

The background of the cover is a photograph of a person painting a mural on a wall. The person is wearing a black long-sleeved shirt and a grey glove, and is using a roller to apply paint. The mural features a large, stylized face with a red nose and green lips. The wall is made of concrete and has some graffiti on it. The title 'COMMUNITY-BASED CORRECTIONS' is overlaid on the top half of the image.

COMMUNITY-BASED CORRECTIONS

12TH EDITION

LEANNE FIFTAL
ALARID



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COMMUNITY-BASED CORRECTIONS

12TH EDITION

LEANNE FIFTAL
ALARID
The University of Texas at El Paso



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*Dedicated to my students at the University of Texas at El Paso:
You inspire me.
May you find mucha felicidad y prosperidad in
the pursuit of your goals and dreams.
Hazlo siempre lo mejor que puedas.
Professor Alarid*

BRIEF CONTENTS

Preface		xv
PART I	OVERVIEW AND EVOLUTION OF COMMUNITY CORRECTIONS	1
CHAPTER 1	An Overview of Community Corrections: Goals and Evidence-Based Practices	2
CHAPTER 2	How Probation Developed: Chronicling Its Past and Present	22
CHAPTER 3	History of Parole and Mandatory Release	43
PART II	EVIDENCE-BASED COMMUNITY CORRECTIONAL SUPERVISION AND TREATMENT	61
CHAPTER 4	Pretrial Supervision, Sentencing, and the Presentence Investigation Report	62
CHAPTER 5	Case Management Using Risk/Needs/Responsivity	101
CHAPTER 6	Supervision and Treatment for Offenders with Special Needs	136
CHAPTER 7	Community Supervision Modification and Revocation	166
PART III	ENHANCEMENTS AND GRADUATED SANCTIONS	191
CHAPTER 8	Residential Community Supervision Programs	192
CHAPTER 9	Nonresidential Graduated Sanctions	214
CHAPTER 10	Economic and Restorative Justice Reparations	235
PART IV	SPECIAL ISSUES IN COMMUNITY CORRECTIONS	263
CHAPTER 11	Prisoner Reentry: Collateral Consequences, Parole, and Mandatory Release	264
CHAPTER 12	Career Pathways in Community Corrections	299
CHAPTER 13	Juvenile Justice, Probation, and Parole	322
CHAPTER 14	Bringing It All Together: Practical Solutions for Community-Based Corrections	351
Glossary		372
References		380
Table of Case		399
Name Index		401
Subject Index		405

CONTENTS

Preface	xv
PART I OVERVIEW AND EVOLUTION OF COMMUNITY CORRECTIONS	1
CHAPTER 1 An Overview of Community Corrections: Goals and Evidence-Based Practices	2
The Correctional Dilemma	5
Indeterminate Sentencing 7 • Origins of Determinate Sentencing 9	
The Paradox	10
Public Opinion About Community Corrections 10 • Prison Is Expensive 11	
The Role of Corrections at Three Major Decision Points	12
Pretrial and the Bail Decision 12 • Sentencing Decision 13 • Reentry Decision 14	
Theories Behind Community Correctional Goals	15
Protecting the Public Through Specific Deterrence 15 • Rehabilitation Through Risk/Need/Responsivity 16 • Healing the Victim and Community Through Restorative Justice 16 • An Integrated Theory of Community Supervision: The Participation Process Model 17	
Evidence-Based Practices in Community Corrections	18
Evaluating Effectiveness 18 • Outcome Measures in Evaluation 19	
<i>Summary</i>	<i>20</i>
<i>Discussion Questions</i>	<i>20</i>
<i>Websites, Videos, and Podcasts</i>	<i>21</i>
<i>Case Study Exercises</i>	<i>21</i>
CHAPTER 2 How Probation Developed: Chronicling Its Past and Present	22
Precursors to American Probation	24
Procedures Related to Modern Probation 24 • The Founders of Probation 25 • Development of Federal Probation 28 • History of Juvenile Probation and the Juvenile Court 28 • Early Probation Legislation in Other States 31	
Probation Today	31
Deferred Adjudication/Diversion 32	
Probation Departments: County or State? 32 • Community Corrections Acts 34	

Community Supervision Models Over Time	36
Casework Model: 1900–1970	36 • Brokerage of Services Model: 1971–1981
Justice Model: 1982–2000	37 • Neighborhood-Based Supervision Model: 2001–Present
Criminogenic Needs-Based Supervision Model: 2012–Present	38
Who Is on Probation?	39
<i>Summary</i>	40
<i>Discussion Questions</i>	41
<i>Websites, Videos, and Podcasts</i>	41
<i>Case Study Exercises</i>	42
CHAPTER 3 History of Parole and Mandatory Release	43
Introduction	46
The Origins of Parole	47
Manuel Montesinos	47 • Georg Michael von Obermaier
Alexander Maconochie	48 • Sir Walter Crofton and the Irish System
50	
The Development of Parole in the United States	50
Four Justifications of Parole	50 • The Medical Model: 1930–1960
• From Discretionary Parole to Mandatory Release	52
Parole Today	52
Characteristics of Parolees	54 • Contemporary Functions of Parole
56	
<i>Summary</i>	58
<i>Discussion Questions</i>	58
<i>Websites, Videos, and Podcasts</i>	58
<i>Case Study Exercises</i>	59
PART II EVIDENCE-BASED COMMUNITY CORRECTIONAL SUPERVISION AND TREATMENT	61
CHAPTER 4 Pretrial Supervision, Sentencing, and the Presentence Investigation Report	62
Introduction	64
Pretrial Services	64
History of Pretrial Release	64 • Decision to Detain or Release
65 • Pretrial Supervision	69 • Diversion
70	
Sentencing	70
Factors That Affect Granting a Community Sentence	71 • Structured Sentencing
71 • Unstructured Sentencing	75
The Presentence Investigation (PSI) Report	77
Purposes of the PSI Report	78 • Contents of the PSI Report
79 • Preparing the PSI Report	81 • PSI Interview and Verification
81 • The Sentence Recommendation	83 • Legal Issues Concerning the PSI Report
84	
Community Corrections Conditions	85
Standard Conditions	85 • Special Conditions
86	

<i>Summary</i>	88
<i>Discussion Questions</i>	88
<i>Websites, Videos, and Podcasts</i>	89
<i>Case Study Exercise No. 1</i>	90
<i>Case Study Exercise No. 2</i>	91
<i>Case Study Exercise No. 3</i>	96
CHAPTER 5 Case Management Using Risk/Needs/Responsivity	101
Identifying Risks and Criminogenic Needs	103
Objective Risk and Needs Assessments	103
The Supervision Component	104
Visits and Field Contacts	109 • Levels of Supervision
110	
Implementing the Case Treatment Plan	113
The Principles of Effective Correctional Intervention	114 • Cognitive
Behavioral Therapy	114 • Employment Assistance
115 • Developing	
Prosocial Networks	117
Working with Female Offenders	119
Early Pathways to Women's Criminality	119 • Core Correctional Practices
and Motivational Interviewing	120 • Gender-Specific Programming
121	
Supervision Outside the State	122
Eligibility for the Interstate Compact	123 • Revocation and Extradition
124	
<i>Summary</i>	125
<i>Discussion Questions</i>	125
<i>Websites, Videos, and Podcasts</i>	126
<i>Case Study Exercises</i>	126
Sample Client Interview Questions	128
Develop the Client's Program Plan	132
CHAPTER 6 Supervision and Treatment for Offenders with Special Needs	136
Intensive Supervision and Specialized Caseloads	138
Offenders Who Are Addicted to Drugs and Alcohol	139
Prescription Medications That Decrease Cravings	140 • Drug
Courts	141 • Therapeutic Communities
143	
Supervising Offenders Who Are Mentally Ill	147
Mental Health Courts	148 • Justice-Involved Veterans
150 • Veterans'	
Courts	150 • Specialized Mental Health Caseloads
152 • Outpatient	
Community Clinics	152 • Community-Based Residential Facilities
for Mentally Ill Offenders	153
Supervising Sex Offenders	153
Sex Offender Treatment	154 • Containment Supervision
Approach	156 • Sex Offender Registration Laws
158	
• Community Notification Laws	159 • Residency Restrictions
159	
Supervising Offenders Who Are Undocumented	160

<i>Summary</i>	162
<i>Discussion Questions</i>	163
<i>Websites, Videos, and Podcasts</i>	163
<i>Case Study Exercises</i>	164
CHAPTER 7 Community Supervision Modification and Revocation	166
Introduction	169
Early Termination for Good Behavior	169
Types of Violations	171
Law Violations	171
• Technical Violations	171
• Absconding from Community Supervision	173
In-House Progressive Sanction Options before Filing a Revocation	174
Revocation Procedures	175
Warrants and Citations	179
• Two-Stage Process	180
Legal Issues Regarding Revocation Hearings	181
Rights for Which Offenders Qualify	181
• Rights Limited to Offenders	182
• Level of Proof and Evidence Required	182
• Other Revocation Situations	183
When Community Supervision Ends	184
Recidivism and Offender Characteristics	184
• Time to Revocation	184
• Recidivism Rates of Released Prisoners over Time	186
• Why Have Revocation Rates Increased?	186
• Alternatives to Incarceration for Technical Violations	187
<i>Summary</i>	188
<i>Discussion Questions</i>	189
<i>Websites, Videos, and Podcasts</i>	189
<i>Case Study Exercises</i>	190
PART III ENHANCEMENTS AND GRADUATED SANCTIONS	191
CHAPTER 8 Residential Community Supervision Programs	192
Introduction	194
Residential Community Correctional Facilities/Halfway Houses	194
History of Halfway Houses	195
• Program Components	196
• Staff Perspectives About Supervision and Treatment	197
• RCCFs for Female Offenders	198
• Do RCCFs Work?	200
Work Release Programs	201
Jail/Prison-Based Work Release	202
• Community-Based Work Release: Restitution Centers	203
• Work Ethic Camps	205
Shock Incarceration	206
Correctional Boot Camps	206
• Criticisms of Boot Camps	210
• Evaluations of Boot Camp Programs	210
<i>Summary</i>	211
<i>Discussion Questions</i>	211

<i>Websites, Videos, and Podcasts</i>	212
<i>Case Study Exercises</i>	213
CHAPTER 9 Nonresidential Graduated Sanctions	214
Introduction	216
House Arrest	216
Purposes of Home Detention 216 • House Arrest Criticisms and Opportunities 217	
Electronic Monitoring: Radio Frequency and Global Positioning Systems	218
History of Radio Frequency Electronic Monitoring 218 • Global Positioning Systems 221 • Limitations of GPS 223 • Empirical Evaluations of RF and GPS 227	
Day Reporting Centers	228
Treatment-Oriented Versus Supervision-Oriented DRCs 230	
• Evaluations of DRCs 231	
<i>Summary</i>	232
<i>Discussion Questions</i>	233
<i>Websites, Videos, and Podcasts</i>	233
<i>Case Study Exercises</i>	234
CHAPTER 10 Economic and Restorative Justice Reparations	235
Introduction	238
Community Stakeholders 238	
Principles of Restorative Justice	240
Reintegrative Shaming Theory 240 • Procedural Justice Theory 240	
Restorative Justice Practices	241
Victim–Offender Mediation 241 • Conferencing 242 • Sentencing Circles 243 • Reparation Boards and Victim Impact Panels 244	
• Effectiveness of Restorative Justice Methods 246	
Restitution	247
Benefits of Restitution in Restorative Justice 247 • Losses Eligible for Compensation 248 • Problems Associated with Restitution 248	
• Collecting Restitution 249	
Community Service	251
History of Community Service 251 • Purpose of Community Service 251 • Prevalence of Community Service 252 • Effectiveness of Community Service 253	
Fines	254
Prevalence of Fines 254 • Revoking Probation for Fine Nonpayment 255	
Fees and Court Costs	256
Forfeitures	259
<i>Summary</i>	260
<i>Discussion Questions</i>	260
<i>Websites, Videos, and Podcasts</i>	260
<i>Case Study Exercises</i>	261

PART IV SPECIAL ISSUES IN COMMUNITY CORRECTIONS	263
CHAPTER 11 Prisoner Reentry: Collateral Consequences, Parole, and Mandatory Release	264
Introduction	267
Issues in Reentry	267
What Is Reentry? 268 • Challenges During Reentry 268	
Collateral Consequences of a Felony	271
Finding Employment 273 • Loss of Right to Vote 276 • Loss of Right to Own or Possess a Firearm 277 • Loss of Government Benefits for Drug Offenders 279 • Loss of Parental Rights 280 • Losses in Court 280	
The Reentry Process	281
Time Sheets and Eligibility Dates 281 • Prerelease Preparation Within the Institution 282 • Reentry Risk Assessment 283	
The Parole Board and Releasing Authority	287
The Parole Hearing 287 • Parole Hearing Attendees 288 • The Parole Board Decision 289 • Legal Issues in Parole Hearings 290	
Community-Based Reentry Initiatives	290
Workforce Development 291 • Reentry Courts 291 • Day Reporting Centers and Electronic Monitoring 293 • Parole and Mandatory Supervision Effectiveness 293 • Reentry Program Effectiveness 295	
Summary	295
Discussion Questions	296
Websites, Videos, and Podcasts	296
Case Study Exercises	297
CHAPTER 12 Career Pathways in Community Corrections	299
Introduction	301
Selection and Appointment of Probation Officers	301
Appointment System 301 • Merit System 303	
Officer Qualifications and Training	303
Education and Experience 303 • Community Supervision Officer Training 304	
Firearm Policies for Probation and Parole Officers	307
Arguments in Support of Carrying Firearms 308 • Arguments against Carrying Firearms 310	
Stressors Encountered in Probation and Parole	311
Sources of Stress 311 • Types of Immunity for Community Corrections' Officers 313	
Private Probation	315
Services Provided by Private Probation and Private Treatment Companies 316 • Statutes Authorizing Private Probation 317	
• Criticism of Probation Privatization 317	

