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DEFINITIONS, HISTORY, AND DEVELOPMENT OF COMMUNITY CORRECTIONS

INTRODUCTION

Community corrections is a term that brings many different thoughts to mind. The term itself can shift in meaning and perception from person to person. For instance, some people may view community corrections as consisting of only probation and parole, while others might see it as being more related to community service and other such programs. Still others tend to equate community corrections with being “easy” on crime. Certainly, the first two examples are (objectively speaking) actual tools used within the field of community corrections. However, the third example demonstrates that perceptions may negatively impact the notion of community corrections, even when the term is considered on a mere conceptual level. This is important because the perceptions that people have of community corrections will, in fact, have a direct impact on how effective community-based programs are likely to be.

In some respects, this harkens back to the “power of perception” phenomenon, a common point that is emphasized by psychologists and laypersons alike. This point is also consistent with the often touted “power of positive thinking” in that a positive outcome is more likely to be seen among community corrections agencies when the community holds a positive image of such forms of supervision. This is not to be confused with the idea that we are to sell an image of community corrections that is false or that we should ignore the drawbacks to such initiatives. Nor is this to say that we, as community members, should highlight the positive aspects of such programs. Quite the contrary, we do want to maintain an evidence-based practice in our community corrections programs. However, these programs are not ever likely to achieve their optimal outcome unless the community is involved with such programs, and yet the community is not likely to be involved unless some form of positive gain is seen to exist within that same community. Thus, a positive community perception is actually quite relevant and important for evidence-based programs.

With it being clear that community perceptions are important to the overall effectiveness of community corrections, this begs the question, how does the community envision a community corrections program, and how would we define such a program? When examining any social phenomenon, it is important that investigators, researchers, and other inquirers achieve clarity on their issue of scrutiny. In other words, we must not only determine the notion of community corrections as a potentially viable response to crime; in doing so, we must also determine exactly what is meant by the term *community corrections*.

LEARNING OBJECTIVES

1. Define community corrections and understand the reasons for its emergence.
2. Identify early historical precursors to probation and parole.
3. Identify key persons in the early development of probation and parole.
4. Identify and discuss the various philosophical underpinnings associated with sentencing and the administration of offender supervision within the community.
5. Be aware of developments in community corrections from the 1960s onward.

There are a variety of perceptions associated with community corrections, and this is true among both laypersons and experts in the field. This means that the definition we use for community corrections is critical to the shaping of perceptions related to this area of study as well as defining the role of the practitioner(s) involved in the day-to-day activities therewith. It is with this in mind that this text will utilize a hybrid definition of community corrections that seeks to do both. For purposes of this textbook, **community corrections** includes all non-incarcerating correctional sanctions imposed upon an offender for the purposes of reintegrating that offender within the community. This definition is important for several reasons.

First, this definition acknowledges that community corrections consists of those programs that do not employ incarceration. Yet, this definition does not contend that these sanctions simply exist due to a need for alternatives to incarceration. This is a very important point that deserves elaboration. It is undoubtedly true that there is a need for alternatives to jail or prison simply due to the fact that both types of facilities tend to be overcrowded in various areas of the United States. In truth, the need for options to avoid further jail and prison construction is probably the main impetus behind the proliferation of community corrections programs that occurred during the late 1990s. Despite the prison boom that occurred, incarcerating strategies simply could not house all of the offenders who were processed during this time period.

Eventually, concern over such aggressive and expensive prison construction programs did lead to the exploration for alternatives to offender supervision. Community corrections provides alternatives at both the front and back ends of the correctional system. With respect to front-end alternatives, probation has been used as a means of avoiding further crowding in jails and prisons. Indeed, many chief judges and court administrators are acutely aware of population capacities in the jails that are run by their corresponding sheriff's office. It would be foolish to think that such courtroom or criminal justice actors do not collaborate when determining aggregate sentencing patterns within their own local jurisdiction. At the back end of the correctional process, parole systems have continued to act as release valves for prison system populations, allowing correctional systems to ease overcrowding through the use of early release mechanisms that keep offenders under supervision until the expiration of their original sentence.

Thus, to say that community corrections provides an alternative to incarceration is not necessarily wrong, but it limits the intent and use of community corrections sanctions. This also further implies that, if there were enough prison space, community corrections might not exist. This is simply not the case, being that community corrections is often implemented in jurisdictions that do not have overcrowding problems. Rather, community corrections, in and of itself, holds value as a *primary* sanction, regardless of whether jail or prison space is abundant. In times past, this may not have been the case, such sanctions being restricted to a set of options only used in lieu of prison sanctions. However, it should instead be considered that the contemporary use of community corrections often exists as a first choice among sanctions and that these programs are now used because they have been shown to be more effective than sentencing schemes that are overreliant on incarceration. Thus, almost by accident, the criminal justice system has found that community-based programs actually work better than incarceration and are therefore the preferred modality of sanctioning in many cases of offender processing. This is a very distinct point, elaborating on the earlier definitions that were provided.

In essence, students should consider that it is now out of date to believe that these sanctions exist merely to serve as alternatives to incarceration. Through data-driven analyses of outcomes and comparisons in recidivism rates, it has been found that these programs are often superior in promoting long-term public safety agendas. This is largely due to the fact that these sanctions

tend to work better with the less serious offender population, particularly those who are not violent. The nonviolent offender population happens to be the larger segment of those on community supervision. To be sure, jails and prisons do still have their place in corrections, but there are a large number of offenders who fare better in terms of recidivism if they are spared the debilitating effects of prison but are still made to be accountable for their crime to the community. This then derives a quasi-therapeutic benefit that leads to a long-term reduction in future criminality. This also leads into the second aspect of the community corrections definition provided by this text, that community corrections has a definite reintegrative component.

The reintegrative nature of community corrections is important from both society's perspective and the perspective of the offender. First, if the offender is successfully reintegrated, it is more likely that the offender will produce something of material value (through gainful employment) for society. The mere payment of taxes, coupled with a lack of further cost to society from the commission of further crimes, itself is a benefit extending to the whole of society. Further, offenders who are employed are able to generate payment for court fines, treatment programs, and victim compensation. None of these benefits are realized within the prison environment. Likewise, a truly reintegrated offender can provide contributions through effective parenting of his or her own children. This is actually a very important issue. Female offenders are often the primary caretakers of their children (with at least 70 percent of such offenders having children), while male offenders are often absent from the lives of their children (further adding to problems associated with father absenteeism). The social costs associated with foster homes are staggering, not to mention the fact that these children are likely to have a number of emotional problems that stem from their chaotic childhoods. Offenders who are reintegrated can stop this trend and can perhaps counter intergenerational cycles that persist in some family systems. This alone is a substantial social benefit that makes the reintegrative aspects of community corrections all the more valuable.

Additional social benefits might come in the area of offender community involvement. Reintegrated offenders may be involved in religious institutions, volunteer activities, or even anticrime activities with youth who might be at risk of crime (prior offenders can provide insight on the hazards of criminal lifestyles in school or other settings). The potential benefits for society may not be apparent from a budgetary perspective, but society can reap enormous benefits in the form of relationships that build community cohesion. Further, prevention efforts can be aided through the input of prior offenders involved with various community programs. Thus, it is clear that there are financial, familial, and community benefits associated with offender reintegration that can be realized by society.

From the perspective of the offender, the potential benefits should be clear. Such offenders do not have their liberty as restricted as they would if incarcerated. Further, such offenders are still able to be in contact with family (particularly their children), and they are able to maintain meaningful connections with the community. This is exclusive of the fact that these individuals are spared the trauma and debilitating effects associated with prison life. Rather, such offenders are spared the pains of imprisonment, being able to develop relations with significant others, maintain contact with their children, pursue vocational and educational goals, and so forth. It is clear that such options are likely to be perceived as more beneficial by nonviolent offenders than a prison sentence might be. Thus, the reintegrative nature of community corrections holds value, in and of itself, regardless of the holding capacity of incarcerating facilities.

When talking about the development of community corrections, there are several historical antecedents that are important to understand. This chapter will provide the student

with an examination of some alternatives to incarceration that existed in the early history of corrections and punishment sentencing. In offering this broad historical backdrop, it will be made apparent that early alternatives to incarceration had a therapeutic or reintegrative intent rather than a desire to save space or resources in correctional programs. Indeed, overcrowding was not a concern in the early history of corrections since there were no regulations regarding an inmate's quality of life and since deplorable conditions were (at one time) considered standard fare within a prison setting. Thus, the desire to save space or expenses was not of any appreciable concern when providing offenders with alternatives to incarceration.

