

## Chapter 8

# Community-Based Sanctions: Probation and Post-release Supervision

### Introduction

The term probation, as used in the field of corrections, refers to a formal disposition given to a person who has been convicted of a criminal offense, in which the person is allowed to remain in the community under court supervision. The specific court having jurisdiction over the convicted offender is determined by the seriousness of the offense and the political jurisdiction of the state or federal criminal code violated.

The US legal system can be categorized into federal courts and state courts on the basis of jurisdiction. Kratcoski, Randol., and Block (2015, p. 197) note that “The United States has a federal court system for the entire nation, and each of the 50 states has its own judicial structure.” They further observe that “The U.S. District Courts are the trial courts of the federal court system . . . There are 94 federal judicial districts, with each state, the District of Columbia, and Puerto Rico having at least one district.”

In regard to the state courts in the United States, each of the 50 states has its own set of laws and court structure. Each court operating within a state is subject to the laws of that state, and the criminal code for the state is applicable to all of the courts operating within the state.

There are strong similarities in the ways the individual courts at the municipal and county level are structured within a particular state. For example, misdemeanor offenses are generally prosecuted in municipal courts, that is, courts under the jurisdiction of a local political government such as a city or town. Generally, felony offenses are prosecuted in courts of common pleas, with the jurisdiction of the court extending to the entire county in which the court exists. If an individual is prosecuted for an offense defined as a criminal offense against a federal law, a US district court has jurisdiction. In each case, the supervision of the convicted offender remains under the jurisdiction of the court that convicted the offender. In the case of juveniles who have been adjudicated delinquent by a juvenile court

judge or magistrate, the supervision of these offenders is the responsibility of the juvenile court.

At times, court administrators can elect to turn over their authority to supervise those placed on probation to a private agency or a public agency having statewide jurisdiction. This is often the case with smaller municipalities that do not have the resources to staff their own probation departments.

## Historical Development of Probation

Instances of using probation as an alternative to incarceration in a jail or prison occurred in the thirteenth and fourteenth centuries in England and other European countries. According to Kratcoski and Walker (1978, p. 202), “Benefit of clergy was used in the thirteenth century to allow members of the clergy to escape capital punishment and other severe sentences by transferring their cases to church courts, where they were routinely acquitted.” Since one of the requirements for being eligible to receive benefit of clergy was the ability to read, most of those who benefitted from this practice were clergy and some members of the nobility. The practice of release on recognizance developed in the fourteenth century. This was a forerunner of bail. A person released from custody had to swear that he/she would follow law-abiding conduct and appear in court when summoned to be tried on the charges. If the person did not engage in unlawful behavior for an extended period of time, it was likely that the case would never come to trial. As with benefit of the clergy, release on recognize was limited mostly to the nobility. Most of the lower strata offenders were tried and physically punished soon after their arrest. Another forerunner of probation that developed in later centuries was judicial reprieve, a practice in which the sentence of the convicted person was suspended and the offender was allowed to remain in the community. During the ensuing period, the convicted offender was allowed to make a request for a pardon from the king. If the pardon was granted, the sentence never was served.

An early forerunner of probation in the United States originated in Boston in 1841 under the direction of John Augustus. Burns (1975, p. 229) stated that John Augustus, a shoemaker and also a member of a reform group known as the “Total Abstinence Society,” noticed that many drunkards were appearing regularly in court on various charges such as disorderly conduct and public intoxication. Augustus asked the judge to allow one drunkard to be released to him for a period of 3 weeks. During the 3-week period, the offender would work in Augustus’s shop, and, if at the end of the period when the offender returned to court for sentencing the offender was sober and appeared to be willing to continue to work, a jail sentence would be suspended, and the person would be given a fine as a punishment for the crime. Augustus provided 15 years of volunteer probation service until his death in 1859. During that period of time, he secured the release of an estimated 2000 offenders.

John Augustus's work was recognized not only in Boston but throughout Massachusetts and many other states. In 1878 (Kratcoski & Walker, 1978), the city of Boston hired two full-time paid probation officers, and 2 years later, the Massachusetts State Legislature passed legislation for the appointment of probation officers throughout the state. By the end of the first decade of the twentieth century, almost half of the states had established probation systems.

## Types of Probation

There is common agreement that an offender convicted of a misdemeanor offense or a felony offense does not have a constitutional right to be placed on probation. State statutes have generally listed certain types of offenses, such as murder and kidnapping, as those for which a mandatory prison sentence is required, but for most other offenses, the sentencing judge has an option of determining whether to place the individual on probation or sentence him/her to prison.

During the late 1970s, when the states and the federal government revised their criminal codes and introduced various forms of determinate sentencing and sentencing guidelines, much of the discretion in sentencing for serious criminal convictions was taken away from the sentencing judge. However, for less serious felony crimes and for misdemeanor offenses, the presiding judge still has almost unlimited discretion to impose a community-based sentence or remand the offender to a correctional facility.

Several types of probation plans are available to the sentencing judge. Those convicted of lower level misdemeanor offenses may be placed on *summary* or *bench* probation. The offender may be required to pay a fine and pledge not to commit the offense again. There is no regular supervision by a probation officer, but occasionally the offender may be required to report to the court. If the court has an established probation department, the judge may sentence the offender to a period of time in jail or prison, followed by a period of supervision in the community by a probation officer. This is referred to as a "split sentence."

A sizable proportion of those who are convicted in the municipal courts as well as in the courts that try felony offenders has personal characteristics that have contributed in some way to their criminal behavior. For many, appearance in the courts is a regular occurrence, and it is unlikely that their behavior will change unless some counseling and/or treatment is provided.

The options that a judge can use in sentencing those convicted of misdemeanor offenses or felony offenses for which probation is allowed are set forth in the criminal codes and also depend on the range of programs available in the community in which the court is housed. If the community has the resources to develop and implement a variety of programs for those convicted of drug and alcohol abuse, domestic violence, and other family-related matters such as child endangering, minor assault, and some sex-related offenses, the long-term goal of the court to

correct the behavior of the offenders is more likely to be achieved than if the sentence is entirely geared toward punishment.

## **Probation Officer Roles**

We noted earlier that, at its inception, probation emerged as a form of work with offenders that focused on rehabilitation, separation from unwholesome influences, and employment for the offender. In the 1970s, the effectiveness of treatment was questioned by some research, and the state legislatures were ready to pass legislation that defined the role of probation officers more in terms of intensive surveillance and strict control of probationers than of providing treatment. In a survey of probation officers in 45 states, Steiner, Purkiss, Kifer, Roberts, and Hemmens (2004) found that probation officers were much more likely to define their role in terms of law enforcement tasks such as surveillance of probationers, investigating new offenses, and enforcing criminal laws than in providing service and assisting in rehabilitation. Miller (2015) contends that the dichotomous roles of probation officers as law enforcement officers and social workers have gradually merged into what is known as the “balanced” approach. Support for this contention is offered by Hsich et al. (2015), who surveyed the statutory definitions of the adult probation officers’ functions and roles in all of the 50 states and the District of Columbia. They found (Hsich et al., 2015, p. 24) that, from 2002 to 2013, 26% of the state statutes have added tasks related to rehabilitation to the law enforcement tasks traditionally assigned to probation officers and “Even though state legislation mandated probation officers to perform more peace officer tasks (18) than social worker tasks (6), very few states define probation functions dichotomously, as either strictly a therapeutic agent or law enforcer.”

