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# Reinventing Community Corrections

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PRE-PRINT VERSION

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# Reinventing Community Corrections: Ten Recommendations

**Abstract**

Community corrections in the 21st century faces three challenges: (1) how to be an alternative to imprisonment, (2) how to be a conduit for reducing recidivism, and (3) how to do less harm to offenders and to their families and communities. We propose that community corrections will serve to reduce imprisonment only if its use is viewed as a legitimate form of punishment and is incentivized, which involves subsidizing the use of community sanctions and making communities pay to imprison offenders (a cap-and-trade system). To reduce recidivism, it will be necessary to hold officials accountable for this outcome, to ensure that evidence-based supervision is practiced, to use technology to deliver treatment services, and to create information systems that can guide the development, monitoring, and evaluation of interventions. Finally, doing less harm—avoiding iatrogenic effects—must involve non-intervention with low-risk offenders, reducing the imposition of needless regulations on offenders (i.e., collateral consequences), and creating opportunities for offenders to be redeemed. Taken together, we make ten recommendations for improving offender outcomes and protecting public safety.

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Mass imprisonment is the elephant in the room of corrections. The nation's prison system has grown so large, so costly, and so ethically troubling that the resulting crisis simply cannot be ignored (Abramsky 2007; Pratt 2009). Although American exceptionalism is a designation typically affixed to a source of national pride (e.g., commitment to liberty), there is now increasing consensus that the United States' position as the number one incarcerator in the world represents a major policy misadventure (Currie 2013; Clear and Frost 2014). Serious scholars are still trying to discern how the nation pursued a four-decade expansion of its prisons and what the deleterious consequences of this failed "prison experiment" has wrought (see, e.g., Garland 2001; Tonry 2004, 2007; Gottschalk 2006; Clear 2007; Simon 2007; Useem and Piehl 2008; Kelly 2015). If there is a silver lining, it is that mass imprisonment is no longer seen as a sustainable option (Aviram 2015; Petersilia and Cullen 2015). The growth in prison populations has largely stopped, although whether a national counter-movement to downsize the number of inmates will materialize remains to be seen (Gottschalk 2015; Petersilia and Cullen 2015).

In this context, interest in community corrections has tended to be limited. For many scholars troubled by mass imprisonment, the main utility of community corrections is that it represents a non-custodial intervention. The chief concern is not what is actually done with offenders in the community but simply with not placing offenders in prison in the first place or in not keeping them there very long. Phrased differently, the goal is to oppose imprisonment, with the implicit assumption that anything else—which would involve some unspecified sanction in the community—must be preferable. One growing exception to this intellectual neglect of community corrections is the focus on prisoner reentry, where commentators have articulated more specific insights on best practices for integrating offenders into society (Petersilia 2003; Travis 2005; Gunnison and Helfgott 2013; Kelly 2015; Mears and Cochran 2015). These writings have made a compelling case that it is irrational—bad for offenders and bad for public safety—to release more than 600,000 inmates annually with little idea of how to prevent their reoffending. Still, even in this area, there is a wide knowledge gap on how to effectively return prisoners to society. At best, plausible recommendations can be made on how best to proceed (Mears and Cochran 2015; Jonson and Cullen 2015).

For correctional policymakers, community corrections also has remained much of an afterthought—even though at any given time more than 4.7 million offenders are either on probation (3,864,100) or on parole (856,900) (Kaeble, Maruschak, and Bonczar 2015). As Petersilia (2011, p. 499) observes, despite the fact that "most offenders remain in the community, community corrections has always been undervalued and under supported." Petersilia reports that "the annual cost of housing a prisoner in the United States was nearly $29,000 compared to

$1,250 for supervising a probationer, and $2.750 for supervising a parolee"—a "price gap" that she calls "staggering" (p. 499). Indeed, although "three out of four offenders are on probation or parole rather than behind bars, almost nine of every ten dollars of corrections funding goes to fund prisons" (p. 499).

Beyond the attention demanded by the size and cost of mass imprisonment, community corrections' neglect can also be tied to its loss of social purpose (Allen 1981; Simon 1993). In the 1960s and into the early 1970s, excitement existed about the possibility of deinstitutionalization and of community treatment and reintegration. With the attack on rehabilitation and the rise of the idea that "nothing works" to reform offenders (Martinson 1974; Cullen and Gilbert 1982), faith the in the capacity of any type of corrections to save its charges diminished. As Simon (1993, pp. 103, 259 ) notes, the goal of "normalization" was replaced by the goal of "management"—in what became, in his words, something akin to a "waste management system." Offenders were transformed from troubled fellow citizens to be fixed into objects to be controlled and threatened into conformity.

Some life was injected into community corrections in the 1980s with the movement to apply intermediate sanctions to offenders. Part of the appeal of this approach was that it might provide sentencing options to judges "between prison and probation" and thus allow for more finely calibrated justice, including more options to use in diverting offenders from incarceration (Morris and Tonry 1990). The darker side of the intermediate-sanction movement was the promise by more conservative parties to transform community "corrections" into an instrument of control and punishment. Prison would be less necessary, it was argued, because punitive sanctions could be applied inexpensively in the community. Little evidence exists that intermediate sanctions served to increase justice or to divert offenders from prison, at least on a substantively meaningful scale (Tonry 1990). Worse, the infusion of punitive practices (e.g., control-oriented intensive supervision) and technologies (e.g., drug testing, electronic surveillance) has done little to improve public safety. Most notably, the attempt to deter probationers and parolees by subjecting them to small-caseload, intensive supervision proved to be a dismal failure (Petersilia and Turner 1993). Evaluation research could produce little evidence that deterrence-oriented community corrections reduces recidivism on a reliable basis (Byrne and Pattavina 1992; Cullen, Wright, and Applegate 1996; Petersilia 1999; Caputo 2004; Hyatt and Barnes 2014).

Of course, not everything within community corrections was dismal (see Listwan et al. 2008). The decentralized nature of corrections—not only by states but also by counties—meant that pockets of treatment advocacy and programming flourished. Emerging at the start of the current century (Cullen and Gendreau 2000; MacKenzie 2000), evidence-based corrections has been an increasingly potent force in showing the limits of punishment and the advantages of rehabilitation. The "risk-need-responsivity" (RNR) model has become a dominant treatment paradigm and has been embraced in jurisdictions nationwide (see Andrews and Bonta 2010; Cullen 2013). Still, despite some reason for optimism, community corrections remains a key component of the justice system that often lacks clear purpose and a clear future.

Admittedly, claiming to offer a blueprint for "reinventing" community corrections involves a measure of hubris and perhaps utopianism. Yet, we are not alone in recognizing that a

conversation is needed to map out a better future for community corrections; others have offered their own useful ideas in this regard (see, e.g., Gideon and Sung 2011; Latessa and Smith 2011; Petersilia 2011; Klingele 2013; Corbett 2015; Mears and Cochran 2015). As participants in this exchange of ideas, our goal is to think boldly but practically. We start by identifying three core challenges facing community corrections—each covered in its own section: (1) how to be an alternative to imprisonment; (2) how to be a conduit for reducing recidivism; and (3) how to do less harm to offenders and to their families and communities. Ten specific recommendations are set forth under the umbrella of this trinity of goals (see the list in the box). The argument proceeds as follows.

I. Incentivize the Use of Community Corrections

Recommendation 1: Dispute That Only Imprisonment Is an Appropriate Response Following an Offender's Conviction.

Recommendation 2: Subsidize the Use of Community Corrections.

Recommendation 3: Make Communities Pay to Use Prisons.

II. Focus on Reducing Recidivism

Recommendation 4: Hold Correctional Officials Accountable for Lowering Recidivism.

Recommendation 5: Practice Evidence-Based Supervision.

Recommendation 6: Use Technology to Enhance Treatment Delivery.

Recommendation 7: Create Information That Can Guide Interventions.

III. Do Less Harm

Recommendation 8: Leave Low-Risk Offenders Alone Whenever Possible.

Recommendation 9: Reduce the Overregulation of Offenders.

Recommendation 10: Help Offenders to Be Redeemed.

If mass imprisonment is to be reversed, then more offenders must be placed in the community rather than behind bars. Section I argues that this will not occur unless decisionmakers are motivated or "incentivized" to do so. A first step in this direction is to

increase the legitimacy and thus attractiveness of community corrections as a sentencing option. This will involve debating the idea that only prison is true punishment. Beyond this effort to transform the ideological status of community corrections, it also will be necessary to provide financial incentives to locales to keep offenders in their home environs. Positively, this will mean offering subsidies to do so. Negatively, it will mean setting hard caps and making communities pay if they wish to overuse prison beds. We propose variants of a cap-and-trade system.

Section II argues that community corrections must take seriously the goal of reducing recidivism. Similar to developments in policing, correctional officials—both in prison and in the community—must be held accountable for lowering supervisees' involvement in crime. In fact, they should be held accountable for improving a range of life outcomes. Toward this end, they should practice evidence-based supervision, use technology not to control offenders but to treat them more efficaciously, and create information that can guide interventions.

Finally, section III argues that community corrections should do less harm to offenders. Because sanctions involve the infliction of discomfort, the very nature of punishment makes avoiding all iatrogenic effects unlikely. Still, harm can be minimized by leaving low-risk offenders alone whenever possible, by reducing the overregulation of offenders through a range of irrational collateral consequences tied to conviction, and by helping offenders to be redeemed.

## I. Incentivize the Use of Community Corrections

In 2010, the combined count for the state and federal prison population declined for the first time in 38 years (Pew Center on the States 2010; Guerino, Harrison, and Sabol 2011). Notably, this remarkable event did not elicit cries of fear and a call for a renewed war on crime. In fact, it is virtually impossible to find any prominent elected official—whether on the Left or the Right—that is advocating the resumption of the mass imprisonment movement. Even so, the optimism of a few years ago is being balanced by the reality that declines in imprisonment seem to have slowed, if not stalled (Glaze and Kaeble 2014). In 2013, the nation's state and federal prison population jumped 0.3 percent, before falling 1 percent in 2014. During this time, moreover, states displayed considerable variation in population trends. In 2013, 28 state prison systems actually grew in size; in 2014, increases were found in 21 states (Carson 2014, 2015). The overall inmate total in state prisons nationally jumped nearly 6,300 inmates in 2014 before falling about 10,100 the next year. The 2014 count is more than 56,000 lower than it was in 2009, but this represents a tiny fraction of a population base of over 1.35 million inmates incarcerated in state facilities (Carson 2015). Although it is unclear where future trends will lead, the graph for state prison populations likely will stay more on a flat or horizontal line than manifest a steep downward slope.

This stubborn reality suggests that the choice to send offenders to prison versus to the community will not experience much of a change—unless, that is, something is done to make a community sanction a more attractive option. To change the current calculus used in sentencing decisions, something must be undertaken to incentivize the use of community corrections. Phrased differently, officials must become more motivated to use non-custodial penalties. We

suggest three initiatives—two that seek to induce policymakers to use community corrections more often and one that inflicts costs on policymakers the profligate consumption of prison beds.

*Recommendation 1: Dispute That Only Imprisonment Is an Appropriate Response Following an Offender's Conviction.*

As Petersilia (2011, p. 499) notes, community corrections is vulnerable to being devalued, if not seen as an irresponsible, because "it suffers from a soft on crime image" (see also Flanagan 1996). When a parolee commits a heinous crime, officials are immediately questioned as to how they "could have let this predator out early from prison." A similar question arises when a probationer victimizes violently: "How could such a dangerous felon be allowed to walk free in the community?" Indeed, advocates of imprisonment as a sanction of first choice, such as Bennett, DiIulio, and Walters (1996, p. 82), decry a "revolving-door justice system" in which "criminals who have repeatedly violated the life, liberty, and property of others are routinely set free to do it all over again." This "virtual no-fault system," they claim, "excuses the selfish, impulsive, predatory propensities of morally impoverished street criminals" and, in effect, tells offenders, "Do the crime and you won't have to do the time" (p. 82). For them, "reinventing community corrections" involves using it more sparingly and transforming departments into "law enforcement agencies dedicated first and foremost to restraining violent and repeat offenders" (1996, p. 112).

Bennett, DiIulio, and Walters may be guilty of hyperbole, but there is an important kernel of truth in their claims. People are in the correctional system because they are, after all offenders. For most, their current arrest and conviction represent only a fraction of the crimes they actually have committed (DiIulio and Piehl 1991; Barnes 2014). It makes no sense, therefore, to deny the criminality of those in prison or those who are awaiting sentencing and are candidates for prison. The more poignant question is why imprisonment is so valued as a sanction—by Bennett and colleagues (1996) and by others. Admittedly, there is a punishment fault line where consensus exists that prison is warranted to exact just deserts for bad acts and to incapacitate truly predatory, violent offenders. Substantial agreement might also exist that even if their crimes do not threaten anyone's physical safety, chronic offenders who seem addicted to crime might be incarcerated simply because no other option seems to work. But outside these instances, why is imprisonment seen as an appropriate penalty?

Our point is that it should not be viewed in this way. How punishments are understood—the narrative that is told about them—is a social construction of reality (Simon 1993, 2014). Imprisonment has been constructed as a "hard" sanction and community corrections as a "soft" sanction. This view has some objective reality underlying it, because incarceration involves the deprivation of freedom, life in a total institution, and exposure to the pains of imprisonment (Sykes 1958). Indeed, criminologists have reinforced the idea that incarceration is inhumane, coercive, and qualitatively different than a community placement. But implicit in the prison narrative proposed by Bennett and colleagues (1996) is the assumption that hard punishment is needed to teach offenders that crime does not pay and to effect behavioral change. It is at this point that prison as the preferred sanction is vulnerable to criticism. It is a crude and ineffective instrument for scaring offenders straight.

As we will revisit shortly, the issue of cost is at the heart of the current disaffection with mass imprisonment (Aviram 2015). For now, cost matters in this sense: Is prison worth the investment? Again, it might be for truly predatory and chronic offenders. But for other inmates, there is little evidence that the "hard" punishment of a custodial stay specifically deters more than the "soft" punishment of a community sanction. Although the research is limited and the issue complex (Mears, Cochran, and Cullen 2015), the impact of imprisonment on reoffending appears to be null or slightly criminogenic (Nagin, Cullen, and Jonson 2009; Jonson 2010; Cullen, Jonson, and Nagin 2011). Part of the reason may be that many offenders—including inmates—rank community supervision and intermediate sanctions as a more bothersome, if not punitive. According to the responses of offenders on surveys, these alternative or non-custodial sanctions are seen to extend for longer durations and are perceived to be more onerous. For example, they can carry with them many conditions that must be met and the risk exists that any violation of them will result in being sent to prison (Petersilia and Deschenes 1994; May and Wood 2010). Another consideration is that the strong criminal propensity that marks life-course-persistent offending is often entrenched in the early stages of life before individuals are old enough to weigh, let alone experience, the pains of imprisonment (see, e.g., Moffitt 2006).

