Video Research Project Discovers Thick and Thin Forms of Restorative Justice in Vermont’s Reparative Probation Program

by David R. Karp

Restorative justice is a new approach to criminal justice and is central to the practice of community justice (Clear and Karp 1999). But how does restorative justice happen? Bazemore and Walgrave (1999, p. 48) suggest, parsimoniously, that “restorative justice is every action that is primarily oriented toward doing justice by repairing the harm that has been caused by a crime.” Zehr and Mika (1998) offer a more comprehensive definition, but harm and repair remain at its core. Following these leads, this study examines harm and repair as the central idea of restorative justice. Through observations of one program in action, I identify how participants in a restorative justice initiative attempt to repair harm, how they define harm caused by criminal offenses, how they negotiate agreements with offenders to repair harm, and what difficulties they face in fulfilling the main tenet of restorative justice.

The Vermont Reparative Probation Program

This study analyzes Vermont’s Reparative Probation Program, a restorative justice program for adult probationers that began in 1996 and has processed, as of December 1999, more than 4,000 cases. Upon conviction of a minor offense, burglary or drunk driving, for example, a judge will sentence an offender to probation with the condition that he or she appears before the local reparative board. The board meets with the offender and attempts to work out a solution to the problem(s) created by the offense. Victims and other affected parties (such as parents of a youthful offender) are invited to attend. Board meetings vary in length, but average between 35-40 minutes. The outcome of the meeting is a negotiated agreement, signed by the offender, specifying a set of tasks he or she must complete successfully during a 90-day probationary period. Typically, offenders will return to the board for a mid-term review and a final closure meeting before discharge. Offenders who refuse to sign the agreement or fail to comply are returned to the court.

Board members seek to accomplish four goals with the offender. First, they wish to engage the offender in tasks that will help him or her to better understand the harmful consequences of the crime(s) on victims and the community. This may entail asking the offender to listen to the victim’s account or to the reactions of victims of similar offenses. It may mean asking the offender to write an essay describing the
harm that was done. Second, the board seeks to identify ways the offender can repair the harm to victims. Third, they try to engage the offender in making amends to the community. Restitution to the victim, community service, and letters of apology may be required. Fourth, the board works with the offender to find a strategy to reduce the likelihood of re-offending. This might include a wide variety of educational and counseling opportunities.

The typical board meeting is held in an informal conference room in a town hall, public library, or probation office. Boards vary in their formality, but all are much less formal than the courtroom setting. Meetings begin with introductions, proceed through a general review of the incident, and become task-oriented as they strategize over terms of the agreement. Some boards ask the offender to leave the meeting so that board members can have a short period of private deliberation. Lengthier descriptions of program features can be found in Dooley (1996); Karp (In Press); Karp and Walther (In Press); Perry and Gorczyk (1997); and Walther and Perry (1997). A full-length description of this study can be found in Karp (2000).

The Vermont Video Project

The Vermont Reparative Probation Program managed 42 volunteer community boards in 19 towns and cities across the state during the data collection period for this study. I collected a total of 53 videotapes of board meetings with offenders, representing 29 different community boards in 17 townships. Taping began in July 1998 and continued through August 1999.

Thin Restoration

Is Vermont’s Reparative Probation Program restorative? According to a “thin” definition of restorative justice, reparative agreements must contain positive actions directed toward victims and/or the affected community. Identifying “positive action” is clearly subjective, but not difficult relative to no action whatsoever. This requires an analysis of the line items in reparative agreements. More important is to distinguish action that has a different intention than reparation. Since boards have four prescribed tasks to accomplish in the contract, and only two of these are restorative by definition, it is important to distinguish these from contract activities designed to help the offender understand the harm he has caused or those that are rehabilitative. Both of these latter activities seek moral and social reintegration rather than reparation. Writing an essay on “Why should we obey the law,” enrolling in a GED program, or starting drug counseling are all reintegrative, not restorative. Community service work may be both reintegrative and restorative since it improves the welfare of the community and provides an opportunity for the offender to enact a prosocial identity. In 48 of the 53 cases (90%) I found evidence of thin restorative justice. Because these data are not a random sample, it is impossible to draw a statistically accurate conclusion about this finding (to restate the most fundamental problem associated with qualitative research). The vast majority of cases, however, are apparently restorative, and further analysis reveals the nature of restorative activity. The single most common restorative activity is community service, which was a part of 42 reparative contracts (79%). Service requirements ranged from eight to 60 hours, and in one case, 100 hours of service were required, but a judge, not a board, imposed this requirement. (The program model does not envision judges adding requirements to the probation order except that they should appear before the reparative board. However, judges do not always follow the rules. This is particularly problematic when probation orders contain retributive components that clearly conflict with the spirit of the program.)

Thick Restoration

If this program typically fulfills a “thin” restorative justice criterion, how successful is it with a “thick” criterion? How often are restorative activities linked to the offense? Are offenders repairing the damage that they, themselves, have caused? To evaluate these questions, it is necessary to consider how the harm is defined and the manner in which restorative activities are linked to that harm. My video coding strategy emphasized different stages in identifying harm and strategies for repair. First, I examined the discourse regarding the account of the offense. This included identifying the amount of time.

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The Treatment and Management of Severe Personality Disordered Offenders

Henry R. Cellini, Ph.D., Travis Hinze, Ph.D., Tom Speaker, Ph.D. and Raymond M. Wood, Ph.D.*

The effective treatment and management of offenders diagnosed with severe personality disorders is often a major challenge, especially in a residential setting. Personality disorders are generally chronic and lifelong in nature unless adequately treated. The enduring, pervasive, and inflexible patterns of behavior and experience which characterize personality disorders, and the problems associated with the treatment and management of these problems, are perhaps best exemplified by the challenges presented by individuals with antisocial personality disorder (APD) or psychopathy.

Differences and Similarities Between APD and Psychopathy

APD and psychopathy, though thought to be interchangeable by some, are actually relatively independent constructs. Antisocial personality disorder is typified by a failure to conform to social norms, deceitfulness, impulsivity, irritability and aggressiveness, reckless disregard for the safety of others, consistent irresponsibility, and a lack of remorse. Diagnostic criteria also specify that an individual must be at least age 18 with evidence of conduct disorder before age 15 (American Psychiatric Association, 1994).

Hare (1991) has described psychopathy as a constellation of characteristics including but not limited to grandiosity, egocentrism, superficial charm, pathological lying, irresponsibility, lack of remorse, impulsivity, cunningness, and a need for stimulation. Early behavioral problems are also considered a potential expression of psychopathy.

These diagnostic criteria clearly overlap and additional information on similarities and differences in psychopathic behavior can be found in two excellent books—Psychopathy: Antisocial, Criminal, and Violent Behavior (Guilford Press, 1998), edited by Theodore Millon, Erik Simonsen, Morten Birket-Smith, and Roger Davis, and Psychopathy: Theory, Research and Implications for Society (Kluwer Academic Publishers, 1998), edited by David Cooke, Adelle Forth, and Robert Hare. These books offer detailed and perceptive insights on the behaviors associated with these disorders. In one chapter, Dorr (1998) argues that a pedophile's thinking is truly psychopathic in nature, even though typical assessment instruments don't usually place him in this diagnostic category. In another chapter, Losel (1998) provides the basis for our discussion of treatment and management issues with this population.

Regardless of the differences and similarities between these two disorders, these individuals have been found extremely difficult to treat and manage. Blackburn (1993), however, reviewed the treatment literature on individuals with APD and psychopathy and found "some degree of hope" for treating and managing persons with these disorders. First, some offenders with severe Antisocial Personality Disorder appear to "change" with psychological treatment. Second, while individuals with psychopathy tend to respond poorly to traditional therapeutic interventions, it has yet to be established that "nothing works" when treating this group.