## **County/State Probation Services: Structure/Organization of Dallas, Texas, Probation**

Descriptions of probation services in the state of Texas are given in this section as examples of county and state probation services in the United States. Adult probation in Texas is under the jurisdiction of the district judge or district judges trying criminal cases in each judicial district and the statutory county court judges trying criminal cases in the county or counties served by the judicial district (Texas Government Code 76.002, 2005). Therefore, even though the department’s official title is the Dallas County Community Supervision and Corrections Department (DCCSCD), they are not county employees but rather judicial district employees. The 71st Texas Legislature changed the term adult probation to community

supervision in 2003, making a probation officer a community supervision officer. A person on probation is now on community supervision.

The Texas Department of Community Supervision and Corrections has established Regional Community Supervision and Corrections districts throughout the state. The Dallas County Community Supervision and Corrections Department (DCCSCD) is one of the three largest departments in the state of Texas. The DCCSCD Division employs a director, two deputy directors who report to the director and are also responsible for the supervision of three area managers, the Victim Services Division, and the Absconder/Warrant Unit. The area managers supervise 17 division managers who are responsible for the supervision of the community supervision officers and the day-to-day operation of the department. There are also budget, finance, and contract services managers and a human resources and an area manager of operations. All of the business and human resource managers report directly to the DCCSCD director.

The Dallas County CSCD is charged with public protection through the supervision of more than 50,000 offenders residing in Dallas County. The Community Corrections Department enforces the court-ordered conditions of community supervision and provides offenders with a wide range of rehabilitative services and resources. The Dallas County CSCD is staffed by more than 530 community supervision officers, supervisors, district managers, and administrators and more than 100 support staff. The approximately half billion dollar yearly budget for the Dallas County CSCD is partially offset by the millions collected from fees.

### ***Dallas County Judicial System***

There are 17 felony courts and 14 misdemeanor courts in the Dallas County criminal justice system. There are seven primary field supervision offices located throughout Dallas County where supervision officers are responsible for ensuring that the offenders comply with the conditions of supervision that are given to every person who is placed under community supervision by the courts.

### ***Texas Sentencing Guidelines***

The judges' decisions on sentencing of convicted offenders must be in conformity with the Texas sentencing guidelines. Although the sentencing judges can use some discretion, being allowed to consider mitigating and aggravating circumstances surrounding each individual case, generally the more serious the offense, the less the opportunity the judge has to use discretion in making sentencing decisions.

According to the Texas Code of Criminal Procedure, Article 42.12 Section 3. (a), a judge, in the best interest of justice, the public, and the defendant, after conviction or a plea of guilt or nolo contendere, may suspend the imposition of the

sentence and place the defendant on community supervision or impose a fine applicable to the offense and place the defendant on community supervision. Both felony and misdemeanor offenders may be placed on community supervision by either the judge or a jury. The maximum period of community supervision for a felony offense is 10 years (TCCP Art. 42.12 3(b)). The maximum period of community supervision for a misdemeanor is 2 years (TCCP Art. 42.12 3 (c)).

A defendant is not eligible for community supervision from a judge if the defendant is sentenced to a term of imprisonment that exceeds 10 years or the defendant is sentenced to a term of confinement under the state jail felony statutes.

### ***Offenses for Which the Code Does Not Allow Community Supervision***

A judge may not grant regular community supervision if the defendant is adjudged guilty of:

- Murder
- Capital murder
- Indecency with a child by contact
- Aggravated kidnapping
- Aggravated sexual assault
- Aggravated robbery
- Certain drug offenses committed within a drug-free zone
- Sexual assault of a child
- When a deadly weapon is used during the commission of the offense (TCCP Art. 42.12 3G)

Criminal convictions on all other criminal offenses are theoretically eligible for community supervision. However, before an offender can be granted community supervision from a jury, the defendant must file a sworn motion stating that he/she has not been previously convicted of a felony offense, and the jury must find the motion to be true. If these two conditions are met, the jury may recommend to the judge that the judge suspend the imposition of the prison sentence and place the defendant on community supervision. The provisions of Section 3G of Article 42.12 do not apply to a jury when recommending community supervision (TCCP Art. 42.12 4).

A jury may not grant community supervision if the defendant is:

- Sentenced to more than 10 years confinement.
- The defendant is found guilty of a state jail felony.
- The defendant is guilty of certain drug offenses committed within a drug-free zone.

## ***Types of Community Supervision***

In Texas, there are two types of community supervision: (1) deferred adjudication and (2) regular community supervision. Deferred adjudication is typically considered a better deal than regular community supervision because, if the defendants finish their probation conditions successfully, they do not have a criminal conviction on their records. Subject to certain restrictions, the judge may grant deferred adjudication for a misdemeanor or felony offense including aggravated (3G) offenses (TCCP Art. 42.12 5). However, a judge cannot grant deferred adjudication if the defendant is charged with an alcohol-related driving offense or convicted of a specified drug offense. Deferred adjudication may not be granted for the offenses of indecency with a child, sexual assault, or aggravated sexual assault if the defendant had previously been placed on community supervision for one of these offenses (TCCP Art. 42.12 5 (d)). For these offenses, deferred adjudication cannot be granted by a jury under any circumstances.

## ***Felony Community Supervision Punishment Ranges, Sanctions, and Alternatives***

The sanctions provided for convicted criminals in the Texas criminal code consist of a range of community-based sanctions as well as jail and prison sentences. A summary of the major provisions of the law for the severity level of felony crimes for which a community sanction is allowed is presented below (Fig. 8.1).

Being placed on community supervision allows the judge to impose sanctions to the standard conditions of community supervision. When a defendant is sentenced to serve time in the county jail, state jail, or the institution division as a condition of community supervision, that time must be served day for day. These offenders are not eligible for good time credit.

Those offenders convicted of first-degree, second-degree, or third-degree felonies can receive up to 180 days in jail as a condition of being granted community supervision. Those convicted of an offense falling under the *state jail felony* category can receive up to 90 in jail as a condition of being granted a community supervision sanction. All felony offenders may be given 90–180 days up front as a condition, and 3G offenders who were granted community supervision by a jury may be given 60–120 days in the Institution Division (state penitentiary). In addition, sentencing judges have the option of modifying a community supervision sentence if the circumstances warrant a change from that initially imposed on the convicted offender. For example, first-, second-, and third-degree felons can have their community supervision suspended for a period and be given up to 180 days in jail as a condition of community supervision. State jail felons can be given

**Felony Community Supervision Punishment Ranges, Sanctions and Alternatives**

**First Degree Felony:** The range of punishment is 5 to 99 years of confinement or life with a fine up to \$10,000.00. In order to receive community supervision, there must be a finding of guilt for 5-10 years and the defendant must be placed on community supervision for up to 10 years.

**Second Degree Felony:** The range of punishment is 2 to 20 years of confinement with a fine up to \$10,000.00. In order to receive community supervision, there must be a finding of guilt for 2-10 years and the defendant must be placed on community supervision for up to 10 years.

