PROCEEDINGS – Training Project No. 98

PROBATION - CURRENT POSITION AND NEW DIRECTIONS

edited by
C.R. Bevan
A.J. Watt

AUSTRALIAN INSTITUTE OF CRIMINOLOGY

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Canberra
8-12 December 1980

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SUMMARY

Participants at the seminar arrived at a consensual statement of a definition and functions of probation and the current objectives with which probation officers are concerned. These are set out as follows:

DEFINITION

Supervised probation is, in practice, a sentence of a person to a controlled situation in the community. It allows the offender to remain in the community and avoids the detrimental effects of imprisonment.

CURRENT OBJECTIVES

Probation Officers are concerned -

(a) with the probationer's well being and growth, acknowledging the worth of the individual as a social being; and

(b) with that community significant to the probationer.

PROBATION INCLUDES THE FOLLOWING FUNCTIONS

1. Provision for the surveillance, direction, counselling and support of the offender.

2. Provision for attention to the welfare of probationers and their families.

3. Assisting probationers to attain the motivation and skills necessary to function without re-offending.

4. Provision of additional means of diversion within the criminal justice system.

5. Provision of such reports as will assist in the appropriate disposition of offenders.

6. Provision of such supervision as will help to protect the community.

7. Increasing community awareness and education, and promoting community participation in the criminal justice system.

Probation officers acknowledge the need to be responsive to and actively participate in innovation and change in the criminal justice system and the community.

Additionally, the following resolutions were carried unanimously:

RESOLUTION NO.1

That steps be taken to work towards the formation of a National Federation of Probation and Parole Officers and that this conference nominate representatives to commence negotiations towards that aim, a report on progress towards formation to be supplied by each representative to the South Australian representative as coordinator by July 1981.

The State representatives nominated were as follows:

New South Wales	-	Mr J.P. McAvoy
Queensland	-	Mr A.E. Hill
South Australia	-	Mr C.R. Colyer
Western Australia	-	Mr V.J. Jones
Tasmania	-	Mr R.F. O'Reilly
Northern Territory	-	Mr M.J.McCabe
Australian Capital Territory	-	Mr D. Murray

RESOLUTION NO.2

That the Board of Management of the Australian Institute of Criminology be requested to approve that future seminars for practitioners in probation work be conducted by Institute staff on a yearly basis.

THE PROBLEMS AND OPPORTUNITIES OF MODERN PROBATION

W. Clifford

INTRODUCTION

In very general terms, at the end of August 1980, among the fourteen and a half million people of Australia there were some 9,660 prisoners (an imprisonment rate of 65.7 per 100,000 of the population) and at the end of June 1980 there were just under 20,000 adult probationers (an adult probation rate of 136.3). It was less easy to get a precise idea of the number of juveniles on probation or under supervision, because of the different classifications and separate administrations involved, but as near as I could get with the help of my friends in the various State services when I was preparing this paper, it seems that there are currently some 11,000 juveniles under forms of supervision which are probation or very near to it. This is a rate of 285 per 100,000 of the 5-19 year old persons in our population. (As a matter of interest, this rate is only one half of the extent of the use of probation in the United States. There the rate is about 571 per 100,000 of those between 5 and 19). Another 4,500 persons were on parole at the end of June. Therefore, about three times the number of persons were on probation as were in prison and our parolees amounted to about half the number of prisoners.(1)

There is no question then that, if we are talking about crime, about measures to deal with crime, or about sentencing, probation is more than just significant - it is absolutely vital. If we did not use probation, we should have to imprison these individuals or use other institutions - or we would simply fine them or bind them over without supervision. Neither is either suitable for society or the offender and both would cost too much in the long run: because even an extended fine system also fills prisons when the inevitable minority fails to pay the fine. Probation, on the other hand, is a flexible, economic and, as we can show from reconviction figures, a relatively effective means of dealing with criminals (when the gravity of the offence or the record of the offender does not make it necessary to remove him from society).

To attempt to deal with that large number of offenders by incarceration instead of probation would cripple the taxpayer. The latest figures we have for expenditure per prisoner in Australia show that, according to the State, the cost is between $12,000 and $13,000 a year and this takes no account of the welfare cost of maintaining the prisoners' families. The cost of a probationer or parolee was $470 in 1978/79 - a vast difference. The ordinary citizen is already paying over forty times more for his prisons than he did thirty years ago. From $0.14 a year per taxpayer, it has now risen to $8.00 for 1978/79.(2)

Inflation accounts for much of this, but even if we adjust for inflation, the taxpayer's burden has almost quadrupled. Moreover, since the number of persons in prison has declined, there is an obvious rise in the costs per prisoner. So, probation is economically important apart from any other reasons it may have to justify its existence. This is highlighted by the fact that in the financial year 1978/79, the cost of prisons for all States in Australia was $113 million, whereas the cost of probation and parole was $11 million - less than one tenth the cost of prisons.

On the other hand, probation is often associated with sentimentality, the 'bleeding heart' and lately with the inability of society to handle crime effectively. So is it really cheaper or does it actually cost the society far more in the long-run? For example, the prisons are full of persons who have previously been on probation - sometimes more than once - so, with offenders, are we merely postponing the inevitable prison sentence by putting people on probation and, if so, is there not a greater cost in the long run of more crimes and more hardened offenders? The great numbers under supervision and the frequency with which courts have recourse to probation should answer this question. Success rates are, by any standards, not less with probation than other measures and those in prison with previous experience of probation are the failures who can be more than matched by successes. Even if society has to imprison later, the economic value of not having had to do it in the first place is immense. But the other answer to those who believe that probation is just the soft option is the 31,000 or so under supervision across the country. We insult the intelligence of magistrates and judges to suggest that they have used the soft option so indiscriminately. The wisdom of the bench is vindicated by knowing the facts in most cases where probation is used.

More important by far is the question of whether probation is a boon or a burden for the offender. Is it always the 'let off' or easy way out for them? Do they see it as a benefit? This question is better answered after than before a period of probation, but we have some indications. Whilst most of those placed on probation breathe a sigh of relief that they have not been more severely dealt with, there are more than a few instances of offenders preferring to serve a definite prison sentence for a short period than to have a probation officer knocking on their doors for the next few years. With such attitudes amongst offenders, we need have no doubts about probation not always being as sentimental as it appears. It implies an individual responsibility which not all offenders relish. And it is a responsibility which drags out over time. You are perhaps aware of the recent practice in some American States of making the probationer pay for the supervision and service he receives. This would seem to me to be highly questionable, but it is another indication that there is nothing sentimental about it.

Probation is actually the great hope of our criminal justice system. It is crucial to the growing movement for alternatives to a prison system which many people believe to have failed. Probation is cheaper, no less effective and it has been proved that it can be worked by

volunteers. It is a form of caring and humanity which offers more in the way of that reconciliation which society needs than has yet been imagined. Above all, it is the basis for many other devices for dealing with offenders in the community such as community service orders, parole, restitution and half-way houses.

JUSTICE AND CHARITY/REHABILITATION AND RETRIBUTION

One of the earliest and most trenchant denunciations of the United States criminal justice system was contained in a little book issued by the American Friends Service Committee in New York in 1971 entitled 'Struggle for Justice'.(3) It has been quoted widely in many other countries where there has been a growing appreciation of the social and political unfairness of criminal justice systems. Coming from an organisation like the Quakers, which had such a decisive influence in Western penal reform and which has usually been a by-word for toleration and humanity, the document had widespread effect despite, or perhaps because of,the extreme language it used. For example -

> 'A fundamental though unacknowledged function of the criminal justice system is political repression'(4)
>
> or
>
> 'At best parole is an obstacle the ex-convict has to contend with among the many other obstacles in his path. At worst it is a trap that, when sprung, intensifies his feelings of injustice towards the hypocritical, unpredictable re-habilitative system'.

The book is scathing about the individualised treatment model -

> 'At every level - from prosecutor to parole-board member - the concept of individualisation has been used to justify secret procedures, unreviewable decision making, and an unwillingness to formulate anything other than the most general rules or policy. Whatever else may be credited to a century of individualised-treatment reform effort, there has been a steady expansion of the scope of the criminal justice system and a steady consolidation of the state's absolute power over the lives of those caught in the net.'(5)

I examined this document carefully for a criticism of probation, but it is not there. Indeed, the publication specifically denies that in

recommending the separation of helping and coercive functions of the criminal law, it is abandoning the goal of helping the defendant or the prisoner. It claims to envisage a vast expansion of the range of educational, medical, psychiatric and other services already available not only to prisoners but to all people. (6)

So, where does probation stand? All the hypocrisy and patronisation of the much criticised treatment model can be found in traditional probation. For probation was instituted with 19th century missionary zeal and from the 1930's to the late 1960's it languished in that antiseptic climate of detached social case work which was not unfairly criticised as the poor man's psychiatry. The word 'treatment' was widely used and the 'probationer' became the 'client' in a euphemism which was only a short step from the idea of a 'patient'.

Of course, I am generalising. Perceptive probation officers have shifted uncomfortably on the mix of friendship and authority which is supposed to characterise their role: and in an age of disillusionment with labelling and the unfairness of stigmatisation in the criminal justice system, the original task of changing or reforming 'clients' is one which many thinking probation officers would gladly re-define.

More than that, the results of probation supervision as an alternative to imprisonment for serious offenders have been questioned. The success or failure rates of probation seem amazingly consistent in all cultures and conditions - and seemingly without any reference to the intensity or quality of the probation officer's supervision. It does not seem to matter much whether he sees the person three times a week or once a month. Probation appears to have the same effect with small case-loads or large and very recent attempts to demonstrate the value of intensified supervision for habitual offenders have shown no difference whatever in the effects on recidivist rates. The fact that such studies have been in different countries - in England and Scandinavia - demonstrates again the inter-cultural consistency of probation.

At the same time, the range of duties for probation officers has been extended by pre-trial and pre-sentence reports to courts, by the organisation of the system of community work orders in some places, and by the extension of other systems like parole and institutional after-care. These are times, therefore, which suggests a fundamental re-assessment of the role and significance of probation. We now know a great deal more about the criminal justice system than we did before. We know something of the limitations of the neo-classicism embodied in the report of the American Friends Service Committee from which I have already quoted. Its denouncement of the status quo and its support for retribution rather than rehabilitation has fostered a 'just deserts' policy which has been enthusiastically embraced by the most conservative and punitive elements in American society. This supposedly 'just' approach has been used to justify longer sentences without parole or 'treatment', thus overcrowding even more the much maligned prison system. What it has done to programmes inside the prisons is equally instructive, but need not detain us here.

SOURCES OF PROBATION

Probation is unmistakably Christian and undeniably British. The philosophy of probation is traceable to the 'second chance' or 'rebirth' principles of Christianity which are not so easily traced in other world religions. It does not sit well with philosophical fatalism or with a resigned determinism. The Phoenix theory of renaissance or doctrines of reincarnation reduce the significance of a person's capacity for reform during any one period of human existence. Moreover, as we observe from some interpretations of the Koran, probation is not easy to reconcile with those religions which place undue emphasis upon a rigid literal conformity to the dictates of older scriptures with penalties set down for all time.

The origins of probation are both British and Christian. It was the Anglo-Saxon King Aethelstan (895-940) who decreed as a Christian monarch that :

> 'men should slay none younger than a fifteen winters man ... If his kindred will not take him or be surety for him then, swear he as the bishop shall teach him, that he will shun all evil, and let him be in bondage for his price' (7)

This was the beginning of the practice of 'binding-over', upon which probation was later established. But there are Anglo-Saxon accounts of bishops exercising supervision over those bound over so that modern probation has ancient roots.

Of course the practice of not punishing on condition that a person does not repeat his offence is deep rooted in both family and social life in most societies and from the earliest time. In customary law there is scope for such decisions and it would be wrong to suggest that probation as an act of mercy and encouragement is a monopoly of the British or of the Christian. In fact, probation has worked remarkably well in some of the most unlikely parts of the world - in Japan and Africa, as well as in the Middle East, and the Pacific Islands, it has proved its worth as a flexible and creative instrument for dealing with offenders. Nevertheless, the modern system of probation was, in the form we know it, a Christian inspiration and a British establishment which was modernised by missionary spirits in the United States.

For that reason it can, in principle at least, escape the modern charge of stigmatising offenders. Basically, it rests on the Christian approach to all offenders which is familiar as 'There but for the grace of God go I'. With Durkheim, the Christian idea is that offending is something normal - a temptation for everyone - and not in any sense a manifestation of deviance or abnormality. Individual responsibility is retained and no-one can find an excuse for wrong-doing in the social conditions or in the distribution of political power. However, the existence of original sin and the reality of an active, personal Devil

mean that one is not entirely the master of one's fate and that without the grace of God we are all very inadequate.

On the other hand, it is doubtful if the toleration of traditional Christianity could have countenanced either the single minded passion for personal reform of the early missionary probation officers or the patent conceit of the later professionals with their esoteric techniques of counselling. The former had too much inspiration for reality, the latter diluted the heart of probation with its retreat into clinical procedures.

Probation, however, has been something more. Sutherland and Cressey wrote in 1966 -

> '... probation should be regarded as one of the crime reducing agencies in modern society. Moreover, probation not only represents a change in the societal reaction to crime, but is producing a further change in that reaction' (8)

PROBATION AS CARING

In its modern context, probation has been described as symbolising society's understanding of the offender and its willingness to accept a share of the blame for his conduct. This is a remarkable advance on anything formerly connected with penal philosophy or penal practice. Even the church never accepted the idea of partial responsibility for the faithful's lack of grace. Whether offending was defined and punished as a pure exercise of superior power or administered with a heavy heart as an unfortunate but necessary way of dealing with the misguided and under-privileged, it was never suggested that the fact of crime being prepared by society for the offender to commit, was a justification for society assuming a share of the blame. It needed years of penal reform and an understanding of the offender's problems and a long period of probation experience for the communities to accept the idea that a person appearing before a court was an indication of social failure, as well as individual perversity.

It is to the credit of the 20th century that this idea took root and was, in fact, one of the sources not only of the treatment model but of the more recent felt need to reform the criminal justice system. It is, indeed, from this idea of society's share in the responsibility for justice and humanity that modern thinking has shifted from the reform of the offender to the reform of the system which makes him an offender. Perhaps this was implied by Sutherland and Cressey when they talk of the probation system producing 'a further change in that reaction'.

PROFESSIONALISM, IDEOLOGY AND SERVICE

It is on that basis that future developments in the probation system could very well be promoted. The probation system in most countries has gone through traumatic periods of justification, self examination and complacency. Usually the first problem has been to persuade the courts and the communities that probation is not just a 'soft option' - and not just something which is used for juveniles and female offenders. It took a long time for probation to establish itself as a normal, rather than a weak, feature of the criminal justice system - but this was eventually done. Like all human activity, probation has its cost and it is instructive to recall that the first probation officers were unpaid volunteers, and when they were eventually paid, it was per head of their probationers. In other words, the more probationers they could get, the more money they would receive. Perhaps to this system may be traced some of the early problems with probation, when it was applied to quite unsuitable cases or when it was almost anathema for any probation officer to recommend a court to do anything other than release an offender to his care. In those days when the court called for a probation officer's report, the public knew that it had a mind to be lenient. For the reporting officer to recommend anything but probation would have embarrassed the court. Today the situation is not so predictable. Probation officers have had to become more objective and rather less single minded. Moreover, they no longer need to calculate their incomes by their case loads.

Gradually the idea of a paid probation service arose from the close link of the probation officers with the courts. Whereas they had originated in the missionary activities of various Christian bodies who came to the court as representatives of good citizenry prepared to extend a helping hand to the offender - particularly the alcoholic - the needs of the courts for background information on the offender and the reliance on social reports by the probation officers led to the probation officers' loyalty shifting from outside voluntary bodies to the court itself. As 'officers of the court', they could command not only respect and a vicarious authority, but also a regular salary. So, the professional officer was born. However, despite his black coat and striped trousers (in some of the British courts at least), he always had problems establishing his professional status. He seemed a little bit like an auxiliary or para-professional to the medical and legal professions and he was outside the 'clubs' of police and prison officers. He no longer had the satisfaction of belonging to the recognised clergy. When, therefore, social work became less purely philanthropic and more consciously professionalised - and particularly when psychiatric social work developed the idea of depth analysis and expanded the philosophy of inter-personal relations - some probation officers saw probation to be in the vanguard of a wonderful opportunity for creating a distinct helping profession.