Because probation was one of the earliest uses of genuine community supervision, some of the discussion that follows will center on the development of this sanction. As will be seen later in this chapter, probation is largely thought to be an invention of the United States. More important for this current section of Chapter 1 is the fact that probation was, in actuality, originally started for reintegrative purposes and was not initially intended to save jail or prison space. An argument for this point will be provided in the sections that follow. For now, suffice it to say that probation became a form of community supervision that was widespread, and the use of probation was grounded in benevolent intentions as opposed to concerns regarding the allocation of jail or prison space.

EARLY ALTERNATIVE SANCTIONS: SANCTUARY

One of the earliest forms of leniency was known as sanctuary. **Sanctuary** came in two forms, one that was largely secular in nature and the other that had its roots in Christian religion. The secular form of sanctuary existed through the identification of various cities or regions (most often cities) that were set aside as a form of neutral ground, safe havens from criminal prosecution. Accused criminals could escape prosecution by fleeing to these cities and maintaining their residence there. Though it might have been a bit difficult to reach these cities of sanctuary, they were widely known by the populace to be places of refuge for suspected criminals and provided a means for accused criminals to essentially “self-select” a banishment within these neutral regions. Incidentally, banishment was also a common punishment during the Middle Ages, but this sanction will be discussed later in the text. The basis for this form of sanctuary lies in the Christian Bible, where the book of Numbers, Chapter 35, verses 9 through 11 of the King James Bible, states that “the Lord spake unto Moses, saying, speak unto the children of Israel, and say unto them, When ye be come over Jordan into the land of Canaan, then ye shall appoint you cities to be cities of refuge for you.”

Naturally, this was an alternative to the use of prison and provided the accused with options that they were able to formulate on their own. Sahagun (2007) notes that “these cities essentially were a way to prevent vigilante action against someone who had accidentally killed another person. But the refuge wasn't indefinite. The refugee was allowed to stay until he could face proper judgment by the community” (p. 1). Thus, it is clear that this type of sanctuary was mainly intended to protect the accused from capricious forms of punishment, but this also indicates that some crimes required mitigation efforts that eliminated the need for incarcerative sanctions.

The second type of sanctuary began during the 4th century and was grounded in European Christian beliefs that appealed to the kind mercy of the church. Cromwell, del Carmen, and Alarid (2002) note that this type of sanctuary consisted of a place—usually a church—where the king's soldiers were forbidden to enter for purposes of taking an accused criminal into custody. In such cases, sanctuary was provided until some form of negotiation could be arranged

or until the accused was ultimately smuggled out of the area. If, while in sanctuary, the accused confessed to the crime, he or she was typically granted abjuration. Abjuration required that the offender promise to leave England with the understanding that any return without explicit permission from the Crown would lead to immediate punishment (Cromwell et al., 2002).

This form of leniency lasted for well over a thousand years in Europe and was apparently quite common in England. Even if the accused did not confess to the crime as a means of seeking abjuration, he or she could still be granted sanctuary. Over time, however, specific rules were placed upon the use of this form of leniency. For instance, during the 13th century, felons who sought sanctuary could stay up to 40 days or, before the expiration of that time, could agree to leave the kingdom. If they remained past the 40 days, “they risked being forced out of sanctuary through starvation” (Sahagun, 2007, p. 1). Eventually, sanctuary lost its appeal in Europe, and, “in the 15th century, several parliamentary petitions sought to restrict the right of sanctuary in England. In the next century, King Henry VIII reduced the number of sanctuaries by about half” (Sahagun, 2007, p. 1). From roughly 1750 onward, countries throughout Europe began to abolish sanctuary provisions as secular courts gained power over ecclesiastical courts. The process of eliminating sanctuary was a long and protracted one, and it took nearly 100 years before sanctuary ultimately disappeared as an option of leniency for accused offenders (Sahagun, 2007, p. 1).



PHOTO 1.1 Churches such as the one shown above may have been one source of temporary sanctuary for many offenders. Such practices occurred during a time when the separation of church and state had not yet emerged.

EARLY ALTERNATIVE SANCTIONS: BENEFIT OF CLERGY

Benefit of clergy was initially a form of exemption from criminal punishment that was provided for clergy in Europe during the 12th century. This benefit was originally implemented for members of various churches, including clerics, monks, and nuns, who might be accused of crimes. This alternative to typical punishment required church representatives to be delivered to church authorities for punishment, avoiding criminal processing through the secular court system. When originally implemented, the ecclesiastical courts (church courts) were very powerful (particularly in regard to religious matters or issues that could be connected to them), and they had the power to enact life sentences, if so desired. This was, however, a rarity since the church clergy members involved in crimes (clerics, monks, nuns) were often purported to have religious convictions, moral considerations, or ethical binds that mitigated their various offenses.

Church authorities, being well versed in religious precepts and complexities, were better able to discern outright hedonistic bloodshed or wanton lust from other acts that may have resulted from simple lapses of judgment. In addition, the ecclesiastical courts viewed negative behavior as being more a result of sin, and therefore an offense against God, than an offense against men or the Crown. Given this fact and that biblical leanings toward repentance, forgiveness, and mercy might sometimes be offered as the underlying basis for sentencing, church clergy members were often given sentences that were less punitive and more reformative in nature.



PHOTO 1.2 Stan Davis (left), Brother Jim Fogerty (middle), and Willie J. R. Fleming all work in an area of Chicago known as Cabrini-Green. This area has been plagued with high crime and has a disproportionate amount of it. Cabrini-Green is known for having serious gang problems. These three men work with gang offenders, providing faith-based and community-based interventions. These men are prime examples of how church-based interventions work with modern-day offender populations.

Though this might seem to be an effort to integrate compassion into the sentencing process, benefit of clergy actually had its genesis in a feudal power struggle between the Crown and the Holy Roman Catholic Church in England (Dressler, 1962). During this period, King Henry II desired more control over the Church in England and wished to diminish the influence that the ecclesiastical church had on the decision-making powers of the Crown (Dressler, 1962). Much of this power was rooted in the fact that the masses deferred to the Church and also revolved around the fact that the Crown utilized religion as a form of social control among a populace that was otherwise uneducated and potentially unmanageable. Thus religious constraints on behavior, and the belief that God was judging behavior even when the king could not himself observe and regulate it, aided in keeping much of the populace within due bounds of moral and legal constraints—at least on the surface.

However, most who were literate at this time were also financially well-off. Thus, this benefit tended to aid those who had power, meanwhile ignoring the plight of the poor who were more vulnerable. This was an especially important option given England's penchant for the death penalty during the centuries that followed. Benefit of clergy was thus a means of escaping a very tough sentencing scheme for minor crimes. Over time, the English criminal law did achieve a much better sense of parity or proportionality. Because of these changes, the benefit of clergy was effectively abolished in 1827 since it was no longer necessary to safeguard persons from an unwieldy and brutal sentencing structure.

The benefit of clergy was clearly not a means of saving prison resources, but was instead the result of a political power struggle between two opposing entities of social control in England. Further, even though this benefit was eventually extended to those who could demonstrate literacy, this tended to only include those persons who were wealthy or at least moderately well-off. With this in mind, it is unlikely that the clergy or the rich were among those most often processed through the court systems of England. Rather, it was typically the poor and the underclasses that were most often given incarcerative sanctions (not much different from today's socioeconomic sentencing demographic). Moreover, concern for jail or prison conditions did not even exist throughout most of the centuries in which this option existed. There was actually no limit to the number of offenders who might be housed together, and early accounts of English prisons acknowledge the squalid conditions of these facilities. It is unlikely that the benefit of clergy would have been a necessary mechanism to alleviate overcrowding, pestilence, or disease within old English jails or prisons, since these deplorable conditions were simply viewed as part of the incarceration experience and therefore part of the offender's sentence.

EARLY ALTERNATIVE SANCTIONS: JUDICIAL REPRIEVE

Later, during the last part of the 1700s, it became increasingly common for judges in England to utilize an alternative method of punishment known as judicial reprieve. These were used at the full discretion of judges, in cases where they did not believe that incarceration was proportionate to the crime or where no productive benefit was expected. The judicial reprieve simply

suspended sentences of incarceration as an act of mercy or leniency. Naturally, as might be expected, this option was reserved for offenders who had committed minor infractions of the law and who did not have prior records. Cromwell et al. (2002) note that while the offender was on reprieve, he or she retained liberties and freedoms. Upon the expiration of a specified period of time, the offender was then able to apply to the Crown of England for a full pardon.

