Federal Probation

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All phases of preventive and correctional activities in delinquency and crime come within the fields of interest of FEDERAL PROBATION. The Quarterly wishes to share with its readers all constructively worthwhile points of view and welcomes the contributions of those engaged in the study of juvenile and adult offenders. Federal, state, and local organizations, institutions, and agencies—both public and private—are invited to submit any significant experience and findings related to the prevention and control of delinquency and crime.

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Federal Probation

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This Issue in Brief

An Organization Development Experience in Probation: "Old Dogs" Can Learn New Tricks!—The Maricopa County Adult Probation Department, Phoenix, Arizona, contracted with Training Associates to provide management and organization development training from March 1978 through February 1979. This article by Gary Graham and Herbert R. Sigurdson discusses problems within the organization which initiated this venture; OD theory is summarized; baseline data is presented; and the OD method used in the project is elaborated upon. Followup change-oriented data is presented at 7- and 12-month intervals.

Dealing With the Violent Criminal: What To Do and Say.—Criminal justice workers are often asked to give advice about how to handle an assault or a mugging attempt by a criminal. William B. Howard argues that the most immediately effective strategy is psychological resistance, and that presenting oneself in a non-critical, nonthreatening fashion will greatly reduce the likelihood of violence.

General Overview of Capital Punishment as a Legal Sanction.—In spite of United Nations efforts, capital punishment as an official or unofficial penalty deliberately imposed is becoming more frequent in far too many countries, asserts Professor Manuel López-Rey. There are two main forms of it: judicial death penalty which may be imposed by a subservient judiciary and non-judicial death penalty which may be decided and executed by military, police, and ideological services and organizations. The author concludes that at the end of the 20th century crime and penal sanctions are more and more determined by political regimes.

The Ex-Offender and the "Monster" Myth.—A number of authorities have asserted that prisons invariably have a deleterious effect on all who are incarcerated. Using data collected as part of an extensive ongoing study of 1,345 consecutive admissions to the Federal Correctional Institution in Tallahassee, Florida, this study examined this assertion empirically through inmate interviews, comparison of personality tests administered on entering and leaving prison, and post-release recidivism data. Authors Edwin I. Megargee and Barbara Cadow conclude that the popular impression that *all* inmates emerge from *all* prisons significantly more disturbed,

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bitter and inclined toward criminal behavior is false.

The Criminal Personality or Lombroso Revisited.—This article contends that a relatively recent book, *The Criminal Personality,* is not genuine research, but merely the unsupported views of a psychiatrist (who died several years ago) and a clinical psychologist. O.J. Keller attacks the basic concept of this work, calls attention to numerous contradictions, and criticizes the research as failing to meet the most elementary standards.

The Salient Factor Score: A Nontechnical Overview.—The "Salient Factor Score," a predictive device used by the U.S. Parole Commission as an aid in assessing a parole applicant's likelihood of recidivism, is described by Commission researchers, Peter B. Hoffman and Sheldon Adelberg. The relationship found between the predictive score and favorable/unfavorable outcome is shown for two large random samples of released Federal prisoners, totaling 4,646 cases. Use of the "Salient Factor Score" as part of the system of decision guidelines established by the Parole Commission and the relationship of the guideline system to the exercise of discretion in decisionmaking are then discussed.

Health and High Density Confinement in Jails and Prisons.—High density confinement in correctional institutions has been the focus of much attention during the past decade, according to Bailus Walker, Jr., and Theodore J. Gordon. This concern has prompted several agencies and organizations to revise old standards or develop new criteria for minimizing the noxious influence of high-density confinement on jail and prison inmates. The application of these criteria and standards has raised at least one fundamental question: Upon what bases are the standards established? Although there are many possible bases for the establishment of population-density criteria, the extrapolation of available data generated by epidemiological evaluations and medical observations suggests rational bases for controlling population density in jails and prisons.

The Private Sector in Corrections: Contracting Probation Services from Community Organizations.—After examination of current practices regarding delivery of correctional services, via purchase-of-services contracts with private sector agencies, an attempt was made to assess one of the Nation's largest private probation programs—Florida's Salvation Army Misdemeanor Probation Program (SAMP). Following analysis of SAMP's fee-financing, structure and clientele, a preliminary assessment of the program's revocation rate (6.3 percent) and cost-effectiveness was undertaken. Author Charles A. Lindquist states that while further evaluation is needed, it was tentatively concluded that several aspects of the program were effective.

