

# Perspectives on Justice Issues



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# Perspectives on Justice Issues

## Introduction



As our criminal justice system undergoes many changes and interventions, it is important that we continually reexamine the practices, policies, and philosophies that guide us. Some interventions have been effective at mitigating crime; others have fallen short of the intended goals. Regardless of outcome, changes and interventions reflect shifting policy decisions, and philosophies about crime and justice issues should be addressed.

Nine well-respected professionals were sought out and invited to discuss some of the emerging criminal justice issues that policymakers and practitioners are facing. The impact of “get tough” sentencing policies introduces this section of the *Atlas*, followed by perspectives on the needs of specialized offender populations, including offenders who are ill, offenders who are mentally ill, women offenders, and sex offenders. The success of case management/aftercare systems for juvenile offenders, another special population, is addressed in the next article, followed by two articles that consider problematic aspects associated with offenders living within the general population, whether through reentry or as part of a community corrections program. The final article provides an overview of the recent evolution of victims’ rights and services.

The discussions presented in these articles are personal perspectives based upon the expert knowledge and experiences of the authors and do not reflect official government policies or position. The articles are intended to provide a platform from which to launch a dialogue that addresses the concerns and issues raised. Readers are encouraged to consider these issues and to participate in collaborative efforts that identify options that will effectively meet the challenges facing the justice system.

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## Impact of Truth-in-Sentencing and Three Strikes Legislation on Crime

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**C**ommit three felonies and you are on the way to jail. For a long time. If you're sentenced to 20 years, you should serve 20 years—or at least most of it. Those were the sentiments guiding widespread adoption of “three strikes” and “truth-in-sentencing” laws in the early 1990s.

Thirty-seven states have adopted at least one of these get-tough-on-crime laws, many since 1994—but do they work? Proponents of the measures maintain that they reduce crime rates by deterring potential offenders and incapacitating those who commit crimes; opponents question their true impact on crime and paint them as budget busters for many financially strapped states.

As part of an ongoing evaluation of violent offender incarceration and truth-in-sentencing incentive grants, RAND analyzed a nationwide database of index crime reports, state and federal prison admissions, and state correctional system expenditures from 1986 to 1996 to determine the effectiveness of get-tough policies. The evidence so far suggests that such strategies—at least in the early stages of implementation—have not resulted in any major changes.

Although it is still too early to make a final judgment, RAND found that three strikes and truth-in-sentencing laws have had little significant impact on crime and arrest rates. According to the Uniform Crime Reports, states with neither a three strikes nor a truth-in-sentencing law had the lowest rates of index crimes, whereas index crime rates were highest in states with both types of get-tough laws. In California, where the largest number of offenders were convicted under a three strikes law, violent crime rates in 1996 remained far higher than in states without such laws. These policies also had little effect on property crime.

With regard to prison admissions, RAND looked at recent findings from the Bureau of Justice Statistics that suggest that the adoption of state legislation requiring violent offenders to serve greater percentages of their imposed terms has indeed resulted in an overall increase in time actually served in prison. States with both truth-in-sentencing and three strikes legislation have slightly higher percentages of violent crime admissions and about 10% higher admissions for drug offenders than states with neither form of legislation.

The increased incarceration rate cannot be directly linked to the general decrease in violent crime beginning in the early 1990s, however. Incarceration rates have been greatly affected by increased drug enforcement, and drug offenses are not part of the crime rate measures. The percentage of violent offenders, as a percentage of all admissions, decreased somewhat during the same time period, making up slightly more than 20% of admissions by 1996.

Get-tough laws also influence correctional spending levels. Not surprisingly, states with three strikes and truth-in-sentencing laws spend more money than states without these laws. Much of this money is used to increase the number of prison beds available to accommodate an increased number of prisoners.

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What is the future of get-tough sentencing? Given the scope of existing laws, more changes in the prison populations are expected as a result of truth-in-sentencing laws than three strikes requirements. The exact impact, however, will likely remain unknown for a few more years, until more data that reflect changes in the length of prison terms served are collected.

We also need more detailed research to determine the confounding effects of other factors on crime rates, prison populations, and correctional costs. For example, other legislation—such as mandatory minimums for drug offenders, restrictions on parole and early release, and staffing and programming in institutions—influences prison admissions, populations, and resulting costs; therefore, pinpointing the cause of reductions in crime is difficult.

Variation within and among states also presents challenges to data collection. The states that enact get-tough laws are systematically different from those that do not, making it difficult to identify appropriate comparison groups. Furthermore, there is a good deal of variation in how get-tough laws are implemented by different prosecutors within the same state; for example, different offenses are considered to be “strikes” in different areas. RAND’s research paints a very general picture. Greater understanding of this intrastate variation is needed.

Future research may also want to study the effect of program publicity—as has been done in Virginia and with the Boston Gun Project—to determine what, if any, additional deterrent effect it creates. Closer scrutiny of the impact of federal funds to support get-tough sentencing is necessary as well.

From a policy perspective, it is difficult to predict how these findings will affect get-tough legislation. We hope that policymakers will reevaluate the true impact of the legislation and reassess the piecemeal sentencing legislation approved in recent years. Many states have passed a number of different, very specific mandatory minimum sentence statutes that have resulted in a hodgepodge of regulations that do not always make for consistent or effective policy.

In summary, much information has yet to be gathered in order to formulate public policy based on empirical data and thereby increase the effectiveness of get-tough sentencing legislation and public safety. 