In these cases, judges made decisions based on their own hunches as to the likelihood of offender outcomes, and this was regardless of the number of inmates in their local jail. In fact, jailers often received a substantial income from fees obtained through the provision of goods and services to inmates within their charge. In a literal sense, a jailer's income was enhanced when there were high numbers of inmates in the facility. The more inmates in a facility, the more income was produced for the jailer. Thus, it was not at all in the jailer's best interest to limit the number of inmates, particularly when one considers that there were no standards of care that jailers had to meet. Simply put, inmates could be crammed into jail facilities without any fear of public or court reprisal. Jailers thus had everything to gain and nothing at all to lose when overcrowding their jail facilities.

It is therefore clear that jailers would not have desired widespread use of reprieves since this would essentially block their income. Thus, when judges did use reprieves it was simply due to their own genuine concern for the inmate's welfare rather than pressure related to overfilled facilities. Cromwell et al. (2002) go so far as to note that judicial reprieves were a method by which judges "recognized that not all offenders are dangerous, evil persons" and thus sought to avoid prescribing the specified punishment when such punishment was simply out of sync with the judge's perception of the offender's temperament or demeanor (p. 27). This is important because it demonstrates that, at their base, reprieves were actually provided as a form of compassion in the hope that the offender would be deterred from criminal activity in the future. Such a perspective is nothing less than a rehabilitative perspective whereby the reintegration of the offender is given priority over mere desires for punishment.

EARLY ALTERNATIVE SANCTIONS: RECOGNIZANCE

Recognizance in the United States is often traced to the case of *Commonwealth v. Chase* (1830) in which Judge Thatcher of Boston found a woman named Jerusha Chase guilty of stealing from inside a home (Grinnel, 1941). Ms. Chase pleaded her guilt but did have numerous friends who also pleaded for mercy from the court. This resulted in her release "at large" on her own recognizance until which time she was called to appear before the court (Begnaud, 2007). The accused was subsequently acquitted before the same court of another charge of larceny and was only sentenced for her prior 1830 crime (Begnaud, 2007; Grinnel, 1941). Cromwell et al. (2002) note that "recognizance came to be used often in Massachusetts as a means of avoiding a final conviction of young and minor offenders in hope that they would avoid further criminal behavior," adding that "the main thrust of recognizance was to humanize criminal law and mitigate its harshness" (p. 28). This again points toward the idea that many of the early alternatives to incarceration were implemented more for the reintegration of offenders than because of a concern over the population of the local jail facility.

Begnaud (2007) contends that this use of recognizance in the United States is the first antecedent to probation, given that the convicted offender was released into society but, if charged for a subsequent criminal act, could then be charged further for the original crime that led to the offender's initial contact with the court. As with judicial reprieves, this alternative to incarceration was usually only used with offenders who had committed petty crimes.

If the offender violated the terms of this agreement, the binding was claimed by the state, and the offender might then face incarceration or some other form of punishment, often including physical sanctions (Latessa & Allen, 1999).

Nevertheless, it is generally considered premature to say that this sanction was the actual beginning of probation because it did not include official intermittent or structured supervision from an agent or a representative of the court. However, Latessa and Allen (1999) do point out (as does Begnaud, 2007) that the various elements associated with recognizance qualify the sanction as a noteworthy antecedent of probation, and for this reason the description of this sanction is placed just before the next section on the early history of probation.

THE BEGINNING OF PROBATION

While many of the traditions and means of addressing issues associated with crime and punishment originated in England, the United States did have its own novel inventions. Probation is one such invention, being an alternative to incarceration that is unique to the United States. **John Augustus**, a cobbler and philanthropist of Boston, is often recognized as the father of modern probation. During the time that Augustus provided his innovative contribution to the field of community corrections, the temperance movement against alcohol consumption was in full swing. Augustus, being aware of many of the issues associated with alcoholism, made an active effort to rehabilitate prior alcoholics who were processed through the police court in Boston. While acting as a volunteer of the court, Augustus observed a man being charged for drunkenness who would have, in all likelihood, ended up in the Boston House of Corrections if it were not for Augustus's intervention. Augustus posted bail for the man, personally guaranteeing the man's return to court at the prescribed time. Augustus helped the man to find a job and provided him with the guidance and support necessary so that the defendant was able to become a functioning and productive member within the community. When the court ordered the return of the offender three weeks later, the judge noticed a substantial improvement in the offender's behavior. The judge was so impressed by the initial outcome that "he fined him only one cent and court costs, which were less than \$4.00. The judge also suspended the six-month jail term" (Champion, 2002, p. 136). From this point in 1841 until his death in 1859, Augustus continued to bail out numerous offenders, providing voluntary supervision and guidance until they were subsequently sentenced by the court. During his 18 years of activity, Augustus "bailed on probation" 1,152 male offenders and 794 female offenders (Barnes & Teeters, 1959, p. 554; Latessa & Allen, 1999). His rationale centered on his belief that "the object of the law is to reform criminals and to prevent crime and not to punish maliciously or from a spirit of revenge" (Dressler, 1962, p. 17).

The above quote by Dressler is important because it again goes back to this chapter's initial point that community corrections (including, of course, probation) was just as much designed to reintegrate (another word for "reform" as used by Dressler in 1962) the offender as anything else. In fact, given this particular quote from Dressler, it might be concluded that issues of crowding within incarcerating institutions were not of any concern at all during the mid-1800s prior to the Civil War. After all, it is clear from the above passage that Augustus was primarily concerned about the malicious treatment of offenders or the desire for revenge that might perhaps have clouded society's vision. This contention is further supported by Champion (2002), who states that "Augustus, however, could not save everyone from incarceration. In fact, that was not his intention. He only wanted to rescue those offenders he felt worthy of rehabilitation" (p. 138). Thus, it was rehabilitation that Augustus ultimately

sought to achieve, regardless of whether jails or houses of correction were considered humane. (In fact, many were very inhumane.)

Augustus was aware that jail and prison conditions were barbaric in many cases. Yet this still was not his primary reason for implementing his intervention. Rather, he selected his candidates with due care and caution, tending to offer aid to those who were first-time offenders. He also looked to their character, demeanor, past experiences, and potential future influences when making his decisions. Thus, whether you use the word *reform*, *rehabilitate*, or *reintegrate*, it is clear that the early intent of probation was to provide society with a person who was more productive after sentencing than he or she had been prior to it. This intent stood on its own merit and sense of purpose, regardless of jail or prison conditions that might have existed, thereby establishing the original mission of community corrections as a whole.

THE BEGINNING OF PAROLE

Two primary figures are attributed with the development of parole: Alexander Maconochie and Sir Walter Crofton. Maconochie was in charge of the penal colony at Norfolk Island in New South Wales, and Crofton directed the prison system of Ireland. While Maconochie first developed a general scheme for parole, it was Sir Walter Crofton who later refined the idea and created what was referred to as the ticket-of-leave. The **ticket-of-leave** was basically a permit that was given to a convict in exchange for a certain period of good conduct. Through this process, the convict could earn his own wage through his own labor prior to the expiration of his actual sentence. In addition, other liberties were provided so long as the convict's behavior remained within the lawful limits set by the ticket-of-leave system. This system is therefore often considered the antecedent to the development of parole.

In the 1600s and 1700s, England implemented a form of punishment known as *banishment* on a widespread scale. During this time, criminals were sent to the American colonies under reprieve and through stays of execution. Thus, the convicts had their lives spared, but this form of mercy was generally only implemented to solve a labor shortage that existed within the American colonies. Essentially, the convicts were shipped to the Americas to work as indentured servants at hard labor. However, the War of Independence within the colonies put an end to this practice, until 1788, when the first shipload of convicts was transported to Australia. Australia was the new dumping ground for convicts who were used as labor. The work was hard, and the living conditions were challenging. However, a ticket-of-leave system was developed on this continent in which different governors had the authority to release convicts who displayed good and stable conduct.

In 1837, Alexander Maconochie, a captain in the Royal Navy, was placed in command over the English penal colony in New South Wales at Norfolk Island, which was nearly 1,000 miles off the eastern coast of Australia. The convicts at Norfolk Island were the worst of the worst, since they had already been shipped to Australia for criminal acts in England, only to be later shipped to Norfolk Island due to additional criminal acts or forms of misconduct they had committed while serving time in Australia. The conditions on Norfolk Island were deplorable, so much so that many convicts preferred to be given the death penalty rather than serve time upon the island (Latessa & Allen, 1999).

