

# Chapter 15

## Future Perspectives on Counseling and Treatment of Criminal and Delinquent Offenders

### Introduction

The emphasis on punishment as opposed to the treatment function of corrections changed during various periods, beginning in the latter part of the twentieth century. The *medical model* of treatment, based on the notion that criminal behavior was similar to a disease that was caused by the physical and social conditions the offender experienced, emphasized the notion that criminals could be rehabilitated through social engineering (cleaning up the slums, providing better schools and employment, ending poverty), and treatment of the offender would lead to a change in values and behavior. However, as Kratcoski (2000, p. 663) noted, “The increasing crime rates of the 1970s, which may have resulted from a wide variety of factors, were interpreted by many to be a direct outcome of the failure of correctional treatment, coddling of offenders, and too little emphasis on punishment. Politicians and correctional administrators were quick to realize that they were on safe ground if they took a “hard line” approach. In the 1980s, citizens’ fear of crime and the demand to “get tough” on criminals resulted in the enactment of new legislation in the majority of states and at the federal level. This legislation emphasized punishment as a way of deterring criminals and de-emphasized treatment as a means to rehabilitation.” The most pronounced changes in the way offenders were processed consisted of the adoption of *determinate sentencing* in place of indeterminate sentencing, the use of sentencing guidelines, mandatory prison sentences, abandonment of parole and good time, and a reduction of the discretionary power of the judge in sentencing.

After these changes were put in operation, the prison population in the United States, which had remained relatively stable for a number of years, increased dramatically, and dozens of new correctional facilities had to be constructed. Even with the new facilities, a large number of the prisons operated over-capacity. With too many prisoners and too few staff, the prisons experienced increases in

disruption and violence. Faced with these problems, correctional administrators and planners looked for alternatives to imprisonment.

Kratcoski (2000, p. 664) stated, "In the 1990s, correctional planners and administrators began to turn to community based treatment as an alternative to institutionalization. Economic considerations played an important part in this emerging trend. Prison overcrowding and lack of funds for building new facilities made placement of many offenders in the community a practical necessity."

Despite the changes in laws that were more favorable to community corrections and the reduction in the amount of crime that occurred in the 1990s and into the first decade of the twenty-first century, the number of inmates in state and federal correctional facilities continued to increase until the end of the first decade of the twenty-first century. The primary reason for the increase was that a very large number of inmates had received long mandatory prison sentences, leaving little space in the prisons for those recently sentenced. The composition of the prison population is now more diversified than in the past. A larger proportion of the population is older (55 years and above), there are more white collar criminals in prisons, and a large number of the inmates have physical and mental health problems.

The incorporation of mandatory prison sentences for those convicted of many types of felony crimes, as specified in the sentencing guidelines, also had an effect on the variety of treatment programs offered in the prisons. The participation of inmates in various treatment programs no longer was required and the rehabilitative programs emphasized were work or education related. Although involvement in work has been shown to be highly related to adjustment in prison and adjustment in the community after release, many of the inmates who had special needs were not receiving the treatment needed.

## Community Corrections Centers

Several states, including Ohio, passed legislation that authorized the creation of regional community corrections facilities. The purpose of such facilities was to ease the burden of the over-populated, understaffed correctional institutions and to place more responsibility for the supervision and treatment of selected offenders in the hands of the local community. In Ohio (Ohio Department of Rehabilitation and Correction, 2016), new community corrections facilities were constructed in selected locations throughout the state to serve several counties. Generally, the new facility was located in the largest city in the region being served. The funding for the construction and operation of the facility was provided by the state, but the staffing and administration of the facility was locally controlled. The executive board was composed of the common pleas court judges of the several counties that sentenced convicted felons to the community treatment centers. The amount of funds received for the operation of the facility was determined by a formula that pays a specified amount for each convicted felon that could have been sentenced to

a state administered correctional facility, but was sentenced instead to the community correctional facility.