*Thirty-seven states have adopted at least one of these get-tough-on-crime laws, many since 1994—but do they work?*

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## Health Care Needs of Prison and Jail Inmates

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**B**ecause of the benefits to both inmates and communities, the time has come to make health care and disease prevention in U.S. correctional systems a top priority.

Why now? The most immediate reasons lie in the sheer size of the prison population and the disproportionate burden of disease found among inmates and releasees. The inmate population now exceeds 2 million—up 600% since 1970. Nearly one fifth of all people living with human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS) in the United States in a given year pass through a correctional facility in that same year. Almost one third of all people with hepatitis C infection and more than one third of all people with tuberculosis (TB) disease in the nation spend time in a prison or jail in a given year. Moreover, an increasing percentage of inmates are also older—and with age comes increased incidence of chronic conditions such as diabetes and hypertension.

Equally important, inmate health affects the larger public health. Inmates with untreated illness and those who have not participated in prevention programs may infect others and burden health care systems following their release into the community.

These facts highlight a unique opportunity to benefit public health in a highly cost-effective manner by making screening, treatment, and prevention programs available to a large population of individuals at high risk for disease. Most inmates come from poor communities where health services are largely inaccessible or underused, and releasees return to the same communities, where they remain underserved and difficult to reach. With a literally “captive audience,” however, correctional health interventions can attend to many inmate health needs that otherwise would go unaddressed. Better treatment, screening, and disease prevention programs can reduce the transmission of diseases from recently released inmates to people in the community and reduce the public financial burden associated with treating a variety of conditions, including communicable and chronic diseases and mental illnesses.

### Possible Interventions

So what should be done? There are several possible and promising intervention strategies:

- **Screening for diseases.** Many correctional systems fail to encourage inmates with risk factors to receive HIV counseling and testing. Very few correctional systems provide comprehensive screening for sexually transmitted diseases (STDs), and many prisons and jails do not adhere to the Centers for Disease Control and Prevention’s guidelines for tuberculosis control. Effective identification of disease is an important step in reducing transmission.
- **Reducing the likelihood of transmission through treatment and other appropriate interventions.** Transmission of infection within correctional facilities and the community at large can be reduced through timely treat-

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ment. In addition, correctional systems should implement standard infection control procedures such as “universal precautions” against blood-borne transmission of HIV and hepatitis, improve ventilation to reduce airborne transmission of TB infection, and appropriately isolate persons with active TB disease.

- **Harm-reduction training.** Correctional facilities should offer educational programs designed to help inmates and staff protect themselves and others from infectious diseases such as HIV, hepatitis, and STDs. Few prison or jail systems currently offer comprehensive and intensive HIV-prevention programs.
- **Discharge planning.** Many inmates are released each year without adequate discharge planning, and many with serious illness are released each year without even a one-day supply of medication. Inmates with medical or mental health conditions or substance abuse problems should be linked with specific providers in the community who can provide them with services following their release. The range of community linkages should include housing, government benefits, and vocational training and placement.

### Barriers and Possible Solutions

Although interventions have proven themselves worth the money needed to carry them out, financial, political, and policy-related barriers have thus far prevented widespread implementation. Collaboration among correctional systems and public health agencies may provide solutions for systems without the resources necessary to provide comprehensive programs. Such partnerships might involve public health departments in initiating or expanding testing and screening of inmates, prevention and treatment programs, and follow-up after inmate release to ensure continuing care. Successful public health/corrections collaborations are much easier to develop and sustain when data documenting the burden of the disease among inmates are readily available. Problems with the availability and exchange of information may also impede collaboration. In many instances, vital medical records, including test results and medication status of transferred or released inmates, are never sent to the new health care provider or sent only after long delays.

It is important to realize that there may be real differences between the philosophies, perspectives, and priorities of public health and correctional agencies that can make collaboration difficult if the differences are not handled sensitively. At the level of agency and facility leadership, there must be a strong commitment to collaborative approaches.

Perhaps the most pervasive barriers to collaborative efforts are inadequate funding and resource constraints. Even the most powerful arguments for public health interventions, no matter how well-grounded in data, may be denied adequate support in the current climate emphasizing the punitive over the rehabilitative functions of corrections. But emphasis of the public health and economic benefits of interventions may be able to counter this political reality.

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## Health Care Needs of Prison and Jail Inmates

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Barriers to inmate health care could be addressed still more effectively if collaborative efforts included other entities, such as probation and parole agencies, community-based organizations, substance abuse treatment programs, academic medical centers and universities, and other service providers. There is a growing list of successful collaborations addressing the health needs of inmates and releasees.

In sum, correctional facilities are important points to access high-risk, underserved populations and offer opportunities to reach these populations with important health interventions. Collaborative efforts can be successful in improving the health of inmates and benefiting the overall public health as well. This is an opportunity that our nation cannot afford to miss. 

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## Mentally Ill Behind Bars

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**J**ails in most of the nation's major cities house a greater number of severely mentally ill men and women than the local mental health hospitals. Indeed, we have more mentally ill people in jails and prisons than in all state mental hospitals combined.

### Why Are There So Many?

How did the nation's prisons and jails become the custodians of so many of the mentally ill? The two most important answers, deinstitutionalization and restrictive commitment laws, reflect recent major changes in our public mental health policies.

Deinstitutionalization, a practice that began in the 1960s, was designed to move the care of mentally ill men and women out of hospitals and into their communities. Deinstitutionalization was conceivable because advances in psychiatric medications made life outside of a hospital possible for most mentally ill men and women.