Social Work and Criminal Justice: New Dimensions in Practice.—One to one counseling of offenders has been devalued partly on the basis of effectiveness studies and partly on the basis of counseling methods which assumed that the primary goal of treatment was the modification of the offender's personality. This article by Gloria Cunningham questions both the effectiveness of effectiveness studies and the need to define "treatment" in such narrow terms. The role of the probation officer is re-examined in the light of evolving views of social work intervention which validate the importance of the broader range of helping services typical of probation supervision.

The Private Sector in Corrections: Contracting Probation Services from Community Organizations

BY CHARLES A. LINDQUIST, PH.D.
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Strangely, private participation is probably lowest in the correctional system although correctional services (counseling, education, vocational training) are of the kind that can most readily be provided from other disciplines and the private sector. Recent standard-setting efforts encourage the purchase of services from non-correctional groups, including private industry, but the bulk of correctional services continues to be delivered by public personnel. (Skoler, 1976, p. 3)

IT IS INDEED ironic that the component of the criminal justice system most susceptible to the germ of private involvement—corrections—seems to be developing a number of antibodies to ward off any possible contagion. This irony is compounded by the fact that the correctional body has had a lengthy and healthy history of private participation. Perhaps the best illustration of this latter phenomenon can be seen in the area of probation where an estimated 200,000 volunteers are involved in the provision of services. In addition to the involvement of volunteers, a number of private and quasi-public organizations have established contractual relationships with public agencies to deliver a wide range of services to community-based correctional programs. For example, Vermont, under a LEAA grant, has purchased services from privately operated halfway houses and group homes (Serrill, 1976) and Middlesex County, Massachusetts, has obtained rehabilitative services for probationers from a nonprofit corporation—Middlesex County Probation Services Incorporated (Sands, 1976).

Despite these illustrations of private sector service delivery, there is some indication that a constriction of private involvement in corrections may occur in the not-too-distant future. With the exception of the various volunteer programs, private sector involvement in community-based programs appears to be encountering both veiled and open opposition from the correctional establishment. Cooptation or refusal to authorize maximum participation are possible responses to the stimulus of private involvement. The environment is even more hostile when one examines the field of institutional corrections. This hostility is exacerbated by the increased unionization of correctional employees (Jacobs & Crotty, 1978). One might hypothesize that as this unionization increases, opposition to private sector involvement will similarly increase. As an illustration, the American Federation of State, County and Municipal Employees (AFSCME)—which represents the greatest number of organized correctional personnel—passed a resolution at its 1976 convention condemning contracts for services with private organizations (Wynne, 1978). Parenthetically, it may be noted that such contracts have been widely used for both inmate and staff training programs (Minkoff, 1971). Public employee unions can directly influence correctional policy in this area by limiting management's ability to contract for diversified services with the private sector.

In retrospect, some of these responses to private sector involvement might have been anticipated, given that the general pattern of social action in corrections seems to follow a scenario whereby private groups initiate and run programs until public agencies decide on the degree of their

respective involvement. As Fox (1977) aptly expressed it:

> The pattern of social action in all fields, whether mental health, public health, control of business and commerce, policies of government, or corrections, has been that private groups supply the needed services. Second, the government begins to provide those services when a problem becomes too great to be handled by private individuals and groups. Third, governmental agencies subsidize or take over the entire function of the services. Fourth, the governmental agency providing the services may request assistance from private sources in terms of volunteer services, contractual services, or public relations eventually aimed at legislative appropriations.
>
> Private corrections, then, is always in the process of filling gaps in governmental services as the need is viewed. (p. 385)

While filling gaps is indeed important, it is at least possible that the private sector can make a greater contribution to correctional programs. It is the purpose of this article to examine the issue of private sector involvement in corrections; more specifically, to analyze the utility of contracting probation services from community organizations, by focusing on one specific program. Additionally, future applications of private sector involvement in corrections will be explored.