History has shown that this sometimes went too far and the probation officer aspect of the work was absorbed within a much wider concept of social work. It is historically interesting now to observe that even at that period of enhanced social work, the psychiatric social

worker was typically regarded as better qualified than the probation officer and commanded a higher salary. History also shows that this dallying with broader social work patterns was disturbing to a considerable number of the older probation officers. They had been relatively comfortable with the position of the probation officer as an 'officer of the court'. For them something was missing when the probation officer became no more than a social worker. Instinctively they were right, because the principles of social case work were usually postulated on the individual being strengthened to deal with his own problems, whereas probation had developed on providing the practical help that a probationer may need. The officer could not be aloof. Again the precepts of social case work were never very happy with juxtaposition of authority and friendship in the probation officer's role. Social case work was always more accepting of behaviour - even illegal behaviour - than the probation officer could afford to be. Its clients had to be volunteers, so that a client by a court order - even a court order which he had accepted under pressure - was rather anomalous. Moreover, it was always more satisfying for the professional case worker to interview in depth in his own office and avoid the tedious night work of tramping round the poorer residential areas. Interviews at home in a family setting were not sufficiently confidential or detached for the professional social worker anyway and he used various devices to isolate his 'client'. This kind of social field work, mixing in with families, was second nature to the older probation officer, who rarely had an office anyway. If he did have an office,he would probably have to share it with others, so that, as a rule, the best he could hope for in many places was the provision of a separate interviewing room to which he would have claim from time to time for those interviews that were really confidential.

Probation, however, could not work effectively in such a refined professional atmosphere. Both in concept and practice, probation was something more than the detached form of 'friendship' which social case work enjoined. It had a caring quality and the officer felt a responsibility for his probationer which could not be reconciled easily with clinical interviews or simply forcing the probationer to accept himself for what he was. There was a felt need to do something, however unprofessional this kind of positive action might seem to be. Moreover, probation could never divest itself of its authoritative structure. In reality, the officer *was* 'an officer of the court' and supervision was something rather more than just individualised social support. Always there was the prospect of a delinquent probationer being recalled and the sanctions behind a probation order created a structure of human relationships which were really much more normal to a family than to a social service. A father, for example, should have no difficulty with the reconciliation of authority and love. The Christian God was just, as well as loving and could punish righteously. The family concepts of both the missionaries and the Christian brotherhood incorporated discipline with affection. It was only the artificialities of professionalism in social service which distinguished the authority and friendship roles to such an extent that they seemed to be incompatible.

For a long time the social work oriented out-going, friendly, understanding probation officer was misled into thinking that his sensitised client saw him only as a friend and helper. It is doubtful whether any probationer ever saw his probation officer without the halo of authority, or without a full appreciation that he was an officer of the court - a person who could, in the final analysis, order or recommend a recall. The dispassionate detachment of professional social work was confusing for a probationer who did not know whether his probation officer cared about him or not. After all, it was human for him to pay more attention to the deeds than to the words used in interviews and the very passivity of the probation officer practising social case work and helping him to face his own problems did not accord well with his notion of someone who cared.

More recently, the trauma of the probation officer has developed from the idea that his authoritarian role makes him simply an agent of a discriminatory system which unfairly stigmatises the offender as different from anyone else. His attempts to provide an improved way of life for the offender have been questioned by those who have claimed that he, or any other representative of the criminal justice system, has no authority to change life-styles. It is argued that he has no authority to interfere with the individual's choice of behaviour and that it is wrong for the system to impose behavioural changes upon the offender when he is only the unfortunate representative of a large number of others in the society who do the same kind of things, but are not prosecuted or never get caught. Indeed, this new orientation of concern about the hypocrisy and oppression of the criminal justice system has led, in some cases, to the probation officer being urged to assume a new 'advocacy' role. This means that, instead of seeking to reform the offender and improve his way of life, he should be seeking to reform the system and to ensure that his client gets his full rights and is given every support. Officer and client are united in this new concept in collective and individual attempts to change the criminal justice system and to make it more just and equitable. This might well involve both officer and client in political action.

By the same token, the probation officer who accepts this role is seeking to question the relevance of his own position in society and further traumas are likely to arise when he discovers that he is in the anomalous position of being paid to activate those who would change the very system which gives meaning to his profession and provides his livelihood.

Such ideological reappraisals of the probation role have led to deep divisions in the probation services of the United Kingdom and played havoc with the professional associations for probation officers in the internal struggle for power.

This broad discussion of all the complications of self identification, professionalism and job satisfaction within the probation service is no more than a recitation of basic ideas and concerns which rarely affect the daily routine. Such dilemmas have confronted probation officers in one way or another from the beginning of the service and

attempts to resolve them by professional training or purely administrative action have never been wholly successful.

ADMINISTERING PROBATION

Clearly, if crime is a social problem, there is ample justification for treating crime within the broader context of society's measures for treating other social problems. In Scotland, some parts of England, the State of Victoria in Australia, and in some of the Middle East and African States in which I have worked, the logic of providing all social services under one administration has led to the idea of probation work becoming not a separate service but one of many duties of more widely employed welfare officers. This approach received professional respectability some years ago with the development of the notion of 'generic social work'. This maintained that the helping process was the same, no matter which problem had to be dealt with. Every social problem would be a case for the development of better individual and social resources to improve future conduct and to ameliorate future social situations. Therefore, it was artificial to distinguish between those social problems which arose from poverty, broken homes, malnutrition or ignorance and those which arose from misconduct leading to a court appearance.

There is nothing wrong with the logic of this approach and the broader welfare role of a generic officer who includes probation in his professional repertoire, resolves some of the problems already mentioned. Whatever the problems of treating probation as if it were just another form of social work, there is really no difficulty about this kind of approach administratively and it has very many advantages as a structure for the social services. In other words, just as the older probation officers found no problem in reconciling their court work with pastoral activities and volunteers have had to combine probation with other types of work, so for purposes of administration it is quite possible for other types of social workers to do probation and for probation officers to do other types of social work. This form of administration has been opposed quite wrongly by some probation officers who have maintained that you cannot mix social work in this way. As already indicated above, probation is different from other types of social work, but the same person can, and does, do both. The idea that probation must always be separate has been disproved in practice; and the success of volunteers in supervising offenders has further weakened the case for probation supervision as a completely unique function with its own separate structure and administration. The savings likely to result from this amalgamation of all case work in one agency have also justified this approach. Looking at all the social service needs of a community, it would be extremely difficult to maintain that a different officer should always be employed for services to the aged, services to families, services to the poor, services to the delinquent and services to the mentally handicapped. Geography sometimes makes such specialisation exorbitant and even ridiculous when a 'problem family' has an army of different types of social workers on its doorstep. High degrees of specialisation in

medicine and the law have not always been beneficial and this is true in social work.

There is a fallacy, however, in imagining that one officer can distribute his time and attention indiscriminately without affecting the quality of the work. Probation is not a soft option, but neither should a generic social service which includes probation be treated as a cheap option. It always requires adequate staff to ensure that the probation element can be administered and supervision maintained. There is nothing wrong with a case load of varied cases needing help. There is a great deal wrong with an officer's case load being expanded to the point where the routine is an empty ritual, where the officer shifts from one urgent crisis to the next and where no one case gets adequate attention. We cannot go on diluting a good remedy and expect it to be equally effective. In this connection the more general use of volunteers and the possible introduction of specialist consultants to support general officers in dealing with really difficult probation, child care, family welfare and other such cases, could be a great help.

THE FUTURE

As the 20th century draws to a close, probation emerges as the virtual linchpin of society's hopes for penal reform, less crime and a better quality of life. Probation means hope. It means caring and it means practical help, not only for the offender, but also for the victim if it is properly used. The 1970s have seen a recoil from the turmoil and tumult of disorder and a disillusionment with the prison as a means of reform. The hardened offender will still need to be taken out of circulation, but for all other practical purposes, offences can be dealt with by community services of one kind or another and probation provides a foundation on which these can be built. Whether one is thinking broadly of the prevention of crime, of alternatives to imprisonment or of greater fairness to the victim within the penal system, one can rarely escape the usefulness and adaptability of probation as a means of control. We now know that in a democratic society the police alone are unable to control crime without community support. There is a long tradition of police and probation officers working together to ensure that individuals do not commit crime and though there has been mutual suspicion in some areas and in some circumstances, there are cordial relationships between the police and the probation officers which mean that in developing better public relations, the probation officer can be a valuable link.

Parole, which now accounts for a third of those who have been imprisoned, is a variation of probation and restitution arrangements. Half-way houses and hostels are all alternatives to imprisonment which depend upon the probation structure and the involvement of probation officers. It is in the restitution and reconciliation area that probation can do some of its best work for victims. Probation expresses dissatisfaction with the present condition of the offender, the offended and the social measures which we have taken for preventing crime. It expresses the

conviction that these can and should be changed to improve our quality of life and extend the feelings of public safety. Probation, therefore, faces a challenge for the future. It has been brought up on a diet of mistaken ideas about leniency, misconceptions about the quality and value of supervision and such doubts about its own professional integrity that it seems over the years to have been scrambling to discover its own identity. The system is far too valuable for the future to be allowed to continue with this kind of unsureness about its own relevance. Probation officers themselves have to develop a philosophy for probation and a methodology which can take account of all that has been learned by research and experience. They have to provide society with a confidence that they feel themselves, so that this linchpin of penal reform can be set squarely in its place and can fashion a new deal in society for the offender and the criminal justice system. This may call for greater insight, expanded training, a development of a new image for probation and perhaps not least the humility to recognise that, with all our concepts and techniques in a modern society, the heart of probation is nothing more than the love of humanity.

FOOTNOTES

(1) Figures taken partly from latest information on prisons and adult probation in Australia provided by D. Biles and I. Potas for the 'Reporter', the quarterly publication of the Australian Institute of Criminology. These were augmented by the writer's own inquiries and calculations.

(2) Figures taken from a current study of Costs of Crime in Australia being conducted by the writer.

(3) Struggle for Justice, prepared for American Friends Service Committee : Hill and Wang : 1971.

(4) Ibid p.127

(5) Ibid p.40

(6) Ibid pp.152-3

(7) Quoted in U.K. Report of the Departmental Committee on the Treatment of Young Offenders : Home Office : 1927 : p.1

(8) E.H.Sutherland and Donald R. Cressey. 'Principles of Criminology' : J.B. Lippincott Company : 1966 pp.499-500.

THE MYTH OF CONSENT IN PROBATION

I. Potas

In this paper the term probation refers to a form of non-custodial disposition that is imposed by a judge or magistrate in lieu of imprisonment and which as a minimal requirement obliges the recipient of the dispostion (the probationer) to subject himself or herself, as the case may be, to supervision under the auspices of the probation service. Supervision is generally for a specified period of time and in most cases a single officer of the probation service is assigned the task and has the responsibility for 'supervising' the offender.

In many cases supervision means little more than obliging the probationer to report at regular intervals to the probation officer. This may be particularly true where the probation officer caseload is excessively high and where for this reason individualised or intensive consideration of each probationer is not possible.

Probation developed out of the practice of English courts of binding offenders over to come up for sentence if called upon. It was the element of supervision which was added to the binding over power that produced probation.(1) In Australian jurisdictions two distinct forms of probation have developed. The first is the one which derives its authority from the recognizance. Thus supervision is made a condition of the recognizance. It is usual also in a recognizance to specify a variety of other conditions, for example conditions relating to the offender's residence, employment, mental health, associations to be avoided, abstention from intoxicating liquor and so on. Invariably probation is accompanied by the exhortatory but nebulous requirement that the offender should be of good behaviour during the term of the recognizance.

Probation by way of recognizance is the usual form of probation in New South Wales, South Australia, in all the Territories and also under Commonwealth law. In all the other jurisdictions, i.e. Victoria, Queensland, Western Australia and Tasmania, the probation order has superseded the recognizance. In terms of an offender's obligations there are no drastic differences in so far as the form of probation is concerned, but in terms of the philosophy, there is a subtle difference. The difference may be seen by comparing the New South Wales and the Victorian provisions. The first illustrates probation as a condition of a recognizance and the second probation as an order of the court.

In New South Wales there are two main sources of authority for placing a person on probation. These are ss.556A and 558 respectively of the Crimes Act, 1900 (N.S.W.) as amended. Section 556A empowers any court, where it thinks that the charge is proved and subject to a number of considerations set out in that section, to discharge a person conditionally on his entering into a recognizance. Section 558, often referred

to as a deferred sentence, but which is in fact a statutory form of the common-law bind-over, empowers the court to conditionally release the offender on his entering into a recognizance after he has been convicted but before sentence is imposed. In both cases, i.e. under s.556A and s.558, the recognizance may be 'conditioned upon and subject to such terms and conditions as the Court shall order'. There is a further important difference between the sections. Under s.556A the court may *not* impose a recognizance and therefore set conditions which effectively extend the offender's obligations beyond three years. On the other hand no time limit is specified under s.558. Section 558(1) simply provides that -

> '558(1) A Court before which a person comes to be sentenced for any offence may if it thinks fit defer passing sentence upon the person and order his release upon his entering into a recognizance, with or without sureties, in such amount as the Court directs, to be of good behaviour for such period as the Court thinks proper and to come up for sentence if called upon.'

Note that the literal interpretation of this section would enable a sentence to be deferred for an indefinite period and alternatively the power also enables the court to call an offender up for sentence at any time in the future while the recognizance is on foot. While the court specifies, or if you prefer orders, the terms and conditions that are to apply in the recognizance, the offender is in theory free to refuse to enter into it. In other words he or she must accept or reject the whole package. He or she is not free to reject any particular condition in the recognizance, while agreeing to accept others. It is an all or nothing bargain. It is in this regard that probation is said to be consensual. Yet if the truth be known, the offender is rarely told that there is a right to refuse to enter into a recognizance the terms of which are specified by the court.

Section 508(1) of the Victorian *Crimes Act* 1958 (as amended)provides as follows:

> '508(1). Where any person is convicted by the Supreme Court or The County Court or any Magistrates' Court of any offence for which a term of imprisonment may be imposed otherwise than in default of payment of a fine and the court is of opinion that having regard to the circumstances including the nature of the offence and the character and antecedents of the offender it is expedient to do so, the court may instead of sentencing him make a probation order, that is to say, an order requiring him to be under

> the supervision of a probation officer for such period (hereinafter called the 'probation period'), being not less than one year and not more than five years, as is specified in the order.'

The Victorian Crimes Act, as indeed the legislation of most jurisdictions, provides more detailed provisions relating to probation than does New South Wales. For example, in Victoria every probation order must specify a magistrates' court 'to be the supervising court in respect of the order' (s.508(2)). The order may require the offender to submit to medical, psychiatric or psychological treatment with the object of -

> 'securing the good conduct of the offender, or for preventing a repetition by him of the same offence or the commission of other offences' (s.508(3)).

In addition there may even be included in the order a requirement that the offender reside at an institution that is specified in the order a requirement which is all but tantamount to imprisonment (s.508(4)). Indeed in some circumstances the chief probation officer may require that an offender reside in a youth hostel for part of the probation period (s.508(4A)). This illustrates the degree of interference that may be exercised under a probation order.

Apart from the fact that jurisdictions which have probation orders, as opposed to those which use recognizances, usually spell out with greater specificity the kinds of conditions that may be applied, they generally also have a provision that requires the nature of the order to be explained to the offender. Thus in pursuance of s.508(5) of the *Crimes Act* 1958 (Vic.) the court is obliged to explain to the offender in ordinary language the effect of the order including the consequences of breaching the terms of the order or the consequences of the commission of another offence during the probation period. There are no provisions in the New South Wales Crimes Act requiring the court to explain to the offender the consequences of a breach. Yet the recognizance is said to be entered into with the consent of the offender. The consequences of a breach or further crime is of course that the offender then becomes liable to be sentenced for the original offence.

However in Victoria what makes the probation order consensual in nature are the following words -

> 'and the court shall not make the order unless the offender expresses his willingness to comply with the requirements thereof.'

Does this make probation voluntary? The notion of informed consent, which the Victorian provisions appear to support suggests that here is an individual, free choice, an appreciation of what participation entails, and by implication that the offender has a right to refuse to comply with the proposed order. The expression of unwillingness on the part of the accused negatives the court's power to order probation.

The recognizance also is based on the idea of freedom of choice. After all a recognizance is no more than an undertaking or contract or promise, between the offender and the Crown. However under both systems one feature is shared - the terms of the recognizance or order are set by the court. This does not preclude the offender from bargaining for a better deal through his counsel at the sentencing stage of the proceedings, but it is the court which ultimately determines the terms of release and the terms are presented to the offender in the form of an ultimatum. It is an ultimatum that in most cases might appear to be too good to refuse, but which is more likely to be interpreted as 'accept this or else'. The 'or else' invariably implies imprisonment, thereby making nonsense in the majority of cases of the prerequisite of consent. In other words, in both the recognizance or order form of probation the offender is coerced into accepting the conditions specified by the court.

Before consideration is given to the issue of consent in probation, one point should be made. It is submitted that the probation order is a desirable advance upon the recognizance and is more consistent with the concept of a penal sanction.