<i>Summary</i>	318
<i>Discussion Questions</i>	319
<i>Websites, Videos, and Podcasts</i>	319
<i>Case Study Exercises</i>	320
CHAPTER 13 Juvenile Justice, Probation, and Parole	322
Introduction	324
At-Risk versus Protective Factors	324
Juvenile Justice and Adult Criminal Justice Systems Compared	326
Jurisdiction of Juvenile Courts	327 • Waiver to Adult Court 328
An Overview of the Juvenile Justice Process	329
Intake	330 • Adjudication 331 • Disposition 333
Residential Placements for Juveniles	335
Wilderness Challenge Programs	336 • Group Homes 337
• Mentoring At-Risk Youth	337 • Family Therapy 338
Juvenile Probation	339
Conditions of Probation	339 • Gender-Specific Services for Girls 340
• Change as an Integral Process	340 • Juvenile Probation Officers as
“Superheroes”	342 • School-Based Probation 342
Supervising High-Risk Juveniles in the Community	343
Home Visits and Curfew	344 • Youth Gang Members 344
• Juvenile Parolees	345 • Juvenile Parole Boards and Parole
Officers	346 • Revocation of Juvenile Probation or Parole 346
The Future of Juvenile Justice	347
<i>Summary</i>	348
<i>Discussion Questions</i>	349
<i>Websites, Videos, and Podcasts</i>	349
<i>Case Study Exercise</i>	350
CHAPTER 14 Bringing It All Together: Practical Solutions for Community-Based Corrections	351
Introduction	354
Rehabilitation Solutions	354
What Programs Work to Reduce Recidivism?	355 • Valid Risk/Needs
Assessments	355
Community Supervision Solutions	356
Communication	356 • Casework Strategies 357 • Leverage 359
Restorative Solutions	361
Justice Reinvestment in Disadvantaged Communities	361 • Restoring
Former Offenders Through Pardons	362 • Restoring Former Offenders
Through Expungement of Records	364 • Restoring Former Offenders
Through Sealing of Records	365 • Are Juvenile Records Confidential? 366
• Should Former Felons Be Less Stigmatized?	367

<i>Summary</i>	369
<i>Discussion Questions</i>	369
<i>Websites, Videos, and Podcasts</i>	370
<i>Case Study Exercise</i>	370
Glossary	372
References	380
Table of Case	399
Name Index	401
Subject Index	405



PREFACE

Evidence-based practices (EBP) have changed the way that many criminal justice agencies operate, to a greater acceptance of empirical research and evaluation to determine what improvements can be made for more efficient use of rehabilitation programs and correctional technology. Through the principles of effective correctional intervention, more is known about what works with certain types of offenders. There is also a broader array of choices available as alternatives to incarceration than ever before.

This book operates on two assumptions. First, most people who are diverted from a conviction or who are convicted of a crime receive a community-based correctional sanction. This means that most people spend a great deal of their sentence being supervised or treated in the community rather than in jail or prison.

The second assumption of this book refers to the likelihood of release of incarcerated persons. While some people pose a significant risk such that they should be incarcerated for their crimes, the reality is that between 95% and 97% of people in jail or prison today will be released at some point in their lives. Many will undergo a period of community supervision as they transition back to the community. This book examines programs that operate to fit the needs of various types of offenders.

The goal of the twelfth edition of *Community-Based Corrections* is to provide students with a comprehensive and practical guide to EBP and academic research on probation, release from prison, and other community-based alternatives. Community-based correctional programs are based in their historical, philosophical, social, and legal contexts and integrate real-life practice to the greatest extent possible. Because this book is meant to have practical use, examples of actual community-based programs, and procedures are used from various jurisdictions, while at the same time, recognizing that local community corrections programs vary widely.

NEW TO THIS EDITION

There are six brand new Field Notes essays introduced in this edition. These essays are authored by a practitioner in the field throughout various chapters. The topics of the essays are presentence investigation interviewing and reports (Box 4.3), supervising gang members (Box 5.2), unique issues in the supervision of undocumented offenders (Box 6.5), working at a halfway house (Box 8.1), supervising offenders on electronic monitoring (Box 9.4), and observations about reentry courts (Box 11.5).

Chapter 1 discusses the effect of the new federal sentencing changes, the increased use of parole, and the role of the President in criminal justice system reform. As immigration issues come to the forefront of the Trump presidency, a

new chapter opening story is presented about the role of the corrections system in the lives of undocumented immigrants who come across the border seeking political asylum from their home country.

Chapter 2 has a new chapter opening story about actress Debby Ryan. The police practice of issuing civil citations to juveniles in lieu of sending them to court has been added to this chapter as a different path to community supervision. Civil citations are introduced as a new glossary term, and because they involve juveniles, the issue is discussed again in Chapter 13. A new table has been added that depicts current probation officer activities, defined as either law enforcement or task-oriented.

Chapter 3 provides updates on the prison population reduction and realignment activities occurring in the state of California, including the ramifications of prison crowding on community corrections. Figure 3.1 is updated. Figure 3.2 illustrates a brand new sentencing philosophy map that allows students to identify which states are indeterminate and which states have primarily determinate sentencing structures.

Chapter 4 contains a new chapter opening story about former NFL player Vince Young's probation sentence. The third learning objective in this chapter was revised to include the concepts of structured versus unstructured sentencing. A section of this chapter was rewritten to better explain that determinate and indeterminate sentencing is differentiated primarily by the level of discretion in prison release. Also, both determinate and indeterminate states can have structured sentencing guidelines. To clarify this point further, structured sentencing guidelines are differentiated from unstructured sentencing. A map of structured sentencing is inserted as a new figure (4.2). The federal sentencing guidelines were revised to incorporate the changes for drug offenses in 2016.

Chapter 5 has a new chapter opening story on Austin Lee Russell's troubles with the law. Principles of effective intervention were better distinguished from core correctional practices. The section on motivational interviewing was rewritten and "core correctional practices" was added as a new glossary term. Also, per a reviewer's suggestion, information was added on interstate compact information sharing as an example of probation/police partnerships. "Probation/police partnerships" was added as a new glossary term. The chapter summary bullet points were rewritten to clarify the new concepts.

Chapter 6 contains a new chapter opening story about the issue of whether celibacy is a reasonable condition of probation for someone convicted of a sex offense. A brand new section was added at the end of the chapter on supervising undocumented offenders in the community, with an added Field Notes essay from a practitioner who specializes in this type of supervision. One learning objective (understanding how ISP is different from regular probation) was removed and replaced with: "Understand how supervision of an undocumented person differs from supervising a citizen or permanent resident." Updated coverage is provided in evaluations of community treatment for drug offenders, community options for military veteran offenders with mental illness, and recidivism of federal sex offenders under supervised release.

Chapter 7 expands the new findings from other sites that have used Project HOPE to respond swiftly to drug use while on probation in Box 7.1. "Progressive sanctions" has been added as a glossary term. A different decision matrix has been inserted in Table 7.2 that includes both sanctions for negative behavior and rewards to reinforce positive behavior (the old one had only sanctions). Given the rise of police probation partnerships, Box 7.3 has been rewritten to include a

clearer discussion on when probation/parole officers and police officers may conduct warrantless searches of offenders during supervision.

In Chapter 8, “dual role relationship theory” was added as a new glossary term. Sections that were updated include RCCFs for female offenders and evaluations of work release. Chapter 9 more clearly distinguishes the two types of electronic monitoring as radio frequency and global positioning systems. Evaluations of day reporting centers were revised. In Chapter 10, meta-analyses of restorative justice (RJ) were added to show the effectiveness of RJ on recidivism. A section on the problem use of too many financial obligations was expanded in the area on fees and fines.

Chapter 11 has a new chapter opening story about OJ Simpson’s release from prison. The section on employment restrictions and “ban the box” was updated to include research showing that delaying asking about criminal records is effective. Box 11.5 on video conferenced parole hearings was replaced with a Field Notes essay so students can learn more about how reentry courts differed from traditional courts.

A new case study was added on officer firearms training, and sections on training, knowledge, skills, and abilities were updated in Chapter 12. In Chapter 13, a new chapter vignette is presented, and the learning objectives have been revised. In addition, the sections on juvenile probation and parole revocations and on partnerships between police and probation agencies were updated. The sections on expungements and juvenile records were updated in Chapter 14.

Learning Tools

Each chapter opens with a recent human interest story or a well-known person who is serving a community corrections sentence, that corresponds to the material in that particular chapter. Each chapter has learning objectives of noteworthy concepts in a bulleted list format. Key terms are boldfaced in the text, with their accompanying definitions in the margins, and also defined in the glossary at the back of the book. There are two to three “Truth or Fiction” feature boxes presented in the margins of most chapters. This feature presents an issue that is commonly perceived in a particular way (such as whether criminals can be rehabilitated) and then immediately follows up as to whether that perception is factual or a myth.

The most notable pedagogical teaching tool available in this text allows the students to apply kinesthetic learning and case study methods to examine an arrest report and criminal background check on a created defendant, named Sue Steel. The client information and arrest report is initially presented at the end of Chapter 4. The student can then engage in a mock interview with “Sue Steel” (played by the instructor, a teaching assistant, or other person). The purpose of the interview is for students to prepare a presentence report from the information gained during the interview. In Chapter 5, the student can score a risk/needs assessment and create an individualized supervision plan for that same client. Then, supervision options can be discussed from Chapter 6 through Chapter 11. All of these tools are placed in the appropriate chapters, so students can engage in real-world experiences as they read the text. Each chapter contains the following pedagogical features:

BOXED FEATURES There are four boxed features running through the text in most chapters. “Evidence-Based Practices in Community Corrections” investigates techniques in community corrections supervision and correctional

programs that are most effective in reducing recidivism. The “Field Notes” boxed text features 13 different practitioners who write about a different correctional issue from their own perspective. The third box theme is “Technology in Corrections,” which illustrates how advancements in equipment and data systems have impacted community corrections supervision. Finally, “Corrections Up Close” investigates a particular topic in more detail as it pertains to the chapter material.

CHAPTER REVIEW Each chapter is followed by a bulleted summary list. Discussion questions are included to encourage students to critically think about the material in each chapter. Some discussion questions can be designed as topics for essay questions, exams, or research papers. A listing of websites, videos, and podcasts is provided for instructors and students to seek more information on material presented within the chapter.

CASE STUDIES Each chapter has case studies for in-class discussion or to use as a basis for writing assignments. Each case study provides the student with background information about an offender and requires that the student incorporate a problem-solving skill that was discussed in that chapter, such as whether to divert a case, grant probation, modify or revoke probation, use a graduated sanction, use a restorative justice option, release from prison, and/or release on medical parole. Other case studies require the student to justify particular uses of probation conditions for juvenile offenders, sex offenders, and restorative justice cases. Thus, the student is applying decision making to individual offenders in a similar way as judges, probation officers, and parole board members.

ANCILLARIES

FOR THE INSTRUCTOR

MINDTAP FOR CRIMINAL JUSTICE MindTap Criminal Justice from Cengage Learning represents a new approach to a highly personalized, online learning platform. A fully online learning solution, MindTap combines all of a student’s learning tools—readings, videos, activities, and assessments into a singular Learning Path that guides the student through the curriculum. Instructors personalize the experience by customizing the presentation of these learning tools for their students, allowing instructors to seamlessly introduce their own content into the Learning Path via “apps” that integrate into the MindTap platform. Additionally, MindTap provides interoperability with major Learning Management Systems (LMS) via support for industry standards and fosters partnerships with third-party educational application providers to provide a highly collaborative, engaging, and personalized learning experience.

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ONLINE TEST BANK Each chapter’s test bank contains questions in multiple-choice, true false, completion, essay, and new critical thinking formats, with a full

answer key. The test bank is coded to the learning objectives that appear in the main text, and includes the section in the main text where the answers can be found. Finally, each question in the test bank has been carefully reviewed by experienced criminal justice instructors for quality, accuracy, and content coverage.

CENGAGE LEARNING TESTING POWERED BY COGNERO This assessment software is a flexible, online system that allows you to import, edit, and manipulate test bank content from the *Community-Based Corrections* test bank. You can, include your own favorite test questions, create multiple test versions in an instant, and deliver tests from your LMS, your classroom, or wherever you want.

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Leanne F. Alarid

Part I

Overview and Evolution of Community Corrections

Community supervision has undergone significant change in the past several years. Specifically, the role of the community supervision officer has evolved from a condition-driven brokerage and monitoring specialist to a risk-focused direct service interventionist that uses behavioral change strategies to promote public safety and reduced victimization. (Robinson, Lowenkamp, Lowenkamp, & Lowenkamp, 2015, p. 3)

This text addresses all the recent changes in probation, parole, and community-based correctional programs while also subscribing to the idea that most offenders can be effectively held accountable for misdemeanor and felony crimes at the same time that they live and work in the community. Most offenders do not pose an imminent danger to themselves or to others and can therefore remain in the community, without being incarcerated, and without endangering public safety. Offering correctional options for offenders living in the community confers several benefits.

First, the offender continues to contribute toward individual and familial responsibilities with legitimate employment, paying income taxes, and child support. Second, offenders living in the community are more likely than prison-bound offenders to compensate victims through restitution or to pay back the community through community service. Finally, community corrections programs do not expose offenders to the subculture of violence that exists in many jails and prisons.

Chapter 1 introduces the array of community corrections programs and explains why the study of community corrections is important, including the movement of the field toward evidence-based practices. Chapter 2 chronicles the history of probation from the early 1800s to the present, including a section discussing how supervision philosophy has changed over time, and ends with a description of who is on probation. Chapter 3 examines the history of reentry that began as discretionary parole, which, for violent and habitual offenders, has been replaced by mandatory release. Discretionary parole remains an important decision point in the correctional process, with medical parole becoming the newest issue for the compassionate release of terminally ill prisoners.

