and Sabol again employed the state's structured sentencing policy as an instrumental variable (see previous Lynch and Sabol discussion under "Economic institutions: Labor force participation and

income”). Using data from 1983 and 1990 with a pooled time-series approach, they estimated a more complex version of this model and obtained similar results (Lynch and Sabol 1998a).

How incarceration affects the level of female-headship is not entirely clear. Consistent with Darity and Myers (1995) as well as Sampson (1995), Lynch and Sabol (1998a) hypothesized that admissions to prison would affect male/female ratios because large numbers of men were removed from the marriage pool. Incarceration would also increase female-headship by tainting persons released from prison and thereby reducing their prospects in the job market. As their employability declines, so does their attractiveness as a partner. In areas where high levels of unemployment persist, the norms of marriage formation may change so that marriage is no longer the expectation. The foregoing analyses suggest that the tainting effect of imprisonment is negatively related to labor force participation, albeit weakly (Lynch and Sabol 1998b). The supply of employed men, in turn, is negatively related to female-headship. Nonetheless, there is still a positive effect of incarceration on female-headship, even when the supply of employed men is included in the model (Lynch and Sabol 1998a). This suggests that removal has a direct effect on female-headship that is not mediated by the availability of employed men. This effect could occur through the simple availability of men regardless of their employment status. Alternatively, imprisonment can leave a taint that influences more than one’s prospects in the labor market.

### ***Family maintenance***

Imprisonment can disrupt existing families and thereby contribute to the demise of less coercive institutions of social control. This disruption can be temporary, as when a parent is removed for several months and then returns to the family. Here the disruption derives from the absence and then the adjustment on return. The disruption could also be longer term when imprisonment leads to dissolution of the family. In this case, the disruption could persist unless or until the missing member is replaced.

Disruption means that many functions performed by the family are missed when a member of the family is removed. The physical and emotional needs of children, for example, may receive less attention when one of the parents is incarcerated.

There are numerous qualitative and clinical studies of the impact on children of incarcerating their mother (Bloom 1995; Johnston 1995a). These studies, which describe in detail the pains of imprisonment (both physical and emotional) on those left behind, often involve small and very selected groups of prisoners and

families. There have been fewer such studies on the effects on incarcerating men. At the other end of the evidence spectrum, surveys of inmates include minimal information on family disruption (e.g., divorce), but they are administered to large and representative samples of inmates.

Because women are most often the primary caregivers for children, it is broadly assumed that removing women with children will have disruptive effects on families, and qualitative studies support this contention. Because the number of women incarcerated is so small, however, it is not likely to be a major source of removal for women who are mothers. In 1998, there were 84,427 women in State prisons, compared with 1,218,000 men. The 1991 Survey of Inmates in State Correctional Facilities (SISCF) reported that about half of the female inmates were living with their children at the time of their admission. This reduces even further the potential impact of women's incarceration on family disruption. Thus, to establish that incarceration has a large disruptive effect on families, the incarceration of men must also be shown to have negative effects on families.

Laura Fishman (1990) studied the effects of incarceration on partners and families of male prisoners. Most of these women experienced severe financial problems as a result of their partner's incarceration. (A few, especially those whose partners were not working prior to imprisonment, were financially better off.) For those with children:

[H]aving full responsibility of raising their children . . . was a severe hardship. . . . Most women with children complained about the task overload. Two parents are hardly enough to deal with many of the demands of childcare. Prisoners' wives often encountered a succession of days filled with too much to do. Unrelieved responsibilities can be particularly depleting if there is no one to attend to the wives' needs, i.e., no one with whom to talk. . . . Many wives reported that this often led them to despair. (pp. 197–199)

Fishman also reports that these women found some benefits in their partner's incarceration, specifically, increased autonomy and peace and quiet. Only 3 of her subjects (out of 30) ultimately filed for divorce. This suggests that while the disruption of families resulting from prison is substantial, it does not often result in dissolution of the union.

Fishman's work, however, is based on a group of 30 women in Vermont who were partners of inmates in State correctional facilities and who consented to speak with her. It is difficult to know whether the repercussions of imprisonment observed in this study represent that of all partners and families of prisoners. It seems unlikely that this group's experience would be similar to that of

black inmates and their families from large cities, for example. The process of adjustment may be similar, but the proportion experiencing specific outcomes (e.g., divorce) may be different. Moreover, this and other qualitative and clinical studies of the families of incarcerated persons do not include control groups or prior assessments of family functioning to isolate the effects of imprisonment from other disrupting factors (Lowenstein 1986; Sack 1977; Hairston 1998; Gabel and Shindledecker 1991).<sup>6</sup> This limits the utility of this evidence for establishing the unique contribution of incarceration to family disruption.

If we assume Fishman's picture of disruption is true, how large a group would be affected by this form of family disruption? How many prisoners are in some form of union or family that could be disrupted? If the bulk of inmates are single males, then relatively few families will be disrupted by a parent's imprisonment. The 1991 SISCF estimates that about 19 percent of the stock population of inmates were married and about 24 percent were separated or divorced. Stated differently, approximately 43 percent of the prison population has or could potentially experience family dissolution as a result of imprisonment (Lynch et al. 1994). This is a fairly large proportion of prisoners. If we look at family dissolution (divorced or separated) as a percentage of those eligible (married, divorced, separated), then 56 percent of ever-married prisoners are divorced. In the general population, the rate is about 17 percent. This difference can be due to the pains of imprisonment or to the greater instability of persons who become inmates relative to the rest of the general population.

Restricting our focus to marriage will understate the participation of inmates in families because many marital relations may not be formalized and there may be relations with children without spouses. Thirty-one percent of the male inmates in State facilities claimed to be living with their children at the time of their arrest. Because inmates were not asked about children, we do not know what percentage of inmates were living with their children at admission. More than 56 percent of State inmates in 1991 claimed they were contributing to the someone else's support during the month prior to their incarceration. These data provide a rough estimate of the proportion of prisoners whose removal could disrupt families—somewhere between 31 percent and 56 percent of prisoners. If we apply these proportions to the stock correctional population in 1998, some 400,000 to 658,500 families were possibly affected by the imprisonment of male partners on a given day.

The principal limitation of SISCF and other inmate surveys is their reliance on the perceptions of inmates and their ability to respond (Hairston 1995; Hunter 1984). There is reason to believe that in self-report surveys, inmates overstate or misstate their familial involvement and attachments (Johnston 1995a). This, in turn, can result in an overestimate of the disruption caused by imprisonment.

It would seem more appropriate to include both inmates and their families in studies of family disruption, but even in this case, there is substantial potential for ambiguity and inconsistency in characterizing disruption. Partners may legitimately disagree over the nature and frequency of family relations, and it is by no means certain that an "objective" assessment of family functioning can be obtained from the interview.

Qualitative studies of small groups of inmates and their families in combination with the inmate surveys suggest that a large proportion of the imprisoned population has family ties at the time of admission. The studies also suggest that imprisonment strains and, in some cases, disrupts those relationships. This makes more plausible the contention that incarceration has a prevalent negative impact on the families of inmates.

### ***Parochial institutions of social control***

There is a great deal of evidence that the social organization of communities affects the level of crime (Bursik and Grasmick 1993). This evidence is detailed to the point that the influence of specific attributes of communities on crime has been documented. What is missing again is some direct evidence that incarceration has a negative effect on aspects of community organization (e.g., neighboring or willingness to engage in self-protection), net of other factors such as heterogeneity or mobility. Gottfredson and Taylor (1988) provide some evidence that incarceration is extremely clustered in urban areas and that this clustering is correlated with low levels of parochial control. Gottfredson and Taylor took a sample of prisoners returning from incarceration and identified those released to 90 Baltimore neighborhoods in their study. Their intent was to assess the effects of neighborhood on recidivism, but in the process they revealed a great deal about the effects of the return of offenders on community organization. First, they found that incarceration was highly clustered in Baltimore. Twenty-three of the sample neighborhoods had no returning offenders, and 5 percent of the areas contributed 26 percent of the offenders. Ten percent of the areas accounted for nearly 40 percent of the offenders. They also correlated the offender return rate with different measures of community organization. These measures included perceptions of the social climate, attachment to the community, expectations for the community, physical signs of incivility, physical problems, perceptions of social problems, fear of crime, perceptions of the crime problem, and reported restrictions on activity. All these community attributes except attachments were correlated with offender return rates in a manner that indicated low levels of community organization.

Gottfredson and Taylor (1988) predicted these various attributes of community organization in multivariate models that included a status scale,<sup>7</sup> a stability scale,<sup>8</sup> and the offender return rate. In every case, except for attachments to the community, the offender return rate had a statistically significant effect on these dimensions of community organization, net of the effects of status and stability. The offender return rate had the strongest effects on perceptions of the crime problem, residents' expectations for the neighborhood, and reported restrictions of activities.

Although these findings are suggestive, Gottfredson and Taylor did not design the research to assess the effects of incarceration on community organization and, consequently, the data have some serious limitations for this purpose. First, these are cross-sectional data, so it is impossible to disentangle the time ordering of offender return rates and the social organization of communities. Social disorganization can cause offending and thereby incarceration, and the return of offenders can cause social disorganization. Some would argue that having longitudinal data will not be sufficient for resolving this issue and that some instrumental variables are required to sort out the causal ordering problem.

Second, it is not clear that the sample was drawn and weighted to reflect the volume of incarceration return in the areas. The original intent of the study was to assess the influence of community structure on the recidivism of offenders, and for this purpose simply having offenders in these communities is sufficient. It was not as important to accurately reflect the level or the relative level of incarceration in an area. For the issues discussed here, however, this level of accuracy is required.

Finally, the investigation of the effects of incarceration on communities would be better investigated with data on admissions, releases, and the stock population. Returns to a community may accurately reflect the relative involvement of correctional agencies, or they may not. To the extent that the nature of crime differs across communities, length of stay in correctional facilities may also differ. Communities with longer lengths of stay may have fewer releases from incarceration in a given year, but more people incarcerated.

### ***Summary***

There is some evidence that the most recent increase in incarceration has been detrimental to less coercive institutions of social control. Much of this evidence, however, is indirect; that is, it is inferred from experiences similar to prison, such as the death of a parent or job-related absence. This inference can be problematic in that such absences are qualitatively different from imprisonment or occur disproportionately in populations quite different from those that

experience imprisonment. Those populations may have resources not available to the prison population or may be more traumatized by the absences than the population that experiences incarceration.

Another inferential problem results from combining studies of different parts of the causal process to speak about the whole process. In establishing the causal link between imprisonment, employment, and marriage formation, we use Freeman's work on incarceration and labor force participation and Darity and Myers' work on employment and family formation. Because these studies could be very different in their samples and other particulars, rather than combine their results, it would be better to observe the linkages in a single study.

Some direct evidence of the negative impact of incarceration is derived from very limited or selected groups. It is not clear, for example, that the pains of imprisonment experienced by Fishman's group of Vermont families would be similar to that of families in New York City or Washington, D.C. Moreover, it is not sufficient to know that incarceration has negative effects on the functioning of inmates' families, we must also establish that these negative effects are prevalent. If these effects are not prevalent, then they will not affect the social organization of areas and groups or threaten less coercive institutions of social control. Inmate survey data indicate that, prior to admission, many inmates are attached to families in some fashion. Although this suggests the prevalence of attachments (and their potential disruption), the survey does not (and perhaps cannot) provide data on the quality of the inmates' participation in family life.

Existing evidence for the negative effects of incarceration on institutions of social control has not yet convincingly isolated the effect of incarceration from all of the other forces battering these institutions. For example, a correlation between incarceration in a neighborhood and low levels of interaction or high

levels of fear is not sufficient to argue that incarceration caused these things. A third factor, like crime, may be causing both incarceration and the absence of neighboring. These alternative explanations must be taken into account. In some cases, longitudinal data help, but this does not guarantee that the endogeneity problems are solved.

***If the taint of imprisonment persists throughout a person's life, then the cumulative negative effect of incarceration will be massive.***

The empirical evidence gathered to date does not link individuals and collectivities in ways that allow us to determine when negative outcomes occur. It is possible, for example, that a negative outcome for a family (e.g., the loss of a parent) has no effect or even a positive influence on the neighborhood. It is not clear



how to assess the overall impact of removal in this case. Moreover, a negative outcome for a collectivity, such as the destruction of a neighborhood, could be a positive outcome for persons who leave and settle elsewhere. Another variant on this problem is the case where a negative outcome for one individual (e.g., wife divorces inmate) is a positive one for another (e.g., wife finds better partner). Is this a positive or a negative outcome?

Similarly, some thought must be given to the duration of the effects of incarceration on individuals and on less coercive institutions of social control. The positive and negative effects of incarceration may be quite brief, or they may continue for a long period of time. The duration of effects can influence greatly any cost/benefit calculus with regard to imprisonment. If the taint of imprisonment persists throughout a person's life, then the cumulative negative effect of incarceration will be massive. If the taint lasts for only a year after release, then this cost of imprisonment may not be that great. Duration to onset is a more complex issue with regard to duration. Here negative (or positive) consequences of incarceration do not manifest themselves for some period after incarceration and even after release. It is important to identify these consequences, but it becomes increasingly difficult to attribute causality to incarceration as time passes. So, for example, a divorce that occurs 2 years after release may be difficult to link to the incarceration rather than to a number of factors taking place after incarceration.

## **What We Need To Know and How To Get It**

The foregoing review of the literature on the impact of imprisonment (and particularly the effects of current correctional policies in the United States) on less coercive institutions of social control suggests that relatively little is known with certainty about the topic. We cannot say at this time whether the correctional policies of the past 15 years have been beneficial or detrimental for social control. Although some rudimentary theoretical models of the process have been proposed, many of the basic conceptual and operational definitions required to assess empirically the impact of imprisonment have not been developed. The information necessary to measure the impact of incarceration and to distinguish its effects from other factors influencing these institutions is in short supply. If we are to understand the role of imprisonment in social control, then we must evaluate the results of the unprecedented change in incarceration policy of the past 15 years. The rudimentary conceptual models that view imprisonment in relation to social control must be elaborated. More extensive data must be collected on prisoners, their families, and their communities to test these models.

## Improving conceptual models of the effects of imprisonment on social control

Oddly enough, the conceptual models for the negative effects of imprisonment on less coercive institutions of social control are better developed than those for its positive effects. The single-minded focus on the link between incarceration and crime reduction has inhibited the development of more complex models of how crime reduction affects other institutions of social control such as families and communities. The crime reduction that occurs as a result of imprisonment may well encourage additional reductions by strengthening less coercive institutions of social control. The process by which this might happen is alluded to, but it has not become part of deterrence or incapacitation theory.

Some attention has been given to the effects of incarceration on less coercive institutions of social control directly (rather than through crime reduction) in studies of former inmates' labor force participation. The potentially positive implications of incarceration for families have not received as much scrutiny. It is possible that incarcerating specific people will improve the functioning of the inmate's family for reasons other than the reduction in crimes like interfamilial assault. The ways in which incarceration could strengthen families other than through crime reduction must be identified before they can be tested. The same is true for the potentially positive impact of incarceration on communities that are not mediated by crime reduction.

This new focus on imprisonment in the context of social control has even increased the demand for reconceptualizing the much-studied negative association between incarceration and crime. Nagin's (1998) call for greater specificity in deterrence research requires that studies of the incarceration-crime link must consider (1) the nature of the incarceration policy, (2) the specific type of criminal behavior to be deterred, and (3) the social context in which the sanction is

imposed (e.g., perceived legitimacy of the sanction). This type of specificity will go a long way toward describing where incarceration is likely to lead to crime reduction, of what type, and for whom.

***More thought must be given to the ways in which public controls like incarceration influence private and parochial controls.***

Although theories about the negative effects of imprisonment on less coercive institutions of social control may be more developed than those on the positive effects, they are still in their infancy. Many of the basic terms and units in these theoretical frameworks have not been consistently defined. For example, defining a "negative effect" is essential to studying this issue. In particular, we must determine

how to reconcile negative outcomes for institutions or groups and positive outcomes for individuals. Earlier, we raised the example of the inmate whose imprisonment leads to divorce, to movement of his family out of the community, and later to marriage to a more stable partner. This could be a negative outcome for the inmate and the community but a positive one for the spouse and her family. Similarly, incarceration can contribute to the social disorganization of a particular community to the point where most of its residents move to better places. This could be good for families but bad for the community. Is this a net positive or negative outcome?

More thought must be given to the appropriate unit for any particular analysis. Rose and Clear (1998a) examine the effects of imprisonment at the community level because they are assessing the impact on “parochial” controls. Lynch and Sabol (1998a) examine the effects of incarceration on marriage pools at the county level. It would seem inappropriate to think of communities as marriage pools, as people generally look farther and wider for partners. Nonetheless, the county-level marriage pool can affect the level of single-parent families in a particular community area. To the extent that the countywide marriage pool shrinks the competition for partners, it may differentially affect community areas, producing higher levels in some communities and lower ones in others. The same can be said for the countywide labor markets. Models of the effect of incarceration on other institutions of social control must describe the interrelationship between more macro factors and communities so that these factors can be taken into account in testing the effects of incarceration. Having identified these macro factors will help not only in specifying the direct and indirect effects of incarceration on these other institutions of social control, it will also help in isolating the effects of incarceration from those of other factors. The social disorganization literature should be of some use here.

More thought must be given to the ways in which public controls like incarceration influence private and parochial controls.<sup>9</sup> Criminologists interested in the role of community social disorganization in producing crime have developed fairly elaborate models of how these less coercive institutions of social control work to reduce crime and disorder (Bursik and Grasmick 1993; Taylor 1999, 1996; Taylor and Covington 1988; Sampson, Raudenbush, and Earls 1997). In Rose and Clear’s (1998a) adaptation of these models, the effects of incarceration on these private and parochial controls occur through increased heterogeneity and mobility in the area. The qualitative studies of inmate families (Fishman 1990) suggest that the influence of incarceration on families and communities is more direct. Spouses of inmates simply do not have the time or other resources to engage in private controls (of their children) or parochial controls (through voluntary associations). At a minimum, these studies suggest there is a direct

effect of public controls (i.e., incarceration) on private and parochial controls left behind. It would be useful to specify how this occurs and to incorporate these paths or relationships into Rose and Clear's model.<sup>10</sup>

## **Collecting more information on the effects of imprisonment**

The complexity of the models relating incarceration to other institutions of social control will require the collection of data specifically designed for this purpose. These models are complex in that incarceration affects these other institutions in a number of sequential steps. Imprisonment, for example, is alleged to weaken families, which in turn weakens communities. Data must be collected on all of these steps. This also means that information must be collected on persons, families, and communities in a manner that allows these units to be associated with one another. Furthermore, many of the variables in the models (e.g., family disruption) are difficult to measure, and a great deal of information must be collected to accurately characterize the people, families, and communities involved. Isolating the effects of incarceration from the other factors affecting these people and places will require collecting additional information. Finally, the fact that many of the impacts of incarceration will not occur immediately makes it necessary to gather data on these units over time.

### ***Collecting data on multiple units***

One of the major problems with the evidence currently available is that few studies include all the information on all the units identified in conceptual models. This requires inferences from studies that examine similar phenomena (e.g., absence due to military service) or across studies done with different units of analysis (e.g., Freeman's (1992) study with NLSY and Lynch and Sabol's (1998b) study of counties). These inferences are often not warranted and weaken the evidence. Ideally data should be collected that include information on all relevant variables (and especially the incarceration) for a nested sample of communities, families, and persons.

Having nested samples is particularly important for associating individual-level experiences with the condition of collectivities. It is unclear, for example, whether the positive correlation between unemployment and incarceration that Lynch and Sabol (1998a) observe at the county level is simply an accumulation of tainted individuals or a change in the social organization of areas and families. In the latter case, young men who live in these areas but were not imprisoned would also be disadvantaged in the labor force because none of their networks include employed persons. Nested samples would facilitate disentangling these processes.

The selection of communities could begin with a listing of heavily populated counties because the majority of the prison population comes from such places. These counties could be arrayed in terms of their incarceration rates (admissions) from NCRP and grouped into three classes—high-, medium-, and low-incarceration counties. Several counties would be chosen from each group. Within the counties, community areas would be identified, using census data or community area data if available. A sample of admissions records would be obtained from the State correctional agency and geocoded into the various community areas. Community area incarceration rates would be computed and on the basis of those rates, high-, medium-, and low-incarceration communities would be identified. Communities could be selected from each group, with some oversampling of the high-incarceration areas. Ideally, there would be several jurisdictions in different States and several communities in each jurisdiction selected for additional investigation.

Once the communities are chosen, samples of housing units could be selected using an area frame. The residents of the selected housing units would constitute the families and persons to be studied.

Characterizing communities is particularly problematic because of the variable nature of this unit and the fact that data are not often collected on these units except in a few cities with established traditions of community areas. The usual solution to this problem is to aggregate census tract information to describe communities. Although this approach can provide good approximations of community, the decennial census limits both the range of data available and the periodicity of the data. The nested sample will help in this regard because responses of persons in those areas can be used to characterize these collectivities. Some cities, such as Chicago and Baltimore, have well-established traditions of community areas and neighborhoods that could provide additional useful information.

### ***Following units over time***

Collecting data on persons, families, and communities over time helps to identify impacts of incarceration that are not immediate and to isolate the effects of incarceration from other factors affecting persons, families, and communities. The disruption caused by removal (if any) should vary with the length of the absence. We see in the inmate survey data that a greater proportion of long-sentenced prisoners than short-sentenced prisoners are divorced. Some effects, such as the loss of income, may occur immediately, but other outcomes, such as problems with child supervision or alienation of affection, may take longer to manifest themselves. Conversely, those who remain behind may adjust over

time to the absence of the person so as to minimize disruption. Identifying these effects of imprisonment requires longitudinal data on persons, families, and communities. Whatever the trajectory and duration of disruption, it will need to be assessed using such longitudinal data.

Longitudinal data will also help isolate the effects of incarceration because it facilitates separating the effects of inherent or relatively fixed differences between individuals from the influence of experiences such as incarceration. If persons are employed, experience a period of incarceration, and are later unemployed, then one has a much stronger argument that incarceration (and not inherent abilities) accounts for the later unemployment. Since persons and families will not be randomly assigned to incarceration, there will be some selectivity in the experiencing of incarceration, but having individuals from the same areas should account for most of this selectivity.

Following people is difficult, especially young and mobile populations. Following collectivities is even more complex because their nature and composition can change and it becomes unclear when the old group disappears and a new group is formed. If, for example, the wife and three young children of an inmate remain in their home, but the teenage daughter goes to live with her boyfriend, should the spouse and young children be followed and not the teenage daughter, or should all members of the original household be followed? Following everyone would be desirable, but this would quickly lead to a much larger and expensive data collection as families subdivide repeatedly.

Some thought must be given to the length of time that units will be followed and the time between observations. As previously noted, some effects will not be observed for several months or years. If the average sentence served by persons exiting State prisons is approximately 2 years, then it would be necessary to follow persons, communities, and families for substantially more than 2 years to get enough persons entering and leaving prison to observe the impact on these units. The longer the period of the study, the greater the attrition, so some compromise must be reached between the duration of the study and the attrition.

### ***Using multiple approaches to measure complex concepts***

Assessing the health of less coercive institutions of social control is extremely complex. Evaluating the level of social disorganization in a community, for example, requires extensive information on patterns of interaction among individuals in that area. One way to obtain this information is to ask individuals in the community to report on the frequency of their interaction in the area and with persons in the area. This will provide a picture of communities in terms of the robustness and the nature of the interaction in the areas. It is not clear how

well this approach might identify changes in the patterns of interaction, which would lead to changes in the level of informal controls. An alternative method would be to identify the patterns of interaction among residents using network techniques. Here community residents would report specifically on their interactions with others in the area. Those named by the respondent would, in turn, be asked about their interaction with other community members. From these interviews, actual networks of interaction would be identified and, presumably, the effect of removing a given individual would be seen more readily. On the other hand, network approaches would be more costly and difficult to conduct. It may be worthwhile to use both approaches because not identifying effects of incarceration due to the bluntness of particular measures would be a disaster.

The prescriptions for data collection presented thus far seem to assume the use of surveys of community residents as well as whatever archival data are available on people, families, and communities. Although surveys are useful, they depend on the motivation and candor of the respondent and are not necessarily well suited for characterizing collectivities. Consequently, it may be wise to include field workers in the communities to provide a more qualitative picture of the level of social disorganization and other attributes of the communities. They may well identify changes in the social organization of these areas that are not readily apparent from surveys and archival data.

## **Conclusion**

The prospect that concentrated increases in incarceration could have negative consequences for less coercive institutions of social control and thereby increase crime has been raised with increasing frequency in the past 5 years (Lynch and Sabol 1992; Rose and Clear 1998a; Sampson 1995; Darity and Myers 1990, 1995). Elaborate conceptual models have been developed to describe the process by which incarceration would have these consequences. These models posit negative effects on families, neighborhoods, and communities that would reduce private, parochial, and public control in residential areas. The result would be increases in crime in those areas.

There is good empirical evidence to support some portions of the model. Levels of female-headship in areas have been shown to influence the supervision of young males and the level of crime (Sampson 1987, 1995). Labor force participation and sex ratios in communities have been shown to influence female-headship (Kiecolt and Fossett 1995; Testa and Krogh 1995; Darity and Myers 1995). One component of the model missing until recently was direct evidence that incarceration affected female-headship, labor force participation, and sex ratios in communities. This evidence has begun to appear. Admissions and

***The massive increases in incarceration of the recent past were undertaken with only a rudimentary understanding of their possible repercussions, and we still do not know what they will be.***

releases from incarceration at the county level have been shown to be related to increases in unemployment and in female-headship, net of other relevant factors. These effects are much stronger for blacks than for whites. More must be done to test the robustness of these relationships at different levels of aggregation, but there is enough evidence now to warrant this additional study and enough evidence to question whether it is appropriate any longer simply to assume positive crime reduction effects of incarceration.

This approach to the evaluation of incarceration policy is growing in popularity, but it has not been fully elaborated theoretically or fully tested empirically. Much more theorizing must be done regarding the interrelationship between incarceration and other

institutions of social control. The conditions under which incarceration will be supportive of less coercive institutions of social control as well as the conditions under which it will be detrimental to these institutions must be specified. Similarly, these theories must identify how and when other institutions of social control will increase the effectiveness of incarceration and when they will not.

Much more empirical testing of existing theories must be undertaken. To date, only the parts of models associating incarceration with other institutions of social control. These tests have generally examined the effects of incarceration at the level of communities, families, or persons, but seldom at all of these levels. Most importantly, these studies have generally failed to isolate the effects of incarceration from the other influences on these other institutions of social control.

We have described in the foregoing section some of the conceptualization and data collection required to develop this new and promising approach to assessing incarceration policies. It is urgent that we take this opportunity to better understand the role of incarceration in social control. The massive increases in incarceration of the recent past were undertaken with only a rudimentary understanding of their possible repercussions, and we still do not know what they will be. There is some reason to believe that we will continue to have very high incarceration rates for the foreseeable future. If this is not warranted for social control purposes, then it will be important to reverse this policy, if for no other reason than it is an unnecessary abridgement of the rights of a large number of citizens. It is important to demonstrate empirically the impact of incarceration on social control in a manner sufficiently complex to be persuasive.



## Notes

1. Underclass status was assessed in terms of participation in the primary institutions of social control, including family, educational institutions, labor force, and the economy. An underclass scale was developed in which persons with a high school degree were given a 1 and those without a degree were given a -1; persons who were married, separated, divorced, or widowed received a score of 1, and those never married received a score of -1; those not in the labor force at the time of arrest (for the commitment) were given a -1, persons in the labor force were given a 1, and those retired, keeping house, or attending school were scored as 0; those unemployed for less than a year were given 1, and those unemployed for more than a year were given a -1; those with income below poverty level were scored as -1, and those above the poverty level were given a 1. These scores were summed to form an underclass scale. The resulting scores ranged from +5 to -5. Persons with positive scores were considered non-underclass and those with negative scores were considered underclass.

2. These rates are computed for the adult male prison population only. Females are excluded from the numerators and denominators.

3. This was done using data from the National Corrections Reporting Program (NCRP) on admissions to prison in specific counties. Although not all counties and States are included in the data, the counties included account for about 90 percent of the correctional population on a given day. NCRP includes a record for each admission and release in a given year. This record includes information on the age, race, and commitment offense, as well as the county in which the inmate was convicted.

This information was used to estimate admissions for whites and blacks for drug crimes and crimes of violence. The information on counties was used to distinguish between PMSAs and MSAs. The former are extremely large metropolitan areas such as New York or Los Angeles, and the latter include smaller metropolitan areas such as Hartford or Pittsburgh. Blumstein and others had speculated that there was a diffusion in the drug trade and the violence attendant to it, such that larger places would experience these disruptions first, then they would spread to smaller areas. Distinguishing incarceration trends by size of place will allow us to see if this has affected the use of incarceration over time (Lynch, Sabol, and Shelley 1998).

4. There is also evidence that the impact of incarceration is greatest in highly clustered areas in central cities. Gottfredson and Taylor (1988) have shown that a few neighborhoods in Baltimore contributed the bulk of prison inmates from the city. In Washington, D.C., less than 20 percent of the ZIP Codes accounted for approximately 70 percent of the persons sentenced to incarceration between 1993 and 1998.

5. Some have studied the effects of arrest practices and policing strategies on the social organization of communities and crime (Skogan 1990; Moore 1996; Sampson and Cohen 1988) but not the effects of incarceration on community institutions per se.

6. For a good review of this literature, see Johnston (1995b).

7. The status scale included the mean housing value for the area, income, type of employment, and education.
8. The stability scale included married couple households, one-unit housing structures, and owner occupancy.
9. There has been more interest in examining the effects of police policies on communal institutions of social control, but much of this work has examined satisfaction with the police rather than changes in institutions of social control in these communities (Sampson and Cohen 1988; Skogan 1990; Sherman 1995).
10. The effect of incarceration on private and parochial controls could be accommodated in Rose and Clear's model under the concept of "human social capita." In this case, it will be important to define the various dimensions of human social capital that are affected by incarceration and which, in turn, influence private and parochial controls.

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# **Changing the Contours of the Criminal Justice System To Meet the Needs of Persons With Serious Mental Illness**

*by Arthur J. Lurigio and James A. Swartz*

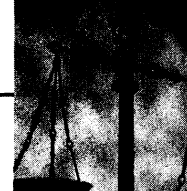
Major changes in mental health policies and laws have placed untold numbers of persons with serious mental illness (PSMIs) in the community, where they receive inadequate or intermittent care, or no care at all. These changes have caused criminal justice professionals to become involved with PSMIs at every stage of the justice process. In this chapter, we explore the blurred boundaries between the criminal justice and mental health systems in the United States. We focus on the arrest, incarceration, and community supervision of PSMIs. We review research on the relationship between serious mental illness and violent crime and trace the historical developments that have apparently produced growth in the numbers of PSMIs in the criminal justice system. We also examine how the increased numbers of PSMIs have compelled criminal justice organizations to alter their policies, procedures, and relationships with mental health providers and to confront the difficulties that arise in initiating and sustaining those relationships.

Because of the tremendous prevalence of drug abuse and dependence disorders among PSMIs in the criminal justice system and the correlation between drug misuse and violent behavior, we discuss at length

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the problem of comorbidity (i.e., serious mental illness and substance abuse and dependence disorders). Throughout the chapter, we briefly describe exemplary criminal justice programs for PSMIs.

We conclude with general recommendations for improving the future care of PSMIs in the criminal justice system, such as building enduring connections between the mental health and criminal justice systems; creating aftercare and consolidated services programs for PSMIs being supervised in the community; developing clear and consistent standards of care for PSMIs in prisons, jails, and community corrections agencies; and pursuing more research on the nature and extent of serious mental illness among different correctional populations.



**M**ajor changes in mental health policies and laws have placed untold numbers of persons with serious mental illness (PSMIs) in the community, where they receive inadequate or intermittent care, or no care at all. These changes have caused criminal justice professionals to become involved with PSMIs at every stage of the justice process: Police arrest PSMIs because there are few other options to handle their disruptive public behaviors; jail and prison administrators strain to provide for the care and safety of PSMIs; judges grapple with limited sentencing alternatives for PSMIs who fall outside of specific forensic categories (e.g., guilty but mentally ill); and probation officers struggle to obtain scarce community services and treatments for PSMIs and to fit them into existing programs and case management strategies.

In this chapter, we explore the blurred boundaries between the criminal justice and mental health systems in the United States. We focus on the arrest, incarceration, and community supervision of PSMIs. We review research on the relationship between serious mental illness and violent crime, tracing the historical developments that have apparently produced growth in the numbers of PSMIs in the criminal justice system. We also examine how increased numbers of PSMIs have compelled criminal justice organizations to alter their policies, procedures, and relationships with mental health providers and to confront the difficulties that arise in initiating and sustaining those relationships.

*Increased numbers of PSMIs have compelled criminal justice organizations to alter their policies, procedures, and relationships with mental health providers.*

Because of the tremendous prevalence of drug abuse and dependence disorders among PSMIs in the criminal justice system and the correlation between drug misuse and violent behavior, we discuss at length the problem of comorbidity (i.e., serious mental illness and substance abuse and dependence disorders). Throughout the chapter, we briefly describe exemplary criminal justice programs for PSMIs and make recommendations about how law enforcement and correctional personnel can respond more humanely and effectively to PSMIs. We conclude with general recommendations for improving the future care of PSMIs in the criminal justice system.

The term “serious mental illness” can be defined in several ways. As Jemelka, Rahman, and Trupin (1993) discussed, there is no consensual definition for serious mental illness, and the label “mentally ill offender” has been applied to diverse populations, including those found not guilty by reason of insanity or incompetent to stand trial, mentally disordered sex offenders, and convicted offenders who are admitted to secured mental health facilities in lieu of prisons.

***Fueled by sensational media reports, negative stereotypes concerning the dangerousness of PSMIs are longstanding and widespread and seem to have become more entrenched.***

Regardless of the definition of “mentally ill offender,” the classes of mental illness most often regarded as “serious” include schizophrenia and other psychotic disorders, bipolar disorder (i.e., manic-depressive disorder), and major depressive disorder. (See American Psychiatric Association [1994] for a detailed description of these and other diagnostic categories.)

Other psychiatric disorders, such as posttraumatic stress disorder or panic disorder, can also have severe consequences for their sufferers. Persons with schizophrenia, manic depression, or major depression, however, are among the most severely disabled mentally ill with respect to their inability to function and the chronicity of their illnesses (Barlow and

Durand 1999). Thus, for the purpose of this chapter, the term PSMIs refers to persons who are afflicted with one of those three disorders.

The chapter is divided into seven major sections. Section one examines the relationship between crime and mental illness and chronicles research on this topic from its inception to date. Section two presents studies on the criminalization of the mentally ill and explores the factors that have contributed to the increasing numbers of mentally ill persons in the criminal justice system. Section three discusses police handling of mentally ill persons and the variables that make arrest of PSMIs more likely. Section four describes the prevalence and treatment of PSMIs in jails and prisons and involved with probation agencies. Section five discusses the importance of diversionary programs for PSMIs and describes two mental health court programs that are designed to deflect PSMIs from the criminal justice system and into the mental health system. Section six examines the comorbidity of serious mental illness and substance abuse and dependence disorders among mentally disordered offenders. Section seven recommends basic changes that will lead to better care for PSMIs in the criminal justice system.

## **Crime and Mental Illness**

The criminality of PSMIs has been a topic of scholarly debate for more than 70 years. Fueled by sensational media reports, negative stereotypes concerning the dangerousness of PSMIs are longstanding and widespread and seem to have become more entrenched (Link and Stueve 1994; Monahan 1992; Phelan et al. 1997; Shah 1975; Shain and Phillips 1991). Misconceptions and unfounded

fears often determine the responses of both the general public and criminal justice professionals to the mentally ill and can greatly affect social policies and legal practices relating to their sentencing, treatment, and care (Barlow and Durand 1999; Steadman et al. 1998).

Are PSMIs more prone to violent and criminal behaviors than persons without major mental disorders? This question is fundamental to our understanding of whether PSMIs are being criminalized—that is, inappropriately processed through the criminal justice system instead of the mental health system. As Teplin (1991a) noted, the criminalization of the mentally ill is not an issue when PSMIs commit serious crimes, since criminal justice responses are clearly warranted in such cases. Public sentiment and statutes define crimes against persons as being among the most serious crimes committed (Adler, Mueller, and Laufer 1996), and the vast majority of studies regarding the criminality of PSMIs have investigated their propensity toward violent crimes.

## **Early studies**

Although the relationship between mental illness and violence was contemplated more than a century ago (e.g., Gray 1857), one of the first studies ever to investigate whether former mental patients pose a criminal threat to the community was conducted in the 1920s. Ashley (1922) followed a sample of 700 patients for 3 months after their release from hospitals and reported that only 12 were arrested for offenses, including “vagrancy, assault and battery, forgery, swindlery or profiteering” (p. 65). These findings, however, were impossible to interpret because Ashley did not compare the patient arrest rate with the general population arrest rate.

In the four decades following Ashley’s work, three major investigations assessed the relationship between mental illness and criminal behavior (Monahan and Steadman 1983). The first major investigation was Pollock’s (1938) study of patients paroled from all New York State hospitals in 1937. He found that patients were less likely to be arrested than were members of the general population. The second major investigation was Cohen and Freeman’s (1945) study of approximately 1,700 patients paroled from State hospitals in Connecticut. Their results indicated that the arrest rate in the general population was 15 times greater than the arrest rate in the hospital patient sample. These two investigations and other early studies “led to the oft-quoted claim that the mentally ill are no more dangerous than the general population, which was true prior to the era of deinstitutionalization [i.e., the release of large numbers of PSMIs from State psychiatric hospitals] because most potentially dangerous patients were kept in the hospital” for long periods of time (Torrey 1997, 45).

The third major investigation, done by Brill and Maltzberg (1962), was the broadest and most influential study conducted during the early years of deinstitutionalization (Rabkin 1979). Brill and Maltzberg analyzed the arrests of 10,000 New York State hospital patients, 5 years before and 5 years after recent hospitalizations. Patients with previous criminal records had a subsequent arrest rate dramatically higher than did patients with no criminal histories and persons in the general population. In contrast, patients without prior offenses were arrested significantly less often than were members of the general population.

### **Studies in the era of deinstitutionalization**

During the mid-1960s and throughout the 1970s, researchers reported that arrest rates among former mental patients were significantly higher than those in the general population (e.g., Durbin, Pasewark, and Albers 1977; Rappeport and Lassen 1966; Zitrin et al. 1976). Coccozza, Steadman, and Melick (1978), for example, examined the arrest records of nearly 4,000 patients released from New York State mental hospitals and found that patients had a higher arrest rate than persons in the general population for all classes of offenses. They also found that the likelihood of arrest increased when patients had criminal histories before they were hospitalized. Similar to Brill and Maltzberg's (1962) findings, the arrest rate among patients without prior arrests was lower than that of the general population.

According to Coccozza, Steadman, and Melick (1978, 333), the apparent increase in the criminality of mental patients could be attributed to "the changing clientele of state hospitals," that is, to the growing numbers of patients with previous offense histories. Comparable results and conclusions were reported by Harry and Steadman (1988), Steadman, Coccozza, and Melick (1978), and Rabkin (1979) (cf. Sosowsky 1980).

Monahan and Steadman (1983, 152) reviewed the literature on crime and mental disorders, citing more than 200 studies, and summarized the primary research findings as follows:

The conclusion to which our review is drawn is that the relation between . . . crime and mental disorder can be accounted for largely by demographic and historical characteristics that the two groups share. When appropriate statistical controls are applied for factors such as age, gender, race, social class, and previous institutionalization, whatever relations between crime and mental disorder are reported, tend to disappear.

## **Recent research**

More recent studies challenge the observation that crime and mental disorders are only spuriously related and help qualify the relationship between mental disorders and violent crimes (Monahan 1993). Swanson and colleagues (1990), for example, analyzed data from the National Institute of Mental Health's Epidemiological Catchment Area Study. The research involved interviews with a representative sample of adult residents of three major cities to estimate the prevalence of psychiatric problems in the general population. Swanson and colleagues focused on the co-occurrence of violence and mental disorders. They found that self-reported violent behaviors were five times higher among individuals who met the criteria for psychiatric diagnoses than among those who did not. In addition, the researchers found no differences in the prevalence of violence among persons who met the criteria for a diagnosis of schizophrenia, major depression, or manic-depressive disorder.

A random community area survey conducted in Stockholm, Sweden, explored the nature and extent of violent crimes committed by PSMIs, compared with persons living in the same city who had never been diagnosed with a major mental illness (e.g., schizophrenia and major affective disorders) (Hodgins 1992). Results showed that men and women with serious mental illnesses were more than 4 and 27 times more likely, respectively, to have been convicted of violent crimes than were persons with no previous psychiatric diagnoses.

Link, Andrews, and Cullen (1992) compared the criminality of former psychiatric patients in New York City with that of 400 adults who lived in the same neighborhoods as the patients but who had never been treated for mental illnesses. The researchers controlled for age, gender, ethnicity, and socioeconomic status and found that a significantly greater percentage of the former patients had been arrested for violent crimes. Furthermore, a greater percentage of the former patients reported violent acts (e.g., hitting, fighting, hurting someone badly) and the use of weapons than did nonpatients (cf. Steadman and Felson 1984).

Link, Andrews, and Cullen (1992, 291) noted that "the association between mental patient status and violent behavior was remarkably robust to attempts to explain it away as artifact." After the investigators controlled for current psychiatric symptoms, however, the relationship disappeared. Specifically, when former patients were experiencing psychotic symptoms (e.g., hallucinations, delusions) their risk of violence was significantly increased; when they were not, their risk of violence was no higher than the risk in the sample of community residents who were free of serious mental illnesses.

In a study of released jail detainees, Teplin, Abram, and McClelland (1994) found that PSMIs who had experienced hallucinations and delusions were more likely than non-PSMIs—but not significantly so—to be rearrested for violent crimes 6 years after their release. Underscoring the importance of treatment in curbing potential violence among PSMIs, Beck (1998) described several studies that showed that the violent acts of schizophrenic persons frequently result from delusions and can be diminished with the proper use of antipsychotic medications.

In light of the independent evidence of Link, Andrews, and Cullen (1992) and Swanson and colleagues (1990), Monahan (1993, 295) revised his earlier position on mental disorders and crime, which declared that PSMIs are no more dangerous than members of the general population:

Together, these two studies suggest that the currently mentally disordered—those actively experiencing serious psychotic symptoms—are involved in violent behaviors at rates several times those of non-disordered members of the general population, and that this difference persists even when a wide array of demographic and social factors are taken into consideration. Since the studies were conducted using representative samples of the open community, selection biases are not a plausible alternative explanation for their findings.

Large-scale cohort studies have produced compelling evidence for a link between mental disorders and violent crimes. Hodgins and colleagues (1996) used the registries in Denmark to document the number of psychiatric hospitalizations and criminal convictions in a birth cohort of more than 300,000 persons, from birth to age 43. The researchers compared the prevalence, type, and frequency of criminal convictions of persons with previous psychiatric hospitalizations with those of persons who had never been admitted to a hospital for psychiatric treatment. They found that men and women with prior psychiatric hospitalizations were more likely to have criminal convictions than were those with no prior hospitalizations.

A cohort study conducted in Sweden found that persons treated for schizophrenia and later released from the hospital committed four times as many violent crimes as did members of the general population. Moreover, the study found that more than half of the sample of schizophrenic patients also had histories of substance abuse and dependence (Lindquist and Allebeck 1989, 1990). In another study outside the United States, investigators in Finland reported that among all persons arrested for homicide between 1990 and 1991, the rate of schizophrenia was nearly 7 times greater for male homicide arrestees and more than 15 times greater for female homicide arrestees than the rate of schizophrenia in the general population (Eronen, Hakola, and Tiihonen 1996).

Steadman and colleagues (1998) designed a study to overcome the basic methodological flaws of previous research on the topic of mental illness and violence (e.g., biased samples and reliance on only official arrest records or uncorroborated self-reports). The research, known as the MacArthur Violence Risk Assessment Study, was undertaken in three cities and monitored the violent acts of male and female patients during the first year after their release from the hospital. Patients' own reports of violent behaviors, the reports of collateral informants regarding patients' behaviors, and patients' police and hospital reports were compared with the same sources of data for control groups of persons who lived in the same neighborhoods as former patients and had no previous psychiatric hospitalizations.

Confirming the results of Johns (1997) and Swanson and associates (1996), Steadman and colleagues (1998) found that violence prevalence rates were significantly higher for both former patients and members of the general population who were diagnosed with substance abuse and dependence problems. Former patients reported relatively more substance abuse and dependence problems than did persons in the general population, and patients who abused drugs and alcohol committed more acts of violence than did members of the general population who had no substance use problems.

In the MacArthur Violence Risk Assessment Study, patients with personality and adjustment disorders and a co-occurring diagnosis of substance abuse or dependence formed the group most likely to commit violent acts in the followup period. Former patients and community members were more likely to perpetrate their aggressive acts against family members, friends, and acquaintances than against strangers. Also, patients were more likely than community residents to commit violent acts at home. (Several other studies have also reported that family members are often the targets of violent PSMIs [e.g., Runions and Prudo 1983; Straznickas, McNeil, and Binder 1993; Tardiff 1984]). Steadman and colleagues (1998, 403) concluded that it is "inappropriate" to refer to "discharged mental patients as a homogeneous class" and that the "presence of a co-occurring substance abuse disorder [is] a key factor" in explaining the violence among PSMIs.

## **Correlates of violence among PSMIs**

In summary, the research that we have described so far, as well as numerous investigations reported elsewhere, suggests that the PSMIs most likely to engage in violent behaviors are symptomatic (especially with command hallucinations and delusions), are in noncompliance with psychotropic medications, and have histories of criminal and violent activities (Bartels et al. 1991; Taylor 1985; Taylor, Mullen, and Wessely 1993). Perhaps the most important factor

predictive of violence among PSMIs is comorbidity for substance abuse and dependence (Smith and Hucker 1994).

The risk of serious mental illness for violence is probably less than or equal to the added risk that is associated with age, educational level, and gender (Link, Andrews, and Cullen 1992; Swanson et al. 1990). Serious mental illnesses and violent behaviors both have low base rates in the general population and are unlikely to occur together. Hence the contribution of mental illness to overall levels of violence in the United States is probably trivial (Swanson 1994). For example, Torrey (1997) estimated that PSMIs commit 4 percent of all homicides in the United States. Yet data have suggested that PSMIs are being arrested and incarcerated at levels that exceed both their representation in the general population and their tendencies to commit serious crimes, leading numerous mental health advocates and researchers to speculate that PSMIs are being criminalized (Teplin 1991a).

## **Criminalization of the Mentally Ill**

More than 25 years ago, Abramson (1972) noted that PSMIs were being criminalized (i.e., they were increasingly being processed through the criminal justice system instead of through the mental health system). Several other researchers have since concluded that persons who were traditionally being treated in mental health agencies and psychiatric hospitals were being shunted more frequently into jails and prisons (e.g., Gibbs 1983; Guy et al. 1985; Lamb 1984a; Lamb and Grant 1982; Morgan 1981; Teplin 1983, 1984b; Whitmer 1980). The criminalization of PSMIs can be attributed to several factors, including deinstitutionalization, restrictive commitment laws, and the splintered nature of the mental health and other treatment systems (Teplin 1991a).

## **Deinstitutionalization**

Following World War II, a series of scathing exposés in the popular press revealed widespread patient neglect and abuse in the State-run hospital system (e.g., Deutsch 1949). At that time, several mental health care reformers, such as the Group for the Advancement of Psychiatry, also criticized public mental hospitals as inhumane and stigmatizing institutions (Grob 1991). With the advent of effective psychotropic medications in the early 1950s, the lengthy institutional “warehousing” of PSMIs was declared deleterious, unnecessary, and obsolete (Thomas 1998).

In 1961, the Joint Commission on Mental Illness recommended the large-scale establishment of a network of community-based facilities designed to care for psychiatric patients who were formerly treated in the hospital (Grob 1991).



This shift in mental care health policy, known as deinstitutionalization, “was at the heart of what President John Kennedy called a bold new approach to the treatment of mental illness” (Durham 1989, 119). In the wake of deinstitutionalization, the census in State mental hospitals fell steadily, from 560,000 patients in 1955 to 77,000 patients in 1994 (U.S. Department of Health and Human Services, Center for Mental Health Services 1994). The length of stay in psychiatric hospitals and the number of beds available for care also declined sharply (e.g., Kiesler 1982; Kiesler and Sibulkin 1987). The net effect of deinstitutionalization was “the ever-increasing presence of the mentally ill in the community” (Teplin 1991a, 157).

The policy of deinstitutionalization—which was roundly assailed by social commentators, policymakers, and researchers—was never fully funded and fell far short of realizing its ambitious goals (e.g., Bachrach 1989; Dumont 1982; Durham 1989; *New York Times* 1982a, 1982b, and 1984). Although it reduced the use of State hospitals and shifted the costs of caring for PSMIs from the State to the Federal Government, it never succeeded in affording well-coordinated or comprehensive outpatient treatment for large percentages of PSMIs (Talbot 1979). The financial strain of the Vietnam war during the 1960s, the economic crisis of the 1970s, and cuts in Federal funding for mental health services in the 1980s left fewer dollars for the community care of PSMIs (Miller 1987; Teplin 1991a; Thomas 1998). Therefore many PSMIs became unbidden charges of the criminal justice system, arrested for vagrancy and other minor infractions, in part because of the paucity of treatment and services in the community (Barlow and Durand 1999; Durham 1989; Grob 1991; Shadish 1989; Teplin 1991a).

Reductions in Federal expenditures for social welfare programs in the 1990s left even more PSMIs with few treatment options or ancillary services for such essentials as food, clothing, shelter, and medical attention (Thomas 1998). As a tragic result of their persistent economic impoverishment and political disfranchisement, the chronically mentally ill have become a stable part of the underclass (Auletta 1982; Thomas 1998).

Talbot (1975) argued that the term “deinstitutionalization” should be replaced by “transinstitutionalization” to indicate that “the chronically mentally ill patient had his locus of living and care transferred from a single lousy institution to multiple wretched ones” (p. 530)—such as nursing homes, jails, intermediate care facilities, board-and-care homes, and other group residences in which mental health care is often marginal (Bachrach 1986; Goldman, Adams, and Taube 1983; Lamb 1997; Mechanic 1998). Similarly, Mechanic (1998, 86) observed that “deinstitutionalization and managed care have both contributed to a broad dispersion of persons with mental illness among residential facilities,

making it difficult to monitor or even describe clearly the de facto mental health system.”

An egregious shortcoming of deinstitutionalization was its failure to adequately treat chronic patients, who are less likely to comply with or respond to medications and are more likely to suffer from intractable social and economic deficits (Shadish, Lurigio, and Lewis 1989). In other words, the unsuccessful transition to community mental health care had the most tragic effects on patients least able to cope with the basic tasks of daily life (Grob 1991).

Because community mental health and social services became highly fragmented, uncoordinated, and inaccessible, thousands of PSMIs were abandoned on the streets where so many remain today among the homeless, without the social and economic resources to fend for themselves (Durham 1989). Estimates suggest that approximately 25 percent of the homeless population in the United States have previous psychiatric hospitalizations and that 30 percent are PSMIs (Koegel, Burnam, and Farr 1988; Robertson 1986). Martell, Rosner, and Harmon (1995) reported that PSMIs entering the criminal justice system in New York City had 40 times the rate of homelessness found in the general population and that homeless PSMIs had significantly higher rates of arrest for violent and nonviolent crimes than did domiciled PSMIs. Homeless PSMIs are also highly likely to be victims of violence (Bachrach 1984).

## **Mental health law reform**

Concerned that the homeless mentally ill and other PSMIs were living in the community without psychiatric or social services, mental health workers have recommended involuntary commitment as a means of getting such persons into treatment (Thomas 1998). Mental health law reforms, however, have made it difficult to commit PSMIs to psychiatric hospitals and are the second major factor contributing to the criminalization of the mentally ill (Torrey 1997). Serious restrictions have been placed on the procedures and criteria for involuntary commitment, limiting psychiatric hospitalizations for PSMIs and increasing the likelihood that they will be processed through the criminal justice system.

Most State mental health codes require psychiatric hospitals to show clear and convincing evidence that patients being committed involuntarily are either a danger to themselves or others or are so gravely disabled by their illnesses that they are unable to care for themselves. In addition, mental health codes have expanded psychiatric patients' rights to due process, which accord patients the constitutional protections granted to defendants in criminal court proceedings (Miller 1987). Consequently, only the most dangerous or profoundly mentally

ill are hospitalized, resulting “in greatly increased numbers of mentally ill persons in the community who may commit criminal acts and enter the criminal justice system” (Lamb and Weinberger 1998, 487).

PSMIs cannot be hospitalized against their will without legal representation and a full judicial hearing. With these legal safeguards, the framers of reformed mental health codes hoped to eliminate capricious hospitalizations and to protect the freedom of patients (Durham 1989). Moreover, as we mentioned, they wanted to grant PSMIs many of the procedural advantages extended to defendants in the criminal justice system. Along with statutory reforms, case precedents such as *O’Connor v. Donaldson* (422 U.S. 563 [1975]), *Rennie v. Klein* (653 F. 2d 836 [3d Cir., 1981]), *Addington v. Texas* (99 S. Ct. 1804 [1979]), *Rogers v. Okin* (634 F. 2d 650 [1st Cir., 1980], and *Covington v. Harris* (419 F. 2d. 617 D.C. Cir. [1969]) further diminished the use of hospitalization by recognizing the right of PSMIs to refuse treatment and to receive treatment in the least restrictive settings, which often means that they receive no treatment at all (Thomas 1998).

Several critics of these legal reforms have called for a relaxation of commitment standards so that PSMIs can be moved “off the streets and back in facilities designed for people in their condition” (Kanter 1989; Perkins 1985, 38). The American Psychiatric Association has proposed a model commitment law, urging States to replace the criterion of “dangerous” with the criterion of being likely to suffer “substantial mental or physical deterioration” (Lamb 1984b, 47). This standard changes the focus of commitment decisions to whether individuals are capable of tending to their own needs, permits treatment of patients without their consent, and places commitment decisions in the hands of medical rather than legal practitioners (Kanter 1989). The State of Washington, for example, revised its commitment standards in 1979 to allow the hospitalization of people who are judged to be in need of treatment (LaFond and Durham 1992).

Several other States have also enacted outpatient commitment laws for persons who do not require hospitalization (McCafferty and Dooley 1990; Torrey 1997). Under such laws, the court can order individuals to receive mental health treatment in the community even if they do not meet the standard for civil commitment, giving the courts a greater choice of nonrestrictive alternatives (Stefan 1986). These laws, however, have been used rather sparingly (Torrey and Kaplan 1995).

## **Compartmentalized services**

The third major factor that has fostered the criminalization of PSMIs is the compartmentalized, or splintered, nature of mental health and other treatment

systems, which makes it more likely that PSMIs with multiple problems and afflictions will fall through the cracks (Teplin 1991a). The mental health system consists of fragmented services for predetermined subsets of patients. The bulk of psychiatric programs, for example, are designed to treat “pure types” of patients—either mentally ill or developmentally disabled, alcoholic or chemically dependent (Teplin 1991a). By the same token, most substance abuse and dependence programs are unwilling or unable to treat PSMIs and frequently refuse to accept such clients. In addition, mental health and substance abuse treatments are often carved out of managed care plans separately, which results in “significant discontinuities of care for persons with multiple conditions and families with multiple problems” (Mechanic 1998, 90). Hence, individuals with comorbid disorders, who constitute large percentages of PSMIs in the criminal justice system, might be deprived entirely of treatment because they fail to meet stringent admission criteria (Abram and Teplin 1991; Teplin 1991b).

When dually diagnosed persons come to the attention of the police, officers are left with arrest as the most practical response, given the lack of available referrals within the narrowly defined treatment system (Brown et al. 1989). For example, mental health centers often decline to treat alcoholics; PSMIs with drug abuse and dependence problems are considered disruptive to the recovery of non-mentally ill drug addicts and are refused entry into treatment; hospital emergency rooms turn away PSMIs who appear intoxicated or threatening; and community mental health providers reject PSMIs with criminal histories, labeling them as dangerous or resistant to treatment (Lamb and Weinberger 1998; Teplin 1991a). Thus, many of these “forfeited patients” (Whitmer 1980) can end up, by default, in the criminal justice system, the “asylum of last resort” (Belcher 1988).

## Evidence for criminalization

Teplin (1991a) reviewed the criminalization of PSMIs using evidence stemming from three primary sources: data on police contacts, incarcerations, and the relative arrest rates of the mentally ill. She concluded that data on police contacts and arrests provide inconclusive support for the criminalization of PSMIs. Studies in the area have employed mostly post-hoc strategies of data collection that are fraught with interpretation problems; for example, asking police officers after the fact to explain their decisions about handling PSMIs produces biased data. Furthermore, small samples, the lack of baseline comparisons, and invalid, inconsistent, and nonstandard assessment procedures limit the usefulness of data on the prevalence of PSMIs in jails and prisons.

Despite the shortcomings of existing studies on the criminalization of PSMIs, Teplin (1991a, 172) concluded that the weight of evidence suggests that “the

mentally ill are being criminally processed when mental health alternatives would be preferable but [are] unavailable.” She also argued, however, that the absence of longitudinal research precludes definitive conclusions about the causal relationship between policy changes and the criminalization of PSMIs (also see Lamb and Weinberger 1998; Teplin and Voit 1996). Teplin (1991a, 172) summarized the literature on criminalization:

In short, while the criminalization hypothesis is not supported as a longitudinal trend, there is ample evidence of criminal processing of the mentally ill as a contemporaneous phenomenon. Clearly, further research must be undertaken to document the extent and conditions under which criminal processing is used to manage the mentally ill.

Cognizant of the shortcomings of prior research, we next describe studies on the police handling and incarceration of PSMIs, highlighting those investigations that provide the clearest data on these topics.

## **Police and PSMIs**

Many of the untreated symptoms and signs of serious mental illness can be frightening or discomfoting to the people observing them. Public tolerance for the mentally ill has remained quite low (Torrey 1997), and common stereotypes of PSMIs—held by the police and the general public—typically depict the mentally ill as dangerous, uncontrollable, or violent (Durham 1989). As we discussed in the preceding section, a greater proportion of PSMIs are no longer in hospitals, so there are many more opportunities for those who are untreated to be symptomatic in public (Teplin 1984a). Thus, when confronted with PSMIs who are engaging in bizarre or threatening behaviors, citizens turn to police officers, who have become “street corner psychiatrists” and “gatekeepers” to the mental health system (Sheridan and Teplin 1981; Teplin and Pruett 1992).

Police are often the first persons to encounter PSMIs and are a major source of psychiatric referrals. DeCuir (1982) found that police officers in Los Angeles spent nearly 20,000 hours every month responding to cases involving PSMIs. In two separate studies, data indicated that the police brought in for care more than 30 percent of the people seen in psychiatric emergency rooms in Los Angeles and New York City (Way, Evans, and Banks 1993; Morrell 1989). Growing awareness that the police are coming into increasing contact with PSMIs has led to several studies examining police practices with the mentally ill and police departments’ relationships with mental health and social services agencies (Wachholz and Mullaly 1993).

## Police discretion and PSMIs

The police have historically played a pivotal role in responding to citizens' complaints about PSMIs, particularly in poorer neighborhoods (e.g., Gilboy and Schmidt 1971; Warren 1977). The legal foundation for police involvement with PSMIs is twofold: the police power function, exercised to protect public safety, and the *parens patriae* function, exercised to protect disabled citizens (Shah 1975).

Bittner's (1967) seminal research on the police handling of PSMIs found that officers initiate psychiatric referrals mostly in situations in which an arrestee is violent, suicidal, or floridly symptomatic. Numerous other studies have also shown that police officers are reluctant to refer arrestees to the hospital unless they are overtly dangerous to themselves or others (e.g., Matthews 1970; Rock, Jacobson, and Janepaul 1968; Schag 1977).

Other factors that the police consider in managing PSMIs include a determination of whether the person has a psychiatric history and the level of public disturbance that the person is creating (Schag 1977). Overall, whether the police characterize PSMIs as "bad" and arrest them, as "mad" and hospitalize them, or as merely "eccentric" and dispose of the situation informally, is influenced as much by discretion as by rules of law (Teplin and Pruett 1992). "Thus the [police] disposition of incidents involving mentally ill persons is a complex social process, and the police develop an informal operative code to handle each situation" (Teplin 1991b, 174).

***Evidence of a mental disorder is a critical, situational variable that helps shape police-citizen interactions and guides the subsequent disposition of an incident, including the decision to make an arrest.***

In most jurisdictions, the police can initiate emergency hospitalizations for PSMIs who are either a danger to themselves or others or who are unable to provide for their own basic physical needs or to guard themselves against serious harm. In practice, however, officers are sorely restricted in their use of emergency hospitalizations (Bonovitz and Guy 1979; Teplin 1983). These restrictions include the stringent legal criteria surrounding involuntary commitment, the unavailability of community-based treatment slots, the unwillingness of mental health facilities or emergency rooms to accept recalcitrant or intoxicated patients, and the bureaucratic obstacles inherent in the hospitalization process, such as complicated admission procedures and long waiting periods in emergency rooms (Durham 1989; Finn and Sullivan 1989; Gillig et al. 1990; Laberge and Morin 1995; Murphy 1986).

The mental health system, in general, seems unwilling or unable to serve PSMIs with criminal backgrounds (Draine, Solomon, and Meyerson 1994; Laberge and Morin 1995). Hence, without recourse to State hospitals or community mental health centers, police have frequently had to arrest PSMIs, even for minor offenses that stem more from their illnesses than from their criminality (Dvoskin and Steadman 1994). Arrest is often the only feasible mechanism to remove from the streets persons who are not “disturbed enough” for the hospital, yet are regarded by hospital staff as “too dangerous” for inpatient care (e.g., they have a criminal case pending or a history of violence) (Teplin 1983; Teplin and Pruett 1992). As Kagan (1990) noted, the criminal justice system (i.e., police officers) has been assuming the State hospital’s responsibility of removing PSMIs from the streets and into custodial care (i.e., jails).

## **Encounters between police officers and PSMIs**

### ***Occurrences of arrests***

Teplin (1984a) and her staff observed firsthand more than 1,000 police-citizen contacts and reported that for similar behaviors and offenses, persons showing obvious signs and symptoms of severe mental disorders had greater chances of being arrested than those who did not. Police officers in Teplin’s study were accurately able to recognize serious mental illnesses during their street encounters with citizens. Nonetheless, they chose to arrest PSMIs because it was the best option at hand for persons who failed to meet inpatient commitment criteria or who were rejected for care in hospital emergency rooms or other facilities because of their recalcitrant or criminal behaviors.

Teplin (1984a) found that evidence of a mental disorder is a critical, situational variable that helps shape police-citizen interactions and guides the subsequent disposition of an incident, including the decision to make an arrest. The police are primarily motivated by a desire or need to maximize the successful resolution of a street encounter and to avoid returning to the scene.

According to Teplin (1984b), police are most likely to arrest PSMIs under the following circumstances: when hospitalization is an impractical or onerous alternative (e.g., because of time constraints); when a PSMI’s behaviors are very visible or disruptive and exceed the public’s tolerance for deviance; when there is a high probability that a PSMI’s behaviors will continue to cause problems and necessitate a return to the original site of the complaint; when a PSMI obviously suffers from multiple problems (e.g., schizophrenia and alcoholism); when a PSMI behaves disrespectfully toward the police; and when hospital staff deem that a PSMI is dangerous and likely to become a management

problem. Teplin (1984b) also stated that police officers regard arrest as an appropriate option for PSMIs because officers often erroneously assume that mental health diversions are routinely initiated in the criminal justice system.

In summary, when no other community alternatives are available, arrest is an expedient way to get PSMIs into jail settings in which they have a chance to be assessed and treated by mental health professionals (Laberge and Morin 1995). For PSMIs, the criminal justice system has become the “system that can’t say no” (Borzecki and Wormith 1985), and “families, friends, and others in the community call on the police to act as agents of social control for mentally ill individuals whose behavior, although disruptive, does not meet criteria for involuntary civil commitment” (Bonovitz and Bonovitz 1981, 974).

### ***PSMI arrestees***

In their investigation of police-citizen interactions, Teplin and Pruett (1992) classified PSMIs who are neither arrested nor hospitalized (i.e., those whose cases were handled informally) into three groups. Those in the first group, called “neighborhood characters,” are known and tolerated by the police and the public; their behaviors are predictable and regarded as “eccentricities” rather than criminal acts. Those in the second group, called “troublemakers,” cause problems for the police and the public but are “thought to be too difficult to handle via arrest or hospitalization” (p. 151). Those in the third group, called “quiet crazies,” exhibit unobtrusive symptoms and odd behaviors that are inoffensive to the public and the police.

Lewis and associates (1994) followed a random sample of PSMIs released from Illinois State psychiatric hospitals in the Chicago area for 12 months (see also Lewis et al. 1991). Their findings demonstrated that roughly 20 percent of the former patients were arrested within 1 year after they left the institution. Approximately 75 percent of the offenses committed by the former patients were municipal crimes (e.g., loitering, trespassing, public intoxication) or property crimes (e.g., theft, burglary, damage to property).

Lewis and colleagues (1994) reported that the criminal histories of the former patients who were arrested were more extensive and serious than suggested by their arrests during the followup year. Patient arrestees had an average of nine prior arrests, one quarter of which were for such violent felony offenses as murder, rape, armed robbery, and aggravated assault. Former patients who were likely to pass through the criminal justice system during the investigation were also chronic habitués of State psychiatric facilities. These PSMIs were apparently absorbing both mental health and criminal justice resources at an alarming pace. Patient arrestees, for example, were admitted for psychiatric treatment



twice as often in the course of the study as were patients who had not been arrested. Therefore, chronic patients-arrestees moved back and forth between the mental health and criminal justice systems, each of which is ill-equipped to handle their complex combination of problems and needs (also see Teplin and Voit 1996).

In another study, Lurigio and Lewis (1987) performed case studies of arrested PSMIs and found major differences among them relative to the types of crimes that they committed and their reasons for committing those crimes. Patients with criminal records generally fell into three distinct categories. For the first type, illegal acts were a byproduct of mental illness. Their offenses frequently involved disorderly conduct, criminal trespass, disturbing the peace, and public intoxication. Their main “crime” was expressing the symptoms of mental disorder in public. About 42 percent of the arrested patients fell into this category.

The second type of PSMIs with criminal histories resorted to crime—primarily property offenses (petty theft, shoplifting) and prostitution—simply to survive. Their criminal activity occurred in spurts as a means to obtain money when their Supplemental Security Income or wages were especially meager. Nearly 30 percent of the arrested patients were in this category.

The third type of PSMIs committed more serious offenses, such as burglary, assault, rape, and robbery. Their histories paralleled those of non-mentally ill criminals in the type, frequency, and repetitiveness of their offenses. They were the least seriously impaired by their mental illness, which seemed incidental to their crimes and co-occurred with heavy drug and alcohol use. Approximately 28 percent of the arrested patients were in this category.

## **Improving practices: Law enforcement**

### ***Training***

To prepare police agencies to deal effectively and humanely with PSMIs, officers need recruit and inservice training on the signs and symptoms of serious mental illness. Despite the proven benefits of such training (e.g., changing officers’ attitudes toward PSMIs and improving their relationships with mental health providers), most departments’ training curricula have been deficient in this area (Murphy 1986). Husted, Charter, and Perrou (1995), for example, reported that law enforcement officers in California had been given insufficient training in identifying, managing, and referring PSMIs, even though it was recognized that the officers had a lot of contact with the mentally ill in their routine law enforcement practices. Without special training, “law enforcement

personnel are ill-prepared to effectively handle mentally ill citizens” (Teplin 1991b, 17).

Cross-training will allow both police officers and mental health providers to share their concerns and to discuss the philosophies and exigencies that affect their respective expectations and responsibilities in responding to PSMIs. Cross-training can help build effective working relationships between police officers and mental health staff (Murphy 1986). In addition, family members of PSMIs could benefit greatly from cross-training by learning about appropriate police roles and practices with regard to PSMIs (Hartstone 1990). Hence cross-training would be a welcome addition to future police training agendas.

### ***Strategies***

Police officers are often unclear on how calls involving PSMIs should be processed (Teplin 1984a). In the future, all departments’ general orders can be written to include unambiguous guidelines on PSMIs (Murphy 1986). These guidelines are most useful when they specify existing relationships between the police department and local mental health providers, which are based on written and formal memoranda of understanding and no-decline agreements. Officers need to know about accessible diversionary options for PSMIs who commit less serious crimes.

### ***Rewards***

Police officers are reluctant to work with PSMIs for the reasons that we have cited, but when police officers do work with PSMIs, their work usually goes unrewarded (Hartstone 1990). As Murphy (1986, 62) stated, “[D]epartmental policies seldom offer incentives or rewards for successfully managing PSMIs, and officers seldom receive any feedback on the results of their efforts.” Such activities are compatible with officers’ duties in the areas of order maintenance and social service referrals, which are important components of many community policing strategies (Rosenbaum 1994) and can be incorporated in guidelines for officer recognition and promotion.

Deane and colleagues (1999) surveyed nearly 200 police departments to examine their responses to PSMIs. More than half (55 percent) of the agencies completing the survey reported that they had no specialized mechanism for dealing with the mentally ill. Those with special programs implemented one of three strategies.

The first strategy was a police-based, specialized police response (3 percent) involving sworn officers who are trained to provide crisis intervention services

and who act as liaisons with the mental health system. The second was a police-based, specialized mental health response (12 percent) involving mental health workers who provide onsite and telephone consultations with sworn officers. And the third was a mental health-based, specialized mental health response (30 percent) involving mobile crisis teams of local mental health professionals who work closely with the police and provide onsite assistance to PSMIs. Mobile crisis teams received higher-than-average effectiveness ratings compared with the other two strategies. Geller, Fisher, and McDermach (1995) also reported that mobile crisis teams appear to be an effective approach for delivering emergency mental health care.

### ***Model programs***

Finn and Sullivan (1989) described eight model police programs for handling the mentally ill, operating in such cities as Birmingham, Alabama; Erie, Pennsylvania; Los Angeles, California; and Madison, Wisconsin. The model programs consist of networks of law enforcement and social service agencies that share responsibilities for PSMIs who come to the attention of the police for public disturbances or more serious criminal acts. The network partners sign formal agreements of collaboration that describe the responsibilities of each participating agency. At the core of each network is a crisis unit, on duty or on call 24 hours a day, to conduct screening, referral, or on-scene emergency services. The Birmingham program is an excellent example of a police-civilian partnership for responding to the city's large, transient population of PSMIs (Finn and Sullivan 1989; Murphy 1986; Steadman et al. 1999). The program, initiated in 1976 by the University of Alabama, was started as a pilot project to provide the police department with a team of in-house civilian social workers, known as community service officers (CSOs). CSOs act as liaisons between the police and PSMIs, between PSMIs and social services agencies, and between the police department and mental health facilities.

CSOs have become an integral part of the police department, operating out of police headquarters 7 days a week, 15 hours a day, and relieving officers of the need to respond to mental health-related repeat calls for service or to mental health-related calls in which police action is unnecessary. When they are off duty, CSOs remain on call to come to the immediate aid of a PSMI in response to a police summons on their beepers.

In general, CSOs take control of the case at the scene, allowing officers to return quickly to their beats. CSOs work closely with the mentally ill person's family and with the city's mental health centers and hospitals. The police accompany CSOs to hospital emergency rooms if a PSMI is violent. Once a PSMI has been restrained at the facility, the CSO remains as the police

department's representative for the remainder of the admission proceedings. The university's hospital has made police referrals a priority for its psychiatric beds set aside for the indigent. In 1997, CSOs responded to more than 2,000 calls for service. Police officers are informed of the dispositions on all CSO-assisted cases.

## **PSMIs in Correctional Settings**

### **PSMIs in jails and prisons**

#### *Disturbing conditions*

During colonial times, the jailing of PSMIs was a common practice. In 1694, a Massachusetts law authorized the incarceration of any person "lunatic and so furiously mad as to render it [sic] dangerous to the peace or the safety of the good people for such lunatic person to go at large" (Grob 1973, 48). The policy of incarcerating the mentally ill continued until the 1830s, after which it became increasingly less acceptable to use jails to house the mentally ill. Led by mental health reformers such as Dorothea Dix and Louis Dwight, the public began to express outrage at the use of jails for PSMIs, and States began to build psychiatric hospitals to treat the mentally ill. By 1880, there were 75 public psychiatric hospitals in the United States, and a census of the mentally ill showed that PSMIs represented only 0.7 percent of the population of inmates in jails and prisons across the country (Wine 1888).

Torrey and colleagues (1992, iv) observed, "[O]ur jails have once again become surrogate mental hospitals, thus [re]criminalizing the mentally ill" the way they were in the 1830s. Torrey and associates reported that more than 20 percent of the jails surveyed in a national study had no access to mental health services and that nearly half of the jails surveyed had no information on whether PSMIs released from jail received any followup care. According to a National Alliance for the Mentally Ill report (1999), many PSMIs are placed in municipal lockups or sentenced to jails or prisons in which they often languish without adequate care.

Because the linkages between the criminal justice and mental health systems are either tenuous or nonexistent, the mentally ill involved in these systems often fail to receive adequate treatment from either. As a result, their conditions are exacerbated, and they frequently become both chronic patients and repeat arrestees (Lurigio and Lewis 1987). A decade ago, Warner (1989, 18) offered this poignant description of the conditions experienced by many of the PSMIs incarcerated in jails:

The conditions of detention for mentally ill offenders are, at best, barren and unstimulating, at worst, degrading, dangerous, and inhumane. An entire floor of the ten-story Dade County Jail, for example, is given over to the detention of around 100 mentally ill inmates. The most floridly disturbed of these psychotic people are stripped naked and isolated; the feeding slits in the doors of their cells are sealed so that food cannot be hurled back at the corrections officers. Jail staff may be called to respond to half a dozen or more suicide attempts in the jail on a single night.

Warner also noted that these inadequacies are not the product of isolated instances of detainee abuse or poor management; instead, they are the consequences of a national mental health system that is not meeting the needs or solving the problems of a substantial proportion of PSMIs.

Torrey and associates' (1992) national survey of jails also found that 30 percent of the responding jails, located in 45 States, allowed PSMIs to be detained without criminal charges—a situation that was more likely to occur in States with poor mental health services. PSMIs were commonly arrested and detained for assault and battery, theft, disorderly conduct, and drug- and alcohol-related charges. Forty percent of the jails responding to this survey indicated that PSMIs often are abused physically or verbally by other detainees.

## **Prevalence studies**

On the average, 7 to 9 percent of the inmates in jails are PSMIs (Steadman, McCarty, and Morrissey 1989; Torrey et al. 1992; Warner 1985); hence, as of June 1998, between 41,472 and 53,322 of the 592,462 detainees in our Nation's jails were PSMIs (U.S. Department of Justice [DOJ], Bureau of Justice Statistics [BJS] 1999b). In large urban areas, the percentages of PSMIs in jails might be even higher than the average estimates suggest. Guy and colleagues (1985), for example, reported that 15 percent of a randomly selected sample of admissions to Philadelphia's jail were diagnosed with schizophrenia or bipolar disorder. In Los Angeles County, 85 to 90 percent of the inmates who were referred for mental status examinations had a history of psychiatric hospitalization (Lamb and Grant 1982, 1983).

Teplin and Voit (1996) reviewed more than 20 studies on the prevalence of mentally disordered persons in jails. They found substantial variation in the percentages of incarcerated PSMIs and attributed the differences among the estimates to biased or small samples and to unspecified diagnostic criteria or nonstandardized diagnostic instruments.

In a study designed to overcome the failures of previous investigations on the prevalence of mental disorders among jail inmates, Teplin (1990) reported that

nearly 1 of every 15 admissions, or approximately 6 percent of Cook County Jail (Chicago) detainees, suffered from severe mental disorders at the time of arrest. This figure is triple the rate of psychiatric illnesses in the general population and probably underestimates the true number of mentally ill arrestees because some of them were diverted to hospitals following their arrests (Teplin 1994).

Teplin (1990) also found that, overall, only one-third of the seriously mentally ill inmates in Cook County Jail were ultimately diagnosed and treated. Depressed inmates were especially unlikely to be diagnosed, which is quite problematic because of the threat of suicide among jail inmates. Teplin's results supported the contention that jails have become "mental hospitals for poor persons" or the country's "new asylums" (p. 235) (Grob 1991; Torrey et al. 1992). Teplin and Voit (1996, 305) observed that "because the jail rather than the prison is the more likely repository for at least some mentally ill persons, further epidemiological research on jails is needed."

Studies of the prevalence of PSMIs in prisons, which also have some of the same methodological shortcomings that Teplin and Voit (1996) found in the jail prevalence studies, suggest that "at any given time, 10% to 15% of state prison populations are suffering from a major mental disorder and are in need of the kinds of psychiatric services associated with these illnesses" (Jemelka, Rahman, and Trupin 1993, 11). More recently, Lovell and Jemelka (1998) estimated that the percentage of PSMIs in prison is between 10 and 20 percent. With a State and Federal prison population in the United States of 1,210,034 as of June 30, 1998 (U.S. DOJ, BJS 1999b), we can estimate that our country's prisons house between 121,000 and 242,000 PSMIs (see Proband 1998 for a projection of the prison population at the end of 1999).

Research that has compared the prevalence of serious mental illnesses among prison inmates with that of the general population has produced mixed results. For example, Collins and Schlenger (1983) reported that the prevalence of serious mental illness was lower among prison inmates than among the general population, whereas Hodgins (1990) found higher lifetime prevalence rates of psychiatric disorders among prisoners than among the general population.

In 1970, 378,000 PSMIs were being treated in public psychiatric hospitals. Twenty years later, that number had fallen to 84,000, and it continues to decline (Witkin, Atay, and Manderscheid 1996). During that same time period, the number of persons in our Nation's prisons and jails grew dramatically (e.g., U.S. DOJ, BJS 1988). There are now approximately 1.5 to 3 times more PSMIs in State and Federal prisons than in public psychiatric hospitals (Cote et al. 1997).

The increase of PSMIs in the Nation's jail and prison populations has supposedly occurred, in part, because of the decline in the States' mental hospital populations, substantiating Penrose's (1939) notion that a relatively stable number of persons are confined in industrialized societies (i.e., as the census of one institution of social control—the mental hospital—goes down, the census of another—the prison—goes up). Penrose's seminal work has been cited by numerous authors who have written about the criminalization of the mentally ill (e.g., Cote et al. 1997).

Akin to Boyle's Law in physics, which describes the constant relationship between volume and pressure for an ideal gas, Penrose's theory—also referred to as the “hydraulic hypothesis”—posits that a constant number of psychiatrically disordered persons require institutional care in industrialized or western societies. If psychiatric hospitals are unavailable or unwilling to treat PSMIs, then they will be housed in other institutions (e.g., prisons and jails). Part of the increase in the number and proportion of incarcerated PSMIs is certainly attributable to deinstitutionalization and the other factors that we discussed earlier. The criminalization of PSMIs, however, is unable to completely explain the large number of PSMIs in prison (Jemelka, Trupin, and Chiles 1989).

The 2-percent increase in the proportion of men with previous psychiatric hospitalizations who were sentenced to prison between 1968 and 1978, for example, is much too small a proportion to account for the total number of men who were released from psychiatric hospitals and who later committed crimes during that same time period (Jemelka, Trupin, and Chiles 1989). In addition, the census in State psychiatric facilities has remained relatively flat, while the size of the prison population has been increasing at a rate of 6 percent annually since 1990 (U.S. DOJ, BJS 1999a).

Palermo, Smith, and Liska (1991) examined evidence for the inverse correlation between the number of PSMIs in jails and prisons and those in psychiatric hospitals, using census data that were collected from those three institutions between 1904 and 1987. They concluded that the data corroborated the observation that jails and prisons have become repositories for PSMIs. Teplin and Voit (1996), however, reviewed studies on the imprisonment of PSMIs and were unable to find conclusive evidence that supported the hydraulic hypothesis. Steadman and colleagues (1984), for example, examined imprisonment data in six States, comparing the numbers of prisoners with prior psychiatric hospitalizations in 1968 and 1978. The investigators concluded that the purported shift

***Like dolphins among tuna, many mentally ill, drug-using offenders have been caught in the net of rigorous drug enforcement policies.***

of PSMIs from State hospitals to prisons was unsupported by the data from the six States that were investigated. What, then, explains the continuing large numbers of PSMIs entering prisons?

Persons who are convicted of drug crimes are among the fastest growing groups of inmates admitted to State and Federal prisons (U.S. DOJ, BJS 1999a). Since the late 1980s, people using and selling illegal drugs (who also have high rates of drug use) have been incarcerated in large numbers. A notable proportion of these offenders have co-occurring severe mental illnesses (see later section on comorbidity). Like dolphins among tuna, many mentally ill, drug-using offenders have been caught in the net of rigorous drug enforcement policies. Several studies, some of which we described in an earlier section of this chapter, show that PSMIs who use illicit drugs are more prone to violence and more likely to be arrested and incarcerated than those who do not (Clear, Byrne, and Dvoskin 1993; Swanson et al. 1997; Swartz et al. 1998). Hence, we believe that the current war on drugs, which started in 1988, and the high rate of comorbidity between drug misuse and psychiatric disorders partially account for the increased numbers of PSMIs in jails and prisons.

## **Improving practices: jails and prisons**

In a survey of a random sample of more than 1,500 jails, Steadman and Veysey (1997) found that most facilities were “ill equipped” to treat PSMIs. More than 80 percent of the survey respondents reported that 10 percent or fewer of the inmates were receiving mental health care in their jails. Larger jails were more likely than smaller jails to offer a full range of psychiatric services, from screening and evaluation to special housing and psychotropic medications. Few jails, irrespective of size, provided case management services to link detainees to community mental health and other services programs.

### ***Core principles***

Steadman (1990) suggested that the following core principles be incorporated in a general strategy for handling PSMIs in jails:

- PSMIs in local jails are a community problem, and jails are part of the community.
- PSMIs who are arrested for misdemeanors—illegal behaviors that are often a means to survive with few resources and little social support—should be diverted to appropriate mental health treatment centers.
- PSMIs who commit felonies have the right to mental health evaluation and treatment and to linkage services in the community.



A statement made by the National Association of Counties in its report on exemplary county mental health programs reflects these core principles (Adams 1988, 2):

Jail is inappropriate treatment for people with mental illness who commit misdemeanors or no crime at all. Such individuals need to be diverted from jail to a continuum of services which include crisis intervention, outreach, residential, vocational training, family support, case management and other community support services. Further, individuals with mental illness whose crimes warrant their incarceration need access to appropriate mental health services. These services should be provided either through linkages with the community mental health system, and/or the development of programs to deliver mental health services in the jail setting. In Steadman's (1990) view, both diversion and jail mental health services are sorely needed—the former for PSMIs whose crimes are minor, and the latter for those whose crimes or criminal records are serious enough to require pretrial detention.

To better serve the needs of incarcerated PSMIs, it is important that jails become one agency in a continuum of county services and not remain an isolated or self-sufficient institution that stands distinctly apart from other treatment and service sites (Steadman, McCarty, and Morrissey 1989). Toward this end, mental health and jail administrators, judges, and county officials are encouraged to become involved in efforts to develop jail-based mental health programs. In addition, citizen advocacy councils, task forces, and public education initiatives are necessary to foster an abiding interest in the mentally ill and to achieve a mandate to enhance correctional services and noncustodial treatment options.

The most helpful jail-based mental health services focus on identifying patients, performing crisis intervention, stabilizing patients, and referring patients at release rather than on providing PSMIs with extended mental health services, duplicating interventions in the community, and encouraging police and judges to view jails as long-term mental health treatment centers (Cox, Landsberg, and Paravati 1989; Kimmel 1987; Steadman, McCarty, and Morrissey 1989). The case of *Inmates v. Pierce* (489 F. Supp. 638 [1980]), which ruled that jailed inmates are entitled to adequate mental health care, is especially instructive:

The jail is not a mental health facility, nor do administrators intend that it become one. It must, however, be staffed and organized to meet emergency situations, to make appropriate referrals, and to carefully care for and protect those who must be housed in the jail for whatever reasons despite their mental illness.

Proper screening is an important first step in providing adequate future mental health treatment to PSMIs in jails and is defined as “a process completed during intake in which new inmates are routinely asked about mental health status and history, using a standardized form to guide the interview” (Jemelka 1990, 39). The American Medical Association, the American Psychiatric Association, the American Correctional Association, and the American Association of Correctional Psychologists have established standards for screening jail inmates for mental illnesses and the potential for violent or suicidal behaviors (see Steadman, McCarty, and Morrissey 1989). According to Steadman, McCarty, and Morrissey (1989, 34), “all of the standards rank intake screening as one of the most significant mental health services that a jail can offer.”

Effective mental health intake screening is best done by trained booking officers and is composed of at least three basic components. The first involves carefully reviewing any health-related records or papers that inmates bring to central booking. The second involves asking inmates questions about their mental health histories, including hospitalizations, suicide attempts, episodes of alcohol or drug treatment, and prior use of psychotropic medications. The third involves a brief mental health status examination, noting such obvious signs or symptoms of mental illness as delusions, hallucinations, and peculiar speech or demeanor. The Summit County Jail in Ohio has an especially extensive, three-tier screening process for detainees, involving a preliminary mental status examination conducted by a booking officer, a cognitive function examination conducted by a mental health worker, and a full-scale mental status examination conducted by a clinical psychologist (Steadman and Veysey 1997).

Standardized tools such as the Referral Decision Scale (RDS), developed by Teplin and Swartz (1989), can be used by highly trained jail staff to conduct preliminary assessments of inmates at intake and can serve as the basis for referring inmates for further mental health evaluations performed by mental health professionals. RDS consists of 14 items selected from the National Institute of Mental Health Diagnostic Interview Schedule, a reliable and valid instrument for assessing major psychiatric illnesses. Using the 14 items selected for RDS, trained raters were able to discriminate between inmates who have serious mental illness (i.e., diagnoses of schizophrenia, bipolar disorder, and major depression) and those who do not.

Suicide potential is a critical component of mental health screening in jails, from both a psychiatric and a legal perspective. LeBrun (1989) found that jail inmates with major psychiatric disorders were highly prone to suicide attempts. In his study of suicide in Sacramento County Jail (California), he found that more than 75 percent of the inmates who attempted suicide had histories of prior mental health treatment. Similarly, Ivanoff (1989) reported that jail

inmates who have histories of previous psychiatric treatment also have high rates of suicide attempts.

### ***Issues of care***

Steadman, McCarty, and Morrissey (1989) suggested several practical measures for establishing a continuum of care for PSMIs, such as allocating mental health staff's time between the jail and community service agencies to provide in-house screening and services and to encourage case diversion and postrelease, followup care; assigning the responsibility for providing mental health services to full-time jail staff; and appointing a transagency administrator to coordinate the provision of both mental health and correctional services for PSMIs. Steadman, McCarty, and Morrissey found that the greatest interagency conflict occurred in jail mental health programs in which services fell under the auspices of both the mental health and jail systems.

There is no one best strategy for meeting the mental health needs of future jail inmates. Jail programs for PSMIs can be tailored to the size of the jail and its inmate population, the jail's current organizational structure and resources, and the nature and extent of existing community-based mental health services. To avoid future conflicts regarding community-based treatment and aftercare services for incarcerated PSMIs, jails are advised to establish long-term linkages with local or State mental health departments or agencies that are based on memoranda of agreement, with clearly defined service populations and compatible safety and service goals.

In the late 1970s, Hampshire County Jail in Massachusetts adopted a thorough case management approach for detainees, following them from intake to discharge planning. Detainees are assigned individual case managers who counsel inmates, meet with their families, and refer them for services within and outside the facility (Steadman and Veysey 1997).

PSMIs' needs for psychiatric screening, evaluation, treatment, and discharge planning also apply to those incarcerated in prisons. Unlike jails, however, prisons must be prepared to provide longer term treatment to the mentally ill. A 1988 survey of mental health services in prisons conducted by the Center for Mental Health Services found that 2.5 percent of the inmates were receiving psychiatric care (Swanson et al. 1993), which is well below the approximate rate of 10 to 20 percent of the prisoners who require such services. The landmark case of *Ruiz v. Estelle* (503 P. Supp. 1265.1323 [1980]) set forth the standards for "a minimally adequate mental health treatment program." These standards include the following:

- The systematic mental health screening and evaluation of inmates.
- The capacity to ensure that treatment involves more than just inmate segregation.
- The provision of individualized treatment by trained mental health professionals.
- The maintenance of accurate and complete mental health records.
- The supervision and review of prescriptions.
- The identification of inmates with suicidal tendencies (Jemelka, Rahman, and Trupin 1993).

The basic components of psychiatric care established in *Ruiz v. Estelle* and the standards for health services published by the National Commission on Correctional Health Care (1998) are well-intentioned guidelines for mental health services, but their vagueness makes them difficult to translate into definitive practices or programs. This results in prison-based mental health services that differ widely in both the quality and quantity of services provided to mentally ill prisoners (Lovell and Jemelka 1998). Hence, it is crucial that State and Federal prison systems develop and disseminate clearer blueprints for future practices, which can produce humane and effective psychiatric care for PSMIs. These blueprints can build on and elucidate existing standards of prison health care and incorporate the input of mental health professionals, prison administrators, legal experts, and consumers of mental health services.

## PSMIs on probation

### *Paucity of data*

PSMIs on probation have been an especially neglected group (Lurigio 1996b). Few data are available on the prevalence of PSMIs on probation. A handful of estimates suggests that 6 to 9 percent of the Nation's probationers are PSMIs (Boone 1995), which would indicate that a total of between 192,000 and 288,000 PSMIs were on probation at the end of 1996 (U.S. DOJ, BJS 1999a). Despite these large numbers, only 15 percent of the probation departments responding to a national survey reported that they operated special programs for mentally ill clients (Boone 1995).

Mental disorders in community corrections populations are likely to be ignored unless the offenders' psychiatric symptoms are an explicit part of their offenses or are florid at the time of sentencing (Carroll and Lurigio 1984). Mentally ill

probationers with less-outwardly-expressed symptoms usually receive scant attention from community corrections staff. Also, probation officers generally lack the experience and background necessary to deal effectively with emotionally troubled clients (Veysey 1994, 1996). Overall, PSMIs sentenced to probation are an underidentified and underserved population, and most probation officers are unable to handle the problems of these offenders successfully (Veysey 1994).

With additional resources and training for probation officers, probation can be an appropriate sentencing option for PSMIs convicted of more serious crimes (Lurigio 1996b). By using probation as a sentencing platform, mandated mental health treatment and other related interventions can be conditions of release. Some probation departments have already implemented special caseloads for PSMIs in which intensive case evaluation and management are combined with counseling, crisis stabilization, and supervised referrals for services (Veysey 1996).

### ***Specialized program***

The Cook County (Chicago) Adult Probation Department's Mental Health Unit (MHU) has been recognized by the American Probation and Parole Association as an example of "best practices" in community corrections (Lurigio and Martin 1998). The unit consists of five probation officers and one supervisor, each with a background in mental health. Officers spend the majority of their time monitoring their caseloads, which are significantly smaller than standard probation caseloads. Potential MHU clients can be referred to the unit by judges or other probation officers working in Chicago and in surrounding suburban court locations.

MHU officers initially screen probationers to determine offenders' eligibility for the unit. Officers base their decisions mostly on probationers' previous psychiatric histories and hospitalizations. MHU officers gather this information from probationers' hospital and mental health treatment records, from the probationers themselves, and from the probationers' families. Rapport between officers and clients develops very slowly, and MHU clients take longer to adjust to probation than do clients in regular caseloads (Lurigio, Thomas, and Jones 1996).

***The multiple problems of PSMIs complicate case assessments and require Mental Health Unit officers to proceed with caution when they attempt to build relationships and trust.***

The multiple problems of PSMIs complicate case assessments and require MHU officers to proceed with caution when they attempt to build relationships and trust with PSMIs. Notwithstanding these difficulties, program officers are committed to their clients, helping clients to deal more effectively with everyday problems and to maintain their treatment and medication regimens. Furthermore, officers are familiar with both the clinical and criminological issues confronting their clients and know how to strike a balance between these two areas (Lurigio, Thomas, and Jones 1996).

MHU officers refer probationers for mental health services, matching them with treatment facilities and changing services if a different treatment regimen is warranted. Mental health services can involve outpatient or inpatient treatment as well as longer term residential care. Probationers are most often referred to community mental health centers in the areas in which they live.

MHU officers engage in a number of activities to help clients fulfill their treatment mandates. They counsel probationers, help them budget their time and resources, and support them with any difficulties they experience in treatment. Officers also help clients to access disability benefits, to get Supplemental Security Income, and to obtain medical cards. Through MHU's efforts, the Cook County Adult Probation Department was approved as a site for Medicaid reimbursements.

## Improving practices: Probation

### *Specialization*

Future services for mentally ill probationers can be most effective when they are provided through special programs staffed by officers with educational backgrounds and experience in the mental health domain. Specialized units can monitor smaller caseloads, which is crucial because probationers with severe mental illnesses require a lot of time and attention. In general, this population has multiple problems: comorbidity with substance abuse disorders and developmental disabilities, poor physical health, housing and financial difficulties, homelessness, joblessness, and a lack of social support (Veysey 1996). These clients need habilitation as much as rehabilitation. As Veysey (1996, 156) has written:

For probation services to be successful in the supervision of persons with mental illness, they must address the broad range of offender needs. This does not mean that probation departments must provide all of these services. They must, however, collaborate closely with the community services agencies that provide mental health, substance abuse, health care, and other human services.

To avoid net-widening, a special program's target population of PSMIs and its criteria for client eligibility must be clearly defined and communicated to the regular probation staff who transfer or refer probationers to specialized mental health units and to the judges who sentence them to such programs. Without this communication, there is a danger of inappropriate clients (e.g., persons with substance abuse problems only or difficult clients with no mental illnesses or psychiatric histories) being "dumped" into the program, increasing the difficulty of keeping caseloads down to a reasonable size. Moreover, repeated rejection of inappropriate placements might make judges and probation staff less willing to refer good candidates to the program. When everyone involved in referring clients to the program understands client admittance requirements, such problems can be minimized from the outset.

### ***Agreements with providers***

Mental health agencies are sometimes reluctant to accept mentally ill probationers because of their criminal backgrounds; other agencies reject PSMIs because of their dual diagnoses or lack of insurance (Lurigio and Martin 1998). Repeated rejections of clients can be avoided if program administrators sign contractual agreements with local mental health agencies to ensure that clients will be accepted for services. Absent these agreements, placements into treatment will be haphazard. Forging formal agreements will also give program staff an opportunity to tout their efforts and to cultivate long-term professional relationships with mental health practitioners. The collaboration and coordination of probation and mental health staff are essential to the success of any special programming for PSMIs on probation. As Boone (1995, 38) noted, however, "[T]urf issues and boundaries [between the mental health and criminal justice systems] seem to present a monumental impediment to serving the mentally ill probationer or parolee."

### ***Training***

Cross-training for mental health and correctional staff goes a long way toward increasing their mutual understanding and respect. In addition, cross-training greatly improves the working relationships between the two groups. Most important, cross-training encourages a team approach to working with clients.

### ***Handling technical violations***

Probation officers are well advised to find alternative strategies for handling the technical violations of probationers with mental illnesses. According to Veysey (1996, 158), "if community supervision staff adhere to rigid sanctions

for technical violations with regard to treatment compliance, special-needs clients—particularly those with mental illness—are likely to fail.” Violations are often a function of clients’ symptoms or difficulties in following directions. A failure to report, for example, might result from cognitive impairment, delusions, confusion, or side effects of medication. As a rule, incarceration or other harsh penalties should be avoided when responding to such situations. More effective options include relapse prevention techniques and systems of progressive sanctions. Probation officers can view technical violations as opportunities to build closer alliances with PSMIs and to assist them in avoiding future, and more serious, problems, including subsequent criminal activity.

### ***Consultation***

As we noted earlier, probationers with serious mental illnesses demand considerable attention and time. Clinical consultation from psychiatrists and psychologists can be vital in helping probation officers manage specialized caseloads of PSMIs. For example, mental health specialists can lend their expertise in diagnosing and managing difficult clients, and these specialists can help sharpen staffs’ diagnostic and clinical skills during case conferences. If funding is available, psychiatrists should be hired to dispense medications onsite, a tremendous asset to programs, given clients’ typically poor compliance with medication regimens. Mental health professionals can also support and encourage program staff and help relieve the stress and discouragement that inevitably arise when dealing with PSMIs.

### ***Comprehensive care***

Finally, the National Coalition for Mental and Substance Abuse Health Care in the Justice System recommended that any comprehensive vision of care for PSMIs on probation contain the following elements (Lurigio 1996a, 168):

- Build lasting bridges between the mental health and criminal justice systems, leading to coordinated and continual health care for clients of both systems.
- Involve clients in treatment decisions.
- Ensure public safety as well as the safety of offenders.
- Facilitate the successful integration of offenders into the community.
- Promote offender responsibility and self-sufficiency.



- Permit equal access to all health care services, including medical, psychiatric, substance abuse, and psychological interventions.
- Avoid discriminating against or stigmatizing PSMIs.
- Accommodate clients with multiple needs and problems.
- Be sensitive and responsive to the special needs of mentally ill women and people of color by developing diverse, culturally sensitive programs.
- Require families to be involved in treatment and supervision plans of PSMIs.
- Match services and treatments to each client's specific problems and needs.
- Raise public awareness about PSMIs in the criminal justice system.

## **Diversion Programs**

### **Importance of diversion**

The criminal justice system must expand its existing options for diverting PSMIs. Diversion can occur at several points in the criminal justice process (Draine and Solomon 1999). Police officers can redirect a person in custody into treatment instead of into bond court or jail. Jail staff can remove inmates from the stressful jail environment to a secure and safe treatment setting. Probation officers can refer PSMIs to more intensive treatment and services in lieu of a court hearing and more punishment in response to technical violations of probation.

At bond and misdemeanor sentencing hearings, judges must be highly cognizant of the role that serious mental illness can play in a person's current charges. Traditionally, mental illness is considered only if it is a salient feature of the case (i.e., if there are explicit questions concerning insanity or fitness to stand trial) (Carroll and Lurigio 1984). Judges should make defendants' mental status and psychiatric histories paramount considerations in a much broader set of cases. In particular, judges should be mindful of the American Bar Association's guidelines (1983) that state that a noncriminal disposition should be sought when an apparently mentally disordered person is arrested for a misdemeanor.

As Teplin (1984a) recommended, the least restrictive alternative—preferably treatment in a mental health setting—should be used for mentally ill persons with pending misdemeanor charges. Such alternatives would protect the mentally ill from “becoming the victims of their own disorder, unless they commit serious crimes that require immediate criminal processing” (Teplin 1984a, 801).

The criminal justice system must be willing to invest in pretrial or pre-detention diversion projects—such as specialized court liaison programs that divert PSMIs out of the criminal justice system and into the civil court system—that are better able to handle the needs of the mentally ill through civil commitment or other mechanisms (Jemelka 1990; Steadman and Veysey 1997). The Substance Abuse and Mental Health Services Administration (U.S. Department of Health and Human Services 1999, 2) expressed the nature and importance of diversion in this way:

The best diversion programs see detainees as citizens of the community who require a broad array of services, including mental health and substance abuse treatment, housing, and social services. Diversion programs are often the most effective means to integrate an array of mental health, substance abuse and other support services to break the cycle of people who repeatedly enter the criminal justice system.

***Specialized mental health courts have shown great promise in diverting PSMIs from the criminal justice system and ensuring that mentally ill defendants receive psychiatric treatment and other services.***

Diversion not only benefits PSMIs, but it can also help save the criminal justice system money by lowering the recidivism rate of mentally ill offenders who frequently return to the system because their symptoms lead to continued arrests and incarcerations.

### **Specialized mental health courts**

Specialized mental health courts have shown great promise in diverting PSMIs from the criminal justice system and ensuring that mentally ill defendants receive psychiatric treatment and other services. We strongly recommend that these initiatives be further implemented and researched. Two jurisdictions have recently established specialized mental health courts for PSMIs. The first mental health court in the Nation was implemented in Broward County, Florida, in

May 1997. The Broward County program involves a specialized court dedicated to handling PSMIs accused of nonviolent, low-level misdemeanor offenses, excluding driving under the influence and domestic violence crimes. The court was “created specifically to balance issues of treatment and punishment for defendants with mental illness and retardation” (Baker 1998, 20). “The mission of the mental health court is to address the unique needs of the mentally ill in [the] criminal justice system” (*Mental Health Court Progress Report* 1998, 4). Funding for the program was provided through the budgets of State and county governments: \$1.5 million from State funds, \$250,000 from the Broward

County Department of Human Services, and \$400,000 from a lawsuit settled against Broward County that stemmed from jail overcrowding.

Defendants who are charged with assault can be admitted into the program with the victims' accedence. The court is staffed by a judge, a State's attorney, a public defender, and a court monitor, all of whom have received extensive training in mental health issues and are assigned to the court on a permanent basis. The court liaison is a mental health professional who refers defendants for psychiatric and social services.

Defendants in Broward County's program are initially evaluated for competency and, if necessary, are referred to inpatient or outpatient treatment for stabilization. Competent defendants appear in court for a review hearing. The mental health court team decides whether the defendant is appropriate for the program and can safely be released into the community. The team then formulates a treatment plan for defendants accepted into the program. A case manger and court monitor oversee defendants' participation in treatment and prepare periodic reports to the court on each defendant's progress. After a defendant has participated successfully in treatment and arrangements are made for longer term psychiatric care, the mental health court judge will dismiss the defendant's charges.

King County, Washington's, mental health court, modeled after the Broward County program, is another effort to bridge the chasm between the mental health and criminal justice systems for the mentally ill misdemeanor population. King County's program is funded by the Bureau of Justice Assistance, the local criminal justice and mental health systems, and contributions of resources and staff from collaborating agencies. The annual cost of the program is \$900,000, most of which is spent on treatment (Barker 1999).

The goals of the program are to process the cases of PSMIs more quickly, to improve PSMIs' access to public mental health care, to protect public safety, to reduce the return of PSMIs to the criminal justice system, and to improve the mental health and well-being of defendants who come into contact with the court. King County's mental health court, which provides one point of contact for PSMIs, is staffed by a judge, a prosecutor, a public defender, a treatment liaison, and probation officers (*Mental Health Court Fact Sheet* 1999).

The court can receive referrals from a variety of sources, including jail psychiatric staff, police officers, attorneys, family members, or probation officers. The majority of defendants in mental health court are accused of nonviolent nuisance crimes, such as urinating in public, sleeping in airports, and harassing people in front of stores or restaurants. Participation in the program is voluntary,

and defendants are asked to waive their rights to a trial. Defendants receive court-ordered treatment in lieu of standard sentences, and successful participation in the program can lead to a dismissal of charges.

The court liaison develops a treatment plan and links the defendant to mental health services. Defendants sentenced to probation are assigned to a special probation officer who works in the mental health court and carries a reduced caseload of fewer than 40 cases, which allows the officer to provide the intensive services that are necessary to respond to the needs of PSMIs (Barker 1999). The court holds regular status hearings to chart the treatment progress of PSMIs.

The experiences of these two trail-blazing mental health courts suggest that a number of elements, such as staffing, are crucial to the court's success (Mental Health Court Task Force 1998). Mental health courts operate best with a team approach for obtaining treatment and services for PSMIs. Representatives from the mental health system must be core members of the team; they are experts in diagnoses and treatment and are most knowledgeable about the availability and accessibility of mental health services. Program staff are most effective and productive when they have received training in each other's respective areas (i.e., court staff should be trained on mental health policies and procedures, and mental health staff should be trained on criminal justice policies and procedures).

Multiple layers of services should be available to mental health court defendants. Although PSMIs suffer from common afflictions, defendants' service needs can be quite different, depending on the severity of their mental illnesses, their treatment histories, and their social support networks. Hence, the court's treatment plans should be flexible and tailored to each defendant. In addition, access to a variety of services is more likely when the court has established and clarified its relationships with treatment providers. These linkages can be solidified with the imprimatur and mediation of mental health authorities at the State and county levels.

## **Comorbidity Among PSMIs**

The current war on drugs in the United States, beginning with the 1988 passage of the Anti-Drug Abuse Act, has swelled this country's probation, jail, and prison populations with a large number of drug-abusing and drug-dependent offenders (U.S. DOJ, BJS 1993, 1995, 1997; Harlow 1998) and has led to the implementation and evaluation of numerous drug treatment programs in correctional settings (Pan et al. 1993; Peters 1993; Wexler 1995). Lost in the emphasis

on providing drug treatment to offenders, however, is the fact that drug-abusing and drug-dependent persons have very high rates of comorbid psychiatric disorders (Kessler et al. 1994; Regier 1990).

## **Prevalence studies**

Depending on the sampling procedures, settings, and definitions of psychiatric disorders, as well as on the assessment tools used in the studies, estimates of the portion of drug users with lifetime comorbid psychiatric disorders vary from 25 to 50 percent (Regier et al. 1990). The converse is also true: Persons with major psychiatric disorders have comparably high rates of drug abuse and dependence (Buckley 1998; Mueser, Bellack, and Blanchard 1992; Regier et al. 1990). Comorbidity rates for major psychiatric disorders are high for untreated drug-dependent persons, higher for persons in treatment programs, and higher yet for prison inmates with drug problems. A national epidemiological study, for example, found a 90-percent comorbidity rate for antisocial personality disorder, schizophrenia, and bipolar disorder among prison inmates dependent on alcohol or other drugs (Regier et al. 1990). Studies of male jail detainees also have found high rates of severe psychiatric disturbances and comorbid addictions among inmates (Abram and Teplin 1991; Teplin 1994).

## **Inadequate programs**

Despite high rates of psychiatric comorbidity among addicted offenders, drug treatment programs in criminal justice settings, like community-based programs in general, have concentrated on drug treatment and have failed to adequately address psychiatric comorbidity (Edens, Peters, and Hills 1997). (For an exception, see Sacks et al. 1997.) A national survey, for example, found that substance abuse treatment was a condition of probation for 41 percent of the country's adult probationers, and 7 percent were required to undergo psychiatric or psychological treatment during their probation terms (U.S. DOJ, BJS 1997). No research to date, however, has provided information on the percentage of offenders who receive both types of services concurrently.