Jurisdictions which do have probation orders specify in greater particularity the kinds of conditions that may be imposed and generally have a more structured system of probation. The recognizance on the other hand is an open-ended dispositional form, that is employed in a variety of circumstances, from bail to various other forms of conditional non-custodial dispositional devices. The term recognizance itself is archaic, and technical, and for this reason is more often in common parlance referred to as a bond. In short there is little justification in retaining the term, and much to be said for its replacement. Later it will be argued that even the probation order should be superseded.

There is the belief, and one which contains a degree of validity, that if rehabilitation of the offender is to be achieved the offender must be motivated towards this end. Thus consent to probation is one way, it is thought, to obtain the cooperation of the offender and thus enhance the prospects of rehabilitation. Non-consent is equated with rebelliousness on the part of the offender and heralds little optimism for a successful completion of probation.

This argument is perhaps the strongest one in favour of the need for the retention of the element of consent. However it tends to place too much emphasis on the reformative component of probation and too little on the punitive component. The thesis presented here is that probation is first and foremost a sanction of the court. It is primarily a form of punishment which has the ulterior object of keeping the offender out

of further trouble with the law - at least for the duration of the recognizance or probation order. It is not a let-off, but a punitive measure imposed by a court, in consequence of the offender's proven or admitted transgression of one or more proscribed acts. If then probation is essentially a punitive measure, the importance of consent is diminished. If probation is essentially a rehabilitation measure, then the importance of consent is increased. The submission here is that unless the sanction is essentially therapeutic, involving psychological or psychiatric treatment where informed consent should be a prerequisite, no consent for probation should be required.

The present situation is that in law, but not always in practice, the consent of the offender to probation is a condition precedent. But let us examine again the nature of this consent. If there is consent, albeit reluctant consent, it is coerced consent. Furthermore the fiction has it that it is consent on the part of the offender to each and every term and condition of the recognizance or order. Can this consent truly represent informed consent when the conditions themselves are often open-ended? Consider for example a requirement that the offender should subject himself or herself to such psychiatric treatment as may be deemed necessary in the opinion of Dr X. What actual treatment is the probationer agreeing to? Indeed when matters relating to therapeutic treatment are included in a recognizance or in a probation order delicate ethical issues are in the balance. Is the offender freely consenting to medical treatment in such circumstances, or is the consent mythical or coerced? In such cases can an offender meaningfully give consent to a course of treatment, the nature of which is a mystery at the time that the agreement has been elicited? It is submitted that, where therapeutic programmes for the offender are contemplated, informed consent, that is consent to the actual nature and duration of the treatment, should be specifically obtained. Furthermore if the offender finds the treatment objectionable he or she should be able to opt out of the treatment programme at any time. If there is to be any form of compulsory therapy, this should be imposed, not under cover of a probation order, but by way of a special sanction (e.g. hospital or treatment order) under which there are guidelines and protections ensuring that civil liberties and the right to refuse treatment are carefully provided for.

Given that consent is a pre-condition for probation, the question arises as to why this should be so. As suggested above, ethical considerations may require informed consent to be obtained where therapeutic considerations are involved. But in the large majority of orders there are no such ethical issues. At the common sense level it may be argued that consent is necessary to demonstrate the *bona fides* of the probationer. If the offender has not the slighest intention of cooperating with the terms and conditions of a probation order, then this sanction is nothing more than a fruitless exercise.

This line of thinking assumes that offenders will admit that they have objections to the terms of their probation, knowing full well the possible consequences of refusal. The irony is that those who would exercise the right of refusal or manifest their unwillingness to comply

with probation at the point in time that the court is contemplating the disposition may demonstrate a greater degree of honesty, courage, and perhaps stupidity than some of their counterparts who merely nod in mechanical agreement to the terms laid down by the court. This is not to deny that some offenders will genuinely attempt to go straight, but equally the circumstances surrounding the consent makes the utility of such a requirement highly questionable.

THE SENTENCE OF PROBATION

Further the justification for retaining the need for consent at this level falls down when it is realized that for most other dispositions consent on the part of the offender is not a prerequisite. Thus if a fine is imposed the offender is not asked in court 'do you intend to pay the fine?'. The assumption is that the fine will be paid and if it is not paid then certain consequences follow. Why should not probation be treated in the same way? Indeed I argued some time ago that probation should be a sentence in its own right.(2) This would remove the need for consent for probation altogether, although I would retain the need for informed consent to a special sanction where therapeutic considerations are involved.

The sentence of probation would also require that the nature of the sanction be explained to the offender at the time it is imposed. If the offender is unwilling to comply with the terms of the sanction this would soon become apparent, and appropriate action could then be taken.

One further implication of converting probation into a sentence is that it would no longer be necessary to sentence the offender for the original offence. Rather a breach of the sentence of probation would invite specific penalties for the breach - as indeed occurs for other sentences. If for example fines are not paid, there are alternative means of enforcing the court's will. A similar approach should be taken for probation.

The Australian Law Reform Commission's Interim Report 'Sentencing Federal Offenders' reviewed a number of cases in which the status of probation and other forms of conditional discharge orders were discussed.(3) The cases referred to were *Devine* (1976) 119 CLR, *Griffiths* (1977) CLR 293 and *Carngham* (1979) 153 ALJR 110. The Report seems to recognise the difficulty inherent in not treating probation as a sentence and somewhat tentatively argues for probation to be a sentence in its own right. For example the Report argues that an offender should be able to appeal against a conditional discharge following conviction and that the fiction that an offender consents to probation or indeed to any form of discharge order should be removed.(4) This would for example circumvent the problem highlighted

by Barwick C.J. when in *Griffith* he said -

> [I]n my opinion, s.558 in terms denies that an order made under it is relevantly a sentence ...[I]n exercising the powers given by s. 558, a judge does not sentence the accused. Clearly, having deferred sentence on the convicted person the judge cannot force on the convicted person the burden of the recognizance. That person may refuse to enter into it. But, if he enters into it there can be no injustice in holding that he cannot appeal against the order to which in substance he has consented. Nor can the Attorney-General appeal under s. 5D against the remand for there is in truth no sentence against which to appeal.(5)

The New South Wales solution to this problem was to extend the ordinary meaning of the term 'sentence' to enable appeals to be heard.

Other jurisidictions also enable appeals against consensual dispositions,(6) with the result that a probation order is classified both as a sentence and not a sentence. The classification of probation as a sentence recognizes the punitive reality of the disposition while the legal fiction which classifies probation as a non-sentence enables the courts to hold over the offender the threat of a (further) sanction if the offender fails to conform to expectations while subject to probation. The reality is that the courts get two bites at the punitive cherry thereby effectively introducing into the administration of Criminal Justice the opportunity of imposing a double punishment for an offence.

The arguments presented in this paper are controversial if not radical. They are based on the premise that probation is a punitive measure, not a let off, and therefore should not require the consent of the offender. Indeed the association that probation has with imprisonment, and in particular with the false view that it is not a punishment detracts from the fact that it is an onerous and unpleasant sanction. It may be that the term 'probation' itself should be abandoned and replaced with another term. An American commentator has said -

> '... the public image of getting probation means getting off. That view seems so firmly held that it probably cannot be corrected. While it may be more semantic than real, it is time that we abandoned use of the present terminology of 'granting probation'. Instead we should be sentencing persons to a period of 'community control' or some other phrase that connotes the realities of probation.' (7)

With these words I would wholeheartedly agree.

Lest the wrong impression should be given to the matters raised in this paper it is pointed out that no attempt is made here to remove any aspirations of probation officers that offenders may and indeed should be helped not to commit further crimes. Even so, another term we might seriously consider burying is 'rehabilitation'. The concept of attempting to prevent or reduce the incidence of further crime might be a sufficiently challenging goal for most criminal justice agencies without attempting to introduce socio-medical models into corrections. This should not deny a humanitarian approach to the control of offenders, whether this approach should apply to those in the general community or to those in prisons. However social work, it is submitted should always be seen as a probation officer's secondary or subordinate duty. The essence of probation is to place the probationer under certain obligations - to do and refrain from doing certain acts during the continuation of the order. The probation officer may guide, assist, supervise, counsel, advise the offender during the probationary period. Most importantly however there is the overriding duty of the probation officer owed to the court and to the public at large,to keep one eye upon the offender, an arm on the offender's shoulder, and a word in the offender's ear with the object of preventing crime. Probation as an interference with the offender's liberty is essentially preventative and it is justifiably so in consequence of the offender's proven criminal transgressions. It is the crime prevention component coupled with the punitive element that distinguishes the probation order from general social welfare work. It is these elements which justify the abandonment of consent when probation is imposed.

Thus probation is a form of punishment that is exercised through control. To demand that the offender should consent to such control vitiates the voluntariness of the consent. Forced consent does not encourage co-operation but merely highlights the conflicting goals of rehabilitation and punishment. The criminal justice system must be prepared to make a stand, recognize that probation is a punishment and change the status of probation, so that for all purposes it may be treated as a sentence in its own right.

FOOTNOTES

(1) See Report of the Departmental Committee on the Social Services in Courts of Summary Jurisdiction 1936, at para. 49.

(2) I.Potas, *The Legal Basis of Probation*, A.I.C. Canberra, May 1976, at p.37.

(3) A.L.R.C. Report No.15, A.G.P.S., Canberra, 1980, at pp.222-231.

(4) *ibid*, at p.227.

(5) (1977) 137 C.L.R. 293 at 307.

(6) See generally I.Potas op.cit. at p.34 ff

(7) See W. Barkdull 'Probation. Call it Control-and Mean It' (1976) (No.4) 40 *Federal Probation* 3 at p.5,6.

INNOVATIONS IN PROBATION

D. Murray

INTRODUCTION

Before one can really get down to talking about innovations the current situation needs some basic analysis and understanding. Probation Officers in Australia are employed in statutory agencies in a capitalistic society[1] which is undergoing the throes of technological change, economic stress and resource diminution. Coupled with these changes are the last decade's significant changes to family traditions,[2] higher unemployment and the promise or threat of greater leisure. Within the complexity and speed of these changes and despite the growing inter-dependence of communities and nations, there has arisen a striving for individuality, its rights if not its responsibilities.

We know these factors impose themselves on probation work in terms of the need to evaluate services,of the push for more efficient innovation within the accompanying economic restraints. If sections of the public demand harsher penalties other sections call for other changes be it more victim support, more equitable laws, or more use of the private sector in criminal justice processes.

The growing tendency for communities to question their societal processes becomes a dynamic reality in which probation needs to function and while such questioning can either promote frustrating changes to service policy or hasten positive innovations, I certainly am not prepared to predict a lessening of its influence. A better understanding of these various forces can aid our consideration of recent innovations and likely changes for the future.

PROBATION IN CONTEXT

Mr William Clifford[3] described probation as 'actually the great hope of the criminal justice system'. I am happy with that definition.

Probation certainly occupies an interesting place in our social structure. Its position in the criminal justice system is recognizable but becomes more foreign when considered in the wider structure. Only after the family, church, school, peer group, police, legal adviser and courts have justified their existence does the probationer arrive for our further intervention in his life.

Such intervention needs to be mindful on the one hand of society's expectation for control, policing of retribution, rehabilitation, and the formal authority it ascribes to the officer to perform those duties. On the other hand lie the expectations that intervention, being humane

and caring, will begin at the probationers level of understanding and will move at his pace; the Probation Officer as the ideal parent figure. What an incredible mandate! As a spare time occupation probation officers no doubt perform other miracles.

In videoing this overview (note the innovative expression) I am aware that in individual cases the mix of authority figure and helper works its special cure. Agreed that one cannot be certain it was only the probation officer's intervention but a check on the interaction - the discussion where a new insight was gained; resolutions expressed and gratitude conveyed, the subsequent changes in life style and rejection of criminal activity all promote the claim.

How many other cases might have been similarly helped if staff resources or time allowed?

Yet how many lives have been harmed because we misunderstood the probationers messages and needs and moved too quickly along inappropriate byways in our eagerness to help?

How many times has the interaction between officer and probationer been farcical as two people who in normal circumstances would instinctively avoid each other's company meet for regular communication? Role models for various kinds of interpersonal transactions are well described these days but it does not really ease the frustration of the probation officer when supervising the probationer who has no commitment to the interaction. How much does any other facet of the community care provided that the probationer does not reoffend?

Whether one looks at individual cases or more generally at the service requirements ambiguity and contradiction surround the processes. Harris (4) writes of these incongruities as moral, technical and operational dissonance. The latter for the probation officer is primarily the management of the relationship between caring and controlling functions. Moral dissonance he described as the gap between the justice ideology dominant within society as a whole and the welfare ideology dominant within social work. Technical dissonance he sees as the gap between the task of reducing recidivism and the reality of failing to do so, as empirical findings suggest.

Mr Clifford, earlier in our seminar has argued for the parent type characteristics in a Probation Officer and declines to plant a conceptual wedge between caring and controlling functions. Probably the moral dissonance will have to remain with different sections of our communities retaining strong views which we adjudge as punitive. But what about the effectiveness of probation intervention; can it be that 'treatment' does not work?

THE TREATMENT CONTROVERSY

This subject has already been raised in this seminar but I would like to share further information which can give another reference point for our discussions. The information is from Europe.

Jean Pinatel[5] in looking at criminology in Europe between 1950 and 1975 offers in his words a'subjective witness'. The first point I found interesting was that he saw the International Society of Criminology's courses and congresses as tide marks in the progress of criminological thinking. The significance of our seminar surely expands!

Pinatel plots three main periods in that quarter century. The first from 1950 to 1962 he calls the rise of clinical criminology where a synthesis of relevant other disciplines attempted to grasp the dynamic causes of criminal behaviour.

From 1963 - 1968 confusion reigned when sophisticated statistical techniques gave constant results over a range of experiments. Some of these related to the influence of prison or probation. The evaluation of the latter was assessed as it operated and as no special clinical or treatment programmes were set up, the results are now considered not to have tested clinical practice.

Then in 1968 the student uprising in France and the political ideologies held by the proponents of that uprising provided a significant influence to criminology. Practitioners in the 'treatment' of delinquents began questioning the worth of reintegrating delinquents into an unjust society and a new critical criminology arose.

Pinatel says that this critical criminology was to criminology what antipsychiatry was to psychiatry. This group called for a study of the dominant ideologies and political processes through which penal laws evolve and are maintained, and went on to emphasise the importance of studying the administration of justice, police, judiciary and the penitentiary system.

Despite all this by 1973, the clinical exponents were out in force expounding their belief that the only way is to study the individual, evaluate his dangerousness and capacity for social adaptation and formulate in terms of those elements a favourable programme for social readaptation. That process must certainly sound familiar to probation and parole officers in this country.

Pinatel adds a cautionary note claiming that '.. a criminological system can function only if magistrates, police, prison officials, educators, doctors, psychiatrists, psychologists, chaplains, and other well-meaning citizens are educated in criminology'. Lets hope social workers are well-meaning citizens.

If one impetus for change in Europe has been the questioning of political ideology, economic and therefore political factors have

certainly influenced criminal justice practices in America and England. In Australia, if each State's current and proposed programmes are any indication, there is an optimistic tackling of the perceived need for innovation. I would like to review a number of these programmes and offer a few further ideas for discussion.

PRE-TRIAL AND PRE-SENTENCE REPORTS

If we begin the review where usually the probation service first meets the offender we will consider the preparation of pre-trial or pre-sentence reports. We are still very word oriented in our practice. Research in Canada and England indicates that ..'even probation officers tend to select the items of information they feel are needed in order to arrive at their recommendation on a highly selective basis, and according to their personality and their own particular background and training.'(6)

The role of the Court Officer needs to be considered in this regard, as to whether verbal reports are less biased. The trend in English courts is toward limiting and reducing the use of pre-sentence reports, partly to make better use of scarce resources, and partly because experience shows that the cases where they are decisive are few in number.(7) This is a very controversial practice in terms of my experience of the regard with which pre-sentence reports are held by local magistrates.

The question remains, if words are less than ideal tools, what other tools can be employed. How does one discover how well the client understands our words. For many young people the comic book and the television screen offer the most acceptable mode of communication. Would audio visual presentations better communicate that repertoire of explanations each officer fashions in the course of his experience.

Once such aids are developed the way opens for an extension of the use of volunteers. South Australia is already training volunteers to help in their Court Advisory Service. This service would please Robert Harris who in a recent article argues that a court based service should focus on client need and social context rather than on a specific client group. His contention is that, for example, it is not only offenders for whom a court appearance is frightening.