**Third Degree Felony:** The range of punishment is 2 to 10 years confinement with a fine up to \$10,000.00. In order to receive community supervision, there must be a finding of guilt for 2-10 years and the defendant must be placed on community supervision for up to 10 years.

**State Jail Felony:** The range of punishment is 180 days to 2 years of confinement in a state Jail, with a fine up to \$10,000.00. A State Jail Felony may be reduced to a Class A misdemeanor and the defendant will be sentenced for a misdemeanor offense. In order to receive community supervision there must be a finding of guilt for 2-5 years and the defendant must be placed on probation for up to 10 years. If the defendant has been charged with possession of a controlled substance by aggregate weight, including adulterants or dilutants is less than one gram, the defendant is charged with possession of no more than 50 pounds and no less than 5 pounds of marijuana or the defendant is charged with possession of no more than 5 pounds of marijuana and no less than 4 ounces of marijuana.

**Fig. 8.1** Felony community supervision punishment ranges, sanctions, and alternatives

90–180 days in the state jail as a condition of community supervision. Also, if the conditions warrant a change, a judge may extend the period of supervision for up to 10 additional years. Community supervision extensions are allowed by law for sex offenders, substance abuse treatment referrals, and outpatient or residential treatment, including placement in a Substance Abuse Felony Punishment Facility. A judge may also amend the conditions of community supervision if the defendant continues to commit technical violations of the conditions of probation.

## *Pretrial/Sentence Services*

The department uses the traditional presentence investigation for those defendants for which it is mandated by law to complete for those being considered for probation. This form is completed by the assessment center. It includes information relating to criminal history, prior probation and incarcerations, nature of current offense, and a number of personal items such as education, employment, marital status, and alcohol and drug abuse. The Dallas Colony CSCD also has instituted an evidence-based case management plan based on a verified risk/needs assessment instrument (Fig. 8.2).

The Texas Risk Assessment Felony Screener for Community Supervision consists of seven weighted items. They are:

- Most serious Charge or arrest age 16 or younger

0=None

1= Yes, Misdemeanor

2=Yes, Felony

- Highest Education

0=High School graduate or Higher

1=GED or No High School Diploma

Employed at Time of Arrest

0=Yes

1=No

- Drug Use Caused Problems

0=None

1=Past2=Current

**Fig. 8.2** Texas Risk Assessment System: community supervision felony screener. Source: University of Cincinnati and Texas Department of Criminal Justice; TRAS Score Sheet—Felony Screener (Rev. 3/1/2015)

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Kratcoski, Crittenden, Worstall

- Criminal Activities
  - 0=Strong Identification with Prosocial Activities
  - 1=Mixture of prosocial and Antisocial Activities
  - 2=Strong Identification with Criminal Activities
- Criminal Attitudes
  - 0=Minimal Attitudes that Support Crime
  - 1=Some Attitudes that Support Crime
  - 2=Strong Attitudes that Support crime
- Walks Away from a Fight
  - 0=Yes
  - 1=Sometimes
  - 2=Rarely

Research has revealed that males receiving a score of 0 to 2 (Low Risk Category) had a re-arrest rate of 15.1%, females scoring 0 to 2 had a re-arrest rate of 11.0% while males scoring 3+ (Moderate/High Risk category) had a Rev-arrest Rate of 36.2% and Females scoring 3+ had a re-arrest rate of 28.3%.

**Fig. 8.2** (continued)

The roles of the probation officers employed by the Dallas County Community Supervision and Corrections Department are defined by the Texas statutes and policies of the Dallas County CSCD. The role embraces both providing treatment and supervision of the offender. In regard to supervision, a person placed on probation is given a set of general conditions of probation that must be adhered to, as well as special conditions that apply specifically to the individual. A violation of either the standard or special rules could result in some form of penalty and even revocation of probation. The general rules and special rules are presented in Fig. 8.3.

The following case illustrates the general and special conditions of probation given to Denny, a 25 year old male who was placed on community supervision after being convicted of theft of property (\$1500-\$2,000). He was given regular probation with medium to high supervision.

The Dallas County, Texas General Conditions for regular community supervision can be placed into several categories. The first pertains to avoiding criminal activity and criminal associations;. They are:

- (a) Commit no offense against the laws of this or any other State or the United States, and do not possess a firearm during the term of Supervision;
- (b) Avoid injurious and vicious habits, and do not use marijuana, narcotics, dangerous drugs, inhalants or prescription medication without first obtaining a prescription for said substances from a licensed physician;
- (c) Avoid persons or places of disreputable or harmful character and do not associate with individuals who commit offenses against the laws of this State or the United States;

The second category of General Community Supervision rules pertainsto the relationship between the Community Supervision Department and the probationer. They are:

- (a) Obey all rules and regulations of the Supervision Department, and report in the manner and time as directed by the judge of the Supervision officer, to-wit Monthly, twice Monthly, or Weekly;
- (b) Permit the Supervision Officer to visit you at your home or elsewhere, and notify the Supervision Officer not less than twenty-four (24) hours prior to any changes in your home or employment address;
- (c) Work faithfully at suitable employment as far as possible, and seek the assistance of the Supervision Officer in your efforts to secure employment when unemployed;
- (d) Remain within a specified place: to-wit Dallas County, Texas, or Approved Supervising County, and do not travel outside Dallas county, or Approved Supervising County, without first having obtained written permission from the Court or Supervising Officer.

**Fig. 8.3** General and special conditions of probation

The remaining items pertain to financial matters such as court and supervision fees, support of a community prevention program, and financial support of family. Those placed under community supervision must pay court costs, fines, and in some cases attorney fees. In addition they pay a supervision fee and are assessed a monetary contribution to support the Dallas Area Crime Stoppers Inc.

Denny was required to complete 120 hours of community service, fined \$ 55.00 to be paid to the Volunteer Center and required to make restitution of almost three thousand dollars to the victim. He was required to report to the Community Supervision and Corrections Department Comprehensive Assessment and Treatment Services program and after being found to be drug dependent was ordered to “participate in intensive outpatient substance counseling through a court approved program and continue making observable deliberate and diligent efforts to comply with the directives and instructions provided by said program or its staff, until released successfully by the agency or the Court.” In addition, he was required to submit “a non-diluted random urine sample/and/or medical test at the request of the Supervision Officer. . . participate in the ANTI-THEFT program and was assessed other fees related to the special treatment programs he was required to participate in as part of his special conditions of community supervision.”

The case of Denny clearly shows how evidence-based tools are used in the assessment and treatment of an offender under supervision with the Dallas County Community Supervision Department. The case also illustrates how the public agencies and private agencies collaborate in the supervision and treatment of those convicted offenders placed under the supervision of the department.

\*(Several of the facts pertaining to the case provided above have been changed to disguise the identity of the person)

**Fig. 8.3** (continued)

## ***Problems and Issues Relating to the Dallas Community Supervision Department***

The fact that the Dallas County Community Supervision and Corrections Department is a government agency at times creates issues with the professional staff and the administration of the department. The actions of the Texas Legislative Budget Board directly impact the department's budget and the ability to effectively bring about change in the lives of the offenders. There is always a need for more funding and resources than the legislature is willing to provide. There is an endless need for resources to deal with the many indigent offenders. This lack of free and sliding scale resources is often related to the offender's return to criminal activity, and the cycle of crime starts all over again.