The war on drugs inspired an emphasis on using treatment resources within the criminal justice system to break the cycle of addiction and crime. The resulting treatment programs, however, have neglected the clinical needs of drug-dependent persons with comorbid psychiatric disorders. Although descriptions of drug treatment programs in criminal justice settings address the presence of comorbid psychiatric disorders (Sacks et al. 1997; Wexler 1994), these discussions often present mental illness in the context of such ancillary problems as vocational and educational deficits, medical conditions, and familial dysfunctions (e.g., Barthwell et al. 1995; Peters 1993; Wexler 1994). In other words, treating

comorbid psychiatric disorders is secondary to dealing with drug or alcohol addictions.

Psychiatric comorbidity has rarely been conceptualized as a unique or singular clinical entity (or perhaps as entities, depending on the configuration of comorbid disorders) warranting specific interventions, rather than as a mere reason to add psychiatric services to the usual drug treatment regimen (El-Mallakh 1998; Mueser, Drake, and Miles 1997). Programs that provide psychiatric services as an adjunct to or following drug treatment services have been less successful than those that have developed a truly integrated treatment model with consistent philosophies and treatment plans (El-Mallakh 1998; Mueser, Drake, and Miles 1997).

The lack of specific programs for comorbid offenders is counterproductive. Comorbid disorders differ from single disorders in their clinical courses and treatment requirements (Abram and Teplin 1991; El-Mallakh 1998; Ries and Comtois 1997; Sacks et al. 1997). Persons with comorbid disorders are more difficult to treat, need more intensive treatment services, and have poorer outcomes than those with only drug or psychiatric problems (El-Mallakh 1998; Ries and Comtois 1997; Sacks et al. 1997). To underscore the need for specialized treatment programs for this population, persons with comorbid disorders are at higher risk than the general population for HIV infection and AIDS (Cournos and McKinnon 1997; Woody et al. 1997).

Special programs for comorbidity would facilitate the matching of patients with treatments within the drug treatment system. Previous research has attempted to improve treatment retention and outcomes by determining what patient characteristics and (less often) program factors could be used to match drug-dependent persons more precisely with specific types or intensities of treatment. (See, for example, Condelli [1994] for a discussion of the closely related issue of treatment retention.)

Drug treatment-matching studies have focused largely on matching participants with particular treatments or services according to their drug use histories or demographic characteristics (see McLellan and Alterman 1991). Few (if any) treatment-matching studies, however, have specifically examined psychiatric comorbidity and attempted to match comorbid participants with specialized treatment programs.

The use of psychiatric comorbidity as a matching variable might lead to greater retention in treatment and to more effective drug treatment for comorbid PSMIs. McLellan and associates (1981), for example, found that improvement in psychological functioning was strongly associated with patients' overall

improvement in multiple domains, including reduction in alcohol and other drug abuse. This finding led the authors to conclude that “it may be that therapy directed toward the psychological problems of addicted individuals has more pervasive and powerful effects on overall outcome than therapy centered upon their substance abuse problems alone” (p. 237). Their endorsement of treatment programs designed to address patients’ psychological and drug problems concurrently has been largely ignored.

Programs that provide appropriate services to offenders with comorbid disorders are seriously needed. Except for studies of the general prison or jail populations (e.g., Abram and Teplin 1991; Regier et al. 1990), few investigations have explored the prevalence of comorbidity among offenders in drug treatment programs. Such research would be valuable in ascertaining the proportion of the population of addicted offenders with comorbid psychiatric disorders who require specific treatment programs.

It is especially important to establish how many offenders in drug treatment have a comorbid severe mental illness, such as schizophrenia, bipolar disorder, or major depression (see Johnson [1997] for an overview of serious mental illness) or an antisocial personality disorder. Studies have suggested that drug-addicted persons who are comorbid with serious mental illness are among the most difficult to treat with traditional interventions, require more services, have poorer outcomes, and have a greater need for specialized treatment programs than those with only drug or only psychiatric problems (Buckley 1998; Mueser, Drake, and Miles 1997; Woody et al. 1997).

### **A study of comorbidity**

Swartz and Lurigio (1999) examined the prevalence of psychiatric disorders and comorbidity rates in a sample of 204 pretrial detainees. More than half of the sample had one or more lifetime psychiatric diagnoses. The rates of serious mental illness in the jail sample were higher than the lifetime prevalence rates in the general population. The great majority of inmates with a serious mental illness or antisocial personality disorder were comorbid for substance abuse and dependence. These results suggested that severe mental disorders comorbid with drug abuse and dependence are common in incarcerated populations and require specialized interventions (also see Abram 1990; Regier et al. 1990).

***It is difficult to find community-based drug treatment programs that readily accept PSMIs or that offer seamlessly integrated services for comorbid persons.***

Swartz and Lurigio's results also suggested that serious mental illness was even more prevalent among detainees in drug treatment than in the general population of jail inmates. More important, the study also found that addicted offenders with serious comorbid psychiatric disorders are often afflicted with other psychiatric disorders as well (e.g., posttraumatic stress disorder). In agreement with findings from the National Comorbidity Study, psychiatric problems tend to cluster among those with the most severe disorders (Kessler et al. 1994). Abram and Teplin (1991, 1036) noted the "fragmented configuration" of the public health system and stated, "[A]lthough a complex array of services is available, each subsystem designs its programs to fit a specific need, and many programs are managed as if clients were pure types." Little has changed since they made this observation. Only a few "mentally ill/substance abuser," "mentally ill/chemical abuser," or therapeutic community programs are available for addicted offenders in the criminal justice system or the community.

It is difficult to find community-based drug treatment programs that readily accept PSMIs or that offer seamlessly integrated services for comorbid persons. While the Nation's jail and prison populations continue to grow, adequate and well-designed treatment systems are needed more urgently than ever to address psychiatric comorbidities among addicted offenders. The findings from Swartz and Lurigio (1999) and other studies indicate that both the problem of comorbidity and the demand for integrated treatment are pervasive.

## Conclusions and Recommendations

Based on the studies reviewed in this chapter, we recommend a number of changes that will lead to more effective interventions and services for PSMIs in the criminal justice system. Many of these recommendations were touched upon throughout the text. In this final section, we focus on basic areas of needed improvement in the care of PSMIs that are relevant across various domains of criminal justice practice (i.e., law enforcement, courts, and corrections), that transcend the boundaries between the criminal justice and mental health systems, and that fill gaps in the criminal justice system's present capacity for handling PSMIs.

The literature indicates that the following efforts should be made to improve the care of PSMIs in the criminal justice system:

- Build enduring connections between the mental health and criminal justice systems.
- Create aftercare and consolidated services programs for PSMIs being supervised in the community.



- Develop clear and consistent standards of care for PSMIs in prisons, jails, and community corrections agencies.
- Pursue more research on the nature and extent of serious mental illness among different correctional populations.

## **Systems coordination**

The absence of ongoing dialogue and coordination between the mental health and criminal justice systems further impedes the recognition and treatment of mentally ill offenders. Local mental health and criminal justice systems often deal with the same groups of chronically troubled and troublesome individuals (Lurigio and Lewis 1987). In practice, however, the two systems of social control rarely exchange cases, information, and resources. Furthermore, mental health and criminal justice practitioners approach the problems of mentally ill offenders from two widely disparate philosophies: treatment versus punishment.

To benefit PSMIs in the future, staff in both domains must begin regularly communicating and collaborating at the system and practitioner levels so they can understand each other's capacities and constraints in dealing with the same clients and so they can promote effective and humane care for PSMIs. The end product should be a unified, accountable case management system for maintaining the mentally ill in the community (Craig and Kissell 1986).

The absence of systems coordination is quite apparent in the area of aftercare services. Many PSMIs in jail receive psychiatric services during their incarceration, but they are usually discharged with no referrals to community treatment, no income or housing, and "none of the support that they need to remain in treatment, maintain their psychiatric stability, and stay out of trouble" (Barr 1999, iii). Postincarceration case management services can ensure continuity of care between jail- and community-based treatments and services.

Case management activities should begin before release. Ventura and colleagues (1998) found that mentally ill inmates who received case management services both in the jail and after they were discharged were significantly less likely to be rearrested or were rearrested after a longer period of time than were mentally ill inmates who did not receive such services. Jail staff should collaborate with community service providers to assist inmates in their attempts to readjust to living in the community. For this collaboration to succeed, more funds have to be spent on community aftercare programs.

Systems coordination must also be achieved between the mental health and drug treatment systems. Treatment providers in both domains must recognize

that many PSMIs are afflicted with co-occurring mental health and substance abuse and dependence problems and require interventions that can address these disorders simultaneously. More extensive and integrated networks of care will reduce the likelihood of these persons falling through the cracks between treatment programs and into the criminal justice net (Teplin 1984a). Practitioners' lack of training on codisorders and their lack of experience with dually diagnosed populations, however, have been major obstacles to integrated services for comorbid offenders. Several key features of successful interventions for dually diagnosed persons have been identified through research and should be incorporated in programs for PSMIs with drug problems (Peters and Hills 1997).

Two programs are noteworthy for their achievement of systems coordination and collaboration in providing services for PSMIs in the criminal justice system. The first is the Wisconsin Correctional Service's Community Support Program (CSP), established in 1978 and located in Milwaukee. CSP effectively combines the leverage of court-ordered program participation and close monitoring with basic social and health care services, including psychiatric treatment, money management, and housing. CSP's goal is to keep clients out of both jail and the hospital (McDonald and Teitelbaum 1994).

The second is Maryland's Community Criminal Justice Treatment Program (MCCJTP), which targets mentally ill persons in jail and on probation and parole (Conly 1999). MCCJTP involves a multiagency collaboration among treatment and criminal justice professionals. MCCJTP provides PSMIs with mental health care, shelter, and case management services (i.e., screening, crisis intervention, counseling, discharge planning, and community followup). Case managers and clients have reported that MCCJTP's services have greatly improved the quality of participants' lives.

### **Assertive community treatment**

Future criminal justice programs for PSMIs could benefit greatly by adopting continuous care models with single-point access to services, especially for PSMIs with lengthy records of hospitalization and arrest. PSMIs on community supervision at the pretrial, postadjudication, or postrelease levels can be managed effectively with assertive community treatment (ACT), models of which have demonstrated their success with the chronically mentally ill (Veysey 1996). Originating in Madison, Wisconsin, in the late 1960s, ACT employs a team approach to providing intense, comprehensive, coordinated, and integrated services (psychiatric, rehabilitative, and support) to persons with serious and persistent mental illnesses. ACT has been widely implemented and extensively researched in the United States, Canada, and Australia and has proven clinical

success and cost-effectiveness (e.g., Burns and Santos 1995; Test 1992; Torrey 1986; Wolff, Helminiak, and Diamond 1995).

ACT is a particularly suitable modality for many PSMIs in the criminal justice system: persons with chronic mental illnesses, limited insight, severe functional impairments, substance abuse and dependence problems, limited financial resources, and criminal involvement. In addition, many PSMIs in the criminal justice system have frequently avoided or have responded poorly to traditional outpatient mental health care (Lurigio and Lewis 1987). ACT is, therefore, a highly appropriate model for PSMIs participating in pretrial release or probation programs.

The ACT team's services include mental health and substance abuse treatment, health education, nonpsychiatric medical care, case management, ongoing assessments, employment and housing assistance, family support and education, and client advocacy. Extensive and reliable services are available 24 hours a day, 365 days a year, and adhere to the following fundamental principles (Assertive Community Treatment Association 1999):

- **Primary provider of services.** The multidisciplinary composition of the team and its small client-to-staff ratio require minimal referrals to other mental health programs or providers. All members of the team are jointly responsible for planning, securing, monitoring, and evaluating services. The team shares offices and staff and performs many interchangeable functions, ensuring that services are not disrupted by staff turnover or illness. In addition, program participants are clients of the team, not of individual staff members. Former patients are invited to serve paraprofessional and peer-counselor roles on the team.
- **Services outside the office.** The team can assist clients in the jail or hospital as well as in their homes, neighborhoods, workplaces, and other community settings (i.e., where clients live, work, and spend their leisure time), providing practical onsite support. A core tenet of ACT is to “bring care to the patient.”
- **Highly individualized services.** Based on thorough and regular assessments, clients' treatment plans are tailored to meet their unique histories, symptoms, and psychosocial resources. The input of the entire ACT team in the assessment and case

*Recovery from serious mental illnesses and substance abuse and dependence problems is an arduous and challenging process that demands constant attention and a lengthy commitment to treatment.*

management processes results in a more holistic view of the clients' problems, needs, and prognoses.

- **Proactive approach.** The team is proactive in delivering continuing services to support clients in their efforts to live self-sufficient and constructive lives in the community. The team's activities are designed to prevent crises and setbacks in client recovery and reintegration and to emphasize the attainment of such basic skills as caring for physical health and appearance, complying with medication regimens, coping with daily demands and stressors, obtaining and managing financial entitlements, and maintaining a household. The ACT team members actively seek out clients for medication and other followup care and become client advocates in obtaining available services and in developing needed services that are unavailable.
- **Vocational focus.** The team emphasizes to clients the importance of acquiring realistic entry-level employment skills that will strengthen their independence, enhance their self-esteem, provide opportunities to contribute to their communities, and present them with income-generating alternatives to crime.
- **Long-term services.** The team recognizes that recovery from serious mental illnesses and substance abuse and dependence problems is an arduous and challenging process that demands constant attention and a lengthy commitment to treatment.
- **Collaboration.** Clients and their families and significant others are educated about mental illnesses and substance abuse disorders to gain their cooperation in clients' treatment plans. Future episodes of psychiatric hospitalization and incarceration can often be avoided when clients and their social support networks are fully involved in the recovery process.
- **Community integration.** The team encourages clients to become more active and less socially isolated in their communities. Clients are exposed to opportunities to become active members of local organizations and churches in the targeted community areas.

## Mental health training

The need for mental health training for law enforcement, corrections, and court professionals is a common theme expressed throughout the literature on PSMIs in the criminal justice system. Without basic knowledge about psychiatric illnesses and treatments, criminal justice staff can never achieve lasting, substantive improvements in the care of PSMIs under their authority. Hence, specialized

mental health training for criminal justice staff is a necessary first step in responding to the specific problems of PSMIs.

The core curriculum should consist of a variety of topics, including the etiology and prevalence of serious mental illness, the signs and symptoms of serious mental illness, the latest advances in treatment, the involuntary commitment process, and the use of mental health referrals. Education sessions should be conducted with police, judges, attorneys, probation and social services staff, and correctional personnel. After educators lay a basic foundation of knowledge relating to mental disorders, they must tailor their training sessions to prepare each group for the job-related decisions that they have to render about PSMIs.

The police, for example, must learn effective, on-the-street procedures for identifying, arresting, and deflecting mentally disordered persons. Moreover, police must be taught about immediate alternatives to arrest and strategies to negotiate for care with mental health professionals in hospitals and outpatient settings.

## **Standards of care**

Carefully developed standards of screening and care for PSMIs should be widely disseminated throughout the criminal justice system. Accrediting bodies and other interested organizations (e.g., the National Alliance for the Mentally Ill) should formulate clear and specific practice guidelines for screening and treating PSMIs in the criminal justice system, especially for those incarcerated in jails and prisons. Such standards would help hold agencies accountable for providing at least a minimum level of mental health screening and care, and would help to eliminate the wide variability that currently exists in the quality of services available to PSMIs in the criminal justice system.

## **Future research**

More and better research is needed on the nature and extent of serious mental illnesses among people involved at every level of the criminal justice system. National surveys containing questions on psychiatric treatment histories should be implemented in jails, prisons, and probation agencies. Criminal justice agencies also should employ standardized assessment tools at intake to determine the prevalence of serious mental illnesses within their own populations and should send the data to a clearinghouse that would compile the information for national prevalence estimates. In addition, standardized screening for severe mental illnesses should be done at admission to drug treatment programs to identify persons with comorbid disorders and to refer them to integrated treatment programs. Moreover, future research should explore racial and gender

differences among PSMIs in the criminal justice system, laying the groundwork for more gender- and race-sensitive programs for mentally disordered offenders.

Fulton (1996), for example, enumerated the benefits of collecting comprehensive data on PSMIs for probation departments. Among these benefits was the ability to answer the following basic questions: Do the risks and needs of PSMIs justify the development of specialized services and programs? Relative to workload information, how many PSMIs can an officer effectively manage in a generalized or specialized caseload? What is the most efficient and effective way to supervise PSMIs, given accessible mental health and social services in a particular jurisdiction? Based on probation outcomes, where should limited treatment resources be allocated?

In conclusion, as this discussion has demonstrated, a significant number of PSMIs are being handled by the criminal justice system, which does not have enough resources or expertise to respond fully to the afflictions and service demands of the mentally ill. Although there is no absolute longitudinal evidence that the number of PSMIs in the criminal justice system has been increasing during the past 20 years (Teplin 1991a), there are several compelling reasons to conclude that the criminalization of PSMIs is indeed a common phenomenon and that it will persist well into the 21st century. Among the most important causes of the purported rise of PSMIs in jail and prisons and on probation caseloads are the diminution of the State hospital population, the lack of available community care, and the fragmented nature of the mental health and other treatment and social service systems.

Unlike many treatment facilities, criminal justice institutions do not impose any restrictions or requirements for entry (Abram and Teplin 1991). The criminal justice system is essentially the one that “can’t say no.” Jails and prisons have become the last resort for care; the mentally ill are often incarcerated because no other settings are amenable or accessible (Barr 1999; Craig and Kissell 1986). Dramatic financial cutbacks in social services have made the criminalization of PSMIs even more likely, as jails and prisons have become the “hospitals of last resorts” (Barr 1999). We can not afford to allow this situation to continue.

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# Assessing Correctional Rehabilitation: Policy, Practice, and Prospects

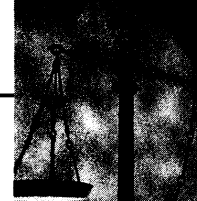
*by Francis T. Cullen and Paul Gendreau*

A theme that has persisted throughout the history of American corrections is that efforts should be made to reform offenders. In particular, at the beginning of the 1900s, the rehabilitative ideal was enthusiastically trumpeted and helped to direct the renovation of the correctional system (e.g., implementation of indeterminate sentencing, parole, probation, a separate juvenile justice system). For the next seven decades, offender treatment reigned as the dominant correctional philosophy. Then, in the early 1970s, rehabilitation suffered a precipitous reversal of fortune. The larger disruptions in American society in this era prompted a general critique of the “state run” criminal justice system. Rehabilitation was blamed by liberals for allowing the state to act coercively against offenders, and was blamed by conservatives for allowing the state to act leniently toward offenders. In this context, the death knell of rehabilitation was seemingly sounded by Robert Martinson’s (1974b) influential “nothing works” essay, which reported that few treatment programs reduced recidivism. This review of evaluation studies gave legitimacy to the antitreatment sentiments of the day; it ostensibly “proved” what everyone “already knew”: Rehabilitation did not work.

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In the subsequent quarter century, a growing revisionist movement has questioned Martinson's portrayal of the empirical status of the effectiveness of treatment interventions. Through painstaking literature reviews, these revisionist scholars have shown that many correctional treatment programs are effective in decreasing recidivism. More recently, they have undertaken more sophisticated quantitative syntheses of an increasing body of evaluation studies through a technique called "meta-analysis." These meta-analyses reveal that across evaluation studies, the recidivism rate is, on average, 10 percentage points lower for the treatment group than for the control group. However, this research has also suggested that some correctional interventions have no effect on offender criminality (e.g., punishment-oriented programs), while others achieve substantial reductions in recidivism (i.e., approximately 25 percent).

This variation in program success has led to a search for those "principles" that distinguish effective treatment interventions from ineffective ones. There is theoretical and empirical support for the conclusion that the rehabilitation programs that achieve the greatest reductions in recidivism use cognitive-behavioral treatments, target known predictors of crime for change, and intervene mainly with high-risk offenders. "Multisystemic treatment" is a concrete example of an effective program that largely conforms to these principles.

In the time ahead, it would appear prudent that correctional policy and practice be "evidence based." Knowledgeable about the extant research, policymakers would embrace the view that rehabilitation programs, informed by the principles of effective intervention, can "work" to reduce recidivism and thus can help foster public safety. By reaffirming rehabilitation, they would also be pursuing a policy that is consistent with public opinion research showing that Americans continue to believe that offender treatment should be an integral goal of the correctional system.



**W**hat should be done with those who break the law? This ostensibly simple question defies a simple answer. The answer most commonly given has changed over time, and which answer is most defensible has been, and continues to this day to be, a source of much dispute. In part, the disputes are contentious and continuous because they reflect *normative* differences—often inextricably linked to larger, deeply felt political ideologies—on what *should* be done to those who flaunt criminal statutes (England 1965). Also at issue, however, are *utilitarian* considerations: How *effective* is the approach we have chosen to take with criminally wayward citizens? Most important, does it “work” to reduce crime and make us safer?

Since virtually the inception of the modern criminal justice system, a persistent response to the question of what to do with lawbreakers has been to *change* them into law-abiders—that is, to *rehabilitate* them (de Beaumont and de Tocqueville 1964 [1833]; McKelvey 1977; Rothman 1971, 1980; Rotman 1990). Notably, for the first seven decades of the 20th century, rehabilitation was most often the dominant ideal, especially among correctional elites and criminologists, for what the correctional system *should* be organized to achieve (Allen 1964; Cullen and Gilbert 1982; Gibbons 1999; Rothman 1980; Task Force on Corrections 1967, 16). But in the last quarter century, the ideological landscape has been transformed to the point that it is substantially unrecognizable. Today, commentators often assume that punitive responses to offenders—what Todd Clear (1994) calls “penal harm”—have achieved hegemonic status in the United States. Rehabilitation has often been depicted as a failed enterprise that should be purged from the American correctional system or, at least, relegated to a secondary status (Logan and Gaes 1993).

This portrayal is guilty of a measure of hyperbole: Treatment programs are still provided by many correctional agencies and are supported by the American public (Applegate, Cullen, and Fisher 1997). Even so, the viability of rehabilitation as an effective strategy to reduce crime remains a critical concern. If “treating offenders” does not work—if lawbreakers cannot, in fact, be changed into law abiders—then this eminently utilitarian goal of corrections would have no utility and should be abandoned. But if effective rehabilitation interventions do indeed exist and can be delivered in the context of correctional agencies, then the failure to do so would constitute imprudent policy.

***Since virtually the inception of the modern criminal justice system, a persistent response to the question of what to do with lawbreakers has been to change them into law-abiders—that is, to rehabilitate them.***

The rejection of offender treatment by many parties in the 1970s had serious consequences. Policy changes reflect complex factors and typically cannot be attributed to single causes. Still, the tarnishing of the rehabilitative ideal created opportunities for other ways of “thinking about crime” to gain ascendancy and to influence the direction of correctional policy. As Blumstein (1997, 353) observes, “the vacuum created by the trashing of rehabilitation was soon to be filled by the other two crime control approaches available to the criminal justice system—deterrence and incapacitation” (see also Macallair 1993; Zimring and Hawkins 1995). Again, a central issue is whether the abandonment of, or loss of faith in, rehabilitation as a goal of corrections was deserved—whether other, more punitive approaches should have superseded treatment as the guiding correctional philosophy. Is there reason to conclude that offender treatment should be a core function of the correctional enterprise?

In this context, the main purpose of this essay is to assess the empirical status of correctional rehabilitation: Do correctional interventions reduce offender recidivism? Many definitions of “rehabilitation” abound (Gibbons 1999, 274; Sechrest, White, and Brown 1979, 20–21), but they tend to coalesce around three issues: (1) the intervention is planned or explicitly undertaken, not a chance or unwitting occurrence; (2) the intervention targets for change some aspect about the offender that is thought to cause the offender’s criminality, such as his or her attitudes, cognitive processes, personality or mental health, social relationships to others, educational and vocational skills, and employment; and (3) the intervention is intended to make the offender less likely to break the law in the future—that is, it reduces “recidivism.” We should note that rehabilitation does *not* include interventions that seek to repress criminal involvement through specific deterrence—that is, use punishment to make offenders too fearful of sanctions to recidivate. Again, we wish to assess whether interventions that conform to this general definition of rehabilitation “work” and, if so, to what extent and under what conditions.

This essay is divided into seven sections. In the first section, we discuss why rehabilitation’s place as the dominant correctional approach was called into question. An answer that is commonly given is that research emerged that showed convincingly that “nothing works” to change offenders. We suggest, however, that broader social transformations led people at this particular historical juncture to be open to the message that rehabilitation was ineffective. Accordingly, many people, including criminologists and policymakers, took the position that rehabilitation was *not* simply based on a careful, objective reading of the research-based evidence. Therefore, perhaps we should be cautious about conclusions concerning offender treatment that are not based into the existing research into effective correctional interventions.

In this regard, the second section assesses the most influential review of research that questioned the effectiveness of rehabilitation—Martinson’s (1974b) controversial essay “What Works?—Questions and Answers About Prison Reform.” We examine “narrative” reviews of research that subsequently challenged the thesis that, for all intents and purposes, the correctional system was incapable of reforming offenders. In the third section, we consider the growing number of meta-analyses—quantitative syntheses of the results of evaluation studies—that have supplied important data on “what works” to change offenders (see Losel 1995). We pay special attention to the sophisticated meta-analyses conducted by Mark Lipsey (1992, 1995, 1999; Lipsey and Wilson 1998). In the fourth section, we review the efforts by Canadian psychologists to develop “principles of effective correctional intervention” (see, e.g., Andrews and Bonta 1998; Gendreau 1996b; Gendreau and Andrews 1990). We consider their conceptual framework and the empirical data they, and others, have accumulated that assess this approach. In the fifth section, we discuss a promising treatment program, adopted in a number of places in North America, that demonstrates that rehabilitation can reduce recidivism and be cost effective: “multisystemic therapy” developed by Scott Henggeler and associates (1997, 1999). In the sixth section, we explore the equally important issue of what *does not* work in changing offenders. In general, we report that punitively oriented approaches—many of which might be categorized as seeking to achieve specific deterrence—are not effective in reducing recidivism.

We end this essay in the seventh section, which urges the embrace of “evidence-based corrections” (see Sherman 1998). Although correctional policies are necessarily influenced by value, resource, organizational, and political factors (Rezmovic 1979), we suggest that programs that seek to reduce criminal involvement should be informed by the scientific data on what works. The goal should be to develop a clearer understanding of what the “best bets” are to successfully correct offenders (Rhine 1998). We also contend that rehabilitation should be “reaffirmed” as a goal of the correctional system—that the system should not be abandoned to other crime control approaches (see Cullen and Gilbert 1982). What precise role the treatment ideal should play in directing policy will, and undoubtedly should, remain an ongoing source of debate. Nonetheless, there are two reasons for supporting a prominent role for rehabilitation in the correctional enterprise: Rehabilitation reduces recidivism, and its use is supported by the public.

## Attacking Rehabilitation

### The rise of individualized treatment

The idea that correctional intervention should *reform* offenders—should change who they are so that they will be less criminal—goes back in the United States to the invention of the penitentiary in the first part of the 1800s (de Beaumont and de Tocqueville 1964 [1833]; Rothman 1971). The very word “penitentiary” suggests that the prison was not to be a place where offenders were merely warehoused or suffered their just deserts, but rather that the experience of incarceration was to transform their very spirit and habits of living. Why penitentiaries emerged is open to considerable debate. Some scholars see the American prison as a humanitarian invention—a step in the march of progress—that moved away from the gallows, the pillory, the whipping post, and other barbaric punishments; other scholars see it as emerging from a changing social context that prompted the view that solving crime could be achieved by removing offenders from the prevailing criminogenic, disorderly environment and placing them in the morally pure, orderly environment created behind institutional walls; and still others see prisons as part of a sinister plot by political and economic elites to create an institutional machine capable of disciplining the poor and transforming them into productive workers (see Foucault 1977; McKelvey 1977; Rothman 1971; see also Colvin 1997; Garland 1990; Ignatieff 1981). Regardless, it is clear that correctional interventions—including prisons—have a lengthy history in the United States of being justified as serving the goal of reforming their charges.

A collateral theme is that rehabilitation has typically been couched in terms of “doing good” for offenders (McGee 1969). To be sure, advocates rarely discount the idea that reforming offenders also has the general utilitarian effect of improving public safety. And critics have often claimed that, in reality, rehabilitation is not an instrument for encouraging good works but a “noble lie”—an ideology that allows coercion to flourish behind a mask of benevolence (Morris 1974; Rothman 1980). Still, at least ideologically, those endorsing rehabilitation do so in large part because it is believed to improve, invest in, or otherwise help the wayward. Importantly, this link between reforming offenders and doing good reflects Christian ideals. Until the 1900s, nearly all reform efforts were justified as religiously informed, if not inspired, undertakings. The religious overtones of the label “penitentiary” are obvious. But the appeal to religion can be found in numerous writings about corrections over time. Take, for example, Zebulon Brockway’s (1871, 42) call for reform more than a century ago:

If punishment, suffering, and degradation are deemed deterrent, if they are the best means to reform the criminal and prevent crime, then let prison reform go backward to the pillory, the whipping-post, the gallows, the stake; to corporal violence and extermination! But if the dawn of Christianity has reached us, if we have learned the lesson that *evil is to be overcome with good*, then let prisons and prison systems be lighted by this law of love. Let us leave, for the present, the thought of inflicting punishment upon prisoners to satisfy the so-called justice, and turn toward the two grand divisions of our subject, the real objects of the system, vis.: *the protection of society by the prevention of crime and reformation of criminals*. (Brockway's emphasis.)

The connection of rehabilitation to religion has been insufficiently explored by criminologists. It is likely, however, that religious belief, which remains extensive in the United States, contributes to the continuing appeal of rehabilitation as a goal of corrections and its association with doing good for offenders (Applegate, Cullen, and Fisher forthcoming). Even today, experiments are under way with "faith-based prisons" that seek to transform offenders through religious conversion and extensive programming and, both before and after release, to enmesh them in a community of Christian love (Niebuhr 1998; see also Cullen, Sundt, and Wozniak forthcoming).

If the principles of reforming offenders and doing good have informed rehabilitative efforts across time, the precise means of saving the criminally wayward has changed dramatically. Other scholars have provided accounts that detail the varied correctional interventions that have emerged at specific points in American history (see, e.g., McKelvey 1977; Rothman 1971, 1980; Rotman 1990, 1995). For our more limited purposes, however, we will focus on three major shifts that occurred in thinking about how best to reform offenders.

First, in the 1820s, the United States initiated its penitentiary experiment (Rothman 1971). Those with even a cursory familiarity with the history of corrections will recall the competition between the two classic designs for the penitentiary: the Pennsylvania "solitary" model and the Auburn "congregate" model. The reformatory strategy underlying both these models, however, was the same. On one hand, insulate inmates—whether through solitary confinement or silence—from the corrupting influences in society and from associating with other offenders; on the other hand, reform their spirit and habits through religious influence and daily labor.

Second, by the latter part of the 1800s, this faith in the routines of prison to change offenders had lost its appeal. A belief in religious training and labor remained and, at times, education was added to the reformatory prescription.

But a new ingredient—said to be the key to the whole enterprise—was added: the indeterminate sentence.

The field's leading practitioners, who were also its leading thinkers, met in Cincinnati in 1870 to develop a "new penology"; this was the first meeting of the National Congress on Penitentiary and Reformatory Discipline (Wines 1871). They noted that "the treatment of criminals by society is for the protection of society," but that the "supreme aim of prison discipline is the reformation of criminals, not the infliction of vindictive suffering" (p. 541). The difficulty with past efforts, however, was that inmates had no clear incentives to change since, after all, their release date was fixed at the time of sentencing. "The prisoner's destiny should be placed, measurably, in his own hands," the Declaration of Principles read; "he must be put into circumstances where he will be able, through his own exertions, to continually better his own condition. A regulated self-interest must be brought into play, and made constantly operative" (p. 541). Such an incentive system should provide inmates with "hope" and stress "rewards, more than punishments" (p. 541). A "mark system" in prison would allow offenders to earn a higher level of prison classification that would provide more of life's amenities and more freedom. But the main incentive to change would be the indeterminate sentence that would link release from prison to reform. "Sentences limited only by satisfactory proof of reformation should be substituted for those measured by mere lapse of time" (pp. 541–542).

These prison reformers had only a rudimentary understanding of human behavior, basing their views on crime in the broader cultural views that lawbreaking was a sign that the offender lacked moral fiber, a fate caused by the offender's failure to be exposed to religion, education, and industrious labor. By the latter part of the 19th century, however, the social sciences were developing and advancing more academic and secular understandings of behavior. In the area of corrections, these insights were welcomed, for they ostensibly furnished deeper insight into what was causing an individual's criminality and, in turn, what a correctional intervention might then target for reformation (Rothman 1980). This marriage of the "new penology" and "positivist criminology" resulted in the creation of the "rehabilitative ideal"—a correctional paradigm that would reign supreme for nearly seven decades into the 20th century (Allen 1964). This paradigm had several interrelated components.

First, it embraced the belief that crime was caused by an array of psychological and social factors that, in a fashion unique to each individual, intersected to push a person to the other side of the law. Second and relatedly, the way to prevent future crime was to change the unique set of factors that drove each individual into crime. Third, the process of corrections should be organized to identify these crime-causing factors and to eliminate them. That is, the goal of

the correctional system should be rehabilitation. Fourth, since each offender's path into crime was different, the rehabilitation that was delivered had to be customized so that each offender was assessed on a case-by-case basis. That is, rehabilitation was to be *individualized*. Fifth, to provide individualized treatment, the state, through its agents in the correctional process, was to be invested with virtually unfettered *discretion*. Rather than base sanctions on the nature of the crime committed—a vestige of the unscientific approach to crime embraced by the classical school of criminology—sanctions would be directed to the individual needs and circumstances of offenders. Much like physicians do with those who are physically ill, correctional decisionmakers would use their expertise, rooted in the emerging social sciences, to diagnose and cure offenders. To do so effectively, they had to be *trusted* to exercise their discretionary decisions wisely and not coercively (Rothman 1980).

During the Progressive Era—roughly the first two decades of the 20th century—this line of thinking helped to refashion the criminal justice system. The roster of changes was remarkable: the invention of a nonadversarial juvenile justice system, whose purpose was to “save” wayward children; the development of substantial indeterminacy in sentencing; the spread of probation, with its focus on presentence reports and offender supervision; and the rise of parole boards, parole release, and parole officers. Together, this package of reforms was intended to make possible the individualized treatment of offenders. Thus, once an offender was convicted, the probation officer would study the offender's life and render a presentence report. Informed by this knowledge, the judge would have wide discretion in sentencing. Some offenders would be placed on probation, where they would be supervised by probation officers. These officers would both treat and control offenders, advancing their rehabilitation when possible and protecting public safety by sending the unreformed to prison for more intensive intervention. If sent to prison—by the judge initially or after failing on probation—offenders could earn their release through rehabilitation. Parole boards would make this judgement about which offenders were cured. Those returned to the community would be under the guidance of parole officers who would assist in their reintegration and, if necessary, return them to prison if their rehabilitation proved incomplete.

As Rothman (1980) and many others have pointed out, this ideal system was never implemented as intended. Although the contours of the correctional system changed—the juvenile court, indeterminate sentencing, probation, parole, and discretion became integral features of this system—the resources and knowledge needed to provide effective treatment to offenders were in short supply. Even so, these discrepancies between the ideal and reality were not viewed as fundamental flaws in the underlying paradigm of individualized

treatment but rather as shortcomings to be addressed. The goal of rehabilitation thus retained wide appeal, far outdistancing “get tough” ideas as the fashionable correctional philosophy.

A third period of reform, which sought to professionalize and sophisticate the rehabilitative ideal, was signaled by the conscious use of the term “corrections.” In 1954, the American Prison Association—the professional organization to which the leaders in corrections belong—changed its name to the American Correctional Association. Prisons were now relabeled “correctional institutions” (Cressey 1958; Irwin 1980; Rotman 1995). This change was more than euphemistic. In the next two decades, an array of “treatment” programs was introduced inside prisons, such as individual and group counseling, therapeutic milieus, behavioral modification, vocational training, work release and furloughs, and college education. New and more sophisticated classification systems were implemented. Relatedly, there was a movement, which gained steam in the 1960s, to foster “community treatment” and the “reintegration” of offenders into the community.

Observers of American corrections were not unmindful of the problems associated with implementing programs that had the difficult task of changing lawbreakers (Cressey 1958; Gibbons 1999). The lack of resources and trained staff needed to carry out programs effectively was commonly cited. Still, in the mid-1960s, few criminologists or correctional administrators debated that rehabilitation was the enlightened course to pursue. Thus, it is instructive that Karl Menninger (1968) earned rave reviews for his book, *The Crime of Punishment*. Near the same time, Jackson Toby’s (1964, 332) assessment of criminology textbooks led him to conclude “that students reading these textbooks might infer that punishment is a vestigial carryover of a barbaric past and will disappear as humanitarianism and rationality spread.” Reflecting on that era, Don Gibbons (1999, 272) observes that “it seemed to many criminologists that they were about to become ‘scholar-princes’ who would lead a social movement away from punitive responses to criminals and delinquents and toward a society in which treatment, rehabilitation, and reintegration of deviants and lawbreakers would be the dominant cultural motifs.” And the Task Force on Corrections (1967, 16), working under the auspices of the President’s Commission on Law Enforcement and Administration of Justice, concluded their section on “the purpose of corrections” in this way: “The ultimate goal of corrections under any theory is to make the community safer by reducing the incidence of crime. Rehabilitation of offenders to prevent their return to crime is in general the most promising way to achieve this end.” This consensus, however, would be shattered with remarkable force and speed in the years just ahead.



## **The decline of the rehabilitative ideal**

### ***Martinson's study: Does anything work?***

In 1974, Robert Martinson published his celebrated review of evaluations of treatment studies, "What Works? Questions and Answers About Prison Reform." This essay, distilled from a 736-page book published a year later (see Lipton, Martinson, and Wilks 1975), provided a pessimistic assessment of the prospects of successfully rehabilitating juvenile and adult offenders. "With few and isolated exceptions," concluded Martinson (1974b, 25), "the rehabilitative efforts that have been reported so far have had no appreciable effect on recidivism." This technical phrasing would subsequently be reduced to its core idea: "Nothing works" in correctional treatment.

Martinson's coauthored research was based on the analysis of 231 studies, all of which had to have not only a treatment but also a comparison group, that were published between 1945 and 1967. In his essay, he organized his findings around a series of questions. For example, he posed the query: "Isn't it true that a correctional facility running a truly rehabilitative program—one that prepared inmates for life on the outside through education and vocational training—will turn out more successful individuals than will a prison which merely leaves its inmates to rot?" (Martinson 1974a, 25). Or, "Isn't what's needed is some way of counseling inmates, or helping them with deeper problems that have caused their maladjustment?" (p. 29). Or, "Isn't a truly successful rehabilitative institution the one where the inmate's whole environment is directed towards true correction rather than towards custody or punishment?" (p. 33). Again and again, however, Martinson found that these seemingly plausible views proved to be unsupported by existing studies.

Why was this the case? "Do all of these studies," asked Martinson (1974b, 48), "lead irrevocably to the conclusion that *nothing works*, that we haven't the faintest clue about how to rehabilitate offenders and reduce recidivism?" (emphasis added). Martinson stopped short of explicitly saying that "nothing

***Despite reasonable criticisms that would have suggested a more moderate interpretation of the data reviewed by Lipton, Martinson, and Wilks, the "nothing works" doctrine assumed the status of unquestioned truth. Indeed, it is now clear that by the time Martinson's work appeared, many criminologists—and other commentators on corrections—had already decided that rehabilitation was a failed enterprise.***

works,” but he left little doubt that this is what he believed. A careful scholar, he admitted that the dismal performance of treatment programs could reflect two other factors: inadequate research studies that were incapable of measuring programs that really were working, and the inadequate implementation of programs that, if they had therapeutic integrity, would be effective. But “it may be,” warned Martinson, “that there is a more radical flaw in our present strategies—that education at its best, or that psychotherapy at its best, cannot overcome, or even appreciably reduce, the powerful tendency for offenders to continue in criminal behavior” (p. 49). Later in the year, Martinson (1974a, 4) noted that nowhere in the Lipton, Martinson, and Wilks (1975) book will one find the assertion that “rehabilitation is a ‘myth.’” Still, he added, “that is a conclusion I have come to . . . based on the evidence made available by this volume” (p. 4).

The Lipton, Martinson, and Wilks (1975) analysis of studies should be recognized for what it was: a thorough, state-of-the-art review of existing literature. Its findings were not wildly misconstrued and were appropriately sobering for those holding utopian views on the prospects for rehabilitating offenders (see Sechrest, White, and Brown 1979). Still, Martinson’s message that “nothing works” assumed an importance far beyond what a single review of research would normally achieve. Despite reasonable criticisms that would have suggested a more moderate interpretation of the data reviewed by Lipton, Martinson, and Wilks (Klockars 1975; Palmer 1975), the “nothing works” doctrine assumed the status of unquestioned truth. Criminologists did not, as is typical, manifest organized skepticism and call for more research; instead, they were resigned to eliminating the now obviously ineffectual practice of enforced therapy. As Blumstein (1997, 352) notes, Martinson’s 1974 essay “created a general despair about the potential of significantly affecting recidivism rates of those presented to the criminal justice system.” Writing not long after the essay appeared, Adams (1976, 76) stated that the “Nothing Works doctrine . . . has shaken the community of criminal justice to its root . . . widely assorted members of the criminal justice field are briskly urging that punishment and incapacitation should be given much higher priority among criminal justice goals.”

It might be claimed that the quality of Lipton, Martinson, and Wilks’ review and Martinson’s provocative and persuasive publicizing of its dismal results combined to make the case against rehabilitation overwhelming. To some extent, criminologists and policymakers were persuaded by the evidence. We should realize, however, that in science, “anomalous” findings are often explained away so long as faith in the larger paradigm remains firm (see, e.g., Cole 1975; Kuhn 1962). And in criminal justice, one would be hard-pressed to show that correctional policies and practices hinge on “what the data say”

(England 1965; Finckenauer and Gavin 1999). Why the “nothing works” idea took on special salience involves more than a rational assessment of research.

It is instructive that Martinson was hardly the first to call into question the effectiveness of correctional intervention. In an early review of correctional interventions, Kirby (1954, 373) lamented that “most treatment programs are based on hope and perhaps informed speculation rather than on verified information.” In 1958, Cressey poignantly observed that “most of the ‘techniques’ used in ‘correcting’ criminals have not been shown to be either effective or ineffective and are only vaguely related to any reputable theory of behavior or criminality” (p. 770). Echoing this view, Wooton’s (1959, 334) review of existing studies led her to conclude that “as to the effectiveness of the comparatively humane methods now in use, surprisingly little evidence is available. . . . Clear evidence that reformative measures do in fact reform would be very welcome” (see also Glaser 1965). In the mid-1960s, Bailey’s (1966) review of 100 studies from 1940 to 1960 reinforced the conclusion that current programs had no consistent impact on criminal involvement. “Evidence supporting the efficacy of correctional treatment,” he observed, “is slight, inconsistent, and of questionable reliability.” In 1969, Berleman and Steinburn’s review of five major youth programs revealed “uniformly disappointing results: The provision of a preventative service seems no more effective in reducing delinquency than no service at all” (p. 471). Shortly thereafter, Robison and Smith’s (1971, 80) assessment of correctional programs in California concluded that “there is no evidence to support any program’s claim of superior rehabilitative efficacy.” Surveying this landscape, Gold cautioned in January 1974 that it was a “time for skepticism” because “the best data at hand demonstrate that we have not yet solved the problem of the effective treatment of delinquency” (p. 22; see also Logan 1972).

It is equally instructive that as new data more favorable to rehabilitation appeared in the 25 years following Martinson’s essay, the willingness of criminologists to accept these results has been grudging at best (Andrews and Bonta 1998; Gottfredson 1979). This is not to say that no changes in attitudes have taken place (Palmer 1992), but criminologists’ skepticism about the possibility of effective intervention has been continuing and pervasive (Binder and Geis 1984). Again, the paucity of skepticism shown Martinson’s essay is startling by comparison.

### ***The “nothing works” doctrine in context***

Together, these observations suggest that the inordinate appeal of the “nothing works” doctrine cannot be explained as merely a rational response to a persuasive argument. The key issue is why, at this particular historical juncture and not earlier in time, the message that nothing works in rehabilitation struck such

a chord. Indeed, it is now clear that by the time Martinson's work appeared, many criminologists—and other commentators on corrections—had already decided that rehabilitation was a failed enterprise. The empirical data only served to confirm what they already “knew.” Subsequent contrary data supportive of treatment were resisted, if not dismissed, because they did not coincide with this view.

A number of commentators have traced the tarnishing of the rehabilitative ideal to the cataclysmic changes that transpired in the larger society from the mid-1960s to the mid-1970s (see, e.g., Allen 1981; Cullen and Gilbert 1982; Cullen and Gendreau 1989; Useem and Kimball 1991). During this period, protest and turmoil not only seemed ubiquitous but also was focused on the inability of the government to fulfill its promises that it would advance civil rights, pursue a just war in Vietnam, and conduct the political system ethically. Urban riots, deception by military officials and the apparently senseless deaths of soldiers, and Watergate belied these promises. “Grand expectations” were dashed, and a wide “confidence gap” involving the government grew commensurately (Lipset and Schneider 1983; Patterson 1996). Within criminal justice, the declining *trust in the state* was exacerbated by the 1971 riot and slaughter of inmates and guards at Attica Prison, which showed the willingness of the government to use extreme violence to suppress offender protests over prison conditions (Useem and Kimball 1991). An intense spotlight was placed on the actions of the state's representatives, especially judges and correctional officials. A defining question emerged: Could these people be trusted to exercise their *discretion*—the discretion legitimated by the rehabilitative ideal—in a prudent and benevolent way?

For *both* conservatives and liberals, the answer was decidedly negative (Cullen and Gilbert 1982). For conservatives, the problem was that judges and parole boards were too *lenient*; they used their discretion to release predatory criminals into the community where they would victimize innocent citizens. For liberals, the discretion given to state officials was applied inequitably and coercively. In their eyes, judges were free to discriminate against poor and minority offenders, while parole boards used their discretion to punish offenders who challenged the status quo of an inhumane prison regime. Under the guise of rehabilitation—the “noble lie” as Morris (1974) termed it—these officials were acting in bad faith (Cullen and Gilbert 1982).

It is noteworthy that many of the “reforms” proposed as an alternative to the Progressives' paradigm of individualized treatment involved the structuring or elimination of discretion. Both sides of the political spectrum thus embraced, initially, determinate sentencing and the abolition of parole. Liberals hoped that a “justice model” would limit the ability of the state to harm offenders; doing “less harm” replaced “doing good” as the goal to be pursued (see, e.g., Fogel

1979; Morris 1974). They argued that offenders should be given an array of legal rights to protect them and ensure their equal treatment during arrest, at trial, and in prison. Rehabilitation, to the extent that it was used, would be voluntary, not enforced. Inmates would be transformed from “correctional clients” into “citizens,” with all the rights and obligations this status conferred (Conrad 1981).

Notably, the liberal “justice model” defined the purpose of sentencing as the imposition of just deserts. Advocates of this model thus forfeited any concern over crime control; only fairness was not to be the function of the criminal justice system. But this was a period of escalating crime rates and of the politicization of crime as an electoral issue. With disorder flourishing in society, conservatives thus rushed into this vacuum to give an unqualified answer about how to solve the crime problem: impose “law and order” (Macallair 1993). Accordingly, their attack on rehabilitation focused on ways to implement policies that would inhibit the ability of judges and correctional officials, especially parole boards, to mitigate the harshness of criminal sanctions. “Get tough” proposals for mandatory minimum sentences and lengthy determinate sentences were later followed by “three strikes and you’re out” laws, which required life sentences for offenders with multiple convictions (Shichor and Sechrest 1996), and “truth in sentencing” laws, which required offenders to serve a high proportion (e.g., 85 percent) of a prison sentence imposed at trial by the judge (Ditton and Wilson 1999). Again, these initiatives shared the goal of increasing the time lawbreakers spent behind bars and of decreasing the discretionary power of judges and correctional officials to release offenders into the community.

We return, then, to the issue of the effectiveness of correctional rehabilitation. Conservatives greeted Martinson’s study with the attitude of “we told you so,” since they traditionally had viewed treatment as robbing the criminal justice system of its bite. But liberals, the heirs to the progressives who invented the rehabilitative ideal, were often harsher in their response toward offender treatment—sort of like a jilted lover seeking revenge. Martinson’s study was held up triumphantly, as final proof of what they “knew to be true”: that the correctional system was, as they suspected, morally and pragmatically bankrupt. In Attica’s wake, such thinking resonated. A new language was created to speak about corrections. Wardens, prison guards, and probation and parole officers thus became “state agents of social control”; interventions were transformed into “degradation ceremonies” and instances of “net widening”; and offenders were portrayed as the “underdog, who tends to be seen as a romantic force engaged in a liberating struggle with retrogressive establishment institutions” (Binder and Geis 1984, 644). Revisionists, in an amazing exercise in reductionism, reconceptualized past reform efforts involving rehabilitation, such as the juvenile court, as being little more than thinly veiled strategies of power that

sought to discipline the poor and reinforce preexisting social inequalities (for a critical analysis, see Garland 1990).

There are, of course, elements of truth in these portrayals of rehabilitation as ineffective, excusing coercion, and diverting attention away from the class and racial inequalities that contribute to the uneven distribution of crime in the United States. These partial truths—these useful reminders of the dangers inherent in the rehabilitative ideal—were extreme in the early 1970s and beyond. Criminologists, a progressive bunch due to their self-selection into the field of criminology and disciplinary training, embraced an antirehabilitation

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position almost as a matter of professional ideology (Andrews and Bonta 1998; Binder and Geis 1984; Gottfredson 1979). The study of corrections became largely the study of social problems—of prison violence, crowding, and the like. In contrast to a field such as psychology, which has a commitment to develop effective interventions, criminologists paid scant attention to constructing knowledge about “what works” to change offenders (see also DiIulio 1987). If anything, they were praised and rewarded with opportunities to publish their research when they could show that an acclaimed program did not live up to its billing and that Martinson was right after all (Binder and Geis 1984; Gottfredson 1979).

Palmer (1992) is correct in asserting that we must move beyond the naivete and exuberance that marked the advocacy of rehabilitation in the 1950s and early 1960s and beyond the cynicism and pessimism that has reigned for much of the last three decades. Advocacy and criticism have their place, but the challenge is to escape ideology and rhetoric and think more openly regarding what the evidence has to say on effective correctional interventions (Adams 1976). Fortunately, a growing body of studies is now able to provide insights on this issue; it is to this topic that the remainder of this essay is devoted.

## **Reconsidering the “Nothing Works” Doctrine**

Reviewing evaluation studies is tricky business. The studies often vary in quality and in the information conveyed. The types of studies included in a given treatment category—for example, group counseling or skill development—can

be so dissimilar in modality and clientele that one wonders if the within-group variation makes the categorization meaningless (Klockars 1975). And the findings can be so complex—reducing recidivism under some circumstances but not others—that providing firm answers about “what works” is a daunting exercise. How, then, can one make sense of the corpus of evaluation research on correctional interventions? Is it possible to see the forest through the trees?

In recent years, an important—albeit, not unassailable—technique for “making sense” of studies in corrections, and elsewhere, has emerged: the quantitative synthesis of research findings using meta-analytic techniques. We will return to this technique ahead, but, in essence, a “meta-analysis” measures statistically the average effect on recidivism that an intervention has across all studies; this “effect size” can also be computed for various conditions (e.g., characteristics of offenders, type of setting, study methodology). In the Martinson era, however, this technique was not yet generally available within the social sciences. Instead, scholars employed two interrelated strategies for assessing “what the research says”: the narrative review and the vote counting or ballot box method.

In a narrative review, the author reads the existing literature and then conveys what this research has found. Sometimes studies are described in detail; sometimes conclusions are merely followed by a string of citations. Sometimes studies are given equal weight in making conclusions; sometimes one or two “high quality” studies will sway the interpretation of the research the author conveys. In the vote counting or ballot box method, the author gathers all the evaluation studies—usually breaking them down by different intervention categories (e.g., group counseling)—and then counts how many studies reduced recidivism, how many had no effect on recidivism, and how many may have increased recidivism.

Although these methods have value, they also have two common weaknesses. First, unless coding criteria are made explicit, they are open to considerable subjectivity. For example, how do we decide if a certain study is to be given more weight than another study? How much must recidivism be reduced to make it “count” as a positive finding? Must the difference between a treatment and comparison group be statistically significant even when the risk of a Type II error—of overlooking treatment effects that do in fact exist—is high? Second, even when the results are agreed upon, how do we decide if the glass is “half full” or “half empty”? How much success must treatment programs enjoy to say that they “work”? These and related issues marked the reaction to Martinson’s (1974b) essay and to similar writings in the intervening years.

## Martinson revisited

Following the publication of Martinson's (1976b) essay and the voluminous Lipton, Martinson, and Wilks (1975) report, the "nothing works" conclusion was challenged by a limited number of critics. Martinson and his associates, however, could draw solace not only from the widespread acceptance of their position but also from independent reviews conducted by other scholars that ostensibly confirmed their pessimistic findings (see, e.g., Bailey 1966; Berleman and Steinburn 1969; Fishman 1977; Greenberg 1977; Kirby 1954; Logan 1972; Lundman and Scarpitti 1978; Robison and Smith 1971; Sechrest, White, and Brown 1979; Wright and Dixon 1977). "Here and there a few favorable results alleviate the monotony," observed Greenberg (1977, 140–141), "but most of these results are modest and are obtained through evaluations seriously lacking in rigor. The blanket assertion that 'nothing works' is an exaggeration, but not by very much." Similarly, a panel commissioned by the National Academy of Science reviewed a sampling of studies taken from Lipton, Martinson, and Wilks (1975) and concluded that the authors had, with a few minor exceptions, accurately reported their results (Fienberg and Grambsch 1979; Sechrest, White, and Brown 1979). Due to the paucity of quality research on quality interventions, however, they remained agnostic about whether rehabilitation should be reaffirmed or replaced. "Given our current state of knowledge," the panel concluded, "no recommendation for drastic or even substantial change in rehabilitative efforts can be justified on empirical grounds" (Sechrest, White, and Brown 1979, 102).

In fundamental respects, therefore, the Lipton, Martinson, and Wilks (1975) volume was a responsible review of the existing literature at that time (1945 to 1967). Still, certain aspects of their study warrant closer attention because they affect how the findings of this classic work should be understood. First, in a claim invariably repeated in the criminological literature, Martinson (1974b) stated that the Lipton, Martinson, and Wilks research team reviewed 231 studies. Although technically correct, this figure is misleading. To be included in the research, a study had to include a measure for *any* of the following outcomes: recidivism, institutional adjustment, vocational adjustment, educational achievement, drug and alcohol readdiction, personality and attitude change, and community adjustment. Some studies contained data on more than one outcome, so that Lipton and colleagues were able to report the impact of treatment on 286 outcome measures. Importantly, however, their study was based on only 138 measures of recidivism—not 231 as is commonly believed.

Second, Lipton, Martinson, and Wilks (1975, 9) created 11 "treatment methods" or "independent variables" that were then cross-tabulated with the outcome measures, including recidivism: probation, imprisonment (sentence



length), parole, casework and individual counseling, skill development, individual psychotherapy, group methods, milieu therapy, partial physical custody (halfway house placement), medical methods (plastic surgery, castration), and leisure-time activities. Although useful to examine, it is difficult to see how probation, imprisonment, and parole can be classified as “treatments.” If these categories are taken out of the analysis, the number of recidivism outcomes for the study, which started at 138, is reduced by 55 to 83 outcome measures. We might even argue that partial physical custody, medical methods, and leisure-time activities are not treatment modalities per se; if so, then the outcome measures for recidivism are lowered another 10 outcomes to 73. Regardless of where the line is drawn, the point is clear: The number of studies on which the “nothing works” conclusion was based was far lower than is commonly believed.

This is not a criticism of the study per se, since the Lipton, Martinson, and Wilks analysis was the most comprehensive review when it appeared. But it does mean that the number of studies per treatment category was not high: 7 for casework/individual counseling; 15 for skill development; 12 for individual psychotherapy; 19 for group methods; and 20 for milieu therapy. When the heterogeneity of studies falling into each category is examined, the difficulty in interpreting the results becomes clearer. As Klockars (1975, 58–59) points out, the “skill category,” for example, included programs that provided such diverse services as vocational counseling, role modeling, training in data processing, and attending school. Although provocative, Klockars (p. 59) has a point when he claims “that the ‘independent variable category’ of ‘skill development’ is, at best, an editorial and organizational fiction that has no coherence on any other basis. It is thus preposterous,” he continues, “to talk in any way about the effects of ‘skill development’ as a category, since as a category it simply doesn’t exist.”

Third, Lipton, Martinson, and Wilks did *not* include a category for “cognitive-behavioral” programs (for a description, see Andrews and Bonta 1998; Lester and Van Voorhis 1997). As Martinson (1974a, 5) noted, “methods not evaluated included work release, methadone maintenance, recent forms of so-called ‘behavior modification,’ and what have come to be called diversion methods” (see also Greenberg 1977, 130, who reviewed only three “behavior modification programs”). This omission is salient because there is growing evidence that these programs are among the most effective in reducing offender recidivism (Andrews and Bonta 1998; Gendreau 1996b). In any case, Martinson did not provide a systematic analysis of cognitive-behavioral programs, and thus the “nothing works” doctrine, as developed in his work, cannot be applied to this treatment modality.

Fourth, as Martinson (1976a, 1976b) pointed out, various intervention strategies did have positive impacts on outcome variables other than recidivism, such as institutional adjustment and educational achievement (see also Lipton, Martinson, and Wilks 1975, 532–558). Admittedly, the key criterion for assessing the utility of treatment interventions from a public policy perspective is whether crime is reduced; this is why recidivism is the primary focus of this essay. Even so, it is worthwhile to note that beyond their influence on recidivism, rehabilitation programs can have collateral beneficial effects on offenders—such as those identified by Martinson. In turn, in calculating the overall utility of treatment programs versus punishment-oriented sanctions that do not invest in improving offenders' lives, some weight might well be given to the collateral benefits gained by exposing offenders to varying treatment conditions.

In this regard, Gaes et al.'s (1999) review of existing research leads them to conclude that prison education and work programs likely reduce postprison recidivism. They also note, however, that an added advantage of these programs is that they tend to improve inmates' institutional adjustment (i.e., they have fewer disciplinary problems) and, after inmates are released into the community, to foster constructive employment and continued participation in education. In turn, when offenders are less disruptive while incarcerated and more productive in the community, society accrues benefits (see also Gerber and Fritsch 1995). Again, even if they are only of secondary importance, these benefits should not be overlooked when assessing the most prudent correctional interventions to implement.

## **Recounting the ballots**

In his essay, Martinson (1974b) presented what amounted to a narrative review of the treatment studies analyzed. His main point was that “rehabilitation efforts . . . had no appreciable effect on recidivism.” By rehabilitation *efforts*, Martinson (1976a) did not mean that no studies had positive effects in reducing recidivism. Instead, he was arguing that no *type* or category of intervention—such as group counseling or skill development—could be shown to *consistently* reduce recidivism across studies, across settings, and across offender types. In practical terms, then, a correctional administrator could not, with any confidence, say that the “best way” to rehabilitate offenders was to use one type of treatment rather than another.

In the best-known rebuttal to Martinson, Ted Palmer (1975) approached the “what works” issue from a different perspective: the vote-counting or ballot box approach. Palmer identified 82 studies cited by Martinson in his 1974 essay. He then counted how many of these studies showed that treatment had a “positive” or “partially positive” effect on recidivism. He calculated that 39

studies, 48 percent of the total, could be categorized as reducing recidivism. This startling figure offered convincing proof, it seemed, that the “nothing works” doctrine was fallacious. Notably, subsequent analyses of other studies published at this time and later—most of which reached pessimistic conclusions about rehabilitation—revealed similar results. As Andrews et al. (1990, 374) observe, “reviews of the literature have routinely found that at least 40 percent of the better-controlled evaluations of correctional treatment services reported positive effects” (see also MacKenzie 1998).

The question, however, is what to make of this mixture of positive, null, and, to a lesser extent, negative findings. One possibility is that correctional intervention is chaotic and not patterned. Interventions that work occur almost randomly. In this view, Martinson’s “nothing works” view would, at least pragmatically, be close to the truth; we would never know how best to intervene since a given treatment modality would be no more, or less, likely to decrease recidivism. The alternative view is that effective correctional intervention is not random but patterned. If so, then the task would be to uncover what it is about programs that work that distinguishes them from programs that do not work. This approach would move the discussion toward the demarcation of “principles of effective intervention”—an approach we will discuss in the upcoming section, “Principles of Effective Correctional Intervention.”

Palmer (1975) made strides in this direction as he tried to identify patterns of results in the studies cited by Martinson (1974b). He concluded, for example, that positive results tended to be more plentiful in programs conducted in the community rather than in prison, for juveniles as opposed to adults, and for offenders at “middle risk.” These provisional hypotheses underlie a broader insight—that future research should move beyond the global question of “what works?” to focus on this issue: “Which methods work best for *which* types of offenders, and under *what* conditions or in what types of settings?” (Palmer 1975, 150; Palmer’s emphasis). The obvious risk to using this approach is that of unending specification—of arguing that rehabilitation would be effective if programs could be developed that could address an unending permutation of offender-treatment type-setting interactions. The practical limitations of the delivery of treatment services within correctional systems, however, means that treatment interventions cannot be customized to individual offenders. Instead, knowledge about “what works” will be useful only to the extent that it matches

***Many programs fail to work because they either are ill-conceived (not based on sound criminological theory) and/or have no therapeutic integrity (are not implemented as designed).***

offenders to treatment modalities that are broad and can be applied to *categories* of offenders (e.g., high-risk offenders to cognitive-behavioral therapy).

Finally, we must consider that the Lipton, Martinson, and Wilks review may alert us to an ongoing challenge in corrections: that many programs fail to work because they either are ill-conceived (not based on sound criminological theory) and/or have no therapeutic integrity (are not implemented as designed). Scholars undertaking reviews at this time were exasperated not only by the poor methodology used in many evaluations but also by the paucity of programs that made sense criminologically (see, e.g., Bailey 1966; Sechrest, White, and Brown 1979; Wright and Dixon 1977). As Greenberg (1977, 141) commented following his review of correctional interventions, "I never thought it likely that most of these programs would succeed in preventing much return to crime. Where the theoretical assumptions of programs are made explicit, they tend to border on the preposterous. More often they are never made explicit, and we should be of little surprise if hit-or-miss efforts fail." Thus, the question that hung in the balance after Martinson's sobering essay was whether the quality of programs and quality of research would improve to the point where meaningful conclusions could be drawn about the effectiveness of correctional treatments. Sykes' (1958, 133–134) observation ultimately proved prescient: "The greatest naivete, perhaps, lies in those who believe that because progress in methods of reforming the criminal has been so painfully slow and uncertain in the past, little or no progress can be expected in the future."

## Martinson reconsiders

Following the Lipton, Martinson, and Wilks (1975) analysis, Martinson and Wilks received funding to update the previous study. Due to Martinson's untimely death, the findings of this synthesis of studies were contained only in a 1979 article by Martinson. This work presents only a sketchy discussion of the methods employed in the analysis. Apparently, however, Martinson first computed the average recidivism rate (which he called the "reprocessing" rate) for all offenders who entered the criminal justice system; presumably he also standardized this figure for the specific population that was being examined in any given analysis (i.e., offenders in the community versus those in institution). He then compared how programs using treatment fared when their results were juxtaposed with this average rate. A total of 555 studies, published between World War II and the late 1970s, was used to calculate both the average recidivism rate and the effectiveness of treatment programs.

Strikingly, Martinson (1979, 254) moved close to Palmer's (1975) view when he stated that the "critical fact seems to be the *conditions* under which the program is delivered" (Martinson's emphasis). His central finding was that treatments

delivered in prison reduced recidivism while those delivered in group homes increased recidivism. Regardless, Martinson retreated from his “nothing works” position. “On the basis of the evidence in our current study,” he stated, “I withdraw this conclusion. I have often said that treatment added to the networks of criminal justice is ‘impotent’ . . . the conclusion is not correct.” Instead, he observed that “treatments will be found to be ‘impotent’ under certain conditions, beneficial under others, and detrimental under still others” (p. 254). It is noteworthy that Martinson’s retraction of the “nothing works” doctrine largely fell on deaf ears.

### **Bibliotherapy for cynics**

The status of Martinson’s essay (1974b) was so exalted that it remained, for some time, one of the most cited works in criminology (Cousineau and Plecas 1982). As Martinson (1979) himself understood, however, numerous evaluation studies—often with more rigorous methodological and/or statistically sophisticated analyses—were emerging. Even so, as noted earlier, many criminologists were content to treat the “nothing works” essay as the “final word.” Empirical reality and their ideological preferences had conveniently coincided, and they now had no need to reopen the issue; rehabilitation was dead and new studies were of little interest.

In contrast, Paul Gendreau and Robert Ross—as well as their colleagues Don Andrews and James Bonta—came from a different sociopolitical context and thus examined the “nothing works” controversy without such intellectual predispositions. All were Canadian psychologists who had experience implementing, administering, and evaluating correctional programs (and later would be seen as comprising a “Canadian school” of rehabilitation). Unlike scholars in the United States, these psychologists did not view rehabilitation as being imbued with larger symbolic significance—it was not a case of “enforced therapy coercively applied by state agents of social control in a politicized criminal (in)justice system” (see Binder and Geis 1984). Instead, the issues surrounding rehabilitation, while important, were more prosaic and empirical: To what extent does correctional treatment reduce recidivism? Under what conditions? They came to the “nothing works” controversy, however, with one disciplinary bias. As clinicians schooled in learning theory, they believed that criminal behavior was largely learned. To the extent that this assumption was true, then, the “nothing works” idea made little sense to them. Offenders, like everyone else, acquire attitudes, beliefs, and behaviors through reinforcement and punishment. But the “nothing works” doctrine implicitly suggests “that criminal offenders are incapable of re-learning or of acquiring new behaviors” (Gendreau and Ross 1979, 465–466). “Why,” Gendreau and Ross (1979, 466) wondered, “should this strange learning block be restricted to this population?”

Gendreau and Ross (1979, 1987) conducted two extensive narrative reviews of research published in journals and books in the post-Martinson era. Their first review, which assessed 95 studies, covered 1973 to early 1978; their second review, which assessed 130 studies, covered 1981 to 1987. Together, these two works pointed to three major conclusions.

First, a major reason why correctional programs fail is that they lack therapeutic integrity. We would not be surprised, for example, if young children turned out to be illiterate if their teachers were untrained, had no standardized curriculum, and met the children once a week for half an hour. Yet many treatment programs were in such a state. On closer inspection, even ostensibly well-designed studies often lacked the kind of “integrity” needed to change offenders’ behavior. Quay’s (1977) critical analysis of Kassebaum, Ward, and Wilner’s (1971) evaluation study is instructive. Although the Kassebaum, Ward, and Wilner research was cited as a prime example of a methodologically rigorous evaluation that showed that treatment was ineffective, Quay found that the real culprit was the lack of integrity of the treatment program. Thus, the program had a weak conceptual base, had counseling groups that were unstable, and employed counselors who were unqualified, were not adequately trained, and did not believe the program would be effective. Similarly, in a study of 27 empirical investigations of applied behavioral programs for delinquency prevention, Emery and Marholin (1977) found that in only 9 percent of the cases were the behaviors targeted for change by the treatment individually selected for each of the youths in the program. Further, in just 30 percent of the studies were the referral behaviors and the behaviors targeted for change clearly related (e.g., one client was referred for stealing cars but was treated for promptness). For Gendreau and Ross (1979, 467), researchers had to move beyond the analysis of inputs and outputs and begin to examine what was going on inside the program:

To what extent do treatment personnel actually adhere to the principles and employ the techniques of the therapy they purport to provide? To what extent are the treatment staff competent? How hard do they work? How much is treatment diluted in the correctional environment so that it becomes treatment in name only?

Second, despite the many obstacles that correctional programming had to surmount, Gendreau and Ross (1979, 1987) uncovered literally scores of examples of treatment interventions that were successful in reducing recidivism. The sheer number of these programs belied the idea that “nothing works” and, taken as a whole, provided much-needed “bibliotherapy for cynics.” In particular, Gendreau and Ross (1979) revealed that behaviorally oriented programs (e.g., incentive systems, behavioral contracts)—heretofore largely ignored in the criminological literature—showed signs of being especially effective (see also

Gendreau and Ross 1983–1984). Further, they noted that successful programs targeted “criminogenic needs”—that is, known predictors of recidivism that are amenable to change (e.g., antisocial attitudes and behaviors).

Third, they observed that offenders—like other humans—are marked by individual differences. Some of these differences pertain to their criminality; offenders differ in their level of risk for reoffending. And some differences relate to their personalities and their ability to learn. Until recently—with the growing popularity of the life-course paradigm—criminologists had been disinterested in, if not outright hostile to, the idea that individual differences are important in understanding criminal involvement (Andrews and Bonta 1998; Binder and Geis 1984). Regardless, Gendreau and Ross (1979, 1987) presented evidence that the effectiveness of treatment programs can vary substantially, to the extent that offenders’ individual differences are measured and taken into account in the delivery of services. They suggested, for example, that high-risk offenders benefited the most from treatment interventions and that offenders with low intellectual abilities would benefit more from programs in structured learning situations (1987, 370–374). These beginning insights, which built on the pioneering work of Andrews and colleagues (1986; see also Warren 1969), would subsequently evolve into more formal “principles of effective intervention” (see later section, “Ineffective Correctional Interventions”).

## **Meta-Analysis and Treatment Effectiveness: Knowledge Construction in Corrections**

The evaluation literature on correctional treatment programs often seems a bewildering mixture of programs that encompass different settings, treatment modalities, samples of offenders, quality of intervention, and so on. Making sense of this diverse research—discerning “what works”—is an enormous challenge. The narrative review, as we have seen, is one tool that can be applied to this task. It has the advantage of allowing the reviewer to focus on the richness of individual studies and, by giving different weights to different studies, to interpret what the research, taken together, “really means.” The disadvantages of this approach, however, place limits on what the narrative review can contribute. As Redondo, Sanchez-Meca, and Garrido (1999, 252) note, traditional narrative reviews:

tend to suffer from (a) selective inclusion of studies, (b) differential subjective weighting of studies in the interpretation of a set of findings, (c) misleading interpretation of study findings, (d) failure to examine other

study characteristics as potential explanations for consistent results across studies, and (e) failure to examine the effect of moderator variables in relationship to the outcome variable.

One strategy that is being used increasingly in both the physical and social sciences to review research studies is “meta-analysis” (Hunt 1997; *Science* 1994). This approach attempts to conduct a quantitative synthesis of the research findings of a body of literature. Instead of asking for a vote count (how many studies work and how many do not?), a meta-analysis computes for each study the “effect size” between the treatment and the outcome variable—which, in rehabilitation studies, is recidivism. The effect size for any study could be a negative number (indicating that the treatment increases recidivism), could be zero (indicating that the treatment had no effect), or could be a positive number (indicating that the treatment reduces recidivism). The computations in the meta-analysis include calculating the effect size in every study, regardless of whether a particular study found a treatment intervention to be statistically significant or nonsignificant. The end result of the meta-analysis is a number—the “average effect size”—that is a precise point estimate of the relationship of the treatment on the outcome measure across all studies. Typically, the effect size statistic is reported as a Pearson’s  $r$  and its confidence interval (Rosenthal 1991; Schmidt 1996).

One issue is how to interpret the  $r$  value when trying to assess the difference in the recidivism rates of the treatment and control groups. It is noteworthy that under most circumstances, the  $r$  value can be read at face value (Gendreau, Goggin, and Pappozzi 1996). In other words, an effect size of  $r=0.20$  means that there is exactly, or very close to, a 20-percent difference in the recidivism rates of the treatment and control groups. To illustrate further, Gendreau, Smith, and Goggin (forthcoming) examined the data that Andrews et al. (1990, 403–404, table A1) provided on “appropriate” correctional treatment programs, which, on average, reduced recidivism rates by 31 percent. In all, there were 53 effect sizes or  $r$  values reported. They compared the  $r$  value with the numerical difference in recidivism between the treatment and control groups under conditions where (1) the recidivism base rate was not overly extreme (30 to 70 percent) and (2) the ratio of the sample sizes between the treatment and control groups was less than three to one. In this case, the mean value of  $r$  was within one percentage point of the actual difference in recidivism between the treatment and control groups. When there were extreme base rates of recidivism and/or large differences in the samples sizes, the average difference between the  $r$  estimate and the difference in recidivism of the treatment and control groups was still only 2 percentage points.



Another way to convey the substantive meaning of the  $r$  value in a meta-analysis is through Rosenthal's (1991) "BESD" (or binomial effect size display) statistic. In this approach, the recidivism rate for a treatment and a control group are computed from a base rate of 50 percent. As Andrews and Bonta (1998, 7) note, if "the correlation between treatment and reoffending is  $r=0.20$ , then the recidivism rate in the treatment group is 40 percent (50 percent minus 10 percent) compared with 60 percent in the control group (50 percent plus 10 percent)."

No method of reviewing studies, however, is without its weaknesses, including meta-analysis (*Science* 1994). The validity of the conclusions suggested by a meta-analysis will be affected by "what goes into it." Obviously, whether the sample of studies is exhaustive and includes methodologically sound evaluations will affect the confidence we can have in the results. Less apparent but equally important is the coding scheme used by the researcher. The way studies are coded—into what treatment categories, for example—will influence what knowledge the meta-analysis will produce. In particular, if the coding is not theoretically informed, then important conceptual issues will not be addressed. Further, as with other types of research, a meta-analysis cannot guarantee that the knowledge that is produced is practically useful—that is, that the insights gained from quantitatively synthesizing existing studies can be employed effectively to guide the development of real-world programs. We will revisit these issues later.

There are, however, advantages to using the meta-analytic technique to organize research findings. First, meta-analysis can detect effects that traditional narrative or ballot box reviews fail to capture. Because the statistical power of many evaluation studies is low due to use of small sample sizes, real effects are often missed as studies are counted one by one (Schmidt 1996). By summing effect sizes across a sample of studies regardless of their statistical significance, however, meta-analysis avoids this problem. Thus, as Lipsey (1999, 619) notes, meta-analysis is able:

to identify effects not clearly visible to traditional reviewers . . . because research findings come to us in the form of signal-to-noise ratios, where the signal is the intervention effect we are attempting to estimate and the noise is the background, sampling error, measurement error, and between-study variability that tends to obscure the signal. Meta-analytic techniques allow some of that background noise to be controlled statistically in ways not available to traditional reviewers and, hence, may reveal effects not previously detected.

Second, it is possible to assess whether methodological factors (e.g., the quality of the research design) influence the size of a treatment effect by introducing

them into a multivariate analysis. If a treatment effect is robust after these factors are taken into account, then confidence is increased that the effect is real and not a methodological artifact. Third, and relatedly, through a multivariate analysis, it also is possible to assess whether the magnitude of a treatment effect is conditioned by substantively important “moderating factors,” such as the risk level of offenders or the type of treatment modality employed. Fourth, various statistical procedures (e.g., “fail safe N”) have been developed to provide guidance on the likelihood that the findings of a meta-analysis are, or are not, vulnerable to being reversed as unpublished studies are uncovered and future evaluation studies are conducted (Orwin 1983; Rosnow and Rosenthal 1993). No such statistics, of course, exist for traditional reviews. Fifth, any given meta-analysis is open to replication by other scholars, either on the same data set or on a different data set. In this way, coding decisions or the sample of studies chosen for review can be assessed independently. Again, if a treatment effect is sustained in these replications, then we can have confidence that we have found that something does indeed work to reduce recidivism.

Sixth, and perhaps most noteworthy, by presenting information in a precise, parsimonious way, meta-analysis facilitates the process of constructing knowledge about a topic, such as correctional treatment. Narrative reviews are unwieldy and tend to permit only broad generalizations. In contrast, meta-analysis is better able to convey information that shows, in a more delimited and clear way (e.g., listing effect sizes and their confidence intervals in a table), what does not work, what does work, and (as noted) what factors moderate what works. Let us hasten to say that these data do not allow definitive answers; nonetheless, they do illuminate what we currently know from the existing body of research and what data need to be collected to advance our knowledge base. They also provide clearer guidance on what factors effective programs have in common and, in turn, on what empirically based features correctional personnel should consider including in the treatment interventions they initiate.

In summary, meta-analysis is, like all methodological techniques, open to biases that should be understood and weighed. It is not the only way to decipher the effectiveness of correctional treatment. These caveats stated, meta-analysis is an important means to synthesize research knowledge. It has revised a wide variety of potentially erroneous conclusions about the “reality” of effective intervention in medicine, education, and psychology (Hunt 1997; *Science* 1994). As we will see, meta-analyses have played an important role in challenging the “nothing works” doctrine in corrections. “It is no exaggeration,” observes Lipsey (1999, 614), “that meta-analysis of research on the effectiveness of rehabilitative programming has reversed the conclusion of the prior generation of reviews on this topic.”

## **Does treatment work?**

### ***Overall effect size***

It is useful to place the issue of correctional effectiveness in the broader context of whether planned interventions are capable of improving problematic human behavior in general (e.g., mental health, educational performance, developmental difficulties). Might it be, as some have vehemently suggested, that human service interventions just do not work? In a review of 302 meta-analyses, Lipsey and Wilson (1993) addressed this issue. They discovered that across an array of psychological, educational, and behavioral treatments, there was a positive relationship between interventions and outcome measures, with problem behaviors targeted for change in treatment groups reduced by about 25 percent compared with control groups. "The number and scope of effective treatments covered by this conclusion are impressive," they observed, "and the magnitude of the effects for a substantial portion of those treatments is in a range of practical significance by almost any reasonable criteria" (p. 1199).

Even if interventions are effective with a range of other behaviors, the question still remains whether they are able to reduce delinquent and criminal behavior. Lipsey and Wilson (1993) listed 10 meta-analyses that were conducted on evaluations of treatment programs for offenders. In all cases, a positive effect size was reported. There was a tendency, however, for the treatment effect size for offender interventions to be lower than that for interventions targeting other outcomes for change. The lower effect size may reflect the difficulty of changing antisocial conduct and/or the lower quality of interventions with offenders (Losel 1995). Still, it is instructive to reiterate that every meta-analysis of offender treatment indicated that programs, in the aggregate, reduced problem behavior. As such, there is no evidence that offenders cannot be rehabilitated.

Losel (1995) has conducted the most comprehensive assessment of the meta-analyses of offender rehabilitation programs. In a review of 13 meta-analyses published between 1985 and 1995, Losel found that the mean effect size ranged from a low of 0.05 to a high of 0.18. This finding has been confirmed in an updated review by Redondo, Sanchez-Meca, and Garrido (1999, 252). The consistency of the positive effect of treatment in these meta-analyses is important because it suggests that this result, at least in broad terms, is not dependent on the sample of studies selected and coding decisions made by individual authors. Indeed, even meta-analyses conducted by scholars unsympathetic to rehabilitation produced positive effects (see Whitehead and Lab 1989). Losel estimates that across all the meta-analyses, "the mean effect size of all assessed studies probably has a size of about 0.10" (p. 89). Using Rosenthal's (1991) *BESD* statistic, this would mean that the recidivism rate for the treatment group would be 45 percent, while the rate for the control group would be 55 percent.

According to Losel (1995, 90–91), however, this overall effect size might be underestimated. Treatment groups, for example, are often compared with control groups that do not receive “no intervention” but some other type of criminal justice sanction, which might involve some kind of treatment. The use of dependent variables that are measured dichotomously and with official measures of recidivism also may attenuate the effect size. Thus, Lipsey (1992, 98) notes that official indicators of delinquency have low reliability because “it is largely a matter of chance whether a particular delinquent act eventuates in an officially recorded contact with an agent of law enforcement or the juvenile justice system.” He calculates that when this fact is taken into account, the “deattenuated effect size” for the interventions “doubles” (p. 98).

### *Heterogeneity in effect size*

It appears, then, that across *all* interventions, correctional rehabilitation programs reduce recidivism. Within any given sample of studies, however, the effect sizes for certain programs may range from zero (if not a negative number) to 0.40 or higher. What accounts for this heterogeneity in effect sizes? There are two possibilities. First, differences in effect sizes may be due to methodological strengths and weaknesses within studies. Second, the heterogeneity may reflect differences in program-related characteristics, such as the treatment modality, the setting in which the treatment is delivered, the quality and dosage of the intervention, and the type of offender receiving the treatment (for a thoughtful review of these issues, see Losel 1995). These methodological and program-related characteristics are often referred to as “moderating variables” because they condition whether the effect size for an intervention is higher or lower.

It is clear that methodology accounts for a portion of the variability in effect sizes across programs (see, e.g., Lipsey 1992; Redondo, Sanchez-Meca, and Garrido 1999). At this stage, however, it is difficult to establish which methodological variables might be most important in explaining program heterogeneity. In large part, this is because authors of meta-analyses often use different coding schemes to categorize methodological issues. Perhaps more important, many evaluation studies do not provide enough information to systematically code how the effect size varies by methodological consideration. There is some evidence, for example, that studies using more rigorous evaluation designs produce lower effect sizes, but this finding is not consistent across meta-analyses (see, e.g., Redondo, Sanchez-Meca, and Garrido 1999). It also is claimed that effect sizes are higher for published studies than for unpublished studies, because evaluation studies that have statistically significant effects are more likely to be submitted and accepted for publication in research journals. Not all

meta-analyses, however, have supported this contention (Redondo, Sanchez-Meca, and Garrido 1999). More generally, there is evidence that even when methodological considerations are taken into account, the “method adjusted” effect size does not differ dramatically from the “observed” effect size for most intervention categories (Lipsey 1999). That is, in general, methodological factors do not “explain away” the variation in effect sizes among treatment programs.

It also is challenging to discern what program-related characteristics moderate the effect size achieved by interventions. There is some evidence that interventions may be more effective in reducing recidivism when they are delivered in the community and for younger offenders (Andrews et al. 1990; Cleland et al. 1997; Losel 1995; Redondo, Sanchez-Meca, and Garrido 1999). Again, however, these relationships are not found in all meta-analyses and may be more complicated than they seem on the surface. For example, in their meta-analysis of 32 European programs, Redondo, Sanchez-Meca, and Garrido (1999) report that the effect size was nearly twice as high for youthful offenders as for adult offenders. But this difference, the authors contend, was likely due to the use of more effective programs with juveniles as opposed to an age-graded amenability or resistance to treatment (but see Cleland et al. 1997).

There is more consensus on what types of interventions achieve the lowest and highest effect sizes—that is, consensus on what does and does not work to reduce recidivism. As will be explored in more detail in a later section, deterrence-based interventions tend to be particularly ineffective in diminishing criminal involvement (see, e.g., Andrews et al. 1990; Lipsey 1992; Lipsey and Wilson 1998). According to Losel (1995, 91), it also appears that “less structured approaches such as casework or individual and group counseling are repeatedly less successful.” In contrast, notes Losel, there is growing evidence from existing meta-analyses that “it is mostly cognitive-behavioural, skill-oriented and multi-modal programmes that yield the best effects” (p. 91); that is, programs that tend to be based on social learning principles, seek to create human capital in offenders, and use more than one treatment modality to target multiple problems that offenders may be experiencing (see also Andrews et al. 1990; Palmer 1995; Lipsey 1992; Redondo, Sanchez-Meca, and Garrido 1999).

Even so, Palmer (1995) cautions that in terms of recidivism, not all cognitive-behavioral programs are successful and not all less effective interventions—such as counseling programs—are unsuccessful. In part, this finding is due to the fact that treatment labels may mask what is actually done in the program (e.g., a counseling program can involve behavioral measures). This finding may also be due to an intervention’s effectiveness reflecting other programmatic

characteristics, such as staff training, how services are delivered, the matching of staff and offender styles, and the offender population that was targeted for change. As Palmer points out, constructing knowledge about effective interventions involves exploring two interrelated concerns: First, we need to learn more about what combinations of program-related factors work in concert to reduce recidivism. Second, we need to move beyond inductively uncovering—through meta-analyses or other means—correlates of successful programs to developing more coherent theories for explaining *why* programs do or do not work. We will revisit these issues in the section on “Ineffective Correctional Interventions.”

## “Real world” issues

### *Treating serious offenders*

Although rehabilitation appears to have a consistent effect in reducing recidivism, a skeptic might wonder whether these programs only work with low-risk, relatively petty offenders—the “less hardened” cases (Lipsey and Wilson 1998). If so, then the programs might be effective, but only in decreasing conduct that, while a nuisance, is not exceedingly consequential. But this does not appear to be the case. The main debate in this area is not over whether treatment interventions can diminish the criminality of high-risk, serious offenders, but rather whether they can be equally effective with lower risk offenders. Some meta-analyses suggest that rehabilitation works more effectively when it targets high-risk offenders, while others indicate that the effect size of interventions is not moderated by risk levels (Andrews et al. 1990; Losel 1995; Redondo, Sanchez-Meca, and Garrido 1999). Regardless, the research clearly shows that serious offenders are not beyond the reach of correctional treatment.

Lipsey and Wilson (1998) furnish the most convincing support of this conclusion in their meta-analysis of 200 studies that evaluated the effects of intervention on serious juvenile offenders. They report that across all studies, the difference in recidivism between the treatment and control groups was 6 percentage points (the equivalent of 44 percent for the treatment group versus 50 percent for the control group). This reduction “represents a 12 percent decrease in recidivism (6/50)” (p. 318).

As with meta-analyses of all offenders, however, the heterogeneity around this mean was considerable. While some programs did not affect or even increased recidivism, the most successful interventions had a difference between treatment and control groups of more than 20 percentage points. These results held for samples of youths who were institutionalized and in the community and held for samples of more serious youthful offenders under supervision in the community. They also were sustained when the effect sizes for interventions

were adjusted for methodological differences in studies. Finally, Lipsey and Wilson (1998) note that, with a few exceptions, the roster of effective and ineffective treatments appears similar to what meta-analysis of studies reveals for offenders in general. Programs thus tend to have effects that occur, with some variation, across offender populations.

In short, when lumped together, interventions reduced criminal involvement; and when the “best programs” were singled out, the crime savings were substantial. According to Lipsey and Wilson (1998, 338), the reduction in recidivism is “an accomplishment of considerable practical value in terms of the expense and social damage associated with the delinquent behavior of these juveniles.” In this regard, Cohen (1998) has calculated the cost-effectiveness of “saving a high-risk youth.” Such cost-benefit analyses are based on imprecise estimates of the rate of criminal participation by such youths (the so-called “lambda”) and on assessments not only of property loss and lost wages but the more amorphous category of pain and suffering. Still, Cohen presents a thoughtful analysis that takes into account various values—higher and lower—for the components in the equation used to calculate what society is spared economically when a youth is diverted from a life in crime. The most noteworthy finding is that the tipping point for an intervention to be cost effective is remarkably low. The average high-risk youth will cost society an estimated \$1.7 to \$2.3 million. Depending on when the intervention takes place (how early) and what it costs, a treatment program can “pay for itself” with a success rate in the range of 1 to 5 percent (see also Aos et al. 1999; Greenwood et al. 1996; Lipsey 1984). Although not directly comparable, it is perhaps instructive nonetheless that medical treatments that reduce potentially serious illness by 3 to 5 percent are considered very cost effective (Hunt 1997; Rosnow and Rosenthal 1993).

This kind of cost-benefit analysis is not intended to be used to fully determine policy decisions. For example, although governmental jurisdictions that administer treatment programs may save costs for community residents who are spared victimization, they may strain their budget since the monetary savings from the crimes prevented do not bring in revenues to the jurisdiction. Of

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course, this consideration is true for cost analyses of other criminal justice interventions, including whether prisons are cost effective (see, e.g., DiIulio and Piehl 1991; Piehl and DiIulio 1995). The broad point is merely that the reductions in recidivism achieved by many treatment interventions arguably are meaningful in the real world (see also Rosenthal 1991). They also may compare favorably with more punitive interventions that are ineffective in reducing recidivism when conducted in the community (Cullen, Wright, and Applegate 1996; Lipsey and Wilson 1998) and enormously costly when limited to incarceration (Greenwood et al. 1996). Further, the cost-effectiveness of rehabilitation programs will be commensurately enhanced to the extent that the treatment modality is prudently selected (based on the evidence of what works) and targets groups that include high-risk offenders (Lipsey 1984).

### ***Practical programs***

Okay, a skeptic may continue, rehabilitation programs seem to work with serious offenders. But even if that is true, isn't it also true that many treatment programs are established or guided by the researchers who conduct the evaluations? Might they not "cook" the data? Or, even if they do not, aren't these programs different than everyday, run-of-the-mill interventions that do not have researchers around to train the staff, to provide manuals detailing how to deliver treatment, to monitor and advise workers, and, more generally, to ensure therapeutic integrity? Also, isn't it true that what might work in the special circumstances of a well-controlled experimental study might not work in the real and bleak world of American corrections?

Lipsey's (1999) meta-analysis of 205 "demonstration" programs in which researchers were involved, as opposed to 196 "practical programs," sheds light on this issue. He found that the effect size for practical programs, while positive (3-percent reduction in recidivism), was only about half that of the demonstration programs. Skeptics might conclude that these results confirm their suspicions that everyday, real-world programs achieve, at best, modest reductions in recidivism. Those of a more optimistic orientation, however, might argue not only that treatment effects are, once again, positive, but also that the quality of demonstration programs might well be replicated in practical programs if efforts were made to do so. The lack of training for human service workers, the use of less effective treatment modalities, the failure to develop and utilize well-designed and comprehensive treatment manuals, and the failure to monitor therapeutic integrity—these and other problems are not inherent in correctional rehabilitation but are due to policy decisions that can be rectified. The difficulty with the skeptic's position is that it is self-fulfilling: By arguing that nothing can change, there is no possibility that anything will change.



But the issue does not end here. As Lipsey points out, there is considerable heterogeneity *among* practical programs—some do not work well at all, but others are quite successful. When method-adjusted effect sizes are examined, the differences in recidivism between the treatment and control groups for practical programs for the best categories of treatment programs are 10 percentage points or higher (or a 20-percent reduction in recidivism off the base rate of 50 percent).

Lipsey (1999) also presents an analysis that profiles programs in terms of whether they were more or less effective on four programmatic dimensions: (1) the type of service or intervention used with the offender (e.g., intensive aftercare versus shock incarceration); (2) the role of the juvenile justice system (e.g., those administered by juvenile justice personnel versus others; services delivered from a juvenile justice facility versus those not delivered from such a facility); (3) the amount of service furnished (e.g., longer versus shorter duration of service); and (4) the characteristics of participating juveniles (e.g., characteristics associated with higher recidivism rates versus those associated with lower recidivism rates). Programs were scored “1” or “0” on each dimension, revealing two major findings. First, programs with total scores of 3 or 4 achieved reductions in recidivism of 10 to 12 percentage points; those with 2 favorable characteristics had a 5-percent-age-point reduction in recidivism; those with 1 or 0 had no effect on or increased recidivism. These results show that practical programs that are well designed are effective; those that are not do not work. Second, 57 percent of the programs studied fell into the ineffective category (0 or 1). This finding indicates that the majority of practical programs are not designed in a way that will allow them to be effective (see also Gendreau and Goggin 1997).

Again, this consideration returns us to the issue of whether the implementation of effective programs is realistic. It is instructive that even if only in the minority, numerous practical programs are, in fact, in place and operating effectively across the United States. In these cases, choices were made *in the real world* that have resulted in interventions that reduce recidivism. Lipsey is correct, we believe, in advising that meta-analyses have helped us to construct knowledge about treatment effectiveness; the challenge is whether that knowledge will be applied. What the research does show, observes Lipsey (1999, 641), “is that such beneficial effects do not come automatically—a concerted effort must be made to configure the programs in the most favorable manner and to provide the types of services that have been shown to be effective, and avoid those shown to be ineffective.”

## Principles of Effective Correctional Intervention

As we have seen, meta-analyses have played—and will continue to play—an important role in identifying the factors that are likely to increase treatment effectiveness. The limitation of such an inductive approach to knowledge construction, however, is that it is not guided by an underlying, coherent framework; it is not, in short, *theoretically* informed. The risk is that it will devolve into a matter of abstracted empiricism—of dredging the data for “significant” relationships without any understanding of why elements of successful programs should be interrelated (Palmer 1995). Let us hasten to say that we are not arguing that meta-analyses should be abandoned. Rather, we are suggesting only that, while an invaluable tool, they need to be supplemented by efforts to build theories of effective intervention.

Over the past decade or so, the aforementioned group of Canadian psychologists—Andrews, Bonta, Gendreau, and Ross most prominent among them—have attempted to move in this direction of developing “principles of effective correctional intervention.” Beyond their own clinical experiences, they derived these principles from the empirical literature on “what works” with offenders—including meta-analyses, narrative reviews, and studies of individual programs—and, more generally, from the behavioral change literature in psychology. Their aim has been to illuminate the contents of the “black box” of treatment programs. As Gendreau (1996b, 118) observes:

The thrust of [our] work . . . has been to look into the “black box” of treatment programs. Unlike Martinson and his followers, we believe it is not sufficient just to sum across studies or file them into general categories. The salient question is what are the principles that distinguish between effective and ineffective programs? What does it mean that an employment program was offered?—what exactly was accomplished under the name of “employment”? As a result of endorsing the perspective of opening the black box, we have been able to generate a number of principles of effective and ineffective intervention.

The principles of effective intervention have been conveyed in considerable detail in a number of forums, which readers are invited to consult (see, e.g., Andrews 1995; Andrews and Bonta 1998; Gendreau 1996b). Our goal here is to present the core ideas of this approach and then to share recent evidence assessing its validity.

## **Guiding interventions**

The first principle is that interventions should *target the known predictors of crime and recidivism for change*. This principle starts with the assumption that correctional treatments must be based on *criminological* knowledge—what they call the “social psychology of criminal conduct” (Andrews 1995; Andrews and Bonta 1998). There are two types of predictors that place offenders at risk for crime: “static” predictors—such as an offender’s criminal history—which cannot be changed, and “dynamic” predictors—such as antisocial values—that can potentially be changed. In this perspective, these dynamic predictors or risk factors are typically referred to as “criminogenic needs.”

In investigating risk factors or predictors of crime, it is possible that the research could have indicated that the major predictors are static. If so, then the prospects for rehabilitation would have been minimal. But this did not turn out to be the case. Meta-analyses reveal that many of the most salient predictors are *dynamic* (Andrews and Bonta 1998; Gendreau, Little, and Goggin 1996). These include: (1) “antisocial/procriminal attitudes, values, beliefs and cognitive-emotional states (that is, personal cognitive supports for crime)”; (2) “procriminal associates and isolation from anti-criminal others (that is, interpersonal supports for crime)”; and (3) antisocial personality factors, such as impulsiveness, risk-taking, and low self-control (Andrews 1995, 37; see also Andrews and Bonta 1998, 224–225; Gendreau, Little, and Goggin 1996). Conversely, the research suggests that many factors thought to cause crime, such as low self-esteem, are unrelated or only weakly related to recidivism. Thus, targeting these factors for intervention will produce little, if any, change in offenders’ conduct.

Second, *the treatment services should be behavioral in nature*. In general, behavioral interventions are effective in changing an array of human behavior. With regard to crime, they are well-suited to altering the “criminogenic needs”—antisocial attitudes, cognitions, personality orientations, and associations—that underlie recidivism. For this reason, Andrews argues that behavioral interventions satisfy the criterion of “general responsivity”; that is, they match the needs of offenders. Andrews (1995, 56) notes that these interventions would “employ the cognitive behavioural and social learning techniques of modelling, graduated practice, role playing, reinforcement, extinction, resource provision, concrete

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verbal suggestions (symbolic modelling, giving reasons, prompting) and cognitive restructuring.” Reinforcements in the program should be largely positive, not negative. And the services should be intensive, lasting 3 to 9 months and occupying 40 to 70 percent of the offenders’ time while they are in the program (Gendreau 1996b). In contrast, other treatment modalities lack general responsiveness. Andrews and Hoge (1995, 36) contend that less effective treatment “styles are less structured, self-reflective, verbally interactive and insight-oriented approaches.” Punishment approaches do not target criminogenic needs and thus are among the most ineffective interventions with offenders.

Readers wishing to learn more about the nature of cognitive-behavioral programs might wish to consult general source material in psychology on this intervention (Masters et al. 1987; Spiegler and Guevremont 1998) and works discussing the application of this approach to offenders (Andrews and Bonta 1998, 286–288; Gendreau 1996b, 120–122; Lester and Van Voorhis 1997). Here, we have space to review several relevant points. At the core of any behavioral program is the principle of operant conditioning: that is, that a behavior will be learned if it is immediately reinforced. Reinforcers, which are usually pleasant or desirable, increase or strengthen the behavior in question. There are four basic types of reinforcers: (1) material (e.g., money, goods); (2) activities (e.g., recreation); (3) social (e.g., attention, praise, approval); and (4) covert (thoughts, self-evaluation).

The most common forms of behavioral programs nowadays are known as “cognitive-behavioral.” There are several different types of strategies in this regard—some rather subtle in their differences—but essentially they all attempt to accomplish two aims: First, they try to cognitively restructure the distorted or erroneous cognition of an individual; second, they try to assist the person to learn new, adaptive cognitive skills. In the case of offenders, existing cognitive distortions are thoughts and values that justify antisocial activities (e.g., aggression, stealing, substance abuse) and that denigrate conventional prosocial pursuits regarding education, work, and social relationships. Most offenders also have minimal cognitive skills enabling them to behave in a prosocial fashion. In light of these deficits, effective cognitive-behavioral programs attempt to assist offenders: (1) to define the problems that led them into conflict with authorities, (2) to select goals, (3) to generate new alternative prosocial solutions, and then (4) to implement these solutions. Cognitive therapists must engender a relationship with the client that is open and caring, yet remains within the ethical limits of the therapist-patient relationship.

Thus, in any cognitive-behavioral program within corrections, an observer would witness some of the following scenarios or approximations thereof. The predominant antisocial beliefs of the offender in question are identified. In a

firm yet fair and respectful manner, it is pointed out to the offender that the beliefs in question are not acceptable. If the antisocial beliefs continue, emphatic disapproval (e.g., withdrawal of social reinforcers) always follows. Meanwhile, the offender is exposed to alternative prosocial ways of thinking and behaving by concrete modeling on the part of the therapist in one-on-one sessions or in structured group learning settings (e.g., courses in anger management). Gradually, with repeated practice, and always with the immediate application of reinforcers whenever the offender demonstrates prosocial beliefs and conduct, the offender's behavior is shaped to an appropriate level.

Third, *treatment interventions should be used primarily with higher risk offenders, targeting their criminogenic needs (dynamic risk factors) for change.* In contrast to conventional wisdom, higher risk offenders are capable of change. The most substantial savings in recidivism are acquired by providing them with treatment services. Further, "less hardened" or lower risk offenders generally do not require intervention because they are unlikely to recidivate. Subjecting them to structured, intrusive interventions is an imprudent use of scarce resources and, under certain circumstances, may increase recidivism (Andrews and Bonta 1998, 243). The most effective strategy for discerning the risk level of offenders is to rely not on clinical judgements but on actuarial-based assessment instruments, such as the Level of Supervision Inventory (Bonta 1996; Gendreau, Goggin, and Pappozzi 1996).

Fourth, *a range of other considerations, if addressed, will increase treatment effectiveness.* These include, among others, conducting interventions in the community as opposed to in an institutional setting; ensuring that the program uses staff who are well trained, are interpersonally sensitive, are monitored, and know how to deliver the treatment service; and following offenders after they have completed the program and giving them structured relapse prevention ("after-care") (Andrews 1995; Andrews and Hoge 1995; Gendreau 1996b). Among the most important considerations is "specific responsivity." This concept refers to the practice of matching styles and modes of treatment service to the learning styles of offenders (Andrews and Bonta 1998, 245; Gendreau 1996b, 122–123). Factors that might be taken into account in service delivery are the offenders' lack of motivation to participate in the program, feelings of anxiety or depression, and neuropsychological deficits stemming from early childhood experiences (e.g., physical trauma). Cullen et al. (1997, 403) outline a concrete example of how specific responsibility functions in the case of offenders with intellectual deficits:

[O]ffenders who have low IQs would perform more effectively than higher functioning offenders in an instructional format that requires less verbal and written fluency and less abstract conceptualizations. In addition, they would

likely profit from a more extensive use of tangible reinforcers and from repeated, graduated behavioral rehearsal and shaping of skills. Moreover, therapists should be selected who relate optimally to offenders' styles of intellectual functioning and to the content of the treatment modality.

### ***Testing the principles of effective treatment***

In 1990, Andrews et al. presented a systematic test of whether interventions reflecting the core principles of effective intervention achieve, as hypothesized, greater reductions in recidivism. In a meta-analysis of 80 program evaluation studies, they coded studies as to whether they: (1) delivered services to high-risk offenders, (2) targeted criminogenic needs for change, and (3) used “styles and modes of treatment (e.g., cognitive and behavioral) that are matched with client need and learning styles”—that is, were characterized by “responsivity” (p. 369). Based on this scheme, they categorized treatment interventions as “appropriate” (consistent with these three principles of effective intervention), “inappropriate” (inconsistent with these principles), and “unspecified” (could not be categorized due to lack of programmatic information). Recall that this approach differs from previous meta-analyses that categorized programs largely by generic treatment categories (e.g., counseling, skills enhancement, vocational, deterrence). In contrast, the Andrews et al. approach seeks to look inside the “black box” of programs and to code interventions according to an *a priori*, theoretically based scheme. This is why they contend that their meta-analysis is “clinically relevant and psychologically informed” (Andrews et al. 1990, 372).

Across all programs, the effect size was 0.10. There was considerable heterogeneity in effects, however, in the direction predicted by the principles of effective treatment. The effect size for appropriate interventions was 0.30, the equivalent of a 30-percent reduction in recidivism. The effect size for unspecified interventions was less than half this figure, 0.13. Notably, the effect size for inappropriate interventions was  $-0.07$ , meaning that these “treatment” groups had a recidivism rate 7 percentage points higher than the control groups.

Some critics have implied, if not directly stated, that Andrews et al.'s “appropriate” category was based on tautological reasoning: Anything that reduced recidivism—presumably found by dredging the data—was subsequently labeled “appropriate” (see, e.g., Logan and Gaes 1993; for rebuttals, see Andrews and Bonta 1998; Cullen and Applegate 1997). This is a strange criticism because, even if true, it would mean only that Andrews et al. had built their theory inductively (see Lipsey 1999). In fact, however, the framework used to code the data was preexisting (see Gendreau 1989), and the meta-analysis constituted a test of their theoretical views. Regardless, subsequent research from other scholars has independently lent support to main features of Andrews et al.'s principles of effective intervention.

“It is interesting,” observed Lipsey (1992, 159) in his meta-analysis, “that the treatment types that show this larger order of effects are, with few exceptions, *those defined as most ‘clinically relevant’ in the Andrews et al. review*” (emphasis added). Antonowicz and Ross (1994), scholars familiar with the principles of effective intervention, reached the same conclusion in their meta-analysis. They found that “successful rehabilitation programs” were more likely to have these factors: “(a) a sound conceptual model; (b) multifaceted programming; (c) the targeting of ‘criminogenic needs’; (d) the responsivity principle; (e) roleplaying and modeling; and (f) social cognitive skills training” (p. 97). Support can also be drawn from the preliminary findings from the meta-analysis conducted by the Correctional Drug Abuse Treatment Effectiveness Project. In this replication of the Andrews et al. study, Pearson, Lipton, and Cleland (1996) found that “appropriate” interventions had an effect size (0.22) that far outstripped the effect sizes for “unspecified” (0.09) and “inappropriate” (−0.07) programs.

It is also noteworthy that the original Andrews et al. (1990) meta-analysis has subsequently been extended twice to examine a larger body of studies (Andrews and Bonta 1998; Andrews, Dowden, and Gendreau 1999). The database from the 1999 work now consists of 230 studies that produce 374 effect sizes. The mean effect size across the studies is 0.08 or an 8-percentage-point difference in recidivism between the treatment and control groups. When analyzed by the extent to which the main principles of effective intervention are met (risk, need, and responsivity), the results are, once again, in the hypothesized direction. When no principles are addressed, the programs’ mean effect size is −0.02; when the treatment conforms to one principle, the effect size is 0.02; for two principles, the effect size climbs markedly to 0.18; and when a treatment program conforms to all three principles, the effect size is 0.26. These findings reinforce the conclusion that programs that combine “favorable” or “appropriate” features are capable of achieving meaningful, if not substantial, reductions in offender recidivism (see also Lipsey 1999).

## **Further considerations**

Two additional issues warrant consideration. First, a potentially important consideration is whether the principles of effective intervention differ by gender and race. The dearth of research on this issue precludes making definitive conclusions. An important research opportunity, for example, would be to explore whether gender and race function as “specific responsivity” factors that affect offender learning styles and the optimal way in which to deliver treatment services (Dowden and Andrews 1999).

There is beginning to be evidence, however, that the effects of treatment programs do *not* differ by gender; those that “work” for males also work for females, and those that “don’t work” for males also don’t work for females. Thus, in a meta-analysis in which programs were categorized according to the principles of effective intervention from “inappropriate” to “appropriate,” the findings for women paralleled those for men (compare Dowden and Andrews 1999 with Andrews et al. 1999). Similarly, Lipsey (1999, 20) notes in his meta-analysis of juvenile programs that the “magnitude of program effects on recidivism” did not differ “according to the gender and ethnic mix of the juveniles in the sample.” Thus, it might be possible to offer the *provisional* conclusion that the principles of behavioral change are similar across offenders, regardless of gender and race. Again, however, much more research into this issue is needed.

Second, a potential criticism of the treatment approach based on the principles of effective intervention is that as a psychological approach, it seeks mainly to change the offender rather than the criminogenic context in which he or she is enmeshed. A reasonable concern is whether such programs will work if offenders are “simply returned to the community that caused them to become criminals in the first place.” A considered response to this issue is thus required.

In a sense, the data speak for themselves: The effectiveness of the treatment interventions is assessed by examining recidivism data of offenders who are, in fact, in the community. The assumption that community influences ultimately swamp treatment effects also risks being overly deterministic. It ignores the fact that many people with prosocial values who reside in the community with offenders are not lawbreakers, and it ignores the possibility that intra-individual cognitive change can allow people to resist the lures of crime. Nonetheless, advocates of the principles of effective intervention are not unmindful of potential community influences. Thus, it is instructive that they find that rehabilitation programs have larger effects on recidivism when conducted not behind bars but in the community. This finding may be attributable to the difficulties of delivering services within institutions, but it also may reflect the benefits of working to change offenders while they are living in, and are affected by, their “natural” social environment. Further, rehabilitation advocates also strongly favor “aftercare” programs that function much like “booster shots” in medicine, providing offenders with the guidance and support needed to deal with pressing problems, to develop effective solutions, and to stay on a prosocial life course.