An Overview of Community Corrections: Goals and Evidence-Based Practices

Chapter

1



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CHAPTER OUTLINE

- **The Correctional Dilemma**
 - Indeterminate Sentencing
 - Origins of Determinate Sentencing
- **The Paradox**
 - Public Opinion About Community Corrections
 - Prison Is Expensive
- **The Role of Corrections at Three Major Decision Points**
 - Pretrial and the Bail Decision
 - Sentencing Decision
 - Reentry Decision
- **Theories Behind Community Correctional Goals**
 - Protecting the Public Through Specific Deterrence
 - Rehabilitation Through Risk/Need/Responsivity
 - Healing the Victim and Community Through Restorative Justice
- **An Integrated Theory of Community Supervision: The Participation Process Model**
- **Evidence-Based Practices in Community Corrections**
 - Evaluating Effectiveness
 - Outcome Measures in Evaluation
- **Summary**

CHAPTER LEARNING OBJECTIVES

1. Define corrections and its purpose.
2. Explain the role of corrections at each of the three main decision points.
3. Analyze the theories behind correctional goals of punishment and rehabilitation.
4. Explain the importance of evidence-based practices to evaluating effectiveness and achieving correctional goals.

KEY TERMS

community corrections
post-adjudication
pre-adjudication
probation
indeterminate sentencing
determinate sentencing
bail
pretrial supervision
intermediate sanctions
prisoner reentry
prerelease program
parole
specific deterrence theory
rehabilitation
risk/need/responsivity (RNR)
criminogenic needs
restorative justice
participation process model
evidence-based practices (EBP)
net widening
recidivism

Maria, aged 32, was adamantly opposed to leaving her small hometown in Guatemala. But when her husband Hector refused to allow the local drug cartel to use their farm house as a watch post for police, the cartel threatened the entire family with violence and death. Hector finally convinced his wife to take their two children, Hector Jr. aged 10, and Sylvia, aged 13, out of Guatemala into Mexico until the danger passed, and if necessary, to cross the border into the United States. Hector gave Maria the family's life savings for the trip, and he would follow the family north once he saved the money for his own travel expenses. Maria and the children paid a "coyote" to guide them with a small group of others into Mexico. Riding on the tops of trains, walking at night over a period of two months, and suffering through being raped three times by the coyotes, Maria and her kids eventually crossed the Rio Grande River into an open area just east of El Paso, Texas.

By the next morning, the dehydrated and weary travelers were apprehended by the U.S. Border Patrol. Maria and her children had been told to give themselves up willingly if they were caught. The trio was fingerprinted, photographed, and interviewed in the Border Patrol's processing unit before they were transported to a temporary detention facility where they stayed for two weeks until their first hearing. At the hearing, Judge Martinez determined that Maria and her two kids did not pose a public safety threat and didn't need to be detained, but more information needed to be obtained about whether "credible fear" existed back in Guatemala before a final decision could be made on Maria's request for political asylum. In the meantime, the Judge gave Maria an option: she could post a bond of \$1,500 in cash or she could agree to be released on electronic monitoring for four months until her next court date. Maria had no money to post bond. While on electronic

monitoring, Maria would be “supervised” at a minimal level, required to report in person once per month, and have a curfew where she was required to be with her kids when she wasn’t working. While the kids were not required to wear electronic monitoring devices, she felt lucky to find a bed that the three of them could share at a homeless shelter. Maria was unsure if she would ever find a job, and how her kids were going to attend school and learn to speak some English. She was fearful that despite all they had been through, they still might face deportation or it was possible they may never see Hector again.

Based on the information given, did Maria and the kids commit a crime? Do you support Judge Martinez’ decision to release them on bond or on electronic monitoring? What is the role of the corrections system, more broadly, for undocumented immigrant cases?

THE CORRECTIONAL DILEMMA

Incarceration reduces crime ... but only up to a point. Once the incarceration rate hits a certain level—at the state level this tipping or inflection point appears to be 325 inmates per 100,000 population—crime rates actually increase. (Byrne, 2013, p. 9)

In the United States, nearly seven million people, equivalent to about 3% of the total adult population, are currently under some form of correctional supervision, which includes those sentenced to prison, jail, or community supervision. Most of our nation's crime control policies over the past four decades have been driven by the assumption that incarceration reduces crime. Experts estimate that there is only a small reduction at best, especially when compared to other strategies. On one hand, a 10% increase in the incarceration rate is associated with only between 1% and 4% decrease in the crime rate (Stemen, 2007). On the other hand, more police officers, low unemployment, increased wages, and higher education levels have all shown to decrease crime rates at levels greater than what prison can achieve (Byrne, 2013).

Because incarceration as a method of crime reduction is such a costly endeavor, many states realized that we cannot build our way out of the crime problem. The economic recession of 2008 was a significant factor to how local and state government thought about reducing correctional costs relative to other costs such as health care, education, and transportation. In 2010, the state's prison population experienced its first reduction for the first time since the late 1970s, and the federal Bureau of Prison began to decline in 2013. The overall prison population has since continued on a general decline over the last eight years (Kaeble & Glaze, 2016).

In 2015, the U.S. Sentencing Commission changed federal sentencing guidelines to reduce punishment for drug offenders by an average of two years. This change affected nearly half of the nation's 100,000 drug offenders, by qualifying them for release earlier than originally anticipated, because the change was retroactive. In addition, federal prosecutors were instructed not to charge new drug offenders with mandatory sentences if they had no connection to drug cartels or organized gang groups (Obama, 2017).

At the state level, decriminalization of marijuana and passage of recreational marijuana laws are among the relevant factors responsible for the decrease in the number of offenders brought into the criminal justice system. Other progressive states are reallocating resources from costly jails and prisons to less costly but effective correctional approaches within the community.

This text focuses exclusively on community-based corrections. **Community corrections** refers to any sanction in which offenders serve all or a portion of their entire sentence in the community. Most community corrections options are **post-adjudication**, which means that the defendant has either pleaded guilty or been found guilty by a judge or jury. After a finding of guilt, the court sentences the defendant, and the corrections system carries out that sentence. Some types of community correctional supervision, however, are **pre-adjudication**, which means that treatment with supervision occurs in the community *prior* to a finding of guilt. Table 1.1 distinguishes these differences.

A community sentence seeks to repair the harm the offender has caused the victim or the community and to reduce the risk of reoffending in the future.



community corrections

A nonincarcerative sanction in which offenders serve all or a portion of their sentence in a community.



post-adjudication

The state in which a defendant has been sentenced by a court after having either pleaded guilty or been found guilty by a judge or jury. Being adjudicated is equivalent to a conviction.



pre-adjudication

The state in which a defendant has not yet pleaded guilty or been found guilty by a judge or jury. Said defendant is either in a pretrial stage or has been offered deferred adjudication.

TABLE 1.1 Pre-Adjudication Versus Post-Adjudication Corrections

PRE-ADJUDICATION CORRECTIONS	
Community Corrections	Institutional Corrections
Pretrial release	Jail
Pretrial supervision/house arrest	Jail-based work release
Victim–offender mediation	
Diversion/deferred adjudication	
POST-ADJUDICATION CORRECTIONS	
Community Corrections	Institutional Corrections
Civil Citation	Jail
Probation supervision (regular/intensive/specialized)	Prison
Mandatory release or discretionary parole	
Probation or Parole Add-Ons	Treatment While Incarcerated
Residential halfway house/prerelease facility	Reentry preparation classes
Residential substance abuse facility	Prison-based therapeutic community
Drug court or mental health court	Psychotropic medications
Outpatient treatment/therapy (substance abuse, parenting, battering/assault, sex offender)	Prison-based cognitive-behavioral therapy
Education/classes (school, life skills, vocational, financial/credit counseling)	Education or vocational opportunities
Electronic monitoring/global positioning	
Day reporting centers	
Community service	
Restitution, fines, fees	
Community reparation boards	

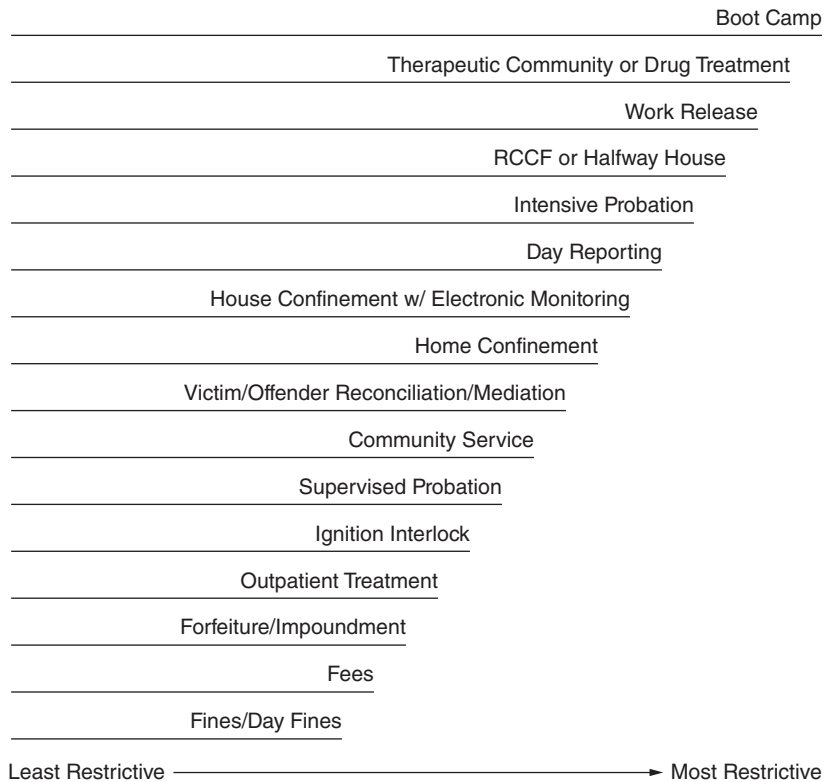
Figure 1.1 shows the wide variety of community-based sanctions available, ranging from residential programs (halfway houses, prerelease facilities, and therapeutic communities) to economic sanctions (restitution, fines, and fees) to nonresidential or outpatient options (probation, parole, and electronic monitoring).

The most common form of community supervision is **probation**. Probation is defined as the release of a convicted offender under conditions imposed by a court for a specified period, during which time that court retains authority to modify those conditions or to resentence the offender if he or she violates those conditions. Probation forms the basis of community supervision, and most of the other sanctions introduced in Figure 1.1 are programs or conditions that can be applied in different combinations to different offenders to achieve individualized results. The American Probation and Parole Association (APPA) was created to bridge these alternatives. As an international policy and educational organization for practitioners who work with adults and juveniles in the field of community corrections, the APPA serves to educate and train members and to develop standards for the discipline.



probation

Community supervision of a convicted offender in lieu of incarceration under conditions imposed by a court for a specified period, during which it retains authority to modify those conditions or to resentence said offender if he or she violates those conditions.

**FIGURE 1.1**

Community Corrections by Restrictiveness.

Adapted from: Center for Community Corrections (1997). *A Call for Punishments That Make Sense*, p. 37. Washington, DC: Bureau of Justice Assistance. Retrieved from: www.communitycorrectionsworks.org/steve/nccc/punishments.pdf

TRUTH OR FICTION?

Even though the United States has the highest incarceration rate in the world when compared to other countries, probation is still the most common correctional sentence in the United States.

TRUE

FACT: There is more than twice the number of Americans on probation than in all jails and prisons combined. This is because probation includes deferred adjudication, diversion, and post-conviction community sentences.

Table 1.2 shows the latest government statistics on the number of people currently under some form of correctional supervision. There were 3.78 million offenders on probation and over 870,000 on parole/supervised release, for a total community corrections population of 4.6 million (Kaeble & Glaze, 2016).

There are considerably more male and female offenders under community supervision than those incarcerated in jail and prison. The correctional system carries out the order of the courts, but the variance in the *rate* per 100,000 people is derived from a number of factors that include the nature of each state's sentencing laws, police discretion in responding to criminal behavior, the rate of release from prison, and each agency's probation and parole violation policy. We begin by describing the nature of sentencing, which is distinguished by two basic philosophies: indeterminate and determinate.

Indeterminate Sentencing

From the 1930s to the mid-1970s, **indeterminate sentencing** was the primary sentencing philosophy in the United States. Under this model, judges decided who went to prison, and parole boards decided when offenders were rehabilitated and ready for release on parole. The release date was unknown by an offender and subject to a majority decision of the parole board, which determined whether that offender was making sufficient progress toward rehabilitation and was ready to rejoin the larger society. While incarcerated, offenders were able to enroll in a variety of programs aimed at self-improvement and skill building to demonstrate readiness for the parole board.



indeterminate sentencing

A sentencing philosophy that encourages rehabilitation and incorporates a broad sentencing range in which discretionary release is determined by a parole board, based on an offender's remorse, insight into his or her mistakes, involvement in rehabilitation, and readiness to return to society.

TABLE 1.2 Adults on Probation, on Parole, in Jail and in Prison: 1980–2016

Year	Total Estimate in Millions	COMMUNITY SUPERVISION		INCARCERATION	
		Probation	Parole	County Jail	State & Fed Prison
1980	1.84	1,118,097	220,438	182,288	319,598
1982	2.19	1,357,264	224,604	207,853	402,914
1984	2.69	1,740,948	266,992	233,018	448,264
1986	3.24	2,114,621	325,638	272,735	526,436
1988	3.74	2,356,483	407,977	341,893	607,766
1990	4.35	2,670,234	531,407	403,019	743,382
1992	4.76	2,811,611	658,601	441,781	850,566
1994	5.14	2,981,022	690,371	479,800	990,147
1996	5.49	3,164,996	679,733	518,492	1,127,528
1998	6.13	3,670,441	696,385	592,462	1,224,469
2000	6.46	3,839,532	725,527	621,149	1,316,333
2002	6.76	4,024,067	750,934	665,475	1,367,547
2004	7.00	4,151,125	765,819	713,990	1,421,911
2006	7.20	4,237,023	798,202	765,819	1,492,973
2008	7.31	4,270,917	828,169	785,533	1,522,834
2010	7.08	4,055,514	840,676	748,728	1,518,104
2012	6.95	3,942,800	858,400	744,500	1,570,400
2014	6.85	3,868,400	857,700	744,600	1,562,300
2016	6.74	3,789,800	870,500	728,200	1,526,800

Notes: Counts are for December 31 of each year, except for the most recent year (which is as of January 1); jail population counts are for June 30 of each year; jail estimates include convicted prisoners awaiting transfer to prison facilities. Some data have been revised based on the most recently reported counts and may differ from previous estimates.

