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ACCOUNTABILITY IN COMMUNITY CORRECTIONS

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Being accountable is being able to accurately state your purpose, the goals you set yourself in order to achieve that purpose, and to demonstrate how efficiently and effectively you are achieving those goals.

In this paper I attempt to give such an accounting of community corrections in New South Wales. With my audience in mind I have chosen to concentrate more on effectiveness than efficiency. I should perhaps stress that my paper deals with the New South Wales Service and does not purport to say or imply anything about other similar Services in other States or Territories of the Commonwealth. I do believe that nevertheless the paper deals with problems and principles which apply right across the Commonwealth.

A LITTLE HISTORY

The first Probation Service in the Commonwealth of Australia was established in the State of Tasmania in 1946. It, and Services subsequently established in other States and Territories, expanded to include parole and licence work and, in fact, to administer a growing range of offender management programmes in the community. Whilst the term Probation and Parole Officer has until recently been used in all jurisdictions, the adequacy of that title has been questioned and indications are that before long most jurisdictions will substitute the term Community Corrections Officer.

The Tasmanian and other Australian Services were modelled on and took their ethos from the English Probation and Parole Service, which had been established in 1907. In England the focus of probation work has been and continues to be TO ADVISE, ASSIST AND BEFRIEND THE OFFENDER. This has in practice meant that the English Service gives low priority or no attention at all to the other aspects of the management of criminal offenders, such as the punishment of the offender and the protection of the community. A New South Wales Probation and Parole Officer, who in 1988 completed a 12 months placement with an English Probation Service, commented as follows in his report in respect of pre-sentence report practice in that Service:

"The writer has some ambivalence regarding the effectiveness of such reports in serious offences, since the offender's claims are largely unverified and are often presented as fact." (1)

"It is National Association of Probation Officers' policy that officers always recommend an alternative to imprisonment." (2)

(1) "A Commentary on the Policy, Structure and Practice of the Kent Probation Service" (unpublished), Brad Miles, 1988.

(2) Ibid.
The Australian officer quotes one instance showing the absurdity of this policy, where in the case of a man charged with burglary, rape and buggery, a Probation Officer recommended a Community Service Order. The Court imposed a sentence of 12 years imprisonment.

The Australian officer went on to state:

"Senior Probation Officers are not involved in the vetting/overseeing of officers' reports and the senior officers' supervision of field staff's case work is predominantly centred upon client-centred casework rather than upon an overriding regard for the community. Whilst some Probation Services have established guidelines regarding minimum standards of supervision, the issues of surveillance and frequency of reporting do not dominate casework supervision by senior staff." (3)

When I became Director of the New South Wales Probation and Parole Service in 1981, I set about shifting the focus on "advise, assist and befriend", so that more attention might be given to the other vital elements of offender management and, at the same time, to make the service properly accountable for what it was doing.

The definition of purpose and goals of the Probation and Parole Service was an appropriate starting point for that exercise and is similarly appropriate for the exercise I have set myself in this paper.

Traditionally, four major goals of punishment have been put forward:

- retribution,
- deterrence,
- incapacitation,
- rehabilitation.

Each of these has a theoretical basis, the first as Ms. Kay Harris puts it (4) depending for its validity on the persuasiveness of moral arguments and the other three on the accuracy of predicted outcomes. The rationale for each of these goals is quite clearly under question in the Western world of the 1980s and the 1990s.

Pre World War II, community beliefs and morals were for the majority fairly solidly anchored in the Judeo Christian tradition. In 1988, I suggest our situation is, for the majority, thoroughly confused and many of the traditional moral arguments are either ignored or have lost their persuasiveness in the minds of most citizens.

(3) Ibid.

