

# JAIL BULLETIN

Number 56

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## COMMUNITY SERVICE SENTENCES POSE PROBLEMS, SHOW POTENTIAL

American criminal justice and correctional systems are in a seriously tumultuous state. The National Institute of Justice reported several years ago that nearly all sectors of the criminal justice and corrections community, including prosecutors, probation and parole officials, the courts and corrections administrators, agreed that prison and jail crowding was the most serious problem facing them. As a result, correctional policymakers and planners at all levels of government have found themselves scrambling for inexpensive yet effective remedies.

In this context, community service sentences are routinely offered as feasible alternatives to incarceration. One recent report, for example, suggested that "properly administered, community service programs offer the benefits of reducing correctional costs and jail overcrowding while providing useful services to communities and a more constructive penalty for non-violent offenders." Still another recent report asserted with confidence more than documentation, that community service was a useful measure to "assist in reducing overcrowding of jails."

### Past Practice

A brief review of American practices, however, suggests that community service is rarely used as an alternative to incarceration, and is therefore unlikely, by itself, to reduce or control correctional crowding.

In 1977, Beha, Carlson and Rosenblum observed that "the record of community service programs to date in the United States indicates that they have been used primarily for cases that might otherwise be handled by fine or probation, rather than for cases in which a jail sentence is the traditional alternative. In some situations, this is an explicit facet of the program; elsewhere, it is simply a characteristic of the caseload."

In 1980, Hudson, Galaway and Novack evaluated over 20 community service and restitution programs and found that they consistently failed to divert offenders from incarceration. A year later, Harland's national review of community service and restitution practices also found that these programs are "almost exclusively designed either explicitly not to divert offenders from custodial dispositions, or to deal only with offenders who, by virtue of their offense, usually of a minor property type, are extremely unlikely candidates for imprisonment from the onset."

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## A Dilemma

Given this bleak picture, community service advocates face a crucial dilemma. British community service evaluator Anthony Vass has raised "the serious question whether it is desirable to expand or label methods of control as 'community based' or 'alternatives' when in fact their capacity or intention to divert is of a very dubious nature. If they do not divert but merely expand the field of activity by offering 'new ways of dealing with criminals', they can only succeed in impregnating the criminal justice system - and its chaotic tariff system — with even more confusion and strain. If they only expand the selection of choice of sanctions without demonstrating a real and direct challenge to penal establishments, at best these sanctions can only succeed in becoming satellites of custodial institutions and, at worst, the leitmotif for their continued existence."

## Some Hope

Two recent studies add some needed light to the generally gloomy history of community service as an effective alternative to incarceration by suggesting that community service programs can be designed and implemented to displace offenders from local jails or state prisons.

In the first study, Douglas Corry McDonald, a senior researcher for the Vera Institute of Justice, examines the history and development of the Institute's community service programs in the boroughs of the Bronx, Brooklyn and Manhattan. In the second, Stevens H. Clarke, a criminal Justice researcher with the Institute of Government-at the University of North Carolina at Chapel Hill, evaluates the effectiveness of Repay, Inc., a community service and restitution program located in Hickory, North Carolina.

Together, these studies offer a useful contrast in the administrative uses of research by a rural and an urban program designed to focus on jail- or prison-bound offenders, instead of simply serving as an add-on to other non-incarcerative sanctions. They offer no evidence, however, that they can profoundly relieve jail or prison crowding.

## Community Service as a Jail Alternative

In late 1978, the Vera Institute of Justice started the Bronx Community Service Sentencing Project in the Bronx County Criminal Court. By 1983, the programs had expanded to two other boroughs (a fourth has since been added), bringing its caseload to over 1,000.

A central function of Vera's program is to offer the courts a new sentencing option — 70 hours of supervised, non-paid community work in place of short-term jail sentences. Potential community service clients are screened by the program's court representative who reviews court records, interviews offender candidates and consults with prosecutors or defense attorneys, depending on the program's borough of operation.

In the beginning, the project successfully showed that "the courts will sentence even chronic thieves with very long criminal records to labor in densely populated urban neighborhoods." The program's enforcement and surveillance procedures were extremely helpful in this regard.

Other research, however, suggested a rather low rate of jail displacements. As a result of these findings, a new city-wide project director was appointed. Immediately, she began to establish stricter selection criteria. As the project grew, caseload characteristics increasingly reflected those who were typically jailed in New York City. A crucial aspect of these developments was that community service advocates improved court acceptance of their proposals by understanding local court culture and by becoming institutionalized as part of the process by which these sentences were routinely imposed.

McDonald's study reaches three broad conclusions: 1) community service is not a panacea, i.e., something that is good for all purposes, in all situations; 2) community service is a worthwhile and proportional punishment for certain offenses; and 3) courts will use community service for offenders who would have ordinarily been imprisoned; thus, local sentencing patterns can be altered through program intervention.

### Community Service as a Prison Alternative

North Carolina, like many other states, uses community service for offenders who are neither jail-no prison-bound. North Carolina has used such programs since the early 1970s but state statistics show that community service program clients are mostly first offenders, property offenders, and since 1983, driving-while-intoxicated (DWI) offenders. During 1984 and 1985, 90.5% of all non-DWI community service case referrals were the result of misdemeanor offenses; 88.93% of these cases came from the district courts; 57.24% of case referrals came from suspended sentences and 29.4% resulted from deferred prosecution; and slightly more than 40% of these case referrals were unsupervised.

