

15.1: PROBATION

CHAPTER 15 - PROBATION AND RESTORATIVE JUSTICE

PROBATION ^[144]

Probation is arguably the oldest, and certainly the largest, of intermediate sanctions. Its roots stem from concepts of common law from England, like many of our other legal/correctional practices. In early American courts, a person was able to be released on their own recognizance, if they promised to be responsible citizens and pay back what they owed. In the early 1840s, John Augustus, a Boston bootmaker was regularly attending court and began to supervise these individuals as a Surety. A Surety was a person who would help these individuals in court, making sure they repaid these costs to the courts. We would consider John Augustus as the Father of Probation, for this work in the courts in Boston in the 1840s and 1850s. Augustus, pictured below, would take in many of these individuals, providing options like work and housing, to help ensure these individuals would remain crime free and pay back society. He continued this practice for nearly two decades, effectively becoming the first probation officer. For a lengthier historical discussion of probation, see the history of probation at <https://probation.smcgov.org/history-probation>.



John Augustus
"Father of Probation"

Figure 15.1 John Augustus ^[145]

Probation is a form of a suspended sentence, in that the jail or prison sentence of the convicted offender is resuspended, for the privilege of serving conditions of supervision in the community. Conditions of probation often include reporting to a probation officer, submitting random drug screens, not consorting with known felons, paying court costs, making restitution and damages, and attending AA or NA courses, among other conditions. Probation lengths vary greatly, as do the conditions of probation place on an individual. Almost all people on probation will have at least one condition of probation. Some have many conditions, depending on the seriousness of the conviction, while others are just a blanket condition that is imposed on all in that jurisdiction, or for that conviction type. Juvenile Probation Departments were within all States in the 1920s, and by the middle of the 1950s, all States had adult probation.

PROBATION OFFICERS

Probation officers usually work directly for the state or federal government, but that can be directed through local or municipal agencies. Many Counties will have a community justice level structure where probation offices operate. Within these offices, probation officers will be assigned cases (caseload), in term of the probationers, they will manage. The volume of cases in a probation officer's caseload can vary from just a few clients if they are high need/risk clients, to several hundred probationers. It depends on the jurisdiction, the structure of the local PO office, and the abilities of the probation officers themselves.

The role of the probation officer is complex, and sometimes diametrically opposing. A PO's primary function is to enforce compliance of individuals on probation. This is done through check-ins, random drug screenings, and enforcement of other conditions that are placed on the probationers. Additionally, the PO may go out into the field to serve warrants, do home checks for compliance, even make arrests if need be.

However, at the same time, a probation officer is trying to help individuals on probation succeed. This is done by trying to help individuals to get jobs, get schooling, enter into substance or alcohol programs, and generally support people on probation to be successful. This is why the job of the PO is complex, as they are trying to be supportive, but also having to enforce compliance.

Many equate this to kind of like being a parent. Recently, there has been a movement within probation to have probation officers act more like coaches than just disciplinarians. Here is a talk about how POs can view themselves as coaches to enact positive change within individuals on probation:

<http://criminaljusticeofficehours.libsyn.com/dr-brian-lovins-probation-coaches?fbclid=IwAR2pHROGAPpm09-PFqVzFG10ItFhCi1huFItChe65Ew7-gXDB0OSacCliQs>

The other primary function of a probation officer is to complete PSI reports on individuals going through the court process. A PSI or Pre-Sentence Investigation report is a psycho-social workup on a person headed to trial. It includes basic background information on an individual, such as age, education, relationships, physical and mental health, employment, military service, social history, and substance abuse history. It also has a detailed account of the current offense, witness or victim impact statements of the event, and prior offenses (criminal records), which are tracked across numerous agencies. Finally, the PSI also has a section that is devoted to a plan of supervision or recommendations, which are created by the PO. These usually list out the conditions of probation recommendations, if probation is to be granted. Judges use this information during sentencing discussions and hearings and will usually follow these recommendations often (around 85% of the time). Thus, many of the conditions of probation are prescribed by the PO.