As far as deterrence is concerned, it has not been possible to demonstrate that levels of punishment have any effect on crime reduction. In 1986, Professor Sveri compared the use of different kinds of sanctions in England, Wales, the Federal Republic of Germany and the Scandinavian countries. He concluded -

"... the use of the various criminal law sanctions seems to be fairly unrelated to the level of crime in the various countries, at least as this is measured by police statistics on registered offences. A more severe use of sanctions is to be found both in countries with high levels of crime and those with low levels of crime - and vice versa. No tendency suggesting that severe sanctions lead to a low level of criminality can be read into the findings of the present study. It is abundantly clear that factors other than the levels of punishment are primary for the level of criminality." (5)

Incapacitation aims at reducing opportunities for the offender to commit more offences in the community. With a minority of active offenders in prison at any one time and with an indication that something like 50% of prisoners serving sentences up to two years are reconvicted within two years of their release, the incapacitation of individual offenders by determinate imprisonment clearly has very little effect on crime levels in the community. (6)

What about community correctional programmes such as probation and parole supervision? Are they reducing opportunities for offenders to commit more offences whilst under supervision?

If we take as our criterion of success the completion by offenders of their period of supervision without the releasing authority having acted to revoke the conditional liberty order, our work is very successful. Using this criterion, over the four years ending 30 June 1988 -

95.8% of probationers complete their orders,
94.1% of licencees complete their orders,
91.0% of after-care probationers complete their orders,
82.3% of Community Service Order offenders complete their orders,
81.4% of parolees complete their orders.


Those success rates do not appear to mean much, if considered against the research work done by Dr. Peter Greenwood of the Rand Corporation Criminal Justice Program in California, in respect of persons with a juvenile record. Their research suggests that "an offender is doing between 10 and 20 crimes for each arrest that shows up on his record". (7) How many undetected offences are the persons we are supervising committing whilst under supervision? We have no idea.

Research has not been able to demonstrate that any corrections programme, either in prison or in the community, contributes to the rehabilitation of offenders.

We are not able to give any effective accounting of whether or not the four major traditional goals of punishment are being achieved.

Since I am speaking of community corrections programmes, I should include two more telling quotations to confirm this grim impression:

"No broad empirical basis for asserting that the widespread use of non-custodial alternatives leads to increased, reduced or stable crime rates exists in Europe today." (8)

"... it is not possible to argue that non-custodial alternatives are less costly than custodial sanctions on the basis of the over-simple comparisons usually cited. Non-custodial alternatives can certainly play an important part in ensuring that the financial resources available to the criminal justice system are used more effectively. But this has to be demonstrated with reference to the use of specific alternatives and to specific estimates of any new costs arising. Until and unless this is done, it is impossible to pronounce with certainty upon the effectiveness of non-custodial alternatives in contributing to the efficient use of financial resources." (9)

I believe we need to redefine the purpose and goals of punishment, so that goals are achievable and so that we can account objectively for that achievement.


(9) Ibid., pages 133-134
REDEFINING OUR PURPOSE AND GOALS

The following definitions of the purpose and goals of a correctional authority can be found in a paper of mine published in 1988. (10)

"The purpose of a correctional authority is to provide to the criminal justice system a sufficient and appropriate range of correctional programmes and to efficiently and effectively manage those programmes.

The goals of each of those programmes are to appropriately ensure -

- the punishment of the offender,
- the recompense of the victim/community for the loss or damage caused by the offender,
- the protection of the community,
- the provision to the offender of opportunities to improve his or her ability to live within the law."

Whilst these goals are common to all correctional programmes, they are weighted differently across the range of such programmes.

Having offered on pages 2-4 a two minute demonstration of the fact that criminal justice systems over the years have not been able to give any satisfactory account of achievement of the four traditional goals of punishment, let me now attempt a two minute treatise on the theoretical basis for the replacement goals I have proposed.

The person committing a crime should be punished.

I am proposing that this goal be justified out of the experience of mankind that inappropriate behaviour produces unwelcome results. Society, to which citizens belong by way of some compromise of individual rights for the sake of the collectively protected rights of the members of that society, can legitimately ensure that unwelcome results follow the abuse by any individual of the rights of other citizens.