Sources: All sources for all years of this table were published by the Bureau of Justice Statistics, U.S. Department of Justice in Washington, DC. Most recent estimates from: Kaeble, Danielle, and Lauren Glaze. 2016. *Correctional populations in the United States, 2015*, NCJ 250374; Carson, E. Ann. 2014. *Prisoners in 2013*, NCJ 247282. Washington, DC: U.S. Department of Justice; Glaze, Lauren E. 2011. *Correctional population in the United States, 2010*, NCJ 236319; Herberman, Erinn J., and Thomas P. Bonczar. 2014. *Probation and parole in the United States, 2013*, NCJ 248029; Minton, Todd D., and Daniela Golinelli. 2014. *Jail inmates at midyear 2013—Statistical tables*, NCJ 245350.

DISCRETIONARY PAROLE AS A RELEASE STRATEGY. Parole was also used as a back-door strategy for controlling the prison population. When prisons became too crowded, the parole rate increased to make room for incoming prisoners. Under indeterminate sentencing, offenders who did not go to prison were, for the most part, placed on probation. Few intermediate sentencing options existed other than prison or probation. Options that did exist, such as halfway houses and intensive probation, were used infrequently.

Support for indeterminate sentencing declined as people questioned whether prison rehabilitation worked and whether parole boards could accurately determine when offenders were ready for release. This lack of confidence in correctional programming peaked in 1974 with Robert Martinson's publication concluding that "with few and isolated exceptions, the rehabilitative efforts that have been reported so far had no appreciable effect on recidivism" (p. 25).

Martinson's findings were poorly stated, criticisms were lodged against the methodology used, and Martinson later recanted those statements. In the complete report published the next year, Douglas Lipton, Robert Martinson, and Judith Wilks (1975) concluded:

While some treatment programs have had modest successes, it still must be concluded that the field of corrections has not as yet found satisfactory ways to reduce recidivism by significant amounts. (p. 627)

Both of these publications began a national debate about the efficacy of treatment programs. Ironically, the original intent of Martinson's article was to attempt to decrease the use of *prisons* rather than the use of treatment programs, so unbeknownst to his coauthors, Martinson published the solo piece and was ill prepared for the catastrophe that followed. His study was a prelude to one of the most conservative eras in American politics, wherein policy makers were looking for reasons to repudiate the putative liberal rehabilitation policies of previous decades.

In addition to raising questions about rehabilitation, indeterminate sentences created another problem called sentencing disparity. Most indeterminate sentences had a maximum ending date that was far in the future (such as 10 or 20 years) to allow adequate time to rehabilitate. With an unknown or ambiguous release date, nonviolent offenders spent many more years behind bars than their crimes warranted, whereas others—who may have convinced the parole board they were “cured”—were released after only a few years. This issue became a question of fairness and an attempt to reduce sentencing disparity.

Origins of Determinate Sentencing

Given the concerns of potential bias and perceived unfairness in the release decision, many indeterminate sentencing laws were repealed so that offenders convicted of similar crimes would serve roughly equal terms in prison. The American Friends Service committee recommended that sentences be categorized according to severity of crime based on two scales: the harm done by an offense and an offender's culpability. Judgment of the degree of culpability would be based partly on an offender's prior record. Having proposed punishment as the main goal of sentencing, the committee then ruled out prison as punishment for all but the most serious offenses—those in which bodily harm was threatened or done to a victim. The committee proposed alternatives such as periodic imprisonment, increased use of fines, and other lesser sanctions (von Hirsch, 1976).

At about the same time, David Fogel (1979) urged a narrowing of sentencing and parole discretion. His work was influential in helping to draft legislative change that became known in various states as **determinate sentencing**. One of his goals was to disconnect release date from prison program participation. He advocated abolishing parole boards and establishing “flat-time” sentencing for each class of felonies.

Maine became the first state to return to determinate sentencing in which the minimum and maximum sentence range was predefined and release was determined by legislative statute. Sentence length was therefore determined by time served rather than by how long it takes for an offender to become rehabilitated. With fewer sentencing options for judges, personal, familial, and environmental variables played less of a role in the sentencing process. The slogan “You do the crime, you do the time” became popular and funding for prison treatment



determinate sentencing

A sentencing philosophy that focuses on consistency for a crime committed, specifying by statute or sentencing guidelines an exact amount or narrow range of time to be served in prison or in a community and mandating a minimum amount of time before an offender is eligible (if at all) for release. Also known as a *presumptive, fixed, or mandatory sentence*.

programs diminished. In determinate sentencing, judges had less discretion, and though they are able to deviate slightly (higher or lower) from prescribed sentencing guidelines, they must provide justification for doing so. Parole board decision making was limited in many states to only nonviolent offenders or was abolished altogether (Porter, 2015).

Examples of determinate sentencing policies have included mandatory minimums, truth-in-sentencing, three strikes laws, and sentencing guidelines. All states have adopted some form of mandatory minimum sentencing laws that required violent or repeat offenders to serve a certain percentage of time before release would be considered. For example, truth-in-sentencing laws required that offenders serve at least 85% of their original sentence length before becoming eligible for release (Porter, 2015). Three strikes laws mandate long prison terms for a third felony conviction. Some states require a life sentence for violent third-time felons, while other states count any third felony, whether it is violent or nonviolent.

Sentencing guidelines form a matrix based on an offender's prior criminal record and current conviction, which a judge must follow at the federal level and also in those states where guidelines are mandatory. Some states have guidelines that are only suggestive, although others still have never developed sentencing guidelines. Even though guidelines have decreased sentencing disparity and created accountability for sentencing decisions, most judges have disliked limits on their discretion. Although probation is still allowed at the federal level, federal parole has been replaced by "supervised release" (either mandatory by statute or under the federal sentencing guidelines). Most states, however, have retained aspects of both indeterminate and determinate sentencing structures.

THE PARADOX

Correctional policy is in many ways a paradox between economic constraints on what we can afford and shifts in the tide of public perception—that is, in what is important to vocal constituents and public interest groups. Maruna and King (2008) note a shift away from expert-driven decisions in penal policy to one characterized "more explicitly by symbolic and expressive concerns ... [and] emotionalization of public discourse about crime and law" (p. 338). They argue that correctional policy is driven by politics rather than by rationality, and that public opinion is influenced by the media. The media have long been criticized for sensationalizing violence and atypical crimes while downplaying average or common crimes that never result in a prison sentence. The average American citizen, as a result, is only exposed to a very small percentage of the overall crime picture and is less informed than are experts about what should be done in response to crime.

Public Opinion About Community Corrections

Community corrections include alternatives to incarceration and early release from prison. One national public opinion poll indicated that the most well-known community-based corrections were probation, house arrest, and electronic monitoring. Less-familiar options were restorative justice, day reporting, and drug court. The majority of adults thought that alternatives to incarceration were appropriate for nonviolent offenders and/or when a theft was less

than \$400, and that these methods of supervision did not necessarily decrease public safety. Nearly half (45%) thought that probation and rehabilitation were likely to reduce recidivism for nonserious offenders over prison or jail (Hartney & Marchionna, 2009). Of those who go to prison, it seems that a majority of citizens supported prisons emphasizing rehabilitation, especially reentry services such as housing assistance, mental health, and job training to help prevent future recidivism (Sundt, Vanderhoff, Shaver, & Lazzeroni, 2012).

Proposed strategies to increase the level of public support—or at least increase the level of attention for community corrections—include appealing to the public on both a rational and an emotional level. Even though crime policy has shifted to an emotional level as Maruna and King (2008) have noted, with fear and anger driving increased perceptions of punitiveness for some offenses, emotions such as compassion and forgiveness can be equally as powerful as alternatives to prison as individuals and communities heal. Another notion with emotional appeal is that of “redeemability”—that is, convincing the public that offenders can change their ways if given the tools and the means to do so (Maruna & King, 2008, p. 345). But these are only half of the solution. Experts also suggest that the media should present a broader view of issues than just atypical cases. Public opinion research on sentencing preferences demonstrated higher validity when the public was given diverse sentencing options and adequate information, such as program descriptions and detailed knowledge about an offense or an offender.

Prison Is Expensive

The other side of the correctional paradox is that corrections funding is driven almost completely by public tax dollars. Correctional budgets have been hit hard these last few years, due in part to the most recent economic recession that forced states to cut social programs, initiate hiring freezes, and lay off employees (VERA Institute of Justice, 2010). In response to the fiscal crisis, state legislators and correctional administrators have considered the following options:

- Decriminalizing lower-level nonviolent and/or drug felony offenses and reducing them to Class A misdemeanors
- Repealing mandatory minimums
- Using more graduated sanctions in the community
- Increasing discretionary parole rates
- Changing probation and parole policies for responding to violations
- Denying requests to incarcerate for anything but new crimes
- Closing existing housing units within a prison
- Closing existing prisons altogether

There is growing consensus that the use of jail and prison facilities, which are the most expensive option, should be reserved for the most dangerous offenders. At the same time, community-based correctional options should be expanded when regular probation and parole is not enough.

In comparison to prisons, probation and parole agencies garnered about 21 cents of every correctional dollar to supervise the 70% of all people under correctional supervision (Kyckelhahn, 2012). Table 1.3 shows daily costs per person for selected forms of correctional supervision in the federal system compared to North Carolina, a state with moderate living costs. Incarceration is significantly more expensive than community supervision, especially considering that for the latter, the offender shares some of the costs. For example, probationers subsidize annual

TABLE 1.3 Daily Cost per Person for Selected Forms of Correctional Supervision

SUPERVISION TYPE	FEDERAL (FY 13–14)	NORTH CAROLINA (FY 11–12)
Prison ^a	\$75.25	\$76.02
Pretrial detention ^a	\$72.67	N/R
Pretrial community supervision ^a	\$8.21	N/R
Residential community facility ^b or residential substance abuse facility	\$60.27	\$47.34
Probation	\$9.40	\$3.57
Intensive probation	\$12.10	\$15.27
Parole/mandatory Supervised release	\$8.10	\$3.44
Community service work program	N/R	\$1.29
Day reporting	N/R	\$24.70
Electronic monitoring/GPS	\$10.50	\$13.28

^aThese costs are averaged for supervision of general population offenders. Costs for special needs offenders and those in maximum security institutions are higher.

^bThe costs of all residential community correctional facilities (RCCFs) are lower, since a portion is subsidized by the offender.

Notes: N/R = Cost not reported

Sources: North Carolina Department of Public Safety (2012). Cost of supervision ending June 30, 2011. Retrieved from: <http://www.doc.state.nc.us/dop/cost/>;

Bureau of Prison and U.S. Probation and Pretrial Services costs retrieved from: Oleson, James C., Marie VanNostrand, Christopher T. Lowenkamp, Timothy P. Cadigan, and John Wooldredge. 2014. Pretrial detention choices and federal sentencing. *Federal Probation*, 78 (1), 12–18.

Federal electronic monitoring costs retrieved from: <http://www.gao.gov/assets/590/588284.pdf>

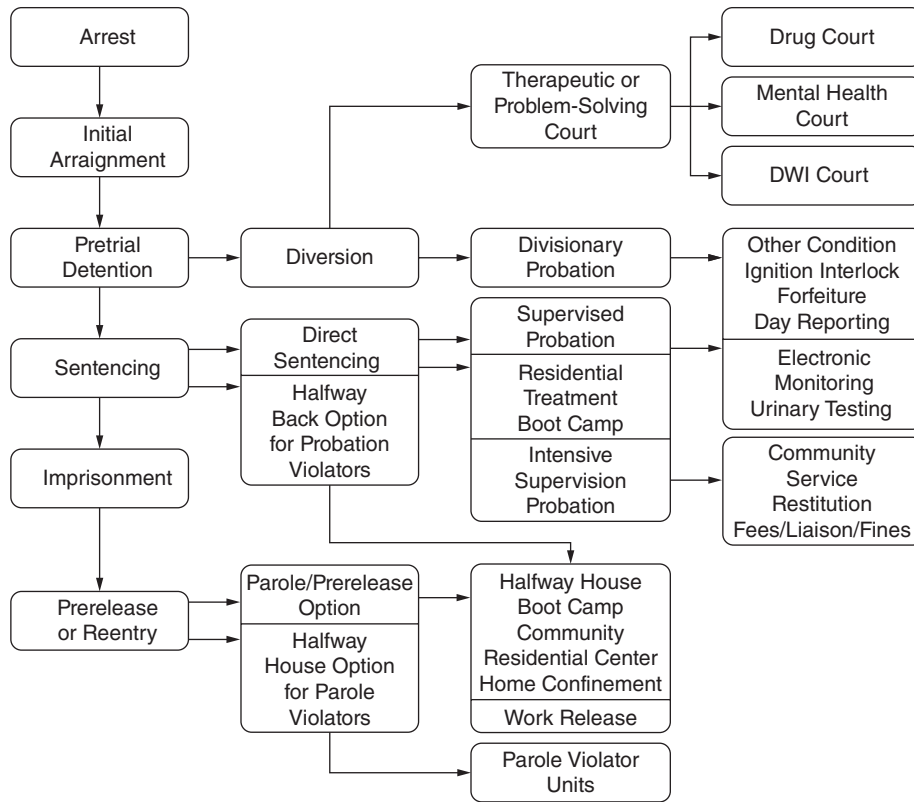
costs with monthly fees ranging between \$40 and \$80. Parole, electronic monitoring, day reporting, and residential community correction facilities are all partially subsidized by the offender.