A second issue is the fact that the judiciary is elected for a 4-year term, and depending on the political climate at the time of the election, many seasoned judges are not reelected, and the "learning curve" for the judges begins. Depending on the backgrounds of the judges, there may be an overwhelming number of prior defense attorneys and public defenders or an influx of prior prosecutors in these positions. In many instances, those whose prior experience has been on the "defense" side of the coin tend to be more lenient and do not make the offenders adhere to all of the conditions of community supervision. There have been instances where a judge will tell an offender in open court that he/she does not have to worry about paying their full supervision fee or completing their community service, as this will not impact their ability to successfully complete their term of community supervision. This lack of support for the payment of the supervision fee negatively impacts the financial operations of the CSCD and places the supervision officer in an awkward position. If a supervision officer tries to enforce the conditions of community supervision, as they have been directed to do, and a judge is telling the offender not to worry about the special conditions, there is a chance for conflict between the officer and the offender. Since the supervision officer is not in the courtroom when the defendant is placed on community supervision, the supervising officer does not know what the judge told the offender, and there is no way to validate whether the offender is telling the truth.

Another problem that often occurs when working in a large department is a breakdown in communications between the lower level officers and upper level supervisory officers. Those on the low end of the totem pole need to have open communications with management level superiors, but because of the many layers in the chain of command, communication between the two levels of personnel is often difficult to achieve. Those who are employed in the satellite offices of the community supervision department find it even more difficult to establish the open communications desired by the field officers. When there is no face-to-face interaction between the line staff and the upper level management, both sides tend to form opinions about each other on the basis of the formal communications that are transmitted. Thus, it is possible for a lower level supervision officer to work in the department for many years and never meet the majority of people who work in the

department. Turnover in staff at the management level has also been a problem. Since the department was developed in the 1950s, there have been six directors and two interim directors. The two most recent directors were selected from outside the department and made many significant changes in the way the department was structured and also the personnel who were employed at the administrative level. The changes in structure and operations made it difficult for many of the staff to understand the new operating directives and make the adjustments in their approach to community supervision needed to adhere to them. In short, every time there is a change in the director's position, many of the staff feel as if they are working in a totally new department with new policies, procedures, and work expectations. For example, one recent change in policy was that supervision officers are no longer allowed to complete some of their work from their homes. Also, officers no longer have the opportunity to work on a flextime schedule. These benefits provided a great incentive for people to want to work for the CCSCD, since officers were able to work any time of the day or night from their homes. The new directives regarding not being allowed to complete some of the tasks at home created a major burden for some of the officers, particularly those with young children, and thus the morale among these officers declined.

As with all professionals, those dedicated to their work are able to make adjustments to the policy and organizational changes that occur. Perhaps some of the "old timers" chuckle about some of the directives and operational procedures that are implemented, often without having any evidence that they will lead to an improvement in the department.

There are many perks attached to being employed with a state agency in Texas. One perk for working with CSCD is that you can retire when your age and years of service total 80 with at least 90% of your salary. An employee is also "vested" with retirement contributions after 10 years of service. If one decides to stop working for the judicial district, the person can take the money or leave it in the system, which matches one's retirement deductions by 200%, and medical insurance is paid for the duration of the person's life.

## **The US Probation and Pretrial System**

The US Probation and Pretrial System is charged with carrying out three main tasks: pretrial services, presentence investigation, and post-conviction supervision.

### ***History***

Prior to the signing of the Probation Act of 1925 by President Calvin Coolidge, neither federal judges nor Congress could agree on the establishment of a probation system in the federal courts. This act gave these courts the power to suspend the

implementation and execution of custody sentences and instead place defendants on community supervision with such terms and conditions as they deemed best. It also authorized courts to appoint one salaried probation officer and one or more probation officers to serve without compensation. The first federal probation officer, Richard McSweeney, was appointed in the District of Massachusetts in 1927. The administration of the federal probation system originally was the responsibility of the office of the attorney general of the United States. In 1940, oversight of the system was transferred to the Administrative Office (AO) of the US Courts.

### ***Federal Pretrial Services***

The federal system has grown and evolved in many ways over the past 90 years. In 1974, the Congress enacted the Speedy Trial Act, which included the authorization of the director of the AO to establish demonstration pretrial services agencies in ten judicial districts. This followed the Bail Reform Act of 1966, which directed the assessment of risk of flight and nonappearance, identified the nature of information to be utilized in an informed decision-making process, and provided for imposition of release conditions. The goals of federal pretrial services were to reduce inequities in bail-setting practices, lessen pretrial detention, and reduce criminal activity by those released to the community pending case resolution. The Pretrial Service Act of 1982 authorized expansion of pretrial services to every federal district except the District of Columbia and allowed each district to determine whether it would establish separate pretrial services offices or provide pretrial tasks within the existing probation office.

Today, the federal pretrial services system continues to evaluate its policies and programs to ensure it is an objective, empirically based organization. It continues to operate on the principle that special conditions of pretrial release are to be based on using the least restriction necessary to ensure law-abiding behavior and appearance in court during the pendency of the pretrial client's case.

### ***Federal Sentencing Guidelines***

Probation officers have historically provided federal judges with presentence reports subsequent to findings of guilt, as the result of trial or guilty plea, and prior to sentencing. The reports initially noted circumstances of offense(s), the defendant's personal history, and a confidential sentencing recommendation. In 1986, the Sentencing Reform Act of 1984 was passed in response to congressional concern about fairness and judges' unlimited discretion in sentencing. It completely changed the way federal courts sentenced defendants by establishing the US Sentencing Commission, which sets sentencing guidelines for every federal offense. Guidelines went into effect on November 1, 1987. Also changed were

- (1) The nature and circumstances of the offense and the history and characteristics of the defendant;
- (2) The need for the sentence imposed to reflect the four primary purposes of sentencing, i.e., retribution, deterrence, incapacitation, and rehabilitation;
- (3) The kinds of sentences available (e.g., whether probation is prohibited as a mandatory minimum term of imprisonment is required by statute);
- (4) The sentencing range established through application of the sentencing guidelines and the types of sentences available under the guidelines;
- (5) Any relevant “policy statements” promulgated by the Commission;
- (6) The need to avoid unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar conduct; and
- (7) The need to provide restitution to any victims of the offense.

**Fig. 8.4** Federal sentencing guidelines: seven factors for consideration at sentencing

officers’ preparation of presentence investigation reports, which became available to defense and government attorneys for feedback and objections prior to sentencing and often require defense by the officer at sentencing hearings. Both statutory and guideline information regarding the offense(s) of conviction are contained in the presentence reports (Fig. 8.4).

The Act also replaced parole with supervised release, a term of community supervision to be served by prisoners after completion of custody terms. Jurisdiction for post-conviction supervision moved from the US Parole Commission to the sentencing judges for those offenders who committed their offenses after November 1, 1987. Sentencing guidelines are amended every year, in response to legislation (e.g., Patriot Act of 2001 and PROTECT Act of 2008) and Commission recommendations.