The person committing a crime should make recompense for the loss or damage caused by the crime.

Society has a right and responsibility to ensure that citizens who by a breach of the law cause loss or damage to other citizens, individually or collectively, reasonably make good that loss or damage. Whilst this principle appears to be well established in Western society, it has not been given the prominence it receives in, say, Hindu and Melanesian societies, where it is seen as essential to the restoration of the state of balance disturbed by the crime. This

is a more positive and, therefore, a higher principle than the previous one of "punishment". Indications are that Western societies are moving to give it a greater prominence in the sentencing process.

**Society should protect its citizens from those who commit crime.**

This would appear to be a basic principle underlying the formation of any society - the coming together of individuals for the purpose of mutual protection from those who breach society's requirements of its citizens.

**Society should provide offenders with opportunities to acquire the skills to live within the law.**

This can be argued as a utilitarian principle. Offenders are unlikely to learn these skills unless somebody teaches them. Also, because offenders tend to come predominantly from the marginalised under-privileged sections of society, it can be argued as the basis of redressing the disadvantaging of these people in our society.

With the adoption of the purpose set out on page 5, prison management and community management of offenders are no longer perceived as in competition, but rather as representing a range of correctional options to be selected by the Court on the basis of their appropriateness to the particular offence, the particular offender and the needs of the community. I should perhaps declare that even as the findings of the 1978 Nagle Royal Commission into New South Wales prisons sink slowly into the west, I hold firmly to the view that prisons should be used only as a last resort. It is extremely difficult to avoid the gross, destructive effect of imprisonment upon the imprisoned. Imprisonment as a general purpose correctional programme clearly seems to have been grossly inefficient and ineffective in achieving the four goals I have proposed above, with the possible exception of the first - the punishment of the offender.

**AN IMPORTANT ASIDE**

I believe that the major purpose of imprisonment should be to prevent further offences in the community by persons who have reasonably demonstrated by past behaviour that their presence in the community is likely to put the community seriously at risk. I do not see this as falling into the trap of applying the most serious form of ongoing punishment to an offender not for what he has done, but for what someone imagines he might do. Of course, I am not a lawyer. As far as the law is concerned, I represent myself as a layman who has had considerable experience in the management of sentenced offenders. It is the concerns of such a layman that I wish, by this paper, to put before the Judges I am here privileged to address.

It seems to me that the New South Wales Habitual Criminals Act, 1957, which appears to be little used by the New South Wales Courts today, sets some sort of precedence for the establishment of legislation by which the Courts have the power to declare an offender with a record of repeated offences involving serious violence (say, armed robbery
or sexual abuse) to be a grave risk to the community. Being so declared would severely limit the rights of such an offender under the law, allowing for preventative detention and release into the community, subject to a form of licence whereby the offender could be returned to prison preparatory to a further appearance before the Court whenever his behaviour showed signs of deteriorating. These offenders, established by their records of violence as posing a serious threat, are the offenders the community rightly fears and, I believe, it is out of fear of such as these that the community supports the imprisonment of other offenders, in respect of whom punishment within the community is much more appropriate.

If this view were generally adopted, I believe there would be far fewer persons in prison and that those in prison would spend considerably longer there than they currently do and, in fact, that a significant number would remain there for the balance of their lives. The management of these prisoners could then be entrusted to the care of people far more highly trained in such management than is possible with today's large and expanding prison populations.

Having held these views for some time, I was encouraged to read the ruling of the High Court of Australia in Veen v the Queen (No. 2) (1988) 62 ALJR 224. In respect of an earlier killing by Veen, the High Court had ruled in 1979 that a person could not be sentenced on the basis of what he might do in the future, only for what he had done. But in March 1988, in respect of a further killing by Veen, the High Court ruled that the protection of society was an integral factor in the imposition of a sentence.