The promise of care in the community did not materialize for huge numbers of patients, however, or for people who have been diagnosed with severe mental illnesses since the closing of most state hospitals. Deinstitutionalization was used more to save money than to reorganize and improve mental health treatment. The money and resources allocated to care for the mentally ill in the communities have rarely been sufficient. Instead, a sizeable number of the mentally ill are left untreated and adrift. Some are sent to prison after committing a violent crime, and others are caught in the revolving door between the streets and jail. It is believed that as many as 40% of the nation's homeless are mentally ill. Some mentally ill people commit crimes simply to seek safety and shelter.

Even when care is available, it has tragically become very difficult to force anyone who is mentally ill to go to a hospital for treatment. Many severely mentally ill men and women become psychotic when left untreated and cannot recognize the fact that they are ill. They become paranoid about family members and agencies who are trying to help them. It was once possible for these concerned parties to commit severely ill individuals to a hospital for care. Now, as many families will attest, commitment is only possible in most states if a patient has proven himself or herself dangerous—usually by a serious threat or act of violence. Once the immediate danger is over, patients are again put on the streets. If the mentally ill patient has committed a crime, it is very likely that the criminal justice system will be turned to first. Many communities have lost faith in the ability of the mental health system to contain disruptive behavior.

So, in one way or another, a sizeable portion of the mentally ill end up behind jail or prison walls, prompting some mental health professionals to believe that mentally ill inmates are the clinical equivalent of past and present state hospital patients. It is estimated that as many as 15% of incarcerated men and women have severe, acute, and chronic mental illnesses. Furthermore, our prisons and jails are ill equipped to treat them. Studies show that fewer than 50% of inmates

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## Mentally Ill Behind Bars

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with severe mental illness receive any mental health care in prison. The estimate for inmates with more significant, but more moderate, forms of mental illness, is 25%.

### **How Can We Reduce Their Number?**

Prisons and jails, of course, were never meant to be primary care providers for the mentally ill. It is an ironically skewed consequence of deinstitutionalization that penal institutions, notably expensive facilities for housing and treating the mentally ill, end up in many instances supplanting mental hospitals, thereby draining taxpayers' dollars and very often doing little to improve the condition of the mentally ill behind walls.

### **The Question Is, What Can Be Done to Reduce the Number of Mentally Ill in Prisons and Jails?**

There are several answers, all rooted in the fact that most mental illnesses are treatable diseases and not stigmas of permanent disablement. It is essential to distinguish between treated and untreated mental illness.

The untreated mentally ill may engage in unpredictable, bizarre, confusing (to us), and, at times, violent behavior. Their actions contribute to society's fear and misunderstanding of the mentally ill. Mental health treatment in most instances corrects the mental distortions that produce these actions and returns patients to normal functioning and appropriate behavior.

But ways must be established to prevent harmful delays in treating the severely mentally ill so that their behavior does not lead to incarceration. For many, that simply means providing the resources to make mental health care fully accessible to them.

For others it means recasting civil commitment laws in ways that recognize the cognitive impairments that are a part of severe mental illness. The severely mentally ill, who often resist treatment as a consequence of their illness, can destroy their lives and the lives of others. Civil commitment laws that enforce treatment are a superior alternative to incarceration, which is a far more restrictive form of commitment that, in addition, can be destructive.

It is important, of course, that commitment laws and procedures be so defined that the civil rights of individuals are protected and appropriate care is ensured. Many states are adopting outpatient commitment procedures in an effort to enforce care in the least intrusive way possible. This takes resources, of course. It is important that mental health systems be able to provide different levels of care and supervision in hospitals, clinics, day treatment, and residential programs.

Within the criminal justice system, courts are working to keep the mentally ill out of jail through "mental health courts" and jail diversion programs. These programs involve coordination among the police, courts, and mental health of-

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officials to provide both legal sanctions and mental health care to mentally ill offenders. Jail diversion programs have been shown to decrease both subsequent hospitalization and rearrest. Within our jails and prisons, we need to place a greater emphasis on training correctional personnel in the identification and management of mental illness. Doing so will not only prevent deterioration and suffering, but improve the orderly functioning of institutions and better prepare mentally ill inmates for release. Release planning is another opportunity for effective coordination between the criminal justice system and the mental health system. Mentally ill offenders can be released with a period of supervision that includes mandatory mental health care.

The overall goal, of course, is to effectively treat the mentally ill in community settings so that their numbers are vastly reduced in the nation's prisons and jails. We need to be building better community health care systems to care for the severely mentally ill, not more prisons. ❧

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## Restorative Justice and the Woman Offender

**Sheryl Ramstad Hvass**  
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**T**he pathways to crime and prison for women offenders are very different than those of their male counterparts. First, relationships and a profound need for acceptance by others often play key roles. Frequently a woman's criminal involvement can be traced directly to a relationship with a man. Second, for many women, crime is also an expression of pain. Physical, sexual, and emotional abuse have been experienced by an estimated 80% of women in prison. Third, women offenders are often led to crime to maintain an adequate standard of living. Many women offenders, living in poverty and unemployed or underemployed, become entrenched in property crime to survive or to support a drug or alcohol addiction.

