

Problem-Solving Probation

A Look at Four Community-Based Experiments

Written by

Robin Campbell

Robert Victor Wolf

2001

This publication was supported by the Bureau of Justice Assistance under Grant Number 96-DD-BX-0090. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, and the Office of Victims of Crime. Points of view or opinions in this document are those of the authors and do not necessarily represent the official position or policies of the United States Department of Justice.

About the Authors

Robin Campbell is a New York-based freelance writer, and the author of *There Are No Victimless Crimes* (Center for Court Innovation, 2000). Robert Victor Wolf is director of communications at the Center for Court Innovation.

A Look at Four Community-Based Experiments

Introduction

Probation was introduced to the United States in 1841, when a wealthy shoemaker named John Augustus asked a Boston judge to release a man charged with public drunkenness into his custody. Augustus brought the man home, had him sign a temperance pledge and three weeks later returned the man to court sober.

It would be hard to recognize probation today based on this simple, homespun beginning. At the end of 1999, there were more than 3.7 million people on probation in the United States, making it by far the most common sanction for criminal offenders. And while Augustus, known as “the father of American probation,” worked only with drunks and minor offenders, 51 percent of probationers today have been convicted of felonies, according to the Bureau of Justice Statistics.

Modern probation departments are also having trouble replicating Augustus’ early success with rehabilitation: Today, nearly one of every five adults charged with a violent felony is on probation at the time of the offense, according to a panel of probation experts convened by University of Pennsylvania professor John J. Dilulio Jr. and the Manhattan Institute. This has led to widespread dissatisfaction with probation, and even admissions from probation leaders themselves that such dissatisfaction “has often been fully justified.” (See *Transforming Probation Through Leadership: The ‘Broken Windows’ Model*, Manhattan Institute, 2000).

Faced with huge caseloads, high recidivism rates, and public disaffection, probation and correction departments around the country are trying to re-connect with the spirit of innovation that inspired John Augustus 160 years ago. In some places, virtually everything is up for re-examination, from job descriptions and department structure to the very principles underlying their work.

This exploration mirrors efforts taking place across the criminal justice system as police, prosecutors, defense attorneys and courts try to address a number of interrelated problems, including:

- Declining public confidence in the effectiveness of the criminal justice system;
- Concerns about “revolving-door justice” — offenders being processed through the system again and again;
- The growing volume of cases in the system, which makes it difficult to give individualized attention to particular victims or offenders; and
- The sense that players in the criminal justice system have become nothing

more than processors, handling cases without regard to larger results like improving public safety, reducing recidivism or rehabilitating offenders.

One way the criminal justice system has begun to respond to these problems is by shrinking its operations to a more human scale. Large, centralized court systems are creating small, neighborhood-based community courts that focus on lower-level crimes, like prostitution and public drinking, which undermine a community's quality of life. Prosecutors are taking some of their deputies out of the courtroom and placing them in neighborhood offices, where they partner with community members to develop innovative solutions to safety problems. Police are working more closely with average citizens and developing new programs that go beyond solving crimes to preventing crime before it happens. And probation departments are doing all of the above – opening neighborhood offices, partnering with the community and focusing on prevention.

“Community justice” has become the shorthand term used to describe these problem-solving efforts. Community justice tries to make the justice system more effective by re-establishing links between criminal justice players and the communities they serve. Guided by this philosophy, criminal justice agencies are asking some basic questions: What makes community residents feel unsafe? What resources can the community bring to bear on its own problems? How can criminal justice agencies — working with citizens, other government agencies and community organizations — address these problems in a way that produces lasting improvements? Community justice ultimately seeks to transform the very way people think about crime — not as cases to be processed but as problems to be solved.

This white paper offers a window into how probation departments are using community justice to improve the way they do business. The paper describes in detail four distinct efforts to reform probation, and examines the lessons learned from these early experiments. Since community justice calls upon criminal justice agencies to adapt to local conditions, it's no surprise that the four programs profiled are as varied as the jurisdictions they cover: a statewide program in Vermont gives hundreds of community volunteers the authority to determine and supervise the conditions of probation; a partnership between probation and police officers in Boston focuses on gang violence in a crime-ridden urban neighborhood; a top-to-bottom restructuring of the probation department in Deschutes County, Oregon, emphasizes crime prevention; and an experiment in “beat supervision” in Maricopa County, Arizona, places probation officers in direct and regular contact with the community.

While very different, the four programs are united in a shared commitment to making probation more effective. By building connections with local communities, focusing attention on broader goals like crime prevention and offender rehabilitation, and striving for ways to give probation staff more resources and lower case-loads, these programs seek to build renewed confidence in probation — both among the departments' own workers and the public at large.

Probation's Original Promise

In many respects, the current experimentation in the field of probation is an attempt to fulfill probation's original promise as a tool for rehabilitating offenders. When probation was first conceived by Augustus in the 19th century, probation officers were expected to take an active interest in the details of offenders' lives to help them reform their ways and ensure their successful re-integration into society.