As early as 1990, the Judicial Conference Committee on Criminal Law voted to urge Congress to reconsider the wisdom of the mandatory minimum sentences that it had established for many criminal offenses. Mandatory minimum sentences had been prescribed for a core set of serious offenses, such as murder and treason. The Congress, over the years, also expanded its use of these penalties to controlled substances, firearms, identity theft, and child sex offenses. In 1993, Judge Vincent L. Broderick, chairman of the Judicial Conference Committee on Criminal Law, testified before Congress that mandatory minimum sentences were “the major

obstacle to the development of a fair, rational, honest and proportional federal criminal justice sentencing system” (Hughes & Henkel, 1997, p. 48).

In 2005, the US Supreme Court, in *United States vs. Booker*, declared that the existing guideline system violated the Constitution by permitting judges to find facts that raised the maximum guideline range by a preponderance of evidence. The Court opted to remedy the constitutional defect by rendering the federal sentencing guidelines advisory. The *Booker* “three-step process” in sentencing requires “respectful consideration” of the Guidelines Manual in (1) initially calculating the sentencing range, (2) considering policy statements or commentary in the manual about departures from the guideline range, and (3) considering *all* of the 18 U.S.C. 3553(a) factors (the federal sentencing statute).

The Supreme Court stressed that the advisory guidelines remain the “starting point and the initial benchmark” in the federal sentencing process and that “district courts must . . . remain cognizant of them throughout the sentencing process” (United States Sentencing Commission, 2015).

As a result of *Booker*, the US Sentencing Commission investigated and reported on the impact of mandatory minimum penalties on federal sentencing. The report revealed that almost half (46.7%) of offenders convicted of an offense carrying a mandatory minimum penalty were actually relieved from the application of such a penalty because they provided substantial assistance to the government and/or qualified for the safety valve provision. The latter provides for exemption from mandatory minimums if the defendant has a limited record, did not use violence or a firearm or cause bodily injury, was not an organizer of others, and provided the government with truthful information regarding the criminal conduct (18 U.S.C. 3553(f), 2011 Report to the Congress: Mandatory Minimum Penalties in the Federal Criminal Justice System, [ussc.gov](http://ussc.gov)).

### ***Structure of the US Probation and Pretrial Services System***

Officers, officer assistants, and senior managers in the federal system are both federal law enforcement officers and US district court employees. They are charged with providing services that protect the community, help the courts ensure the fair administration of justice, and investigate and supervise adults charged with and convicted of crimes against the United States as defined in the US Code. They undergo extensive initial training, both in district and for 6 weeks at the National Federal Law Enforcement Training Center in Charleston, South Carolina, and are required to complete at least 40 h of additional training each year.

The US Probation and Pretrial System has close to 8000 staff members, two-thirds of whom are officers. More than half hold masters or doctoral degrees, and on the average, officers worked more than 7 years in local community corrections, social services, or police departments before joining the federal system. In some districts, pretrial and probation offices are separate. However, in the majority of districts, the services are combined into one office. District chiefs manage their

offices and are directly responsible to the courts they serve (US Probation and Pretrial System, 2016).

Each district has some autonomy in its operations. For example, district chiefs do their own hiring, manage their own budgets, and decide how to organize their offices. The Criminal Law Committee of the Judicial Conference of the United States oversees the system, and the Administrative Office of the US Courts provides district courts with a broad range of administrative, management, and program support. Federal probation officers are authorized by law to carry firearms. Each individual district decides whether its officers may be armed.

Pretrial services officers work with defendants after they are charged with federal crimes and while they are awaiting trial. They conduct bail investigations before the defendant's initial appearance in court and must presume the defendants are innocent until proven guilty. They do not discuss the alleged offense(s) or the defendants' guilt or innocence during the interview and may not give any legal advice. The bail investigation includes prior criminal record, employment, education and family status, and any substance abuse and mental health issues, as well as a recommendation for release or detention and, if applicable, conditions of release. A Pretrial Risk Assessment (PTRA) tool is completed during the investigation to provide the investigating officer with the anticipated level of community risk if the defendant is released on bail. Pretrial services officers also supervise defendants released to the community, to help ensure they commit no crimes and return to court as required. As with post-conviction clients, judges direct conditions of release (e.g., substance abuse and/or mental health treatment, no contact with case victims and location monitoring) which the officers are also required to implement and monitor. Home, community, and collateral contacts are made during supervision, and the officers monitor court status.

The federal system also provides for the ability of judges to place defendants on pretrial diversion. If successfully completed, the charges are dismissed. Some federal districts have established specialized courts, such as drug courts and mental health courts. Such courts are structured similarly to those set up in the state courts, with the difference being that the defendant is charged with violation of federal laws.

### ***Probation Services***

Officers who conduct presentence investigations and prepare the related reports for the courts also gather and verify information about the defendants and do so after a finding or plea of guilty. These investigations are extensive and begin with a review of the criminal conduct and an interview with the defendant, with the defense attorney present if desired by the defendant. Guideline computations are made and noted in the report based on the offense level and client's criminal history. Offense levels are defined in the US Sentencing Commission's *Guideline Manual* (2015). These include the defendant's criminal history. Offense levels fall

between I, the least severe, and VI, the most serious. Factors used in defining the supervision levels are the severity of the offense and the age of the defendant at the time of prior convictions. The presentence investigation report is comprehensive and also includes information about family, employment, substance abuse and mental health history, and present status. Also noted are sentencing options as per federal sentencing guidelines, the offense's impact on the victim, the defendant's ability to pay fines and restitution, and recommendations by the probation officer who prepared the report regarding giving a custody or probation sentence and conditions of release. These conditions are tailored to the offense and the individual.

In 2014, for the time period ending December 1, 2014, almost half of the convictions were for a drug offense, and the rank order for the remaining convictions was property offenses, firearms, crimes of violence, sex offenses, immigration offenses, public order, escape/obstruction, and other unspecified offenses.

### *Levels of Supervision*

Those convicted defendants placed on community supervision are given an assessment to determine the risk to the community and the level of supervision considered necessary to assure the safety of the community and to reduce recidivism. This evidence-based assessment model, referred to as the RNR (risk, needs, responsivity), became operational in the early twenty-first century (Alexander & Van Benschoten, 2008) and has been modified several times. The model currently in use is actually a modification of the earlier models. Cohen et al. (2016, p. 4) state that "The PCRA is a fourth generation risk assessment instrument used by federal probation officers to classify offenders into one of the four following recidivism risk categories; low, low/moderate, moderate, and high." The directives for probation officers are to develop their case management plans for the probationers they supervise, based on the outcome of the risk and needs assessment. For example, those probationers who are placed in a low-risk category will receive a minimum of supervision and treatment, whereas those placed in the high-risk category will be closely monitored and have several special conditions attached to their supervision status. Offenders are periodically reassessed, and if the results indicate that the supervision level should be changed, either to a higher or lower risk level, a change in the case management plan is made. In addition, there is a provision in the policy for an override of the initial risk assessment. Cohen et al. (2016, p. 4) note that "In particular, judicial policy provides officers with discretion to place low risk offenders in a higher supervision level when the officer determines through his or her professional judgment, that the offender's proclivity to reoffend is underestimated." Cohen et al. (2016, p. 9) completed the research on the effect of the "low-risk" policy that was put in operation in 2012 that encourages probationer officers to have minimal contact with those being supervised. They stated that "This finding suggests that the low-risk policy is influencing officer behavior by

encouraging federal officers to engage in fewer interactions with offenders on the lower end of the risk continuum. The policy of supervising low risk offenders less intensively has not compromised community safety.” The findings of the research suggest that officers can spend less time with the low-risk offenders and there is not likely to be any increase in recidivism for these offenders.

