PTSD AND ESTABLISHING A VETERANS COURT IN BOISE, IDAHO

On July 28, 2009, a woman in Boise, Idaho, frantically dialed 911, saying that someone with a gun was pounding on her door and that he had fired one round at the lock. When the police arrived, they were confronted with a man holding a gun in a stairwell and fired 12 rounds at him without hitting him. The man surrendered without firing a shot and was charged with six felony counts. The man was 38-year-old sergeant George Nickel, a decorated (Bronze Star and Purple Heart) Iraq War hero who in 2007 suffered severe wounds in a bomb blast that killed three of his fellow soldiers. He told police he hadn't slept for 3 days and had drunk close to a full case of beer that day. He also told them he was out looking for his dog, which he believed had been stolen, and was angrily trying to get it back.

Nickel suffered from posttraumatic stress disorder (PTSD) and "survival guilt" for surviving the blast in Iraq. He must have thought while in his jail cell that for all intents and purposes his life was over. However, under a plea agreement he was allowed to admit to one count of firing a weapon into an occupied residence and had the judgment withheld. A withheld judgment means that the charge would be purged from his record if he received mental health treatment and cooperated charge would be purged from his record if he received mental health treatment and cooperated with law enforcement, which he did. Cooperation with law enforcement included sharing his harrowing experiences on videotape, which has been distributed to law enforcement agencies across the United States for training purposes.

Nickel's case was instrumental in the idea of establishing a veterans court for Idaho, whereby people like Nickel can remain in the community with proper supervision rather than being sent to prison. Nickel subsequently earned a degree in social work from Boise State University and now works with other veterans to try to resolve their problems. Had it not been for the humane intervention of people like former Boise police chief Mike Masterson and Judge Deborah Bail, Nickel might have received up to 15 years in prison and still be left with his problems instead of becoming the upstanding citizen he now is. This is the kind of success story all special problem-solving courts can claim—lives saved and turned around by considering the problem behind the act(s) that bring troubled individuals before them. Such problem-solving courts have been one of the very few success stories in American corrections.

INTRODUCTION: THE ORIGINS OF PROBATION

LO 6.1 Explain the origins and purpose of

PROBATION

LO 6.1 Explain the origins and purpose of probation.

This chapter focuses on **probation**, which is a sentence imposed on convicted offenders that allows them to remain in the community under the supervision of a probation officer instead of being sent to prison. The term *probation* comes from the Latin term *probare*, meaning "to prove." Because probation is a conditional release into the community, the probation period is a time of testing a person's character and their ability to meet certain requirements mandated by the court. That is, convicted persons must prove to the court that they are capable of remaining in the community and living up to its legal and moral standards. About 90% of all sentences handed down by the courts in the United States are probation orders (Kramer & Ulmer, 2009).

Probation: A sentence imposed on convicted offenders that allows them to remain in the community under the supervision of a probation officer instead of being sent to prison.

The practice of imprisoning convicted criminals is a relatively modern and expensive way of dealing with them. Up to 200 or 300 years ago, they were dealt with by execution, corporal punishments such as disfigurement and branding, or humiliation in the stocks. All these punishments humiliation in the stocks. All these punishments took place as community spectacles and even with community participation in the case of individuals sentenced to time in the stocks. Assuming that a convicted person was not executed, they remained in the community enduring the shame of having offended it (think of Hester Prynne's punishment in Hawthorne's [1850/2003] *The Scarlet Letter*, briefly discussed in Chapter 1). The only kinds of offenders typically subjected to this kind of shaming today are sex offenders, whose pictures are displayed on the Internet and who are frequently identified to their neighbors through community notification orders.

More enlightened ages saw punishments move away from barbaric cruelties and the emergence of the penitentiary, where offenders could contemplate the errors of their ways and perhaps redeem themselves while residing there. But as we have seen, penitentiaries were not very nice places, and some kind souls in positions to do so sought ways to spare deserving or redeemable offenders from being consigned to them. This practice had its legal underpinnings in the practice of **judicial reprieve** sometimes practiced in English courts in former times. A judicial reprieve was a delay in sentencing following a conviction, a delay that most often would become permanent if the offender demonstrated good behavior. In those days, there were no probation officers charged with supervising reprieved individuals; the nosy and judgmental nature of individuals; the nosy and judgmental nature of the small communities was more than adequate for that task.

Judicial reprieve: British and early American practice of delaying sentencing following a conviction that could become permanent, depending on the offender's behavior.

Early American courts also used judicial reprieve, whereby a judge would suspend the sentence and the defendant would be released on their own recognizance. Today an "own recognizance" release is the release of an arrested person without payment of bail who promises to appear in court to answer criminal charges. In early America, it was granted to persons already convicted as a form of probation, although offenders received no formal supervision or assistance to help them mend their ways. The first real probation system in which a reprieved person was supervised and helped was developed in the United States during the 1840s by a Boston cobbler named John Augustus. Augustus would appear in court and offer to take carefully selected offenders into his own home, where he would do what he could to reform them as an alternative to imprisonment. Probation soon became his full-time vocation, and he recruited other civic-minded volunteers to help him. By the time of his death in 1859, he and his volunteers h~~ad saved more than 2,00~~0 convicts him. By the time of his death in 1859, he and his volunteers had saved more than 2,000 convicts from imprisonment (Schmalleger, 2001). It should be noted, however, that Augustus worked only with first offenders and excluded the "wholly depraved" (Vanstone, 2004, p. 41), a luxury modern probation officers do not enjoy.