Even though the potential remains for effectively treating those with severe APD and psychopathy, certain client characteristics make it difficult to deliver effective therapy to them. Common behaviors such as verbal aggression, negative comparisons, defensiveness, manipulation, threat making, exaggeration, and lying all serve to work against the classic therapeutic process where client-therapist trust is a key component. Antisocial personalities are often unaware of the emotional significance of experiences and events (Patrick, 1994), and demonstrate less cardiac, electrodermal, and facial muscle responses to imagined fearful scenes (Patrick, Cuthbert, & Lang, 1994). Their linguistic processes are superficial, and they are less able to understand or use nuances and deeper semantic meanings of languages (Newman & Wallace, 1993). Coupled with their difficulty in shifting attention between stimuli, psychopathic personalities seem to lack the ability to organize the central construct that plans and monitors what they perceive, think, and say. Research suggests that they may possess a cerebral dysfunction that has already started to consolidate in childhood (Farrington, Loeb, & Van Kammen, 1990). Such preconditions make it difficult for an effective therapeutic process.

Amenability and Motivation for Treatment

Motivational challenges are evident with psychopathic individuals. Ogloff et al. (1990) found that individuals with antisocial personalities demonstrated less treatment motivation, effort, and improvement, and remained in treatment for less time than a non-mixed, non-psychopathic group. A psychopath's initial motivation to undergo treatment, some have proposed, is grounded more in external reasons, such as the hope that the process will evenuate in an earlier release, than in personal goals for betterment (Losel, 1998), but such extrinsic motivation is also a factor with non-psychopathic offenders. However, the "lack of suffering" on the part of a psychopathic personality suggests that the primary motivation to change is extrinsic, especially since most psychopaths and antisocials don't believe they have problems, and therefore fail to undergo necessary self-examination. As a result, therapy can easily become meaningless and resented (Ogloff et al., 1990), thereby resulting in frequent discontinuation of therapy and additional sanctions against the individual, such as confinement and negative record entries concerning misbehavior, aggression, and other disciplinary problems. These factors also have a negative...
impact on therapists, leading to a cycle of disappointment, fear of manipulation, and self-fulfilling prophecy that can further reduce treatment efficacy.

Modes of treatment for these individuals must not only take into account the challenges associated with treating, but also recognize that therapies could be improved upon. In order to improve current practices in the treatment and management of severe APD and psychopathy, further consideration should be given to research method issues, the evaluation of different types of treatment interventions, and the design of effective programs.

Research Method Issues

Nonequivalence of Control Group. Because of poorly controlled experimental designs, process information on control conditions is just as important as that on the treatment itself. After all, even an untreated control group in a regular incarceration situation may receive some treatment, though non-specific. When dealing with highly disturbed offender populations, it is rarely feasible to withhold treatment merely for the sake of experimental control.

Heterogeneity of Treated Groups. As the term psychopathy is often vaguely defined and politically controversial (some countries avoid its use altogether), it is difficult to assemble or ensure a homogenous population. In England, for example, approximately one-quarter of legally defined psychopaths are actually primary psychopaths (criminals) in the psychological sense. Different studies conducted in various countries have used different definitions for the diagnosis of antisocial personality and psychopathic behavior.

Process Data on Interventions. While individual variations in relationships play a strong part in treatment effectiveness, they are rarely addressed in forensic treatment studies, and as the evaluation of a program addresses the entire program rather than particular elements of the therapist’s style, experience, and abilities, it becomes difficult to point to the specific causes of either success or failure.

Treatment Integrity. The ability to determine the integrity of a treatment process depends on the ability to measure and report on reliable independent variables (i.e., program characteristics) and dependent variables (i.e., recidivism). Some of the influences that might impair program integrity include:

- Lack of a basic common philosophy;
- Insufficient staff training and lack of organizational support;
- Inadequate supervision;
- Poor response to critical incidents;
- Political changes resulting in legal issues;
- Staff resistance, and/or fear of working with this population; and
- Staff burnout and development of countertransference relationship.

Outcome Criteria. Defining and measuring outcomes can be problematic, and measured outcomes may not accurately capture re-offending. Moreover, and relative to sexually violent predators, a low national release rate reduces researchers’ ability to assess program outcome (Losel, 1998).

The subset of the population with antisocial disorders is not only difficult to treat, but also is a population with a particularly high risk of violent and non-violent recidivism. In determining that criminal history and antisocial life-style seem more predictively accurate than the psychopathic core personality (Salekin et al., 1996), the question has been raised as to the relevancy of psychopathy on treatment failure. A review of literature demonstrated, however, that psychopaths in general perform worse than various comparison groups, and these differences were particularly strong when the Hare Psychopathy Checklist (the most accurate method of assessing psychopathy) was used to define psychopathy (Losel, 1998).

Evaluation of Different Types of Interventions

Psychotherapy, Behavior Modification, and Educational Measures. A variety of treatments, such as psychoanalytic, dynamic, client centered, behavior modification, cognitive-behavioral, and traditional casework, have been used with personality disordered patients (Losel, 1998). Treatments involve individual and group-oriented methods and are specific in content, though in most facilities residents frequently receive various treatments simultaneously.

Programs that were behavioral, skill-oriented, and multimodal (aimed at multiple risk factors) are most effective. Redondo (1994) reported the highest effect size, during a meta-analysis of European studies, for programs with a cognitive-behavioral focus. Andrews et al. (1990) found better effects in behavioral interventions, but also developed a more clinically complex and theoretically relevant grouping of treatment types, and suggested that correctional treatment services were appropriate when three principles—risk, need, and responsibility—were met. In brief, this refers to the premise that the level of service and/or intensity of treatment should match the risk of the client. Ideally, the targets of services should be tailored to the client’s need, and the styles and modes of services should be matched to the learning styles and abilities of the clients.

“Appropriate treatment” includes service delivery to high-risk cases, behavioral programs, and non-behavioral programs when they clearly target criminogenic needs, thinking, and attitudes. “Inappropriate treatment” programs include interventions for low-risk clients, programs that fail to match either need or responsivity, nondirective milieu and group approaches, nondirective or poorly targeted educational or vocational measures, and “scared straight” measures. Unspecific treatment—neither appropriate nor inappropriate—covered all programs that couldn’t be labeled with confidence one way or another. Some studies included in this meta-analysis were criticized on a lack of methodological controls (Losel, 1998). However, a later meta-analysis (Antonowicz & Ross, 1994), restricted to studies with good methodological controls, supported both the need principle and responsivity principle. It is therefore proposed that relatively successful programs should include modules that improve:

- Self-control;
- Self-critical thinking;
- Social perspective-taking;
- Victim awareness;
- Anger management;
- Interpersonal problem-solving;
- Social skills;
- Vocational competencies; and
- Noncriminal attitudes.

But how far can the results of research and work with criminals be generalized to a specific antisocial personality subset such as psychopathy? Classical psychotherapy is often ineffective when working with them. However, Vaillant (1975) is less pessimistic about the application of psychodynamic approaches in the treatment of this population, using case reports to demonstrate that they are capable of anxiety, depression, and a motivation for change, even though their immature personality and defense structures render them far less approachable. Controlled studies suggest there are treatable offenders with antisocial personalities. However, with a failure rate of about 50% to 60%
Strategies for Building on What We Know About People with Mental Disorders in the Criminal Justice System

by Arthur Wallenstein*

Last July, the U.S. Department of Justice convened a groundbreaking working group of 250 invited mental health, substance abuse, criminal justice, and human service specialists to focus on the reluctant and inappropriate role of the criminal justice system as a warehousing and limited treatment center for a significant number of mentally ill persons and people with co-occurring substance abuse disorders. This trend is counterproductive to criminal justice, mental health, and substance-abuse treatment strategies. The increasing criminalization of mental illness must be reversed in dramatic fashion.

Nearly two years ago, the Office of Justice Programs within the U.S. Department of Justice began to engage persons from throughout the federal government to review the use of jails and prisons as the new response to mental illness and co-occurring disorders (substance abuse), isolate its importance, recognize negative operational issues, and develop an action plan for a national meeting to showcase this seriously regressive trend. The meeting focused on adult criminal justice and mental-illness issues, but there was also strong and deeply disturbing evidence about juvenile justice issues, but there was also strong and deeply disturbing evidence about juvenile justice.

For an intensive period of 15 hours over two days, the invited group heard from 53 separate speakers, conducted intensive work groups in five topic areas, and returned initial policy recommendations that were shared directly in plenary session with Attorney General Janet Reno. The Attorney General responded, commented, took personal comments directly and committed her administration to crosscut traditional department lines and take this on as a priority for the remaining months of her tenure as Attorney General.