INDIVIDUALS ON PROBATION

As stated, there are several million people on probation, serving various lengths of probation, and under numerous conditions or condition types. Additionally, the convictions which place individuals on probation vary, to include misdemeanors and felonies. Probationers serve their probation at the state level, and there is even federal probation. As depicted below, it is easy to see how much probation is used in the United States.

USE OF PROBATION IN THE U.S.

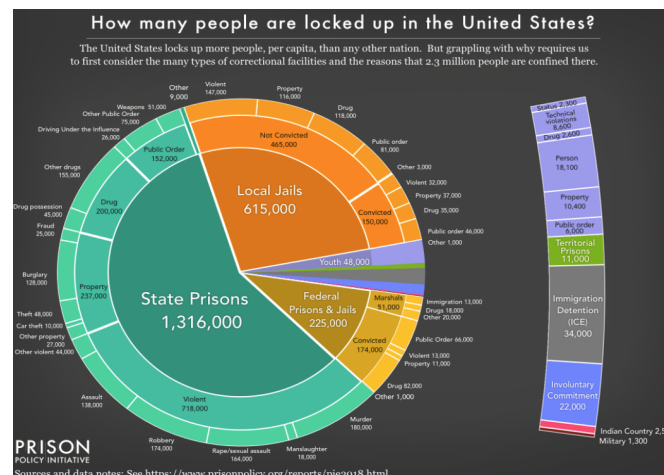


Figure 15.2 Correctional Control by Type 1975-2016 ^[146]

Probation is not a right, and it is not a suspended sentence. It is a privilege, but it most certainly comes with conditions for the suspension of the incarceration. Due to how cheap probation is, relative to jail or prison, and the ability for lower-risk individuals to maintain connections within their community, millions of people will be on probation in the United States at any given time.

Other important factors that help to decide if a person warrants probation is within the PSI and other assessments are done on the individual. If the person is basically, a prosocial person, has an education and a job, has a family, these would all be considered as ties to the community. These ties to the community could weaken or break if a person was incarcerated. Thus, providing a sanction while allowing the person to stay in the community is often the approach that is utilized within probation and other intermediate sanctions.

PROBATION SUCCESS

There are mixed reviews about probation. Recently, the Bureau of Justice Statistics (2018 report, for 2016) listed the successful completion rate at about 56%. In years past, this number has been reported higher, upwards of 65%, depending on the years 2008-2013. There are a host of reasons listed for unsuccessful completion, which include: incarcerated on a new sentence/charge, or placement for the current sentence/charge, absconding (fleeing jurisdiction), discharged to warrant or detainer, other unsatisfactory reason, death, or some other unknown or not reported reason. Unsuccessful completion can produce some different responses but

can include a concept called tourniquet sentencing. Tourniquet sentencing is where the restrictions of a level of sanction are increased, due to non-compliance, in order to force compliance. If an individual on probation is not adhering to the conditions of probation, a PO can recommend a probation revocation hearing. This bench hearing can lead to an informal admonishment by a judge, an increase in the sanctions or sanction lengths, an increased level of control (moving from regular probation to intensive supervised probation), even up to placement in a secure facility (jail or prison), all depending on the infraction of the condition of probation that has been violated. Many go from regular probation to ISP, in an effort to force compliance through increased monitoring.

INTENSIVE SUPERVISED PROBATION

Intensive Supervision Probation (ISP) began in the late 1950s, early 1960s, in California. Their basic premise was to allow caseworkers (POs) to have smaller caseloads and increase the level of treatment across offenders. As stated, many promised multiple success measures. However, if an individual who was revoked because of a technical violation due to an increase in control, they were not seen as a failure. Rather, they were seen as a success because of the way the public was served by the recidivism. However, this went directly against the notion that ISPs could save money. Because of these problems, the earlier forms of ISPs may have become less popular. In the 1980s, a newer model of the ISP was created in Georgia. More emphasis was placed on the control aspect rather than on treatment. Further, less emphasis was placed on the reduction of money saved.