While serving in this command, Maconochie proposed a system in which the duration of the sentence was determined by the inmate's work habits and righteous conduct. Though

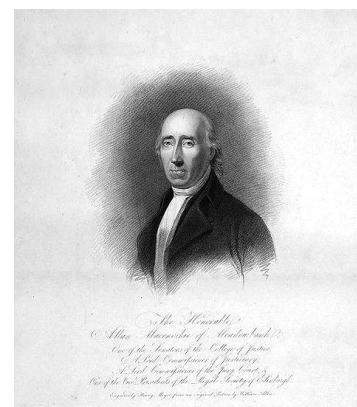


PHOTO 1.3 Alexander Maconochie is a key figure in much of early community corrections history. He was the primary person to develop a program of early release for inmates who were in custody on Norfolk Island.

this was already used in a crude manner through the ticket-of-leave process in Australia, Maconochie created a **mark system** in which “marks” would be earned by the convict for each day of successful toil. His system was quite well organized and thought out, being based on five main tenets, as described by Barnes and Teeters (1959):

1. Release should not be based on the completing of a sentence for a set period of time, but on completion of a determined and specified quantity of labor. In brief, time sentences should be abolished and task sentences substantiated.
2. The quantity of labor a prisoner must perform should be expressed in a number of “marks” which he must earn, by improvement of conduct, frugality of living, and habits of industry, before he can be released.
3. While in prison he should earn everything he receives. All sustenance and indulgences should be added to his debt of marks.
4. When qualified by discipline to do so, he should work in association with a small number of other prisoners, forming a group of six or seven, and the whole group should be answerable for the conduct of labor of each member.
5. In the final stage, a prisoner, while still obliged to earn his daily tally of marks, should be given a proprietary interest in his own labor and be subject to a less rigorous discipline, to prepare him for release into society. (p. 419)

Under this plan, convicts were given marks and moved through phases of supervision until they finally earned full release. Because of this, Maconochie’s system is considered indeterminate in nature, with convicts progressing through five specific phases of classification. These phases included the following: (1) strict incarceration, (2) intense labor in forced work group or chain gang, (3) limited freedom within a prescribed area, (4) a ticket-of-leave, and (5) full freedom. This system, as devised by Maconochie, was based on the premise that inmates should be gradually prepared for full release. It is apparent that Maconochie’s system utilized versions of intermediate sanctions and indeterminate sentencing. **Indeterminate sentencing** is sentencing that includes a range of years that will be potentially served by the offender. The offender is released during some point in the range of years that are assigned by the sentencing judge. Both the minimum and maximum times can be modified by a number of factors such as offender behavior and offender work ethic. The indeterminate sentence stands in contrast to the use of **determinate sentencing**, which consists of fixed periods of incarceration imposed on the offender with no later flexibility in the term that is served. This type of sentencing is grounded in notions of retribution, just deserts, and incapacitation. Due to the use of indeterminate sentencing and primitive versions of intermediate sanctioning, Maconochie’s mark system is perhaps best thought of as a precursor to parole as well as the use of classification systems. In fact, the use of classification systems tended to be underdeveloped. Thus, Maconochie provided a guide in predicting likelihood of success with convicts, making him a man who was well ahead of his time.

However, Maconochie appears to have been *too far* ahead of his time; many government officials and influential persons in both Australia and England believed that Maconochie’s approach was too soft on criminals. His methods of reform drew increasing negative publicity from Australian and English citizens who perceived the system as being too lenient on convicts. Ironically, this is not much different from today where the common consensus among Americans is that prisons and punitive sanctions are preferred forms of punishment. In contrast,

Maconochie was fond of criticizing prison operations in England, his own belief being that confinement ought to be rehabilitative in nature rather than punitive. (Note that this is consistent with the insights of John Augustus and his views on the use of probation.) Maconochie's ideas were not popular among government officials of the Crown or with the general populace of England, and he ultimately was dismissed from his post on Norfolk Island as well as other commands for being too lenient with convicts. Nevertheless, Maconochie was persistent, and in 1853 he successfully lobbied to pass the **English Penal Servitude Act**, which established several rehabilitation programs for convicts.

The English Penal Servitude Act of 1853 applied to prisons in both England and Ireland. The primary reason for this act's success had more to do with the fact that free Australians were becoming ever more resistant to the use of Australia as the location for banished English convicts. This act did not necessarily eliminate the use of banishment in England, but it did provide incentives and suggestions for more extensive use of prisons. This law included guidelines for the length of time that inmates should serve behind bars before being granted a ticket-of-leave and, according to Cromwell et al. (2002), maintained the following:

1. The power of revoking or altering the license of a convict will most certainly be exercised in the case of misconduct.
2. If, therefore, he wishes to retain the privilege, which by his good behavior under penal discipline he has obtained, he must prove by his subsequent conduct that he is worthy of Her Majesty's Clemency.
3. To produce a forfeiture of the license, it is by no means necessary that the hold should be convicted of a new offense. If he associates with notoriously bad characters, leads an idle or dissolute life, or has no visible means of obtaining an honest livelihood, and so on, it will be assumed that he is about to relapse into crime, and he will at once be apprehended and recommitted to prison under his original release. (p. 166)

It should be clear that the above guidelines are the basis of a general form of parole. As we will see in later chapters, the conditions that are mentioned in the English Penal Servitude Act of 1853 are also common to today's use of parole in the United States, though of course there are many more technical aspects to the use of parole in today's society. However, the guidelines mentioned (particularly those in Number 3 above) clearly demonstrate that the offender's early release is contingent on his or her continued good behavior and desistance from crime as well as fending off criminogenic influences. Because of this and other significant improvements in penal policies in England, as well as his contributions to early release provisions there, Maconochie has been dubbed the father of parole.

During the 1850s, Sir Walter Crofton was the director of the Irish penal system. Naturally, since the English Penal Servitude Act of 1853 was passed during his term of office, he was aware of the changes implemented in prison operations, and he was likewise aware of Maconochie's ideas. Crofton used these ideas to create a classification system that proved useful and workable within the Irish prison system. This classification system utilized three stages of treatment. The first stage placed the convict in segregated confinement with work and training being provided to the offender. The second stage was a transition period during which the convict was set to the task of completing public work projects while under minimal supervision. During the third stage, presuming that the offender proved reliable, he was released on license (Dressler, 1962; Latessa & Allen, 1999).

In implementing this classification system, each inmate's classification level was specifically measured by the number of marks he or she had earned for good conduct, work output, and educational achievement. This idea was, quite naturally, borrowed from Maconochie's system on Norfolk Island. It is also important to point out that the Irish system developed by Sir Walter Crofton was much more detailed, with specific written instructions and guidelines that provided for close supervision and control of the offender, using police personnel to supervise released offenders in rural areas, and an inspector of released prisoners in the city of Dublin (Cromwell et al., 2002).

Release on license was contingent upon certain conditions, with violations of these conditions subject to the possibility of reimprisonment. "While on license, prisoners were required to submit to monthly reports and were warned against idleness and association with other criminals" (Latessa & Allen, 1999, p. 156). Thus, offenders released on license had to report to either a police officer or another designated person, had specific requirements to meet, had to curtail their social involvements, and could be again incarcerated if they did not maintain those requirements (Latessa & Allen, 1999). This obviously resembles several aspects of modern-day parole programs. In fact, it could be said that contemporary uses of parole in the United States mimic the conditions set forth by Sir Walter Crofton in Ireland.

CROSS-NATIONAL PERSPECTIVE

The History of Probation in England

The Development of Probation in England: *A Quick Chronological History*

1876: Hertfordshire printer Frederic Rainer, a volunteer with the Church of England Temperance Society (CETS), writes to the society of his concern about the lack of help for those who come before the courts. He sends a donation of five shillings (25p) toward a fund for practical rescue work in the police courts. The CETS responds by appointing two "missionaries" to Southwark Court with the initial aim of "reclaiming drunkards." This forms the basis of the London Police Courts Mission (LPCM), whose missionaries worked with magistrates to develop a system of releasing offenders on the condition that they kept in touch with the missionary and accepted guidance.

1880: Eight full-time missionaries are in place, and the mission opens homes and shelters providing vocational training and develops residential work.

1887: The Probation of First Offenders Act allows for courts around the country to follow the London example of appointing missionaries, but very few do so.

1907: The Probation of Offenders Act gives LPCM missionaries official status as "officers of the court," later known as

probation officers. The act allows courts to suspend punishment and discharge offenders if they enter into a recognizance of between one and three years, one condition of which was supervision by a person named in the "probation order."