### Offenders as Victims

Based upon these realities, experts in gender-specific programming for women offenders rightly advocate for effective programs that address past victimization issues. A basic premise of these experts is that a safe, trusting, and supportive environment is essential. Gender-specific programming for women must incorporate issues of self-esteem, healthy relationships, and survival with respect to abuse. For example, substance abuse treatment for women now includes trauma recovery elements. The trauma recovery healing process must encompass safety, remembrance and mourning, and reconnection. Stephanie Covington's curriculum, "Helping Women Recover," is an approach to chemical abuse treatment that addresses trauma recovery. Issues of racism, sexism, and economic oppression must also be dealt with appropriately. These approaches make sense, have proven effective, and have formed the basis of programming for women offenders in Minnesota's state corrections system.

### Taking Responsibility

We must also acknowledge, however, that women offenders are responsible for victimizing others. In addition to enhancing women offenders' competencies through education, job training, self-esteem building programs, and parenting courses, we must offer programs that challenge offenders to take responsibility for their actions and endeavor to "make things right."

One of the fundamental principles of restorative justice is that there are no victimless crimes. With restorative justice, offenders are held accountable and encouraged to accept responsibility for repairing harm they have caused. Past victimization, although appropriately addressed, should not be used as an excuse for criminal choices that have harmed others.

In our society, women are socialized to be nurturing and kind; they are never expected to hurt another person. When they do, this socialization makes it difficult for them to accept responsibility, since this is in conflict with their self-image. It then becomes particularly important to provide a framework that acknowledges that we all make mistakes and can recover from them. Harming another person also wounds the offender. Acknowledging the harm and doing something positive about it will help heal the offender and boost her self-esteem.

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Allowing female offenders to remain focused on their own victimization is somewhat patronizing, as if to say that they are not capable of facing the harm they have caused. In fact, female offenders benefit from programming that empowers them to face these issues, understand the harm they have caused, and make amends.

### Options

There are a number of options worth exploring that balance women offender programming with a restorative justice approach:

- Incorporate victim impact and empathy training into existing treatment programs that encourage women offenders to take responsibility for repairing the hurt they have caused. The goal would be to move from “I have been hurt and it was not my fault” to “I hurt others and I want to repair the damage caused.”
- Invite the offender’s family members to participate in victim panels and describe to the offender the harm they caused. This will help create an understanding in women offenders that in addition to primary victims (those against whom the crime was committed), there are secondary victims who have been indirectly harmed by their actions. Secondary victims include the offender’s family members and neighbors. Women offenders place a high value on their relationships with people they care about, and they can more easily realize the harm their actions have caused these victims. This understanding opens the door for broader realization of the extent of the harm caused.
- Provide opportunities for victim/offender dialogues, ask offenders to write in a journal what they would say to their victims, or permit role-playing that would replicate such a dialogue.
- Develop meaningful community service projects that permit women offenders to repay the community for the harm they have caused. Examples include: learning Braille and transcribing books for the blind, helping to build low-income housing, and raising dogs that assist people with disabilities.
- Establish offenders’ connections to the community that incorporate restorative justice principles and can lead to a successful transition from incarceration to society. Examples are working at off-grounds sites during the last months of incarceration, transitional conferences for offenders and their families, and linkages with faith-based volunteers that will continue in the community.

### Conclusion

As these and other approaches are explored, it is essential that they include a research component to measure outcomes and determine whether they should be continued, modified, or abandoned. Ensuring that we use a balanced approach with women offenders that addresses their needs as victims and provides an opportunity for them to take responsibility for their criminal actions will best serve the victim, the community, and the offender. 🌸

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## Managing Sex Offenders

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**T**here is increasing concern and debate about what to do about sex offenders. More jurisdictions are adopting community notification laws as a way to deter sex offenses and increase public safety. Addressing this issue is greatly influenced by perceptions of who is a sex offender. Many people believe that the typical sex offender is a stranger who commits brutal rapes of adults or who furtively molests children. The source of this information is the news and entertainment media, and the reality of sexual assault is far different. The reality is far different.

### The Reality About Sex Offenders

Three quarters of all sex offenders know their victims, according to a 1992 Rape in America report. Nine percent of rapists are husbands; 11% are fathers and stepfathers; 10% are boyfriends or ex-boyfriends; 16% are relatives; 29% are acquaintances. Most sexual offenses occur in the context of a relationship established and manipulated over time. Not surprisingly, the majority of victims never report the crime.

Once arrested and convicted, the majority of sex offenders receive community sentences. Sixty percent are sentenced directly to probation, according to a 1994 report from the Bureau of Justice Statistics. Of the 40% of the offenders who are incarcerated, almost all eventually return to the community on parole or after their prison sentence is discharged.

Managing sex offenders successfully—which means keeping them from offending again—must take place within the community while they are on probation, parole, or other forms of supervision. It means, above all, safeguarding the public and protecting victims.

### The Characteristics of Sex Offenders

Research has established basic characteristics of sex offenders that help identify type of intervention models that will be most effective. Let's review the research:

- Sex offenders have secretive and manipulative lifestyles. Most assaults are so well-planned that they appear to occur without forethought.
- Many sex offenders are otherwise highly functioning people who use their social skills to commit their crimes. They typically have developed complicated and persistent psychological systems that help them deny and minimize the harm they inflict on others.
- Many sex offenders commit a wide range and large number of sexually deviant acts during their lives and show a continued propensity to offend again.

So lock 'em up and throw away the key? Not always, not if the complicated relationship-aspect of this crime is taken into account. For victims who are related to the offender, incarceration often throws the family into poverty—just when the victim may need therapy and support from other family members. Victims, whether related or nonrelated, also need restitution. Whenever possible, offenders must work and pay into a fund that provides therapy for the

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victim, their own supervision and treatment, and community restitution. This can occur before, during, or after a prison sentence, but victim reparation is essential with this offender population. Holding the offender accountable every step of the way is a fundamental aspect of sex offender management.