ISP and regular probation are similar, except for the frequency of contacts with POs, the increases in surveillance and monitoring, and usually the volume of conditions. Rather than meeting a PO once a month in regular probation, a person on ISP would likely be meeting with their PO weekly, or even more frequently. Additionally, individuals on ISP normally are submitting drug screens weekly. The increased conditions of supervision more frequently include more substance abuse treatment, either in the form of AA, NA, or some other residential or outpatient substance abuse treatment programs. Thus, the core difference is about the increased level of surveillance and control over the offender.

ISP SUCCESS

While initial praise of the newer model for its increase on control was evidenced by its rapid spread through the States, some researchers questioned their effectiveness. In one of the largest studies of ISPs, in conjunction with the RAND Corporation. They examined the effectiveness of ISPs in reducing recidivism and saving costs. In a random sample of 14 cities across 9 States, they evaluated the reductions of recidivism against a sample of regular probationers. Their findings suggested that there were higher amounts of technical violations, which were probably substance violations, but there were no significant differences between control-centered ISPs and regular probation, as far as new arrests. Moreover, when looking at outcomes over 3 years, they found that recidivism rates were slightly higher for these ISPs (39%), vs. regular probation (33%). Also, there were no substantive cost savings. Other studies have produced similar findings as to the effects of non-treatment oriented ISPs. While these findings might be better than prison recidivism rates, there were no reductions in prison overcrowding, which was also one of the intents of ISP.

ELEMENTS OF PAROLE ^[147]

Learning Objective: Key Terms

- Conditions of Release, Fourth Waiver, Fundamental Rights, *Mempa v. Rhay* (1967), *Morrissey v. Brewer* (1972), Parole Revocation

For most of the history of probation and parole in the United States, offenders were viewed as having received a gift from the state when they were not sent to prison. Because being on probation or parole was viewed as a privilege conferred by the state, most states believed that they were under no obligation to provide probationers and parolees with the elements of due process they were afforded prior to conviction. In today's legal landscape, the Supreme Court has intervened and now probationers and parolees enjoy some, but not all, of the protections afforded by the Constitution. Note that most of the Supreme Court decisions regarding the rights of probationers and parolees blur the distinction. That is, most of the Court's rulings on probation issues apply to parole as well, and vice versa.

REVOCATION OF PAROLE

Implicit in the criminal justice system's concern with parole violations is the idea that individuals on parole are entitled to retain their liberty as long as they largely abide by the conditions of parole (or probation). When parolees do fail to live up to these standards, their parole can be revoked. The first step in the parole revocation process involves answering a factual question: whether the parolee has in fact acted in violation of one or more conditions of his or her parole. Only if it is determined that the

parolee did violate the conditions does the second question arise: should the parolee be recommitted to prison or should other steps be taken to protect society and improve chances of rehabilitation?

The second question involves the application of expertise by the parole authority in making a prediction as to the ability of the individual to live in society without committing antisocial acts. This part of the decision, too, depends on facts, and therefore it is important for the parole board to know not only that some violation was committed but also to know accurately how many and how serious the violations were. Yet this second step, deciding what to do about the violation once it is identified, is not purely factual but also predictive and discretionary.

Parole revocation is very serious for the offender. If a parolee is returned to prison, he or she usually receives no credit for the time “served” on parole. Thus, the violator may face a potential of substantial imprisonment. Revocation deprives an individual, not of the absolute liberty to which every citizen is entitled, but only of the conditional liberty properly dependent on observance of special parole restrictions. This means that the legal standards for parole revocation are not the same as a finding of guilt in criminal court.

DUE PROCESS

The liberty of a parolee, although indeterminate, includes many of the core values of unqualified liberty and its termination inflicts a “grievous loss” on the parolee and often on others. Historically, it was common for judges to speak of this problem in terms of whether the parolee’s liberty was a “right” or a “privilege.” By whatever name, the Supreme Court has determined that liberty is valuable and must be seen as within the protection of the Fourteenth Amendment. Because of this, the courts have determined that its termination calls for some orderly process, however informal.