If sentencers are to take seriously the view that imprisonment should be used only as a last resort, it is up to correctional practitioners, such as myself, to demonstrate that we can provide methods of managing convicted offenders in the community that appropriately cater for serious offenders who are not an established high danger risk in the community.

Before returning from this diversion to my paper's theme, I should perhaps add that I see the development of paid work programmes for offenders both inside and outside prison as a major means of both reducing the ill effects of imprisonment for those incarcerated as a last resort and of establishing acceptable programmes within the community for the punishment of more serious offenders. I believe that prisoners and others guilty of serious offences should work, earn award wages and out of those wages meet any fine, compensation or criminal damages payments. They should also help maintain their families and contribute to the cost of the programme under which they are being managed. Of course, there are always some prisoners who cannot and will not work, but their numbers will be minimised under a regime requiring such employment of prisoners.
KEEPING SENTENCES INFORMED AS TO WHAT WE ARE ABOUT

Given the purpose defined above, it is incumbent on the correctional authority to keep sentencers briefed on the correctional programmes it can offer the Courts and to consult fully with the judges and magistrates before introducing any new programmes to meet sentencers' needs. I don't think that we in New South Wales have done this at all well in the past. That failure was not always due to our neglecting to make an effort to consult or brief, but rather to the inadequacy or inappropriateness of that effort and the absence of mutually acceptable provisions for such processes.

In 1987 we issued "A Guide to New South Wales Corrective Services", the primary aim of the project being to put into the hands of each sentencer a summary outline of prison and community corrections. That seemed like a good move and we received a number of compliments at the time. However, I have not been made aware that judges and magistrates use it or that they find it useful. Before issuing a second edition now being proposed, we need to be advised by judges and magistrates as to how we can best fulfill our obligation to keep them informed about the correctional programmes we offer.

Traditionally, the pre-sentence report has been a means of giving the Court such information in respect of a particular offender. Let us look at accountability in respect of that aspect of our work.

ACCOUNTABILITY IN PRE-SENTENCE REPORTING

The purpose of the pre-sentence report is to provide verified background information about the offender that will assist the Court to determine an appropriate sentence. I wish to stress the word verified. The pre-sentence report contains hearsay evidence, but it should never contain uncorroborated hearsay evidence which is not declared in the report to be uncorroborated. Statements have been made from the Bench to the effect that the Court can expect from a pre-sentence report nothing more than the offender's representation of himself to the Probation and Parole Officer. That is a misconception which may be based on a knowledge of the English tradition.

In New South Wales, Probation and Parole Officers are required to keep notes on the information they have gathered in the course of a pre-sentence report investigation and to indicate in those notes what further inquiries they have made to check the accuracy of that information. Before the pre-sentence report is typed for presentation to the Court, the Probation and Parole Officer must put before his senior officer both a draft report and the inquiry notes on which it is based. The responsibility of the senior officer is to satisfy himself/herself that full and appropriate inquiries have been made, that the information has been verified and that the pre-sentence report is properly and objectively based on the investigations made.
Investigations by a Probation and Parole Officer in respect of a pre-sentence report are expected to include contact with -

- the offender,
- the offender's family/associates,
- school authorities (where appropriate),
- health authorities where the offender has been under treatment,
- employer and/or former employers,
- other significant persons in the life of the offender (for example, religious, cultural, recreational contacts),
- the arresting officer/officers.

I would appreciate it if judges and magistrates, in cases where information in pre-sentence reports appears to be particularly significant, to ask the presenting Probation and Parole Officers to indicate where they obtained the information and what steps they have taken to verify it.

The average cost of a pre-sentence report investigation meeting these standards is estimated as in excess of $250.

SOME PROBLEMS WITH PRE-SENTENCE REPORTS

There are problems in the pre-sentence report situation. The cost implies that they can only be used selectively. How is appropriateness to be maintained in that selection? There are problems in providing appropriate services to the Court in respect of those offenders in whose cases a full pre-sentence report is not required but in respect of whom some quite selective information will assist the Court.