1913: The first newsletter of the National Association of Probation Officers records the association's first annual meeting at Caxton Hall in London on December 11, 1912. The newsletter reports the address given to the Grand Jury of the London Sessions in September 1912 by Robert Wallace, KC, who said that the calendar was one of the lightest in the history of the sessions. "Of 137 prisoners, 17 had been sent for sentence as 'incorrigible rogues' and 12 others were awaiting punishment. There were only nine women. There has been a steady diminution in the number of cases ever since the new method of dealing with offenders under the Probation of Offenders Act was adopted four years ago. Of those who had been dealt with in that way, very few had offended again."

1918: With juvenile crime increasing during and after the First World War, the Home Office concedes that probation should not be left to philanthropic or judicial bodies and that state direction is needed. The influential Molony Committee of 1927 stimulates debate about the respective roles of probation officers, local government, and philanthropic organizations. It encourages the informal involvement of probation officers in aftercare from both borstal (youth prison) and reformatory schools.

1938: The Home Office assumes control of the probation service and introduces a wide range of modernizing reforms. The legal formula of “entering into a recognizance” is replaced by “consent to probation.” Requirements for psychiatric treatment are also introduced, and it is made mandatory for female probationers to be supervised by women officers. LPCM concentrates on hostels for “probation trainees” and branches out into homes for children in “moral danger,” sexually abused children, and young mothers.

1948: The Criminal Justice Act incorporates punitive measures such as attendance centers and detention centers, but the stated purpose of the probation order remains intact and is reaffirmed as “advise, assist, and befriend.”

1970s and 1980s: Partnerships with other agencies result in cautioning schemes, alternatives to custody, and crime reduction, while changes in sentencing result in day centers, special program conditions, the probation order as a sentence, and risk of custody and risk of reconviction assessment tools.

2000: The Criminal Justice and Court Services Act renames the probation service as the National Probation Service for England and Wales, replacing 54 probation committees with 42 local probation boards and establishing 100 percent Home Office funding for the probation service. It creates the post of Director General of Probation Services within the Home Office and makes chief officers statutory office holders and members of local probation boards.

2004: The government publishes *Reducing Crime, Changing Lives*, which proposes to improve the effectiveness of the criminal justice system and the correctional services in particular. The National Offender Management Service is established with the aim of reducing reoffending through more consistent and effective offender management. The government proposes to introduce commissioning and contestability into the provision of probation services,

which it says will drive up standards further among existing providers, and to enable new providers to deliver services.

2007: The National Probation Service for England and Wales is 100 years old.

Source: Adapted from Probation Association. (2011). *About us: History of probation*. Retrieved from <http://probationassociation.co.uk/about-us/history-of-probation.aspx>.

Compare and Contrast Exercise

1. From what you can see, what are the similarities in the development of probation in England and the United States?
2. Consider that John Augustus died in 1859 in the United States and that the Probation of First Offenders Act was not passed until 1887 in England. This means that while the idea for parole was developed by England, the idea of probation was developed by the United States. How significant do you think it has been for the field of corrections, in general and community corrections, in particular, to have this type of idea sharing between these two countries? Explain your answer.
3. Discuss the commonality of early religious involvement in corrections and explain how that affected correctional thought in both the United States and England. Next, after reading the chronological history of probation in England, explain whether this religious emphasis continued or if it appears to have diminished over time. Is this the same as or different from developments in the United States? Explain your answer.

For more information about probation in the United Kingdom, visit the website <http://probationassociation.co.uk/about-us/what-we-do.aspx>.

PHILOSOPHICAL BASIS OF COMMUNITY CORRECTIONS—BOTH PROBATION AND PAROLE

Within the field of corrections itself, four goals or philosophical orientations of punishment are generally recognized. These are retribution, deterrence (general and specific), incapacitation, and rehabilitation. Two of these orientations focus on the offender (rehabilitation and specific deterrence), while the other orientations (general deterrence, retribution, and incapacitation) are thought to generally focus more on the crime that was committed. The intent

of this section of the chapter is to present philosophical bases specifically related to community corrections and offender reintegration. However, it is useful to first offer a quick and general overview of the four primary philosophical bases of punishment. Each of these will be discussed in greater detail in Chapter 2 of this text, but a quick introduction to these concepts is provided here for student reference when completing the remainder of the current chapter.

Retribution is often referred to as the “eye for an eye” mentality, and simply implies that offenders committing a crime should be punished in a like fashion or in a manner that is commensurate with the severity of the crime that they have committed. In other words, retribution implies proportionality of punishments to the seriousness of the crime. **Deterrence** includes general and specific forms. **General deterrence** is intended to cause vicarious learning whereby observers see that offenders are punished for a given crime and therefore themselves are discouraged from committing a like-mannered crime due to fear of similar punishment. **Specific deterrence** is simply the infliction of a punishment upon a specific offender in the hope that that particular offender will be discouraged from committing future crimes. **Incapacitation** deprives the offender of liberty and removes him or her from society with the intent of ensuring that society cannot be further victimized by that offender during the offender’s term of incarceration. Finally, **rehabilitation** implies that an offender should be provided the means to fulfill a constructive level of functioning in society, with an implicit expectation that such offenders will be deterred from reoffending due to their having worthwhile stakes in legitimate society—stakes that they will not wish to lose as a consequence of criminal offending.

Numerous authors and researchers associated with the field of community corrections have noted that the underlying philosophical basis of both probation and parole is rehabilitating offenders and reintegrating them into society (Abadinsky, 2003; Latessa & Allen, 1999). That is, of course, the general message of this chapter since an examination of the early uses of probation and parole has demonstrated that, historically, these mechanisms of offender supervision were utilized with more concern given to the offender’s likely reformation than to the population conditions of jails and prisons. It is clear that notable figures such as John Augustus (the “Father of Probation”) and Alexander Maconochie (the “Father of Parole”) were more concerned with the potential reformation of the offender when determining suitability of sanctions.

Latessa and Allen (1999) point out that the use of probation as a correctional sanction was largely in response to the punitive philosophy that had existed among the nobility and royalty of Europe and had been carried over to America. The earliest theoretical and philosophical bases for both probation and parole lie in the work of Cesare Beccaria’s classic treatise titled *An Essay on Crimes and Punishments* (1764/1983). Beccaria is also held to be the “Father of Classical Criminology,” a field that was instrumental in shifting views on crime and punishment toward a more humanistic means of response. Among other things, Beccaria advocated for proportionality between the crime that was committed by an offender and the specific sanction that was given. Since not all crimes are equal, the use of progressively greater sanctions becomes an instrumental component in achieving this proportionality. Naturally, community-based perspectives that utilize a continuum of sanctions (Clear & Cole, 2003) fit well with the tenets of proportionality.

Classical criminology, in addition to proportionality, emphasized that punishments must be useful, purposeful, and reasonable. Rather than employing barbaric public displays (a deterrent approach in itself) designed to frighten people into obedience, reformers called for more moderate correctional responses. Beccaria, in advocating this shift in offender processing, contended that humans were hedonistic—seeking pleasure while wishing to avoid pain—and that this required an appropriate amount of punishment to counterbalance the rewards derived from criminal behavior. It will become clear in subsequent pages that this emphasis

on proportional rewards and punishments dovetails well with behavioral psychology's views on the use of reinforcements (rewards) and punishments. Behavioral and learning theories will likewise be presented as the primary theoretical bases of effective community corrections interventions since they jibe well with the tenets of classical criminology, are easily assessed and evaluated, and can be easily integrated with most criminal justice program objectives. Finally, Siegel (2003) notes that classical criminological theory contained four basic elements:

1. In every society, people have free will to choose criminal or lawful solutions to meet their needs or settle their problems.
2. Criminal solutions may be more attractive than lawful ones because they usually require less work with a greater potential payoff.
3. A person's choice of criminal solutions may be controlled by his or her fear of punishment.
4. The more severe, certain, and swift the punishment, the better able it is to control criminal behavior. (p. 108)

Though it is certain that there are exceptions to the above tenets, classical criminology does continue to serve as the basic underlying theoretical foundation of our criminal justice system in the United States, including the correctional components. It is indeed presumed that offenders can (and do) learn from their transgressions through a variety of reinforcement and punishment schedules that institutional and community-based corrections may provide. Not only was this presumed by John Augustus when implementing the prototypes of what would later be known as formal probation, but Alexander Maconochie and Sir Walter Crofton likewise held similar beliefs when using their mark systems and methods of classifying offenders.