In this article, I will simply report, with little analysis, what we heard, learned, and contributed at this meeting. A conference proceeding will be printed later in the fall. In the meanwhile, this article highlights the important objectives discussed at that gathering, which are to significantly diminish the use of the criminal justice system as a quasi-mental health system and to reduce the use of jails and juvenile detention facilities as warehouses for those with mental illness and co-occurring substance abuse disorders. These people could be safely and more appropriately treated elsewhere in the larger human service delivery system.

Major Policy Focus Groups of Conference

The conference had five major policy focus groups: the challenges of system integration for co-occurring disorders; advancing knowledge about juvenile offender mental health issues; court and diversion programs; developing linkages for effective corrections; and creating community partnerships for the needs of people with mental illness. A facilitator from each group presented findings and recommendations to Attorney General Janet Reno at a plenary session at the conclusion of the conference.

The Challenge of System Integration for Co-Occurring Disorders

The panel likened this topic to a criminal justice process. The invitation to attend was an indictment. Persons with mental disorders are being inappropriately placed in the criminal justice system, and we are all indicted as co-conspirators responsible for this problem. The issue has social, economic, and moral dimensions. The trial was held during the initial plenary sessions, with overwhelming evidence of poor policy and poor practice. The verdict of guilty was pronounced from each element of the criminal justice, mental health, substance abuse, and human service systems. Sentencing occurred in the breakout seminars of the five focus groups. Efforts were made to seek an appropriate sentence with the opportunity for justice and restitution that could make us whole again.

Much effort went into the panel, which focused on barriers to systems integration for persons with co-occurring disorders. For the purposes of this meeting, the group limited its discussion to mental illness and substance abuse (chemical dependency), although other co-occurring disorders were noted such as cognitive, developmental and health impairments.

The group agreed that the answers are not just about mental illness and co-occurring disorders, but about systemic inequities related to race and gender, which are longstanding sources of social problems in this nation. Culturally informed and competent care is required to meet the needs of special populations including women, people of color and sexual minorities. The answers are not about cost shifting and bureaucratic ping-pong. The problems must be owned jointly by all of us across disciplines and specialty areas. This means mandatory systems integration: defined as the sharing of information, planning, clients and resources. This means sharing authority and power and blending funding. This means each of us must lead by example from our respective positions in the system, especially those with access to Bully Pulpits. We must address issues, fight the stigma associated with mental illness and criminal justice, and educate and promote increased insight and public understanding.

The answers, this group agreed, are about public safety and community well-being; the overall impact we have on consumers and the larger community; moving federal, state, and local agencies beyond the traditional model of command and control and developing linkages, information sharing, problem identification and resource sharing with other agencies and systems; and moving federal, state, and local agencies beyond reluctance to ensure access to care for offenders who may annoy us, scare us, or even challenge our sense of professional adequacy and competence. The answers will require all human service agencies to minimize the perception that persons with co-occurring disorders belong to one system or another, and to promote truly integrated systems.

The goals and strategies developed by this group included:

- Promulgate already known and tested models demonstrating the successful integration of services for persons with co-occurring disorders;

See STRATEGIES, next page
Support federal funded research and demonstration projects to determine the heretofore unknown impact of integrated services for persons with co-occurring disorders, on violence, jail use and recidivism;

Develop a three-tiered approach to offenders with mental illness and co-occurring disorders including diversion, treatment while incarcerated, and linkage to community services, including community corrections;

Support boundary spanning roles at all levels of the system to promote linkages and bridge system gaps, including the modeling of integrated approaches to problem solving and service delivery at the federal, state, and local levels by senior officials in law enforcement, human service policy and provider, housing, education, veterans’ services, and related agencies and departments;

Attack the stigmatization of persons with mental illness and co-occurring disorders and the impact of this stigma on funding, program configuration, and public responses to this population in the justice system;

Support early intervention and prevention efforts targeting children, youth, and first-time offenders in partnership with government and community agencies struggling to address largely hidden youth and juvenile issues, such as mothers with children with mental illness or co-occurring disorders, the impact of child abuse and violence on youth involved in the criminal justice system, the role of intact family functioning and family preservation;

Provide support for increased resources for the full continuum of needed housing linked to supportive treatment and supported transitions from institutional to community living;

Ensure that persons with mental illness or co-occurring disorders who are incarcerated have access to Medicaid funded treatment or equal alternative resources;

Ensure continuity of care and support the uninterrupted delivery of needed services no matter where persons are in the criminal justice system;

Create and test models for integrated behavioral health courts where both mental health and co-occurring disorder treatment needs can be effectively addressed through the application of therapeutic jurisprudence;

Focus a jointly sponsored Department of Justice/Health and Human Services grants program on outcome-oriented programs to reduce locally incarcerated MIO populations by set percentages;

Convene meetings of top state level officials from multiple affected systems to develop cross system working agreements and initiatives addressing the needs of persons with co-occurring disorders in the criminal justice system;

Continue the efforts of the Bureau of Justice Assistance to collect and disseminate quality data and refine methods to provide accurate information to policy makers on persons with mental illness and co-occurring disorders in the criminal justice system;

Support the cross training of mental health, co-occurring disorder, criminal justice, and community stakeholders and providers on the needs of persons with mental illness and co-occurring disorders in the criminal justice system, including as a focus the need for culturally competent care; and

Ensure the continued growth of consumer involvement in all aspects of our system integration efforts.

This panel pronounced its sentence upon the group: The federal government must now step in as the probation officer and hold itself, the community, and the nation to the standards that restitution requires. We owe persons with co-occurring disorders nothing less. Any violation of the terms of probation should result in mandatory attendance at a conference next year on persons with mental illness disorders in the justice system at the offenders’ expense.

The Understanding of Juvenile Offender Mental Health Issues

Juvenile justice issues were heard in almost all sessions and, while the focus appeared to be primarily adult, by the end of the conference, it was clear that there are enormous abuses in the juvenile system. Mental health treatment services for juveniles are even less readily available than for adults; it is estimated that only one-third of kids with serious mental illnesses receive services. Mental illness and co-occurring disorders are increasingly handled as criminal justice issues, attention needs to be devoted to juvenile issues immediately, and careful attention needs to be focused on eliminating serious abuses. Many delinquent children were victims of child abuse. Over two-thirds of mentally ill juveniles in custody are charged with non-violent offenses. Females in the juvenile justice system have a higher prevalence of mental illness than do males. Of the youth in the juvenile-justice system with a mental illness, many have more than one diagnosis.

The Attorney General needs to focus her attention on juvenile justice issues and bring justice to those who have suffered. The system has not cared to spend resources on the mental illness of kids. People coming after us will look back and question why we did not respond more aggressively to the problems of youth in the context of the major topics of the conference.

The goals discussed were as follows:

- Use interagency collaboration to move agencies “outside the box” and start working together in the interests of youth;
- Create incentives for states to spend dollars on the assessment and diversion of mentally ill juveniles from the justice system through using already existing structures;
- Use community mental health programs to expand world views beyond a specific diagnosis to the larger picture of mental illness and co-occurring disorder issues;
- Integrate funding for juvenile justice and mental health;
- Change policy to ensure Medicaid funding for mentally ill youth in the juvenile justice system;
- Fund programs that have a clear evidence base, a solid data base, and quality services;
- Make mental health services for kids a priority in any continued program of community block grants;
- Provide assistance with mental illness issues and protective supervision to the over 500,000 foster children;
- Evaluate exclusion and restraint policies (which have a history of abuse), across the board in juvenile justice facilities;
- Make it easier to move seriously mentally ill juveniles from detention facilities to appropriate treatment facilities;
- Create prevention partnerships with schools, particularly on the issue of early identification and assessment of kids with mental illnesses; and
Cognitive Restructuring

Effects of a Cognitive Restructuring Program on Inmate Institutional Behavior
by Agnes L. Baro
26(4) Criminal Justice and Behavior 466 (1999)

The need to maintain the safety of staff and inmates in a prison system is an important topic. Methods to control violence and maintain open lines of communication among staff and inmates may mean the difference between life and death. One method that has come to the forefront in most correctional treatment facilities is cognitive restructuring. Agnes Baro’s research of inmates in the Michigan Department of Corrections is an excellent example of the use of cognitive restructuring to help prisoners change antisocial patterns and reduce incidences of disciplinary actions.