Harris goes on to advocate that the Court Officer should concentrate on a court based social work service covering the Children's Court and Family Court as well. While the latter coverage may not be appropriate in our jurisdiction his service functions are as follows.(8)

(i) crisis intervention: - characterized by immediacy of response, democratically negotiated work (goals) programmes, a focus on the present and decision counselling;

(ii) Advocacy:- in situation from the police station to government agencies;

(iii) Marital and Family work:- seen as a specialist function and not only required in a Family Court;

(iv) Extended Social Work:- offering a follow up service to clients who were under no obligation to accept it;

(v) Volunteer Liaison:- tapping of the interest in the community is seen as a prime function of a courtbased agency.

(vi) Report Writing:- in his model, social inquiry reports 'could legitimately assume the sole function of setting out all the problems which would arise if a defendent were imprisoned'.

SUPERVISION

In the supervision of probationers the traditional area of the Probation Officers work becomes manifest. It is in this area that criticism is levelled. Statistically recidivism rates are similar whether supervision is offered or not. We know from a range of individual cases where clients have not reoffended or where reoffences were far less serious than an original offence, that the statistics give a distorted view.

This is not to say that other approaches could improve matters and some States are already experimenting. In one district in New South Wales two officers carry up to 100 cases each and offer basic supervision. The rest of the staff provide intensive supervision for up to 30 cases. Such supervision is offered for six months and thereafter supervision is terminated. A last aspect to mention in this innovation is that a research component is built into the exercise. Professional accountability is thus provided and the opportunity to justify or deny the work of the schemes continuation.

Tasmania has considered intensive supervision but were aware of a Californian attempt in 1976 which was a significant failure. Perhaps the six months limit may, as in crisis intervention, motivate both worker and client to quickly focus on the more significant aspects of the problem and any likely solutions.

One of the great innovations in recent years is the growing use of volunteers. In my relative unfamiliarity with the practice of volunteer probation officers I have heard that for such supervision statutory officers gain more work than when they did the supervision themselves.

Another criticism is that the volunteer is not ascribed the accountable responsibility of the statutory officer and may opt out when the going gets tough, or when the novelty has worn off.

While the soothsayer, the fringe-medic, the lay helper may replace the priest, doctor and social worker at many times, in those circumstances where the provision of the best possible service is the only thing to balm the social conscience,the volunteer may be an embarrassment to the legal process. I am thinking of an extreme situation where say a probationer only under the supervision of a volunteer, unpredictably rapes or murders. Apart from being a burden to the volunteer involved, and the discouragement for other volunteers, such an incident could well promote unfavourable publicity and a consequent call for more stringent controls.

ADVISORY COMMITTEE

I wonder if each jurisdiction should not be considering the worth of establishing in legislation Advisory Committees of paid members, if only for part-time, to act as a consultant/advisory group in the area of community based sanctions.

If the community is to be involved then why not formalise that decision and include representatives of such groups as police, education,health, law society, unions, voluntary agencies, major political parties and the media. By contributing their expertise and feeding back information to the group they represent,the messages should get through with minimum distortion. Such formal and trusted communication offers data to which other groups can respond in terms of allocating their own resources such as more remedial educators, or promotion of greater public awareness and less myth. John Conrad(9), a senior programme officer in the American Justice Institute, Sacramento, California in a recent article says that 'If there is anything that the criminal justice system can do to reduce crime, it must be the installation of a system of community-based sanctions *that are seriously meant and seriously imposed*'.

It is my contention that a body such as an Advisory Committee would reflect the seriousness of intention and the sincerity of wish for cooperative planning.

OTHER INNOVATIONS

With each state having presented a position paper it should be sufficient for me to list with occasional brief comment the other programmes either planned or operating in Australia.

The recognition of probationer illiteracy by the Queensland service and their participation in a remedial teaching programme for the needy probationers is a sensitive and practical innovation.

Each jurisdiction either has Community Service (Work) Order Schemes operating or has at least draft legislation for such a scheme. State Directors are planning to ask their Ministers for legislation to allow portability of such orders from one jurisdiction to another.

Honorary probation officers, bail hostels, Aborigine probation officers, day attendance centres and variation in degrees of supervision are some of the other planned for and already introduced innovations.

No doubt the most controversial change is the model Victoria is proposing in passing a major portion of supervision cases to the private sector.

CONCLUSION

Knowing what we do and appreciating why we do it is always a suitable jumping off point for modifying or changing our role performance.

Knowing what we do requires more than a list of functions. It needs the appreciation of unintended consequences whether negative or beneficial and such knowledge is best collected by careful evaluation. Knowing why we do something indicated an awareness of goals and means. Reappraising current practices to ensure they concur with current knowledge and local mores clears the way for responsible decisions about change or no change.

More importantly it gives confidence to a next step which is sharing your methods, communicating your intentions and receiving evaluative comments in return.

Quite frankly I was pleasantly surprised when I contacted each probation and parole service and learned what programmes were being instituted and what innovations were being planned. I know State Directors meet and share this information and together discuss future cooperative ventures.

This information is too vital, too important to be left with directors and then only discussed each six months. We should resolve to plan for regular dissemination of our triumphs, our plans, our trials and disappointments. With likely interchange of clients on probation orders and in time offenders completing community service orders, our interests and responsibilities are too closely linked to do otherwise.

FOOTNOTES

(1) It is interesting to note that one socialist hypothesis that crime problems of differing capitalist societies have a similar class basis - BRAITHWAITE J. 'Inequality, Crime and Public Policy' Routledge & Kegan Paul 1979.

(2) A paper entitled 'Changing Family Patterns' Some implication for social security. A paper delivered to a Conference on Welfare

consequences of demographic and family changes. Melbourne, July 1980 - Meredith Edwards, School of Administrative Studies, Canberra College of Advanced Education.

(3) CLIFFORD, W. Key-note address 'The Problems and Opportunities of Modern Probation' - seminar Australian Institute of Criminology December 1980.

(4) HARRIS, R.J. 'A Changing Service: The case for separating 'Care' and 'Control' in Probation Cases' BRITT, J. of Social Work (1980) 10, p.166

(5) PINATEL, J. Twenty-Five Years of Criminology: A European View in 'Criminology in Perspective' Ed. Landau S.F. and Sebba L. Lexington Books, Toronto 1977 pp.11-15.

(6) HALL WILLIAMS J.E. The Future of Sentencing in op cit Landau ed. p.208.

(7) ibid p.209

(8) op cit HARRIS pp 179-180.

(9) CONRAD, J.P. 'There has to Be a Better Way' Crime and Delinquency Journal Jan. 1980 p.88.

PROBLEMS WITH PROBATION AS AN ALTERNATIVE TO IMPRISONMENT

D. O'Connor

Sentencing offenders is in the nature of things never likely to be an exact science. This is particularly so, since at least at present,the elements seen as appropriate by Judges in the sentencing decision are many-fold and to a degree, internally inconsistent. So for example, sentencing which is based on principles of deterrence, reform, retribution,isolation and social defence all at the same time can scarcely give rise to a readily explicable sentence, since we are unlikely to know what elements, and in what proportion those elements, are mixed in the rationale of the sentence.

When non-parole periods were introduced some Judges at least believed that the non-parole element was primarily the retributive part of the sentence, although it also served some of the other perceived purposes of punishment. The parole period of the sentence was primarily directed to the reform element in the general melange.

Reforming people has rather gone out of fashion. This may be because it has proved too hard to do, or perhaps the idea of re-fashioning people is recognised as de-humanizing them and treating them as objects rather than persons. Similar considerations of course apply to wholly extramural sentences in the nature of probation with the important difference of course that these kinds of orders are not preceded by punitive treatment intended to reflect the retributive element in punishment.

The question, what is punitive? can of course only be answered in the context of the times we are considering. It was easy to recognise a punitive character of punishments when the gyve, the shackles and the whip were common features of penal institutions. These were so overwhelming in their barbarity that the loss of freedom suffered by prisoners was the least of the disadvantages they suffered. Patterson's view that men were sent to prison as punishment rather than for punishment really only became properly understood when barbaric punishments in the prisons disappeared. In these circumstances it became possible to examine the real substance of Patterson's statement, that is, that being sent to prison is a punishment. It is a punishment because it entails the loss of liberty, the deprivation of freedoms of choice and the diminution of a man's status as a human being.

If these three consequences properly describe the effect of imprisonment, it is possible to examine probation and parole with them in mind to see to what extent these two forms of sentencing are also forms of punishing. It is certain that a parolee's or probationer's status

effectively changes during the effective period of any such order. His freedom of movement and freedom of choice may be markedly limited by any such order, and his status as a human being is markedly different from the rest of the community, in that he is accountable to the State and under a dual threat from the law since any offence he might commit during the period of his probation or parole, will be, in effect, doubly punished. He will be punished for the offence itself but the original offence which gave rise to the order may itself be revived.

Probationers and parolees are therefore in a sense public prisoners.

As Mr Clifford has pointed out in his paper, the number of such public prisoners is by no means slight. His estimates you will recall, were that there are about 11,000 juveniles under such circumstances and about 4,500 people on parole. This meant as he pointed out in his figures, that three times as many persons were on probation as were in prison and half as many people were on parole as were in prison. There are therefore in the community three and a half times as many public prisoners as there are in the strictly prison regimes.

Social control of these dimensions marks an important change in the nature of our kind of society. We must add to the numbers of individuals directly under supervisory regimes, those people peripheral to them who also come within the ambit of supervision, for example the families of the probationer juveniles, their associates and the associates of those on parole, so that a very considerable number of people are under surveillance, supervision or control by the State with the consequential interference in the lives of citizens.

There is one further important aspect of both probation and parole which needs carefully to be considered.

We have, since the writings of Beccaria, come to acknowledge that the undoubted power of the State to punish may properly be exercised in certain circumstances. We now generally recognise that the State's power may not be exercised arbitrarily and we have come to accept a number of rationales of punishment or justification for the exercise of the State's power to punish. It is not nearly so well accepted that the State may exercise its power to punish in any form of preventive punishment. An important aspect of the debate in Northern Ireland hinged on the use of preventive detention of potential criminals. The double punishment principle in probation orders and the similar effect of parole are instances of a form of preventive punishment. In each case the offender is primarily punished for the prior offence but some element in his punishment is directed to the prediction of likely offences at some future time. It is this prediction of the likelihood of offending which is the justification, arguably, for the reduction in the civil rights of the individual under such orders.

The social utility of such a course of action may attract support. The legality of such a form of punishment is open to considerable doubt. We tend to assume that no-one will be punished except for the

actual commission of a crime, saving the more difficult question of attempted crimes. The maximum *nulla poene sine lege* can be read as an expression of this principle, that no-one can be punished except for the breach of the law. It is not a breach of the law to be a person who is likely to offend. There is a considerable risk in the acceptance of this kind of principle that punishment may relate to status, rather than the commission of an offence. The law developing out of the poor laws which punished vagrancy is an illustration of this dangerous tendency.

Apart from these considerations as to the nature of this form of punishment, the more general question as to the number of such people in the community and the development of a system of public prisons where some relatively large number of people in the community are distinguishable from the rest of the community in that they are subject to supervision and control by the State, requires examination. While no-one would dispute perhaps that, borrowing from *Animal Farm*, everyone in a democracy is free except that some are freer than others, the question nevertheless arises whether in a generally free society the existence of a considerable number of people who are less than free, and particularly when that group includes a considerable number of children, does not give rise to very serious social questions. Since the development of the modern democratic state we have tended to pride ourselves on the principle of freedom for the individual and although we have always accepted the need to impose restraint on the intractable, the incorrigible and the incapable, it is more difficult to accept that we can impose conditions on freedom for citizens who are otherwise at large in the general community.

The element of social danger in the expansion of systems of social control is not intended to decry the usefulness of such systems as these. What is intended is that the expansion of this type of public imprisonment should be carefully considered. If the expansion of these types of service is merely to add to the number or proportion of our community under state supervision, then there are elements of danger in such an expansion. If the effect of the development is to reduce the more wasteful, expensive and destructive system represented by imprisonment, then there can only be advantages for the community. The real risk is that imprisonment may continue at its present or increasing rate and a new form of imprisonment added to it. It is only where the use of extramural methods effectively operates as an alternative to an imprisonment system that such expansion of this type of service is acceptable. It is dangerously easy for a sentencing official to use such a social control mechanism liberally, in the misguided belief that it will do the offender good to have supervision during his freedom. It is only if lacking such a system in the general community, that a prison sentence would have seemed appropriate that such an alternative ought to be considered. The overall effect that the use of such systems in the community ought to produce, is the continuing reduction in the size and proportion of the prison population so that population can be reduced to manageable proportions. It will be possible to consider the continued existence of prisons only when the number of

prisoners becomes so small that the proper assessment of such prisoners on an individualised basis can begin. New methods can then be investigated for dealing with the disturbed residue left in such institutions and we can hope that like the Marxist state, prisons can begin to wither away.

PROBATION IN AUSTRALIA

C.R. Bevan

As a viable broad-based alternative to imprisonment, probation is a relative newcomer to the Australian criminal justice scene. No State or Territory can boast a statutory system as old as forty years, and at least two are still less than twenty. Most of the States largely adapted existing legislation to provide authority for courts to place offenders under probation supervision, but two or three enacted specific legislation for the purpose.

New South Wales is the State with the largest population in the country, and has therefore by far the largest number of people on probation. It ranks fourth, however, in the number of probationers per hundred thousand of the population, being superseded by Tasmania, Northern Territory and South Australia in that order.[1]

Differing practices make it dangerous to rely too heavily on the figures quoted above. New South Wales, for instance, has adopted more than any other State the practice of discharging persons from probation who no longer seem to warrant supervision. On the other hand in Tasmania a significant number are released on probation after having served a term of imprisonment.

It is not uncommon to find probation services in Australia still searching for what they call 'a sense of identity'. Some express the wish to be given distinct guidelines and expectations by their governments, their media, their departmental heads and even perhaps their 'man in the street'. They, at the same time, exhibit a certain homogeneity in the actual practice of probation as distinct from the processes by which offenders are caused to undergo supervision.

Some of the differences that do exist may stem from the different departments by which probation officers are employed. In Western Australia and Tasmania for instance probation officers serve Crown Law Departments headed by attorneys-general, while in the Australian Capital Territory, the Northern Territory, Victoria and Queensland they are controlled by departments devoted to community welfare services. In two States, New South Wales and South Australia, probation is administered by Departments of Corrective Services which control prisons, probation and parole. Western Australia is the only State where probation is controlled by a Minister other than the one controlling prisons.

It could well be that the differences in the departments responsible for probation explain some differences in qualifications required of probation staff entrants. While tertiary qualifications are desirable for entry to probation work in the Northern Territory, New South

Wales and Tasmania, no special preference is declared. Victoria has committed itself to the development of a community based probation service in which the majority of probation supervision will be undertaken by honorary probation officers requiring no tertiary qualification, while stipendiary probation officers require social work or welfare officer qualifications. The Australian Capital Territory, South Australia, Queensland and Western Australia have committed themselves to a preference for qualifications in social work, but Queensland is not fanatical about it.[2] Tasmania advertises that social work is a desirable qualification, but in practice there is diminished preference for this discipline. Several staff have been seconded to train as social workers but the efficacy of social work skills for probation work remains the subject of discussion. Heavy emphasis has always been placed, as well, on personality and life experience attributes. South Australia and Western Australia, however, make no secret of their preference for social work qualifications. The Northern Territory and Queensland have not so completely committed themselves, and will admit applicants with tertiary qualifications of any description and even some exceptional cases with mere experience in a related field. In New South Wales a recent policy change now gives decided preference to applicants with a tertiary qualification, preferably in the social sciences. To have only experience in a related field makes it virtually impossible to get in. Applicants are also being given psychological tests before interview.

All States and Territories based on specialist practice offer probation officers a distinct public-service career structure. All Services, however, have achieved differing degrees of decentralisation, and offer their officers promotional prospects to senior positions throughout their States and Territories. Some of the States admit a lack of clarification of their identity and purpose, and that this, plus media-based sensationalism, leads to periodic sags in their morale; internal conflicts in probation officers are reported also, derived from the 'caring vs control' problems found more particularly in staff trained in social work.

Probation in Australia has evolved as one suited only to a white culture. Those States which contain significant Aboriginal populations experience difficulty in adapting their services to the needs of their black clients. In the Northern Territory 60 per cent of the probation population are Aborigines, and in the Alice Springs area the corresponding figure is as high as 80 to 90 per cent. In the Kimberley district of Western Australia, also, 70 per cent of the probationers are black. In Western Australia there are currently some 17 honorary Aboriginal probation officers and it is planned to increase this number by another 30 in the near future. The additional 30 honorary Aboriginal officers will be appointed in the Kimberleys, Pilbara and Goldfields regions which are those with a high concentration of Aboriginal people. There are no current plans to employ full-time Aboriginal staff. In New South Wales two Aboriginal probation and parole officers started training under the N.E.A.T. scheme in January 1981. The Northern Territory is seeking to involve Aborigines in the supervision of black probationers by going out to the communities and encouraging them to articulate their problems and seek their own means of dealing with them, and Queensland has experimented, not particularly successfully, with the use of Aboriginal community leaders as honorary probation officers.