Unfortunately, many probation departments adhere to this vision on paper — in their charters and mission statements, for instance — but have given up on actually pursuing these ideals in practice. Huge caseloads, inadequate funding and lack of accountability have turned probation officers, especially in large urban jurisdictions, into little more than desk-bound bureaucrats. The average New York City probation officer has 240 cases, according to Michael Jacobson, former commissioner of probation for New York City and professor of criminology at John Jay College in New York. And in some urban jurisdictions, like Los Angeles County, caseloads can rise as high as 1,000 per officer.

Clearly, probation officers with caseloads that high don't have time to get to know individual probationers or the communities in which they live. When confronted with so many cases, probation officers try to prioritize offenders, giving what time they have to the most serious and potentially dangerous clients on their list while devoting few resources to the rest. This means that, at best, a handful of probationers may get the necessary referrals and support to guide them on the path of reform while the vast majority live in the community with virtually no supervision.

By and large, high caseloads have not translated into large budgets for probation departments. With incarceration drawing the lion's share of correctional dollars — \$20,000 to \$50,000 annually per prisoner compared to only about \$200 per probationer — probation departments are forced to be creative. In New York City, where about 90,000 people are on probation, low-risk offenders are expected to report periodically to computerized kiosks. "With so little money being spent on probation, you have to make some choices," Jacobson said. "We decided to focus on the highest risk people and give them intensive supervision. But that means tens of thousands of people whom we deemed lower risk report to a machine. No one would call it an ideal situation."

And even when they do make referrals to supportive services like drug treatment and job training, most probation officers lack the time, training and resources to monitor outcomes. Are probationers staying in drug treatment and getting sober? Are they completing job-training programs and finding employment? Even more important: Are probationers complying with court mandates, including curfews and the all-important requirement that they avoid further trouble with the law? These questions relate directly to the public's concerns about safety and offender supervision and rehabilitation — but few busy probation departments have the time or resources to answer them.

Protecting the Public

"It's been amazing to me that when you ask your probation and parole staff to give you examples of what they do that protects the public, they're baffled," said a partici-

part in a U.S. Department of Justice roundtable of probation leaders (see *Rethinking Probation: Community Supervision, Community Safety*, Office of Justice Programs, U.S. Department of Justice, December 1998). And yet protecting the public is exactly what probation departments need to do if they are to earn the public's support. It is precisely the potential dangers — periodically brought to the fore by news coverage of probationers who re-offend — that lead politicians and community leaders to criticize probation as “soft on crime” and call for its abolition. “There isn’t another arm of government in which policy is based so much on individual incidents,” Jacobson said. “When someone on probation does a horrible thing, it doesn’t matter that for the last 9,999 cases nothing horrible happened.”

The image of probation as a failure is reinforced by the numbers. Roughly half of all probationers fail to fulfill the terms of their probation sentence, and in any given year hundreds of thousands of probationers fail to report in. Even more disturbing: About two-thirds of all probationers are re-arrested for committing a different crime within three years of their sentence. In 1991, the nearly 162,000 probationers who went to jail for new offenses were responsible for at least 6,400 murders, 7,400 rapes, 10,400 assaults and 17,000 robberies, according to the Manhattan Institute.

Despite these alarming statistics, the nation remains heavily reliant on probation as an alternative to incarceration: at the end of 1999, there were 3.7 million adults on probation, which was more than twice the 1.8 million in prison. And growth in the probation population — about 3.8 percent a year since 1990, according to the Bureau of Justice Statistics — is expected to continue.

Changing the Job Description

While the four experiments described in the following pages are inspired by probation's historical ideal, they also represent new strains of thinking. One key ingredient all the programs emphasize is a role for the community. Inspired both by Augustus' early hands-on experiments and by the principles of community justice, which call for creating partnerships between criminal justice agencies and ordinary citizens, these programs have sought to incorporate neighborhood residents and their concerns into their work. They do this in a number of ways:

- By placing probation officers in neighborhood offices, where they meet regularly with members of civic and merchant organizations to discuss their concerns about crime and their ideas for reintegrating offenders into the neighborhood;
- By partnering with local organizations and other government agencies to develop better referral networks and support systems for probationers in the community;
- By relying more extensively on community residents, including the relatives, neighbors and employers of probationers, to monitor and control the behavior of their clients; and
- By giving community residents a role in actually supervising or working with probationers.

These experiments are finding that increased contact between probation departments and communities benefits everyone involved. Since probation officers — even those assigned to a community-based office — can't monitor their clients every minute of the day, neighbors, employers, relatives and anyone who comes in contact with probationers can serve as an extra set of eyes and ears. And community members are far more likely to report a problem or a violation if the probation officer is a friendly and trusted player in the community than an unknown stranger behind a desk in a central office far away.