Regardless, the point to be made is that for many offenders, imposing a prison sentence is not such a good deal: it costs a lot of money and it has virtually no reliable effect on recidivism. The common-sense argument about the ineffectiveness of imprisonment can be made by pointing to the high recidivism rates of inmates reentering society. Studies show that about two-thirds of prisoners are rearrested within three years of release, a statistic that climbs to three-fourths within five years (Langan and Levin 2002; Durose, Cooper, and Snyder 2014; see also Mears and Cochran 2015; Jonson and Cullen 2015). In the past, commentators used these high recidivism figures as a justification for not letting offenders out of prison (Bennett, DiIulio, and Walters 1996). But the more salient argument is that prisons have a dismal record in preventing their charges from returning to crime. Again, beyond sheer incapacitation, it is difficult to justify doing more of the same when the "same" has proven to be a failure.

Casting stones at the effectiveness of imprisonment, however, places community corrections in the position of demonstrating that it can do a better job. Evidence exists that the effects of rehabilitation programs are higher in the community (Andrews and Bonta 2010). And, as noted, evaluation research generally shows that a non-custodial sanction is no less efficacious than a custodial sanction—and it carries the advantage of being less expensive. Still, saying that community corrections performs no worse than a dismal prison system is unlikely to inspire a concerted effort to have community interventions replace imprisonment as a sanction of choice. The challenge of recidivism must be taken seriously, a position we return to shortly. As Flanagan (1996, pp. 8-9) advised, "if community corrections is to gain the respect and confidence of the public…the public safety goal of community corrections must be prominent and must be effectively communicated to the citizens of your community."

But will the public support a policy agenda that seeks to use community corrections as a preferred sanction to imprisonment? In a way, this is the wrong question to ask. The American public is fairly balanced and pragmatic in its views about crime and control (Cullen, Fisher, and Applegate 2000; Unnever et al. 2010; Jonson, Cullen, and Lux 2013). Citizens favor punishment but also rehabilitation. They want justice, protection from dangerous criminals, and efforts made

to save offenders. In the aftermath of especially heinous crimes, victim interest groups can campaign for tougher laws. But overall, the public does not drive correctional policy. Rather, its members are more observers whose opinions are shaped by elected officials (Beckett 1997). Phrased differently, because citizens' sentiments are more "mushy" than rigidly affixed to specific policy positions, they tend to support—or, in fact, not oppose—any correctional policy that tends to make sense (Cullen, Fisher, and Applegate 2000). A number of states—including so-called red states—have embarked on reforms privileging community corrections over the use of prisons (Right on Crime 2015). There is no evidence of any public backlash to these reforms (Petersilia and Cullen 2015). In large part, this silence is due to the fact that those who in the past led the charge against community corrections and in favor of tough prison sentences—conservative, Republican politicians—are now advocating for alternatives to incarceration (Petersilia and Cullen 2015).

Research has shown that when asked to choose sentences for convicted criminals (e.g., when rating vignettes describing offenders and their crimes), the public shows a preference for assigning a prison term (see, e.g., Rossi, Berk, and Campbell 1997; Jacoby and Cullen 1998). "Simply put," observes Warr (1995, p. 23), "Americans overwhelmingly regard imprisonment as the appropriate form of punishment for most crimes." Viewed in isolation, however, these findings are misleading. Thus, research also reveals that in many instances, the choice of imprisonment is not fixed but more of a preference. If presented with alternative sentencing options, the public will find these acceptable as well (Flanagan 1996; Turner et al. 1997; Cullen, Fisher, and Applegate 2000). National and state polls also report that the public endorses a range of treatment and other services for reentering prisoners (see, e.g., Reddy 2013; Jonson and Cullen 2015; Sundt et al. 2015). Taken together, these studies suggest that public views about corrections are multi-faceted and are flexible enough to support any reasonable policy agenda. Stated alternatively, the electorate is not a barrier to efforts to reduce mass imprisonment and to expand the use of community corrections. If anything, they are generally favorable to this effort (see also Thielo et al. 2016).

To move forward, leaders need to present a narrative to the public about why the time has come to embrace community corrections and to reject imprisonment as the only, or best, response to lawbreakers. According to Simon (2014, pp. 22-23), a "common sense" narrative coalesced in the 1970s, and it constrained thinking about crime control and became "baked into" state "penal policies." Four interrelated beliefs comprise this "mind set":

> First,…most criminals have a high and unchanging criminal activity….Second, prison can do little to change criminals for the better, but prison can prevent them from endangering innocent people by keeping criminals locked up. Third, so-called penal experts cannot predict which criminals pose the most danger, so long sentences should be given to all. Fourth, any time a criminal leaves prison for any reason, the community becomes less safe. (2014, p. 23).

Now we need new common sense narratives that provide a different view of prisoners and how to assist them to reach their human potential. An excellent example of this kind of narrative can be found on a YouTube clip that captured Ohio Governor John Kasich's (2014) video address to the Bipartisan Summit on Criminal Justice Reform held in Washington, DC,

which is paraphrased below. Kasich began his address by noting that although much talk has occurred about prison reform for the past 20 years, little action had been taken; now it was time to act and they had in Ohio. He noted that efforts have been taken to keep offenders in the correct location, which for many offenders included in the community where they could receive intensive rehabilitation, maintain family ties, and engage in gainful employment. Ohio also was reducing collateral sanctions that common sense showed inhibited offender restoration. It was important to tear down barriers to reintegration and employment. Importantly, Kasich observed, these reforms lowered Ohio's recidivism rate to 27.5 percent versus the national average of 49.7 percent. The Governor then proceeded to tout increased funding for community-based initiatives to focus on low-level, non-violent offenders who should not be thrown into prison with dangerous criminals. He also noted the need to provide continuity of care to addicted offenders from prison into the community, using in particular the expertise of addiction and mental health specialists. In a heartfelt way, Kasich asserted that "redemption is real, second chances are real"—and we need to practice this individually and collectively. He asked the audience to envision a mother holding her baby not long after birth, with hopes and dreams for her little baby. But somehow, children can get off track and make mistakes. They have a God-given mission, but sometimes they have difficulty seeing, understanding, and searching for it. We can help them to restore their hope, opportunity and purpose; it changes the world. Even Ohio's very conservative legislature, he concluded, has seen the need to value all human life.

Thus, in a compelling way, Governor Kasich's narrative delegitimates the common sense, get tough approach that socially constructs prison as the only safe way to respond to those convicted of a crime. His advocacy of the broader use of community corrections is rooted in an appeal to second chances, a belief in God's positive plan for all of us, the common sense notion that it is best to keep non-violent offenders employed and close to family members, a reliance on experts to treat addictions, and a trumpeting of the hard evidence that this approach reduces recidivism substantially. The fact that he is not a liberal criminologist but a conservative Republican only adds to the power of his message. This latter reality also suggests that the time may well be conducive to a concerted effort to trumpet the value of community corrections and to explore its reinvention.

Still, good intentions may not be sufficient to reverse the effects of mass imprisonment. The Ohio prison population stood at 51,712 in 2010 (Guerino, Harrison, and Sabol 2011). In 2014, it remained at virtually the same level, with an incarceration total of 51,519 inmates (Carson 2015). The good news is that the four-decade steady rise in incarceration has been interrupted. The bad, news, or more challenging reality, is that more than a desire to achieve a reduction in imprisonment will be required to reverse policy and put the prison count on a downward trajectory. Our ideas for doing so—for making community corrections a more frequent sentencing choice—are contained in the next two recommendations. We propose to use money to achieve this goal. We start with a more modest proposal, used previously and called "subsidy" programs, to pay local jurisdictions to keep offenders in the community. We then proceed to a more ambitious proposal, which we place under the umbrella of a "cap-and-trade" system, that would make local jurisdictions pay money for the extravagant use of state prison bends.

*Recommendation 2: Subsidize the Use of Community Corrections.*

In recent years, states have paid increasing attention to cutting costs in corrections (Subramanian and Tublitz 2012). These initiatives—such as reducing staff salaries and overtime, decreasing the number of full-time positions, cutting programming, and halting new prison construction—have not resulted in the substantial economic relief or the decline in prison populations that the states intended (Vera Institute of Justice 2010). States have thus explored alterative, innovative ways to reduce costs, including the expanded use of community corrections. The idea is deceptively simple: punish and treat offenders in the community rather than in prisons when doing so is cheaper and more effective. Implementing this idea, however, has been anything but simple.

Although a large body of scholarship shows that offenders can be supervised in the community safely and cost-effectively, a major structural flaw in most states' criminal justice funding is that judges and prosecutors have little incentive to curtail the use of incarceration. Indeed, the architecture of many states' funding structures creates financial incentives for local jurisdictions to send offenders to state prison rather than to impose community sanctions. Why? When offenders are sentenced to prison, the state assumes the financial burden of that individual, not localities. By contrast, when lawbreakers receive either a community-oriented sanction or a sentence to a county jail, the fiscal responsibility typically falls on the local jurisdiction (Evans 2012; Vera Institute of Justice 2012). This arrangement thus incentivizes localities, who struggle with limited budgets and heavy caseloads, to divert individuals from the community correctional system and to the state penal system.

The million-dollar question, quite literally, thus becomes: How can states incentivize localities to supervise offenders within their communities? For many states, the answer has been subsidies, or "success-oriented funding," which provides financial rewards for county and local agencies who use community sanctions and who simultaneously lower prison admissions (Justice Policy Institute 2009; Pew Center on the States 2009; Vera Institute of Justice 2012; Chettiar et al. 2013, p. 12). Subsidies, in their multiple forms, are seen as a win-win for the criminal justice system: localities win by obtaining the monies needed to create and fund an effective community corrections system, and states win by lowering prison populations, saving money, and increasing public safety (Subramanian and Tublitz 2012; Vera Institute of Justice 2012; Chettiar et al. 2013). Much depends on the specifics. For example, subsidizing community corrections is not likely to be effective if individuals who otherwise would receive minimal punishment or intervention instead receive intensive regimes of community supervision and treatment. Even so, the idea is straightforward: greater, appropriate use of community corrections can result in reduced prison costs and higher levels of public safety.

Interestingly, this idea is not only straightforward but also not new. Fifty years ago, California became the first state to experiment with subsidizing probation. In response "to the massive program of State incarceration carried out during the late 1950's and early 1960's," California passed Senate Bill 822, the Probation Subsidy Act, which identified probation as the best alternative to imprisonment (Smith 1974, p. 5; see also Nieto 1996; Rushford 2012). To dissuade localities from sending their property felons to prison, the program dangled a carrot in front of the counties: it offered $2,080 to $4,000 for each adult or juvenile offender that was not committed to a state prison. County earnings were based upon the commitment rate for the

previous five years. If the present year's commitments were lower than the base commitment rate, then the counties received a financial reward. The larger the percentage reduction in commitments, the greater the financial reward for each individual that avoided prison (Smith 1974; California Youth Authority 1976; Nieto 1996; Rushford 2012).

Did counties take the carrot? Yes. From its inception through 1978 when it was disbanded, California diverted approximately 45,000 offenders from state prisons and rewarded counties with $145 million in probation subsidies (Little Hoover Commission 1994; Nieto 1996; Pew Center on the States 2008). The program thus achieved its goal of reducing prison populations. The sustained success of the program, however, was limited by four considerations that may hold special relevance for the promise, or fate, of modern-day programs. First, certain programs (e.g., halfway houses, day service centers) that were predicted to be part of the subsidy program never materialized. Counties did not use the money to create the infrastructure needed to maintain a successful community corrections system. Second, the original subsidy of $4,000 was never increased in the 13 years of the program. Over time, then, the "carrot" grew smaller and counties lost interest in it. Third, many offenders retained in the community were not placed in treatment programs but rather given other forms of custodial sentences (e.g., jail, camp)—with counties trading one form of imprisonment (state) for another (local) (Lerman 1975; Austin and Krisberg 1982; Clear 2011). Fourth, tough-on-crime policies, which focused on long, determinate sentences, increased the prison population quickly, making the subsidy program too expensive for the state to sustain. With more people entering the system, less money was available to reward local jurisdictions for keeping offenders out of prison (Little Hoover Commission 1994; Nieto 1996). Lessons learned? Create the infrastructure for supporting community corrections, scale up incentives to create "carrots" that motivate counties (and ensure that adjustments for inflation occur), mandate the use of treatment while prohibiting sanctions involving incarceration, and avoid investments, such as dramatic prison growth, that inhibit the ability to subsidize community corrections.

In recent years, new life has been breathed into incentive programs. Under the impetus to control corrections costs, states across the country have revisited the idea of using programs that entice counties to keep offenders in the community rather than behind bars (Pew Center on the States 2009; Evans 2012; Vera Institute of Justice 2012; La Vigne et al. 2014; Lux, Schweitzer, and Chouhy 2015). Many of the incentive programs that are currently being utilized across the United States appear in one of two forms: upfront reinvestment or reinvestment of tangible savings (Evans 2012; La Vinge et al. 2014).

Upfront reinvestment initiatives fund community correctional programs on the basis of projected fiscal savings (La Vigne et al. 2014). In other words, states estimate the amount of money that will be saved by the program in the years to come. Based on that prediction, the state provides the county with funds to create new or improved current community correctional sanctions. Some states are more willing than others to invest large sums of money before actually seeing the benefits of a program: upfront reinvestments have ranged from $1.2 million in Kentucky to a high of $58 million in Oregon. The monies invested have been used for a variety of community corrections programs and sanctions, including electronic monitoring, mental health and drug courts, community-based treatment programs, and additional probation and parole staff (La Vigne et al. 2014). Regardless of how the money is spent, the overarching

goal remains the same: to provide the infrastructure necessary to successfully handle larger offender populations locally in the hopes that counties then will not unduly rely on the state prison system. The programs are new, and so little research exists that assesses their effectiveness (La Vigne et al. 2014). However, one state, Hawaii, has shown some promise: the state reduced its total correctional population by 4 percent one year after implementation (LaVinge et al. 2014).

While upfront reinvestment has the potential to increase the use and effectiveness of community corrections, two issues should be cause for concern. First, since states are financing counties based on anticipated fiscal savings, it is not guaranteed that money will be recouped. Projected savings are susceptible to errors in estimation—predicting the future is no easy task. Among other things, it involves estimation of how states might otherwise have invested tax dollars in the future, an iffy undertaking that involves inherent uncertainty. The end result is that states are gambling with funds that are projected to be saved. That does not mean that savings in fact will occur. Indeed, it is possible that "net widening" may occur, resulting in more prisons and, simultaneously, more community correctional sanctions than otherwise might have occurred. Second, as history has shown with the California Probation Subsidy Act, monies that are invested for certain services may never materialize. There is no guarantee that counties will utilize the funding to develop effective community correctional programming. For example, in some states, counties spent the upfront reinvestments on law enforcement, victims' services program, and police training facilities, which may or may not result in decreased prison populations or, by extension, cost savings (La Vigne et al. 2014). In such a context, states will not recover their initial investment.