In 1878, the Massachusetts legislature authorized Boston to hire salaried probation officers to do the work of Augustus's volunteers, and a number of states quickly followed suit. This legislation grew out of the need to enforce the conditions of a suspended sentence as well as the need to help offenders change their lives (Vanstone, 2008). However, the probation idea nearly died in 1916 when the U.S. Supreme Court ruled that judges may not indefinitely suspend a sentence (*Ex Parte United States*, 1916). In this case, an embezzler was sentenced to 5 years of imprisonment, which the judge (federal judge John Killits) suspended contingent on the embezzler's good behavior. What Killits had done was place an offender on probation without there being such a system established by law. Probation was such a popular idea with legislators at this time, however, that this ruling led to the passage of the **National Probation Act of 1925**, allowing judges to suspend sentences and place convicted individuals on probation if they found circumstances warranted it.

National Probation Act of 1925: The act that initiated the legal use of probation in the United States.

NUMBER AND DEMOGRAPHIC CHARACTERISTICS OF OFFENDERS ON PROBATION

LO 6.2 Describe the demographics and characteristics of offenders on probation.

According to the Bureau of Justice Statistics, there were 4,537,100 adult Americans (1 in 55 adults in the United States) under community supervision at the end of 2016 (Kaeble, 2018). This figure is a decrease of 1.1% from the previous year. Figure 6.1 shows trends in the number of entries into the federal and state probation systems from 2000 to 2016. In 2016, there were 2,012,200 entries and 2,043,200 exits from probation. Of those who exited, 50.8% did so successfully (84.2% of federal probationers and 50.2% of state probationers). Across both federal and state systems, 12.1% were incarcerated, 2.5% absconded, 0.62% were "discharged to warrant or detainer," and 13.6% exited "other unsatisfactory" (terminated for such things as failure to meet certain conditions, such as fines and restitution, by the end of their probation period). The remainder died, were probation period). The remainder died, were deported, or were transferred to other agencies. Men constituted about 75% of the adult probation population. White people made up 55% of adult probationers; 28% were Black; 14% were Hispanic; and 2% were American Indian, Alaska Native, Asian, or Pacific Islander. Figure 6.1 provides more information about the probation and parole population in 2016. Note that probation numbers have decreased substantially since 2008, whereas the number of people on parole has increased slightly (Kaeble, 2018). Figure 6.2 provides information about the characteristics of individuals on probation from the Bureau of Justice Statistics (Kaeble, 2018).

Description

Figure 6.1 Adults Under Community Supervision (Probation or Parole), 2000–2016

Source: Kaeble (2018). Most recent data available.

Description

Figure 6.2 Characteristics of Individuals on Probation

Source: Based on data from Kaeble (2018).

WHY DO WE NEED COMMUNITY

COMMUNITY CORRECTIONS?

LO 6.3 Describe the advantages of probation over incarceration for some offenders and for community offenders.

Community corrections may be defined as any activity performed by agents of the state to assist offenders in establishing or reestablishing law-abiding roles in the community while at the same time monitoring their behavior for criminal activity. In theory, monitoring and assisting offenders while allowing them to remain in the community protects society from criminal predation without taxpayers shouldering the financial cost of incarceration. Even if as a society we were willing and able to bear the monetary cost of imprisoning all offenders, incarceration imposes other costs on the community. These costs can and must be borne where seriously violent and chronic criminals are concerned, but to send every felony offender to prison would be counterproductive. Yet the general public is not well disposed to the idea of probation because "it suffers from a 'soft on crime' image" and is seen as "permissive, uncaring about crime victims, and blindly advocating a rehabilitative ideal while ignoring the reality of violent, predatory criminals" (Petersilia, 1998, p. 30). However, allowing relatively minor felony offenders to remain in the community under probation supervision to prove they can live law-abiding lives benefits their communities as well as themselves.

they can live law-abiding lives benefits their communities as well as themselves.

> **Community corrections**: A branch of corrections defined as any activity performed by agents of the state to assist offenders in reestablishing functional law-abiding roles in the community while at the same time monitoring their behavior for criminal activity.

The general public's notion that a probation sentence is "getting away with it" is a notion not shared by many offenders. When a convicted felon is placed on probation, they actually receives a prison sentence. This prison sentence is then suspended during the period of proving that the probationer is capable of living a law-abiding life. This sentence hangs over probationers' heads like a guillotine ready to drop if they fail to provide that proof. It may be for this reason that a number of studies have found that "experienced" offenders who have done prison time, probation time, and parole time often prefer prison to the more demanding forms of probation such as day reporting and intensive supervision probation (Crouch, 1993; May, Wood, Mooney, & Minor, 2005). Probation requires offenders to work, submit to treatment and educational programs, and do many other orderly things that many hardened criminals simply do not have the inclination to do. Numerous interviews with active many hardened criminals simply do not have the inclination to do. Numerous interviews with active "street criminals" (e.g., burglars, robbers, carjackers) show that such things are treated with disdain by them (Jacobs & Wright, 1999; Mawby, 2001; Wright & Decker, 1994). Serving time in prison is less of a hassle for many of them, and many know they would end up there anyway because they would not live up to probation conditions (May et al., 2005).

Other less criminally involved offenders prefer a probation sentence so that they can retain their jobs and maintain connections to their families and communities. As we saw in Chapter 1, perceptions of the severity of a punishment, and thus its deterrent effect, are a function of the contrast between one's everyday life and life under punishment conditions (the contrast effect). With close to 4 million American adults on probation in 2012, 68% of them successfully completed their conditions of supervision and were released from probation (Maruschak & Bonczar, 2013), and that is fairly consistent from year to year. In the event of a failure to live up to the conditions of probation, the prison sentence may be imposed. Thus, while many fail the probation period, the majority succeed, so surely providing nonviolent offenders with the opportunity to try to redeem themselves while remaining in the community is sensible criminal justice policy. But what are the benefits for the community?

community?