The framework for this study is provided by the purchase of services concept. By contracting with private organizations, access to specialized services not normally available from public agencies may be readily obtained. For example, Philadelphia's Accelerated Rehabilitation Disposition Program (ARD)—a diversionary program for first offenders charged with nonviolent crimes—contracts for rehabilitative and supervisory services from a nonprofit drug treatment agency (Specter, 1973). Commenting on the flexibility available from similar arrangements, Sands (1976) has stated that:

> It should be noted that private contractors are not under the same civil service and wages-and-hours restrictions as the government and are better able to secure the services of appropriate minority group representatives, para-professionals and former offenders, as employees. (p. 38)

In addition to the direct provision of services to clients on a simple fee basis, contracts can also be negotiated with private organizations which condition payment on some agreed upon measure of 'success' (Klein, 1976).

Given the potential benefits of a purchase of services contract with private organization(s), it is surprising that little appraisal of this type of correctional program has taken place. As a result of the author's involvement in a probation risk assessment project during Summer 1978 an opportunity presented itself to examine one of the largest (in terms of number of clients served) "private" correctional programs in the nation—the Salvation Army Misdemeanor Probation Program (SAMP), in Florida. At this writing (Fall 1979), SAMP provides over 90 percent of all probation supervision for adult misdemeanants in the state of Florida—serving over 7,800 clients per month.

While some may question the significance of a program designed to provide probation services to misdemeanants, the National Advisory Commission on Criminal Justice Standards and Goals (1973) reminds us that:

> The group that comprises the largest portion of the offender population and for which the least service is available are misdemeanants . . . . They are a major factor in the national crime problem: they tend to be repeaters; they tend to present serious behavior problems; as a group, they account for a large expenditure of public funds for arrest, trial, and confinement with little or no benefit to the community or to the offender. (p. 323)
>
> The failure to provide probation staff, funds, and resources to misdemeanants results in the needless jailing of these offenders and, in too many cases, their eventual graduation to the ranks of felony offenders. (p. 335)

Given the fact that relatively little research has focused directly on misdemeanor probation (Soloman, 1976), it might be prudent to consider the appraisal of Dressler (1969, p. 40) that "least developed are [probation] facilities for misdemeanants. This should concern us, for these offenders as a group require as much attention as do felons."

To analyze the development of SAMP, some background in political history may be beneficial. A dispute between the Department of Offender Rehabilitation and the Parole and Probation Commission expanded to include legislative involvement. In July 1975 the state legislature attempted to resolve the conflict by removing all of the supervisory authority of the Parole and Probation Commission. This legislative action left the county courts in a quandary. Prior to this legislation, the Parole and Probation Commission had provided supervision for adult misdemeanants sentenced to probation by the county courts. Now the courts were placed in position of either having to fund and staff their own misdemeanant probation programs, of purchasing probation services from the state, of eliminating probation as an option (thereby making greater use of incarceration), or of seeking out volunteers from com-

munity organizations. Not surprisingly, the latter strategy was the most palatable alternative and the county courts tried to elicit support from a variety of organizations.

In response to this need, originating to fill gaps in the provision of correctional services, SAMP came into existence as a pilot program in Florida during October 1975. (Prior to this time, the Salvation Army had been involved in a similar program in Texas for several years.) Judicial reaction to SAMP was uniformly favorable and the program's clientele steadily increased to the point where the organization's resources were stretched to a point precluding further expansion. Recognizing that opinion leaders throughout the state were highly supportive of SAMP, such recognition being due partially to effective Salvation Army public relations, the state legislature enacted a unique piece of enabling legislation in June 1976. Known as "The Salvation Army Act," this law (CS for SB 925, now codified as § 945.30, *Florida Statutes*) provided that "anyone on probation or parole shall be required to contribute $10 per month to a court approved public or private entity providing him with supervision and rehabilitation." Additionally, the Act *specifically* authorized the Salvation Army (or other approved public or private entity) to utilize its community social service facilities as an integral part of any court ordered probation program. This legislation facilitated an increase in private sector involvement in Florida corrections by providing a "piece-work" type of fiscal stimulus. It is now possible for any individual or group, approved by the judges of a particular county court, to provide probation services within that county and to collect a $10 per month supervision fee from each client under supervision.