Over a period of continuing limited resources, we have redeployed our resources so that we can provide a Court Duty Officer service to the major Courts and Court complexes. A Probation and Parole Officer on duty at the Court can make on-the-spot inquiries and advise the Court about the suitability and availability of management programmes for offenders.

Apart from these operational difficulties, there is a more intrinsic problem that could throw serious doubt on the value of the information presented in pre-sentence reports. I have summarised this problem as follows in a paper already referred to. (11)

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(11) Ibid., page 346.
"From time to time in the preparation of pre-sentence reports, it emerges that there is information which in the best interest of others should be withheld from the offender, but which should be conveyed to the court so that it might determine an appropriate sentence for the offender. Within New South Wales Court practice, these two desirables are seen as irreconcilable. What cannot be heard in open court will not be heard. The consequence is that in cases such as the following, important information in the possession of the presenting probation and parole officer will not be conveyed to the court:

* where the offender's gaining of certain information is likely to put seriously at risk the person or persons who have supplied that information,

* where the officer is in possession of relevant but prejudicial information about other parties which might not properly be revealed to the offender, or

* where the offender is mentally or emotionally disturbed and possession of certain information is likely to trigger further seriously inappropriate behaviour."

In omitting such hearsay evidence from a report made up of hearsay evidence, the Probation and Parole Officer is confronted with a very serious dilemma. The omission of such information from the report means that the report grossly misrepresents the situation as the officers' investigations have led them to assess it. This possibility, admittedly an exceptional one, could throw doubt on the value of all pre-sentence reports. If this argument is seen as a strong one, it could, given the present approach of New South Wales Courts, lead to the discontinuation of the use of pre-sentence reports.

Can a way be found for the Courts to consider such information relevant to the rights of the community without unduly prejudicing the rights of the offender?

My inquiries have indicated that in Victoria, Western Australia, the Northern Territory, Queensland and Tasmania, legislation empowers the Court to withhold the pre-sentence report or part of it from the convicted person where the Court judges that to be desirable. There is apparently no such legislative provision in New South Wales, South Australia or the Australian Capital Territory.
Section 13(2) of the Queensland Offenders Probation and Parole Act, 1980-1983 reads:

"Where a written report is made as mentioned in sub-section (1), the Court shall show a copy of the report to the defence and the prosecution unless the Court makes an order to the effect that a copy of the report or any part of the report be not shown to the convicted person, in which case a copy of the report or part shall be shown only to the convicted person's legal representatives and to the prosecution."

The Tasmanian Act, the Probation of Offenders Act, 1973, under section 5(2) provides that:

"Where a written report is received in accordance with sub-section (1), the proper officer of the Court shall show the report to the defendant and to the defendant's counsel, unless the Court after having regard to the view (if any) of the Probation Officer makes an order to the effect that the report or any part of the report be not so shown or be shown only to the defendant's counsel."

Section (5), sub-section (4) of that same Tasmanian Act contains what to me as a layman is quite an extraordinary provision -

"No objection may be taken or allowed to a written report or an oral statement received under sub-section (1) on the ground that the evidence provided by that report or statement is hearsay."

Does that give the pre-sentence report in Tasmania the value of primary evidence? If it doesn't, what does it signify? It certainly underlines a heavy responsibility upon Probation and Parole Officers to verify information they include in a pre-sentence report.

AN APPROPRIATE RANGE OF CORRECTIONAL PROGRAMMES

The above definition of the purpose of a correctional authority imposes on the authority responsibility for providing the criminal justice system with a sufficient and appropriate range of correctional programmes. Let me simply list the programmes presently available in New South Wales and indicate what to me seem to be some gaps.