1. Probation costs far less than imprisonment. Note from Figure 6.3, provided by the U.S. Courts (2013), that it cost nearly 9 times more (more for women, juveniles, and older people) for imprisonment than for community supervision. For each person placed on probation rather than incarcerated in 2012, taxpayers saved more than $25,000, and these savings apply every year. Many jurisdictions require probationers to pay for their own costs of supervision, which means that taxpayers pay nothing. However, while economic considerations are important for policymakers, they are not the primary concern of corrections; protecting the community is. Community-based corrections is the solution only for those offenders who do not pose a significant risk to public safety.
2. Employed probationers stay in their communities and continue to pay taxes, and offenders who were unemployed at the time of conviction may obtain training and help in finding jobs. This adds further to the tax revenues of the community and, more important, allows offenders to keep or obtain the stake in the community that employment offers. A job also gives them the wherewithal to pay fines and court costs, as well as restitution to victims.
3. In the case of married offenders, community supervision maintains the integrity of the family, wh[redacted] lead to its

supervision maintains the integrity of the family, whereas incarceration could lead to its disruption and all the negative consequences such disruption entails.

4. Probation prevents felons from becoming further embedded in a criminal lifestyle by being exposed to chronic offenders in prison. Nearly all prisoners will leave the institution someday, and many will emerge harder, more criminally sophisticated, and more bitter than they were when they entered. Furthermore, they are now ex-cons, a label that is a heavy liability when attempting to reintegrate into a free society.
5. Many more offenders get into trouble because of deficiencies than because of pathologies. Deficits such as a lack of education, a substance abuse problem, and faulty thinking patterns can be assessed and addressed using the methods discussed in Chapter 14 on treatment. If we can correct these deficits to some extent, then the community benefits because it is a self-evident truth that whatever helps the offender to become a productive citizen also protects the community.

Description

Figure 6.3 Community Supervision Costs Versus Incarceration Costs

Source: U.S. Courts (2013).

We do not wi[redacted]t this; there

Source: U.S. Courts (2013).

We do not wish to appear naive about this; there are people who are unfit to remain in the community and could not lead a law-abiding life even if given everything they needed to start over. We noted in Chapter 1 that for serious and violent offenders, incarceration is cost effective. Placing dangerous offenders on probation is putting the community at risk, and they will mess up sooner or later and end up in prison anyway. For instance, according to the U.S. Marshals Service (2012), about 95% of those in the witness protection program (a program run by the Marshals Service to protect threatened witnesses and "snitches" during and after a trial) are criminals, and 17% commit further crimes under their new identities within a year despite being given jobs, housing, and basically a new start in life as part of the program. To use a medical metaphor, probation is "outpatient" treatment for the less seriously criminally afflicted; prison is hospitalization for people who cannot be successfully treated anywhere else.

THE PROBATION OFFICER ROLE AND MODELS OF PROBATION SUPERVISION

LO 6.4 Analyze the probation officer role and models of probation supervision.

Probation and parole officers (the roles are models of probation supervision.

Probation and parole officers (the roles are combined in some states) have two common roles: to protect the community and to assist their probationers and parolees in becoming productive and law-abiding citizens. The dual roles mark them as law enforcement officers (this is their legally defined role in most states) and as social workers. The offenders they supervise may be on probation or parole, depending on their legal status. Probation is a judicial function, meaning that offenders are under the ultimate supervision of the court. Probationers may or may not have served jail time prior to community supervision by a probation officer. Offenders who have served time in prison are placed on parole on release and are under the ultimate supervision of the executive branch of government, typically the state department of corrections.

Probation officers are officers of the court, and in this capacity they are responsible for enforcing court orders, which may require them to monitor probationers' adherence to programs such as drug and alcohol treatment and to develop plans to assist them in transitioning to a free society. They are also required to make arrests, perform searches, and seize evidence of wrongdoing. Officers might need to appear in court occasionally to present evidence of and violation of probation orders and to justify their recommendations for either termination of probation and imprisonment or continued probation with additional conditions. This is part probation and imprisonment or continued probation with additional conditions. This is part of the officers' law enforcement role. Probation and parole officers work with offenders who may be dangerous and who may live in dangerous areas, which is why 35 states require their officers to carry firearms (Holcomb, 2008). Dangerous or not, it is important that officers spend a lot of time in those communities learning about their culture, customs and values, and resources available to assist with the rehabilitation of offenders.

Perspective From a Practitioner:

Brian Fallock, Probation and Parole Officer

Position: Probation and parole agent

Location: Pennsylvania Board of Probation and Parole

Education: BA in administration of justice, University of Pittsburgh

What are your duties and responsibilities?

The primary responsibility of a probation and parole (P&P) agent is to ensure the safety of the community by supervising offenders on parole and probation released from state correctional offenders on parole and probation released from state correctional institutions or county jails. While doing this, P&P agents also will assist offenders in adequately reentering society through numerous techniques and programs to hopefully reduce recidivism and provide the offenders with the tools they need to stay out of jail. Agents refer offenders to outside agencies for specialized therapy to assist them in dealing with problems that need special attention, such as employment, drugs, alcohol, and sexual and mental health problems. If an offender does violate, agents are responsible for requesting a warrant for his or her arrest through a superior and physically taking an offender into custody with the assistance of other agents or police agencies. P&P agents also participate in court proceedings, providing testimony on the adjustment of offenders in the community and answering questions concerning agency policy and procedures so the court can make an accurate decision pertaining to an offender that has violated his or her supervision.

What are the characteristics and traits most useful in your line of work?

work?

Strong interpersonal skills are recommended, as you will be dealing with many offenders from different backgrounds as well as the offenders' families on a daily basis. Agents routinely work with various local and state law enforcement agencies, and being able to work with others to come to a common goal is encouraged. Good time management and organizational skills are a must, as you will consistently have numerous issues to deal with simultaneously and will need to be able to keep track of them. Communication and writing skills are also required, as there are various reports and notes that will need to be submitted on a regular basis.

Please describe your typical workday.