The Stark County Regional Correctional Center serves four counties. It houses both males and females and has a 124 bed capacity. The screening for admittance is completed by the Facility Governing Board in accordance with the Ohio Revised Criminal Code. Those admitted to the center are given an orientation and then assigned to one or more of the treatment groups, depending on the score received on the needs assessment. Treatment programs include individual counseling, adult basic and literacy education, community justice education, job readiness preparation, job seeking activities, mental health counseling, substance abuse counseling and relapse prevention, and development of social living skills such as budgeting money and money management. The treatment programs related to personality disorders include anger management and development of cognitive skills (Ohio Department of Rehabilitation and Corrections, 2016).

The Stark Regional Corrections Center was first opened in 1992. Since that time, the bed capacity has been increased, but the facility still is small enough in population for the staff to provide the offenders with individualized attention in terms of treatment and supervision. The safety of the staff and inmates has not been a major concern. Suicides, disruptions, and violent attacks against other inmates or staff are rare. Some of the residents are on suspended prison sentences and in-house probation that will be continued once they are released from the facility. A serious violation of the rules or policies can result in a transfer to a state correctional facility.

It is expected that facilities such as the one described above will continue to be built in the future. Such facilities can be conceived of as an in-between treatment centers that are more secure than typical halfway houses. Being located in the community provides those committed to the centers with opportunities to maintain ties with their families and their communities. Many of the treatment programs are conducted by professional or volunteers (AA, NA) from local agencies and organizations.

## **Institutional Treatment**

Although the emphasis on providing treatment in the prisons and correctional institutions is not as strong as during the period when the “medical model” was in vogue, resources are still directed toward providing for the physical health, mental health, and other needs of those incarcerated. This is especially true for those housed in low and medium security institutions and for those inmates with special needs. However, the nature of the counseling has changed. Much more emphasis is now placed on such programs as educational development, preparation for employment, and social adjustment. Less emphasis is given to individual therapy, with the exception of treatment for inmates who need crisis intervention counseling.

Kratcoski (2000, pp. 664–665) notes, “In the prison setting, rehabilitation activities emphasized today often are work or education related., since such programs have been shown to be the most conducive to preparing the inmates for successful adjustment in the community after release. Those directly involved in corrections, from the institutional administration to the correctional officers, realize that the prison experience must include elements beyond punishment. Inactivity and boredom contribute strongly to prison disruptions. Thus, involvement of the inmates in some type of productive activity, such as prison industries or education programs, has benefits for both the system and inmates.”

Seiter (1990, p. 2) emphasized the importance of prison industry in the Bureau of prisons institutions. He noted that the Federal Prison Industries (FPI) operate in a manner similar to a corporation to produce a high quality product, to maximize profits, and to minimize costs. The only exception is that the profits are turned back into improving prison industries. The FPI workers are obtaining work experiences similar to those they may have after being released from the institutions and earn money for their labor. The goals of the Federal Prison Industries are in line with those of the Bureau of Prisons—to protect society, reduce crime, aid in the security of the prisons, decrease taxpayers burdens by providing opportunities for inmates to develop work skills that can be used once they reenter society, and to produce quality goods and services. Federal Prison Industries, Inc. (U.S. Department of Justice, 2015, p. 2) reported that over 12,200 federal inmates were working in FPI factories at the end of fiscal year 2015. Production of goods and the provisions of services were concentrated in agriculture, clothing and textiles, electronics, office furniture, and recycling of materials. According to the 2015 fiscal report for FPI, there is every reason to believe that the growth in prison industry will continue.

Almost every state correctional system has developed prison industry programs. With the relaxation of the interstate commerce rules regarding the sale of prison-made products across state lines, prison industries in the state systems and in the federal system have expanded. It is likely that the growth of prison industries will continue in the future. However, as the prison population continues to change its characteristics, with a larger proportion of the inmates being older and physically or mentally handicapped, work opportunities must be made available for these special needs residents.