The following interview with Debra White, a former US Probation Officer, illustrates the continuity and changes that occurred during her 30 years of probation work.

Debra White received her undergraduate and her Masters of Arts degree in Criminal Justice from Kent State University, Ohio, in 1986. Prior to assuming her work as a probation officer with the US Probation Office, she served as a correctional officer and case manager at the Federal Correctional Institution located in Morgantown, West Virginia. She left the Federal Bureau of Prisons and assumed a position with the US Probation Youngstown, Ohio Office in 1989. She retired from US Probation in 2015 and is currently employed as a caseworker for the Community Corrections Association in Youngstown, Ohio.

**Box 8.1: Interview of Debra White, US Probation Officer: Peter Kratcoski (PK), Interviewer, and Debbie White (DW), Respondent—Interview Completed August 13, 2015**

QPK: Debra, why did you pursue a career as a probation officer with the US Probation Office?

ADW: My undergraduate and graduate education focused on preparing me for working with people and providing assistance. After graduation, I started my career with the Bureau of Prisons and, although I obtained a great deal of experience working first as a correctional officer and later as a case manager, I did not feel as if I had the autonomy to provide the type of service I desired, so when a position came open with US Probation, I applied and was given the position.

QPK: Did your formal education have an effect on your career choice?

ADW: Definitely yes. My education at Kent provided a well-rounded knowledge base to pursue any type of corrections-related employment. The classes were informative and provided opportunities for experiential learning. For example, I completed several internships during my undergraduate and graduate work. I interned in a juvenile residential treatment facility for drug abusers, as a Parole Officer with the Ohio Adult Parole Authority, and as a case manager with the Bureau of Prisons. Thus, I had some experience in both community and institutional corrections before assuming my first position with the Bureau of Prisons.

QPK: Please give a summary of the positions you held within US Probation during your career.

(continued)

**Box 8.1** (continued)

ADW: I started as a probation officer and after 10 years was promoted to Aftercare Specialist, the position I held at retirement. This position involved supervision of a specialized caseload of drug, mental health and sex offenders. I had the tasks of procuring and overseeing treatment contracts for detoxification, inpatient drugs, outpatient drugs, outpatient mental health, cognitive therapy groups, outpatient sex offenders, and polygraph analysis. I also helped to establish the Reentry Court in Youngstown, Ohio and supervised offenders who participated in this court.

QPK: Think over your career. Have you noticed any great changes in the characteristics of those probationers/institutionalized released offenders placed under the supervision of the US Probation department?

ADW: During the years I served as a probation officer and reentry specialist I supervised organized crime figures, drug gang members, such as the CRIPs, bank robbers, gun offenders, drug traffickers, professional athletes, white collar offenders, government officials, doctors, and lawyers. One thing I learned over the years is that people from all income groups and professions engage in criminal behavior. Perhaps there have been many more drug offenders and probationers with mental health problems in recent years. The greatest challenges were the sex offenders and cybercrime offenders.

QPK: Have the courts and department changed their philosophy and mission during the years you were employed with US Probation?

ADW: The philosophy of the courts swings between law enforcement and social work. For the past 5 years social work or *reentry* has been the “buzz” word, especially with the establishment of the re-entry courts and the push to send sex offenders and rather severe mental health offenders to halfway houses. Another example of the push toward the social work (treatment) goal of the department is that offenders are being released from institutions to home confinement under a case management plan.

QPK: Has your orientation and personal philosophy about probation work and the people placed under your supervision changed during your career?

ADW: I still believe, given the right incentives and assistance, people can change. While my philosophy has not changed, I became more realistic over the years as to what can be accomplished. First, not all offenders want to change their lives and others are not ready to give up the criminal life style. I also learned that the protection of the community outweighs the desire to assist those offenders who present a real threat to the community and should be locked up. Finally, I realized that I should not be working harder than the defendant in trying to bring about the desired change.

QPK: Has the introduction of evidence-based models (risk, needs, case management strategies) helped to improve the success of the department?

(continued)

**Box 8.1** (continued)

ADW: Probation faces decreases in financial and staffing resources. Evidence-based practices permit the use of resources where needed. They also permit districts to try new approaches, tailor programs to those areas of the country where they are needed, and tailor the programs to the offenders' needs for service and supervision.

QPK: In your opinion, has the nature of probation work changed?

ADW: Yes and no. Probation work still necessitates field work. Officers working today must now know more about Supreme Court decisions affecting probation and parole. Also, they must network with law enforcement and local resources. Safety still remains a high priority. Now most officers carry firearms, in contrast to the past. This is a sign of the changing times.

QPK: How much autonomy did you have in your work?

ADW: Probation officers have a lot of autonomy. However, manuals are there for a reason and a professional officer must have a good working knowledge of the policies and procedures of the department.

QPK: What, if any, are some of the major problems US Probation faces or perhaps will face in the future?

ADW: Resources, in terms of staff and money, will be an on-going problem. I think you will see more specialized caseloads for officers who will need special training in cybercrime and sex-offenders. We will see more specialization in the prosecution of specific categories of offenders such as terrorists, hate groups, and even groups who violate the Constitution on religious or moral grounds.

QPK: Would you advise a new graduate to seek a career in community corrections?

ADW: Yes, I would recommend the field to new graduates. The field offers the availability of jobs at all levels. It is an ever changing field with opportunities for new experiences. It is challenging, rewarding, and never boring.

***Post Conviction (US Probation)***

Post-conviction supervision officers monitor offenders who are sentenced to a term of probation by the court or who are on parole or supervised release after they are released from federal prison. Post-conviction supervision is designed to carry out the court's sentence, protect the community, monitor the activities of clients, and provide the opportunity for reintegration, treatment, and assistance. Officers meet with clients in their homes, the community, and their offices. They monitor compliance with the court's release conditions and step in to control and correct if noncompliance occurs. Release conditions are both mandatory (per US Code) and

individualized. They may include restitution, fines, treatment, community service, and/or location monitoring (home confinement). The officer is responsible for building professional relationships with his/her clients and significant others, community social service and employment agencies, treatment providers, and law enforcement agencies. As with pretrial services officers, the level of supervision and frequency of contacts is based on release conditions and risk assessment. Risk assessments are conducted at the beginning of the release period and periodically during the supervision term. Case plans, which address risk, treatment, and other needs, are also completed during supervision. The officer staffs these plans with his/her supervisor. Some officers have specialized caseloads in which they supervise a smaller number of offenders, provide more intensive monitoring, and receive special training to manage the needs of these individuals and any threat they pose to the public. Serious substance abusers, the mentally ill, and gang members are among the special groups that provide unique challenges to officers charged with supervising them.