Most States and Territories have commenced community service order schemes involving probation services in some form. Two current exceptions are Victoria and the Australian Capital Territory where the establishment of community service orders are in train. The Northern Territory is in its infancy in this respect, as also are Queensland, New South Wales and South Australia. Tasmania was first in the field with its Work Order Scheme, followed by Western Australia in its fourth year of operation. Legislation currently before the Victorian Government - a Penalties and Sentences Bill - provides for the introduction of Community Service Orders to that State. Although probation and Community Service Orders will be administered under the same Correctional Field Services Programme, they are individual and distinct sub-programmes.

Most States have been able to organise their services around reasonably-sized case-loads in the vicinity of 55 to 60 per officer.[3] All States are concerned to arrive at a rational assessment of desirable work loads. New South Wales in particular is experimenting with diverse schemes based on a recognition of the significance of the number of pre-sentence reports each officer is expected to compile each month. Another experiment involves one officer in the metropolitan area intensely supervising a case-load of 15 for a limited period of three months. Another scheme provides for groups of probationers of 25 to 30 needing direct counselling and case-loads of 120 where all that is involved are straight cases of reporting, home visitation and supervision. One gets the impression from New South Wales officers that their main concern in endeavouring to reduce case-loads is to devote more attention to innovative practices, and also allow senior officers to spend more time involving themselves in public relations. There, as elsewhere, local populations could profit from a more favourable image of probation and probation officers in general. It is for this reason regarded as highly desirable that probation officers become involved in various aspects of community work, committees and inter-agency groups.

Most States are able to report interesting innovations in practice that indicate the degree of dedication probation officers bring to their work. New South Wales is experimenting imaginatively with such modifications of practice as:

- A shoplifters' group aimed at assisting shoplifters to gain a better personal and social adjustment.

- An activity group for low-skill probationers aiming at developing better personal and social skills for relatively socially inadequate probationers.

- Intensive counselling casework with a restricted case-load (30 clients) with the idea of doing more thorough work with a smaller number of people.

- Surveillance casework as a technique aimed at coping with a large number of clients who have no presenting problem but who still need to maintain contact with the Service. Officers engaged in this work carry large case-loads of more than a hundred clients to each officer.

- Intensive short-term casework, based on the theory that, given a low number of cases and intensive work over three months, major problems can be coped with in the period.

- Dual-officer casework, designed to expose a client to the skill and experience of two officers. The team can be either two male, two female or one male, one female. This team approach allows for flexibility and continuity in the absence of one or other of the two officers concerned.

- An outdoor activities programme run by the Newcastle office, seeking to encourage clients to make more constructive use of their leisure time.

- A Work Co-operative Scheme based at Wagga Wagga, a joint Probation Service/Community endeavour to find employment for out-of-work probationers, parolees and other dependent types of people.

- A Community Service Orders Scheme to provide an alternative to imprisonment for selected offenders.

- An alcohol and drug counselling group organised by the Hurstville office, which sets out to assist people with dependency problems towards a better personal and social adjustment.

- A special-purpose group, also run by the Hurstville office, endeavouring to provide a quick orientation for clients who are placed under supervision without an initial pre-sentence report having been prepared. These clients stay in this group for six weeks and are then transferred to a specific officer.

In Western Australia funds have been allocated for a bail hostel in the Perth metropolitan area and at this stage it is hoped to finalise the actual hostel by May 1981. Accommodation for three probation officers has been allocated to the new District Court and Petty Sessions complex in Perth , which should be opened at the end of 1981. A research

officer and assistant are currently based at head office, and a plan for the Probation and Parole Service to employ its own psychologists is to be submitted for approval in the near future. Another new initiative concerns group work with offenders who abuse alcohol. Ten officers attended a one-week course at Holyoake (a voluntary agency dealing with chemical dependence) and developed a six-week programme for appropriate probationers and parolees. The course commenced at the Perth, Bunbury and Kalgoorlie offices in April 1981.

South Australia boasts a degree of worker participation in decision making, court information services manned by volunteers under the supervision of an Assistant Senior Probation Officer, literacy tuition (bi- and multi-lingual), a 'drop-in' centre, group activity for inadequates, and the establishment of teams of probation officers working exclusively in institutions. Queensland probation officers have formed a charitable organisation raising money for the establishment of probation hostels to provide accommodation for the homeless, and literacy tuition programmes are undertaken by former school teachers among the probation officer ranks. Tasmania is experimenting with an office in a weatherboard cottage in the belief that official-looking regular office-block settings are likely to be inhibiting in some degree to probationers and a barrier to easy communication.

The Victorian Department of Community Welfare has established a number of attendance centres. New South Wales and Queensland have appointed specific staff development officers and the latter has also experimented with the Outwardbound movement as an opportunity for greater social education for their clients.

Since pre-sentence report writing is such an important area of probation officer duties there has often been mooted the idea of assigning experienced probation officers specifically to that task. It is interesting to note that Tasmania experimented with such a scheme for seven years, but has now abandoned it because job satisfaction for the officers concerned was declining. They apparently felt very demoralised and frustrated in many ways because they were prevented from following through the very intensive work they had done during the compilation of the reports. Tasmania seems to have justified fear entertained by other services toying with the idea but unwilling to implement it for a number of reasons, one of them the risk to staff morale.

Much interest is centred on the probation service in Victoria. A community-based probation service proposal is being developed in the context of the implementation of the White Paper on the Future of Social Welfare in Victoria. Responsibility for the probation programme rests with the Department of Community Welfare Services; its implementation will be a partnership between government and the community. The Probation Officers Association of Victoria has been selected by the Victorian Government to be the voluntary organisation which will work in conjunction with the Department of Community Welfare Services. The programme will enhance the use of honorary probation officers who will ultimately assume 90 per cent of probation supervision

with the remaining case-load allocated to stipendiary probation officers. The programme has a regional basis of planning and development with service delivery based at a local level. The Probation Officers Association of Victoria will extend its regional and local activities and will work in conjunction with the Department's regional centres and offices. The responsibility for standards setting and maintenance of the programme will rest at the State level. The Probation Officers Association of Victoria will be establishing part-time volunteer co-ordinators within the regions with specific responsibilities in the provision of the probation service - each co-ordinator working with a designated officer in the regional centre of the Department.

Victoria is looking keenly at what probation ought to be, and is developing standards and criteria against which they can judge an effective service. Victoria's experience has led them to the conclusion that only a small proportion (10 per cent) of the probation population will ultimately need supervision by stipendiary probation officers - that part of the probation population presenting with difficult and complex personal and behavioural problems which need professional intervention in terms of counselling and surveillance. The majority of the probation population have been found to require the exercising of legitimate authority over the probationer given by the Court Order and practical advice and assistance in such areas as locating employment, managing a budget, home and children and obtaining access to relevant services. These tasks will be undertaken by honorary probation officers who are appropriately selected and trained and appointed under the provisions of the relevant Acts to do this work. The Victorian proposal seeks to extend the work already undertaken by honorary probation officers in the areas of probation supervision, provision of court advisory services, and pre-court and pre-sentence reports.

Victoria is proceeding in line with the philosophy that the Department of Community Welfare Services should encourage the community to identify its needs, and make decisions and suggestions about how those needs should be met, so that the Department might then provide the resources for the community to meet its own needs.

FOOTNOTE

1. At 1 September 1980, according to National Probation and Parole Statistics No.25, Australian Institute of Criminology.
2. Queensland staff advertisements mention also degrees in Education, Psychology, Sociology or Criminology.
3. Queensland has for many years operated on statutory case-loads of 75.

PROBATION AS AN ALTERNATIVE TO IMPRISONMENT

Probation and Parole Officers' Association of N.S.W.

The New South Wales Probation and Parole Officers' Association is committed to developing alternatives to imprisonment. The purpose of this paper is to examine the validity of probation supervision as an alternative and to suggest changes that are needed to give it future credibility as such.

Most of the papers prepared by the Association have represented the policy of the Association in that the subject matter has been considered and approved at a general meeting of the Association. The present formulation of the ideas presented in this paper has not been approved by our members in this way, but the general content has; it is Association policy that increased use should be made of alternatives to imprisonment one of which is, or, as this paper would have it,could be, probation supervision, and that a variety of models of probation should be available. The paper is therefore presented for discussion and will also be put to members during the following months.

Four conclusions can be drawn from a history of penology:

1. It is a history of seeking alternatives.

2. The alternatives used have tended to follow the influences of the predominating reformist values.

3. Alternatives do not provide for elimination of criminal behaviour (not surprisingly except to a most naive student of social behaviour).

4. Some alternatives have, in retrospect, turned out to be 'cruel and unusual punishment'.[1]

It is not the intention of this paper to seek to justify the present trend of looking for alternatives to imprisonment; this has been adequately argued elsewhere.[2] Increasingly apparent, both implicitly and explicitly, in such justification, is an abandonment of 'rehabilitation' as a goal of the penal process, and substitution of a model for sentencing, known as the Justice Model, which -

> 'lays renewed emphasis on retribution and on punishment according to the offenders' just deserts. Punishment is justified not because it may help an offender to be rehabilitated, nor even because it may reduce crime, but because it is right and fair'.[3]

According to this view, the provision of social services to offenders in prisons and in the community should be no greater nor no less than that provided for other citizens.

Such a model for sentencing concentrates on the provision of economic, humane and safe measures to be at the disposal of the courts. Whilst we do not wholeheartedly support this view or its implications, there seem to us to be grounds for abandoning the pseudo-medical model of 'treating' the offender. These are:

1. Most crime is voluntary and most disease involuntary.

2. It assumes that crime is pathological when it appears more often the result of situational influences; attempts to identify criminals and non-criminals on grounds of personality differences have on the whole been unsuccessful.

3. It implies individual treatment when causes are usually social.

   'Treatment orientated criminology has never learned the lesson of social medicine, that better drains may be worth scores of doctors'.[4]

A discussion of the movement towards developing safe, economic and humane alternatives to imprisonment leads us firstly to ask whether there is a population of prisoners who are potentially divertable from custody and upon what criteria this should be done. Wicks G. discussed in Kingshott[5] has listed a series of such criteria which are in his view suitable for the British situation, particularly that all those serving sentences of less than 18 months would be low risk prospects for non-custodial measures. His statement is perhaps too bald to be accepted without further qualification, but more relevant is a recent study by the Home Office of the South East Region in the UK. This showed that 266 of 771 men imprisoned were divertable on the following criteria.[6]

1. No serious offence against the person.

2. No crime ever for considerable gain.

3. No large sum earned from crime.

4. No obvious competence in planning the crime.

Unfortunately, no such study has been done in New South Wales. The report on a thousand prisoners[7] in 1974 confirmed the common stereotype of those in prisons as being in the main the less fortunate in

society, but it does not, in terms of the above criteria, help us determine the likely size of the population of potentially divertable prisoners.

In New South Wales in 1978 there were 2068 persons sentenced to one year or under.

TABLE 1

*PERSONS SERVING ONE YEAR AND UNDER BY OFFENCE - 1978

Offence	Under Six Months	Six Months - One Year	Total
Against the person	170	31	201
Sexual	7	8	15
Fraud	74	89	183
Breaking, Entering and Stealing	71	94	165
Larceny	472	253	725
Unlawful possession	99	42	141
Driving	303	63	366
Other	109	163	272
	1325	743	2068

* Bureau of Crime Statistics and Research, New South Wales.[8]

If the British experience can be compared at all with New South Wales, even on a very rough basis, then it seems likely that a proportion of these would be divertable without undue risk to the community. The long term benefits of doing so are alluded to in another Bureau study; this time a longitudinal study on reconviction rates.[9]

TABLE 2

*RECONVICTION RATES OF OFFENDERS UNDER DIFFERENT SENTENCES

	Non-Custodial		Less than 6 months		Six months - 2 years		Two years +		Total	
	No.	%	No.	%	No.	%	No.	%	No.	%
Reconvicted in 2 years	258	22	62	50	23	47	2	18	345	25
Reconvicted 2 to 5 years	140	12	23	19	11	21	3	27	177	13
Reconvicted 5 to 10 years	113	9	7	6	3	5	2	18	125	9
Not reconvicted in 10 years	669	57	31	25	14	27	4	36	717	53
	1179	100	123	100	51	100	11	100	1364	100

* Bureau of Crime Statistics, New South Wales.[9]

This study showed that reconviction rates in the long term were substantially lower for those receiving non-custodial sentences. Also reconviction rates generally for robbery, assault and sexual offenders were higher (78 in 126) than for property, driving and fraud offenders (393 in 856). This could have been anticipated, of course, and we cannot necessarily conclude that diversion from gaol produces lower reconviction rates, but such studies can give some guidelines to those seeking to identify who can be safely and successfully diverted. It seems likely then that there is such a population of divertable people in New South Wales.

Discussions on alternatives to imprisonment have generally ignored debate on the use of probation supervision in this way, and have instead concentrated on such innovations as community service orders, periodic detention, attendance centres, suspended sentences and the like. Without questioning the value of such alternatives, we would like to attempt an explanation of why this is so.

The origins of probation are attributed to John Augustus who in 1841 at Boston U.S.A. received persons into his care and custody by informal agreement with the courts. In the same year Matthew Davenport Hill at Birmingham, England, was engaged in a similar process with young men before the Warwickshire Quarter Sessions. It was the influence of persons such as Augustus, Hill and later the Court Missionary Society in the UK which led to probation being steeped in humanitarian principles and peculiar British Christian values which became embodied in the 1907 Probation of Offenders Act with the words 'advise, assist and befriend'.

The rise of social work and particularly casework some thirty years ago added a twist to these fundamental principles. Set upon the advising assisting and befriending was a philosophy of welfare work borrowed from the medical profession which understood certain behaviour as disease and prescribed individual rehabilitation as the cure. The analogy between crime and disease upon which the rehabilitative model was based gave probation practice credibility and allowed it to move from pure paternalism to a quasi-objective science. The abandonment of the medical/rehabilitative model has received a great deal of discussion and soul searching in British probation theory in recent years and particularly over the last two years by Bottoms and McWilliams[4], Harris[11] and Raynor.[10]

In an article 'The probation service exists on an elaborate system of pretence' Fisher,[12] himself a probation officer, identifies the problem as the conflict between what is assumed to be the courts'requirement of surveillance and the probation officers' adherence to a rehabilitative model. The uneasy marriage between these two seemingly conflicting principles is encapsulated in the probation officer's role and function and survives, Fisher suggests, only as long as a certain pretence is maintained by the probation service that significant numbers are diverted from gaol by the process and that rehabilitation takes place.

In fact, the rehabilitation model of probation has provided the opportunity for sentencers to express humanitarian values, and there is little doubt that, if this were entirely removed from the courts' options, a balanced expression of society's wishes may not be forthcoming. But clearly, since large numbers still go to goal for short sentences, this expression of humanitarianism is reserved for very low risk offenders. Probation supervision does not generally provide for a diversion from imprisonment but pulls into a non-custodial intervention process offenders who might otherwise have received less severe non-custodial sentences without supervision.

To what extent do these dilemmas belong to the New South Wales Probation and Parole Service? Firstly, the New South Wales system was based on the UK model following a visit by D.C. Swanson, its founder, to that country in 1951. Whilst it did not employ behavioural science graduates who, one could expect, would be more likely to follow the trend of rehabilitation, there is no doubt that it adopted such principles. Swanson[13] wrote that probation was about positive individual guidance to develop both personality and a law abiding life style. Pyne[14] has commented more recently that non-directive approaches are the usual channels of influence upon an individual offender and that guidance seems the preferred and initial approach of most officers. Current trends in employing social science graduates are likely to continue this tradition.

A review of the literature, particularly the reports on two training seminars held at the Australian Institute of Criminology (that is, in 1974 'Modern Developments in Sentencing' and in 1978 'Alternatives to Imprisonment'), and our own observations and discussions with magistrates suggest the following:

1. Sentencers are increasingly in a dilemma over fair and just sentences.

2. Sentencers have become increasingly alienated by media sensationalism over 'too light' or 'too harsh' penalties.

3. They feel that there has been a breakdown of probation and parole services in some cases.

4. They are isolated by the lack of follow-up information on what happens to persons put on a particular programme.

5. They are aware of the breakdown in the medical model of rehabilitation in probation practice but see little being put in its place.

6. They are sensitive to the negative feelings of the community about alternatives to imprisonment.

7. Increasing the number of alternatives should assist them in making the 'right' sentence.

8. Research studies into sentencers' highly indididualised criteria and the publicity such research receives places sentencers in a vulnerable position. Criticism comes now,not only from appeal decisions by brother sentencers, but also from researchers.