None of these considerations, of course, precludes broader social reforms or community-based prevention programs that lessen the criminogenic factors in the local neighborhood. In a very real way, it is likely counterproductive to pit psychologically relevant correctional treatment interventions *against* programs



that seek to transform the fabric of the neighborhood. A more promising strategy might well be to pursue interventions that target for change the proximate causes of crime within offenders and the criminogenic forces that loom in the larger social context.

Finally, in the next section, we turn to a promising community-based treatment intervention—“multisystemic therapy”—that is predicated on the assumption that the “multiple social systems” that surround children and adolescents are implicated in their conduct problems. This approach embraces the principles of effective intervention but also seeks to specifically address features of the social context that foster antisocial behavior. In a very real way, multisystemic treatment offers one solution to the problem of correctional interventions that, although it can be shown to be effective through evaluation research, may not attack the full array of criminogenic forces that impinge on at-risk individuals.

## **Multisystemic Therapy: A Model Rehabilitation Program?**

Meta-analyses are an invaluable resource in identifying the factors that are associated with successful rehabilitation programs. Even so, it must be remembered that meta-analysis is a statistical technique. This approach provides direction as to what features of interventions enable them to reduce recidivism and have other positive outcomes. Even so, this “direction” or guidance as to what works is not the same as identifying concrete programs that actually have worked in the real world. A special challenge, therefore, is to uncover programs that have proven to be effective in reducing recidivism, preferably in diverse locations. That is, we need “model programs” that can be “copied” successfully. It is beyond the scope of this essay to supply a lengthy catalog of such programs (see, however, Cullen and Applegate 1997; Gendreau 1996b, 119–120; Gendreau and Goggin 1996, 40; Ross, Antonowicz, and Dhaliwal 1995; Ross and Gendreau 1980), but we will focus briefly on one program whose prospects seem especially promising: Multisystemic Therapy (MST).

Developed by Scott Henggeler and associates (see, e.g., Henggeler 1997, 1999; Henggeler et al. 1998), MST has been implemented in 25 locations in the United States and Canada. It has been shown to produce marked reductions in recidivism and in other problem behaviors among “serious anti-social youths” (see, e.g., Borduin et al. 1995; Brown et al. 1999; Henggeler 1997; Henggeler et al. 1997; Henggeler, Pickrel, and Brondino forthcoming; Schoenwald, Brown, and Henggeler 1999; Schoenwald, Ward et al. 1999). In addition, MST has proved to be cost effective. In one estimate, the yearly cost per juvenile was \$4,000 versus a cost of \$12,000 for the “usual” criminal justice sanctioning for

serious delinquents (Henggeler 1999). Although transporting the intervention to other sites has been challenging (Henggeler et al. 1997), MST has achieved reductions in recidivism and has been cost effective in various locations and with various populations of troubled youths (Aos et al. 1999).

## **Conforming to the principles of effective intervention**

Although developed independently of the Canadian school of effective correctional intervention (see again Andrews and Bonta 1998; Gendreau 1996b), MST conforms closely to the core principles of effective treatment. It would thus clearly be identified as an “appropriate” treatment by Andrews et al. (1990; see also Andrews, Dowden, and Gendreau 1999).

First, MST is rooted in social psychological theory and is empirically based. Second, it addresses the “need principle” by targeting for change the individual, family, school, and peer factors that underlie antisocial conduct. The selection of these factors is based on “causal modelling studies of delinquency and substance abuse” (Henggeler 1999, 2). It focuses on “changing the known determinants of youths’ antisocial behavior” (Schoenwald, Brown, and Henggeler 1999, 3). Third, MST conforms to the “risk principle” by focusing primarily on high-risk youths. Fourth, this approach meets the “general responsivity principle” by employing behavioral treatment modalities. “MST interventions,” observe Schoenwald and colleagues (1999, 5), “integrate techniques from those pragmatic and problem-focused child psychotherapy approaches that have at least some empirical support, including pragmatic family therapies (e.g., strategic, structural, behavioral family systems approaches), cognitive-behavioral techniques, and behavioral parent training.” MST also attempts, as much as possible, to individualize interventions and thus be “specifically responsive” to youths in treatment.

Further, MST is consistent with the principle that for interventions to be effective, they must have therapeutic integrity and be intensive. MST thus provides counselors with 5 days of initial training, “booster” training sessions, constant supervision and support, and weekly 1-hour consultations with MST “experts” (Schoenwald, Brown, and Henggeler 1999). Similarly, services are delivered to offenders and their families for a period of 3 to 5 months. Contact is daily at first, and counselors are available for intervention 24 hours a day, 7 days a week.

The success of MST is instructive. Given the extent to which this program conforms to the principles of effective intervention, it can be seen as a field test of the principles’ validity. In short, MST provides added confirmation that “appropriate” treatments are our “best bet” for reducing recidivism among serious offenders.

## **Unique features of MST**

The principles of effective intervention are broadly stated and can encompass a variety of treatment programs. Accordingly, it is useful to learn about the unique features of MST that may also contribute to its success. In fact, it is these more specific factors that may be useful to replicate in the delivery of other intervention strategies. Three “unique features” warrant consideration (for more detail on MST, see Henggeler et al. 1998; Schoenwald, Brown, and Henggeler 1999).

First, MST is *not* based on an intrapsychic view of human behavior that believes that antisocial conduct is altered merely by probing an individual’s personality orientation. Instead, its approach is social-ecological in the sense that it views individuals as enmeshed in multiple systems, including the family, peer group, school, and community. Interventions thus must be “multisystemic,” targeting for change criminogenic aspects of the individual and the contexts in which he or she is situated. In practical terms, this means intervening not only with an antisocial youth but also with how parents supervise and otherwise interact with the youth, steering the youth into prosocial peer-group interactions, and working with schools to enhance the youth’s educational and vocational skills. This approach involves defining a broad set of goals to be reached in a given intervention (e.g., improve parental supervision, decrease truancy). In turn, intermediary goals (e.g., teach a parent how to supervise, monitor a youth’s school attendance each morning) are identified that, if systematically and sequentially attacked, will allow the broader goals, including the reduction of the youth’s recidivism, to be attained (Henggeler et al. 1998; Schoenwald, Brown, and Henggeler 1999). The goals and strategies to achieve these goals are constantly monitored and, if necessary, revised.

Second, MST provides intensive services within the home and community; its goal is to avoid placing youths in institutions. To accomplish this goal, an intervention team made up of one doctoral-level supervisor and three to four master’s-level therapists is employed. Each therapist carries a caseload of 4 to 6 youths/families; the group supervises 50 cases yearly. The advantage of the group approach is that it facilitates supervision (which is conducted mainly in a group meeting) and creates a pool of resources—knowledge, specialized skills, time available—to help intervene with cases that would not be available to a therapist who was a sole practitioner (Schoenwald, Brown, and Henggeler 1999).

Third, MST provides therapists with considerable support (e.g., training, supervision, resources) but also holds therapists accountable for the results of their efforts. As Henggeler (1999, 4) notes, “MST does not follow the ‘train and

hope' approach to mental health services." MST thus is based on the dual considerations that therapists must be given the knowledge and resources to be successful and know that the failure to intervene effectively may mean that the therapist should, as Henggeler (p. 8) puts it, "consider another line of work." More generally, MST is assiduous in its fidelity to treatment integrity, which cannot be ensured in the absence of therapists' support and accountability.

## **Ineffective Correctional Interventions: Do Control-Oriented Programs Work?**

A central policy issue is whether the movement to "get tough" on crime has enhanced public safety. In particular, the massive rise in the prison population—which increased sixfold in three decades, with more than 1.2 million offenders now in State and Federal institutions (Gilliard 1999)—has created an intense interest in whether the extensive use of imprisonment has a meaningful incapacitation effect or, at the aggregate level, deterrent effect. Other scholars have focused on this issue; thus, we will not do so in this essay (compare, for example, Bennett, DiIulio, and Walters 1996 with Clear 1994 and Currie 1998; see also Nagin 1998). Instead, we will concentrate on a byproduct of this more general "get tough" movement: the evolution and assessment of correctional programs that seek to reduce crime by placing greater controls on offenders. These approaches include, for example, longer rather than shorter prison terms, "scared straight" programs, intensive supervision programs, and (to a degree) "boot camps."

We should reiterate that an important focus of the effort to develop principles of effective intervention is not only to discern what "works" to inhibit recidivism but also to identify correctional programs that do not reduce crime and improve public safety. Again, the "principles" approach to corrections is, at its core, social scientific, starting with the premise that the predictors of criminal behavior can be known empirically and then targeted for change through carefully designed interventions. In contrast, most of the control-oriented correctional programs that emerged from the recent "get tough" era were not based on a social-scientific perspective on criminal behavior but on the "common sense" understanding that increasing the pain and/or surveillance of offenders would make them less likely to commit crimes. In the case of boot camps, the theory of criminality was somewhat different: It was assumed here that conformity was caused by a lack of character, which was rectified first by "breaking down offenders" and then "rebuilding them." But the reliance on a folk understanding of criminal conduct was no less pronounced. In the end, those embracing the principles of effective intervention predicted that control-oriented programs, which meet few if any of these principles, would prove ineffective in reducing recidivism. The data suggest that this prognostication was correct.

First, there has been a longstanding debate over whether the prison experience is a deterrent or, in fact, provides a “school of crime” (Bonta and Gendreau 1990, 1991; Murray and Cox 1979). The empirical research on this issue is complex and fairly limited (see Lipton, Martinson, and Wilks 1975). It is instructive, however, that a recent meta-analysis conducted by Gendreau, Goggin, and Cullen (1999) questions whether prison can be considered a “treatment” that reduces recidivism. Their investigation indicates that even when the risk level of offenders is taken into account, those sent to prison have a higher rate of recidivism than those given community sanctions. Further, it appears that longer prison sentences are associated with *greater* criminal involvement, with offenders in the “more imprisonment” category having a recidivism rate 3 percentage points higher than those in the “less imprisonment” category. These results, of course, are inconsistent with the thesis of specific deterrence.

***Again, there is no evidence that punishment-oriented “treatment” programs specifically deter or otherwise reform offenders.***

Second, meta-analyses are consistent in showing that deterrence-oriented interventions are ineffective. Most meta-analyses include a limited number of evaluations of punishment-oriented programs as part of the sample of studies they assess. These programs fall into the category of “inappropriate” interventions according to the principles of effective treatment. The results are clear: They do not work to reduce recidivism. For example, in Lipsey’s (1992, 124) meta-analysis, deterrence programs heightened recidivism 12 percentage points. In Lipsey and Wilson’s (1998, 332) study of programs for serious, violent youths, deterrence programs heightened recidivism 3 percentage points. In Andrews et al. (1990, 382), sanctioning interventions without human service treatment increased recidivism 7 percentage points; in a followup to this study, the increase was found to be 2 percent (Andrews and Bonta 1998, 270; Andrews, Dowden, and Gendreau 1999). Again, there is no evidence that punishment-oriented “treatment” programs specifically deter or otherwise reform offenders (see also MacKenzie 1998).

Third, the intermediate sanctions movement of the 1980s and beyond was undertaken mainly as a means of reducing prison crowding by *punishing* offenders in the community. As one noted advocate of these sanctions commented, “we are in the business of increasing the heat on probationers . . . satisfying the public’s demand for just punishment. . . . Criminals must be punished for their misdeeds” (Erwin 1986, 17). The main conduit for these sanctions was “intensive supervision probation (or parole)” —commonly referred to as “ISPs.” By watching offenders closely and presumably increasing the certainty that misdeeds would be detected, offenders were to be specifically deterred from

offending. ISPs also often involved other means of detection, especially random drug testing but also electronic monitoring and house arrest. Restitution to victims was commonly part of a community-based sanction. "Boot camps," also called "shock incarceration," became fashionable as well.

How well did these types of programs work? With isolated exceptions, they did not fare well. There is some evidence that intermediate sanctions that included treatment achieved some reductions in recidivism (Gendreau, Cullen, and Bonta 1994). But aside from this glimmer of optimism, the research did not show that purely punitive intermediate sanctions diminished recidivism rates. Thus, the best experimental and quasi-experimental studies revealed that these programs had virtually no influence on recidivism (see, e.g., Petersilia and Turner 1993; MacKenzie and Shaw 1993). Narrative reviews, some of which were quite extensive, reached the same conclusion (Cullen, Wright, and Applegate 1996; Fulton et al. 1997; Gendreau et al. 1993; Gendreau and Ross 1987; MacKenzie 1998).

More recently, Gendreau, Goggin, and Fulton (2000) conducted a thorough meta-analysis of 88 comparisons of ISP-type programs with control groups that received "lesser or no sanction." Only restitution was associated with a decrease in recidivism (4 percentage points) with a comparison with controls. Two sanctions, ISP and drug testing, had no effect on recidivism. Scared straight and electronic monitoring produced a 5-percentage and 7-percentage point increase in recidivism, respectively. Subsequently, Gendreau et al. (1999) have expanded the database to include 150 comparisons involving 56,602 offenders. The overall effect size for all types of intermediate sanctions was found to be 0 percent. Together, these results reveal that relying on punishment to achieve "correctional treatment" is unlikely to work and thus is an imprudent investment of resources.

## **Conclusion**

Robert Martinson's role in the debate over correctional rehabilitation proved to be both pivotal and enduring. His "nothing works" essay was pivotal because it lent legitimacy to the movement, already under way, to replace rehabilitation as the dominant, if not ideologically hegemonic, correctional philosophy. What had been a matter of opinion seemingly now became a matter of facts, as opponents of rehabilitation could wave Martinson's (1974b) study in the air and proclaim that science had shown offender treatment to be a fraud. In the subsequent years, however, the opponents of rehabilitation have not shown fidelity to the proposition that evidence should help to guide correctional policy and practice. At times, it appeared as though only a few people seemed able, or at least willing, to read the literature on rehabilitation.

But this much must be said: This was not Martinson's fault. In fact, Martinson's most enduring and important legacy might well be that he helped redefine what *should* be the terms of the debate about the efficacy of rehabilitation. Thus, in conjunction with Lipton and Wilks (1975), he argued that we should: (1) focus on what works to reduce recidivism in corrections, (2) make judgements based on the *evidence*, and (3) derive the evidence from a comprehensive review of methodologically sound evaluation studies. Martinson (1979) also argued that assessments about treatment's efficacy should be revised in the face of new evidence—that the empirical status of rehabilitation was not written in stone but was an issue that warranted continuing study, reappraisal, and “rewriting.”

Martinson's work thus encouraged the formation of two distinct and incompatible “camps” in the rehabilitation debate: one that stressed that “rehabilitation was dead” and that no further study was needed, and one that took Martinson's empirical challenge seriously and then went about the business of collecting and analyzing data. Obviously, we are partial to the latter approach—of basing correctional policy and practice on the *best empirical evidence* available. Of course, on one level, no one would be against consulting “the evidence,” since to do so would be manifestly irrational. In fact, however, only a minority of treatment programs in corrections are rooted in the existing research on “what works.” At the risk of being accused of hyperbole, we would go so far as to say that much of what is done within the field is a matter of *correctional quackery*—practices akin to the “treatment” of bloodletting once practiced in medicine (Gendreau 1999).

To be sure, others may wade through the extant research and be more or less optimistic about the prospects of rehabilitation than we are (see, e.g., Andrews and Bonta 1998; Gaes 1998; Gaes et al. 1999; Gibbons 1999; Lab 1997; MacKenzie 1998; McGuire and Priestley 1995); readers are invited to consult these alternative assessments of the data on correctional treatment. Regardless, we believe that the evidence favors these interpretations because: (1) across all interventions, rehabilitation is more effective in reducing recidivism than alternative criminal justice sanctions; (2) programs that conform to the principles of effective intervention achieve meaningful, and possibly substantial, reductions in recidivism; and (3) numerous individual programs—such as multisystemic

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therapy—have been notably efficacious and offer the potential to serve as model interventions in other jurisdictions.

In this context, we will close this essay by focusing on two themes that have informed and that flow from our analysis: the need to pursue “evidence-based” corrections and the wisdom of “reaffirming rehabilitation.”

## Evidence-based corrections

In a provocative and important essay, Sherman (1998) has argued that law enforcement should, like medicine, adopt an “evidence based” paradigm to guide police practice. In this paradigm, evaluation research is used to construct

guidelines for effective law enforcement approaches to reducing crime. This paradigm is process based and dialectical; guidelines are not rigid, but rather they change as new evaluation evidence from programs based on an initial set of practice guidelines is evaluated. This approach stresses “accountability and continuous quality improvement”; it also implies fostering a professional ethic in which research results, as in medicine, are embraced as fundamental to effective practice.

*In the end, it would call on criminology to move beyond its tendency to be a discipline that seeks merely to debunk foolish policy proposals and to engage in the more daunting, but consequential, task of creating knowledge on how best to rehabilitate offenders and protect the social order.*

Similarly, we would concur that such an approach is also appropriate for the field of corrections. As Andrews and Hoge (1995, 36) observe, “It is time for evidence-based correctional treatment services.” We understand that corrections will never be the exclusive domain of “what works”; policy decisions will reflect fundamental cultural values, organizational resources, and political realities—among other factors. Even so, an evidence-based approach would place research more systematically and prominently into the mix of factors that shape current correctional policies and practice. Discretionary decisions continue to be made

each day that intimately affect the lives of offenders and influence public safety. An evidence-based approach would argue that these decisions should not be based merely on custom or common sense but on our research knowledge about what is the “best bet” to reduce offender recidivism.

An evidence-based approach must not be atheoretical. Indeed, a central task of this approach would be to construct theories of effective intervention and to



unmask theories of ineffective intervention. Thus, theories of correctional intervention would guide program development. Each program would then be evaluated to determine whether it “works,” with the resulting “evidence” used to assess the merits of the theoretical framework on which the program is based. As noted, we believe that the most promising theoretical approach is the evolving “principles of effective correctional intervention” (Andrews and Bonta 1998; Gendreau 1996b). This approach has the advantage of being rooted in the empirical literature of criminology, behavioral psychology, and correctional evaluation. Still, other theories or conceptual approaches to effective intervention would be welcome to join in the competition—or the collaborative effort—to construct a scientifically based theory of rehabilitation (see, e.g., Prendergast, Anglin, and Wellisch 1995; Palmer 1995).

An evidence-based paradigm also has implications for the study and practice of corrections. Within criminology, this approach would encourage scholars to bridge the nexus between research and practice. It would also require criminologists both to abandon simplistic ideas—such as the view that “nothing works” to change offenders—and to engage in systematic research on what differentiates effective and ineffective correctional interventions. In the end, it would call on criminology to move beyond its tendency to be a discipline that seeks merely to debunk foolish policy proposals and to engage in the more daunting, but consequential, task of creating knowledge on how best to rehabilitate offenders and protect the social order.

An evidence-based paradigm would also suggest an overhaul of certain aspects of correctional practice: the embrace of a professionalism respectful of data; the training of practitioners based on research; the creation of “correctional training academies”—much like police academies—in which knowledge and treatment skills would be imparted (Gendreau 1996a); the implementation of programs informed by an empirically based theory of effective intervention; the acceptance by agency leaders and staff of program evaluation as an integral means of improving treatment effectiveness; and the auditing and accreditation of correctional agencies based on the delivery of effective programming.

In short, an evidence-based approach would mandate that knowledge about correctional effectiveness be (1) constructed, (2) disseminated, and (3) applied. Lest we be accused of naivete, we hasten to admit that each of these tasks presents formidable and ongoing challenges. For example, even within graduate school programs, as Henggeler (1999, 8) points out, “training often includes considerable attention to treatment models that have no empirical support.” Blumstein and Petersilia (1995, 470) note the skepticism toward research among practitioners and policymakers—skepticism fueled at least in part by the failure of researchers to construct knowledge that is useful to the delivery of services. Similarly,

Gendreau and Goggin (1997) report that only a minority of correctional agencies—perhaps as few as 1 in 10—function in such a way as to satisfactorily deliver effective treatment programs (see also Gendreau, Goggin, and Smith 1999). Using the Correctional Program Assessment Inventory to study agencies comprehensively, Gendreau and Goggin (1997) identified such common deficiencies as: employing program directors and staff that have little professional training or knowledge about effective treatment programs; the failure to assess offenders with scientifically based actuarial risk instruments; the targeting of factors (e.g., low self-esteem) for change that are weakly related to or unrelated to recidivism; the use of treatments that were “inappropriate” or delivered with insufficient “dosage” or “intensity”; the failure to include aftercare in the treatment; and a general lack of therapeutic integrity.

Given this roster of disquieting shortcomings, skeptics might suggest that the barriers to constructing, disseminating, and applying evidence on correctional treatment are not merely formidable but insurmountable. We share the skeptics’ caution but not their pessimism. There are, for example, effective ways of disseminating knowledge (Backer, Liberman, and Kuehnel 1986; Gendreau 1996a) and of achieving planned change in organizations (Hamm and Schrink 1989; Welsh and Harris 1999). Further, many correctional agencies are receptive to learning about “what works” and wish to implement the “best bets” for successful intervention (Rhine 1998). The intense interest in MST nationwide is but one example of this receptivity (Henggeler 1999). There also is an increasing demand for correctional programs to be accountable and effective, lest the taxpayers’ money be squandered. Finally, the limits of control-oriented programs now are hard to dispute. If evidence-based rehabilitation programs are not to be embraced, it is difficult to know what the alternative would be.

## **Reaffirming rehabilitation**

To a large extent, the prospects for an evidence-based form of corrections will depend on the view that rehabilitation should be reaffirmed as a central goal of the correctional enterprise, if for no other reason than it would seem inadvisable to invest resources in improving something—treatment programs—that one does not value. This is not the place to present the full debate about whether rehabilitation should be a guiding principle of corrections (compare Cullen and Applegate 1997; Cullen and Gendreau 1989; Cullen and Gilbert 1982; Macallair 1993; Welch 1995 with Logan and Gaes 1993). Even so, there are two considerations that warrant attention.

First, as Van Voorhis (1987) reminds us, there is a “high cost to ignoring rehabilitation.” Beyond whatever prevention of crime that may accrue from incapacitation and general deterrence—an issue that is both complex and debatable

(see, e.g., Currie 1998; MacKenzie 1998; Nagin 1998)—there is no evidence that punitive correctional programs either reduce recidivism or produce other positive gains for offenders (e.g., institutional adjustment, development of human capital). In contrast, our “best bet” for reducing recidivism and improving the lives of those processed through the correctional system is to involve them in rehabilitation programs that have therapeutic integrity. This approach is not simply a matter of “doing good” for offenders but also of protecting public safety. Put in other terms, rehabilitation is a potentially important strategy for reducing recidivism and thus for preventing the victimization of citizens. The failure to pursue correctional treatment is tantamount to turning a blind eye to those among us whose victimization could have been avoided.

Second, it is commonly asserted that the American public is punitive and, by implication, that citizens will not support the rehabilitation of offenders. This thesis is only half right. Opinion polls do show that the public is punitive; however, surveys also demonstrate that Americans do not wish to have a correctional system whose *only* aim is to inflict “penal harm” or to warehouse offenders. The evidence is now virtually indisputable that citizens favor a correctional system that both punishes *and* rehabilitates (Applegate, Cullen, and Fisher 1997; Flanagan and Longmire 1996; for a review of the relevant research, see Cullen, Fisher, and Applegate 2000). For example, Applegate, Cullen, and Fisher (1997) found in a statewide survey of Ohio residents that more than 80 percent of the respondents agreed that “rehabilitation” was an “important” or “very important” goal of imprisonment. Accordingly, it appears that the American public is receptive to correctional rehabilitation—a level of support that potentially would solidify, if not grow, were intervention programs conducted more effectively.

In closing, it is well to keep in mind that people’s futures are not wholly determined but, at least in part, are chosen (Cullen and Wright 1996; Sherman and Hawkins 1981). The chance to move in a different direction is perhaps more possible at the beginning of a new century when time seems to pause and we are struck by the wisdom of taking stock in where we have been and where we are going. For three decades, we have experimented with a correctional system that has decidedly tilted in the direction of “getting tougher.” Rehabilitation programs have not been eliminated wholesale, relevant evaluation research has not stopped, and much of the public continues to endorse the goal of offender reformation. Still, advocates of correctional rehabilitation have faced an uphill struggle as the “nothing works” doctrine took hold and the political winds swept in an unfriendly direction.

The question we are confronted with, then, is: What future will be chosen for corrections? A century ago, the progressives, recognizing that the possibility for

reform was at hand, embraced a “new penology” that had at its core the rehabilitative ideal. Their unrestrained optimism about rehabilitation undoubtedly was misplaced; they underestimated the difficulty of changing human behavior within the confines of corrections and with techniques that had little basis in empirical social science. Today, we are perhaps more sober about the prospects of treating offenders, but we also are better informed about how to undertake this task effectively. Like our predecessors, then, we believe that the new century offers a propitious moment to fashion a new penology—albeit, with ours being more cautiously expressed and evidence based—that is informed by the rehabilitative ideal. The alternative prospect—to do more of the same, to argue that offenders cannot change, to get tougher and tougher—seems an uninviting future to contemplate. By contrast, reaffirming rehabilitation strikes us as a wiser and, we suspect, happier course to follow.

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# **The Evolution of Decisionmaking Among Prison Executives, 1975–2000**

*by Kevin N. Wright*

During the last quarter of the 20th century, the business of running prisons changed dramatically. Prison populations soared, resulting in considerable growth in the number of facilities, staff, and budgets. State and Federal prison systems went from relatively small State agencies to huge public bureaucracies. Attention from both within government and from outside increased. With growth and new attention, prisons evolved from independent, parochially administered local organizations to bureaucratically controlled systems with centralized policymaking and oversight. Modification in correctional philosophy and professionalization of prison administration accompanied and added to the reorganization process.

In this essay, I examine the changes that have occurred since 1975 and consider the implications of these changes for the administration of prisons and prison systems. I discuss how prisoners and staff have changed over the past two and a half decades. I explore the new activities and topics that must be addressed by correctional officials, and how technology and the use of information have altered prison administration. I also describe how changes in the private economy and management practices have influenced prison administration.

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With this backdrop, I discuss eight topics—external relations, standards and accountability, the prison workforce, inmates, technology, strategic management, privatization, and justice—to characterize the central issues faced by prison administrators today. I conclude the essay by describing the characteristics prison executives will need as they move into the next century.

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**M**ost of today's senior-level prison officials were just beginning their careers in 1975. The prison business was markedly different then. About 250,000 individuals were incarcerated in the Nation's institutions (Maguire and Pastore 1995, 540); that number has grown to well over 1 million prisoners today (Beck and Mumola 1999). The annual per-citizen cost of State prison operation averaged just less than \$40 (Stephen 1999). Two-thirds of the American public favored rehabilitation over retribution as the preferred goal of incarceration (Flanagan 1996, 80–81). The Vietnam war was coming to a close and much of the workforce employed in prisons, and particularly in correctional services, were veterans. Not a single warden in the Nation owned a personal computer or a cellular telephone. The doors and gates were opened by keys. Few citizens in a State knew the name of the commissioner of corrections and the Governor's office seldom called him (they were all "him" back then). What was going on in prisons was almost never a topic on the floor of the legislature. CNN had not been created, and Bill Gates was just getting started. There was only one super-max, the Federal penitentiary at Marion, Illinois.

A lot has changed since then. The Nation has seen tremendous growth in the number of individuals incarcerated in its institutions, expanding four to five times in most States during the past quarter century (Beck and Mumola 1999). Corresponding increases in staff and institutions have followed, along with steady and steep escalation in expenditures for prison construction and operations. Prison operation costs per resident are now double what they were in 1975, now at \$80 per citizen (Stephen 1999). Incarceration is a multibillion-dollar business nationally,<sup>1</sup> and that gets a lot of attention, from entrepreneurs seeing prisons as viable markets, to the legislative and executive budget analysts who scrutinize expenditures, to the media who find prisons dramatic objects for sensationalism.

The majority of the Nation's population now favors punishment over rehabilitation (Maguire and Pastore 1996, 177). This shift has not gone unnoticed by politicians, who frequently talk about the changes in prison policy they will make to address the public's concern about violence and desire for retribution (Blumstein 1995). One individual with whom I spoke in preparing this paper suggested that what goes on in prisons will not get a Governor elected, but it certainly could get him or her "unelected"—quickly. This politicization of prisons has led to frequent communications with, and close scrutiny by, both the executive and legislative branches of government. Given the fanfare of their nominations and the frequency with which their names appear in the newspapers, many citizens now know the name of their commissioner of corrections.

Interestingly, even with all the growth and attention, relatively little has been written about the administration of prisons. Given this, my objective in writing

this paper is to explore the changes that have occurred since 1975 and to consider the implications of these changes for running prisons well. I examine what new activities and topics must be addressed by correctional officials today, and how prisoners and staff have changed over the past two and a half decades. I explore how technology and the use of information have altered prison administration and to what extent changes in free-world management practices have spilled over into prison administration. I examine the issues faced by senior-level prison officials—individuals responsible for running prison systems (i.e., commissioners, directors, and secretaries of corrections) and institutions (i.e., wardens and superintendents). I focus solely on the administration of public prisons, although I describe how privatization has influenced the administration of these publicly run facilities.

To set the stage, I describe prisons in 1975 and explore the major events that have influenced prison structure and operations since then. From this basis, I discuss the politicization of prison administration, interorganizational relations, changes in both prisoners and staff, the use of information, and the influence of technology. My ultimate goal is to provide the necessary groundwork to consider what is needed to run prisons well as we enter the 21st century, what issues administrators must be prepared to address, and what characteristics senior-level executives need.

To help explore these topics, I have turned to the leading experts themselves, men and women running the Nation's prison systems and major institutions. I conducted a series of interviews with senior-level prison officials throughout the Nation, individuals who have experience and whose insights are particularly informative. I drew on personal connections with prison officials to identify subjects, then asked for their suggestions for additional informants. My informants consist of: (1) two senior officials from the National Institute of Corrections; (2) two system heads, one Federal and one State; and (3) six wardens, two Federal and four State. Two of the wardens are administrators of super-maximum-security facilities. A list of the individuals interviewed and their titles and organizations is provided in exhibit 1.<sup>2</sup>

Interviews were conducted by telephone and usually lasted at least an hour. In most cases, I faxed the individual to be interviewed a set of questions ahead of time so he or she could begin thinking about a response. The interview proceeded through the list of questions in exhibit 2.

It is important to note that while the interviews with these officials provided guidance in exploring change in prison administration, the conclusions presented in this chapter are also based on an assessment of the literature as well as my own personal experience working as a researcher studying prisons for the past 25 years.

**Exhibit 1. List of individuals interviewed**

<b>Gene Atherton</b> Superintendent, Colorado State Penitentiary Canon City, Colorado	<b>Keith Hall</b> Warden, Federal Correctional Institution Marianna, Florida
<b>Joseph Bogan</b> Warden, Federal Medical Center—Carswell Fort Worth, Texas	<b>Kathy Hawk</b> Director, Federal Bureau of Prisons Washington, D.C.
<b>Robert Brown</b> National Academy of Corrections National Institute of Corrections Longmont, Colorado	<b>Henry Risley</b> Commissioner, New Hampshire Department of Corrections Concord, New Hampshire
<b>James Bruton</b> Warden, Minnesota Correctional Facility—Oak Park Heights Stillwater, Minnesota	<b>Morris Thigpen</b> Director, National Institute of Corrections Washington, D.C.
<b>Thomas Corcoran</b> Warden, Maryland Correctional Adjustment Center Baltimore, Maryland	<b>Pam Withrow</b> Warden, Michigan Reformatory Ionia, Michigan

## **The Prison Business in 1975**

In 1975, prisons were at a crossroads, poised for dramatic change. My selection of the year 1975 is somewhat arbitrary, as the pressures for change were occurring at different rates across systems and individual institutions, but during the mid-1970s, institutions across the Nation began to undergo significant alterations in their mission, structure, and operations that would have a profound influence on their administration and administrators. Several important features led to this inevitable consequence: rapid growth in prison populations, modification in correctional philosophy, professionalization of prison administration, and centralization of policymaking and oversight.

Throughout the first 75 years of the 20th century, there was a growing commitment to the idea of rehabilitation as the predominant goal of incarceration.

## **Exhibit 2. Questions for prison administrators**

1. Tell me how prison administration changed. How is it different today than when you began?
2. The number of prisons and prisoners has increased dramatically in recent years. How has that affected administration?
3. Has the growth affected external scrutiny? Do you spend more time today in external relations? Dealing with legislators and their staff, budget analysis, the central office, the media?
4. How has technology influenced prison administration?
5. Are employees different today? If so, do you manage them differently?
6. How about the inmate population? Has it changed?
7. How about the use of information? Is that different?
8. What about management practices such as strategic planning, TQM, etc.?
9. Other issues?

Most States and the Federal Government had some form of indeterminate sentencing in which offenders were sentenced to a period of incarceration that allowed for considerable judicial and executive discretion as to the actual length of time served. Judges set a range of time to be served, then correctional professionals determined how long an individual would actually remain in prison, based on judgments of the individual's reform and readiness for release back into the community (Clear and Cole 1997, 68–70).

In most States, the first stop for offenders entering the system was at a diagnostic center, where it was determined what types of programming would best assist the individual in making necessary life changes that would keep him or her crime free. Numerous programs and activities were available to assist prisoners in their individual reform. These included everything from educational programs to training in employable skills, to drug and alcohol rehabilitation, to counseling for particular psychopathologies. In its idealized form, rehabilitation was intended to change offenders so they would be returned to their communities as productive and law-abiding citizens. This, in turn, would reduce the incidence of criminal behavior (Clear and Cole 1997).

While incarcerated, individuals earned “good time,” up to 2 days for every day served, based on their behavior while in prison. Paroling authorities reviewed the progress of individuals and made decisions about when offenders were ready for return to the community based on their demonstrated reform.

The heyday of the implementation of this philosophy occurred in prisons across the Nation during the late 1960s and early 1970s. This was a tumultuous period



in prison history. There was an infusion of professionally trained staff to support the rehabilitation process, but these new prison employees came into conflict with staff whose primary responsibility was the security of the institution. Custodial staff were generally less educated. They saw the principal mission of prisons to be punishment. Rehabilitation efforts were often seen as compromising custody and safety and, at times, as coddling criminals (McCleery 1961). Fully integrating the rehabilitation philosophy was probably never realized in any institution, and there was a constant tension between reform and custody that prison managers had to mediate.

All this began to change in 1975 as criticism of rehabilitation began to mount in numerous camps. One group of critics took exception to the “medical model” that was part of the rehabilitation philosophy. The medical model held that crime was a pathological problem that, if correctly diagnosed and treated, could result in a “cure” just as with any other disease. Offender groups took exception to the very premise that offenders were in some way “sick” and in need of treatment. They argued that they had committed crimes as a rational choice given their social and economic circumstances and advocated that they simply be punished for their deeds without having to play the “rehabilitation game” to convince the parole board they were cured (American Friends Service Committee 1971).

Equally critical was a group of legal scholars, led by Norval Morris, then dean of the University of Chicago Law School, who argued that rehabilitation was coercive and cruel and that it encouraged deceit. Offenders did not know when they would be released and were left confused and anxious. Significant disparities were found in the length of time served for similar offenses among offenders (Morris 1974).

Morris argued that for reform to occur, the individual had to be personally motivated and committed to change. Under the right conditions, prison programs could be useful in helping individuals to gain skills and make personal changes. However, program participation should not be mandatory, nor should release from prison be conditional on program participation and the subjective evaluation of correctional officials about individual reform. Norman Carlson, then Director of the Federal Bureau of Prisons, agreed with Morris’ conclusion and set forth a philosophy that was adopted throughout most prison systems: “[W]e in corrections could not coerce or force change. We could facilitate change, however, and we had that obligation as part of our responsibilities” (Roberts 1997, 196–197).

Just as inmate rights groups and legal scholars were calling for the abandonment of mandatory program participation, Robert Martinson (1974) published

his findings that treatment programs failed to reduce recidivism (see also Lipton, Martinson, and Wilks 1975). Although he later backed off on this blanket condemnation of rehabilitation (1976), Martinson provided the justification for others to advocate a shift in prison philosophy.

Writing in a changing political environment, as the public was becoming disillusioned with the promises of rehabilitation to reduce crime, law-and-order advocates called for tougher laws and more stringent sanctions on criminals. Leading the way, writers such as James Q. Wilson (1975) and Ernest van den Haag (1975) called for mandatory incarceration for fixed periods of time for all convictions for nontrivial offenses and increased deprivation of liberty with subsequent offenses.

A third group began to write about sentencing practices just as those advocating both the abandonment of mandatory rehabilitation and tougher laws were making their pleas for change. These writers proposed the replacement of indeterminate sentencing with more structured sentencing. These advocates viewed indeterminate sentencing to be unfair to the convicted individuals because the punishment fit the individual rather than the crime and unfair to citizens because of the lack of truth in sentencing, as offenders seldom served the sentence given. They called for truth in sentencing and just deserts through determinate sentences (von Hirsch 1976).

The influence of these three perspectives was considerable, resulting in reform of sentencing in Federal and State systems over the next two and half decades. States and the Federal Government implemented structured sentencing, passed new mandatory incarceration laws, and lengthened sentences for certain offenses. These changes, along with a crackdown on drug offenders associated with the war on drugs initiated in the 1980s, resulted in tremendous growth in the prison population (Beck 1993, 32).

Between 1910 and 1970, there was steady but slow growth in the prison population. In 1970, an explosion in the prison population began that continues today. Nationally, the incarcerated population in State and Federal facilities grew by more than four times since 1970 (American Correctional Association 1995).

These changes impacted prison administration in several significant ways. First, the perceived or stated purpose of incarceration shifted from reform to punishment. Prisons refocused their mission to holding individuals as punishment rather than for individual change. Providing opportunities for reform remained an important component of prison operations, but no longer were offenders required to participate as a condition of release (Roberts 1997, 196–197). Second, as good time and parole were eliminated or restricted and sentences

became more structured—a change that most correctional officials welcomed as it eliminated confusion and deceit—how inmates were controlled had to be altered. The coercive threat of the loss of freedom could no longer be used to manage inmate behavior; this necessitated new strategies for maintaining order within facilities (Wright 1994).

The absolute growth in numbers of inmates, institutions, and staff led to other changes in prison administration. The prison bureaucracy necessarily increased. Many systems expanded from relatively small organizations in which the director, commissioner, or secretary of corrections was intimately knowledgeable and involved in the day-to-day operations of every institution to a situation in which he or she could not possibly have such personal access and oversight. This required new organizational forms to ensure that institutions were compliant with overall policy and standards of operation (see DiIulio 1991).

Growth also impacted personnel issues. The rapid expansion of new institutions created a need for many new personnel and expanded opportunities for advancement. In the past, prison systems could bring new employees into the organization and train and socialize them into the dominant culture of the system over a period of time. There were few enough new personnel to ensure proper selection and supervision of new employees. Now the entire process was accelerated. Time to first promotion was shortened. Organizations had to devise new, more formal ways of training and socializing employees and managers.<sup>3</sup>

This point provides an appropriate segue into another important trend that occurred in the mid-1970s that had a major influence on prison administration. Prisons had traditionally been operated as highly independent, parochially administered, and authoritarian-controlled institutions. Each institution tended to be operated as the private fiefdom of the local warden, who exercised considerable autonomy in the administration of the facility (Jacobs 1977).

Prisons tended to be built in isolated rural areas that, by their physical location alone, limited the possibility of oversight by public officials, the media, and the general public. The fortress-like design of most facilities further restricted public view of their administration. Public officials, as well as judges, generally held that the operation of such facilities was sufficiently unique that their administration should be left to individuals trained to do so. Because prison operations consumed relatively small amounts of public funds, they drew little fiscal oversight. Finally, as prisons held the worst of society's miscreants, there was little interest in or sympathy for what went on behind prison walls.

Operating within these parameters, the history of early prison administration was checkered at best. Early prisons were structured as paramilitary organizations

managed by highly autocratic administrative regimes. Examples of successful prison officials who provided incarceration that was both safe and humane can be found, but the history of prisons holds innumerable examples of abuses of power, brutality, and inhumane conditions of confinement (Bowker 1980, 103).

By 1975, we began to see major shifts in how prisons were being administered. Two factors contributed to this change: the professionalization of prison administration and the centralization of prison policy and oversight.

James Jacobs (1977) documented the emergence of a professional administration at the Statesville penitentiary in Illinois between 1970 and 1975. He notes that a highly educated elite took over the top administrative positions during this period. This group did not share the homogeneity of the guard force, nor did it foster an independent moral view of the operations of the institution characteristic of previous administrations, but it took on an ethos of public service.

One reason for the emergence of professional administration was the influence of the growing number of highly educated civilians who had come to work in treatment roles as the result of the focus on rehabilitation. These teachers and counselors were critical of authoritarian practices and their abuses. Their demands led to increased attention to how decisions were made and rules enforced.

Outside forces were also impacting correctional administration. Nationally, the mid-1970s saw growing interest in the professionalization of public administration. Throughout government, attention to improved professional practice through educated public servants was advocated. Prisons, as public organizations, simply joined this trend.

The Law Enforcement Assistance Administration (LEAA), created by an act of Congress in 1968 to enable the Federal Government to assist State and local governments in fighting crime, helped to support the professionalization of prison administration. The funding for LEAA continued until 1981 and reached its peak in 1975 (Cronin, Cronin, and Milakovich 1981). Particularly noteworthy and of significance to this discussion was LEAA's support of the education of criminal justice professionals through the Law Enforcement Education Program (LEEP). Stipends were available for both inservice and preservice personnel pursuing higher education degrees (Bartollas, Miller, and Wice 1983, 358). Veterans combined LEEP funding with their GI-bill support to obtain substantial financial assistance in pursuing college degrees. This led to a dramatic increase in college-educated prison personnel.

Along with increasing numbers of college-educated personnel, the mid-1970s saw the initiation of efforts to further professionalize prison administration through executive training. Tom Gilmore began bringing top-level prison staff from across the Nation to the Wharton School of Business at the University of Pennsylvania for a program he called Strategic Management in Corrections. At about the same time, Bob Brown started the Management Development for Correctional Administrators Program on the West coast. Many individuals who occupied senior-level administrative positions in prisons participated in one or both of these programs. Almost every individual I interviewed participated in these programs. It was also at about this time that the National Institute of Corrections established its National Training Academy in Colorado to provide professional training for prison staff.<sup>4</sup>

As prison administration became more professional, a shift to centralized authority and oversight of prison operations and administration occurred in most State systems. Jacobs notes that this was accomplished in Illinois through the creation of the Illinois Department of Corrections. According to Jacobs, the department had “ultimate authority in the burgeoning and professionally oriented central administration” of prisons across the State. He described its influence as follows:

The central office [had] virtually eliminated local autonomy by usurping the prerogative of formulating policy, by promulgating comprehensive rules and regulations, and by demanding ever increasing reports on more and more details of day-to-day activities at the local prisons. (1977, 73)

What occurred as a result of these changes was a modification of organizational form and structure. Prisons shifted from independent, parochially administered local organizations to bureaucratically controlled systems with centralized policymaking and oversight. Authority and control were transferred from local administrators to State officials. This shift increased uniformity across institutions and provided for systemwide monitoring and review of prison operations (Jacobs 1977).

This change was not simply a serendipitous event but coincided with the expansion of prisons. Oversight that had been vested in personal and informal relationships changed to more formal, uniform, bureaucratic, and professional oversight.

Another important factor in this change was the increased involvement in external oversight through the intervention of Federal courts. Courts that had been reluctant to interfere in the operations of prisons began to become involved in the investigation of allegations of abuses of power and inhumane practices in

the late 1960s and early 1970s. The courts agreed to hear inmate allegations and to require corrective action. Prisons and prison systems were found to be in the wrong, and Federal judges began to take over direct oversight of required modifications in prison practices. This action applied pressure on States to ensure compliance with humane practices to avoid Federal intervention (DiIulio 1991).

Where did this leave prison administration in 1975? “In transition” is the best answer. The focus on rehabilitation was being stripped away, leaving prisons with a clearer mission of housing inmates as punishment. Opportunities for reform remained an important function, but participation was no longer required as a condition of release. This meant that prisons had to devise new methods for managing and controlling the inmate population other than through the coercive threat of withholding release.

The Federal system began experimenting with unit management during the 1960s as a better way of delivering treatment but retained and retooled the practice as an effective method of inmate control after abandoning the medical model in the mid-1970s. Under unit management, the inmate population was divided into smaller, more manageable groups, and multidisciplinary teams were permanently assigned to these units. Units were small, self-contained living sections for approximately 50 to 120 inmates. The unit staff consisted of professionally trained personnel, including a unit manager, a case manager, correctional counselors, and a full- or part-time psychologist, who had administrative authority for all aspects of the inmates’ day-to-day living and programming (Lansing, Bogan, and Karacki 1977).

Unit management increased institutional and inmate control by vesting authority and decisionmaking powers with those staff most closely associated with inmates. Increased and repeated interactions built continuity into staff/inmate relations and provided for better communication and understanding. Information collected about inmates from interactions and observations became cumulative and thereby provided a much richer source of knowledge about inmate behavior. Staff understood inmates better, knew what to expect, and could anticipate problems before they reached critical proportions. Dealing with the same staff allowed inmates to learn what to expect from staff, what staff expected of them, and where the limits were (Wright 1994, 53–54).

Implementation of unit management across all its facilities provided the Federal system with a new organizational arrangement to effectively supervise inmates. Many States followed the Federal example and installed unit management in their facilities.

It is important to note that unit management brought about significant modifications in how prisons were managed. A new functional area was created that would share power and authority with custody for decisionmaking about inmates. This new functional area was staffed with professionals who were trained in casework and interpersonal problem solving. Power and authority were shifted away from the traditional prison hierarchy and located lower in the organization. Under this new arrangement, administrators were forced to respect the ability of professionally trained staff to make sound judgments, and grant them the authority to do so.

With unit management and other changes taking place in correctional practice in the mid-1970s, the best-run prisons shifted to a new proactive approach to problem solving and management of inmates. The practice of management by “walking and talking” was institutionalized (DiIulio 1991, 41–43). Prison officials and staff in general were expected to be present within the facility, collecting information about what was going on and solving problems and taking corrective action before issues escalated to major problems (Peters 1992).

The move away from the medical model also allowed prisons and their administrators to reconsider what “good” correctional practice involved. Norman Carlson, with his fondness for three-word phrases, summarizes what he viewed as sound correctional practice:

- A good prison stresses care, custody, and control.
- Good prisons are safe, clean, and humane.
- Effective prison staff are characterized by pride, professionalism, and proficiency.

During his 18-year tenure as Director of the Federal system, Carlson stressed strict administrative controls and tight discipline while simultaneously promoting the provision of basic amenities (including good food and sanitary living conditions) and life-enhancing programs. Because Carlson believed “imprisonment itself is punishment,” he intended prisons to be safe, civilized, and humane (Wright 1994, 5–6).

In 1975, prison systems throughout the Nation mirrored Carlson’s Bureau of Prisons, in various stages of transitioning into more professionally managed organizations, but still retaining tight administrative controls. Supervision of facilities from the system level remained very hands-on and relied on personal knowledge. Directors, commissioners, and secretaries of corrections knew their senior-level facility administrators personally and were directly involved

in promotion decisions. Operations were being standardized through central policy. Audits of facility operations were becoming increasingly common.

Most institutions still were structured as paramilitary organizations. Many of the staff came with military backgrounds and thus were familiar with a structured chain of command. Most staff were white, and the vast majority were male. The best wardens attended to the details of running their facilities well. Their most important skill was the ability to talk to inmates and make sound judgments about their management. They needed strong people skills.

I would be remiss in describing prison administration in 1975 if I did not recognize the importance of one event—the 1971 riot at Attica State Prison in New York. Riots had occurred throughout the history of prisons, but Attica was different because the media made it a national news event. Forty-three people were killed during the riot and the assault to retake the facility. Clearly, mistakes were made in bringing the riot under control. Attica garnered national attention on the conditions of prisons in America. Racial strife festering throughout the Nation was brought into sharp relief as a significant problem in the administration of prisons. Inmates at Attica had become politicized and viewed the conditions of their confinement as unjust. The administration of the facility was not strong and was fragmented. The ensuing riot provided justification and the political environment to support change in prisons and external intervention in prison operations (Useem and Kimball 1989).

## **Significant Changes in Prison Administration**

As previously described, prisons once operated in relative isolation with limited external scrutiny and influence. But the transitions that occurred in the mid-1970s opened prison administration to external influences. During the last quarter of the 20th century, several events transpired that had a significant impact on prison administration.

The “get tough” policy that began in the mid-1970s continued throughout the rest of the century. This trend not only contributed to a burgeoning prison population but also changed the composition of that population. Sentences were substantially longer than ever before so a large segment of the population became long-term residents (DiIulio 1990, 2). Not only did this group of long-term inmates require different management practices and programs, but these inmates are also becoming aged, frail, and infirm, requiring another level of care (see McCarthy and Langworthy 1988; Flanagan 1995).



Evolution into a post-industrial economy in the United States has had a direct impact on prison operations in five ways. First, it has influenced the type of person coming to prison. There was a time when a young person growing up in Pittsburgh could get a job in the steel mills, while someone living in Detroit could find work in the automobile industry, in Texas in the petrochemical industry, and in upstate New York in the high-tech defense plants. As the cold war wound down and industrial jobs disappeared as corporations sought cheaper labor offshore, the American economy became increasingly segmented into two areas—jobs in the information sector and service jobs. Individuals who find employment in the information sector receive a living wage, while individuals relegated to the service sector fare far less well. Individuals who lack economic opportunity all too often fall victim to the loss of hope and despair. Among these youths, the Nation has experienced high rates of substance abuse, the selling of drugs, violence, and gang membership. The result for prisons has been an increasing number of younger, street-raised youths who lack conventional middle-class norms and values (Simon 1993).

Second, the shift to a postindustrial economy and the globalization of the economy resulted in a less stable economic environment. Consider what happened to IBM. There was a time when IBM *was* computing. The corporation defined the very nature of computer technology; it dictated innovation within the field and controlled the market, its investors were guaranteed an annual dividend and its employees lifelong employment. With the advent of powerful microcomputers, information technology dispersed rapidly. Innovation shifted from staid traditional bureaucracies to smaller, flexible, and creative organizations. No longer did one company manufacture the product, but many were involved in the process—one produced the motherboard, another the monitor, still another the disk drive, and yet another assembled and marketed the product.

In highly competitive, turbulent economic environments, businesses had to become adaptable, responsive, and creative. Successful businesses anticipated what was going to happen and developed products to meet rising demands. The most successful organizations decentralized; decisionmaking was pushed down to the employee closest to the products and the markets. This change required a new form of management, one that gave employees much greater say in decisionmaking. As workers in other sectors came to expect autonomy and job control, so too have correctional workers. It is not accidental that the installation of unit management as an organizational practice in corrections coincided with organizational changes in the business world (Peters 1987).

Third, before the current economic turbulence in the American economy, employees and their companies shared loyalty toward one another. Companies offered lifelong employment to their workers in exchange for lifelong loyalty to

the company. To survive and adapt to global competition, mergers, acquisitions, buyouts, restructuring, downsizing, and reorganization occurred throughout American industries. Many workers found themselves without jobs or, at the very least, uncertain about the future of their employment. Workers adapted correspondingly. If companies were no longer offering loyalty to the employee, then the worker was no longer obligated to the company.

The new prison worker is cut from this cloth. Although perhaps more adaptive and creative than employees of the past, new workers lack the loyalty to the organization and the job that once was found among prison employees (Wright 1997).

Fourth, along with reorganization, many American businesses have slashed employee benefits in an attempt to remain competitive. Besides lifelong employment, workers received decent wages, attractive benefits including medical care and ample vacation days, and good retirements. Many companies have now limited or reduced these entitlements.

As the entitlements of American workers have been curtailed, citizens have begun to question the provision of public entitlements. The financial safety net for children and families has been pulled back with the reduction of social services and welfare benefits. Likewise, the public has begun to question the entitlements provided to prisoners. When families are struggling to educate their children, why should inmates receive a free education? When families cannot afford recreation, why should “undeserving” inmates be provided televisions, tennis courts, and swimming pools? This sentiment is fueled by the continued support of a get-tough crime control policy (Wright 1997).

Fifth, it appears that much of the Nation has weathered this transitional period in the economy. Economic productivity is increasing throughout the Nation, with the result of close to full employment in many geographic areas. This trend has implications for employment of high-quality staff. Prison work has never been held in particularly high esteem; given a choice, workers will seek employment elsewhere.

Just as alterations in business practices have influenced prison operations, three other trends during the last quarter of the century that are not directly the result of a changing economy have importance to correctional administration and deserve to be noted. First among these is the disinstitutionalization of the mentally ill. Beginning in the 1970s, facilities housing mentally ill individuals have been closed. The idea was that these individuals could be cared for in the community in far more humane and cost-effective ways. Unfortunately, adequate care in the community was frequently either not forthcoming or unsuccessful.

The outcome has been that increasing numbers of mentally ill offenders are ending up in prisons, thus posing a new administrative challenge for corrections (Clear and Cole 1997, 125).

Second, the AIDS epidemic and the increasing incidence of tuberculosis, hepatitis, and other infectious diseases have specifically affected the population of people who come to prison. Intravenous drug users and individuals who live on the streets with inadequate nutrition and medical care are at increased risk of contracting these diseases (Hammett et al. 1995). This, too, creates a new administrative problem for prison officials.

Finally, the end of the cold war resulted in downsizing of the military. This, along with the fact that the United States has not engaged in a major military conflict during the past 25 years, has led to a decreasing number of potential employees with military backgrounds. As a result, prisons have found it increasingly more difficult to recruit employees who, because of their military experience, could easily be transitioned into the traditional paramilitary organizational structures of prisons. New prison workers are more likely to resist obeying orders unquestioningly and to respond to crisis situations in a tactical manner (Josi and Sechrest 1998; see also Kauffman 1988).

## **The Job of Running Prisons**

So, what exactly do prison administrators do? What is the substance of their daily activities and the decisions they must make? Although the roles of system heads and wardens vary considerably, operational issues have always dominated, and continue to dominate, the work of prison executives. Attending to those issues outlined by Norman Carlson (and listed previously) occupies most of these individuals' time, whether they head an entire system or run a single institution. They must assure that the custody is maintained, that control of the prisoners is sound, and that individuals under their supervision are given care. Safety, sanitation, and humane treatment are issues that must be consistently addressed. As with any organization, personnel issues are the bane and essential element of successful leadership. Ensuring that staff act as professionals and with proficiency is crucial. Across the 51 prison systems and more than 1,000 institutions in the Nation, there is considerable variation in the ability and success to run prisons well.

For system heads, active involvement in the political processes of government and legislative bureaucracy occupies large portions of the executives' time. They must respond to legislative and executive queries about prison policy, practices, and expenditures. This activity often involves understanding what

is being asked, working with staff to generate the necessary information to respond to the query, and educating the inquiring individuals and governmental bodies. Prison executives must be active lobbyists for their organizations. Executive and legislative actions set mandates for prisons, from the number of individuals who will come to prison to the way they will be treated. System heads must see that their institutions have adequate resources to carry out these mandates. Helping politicians understand sound correctional practice necessarily involves their time. This includes visiting the legislature, speaking with key individuals on the telephone, testifying before the legislature, and writing position papers. These activities require system heads to stay informed about the myriad activities and issues taking place in their large and complex organizations.

Setting correctional policy is a constant task. Most systems are policy driven now. Reviewing, redefining, and developing new policy are frequent topics of executive staff groups. A problem, disturbance, lawsuit, or media inquiry can spur the need to revisit an issue, rewrite policy, and redefine practice.

Making personnel decisions is another time-consuming and ongoing activity for senior-level officials. Deciding who will be made warden, associate warden, and regional director, who will be moved from one institution to another, are continual issues that require monitoring and reviewing the professional and managerial performance of many individuals.

Because many systems have become so large, maintaining adequate performance appraisal and review systems is essential. Keeping those systems operating and reviewing the information they generate is a daily activity.

Supervision and support of top central office staff, regional office staff, and wardens is another ongoing activity that involves visits to facilities, telephone conferences, and meetings.

For wardens, maintaining control of the institution is the most crucial issue. Most wardens begin their days with key staff, reviewing what transpired overnight and during the previous day. Incidents, breaches of security, fights, and disgruntled prisoners must be handled. Decisions must be made about disciplinary action, movement of prisoners, and how to respond to problems.

After that, most wardens like to get out into their institutions. By “walking and talking,” they find out what is going on and can directly respond to staff and prisoners. They listen to complaints and then follow up by making inquiries of involved parties. By being in the facility, wardens indicate to staff and prisoners their personal concern about operations and are able to observe the conditions of confinement.

Addressing personnel issues is also a major activity for wardens. Deciding who will be promoted, taking corrective action, and resolving conflicts is a frequent task. Providing supervision and feedback and developing staff are important activities.

Prisons are complex organizations with many disciplines. Besides custody and personnel issues, decisions must be made about issues such as medical practices, emergency preparedness, hazardous chemicals found in the shops, educational programming, food services, the operation of the commissary, and staffing levels. To make such decisions, information must be collected, meetings must be held, and stakeholders must be consulted and informed.

Wardens spend time preparing for and responding to the audits conducted by central office staff. Quality assurance is now commonplace.

More and more, wardens are spending time outside their institutions dealing with community relations. They must facilitate work with other law enforcement agencies. They respond to media queries.

Although their missions differ, most senior-level executives, whether they are hospital administrators, university presidents, or prison officials, spend most of their time and decisionmaking addressing day-to-day operational issues. Surely, they all spend some of their waking moments reflecting on the hospital's contribution to health care, their institution's role in higher education, and whether they should be treating or incapacitating criminals, but the reality of their job is to keep their organizations running.

## **Leadership Issues Facing Senior-Level Prison Administrators in the New Century**

With this backdrop, I am now ready to explore the major issues facing prison officials as they embark on running systems and institutions in the new millennium. In 1975, if you needed a new hammer, some nails, or a can of paint, you stopped by the local hardware store. These small businesses were likely to be owned and operated by a single individual or family. Today, if you have the same needs, you trek down to a huge store with prepackaged items and electronically controlled inventories. Lowe's Hardware and Home Depot are corporately owned, with the look and practices of selling hardware uniform throughout hundreds of stores across the Nation. Gone the way of the mom and pop hardware store, the organization and administration of prisons has changed dramatically in the past 25 years. Clearly, running prison systems and institutions has become

more complex, more susceptible to external scrutiny and influence, and more demanding.

I describe and discuss eight topics—external relations, standards and accountability, the prison workforce, inmates, technology, strategic management, privatization, and justice—in attempting to characterize the changes in prison administration over the past quarter of a century and in depicting the practice of running institutions today. Each of these issues impacts the administrative practices of both heads of prison systems and the leaders of individual institutions; however, most of the issues influence officials at the two levels in different ways.

## **External relations**

Without exception, all the prison officials I spoke with described significant changes in prison administration that have resulted from scrutiny, oversight, and influence by external agents. Before the 1970s, prison systems were sufficiently small and politically unimportant enough that they received relatively little attention. In many States, the central bureaucracy was relatively small and often fairly weak. Although there was considerable variation among systems to the extent to which centralized policy existed and was influential in the operations of local institutions, for the most part, local wardens enjoyed considerable autonomy and self-rule in the administration of their institutions. The riot at Attica, involvement of the Federal courts, growth in prison populations and expenditures, and the politicization of crime and punishment dramatically altered this situation.

The political climate of the Nation in the early 1970s was liberal. There was considerable interest in and concern for the rights and plight of the poor and disenfranchised. This concern was extended to prisoners by many political activists, who raised issues with the denial of human and civil rights by the conditions of confinement (see Mitford 1973). Not only was the riot at Attica fueled by these sentiments, but the riot also served to raise national concern about these issues. The coverage by the national media of the riot at Attica began to open the doors and lower the walls of prisons to public scrutiny (Useem and Kimball 1989). Interestingly, although public concern shifted away from the plight of prisoners to desire for more punitive conditions in the decades to follow, Attica paved the way for greater scrutiny and oversight.

Not only the public at large but the judiciary was more liberal in the 1970s. The Nation saw a period of considerable judicial activism in which Federal judges, in particular, altered their long-held practice of not intervening in prison affairs to becoming highly active in this arena. They began to accept prisoners' legal complaints, to review the conditions of confinement, and to demand corrective

action (Jacobs 1983). A review of the breadth of these interventions is beyond the scope of this paper, but two cases are noteworthy and will illustrate the impact of judicial involvement.

One of the people I spoke to, an individual who has worked in prisons since the early 1970s, identified these two cases as particularly influential. In *Wolff v. McDonnell* (418 U.S. 539 [1974]), the Supreme Court reviewed prison disciplinary practices. Before *Wolff*, when an inmate was charged with violating prison rules, there was a hearing but every accused inmate was found guilty. The Court decided that while prisoners do not have full due process rights as in criminal prosecutions, disciplinary proceedings had to be fair, and prisoners had the right to know the charges, could present evidence, and could call witnesses. Suddenly, prisoners had legal rights. This was new to prison officials, who were now being held accountable by external agents—Federal judges—for the treatment of inmates.

Two years later, in *Estelle v. Gamble* (429 U.S. 97 [1976]), the Supreme Court set forth that prison systems and their administrators could be held liable for damages when the health and welfare of inmates was treated with “deliberate indifference.” Now not only were prison officials subjected to external review, but they could be held personally responsible for not attending to the basic human rights of prisoners. This action raised the bar significantly regarding prison practice.

Interestingly, 25 years later, many legislatures have restricted the access of inmates to the courts but have replaced judicial intervention in prison operations with legislative intervention (Tonry 1995, 169). Legislatures in recent years have passed laws to ensure that incarceration is indeed punitive. The Federal “no frills” legislation is a good example of this practice. The liberal activities regarding prisoners’ rights and judicial activism of the 1970s initiated external access and involvement in prison operations, so as the political climate shifted toward “getting tough” and prisoner populations and expenditures began to soar, external agents already had gained legitimacy in being involved in the scrutiny and oversight of prisons.

According to the prison officials with whom I spoke, the chief executive of a correctional system (the director, commissioner, or secretary of corrections)

***Twenty-five years ago, most system heads saw their job as carrying out the legislative mandate. Now, chief executives must involve themselves in developing public policy and participate in the public debate regarding incarceration.***

will spend about 70 percent of his or her time away from direct correctional practice, involved in the political processes of interacting with the legislative and executive branches of government, the press, and concerned citizens. Individuals who were outstanding wardens or deputies may be ill suited for senior executive positions if they are not prepared to engage in the political process. My informants used the metaphor of a good warden needing to be able “to talk to inmates” to suggest that wardens must attend to sound correctional practices. In contrast, the chief executive of the system must “walk the hallways of the legislature.”

Twenty-five years ago, most system heads saw their job as carrying out the legislative mandate. Now, chief executives must involve themselves in developing public policy and participate in the public debate regarding incarceration. This involves understanding the political process, networking with elected officials, educating them regarding sound prison practices and potential implications of changes in prison operations, and being tactical in influencing the process.

The need for chief executives to protect prison industries nicely illustrates this issue. In the current economic and political climate, prison industries are frequently attacked by labor unions and entrepreneurs who claim that the practice takes jobs and business from law-abiding citizens. Unions and business owners lobby legislators to abolish prison industries. The chief executive must counter these attacks to ensure the survival of this important prison program. Good information is necessary; being able to demonstrate the benefit to prison security and in preparation of inmates for release as productive citizens is essential. But good data alone will not win the battle. Chief executives have to know influential legislators and be able to sway their opinions.

An important lesson is that not all battles will be won. Politics is a give-and-take process. I recall an incident that took place a few years ago in the Federal system. Several members of Congress were proposing legislation to establish a boot camp for Federal prisoners. The Bureau of Prisons produced data that showed that the Federal population contained few young offenders with nonviolent crimes, the constituency for whom boot camps are typically designed. Michael Quinlan, then director of the Bureau, went to Congress to lobby against the legislation, arguing that there was not really a need for such a program within the Federal system. However, the Act supported the political agenda of congressional proponents of a Federal boot camp and was passed. The Bureau responded by creating a program to accommodate its older prisoner population. Compromise is essential to the process of being political.

In the past, the primary activity for chief executives regarding funding was to appear at the annual appropriations hearing to present the prison budget and



answer questions. Now, lobbying key legislators to assure adequate funding to accommodate the burgeoning population and to ensure the safety of the public, staff, and inmates is an ever-present task. Changes in criminal sanctions have led to steady growth in the population; however, capital and operational funds to respond to this growth have not always kept pace with the expanding prisoner population. Certainly, expenditures for incarceration have grown in all States, but, in most cases, they have not equaled growth. Prison systems and their institutions have been expected to do more with less.

Prison systems now compete with other State agencies for limited State resources. One executive lamented this fact, noting that the financing of prisons took away resources from education and social welfare. As States spend more public funds and a greater percentage of public funds for incarceration, there are fewer public dollars available for those functions that support children and their families, which may in turn create more crime and necessitate even greater expenditures for incarceration.

Working with the press is much the same. Journalism changed significantly in the past 25 years. Watergate invigorated investigative reporting. Hungry journalists actively seek stories of improprieties, be they accounts of prisons coddling criminals or indications of abusive and inhumane practices. Whereas prison officials could safely distance themselves from the media in the past, in today's journalistic climate, a chief executive who does not work with the press runs the risk of reporters portraying a negative image of prisons. Executive staff must respond to media queries and work to educate journalists about sound prison practices.

Furthermore, the huge 24-hour news monsters, CNN and MSNBC, did not exist when the riot at Attica took place. Now, whenever the smallest disturbance occurs, the big van may roll in. Dealing with the media and the control of information must now be an element of any tactical maneuver to retake control of an institution.

The Freedom of Information Act had not been passed 25 years ago. Public access to information about prisons, their operations, and prisoners has created yet another time-consuming and vital function for prison administration.

More external constituencies exist than in the past; other law enforcement agencies, prosecutors and judges, victims and victims rights groups, and special interest groups have vested interests in what happens to inmates. The demands and needs of these groups must be recognized and responded to accordingly.

Clearly, modern prison system executives must be astute political creatures. They must have an understanding of the political process and a willingness and

an ability to participate in it as never before. Several of the respondents talked about the need for the senior system executive to see the big picture. Simply being an expert on prison operations is not enough. Chief executives need to understand the role of corrections within the broader political agenda and how external political, economic, and social forces currently and in the future will impact correctional policy.

The political responsibilities of chief prison executives raised an interesting divergence of opinion among the officials I talked to regarding the necessary backgrounds of people selected for senior-level positions. Some individuals argued that the need to be a political player is so great that the key characteristic of the chief executive is a background in politics and that the individual does not necessarily need correctional experience or expertise. Bill Merton, current Commissioner of Corrections in the State of Michigan, illustrates this position. Merton, a former State trooper, was a member of the State legislature, followed by a period in which he headed up the State lottery. As a seasoned political actor, he has been an active representative of the Michigan Department of Corrections in the political process.

Other officials argued that knowledge of and adherence to sound correctional practice is essential for chief executives. Although only 30 percent of the senior prison official's time may be spent in attending to correctional practice, the ability to formulate policy and oversee its implementation is critical.

The ultimate success of a chief prison executive may depend less on his or her specific qualifications and background than the individual's leadership abilities. Given the complexity of managing huge prison bureaucracies within even more complex political environments, no single individual can or will have the knowledge and ability to address every issue—both political and practice. The ability of the senior executive to surround himself or herself with a knowledgeable interdisciplinary team to support efforts to respond appropriately to the myriad of tasks will determine success.

In addition to the political constituencies that must be reckoned with, chief executives now face a new set of external agents with the power and authority to influence prison operations. Legislative and executive budget analysts have fiscal oversight and responsibility for prison expenditures. These individuals have financial rather than functional expertise yet can require prison executives to justify how funds are spent and to show that expenditures are producing desired results.

Earlier, I described how global competition in the marketplace has led to significant changes in corporate America. To remain competitive, businesses have had

to become highly efficient. This requirement has led to considerable attention to bottom-line management and reducing expenditures to produce the same or greater results. It did not take long for attention to economic efficiency in the private sector to spill over into the public agenda. Throughout the last quarter of the century, politicians have called for greater efficiency and accountability among public agencies. Frequently, this move has been championed under the title of reengineering government. The demand for efficiency and cost-effectiveness has led to increased activity, authority, and power among the fiscal agents of the state. Managing prisons is now a budget-driven activity.

## **Standards and accountability**

The role of warden is substantively different from the role of the chief executive of a prison system. Wardens occasionally must respond to the requests of local representatives and address the media on matters relating to their institutions. However, for the most part, responsibility for external political and media relations is vested in the chief executive of the system and is handled by that individual and central office staff. This does not mean that administrative practices of prison wardens have been unaffected by the increased oversight and involvement by external agents.

Wardens have always been judged by their ability to maintain control of their institutions. One of the reasons for this evaluative criterion was that institutional control is necessary to accomplish the more fundamental objective of protecting public safety. If inmates escape or riot, the safety of the public and prison staff are jeopardized. A more cynical twist on the reason for the criterion of maintaining control would suggest that the accomplishment of this goal protects wardens' bosses—the chief executive and the Governor—because they, too, are judged on their ability to provide for public safety.

Twenty-five years ago, wardens were expected to “keep the lid on” things. This meant they controlled their institutions so that no incident occurred that would draw the attention of politicians, the media, or the public at large. Without the external scrutiny of the courts, the media, and other interested parties, wardens enjoyed considerable freedom in running their institutions and generally maintained their institutions with rigid and frequently autocratic control.

Now that the doors have been opened and the walls lowered to external scrutiny, the goals of institutional control and protecting the bosses have not changed, but the methods have. No longer is the criterion of keeping the lid on things sufficient. Prisons must be run in ways that are “unassailable.” Because a variety of external agents now monitor what prisons do, from law-and-order advocates to defenders of civil rights, from budget analysts to unions, from victims to the

national news media, wardens must make sure that their practices are defensible. They must ensure that staff and inmates are safe. Criminals must not be coddled nor can they be abused. All the while, wardens must continue to make sure that escapes and disturbances do not occur.

In this regard, prison systems no longer are willing to leave the success of individual institutions up to the warden's ability to maintain control. Instead, over the past two and half decades, we have seen a steady increase in systemwide oversight of institutional operations. Centralized policy and procedures now specify standards of practice and how prisons will operate. Monitoring through audits, program reviews, and direct oversight is commonplace. In other words, system executives are not leaving anything to chance and have established supervisory and regulatory mechanisms for policy compliance and quality assurance.

The wardens I spoke with still believed they were in control of their institutions. One warden likened his job to that of a ship's captain. However, they all agreed that systemwide monitoring now occupied a significant portion of their time. Without exception, they agreed to the value of this practice, but many complained that things had gone too far. They felt inundated by new procedures and auditing practices. Generally, they viewed the oversight and centralized control exercised by senior-level system officials as appropriate and reasonable, but they described the actions of lower level system officials to be too stringent, overly demanding, and intrusive on time and resources.

## **Correctional workforce**

The individuals I spoke with perceived the correctional workforce as different than in the past in two important ways: Employees are more diverse and possess a different philosophy about their work and careers.

Prison workers 25 years ago were predominantly white males. By 1975, the majority of the inmate population were members of minority groups. The strain created by a lack of cultural understanding and the political implications of whites incarcerating minorities was a significant issue in the riot at Attica in 1971. Prison systems and institutions have worked hard over the past two and a half decades to increase minority representation among correctional workers and supervisors, with considerable success in many systems. However, some of the wardens indicated that their institutions had not been as successful as they would like in diversifying the workforces. Rural facilities in predominantly white communities still struggle to attract nonwhite staff.

Without exception, the individuals with whom I spoke described the increased diversity among the staff as having a positive influence on correctional practice. Not only have minority staff proven to be effective in working with inmates, especially minority inmates, but these new workers have broadened the perspective of correctional practice. When all workers come from similar backgrounds, an organization gets a relatively narrow view of how things should be done and a range of options for decisionmaking and problem solving. With a more diverse group analyzing a particular problem, there are simply more viewpoints about issues and how they should be addressed.

The prison officials also described how the presence of minority staff had helped them personally and helped their institutions as a whole to understand issues of diversity and cultural difference. With this new knowledge, they have greater understanding of race as an important influence and how discrimination and prejudice affect individuals.

In a substantively different but equally positive way, the presence of women in the correctional workforce has had an important influence on the prison environment and correctional practice. Many of the individuals I talked to suggested that female staff had a calming influence on the institutional climate in male facilities. Both inmates and male staff members act differently with women around.

Although the individuals were careful to note that they were generalizing, several individuals stated that female correctional workers tend to handle confrontations differently, and more effectively, than male staff. Young male staff have a tendency to respond to a defiant inmate aggressively by attempting to impose their authority. The outcome of such confrontation can be an escalation of the incident to the point that the inmate will become physically aggressive and then must be subdued, whereas female staff are more likely to try to calm the inmate; they listen to the individual and attempt to resolve the problem.

Another common observation among the prison executives was that female staff, like minorities, has improved decisionmaking and problem solving. As one warden described, in the past, corrections excluded half the population. By including women in the workforce, prisons doubled their talent pool.

The individuals I spoke with indicated that accompanying the positive change of enhanced competency, increased representation of women and minorities in the correctional workforce had led to other, sometimes negative, outcomes. Two individuals noted that cultural cohesion had been reduced. When everyone saw things the same way, there was greater bonding among the staff. Both individuals used the employees' club and staff functions to illustrate their point.

In the past, there was much greater involvement and larger turnouts to staff functions.

Some wardens reported that diversity had brought about new staff conflicts. When the staff was mostly male, there were fewer incidents of sexual harassment. One warden reported now having to mediate conflict arising around male/female relationships and two males in conflict over a female staff member's attention. Having to address overt racism and the use of racial slurs was also mentioned.

Most of the individuals interviewed indicated that their facilities and systems had engaged in considerable training regarding culture difference and gender and race relations. They claimed that a cultural shift had occurred and that they now could maintain a policy of intolerance regarding sexual harassment and racial conflict. One warden stated that the facility used to operate as a "good old boy" system, in which promotions were made on the basis of informal relations and where discrimination occurred. That warden described efforts to break down that system and expressed satisfaction in being successful in that effort.

According to the individuals interviewed, the correctional worker of today is different than that of the past. However, the prison officials varied in how they characterized these changes. Some described the difference in pejorative terms. They characterized the new correctional worker as being less loyal and com-

mitted to correctional service. Rather than seeing prison work as a career, new staff view their employment as a job for the moment but not necessarily as a lifelong career. The new worker was described as having a attitude of "What's in it for me?" rather than coming to prison service with an attitude of "How can I serve others?"

***Importantly, all the prison officials with whom I spoke indicated that correctional workers today are more competent than ever before. Individuals are more educated, many now having some college experience, if not a college degree. They are better trained.***

Another slant on this perception of younger, new staff was the view that they are less compliant and more independent. My informants told me that younger staff are more likely to challenge and break the rules.

Old ways of supervising staff no longer work. New employees are more likely to reject positional authority. They want feedback to be specific. As one warden stated, "You can't be the authority figure up in the administration building any longer." Staff expect the warden to be available to them and to have an

open-door policy. Wardens must be in the facility, get to know staff, work with them, and consult with them. Wardens have to model the values they endorse; they have to “walk the talk.”

Another aspect of the change in correctional workers is how they are choosing to live their lives and integrate their employment into their broader lifestyle choices. Employees who once would accept overtime without challenge are now indicating they prefer to attend their child’s softball game instead. Prisons are having to recognize that employees have lives outside their jobs. With greater commitments to family obligations, the need to accommodate dual wage-earner families, and increased recreational opportunities, the personal lives of staff must now be recognized and accommodated.

Importantly, all the prison officials with whom I spoke indicated that correctional workers today are more competent than ever before. Individuals are more educated, many now having some college experience, if not a college degree. They are better trained. Twenty-five years ago, many systems did not have academies or, if they did, the training period was short. Now, new employees undergo weeks of training before entering prison service. Once on the job, training is systematic and ongoing. There is greater movement across disciplines, and cross-training is common.

Institutionalization of accountability procedures, audits, and program reviews, discussed in the previous section, has altered decision making regarding personnel. Decisions about who gets recognized and promoted are more likely to be based on performance rather than interpersonal relations.

Not all the individuals I interviewed agreed that the new correctional worker is significantly different from personnel in the past. One individual said prison employees have always desired the same things—adequate pay; to be safe; to be recognized and have the opportunity to do something well; guidance; and integrity, honesty, and fair treatment from their supervisors. These two perspectives are not necessarily incompatible. The values of workers outlined by this warden are likely to be consistent over time, irrespective of whether individuals today are more independent or desire greater respect for their other commitments. The difference may simply reflect whether the respondent chose to highlight differences or similarities in his or her perspective of correctional workers.

Another important change in the prison workforce identified by many individuals was the greater presence and influence of unions. Many prison employees now belong to a union, and those unions demand a voice in decision making. Wardens and system officials indicated that they now consult with union

representatives before making important decisions and work with representatives to keep them informed about what is happening. Several individuals stated that some prison officials resist and have bad feelings about the increase in influence of the unions. One person said that some wardens, after working so hard to get to the top, resented having to share decisionmaking with union officials. Others stated that among some prison officials, there was an attitude that too much had been given up in recent contract negotiations. However, not a single one of the individuals interviewed indicated that they had personally experienced any difficulty in relating to the unions or were reluctant to work with them. They simply described this activity as a new responsibility for them as administrators.

I also asked about how rapid growth of the prison industry had influenced the workforce. I queried respondents about whether the need for additional workers in the face of close to full employment in some areas had created a situation in which they had to now accept workers who are not as qualified as in the past. Generally, this was not believed to be a problem. One system had purposely located new facilities in areas of economic decline, so there was an adequate workforce of qualified employees. Another system experienced the greatest amount of growth during a period in which the State was experiencing economic decline, which allowed the system and its facilities to continue to recruit high-quality entry-level personnel.

One informant indicated that the facility had been forced to hire younger employees who were less mature. This required the facility to provide more training for new employees and better, perhaps more intensive, supervision of new staff.

The other arena in which growth has impacted administrative practices has been in the promotion of employees. With expansion, time to promotion has been greatly reduced. The result for prisons has been that the time to observe performance, evaluate proficiency, and socialize the individual into the prison's operational culture has been constricted. The officials with whom I spoke did not seem to feel that this had presented a major problem; they had simply instituted new systems to train and initiate new managers more rapidly.

Some correctional officials and observers believe that although the tide of expansion in most systems has not yet crested, it will in the near future. States and the Federal Government simply cannot afford to incarcerate ever-increasing numbers of individuals. With this, I queried whether rapid expansion had had a positive influence on staff morale and whether they thought the reduction of growth might reduce staff morale. Surprisingly, most of the individuals I talked to did not view promotional opportunities as having a major impact on staff



morale. I did not really understand this until one warden offered the following assessment of the impact: Twenty-five years ago, when a smaller proportion of the staff received promotions, an individual could look at who was being advanced and conclude that the individual had put in his or her time and was a superior performer. With greater numbers of individuals advancing, that same individual might question why he or she was not being advanced. So, for those individuals not receiving promotions, rapid expansion has a deleterious effect on morale. Only those individuals getting promotions feel better.

## **Inmates**

I asked if inmates were different today than 25 years ago. The most striking change reported is that there simply are more of them; most systems have seen their inmate populations quadruple. Many systems have not been able to build prisons fast enough to accommodate this growth. Institutions have been forced to double bunk, when in the past they placed individuals in single cells, or they have tripled bunked in cells built for two inmates. They have expanded the numbers of individuals housed in dormitory spaces. They have violated their classification systems, placing individuals in whatever space was available. As a result, even if inmates had not changed, the circumstances of their incarceration have been altered in ways that influence inmate management. The simple fact that facilities have greater numbers of individuals to come into conflict with one another, compounded by the stress created by more concentrated confinement, has impacted the task of controlling the population.

Most of the wardens and system executives also observed important changes in the composition of the prisoner population. Today, many more offenders are serving long sentences. Some of these prisoners have 20- and 30-year sentences; a few are sentenced to life without parole. The wardens running facilities housing these long-term offenders expressed both humanitarian compassion for these individuals as well as a need to address the correctional problem of helping them develop healthy and acceptable ways of doing their time. One warden observed that you can watch long-term prisoners go through the stages of grieving, from denial to anger to negotiation to acceptance. Helping inmates progress through these stages of loss and devise meaningful lives for themselves was considered to be essential.

Although the wardens differed in the programming models provided, all described efforts to create and maintain hope among long-term inmates. There was a belief that if these offenders were left to languish in prison, they would spend their time planning how they would assault staff. If they were provided with the opportunity for self-improvement and the chance to create meaningful

lives, they were much more manageable. Working with the inmates on behavior management and on making decisions about how to live their lives in order to move out of highly secure confinement (locked down in a super-maximum facility, for example) and to gain freedom was considered to be an useful and effective strategy.

Another difficult group to manage and one growing in numbers is mentally ill offenders. These individuals are frequently the prey of other inmates and are at high risk of victimization. They are also uniquely dangerous because of their unpredictability. Efforts to stabilize their behavior and get them into safe environments were considered to be of utmost importance.

The prison officials also noted an increase in sex offenders within the population. Although these individuals tend to be relatively docile prisoners, their treatment is costly and the success rate of treatment is low. Many States have enacted legislation mandating lengthy sentences for these offenders. They, too, require special attention in planning programming to assist them in adapting to long-term confinement.

The offender group mentioned by most of the respondents as problematic was the growing numbers of younger, more violent prisoners. A few criminologists have suggested that there is a new breed of street offender. These individuals are characterized as “superpredators” and are depicted as an entirely new offender type that is more violent and disrespectful of authority.

Most of the prison officials I interviewed did not seem to think this new offender type exists; rather, there are simply greater numbers of young, predatory, and violent offenders. These individuals have always come to prison but now are coming to prisons in greater numbers. These offenders were consistently described as people who had grown up with little parental care or attention. Their families were highly dysfunctional, and the individual experienced considerable violence in the home. As a result, these young people, men for the most part, have grown up on the streets. They are tough and have learned to survive by exploiting others and by being aggressive and violent. Several respondents described them as lacking middle-class values.

One informant indicated that there has been an increase in offenders who have committed violent acts because they have been disrespected. These are individuals who have been insulted in some way, then go get a gun and shoot the offending party. These offenders then import this way of relating to others into the prison environment.

One warden suggested that many of these young offenders suffer arrested development and are locked into behavioral patterns characteristic of 2- or 3-year-old

children. Helping them mature and learn ways of behaving other than exploitation and violence was described as an important strategy for controlling them.

Whether or not an institution targeted these offenders for special programming, wardens and system executives were consistent in identifying this group as especially difficult to manage and in need of increased supervision and security.

A related observation among the individuals interviewed was increased gang presence in prisons. Institutions have always struggled with prison gangs. Among male inmates, there is a propensity to form social groupings to resist the authority of prison staff. However, prisons today experience a growing number of offenders who come with street gang affiliations. This gives the inmates a jump on forming affiliations in the facility to fight with one another and to resist and attack staff. Furthermore, these individuals retain their ties to outside criminal associates. Controlling their criminal activity both in the facility and in the community adds an additional security responsibility.

Greater gang presence has required prisons to transport prisoners more often to prevent them from forming strong in-prison networks; to maintain an effective intelligence system to identify affiliations and to understand their activities; to monitor behavior, plans, and criminal activities; and to segregate prisoners to prevent their involvement in gang-related activities. Prison officials are having to interact with and cooperate with law enforcement officials in the community. Control of “threat groups” seems to vary considerably among systems, particularly in terms of the use of segregation and other methods of suspending freedom, but all prisons are having to consider how to manage this segment of the population, often at greater costs.

In this environment and with the changing prisoner population, one warden suggested that, at least for maximum-security institutions, there are six measures of success:

1. The number of homicides in the facility.
2. The number of escapes.
3. The presence of drugs in the facility.
4. The availability of weapons.
5. The control of gangs.
6. Safety in the facility (i.e., whether it is safe to walk around the compound).

***Interestingly, nearly all the prison officials talked about how important it is to care about inmates. They spoke about how staff must listen to inmates, assist them in resolving problems, and help them cope with incarceration. The essential need to treat inmates with respect and dignity was stressed by many.***

Clearly, this list represents a different set of criteria of success than that of 1975, when offender reform and rehabilitation was stressed.

Interestingly, nearly all the prison officials talked about how important it is to care about inmates. They spoke about how staff must listen to inmates, assist them in resolving problems, and help them cope with incarceration. The essential need to treat inmates with respect and dignity was stressed by many. Not only were these values considered to be the right thing to do, but they were also described as fundamental to sound correctional practice.

## **Technology**

The proliferation of technological advances to support correctional practice has been great during the past 25 years. Modern facilities are built with centrally controlled security systems where a single officer opens and closes all doors and gates electronically at a control panel. Perimeter security is maintained with fences and razor wire combined with sophisticated electronic monitoring equipment to detect movement

within the perimeter area. New equipment is available for positive identification of both staff and employees. Technology has provided for sophisticated monitoring and surveillance of drugs and other contraband. Consequently, prisons are better able to prevent escapes, to control drug trafficking and the introduction of other contraband, to reduce weapons availability, to respond more rapidly to aggressive and potentially dangerous situations, and to control disturbances.

Many individuals with whom I spoke were quick to add that technology is only a tool. It is not a panacea. It helps make prisons safer and enhances security, but correctional administrators who rely on it will get into trouble. People are still the key to good correctional practice; human interaction is the essential component to managing inmates well. Prison executive after prison executive stressed to me the importance of high-quality staff/inmate communications. Staff must listen to inmates and solve problems proactively. They must let inmates know that they care and are there to support them. An administrator who relies on the security systems to maintain control of the facility will find that interpersonal problems, conflicts, and grievances will escalate to the point that no system, no matter how fail-safe, will be successful.

In this regard, several of the executives expressed concern about the super-maximum facilities. The monitoring and security systems successfully suppress violent behavior, but without human contact the needs of the individual are not addressed. Individuals may suffer mental anguish, experience deteriorating mental health, and become increasingly violent and aggressive. Several administrators talked about the need for effective programming to assist high-security inmates in maintaining hope, developing behavioral controls, and making plans for transferring to less secure settings.

A couple of individuals mentioned difficulties in maintaining the sophisticated security systems. With full employment in their area, they had trouble recruiting and retaining staff with expertise to maintain and operate these systems.

The technological advance that interviewees identified as having the greatest impact on their administrative practices was the computer. The computer has made it possible to manage the burgeoning prisoner populations. Administrators rely on the computer for time computation, maintaining inmate records, tracking incidence reports, and making decisions about designations based on programming needs, threat levels, and known crime affiliates and enemies. A warden can click on a file and obtain a photograph of the inmates along with his or her entire personal, criminal, and institutional histories. Computers are used to manage visits.

A key function for many of the wardens and system heads is the use of computers for communications. E-mail allows them to know what is going on in other institutions and to discuss such matters as the transfer of difficult inmates. As systems have grown, communication through the computer allows facilities to operate in consistent and integrated ways. Policy and procedures are discussed and can be disseminated quickly. The ability to transfer data electronically supports systemwide monitoring and maintenance of accountability systems.

Several individuals suggested that the ability and willingness to use computers over the past couple of decades determined which administrators would successfully adapt to the modern world of prison management and which administrators discovered that they could no longer function effectively in the changing administrative environment. Growth of the system, the professionalization of correctional management, and the focus on accountability have added a new function to prison administration, that of being an information manager. To fulfill this task, administrators must use computers.

Other communication devices were also mentioned as influencing prison management. The cellular telephone, beepers, and voice mail were identified as helpful, although sometimes overbearing, aids in staying informed and effectively communicating in the facility, among facilities, and with the central office.

## **Strategic management**

Another important change for prison executives has been the introduction of strategic management. Most of the individuals I spoke with had been trained in the leadership programs offered by Tom Gilmore at the Wharton School, Bob Brown at the University of Southern California, and/or the National Institute of Corrections' National Training Academy. They had been introduced to strategic management and adopted the practice personally and implemented it in their various positions.

When I asked them about specific techniques such as strategic planning and total quality management (TQM), their responses generally did not exhibit a great deal of enthusiasm or commitment to these activities. A typical response was, "Yeah, strategic planning is important, but . . ."; then they would quickly shift the conversation to focus on the need to be forward looking and globally oriented. They spoke about how the institution or the system had to be mission driven and how they had to be systems managers. One warden reflected that one has to stop sometimes and reflect on where things are going. The warden and the staff must have a vision of how they want the facility to operate. They must be future oriented and be looking at the longer term, thinking 3 to 5 years into the future.

Another warden commented that you have to think about how you want things to operate, then, given the scarcity of resources, develop contingency plans. This particular warden illustrated contingency planning by describing how sound correctional practice dictates that inmates be out of their cells and productively involved most of the time. However, the budget of the institution was not sufficient to staff the facility to allow for this practice all the time. Alternatives had to be devised. Once a month, the institution was locked down over the weekend. The reasons for this practice were explained to the inmates, and they were compensated for the loss of freedom with special meals, good movies, and plenty of activities to do in their cells.

## **Privatization**

Many of the individuals interviewed mentioned that privatization had influenced administration of public prisons. A common sentiment, which was colorfully

expressed by one warden, was the view that, “It is good to have a wolf at your door.” Officials indicated that privately run prisons had forced them to be more cost-aware and -efficient. Because of the competition, they, too, now closely watch the bottom line.

Most of the individuals went on to express their concern about the ability of privately run prisons to protect public safety and provide sound correctional programming. The largest item in the budget of almost any organization, prisons included, is personnel costs. Privately run prisons gain cost advance through cheaper labor. They pay employees less and provide fewer benefits than public institutions; consequently, they have higher staff turnover and a less professional staff. As instability is the greatest threat to institutional security, the respondents expressed concern about the ability of private prisons to provide high-quality, safe incarceration.

One person provided a particular poignant observation about the problem of competition between public and private prisons. This individual views private providers as playing an indispensable role in the prison business. Private organizations fill in and meet unique correctional needs. Community institutional corrections—the provision of halfway houses and specialized drug treatment centers—are good examples of where private providers can complement public prisons. The existence of private prisons helps the larger public systems manage ever-growing populations. Excess population awaiting the construction of new facilities can be shifted to privately run facilities.

In the past, private providers cooperated with public prison officials to determine how they could complement the public systems. Now private providers are going directly to the legislature and lobbying for prison business. Unfortunately, legislators sometimes make decisions about incarceration without including and consulting with public prison officials. The consequence of such decisions, which are being made for political reasons, is that they fail to consider the implications for public safety or the impact on the much larger public system. Competition has transformed what used to be a collaborative process to best meet the incarceration needs of the State or the Federal government into an antagonistic relationship that fails to address the best ways to provide incarceration.

## **Justice**

I did not ask the individuals with whom I spoke about their views concerning whether incarceration had become more unjust or less humane during the last quarter of the century. However, many of the prison executives raised concerns about issues of justice. They expressed and illustrated their concerns in different

ways, but these senior-level executives are troubled with the direction in which incarceration policy and practice are headed.

Many of the individuals spoke about running facilities in an era of harsh punishments. Public sentiment has shifted during their careers. When they started their jobs, there was concern about prisoners' rights and individual reform. They were attracted to prison service because they cared about people. Now, the public exhibits little concern about prisoners' welfare and desires that prisoners be treated harshly. Legislators and those seeking office compete to be toughest on crime and criminals.

The senior-level officials I spoke with recognize that to run prisons well, to maintain control, and to be humane, prisoners must be treated with respect and dignity. The staff has to sincerely care about the welfare of prisoners and to support them. Maintaining a sense of hope is essential. Opportunities for self-improvement, to have a future, and to maintain a healthy existence while incarcerated are crucial. The enactment of harsh prison policy and the installation of harsh prison administrators, system heads in particular, threaten sound correctional practice.

One official believes that current draconian sentences are unjust; the punishment does not fit the crime. Federal sentencing regarding crack cocaine and powder cocaine is unjust and racially biased. How prisoners are treated is legal but not always just. This individual is concerned about whether corrections can continue to control a population in an increasingly unjust system. Sadly, this administrator stated that he (I use the male pronoun so the sentence will flow properly but it should not be misconstrued to reflect the gender of the respondent. The individual may have been either male or female) had always been proud to have chosen correctional service as his career, and to be part of the criminal justice system. He remains proud to be a correctional worker but is increasingly shamed by the injustice of the system.

***Prison organizations, whether they are institutions alone or entire State or Federal correctional systems, have been transformed from relatively insular entities to complex organizations with considerable external attention, scrutiny, and influence.***

Another individual raised a different issue. The person expressed concern about the indifference now shown to the death penalty, the State's ultimate decision. This correctional official believes the frequency with which the sentence of death is being imposed has desensitized people to the meaning of this ultimate act.



Another individual expressed a concern about societal priorities. Because of its growth, the prison industry now competes with education and social services for public resources. Inmates have better gymnasiums and classrooms than children in the community. This administrator was not saying that prisoners should not have good recreational facilities or educational opportunities. On the contrary, the individual was expressing concern about how prison growth had stripped away resources from other important public functions.

## **Conclusions**

The findings of this study have been influenced by two important factors. The individuals interviewed are unique. I sought prison administrators who were particularly thoughtful and reflective about correctional practice. I wanted to speak with senior-level executives who could describe for me what changes had taken place during the past 25 years and what effective prison administration is today. In selecting and getting suggestions for such individuals, I have likely interviewed high performers, individuals who are among the best prison administrators. In reporting their views about correctional practice, I have probably reflected best practices. I am certain there are prison administrators who are not strategic thinkers, who do not believe that inmates need to be cared about nor supported, and who do not view increased external influence and demand for accountability as having a positive influence on their ability to govern institutions.

With this qualification, I still think it safe to say that prison administration has changed dramatically during the last quarter of the 20th century. Prison organizations, whether they are institutions alone or entire State or Federal correctional systems, have been transformed from relatively insular entities to complex organizations with considerable external attention, scrutiny, and influence. The growth of prisoner populations, staff, and the number of institutions; the professionalization of prison administration; the politicization of incarceration; the centralization of policy making; and an emphasis on cost efficiency and accountability have colluded to render parochial administrative practices obsolete. Prison officials at both institutional and system levels spend considerable time in interorganizational relations.

***The most common theme discussed by the respondents is that they now operate in environments where accountability is a central theme. Twenty-five years ago, most prison systems had a small policy and procedures manual. Now they are governed by sets of thick volumes outlining standards of practice.***

***Prison administrators must communicate with and listen to staff and inmates, they have to be a presence in the facility, and they must walk the talk. Perhaps, these two issues boil down to the requirement of prison executives to act with a high degree of personal integrity and commitment to running prisons well.***

The individuals with whom I spoke still believe they have considerable authority and responsibility in their positions. They believed that they retain the autonomy and power to determine organizational operations and correctional practice within their facilities or systems. However, the most common theme discussed by the respondents is that they now operate in environments where accountability is a central theme. Twenty-five years ago, most prison systems had a small policy and procedures manual. Now they are governed by sets of thick volumes outlining standards of practice. Compliance is carefully monitored and audited.

One warden described, perhaps even lamented, how an administrator now lost part of himself or herself as the individual moved up in the organization. He described the loss of individual discretion about how institutions will be run. Expectations about organizational operations and correctional practice are now more prescribed and uniform. To be successful and move up in the organization, an administrator must comply with the system's standardized vision of how prisons should be run.

Prison administration has become systems administration. The correctional process is more complex. More individuals, internal and external to the organization, vie for a say in decisionmaking. Administrators must juggle the responsibilities of consulting with a variety of constituencies while maintaining a perspective on the whole to build coherence in their organizations. The individuals with whom I spoke seem to enjoy that challenge. Each day presents a new set of problems surrounding how to maintain coherence in organizational operations and correctional practice.

Two related issues have not changed. There is still a need to attend to sound correctional practice and a set of core values that support that goal. Prisons need to be safe; staff and inmates need to be treated well, with respect and dignity; illegal behavior by either prisoners or staff cannot be tolerated; prisons should be clean; and hope must be fostered. How to attend to these values brings us to the second issue—success depends almost entirely on relationships. Prison administrators must communicate with and listen to staff and inmates, they have to be a presence in the facility, and they must walk the talk. Perhaps, these two issues boil down to the requirement of prison executives to act with a high degree of personal integrity and commitment to running prisons well.

## **Prison Administration in the New Millennium**

To be successful, prison executives will need a unique set of characteristics as they move into the 21st century. The attributes apply to both chief executives of systems and wardens, although the exact nature of those attributes will vary with the position.

### **Political savvy**

The business of running prisons has become more political in the past 25 years. Whether an individual is a system head or a warden, he or she must participate in a political process that extends beyond the perimeters of the organization. This is particularly true for chief executives of systems. They must be engaged in the legislative process, getting to know key legislators, working to educate them about sound correctional practice, and lobbying for sufficient resources.

Wardens, too, must be politically astute and involved in the political process. They must interact with a variety of interested parties—local politicians and community leaders, community organizations, a variety of interest groups, the media to some extent, prosecutors, victims and victims' rights groups, human rights advocates, unions, and law enforcement agencies.

The skills for being a successful interorganizational leader are different from the skills for being a successful intraorganizational leader. The distribution of authority and power is less well defined in external relations. Some external agents have considerable direct power, and consequently influence, over prison operations; others have less power but still possess either the right or ability to influence prison practices. The leader has several roles in this process—to keep external agents informed, to educate them about sound correctional practice, and to negotiate differences. Twenty-five years ago, prison officials could choose not to participate in this process; this is no longer an option.

### **Knowledge of sound correctional practice and prison operations**

This attribute has not changed during the past two-and-a-half decades, nor will it ever. There are fundamental values that define sound correctional practice—safe prisons; staff and inmates treated with respect and dignity; zero tolerance for illegal behavior by either prisoners or staff; clean prisons; and the fostering of hope. How to achieve these goals may vary from system to system and facility to facility; modifications may occur over time as new practices are developed and technological advances become available. However, the fundamentals of running prisons well remain consistent.

To be successful, wardens must be highly knowledgeable about correctional practice and institutional operations. The best prepared wardens come to their senior positions with experience in a variety of roles and disciplines. Diverse experiences prepare them to understand the activities of running complex and multifaceted organizations.

System-level executives may not need to be as thoroughly versed and experienced in institutional management. Here, the scale is tipped toward expertise in the political process. A chief executive who has considerable experience in working with the legislature may effectively represent the prison system. However, in these cases, the senior staff must have correctional and operational expertise. Otherwise, where will this political leader take the organization; for what will he or she advocate? The individual will have to build a strong and participatory team to be effective.

A strong concern expressed by several officials interviewed was that individuals are being selected for senior-level positions by the political process on a single criterion—a strong punitive orientation toward corrections and prisoners. There was a belief that a highly punitive orientation to incarceration is dangerous. When hope and a sense of justice are stripped away, it is extremely difficult to manage prisoners. It is inconsistent with sound correctional practice.

## **Global perspective**

Importantly, it is no longer enough for prison executives to understand corrections; they must have a much broader perspective. They need to understand government, how corrections fits in it, and the political process. They must be knowledgeable about economic trends and what is going on in the business world to anticipate how changes may influence crime and prison management. They must understand global trends and the impact of those trends on correctional practice. For example, the crime trends and the entrenchment of the Russian mafia as the result of political and social changes in the former Soviet Union is having a far-reaching effect on crime throughout the world. Prison executives must be informed about cultural diversity and how race affects the attitudes, beliefs, and behaviors of staff and inmates.

Individual after individual with whom I spoke stressed how prison executives must be big-picture thinkers. Contemporary prison officials have to “get out of the box” to conceptualize the complexity of issues and to anticipate the future. Prisons are no longer isolated entities but exist and operate in complex social, economic, political, and cultural networks. Prison executives must be able to place their organizations in those complex contexts and make decisions considering the myriad of external forces pressing on the more permeable boundaries of prison organizations.

## **Forward-looking perspective**

For prison administrators, the goal of keeping the lid on things is gone. Prisons must be mission driven and accountable. To achieve their goals and maintain sound correctional practices, prisons must consider where they are going and how they are going to get there. Highly structured and institutionalized practices such as strategic planning and TQM may assist in this process, but being forward looking goes beyond that. It involves a philosophical commitment to evaluating current operations in light of future considerations.

Prisons will continue to be budget driven. Figuring out what can be done with constrained resources will be essential. Doing well with less will continue to be an operational necessity. Devising cost-effective ways to control the institution and to support prisoner reform will be required. A longer timeframe to accomplish goals and contingency plans will be necessary. All this requires executives to keep a vision for the organization in mind when directing current operations and planning for the future.

## **Critical analysis skills**

In a climate of accountability, prison executives must have strong critical thinking skills. Twenty-five years ago, wardens had to produce an annual written narrative describing what was going on in their facilities. Now, there is constant auditing of prison operations. The evaluation of success has shifted from being mostly qualitative to mostly quantitative and exact. How many dirty urinalyses have occurred in the past month? How many assaults on staff have taken place? Is a particular program complying with policy and adhering to procedures? Executives must be able to analyze and document what is going on in their institutions.

Furthermore, with increased external scrutiny, prisons must now justify what they are doing. To receive funding for a new program or to continue a long-standing practice, executives must prove to external agents that the program or practice is effective. For example, with the constant political attacks on prison industry, correctional officials must be able to prove the benefits of such programming to protect the program from elimination.

As correctional practice and prison operations have become more complex, so have the problems associated with them. Executives have to lead their staff in analyzing these problems and devising creative solutions to them.

***With increased external scrutiny, prisons must now justify what they are doing. To receive funding for a new program or to continue a long-standing practice, executives must prove to external agents that the program or practice is effective.***

## **Systems management skills**

Prison executives to a much greater extent than in the past are no longer free agents with considerable autonomy. Instead, they are participants in much larger bureaucracies that, when working well, act as well-integrated systems. Executives must recognize their roles in these systems and act accordingly, participating, contributing, and considering the much greater whole and the interrelationship of the parts.

As such, prison officials have to be more participatory, consulting with others both within the organization and external to it. They have to build coalitions and get people to buy into what they are trying to do. Management is about relationships, creating a vision and getting people aligned with that vision.

## **Strong people skills**

Successful prison administrators must be able to relate well with others—to seek them out, speak with them, and listen to their ideas, complaints, and suggestions. Gone are the days when a executive could sit in his or her office in the administration office and dictate policy and practice. First, the task of running prisons well is much more complex than in the past; more minds than one are needed to solve problems and devise creative solutions. Second, workers expect, perhaps even demand, to be consulted. They tend to be less compliant and willing to follow rules unquestioningly. Luckily for the modern executive, correctional employees are more competent than ever before. So why would a leader not tap into that expertise?

## **Integrity**

As the ultimate exercise of the state's power over individual freedom, law enforcement has always had the obligation to act in lawful, moral, and just ways. In corrections, that means that staff and inmates should be treated lawfully and with respect and dignity. Unfortunately, as we all know, that has not always been the case.

Today, more than ever, prison executives must act with integrity. One reason is that it is simply an organizational reality. With increased external scrutiny by central office staff, the media, external interest groups, and the courts, prison practices are now closely monitored. Keeping the lid on things is no longer sufficient to prevent criticism and external intervention; assuring that operations are unassailable to legal and moral scrutiny is essential.

This is not an easy task in a highly punitive era. Moral and just treatment of prisoners may be difficult. However, prison administrators can help inmates

understand why they are doing what they are doing, can support and care about offenders, can maintain hope, and can treat prisoners with dignity and respect.

The same goes for staff. Nearly all the officials interviewed stated that one has to walk the talk. Senior executives must personally subscribe to and support the values they espouse. If an administrator wants a clean facility, he or she must be vigilant in attending to cleanliness. If corruption is to be curtailed, surveillance must be maintained and swift and consistent corrective action must be taken.

Senior executives define what matters not only by their words but, more important, by their actions. What gets inspected gets attended to. The executive serves as the principal role model for the organization.

***Senior executives define what matters not only by their words but, more important, by their actions.***

## **Enthusiasm**

Finally, a prison executive needs to enjoy his or her job. When they get up in the morning, they need to be excited to get to work, to solve problems that await, and to work toward sound correctional practice and quality operations. When an executive loses his or her edge, others notice. If things do not matter to the bosses, why should they matter to anyone else?

As one warden told me, he asks himself each day what he can do for someone else. He said, "That's what it is all about. If I walk around all day with a smug look and yell at someone, I might as well stay in my office." Perhaps the role of the prison executive has shifted from being the head of an organization, the ruler of a little fiefdom, to being a servant of that organization, working each day to help others realize the organizational goal of sound correctional practice and quality operations.

*Ten extremely busy individuals took time out from their demanding jobs to speak with me about prison administration: Gene Atherton, Joe Bogan, Bob Brown, Jim Bruton, Tom Corcoran, Keith Hall, Kathy Hawk, Henry Risley, Morris Thigpen, and Pam Withrow. I thank them for their kindness and assistance.*

## **Notes**

1. Annual expenditures among the States totals more \$22 billion (Stephen 1999).
2. In reporting results, I did not link comments to specific individuals, refer to their institutions or organizations, or use pronouns to indicate the gender of a respondent.

3. This statement is based on descriptions provided by several respondents.
4. This description was provided by one of the respondents.

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# **Community Justice and a Vision of Collective Efficacy: The Case of Restorative Conferencing**

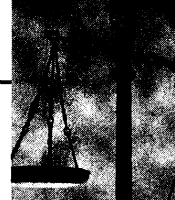
*by Gordon Bazemore*

One of the most visible manifestations of recent efforts to develop a more active and empowered role for both community groups and citizens in the justice process can be seen in the recent emergence of a variety of informal community decisionmaking models now being implemented with some frequency throughout North America and the world. This paper examines restorative conferencing as a case study in the involvement of crime victims, offenders, and other citizens as active participants in a nonadversarial sanctioning response to youth crime, generally focused on repairing harm. The purpose of this paper is to link conferencing both to a broader vision of the citizen and community role in a more effective response to juvenile crime and to a larger effort to build community “collective efficacy.” After describing the origins of restorative conferencing and its potential application to a range of crimes, offenders, victims, and communities, I outline a general theory of conferencing and then contrast emerging “theories-in-use” associated with various conferencing models. Finally, challenges to implementing these decisionmaking approaches, especially in the current juvenile justice context, are presented along with a general strategy for moving forward within a vision that explicitly links these microconflict resolution models to broader efforts to build community capacity and to expand the role of citizens in the justice process.