To overcome the two major issues surrounding upfront reinvestment, many states have opted to experiment with a second approach: programs that reinvest tangible savings, often known as "performance initiative funding" or "success-oriented funding" (Vera Institute of Justice 2012; Chettiar et al. 2013; La Vigne et al. 2014). Unlike the upfront reinvestment incentives, this type of reinvestment program is less risky because it does not attempt to predict the anticipated cost savings of community correctional programs. Instead, these programs deal in at-hand currency—that is, the money that already has been saved by lowering prison admissions. States first require counties to implement successful programs that result in actual decreases in the prison population. In essence, counties must prove themselves worthy of the money the state is willing to award them. The states then reinvest a percentage of the actual cost savings in counties to help them continue and ideally expand on their success (Justice Policy Institute 2009; Vera Institute of Justice 2012; Chettiar et al. 2013; Davis, Irvine, and Ziedenberg 2014; La Vigne et al. 2014). Many states using this type of reinvestment go one step further. Counties that reach specified, high-level performance goals (e.g., substantially increasing probation and parolee success rates by a certain percentage, lowering revocations to prison by 50 percent or more) are eligible to receive even more money invested back into their county agencies (Administrative Office of the Courts 2012; Vera Institute of Justice 2012; Chettiar et al. 2013).

Does the lure of counties receiving financial rewards for lower prison populations actually work? Measuring success is complicated because the outcome could be whether a state's inmate population decreased, whether that population grew at a slower rate than might

otherwise have been the case, or whether future population expansion was prevented. Due to these three potential issues, across-the-board success has not been evident (Austin et al. 2013). In one of the most comprehensive reviews of justice reinvestment programs, La Vigne et al. (2014) addressed the nuanced nature of these initiatives. Using estimated impacts of programs from 17 states, La Vigne and colleagues projected that overall prison populations would decrease in 10 of these states but increase in the other 7. Does this mean justice reinvestment has been a failure in the latter 7 states? The short answer is "No." La Vigne et al. also assessed likely state prison populations both with and without the presence of justice reinvestment programs. For the 7 states anticipated to experience rising prison populations, the increase is projected to be anywhere from 5 to 20 percent lower than if the justice reinvestment initiative was not implemented. Therefore, although prison populations may not decrease in raw numbers due to justice reinvestment, the program may have decelerated the rate of prison growth, thus accruing savings and fewer people incarcerated.

Other sources report that a number of states, including California, Arizona, Illinois, and Arkansas, reduced prison populations using performance-based incentives, with estimated cost savings of up $36 million and reductions in revocation rates of approximately 30 percent (Pew Center on the States 2011; Administrative Office of the Courts 2012; Adult Redeploy Illinois Oversight Board 2014; Lawrence 2014). In addition, juvenile correctional systems across the country have also seen a decrease in state commitment rates in those counties that have financial incentives to keep young offenders in their home communities (Justice Policy Institute 2009; Mendel 2011; Evans 2012; Davis, Irvine, and Zienberg 2014; Lux, Schweitzer, and Chouhy 2015).

However, promising results do not mean that these programs are the panacea to substantially and permanently reducing prison populations. Just as with upfront reinvestment programs, initiatives that reinvest tangible savings also have a major shortcoming. Despite offering incentives to increase the use of community sanctions, states do not always reinvest the money they save from lowering prison populations back into to the local jurisdictions (Austin et al. 2013). One reason is that states typically do not write into law a requirement that the monies saved *must* be reinvested in county correctional services. This "loophole" allows states to use those cost savings for purposes other than reinvestment. For example, South Carolina's law states that the Sentencing Oversight Committee must "recommend" to the legislature "whether to appropriate up to 35 percent of any state expenditures that are avoided" by reducing recidivism (Omnibus Crime Reduction and Sentencing Reform Act, S. 1154 2010). Thus, the 35 percent reinvestment of savings is not a guaranteed to be provided to the counties, and, in fact, South Carolina community correctional agencies have yet to see the financial payoff of these lower prison populations. In the three years since the Omnibus Crime Reduction and Sentencing Reform Act, no monies were reinvested back into probation and parole despite $18.7 million in state savings (Bureau of Justice Assistance 2014).

Failing to provide promised or suggested incentives to counties could have a potentially deleterious effect. These programs are relatively new, and so only time will tell. It may be that counties will be willing to continue their community corrections investments for a period of time without receiving a financial benefit to do so. Alternatively, their support of community corrections may contract. If the past is any indication, the latter outcome seems most likely.

Indeed, how long would any county endure the fiscal burden and extra workload associated with keeping offenders within their communities when it could easily shift that cost to the state by sending them to prison?

Although subsidies, regardless of their form, show promise in incentivizing the use of community corrections, their ability to result in substantial reductions in the prison population may be limited (Austin et al. 2013). As seen in South Carolina, states may not hold up their end of the bargain, allocating the money for purposes other than the reinvestment into community corrections and thus undermining the effect of these programs. More damaging, however, is the impact of states passing legislation that results in increased incarceration. New Hampshire provides a textbook example. Although the state benefited from implementation of the Justice Reinvestment Act in 2010 (e.g., there was an increase in parolees released from prison with no corresponding increase corresponding increase in admissions to prison due to revocations, and simultaneously, there was a reduction in recidivism, a decline in overall prison populations, and the crime rate declined), the New Hampshire legislature passed SB 52 in 2011. This new law, which amended the Justice Reinvestment Act, restricted the use of parole in New Hampshire and resulted in an immediate increase in the prison population (Delay and Norton 2012). That increase in turn all but eliminated subsidies to counties to support community corrections.

In short, achieving the promise of incentivizing the use of community corrections will require careful and sustained attention to creating the infrastructure for community corrections, to limiting prison growth, and to following the "bouncing ball"—namely, incentives. States, counties, and cities, like people, respond to incentives. When counties benefit from using community corrections, they use them. When they benefit from using state prisons, they use them. There is no substitute, then, for a well-designed incentives system that is carefully monitored and calibrated over time and that is insulated from economic and political changes that thwart cost-efficient punishment and justice.

*Recommendation 3: Make Communities Pay to Use Prisons.*

Although monetary incentives show potential for reducing prison populations, they are not in and of themselves a panacea. Yes, local jurisdictions receive financial gain for the use of community corrections. However, even with subsidies, the underlying architecture of criminal justice funding remains unchanged: counties still receive a "free lunch" by being able to incarcerate offenders in state prisons at no cost to themselves (Zimring and Hawkins 1991, p. 140; see also Clear 2011; Austin et al. 2013). Thus, in addition to incentivizing the use of community sanctions, a comprehensive approach to reducing potentially unnecessary or inappropriate use of state prisons entails forcing counties to have "skin in the game" by requiring them to finance, at least in part, their use of these prisons. By shifting the financial burden of imprisonment from the state onto the county, local jurisdictions may begin to appreciate more fully the fiscal implications of relying on prison rather than potentially more cost-effective community correctional sanctions (Blumstein and Kadane 1983; Ball 2014; Jonson, Eck, and Cullen 2014, 2015; Petersilia and Cullen 2015). The central thesis is this: if communities are made to pay for how much imprisonment they consume, they will use less of it and be more likely to rely on community-based interventions.

As might be recognized, current prison usage is what is often known as a "common pool resource" (Ostrom 1990; Ostrom, Gardner, and Walker 1994). As articulated in his classic essay "The Tragedy of the Commons," Hardin (1968) notes that difficulties can arise when consumers share a resource that can be preserved if everyone shows restraint but for which each individual has a rational self-interest to exploit to his or her advantage. Hardin (1968, p. 162) explains the problem of "freedom in a commons" by giving the example of a "pasture open to all" who wish to have their cows use the area for gazing. This common grazing area could be sustained if not overused by the local herders. But each herder will have more milk cheese, leather, or meat if this individual brings onto the commons as many cows as possible. As each herder expands his or her herd—the only "sensible course" for a "rational" herder to follow—the collective herd exceeds the capacity of the grazing area, the grass is exhausted, and the commons is ruined for all involved (1968, p. 162; Jonson, Eck, and Cullen 2015). In the same way, local prosecutors and judges have no reason to exercise restraint in using the common-pool resource of the state's prisons. The only way to avoid the tragedy of the commons is to transform prison usage from a common, free resource into an individualized, costly resource.

How, though, can states "put a price tag on justice" (Jonson, Eck and Cullen 2015)? More specifically, what concrete policies can states enact to dissuade the use of prisons and simultaneously encourage the use of community corrections? Three options exist. First, states can set a strict cap on the number of prison admissions that they will accept from counties. Once counties exceed their cap, they then must pay to imprison any subsequent offenders. Second, drawing on lessons learned from efforts to reduce pollution, states could engage in a cap-and-trade system. Caps are set, but any local jurisdiction that does not meet their limit of prison beds can sell or trade them to other counties needing more prison space. Third, states can give counties control over the correctional budget, and the counties, in turn, necessarily must "live within their means" (Blumstein and Kadane 1983; Ball 2014; Jonson, Eck, and Cullen 2014, 2015; Petersilia and Cullen 2015). Below, we discuss in more detail each of these options for reducing excessive or unnecessary prison use by local jurisdictions.

*Option 1 for Reducing Prison Use: Capping Prison Usage (CPU).* Under this option, states first determine the number of prison beds each county has been utilizing. Next, the state determines the percentage decrease in prison populations they wish to achieve the following year. The state then sets the number of prison admissions that will achieve the desired decrease as the state-wide cap, or the number of prisoners the state is willing to incarcerate, for the following year. This state-wide cap is allocated across the counties on a per capita basis, with larger counties receiving more prison space and smaller counties being granted fewer prison beds. As long as the cap for a particular county is not exceeded, local jurisdictions do not have to "pay to imprison" that year and can imprison any offender they choose (Jonson, Eck, and Cullen 2014, p. 227; Petersilia and Cullen 2015; Jonson, Eck and Cullen 2015). However, when counties surpass the cap, they must begin to pay the state for each subsequent individual that they sentence to prison. For states to achieve large reductions in prison populations, this cap then could be gradually reduced annually. For example, if states reduced the cap for their prison population by 2,500 offenders, in four years the state would have lowered its prison population by 10,000 offenders, which is a large percentage decrease for many state prison populations in the United States (Carson 2014; Jonson, Eck, and Cullen 2014).

Under the CPU system, judges and prosecutors must carefully consider each individual admission to prison. Prison no longer is an unlimited resource that can be used freely; rather, prison is transformed into a commodity that must be reserved for those who are deemed to be the most dangerous and pose the greatest threat to public safety. In addition, with the CPU system, judges and prosecutors become accountable to the counties they swear to protect. The price of imprisonment, which is paid by taxpayers, becomes transparent rather than hidden, and judges and prosecutors must provide a rationale to the public for why they are exceeding their caps and, in turn, imposing additional and unnecessary costs on the community when cheaper community correctional options exist (Jonson, Eck and Cullen 2014, 2015). A central benefit of this arrangement is that it forces counties to be explicit about the criteria that should be used for incarcerating individuals and the cost-benefit calculus to be used (Mears 2010). In turn, counties must develop and continuously revisit the criteria and cost-benefit calculus associated with prison and a variety of community sanctions (Ball 2014; Jonson, Cullen, and Eck 2014, 2015). Without such a process, counties are free to expend a scarce resource, prisons, with little regard not only for cost but also for whether their use of incarceration—instead of community correctional sanctions—is appropriate.

Of course, the punishment for some crimes likely must be dictated by state law. Murder, for example, typically would necessitate local jurisdictions imposing a prison term. In such instances, exceptions clearly are needed. Accordingly, when setting caps, states should explicitly include guidelines that identify "exemption crimes" for which local jurisdictions will not have to pay to incarcerate an individual.

Can a CPU system reduce prison populations? California affords a case study illustration of the possibilities (Petersilia 2014; Petersilia and Cullen 2015; Simon 2014). In *Brown v. Plata* (2011), the U.S. Supreme Court mandated that California must reduce its prison populations. Prior to this landmark case, the California penal system was operating at 200 percent capacity, which resulted in deficient medical and mental health care for inmates (Simon 2014). The Supreme Court upheld in their decision that operating at the current capacity constituted a violation of the Eight Amendment and ordered California to reduce their prison population to 137.5 percent of design capacity within two years, thus instituting a cap for the California penal system. Ultimately, to reach this cap, California had to reduce their prison population by 25 percent, which translated into the release of 35,000 individuals (Petersilia 2014; Petersilia and Cullen 2015).

In response to the Court's decision, California Governor Jerry Brown signed into law the 2011 Public Safety Realignment Act. This Act shifted responsibility for low-level, non-violent offenders, including nearly all drug and property offenders, from the state to each of California's 58 counties. To further reduce prison populations, the Act prohibited the revocation-and-incarceration of probationers and paroles for technical violations; instead, violators could be punished by up to 180 days in local jails (Couzens and Bigelow 2014). One year after implementation, the results appeared to be promising: substantial decreases in new prison admissions occurred, along with reductions in parole revocations that resulted in reincarceration. At the same time, California achieved its lowest prison population in 17 years (Petersilia 2014; Petersilia and Cullen 2015).

Do the results in California suggest that a CPU system can effectively reduce prison populations? The answer is complicated. Although prison populations have decreased, California has not yet reached its goal of achieving no more than 137.5 percent capacity. For this reason, in February 2014, California was granted an extension to 2016 to reduce prison population to the ordered levels. Viewed from a glass half-full perspective, the fact remains that a substantial decrease in prison populations occurred. From a glass half-empty perspective, the decrease did not occur as rapidly as was desired or to intended levels.

An additional consideration in any assessment of the California natural experiment is the effect on counties. Here, more cause for concern than optimism exists. For example, when interviewing community correctional agencies about their views of the Realignment, Petersilia (2014, p. 339) discovered "a portrait of counties struggling, often heroically, to carry out an initiative that was poorly planned and imposed upon them almost overnight." Counties were not given the choice in how to handle offenders; instead, the state legislature severely limited county discretion and automatically diverted a large percentage of offenders to community corrections. Probation officers struggled with larger caseloads, ones that included more higher-risk offenders. Perhaps more concerning is that some law enforcement agencies felt that the Realignment reversed a long-term crime decline, and many county sheriffs reported that it led to increases in county jail admissions, overcrowding, and jail violence (Gerlinger and Turner 2013; Lofstrom and Raphael 2013; Petersilia 2014).

The results of California's Realignment do not necessarily mean that capping prison populations is ineffective. Instead, it provides a cautionary tale about the possibilities, both good and bad, and about what needs to be done to achieve desired results and to minimize harms. Without the proper community corrections infrastructure in place, instituting large caps can have latent consequences, many of which can be seen in the California "experiment" (e.g., increased crime rates, increased jail populations, heavier probation workloads) (Petersilia 2014; Petersilia and Cullen 2015). Just as occurred with the deinstitutionalization of mental health hospitals in the 1970s, when the proper planning and resources required to deal with individuals released into the community are not in place, unintended harms become almost a certainty (Torrey 2014; Petersilia and Cullen 2015). However, that does not mean that the downsizing of prison populations through CPU systems is not a viable option. Rather, caps likely need to be instituted incrementally over time to allow community corrections to adjust accordingly.