9. Sentencers are, by and large, ignorant of what probation and parole officers actually do with the people released to their supervision.[16]

It is our contention that,if the correct strategies are adopted, probation supervision can provide the courts with an alternative to imprisonment in many more cases than it does at present.

This would entail a broadening of the concept of probation supervision to include a number of specific activities which may apply to an individual offender and which may initially, or eventually, be elevated to the status of a 'programme'. Examples of such variations, some of which will be familiar, are:

1. Probation with a conditon of residence at a hostel, the intention being to offer such residence to the court as an acceptable alternative to incarceration for a particular person, and to make it clear to the court at the pre-sentence stage exactly what the regime would be, what would be required of the offender, what undertakings the Service is able to give about strictness of control of the regime etc. Although the probation hostel is the most obvious and expensive form of this variation, the measure could also be offered at another type of hostel if one could be found prepared to accept the offender and to specify a regime.

2. Probation with a condition of attendance at a day training centre, based upon the UK model, that is,a day centre undertaking certain activities associated with 'training' (for example trade training, occupational therapy, literacy courses, social survival courses etc.) or 'therapy' (for example music, craft, group discussion etc.). Again it is not necessary for an elaborate centre to be established, and such may even be wasteful of resources. It should not be beyond the wit of a group of probation and parole officers to devise a similar programme using existing community resources and offer it to the courts as an alternative.

3. What might be called an 'employment therapy' programme which uses probation and community resources intensively over a short period with the aim of improving the work record of the offender.[17]

4. Short term intensive supervision the aims of which are worked out with the offender prior to sentence. The offender is prepared to enter into a contract with the court that he will achieve the aims or be returned to court for re-sentencing. This is most easily understood in terms of the achievement of a better work record, enhanced financial management etc., but can also be concerned with improvements in relationships.[18]

5. A drug and alcohol programme operated in conjunction with health authorities. There are a number of models in existence or being developed as alternatives to imprisonment.[19]

The list could be extended indefinitely, as it is our view that an alternative to imprisonment only operates as such if it is seen to be an alternative by the sentencer. In fact both the rehabilitation model and the justice model fail to meet completely the needs of a sentencing process. Sentencing is a far more complex process than either model allows for, since it attempts to pursue many different objectives at the same time, including denunciation, retribution, deterrence (individual and general), containment, reparation and rehabilitation, amongst others.[20] An effective probation alternative is likely to be used if it fits the above attributes of sentencing.

Problems connected with this view of probation are:

1. Persuading the sentencer to accept a measure as an alternative. In a sense the main activity of the service would be in the area of such persuasion. Communication patterns with sentencers would have to change for this enterprise to be successful, as, for a time at least, the focus would be on the needs of the sentencer and not on the needs of the client. Feedback procedures, both on individual cases to the relevant sentencer and, more widely, to sentencers as a whole on the success of a programme would need to be formally established.

2. We are aware that there may be some legal problems in this view and that to a degree they may be insurmountable. We do not subscribe, however, to the legal changes suggested by the Younger report[21] in the UK, in which was put forward the idea of a supervision and control order as a strict form of probation without the consent of the offender. We, in New South Wales at least,feel that the notion of the consent of the offender would answer many of the difficulties (assuming that it would in most cases be given where imprisonment was seen as the alternative).

3. We acknowledge the difficulties raised by the Cropwood Round-table papers on 'Control Without Custody',[22] specifically,

   (a) the difficulty of what to do if the aims are not achieved;

   (b) what may be seen as ethical issues for the officer in the control-v-helping conflict;

   (c) the possibility that the result would be a 'cruel and unusual punishment';

   but feel that much could be justified and accepted if it was felt that the measure was an alternative to imprisonment, provided that humanitarian aims are kept in mind.

4. The expectation would be perceived and developed in the light of prison as an alternative. Thus, there need be no general aim of 'rehabilitation', and improvements in recidivism rates would be assessed in comparison with the success of gaol in this respect, and thus not much would be demanded.

In conclusion, then, we have put forward the following:

1. There is a population of divertable persons currently in New South Wales prisons.

2. Probation can provide a non-custodial alternative to sentencers.

3. These alternatives, some of which have been mentioned, are likely to be used by sentencers if probation services recognise the needs of sentencing in a justice model.

4. Probation services will in future need not only to be rehabilitative services but also providers of various non-custodial sentencing options.

5. We recommend a fresh examination of probation services as providers of alternatives to imprisonment.

FOOTNOTES

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6. Home Office Research Unit (1978). 'A Survey of South-East Prison Population' *Bulletin* No. 5 pp. 12-24.

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17. Crozat and Closs, 'Intensive Community Treatment; an Approach to Facilitating the Employment of Offenders', *Criminal Justice and Behaviour* Vol. 6 No.2, 1979.

18. See work currently underway at Parramatta Office by Mike Dowding on Intensive Supervision.

19. Drug and Alcohol Court Assessment Programme at Bourke Street Drug Advisory Centre, Sydney.

20. Hazell, R., *ibid.*, p.161.

21. Young Adult Offenders - The Younger Report (1978). Home Office, United Kingdom.

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PROBATION AND PAROLE IN SOUTH AUSTRALIA

R.M. Durant

PART I - PROBATION

The legislation presently relating to probation is contained in the Offenders Probation Act, which outlines the duties and responsibilities of Probation Officers, and provides the major legislation for release on probation by the Courts. This Act is used by all levels of Court. A further provision for District and Supreme Courts is contained in Section 313 of the Criminal Law Consolidation Act; a similar provision for Courts of Summary Jurisdiction is in the Justices Act.

1. PROBATION ORDERS

1.1 Offenders Probation Act

This provision gives all levels of Court the power to release an offender, with or without conviction, on a recognizance to be of good behaviour for a period of time, fixed by the Court, up to a maximum of three years. The order may contain other conditions including supervision by a probation officer and such other conditions fixed by the Court to facilitate supervision and to assist the offender. Such conditions may include directions as to residence, employment, medical or psychiatric treatment, associates, etc. and it is the responsibility of the probation officer to ensure that the conditions are adhered to.

Should the probationer fail to obey one or more conditions of the order, he or she may be brought back to the Court, and if the breach is proved, be sentenced on the original offence.

1.2 Offenders Probation Act, Section 4(c)

Introduced in 1969, this Section gives courts the power to pass a sentence of imprisonment, but suspend the sentence upon the offender entering into a recognizance under the Act, with identical provisions to the preceding Section. Should a breach of the order under Section 4(c) be proved, the Court must remove the suspension of the sentence and cause it to come into effect forthwith. Half our total case-load have suspended sentences.

1.3 Criminal Law Consolidation Act

Section 313 of this Act empowers the Supreme and District Courts to award any two of the following - a fine, a recognizance and a term of imprisonment upon conviction for an offence. Thus an offender could be sentenced to a term of imprisonment, and be required to serve a period on probation upon the expiration of the sentence, both for the one offence. This provision is not widely used today, having been superseded in practice by suspended sentences.

1.4 Justices Act, Section 70(a) b

Applicable to courts of summary jurisdiction, this provision gave those courts similar provisions to those contained in Section 313 of the Criminal Law Consolidation Act. This is not a commonly used provision.

1.5 Crimes Act

Under this Commonwealth legislation, State Courts are empowered to hear various matters, and includes probationary supervision as an alternative penalty. We have a number of clients under this Act, usually associated with breaches of the Social Security Legislation, such as forging cheques.

2. PRE-SENTENCE REPORTS

Although not specifically described in present legislation, legal precedent enables courts to obtain such information as they need to assist in determining an appropriate penalty. This includes requesting the Probation and Parole Branch to prepare pre-sentence reports to provide social background and the likely benefit of a period on probation. The report is called for after guilt has been determined and prior to sentence.

This involves the probation officer interviewing the offender and those people of significance in the offender's social environment, such as family, friends, employers, etc. The report is written when the officer is satisfied that sufficient substantive information has been obtained.

Reports are as factual as possible, and based upon the information presented. The value of a period of supervision is commented upon. Copies of the report go to the court, prosecution and defence. If the offender is not represented, a copy of the report is provided for perusal and discussion before the hearing. The officer who prepared the report is subject to cross examination.

3. SUPERVISION

The Offenders Probation Act describes the duties of probation officers in terms of 'assist, guide and befriend' the offender to ensure that the terms and conditions of the order are carried out.

In simple terms, probation officers have a dual role of providing a level of both social control and social work support. Each officer must determine the appropriate levels of control and support in each individual case, being conscious of responsibilities to the court, to the individual offender and to the community. As many of our clients are suspicious and hostile to probation officers at initial contact, the officers require skill and a positive personality to develop working relationships with probationers. Probation is still primarily based upon a casework approach. However, other skills developed by more recent graduates are being slowly utilised, and the information coming from overseas suggests the need to develop a wider choice of approaches.

4. SUPERVISION SUPPORTS

4.1 Mental Health Services

Liaison with Mental Health Services is maintained to tap a major source of psychiatric services for probationers and parolees.

4.2 Alcohol and Drug Addicts Treatment Board

This agency provides some treatment programmes for clients. Both drugs and alcohol figure commonly in the lifestyle of our clients, and treatment services are in short supply.

4.3 Offenders Aid and Rehabilitation Services

The major contribution by this service is hostel accommodation. They provide a range of hostel types and are invaluable to the Branch in providing accommodation for difficult-to-place clients. They also assist us with various forms of practical help.

4.4 Other Agencies

A wide variety of statutory and voluntary organisations in the community are utilised to provide various services for our clients, just as they provide for the community in general.

5. ESTREATMENT

The Branch has a policy that all breaches of conditions of probation orders should be reported, and unless a good case can be put, estreatment of the order should be sought. The breaches are reported to either the Police Prosecution Branch or the Crown Prosecutor (depending on the jurisdiction) who take appropriate action.

It is also the practice in the Branch to make sure that, when an offender is first placed on probation, the obligations of the order are carefully explained. Thus no probationer who commits a breach of an order should be unaware of the possible consequences.

Problems of estreatment generally relate to interpretation of conditions and proof of breach. It is fair to say that officers feel that courts are clear in their intention when awarding a probation order, but do not demonstrate (by expecting a level of social control to be exercised without the necessary backing to enforce conditions on behaviour),such clarity in the face of a breach action.

PAROLE

Parole legislation is contained in the Prisons Act, amended in 1969 to set up the present parole system.

1. SENTENCES

1.1 Fixed Term Sentences

All fixed term sentences earn remissions of a maximum of 10 days per month. Unless the Court fixes a non-parole period (infrequently used)the prisoner is eligible to apply for parole at any time during the sentence. If released, the parole order will run for the unexpired portion of the full sentence.

1.2 Life Sentences

Life sentences are for natural life. A 'lifer' may apply for release after a qualifying period, held to be five years by the present Board. If released on parole, the order runs for the unexpired portion of the sentence, that is life.

1.3 Indeterminate Sentences

This covers habitual criminals, those sentenced to Governor's Pleasure who are either persistent sexual offenders, mental defectives or juveniles convicted of murder. Such prisoners must apply, usually through a petition, for release upon licence; the licence is for a fixed period, usually three years. The petition is forwarded to the Parole Board for recommendation before a decision is made by Executive Council.

2. THE BOARD

The Act requires a Board of five members, appointed by the Governor. One, who shall be Chairman, shall have extensive knowledge and experience in criminology or penology. One shall be a legally qualified medical practitioner with psychological or psychiatric experience. One shall have sociological experience (or related science), one shall represent the employers organisation and one shall represent the Trade Union movement. At least one member must be a woman. The Chairman is in tenure for five year appointment, with a Parliamentary type cut off age limit of seventy five. Other Board members have a three year tenure; reappointment eligibility exists.

Present Board members are:

Chairperson	-	The Hon. Justice Roma Mitchell of the South Australian Supreme Court
Members	-	Dr J. Scanlon, Psychiatrist
		Mrs E. Wallace, Trade Union Representative
		Mr F. Curtis, Employers Representative
		Mr Kyprianou, Crippled Children's Association

3. MEETINGS

Three members constitute a quorum. A decision carried by a majority shall be the decision of the Board. The Chairperson has a casting vote in addition to a deliberative vote in the case of tied voting. The Board has power to summons persons to appear before it, and to produce documents relating to any matter before it. It can also administer the oath to witnesses, and require information in the form of statutory declarations.

Originally the Board met monthly. However, volume of work has required fortnightly meetings. Common practice is for one meeting to be devoted more to new applications and pending applications, the next meeting to reviews, reprimands, interviews with either pending applicants or defaulting parolees, along with some new applications.

It is accepted practice that when an applicant or a parolee is called before the Board, the Parole Officer preparing a report on the applicant, or supervising the parolee, also attends, and may be questioned by the Board.

4. APPLICATION PROCEDURE

The following is the operation at the metropolitan prisons, it may vary slightly in some country prisons.

4.1 The prisoner first obtains an interview with the resident probation officer, who explores the whole parole area with the prisoner who makes a decision to apply or not. Provided no preventive provision exists, for example, non parole period, previous Board decision etc., the application must be accepted. The prisoner simply signs a form.

4.2 The prison record system enters details of offence, court, conviction date, sentence, etc. on the form.

4.3 The form, along with other basic information, is forwarded to the Parole Board Secretary, who is an officer of the Department of Correctional Services. He makes up a complete copy of all material in the Assessment Committee folder for each Board Member.

4.4 The application is assigned to a probation officer who will visit the applicant, and investigate the accommodation and employment situation, and submit a short report to the Board, covering those areas. At the same time reports from prison officers are obtained, describing the behaviour etc. of the applicant. The probation officer may forecast the applicant's likely response to supervision.

5. DECISIONS

The Board, quite obviously, has a variety of options available.

5.1 Rejection

In many instances the Board will give a reason, in writing, to the applicant. Included may be an offer to the prisoner to appear before the Board if he or she disputes the reasons given. The communic-action may also indicate if and when a further application can be made.

5.2 Deferment

This may be the result of requests for additional information, a further psychiatric or psychological report or some other reason. The prisoner is usually informed.

5.3 Conditional Approval

This may be approved conditional upon definite employment, the suitability of accommodation or some other necessary arrangement. In some instances, final decision may be obtained through the Board Secretary, gaining verbal approval from two or more members.

5.4 Approval

As the Board usually meets on a Monday, approval for release on parole is made for the following Thursday, to enable the necessary paperwork and institutional formalities to be completed.

6. RELEASE PROCEDURES

The legal document for release is the parole order. Three copies are signed by two Board members, and become effective when the parolee signs the order.

The order has the dates of the parole period typed on, and the conditions of the release. Parolees are released directly from the prison to the supervising parole officer, or brought to the Adelaide District Office and formally released there. The parole officer ensures that the parolee understands the conditions of the order before signing it. The prisoner has the right to refuse the release.

One copy of the signed order is kept by the parolee as proof of release, one by the institution, and one by the Board Secretary. The supervising parole officer is given an unsigned duplicate of the order for retention in the case folder.

7. QUALIFYING PROVISIONS

The Act lays down certain qualifying provisions for first and subsequent applications.

7.1 Fixed Sentences

An application before the expiration of a non-parole period can only be granted by Executive Council.

If no non-parole period is set, the prisoner can apply for parole at any time. If that application is refused, unless the Board indicates otherwise, or can be convinced that special circumstances prevail, a second or subsequent application cannot be lodged until a quarter of the full sentence has elapsed since the previous application.

7.2 Cumulative and Concurrent Sentences

The qualifying period in relation to life sentenced prisoners is five years, unless otherwise directed by the Board.

8. SUPERVISION OF PAROLEES

Parole officers are required to ensure that parolees carry out the conditions of the parole order. These conditions include maintaining regular contact with the parole officer, and taking directions as to residence, employment and associates. Other special conditions may be included for specific reasons. The present Act describes the supervision function only; no description or reference to the provision of social work support to offender and family is included. The Act is primarily aimed at supervision and protection.

9. BREACHES OF PAROLE ORDER

All breaches of the order must be reported to the Board. If the breach is by commission of a further offence that earns a further term of imprisonment, the parole order is automatically cancelled. The parolee thus commences serving out the remainder of the original sentence from the date of return to prison.

A further offence that incurs a lesser penalty does not cause automatic revocation, but in many instances results in revocation. Breaches of other conditions in the order are dealt with similarly.

Parole officers may recommend against revocation for specific reasons, and their opinion will be considered by the Board. It is significant that the Board is requiring more detail over more minor changes in circumstances than ever before, and effectively removing some areas of discretion from parole officers. This is seen to be reaction to the current political and social climate and the increasing criticism of correctional philosophies.