THE ROLE OF CORRECTIONS AT THREE MAJOR DECISION POINTS

The three major decision points in the corrections system—bail, sentencing, and reentry—are guided by formal written laws, codes, and statutes as well as by informal discretion. Discretion is a form of subjective decision making that begins when a victim or witness decides whether or not to report a crime to the police. Some argue that victim discretion plays at least as important a role as formal law. Another decision point early in the process is the arresting decision made by a law enforcement officer. As seen in Figure 1.2, community corrections play a pivotal role at three major decision points that follow an arrest.

Pretrial and the Bail Decision

After a police officer makes an arrest, the suspect is booked in jail and the prosecutor's office decides whether to charge the suspect with a crime. If the prosecutor chooses not to charge, the suspect is automatically released. If the prosecutor opts to charge, the suspect officially becomes a defendant and goes before a judge,

**FIGURE 1.2**

Three Main Decision Points: How Cases Are Referred to Community Corrections.

Adapted from: Center for Community Corrections (1997). *A Call for Punishments That Make Sense*, p. 35. Washington, DC: Bureau of Justice Assistance.

magistrate, or other official authorized to inform the defendant of the charges, determine whether the defendant is requesting appointed counsel, and ascertain whether the defendant is eligible for release from jail. Although most defendants are released on their own recognizance with the promise to appear at their next court date, some defendants must secure their next appearance with **bail**, or monetary payment deposited with the court to ensure their return. When the conditions of the bond have been satisfied, the defendant is released on a bond. Many times, particularly in the federal system, the defendant is released on **pretrial supervision**, which is a form of correctional supervision of a defendant who has not yet been convicted. Forms of pretrial supervision can include client reporting, house arrest, and electronic monitoring. Pretrial supervision has four functions. It:

1. accounts for a defendant's whereabouts to keep the community safe;
2. allows a defendant to prepare for upcoming court appearances;
3. allows a defendant to continue working and supporting dependents; and
4. keeps bed space in a jail available for defendants who may not be eligible for release.

Sentencing Decision

Community corrections agencies and programs perform the important function of implementing the sentence imposed by a judge. At a basic level, a correctional sentence is a social control mechanism for convicted offenders, and it also keeps citizens law abiding through general deterrence. While incarceration serves an important purpose for offenders who are dangerous or who have committed



bail

Monetary payment deposited with a court to ensure a defendant's return for the next court date, in exchange for said defendant's release.



pretrial supervision

Court-ordered correctional supervision of a defendant not yet convicted whereby said defendant participates in activities such as reporting, house arrest, and electronic monitoring to ensure appearance at the next court date.



intermediate sanctions

A spectrum of community supervision strategies that varies greatly in terms of supervision level and treatment capacity, ranging from diversion to short-term duration in a residential community facility.

violent crimes, the vast majority of crimes are nonviolent or related to drug use and can be responded to in ways other than imprisonment. Judges and prosecutors need a variety of probationary, or “front-end,” punishments from which to choose, and community correction programs offer a diversity of sentencing options.

The community-based punishments shown earlier in Figure 1.1 are known as **intermediate sanctions** because they offer graduated levels of supervision. They provide rewards for positive behavior, with gradually less supervision when offenders achieve and maintain desired program outcomes. Intermediate sanctions can also impose higher levels of surveillance, supervision, and monitoring than probation alone, but they provide less supervision than jail or prison. A full range of sentencing options give judges greater latitude to select punishments that closely fit the circumstances of a crime and the offender. We discuss the sentencing decision in Chapter 4 and then devote six chapters to the forms that community corrections take, beginning with probation and the various graduated residential, monetary, and nonresidential sanctions.

Reentry Decision

Over 45 years ago, the *President’s Commission on Law Enforcement and Administration of Justice* (1967) introduced the term *reintegration*. The commission’s report stated that

institutions tend to isolate offenders from society, both physically and psychologically, cutting them off from schools, jobs, families, and other supportive influences and increasing the probability that the label of criminal will be indelibly impressed upon them. The goal of reintegration is likely to be furthered much more readily by working with offenders in the community than by incarceration. (p. 165)

The commission called on the community to provide needed employment and educational opportunities while community correctional workers act as advocates to link offenders to programs and monitor their progress. This goal still holds true today, though instead of *reintegration*, we use the term *reentry*. Reentry requires an offender adapting to a community setting to participate in programs that develop legitimate accomplishments and opportunities, although there seems to be less emphasis today on the role of the community in assisting in the offender’s return—an issue discussed in greater detail in Chapter 11.

Approximately 95%–97% of prisoners incarcerated today will one day leave prison and rejoin the larger society. A community correction serves an important purpose by assisting prisoners in community reentry after their incarceration. **Prisoner reentry** is any activity or program that prepares former prisoners to live as law-abiding citizens upon their return to the community. Prisoner reentry applies to prisoners released automatically based on mandatory statutes as well as to prisoners released early at a parole board’s discretion.



prisoner reentry

Any activity or program conducted to prepare prisoners to return safely to a community and to live as law-abiding citizens.



prerelease program

A minimum-security, community-based, or institutional setting for offenders who have spent time in prison and are nearing release. Its focus includes transitioning, securing a job, and reestablishing family connections.

PRERELEASE PROGRAM. A **prerelease program** is a minimum-security institutional setting for imprisoned offenders who have already spent some time in prison and are nearing release. Prerelease offenders are chosen by corrections officials and transferred to a different type of residential program that offenders can complete in a shorter duration than if they had served their full prison sentence. Prerelease programs are considered more treatment-oriented than prison.

Examples of these programs are halfway houses; boot camps; and therapeutic communities that are located inside a prison, separate from the general prisoner population. The purpose of back-end programs, in which participants are diverted from prison, is to save money and prison space while also providing program participants with a specialized treatment regimen. Examples of prerelease programs are discussed in Chapter 8.

PAROLE. **Parole** is the discretionary release of an offender, under conditions established by the paroling authority, before the expiration of the offender's sentence. Parole is in many ways similar to probation. Both involve supervised release into a community, and the possibility of revocation should the parolee or probationer violate the conditions of release. Although some technical differences do exist, the primary difference is that probation is supervision in the community instead of incarceration, whereas parole is supervised release after a portion of the prison sentence has been served. When the Federal Bureau of Prisons abolished its parole board, prisoners left prison on "supervised release" that was defined by a mandatory provision or by sentencing guidelines rather than by subjectivity (see Chapters 3 and 11 for more coverage of parole and supervised release).



parole

Early privileged release from a penal or correctional institution of a convicted offender, in the continual custody of the state, to serve the remainder of his or her sentence under supervision in a community.

THEORIES BEHIND COMMUNITY CORRECTIONAL GOALS

The field of criminal justice and criminology has a wide variety of different theories that attempt to explain human behavior. Criminological theories explain why people commit crime. These theories include biological determinants, psychological factors, rational choice, lack of conventional bonds to society, social learning, associating with criminal peers, lack of opportunities, breakdown of social norms, and reaction to societal labels. While it is important to understand these theories, most criminal justice majors are required to take a separate class that examines these reasons in detail, so these theories will not be repeated here.

Instead, the theories examined in this text will be directed more toward the goals that community corrections supervision strives toward in carrying out the sentence of the court or the parole board. These goals are protecting the public through recidivism reduction and specific deterrence, rehabilitation through effective treatment, and repairing the harm done to the victim and the overall community. We introduce the theories here and address each in greater detail in future chapters.

Protecting the Public Through Specific Deterrence

Most offenders have shown by their offenses that they cannot easily conform to the norms of society. One of the goals of community-based corrections, therefore, is to help offenders conform to behavioral expectations while keeping public safety in mind. The means by which this goal is reached is based on **specific deterrence theory**. Specific deterrence attempts to keep supervised offenders from falling back into old habits and behaviors by supervision, unannounced visits, and letting offenders know in advance what the consequences will be for their actions. This theory assumes that offenders, like all people, consider the costs and benefits of their actions. Provided the consequences for misbehavior are certain and severe enough that the sanctions



specific deterrence theory

An offender on community supervision will refrain from committing technical violations and/or new crimes if, after considering the costs and benefits, the consequences for misbehavior are certain and severe enough that the sanctions outweigh the benefits.

outweigh the benefits, the offender will refrain from committing technical violations and/or new crimes. This means that courts and paroling authorities must be willing to stand behind their rules and revoke supervision if a new crime is committed (behaviors that constitute probation and parole violations are covered in Chapter 7). Perceptions that offenders have of the likelihood of getting caught, along with the certainty and severity of revocation, seem to have an impact on their actions (Pogarsky, 2007).



rehabilitation

A primary goal of the corrections system, and the process in which offenders are exposed to treatment programs and skills training in order to change their thinking processes and behaviors.



risk/need/responsivity

A theory of rehabilitation that suggests focusing on treating high-risk offenders, matching correctional interventions with criminogenic needs, and implementing treatment according to offenders' learning styles and personal characteristics.



criminogenic needs

Problems, habits, or deficits that are directly related to an individual's involvement in criminal behavior.



restorative justice

Various sentencing philosophies and practices that emphasize an offender's taking of responsibility to repair harm done to a victim and to a surrounding community, including forms of victim-offender mediation, reparation panels, circle sentencing, and monetary sanctions.

Rehabilitation Through Risk/Need/Responsivity

A second goal of community corrections programs is **rehabilitation** or to correct some of the inadequacies of offenders linked to their criminal behavior and continued involvement in the criminal justice system. Some of these problems include, but are not limited to, drug or alcohol addiction, lack of emotional control, inadequate education or vocational training, lack of parenting skills, and mental illness or developmental disability. Correctional treatment, or "programming," is the means by which offenders can receive assistance for their problems to reduce further criminal behavior. An underlying assumption of rehabilitation is that behavioral change is possible. Offenders should have an opportunity to change, and they must have a genuine desire to change—to complete the mental, emotional, and sometimes spiritual work to promote a personal transformation. Individual motivation is an important point, because some offenders are not yet ready to change or do not respond to treatment, but may be ready later.

The basis of effective rehabilitation is the theory of **risk/need/responsivity (RNR)** initially proposed by Andrews, Bonta, and Hoge (1990). RNR suggests that rehabilitation efforts are most effective when they focus on treating high-risk offenders (and leaving low-risk offenders alone), and when they match correctional interventions with **criminogenic needs**, which are any problem or deficit that is directly related to criminal behavior. The third principle is responsivity, and it addresses the most conducive therapeutic environment to achieve the maximum amount of learning and change. A responsive environment addresses the unique learning styles and characteristics of offenders, which differ according to gender, marital status, and education level. Using cognitive-behavioral treatment for a long enough duration—three to nine months—is ideal. Using RNR in the intended way has a significantly greater effect on reducing recidivism than programs that do not adhere to these standards (Bourgon & Bonta, 2014).

One final point about offering rehabilitation in a community setting: Oftentimes, offenders are more likely to receive treatment under a community corrections sentence than in prison. This is partly because prison is less than an ideal setting for rehabilitation to occur. Another reason is a financial one. Programs in prison are 100% taxpayer funded, while community-based programs are subsidized by offenders who pay for services as clients. Even as correctional budgets have tightened and in-prison treatment programs have been trimmed, taxpayers are bearing less of the cost for offender treatment in the community.

Healing the Victim and Community Through Restorative Justice

Community-based sanctions provide offenders opportunities to repay their victims and their communities. A different philosophy of justice emerged in the 1970s known as **restorative justice**. Restorative justice is centered on the victims of crimes throughout the criminal justice process and emphasizes

the responsibility of offenders to repair the injustice they have caused their victims (Umbreit & Armour, 2010).

When a crime is committed, the offender harms both the individual victim and the community at large. Through a variety of techniques such as community boards, mediation, and face-to-face meetings with victims, restorative justice attempts to strengthen community life by drawing on victim compassion, and on the strengths that offenders bring (Umbreit & Armour, 2010). Local volunteers and the faith community agree to mentor or assist in the supervision of an offender's reparation. The offender is not publicly shamed or humiliated, but must repair the damage through community service, providing victim restitution, and participating in victim impact panels and other educational programs.

Restorative justice is most effective for nonviolent crimes committed by juveniles or first-time adult felony offenders, in part, because the victim is compensated for property losses. What many victims may not realize is that although incarcerating offenders for property crime will provide a loss of temporary freedom for the offender, the victim will rarely, if ever, be compensated. When given a choice between compensation and incarceration, most people would rather be compensated for a property crime than demand the offender be incarcerated. At this time, however, restorative justice is less likely to be endorsed for violent crimes. Community-based corrections programs that guide restorative justice processes are discussed in Chapter 10.

In sum, community correction programs are important because its sanctions provide options for individuals who have committed a crime but do not pose a serious threat to community safety. Community-based corrections seek to sanction offenders through punishment while also attempting to improve individual life circumstances. Decreasing risk, increasing rehabilitation, and restoring justice are important aspects of changing offenders' attitudes and behaviors, leading to the prevention of criminal behavior. Community corrections also serve to ease institutional crowding in jails and prisons by drawing from the population of convicted offenders those predicted to be less risk to the outside community.