Johnson and Baber (2015) note that the federal system's recidivism rate has been half that of many states. The three-year rearrest rate has consistently been measured at between 20 and 21%. The percent of federal cases closed by revocation annually is less than 30%. Judges are informed by officers of violation behavior and decide whether to hold a violation hearing. If so, the court then determines whether or not supervision has been violated and, if so, whether to continue and/or modify conditions of supervision, revoke it, and sentence the defendant to a period of custody or return the client to supervision upon completion of the prison term.

### ***Problems and Issues***

The federal court's criminal dockets have increased over the years, and as a result, so too has the workload of the probation and pretrial services offices. While efforts have been made to keep hiring at a pace with the workload, few districts have consistently been able to do so due to budget constraints, the lengthy process of hiring, officer retirements, and the number of incoming clients. The system operates within the federal budget that is passed by Congress every year. The Congress often refuses to pass the budget prior to the beginning of the fiscal year (October 1) and does not do so until several months later. While under continuing resolution, the pretrial and probation offices are permitted essential spending only, which for community-based sanctions generally does not include hiring. Additionally, with federal law enforcement status, officers and officer assistants must retire at age 57. The system, which hired many officers in the early 1990s, is losing many officers to retirement, and replacements are not immediately available. Many districts have also offered "buyouts" in the last several years, so they may retire long-term officers

and hire new officers at much lower salaries. Existing staff must cover workloads until new officers are hired and trained.

The system has embraced evidence-based practices over the past several years, especially focusing on risk determination and control. Assessment tools have been designed, and officers periodically administer them to clients. The Post-Conviction Risk Assessment (PCRA) tool is complex, with client and officer completion required. The officer section requires review of the presentence report, calculations, an interview, and specific understanding of terminology. It takes quite a bit of time to complete, and, though the officer understands the value of the tool, it is one more thing to get done in a very busy day. The resulting scores and case plans then drive supervision level, referrals, and contact frequency. The client is to be supervised by risk level. However, some districts have increased required contacts per local policy, i.e., low risk level cases are to be seen more frequently than noted in the national monograph.

Liability concerns by the Administrative Office and chiefs have also impacted supervision officers. This has resulted in districts developing nontraditional hours and other policies that make it difficult for officers to dedicate the time required to respond to new arrests and other violation behavior, write related court reports, attend court hearings that may be several miles away, conduct lengthy initial and risk assessment interviews, make treatment referrals, complete case plans, respond to location monitoring violation alerts 24 h a day, and make field contacts.

Officers involved in pretrial services and presentence investigations find workloads and time demands increase when large numbers of arrests occur, as in drug conspiracy cases. Pretrial officers must interview several clients, submit related reports, and be in court for initial appearances on the day of arrest. Presentence officers will have several investigations assigned as the defendants plead or are found guilty. While the federal system has educated staff about the importance of physical and mental wellness, attention to this has primarily been left up to the officers. Supervision officers have shouldered most of the additional responsibilities of the past several years while also receiving increased caseloads. Though specialized caseloads exist in most districts, general supervision officers have clients with significant substance abuse and mental health issues, sex offenders, sophisticated white-collar offenders, and those with employment, family, and other concerns. They also have clients with location monitoring conditions and must respond to alerts on a 24-h basis, often receiving calls in the middle of nights and weekends. They are, in reality, never off the clock.

As in local community corrections systems, federal pretrial services and probation officers face many challenges. Integrity, professionalism, mental and physical fitness, resilience, and a strong work ethic are necessary for wellness and success in this career. Recognition and support from lawmakers, judges, and senior managers are necessary to maintain the strength of the system and the staff.

## Conditional Release, Parole, and Post-incarceration Supervision

Kratcoski and Walker (1984, p. 357) define parole as “the practice of releasing an offender from incarceration in a correctional facility before expiration of full sentence to serve the remainder of the sentence under supervision in the community.” The roots of modern day parole can be traced back to the mid-nineteenth century, when prisoners of the British Empire were sent to Norfolk Island in Australia. When they were nearing the end of their sentences, they were given a “ticket of leave” and allowed to work and live in the community as free people, on the condition that they did not commit any other crimes. The practice of granting a conditional release for inmates spread to other countries, including the United States.

The roots of modern parole can be traced to the Reformatory Era of the late nineteenth century, in particular to the Elmira Reformatory located in Elmira, New York. This correctional facility that housed young males between the ages of 16 and 25 instituted a version of parole in 1876. Kratcoski and Walker (1984, p. 358) state that “Prisoners released from the Elmira Reformatory remained under supervision for a period of six months, and during that time parole could be revoked if any of the conditions of release were violated. Civilian personnel rather than police officers supervised the parolees in the community and were responsible for securing monthly verification of parolees’ employment and wages.” The Elmira Reformatory parole model became the prototype for the parole systems that were implemented throughout the United States.

Although the emphasis on parole or post-incarceration supervision changed from time to time during the twentieth century and up to the present time, the goals of parole and post-incarceration release as well as the methods used in the administration of parole have not changed significantly. The purposes of granting parole remain the same, that is, giving the person released from prison before having served the full sentence an opportunity to reenter the community, find employment, and make a new life. The fact that the person is still under supervision and can be returned to prison, if there is cause, provides assurance that the community is protected from any harm the ex-inmate may cause.

The conditions of parole (post-incarceration release) as well as the process to be followed in the revocation of parole are defined by federal statutes in regard to offenders who were under supervision of the federal government after having been convicted of violating a US criminal law. What has changed over the years is the process followed in the selection of those eligible for post-incarceration release, the criteria used in selecting those eligible, and in some cases the person or group that has the authority to grant parole (conditional release).

Caplan (2007, p. 18) completed an analysis of the empirical research on the factors that most significantly related to decisions made by the authorities (parole boards, parole commissions) that determine if parole will be granted or denied. He found that the research generally confirmed that “institutional behavior,

incarceration length, crime severity, criminal history, mental illness, and victim input are among the highest influencing factors affecting parole release for parole-eligible inmates.” One of the most significant factors to emerge is the influence of the victim’s input, particularly if the victim attended the parole board hearing.

## **A State-Supervised Reentry Plan**

The Ohio Risk Assessment System Supplemental Reentry Tool (SRT) is used to assist in developing a supervision and treatment plan for offenders prior to their release from prison. Ohio revised its criminal code in 1987 and made several other changes at a later date. Currently, inmates housed in the Ohio correctional facilities are eligible for release under parole/compact parole (RRR) and judicial release. These are offenders who have served less than 6 months of their sentence. The levels of supervision and specific treatment plan for those released into the community after a period of incarceration in one of Ohio’s correctional facilities are based on a number of factors, including a file review, a self-report interview, and a structured interview. A risk assessment developed by the Cincinnati University Center for Criminal Justice Research (Center for Criminal Justice Research, 2011, p. 1) consists of current age of the offender and 31 additional items across four domains: (1) criminal history, (2) education employment and social support, (3) substance use and mental health, and (4) criminal lifestyle.