2. Work Release from Prison.
3. Weekend Detention.
4. Licence and Parole supervision.
5. Community Service Orders.
6. Attendance Centres (presently available on a restricted basis).
7. Probation Supervision.
8. Fine Default Community Service Orders.
The Department is currently engaged in preparatory work for the establishment of a Home Detention Programme and a Reparation Programme and in respect of both of these the Minister has stressed the need for full and adequate consultation with the judiciary before such programmes are established. Other jurisdictions in Australia are ahead of us in these areas.

Our Minister has also indicated a strong interest in work programmes, both for prisoners and for offenders in the community. I believe that the addition of programmes in these three areas (Home Detention, Restitution, Work) will make available to the Courts a sufficient and appropriate range of community correctional programmes for the present time.

ACCOUNTABILITY IN CORRECTIONAL PROGRAMMES

As stated in the above definition (page 5), the goals of these programmes are to appropriately ensure -

- the punishment of the offender,
- the recompense of the victim/community for the loss or damage caused by the offence,
- the protection of the community,
- the provision to the offender of opportunities to improve his or her ability to live within the law.

To demonstrate that these goals can be achieved and to monitor the level of that achievement is a simple task in respect of those programmes that impose on the offender an obligation to complete specified processes. From the programmes listed above, the following clearly fall under this heading -

- Community Service Orders,
- Attendance Centre Orders,
- Home Detention Orders,
- Reparation Orders,
- Work Orders,
- Fine Default Community Service Orders.

Taking Community Service Orders as an example. The completion of a declared number of hours of work on behalf of the community would seem to constitute -

1. Punishment of the offender.

2. Recompense to the community for the loss or damage caused by the offender.
3. Only such protection of the community as involving the offender in a series of short periods of useful work and community contact can achieve.

Community Service Orders (under current legislation) are appropriate then only in cases where protection of the community is not a major concern of the Court.

4. The provision to the offender of opportunities to improve his or her ability to live within the law.

There is plenty of situational evidence suggesting that Community Service Orders, because they put an offender in touch with the community and involve him in positive work with members of the community, can probably contribute both to the development of acceptable social and work skills and to the reconciliation of the offender with this community. We have not been able to develop, as yet, any monitoring system that will indicate the incidence and dimensions of such improvement.

So, as far as Community Service Orders are concerned we, on the basis of completion of ordered hours of work, can account to the Courts and the community that the ordered punishment has been satisfactorily carried out and that the ordered compensation has been made.

On the understanding that in sentencing an offender to a Community Service Order the Court is convinced that the protection of the community is not at that time of primary importance, we do not see ourselves as under any obligation apart from appropriate work placement to account for the protection element in relation to Community Service Orders.

Without a research breakthrough in respect of Community Service Orders it is not possible to monitor that the Community Service Orders are providing the offenders with opportunities to improve their ability to live within the law. Superficially it would seem relatively simple to compare recidivism rates for persons subject to Community Service Orders with those for prisoners sentenced to prison for the same offences. There are at least two factors which must make this a research nightmare. Similar offences are not necessarily the same. Secondly, and far more destructive of meaningful results is the probability that those sentenced to Community Service Orders are those offenders who in the opinion of the sentencers are perhaps guilty of a lesser offence of the same category and those offenders who in the opinion of the sentencers are more emotionally and situationally suitable for a Community Service Order than would be a person they would sentence to a term of imprisonment.

We have improved our capacity to achieve the fourth goal, the provision to the offender of opportunities to improve his ability to live within the law, by the introduction of the Attendance Centre Programme under which offenders can be obliged or can voluntarily take up a commitment to complete certain practical courses of fixed time duration aimed at improving their ability to live within the law (social and housekeeping skills, basic literacy and numeracy, money
management, job skills and job seeking, and understanding of dependencies) and linking them into ongoing support, education and work opportunities within the community.