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In cities and towns across the United States and Canada—as well as in Australia, New Zealand, and parts of Europe—family members and other citizens acquainted with a young offender or victim of a juvenile crime gather to determine what should be done in response to the offense. Often held in schools, churches, or other facilities, these family group conferences are facilitated by a community justice coordinator or police officer. They aim to ensure that offenders face up to community disapproval of their behavior, that an agreement is developed for repairing damage to the victim and community, and that community members recognize the need to reintegrate the offender after he or she makes amends. Based on the centuries-old sanctioning and dispute resolution traditions of New Zealand’s Maori aboriginals, the modern family group conference was adopted into national juvenile justice legislation in New Zealand in 1989. This approach is now widely used in various modified forms in Australia; parts of Europe; communities in Minnesota, Pennsylvania, and Montana; other American States; and parts of Canada.

In Canadian cities, towns, and villages, as well as in several communities and neighborhoods in the United States, community members sit in a circle listening to offenders, victims, their advocates, and others speak about the impact of crime. When a “talking piece” is passed to an individual, and it is his or her turn to speak without being interrupted, he or she may comment favorably on rehabilitative efforts already begun by the offender. Speakers in these *circle sentencing (CS) sessions* also express concern for the victim or the continuing threat posed by the offender. At the end of the session, participants attempt to come to consensus about both a rehabilitative plan for the offender and an approach to healing victim and the community. Circles are a recently updated version of ancient sanctioning and settlement practices adapted from the traditions of Canadian aboriginals (Stuart 1996)—as well as those of indigenous people in the Southwestern United States (Melton 1995).

Throughout North America, as well as in many cities in Europe and other parts of the world, crime victims and offenders meet with trained mediators to allow the victim to tell his or her story to the offender, express his or her feelings about the victimization, make the offender aware of the harm caused by the crime, and obtain information about the offender and the offense. At the conclusion of most *victim-offender mediation* or *victim-offender dialogue* sessions, the victim and offender work with the mediator to develop a reparative plan that ensures that the offender will provide appropriate restoration to the victim and/or the community.

In hundreds of neighborhoods in Arizona, California, Colorado, Pennsylvania, and other States, local volunteers on community panels—also known by other names such as neighborhood accountability boards, reparative boards, and

youth diversion panels—are charged with designing informal sanctions that often require young offenders to make restitution to their victims, complete community service projects, provide service to the victim, or, in some cases, meet with or apologize to the victim. Although these panels and boards have existed in many communities for decades as diversion programs that attempted to address the needs of young offenders, a number are now adopting a restorative justice focus by recommending informal sanctions, and some are experimenting with more participatory decisionmaking processes. In Denver, for example, citizen members of neighborhood accountability boards, developed as part of a community prosecution initiative, receive both preservice and ongoing refresher training in restorative justice principles and decisionmaking approaches.

In Bend, Oregon, businessmen participating in a merchant accountability board at a local shopping mall hear cases involving shoplifting and vandalism committed by juveniles. Subsequently, these businessmen make decisions on appropriate sanctions for the offenders, which often include apologies, restitution, and community service projects either related to the offense or designed to beautify the Bend downtown environment.

Throughout the city of Edmonton, Alberta (Canada), community volunteers, sponsored and initially trained by community-oriented police officers, conduct “community conferences” in response to a wide range of offenses, as well as local disputes.

There is something different going on in many communities across North America and around the world in the response to youth crime. Offenders, crime victims, their families and friends, and others are engaged in informal meetings to try to address issues that crime has raised for all who have felt a stake in an offense(s). The goal of these encounters is not always clear to observers; the process and objectives will, in some cases, be understood differently by participants.

As suggested by the previously described variations, the process and immediate outcomes sought may be modified in various ways in different models and in different locales. This variation in what will be referred to generically in this paper as *restorative conferencing* seems in part to be a function of different meanings associated with familiar and not-so-familiar terms and phrases, such as “making things right,” “healing,” “repairing harm,” “empowering stakeholders,” “holding offenders accountable,” “giving victims a voice,” and “reintegrating offenders.” Influenced in use of these terms by larger *restorative justice* and *community justice* movements, participants in these encounters seem concerned about acknowledging personal responsibility for crime and about ensuring that young offenders receive appropriate sanctions that allow them to make amends

to those harmed by the offense. More generally, the process may involve elements of problem solving, conflict resolution, dialogue, norm affirmation, reintegration, and denunciation of unacceptable behavior.

In some cases the specific session observed may seem to simply replicate court protocols, albeit in the absence of formal guidelines. However, those who continue to participate will generally experience a more open and inclusive process, and those who listen to discussions of what organizers of these services are trying to accomplish will take note of a different form of discourse. Consistent with dialogue about community responsibility for youth socialization, as captured in phrases such as “it takes a village,” this discourse is also about a more “ambitious vision of justice” in which courts move beyond consideration of rights and proportionality to “do the work of restructuring relationships that have come apart . . . to construct a whole set of social relationships that ought to be guided and shaped by justice and mutual responsibility” (Moore 1997). However, this vision is often less about expanding the responsibility of courts and other justice agencies and more about building better community-driven responses to crime that activate and empower local social control and support processes. Indeed, after years of focus on the need for more programs and services—and recently on the need for more punitive juvenile justice responses—there is a noticeable shift toward a focus on the role of family, schools, neighbors, churches, and other nonprofessional groups. And after decades of placing responsibility for the socialization and social control of young people in the hands of expanding expert systems of service and surveillance, proponents of these new visions seem to recognize the limits of individualized, case-focused, professional responses that are unconnected to efficacious communities.

Although system-driven service, surveillance, and punitive responses continue to dominate, there are ongoing signs of a growing desire to recreate a collective informal response to youth deviance and crime. Though government cannot, as Mark Moore (1997, 27) suggests, “create love, or tolerance, obligation, or duty,” it can “create the occasions” in which these might be discovered. Especially in response to youth crime and trouble, there is some cause for optimism that “creating these occasions” may begin to empower a community-centered response.

Although restorative conferencing is not only about a new approach to juvenile justice decisionmaking, there is a special hope that, as part of this larger shift in focus, conferencing may become just one important part of a holistic effort to engage communities in a more effective response to youth crime. Indeed, because young people are generally viewed as at least somewhat less blameworthy than adults, and therefore more malleable, and because accountability for youth crime is more likely than adult crime to be viewed as spread among

other entities such as family, youth development and service organizations, and socializing institutions (especially schools and faith communities), many citizens may be willing to support approaches that might be viewed as less relevant responses to adult crime, such as family group conferencing. It is perhaps not surprising then that, with a few notable exceptions, the greatest number of restorative conferencing experiments have been implemented as youth justice alternatives. From another perspective, the fact that one primary impetus for experimentation with restorative conferencing has been a wider international crisis in juvenile justice systems (McElrae 1993; Feld 1999; Bazemore and Walgrave 1999) may also create cause for concern. This state of affairs leads many to regard youth crime and justice as something of a test case for experimentation with restorative justice alternatives. Both optimistic and pessimistic scenarios for the future of conferencing are possible, based on the alternative hypothesis that conferencing represents either more or less than meets the eye.

The previously noted case illustrations, as well as many similar examples, are indeed an indication that something promising and different is emerging in response to youth crime. However, in these same jurisdictions, and in most other U.S. communities, other very different processes are also at work. A pessimistic scenario, in which the potential of conferencing is not fulfilled, is grounded in a realistic assessment of the growing national and international crisis in juvenile justice systems that have both expanded their reach and increased the overall punitiveness of their general response. This hypothesis that conferencing will amount to less than meets the eye suggests a vision of these new responses as a trivialized diversion program that is simply appended to current mainstream system responses and thereby part of an expansionist agenda.<sup>1</sup> The pessimistic scenario will be considered at various points throughout this paper, and it will be addressed systematically when examining various implementation options for restorative conferencing. In part, however, the ability of conferencing to avoid these two fates will depend on mobilizing support for a broader vision of a third future: a sustainable community-building role for conferencing. Linking conferencing to broader concerns, both practically and conceptually, is central to the alternative, optimistic scenario for the future of conferencing.

## **The Optimistic Scenario: Conferencing as *More Than Meets the Eye***

Although justice policymakers have long recommended community-based approaches to corrections and policing and have at times promoted informal, neighborhood dispute resolution as an alternative to courts (e.g., Garofalo and Connelly 1980), several characteristics of the new restorative conferencing

models suggest broader concerns than a change in the location and user-friendliness of existing criminal justice intervention (U.S. Department of Justice [DOJ], National Institute of Justice [NIJ] 1996; Bazemore 1998a). Indeed, to the extent that conferencing approaches operationalize core principles of restorative and community justice, these restorative conferencing interventions share a common normative emphasis on involving those most affected by crimes in a response focused on objectives distinct from those that receive priority in formal sentencing and dispositional processes.

The term *community justice* has been used generally to describe a preference for neighborhood-based, more accessible, and less formal justice services that, to the greatest extent possible, shift the locus of justice intervention to those most affected by crime (Barajas 1995; Clear and Karp 1998).<sup>2</sup> According to one definition, community justice includes “all variants of crime prevention and justice activities that explicitly include the community in their processes. Community justice is rooted in the actions that citizens, community organizations, and the criminal justice system can take to control crime and social disorder” (Karp 1997, 3).

*Restorative justice* is a new way of thinking about crime that emphasizes one fundamental fact: Crime is a violation of individuals, communities, and relationships. Crime, therefore, “creates obligations to make things right” (Zehr 1990, 181). If crime is about harm, “justice” must amount to more than punishing or treating those found guilty of lawbreaking. Restorative justice therefore includes all responses to crime aimed at doing justice by repairing the harm or “healing the wounds” crime causes (Van Ness and Strong 1997).

Conferencing models are being widely discussed by proponents of restorative justice as techniques for providing victims and offenders with a more just and a more satisfying resolution in the aftermath of crime.<sup>3</sup> Supporters of conferencing claim a number of advantages, including providing victims with information, a voice in the justice process, and opportunities for redress; offering offenders the opportunity to make amends and to be held accountable while making them more aware of the harm they caused; respecting the family unit and providing opportunities for parents and extended family to act responsibly toward their children while receiving support; and increasing the likelihood that offenders will meet reparative obligations and be reintegrated into their communities (Hudson et al. 1996a; Umbreit 1994, 1999; Braithwaite and Mugford 1994). Any one of these assertions makes conferencing an important topic for theory, policy, and research discussion. Indeed, the practical importance of variation in models should exist primarily in their relative ability to accomplish one or more of these goals.



A premise of this paper, however, is that a focus on the individual benefits conferencing may offer to the offender, victim, and family alone may diminish the importance of a role for conferencing that is potentially far more significant. Yet, although all conferencing approaches to some degree share a commitment to deprofessionalizing the response to crime, there have been few attempts to strategically link the conferencing process to a broader vision of the citizen and community role in responding to crime and conflict. Equally problematic for those wishing to understand and evaluate restorative conferencing as an intervention within a social science, empirical research agenda is the failure to link these interventions to larger theories of crime and community (e.g., Sampson and Groves 1989; Skogan 1990). This lack of connection with broader etiological theory is in no way unique to conferencing (Gaes 1998), and it is indeed difficult to identify diversion or treatment programs that go beyond the individual or family level of intervention centered around individual and group counseling techniques.<sup>4</sup> It is unfortunate, however, precisely because certain theories-in-use in restorative conferencing are highly consistent with recent statements of social disorganization theory (Bursik and Grasmick 1993; Sampson 1995; Rose and Clear 1998) and with research that suggests that neighborhood “collective efficacy” in response to youth crime and disorder is a major predictor of lower offense rates (Sampson, Raudenbush, and Earls 1997). If conferencing practice is to direct itself toward community-building goals, these linkages need to be specified and elaborated.

Though such linkages are difficult, they are not impossible. To make a connection between these microlevel efforts to involve citizens and community groups in justice decisionmaking and more macrolevel efforts to strengthen community, it will be necessary to examine conferencing as an intervention approach that is more than an isolated program implemented as a diversion option or delinquency treatment alternative. Through a different lens, it is possible to focus on what conferencing might become, given a broader vision.

Based on the hypothesis that there is more to conferencing than meets the eye, it is possible to examine restorative conferencing as a general case study in citizen and community decisionmaking in the response to youth crime. I will therefore outline what Braithwaite (1998) has referred to as an “immodest theory” of what could be accomplished through an expansion of restorative conferencing. Such an optimistic vision has several components that include many of the previously mentioned conferencing objectives for individual offenders and victims. But this vision is also consistent with community justice’s concern with collective outcomes. As Canadian Judge Barry Stuart (1995, 6), a primary proponent of circle sentencing, states:

***By engaging citizens and community groups in decision-making about sanctions, conferencing may thereby expand participation in rehabilitative and public safety functions.***

[C]ommunities should not measure the success of any [community-based initiative] based upon what happens to *offenders*. The impact of community based initiatives upon victims, upon the self-esteem of others working [in the community justice process], on strengthening family, building connections within the community, on enforcing community values, on mobilizing community action to reduce factors causing crime—and ultimately on making the community safer—while not readily visible, these impacts are, in the long run, significantly more important than the immediate impact on an offender’s habits. (emphasis added)

This vision/theory has three related parts. First, at a micro level, conferencing seeks primarily to mobilize social support (e.g., Cullen 1994) around individual victims and offenders (Braithwaite 1998) by engaging citizens and community groups in a more meaningful, effective, and sustainable response to crime. Here, within a restorative justice framework, practitioners already are beginning to move away from a sole concern with individualized objectives; indeed, the concept of “repair,” and certainly the focus on rebuilding and/or strengthening relationships in restorative interventions (e.g., Van Ness and Strong 1997), presumes a focus on collective outcomes.

Second, at a middle-range level, sustained citizen involvement has been the missing link in current community justice initiatives (Rosenbaum 1988; U.S. DOJ, NIJ 1996; Boland 1998). In those efforts, the primary objective is to activate community social control and support mechanisms. Within a larger restorative community justice agenda (Young 1995, Clear and Karp 1999; Dunlap 1998; Van Ness and Strong 1997), conferencing has the potential to provide viable and empowered roles for community groups and citizens in decisionmaking about the response to crime. Moreover, though clearly intended as a response to crime, the conferencing process tends to blur the distinction between intervention and prevention. In doing so, conferencing may provide a kind of bridge for connecting sanctioning, public safety, and rehabilitative functions now compartmentalized in criminal justice bureaucracies. By engaging citizens and community groups in decisionmaking about sanctions, conferencing may thereby expand participation in rehabilitative and public safety functions (Bazemore and Griffiths 1997; Stuart 1996). It is also at this mid-range level that restorative conferencing may contribute directly or indirectly to community building and collective efficacy through, for example, “initiatives to foster community organization in schools, neighborhoods, ethnic communities,

and churches, and through professions and other nongovernmental organizations that can deploy restorative justice in their self-regulatory practices” (Braithwaite 1998, 331). Included at this level are any other activities that mobilize informal social controls as well as social support mechanisms (Rose and Clear 1998) and that serve also as educational tools through which community learning can occur (Stuart 1996; Hudson et al. 1996b).

Finally, at the macro level, some advocates of restorative conferencing have argued that there is ultimately a need to

design institutions of deliberative democracy so that concern about issues like unemployment and the effectiveness of labor market programs have a channel through which they can flow from discussions about local injustices up into national economic policy-making debates. (Braithwaite 1998, 331)

Here, some have postulated that conferencing may contribute to a “democratization of social control,” whereby a kind of “bubbling up” becomes possible as social justice issues are increasingly aired in community justice forums linked intentionally to what Braithwaite has described as vibrant social movement politics (Braithwaite 1994; Braithwaite and Parker 1999). As Pranis (1998, 3) suggests in her discussion of the possibilities inherent in circle sentencing and other conferencing approaches for addressing such issues:

The problem of crime is generating opportunities to understand and practice democracy in the community in new ways. It has become clear that creating safe communities requires active citizen involvement. This calls for a reengagement of all citizens in the process of determining shared norms, holding one another accountable to those norms and determining how best to resolve breaches of the norms in a way that does not increase risk in the community.

## **Purpose, Objectives, and Specific Focus of This Paper**

Although the macro focus on linking the conferencing agenda to social justice issues is an important agenda, this paper will emphasize micro and (especially) mid-range interventions in considering the potential of restorative conferencing for community building. Specifically, I will explore the meaning and implications of these new approaches for accomplishing two primary objectives: (1) changing the nature and effectiveness of the response to crime through meaningful citizen involvement in sanctioning processes that emphasize intervention outcomes beyond punishment and treatment of the offender; and (2) building community capacity or collective efficacy to sustain and expand these responses. Objective 1 will involve examination of theories in use that are relevant to the

impact of the participation of nonprofessionals and community groups on sanctioning outcomes. In other words, what difference might citizen involvement make in achieving various sanctioning and crime control objectives? Objective 2 will require an examination of the rationale for, and challenges to, building collective efficacy in a historical period in which it appears to many observers that social control has become exclusively a state rather than a community function.

The community-building role for conferencing is also premised on an implementation strategy that acknowledges the difficulty in mobilizing and activating citizens for what is essentially a transfer to communities of responsibilities for tasks now performed by government. In addition to these primary objectives, this paper will briefly consider a general implementation agenda for expanding conferencing. This agenda is based on the realization that restorative conferencing is unlikely to have anything other than marginal impact without systemic reform in the mission of justice agencies and a transformation in the role of criminal and juvenile justice professionals. Although some communities on their own may mobilize to demand a more participatory form of justice, in most locales such a change requires some degree of professional support and leadership. Achieving the vision of an active community therefore is unlikely, if not impossible, without a reformulation of professional roles.

Several important concerns about restorative conferencing will not be addressed here. First, this paper will neither contrast strengths and weaknesses of various models nor attempt to provide an up-to-date profile of conferencing approaches. In some cases, new models appear to be emerging overnight, and readers will need to look elsewhere for detailed descriptions of process and structural differences between conferencing models (e.g., Stutzman Amstutz and Zehr 1998; Stuart 1997). Ultimately, nothing short of a complete national inventory is needed to determine the range of variation in conferencing models from community to community.

Second, though this document is aimed in part at a research audience, the narrative can in no way be viewed as a research report. I will draw on completed and ongoing studies to provide evidence for, or raise questions about, the likelihood that restorative conferencing will be used, for example, for large numbers of cases that vary widely in seriousness, or to speculate about the prospect that these interventions will attract sustained citizen participation. But while a growing number of studies provide encouraging findings, relatively little data are available relevant to the concern here with the citizen role in conferencing. Although there is great value in developing rigorous experimental designs aimed at comparing conferencing outcomes with those of court proceedings and other informal decisionmaking processes (e.g., Sherman et al. 1998;

Umbreit 1999), there is also much work to be done in order to determine what various models are trying to accomplish and how they seek to achieve their goals. It is also necessary to focus attention on emerging issues in the restorative justice movement because, depending on the fate of this movement, there may be little, or much, to evaluate in future years. Hence, evaluation issues are addressed in this paper primarily in terms of proposing principle- and theory-based dimensions that may help researchers identify restorative conferencing when they see it. Because the paper will ultimately raise more empirical questions than it answers, it may also be helpful to those seeking to develop a research protocol.

Prior to addressing the primary objectives of this paper, however, it is important to develop a working definition of restorative conferencing. I will then briefly examine restorative justice more critically as a social movement, suggest a generic restorative theory of conferencing, and contrast emerging theoretical tendencies in various conferencing models.

## **What Is Restorative Conferencing and Where Does It Come From?**

### **A working definition**

Though conferencing is often equated with restorative justice (e.g., Marshall 1996), conferencing is best viewed as the sanctioning/problem-solving component of a broader restorative model. Such a model also includes such reparative sanctions as restitution, direct service to victims, and, community service. It would also include a set of appropriate policies, programs, and most important, a set of principles for responding to crime and harmful behavior in both formal and informal decisionmaking arenas (Bazemore and Walgrave 1999; Van Ness and Strong 1997). For purposes of this paper, I define a restorative conference as an encounter in which stakeholders in a crime come together to discuss how to repair the harm caused by an offense, following a finding of guilt and/or an admission of responsibility by one or more offenders. In doing so, stakeholders will generally seek a resolution that, to the greatest extent possible, meets the mutual needs of victim, offender, and community and will attempt to determine obligations or sanctions whose objective is to repair the harm.

This working definition also says what conferencing is not: It is neither an adversarial process nor an informal encounter of the type common in diversion programs in which juvenile justice professionals simply decide how an offender will be punished or helped. This definition is, however, open to a diverse set of nonadversarial decisionmaking processes that address the aftermath of crime

by seeking to heal and repair the harm caused by crime to individual victims, communities, offenders, and relationships through an effort to involve these stakeholders in the process (Van Ness and Strong 1997).

Because conferencing is an emerging field, much of the variation in process and structure seems to be in part a consequence of understandable efforts to localize and adapt generic models to meet diverse needs; however, it may also be a result of attempts by various organizations with a vested interest in one model or another to maximize “product differentiation.” The fact that most conferencing models—including victim-offender mediation, the oldest and most firmly established—are currently borrowing from other models to create hybrid approaches makes such absolute distinctions meaningless. Although this approach runs the risk of being overly eclectic in defining restorative justice or restorative conferencing, defining restorative justice too narrowly may exclude many current, emerging, and potential variations and prototypes, if and when practitioners ask the right questions and abide by certain principles (Zehr 1990).<sup>5</sup>

Most are now aware that restorative justice is not one program or process. Moreover, there is nothing inherently restorative in any conferencing model, and whether some approaches are more or less likely to be implemented in a restorative way is an empirical question. For those rightly concerned that an excessively liberal gatekeeping process will quickly fill the restorative justice “tent” with a large group of traditional practices that have now taken on different names,<sup>6</sup> the principle-based general definition should allow for inclusion of a variety of interventions and policies that will be evolving along a continuum of “restorativeness,” toward repairing more of the harm for more stakeholders, more of the time. Unlike black-and-white distinctions, a principle-based definition would allow one to rank various approaches along multiple dimensions, based on their potential to meet a variety of restorative objectives. Thus, although I will refer to four generic ideal types that highlight emerging variations in intervention theories, this does not imply the existence of any pure models or exclude other approaches.

## **Origins and influences: “Old” and “new” restorative justice movements**

Practices and settlement processes now labeled as “restorative justice” have roots in virtually all ancient human societies. Acephalous societies generally preferred reparative and often ritualistic responses to crime that sought to restore community peace and harmony as an alternative to blood feuds that generally had devastating consequences for community life (Weitekamp 1999).

The emphasis on vengeance later became more formalized, more predominant, and also somewhat more structured in the late Middle Ages as feudal lords and kings consolidated social control and the response to crime through the power of the state, in essence inventing retributive punishment (Spierenburg 1984). Van Ness and colleagues (1989) argue that the Norman invasion of Britain marked the beginning of a paradigm shift, a turning away from the understanding of crime as a victim-offender conflict within the context of community, and moving toward the concept of crime as an offense against the state. William the Conqueror and his descendants saw the legal process as an effective tool for centralizing their own political authority. Eventually, anything that violated the “king’s peace” was interpreted as an offense against the king, and offenders were thus subject to royal authority. Under this new approach, the king, and gradually the state, became the paramount victim, and the actual victim was denied any meaningful place in the justice process. As this occurred, the emphasis on reparation to crime victims was gradually replaced with the emphasis on punishment of the wrongdoer by the state, in what is now referred to as “retributive justice” (e.g., Zehr 1990).

Although reparation in the form of restitution and community service has been used occasionally by U.S. courts in this century (Schafer 1970), these sanctions did not become widely popular as sentencing options until the 1970s. Restitution, community service, and, to a lesser extent, victim-offender mediation have been used since the 1970s with some regularity in U.S. criminal and juvenile courts and are often administered by probation and community diversion programs (Galaway and Hudson 1990; Schneider 1985; Umbreit 1994).

In the 1990s, these and other reparative sanctions and processes are again receiving a high level of interest as part of a broader movement alternatively labeled restorative justice (Zehr 1990; Hudson et al. 1996b; Bazemore and Umbreit 1995), community justice (Barajas 1995; Griffiths and Hamilton 1996; Stuart 1995), and restorative community justice (Young 1996; Bazemore and Schiff 1996). In the United States, a series of high-level discussion workgroup meetings were recently held within the U.S. Department of Justice’s Office of Justice Programs at the request of the Attorney General, and restorative justice has sparked national and international discussion and debate in Australia, Canada, New Zealand, the United States, and several European countries (Robinson 1996). As Shaw and Jane (1998) observe, an international restorative justice movement “has become the subject of increasing interest among governments and sectors of the justice system who formerly paid little attention to its potential, leading to a snowballing expansion of policy and practice.”

According to Shaw and Jane (1998), the modern restorative justice movement in Canada can be understood as having three developmental phases. With slight

modifications and amendments, these adequately characterize the U.S. situation as well:

***Phase 1 (1970s)***

Building on the ideas of Christie (1977), that conflict should be viewed as property that essentially has been “stolen” by the state, a neighborhood justice movement (Garofalo and Connelly 1980; Harrington and Merry 1988) emerged that emphasized neighborhood courts and local dispute resolution. The Mennonite community at this time began to support nonadversarial mediation and reconciliation approaches, out of which modern victim-offender reconciliation programs and victim-offender mediation and dialogue programs were developed. The focus of victim-offender mediation on individual harm and interpersonal conflict between victim and offender—and a similar emphasis in neighborhood justice on individual dispute resolution—has carried over into restorative justice practice today. In youth justice, the diversion and alternatives to incarceration movements also formed a critical basis of general support for informal alternatives, including restorative justice, especially in the United States (Shaw and Jane 1998; Schneider 1985).

***Modern restorative justice also appears to be moving toward a systemic reform focus, one that represents a departure from the emphasis on programs to an emphasis on transformation in goals, process, definition of clients, and organizational structure and culture.***

***Phase 2 (1980s)***

This decade saw great expansion in victim-offender mediation programs (Umbreit 1999), in part as a result of great interest in restitution and community service programs as a means of institutionalizing reparative sanctions in juvenile courts. This period brought an emphasis on programmatic alternatives to both disposition and diversion as well as a proliferation of local alternative diversion projects that included mediation and/or reparative sanctions (Schneider 1985).

***Phase 3 (1990s)***

It has only been in the current decade (especially in its second half) that a more highly developed restorative justice movement, clearly associated with mounting dissatisfaction with the formal justice system, fear of crime, increasing costs, overrepresentation of minority youth, and other problems, has emerged. According to Shaw and Jane (1998), the 1990s also ushered in a “community phase” in restorative justice.



The community emphasis had always been present in some discussion and practice (e.g., Van Ness et al. 1989), but it had been minimized by the programmatic focus and the emphasis on individual victims and offenders in previous decades. Modern restorative justice also appears to be moving toward a systemic reform focus, one that represents a departure from the emphasis on programs to an emphasis on transformation in goals, process, definition of clients, and organizational structure and culture (Bazemore and Washington 1995; Dooley 1998; Umbreit and Coates 1998).

Today, restorative justice policies and practices are clearly “on the ground” in local communities, States, provinces, and even entire countries. In some cases, such as in New Zealand, disposition of all delinquency cases, with the exception of murder and rape, are handled in community family group conferences. Additionally, in the State of Vermont, where most nonviolent felons and misdemeanors are sentenced to make reparation to the victims by community boards, restorative justice plays a dominant role in criminal justice policy (Belgrave 1995; Dooley 1996). Significant State and local impact can also be seen, for example, in Minnesota, Ohio, and Maine, and other States that have adopted restorative justice as the mission for their correctional departments. State juvenile justice systems in 30 States, including Colorado, Florida, Idaho, Illinois, Montana, New Mexico, and Pennsylvania, have adopted restorative justice principles in policy or statute (Bazemore 1997; O’Brien 1999). Though this level of interest and activity at a systems level would not have been predicted even 5 years ago, most restorative justice initiatives remain limited to small experiments and are often lacking in even a vision of systemic reform (e.g., Bazemore and Walgrave 1999). Moreover, what has been loosely referred to as a restorative justice movement should more accurately be viewed as a loose coalition of restorative justice advocates.

## **Why now?**

There are no easy explanations for the growing interest in restorative justice at a time when criminal and juvenile justice systems in most States appear to be embracing a punitive model, and juvenile justice administrators struggle to maintain a treatment emphasis within a general focus on crime control and

***There are no easy explanations for the growing interest in restorative justice at a time when criminal and juvenile justice systems in most States appear to be embracing a punitive model, and juvenile justice administrators struggle to maintain a treatment emphasis within a general focus on crime control and retribution.***

retribution. Much of this interest seems to have emerged during a unique period of convergence between diverse justice philosophies and political, social, and cultural movements. Broadly, modern restorative justice appears to have been directly influenced by new developments in the victims' rights movement and an expanded role for victims in a community justice process (Young 1996); the community and problem-oriented policing philosophy and movement (Sparrow, Moore, and Kennedy 1990; Goldstein 1990; Rosenbaum 1994; Skogan and Hartnell 1997); and renewed interest in indigenous dispute resolution and settlement processes—at times accompanied by political efforts (especially in Canada) to devolve criminal justice responsibilities to local communities (Griffiths and Hamilton 1996; Melton 1995).

Although some have suggested that restorative justice may be simply another strategy for getting tough with offenders (Levrant et al. 1999), there is no evidence for this assumption either in practice or in the philosophical statements of restorative justice advocates. Restorative justice is in no way a lenient approach; it is, however, grounded generally in a strong critique of punishment, and specifically of retributive justice (Zehr 1990; Bazemore and Walgrave 1999). A critique of both rights-based, adversarial perspectives and social welfare models (Braithwaite and Petit 1991; Bazemore and Umbreit 1995; Walgrave 1995) has also affected the evolution of the new restorative justice movement. Clearly, some faith communities have been both supporters and practitioners of restorative justice, and several denominations appear to be expanding involvement today (Braithwaite 1998; Shaw and Jane 1998).<sup>7</sup> In another way, the women's movement and feminist critique of patriarchal justice (Harris 1990; Bowman 1994) has also been linked to the restorative critique of the punitive paradigm and has probably influenced the restorative justice tendency toward inclusiveness, as well as its related challenges to hierarchical decisionmaking.<sup>8</sup>

To put conferencing in context, it is important to raise larger questions that address political, economic, and ideological influences. Although a thorough consideration of political and economic influences is beyond the scope of this paper, it can be said that there are competing views about the motivation behind government interest in restorative justice. Some have emphasized the association of restorative justice with cost savings and fiscal get-tough policies (Daly and Immarigeon 1998). On the political side, others have emphasized that community and restorative justice must be viewed in the context of the legitimacy crisis facing former welfare-state, postindustrial governments such as Canada, New Zealand, and the United Kingdom (Crawford 1997). In Canada, in particular, the response to this crisis has seemed to be devolving justice, as well as social welfare functions, to local communities—especially Aboriginal communities.

In the United States, the conservative movement certainly mounted an attack on social services in the 1990s. However, criminal justice expansion has proceeded at an unprecedented pace, and restorative justice generally and conferencing specifically have been championed by advocates across the political spectrum (Pepinsky and Quinney 1991; Colson and Van Ness 1989). Moreover, political/economic influences on restorative justice do not lend themselves to easy categorization as conservative, liberal, or otherwise. In New Zealand, for example, though cost saving was certainly on the agenda in that country's movement to institutionalize family group conferencing (Daly and Immarigeon 1998), there was also evidence of ideological leadership in search of a more progressive, less punitive, and more culturally appropriate response to youth crime (McElrae 1996). The dominance of this more progressive vision and implementation focus, moreover, has been most clearly illustrated by recent opposition from sectors that are more supportive of the incapacitative and deterrence-focused policies that preceded restorative justice reforms in that country (Ministry of Justice 1998). In Canada, devolution of justice functions has been accompanied by relatively large amounts of funding to local communities—a policy that has been criticized for a top-down focus that provides support for new staff positions in the name of community justice and empowerment (Griffiths and Corrado 1999). Similarly, although there are also many valid concerns about cultural imperialism, as illustrated by rather insensitive efforts to impose specific conferencing models on indigenous communities in Australia (Cunneen 1997; Barga 1996), it is interesting that the New Zealand reforms were viewed as importing concepts and techniques from indigenous culture into existing Western justice systems (McElrae 1993).

Although a tendency toward overhyping new interventions among proponents of restorative conferencing and toward overusing anticourt and antisystem rhetoric may indeed justify some of the criticism of restorative justice (Harrington and Merry 1988; Daly 1996), there is also a danger in pervasive efforts to deconstruct reform movements that fail to recognize genuine differences in goals and motivation. And though there is certainly some truth in arguments that restorative justice has become popular because it has met certain needs of political economies, virtually all reform movements that have implications for power sharing and community participation could also be analyzed this way (e.g., Cohen 1985). A competing hypothesis is that the motivation behind recent efforts to implement restorative policies was neither primarily economic nor political, but more akin to a “muddling through” approach. At the ideological level, a more constructive critical approach can be taken, which is also useful in understanding the different tendencies and theories in use that become apparent as one examines conferencing in practice. Here, Harrington and Merry's (1988) analysis of neighborhood justice and mediation in the 1970s and 1980s may provide a useful protocol for assessing the movement

around restorative conferencing. Their emphasis on “multiple ideological projects”—often defined primarily in opposition to an assumed status quo—points to competing objectives within the mediation movement. These objectives were based on three frames of reference: social transformation, personal growth, and social service delivery. As I will describe later, parallel struggles are apparent within the modern restorative justice movement, but there are new and distinctive emerging ideological and theoretical tendencies.

Although the quest for a proactive community may certainly be viewed as nostalgic (Crawford 1997), the restorative justice movement seems also to build on a realistic element of anxiety about the loss of community capacity to address youth crime, trouble, and conflict. Related to this is a legitimate concern about the growth and expansion of the criminal justice system, its increasing consumption of resources, and the fear that this expansion has itself diminished community capacity to manage conflict (Rose and Clear 1998; McKnight 1995; Bazemore 1999b). There also appears to be something genuinely appealing about the restorative orientation that may rise above, or at least sidestep, two long standing strands of discourse in criminal and juvenile justice policy reform. Specifically, the restorative focus on repairing harm seems to challenge the terms of the punishment-versus-treatment and the crime control-versus-libertarian debates. In the discourse of restorative and community justice, repairing harm and building community capacity to respond to crime and conflict thereby replace punishment and treatment as a new continuum for intervention (Van Ness and Strong 1997; Bazemore 1998a). In addition, distinctive new concerns of restorative and community justice suggest a new continuum for reform, focused neither on expanding government crime control nor on simply ensuring the protection of rights and limiting intervention. Restorative justice advocates will ultimately stand with libertarians on many issues because they, too, question the value of much government intervention and are especially critical of the professionalization and expansionism of criminal justice that has, in turn, individualized the response to the collective troubles of victims, offenders, and communities (Christie 1977; Bazemore 1999a). The new vision, however, is not anti-intervention, and it is much more than a government “hands off” approach. Restorative community justice seeks rather to promote a community “hands on” approach, and to do so in part through government action in a significantly different role.

## **Where Conferencing Fits: Applicability, Generalizability, and Utility**

Despite these divergent political and cultural influences, restorative justice seems to be uniting a growing number of community leaders and justice

professionals around an emerging consensus that neither punitive nor rehabilitation-focused models are meeting the needs of communities, victims, and offenders. When viewed in light of these multiple influences, the diversity of conferencing approaches should come as no surprise. In this regard, restorative justice is best viewed not so much as a set of practices, but as a group of principles that may generally guide the development of rather diverse processes, programs, outcomes, and management strategies, while also shaping the relationship between government and community in the response to crime. As Morris and Maxwell (in press) observe:

[T]he essence of restorative conferencing is not the adoption of one model of conferencing; rather it is any model of conferencing which reflects restorative values and which aims to achieve restorative processes, outcomes and objectives. We would suggest, therefore, that there is no “right way” to deliver restorative conferencing. The key question is not “does the New Zealand model of conferencing work better than the Wagga-Wagga model, RISE or whatever?” but rather “are the values underpinning the model and the processes, outcomes and objectives achieved restorative?”

## **Administration and process**

Despite this acknowledged need for a focus on principles and values, it is nonetheless possible to identify several conferencing prototypes that have become prominent in recent years. Exhibit 1 describes the origins and current application of four “ideal type” restorative conferencing models and summarizes some differences and similarities among them in administration and process. Although the models share a nonadversarial, community-based sanctioning focus on cases in which offenders have either admitted guilt or been found guilty of crimes or delinquent acts, they vary according to staffing, eligibility, and the point in the system at which referrals are made. Notably, eligibility ranges from minor first offenders to serious repeat offenders (in the case of circle sentencing), and the models differ in point of referral and structural relationship to formal court and correctional systems. With the exception of most reparative boards or youth panels, decisionmaking is by consensus, but the process and dispositional protocol vary substantially—ranging from ancient rituals involving the passing of the talking stick or feather, in the case of circle sentencing (Stuart 1995), to the somewhat more formal deliberation process followed in some communities by board or panel members (Dooley 1996).

Finally, the process of managing dialogue also varies significantly among models, based on the nature of the role played by conference facilitators. Although reparative boards and youth panels use a chairperson to guide board members

**Exhibit 1. Restorative conferencing models: Administration and process**

<b>Model</b>	<b>Circle sentencing</b>	<b>Family group conferencing</b>	<b>Reparative boards (RBs) and youth panels</b>	<b>Victim-offender mediation</b>
<b>Time in operation</b>	Since approximately 1992.	New Zealand (N.Z.)—1989; Australia —1991.	Since 1995 (RBs); since 1920 (panels).	Since mid-1970s.
<b>Where used</b>	Primarily the Yukon; sporadically in other parts of Canada.	Australia, N.Z.; cities and towns in Montana, Minneapolis, Pennsylvania, and other States.	Vermont; selected jurisdictions and neighborhoods in other States.	Throughout North America and Europe.
<b>Point in system</b>	Used at various stages—may be diversion or alternative to formal court hearings and correctional process for indictable offenses.	N.Z.— throughout juvenile justice system; Australian Wagga Wagga model—police diversion. U.S.— mostly diversion, some use in schools and postadjudication.	RBs one of several probation options; panels almost exclusively diversion.	Mostly diversion and probation option. Some use in residential facilities for more serious cases.
<b>Eligibility and target group</b>	Offenders who admit guilt and express willingness to change. Entire range of offenses and offenders eligible; chronic offenders targeted.	N.Z. model—all juvenile offenders eligible except murder and manslaughter charges. Wagga Wagga model— determined by police discretion or diversion criteria.	Target group is nonviolent offenders; eligibility limited to offenders given probation and assigned to the boards.	Varies, but primarily diversion cases and property offenders. In some locations, used with serious and violent offenders (at victim's request).
<b>Staffing</b>	Community justice coordinator.	Community justice coordinator.	Reparative coordinator (probation staff).	Mediator—other positions vary.
<b>Setting</b>	Community center, school, other public building, church.	Social welfare office, school, community building, (occasionally) police facility.	Public building or community center for both.	Neutral setting, such as meeting room in library, church, or community center; occasionally in victim's home if approved by other parties.
<b>Nature and order of process</b>	After keeper opens session and allows comments from judge, prosecutors and defense present legal facts of the case (for more serious crimes); each participant allowed to speak when feather or "talking stick" is passed to them. Consensus decisionmaking.	In Wagga Wagga model, coordinator follows "script" in which offender speaks first, followed by victim and other participants. N.Z. model not scripted and allows consensus decisionmaking after private meeting of family members.	Mostly private deliberation by board after questioning offender and hearing statements, though some variation emerging in local RBs; in youth panel, members generally deliberate.	Victims speak first; mediator facilitates but encourages victim and offender to speak; does not adhere to script.
<b>Managing dialogue</b>	Process of passing "talking piece" manages dialogue after keeper initiates.	Coordinator manages dialogue.	Board chair manages; participants speak when asked.	Mediator manages.

Sources: Adapted from Bazemore 1997; Bazemore and Griffiths 1997.

through their questions and discussion with the offender, victim, and other participants, family group conferences rely on a coordinator to manage the discussion by ensuring that the offender, victim, and other participants are encouraged to speak (coordinators rely on a protocol or script in the Wagga Wagga or "Real Justice" model of conferencing) (McCold and Wachtel 1998). In victim-offender mediation, the mediator manages the dialogue by encouraging the victim and offender to take primary responsibility for expressing their feelings and concerns, ensuring that each respects the other's right to speak and probing occasionally to keep the discussion flowing. In circle sentencing, on the other hand, participants rely primarily on the process itself, which requires that only one person speak at a time and only when they are handed the talking piece. Although each circle has a "keeper," the role of this individual is not to manage the dialogue, but simply to initiate and ensure that the process is followed (and occasionally summarize progress).

### **Applicability/generalizability**

Perhaps the greatest challenge for advocates of restorative conferencing today is to determine and specify when and for what offender and victim populations the various conferencing models most readily apply. Related to this question is the question of effectiveness or potential utility for various populations of offenders and victims. For researchers, the question of applicability is closely tied to the issue of external validity or generalizability. For policymakers, it is practically translated as a question of replicability, eligibility, and the wise use of both system and community resources. For both groups, there is good news about the general applicability of conferencing that may challenge expectations and stereotypes and not-so-good news about the current ability of the field to provide clear answers to these questions.

### **The not-so-good news**

The diversity of conferencing models, and the creativity in implementing new approaches, is both an advantage and disadvantage. Similarly, the fact that conferencing models are highly informal, open, and user-friendly is also a strength that carries limitations in application. Thus far, conferencing has proved to be highly adaptable to the needs of various communities, and various models seem to be quite portable; for example, family group conferencing and circle sentencing, used initially as dispositional and diversion alternatives, have been adapted for use within secure facilities for juvenile offenders and as conflict resolution procedures in schools (Pranis 1998).

The difficulty is that unlike staff involved with interventions that include carefully crafted program manuals that clearly define eligible populations,

conferencing practitioners lean more toward deliberative admission decisions on a case-by-case basis. In addition, admission to the process is not about matching an intervention with the needs and risks presented by an offender (though that is part of it); rather, it is about trying to respond to the needs of victim, offender, and community, based on their willingness and commitment to participate (Stutzman Amstutz and Zehr 1998).

In this context, difficulty is not limited to determining what kind of response is most effective for whom, under what conditions. It is also difficult to determine the most effective use of conferencing resources. There is, for example, an apparent difference in labor intensity between such models as circle sentencing and community boards, for example. To date, however, there is not much evidence that practitioners have adopted clear standards for determining when a case needs the intensive attention provided by a circle process or intensive victim-offender dialogue, for example, rather than simply a board hearing (or even a restorative counseling session with police officer, victim, and family on the street). Although there is certainly some ongoing dialogue about developing a continuum, or menu, of restorative options appropriate to the difficulty or complexity of various cases (i.e., the needs of victim, offender, and community represented), the emergent nature of conferencing approaches, along with the tendency of some practitioners to promote their own preferred model, has added to the difficulty in developing guidelines for appropriate use. Because conferencing models have relied so heavily on community volunteers—who are supported primarily by community police, probation officers, and other such liaison staff—there has been less concern about appropriate use of labor-intensive resources. However, from another perspective, community participation is also an important resource that may be quickly exhausted if citizens feel that the problems they are being asked to solve are trivial ones. Indeed, in the experience with circle sentencing in parts of the Canadian Yukon, community groups given discretion over which cases to admit to circles often have shown a willingness to take the most difficult cases (i.e., the most serious and violent offenders) (Griffiths and Hamilton 1996). As Judge Barry Stuart (1995, 8) suggests, “When community people have input into who is accepted into a community sentencing process, they don’t just pick the ‘cream puffs’. . . they pick the guys who have been wreaking the most havoc on them for years.”

Stated another way, the failure to carefully plan strategic and efficient use of conferencing resources might ultimately create a situation in which a variety of conferencing models in a community compete for the same low-level diversion or prediversion cases, as is often now true of such programs as teen courts and other juvenile diversion programs.



## **The good news**

The bottom line is that the field does not know much about the relative applicability or relative effectiveness of various conferencing models. On the other hand, there is a growing body of practical experience pertinent to the question of where conferencing models might best fit within (or alongside) the current system and their effectiveness in producing positive outcomes. For example, numerous studies of victim-offender mediation and dialogue (Umbreit 1999) and a growing number of studies of various family group conferencing models (Maxwell and Morris 1996; Sherman et al. 1998; McCold and Wachtel 1998) report a significantly greater sense of fairness and reduction in fear (for victims) in comparison with the court process, as well as greater overall satisfaction and feelings of fairness for victim and offender when contrasted with other decisionmaking processes, such as court dispositional hearings. Conferencing has also fared well in empirical studies in achieving other positive intermediate outcomes, such as completion of restitution obligations, as well as reductions in recidivism (e.g., Umbreit 1994; Morris and Maxwell in press), when compared with such intervention alternatives as probation-based programs. Technically, however, conferencing as a short-term decisionmaking model should not be compared on such outcomes with formal intervention programs for offenders because conferencing is not generally viewed as an alternative to such interventions. Offender treatment programs will, by definition, focus more extensively on addressing the individual needs and risks of offenders (though generally to the exclusion of consideration of victim and community needs) and should therefore be expected to have a greater impact on reoffending than would a one-time conferencing encounter. In general, when the standard of comparison is, appropriately, a more formal decisionmaking process, such as a court system, conferencing models of all kinds generally fare better on virtually all outcomes. From this perspective, the more normative criticism that conferencing pays inadequate attention to individual differences between offenders and victims, at the expense of community, is also less valid.

The more specific questions around conferencing's applicability and generalizability usually come in two forms: (1) How appropriate are conferencing models for more serious and chronic offenders? and (2) How applicable are such models in culturally diverse, low-income communities?

### ***Serious and chronic offenders***

Regarding applicability with serious and chronic offenders—depending on how the question is framed—an appropriate answer is a qualified and contingent yes, no, and maybe. The answer often is “maybe,” because, with a few exceptions, there has been little research to date comparing success rates for more

serious or chronic offenders relative to other offenders. However, ongoing research in Australia, which features a randomized comparison between serious offenders in conferencing and those in control groups, will soon be able to address this issue (Sherman et al. 1998).

With the exception of some reparative board models and conferencing approaches that were developed for crimes unlikely to involve an individual victim (e.g., impaired driving), the answer is clearly “no” if the victim does not wish to participate. In far too many cases in the United States, the answer is also no where decisionmakers have placed excessive eligibility restrictions on admission.

The answer, perhaps more than generally anticipated, however, is “yes,” if victims are offered a viable conferencing option (Morris and Maxwell in press). Models such as victim-offender dialogue and mediation have been adapted over the years for the specific purpose of allowing a response to violent crime that could meet the needs of victims who, among other things, were seeking answers from offenders who committed a violent crime against them or one of their family members (Umbreit 1999). Such meetings will typically take place within secure facilities in the case of very serious crimes. However, victim-offender meetings have been successfully conducted as a response to a variety of assault cases and other violent crimes in community settings, often subsequent to a period of incarceration (Gustafson and Smidstra 1989; Gustafson 1996).

Other conferencing models, such as circle sentencing, never adopted eligibility criteria restricting admission to certain offender or offense profiles. Therefore, some programs admit serious offenders to the process in community settings (Stuart 1996; Griffiths and Hamilton 1996). Such admission has at times been the result of a delicate negotiation based on strong support from judges, who at times have persuaded prosecutors of the value of this alternative approach to developing a sentencing recommendation. These criminal justice decisionmakers participate, along with defense counsel and community members, in circles involving felony or indictable cases. So far, the few small experiments with circles in the United States have been restricted to less serious cases, although circles are being used within facilities in Minnesota and as a reentry process for offenders in juvenile facilities returning to the community (Pranis 1998).

Finally, the 10-year experience of New Zealand, where family group conferencing has been used as the primary dispositional decisionmaking process in response to all juvenile crimes—with the exception of murder, rape, and aggravated assault—is perhaps most convincing in regard to the applicability of conferencing to chronic and violent offenders. Also interesting to note is the fact that generally high rates of victim participation (65 to 80 percent) do not

appear to decline, and may even increase, in conferences involving more serious crimes (Morris and Maxwell in press). Together with the more limited experience with circles and victim-offender mediation, and the recent willingness of Australian decisionmakers to experiment with conferencing as a response to violent crimes as part of the Reintegrative Shaming Experiments (RISE) evaluation studies (Sherman et al. 1998), these findings suggest that limitations placed on types of offenses allowed in conferencing are primarily a function of reticence on the part of criminal justice decisionmakers rather than empirical evidence. Though more research is needed that examines the relative success of serious offenders in conferencing, numerous possibilities remain open, especially if decisionmakers are open to modifications in the conferencing setting (e.g., increased security measures). Moreover, when these programs are viewed properly, as alternative decisionmaking processes rather than as sanctions, it is possible to envision them as a gateway to more intensive and incapacitative alternatives when needed, with the added benefits of input from community members. Unfortunately, even with this understanding, decisionmakers in the United States overall have been reluctant to cede discretion to the community over more serious cases, and most U.S. programs continue to focus on low-level to moderate-level crimes.

### ***Diverse communities***

Other common questions are concerned with the extent to which restorative conferencing is applicable across cultural, ethnic, gender, and socioeconomic lines. Although the 25-year history of victim-offender mediation can be said to have its origins in predominately middle-class communities in the Midwest and Canada, mediation programs now operate in a wide variety of communities, including highly urban and rural contexts, and serve offenders from a wide range of backgrounds (Umbreit 1999). Other conferencing models—especially family group conferencing and circles—have their primary origins in Aboriginal cultures and communities and have recently been adopted in and adapted to Western settings (McElrae 1993; Melton 1995; Stuart 1996). Today, internationally, restorative conferencing is being implemented in diverse cultural contexts ranging from Africa and Asia to Europe, including a range of ethnic communities in Westernized countries like Australia and Canada.

In the United States, pilot programs for various family group conferencing models, boards, and circle sentencing now operate in African-American, Hispanic, and Asian communities, as well as in predominately Caucasian communities in cities including Baltimore, Chicago, Denver, and Minneapolis. Yet, although there is no national inventory that can provide a profile of what populations are predominately served by these programs, a best guess, given the

track record of diversion programs in this country and the predominately low-to-medium range of offenses generally targeted by most programs, would be that the population of offenders and victims participating is disproportionately white and middle class. Similarly, though no data are available on gender composition of conferencing programs, the best guess would be that they serve predominately male offenders—though whether the proportions are different than those in other community-based programs is unknown.

Effectiveness and sustainability in these diverse environments is, as might be expected, a question that cannot yet be answered based on the short history of these pilot programs. Because conferencing has yet to establish a long track record in any type of community, or (with the exception of victim-offender mediation) in dealing most effectively with any specific type of offender and victim, it is difficult to predict whether it will fare better or worse in various ethnic versus Caucasian communities and/or in urban versus rural or small-town communities. There is no evidence, however, to suggest lack of applicability across cultures or socioeconomic levels. Although some have questioned its potential effectiveness and acceptability in urban minority neighborhoods, some practitioners working primarily or exclusively in African-American neighborhoods, for example, are suggesting that conferencing has more, rather than less, resonance with the needs, values, and resources in these neighborhoods (Landry 1999). A part of this apparent compatibility is certainly linked to the role of faith communities in such neighborhoods—and their increasingly prominent role in restorative justice practice (Van Ness and Strong 1997). But although this faith community involvement might once have been said to be limited to the Mennonite church, certain Catholic parishes, or Navajo and other indigenous spiritual leaders—and hence assumed to be not easily transferable to secular or other faith contexts—involvement in restorative justice now appears spread across a wide variety of denominational and nondenominational sectors. However, although there is clearly a spiritual element in restorative justice, the conferencing process operates almost exclusively in secular contexts and can in no way be associated with one religion or religious orientation.

The problem of adaptability and cultural sensitivity is one faced by all justice reform efforts.<sup>9</sup> Although restorative conferencing, like all other interventions, will likely struggle with cultural and socioeconomic adaptability, its commitment to flexibility in addressing individual and collective needs of communities and citizens in restorative justice may give conferencing a clear advantage in this regard. A key to the transferability of restorative conferencing may well be in the search for common ground, as described earlier. This search is one that seeks to build on universal and communal norms in diverse contexts (Schweigert 1997) by allowing emotional expression that may identify sources of remorse, shame, and bonding, even among such violent offenders as gang members. As is

the case with adaptability to serious and violent offenses previously discussed, the intensity of crime and related problems in many ethnic communities, their traditional “under-service” by justice and social systems, and their sometimes antagonistic relationship with formal social control authorities may make such communities more, rather than less, appropriate candidates for restorative conferencing.

## **What Is Conferencing Trying To Do? Restorative Justice Principles, a Generic Theory, and Specific Focal Concerns**

### **What does restorative conferencing look like?**

Understanding the diversity in conferencing approaches and the often unpredictable dynamics that emerge in these informal processes is important in understanding what justice professionals and citizens expect to accomplish in these encounters. The following case examples provide a glimpse of this diversity and its implications for both theory and practice.

#### ***Case 1***

After approximately 2 hours of sometimes heated and emotional dialogue, the mediator felt that the offender and victim had heard each other’s story and had learned something important about the impact of the crime and about each other. They had agreed that the offender, a 14-year-old, would pay \$200 in restitution to cover the cost of damages to the victim’s home resulting from a break-in. In addition, the offender would be required to reimburse the victim for the cost of a VCR that he had stolen, estimated at \$150. A payment schedule would be worked out in the remaining time allowed for the meeting. The offender also made several apologies to the victim and agreed to complete community service hours working at a food bank sponsored by the victim’s church. The victim, a middle-aged neighbor of the offender, said that she felt less angry and fearful after learning more about the offender and the details of the crime, and she thanked the mediator for allowing the mediation to be held in her church basement.

#### ***Case 2***

After the offender, his mother, his grandfather, the victim, and the local police officer who made the arrest had spoken about the offense and its impact, the youth justice coordinator asked for any additional input from the approximately 10-member group of citizens assembled in the local school (the group included

two of the offender's teachers, two friends of the victim, and a few others). The coordinator then asked for input into what the offender should do to pay back the victim, a teacher who had been injured and who had a set of glasses broken in an altercation with the offender, and pay back the community for the damage caused by his crime. In the remaining half hour of the approximately hour-long family group conference, the group suggested that restitution to the victim was in order to cover medical expenses and the cost of a new pair of glasses and that community service work on the school grounds would be appropriate.

### **Case 3**

The victim, a middle-aged man whose parked car had been badly damaged when the 16-year-old offender crashed into it and also damaged a police vehicle after joyriding in another vehicle, talked about the emotional shock of seeing what had happened to his car and his cost to repair it (he was uninsured). Following this, an elder leader of the First Nations community where the circle sentencing session was being held, and an uncle of the offender, expressed his disappointment and anger with the boy. The elder observed that this incident, along with several prior offenses, had brought shame to his family—noting that in the old days, he would have been required to pay the victim's family a substantial compensation as a result of such behavior. After he finished, the feather was passed to the next person in the circle, a young man who spoke about the contributions the offender had made to the community, the kindness he had shown toward the elders, and his willingness to help others with home repairs. Having heard all this, the judge asked the Crown Council (Canadian prosecutor) and the public defender, who were also sitting in the circle, to make statements; he then asked if anyone else in the circle wanted to speak. A Royal Canadian Mounted Police officer, whose police car had also been damaged, then took the feather and spoke on the offender's behalf, proposing to the judge that in lieu of statutorily required jail time for the offense, the offender and the speaker should be allowed to meet on a regular basis for counseling and community service. After asking the victim and the prosecutor if either had any objections, the judge accepted this proposal. In addition, he ordered restitution to the victim and asked the young adult who had spoken on the offender's behalf to serve as a mentor for the offender. After a prayer in which the entire group held hands, the circle disbanded, and everyone retreated to the kitchen area of the community center for refreshments.

### **Case 4**

In a recent reparative board hearing in Vermont, a young man sat before the board members for a driving-while-intoxicated conviction. In such cases, board

members generally ask the offender how he is managing without a license (which is invariably suspended by the judge) after such convictions. While pursuing this line of inquiry, one board member had his chance to find common ground:

BM1: How do you get to work?

Offender: My friend, we both work up at Middlebury.

BM2: Who are you working for up in Middlebury?

Offender: [Name of contractor.] They're out of Boston.

BM2: Yeah, what are you doing up there?

Offender: Slate roofing.

BM2: Which building do you work on now?

Offender: On the college. It's a huge building.

BM2: Yeah, I'm working on the same building.

Offender: You are?

BM2: Yeah. The science building.

Offender: Yup! That's where it is.

BM2: I thought I'd seen you before.

Two consequences seemed to follow from this brief interaction. First, the offender immediately relaxed, smiling for the first time in the hearing, feeling he could identify with at least one person on the board. Second, there was an implication that his future behavior could be monitored. He might, in fact, see this board member again soon on the job (cited in Karp in press, 15).

On the one hand, as suggested by these cases, conferencing in practice can at times work well for all stakeholders. In some instances, what goes well is often simply a brief moment of human connection between one or more participants, as in the board encounter and circle sentencing cases. Conversely, on other occasions, the process may seem to be out-of-sync with the needs of stakeholders and may even appear to be in danger of causing additional harm.

The extent to which conferencing processes are directed toward restorative justice goals, however, is based on their degree of adherence to certain core principles. The importance of restorative principles is often illustrated most clearly in their absence—in those extreme and (fortunately) rare disturbing cases, in which, for example, a police officer seeking to “shame” an offender browbeats him in an effort to bring tears or a victim feels revictimized because of a clear imbalance

***If crime is fundamentally about harm, then the first principle of a restorative approach is that justice requires healing or repair.***

of offender supporters in the encounter (Braithwaite and Parker 1999). Some negative cases may reflect a lack of training in principles or a lack of preparation of participants. Still others may illustrate possible obstacles presented by cultural bridges that are simply difficult to cross given the unique mix of participation and/or facilitators present at a given conferencing encounter (Umbreit and Coates 1998). Positive and not-so-positive outcomes may also reflect limitations in the conferencing model itself.

Most important, these cases illustrate a wide range of intent and understanding of objectives in these informal decisionmaking processes. Answering the question, “What is conferencing trying to do?” is not an easy undertaking because the answer will depend in part on the unique capacities and goals of the model being considered and, at times, on the unique needs and concerns presented by the configuration of stakeholders/participants. Although not all conferencing interventions consistently pursue restorative goals, it is possible to provide a general sense of what conferencing is seeking to accomplish within the normative framework of restorative justice.

## **Conferencing and restorative principles: A normative framework**

Beginning with the premise that crime is more than lawbreaking, the primary assumption behind a restorative response is that justice cannot be achieved by simply punishing or treating offenders. Based on this assumption, Van Ness and Strong (1997) have articulated three core principles of restorative justice.

### ***Principle 1***

If crime is fundamentally about harm, then the first principle of a restorative approach is that justice requires healing or repair. The focus on repairing harm gives priority to a range of interventions, from monetary restitution and community service to apologies, victim service, and participation in victim and community impact panels. Repair also requires a commitment to different ways of making decisions about the terms of accountability in the response to crime. As a core principle, repairing harm may also have multiple meanings in different contexts, and it may also have implications for how stakeholders pursue public safety, sanctioning, and rehabilitative objectives (Bazemore and Walgrave 1999).



### ***Principle 2***

The fact that harm cannot be understood in a vacuum suggests that repair cannot be achieved in the absence of input from those most affected by crime. Hence, the second core principle of restorative justice is that victims, offenders, and community members be provided with opportunities for input and participation in the justice process as early and as often as possible (Van Ness and Strong 1997). The need to engage community members and groups, as well as victims and offenders (and their families and supporters), as stakeholders has been a source of creative tension and tremendous energy in restorative juvenile justice reform (Bazemore and Walgrave 1999), and the proliferation of restorative conferencing approaches is in part based on the need to provide more user-friendly forums for dialogue and input.

### ***Principle 3***

In addition to community, victim, and offender, justice systems and justice professionals are also stakeholders in restorative justice. Aside from providing legal authority, policy support, and resources, juvenile justice systems are now discovering that the new focus on repairing harm, and the need to actively involve three new stakeholders in decisionmaking, requires a change in the relationship between justice agencies and communities. The third core principle—that repairing harm requires a rethinking of the respective roles of government and community in the response to crime (Van Ness and Strong 1997)—is moving some justice systems away from the role of expert in a case-driven response toward a more facilitative one, based on problem solving and capacity building.

From a restorative perspective, the current justice process is also premised on the wrong questions. Today, when a crime is committed, most juvenile justice professionals are primarily concerned with resolving three issues: Who did it, what laws were broken, and what should be done to punish or treat the offender? Although these questions of guilt, lawbreaking, and appropriate sanctions for offenders are important, alone they may lead to a limited range of insular and one-dimensional interventions. As one juvenile justice professional has suggested:

Treatment and punishment standing alone are not capable of meeting the intertwined needs of the community, victim, offender and family. For the vast majority of the citizenry, juvenile justice is an esoteric system wrapped in a riddle. Support comes from understanding, understanding from involvement and participation. Community involvement and active participation in the working of a juvenile court is a reasoned response . . . [Currently] community members are not solicited for input or asked for their

resourcefulness in assisting the system to meet public safety, treatment and sanctioning aspirations. (Diaz 1997)

Viewed through the restorative lens, because crime is understood in a broader context, three very different questions receive primary emphasis. First, what is the nature of the harm resulting from the crime? Second, what needs to be done to make it right or to repair the harm? Third, who is responsible for this repair (Zehr 1990)?

Defining the harm and determining what should be done to repair it is best accomplished with input from crime victims, citizens, and offenders in a decisionmaking process that maximizes their participation (see principle 2). The decision about who is responsible for the repair focuses attention on the future rather than the past and also sets up a different configuration of obligations in the response to crime. No longer simply the object of punishment, the offender is now primarily responsible for repairing the harm caused by his or her crime. Justice agencies and systems would, in turn, be responsible for ensuring that the offender is held accountable for the damage and suffering caused to victims and victimized communities by supporting, facilitating, and enforcing reparative agreements. But, most important, as principle 3 implies, the community plays a critical role in setting the terms of accountability and in monitoring and supporting completion of obligations.

Following principle 1, a general theory of conferencing must focus on how stakeholders can best repair the harm of crime as a primary outcome. The first task must therefore be to define harm in terms of the needs of crime victims and other stakeholders. Restorative conferencing is, in this case, first an assessment process for understanding what each stakeholder needs to have restored. Victims, for example, are likely to need choices, including whether or not to participate in a conferencing process. Should they choose involvement, they will often be motivated by a desire to have losses restored, to receive information, to have input into the disposition or sanction, to reduce fear, and to hear a concrete expression of the value placed on them by the community (Umbreit and Coates 1998; Bazemore et al. 1998). Young offenders will need to learn that their actions have consequences, to have input into the obligations for repair, to have the opportunity to accept responsibility, to be supported in fulfilling these obligations, and, ultimately, to earn their redemption back into the good graces of the community through having developed new relationships with law-abiding adults (Maloney 1998a).

Community members may need to express disapproval or even outrage at the offender's actions in order to affirm communal norms, but they may also need to connect in some way with other families and neighbors. Citizens may themselves benefit from the support they provide to others, as well as from the new

connections established. As Hudson and colleagues (1996b, 3) observe in the case of family group conferences:

Conferences help to illustrate the responsibility of citizens to participate in community affairs. The reciprocity evident in the family group conference process helps emphasize the point that people can benefit from the challenge and opportunities of helping others. Receiving help can actually weaken one's self esteem but giving help as well as receiving it empower[s] people and strengthen[s] their sense of self worth.

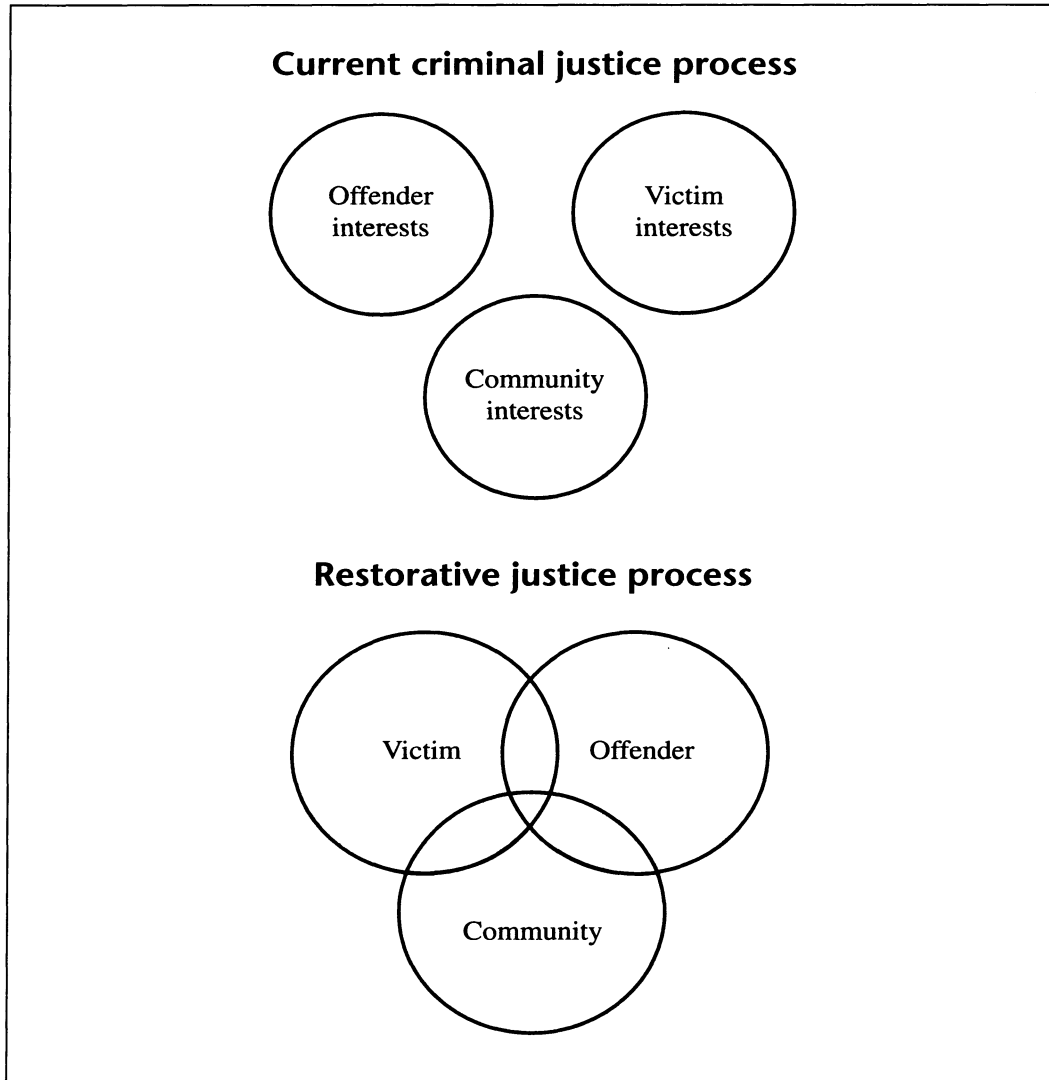
Following with the second principle of stakeholder involvement, a theory of conferencing would be concerned with how conferencing may promote the kind of meaningful stakeholder participation needed to define the harm, then develop a satisfactory plan to repair the harm. Such a plan should define clear roles for each of the three stakeholders; although the offender is primarily responsible for the repair, the conferencing process would be expected to elicit meaningful and inclusive participation in a way that is generally not possible in the court environment or other formal setting. A theory of conferencing would also postulate that conferencing encourages problem solving, dialogue, compromise, and resolution in a process that allows emotional expression (Umbreit and Coates 1998).

The third restorative justice principle is addressed in conferencing to the extent that government, in the form of the justice system, cedes discretion and resources to the community to accomplish the necessary stakeholder involvement and repair. All the while, government is expected to maintain an oversight role and general responsibility for supporting the community in addressing reparative objectives (Pranis 1998; Van Ness and Strong 1997). A theory of conferencing would specify the conditions under which community groups and citizens begin to truly influence decisionmaking processes while allowing justice professionals to ensure fairness (Braithwaite and Parker 1999).

## **Connecting, finding common ground, and building relationships: Toward a generic theory of conferencing**

A key distinction between restorative conferencing and other informal dispute resolution processes is a highly intentional three-dimensional focus on the roles and needs of victim, offender, and the community. Although the current system views the needs and interests of these stakeholders as incompatible, a restorative justice process is essentially a search for common ground (Stuart 1997). Hence, in addition to the effort to meet the individual needs of each stakeholder, there is a concern with identifying and meeting mutual needs. As exhibit 2

**Exhibit 2. Stakeholder interests and common ground: Objectives of alternative decisionmaking processes**



suggests, this common ground—where one can find a merger of interests of each stakeholder—is often a small plot, but it is viewed in restorative justice as the most fertile soil for achieving meaningful repair. Restorative outcomes can also build on the intersection of interests of any two stakeholders, thus expanding the area of common ground.

The magic of a restorative conferencing process, as described by many participants, is in how creative solutions seem to emerge when the dialogue allows for an inclusive and genuine expression of stakeholders' needs (Stuart 1996; Stutzman Amstutz and Zehr 1998). A generic theory of restorative conferencing might have as a key proposition that the best solutions and the most effective

outcomes are achieved when the conferencing process seeks to address the needs of all three stakeholders. Put another way, such a theory would suggest that it is unlikely that positive outcomes can be achieved for one stakeholder in the absence of an effort to engage and meet the needs of the other two.

There is also something important about stakeholders in a crime making connections in a process that allows safe expression and dialogue. Here it is implied that coming together to resolve a problem may itself produce a healing effect to the extent that it breaks down the sense of isolation felt by victims, offenders, and their supporters in the aftermath of a crime (Marshall 1996; Stuart 1996). Initially, this may result in a reduction in fear (Umbreit 1999; Morris and Maxwell in press) and increase the level of general satisfaction with the justice process for all stakeholders (Sherman et al. 1998). Ultimately, rebuilding, strengthening, or establishing new relationships is a central long-term goal of the restorative process and, at least implicitly, a central component of what is meant by the notion of repairing the harm (Van Ness and Strong 1997; Braithwaite and Parker 1999). One practitioner (Pranis 1998, 10) provides the following logic for this focus on relationships in the context of community:

- The fabric of community is the weaving of relationships.
- Crime harms relationships and thus weakens community.
- Our response to crime needs to attend to these relationships to rebuild or strengthen the community fabric.

As Morris and Maxwell (in press) suggest, connectedness may be a difficult concept to measure. However, one approach to evaluating the effectiveness of a restorative conference or conferencing model might be to ask whether or not the process, and/or subsequent actions to follow up on conferencing agreements achieved the following:

- Created new positive relationships or strengthened existing relationships.
- Increased community skills in problem solving and constructive conflict resolution.
- Increased participants' sense of capacity and efficacy in addressing problems.
- Increased individual awareness of and commitment to the common good.
- Created informal support system or "safety nets" for victims and offenders (Pranis 1998).

This idea of relationship building provides a key link among various models of conferencing as well as between conferencing and theories of community and crime (e.g., Skogan 1990; Bursik and Grasmick 1993). More broadly, relationship building is also linked to emerging theories that may challenge medical and public health perspectives on communities. Unlike the focus of the latter on community risks and deficits, these new perspectives emphasize resiliency and strength at the individual level, and community resources at the social ecological level (Benson 1997; McKnight 1995). For example, as McKnight observes, the ascendancy of the professions and service systems often brings with it a decline in the capacity and authority of citizens and community: “[T]he citizen retreats; the client advances” (1995, 106). At the community level, the service/medical establishment emphasizes what McKnight calls the “half-empty” portion of communities and thereby thrives on disease and deficiency as its “raw material.” The raw material of community, on the other hand, is capacity, and communities are built using the capacities and skills of needy, deficient people: “No community was ever built by a group of ‘full,’ unneedy people. Communities are built in spite of the dilemmas, problems, and deficiencies of needy people” (p. 76).

The importance of relationships in the conferencing process is grounded in this sense of community as interconnected networks of citizens who have tools and resources to promote healing and reintegration. At the micro level, processes such as conferencing may help to reconnect victims and offenders whose relationships have been weakened by crime with new sources of support in a kind of naturalistic ceremony of reintegration (Braithwaite and Mugford 1994; Bazemore 1999a). Specific intervention theories associated with various conferencing models will vary, however, in the relative importance given to relationship building and collective outcomes. Moreover, competing perspectives give more importance to the restorative process—the coming together of stakeholders—than to outcomes based on the principle of repair (Marshall 1996; Bazemore and Walgrave 1999).

### **Specific intervention theories**

More important than the administrative and process differences that characterize these ideal approaches to conferencing is the relative priority given to different restorative justice goals as well as the apparent differences in underlying assumptions or theories in use that guide the restorative justice effort. Distinctive focal concerns and priorities of each of the four models have been shaped by four “sensitizing concepts” that constitute distinguishable themes within the restorative and community justice literature. Each of these themes emerges from a slightly different ideological or theoretical critique of the adversarial/retributive justice process (cf. Harrington and Merry 1988), and in turn, puts forward a

somewhat different hierarchy of concerns and objectives in the community justice process. Hence, any proposed generic theory of conferencing may not be easily identifiable at any given point in the process in models where more attention is given to some specific focal concerns than others.

First, the four decisionmaking models, to different degrees, share a belief that the primary goal of the justice process should not be punishment or treatment, but rather holding the offender accountable to the person or persons he or she has harmed. This accountability/equity theme gives a primary focus in the conferencing process to ensuring that the emphasis is on the offender's obligation for repair rather than a discussion of needs or punishment. Based generally on an equity theory or an exchange model, as applied in the response to crime (e.g., Schneider 1990), the emphasis is on restoring balance, not by harming the offender but by requiring that he or she make amends for the harm done to victims and victimized communities. Bottom-line objectives for models that are primarily influenced by this orientation are to ensure that the offender hears about the harm caused to individual victims and the community; that he or she "owns" or accepts responsibility for the harm; and that a plan is developed to ensure the offender will take action to repair the harm to the greatest extent possible.

Second, all conferencing models generally seek to involve and to provide a more empowered role for crime victims in the process. To some degree, and in different formats, this includes opportunities for verbal input. What may be labeled an interpersonal dialogue theme in conferencing gives maximum attention to this need for victim input and for respectful dialogue between victims, offenders, and other participants. Focusing its critique on the lack of opportunities for victims to be heard, as well as to hear from other stakeholders in the formal process, this theme is also based on a concern that crime victims may be used as a means to an end (e.g., diverting offenders, increasing prosecution). To avoid this outcome, victims should be involved in decisionmaking as active participants, with information and feelings that need to be expressed. Conferencing or other decisionmaking processes, in which the mediator or coordinator cuts off dialogue, may alienate victims unnecessarily, limit emotional expression, and reduce overall satisfaction with the process (Umbreit 1998a). Such processes are referred to by one advocate of the dialogue theme as "settlement driven" because the mediator or coordinator seems concerned with maximizing the number of agreements rather than allowing open expression (Umbreit 1999). As victim-centered processes also concerned with the needs of the offender, conferencing approaches influenced by the interpersonal dialogue theme, in contrast, encourage minimum interference by mediators or coordinators and promote maximum opportunities for safe interpersonal communication, primarily between victim and offender. In contrast to the accountability/equity model, approaches based

on interpersonal dialogue themes may also give lower priority to outcome (e.g., completion of the reparation agreement) than process, a point addressed in more detail later.

Third, each model is in some way concerned with sending offenders an emphatic personal message of disapproval about the impact of crime. Each is, therefore, consistent with a newer theme in restorative justice, which is based on an emerging theory of crime and social control known as *reintegrative shaming* (Braithwaite 1989; Makkai and Braithwaite 1994; Moore and O'Connell 1994). The reintegrative shaming critique challenges any process that does not maximize the role of community members—especially those closest to the crime and those most intimate with the offender, such as family and extended family as well as the victim—in expressing disapproval of the offense and imposing consequences in an informal sanctioning process. It would be equally critical of a process that promoted what advocates of reintegrative shaming call “stigmatizing shame” (Braithwaite and Mugford 1994), which also did not provide for re-acceptance of and support for the offender following the shaming ceremony. The reintegrative shaming perspective is also broadly concerned with the larger sociological issue of the absence in what Braithwaite labels “high-crime societies” (or high-crime communities) of a common commitment to norm affirmation and maintaining community tolerance limits (Braithwaite 1989). Unfortunately, some conferencing programs may amount to a reduction of a macro normative theory about how communities produce and manage the process of social control and justice (Braithwaite 1989; Braithwaite and Petit 1991) to a micro intervention apparently aimed at shaming individual offenders. The infusion of restorative justice principles appears to be reshaping and broadening this narrow application in such a way that the emphasis on shaming may be taking a back seat to ensuring repair, supporting both victims and offenders, and promoting accountability. In practice, though some family group conferences may continue to put primary emphasis on shame, many now give primary attention to mobilizing social support for both offender and victim (Braithwaite and Parker 1999). The bottom-line objective of the sanctioning process in the models influenced primarily by reintegrative shaming is to create a context in which the offender will be made to experience feelings of nonstigmatizing “discretion shame,” which will ultimately facilitate community bonding and reintegration (Moore and O'Connell 1994).<sup>10</sup>

Finally, each approach shares some degree of commitment to challenge the traditional boundaries of the criminal justice process. Drawing in part on a world view common among indigenous peoples, the new models share a more holistic understanding of the justice process that tends to blur Western distinctions between community development, quality of life, spirituality, social justice, and criminal justice issues (Yazzie 1993; Melton 1995; Griffiths and Hamilton



1996). This understanding moves beyond the focus on changing the offender to an emphasis on the need for interventions and outcome standards for the justice process that give equal emphasis to peacemaking and to community change objectives (e.g., Melton 1995; Stuart 1996). In this sense, this theme implies a vision of justice that is transformative as well as ameliorative or restorative (Morris 1994; Belgrave 1995). What may be referred to as a community healing/capacity-building theme (Griffiths and Hamilton 1996) focuses its critique on weaknesses in the breadth and depth of community participation in most formal, as well as many alternative, decisionmaking processes. It is also most concerned with achieving collective rather than individual outcomes. The bottom line in this healing/capacity-building perspective is, therefore, an insistence on meaningful community participation not only in the justice process but also in problem solving, in conflict resolution, and in building or rebuilding damaged relationships. Breakdowns in these community relationships are argued to be the primary source of crime. Constructive citizen participation in their maintenance and repair and in resolving conflict and mutual support is, therefore, viewed as key to strengthening the capacity of communities to control crime (Stuart 1995; Morris 1994).

Notably, the reintegrative shaming, community healing/capacity building, accountability/equity, and interpersonal dialogue perspectives also have their own theoretical logic that can be used to develop propositions about the impact of conferencing processes on offenders, victims, and community. Thus far, at the level of implementation, each perspective appears to have exerted a more dominant influence on some models than on others, influencing the way in which the community is defined, the role assigned to the victim vis-a-vis the offender and other citizens in the process, and the unique mandate assumed by or granted to the community for such tasks as gatekeeping. It has been suggested that the strong influence of the dialogue theme in victim-offender mediation, for example, gives highest priority to victim needs and empowerment, while the influence of the community healing perspective on circle sentencing in part may be responsible for its more fully developed focus on active roles for citizens and community groups in a more holistic healing process. Although complete discussion of the four perspectives and their influence is beyond the scope of this paper, exhibit 3 suggests that each is associated with a different hierarchy of possible restorative justice objectives. Hence, as proponents of each model continue to evolve, adapt, and borrow insights from practitioners of other approaches, the contrasting priorities of each approach suggest some general empirical propositions inherent in each perspective. The influence of these priorities on each decisionmaking model and on its relative capacity to achieve victim satisfaction, community involvement, offender sanctioning and reintegration, and other community justice objectives is thus an important topic for future empirical research.

**Exhibit 3. Models, theories, and objectives in restorative conferencing**

Objectives	Models			
	Circle sentencing	Family group conferencing	Boards and panels	Victim-offender mediation
Ensure victim restoration	I	HI-I	I	HI
Shame/denounce offender	NA	HI	NA-SI	NA-SI
Involve citizens	HI	I-HI	HI	NA-SI
Share power	HI	SI-I	I	NA
Meet victim's needs	I-SI	SI-I	SI-I	HI
Protect victim	I	I	NA-SI	HI
Empower community	HI	NA-SI	HI	NA
Involve victim	SI-I	I	NA-SI	HI
Primary theoretical base	Community healing	Reintegrative shaming	Accountability/equity	Interpersonal dialogue
<p>Key:  HI—Highly important      SI—Somewhat important  I—Important              NA—Not applicable</p>				
<p>Source: Adapted from Bazemore 1997.</p>				

It is also possible to entertain the possibility that none of these theories are really pertinent to explaining the positive impact on participant satisfaction documented in studies thus far. An alternative hypothesis is that the simple fact that more time is allotted to hear their case than is true in the court process accounts for greater levels of satisfaction. Another explanation consistent with theoretical work and research in procedural justice (Tyler 1990) would suggest that it is simply the fact of being treated fairly that accounts for satisfaction, rather than the completion of restorative outcomes, the focus on repairing harm, or the extent that a citizen-driven rather than a professionally managed

process helps parties connect or strengthen relationships. Some more recent work, however, also suggests that fair procedures make a difference precisely because they tend to communicate respect, emphasize pride in the group, and appeal to symbolic relationships (Tyler 1994; Tyler, DeGoey, and Smith 1996). These findings also highlight the relational aspect of justice process encounters (Tyler 1994) and parallel the findings from recent studies of New Zealand family group conferencing. In the latter studies, the authors concluded—after considering a simplistic version of the procedural justice hypothesis that suggested satisfaction in conferencing was due to merely “having a say” in the outcomes—that victims were often dissatisfied when their recommendations were ignored or when outcomes were viewed as inappropriate (Morris and Maxwell in press, 13).

These questions about why restorative or other decisionmaking processes may influence participation satisfaction are by no means resolved, however, and key issues about the relative importance of restorative process versus restorative outcome remain unanswered. Moreover, research focused on restorative conferencing processes has yet to seriously examine relationship building as a key intermediate variable that may influence long-term outcomes. For now, it may be said that procedural justice theory, adapted to the consensual process of restorative justice, presents alternative hypotheses about conferencing outcomes. Ultimately, however, as Braithwaite (1998) suggests, what is distinctive about a restorative process may have less to do with fair procedures and more to do with deliberative justice:

The Western criminal justice system has, on balance, been corrosive of deliberative democracy, though the jury is one institution that has preserved a modicum of it. Restorative justice is deliberative justice; it is about people deliberating over the consequences of crimes, and how to deal with them and prevent their recurrence. This contrasts with the professional justice of lawyers deciding which rules apply to a case and then constraining their deliberation within a technical discourse about the rule application.

For purposes of this paper’s focus on the citizen and neighborhood group roles in enhancing both individual and collective outcomes in nonadversarial decisionmaking, what is important is how different priorities in various conferencing models might contribute to, or detract from, the attainment of these objectives. For example, how important is the dialogue between victim and offender, relative to ensuring that a maximum number of offenders is held accountable by repairing the harm or that a maximum number of victims receives reparation? Specifically, how important are each of these—as well as such objectives as denouncing the crime or maximizing citizen participation—in making things better for individual victims, offenders, and the communities in which they live? How important are these intermediate outcomes for increasing a community’s

capacity to control crime and for enhancing collective efficacy? Is it possible that a focus on any one of these objectives may diminish collective efficacy or harm individual offenders, victims, or their supporters, or damage the relationships among them? Optimistically, it may be said that each objective of conferencing is an important contributing factor to both individual and collective outcomes. Pessimistically, no one is certain about the answers to such questions or about the relative importance of each objective. Although uncertainty is to be expected, especially in field experimentation that is attempting to apply general principles in complex community contexts, the challenge for research and theory is to develop testable logic models, or intervention theories, which map and link inputs with various processes and intermediate outcomes. An even greater challenge is to link these intermediate outcomes with more long-term indicators of strengthened communities and restored victims and offenders.

To establish a base for making these difficult connections, it is important to explore in a practical and theoretical way why community involvement might make a difference for individual-level intervention outcomes and why conferencing might enhance collective efficacy. Based on the previous discussion, I suggest that the social relationship can become a core theoretical concept, helpful in linking restorative conferencing to both sets of outcomes.

## Why Community Matters

“Government is responsible for preserving order; the community is responsible for preserving peace” (Van Ness et al. 1989, 8).

Children grow up in communities, not programs. Development is most strongly influenced by those with the most intensive, long-term contact with children and youths—family, informal networks, community organizations, churches, synagogues, temples, mosques and schools. Development is not achieved only through services, but also through supports, networks, and opportunities. (American Youth Policy Forum 1995, 6)

By contrast, *public* controls can operate in the neighborhood without regard for *private* and *parochial* controls, although often not as well. For instance, the police can do their jobs regardless of the state of the local PTA. Further, police can make the streets safe so residents can attend the local PTA meeting. They cannot, however, make residents want to attend that meeting. Only well-functioning private controls can manage that. (Rose and Clear 1998, 294; emphasis added)

Is it not possible that the previously described restorative processes could not be designed and fully staffed and administered by paid justice professionals? Given the difficulties and risks in involving community members in decisionmaking, would juvenile justice systems not be better off adding staff and increasing training to allow courts, police, probation offices, and others to pursue restorative objectives?

A core premise of this paper is that ordinary citizens and community groups make a significant difference in achieving crime control and justice outcomes on two levels. First, community involvement can make a difference for victims, offenders, and their supporters, in the response to all crimes committed. Second, at the community level, citizen involvement in social control leads ultimately to lower crime rates and safer communities as communities learn and begin to affirm their collective efficacy (Sampson, Raudenbush, and Earls 1997). Though few in the restorative and community justice movements assert that the state has no role in a restorative process, the state is inherently viewed as limited in its ability to bring about meaningful changes for victims, offenders, and communities (Stuart 1995).

### **Transforming individual victims, offenders, and citizens**

Restorative conferencing is based in part on the assumption that the involvement of citizens and community groups—especially those attached in some way to victim and offender—will result in better outcomes for the latter. Moreover, several large restorative conferencing efforts have been based on the premise that citizens will be more supportive of justice processes to the extent that they participate in these processes (Dooley 1996; McElrae 1993). Outcome measures for restorative conferencing are not widely agreed upon. Although research provides strong empirical support for positive victim outcomes as a result of conferencing, theory linking conferencing to victim and community satisfaction is underdeveloped. However, several strands of theory are relevant to offender and other crime control effects that may result from community participation in such interventions such as conferencing. These may in turn suggest parallel theories of victim satisfaction and reintegration.

***Restorative conferencing is based in part on the assumption that the involvement of citizens and community groups—especially those attached in some way to victim and offender—will result in better outcomes for the latter.***

Although restorative justice practice is not associated with a specific etiological framework, restorative justice principles are consistent with several traditions in criminological theory (Karp 1997; Bazemore 1999a). At the macro level, ecological theories of community and crime focus on the relationship between structure and culture, as manifested in social disorganization and the inability of informal controls to limit deviant behavior (Sampson and Groves 1989; Karp 1997). At the micro level, social control perspectives (e.g., Hirschi 1969) emphasize the importance of the bond individuals have with conventional groups. This bond can be viewed as culturally and structurally fixed in the roles that individuals assume in the context of community groups and socializing institutions (e.g., family, work, school). This thereby accounts for informal constraints on deviant behavior, based on affective ties to significant others (teachers, parents), as well as on a more rational “stake in conformity” that limits individual criminal involvement by the risk posed by offending to future conventional opportunities (Briar and Piliavin 1965; Polk and Kobrin 1972). For those concerned with correctional intervention to rehabilitate offenders, a focus on strengthening this bond can also inform a reintegrative strategy.

At a more intermediate, interactional level of analysis, consistent with such social learning theories as differential association (Sutherland and Cressy 1978), the conferencing response to crime seeks to mobilize the influence of intimates and “communities of concern” (Stuart 1997) around the offender in order to promote resolution, accountability, victim awareness and reparation, and reintegration. Such informal processes may indeed be the first step in what some have labeled “reintegration ceremonies” (Braithwaite and Mugford 1994). Such ceremonies are clearly distinguished from the “status degradation ceremonies” of the formal court process and the isolation experienced by offenders in retributive processes (Garfinkel 1961; Stuart 1995; Wright 1991), which, consistent with the insights of societal reaction and labeling perspectives, are often said to be criminogenic (Becker 1960).

Though evaluation of conferencing is in its infancy, the consistency of findings from several unrelated bodies of research with the logic of conferencing interventions is also apparent. Specifically, research on the resiliency of children and youths who thrive and mature normally in high-risk environments suggests that—all other things considered—it is the presence of supportive adults in the lives of young people (not punishment or treatment interventions) that makes the difference (Rutter 1985). Similarly, longitudinal research on delinquents, including violent ones, also seems supportive of the view that relationships that facilitate access to conventional roles in work, family, and community account for maturational reform among young offenders (Elliott 1994). Finally, the research on community collective efficacy, noted earlier and discussed later, also has indirect implications for the prevention of and response to youth

crime. Specifically, in those communities where adults feel comfortable with, and capable of, sanctioning and support of other peoples' children—and generally where community members “do not mind their own business” (Braithwaite 1989)—crime is low.

At the individual level, this community-level finding could be translated into an intervention agenda designed especially to reconnect young people and adults and to promote both support and social control on the part of community and neighborhood organizations. Together, these theory and research literatures appear to support a naturalistic model of informal control and offender reintegration in which young offenders undergo reform as they build or strengthen relationships with law-abiding adults through experiences in new roles in which they are allowed to contribute to the community (Bazemore 1999a; Polk and Kobrin 1972). Conferencing in its current form may, of course, do nothing to support such relationship building; in the worst case, it may further weaken relationships. There have, however, been numerous examples in the relatively recent history of conferencing of how social support for offenders (Cullen 1994) can be mobilized as a common feature of the conferencing process (Braithwaite and Mugford 1994; Pranis 1998; Bazemore 1997; Stuart 1996). It is reasonable to suggest as an initial hypothesis that this support follows somewhat naturally from a process in which community members are invited to express feelings about the crime, hear the views of others—including offender and victim—and participate in decisionmaking that affects these stakeholders, while at the same time addressing public safety, censure, and reintegrative needs. If it can be shown that offenders, subsequent to the conferencing experience, follow through with their reparative obligations and “earn their redemption” (Maloney 1998a) in the eyes of conference participants, community acceptance may be a more likely outcome, and social support may be more likely to be forthcoming. This idea should be viewed at least as a hypothesis for empirical examination in systematic studies of offender reintegration following conferencing. Given the often similar and, at times, even greater reintegrative needs of victims, parallel hypotheses about support for victims in conferencing and its relationship to long-term satisfaction could also be developed and tested.

## **Collective efficacy and intervention in context**

The theoretical discourse around the concept of collective efficacy (e.g., Sampson, Raudenbush, and Earls 1997) is highly consistent with what has become a national dialogue about the role of citizens (other than social service or juvenile justice professionals) in the socialization of young people. Captured in this dialogue by such phrases as “it takes a village” and such initiatives as “communities that care,” these ideas have been focused primarily on the need to rebuild community support for youth development (Benson 1997; Hawkins

and Catalano 1992). Collective efficacy theorists make an important contribution to this dialogue with the added emphasis on the impact of informal neighborhood-centered sanctioning and social control.

A story told by the former lieutenant governor of Minnesota (cited in Pranis and Bussler 1997) illustrates the structural and cultural gap between youths and adults and the need to reestablish such informal controls. Lieutenant Governor Benson and her family were walking through a glass enclosure in Minneapolis, leaving a basketball game to return to a parking ramp. They passed a group of young adolescents engaged in horseplay. Because of the large amount of glass and the need for other people to pass through the area, Benson asked the youths to stop their activity. She continued on her way. Her son, however, noted that the boys continued fooling around. He turned and said, "Boys, didn't you hear what she said?" The lieutenant governor looked at her watch and added, "Now, we don't want you to get hurt, and by the way, isn't it time for you to go home?" As the Benson family turned to leave, one of the boys tugged the sleeve of the lieutenant governor and asked, "Do you work here?"

The lieutenant governor's story reflects one citizen's attempt to achieve social control based on an accepted community norm: safety. The story also reflects two points about our society: (1) The adolescent behavior toward the adults is a norm; (2) the adult behavior toward the adolescents is not a norm (Pranis and Bussler 1997). Many baby-boomers and older generations can recall a time when adults in their neighborhoods or small towns took responsibility for looking after neighborhood children other than their own. In effect, community members, with the encouragement and support of police, schools, and other institutions, often took care of problems that now end up in juvenile courts or diversion programs. One of the things neighborhood adults did, as Braithwaite (1989) states, was reinforce community standards, norms, and expectations. These adults set community tolerance limits and, through verbal or other sanctions (including telling parents), often persuaded youths to refrain from whatever troublemaking or annoying behavior in which they were involved. Thus engaged in expressing disapproval of behavior they viewed as wrong, neighborhood adults were generally able to maintain a relatively strong system of informal social control.

If asked whether adults engage in such informal sanctioning in our neighborhoods today, most people would have to acknowledge that they and their neighbors do not. There is widespread agreement that adults in the community are not participating in the rearing of other people's children in the ways they have in the past. Moreover, from their life experiences, today's youths expect that the only people who will speak to them about their behavior in public are members of their immediate family and people who are paid to do so.



As Pranis and Bussler (1997) remind us, the past 30 to 40 years may well be the first time since humans formed communities that parents, alone, have been expected to socialize their children to community norms 24 hours a day, without the reinforcement from other adults in the community, wherever the children may be. Indeed, the overwhelming nature of such an assignment contributes to the enormous stress experienced by families. Yet, the most important implication of this structural and cultural reality is for children and youths.

If the only adults who intervene in the lives of young people, other than family, are those who are paid—police, teachers, youth workers, and probation officers—then children may interpret this to mean that others do not care about them, that they do not belong to the community, that they are unimportant to the community. The implicit message to youths today—that the only ones who will bother with their lives are immediate family and professionals—is an extremely corrosive one that reinforces a world view quite distinct from the one many adults were socialized to accept. This is a world that does not encourage empathy or a sense of a common good larger than the individual interest (Pranis and Bussler 1997, 6).

Collective efficacy is, of course, not a program or even a policy. Although it may be certainly said that, at a macro level, communities achieve efficacy over time due to a variety of historic events, community and restorative justice concepts invite policymakers and theorists to think about implications for intervention of these core components of social disorganization theory. Building on the empirical and theoretical work of Sampson (1995) and others who have studied the impact of informal social control, Rose and Clear (1998) have recently speculated about the importance of both private (e.g., family) and parochial (e.g., school, church, neighborhood associations) controls (Hunter 1985) in maintaining low-crime neighborhoods, and the implications of both for justice intervention.<sup>11</sup> Depending on how conferencing programs are structured and implemented, they may weaken or strengthen both forms of informal controls. Alternatively, they may build on and enhance these controls. On the one hand, conferencing programs that tap into cultural and structural resources of community thereby provide the “space” and a vehicle for exercising informal sanctioning and social control. On the other hand, if the community role is poorly specified and citizens are ineffectively engaged, the former result is likely, and an expansion of justice-related services focused on individualizing the crime problem and removing at-risk community members may be anticipated:

A preliminary hypothesis is that services that are heavily focused on deficiency tend to be pathways out of community and into the exclusion of serviced life. We need a rigorous examination of public investments so that

we can distinguish between services that lead people *out of community and into dependency* and those that support people in community life. (McKnight 1995, 20; emphasis added)

After at least three decades of professionalization of tasks once handled by families, neighbors, teachers, clergy, and others, many communities will need time to discover or rediscover their collective efficacy in responding to crime and conflict. The good news is that a growing number of justice professionals seem to recognize that they have reached a crossroads in which neither the path toward a just-deserts focus nor an emphasis on better management, with due concern for what works in treatment intervention, seems to be a viable strategy (Dunlap 1998; Boland 1996; Perry and Gorczyk 1997). Although this paper will later consider the potential of the community justice movement to begin connecting theories of collective efficacy to intervention practice in the conclusion, it is important to acknowledge that these supportive professionals face a number of problems. A primary one is the practical distance between the theoretical and empirical basis for a new, more holistic approach focused on strengthening communities and the current intervention roles and job descriptions of police officers, probation and community corrections workers, prosecutors, and other juvenile justice professionals. Such professional limits on creativity in the response to crime indeed beg the questions of how criminal justice agencies can influence community capacity to prevent and respond to crime and disorder, as well as whether it should be their role to do so (Crawford 1997, ch. 6).

## **Implementation and Evaluation Challenges**

In the vision of restorative conferencing presented in this paper, citizens and community groups are viewed as resources in interventions designed to address the needs of victims, offenders, and communities. They are also viewed as leaders who begin, at the micro level, to build collective efficacy. Issues of implementation in this optimistic model would focus first on how citizen participation can be engaged and sustained. A second general concern is how juvenile justice agency mandates and professional roles can be changed to facilitate citizen involvement and community building. If, as argued thus far, restorative conferencing offers more than meets the eye, policymakers who support implementation of conferencing and, especially, evaluators who must assess both quality of implementation and impact must also consider the possibility of a less optimistic future.

## **The current reality: Conferencing as less than meets the eye**

Today, thousands of cases are processed through U.S. juvenile courts and systems that are ever more bureaucratic in nature and increasingly punitive in focus. At one end of these systems, there has been a profound increase in this decade in the number of offenders transferred to adult courts, and there is a much greater array of mechanisms (e.g., statutory provisions, prosecutorial direct file) in virtually every State for executing such transfers (Torbet et al. 1996). Although a number of these offenders will serve time in adult prisons whose populations now include unprecedented numbers of juveniles, on the other end of the system are traditional juvenile court decision-makers who, having lost much of their discretion over placement of serious juvenile offenders, seem ironically to be playing a greater role in the response to minor offending, youth conflict, and trouble. As some of these decisionmakers reassume jurisdiction over truants and other status offenders, for example, courts seem to be taking increasing responsibility for problems that two decades ago were handled primarily by schools, families, and community groups.

At both these extremes, and between them in probation and day treatment interventions for moderate-risk offenders, youths are processed, monitored, and treated in programs that are increasingly professionalized in focus and increasingly disconnected from communities. Although the juvenile court may survive efforts to abolish it (Feld 1999), as suggested by the title of an article arguing for retention of the court subtitled "Leaving bad enough alone" (Rosenberg 1993), the primary rationale behind support for retaining the court may be that criminal courts and adult corrections are viewed by most people as worse. Although there are better reasons for preserving a juvenile court, and realistic models for reform (e.g., Bazemore 1998b), valid concerns may be raised that restorative conferencing for young people may simply be appended to juvenile justice systems, also adding other numerous and rather dubious programs and innovations as part of a desperate search for legitimacy.

If there is good news in the fact that many juvenile justice systems are offering an open door to restorative conferencing, there is some concern that this entrance may also be a "trap door." Unfortunately, conferencing is now being literally dropped into, or alongside of, juvenile justice systems that are quickly becoming more retributive in nature, while seeking to retain some semblance

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of a commitment to a social welfare/treatment agenda (Feld 1999; Torbet et al. 1996). In most instances, little consideration has been given to how and whether the restorative justice agenda fits, or does not fit, with the priority of these new dominant orientations. As a consequence, some conferencing models seem prone to taking on a life of their own as ancillary programs outside the context of communities and irrelevant to dominant justice system responses to crime. At best, they may accomplish many of their individual healing and reparative objectives, albeit for relatively small numbers of individual participants. At worst, they may perpetuate an individualized form of justice that merely replicates court processes without safeguards or become an irrelevant or even harmful appendage to diversion programs.<sup>12</sup>

In the context of this expansionist agenda, one underlying concern of some community justice advocates and proponents of collective efficacy theories is that justice systems may themselves undermine the capacity of communities to resolve their own crime problems directly and/or their capacity to maintain core institutions of socialization and influence. The decline of civil society in turn necessitates even further intervention by the state, which creates a downward spiral of disorder and disenfranchisement (Skogan 1990). Although some have emphasized the negative impact on community social control of incarceration policies within larger punitive paradigms (Cullen and Wright 1995; Rose and Clear 1998) in the youth crime context, it is important to ask questions about the ways in which generally more benign juvenile justice interventions may have reinforced a process by which community adults and adult institutions appear to have become hapless in socializing young people.

Several developments in U.S. juvenile justice policy have expanded the government role in social control while undercutting the community's role. The 1960s movement away from informal neighborhood policing, which emphasized local responses to crime, toward centralized intake bureaus where juvenile justice professionals process young offenders through courts and treatment programs (Wilson 1967) is one example. Similarly, three decades of failure in the experience with juvenile diversion programs in the United States (Polk 1984; Ezell 1992) can teach related lessons about the intrusiveness and expansiveness of early intervention programs and the social service bureaucracies that support them. The general problem with diversion was, moreover, more complex than is reflected in the term "net widening." Rather, the professionalization and centralization of the response to youth crime was associated with an expansion of the justice system role and with a failure to distinguish between interventions that strengthened both youths' commitments and youth-adult relationships and those that further stigmatized and excluded young people, isolated youths from conventional adults, and usurped the community's responsibility. The problem,

moreover, was not government itself, but a failure to define a suitable role for government. When the role of the justice system is not clearly defined in concert with the community's role, justice and service bureaucracies are likely to overextend their reach, and programs will often make matters worse by aggravating processes of marginalization (McKnight 1995).

### **Systemic change: Changing government roles, relationships, and mandates**

One practitioner, Pranis (1996), has envisioned an evolving relationship between justice systems and communities in which the government role is slowly transformed in relation to an expanded community role. This change in the system role, from an expert crisis manager with no need for input to a partner with the community, occurs as citizens take on more responsibility and provide more input in an emerging collaborative process. Stages along the way may reflect intermediate steps in which the justice system attempts to become more information driven (Clear 1996) and community focused (a stance in which information is seen as valuable and interventions focus on community-level outcomes; citizen involvement, for example, is seen as an important goal), before reaching the highest level of collaboration in which the system may be said to be community driven.

In the case of restorative conferencing, one specific component of this emerging new relationship is the extent to which a conferencing process depends on courts or other government agencies. Some relationship with formal justice agencies is almost always necessary (e.g., for referrals). What is at issue, however, is the extent to which the process is driven by system needs—for example, to reduce court dockets or divert offenders—rather than the needs of citizens, victims, and offenders (Van Ness 1993). The issues of discretion and gatekeeping also raise questions about the degree of power sharing in decisionmaking and the role of the formal system in the process. Unintended consequences of collaboration with formal agencies might include co-optation of the conferencing process (Bazemore 1997; Griffiths and Hamilton 1996); extreme independence, on the other hand, may lead to irrelevance and marginalization.

***The problem facing youth justice reformers today is that the responsibility of juvenile justice agencies for youth socialization has become far too broad at a time when their jurisdiction, mandate, and discretion have been drastically restricted.***

To allow restorative conferencing to flourish as a community-building response to youth crime, juvenile justice agencies and juvenile justice professionals will need to exercise leadership to facilitate what is essentially a transfer of at least some power to community decisionmakers. The problem facing youth justice reformers today is that the responsibility of juvenile justice agencies for youth socialization has become far too broad at a time when their jurisdiction, mandate, and discretion have been drastically restricted. With extensive use of restorative conferencing options, a revitalized future juvenile court and justice system could acquire a broader mandate and vision while, at the same time, assuming less responsibility for decisionmaking tasks best accomplished by citizens and community groups.

A broader mandate and circumscribed responsibility for the court, within the context of an expanded role for the community, might have several implications. First, the court has legal and advocacy functions that will be even more important in the future, and it should have an active leadership role to play in restorative community justice. Even assuming systemic change that drastically reduces the formal role of the court and expands the informal role of the community, the formal roles of judges, prosecutors, defenders, and the legal system are unlikely to be in jeopardy. Restrictions on the responsibility of the court would be felt primarily in the dispositional realm. Specifically, the court would, as illustrated most explicitly by the New Zealand reforms (e.g., McElrae 1993), cede primary decisionmaking power to the community for determining the nature of sanctioning responses to youth crime. Once guilt has been admitted or determined, in the majority of cases, community panels or conferences, with facilitative support from the court, could make these decisions more sensitive to the needs of crime victims, offenders, and their families. Braithwaite and Parker (1999) have, in addition, suggested that the court should maintain a review and oversight role to protect against possible "tyranny of the community" and unfairness to offenders and victims, if and when these emerge in the informal setting of conferences.

Second, freed from a large part of its dispositional responsibilities, the court's authority could be used to support a larger community and social justice agenda by influencing school policy, housing practices, family support services, and access to employment and recreational activities. While becoming an advocate for victims' needs, the court might also use its legal authority to remedy institutional practices in schools, the workplace, and communities that may not only violate the human rights of young people and their families but also diminish the likelihood of their healthy development. At a more micro level, the most important change would involve a transformation in the role of juvenile justice intervention staff from service and surveillance providers within a casework

framework to facilitators of community justice that is focused on collective, as well as individual, outcomes (Dooley 1998; Maloney 1998b).

## **The community role and citizen involvement**

The tentative theories and sensitizing concepts proposed thus far in support of expanding the importance of citizen and community involvement in response to youth crime also raise fundamental empirical implementation questions about whether, and to what extent, community members are willing to participate. In addition, the implicit assumption that community groups practicing the conferencing process will build skills and capacities necessary to sustain such process is an untested one. Though conferencing is a new and emerging field, the now extensive research literature on the citizen role in community crime prevention is less than hopeful in its conclusions about both of these issues (e.g., Rosenbaum, Lurigio, and Davis 1998). Numerous studies of citizen participation in prevention initiatives suggest generally low levels of participation, and predictive factors indicate that those communities and individuals most affected by crime are the least likely to get involved. Regarding sustainability, Rosenbaum's "implant hypothesis"—in which it is suggested that formal social control agents can sow seeds of informal crime prevention in communities that will grow into strong, vibrant, and resilient neighborhood ventures—has not yielded positive findings for those hopeful about the prospects for community capacity building:

[This research] leaves unanswered the fundamental question of whether the *introduction* of a community crime prevention program (and Neighborhood Watch in particular) can make a difference in the perceptions, attitudes, and behaviors of local residents. The important question here is whether informal social control (and other processes supposedly activated by watch-type programs) can be *implanted* in neighborhoods where they have not naturally developed. Let us refer to this as the implant hypothesis. (Rosenbaum 1987, 108; emphasis in original)

The suggestion that conferencing programs are much better suited to build and sustain local capacity for informal social control is based on logical (and hopeful) assumptions that the more empowered decisionmaking roles offered by conferencing will make the difference in both participation and the ability to build community. This logic and hope, however, is not yet supported by strong evidence.