As a field agent, I am required to make field contacts with offenders, whether at their homes, jobs, or elsewhere. Every offender is assigned a level of supervision that dictates policy regarding how often you are required to see that offender in a given supervision period. A typical workday will involve traveling through your assigned area of supervision, making attempts to see your offenders and their families to monitor supervision, making attempts to see your offenders and their families to monitor their adjustment back into society. Agents will also communicate with various treatment agencies to ensure offenders' compliance with the programs they are enrolled in. If scheduled, agents will attend various court hearings to provide testimony and evidence proving any violations and detailing an offender's history while under supervision. When needed, agents will spend time in the district office writing reports, answering e-mails, and making phone calls.

What is your advice to someone who wants to enter your field?

Being a P&P agent can be challenging. P&P agents are often said to wear numerous hats, depending on the situation. One minute you could be wearing a "law enforcement hat" that will require you to violate offenders (determine that they have violated parole) or take them into custody. The next minute you could be wearing a "social worker hat," referring offenders to other agencies to get any help they need. To be successful in this type of work, you need to be flexible and hard working. But you also need to keep in mind that these offenders can be dangerous, and you offenders can be dangerous, and you need to be cautious and on your toes at all times. You cannot become complacent, as there is no such thing as a "routine contact." Anything can happen, and you need to be prepared. But along with being challenging, being a P&P officer can be extremely rewarding. You will be able to provide guidance to offenders and give them the tools they need to be contributing members of society, and hopefully they will complete their supervision successfully. Reducing recidivism is key, and if an offender is willing to change, a P&P agent is on the front lines and can have a great effect on it.

Models of Probation Supervision

As is the case with all occupations, the effectiveness of probation and parole officers' performance ranges from dismal to outstanding. One of the biggest problems in probation and parole work is gaining the trust of probationers or parolees and developing rapport with them. Most officers are white and middle class, whereas many of their "clients" are people of color, and whereas most probationers and parolees are men, about half of probation officers are women (Walsh & Stohr, 2010). It is very difficult for both officers and probationers to overcome the class, officers and probationers to overcome the class, race, and gender divide and for each to understand and appreciate where the other is "coming from." Nevertheless, the job must be done as effectively as possible.

The measures of correctional effectiveness are how well the community is protected from the offenders on an officer's caseload (law enforcement role) and how well the offenders are able to resolve their criminogenic problems and become decent, law-abiding citizens (social work role). There is often tension between these supposedly contradictory roles (Skeem & Manchak, 2008), although there need not be, as one chief probation officer referred to in this so-called conflict in a question-and-answer session:

> When I'm asked at a meeting with probation officers, "Are we supposed to be cops or social workers?" I answered with another question—"How many of you are parents of teenagers?" I asked those who raised their hands, "Would you say you are a cop or social worker?" One of those that raised his hand said, "At different times, I was both." Bingo! (Quoted in Klingele, 2013, p. 1030)

Some officers take on an exclusively law enforcement role and embrace working values emphasizing strict compliance with probation conditions and holding offenders strictly conditions and holding offenders strictly accountable. Other officers take on a counselor role, providing offenders with whatever is available in the community to bring about behavior change. The extent to which officers follow these different models depends not only on the personalities and training of the individual officers but also on the overall supervision model dictated by whether their department's philosophy is punitive or rehabilitative, which in turn is dictated by the ideology of local politicians.

A third group of officers combine the two roles and follow a "hybrid" approach, meaning that they follow both the law enforcement and social work models when appropriate. Skeem and Manchak (2008) viewed the law enforcer as authoritarian and the counselor as permissive but saw the hybrid officer as authoritative, the kind of parenting style that psychologists tell us the most effective parents adopt (Grusec & Hastings, 2007). Authoritarian officers are inflexible disciplinarians who require unquestioning compliance with their demands. Such a style often leads to hostility and rebelliousness among those to whom it is directed. On the flip side, permissive officers set few rules and are reluctant to enforce those that are set. This style often results in the perception among their probationers that the officer is a "pushover," and it practically invites lack of respect and noncompliance.

Hybrids are authoritative officers who are firm noncompliance.

Hybrids are authoritative officers who are firm enforcers but fair, knowing that boundaries must be set and consequences must be endured for venturing beyond them. They clearly describe those boundaries and the consequences for crossing them (the law enforcement role), but they also offer guidance and support to probationers (the social work role) so that they may be better able to stay within those boundaries.

How well do these different styles do with respect to the dual roles of community protection and offender rehabilitation? One study found that in terms of technical violations such as failure to comply with some condition of probation, 43% of probationers supervised by law enforcement–oriented officers, 5% of probationers supervised by treatment-oriented officers, and 13% of probationers supervised by hybrid officers received technical (Paparozzi & Gendreau, 2005). These findings are as expected; law enforcers do not tolerate any violations, counselors tolerate nearly every violation, and hybrids, like good and concerned parents, tolerate selectively. New criminal convictions are a better measure of supervision effectiveness than technical violations, however, because while technical violations are largely in the hands of officers, new criminal convictions are out of their hands. Offenders with treatment-oriented social work officers were convicted of new crimes at hands. Offenders with treatment-oriented social work officers were convicted of new crimes at twice the rate (32% vs. 16%) of those supervised by law enforcement–oriented officers, while only 6% of offenders supervised by hybrid officers were convicted of new crimes.

Further evidence for the effectiveness of the authoritative hybrid model comes from the success of Hawaii's Opportunity Probation With Enforcement (HOPE) program. According to the judge who initiated the program, it is based on the principles of effective parenting and on Beccaria's notion that consequences for misbehavior will be swift, certain, and proportionate to the severity of the misbehavior (as cited in Alm, 2013). HOPE begins with a formal warning that *no* violation of probation conditions will be tolerated and that any violation will *immediately* result in a short jail stay. The program has been shown to be so remarkably successful (it is examined in greater detail in Chapter 14) that a number of states have implemented similar programs, such as Delaware's Decide Your Time program (O'Connell, Visher, Martin, Parker, & Brent, 2011).