The Ohio Adult Parole Authority (APA) is required to complete a case plan within 30 calendar days of release for those offenders sentenced from 6 months to 4 years in prison. After the offender is released into the community and supervised by the Adult Parole Authority (APA), an updated case plan is required to be completed within 12 months after release and every 12 months until the person is released from supervision. If the offender’s sentence was more than 4 years and the Reentry Tool (RT) assessment was completed by the parole supervisor, a case plan must be completed within 30 calendar days of release and updated within 90 days after release and again updated every 12 months until released from supervision. For those offenders who have served less than 6 months of their sentence and are being considered for judicial release, the APA staff is required to complete the Supplemental Reentry Tool within 30 calendar days after release and update the case plan within 12 months from the date of the initial completion.

The Supplemental Reentry Tool (SRT) consists of two parts, a self-report instrument and a structured interview. Not all inmates being considered for supervised release are required to complete the self-report questionnaire. The offender being considered for release from prison is being asked to provide information about self, including education, employment, friends, family, and beliefs. Some of this information may have been available at the time of the initial assessment before the person was convicted and sentenced, but depending on the length of time in prison and the experiences while in prison, many of the factors may have changed.

The second part of the assessment consists of a face-to-face interview between the APA staff member and the offender being considered for release. This occurs within the institution. In contrast with the self-report assessment instrument, the ORAS-SRT focuses primarily on past criminal history, criminal attitudes, behavior patterns, factors such as drug abuse or alcohol addiction, and mental health problems that may have contributed directly or indirectly to the person's criminal behavior as well as other factors such as level of education, occupation prior to being incarcerated, and family relations. The APA officer can verify the truthfulness of much of the information provided by the inmate because it is on file in official records.

Based on the score received on the ORAS-SRT, the offender, if released to the community, is placed on either low supervision, medium supervision, or high supervision. The case plan developed includes the type of supervision required as well as an individualized treatment plan.

The Adult Probation and Parole Division of the Ohio Department of Rehabilitation and Correction assigns a reentry coordinator to each Adult Parole Authority (APA) region. The home offices for these regions are located in various sections of the state. The reentry coordinators develop contacts with community service providers located in the regions and assist the regional parole officers in the reentry process for those being released from the correctional communities back into the communities.

When an inmate becomes eligible to be considered for release from the correctional institution, a hearing is completed with a parole board officer to determine if the inmate will be released on parole or post-release control. During this hearing, information on such matters as the inmate's planned place of residency, employment potential, and other matters relating to reentry into the community will be planned. At times, the plan will require that the person be housed in a halfway house or treatment facility rather than being reunited with family. After the reentry plan is completed, it is sent to the parole unit for the region in which the inmate will reside and an investigation is completed by an officer in that unit to assure that the reentry plan is feasible.

In some cases, an offender may be required by the parole board to reside in a halfway house. This will generally be the case if the inmate does not have another residential option or if the inmate has high scores on the Ohio Risk Assessment and the structure and supervision provided in a halfway house are considered necessary. Inmates released under post-release control or parole will be under the joint supervision of parole officers and the halfway house caseworkers. Some offenders are released to halfway houses as transitional control offenders. Such offenders are part of an early release program that allows the inmate to be transferred to a halfway house for various reasons while serving the last portion of a prison sentence. Offenders who were on probation, committed a new offense and were sent to prison, and now are ready for reentry into the community must now complete their term of probation under the supervision of the county parole department in addition to being supervised by a parole officer.

The barriers to offenders' ability to successfully reintegrate into the community are similar to those of the past. Finding adequate housing; reassuming relationships with immediate family members, particularly in those cases in which the offender was involved in abuse or violence against family members; finding employment; dealing with the stigma of being an ex-offender; and gaining the trust of other community members are all problems that must be faced. Some of those reentering the community had serious mental health or addiction problems and need continued support and treatment from service agencies. The reentry officers and probation and parole officers must take all of these matters into account in their efforts to produce successful outcomes for their clients.

## Summary

The practice of providing those convicted of a criminal offense an opportunity to remain in the community under supervision rather than being incarcerated in jails or prisons has a long history in the United States. The work of John Augustus demonstrated that if given an opportunity to work and provided with supervision and guidance, even the habitual offender can become a respected, productive person in the community. The practice of probation quickly spread throughout the United States. Probation departments became attached to state, federal, and county courts, and probation became another option to use when sentencing convicted offenders. In contrast to the earlier probation officers who were volunteers, probation officers became public officials who were trained to perform their duties. These duties were broadly defined in terms of providing monitoring and assistance to those offenders under their supervision.

The general goals of probation have not changed significantly since its inception. At times, new laws, policies, and directives resulted in more emphasis on the supervision (control) portion of probation work, and at other times, more emphasis has been placed on the assistance and treatment aspect of probation. What have changed are the methods used to select those placed on probation. Evidence-based assessment systems are now used to determine the probable risk of a convicted criminal recidivating and also to help decide the amount and type of supervision needed to reduce the risk of the offender recidivating if placed on probation.

The role of probation officers has also changed, in the sense that many of them are now specialists, particularly those in large departments who are trained to supervise a specific type of offender (drug abuse, sex offender, mental disability) or who are trained in screening and completing the assessments of those being considered for probation.

Post-incarceration supervision (parole) has a long history in the United States. Its origins can be traced back to the Reformatory Era (late nineteenth century). Initially, those released from prison before the expiration of their prison sentences were released back into the community under the strict supervision of a parole officer. If they violated the conditions of their parole, they could be sent back to

prison to complete the remainder of their sentences. Parole officers performed a role similar to that of probation officers. As with the prisons and correctional institutions, the parole departments are generally under state or federal government jurisdiction. As with probation, the emphasis on either the supervision or treatment facet of the role changed, depending on state or federal legislation passed, new policies of the state parole departments, and the climate in the community. Many states and the federal government have dropped the term “parole” and now use such terms as “reentry supervision” or “post-incarceration supervision.”

As with probation, evidence-based assessment tools are used to determine the amount and type of supervision to be given to those released from the institutions. In addition, the states now employ reentry specialists who work with the inmates long before they are released and try to prepare the inmates for the reentry into the community.

## Discussion Questions

1. What are pretrial services? How do they relate to the criminal justice process?
2. Discuss the origins of the US Probation and Pretrial Services Office.
3. Define the role of the probation officer. Several of the probation officers cited in the text have indicated that probation work has changed dramatically over the past decades. Discuss the changes.
4. Discuss the factors that affect the way probation officers are oriented toward their job.
5. Compare the role of a reentry specialist with that of a parole officer (post-incarceration supervisor).
6. Trace the history of the development of parole in the United States. Has parole supervision changed since it was first implemented in the late nineteenth century?
7. Differentiate between the US Probation Service and the Texas Community Supervision Service in terms of jurisdiction, types of offenders supervised, roles of the probation officers, and organization of the departments.
8. Discuss how evidence-based risk/needs assessment instruments, such as those used in Dallas County, Texas, assist in the supervision of probationers.
9. Differentiate between general and special conditions of probation. Tony, a 40-year-old male is convicted of assault as a result of being found guilty of physically abusing his wife and children. It appears that every time Tony becomes angry, he either verbally or physically abuses his family. Tony is placed on probation with special conditions. What types of special conditions would be appropriate for Tony?
10. What are sentencing guidelines? How do sentencing guidelines affect judges' sentencing decisions?

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