
JAIL BULLETIN

NUMBER 41

May, 1988

The Jail Bulletin is a monthly feature of the Crime Commission Update. The Bulletin may be used as a supplement to your jail in-service training program if officers study the material and complete the attached "open book" quiz. The Bulletin and quiz may be reproduced for use by your staff. We welcome any jail training materials you would like to contribute to the Bulletin.

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RESTITUTION AND COMMUNITY SERVICE - PART II

By Douglas C. McDonald
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Do They Rehabilitate?

Unfortunately, very few studies have been done on the effect of restitution and community service on offenders. One study evaluated experiments in four different American juvenile courts. Youths were given at random either traditional sanctions or restitution orders, some of which included a community service obligation. In two of the four courts studied, juvenile offenders who were ordered to pay financial restitution or to perform community service had lower recidivism rates than those given other types of sentences. In the third court, the number of cases was too small to draw strong conclusions, but the findings suggested a similar effect. In the fourth court, there was no difference in subsequent criminality.

The effects of ordering adult offenders to make financial restitution have not been examined with any rigor, but the few existing studies of community service show less promising results than did the juvenile court study described above. British offenders ordered to perform community service were reconvicted at a relatively high rate (35 to 45 percent, depending on the study) within a year of sentence, a rate that was found to be roughly the same for comparable offenders who received either prison sentences or other nonincarcerative sentences.

Similarly, offenders ordered to perform community service in New York City were rearrested no less often (and no more) than offenders of similar backgrounds who were sent instead to jail and subsequently released. One study of community service in Tasmania claims to have found more positive effect, but weaknesses in that study's research design make it hard to accept this conclusion with confidence.

Given the paucity of systematic attention to the effects of restitution and community service sentences, it is difficult to draw any strong conclusions about their effects except to say that we have no evidence that using them makes much difference in the subsequent criminality of adult offenders. For juveniles, the sentences may have some positive effect, for reasons not understood. We do not know much about whether serving these sentences has positive effects on other aspects of offenders' lives, such as their employment.

Substitutes for Imprisonment?

Both sentences are often advocated as sensible alternatives to incarcerative sentences. It is commonly believed that jails and prisons are schools for crime and the ability to live in the free community deteriorates as one adjusts to life in the abnormal society of prisoners. As noted above, however, we have no evidence that these nonincarcerative sentences do any better or worse than imprisonment for adults with respect to later criminality. However, the studies tell us if prison or other sentences have greater deterrent or incapacitative effects than community service or restitution; these issues are addressed briefly below.

Is there consequently not a case for preferring use of restitution or community service to imprisonment, if only because imprisonment costs anywhere from \$15,000 to \$40,000 per prisoner per year and because it can cost as much as \$80,000 to \$100,000 to build a single cell? Many state and local governments, laboring under the burden of rising prison and jail populations, have been persuaded by this argument and have for this reason created community service and restitution programs for the courts to use.

Encouraging judges to substitute one of these sanctions for jail or prison terms has produced mixed and often disappointing results. Reducing the use of imprisonment is one of the explicit goals of the British policy, but research suggests that British judges use the community service sentence more often than not in instances when another nonincarcerative penalty would have been imposed. Very few of the American programs have been studied systematically, but the preponderance of young persons, white-collar offenders, and first offenders in these programs suggests that the likelihood of a jail sentence would have been very small for many of them.

Judges are reluctant to impose restitution or community service - or any other relatively unconventional sanction - if they believe that doing so does not serve their particular sentencing goals. To the extent that judges sentence persons to jail to incapacitate them temporarily -- to take them out of circulation for awhile -- community service or restitution will probably not be seen as an acceptable alternative. If judges are primarily motivated to rehabilitate offenders, these sanctions may appear as attractive options, even though their effectiveness is not well supported by extensive research. But judges, in many instances, do not send offenders to jail to rehabilitate them. More often than not, they seek some mix of sanctions for the sake of punishment (because offenders deserve it), for the sake of deterring offenders or others from future criminality (to scare them straight), and for incapacitation.

Having to pay restitution or to perform unpaid labor can be seen as punitive, and is punitive. Both sentences create obligations that require some effort and that need to be backed up by coercive authority. If judges are to substitute these sentences for prison terms, they want to know that the conditions are enforced strictly. They also want to be sure that somebody has clear responsibility for seeing that the orders are carried out and that noncompliance is reported to the court. And judges may want these sentences to send this message to offenders: "You are being punished for your deeds. You must take responsibility for your actions and you must not break the law again, upon pain of further punishment." One attempt to "market" a punitive community service sentencing alternative to the courts may be found in a project conducted by the Vera Institute of Justice in New York City. The project demonstrated that judges will accept a nonincarcerative sentence as a substitute for jail if work obligations are enforced and are in essence punitive.

Which Way the Future?

Community service and victim restitution are important additions to the American courts' list of sentencing options. But their future will depend in part on how, and whether, we resolve the larger debate about the way we should respond to criminals. Beliefs about our ability to control crime were shaken badly by rising lawlessness during the 1960's and 1970's. Legislatures, courts, and the public have lurched from one proposed solution to another. In this unstable world, it is impossible to predict if these new sentences will find an enduring place in the courts or will pass out of existence as yet another fad. If we want to increase the odds that these sentences will become "institutionalized," probably the surest course is to clarify why judges should impose them, under what conditions and within what limits. Reaching agreement on these questions will not be easy.

QUIZ

Nebraska Jail Standards require that jail staff receive eighteen (18) hours of in-service training each year. The Jail Bulletin may be used to supplement in-service training if an officer studies the Bulletin, completes the quiz, and this process is documented by the jail administrator for review during annual jail inspection.

SUBJECT: RESTITUTION AND COMMUNITY
SERVICE - PART II

NAME _____

NUMBER: 41

DATE _____

1. Offenders ordered to perform community service in New York City were rearrested _____ than offenders who were sent to jail.
 - A. Less Often
 - B. More Often
 - C. No Less And No More Often

 2. Offenders sentenced to restitution or community service tend to be young, white-collar, or first offenders.
 True
 False

 3. Judges, in many instances, do not send offenders to jail to _____ them.
 - A. Punish
 - B. Incapacitate
 - C. Deter
 - D. Rehabilitate

 4. If judges are to substitute restitution and community service for prison terms, they want to know that the conditions are _____
-

CREDIT: 1/2 HOUR CREDIT FOR JAIL IN-SERVICE TRAINING REQUIREMENT.

ANSWER SHEET SHOULD BE RETAINED BY JAIL ADMINISTRATOR.

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