Currently little is known about the empirical determinants of community participation in justice decisionmaking generally, and in conferencing specifically. What has been learned from the conferencing experience, however, seems to

challenge the commonly accepted wisdom of an apathetic public. Though they are only case studies, the experience in New Zealand with family participation and victim involvement in family group conferencing has been positive, as has the participation rate of victims, families, and support group members in some other forms of youth conferencing in the United States and elsewhere (Hudson et al. 1996b; Maxwell and Morris 1996; McCold and Wachtel 1998). Citizen involvement in Vermont's reparative probation program has sustained statewide volunteer boards for nearly 5 years (Perry and Gorczyk 1997), and hundreds of citizens in an estimated 10 States have participated in neighborhood youth panels or accountability boards that have existed in some jurisdictions for several decades (Bazemore 1997). What is not well understood at this time are the predictors of citizen involvement and the correlates of sustained participation. We are also both optimistic and uncertain about the extent to which restorative conferencing interventions can engage citizens in a more efficacious manner than other volunteer initiatives in juvenile justice.

At this stage in the development of restorative conferencing initiatives, a key implementation and evaluation issue is to develop dimensions for, and begin to assess, how community is defined and targeted for intervention, how citizens are recruited and involved in the conferencing process, and what role citizens and community groups are allowed to play vis-a-vis the role of the juvenile justice professional when and if discretion is shared and transformation occurs in the relationship between justice systems and the community (Bazemore 1998a).

## Discussion

Although I do not wish to minimize the potential healing value to even small numbers of victims and offenders who participate in conferencing programs that may persist as small, marginal alternatives, I have argued here for a much broader role for conferencing and a very ambitious agenda in community building. Such an agenda would seek to move conferencing beyond the level of a few diversion programs to the status of a full-fledged alternative, community-based decisionmaking process. At a minimum, this agenda would seek to avoid the potential harm of conferencing as it may be used to simply expand the reach of the formal system.

Because it is in communities, not courts and programs, where standards of behavior are affirmed and individuals are held accountable for their actions, it is not surprising that the formal juvenile and criminal justice response has had minimal positive impact. Indeed, David Moore (1994, 11) writes that although "formal procedures of the justice system provide important safeguards for rights," these same procedures may also



[D]eprive people of opportunities to practice skills of apology and forgiveness, of reconciliation, restitution, and reparation. In assuming responsibility for social regulation when a citizen breaches a law and thereby challenges the moral order, the modern state appears to have deprived civil society of opportunities to learn important political and social skills.

Is it possible to reverse this process by clarifying both a government and community role in crime control? In an important sense, restorative conferencing may be viewed as part of an effort to rediscover a collective response to crime as a community concern in an era in which this response has been increasingly individualized and the citizen role in informal sanctioning and social control has been greatly diminished. A reinvention of viable neighborhood responses will not therefore be easy. Some communities may be highly resistant to taking on increased responsibility after being told for years to “leave crime to the experts” (Rosenbaum 1988). In addition, as suggested in an early critical review of the community policing experience in the 1980s, community justice may ask too much of citizens who must

[S]hake off fear of crime by forming “partnerships” with the police, and re-establish community norms that will successfully resist the encroachments of the criminal element. Unfortunately the early returns from the field suggest that successes in this regard are modest, that community policing initiatives have so far failed to tap the great wellspring of “community” believed to lie waiting for the proper catalyst. (e.g., Rosenbaum 1988, 375)

## **Moving forward: Conferencing, efficacy, and community justice**

Given the limitations of current responses, where does restorative conferencing fit into a larger, if appropriately modest, vision of community collective efficacy? I have implied thus far that involvement in nonadversarial restorative conferencing may be one indicator of an emerging new relationship between government and community in the response to crime, with the latter in a more empowered leadership role (Pranis 1996; Van Ness and Strong 1997). To begin to outline a strategy for moving forward, it is important to first place conferencing within the larger context of an emerging community justice movement.

*By engaging citizens in the concrete task of crafting a practical response to crime, based on defining harm and developing obligations or sanctions focused on repair, conferencing may provide a key element heretofore missing in community prevention initiatives: sustained community involvement.*

The promise of conferencing models is that they will provide a context for citizens to come together for a practical purpose in a process that may mobilize and link (through participation of family members, neighbors, and community groups) both private and parochial controls. Such controls have proven in community crime prevention efforts to be most difficult to activate, in part because community police and other practitioners have been unable to identify meaningful roles for community members beyond initial attendance at community meetings (Skogan 1998; Buerger 1994). By engaging citizens in the concrete task of crafting a practical response to crime, based on defining harm and developing obligations or sanctions focused on repair, conferencing may provide a key element heretofore missing in community prevention initiatives: sustained community involvement (Rosenbaum 1988; Rosenbaum, Lurigio, and Davis 1998). By bringing families and other sources of private control together, conferences may develop informal resource networks or channels of communication and dialogue that lead to stronger parochial controls (cf. Hunter 1985; Rose and Clear 1998).

The apparently more micro agenda of restorative conferencing (private controls) may complement the generally more macro focus on community building and other collective outcomes of community policing and other community justice interventions (parochial controls) (cf. Crawford 1997, ch. 6; Clear and Karp 1999). On the one hand, it can be said, for example, that community policing interventions may pay inadequate attention to the individual and interpersonal needs of victims and other stakeholders directly associated with individual incidents of crime. Meeting such needs is, of course, the primary concern of most practitioners of restorative conferencing. Because they generally owe primary allegiance to the individual participants in specific restorative encounters, these practitioners may, on the other hand, ignore larger community concerns (and remain somewhat marginalized in their impact). Restorative conferencing advocates can therefore learn much from the more macro perspectives of some community justice advocates—especially those focused on the need to minimize the harm of intervention on the collective efficacy of minority neighborhoods (Rose and Clear 1998). To the extent that these differences in micro versus macro focus remain, they can be made to work together in a way that is mutually reinforcing.

## **Moving forward: Conferencing, efficacy, and community learning**

Regarding restorative conferencing, proponents of the theory of collective efficacy might pose two related questions. The first would be whether or not such interventions could become so widespread that they were available and widely

used in response to youth crime by police, schools, and courts. Although this question would imply that conferencing should become a neighborhood institution, an even broader question might be: How can such an intervention create a climate in which a restorative process is the normative response to conflict and harm?

Prior research on the sustainability of conferencing notwithstanding (Rosenbaum, Lurigio, and Davis 1998), the answer to both questions must assume a community learning process. As Judge Barry Stuart (1995, 8) has suggested, community learning requires practice:

When citizens fail to assume responsibility for decisions affecting the community, community life will be characterized by the absence of a collective sense of caring, a lack of respect for diverse values, and ultimately a lack of any sense of belonging. Conflict, if resolved through a process that constructively engages the parties involved, can be a fundamental building ingredient in any relationship.

Although assessing community learning may seem complex in one sense, in another, such impacts are gauged by the extent to which processes are repeated successfully and by the extent to which conferencing programs begin to address more serious problems and to accept more serious offenders. In essence, each restorative conferencing ceremony can also be viewed as a demonstration that, when successful, builds confidence elsewhere in the community that citizens are capable of resolving conflict. As Hudson and colleagues (1996a, 3), suggest:

Conferences can also be seen as an educational tool, a forum for teaching and practicing problem-solving skills. Family members can learn and practice these skills and learn about the strengths of family members and the resources available to them; young offenders can learn that their actions have real consequences for victims and that they are able to make amends.

Proponents of restorative justice approaches are indeed engaged in micro attempts to build community from the ground up using the vehicle of sanctioning ceremonies. Although the prospect of such activity causing systemic change in criminal justice seems remote, other examples of community organizing suggest that it is often one signifying incident (e.g., a police shooting) that mobilizes neighborhoods to implement reforms. It might not stretch this analogy too far to argue that new awareness of the crime problem in a community, growing problems with neighborhood young people, concern about increased victimization, or a particularly disturbing case could provide a wake-up call to at least a few citizens or neighborhood groups, who then band together to initiate fundamental change in the response to crime.

Moreover, the cultural significance of stories about both personal victim and offender transformation and community and relationship building that are becoming common among conferencing practitioners may begin to provide a counterbalance to the crime horror stories that dominate the media and drive criminal justice policy (Pranis 1998). In so doing, the stories could enhance the strength of emerging grassroots support by providing a kind of folklore that illustrates a much wider range of possibilities in the community response to crime. In addition, consistent with Naroll's theory of "snowballs" (1983), as the conferencing process is repeated, discussed, and publicized often enough in what some see as a period in which policymakers sense that they have reached the limits of the punitive and individual treatment responses, a broader cultural learning process may be initiated (Stuart 1995; Braithwaite and Mugford 1994). Such a process may allow these alternatives to slowly seep into the cultural repertoire of potential responses to crime and to the harm that crime causes.

Although the hope for cultural change in a direction supportive of restorative conferencing by means of widely repeated demonstrations of successful restorative responses seems farfetched, Schweigert (1997) suggests that the emerging restorative justice agenda for "community moral development" has several characteristics in common with other successful social change movements. These include a blending of means and ends, or process and outcome (e.g., conflict resolution and informal social control mechanisms), that allows for multiple and ever widening impact, as the means themselves result in outcomes which are unforeseen by the actors involved, yet are consistent with the basic principles. Moreover, restorative justice reforms build on community assets (Benson 1996), follow the lead of "citizen politics" in their adaptability, and focus on local communal traditions while using professionals as catalysts and facilitators. Restorative conferencing demands and encourages collaboration and allows for "free space" or "space between places" in social relations, where individuals and communities and the formal and informal intersect. The latter characteristic encourages victims, citizens, and offenders in conferences, mediations, and other processes to resolve conflict in a way that is potentially transformative for communities and that integrates effective ties and emotions, based on communal norms, with the universal norms of the legal system that provides rational transcending standards (Schweigert 1997).

## Conclusion

This paper has argued for a broader and more optimistic vision of conferencing that connects these informal decisionmaking models to a broader community justice movement and to a theory of collective efficacy. A core component of this linkage is the concept of the social relationship and the basic idea that

crime is both a result and a cause of weakened relationships. In the context of community, restorative conferencing advocates might envision their mission as seeking to break the cycle of crime, fear, and weakened relationships with an intervention agenda that has a primary objective to repair harm by strengthening interpersonal and community relationships. In making stronger relationships a primary intervention outcome, they may offer a more holistic approach to addressing sanctioning, safety, preventive, peacemaking, and rehabilitative needs. Ultimately, restorative justice suggests that the capacity of these models to affect and even transform formal justice decisionmaking lies in their commitment to the potential power of victim, offender, and community, if fully engaged as partners in meaningful decisionmaking processes. If citizens increase participation in conferencing processes that express or operationalize restorative principles and that actually achieve sanctioning, rehabilitative, and public safety objectives, they may in turn begin to demand more involvement in decisionmaking.

The real gamble for advocates of restorative conferencing is that citizens will indeed want to learn how to resolve conflict and to respond more effectively to crime. Yet, from a restorative justice perspective, one important root cause of crime is community conflict and disharmony. And because neither justice nor public safety can be achieved by a government war on crime, peacemaking, dispute resolution, and rebuilding right relationships may be seen as the most viable, if not the only, alternatives (Van Ness et al. 1989).

## **Notes**

1. In some jurisdictions (especially in the United States), conferencing will therefore compete for low-level cases with police cautioning, teen courts, arbitration, and other diversion alternatives. In other jurisdictions (e.g., South Australia and much of Canada), conferencing may be carefully placed within a continuum of restrictiveness to minimize net widening. Such placement, however, may also circumscribe and compartmentalize application of these approaches (Griffiths and Corrado 1999).

2. Although the community justice movement in the 1990s was strongly influenced by the community-oriented policing literature and practice of the 1980s (Wilson and Kelling 1982; Sparrow, Moore, and Kennedy 1990), community courts, community prosecution, community defense, and a range of preventive initiatives are now also included under the community justice umbrella (U.S. Department of Justice, NIJ 1996). In some instances, a community justice initiative may include a restorative justice focus; in other cases, the two may be highly compatible, if not indistinguishable. In Denver's community prosecution initiative, for example, restorative conferencing is a fundamental feature of a larger initiative aimed at the overall goal of building community capacity to respond to crime.

3. Although this paper focuses on conferencing as a decisionmaking process to determine sanctions, many conferencing processes are highly portable. Many are being used in schools to resolve conflict and avoid student suspension, in residential facilities to respond to infractions, and in a wide variety of settings as a preventive or problem-solving measure.

4. With the exception of some youth development initiatives (Pittman and Fleming 1991), selected "communities that care" programs (Hawkins and Catalano 1992), and some school-based organizational reform initiatives (Gottfredson and Taylor 1988), few juvenile justice interventions are even implicitly linked to broader theories of community. Even efforts to view families as part of a social ecological system for purposes of multisystemic inventory do not seem to engage theories of the community and crime, and certainly the most highly touted intervention programs in the "what works" literature appear to be based primarily on theories of individual disturbance (Andrews and Bonta 1994) without reference to a community or institutionalized theory perspectives (Gaes 1998; Bazemore 1999b). In the absence of a community-level perspective, practitioners as well as theorists may be vulnerable to what Sampson and Wilson (1995, 4) refer to as "kinds of people analysis" that cannot take account of "how social characteristics of collectivities foster violence (and crime)."

5. Such exclusion occurred, at least inadvertently, in the first few years of this decade when most people who knew the term essentially equated restorative justice with victim-offender mediation. It is important to note that there are multiple variations of generic conferencing models, such as family group conferencing, that are based on important distinctions between whether the process is administered by police officers, point in the system when conferencing occurs, and so on (Hudson et al. 1996a). It is impossible to do justice to these variations in this paper. The idea of asking the right questions, based on such principles, will be expanded in more detail in this paper. This inclusion of a variety of decisionmaking encounters under a heading such as "restorative conferencing" will no doubt be opposed by many practitioners who identify conferencing with one model, such as family group conferencing, or with a particular type of process, such as mediation on consensus-based decisionmaking.

6. In the United States, where it is fair to say that restorative justice is not as widely understood as it is in much of the world, restorative justice has been incorrectly presented as everything from "shaming" sentences (Kahan 1996) to confrontational approaches such as Scared Straight (Levrant et al. 1999) to more benign and generally progressive interventions, such as Boston's Operation Nightlight Program, which have no clear relationship to restorative justice. This inclusiveness may perhaps be viewed as positive in the short run because it has helped to broaden interest in restorative justice and conferencing in a very short time.

7. Faith communities, in fact, supported restorative justice in the 1980s primarily as an alternative to incarceration and as a philosophy sympathetic to community concern with prison inmates. Though this tendency remains today, it has been muted to some extent by the new emphasis on victim needs in the restorative justice movement.

8. Finally, it is important to note that restorative conferencing has also been influenced and supported, at least indirectly, by several parallel movements with no direct relationship to criminal justice. In fields as diverse as industry, labor relations, education, environmental regulation, hospitals, organized religion, and family dispute resolution, various conferencing models, including circles and family group conferencing, have been used for some time as conflict resolution techniques. Some have also noted that the movement is linked to much broader changes in the way decisions are being made and conflict is being resolved in a variety of institutional contexts. Use of conferencing in schools, for example, has implications for making conferencing and restorative values a part of both the broader culture and the repertoire of responses to harmful behavior, and such applications may ultimately increase the resilience and sustainability of these approaches (Shaw and Jane 1998). There are also more opportunities for alliances with parallel reform movements in criminal justice that have not been fully exploited in the restorative movement in the United States. These include other nonadversarial approaches, such as drug courts, therapeutic jurisprudence, peer mediation, and some teen courts.

9. Regarding gender differences, conferencing may be implemented in such a way that it overlooks important differences and is even insensitive to the needs of young women in the same way that this has occurred in other intervention and treatment programs (Bloom 1998; Adler and Wundersitz 1994). On the other hand, its fundamental emphasis on the importance of relationships and emotional expression may ultimately make restorative conferencing even more appropriate than other interventions in work with female offenders and victims.

10. In this sense, reintegrative shaming departs both from retributive approaches, which in condemning the act also condemn the actor, and the welfare model, which views unacceptable acts as symptoms of deeper problems that should invoke sympathy for the offender rather than condemnation. Communities should neither excuse nor condone the unacceptable act but also should not condemn the actor (Hyndman, Moore, and Thorsborne 1994). As some have suggested, differences between reintegrative shaming and stigmatization (or disintegrative shaming) resulting in “disgrace shame” may be subtle in implementation, and even completely blurred when police officers (rather than family and intimate adults) take the primary role in the shaming ceremony (Adler and Wundersitz 1994).

11. The primary focus of these authors is in fact on the thesis that the increase in incarceration has greatly weakened both forms of control in poor and minority neighborhoods.

12. In this context, it is also important to address the question of potential negative effects that might result from proliferation of restorative conferencing (e.g., Levrant et al. 1999). This empirical question of unintended harm must, of course, be asked in light of a thorough consideration of many other longstanding juvenile and criminal justice interventions already known to cause demonstrable pain to young people and disruption to community life (Rose and Clear 1998). A comparative examination of the unintended consequences of preventative, treatment, and diversion programs generally viewed as benign, for example, is likely to reveal that these have increased the number of young

people who are channeled into systems that are essentially about illegitimate identities (Polk 1994). From this perspective, one must not ask simply whether restorative conferencing may inadvertently cause harm to offenders or victims but, rather, if it will exacerbate harm due to largely pervasive problems, such as net widening.

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# **Community Policing in America: Changing the Nature, Structure, and Function of the Police**

*by Jack R. Greene*

This essay reviews the rise of community- and problem-oriented policing as major vehicles to improve the effectiveness of police efforts in communities and as means of reforming police organizations. The essay considers the historical development of various models of policing, examining the assumptions embedded in each of these often-competing emphases. The essay goes on to review extant research on the impacts of community policing on communities, police organizations, police work, and police officers. Findings from various studies suggest that community and problem-oriented policing have had modest impacts on community crime but larger impacts on the quality of interaction between the police and the public. In addition, extant research suggests that police organizations are slowly adopting the philosophy and practices of community and problem-oriented policing and have shown some change in police structure and service delivery. Changes associated with problem solving within police agencies are less evident in the research literature. More often than not, the police are using traditional approaches to respond to problems identified in community settings. Finally, the research literature suggests that police officers' conception of their roles and their attachment to police work are improving with the adoption of community and problem-oriented policing roles. Police job satisfaction is

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also seen as increasing for officers associated with community policing efforts. The essay concludes with a consideration of the forces that are continuing to shape American policing and the need to tackle the largest obstacle identified in opposition to community and problem-oriented policing—namely, the police bureaucracy.

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**C**ommunity policing, or variations of it, has become the national mantra of the American police. Throughout the United States, the language, symbolism, and programs of community policing have sprung up in urban, suburban, and even rural police departments. For more than 15 years and through at least one generation of police officers, community and problem-oriented policing have been advanced by their advocates as powerful organizing themes for an emergent style of public safety. How these themes have impacted American policing is yet uncertain. The range and complexity of programs associated with community and problem-oriented policing have often precluded systematic scientific investigation. Moreover, community and problem-oriented policing are themselves “moving targets”—changing and modifying themselves in what is an often turbulent environment for law enforcement. Eck and Rosenbaum (1994, 3) note:

Community policing has become a new orthodoxy for cops. Simultaneously ambitious and ambiguous, community policing promises to change radically the relationship between the police and the public, address underlying community problems, and improve the living conditions of neighborhoods. One reason for its popularity is that community policing is a plastic concept, meaning different things to different people. There are many perspectives on community policing, and each of them is built on assumptions that are only partially supported by empirical evidence.

The organizing themes of community policing suggest that law enforcement can be more focused, proactive, and community sensitive. Moreover, community policing portends significant changes to the social and formal organization of policing. On the level of social organization, community policing is thought to break down the barriers separating the police from the public while inculcating police officers with a broader set of community service ideals. Organizationally, community policing is thought to shift police policymaking from a traditional bureaucracy to one emphasizing greater organizational-environmental interaction. Simultaneously, the shift to community policing is said to be accompanied by a flattening of the police hierarchy and the development of coordinated service delivery with any number of public and private agencies that affect neighborhood safety. These are indeed profound changes should they continue to be implemented and shape the institution of American policing.

In recent years, community and problem-oriented policing ideas have captured the imagination of police officials, community activists, the public at large, and especially academics. The rhetoric of community policing—now embodied in the passage of the Violent Crime Control and Law Enforcement Act of 1994—has received Presidential utterance as well as the creation of a major effort to put 100,000 community police officers on America’s streets. Police departments

throughout the country now actively compete for Federal support for their community policing efforts (Maguire et al. 1997). Today, the crime control agenda of the United States and many other countries includes a visible place for community policing and its many derivatives (see Skolnick and Bayley 1988).

The promises of community policing are many. They include strengthening the capacity of communities to resist and prevent crime and social disorder; creating a more harmonious relationship between the police and the public, including some power sharing with respect to police policymaking and tactical priorities; restructuring police service delivery by linking it with other municipal services; reforming the police organization model; and creating larger and more complex roles for individual police officers. This new style of policing is said to produce more committed, empowered, and analytic police officers; flatten police hierarchies; and open the process of locally administered justice to those who are often the object of justice decisionmaking. This shift also makes crime prevention, not crime suppression, the ascendant goal of policing.

Goldstein (1987) initially outlined several requirements necessary for the police to shift from traditional to community or problem-oriented policing. First, the adoption of community policing requires that it be an organizing philosophy integrated into the entire police agency and not be seen simply as a new project or a temporary specialization. This is what happened to team policing—the most recent failed experiment in American law enforcement (see Sherman, Milton, and Kelly 1973).

Second, for community policing to take root in police agencies, according to Goldstein, it must help create a new working environment within these agencies so that new values of policing emerge in the management and tactics of the police. Third, community policing must overcome resistance from the subculture of the police, a subculture that is focused on danger, authority, and efficiency (Skolnick 1966): the values of more traditional policing. Although in recent years it has been argued that police agencies actually have several internal subcultures, Goldstein was concerned that those introducing changes into policing be cognizant that the cultures of policing have successfully resisted, and in fact defeated, change attempts. Finally, to be adopted by both the police and the public, Goldstein suggested that community policing must focus on resolving substantive community crime and disorder problems, not simply responding quickly to calls for assistance and then completing paperwork. Such threshold requirements require that those who advocate and implement community policing see it as an alternative paradigm to traditional policing, a shift that has considerable import for the police and the public (see Kelling and Moore 1988).



Despite claims and counterclaims, what we actually know about the efficiency and effectiveness of community and problem-oriented policing is rather small in comparison to what we do not know, although literature and practice in this arena are growing exponentially. This essay reviews the development of community and problem-oriented policing in America with an eye toward understanding its variations, assumptions, and impacts.

This review begins with a brief overview of the historical development of American policing, with a particular concern for understanding how the police structure in America came to be and the range of purposes of the police. Following this discussion, four generalized models of policing are presented. Traditional, community, problem-oriented, and zero-tolerance policing are outlined to define their characteristics and assumptions. Such distinctions assist in understanding the evolution of policing and the change in focus that these differing styles represent.

As community policing anticipates several types of impacts—on communities, the police organization, police work groups, and individual police officers—the next sections of this essay focus first on outlining the anticipated impacts of community policing and then on reviewing whether these impacts have been substantiated in the research literature.

Finally, this essay briefly considers several important future issues associated with the ongoing development of community policing. Such a review should shed light on what has become a major focal point for reorganizing American policing and, indeed, American communities.

## **The Road to Community Policing**

Perhaps like the road to hell, the road to community policing is paved with good intentions. These intentions have two geneses. First, much of the shift from traditional to community policing can be traced to a longstanding history of attempts to reform the police and make them more civilly and legally accountable. Second, much of the emphasis on community policing seeks to make the police more effective in dealing with neighborhood crime and disorder and to avoid longstanding criticisms of the police being ineffective, inefficient, and insensitive. Ironically, as we will see later in this essay, the historical

***Much of the emphasis on community policing seeks to make the police more effective in dealing with neighborhood crime and disorder and to avoid longstanding criticisms of the police being ineffective, inefficient, and insensitive.***

premises that sought to change American policing themselves restrict this reform. Nonetheless, much of the emphasis on community policing is the result of making the police more thoughtful about what they do in communities to help alleviate crime and disorder problems. Such reforms have pressed the American police for change for nearly a century.

It is perhaps understandable that policing is continually in the throes of critique and reform because much of American government finds itself in the same position. Since the early 19th century, American government, particularly city government, has been in a continual state of political, social, and economic transformation. These transformations were largely the result of significant immigration to what became urban America. Such transformation has invariably involved questions of justice and the role of the state in shaping and controlling everyday life. Moreover, as the police are the most visible element of government in civil society, they have often become both the symbolic and substantive lightning rod for civic reform.

Throughout the nineteenth century, the structure of municipal government became progressively more complicated. The various institutions of city government—boards of health, police departments, fire departments, street and maintenance departments, water and sewer services—each had their own history and particular reason for being. Municipal government had grown by bits and pieces, like a building constructed without any plan. . . . All cities offered variations on the same theme. Smaller cities successfully resisted the urge to “professionalize” city services and continued to be governed by part-time amateurs. All large cities, however, were forced to deal with the threat of disease, violence, and other conditions, arising from overcrowding and growth. (Judd 1988, 37–38)

Implicitly, and more often explicitly, the police have been part of the transformation of American government. In fact, American government shifted from what might be termed the Colonial Era, when government was small and generally in the hands of a political elite, to the Populist Era, when government ownership shifted to a wider array of participants. This occurred over a period of approximately 100 years and was largely completed by the end of the Civil War. By that time, America had itself transformed—from an agrarian to an urban society, from a nativist to an immigrant society, from a simple to a complex society, and from the farm to the factory (see Judd 1988). The legacy of this transformation was to redistribute political power in fundamental ways—from the countryside to the cities and from wealthy landowners to the waves of Eastern European immigrants who gained political preeminence in cities. Policing was indeed caught up in these profound changes in American society (Walker 1977).

Policing, together with other forms of municipal employment, became a primary means for immigrant classes to bootstrap themselves into American life. As waves of immigrants washed into America's burgeoning cities, the ethnicity of police departments often reflected the origins of the newly arrived population. In fact, police departments in New York, Philadelphia, Boston, and Chicago, among others, can trace their heritage to major patterns of emigration from Ireland, Italy, and Germany.

In the United States, every several years there is an attempt to reform the police. In between allegations of corruption and efforts to reform the police (Walker 1983), American policing has continually sought public support and affirmation. Unlike their British and European counterparts (Berkley 1969; Miller 1975; Manning 1986), American police historically have been isolated from the publics they serve, relied on personal as opposed to constitutional authority, and lacked the communal attachments necessary for effective citizen-police interaction. Contributing to the communal isolation of the American police has been a shift in organizational strategy emphasized throughout most of the 20th century. This shift to professionalize the police generally separated these professionals from their clients, often in profound ways. This shift is coupled with the occupational subculture of policing, a subculture that reinforced the separation of the police from the public (see Skolnick 1966).

In a review of the shifts in police strategy in the 20th century, Kelling and Moore (1988) suggest that the earliest organizational strategy of the police was essentially political. Here the police were primarily concerned with the maintenance of political, and often corrupt, relationships with those in power. Policing was often associated with the rise of political machines in the early 1900s and their dominance in civic life, especially in the then-burgeoning American cities. Police were tied directly to the political patronage systems of the time, and their actions helped those in power while punishing political enemies and the underclass, which generally was defined as persons of a different ethnic heritage. At this time, the police problem was less that the police overenforced the law, but rather that they selectively underenforced the law. As Walker (1977, 25) suggests:

The "lawlessness" of the police—their systematic corruption and non-enforcement of the laws—became one of the most paramount issues in municipal politics during the nineteenth century. Repeated reform movements arose with an eye to alter police practices. The heart of the matter

***"The 'lawlessness' of the police—their systematic corruption and non-enforcement of the laws—became one of the most paramount issues in municipal politics during the nineteenth century."***

was not the question of law enforcement itself but the social and political dynamics of the urban community. Police corruption was part of the political machine, a means by which party favorites were allowed to conduct illegal businesses and by which the cultural styles of different ethnic groups were preserved.

Ultimately, the political era yielded to an administrative and reform era of policing (Fogelson 1977) in which administrative control, policymaking and decisionmaking distance from political and social communities, and law and professionalism guided the police response. The reform era sought first to make the police legally accountable. This philosophy still dominates much American police administrative thinking, most particularly in attempts to control police violence. Ironically, it is the legacy of this reform, represented in tightly controlled and inflexible police bureaucracies, that is most at issue when moving the police toward community and problem-oriented policing.

The lawlessness of the police had become legend by the beginning of the 20th century. Reformers sought to divide the police from political control, or at least partisan political control, and make their actions more administratively reviewable while introducing the then-emerging science of administration. All this was done in the name of controlling the police while introducing presumed efficiencies into police administration. Symbolically, this movement also sought to convince the public that the police were indeed professional and that the police organization was in control of its actions. Of course, this was always an illusion (see Manning 1977).

During the reform era of policing (beginning roughly in the 1920s and lasting until the 1960s), the police expanded on the military style of organization and administration (actually modeled on Sir Robert Peel's efforts in England in the early 1800s and adopted by 19th-century American police departments in a rather symbolic manner until the 20th century); improved response technology through the introduction of telephones, radio cars, and dispatch systems; and attempted to instill uniformity in police practice through training. These reforms all sought to build a foundation for policing and to raise the status of the police from political hacks to professionals.

In doing so, the police drifted away from the public, often seeing the public as hostile and interfering. Institutionally, the police became inward looking as well. Speed of response overtook policing neighborhoods as a priority, and secondary measures of effort eclipsed those of effectiveness. In fact, many of these institutional myths (Crank and Langworthy 1992) persist to the present. Routinely the police present themselves to their publics in uniform, as selectively organized and capable of rapid response to emergencies. Such presentational strategies help to

maintain the public legitimacy of the police and may be one of the major obstacles to overcome in the implementation of community and problem-oriented policing (see section “Four Models of Policing: From Traditional to Community to Problem Oriented to Zero Tolerance”).

Beginning in the late 1950s and continuing into the 1960s, the police as a formal institution of government encountered perhaps its most formidable challenge—a direct and frontal assault on the legitimacy of the police and indeed of the legal system itself. The civil rights and Vietnam antiwar movements, as well as the emerging youth culture of the 1960s, effectively merged two groups that had previously been socially and politically separated—minorities, particularly blacks, and urban and suburban middle-class white youths. The convergence of these two social and political movements confronted American policing in direct and visible ways.

In response to these confrontations, the police, generally speaking, became militant. They were often directly confrontational with these groups, producing what Stark (1972, 15–16) has termed police riots:

Readers of the Kerner Commission Report or the Skolnick report or any of dozens of other books, reports, and articles on recent events in black ghettos or during student and anti-war demonstrations will have recognized that sometimes police behavior is indistinguishable from that attributed to rioters. It is not merely that sometimes the character of the police response in certain situations provokes riots, which it does, but that on some occasions the police seem to be *the major or even the only perpetrators of disorder, violence and destruction. Such occasions are police riots.* (author’s emphasis)

The nationally televised 1968 Democratic National Convention in Chicago and the riots that ensued perhaps for the first time portrayed the police as institutionally unaccountable. Moreover, the National Advisory Commission on Civil Disorders concluded that the spark of most urban riots in the late 1960s was poor or aggressive police action, generally taken in a minority community. Riots in Los Angeles, Detroit, Philadelphia, Newark, and elsewhere portrayed a disintegrating social structure often precipitated by police action. The police were at once the cause and the solution to social unrest. Liberals saw them as the cause of problems, conservatives as the solution. The country was divided

***Despite the general failure of community relations and team policing, it is from these early efforts that the community and problem-oriented policing movement in the United States can trace its roots.***

on these issues, and the police were caught between significant ideological shifts in American political and social life. As the National Advisory Commission on Civil Disorders (1968, 206) commented:

Almost invariably the incident that ignites disorder arises from police action. Harlem, Watts, Newark and Detroit—all major outbursts of recent years—were precipitated by routine arrests of Negroes for minor offenses by white police. But the police are not merely the spark. In discharge of their obligation to maintain order and insure public safety in the disruptive conditions of ghetto life, they are inevitably involved in sharper and more frequent conflicts with ghetto residents than with the residents of other areas.

The American police were sorely in need of reform once again. Beginning in the early 1970s, the police as an institution began to experiment with ways that put the police into closer interaction with the public, generally on matters of mutual interest. The community relations' movement begun in the late 1940s and into the 1950s carried over to this time, as did the rise of alternative forms of policing, such as team policing. In both instances (community relations and team policing), there was an attempt to create more public support for the police while at the same time providing them with a clearer preventive role in community public safety.

Community relations issues were more “eyewash and whitewash” than substantive in many communities, a way for the police perhaps to placate the public. Team policing, by contrast, was an important attempt to change the focus and structure of the police, although by all accounts team policing captured neither the imagination nor the organization of the American police. Despite the general failure of community relations and team policing, it is from these early efforts that the community and problem-oriented policing movement in the United States can trace its roots (see Greene and Pelfrey 1997).

## **Four Models of Policing: From Traditional to Community to Problem Oriented to Zero Tolerance**

Current trends in U.S. police reform, falling under the broad label of community policing, began in the mid-1980s and continue to the present. These trends stress a contextual role for the police, one that emphasizes greater interaction with the community in resolving persistent neighborhood crime and disorder problems (Wilson and Kelling 1982; Goldstein 1987; Kelling and Moore 1988). This newest in a long tradition of reforms has many implications for police role

definitions, strategic and tactical operations, and understanding about the limits of formal and informal social control.

There are those who charge that community policing is more rhetorical than real (cf. Manning 1988; Weatheritt 1988) or that it follows a long line of circumlocutions “whose purpose is to conceal, mystify, and legitimate police distribution of nonnegotiable coercive force” (Klockars 1988, 240). Others assert that such efforts represent “the new blue line” of police innovation and social experimentation (Skolnick and Bayley 1986) and the resurgence of improved relations between the police and the public (Wycoff 1988).

The differences in definition, emphasis, and results associated with community and problem-oriented policing continue to the present. In fact, a new orientation toward zero tolerance—i.e., cracking down on street-level disorder—has risen to effectively challenge community and problem-oriented policing as a means of reducing crime and fear (Cordner 1998) (discussed later). In an effort to help clarify the differences in policing emphases, exhibit 1 examines several dimensions of policing as they shift under differing philosophies and eras of policing.

Exhibit 1 depicts several dimensions of policing under traditional, community, problem-oriented, and zero-tolerance policing. Twelve aspects of police role and function, interaction with the community, formal and social organization, and service delivery are expressed in this exhibit. The comparisons made are offered as ideal types; i.e., they seek to represent the more general expectations implied by the models, not necessarily how each is ultimately operationalized and implemented in any particular police agency. Such a heuristic provides a useful way to contrast and compare potentially differing paradigms of policing.

Obviously, within each model there is a degree of overlapping definition, effort, and emphasis. The evolution of policing suggests that each successive era of policing has evolved slowly from its predecessor (Kelling and Moore 1988; Greene and Pelfrey 1997). In fact, shifts in policing have been glacial, occurring over considerable timeframes (generally more than 15 to 20 years), not cataclysmic (occurring in much shorter timeframes). Consequently, modern-day policing as we know it reflects elements of all of these models.

## **Traditional policing**

Traditional policing, as it has come to be known, reflects the goals of the early reformers of the police, previously discussed. The emphasis was to separate the police from politics and to hold them more accountable to the body politic and the law.

Traditional policing, as characterized by much discussion over the past 30 years, has a narrow law enforcement and crime control or crime repression focus. It is centered on serious crime, as opposed to maintenance of community social order or general service delivery. The police are crimefighters under this model, and they shun any form of social work activity. Under the traditional model, police work is synonymous with catching crooks and is largely reactive, i.e., the police respond to calls for assistance from the public.

Applying the law and deterring crime are the central focuses of all police activities under the traditional model. The crimefighter model of policing still resonates significantly within American police.

Under traditional policing, the police have a narrow range of interventions. Generally speaking, under this model the police must rely entirely on the coercive power of the criminal law to gain control (Bittner 1970). The threat of arrest is the dominant mode of acquiring compliance from the community. Under such arrangements, aggressive street tactics coupled with broad application of the criminal law results in tremendous line officer discretion, which generally is unregulated. Although the police organization creates the appearance of control through highly ritualized command and control systems, police officers have wide latitude in decisionmaking in the field (see Manning 1977).

With the traditional model of policing, the police culture is inward looking, expressing the working personality characteristics outlined by Skolnick (1966) and others. Concerned with danger, authority, and efficiency, the police are said to be socially isolated from the community at large.

The values that are often tied to the cop culture stemming from the traditional model of policing include skepticism and cynicism among the police, the development of a code of secrecy to fend off external control and oversight, and often a general disdain for the public at large. Minimizing contact with the public and staying out of trouble, often through work avoidance (see Van Maanen 1974), have been documented practices of traditional policing.

Traditional policing suggests that institutionally and individually the police seek to minimize external interference with police work and administration. This is done largely by the police adopting a professional mantle, i.e., they identify themselves as authoritatively independent from their clients. The professional model adopted here sees the client as a passive entity to be directed by the police. Moreover, the police as an institution and as a working group culture seek to distance themselves from the body politic and politicians.

Within the context of traditional policing, the police organization is presented in classic Weberian (Weber 1947) terms in which the demarcation between



**Exhibit 1. Comparisons of social interactions and structural components of various forms of policing**

<b>Social interaction or structural dimension</b>	<b>Traditional policing</b>	<b>Community policing</b>	<b>Problem-oriented policing</b>	<b>Zero-tolerance policing</b>
<b>Focus of policing</b>	Law enforcement	Community building through crime prevention	Law, order, and fear problems	Order problems
<b>Forms of intervention</b>	Reactive, based on criminal law	Proactive, on criminal, civil, and administrative law	Mixed, on criminal, civil, and administrative law	Proactive, uses criminal, civil, and administrative law
<b>Range of police activity</b>	Narrow, crime focused	Broad crime, order, fear, and quality-of-life focused	Narrow to broad—problem focused	Narrow, location and behavior focused
<b>Level of discretion at line level</b>	High and unaccountable	High and accountable to the community and local commanders	High and primarily accountable to the police administration	Low, but primarily accountable to the police administration
<b>Focus of police culture</b>	Inward, rejecting community	Outward, building partnerships	Mixed depending on problem, but analysis focused	Inward focused on attacking the target problem
<b>Locus of decisionmaking</b>	Police directed, minimizes the involvement of others	Community-police coproduction, joint responsibility and assessment	Varied, police identify problems but with community involvement/action	Police directed, some linkage to others agencies where necessary
<b>Communication flow</b>	Downward from police to community	Horizontal between police and community	Horizontal between police and community	Downward from police to community
<b>Range of community involvement</b>	Low and passive	High and active	Mixed depending on problem set	Low and passive
<b>Linkage with other agencies</b>	Poor and intermittent	Participative and integrative in the overarching process	Participative and integrative depending on the problem set	Moderate and intermittent
<b>Type of organization and command focus</b>	Centralized command and control	Decentralized with community linkage	Decentralized with local command accountability to central administration	Centralized or decentralized but internal focus
<b>Implications for organizational change/development</b>	Few, static organization fending off the environment	Many, dynamic organization focused on the environment and environmental interactions	Varied, focused on problem resolution but with import for organization intelligence and structure	Few, limited interventions focused on target problems, using many traditional methods
<b>Measurement of success</b>	Arrest and crime rates, particularly serious Part 1 crimes	Varied, crime, calls for service, fear reduction, use of public places, community linkages and contacts, safer neighborhoods	Varied, problems solved, minimized, displaced	Arrests, field stops, activity, location-specific reductions in targeted activity

organization and environment is definitive and ardently maintained. By doing so, the police organization renders the environment incapable of changing its internal dynamics and ensures for itself some sense of control over the environment. In the parlance of organizations, police agencies under the traditional model see maintaining themselves as their primary goal. They are focused on maintaining structure and function—the means of policing—without much consideration to the ends of policing, such as safer communities.

Measures of success are primarily focused on crime and crime control, most particularly serious violent and property crime, as counted through the Uniform Crime Reports' Part 1 crimes.<sup>1</sup> As a closed system, the organization creates what Manning (1979) has called reflexivity—a process in which the organization defines its efforts, measures them, and then declares success on the basis of such organizationally defined imperatives. This model is means, not ends, focused (Goldstein 1979, 1990), and it measures effort, not results.

## Community policing

Rising from the often-negative critique of traditional policing, community policing seeks to balance the role of the police environment and organization in pursuit of a broad range of community-based outcomes. Common core elements of community policing programs include a redefinition of the police role to increase crime prevention activities, greater reciprocity in police and community relations, area decentralization of police services and command, and some form of civilianization (Skolnick and Bayley 1986). Each of these changes is viewed as a necessary condition to realizing greater police accountability to the community. At the same time, these efforts suggest that, if they are adopted, the police can become more effective and efficient.

Community policing has increased the police focus to include issues such as public safety, crime, fear of crime, and community quality of life. Communities are seen as participants in shaping police objectives and interventions as well as in evaluating them.

Much of community policing literature is focused on capacity building within communities, i.e., building and sustaining a community partner to work with the police on matters of neighborhood crime and disorder. As Mastrofski, Worden, and Snipes (1995, 540) observed:

“[C]ommunity building” focuses on crime prevention, victim assistance and building greater rapport with racial minorities. The police strengthen citizens' capacity and resolve to resist crime and recover from it. This requires positive relationships with those “invested” in the neighborhood.

Crime prevention and victim assistance do not involve law enforcement directly. To the extent that a community policing program concentrates on community building, it de-emphasizes law enforcement activities.

Such community building efforts must actively engage the community in an open and rather straightforward discussion about community life and the role of the police and the community in establishing local order. Such efforts also depend in large measure on the openness of both the police and the community and the willingness of the community to engage in what are often large-scale volunteer efforts (see Bayley 1994; Bayley and Shearing 1996). Town Watch, for example, is a massive community volunteer effort supported by the commitment of homeowners in local neighborhoods. From the perspective of the police, such efforts require horizontal communication between the community and the police and regular feedback about community conditions and the effectiveness of police interventions.

Partnership is the watchword for community policing efforts. In virtually all discussion of this style of policing, it is asserted that the police must partner with the community and other public and private agencies that serve a local community and that have some impact on community quality-of-life issues. As Skolnick and Bayley (1986, 5) suggest, “[C]ommunity policing should be said to exist only when new programs are implemented that raise the level of public participation in the maintenance of public order.” In raising such public participation, it is asserted that the police and the public actually coproduce public safety.

In addition to the environmental openness implied of community policing, this model of policing links informal and formal social control in important ways. The police culture is shifted from its classic inward focus to one embracing external factors—communities, individuals, and other government agencies. Moreover, this model suggests that the range of police goals is greatly expanded from crime control to reducing fear of crime, improving social relationships and social order, and bettering community quality of life—i.e., people’s sense of well-being in any particular neighborhood or business setting. These are large tasks for the police, and they require a very different set of officer skills, especially communication and interaction skills.

The implications of community policing goals and efforts shift concern for both the means and ends of the police. From the perspective of means, the police are to embrace a wide array of tools that take them well beyond their limited use of the criminal law. The use of civil and administrative law, for example, is seen as a way of broadening the capacity of the police and the community to intervene in local order and crime problems. Today, the police

use civil abatement and other civil court proceedings to gain compliance from unruly businesses (typically bars), as well as from landlords who fail to adequately screen and supervise their tenants (especially those dealing drugs).

Such interventions significantly broaden the reach of the police, perhaps giving them even more discretion. At the same time, under norms of community policing, the police are expected to build a reference for a wide array of social and community services that might be brought to bear on community problems. In fact, the police role is often seen as shifting from the first government responder to social diagnostician and community mobilizer. Such linkages with external social service agencies are seen as improving ownership for community problems and linking different service providers in a joint effort to address community safety issues. At the same time, such linkages to the community are anticipated to help constrain and structure police use of discretion (see Mastrofski and Greene 1993).

From the perspective of the police organization and service delivery system, community policing is a way of making police agencies less bureaucratic, specialized, and hierarchical. On the ground, police officers are seen as generalists, not specialists, a hallmark of the industrial organization from which police systems were modeled. Decentralized management and service delivery are cornerstones of the community policing movement, under the argument that the structure of traditional policing greatly inhibits the capacity of the police to deliver effective and efficient services to a visible and active clientele. The police organization under community policing is seen as being in a dynamic state, actively engaged with the environment and creating many boundary-spanning roles linking the organization to its immediate task environment as well as social, cultural, and economic environments.

Measuring success in a community policing framework requires that the police capture much more information about communities, social control, and local dynamics and link their efforts to community stabilization and capacity building. Quite often, this shifts the measurement of policing activities from reported crime to calls for police service, a measure thought to better reflect the range of problems communities confront (see Greene and Klockars 1991). In addition, measures of community health might also include willingness to use public places, community volunteerism, business starts, home ownership increases or decreases, home improvements in neighborhoods (an indirect measure of homeowner confidence in the neighborhood), and local perceptions about safety and the police.

## **Problem-oriented policing**

While community policing has a broad community building mandate, problem-oriented policing is more focused and, as its name implies, problem specific. The central thrust of problem-oriented policing is to make the police more thoughtful about the problems they address and their methods of intervention. In short, the police are to be more analytic. As Eck (1993, 63) suggests, “Under the problem-oriented approach, the problem, not the criminal law, becomes the defining characteristic of policing.” Problem-oriented policing arose from concerns that the police were too focused on their means (the traditional model) and not on their ends, specifically on the impact of their interventions (see Goldstein 1990).

Problem-oriented policing seeks to formalize a methodology for the police to address persistent community crime, disorder, and fear problems. The SARA (Scan, Analyze, Respond, Assess) model of problem solving has received the most attention in this regard. Using SARA, the police are to scan communities for problems, analyze the dynamics of these problems in a thorough and systematic way, design a response to address the defined and analyzed problem, and then assess the impact of the response on the identified problem.

Problem-oriented policing overlaps somewhat with community policing to the extent that the community is often engaged in problem definition and discussions about interventions. And, in contrast to traditional policing, problem-oriented policing also makes police decisions and actions more transparent to both the public and police supervisors.

Eck (1993) suggests that problem-oriented policing can take one of two distinct forms. The first, as envisioned by Goldstein (1990), involves careful analysis of the problem, the search for solutions that can address the problem, the effective implementation of a solution, and the assessment of the impact of the intervention. This has become the model for problem-oriented policing. The second approach is less demanding and likely more prevalent. In what Eck (1993) calls enforcement problem-oriented policing, the police shortcut much of the analysis and apply traditional methods to the response. Directed and tactical patrols are seen as illustrative of this approach (see Eck 1993, 68). This approach, of course, runs the risk of problems being defined narrowly and addressed by rather traditional police methods (see “Zero-tolerance policing”).

Problem-oriented policing has important implications for how the police go about their business in the community, how they organize and supervise police work, and how the police agency is structured under such an arrangement. Given that problem solving is seen as an activity for a police officer or a group of police officers, centralized command and control systems must yield to

officer discretion and inventiveness. The focus in such an arrangement is for the police organization to facilitate, not control, officer actions in the field. Of course, this requires that supervisory, middle, and senior command personnel share power with police officers, who are solving problems in neighborhood settings.

Additionally, under the anticipated norms of problem-oriented policing, the police organization must improve its organizational intelligence—its understanding of how police interventions work, under what circumstances, with what effort, and for how long. This requires that the police agency assess interventions carefully, catalog the impact and effectiveness of interventions, and revise its learning about current and future interventions as experience with them grows. Rather than command and control, the police organization under problem-oriented policing must learn and diagnose its own internal technology for converting police efforts to community impacts.

Police discretion, although reasonably high under the problem-oriented approach, is checked to the extent that problems must be identified, analyzed, and solved. To do so requires considerable communication about problems and responses within and outside of the police department. This in turn helps to make decisions visible to the community and particularly to police administrators who oversee the problem assessment and response implementation process.

Measurement of success under problem solving, like Sir Robert Peel's first principle,<sup>2</sup> is the absence of the problems, or rather the absence of them recurring. Additionally, problem solving recognizes that some problems may be difficult to solve entirely, but their recurrence can be significantly delayed or the consequences of the problem can be significantly reduced. By doing so, the police can measure the extent to which they have had an impact on the targeted problem. Another concern with problem solving is the extent to which the police displace crime, both temporally and spatially.

## **Zero-tolerance policing**

In recent years, American policing has witnessed yet another emerging style of policing—zero tolerance. Some argue that this style of policing is actually the result of misinterpreting or misrepresenting community and problem-oriented policing (see Rosenbaum, Lurigio, and Davis 1998, 192–194). Others argue that zero tolerance is the application of community and problem-oriented policing to its fullest. William Bratton championed this orientation while serving as police chief in New York City. The zero-tolerance emphasis got its greatest boost in the early 1990s in New York, as the police there adopted many aggressive

street tactics and as crime in that city, and throughout the country, declined. As Bratton summarized:

[R]educe disorder and you WILL reduce crime. The strategy is sending a strong message to those who commit minor crimes that they will be held responsible for their acts. The message goes like this: behave in public spaces, or the police will take action. Police will also check you out to make sure that you are not creating chronic problems or wanted for some other more serious offense. Police will also question you about what you know about other neighborhood crime.<sup>3</sup> (emphasis in original)

Zero-tolerance policing can be seen as a variant of problem-oriented policing, and one that may reflect Eck's enforcement problem-oriented policing. Perhaps the initial discussion that fueled debate about shifting the police from their traditional orientation was the broken windows thesis offered by Wilson and Kelling (1982). This thesis suggested that serious crime was the result of the slippery slope of neighborhood decay and the inattentiveness of the police in addressing little problems before they became big problems. A cycle of decline (Skogan 1990) results where communities continue to deteriorate, in part because of increases in social and physical incivilities.

Under this model, the police are expected to attack order problems in communities in the hope that such an approach will dissuade and otherwise deter more serious criminal behavior from occurring. Maintaining order in aggressive ways, then, is the chief goal of this approach (Williams and Pate 1987; Sykes 1986; Reiss 1985; Kelling 1985; Kelling and Coles 1996). This argument is essentially built on a deterrence model wherein the police are deployed to address many of the problems that annoy society, particularly in public places. These behaviors, according to the broken windows theory, are thought to be precursors of more serious criminality. Aggressive panhandling (particularly in places like subways), street-level prostitution, street-level drug use, disorderliness, and the like are the targets of such approaches. The focus is almost entirely on order maintenance: establishing the perception and reality of orderly behavior in public spaces.

The theme of broken windows might be addressed in at least two possible directions—one focused on capacity building within communities, the other on aggressive police actions. Such choices characterize a continual debate in American policing, i.e., whether the police should focus on the crime prevention models associated with community and problem-oriented policing or whether they should focus on a crime attack model, often associated with traditional and zero-tolerance policing models.

Under the broad umbrella of community policing, paying attention to community disorder, preventing it by organizing the community, speaking with offenders (particularly for minor crimes), and changing the physical environment within which crimes occur are interventions that focus on the broader problems and issues associated with such behaviors. This, in fact, is the model under which community crime prevention operates in many countries. As Hope (1995, 21) suggests, “[C]ommunity crime prevention refers to actions intended to change the social conditions that are believed to sustain crime in residential neighborhoods.” These efforts typically muster the support of local social institutions to jointly address crime and disorder problems. By doing so, community crime prevention seeks to embed these efforts in the local social structure. This, of course, is the underlying philosophy of community policing, previously discussed.

Sometimes, however, community social institutions are fragile and may not be capable of engaging in prevention efforts. And, although it may be argued that there is always a community there, the level of social organization within that community may be incapable of working with the police or other government agencies (see Greene and Taylor 1988). Under such circumstances, rather than focusing on capacity building and community crime prevention, a form of “kick ass” policing (Wilson and Kelling 1982) has arisen in many cities.

Fueled by concerns that community policing is seen as soft on crime and by growing public criticism that disorderly people (e.g., the “squeegee guy”) interfere with daily commerce, police departments across the country have focused on removing the signs of incivility from America’s street corners, sometimes in very forcible ways.

Zero-tolerance policing has its roots in the suppressive aspects of policing. In some respects, it returns the police to a more traditional stance vis-a-vis law enforcement, a direction that is actively supported within many American police departments. This has significant implications for the police in mobilizing communities, one of the central features of both community and problem-oriented policing. As Klockars (1985, 319) suggests:

Police can gain compliance with their demands for order by “kicking ass” . . . but endorsement of such behavior must rest on the view that people whom the police seek to control in that way do not deserve or cannot comprehend better treatment. That line of reasoning is barely plausible when the vision of those who get their asses kicked is confined to derelicts, winos, street prostitutes, panhandlers and juvenile gangs. But it is patently offensive when we realize that the order maintenance tasks of modern police officers require them to direct, control, and discipline persons from all walks of life—including *us*. (emphasis added)



Zero-tolerance policing has recently been linked with place-specific interventions and crimes and situational analysis on the part of the police. Hot spot analysis suggests that a small number of locations in any particular city account for the abundance of community crime and disorder problems. Through the use of sophisticated crime mapping techniques, these locations are made visible to the police and the community. More often than not, these places are then subjected to aggressive police tactics attempting to dry up the hot spot. Such techniques have been focused on street robbery and drug activities as well as on an array of order maintenance activities.

The concern with order, as the central focus of zero-tolerance policing, narrows police attention to the proximate causes of the problem—namely the people or places that create disorder. But as Skolnick (1994) has suggested, order without law is problematic in a democratic society:

The concept of “order” reflects ideas about how citizens should conduct themselves. These ideas, engraved sharply and punitively in the substantive criminal law, generate penalties for misbehavior ranging from death for homicide to years of imprisonment for a variety of offenses. The procedural law sets limits on what prosecutors and police can do to enforce the substantive law. Because both “order” and “law,” substance and procedure, are important but conflicting aspirations, their inherent conflict imposes a fundamental, enduring dilemma for policing a democratic society.

Under the zero-tolerance approach, the demand for order may result in a deterioration of law, particularly the lawfulness of the police. Moreover, there are concerns that the normative legitimacy of the police, particularly in minority neighborhoods, will be undermined when the police are seen primarily as a punitive force in society.

Recent events in New York City involving police assaults on minority group members and the torture of a Haitian immigrant have cast doubt on the efficacy of zero-tolerance policing, particularly the policing of minority communities. These events have been witnessed in several American cities, and in most instances they occur through aggressive police street tactics, not unlike the precipitous events of the urban riots documented by the Kerner Commission in the 1960s. Such actions reveal the delicate relationship between the police and those policed. As Rosenbaum, Lurigio, and Davis (1998, 192) suggest:

Poor minority communities are the most inclined to demand aggressive enforcement in violation of civil liberties, and they are also the most likely to complain about it and dislike the police as a result. Thus enforcement is not a simple yes-no option. It requires careful planning, the consent of the

***Zero-tolerance policing may be returning the community to a passive role in crime and order maintenance in favor of a more aggressive and active role on behalf of the police.***

public, solid working relationships built on trust, a role for the community whenever possible, and the thoughtful exercise of police discretion.

Many of the efforts to organize communities rely on the good will of the community to participate in capacity building and crime prevention efforts. Marshaling community volunteers for any number of public safety efforts, ranging from neighborhood cleanups to Town Watch, requires trusting and open communication (for a review of citizen involvement in crime prevention, see Rosenbaum, Lurigio, and Davis 1998, 17–58, 171–230; Friedman 1994). Zero-tolerance policing, while satisfying short-term interests in gaining order, may actually return the police

and the community to a conflictual relationship. Just as important, zero-tolerance policing may be returning the community to a passive role in crime and order maintenance in favor of a more aggressive and active role on behalf of the police. This is equally true of the relationship of the police department to other agencies, although agencies that can bring some repressive impact on a location, such as the revocation of a bar license, are often found aligned with zero-tolerance efforts.

Organizationally, zero-tolerance policing has resulted in a general bifurcation of police departments, once again along specialist lines. On one hand, many police departments have publicly pursued community and problem-oriented approaches as means of gaining greater community support and, to some degree, involvement in public safety issues. This has resulted in a community and problem-oriented policing emphasis, which is often visible to the public. Perhaps less visible is a more subtle trend in American policing—the militarization of the police and the equipping of special street-tactical units that are actively engaged in “asshole control.” The “velvet glove” of community policing frequently conceals the “iron fist” of these street crime and intervention units, which are often modeled after elite military combat units.

Measuring success under norms of zero-tolerance policing has its roots in problem solving, although many of these efforts revert to measurement by counting things like field stops (pedestrian and car) and the types of behavior (mostly negative) occurring in targeted locations. Such measures can create the tautological expression of agency effectiveness by defining efforts as successes and then measuring them as outcomes.

## **Understanding Community Policing Interventions**

To better understand how community and problem-oriented policing are doing as both police interventions in communities and as means for refining and changing police organizations, it is important to see these efforts as a series of interventions that affect different things. In theory, these interventions occur at several levels. They supposedly impact communities, police organizations, and the nature of police work, including police officer attachment to the community, crime prevention values, and a broader set of community service ideals.

By making the levels of intervention and change clear and explicit, including the anticipated outcomes for community policing, we can begin the process of building effective monitoring and evaluation systems to assess whether community and problem-oriented policing are substantive or rhetorical. Such an understanding can dramatically improve efforts to implement and evaluate community and problem-oriented policing initiatives in the future.

Here we consider the range of impacts that community policing is expected to have. Community policing can be seen as part of a causal set of relationships expected to have impacts that differ from those associated with traditional policing. Community and problem-oriented policing, the focus of this essay, are anticipated to affect communities, police departments, police work groups, and police officers in important and predictable ways. Although it is not possible to trace all of the causal connections associated with community and problem-oriented policing, four levels of intervention are examined briefly here.

At the *environmental level*, community and problem-oriented policing interventions seek to engage the police and the community in a public safety coproduction relationship. The police are to seek broader linkages with external groups and organizations. They are also expected to focus on community capacity building and crime prevention. By mobilizing communities and focusing on discrete and identifiable crime, disorder, and fear problems, it is anticipated that the community can become more crime resistant, have greater community efficacy, and in turn be less affected by crime and disorder. Such efforts are often aimed at stabilizing neighborhoods, increasing neighborhood bonds and communication, increasing the capacity of the neighborhood to mediate in conflict situations, and ultimately strengthening neighborhood cohesion. These activities are rooted in the notion that cohesive neighborhoods are more crime resistant. If properly implemented, such activities should reduce fear of crime, increase neighbors' use of public spaces, reduce neighborhood disorder, and ultimately reduce crime and victimization in neighborhoods.

At the *organizational level*, community policing interventions are seen as affecting several police department issues. First, these interventions are expected to impact the police agency's technology (i.e., the way in which the department converts inputs to outputs). This includes how (or if) the department currently defines and solves problems and how it values what it produces. Community policing interventions are also associated with affecting the department's structure (i.e., the way the organization divides labor and differentiates its parts) and how (or if) that structure supports community policing initiatives. This includes impacts associated with the organization's culture (i.e., the values, beliefs, symbols, and assumptions that undergird organizational life) as well as the department's human resource systems (i.e., the mechanisms for selecting, training, rewarding, and socializing personnel toward community policing objectives). Here the concern is with imbuing the organization with a set of values and missions that translate into actions that embrace the community as a partner to crime prevention and that value analytic and thoughtful police interventions.

Finally, changes associated with community policing are seen as needing to impact the police agency's effectiveness assessment processes (i.e., the systems internal to the police organization that gather, evaluate, and disseminate information about how the organization is doing). If community-based policing is to become a lasting strategic intervention (Kelling and Moore 1988; Moore and Stephens 1991), it will need to confront several organizational change issues, particularly if it intends to replace or modify the structure and culture of traditional policing. The reason rests on the idea that the traditional organizational model of policing—with centralized authority, command and control, elaborate rules and policies, and the like—actually will impede the police agency's ability to do community and problem-oriented policing. Flatter, less specialized, and more community-focused organizations are envisioned for the police under the norms of community and problem-oriented policing.

In addition to organizational-level issues, community policing as a change intervention is expected to impact several issues associated with *work groups* within police organizations. They include the establishment and clear communication of group performance norms consistent with community policing outcomes. Beyond creating and communicating group performance norms, the community-oriented police agency is expected to specify group composition in terms of the knowledge, skills, and functions of police groups operating within community settings. Similarly, the police agency seeks to improve interpersonal communication and information sharing within the agency, especially across groups defined under a community policing philosophy and structure. Finally, if community policing is to become the vanguard of change within police agencies, it will need to clarify task definition among groups of police officers, including investigators.

Community-based policing also has several implications for *individual-level* change within police agencies as well. In terms of individual-level outcomes, community policing anticipates changes in police officer effectiveness, primarily through the mechanism of problem solving. Additionally, police officer performance, job satisfaction, and job attachment are anticipated to improve through attachment to community policing initiatives. Finally, police officer role definitions are expected to broaden under community policing. Such outcomes presume greater task identity (and consensus) among officers; greater officer autonomy in decisionmaking, job enrichment, and job enlargement; increased feedback to officers regarding their community and problem-focused activities; and increases in the depth and range of skills officers are trained for and employ as part of their community policing methodology.

In regard to the measurement of change as implied in community policing efforts, exhibit 2 provides an overview of these levels of intervention, their anticipated internal changes or dynamics, and their corresponding community policing/problem-solving outcomes. Using the conceptualization presented in exhibit 2, we can look at the impact of community and problem-oriented policing on communities, police organizations, police work, and police officers. Such impacts will give us a better understanding of the capacity of community and problem-oriented policing to achieve their intended ends.

## **Impacts on communities**

Recently, communities have become more specific and direct targets for criminal justice interventions, most particularly those associated with community and problem-oriented policing. Attached to a broader community crime prevention movement that began in the 1960s, current efforts involving police and citizen interaction attempt to make communities crime resistant first by mobilizing the community in its own defense (Hope 1995, 21–89) and second by organizing the community for greater surveillance of public places. This gives the community a coproduction (Skolnick and Bayley 1986) role in crime prevention while at the same time increasing community guardianship and the management of public places, a cornerstone of the situational crime prevention movement (see Clarke 1995, 91–150; Felson 1986, 1987, 1995).

Community policing has sought from its beginning to engage the community in matters of public safety while building and strengthening the capacity of communities to resist crime. For example, Operation Weed and Seed focuses on creating a visible and active police presence to impact distressed neighborhoods (weeding), as well as capacity building (seeding) in these same neighborhoods to sustain gains once achieved (see Roehl et al. 1995). More limited or focused crime interventions, such as the Boston Gun Project (see Kennedy

Exhibit 2. Levels of change for community policing

Level of intervention	Change issues anticipated	Community policing outcomes
Environmental →	Linkage with → External organizations and groups Political and economic support Define and maintain an organizational set	Reduced crime/fear Cohesive neighborhoods Increased public safety Greater public support Reduced hazard/violence Community problems solved
Organizational →	Technology → Structure Culture Human resources Effectiveness assessment	Change in information flow Decisionmaking (strategic) Decisionmaking (tactical) Improved training Changing symbols and culture Improved communications Revised performance measures Decentralization Role generalization Improved analysis
Group →	Performance norms → Group composition Interpersonal relations Task definition	Team cohesiveness Task consensus Quality decisions Group effectiveness
Individual →	Task identity → Autonomy Feedback Skills	Increased police officer effectiveness Increased performance Increased job satisfaction Broadened role definition Greater job attachment/investment

1998), also pursue dual strategies. In the case of the Boston project, the first strategy sought to identify youths who were likely to use guns to resolve disputes, while also mobilizing government and community social institutions to address this serious and lethal community problem on several different fronts and in a coordinated and systematic manner. Programs like Town Watch are also seen as community capacity building efforts, often linked to increasing surveillance of public places (Rosenbaum 1986, 1988; Rosenbaum, Lurigio, and Davis 1998), although their impact is less certain.

Order maintenance in communities with some existing consensus about order creates many positive opportunities for the police and the community to interact. Indeed, in communities with some level of social organization, there is often a capacity and motivation for the community to work with the police. "The more organized the neighborhood's means of giving voice to its preferences, the easier it is for the police to obtain input, deal with diversity of viewpoints within the neighborhood, and mobilize the community to support and assist police officers" (Mastrofski and Greene 1993, 89). Such activities are also seen as an organizing framework for consensus building within communities (see Etzioni 1993). Preserving order is seen as a central feature of many community and problem-oriented policing initiatives (see Moore 1992).

In addition to preserving the order in any particular neighborhood, community policing seeks to recontextualize the police. That is to say, community policing involves efforts to better link police and community. Among other things, this is thought to improve officers' local knowledge and community acceptance, participation, and assessment of police services. This is typically done by putting the police in closer proximity to local social and economic institutions, building more effective alliances between the police and the public, and attempting to solve persistent and complex community crime and disorder problems (see Kelling and Coles 1996; Hope 1995). Cumulatively, these efforts, it is hoped, will help stabilize communities, thereby making them less crime prone.

In an assessment of the community impacts of community and problem-oriented policing, Cordner (1998) suggests that the evidence is generally mixed. Some studies suggest declines in crime, fear, disorder, and calls for service. However, given design and research limitations identified more than a decade ago by Greene and Taylor (1988), much of the research remains difficult to interpret and generalize. There are, however, some promising findings on which more rigorous assessments can be made in the future.

The cumulative findings of the fear reduction and foot patrol programs of the early 1980s suggested that changes in police strategy might have had different effects on communities. In the Houston and Newark studies, for example, there were indeed modest crime prevention effects, although these programs appeared to influence community perceptions and fear of crime more than they did crime itself. Such findings provided the foundation for several elaborate community policing programs that have been conducted since the 1980s. These programs, involving more sophisticated research methodologies and more observable implementation of community and problem-oriented programs, have now led to a clearer picture of the impacts of these programs on neighborhoods.

Neighborhood impacts associated with community and problem-oriented policing are varied and complex. They include resident perceptions of safety, fear of

crime, use of public places, actual victimization, calls for service, reported crime, self-protection measures, and community cohesion. Given the range and complexity of outcome measures associated with community policing, it is often difficult to make comparisons across sites.

Skogan (1994), in an assessment of community policing impacts on neighborhood residents, examined six programs conducted in Oakland California; Birmingham, Alabama; Baltimore; Madison, Wisconsin; Houston; and Newark, New Jersey. In evaluating these programs, Skogan (1994) assessed their effects on fear of crime, disorder, victimization, the quality of police services, and drug availability. His findings suggested that fear of crime was most affected by these interventions and that it generally went down in five of the six sites. Disorder and victimization, by contrast, both declined in three of the six sites.

Communities' favorable assessments of police services either remained the same or increased in the communities receiving community and problem-oriented policing services as compared with similar communities not receiving these services. In the site where drug availability was a community impact measure (Oakland), community policing efforts produced a decline in the availability of drugs in these communities. Skogan (1994, 180) concluded:

The evidence reviewed suggests that community policing is proceeding at a halting pace. There are ample examples of failed experiments and cities where the concept has gone awry. On the other hand, there is evidence in many evaluations that a public hungry for attention have a great deal to tell police and are grateful for the opportunity to do so. When they see more police walking on foot or working out of a local sub station they feel less fearful. Where officers have developed sustained cooperation with community groups and fostered self-help, the public has witnessed declining levels of social disorder and physical decay.

Perhaps the most sophisticated effort to assess community policing has been under way for several years in Chicago. In 1993, the Chicago Police Department launched a community policing program called CAPS (Chicago's Alternative Policing Strategy), which Skogan and his colleagues have been assessing for several years (see Skogan et al. 1995; Skogan and Hartnett 1997).

A recent assessment of community policing impacts on neighborhoods in Chicago, conducted by Skogan and Hartnett (1997), suggested that these efforts indeed had a significant impact on community problems and the quality of community life. In regard to police responding to community concerns, perceptions about police effectiveness in dealing with crime, and community fear of crime, Skogan and Hartnett (p. 208) found:



Residents who subsequently observed them [the police] in action were more satisfied with police responsiveness to community concerns, thought they were more effective at dealing with crime, and felt safer. The impacts here are in shaping residents' perceptions about the police, their willingness to work with the police, and their beliefs that the police are actually attempting to address community defined problems.

In respect to crime and disorder resolution, Skogan and Hartnett (1997, 235) report, "There was some evidence of improvement in the lives of residents of every program area." Perceptions that major crime was declining were confirmed through community surveys, and a victimization survey revealed declines in selected crimes across the targeted neighborhoods. These declines included drops in burglary, auto theft, street violence, and drug- and gang-related activities.

Despite such enthusiastic support for community impacts and the evidence from the Chicago experience, sustained evidence of such positive community impacts remains scant. However, the general decline in crime over the past several years is attributed in part to the activities of the police, many of which are community and problem focused. As Moore (1994, 294) concludes:

Almost nothing is certain about the effects of community policing programs. These programs are so varied that it will be a long time before we can say something definitive about the whole set of programs, the individual elements of the set, and the particular features of particular programs. And it will obviously be a long time before we can say important things about the strategy of community policing as opposed to the operational programs.

The absence of community impacts associated with community policing is largely related to the high variability of community and problem-oriented policing programs under way across America, coupled with the tendency to assess these programs largely in the context of qualitative case studies. As Rosenbaum and his colleagues (1998, 183–184) suggest:

To date, few carefully planned demonstration projects have been linked to well-designed quantitative evaluations of community policing. With a handful of exceptions, community policing has been studied primarily through qualitative field methods. Community policing researchers have conducted case studies of organizational processes and problem-solving activities and have occasionally supplemented them with quantitative outcome measures.

Systematic analysis of the range of community and problem-oriented policing interventions has yet to emerge in the research literature on policing. Despite billions of Federal dollars that were distributed to police departments to further community policing over the past 5 years, there is little systematic linkage between these efforts and community capacity building or crime prevention. The declining crime rate in America is presumed to be linked to these efforts, but the dynamics of this linkage are presently unknown.

## Impacting police organizations

One of the promises of community policing is that it will make police agencies kinder and gentler, both to their constituents and to their employees. Criticisms of the police bureaucracy, particularly under the traditional model of policing, are that it has alienated both the producers and consumers of police services. Such alienation creates great tension between the police and those policed. This tension builds into mutual suspicion of the others' interests and intentions. Moreover, such tension effectively precludes building a partnership between the police and the community on matters of public safety—a central feature of community and problem-oriented policing.

Remember that in the professional reform era of policing, it was asserted that the police needed to maintain professional distance from the community. This distance was partly a means of gaining internal control over the police and increasing their commitment and adherence to professional standards (defined largely by police administrators) and partly a means of reducing the likelihood that the police would be corrupted by their clients—the community. Over time, the gap intentionally placed between the police and the community widened.

Part of the organizational dilemma for policing under norms that emphasize community attachment and problem solving is linking the tactics of officers to a larger organizational philosophy and strategy. The control-centered professional bureaucratic model embraced by the police as part of their earlier reforms generally did not include strategic and long-term thinking. The presentational strategies of the police have remained response driven, tactical, and focused on community expectations that the police can indeed control crime (Crank and Langworthy 1992).

The implications of an absent strategic focus in many police departments are far reaching. Substantively, the absence of a long-term plan has left many police agencies adrift. That is to say, absent a plan for the future, most agencies focus on incremental changes in both resource availability and allocation. Part of the organizational problem in shifting from a traditional to a community-oriented model of policing is the current structure and delivery system embedded in

policing. For example, often we hear police chiefs say that community and problem-oriented policing services are more expensive than traditional services or that these services actually compete within the agency for resources and focus. An alternative view is that the environment of policing has indeed shifted and the police organization will need to change to adapt to significant environmental changes.

In the logic of organization analysis, environments play an important role (see Thompson 1967). For most organizations, there are two levels of environment: the general environment that encompasses the organization as a whole and individual task environments that influence aspects of the organization's operations. In policing, both the general environment and task environments have been shifting for a considerable period of time. What is less clear is police departments' adaptation to these changing environments (see Zhao 1996).

The police do not operate in a vacuum and cannot be divorced from their external environment. Moreover, the environment in which police organizations find themselves today requires a model of organization that emphasizes policing as an open system.

Changes in the external environment of policing have been profound over the past 30 years. These changes have involved municipal finances, service support, and customer awareness. Each has pushed police organizations and administrators to be more open in policy and decisionmaking and more responsible to the needs of constituents. These external forces have also pressed police organizations to be more creative and flexible (see Zhao 1996, 71–82).

Scant resources, greater demand, and greater civic awareness have combined in the 1990s to make strategic planning a more necessary activity in public service bureaucracies, including the police. Coupled with rising expectations about participation in the coproduction of public safety, communities are eager and vocal about their participation with the police (see Skolnick and Bayley 1986; Skogan 1994; Friedman 1994).

The absence of a strategic emphasis also has implications within police departments. Without a road map of where the agency is going, it is difficult for police managers to muster line-level support for changes in police services or styles of interaction with the public. Moreover, without announced direction, those who would resist such efforts are relatively free to continue to passively, and at times actively, resist those changes. This resistance to change is a major obstacle to the implementation of community and problem-oriented policing. This resistance comes from line-level officers who may believe that community and problem-oriented policing is soft on crime, who do not accept

a crime prevention versus a crimefighting role, and who cling to union and civil service regulations and procedures to better control their work and the workplace (Zhao, Thurman, and He 1999).

Alienation of line-level police officers has also occurred over years of neglect in the traditional model of policing. Here, it is argued that police organizations over the years have produced a class of alienated workers, who frustrate change efforts and who, more importantly, may take out these frustrations on the public at large. These frustrations stem partly from the complexity of the work performed and the situational aspects of police work and partly from line officer distrust of the police administration. This distrust has been learned over a period of years, as the central administration of police agencies is often seen as punitive and nonsupportive of what is a complex field experience. This often creates the idea that central police administration is simply a mock bureaucracy (Gouldner 1954) in which punishment is selectively invoked and support is rarely forthcoming.

In many respects, there continues to be a struggle within police agencies regarding the focus and definition of police work. The culture of line officers continues to stress police independence and the crimefighting roles of the police, while administrative personnel now emphasize open systems approaches, including building partnerships and solving problems. This cultural clash has yet to be resolved in American policing, despite nearly 15 years of an emphasis on community and problem-oriented policing.

In addition to workplace culture issues, the segmentation of police work—i.e., breaking down police work to initial response, followup criminal investigation or other special unit intervention, case preparation, and prosecution—also contributes to worker (police officer) alienation because it removes the police from the intent and consequences of their work. Under norms of production-oriented organizations, like those in industry, line workers begin to lose sight of the overall goals of the product, identifying more directly with the suboptimal goals of their particular function. When this occurs, it is said that the organization has problems sustaining worker motivation as well as product quality.

Community and problem-oriented policing can be viewed from the perspective of organizational change strategies. At the onset of any institutional change, symbolism often outstrips practicality (Edelman 1977). The rhetoric of community policing, of necessity, preceded its coming to the police (Greene and Mastrofski 1988). Rigorous studies of the collection of innovations subsumed under the rubric of community policing were initially few in number (Greene and Taylor 1988), but they have improved over the past 5 years or so. Although initial studies of community policing rested on the use of limited case studies to define the

complexity and effects of this program innovation (for example, see Eck and Spelman 1987; Trojanowicz and Bucqueroux 1990), more recent research seeks to tease out the complexity of these efforts in real world settings (see Skogan and Hartnett 1997).

At present, our knowledge about how these changes are reshaping police organizations and service delivery is quite limited. What is known is that the pace of organizational changes in policing is glacial—slow and at times torturous. Moreover, several have identified the police organization as the primary obstacle to improving police services to the community (for a review, see Rosenbaum, Lurigio, and Davis 1998, 183–190).

For the purposes of this review, organizational changes can be assessed on several levels. First, we can consider whether police departments have indeed adopted community and problem-oriented policing as part of their overall strategy. Additionally, we can examine if the structure of policing is changing in any fundamental ways that might be associated with community and problem-oriented policing. Third, we can briefly assess whether the nature of police work is changing as a result of adopting community and problem-oriented policing strategies. Finally, we can assess if police agency intelligence—i.e., the way information is collected and decisions are made—has been affected in recent years.

## **Changing strategy and structure**

Many have commented on changing police organizations as the central feature to ensure the long-term survival of community policing (see Sparrow, Moore, and Kennedy 1990; Moore 1992; Trojanowicz and Bucqueroux 1990; Lurigio and Rosenbaum 1994). These changes imply shifts in the underlying philosophy of policing, a broadening of the police domain, and a reorientation of internal police operations.

On the philosophical level, it is clear that many police agencies have adopted the language and symbolism of community and problem-oriented policing. In a study of the broadening of the police domain, Zhao, Thurman, and Lovrich (1995) found that police organizations across America have indeed been broadening their role over several years.

***Transitional problems in moving from traditional to community policing are largely centered on the need to balance community policing patrol strategies (foot and bike patrols, community mini-stations, and “park and walk” programs) with rapid responses, particularly to potentially violent crime.***

Using data from a survey of police agencies conducted by the Division of Governmental Studies and Services at Washington State University, assessments of police organizational change in light of implementing community policing were undertaken. A total of 215 police agencies completed these surveys in 1993, which were used as the basis for this analysis. Zhao and his colleagues (1995, 19) found that:

Based on the number of COP [community-oriented policing] programs implemented and the frequency and the distribution of COP development nationally, these data suggest that police departments across the U.S. have been expanding the organizational domain in these three areas [technology employed, population served, and services rendered] during the past three years. In turn, such expansion in the organizational domain is consistent with organizational change in COP values that we might expect to see if police organizations indeed are moving toward the COP philosophy.

Police agencies throughout the United States have been adopting models of organization and training that bode well for community and problem-oriented policing. Zhao, Thurman, and Lovrich (1995) identified three factors around which organizational reform in policing is occurring. The first factor is focused on improving police officer performance skills. The second factor seeks to improve middle management within police agencies, and the third factor is associated with implementing community-oriented policing programs in culturally diverse communities with the intent of improving police and citizen interaction and community relations.

The reform of police agencies along the lines of community and problem-oriented policing has not been obstacle free. Actually, quite the opposite is true. Changes to internal police routines and structures have been likened to “bending granite” (Guyot 1979). Zhao and his colleagues (1995) identified several impediments to organizational change under the norms of community and problem-oriented policing. They include resistance from middle managers and line officers, internal confusion as to the operational definition of community-oriented policing, concerns that community-oriented policing might be soft on crime, lack of police officer training, and resistance from police unions.

Similarly, problems exist in the external environment’s adoption of community-oriented policing as an operating strategy for the police. Impediments identified by Zhao, Thurman, and Lovrich (1995) include community concerns about fighting crime, pressure for immediate results, and a lack of support from other government agencies. Finally, transitional problems in moving from traditional to community policing are largely centered on the need to balance community policing patrol strategies (foot and bike patrols, community mini-stations, and

“park and walk” programs) with rapid responses, particularly to potentially violent crime. These tensions continue to plague the adoption of community and problem-oriented policing in American police departments, although they are not insurmountable.

In an assessment of organizational change accompanying the adoption of community and problem-oriented policing styles in American police departments, Zhao (1996) suggested that current attempts are “mired” in the emergence stage of organizational change. As Zhao (p. 83) concluded, “Organizational change is not a particularly new problem for American policing, but the process of change remains painfully slow.” Perhaps more importantly, Zhao and his colleagues’ work suggested that, although the rhetoric of community and problem-oriented policing has to some extent penetrated the language and symbolism of the American police, there has been little structural change accompanying such rhetoric.

## **Changing police work**

The nature of police work, i.e., the ways in which the job of policing is conducted, has not significantly changed in more than 100 years. At its base, policing is an information-gathering and -processing function that seeks to identify a wide variety of problems and/or conditions in community settings that give rise to crime, disorder, fear, and victimization and then to respond to those problems and/or conditions. As an information processing system, the police have come to rely on the public as the primary source of information and mobilization of police responses (Black 1980).

The central question in shifting from traditional to community or problem-oriented policing is “Does the nature of police work actually change?” That is, do the police do something different, and is this difference measurable? In traditional policing, the police responded to incidents, took reports, interviewed witnesses and victims, investigated accidents, and submitted reports to their supervisors and detectives. Much of the effort to measure police work has as a consequence measured the things that the police do, but not the impact of what they do on community safety and quality of life. Today, police agencies measure efforts, including car and pedestrian stops or inquiries, calls for service received and responded to, arrests made, accidents investigated, and the like, in a precise fashion. Such effort measures reflect what the police organization has traditionally valued and the general nature of police work.

Under the newer models of community and problem-oriented policing, it is necessary to better understand how the police solve problems, by what means,

and with what effects. This requires adjusting ongoing efforts to measure the performance of individual officers as well as police organizations. According to Oettmeier and Wycoff (1998, 373–374):

Revision of performance measurement systems to reflect the diverse responsibilities of an ever-broadening police role is something many executives still need to accomplish in the 1990s, regardless of whether they have any interest in changing their organization's current approach to policing. Changes in policing philosophies only make more apparent the need for managers to acknowledge and support activities that effective officers have conducted but that have gone officially unrecognized.

Community and problem-oriented policing have important implications for the nature of police work as well as for how police officers understand, accept, and adopt new and often more complex roles. Such changes in the scope and range of police activities at both the organizational and individual levels require that those responsible for implementing community and problem-oriented policing pay particular attention to the reacculturation of police organizations and the resocialization of police officers.

[P]olice departments will not be prepared to achieve effective problem solving and community partnerships until the beliefs, perceptions, attitudes, and behaviors of individual police officers become more compatible with the redefinition and enlargement of their jobs as prescribed by the community policing model. To ignore police personnel and organizational constraints placed on their activities is to risk program failure due to apathy, frustration, resentment, perceived inequity, fear of change and other factors that militate against the successful implementation of community policing. (Lurigio and Rosenbaum 1994, 147).

Under the community and problem-oriented policing model, police work is said to be affected by changes in the intelligence by which policing is undertaken as well as in the objectives of policing itself. That is to say, policing shifts from response-driven calls for service to a system in which the police actively identify problems and community concerns and then proactively institute programs to ameliorate problems in community settings. They do this in part by shifting their focus from being a secondary intervention (respond to crisis) to a primary intervention (prevent or ameliorate problems). This, of course, requires that the police service delivery system, its organization, and its operatives (police officers) be reoriented in significant and powerful ways.

In addition to changing the very nature of police work, community and problem-oriented policing are thought to also affect how police officers identify with



their work, the community, and the police organization. Under these models, it is assumed that police officers will broaden their role definition, be enthusiastic when working with the community, and come to participate in an organizational system that values initiative, discretion, and risk taking. Once police officers identify with their work in the ways envisioned by community and problem-oriented policing, it is further anticipated that they will have greater job satisfaction and job attachment and that such improvements to job identity will ultimately affect the culture of policing. As Skogan and Hartnett (1997, 70) suggest:

At the beginning, community policing is a battle for the hearts and minds of members of the patrol force. Their hearts and minds are indeed important, for police departments are decentralized, low-technology human service organizations in which the motivation and skill of those delivering the services at the street-level is of paramount importance.

The cornerstones of community and problem-oriented policing in respect to police work and police officer job psychology, then, relate to improving organizational intelligence and worker participation and identification with the goals of new policing. These are exceedingly critical workgroup and individual-level impacts assumed of community and problem-oriented policing, and they are discussed in more detail in the following section.

## **Improving organizational intelligence**

For policing to change the character of its work, there is the fundamental need to address two important issues. First, police organizations will need to be analytic about the causal networks in which they seek to intervene, as well as about the variable impacts of a wide range of police interventions. Such organizational intelligence improves both the target of policing and the method by which policing is undertaken. It also suggests that knowledge of crime, disorder, fear, and quality of life is a prerequisite to attempting to intervene in such complex social phenomena.

The second issue raised by community and problem-oriented policing is focused on police officer intelligence—i.e., to say how the police interact with their clients, how decisionmaking occurs, and how problems are solved. Such an individual-level focus requires that we understand how the police convert information about crime, victimization, and community disorder into decisions and actions that address such problems lawfully and with the clients' interests in mind.

Changing both the information and analysis made by and available to police agencies and linking them to individual officer decisionmaking are intentional

***Community and problem-oriented policing propose to provide the police with an analytic framework to affect police work directly—in the selections of targets and problems—and to guide the police organization in assessing its outputs, outcomes, and impacts.***

consequences of adopting a community or problem-oriented style of policing. The underlying theme in this discussion is in creative thinking and adaptive problem solving at both the organizational and individual levels. In organizational parlance, this means changing the technology by which policing is conducted, i.e., the conversion of inputs (community support, information about crime, victimization, etc.) into outputs and outcomes (e.g., stronger and safer communities). Presumably, this new technology involves the police doing something that is somehow different from their past technology (responding to crime once called).

At both the organizational and individual levels, problem solving is said to be reshaping police intelligence. This occurs in a process that involves scanning the environment, defining problems, analyzing the causes and consequences of these problems, designing and implementing appropriate responses,

and assessing the impact of interventions—the SARA model (Eck and Spelman 1987; Goldstein 1990).

As previously discussed, the SARA model seeks to have the police use information at both the strategic and tactical levels. In doing so, both police organizations and police officers benefit from a better understanding of problems, responses, and effects. This in turn places the police at the forefront of prevention rather than at a place where their interventions are secondary to the problems for which they are summoned.

At the level of police organization, historically the police have collected information on serious and nonserious crime, traffic violations, juvenile offenders, arrestees, and the general conditions associated with crime. Within police departments, this information has traditionally been kept in many unrelated information systems—typically in filing cabinets and other paper storage facilities or informally in the work and craft experiences of the police themselves. Once collected, this information has had little utility in predicting future problems and/or police responses. As police agencies have historically lacked an analytic framework for using this information and the means to collate diverse information sources, the police organization has suffered in its attempt to be anything more than reactive to crime and disorder. Of course, community and problem-oriented policing propose to provide the police with an analytic framework to affect police work directly—in the selections of targets and

problems—and to guide the police organization in assessing its outputs, outcomes, and impacts.

At the individual police officer level, experience has generally substituted for analysis. That is to say, officers were largely left to their own devices in selecting problems to address and in the selection of means to address these problems, if they were addressed at all. More often, information obtained by police officers was seen as private, giving the officer some control over his or her work conditions and possibly an edge with fellow officers (Bittner 1970). Informants, for example, have been and continue to be seen as “belonging to a particular officer,” and the information they provide is generally acted upon by that officer. At the individual officer level, this results in some officers developing and refining these skills and a large number of others not doing so, or more importantly, seeing such skill development as unimportant.

With the advent of computerization and its adoption by the police, the capacity to link differing sources of information to better understand discrete problems was greatly enhanced. Despite such an enhancement, it is not at all clear that the police systematically exploit multiple information sources in their pursuit of a better understanding of crime, disorder, victimization, fear, and community quality of life. Even current efforts to target locations for police interventions through computer mapping fall considerably short of systematically integrating information to improve police system responses. Rather, current crime mapping efforts frequently have been restricted to displaying serious crime patterns almost exclusively.

In a critique of problem solving, Clarke (1998, 315–327) suggested that much of what occurs under the label of problem solving is shallow, unanalytic, and largely ineffective. As Clarke suggests, the police fail in most of the problem-solving steps. During scanning, the police often fail to clearly specify the problem they seek to address. This creates considerable variance in what the police think they are addressing. Analysis of problems, according to Clarke (1998, 318), is also quite rudimentary: “[D]uring an investigation of calls for service or crime reports, they rarely identify patterns about how often or when a crime is occurring, or about where the problem is concentrated. They also make a few attempts to disaggregate statistics to determine the precise nature of the problem.”

When it comes to responses, Clarke suggests that much of what falls under the guise of community and problem-oriented policing is really traditional police tactics, such as crackdowns, street sweeps, and arrests, often masked as community and/or problem-solving interventions. These tactics may be being applied to poorly defined and analyzed problems. Finally, Clarke argues that the most unused aspect of problem solving is the assessment of results. As

institutionalized policing has little history with evaluation of extant programs, much of what passes for evaluation is really conjecture and anecdote. As a consequence, Clarke sees significant failures in the presumed new technology of the police (see also Rosenbaum, Lurigio, and Davis 1998, 194–195, for a similar critique of problem solving). As a result, the tentative conclusion that can be derived from the limited assessments of current police problem-solving activities is that they are often superficial and in many police agencies have not impacted the internal definition of the process of police work.

Currently, many police departments across America have adopted a framework for response that includes elements of problem solving. This framework is evolving, and, with support and cross-communication among police agencies, the new technology of policing will continue to emerge. But, as a cautionary note, it is clear that the police imagination remains captured by 19th-century ideas about crime and police response, most particularly as zero-tolerance policing has gained popularity among the police and politicians in recent years.

One potential concern about shifting the police from a traditional focus to one emphasizing the community and/or problem solving relates to the criteria that the police use to make decisions, particularly decisions to arrest. This moves the discussion from the level of organizational or system intelligence to that of the individual police officer.

In its original formulation, Black (1980) asserted that, absent compelling legal grounds (e.g., offense seriousness), extralegal factors may creep into police decisions to make an arrest. The demeanor of the suspect, the ability of the victim or complainant to lobby for police action, race, sex, age, and other factors may be brought to bear on such decisions.

Although there is considerable disagreement about whether a person's aggressive demeanor may actually constitute a violation of the law, thereby making such police decisions more lawful (Klinger 1994), there remains concern that police and community cooperation may lead to misuse of the law. Under norms of community and problem-oriented policing, it is expected that the police develop a close working relationship with the public, a relationship that might influence police decisionmaking, for example, to take action against outsiders (those not from the communities involved in these partnerships). From the perspective of police decisionmaking, then, community and problem-oriented policing may introduce different criteria for decisions into local police actions, most particularly those associated with arrest (see Mastrofski and Greene 1993). In fact, many have argued that the law and city ordinances are insufficient in guiding police action (see Goldstein 1990) and that, therefore, community norms should indeed be interjected into the decisionmaking process.

In testing this idea, Mastrofski and his colleagues (1995) examined police field decisionmaking in Richmond, Virginia, a city that had adopted a community and problem-oriented focus. A total of 120 police officers were observed in 1,630 citizen encounters over 1,300 patrol hours. In all, Mastrofski and his colleagues concluded that there were changes to officer decisionmaking in Richmond, but that they did not introduce more extralegal factors into decisionmaking when community policing officers were compared with those espousing a more traditional focus: “Pro-community-policing officers arrest more selectively and with less regard to legal considerations. They show no greater susceptibility to extralegal influences than do their more traditionally oriented colleagues” (1995, 549). Although confined to a single study, this finding seems to suggest that there is a potential shift in decisionmaking when community and problem-oriented approaches are advocated but that the shift does not necessarily compromise the law.

## **Impacts on work groups and officers**

Intended outcomes of community and problem-oriented policing are that police officers will (1) do their jobs differently; (2) identify with role changes associated with these new styles of policing; and (3) improve their attachment to work, the police profession, their departments, and one another—in short, improve job satisfaction. The improvements in individual officer job enactment and job attachment are tied to beliefs about police officers becoming cynical and disengaged from their departments and from the public at large. Here, the thinking is that the police can become more sensitive to community cultural norms and work within those norms to resolve disputes that lead to crime and disorder. These models also assume that police officers can engage the community in creative problem solving that will translate into using means other than the criminal law to resolve community crime, disorder, and fear problems.

In a few of the projects where there are community-focused data, such as the one conducted in Miami (Alpert and Dunham 1988), it is clear that police sensitivity to community norms and conversance with community expectations is at once a longstanding complaint in minority communities and an occupational prerequisite if the police are to become truly community oriented. These findings suggest that police and community relations remain problematic in urban areas and that substantial police role changes will be necessary to improve these relations.

In San Diego, a program to actively involve police officers in understanding the communities they police resulted in positive police officer attitudinal changes (Boydston and Sherry 1975). In Baltimore County, Maryland, a problem-oriented approach to policing resulted in improved police officer job satisfaction and

strengthened officer orientation toward resolving community problems (Hayslip and Cordner 1987). In Philadelphia, a community-police educational program focused on communications and police-community problem solving demonstrated positive attitudinal results among participating police officers (Greene 1989; Greene and Decker 1989). And, in Miami, Alpert and Dunham (1988, 119–120) reported:

[N]eighborhood climate and the frequent interactions of people in close association are much more influential in forming attitudes toward the police. . . . [I]n a highly stratified, multi-ethnic metropolitan center like Miami, neighborhood climate not only varies tremendously, but strongly influences one's perceptions of the police. . . . [P]olice officer effectiveness could be enhanced greatly if he received training specific to his district. This training would include knowledge concerning unique characteristics of the neighborhoods in the officer's district and the most appropriate and effective policing styles for those neighborhoods.

In Houston and Newark, research conducted through the Police Foundation (see Skogan 1990; Skolnick and Bayley 1986) suggested that the community improved its evaluation of police performance, including the quality of interaction with the police, with the advent of programs that sought to bring the community and police closer together after years of conflict and animosity. In Houston, this was brought about by creating community stations where community response teams attempted to mobilize and engage the community on matters of crime and disorder. In Newark, the police response was to employ more traditional police methods (saturation patrol and more aggressive street enforcement tactics), but to do so with the focus of improving community quality of life by reducing the signs of crime in neighborhoods—unruly behavior and abandoned property (typically automobiles).

In New York City, a program called the Community Patrol Officer Program (CPOP) sought to introduce a form of community policing to that city. CPOP officers were given responsibility for a wide variety of community and problem-solving activities. They were to mobilize communities and to identify and solve community problems (see Farrell 1988; Weisburd and McElroy 1988).

Although the initial assessment of this program focused on field supervisors and the adjustments they made to oversee CPOP officers, subsequent analyses of CPOP (McElroy, Cosgrove, and Sadd 1993) suggested that there were significant changes in attitudes for CPOP officers participating in the program, particularly in attitudes toward the community and toward being a police officer. Here, officers in CPOP expressed more favorable attitudes toward the community and their identification with their jobs following their participation in

the program. Interestingly, these same officers grew more critical of their department over the same time period.

In an assessment of role adaptation and job satisfaction among police officers in Joliet, Illinois, Rosenbaum and his colleagues (1994, 331–342) compared officers in this department who were part of the Neighborhood-Oriented Policing (NOP) Program with officers from a neighboring community without such a program. Many aspects of job attachment and satisfaction were employed in this study. Pretest and posttest measurements revealed several interesting findings.

First, NOP officers, compared with their counterparts in the neighboring jurisdiction, reported more favorable attitudes toward community policing. Second, NOP officers were more likely to report that their jobs had broadened and that they perceived an increase in job autonomy. They also reported higher job satisfaction and higher confidence in their ability to solve problems. Rosenbaum and his colleagues interpreted these findings cautiously, as some of the differences among the groups were attributable to declines in the non-NOP officers as opposed to increases among NOP officers. Nonetheless, they also concluded that these responses reflected growing officer buy-in into the overall community policing program in Joliet.

In one of the more recent studies of police officer adaptation to community and problem-oriented policing in Chicago, Skogan and Hartnett (1997) found “evidence of modest opinion shifts” in police officers who participated in the Chicago Alternative Policing Strategy (CAPS) Program, previously discussed. These modest changes were reflected in CAPS officers becoming more optimistic about their interventions being thought of as effective in regard to traditional police concerns (e.g., crime reduction), their ability to actually solve problems, the impact of the program on police autonomy, and their satisfaction with the Chicago Police Department. Interestingly, this study also found that the CAPS Program had a wider association with general improvements in police attitudes toward beliefs that the program was impacting communities and that community policing concepts were indeed viable as a policing strategy in Chicago.

The National Institute of Justice funded a collaborative research project in 1997 to measure the impact of the Office of Community Oriented Policing Services Accelerated Hiring, Education, and Deployment (COPS AHEAD) program in Philadelphia (see Greene et al. 1999). These officers were the principal component of the department’s shift to a community policing orientation. A survey was administered to a sample of 389 officers, and analysis focused on the differences between COPS AHEAD rookie and veteran officers, motorized

rookie and veteran officers, and officers fulfilling other community policing roles. The evaluation provided an opportunity to see how differences in assignment and preparation affect the adoption of a community and/or problem-oriented role among the police.

The Philadelphia study revealed that rookie COPS AHEAD officers may have been better prepared to do community policing, as evidenced by their higher scores on academy training scales for problem solving and dealing with diversity and conflict. The five types of officers did not differ significantly with regard to their use of official data, but rookie COPS AHEAD officers and the comparison group of community policing officers reported using unofficial data (e.g., information from community residents and business owners) more than the other types of officers, particularly motorized veteran officers.

The five types of officers also differed significantly with regard to their orientations toward problem solving and community policing. This finding is not unanticipated, considering that the different types of officers have been assigned to distinctly different roles. Both rookie and veteran COPS AHEAD officers and the comparison group of community policing officers reported having stronger orientations toward problem solving and community policing than their motorized counterparts. However, the five kinds of officers did not differ significantly with regard to orientations toward law enforcement.

The study revealed significant differences among the five types of officers with regard to their satisfaction with work on their present job and with coworkers, but not in their satisfaction with supervisors. Specifically, COPS AHEAD rookies appeared to be more satisfied with work on their present job, as compared with other officers. In addition, COPS AHEAD and motorized rookies were more satisfied with their coworkers, as compared with veteran officers. The five types of officers differed significantly on a combined job satisfaction scale; COPS AHEAD rookies had higher scores, compared with other officers, indicating greater overall job satisfaction.

The five types of officers differed significantly with regard to their perceptions of impact. Specifically, both rookie and veteran COPS AHEAD officers reported feeling that they have a greater impact on their beats, as compared with their motorized counterparts and comparison group of community policing officers.

Collectively, police officer affective attachments to and understanding of the community have been enhanced in certain cities, as have officer role definitions, as a result of police and community programs. These findings are indeed encouraging in that they suggest police attitudes can be shaped toward the values and practices envisioned in community and problem-oriented policing.



## **Community Policing: Where Do We Go From Here?**

Changes in the market, structure, and function of policing are radically altering how we conceptualize policing and how it is implemented in communities across the country. This essay has attempted to review and discuss the road to and the consequences of community policing. In comparison to previous models of policing, those focused on the community and on problem solving appear to be gaining acceptance and producing measurable results, such that they are becoming the orthodoxy of the American police. Moreover, this orthodoxy is becoming clearer and has begun to produce more credible assessments of results.

Collectively, the evidence on community and problem-oriented policing is mixed, yet encouraging. Community residents can perceive shifts in police officer activity and improvements in police-community interactions. There are small gains in crime reduction and reduced victimization. There is a shift in police agency strategy and structure that can be associated with adopting community and problem-oriented policing strategies, although there is not much of an impact on police work—what police actually do to solve problems. Finally, there are clearly improved role learning and role adoption by the police entering these roles, although it is not yet clear if they are due to organizational changes or the self-selection of officers to these types of activities. It is equally clear, however, that police engaged in these new styles of policing uniformly report greater attachment to their work and improved job satisfaction.

These impacts are encouraging for community and problem-oriented policing advocates, although the recent shift in police attention to zero-tolerance strategies could possibly erase gains if the limited focus of this approach moves the police back to earlier and more traditional definitions of police work. Moreover, these conclusions are indeed based on individual projects rather than on systematic and replicated study of police decisionmaking, community interaction, and police service delivery change.

Given this mixed bag of findings, it might be encouraging for those who resist community interaction and problem solving as the primary focuses of American policing to eschew these developments and call for a return to traditional efforts. Although this might be tempting, there are several external forces that continue to shape policing styles in favor of community and problem-oriented approaches. And, over the years, there has been considerable evidence to suggest that the chief obstacle to realizing community and problem-oriented policing objectives are police organizations themselves. It is to these topics that we turn our final attention.

## Market pressures for community and problem-oriented policing

Although there are those who want to debate the role and function of the police, the institution of policing is being driven (and is often not doing the driving itself) toward a new paradigm. There are several forces pushing American policing toward this paradigm, forces that will likely continue to shape the police in years to come.

First, American policing has shifted from a closed- to an open-system model of organization and of organizational change, albeit at times begrudgingly. Specifically, today there is greater police agency-environment interaction in shaping the policies and priorities of the police and in assessing their effectiveness. The police are seen as one agent in a range of social institutions that affect community quality of life. Consequently, policing is becoming more influenced by those institutions external to it. This is especially the case where powerful external elites in the social, political, and economic sectors begin to endorse the rhetoric of community and problem-oriented policing. As the institutional imagery of policing continues to shift, it is likely that it will reach a tipping point from which there will be little return. This imagery is important because it helps shape the institution of policing, and it is simultaneously used by the institution of policing to shape the environment (see Crank and Langworthy 1992).

Much of the shift toward community-oriented government finds its roots in studies of organizational excellence conducted in the private sector more than a decade ago (see Peters and Waterman 1982). These studies suggested that successful organizations exhibited certain properties that afforded them the opportunity to make adjustments to changing external conditions. Among these properties were (1) maintaining close customer relations; (2) promoting a bias for action—being predisposed to do something rather than to wait; (3) increasing worker and managerial autonomy; (4) embedding a value system in the organization to guide individual behavior absent a rule; (5) sticking with what the organization does best, i.e., understanding your products first; and (6) promoting the idea that productivity comes through well-trained and well-supported personnel. These ideas have found their way into improvements in the public sector as well (see Osborne and Gaebler 1992) under the idea of reinventing government. Under such arrangements, government is becoming problem centered; the functional separation of government bureaucracies is yielding to task force and matrix organizational approaches to address discrete and visible municipal problems. The police are squarely in this environment, and their likely ability to withdraw from it is considerably curtailed.

This is not to say that the police as an institution have fully adopted this external set of relationships. In fact, in only a few American cities can it be said that the police now operate in a system of government where agencies are intimately connected to other social and organizational systems, each of which affects the level of safety, crime, disorder, and fear. In reality, this is an emerging and yet unformed aspect of a larger movement in American government to develop problem-centered government.

Nonetheless, in many other parts of the world, consultative committees composed of community leaders and other government and private-sector representatives function to help define public safety matters and to integrate services across a wide array of agencies to impact community problems. This emphasis began in policing largely through the creation of community advisory bodies (boards and other organizational arrangements) to work with the police in a more direct and supportive fashion.

Bayley (1994, 279), who has studied policing throughout the world, identifies such consultative relationships as the cornerstone of community policing in many parts of the world: “[C]onsultation, adaptation, mobilization and problem solving constitute an operational definition of community policing in practice around the world. They are what police forces do when community policing rhetoric becomes operational reality.” According to Bayley, consultation involves asking the community (residential and commercial) about its safety concerns and security needs. Adaptation refers to affording local police leaders, typically captains of precincts, to adjust their resources to accommodate the needs of the community as determined through consultation. Mobilization refers to the police linking the resources and efforts of public and private agencies to focus on identified public safety issues. And, problem solving involves “remedying conditions that generate crime and insecurity. It involves conditions-focused prevention at local levels” (Bayley 1994, 279). Bayley’s formula for community policing clearly reflects the movement toward organizational excellence in business and industry and the reinvention of government services that has been ongoing in the past two decades. And, in the research on community policing and problem solving, there is evidence that such processes are taking root in police departments across America.

In Houston (Wycoff 1985), crime prevention and neighborhood security programs were stimulated by community interest, and a community task force actually encouraged and succeeded in getting the police to become responsible for these efforts. In Chicago (Friedman 1994), community leaders formed a local block club to target drug activities in specific neighborhoods. In Los Angeles (Margolis 1994), the breakdown of community infrastructure led to a community coalition designed to work with several Los Angeles agencies to

achieve community stability. Such a process is now a central feature of the Los Angeles Police Department's interaction with the community (Greene 1998) and that of many other police departments. In Chicago, the Chicago Alternative Policing Strategy has as its central feature "beat meetings"—regular interactions between Chicago police officers and community leaders to identify and prioritize local crime and disorder problems (Skogan 1998).

Such examples call attention to the fact that, over the past several years, police agencies throughout the country have tied themselves to larger social and governmental networks in their pursuit of community and problem-oriented policing strategies. Although these efforts have not necessarily been as effective as anticipated, the networks remain. Perhaps more importantly, the presumption that the police have to work with external entities is now a common feature of the language and planning of most police agencies. The genie is out of the bottle, and it is unlikely that the community will accept a lesser role in this process, as was typically the case under the traditional model of policing.

### **Policing at different levels of social intervention**

The second element of the new policing is the mixing of proactive police responses with community planning and partnership building. This is not limited to proactive enforcement strategies and/or tactics because, if limited to such approaches, it would have the same problems as with zero tolerance previously discussed. Today, there is increased police proactive intervention, most particularly in crime prevention activities and victim assistance efforts (Crank 1994; Rosenbaum 1988; Rosenbaum, Lurigio, and Davis 1998; Skogan 1990). Here, the focus is on seeing the police as an intervention system that should be, but is not, primarily prevention focused. Those who argue for this position suggest that it is simply not enough to arrive at a crime scene, take a report, and tell the victim what he or she should have done differently to avoid the situation. Rather, the police are to attempt to intervene in the crime-victim-consequence causal network as early in the process as possible.

Such a conceptualization results in the specification of a chain of cause-and-effect relationships in which the police might intervene. Borrowing from the public health service, strategies to intervene in the causal networks of delinquency and crime require that prevention strategies be seen as primary, secondary, or tertiary (see Prothrow-Stith 1998, 59–61).

Police programs that seek to model behavior for youths and those that seek to involve the community in some form of self-protection or related community-building activities can be seen as primary interventions. These are viewed as primary interventions because they seek to intervene between the conditions

that spawn crime and disorder and the more proximate causes of crime and disorder, such as overt youth delinquency and deteriorated neighborhoods. Here lies much of the rhetoric and programming of community policing. Neighborhood storefronts, beat officers, expanded block watch, community councils, and the like are aimed at reinforcing the community's, not the police's, ability to resist crime. They are, and should be, community driven (Friedman 1994), because they are meant to ingrain public safety issues into the local social and community structure.

Other programs, such as D.A.R.E.<sup>®</sup> (Drug Abuse Resistance Education) and G.R.E.A.T. (Gang Resistance Education and Training),<sup>4</sup> seek to create alternative futures for youths so that they can more easily resist the temptation of drug use and gang membership, although the results of the research on these programs suggest that they may not have the impact once anticipated. Nevertheless, these efforts seek to foster youths' prosocial behavior as a primary crime prevention intervention.