In *Morrissey v. Brewer* (1972), the Supreme Court refused to write a code of procedure for parole revocation hearings; that, they said, is the responsibility of each State. In this case, the court pointed out that most States have set out procedures by legislation. The Supreme Court did establish a list of minimum due process requirements that must be followed in all revocation proceedings. They include (a) written notice of the claimed violations of parole; (b) disclosure to the parolee of evidence against him; (c) opportunity to be heard in person and to present witnesses and documentary evidence; (d) the right to confront and cross-examine adverse witnesses (unless the hearing officer specifically finds good cause for not allowing confrontation); (e) a “neutral and detached” hearing body such as a traditional parole board, members of which need not be judicial officers or lawyers; and (f) a written statement by the factfinders as to the evidence relied on and reasons for revoking parole.

Specifically, then, *Morrissey* held that a parolee is entitled to two hearings, one a preliminary hearing at the time of his arrest and detention to determine whether there is probable cause to believe that he has committed a violation of his parole, and the other a somewhat more comprehensive hearing prior to the making of the final revocation decision.

In *Gagnon v. Scarpelli* (1973), the court considered the problem of probation revocation hearings. In *Scarpelli*, the court stated:

Petitioner does not contend that there is any difference relevant to the guarantee of due process between the revocation of parole and the revocation of probation, nor do we perceive one. Probation revocation, like parole revocation, is not a stage of a criminal prosecution, but does result in a loss of liberty. Accordingly, we hold that a probationer, like a parolee, is entitled to a preliminary and a final revocation hearing, under the conditions specified in *Morrissey v. Brewer*.

In *Mempa v. Rhay* (1967), the Court held that a probationer is entitled to be represented by appointed counsel at a combined revocation and sentencing hearing. Reasoning that counsel is required “at every stage of a criminal proceeding where substantial rights of a criminal accused may be affected.”

THE FOURTH AMENDMENT

As with due process rights, a person’s Fourth Amendment rights are not nullified just because they are convicted of a crime. What makes probationers and parolees different than the average citizen are their conditions of release. Most states require parolees to give up their right to be free from unreasonable searches as part of their conditions. Because the parolee is giving up Fourth Amendment rights, this element is often referred to as a Fourth waiver. The rules that govern officer conduct vary from state to state. In some states, an officer must have reasonable suspicion before conducting a probation search. In many states, an officer can conduct a suspicionless search at any time, without reason to believe that the offender committed a new crime. Who may search also varies from jurisdiction to jurisdiction? Some jurisdictions only allow probation and parole officers to search without probable cause, and some extend this authority to police officers as well.

CONDITIONS OF PROBATION AND PAROLE

As previously discussed, offenders are only granted probation or parole if they agree to abide by certain, specified conditions. These can be general conditions that apply to all offenders released in a particular jurisdiction, or they can be tailored to the special needs of a particular offender. The intent of these conditions is to help ensure that the dual objectives of control and rehabilitation are met. Because of the fragmented nature of courts in the United States, there is a great deal of variability in the philosophy and practice of imposing these conditions.

The power to impose conditions of probation and parole is most often vested in the courts. Judges have immense discretion when it comes to choosing conditions. Most courts rely on community corrections officers to make suggestions, but the final say is up to the judge. This wide discretion is not, however, without bounds.

CLARITY

Recall the void for vagueness doctrine discussed in the criminal law chapter. The basis of this legal limit on the power of lawmakers is that it is fundamentally unfair when a reasonable person cannot figure out what exactly a law prohibits. The courts have viewed conditions of probation in the same light. In other words, if the offender cannot figure out what exactly is prohibited because the specification of the condition is too vague, then the condition is unconstitutional. In practice, this means that conditions of probation can vary widely in subject, purpose, and scope, but what is prohibited (or mandated) must be specified in such a way that there is no confusion as to what is required. Conditions that are crafted in vague terms such as “must live honorably” will be struck down by the courts.

REASONABLENESS

In the context of probation and parole conditions, the term reasonableness is often synonymous with realistic. The basic requirement is that the conditions set forth by the judge must be such that the offender has the ability to abide by them. If the offender is likely to fail because the conditions cannot possibly be complied with, then the condition will be deemed not reasonable by the courts. It would be unreasonable, for example, to order an indigent offender to pay \$10,000 a month in restitution. Addicts have argued that it is unreasonable to expect them to refrain from drug and alcohol use because of the nature of addiction. These claims fail the vast majority of the time. Various courts have reasoned that drug use is illegal, and illegal behavior by probationers and parolees cannot be tolerated.