*Option 2 for Reducing Prison Use: Cap-and-Trade System.* The second option is a cap-and-trade system. As in the CPU system, a cap is set by the state and, if counties exceed the cap, they are then forced to pay for any additional person they sentence to prison. However, the cap-and-trade system expands the CPU approach by creating incentives for counties that do not reach their cap level (Jonson, Eck, and Cullen 2014, 2015). The CPU system relies primarily on a "stick" approach and punishes counties for exceeding their cap. There is no acknowledgment that local jurisdictions may not exceed their limited allocation of prison beds. This insight is the basis of the cap-and-trade approach: it uses both a "carrot" and "stick" approach. Specifically, counties that do not use their entire cap of prison sentences can sell their remaining prison space to other counties.

For example, County A may have reached their cap of 500 people that they can send to prison at no financial cost to the county. Unfortunately, County A wants to sentence 50 more offenders to the state penal system but cannot do so cost-free. The cap-and-trade arrangement creates a potential solution. For example, County B may have a cap of 200 people and may have "only" incarcerated 150 offenders in state facilities. Under the cap-and-trade system, County B could sell to their surplus of 50 beds in prison—at a cost less than the state per-prison-bed-space fee—to County A to cover the latter's deficit of 50 prison beds. County B could then use that money to augment their community correctional programming, treatment facilities, or other local needs. County A then is able to incarcerate all offenders that it wanted and is able to do so at a lower cost than the state would have charged. The prison population does not rise beyond the levels of the state-wide cap because all the prison beds allocated to counties across the state has not changed; the only change is that some counties are incarcerating more than anticipated while others are incarcerating less (Jonson, Eck, and Cullen 2014, 2015).

Under this cap-and-trade system, judges and prosecutors are still held accountable to the public because there is a fiscal punishment associated with exceeding the cap set for the county, either by having to pay the state or having to pay other counties for surplus prison beds. With cap-and-trade systems, however, additional pressure and incentives exist to take measures to avoid the cap level. The pressure exists in the form of costs: counties that exceed caps will have to pay for additional state prison sentences. The incentives exist in the form of opportunities to increase local revenue by selling surplus prison bedspace to other counties.

To date, evidence suggests that the cap-and-trade approach can be successful when attempting to reduce environmental pollution (Furman et al. 2007; Stavins 2008). Whether it can be effective in reducing excessive or unnecessary imprisonment remains largely unknown. However, as with the CPU option, a central benefit is clear: states and counties would be forced to adopt more explicit criteria for when exactly certain punishments—including prison and various community corrections sanctions—are appropriate and effective.

*Option 3 for Reducing Prison Use: Rebating and Charge.* Option 3 differs markedly from the first two options. Unlike CPU systems and cap-and-trade systems, a rebating and charge approach does not set a cap on prison populations for the state. Instead, the state correctional budget, minus a small portion for the state administration costs, is given to—or "rebated"—to communities on a per capita basis. In other words, counties receive the state correctional budget and must manage it themselves. Since no caps exist in this framework, counties must pay the entire cost of incarceration for each individual sentenced to a state prison. If the local jurisdiction cannot pay for the incarceration—if the funds do not suffice for such a penalty—the offender does not does not serve time in a state facility, at least in those cases where state law allows for a non-incarcerative sanction (Jonson, Eck, and Cullen 2015). It is akin to a parent sending a child to boarding school. The parents must pay for the youth to attend the school; if they do not, the child is no longer granted admittance. Clearly, the youth still must be educated, just not at the boarding school. Likewise, if counties cannot afford prison, they must punish the offender, just not with a prison sentence. Instead, they must take recourse in some type of community-based correctional sanction. A final proviso is critical: if counties exceed the funds that they receive from state coffers, they must pay the difference with local tax revenues (Jonson, Eck, and Cullen 2015).

Under this system, it is possible that some counties may not spend all of their allocated funds to incarcerate offenders in the state penal system. In this case, the county would be able to retain the surplus funds (Jonson, Eck, and Cullen 2015). The state could allow the retained funds to be utilized by the counties in one of two ways. First, states could mandate that the county use the funds for criminal justice related purposes. This could range from improving probation services to creating treatment programs or funding crime prevention initiatives. Second, the state could allow the counties to use the surplus funds for any governmental service that they see fit. Thus, the money could be used for roadways, schools, public transportation, or criminal justice services if deemed as necessary (Jonson, Eck, and Cullen 2015). The first use arguably would better help achieve the goal of reducing prison populations because it would promote crime prevention and development of more cost-efficient approaches to punishment.

This strategy has yet to be implemented and so its effectiveness remains largely unknown. Here, again, though, it constitutes an approach that at a minimum would force states and counties to develop more explicit criteria for when various punishments are imposed. As with the CPU and cap-and-trade approaches, local jurisdictions have "skin in the game." This dynamic would appear necessarily to induce greater care and thoughtfulness in determining the precise conditions under which various sanctions are imposed. Under the rebate-and-charge approach, for example, counties no longer would receive prison space for free. Rather, they would have to pay the costs for each individual deemed appropriate for a prison term. This responsibility appears likely to force local officials, as well as judges and prosecutors, to use prison only when it is absolutely necessary or constitutes the most cost-efficient approach to reduce recidivism (Ball 2014). Simultaneously, it would prevent counties from willy-nilly wasting state resources on prison when alternatives might be more appropriate and cost-efficient.

For any of these option to be implemented and be effective, many details would have to be identified and surmounted (for a discussion, see Jonson, Eck, and Cullen 2015). Two considerations, however, merit special attention. First, equity is one objection to incentivizing justice: given that their capacity to purchase extra prison beds would be limited, poorer counties would be less able to imprison their offenders. This concern is obviated because many high-crime, impoverished communities marked by concentration of crime are located in counties with a broad tax base. But even if this were not the case, limiting the use of prisons in poor, minority areas should be seen as a policy success (see Clear 2007). In fact, the inability of local counties to afford so-called million-dollar blocks may be one of the few ways to counteract the disproportionate use of incarceration by race and class.

Second, the incentive system being proposed is intended to be dynamic, not static. The goal is the planned reduction of state prison populations over time, with caps or funding levels gradually lowered each year. Periods of declining crime rates present a special opportunity to cut allocations. Indeed, as one commentator pointed out, retaining current levels of support as crime ebbs and system inputs (arrested offenders) decrease might create a perverse incentive to exploit these extra resources to incarcerate more. In the end, policymakers would have to keep their eyes on the prize: use the incentive system wisely to reduce state prison populations meaningfully so as to divert a greater proportion of offenders into community corrections.

In summary, although exceptions exist (Mauer and Ghandnoosh 2014), most recent efforts undertaken by states to reduce their prison populations have met with limited success (Rushford 2012; Austin et al. 2013; Gottschalk 2015; Turner et al. 2015). Complex factors undoubtedly have played a role at restricting these reform efforts. Still, a central reason that has gone largely unaddressed is the "tragedy of the commons"—that is, the near-lack of barriers to local jurisdictions using prison as they see fit. Prison has largely been a free resource for local jurisdictions. To the extent that this approach has resulted in excessive or needless incarceration—in cases where more effective and cheaper approaches exist—it needs to be changed. Calling for reforms alone will not likely work. Rather, what is needed is an institutionalized structure for incentivizing "smart" sanctioning—that is, the imposition of cost-efficient punishments. CPU, cap-and-trade, and rebate-and-charge all provide a model for how states might go about institutionalizing such a structure and, at the same time, promoting more explicit, evidence-based discussions about appropriate and effective sanctioning. In the end, such efforts are likely to bring much attention back to the community and how the local justice system and programs can become priorities when thinking about crime control. This focus will do much to create the impetus to take seriously the need to reinvent community corrections.

## II. Focus on Reducing Recidivism

From its inception, legal intervention by states in America was envisioned as a reformative enterprise, with the first prisons in the 1820s being termed "penitentiaries" (Rothman 1971). Probation and parole systems were invented in the Progressive Era with the idea that officers would not only supervise but also help and change their charges (Rothman 1980). Today, the emphasis on saving offenders remains in place. For example, California calls its agency the Department of Corrections and Rehabilitation, whereas the Florida Department of Corrections prominently announces it purpose on its webpage as "Changing Lives to Ensure a Safer Florida." Nearly all other states employ similar language; by contrast, there is no Ministry of Justice that proclaims "Punishing Offenders to Ensure Just Deserts."

Ironically, a wide gap exists between the embrace of the name "corrections" and pursuing a mission in which offender recidivism is an abiding concern. Of course, no official would say that reoffending is unimportant, and such officials could point to a range of treatment programs administered by their agency (see, e.g., Cullen and Jonson 2011). But this is not the same as carefully monitoring recidivism rates and organizing correctional agencies to address this issue as their number 1 priority. As noted, recidivism rates in corrections have, for the most part, remained relatively stable and intractably high for generations (Langan and Levin 2002; Durose, Cooper, and Snyder 2014; Mears and Cochran 2015; Jonson and Cullen 2015). This empirical realty suggests either that recidivism rates are immutable or that no real effort has made to diminish them.

In section I, we endorsed the chief premise of the current campaign to reverse American mass imprisonment: more offenders should be placed in the community than in custody. Underlying this policy is the assumption that the community is a place in which offenders can be sanctioned without jeopardizing public safety. In fact, the collateral claim is made that prisons are criminogenic—schools of crime so to speak—and that, by contrast, community corrections

can be more effective in delivering interventions and lowering reoffending. This claim is plausible but remains largely speculative. At some point, community corrections is going to have to demonstrate its efficacy in reducing recidivism, or it will risk losing its legitimacy. The following kind of argument, which appears in Bennett, DiIulio, and Walters's (1996) *Body Count*, will inevitably be forthcoming. Discussing "community-based violent convicts," they note—among a variety of statistics cited—that "together, probation and parole violators committed 90,639 violent crimes while 'under supervision' in the community" (1996, p. 185). Of course, corrections by its nature cannot be risk free. Still, a strong case needs to made that a reinvented community corrections takes recidivism seriously and is not merely a dumping ground for offenders that are no longer being sent to prison—but perhaps should be there. Toward this end, section II offers four recommendations for taking the reduction of recidivism more seriously.

*Recommendation 4: Hold Correctional Officials Accountable for Lowering Recidivism.*

The main reason why recidivism rates are not reduced for probationers and parolees is that nobody's job requires them to do so. Many people who work in corrections truly care about offenders and want them to be rehabilitated. So, the will to save supervisees is present. Admittedly, at one point, it was widely believed that nothing works to change offenders (see Martinson 1974). But this doctrine has been replaced with increasing knowledge about effective correctional intervention (Cullen and Gendreau 2001; MacKenzie 2006; Andrews and Bonta 2010; MacKenzie and Farrington 2015). Indeed, the rise of evidence-based corrections has created unprecedented opportunities to use science to reduce recidivism (MacKenzie 2006; Cullen, Myer, and Latessa 2009).

Many excuses—to be fair, many substantive reasons—exist for why recidivism seems beyond anyone's control. For one thing, offenders are difficult to change. Without the allocation of more resources, intervening effectively is a daunting challenge. Mass imprisonment and high community corrections caseloads mean that offenders do not receive the treatment they merit. For another thing, corrections is a multi-level system—state and counties—and thus there is a diffusion of responsibility. Who should be held responsible when reoffending occurs? Wardens? Chief probation officers?

A more subtle barrier also exists. Most research on correctional rehabilitation focuses on treatment *programs*. For example, there is fairly ample evidence that deterrence-oriented programs are ineffective whereas cognitive-behavioral therapy programs are effective (MacKenzie 2006; Lipsey and Cullen 2007; Lipsey 2009; Andrews and Bonta 2010). But how useful is this knowledge to reducing recidivism in a community corrections agency? On the positive side, administrators might be aware that cognitive-behavioral therapy is a preferred treatment modality. But this does not mean that they truly understand what the therapy entails, can train their staff in its use, and are capable of implementing a program that achieves high treatment fidelity. If they decide not to use this therapeutic approach or institute it in a flawed way, recidivism among their supervisees is likely to remain high. Importantly, these officials will suffer no consequences. They will keep their jobs.

But an alternative option exists: hold correctional officials accountable for reducing recidivism (Cullen and Gilbert 1982; for a discussion of issues, see Cullen, Jonson, and Eck 2012). Performance indicators are used in a number of businesses. For example, consider sales managers who each year are given goals and whose profit margins are tracked carefully. In turn, the managers monitor the performance of their sales force. Employees across levels are held accountable for reaching projected outcomes. If they do not, there are potential consequences, including demotion and termination. But if they do, there are rewards—bonuses, trips to vacation destinations (e.g., Hawaii), raises, and promotions. A culture of performance and accountability permeates the organization. It is largely accepted because the overriding goal of the company is, after all, to sell products and to make money.

In a similar way, recidivism reduction should be defined as the core goal of corrections, including of community-based agencies. Wardens and prison staff as well as probation and parole chiefs and their officers should all be judged on whether offenders who pass through their organizations return to crime. Information systems will have to be developed to track returning prisoners and to track probationers. One key challenge is to develop the capacity to calculate recidivism rates by the individual caseloads of probation and parole officers. Similar to members of a sales force, their performance should be measured. Another challenge is to ensure that correctional personnel cannot influence outcome measures. When accountability is heightened, strong incentives emerge to game the system to produce favorable results. The most obvious recent example of such gaming is the widespread cheating scandal, found in nearly forty states and culminating in the conviction of eleven educators in Atlanta, in which teachers manipulated standardized test scores to meet the performance demands of the "No Child Left Behind" Act (Strauss 2015). In corrections, the risk of gaming is perhaps highest in those instances where recidivism measures would include offenders revoked for technical violations—a metric that probation and parole officers could influence by their enforcement decisions.

To be sure, complaints and excuses will be plentiful. But four responses are possible. First, correctional agencies have shown a clear ability to hold staff accountable when wishing to achieve other goals. The issue thus may not be accountability but the priority placed on goals—so the debate here is really over the value of reducing recidivism. For example, in recent years, states have imposed an increasing array of "user fees" on probationers—including payment for court and prosecution, having had a public defender, electronic monitoring, drug tests, and mandatory treatment (Bannon, Nagrecha, and Diller 2010; Corbett 2015; Reitz 2015). As Reitz (2015, p. 1762), probation officers have been turned into "bill collectors," with some agencies reporting "that they receive as much as fifty percent of their budgets through the collection of user fees." With much at stake, staff are pressured to collect fees as scheduled. This comment from a retired director of two county probation departments in Texas is telling:

> I am aware of some probation departments where more emphasis is placed on probation officer collection rates than probation success rates. In fact, in some probation departments a monthly report was posted ranking probation officers by the amount of their collections. (Quoted in Corbett 2015, p. 1712)

Second, on a broad level, corrections is a profession and its members have an obligation to improve their performance (Latessa, Cullen, and Gendreau 2002; Cullen 2011). Lives—of

offenders and potential victims—are at stake. Continuing existing practices ad infinitum is not defensible. Further, merit should matter, so that those who do their job more effectively should be rewarded with raises and promotion. To avoid strong organizational opposition, we would recommend creating positive incentives for those who achieve reductions in recidivism (e.g., incentive packages such as vacation trips and bonuses—often awarded to sales forces by companies). Only after employees have been given ample time and training to be successful should consequences involve demotion and, rarely, termination. Accountability must be undertaken in a fair and supportive way.