An illustration of a primary intervention is offered in Boston through its program for high-risk youths, an attempt to identify and work with youths at risk of violence and injury (see Prothrow-Stith, Spivak, and Hausman 1987). This project, using the Violence Prevention Curriculum for Adolescents (Prothrow-Stith 1987), trained youths in Boston high schools. One evaluation of the program suggested it reduced student suspension rates and produced positive behavior changes among participating youths (Hausman, Pierce, and Briggs 1996). These findings are encouraging for the national movement to introduce violence reduction training to America's youths. To the extent that the police have a role in these programs, they constitute a primary target for police crime prevention efforts in the future.

Traditional forms of policing can be seen as secondary interventions—i.e., interventions that react to crime and delinquency and attempt to treat or respond to an immediate problem. Reactive patrols, followup criminal investigations, and most forms of crime prevention, including crime prevention through environmental design, which seek to deny opportunity rather than change motivation, illustrate this intervention point.

Although there is considerable discussion about reactive policing, it is not at all clear that the police can be completely free of such activities. The police were, after all, partly organized as an emergency response system. As certain emergencies are unlikely to be predictable, some police resources are likely to continue supporting reactive policing. Some form of split responsibility—problem solving and reaction to emergencies—is likely the long-term reality of policing (see Tien, James, and Larson 1978). In fact, this is the operational reality in

many cities, including those that are at the forefront of community and problem-oriented policing.

Creating defensible space or analyzing crime patterns for routine activities are approaches seeking to intervene between proximate causes and immediate effects as well (Felson 1986, 1987, 1995). Here, the focus is on treating crime situations and events through the response of the police, the community, or both. To be sure, there is some overlap between some police crime prevention activities. But, to the degree that the police alone cannot be expected to affect the larger forces of society and personality that shape criminal intentions and behaviors, they too are a form of social treatment to the failures of larger social, political, and economic institutions.

It might also be argued that much of problem solving falls under this secondary intervention level as well. Problem solving generally starts with analysis of historical and current behaviors and incidents to find some pattern. Once patterns are identified, strategies and programs designed to address the underlying problem are then brought to the forefront for implementation and evaluation. Although the language of prevention is associated with the problem-solving activities of the police, pragmatically these activities are perhaps better associated with differentiating treatments, or more precisely, matching treatments to problem sets.

Police efforts to ameliorate past victimizations or disputes can be seen as tertiary interventions. Such interventions can be said to be rehabilitative in their focus, i.e., attempting to redress the consequences of crime. Victim assistance and youth programs emphasizing high risk as a criterion for participation seek to intervene between the effects of crime and disorder and their consequences for individuals. Here, too, lie some of the newer community policing programs and efforts. Such efforts seek to broaden the role of the police to include supporting victims of crime and trying to reclaim youths who might have already begun minor criminal careers. Gang mediation and community dispute resolution programs have been conducted by the police either alone or in conjunction with social rehabilitative agencies, typically those rooted in social work and education. Here, the police are linking their efforts to the social rehabilitation arena to the extent that they concentrate efforts on addressing the consequences of crime and disorder, not their roots or proximate causes.

The importance of understanding the basis of intervention in any particular police program—community, problem oriented, or traditional—cannot be overstated. Knowing where in the causal chain the police are intervening provides a better understanding of the intervention program and its anticipated outcomes and effects. Better specification of the level and type of police intervention will also likely produce a broader range of police output and outcome measures.

## **Technology and community and problem-oriented policing**

A third factor shaping policing in significant ways is the increased use of technology to address crime problems. Today, police agencies are quickly employing technology to address a range of security, communication, and problem-solving issues that assist them in becoming proactive rather than reactive. In Hartford, Connecticut, for example, the Cartographic Oriented Management Program for the Abatement of Street Sales (COMPASS) linked sophisticated computer mapping technologies with weed-and-seed forms of community and problem-oriented policing to address street narcotics sales. The city believed that these types of crime were most responsible for the declining community quality of life in several Hartford neighborhoods (see Tien and Rich 1994). The Hartford experience was evaluated as being beneficial to the city. In the small, well-defined geographic areas identified in Hartford, targeted crime information coupled with police actions against drug dealers effectively shut down these marketplaces in a month.

In recent years, technology has been employed to better understand crime dynamics—the spatial and temporal dimensions of crime. In New York City (see Silverman 1999), a program called COMPSTAT was originated to increase understanding about crime and to ensure greater accountability among command personnel for their efforts to address persistent crime problems. COMPSTAT refers to “compare stats” (Silverman 1999, 98) and employs computer mapping technology coupled with the philosophy of command personnel taking ownership for addressing crime and disorder problems.

Loosely modeled on industry sales and marketing meetings, the COMPSTAT process was meant to identify problems, ascertain how commanders planned to address those problems, and then hold them accountable (presumably through subsequent meetings) for the impacts of their actions on the identified problems. In part, this follows the general notion of problem solving.

Current analytic approaches associated with COMPSTAT may actually be degrading the idea of police performance and fixing it too closely on crime and arrest patterns. In fact, much of what passes under the rubric of COMPSTAT views performance almost exclusively through these dimensions. By plotting crime events (typically only serious crime events) and then attempting to tie police action to the interdiction of these events, the police may once again find themselves in the unenviable position of being measured on data produced by the community or through the selective use of certain police resources.

*Today, there is less reliance on the police as the single line of defense in crime prevention, intervention, and social control. Although the police are seen as part of the solution to crime and disorder, we have begun to recognize that they may not be the most important part.*

More importantly, by excluding other sources and kinds of information from the performance measurement system, the police may be missing a real opportunity to design and implement a system more consistent with the two central tenets of community and problem-oriented policing—namely, mobilizing communities in their own self-defense and solving persistent crime and disorder problems.

An important illustration of this rests in a comparison of the approach to crime control in New York City with that in San Diego, made by Cordner (1998). New York has laid claim to reducing crime and disorder significantly, largely through the use of COMP-STAT as a process to more finely analyze crime and, more importantly, to make commanders more accountable for their use of resources to fight crime and disorder in the city's neighborhoods and business districts (Pollard 1997; Silverman 1999). In contrast, San Diego has spent considerable time refining community and problem-oriented policing over a period of two decades (Capowich and Roehl 1994).

In comparing the two cities, Cordner suggests that zero tolerance, although perhaps effective in New York, is not necessarily the wave of the future for other police agencies. In fact, San Diego achieved comparable results, as measured by declining crime over the same period, as New York, but San Diego used quite different police methods—namely, those associated with community and problem-oriented policing. As Cordner (1998, 311) suggests: “San Diego has enjoyed almost exactly the same decrease as New York, without adding substantially more police officers.”

## **Policing through networks and partnerships**

A fourth factor shaping the future of policing is related in part to our earlier consideration of the networks and partnerships the police have been building with other agencies for the past several years. Today, there is less reliance on the police as the single line of defense in crime prevention, intervention, and social control. Although the police are seen as part of the solution to crime and disorder, we have begun to recognize that they may not be the most important part. This recognition stems from several activities that have sharpened the crime prevention lens of many local governments.



Mutual activity undertaken by many government agencies to resolve persistent neighborhood crime, disorder, and fear problems has resulted in broadening the type of stakeholders in the solutions to these problems. Greater reliance on the private sector for crime prevention and control interventions has also changed the mix of those who have a role to play in public safety (see Shearing 1992). As Bayley and Shearing (1996, 585) note:

Policing is no longer monopolized by the public police, that is, the police created by government. Policing is now being widely offered by institutions other than the state, most importantly by private companies on a commercial basis and by communities on a voluntary basis.

For the past 15 years or so, there has been a strong privatization movement in criminal justice, much of which is focused on maintaining security over areas, and policing. This movement has resulted in a burgeoning private security industry, the creation of walled or gated communities, policing by private agents, and the creation of other quasi-public entities to oversee some security functions.

For example, business improvement districts (BIDs) have sprung up across the United States. Currently, about 1,000 of these districts exist (Hudson 1996). The central features of BIDs are that they are clean and safe—ridding the downtown area of social and physical incivility, precursors to fear of crime and crime itself. Typically, BIDs focus on integrating public and private security in commercial sections of cities. Such integration is politically and financially supported by the political and business communities; to the extent that BIDs do not take police resources from neighborhoods, they are generally accepted in the communities in which they have been implemented (see Greene and Stokes 1998).

BIDs are now creeping ever so slowly into residential neighborhoods. Because they have been seen as effective in reducing crime and disorder in the business sector of the community, communities are attempting to build similar models for residential use. Should this occur on any wide-scale basis, the structure of policing will continue to be significantly modified.

This movement toward neighborhood-based safety is further supported by a large amount of volunteerism that supports crime prevention and control in residential neighborhoods. As Bayley and Shearing (1996, 587) suggest:

In recent years private policing has also expanded under noncommercial auspices as communities have undertaken to provide security using volunteered services and people. A generation ago community crime prevention was virtually nonexistent. Today it is everywhere—citizen automobile and

foot patrols, neighborhood watches, crime-prevention associations and advisory councils, community newsletters, crime prevention publications and presentations, protective escort services for at-risk populations, and monitors around schools, malls and public parks. Like commercial private security, the acceptability of volunteer policing has been transformed in less than a generation.

The trend that Bayley and Shearing identify, particularly in regard to community mobilization and volunteerism, is not without significant problems. There is great selectivity in individual and community participation in government programs in general and criminal justice programs in particular (for a review, see Rosenbaum, Lurigio, and Davis 1998, 20–27). Poor and socially disorganized communities often lack the internal leadership to sustain participation over time, and language and cultural barriers inevitably influence participation as well. As Rosenbaum and his colleagues (1998, 25) suggest:

[P]articipation appears to be much more likely in homogeneous, low-crime, middle-class neighborhoods than in heterogeneous, higher-crime, lower class neighborhoods. In the latter communities, residents generally feel less responsible for crime prevention, more suspicious of their neighbors, and more alienated from the police.

Communities in higher income and less crime-prone neighborhoods may be rather easily mobilized in the face of a dramatic crime and or perceived threat to community order. Once mobilized, however, sustaining community participation may prove difficult (see Rosenbaum 1986). The dynamics of community and individual participation in community and problem-oriented policing are only now coming to light (see Rosenbaum, Lurigio, and Davis 1998, 20–29). As they are central to the type of partnership implied in community and problem-oriented policing approaches, community participation patterns need further exploration and assessment.

Also contributing to the idea that the police are being seen less as the primary form of safety services is the increasing coordination and/or interaction between the police and the rest of the criminal justice system. For example, the Manhattan experiment in community prosecution (Boland 1998) can be seen as a justice system response to a community demand for greater public safety in neighborhoods. In this instance, the Manhattan program restructured prosecution services to address both quality-of-life issues as well as serious crime occurring in neighborhoods.

Prior to this project, smaller, less serious offenses were likely to be dropped by the justice system once the police took action. Over time, this sent a message

that prosecutors and the courts had little interest in pursuing these matters. Eventually, the police began to underenforce them, believing that they would not be accepted in the courtroom process. As a result, the community had little response from downtown to neighborhood problems. For the past several years, community courts have sprung up across America. Some are found in business districts, others are located or move about in residential settings. Each now addresses a wide variety of community problems. Such prosecution- and court-related investments in community crime and disorder likely will continue to shape the police officers and agencies working in these same neighborhoods and business areas. As the justice system itself has begun to recognize that it too must coordinate efforts for maximum output and impact, this will greatly reshape the role of the police in the years to come.

Changes associated with the justice system, as previously alluded to, are also affecting the relationships between the police and other social service agencies. Today, there is certainly increased interaction and coordination between the police and human services and social welfare services. In areas such as domestic violence and child abuse, the police are working as part of intervention teams to influence these outcomes in a positive way (Gamache, Edelson, and Schock 1988; Hirschel et al. 1999).

Like it or not, the police are in the social welfare business: They are the only 24-hours-a-day, 7-days-a-week agency open to address a wide range of social problems, such as domestic and social welfare problems. Consequently, for practical as well as philosophical reasons, the police cannot continue to see much of this work as not police business. Such shifts in partnerships with social service agencies and continued pressure for the police to respond to these community concerns will continue to shape both the definition of police work and the delivery systems by which police services and other government social services are provided. Increased police agency accountability for effort, output, and activity is also pushing the police toward more analytic and thoughtful responses and methods of measuring success—measuring effort is not enough to maintain support for the police, efforts must be linked to outputs and outputs to effects.

Each of these changes in the marketplace and environment of the police has had profound impacts on how policing is performed and evaluated. They portend a significant departure from policing as we know it. They will require considerations of jurisdiction, service delivery, the protection of constitutional rights (particularly as they are affected by private service providers), and the network of agencies and individuals who will play a role in public safety.

## **Policing and the bureaucratic imperative**

Community policing is a difficult philosophy to implement in highly structured, authoritarian bureaucracies—such as those found in American law enforcement. The problem of change implementation focuses our attention on the institutional capacity of the police to actually effect the intended outcomes of community policing. As we have seen, American policing has made some progress toward more open and accountable administrative, organizational, and service delivery systems, yet much more needs to occur if the police are to fully embrace these new concepts.

### ***Compartmentalizing community and problem-oriented policing***

Tactical planning and the shifting of personnel to hot spots are better developed in policing today than they have been in the past. In fact, such tactical analysis has often eclipsed larger issues of police roles and accountability. Consequently, short-term tactical considerations are more apt to drive community policing programs, perhaps to the detriment of the long-term strategic issues. Additionally, at present most of these programs are treated as experiments or special areas and do not challenge the core technology of policing systemwide. Although the effects achieved in Chicago are the most documented, this program also remains an adjunct to more traditional response-driven policing.

Project after project in the community policing arena appears to seek to incrementally affect policing through time- and jurisdiction-bounded demonstration programs. Although there are both pro and con arguments to conducting demonstration projects, it is clear that much of what passes as general policing is unconnected to these projects (see Zhao 1996). If we have learned nothing from the experiments in team policing of the past (Sherman, Milton, and Kelly 1973; Schwartz and Clarren 1977), it should be clear that police bureaucracies are skilled at stifling innovation, most particularly when the change threatens the internal status quo of that agency (see Wycoff and Kelling 1978). Consequently, the limited and often oblique approach afforded community and problem-oriented policing programs at present is unlikely to materially affect the bureaucratic routines these programs seek to alter.

Related to the organizational issues raised previously, many community policing programs are presented and function as adjuncts to other police services in any given area. For example, in foot patrol programs, the officers are often placed into areas to relieve motorized patrols, or neighborhood police station officers are adjuncts to the many overlay police services in that neighborhood. Such specialization can be quite detrimental to instilling a strategy of community policing or problem solving. When such organizational specialization takes

place, we need only look at the community relations movement of past police generations and its impact on “real” patrol officers (Greene and Pelfrey 1997). The suboptimization of community-oriented policing is certainly to be avoided in setting the police agenda of the future.

### ***Resocializing and training officers***

Another set of significant implementation problems surrounds both the selection and resocialization of police participants assigned to community policing programs, activities, or functions. In regard to selection, it is not clear that what passes as a community or problem-oriented police program is not actually the result of highly motivated police officers who are either self-selected or organizationally selected into these positions. That is, in the current version of community-oriented policing programs, patrol officers are often creamed or volunteered such that we often do not know if it is the program or the individual that accounts for effects achieved, presuming we can find any.

Evidence from Chicago and Joliet appears to suggest that community and problem-oriented policing can be generalized to the wider police workforce (Skogan and Hartnett 1997; Lurigio and Skogan 1998; Lurigio and Rosenbaum 1994). Still, questions remain as to what types of police officers are drawn to such programs, and how the police selection and socialization process supports or detracts from a more generalized style of policing. Zhao and his associates (1995) suggested that there was indeed more emphasis and desire for community and problem-solving training in many police agencies. This is no small technical matter, for it points to a more critical question—namely, can all or even a large number of police officers actually become community or problem oriented (Greene 1989)?

Related to the person/role fit, the questions raised regard the extent to which police participants in demonstration programs receive the resocialization they require for what are fundamentally new roles. Much of police training might be characterized as developing “acting” officers; much of the reform implied in community and problem-oriented programs will require “thinking” officers.

***Much of the current efforts to imbue policing with community and problem-oriented focuses remain short in duration—ranging from a few days to perhaps 1 week, not a significant timeframe to resocialize the police.***

A cursory review of the literature on current and past community and problem-oriented programs reveals that generally less than 1 week of time is devoted for American police officers to learn and function in these new police thinking roles. Certainly, enacting roles based on such little preparation is unlikely to produce the results expected; if such results are indeed achieved, then the question of whether these results are achieved through programs and institutions or through the self-selection of individuals again arises.

Community and problem-oriented policing require that the police change, in some fundamental ways, the process they use to conduct business. All too often, these efforts have not been accompanied by effective training that might assist police officers, supervisors, and indeed those at all levels within police departments to make these shifts in philosophy, policy, and practice.

In its early inception, community and problem-oriented policing training was but a small aspect of the training the police received. More often than not, this training was short in duration, conceptual, and at times ethereal and lacked any serious connection to the realities of police work. (For a discussion of this process in Chicago, see Skogan and Hartnett 1997.) Typically, these efforts amounted to training that ranged from a few hours to perhaps an entire day. In fact, much of the current efforts to imbue policing with community and problem-oriented focuses remain short in duration—ranging from a few days to perhaps 1 week, not a significant timeframe to resocialize the police.

Beyond the issue of duration is the matter of content. What are the subject domains from which community and problem-oriented policing should be drawing? From the perspective of community policing, the generally agreed topics are effective communications, developing and conducting meetings, building consensus among community partners, action planning, and the ability to deal with conflict within interpersonal situations. These topics are generally not found in police training curriculums. Moreover, basic and advanced police training as currently construed in America may actually provide competing messages about the role of the police in society and more specifically about the importance of community and problem-oriented policing vis-a-vis more traditional approaches. What is generally lacking in American policing is the “red thread” of community and problem-oriented policing that would link the diverse topics within any basic or advanced training curriculum.

Perhaps a more pressing problem in police training as it affects community and problem-oriented policing is in the preparation of new officers for these challenging positions. Typically, training and standards commissions within each State govern police training. These commissions set the minimum standards for police training. There is often a range in training and preparation needed to become a police officer, from about 420 to 600 hours. Much of this training was

developed during the professional era of policing. That is to say, much of this training was developed to bring the police up to some standard of practice that could be used to ensure that minimal preparation would be required of all police officers, as well as to enhance the occupation's prestige as a profession. Together, the twin goals of establishing minimal criteria for policing officers and increasing the occupation's status have been the underlying justifications in much of this movement. Unfortunately, at the time of their adoption, minimal standards did not include a visible place for community and problem-oriented policing. Even today, the linking of community and problem-oriented concepts in an integrated State-mandated curriculum is not typical of the police training environment. Rather, community and problem-oriented training has become an add-on in the midst of traditionally based skills training offered and mandated by these commissions and taught in police academies across the country.

### ***Tackling police culture***

Perhaps one of the greatest obstacles to realizing community and problem-oriented policing agencies rests within the cultures of policing. Organizational cultures are "the values, beliefs, assumptions, perceptions, norms, artifacts, and patterns of behavior" that guide individual and group action (Ott 1989, 1). Cultures are powerful metaphors, for they focus our concerns on the internal symbols that channel organizational behavior (Morgan 1986).

Despite a recognition of the important role that style—or organizational culture—plays in policing, the methods for creating this organizational culture and the implications of competing cultures for police work are not clearly understood and less obviously practiced in modern-day law enforcement agencies. Values and organizational culture in policing are important beyond the issue of image or the general stylistic notions that are thought to condition police departments (Wilson 1967; Brown 1981). At the institutional level of policing, values and culture are most often associated with the corporate strategy being pursued by the organization as a whole (see Kelling and Moore 1988; Moore and Trojanowicz 1988). Current trends in policing toward the identification and publication of explicit organizational values can be viewed as illustrating the institutional connections between values, culture, and corporate strategy. And conflict between the internalized management culture of police organizations and the tactical culture of police operations, which has been identified by several researchers (Manning 1977; Brown 1981; Reuss-Ianni and Ianni 1983), can be viewed as evidence of an ongoing internal struggle for value clarification within police departments. Moreover, current efforts to shift police departments from traditional policing toward community and problem-oriented policing (Goldstein 1990) can also be viewed as explicitly addressing competing internal values within policing as portrayed in our earlier consideration of policing models.

### ***Resocializing supervisors***

Although it is generally agreed that first-line supervisors play a critical role in overseeing all activities of line officers, the shift to community and problem-oriented policing makes these roles even more critical. In New York City, for example, the role of the sergeant required several adjustments to properly oversee CPOP, previously discussed. For example, sergeants in New York supervising street officer activities needed to adjust their own and the officers' expectations about what activities were legitimate. Here, the concern was to shift the sergeants' definition of good police work to include more community contacts (see Weisburd and McElroy 1988). A second shift in supervisory practice and orientation included the need to shift sergeants from managing the workload that was being responded to toward proactive problem-solving activities that responded to community problems (in this case, street-level drug sales). Third, in the New York experience, sergeants needed to adjust their supervisory practices to ensure that, while they were encouraging police and community interaction, it remained lawful and therefore did not corrupt officer decision-making and actions taken in community settings.

Skogan and Hartnett echoed the concern for the development of sergeants' facility and agreement with community and problem-oriented policing concepts and practices. In speaking about the Chicago CAPS Program, they suggest: "It was also clear that the program could not become a reality until officers believed that their immediate supervisor really expected them to carry it out" (1997, 90).

For community and problem-oriented policing to become firmly entrenched in American policing, it will be necessary for supervisory practices to shift toward facilitating workforce achievement while holding officers accountable for problem solving. This is a major task and one requiring that we rethink the industrial supervisory model that currently undergirds policing. It is clear from research on the police that the task environment of police officers produces both opportunities for community building and problem solving while at the same time improving satisfaction for individual officers (Wycoff and Skogan 1993; Zhao, Thurman, and He 1999). Police officers seek autonomy in their daily activities, and it will be essential that police supervisors afford officers decisional latitude and autonomy while at the same time ensuring that such autonomy is used appropriately to solve community problems.

### ***Performance measurement***

Finally, perhaps one of the more significant issues confronting community and problem-oriented policing is the need to develop and implement performance standards that will reinforce the shift from traditional policing to these newer



styles and practices. Performance measurement has the effect of announcing what the organization values and then monitoring individual compliance with organizational objectives. Such systems reinforce the messages obtained through the philosophical discussion of community and problem-oriented policing by making practical the means and outcomes sought of individual police officers, work groups, and the entire organization. As noted by Skogan and Hartnett (1997, 109):

Performance in a community policing assignment needs to be recognized; and performance measures need to be developed that enable managers to give their line workers routine feedback about how well they are doing, and to convey to the department, and to the general public, the reality of the agency's new values and expectations.

In some respects, American policing is in a catch-22 situation where it at once announces to the community and to the police that they should expect something different from the police and yet measures those things that are most associated with traditional policing, such as crime reporting and arrests. In systems where there is a disjuncture between preaching and practice, it should be expected that employees would follow the path of what is measured, rewarded, and punished.

Today, there are competing messages in the measurement of police performance at both the individual and organizational levels. Despite several efforts to shape policing toward community and problem-oriented approaches, the central measurements of police impact remain the frequency of serious crime and the number of arrests made by the police.

Innumerable discussions about the vagueness of police statistics and their ability to shed light on police performance have been advanced. Essentially, they say that police crime reports are suspect in the measurement of performance as they are more often related to community confidence in reporting victimization to the police. Also, police arrest statistics as a measure of performance are problematic as they generally are affected by the level of resources that the police can devote to a particular crime or location, rather than a measure of either efficiency or effectiveness. To date, most police agencies have not linked calls for service to performance measurement, even though these data may more accurately reflect community concerns about crime and disorder or other things that disturb the social fabric.

Problem solving as a central policing technological change should carry with it a measurement system that allows the police to know if the problem has been resolved or has diminished. Moreover, if the level of harm from the problem

has been reduced or it takes longer to recur, the police may have improved their performance even though it is not exactly reflected in their traditional measures.

Identifying and using appropriate measures of police performance, then, likely will help to reinforce police shifts toward community and problem-oriented policing. Conversely, if the police continue to use historical measures of success exclusively, the internal messages that officers receive are that business as usual is the path to individual and organizational success. Such a message complicates individual roles and institutional change in policing and does injury to the fledgling accomplishments of community and problem-oriented policing.

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## Notes

1. These include murder, aggravated assault, rape, robbery, auto theft, burglary, and arson.
2. Sir Robert Peel, the acknowledged founder of organized policing in England in the early 1800s, suggested as the first principle of policing that police agencies be judged primarily by the absence of crime.
3. Quoted on the cover of Kelling and Coles 1996.
4. D.A.R.E.<sup>®</sup> and G.R.E.A.T. are programs that have been implemented nationally to provide prosocial role models and activities for school-age children.

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# **Criminal Justice and the IT Revolution**

*by Terence Dunworth*

This article examines the impact on American policing of the information-processing revolution that has taken place since the invention of the transistor. The objective is to assess the opportunities and challenges that this revolution has generated and to examine the responses that American policing has made. An organizing premise of the work is that although the IT revolution promises an enormous increase in information-processing capability, the present reality is that too few police departments are utilizing that capability effectively.

The work begins with a short historical overview of legislation and commissions that addressed or influenced information systems development in criminal justice from the mid-1800s until the Violent Crime Control and Law Enforcement Act of 1994. Reviews are then presented of the current state of policing information systems in the following areas: records management, criminal histories, computer-aided dispatch, crime analysis, uniform crime reporting, and computer networking.

The information system demands made by community- and problem-oriented policing are then examined. The argument is made that community-oriented policing differs in philosophy and approach from professional or traditional policing. The changes in policing that are required are strategic, not simply tactical. In particular, effective implementation of community-oriented policing depends on information gathering and processing systems that are radically different and

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more demanding than those needed for professional policing. Seven information domains are identified and reviewed. The claim is made that neglect of these domains, or failure to meet the IT imperatives they assert, will impede, perhaps cripple, the implementation of community policing. The article concludes with a prescriptive and optimistic look at the prospects for the 21st century.

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It will not be long before personal computers are as common as telephones. This is one consequence of the information technology (IT)<sup>1</sup> revolution that has taken place since the invention of the transistor 50 years ago.<sup>2</sup> Of course, it is now a decade or so since the designation "personal" became inappropriate. What used to be "personal" during the first few years of the revolution has now become general. It is probably not too great a stretch to assert that virtually every organizational, business, and scientific use of information incorporates in some way IT that is encompassed by the rubric "personal computers." In addition, desktop and laptop systems are moving into public and private organizations, as well as homes, far more rapidly than the telephone did, and they seem certain to have, if they have not already had, a greater impact than the telephone on the way public and private activities are conducted.

This revolution has enormous implications for law enforcement, which is generally regarded as a fragmented and sometimes cumbersome processor and user of information.<sup>3</sup> It has provided a capacity for information management that has begun to radically change the way in which law enforcement conducts its business. Though it is true that the pace at which law enforcement has adopted the new IT lags behind many other elements of society, there is also an inevitability about that adoption. In the end, law enforcement will not have a choice. The IT revolution will have to be embraced.

In this paper, I have a narrow focus: the effect of the IT revolution on policing. This is because police departments are, in my opinion, the most dynamic users of the kind of information that the IT revolution is bringing into existence. Police departments use information to make strategic, tactical, and investigative decisions in ways that prosecutors, courts, and correctional agencies do not. Police departments do much more than record their activities, and they are faced with a constant need to adapt to a changing operational environment. In that sense, the IT revolution is a very good fit for their needs.

In the following section, I present a brief historical background of the application of information to law enforcement, beginning with early developments in the 19th century and culminating in the Violent Crime Control and Law Enforcement Act of 1994 (Crime Act).

Following the historical overview, I consider the promise and the reality of IT for policing by reviewing where policing stands with respect to a number of critical information systems areas: records management; criminal histories and offender identification; computer-aided dispatch and emergency response systems; crime analysis; the Uniform Crime Reporting (UCR) system and the National Incident-Based Reporting System (NIBRS); and computer networking technology and the Internet.

I then examine what I consider to be the IT mandate that community policing imposes on police departments. This section looks at the types of information that community policing requires for implementation, and the way that they differ from the information that police departments have traditionally collected.

The final section contains some reflections on policing IT and the 21st century. The potential for the generation of new knowledge and the risks associated with possible misuse of computerized police data are reviewed briefly, and a short conclusion brings the article to a close.

## **Historical Background**

### **The first 100 years: 1830–1930**

Though the intensity of our current focus on information systems in criminal justice is historically unparalleled, a demand for facts about crimes, those who commit them, and the response we must give goes back more than two centuries. Decker (1978)<sup>4</sup> identified early approaches by Bentham (urging data collection on British prisoners in 1778), Guerry (beginning a formalized system of French criminal statistics in 1833), and Quetelet (who commented at the same time on the issues surrounding the strengths and weaknesses of official French crime data).

Decker noted that in the United States, the effort to develop systematic information about crime dates back about a century and a half. In 1834, Massachusetts was the first State to begin collecting data on crimes. The Federal Government did the same, first in conjunction with the 1850 census and subsequently with later censuses. By the early 1900s, data from police reports were being compiled into criminal statistical reports, and Federal prisoner data and judicial statistics were being accumulated, printed, and disseminated by the Office of the U.S. Attorney General.

Though these early efforts were modest by today's standards, the Federal systems in particular generated what appear to have been reasonably accurate compilations of the activity of the Federal judicial system. These were used for decisionmaking about budgeting, facilities construction, and resource allocation issues. Data on crime in cities were another matter. Many police departments lacked the resources and perhaps the interest needed to compile comprehensive and accurate statistics, and the consequence was that knowledge about non-Federal crime and the local criminal justice environment was sketchy at best.

In the 1920s, the International Association of Chiefs of Police (IACP) responded to the need for a uniform, nationwide system of compiling statistics on



crime by developing and initiating a uniform crime reporting system, to which police departments were urged to voluntarily contribute crime data in a standardized format. In 1930, IACP cooperated with the Federal Government in arranging for the transfer of this system to the Federal Bureau of Investigation (FBI), where it is still housed.<sup>5</sup> The 1930 UCR report included 1,002 cities, with participation by 83 percent of cities with populations greater than 25,000.

## **Wickersham Commission: 1931**

In 1929, the same year that UCR was launched, a National Commission on Law Observance and Enforcement was established by President Hoover. This came to be known as the Wickersham Commission, named after its chairperson, George W. Wickersham.<sup>6</sup> Though there had been locally based studies of criminal justice during the previous 10 years,<sup>7</sup> this was the first national evaluation of the system of justice administration in the United States.

The Commission published 13 reports in June 1930.<sup>8</sup> One of these, the *Report on Criminal Statistics*, was an assertion of the need for accurate, nationwide statistics on crime and the criminal justice system. The report reflected the influence of IACP's work on the UCR program, and specifically cited the UCR system as a model. However, the members of the Wickersham Commission wanted to go much further by creating a comprehensive system of national data, encompassing penal, judicial, and police data under one Federal agency. That agency would establish national data collection systems to achieve these objectives. The report also expressed reservations about the accuracy of the crime statistics currently being compiled as well as about their interpretation. In this respect, the Commission's observations were prescient—many of its concerns have been echoed repeatedly in subsequent commentary on UCR.

## **President's Commission on Law Enforcement and Administration of Justice: 1965**

For the next three and a half decades, UCR data was systematically collected and came to be the Nation's only barometer of crime levels. However, little progress was made beyond this, except at the Federal level, where the creation of the Administrative Office of the U.S. Courts in 1938 consolidated Federal judicial and penal system data collection under the new agency, and led to the creation of a centralized process of data compilation and reporting that has persisted largely unchanged (except for computerization) to the present time.

Then, in 1965, President Johnson convened the President's Commission on Law Enforcement and Administration of Justice. The mandate of this Commission, with respect to issues pertaining to crime, was essentially

unlimited, and its extensive report was a wide-ranging and enormously influential document (President's Commission on Law Enforcement and Administration of Justice 1967; U.S. Department of Justice, Office of Justice Programs 1998).

The Commission's examination of information systems and statistics produced gloomy observations by Commission members. Henry Ruth, deputy director of the Commission, is quoted as saying: "Practically no data on the criminal justice system existed when the Commission began work. Not much police data existed. Court data were a mess" (Foote 1998). In addition, the Commission's survey of 10,000 households suggested that crime of all kinds was being seriously underreported to police, with the result that UCR could not be counted on to be an accurate measure of crime levels in the country (President's Commission on Law Enforcement and Administration of Justice 1967, v).

This led to what was in a number of respects a reaffirmation and clarification of the principles and approaches promulgated earlier by the Wickersham Commission, but never adequately adopted—namely, that policy should be informed by knowledge and facts; that the development, collection, and compilation of these data should be the responsibility of a National Criminal Justice Statistics Center; that State statistical centers should be established both to provide information and support to the Federal agency and to generate locally useful data; and that Federal funding should be provided to help accomplish these goals.

### **Federal legislation: 1968–94**

The immediate outcome of the work of the President's Commission was the passage of the Omnibus Crime Control and Safe Streets Act of 1968, which has been the foundation for virtually all subsequent Federal legislation on State and local criminal justice matters. This Act created the Law Enforcement Assistance Administration (LEAA), which from 1968 until 1979 housed the National Institute of Law Enforcement and Criminal Justice (the precursor agency to today's National Institute of Justice) and the National Criminal Justice Information and Statistics Service (the precursor to today's Bureau of Justice Statistics). LEAA also managed Federal assistance to State and local criminal justice agencies,<sup>9</sup> and in 1973 established the National Crime Survey (NCS), which carried forward the approach undertaken by the President's Commission in its 1967 survey. Of NCS, Tonry (1997, 113–114) notes:

Some observers would say that the National Crime Victimization Survey (NCVS) is the single most important research-and-statistics legacy of the President's Crime Commission. Considering that there were no victim surveys before the President's Commission sponsored the pilots, the NCVS is

a remarkable accomplishment. Not only has it survived for nearly a quarter of a century, and been steadily improved during that period, but it has now achieved recognition as at least equal to the UCR as a source of information on crime trends and patterns.

Despite the promise inherent in the President's Commission's report and the subsequent legislation, the operational manifestation of the principles the President's Commission espoused did not generate long-term acceptance by Congress or the criminal justice community. By the late 1970s, LEAA was an agency whose time had come and gone. Congressional willingness to fund the agency dwindled from the peak reached in 1976, and by 1980, appropriations were effectively zero.<sup>10</sup>

This discontent with LEAA led to an overhaul of the Federal Government's approach to the management of its efforts to influence and assist State and local crime control activities. In 1979, Congress passed the Justice System Improvement Act of 1979, which took the building blocks created by LEAA and converted them into the Federal system for dealing with State and local criminal justice issues that we know today. The independent National Institute of Justice (NIJ) and Bureau of Justice Statistics (BJS) were created within the LEAA framework. An oversight office—the Office of Justice Assistance, Research, and Statistics (OJARS)—was also set up. When LEAA was formally abolished in 1982, the other three offices survived and the Comprehensive Crime Control Act of 1984 created a new structure, retaining NIJ as the research entity and BJS as the statistics entity. OJARS was renamed the Office of Justice Programs, but kept similar oversight responsibilities, and two new agencies were created—the Bureau of Justice Assistance to manage block grants, and the Office for Victims of Crime to handle victim issues. This organizational structure has survived to the present day and most subsequent legislation has authorized and appropriated funding within it. The exception was the Crime Act, which, among other things, created an independent agency, the Office of Community Oriented Policing Services (COPS), to manage the Clinton administration's 100,000 Cops on the Street program.<sup>11</sup>

## **Summary**

A common theme about information and statistics can be found in the reports of the two Commissions and the legislation that has been enacted. This is that we do not know enough about crime and the criminal justice system, and we must gather, organize, and disseminate more information to develop good policy and make sensible operating decisions. Certainly, until 1967, this was the clarion call that was being explicitly sounded. Since 1967, various acts have

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attempted to codify that call into an effective system for gathering, organizing, and disseminating information.

In some respects, these efforts can be considered a success. BJS now produces an impressive array of data series, covering a large variety of criminal justice topics. NIJ sponsors a wide range of empirical research and itself manages the Arrestee Drug Abuse Monitoring program, a significant data collection effort focusing on drugs and crime.<sup>12</sup> The FBI produces UCR on a nationwide scale. NCVS captures unreported as well as reported crime in ways that most observers consider highly credible and dependable. And at the local level, many police departments have replaced paper records with computerized information systems that would have been infeasible a decade ago.

However, there is a problem. Though the emphasis on collecting facts and increasing our knowledge of the situation with which the criminal justice system must deal is an obvious first step in dealing effectively with crime, data alone cannot tell us what to do. Though it is true that if we do not know the scope of the problem we face, our responses to it are not likely to be appropriately focused, an accumulation of facts is not an answer to policy and operational questions. The facts must be processed in some useful way. They must be analyzed, interpreted, and used as a basis for action. This is where difficulties arise.

Over the past decade or so, extraordinarily rapid increases in data processing capabilities have taken place. What used to take a roomful of hardware to do slowly and sometimes badly can now be done by a machine that we can hold in one hand. We can store vast quantities of records on a device smaller than an envelope. For a few hundred dollars, we can acquire a computing system that is more powerful than one that cost hundreds of thousands of dollars 20 years ago. But, in the field of criminal justice, there is a real question facing us: How do we make this new capacity work for us?

By and large, in the operational world, we do not know the answer. Agencies are acquiring capacity without knowing what to do with it, except to automate paper systems. This is fine, but it is not much of an advance in decisionmaking.

The next two sections of this paper will examine this issue in the context of local police departments. In many respects, police departments have the greatest need among criminal justice agencies for a clear understanding of their environment and the ways they can adapt to it. This makes them, potentially at least, the neediest consumers of the new information systems and technology that have come on line in recent years. For these reasons, they constitute a highly informative context within which to consider the impact of the IT revolution on criminal justice.

## **Policing and IT: Promise and Reality**

### **The promise**

This section reviews what has taken place in policing with respect to IT development in a number of important areas during the past three decades. The organizing theme is that the rapid technological advances that have taken place outside policing have promised and sometimes delivered significant improvements in information processing capabilities. It is further believed that the incorporation of these advances into police department operations will at least radically improve and perhaps revolutionize policing. Such advances span virtually all of the information gathering requirements pertaining to crime measurement, control, and response that police departments might need.

However, despite this promise, the reality in policing has been, and is, quite different. Large-scale data collection systems of crime measurement, such as NIBRS, have not yet come close to realizing their potential. Few departmentally based systems have been implemented at anything approaching the level that is technologically feasible. Even when implemented, such systems have often come to be viewed as disappointingly irrelevant to the functions that police departments must perform, and a jaundiced view of them is expressed with disturbing frequency by police officers and command staff.

The result is that there now exists a real danger that the IT revolution will come to be seen as little more than a faster way of collecting information that

*There now exists a real danger that the IT revolution will come to be seen as little more than a faster way of collecting information that used to be put down on paper. If this view prevails, policing will have missed the most important contribution that the IT revolution can make—namely, to assist policing to redefine itself along the lines that community and problem-oriented policing propose.*

used to be put down on paper. If this view prevails, policing will have missed the most important contribution that the IT revolution can make—namely, to assist policing to redefine itself along the lines that community and problem-oriented policing propose.

In the balance of this section, I will present an overview of the status of IT in policing across what I consider to be the most significant substantive areas: records management systems (RMSs), criminal histories and offender identification, computer-aided dispatch (CAD) and emergency response systems (ERS), crime analysis, UCR and NIBRS, and computer networking technology and the Internet.

## **The reality**

### ***Records management systems***

An RMS is the informational heart of any police department's operations. It provides for the storage, retrieval, retention, manipulation, archiving, and viewing of information, records, documents, and files about every aspect of police business. A comprehensive and fully functioning RMS should include crime and arrest reports, personnel records, criminal records, and crime analysis data. Even today, this is the exception rather than the rule. Though virtually all staff in any police department use and depend on the information that an RMS should contain, many departments have inadequate or incomplete systems.

Prior to the 1970s, nearly all police department recordkeeping was paper based. Gradual conversion to mainframe computer recordkeeping began in the 1970s, particularly for crime and arrest information. By the mid-1980s, an estimated 1,500 of the Nation's 17,000 police agencies were using mainframe computers to a limited extent. Characteristically, because of the high investment cost associated with mainframes, most departments shared time with other city agencies, and management of the machine and the system was outside the department. Typically, RMS was little more than a recordkeeping system, with functions that differed little from those provided by its paper predecessor. As late as 1993, a BJS survey found that one-third of local police departments did not use computers for any element of recordkeeping (Brady 1997).

Lack of control over the system, poor links between its elements, and, sometimes, police department disinterest in recordkeeping or lack of experience and understanding of computers resulted in limited utilization of RMS. Even today, many departments have only partial computerization of recordkeeping. Some have no automation on key elements of their RMS, and a number cannot, for

instance, perform simple tasks that computers ought to be able to do easily, such as automatically compile UCR, link arrests to crimes reported, and so on. Consequently, in such departments, these kinds of functions still have to be performed manually, if they are done at all.

More recently, some departments have begun to move to fully automated (computerized) RMS. Some of these departments have gone beyond simply automating recordkeeping procedures by implementing dynamic, relational databases as an integral element in information management.

In such departments, an RMS is no longer a standalone system; it can be interfaced to other systems in the city or county and to State law enforcement systems, which in turn provide access to national crime databases. More recent systems provide graphical user interface with menus, buttons, icons, and other easily recognizable screen images. Built-in editing and error checking can reject incorrect information as it is entered, thus prompting correction before it is stored.

Incident address records are a good example of this capability. When entered by hand, addresses frequently contain mistakes; error rates of 30 to 40 percent are common. Now, some departments have all legitimate city addresses stored in a master file that is scanned whenever an address is entered. Addresses not found are rejected and a prompt for correction is issued. This produces percentage accuracy rates in the high 90s, a critical accomplishment for use with other computer-based applications such as crime mapping.

Thus, a state-of-the-art RMS can be integrated with other systems, such as CAD. They can track all the functions of a police precinct, not just arrests and bookings, in one complete package. For example, the latest breed of RMS can manage budgets; keep an active inventory of supplies, property, and evidence; schedule K-9 care and vehicle maintenance; organize intelligence; track 911 data; and automate many other departmental functions. This new breed also supports access to a wide range of external databases, such as the National Crime Information Center (NCIC) and NIBRS, and has the ability to share information with other justice agencies at all levels of government.

These capabilities create significant new potential for police departments: to conduct advanced crime analysis; to ground strategic and tactical decisionmaking on sound information; to deploy resources on a proactive rather than simply a reactive basis; and to execute many other functions that either were impossible to perform under earlier systems or were performed under conditions of extreme uncertainty.

However attractive a picture is drawn, it must be recognized that implementation of an advanced RMS is not a simple matter. Turnkey systems are rarely viewed as attractive by departments considering vendor offerings, and this creates major design issues. Some departments that have committed to state-of-the-art systems spend many months, or even years, in the design phase. Those that do not run the risk of disappointment, disillusionment, and failure. The process takes a major commitment of resources and budget, and can be very difficult to justify to a city council that is already under severe budgetary pressure.

Even when acquired, an automated RMS requires extensive user training, which, because of the expense, departments may neglect or underfund. Officer resistance can also be a factor, because the modern RMS imposes information collection demands on officers that many view as irrelevant at best and obstructive at worst. Departments must normally consider hiring new staff or training inhouse staff to provide ongoing user training and support, system maintenance, and troubleshooting. In the past, police departments have not attempted to hire such staff, and they do not find it easy to do so now.

Another common concern addresses liability and security with respect to personnel files and other sensitive data such as investigation reports and criminal records. As computer-based applications have grown, so have security breaches. Even government systems that are protected by the most sophisticated national security systems have yielded to persistent hackers. When a major objective of computerization is to simplify the exchange of information among and between officers and headquarters, the risk of improper access is obvious.

Despite these caveats, it is evident that no department will be able to take full advantage of the benefits that the IT revolution offers if it does not acquire a modern RMS. In a real sense, all other IT applications depend on RMS. If it is absent or deficient, then a domino effect seems inevitable. The other applications either will not realize their potential, or they will fail outright.

### ***Criminal histories and offender identification***

As noted above, a critical component of recordkeeping involves criminal histories and offender identification. These have always been problematic areas for police departments. There are two main reasons for this. First, definitive identification at the time of arrest is sometimes difficult to achieve. Some arrestees simply give false names and carry no documents. The result is that a delay in identification occurs, and police records are, for a period of time that in some cases can be lengthy, inaccurate or incomplete, or both. Second, even when identification is made at the local level, linking the offender to records in other



jurisdictions can be a difficult and tedious process. Because arraignments usually have to be held within 48 hours of arrest, this can lead to bail decisions that would be quite different if the full history were known.

These problems were first widely discussed in 1967, with publication of the report by the President's Commission on Law Enforcement and Administration of Justice, which noted that criminal history records were frequently inaccurate, incomplete, and inaccessible. These problems persist. A data quality survey conducted in 1997 found that only 25 States reported that 70 percent or more of arrests from the past 5 years had entries for final dispositions in their criminal history database (Barton 1999).

What is obviously needed are identification and history systems that overcome these problems quickly and efficiently. Ideally, these should be integrated into RMS. Computerization offers that potential, though it would be accurate to say that the potential has not yet been realized.

Nevertheless, both Federal and State criminal history and identification systems have evolved significantly over the past few decades. States have established criminal history repositories that contain information about arrests occurring throughout their State. The FBI maintains criminal history systems for Federal offenders and national criminal record systems, including NCIC, the Interstate Identification Index, and an automated National Fingerprint File.

Over the past decade, the Federal Government has invested more than \$200 million to improve the quality of criminal history records at the State and Federal levels. These records are not only critical to the day-to-day operation of virtually every Federal, State, and local criminal justice agency, they are also of increasing relevance to applications outside the criminal justice field. Most States permit some access to criminal history records by agencies outside criminal justice for employment, licensing, and other purposes.

Perhaps of greater portent are the mandates imposed by the Handgun Violence Prevention Act (known as the Brady law) and the National Child Protection Act of 1993. These significantly expanded the importance of criminal history records for determining eligibility to purchase a firearm and for screening childcare facility employees. Though there is a good deal of controversy about the constitutionality and efficacy of this process, some evidence exists that it has had an effect. BJS has reported that from March 1, 1994, to November 29, 1998, approximately 12,740,000 applications for handgun purchases were made. There were 312,000 rejections as a result of the background checks required by the Brady law (Manson, Gilliard, and Lauver 1999). Whether this should be considered many or few may be a matter of debate. What is not at

issue is the dependency of this result on automated information processing that could not even have been attempted a decade ago. Like it or not, the ability to perform such checks is a remarkable IT achievement.

Expansion of such checking seems assured for the future, and, given the expanding public and political attention being paid to gun violence, there seems no doubt that the checks considered necessary will become increasingly demanding and sophisticated. Anyone who has examined the amount and type of information generated by a single arrest knows that it can be complex and voluminous, perhaps involving several agencies within a single jurisdiction. Compiling a comprehensive criminal history involves multiple jurisdictions. To have complete, accurate, and timely access to such histories, each step in the process must be carefully executed, and the results must be subject to the most rigorous quality control.

To achieve these goals, Federal and State agencies will need to implement a number of different strategies. These will include conducting baseline audits of record systems to understand the nature and extent of data quality problems; entering backlogs of manual arrest and disposition records into automated files; developing long-term data quality improvement plans; and undertaking efforts to obtain unreported dispositions from courts and prosecutors. To date, this has been a Sisyphean task because much of the desired information exists only on paper or, even if automated, in nonstandardized form. Consequently, implementing dependable and uniform electronic interfaces between reporting

agencies and the central criminal history repository will be a prerequisite for expanding the effective utilization of criminal histories. In fact, a good deal of work is being done to bring this about.

***The key, in the end, will be the extent to which individual police departments develop the capacity to take advantage of the State and Federal systems that are being created. This is another of the IT challenges that departments face.***

BJS currently manages a major Federal initiative—the National Criminal History Improvement Program (NCHIP)—that provides funding to the FBI and State criminal history repositories. The goal of NCHIP is to ensure that accurate records are available for use in law enforcement, including sex offender registry requirements, and to permit States to identify ineligible firearm purchasers; persons ineligible to hold positions involving children, the elderly, or the disabled; and persons subject to protective orders or wanted, arrested, or convicted of stalking and/or domestic violence. NCHIP also provides funding to the FBI to operate the National Instant Criminal Background Check System (established pursuant to

the permanent provision of the Brady law), the National Sex Offender Registry, and the National Protective Order File.

These developments move law enforcement closer to the goal of rapid identification and accurate recovery of history information. The key, in the end, will be the extent to which individual police departments develop the capacity to take advantage of the State and Federal systems that are being created. This is another of the IT challenges that departments face.

### ***Computer-aided dispatch and emergency response systems***

Responding to citizen calls for service has always been a central responsibility of law enforcement as well as other public safety services. Early systems by necessity involved either direct contact with a beat officer or hand processing of crime reports made to a station. Dispatch of officers was then handled from the station. Records concerning service calls were handwritten. The introduction of radio into patrol cars made voice dispatch by radio message a reality, and the advent of computerization created the possibility of CAD and automated records of calls and responses.

To make public safety response more effective, a single national emergency number was proposed in 1957 by the National Association of Fire Chiefs as a way to report fires nationwide. In 1967, the President's Commission on Law Enforcement and Administration of Justice also recommended the establishment of a nationwide number for reporting emergency situations, and in 1968, the Federal Communications Commission (FCC) collaborated with AT&T to establish the digits 911 as the emergency number throughout the United States.

Implementation of the 911 system was relatively slow. During the first decade of 911, roughly 17 percent of the country adopted the system. By the late 1990s, that figure had risen to approximately 85 percent.

As the 911 system grew, police departments, city governments, and citizens continued to view quick response to service calls to be a central measure of the effectiveness of a department. Heavy advertising of 911 took place, and public awareness of the system grew. This led to a steady increase in the demand for services that was channeled through the 911 system, with resulting upward pressure on police department resources and budgets. This was consistent with the view of policing as reactive rather than proactive. That is, police departments were expected to respond rapidly to citizen calls for service, and so should organize in such a way as to optimize that capability. Performance standards for departments frequently included "average response time" to 911 calls, and the objective was to have this be a matter of a few minutes. Generally speaking,

however, most cities and departments would no doubt consider that police resources did not increase commensurate with the demand for them.

Nevertheless, citizen expectations of an immediate response remained.

At present, more than 97 million calls for service to 911 are made annually, and the number is growing. The proliferation of cellular phones appears to be contributing significantly to the growth. Cellular 911 calls in California have increased 750 percent in the past 10 years, amounting to more than 2.2 million in 1995. More than 10 percent of California 911 calls now come from cellular phones, and cellular callers wait an average of 26 seconds for an answer. Many of these calls are either duplicate reports of the same situation or nonemergencies.

Estimates on how many 911 calls of all kinds are for nonemergencies vary from city to city, but the range appears to be from 45 to 80 percent (U.S. Department of Justice, Office of Community Oriented Policing Services 1997). Such calls could, in principle, be handled outside the emergency response system, but determining their nonemergency nature is difficult during the call itself. An incorrect decision by a 911 calltaker can have fatal consequences, and consequently erring on the side of caution is the prudent course. The result is that many emergency responses are made to calls that in fact did not require quick reaction. It is a truism to note that this places excessive demand on the resources of police departments.

Another result is that legitimate 911 calls may get an inadequate response. For example, when the volume of calls is high, callers may be put on hold or may get a recorded message. In Los Angeles in 1995, 325,000 callers hung up the phone when they were not able to contact a dispatcher quickly (U.S. Department of Justice, Office of Community Oriented Policing Services 1997). The California Highway Patrol also concluded that overloaded cellular channels contributed to hangups by cellular callers (911 Dispatch Services, Inc. 1996).

In an effort to sustain a rapid response time to true emergencies while nevertheless curbing unnecessary responses, police departments began to experiment as early as 1976 with different ways to “manage demand” (Kennedy 1993). More recently, some jurisdictions have publicized alternate numbers for nonemergency calls. In August 1996, COPS petitioned the FCC to reserve the code 311 for use by communities as a nonemergency police and public service telephone number, and the FCC approved this designation in February 1997.

Support for the idea that 911 is overloaded and that 311 can help is not universal. In favor of the use of 311 as a universal nonemergency service number are COPS, the National Sheriffs’ Association, and the National Troopers Coalition, as well as various police and fire departments. However, the National

Emergency Number Association (NENA), concerned that there would be public confusion between the uses for 911 and 311, did not support the establishment of the national nonemergency police number (Ellison 1996). NENA maintains that there is no national overload of the 911 system, and that there are already local nonemergency numbers in place in communities that require such a system. The Association of Public Safety Communications Officers also declined to support a mandatory three-digit number for nationwide nonemergency use, arguing that a greater concern was making 911 service available to the 32 million people in the United States without such access (Lorow 1997).

In October 1996, Baltimore, Maryland, in partnership with COPS, began a 2-year trial of 311. The Baltimore Police Department increased calltaking staff by up to 64 percent, contributing to a reduction in 911 answer time and abandoned calls, as well as to an overall drop in the number of 911 calls (Allen 1997).

Other jurisdictions soon followed Baltimore in implementing 311. In February 1999, eight jurisdictions were recipients of COPS funds totaling \$3.85 million for the purpose of enhancing or creating a local 311 nonemergency system: Baltimore, Maryland; Birmingham, Alabama; Dukes County, Massachusetts; Houston, Texas; Los Angeles, California; Miami, Florida; South Pasadena/City of Pasadena, California; and Rochester, New York. Given a positive outcome in these jurisdictions, further moves toward a 311 approach seem likely.

No matter how the 911/311 issue is eventually resolved, CAD is now a fundamental component of response capacity in many police departments. The current generation of CAD systems is able to integrate Enhanced 911; identify the location and number of the originating call; provide mapping capabilities; and communicate directly with computers in patrol cars, national databases, and the department's RMS database. Further enhancements are certain as the IT revolution continues. As technological and cost barriers decline, a wider acceptance of CAD will be inevitable. Without doubt, CAD will be considered a prerequisite for effective policing in the 21st century for departments of all sizes.

### ***Mobile data terminals***

During the past decade, another important element of law enforcement response capability has been developed through mobile data terminals (MDTs). These allow wireless receipt and transmission of information to and from officers on foot or in patrol cars. Initially, MDTs were basically unsophisticated terminals that permitted transfer of rudimentary information between station and officer. Dispatch instructions, for instance, could be sent to the terminal rather than being put out over police radio. The officer could automatically record and transmit arrival times at the dispatch location. In the past few years, however,

technological advances have led to the introduction of laptop and notebook computers, pen-based computers, voice-based computers, and handheld ticket-issuing computers. These now match desktop machines in sophistication, and will continue to expand in capability. As miniaturization progresses, for instance, handheld devices that do not require patrol car installation seem certain to proliferate. This will free officers from patrol car dependence, and increase the scope and sophistication that officers on the street can exercise with respect to two-way information flow. In this sense, MDTs are becoming much more than aids to response.

First available around 1990, today's laptop models can be operated by officers on a standalone basis or combined with onboard radios, built-in cellular phones, or computer docking stations. In terms of technical capacity, law enforcement laptops equal any other machine. One difference is construction—enforcement laptops tend to be “ruggedized” to withstand the shocks and rough handling that a law enforcement environment potentially inflicts. When connected to cellular phone-based systems, laptops can send and receive data to and from remote sites. Some laptop computers provide touch-screen capability. The potential utility of these machines is obviously vast. Not only can they be used to transmit virtually any kind of information back and forth, but they can be used to provide rapid authorization for police actions through faxed warrant requests and approvals, thus eliminating the sometimes crippling delays that, in the past, could result from having to return to the station, write up a justification, submit it, and then return to the scene.

Handheld ticket-issuing computers, used principally in parking enforcement, enable officers to issue computer-generated citations and simultaneously check the vehicle for outstanding tickets. These systems contain as many as 40,000 records, including information on stolen or wanted vehicles, and can also be used to record field interviews.

Pen-based computers were first introduced in 1989 as clipboard-size mobile computers, weighing less than 5 pounds, that recognized handwriting and converted it to text. Some pen-based computers have radio capability. Pen-based computers can be mounted in patrol cars, but officers can remove and operate them for a limited distance from the vehicles. Because the software used to recognize handwriting was initially perceived as inflexible, pen-based computers have not gained large-scale acceptance in law enforcement. This is certain to change as departments see the benefits of the technology that is now common in business use of handheld devices (Gapay 1992). In fact, the problem departments will face is that handheld devices will become so functionally capable that they will eclipse the car-based laptop.

Computers that offer voice recognition and translation for input to computer files are in a similar category to pen-based systems. Rapid improvements in technology are making such devices much easier to use—by 1996, voice dictation technology was already 95-percent accurate at a dictation rate of more than 70 words per minute. The disadvantage is that the technology still requires considerable user (and machine) training. This burden declines each year, and is going to decline more as the technology gets better. Accurate computer “listening” to normal human speech will become generally available within the next few years. Given the obvious advantages of effective voice input over pen or keyboard, the use of voice recognition seems likely to be the next MDT advance. This promises a very significant reduction in the amount of officer and headquarters staff time that is presently consumed by the reporting function.

Though there are few empirical studies of the impacts of MDTs, their reported benefits include:

- Increasing the speed of information dissemination.
- Saving officers time and effort.
- Facilitating information sharing.
- Increasing reporting accuracy and uniformity.
- Enhancing response time.
- Increasing officer safety.

There are considerable obstacles to implementation of MDTs. These include expense, a lack of information about available products, a need for significant amounts of user training, and possible officer resistance to or misuse of the devices. All of these seem likely to decline in importance as progress continues, but their short-term effect has been to limit the implementation of MDTs in the policing world.

For example, a 1995 Police Executive Research Forum survey of 210 departments drawn in part from among 1995 COPS MORE (Making Officer Redeployment Effective) Federal grant recipients found that only a small percentage of police departments had MDTs in patrol cars (Bezdikian and Karchmer 1996). However, within that minority, many departments had been using laptops in patrol cars for years.

In 1997, NIJ sponsored a study by the National Law Enforcement and Corrections Technology Center on cross-jurisdictional communication

(so-called “interoperability”). A total of 1,344 agencies responded to the questionnaire. The agencies that were currently using MDTs employed them primarily for database information and free text (e.g., reports, queries). Nearly one-quarter of the agencies (24 percent) used database information (primarily agencies with 500 or more sworn officers), and 21 percent of all agencies used free text. However, the use of MDTs was far less common in smaller agencies—as low as 4 percent of agencies that employed fewer than 10 sworn officers.

Despite current limitations, more departments can be expected to use MDTs. Some Federal funds are being provided to assist purchase. An added impetus for implementation is to enable officers on the street to take advantage of the FBI’s new NCIC 2000 and Integrated Automated Fingerprinting Identification System initiatives. MDTs also will assist departments in conforming to the new incident-based reporting standards of NIBRS. These clear advantages, coupled with declining cost and increasing ease of use, suggest that it will not be long until virtually every department uses MDTs of one type or another.

### ***Crime analysis***

Crime analysis is a process involving the systematic analysis of data drawn from series of criminal incidents, rather than focusing upon a single incident. It seeks to identify patterns of criminal activity, and the interaction between them and other events and conditions. In more concrete terms, Reuland (1997) identifies four specific functions for crime analysis:

**To support resource deployment.** Crime analysis for this purpose involves detecting patterns in crime or the potential for crime to enhance the effectiveness of daily patrol operations, surveillance, stakeouts, and other police tactics. These analyses influence personnel deployment and resource allocation.

**To assist in investigating and apprehending offenders.** By comparing files that contain modus operandi characteristics with files of new suspect attributes, departments hope to make more and better arrests.

**To prevent crime.** Crime analysts focus on identifying locations, times of day, or situations where crimes appear to cluster so that departments can take steps to harden these potential targets to make them less likely targets of crime.

**To meet administrative needs.** Law enforcement administrators need to provide other individuals and agencies with crime-related information, including city agencies, courts, government offices, community groups, and the media. Administrators may need to use crime analysis in this context for legislative, political, and financial purposes.



Crime analysis may also serve strategic purposes for planning agencies, crime prevention units, patrol and investigative commanders, and community relations units in terms of their program, planning, development, and evaluation functions.

It is clear that crime analysis is a process for which computerized data processing is tailor-made. However, it is true that law enforcement agencies have been doing some form of crime analysis from time immemorial. Policing has not been random and has not been reactive to the exclusion of all other considerations. Crime analysis has always guided decisionmaking. However, the advent of desktop computers has increased the power and speed of crime analysis tremendously. Technically, what we can do now is orders of magnitude greater than what was possible a few years ago. Community policing and problem-oriented policing have provided another recent impetus to enhanced crime analysis. For these and other reasons, the number of departments with crime analysis units has been growing over the past several years.

The five stages of crime analysis illustrate the natural fit with the IT revolution:

**Data collection.** Law enforcement data are generated primarily from records and reports within the department. Data sources internal to the department include field interviews, offense reports, investigative reports, arrest reports, evidence technician reports, criminal history records, offender interviews, traffic citations, intelligence reports, and calls-for-service data. For community policing purposes, information is also likely to come from nonpolice sources, such as schools, utility companies, city planners, parks departments, social service agencies, courts, probation and parole agencies, other police agencies, and the Bureau of the Census (e.g., for demographics of a given area).

**Data collation.** Departments create databases capable of automated searches and comparisons. Basic database requirements include completeness, reliability, and timeliness.

**Analysis.** Departments analyze crime data to detect patterns of activity that can assist current investigations and predict future crimes. Crime mapping is an example of an increasingly popular analysis approach.

**Dissemination.** Departments prepare data for internal and external users. Face-to-face contact between crime analysts and officers and investigators, and with some other users, can be important for developing a mutual understanding of the data and their usability.

**Feedback.** Measuring users' satisfaction with the information they are given is essential. Crime analysts need to find out what products and formats work and do not work. They must also learn how end users plan to use their products. Analysts can use a simple, closed-ended survey form to obtain feedback, as well as personal contact.

The most prominent crime analysis technique to have been developed as a direct consequence of the IT revolution is computerized mapping. Although computers have been used to display and manipulate maps since the 1960s, the use of mapping software in criminal justice is a relatively new phenomenon. Its growth is due largely to the recent development of inexpensive yet effective and sophisticated PC-based mapping software packages and to the emphasis being placed on it by the Federal Government (National Partnership for Reinventing Government 1999). The application of mapping software to urban settings depends on the existence of addresses in the data being mapped. Consequently, mapping is most likely to be used for crime analysis in medium and large police departments where computerized address data are a byproduct of routine, day-to-day work (Rich 1995, 1996, 1998).

However, utilization is by no means universal. In 1994, 30 percent of 280 member departments of the IACP Law Enforcement Management Information Section (among the most active users of computer technology among local departments in the Nation) reported having used mapping software. A 15-month survey of 2,000 law enforcement agencies conducted by the NIJ Crime Mapping Research Center found that only 261 used any computerized crime mapping. Not surprisingly, larger departments (more than 100 sworn officers) were much more likely to use the technology (36 percent) than were smaller departments (3 percent) (Mamalian and La Vigne 1999).

Despite the widespread availability of computers and the growth of applications software that seems to closely fit policing's crime analysis needs, the majority of police departments have not yet embraced a comprehensive approach to crime analysis (Reuland 1997). A number of contributing obstacles can be identified:

- The perception by some sworn officers that crime analysis is not needed for real policing and contributes little to understanding the street conditions under which they have to work.
- The fact that crime analysis is often conducted by civilians, who lack the standing within the department to promulgate the results of their work and its implications for strategic and tactical decisionmaking.

- Uncertainty regarding hardware and software technology, and the difficulty of mastering the range of available techniques.
- Inaccurate or missing data in police records systems (e.g., addresses for mapping applications).
- Difficulty making arrangements to obtain necessary data from other agencies.
- Inadequate or nonexistent crime analysis training.
- Insufficient funding.

The principal obstacles to more widespread and better crime analysis seem likely to decline as hardware, software, and data acquisition costs decline, as user expertise increases, and as data quality improves. Nevertheless, many departments are still some distance away from the acceptance of crime analysis as an important policing tool.

## **Uniform Crime Reporting/National Incident-Based Reporting System**

The discussions so far have focused primarily on IT as it relates to individual departments. However, critical needs exist with respect to aggregate measures of reported criminal activity and documentation of national crime trends. These needs have historically been addressed by the UCR system, which began operation in the early 1930s and has been in place with little change ever since. The system is dependent on local police departments, which voluntarily submit a variety of aggregate data to the FBI each year in standardized format. Compilations of UCR data, published annually by the U.S. Department of Justice under the title *Crime in the United States*, generate a statistical overview of data about law enforcement administration, operations, and management, and have served as a primary source of information for researchers and the public. *Crime in the United States* offers sections on UCR's major topics: crimes cleared, persons arrested, law enforcement personnel, and a Crime Index based on eight selected offenses. However, UCR is unable to link an offense to its associated arrest, and the system is believed to have a number of significant limitations.

Because of these perceptions, it was acknowledged in the mid-1970s that a revised and enhanced UCR was needed for use into the 21st century. This coincided with advances in information technology that made a more sophisticated system feasible. BJS and the FBI funded a substantial examination and reassessment of the UCR program, which culminated in the 1985 publication of a *Blueprint for the Future of the Uniform Crime Reporting System* (Poggio et al. 1985).

The *Blueprint* proposed NIBRS to replace the existing UCR system. The plan called for incident-based reporting, rather than aggregate reporting, represented by two levels of reporting complexity, the more detailed of which would be followed by only 3 to 7 percent of law enforcement agencies nationwide. Ultimately, the law enforcement community endorsed the NIBRS framework but elected to institute the more complex reporting level for all participating agencies.

To achieve standardization across jurisdictions, the FBI sponsored the development of new offense definitions and data elements for the new system. Based on the results of a pilot program at the South Carolina Law Enforcement Division, representatives of the law enforcement community in 1988 approved the revised UCR guidelines and voiced overwhelming support for the new system.

Representing both an expansion of UCR and a major conceptual shift, NIBRS is an "incident based" system that collects detailed information on individual crimes, including data on location, property, weapons, victims, offenders, arrestees, and law enforcement officers injured or killed. In addition, under NIBRS the scope of reporting is widened to cover 22 crime categories that include a total of 46 specific offenses, known as "Group A" offenses. For an additional 11 "Group B" offenses, NIBRS collects detailed data on persons arrested.

Whereas UCR requires local law enforcement agencies to report monthly aggregate figures on crimes and arrests, NIBRS asks local agencies to submit data on individual incidents for compilation at the State and Federal levels. This offers a potential for analysis that would be impossible using only UCR aggregates, but it also decreases local agencies' control over dissemination of information.

Despite the potential benefits of NIBRS to law enforcement management, training, and planning, law enforcement agencies have been relatively slow to adopt the system. As of May 1997, only 10 States were certified to report NIBRS data, and only 4 percent of U.S. criminal incidents were reported under NIBRS. Large law enforcement agencies have been especially reluctant to make the transition to NIBRS; as of May 1999, the Austin (Texas) Police Department remained the only agency serving a population over 500,000 to report NIBRS data.

According to a recent SEARCH study, law enforcement agencies see lack of funding as the primary obstacle to full adoption of NIBRS (Roberts 1997). Indeed, the costs associated with the transition can be substantial, especially as many law enforcement agencies have existing records management systems

that either are too antiquated to function effectively or are incompatible with NIBRS requirements.

The study also indicated that local law enforcement decisionmakers remain unsure of the benefits of NIBRS reporting and perceive several possible drawbacks to the new system. Although the greater accuracy offered by NIBRS is desirable in principle, some local officials fear a negative public reaction in the event that more precise reporting gives the impression of rising crime rates. Moreover, many officials view NIBRS as a tool for academic research rather than daily law enforcement, or are concerned that reporting the more detailed information requested by NIBRS will place an undue burden on officers in the field. Study participants also discussed the need for Federal agencies to encourage participation in NIBRS by reaffirming their commitment to the program and providing better education as to the aims and utility of the revised system.

It is essential to recognize that the technical and cost problems are not created by NIBRS information needs. They are a consequence of the outmoded and inadequate IT systems that many departments have in place. In fact, as departments upgrade and automate recordkeeping systems, they do generate computerized data that would meet all NIBRS needs, provided the requirement for cross-jurisdictional standardization of definition of offenses and other data elements can be achieved. Most big-city departments, for example, now have data systems that contain a good deal more than the NIBRS data elements, and some perform analyses that match in sophistication those contemplated by NIBRS advocates. This suggests that the main obstacles to more widespread implementation of NIBRS are not so much technical or financial, but rather derive from perceptions that NIBRS contributes little to local needs for crime analysis and information, while simultaneously containing a good deal of risk to local jurisdictions. In this sense, the potential contribution of NIBRS seems destined to be greatest at State, regional, and national levels. It remains to be seen whether the perceived value of this potential will be sufficient to mobilize the voluntary local participation on which NIBRS depends.<sup>13</sup>

### ***Computer networking technology and the Internet***

The topical reviews provided earlier in this section demonstrate that IT advances, combined with law enforcement agencies' increasing emphasis on crime prevention, community-oriented policing, and problem solving, are redefining the pursuit and use of criminal justice information. The development of incident-based reporting systems and increasingly sophisticated techniques of crime analysis have caused sharp increases in the volume and complexity of collected data. As this has occurred, new technologies have begun to play a crucial role in agencies' efforts to disseminate, share, and manage this torrent of criminal justice information.

Within the past 10 years in particular, computer networking—at its simplest, nothing more than linking two or more computers so they can share information—has revolutionized the way we exchange and access data. Many organizations use internal networks, or intranets, to connect the computers within that organization. When two or more individual networks are connected, an internet is formed. The most advanced public level of such systems is, of course, the Internet, a vast collection of interconnected computer networks worldwide, serving millions of users. The easy-to-use World Wide Web (known simply as the Web) is the most popular area of the Internet, and consists of sites dedicated to various topics.

This rapidly evolving technology has created a host of challenges for law enforcement officials, whose previously disconnected agencies seem especially suited to benefit from networking technology. Networking centralizes data in order to streamline administration and help agencies collect and manage huge volumes of crime-related information. Additionally, computer networking plays a valuable and expanding role in facilitating communication at all levels: among local, State, and Federal agencies; between local agencies and constituent communities; or across agencies within a given region or locality.

One of the Web's most common law enforcement applications has been the establishment of Web sites to facilitate communication with the communities served. As of August 1997, more than 500 local law enforcement agencies maintained Web sites, and the establishment and expansion of sites continues at a rapid pace (Goodman 1997). Information on the Web is presented in a lively and interactive format, and may be accessed by interested persons at any time from anywhere in the world. By allowing agencies to interact cheaply and easily with members of their constituent communities, an effective Web site can significantly enhance police-community relations and further community policing objectives. In responding to a faxback survey by the FBI, for example, most departments that have sites on the Web reported extensive use and positive responses from citizens (Sulewski 1997).

Web sites can fulfill multiple functions for law enforcement agencies. Most sites disseminate a range of public safety information, including self-protection tips, crime reports and advisories, news of recovered stolen property and local fugitives, clarifications of laws and answers to frequently asked questions, statistics and budgetary information, community announcements, and information about the agency and its staff. On some sites, communication is two way, allowing the public to interact with the agency that serves them. Citizens can use the Web to apply for permits, file reports on minor incidents, offer tips and information on crimes, and respond to the agency's performance. A Web site makes it more likely that community members will contribute to the agency's

work, since it is easier and quicker to use the Internet than to go to the agency's office. Web sites can also reduce recruiting costs for agencies, which are able to widen their pool of applicants and provide prospective employees with information.

The equipment required to establish a Web site and make quite sophisticated offerings is simple and relatively inexpensive: a computer, a word processing program, a Web processing application, and, for some applications, a digital camera and scanner. Personnel resources may be harder to come by, but a small industry of experts now exists and assistance is easy to obtain. As Internet use has spread among law enforcement agencies, Web design companies have developed expertise in creating law enforcement sites, and many Internet service providers have begun to donate access and expertise to local police and sheriff's departments (Sulewski 1997). Departments have found Web sites to be very cost-effective; once the site is set up, the cost of maintenance is minimal, and sites reduce expenditures for publishing public records and recruiting employees (Paynter 1998).

However, the Internet is not a panacea. Law enforcement agencies that use Web sites to connect to the community must be aware that not all residents use or have access to the Internet. There is an access bias, because low-income residents are less likely to be familiar with and have access to the Internet than affluent residents in the same area. Some will not have computers; others will not even have telephones. Thus, agencies should continue to pursue traditional methods of public education, such as posters or meetings, to reach everyone in the community.

A potentially valuable application of networking technology could lead to integrated justice information systems. These are essentially computer internets that would link numerous separate agencies—police departments, prosecutors, courts, etc. Integration may also be pursued among different levels of government, within geographic regions, and/or across disciplines. The cited benefits of integrated justice information systems are clear: They improve the quality of data available to all users; save time and money by eliminating redundant data entry; facilitate timely access to information; and permit accurate information sharing across distance and time. For many years, the fragmentation and lack of coordination among criminal justice agencies has been deplored; the criminal justice system, according to many, is not a system. Networking seems to offer the potential for addressing this problem.

Setting up an integrated system typically demands an extended planning process, requiring the participation of all stakeholders. The planning process involves building support for the project, assessing needs, planning strategy,

setting standards for data collection, identifying technological solutions, and establishing an oversight board for acquisitions and implementation. During the planning phases, particular attention must be given to setting information systems standards, which have been called “the linchpin to integration” (Roberts 1998). For successful integration, standardization is required in several areas: data definitions, a common language for use between information systems, communications protocols used between agencies, procedures for transferring different types of information (e.g., photos, fingerprints), and security.

The foregoing indicates that regardless of the advantages of integration, it should not be undertaken lightly. Rather, it is an extended process that requires substantial financial and human resources, as well as a sustained commitment from all involved agencies, to be completed successfully. A qualitative study conducted by SEARCH identifies the following primary obstacles to adoption of integrated justice information systems:

- Persistence of entrenched information processing systems and data at local agencies.
- Difficulty of coordinating interagency projects.
- Limited understanding of technological issues and capabilities.
- Need for systems to be private and secure.
- Fundamental interagency differences in recording/reporting systems.
- Shortage of information technology professionals.

Though the impediments to establishing integrated justice information systems are significant, a number of evaluations strongly suggest that the benefits of integration are worth the effort.<sup>14</sup>

## **The Imperatives of Community Policing**

In the previous section, a summary was provided of the status of major IT elements of the policing environment. In most respects, that discussion centered on traditional aspects of information uses in policing, and considered what has transpired as the IT revolution has proceeded. The review indicated that some significant progress has been made, and that more can be expected. However, it also showed that IT changes in policing have yet to embrace many of the innovations that have come to be fairly commonplace in business and personal IT. It also attempted to convey a sense of the variability in IT from one jurisdiction to another and from one type of IT application to another.



What the section did not do was to look at the IT implications of the changes that have occurred in policing itself during the past 10 to 15 years. I turn to that issue now. The most significant of the changes are conceptual, and involve an effort to make policing more proactive and preventive in orientation. These trends have come to be known as community-oriented policing (often abbreviated as COP) and problem-oriented policing (often abbreviated as POP). Though there are important differences between these two constructs, the implications of the IT revolution are in my opinion similar for both of them, and I proceed in this article as if they were interchangeable from the IT point of view. Thus, when the terms community-oriented policing or COP are used, I would ask the reader to consider problem-oriented policing or POP to be included.

First, a brief definition of community-oriented policing is provided. Then an overview of the information domains that COP requires is undertaken. It is followed by consideration of the changes in types of analysis that are needed and the information systems that must be created for those changes to be accommodated.<sup>15</sup>

### **A brief definition of community-oriented policing**

Though the terms “community-oriented policing” and “problem-oriented policing” have been on the tip of most law enforcement tongues for at least a decade,<sup>16</sup> and though a formal program of implementation of COP was enacted in the 1994 Crime Act,<sup>17</sup> generally accepted definitions of these approaches have proved somewhat elusive. It is not intended that this section of this IT article provide a resolution of the definitional issues (Greene 2000). The objective here is to consider the demands that community-oriented policing places on IT, and the corresponding challenges that the IT revolution places before COP/POP, however defined. The claim made, essentially, is that these demands and challenges apply in a broad fashion, and have more or less equal force regardless of the ultimate specification of the finer points of the COP/POP terms. Further, the claim is made that these demands and challenges are considerably greater under COP/POP than under the professional approach, and that, in fact, COP/POP cannot be effectively implemented unless they are satisfactorily met. The problem for the modern police department is how to do that.

To provide a framework for the IT discussion, a limited and quite generic review of the way in which community policing can be conceived (a) to differ from and (b) to be complementary to the “traditional” or “professional” models of policing is provided.<sup>18</sup> This is brief and the indulgence of the reader is requested with respect to the unsettled definitional issues.<sup>19</sup> A more detailed presentation is made of the information domains that COP/POP create and the way in which they are both dependent on and facilitated by the IT revolution.

COP is best conceived as a complementary approach to professional policing that redefines, extends, and expands the law enforcement approaches that have characterized policing for many decades. The Information Systems Technology Enhancement Project (ISTEP) notes:

Community- and problem-oriented policing represent ways of providing public safety that are radically different from past practice. Under such models, the police are to be proactive, decentralized, and problem analytic. They are to use information more strategically while solving tactical problems. They are to be in greater communication with the public at large, integrated with other service delivery systems that impact the same geographic area, and internally more reflective and coherent. In sum, police agencies operating within the anticipated norms of COP/POP are to be thinking organizations able to adapt strategies and responses to an ever changing environment. (Dunworth et al. 2000)

A number of the key phrases in this statement signal the interdependence between COP/POP goals and IT that police departments use. In my view, antiquated IT systems will prevent effective implementation of COP/POP. Further, even state-of-the-art IT systems will not do the job unless they are focused on the new kinds of information that police departments must have. Police department IT must not only be faster, more reliable, easier, and so on. It also must be different. This section illustrates why and how this is so.

## **The information domains of community-oriented policing**

The ISTEP view of policing carries with it certain information imperatives. If policing is to be different in the COP/POP fashion, how is this to be brought about? Part of the answer that ISTEP proposes is that new information previously seen as unnecessary has to be developed, and ways of using it that were not previously contemplated have to be found. The ISTEP project identifies seven key information domains that must be addressed for successful COP implementation:

- Community interface.
- Interorganizational linkages.
- Workgroup facilitation.
- Environmental scanning.
- Problem orientation.

- Area accountability.
- Strategic management.

Each domain merits a short exposition.

### ***Community interface***

This is one of the truisms about community-oriented policing, and under some definitions, is considered to be Community-Oriented Policing. The message is that the police should work in partnership with community organizations and individuals, and that a two-way exchange of information should be developed. When this is done, public attitudes toward the police change for the better (Dunworth and Mills, 1999), and departments benefit by getting improved information from the community (Rich 1998).

### ***Interorganizational linkages***

Under a community-oriented and problem-solving approach, the police must also work more closely with other government agencies (e.g., code enforcement, public works), nonprofit organizations, and the private sector. This means that law enforcement must use information systems maintained by other agencies and organizations and must share police information with them.

### ***Workgroup facilitation***

COP creates and imposes new or different information needs for officers and supervisors because of its focus on joint action and shared responsibility for geographic areas and problems. This responsibility spans segments of police activity that were often distinct under the professional model. For instance, robbery and patrol details may need to coordinate a problem-solving approach to a particular issue. Different shifts meet to pass information back and forth. The message is that temporal and functional distinctions between work groups need to be deemphasized and information sharing needs to be increased.

### ***Environmental scanning***

Under COP, careful attention must be paid to environmental issues, because problems need to be identified before they become stimulants to crime. This necessitates development and dissemination of data about such things as community characteristics, business cycles, land use, and crime patterns. For effective community-oriented policing, both police officers and police executives need substantial information about a wide range of existing and emerging issues and problems in the community.

### ***Problem orientation***

Much of traditional policing is incident driven. Departments react when crimes occur. These approaches cannot and should not be abandoned under communi-

***The traditional idea that the demand for police services could be framed through the analysis of past calls-for-service data is no longer adequate.***

ty-oriented policing, but they are not sufficient for a successful COP approach. Information and analysis must be reoriented so they help officers and detectives to identify and analyze problems related to their new responsibilities, as well as to assess the effectiveness of responses after implementation.

### ***Area accountability***

COP emphasizes decentralized management of well-defined geographic areas. This mandates decentralizing command, control, and responsibility for those areas. Top command must be willing to do this. In addition, area commands must be given expanded

and more sophisticated information about problems and resources than used to be the case. This information must permit an understanding of the range and kinds of problems that must be addressed: the knowledge, skills, and abilities of the workforce itself; the effectiveness of different kinds of interventions; and how to make resource allocation decisions that bring these elements together in the most effective way.

### ***Strategic management***

Community-oriented policing's greatest challenges probably arise in the context of strategic management. That COP retains all the management demands made by professional policing, and then adds more, is generally accepted. However, the magnitude and character of these new demands have not yet been systematically identified. At the least, top command must deal with three critical factors that were largely absent under the traditional approach: the needs and expectations of communities, links with other government as well as non-government agencies, and area accountability. The traditional idea that the demand for police services could be framed through the analysis of past calls-for-service data is no longer adequate. As noted earlier, acknowledging this does not and is not meant to dispense with the need to respond effectively to calls for service. COP adds something; it doesn't take something away. This makes the command function a good deal more difficult to perform.

## **The information needs of community-oriented policing**

What this brief discussion of the information domains required by COP indicates is that the range and complexity of information needed for effective COP/POP are both significantly greater than is required to operate under the professional model. The ISTEP project summarized the differences in a way that is encapsulated in exhibit 1.

Most police departments would recognize the Professional Era information usage patterns as characterizing the way they have done business in the past. Few would be likely to assert that the information usage specified in the community-oriented policing column can be met by extant systems. In fact, meeting all the COP information demands that the ISTEP project identifies is a daunting undertaking that, even for the most ambitious and energetic department, would involve a substantial planning and design phase, significant new costs, and a considerable period of time.<sup>20</sup> Even if these obstacles are discounted, developing the information specified in the table would have been technically inconceivable nearly everywhere until the past few years. Even now, many jurisdictions would be unable to meet these demands. However, the IT revolution has created a situation in which the achievement of the COP information imperatives is technically feasible, provided jurisdictions can meet the challenges.

COP not only creates imperatives with respect to information assimilation, it also imposes analytic requirements that will necessitate new approaches and skills at all levels of the organization. Police departments have three reasonably distinct staffing levels: command executives, line supervisors and managers, and officers and detectives. Under the professional model, officers and detectives are the primary users of data about crime and suspects and make operational decisions in these areas. Supervisors and managers use quantitative data such as arrest productivity and case closure to evaluate subordinates, and sometimes use crime analysis reports to direct the tactics and targets of their units. Command executives make the primary use of analysis products to make strategic decisions about hiring, resource allocation, and deployment and to inform the public and civilian managers about specific events and overall crime trends and conditions.

To meet the information needs of these three groups, police departments have traditionally undertaken the following kinds of analyses:

- Crime analysis focusing on trends and patterns in ordinary street crime.
- Operations analysis focusing primarily on calls for service and the appropriate response to them.

Exhibit 1. Professional-era and COP information usage patterns

Information usage patterns	
Information domain	Professional era
Community interface	<p>One-way flow of information; information incident oriented and obtained in reactive situations; narrow range of information desired (just the facts); interaction mainly limited to officers/detectives gathering raw data from crime victims and other complainants.</p>
Interorganizational linkages	<p>Little information sharing among police and other types of government as well as nongovernmental organizations; not seen as relevant or important.</p>
Work group facilitation	<p>Not seen as very important; incident-oriented policing primarily an individual-level activity.</p>
Environmental scanning	<p>Not seen as very important; primarily an executive-level activity; generally limited to serious crime issues in the community and major developments within the policing profession.</p>
	<p><b>Community-oriented policing</b></p> <p>Two-way flow of information; proactive and problem-oriented information emphasized; wide range of information desired; all levels of police organization need both raw data about the community and analysis products; much greater emphasis on providing information to the community.</p> <p>Substantial information sharing; crucial to effective problem solving; two-way flow of information; information needed by line-level problem solvers as well as by managers and executives.</p> <p>Problem solving and geographic focus enhance the importance of work groups; officers/detectives need more information to coordinate with their colleagues, and supervisors need more information to direct, control, and coordinate their subordinates, especially under conditions of functional diversity or temporal complexity.</p> <p>Seen as an important activity at all levels of the organization (beat area commanders, functional specialists, top executives); a officers, wide range of issues are seen as relevant (crime, disorder, drugs, fear, community relations, economic conditions, sociodemographic conditions, new technology, professional developments, etc.); an important area for analysis, not just raw data.</p>

**Exhibit 1 (continued)**

Information domain	Information usage patterns	
	Professional era	Community-oriented policing
Problem orientation	Focus on incidents, not problems.	Policing and police-community partnerships focus primarily on problem solving; thus, raw data and, especially, analyses need to be organized and aggregated so they contribute to problem identification, problem analysis, the search for responses, and assessment; these data and analyses must be available to problem solvers—i.e., officers/detectives, citizens, community groups, other government agencies, and nongovernmental organizations, as well as police supervisors, managers, and executives.
Area accountability	Accountability primarily temporal (by shift) or functional (e.g., patrol, investigations); raw data and analysis not focused primarily on geographic areas.	Accountability primarily geographic; thus, data and analyses need to be geographically oriented; police officers/detectives, work teams, supervisors, commanders, and executives all need geographically based information to carry out their responsibilities effectively; citizens, community groups, other government agencies, and nongovernmental organizations also need geographically based information to effectively collaborate with the police in dealing with crime and disorder.
Strategic management	Commanders and executives rely on a narrow range of information (crime, calls for service) when analyzing service demands and designing service delivery systems; police management much more reactive, tactical, and defensive than strategic.	Police management more complex; wider range of objectives seen as relevant (crime control, order maintenance, fear reduction, public satisfaction, integrity, accountability); wider range of programs, policies, tactics, and strategies seen as potentially viable; thus, a more strategic approach to planning and management is required; this increases substantially the information needs of police executives.

Source: Cordner, Dunworth, and Greene 1998, 10–11.

- Intelligence analysis focusing on organized crime, drug trafficking, gangs, and repeat offenders.
- Administrative analysis focusing on a variety of organizational issues such as budgets, personnel turnover, fleet maintenance, and property inventory.

These requirements were supported by well-defined information systems:

**Operations information systems.** These include crime and arrest records, offender identification systems, stolen property records, and the like. Users are primarily officers and detectives, though the systems also are the foundation of aggregate police reporting to other systems such as UCR.

**Command and control systems.** These consist of calls-for-service management, emergency response to 911 calls, vehicle locator systems, etc. Mostly these function as aids to supervisors and managers in directing and controlling their subordinates, especially patrol officers.

**Management information systems.** These consist of a variety of databases pertinent to the internal management of the police organization, such as officer productivity, citizen complaints, and inventory. They are primarily administrative in orientation and are used by managers and executives in carrying out their administrative duties.

Under community policing, the traditional types of analysis remain important and cannot be ignored. They may, however, undergo significant change. Crime analysis, for example, will need to become more geographically focused and more attuned to the needs of officers and detectives as well as citizens and community groups. Operations analysis may become less concerned with response times and equalizing call-for-service workloads across shifts and more concerned with matching resources to problems.

In addition to such adjustments, community policing promotes two fundamental types of changes. First, supervisors and managers and, especially, officers and detectives have to make much greater use of analysis products. This is essential if they are to meet their newly delegated responsibilities in areas such as prevention, community and interagency partnerships, and problem solving, as well as to enhance their geographically based knowledge and responses. Second, external demand for police data and information by citizens, community groups, and others will greatly increase as these entities take on more responsibility, in partnership with the police, for controlling crime and disorder. The exposure of these external groups to police data and analysis represents a very significant expansion in the number of users of police information and, further, thrusts police staff at all levels into an unfamiliar informational environment.



To support such new information usage patterns, several new types of analysis become important:

- Community analysis, which looks at the characteristics of neighborhoods and communities, including conditions such as fear, disorder, and police-community relations, as well as socioeconomic and demographic characteristics.
- Problem analysis addressing specific issues that have been, or should be, targeted by officers/detectives and their collaborative partnerships.
- Program evaluations to assess the effectiveness of programs, tactics, and strategies.
- Policy analysis to consider longer range options and their consequences.

***Command and control systems need to focus less on efficient incident handling and accountability for each minute of time, and more on effective problem solving and on accountability for conditions in geographic areas of responsibility.***

Although each of these new types of analysis might serve multiple audiences, community analysis and problem analysis tend to produce information of particular value to COP operatives (officers, detectives, citizens, community groups, etc.), whereas program evaluation and policy analysis primarily serve the needs of managers and executives.

These adjustments in the type and application of analyses create a need for corresponding changes in the nature and type of information systems that police departments will have to generate and maintain. For example, operations information systems will need to supply COP operatives with more geographically based information, more information about problems and not just incidents, and more analysis products instead of just raw data. Command and control systems need to focus less on efficient incident handling and accountability for each minute of time, and more on effective problem solving and on accountability for conditions in geographic areas of responsibility. Finally, management information systems need to focus more on substantive issues and on quality rather than just on internal administrative processes.

In addition to these expansions of existing systems, COP creates a need for at least three other new kinds of information systems:

**Geographic information systems.** Systems that relate data to locations and that result in maps and other products pertinent to identifying and analyzing geographically based problems and conditions, and the way they change over time.

*It would seem that the technology revolution has been a prerequisite to effective community-oriented policing, and that at least some of the confusion surrounding the definition of COP derives from an inadequate grasp of the information imperatives that COP imposes.*

**Problem-solving information systems.** Databases and systems that capture information about completed and ongoing problem-solving efforts and that aid officers and citizens in identifying, analyzing, and responding to substantive problems in communities.

**External information systems.** Systems that aid the police in obtaining data and information from other organizations and from the public, and that also aid those entities in obtaining information from the police.

## **IT implications for police departments**

The discussion presented above leads to certain inevitable conclusions that have enormous implications for community-oriented policing and the police departments that seek to implement it:

- First, COP has features that have far-reaching implications for information gathering and processing. These include the need for citizen input, a much expanded geographic focus of policing work, a commitment to prevention, partnerships with community organizations and agencies outside the criminal justice system, environment scanning, problem solving, and new management strategies.
- Second, COP changes the types of information needed by frontline police officers as well as by managers and executives, and it also creates new sets of potentially demanding information users: citizens, community groups, other government agencies, and nongovernmental organizations.
- Third, COP significantly changes the types of analysis that police departments must perform as well as the ways in which the analyses are organized and disseminated.
- Fourth, existing police information systems will need to be adjusted and new systems will need to be developed to provide the data required by analysts and by COP operatives.
- Fifth, specific new domains of police information are necessary, not just desirable, for the successful implementation of community-oriented policing.

Clearly then, community-oriented policing creates both new and qualitatively different information needs for police agencies and their COP partners. The technology revolution appears to have created the tools and techniques to meet these needs. In fact, it would seem that the technology revolution has been a prerequisite to effective community-oriented policing, and that at least some of the confusion surrounding the definition of COP derives from an inadequate grasp of the information imperatives that COP imposes. Without taking the imperatives into account, it would be difficult to see how COP is all that different from the professional model.

A mistake, though, would be to assume that the only thing necessary to satisfy these new needs is the advanced information processing technology that has come into being. Besides technological solutions, police departments seeking to fully implement COP will have to deal with at least three other issues specific to the policing environment:

- Reconceptualizing the domains of police-related information.
- Locating and gathering new types of policing data.
- Analyzing data and producing policing information that is timely and relevant.

These three elements of the solution to the information-related needs created by COP will, if anything, be more challenging than the advanced technological aspects of the situation. Departments that fail to fully take them into account are unlikely to successfully implement community policing, no matter how firm the department's commitment to the concept.

## **Outlook for the 21st Century**

To characterize the IT developments of the past 50 years as a revolution is no overstatement, in my view. The changes in IT that have taken place *are* revolutionizing our lives. And, even more rapid change is surely at hand. For the foreseeable future, we can expect the pace of IT innovation and development to continue to be extraordinarily rapid. This will be particularly noticeable within what can be thought of as the current IT paradigm. For instance, further miniaturization and increased speed of components will likely characterize most advances.<sup>21</sup> Memory and storage capacity of machines will increase even as the machines themselves shrink in size. As long as monopolistic or oligopolistic conditions do not prevail, the unit cost of these developments will continue to fall as installations proliferate.<sup>22</sup> We are able to do now what was prohibitively expensive 10 years ago. In the early 21st century, it will be possible to routinely do for a few hundred dollars what is technically or financially infeasible now.

Though, as I have tried to illustrate in this article, the law enforcement world is not at the forefront of the revolution (and probably should not be), it is nevertheless moving inexorably in the same direction. The IT revolution is bringing change that cannot be avoided in law enforcement's way of doing business. I would argue that it should not be avoided, because, properly managed, the change can be beneficial. But, as law enforcement makes these changes, there will be side effects. Some of these will probably also be beneficial, but some bring risk.

In this final section, I will first summarize in very general terms what I think law enforcement—police departments in particular—will face. I will then briefly review two likely side effects, one almost certainly positive, one possibly negative. The former is the probable advancement in policy-relevant knowledge that can be derived from the expanded information that police departments will have available. The latter is the risk of misuse of the information, and the invasion of privacy that might ensue.

## **The information future for policing**

In the 21st century, officers on the street or in their cars will have instantly available at the touch of a button more information than can presently be mustered in most police department headquarters. For example, wireless transmission of images as well as text or data will become commonplace. Maps, scene diagrams, photographs, paintings, sketches, fingerprints—all will move back and forth effortlessly. Handheld DNA scanners are being predicted within 10 years (McCullagh 1999). On the spot DNA checks will become possible through wireless transmission of the scanner's reading and an instantaneous comparison with millions of DNA records in a central data bank.

The major question for police departments will not be whether information at this level of sophistication is going to be available. The question will be whether it can be used effectively.

For this to happen in a way that is helpful and useful, policing will have to change. The way things are done will have to be different. New kinds of information will have to be processed and incorporated into police strategy and tactics. Officer training will require redefinition and reorientation.

Of course, the basics of law enforcement will have to be retained. A significant portion of future criminal activity will have characteristics similar to criminal activity of the past. A robbery will still involve a robber and a victim, and police officers will still need to respond to calls for service, especially emergency calls, in the way they always have. In this sense, policing will need to

retain the traditional elements of law enforcement, while adding new approaches and techniques that at present are either nonexistent or in their infancy.

One way to look at COP and POP is that they are the first wave of the new policing. These approaches have not been implemented in full in any comprehensive sense anywhere, but a number of departments are pushing the concepts forward. When this is done effectively, different and expanded IT and IT utilization are at the forefront of the effort. The point was made in the section “The Imperatives of Community Policing” that the information imperatives created by COP are just that: imperatives. If they are not heeded, COP will not be implemented, or at least will meet little more than a small fraction of its potential.

Yet, the impediments to adoption of COP’s IT requirements are substantial. Significant investments of resources, time, and money will all be required, and, perhaps most important, police departments will have to change. In some senses, several catch-22 problems must be resolved.

For one thing, it is difficult to see the benefits of the new IT until it is in place and operational. But it will never be in place and operational if departments do not accept its benefits on faith, because the path outlined previously is very difficult to successfully implement on a piecemeal basis. This makes it highly desirable for the Federal Government to promote the incorporation of new technology into departmental operations through any means that are available: financial support, training and technical assistance, widespread dissemination and promulgation of the benefits of advanced IT, conferences, and so on.<sup>23</sup>

There is another catch-22 in the interplay between design and cost. It is well known that development and design issues are difficult and expensive to overcome. It is not uncommon to see departments struggle with the design issues surrounding automation for a number of years. It is also easy to find departments that have had significant problems with vendors who proved unable to deliver the system promised. Given this, it is perhaps not realistic to expect departments to accept turnkey systems. There will be an inevitable desire to tailor new systems to idiosyncratic requirements and standards. The result would be a series of one-of-a-kind systems, which would constitute an astronomically expensive IT trajectory for policing as a whole, as well as for individual departments. Yet there is a powerful belief in most departments that their situation is unique. It will be difficult to reconcile these two tendencies.

Another problem exists with respect to officer training and capabilities. What do we want a police officer to be? It was already noted above that the response capability that is loosely defined as “traditional” policing needs to be retained. Can the officer who does that well also be the officer who processes and uses

the new kind of information that is going to be available? The answer to this question is not clear. For instance, being comfortable using or even perhaps writing a Visual Basic® program to tease out the nuances of crime patterns in a precinct is not going to seem very pertinent to an officer confronting an armed burglar in a dark alley. The question is: Shall we, should we, expect a police officer to take care of both of these kinds of tasks? Is that a desirable goal? A feasible goal? Does this require a police officer for all seasons, and is such an officer available? That is a matter for careful debate that is beyond the scope of this article, but is something that must be addressed.

However, if these and probably other issues that I have not touched on or thought about are resolved, then the biggest remaining problem facing police departments as IT advances is effective utilization. A comparison can be drawn to automated word processing, which, so far, is probably the most frequently used aspect of the IT revolution. Sophisticated word processing software is now provided free with many PC purchases, and, if not free, can be obtained at relatively low initial cost. But, many users are able to employ only small portions of the word processing capability that is accessible to them. The instruction manuals are inches thick, and most users would not consider the software they access to be user friendly, except for the most simple and rudimentary tasks. Even the individuals who make a living using the software (secretaries, writers, etc.) usually acknowledge that they have mastered only a portion of the capacity of their programs.

Expanded IT in police departments will face problems that are at least as large. The danger will be that officers will not have the time, inclination, training, and disposition to learn what the IT demands, absorb what it offers, and incorporate it effectively into their daily work. In my opinion, this is the single biggest IT challenge for police departments.

## **Knowledge and risk**

As noted above, the effects of IT advances in police departments will have repercussions beyond the operational needs of the departments themselves. One such side effect is a potential increase in knowledge about crime, criminals, and the criminal justice system. Most of us would consider this to be a benefit. But knowledge can be used for ill as well as good, and this risk looms particularly large at a time when misuse of personal data and assaults on personal privacy are already considered by many to be a major societal problem. We need to ask ourselves a number of questions. What is the balance between these two facets of the IT revolution in policing? Does the good outweigh the bad? Is there a way to maximize the former and minimize the latter? I will not presume to provide answers to these questions, but I will try to outline their dimensions.

Better information gathering, processing, and dissemination offers benefits in at least four distinct areas:

- **Strategic and tactical decisionmaking by police departments.** This simply reiterates the theme that has been developed during this article. The more information a police department has and the better its methods of processing that information, the greater the likelihood that strategic decisionmaking will be rationally based. Further, improvements in IT serve as a tactical force multiplier—the officer on the street will be more effective, and more public service will result from an 8-hour shift.
- **Cross-jurisdictional cooperation and collaboration.** Good information will create a better foundation for effective cross-jurisdictional interaction. Departments will be able to make a more effective contribution concerning their own knowledge and experience, and will also be able to better utilize information provided by other jurisdictions. Cooperation and collaboration on matters of common interest will be enhanced.
- **Aggregation at State, regional, and national levels.** Aggregate statistics such as those produced by UCR are no better than the quality of the data provided by individual police departments. Improved data at the local level leads to improved aggregations at higher levels. Better compilations and more accurate statements of trends will be the result.
- **Stimulation of research.** A common complaint among researchers is that the research they do is not often used. There are a number of reasons for this. Some are ideological and not susceptible to easy change (Travis 1996). Others are a consequence of the informational impediments that researchers have characteristically faced. These have tended to mean that research costs too much, takes too long, and produces results that are too often equivocal (Dunworth, Haynes, and Saiger 1997). This is particularly true of research that has focused on police departments.<sup>24</sup> However, with more dependable and more comprehensive computerized data, policing research will be better positioned to increase our basic knowledge about crime, and inform policy-making at local, State, and national levels.

Few would resist the assertion that these improvements are desirable. Many would agree that they are necessary. Looked at from that point of view, these are side effects of the IT revolution that we can applaud. But we cannot leave it at that. We have to look at the other side of the coin. As information about crime, criminals, and suspects becomes more detailed and more easily accessible and manipulable, we must consider whether potential misuses of such information are possible, and if so what we should do about it.

I think there are three areas where the proliferation of information could lead to problems. These all involve matters of privacy and security of individuals.<sup>25</sup>

### ***Inaccuracy of data***

As more and more information is accumulated about individuals, it becomes increasingly important that the information be accurate and dependable. This is true not only in the law enforcement world. None of us want our good credit records to be reported as bad, for example. But, when we are speaking of a law enforcement context, the negative effects of inaccurate or incomplete data about individuals can be devastating. Many police departments collect data on possible gang members. Some use a series of markers to assess likely gang membership (clothing, nicknames, tattoos, associates). Above a certain threshold (e.g., perhaps three out of four “hits”), the person is flagged as a gang member. There may be no known criminal activity associated with such a person, but the person may subsequently be treated as if there were. An argument can be made that the potential for the prevention and control of crime is enhanced by this procedure. But, it is not necessary to be anti-law enforcement or a gang sympathizer to be troubled by the approach. What if the information is inaccurate?

### ***Unrestrained official use***

A lot of the information about persons that gets into police files is developed through investigation of complaints and crimes. Such development is a normal and proper exercise of police power and responsibilities. When this information is paper based, access to it tends to be limited. Inside the department, neither civilian nor sworn staff spend their time rummaging through files about

***The risk at present seems to be that the rapidity of the movement toward computerization will outstrip the establishment of appropriate protections of individual privacy.***

cases with which they personally have no association. Departments would not, for example, copy an investigative file and send it out to another agency or a business without a very good reason. But, when such information becomes computerized, it is an easy matter to apply different standards. It becomes a simple matter for data on individuals to be made available to other law enforcement agencies, to other public agencies that request it, to businesses, and perhaps even to individuals. All that is needed is for an officially approved reason to exist. The reason might be to check a would-be gun purchaser under the Brady law; to approve an application for a driver’s license; to make a decision about a job applicant; or to



decide whether to rent an apartment. Some of these seem obviously legitimate uses of police data; some seem questionable. Either way, once transmitted, control of the information is lost. The information could go anywhere and be used for any purpose. Is this what we want?

### ***Unauthorized access***

A paper file in a police department filing cabinet or an officer's desk drawer has a symbolic boundary around it. Not only is it inaccessible to outsiders, it is not likely that unauthorized insiders will go looking through it. Such barriers disappear when the file is computerized. Insiders and outsiders have opportunities to get to it, sometimes without creating any record of access. If there is any doubt about this, it is only necessary to reflect on the number of known breaches of supposedly secure national databases by hackers. If hackers can get into files that are protected by national security systems, it is hard to see why computerized police files will not be extraordinarily vulnerable. Obviously, this is not what any police department (or any other law-abiding citizen) would want. But, it is hard to be confident that it could be stopped.

What this brief discussion suggests is that critical concerns exist about data quality and integrity, and about internal and outside access to sensitive information. Unrestrained or improper access seems certain to lead to abuses, and so deserves very careful attention. It may well be that dealing with these concerns may bring a limit to the amount and type of information that is considered proper to maintain in computerized police files, and/or in safeguards that may result in less than optimal technical use of the burgeoning IT capability. The risk at present seems to be that the rapidity of the movement toward computerization will outstrip the establishment of appropriate protections of individual privacy.

## **Conclusion**

Among the many timeless observations made by Thomas Jefferson, one strikes me as having particular relevance to the policing response to the IT revolution. On July 12, 1816, Jefferson wrote a letter to Samuel Kercheval, an extract from which is reproduced on one of the chamber walls of the Jefferson Memorial. Jefferson said:

***The human mind is advancing, it is producing new knowledge and capabilities at an astounding rate, and police departments must keep up. The IT revolution and police department utilization of the capacity it generates is a journey, not a destination.***

I am not an advocate for frequent changes in laws and constitutions, but laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and opinions change, with the change of circumstances, institutions must advance also to keep pace with the times. We might as well require a man to wear still the coat which fitted him when a boy as civilized society to remain ever under the regimen of their barbarous ancestors.

Jefferson, of course, was making a very general point with this statement. But, taking a few liberties, I would propose that the situation he denotes is precisely the one facing police departments. The human mind is advancing, it is producing new knowledge and capabilities at an astounding rate, and police departments must keep up. The IT revolution and police department utilization of the capacity it generates is a journey, not a destination. It may be best conceived as a journey that has stops along the way. A certain amount of time will be spent at each stop, during which the features and amenities available at the stopping point are used, hopefully to good effect. However, sooner or later the features and amenities will become outmoded and inadequate. Then the journey will have to be resumed, and travel to the next stop will be required. At that next stop, what is available will be more advanced and, potentially, more helpful. It will also be more demanding. It will probably introduce more risk.

This evolving process will never end. There will not be a point at which the ultimate destination has been reached. The amount of time spent at each stop is probably declining as the interval between each new advance diminishes. Police departments are going to be continually challenged to adapt to changing circumstances, and, to a very significant extent, these circumstances are going to be circumscribed by information and the technology used to manage it.

In conclusion, we must acknowledge that IT and its uses by law enforcement agencies are continually expanding and seem virtually unlimited. The challenge for police departments will be to take the (risky) step of dynamically embracing the new potential.