Probation officers are also in a much better position to make appropriate referrals and help re-integrate their clients into a community if they're familiar with the neighborhood's resources. It isn't always enough to know the name of a local job-training program; a personal relationship with the director of the program, as well as with potential local employers, can make the difference between a referral that fails (because the program is full, or isn't geared to a probationer's particular needs, or because employers aren't willing to hire ex-offenders) and a referral that ultimately results in a probationer who is productively employed.

In addition, probation officers need to know a community and its citizens well, or they simply won't be able to address local safety problems. Probation officers who engage the community can find out where communities feel unsafe, and what local problems are the community's top priority. If crowds hanging out at a local corner instill fear in residents, probation officers can require their probationers to stay away from the area and not contribute to the problem. And if garbage in empty lots is a chief concern, probation officers can place probationers on clean-up crews. The community benefits from this relationship in a number of ways. First and foremost, the community's concerns become incorporated into the development of probation strategies; this can give residents greater confidence in the criminal justice system and add to their sense of safety. Also, giving the community an active role in the re-integration of offenders gives citizens a personal stake in ensuring that, on the one hand, probationers follow the rules laid down by the court, and, on the other hand, probationers are given a meaningful second chance to lead productive lives as law-abiding citizens. In this way, public safety and offender rehabilitation go hand in hand.

**Maricopa County:
Beat Supervision**

Maricopa County, Arizona, brought these principles into play in 1996 when the county's Adult Probation Department established an experimental satellite office in a neighborhood known as Coronado. The county is part of metropolitan Phoenix and covers more than 9,000 square miles, making it larger in area than many states. But Coronado is only two square miles — a manageable size for an experiment in what is sometimes called "beat supervision."

Beat supervision borrows from the model of a cop on the beat, who is assigned to a particular neighborhood and over time gets to know the community, its inhabitants and its problems. Similarly, a "beat" probation officer works in a community office and is assigned probationers from the surrounding neighborhood rather than to a randomly selected roster of probationers from across the whole county. By introduc-

ing the beat model, probation officials in Maricopa hoped to tighten supervision of probationers and more effectively reintegrate them into the community.

The experiment was motivated by several factors. In the first place, a member of the probation staff had recently returned from a vacation in Madison, Wisconsin, with tales of that city's success with beat supervision. Secondly, the Phoenix Police Department had recently launched a community policing effort in Coronado, making it a natural location for an experiment in community-based probation.

"The police officers were already well known to the community and respected and associated with community safety, so by riding on their coattails, that eased affairs. It helped create the perception on the part of the public that we are part of law enforcement also," said Leslie Ebratt, Maricopa County's Adult Probation Officer Supervisor.

Furthermore, an active community organization in Coronado, the Greater Coronado Neighborhood Association, had recently received a grant from the Department of Justice for an anti-gang initiative and was looking for partners. This last point was especially fortuitous, although the group had to be persuaded that partnering with probation officers was a good idea.

"The neighborhood was terrified," said Kate Wells, a Coronado resident who was active in the neighborhood association at the time. The organization was afraid that opening a probation office in Coronado would harm the neighborhood by drawing criminals from other parts of the county. This fear needed to be confronted even though Coronado, with approximately 250 probationers among 10,000 local residents, had a higher than average probationer population. "It took three or four months to realize that [the probationers] were our neighbors," Wells recalled.

An Asset to the Community

Not long after probation officers moved into space provided by the neighborhood association in September 1996, the Coronado probation officers had an opportunity to demonstrate how they could in fact be an asset to the community. When the roof of the building was severely damaged in a storm, the probation officers in Coronado organized approximately 40 probationers to replace it. Guided by the probation officers, the probationers also repainted the building's exterior and landscaped the grounds, leaving the place far more attractive than when they moved in. "They set off on the right foot right from the start," said Wells. "They did a tremendous amount of work."

"Part of what we're trying to do in the neighborhood is enhance the community in general," Ebratt said. "We believe that by doing so, we reduce crime. Not just crime committed potentially by our offender population; we make it less of an environment to support crime in general." In this way, beat supervision in Maricopa tries to do more than just monitor probationers more closely; it also tries to advance public safety in any way it can.

Now, four years after the storefront probation office opened, members of the Coronado community know they can come there for help. For example, a block watch captain asked the probation officers for help with a campaign to get speed

bumps at a dangerous intersection. “We got together as many probationers as we could to go door to door to get petitions signed,” Ebratt said.

Community service has changed the way area residents perceive offenders; and it has also given offenders a sense of pride to see the positive impact they can have on their own neighborhood, Ebratt said.