Ethical Issue:

What Would You Do?

You are a probation and parole officer assigned to write a presentence

> You are a probation and parole officer assigned to write a presentence investigation report on a burglary case that resulted in the loss of more than $1,000 in property and in which the house was trashed. On reading the police report, you realize the house is that of a very close friend who was devastated by the experience. You realize you can slant the report to put the offender in the worst possible light and recommend a stiff sentence for him, thereby exacting "revenge" for your friend. Would you do this, would you still try to be as objective as possible and write the report, or would you realize your bias, tell your supervisor the circumstances, and request the report be assigned to another officer?

PROBATION VIOLATIONS AND GRADUATED SANCTIONS

LO 6.5 Explain the purpose of graduated sanctions for technical violations of probation.

In these days of severe budget cuts and the concerns of cost-conscious politicians, there has been a tendency to turn to evidence-based research to see what can be done to reduce probation revocations (Klingele, 2013). After all, research to see what can be done to reduce probation revocations (Klingele, 2013). After all, one of the advantages of probation is supposed to be saving the taxpayer money, and probation is hardly a cost cutter if it is simply a deferred incarceration. We have seen that 15% of probationers were ultimately incarcerated in 2012 (Maruschak & Bonczar, 2013), which amounts to nearly 600,000 individuals, and probation violators constitute about one third of all individuals admitted to prison each year (Klingele, 2013). Probation officers enjoy a certain amount of discretion as to whether to formally violate someone's probation and the reasons why they do so. A formal probation violation goes before the sentencing judge with a recommendation from the officer regarding whether the suspended prison sentence should be imposed.

One of the ways state legislatures and correctional departments have addressed the issue is by turning to actuarial assessment tools devised by criminal justice researchers to determine the circumstances for technical and, in some cases, minor criminal violations of probation. One such tool used by the Vermont Department of Corrections and presented in Table 6.1 is designed to eliminate costly court appearances and incarcerations for offenders whose violations do not bear directly on their threat to the community or their rehabilitation.

Table 6.1 Gr~~aduated Sanctions Guide~~line for threat to the community or their rehabilitation.

Table 6.1 Graduated Sanctions Guideline for Technical Probation Violations

Level 1 Violations	**Level 1 Sanctions**
➢ Failure to report as instructed	➢ Graduated sanction thinking report
➢ Out of place	➢ Apology (verbal or written)
➢ First positive drug/alcohol test	➢ Verbal warning
➢ Refusal of drug/alcohol test	➢ Develop relapse prevention plan
➢ Missed treatment/programming group	➢ Written essay/educational activities
➢ Unemployment or failure to seek employment within 45 days	➢ Increase contacts for up to 30 days
➢ Failure to fulfill financial obligations	➢ Increase curfew restrictions for up to 30 days

	to 30 days
➢ Failure to follow case plan/ORP	➢ Use of schedules for up to 30 days
➢ Failure to complete community service	➢ DOC work crew
➢ Curfew violation	
Level 2 Violations	**Level 2 Sanctions**
➢ Multiple Level 1 violations	➢ Referral for treatment assessment
➢ Noncompliance with special conditions not indicated above	➢ Community service work for up to 80 hours
➢ Continued substance abuse or second positive drug/alcohol test	➢ Community restitution work crew for up to 10 days
➢ Continued missed treatment/programming group	➢ Curfew/restriction to residence
➢ Failure to comply	➢ Increased

group	to residence
➢ Failure to comply with Level 1 sanctions	➢ Increased reporting as directed for Alco-Sensor, drug testing, employment search, or other related activity
➢ Contact with restricted persons (non–sex offender/domestic violence)	➢ Activities to address risk behaviors (self-help)
➢ Tampering with electronic monitoring equipment	➢ Loss of curfew/placed on schedule
	➢ Modification of the case plan to address risk-related behavior
	➢ Any Level 1 sanction
	➢ Use of electronic monitoring equipment along

	electronic monitoring equipment along with Level 1 sanction for up to 60 days
Level 3 Violations	**Level 3 Sanctions**
➢ Multiple Level 2 violations	➢ Use of electronic monitoring equipment along with Level 2 sanction for up to 60 days
➢ Failure to comply with Level 2 sanctions	➢ Modified conditions of probation (risk-related)
➢ Nonthreatening contact with victim	
➢ Suspension or placed on probation in treatment/programming group	
➢ Misdemeanor behavior	

group	
➢ Misdemeanor behavior (nonrisk/nonviolent)	
➢ Out of place for more than 24 hours	

Source: Vermont Department of Corrections (2010).

Note that both the violations and the sanctions attached to them have a three-level hierarchy of increasing seriousness of violation and increasing severity of punishment. Under this scheme, offenders are brought before a judge for technical violations only after they reach Level 3 violations and after all appropriate casework interventions have been exhausted. While state legislatures have designed these assessment tools primarily as cost-cutting devices, they also appear to be useful correctional tools by providing officers with a uniform way of responding to violations, thereby making authoritarian law enforcement–oriented officers less punitive and permissive social work–oriented officers less indulgent with offenders' transgressions.

Ethical Issue:

What Would You Do?

PROBATION OFFICER STRESS

LO 6.6 Identify sources of stress commonly encountered related to the job duties of a probation officer.

Supervising criminal offenders is not the easiest or most lucrative job in the world, although by today's job standards the pay and stability are excellent. According to the Bureau of Labor Statistics, in 2018 the median income (half earn below, half earn above) for probation officers (parole officers also) was $53,020 a year. The lowest-paid 10% of officers made $34,630, while the highest-paid 10% made $94,770 (Bureau of Labor Statistics, 2019). Pay varies by location (cost of living there), rank, and years of service. In addition, federal, state, and local benefits are much better than those typically provided in the private sector and include paid vacations, sick leave, pension, and health, dental, and life insurance plans.