We can account for success in this area at this stage only at the very basic level of stating that x offenders were assessed as in need of such courses and that of such offenders y successfully completed those courses. However, data being collected as part of our Attendance Centre Programme will allow longitudinal studies to give some measure of long-term effects of involvement of offenders in the Attendance Centre Programme.

The exercise we have just completed, that of quickly considering the level of accountability for achievement of the four goals in respect of Community Service Orders and Attendance Centres, could be carried out in respect of Home Detention Orders, Reparation Orders and Work Orders.

Let me point out that the capacity of existing community correction programmes in New South Wales to provide protection for the community as far as the individual offender is concerned is necessarily less effective than is incarceration (but of course only for the period of such incarceration).

The community corrections programme with the potential to get closest to incarceration in achieving a higher level of community protection is a Home Detention Programme. Under the Home Detention Programme an offender must observe a daily curfew (in one sense his home becoming the prison for the period of the curfew). In conjunction with requirements that he be in full employment and subject to close supervision, home detention can provide a very high level of protection for the community.

It is the traditional community correction programmes of probation, parole and licence supervision that present the greatest difficulty for correctional authorities in the monitoring of efficiency and effectiveness.

In New South Wales Probation and Parole Officers are required, in submitting reports to the Courts and releasing authorities, to include their assessment of what adjustment problems the offender will experience in returning to the community and what help the Probation and Parole Service will be able to provide to assist the offender to deal with these problems. Where such information is lacking in a pre-sentence report and could be of value to the Court in sentencing the offender, I would appreciate it if the judge or magistrate would ask the presenting Probation and Parole Officer to provide such information.
ACCOUNTING FOR SUPERVISION

I have already outlined the measures we have taken toward maintaining accountability for Probation and Parole Officers in the carrying out of pre-sentence report investigations and drafting of reports. Let me now run through the steps we have taken to maximise accountability in the officers carrying out of their supervision responsibilities in respect of licencees, parolees and probationers.

We have set minimum standards of supervision for serious offenders and these standards are set out in "A Guide to New South Wales Corrective Services" as follows:

"Strict Supervision"

The following minimum standards of surveillance are to be met in respect of:

A. Life Sentence Licencees and Persons Released to Parole as Special Category Parolees

(1) The offender is required to report to the Probation and Parole Officer at least weekly for a minimum of three months after release and at least until the supervising officer has had the opportunity to make such full and thorough enquiries as will justify less regular reporting. Reporting frequency is scaled down only progressively to a minimum of monthly reporting.

(2) The Probation and Parole Officer visits the offender's home fortnightly for a minimum of three months after release. The frequency of such visits can thereafter be progressively reduced, but during the first two years of supervision must not be less than once every two months.

(3) Priority is given to these cases in the carrying out of enquiries regarding the offender's associates, employment, use of leisure time, etc.

(4) Priority is given to these cases in ensuring that commitments to be met under the order or activities to be carried out under the order, are met.

It will be appreciated that in country areas, where distances between the home of the offender and the nearest office of the Probation and Parole Service are great, strict supervision, in the terms set out above, is not possible. In such cases the Director of the Region concerned will set appropriate minimum standards.
B. Parolees other than Special Category Parolees and Probationers in respect of whom the Court specifies a need for strict supervision (e.g. offenders with a history involving violence and/or sex and/or child abuse offences of a serious nature).

(1) The offender is required to report to the Probation and Parole Officer at least weekly for a minimum of three months after release and at least until the supervising officer has had the opportunity to make such full and thorough inquiries as will justify less regular reporting. Reporting frequency is scaled down only progressively to a minimum of monthly reporting.

(2) The Probation and Parole Officer is required to visit the offender's home within a fortnight of his release and at least once per month for the first three months after release. If the offender is responding well to supervision the frequency of such visits can then be reduced to once every two months for the balance of the first year of supervision, and to once every three months for the second year of supervision."