Of course, Coronado’s community-based probation officers also learn more about their probationers through closer observation and contact with their families and neighbors. Ebratt recalled a case in which a probation officer got to know the wife of a probationer after several visits to their home. This familiarity gave the wife courage enough to page the officer one day when her husband became verbally abusive to her. Although the probation officer was ill at the time, he contacted a local community-based police officer with whom he had developed a working relationship. When the police subsequently visited the probationer’s home, they discovered that the man had a gun, a violation of his probation. After consulting with the probation officer, it was decided that the man posed a threat to his wife’s safety and he was arrested. “By being in the neighborhood and knowing more intimately what’s going on with the individual we can intervene when problems arise before those problems develop into new crimes,” Ebratt said.

Boston: Operation Night Light

In May 1992, during the funeral of a reputed gang member at the Morningstar Baptist Church in the Mattapan section of Boston, gunfire broke out and someone was stabbed when members of a rival gang infiltrated the ceremony. The incident, captured on videotape by a local television station, horrified the city, which since the late 1980s had been gripped by an epidemic of gang violence that would peak the following year, with 98 adult and 16 juvenile homicides, according to statistics supplied by the Massachusetts Probation Service. “Things were out of control on the street,” recalled Bernard Fitzgerald, chief probation officer for Boston’s Dorchester region. “We weren’t enforcing the conditions of probation and we couldn’t effectively do it without the cooperation of the police, given the rate of violence.”

A few weeks after the Morningstar melee, an Anti-Gang Unit detective named Bob Merner and two probation officers, Bill Stewart and Rick Skinner, talked informally about ways to stop the violence. Research suggested that probationers were responsible for as much as 20 percent of serious crime. Stewart and Skinner thought they could make a dent in this by, among other things, making sure probationers were complying with curfews that were a condition of their sentences. They wanted to “put a little more of a net over [probationers] than we would normally have,” explained Ronald Corbett, former deputy commissioner of the Massachusetts Probation Department.

Probation officers already had the authority to arrest offenders who violated conditions of their probation, but they didn’t feel comfortable making arrests because, for one thing, they didn’t carry weapons. In a marriage of convenience, they turned to the Police Department for help. And out of that partnership, a new approach to community supervision of probationers was born.

Working with Police

On November 12, 1992, at 8:45 p.m., Stewart, Skinner and two other probation officers joined Detective Merner and two more policemen for their first night ride, with Stewart and Skinner following the crowded police cruiser in Stewart's 1985 Chrysler LeBaron station wagon.

Within five minutes, Stewart recalled, a report of a shooting came across the radio and the police cruiser sped away. By the time the station wagon arrived at the site, the yellow police tape had already been hung, so Stewart and Skinner stayed back. Then Skinner was called inside; the shooting victim, a young man lying on the pavement with a bullet in his chest, was one of his probationers.

Stewart, meanwhile, still watching from outside the tape, spied one of his own probationers among a group of kids standing nearby. By now it was approximately 9:30 p.m., so he walked up to the boy and, surprising him, asked why he wasn't at home, complying with his curfew.

"That's not fair," he said the boy replied. "Probation don't ride in no police car."

Stewart suddenly understood that the boy counted on police and probation not to work together so he could take advantage of the system. "On that statement," he said, "Night Light was born."

Operation Night Light, as it came to be called, was a formal partnership between the Boston Police Department and the Office of the Commissioner of Probation for Massachusetts.

The most obvious advantage of this partnership was that it gave probation officers access to more information about their probationers' lifestyles — information that could help them catch violations, pick up early signals that a probationer may be going astray and make more appropriate and timely referrals to supportive services. Police officers benefited, too. By becoming more familiar with probationers' comings and goings, their favorite hangouts and their associates, police officers have more and better information to work with when developing crime-fighting strategies.

Offering Youth an Alternative

The creators of Operation Night Light understood, however, that getting tougher on crime wasn't by itself enough. "If you're going to do suppression of youth violence, you have to have something to offer as an alternative," explained Fitzgerald. To provide such alternatives, Operation Night Light turned to the community for help.

Historically, Boston's poor and minority communities, where much of the city's violence was concentrated, have been wary of law enforcement personnel. Yet the events at Morningstar had shocked community leaders as much as anyone else, and this gave police and probation officials a rare opportunity to seek common ground with them. The Ten Point Coalition was a consortium of African-American churches — including Morningstar — that had mobilized in response to the gang epidemic. After the incident at Morningstar, the coalition and law enforcement decided to work together.

Mark Scott, director of the Ella J. Baker House, a social service organization affiliated with the Ten Point Coalition, has been a long-time advocate for youth involved in the courts. Scott still serves as a youth advocate, but the Ella J. Baker House now

conducts fatherhood and cultural literacy programs for juvenile probationers in connection with Operation Night Light.

“Initially, our relations with the probation officers were antagonistic,” Scott said of the days before Operation Night Light. “We viewed them as cops. They viewed us as advocates for bad kids. But over time, we began to understand them as allies.” He and his former antagonists now work together to maximize each child’s access to guidance and support. “We try to team up with probation officers to put two adults in [the probationer’s] life,” he explained.