A report by the Urban Institute (2016) titled *Transforming Prisons, Restoring Lives* contains a number of recommendations for change in the Federal Bureau of Prisons. Many of the changes recommended have been made in various states and to some degree are already in either the planning or early operational phases within the BOP. The key recommendations are:

- Reserve prison beds for those convicted of the most serious federal crimes. To achieve this objective would require judges having to use more discretion when sentencing those convicted of lower levels of felony offenses. A large proportion of such offenses pertain to drug law violations;
- The Federal Bureau should promote a culture of safety and rehabilitation and assure that programming is allocated in accordance with individual risks and

needs. To a great extent, the BOP is fairly successful in providing a safe environment that is also conducive to rehabilitation. Inmates are classified on the basis of risks and needs assessments and generally provided with treatment. Those with extreme mental or physical health problems are generally transferred to either a prison hospital or a mental health facility. A major problem is having sufficient staff and resources to provide the treatment programs;

- The BOP policies should provide incentives to inmates to participate in risk reduction programs that have been identified to be effective through evidence-based research. The recommendation suggests that inmates can be motivated to participate in treatment programs if participation is linked with a reduction in the required portion of one's sentence, providing a major incentive to get out of prison sooner than expected.
- The evidence-based programs suggested are cognitive behavior therapy, education classes, faith-based programs, and other self-help programs;
- Evidence-based practices should be used in the prior release phase of an offender's preparation for prison release as well as in the after release phase. During the community supervision time period, there needs to be cooperation with all of the criminal justice and service agencies that are likely to be involved in the supervision and treatment provided;
- The federal criminal justice system should enhance performance and accountability through better coordination across agencies and increased transparency. Federal agencies and local law enforcement agencies have established task forces for the purposes of sharing information and resources in crime prevention efforts and in the investigation and tracking down specific types of criminal offenders. For example, federal agencies such as the FBI, US Marshals, ATF, and others have cooperated with state and local law enforcement and at times correctional personnel in task force programs aimed at drug traffickers, terrorist groups, organized crime, and fugitives. The BOP and state corrections departments have not generally been involved with such activities, and the recommendations suggest that such cooperation and coordination should be pursued; and
- Congress should reinvest savings (Assuming there will be substantial reduction in costs if the federal prison population declines significantly after the recommendations are put into operation) to support the expansion of necessary programs, supervision, and treatment. The report suggests that with the proper planning and changes in policies and practices the BOP can be an effective instrument in reducing crime and increasing the proportion of offenders who make a satisfactory crime-free life in their community.

## **Diversion of Special Offenders**

In the past, those who committed offenses related to drugs and alcohol and offenders with mental health problems were either treated in the same manner as other offenders or sometimes singled out for special treatment. The current practice

of diverting the mentally ill and substance abusers as well as other special categories of offenders, such as the elderly, from formal processing is likely to continue into the future, barring any great change in the political climate. State and federal legislatures are now receptive to diverting special categories of offenders from prison and even from formal processing. The creation of special courts, such as drug courts, mental health courts, family courts, veterans courts, and community courts, as well as the development of community based programs and facilities such as community corrections centers, intensive supervision probation, and various community residential treatment facilities were partly based on research that these approaches would produce better result in terms of recidivism and partially because the legislators were convinced that it would cost the state and federal governments considerably less money to treat such offenders in the community.

Kratcoski (2000, pp. 665–666) noted that the increase in the emphasis on community corrections during the 1990s was stimulated by the need to reduce the number of inmates housed in the crowded institutions. He contends, “Such intermediate sanctions as shock incarceration (boot camps), electronic monitoring, drug courts, intensive probation supervision, day reporting centers, and community treatment centers have been developed to retain some offenders in the community who otherwise would have been institutionalized. The intensified supervision needed for such offenders and the mandatory treatment they require for special problems have created renewed interest in and expansion of community treatment and has resulted in increased funding for such programs.”