Repay, Inc., offers community service and restitution sanctions to offenders facing state prison terms. Working with the defense attorney, Repay staff interviews offenders, investigates relevant charge-related evidence and circumstances, and examines past criminal records, work and educational histories and psychological backgrounds. "Alternative punishment plans" are then developed to match offenders with particular community work placements. Both offenders and defense attorneys can raise objections or drop out of the process at any point. Once "plans" are developed, offenders are asked to sign a "contract" with program staff to show that they understand what is asked and required of them. Plans are then presented to the court, and, if accepted, Repay staff then monitors each offender's process and reports back to the court.

A crucial element of the Repay program is an assessment of which offenders are prison-bound. In selecting their clients, program staff use a "prison risk scoresheet" developed by University of North Carolina researchers W. LeAnn Wallace and Stevens H. Clark. The scoresheet bases its "reasonably accurate predictions" of which offenders are prison-bound on defendant and offense characteristics and other data available in local records systems. The scoresheet is designed to accompany "common sense" or "clinical" assessments of the information involved in individual cases. The scoresheet itself was derived from an evaluation of over 1,000 felony cases which reached disposition in 1981-1982 period.

The Institute of Government's evaluation of Repay, Inc. compared a randomly assigned sample of 1984-1985 program-eligible offenders divided into a control (non-service) group and a service group. Both groups scored similarly on the prison risk scale. The results were significant; only 30.6% of the service group received prison terms, while 77.1% of the non-service group were imprisoned. Moreover, the length of prison terms was slightly less for the service group (21 months) than for the non-service group (24 months). The study also suggests that informal presentations of "punishment plans" has greater impact than formal presentations.

## Conclusion

In the 1970s, community service programs, regardless of whether they were part of the public or private sector, were frequently separate from regular probation services. In the 1980s, community service is being used for a wide range of offenders and offenses. Unfortunately, little guidance exists, particularly if one compares the practices of different jurisdictions, where specific offenses or offender-types call for specific community service requirements (number of hours, completion period, type of supervision). And, community service is increasingly becoming a routine part of sentencing plans proposed by state agents (prosecutors, probation officers), defense attorneys, and community advocates, with little consensus about the purpose of its use or for which offenders its use is most appropriate.

Clearly, if a central function of community service is to serve as an alternative to penal confinement, serious attention should be addressed to its purposes and use. If community service is expected to fit most circumstances most of the time, it will lose part of its usefulness. Jurisdictions should carefully examine whether community service is better offered as a punitive or rehabilitative measure. Jurisdictions should then accurately assess how their existing community service programs are being implemented. If they inaccurately believe that they are offering penal alternatives, they are in effect wasting a scarce sentencing resource; moreover, they are disabling serious discussion about how imprisonment can be effectively used less, and how jail and prison crowding can really be reduced.

In the long term, if community service blurs in comparison with other sentencing choices, then perhaps the best option is to follow Sweden's instructive lead. In 1984, the final report of the National Prison and Probation Administrations' Committee on Probation recommended that community service should not become part of the Swedish system of sanctions. The Swedish report dutifully detailed a number of advantages offered by community service options, but decided, nonetheless, that difficulties existed in defining who should receive how much community service and in assessing whether the sanction was truly used as a substitute for imprisonment. Moreover, the report observed that the sanction might disrupt the purpose and functioning of other sanctions, such as criminal fines, which are already used widely.

To date, the American practice of community service has been unguided by any sense of national policy development. While the imposition and implementation of community service is primarily a state and local matter, few effective voices have emerged to provide a sensible direction for developing community service across the country. The Vera Institute of Justice's experience in New York and Repay, Inc.'s experience in North Carolina offer hope that community service can be used as a substitute for confinement. Unless their experiences can be replicated elsewhere, however, community service will only increase the punitiveness of state intervention into offenders' lives without any concomitant savings or advantages for either corrections policy, offenders and victims, or society at large.

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## 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: COMMUNITY SERVICE SENTENCES

NAME \_\_\_\_\_

NUMBER 56

DATE \_\_\_\_\_

1. Community service is often used as an alternative to incarceration.

TRUE       FALSE

2. Beha, Carson and Rosenblum found that community service is usually used for cases that would otherwise be handled by \_\_\_\_\_ or \_\_\_\_\_.

3. There appears to be little consensus about the purpose of community service regarding its use or for which offenders it is most appropriate.

TRUE       FALSE

4. The Swedish National Prison and Probation Administration's Committee on Probation recommended widespread use of community service sentences in that country.

TRUE       FALSE

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

ANSWER SHEET SHOULD BE RETAINED BY JAIL ADMINISTRATOR.

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1. Community service is often used as an alternative to incarceration.

TRUE       FALSE

2. Beha, Carson and Rosenblum found that community service is usually used for cases that would otherwise be handled by FINE or PROBATION.

3. There appears to be little consensus about the purpose of community service regarding its use or for which offenders it is most appropriate.

TRUE       FALSE

4. The Swedish National Prison and Probation Administration's Committee on Probation recommended widespread use of community service sentences in that country.

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