RELATED TO PROTECTION AND REHABILITATION

Since the major goals of probation and parole are to protect society from crime and to rehabilitate the offender, conditions of probation and parole must be reasonably related to one or both of these objectives. If a condition does not relate to these objectives, it will likely be struck down by the courts. In practice, this gives judges very wide latitude in selecting conditions that may be related to these goals. Many courts have struck down conditions of probation that were obviously intended to be “scarlet letter” punishments.

CONSTITUTIONALITY

Several courts have nullified conditions that were contrary to constitutionally protected actions. When constitutional rights are at stake, the government will usually have to establish a compelling state interest in violating the right. In other words, the appellate court will balance the interest the state has in curtailing the right with the cost to the offender. Some rights are afforded greater protection by the court than other rights. These special liberties are often referred to as fundamental rights. The freedom of the press, freedom of assembly, freedom of speech, and freedom of religion are among these fundamental rights. For example, courts have struck down conditions that required an offender to attend Sunday school on a regular basis. The court reasoned that forcing someone to participate in a church activity violated the offender’s freedom of religion. As previously discussed, Fourth Amendment rights are not nearly so well protected.

LEGAL RIGHTS

GRIFFIN V. WISCONSIN ^[148]

In *Griffin v. Wisconsin*, the court found a warrant or probable cause is not required to search the home of a person on probation provided “reasonable grounds” for a search exists. The court explained, “A State’s operation of a probation system, like its operation of a school, government office or prison, or its supervision of a regulated industry, . . . presents ‘special needs’ beyond normal law enforcement that may justify departures from the usual warrant and probable cause requirements” “Probation, like incarceration, is a form of criminal sanction”. The Court also noted a requirement of a warrant or probable cause would interfere with the proper functioning of the ongoing [non- adversarial] supervisory relationship.

REVOCATION RIGHTS

An offer gives an offeree the power to form a contract by accepting. The Restatement (Second) of Contracts describes a number of ways that the offeree's power to accept may end:

Methods of Termination of the Power of Acceptance ^[149]

- An offeree's power of acceptance may be terminated by
 - rejection or counteroffer by the offeree, or
 - lapse of time, or
 - revocation by the offeror, or
 - death or incapacity of the offeror or offeree.
- In addition, an offeree's power of acceptance is terminated by the non-occurrence of any condition of acceptance under the terms of the offer.

We will discuss both the common law and UCC rules governing rejection and counteroffers in the next section. For the moment, note that an offer ordinarily remains open long enough to give the offeror a reasonable opportunity to accept. An oral offer made during a face-to-face or telephone conversation expires at the end of that conversation unless the offeror has indicated a willingness to keep the offer open beyond that time. The offeror nevertheless retains the right to terminate her offer at any subsequent time unless she has also expressly agreed not to revoke it—thus creating a “firm offer.”

Recall that in order to accept an offer of a unilateral contract an offeree must tender a performance rather than a reciprocal promise. The consequences of a revocation are especially acute when an offeror revokes such an offer after the offeree has begun performing. In the following excerpt, a scholar defends the early common law rule, which required full performance for acceptance:

Suppose A says to B, “I will give you \$100 if you walk across the Brooklyn Bridge,” and B walks — is there a contract? It is clear that A is not asking B for B's promise to walk across the Brooklyn Bridge. What A wants from B is the act of walking across the bridge. When B has walked across the bridge there is a contract, and A is then bound to pay to B \$100. At that moment there arises a unilateral contract. A has bartered away his volition for B's act of walking across the Brooklyn Bridge.

When an act is thus wanted in return for a promise, a unilateral contract is created when the act is done. It is clear that only one party is bound. B is not bound to walk across the Brooklyn Bridge, but A is bound to pay B \$100 if B does so. Thus, in unilateral contracts, on one side we find merely an act, on the other side a promise.