The author examined 123 inmates who participated in three different treatment groups. The first and second groups participated in a Strategies for Thinking Positively (STP) program, which allowed inmates to participate in two levels of cognitive restructuring. The first group, designated as Phase I, consisted of the orientation portion of the program and was made up of 14 lessons presented over an eight-week period. The topics examined included self-change and identifying negative thought-and-behavior patterns.

Phase II, viewed as the long-term treatment group, consisted of clients who were allowed the opportunity to examine and revise their behavior. During this phase of the research, the clients were allowed to shift their residence to a 40-bed unit and were given more interaction with staff. An interesting aspect of the study was that staff assigned to supervise the STP groups was also mandated to receive the STP Phase I orientation. Staff that wished to facilitate groups was required to have even more training.

The third group consisted of participants that received forms of treatment other than STP, including AA/NA meetings and educational, vocational, or substance abuse treatment.

The author found significant differences between the groups in relation to major infractions such as disobeying orders and assaults. Fewer assaults were reported by the STP group, with the maintenance stage of treatment proving more successful than the initial high intensity orientation. Thus, the program may provide a significant training ground for new behaviors and better ways to deal with the inmates’ issues. There was a definite reduction of behavioral problems among the inmates that participated in the cognitive restructuring program compared to the control group. Though the author found no significant difference in the total amount of misconduct by the groups, the overall level of serious offenses, such as assaults and disobeying orders, was reduced.

The author points out weaknesses in the research, including the inability to include race as an independent variable, the fact that groups were not randomly assigned, and that the research may not have taken into account other behavioral improvements that could be related to the program. The research gives good insight into the possible use of cognitive restructuring programs in the prison systems. This study may prove to be beneficial to both staff and inmate populations by increasing communication, conflict resolution training, and other valuable tools to reduce incidents of violence. The author suggests that future research could focus on why two forms of misconduct (assaults and disobeying orders) decreased but other forms did not. The author’s research is thorough and definitely worth reading.

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Alternative Sanctions

Toward the Development of Punishment Equivalencies: Male and Female Inmates Rate the Severity of Alternative Sanctions Compared to Prison
by Peter B. Wood and Harold Grasmick
16 (1) Justice Quarterly 19 (March 1999)

Many people working in the criminal justice systems are amazed when an offender in court opts for prison after being given the opportunity at treatment or an alternative to incarceration. Many parolees that I have interviewed immediately notify me that they would have preferred staying in prison since they will be going back anyway. The focus of this research article is the offender’s choice to accept the onus of a prison sentence rather than an alternative sentence.

Wood and Grasmick give deep insight into this topic in their comprehensive and well-planned study of inmates in Oklahoma. The basis of the research was to look into what would prompt an individual to accept or reject an alternate sentence compared to a brief term of prison. The study examined 415 male and female inmates who were serving brief prison sentences. The authors defined a brief prison sentence as “being sentenced to less than five years in prison for their current offense.” The rationale was that previous research was minimal, and the drawbacks of completed studies included small samples and the use of habitual or violent offenders. This was problematic since habitual and violent offenders are not eligible for alternative sanctions and their preferences had no bearing on actual sentencing.

The alternate sanctions examined in this study included boot camps, county jail, electronic monitoring, regular probation, community service, daily reporting, intensive supervision probation (ISP), intermittent incarceration, halfway houses, and day fine. The study was based on alternatives to four-, eight-, or 12-month imprisonment sentences. Many inmates chose prison over such alternative sentences. The authors found that one-third of the inmates chose prison over ISP.

After reviewing the current literature and examining the inmates desire to participate in alternate sanctions, the authors turned to the rationales behind these choices. The findings are similar to what many inmates will tell parole or probation officers upon release. Situations that the inmates viewed as positive reasons for staying out of prison included children, spouses, and jobs that were available to them. The highest inmate-ranked reason for the need to stay out of prison was children, and the authors reported that nearly 84% of the population studied agreed with this ranking. The researchers found that those that were serving their first sentence were much more amenable to an alter-
native sentence than those that had adjusted to a prison setting. The reasons to not participate in alternative sanctions were varied. Many of the inmates (57.7%) felt that alternative sanctions were unwanted since if they failed they would end up back in prison. Most also felt that the parole and program officers were unfair and were focused on sending the inmates back to prison. One has to wonder if this perception was brought about by the inmates’ inability to accept responsibility for prior violations of probation that resulted in being sent back to prison. This was not addressed in this study, but would make for interesting future research.

Gender differences on these issues had not previously been extensively examined. The authors found that “women were much more willing to endure more of the alternative sanction than are men to avoid a specific duration of actual imprisonment.” The findings revolved around the women’s desire to remain either with or in contact with their children; women viewed negatively any sanctions that precluded this option. The authors found that nearly 80% of the sample had children, and this may be strong inducement to take an alternative form of sanctioning.

The effectiveness of brief incarceration as a deterrent was questioned. Since many inmates would prefer a brief incarceration over an alternate sanction, the effectiveness of this form of punishment is suspect. Many inmates viewed the prison experience as a sort of rest period and also felt that they could take advantage of state funded medical treatment. The authors acknowledged that even the chance of victimization was not a strong incentive to take an alternate sentence to leave prison early. Much relevant information can be extracted from the study that is relevant to all aspects of offender treatment. Probation, parole, mental health, and correctional agents should find this article a beneficial source of information. The research provides excellent insights into alternative sanctions and their level of discomfort with short-term prison sentences.


House Arrest and Gender

Equal Application or Unequal Treatment: Practical Outcomes for Women on Community Control in Florida
by Sylvia J. Ansay & Deena Benveneste
10(3) Women and Criminal Justice 121 (1999)

In Florida, community control, known more commonly as house arrest, has been a useful tool to relieve an already overburdened prison system. Community control provides a stricter sanction than probation but allows the offender a chance at rehabilitation rather than short term incarceration. The program has both positive and negative aspects. Ansay and Benveneste focus their study on the possible inequities that face any woman while under the supervision of community control.

The authors outline the history of community control in Florida to provide a foundation for their study. They discuss the masculine specific language used in earlier community control laws to point to potential biases in gender from the start of the program. The authors acknowledge that the intent of community control was originally a form of punishment and deterrence used by the legislature to reduce overcrowding and financial strain in the prison system.

Community control restrictions include schedules that are submitted weekly to the offenders’ officers for approval and weekly home and office contacts with their officers. Women (and men) on community control are expected to abide by these weekly schedules. The offenders are restricted in their travel, mainly for “employment, food shopping, medical needs, and religious services.” Noncompliance with the conditions of community control can lead to incarceration for technical violations.

The authors began their project with the intent to “learn how the language of community control is applied at the local level, in relation to three main concerns: 1) entry into community control; 2) scheduling; and 3) family caregiving responsibilities.” The case study involved interviews with two Department of Corrections officers who supervised women sentenced to community control and two supervisors in the probation office. They were allowed to accompany the officers while they conducted routine home visits to discuss issues and verify that the community controllers were at their residences. They were not allowed to interview the clients without an officer present. Ansay and Benveneste rode with the officers and interviewed offenders about scheduling and certain privileges. The authors point to the different standards that the officers used in allowing certain approved events when dealing with caregivers. These revolved around the officer’s need to balance the family relationship and the enforcement of the laws and conditions with which the offender must abide while under the supervision of community control.

The authors examined the interactions among officers and offenders to detect any problems associated with women and their family while under supervision. Ansay and Benveneste found gender issues that were problematic to both officers and offenders. The authors felt that gender differences were not examined and that the offenders’ caregiving needs were overlooked. The restriction of children’s freedom when the caregiver was on community control was also mentioned as an issue of concern.

The authors present a model to help deal with the inequities of community control. This model includes the use of gender-neutral treatment of caregivers and a focus on what is in the best interest of the children. The goal of the model is aimed at providing an individual plan for each caregiver that could “promote community participation, lower recidivism, and build lasting social ties among its members.”