*I have been assisted in this article, particularly in the discussions of the current status of information technology and of the application of IT to community-oriented policing, by the information contained in a number of presently unpublished working papers prepared by Abt Associates staff members Gary Cordner, Peter Finn, Jack Greene, Kristen Jacoby, Julia Kernochan, Tom Rich, and Shawn Ward in connection with the Information Systems Technology Enhancement project, of which I am the project director. With gratitude, I have made use of*

*the background materials contained in those papers, although the individuals named are not responsible for, and do not necessarily agree with, the interpretations I have made and the conclusions I have drawn.*

## **Notes**

1. In this paper I will use IT as a general shorthand term to designate information technology and its associated hardware and software elements.
2. Asserting that the revolution has taken place in the past five decades is a practical construct that focuses attention on the development and contribution of the desktop computer, which was made possible by the invention of the transistor in 1947. It is not meant to do a disservice to earlier pioneers in the field, whose efforts were prerequisites for the desktop and the IT foundation that we take as commonplace today. This includes an array of seminal conceptual and practical developments, including, but not necessarily limited to, the following: Blaise Pascal's "Arithmetic Machine" (1642); Gottfried Leibniz's "Stepped Reckoner" (1694); Charles Babbage's "Analytical Engine" (1835); George Boole's binary logical operators (1859); Herman Hollerith's punched cards (1886); the Harvard Mark I created by Howard Aiken and IBM (1939); the ENIAC (Electronic Numeric Integrator and Calculator) created by J. Presper Eckert and John W. Mauchly (1946); the stored program concepts developed by John von Neumann in 1946 that in many respects opened the door to the logic underlying digital computers; and finally, of course, the development that ultimately made desktops and laptops a practical reality—the invention of the transistor in 1947 by Walter Brattain, John Bardeen, and William Shockley.
3. For an excellent overview of IT developments and their relevance to the justice system, see Coldren (1996). See the many other articles in Scherpenzeel (1996) for a comprehensive examination of computerization and criminal justice issues.
4. Decker (1978) provides a useful, though brief, overview of the historical development of statistical reporting on crime.
5. A helpful summary of the UCR system can be found on the FBI Web page at <http://www.fbi.gov/ucr/ucrquest.htm>. The page provides responses to frequently asked questions about UCR, and is an excellent introduction to the topic. The bibliography to this article contains an extended list of references. An additional crime reporting system that has the potential for at least supplementing and perhaps replacing UCR was proposed and adopted in the mid-1980s. It came to be called the National Incident-Based Reporting System and is discussed later in this article.
6. Publications on the Wickersham Commission are numerous. For an Internet reference, see the University Publications of America Web site at <http://www.upapubs.com/guides/wickersham.htm>. This excerpts from Walker (1997). For other selections, see Calder (1993) and the National Commission on Law Observance and Enforcement (1931).

7. The most significant of these was the Cleveland Survey of Criminal Justice. Led by Felix Frankfurter and Roscoe Pound, this inquiry produced *Criminal Justice in Cleveland* (Cleveland Foundation 1922).
8. A 14th report, on a particular case of abusive police behavior, was suppressed at the time of the original publications but was later released.
9. A review of Federal legislation from 1968 through 1994 can be found in Dunworth et al. (1996). A more focused assessment of the legacy of the 1967 Commission is provided by Tonry (1997).
10. LEAA was officially terminated on April 25, 1982 (U.S. Senate 1983, 3). A vast literature on LEAA exists. For an entry to it, see Allinson (1979), Diegelman (1982), and Feely and Sarat (1980).
11. The long-term future of COPS is in some doubt at the time of writing (late fall 1999). Budget negotiations for FY2000 appropriations led to a significant reduction in funding for COPS. Given the highly political nature of the "100,000 Cops on the Street" program of the Clinton administration, it is difficult to predict what will happen to this office when its statutory life ends in fall 2000. Some are predicting that, at the least, its status as an independent agency within the U.S. Department of Justice will be lost.
12. I refer here to the Arrestee Drug Abuse Monitoring (ADAM) program, the successor to the Drug Use Forecasting (DUF) program, which systematically collects and analyzes urine samples from arrestees in jails in 35 U.S. cities and then correlates the results with interviews of those arrestees.
13. As of May 1997, in addition to the 10 States certified to report NIBRS data, 24 States were testing NIBRS and another 8 States were developing NIBRS programs for further exploration. In the next few years, Phase III of the NIBRS Project will seek to encourage NIBRS' adoption through several measures: devoting resources to instituting NIBRS reporting at several large local law enforcement agencies; providing technical assistance to agencies desiring to implement NIBRS; building "national dialogue" on NIBRS in an effort to increase awareness and understanding of the program; and producing a videotape demonstrating effective use of NIBRS data, using local agencies as exemplars.
14. See, for example, North Carolina Department of Correction (1998) and Stratton (1993). The North Carolina site documents North Carolina's Justice Wide Area Network (JWAN). JWAN, located in Hendersonville, North Carolina, links the town's probation office, sheriff's department, police department, district attorney's office, day reporting center, and other criminal justice agencies. Completed with a grant from the Governor's Crime Commission, this relatively simple network relies on laptop computers and custom adaptations of common software. Officers are able to report electronically, share photos of probationers with other agencies, and search for offenders according to physical characteristics. Although officers now spend more time on reporting, they are more mobile and the information they provide is much more helpful to others in the office.

Stratton (1993) discusses the All County Criminal Justice Information Network (ACCJIN) in Contra Costa, California, established in 1990, which links 23 preexisting criminal justice information systems into a network. The network is composed of two message-switching computers, a private packet-switching setup, and customized common software applications. The information system has radically improved all areas of criminal justice work in the county, from jail administration to dispatching to communication among offices (previously accomplished by fax and photocopy). The program's successful completion is traced to good communication, adequate funding, and effective definition of criteria.

15. This section draws heavily from work done under the Information Systems Technology Enhancement Project (ISTEP), of which I am the project director. This COPS project is examining how police departments are adapting to the new IT that has become available in the past decade or so. ISTEP is referenced liberally, and the references identify a variety of earlier papers that are available in mimeograph on request. In particular, this section depends on an earlier version of the conceptual foundation of the ISTEP project that was placed in the public domain in mimeograph form at a COPS conference held in Washington, D.C., in November 1998 (Cordner, Dunworth, and Greene 1998). Copies of that document are available on request. A more recent report on ISTEP, published by the COPS office in May 2000 is entitled "Police Department Information Systems Technology Enhancement Project." It contains the conceptual foundation, five case studies, and a cross-site synopsis of significant issues. It can also be obtained from the COPS Web site (<http://www.usdoj.gov/cops/index.html>), cross referenced under ISTEP.

16. For early discussions of community-oriented policing and problem-oriented policing, see Goldstein (1979), Greene and Mastrofski (1988), Manning (1984), Police Foundation (1981), and Trojanowicz (1983).

17. The Violent Crime Control and Law Enforcement Act of 1994 established direct Federal-to-local aid for community policing, which completely bypassed traditional block grant mechanisms for such Federal aid (e.g. the Byrne Formula Grant Program, the Local Law Enforcement Block Grant Program). In addition to support for the hiring of police officers, the Act also authorized expenditures for information systems technology (manifested in the COPS MORE program).

18. There is no intention here to suggest that COP or POP runs counter to tradition or is nonprofessional. A differentiating term is needed and, in this article, the designation "professional" will be used to identify the era of policing that saw the introduction of professional standards and training for police officers. There is also no intention to suggest that COP/POP makes such professional standards unnecessary or obsolete. Just the opposite, in fact. COP/POP is considered to be complementary to the professional approach. For further discussion of this topic, see Larson (1990).

19. Much of the content of this section is drawn from work done for the COPS ISTEP project. A number of presentations of this work have been made at recent COPS and

National Institute of Justice (NIJ) conferences (e.g., the COPS/NIJ National Conference on Community Policing, held in Washington, D.C., November 1998), and earlier discussions have been written up. See, in particular, Corder, Dunworth, and Green (1998) and Greene, Rich, and Ward (1999). Publication of revised versions of these works by COPS is forthcoming.

20. Phase 1 of the ISTEP project produced five case studies in addition to Corder, Dunworth, and Greene (1998) and Greene, Rich, and Ward (1999). These are based on the experiences of the five police departments that agreed to contribute their IT insights and experiences to the ISTEP work: Charlotte-Mecklenburg, North Carolina; Hartford, Connecticut; Reno, Nevada; San Diego, California; and Tempe, Arizona. Some of these departments exemplified the careful, costly, and time-consuming approach that community-oriented policing IT requires. All Phase I ISTEP reports have been published by COPS (May 2000) and also are accessible through the COPS Web site.

21. Gordon Moore, one of the founders of INTEL, predicted in what has come to be known in the industry as "Moore's Law" that transistor density and speed would double every 12 months. From about 1950 until 1965, this was true. Since then, doubling has taken place about every 18 months.

22. Laptops, like desktops, have been steadily declining in price, while features and power have been steadily increasing. Though common sense suggests that there must be some end, or at least slowing, in these trends, there is little evidence that slowdown has begun yet.

23. This process is already under way. The Office of Community Oriented Policing Services is planning a series of IT technical assistance conferences during the first 6 months of 2000. The objective will be to provide assistance to the departments receiving COPS funding under the COPS MORE program, which supports a variety of initiatives, IT development being one of them.

24. For an illustration of the particular difficulties associated with policing research, see Dunworth and Saiger (1994). This study began as a five-city inquiry using police department data. Two of the five cities had to be dropped because the data did not support the spatial analysis that the project performed. In the others, Thomas maps were used to manually correlate police department data with housing development boundaries. In a more recent project, the advances made in police department data are illustrated by the fact that longitude/latitude coordinates were developed for more than 90 percent of specific incidents contained in citywide databases in five cities for which such databases were obtained. See Dunworth et al. (1999).

25. A cross-national discussion of privacy and security issues can be found in Csonka (1996).

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# Thirty Years of Sentencing Reform: The Quest for a Racially Neutral Sentencing Process

*by Cassia C. Spohn*

As we approach the 21st century, the issue of racial discrimination in sentencing continues to evoke controversy and spark debate. Some researchers contend that crimes by racial minorities are punished more harshly than similar crimes by equally culpable whites; others argue that racial disparities in sentence severity reflect differences in crime seriousness, prior criminal record, and other legally relevant factors that judges consider in determining the appropriate sentence. Some scholars suggest that racial and ethnic disparities in sentencing have been reduced by the sentencing reforms promulgated during the past three decades; others insist that these disparities have been exacerbated by the policies pursued during the war on drugs. The purpose of this essay is to inform the debate on race, crime, and justice by critically evaluating recent empirical research examining the effect of race/ethnicity on sentence severity and by searching for clues to the contexts or circumstances in which race/ethnicity makes a difference. Forty recent and methodologically sophisticated studies investigating the linkages between race/ethnicity and sentence severity are reviewed; included are 32 studies of sentencing decisions in State courts and eight studies of sentence outcomes at the Federal level.

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The findings of these studies suggest that race and ethnicity do play an important role in contemporary sentencing decisions. Black and Hispanic offenders—and particularly those who are young, male, or unemployed—are more likely than their white counterparts to be sentenced to prison; in some jurisdictions, they also receive longer sentences or differential benefits from guideline departures than do similarly situated white offenders. There is evidence that other categories of racial minorities—those convicted of drug offenses, those who accumulate more serious prior criminal records, those who victimize whites, or those who refuse to plead guilty or are unable to secure pretrial release—also are singled out for harsher treatment. The results of this review suggest that the “discrimination thesis” cannot be laid to rest.

Nearly half a century after *Brown v. Board of Education*, the historic Supreme Court decision that outlawed racially segregated public schools, the issue of race relations in the United States continues to evoke controversy and spark debate. On no issue is the debate more spirited or are opinions more polarized than the relationship between race, crime, and justice. Politicians and scholars offer competing explanations for the disproportionate number of blacks arrested, imprisoned, and on death row. Those on one side contend that the war on crime—and particularly the war on drugs—has “caused the ever harsher treatment of blacks by the criminal justice system” (Tonry 1995, 52) and charge that the overrepresentation of blacks in arrest and imprisonment statistics reflects systematic racial discrimination (Mann 1993). Those on the other side assert that these results can be attributed primarily to the disproportionate involvement of blacks in serious criminal activity (Blumstein 1982, 1993) and argue that the idea of systematic discrimination within the criminal justice system is a “myth” (Wilbanks 1987).

Although charges of racial discrimination have been leveled at all stages of the criminal justice process, much of the harshest criticism has focused on judges’ sentencing decisions. Critics of the sentencing process contend that crimes by racial minorities are punished more harshly than similar crimes by equally culpable whites. Other scholars challenge this assertion. They contend that the harsher sentences imposed on racial minorities reflect the seriousness of their crimes and prior criminal records as well as other legally relevant factors that judges consider in determining the appropriate sentence.

The findings of more than 40 years of research examining the effect of race on sentencing have not resolved this debate. Some studies have shown that racial/ethnic minorities are sentenced more harshly than whites (Holmes et al. 1996; Kramer and Ulmer 1996; Petersilia 1983; Spohn, Gruhl, and Welch 1981–82; Zatz 1984), even after crime seriousness, prior criminal record, and other legal variables are taken into account. Other studies have found either no significant racial differences (Klein, Petersilia, and Turner 1990) or that blacks are treated more leniently than whites (Bernstein, Kelly, and Doyle 1977; Gibson 1978; Levin 1972). Still other research has concluded that race influences sentence severity *indirectly* through its effect on variables such as bail status (LaFree 1985b; Lizotte 1978), type of attorney (Spohn, Gruhl, and Welch 1981–82), or type of disposition (LaFree 1985a; Spohn 1992; Uhlman and Walker 1980), or that race *interacts* with other variables and affects sentence severity only in some types of cases (Barnett 1985; Spohn and Cederblom 1991), in some types of settings (Chiricos and Crawford 1995; Hawkins 1987; Kleck 1981; Myers and Talarico 1986), or for some types of defendants (Chiricos and Bales 1991; LaFree 1989; Nobiling, Spohn, and DeLone 1998; Peterson and Hagan 1984; Spohn 1994; Walsh 1987).

***Between 1986 and 1991, the proportions of blacks and whites in State and Federal prisons reversed, from 53 percent white and 46 percent black to 53 percent black and 46 percent white.***

It thus seems clear that, as we enter the 21st century, definitive answers to questions concerning differential sentencing of racial minorities and whites remain elusive. The issue is complicated by the fact that the past three decades have witnessed a virtual revolution in sentencing policies and practices (Tonry 1996). At both the State and Federal levels, legislators abandoned indeterminate sentencing, replacing it with determinate sentencing, voluntary or presumptive sentencing guidelines, mandatory minimum penalties, and three-strikes laws. Although the goals of those who championed these reforms varied, with liberals arguing that structured sentencing practices would enhance fairness and hold judges accountable for their decisions and conservatives asserting that the reforms would lead to harsher penalties that eventually would deter criminal behavior, reformers on both sides of the political spectrum agreed that the changes were designed to curb discretion and reduce unwarranted disparity. As Tonry (1995, 164) notes, "Amelioration of racial disparities and discrimination was a major objective of proponents of constraints on judicial discretion."

That the reforms were designed to reduce racial disparity and discrimination is clear. What is not clear is whether the reforms have achieved that objective. The U.S. Sentencing Commission's evaluation of the first 4 years' experience with the Federal sentencing guidelines concluded that there had been a substantial reduction in racial disparity (U.S. Sentencing Commission 1991a), but other studies challenged that conclusion (Albonetti 1997; Rhodes 1992; U.S. General Accounting Office 1992; Weisburd 1992). Studies at the State level, most of which focus on the change from indeterminate to determinate sentencing (Petersilia 1983) or on the implementation of guidelines in Minnesota (Dixon 1995; Miethe and Moore 1985; Moore and Miethe 1986; Stolzenberg and D'Alessio 1994) and Pennsylvania (Kramer and Steffensmeier 1993; Kramer and Ulmer 1996; Ulmer and Kramer 1996), have yielded similarly mixed results. These inconsistencies led Tonry (1996, 42) to suggest that "the best conclusion at present is that we do not know whether disparities have increased or decreased."

The task of assessing the effect of race on sentencing is further complicated by the war on drugs, which a number of commentators contend has been fought primarily in minority communities. Tonry (1995, 105), for example, argues that "Urban black Americans have borne the brunt of the War on Drugs." Miller (1996, 80) similarly asserts that "from the first shot fired in the drug war



African-Americans were targeted, arrested, and imprisoned in wildly disproportionate numbers.” These allegations suggest not only that racial minorities have been arrested for drug offenses at a disproportionately high rate, but also that black and Hispanic drug offenders have been sentenced more harshly than white drug offenders.

There is ample evidence to support the argument that the war on drugs has been fought primarily in minority communities. Since 1976, the number of persons arrested for drug offenses has more than doubled; the number of whites arrested for drug offenses increased by 85 percent, while the number of blacks arrested for these offenses increased fourfold (Tonry 1995). The proportion of all drug arrestees who are black also increased, from 22 percent in 1976 to 39 percent in 1994. These racial differentials in arrest rates are reflected in prison populations, where the trend has been one of decreasing white and increasing black percentages. Between 1986 and 1991, the proportions of blacks and whites in State and Federal prisons reversed, from 53 percent white and 46 percent black to 53 percent black and 46 percent white. Tonry (1995, 113) attributes this reversal to the war on drugs, noting: “At every level of the criminal justice system, empirical analyses demonstrate that an increasing black disproportion has resulted from the War on Drugs—in jail, state and federal prisons, and juvenile institutions.”

## **Issues Addressed in This Essay**

The findings of contemporary research exploring the effect of race on sentencing are inconsistent. Coupled with competing assertions that racial disparities in sentencing have been reduced by the sentencing reforms promulgated during the past three decades but exacerbated by the policies pursued during the war on drugs, the findings suggest that it is time to reexamine this important but unsettled question (Spohn, Gruhl, and Welch 1981–82). Although a number of comprehensive reviews of the literature on race and sentencing exist (cf. Chiricos and Crawford 1995; Hagan 1974; Hagan and Bumiller 1983; Kleck 1981; Zatz 1987), none of them focuses explicitly on sentencing in the post-reform era dominated by the war on drugs. The most current review, Chiricos and Crawford’s 1995 examination of 38 studies published since 1975, does not include any study using sentencing data from the past 15 years. The authors themselves conclude that “there is much yet to be learned about the issue of race and imprisonment” (Chiricos and Crawford 1995, 301).

The purpose of this essay is not simply to add another voice to the debate over whether racial discrimination exists within the criminal justice system. Although I attempt to determine whether recent research provides evidence of

***With respect to sentencing, discrimination “exists when some case attribute that is objectionable (typically on moral or legal grounds) can be shown to be associated with sentence outcomes after all other relevant variables are adequately controlled.”***

direct racial discrimination in sentencing, I believe that this is a theoretically unsophisticated and incomplete approach to a complex phenomenon. Like Hawkins (1987) and Zatz (1987), I believe that it is overly simplistic to assume that racial minorities will receive harsher sentences than whites regardless of the nature of the crime, the seriousness of the offense, or the culpability of the defendant. Like Wonders (1996, 617), I believe that the more interesting question is, “When does the particular social characteristic matter—under what circumstances, for whom, and in interaction with what other factors?”

The underlying purpose of this essay is to inform the debate on race, crime, and justice by critically evaluating recent empirical research investigating the linkages between race and sentence severity and by searching for “clues to the contextual character of possible race effects” (Chiricos and Crawford 1995,

284). As we begin the year 2000, we find increasingly large proportions of young black and Hispanic men in our Nation’s jails and prisons. It is critically important to determine whether, and to what extent, this disparity has resulted from “failed policies and cynical politics” (Tonry 1995, 180) rather than from legitimate and racially neutral efforts to control crime and protect society.

Before turning to an analysis of research on race and sentencing, I define the concepts of disparity and discrimination. I also present a brief overview of the sentencing process and summarize the reforms implemented during the past 30 years.

## **Disparity and Discrimination**

Critics of the sentencing process contend that unrestrained discretion results in sentence disparities and discrimination. These concepts, while sometimes used interchangeably, are significantly different. *Disparity* refers to a difference in treatment or outcome, but one that does not necessarily involve discrimination. As the Panel on Sentencing Research noted, “*Disparity* exists when ‘like cases’ with respect to case attributes—regardless of their legitimacy—are sentenced differently” (Blumstein et al. 1983, 72). *Discrimination*, on the other hand, is a difference that results from differential treatment based on illegitimate criteria, such as race, gender, social class, or sexual orientation. With respect to sentencing, discrimination “exists when some case attribute that is objectionable (typically on moral or legal grounds) can be shown to be

associated with sentence outcomes after all other relevant variables are adequately controlled” (Blumstein et al. 1983, 72).

There is clear and convincing evidence of racial disparity in sentencing. At the Federal level, for example, 74.3 percent of the white offenders convicted in U.S. district courts during fiscal year 1996 were sentenced to prison. The comparable figures for black offenders and Hispanic offenders were 80.2 percent and 84.9 percent, respectively. The mean prison sentence for black offenders (91.1 months) also was substantially higher than the mean sentences for whites (48.9 months) or Hispanics (48.9 months) (U.S. Department of Justice [DOJ] 1998a). Similar disparities are found at the State level. For example, a study of sentences imposed in State courts nationwide in 1994 found that 55 percent of the blacks and 42 percent of the whites were sentenced to prison; the average prison sentence for blacks also was longer than the average sentence for whites (U.S. DOJ 1998b).

Although these statistics indicate that blacks and Hispanics receive sentences that are more punitive than whites receive, they do not tell us why this occurs. I suggest that there are at least four possible explanations, only three of which reflect racial discrimination. First, the differences in sentence severity could be due to the fact that blacks and Hispanics commit more serious crimes and have more serious prior criminal records than whites. Studies of sentencing decisions consistently have demonstrated the importance of these two legally relevant factors. Offenders who are convicted of more serious offenses, who use a weapon to commit the crime, or who seriously injure the victim receive harsher sentences, as do offenders who have prior felony convictions. The more severe sentences imposed on black and Hispanic offenders, then, might reflect the influence of these legally prescribed factors rather than the effect of racial prejudice on the part of judges.

The differences also could result from economic discrimination. Poor defendants are not as likely as middle- or upper-class defendants to have a private attorney or to be released prior to trial. They also are more likely to be unemployed. All of these factors may be related to sentence severity. Defendants represented by private attorneys or released prior to trial may receive more lenient sentences than those represented by public defenders or in custody prior to trial. Defendants who are unemployed may be sentenced more harshly than those who are employed. Since black and Hispanic defendants are more likely than white defendants to be poor, economic discrimination amounts to *indirect* racial discrimination.

Third, the differences could be due to *direct* racial discrimination on the part of judges. They could be a result of judges taking the race/ethnicity of the offender

***An indirect effect occurs when an independent variable influences a dependent variable through some other factor, rather than directly. If, for example, pretrial detention significantly increases the odds of incarceration, and if black offenders are more likely than white offenders to be detained prior to trial, then one could conclude that race indirectly affects sentence severity through its effect on pretrial detention.***

into account in determining the sentence. This implies that judges who are confronted with black, Hispanic, and white offenders convicted of similar crimes and with similar prior criminal records impose harsher sentences on racial minorities than on whites. It implies that judges, the majority of whom are white, stereotype black and Hispanic offenders as more violent, more dangerous, and less amenable to rehabilitation than white offenders (see Steffensmeier, Ulmer, and Kramer 1998).

Finally, the sentencing disparities could reflect both equal treatment and discrimination, depending on the nature of the crime, the races of the victim and the offender, the type of jurisdiction, the age and gender of the offender, and so on. It is possible, in other words, that racial minorities who commit certain types of crimes (e.g., forgery) are treated no differently than whites who commit these crimes, while those who commit other types of crimes (e.g., sexual assault) are sentenced more harshly than their white counterparts. Similarly, it is possible that racial discrimination in the application of the death penalty is confined to the South or to cases involving black offenders and white victims. This type of discrimination is what Walker, Spohn, and DeLone (1999, 17) refer to as “contextual discrimination.” It is discrimination that is found in particular contexts or circumstances.

In summary, there is a significant difference between disparity and discrimination, and discrimination can take different forms. In reviewing the research on race and sentencing, I use the term “direct discrimination” to characterize what researchers refer to as a “main effect.” That is, race/ethnicity significantly affects sentence severity after all legally relevant case and offender characteristics are taken into consideration; stated another way, blacks and Hispanics are sentenced more harshly than whites, and these differences cannot be attributed to differences in crime seriousness, prior criminal record, or other legally relevant factors.

Consistent with Zatz (1987, 70), I use the term “subtle discrimination” to characterize what researchers refer to as “indirect” or “interaction” effects. An indirect effect occurs when an independent variable influences a dependent variable

*through* some other factor, rather than directly. If, for example, pretrial detention significantly increases the odds of incarceration, and if black offenders are more likely than white offenders to be detained prior to trial, then one could conclude that race indirectly affects sentence severity through its effect on pretrial detention. An interaction effect occurs when either the effect of race varies depending on some other factor or the effects of other variables are conditioned by offender race. If the effect of race is confined to certain types of cases (e.g., less serious crimes where judges have greater discretion at sentencing) or to certain types of offenders (e.g., young males), we would conclude that race interacts with crime seriousness and offender age/gender to affect sentence outcomes. We would reach a similar conclusion if we found that going to trial rather than pleading guilty increased sentence severity for blacks but not for whites. As Zatz notes (1987, 70), both indirect and interaction effects “reflect more subtle institutionalized biases, but still fall within the purview of discrimination if they systematically favor one group over another.” These types of effects are what Walker, Spohn, and DeLone (1999, 17) refer to as “contextual discrimination.”

## **The Sentencing Process and Sentencing Reform**

Concerns about disparity and discrimination in sentencing led to a “remarkable burst of reform” (Walker 1993, 112) that began in the mid-1970s and continues today. The focus of reform efforts was the indeterminate sentence, in which an offender received a minimum and maximum sentence and the parole board determined the date of release. The parole board’s determination of when the offender should be released rested on its judgment of whether the offender had been rehabilitated or had served enough time for the particular crime. Under indeterminate sentencing, in other words, discretion was distributed not only to the criminal justice officials who determined the sentence but also to correctional officials and the parole board. The result of this process was “a system of sentencing in which there was little understanding or predictability as to who would be imprisoned and for how long” (U.S. DOJ 1996, 6).

Both liberal and conservative reformers challenged the principles underlying the indeterminate sentence and called for changes designed to curb discretion and reduce disparity and discrimination. Liberals and civil rights activists, in particular, were apprehensive about the potential for racial bias under indeterminate sentencing schemes. They asserted that “racial discrimination in the criminal justice system was epidemic, that judges, parole boards, and corrections officials could not be trusted, and that tight controls on officials’ discretion offered the only way to limit racial disparities” (Tonry 1995, 164). Political

conservatives, on the other hand, argued that sentences imposed under indeterminate sentencing schemes were too lenient and championed sentencing reforms designed to establish and enforce more punitive sentencing standards (e.g., Wilson 1983). Their arguments were bolstered by the findings of research demonstrating that most correctional programs designed to rehabilitate offenders and reduce recidivism were ineffective (Martinson 1974).

After a few initial “missteps,” in which jurisdictions attempted to eliminate discretion altogether through flat-time sentencing (Walker 1993, 123), States and the Federal Government adopted determinate sentencing proposals designed to *control* the discretion of sentencing judges. Many jurisdictions adopted presumptive sentencing structures that offered judges a limited number of sentencing options and included enhancements for use of a weapon, presence of a prior criminal record, or infliction of serious injury. Other States and the Federal Government adopted sentencing guidelines that incorporated crime seriousness and prior criminal record into a sentencing “grid” that judges were to use in determining the appropriate sentence. Under both systems, judges could use aggravating and mitigating circumstances to depart from the presumptive sentence. As Zatz (1987, 79) notes, these reforms

severely constrained the discretion of judges and parole boards, though judges were still relatively free to decide when to grant or withhold probation, hand out concurrent or consecutive sentences, and use the aggravating and mitigating circumstances loophole to alter the presumptive sentence.

Other reforms at both the Federal and State levels included mandatory minimum penalties for certain types of offenses (especially drug and weapons offenses), habitual offender and three-strikes laws, and truth-in-sentencing statutes. According to Tonry (1996, 3), these latter reforms were “based on the premises that harsher penalties will reduce crime rates and that judges cannot otherwise be trusted to impose them.”

The attack on indeterminate sentencing and the proposals for reform reflect conflicting views of the goals and purposes of punishment as well as questions regarding the exercise of discretion at sentencing. The National Research Council’s Panel on Sentencing Research characterized the sentencing decision as “the symbolic keystone of the criminal justice system,” adding: “It is here that conflicts between the goals of equal justice under the law and individualized justice with punishment tailored to the offender are played out” (Blumstein et al. 1983, 39). Proponents of the retributive or just deserts theories of punishment, such as Andrew von Hirsch (1976), argued that sentence severity should be closely linked to the seriousness of the crime and the culpability of the offender; thus, those who commit comparable offenses should receive similar punishments, and

those who commit more serious crimes should be punished more harshly than those who commit less serious crimes. Like cases, in other words, should be treated alike. Proponents of utilitarian rationales of punishment, including deterrence, incapacitation, and rehabilitation, on the other hand, argued that the ultimate goal of punishment is to prevent future crime and that the severity of the sanction imposed on an offender should serve this purpose; thus, the amount of punishment need not be closely proportional to crime seriousness or offender culpability but can instead be tailored to reflect individual circumstances related to rehabilitative needs or to deterrent and incapacitative considerations.

These conflicting views of the goals of punishment incorporate differing notions of the amount of discretion that judges and juries should be afforded at sentencing. A sentencing scheme based on utilitarian rationales would allow the judge or jury discretion to shape sentences to fit individuals and their crimes. The judge or jury would be free to consider all relevant circumstances, including “the importance of the behavioral norms that were violated, the effects of the crime on the victim, and the amalgam of aggravating and mitigating circumstances that make a defendant more or less culpable and make one sentence more appropriate than another” (Tonry 1996, 3). A retributive or just deserts sentencing scheme, on the other hand, would constrain discretion more severely. The judge or jury would determine the appropriate sentence using only legally relevant considerations (essentially crime seriousness and, to a lesser extent, prior criminal record) and would be precluded from considering individual characteristics or circumstances.

The reforms enacted during the sentencing reform movement reflect both retributive and utilitarian principles. Sentencing guidelines, for example, generally are based explicitly on notions of just deserts: Punishments are scaled along a two-dimensional grid measuring the seriousness of the crime and the offender’s prior criminal record. The enabling legislation for the Minnesota Sentencing Commission states: “Development of a rational and consistent sentencing policy requires that the severity of sanctions increase in direct proportion to increases in the severity of criminal offenses and the severity of criminal histories of convicted felons” (U.S. DOJ 1996, 42). The Minnesota Sentencing Commission used this mandate to adopt a “modified just-desert model of sentencing” (U.S. DOJ 1996). Other sentencing commissions are mandated to accomplish utilitarian as well as retributive goals. For example, legislation adopted in Arkansas states that the goals of the sentencing guidelines include retribution, rehabilitation, deterrence, and incapacitation. Because these goals may conflict with one another and because legislatures rarely prioritized them, sentencing commissions generally “developed guidelines using measures of offense seriousness

and criminal history, leaving to the courts the discretion to aggravate and mitigate the sentence as a means of considering rehabilitation and other sentencing purposes” (U.S. DOJ 1996, 42).

Although the sentencing reforms promulgated during the past three decades were based on diverse and sometimes contradictory principles, the overriding goal of reformers was to reduce disparity and discrimination, including racial discrimination, in sentencing. The Minnesota sentencing guidelines, for example, explicitly state that sentences should be neutral with respect to the gender, race, and socioeconomic status of the offender. Reformers hoped that the new laws, by structuring discretion, would make it more difficult for judges to take factors such as race into account when determining the appropriate sentence. The degree to which the reforms have achieved this purpose is the subject of this paper.

In the sections that follow, I review empirical research on race and sentencing. I begin by summarizing previous reviews of this body of research. I then review and assess the findings of 40 recent studies examining the relationship between race and sentencing. I attempt to determine whether these studies provide evidence of either direct or subtle racial discrimination in sentencing.

## **Previous reviews of research on race and sentencing**

Social scientists have conducted dozens of studies designed to untangle the complex relationship between race and sentence severity. In fact, as Zatz (1987, 69) notes, this issue “may well have been the major research inquiry for studies of sentencing in the 1970s and early 1980s.” The studies conducted during this early period vary enormously in theoretical and methodological sophistication. They range from simple bivariate comparisons of incarceration rates for whites and racial minorities, to methodologically more rigorous multivariate analyses designed to identify direct race effects, to more sophisticated designs incorporating tests for indirect race effects and for interaction between race and other legal and extralegal predictors of sentence severity. The findings generated by these early studies and the conclusions drawn by their authors also vary.

Studies conducted from the 1930s through the 1960s often concluded that racial disparities in sentencing reflected racial discrimination. For example, the author of one of the earliest sentencing studies claimed that “equality before the law is a social fiction” (Sellin 1935, 217). But in his review of 20 studies published between 1928 and 1973, Hagan (1974) found that most of them were methodologically unsound. Many of them employed inadequate or no controls for crime seriousness and prior criminal record, and most of them failed to calculate measures of association, relying instead on tests of significance. When



Hagan reanalyzed the data from 17 of the 20 studies, he found that the relationship between race and sentence severity, while often *statistically* significant, generally was not *substantively* significant. In both capital and noncapital cases, knowing the race of the offender typically increased the accuracy of sentence predictions by less than 2 percent. Hagan concluded that the evidence presented in these studies suggested that racially discriminatory sentencing, if it existed at all, was confined to interracial capital cases in the South.

Kleck (1981) advanced a similar conclusion. His evaluation of 57 sentencing studies published through 1979 revealed that only 8 of the 40 studies of non-capital sentencing consistently supported the racial discrimination hypothesis, another 12 produced mixed results, and the remaining 20 found no evidence of discrimination. Kleck added that evidence in support of the discrimination hypothesis was even weaker than it appeared, since most of the studies that produced findings consistent with the hypothesis either did not control for prior criminal record or used a crude measure that simply distinguished between defendants with some type of record and those with no record. According to Kleck (1981, 792), “the more adequate the control for prior record, the less likely it is that a study will produce findings supporting a discrimination hypothesis.”

Kleck’s analysis of 17 studies of the capital sentencing process revealed that only 1 study included a control for prior record, that most did not differentiate between felony and nonfelony murder, and that none controlled for the defendant’s social class. He also noted that “every single study consistently indicating discrimination towards blacks was based on older data from Southern states” (p. 788). Although Kleck acknowledged that studies of the use of capital punishment for rape revealed strong evidence of direct discrimination against black offenders (and particularly those who assaulted whites), he concluded that “[T]he evidence considered as a whole indicates no racial discrimination in the use of the death penalty for murder outside the South, and even for the South empirical support for the discrimination hypothesis is weak” (p. 788).

The conclusions proffered by Hagan (1974) and Kleck (1981), coupled with the findings of its own review of sentencing research (Hagan and Bumiller 1983), led the National Research Council’s Panel on Sentencing Research to claim that the sentencing process, while not racially neutral, is not characterized by “a widespread systematic pattern of discrimination” (Blumstein et al. 1983, 93). Rather, “some pockets of discrimination are found for particular judges, particular crime types, and in particular settings.” The Panel echoed the concerns voiced by Hagan (1974) and Kleck (1981) regarding the absence of controls for prior criminal record in many of the early studies. They also noted that even more recent and methodologically rigorous studies (i.e., those published

in the late 1970s and early 1980s) suffered from measurement error and sample selection problems that raised “the threat of serious biases in the estimates of discrimination effects” (Blumstein et al. 1983, 109). The panel concluded that their “overall assessment of the available research suggests that factors other than racial discrimination in the sentencing process account for most of the disproportionate representation of black males in U.S. prisons” (Blumstein et al. 1983, 92).

Zatz (1987) reached a somewhat different conclusion. While acknowledging that “it would be misleading to suggest that race/ethnicity is *the* major determinant of sanctioning,” Zatz (p. 87) nonetheless asserted that “race/ethnicity is *a* determinant of sanctioning, and a potent one at that.” Zatz based her conclusion on a review and evaluation of four waves of research on race and sentencing. As noted earlier, the studies published during the first wave (1930s through the mid-1960s), which generally found substantial evidence of racial bias, were methodologically flawed. The second wave of research, which began during the late 1960s and continued throughout the 1970s, was characterized by more methodologically sophisticated studies that typically uncovered little, if any, direct racial discrimination in sentencing. Researchers argued either that the racially discriminatory practices of earlier years had been eliminated in the wake of the civil rights movement or that the race effect found in the early studies disappeared once crime seriousness and prior criminal record were controlled for adequately. Findings such as these led many scholars to embrace the so-called no discrimination thesis and to assert that the idea of systematic racial discrimination in sentencing was a “myth” (Wilbanks 1987).

Zatz’s (1987) review of third-wave studies suggests that these conclusions may have been premature. Social scientists conducting research in the 1970s and 1980s contested the no discrimination thesis. These researchers suggested that discrimination had not declined or disappeared but had simply become more subtle and difficult to detect. They contended that testing only for significant *direct* race effects was insufficient and asserted that disentangling the effects of race and other predictors of sentence severity required tests for *indirect* race effects and the use of *interactive*, as well as additive, models. They also emphasized the possibility of “cumulative disadvantage”—that is, the possibility that race “might have a cumulative effect by operating *indirectly* through other variables to the disadvantage of minority group members” (Zatz 1987, 75).

Methodological refinements and the availability of more complete data enabled third-wave researchers to test hypotheses concerning indirect and interaction effects. As Zatz (1987) notes, although some researchers uncovered evidence of direct racial bias (cf. Albonetti 1985; Spohn, Gruhl, and Welch 1981–82), most found more subtle effects. Their research showed that race affected sentence

severity indirectly through its effect on variables such as pretrial status or type of attorney, or that race interacted with other variables to produce harsher sentences for racial minorities for some types of crimes (e.g., less serious crimes), in some types of settings (e.g., the South), or for some types of defendants (e.g., the unemployed). Research conducted during the third wave also revealed a consistent pattern of devaluation of black victims: Blacks who victimized whites were sentenced much more harshly than either blacks who victimized other blacks or whites who victimized blacks.

It is important to note that the diverse findings of the third-wave studies led to different overall conclusions regarding the effect of race on sentencing. Zatz (1987, 70) states: "These studies . . . indicate that overt and more subtle forms of bias against minority defendants *did* occur, at least in some social contexts" (emphasis in the original). Sampson and Lauritsen (1997, 348) put a somewhat different spin on the findings. They conclude that, although the presence of indirect or interaction effects challenges the no discrimination thesis, "the damage is not fatal to the basic argument that race discrimination is not pervasive (or systemic) in criminal justice processing." While admitting that these differences in interpretation are at least partly semantic, Sampson and Lauritsen (p. 351) nonetheless contend that one cannot conclude that the criminal justice *system* is racially biased based solely on race effects that are "so contingent, interactive, and indirect" that they are not replicable.

What Zatz (1987) refers to as the fourth wave of studies is still in progress. During this time period, researchers began to investigate the effect of race on sentence severity using data from jurisdictions that enacted determinate sentencing or sentence guidelines. These studies, which are the focus of this paper, are reviewed in detail in the section that follows. Very few of them had been published when Zatz wrote her evaluation in 1987. Admitting that it was "difficult to critique research during this fourth wave midstream," Zatz noted that the studies that did exist found indirect, rather than direct, race effects. Nonetheless, she cautioned against premature conclusions that the reforms had produced a racially neutral sentencing process. As she stated (p. 81), "[D]iscrimination has not gone away. It has simply changed its form to become more acceptable."

The most recent review of research on race and sentencing confirms Zatz's conclusion. Chiricos and Crawford (1995) reviewed 38 empirical studies published between 1979 and 1991 that included a test for the direct effect of race on sentencing decisions in noncapital cases. Unlike previous reviews, they distinguished results involving the decision to incarcerate or not from those involving the length of sentence decision. Following the approach taken by Hagan and Bumiller (1983), Chiricos and Crawford also considered

whether the effect of race varied depending on structural or contextual conditions. They asked whether the impact of race would be stronger “in southern jurisdictions, in places where there is a higher percentage of Blacks in the population or a higher concentration of Blacks in urban areas, and in places with a higher rate of unemployment” (p. 282). Noting that two-thirds of the studies examined had been published subsequent to Kleck’s (1981) review, Chiricos and Crawford state that their assessment “provides a fresh look at an issue that some may have considered all but closed” (p. 300).

The authors’ assessment of the findings of these 38 studies revealed “significant evidence of a *direct* impact of race on imprisonment” (Chiricos and Crawford 1995, 300). This effect, which persisted even after the effects of crime seriousness and prior criminal record were controlled, was found only for the decision to incarcerate or not; it was not found for the length of sentence decision. The authors also identified a number of structural contexts that conditioned the race/imprisonment relationship. Black offenders faced significantly greater odds of incarceration than white offenders in the South, in places where blacks comprised a larger percentage of the population, and in places where the unemployment rate was high.

The results of Chiricos and Crawford’s (1995) review, which included very few studies that suffered from the methodological limitations identified in previous evaluations, call into question earlier conclusions that the sentencing process is not racially biased. Their results suggest that race matters at certain points in the process—notably the decision to incarcerate or not—and in certain contexts. As the authors note, “We are past the point of simply asking whether race makes a difference. The contexts in which race may be important for incarceration are only beginning to be understood” (p. 301).

## Recent research on race and sentencing

The previous reviews of research examining the relationship between race and sentencing typically concluded that race exerted a very modest effect on sentence severity once controls for crime seriousness, prior criminal record, and other legally relevant factors were taken into consideration. Most of the studies included in these reviews, however, used data from the 1970s and earlier. Even the most current of the extant reviews, which examined 38 studies published between 1979 and 1991, included only 6 studies that used post-1980 data (Chiricos and Crawford 1995). This is problematic, given that the past 20 years have witnessed dramatic and widespread changes in sentencing policies and procedures at both the State and Federal levels. The conclusions of these earlier reviews obviously cannot be generalized to the sentencing process in the postreform era.

What follows is a comprehensive and systematic review of recent research examining the effect of race on sentencing. All published research using individual data from the 1980s and 1990s that reports a measure of association between race and sentence outcomes is included. Because previous research has shown that offender race may differentially affect the decision to incarcerate and the decision concerning the length of sentence, I review and assess the findings of research regarding each of these measures of sentence severity. I also include studies that examine alternative indicators of sentence severity: departures from sentencing guidelines; the decision to apply habitual offender provisions; the decision to withhold adjudication; and whether the mandatory minimum sentence was imposed.

As noted earlier, the purpose of this review is not simply to add another voice to the debate concerning the effect of race on sentencing. Rather, the purpose is to highlight the ways in which researchers have responded to calls for theoretical and methodological improvements in sentencing research and to document the extent to which recent research finds evidence of direct *and* subtle racial discrimination in sentencing. I attempt not only to determine whether blacks and Hispanics are sentenced more harshly than whites but also to identify the “structural and contextual conditions that are most likely to result in racial discrimination” (Hagan and Bumiller 1983, 21). In other words, the focus is on determining whether research reveals consistent patterns indicating that offender race/ethnicity operates indirectly through other factors, such as pretrial status or type of disposition, or interacts with other variables (e.g., prior record, type of crime) that are themselves related to sentence severity. I also attempt to determine whether the effect of race/ethnicity varies depending on the formal sentencing structure in the jurisdiction being studied and whether the sentencing reforms enacted during the past three decades have achieved their goal of reducing racial disparity.

### ***Race and sentencing: Evaluating the evidence***

Forty studies examining the relationship between race and sentencing are reviewed here: 32 studies of sentencing decisions in State courts and 8 studies of sentence outcomes at the Federal level. The studies included in the review are listed in exhibit 1. Studies using State-level data are presented first, followed by studies based on Federal data. The studies are presented in chronological order, with those published most recently listed first; however, State-level research using data from the same jurisdiction is grouped together. Exhibit 1 also includes the time period during which the data were collected, the jurisdiction(s) included in the study, the number and types of offenders included in the sample, and whether the sentences imposed on whites were compared to those imposed on

(State-level studies)

Exhibit 1. Studies of race and sentencing

Study	Data year	Place	Sample	Whites compared with		Type of sentencing system	Significant main effect in/out	Significant main effect sentence length	Interaction with race?
				Blacks	Hispanics				
Spohn and DeLone in press	1993	Chicago	2,983 felonies	yes	yes	determinate	Blacks + Hispanics +	Blacks NS Hispanics NS	yes
	1993	Miami	2,720 felonies	yes	yes	guidelines	NS +	NS NS	yes
	1993	Kansas City	1,576 felonies	yes	no	determinate	NS NA	NS NA	yes
Spohn and Holleran 2000	1993	Chicago	2,510 felonies	yes	yes	determinate	see Spohn and DeLone in press	see Spohn and DeLone in press	yes
	1993	Miami	2,703 felonies	yes	yes	guidelines	DeLone in press	DeLone in press	yes
	1993	Kansas City	1,425 felonies	yes	no	determinate			yes
Spohn and Spears 2000	1993	Chicago	1,554 drug cases	yes	yes	determinate	Blacks NS Hispanics NS	Blacks NS Hispanics NS	yes
	1993	Miami	1,184 drug cases	yes	yes	guidelines	NS +	NS NS	yes
	1993	Kansas City	426 drug cases	yes	no	determinate	NS NA	+ NA	no
Nobiling, Spohn, and DeLone 1998	1993	Chicago	2,533 felonies	yes	yes	determinate	see Spohn and DeLone in press	see Spohn and DeLone in press	yes
	1993	Kansas City	1,458 felonies	yes	no	determinate	DeLone in press	DeLone in press	yes
Spohn, DeLone, and Spears 1998	1993	Miami	4,148 felonies	yes	yes	guidelines	adjudication withheld? Blacks NS Hispanics NS	NA	yes
Wooddredge 1998	1983-88	Dona Ana County, New Mexico	1,180 felonies and misdemeanors	no	yes	determinate	Hispanics NS	Hispanics NS	yes

**Exhibit 1 (continued)**

**(State-level studies)**

Study	Data year	Place	Sample	Whites compared with		Type of sentencing system	Significant main effect in/out	Significant main effect sentence length	Interaction with race?
				Blacks	Hispanics				
Crawford, Chiricos, and Kleck 1998	1992-93	Florida	9,600 males eligible to be sentenced as habitual offenders	yes	no	Blacks NS	NS	yes	
Steffensmeier, Ulmer, and Kramer 1998	1989-92	Pennsylvania: statewide data	138,916 felonies and misdemeanors	yes	no	Blacks +	Blacks +	yes	
Ulmer 1997	1985-91	Pennsylvania: statewide Metro County Rich County Southwest County	166,247 26,077 12,064 1,335	yes yes yes yes	no no no no	Blacks + + + NA	Blacks + + + NA	yes	
		statewide Metro County Rich County Southwest County				dispositional departure Blacks + + + NS	durational departure below Blacks + NS		

*continued*

(State-level studies)

Exhibit 1 (continued)

Study	Data year	Place	Sample	Whites compared with		Type of sentencing system	Significant main effect in/out	Significant main effect sentence length	Interaction with race?
				Blacks	Hispanics				
Ulmer and Kramer 1996	1985–91	3 Pennsylvania counties	39,476 felonies and misdemeanors	yes	no	guidelines	probation vs. jail/prison Blacks + probation/jail vs. prison Blacks +	Blacks +	yes
Kramer and Ulmer 1996	1985–87 and 1989–91	67 Pennsylvania counties	approximately 41,000 felonies and misdemeanors	yes	yes	guidelines	dispositional departure Blacks Hispanics + +	durational departure below Blacks Hispanics + +	no
Kramer and Steffensmeier 1993	1985–87	67 Pennsylvania counties	61,294 felonies and misdemeanors	yes	no	guidelines	jail/prison vs. probation Blacks + prison vs. jail/probation Blacks + prison vs. jail Blacks +	Blacks + (for 6 of 20 offenses)	yes
Simon 1996	UNK	Arizona	273 incarcerated violent offenders	yes	no	UNK	NA	Blacks NS	no



Exhibit 1 (continued)

(State-level studies)

Study	Data year	Place	Sample	Whites compared with		Type of sentencing system	Significant main effect in/out	Significant main effect sentence length	Interaction with race?
				Blacks	Hispanics				
Spohn and Spears 1996	1970–84	Detroit	1,152 sexual assault cases	yes	no	determinate	black on white vs. black on black + white on white +	black on white vs. black on black + white on white +	yes
Holmes et al. 1996	1987–89	Texas: Bexar County El Paso County	362 felonies 614 felonies	yes	yes	UNK	NA	overall severity Blacks Hispanics NS NS +	yes
Nelson 1994	1985–86	New York	105,000 misdemeanors	black + Hispanic vs. white	black + Hispanic vs. white	determinate	Blacks + Hispanics +	NA	yes
Nelson 1995	1990–92	New York	approximately 300,000 felony arrests	black + Hispanic vs. white	black + Hispanic vs. white	determinate	prison vs. no prison Blacks + Hispanics + jail vs. probation Blacks + Hispanics +	prison sentence Blacks + Hispanics NS jail sentence Blacks + Hispanics NS +	no
Walsh 1991	1978–85	Metropolitan County in Ohio	666 male felony offenders	yes	no	guidelines	Blacks –	Blacks NS	no
Walsh 1987	1978–83	Metropolitan County in Ohio	417 sexual assault cases	yes	no	guidelines	Blacks –	Blacks NS	yes

continued

Exhibit 1 (continued)		(State-level studies)									
		Study	Data year	Place	Sample	Whites compared with		Type of sentencing system	Significant main effect in/out	Significant main effect sentence length	Interaction with race?
					Blacks	Hispanics					
Chiricos and Bales 1991	1982	two Florida counties	1,480 felonies 490 misdemeanors	yes	no	determinate	Blacks NS males + young males +	Blacks NS	yes		
Crew 1991	1980	Kentucky	228 male prisoners	yes	no	determinate	NA	Blacks NS	yes		
Dixon 1995	1983	Minnesota	1,532 felonies	White vs. non-white	no	guidelines	Nonwhites NS	Nonwhites NS	no		
Moore and Miethe 1986	1981-82	Minnesota	1,523 felonies and misdemeanors	yes	no	guidelines	regulated Blacks NS unregulated Blacks NS mitigated dispositional departure Blacks +	regulated Blacks NS unregulated Blacks NS	no		

Study	Data year	Place	Sample	Whites compared with		Type of sentencing system	Significant main effect in/out	Significant main effect sentence length	Interaction with race?	
				Blacks	Hispanics					
				Type of sentencing system						
Miethe and Moore 1985	1978, 1980-82	8 Minnesota counties	1,226 preguideline cases 1,280 postguideline cases	yes	no	preguidelines and postguidelines	Blacks + NS	Blacks NS NS NS	no	
				yes	no					
Klein, Petersilia, and Turner 1990	1980	12 California counties	1,128 assaults 2,580 robberies 5,066 burglaries 3,724 thefts 504 forgeries 1,337 drug offenses	yes	yes	determinate	Blacks + NS NS NS NS NS	Blacks NS NS NS NS NS NS NS NS NS	Blacks NS NS NS NS NS NS NS NS NS	yes
				yes	yes		Blacks + NS NS NS NS	Blacks NS NS NS NS NS NS NS	Blacks NS NS NS NS NS NS NS	yes
				yes	yes		Blacks + NS NS NS NS	Blacks NS NS NS NS NS NS NS	Blacks NS NS NS NS NS NS NS	yes
				yes	yes		Blacks + NS NS NS NS	Blacks NS NS NS NS NS NS NS	Blacks NS NS NS NS NS NS NS	yes
				yes	yes		Blacks + NS NS NS NS	Blacks NS NS NS NS NS NS NS	Blacks NS NS NS NS NS NS NS	yes
				yes	yes		Blacks + NS NS NS NS	Blacks NS NS NS NS NS NS NS	Blacks NS NS NS NS NS NS NS	yes
				yes	yes		Blacks + NS NS NS NS	Blacks NS NS NS NS NS NS NS	Blacks NS NS NS NS NS NS NS	yes
Zatz 1984	1978	California	4,729 felonies	yes	yes	determinate	NA	Blacks NS Hispanics NS	yes	
Petersilia 1983	1980	California: Los Angeles County	106,000 felonies 2,193 robberies	yes	yes	determinate	Blacks + Hispanics +	Blacks + Hispanics + NS	no	
Myers 1989	1977-85	Georgia	23,075 drug offenders	yes	no	determinate	Blacks +	Blacks NS	yes	

*continued*

Study	Data year	Place	Sample	Whites compared with		Type of sentencing system	Significant main effect in/out	Significant main effect sentence length	Interaction with race?
				Blacks	Hispanics				
Myers 1987	1976-82	Georgia	15,270 felonies 3,792 inmates	yes	no	determinate	Blacks +	Blacks -	yes
Myers and Talarico 1987	1976-85	Georgia	27,720 felonies	yes	no	determinate	Blacks +	Blacks NS	yes
Myers and Talarico 1986	1982	Georgia	16,798 felonies	yes	no	determinate	NA	Blacks -	yes
Zimmerman and Frederick 1984	1980	New York	6,078 New York City 3,285 upstate 1,735 suburban	yes	no	NA	Blacks NS + +	NA	no

(State-level studies)

Exhibit 1 (continued)

Exhibit 1 (continued)

(Federal-level studies)

Study	Data year	Place	Sample	Whites compared with		Type of sentencing system	Significant main effect in/out	Significant main effect sentence length	Interaction with race?
				Blacks	Hispanics				
Everett and Nienstedt 1999	1990–91	U.S.	3,534 offenders	yes	yes	Federal guidelines	reduction for acceptance of responsibility? Blacks + Hispanics +	NA	no
Maxfield and Kramer 1998	1994	U.S.	264 drug conspiracies	yes	yes	Federal guidelines	substantial assistance departure? Blacks + Hispanics +	magnitude of departure Blacks + Hispanics +	no
Albonetti 1997	1991–92	U.S.	14,189 drug offenders	yes	yes	Federal guidelines	Blacks + Hispanics +	Blacks + Hispanics +	yes
Langan 1996	1994	U.S.	14,407 drug trafficking cases	yes	yes	Federal guidelines	substantial assistance departure? Blacks + Hispanics NS	NA	yes
Smith and Damphousse 1996	1982–89	U.S.	95 terrorists and 403 nonterrorists	Whites versus non-whites	no	guideline and nonguideline cases	NA	Nonwhites +	no

continued

(Federal-level studies)

Exhibit 1 (continued)

Study	Data year	Place	Sample	Whites compared with		Type of sentencing system	Significant main effect in/out	Significant main effect sentence length	Interaction with race?
				Blacks	Hispanics				
U.S. Sentencing Commission 1995	1994	U.S.	14,157 drug trafficking cases	yes	yes	Federal guidelines	substantial assistance departure? Blacks + Hispanics +	NA	no
McDonald and Carlson 1993	1989–90	U.S.	powder cocaine crack cocaine bank robbery weapons fraud larceny embezzlement	yes	yes	Federal guidelines	Blacks NS NS NS + NS + not analyzed	Blacks + Hispanics + NS NS NS NS NS NS NS	yes
U.S. Sentencing Commission 1991b	1990	U.S.	907 offenders eligible for mandatory minimum sentence	yes	yes	Federal guidelines and mandatory minimums	mandatory minimum sentence imposed? Blacks + Hispanics +	NA	yes

Note: A “+” indicates that blacks or Hispanics are *disadvantaged* relative to whites. Thus, the signs of some of the coefficients in this exhibit differ from those reported in the original research. Only statistically significant relationships ( $p \leq .05$ ) are displayed.

B=blacks, D=drug cases, F=felonies, H=Hispanics, M=misdemeanors, NA=not applicable, NS=relationship is not significant, UNK=unknown, W=white.

blacks and/or Hispanics. The eighth and ninth columns summarize the results of the multivariate analysis, and the last column indicates whether or not the study found significant interactions between race/ethnicity and other legal or extralegal variables. Both the direction of the relationship between race and sentencing (with a “+” indicating harsher sentences for racial minorities) and whether the relationship was statistically significant ( $p < 0.05$ ) are indicated. The results included in this exhibit are main effects only—either the effect of race/ethnicity on sentence outcomes for all of the cases included in the analysis, the effect of race/ethnicity on sentence outcomes in individual jurisdictions (Holmes et al. 1996; Petersilia 1983; Spohn and Spears 2000; Ulmer 1997), or the effect of race/ethnicity on sentence outcomes for individual offenses (Klein, Petersilia, and Turner 1990; McDonald and Carlson 1993). The results of tests for indirect and interaction effects are summarized in exhibit 3.

All published studies<sup>3</sup> that met each of the following criteria are included in the review:

- The findings are based on data on sentences imposed for noncapital offenses<sup>3</sup> during the 1980s and/or 1990s.<sup>4</sup>
- The study reported a measure of association between race and/or ethnicity and an indicator of sentence severity.
- The study used appropriate statistical techniques—generally, either logistical regression analysis or probit analysis (in the case of dichotomous dependent variables) or ordinary least squares regression analysis (in the case of interval dependent variables).<sup>5</sup>
- The study included controls for crime seriousness and prior criminal record.<sup>6</sup>

The studies included in this review vary in terms of their “analytical rigor” (Wooldredge 1998), but none of them suffers from the serious methodological deficiencies highlighted by earlier reviews. Although a few studies combined the in/out and length of sentence decisions into a single measure of sentence severity or analyzed only one of the two decisions, most analyzed each decision separately. All of the studies use multivariate statistical techniques and control for relevant legal and extralegal variables, most of them include a wide variety of offenses rather than only one or two types of offenses, and many of them test interactive as well as additive models.

One limitation of the research reviewed here is that most compared the sentences imposed on only black and white defendants. This is particularly true of the State-level research; only 10 of the 32 studies included Hispanics in the

***Among defendants sentenced in State courts, both blacks and Hispanics are much more likely to be disadvantaged at the initial decision to incarcerate or not than at the subsequent decision concerning length of the sentence.***

analysis, and 5 of these were based on the same or very similar data. In contrast, seven of the eight studies of Federal sentencing decisions included Hispanic offenders as well as black offenders. The remaining studies either excluded other racial minorities from the analysis or compared the sentences imposed on whites and nonwhites, with all nonwhites lumped together. Both of these approaches are questionable, since a number of studies, including several of the studies incorporated in this review, reveal that sentencing outcomes differ for blacks and Hispanics.

A second limitation of the research embodied in this review is the relatively small number of jurisdictions represented. The 32 State-level studies are based on data from only 13 States. Moreover, a number of the studies use the same or very similar data. A case in point is the series of articles published by John

Kramer, Darrell Steffensmeier, and Jeffery Ulmer; although the time periods during which the data were collected and the jurisdictions included vary somewhat, the five studies all use data on sentence outcomes in Pennsylvania compiled by the Pennsylvania Commission on Sentencing. Similarly, five of the studies (Nobiling, Spohn, and DeLone 1998; Spohn and DeLone in press; Spohn and Holleran 2000; Spohn and Spears 2000; Spohn, DeLone, and Spears 1998) include some or all of the data collected by Spohn and DeLone for their study of sentence outcomes in Chicago, Miami, and Kansas City. In addition, four studies are based on data collected in Georgia during the 1970s and 1980s (Myers 1987, 1989; Myers and Talarico 1986, 1987); three studies use Minnesota data from the early 1980s (Dixon 1995; Miethe and Moore 1985; Moore and Miethe 1986); and two studies use California data from 1980 (Klein, Petersilia, and Turner 1990; Petersilia 1983).

Because this review is intended to be a comprehensive analysis of all recent research testing for both direct and subtle race effects, and because most of the studies conducted in the same jurisdictions either use data from slightly different time periods or use the same data to test for different indirect and/or interaction effects, exhibit 1 includes all of the studies in the preceding discussion. I report the main effects of race/ethnicity on sentence severity for all studies conducted in the same jurisdiction that either (1) use data from different time periods, (2) use data for different subsets of cases, or (3) use different measures of sentence severity.



To illustrate, the main effects of race on sentence outcomes in Pennsylvania are reported for all five studies conducted by Kramer, Steffensmeier, and Ulmer because none of them is based on exactly the same data. Rather, one includes statewide data from 1989 to 1992, one includes statewide data and data from three counties (analyzed separately) for 1985 to 1991, one includes data from three counties (analyzed together) for 1985 to 1991, one includes statewide data from 1985 to 1987, and one uses statewide data to examine the effect of race on departures from the guidelines. In contrast, the main effects of race on sentence outcomes are reported for only three of the five studies using the Spohn and DeLone data; the main effects for two of the studies (Nobiling, Spohn, and DeLone 1998; Spohn and Holleran 2000) are not reported because they are based on the same data analyzed in a previous study (Spohn and DeLone in press). These two studies are included in the review because of their unique focus on contextual effects (see exhibit 3).

***Race and sentence outcomes: A summary of main effects***

As shown in exhibit 2, the 32 studies using State-level data produced 95 estimates of the effect of race on sentence severity<sup>7</sup> and 29 estimates of the effect of ethnicity on sentence severity. Forty-one of the 95 black versus white estimates (43.2 percent) are both positive (i.e., indicative of harsher sentences for blacks) and statistically significant, and 8 of the 29 Hispanic versus white estimates (27.6 percent) are positive (i.e., indicative of harsher sentences for Hispanics) and statistically significant. In contrast, only 6 of the estimates indicate more lenient sentencing for racial minorities (4 of 95 for blacks and 2 of 29 for Hispanics).<sup>8</sup>

Exhibit 2 also summarizes the results of the eight studies based on Federal-level data. These studies produced 22 estimates of the effect of race on sentence severity; more than two-thirds (15 of 22) of the estimates reveal that blacks were sentenced more harshly than whites. The Federal-level studies generated 21 estimates of the relationship between ethnicity and sentence severity; nearly half (10 of 21) of the estimates indicate that Hispanics were sentenced more harshly than whites.

The results summarized in exhibit 2 also reveal that the relationship between race/ethnicity and sentence severity varies by the type of sentence outcome being analyzed. Among defendants sentenced in State courts, both blacks and Hispanics are much more likely to be disadvantaged at the initial decision to incarcerate or not than at the subsequent decision concerning length of the sentence. About half (55.5 percent for blacks and 41.7 percent for Hispanics) of the estimates of the effect of race/ethnicity on the in/out decision are positive

**Exhibit 2. The effect of race on sentencing: A summary of main effects found in 40 studies**

Measure of sentence severity	Black vs. white offenders positive and significant		Hispanic vs. white offenders positive and significant	
	N	%	N	%
<b>State-level studies (N=31)</b>	41/95	43.2	8/29	27.6
Traditional measures of sentence severity				
In/out	25/45	55.5	5/12	41.7
Length of sentence	9/39	23.1	1/14	7.1
Alternative measures of sentence severity				
Dispositional departure	5/6		1/1	
Durational departure	2/3		1/1	
Adjudication withheld	0/1		0/1	
Sentenced as habitual	1/1			
<b>Federal-level studies (N=8)</b>	15/22	68.2	10/21	47.6
Traditional measures of sentence severity				
In/out	3/7		3/7	
Length of sentence	6/9		2/8	
Alternative measures of sentence severity				
Substantial assistance departure	3/3		2/3	
Magnitude of departure	1/1		1/1	
Mandatory minimum sentence imposed	1/1		1/1	
Reduction for acceptance of responsibility	1/1		1/1	

and statistically significant. In contrast, just under one-fourth (23.1 percent) of the sentence length estimates indicate longer sentences for blacks and only 1 of the 14 estimates reveals longer sentences for Hispanics. The pattern of results generated by the studies that used Federal sentencing data is somewhat different, especially for blacks. Three of the seven in/out estimates (blacks versus whites) are positive and statistically significant compared with six of the nine sentence length estimates. The results for Hispanics are more similar to those generated by the State-level studies: Three of the seven in/out estimates but only two of the eight sentence length estimates, are positive and significant.

These results, and particularly the results of the State-level studies, are very similar to the findings of Chiricos and Crawford (1995). As previously mentioned,

Chiricos and Crawford reviewed 38 studies published between 1975 and 1991. Considering only those studies that controlled for crime seriousness and prior criminal record, they found that 41 percent of the estimates of the effect of race on the decision to incarcerate or not were positive and significant compared with only 15 percent of the estimates of the effect of race on the length of sentence. The exclusion of the 9 State-level studies included in both Chiricos and Crawford's review and this review yields similar percentages for the remaining 23 studies: 16 of the 31 (51.6 percent) in/out estimates for blacks were positive and significant compared with only 7 of the 31 (22.6 percent) sentence length estimates.

It thus appears that the pattern of results documented by Chiricos and Crawford is found among more recent studies as well as older studies and is applicable to Hispanics as well as blacks. At least at the State level, race and ethnicity have stronger and more consistent direct effects on the decision to incarcerate or not than on the sentence length decision. At the Federal level, race, and to a lesser extent, ethnicity affect both types of sentence outcomes.

In addition to exploring the effect of race/ethnicity on the two traditional measures of sentence severity, a number of the studies included in this review analyzed the relationship between race/ethnicity and other indicators of sentence severity. Several studies examined the likelihood of dispositional or durational departures from sentence guidelines (Kramer and Ulmer 1996; Langan 1996; Moore and Miethe 1986; Maxfield and Kramer 1998; Ulmer 1997; U.S. Sentencing Commission 1995) or the magnitude of durational departures (Maxfield and Kramer 1998). One State-level study examined the decision to withhold adjudication (Spohn, DeLone, and Spears 1998), and another focused on the likelihood of being sentenced as a habitual criminal (Crawford, Chiricos, and Kleck 1998). One study of sentencing under the Federal sentencing guidelines examined the decision to impose the applicable mandatory minimum sentence (U.S. Sentencing Commission 1991b).

The effect of race/ethnicity on these alternative measures of sentence severity is reported in exhibit 2. Although the small number of studies using these measures

***Considered together, the studies reviewed here suggest that race and ethnicity do play an important role in contemporary sentencing decisions. Black and Hispanic offenders sentenced in State and Federal courts face significantly greater odds of incarceration than similarly situated white offenders. In some jurisdictions, they also may receive longer sentences or differential benefits from guideline departures than their white counterparts.***

suggests that one should exercise caution in drawing conclusions, it does appear that State and Federal judges take race/ethnicity into account in deciding whether to depart from the guidelines. Studies conducted in Pennsylvania and Minnesota reveal that racial minorities are less likely than whites to receive mitigated dispositional or durational departures. Studies of Federal sentence outcomes similarly reveal that blacks and Hispanics are less likely than whites to benefit from departures for substantial assistance or acceptance of responsibility but are more likely than whites to be sentenced at or above the minimum sentence indicated by applicable mandatory minimum sentencing provisions. There also is evidence that blacks face higher odds than whites of being sentenced as habitual offenders in Florida.

Considered together, the studies reviewed here suggest that race and ethnicity do play an important role in contemporary sentencing decisions. Black and Hispanic offenders sentenced in State and Federal courts face significantly greater odds of incarceration than similarly situated white offenders. In some jurisdictions, they also may receive longer sentences or differential benefits from guideline departures than their white counterparts. The implications of these findings of direct race effects are discussed below.

### ***Sentence outcomes: When does race/ethnicity matter?***

The findings discussed thus far suggest that race does matter in sentencing. Evidence concerning direct racial effects, however, provides few clues to the circumstances under which race matters. Although this evidence reveals that race/ethnicity is a stronger predictor of the decision to incarcerate or not than the decision concerning sentence length, it does not address the possibility of more subtle racial effects. As earlier reviews (Hagan 1974; Zatz 1987) suggested, even the complete absence of direct race effects would not necessarily signal a racially neutral sentencing process.

A number of scholars have argued that the inconsistent findings of pre-1990s research on race and sentencing reflected both specification error and an overly simplistic view of conflict theory. These scholars called for research designed to delineate more precisely the conditions under which defendant race influences judges' sentencing decisions. Zatz (1987, 83), for example, contends that models of the relationship between race and sentencing that exclude indirect or interaction effects are misspecified. She asserts that:

[R]esearch that tests only for main effects (i.e., overt bias) and does not investigate all of the possible manifestations of discrimination may erroneously conclude that discrimination does not exist when, in fact, it does.

Miethe and Moore (1986) also argue that an interactive model is more appropriate than an additive model in assessing racial discrimination in criminal justice decisionmaking. They suggest that use of an additive model, which “presumes that no systematic variation exists within racial groups *and* that between-race differences are constant across levels of other social, case, and legal attributes” (p. 230), minimizes racial differences in case processing, while use of an interactive (or race-specific) model allows the researcher to discern differential treatment within and between racial groups.

Hawkins (1987) makes an analogous, although somewhat different, argument. He proposes that the absence of consensus concerning the effect of race on sentencing “stems as much from a lack of theoretical clarity as it does from the methodological problems noted in earlier reviews of the literature” (Hawkins 1987, 720). More to the point, he suggests that this lack of consensus results from an oversimplification of conflict theory, the principal theoretical model used in studies of race and criminal punishment. Most researchers, according to Hawkins, simply test the hypothesis that racial minorities will be sentenced more harshly than whites. They assume, either explicitly or implicitly, that racial minorities will receive more severe sentences than whites regardless of the nature of the crime, the race of the victim, or the relationship between the victim and the offender. Conflict theory, however, “does not support a simplistic expectation of greater punishment for blacks than whites under all circumstances” (Hawkins 1987, 724). Rather, conflict theorists argue that “the probability that criminal sanctions will be applied varies according to the extent to which the behaviors of the powerless conflict with the interests of the power segments” (Quinney 1970, 18). Thus, Hawkins proposes a revision of the conflict perspective on race and sentencing to account for the possibility of interaction between defendant race and other predictors of sentence severity, and especially between defendant race, victim race, and the type of crime committed by the offender.

Recent research examining the effect of race/ethnicity on sentence severity has responded to these suggestions. A majority of the studies reviewed in this essay attempt not only to determine *whether* race makes a difference but also to identify the contexts in which race matters. In attempting to do so, researchers either include interaction terms in multivariate models, test for race/ethnicity effects among subgroups of the offender population, or estimate separate models for each racial group. For example, Steffensmeier, Ulmer, and Kramer (1998) examined the intersections among the effects of race, gender, and age by creating a set of variables combining these three characteristics (black males 18–29, black females 18–29, white males 18–29, black males 30–39, etc.) and then including these variables in their analyses of the in/out and sentence length decisions.

Spohn and DeLone (in press) examined the effect of race/ethnicity on sentence outcomes for different subgroups of offenders: offenders with and without serious prior record; employed and unemployed offenders; and offenders convicted of violent, property, and drug offenses. Albonetti (1997) used the third approach. She estimated separate models for white, black, and Hispanic drug offenders and then used a Z test to determine if the regression coefficients for each independent variable were invariant.

The indirect and interaction effects uncovered in the 40 studies included in this review are summarized in exhibit 3; a more detailed description of these effects is presented in the appendix. I first summarize the overall patterns revealed by the data and then discuss these patterns in more detail.

The results reported in exhibit 3 highlight the importance of testing interactive as well as additive models. A number of the studies found no direct race effects but significant indirect or interaction effects. For example, when Spohn and DeLone (in press) tested an additive model they found that neither blacks nor Hispanics received longer sentences than whites in any of the three jurisdictions included in their study. Further analysis revealed that unemployed blacks and Hispanics received longer sentences than unemployed whites in Chicago; in Kansas City, blacks convicted of property crimes or drug offenses received longer sentences than whites convicted of these crimes. Holmes et al.'s (1996) analysis of sentence severity in Bexar County, Texas, revealed that race/ethnicity did not have a direct effect but did affect sentence severity through its effect on what they referred to as "legal resources": Whites were more likely than blacks or Hispanics to have a private attorney, and defendants represented by private attorneys received less severe sentences. In fact, with only two exceptions (Dixon 1995; Simon 1996), each of the State-level studies that found no direct race effects found significant indirect or interaction effects.<sup>9</sup>

Although some of the evidence presented in exhibit 3 and the appendix is contradictory (e.g., some studies reveal that racial disparities are confined to offenders with less serious prior records, while others report such disparities only among offenders with more serious criminal histories), the results of these studies reveal four "themes" or "patterns" of contextual effects. First, the combination of race/ethnicity and other legally irrelevant offender characteristics produces greater sentence disparity than race/ethnicity alone: *gender* (Albonetti 1997; Chiricos and Bales 1991; Nobiling, Spohn, and DeLone 1998; Spohn, DeLone, and Spears 1998; Spohn and Holleran 2000; Steffensmeier, Ulmer, and Kramer 1998; Wooldredge 1998), *age* (Chiricos and Bales 1991; Spohn and Holleran 2000; Steffensmeier, Ulmer, and Kramer 1998), *employment status* (Chiricos and Bales 1991; Nobiling, Spohn, and DeLone 1998; Spohn and DeLone in press; Spohn and Holleran 2000; Spohn and Spears 2000), *income*

(Wooldredge 1998), and *education* (Albonetti 1997) all interact with race and ethnicity to produce harsher sentences for more “problematic” black and Hispanic offenders.

Second, a number of process-related factors condition the effect of race/ethnicity on sentence severity. Whereas whites receive a greater sentence discount for providing “substantial assistance” in the prosecution of other Federal offenders (Albonetti 1997) or for hiring a private attorney (Holmes et al. 1996), racial minorities pay a higher penalty for pretrial detention (Chiricos and Bales 1991; Crew 1991) and going to trial rather than pleading guilty (Crew 1991; Ulmer 1997; Ulmer and Kramer 1996; Zatz 1984). There also is evidence that racial minorities are penalized more harshly than whites for having a serious prior criminal record (McDonald and Carlson 1993; Nelson 1994; Spohn and DeLone in press; Spohn, DeLone, and Spears 1998; Spohn and Spears 2000; Wooldredge 1998; Ulmer 1997; Ulmer and Kramer 1996; Zatz 1984).

A third pattern concerns the interaction between the race of the offender and the race of the victim; two studies reveal that substantially harsher sentences are imposed on blacks who sexually assault whites than on blacks who sexually assault other blacks (Spohn and Spears 1996; Walsh 1987). Finally, although the pattern is less obvious, some evidence suggests that racial discrimination is confined to less serious crimes (Crawford, Chiricos, and Kleck 1998; Spohn and DeLone in press). Other evidence points to harsher treatment of racial minorities who are convicted of either drug offenses or more serious drug offenses (Albonetti 1997; Crawford, Chiricos, and Kleck 1998; Klein, Petersilia, and Turner 1990; Myers 1989; Spohn and DeLone in press; Spohn and Spears 2000).<sup>10</sup>

**Race/ethnicity and other offender characteristics.** The most important conclusion derived from the findings reported in exhibit 3 concerns the interrelationships among race/ethnicity, gender, age, and employment status. A number of studies convincingly demonstrate that *certain types* of racial minorities—males, the young, the unemployed, the less educated—are singled out for harsher treatment at sentencing. Some studies find that each of these offender characteristics, including race/ethnicity, has a direct effect on sentence severity, but that the combination of race/ethnicity and one or more of the other characteristics is a more powerful predictor of sentence severity than any variable individually. Other studies find that the effect of race is confined to racial minorities who are male, young, and/or unemployed; these studies, in other words, find race effects that were masked in the additive analysis.

The findings of sentencing studies conducted by Darrell Steffensmeier and his colleagues at Penn State University illustrate these patterns. Research published by this team of researchers during the early 1990s concluded that race

**Exhibit 3. A summary of indirect and interaction effects found in studies of race and sentencing****Interaction between race/ethnicity and other legally irrelevant offender characteristics**

Racial minorities are sentenced more harshly than whites if they:

- (1) are young and male
  - Spohn and Holleran (2000)
  - Nobiling, Spohn, and DeLone (1998)
  - Steffensmeier, Ulmer, and Kramer (1998)
  - Chiricos and Bales (1991)
- (2) are unemployed
  - Spohn and DeLone (in press)
  - Nobiling, Spohn, and DeLone (1998)
  - Chiricos and Bales (1991)
- (3) are male and unemployed
  - Spohn and Holleran (2000)
  - Chiricos and Bales (1991)
- (4) are young, male, and unemployed
  - Spohn and Holleran (2000)
  - Nobiling, Spohn, and DeLone (1998)
  - Chiricos and Bales (1991)
- (5) have lower incomes
  - Wooldredge (1998)
- (6) have less education
  - Albonetti (1997)

**Interaction between offender race and process-related factors**

Racial minorities are sentenced more harshly than whites if they:

- (1) are detained in jail prior to trial
  - Chiricos and Bales (1991)
  - Crew (1991)
- (2) are represented by a public defender rather than a private attorney
  - Holmes et al. (1996)
- (3) are convicted at trial rather than by plea
  - Ulmer (1997)
  - Crew (1991)
  - Ulmer and Kramer (1996)
  - Zatz (1984)



**Exhibit 3 (continued)**

(4) have more serious prior criminal records

Spohn and DeLone (in press) [Miami only]

Spohn and Spears (2000)

Spohn, DeLone, and Spears (1998)

Wooldredge (1998)

Ulmer (1997) [Metro County only]

Ulmer and Kramer (1996) [Metro County only]

Nelson (1994)

McDonald and Carlson (1993)

Zatz (1984)

**Interaction between offender race and victim race**

Racial minorities who victimize whites are sentenced more harshly than other race of offender/race of victim combinations

Spohn and Spears 1996

Walsh 1987

**Interaction between offender race and type of crime**

Racial minorities are sentenced more harshly than whites if they are:

(1) convicted of less serious crimes

Spohn and DeLone (in press)

Wooldredge (1998)

Crawford, Chiricos, and Kleck (1998)

(2) convicted of drug offenses or more serious drug offenses

Spohn and DeLone (in press)

Spohn and Spears (2000)

Crawford, Chiricos, and Kleck (1998)

Albonetti (1997)

Kramer and Steffensmeier (1993)

Klein, Petersilia, and Turner (1990)

Myers (1989)

(Kramer and Steffensmeier 1993), gender (Steffensmeier, Kramer, and Streifel 1993), and age (Steffensmeier, Kramer, and Ulmer 1995) each played a role in the sentencing process in Pennsylvania. However, it is interesting to note, especially in light of their later research findings (Steffensmeier, Ulmer, and Kramer 1998), that the team's initial study of the effect of race on sentencing concluded that race contributed "very little" to judges' sentencing decisions (Kramer and Steffensmeier 1993, 370). Although the incarceration (jail or

prison) rate for blacks was 8 percentage points higher than the rate for whites, there was a difference of only 2 percentage points in the likelihood of imprisonment for blacks and whites. Race also played “a very small role in decisions about sentence length” (p. 368). The average sentence for black defendants was only 21 days longer than the average sentence for white defendants. These findings led Kramer and Steffensmeier (p. 373) to conclude that “if defendants’ race affects judges’ decisions in sentencing . . . it does so very weakly or intermittently, if at all.”

This conclusion is called into question by Steffensmeier, Ulmer, and Kramer’s (1998) more recent research. In this study, the authors shift their focus from the additive effect of race on sentence outcomes to explore the complex interrelationships among race, gender, age, and sentence severity. The results of their analysis reveal that each of the three offender characteristics had a significant direct effect on both the likelihood of incarceration and the length of the sentence: Blacks were sentenced more harshly than whites, younger offenders were sentenced more harshly than older offenders, and males were sentenced more harshly than females. More important, they found that the three factors interacted to produce substantially harsher sentences for one category of offenders—young, black males—than for any other age-race-gender combination. According to the authors, their results illustrate the “high cost of being black, young, and male” (Steffensmeier, Ulmer, and Kramer 1998, 789).

Although the research conducted by Steffensmeier and colleagues provides important insights into the judicial decisionmaking process, their findings also suggest the possibility that factors other than race, gender, and age may interact to affect sentence severity. If, as the authors suggest, judges impose harsher sentences on offenders perceived to be more deviant, more dangerous, and more likely to recidivate, and if these perceptions rest, either explicitly or implicitly, on “stereotypes associated with membership in various social categories” (Steffensmeier, Ulmer, and Kramer 1998, 768), then offenders with constellations of characteristics other than “young, black, and male” also may be singled out for harsher treatment.

The validity of this assertion is confirmed by Spohn and Holleran’s (2000) replication and extension of Steffensmeier and colleagues’ 1998 study of sentencing decisions in Pennsylvania. This study revealed that none of the three offender characteristics—race/ethnicity, age, or gender—had a significant effect on the length of the sentence in any of the three jurisdictions (Chicago, Miami, and Kansas City) examined, but that each of the characteristics had a significant effect on the decision to incarcerate or not in at least one of the jurisdictions. More important, this study revealed that young black and Hispanic males

were consistently more likely than middle-aged white males to be sentenced to prison. These offenders, however, were not the only ones singled out for harsher treatment. In Chicago, young black and Hispanic males and middle-aged black males faced higher odds of incarceration than middle-aged white males. In Miami, young black and Hispanic males and older Hispanic males were incarcerated more often than middle-aged white males. And in Kansas City, both young black males and young white males faced higher odds of incarceration than middle-aged whites. These results led Spohn and Holleran to conclude that “in Chicago and Miami the combination of race/ethnicity and age is a more powerful predictor of sentence severity than either variable individually, while in Kansas City age matters more than race.”

Further evidence that the effect of race is conditioned by other offender characteristics is found in research exploring the interrelationships among race/ethnicity, gender, age, employment status, and sentence severity. Although some scholars argue that judges will see the unemployed as a threat and that this “belief alone is sufficient to propel them towards stiffening their sentencing practices” (Box and Hale 1985, 209–210), others contend that *certain types* of unemployed offenders will be viewed as particularly threatening and, thus, will be singled out for harsher treatment.

A number of the studies included in this review address this possibility. Chiricos and Bales (1991), for example, found that unemployment had a direct effect on the likelihood of imprisonment; they also found that the effect was strongest if the offender was a young black male. Nobiling and her colleagues (1998), who analyzed data on offenders convicted of felonies in Chicago and Kansas City, similarly hypothesized that unemployment would primarily affect sentence outcomes for young black and Hispanic males. They found that in Chicago unemployment increased the odds of a prison sentence among young males and young Hispanic males. In this jurisdiction, unemployment also led to a longer prison sentence for males, young males, and black males. In Kansas City, unemployment led to a greater likelihood of incarceration among males and black males but had no effect on sentence length for any of the race/gender/age subgroups examined.

Considered together, these studies provide evidence in support of the notion that certain categories of black and Hispanic offenders are regarded as more problematic than others. They confirm that dangerous or problematic populations are defined “by a mix of economic *and* racial . . . references” (Melossi 1989, 317, emphasis in the original). Black and Hispanic offenders who are also male, young, and unemployed may pay a higher punishment penalty than either white offenders or other types of black and Hispanic offenders.

**Race/ethnicity and process-related factors.** A second pattern revealed by the data reported in exhibit 3 is that a number of “process-related factors” have differential effects on sentence severity for racial minorities and whites. Some studies reveal that pleading guilty (Ulmer 1997; Ulmer and Kramer 1996) or providing substantial assistance to Federal prosecutors (Albonetti 1997) results in greater sentence discounts for white offenders than for black or Hispanic offenders. Other studies find that race/ethnicity affects sentence severity indirectly through its effect on pretrial status (Chiricos and Bales 1991; Crew 1991), type of attorney (Holmes et al. 1996), or type of disposition (Crew 1991).

Albonetti’s (1997) analysis of sentences imposed on drug offenders sentenced under the Federal sentencing guidelines revealed that race/ethnicity had a direct effect on sentence severity: Judges imposed significantly harsher sentences on black and Hispanic offenders than on white offenders. She also found that when a judge departed from a guideline in return for an offender giving substantial assistance in the prosecution of another offender, the three groups varied: Whites received significantly greater benefit than either blacks or Hispanics. Among white defendants, a guideline departure produced a 23-percent reduction in the probability of incarceration. The comparable figures for blacks and Hispanics were 13 percent and 14 percent, respectively. As Albonetti (1997, 818) concluded, “These findings strongly suggest that the mechanism by which the federal guidelines permit the exercise of discretion operates to the disadvantage of minority defendants.”

Similar results were reported by Ulmer (1997), who analyzed sentences imposed under the Pennsylvania sentencing guidelines. The results of his additive analysis of sentence outcomes revealed that blacks were sentenced more harshly than whites and that those who pled guilty were sentenced more leniently than those who were tried; black offenders and trial defendants had higher odds of incarceration and lower odds of receiving a dispositional departure than white offenders and defendants who pled guilty. Further analysis revealed that race interacted with mode of disposition. Conviction at trial increased the odds of incarceration and reduced the likelihood of a dispositional departure substantially more for blacks than for whites. Put another way, blacks paid a higher “trial penalty” than whites.<sup>11</sup>

The studies included in this review also provide evidence of indirect race effects. Three studies found that race did not affect sentence severity directly (i.e., no main effect) but did influence sentence outcomes indirectly through its effect on pretrial detention, mode of disposition, or type of attorney. Chiricos and Bales (1991), for example, found that black defendants were significantly more likely than white defendants to be jailed prior to trial and that pretrial detention increased the odds of incarceration following conviction. Crew

(1991) found a more complex relationship: Blacks were more likely than whites to be detained prior to trial; as a result of being detained prior to trial, they were convicted of more serious offenses (than those who were released prior to trial); and as a result of being convicted of more serious offenses, they received longer sentences. Crew also found that blacks were more likely to be tried and that conviction at trial was associated with a longer sentence. And Holmes and his colleagues (1996) found that Hispanics and blacks were significantly less likely than whites to retain private attorneys and that retention of a private attorney led to a more lenient sentence.

Several studies also found that race/ethnicity interacted with prior criminal record. In Miami, for example, Hispanics with a prior prison term were more likely than whites with a prior prison term to be sentenced to prison, but ethnicity did not affect the likelihood of incarceration among offenders who had not previously been sentenced to prison (Spohn and DeLone in press). Also in Miami, black drug offenders with a prior felony conviction faced higher odds of incarceration than white drug offenders with a prior felony conviction, but race did not influence the odds of incarceration among offenders without a prior felony conviction (Spohn and Spears 2000). Similarly, in Metro County, Pennsylvania, race had a more pronounced effect on the decision to incarcerate or not among offenders with a more serious prior criminal record (Ulmer 1997; Ulmer and Kramer 1996), and in California a more serious prior record resulted in longer sentences for Hispanics than for whites (Zatz 1984). In other words, in each of these jurisdictions, having a serious criminal history led to more severe sentences for blacks and Hispanics than for whites.

The findings of these studies, then, attest to the importance of using a “process-oriented model” (Holmes et al. 1996, 12) that incorporates tests for indirect and/or interaction effects as well as main effects. They suggest that race and ethnicity influence sentence outcomes through their relationships with earlier decisions regarding pretrial detention, pleading guilty, and retention of private counsel. The findings concerning the interaction between race/ethnicity and prior record further suggest that “the major variables affecting justice processing do not operate in the same way for black [and Hispanic] and white offenders” (Crew 1991, 116).

**Race of the offender and victim.** Two of the studies in exhibit 3 provide support for Hawkins’ (1987) assertion that theoretical perspectives on race and sentencing must account for the role played by the race of the victim as well as the race of the offender (Spohn and Spears 1996; Walsh 1987). Hawkins (1987) questions social scientists’ characterization of findings of leniency toward black offenders as “anomalies.” He argues, “These patterns are anomalous only if

one adopts an oversimplified version of the conflict perspective as it has been developed within criminology” (p. 740). More to the point, he suggests (p. 724–725) that “the race of the victim must be seen as a factor that mediates the level of punishment.” Thus, blacks who victimize whites will be punished more harshly than blacks who victimize members of their own race.

The results of Walsh’s (1987) analysis of the sentences imposed on offenders convicted of sexual assault in a metropolitan Ohio county illustrate Hawkins’ points. The additive analysis seemed to reveal that neither the offender’s race nor the victim’s race influenced the length of the sentence. Moreover, the incarceration rate for white offenders was *higher* than the rate for black offenders.

Further analysis, however, revealed that blacks convicted of assaulting whites received more severe sentences than those convicted of assaulting members of their own race. This was true for those who assaulted acquaintances as well as those who assaulted strangers. As Walsh (1987, 167) noted, “The leniency extended to blacks who sexually assault blacks provides a rather strong indication of disregard for minority victims of sexual assault.”

Somewhat different results were reported by Spohn and Spears (1996), who analyzed a sample of sexual assaults bound over for trial in Detroit Recorder’s Court. Unlike previous research, which controlled only for offender-victim race and other offender and case characteristics, the authors of this study also controlled for a number of victim characteristics. They controlled for the age of the victim, the relationship between the victim and the offender, evidence of risk-taking behavior on the part of the victim, and the victim’s behavior at the time of the incident. Like Walsh, they compared the incarceration rates and the maximum sentences imposed on three combinations of offender-victim race: black-black, black-white, and white-white.

In contrast to the results reported by Walsh, Spohn and Spears found that the race of the offender/victim pair did not affect the likelihood of incarceration. The sentences imposed on blacks who assaulted whites, on the other hand, were significantly longer than the sentences imposed on whites who assaulted whites or blacks who assaulted other blacks. The average sentence for black-on-white crimes was more than 4 years longer than the average sentence for white-on-white crimes and more than 3 years longer than the average sentence for black-on-black crimes. These results, say the authors, reflected discrimination based on both the offender’s race and the victim’s race.

Spohn and Spears also tested a number of hypotheses about the interrelationships among offender race, victim race, and the relationship between the victim and the offender. Noting that previous research had suggested that crimes

between intimates are perceived as less serious than crimes between strangers, they hypothesized that sexual assaults involving strangers would be treated more harshly than assaults involving intimates or acquaintances regardless of the offender's race or the victim's race. Contrary to their hypothesis, they found that the offender-victim relationship came into play only when both the offender and the victim were black. Black men convicted of sexually assaulting black women who were strangers to them received harsher sentences than black men convicted of assaulting black women with whom they were intimate or acquainted, they were more likely to be incarcerated, and those who were incarcerated received longer sentences.

Consistent with the results discussed earlier, Spohn and Spears' research revealed that certain types of black offenders received substantially longer sentences than other categories of offenders. The harshest sentences were imposed on blacks who victimized whites (strangers or nonstrangers) and on blacks who victimized black strangers. More lenient sentences were imposed on blacks who assaulted black nonstrangers and on whites who assaulted whites (strangers or nonstrangers).

The results of these two studies, then, provide compelling evidence of the inadequacy of additive models and overly simplistic theoretical perspectives. Both studies illustrate that criminal punishment is contingent on the race of the victim as well as the race of the offender.<sup>12</sup> They demonstrate that "the meaning of race varies, and that, despite simplistic interpretations of conflict theory, both differential severity and leniency are possible" (Peterson and Hagan 1984, 67). The harshest penalties will be imposed on blacks who victimize whites, the most lenient penalties on blacks who victimize other blacks.

**Race/ethnicity and crime seriousness.** The importance of "rethinking the conflict perspective on race and criminal punishment" (Chiricos and Bales 1991, 719) is also demonstrated by studies examining the effect of race on sentence severity for various types of crimes. Some researchers, building on Kalven and Zeisel's (1966) "liberation hypothesis," assert that blacks will be sentenced more harshly than whites only for less serious crimes. These researchers (cf. Spohn and Cederblom 1991) contend that when the crime is serious, the appropriate sentence (i.e., incarceration) is obvious. In these types of cases, judges have relatively little discretion and thus few opportunities to consider legally irrelevant factors such as race. In less serious cases, on the other hand, the appropriate sentence is not as clearly indicated by the features of the crime, which may leave judges more disposed to bring extralegal factors, such as race/ethnicity, to bear on the sentencing decision.

Although the findings are somewhat inconsistent, the studies included in this review provide some support of the liberation hypothesis. The strongest evidence is in Crawford, Chiricos, and Kleck's (1998) exploration of the effect of race on the decision to apply habitual offender provisions. The authors used data on 9,690 male offenders who were sentenced to prison in Florida and eligible to be sentenced as habitual offenders. They found that eligible blacks were significantly more likely than eligible whites to be sentenced as habitual offenders; in fact, they concluded that "the strongest odds of being sentenced as a habitual offender are those associated with being black" (p. 496).

Further analysis revealed that the effect of race varied by type of crime; consistent with the liberation hypothesis, the racial differences were larger among less serious crimes. For example, the authors found substantially larger racial differences for property crimes and drug offenses than for violent crimes or weapon-related offenses. Separate analyses of 16 different types of crimes revealed a similar pattern. There were no race effects for the more serious crimes such as robbery and possession of a weapon by a felon, but there were substantial race effects for less serious property crimes (especially burglary and larceny) and for drug offenses. The racial differences in the likelihood of habitualization (that is, being sentenced as a habitual offender) were particularly pronounced for drug offenses: Blacks charged with drug offenses were 3.6 times more likely than whites charged with these offenses to be sentenced as habitual offenders. As Crawford and colleagues note (1998, 507), "It is clear that for habitual offender sentencing in Florida, race matters, especially for property and drug crimes."

Spohn and DeLone (in press) found similar results in Miami and Kansas City. In Miami, there were no differences in the odds of incarceration for Hispanic offenders and white offenders for violent crimes, but Hispanics convicted of drug offenses were more likely than their white counterparts to be sentenced to prison. In Kansas City, there were no racial differences in the length of sentences imposed for violent crimes, but black offenders received significantly longer sentences than white offenders for property crimes and drug offenses. The difference was 14.09 months for drug offenses and 6.57 months for property crimes. Spohn and DeLone's analysis of sentence outcomes in Chicago, on the other hand, revealed a different pattern. In this jurisdiction there were no race effects for property or drug offenses, but Hispanics convicted of violent crimes were more likely than whites convicted of violent crimes to be sentenced to prison.

**Race/ethnicity and the war on drugs.** As noted in the introduction to this essay, the task of assessing the effect of race on sentence outcomes is complicated by the war on drugs. Social scientists and legal scholars have suggested



not only that the war on drugs has been fought primarily in minority communities but also that “the recent blackening of America’s prison population is the product of malign neglect of the war’s effects on black Americans” (Tonry 1995, 155). Miller (1996, 83), for example, contends: “The racial discrimination endemic to the drug war wound its way through every stage of the processing—arrest, jailing, conviction, and sentencing.”

Comments such as these suggest that racial minorities will receive more punitive sentences than whites for drug offenses. This expectation is based in part on recent theoretical discussion of the “moral panic” surrounding drug use and the war on drugs (Chambliss 1995; Tonry 1995). Moral panic theorists (Jenkins 1994) argue that society is characterized by a variety of commonsense perceptions about crime and drugs that result in community intolerance for such behaviors and increased pressure for punitive action. Many theorists (see Chiricos and DeLone 1992 for a review) argue that this moral panic can become ingrained in the judicial ideology of sentencing judges, resulting in more severe sentences for those—that is, blacks and Hispanics—believed to be responsible for drug use, drug distribution, and drug-related crime.

Three of the studies included in this review (Albonetti 1997; Myers 1989; Spohn and Spears 2000) focused explicitly on racial disparities in the sentencing of drug offenders. Myers examined the effect of race on sentences imposed on offenders convicted of three types of drug offenses—use, sales/distribution, and trafficking—in Georgia from 1977 to 1985. In 1980, Georgia criminalized drug trafficking and increased the penalties for repeat drug offenders. The new drug trafficking statutes also restricted judicial discretion, which, according to the author, should have minimized sentencing disparities between blacks and whites. Myers argued that this uniformity in sentencing would be most prevalent during the height of legislative activity (1980–82) but would decrease thereafter as judges reverted to previous sentencing practices.

Myers’ analysis revealed that black offenders were more likely than white offenders to be incarcerated, particularly for the more serious drug offenses. There was a difference of 25 percentage points in the probabilities of incarceration between black offenders and white offenders for drug trafficking compared with a difference of 19 percentage points for drug distribution and 12 percentage points for drug use. Contrary to her hypothesis that reducing judicial discretion would produce racially neutral sentence outcomes, Myers found that the racial differential was consistent and significant throughout the time period examined and was actually most pronounced in the midst of the reform effort (1980–82). As she concluded, “The symbolic crusade against traffickers led to punitiveness that was *selectively* directed toward black traffickers convicted at the height of the crusade” (p. 312).

A different pattern of results was found by Spohn and Spears (2000), who examined the sentences imposed on drug offenders in Chicago, Kansas City, and Miami during 1993. The authors of this study found that Hispanics, but not blacks, faced greater odds of incarceration than whites in Miami, but that racial minorities and whites were sentenced to prison at about the same rate in Chicago and Kansas City. They also found that black drug offenders received longer sentences than white drug offenders in Kansas City, but the sentences imposed on racial minorities and whites were very similar in Chicago and Miami.

Further analysis led Spohn and Spears (2000) to conclude that race/ethnicity affected sentencing for drug offenses in an unexpected manner. In both Chicago and Miami, the sentences imposed on Hispanic drug offenders were significantly longer than the sentences imposed on black drug offenders. In these two jurisdictions, judges apparently did not differentiate between racial minorities and whites but, rather, between blacks and Hispanics. Tests for interaction effects in Chicago revealed that only certain types of Hispanic offenders—those convicted of the most serious drug offenses, those with a prior felony conviction, and those who were unemployed at the time of arrest—received longer sentences than black offenders.

Albonetti (1997) used 1991–92 data on drug offenders sentenced in Federal district courts to test a number of hypotheses concerning the relationship between the offenders' race/ethnicity, the prosecutors' charging and plea bargaining decisions, and sentence severity. She found that both black and Hispanic drug offenders received more severe sentences than white drug offenders. Albonetti also found that, whereas pleading guilty produced a similar reduction in sentence severity for all three groups of offenders, whites received a significantly greater benefit than either blacks or Hispanics when the judge departed from guidelines in exchange for substantial assistance in prosecuting another offender. In addition, white offenders received a larger sentence reduction than racial minorities as a result of being convicted for possession of drugs rather than drug trafficking. Albonetti (1997, 818–819) concluded that the pattern of results found in her study suggests that “the federal sentencing guidelines have not eliminated sentence disparity linked to defendant characteristics for defendants convicted of drug offenses in 1991–92.”

Two additional studies, while not focusing exclusively on sentencing of drug offenders, did examine race and sentencing of these offenders as one part of a larger study. Chiricos and Bales (1991) explored the relationship between race, unemployment, and punishment in two Florida counties in 1982. When they estimated separate models for several different types of crimes, they found that race did not directly affect the likelihood of incarceration for drug offenses.

Race did, however, interact with the offender's employment status in an unexpected way. *Unemployed* black drug offenders were 3.7 times more likely to be held in jail prior to trial than employed white drug offenders, while *employed* black drug offenders were 5.9 times more likely to be incarcerated than employed whites. Chiricos and Bales (p. 718–719) suggest that a possible explanation for this “surprising outcome” is that “employed blacks who are involved with drugs are seen by judges as violating a more fragile trust with employers, who are generally more inclined to hire whites than blacks.”

Crawford and colleagues' (1998) examination of the effect of offender race on the likelihood of being sentenced as a habitual offender also included a separate analysis of drug offenders. The authors of this study, who suggest that the more punitive sentences imposed on racial minorities may be linked to mainstream America's notions of racial threat, ask whether blacks are more likely to be habitualized for crimes, such as drugs and violence, “often described as central to the criminal threat posed by black males” (p. 484). The results of their analysis revealed that, although defendants charged with a drug offense were less likely than defendants charged with other offenses to be habitualized, *blacks* charged with drug offenses were 3.6 times more likely than whites charged with drug offenses to be sentenced as habitual offenders; in fact, 94 percent of the 448 drug offenders habitualized in Florida during fiscal year 1992–93 were black. As the authors note, “the combination of being black and being charged with a drug offense substantially increases the odds of being sentenced as a habitual” (p. 496).

Considered together, these studies provide evidence in support of assertions that “Urban black Americans have borne the brunt of the War on Drugs” (Tonry 1995, 105). Black and Hispanic drug offenders, and particularly those who engage in drug trafficking, face greater odds of incarceration and longer sentences than their white counterparts.

## **Discussion**

The inconsistent findings of recent studies investigating the relationship between race and sentencing, coupled with competing assertions that racial disparities in sentencing had been reduced by the sentencing reforms of the past three decades but exacerbated by the policies pursued during the war on drugs, suggested that it was time to revisit this important issue. In this essay, I reviewed and critically evaluated 40 studies examining the linkages between race and sentence severity. My purpose was not simply to determine whether recent research provides evidence of direct racial discrimination in sentencing but also to search for clues to the contexts in which blacks and Hispanics are sentenced more harshly than

whites. In the following sections, I summarize the major findings of this review and discuss the implications of these findings.

## Direct race effects

Many of the studies included in this review found evidence of *direct discrimination* against racial minorities. At the State level, 41 of the 95 black versus white estimates and 8 of the 29 Hispanic versus white estimates were indicative of significantly more severe sentences for racial minorities; at the Federal level, two-thirds of the black versus white estimates and one-half of the Hispanic versus white estimates revealed more punitive sentences for racial minorities. Evidence that racial minorities were sentenced more harshly than whites was found primarily, but not exclusively, with respect to the initial decision to incarcerate rather than the subsequent decision regarding sentence length. This pattern was especially obvious at the State level, where about half of the in/out estimates, but fewer than one-fourth of the sentence length estimates, revealed harsher sentences for racial minorities.

***Although these findings suggest that race and ethnicity do play a role—a direct role—in contemporary sentencing decisions, it would be misleading to conclude that there is a consistent and widespread pattern of direct discrimination against black and Hispanic offenders in sentencing decisions.***

These findings call into question earlier conclusions that the evidence concerning the effect of race on sentencing “largely contradicts a hypothesis of overt discrimination against black defendants” (Kleck 1981, 783), or that findings of racial discrimination in sentencing reflect the failure to control for crime seriousness or prior criminal record (Hagan 1974) or are confined primarily to the South. The effects

summarized above are all main effects; as such, they provide support for “a hypothesis of overt discrimination.” Moreover, although the studies included in this review vary somewhat in quality, they do not suffer from the methodological limitations of the research incorporated in earlier reviews. All of them use appropriate multivariate statistical techniques and control for relevant legal variables, including the offender’s prior criminal record (which was the most commonly omitted variable in earlier research). Finally, significant effects are found in non-Southern (California, Illinois, Minnesota, New York, Ohio, and Pennsylvania) as well as Southern (Florida and Georgia) jurisdictions.

Although these findings suggest that race and ethnicity do play a role—a direct role—in contemporary sentencing decisions, it would be misleading to conclude

that there is a *consistent* and *widespread* pattern of direct discrimination against black and Hispanic offenders in sentencing decisions. Caution is warranted for at least three reasons. First, although each of the 8 studies of Federal sentence outcomes reported significant main effects for race/ethnicity, 6 of the 32 State-level studies found no significant main effects for any measure of sentence severity for blacks and/or Hispanics (Crew 1991; Dixon 1995; Simon 1996; Spohn, DeLone, and Spears 1998; Wooldredge 1998; Zatz 1984). Second, 9 of the 25 significant effects for the in/out decision and 6 of the 11 significant effects for sentence length for black offenders are reported in the series of studies conducted in Pennsylvania. This obviously limits the generalizability of findings regarding direct race effects.

A third reason for exercising caution in drawing conclusions is that the effects revealed by many of the studies, while statistically significant, are rather modest. Spohn and DeLone (in press), for example, used the results of their logistic regression analysis to calculate estimated probabilities of incarceration for typical white, black, and Hispanic offenders in each of the three jurisdictions included in their study. They found a difference of 4 percentage points in the likelihood of incarceration between white offenders and black offenders and between white offenders and Hispanic offenders in Chicago; in Miami, there was a difference of 8 percentage points between white offenders and Hispanic offenders. Kramer and Steffensmeier (1993, 367), who noted that tests of statistical significance were not very meaningful given the large number of cases (about 34,000) included in their analysis, reported that “race contributes less than one-half of one percent to explained variation in each of the three in/out classifications.” Similarly, Langan’s (1996) analysis of substantial assistance departures under the Federal sentencing guidelines revealed that “race . . . improved the correct prediction rate by less than one-fourth of one percentage point.”

These caveats notwithstanding, it is clear that the studies conducted during the fourth wave of research challenge earlier conclusions of racial neutrality in sentencing. These methodologically sophisticated studies demonstrate that while race/ethnicity is not *the* major determinant of sentence severity, it “is a determinant of sanctioning, and a potent one at that” (Zatz 1987, 87). This clearly is an important finding. As the Panel on Sentencing Research concluded in 1983, “[E]ven a small amount of racial discrimination is a very serious matter, both on general normative grounds and because small effects in aggregate can imply unacceptable deprivations for large numbers of people” (Blumstein et al. 1983, 13). The fact that a majority of the studies reviewed here found that blacks and Hispanics were more likely than whites to be sentenced to prison, even after taking crime seriousness and prior criminal record into account, suggests that racial discrimination in sentencing is not a thing of the past.

## Indirect and interaction effects

Nearly 30 years ago, Richard Quinney (1970, 142) asserted that “judicial decisions are not made uniformly. Decisions are made according to a host of extralegal factors, including the age of the offender, his race, and social class.” The validity of this assertion is confirmed by the studies in this review. There is compelling evidence that offender race and ethnicity affect sentence severity indirectly or in interaction with other legal and extralegal variables. These more subtle effects surfaced in studies that found no direct race effects as well as those that did. In fact, with only two exceptions, each of the State-level studies that found no direct race effects found significant contextual effects.

The most intriguing and important pattern of results revealed by the research reviewed here concerns the interaction between offender race/ethnicity and other legally irrelevant offender characteristics. This research convincingly demonstrates that certain types of racial minorities—males, the young, the unemployed, the less educated—are singled out for harsher treatment at sentencing. Some studies find that black and Hispanic offenders generally receive more punitive sentences than white offenders, but that the combination of race/ethnicity and gender, age, and/or employment status results in even larger racial disparities. Other studies find that the effect of race/ethnicity is confined to blacks and Hispanics who are also young, male, and/or unemployed. Both types of studies reveal that young unemployed black and Hispanic males may pay a higher punishment penalty than other categories of offenders.

The question, of course, is *why* these types of offenders are punished more severely. The question is why “today’s prevailing criminal predator has become a euphemism for young, black males” (Barak 1994, 137). A number of scholars suggest that certain categories of offenders are regarded as more dangerous and more problematic than others and thus as more in need of formal social control. Spitzer (1975, 645) uses the term “social dynamite” to characterize that segment of the deviant population that is viewed as particularly threatening and dangerous; he asserts that social dynamite “tends to be more youthful, alienated and politically volatile” and contends that those who fall into this category are more likely than other offenders to be processed through the criminal justice system (Spitzer 1975, 646). Building on this point, Box and Hale (1985) argue that unemployed offenders who are also young, male, and members of a racial minority will be perceived as particularly threatening to the social order and thus will be singled out for harsher treatment. Judges, in other words, regard these types of “threatening” offenders as likely candidates for imprisonment “in the belief that such a response will deter and incapacitate and thus defuse this threat” (Box and Hale 1985, 217).

Steffensmeier and his colleagues (1998, 789) advance a similar explanation for their finding “that young black men (as opposed to black men as a whole) are the defendant subgroup most at risk to receive the harshest penalty.” They interpret their results using a “focal concerns” theory of sentencing. According to this perspective, judges’ sentencing decisions reflect their assessment of the blameworthiness or culpability of the offender, their desire to protect the community by incapacitating dangerous offenders or deterring potential offenders, and their concerns about the practical consequences, or social costs, of sentencing decisions. Because judges rarely have enough information to determine an offender’s culpability or dangerousness accurately, they develop a “perceptual shorthand” based on stereotypes and attributions that are themselves linked to offender characteristics such as race, gender, and age. Thus, “race, age, and gender will interact to influence sentencing because of images or attributions relating these statuses to membership in social groups thought to be dangerous and crime prone” (Steffensmeier, Ulmer, and Kramer 1998, 768).