APPLIED THEORY

Classical Criminology, Behavioral Psychology, and Community Corrections

In addition to Cesare Beccaria, a noteworthy figure associated with classical criminology was Jeremy Bentham. Bentham is known for advocating that punishments should be swift, severe, and certain. This has been widely touted by classical criminologists and even by many modern-day criminologists who have leanings toward classical or rational choice theories on crime. Essentially, Bentham believed that a delay in the amount of time between the crime and the punishment impaired the likely deterrent value of the punishment in the future. Likewise, Bentham held that punishments must be severe enough in consequence as to deter persons from engaging in criminal behavior. Finally, Bentham noted that the punishment must be assured; otherwise the person will simply become more clever at hiding the

crimes once he or she knows that the punishment can be avoided.

Current research supports some aspects of classical criminology, while refuting other points. In particular, it has been found that the certainty of the punishment does indeed lower the likelihood of recidivism (repeat offending). Likewise, the less time between the crime and the punishment, the less likely offenders will reoffend in the future. However, it has not been found to be true that severe punishment is more successful in reducing crime. In fact, substantial historical research on the death penalty seems to indicate that general deterrence is not achieved with the death penalty, even though it is the most severe punishment that can be given.

Further, research on the use of prisons has shown that they may actually *increase* the likelihood of future recidivism for many offenders. Obviously, this is counter

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productive to the desire of the criminal justice system. While some offenders are simply too dangerous to be released into the community, others who are not so dangerous will ultimately return. Among those, the goal of any sanction should be to reduce the likelihood that they will commit crime—not increase that likelihood. The research of Smith, Goggin, and Gendreau (2002) provides evidence that the prison environment may simply increase the likelihood of recidivism among many offenders. Smith et al. (2002) conducted a meta-analysis of various recidivism studies and concluded that prisons could indeed be considered “schools of crime” (p. 21). Further, they found that the longer the term of imprisonment, the more likely offenders were to recidivate. Thus, severity of the punishment does not reduce crime, and, in actuality, it does indeed increase the likelihood of future crime. Other studies substantiate this research.

This alone presents a valid argument against the unnecessary use of prisons, particularly when community corrections can provide effective supervision and sanctions without the reliance on prison facilities. Community corrections sanctions can be swifter in implementation, and they are much more certain in their application. For example, many offenders may be given a certain number of years in prison but will later be released early, reducing the certainty (and severity) that they will be held to serve their intended punishment. Further, the plea-bargaining system in the United States provides the opportunity for the convicted to avoid incarceration entirely, even though a prison sentence would have been given for the crime that they had committed. Clearly, the use of such pleas detracts from the certainty of the sentence.

In addition, many behavioral psychologists note that if punishment is to be effective, certain considerations must be taken into account. These considerations, summarized by Davis and Palladino (2002), are presented below:

1. The punishment should be delivered immediately after the undesirable behavior occurs. *This is similar to the “swiftness” requirement of classical criminologists.*
2. The punishment should be strong enough to make a real difference to that particular organism. This is similar to the “severity” requirement of classical criminologists, but this point also illustrates that “severity” may be perceived differently from one person to another.
3. The punishment should be administered after each and every undesired response. *This is*

similar to the “certainty” requirement of classical criminologists.

4. The punishment must be applied uniformly, with no chance of undermining or escaping the punishment. When considering our justice system, it is clear that this consideration is undermined by the plea-bargaining process.
5. If excessive punishment occurs or if punishment is not proportional to the aberrant behavior committed, the likelihood of aggressive responding increases. *In a similar vein and as noted earlier, excessive prison sentences simply increase crime, including violent crime.*
6. To ensure that positive changes are permanent, provide an alternative behavior that can gain reinforcement for the person. In other words, the use of reintegrative efforts to instill positive behaviors and activities must be supplemented to counteract those that are criminal in nature (pp. 262–263).

Hopefully, from the presentation above, it can be seen that there is a great deal of similarity between classical criminologists and behavioral psychologists on the dynamics associated with the use of punishment. This is important because it demonstrates that both criminological and psychological theory can provide a clear basis for how correctional practices (particularly community corrections practices) should be implemented. In addition, Number 2 above demonstrates the need for severity, but it illustrates a point often overlooked: Severity of a punishment is in the eye of the beholder. For instance, some offenders would prefer to simply “do flat time” in prison rather than complete the various requirements of community supervision. This is particularly true for offenders who have become habituated to prison life. In these cases, the goal should be to acclimate offenders not to prison life but rather to community life as responsible and productive citizens. Community corrections encourages this outcome and utilizes a range of sanctions that can be calibrated to be more or less “severe” as is needed by the individual offender. In other words, community corrections utilizes techniques from behavioral psychology and classical criminology in a manner that individualizes punishment for the offender. It is this aspect that makes community corrections a superior punishment and reintegration tool over prison. It is also for this reason that prison should be utilized only for those offenders who are simply not receptive to change or the assumption of responsibility for their crimes.

Sources: Davis, S. F., & Palladino, J. J. (2002). *Psychology* (3rd ed.). Upper Saddle River, NJ: Prentice Hall; Smith, P., Goggin, C., & Gendreau, P. (2002). *The effects of prison sentences on recidivism: General effects and individual differences*. Saint John, New Brunswick, Canada: Centre for Criminal Justice Studies, University of New Brunswick.

It is not at all surprising that these forefathers of community corrections were impacted by the work of Cesare Beccaria. Beccaria's treatise was highly regarded and publicized throughout Europe and the United States and predated each of these persons' own innovations. In fact, classical criminology and Beccaria's own thoughts on crime and punishment served as the primary theoretical and philosophical basis to all forms of community corrections that existed during their time. Further, as will be seen, the works of Beccaria, the tenets of classical criminology, the contentions of each of the father figures in the early history of community corrections, and the use of indeterminate forms of sanctioning as leverage and motivation in obtaining offender compliance, as well as the later developments in behavioral and learning psychology, all complement one another and are likewise congruent in nature. This then provides the primary set of theoretical and philosophical perspectives on community corrections for this text, thereby establishing a consistent connection between the past and present practice of community corrections.

As with probation, the underlying basis for parole includes the tenets of both classical criminology and behavioral psychology. However, this contention has been debated, depending upon the point in history one is examining. For instance, Champion (2002) suggests that "parole's eighteenth-century origins suggest no philosophical foundation" (p. 129). However, it would seem that Champion's point is actually erroneous. Indeed, the very use of any form of indeterminate sanction suggests a belief that an offender's behavior can be shaped or modified through the use of incentives (rewards for good conduct or industrious labor). Thus, this text will continue through the remaining chapters with the notion that the original and primary philosophical underpinnings of both probation and parole were centered on a rehabilitative orientation of offender processing.

Champion (2002) provides an interesting presentation of the functions of parole by suggesting that there are both manifest and latent functions. According to Champion, manifest functions are specifically intended and are apparent to all who view the parole process. On the other hand, latent functions, while being important, are not quite so apparent as a genuine function of parole. The two primary manifest functions of parole are (1) the reintegration of parolees into society and (2) the desire to deter future criminality. The "three latent functions of parole are (1) to alleviate prison overcrowding, (2) to remedy sentencing disparities, and (3) to protect the public" (Champion, 2002, p. 129).

This is an interesting analysis of parole for several reasons. First, the reintegration of parolees into society is not only considered a manifest function; it is also the first function that Champion lists (1990). This then supports the argument that parole, at its core, should be considered first and foremost a reintegrative tool. A second point of interest is the fact that Champion lists prison overcrowding as a latent function when, in fact, many practitioners would note that parole tends to serve as a release valve for currently overcrowded prisons. Indeed, it might even appear that Champion himself has changed to this view of parole since in his 2002 work he notes that community corrections primarily serves as an alternative to incarceration (see earlier sections of this chapter). However, this aspect of community corrections (being an alternative to prison) is indeed secondary in nature, and should not be considered at all when determining the likelihood of offender relapse. Finally, it is probably best to consider the desire to protect the public as a manifest function, and this function is automatically fulfilled if the offender is successfully reintegrated into the community. Indeed, the second manifest function listed by Champion (1990), the desire to deter future criminality, should not be necessary if the offender is truly reintegrated.

Thus, community corrections (probation and parole) was initially implemented to reform or reintegrate the offender. Further, if assessment of likely offender reformation is accurate, then public safety will be automatically enhanced. The job of the criminal justice system in general and of the correctional section in particular is public safety. When further dividing the correctional section of the criminal justice system between institutional and community-based corrections, it is perhaps best explained that institutional corrections seeks public safety through incapacitation while community corrections does so through reintegration. Both are tasked with public safety as the primary function, yet each goes about achieving such protection in a different manner. Thus, as with all criminal justice functions, protection of the public is paramount, and the primary purpose of community corrections is the reintegration and rehabilitation of the offender to achieve this goal.