In common with police officers and correctional officers, probation and parole officers are dealing with difficult individuals on a daily basis, often without the tools and support needed to do the job as it should be done. Doing a demanding and sometimes dangerous job under less than adequate conditions can, and does, lead to stress (Slate, Wells, & Wesley Johnson, 2003). For instance, one study of officers in four states

For instance, one study of officers in four states found that 35% to 55% reported that they had been victims of threatened or actual violence (Finn & Kuck, 2005). Stress is a physical and emotional state of tension as the body reacts to environmental challenges (stressors). No one can be expected to do a very good job while experiencing stress.

The most important job stressors identified by the officers surveyed by Slate et al. (2003) were poor salaries, poor promotion opportunities, excessive paperwork, lack of resources from the community, large caseloads, and a general frustration with the inadequacies of the criminal justice system. These stressors may eventually lead to psychological withdrawal from the job, meaning that probationers, and thus the community, are getting shortchanged. High stress levels in the department also lead to frequent absenteeism and high rates of employee turnover; thus, it is imperative that the issue of probation and parole officer stress be meaningfully addressed.

Slate et al. (2003) emphasized that an attempt to address the problem of probation officer stress should not be one of counseling officers on how to cope with stress, because the problem is organizational (inherent in the probation system), not personal. They suggested that participatory management strategies be instituted so that each person in the department participates in the decision-making process and, thus, feels valued person in the department participates in the decision-making process and, thus, feels valued and empowered. The researchers found that personnel who did participate in decision making reported fewer stress symptoms and were happier on the job. Participatory management (workplace democracy) leads to a happier and more productive workforce even if nothing else changes—"contented cows give better milk."

ENGAGING THE COMMUNITY TO PREVENT RECIDIVISM

LO 6.7 Describe the benefits of engaging the community in offender rehabilitation.

Although probation began as a voluntary community effort in the United States and Britain, community involvement in offender rehabilitation has faded in those countries with the professionalization of probation. Japan is a country in which probation volunteers still dominate. In Japan, there are about 50,000 volunteer officers but only 800 professional officers (Ellis, Lewis, & Sato, 2011).

Western countries probably cannot revive the old level of community involvement, and cultural differences preclude volunteerism at anywhere near Japanese levels (a volunteer probation officer position is highly sought in Japan because it confers high status [Gardner, 1996]). To achieve the average 2.5 ratio of probationers to volunteer the average 2.5 ratio of probationers to volunteer probation officers that is enjoyed in Japan (only about 60,000 adults on probation there in 2010 [Ellis et al., 2011]) with the approximately 4 million probationers in the United States would require about 1.6 million volunteer officers. Nevertheless, we can engage our communities in the process of offender rehabilitation more than we are doing now, realizing that whatever helps the offender helps the community.

The criminological literature provides abundant support for the notions that social bonds (Hirschi, 1969) and social capital (Sampson & Laub, 1999) are powerful barriers against criminal offending. Social bonds are connections (often emotional in nature) to others and to social institutions that promote prosocial behavior and discourage antisocial behavior. *Social capital* refers to a store of positive relationships in social networks on which the individual can draw for support. It also means that a person with social capital has acquired an education and other solid credentials that enable them to lead a prosocial life. Those who have opened their social capital accounts early in life (bonding to parents, school, and other prosocial networks) may spend much of it freely during adolescence but, nevertheless, manage to salvage a sufficiently tidy nest egg by the time they reach adulthood to keep them on the straight and narrow. The idea is they are not likely to risk losing this nest egg by engaging in criminal activity (the contrast effect again). Most criminals, on the other hand, lack social bonds.

criminal activity (the contrast effect again). Most criminals, on the other hand, lack social bonds, and largely because of this they lack the stake in conformity provided by a healthy stash of social capital.

Photo 6.1 A probation officer's job is highly varied, ranging from interviewing police officers, victims, and family members of the defendant, as well as the defendant themselves, to making midnight raids on a probationer's home.

If we consider the great majority of felons in terms of deficiency (good things they *lack*) rather than in terms of personal pathology (bad things they *are*), we are talking about a deficiency in social capital. The community can be seen as a bank in which social capital is stored and from which offenders can apply for a loan. That is, the community is the repository of all those things from which social capital is derived, such as education, employment, and networks of prosocial individuals in various organizations and clubs (e.g., Alcoholics Anonymous, religious institutions, hobby or interest centers). Time spent involved in steady employment and with prosocial others engaged in prosocial activities is time unavailable to spend in idleness in the company of antisocial others planning antisocial activities. The old saying that "the devil finds work for idle hands" may be trite, but it is also very activities. The old saying that "the devil finds work for idle hands" may be trite, but it is also very true.

Thus, good case management in community corrections requires community involvement. No community corrections agency is able to deliver the full range of offender needs (mental health, substance abuse, vocational training, welfare, etc.) by itself, and thus officers consider themselves intermediaries or brokers of community services. Probation and parole officers not only must assess the needs of their charges but also must be able to locate and network with the social service agencies that address those needs as their primary function. In fact, there are those who maintain that probation and parole officers' relationships with community service agencies are more important than their relationships with their probationers/parolees (Walsh & Stohr, 2010).

Comparative Corrections:

Community Corrections in the United Kingdom

The probation concept is the child of the Christian missionary and temperance movements of the 19th century and grew rapidly during the late 19th and early 20th centuries. Between 1878 and 1920,

INTERMEDIATE SANCTIONS

LO 6.8 Identify the various intermediate community sanctions and what they have to offer.