Although the study has face validity, it is nonetheless limited. The authors examined routine contacts and met with four employees who gave their opinion of how community control was conducted. The article provided insight into possible areas of improvement for the use of community control with women, but no empirical evidence other than their observations was presented. The fact that only eight women were currently under the supervision of community control at that time also limits the study and disallows certain empirical observations. In all, the article does point to a glaring issue of the restriction of familial roles while under supervision that may affect many house arrest programs in the country. Like the negative effects of prison on families, house arrest programs pose challenges to enabling the offender to maintain beneficial relationships with her children.

spent on the description of the event, what questions were asked by board members about the incident, and any discrepancies between the offender’s (or victim’s) account and the police report.

I assume that offenders, as rational actors, are motivated to cast the criminal event in the most favorable light possible, and if victims are not present, to provide an alternative account. Thus, it is a major challenge for board members to ascertain the extent of the criminal harm. For example, an offender who appeared before the board for an assault told the board that he and the victim simply had a “conversation.” The victim claims in the police report, however, that this conversation included such statements by the offender as, “I’m gonna to kick your ass.” In more than half of the cases, there is a mismatch between the police report and the offender’s account, with the offender leaving out unfavorable detail or perspective. A drunk driver, for example, rarely repeats the arresting officer’s observations about the quality of his or her driving. He will deny having had more than one or two beers even when his breath tests make such claims highly implausible. Although board members read the police report, when a victim is not present, the immediacy of an offender’s account may make it particularly salient, and, therefore, board members may frequently underestimate the extent of harm caused by the crime. For this, and other more postmodern reasons, it is nearly impossible to know the “truth” about the nature and extent of harm caused by a criminal event. If that harm cannot be known, then how can it be restored?

A second coding strategy circumvents this problem by relying upon any statements made during the meeting that specifically define the harm caused by the offense or list any persons who were negatively affected. In this way, we become concerned not with restoration of the harm, which may never be known, but restoration of identified harm. In most of the cases, I found clear articulations of harm, though it is impossible to say how fully it was disclosed. Then, I took note of how often reparative activities in the negotiated contracts were specifically linked to the identified harm. Thirty-eight contracts (72%) had at least one task that was directly linked to an identified harm. However, most of these (30 of the 38 contracts) also required reparative tasks that had no relationship to identified harm. Ten reparative contracts (19%) required reparation, but failed to link it in any way to the harm. Only eight contracts (15%) required reparations that were always and only linked to specified harms. Thus, depending upon one’s perspective, the reparative boards are either very successful at restoration (thin) or very unsuccessful (thick). Most contracts contained reparative elements, most of them had some linkage to specified harms, but few of them focused strictly upon repairing specified harms.

**Linking Victim Harm and Repair**

When restoration is linked to the offense, what damage is repaired? Most often, psychological harm to the crime victim is identified. Although there may be many ways board members might work with offenders to address the emotional impact of the offense on victims, victim-offender mediation being the most prominent (Umbreit 1994), board members primarily rely on having offenders write letters of apology. The symbolic gesture of an apology has been noted in the past as a fundamental component of reconciliation (Goffman 1967; Tavuchis 1991). Strang et al.’s (1999) research on family group conferencing in Australia reveals that victims often ascribe greater importance to apologies by the offender than to monetary restitution, and that the desire for apology is nearly universal among the crime victims they surveyed.

I distinguished between two types of victims: direct and indirect. Direct victims suffered directly from the offense, such as by being assaulted or losing property. But boards often identify indirect victims, and ask offenders to apologize to them. These victims include family members and friends of the offender who are inconvenienced, for example, by having to drive the offender around if his or her license was revoked, and criminal justice or medical professionals who needed to respond to the incident. Apologies to officers are sometimes required when the offender resisted arrest. Of the 53 board meetings analyzed, 24 had direct victims (45%). Another 14 cases had indirect victims identified during the meeting. Thus, 38 of 53 cases (72%) had victims. In only four cases (8%) did a victim attend the board meeting. In 34 of the 38 cases with victims (89%), apologies were required in the reparative agreements.

Where material harm was identified, restitution to the victim to cover losses was frequently negotiated. Restitution is, perhaps, the most widely accepted technique of restoration in the criminal justice system (Benson 1998), and is frequently assigned by judges that do not otherwise subscribe to restorative justice. Of 17 cases with material harm, 12 (71%) required restitution. These included payment to the victims for theft, fraud, and damaged property.

**Summary of Major Findings**

This study examines the dynamic exchange between offenders, victims, and community board members engaged in negotiating restorative justice agreements. I have examined the nature of restorative action and asked why it is that restoration fails to be negotiated in a program specifically designed to promote it. Several conclusions can be made about the challenges of implementing the restorative justice concept.

First, Vermont’s community reparative boards typically negotiate reparative agreements that require apologies, restitution, and community service. This is true for 90% of the cases in this study. Most cases, therefore, fulfill the thin criterion for restorative justice. In 72% of the contracts, restorative elements were linked to the harm caused by the offense. However, only 15% of the cases consistently linked harm and repair. While apologies and restitution are always linked to the harm, community service rarely is, and the few positive illustrations reported here can serve as a model for future service work and for a program that aspires to the thick version of restorative justice.

Second, restorative justice is often ill defined, particularly among practitioners. Most important, the distinction between thick and thin restorative justice should be explored by program managers; dissatisfaction by some with the achievement of thick restorative goals may be explained by complacency by others for achieving only the thin version of the concept. In Vermont, the thin standard is frequently met, while the thick version is only partially fulfilled.

Third, defining the harm of a criminal event is often difficult, especially with low victim involvement, victimless and/or normatively ambiguous offenses, and intangible harms such as emotional repercussions and the creation of community risk. Lack of victim involvement makes the definition of harm inherently speculative, and may bias the board’s understanding of the crime in favor of the offender’s perspective. Victimless offenses, such as many drunk driving arrests, and normatively ambiguous offenses, such as underage drinking, provide a disincentive to defining harm because the harm may be perceived as trivial to both

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board members and offenders. Intangible harms may have the same effect because quantification of harm is difficult, if not impossible. Unless boards are trained to specifically consider these issues, they may simply avoid the task altogether.

Fourth, thick restoration is unlikely when boards have not defined the harm, but a remedy is not impossible. Linking harm and repair may be facilitated by explicit activities, such as creating a list on a chalkboard, that ask participants to clearly list all harms and possible strategies to address them. Though simple, I have never observed this occurring in practice.

Fifth, failing to link harm and repair may lead to retributive contracts, such as using community service as "punishment" by assigning hours of labor arbitrarily without articulating how this labor makes amends for an identified harm. When harm and repair are linked, community service is generally defined as a specific project (appear as a guest speaker, write a letter to the editor, etc.) rather than as a term of labor.

Sixth, when restoration is not included in a restorative agreement, the evidence provides several explanations:

- Administrative necessity (no agreement could be negotiated);
- Simple oversight (inadequate procedures to compensate for forgetfulness among participants in an anxiety-provoking setting with multi-dimensional tasks);
-Offender obligation to repair harm is challenged by a board (such as when a board disagrees with the conclusions of the court or sees the offender as the "victim");
- Failure to define harm; and
- Failure to identify strategies to repair harm (often because board members focus on reintegration rather than restoration).

Restorative justice is a new and evolving concept with much experimentation going on in community corrections. Vermont's Reparative Probation Program is a pioneer among them. Because of its novelty, it is both fascinating and necessary to closely observe what the process actually looks like in practice. While the bottom line may ultimately rest on traditional quantitative indicators such as recidivism rates, or restorative justice outcome indicators, such as the level of victim participation and/or compensation, it is too soon to judge these new programs on such outcome criteria alone. For if we do not know how well the implementation describes programmatic goals, we cannot say why a program is a success or failure. The data here define some of the challenges inherent in programmatic success as well as illustrate the enormous creativity of those who are immersed in the day-to-day realization of justice.

References


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- Work to create transition plans for youth aging out of juvenile-justice and juvenile-treatment systems into adult systems.

A national focus must be given social justice issues. More attention must be given youth in need of mental health treatment, who are instead receiving barbaric treatment in Louisiana and Georgia. The Civil Rights Division of the U.S. Justice Department must play a larger role in addressing these problems.