**Vermont:
Starting with the
Public**

Between 1984 and 1994, the population of Vermont’s state prisons increased by 133 percent. Yet during that same decade prison bed space in the state grew by only 79 percent. Faced with the expensive prospect of building more prisons, Vermont’s Department of Corrections began looking for alternative ways to deal with crime.

In what was an unusual decision at the time, the department turned to the public for guidance. In January 1993, it hired John Doble Research Associates Inc., a New York-based research firm, to conduct three, two-hour-long focus groups in the cities of Brattleboro, St. Johnsbury and Burlington. In May 1994, it followed up with a statewide telephone survey. The results of this research were startling. Only 37 percent of respondents approved of the state’s existing corrections procedure. “We were rated lower than Jimmy Carter was rated at the height of the Iran hostage crisis,” recalled John Perry, director of planning at the Vermont Department of Corrections. An astonishing 75 percent thought the entire system needed reforming.

According to Perry, people were emphatic about what they wanted in an ideal system: They wanted to be safe from violent predators, they wanted accountability from non-violent offenders, and they favored options that allowed average citizens to participate in the judicial process themselves. When presented with specific proposals, the public was similarly unambiguous. “When we gave them the concept of the reparative board,” said Perry, “92 percent thought it was a hell of a good idea.”

Reparative boards became more than just a popular idea in 1994, when the state overhauled its entire sentencing structure. Under this new state policy, low-risk non-violent offenders, such as shoplifters, vandals, and check forgers, are given the option of meeting with a reparative board, a group of community volunteers who develop and monitor 90-day probation sentences that require offenders to make up for the harm caused by their actions.

The Reparative Probation Program is an alternative to regular probation, which in Vermont “can be pretty onerous,” sometimes, albeit rarely, lasting a lifetime, Perry said. Those who participate avoid regular probation if they successfully complete what the board asks them to do within 90 days.

**Repairing the
Damage**

Reparative boards usually have three to six members at any given session, and usually meet on a weekly or biweekly basis. Sessions, which can last anywhere from 30 minutes to two hours for the most complicated cases, are open to the public, and friends or relatives of the victim and the offender are encouraged to attend. If the

victim is present, he or she has an opportunity to talk about the impact the crime has had on his or her life. The offender then tells his or her side of the story. Board members ask questions, talk about how the offense has hurt the community at large and negotiate a contract that describes steps the offender must take to repair the harm caused by the offense.

“The theory is offenders have offended us and they owe us a debt. And the way they repay the debt is not by costing us tax dollars, but repaying the debt, by fixing what was broken, restoring what was damaged,” Perry said.

Barbara Leslie, coordinator of three reparative boards in Burlington, Vermont, offered the example of a 24-year-old woman who appeared before a panel for stealing three checks worth about \$800.

“When she came to us, we found out she was in an abusive relationship, in the middle of getting a divorce, and she had issues with substance abuse she was denying,” Leslie said.

The board had her write a letter of apology to the victim and, because she was unemployed and didn’t have money, ordered her to perform extra hours of community service in lieu of paying back the \$800 — but only after the victim okayed the terms.

“We try to put the victims at the center of everything and ask the offenders to spend a fair amount of time thinking about the victims,” Leslie said.

From Wreck to Reparation

Alan Taplow, a retired purchasing manager who sits on a reparative board in Barre, Vermont, described the case of a young man who, after being evicted from a party at about 3 a.m., drove his car into a trash hauling bin, knocking over a propane gas tank and creating a dangerous, potentially explosive situation. He was rescued from the wreck by two police officers, charged with driving under the influence, and, in addition to receiving various fines, given the option of participating in a reparative board. The contract he worked out with the board included the following:

- To understand the impact of his crime, the man was asked to research and write at least five pages of reflections on the experience, including what he learned about police work relating to drunken driving and the work of the Fire Department in similar emergency situations.
- To make amends to the victims, he agreed to write letters of apology to the Police and Fire Department personnel directly involved in and endangered by the incident. He was also asked to write letters to the people evacuated from their homes while the propane was being cleared.
- For community service, the man, a landscape designer and stone worker, was required to work with town selectmen to plan and implement a project to beautify the village square.
- Finally, to learn ways not to re-offend, he agreed to undergo alcohol assessment and comply with any resulting recommendations for treatment.

The young man reappeared in front of the board three months later, having completed all of his contract save for the landscape project. Because the ground was too cold, the board granted him an extension until spring.

Reparative boards now handle more than 30 percent of the state's probation caseload, with at least 350 citizens on more than 50 boards throughout the state. "We have towns demanding that they get a board," Perry said. "We are expanding as fast as we can."

With the creation of the reparative boards, the state's probation officers' jobs also changed. In addition to supervising directly those offenders who don't go through the boards, they support the reparative boards in a variety of ways: helping track down victims, building a referral network for offenders and coordinating communication between the boards and the court. Officers are also expected to meet with the community to cultivate support for and involvement in the reparative boards.