As we see in Figure 6.5, there are many sentencing options that are intermediate between prison and simple supervised probation. **Intermediate sanctions** refer to these alternative sentences that may be imposed in place of the traditional prison-versus-probation dichotomy. Such sanctions are considered intermediate because they are seen as more punitive than straight probation but less punitive than prison. They are a way of easing prison overcrowding and avoiding the financial cost of prison while providing the community with higher levels of safety through higher levels of offender supervision and surveillance than is possible with regular probation. As we will see, however, these supposed benefits are not always realized. We have already seen that many experienced offenders would choose prison over some of the more strict community-based alternatives. Furthermore, because offenders placed in some sort of alternative sanction program have recidivism rates not much different from those of offenders released from prison within the first year or subsequent years, the costs of state incarceration are deferred rather than avoided (Klingele, 2013; Marion, 2002).

Intermediate sanctions: A number of innovative alternative sentences that may be imposed in place of the traditional prison/probation dichotomy.

The first alternative in Figure 6.5 is community detention (jail) and is addressed elsewhere in this book. Split sentencing is simply a period of probation preceded by a jail sentence of up to 1 year. The work release option is the first intermediate sanction we examine. Halfway houses and electric monitoring are examined in the next chapter.

Description

Figure 6.5 The Continuum of Correctional Sanctions by Restrictiveness

Source: Center for Community Corrections (1997). U.S. Department of Justice.

Work Release

Work release programs are designed to control offenders in a secure environment while at the same time allowing them to maintain employment. Work release centers are usually situated in or adjacent to county jails, but they can also be part of the state prison system. Residents of work release centers have typically been given suspended sentences and placed on been given suspended sentences and placed on probation with a specified time to be served in work release. Work release residents may also be parolees under certain circumstances, such as the need to closely supervise a new parolee or a parole violator given another opportunity to remain in the community rather than being sent back to prison. Surveillance of work release residents is strict; they are allowed out only for the purpose of attending their employment and are locked in the facility when not working. The advantage of such programs is that they allow offenders to maintain ties with their families and with employers. Such programs also save taxpayers money because offenders pay the cost of their accommodations with their earnings.

Work release programs: Programs designed to control offenders in a secure environment while at the same time allowing them to maintain employment.

Although offenders given work release orders are generally the least likely of all community-based corrections offenders to be rearrested and imprisoned within 5 years of successful completion, one study of a number of such programs found that 64% of offenders successfully released and 71% unsuccessfully released had further arrests within 5 years (Marion, 2002), and as noted in Chapter 1, these figures are consistent from year to year within a

(Marion, 2002), and as noted in Chapter 1, these figures are consistent from year to year within a percentage point or two. Offenders chosen to partake in work release are typically chosen because, although they have committed crimes deemed too serious for regular probation, they are usually employed, although unemployed probationers can be placed in work release contingent on their finding employment within a specified time (Abadinsky, 2009). Being employed is incompatible with a criminal lifestyle (but, obviously from the above statistics, not completely), especially if the offender is a probationer rather than a parolee.

Intensive Supervision Probation

Intensive supervision probation (ISP) is typically limited to offenders who probably should not be in the community but have been allowed to remain either in the belief that there is a fighting chance they may be rehabilitated or in an effort to save the costs of incarceration. ISP officers' caseloads are drastically reduced (typically a caseload of 25) to allow them to more closely supervise, often on a daily basis with frequent drug testing and surveillance. Burrell (2006) described ISP officers as "aggressive in their surveillance and punitive in their sanctions" (p. 4). Liberal critics of the tactics of ISP officers describe their model of supervision colorfully as one of "pee 'em and see 'em" or "tail 'em, nail 'em, and jail 'em" (Skeem & Manchak, 2008). This type of ~~law enforcement surveill~~ance is the 'em, and jail 'em" (Skeem & Manchak, 2008). This type of law enforcement surveillance is the kind of supervision required with high-risk offenders (Walsh & Stohr, 2010).

Intensive supervision probation (ISP): Probation that involves more frequent surveillance of probationers and that is typically limited to more serious offenders in the belief that there is a fighting chance that they may be rehabilitated (or to save the costs of incarceration).

A study conducted by MacKenzie and Brame (2001) hypothesized that ISP coerces offenders into prosocial activities that in turn lead to a lower probability of their reoffending. Intensive supervision means that probation officers maintain more frequent contact with probationers and intrude into their lives more than is the norm with other probationers. Offenders on ISP are supervised at that level because they have the greatest probability of reoffending (they are high risk) and are the most deficient in social capital (they have high needs). Higher levels of supervision allow officers to coerce offenders into a wide variety of educational and treatment programs and other prosocial activities designed to provide offenders with social capital. MacKenzie and Brame found that ISP did result in offenders' being coerced into more prosocial activities and ~~that there was a slight~~ reduction in

MacKenzie and Brame found that ISP did result in offenders' being coerced into more prosocial activities and that there was a slight reduction in recidivism. The issue the study left unresolved is whether participating in prosocial activities enabled offenders to acquire skills that provided them with social capital they could put to good use or whether intensive supervision per se accounted for their findings.

The term *coercion* has negative connotations for the more libertarian types among us ("You can lead a horse to water . . ." and all that), but the great majority of people being treated for problems such as substance abuse have very large boot prints impressed on their backsides. Probationers and parolees, almost by definition, will not voluntarily place themselves in the kinds of programs and activities we would like them to be in—they are simply not motivated in that direction. The criminal justice system must provide that motivation via the judicious use of carrots and sticks. Reviews of the U.S. literature (Farabee, Prendergast, & Anglin, 1998) and U.K. literature (Barton, 1999) on coerced substance abuse treatment concluded that coerced treatment often has more positive outcomes than voluntary treatment, probably because of the threat of criminal justice sanctions.