If probation and parole are the pre- and post-incarcerative sanctions most frequently associated with community corrections, and if the philosophical basis for each is primarily reintegration or rehabilitation, then one must ascertain the specific theoretical approaches that should be used when achieving this function. Abadinsky (2003), in describing rehabilitation as the primary function of probation and parole, notes that there are three basic theoretical models. These are (1) the social casework model, (2) the use of reality therapy, and (3) behavioral or learning theory. This text will, for the most part, incorporate Abadinsky's theoretical perspective on probation and parole for two reasons. First, the author of this current textbook has noted in previous publications that clinical/mental health perspectives used in the community are the best choice to use when reintegrating offenders (Hanser, 2007b). Second, the author has previously pointed toward the importance of assessment and evaluation in improving current community-based correctional programs (Hanser, 2007b). Abadinsky also emphasizes these points when providing his own theoretical perspective on probation and parole.

SUGGESTED THEORETICAL APPROACH TO REINTEGRATION AND OFFENDER TREATMENT

One of the most practical theoretical approaches to offender reintegration and treatment is the use of reality therapy. *Reality therapy* is based on the notion that all persons have two specific psychological needs: (1) the need to belong and (2) the need for self-worth and recognition. Therapists operating from a reality therapy theoretical perspective seek to engage the offender in various social groups and to motivate him or her in achievement-oriented activities. Each of these helps meet the two psychological needs that are at the heart of most all human beings. Further, most therapists maintain a warm and caring approach, but reality therapy rejects irresponsible behavior. Therapists are expected to confront irresponsible or maladaptive behavior and are even expected to set the tone for "right" or "wrong" behavior. This is an unorthodox approach when compared with other theoretical perspectives in counseling and psychotherapy, since it is often thought that therapy should be self-directed by the client. Reality therapy encourages—indeed it expects—the therapist to be directive.

In addition, reality therapy has been used in a number of correctional contexts, both institutional and community based. The tenets of reality therapy are complementary to community supervision where direct interventions are often necessary and where a client may have to be told that he or she has committed a "wrong" behavior. Finally, William Glasser (1965), founder of reality therapy, has expressed a great deal of support for correctional agencies in general and for community supervision officers in particular, but he cautions against the excessive use of punishments to correct offender behavior, especially among juvenile offenders

(note that this is consistent with classical criminological concepts). This is because punishment can often serve as a justification or rationalization for further antisocial behavior, particularly if it is not proportional to the offense (especially with technical offenses), and the criminogenic peer group will likely reinforce these faulty justifications. On the other hand, when a given penalty is actually proportional and is consistent with the listed sanctions, such counter-effects do not seem to occur.

Finally, one primary theoretical orientation used in nearly all treatment programs associated with community corrections is *operant conditioning*. This form of behavioral modification is based on the notion that certain environmental consequences occur that strengthen the likelihood of a given behavior and that other consequences tend to lessen the likelihood that a given behavior will be repeated. A primary category of behavior modification occurs through operant conditioning. Those consequences that strengthen a given behavior are called *reinforcers*. Reinforcers can be either positive or negative, with **positive reinforcers** being a reward for a desired behavior. An example might be if we provided a certificate of achievement for offenders who completed a life skills program. **Negative reinforcers** are unpleasant stimuli that are removed when a desired behavior occurs. An example might be if we agreed to remove the requirement of wearing electronic monitoring devices when offenders successfully maintained their scheduled meetings and appointments for one full year without any lapse in attendance.

Consequences that weaken a given behavior are known as punishments. Punishments, as odd as this may sound, can be either positive or negative. A **positive punishment** is one where a stimulus is applied to the offender when he or she commits an undesired behavior. For instance, we might require the offender to pay an additional late fee if the person is late in paying restitution to the victim of his or her crime. A **negative punishment** is the removal of a valued stimulus when the offender commits an undesired behavior. An example might be when we remove the offender's ability to leave his or her domicile for recreational or personal purposes (he or she is placed under house arrest) if the offender misses any scheduled appointments or meetings.

The key in distinguishing between reinforcers and punishments is that reinforcers are intended to *increase* the likelihood of a *desired* behavior whereas punishments are intended to *decrease* the likelihood of an *undesired* behavior. In operant conditioning, the term *positive* refers to the addition of a stimulus rather than the notion that something is good or beneficial. Likewise, the term *negative* refers to the removal of a stimulus rather than denoting something bad or harmful.

Operant conditioning tends to work best if the reinforcer or the punishment is applied immediately after the behavior (again, similar to classical criminology). Reinforcers work best when they are intermittent in nature rather than continual, since the offender must exhibit a desired behavior with a reward given at unpredictable points, thereby instilling a sense of delayed gratification (rather than instant gratification). Punishments, on the other hand, have been found to work best when they are in close proximal time to the undesired behavior (swift) and sufficient enough to prevent repeating the behavior (severe), and when there is no means of escaping the punisher (certain). These findings have been determined through empirical research and are consistent with the notions of classical criminology that were previously discussed. Finally, behavioral psychologists have found that excessive punishments can (and often do) breed hostility among subjects—specific hostility toward the punisher in particular as well as hostility that is generalized within the environment. Thus, this supports Beccaria's point that punishments should not be excessive but should be proportional to the crime. To do more may unwittingly create a more hostile future offender.

PROBATION AND PAROLE FROM 1960 ONWARD

During the period from 1930 through the 1950s, correctional thought reflected what was then referred to as the “medical model,” which centered on the use of rehabilitation and treatment of offenders. In general, support for the medical model of corrections began to dissipate during the late 1960s and had all but disappeared by the 1970s. The medical model presumed that criminal behavior was caused by social, psychological, or biological deficiencies that were correctable through treatment interventions. The 1950s were particularly given to the ideology of the medical model, with influential states such as Illinois, New York, and California falling under the treatment banner.

Ultimately, this line of thought was followed by a brief period where community-oriented interventions and reintegration efforts were given the most attention. Clear and Cole (2003) note that this period of correctional thought, known as the community model of corrections, was in direct response to the failings of the medical model that preceded it. This was a time of great social unrest, with prison riots taking place, the civil rights movement in full swing, and the Vietnam War being fought by drafted U.S. soldiers.

The reintegration era lasted barely 10 years, until the late 1970s, and advocated for very limited use of incarceration (only a small proportion of offenders being incarcerated with short periods of incarceration being most commonly recommended). Probation was the preferred sentence, particularly for nonviolent offenders. Indeterminate sentences were utilized, and deinstitutionalization was the theme for this period of corrections. However, this era was short-lived and received a great deal of criticism. Indeed, the prior medical model of corrections had hardly come to a full conclusion before the community model was also being seriously questioned by skeptics.

Prior to the end of the community model of corrections, acting as a sort of harbinger of things to come, the 1970 Supreme Court case of *United States v. Birnbaum* made it clear that probation was a privilege and not a right. Though this ruling may seem to address an issue that, on the face of it, should have been obvious, it did help to solidify the fact that community corrections in general, and probation in particular, is an option of leniency. In other words, probation—and parole as well—was considered a discretionary means of processing offenders. In all cases, the rights of probationers and parolees are, in actuality, no different from those of incarcerated persons. It is simply due to the leniency of the courts that the offender is allowed to serve his or her sentence within the community.

Shortly following the case of *United States v. Birnbaum* (1970), public concern increased along with rising crime rates. The mid- to late 1970s saw a slowly emerging shift take place due to high crime rates that were primarily perceived as being the result of high recidivism rates among offenders. This skepticism about rehabilitation was brought to its pinnacle by practitioners that cited (often in an inaccurate manner) the work of Robert Martinson. Martinson (1976) conducted a thorough analysis of research programs on behalf of the New York State Governor’s Special Committee on Criminal Offenders. He examined a number of programs that included educational and vocational assistance, mental health treatment, medical treatment, early release, and so forth. In his report, often referred to as the **Martinson Report**, he noted that “with few and isolated exceptions, the rehabilitative efforts that have been reported so far have had no appreciable effect on recidivism” (Martinson, 1976, p. 22).

From this point forward, there was a clear shift from a community model of corrections to a **crime control model of corrections**. During the late 1970s and throughout the 1980s, crime became a hotly debated topic that often got intertwined with political agendas and legislative action. The sour view of rehabilitation led many states to abolish the use of parole.