10. SUPERVISION IN PRISON

By agreement with the staff and, in fact, as a result of staff initiative and concern, a system of 'supervision in prison' has been instituted to assist long term prisoners.

All prisoners sentenced to imprisonment in excess of five years are assigned a probation and parole officer shortly after they commence their sentence. The scheme is aimed at providing

professional support for long term prisoners, if they see the need, to provide another interested person to be available to them, a person who develops some insight into their problems, aspirations etc., and who can provide relevant information when they apply for parole.

PART II - THE BRANCH

1. STRUCTURE

Present staff of the Probation and Parole Branch numbers 75, responsible to the Permanent Head of the Department of Correctional Services. Branch structure consists of an Assistant Director of Probation and Parole, a Principal Probation and Parole Officer, 10 senior probation and parole officers, 10 assistant senior probation and parole officers, and 54 base-grade probation and parole officers.

1.1 District Office - Metropolitan

There are seven metropolitan offices at Adelaide, Norwood, Christies Beach, Glenelg, Port Adelaide, Elizabeth and Gilles Plains, each under the supervision of a senior probation and parole officer. The metropolitan offices service the local courts in the area and work with other social welfare agencies in the locality, providing a decentralised service.

1.2 District Offices - Country

Seven one-officer country offices are located at Port Lincoln, Whyalla, Port Augusta, Gladstone, Cadell, Mount Gambier and Berri, providing pre-sentence reports and supervision for local courts and parole and welfare services to country prisons.

A senior probation and parole officer is located at Port Augusta, responsible for the Port Lincoln, Whyalla, Port Augusta and Gladstone offices. The senior probation and parole officer at the Adelaide office assumes responsibility for Cadell, Berri and Mount Gambier.

1.3 Staff Development - Student Supervision

One senior probation and parole officer is responsible for staff development programmes for the Branch and for the supervision of social work students on placement, including departmental social work cadets. Provision of placements for students is an important function in the education of those students, and a useful source of recruitment.

1.4 Institutional Social Work

Three probation officers are located at Adelaide Gaol - two working in the Assessment Unit providing social background information on prisoners before the Assessment Committee, and one providing social work support to remand prisoners and short term inmates.

A further three probation officers are located at Yatala Labour Prison to provide social work services to Yatala and the Women's Rehabilitation Centre.

1.5 Volunteers

For five years the Branch has operated a volunteer scheme, enabling citizens to share the work of the professional staff. Volunteers are selected for personal skills and ability, given a short preparatory course and then made available to supplement the skills of the professional officers in the field, or to work in a specialised area, such as literacy tuition, the Court Information Centre, or a drop-in centre. Some 70 volunteers presently work with the Branch.

2. STATISTICS

The following table relates the total number under supervision at 30 June each year, the total number of staff, number available to supervise offenders and case-load per officer. It also lists the number of pre-sentence and parole reports prepared by the service in those years.

TABLE

Year	Total Clients	Total Probation Officers	Probation Officers Supervising	Case-load	Pre-Sentence Reports	Parole Reports
1970	1512	20	16	94.5	163	147
1971	1726	27	24	71.9	187	186
1972	1862	30	25	74.4	371	310
1973	2225	35	28	79.4	469	362
1974	2229	37	29	76.8	576	355
1975	2327	44	35	66.4	389	331
1976	2284	51	41	55.7	406	429
1977	2408	64	47	51.2	505	391
1978	2771	68	49	56.5	670	430
1979	2860	70	52	55.0	686	382
1980	2861	75	50	57.2	664	400

During the latter part of 1979, a series of new positions of assistant senior probation and parole officers were created, with a corresponding loss of base grade positions. These new positions carry a half case-load to compensate for support and supervisory responsibilities. This, plus a small case-load carried by senior probation and parole officers, is taken account of in the 1979/80 calculations. The total case-loads of senior probation and parole officers is accounted for as one full time supervising probation and parole officer.

3. STAFF COMPOSITION

The following is a breakdown of staff in the Branch:

	Male	Female	Total
Assistant Director	1		1
Principal Probation and Parole Officer	1		1
Senior Probation and Parole Officers	8	2	10
Assistant Senior Probation and Parole Officers	6	4	10
Probation and Parole Officers	27	27	54
			76

Of the total staff, 54 hold tertiary qualifications in Social Work. The remainder have all received in-service training.

SUPPLEMENTARY INFORMATION

A. BRANCH OVERVIEW - Principal Probation and Parole Officer

Rapid growth and decentralisation from 1970 to 1978 has produced an organisation which, while basically very sound, is still seeking clarification of identity and purpose. The recent efforts to produce a set of aims and objectives with more timely application than the wording of a 1913 Act of Parliament instances the perceived need for a more clearly defined role in the criminal justice system. In common with the rest of the Department, the unwillingness of Government (the community?) to clearly state what they expect of us, has led to a form of role-definition which lacks any 'external' confirmation of appropriateness, validity or even legitimacy.

Media bias and sensationalism on all correctional topics has resulted in periodic sags in morale and a feeling of isolation from the community. An important factor in the establishment of the Senior Assistant Probation and Parole Offices Association Inc. was the feeling that factual communication with the media outside Public Service constraints would help to rectify this problem. Success has been mixed.

The emphasis on social work training has resulted in a skilled, professional work force with a particularly valuable informal structure of peer group support. At times, the 'caring' aspect of our task is accorded a higher priority than is appropriate and the 'controlling' activities require re-emphasis with some staff. However, the Branch appears to be making progress towards greater consistency despite the individual traumas experienced occasionally. The ambivalent attitudes expressed by sentencers, media commentators and political representatives, contribute to Branch difficulties in defining in absolute terms the ratio of 'control' and 'support' which we should be providing.

Employee participation in management at least in a consultancy role, is a feature of the Branch. A Joint Consultative Committee with very broad representation has functioned successfully for about six years and was, under a previous Government, used as a model for other Government organisations. While some staff seem content to work under a more traditional system, many seem to welcome the opportunity to participate in the decision-making process and accept the limitations imposed by higher authorities in some matters of policy.

Current publicity centred on the Royal Commission, Consultant's enquiry etc. has mainly been directed at the custodial section of the Department.

Nevertheless, the number and significance of these enquiries is having an unsettling effect and generating an air of expectancy and uncertainty about the Branch's future relationship with the community, the custodial Branch and, of course, our clients.

Introduction of new or amended legislation with provision for a number of additional non-custodial alternatives and other modernisation is anticipated in 1981. It was also anticipated in 1974, 1975, 1976, 1977, 1978, 1979 and 1980. Much of the planning for Community Service Orders, new breach procedures, and other innovations has already taken place but there is an understandable measure of scepticism among staff about *when* these measures will be introduced. The Mitchell Committee Report on Sentencing and Corrections in South Australia has probably formed part of the background to new legislation in every State of Australia. Unfortunately South Australia has been the last to act.

In summary, the South Australian Probation and Parole Branch is seen as being an effective and flexible service providing good professional support to clients, courts, and Parole Board It has potential for improving the service provided and increasing the satisfaction and growth of its officers. A good measure of the possible improvement will come

about through:

1. Clear, unequivocal role definition, supported by Government.

2. A legislative base framed for the 1980s and acknowledging modern correctional practices.

3. A commensurately increased share in resources.

B. STAFF DEVELOPMENT - Resources

A senior probation and parole officer is responsible for staff development and student supervision for the Branch. Reasonable meeting room facilities are available and generally good liaison exists with the custodial training branch, which has facilities for large scale exercises in staff development. Video filming and play-back equipment is currently being provided for use in Branch training.

Courses - Orientation of new staff, intensive counselling courses, middle management training, and provision of special interest seminars for country-based officers, have been the main areas of staff development activities. In the coming year there will be additional exercises connected with new legislation, community service orders, clerical staff and report writing.

Changes - The demand for staff development activity is growing rapidly and the services of a part-time officer to handle student supervision will be sought in the near future.

Outside Courses - From time to time officers participate in courses provided by the Department of Further Education and other organisations on topics ranging from 'basic Greek conversation' to 'management'.

Staff Selection - For several years the Branch has adhered to the policy of recruiting only those persons who have a tertiary qualification in Social Work. The current minimum qualification is an Associate Diploma in Social Work (two years full time) from the South Australian Institute of Technology, and possession of this is an acceptable pre-requisite for promotion within the Branch. Holders of an Associate Diploma enjoy less mobility than those with other awards, but it is seen as being a sound, vocationally oriented course. Other common qualifications in the Branch include:

Diploma of Technology Social Work
(three and a half years full time)

Bachelor of Arts in Social Work
(four years full time)

Bachelor Social Administration
(two years full time, post graduate)

The base grade salary structure imposes varying entry and ceiling points according to qualification held. A significant number of staff are part-time students.

Applicants - Recent experience has shown a good selection of suitable applicants available for both permanent and temporary positions. Present Public Service Board policy prevents public advertising except as a last resort, but the Branch holds up to 15 unsolicited applications at any given time.

Selection Procedure - When vacancies occur, initial screening is carried out by personnel officers and the Principal Probation and Parole Officer. Final selection is made by the appropriate senior probation officers and at least one base grade probation officer from the location where the applicant will be stationed. For promotional positions, the participation of a base grade probation officer in selection is encouraged but is optional at the discretion of each applicant.

Restraints - The Branch is hampered in filling vacancies by current Government policies directed at reducing the size of the Public Service. Inability to overlap new appointees with those resigning or retiring, and general delays in getting each appointment ratified, are problems. On the other hand, both the Branch and the Department have achieved slight staff growth during this period in contrast to other Departments which have been forced to reduce their manpower through attrition.

C. OTHER AREAS - Community Service Orders

Provision is being made for this alternative to imprisonment in the pending new legislation. Unlike some other States, it will be organised and administered by the Probation Branch, and will have facilities for personal counselling and the development of personal and social skills, in addition to the basic obligation of work as reparation.

It will function on a decentralized basis, with a unit at each probation office. A specialist member will organise actual tasks and administration, but reponsibility for the unit is vested in the senior probation officer. A local committee will supervise the operation, and approve requests for work in line with principles laid down by a State Committee.

Selection of participants will be on the basis of information supplied by probation officers, with additional criteria to those usually found in pre-sentence reports. The scheme envisages eight hours work on week-ends, and two hours training during the week, with hours being flexible to accommodate shift workers, religious beliefs etc. Participants would usually be first offenders who have not shown evidence of violent or sexual offending, and who do not represent much public risk.

Project Centre - For about three years the Branch experimented with a project centre for socially inept clients who were incapable of running their lives without constant supervision. In general, these were people of low intelligence, but some had problems caused by personality disorders and the like.

In its final guise, the centre offered a behaviour modification programme based on a token economy, with a clearly defined reward and punishment system and regular charting of the progress of each participant. Clients were required to enter into a contract, time limited, with operationally defined goals, and the option of review. The centre was jointly run by a probation officer and a psychologist, assisted by volunteers.

In retrospect, there was tremendous input for not much gain. Demands on the staff were very high, both personally and professionally. Some clients made quite remarkable progress, which is still evident in some cases. Usually they learned to behave quite responsibly in the protected environment, but were unable to translate it to the more complex world outside.

The recidivism rate was fairly high,though never accurately measured, and it is not possible to say whether the recidivism rate remained static or was reduced by the centre's activities.

Drop-in Centre - An off-shoot of the project centre, this is designed merely to enable clients with limited financial or personal resources to have an enjoyable night at least once a week, and operates in a church hall for three hours on Wednesdays.

It is staffed and now largely run by volunteers, and the clients are probationers referred to the centre by their probation officers. A variety of behaviour is tolerated, provided it does not inconvenience other users.

No real attempt at therapy is made. The centre is an attempt to improve some rather drab lifestyles, rather than a behaviour-changing device.

Group Activities - Several officers run group activity schemes for clients, which are now formally sanctioned by the Department as budget lines. These may vary from 'lifestyle improvers' as in the case of the drop-in centre, to definite projects aimed at improving personal performance, such as demonstrations of cooking cheaply, or supervised socialising.

They are a supplement, not an alternative, to traditional social work. No effective scheme has yet been devised to measure their efficacy in terms of crime reduction. The assumption behind such schemes is usually that personal inadequacy in dealing with the demands of life is partly causative of some types of crime, and that improving practical skills will in some instances be more effective than deep personal introspection.

D. ASSESSMENT

To provide the South Australian Parole Board with detailed information, and to overcome the deficiencies in the classification procedure, it was decided in 1976 that a new approach to the traditional overview of inmates be adopted and to this end a new Assessment Panel was introduced into the penal system.

Its function is to provide, as its name implies, an initial assessment of the inmate's potential and capabilities based upon his antecedents.

Reports are prepared by probation staff which cover a brief history of the inmates social background, previous conduct under supervision (if applicable), and usually some comment on the prognosis of the individual. These reports are often augmented by pre-sentence reports or earlier departmental reports.

One of the more useful functions of the probation staff is to provide copies, where possible, of sentencing remarks and/or copies of legal argument or comment made during the court procedure.

Other reports from departmental officers are prepared by a psychologist, medical officer, industrial supervisor, and custodial officers.

The Assessment Panel is chaired by the Assistant Director, Treatment Services, and he is empowered to recommend initial placement in the prison system wherever thought appropriate to the inmate's needs and the Department's requirements.

The Assessment Panel has not replaced the Classification Committee, as the classification system now provides for an on-going review of the inmate's movements through the system.

Each institution fields a Classification Committee which usually includes probation staff, custodial officers of various ranks, industry officers, a psychologist, and the Superintendent or his nominee.

E. CLIENT ADVOCACY IN A MAXIMUM SECURITY INSTITUTION

If probation staff in South Australian prisons have been seen in the past to act as negotiators between the prison administration and the inmate, then that continuing role is now very much under scrutiny, if not attack, by the custodial officers.

It is difficult to pinpoint the time when the doubts and fears of custodial officers first started to be openly expressed, but there has been a very recent surge of opposition from various ranks of uniformed staff against the traditional attitude of the institution probation officers at Yatala Labour Prison.

Certainly it is true to say that prison officers are in the main unaware of our role within the prison, partly because the institution social work service has grown a little like topsy, and no departmental policy statement has clarified the role to date.

In the light of the prison officer's unawareness, not unkindly called ignorance, by some, it is understandable that they see any social work function(colloquially referred to at Yatala as do-gooding) as a threat to their security, an undermining of their authority and the control they have over their charges.

It is equally understandable that they should feel this way when an inmate 'gets around' the system by seeking help or comment from a probation officer, who may go to the Superintendent, or higher, to have an earlier decision countermanded.

What is not understandable, or more particularly not acceptable, is the reluctance of the custodial officers to accept criticism, however minor. The officers are quick to close ranks in round condemnation of the Probation Branch where it has been seen to err, or more simply, carry out duties seen as perverting the course of action normally pursued by the uniformed officers.

Probation officers at Yatala have been the target of some rather petty complaints by prison officers, whose motivation in making these complaints is still in some doubt, even by the prison administration.

Generally speaking, however, complaints about probation officers seem to have revolved around issues where the probation officer, in carrying out his or her duties with an inmate, has been seen to be forming an unhealthy relationship with the inmate.

As said earlier, ignorance of the duties of probation officers,and of the interviewing and social work techniques employed, must give some cause for the odd raised eyebrow; it must also be acknowledged that a minority of probation officers, particularly field staff, hold their case work professionalism above all else and do not temper that with a little common sense and restraint whilst in a maximum security institution.

The prison officers at Yatala, and from what one reads and understands, the world, are a 'peculiarly parochial group who see their role in simple terms of "us and them".'

With a few notable exceptions, present attitudes seem to dictate that probation officers are included very much in the 'them' category.

In an environment where security of the institution is held to be of paramount importance, and all other matters must take their place, it is a source of frustration to a probation officer to be rendered, at times, as powerless as an inmate.

As long as the Government of the day pursues a one-eyed policy of containment and ignores the many issues and problems which arise as a direct result of that containment, then the lot of the institution social worker does not look like being a happy one.

F. A PERSONAL VIEW

The traditional role of the agency and of probation officers is clearly defined in the paper 'Probation and Parole in South Australia' by R.M. Durant - Assistant Director of Probation and Parole.

As a base grade probation officer working in a suburban district office, one is necessarily aware of the traditional and official role, but one's own perception is determined by many factors. Those factors include the area in which one works and one's clients; the interaction and support one is able to achieve with other agencies and bodies (for example Department of Social Security, Department of Community Welfare, Legal Services Commission, other social and community agencies, the Police, Courts, and so forth); and, of no mean importance, one's office colleagues and colleagues based at other district offices.

I work and live in Elizabeth, a city which celebrates its twenty-fifth birthday this month - a satellite city 17 miles north of Adelaide. It is popularly believed to be inhabited mainly by English migrants. Statistics show, however that there are as great a number of Australians and various other ethnic groups living here now which somewhat destroys that myth!