In addition to the Salvation Army, Pride Halfway House (a nonprofit corporation) and Palm Beach County availed themselves of the opportunity provided by this enabling legislation. Given the fact that a significant number of clients (about 30 percent) were not, and still are not, able to contribute toward the cost of their supervision, coupled with an expansion of the misdemeanant probation option, SAMP began to incur financial problems. To remedy this situation, the Act was amended by the state legislature in July 1977 to create a mechanism insuring a level of financial support necessary for the continued operation of SAMP and similar programs. The vehicle chosen for this purpose was a purchase of services contract. Specifically, the Department of Offender Rehabilitation was authorized to contract with court approved public or private entities for provision of specific probation services. In return, these purveyors were entitled to receive an additional $6 monthly payment for each client who was contributing toward his monthly supervision cost. It is under this purchase of services contract that the SAMP presently operates. With the operational framework in place, the Salvation Army's political resources are now being utilized to insure a continuation of legislative appropriations necessary to fund the negotiated contracts.

Under the SAMP structure, the Salvation Army supervises an active monthly caseload of over 7,800 clients in 34 counties. Often maintaining a permanent liaison officer within each county court, SAMP relies on both professional, correctional counselors and regular Salvation Army staff to supervise clients. Besides providing counseling and supervision, SAMP acts as a referral agency—channeling individuals with special needs into various programs—and also plays an active role in the area of restitution and payment of fines. This latter role can theoretically be beneficial to the client in the sense that adhering to a regular system of financial obligations may strengthen any existing attachment to conventionality. On the other hand, emphasis on this role may detract from counseling, supervision and referral. This potential danger is exacerbated by the fact that it is possible that some county court judges may perceive of SAMP as an efficient "collection agency" with its other functions seen as being somewhat ancillary.

Based on the author's 1978 statewide study, SAMP clientele were generally younger first offenders who were sentenced to probation for a 6-12 month period as a result of a conviction for petit larceny, possession of a controlled substance, or disorderly conduct. (Recently, it has been called to the author's attention that some changes in clientele composition have occurred; namely, an increase in the number of older offenders with prior convictions and the addition of groups of offenders convicted of battery, writing worthless checks, driving while intoxicated, and welfare fraud.) Most of the clientele were employed, white, urban males earning about $400 per month in a variety of jobs. Normally, the clients were counseled on an individual basis—with a minimum of one visit per month—receiving what might be classified as minimum supervision. All other things being equal, this type of social control may be less damaging to the individual than a more intensive category of oversight (Adams, Chandler & Neithercutt, 1971).

The rationale for SAMP, as articulated by the Salvation Army (1978), has been officially stated:

> Statistics show, and it has been our experience that the majority of felons have had one or more misdemeanant convictions prior to their felony convictions. We feel that our program, through proper supervision, redirection, and moral support has prevented the misdemeanant from becoming a financially burdensome felon. We feel the result is not only reducing the crime rate, but reducing the incidence of expensive wards of the state. (n.p.)

Implicit in this statement are four goals: (1) prevention of future felonies, (2) successful completion of the probation program, (3) expansion of alternatives to incarceration, and (4) cost-effectiveness.

Recognizing that evaluation of correctional programs is an exceedingly complex task (Ward, 1973; Martinson, Palmer, & Adams, 1976), the author attempted a preliminary assessment of SAMP's progress toward achieving the above-stated goals. To this end, the author examined a full population sample (N=3320) of cases terminated in three major urban areas from December 1976 through April 1978. These cases represented a majority of statewide SAMP terminations during the above period.

While an evaluation of goal one—prevention of future felonies would require a longitudinal study, the data did lend itself to an initial appraisal of progress toward goal two—successful completion of SAMP. Based on the coding system utilized by SAMP, table 1 shows a recorded revocation rate of only *6.3 percent.*

TABLE 1.—*SAMP Results*

Area	*Successful Completion*	*Revocation*
Jacksonville	93.8% (N=1130)	6.2% (N= 70)
Miami	87.4% (N= 879)	12.6% (N=111)
Clearwater	97.4% (N=1101)	2.6% (N= 29)
Total	93.7% (N=3110)	6.3% (N=210)

Given the background of SAMP's clientele and the fact that most clients (about ⅔) were sentenced to less than one year's probation, certain expectations about successful completion might have been anticipated; however, this failure rate is exceptionally low, even for a nontraditional program.