Court and Diversion Programs

This panel focused on community policing programs, court liaison programs, and mental health courts, with the following strategies developed:

- Provide more aggressive support of mental health triage centers to regularly serve the community and the law enforcement profession as an alternative to jail;
- Replicate mental health courts in many areas around the country;
- Improve and require cross training among all disciplines comprising the system;
- Provide ancillary services such as housing, which are a critical element in developing alternative options (housing was a major problem raised across most conference discussions and panels);
- End the criminalization of mental illness clearly and directly;

- Make available 24 hours per day the service delivery system to respond to mental illness, and don’t assume that only the criminal justice system can access services (detention) around the clock;
- Provide integrated service delivery across departments and programs; and
- Eliminate the distance between theory, empirical findings, and practice in this field.

Developing the Needed Linkages for Effective Corrections

Major issues that emerged from this panel include:

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• Meaningful criminal justice diversion programs must be developed that assist in removing mentally ill persons from the system, and especially from incarceration;
• Cross training must be emphasized not only at the level of engaged line staff members, but also at administration levels that facilitate greater understanding of mental health, chemical dependency and criminal justice practices and systems;
• The denial of access to chemical dependency information, which can be used effectively by mental staff, makes no sense and inhibits service integration;
• State systems must engage linkages and create work groups that coordinate agencies, otherwise little progress can be made given the involvement of state organizations in the criminal justice, mental health, and co-occurring disorders fields;
• More programs are needed inside correctional institutions even though the focus is to divert as many mentally ill and persons with co-occurring disorders as possible;
• Best practices at service integration, the reduction of mentally ill persons from jail, and programs for those who cannot or should not be removed from the criminal justice system, must be prominently publicized, with the program information made easily accessible; and
• More quality research must be focused on the mentally ill in the criminal justice system, and the federal government should highlight additional research questions and move quickly in collaboration with the National Institute of Mental Health to complete basic research to ensure that the number and extent of those in the criminal justice system is isolated once and for all.

Recommendations that flowed from these major issues include the following:
• Make jail part of the community mental health system, and ensure that it can be accessed by community treatment providers around the clock;
• Prohibit funding to any community based treatment program that does not have a documented record of following clients into the jail system and assisting in their diversion;
• Foster collaboration between jails, mental health agencies, and chemical dependency treatment agencies through formal written agreements outlining what joint actions will be undertaken, and this should be reflected in any grant applications which cannot be submitted as single agency efforts;
• The Justice Department should build on recent reports on the mental health treatment of inmates and probationers by seeking unanswered questions from the field and moving to complete the research for improved basic data collection and analysis;
• Resolve mental health and substance abuse confidentiality rules to facilitate collaboration and integration of efforts;
• Engage victims in systems where they can access information when they so desire and learn about the specific offenders of concern or those in a pretrial status;
• The federal government should implement a best practices guide of system integration and specific program dimensions;
• Ensure the availability of data on outcome-based programs;
• Focus research on the number of beds used for mental illness in the criminal justice system;
• Fund mental health courts as an integral part of the total service delivery system; and
• Include policy rules in federal grant programs such as Byrne Grants that demand a fixed minimum be available for specialized programs, and all such applications should require multi-agency sign off to demonstrate integration and collaboration among the stakeholders.

Creation of Community Partnerships to Respond to the Needs of People With Mental Illness

The last of the five policy groups focused on planning for a coordinated and integrated community response model including mental health and substance abuse treatment, housing and employment programs, and strategies for involving a range of community partners including all the criminal justice agencies and local providers of services as well as victims and the business community. Findings from this session include:
• Create the basis for establishing the political will of senior elected officials to engage this issue;
• Improve the integration of community resources using new techniques and approaches;
• Create a shared advocacy agenda to demonstrate integration where all agencies participate as a unit rather than as single structures seeking their own limited gain;
• Break down intellectual and professional boundaries to integration and collaborative solutions;
• Seek out existing gaps that need closure and are understood by all parties;
• Develop and replicate strength-based models, which include individuals, families, the community and service delivery agencies;
• Share information and break down barriers to sharing, as all gain from integration;
• Revise federal guidelines if real integration is to flow from this conference; and
• Make as a priority service delivery collaboration, and provide mobile treatment teams and other models that support integrated approaches and demand collaborative interaction.

Recommendations from this session include:
• Planning. Create incentives on how to meet the mental health needs of citizens to address 247 availability, accessibility, affordability, integrated/continuous/seamless services for children and adults. Do not place the criminal justice system as the front-door gatekeeper—jail should not be needed to gain access to mental health services for anyone especially the poor. Community stakeholders need to map available resources and not be driven by categorical funding. Safe Schools and Healthy Communities programs are good examples of holistic approaches that are not silo-focused grant applications.
• Marketing. Improve the quality of services to meet the needs of clients, who should inform the process of establishing options. Different services are needed for different populations, and media campaigns are necessary to bring this issue to public understanding. Responses are required for screening and assessment, support services, and public education.
• Fear. Address the consumers’ fear of those who need mental health services; use clear consequences when community safety is at stake.
in various evaluations of British special hospitals and a similar rate in Austrian and Germany forensic hospitals, with the highest rates of failure being demonstrated by those patients diagnosed as having antisocial personalities, it is easy to see why questions arise about the efficacy of utilizing general criminal treatment with the psychopathic subset (Losel, 1998).

Behavioral models, in general, have most recently included a stronger cognitive orientation (cognitive restructuring, problem-solving training, self-control and pro-social self- gratification), and various studies have shown short-term effects on violent offenders (Serin, 1996). When working with alcoholics, Kadden et al. (1989) showed that those with higher psychopathic scores exhibited better outcomes in coping skills training, while interactional therapy was more effective for those with lower psychopathic scores. When working with anti-social juveniles, a combination of a token economy, contingency contracting, and social skills training (Moyes, Tennent, & Bedford, 1985) has been shown to have positive outcomes in reducing aggressive behavior. Male sex offenders demonstrated positive effects in terms of self-esteem and reduced anxiety from a combination of social skills training and cognitive-behavioral therapy, though the impact on recidivism is unclear. While cognitive-behavioral approaches have had some success even with clients with more severe personality disorders or psychopathy, there are not yet enough long-term evaluations from which to extrapolate a definitive statement on program design efficacy.

Therapeutic Communities, Milieu Therapy, and Social Therapy. Today, therapeutic communities are one of the more prominent approaches to the treatment of serious offenders. Most approaches to the therapeutic community have four things in common—a more informal atmosphere; the residential group provides the primary support, care, and therapeutic process for individuals; the responsibility for day-to-day running of the community is in the hands of the residents; and they are open to interchanges with the community. Various evaluation studies of these settings have addressed antisocial juveniles and demonstrated that, while early effects of milieu therapy were more favorable for psychopathic boys, no major differences could be shown in terms of criminal recidivism or drug use in long-term comparisons. Later research showed that a self-governing therapeutic community approach did not demonstrate any marked difference in performance when compared with a firm, paternalistic, sympathetic approach. The revocation rates, readmission rates, and overall clinical well-being of the latter group was slightly, but significantly, better (Losel, 1998).

It has also been shown that the longer a client remains in a program, the lower his chance of re-offense or re-admission. Subjects with a higher psychopathy score are more likely to leave treatment earlier, be less motivated to be engaged in the process, and demonstrate less improvement. A controlled evaluation between a therapeutic community and a nontherapeutic correctional institution demonstrated that regardless of psychopathy level, the therapeutic community clients were significantly more likely to re-offend upon a return to the community. It must be kept in mind, however, that evaluations depend not only on the evaluated program, but also on what happens with and to the control groups (Losel, 1998).

Punishment, Deterrence, and Formal Justice Reaction. Punishment must be considered a potential mode of intervention, intended to deter the individual being punished as well as those persons aware of the punishment. While it is impossible to really estimate the extent punishment affects the chances of recidivism, it may nonetheless have some impact. Meta-analysis has shown, however, that pure measures of punishment or deterrence ("scared straight" or boot camp programs) demonstrate weak effects. Neither intensive probation supervision programs, alternative sanctions, community penalties, or custodial situations seem to have a better effect than any other form of levied criminal sanction, with the possible exception of restitution programs (Gendreau, 1996). Despite public opinion supporting a "lock them up and throw away the key" approach, limited resources as well as the classic psychopath's failure to learn from negative experiences demonstrate that criminal sanctions are not the best approach to coping with the problems of psychopathy. However, in an institutional setting, with its associated restrictions, punishment of troublesome behavior often seems the "only" option.