It is plain that in the Brooklyn Bridge case as first put, what A wants from B is the act of walking across the Brooklyn Bridge. A does not ask for B's promise to walk across the bridge and B has never given it. B has never bound himself to walk across the bridge. A, however, has bound himself to pay \$100 to B, if B does so. Let us suppose that B starts to walk across the Brooklyn Bridge and has gone about one-half of the way across. At that moment A overtakes B and says to him, “I withdraw my offer.” Has B then any rights against A? Again, let us suppose that after A has said, “I withdraw my offer,” B continues to walk across the Brooklyn Bridge and completes the act of crossing.

Under these circumstances, has B any rights against A? In the first of the cases just suggested, A withdrew his offer before B had walked across the bridge. What A wanted from B, what A asked for, was the act of walking across the bridge. Until that was done, B had not given to A what A had requested. The acceptance by B of A's offer could be nothing but the act on B's part of crossing the bridge. It is elementary that an offeror may withdraw his offer until it has been accepted. It follows logically that A is perfectly within his rights in withdrawing his offer before B has accepted it by walking across the bridge — the act contemplated by the offeror and the offeree as the acceptance of the offer.

More recent decisions have rejected this traditional approach. Courts now protect the offeree who has begun performance by barring revocation of the offer until the offeree has had a reasonable opportunity to complete the requested performance. The Restatement (Second) of Contracts sensibly describes the resulting obligation as an option contract.

IRREVOCABLE OFFERS

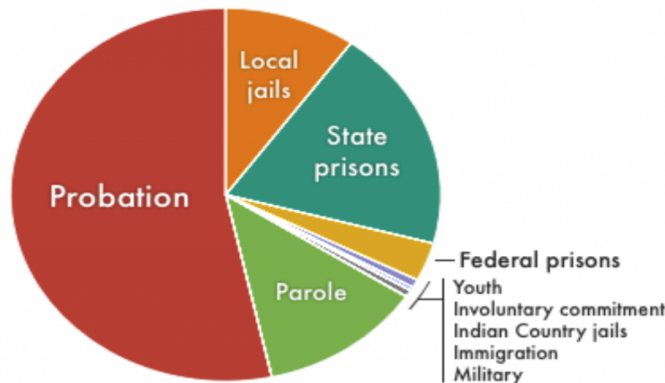
The rule for unilateral contracts described in Restatement (Second) § 45 creates an implied option contract once an offeree has begun performing and gives her a reasonable time to complete performance. In other circumstances, however, parties may prefer to create an express option contract.

INTERMEDIATE SANCTIONS ^[150]

Community corrections as a whole has changed dramatically over the last half-century. Due to a rapid and overwhelming increase of the offender population, largely based on policy changes, we have witnessed an immense increase in the use of sanctions at the community level; this includes probation. It has only been within the most recent 10 years that we have seen a decrease in community corrections. Individuals on probation hover around 3.7 million, with another million in some form of community-level control, for a total of about 4.6 million under community supervision, probation, or parole. [1] Because of the sheer volume of these intermediate sanctions, it is important to put it in the perspective of jails and prisons. Below is a graphic to demonstrate how much we are talking about.

U.S. CORRECTIONAL CONTROL

Correctional control extends far beyond prisons and jails



Figure

15.3 National correctional control, 2018 ^[151]

This graphic does not include the volume of people in the community corrections outside of regular probation, or parole (which is about another million), but it does shed light on just how much probation is used. Therefore, it is important to understand that the vast majority of individuals under correctional control aren't even in the prisons and jails in the United States, even though that alone is a hefty number. The majority of persons under correctional control fall in sanctions like Probation, Intensive Supervision Probation, Boot Camps/Shock Incarceration, Drug Courts, and Halfway Houses. Therefore, this section will discuss the history and effectiveness of some of the forms of intermediate sanctions we use in the United States.

As we have discussed, in the late 1970s and early 1980s, there was a fundamental shift in corrections. This is largely due to the "Nothing Works" dogma in the area of rehabilitation. Many reforms were made towards the housing of offenders. Many liked this idea because they did not trust the government's attempts at rehabilitation. Others were pleased as well since more emphasis was placed on control. Rooted in deterrence theory, and to lesser extent incapacitation, intermediate sanctions flourished and were seen as an instant success. That is, because they promised to increase control of the growing offender population, maintain security, and do all of this at a reduced cost, they were quickly welcomed across the nation. However, by reviewing each one, we can see the problems that promising too much may have created.