As a traditional program, revocation of probation is a judicial function, resulting from a court order normally issued at the request of the supervising agency. Slightly more than one-third, 39 percent (N=82), of the recorded revocations occurred for "technical violations" (e.g., failure to meet the reporting requirements), which were generally filed with the court as a last resort. The author's perception of a reluctance on the part of SAMP staff to recommend revocation on the basis of "technical violations" appeared to be related to a number of factors. If we assume that the major determinants of public (and private) policy may be discovered through an analysis of environmental demands and resources (Dye, 1976), some possible explanations for this reluctance suggest themselves. In some offices, the anticipated response from a particular court considering revocation petitions was one of admonition and subsequent extension of the probationary period; hence, it appeared that relatively few petitions were filed. In other offices, perhaps related to limited manpower for field investigation, it was the author's observation that only infrequent attempts were made to locate clients who stopped reporting on a voluntary basis—especially during the latter part of the probationary period. The tendency in a number of these cases seemed to be one of letting the probation expire without taking any formal action regarding revocation. When focusing on role perception, most SAMP staff appeared to be client-oriented and did not perceive themselves primarily as control agents (Glaser, 1969). Accordingly, while staff had information about prior convictions (e.g., "rap sheets") in their possession and could utilize the technical assistance provided by law enforcement agencies (e.g., fingerprint flash notices), minimal use seemed to be made of these resources.

Approximately two-thirds, 61 percent (N=128), of the recorded revocations occurred as a result of a client being arrested for the commission of a new offense while on probation. SAMP staff are usually notified when a client is arrested on a new criminal charge, via the state's computerized law enforcement information system. Such notification normally causes SAMP staff to request the relevant prosecutor's office to docket a probation violation hearing at the same time as the new case. Given that a conviction on the new charge is not required for initiating violation proceedings, rearrest is usually sufficient to trigger this action.

In summary, the author is wary of accepting official records regarding determination of proba-

tion outcome at face value—especially in a "new" program; nevertheless, the reported results are of an encouraging nature. One question raised by an earlier version of this manuscript, however, needs to be addressed. Given the supervision fees received by the contractor, would monetary factors affect the revocation of a paying client? Understandably, this question is of considerable concern and is somewhat analagous to the issue presented a number of years ago in *Tumey* v. *Ohio*, 273 U.S. 510 (1927)—a case which remains significant as a major precedent. This case involved the constitutionality of a fee system, whereby local judges were paid from court costs that were assessed only when a defendant was found guility. Innocence was unprofitable. The U.S. Supreme Court held this practice to violate due process of law because the theoretically impartial judge had a financial stake in the outcome of a trial. Given the nature of the Salvation Army, the fact that over one-quarter of its clients were unable to pay supervision costs and the lack of evidence that a significant number of clients paid costs but did not otherwise comply with the conditions of probation, the author does not feel that financial considerations were related to revocation policy. In the future, however, consideration might be given to the creation of an independent audit bureau designed to serve as an external check on this type of fee-financing. Again, while SAMP appears to have considerable potential, absent baseline data as to revocation rates from comparable public programs, the results must be interpreted with caution.

Goal three—expansion of alternatives to incarceration—seems to be accomplished by definition and hence attention needs to be directed toward the final goal of cost-effectiveness. The Salvation Army has estimated its 1978 daily cost of supervision per client to be $0.37—considerably less than the state's 1976 cost of $1.00 per client. Without adjusting for inflation it might be concluded that SAMP appears to be cost-effective. A final determination as to cost-effectiveness, however, would have to consider such factors as the actual cost of support provided to the program by public criminal justice agencies and the potential cost of an unsupervised probation program. For example, while the latter might minimize the mobilization of law enforcement resources to apprehend violators, it might also minimize the collection of restitution and fines.

Given the progress of SAMP toward attaining the four goals discussed above, a number of other states appear to be greatly interested in considering a similar enabling legislation via the purchase of services framework. In anticipation of this type of legislation, the Salvation Army, with judicial approval, has begun a similar SAMP pilot program in three Mississippi cities. It is interesting to see the Florida pattern being somewhat repeated, with the combination of private sector involvement and judicial support being used as a catalyst to speed up legislative reaction.