A recent development is the creation of special courts (dockets) for human trafficking. These special courts address the problem of young women and men who become victims, generally as a result of their involvement in prostitution and drug dependency. Warsmith (2016a, p. A1) writes, “Human trafficking is often referred to as a form of modern-day slavery in which people profit from controlling and exploiting others. Traffickers use force, fraud or coercion to lure their victims and force them into labor or prostitution according to the U.S. Department of Homeland Security.” The Restore Court program in the Summit County (Ohio) Juvenile Court is an example of a human trafficking court. According to Warsmith (2016a, p. A1) “The program provides participants with services, rewards and punishments to try to steer them onto the right path.” Another goal of the Restore Court program is to try to convince those who have been victimized by human traffickers to work with law enforcement officials by identifying the traffickers and thus helping to eliminate the source of the problem.

Human trafficking courts for adult offenders were implemented in Columbus, Ohio and Cleveland, Ohio. The Franklin County Municipal Court (Columbus, Ohio) is referred to as CATCH. Warsmith (2016b, p. A4) states, “Most of the participants faced soliciting charges before entering the program. Many also have drug problems.”

The majority of the community corrections programs mentioned have continued to operate up to the present time, but some of the programs, such as “boot camps,” are no longer in vogue. A major difference between the “medical model” period and the resurgence of the popularity of treatment since the 1990s is that the

effectiveness of correctional treatment programs must now be demonstrated by the findings of empirical research. Funding for continuation of programs will not be granted unless there is an evaluation of the program and the results of the evaluation demonstrate that the outcomes are positive enough to warrant continuation. In the past, state and federal funding agencies, state legislatures, and local political leaders were willing to support programs if the idea appeared to be sound and had support from community representatives. Some of the programs were somewhat unrealistic in their expectations and for others it was impossible to empirically measure the outcomes. The current approach to supporting only evidence-based programs will likely continue into the future.

## **Diverting the Mentally Ill from Jail**

There are approximately 750,000 people housed in the jails in the USA on any given day. (Bureau of Justice Statistics, 2016, p. 1). Perhaps as many as 1/3 of these may have some mental health problem.

Steadman (1990, p. 1) states, “Jails are locally based. Their detainees are picked up on nearby streets by law enforcement personnel who live in the same communities. These facilities are not distant prisons, staffed by strangers, which hold offenders for years at a time. Finally, the dollars that pay for jails come from county and municipal budgets. This means that increases in their costs become easily identifiable components of a property tax bill. Jails are not nebulous institutions. They are highly visible facilities whose problems have immediate local impacts.”

The comprehensive report on jail diversion for the mentally ill (Steadman, 1990, p. 4) found that:

- Both diversion and in-jail mental health services are desperately needed;
- Inadequate resources are a problem, but often a greater issue is the poor use of existing resources and the lack of integration of mental health and criminal justice programs;
- Mentally disordered offenders require a full array of services, but the priorities vary by the point at which they are in the criminal justice system;
- Community safety and individual rights to treatment are both able to be addressed when the pieces of the two systems are properly coordinated and funded;
- Good mental health treatment does not conflict with security concerns; and
- The jail and mental health problems of its detainees must be seen as a community problem.

Since the publication of Steadman’s report, more than 25 years ago, considerable progress has been made in processing and care of the mentally ill criminal offenders. The establishment of specialized courts, particularly mental health, drug, and family courts, has resulted in a large number of those criminal offenders

who have some type of mental illness being screened at an early stage of the criminal justice process and treated in an appropriate program.

Mental health services in the jail have become more common. Psychologists and social workers are either employed as regular members of the staff or are on contract. As a result, those jail inmates who were mentally ill at the time of admittance to the jail, as well as those inmates who may have developed extreme anxiety, depression or other form of mental disorder, such as attempting self-destruction after being incarcerated, have professionals trained in mental health services available to provide crisis intervention counseling as well as emotional support.