The studies reviewed here suggest that judges’ assessments of dangerousness and culpability, and thus their views of the appropriate punishment, may also rest on other combinations of offender and offense attributes. There is evidence, for example, that the treatment of black men charged with sexual assault depends on the race of the victim: Blacks who victimize whites are punished more harshly than blacks who victimize other blacks. (Studies of the imposition of the death penalty, which are not included in this review, report similar findings.) Although it is not clear whether this reflects the view that black men who cross racial lines to commit sexual assault are more threatening and dangerous than other types of offenders and/or the view that those who sexually assault white women (regardless of their race) deserve harsher punishment than those who assault black women, what is clear is that simply comparing the sentences imposed on black men to those imposed on white men will produce misleading results.

The findings of this review also lend credence to Crawford, Chiricos, and Kleck’s (1998, 506) assertion that judges’ “punitive impulses” are linked to their perceptions of “racial threat,” which are themselves linked to “urban underclass blacks and drugs.” A number of the studies reviewed here conclude that black and Hispanic drug offenders are sentenced more harshly than white drug offenders. Similar to the pattern of results discussed earlier regarding interaction between offender race/ethnicity and other offender characteristics, some studies find that the effect of race/ethnicity is confined to drug offenders, while others find that race/ethnicity has a substantially greater effect on sentencing for drug offenses than for other types of offenses. Still other studies reveal that blacks and Hispanics who engage in the more serious distribution

and trafficking offenses face significantly more punitive punishment than other types of drug offenders.

These results suggest that the moral panic surrounding drug use and drug-related crime, coupled with stereotypes linking racial minorities to a drug-involved lifestyle, has resulted in more severe sentences for black and Hispanic drug offenders, and particularly for those convicted of the more serious offenses. It thus appears that judges use race/ethnicity and offense seriousness to define what might be called a “dangerous class” (Adler 1994) of drug offenders. The black or Hispanic drug offender who manufactures or sells large quantities of drugs may be perceived as particularly dangerous or particularly villainous (Peterson and Hagan 1984); as a consequence, he may be sentenced especially harshly.

The indirect and interaction effects revealed by the research included in this review attest to the theoretical and methodological evolutions in research on race and sentencing. Contemporary researchers have moved beyond simply asking whether race makes a difference to attempting to identify the conditions under which and the contexts in which race makes a difference. The studies reviewed here make important contributions to our understanding of the complex interconnections among race/ethnicity, offender and case characteristics, and sentence severity. They provide compelling evidence that black and Hispanic offenders *will not* “receive more severe punishment than whites for all crimes, under all conditions, and at similar levels of disproportion over time” (Hawkins 1987, 724). Rather, certain types of racial minorities—males, the young, the unemployed, those who commit serious drug offenses, those who victimize whites, those who refuse to plead guilty or who are unable to obtain pretrial release—may be perceived as more threatening, more dangerous, and more culpable; as a consequence, they may be punished more harshly than similarly situated whites.

### **Race/ethnicity in the reform era**

The findings of this review suggest that the sentencing reforms implemented during the past 25 years have not achieved their goal of “amelioration of racial disparities and discrimination” (Tonry 1995, 164). In fact, studies of sentences imposed at the Federal level reveal a consistent pattern of disadvantage for black and Hispanic offenders. This pattern is particularly pronounced for the various alternative measures of sentence severity. Although the Federal sentencing guidelines severely constrain judges’ discretion in deciding between prison and probation and in determining the length of the sentence, they place only minimal restrictions on the ability of judges (and prosecutors) to reduce sentences for substantial assistance or acceptance of responsibility. Mandatory



minimum sentences also can be avoided through charge manipulation. As Albonetti (1997, 790) notes, “these process-related decisions offer potential avenues through which prosecutors [and judges] can circumvent guideline-defined sentence outcomes.” The validity of this assertion is confirmed by the fact that each of the six Federal-level studies that examined an alternative measure of sentence severity found evidence of direct discrimination against both blacks and Hispanics.

A similar pattern is found for studies of sentence outcomes in two States—Florida<sup>13</sup> and Pennsylvania<sup>14</sup>—with sentencing guidelines. Although the guidelines in both States are “looser” than those at the Federal level, they do restrict judicial discretion. Studies of sentences imposed on felony offenders (Spohn and DeLone in press) and drug offenders (Spohn and Spears 2000) in Miami found that Hispanics (but not blacks) were significantly more likely than whites to be sentenced to prison; a third Florida study (Crawford, Chiricos, and Kleck 1998) found that blacks were substantially more likely than whites to be sentenced as habitual offenders. The series of Pennsylvania studies conducted by Kramer, Steffensmeier, and Ulmer revealed that blacks were sentenced more harshly than whites: They were more likely than whites to be incarcerated, they received longer sentences than whites, and they were less likely than whites to receive either dispositional or durational departures.

The lack of longitudinal research comparing the effect of race/ethnicity on sentence outcomes before and after the implementation of guidelines makes it difficult to assess the degree to which the guidelines have *reduced* racial disparities in sentencing. Nonetheless, the fact that studies of sentences imposed in jurisdictions operating under sentencing guidelines uncovered both direct and subtle race effects suggests that attempts to constrain judicial discretion have not *eliminated* racial disparities in sentencing. The guidelines notwithstanding, judges mete out harsher sentences to black and Hispanic offenders than to similarly situated white offenders. This conclusion, which applies to sentences imposed under the more restrictive Federal sentencing guidelines as well as the looser guidelines at the State level, implies that judges and prosecutors are reluctant to place offenders into cells of a sentencing grid defined only by crime seriousness and prior criminal record. It indicates that statutorily irrelevant factors such as race, gender, age, employment status, and social class may be factually relevant to criminal justice officials’ assessments of dangerousness, threat, and culpability. It also attests to the validity of Tonry’s (1996, 180) assertion that “There is, unfortunately, no way around the dilemma that sentencing is inherently discretionary and that discretion leads to disparities.”

***Legislators at the State and Federal levels abandoned indeterminate sentencing and embraced determinate sentencing, sentence guidelines, mandatory minimum sentences, and other reforms designed to constrain judicial discretion. The fact that racial discrimination persists despite these policy changes suggests that reformers may have had unrealistic expectations about the ability of the reforms to alter the sentencing process and/or that the reforms themselves have not been implemented as intended.***

## **Research and policy implications**

As we enter the 21st century, researchers should continue to investigate the complex interconnections among offender race/ethnicity, other legally irrelevant offender characteristics, case characteristics, and sentence outcomes. They should continue to ask not “does race make a difference?” but, rather, “*when* does race make a difference—under what conditions, for what types of offenders, and in interaction with what other factors?”

Researchers should build on the foundation established by the methodologically sophisticated and theoretically informed studies conducted during the past 20 years. They should continue to test the hypothesis that *certain types of black and Hispanic offenders* are singled out for harsher treatment. In fact, the focus of research should be broadened to include other racial and ethnic groups. As Sampson and Lauritsen (1997, 364) correctly note, “there is little empirical basis from which to draw firm conclusions for Hispanic, Asian, and Native Americans.” This obviously limits our ability to understand whether and how judges and other criminal justice officials take race and ethnicity into account when determining the appropriate sentence.

In addition, researchers should focus not only on the presence or absence of racially discriminatory sentence outcomes but also on possible explanations for these outcomes. Although quantitative studies can provide evidence concerning the existence of racial discrimination in sentencing, they cannot tell us, at least not with any degree of precision, why such discrimination occurs. To understand the factors that motivate judges to impose harsher sentences on racial

minorities than on whites, researchers should incorporate qualitative techniques into their research designs. By interviewing judges and other criminal justice officials, observing court proceedings, and reading transcripts of sentence hearings, researchers will gain a greater appreciation for the complexity of the decisionmaking process and for the overt and subtle ways in which the offender’s race is factored into the sentencing equation.

Researchers also should attempt to determine if there is discriminatory treatment of racial minorities at earlier stages in the criminal court process. A number of studies have demonstrated that sentence severity is affected by pretrial detention, charge reductions, and sentence concessions, but there is relatively little research investigating the effect of race/ethnicity on these important pretrial decisions. If racial minorities are treated more harshly than whites at early stages of the process, and if bail, charging, and plea bargaining outcomes are themselves related to sentence severity, racial minorities would suffer from what Zatz refers to as “cumulative disadvantage.” In other words, if race/ethnicity has small effects on decisionmaking at early stages of the process, “as the person moves through the system, these add up to substantial . . . disparities in processing and outcomes for different social groups” (Zatz 1987, 76).

The findings of the studies reviewed here have policy as well as research implications. A primary goal of the sentencing reforms of the past quarter century was to reduce unwarranted disparity and eliminate racial discrimination. To that end, legislators at the State and Federal levels abandoned indeterminate sentencing and embraced determinate sentencing, sentence guidelines, mandatory minimum sentences, and other reforms designed to constrain judicial discretion. The fact that racial discrimination persists despite these policy changes suggests that reformers may have had unrealistic expectations about the ability of the reforms to alter the sentencing process and/or that the reforms themselves have not been implemented as intended. Policymakers should continue to scrutinize sentencing policies and procedures with an eye toward determining whether the reforms incorporate, intentionally or unintentionally, substantive or procedural loopholes that foster unwarranted disparity in sentencing.

## **Conclusion**

The findings of this review suggest that the disproportionate number of racial minorities confined in our Nation’s jails and prisons cannot be attributed solely to racially neutral efforts to control crime and protect society. Although it is irrefutable that the primary determinants of sentencing decisions are the seriousness of the offense and the offender’s prior criminal record, race/ethnicity and other legally irrelevant offender characteristics also play a role. Black and Hispanic offenders—and particularly those who are young, male, or unemployed—are more likely than their white counterparts to be sentenced to prison; they also may receive longer sentences than similarly situated white offenders. Other categories of racial minorities—those convicted of drug offenses, those who victimize whites, those who accumulate more serious prior criminal records, or those who refuse to plead guilty or are unable to secure pretrial release—also

may be singled out for more punitive treatment. Coupled with the fact that significant race effects were found in Southern and non-Southern jurisdictions, in State and Federal court systems, and in jurisdictions with and without sentencing guidelines, these results suggest that earlier refutations of the discrimination thesis were premature.

## Notes

1. Other researchers (Zatz 1987; Kleck 1981) use “overt discrimination” to characterize main effects and “subtle discrimination” to characterize indirect or interaction effects. This is somewhat misleading; direct, indirect, and interaction effects could all result from either overt or covert discrimination.
2. This review includes two studies that are in press (Spohn and DeLone in press; Spohn and Spears 2000).
3. Studies of the capital sentencing process are not included primarily because most of them do not use post-1980 data. For example, the Baldus, Woodworth, and Pulaski (1990) study of death penalty decisions in Georgia used data from 1973 through 1979. Gross and Mauro’s (1989) analysis of death penalty decisions in eight States was based on data from 1976 through 1980.
4. I also include one study (Zatz 1984) based on 1978 data. It is one of very few studies that examines sentence outcomes for Hispanics and is based on data collected during the first year of California’s Determinate Sentencing Act.
5. Five of the studies use ordinary least squares regression, rather than logistic regression or probit analysis, to analyze the dichotomous in/out decision (Klein, Petersilia, and Turner 1990; Miethe and Moore 1985; Moore and Miethe 1986; Petersilia 1983; Walsh 1987).
6. There were only four exceptions to the requirement that the study include a measure of prior criminal record. The series of studies conducted in Georgia (Myers 1987; Myers and Talarico 1986, 1987) did not include a control for prior criminal record in the analysis of the decision to incarcerate or not. Smith and Damphousse (1996), who examined the length of sentence imposed on federally indicted terrorists and nonterrorists, did not include a control for prior criminal record.
7. Two of the studies (Dixon 1995; Nelson 1995) compared whites with nonwhites (blacks and Hispanics). The estimates produced by these studies are combined with those produced by studies comparing blacks and whites.
8. Walsh (1991) found that white males were significantly more likely than black males to be sentenced to prison in Ohio. He concluded that this probably reflected leniency extended to black offenders rather than discrimination against white offenders. As he noted, “We may be observing efforts on the part of judges to compensate for the much-

reported anti-black bias in sentencing in the past” (p. 15). An analysis of sentencing decisions in sexual assault cases (Walsh 1987) also revealed that blacks were less likely than whites to be sentenced to prison. Further analysis revealed that this reflected devaluation of black victims: Blacks who sexually assaulted whites faced higher odds of incarceration than blacks who assaulted other blacks. Two studies of sentencing outcomes in Georgia (Myers 1987; Myers and Talarico 1986) found that blacks received somewhat shorter sentences than whites. Klein and colleagues’ (1990) analysis of California offenders revealed that Hispanics convicted of robbery and theft were less likely than whites convicted of robbery to be sentenced to prison.

9. Typically, the presence of an interaction effect (between race/ethnicity and some other independent variable) in the absence of a main effect (for race/ethnicity) signals that the effect of race/ethnicity is positive for some categories of the second independent variable but negative for other categories. For example, Spohn and DeLone (in press) found that race did not have a direct effect on sentence length in Kansas City. Further analysis revealed that blacks convicted of property offenses ( $b=6.57$ ;  $SE=2.91$ ) and drug offenses ( $b=14.10$ ;  $SE=5.20$ ) received longer sentences than whites, while blacks convicted of violent crimes ( $b=-17.17$ ;  $SE=14.59$ ) received shorter sentences (but note that the coefficient for violent crimes was not statistically significant). Most researchers, however, do not discuss this potential explanation.

10. Exhibit 3 includes a number of findings indicative of harsher sentences for white offenders. Previous reviews have criticized the tendency to characterize these findings as “merely anomalous results” (Kleck 1981, 799) or as “simply random fluctuations from a trend toward equality” (Peterson and Hagan 1984, 57). Like Hawkins (1987), Peterson and Hagan (p. 69) suggest that findings of more lenient treatment of black offenders reflect “context-specific conceptions of race” and contend that “[t]he role of race is more variable and more complicated than previously acknowledged.”

The small number of effects indicating more severe punishment of white offenders makes it difficult to reach conclusions regarding the meaning of these effects. Three of the State-level studies (Klein, Petersilia, and Turner 1990; Wooldredge 1998; Zatz 1984) found that whites were sentenced more harshly than racial minorities for certain types of crimes. Klein and colleagues (1990), for example, found that Hispanics, who were more likely than whites to be incarcerated for drug offenses, were less likely than whites to be incarcerated for robbery or theft. Zatz (1984) reported that whites convicted of homicide received longer sentences than Hispanics convicted of homicide, and Wooldredge found harsher sentences for whites among the least serious offenses. It is possible, given the fact that most crimes are intraracial, that the harsher sentences imposed on whites for crimes against persons (homicide, robbery, theft) reflect race-of-victim rather than race-of-offender effects, but none of these studies tested for this possibility.

There are several other effects indicating harsher treatment of white offenders. Wooldredge (1998) found that marital status had differential effects on Anglos and Mexican-Americans; unmarried Anglos received longer sentences than unmarried Mexican-Americans. Myers and Talarico’s (1987) analysis of sentence outcomes in

Georgia revealed that whites got longer sentences than blacks in counties with high crime rates; they also reported that, whereas blacks were sentenced more harshly than whites from 1976 to 1982, the pattern was reversed from 1982 to 1985. Finally, Albonetti's (1997) examination of sentences imposed on Federal drug offenders revealed that increases in the guideline offense level and the offender's criminal history score produced greater increases in sentence severity for whites than for either blacks or Hispanics.

Although it would be inappropriate to dismiss these effects as simply random deviations from a general pattern of disadvantage for racial minorities, the meaning is unclear. In fact, the authors of the studies that found effects indicating harsher treatment of white offenders typically mentioned, but offered no explanation for, the effects (Zatz 1984 is an exception). This suggests that the authors themselves either regarded the effects as "anomalies" or believed that "one could expect these results by chance alone . . . even when such biases do exist" (Wooldredge 1998, 174).

11. Albonetti (1997) also explored the possibility that pleading guilty would have differential effects on sentence outcomes for black, Hispanic, and white drug offenders sentenced in Federal district court. She found that the effect of a guilty plea did not vary among the three groups.

12. Research on the capital sentencing process, which is not included in this review, similarly demonstrates that blacks convicted of murdering whites are more likely to be sentenced to death than are other offender/victim racial dyads (cf. Baldus, Woodworth, and Pulaski 1990; Gross and Mauro 1989; Paternoster 1984).

13. The State of Florida has had sentencing guidelines since 1983. The purpose of the guidelines is "to establish a uniform set of standards to guide the sentencing judge" and "to eliminate unwarranted variation in the sentencing process by reducing the subjectivity in interpreting specific offense-related criteria." To meet these objectives, each offender is assigned a "sentence score" based on the seriousness of the offense(s) and his/her prior criminal record. This score determines the recommended sentence. Judges retain some discretion under the guidelines. For example, if the total sentence points for a particular offender are less than 40, the presumptive sentence is a non-State prison sentence. In this situation, the judge has discretion to sentence the offender to county jail for a maximum term of 364 days or to impose probation or some other alternative to incarceration. The judge also has discretion to withhold adjudication. If the total points are greater than 40 but less than or equal to 52, the judge has discretion to sentence the offender to State prison or not. If the points total 52, the sentence must be a prison sentence, with the months in State prison calculated by subtracting 28 from the total sentence points. The judge can, however, increase or decrease the sentence length by 25 percent (without providing a written statement delineating the reasons for the departure) or more (with a written statement of the reasons for the departure). [Fla. Stat. § 921.001 (1995)]

14. The Pennsylvania sentencing guidelines, which were adopted in 1982, apply to both felonies and misdemeanors. The guidelines establish sentence ranges for each combination of the offender's criminal history score (which ranges from 0 to 6) and

offense seriousness score (which ranges from 1 to 10). For each combination, there is an aggravated range, a standard range, and a mitigated range; the presumption is that the judge will impose a sentence from the standard range. Judges must justify departures with a written statement of the reasons for the departure.

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**Appendix. Indirect and interaction effects found in studies of race and sentencing (State-level studies)**

Study	Interaction effects—in/out	Interaction effects—sentence length
<p>Spohn and DeLone in press</p>	<p>Chicago: offenders w/o prior prison term—blacks more likely than whites; no differences among those with prior prison term</p> <p>Chicago: unemployed offenders—Hispanics more likely than whites; no differences among the employed</p> <p>Chicago: offenders convicted of violent crimes—Hispanics more likely than whites; no differences for less serious crimes</p> <p>Miami: offenders convicted of drug offenses—Hispanics more likely than whites; no differences for violent crimes</p> <p>Miami: offenders with prior prison term—Hispanics more likely than whites; no differences among those w/o prior prison term</p>	<p>Chicago: unemployed offenders—blacks and Hispanics got longer sentences than whites; no differences among employed</p> <p>Kansas City: offenders convicted of drug and property crimes—blacks got longer sentences than whites; no differences for violent crimes</p>
<p>Spohn and Holleran 2000</p>	<p>Chicago: young black males, young Hispanic males, and middle-aged black males more likely than middle-aged white males</p> <p>Chicago: unemployed black males and unemployed Hispanic males more likely than employed white males</p> <p>Miami: young black males, young Hispanic males, and older Hispanic males more likely than middle-aged white males</p> <p>Kansas City: young black males and young white males more likely than middle-aged white males</p> <p>Kansas City: unemployed black males more likely than employed white males</p>	

*continued*

(State-level studies)

Appendix (continued)

Study	Interaction effects—in/out	Interaction effects—sentence length
Spohn and Spears 2000	<p>Miami: blacks convicted of third-degree felonies more likely than whites</p> <p>Miami: blacks with a prior felony conviction more likely than whites</p>	<p>Chicago: offenders convicted of most serious drug offenses—Hispanics got 16 months longer than blacks</p> <p>Chicago: offenders with at least one prior felony conviction—Hispanics got 11 months longer than blacks</p> <p>Chicago: unemployed offenders—Hispanics got 12 months longer than blacks</p>
Nobiling, Spohn, and DeLone 1998	<p>Kansas City: unemployment increased odds of incarceration only for blacks</p> <p>Chicago: young males only—unemployed blacks and unemployed Hispanics more likely than employed whites</p>	<p>Chicago: unemployment increased odds of incarceration only for blacks</p>
Spohn, DeLone, and Spears 1998	<p>Dependent variable—withhold of adjudication</p> <p>Repeat offenders: white females, Hispanic females, black females, and Hispanic males more likely than black males to have adjudication withheld; no differences among first-time offenders</p> <p>Repeat offenders: black females more likely than black males, white females more likely than white males; no differences among first-time offenders</p>	

Appendix (continued)	(State-level studies)	
Study	Interaction effects—in/out	Interaction effects—sentence length
<p>Wooldredge 1998</p> <p>Crawford, Chiricos, and Kleck 1998</p>	<p>Dependent variable=sentenced as habitual offender</p> <p>Level of seriousness—greater disadvantage for blacks for less serious offenses (armed robbery is exception)</p> <p>Type of crime—greater disadvantage for blacks for property and (especially) drug-related crimes</p> <p>Community context and violent/weapons crimes—no context in which race had an effect</p> <p>Community context and property crimes—race significant regardless of percentage black, racial inequality, rate of drug arrests, and violent crime rate</p> <p>Community context and drug-race—significant only where percentage black and racial inequality are low</p>	<p>Male offenders: Mexican-Americans incarcerated longer than Anglos</p> <p>Lower income offenders—Mexican-Americans incarcerated longer than Anglos</p> <p>Offenders with previous prison sentence—Mexican-Americans incarcerated longer than Anglos</p> <p>Offenders sentenced by Anglo judges—Mexican-Americans incarcerated longer than Anglos</p> <p>Offenders convicted of least serious offenses—Anglos incarcerated longer than Mexican-Americans</p>

*continued*

(State-level studies)

Appendix (continued)

Study	Interaction effects—in/out	Interaction effects—sentence length
<p>Steffensmeier, Ulmer, and Kramer 1998</p> <p>Ulmer 1997</p> <p>Ulmer and Kramer 1996</p>	<p>Young black males face higher odds of incarceration than all other offenders; among males, effect of race diminishes as age increases</p> <p>White females face lower odds of incarceration than black females, regardless of age</p> <p>Conviction at trial increases odds of incarceration for blacks more than for whites</p> <p>Conviction at trial decreases odds of dispositional departure for blacks more than for whites</p> <p>Smaller race effect among offenders with serious prior records (statewide data); larger race effect among offenders with serious prior records in Metro County, Pennsylvania</p> <p>No race effect in Southwest County, Pennsylvania</p>	<p>Young black males receive longer sentences than all other offenders; among males, effect of race diminishes as age increases</p> <p>Black females receive longer sentences than white females, regardless of age</p> <p>No race effect in Southwest County</p>
<p>Spoehn and Spears 1996</p>	<p>Blacks who sexually assaulted black strangers more likely to be incarcerated than blacks who assaulted black nonstrangers</p>	<p>Blacks who sexually assaulted whites got longer sentences than black-on-black (37 months) and white-on-white (51 months)</p> <p>Blacks who sexually assaulted white strangers got longer sentences than black-on-black nonstranger, white-on-white stranger, and white-on-white nonstranger</p> <p>Blacks who sexually assaulted black strangers got longer sentences than black-on-black nonstranger</p>

Appendix (continued)	(State-level studies)	
Study	Interaction effects—in/out	Interaction effects—sentence length
Holmes et al. 1996		Bexar County, Texas: blacks and Hispanics less likely than Anglos to have private attorneys; those with private attorneys sentenced less harshly
Nelson 1994	Larger racial disparities among defendants with prior arrest record	
Walsh 1987	Blacks who sexually assaulted white nonstrangers more likely to be incarcerated than blacks who assaulted black nonstrangers	Blacks who sexually assaulted whites got longer sentences than blacks who assaulted blacks Blacks who sexually assaulted white strangers got approximately 1 year longer than blacks who assaulted black strangers
Chiricos and Bales 1991	Blacks more likely than whites to be detained; those detained more likely to be incarcerated All offenders and male offenders—unemployed blacks, employed blacks, and unemployed whites more likely than employed whites to be incarcerated Young male offenders—unemployed blacks 5.2 times more likely than employed whites to be incarcerated	Blacks who sexually assaulted white nonstrangers got approximately 7 months longer than blacks who assaulted black nonstrangers

*continued*

(State-level studies)

Appendix (continued)

Study	Interaction effects—in/out	Interaction effects—sentence length
Crew 1991		Blacks less likely to be released; those not released charged more harshly; those charged more harshly got longer sentences Blacks more likely to go to trial; those tried got longer sentences
Klein, Petersilia, and Turner 1990	Hispanics more likely than whites to be incarcerated for drug offenses	
Myers 1989	Blacks more likely than whites to be incarcerated for drug use, drug sale/distribution, drug trafficking; differences greatest for trafficking Racial differences most pronounced from 1980 to 1982	
Myers 1987 Myers and Talarico 1987 Myers and Talarico 1986	Context—blacks faced greater disadvantage than whites in counties with higher crime rates Context—young blacks faced greater disadvantage than others in counties with high unemployment rate	Context—whites got longer sentences than blacks in counties with higher crime rates Blacks got longer sentences than whites from 1976 to 1982 and shorter sentences than whites from 1982 to 1985
Zatz 1984		Conviction for homicide produces longer sentences for whites than for Hispanics Conviction for rape produces longer sentences for Hispanics than for whites Prior record produces longer sentences for Hispanics than for whites Pleading guilty produces larger sentence reduction for whites than for Hispanics

Appendix (continued)	(Federal-level studies)	
Study	Interaction effects—in/out	Interaction effects—sentence length
Albonetti 1997	<p>Conviction for possession rather than trafficking produces larger decrease in odds of incarceration for whites than for blacks or Hispanics</p> <p>Departure for substantial assistance produces larger decrease in odds of incarceration for whites than for blacks or Hispanics</p> <p>Guideline offense level and criminal history score produce larger increase in odds of incarceration for whites than for blacks or Hispanics</p> <p>Increases in education produce greater benefit for whites than for blacks or Hispanics</p>	<p>Conviction for possession rather than trafficking produces larger reduction in sentence length for whites than for blacks or Hispanics</p> <p>Departure for substantial assistance produces larger reduction in sentence length for whites than for blacks or Hispanics</p> <p>Guideline offense level and criminal history score produce longer sentences for whites than for blacks or Hispanics</p> <p>Increases in education produce greater benefit for whites than for blacks or Hispanics</p> <p>Effect of race disappeared when mode of disposition added to model</p>
Langan 1996	<p>Fraud offenses—significant effect for Hispanics due to fact that Hispanics more likely than whites to be convicted of offenses involving false ID, which were more likely to result in incarceration than offenses involving making false statements</p>	<p>Bank robbery—blacks got longer sentences than whites only among offenders with more serious prior records</p>





# **The Convergence of Race, Ethnicity, Gender, and Class on Court Decisionmaking: Looking Toward the 21st Century**

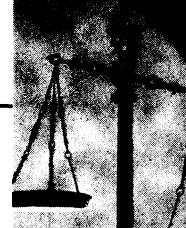
*by Marjorie S. Zatz*

Substantial attention has been paid in recent years to the effects of race and gender on criminal justice processing and sanctioning. Far less consideration has been given to the multiple and often subtle ways in which race, ethnicity, gender, and class converge to influence decisionmaking and to the competing and shifting demands that shape this process. This chapter begins with a review of the major findings from studies with singular emphases on race, gender, or class, outlining the key themes that have emerged in the theoretical and empirical literature. Next, research that explicitly considers the interaction of two or more of these dimensions is addressed, again focusing on both substantive and methodological concerns. Having laid this groundwork, I use the prosecution of crack mothers and the murder trial of O.J. Simpson to exemplify the crucial importance of simultaneously considering the race, ethnicity, gender, and class status of both the offender and the victim. Continuing this theme, I examine three contemporary crime control policies—the war on drugs, the war on gangs, and the automatic transfer of youths to adult court—to illustrate how policies and the court decisions based on them may be racialized, gendered, and classed.

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The second part of the chapter turns toward the future, exploring some central controversies and questions facing criminologists as we enter the 21st century. These include a range of conceptual and methodological issues, including the distinctions between race/ethnicity and culture and between sex and gender, the crucial importance of how we define discrimination, and measurement issues such as how best to code race, ethnicity, and class. The ramifications of crime control policies and criminal justice decisions for poor communities of color are also emphasized in this last section of the chapter. Finally, I conclude with a set of recommendations for policymakers, practitioners, and researchers.

**A**s we enter the 21st century, one of the consuming questions that our Nation faces is whether the criminal justice system and other societal institutions are fair, or whether they are biased along racial, gender, and/or class lines. Although overt racial discrimination is unconstitutional today, the legacies of slavery and of genocide against American Indians continue to haunt us. Women are now visible in every profession but still earn less than men overall. And although many Americans are enjoying economic success, the pool of chronically unemployed adults and children living in poverty is far from receding. Set within the context of these larger societal divisions and inequalities, this chapter examines the narrower realm of race, gender, and class in court processing and sanctioning.

Considerable attention has been paid to the effects of race on criminal justice decisionmaking. Criminologists have also developed a substantial literature examining sex effects, and there has been some attention to the class-based nature of court decisions. Most studies emphasize only one of these dimensions at a time, however, and generally they focus solely on the defendant. Nevertheless, a few researchers have developed more complex analyses of the subtle and dynamic ways in which race, gender, and class converge. This chapter contributes to these broader, more encompassing endeavors, exploring the multiple ways in which the defendant's and victim's class, gender, race, and ethnicity interweave to influence criminal court decisionmaking and speculating about what these patterns and controversies suggest for the future.

In the first part of this chapter, I review the major findings from studies with singular emphases, drawing heavily from review articles. Given the scope of the topic, this is not intended to be a comprehensive review of all relevant publications. Rather, I explore major themes that have emerged in the theoretical and empirical literature. Although some of the studies discussed in this first section consider interaction effects, they clearly emphasize one variable. In the second part of the chapter, I turn to research that explicitly focuses on multiple variables. These analyses tend to concentrate on the interaction effects of two or more factors, treating them as interrelated exogenous variables and discussing their main and interaction effects. Third, I present examples of areas of inquiry that cannot be understood fully without simultaneous consideration of the race, ethnicity, gender, and class status of the offender and the victim. Drawing from critical race feminism as well as feminist criminology, I explore the prosecution of crack mothers and the murder trial of O.J. Simpson to illustrate this convergence. Continuing this theme, I next examine the ways in which crime policies, including but not limited to the war on drugs and court decisions based on those policies, are racialized, gendered, and classed.

Finally, I turn to some new and ongoing controversies and questions as we enter the 21st century. These include our conceptualization and measurement of race and ethnicity to better fit the reality of a multicultural, multiracial society; our definitions and assessments of discrimination; the relationships among race, ethnicity, and culture in the courtroom and in court-ordered programs; the construction of gender and attributions about race, gender, and class in criminal case processing and sanctioning; when and why class matters, including the gendered effects of poverty; and the ramifications of crime control policies and criminal justice decisions for poor communities of color.

## **Major Findings of Studies With a Singular Emphasis: Race, Gender, or Class**

### **Race and ethnicity**

The last quarter of the 20th century was marked by substantial attention to the effects of race on criminal justice processes and sanctions. Although Spohn's comprehensive review of scholarship published in the 1970s, 1980s, and 1990s (see Spohn in this volume) is the most recent, others have also conducted important reviews (e.g., Bortner, Zatz, and Hawkins 2000; Chiricos and Crawford 1995; Crutchfield, Bridges, and Pitchford 1994; Hagan and Bumiller 1983; Kleck 1981; Klepper, Nagin, and Tierney 1983; Mann 1993; Miller 1996; Tonry 1995; Walker, Spohn, and DeLone 1996; Zatz, 1987a). These studies cover a wide range of substantive and methodological issues, including how best to measure discrimination, the indirect and inter-action effects of the offender's and victim's race, and the effects of sample selection bias on assessments of race and decisionmaking. We have learned much from them, yet debates continue to rage. These disagreements are largely due to differences in theoretical framework, methodological sophistication, regional diversity, and jurisdictional variation in data collection strategies.

Much of the research has focused on determinate sentencing, sentencing guidelines, and mandatory sentencing systems, all of which were supposed to make sentencing decisions race neutral. We have found that the main effects of race generally do disappear under these systems, but powerful and pervasive indirect and interaction effects remain. That is, the effects of race become *contingent* on the interaction of race with other legally legitimate (e.g., prior record, bail status, offense type) and illegitimate (e.g., gender, type of attorney, employment status) factors (see Daly 1994; Hagan 1974; Hagan and Bumiller 1983; Hawkins 1987; Klepper, Nagin, and Tierney 1983; Mann 1993; Miethe and Moore 1985; Petersilia 1983; Peterson and Hagan 1984; Spohn, Gruhl, and Welch 1981; Zatz 1985b, 1987a).

Many earlier decisions influence which cases reach these final stages and how they are charged. Sentencing is the result of a long series of decisions that impact on one another. These include police decisions about where to focus their surveillance efforts and when an arrest is warranted rather than a warning; the prosecutor's decision to accept or reject a case and which of several potential criminal charges to file; the judge's decision about whether to release a defendant pending trial and, if so, the bail amount and other conditions of release; the prosecutor's and defense attorney's decisions regarding plea bargains and other negotiated sentences; and the judge's or jury's decision about guilt in trial cases.

These multiple decision points can affect sentencing in several ways. Sometimes indirect effects are visible through a simple path, such as the effects of race and class on sentencing through the intermediate step of pretrial detention. At both the adult and juvenile levels, poor people and people of color are most likely to be detained pending trial, and pretrial detention results in harsher sentencing outcomes (Lizotte 1978; Zatz 1985a). Other times we are seeing the cumulative effects of many earlier processing decisions, beginning with the police decision to arrest. Research has fairly consistently shown that small effects of race and class that may not be statistically significant at any one point add up across multiple stages. The general resulting pattern is that white and middle class defendants are more likely to be filtered out of the system at earlier decision points than are poor defendants and defendants of color, both at the adult (Donziger 1996; Mann 1993; Walker, Spohn, and DeLone 1996; Zatz 1985b) and juvenile levels (Bishop and Frazier 1988; Dannefer and Schutt 1982; Fagan, Slaughter, and Hartstone 1987b; Fagan, Forst, and Vivona 1987; Singer 1996).

Considering the type of case, the empirical literature demonstrates clear race effects in lower level felonies—those that are serious but not particularly heinous. These borderline cases allow prosecutors the greatest latitude in initial charging and in plea bargaining. Accordingly, attributions held by prosecutors and other social control agents (e.g., police, probation officers, judges) about defendants and their offenses carry substantial weight (Albonetti 1986, 1991; Spohn, Gruhl, and Welch 1981; Unnever and Hembroff 1988). Race also appears to be consistently important in the least serious contexts, such as

***Although the patterned effect of the victim-offender racial dyad is clearest and strongest in homicide and rape cases, the generalized threat that black males are thought to pose has resulted in significantly harsher outcomes for blacks convicted of other offenses, such as larceny and burglary, which are likely to have white victims.***

offenses that do not involve a gun or injury, or when the defendant has no prior felony convictions (Spohn and Cederblom 1991). In contrast, in the most heinous cases, race has less of an effect. Although limited, the extant literature suggests that attributions are perhaps even more salient in juvenile court. For example, Bridges and Steen (1998) demonstrate that probation officers tend to attribute delinquent acts of African-Americans to negative attitudinal and personality traits, while the delinquent acts of whites are attributed to their social environment. As a result, African-American youths appear less amenable to reform than do white youths, and so receive harsher outcomes.

Yet another key pattern evidenced at the end of the 20th century involves the race of the victim. In capital murder cases, the race of the victim is the paramount factor determining whether the most extreme penalty will be invoked (Baldus, Pulaski, and Woodworth 1983; Paternoster 1984; Radelet and Pierce 1985). The study of Georgia murder cases conducted by David Baldus and his colleagues became the central element for the defense in the 1987 Supreme Court death penalty case, *McCleskey v. Kemp* (107 Sup. Ct. 1756 [1987]).

Controlling for a large number of relevant nonracial variables, Baldus, Pulaski, and Woodworth (1983) demonstrated that persons charged with killing white victims were 4.3 times more likely to receive a death sentence than those charged with killing blacks. The race of the victim is also crucial in rape cases (Crenshaw 1989, 1991; LaFree 1980, 1989). Again prosecutorial discretion is a key consideration, with both prosecutors and jurors according more value to white than to black victims.

***The result is multiple, and at times competing, demands on criminal justice officials to treat minority defendants fairly while also ensuring the safety of poor blacks and Latinos living in high-crime areas.***

Although the patterned effect of the victim-offender racial dyad is clearest and strongest in homicide and rape cases, the generalized threat that black males are thought to pose has resulted in significantly harsher outcomes for blacks convicted of other offenses, such as larceny and burglary, which are likely to have white victims. In contrast, race has less of an effect for violent and weapons offenses where the victim of a black offender is also likely to be black. As Crawford, Chiricos, and Kleck (1998, 498) note in their analysis of the sentencing of habitual offenders, "While rates of habitual offender sentencing are consistently higher for eligible black defendants than for

whites, it is clear that the consequence of race varies substantially by type of crime." This racial threat reaches its apex in what Katheryn Russell (1998, 3) and others have called the myth of the "criminalblackman" (see also Anderson

1995; Hawkins 1995; Mann and Zatz 1998; and Miller 1996). The “criminal-blackman” is a composite of white fears of black men’s criminality. It may become so strong and so widespread that it allows for racial hoaxes, in which a white offender blames an African-American, usually male, for the offense in question and is readily believed by criminal justice agents and/or the general public (Miller and Levin 1998; Russell 1998).

Criminologists have been very attentive to this historical pattern of unfairly singling out African-Americans for harsh punishment when the victim is white. Yet most street crime is intraracial, and victimization rates for blacks are much higher than for whites, for both men and women. The result is multiple, and at times competing, demands on criminal justice officials to treat minority defendants fairly while also ensuring the safety of poor blacks and Latinos living in high-crime areas. Esther Madriz (1997) offers a particularly thoughtful analysis of women’s fears about crime, both for themselves and for the men in their lives. She concludes that African-American women and Latinas, especially those living in urban areas, worry about their sons, brothers, cousins, fathers, and uncles because their rates of violent victimization are so high, yet they also worry that their loved ones will be treated unfairly by the police and courts.

Social context is another critical element in understanding race effects (Myers and Talarico 1986, 1987; Myers 1989; Peterson and Hagan 1984; for recent summary reviews, see Chiricos and Crawford 1995 for adults, and Bortner, Zatz, and Hawkins 2000 for juveniles). Context includes both time and place. For example, Myers (1989) and Peterson and Hagan (1984) found that racial differences in drug cases peaked at the height of the drug war when dealers and traffickers were targeted instead of simply drug users. Similarly, Zatz (1987b) and Humphries (1999) have argued that moral panics about Latino gangs and crack mothers mushroomed when immigration (for gangs) and welfare and drugs (for crack mothers) became major regional and national issues. Studies of context also draw our attention to the importance of region (e.g., race effects are generally strongest in the South), and the racial composition, racial income inequality, and index crime rates of the sentencing counties (Myers and Talarico 1986, 1987).

The racial/ethnic and gender compositions of the court have also been examined as potentially important aspects of social context (Holmes et al. 1993; Spohn 1990). Generally, researchers have found few differences in sentencing patterns based on the sex and ethnicity of the judge, suggesting that under determinate sentencing or sentencing guidelines there is very little room for judicial discretion and that the process of legal training and socialization results in relatively similar perspectives about cases and defendants emerging, regardless of the judge’s race or sex.

Level of aggregation is related conceptually to context, yet it also raises another, methodological concern. Some studies aggregate at the level of the county, others the State, and still others the region or Nation. Crutchfield, Bridges, and Pitchford (1994) replicated earlier studies of expected and observed incarceration rates by race conducted by Blumstein (1982) and Langan (1985). While Blumstein and Langan took State-level data and aggregated them into a national dataset, Crutchfield and his colleagues disaggregated the same data to allow comparisons by States and regions. They found that aggregating State data to the national level masked “dramatic and substantively important differences” (1994, 174). For example, although approximately 90 percent of the racial disparities in incarceration could be explained by arrest data when all 50 States were combined into one aggregate dataset, disaggregating the data by region showed that arrest data only account for 69 percent of the disparity in the northeastern States. Variation across States was even stronger, leading Crutchfield and his colleagues to conclude, contrary to Blumstein’s and Langan’s findings, that “in some areas, the unwarranted disparities are substantial and that the statistical relationship between arrest and imprisonment rates is quite weak” (1994, 174). Further, they assert, “As long as there is significant variation across states in crime rates, arrest rates, imprisonment rates, and the ratios created with them, combining states to measure the extent of racial disproportionality in imprisonment or to consider theoretical explanations for any differences is inappropriate” (p. 174).

The reliance on white-black or white-nonwhite comparisons in many studies also leads to misleading findings. For example, Latinos and Latinas, American Indians, and Asian-Americans are excluded from many datasets. Consequently, we do not know how ethnicity influences criminal justice decisionmaking and are left with only the simplest of race effects. In other datasets, including Federal sources, Latinos and Latinas are coded white, thus artificially inflating the number of whites in those samples. In addition, Spanish-speaking Afro-Caribbeans are sometimes coded on the basis of Spanish surname (in which case they would be coded white) and, at other times or in other jurisdictions, on the basis of appearance (in which case they would be coded black). Also, due to the history of Spanish colonization of North America, many American Indians have Spanish surnames. Particularly if American Indians are arrested in urban areas, they may be coded as Hispanic, and then further collapsed into the white category.

Studies that include Latinos as a separate racial/ethnic category have repeatedly demonstrated that there are important differences in the court processing and sanctioning of whites, blacks, and Latinos (Holmes and Daudistel 1984; LaFree 1985; Petersilia 1983; Welch, Spohn, and Gruhl 1985; Zatz 1985b). Moreover, the few analyses of the experiences of American Indians and Asian-



Americans suggest tremendous variation between and within these groups (see Deloria and Lytle 1983; Hawkins 1995; Lujan 1995; Mann 1993; Mann and Zatz 1998; Takaki 1993; Walker, Spohn, and DeLone 1996).

The difficulty, indeed often the impossibility, of unpacking socioeconomic status from race is a final critical inadequacy of many of the datasets used in the latter part of the 20th century. Most data come from the courts, and courts generally do not collect good economic indicators. One consequence is the common assumption that people of color are all poor and that white defendants are all middle class. Second, some of the racial differences found in processing and sanctioning decisions may be attributable to class differences in access to resources. That is, if middle-class defendants have more resources available to them than do poor defendants (e.g., psychiatric resources, legal aid, knowing how to arrange for and being able to pay for drug and alcohol treatment or alternative schools), then class may explain some racial disparities in pretrial release, diversion, and type of sanction (Bridges and Steen 1998; Fagan, Slaughter, and Hartstone 1987).

## **Sex and gender**

Sex and gender are sometimes used interchangeably. As I use these terms, *sex* refers to the classification of people as men or women on the basis of biological criteria; *gender* refers to socially learned aspects of human identity. Thus, gender is not simply a category, attribution, or role, it is a dynamic process of constructing particular ways of being masculine or feminine (see similarly Martin and Jurik 1996).

Gender was largely ignored by criminologists until the late 1970s and 1980s, and even then attention spotlighted sex differences in crime commission and sanctioning rather than questioning the gendered nature of crimes by men and of the criminal justice system's response to men's crimes (Daly and Chesney-Lind 1988; Simpson 1989). Nevertheless, a growing body of scholarship has coalesced around the question of sex differences in sentencing. This research examines *whether* sex differences exist, *how* gender conditions leniency, and *why* sex differences arise.

The first question concerns whether sex differences arise. The most comprehensive recent summary of this research is provided by Daly and Bordt (1995). They analyzed published findings from 50 court datasets to assess whether significant sex differences favoring women were related to the statistical procedures used, court contexts, sample composition (including race), and how the research was conceptualized (e.g., gender focused or not). Approximately half of the studies found results favoring women, with another one-quarter reporting

mixed results or no significant effects. Overall, sex differences favoring women are most visible in studies of felony offenses, among cases prosecuted in felony courts, and in courts located in urban areas. Sex differences are also most pronounced in the decision (not) to incarcerate, rather than in sentence length. For example, Daly (1994), Farnworth and Teske (1995), Steffensmeier, Kramer, and Streifel (1993), and Ulmer and Kramer (1996) found substantial gender gaps—of about 10 percentage points—in the likelihood of incarceration for men and women during the mid-1980s, even after controlling for many relevant factors.

As was the case for race, sentencing guidelines and determinate sentencing were supposed to eradicate sex differences in sentencing. This has not occurred, however, at least under California, Pennsylvania, Minnesota, and Federal guidelines. For example, Nagel and Johnson (1994) examined drug, larceny, and embezzlement cases in Federal court after the guidelines went into effect, finding that favorable treatment of female offenders persists. This effect was particularly pronounced for drug offenses, with 14.3 percent of female drug offenders receiving downward departures under Federal guidelines compared with 6.7 percent of male drug offenders (p. 219).

The question of whether women and men should receive the same or different treatment has sparked considerable debate in recent years. An emphasis on sameness minimizes differences between men and women and advocates equal treatment based on gender-neutral implementation of the law. The standard against which all defendants are held, however, continues to be males. Nagel and Johnson (1994) exemplify the sameness perspective, arguing that equality requires that men and women be treated strictly the same, with any leniency seen as a reflection of unwarranted paternalism. The result has been tremendous increases in the rates of incarceration of women and in their confinement for longer periods of time than in the past, without any equality in the programs available to male and female inmates or in their health care while in prison (Belknap 1996; Richie 1996).

The difference framework emphasizes women's special needs while pregnant and caring for small children, and women's experiences as victims of rape and battering. This perspective also takes males as the standard, and advocating for special protections risks reinforcing patriarchal dominance and stereotypic images of women. However, special protections also open the door to drug treatment and other nonincarcerative options. Most feminist research today tries to move beyond this dichotomy, examining instead how the criminal law reinforces gender inequality and contributes to women's economic and social deprivation through its support of patriarchal interests (Daly and Chesney-Lind 1988; Roberts 1994; Scales 1986; Simpson and Elis 1995; Smart 1989). As Roberts suggests:

The aim of eliminating preferential treatment for women wrongly assumes that the sentencing system is basically fair. Uniform sentencing is not fair, however, if embedded in sentencing schemes is a male-based model that presumes a potentially violent criminal who is not the primary caretaker of young children. (p. 13)

A second major emphasis evidenced in the literature is the attempt to determine exactly how gender conditions leniency—among which women and under what circumstances. The answer seems to be women with families, but two different reasons have been posited. The first, articulated most clearly by Candace Kruttschnitt, points to gender-based family roles. Kruttschnitt proposed that incarceration is less necessary to control the behavior of women than men because women's economic dependence on their husbands and other relatives affords families additional, informal mechanisms of social control (Kruttschnitt 1984; Kruttschnitt and Green 1984). The second approach, which has been most clearly presented by Kathleen Daly (1987, 1989), emphasizes a familial-based paternalism that distinguishes between female defendants with and without children, and then grants greater leniency to those women who have children because of the practical expenses (e.g., foster care) of incarcerating women with children (see also Daly 1994; Steffensmeier, Kramer, and Streifel 1993; Ulmer and Kramer 1996).

Bickle and Peterson (1991) explored these two theses in their study of Federal forgery offenders. Like Daly (1989), they found that race helped explain the effects of the family variables, but they also found that for black women having children is not sufficient—they must also be seen as *good* mothers to receive leniency based on family variables. More specifically, “black women do not benefit from simply occupying this central family role; they must perform it well” (1991, 388). Bickle and Peterson also add to Kruttschnitt's thesis, finding that the sentencing advantages of being married are greater for black women than for white women, and that white women but not black women are penalized for living alone (pp. 386, 388). They conclude, “[t]he significance of the influence of family role variables cannot be described or interpreted in terms of either race or sex alone. Patterns of interaction encompass both race and gender” (p. 390). These findings suggest that the courts are making decisions not solely based on women's family status but also on prosecutors' and judges' assumptions about black and white families and about black and white women's relationships with their children.

A third key question that continues to plague research on sex and gender concerns *why* sex effects favor women. Daly and Bordt (1995) outline three potential interpretations. First, sex effects may reflect unknown and perhaps unwarranted sources of gender disparity. These may include favoritism toward

women and protection of women from the hardship of jail. This interpretation is also known as the “chivalry” hypothesis (Bishop and Frazier 1984; Farnworth and Teske 1995). The second explanation holds that sex effects are not real, but rather are an artifact of poor data and statistical models, including inadequate controls for prior record, the nature and severity of men’s and women’s offenses, the defendant’s role in committing the offense and relationship with the victim, and the circumstances surrounding the offense. The third interpretation acknowledges the importance of offender and offense context raised by the second explanation, while also recognizing that sex effects may reflect *warranted* sources of gender disparity and *legitimate* sentencing goals, such as not separating children from their parents. As Daly and Bordt note, the most recent and sophisticated research supports this third interpretation. For example, Steffensmeier, Kramer, and Streifel (1993) found that judges departed from sentencing guidelines in Pennsylvania in ways that favored women who did not have a violent prior record, had mental or health problems, were caring for dependent children or were pregnant, played only a minor role in the offense, and showed remorse.

These findings suggest the crucial importance of gendered attributions on the part of judges and prosecutors. Steffensmeier, Kramer, and Streifel (1993), Daly (1994), and others have presented strong evidence that judges see women as less blameworthy than men, that they are concerned with the practicalities of incarcerating mothers, and that they recognize the blurred boundaries between women’s experiences as victims and as offenders. As will be discussed later in the context of crack mothers, however, these decisions may well rest on judicial and prosecutorial attributions of who is a “good” mother, with such attributions likely linked to race and class. Following Daly and Bordt (1995), any conclusions must consider the

complex configurations of offense seriousness, the defendant’s history of lawbreaking, the victim-offender relationship and the defendant’s role in the offense, the victim’s degree of fear due to the defendant’s actions, the size of the offender group, the defendant’s history of being in a battering relationship, the degree of reform potential that judges envisioned for some defendants, and the degree to which the defendant seemed committed (or not) to “the street life.” (p. 162)

These positive forms of disparity are, in Daly and Bordt’s words, the justice system’s recognition of gender difference “refracted through layers of culture and social institutions” (p. 164).

Yet even though the likelihood of incarceration remains lower for women than men, incarceration rates for women rose at a staggering pace during the 1980s

and 1990s. More than 10 percent of the jail population and more than 6 percent of the prison population now consists of women. In 1970, there were about 5,600 women in State and Federal prisons (E. Currie 1998); by 1997, there were 75,000 (Gilliard and Beck 1998). Another 35,000 women were incarcerated in jails, for a total of more than 100,000 women behind bars “on any given day” in the 1990s (Donziger 1996, 147). Of these, a disproportionate number are women of color. The Sentencing Project reported in 1990 that 1 in 37 young African-American women aged 18–29 and 1 in 56 young Latinas in the same age group were under the control of the criminal justice system, compared with 1 in 100 young white women in the same age group (Mauer 1990). Much of this increase is due to mandatory incarceration for drug use and sales. Most incarcerated women are poor, three-fourths are mothers, half ran away from home as youths, a fourth had attempted suicide, more than half were victims of physical abuse, and more than a third were victims of sexual abuse (Donziger 1996, 150; Snell 1994).

## **Class**

Class is one of the paramount sociological variables, yet our measures of it in criminal justice data are abysmal. As a result, we end up guessing about the extent to which type of attorney, bail status, and even race serve as proxies for class. The Uniform Crime Reports does not include any class or income measures. The *Sourcebook of Criminal Justice Statistics* shows only household income categories for victims, by type of crime. We do know from prison surveys, however, that only about one-half of the Nation’s jail and prison inmates were employed full time prior to being incarcerated and that the incomes they were earning were generally low. Similarly, Miller (1996), Donziger (1996), Tonry (1995), and others writing about the massive incarceration of African-American males all point to the structural problems caused by long-term unemployment and pervasive poverty.

Compared with the expansive literature on race and sex effects, there are few studies of economic status and sentencing, although a few aggregate analyses of crime rates and arrest rates consider economic indicators (e.g., Chiricos 1987; Kovandzic, Vieraitis, and Yeisley 1998; LaFree and Drass 1996; Sampson and Wilson 1996). There is general recognition among scholars that some of the race effects that have been found may be due in part to class effects. Yet Crawford, Chiricos, and Kleck’s response is typical:

Our data make it impossible to control for class, income, or even employment status. But it should be noted that at the sentencing stage of the judicial process, class is virtually constant. There are likely few defendants eligible for habitual offender sentencing who are not low

income and “working class” or part of a labor surplus that is either unemployed or not in the labor force. (1998, 502)

Thus, two problems arise when scholars attempt to examine the relationship between class and criminal court sentencing: first, the lack of good indicators of economic status in court data, and second, the lack of variation. That is, the case filtering that goes on throughout the criminal justice system reduces variation at each stage, from police surveillance through charge and plea bargaining, resulting in very little economic variation left to be explained at sentencing.

Of the indicators related to class, we have the best data on employment status. We know, for example, that defendants who are employed appear to be better candidates for pretrial release than similar defendants who are unemployed. Miethe and Moore (1985) found that the effect of employment status on the sentencing of felons was reduced in Minnesota after sentencing guidelines were introduced, but indirect effects of employment status continued to be found. Controlling for relevant case attributes, gender, age, and race (which also evidenced indirect effects through offense type and criminal history), employment status indirectly influenced sentencing decisions through its effect on charge bargaining and the defendant’s ability to successfully negotiate jail time rather than prison. In addition, in contrast to the intent of the sentencing guidelines, education had a greater impact on the decision to incarcerate after the guidelines went into effect than it had before they were introduced. Miethe and Moore concluded that these social and economic biases “are slightly more subtle, but no less real, after the implementation of Minnesota’s determinate sentencing system” (1985, 358). In another key study, Chiricos and Bales (1991) found that the interaction of race and unemployment significantly increased the likelihood of incarceration for both African-Americans—particularly young African-American males—and unemployed defendants.

Again, though, the conceptual distinctions between employment status and class status must be stressed. Two defendants may both be employed full time yet their life circumstances and experiences will differ dramatically if one was born into poverty and the other was born a millionaire. Yet aside from studies of white-collar criminals, economic status and other measures of class are rarely analyzed by criminologists. Moreover, although most white-collar crime studies focus on the activities of middle- or upper-class white males, this race-class-gender nexus is rarely considered.

I turn next to those studies that explicitly examine the convergence of race, gender, and/or class. Most of this research focuses on the joint effects of race and

gender, with very little attention to class. Once again, the lack of good socioeconomic data precludes the detailed scholarship we might otherwise expect to see.

## **Major Findings of Studies With Multiple Emphases**

Although scholars have acknowledged the importance of considering race, gender, and class jointly, few have done so until recently. This void in the literature is due in part to criminologists having only lately begun to pay theoretical attention to the ways in which these multiple statuses intersect in people's lives, and in part to problems with the datasets we use. Nevertheless, we now know some of the ways in which race and gender, if not always class or ethnicity, interact in their influences on case processing and sanctioning. Bickle and Peterson (1991), Daly (1987, 1989, 1994), and Farnworth and Teske (1995) examined the interaction effects of gender and race on sentencing decisions to ascertain whether and how race conditions gender and family status effects. Ulmer and Kramer (1996) also found significant differences in sentence severity associated with going to trial, race, gender, and court size. Drawing on racialized and gendered attributions, they suggest that "substantively rational concerns, such as court actors' perceptions of offender dangerousness, rehabilitative potential, practical organizational constraints, and practical consequences for offenders, are likely to be intertwined with race, age, gender and mode of conviction" (p. 385). Moreover, stereotypic images of defendants based on their race and economic class interact with defendant resources and behavior to influence case processing and decisionmaking, especially in departures below the guidelines (Ulmer and Kramer 1996; see also Kramer and Steffensmeier 1993; Kramer and Ulmer 1996).

Steffensmeier and his colleagues (1998) took this effort a step further, using Pennsylvania data from 1989 to 1992 to investigate the interaction of race, gender, and age in sentencing decisions. They sought to better understand how each of these statuses might contextualize the effects of the others. Like other researchers, Steffensmeier, Ulmer, and Kramer found that young black men are most likely to receive the harshest penalties. This was a very robust finding, holding for both the decision to incarcerate and the length of sentence. Breaking this finding down, they report that older black males and older white males received similar sentences, although younger black males received significantly harsher sentences than younger white males. Age effects were negligible for females, however, and race effects persisted across all ages for females. That is, younger as well as older black females were sentenced more harshly than their white counterparts (p. 786).

Steffensmeier, Ulmer, and Kramer (1998) supplemented their quantitative data with interviews with judges to further contextualize their findings. Drawing on the extant literature previously discussed, Steffensmeier and his colleagues explored how organizational decisionmaking and attribution theories help us to understand three focal concerns that criminal justice actors use in reaching sentencing decisions: offender's blameworthiness and the degree of harm caused the victim, protection of the community, and the practical implications of sentencing decisions (p. 766). Considering their quantitative and qualitative data jointly and noting the similarities between their findings and those of Daly (1994), they posit:

Younger offenders and male defendants appear to be seen as more of a threat to the community or not as reformable, and so also are black offenders, particularly those who also are young and male. Likewise, concerns such as "ability to do time" and the costs of incarceration appear linked to race-, gender-, and age-based perceptions and stereotypes. The latter also bear on perceptions of whether defendants' social histories show greater victimization at the hands of others and whether their current circumstances suggest somewhat more conventionality. (p. 787)

Recalling that sex effects favoring women may be warranted or unwarranted, one of the unwarranted forms has come to be known as the chivalry effect. As Belknap (1996, 70) notes, "chivalrous treatment is usually a bartering system in which women in general are viewed as being less equal. This bartering system is extended only to certain kinds of females, according to their race, class, age, sexual orientation, demeanor, and adherence to 'proper' gender roles." As a consequence, women of color may not receive the chivalry accorded white women, younger women may not be treated as chivalrously as middle-aged women who may be especially polite and deferential to police and judicial officials, and poor and less educated women may not appear and behave in ways perceived by men as deserving of protection, relative to better educated middle-class women (Farnworth and Teske 1995; Visher 1983).

Expectations about "proper" behavior for women is very much in evidence in rape cases, and these show clearly how expectations are classed and raced as well as gendered. Although poor white women who do not act "properly" are not seen by prosecutors or jurors as "good" rape victims (Bumiller 1998; Estrich 1987), historically and contemporaneously, the rape of black women has been given the least weight of all by criminal justice officials. Under slavery, black women could not legally be raped by their white masters because they were the slave owners' property. With emancipation, black women's lives and bodies continued to be devalued. Rape of a black woman was not and is



not treated as seriously as rape of a white woman, whether the rapist is white or black. Few black women would dare to charge a white man with rape, yet rape of white women by black men, which historically was the excuse for lynching, continues to be treated as among the most heinous of crimes, and the myth of the black male rapist lingers (see Crenshaw 1989, 1991; Fishman 1998; Harris 1990; LaFree 1980, 1989; Miller and Levin 1998; Roberts 1994; Rome 1998).

Also, the excuses that are sometimes made for white women who kill (e.g., they are mentally ill or victims of battering) generally are not extended to African-American women or Latinas (Miller and Levin 1998). One of the risks of the battered woman defense is that it draws on a particular, stereotypic image of "the battered woman." When real people do not fit the stereotype, there is a loss of sympathy for them (Richie 1996; Smart 1992).

In all of these myriad instances, then, we see that being female is not in and of itself sufficient to explain how a woman who commits a crime or who is victimized will be perceived and the official reaction to her. Rather, it is a complex set of factors, including attributions about why she acted as she did (e.g., her blameworthiness and history of victimization), the extent to which she fits particular images of proper feminine behavior (e.g., not drinking, polite and deferential to male authority figures), and her appearance and demeanor (including age, dress, and hairstyle). These are all, ultimately, linked to race, culture, and class as well as gender.

Criminologists and court officials have not been very attentive to the linkages between racial and ethnic oppression, patriarchal domination, and culture. As a consequence, even when they try to be sensitive to race, gender, and culture, they may blunder. For example, Razack (1994) shows how efforts to be sensitive to culture may reinforce patriarchy. In her analysis of sexual assaults involving Native peoples in Canada, Razack suggests that when culture is brought up as a defense it often ignores the harm done to Native women. She discusses cases in which a white male Canadian judge chose to send Native men who had sexually assaulted women back to the community for disposition and healing instead of incarcerating them. In one such case, the man had assaulted two of his daughters, and in another case, the defendant had

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assaulted a number of local boys. The Yukon Association for the Prevention of Community and Family Violence strongly criticized this set of decisions, stating that this offender-centered version of justice left victims of sexual assault without remedy, forced to see their assailant on a daily basis. As Razack observes, “cultural sensitivity rests on a highly gendered and unsophisticated view of culture and . . . on a gendered view of the impact of colonization” (p. 901).

Thus, although the number of studies that explicitly examine the interaction of race, gender, and/or class is growing, researchers too often continue to treat these social relations simply as exogenous variables, rather than affording detailed analyses of how racial, class, and gender hierarchies are experienced by real people and how they both influence and are supported by criminal justice policies and practices.

## **The Intersections of Race, Gender, and Class**

We live our lives as raced, classed, and gendered beings. Certainly, in some circumstances, particular aspects of who we are become most salient, but as scholars we risk creating limited views of the world if we focus on only one or two of these relationships. Generally, feminist legal scholars, particularly critical race feminists (e.g., Crenshaw 1989; Harris 1990; King 1988; Matsuda 1992; Montoya 1994; Williams 1991; Wing 1997) do a far better job of assessing the convergences among race and gender (and sometimes class and sexual orientation) than do criminologists. This concern for what Kimberlè Crenshaw (1989) calls “intersectionality” lies at the heart of critical race feminism, and greater attention to this field could benefit criminologists. In particular, we are apt to essentialize “woman” to mean white, middle-class woman, and “race” to mean blacks or, more specifically, black men (see Spelman 1988 and Hurtado 1996 for excellent critiques). For example, the earlier discussion about race and rape is informed by Crenshaw’s thoughtful analysis:

The singular focus on rape as a manifestation of male power over female sexuality tends to eclipse the use of rape as a weapon of racial terror. When Black women were raped by white males, they were being raped not as women generally, but as Black women specifically: Their femaleness made them sexually vulnerable to racist domination, while their Blackness effectively denied them any protection. This white male power was reinforced by a judicial system in which the successful conviction of a white man for raping a Black woman was virtually unthinkable. (1989, 158–159)

Lately, however, criminological theorizing about the confluence of gender, race, and class is improving. Although most scholarship that looks at gender and crime or gender and court processing continues to treat gender as a fixed attribute of individuals or as a patterned role, new work in this area stresses how gender emerges through social interaction in a given social context. Informed in large part by sociological work by Candace West and her colleagues (West and Fenstermaker 1995; West and Zimmerman 1987), James Messerschmidt (1997, 1993) has taken the lead in demonstrating how gender relations and images of masculinities and femininities are related to crime. His structured action theory of crime seeks to keep race, class, and gender constantly in mind, treating them as interlocking sets of social relations. This approach allows us to look more carefully at how crime is gendered within a given social and historical context (e.g., the antebellum South, urban drug and sex markets). By considering masculinities and crime as well as femininities and crime, we are better able to see how racial and class hierarchies join together with gender hierarchies to influence how and why a person might choose to commit a particular crime in a given situation.

A growing number of criminologists (e.g., Miller 1998; Newburn and Stanko 1994; Simpson and Elis 1995) are borrowing from West and her colleagues in looking at the *construction* of gender as an emergent process and at crime as a useful resource for this construction. Similarly, Martin and Jurik (1996) consider how particular forms of masculinity and femininity emerge and are shaped on a daily basis by those working in the criminal justice system. Yet to my knowledge, no one has used this framework to examine how gendered images and assumptions are developed, reinforced, or altered in the context of court processing and sanctioning. Rather, we fall back on simpler understandings of gender as an attribute or as a patterned behavior.

### **Examples of intersectionality: Crack mothers and O.J. Simpson**

When we look at policies as racialized, gendered, and classed, we are recognizing not only that they have effects that differ along these dimensions, but also that they operate in ways that produce and reproduce particular social constructions of race, gender, and class. Two recent examples demonstrate this convergence. One concerns the representation of “crack mothers,” the other is the murder trial of O.J. Simpson.

By the late 1980s, crack mothers had come to epitomize all that was wrong with our society. Gender and discourses about motherhood, specifically good and bad mothers, converged with racial realities and stereotypes and with economic status at the historical moment when attacks on welfare and abortion

were rampant, the war on drugs was lavishing huge profits for shareholders of private prisons, and drug treatment—particularly residential treatment for pregnant women or women with children—was far more difficult to find than a prison bed (Gómez 1997; Humphries 1999; Kasinsky 1994; Roberts 1991). By 1990, 52 women had been prosecuted for transporting drugs to their babies via the umbilical cord. Of these, 35 were black, 14 were white, 2 were Latina, and 1 was Native American (Roberts 1991, 1421).

Given the context and prosecution patterns, two major questions have arisen. First, is crack cocaine significantly more harmful to a fetus than other drugs and risk factors associated with poverty, and second, is prosecution of crack mothers racially and class biased? Unfortunately, it is difficult to determine whether crack cocaine is significantly worse for the fetus than powder cocaine, heroin, or other drugs, especially when drug use occurs in the context of poverty. It is especially hard to untangle the effects of crack cocaine from other factors that might harm a fetus, since most actively imbibing crack addicts do not maintain a nutritious diet, regular patterns of sleep, and routine and adequate prenatal medical care. Even if they were not addicted to crack, poverty alone can make it difficult for pregnant women to eat a nutritious, balanced diet. In addition, though, addicts may be reticent to go to clinics for prenatal medical care if they fear that their doctors will report them to criminal justice authorities (Humphries 1999).

The second question goes to the heart of the intersection between poverty and race. Ira Chasnoff and his colleagues conducted research on drug testing and reporting of pregnant women in public and private hospitals in Florida (Chasnoff, Landress, and Barrett 1990). They found that the use of alcohol and illicit drugs was fairly common among pregnant women, regardless of race and socioeconomic status, with white women tending to use marijuana and black women cocaine. Chasnoff's study demonstrated clear racial and class biases in drug testing of pregnant women in both public and private hospitals and in the reporting of test results. Due to a combination of stereotypes about African-American women and a reluctance on the part of private physicians to report their paying, middle-class white patients, Chasnoff and his colleagues found that African-American, pregnant drug users were 10 times more likely than white drug users to be reported. Moreover, almost all of the women whose drug use was reported, whether black or white, were poor.

As Dorothy Roberts notes, poor, black, drug-addicted women were probably not singled out for prosecution based on a *conscious* devaluation of their motherhood, but rather as “a result of two centuries of systematic exclusion of Black women from tangible and intangible benefits enjoyed by white society” (1991, 1454). That is, “[p]oor Black women are the primary targets of prosecutors, not

because they are more likely to be guilty of fetal abuse, but because they are Black and poor” (p. 1432), and “[t]he State’s decision to punish drug addicted mothers rather than help them stems from the poverty and race of the defendants and society’s denial of their full dignity as human beings” (p. 1481).

At the other end of the spectrum is the trial of Orenthal J. Simpson for the murder of his ex-wife, Nicole Brown Simpson, and her friend, Ronald Goldman. Simpson escaped his poverty background to become extremely rich and popular in two forums traditionally open to black men—sports and entertainment. The woman he married, battered repeatedly, and was accused of murdering was white. When a primarily black female jury determined that reasonable doubt as to his guilt existed, in large part because the primary police officer involved in the case had a history of racist and illegal actions, the myriad ways in which this case reflected the multiple cleavages in our society crystallized (Chancer 1998; Weston 1997). Many whites in America accused the defense team of “playing the race card” and the jury of engaging in nullification on the basis of race (see Morrison and Lacour 1997). That is, they assumed that the jury thought Simpson was guilty but wanted to teach the Los Angeles Police Department a lesson. The case leaves many questions open to speculation: Would the same charges of jury nullification have been raised had the victims been black? Why is pointing out longstanding patterns of racial bias within a police department considered to be “playing the race card?” What was the relevance, both to the general public and the jury, of the history of battering that emerged during the trial? Why was this history not a focal point of the trial? How would the trial have been different if an equally wealthy and popular white man was charged with the same crime? If the victims had been black?

One of the most disturbing aspects of this case for many people was the extent to which it reflected deeply polarized views of the criminal justice system. It is well known among criminologists that African-Americans and whites hold very different views about whether the system is fair (Currie 1985; Hagan and Albonetti 1982; Meares 1997). What seems to have startled some, however, was the extent to which many African-Americans, and particularly African-American men, saw the trial as yet one more instance in which racist police were willing to plant evidence to bring down a black man, especially one who lived far more comfortably than the white police officers. From this perspective, the fact that a black man actually was acquitted of murdering two white victims was a major step forward. Even if the vast majority of African-Americans could never afford Simpson’s “dream team” defense, the acquittal meant that it was possible for a black man to win. Equally startling to some was the extent to which many whites, and especially white women, saw Nicole Brown Simpson’s murder as one more instance in which a batterer ultimately

killed his ex-wife. For them, Simpson's money and race were immaterial. This was a case of yet another batterer getting away with murder. Of course, many people crossed these polarizing lines for various reasons. For example, many white sports fans were delighted to see an athlete win in yet another venue. And questions were raised about whether or not Simpson's wealth allowed him to transcend race, and whether Nicole Brown Simpson's fun-loving lifestyle and marriage to a black man lessened the extent to which she could symbolize white femininity (see the excellent collection of essays on this topic in Morrison and Lacour 1997).

As I have tried to demonstrate, full analysis of both the murder trial of O.J. Simpson and the prosecution of crack mothers is impossible without being attentive simultaneously to the race, class, and gender of all of those involved. Next I turn to a brief discussion of some of the most recent crime control policies that have operated in ways that are racialized, gendered, and classed. Although some discussion of the policies themselves is necessary, my emphasis is on the ramifications of these policies when the cases reach the courts.

## **The war on drugs and other racialized, gendered, and classed policies**

The movement in the last quarter of the 20th century to limit judicial discretion while simultaneously demonstrating how tough we are on crime has given legislators, especially, and prosecutors and police tremendous power. Rather than judges determining what is fair and just and who has a chance of being rehabilitated, State legislatures are making sweeping stipulations. These include the war on drugs and the war on gangs, both of which target racial/ethnic minorities, and the automatic transfers of certain categories of youths to adult court.

### ***The war on drugs***

It is widely recognized that the war on drugs has led to tremendous increases in incarceration rates for young black males living in inner cities (Donziger 1996; Lusane 1991; Miller 1996). It has also swept up large numbers of African-American women and Latinos and Latinas. These efforts are gendered not only in the numbers of men and women arrested and incarcerated but also in the meanings that are given to drug use by men and women. The gendering of the war on drugs is especially clear in the ways in which drug-addicted pregnant women are depicted by the media, and in media and courtroom representations of who is a good or bad mother (see further Gómez 1997; Gustavsson and MacEachron 1997; Humphries 1999; Roberts 1991). The war's impact is also linked with economic class, both in the choice of drug to target and in the locations where police surveillance is the greatest.

The battle lines have been drawn around crack cocaine, which is a drug of choice among poor people, particularly poor people of color. Wealthier drug users tend to prefer powder cocaine, methamphetamine is a favorite of poorer whites, and alcohol and marijuana are widely used across races and economic classes. Yet under Federal law and many State laws, crack and powder cocaine carry vastly different penalties, resulting in what has come to be known as the 100:1 ratio. Under the Federal Anti-Drug Abuse Act of 1986, a person possessing with intent to distribute 50 grams or more of crack cocaine must be sentenced to no less than 10 years in prison (21 U.S.C. § 841(b)(1)(A)(iii)[1986]). For powder cocaine, this same 10-year mandatory minimum comes into play only when a person possesses with intent to distribute at least 5,000 grams of powder cocaine (21 U.S.C. § 841(b)(1)(A)(ii)(II)[1986]). And, under the Anti-Drug Abuse Act of 1988, a person caught possessing from 1 to 5 grams of crack cocaine is subject to a mandatory minimum sentence of 5 years in prison (21 U.S.C. § 841 (b)(i)(B)(iii)[1988]).

Enforcement of the drug laws has had staggering consequences for our criminal justice system, prisons, and cities. The Washington, D.C.-based Sentencing Project reports that incarceration of drug offenders increased by more than 500 percent between 1983 and 1993. In the 5-year period from 1986 to 1991, the number of African-Americans incarcerated in State prisons for drug offenses increased by 465 percent. By 1994, African-Americans and Latinos constituted 90 percent of all drug offenders in State prisons. Nationwide in 1994, one in three black men between the ages of 20 and 29 was under some form of correctional supervision, up from one in four in 1989. In contrast, for white men in the same age group, 1 in 16 was under correctional supervision in 1989 (Mauer 1995).

The war on drugs has also dramatically increased incarceration rates for women. The number of African-American women incarcerated for drug offenses in State prisons increased by 828 percent between 1986 and 1991 (Mauer 1995, 1997). Using a longer timeframe, the National Women's Law Center (1997) reports that the female prison population more than tripled between 1980 and 1993. Looking at the female prison population nationwide, 46 percent of the incarcerated female population is African-American and another 14 percent is Latina, for a total of 60-percent black or Latina. In contrast, only 36 percent of the incarcerated female population is white.

To put these figures into the context of relative numbers of drug users, the Sentencing Project reports that approximately 13 percent of the total population and about 13 percent of all drug users are African-American. Yet African-Americans constitute 35 percent of arrests for drug possession, 55 percent of convictions for possession, and 74 percent of prison sentences for drug possession (Mauer 1995). Miller (1996, 81) reports similar statistics from 1992 U.S.

Public Health Service estimates, which revealed that 14 percent of illicit drug users in the United States were black, 8 percent were Latino, and 76 percent were white. Cocaine use patterns differ only slightly, with whites constituting two-thirds of cocaine users and the other third split fairly evenly between blacks (17.6 percent) and Hispanics (15.9 percent).

Michael Tonry (1995) has argued that those persons responsible for our current drug policies, particularly the huge disparity in sanctions for crack and powder cocaine, knew or should have known that the effects of these laws would decimate African-American communities. In Tonry's words:

Anyone with knowledge of drug-trafficking patterns and of police arrest policies and incentives could have foreseen that the enemy troops in the War on Drugs would consist largely of young, inner-city minority males. . . . Any conventional ethical analysis would hold them accountable for the consequences of their policies. (p. 4)

***While considerable attention has been paid to the war on drugs, we also need to consider whether other pieces of legislation appear race-neutral, gender-neutral, and/or class-neutral on their faces but have significantly disparate impacts. One such example is the growing number of antigang statutes being promoted across the country.***

Similarly, Judge Clyde S. Cahill, who invalidated the sentencing regime in a Missouri case in which the defendant possessed 50 grams of crack cocaine, argued "Although intent *per se* may not have entered Congress' enactment of the crack statute, its failure to account for a foreseeable disparate impact which would affect black Americans in grossly disproportionate numbers would nonetheless violate the spirit and letter of equal protection" in *U.S. v. Clary* (846 F. Supp. 768, 782 [E.D. Mo. 1994], rvd, 34 F. 3d 709 [8th Cir. 1994], cert. denied, 115 S.C. 1172 [1995]). He went on to assert, "If young white males were being incarcerated at the same rate as young black males, the statute would have been amended long ago" (*U.S. v. Clary*, 792). The U.S. Sentencing Commission also recommended in May 1995 that the crack/powder differential be eliminated, in large part because of its racially disproportionate impact.

Yet it must also be recognized that others disagree with these recommendations. For example, Judge Cahill's decision was overturned and the U.S. Congress ignored the Sentencing Commission's recommendation, retaining the distinction between crack and powder cocaine. A few African-American



scholars also support the continued distinction in penalties for crack and powder cocaine and incarceration of drug offenders. Most notably, legal scholar Randall Kennedy has argued that crack is more addictive and thus destructive of black communities than is powder cocaine. According to Kennedy, “imprisonment is both a burden and a benefit—a burden for those imprisoned and a good for those whose lives are bettered by the confinement of criminals who might otherwise prey upon them” (1998, 375).

### ***The war on gangs***

While considerable attention has been paid to the war on drugs, we also need to consider whether other pieces of legislation appear race-neutral, gender-neutral, and/or class-neutral on their faces but have significantly disparate impacts. One such example is the growing number of antigang statutes being promoted across the country. As Miller (1996), Muwakkil (1993), Zatz and Krecker (2000), and others have noted, huge numbers of young men and women of color are being identified as gang members by police. For example, Zatz and Krecker cite juvenile court estimates that 75 to 95 percent of the youths identified as gang members in Phoenix are Latino or Latina. Miller reports that almost half of all black men ages 21–24 in Los Angeles County in 1992 were identified by the district attorney’s office as gang members (p. 91). In Denver, two-thirds of the African-American boys and men ages 12–24 were on the police department’s list of suspected gang members. Fifty-seven percent of the citizens on the gang member list were African-American, even though they constituted only 5 percent of Denver’s population. Another one-third of the youths on the list were Latino or Latina, while whites, who made up 80 percent of Denver’s population, accounted for fewer than 7 percent of the suspected gang members (Miller 1996).

Making it onto the Gang Squad list can add substantially to a person’s sentence. Many States have already passed antigang legislation, and other States and the Federal Government are contemplating such legislation. These statutes provide sentence enhancements for offenses committed for the benefit of a gang. For example, under Arizona law, certain misdemeanors are raised to felonies if they are done for the benefit of a gang. Also, if a person is convicted of a felony offense with the intent of promoting, furthering, or assisting a criminal street gang, then the presumptive, minimum, and maximum sentences for the offense are increased by 3 years, in addition to any other sentence enhancement that may be applicable (Arizona Revised Statutes 13–604(T)). If identification of individuals as gang members is linked to race, then these apparently race-neutral statutes also become racialized in their application and effects. The growing attention to female gang members (Chesney-Lind and Hagedorn 1999; G. David

Currie 1998; Joe and Chesney-Lind 1995) means that girls and young women who in the past had been assumed simply to be girlfriends or accomplices of male gang members are now far more likely to receive much harsher court sanctions than ever before. And as is the case for males, most of the females who will be sentenced under antigang statutes are African-American or Latina.

### ***Automatic transfers of youths***

The automatic, legislative transfer of youths to adult courts based on offense type is a third example of racialized and gendered policies. Most States have passed laws reducing the discretion of juvenile court judges regarding waivers to adult court, relying instead on automatic transfers of youths charged with particular offenses and/or who meet minimum age criteria. If they are sentenced to prison or jail, these youths are incarcerated in adult facilities under the slogan, "Do adult crime, do adult time." Amnesty International (1998) reports that 3,500 children, mostly boys, have been convicted as adults and are now being housed with adult inmates where they are especially vulnerable to physical and sexual abuse.

Variation exists in exactly how transfers work, but this is a significant move away from the judicial decisionmaking that had characterized most waivers to criminal court in the past (Fagan and Zimring 2000). Although stipulations based on age tend to be relatively race-neutral in their effects, statutory stipulations based on crime type net disproportionate numbers of young men of color, and increasingly of young women of color, who are charged with violent or drug offenses (see further Bortner, Zatz, and Hawkins 2000). The antigang statutes contribute further to these disparities. In many States, offenses that would normally be misdemeanors are reclassified as felonies if they were committed for the benefit of a gang, and are thus eligible for automatic transfer, and most youths arrested for gang-related crimes are black or Latino.

In sum, the renewed emphasis on legislating sentences (illustrated by the war on drugs, the war on gangs, and automatic transfers of certain categories of youths to adult court) strips judges of much of their discretion, handing it instead to prosecutors and police. In the next section, I speculate as to the potential ramifications of these policies and new patterns that might emerge in the 21st century. I also offer suggestions for how we might improve our conceptualization and measurement of key constructs to better fit the reality of a multicultural, multiracial society.

## **Looking to the Future: Continuing Controversies and Questions**

We will enter the 21st century with vastly improved theoretical paradigms and methodological skills compared with the past. Yet controversies and questions continue to plague our understandings of how race, ethnicity, gender, and class influence criminal court processing and sanctioning decisions. We also must be concerned with the consequences of contemporary crime control policies in the near future. In this section, I will briefly discuss seven of these continuing controversies.

### **Methodological issues: Data collection, coding, and analysis**

First, in terms of general methodology, the personal computer has revolutionized our quantitative and qualitative data analysis techniques. It is generally expected within criminology that quantitative research should be attentive to: (1) sample selection bias; (2) proper model specification, including assessment of indirect and interaction effects as well as direct/main effects; (3) jurisdictional differences in data collection and coding strategies, including regional variation and central city-suburban-rural variation; (4) level of aggregation; and (5) appropriate use of cross-sectional and longitudinal data.

We also need to collect more detailed ethnographies of the courts and of peoples' experiences in court, prison, and on the streets. We can then think about what the ethnographies tell us as we analyze our quantitative data, and vice versa, to better develop and assess theoretical paradigms capable of reflecting the complexities of people's lives and the multiple factors that influence criminal justice decisionmaking.

Our data collection strategies are improving, although not as quickly as our analytic techniques. Development of good indicators of our concepts and consistent coding so that cross-jurisdiction comparisons can be conducted continues to be a central problem. For example, as was noted earlier, the Uniform Crime Reports (UCR), which is one of the most popular datasets available for measuring crime rates, does not include indicators of class. And, it is impossible to control for race and gender simultaneously with UCR data. Thus, we can gather race-specific or sex-specific data from UCR for a given crime, but not race-sex combinations (see similarly Belknap 1996, 47). National youth and victimization surveys also must develop better questions about race, ethnicity, and class. Sampling strategies should be redesigned so that the homeless, undocumented immigrants, and people living on remote Indian reservations

have a greater chance of inclusion in household and individual surveys. The U.S. Census Bureau is devoting considerable effort to improving its outreach to these communities, and criminologists should consider borrowing from the Census Bureau's strategies.

As we move into the 21st century, the relevance, power, and authority of the media in our lives is expanding exponentially. In the past, criminologists and the general public looked at court records and newspaper accounts as key sources of information about crime, but this is changing rapidly. Television, movies, infotainment, the Internet, and computer games all reflect and refract images of crime and violence (Cavender and Jurik 1998; Fishman and Cavender 1998). The ready availability and sharp visual impact of these media will likely lead the next generation to hold very different expectations and assumptions about the world than their parents and grandparents held. We need to be attentive to the images that these new media create and reinforce—images that are far from being race-, gender-, or class-neutral. For example, they can be expected to reinforce the salience of certain issues (e.g., teen violence) and stereotypic images (e.g., black and Latino youths as violent) for judges, prosecutors, and jurors. Researchers will need to give serious thought to how best to analyze such influences and how to assess their effects on case processing and sanctioning decisions.

### **Conceptualizing and measuring race and ethnicity in a multiracial society**

Conceptualizing and measuring race and ethnicity in ways that better conform to the realities of a multicultural, multiracial society is a daunting task (Ford 1994; López 1996). We must expand our thinking about race beyond white-nonwhite or white-black. Latinos and Latinas were included in some analyses of the criminal justice system in the 1980s and 1990s, yet the majority of studies were limited to black-white differences without consideration of Latinos, American Indians, or Asian-Americans/Pacific Islanders. Coding is also quite inconsistent. As has already been discussed, Latinos and Latinas have been coded as white in many datasets. Within one dataset, I have seen the same person identified as Chicano, Mexican, white, and American Indian (see further Zatz 1987a).

Coding that includes categories beyond white-nonwhite, or even white-black-Hispanic, is a start, but these categories do not allow for multiracial and multiethnic identifications. The Census Bureau is tackling the problem of racial classification as it prepares for the year 2000 census. The Bureau's approach is to ask *all* respondents if they are of Hispanic origin, defined as Spanish/Hispanic/Latino (U.S. Bureau of the Census 1998). If so, they are asked additional questions about their group membership. Everyone is then asked to identify their race,

with race clearly related to ethnic origin. American Indians and Alaska Natives are asked to name the tribe in which they are enrolled or their principal tribe. Asian-Americans and Pacific Islanders choose from 10 categories or record their “race” (this is the term used on the form, although “ethnic origin” might be more appropriate) if they check “other Asian” or “other Pacific Islander.” Respondents may check as many racial/ethnic origin categories as they deem appropriate to indicate mixed racial heritage. Those respondents receiving the long form (every sixth household) also answer an open-ended ancestry question in which they may claim multiple ancestry or ethnic origin (e.g., Irish, Jamaican, and Egyptian). Long-form respondents will also specify the country in which they were born and the primary language spoken at home. The data that result should be far better than ever before, although coding of the open-ended questions will be a nightmare, particularly deciding when to collapse responses that are similar but not identical.

How might criminal justice agencies and researchers borrow from the census? Should, and can, they mimic the Census Bureau’s classification in their codings of race and ethnicity, or should they develop a different system? I suggest that they mirror the Census Bureau to the greatest extent possible to enhance comparability. Researchers and policymakers often wish to contrast criminal justice populations to the overall population (whether local, State, or national), and census data are the standard for such comparisons. At a minimum, I suggest that police, courts, and correctional institutions, as well as researchers, record Hispanic origin separately from race so that Latinos and Latinas are not lumped into the white category.

A key question will be *who* should identify the race/ethnicity of victims and defendants. Individuals may self-identify in very different ways from how legal decisionmakers, victims, and witnesses would identify them. For example, an individual may self-identify as Afro-Caribbean, Puerto Rican, and white, be identified by the victim or police as black, and be coded Hispanic by a clerk of the court responding to a Spanish surname. These disjunctures between self and other identification result in inconsistencies across databases (e.g., police, self-report, victimization, courts). We need to keep in mind the vantage point and knowledge base of the decisionmaker, recognizing that sometimes decisions are made solely on the basis of appearance and sometimes based on additional sources of information. Supplemental information could be derived from detailed probation reports, crime scene data in police reports (e.g., ethnic composition of the neighborhood, language spoken at the scene), the victim’s or defendant’s surname or appearance, and other sources. Then, we need to think more systematically about what to make of these data. We can start by examining how the racial/ethnic designations were applied in a given dataset and the potential effects of these designations in different contexts, including type of offense, the

jurisdiction of the court, whether the victim and offender are male or female, and the stage of court processing (see, for example, Frohmann 1991). Observational studies and surveys may be particularly useful for assessing whether and how decisions change with different information on the defendant's and the victim's race/ethnicity. Toward this end, the victim's and defendant's self-identifications are also important sources of information, and they should be encouraged to acknowledge mixed racial and ethnic identities. Finally, it must be recognized that in cases involving American Indian or Alaska Native offenders or victims, tribal affiliation also has jurisdictional consequences. Depending on the type of offense, where the crime occurred, and whether the offender and the victim are tribal members, cases could be processed in tribal, State, or Federal court (Zatz, Lujan, and Snyder-Joy 1991).

### **Defining and measuring discrimination: Legal standards and statistical tests**

We need to give further thought to our definitions and measurements of discrimination. Does discrimination require a person to act on the basis of a prejudicial attitude? Is intent a necessary prerequisite for a finding of discrimination? Or is disparate impact sufficient for concluding that a policy or procedure is discriminatory? The five-to-four decision of the U.S. Supreme Court in *McCleskey v. Kemp* (107 Sup. Ct. 1756 [1987]) was particularly important in this regard. The Court determined that the defense must show that the Government acted *because of*, not simply despite, the foreseen racial consequences of some action. The majority position rested on the belief that individual decisionmakers—whether prosecutors, judges, or jurors—must have acted with discriminatory *purpose* for there to be a legal finding of discrimination. Unambiguous, statistically significant patterns demonstrating clearly that the death sentence correlated with the race of the victim and of the offender were deemed inadequate.

It would be difficult to find a criminal justice official today who would publicly acknowledge acting on the basis of discriminatory intent. Intentional discrimination is clearly unconstitutional, and intent has become an impossible standard. Moreover, the intent standard ignores the presence of institutionalized racism. Our problems today lie less with intent than with the somewhat subtler realm of disparate impact. *McCleskey v. Kemp* (107 Sup. Ct. 1756 [1987]), among other cases, reminds us that the law is structured not to see discrimination as systemic and institutional. How we conceptualize discrimination, in turn, determines how we will measure it. Measurement includes considerations such as whether we will accept statistically significant aggregate patterns as evidence in individual cases, whether our conclusions will rest solely on main or direct effects of

race or sex controlling for other relevant factors, or whether we will also recognize indirect and interaction effects as potential evidence of discrimination.

A related issue is how we will conceptualize and measure hate crimes. How should we classify and sanction crimes that occur partially or wholly because of the victim's race, gender, national origin, religion, sexual orientation, or some combination of these statuses? Gender is not included in most hate crime statutes (Jeness and Broad 1994). If it was, policymakers, criminal justice decisionmakers, and researchers would have to determine whether or not to prosecute rapes and domestic assaults as hate crimes. Coding questions also arise, particularly if a given offense can only be counted as based on one type of hatred even if it was aimed at, for example, someone who was African-American, American Indian, and lesbian. Legal determination of whether the crime was based on hatred of members of a particular group is also sometimes difficult. Must the perpetrator admit that he or she was acting on the basis of discriminatory intent? If so, we return to the problem posed by *McCleskey v. Kemp*, although to a slightly lesser degree, as members of the general public might not be quite so aware as criminal justice officials that they should never state publicly an intent to discriminate. Finally, we must consider what effect changes in the ethnic composition of our society might imply for the amount and viciousness of hate crimes as we move into the 21st century.

### **Race, ethnicity, and gendered aspects of culture**

We must always consider race, ethnicity, gender, culture, and class, but do the politics of one dimension ever supercede the politics of another? Some of the commentary during and following the O.J. Simpson trial concerned whether race was "trumping" gender (Morrison and Lacour 1997). I suggest, however, that this is one example of a case that cannot be fully understood without the simultaneous consideration of the defendant's race, gender, and class position; the race, gender, and class of the victims; the race, gender, and class of the jurors; and the race and gender of the various prosecution and defense attorneys and the judge. If only one set of actors, or if only race or only gender or only class is considered, we cannot fathom the verdict, the media spins on the case and the verdict, or the controversies that the case engendered (see similarly Chancer 1998).

Most researchers who study race and ethnicity stop short of considering culture. I suggest the importance of considering more fully the relationship between race, ethnicity, and culture in the courtroom and in court-ordered programs. For instance, because looking an authority figure in the eye is a sign of disrespect for traditionally raised Latinos and many American Indian tribes, deferential Latino and Indian defendants will likely gaze downward when

being interrogated by police, prosecutors, or judges. Yet in the dominant Euro-American culture, not looking an authority figure in the eye suggests the opposite—that one is lying. Cultural and gender-based variation within a particular ethnic group (e.g., American Indians) is to be expected, yet assumptions often are made based on limited understandings of the culture (see, for example, Melton 1998; Razack 1994; Zatz, Lujan, and Snyder-Joy 1991). As was discussed earlier, Razack makes a compelling argument that sometimes efforts to be culturally sensitive (e.g., by sending sexual assault cases back to the community for disposition) may rest on male interpretations of the culture and wind up simply reinforcing patriarchy (e.g., by forcing victims to interact on a daily basis with their assailants, many of whom have considerable power over the victims within their families and/or community).

Too often, ethnicity and culture become entangled. It is important for court actors to recognize that within the same racial and ethnic group, important cultural differences may exist, and these may lead to incorrect attributions. For example, Zatz and colleagues assert:

Depending on the individual's tribal background, she or he could either appear too aggressive or too quiet. Plains tribes (e.g., Sioux) tend to be more aggressive and assertive in demeanor, in contrast to members of some Southwestern tribes (e.g., Pueblos, Navajos, Hopi, Pima), who are typically more reserved. Consequently, a Plains Indian may be viewed by police and court officials as a threat to the community, while a Southwestern Indian may be viewed as sullen and unrepentant. (1991, 109)

Finally, legal decisionmakers are likely to consider how defendants with prior records performed if they received probation or some form of diversion. Most of these court-ordered programs were developed with white or black males in mind, however, and may not be appropriate for women, especially for women with different cultural orientations (see further Belknap 1996; Chesney-Lind and Sheldon 1998; Sarri 1987). Recent studies have found compelling evidence that culturally specific programs are more effective, at least for juveniles, than are generic programs (Botvin et al. 1995; Chesney-Lind and Sheldon 1998; Marín 1993).

## **Attributions and constructions of race, gender, and class**

Attributions about race, gender, and class in criminal case processing and sanctioning and the ways in which gender and race are socially constructed in the courtroom are of crucial importance. This includes assumptions and attributions about who is a worthy victim, who is a good mother, and what kinds of crimes



are “normal” for men and women (Daly 1994; Madriz 1997; Roberts 1991; Simpson and Elis 1995; Smart 1992). As David Cole has noted:

At every point in the criminal process, decisionmakers are vested with discretion, in large part so that the system’s responses can be tailored to the myriad individual circumstances that each case presents. . . . In a world of incomplete information, stereotypes, especially racial stereotypes, inevitably affect such judgments. (1995, 2566)

As a consequence, even though “the vast majority of African-Americans are law-abiding . . . any association of race and crime will by definition extend an assumption of guilt to many innocent persons” (p. 2567).

The primary reason for the massive increase in incarceration rates for women is our mandatory policy of incarceration for many drug offenses. Yet drugs are not the only cause of increased incarceration rates for women. Police, prosecutors, judges, and criminologists are increasingly willing to recognize that women engage in violent acts, and not only as pawns for men (see, for example, Chesney-Lind and Hagedorn 1999; Maher and Curtis 1992; Messerschmidt 1997; Miller 1998; Simpson 1991), and arrests of girls and women, especially those who are African-American, for violent offenses have surged in recent years.

## **Thinking critically about class**

We must also pay far more attention to when and why class matters, including the gendered effects of poverty. The drug trade is tied to the larger political economy. Some poor women in inner cities see few viable, legitimate options for supporting themselves and their families outside of the sex and drug trades. Yet even the drug trade is run largely by men, with women working primarily as lookouts and carriers and selling small amounts to support their own habits. Local sex markets do not offer much better options for women, at least in the long term, and can be extremely dangerous because of violence from clients and pimps and the rising rates of HIV infection (Maher and Curtis 1992).

How best to conceptualize economic status and the relationship between economic indicators and measures of racial inequality adds another dimension to our understanding of the workings of class in contemporary America. Are we concerned with absolute or relative indicators of economic standing? Are we looking at inequalities in income or in wealth? Oliver and Shapiro (1995) argue powerfully that there is an important analytical distinction between wealth and other, more traditional measures of economic status such as income, occupation, and education. Wealth, they note, “is what people own, while income is what people receive for work, retirement, or social welfare . . . the command

over resources that wealth entails is more encompassing than is income or education, and closer in meaning and theoretical significance to our traditional notions of economic well-being and access to life chances” (p. 2). Linking race and class, Oliver and Shapiro contend that, “Conceptualizing racial inequality through wealth revolutionizes our conception of its nature and magnitude” (p. 2). Their conclusion, like that of Hacker (1995), is that whites and blacks constitute two distinct nations within contemporary America.

Research on income inequality and arrest rates suggests that key variables must be disaggregated by race if they are to be meaningful. For example, LaFree and Drass (1996) found that the relationship between education and crime is contingent on levels of intraracial income inequality. Similarly, we might expect that the ability to present oneself favorably in court, thus enhancing the likelihood of probation rather than incarceration, may well rest on racialized indicators of class. For instance, stable employment, relatively high earnings, owning one’s home, and other economic measures may greatly influence the sorts of attributions that judges, attorneys, and probation officers associate with individual defendants and their rehabilitative potential. Future research is needed to explore these and related questions.

We still need to explore basic issues such as whether and how income and wealth influence prosecution and sentencing. Considering property offenses specifically, we do not yet know how wealth and income shape the type of property crime a particular person is likely to commit and the sanctions handed down for those offenses if she or he is convicted. How do larceny or robbery compare with large-scale embezzlement and financial scams that cost the general public billions of dollars (Calavita, Pontell, and Tillman 1997; Reiman 1995; Weisburd et al. 1991)? Does it matter whether the wealthy person is white and male, or do wealthy white women and wealthy people of color also enjoy class privilege (see, for example, Calavita, Pontell, and Tillman 1997; Carlen 1988; Morrison and Lacour 1997)? We also need to think about how economic standing, race, and gender in combination influence the quality and extent of protection against victimization (e.g., quick police response time and other types of public resources). Can we disentangle the effects of class, race, and gender, and is doing so a reasonable approach, given that individuals experience events, including crime commission and victimization, as raced, classed, and gendered beings?

## **The ramifications of policies and court decisions for poor communities of color**

Finally, we must be attentive to the ramifications of crime control policies and the court processing and sanctioning decisions that result for poor communities

of color (see further Zatz 1999). One of the controversies that continues to besiege us as we move into the 21st century is what has been termed the “dual frustration” (Meares 1997) of inner-city residents. Both crime and crime control fall disproportionately on poor blacks and Latinos. Some social and legal scholars (see, for example, Kennedy 1998; Meares 1997, 1998; Sampson and Wilson 1996; Wilson 1987) argue that efforts to reduce crime help poor people of color because they are victimized in disproportionate numbers. Some argue further that although black parents do not want their children to be harassed by the police and do not think that the criminal justice system is fair, they want their neighborhoods to be free of drugs and crime. Thus, they are frustrated both by crime in their neighborhoods *and* by the police response that targets young men of color. Yet at times, this position seems to merge a macrosocial approach to poverty and race with more individualized blaming of those who have not succeeded. For instance, Randall Kennedy takes the stance that law-abiding black citizens benefit from the large-scale incarceration of black criminals who might otherwise victimize them.

Wilson’s (1987, 1996) proposed policies for improving the plight of poor inner-city residents stress the lack of opportunities for black men and problems caused by family disruptions (see similarly Sampson 1987; Sampson and Wilson 1996). This emphasis reinforces gendered notions of work and family and may undermine efforts of battered women to leave their abusers.

Greater attention to the lack of employment and educational opportunities for women, drug treatment programs for women (including more residential programs that accept pregnant women and women with small children), and affordable child care would bring to the fore issues of crucial concern to poor women.

Based on interviews with 140 women, Esther Madriz concludes that many African-American and Latina mothers fear that their sons will be the victims of street violence *and* fear that they will be the victims of police brutality (1997, 51–52). In addition, Madriz notes that although the middle-class women in her sample reported feeling safer when the police were present, most Latinas and black women did not feel safer when the police were nearby and, in fact, felt intimidated by them (p. 144). Similarly, Regina Austin (1992) and David Cole (1995) urge the black community to move beyond what Austin calls a “politics of distinction” between lawbreakers and law-abiding blacks. As Cole argues, “Especially in the inner city, where poverty, crime, and drugs are most prevalent, many families are likely to have friends and

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relatives who have been victimized by crime *and* friends and relatives who have been subject to the criminal justice system” (p. 2559–2560; emphasis in original). The choice between giving criminal justice agents free reign to arrest, prosecute, and incarcerate huge numbers of poor African-Americans or becoming the victim of crime is, Cole argues, a false dichotomy. It should be possible, he asserts, to count on the police to respond to calls and not have to fear that they will arrest your child. Similarly, pregnant women should be able to obtain good prenatal care and drug rehabilitation without being transformed into “bad mothers” and risk losing custody of their child because they dared to ask for help.

In part, the controversy can be attributed to differential emphases on race or class. Kennedy and Meares, for example, are strongly influenced by Wilson’s (1987, 1996) writings on the underclass. This singular emphasis on poverty ignores the entrenched, institutionalized racism that is a major concern for

***We find ourselves faced with a situation in which a sizable portion of our citizenry is politically disenfranchised, experiences long-term unemployment, has little reason to respect the criminal justice system, and views prison rather than college as the place where one becomes an adult.***

Cole. Austin (1992) and Madriz (1997) take what I consider to be the most complex approaches, considering how class, gender, and race/ethnicity converge, particularly as seen in the efforts of mothers to keep their children safe from street violence and from police brutality.

Another important consequence of our decisions to incarcerate huge numbers of poor people of color is their loss of voting rights. The enormous numbers of people of color, especially African-American men, who are being incarcerated translates also into massive numbers of disenfranchised citizens. Richey (1998) estimates that 13 percent of the country’s black adult males were excluded from the political process in 1998. In seven States, more than one-quarter of black adult males are permanently barred from voting. In 10 States, convicted felons lose their voting rights forever, and in another 2 States, they are permanently disenfranchised after 2 felony convictions. Thus, huge numbers of African-American men are cut off from making changes through the ballot box. What does this imply for our sense of ourselves as a democratic

society if such large numbers of men who, as a group, only gained the right to vote a few decades ago have now lost this right?

The final effect that I want to mention is the loss of respect for the criminal justice system on the part of many blacks who feel that it is unfair. A 1993 Gallup poll found that three-quarters—74 percent—of blacks but only one-third—35

percent—of whites thought blacks were treated more harshly than whites by the criminal justice system. In contrast, only 5 percent of whites thought whites were treated more harshly than blacks (McAneny 1993, 34). More recently, a *New York Times* poll conducted in October 1997 found that 82 percent of African-Americans and 71 percent of Latinos did not think the police treated white and blacks in New York City with equal fairness (Amnesty International 1998). In sum, then, we find ourselves faced with a situation in which a sizable portion of our citizenry is politically disenfranchised, experiences long-term unemployment, has little reason to respect the criminal justice system, and views prison rather than college as the place where one becomes an adult.

## **Conclusions**

Several scholars have developed comprehensive sets of recommendations for reducing crime and creating a fairer criminal justice system as we move into the next century, one that reduces the gender, racial, and class biases still evident in today's system (Currie 1993; Daly 1995; Donziger 1996; Mann and Zatz 1998). I will briefly discuss two sets of general recommendations and speculate as to how additional research might contribute to improvements in these areas, and then I will conclude with a few additional suggestions for future research.

First, many of the recommendations have been directed at policymakers and practitioners suggesting, for example, a reduced reliance on mandatory sentencing statutes and an increase in the use of alternatives to incarceration, particularly for drug-related offenses. Residential drug treatment programs cost less than prison, address the root cause of much crime, and are less divisive for families and communities, especially when the addict is a woman with young children. Moreover, research has demonstrated that culturally appropriate drug treatment programs are more effective than generic programs and that treatment needs vary for men and women, and for teens and adults. Additional research can help probation officers and judges determine which programs will be most beneficial for particular offenders.

A second set of recommendations focuses on changes in our political and economic institutions as well as in our housing, health, and education systems. Many of the problems that have been discussed in this chapter are related to

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drug addiction, shortages of jobs in inner cities, substandard housing, and inadequate schools. Related recommendations point to the need for better working relations between local communities and criminal justice agencies, and for neighborhood mediation councils, local diversion programs for minor offenders, and more battered women's shelters. Again, additional research on race, ethnicity, gender, class, and culture would contribute enormously to the development of specific cooperative arrangements that would be most helpful to neighborhood residents, reduce crime, and allow court officials to more comfortably rely on a range of community-based mediation and diversion programs.

Third, researchers must be much more thoughtful in how we conceptualize, code, and analyze race and ethnicity, given the multiracial, multiethnic composition of our society. I suggest that criminologists and criminal justice agencies follow coding strategies developed for the year 2000 census to the extent possible to enhance comparability of datasets. We also need to give serious thought to the ramifications of legal decisionmakers, victims, and defendants defining race/ethnicity in different ways. The problem is not simply inconsistent coding but rather that attributions are being made on the basis of perceived race/ethnicity, and we do not have good data on these myriad perceptions and attributions, or their consequences.

Fourth, better data on class are sorely needed, including indicators of both income and wealth. With better data, we can begin to disentangle some of the race and class effects on court processing and sanctioning, from the initial police surveillance and decision to arrest through sentencing. Use of a wide range of quantitative and qualitative data will also help us to explore these issues by providing rich, detailed, and contextual information.

Finally, I urge researchers to conceptualize the confluence of race, ethnicity, gender, and class more fully, considering how they are constructed within particular social and historical contexts. Race, gender, and class are the central axes undergirding our social structure. They intersect in dynamic, fluid, and multifaceted ways. The conundrum we face as we enter the next century will be how to conceptualize and assess these interlocking social relations so that we may best explore the ways in which court decisionmaking is raced, classed, and gendered, and then to use that information to make the system operate in the fairest way possible—for defendants and for victims.

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The National Institute of Justice (NIJ), a component of the Office of Justice Programs, is the research agency of the U.S. Department of Justice. Created by the Omnibus Crime Control and Safe Streets Act of 1968, as amended, NIJ is authorized to support research, evaluation, and demonstration programs; development of technology; and both national and international information dissemination. Specific mandates of the Act direct NIJ to:

- Sponsor special projects and research and development programs that will improve and strengthen the criminal justice system and reduce or prevent crime.
- Conduct national demonstration projects that employ innovative or promising approaches for improving criminal justice.
- Develop new technologies to fight crime and improve criminal justice.
- Evaluate the effectiveness of criminal justice programs and identify programs that promise to be successful if continued or repeated.
- Recommend actions that can be taken by Federal, State, and local governments as well as by private organizations to improve criminal justice.
- Carry out research on criminal behavior.
- Develop new methods of crime prevention and reduction of crime and delinquency.

In recent years, NIJ has greatly expanded its initiatives, the result of the Violent Crime Control and Law Enforcement Act of 1994 (the Crime Act), partnerships with other Federal agencies and private foundations, advances in technology, and a new international focus. Examples of these new initiatives include:

- Exploring key issues in community policing, violence against women, violence within the family, sentencing reforms, and specialized courts such as drug courts.
- Developing dual-use technologies to support national defense and local law enforcement needs.
- Establishing four regional National Law Enforcement and Corrections Technology Centers and a Border Research and Technology Center.
- Strengthening NIJ's links with the international community through participation in the United Nations network of criminological institutes, the U.N. Criminal Justice Information Network, and the NIJ International Center.
- Improving the online capability of NIJ's criminal justice information clearinghouse.
- Establishing the ADAM (Arrestee Drug Abuse Monitoring) program—formerly the Drug Use Forecasting (DUF) program—to increase the number of drug-testing sites and study drug-related crime.

The Institute Director establishes the Institute's objectives, guided by the priorities of the Office of Justice Programs, the Department of Justice, and the needs of the criminal justice field. The Institute actively solicits the views of criminal justice professionals and researchers in the continuing search for answers that inform public policymaking in crime and justice.

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