Indeed, from 1976 onward, more than 14 states and the federal government abolished the use of parole. The state of Maine abolished parole in 1976, followed by California's elimination of discretionary parole in 1978 and the full elimination of parole in Arizona, Delaware, Illinois, Indiana, Kansas, Minnesota, Mississippi, New Mexico, North Carolina, Ohio, Oregon, Virginia, and Washington (Sieh, 2006). In addition, the federal system of parole was phased out over time. Under the Comprehensive Crime Control Act of 1984, the U.S. Parole Commission only retained jurisdiction over offenders who had committed their offense prior to November 1, 1987. At the same time, the act provided for the abolition of the Parole Commission over the years that followed, with this phasing-out period being extended by the Parole Commission Phaseout Act of 1996, which extended the life of the Parole Commission until November 1, 2002, but only in regard to supervising offenders who were still on parole from previous years. Thus, though the U.S. Parole Commission continued to exist, the use of parole was eliminated, and federal parole offices across the nation were slowly shut down over time.

In addition to the eventual elimination of parole, many states implemented determinate sentencing laws, truth-in-sentencing laws, and other such innovations that were designed to keep offenders behind bars for longer periods of time. The obvious flavor of corrections in the 1980s was crime control through incarceration and risk containment (Clear & Cole, 2003). This same crime control orientation continued through the 1990s and even through the beginning of the new millennium, with an emphasis on drug offenders and habitual offenders. Also noted were developments in intensive supervised probation (ISP), more stringent bail requirements, and the use of "three strikes" penalties. The last half of the 1990s through the year 2000 saw a decidedly punitive approach to crime control. The costs (both economic and social) have received a great deal of scrutiny even though crime rates decreased in the first years of the new millennium. Though there was a dip in crime during this time, it is unclear if this was due to the higher rate of imprisonment or other demographic factors that impacted the nation.

CONCLUSION

Community corrections has gone through a long and complicated process of development. Throughout this process, the specific purpose of community corrections has not always been clear. Indeed, many recognized experts, authors, and researchers offer competing views on the purpose of community corrections, resulting in much confusion and uncertainty related to the effectiveness of community-based sanctions. The importance of a clear definition as well as a clear rationale for the use of community corrections sanctions has been illustrated. Further,

this chapter has traced the historical developments and philosophical precursors to both probation and parole. These developments help to make sense of the various challenges associated with community corrections sanctions and also provide guidance for their future use. Last, there is tremendous variety from state to state in regard to the community supervision process. The implementation of probation and parole comes in many shapes, forms, and methods, creating a rich yet challenging process of offender supervision in communities throughout the United States.

KEY TERMS

Augustus, John	8	Crime control model of corrections	20	Deterrence	14
Benefit of clergy	5	Determinate sentencing	10	English Penal Servitude Act	11
Community corrections	2			General deterrence	14

Incapacitation 14	Negative reinforcers 19	Retribution 14
Indeterminate sentencing 10	Positive punishment 19	Sanctuary 4
Mark system 10	Positive reinforcers 19	Specific deterrence 14
Martinson Report 20	Recognizance 7	Ticket-of-leave 9
Negative punishment 19	Rehabilitation 14	

END-OF-CHAPTER REVIEW: SHARING YOUR OPINION

1. Provide the definition for community corrections and explain whether you believe that this is a good definition. Explain why or why not.
2. What are some of the early historical precursors to probation and parole?
3. Which two key persons in the early development of probation and parole do you think are most worth mentioning?
4. Which philosophical underpinning do you identify with the most when considering offender supervision within the community?
5. What developments in community corrections after the 1960s do you believe were most important?

"WHAT WOULD YOU DO?"

You are the chief probation officer of a large community supervision agency. You have several community supervision officers who work under you, and it is a high-pressure job. You deal with several criminal and civil court judges at your courthouse, and you are generally well liked and respected by both the community supervision staff and the chief judge of your court. In the course of your duties, you have been asked to meet state legislators, various city officials, and a number of other important persons in state and local political arenas. Typically, the chief judge asks that you accompany her so that you can provide specific details on the community supervision process.

One reason for your attendance at a number of functions is the fact that the state is considering the allocation of substantial resources to offender reintegration projects. However, there are opponents of this development at the state level. Your chief judge is an advocate of treatment and reintegration, but she has spent most of her time lawyering and serving in her judgeship. As a result, she is actually not very conversant on historical or theoretical bases for community corrections. As it turns out, you have some knowledge of these dimensions of the community corrections field. (After all, you just read this chapter!)

The state officials are having a meeting and wish to formulate an underlying referendum that explains what reintegration is, why it is important, and how it ties into

the historical context of corrections. Further, they want to develop some type of philosophical basis for the program before it is implemented. They want to have the underlying mechanisms in place before proceeding forward in considering funding opportunities. Your chief judge is well thought of among state-level bureaucrats, and she has specifically been invited to take part in this work group. She has asked you to come to this all-day work meeting and to formulate and bring with you a brief draft. Specifically, she wants you to address the following three points:

1. How reintegration ties into the historical context of corrections
2. The development of a philosophical basis for a reintegration program
3. The means by which offenders would be reintegrated, on a broad level (Specifically, she would like you to discuss some of the mechanisms by which offenders might be motivated to succeed in a reintegration program.)

Naturally, you are honored to be asked to assist. You have indicated that you would generate the draft.

What would you do?

APPLIED EXERCISE

Match the following modern-day programs with their appropriate past ideology or philosophy of origin.

Program	Ideology or Philosophy of Origin
1. A judge temporarily releases a defendant by stating, "You are released on your own recognizance"	A. Mark system
2. Laws that select specific types of offenders and provide enhanced penalties to ensure that they are effectively removed from society (i.e., habitual offender laws, three-strikes laws)	B. Ticket-of-leave
3. The use of "good time" for inmates in state prison systems allowing early release for good behavior	C. Negative punishment
4. Moving offenders through phases of supervision until they finally earn full release	D. Negative reinforcement
5. Removal of visitation privileges because an offender commits the undesired criminal behavior of child abuse	E. Indeterminate sentencing
6. Exacting a fine for undesired behavior	F. <i>Commonwealth v. Chase</i>
7. Removing the need for face-to-face office visits and extensive "check-ins" with the probation officer due to perfect compliance while on probation	G. Determinate sentencing
8. Providing substance abusers with certificates of graduation when completing an addiction treatment program	H. Positive reinforcement
9. Sentencing is grounded in notions of retribution, just deserts, and incapacitation with no flexibility in terms	I. Positive punishment
10. Sentencing with variable terms, affected by the context of the crime and later offender behavior while serving the sentence	J. Incapacitation

Chapter 1 Applied Exercise Answer Key

1. F 2. J 3. B 4. A 5. C
6. I 7. D 8. H 9. G 10. E

FOOD FOR THOUGHT

In this essay, Andrew von Hirsch explores the ethical dilemmas faced by increasing the use of noncustodial sanctions. The author identifies two specific areas of ethical concerns faced by those administering noncustodial sanctions: (1) proportionality (just deserts) and (2) the level of intrusiveness into the privacy of one's life—particularly for third parties. In terms of proportionality, von Hirsch points to the disjuncture between what "works" and the severity of the sanction. As illustrated by the previous research, most programs are considered effective if the offender does not return to the

attention of the system. This, however, does not consider the punitiveness of the sanction relative to the harm caused to society. This is particularly troublesome when the use of alternatives such as intermediate sanctions essentially turns the individual's home into a prison. Although attractive in their presentation, these sentences may not serve to meet the proportionality needs of the system, the victim, or the offender.

When considering the fallacies of intrusiveness, von Hirsch points to the flaws in the arguments that anything is better than prison and that intrusiveness is a matter of

technology and issue of legalism. Based upon his review of both the proportionality of sanctions and the intrusiveness into the daily lives of individuals, von Hirsch has devised what he terms the acceptable penal content. It is within this framework that he argues we should consider both custodial and noncustodial sanctions. In

his conclusion, von Hirsch cautions policy makers to consider as we further develop the use of community-based alternatives that we may in fact be creating a mechanism for further humiliating and damaging the lives of offenders rather than for the use of incarceration strategies.

The Ethics of Community-Based Sanctions

Andrew von Hirsch

Source: Von Hirsch, A. (1990). The ethics of community-based sanctions. *Crime and Delinquency*, 36(1), 162-173.

Questions for Thought

1. What does von Hirsch mean by the use of “acceptable penal content”? According to the author, how should this shape the current sentencing structure in the United States?
2. According to von Hirsch, how do noncustodial sentences impact third parties?
3. What can be done to increase the privacy of third parties when noncustodial sentences are administered?
4. Given that individuals who are sentenced have committed offenses not only against the victim but against society as a whole, why should we be concerned with the ethics of community-based sanctions?