Housing, generally, is provided by the South Australian Housing Trust on both a rental and purchase basis. Both, in comparison with other suburban areas, offer reasonably cheap accommodation. Although many members of the community enjoy a reasonably moderate standard of living, unemployment is fairly high, and there are a large number of single parent and socially disadvantaged families. For many, social and economic problems abound - not necessarily peculiar to the area, but perhaps more apparent than elsewhere.

I think it is a fair assessment to say that the majority of our clients face employment problems, live in a state of existence which is generally described as 'low socio-economic', and experience problems which are not only manifested by the fact that they have committed an offence, but experience a multitude of problems in merely living. Many lack what can only be described as basic survival skills a reasonable education and an awareness of how to attain a dignified and fulfilling standard of living.

Perhaps each and every probation officer in this country could say that this description could easily fit the majority of offenders. If so, then what I am saying is fairly typical but I make no apologies for reiterating the point! Because of the social and economic problems experienced by the majority of our clients, the availability of resources, and the interaction which we achieve with the agencies supplying those resources are terribly important.

Elizabeth is fairly well endowed with social and community services and resources. Our departmental office and those of Social Security, Community Welfare, Labour and Industry, and Commonwealth Employment Service, are housed in the same building. The fact that often we are not dealing with faceless names in large bureaucratic organisations but with people, who, over the years we have been able to get to know, makes the interaction with and the support we gain from those agencies far more easily achieved. Other 'resource' agencies and organisations are situated within a very small area, and again personal contact with those agencies had led to a greater co-operation between us, to, hopefully, the advantage of our clients.

Such agencies include the various missions which offer clothing and bed linen, food parcels and food vouchers, a branch of the Alcohol and Drug Addicts Treatment Board - which will carry out initial assessments on referral and on personal application, A.A. branches, a Women's Shelter and so forth. We do lack accommodation facilities in this area for those whose need is apparent - particularly for single people. A listing of 'landladies' would be most helpful.

The local Police and Court personnel also invite enquiries and are helpful and co-operative.

If this overview sounds too rosy, then the only factor which may dull the picture is that the available material resources are somewhat limited, and the strain upon them enormous - which, in part, reflects the current economic situation.

The personnel with whom I work have always, without exception, been supportive to me in my day-to-day work. This, I am sure, accounts to a large degree for the fact that in the two years I have worked in this office I have not experienced that feeling of despair which I am sure exists! This has been so, despite the fact that at one time many of us carried case-loads in excess of 70 and were writing an extraordinary number of pre-sentence reports as though they were a daily penance.

I believe this professional interaction and support within the agency, to be of paramount importance. Without it, the stress factor, always present, would be magnified beyond endurance.

I see probation today as not only being 'an attempt to rehabilitate and reintegrate offenders' but as a service which, because of the needs of our clients, has to offer a fairly generic social work service. Most social work services not specifically provided by this agency are

offered elsewhere and referral is the most practical solution. However, on a personal basis, there is one area in which I would wish to be more involved. That is in what I can only term the'pre-court stress phase'. This is the time between an offender being apprehended and charged with an offence and the time that offender comes before a court. For many this is the most stressful and difficult part of the 'process' and short term crisis intervention work could alleviate a great deal of the stress and confusion experienced - particularly by the 'first offender'.

I have not discussed that aspect of our work which is obvious - social control. I see this as a responsibility which we do not underestimate, however difficult. But, I believe,as do so many, that if the social problems were to some extent alleviated, then the social control aspect of our own role would be greatly minimised - perhaps too much to hope for in today's social and economic climate.

In conclusion, I see my role as that of a generic social worker encompassing the statutory role which, in the first instance, makes the majority of our clients 'unwilling clients'. The extra-curricula involvement (for example the 'Camping Committee' - a precis of which follows)enhances that role. I suspect this is a perception which differs very little with that held by any other probation officer.

G. CAMPING AND OUTDOOR ACTIVITIES GROUP

The Camping and Activities Group is made up of members of the probation staff and the treatment staff. The Group has been operating for the past two years, and in that time it has arranged several activities such as weekend camps, day hikes and walks. The format is informal and evolutionary, and thus from each activity further ideas are developed and new programmes planned.

To date, weekend camps have been held at Fainfield in the Hills near Chain of Ponds. Each camp has had about 20-30 people attending, most staying overnight, but some going up for the day on Saturday. Fainfield is a Venture Camp and has activities such as archery, horse riding, canoeing and walking available to participants.

The people attending the camp pay about $12 per head for the weekend, and this tariff includes food and the use of facilities. In cases of financial hardship the tariff is negotiable.

The camping programme attracts a good cross-section of people - isolated single people, single parents and their children, and parents who have limited access to their children. A camp is an opportunity for them to get away together. Staff members are also encouraged to bring their families, as this helps to 'humanise' the probation staff in the eyes of our clients.

In addition to the weekend camps, there is a monthly walk. So far, walks have been held in Belair National Park, at Morialta, Mt Lofty, along the banks of the Torrens, and in Para Wirra Park. Each walk

lasts about four to five hours and is free. Again families and friends are encouraged to come along.

The intention in creating a programme of camps and day walks has been more recreational than therapeutic. Having said that, it is believed that a great deal of therapeutic good can come out of a change of the venue for contact between staff and clients. The aim is to teach our clients that they can have a good time without spending too much money, they can master new skills, and, as many of our clients have achieved little, the value of increased self-confidence, cannot be over estimated. It is hoped that they may return to the walks of their own volition in the future, and they may use their new skills and self-confidence to improve upon their lives.

However, the learning is a two-way process, and it has been found that the opportunity to relax and spend recreational time with clients and their families has been invaluable in helping to remove some of the barriers to forming relationships based on trust and understanding. Being with people in a more natural setting means a greater chance to get to know them, and understand how they cope with different situations. If we know their strengths and weaknesses, we can help them learn new ways of handling problems.

Departmental support for the camps has taken the form of the use of vehicles and catering assistance from Adelaide Gaol, and an allocation of funds for the purpose in 1980-81. A recent walk saw something of a further breakthrough when a sentenced prisoner from Adelaide Gaol was permitted to accompany the group. Hopefully, others may be allowed to do so in the future. The involvement and participation of custodial staff is also welcomed in any or all of these activities.

PROBATION IN THE NORTHERN TERRITORY

D.K. Owston

With regard to the Northern Territory's current position and new directions it should be stated that the whole question of objectives is being seriously reviewed at this point in time by the Deputy Director, Field Services. Therefore, no policy statement can be made by the Northern Territory Service until all the issues are considered and resolved. Ministerial approval will be sought prior to any formal statement being made.

HISTORY OF THE NORTHERN TERRITORY SERVICE

The Parole Board of the Northern Territory was formed in 1976. Prior to its formation, the Federal Attorney-General considered the cases of prisoners due for parole release and, if appropriate, the prisoners were released on Licenses to Be at Large.

In late 1977 the establishment of the Probation and Parole Service was approved. There followed the appointment of a Director of Correctional Services and the whole area of corrections in the Northern Territory became a Division in its own right under the umbrella of the Department of Community Development. Prior to a Probation and Parole Service being established the then Social Development Branch, which is now Community Welfare Division, supervised adult offenders who were placed on probation by the courts or released to parole from prison.

The Correctional Services Division and its position within the framework of the Department of Community Development is shown on the appended diagram.

The Darwin probation office deals with the geographical area north of Elliot. The Southern office, located at Alice Springs, deals with all work south of Elliot to the South Australian, West Australian and Queensland borders. The Nhulunbuy Regional Office services the North-East Arnhem Land region.

In the near future a regional office will be opened in the Katherine area, and another at Tennant Creek is being considered for the year 1982. Additionally, the Darwin office will be divided with the opening of the Northern Suburbs office in mid 1981. The whole area of staffing is being reviewed in the light of recent increases in workloads which are unlikely to plateau within the forseeable future.

SERVICE DELIVERY

The Northern Territory Field Services Branch provides a service delivery in the following areas:

- A probation service for the whole of the Northern Territory, including all Aboriginal rural communities.
- A parole service operated and oversighted by the Parole Board of the Northern Territory.
- Pre-sentence reports provided upon request for all Courts of Summary Jurisdiction in the Northern Territory. Such courts go on circuit regularly to isolated Aboriginal communities. The pre-sentence report service is also available to, and used by, the Supreme Court of the Northern Territory when it sits at Darwin and Alice Springs.
- A community service order programme, available to sentencing authorities since 1979 and a Community Service Order Advisory Committee has been established, which approves suitable projects for the scheme.
- A prison welfare service. The Field Services Branch operates a welfare service within the three Northern Territory institutions on a regular basis.

SERVICE TO ABORIGINAL COMMUNITIES/ABORIGINAL OFFENDERS

Aboriginal offenders make up a significant proportion of the client groups supervised by the Field Services Branch. The Correctional Services Division has recognised the problems for some time and has attempted to respond in a variety of ways.

In the past, attempts were made to identify groups within the Aboriginal population and to tailor a service delivery to meet their needs; for example the Aboriginal population was perceived as either 'traditional', fringe dwelling, or urban. The Division now places much less emphasis on this model for planning of service delivery, because it over-emphasises the difference between Aboriginal groups and under-emphasises the factors these populations have in common. The approach being adopted in the Northern Territory is one of emphasis on recognising, supporting and utilising those elements of Aboriginal culture which promote cohesiveness and a sense of Aboriginal identity. The Field

Services Branch has responded to the task of supervising Aboriginal offenders in the community by means of the following:

- Regular contact is maintained with all Aboriginal communities where there are offenders requiring supervision, no matter how small or remote. Within the larger regional and urban communities in the Northern Territory this has meant the maintenance of close liaison with Aboriginal groups involved peripherally with the justice system or Aboriginal groups involved in the delivery of welfare services. Within remote communities the focus of contact has been the Aboriginal Community Council.

- The delivery of supervision services outlined in the above paragraph has meant a shift away from traditional casework to a community development oriented approach. Although the supervision of the offender remains the primary focus of discussion with these communities or groups, the field officer is often vitally involved in transferring informally some of the responsibilities for supervision to the group with whom he is in contact. This approach promotes the use of cohesive elements that exist in the Aboriginal population. For example, the kinship system can frequently be reinforced by personally involving an appropriate relative of the offender in the supervision process, thereby often securing more effective supervision.

- For some time now attempts have been made to recruit Aboriginal Field Officers using selection criteria deliberately tailored to encourage Aboriginals to apply. The endeavour has met with limited success. It would appear that more aggressive and less traditional recruitment procedures are needed if Aboriginal applicants are going to be attracted to the positions.

- During consultations with representatives of the Northern Territory Government, representatives of Aboriginal Communities expressed themselves as vitally concerned about the impact on them of the white criminal justice system. They have requested increased involvement in the delivery of justice in their own Communities.

- The Government has responded with two pilot projects which involve Aboriginals more closely in the judicial process. The aim of these projects is to maximise Aboriginal determination of the appropriate disposition for offences,especially those offences of a tribal nature, or offences where Aboriginals have offended against another Aboriginal or a Community. The two 'unusual' dispositions most commonly evoked are -

  banishment to homeland communities (outstations)

  or

  community service.

- In these situations,individuals or specific groups of individuals in the community accept responsibility for ensuring that the decision of the court is implemented. Banishment often includes an educative element similar to the concept of 'going straight within the law'. A field officer from this Division accepts responsibility for liaison with the group responsible for ensuring the court's sentence is carried out. He is obliged to report to the court on the outcome.

- Two pilot community service order programmes have been run in Aboriginal communities in Central Australia with mixed success.

BASIC STATISTICS

Probation - Probationers at 1st July 1980

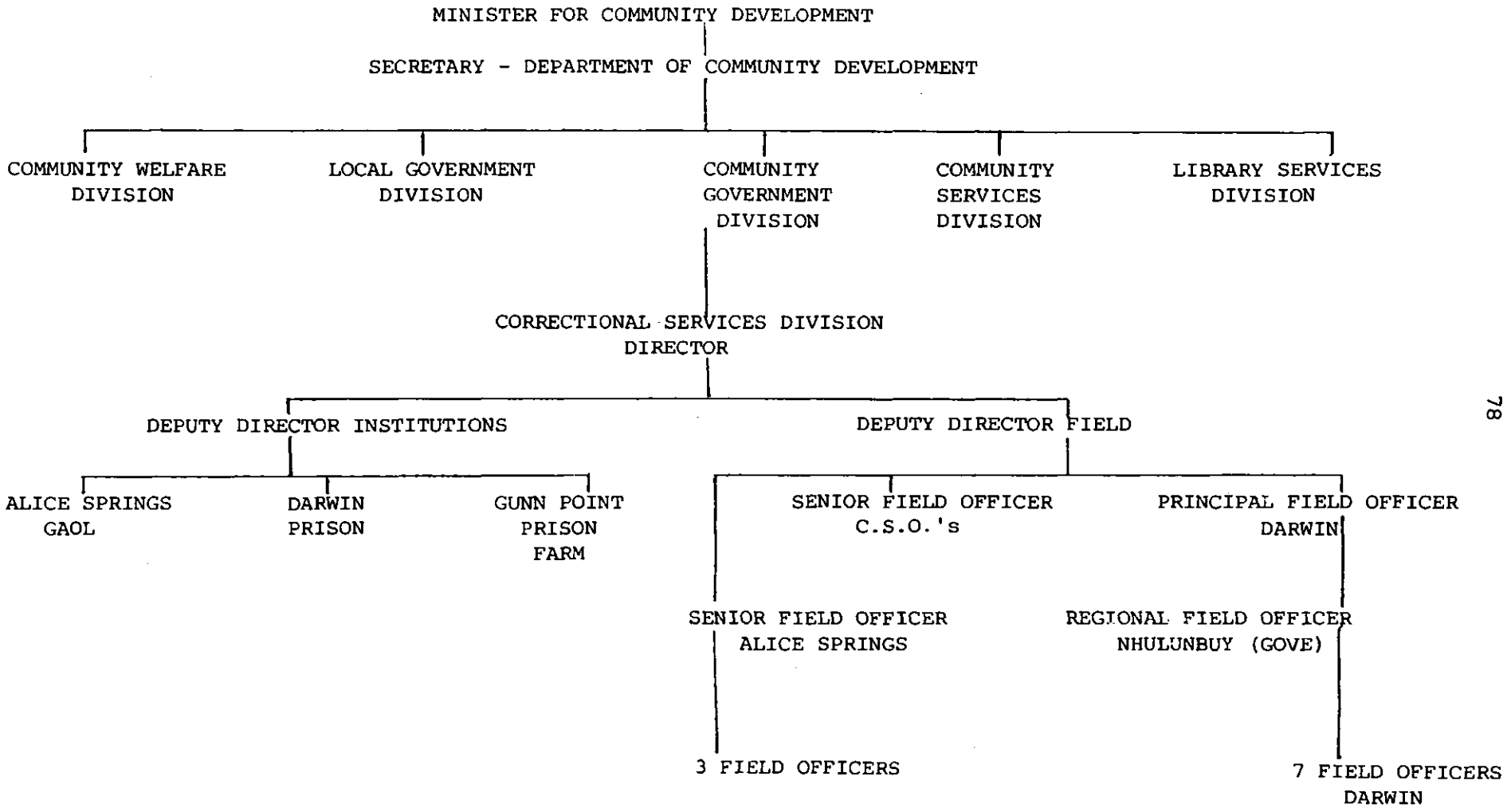
Darwin	154
Alice Springs	52
Nhulunbuy	23
	229

Rate per 100,000 (general population) - 189.3
Australian rate - 126.3

Parole - Parolees (1st July 1980)

Darwin	51
Alice Springs	22
Nhulunbuy	8
	81

Rate per 100,000 (general population) - 66.9
Australian rate - 30.3


MINISTER FOR COMMUNITY DEVELOPMENT
SECRETARY - DEPARTMENT OF COMMUNITY DEVELOPMENT
COMMUNITY WELFARE DIVISION
LOCAL GOVERNMENT DIVISION
COMMUNITY GOVERNMENT DIVISION
COMMUNITY SERVICES DIVISION
LIBRARY SERVICES DIVISION
CORRECTIONAL SERVICES DIVISION DIRECTOR
DEPUTY DIRECTOR INSTITUTIONS
DEPUTY DIRECTOR FIELD
ALICE SPRINGS GAOL
DARWIN PRISON
GUNN POINT PRISON FARM
SENIOR FIELD OFFICER C.S.O.'s
PRINCIPAL FIELD OFFICER DARWIN
SENIOR FIELD OFFICER ALICE SPRINGS
REGIONAL FIELD OFFICER NHULUNBUY (GOVE)
3 FIELD OFFICERS
7 FIELD OFFICERS DARWIN

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