Shock Probation and Parole and Boot Camps

Shock probation was initiated in Ohio during the 1970s and was designed to literally shock

Shock probation was initiated in Ohio during the 1970s and was designed to literally shock offenders into desisting from crime by briefly exposing them to the horrors of prison. It was limited to first offenders who had perhaps been unimpressed with the realities of prison life until given a taste. Under this program, offenders were sentenced to prison and released after (typically) 30 days and placed on probation. In some states, a person may receive shock parole, which typically means that they have remained in prison longer than a shock probationer and is released under the authority of the parole commission rather than to the courts. Most of the research on this kind of shock treatment was conducted during the 1970s and 1980s and concluded that shock probationers and parolees had lower recidivism rates than incarcerated offenders not released under shock conditions (Vito, Allen, & Farmer, 1981). This should not be surprising, however, given the fact that those selected for shock probation or parole were either first offenders or repeaters who had not committed very serious crimes.

When we hear of shock incarceration today, it is typically incarceration in a so-called boot camp. **Correctional boot camps** are facilities modeled after military boot camps. Normally only relatively young and nonviolent offenders are sent to correctional boot camps. They are usually there for short periods (90–180 days) and are subjected to military-style discipline and physical and educational programs. Boot camps are the most to military-style discipline and physical and educational programs. Boot camps are the most unpopular sentencing alternative with offenders. In May et al.'s (2005) analysis of "exchange rates," discussed earlier, offenders who had served time in prison would be willing to spend an average of only 4.65 months in boot camp to avoid 12 months in prison. Interestingly, judges and probation and parole officers also agree that boot camp is more punitive than prison, estimating that their charges would be willing to serve only 6.19 and 6.05 months, respectively, to avoid 12 months in prison (Moore, May, & Wood, 2008).

Photo 6.2 Boot camps feature no-nonsense discipline and hard work modeled on military boot camps.

ZUMA Press, Inc./Alamy Stock Photo

Correctional boot camps: Facilities modeled after military boot camps where young and nonviolent offenders are subjected to military-style discipline and physical and educational programs.

The idea of boot camps for young adult offenders was once popular among the general public as well as among a considerable number of correctional personnel and criminal justice well as among a considerable number of correctional personnel and criminal justice academics. Boot camps conjured up the movie image of a surly, slouching, and scruffy youth forced into the Army who 2 years later proudly marched back into the old neighborhood with a crew cut, sparklingly clean and properly motivated and disciplined. Yes, the drill sergeant with righteous fire and brimstone would do what the family and social work–tainted juvenile probation officers could never do.

Such magical transformations rarely happen in real life. The Army merely provided many such youths with new opportunities to offend, and they spent much of their time either avoiding the MPs (military police) or lodged in the brig while awaiting their dishonorable discharges. Bottcher and Ezell's (2005) evaluation of offenders sent to correctional boot camp in California revealed the same sorry outcome. Specifically, they found no significant differences between their experimental group (boot campers) and a control group of similar offenders not sent to boot camp in terms of either property or violent crime reoffending. In other words, boot camps have joined the woeful list of correctional programs that have proved to be ineffective.

Victim–Offender Reconciliation Programs

Victim–offender reconciliation programs (VORPs) are programs designed to bring offenders and their victims together in an attempt

(VORPs) are programs designed to bring offenders and their victims together in an attempt to reconcile ("make right") the wrongs offenders have caused and are an integral component of the restorative justice philosophy. This philosophy differs from models (retributive, rehabilitative, etc.) that are offender driven (what do we do with the offender?) in that it considers the offender, the victim, and the community as partners in restoring the situation to its previctimization status. Restorative justice has been defined as "every action that is primarily oriented toward justice by repairing the harm that has been caused by the crime . . . [and] usually means a face-to-face confrontation between victim and perpetrator, where a mutually agreeable restorative solution is proposed and agreed upon" (Champion, 2005, p. 154). Restorative justice is often referred to as a balanced approach in that it gives approximately equal weight to community protection, offender accountability, and offender competency.

Victim–offender reconciliation programs (VORPs): Programs designed to bring offenders and their victims together in an attempt to reconcile the wrongs offenders have caused.

Restorative justice: A system of justice that gives approximately equal justice that gives approximately equal weight to community protection, offender accountability, and the offender.

Balanced approach: A three-pronged goal of the juvenile justice system: (a) to protect the community, (b) to hold delinquent youths accountable, and (c) to provide treatment and positive role models.

Many crime victims are seeking fairness, justice, and restitution *as defined by them* as opposed to revenge and punishment. Central to the VORP process is the bringing together of victim and offender in face-to-face meetings mediated by a person trained in mediation theory and practice (Walsh & Stohr, 2010). Meetings are voluntary for both offender and victim and are designed to iron out ways the offender can make amends for the hurt and damage caused to the victim.

In Focus 6.1:

Community Supervision and Recidivism

It is an article of faith among police officers that it is only a matter of time before a probationer or parolee commits another crime, but little is known about the probability of a person under community supervision being arrested

Victims participating in VORPs gain the opportunity to make offenders aware of their feelings of personal violation and loss and to lay out their proposals for how offenders can restore the situation. Offenders are afforded the opportunity to see firsthand the pain they have caused their victims and perhaps even to express remorse. The mediator assists the parties in developing a contract agreeable to both. The mediator monitors the terms of the contract and may schedule further face-to-face meetings.

VORPs are used most often in the juvenile system but are rarely used for violent crimes in either juvenile or adult systems. Where they are used, about 60% of victims invited to participate actually become involved, and a high percentage (95% or more) of VORPs result in signed contracts (Coates, 1990). A more recent study found that about 90% of victim–offender sessions result in restitution agreement contracts, with 80% to 90% completed satisfactorily, and that offenders who participated in victim–offender mediation paid their victims about 95% more than what was paid to victims who went through more traditional court processes (Hansen & Umbreit, 2018). Umbreit (1994) summed up the various satisfactions reported by victims who participated in VORPs:

1. Meeting offenders helped reduce their fear of being revictimized.
2. They appreciated the opportunity to tell