An Integrated Theory of Community Supervision: The Participation Process Model

To more comprehensively explain how community supervision practices can influence a successful outcome, Craig Schwalbe (2012) interviewed probation officers about what they do and proposed what might be the first attempt at developing an integrated theory of how probation works. He called this theory the **participation process model**. Participation process assumes at a basic level that offender *compliance* and active *participation* are integral to the offender's own success on community supervision. Without these two elements, there will be no successful outcome, and of course, for youth, parental compliance and participation is also important. Second, participation process theory suggests that the three goals of community supervision are offender accountability, offender risk/need reduction, and public safety, which is consistent with deterrence and RNR theories discussed earlier. Third, probation and parole officers use strategies such as communication, casework, and leverage to achieve goals. Communication includes listening, clarifying expectations, giving praise/encouragement for desirable behavior, and confronting offenders for undesirable behavior. Casework strategies include assessing problems, establishing long-range goals, and assisting the client with implementing steps to meet



participation process model

An integrated theory of community supervision that suggests that offender compliance and active participation, along with officer supervision strategies of communication, casework, and leverage, are necessary to achieve offender accountability, offender risk/need reduction, and public safety. Change is mediated by offender motivation, parental/significant other support, and officer–client relationship quality.

these goals. Leverage is “aversive sanctions, either applied or threatened, that are imposed by the courts and probation officers as a consequence for rule-violating behavior” (Schwalbe, 2012, p. 193). These strategies will be discussed further in Chapter 5. Finally, the change process is mediated by the amount of motivation the offender has, the level of parental support or the degree of positive support from a significant other, and the quality of the officer–client relationship. Schwalbe (2012) believes that the theory is still a work in progress and hopes that through further testing of hypotheses (the probation strategies and mediators), this will lead to development of increasing successful client outcomes through increased completion rates and reduced recidivism.

EVIDENCE-BASED PRACTICES IN COMMUNITY CORRECTIONS



evidence-based practices

Correctional programs and techniques shown through systematically evaluated research studies to be most effective with offenders.

Insofar as community corrections serve to meet correctional goals of offender accountability, specific deterrence, and rehabilitation, many of today’s strategies use **evidence-based practices (EBP)**, which means that only the best-known practices or interventions, for which there is consistent and solid scientific evidence of success, are used. Assessment must show that such practices work to meet intended outcomes and are open to periodic measurement, evaluation, and dissemination of interventions. EBP is used in a number of fields, including medicine, education, social work, mental health, and criminal justice. Within the criminal justice system, EBP is used in police departments, courts, and correctional departments.

EBP is not based on intuition, speculation, anecdotal evidence, or tradition (e.g., “that’s the way we’ve always done it around here”). Rather, EBP is grounded in empirical data and research in studying what works. The idea behind EBP in corrections is that agencies use only the most successful programs. The best programs are those that are effective in changing offender behavior—whether that behavior is reducing technical violations or rearrest, increasing the number of drug-free days, or increasing the number of days an offender is employed while on supervision. Each goal must be measured empirically—meaning that data collected need to be scientifically sound, valid, and reliable.

Evaluating Effectiveness

For citizens to view community corrections as the preferred punishment option, agency leaders need to be open about research and program evaluations. To measure both the process of going through a program and the impact a program has had after its completion, it is necessary to conduct and report empirical research in a way that makes sense to the average citizen.

It is important to determine the methodological rigor and sophistication of the research to know what does and does not work. The research must be able to identify for which type of offenders and under what conditions the treatment best works. When evaluating the effectiveness of a program, the most rigorous design compares offenders who are randomly selected to receive a *treatment* (e.g., home visits on probation) compared to random assignments to a *control* group (those on regular probation). Then the two groups could be compared on a number of outcome measures. This ideal situation is hard to come by in reality

because sentencing guidelines prevent such comparison groups, and many judges cannot be persuaded to randomly assign offenders to programs. When random assignment is not possible, the control group can be matched as closely as possible to the treatment group according to demographic characteristics to attempt to isolate the effects of the treatment as much as possible. Since offenders are sentenced to multiple programs, it is often difficult to isolate one treatment effect from another and to evaluate which program has had the intended effect.

A final difficulty with evaluating the effectiveness of intermediate sanctions is determining the outcome. Do the participants have reduced recidivism compared to the control group? Do the participants use less illicit drugs? Does the program save money? Are participants diverted from probation (a front-end strategy) or kept from returning to prison (a back-end strategy)? Suppose the only two sentencing choices for the control group were probation or prison. The intermediate sanction (the program to be measured)—which targets criminals who would have gone to prison anyway but are being given one last chance—takes on more serious offenders than if it had recruited offenders who were not prison-bound. Intermediate sanctions would be an increased penalty for offenders who would otherwise have been sentenced to probation had that intermediate sanction not existed. This is called **net widening**, or “widening the net,” and it usually results in a cost increase instead of a cost savings. We revisit the net-widening issue throughout the book when we apply this term to diversion, boot camps, and intensive supervision probation.

**net widening**

Using stiffer punishment or excessive control for offenders who would ordinarily be sentenced to a lesser sanction.

Outcome Measures in Evaluation

The most commonly used measure of program or treatment effectiveness is the rate of **recidivism**. Recidivism is defined as a repetition of or return to criminal behavior, measured in one of three ways: rearrest, reconviction, or reincarceration. Some studies differentiate a return to criminal behavior via a new crime, from technical violations committed while under community supervision. Other studies lump violations and crimes together as a single category. Bear in mind that researchers define recidivism in a variety of ways; hence there are no universally accepted means by which to measure it.

**recidivism**

A return to criminal behavior, variously defined in one of three ways: rearrest; reconviction; or reincarceration.

Recidivism as the primary (or sometimes the only) outcome measure has caused concern among criminal justice researchers. Reasons for not including other outcome measures are that programs keep poor records of those or that available measures are buried within an officer's handwritten notes deep within offender files. As more programs collect data electronically, data become easier to collect and measure.

Other variables of importance will, of course, depend on the type of program being evaluated. Variables that can be measured during supervision include: the number of days employed; the amount of restitution collected compared to the amount ordered; the percent of fines and/or fees collected; the number of community service hours performed; the number of clients enrolled in school; the number of drug-free days; the types of treatment programs completed; and the number of times clients attended each treatment program. The type of termination—that is, whether a client completed supervision successfully or unsuccessfully—is critical. The number and types of technical violations and/or new arrests are vital measures, particularly for unsuccessful clients. Finally, effectiveness can also be measured based on the impacts that community corrections programs have in reducing institutional crowding and on incurring total cost savings.

Community corrections programs have been encouraged to develop EBP that incorporate sound diagnostic and classification testing of risks and needs as well as cognitive-behavioral treatment paired with community supervision techniques, all of which we discuss later in the text.

SUMMARY

- Community corrections provide many options for individuals who have committed a crime but do not pose a serious threat to community safety.
- Community-based corrections seek to sanction offenders through punishment while also attempting to improve individual life circumstances. Specific deterrence, rehabilitation, and restorative justice are important components in changing offenders' attitudes and behaviors, leading to the prevention of criminal behavior.
- Community corrections also serve to ease institutional crowding in jails and prisons by drawing from the population of convicted offenders those predicted to be less risk to the outside community.
- Indeterminate sentencing and determinate sentencing are the two main sentencing philosophies. Most states ultimately use both philosophies (determinate for violent crimes and indeterminate for nonviolent), but are predominately one or the other.
- Corrections play a role at three major decision points in the criminal justice system: pretrial and bail, sentencing, and reentry.
- The participation process model suggests that offender compliance and active participation, along with officer supervision strategies of communication, casework, and leverage, are necessary to achieve offender accountability, offender risk/need reduction, and public safety. Change is mediated by offender motivation, parental/significant other support, and officer–client relationship quality.
- Providing a range of community-based sanctions allows a rewarding of positive behavior by increasing freedom and a punishing of negative behavior by increasing the sanction.
- EBP offers steps to further professionalize and transform the image of community-based corrections as the method of choice for lasting offender change.
- The effectiveness of community supervision programs depends on the following factors: how recidivism is defined and how long after supervision it is measured; how other outcome variables are measured during supervision; whether there is a comparison group; how the groups are selected; and whether net widening has occurred.

DISCUSSION QUESTIONS

1. What do you believe is the primary purpose of community-based corrections?
2. Other than the factors mentioned in the book, what other factors may have contributed to growth in the correctional system?
3. What does a continuum of sanctions mean in the sentencing process? If you were a judge, how would you apply this continuum?
4. Of the various community corrections goals, which one do you believe to be the most important and why? Which one is used the least and why?
5. Will evidence-based practices be just another passing fad?
6. To measure the effectiveness of community corrections, are there any other outcome measures (other than those discussed) that could be used?



WEBSITES, VIDEOS, AND PODCASTS

Websites

American Probation and Parole Association
<http://www.appa-net.org/>

National Center on Institutions and Alternatives
www.ncianet.org

The Corrections Connection
www.corrections.com

Fortune Society
<http://fortunesociety.org>

Videos/Podcasts

Adult Community Corrections Monroe County—
 Part 1
 (Length: 5:25 minutes) This video discusses the
 Department's mission, cost savings, and public

perceptions of community corrections services in
 Monroe County, Indiana <http://www.youtube.com/watch?v=HJnHy9BfKhk>

Rural Community Corrections Officers Go the Extra Mile

(Length: 5 minutes) This video discusses the differences and difficulties of being a community corrections agent in a rural area. <https://www.youtube.com/watch?v=tulrFzHZXH0>

Evidence-Based Practices in Community Corrections with Dr. Edward Latessa.

(Length: 1 hour, 20 minutes) This video introduces evidence-based practices with respect to parole and probation, reentry programs, and community-based programs. <https://www.youtube.com/watch?v=8dz36W0mg-8>

CASE STUDY EXERCISES



Organizations and Associations Related to Community Corrections

In this chapter, we discussed the importance of garnering public support for alternatives to prison. Assume you are a staff member who works for a state legislator and you have been assigned to examine organizations and interest groups affiliated with community-based corrections such as the APPA. Report back to the legislator the APPA's position on other topics. Find other interest groups that advocate the expansion of various community-based alternatives.

CASE A: Looking Further into the APPA

The APPA is an international organization that provides education and training for community corrections practitioners and supervisors. The APPA establishes standards in all areas of community supervision, including restitution, electronic monitoring, pretrial, conditional early release, and issues related to prisons. Go to <http://www.appa-net.org> and click on About APPA and then on Where We Stand—this area shows position statements, resolutions, and position papers. Research three different topics and the

position the APPA has taken on these issues. Report your findings to the legislator and discuss whether they are politically feasible in today's economic climate.

CASE B: Researching Other Community Corrections Advocacy Groups

The APPA is only one of several organizations that serve a similar purpose for community corrections advocacy. Other organizations include:

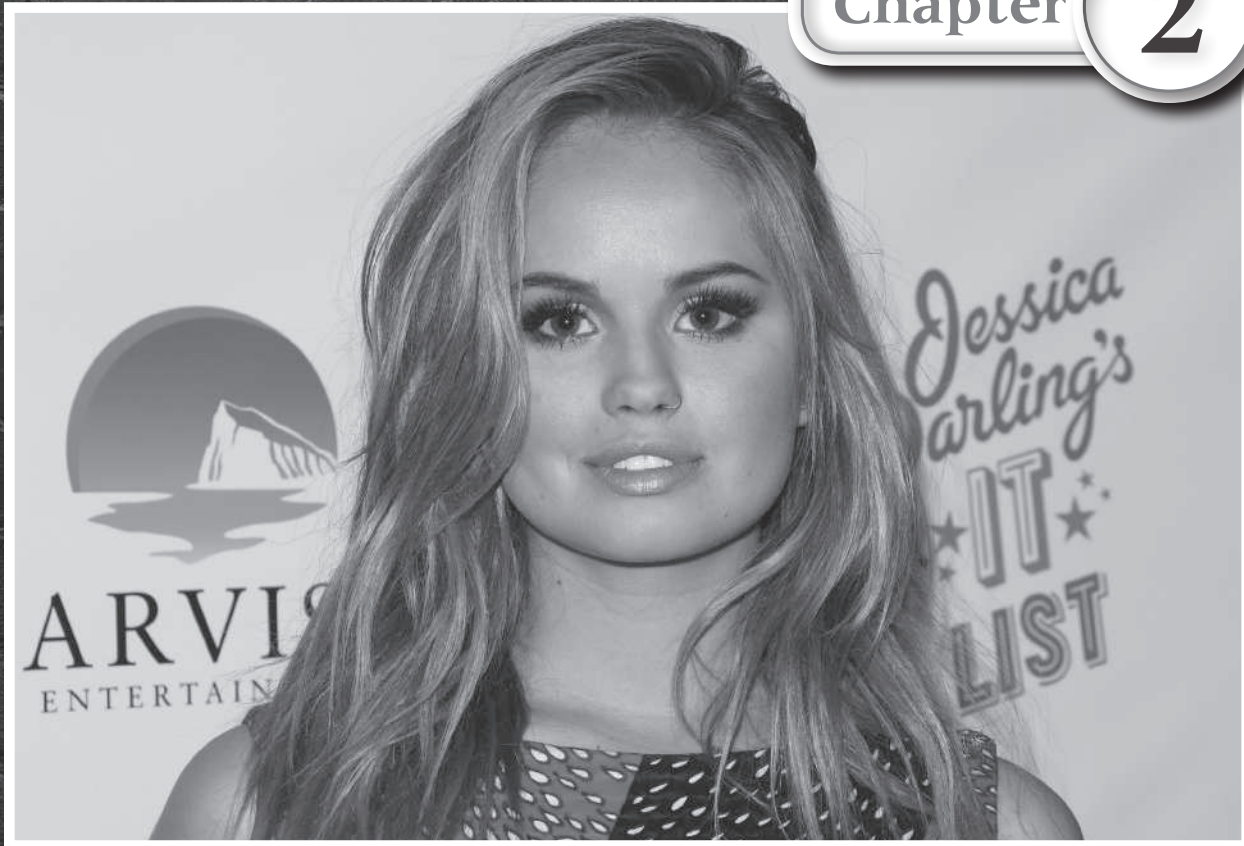
- American Correctional Association (<http://www.aca.org>);
- National Association of Pretrial Services Agencies (<https://napsa.org/eweb/startpage.aspx>); and
- International Community Corrections Association (<http://iccalive.org/icca/>).

Look up one of the three organizations above and compare and contrast it to the APPA from Case A. Which organization—the APPA or another organization—would you most likely recommend to the legislator for its practicality in its approach to alternatives to incarceration, and why?