Think About It... What Would You Do?

As stated before, there are three primary goals for corrections, to punish the offender, to protect society, and to rehabilitate the offender. Often the first two goals might be opposing to the last goal. Additionally, doing too much of the first one might have unfavorable on the second and third. Here is an example of how this might happen.

Let's say there is a guy, who is married, has a couple of kids, a stable blue-collar job, a house /mortgage, and is living just a little bit better than a paycheck to paycheck. We can call him the average Joe Citizen. This might even sound familiar, and you may even know him. Joe likes to hang out with his friends after his men's softball game, having a beer and catching up on life. For all intents and purposes, Joe is a decent guy. He does not have a significant criminal record. Perhaps one misdemeanor when he was a juvenile, and a couple of speeding tickets, like tens of millions of other adults.

However, one time after softball, Joe is driving home, and his wife is texting him to pick something up at the store. He looks down at his phone at the exact wrong time that someone pulls out in front of him. An accident occurs. No one is seriously injured, but the damage to both vehicles is enough to warrant a write up of the accident. This leads to police presence. At the scene, the officer smells alcohol on Joe. The officer is obligated to go through standard procedures, which results in Joe being arrested. This is not asking you to debate this action, as it is a violation, and the officer had every right to arrest Joe. The question is this – what should Joe's punishment be?

The reason to ask this is due to both the rule of law and the consequences of those laws. Joe should be punished, as he chose to drive after drinking alcohol. But would Joe's incarceration lead to other events that may have lasting effects? Probably.

This brings up the question of at what point does the level of punishment last beyond its intended point? If Joe receives a lengthy jail sentence, will he lose his job? Will he lose his family? Will this put him a greater risk of recidivating in the future? What point has the immediate action caused punishment beyond what the law stipulates is punishment? These are all valid questions. There are other alternatives out there, that still cover the concepts of punishment, monitoring, sanctioning, and control. However, these alternatives can still allow individuals to stay in the community, which this chapter will present with community corrections.

RESTORATIVE JUSTICE ^[152]

The process of restorative justice programs is often linked with community justice organizations and is normally carried out within the community. Therefore, RJ is discussed here in the community corrections section. Restorative justice is a community based and trauma-informed practice used to build relationships, strengthen communities, encourage accountability, repair harm, and restore relationships when wrongdoings occur. As an intervention following wrongdoing, restorative justice works for the people who have caused harm, and the victim(s), and community members impacted. Working with a restorative justice facilitator, participants identify harms, needs, and obligations, then make a plan to repair the harm and put things as right as possible. This process, restorative justice conferencing, can also be called victim-offender dialogues. It is within this process that multiple items can occur.

First, the victim can be heard within the scope of both the community and within the scope of the offense discussed. This provides the victim(s) an opportunity to express the impact on them, but also to understand what was happening from the perspective of the transgressor. At the same time, it allows the person committing the action to potentially take responsibility for the acts committed, directly to the victim(s) and to the community as a whole. This restorative process provides a level of healing that is often unique to the RJC. Pictured, the different processes that can occur during the different types of dialogues within RJC.

RESTORATIVE JUSTICE PROCESSES



Figure 15.4 Restorative Justice ^[153]

RESTORATIVE JUSTICE SUCCESS

For over a quarter century, restorative justice has been demonstrated to show positive outcomes in accountability of harm, and satisfaction in the restorative justice process for both offenders and victims. This is true for adult offenders, as well as juveniles, who go through the restorative justice process. Recently, there have been questions whether there is a cognitive change that occurs in the thought process of the individuals completing a restorative justice program. There is a growing body of research that demonstrates that change in cognitive distortions that may occur through successful completion of restorative justice conferencing (RJC). This will be an area of increasing interest for practitioners, as restorative justice continues to be included in the toolkit of actions within community justice and community corrections.

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