Pharmacological Treatment. The development of persistent violence and criminality can be heavily affected by biological factors and, as such, the pharmacological treatment of psychopaths may be a promising approach. This approach is complicated, however, by the additional diagnoses of most personality disordered individuals, and by the fact that psychopathy is a very broadly defined term. Regardless, a body of work on the topic does exist, including a study that recommends avoiding sedative drugs and alcohol for sexual offenders as well as psychopathic personalities (Seto & Barbaree, 1995).

According to Gray's (1982) concept of brain function, there are three systems on the behavioral and neural level, with each system being activated by different groupings of external stimuli and corresponding to distinguishable behaviors:

- The behavioral activation system (BAS) is activated by conditioned rewards or the withdrawal of negative reinforcement stimuli and corresponds to impulsive and aggressive behavior, a low tolerance for frustration, and a reduced capacity for passive avoidance learning. Biochemical evidence suggests a diminished functioning of serotonin and possibly the noradrenaline systems.

- The behavioral inhibition system (BIS) is activated by conditioned punishment and new stimuli, and a dominance of the BIS over the BAS results in inhibitory psychopathology such as anxiety disorders.

- The fight or flight system is activated by aversive stimuli such as extreme noise, fear, or unexpected attacks.

Knowing the reaction of various systems to different drugs makes it easier to determine which drug would be most effective on a given individual. For instance, since depressive symptoms and major depression have been observed in a proportion of antisocial personality disordered patients, antidepressants have come under specific focus, especially since literature suggests an adverse interaction between DSM Axis I and Axis II psychopathology. For example, subjects who have only been diagnosed with pure major depression have been shown to respond better to tricyclic treatment than those subjects diagnosed with both major depression and personality disorder, which may be due to the biological conditions suggesting disturbances in both the BAS and BIS systems. In the last few years, major advances in understanding the neurological and genetic basis of criminal behavior, and especially that of violent criminals, has been published and will ultimately greatly affect our work with, and understanding of, the criminal mind (Webster and Jackson, 1997).

Effective Program Design

Because of poorly controlled evaluations, different levels of dangerousness, variations in multiple diagnoses, and other problems, it is inappropriate to emphasize one specific...
Theoretical Concept or Program. Therefore, a broader set of principles should guide the development of interventions that need to be evaluated for efficacy. While psychopaths are a small but high-risk group of offenders, basic principles of effective intervention should guide program development, using well-established programs and refined concepts for psychopaths as a basis for the development of site-specific interventions. The following relevant principles are grounded in both the research reviewed above (Losel, 1998) as well as in generalizations from practice. They focus on individual client traits and staff and institution dynamics, while considering the ultimate impact on societal concerns.

Theoretically Sound Conceptualization. Research shows that the most successful programs are based on empirically supported hypotheses about the causes and maintenance of problem behavior. Therefore, interventions should focus on what is known about the causes of antisocial and psychopathic behavior and recidivism, rather than exclusively on specific approaches or traditions of therapy. The majority of appropriate offender programs are based on cognitive and social learning theory, and these approaches seem transferable to psychopathic clientele.

Thorough Dynamic Client Assessment. A theoretically sound concept for intervention must be based on accurate and detailed assessment of individual risk, dangerousness, and treatability. Standardized instruments are appropriate to use. Dolan and Coid (1993) recommend three basic elements for the assessment process: determine the personality disorder or disorders; determine the clinical syndromes by analyzing all major mental disorders; and determine the behavioral disorders involved. In addition, for purposes of comparison and validity, the PCL-R should generally be used to assess psychopathic traits. In the case of sexual offenses, for instance, an assessment of sexual arousal, sexual fantasies, rationalizing cognitions, and victim empathy are relevant in addition to diagnostic issues specified above (Wood & Cellini, 1999). Given the possibility of neurological preconditions, a neuropsychological evaluation before beginning therapy will help to identify and plan individualized treatment needs.

Intensive Service. While three to nine months may be sufficient for other offenders, at least one year will be necessary for psychopaths, which is due not only to personality disorder characteristics, but also to a low motivation for change. Early termination of treatment due to the superficial adaptation of the psychopathic client must be avoided (Gendreau, 1996). Therapeutic staff burnout should be monitored closely as intensive service with this population can result in significant transference and countertransference issues, and/or a potentially high staff turnover rate.

Clearly Structured and Distinct Setting. A clearly structured institutional setting, separated from regular treatment programs, is necessary to avoid a psychopath's typical external attributions, blaming, negotiations, and manipulations. Clear rules, regulations, rights, duties, responsibilities, and an established, structured hierarchy within the facility are more beneficial than a low-structure form of therapeutic community, which in some cases can even be counterproductive. Psychopaths who have difficulty with shifting attention between different stimuli and are inflexible in their cognitive processing would probably benefit more as they serve in a facility with clear policies and procedures. Staff training and enforcement of these rules and regulations is absolutely necessary for developing an optimal treatment environment. Effective therapy cannot be provided in an unsafe environment.

Development of Prosocial Climate and Milieu. Being firm and consistent is important and interventions must be interpersonally sensitive, constructive, and supportive. An accepting and supportive authoritative attitude has been shown to support healthy social development (Jones, 1979).

The Need Principle. Appropriate targeting of specific criminogenic factors is one of the most important features in the treatment of severe antisocial personality disorder, with individual needs being derived from the assessment of dynamic risk factors. Specifically relevant objectives include changing and modifying antisocial attitudes, antisocial attributions, and criminal thinking patterns and increasing anger management, impulse control, and problem solving skills. Need-oriented programs concentrate interventions on a limited number of specific treatment objectives. While reinforcement of positive attempts towards these targets is more promising than punishment of misbehavior, the latter must be included in behavior contracts (Andrews and Bonta, 1998).

Support the Responsivity Principle. The approach that seems most likely to work in altering criminogenic thinking patterns and behavior styles is the multimodal approach, implementing combinations of behavioral and cognitive-behavioral programs that focus on motivation and amenable to treatment issues (Andrews and Bonta, 1998).

Realizing Treatment Integrity. Lack of integrity can be an important cause of failure in otherwise potentially successful programs. A well-developed approach is necessary to ensure consistency in the skills, attitudes, motivation, and subjective theories among staff members, while closely monitoring the quality and quantity of the program interventions. The rationales and substance of any major changes should follow empirically sound principles and be well documented and monitored (Losel, 1998).

Appropriate Selection, Training, and Supervision of Staff. The principles already discussed require well-selected, sensitive, competent, and multidisciplinary staff members, oriented not just toward general and special professional qualifications, but also with personal characteristics matched to this specific clientele. Attempted manipulation of staff can be expected with these populations. Employees must clearly understand the differences between a professional relationship and a friendship.

Neutralization of Negative Peer Groups. Good programs should be able to neutralize a client's relationship with deviant peers and his affiliation with criminal subgroups, as these are major risks in the development and maintenance of antisocial behavior. Unfortunately, concentrating individuals with similar problems in a treatment setting promotes unfavorable peer influences. Staff must therefore be aware of ongoing social processes and vigilant in attempts to counteract negative or exploitative relationships.

Strengthening Protective Factors. Studies on antisocial behavior reveal resilient processes that are linked to the protective factors of individual or social resources. These protective factors can be used to create turning points in a criminal's career. Treatment staff should therefore try to anticipate any potential protective issues that support the treatment process and attempt to neutralize criminogenic relationships, while assessing whether a protective factor such as social support will be positive or negative in a specific client.

Relapse Prevention and Aftercare. Many professionals suggest that the treatment of psychopaths only has short-term effects. Therefore, a thorough process of...
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planning and implementing relapse prevention and aftercare is essential to guarantee more long-term outcomes. Institution interventions should approach clients with individualized plans that rely not only on subject-based information, but also on actuarial data, work records, family information, and individual monitoring.