### The Management of Sex Offenders

Recent research on how parole and probation agencies manage adult sex offenders identified elements for effective intervention models. The premise is that sex offenders must be held consistently and constantly responsible for the unique trauma they inflict on others. They must be closely monitored, and treatment must focus on unveiling the inappropriate thoughts, feelings, behaviors, and other planning that precede their crimes so modus operandi information can be made available to supervising officers and law enforcement.

Managing sex offenders requires containing them in an effective triangle of:

- specifically designed treatment that identifies deviant patterns and teaches sex offenders to develop internal control over deviant thoughts, precursor behaviors, and sometimes subtle decisions that set up the next assault.
- supervision and surveillance to control offenders' external behaviors and provide leverage that encourages the offender to participate in treatment and comply with probation and parole conditions.
- post-conviction polygraph examinations to validate self-report information the offender gives about his or her sexually assaultive history and current abusive behavior so that the supervising officer can design and monitor a "customized" supervision plan, and the treatment provider can develop a plan that addresses the full scope of the offender's assault pattern.

Treatment involves specially trained, skilled therapists working with sex offenders in cognitive-behavioral group therapy to help them achieve personal control of their deviant sexual impulses, thoughts, feelings, and behaviors. Offenders are expected to disclose all aspects of their offense history, and learn to interrupt their individual cycles that prompted these past offenses.

Official supervision and monitoring to exert external control over offenders involves probation and parole agencies applying pressure—through clear expectations and through the use or the threat of sanctions—to ensure that offenders comply with specialized treatment and supervision conditions. This pressure to participate in sex offender-specific treatment for purposes of public safety inextricably links the mental health community and criminal justice system, and requires collaborative relationships, frequent communication, and written protocols to close gaps that offenders find and use to manipulate the system.

Post-conviction polygraph examinations to obtain complete sexual histories of offenders and to monitor their deviant fantasies and external behaviors are crucial. Data obtained during these polygraph examinations provide essential management and compliance feedback to treatment providers and probation and

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## Managing Sex Offenders

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parole officers. Use of the post-conviction polygraph should occur in the following context: by a specially trained examiner who is a member of the American Polygraph Association and a member of a professional team (the treatment provider, supervising officer, and polygraph examiner) whose primary objective is community safety. Assessing the risk of individual sex offenders is extremely difficult without the use of the post-conviction polygraph.

Post-conviction polygraph tests are particularly important in monitoring whether offenders are seeking or have established contact with former or prospective victims. It is vital to recognize that sex offenders may be low risk at one point and high risk quickly thereafter, depending on the opportunity to reoffend. Access to victims is key.

### Community Notification

As one means of deterring sex offenses, and to comply with the Crime Act of 1996, there has been a proliferation of notification laws and procedures that make available to the public information about individual offenders such as their names, physical descriptions, and addresses. The laws are controversial. Here are a few of the pros and cons.

- Pro** The threat of notification may prompt sex offenders to take part in treatment and comply with conditions of probation or parole.
- Con** Notification may nurture excessive community fear and anger and incite vigilantism.
- Pro** Notification may encourage community members to report suspicious behavior by publicly identified offenders, thereby deterring new offenses.
- Con** Community notification of sex offenders assumes that most offenders are strangers, which is not the case. Research shows most rape victims are at highest risk when at home or with people they know.
- Pro** Publicizing where individual offenders live may deter them from committing new sex crimes.
- Con** Sex offenders may travel to other locations to commit crimes; also, it takes significant resources to verify the accuracy of the information sex offenders must give law enforcement.

Researchers in Wisconsin have found that notification has made it difficult for sex offenders to find jobs and housing. The majority of offender families reported negative impacts resulting from notification. These findings suggest that notification policies, a broad-brush approach to preventing sexual assaults, may work against the customized strategies that are at the core of the containment approach to managing sex offenders. And notification may inflict further harm on the offender's family members: children, spouses, brothers, sisters, and grandparents who may already be struggling with significant pain.

Managing sex offenders is a complicated endeavor, and it requires the best thinking of practitioners, administrators, and policymakers—and the best data researchers can provide. 

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## Case Management/ Aftercare in Juvenile Corrections

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**E**ven as crime is declining, juvenile correctional populations are increasing and many juvenile correctional agencies are operating facilities far above their capacity. The increase in mental health clients during recent years has also stretched the resources of juvenile correctional facilities. While many jurisdictions are considering the addition of juvenile correctional beds to ease the overcrowding, a good case management/aftercare system can have a significant impact on reducing and stabilizing institutional populations. North Dakota has not needed to add any juvenile correctional beds for over 10 years, for example, because of its use of a case management/aftercare system.