How Probation Developed: Chronicling Its Past and Present

Chapter

2



Paul Archuleta/FilmMagic/Getty Images

CHAPTER OUTLINE

- **Precursors to American Probation**

Procedures Related to Modern Probation

The Founders of Probation

Development of Federal Probation

History of Juvenile Probation and the Juvenile Court

Early Probation Legislation in Other States

- **Probation Today**

Deferred Adjudication/Diversion

Probation Departments: County or State?

Community Corrections Acts

- **Community Supervision Models over Time**

Casework Model: 1900–1970

Brokerage of Services Model: 1971–1981

Justice Model: 1982–2000

Neighborhood-Based Supervision Model: 2001–Present

Criminogenic Needs-Based Supervision Model: 2012–Present

- **Who Is on Probation?**

- **Summary**

CHAPTER LEARNING OBJECTIVES

1. Recall the social and legal history of probation in England and the United States.
2. Discuss the founders of probation.
3. Restate how supervision philosophies have changed in the United States.
4. Describe how probation is now organized and operates.
5. Examine how community corrections acts help implement local community supervision programs.
6. Characterize how probation supervision styles have changed over time.

KEY TERMS

amercement
 civil citation
 security
 motion to quash
 suspended sentence
 laid on file
 John Augustus
 parole
parens patriae
 diversion
 community corrections acts
 casework
 brokerage of services
 community resource management team
 model
 justice model
 neighborhood-based supervision
 criminogenic needs-based supervision
 split sentence

Television series actress Debby Ryan was born in 1993 in Alabama, and her family moved around when she was young. She spent her childhood years in Texas and Germany before her family moved to California so Debby could pursue an acting career. Ms. Ryan is most known for playing Jessie Prescott on the popular Disney series “Jessie,” where she acted in nearly 100 episodes between 2011 and 2015. She was well known to youth in her various movie roles and appearances in teen magazines, many who had considered her a role model.

In April 2016, she was charged for driving under the influence (DUI) and reckless driving. She crashed her car into another car while making a left turn in the Los Angeles area, causing minor injuries. A field sobriety test indicated that her blood alcohol level registered at .11. She pled “no contest” to these charges. Given that she had no previous convictions and the two offenses were misdemeanors, she was directly sentenced by a California judge to three years of probation, and served no jail time.

Compare the case of Debby Ryan with demographic and offense characteristics of the typical probationer in Table 2.2, noting similarities and differences with regard to gender, age, race, offense type, and length of probation supervision.

PRECURSORS TO AMERICAN PROBATION

Probation, as it is known and practiced today, evolved out of ancient precedents in England and the United States devised to avoid the mechanical application of the harsh penal codes of the day. Early British criminal law, which was dominated by the objectives of retribution and punishment, imposed rigid and severe penalties on offenders. The usual punishments were corporal: branding, flogging, mutilation, and execution. Capital punishment was commonly inflicted on children and animals as well as men and women. At the time of Henry VIII's reign in the sixteenth century, for instance, more than 200 crimes were punishable by death, many of them relatively minor offenses against property.

Methods used to determine guilt—what today is called criminal procedure—also put the accused in danger. Trial might be by combat between the accused and the accuser, or a person's innocence might be determined by whether he or she sank when bound and thrown into a deep pond—the theory being that the pure water would reject wrongdoers. Thus, the choice was to drown as an innocent person or to survive the drowning only to be otherwise executed. Sometimes the offender could elect to be tried “by God,” which involved undergoing some painful and frequently life-threatening ordeal, or “by country,” a form of trial by jury for which the accused first had to pay an **amercement** to the king. The accepted premise was that the purpose of criminal law was not to deter or rehabilitate but to bring about justice for a past act deemed harmful to the society.

Early legal practices in the United States were distinct from British common law in a number of ways. First, **security** was a fee paid to the State as collateral for a promise of good behavior. Much like the modern practice of bail, security for good behavior allowed the accused to go free in certain cases either before or after conviction.

Massachusetts's judges also often granted a **motion to quash** after judgment, using any minor technicality or the slightest error in the proceedings to free the defendant in cases in which they thought the statutory penalties inhumane. Some early forms of bail had the effect of suspending final action on a case, although the chief use of bail then (as now) was for the purpose of ensuring appearance for trial.

All of these methods had the common objective of mitigating punishment by relieving selected offenders from the full effects of the legally prescribed penalties that substantial segments of the community, including many judges, viewed as excessive and inappropriate to their offenses. They were precursors to probation as it is known today. The procedure most closely related to modern probation, however, is the **suspended sentence**.

Procedures Related to Modern Probation

Commonwealth v. Chase (1831) is often cited as an early example of how a suspended sentence works when the defendant gets into trouble again. Judge Peter Oxenbridge Thacher found the defendant, Jerusha Chase, guilty of theft, but suspended the imposition of sentence, and ruled that the defendant be released and her indictment **laid on file** as long as she did not get into trouble again. The effect was that the first case was laid to rest without either dismissal or final judgment. When Jerusha Chase got into trouble again, the judge imposed the first sentence for the original theft. This practice came to be used in Massachusetts as a means of avoiding a final conviction of young and minor offenders in the hope that they would avoid further criminal behavior.



amercement

A monetary penalty imposed arbitrarily at the discretion of a court for an offense.



security

A recognizance or bond given a court by a defendant before or after conviction, conditioned on his or her being “on good behavior” or on keeping the peace for a prescribed period.



motion to quash

An oral or written request that a court repeal, nullify, or overturn a decision, usually made during or after a trial.



suspended sentence

An order of a court after a verdict, finding, or plea of guilty that suspends or postpones an imposition or execution of sentence during a period of good behavior.



laid on file

When an indictment is held in abeyance with neither dismissal nor final conviction, in cases in which the judge wishes to defer adjudication or suspend the sentence.

Today, a suspended sentence is a court order that postpones the sentence contingent on the good behavior of the offender, but is revoked or terminated if the offender committed a new crime. Handing down suspended sentences and calling it “probation” was a common practice in the federal courts, even though judges had no legal power at the time to even place offenders on probation. In *Ex parte United States* (1916) a case known as the “Killits case,” Judge Killits refused to vacate a suspended sentence even when the victim did not wish to prosecute. This case went all the way to the U.S. Supreme Court, and in 1916, the Court held that federal courts had no power to suspend indefinitely the imposition or execution of a sentence (*Ex parte United States*, 1916). The Supreme Court, as a remedy to an indefinite suspension, suggested probation legislation. In 1925, the federal courts finally recognized probation as a bona fide sentence (Evjen, 1975).

The Founders of Probation

Volunteers and philanthropists were instrumental in the development and acceptance of probation in practice long before probation became law. The development of the probation idea can be credited to two cofounding individuals: John Augustus and Matthew Davenport Hill.

JOHN AUGUSTUS The credit for founding adult probation in the United States is reserved for **John Augustus** (1784–1859). While Augustus’s work can be more accurately described as the first pretrial supervision officer, his efforts at pretrial supervision later expanded into the use of probation for both pretrial and post-conviction purposes. Augustus owned a shoe manufacturing company on the west side of Boston. His business prospered, and he owned a number of residences, one of which is now the Jonathan Harrington House, which faces the Lexington Common. Augustus was a member of the Washington Total Abstinence Society (Moreland, 1941). Its members pledged to abstain from alcohol and to treat alcoholics with kindness and understanding rather than punishment. Discovering that the same people were being repeatedly arrested and detained in jail for public intoxication, Augustus (and other abstinence members) interviewed first-time defendants before their court appearance and bailed out those who would most likely change their habits and return to court. Augustus’s home became a refuge for the newly bailed defendants until their next court appearance. Augustus described the scene in his own words:

In the month of August 1841, I was in court one morning when the door communicating with the lock-room was opened and an officer entered, followed by a ragged and wretched looking man, who took his seat upon the bench allotted to prisoners. I imagined from the man’s appearance that his offence was that of yielding to his appetite for intoxicating drinks, and in a few moments I found that my suspicions were correct, for the clerk read the complaint, in which the man was charged with being a common drunkard. The case was clearly made out, but before sentence had been passed, I conversed with him a few moments, and found that he was not yet past all hope and reformation, although his appearance and his looks precluded a belief in the minds of others that he would ever become a man again. He told me that if he could be saved from the House of Correction, he never again would taste intoxicating liquors; there was such an earnestness in that tone, and a look expressive of firm resolve, that I determined to aid him; I bailed him,



John Augustus
A Boston bootmaker who was the founder of probation in the United States.

by permission of the Court. He was ordered to appear for sentence in three weeks from that time. He signed the pledge and became a sober man; at the expiration of this period of probation, I accompanied him into the courtroom; his whole appearance was changed and no one, not even the scrutinizing officers, could have believed that he was the same person who less than a month before, had stood trembling on the prisoner's stand. The Judge expressed himself much pleased with the account we gave of the man, and instead of the usual penalty—imprisonment in the House of Correction—he fined him one cent and costs, amounting in all to \$3.76, which was immediately paid. The man continued industrious and sober, and without doubt has been, by this treatment, saved from a drunkard's grave. (1852, pp. 4–5)

The efforts of the Washington Total Abstinence Society were praised by Peter Oxenbridge Thacher and other local judges. John Augustus became the most well known of the members because not only did he post bail of \$30 per person to ensure the next court appearance, but he also paid the fine and court costs for indigent defendants. Private philanthropists donated money so the volunteer efforts could continue.

By 1846, Augustus's generosity caused his shoemaking business to go down and he was forced to close his shop. For the next 15 years until his death in 1859, Augustus pursued philanthropy full time—dedicated to helping men, women, and children, despite great opposition from police officers who thought that the accused deserved jail, jailers who lost money on every defendant that was released, and from people in the community who thought he was trying to profit from offenders. According to court records, Augustus assisted 1,946 people who paid \$2,418 in fines and court costs, and he made himself liable for a total of

John Augustus owned a shoe factory similar to this one, in which he employed pretrial defendants to work until their next court date.



Hulton Deutsch/Corbis Historical/Getty Images

\$99,464 for bail (Augustus, 1852/1972). Although most of the bail money was refunded, there were reportedly only 10 defendants who got into trouble again.

Other than the abstinence society, colleagues of John Augustus included John Murray Spear, who served as a “voluntary public defender, lecturer, and traveler, a tract distributor, and a worker with discharged prisoners” (Lindner & Savarese, 1984b, p. 5). The settlement movement, a group of university students and professors, was prominent in the establishment of probation in New York. The University Settlement was a grassroots social reform organization that advocated for the poor people of the community, including those on probation. In protest of materialism, industrialization, and widening gaps between social classes, settlement residents lived and worked in the poorest sections of the city and resolved to teach and learn from the local residents (Lindner & Savarese, 1984c, 1984d).

In 1878, almost 20 years after the death of John Augustus, adult probation in Massachusetts was sanctified by statute. A law was passed authorizing the mayor of Boston to appoint a paid probation officer, who was also a member of the police force, to serve in the Boston criminal courts. Three years later, the law was changed so the probation officer reported to the prison commissioner. Due to continuing corruption, the law was revised again to disallow police officers from becoming probation officers (Panzarella, 2002). Statewide probation did not begin until 1891 when a statute transferred the power of appointment over to the courts and made such appointments mandatory instead of permissive. For the first time, the probation officer was recognized as an official salaried agent of the court.

MATTHEW DAVENPORT HILL Matthew Davenport Hill was less known in the United States, but he deserves equal credit alongside John Augustus as a cofounder of probation. Hill laid the foundation for probation in England, where he lived and worked. Born to Reverend Thomas Wright Hill in 1792 and the eldest of eight children, Matthew Davenport Hill was a member of a family intimately involved in politics and the movement for social change (Lindner, 2007). While in Parliament, Hill was deeply concerned with equality for all people and worked toward ending the transportation of English convicts, among other causes. According to criminal justice historian Charles Lindner,

His contribution to helping develop a probation system may have evolved from his early experiences as a lawyer, during which time he witnessed a number of cases in which young offenders were sentenced to a term of imprisonment of only one day ... [Hill] also required that there be persons willing to act as guardians of the young offender. (Lindner, 2007, p. 40)

The guardians were required to report back to Hill on the juveniles’ behavior. Police had the power to enforce the court reporting process and to provide social service assistance. Hill kept court records of offenders’ behavior, which included early accounts of recidivism measured by reconviction rates. Apparently, over a 12-year period, 80 offenders out of 417 were reconvicted, many because they returned to similar circumstances that contributed to crimes in the first place (Lindner, 2007, p. 40). Hill was a close personal friend of a number of other justice reformers, including Jeremy Bentham; Sir Robert Peel; Dr. Enoch Wines, a prison reformer; and Captain Alexander Maconochie (discussed in the next chapter as influential in the development of **parole**). Matthew Davenport Hill died in 1872 at the age of 80.

TRUTH OR FICTION?

John Augustus was America’s first professional probation officer.

FICTION

FACT: John Augustus’ actions most closely resembled bail bonding and pretrial supervision. While Augustus is likely America’s first volunteer pretrial supervision officer, he reformed defendants at his home, but was never officially recognized as a probation officer. Edward Savage, a former chief of police in Boston, was appointed as the first paid probation officer in the United States after probation legislation was passed in 1878, nearly two decades after Augustus’s death.



parole

Early privileged release from a penal or correctional institution of a convicted offender, in the continual custody of the state, to serve the remainder of his or her sentence under supervision in a community.

Development of Federal Probation

Historical accounts of federal probation suggest that federal judges were extremely resistant to enacting probation legislation. Between 1909 and 1925, 34 unsuccessful attempts were made to pass a law authorizing federal judges to grant probation. Because prohibitionists were afraid that judges would place violators of the Volstead Act (the Prohibition Amendment) on probation (Evjen, 1975), through their intense lobbying, they convinced judges not to support probation. The bill was finally passed in 1925 and sent to President Coolidge, who as former governor of Massachusetts understood how probation worked. Because probation in Massachusetts had been successful for nearly five decades, Coolidge had no problem signing the National Probation Act. The act authorized each federal district court to appoint one salaried probation officer with an annual income of \$2,600.