In theory, with the boards supervising so many low-level offenders, probation officers should have more time to focus on high-risk cases involving felony or violent offenders. But that hasn't happened yet. While the reparative boards are siphoning off some of the work normally performed by probation officers, the officers' regular caseloads continue to rise. Niel Christiansen, corrections services manager for the Burlington Court Reparative Services Office, said that due to the increasing popularity of probation as a sanction, the caseloads of officers on his staff have doubled to about 200 over the last five years, thus keeping probation officers as busy as ever. And yet, while many probation officers are still frustrated with their heavy caseloads, many are also deriving new satisfaction from working more closely with the community and victims. "When you're working only with one party to a situation, you tend to hear that perspective. Reaching out to victims helps balance it, and that's a good thing," Christiansen said.

**Deschutes County:
Reinventing a
Department**

Deschutes County, near the center of the state of Oregon, is one of the fastest growing counties in the United States. Not long ago, loggers and environmentalists sparred here over the fate of the spotted owl. Now the region's rural past is giving way to an increasingly urban future. Deschutes County today is home to burgeoning high-tech and service industries; yet it is still not uncommon for children living on area farms to shoot sage rats as part of their morning chores before heading off to school.

Given these conditions, the county's decision to integrate community-based probation into a comprehensive redesign of its judicial services was a preemptive one. "[The change] was not problem centered," recalled Dennis Maloney, director of the Deschutes County Department of Community Justice. "It was, I would call it, foresight centered."

Maloney, an advocate of restorative justice, a philosophy that emphasizes repairing the damage done by crime to individual victims and communities, was speaking on a panel in Washington D.C., in 1996 when he was invited to lunch by U.S. Attorney General Janet Reno, who was attending the event. During the meal, the attorney general expressed an interest in restorative justice, but was troubled by its

purely reactive stance. “Shouldn’t we have a national crime policy that calls for as much emphasis on prevention?” Maloney said she asked him.

Several months later, Deschutes County received a grant from the National Institute of Corrections to create a pilot community justice program. State laws tied the county’s hands in making changes to its adult probation program, but its juvenile division was radically restructured. Under the new system, juvenile probation officers were reassigned into three teams: the Accountability Team, which interacts with offenders and the courts, the Community Outreach Team, which works with the community to develop service projects for both probationers and at-risk youth, and the Restoration Team, which offers mediation in lieu of court for low-level offenses and also tries to ensure that offenders pay back their victims for the harm they’ve done.

Within this new model, many of the traditional boundaries of probation fell away and probation officers, now renamed “community justice officers,” began treating juvenile probation as part of a larger effort to eliminate crime before it began. No longer would they be simply probation supervisors; they were now community problem-solvers and probation was but one of their tools.

Community-based probation was integrated throughout the new system in a variety of ways. The Restoration Team, for example, drafts agreements between offenders and victims requiring offenders to make up for their actions by, say, working for their victims until any cost incurred as a result of the offense has been reimbursed. Offenders on probation may be assigned to the Restorative Community Work Service, which requires them to work on projects that the Community Outreach Team and the local stakeholders have jointly developed; these community service projects – like helping build a house for a low-income family — are designed both to pay back the community as well as give offenders a sense of accomplishment. In some cases, offenders may even be eligible for a program called Fresh Start, which pays them a minimum wage (\$6.50 in Oregon) until they earn enough to repay their crime victim.

Prevention Projects

“The best way to work with crime in the community is to work on prevention projects,” said Ken Mathers, a 10-year veteran of Deschutes County’s Juvenile Probation Department and now team leader of the Community Outreach Team. “The second part of the job is working with offenders and connecting them with the community.”

An example of how Mathers combines both approaches occurred in the summer of 1999 when the Community Outreach Team organized a fundraiser to sustain a popular summer music and food festival in the city of Bend called Munch & Music. “One person from their board came to our department and said ‘This is drug and alcohol free, and we believe it’s crime prevention. Can you help us out?’” recalled Mathers, explaining how a former probation officer became involved in such an unusual project. After agreeing that it would benefit the community, the Outreach Team recruited over 100 volunteers, including 50 kids — of whom only a few were from the corrections system — to do everything from selling tickets and distributing food to performing for the audience. A group from the Youth Investment Program,

a four-month jail program, even performed a play at the event. “These are kids who are sort of the thugs around town, and here they’re dressed up in drama gear,” said Mathers. “Several months ago people would say these kids are thugs, now what they’re saying is that these kids have some amazing skills.”

Projects such as the Munch & Music fundraiser illustrate how Deschutes County’s community justice officers have moved beyond simply trying to monitor offender behavior to prevent criminal behavior in the first place. By working with the community to create meaningful activities for both offenders and kids at risk of offending, they are working to provide alternatives to criminal activity. “Crime prevention occurs whenever we can connect a kid with a community,” said Mathers. “The more connected kids are, the more preventative that is.”