The matter of inadequate resources, as well as the lack of sufficient professional staff to provide the treatment for the mentally ill criminal offender, is still a major problem, even though state and federal legislation has resulted in large increases in funding to provide for the care and treatment of those criminal offenders who have mental health problems. The National Affordable Health Care plan now covers people who would normally not have the insurance to receive the health care needed.

## **The Role of the Private Sector in Treatment of Substance Abusers, Sex Offenders, and Offenders with Mental Health Problems**

A fairly large proportion of inmates in the jails and correctional facilities have some form of a substance abuse problem (Bureau of Justice Statistics, 2016, p. 4). The number of those with substance abuse problems who received some form of treatment for their problems during the time they were incarcerated in jail or prison varied, depending on the time period. A survey by Mumola (1999) found that more than half of the state prisoners and one fourth of the federal prisoners had taken part in some form of substance abuse program. The research does not state whether the participation occurred during the time of incarceration or during some time prior to or after incarceration, nor does the research provide any information about the quality of the treatments programs in which the inmates participated.

Sechrest and Robby (2001) express concern about the quality of the substance abuse treatment provided in correctional facilities, as well as that provided in community correctional programs. Lucken (1997, p. 248) takes note of the increase in the use of the private sector for providing treatment for special category offenders such as substance abusers, those with mental health problems, and sex offenders. He states “These private programs provide needed intermediate sanctions which reduces the burden on public correctional personnel (probation, parole, and community service workers), and are more focused on comprehensive models of intervention and treatment.” Lucken (1997, p. 248) notes that the contracts

relating to providing programming and treatment made between the public sector and private sector have led to a new partnership.

Sechrest and Robby (2001, p. 616) while acknowledging the importance of the private sector in providing programming and treatment for special offenders, expressed concerns about the “new partnership” between the public and private agencies in the supervision and treatment of offenders. They state, “Several philosophical and operational questions can be raised about the use of private programs for criminal offenders. These range from moral opposition to private agency involvement in treatment to operational problems. Political considerations are a concern when private sector vendors become involved in creating a demand for their services by influencing public agencies.”

The profit motive must always be considered when public agencies contract with private agencies for services. Several large profit making corporations have made hundreds of millions of dollars by providing services to correctional agencies. As the prison populations continue to decline, the need for state and federal agencies to contract with private corporations to administer correctional facilities will also decrease. For example, an Associated Press news item (Akron Beacon Journal 2016, p. A5) reports that, “The Obama administration announced Thursday it will phase out its use of some private prisons, affecting thousands of federal inmates.” In a memo to the Bureau of Prisons, Deputy Attorney General Sally Yates stated that the Bureau of prisons will start reducing and ultimately will end the Justice Department’s use of private prisons. The announcements followed a recent Justice Department audit that found that private facilities have more safety and security problems than government run ones. At the time of the report 12% of federal inmates were housed in private facilities (Akron Beacon Journal, 2016, p. A5).

The expected decline in the use of private correctional facilities, however, will not extend to the use of privately administered, profit, and non-profit community correctional facilities and treatment programs. Even with occasional corruption and at times provision of poor service, the partnership between the private and the public sectors has grown during the first part of the twenty-first century and will continue to grow in the future because the scarce numbers of personnel and resources give no other alternative. It is the only way that the services and treatment needed for offenders under supervision can be provided. Arrangements between the state departments of corrections and county justice officials such as community corrections centers that are funded by the state but administered by the local officials are likely to expand in the future, since such facilities provide for security as well as community based treatment. An additional positive factor is that it is much easier for the offender to maintain ties with the family and community if housed in a facility located in the community.