Third, admittedly, real barriers to reducing recidivism may exist, such as a lack of resources and a warden's inability to control the quality of correctional intervention for offenders following release. These constraints should be considered in evaluating what performance is possible. Still, the idea that nothing can be done to improve current standards of recidivism is absurd. As with virtually any organization, correctional management matters and is capable of producing differential outcomes (DiIulio 1987). Although utopian outcomes are beyond reach, incremental advances are not.

Fourth and perhaps most important, accountability will incentivize efforts to reduce reoffending. To start with, custodial regimes tend to produce a workforce with a correctional orientation and related skills that are control oriented (see, e.g., Kruttschnitt and Garner 2005; Page 2011). Having to achieve behavioral change, however, would motivate officials to hire and promote staff that valued offender treatment and possessed human services skills. Similarly, when contracting with vendors to supply rehabilitative services (e.g., substance abuse treatment for probationers), they might now select providers with proven track records of success and write performance standards into contracts. They also might pursue the use of social impact bonds in which companies bid for treatment contracts and are paid only if they reduce recidivism a promised amount. More broadly, accountability will prompt officials to build an organization capable to delivering quality treatment services. "The time has come to face the stark realization," observe Paparozzi and Schlager (2009, p. 431, emphasis in original), "that program success may have less to do with the state of available knowledge than with the need to conquer the following long-standing, heretofore ignored problems associated with *organizational capital*: leadership, professionalism, organizational dynamics, and politics." They then make three bullet-point recommendations consistent with an accountability perspective:

- Articulate specific core competency and credential requirements for hiring staff.

- Develop training and staff certification in offender treatment and community collaborations that balance offender rehabilitation and social services with enforcement functions.

- Establish management information systems and staff performance evaluations that reflect a commitment to short-term risk management *and* long-term behavioral reform as primary organizational goals. (2009, p. 431, emphasis in original)

This kind of perspective would encourage the use of assessment strategies to improve organizational performance. The goal would be not only to increase officials' accountability but

also to provide guidance on where deficiencies might exist and how to rectify them. We can give two examples. First, based on the risk-need-responsivity principles of effective intervention, the Correctional Program Assessment Inventory (CPAI-2000) is a 141-item inventory that can be used to assess the extent to which correctional *organizations* are arranged to deliver effective treatment (Gendreau and Andrews 2001; Andrews and Bonta 2010). On-site evaluators use the inventory to evaluate the agency's adherence to effective intervention principles and practices in eight domains, each assessed with a corresponding subscale: organizational culture, program implementation/maintenance, management/staff characteristics, client risk/need practices, program characteristics, core correctional practice, interagency communication, and evaluation. Scores on the CPAI are predictive of offender recidivism (Lowenkamp, Latessa, and Smith 2006; Andrews and Bonta 2010; Cullen and Smith 2011). The broader point is that this information can diagnose areas of organizational strength and weakness and thus be used to direct changes in an organization that could enhance treatment effectiveness.

Second, when cases have an adverse outcome in medicine, they may be examined to determine the reason for a patient death and whether it was related to the quality of care. Called "mortality and morbidity reviews"—or MMRs—these conferences provide "clinicians with an opportunity to discuss medical error and adverse events" (Smith, Labrecque, et al. 2012, p. 3). The intent is not to discern malpractice or ascribe individual error but to improve the physicians' capacity to deliver effective treatment. Attention is focused less on mistakes individuals might make but on "broader, system-level processes and deficiencies" (p. 3). Smith, Labrecque, and colleagues (2012, p. 3) have called for the development of a similar "structured approach" in corrections to learn from "unsuccessful probationers." Mirroring the field of medicine, they have identified the steps to be used in a "case review conference," with a focus on juvenile probationers who have recidivated. The goal of this conference is to identify "key factors that resulted in adverse outcomes for the youth" in question, "to acknowledge and address reasons for possible errors," to discuss how to improve case management, and to emphasize individual and collective "accountability for providing high quality interventions to youth and their families" (2012, p. 3). A key task in this review is to discern the factors that contributed to an offender's recidivism and to develop an "action plan" that provides "practical solutions" to the errors detected (p. 3). The broader purpose is to improve organizational knowledge, policy, and practice so as to ensure that preventable errors are avoided and greater treatment success is achieved in the future.

The larger point is that correctional administrators and staff must be incentivized to see supervisees' recidivism reduction as their responsibility and to engage in efforts to achieve this end. Unless this fundamental cognitive shift occurs, it is difficult to see how community corrections agencies will improve their crime-reduction performance. Ironically, correctional administrators and staff may engage in thinking errors—techniques of neutralizing such as "denial of responsibility"—that excuse their lack of performance. Some of these excuses have a basis in reality, of course, and the task of renovating community corrections and focusing on effectiveness is a daunting, if not revolutionary undertaking. Still, saving offenders and reducing recidivism is the core goal of community corrections. Lack of performance is a recipe for welcoming a return to incapacitation, since the failure to change offenders in the community is a powerful rationale for locking them up.

In a very real sense, corrections must take a lesson from policing, which at one time was mired in its own "nothing works" period and accompanying occupational ideology that officers could not impact lawlessness (Sherman 1993). In a remarkable change, law enforcement is now infused with a diversity of models that focus on police effectiveness in reducing crime. Weisburd and Braga (2006) have divided this reform effort into eight models of policing: community, broken windows, problem-oriented, pulling levers, third-part, hot spots, Comstat, and evidence-based. Policing scholars usefully debate the fine distinctions among these strategies and their relative effectiveness. For our purpose, however, the issue is broader—that police leaders have embraced crime reduction as a central goal of their agencies and expect to be evaluated in this regard. In fact, they often tout their role in reducing crime and in enhancing public safety (Zimring 2012). These claims should be carefully scrutinized, but the key point is that police officials do not throw up their hands in futility and argue that they should not be held responsible for the level of crime in their community. Accountability and a sense of organizational efficacy are palpable. They should be for leaders of community corrections agencies as well.

Notably, some steps are being taken in this direction. Perhaps due to the ostensible success of its police department, MacKenzie (2011, p. 122) reports that the New York City Department of Probation has developed "a version of Comstat, called Statistical Tracking, Analysis and Reporting System (STARS)." STARS compiles information on probationers, tracking data on arrests. Managers have monthly face-to-face meetings where the performance of districts are assessed and plans for future actions are considered According to MacKenzie (2011, p. 123), several other jurisdictions have implemented similar "Comstat-like information management systems."

Finally, these considerations have implications for accountability within correctional institutions and for prison officials. Each year, more than 600,000 are released from prison after having served an average sentence of about two and one-half years (Mears and Cochran 2015; Jonson and Cullen 2015). That is a long time. Few prison systems document that inmates improve. That situation on the face of it defies logic. Prison is expensive and presumably should improve inmates. Those who walk in the front door typically have deficits along many dimensions: education, work history, mental health, physical health, conflict management skills, and life skills. That could be viewed by prison officials as intimidating. It is. On the other hand, inmate deficits typically are so great that improvements can be easier to create. And, in the end, even small improvements along these various dimensions might yield substantial improvements in reentry outcomes, including recidivism. Put differently, prisons should not be given blank checks—they should be required to document that inmates are improved on the day that they leave prison as compared to the day that they arrived at prison. Phrased more broadly, accountability should be a guiding principle across the correctional system (Cullen, Jonson, and Eck 2012).

*Recommendation 5: Practice Evidence-Based Supervision.*

On any given day in the United States, nearly 5 million offenders are under community supervision (Kaeble, Maruschak, and Bonczar 2015). It is remarkable that we need to recommend the use of "evidence-based" supervision because this plea is pregnant with the

dismal truth that most supervision is guided by something else. At its best, this "something else" might be insider knowledge gained from years of observation and carefully drawn insight. At its worst, supervision is based on correctional quackery—practices rooted in misguided personal insights and bureaucratic convenience (Latessa, Cullen, and Gendreau 2002; Cullen, Myer, and Latessa 2009). It is remarkable that the concept of "evidence-based corrections" did not surface until this century (Cullen and Gendreau 2000; MacKenzie 2000, 2006). It is unclear how much of correctional practice has been touched by the requirement that interventions should be based on science.

Fortunately, a movement has emerged to use evidence to guide the supervision of probationers and parolees. Four avenues to advance the evidence-based supervision of offenders can be identified. Although offering distinct insights, these avenues all emphasize doing offender supervision well—using a skilled human services approach. There are no free lunches with difficult populations, something that skilled probation officers understand. That is an important message. Doing more community supervision "wrong" ultimately is ineffective and leads policymakers to call for "fixes," such as more incarceration, which is self-defeating.

First, the risk-need-responsivity (RNR) model was originally conceived to guide the delivery of treatment *programs* to offenders. But what about the time that probation and parole officers spend with offenders when supervisees report for office appointments? These meetings might last at most a half hour. If no problems are apparent, the visit might be pro forma and end quickly. If problems are apparent, the officer might supply some encouragement, broker a treatment placement, or perhaps try to scare the offender straight with the threat of revocation. However, the idea that these brief office sessions might play an integral role in offender treatment might seem somewhat farfetched.

In an important innovation, Bonta and colleagues have argued that officer-supervisee visits could be restructured so as to advance treatment outcomes—that supervising officers should move from engaging "case management" to being a "change agent" (Bourgon, Gutierrez, and Ashton 2011; see also Dowden and Andrews 2004; Lowenkamp, Alexander, and Robinson 2014; Kelly 2015). Bonta et al.'s (2008) meta-analysis of 15 studies published between 1980 and 2006 revealed that community supervision had minimal impact on recidivism. The effect size of supervision on "general offending" was only 2.2 percent and for "violent" offending it was null. "On the whole," they concluded, "community supervision does not appear to work very well" (p. 251). A fresh approach was needed. Building on the core correctional practices identified by Dowden and Andrews (2004), they termed their innovation the "Strategic Training Initiative in Community Supervision" or "STICS" (Andrews and Bonta 2010).

Assuming that an office visit would last 25 minutes, Bonta and colleagues set out to devise a strategy for how this time might be used to effect behavioral change. Not surprisingly, the starting point was to build this initiative based on their risk-need-responsivity treatment model. "In designing STICS," observe Andrews and Bonta (2010, p. 414), "the challenge was how to translate the RNR model into specific, concrete actions that would be useful for probation officers." Part of this application involved focusing on higher risk cases (the risk principle). The other part of STICS, however, was teaching officers to target criminogenic needs with a responsive treatment. They discovered that probation officers tended to be "much more

comfortable with monitoring compliance to the probation conditions," brokering services, and "being supportive when clients were faced with distress and interpersonal problems" (Andrews and Bonta 2010, p. 244). What many officers failed to understand, however, was a key thesis of the RNR model—that "the antisocial behavior of their clients is under the control of the individual's cognitions and attitudes, with rewards and punishments playing a role in maintenance of the behavior" (Andrews and Bonta 2010, pp. 414-415). The STICS model thus involved the training of officers to recognize "expressions of antisocial attitudes in the clients, and how to use cognitive-behavioral techniques to replace these cognitions and attitudes with prosocial ones" (p. 415).

In the STICS model, a standard meeting with a probationer or parolee would be structured into four components. The first component, lasting about five minutes, involves a check-in to make sure that the offender faced no crises and was complying with supervision conditions. In a second component, what was covered in the last session would be reviewed and any homework that was given would be discussed. The third component, extending fifteen minutes, is where the intervention takes place. Officers might "teach the cognitive-behavioral model" or engage in "a role-playing exercise." The fourth component, assigning homework to an offender, such as trying a new behavior and seeing how it works, is intended to "reinforce the learning of new concepts, skills, or prosocial cognitions" (Andrews and Bonta 2010, p. 416).

Evaluation results for the STICS model have been favorable (Bonta et al. 2011). Eighty officers were randomly assigned to a control group or to a group that received STICS training. Sessions with 143 probationers were audiotaped and revealed that trained officers adhered more closely to RNR principles. At a two-year follow-up, the treatment group's recidivism rate was 15 percentage points lower that that of the control group. Further, the analysis revealed that recidivism increased when officers "discussed probation conditions" (2011, p. 1145). Bonta et al. (2011, p. 1146) note that this finding is "congruent with the offender treatment literature….A preoccupation with the conditions of probation, or the enforcement role of the probation officer, interferes with the establishment of a therapeutic relationship between the helping professional and the client, thereby creating an obstacle to more directive intervention."

Notably, two models similar to STICS have been developed: the Effective Practices in Community Supervision Training (EPICS) and the Staff Training Aimed at Reducing Re-arrest (STARR). Research has demonstrated the effectiveness of these supervision approaches (Robinson et al. 2012; Smith, Schweitzer, et al. 2012). These models remain beginning initiatives that merit further evaluation, especially in settings where the programs are not implemented or guided by researchers who invented them. Still, the STICS, EPICS, and STARR represent an evidence-based effort to reinvent what goes on when offenders visit supervising officers (see also Trotter 1996; Taxman 2008). They suggest that current practices have little effect on recidivism and, if they involve a focus on control and the threat of coercion, might be criminogenic. Although a wildly speculative calculation, let us assume that the average supervisee spends 6 hours a year in office visits (one half hour a month). The total time would be more than 28.5 million hours annually. At present, most of this time is devoted to bureaucratic tasks and meaningless, or even iatrogenic, interactions. The failure of community corrections to use this time more wisely is inexcusable.

Second, in the United Kingdom, Raynor and colleagues have embarked on a related initiative to assess whether supervision *skills* reduce probationers' recidivism (see also Trotter 1996; Trotter and Evans 2012). The Jersey Supervision Skills Study (JS3) examined 95 video-recorded interviews between probation staff and offenders. The goal was to determine whether skills used in one-on-one sessions impacted reconviction. Research in this area is limited which, as they note, is "surprising since one-on-one contact is the main method used to supervise millions of people subject to probation and similar community sentences worldwide and has been since the origins of probation in Massachusetts a century and a half ago" (Raynor, Ugwudike, and Vanstone 2014, p. 235, see also Raynor and Vanstone 2015). In a similarly telling observation, they point out that in the United Kingdom, probation work came to be seen mainly as channeling offenders into evidence-based programs. By contrast, the "idea that offender management and personal supervision could themselves be agents of change was barely considered, in spite of the fact that this was what most offenders under supervision actually received most of the time" (2014, p. 235)

To code the use of appropriate skills during interviews, Raynor et al. developed a 63-item instrument composed of nine "clusters." These components fell into two general categories—those involving relationship skills (set up interview, non-verbal communication, verbal communication, effective/legitimate use of authority) and those involving "structuring skills" that were "intended to influence or change thinking and behaviour" (motivational interviewing, pro-social modeling, problem solving, cognitive restructuring, overall structure of the interview) (2014, pp. 239-240; see also Raynor and Vanstone 2015). Notably, offenders who had interview sessions with staff manifesting higher levels of skills had a lower reconviction rates over a two-year period. Evidence-based supervision thus is a promising avenue of reform. As Raynor and colleagues conclude, "the difference in reconviction outcomes is marked, and greater than many treatment efforts reported for programmes" (2014, p. 241).