Measuring Success

As the four probation programs described in this paper continue their on-going experiments with community justice, they are struggling with ways to measure the effectiveness of their programs.

In Boston, Operation Night Light, which was eventually extended to adult as well as juvenile probation, has pointed to significant drops in local crime. While Operation Night Light cannot by itself be credited with this success because it was not the only anti-crime initiative undertaken in Boston during the 1990s, the numbers are impressive. There were only 31 fatalities in the city in 1999, only one of which involved a victim 16 or under. In that same year, according to Bernard Fitzgerald, chief probation officer for Boston’s Dorchester region, the city saw only 8,636 criminal complaints compared to previous annual rates of anywhere from 12,000 to 15,000.

Maricopa County has also produced some encouraging numbers. Among Coronado probationers ordered to do community service, 71 percent complied, compared to only 28 percent in a comparison group, said Leslie Ebratt, the adult probation officer supervisor in Maricopa County. Likewise, 70 percent of Coronado offenders who owed restitution to victims made payments, compared to only 44 percent in the comparison group.

Vermont uses public opinion as a measure of its success. The state continues to poll citizen satisfaction with the corrections system and it is beginning to see evidence that satisfaction is rising. From the 1994 low of only 37 percent approval for the system, the number of positive assessments of the state’s corrections system has risen to 44 percent — a small but encouraging sign of changing public perceptions, according to Perry, the state Corrections Department’s director of planning. Also, compliance with board-imposed sanctions has been at nearly 85 percent.

Meanwhile, Deschutes County has tracked the responses of offenders to their new programs. “A lot of community work service is really kind of mundane activity,” Maloney said. “Offenders don’t like that kind of work. They think it’s demeaning and they know that there’s not much value to it. But when you have them build child abuse centers, parks, things of very high value, offenders show up at a high rate. And they will often work longer than ordered.”

The enthusiasm expressed by “Brian,” a young man who spent four months in Deschutes County’s Youth Investment Program, working every other week to build a house with Habitat for Humanity, supports Maloney’s assertion. “It was a great feeling knowing that we were helping these people,” he said. “It was kind of a way to pay back for the things we had done and at the same time give us a feeling of respect.” That serious crime among juvenile offenders like Brian has fallen 27 percent in the two years since Deschutes County’s new program was launched further supports this impression.

Job satisfaction among probation officers is also an important indicator. “I used to measure a good week’s progress by how many files I processed,” recalled Mathers, of Deschutes County, who confessed that he was pursuing a career change before the department overhaul. “You’d always stack your files up as you finished them and say ‘I’m done with that,’ almost like a brick layer. With [the new system], the measurement’s completely different. We may get a call from a citizen we don’t even remember meeting and they’re complimenting us on how we’re working with youth or how we’ve beautified an area. That type of reward far surpasses stacking up the files.”

Obstacles

Large organizations, and government agencies in particular, tend to be resistant to change. Thus it should come as no surprise that planners in Boston, Deschutes County, Maricopa County and Vermont encountered obstacles as they tried to implement their experimental programs.

“The biggest obstacle that we met was people’s shackling to tradition,” recalled Maloney of Deschutes County. He pointed out that many of the people who had trouble giving up the old ways couldn’t explain why they should be retained.

In Vermont, defense attorneys initially discouraged their clients from submitting to the reparative boards because of the unpredictable nature of each individual board. “A defense lawyer’s job it to get the best deal he can for his client, so what they want to do is nail down the deal,” explained Perry, the director of planning. “The whole point of the reparative board is you don’t know what’s going to happen because the community is going to figure it out.” This resistance was eventually overcome by experience, as Vermont’s defense attorneys discovered that in practice the reparative boards were not unduly onerous on their clients.

One of Operation Night Light’s major challenges was to overcome distrust between Boston’s probation officers and police, who were accustomed to working separately and inclined to protect their “turf.” “It was a new way of doing business at first, and many of our officers were skeptical,” said Corbett, formerly the state probation department’s deputy commissioner.

In Oregon, the Department of Community Justice fostered public support through a media campaign that showed offenders working on community service projects. “The media and the public never cared about what went on in my office,” one officer told Maloney after the officer had organized juvenile probationers to build bunk beds for poor families and color photographs of the work had appeared in the local paper. “Now we’re getting cheered.”

The power of public opinion was evident in Boston, too. “The pioneers got such good press that it didn’t take too long to get a lot more people involved,” Corbett said. Today, Operation Night Light is so well accepted that incentives for officers to work nights and weekends have been written into the Probation Department’s contract and nearly 45 percent of the work force has signed up to participate. Said Corbett, “The change has taken root and is part of the DNA of the organization now.”