Some of the key components of an effective case management/aftercare system and how they can affect the institutional population are listed below:

1. *A continuum of community alternatives that can divert some clients from institutional placement.* The fact that a system has case management/aftercare does not automatically decrease the need for juvenile correctional facilities. However, the development of a wide array of community sanctions and services makes it possible for a system to hold juvenile offenders accountable in their home community. The rapid advancement of technology has given community sanctions many more supervision options. Electronic monitoring, onsite urinalysis, day reporting, intensive tracking, day treatment, and vocational school programs are just a few of the options that can be used in a continuum of community alternatives and sanctions.
2. *Use of case management/aftercare to make informed decisions about the placement of juveniles so that less restrictive, less costly levels of care can be used.* By using risk and needs assessment tools, family history, and other pertinent information, the most appropriate level of care can be determined and often less restrictive placements can be used without jeopardizing community safety and the protection of the juvenile. This approach leads to less costly placements, such as therapeutic foster care or group homes for low-risk juveniles, or more appropriate facilities for mental health clients. Some states using these types of facilities and programs are also accessing IV-E and Medicaid dollars to fund them, which allows state general funds to be used in other areas.
3. *A well-coordinated system whereby facilities can provide treatment services more quickly, thereby lessening the number of beds needed.* Because the case management/aftercare system provides much better documentation and family involvement, treatment services can sometimes be accomplished in a much shorter period of time. While the client is receiving treatment services, the community case manager/aftercare staff person can refer the family to services they may need to function more cohesively.
4. *A well-developed, well-trained case management/aftercare staff, which can have a very positive effect upon the recidivism rates in a juvenile corrections system.* North Dakota's juvenile corrections system has a lower recidivism rate because of its regional case management/aftercare system. In the past 4 years, the state has lowered its system's recidivism rate by 10%; the community case management/aftercare system is the major contributing factor in that decrease.

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## Case Management/Aftercare in Juvenile Corrections

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North Dakota has operated a case management/aftercare-based system for more than 10 years. During that time, we have learned that training and close supervision of staff are of utmost importance. North Dakota provides quarterly training for staff support and education. Because regional offices are often staffed by small numbers of people, frequent training is necessary to support them in problem-solving and community relationship building. Because the community staff establishes a department's reputation, they must have excellent people skills and be well-educated about the resources available in their home community. The regional staff also needs daily access to a supervisor who can assist them with atypical cases and support them in their daily placement decisions. Finally, a case management/aftercare system can be an excellent alternative to placing juveniles in overcrowded facilities, but in order for the system to be effectively run, case managers should not have a caseload greater than 30 clients. Experience has shown that when caseloads get too large, more juvenile offenders are placed in secure settings because the staff's top priority shifts to community and client safety. ❌

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## New Policy Approaches to Offender Reentry

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Urban Institute

**T**ough on crime” policies of recent years have been credited by some for the declining crime rate trends we witnessed in the latter part of the 1990s. It is quite possible that at least some credit lies in tough-on-crime sentencing policies—truth-in-sentencing, mandatory minimums, abolition of parole, and the like. On the other hand, it cannot be denied that such policies have contributed significantly to record monetary expenditures on incarceration, record numbers of Americans being held behind bars, and record numbers of offenders being released. Policymaking that can fulfill some goals can, in turn, create unintended consequences. Such a consequence is the offender reentry predicament the nation is facing.

Offenders are now returning from institutions to communities at a rate of well over a half million per year. In 1980, the number of people in prison was 320,000. Twenty years later, nearly twice that many are coming *out* of facilities every year. Approximately 20% of this half million return without supervision or conditions of any kind. An estimated 70% of state prisoners have a history of prior drug abuse. Nearly 180,000 state prison inmates self-report mental health problems.

The released inmate population is largely lacking in both education and job skills adequate for securing and maintaining employment, not to mention the fact that many employers will not hire an individual with a felony record. Finding stable housing—and being able to pay for it—is a major obstacle for offenders returning from institutions. For many released offenders, the process of reintegration will be rocky—their families may not be willing to accept them back, finding jobs will be difficult, and individuals in their old peer groups will be ready to support the resumption of criminal habits, as well as drug or alcohol abuse. Such circumstances often contribute to an offender’s return to criminal behavior and subsequent recidivism.

The country is not doing so well on recidivism. Two thirds of all releasees are rearrested within 3 years. Nationally, we saw a 39% increase in parole revocations from 1990 to 1997, contributing further to the growing numbers behind bars. In short, most offenders return to society, they are not well-equipped to succeed, and they recidivate in staggering numbers. Obviously, we can manage the reentry process better.

There is a new focus at the national and state levels on fundamental rethinking of the processes of reentry. Officials recognize that public safety is a common goal and everyone’s business. The U.S. Department of Justice (DOJ) is working with state and local officials, the courts, community policing and community corrections agencies, social service agencies, and a mix of community organizations to improve our management of this high-risk population. Together we aim to develop a seamless system of offender accountability, supervision, and support—a system that begins during incarceration and continues as the offender leaves prison and reenters the community. Our goals are: increased public safety, cost-conscious accountability, and offender productivity. Coordination across agencies should support these goals through surveillance, job placement and training, tran-

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## New Policy Approaches to Offender Reentry

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sitional housing, health and mental health services, drug testing and treatment, education, and family services.

We are attempting to pursue coordinated offender reentry at a challenging time—a time during which a number of states have abolished formal parole and parole caseloads have increased significantly while resources are more limited. What efforts are under way to determine what works in the face of mounting obstacles such as these?

The federal government is currently uniting in a groundbreaking interagency effort to help states confront the reentry challenge. Over the course of the past year, the Department of Justice, Office of Justice Programs has been working with eight sites throughout the country on the Reentry Partnerships Initiative. The sites are involved in planning and implementing reentry pilot programs that require the coordination of institutional and community corrections, law enforcement, social service agencies in the community, and community groups. The Department of Labor is lending support to this effort, as well as to another DOJ-led effort: the Reentry Court Initiative, for which nine pilot sites were recently selected. The court initiative differs from the partnership initiative primarily in that a specialized court—and the credibility, and resources that come with such an authority—becomes a lead partner. The reentry court, much like successful drug courts throughout the country, is a tool to monitor and enforce accountability, and support the roles of other partners, such as community corrections, through the use of incentives and sanctions—carrots and sticks. Selected court initiative sites suggest a variety of ways that court oversight could be managed even without existing statutory authority: an administrative law judge working in coordination with a parole board authority, split sentences or post-release probation with court oversight, for example.