Third, Skeem and colleagues have argued that the *quality of the relationship* between supervising officers and offenders is a key ingredient to reducing recidivism (Skeem et al. 2007; Kennealy et al. 2012; Manchak, Kennealy, and Skeem 2014). In identifying five core correctional practices to be used in offender supervision, Dowden and Andrews (2004, p. 205) observed that "arguably the most important" fall under the category of "relationship factors" because these are the conduit through which officers exert "interpersonal influence" on their supervisees. Studies from the general therapeutic literature demonstrate that beyond treatment modality, a therapeutic alliance is central to positive outcomes (Dowden and Andrews 2004). Notably, Skeem and colleagues recognized this important consideration, noting that "research indicates that a high quality therapist-client relationship or 'alliance' is the strongest controllable source of variance in clinical outcomes, explaining substantially more variation than specific models like cognitive-behavioral or interpersonal techniques" (Kennealy et al. 2012, pp. 496-497).

At issue, however, was what the relationship should be between of officer and an offender. In the traditional supervision role, "probation and parole officers" have had "dual roles: they function as both counselor and cop" (Kennealy et al. 2012, p. 497). From the available research, however, these roles typically were not being performed in a way that reduced reoffending. Skeem and colleagues (2007, p. 397) proposed that officers needed to

“blend care with control” through a quality relationship with offenders. The goal of care would be achieved by establishing a “therapeutic alliance” that “emphasizes a patient-therapist bond, mutually-agreed upon treatment goals between therapist and client, and how the therapist and client work together to achieve these goals in therapy” (Manchak, Kennealy, and Skeem 2014, p. 57). The goal of control was more complicated because of the tendency in corrections to use punitive and coercive practices. Instead, Skeem and colleagues argued that control should be based on the principles of procedural justice in which they are given “a voice,” treated with respect, and punished in a firm but fair manner (Manchak, Kennealy, and Skeem 2014, p. 63). To test these ideas, Skeem et al. (2007, p. 496) developed the Dual-Role Relationships Inventory (DRI-R), a 30-item instrument that assessed the extent to which the officer-offender had a “firm, fair, and caring” relationship. Importantly, as measured by the DRI-R, relationship quality was found to protect against supervision failure, with a high score inversely related to such outcomes as supervision violations, revocation, and rearrest (Skeem et al. 2007; Kennealy et al. 2012)

Thus, as the three developments discussed above suggest, increasing attention is being paid to how community supervision, as opposed to programs in which offenders are placed, can reduce recidivism. Evidence is growing that probation and parole officers can use office meetings with supervisees to effect behavioral change. Following in the general guidance on the use of core correctional practices identified by Dowden and Andrews (2004), these initiatives involve the use of RNR principles, supervision skills, and quality relationships as conduits for effective supervision. In fact, these should be part of officers’ “supervision tool kit” (Gleicher, Manchak, and Cullen, 2013). No excuse exists for wasting office visits—for using them only to fulfill the bureaucratic requirement that offenders have a perfunctory check in with officers or, still worse, for using them to engage in coercive supervision practices that are criminogenic. Probation and parole officers should be selected for their human services talents and then should be trained systematically in evidence-based supervision practices. To make this feasible for local jurisdictions, similar to law enforcement academies, states should run correctional academies that inculcate professionalism in officers and furnish them with supervision expertise. Booster sessions, even if conducted on-line through training modules, should be available. And as noted, officers’ performance should be monitored. When problems are detected, additional training should be provided. If their performance remains substandard—if they are doing more harm than good—then officers should be shifted to another position within the organization or encouraged to pursue an alternative line of employment.

In this context, we also propose a fourth avenue for improving supervision effectiveness: *environmental corrections* (Cullen, Eck, and Lowenkamp 2002; Schaefer, Cullen, and Eck 2016). This suggestion is speculative, but it draws on the insights of “environmental criminology” or, as it has come to be known, “crime science” (Clarke 2010). Rooted in perspectives ranging from routine activity theory to situational crime prevention, environmental criminology starts with the premise that a crime event is contingent on the presence of two elements: a motivated offender and a criminal opportunity. Whereas traditional criminology has concentrated enormous effort on developing theories of offender motivation, environmental criminology’s emphasis has been on the nature of opportunity. Accordingly, to prevent crime, the focus is not on changing offenders and reducing their criminal motivation but on changing access to opportunities to offend (e.g., making targets less attractive, increasing guardianship over a potential victim).

As developed by Cullen, Eck, and Lowenkamp (2002) and as recently expanded by Schaefer, Cullen, and Eck (2016), environmental corrections seeks to bring the central interest of environmental criminology into corrections: opportunity. Evidence-based supervision models, including those based on the RNR principles, instruct officers to work with probationers and parolees to reduce their criminogenic needs and thus motivation to offend. By contrast, environmental corrections instructs officers to work with offenders to assess the specific opportunities that have contributed to their criminal involvement, to avoid these people and situations known to facilitate their crime, and to substitute structured prosocial routines. Importantly, this model rejects the approach to control found in the traditional supervision role in which offenders are assigned standard lists of supervision conditions and then are threatened with revocation to deter non-compliance. Instead, in the environmental corrections model, officers would individualize supervision conditions and then help offenders to learn how to recognize, avoid, and resist these high-risk criminogenic opportunities (for details on this model, see Schaefer, Cullen, and Eck 2016). Again, the goal is to improve community supervision by unpacking the origins of reoffending and using intervention strategies based on the best available criminological evidence.

Finally, in reinventing community corrections, the embrace of punitive regimens—such as the swift-and-certain supervision approach embraced by advocates of Project HOPE—should be resisted (Cullen, Manchak, and Duriez 2014; Duriez, Cullen, and Manchak 2014). Admittedly, a punishment system that can secure the full investment of a jurisdiction's court and correctional personnel and can focus on offenders whose misconduct can be detected with near-perfect certainty (e.g., substance-abusing offenders through drug tests) may well reduce violations of supervision conditions. But as a strategy writ large, an approach that ultimately is punitive and ignores core correctional practices is unlikely to prove successful (Duriez, Cullen, and Manchak 2014). The future of effective community supervision does not lie in a deterrence-oriented system devoted to graduated sanctions but to a therapeutic-oriented system devoted to human change.

*Recommendation 6: Use Technology to Enhance Treatment Delivery.*

The emergence of the intermediate sanction movement in the 1980s lent legitimacy to the increased use of technology in the surveillance of offenders (Byrne, Lurigio, and Petersilia 1992). For example, electronic monitoring allowed offender to be reliably confined to their homes, whereas drug tests enabled corrections officials to reliably know who relapsed into substance use. Although some uses of technology were effective, most others failed to live up to their promise (Cullen, Wright, and Applegate 1996; Renzema and Mayo-Wilson 2005; MacKenzie 2006; Harris and Byrne 2007; more generally, see Corbett and Marx 1992). But the more probing critique is that technology was seen only as an instrument of control—as a means of detecting wrongdoing. The hope, often unrealized, was that technological surveillance would be so certain as to have special powers to dissuade wrongdoing. More often, technology succeeded only in identifying offenders' failure to comply with supervision conditions and in evoking a punitive response (Burrell and Gable 2008).

We are not arguing that technology is unable to play a constructive role in community corrections, including increasing the use of appropriate control over offenders. In this regard, Berk (2012) has argued for the use of "machine learning" analytic approaches to monitoring risk (see also Berk and Bleich 2013). The idea in part is that agencies can provide real-time updates to probation and parole supervision databases and simultaneously update recidivism risk prediction. There is the potential for enabling real-time, up-to-the-minute assessments of risk and, by extension, the ability to know when supervision may be especially needed. Rather, the point is that technology should not be seen as serving only risk-management and control-oriented ends. It might also play a positive, constructive role by being a conduit through which treatment services are delivered.

In this regard, Faye Taxman, with the assistance of colleagues April Pattavina and Avi Bhati, have created pathbreaking technology called "the risk-need-responsivity simulation tool" (Center for Advancing Correctional Excellence 2015; see also Taxman and Pattavina 2013). Informed by the RNR model, they have designed the "CJ=TRACK Knowledge Translation Tool Suite." One of these tools assesses the quality of a jurisdiction's programs, whereas another assesses the capacity of an agency to provide treatment to the population it services. A third, of interest to us here, is the "individual assessment" tool that is intended to provide immediate feedback on the most appropriate type of program for a specific individual offender (e.g., criminal thinking/cognitive restructuring; interpersonal skills). A probation officer, for example, could log onto this on-line tool and complete a 17-question survey that secures information on the offender's demographics, risk level, primary needs, and lifestyle stabilizers and destabilizers. After the data are entered, the simulation immediately produces an assessment that specifies the likely recidivism rate for the individual over the next year (or for the time period specified). Most important, the report also identifies the type of treatment program that would "best fit" the offender and the expected reduction in recidivism that participating in this intervention would achieve. In case a jurisdiction does not have this program type available, a second and third best program modality are also listed (see www.gmuace/tools/). Unlike standard paper assessments in corrections, this tool would allow probation officers to update assessments for any given individual offender whenever new information was secured.

Notably, a broader movement is under way to use electronic monitoring and other communication devices as a means of "persuasive technology" (Pattavina 2009). This is a part of a general strategy that is unfolding outside criminal justice to use technology for what Fogg and Eckles (2007) have called "mobile persuasion" for purposes of "behavior change." In this regard, Gable and Gable (2005) were among the first to advocate using electronic monitoring not just for control purposes but also for "positive monitoring." The gist of their approach was to see monitoring as a mechanism that could, as the saying goes with the parenting of children, "catching them being good." By detecting when offenders were complying with supervision conditions, it would be possible to provide positive reinforcements aimed at sustaining prosocial conduct. Such positive incentives might include, said Gable and Gable (2007, p. 23), "letters of commendation, verbal praise, reduction of fines, complimentary tickets to sports or music events, and sobriety anniversary celebrations." These rewards could be given unexpectedly, again when offenders were known to be complying with their court-mandated responsibilities (see Burrell and Gable 2008).

Perhaps more important—and as is now well-known to virtually everyone—technological advances have made two-way, instant communication a standard feature of social life. Cell phones, especially text messaging, make it possible for officer-supervisee interactions to move far outside the confines of the office-reporting visit. One potential innovation would be crisis management—approximating, for example, the lifeline advertisements repeated constantly on television where a fallen elderly person can summon immediate help through e-technology. In a similar way, offenders could be trained to recognize risky moments in their lives and then be encouraged to use their cell phones or text messaging to contact officers for assistance in avoiding the choice of crime.

An even more salient possibility is to use technology to enhance the therapeutic relationship between officers and offenders (Byrne and Pattavina 2013), which, as noted above, is a key ingredient to effective intervention with offenders (Manchak, Kennealy, and Skeem 2014). Life coaches in general are known to send their clients daily messages that provide encouragement and reminders for activities to be undertaken. In a similar way, probation and parole officers would send supervisees positive messages. As Byrne and Pattavina (2013, pp. 125-126) note, these communications could provide "incentives and reinforcement on a real-time basis" and involve "contacting an offender during a risky time of the day (when he/she finishes work)." It might also be possible to develop systematic programs that use text messaging and intermittent counseling to engage in daily cognitive restructuring. This communication might involve reminders from officers and responses from supervisees. It might be possible as well to develop a "cognitive-behavioral app" that could be placed on cell phones and used by offenders to continue on a prosocial pathway. A similar treatment video game for computers could be developed well. The point, of course, is that e-technology opens up a vast array of interpersonal and treatment avenues to be explored.

In this regard, accessing the Internet through a computer creates new treatment opportunities. It might be possible, for example, for probation and parole departments to create an on-line site that is specially tailored to listing realistic job opportunities for supervisees. Similarly, on-line social networking would allow for Internet-based group counseling to occur at a time and location that was more convenient for and more attractive to offenders. Notably, outside criminal justice, there has been a "surge" in "online counseling" to address substance abuse and "problems such as smoking, depression, and anxiety disorders" (VanDeMark et al. 2010, p. 2). These interventions involve both the delivery of treatment services and programs such as "E-TREAT" that use motivational interviewing techniques to sustain clients' commitment to engage in behavioral change (VanDeMark et al. 2010). These innovations need to be adapted to offender populations, developed in an evidence-based way, and carefully evaluated. Still, the future of interpersonal interaction, whether inside or outside community corrections, will be heavily shaped by e-technology (Fogg and Eckles 2007). Explorations in this direction thus should be an integral part of any movement to reinvent community corrections.

*Recommendation 7: Create Information That Can Guide Interventions.*

Information is essential for reducing recidivism. Accordingly, we recommend that policymakers, practitioners, and the research community work to create more and better

information that can be used to develop, monitor, evaluate, and improve community corrections. This task is feasible, especially in an era in which new data and technologies exist to use and create information and, frequently, to do so in "real time." To advance this argument—and to bolster the case for our recommendation—we discuss four interrelated topics. First, we identify how information can be helpful and, indeed, necessary to improve community corrections. Second, we discuss different sources of information that currently exist to guide and assess community corrections efforts. Third, we describe the unique but largely untapped possibilities that exist to collect, in a systematic manner, new data that can guide the creation, modification, and assessment of community corrections. Fourth, we identify the need for information collection and analysis centers that are charged with undertaking the functional equivalent of systems monitoring and assessment in a car factory.

*1. Why Information Is Important for Improving Community Corrections*. It seems self-evident that information is important to decisionmaking. What, though, specifically does information allow us to do? Different frameworks exist to answer the question, but an evaluation research framework is especially useful for discussing policy, programming, and practice (Mears 2010). From such a framework, at least five distinct questions should be asked. First, is a given policy (or program or practice) needed? Second, does it rest on credible theory and research? Third, is it well-implemented? Fourth, is it effective? Fifth, is it cost-efficient?

Consider the implications of proceeding with information only about the effectiveness of a particular program (question 4) and without information about the other questions (1, 2, 3, and 5). Let us assume that researchers evaluate an intervention program and find that it reduces recidivism by 10 percent. In turn, the program is deemed to be "evidence-based," and policymakers and practitioners subsequently call for its use. Is that a wise choice? Perhaps, but not if one or more of the following hold true: (1) little need exists for the program; (2) implementation is likely to be poor, which frequently can be the case when a well-funded and monitored intervention is "exported" to other places that have fewer resources and less ability to monitor the intervention; and/or (3) the program's costs greatly exceed the benefits, or alternative investments might have yielded substantially greater returns.

This example highlights an important point: policy and practice that are guided by piecemeal information rather than a systematic body of information on a range of dimensions may be worse than no information at all. It can, for example, lead us to prioritize interventions that may be cost-inefficient and to miss opportunities to address more prevalent or serious problems that may be more amenable to intervention. The "poster child" illustration of this problem is mass incarceration. Lacking a coherent and systematic body of credible information on the prevalence of crime, its causes, the feasibility of implementing a range of interventions, and the relative cost-efficiency of these interventions, policymakers took recourse to a "silver bullet" solution—large-scale and historically unprecedented investment in prisons (Garland 2001; Tonry 2004; Cullen, Johnson, and Stohr 2014; Mears and Cochran 2015). Would they have done so with better information? Perhaps, but it seems unlikely.