During an interview with Richard DeHeer, Director of the Stark County Family Court (retired), he mentioned several significant changes needed in the strategic planning for the juvenile and family courts in the future (Kratcoski 2012, pp. 233–243). These included greater cooperation with social service agencies, in particular those agencies providing specialized treatment for substance abusers, sexual offenders, and those who are in need of family counseling, the need to

develop specialized supervision and counseling units within the courts to manage the types of offenders mentioned above, increased dependence on state and federal funding to help finance the specialized programs and personnel that will be needed, and a need to continue to develop state-of-the-art technology and diagnostic tools for the treatment programs.

The use of scientific-based diagnostic tools such as the risks and needs assessments of offenders at all stages of the criminal justice process has had many positive effects in assuring positive outcomes in the supervision and treatment of juvenile and criminal offenders in the most efficient and inexpensive manner possible. The trend toward the implementation of state-wide systems that will serve as the basis for sentencing and case management of criminal and delinquent offenders will continue into the future. However, concern is expressed by many correctional personnel that the personal interaction between the correctional worker and the person being corrected will become so routinized that it will no longer be of significant value in the rehabilitation of criminal and juvenile offenders.

## Summary

The current trend toward providing treatment for criminal offenders in the community rather than in secure correctional facilities is likely to continue well into the twenty-first century, since it appears that the political climate is supportive of such a change and research findings show that community corrections is more cost effective and produces results more in line with the overall goals of corrections than does institutional corrections.

The goals of community corrections agencies have not changed, but some of the methods and tools used to achieve the goals have changed. While correctional personnel, such as probation officers, parole officers, correctional officers, social workers, teachers, psychologists, will continue to interact on a face-to-face basis with clients, much of the supervision and treatment will be completed by the use of electronic devices. The current trend toward public justice agencies, such as the police, courts and correctional agencies cooperating and sharing information, resources and even personnel will continue. With the wide variety of special and multiple problem offenders placed under the supervision of probation and parole departments, these departments do not have the personnel with the expertise to provide the treatment required. As a result, the public correctional agencies will continue to serve as brokerage agencies, making referrals to either public health agencies or private agencies that can provide the specialized treatment needed by the offenders referred to them.

The changes in laws and policies by the state and federal courts away from mandatory determinate sentencing toward a more discretionary sentencing policy will require the expansion of all of the community based correctional agencies and in particular residential community treatment facilities. Such facilities, which were predominately privately administered but supported to a large extent by public

funding, have traditionally been used by multiple municipal, state, and federal agencies to provide housing and treatment for probationers, parolees, and even those who were diverted from official processing. However, the current trend toward developing facilities that offer a specialized type of treatment for the residents who have special needs, such as substance abuse treatment, will continue. The treatment personnel that staff the residential facilities will have to have the specialized training that certifies them to conduct the treatment programs.

## Discussion Questions

1. What factors caused the “medical model” for offender treatment to lose favor? Do you think it will ever gain complete favor again? Why?
2. Why did prison administrators turn to community corrections as a solution to the problems of overcrowding and violence that emerged in prisons in the 1990s?
3. Does the new emphasis on treatment rather than punishment in corrections mean that the judicial system can no longer be “tough on crime”?
4. If an offender refuses to take part in treatment offered within an institution, should sanctions within the prison be applied to get him/her to conform?
5. When an offender receives a sentence of “life in prison without the possibility of parole,” what type of treatment should be provided to such an offender?
6. Why is local control such an important factor in making community correctional centers successful?
7. When treatment is provided in an institutional setting, how can the therapists increase the motivation for inmates to take part in the therapy?
8. How can offenders who are given intermediate sanctions that are applied in the community be successfully monitored so that they do not pose a threat to the common good?
9. Research on the effectiveness of boot camps found that they had little long-term effect on the behavior of the youths enrolled in them, even though they were very effective in changing behavior during and shortly after youths participated in them. What do you think was their “fatal flaw”?
10. When mentally ill offenders are diverted from jail and given treatment, what can be done to assure that they will receive adequate care and supervision after they are released?

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