Significantly, President Clinton's proposed FY 2001 budget includes \$145 million for innovative reentry programs. Under the President's plan, the Departments of Justice, Labor, and Health and Human Services will work together to address every element of the reentry challenge in a common group of high-risk communities, with a common group of offenders—including juvenile offenders—around the country. The President's plan recognizes that the reentry problem is simultaneously a criminal justice problem, a public health problem, and an economic problem. As a result, it needs to be tackled in a coordinated way at the local, state, and federal levels.

The policy challenge is obvious: a large number of offenders are returning to communities each year and, as a result, we face a public safety hurdle. Agencies at the federal and state level should pursue the fundamental rethinking of reentry management, roles, and resources. Experimentation with pilot programs and rigorous evaluation is necessary to gauge the practicality and effectiveness of the reentry partnership and reentry court approaches.

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It is incumbent upon criminal justice policymakers who are interested in greater public safety and more efficient use of the public tax dollar to consider how their jurisdictions and the country at large might better handle the offender reentry challenge. As more than 500,000 offenders a year are coming out of our prisons and back into our communities, it is clearly important that as a nation, we do whatever we can to be proactive, strategic, and collaborative to help ensure safe communities. We can prevent the *next* crimes by offenders if a continuum of supervision, accountability, and support services are available—including after offenders are released from prison. 🍷

*We are attempting to pursue  
coordinated offender reentry  
at a challenging time . . . .*

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## What Future for Community Corrections?

**Michael E. Smith**  
Professor of Law  
University of Wisconsin

**T**his year, 500,000 felons will return from prison to live alongside us—about 100,000 of them with no correctional supervision at all. Another 800,000 felons will come back to our neighborhoods from court, on probation. By year's end, more than 2,500,000 felony probationers and parolees will be living in our midst.

It is puzzling that with ourselves and our property exposed to harm in this way and to this extent, we are not seeing a substantial new investment made in community corrections. Expansion of prison and jail capacity—today's palliative for all crime problems—only temporarily constricts the flow of felons back to our neighborhoods.

Felons pose no risk to public safety when they are standing before sentencing judges or festering behind bars. The risks arise when they are in our midst, unsupervised, in places and at times when our persons or property are vulnerable to predation. The risk of harm is greatest at the moment when an offender, whose whereabouts and conduct have been under guard, arrives back in our community and slips into anonymity. This risk is increased when prison terms are imposed more often (because more offenders will be released), and it is hardly reduced at all when, as today, we extend average prison terms by a week, or a month, or a year.

Felons on probation and parole are, of course, not the only threat to public safety, but legal authority exists to manage them and their circumstances. We just do not use that authority as wisely as we might. Most jurisdictions hire and deploy a correctional officer for every three or four inmates added to the prison population. But the average caseload of a probation or parole officer is around a hundred felons, and in some jurisdictions each agent is charged with the "supervision" of two or three hundred felons. "Failures" are expected—and there are lots of them. Each failure represents some loss or injury to the public, or a reduction in our public safety.

Why, then, are public discourse and budgets focused on prisons? Why are we not scrambling to build greater capacity in community corrections agencies? This may not be madness. It may reflect a widespread, reasonable doubt that public safety is served by probation and parole supervision of the conventional, passive kind. The public (and most practitioners) has grown accustomed to a casework style of probation and parole in which the actuarial risk of a felon's reoffending is likely to be assessed, and conditions on continued liberty are set. Usually, the "risk" is conceived as an attribute of the individual, rather than as an ever-changing propensity for harm arising from the presence of the (changing) individual in many disparate places. Only recently, in a few jurisdictions, has this more robust conception of risk driven a redeployment of community corrections resources to focus on the places where public safety is at risk when offenders are there.

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Even in “passive” supervision there is periodic “client contact”—a half hour here and a half hour there, perhaps once a month. Neither agent nor felon expects the contact to change the offender, and most of the time the pessimism is fully justified. The percentage of probationers and parolees who simply stop reporting (and are shifted to “absconder” status) would likely astonish even today’s cynical public. And, of course, in the absence of effective supervision, a great many felons earn revocation—in some places about half of all prison admissions are a result of revocation of probation or parole.

Is this characterization of “passive” community corrections fair to present practice? In general, no, but there are managers and agents who are striving to define more active models of supervision. If the future is theirs, what does it look like?

Public safety requires that the mutable circumstances of each returning felon be known to someone with authority to alter them—when the felon’s circumstances, in combination with personal characteristics (which themselves can change), present unacceptable and unnecessary risk to the rest of us. We surely need correctional authorities to know the answers to basic question such as: Where is the felon? With whom? Where is he/she likely to be tonight? Is he/she sober or high? Does he/she have a stream of legitimate income? Is he/she looking for crimes to commit or instead trying to avoid near occasions of sin? If, as is often the case, probation and parole officers cannot know the answers themselves, we need them to invoke the network of naturally occurring guardians who do know the answers and who will alert us when the propensity for harm rises—or falls.