In addition to SAMP, the Salvation Army in Florida has negotiated several purchase of services contracts with the Federal Government. One contract, with the U.S. Bureau of Prisons in 1975, established a residental program for prereleases, to provide a transitional period of adjustment prior to expiration of incarceration. Another agreement, with the U.S. Immigration and Naturalization Service, creates a mechanism by which Salvation Army resources can be utilized to provide immediate needs for recent arrivals and to assist in the enculturation process. Both of these programs indicate the Federal Government's continued interest in seeing what the private sector can contribute to criminal justice improvement. Parenthetically, it may be noted that SAMP has been awarded a substantial LEAA grant, along with two county probation programs in New York and Illinois, to test for a relationship between risk assessment, intensity of supervision and probation success. All three of these programs are in the process of being formally evaluated by Rutgers-Newark's School of Criminal Justice.

Conclusion

One inference that might be drawn from the preliminary analysis of SAMP is that the private sector may be able to develop new models for the effective delivery of correctional services. At least, the community of correctional practitioners might do well to keep an open mind about the feasibility of private sector programs.

In the future, notwithstanding the opposition of organized correctional personnel and some correctional administrators, experimentation with private sector involvement will undoubtedly continue. In some instances, "successful" private programs will be taken over by the public sector. As long as the client doesn't suffer in terms of a diminution of effective service delivery, some takeovers may be considered positive, in that a greater number of individuals may be served by

increased access to a broader fiscal base. Private groups can also play a significant role after initiating programs, in terms of both oversight (monitoring) and support. Regarding the latter, Fox (1977, p. 403) has pointed out that "probably one of the greatest contributions of private organizations is the political influence they can bring to bear in a field [corrections] generally devoid of political advantage in appropriations, program improvement, and resources."

Discussion

A number of authors, including some with ideological positions as different as David Fogel (1979) and Norval Morris (1974), have suggested that we import "free-enterprise" into our prisons in the form of a *voucher* system. An earlier advocate of a similar plan (Greenberg, 1973, p. 217) concluded that "there is little danger that the [voucher] system we propose could *increase* recidivism." Recently, Jeffery (1978) proposed the creation of a private criminal justice system, utilizing a treatment voucher patterned after the educational policy espoused by economist Milton Friedman. Explicit in the Jeffery proposal is the idea of *accountability*.

> Each defendant could spend his voucher where he wanted. If he was not helped by the clinic, then the clinic would have failed him. Unsuccessful treatments would be driven out of existence once we make those engaged in treatment responsible for the outcome of the treatment. (p. 166)

To further Jeffery's idea of accountability, one may want to consider the *incentive-fee* system suggested by Alfred Blumstein (1968) whereby private correctional corporations would receive bonus payments for each client's lack of recidivism over a given period. A somewhat similar system has been suggested by Klein (1976, p. 425) in his analysis of police diversion programs. Parenthetically, a related scheme has been tried by the City of Orange (California) Police Department. Under this program, a bonus pay plan was established whereby pay was increased by 1 percent for each 3 percent reduction in reported crime each quarter. An evaluation of this program by the Urban Institute showed that a somewhat significant reduction in burglaries did occur as a result of the plan; however, the Institute commented that the city might need to "include a financial penalty if the crime rate subsequently increases" (*The New York Times*, November 11, 1974).

In the future, perhaps evolving from the purchase of services concept, one might envision the creation of a private (or quasi-public) system of community-based correctional programs. Under a framework of regulated competition within and between the two sectors, a type of "Gresham's Law of Corrections" may develop whereby effective programs drive out the ineffective. Given the significance of a financial incentive for performance in terms of both exchange and symbolic value, it is possible that a new emphasis on effectiveness may emerge. By tailoring rewards to measurable productivity, coupled with a monitoring system whereby one sector reviews the progress of the other, it is at least possible that the delivery of diversified correctional services may be significantly improved.

Prior to his death in 1979, Robert Martinson partially recanted his earlier assessment that "with few and isolated exceptions, the rehabilitative efforts [in corrections] that have been reported so far have had no appreciable effect on recidivism" (Martinson, Palmer, & Adams, 1976, p. 10). His latest position appeared to be that some programs succeeded some of the time for some clients—thereby indicating some support for a differential treatment model. Given what we already know about the sociological implications of labeling deviant behavior (Schur, 1971), is it not therefore possible that some clients are more likely to succeed under private (or quasi-public) correctional programs?

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