Early Prevention and Intervention

Conduct disorders in childhood and adolescence are frequent precursors to psychopathy and antisocial personality disorder in adults. It is therefore appropriate to intervene with at-risk children before this risk behavior is set. Programs that only target the child often fail to impact behavior on a long-term basis unless accompanied by intensive measures that improve parental behavior by promoting consistency and supervision.

Institution Reinforcement

When treating psychopaths in an institution, it is necessary to learn to understand and modify social and system dynamic processes that sustain and reward the expression of antisocial and psychopathic behaviors. An institution that does not do this is "effectively" perpetuating the disorders it is treating.

References


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ers of crime. In the late 1970s when the first U.S. VORP was initiated in Elkhart, Indiana, there was much discussion about terminology. The term mediation seemed unacceptable because it brought up images of participants who were on equal moral ground and referred to as disputants within community mediation cases. That is clearly not the case with victims and offenders where one is harmed by the other. Culpability has already been established by the court and is not debated when victims and offenders are brought together.

The primary focus of the initial VORP was to assist in reconstructing the lives of victims who have been harmed by the crime as well as to deal with relational aspects of the crime. Reconciliation became a primary focus with restitution as a secondary goal, as it provided further vindication for the victim.

The question began to emerge whether the term "reconciliation" was difficult for people to hear, especially victims. Reconciliation can be interpreted as denying the true harm caused and viewed as too hasty a process, shielding offenders from taking responsibility for their actions. A number of programs began to feel that it hindered victims' participation in the process. It seemed difficult to explain that no one is forced into reconciliation but that this process allows for reconciliation to happen. As a result, these programs began using Victim Offender Mediation (VOM) rather than VORP.

Victim Offender Conferencing. More recently the term "Victim Offender Conferencing" has been used. This addresses victims' discomfort with reconciliation and avoids the connotation that victims will be negotiating away their losses through mediation. Conferencing suggests a more participatory process. It also provides more flexibility in terms of who is involved in the process and suggests that it may include more rather than fewer people. This term was derived from a process developed in New Zealand called family group conferences, which include a more varied group of participants than have traditionally been part of the process. See MEDIATION, next page
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of victim offender mediations. This process was developed using a traditional model of justice in keeping with the culture of the Maori population of New Zealand.

In Pennsylvania a curriculum has been written for programs developed throughout the Commonwealth with grant money from the Pennsylvania Commission on Crime and Delinquency (PCCID), which has worked to establish restorative justice projects within 10 counties to date. This curriculum, which reflects various program models, was written by Lorraine S. Amstutz and Howard Zehr and is entitled Victim Offender Conferencing in Pennsylvania's Juvenile Justice System (Pennsylvania Commission on Crime and Delinquency, 1998). A copy of the curriculum is available from the National Institute of Corrections Information Center at (800) 877-1461 (refer to code Inmagic #005616).

Victim Offender & Community Mediation Differences

There are clear distinctions between victim offender and community mediation cases, and the training needs to reflect those differences. Training for victim offender programs should be more inclusive of the following:

• Knowledge of the criminal justice system specific to each community where a program is being implemented. Many programs bring in someone from the criminal justice system to provide an overview of the system and how it works (or doesn’t work, depending on their perspective).

• Victim and offender awareness and sensitivity, which is often led by someone within the community who work collaboratively with the victim offender program.

Volunteers must be educated on the experience of victims in order to avoid any possible revictimization. Until the last two decades the needs of victims have largely been ignored and it is no small wonder that victims are suspicious of a process that brings them face-to-face with the offender. Similarly, the offender has been told many times by the system set up to protect his rights that he is to have no contact with the victim. Thus, he, too, may find it difficult to believe that victim offender conferencing is a positive step toward accountability.

Training materials also need to include language reflecting the victim offender dynamic. I had an opportunity to consult with a community mediation program several years ago that was adding a victim offender component to its existing program. They changed the title on many of their forms but still referred to all participants as disputants, which, as I mentioned earlier, assumes that all participants are contributing to the conflict. Another program found that the labels we apply to participants, i.e., “victims” and “offenders,” have been disturbing. On their agreement form they have chosen to simply list “participant” under the signature line to avoid perpetuating those labels.

Training for community mediators involves skill building in handling issues that often relate to conflicts with a more complex history to the relationship. Victim offender mediation participants are often strangers to one another. I say that somewhat hesitantly given the broad spectrum of cases now being handled by victim offender programs. The determination that a crime has been committed, even if the participants are known to one another, raises a different set of issues than found in the traditional community mediation cases.

Program Issues

Issues involved in program development (as opposed to skill-building training) relate specifically to the program’s design. There are key stakeholders within the community who should be a part of the program at every stage of the implementation process. The most critical stakeholders are victim service representatives within the community. Victim offender programs have traditionally been perceived by those within victim services as offender-driven given the close working relationship between the program and the court system, the most common referral source.

Another key program issue is that of monitoring agreements signed by participants. Although these agreements generally become part of the court record (and need to be approved by the judge), it is critical that these agreements be specific in nature and that consistent and accurate monitoring take place. An unmonitored agreement that is not fulfilled will certainly leave a victim feeling revictimized by the very process established to assist her. Monitoring also models for the offender the issues of accountability and responsibility that this process embraces.

Preparation Meetings

In victim offender mediation cases it is strongly recommended that meetings with the victim and the offender be held individually prior to any joint meeting between the participants. While I am a firm believer in these preparation meetings, there are programs that use the community mediation model where the mediator’s only contact is by phone prior to the joint meeting. Sensitivity to the needs of victims requires significant preparation in order to develop a sense of trust with the mediator(s) facilitating the process. Given the harm victims have experienced, they should be made to feel that this process is safe. I have found this easier to achieve with a face-to-face meeting rather than by phone. For the offender, the process may feel like “one more hoop” to jump through. Thus, developing this same sense of trust between the offender and mediator is also an important step in the success of the process.

Training Outline

The length of mediation training varies from program to program. As mentioned earlier, the classroom training should be a minimum of 24 hours with key components included. Training should introduce mediators to the concept of victim offender mediation within the context of a restorative justice process. The historical context within the criminal justice system and its relationship to the community also needs to be addressed. Each local program must explain how it operates within its jurisdiction as well as the nature of referrals. Will it receive juvenile or adult cases? Will these cases be diversion, pre-sentence or post-sentence, pre-adjudication or post-adjudication? The training agenda must also focus on skill building in terms of communication skills, styles of responding to conflict, problem solving, and the role of the mediator. Training should include all elements of the overall process such as initial phone calls, individual preparation meetings with victims and offenders, and components of the joint meeting. Time for role playing is essential in order for volunteers to “test the waters” for serving in the mediator role, as well as to experience how it feels to play the roles of the victim and offender.

Training needs vary depending on program needs. The training I have been discussing assumes that the mediators will be operating within the context of less serious crimes (recognizing that victim traumatization occurs at any level). Additional training is necessary as the intensity of the crime increases.

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Following the skills-based training, mediators should participate in ongoing evaluation and training by first observing mediations with a more experienced mediator and then utilizing a co-mediation model, at least initially.

Following training, individual meetings should be held between trainees and program staff to discuss the appropriateness of next steps for each mediator. Some may choose (or be encouraged) not to conduct mediations, but instead be utilized in other necessary aspects of the program (such as monitoring of contracts, entering case information into the computer, etc).

Ongoing skill development must be provided through monthly or bi-monthly in-service training sessions held for the benefit of the volunteer mediators. This time can be used to role play particular cases of the volunteers, to provide training on a topic that volunteers felt was not sufficiently covered, or to review materials after they have conducted cases.

Conclusion

Mediators must understand that the purpose of the program is to provide a restorative justice process that involves victims, offenders and the community in repairing the harm caused by the crime. The process provides an opportunity for victims and offenders to discuss the offense, for victims to have the opportunity to get answers to their questions, and for all participants to express their feelings regarding the impact the offense had on their lives. This process also allows the participants to develop a mutually acceptable agreement (if appropriate) that addresses the harm caused by the crime. Through this process victims and offenders are empowered to take control rather than leave it to a system that is traditionally retributive as opposed to restorative. I hope that those of us in the field will continue to work collaboratively to move toward a system where voices are encouraged rather than stifled as we implement the principles of restorative justice.

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