An illustration of why can be found in studies of decisionmaking in diverse policy areas. For example, a study found that when electric meters in an Amsterdam suburb were placed by chance in basements and others, by chance, were placed near thermostats, residents in the latter

situation used far less electricity. Why? They could easily see how much energy they were consuming (Meadows 2008). Such examples are pervasive. People are more likely to vote when they are notified of upcoming elections, they wash their hands more frequently if visual cues to do so are placed prominently in bathrooms, they park illegally less frequently when signs are placed in easy-to-see places, and they recycle paper more often when signs remind them to do so (Mears 2014). In every instance, the common denominator involves information provision at places and times where individuals can act on it (see also Thaler and Sunstein 2008).

Would policymakers and corrections officials make better decisions with more and better information conveniently placed at their disposal? It seems likely. One example comes from a Vera Institute project on supermax prisons. The researchers provided corrections officials with information that indicated that a large number of prisoners in supermax housing were "nuisance" inmates, not the "worst of the worst" inmates. Shocked, the officials undertook a review and revisited their procedures for identifying who should or should not incarcerated in supermax housing (Browne, Agha, and Austin 2012; see also Browne, Cambier, and Agha 2011; Mears 2013). What stands out in this example is that the officials simply needed basic, descriptive information to make a significant adjustment to their policies that in turn could result in more appropriate use of supermax housing and potentially improved outcomes.

Information is not only useful for guiding policy, programming, and practice but also is critical for holding policymakers and corrections officials accountable. For example, are officials ensuring that the individuals in various community corrections interventions are being appropriately supervised and are receiving appropriate treatment? There is no accountability if that type of question cannot be answered, and it cannot be answered without collection and analysis of relevant data. The same observation holds for any community corrections undertaking. For government to be held accountable, information is needed that identifies the need for a given supervision and intervention strategy, whether it rests on strong theory and research, whether it is implemented appropriately, and, not least, whether it is both effective and cost-efficient relative to other alternative investments.

*2. Leverage Analyses of Existing Data to Produce More and Better Information.* Many approaches exist to improve the amount and quality of information available to inform community corrections efforts. A starting point begins with existing law enforcement, court, and corrections data. These can be analyzed to provide insights—that is, new information—into how well community corrections is implemented, when and how to make adjustments to community corrections, and the effectiveness of community corrections. In addition, data from each source can be readily merged with other data sources. For example, corrections agencies can use home address information of individuals on probation or parole to merge in information from the Census Bureau about the community characteristics where offenders reside and, in turn, shed light on how these characteristics may influence recidivism (see, e.g., Mears, Wang, and Bales 2014).

In many instances, simply leveraging existing data can improve decisionmaking. For example, corrections agencies could monitor county-level probation officer caseload rates and recidivism rates. Doing so could enable corrections officials to identify counties where caseload rates potentially exceed allowable or ideal thresholds and, in turn, whether recidivism rates are

affected by caseload rates. Monitoring recidivism rates per probation officer, or per county, also would enable corrections officials to identify situations where recidivism rates are extremely low or high, and then to investigate what factors may contribute to these rates. In turn, lessons may be gleaned that could be used to adjust probation practices for particular officers or in these areas and possibly elsewhere.

Creating merged data files allows for greatly expanding the range of factors that can be included to improve risk prediction. In addition, ongoing monitoring of this information can facilitate real-time adjustments to risk prediction (Berk and Bleich 2013; Mears and Cochran 2015). For example, if a parolee fails to meet an officer on a scheduled time or day, that information could be entered into a database system that in turn automatically creates a new recidivism risk score. This adjusted score would not necessarily be accurate, but on average such an approach may yield more accurate predictions than would subjective assessments by officers. In a related vein, other changes could be entered. For example, if a parolee secured new employment, his or her risk score might be adjusted downward. Such adjustments in turn can enable parole departments to allocate parole officer time in a more effective and efficient manner.

In reality, the possibilities for leveraging existing data are limited primarily by the creativity of corrections officials and their research staff, and by the resources allocated to allow for more and improved research activities. As a general matter, the guiding emphasis of the research activities should be on identifying the need for changes to policies, programs, and practices used in community corrections, the level and quality of supervision and related interventions, outcomes and impacts of community corrections, and cost-efficiency.

*3. Create New Data that Provides Better Information.* One of the central weak points in policy and program research is the lack of data specifically relevant to a given question. As an example, many risk prediction efforts to date have relied exclusively on information available in official records database systems, yet these sources frequently lack information on factors that could contribute to recidivism risk. For example, inmate visitation might well predict the likelihood of future recidivism (Cochran 2014), and so, too, might inmate misconduct (Cochran et al. 2014). If so, correctional systems ideally would collect this information (many do, but do not process it in a way that facilitates statistical analysis) and incorporate it into recidivism prediction efforts.

More relevant is the fact that many official records databases do not include information on dynamic risk factors—that is, factors that can and do change and that may influence the likelihood of future offending (Latessa, Listwan, and Koetzle 2014). In some cases, this information may be collected at particular points in time. For example, before an offender is placed on probation, a corrections department might conduct a risk and needs assessment. This assessment ideally should rely on validated instruments and approaches to risk prediction and intervention, but all-too-frequently it will not (Latessa, Listwan, and Koetzle 2014). Regardless, any such information ideally would be incorporated into ongoing monitoring efforts. That is, rather than conduct one-time assessments, agencies ideally would conduct repeated assessments to ensure that risk predictions are accurate and up-to-date so that supervision and interventions can be adjusted accordingly.

The last decade has been witness to a phenomenal growth in technologies for collecting data and an interest in doing so (see Mayer-Schönberger and Cukier 2013). For example, Apple Inc. has created cell-phone software apps that medial researchers can use to have subjects submit data, obtained through either brief surveys or sensors designed to measure symptoms (Bailey 2015). Similarly Google Inc. has recently unveiled a "smart wristband" that provides medical metrics on patients participating in clinical trials and drug tests (Nieva 2015). In the area of policing, departments are now employing software called "Beware" (Jouvenal 2016). Developed by Intrado Inc., the tool is designed to assist officers in 9-1-1 calls. By using an algorithm to "search billions of data points, including arrest reports, property records, commercial databases" (Jouvenal 2016), Beware provides officers, in a matter of seconds, with a webbased assessment of the suspect's likely threat level and with alerts to situational contingencies to "Be Aware" of (Intrado 2012).

In this context, it is possible to imagine how technologies can be used to cost-efficiently create new data that target a host of questions, answers to which could greatly improve community corrections. To illustrate, officers and offenders could be prompted to answer daily, weekly, or monthly surveys about the offender and his or her context and behavior. The surveys could be short and completed using desktop computers, smartphones, tablets, laptops, and other electronic devices, and instantly incorporated into risk assessments. Officers could be asked questions about their workload and factors that impede their ability to complete their work in a timely and effective manner. They could be asked, too, questions about their perceptions of particular offenders. Similarly, offenders—whether using their own devices or ones issued to them—could be asked about their supervising corrections officers to help hold officers and corrections departments accountable. They also could be asked questions about their housing, employment, and a range of factors that might inhibit or facilitate recidivism.

Such possibilities barely scratch the surface. Here is another illustration: offenders can be surveyed to ask them about their perceptions of different sanctions, including which ones that they would prefer or would want to avoid. Such information in fact has been collected and used to identify important possibilities. For example, studies show that many times offenders would prefer a short term of incarceration to a lengthy term of probation (May and Wood 2010). These accounts raise questions about the putative benefit of probation, and they highlight the importance of drawing on "insider" accounts—in this case, the views of offenders—to identify sanctions and interventions that might be more effective. The suggestion here is not to cater to offenders' preferences. Rather, it is to draw on information from offenders about what might, or might not, be effective for them and to check knee-jerk assumptions about what "must" be the case. In the above studies, for example, one reason that offenders sometimes would prefer prison is that a prison term carries with it more certainty. By contrast, a term of probation might result in having probation eventually revoked and then being placed in prison; better, in such a context, simply to go straight to prison. Such information could be used to inform probation policies, including decisions about how to sanction offenders when they violate certain conditions. It would not have to mean placing offenders in prison. Rather, corrections officials could adjust supervision practices in ways that would not incentivize at least some offenders to accept plea bargains to short prison terms in lieu of terms of probation.

One final illustration—policymakers frequently justify their actions based on claims about what the public thinks. Yet, all-too-frequently, these claims do not accord with reality (Cullen, Fisher, and Applegate 2000; Jonson, Cullen, and Lux 2013). It is entirely possible to rectify this situation by regularly polling the public about their views concerning appropriate punishments for and interventions with offenders. In all likelihood, responses to public opinion likely would involve more balanced approaches to punishment and intervention—which likely would be more effective in reducing recidivism—given that policymakers typically overstate the extent to which the public wants punitive sanctions.

A decade or so ago, such data collection efforts would have been cost-prohibitive to undertake. With the widespread growth of the Internet and diverse forms of electronic communication, however, it is simple and relatively inexpensive to create new data that may be of far more use in answering questions about community corrections. Here, again, new information would be most effective if channeled in the direction of answering evaluation research questions about policy, program, or practice (1) need, (2) theory, (3) implementation, (4) effectiveness, and (5) cost-efficiency.

*4. Charge a Single Entity with Information Creation and Dissemination.* Without someone—or a particular agency—charged specifically with collecting existing data, creating new data, analyzing it, and presenting information to those in positions to act on the information, there is little likelihood that correctional systems will appreciably reduce recidivism. A program or special intervention here or there, and assessment of it, will do little. Rather, if we want large-scale systems improvements, information creation, monitoring, and assessment must occur in real time so that policymakers and practitioners can act on it. Any such undertaking necessarily requires committing funds to research infrastructure. That is inescapable. In the last decade, many policymakers have called for running government like a business. To the extent that there is merit in this approach, it would behoove government to invest in research because that is precisely what large businesses do (Blumstein 2008; Mears and Cochran 2015). They collect information, analyze it, monitor their activities, pursue ways to adjust the activities to increase efficiency, and so on. By contrast, most corrections agencies in America operate with few staff and resources to support large-scale, ongoing research activities. There is no free lunch. Without correcting this situation, policymakers and corrections officials necessarily will be operating in the dark, and so take recourse to "gut instincts" and ideology. These are poor substitutes for evidence-based policy and, not least, effective community corrections.

## III. Do Less Harm

Thus far, our blueprint for reinventing community corrections has focused on two issues: How to increase the role of community corrections as an alternative to imprisonment and how to reduce recidivism for offenders who are placed under community supervision. That is, we have explored how to use community corrections more often and how to use it more effectively. Our general orientation has been that community corrections is a good resource. It is important to recognize, however, that correctional interventions can have harmful effects. In part, this is because state reactions to offenders involve punishment and the desire to inflict pain. A criminal conviction also can be a source of shame and of gratuitous exclusion from civic, social, and

economic life. Further, although Americans have long embraced rehabilitation as a core goal of corrections (Cullen, Fisher, and Applegate 2000), official ways to wipe away the stain of a criminal record have remained beyond the reach of most offenders. The challenge for community corrections thus is to identify those policies and practices that do harm to offenders and, in turn, undermine our capacity to have a good society. In this regard, we offer three recommendations for ensuring that community corrections does less harm.

*Recommendation 8: Leave Low-Risk Offenders Alone Whenever Possible.*

Labeling theory offered the key insight that state legal intervention could have the unanticipated consequence of entrapping offenders in a stable criminal career. Given this reality, Schur (1973, p. 155, emphasis in original) argued for a policy of "radical non-intervention" in which the public policy prescription was to *"leave the kids alone whenever possible."* This advice had merit but proved to be overly broad and applicable only to some offenders. Thus, labeling theory largely ignored that not all offenders were the same. Some were low risk and thus akin to "primary deviants" who would desist on their own, whereas others were high risk and akin to "secondary deviants" who would persist in breaking the law without some treatment. The theory also ignored that not all interventions were the same. Some were rehabilitative and based on sound human services principles, whereas others were coercive and based on punitive principles. The RNR model, however, takes these considerations into account. It specifies when correctional intervention will be effective (the use of responsive treatments with high-risk offenders), and when such intervention will have labeling or criminogenic effects (the use of punitive sanctions with low-risk offenders) (Cullen and Jonson 2014). Put another way, the RNR model tells us when offenders should be subjected to intervention and when, as labeling theory advises, they should be left alone.

Importantly, research is clear in supporting the "risk principle," which asserts that higher risk offenders require and benefit most from appropriate treatment interventions (Lipsey 2009; Andrews and Bonta 2010). This principle thus tells us what to do and not to do with those under correctional supervision. According to Andrews and Bonta (2010, p. 48) here is what to do: "higher-risk offenders need more extensive services if we are to hope for a significant reduction in recidivism." And here is what not to do: "For the lower-risk offender, minimal or even no intervention is sufficient" (2010, p. 48). In fact, interventions with low-risk offenders are likely to have no effect and, if punitive, are likely to be criminogenic (Andrews and Bonta 2010; Cullen and Jonson 2014).

These empirical realities have important policy implications for community corrections. For low-risk prisoners released to society, it perhaps makes sense that a period of supervision is justified to assist in the reentry process (Mears and Cochran 2015). But for hundreds of thousands of offenders placed on probation—possibly well in excess of a million or more individuals on any given day—the rationale for doing so strains credulity. Part of the reason for assigning probation is that this is the sanction allowed by the law. Laws are difficult to change, but this task is not insurmountable. The other part of doing so is custom; we have "always" given probation of offenders who do not seem candidates for incarceration. But this is a bad habit that needs to be broken (Klingele 2013).

Three strong reasons exist for not gratuitously placing low-risk offenders on probation. First, because they are not very criminogenic—there is not much wrong with them—they do not require treatment services. Any services given to them are better allocated to higher risk offenders. Second, if probation is being used as a punishment, then its most likely effect is either null or criminogenic. Why do something that does not work? And third, the chance exists that these low-risk offenders will fail to comply with their supervision conditions and will have their probation revoked. Scant evidence exists that these technical violations predict criminal behavior (Petersilia and Turner 1993). As such, surveillance on these behavioral rules (e.g., showing up for scheduled office visits) may lead to wasteful supervisory effort and to wasteful prison sentences.