Public safety seems to require this sort of *active* supervision of felons—by correctional agents with experience, skill, and imagination who know the places and circumstances of the felons under supervision. These agents must be able to invoke the assistance of naturally occurring guardians—guardians for the felons, whose riskiness rises with their anonymity; guardians for those who might be victimized; and guardians of the places where felons and victims might be found together. It follows that active supervision of offenders requires correctional agents and correctional resources to be deployed to the places where and at the times when risks arise, so that likelihood of harm is reduced.

If this is to be the future of community corrections, new and differently configured resources and legal authority will have to be provided. The required changes make a daunting and costly list. But the gain to public safety would warrant those investments—as well as the inevitable disruption of business as usual for practitioners. 🍷

*By year’s end, more than  
2,500,000 felony probationers  
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## Victims' Rights and Services: New Benchmarks for Justice

**Trudy M. Gregorie**  
Director of Training  
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**F**or the past two decades, crime victims and those who serve them have sought significant reforms that have led to the recognition of victims' rights and services at the sentencing and post-sentencing phases. Such rights and services have resulted in greater victim participation and increased victim satisfaction with justice systems, and have promoted partnerships among justice agencies that promote public safety. This inclusion of victims' rights and needs is important for three reasons: (1) the overall concept of "public safety" cannot be a reality unless "victim safety" is considered; (2) victims are recognized as "clients" of justice system agencies who deserve services and support; and (3) a balance in philosophy is achieved in which it is recognized that while justice agencies are essentially "offender-directed," they can also be "victim-centered."

The right to be notified of and heard at key stages of the justice process has historically been at the core of victims' rights. In the sentencing and post-sentencing phases, victim impact statements provide victims with the opportunity to discuss the physical, financial, and emotional effects the crime has had on themselves and their families. Such input is vital in helping courts and correctional authorities make informed decisions about sentencing and release. These impact statements provide useful information about issues that affect restitution (including medical and counseling expenses, lost wages, funeral expenses, and other losses) or measures to promote victim safety and security (including protective orders and special conditions of probation or parole). Impact statements can also provide information about the victims' wishes relevant to their participation in victim/offender programs (such as mediation, family group conferencing, and community reparative boards), and victims' recommendations for offender treatment and supervision—including attendance at victim impact panels, alcohol/substance abuse treatment, sex offender treatment, anger management, and job skills development.

In order to expand and improve the use of victim impact statements, victims should be notified of their statutory or constitutional right to submit an impact statement at every juncture of the criminal and juvenile justice systems. Court and correctional authorities should help victims with special needs complete their impact statements by providing services such as interpreters, assistance for illiterate victims, and assistance for child victims that is commensurate with their age and cognitive development. The most significant improvement would be to provide victim impact training and cross training of prosecutors, judges, probation and paroling authorities, and victim service providers.

Restitution is another victims' right that should be addressed at the sentencing and post-sentencing phases. Restitution is a strong measure of the effectiveness of the criminal justice system. When citizens assess whether justice systems are accomplishing their mission, restitution is an important evaluation criterion. As such, not only should offenders be accountable for victim restitution, but justice systems should also be held accountable for the enforcement of restitution orders.

While all 50 states and the federal government have statutory provisions for victim restitution, it is one of the most underenforced of all victims' rights. Court

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and correctional agencies must acknowledge, through policies and practice, that restitution is a basic right that holds offenders financially accountable for their criminal actions and provides victims with some compensation to cover their losses resulting from crime. For victims, restitution does not always have to be in monetary form. Restitution should be ordered from adjudicated persons in every case in which a crime victim suffers a loss, regardless of the sentence or disposition imposed, unless compelling and extraordinary reasons exist to the contrary.

While victims' rights in the post-sentencing phases of their cases have been greatly strengthened over the past decade, so have the programs and services that are necessary to promote and enforce these rights. The most promising practices for corrections-based victim services incorporate a strong foundation created by policies and procedures, appropriate staffing, victim and community outreach, implementation of core victims' rights, and creative programming.

Corrections-based victim services is rapidly becoming a specialized discipline within the larger fields of both corrections and victims' rights. The level and scope of expertise and effectiveness are increasing. This factor is augmented by leadership from the Association of State Correctional Administrators which, through its Victims Committee, has articulated a strong vision of the future of corrections that incorporates victims' rights and services at its core. Every effort should be made to continue and strengthen this inclusive vision of public safety.

As the justice community continually seeks innovative approaches to fulfill its mission, the concept of restorative justice has emerged as a philosophical approach that incorporates crime prevention, violence reduction, offender accountability, victim assistance, and public safety. In the restorative model, offenders, crime victims, and the community are all considered clients of justice processes, including corrections. As such, the involvement and interests of these three client populations become central to the planning, development, implementation, and evaluation of justice-related programs and services. The challenge is to ensure that crime victims are included as stakeholders in each phase of any restorative justice initiative.

Within justice systems, victim/offender programs, which are based on the values of restorative justice, can be successfully implemented. Such programs should not operate in a vacuum, but rather be an integral component of system- and community-based services for both victims and offenders. For criminal offenders, victim/offender programs offer substantial value, including:

- An understanding of the impact their crimes have on their victims and communities.
- Incentives for personal accountability in the forms of apologies, financial restitution, and community service.
- A good learning experience and competency development that can provide positive alternatives to criminal and delinquent activities.

For victims who choose to participate, victim/offender programs can be a valuable component in their attempts to reconstruct their lives in the aftermath of a crime. 

*The challenge is to ensure that crime victims are included as stakeholders in each phase of any restorative justice initiative.*