Between 1927 and 1930, eight probation officers were required to pass the civil service examination. In 1930, the original law was amended to empower judges to appoint without reference to the civil service list, and the limitation of one officer to each district was removed. At the same time, the Parole Act was amended to give community supervision officers field supervision responsibility for federal parolees and probationers. Thus, the average number of people supervised by one officer was 400 offenders. Officers relied heavily on as many as 700 volunteers (Evjen, 1975).

Between 1930 and 1940, the Federal Bureau of Prisons (FBP) administered the federal probation system, and Colonel Joel R. Moore became the first federal probation supervisor. The number of officers increased from 8 to 233, but the appointments remained largely political.

By 1940, the U.S. probation system had increased so dramatically that the administration of probation was moved from the FBP to the Administrative Office of the U.S. Courts. The era from 1940 to 1950 was concentrated on initial qualifications, standardized manuals, and in-service training. Initial qualifications for federal probation officers stipulated that they be at least 25 years old but preferably 30–45 years of age, have a baccalaureate degree, possess two years of experience in social work, and be mature, intelligent, of good moral character, patient, and energetic (Evjen, 1975). In 1984, the Comprehensive Crime Control Act abolished federal parole and brought all supervised prison releasees under the auspices of federal probation. Federal probation was administered as an appendage of the federal courts, where it remains today. Contemporary probation serves an important purpose as explained by the American Probation and Parole Association in Box 2.1.

TRUTH OR FICTION?

Federal probation officers supervise both probationers and prisoners released into the community.

TRUE

FACT: Federal probation officers primarily oversee former prisoners on supervised release (83%) and only a small number of probationers (15.8%).

History of Juvenile Probation and the Juvenile Court

From the 1700s to the early 1800s, children were disciplined and punished for crimes informally by parents and other adults in the community. Most children contributed to the family income, but there were no formal mechanisms to care for children who were left homeless or whose parents had died. Between 1817 and the mid-1840s, middle-class female reformers, or “child savers,” institutionalized runaway or neglected children in houses of refuge to provide them with a family environment, but the good intentions of the child savers were not fully realized in practice. Although some institutions were humane, most children were further exploited for labor, abused, and victimized.

To protect children from this exploitation, the New York Children’s Aid Society shipped children to farmers in the West to keep them from being committed

BOX 2.1

COMMUNITY CORRECTIONS UP CLOSE

**What Is the Purpose of Probation?**

The purpose of probation is to assist in reducing the incidence and impact of crime by probationers in the community. The core services of probation are to provide presentence investigation and reports to the court, to help develop appropriate court dispositions for adult offenders and juvenile delinquents, and to supervise those people placed on probation. Probation departments in fulfilling their purpose may also provide a broad range of services including, but not limited to, crime and delinquency prevention, victim restitution programs, and intern or volunteer programs.

Position

The mission of probation is to protect the public interest and safety by reducing the incidence and impact of crime by probationers. This role is accomplished by:

- assisting the courts in decision making through the probation report and in the enforcement of court orders;
- providing services and programs that afford opportunities for offenders to become more law abiding;
- providing and cooperating in programs and activities for the prevention of crime and delinquency;
- furthering the administration of fair and individualized justice.

Probation is premised upon the following beliefs:

- Society has a right to be protected from persons who cause its members harm, regardless of the reasons for such harm. It is the right of every citizen to be free from fear of harm to person and property. Belief in the necessity of law to an orderly society demands commitment to support it. Probation accepts this responsibility and views itself as an instrument for both control and treatment, appropriate to some, but not all offenders. The wise use of authority derived from law adds strength and stability to its efforts.
- Offenders have rights deserving of protection. Freedom and democracy require fair and individualized due process of law in adjudicating and sentencing the offender.
- Victims of crime have rights deserving of protection. In its humanitarian tradition, probation recognizes that prosecution of the offender is but a part of the responsibility of the criminal justice system. The victim of criminal activity may suffer loss

of property, emotional problems, or physical disability. Probation thus commits itself to advocacy for the needs and interests of crime victims.

- Human beings are capable of change. Belief in the individual's capability for behavioral change leads probation practitioners to a commitment to the reintegration of the offender into the community. The possibility for constructive change of behavior is based on the recognition and acceptance of the principle of individual responsibility. Much of probation practice focuses on identifying and making available those services and programs that will best afford offenders an opportunity to become responsible, law-abiding citizens.
- Not all offenders have the same capacity or willingness to benefit from measures designed to produce law-abiding citizens. Probation practitioners recognize the variations among individuals. The present offense, the degree of risk to the community, and the potential for change can be assessed only in the context of the offender's individual history and experience.
- Intervention in an offender's life should be the minimal amount needed to protect society and promote law-abiding behavior. Probation subscribes to the principle of intervening in an offender's life only to the extent necessary. Where further intervention appears unwarranted, criminal justice system involvement should be terminated. Where needed intervention can best be provided by an agency outside the justice system, the case should be diverted from criminal justice to that agency.
- The probation philosophy does not accept the concept of retributive punishment. Punishment as a corrective measure is supported and used in those instances in which it is felt that aversive measures may positively alter the offender's behavior when other measures may not. Even corrective punishment, however, should be used cautiously and judiciously in view of its highly unpredictable impact. It can be recognized that a conditional sentence in the community is, in and of itself, a punishment. It is less harsh and drastic than a prison term but more controlling and punitive than release without supervision.
- Incarceration may be destructive and should be imposed only when necessary. Probation

(Continues)

BOX 2.1

COMMUNITY CORRECTIONS UP CLOSE (*continued*)

practitioners acknowledge society's right to protect itself and support the incarceration of offenders whose behavior constitutes a danger to the public through rejection of social or court mandates. Incarceration can also be an appropriate element of a probation program to emphasize the consequences of criminal behavior and thus effect constructive behavioral change. However, institutions should be humane and required to adhere to the highest standards.

- Where public safety is not compromised, society and most offenders are best served through community correctional programs. Most offenders

should be provided services within the community in which they are expected to demonstrate acceptable behavior. Community correctional programs generally are cost effective, and they allow offenders to remain with their families while paying taxes and, where applicable, restitution to victims.

For Discussion: How has probation changed since 1997, when the original position statement was written?

Source: American Probation and Parole Association. 1997. "APPA Position Statement: Probation." Available at: http://www.appa-net.org/eweb/DynamicPage.aspx?Site=APPA_2&WebCode=IB_Position-Statements. Reprinted with permission.

to a house of refuge. In 1890, the Children's Aid Society of Pennsylvania offered to place in foster homes delinquents who would otherwise be sent to reform school. Known as *placing out*, this practice was an early form of juvenile probation (Mennel, 1973).

The Illinois Juvenile Court Act of 1899 legally established a juvenile system that was different from the adult system to stop the exploitation of children. The court was anchored in the belief that a child's behavior was the product of a poor family background and surroundings. It operated informally, was civil in nature, and was geared toward rehabilitation. The juvenile courts were created in part, to respond to abused children and homeless children living on the streets. Since they were more informal and less mired by legal obstacles, juvenile courts could intervene at an earlier point in time well before a conviction. Some considered them more efficient and effective to deal with social problems without abiding by criminal procedure and due process rights. Lucy Flower, wife of a prominent Chicago attorney, helped create juvenile probation services in Illinois. She obtained support from the Chicago Bar Association to draft and pass the necessary legislation to provide a separate court and detention system that was different from the adult system (Lindner & Savarese, 1984b).

By 1925, 46 states, 3 territories, and the District of Columbia had juvenile courts (Mennel, 1973). Two concepts that formed the backbone of the original juvenile justice system were a recognition that the level of mental intent over one's actions is different for youth than it is for adults, and that the State might have to intervene as a protector in the child's best interest. Juvenile probation was formed under English common law and the doctrine of ***parens patriae***, which is a Latin term for the doctrine that "the State is parent" and therefore serves as guardian of juveniles who might not be able to fend for themselves. The State intervened as a substitute parent in an attempt to act in the best interests of a child by using four principles. First, the court appointed a guardian to care for a child. The second principle was that parents of offenders must be held responsible for their children's wrongdoing. Third, no matter what offense children had committed, placing them in jail was inappropriate. The fourth principle stated that removing children from their parents and sending them even to an industrial school should be avoided, and that

***parens patriae***

Latin term meaning that the government acts as a "substitute parent" and allows the courts to intervene in cases in which children, through no fault of their own, have been neglected and/or are dependent and in which it is in their best interest that a guardian be appointed for them.

when it [a child] is allowed to return home it should be under probation, subject to the guidance and friendly interest of the probation officer, the representative of the court. To raise the age of criminal responsibility from seven or ten to sixteen or eighteen without providing for an efficient system of probation, would indeed be disastrous. Probation is, in fact, the keynote of juvenile court legislation. (Mack, 1909, p. 162)

Mack further related:

Whenever juvenile courts have been established, a system of probation has been provided for, and even where as yet the juvenile court system has not been fully developed, some steps have been taken to substitute probation for imprisonment of the juvenile offender. What they need, more than anything else, is kindly assistance; and the aim of the court, appointing a probation officer for the child, is to have the child and the parents feel, not so much the power, as the friendly interest of the State; to show them that the object of the court is to help them to train the child right, and therefore the probation officers must be men and women fitted for these tasks. (p. 163)

The first Federal Juvenile Delinquency Act was passed in 1938 to provide probation supervision for juveniles until the age of 18. A detailed discussion of the contemporary juvenile court and other types of community corrections for juveniles is found in Chapter 13. For now, we return to a discussion of early probation laws in the adult system at the time when probation first began in the northeastern region of the United States.

Early Probation Legislation in Other States

New York's probation law allowed police officers to be probation officers, but one of the two positions was occupied by three different University Settlement members (Lindner & Savarese, 1984d). Later, probation legislation in other states included a provision that the probation officer not be an active member of the regular police force. Although probation officers were allowed, most legislation did not provide money for salaried positions. This omission was deliberate because probation legislation would not have passed at all if there were costs attached (Lindner & Savarese, 1984a). Thus, probation workers began as volunteers, paid from private donations, or they were municipal workers and other court officers who supervised probationers in addition to their regular jobs.

PROBATION TODAY

When probation first began as a way to mitigate harsh English law, the courts used probation as a way to suspend a prison sentence, or to offer an alternative to prison. Misdemeanor offenses are processed at the local level, while the state largely becomes responsible for felony convictions. However, felons sentenced to community supervision rests with local jurisdictions. Today, probation is used in the same way as it was originally intended, except there are now two ways in which it is used. Probation can be a sentence in itself where a defendant is convicted but on probation, or probation can be used even earlier in the process as a form of diversion or deferred adjudication.



diversion

An alternative to traditional criminal sentencing or juvenile justice adjudication that provides offenders with a chance to avoid conviction upon successful completion resulting in a dismissal of current charges. Also known as deferred adjudication.



civil citation

A document issued by a police officer to a juvenile who commits a misdemeanor or status offense that allows the juvenile to complete deferred adjudication or diversionary probation supervision without being formally adjudicated by the juvenile court, in states that allow this practice.

Deferred Adjudication/Diversion

Before the defendant is convicted or pleads guilty, (s)he may be offered **diversion** (also known as *deferred adjudication*), which is the chance to avoid a criminal record. If the defendant completes the terms of supervision and stays out of trouble for two to five years, the charges are dismissed and there is no official conviction.

Defendants who typically qualify for diversion are juveniles or adults charged with misdemeanor offenses, first-time felons, or offenders with mental health problems. Diversion can be recommended by police, intake officers, or attorneys as allowed by law. In states that allow police to issue a **civil citation**, a police officer who suspects a juvenile of committing a misdemeanor or status offense can refer that juvenile directly to a deferred adjudication officer. Provided the juvenile admits to committing the offense, the youth can complete diversion probation supervision without being formally adjudicated by the juvenile court, or even seeing a judge. If the juvenile refuses to admit guilt, the case is referred to an intake officer (Mears et al., 2016).

Attorneys are also able to recommend diversion for adult defendants, but they must convince the judge. A defendant's probation or parole history, mental health, substance abuse history, community ties, and evaluative needs are all viewed as relevant by both prosecutor and defense. A defendant's adult criminal record, gang affiliation, the official version of the offense, and pending cases are all ranked significantly higher in a diversion decision by prosecutors than by defense attorneys (Alarid & Montemayor, 2010b).

Diversion enables offenders to avoid the criminal label or deviant stigma that results from a conviction. It can help individuals who do not pose a risk to public safety and who, upon completion of their supervision and/or treatment program, are unlikely to return to criminal behavior. Persons with special needs, such as mental illness, who have also committed minor offenses are better suited for rehabilitative functions like medication stabilization and counseling (Castillo & Alarid, 2011). Offenses that qualify for diversion typically include theft, possession of controlled substances, domestic violence, and prostitution (Alarid & Montemayor, 2010b).

Probation Departments: County or State?

After Massachusetts, Vermont was the second state to pass a probation statute, adopting a *county* plan of organization in 1898. Each county judge was given the power to appoint a probation officer to serve all the courts in the county. On the other hand, Rhode Island in 1899 adopted a statewide and state-controlled probation system. Initial probation legislation followed either Vermont's local organizational pattern or Rhode Island's state organizational pattern.

Over time, changes have occurred in the way that probation departments are structured. Smaller, more localized departments have found themselves at a disadvantage when trying to compete fiscally with larger agencies, such as state prisons and county jails. Larger agencies have funds to send lobbyists to the state capitol during key budget times. For that reason, many adult probation and parole departments have merged. It has been only recently that some probation departments have combined adult and juvenile probation services. Table 2.1 shows how probation and parole agencies are structured in every state—whether it is county or State, and whether the branch of government is judicial or