Much as is the case with imprisonment, mass community corrections should be downsized dramatically (Klingele 2013; Alper, Corda, and Reitz 2016; van Zyl Smit and Corda forthcoming). Low-risk offenders should not be placed on probation where they sit for no clear purpose for one to three years—or more. Instead, we need sanctions that are brief and exact a cost—but not punitive in a way that is likely to be criminogenic. Every sanctioning option has its problems, but we are inclined to favor fines and restitution. Most often fines are "fixed" where offenders committing the same crime receive the same fine regardless of their economic status. Another possibility, used with some success in Europe, is the "day fine," where offenders are sanctioned by days and then pay the amount of wages they earn per day (Caputo 2004). Restitution has the advantage of benefitting victims, and programs have been found to be modestly rehabilitative (Lipsey 2009; Andrews and Bonta 2010). Non-compliance is, of course, a potential difficulty. To minimize this problem, courts might employ payment counselors and establish payment systems. Offenders might receive email reminders and earn financial discounts for early and/or consistent payment. If need be, overdue accounts could be turned over to collection agencies, wages could be garnished or property impounded (e.g., vehicles, cell phones, television sets), and drivers licenses or other government privileges could be suspended. For truly indigent offenders, financial obligations should be put on hold until they secure a source of income. Under no circumstance should low-risk offenders reappear in court and risk a more coercive penalty such as a stay in jail.

Finally, supervision conditions imposed on probationers and parolees, especially low-risk offenders, should be eliminated or imposed only for criminologically defensible reasons—that is, can be shown to lower recidivism (Klingele 2013; Corbett 2015). As Klingele (2013, p. 1061) observes, most of these conditions are part of a boilerplate list given indiscriminately to all offenders and "have no nexus to the individual's criminal propensities" (see also Schaefer, Cullen, and Eck 2016). They are needless restrictions that serve no rehabilitative or deterrent purpose. Worse, they can become rules that, if not obeyed, serve as the basis for revocation and incarceration. As an alternative, Corbett (2015, p. 1729) favors "zero-based condition setting." In this scheme, "the judge and the probation officer, working collaboratively to set appropriate conditions, would start with a blank sheet," proposes Corbett. "Beyond that, any additional conditions would have to be determined, in the instant case, to be necessary in the service of appropriate sanctioning and treatment" (2015, p. 1729; see also Schaefer, Cullen, and Eck 2016). Note that this approach starkly rejects the "zero-tolerance" or "broken-windows" approach advocated by Project HOPE in which standardized conditions of probation are trumpeted, violations are met with swift-and-certain sanctions, and fear-induced compliance with

supervision conditions are assumed to promote reductions in recidivism (see Duriez, Cullen, and Manchak 2014).

*Recommendation 9: Reduce the Overregulation of Offenders.*

An increasingly voluminous literature has arisen that documents the collateral consequences of a criminal conviction (see, e.g., Alexander 2010; Jacobs 2015). These penalties, which exclude offenders from an array of civic, social, and economic rights, are sometimes called "invisible punishments" because they are often unknown to the public and buried within obscure state statutes (Travis 2002). These exclusionary policies are typically applied not selectively but rather collectively, barring a class of offenders convicted of a certain crime from a given class of benefits and rights. The statutes impose disabilities on offenders that in many cases are unwarranted and do needless harm. Because minorities are particularly likely to be convicted, the resulting exclusion amounts, in Alexander's (2010) words, to "the New Jim Crow." The problems associated with these restrictions are receiving some attention. "From 2009 through 2014," note Subramanian, Moreno, and Gebreselassie (2014, p. 4), "forty-one states and the District of Columbia enacted 155 pieces of legislation to mitigate the burden of collateral consequences for people with certain criminal convictions."

Importantly, with only rare exceptions, the U.S. Supreme Court has ruled that collateral consequences tied to a conviction are not a form of criminal punishment. As Chin (2012, p. 1807) notes, the courts have determined that collateral consequences are a form of "civil regulation." To show that some type of statutory-based restriction is not punitive and thus subject to protections afforded to criminal defendants, the state has to show only that the regulation is "rational." Because the criteria for this standard are so broad, virtually any exclusionary law can be shown to "protect public safety or to promote some other aspect of the public interest" (Chin 2012, p. 1808). For example, the courts "could find virtually all employment and licensing restrictions rational, as long as the job or occupation is one for which honesty, integrity, and moral character are relevant" (2012, p. 1812). As Chin adds, "it is hard to imagine a job so insignificant and inconsequential that it could be done as well by a person of bad character as by someone who was hard working and honest" (p. 1812).

This situation creates obvious injustices, given that the line between criminal sanctions as punishments and collateral consequences as civil regulation is substantially a legal fiction. To start with, with the possible exception of a state bar association or enterprising authors seeking to publish a legal review, it is unlikely that anybody in a state—whether in the public or in any branch of government—knows what the existing roster of collateral consequences are in their state. When offenders plea bargain and enter a guilty plea in court, they are not given notice that they may experience life-altering restrictions or what these might be. There is no evidence that defense attorneys possess more than a limited understanding of the specific collateral consequences tied to a conviction and inform their clients of the rights and benefits they are forfeiting. Some efforts are being made to call attention to this indefensible and unjust state of affair, such as an effort to develop a "Uniform Collateral Consequences of Conviction Act" (National Conference of Commissioners on Uniform State Laws 2010).

Although these developments are to be welcomed, we propose a different strategy: accept that collateral consequences are a form of state regulation and criticize them for being a form of excessive governmental power. Framed in this way, collateral consequences may well be a type of regulation that both liberals and conservatives agree to oppose. For those on the Left, these "regulations" are unjust; for those on the Right, they represent state infringement on liberty. When inspected carefully, those on both ends of the political spectrum may well find that, regardless of their status in law, many collateral consequences are not substantive rational. They are damaging and serve no uniformly defensible purpose.

In reinventing community corrections, one target for change should be collateral consequences that make offender prosocial adjustment more difficult in the short term during supervision and in the long term following supervision. We suggest five steps for achieving this goal. First, states should pass a "sunshine law" mandating that all existing collateral consequences will expire automatically in five years. Only those restrictions explicitly approved by the legislature and signed into law by the governor will remain on the books. Second, similar to a sentencing commission, a Collateral Consequences of Conviction Commission—perhaps called the 4Cs—should be appointed with a diverse legal, political, and social membership. With staff assistance, the 4Cs should catalog all existing state-level collateral consequences and make recommendations on which restrictions to retain. Third, similar to the Office of Management and Budget's (2014) review of general federal regulations, the 4Cs, or a state OMB, should subject each proposed standard to a cost-benefit analysis. Placing monetary values on the benefits and harms attached to individual collateral consequences might be difficult, if not impossible. But for each regulation, a list of likely costs and benefits can be developed and evaluated so as to provide a balance sheet for the substantive rational for the proposed exclusion. Before any regulation is accepted, the burden for showing its cost effectiveness should be on those advocating for its implementation. Fourth, the legislature should pass an omnibus bill in which all collateral consequences are listed clearly. The goal should be to make the bill parsimonious and include only those restrictions that are clearly cost effective. Some restrictions might be made permanent or given a ten-year period of enforcement. Any newly proposed consequence in the future, however, should expire automatically after five years unless supported by the 4Cs and renewed by the legislature. Fifth, all collateral consequences approved by the state should available on a user-friendly website that can be easily accessed by offenders, lawyers, and the general public.

This five-point plan is utopian in that special interest groups would likely attempt to derail its development (e.g., professional societies that seek to exclude offenders from their occupation). Still, jurisdictions nationwide have already shown a willingness to increase access to expungements and the sealing of records, such as by expanding the number of eligible offenses and reducing waiting periods. According to Subramanian, Moreno, and Gebreselassie (2014, p. 13), since 2009, "at least 23 states and the District of Columbia have enacted 37 laws that increase the scope of expungement and sealing remedies." Further, the bold approach we have recommended has the advantage of being based on three coherent principles. First, a byzantine system of largely unknown and unreviewable restrictions is indefensible and manifestly harmful. Defending the current system is not possible. Second, for government regulation to be legitimate and effective, it must be able to show that its benefits outweigh its costs. If consequences are to be seen as punishments, then they can be written into the criminal

law and be subject to due process protections that such sanctions incur. In the case of a regulatory system, however, good government demands accountability and the avoidance of unwarranted intrusions on any citizen's liberty. Third, those being regulated have a right to know what restrictions are being imposed on them. They should not have to possess the skills needed to write a law review article to catalog and comprehend the barriers they face.

*Recommendation 10: Help Offenders to Be Redeemed.*

An attempt to reinvent community corrections involves not only innovation but also remembering the original social purpose of the enterprise: to "correct" or rehabilitate offenders (Allen 1981). This goal at times has been obscured by the daily demands of managing high caseloads and by a larger ideological context dominated for far too long by what Clear and Frost (2014) term the "punishment imperative." In the end, however, community corrections succeeds only when offenders are returned to society as "one of us"—as fellow citizens ready to contribute to the commonweal (Maruna 2011*a*).

The challenge, however, is whether community members are prepared to accept supervisees as truly redeemed and thus as fellow citizens free from continued mistrust. The stubborn empirical reality is that criminal history is a strong predictor of recidivism (Andrews and Bonta 2010). Public confidence would be increased if recidivism reduction was pursued more vigorously and effectively. As Jacobs (2015, p. 313) poignantly states, "persuading employers and offenders to give ex-offenders another chance" depends on the government "vastly" improving "its community corrections and prison programs, so that 'graduation' from the Department of Corrections would generally be seen to be a positive credential, or at least not such a negative credential." Alas, he adds: "We have a long way to go" (p. 313).

In any event, the challenge is how to transform the very end of community supervision into something more than a mundane transition into "ex-offender" status. Two possible avenues of reform can be suggested—one somewhat utopian and one more pragmatic. First, on a more utopian level, efforts can be made to redefine the end of probation and parole as a point of "redemption." At present, offenders completing court-ordered supervision are processed to freedom in a bureaucratic way—perhaps signing a few papers and, if fortunate, receiving a few kind words of encouragement from their probation or parole officer. Ending community supervision is conceived more as an occasion for relief—as an exercise in survival in which revocation was avoided—than as the attainment of a renewed status in society as a redeemed citizen to be celebrated. It might be possible to mark the end of supervision with a "rehabilitation ceremony" or similar ritual (Maruna 2011*a*, 2011*b*; Cullen 2013) or, as is done in some states, with a "certificate of rehabilitation" that expresses officially that an offender has been crime free and thus can be "deemed rehabilitated" (Jacobs 2015, p. 127). Indeed, openness to this kind of reform can be seen in drug and other problem-solving courts where graduation ceremonies and certificates are common for offenders successfully completing court supervision and treatment. For example, in the Pinellas County Drug Court, celebrated singer James Taylor attended the graduation ceremony honoring 100 graduates, an event that opened with children singing *You've Got a Friend* (DeGregory 2011). As this ceremony shows, the larger project is to socially construct the end of community supervision as a matter of redemption and to discuss offenders in this way. It also would be important for offenders to see themselves as having

"made good" and to embrace a "redemption script" that they can be contributing community members (see Maruna 200l).

Second, on a more pragmatic level, a number of states permit the expungement of certain criminal convictions, essentially allowing convictions to be sealed, hidden from public view, and to be treated as though the incidents never occurred (Jacobs 2015). In the Internet world of today, it is virtually impossible to hide a stigmatizing criminal identity. A quick on-line search can reveal an offender's past record within minutes, if not seconds. One of the few ways to escape such scrutiny is to have a criminal record wiped clean. Expungement is a practical way to achieve this result. Efforts should be made to expand its availability across states.

Even in states that have this option available, expungement is likely to be used by only a fraction of the eligible offenders. To be eligible, offenders cannot have committed serious or multiple crimes. Further, they typically have to wait several years following the completion of supervision to apply for a hearing with a judge. According to Jacobs (2015, p. 118), "all state expungement provisions make a substantial period of crime-free time a prerequisite for eligibility." The challenge is not just to maintain a "clean" record during this time but also to know that an expungement is possible, what life accomplishments increase the odds of earning a positive judgment, what forms must be completed, and to whom to apply. Educated and middle-class offenders are more likely to have the human and social capital to pursue this option.

Another challenge is that many jurisdictions sell their criminal records in bulk to private companies that compile massive, national databases. When expungements occur, criminal records in these databases are not always updated or updated expeditiously (Liptak 2006). It is not feasible for individual offenders to know which of the many companies in this industry have an outdated, erroneous record for them and to ensure that these venders will alter their files. Notably, the Fair Credit Reporting Act (FRCA) imposes an affirmative obligation on all credit reporting agencies, which includes these companies that report criminal background checks, to provide accurate information or to suffer appropriate legal liability (Jacobs 2015). In fact, starting in 2012, the Federal Trade Commission has enforced the FRCA, securing a series of settlements in cases against companies for furnishing inaccurate criminal history reports. Individual lawsuits, including over the failure to report expungements, also have been pursued successfully, with one class-action suit settled for $18 million (Jacobs 2015). Despite these regulatory and legal actions, companies' level of compliance with FRCA remains unknown. As an alternative, more systemic reforms should be considered. As Jacobs (2015, p. 156) recommends, "reporting information that should have sealed or expunged could be significantly reduced if states created easily searchable data-bases of persona with arrests and convictions that should have been sealed or expunged."

Nonetheless, expungement offers genuine legal redemption where an ex-offender becomes, in the face of the law, a non-offender who can say, without risk of falsehood, that he or she has no criminal record. Even in the current system, efforts should be made to inform all eligible supervisees of the expungement option. If possible, community corrections agencies that wish to take redemption seriously should work with these offenders to create a "redemption plan" in which supervisees, prior to release, develop a strategy for staying straight, for accumulating prosocial accomplishments, and for applying for expungement of their record at

the earliest date. Ideally, a redemption officer would be hired who would stay in contact with offenders in their post-supervision period (especially through e-technology) and then assist them when the time came to apply to have their records sealed. Offenders should know that community corrections staff share their redemption script that involves their leading a good life and earning their way into society's good graces.

In the long run, the expungement process might be relabeled as the "redemption process." If evaluation evidence could demonstrate that the carrot of expungement reduces post-supervision recidivism, then the availability of this legal status might be expanded to include offenders now excluded from consideration (e.g., offenders with multiple convictions or who committed a violent crime). In particular, empirical data could be cited to show that after a decade of living a crime-free life, most offenders will refrain from future illegal conduct and can be considered redeemed (see, e.g., Blumstein and Nakamura 2009).

Again, these reforms become compelling when agency staff and community members come to believe that redemption is the chief goal of community corrections and are willing to invest in this outcome materially and culturally. Redemption, through options such as expungement, is not a free lunch but must be earned. Offenders must not recidivate and must work to improve their lives. Now, however, they will know that the community is standing behind them and not as obstacles blocking their way. They will know that redemption is a real possibility and not a vacuous word found only in the pages of criminological writings.

## IV. Conclusion

Futures are chosen and not fully foreordained. The future of community corrections is not limited to a Ground Hog Day scenario where each day repeats the same events ad infinitum. New directions can be pursued. We have suggested that, by following ten recommendations, three general goals can be achieved that will contribute to the reinvention of community corrections. First, take seriously the fallacy that imprisonment is not the only "real" punishment and implement policies to make community corrections a preferred option for a larger proportion of convicted offenders. Second, take seriously the need to reduce recidivism by using evidence-based interventions and capitalizing on information systems and technology that are increasingly available. And third, take seriously the need to avoid doing harm to probationers and parolees by reducing needless coercive intervention and regulatory restrictions and by authentically helping deserving offenders to earn true redemption.

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