Resources

Given the early results and public acclaim that these community justice experiments have generated, many probation departments across the country are eager to pursue change. At the same time, many complain that they simply don’t have enough money to experiment.

Vermont, Deschutes County, and Maricopa County relied on outside grants to kick-start their programs, but the simple fact is that probation has been underfunded for decades and there’s no reason to think the situation will soon change. The problem is, in part, probation’s poor reputation. “Probation gets funded exceptionally poorly, so it can’t possibly do the job it’s supposed to do; so then legislators say, ‘You’re not doing your job right, so why should we give you more money?’” Jacobson, the former New York City Probation Commissioner, said. “Another problem is that prison and the death penalty dominate the debate about crime in this country, even though twice as many people are on probation. People just don’t want to talk about probation. There’s periodically talk in the field about abandoning the word ‘probation’ because it has such a negative connotation.”

Faced with such a grim funding picture, it’s clear that probation departments can’t depend on an influx of new cash to pay for innovation. They will have to find a way to make adjustments with the resources they have. There is some good news, however: Some experimental probation programs have been able to offset higher costs through new efficiencies.

In Coronado, for example, community-based probation officers have been able to maintain the same caseload, approximately 60 per officer, as the county’s traditional probation officers. This is possible, said Leslie Ebratt, because the time community-based staff save by not driving to remote areas can be applied to their new responsibilities. After Operation Night Light was established in Boston, probationer behavior improved, allowing probation officers there to become more efficient as well, according to probation officer Bill Stewart. In the early days, he says by way of example, probation officers went into the field with police three times a week. Now they have to go only once a week.

Oregon has looked for creative solutions to help pay for the cost of adding crime prevention to its probation officers’ responsibilities. For its Youth Investment Program, for example, a four-month incarceration program followed by at least six months of “aftercare,” the county negotiated an agreement with the state granting it the equivalent of what it would cost to house the offenders in a state facility. Half of that money is earmarked for youth-crime prevention.

Perhaps the most cost-efficient thing about the Vermont program is that the boards are staffed by community volunteers. “Our idea,” said Lynne Walther, a restorative justice consultant who helped design the reparative boards, “is that the community will do most of the time-consuming work.”

Each program’s experience suggests that financial considerations need not be an obstacle to launching a problem-solving experiment. Moreover, some are optimistic that community-based probation will ultimately attract more money as it proves, over time, its effectiveness.

Conclusion

The willingness of probation leaders to admit that probation needs an overhaul has spawned innovation and experimentation — with or without increased financial support or resources. As the four programs profiled demonstrate, change is in the air.

But much more can be done. These four experiments affect only a small fraction of the nearly 4 million people on probation. And while the task of reforming probation may seem daunting, the potential rewards are vast. As members of John DiIulio’s task force have written, “probation is at once the most troubled and the most promising part of America’s criminal justice system.”

Probation’s promise is in its potential to reach millions of offenders and keep them on the path of reform; to strengthen communities by involving ordinary citizens in the supervision and rehabilitation of probationers in their midst; to partner with a broad array of agencies in and out of the criminal justice system; and to experiment with new ways of solving problems. Whether it’s called “community-focused probation,” “problem-solving probation” or “broken-windows probation,” these new approaches have the potential to reverse the public’s negative impression of probation and have a far-reaching impact on crime rates and public safety — and ultimately, help probation live up to the vision advanced by John Augustus so many years ago.

Center for Court Innovation

The winner of an Innovations in American Government Award from the Ford Foundation and Harvard's John F. Kennedy School of Government, the Center for Court Innovation is a unique public-private partnership that promotes new thinking about how courts can solve difficult problems like addiction, quality-of-life crime, domestic violence and child neglect. The Center functions as the New York State Unified Court System's independent research and development arm, creating demonstration projects that test new approaches to problems that have resisted conventional solutions. The Center's problem-solving courts include the nation's first community court (Midtown Community Court), as well as drug courts, domestic violence courts, youth courts, family treatment courts and others.

Nationally, the Center disseminates the lessons learned from its experiments in New York, helping courts across the country launch their own problem-solving innovations. The Center contributes to the national conversation about justice by convening roundtable conversations that bring together leading academics and practitioners and by contributing to policy and professional journals. The Center also provides hands-on technical assistance, advising court and criminal justice planners throughout the country about program and technology design.

For more information, call 212 397 3050 or e-mail info@courtinnovation.org.

Center for Court Innovation

520 Eighth Avenue, 18th Floor
New York, New York 10018
212 397 3050 Fax 212 397 0985
www.courtinnovation.org

U.S. Department of Justice

Office of Justice Programs
Bureau of Justice Assistance
810 Seventh Street, N.W.
Washington, D.C. 20531
202 307 5974
www.ojp.usdoj.gov/BJA

C E N T E R

F O R

C O U R T

I N N O V A T I O N

A Public/Private Partnership with the
New York State Unified Court System

BJA