Although in the Guide to New South Wales Corrective Services we invited judges and magistrates to specify strict supervision in appropriate cases, I am not aware that any recognizances have since been issued containing such a condition.

Much higher levels of supervision are possible. I do not believe, however, that generally speaking very intensive and sustained supervision regimes are necessary or appropriate other than in respect of programmes such as Home Detention, which are being used unequivocally as an alternative to imprisonment for quite serious offenders.

So, in order that we might be accountable in our supervision of offenders we have set minimum standards of supervision which we undertake to meet. As another means of ensuring accountability in our management of offenders, we have insisted that our officers plan their period of supervision to ensure appropriate achievement of the Department's goals in respect of that offender and that this plan be regularly monitored and reviewed by senior officers. We have redesigned our case history format to assist officers to achieve this level of efficiency and have involved all officers in training programmes to assist them to meet the Service's case management standards and account for the achievement of those standards.
In the immediate period then we are accounting effectively for our carrying out of the processes in which we are engaged. The community corrections programmes that we offer are each made up of a set of processes which constitute a correctional programme that we believe the Courts will find acceptable for a range of offenders.

Accepting that these programmes are in themselves appropriate ways of dealing with offenders we can account fully for the effectiveness with which we ensure that the processes of the programmes are carried out.

What we cannot now do and perhaps will never be able to do effectively is to demonstrate objectively that these appropriate sentences are in fact doing anything to "improve the ability of offenders to live within the law" or, to put it another way, to "reduce crime in the community". Some 15 years of service in the New South Wales Probation and Parole Service has convinced me that for the most part the offenders in the care of the New South Wales Department of Corrective Services lack the basic skills necessary for effective survival within the law in our community. For example, many lack an adequate knowledge of diet and food purchasing and preparation, are unable to effectively manage their household budgets, have inadequate literacy and numeracy skills, lack basic employment skills and come from sub-cultures that isolate them from the community. They tend to have a low self-image, low frustration tolerance, low motivation and little ability without assistance to organise positive recreation activities. They are the products of their environments. One can well argue that crime is a community problem that has its origins in the life of the community. Measures to address crime in the community should have a much wider base than the appropriate sentencing of offenders and the administration of these sentences. Preventative measures and the generation of standards in the community must be based in the general community. The burden of reducing crime in the community has in the past been largely, and largely inappropriately, assigned to the criminal justice system.

In some very specific areas Probation and Parole Officers have a very heavy responsibility to protect the community by preventing further crime. For example, if it is a condition of his supervision order that a child molester with a record of such offences not reside in a household with young children, I see the supervising Probation and Parole Officer thereby obliged to be constantly on the alert to ensure that this does not happen. Also, take the case where a Probation and Parole Officer is supervising an offender with a long history of defrauding his employers. If that offender once again obtains employment with another firm as an accountant, I see it as the responsibility of that Probation and Parole Officer to require the offender to make his record of fraud known to his employer. It has been our experience that whilst some employers will sack the offender in such circumstances, others, in full knowledge of the facts, will give him another chance. Generally speaking, however, the capacity of the Probation and Parole Officer to prevent further
offences being committed by persons under supervision is extremely limited. We cannot claim to be generally and systematically reducing crime. We claim no more than that we are responsibly managing the appropriate sentences of offenders in the community.

Nevertheless, there is something that can be done to help us improve the quality of our management of specific cases. When a Probation and Parole Officer reports to a Court that an offender with a dangerous record is failing to respond effectively to supervision, it does seem important that the Court be able to consider this report without delay and to act without delay, if action is seen as warranted. In such cases we can account quickly to the Court, but there is at present an impediment to the Court being able to respond speedily to that accounting. Let me quote a specific example. The Service until recently had under supervision a man with a long record of serious violence. Whilst under supervision over a period of a year he was charged with three further offences. Two were driving offences and were dealt with without delay. The third charge was one of violent assault. That matter was remanded a number of times over a period when the supervising Probation and Parole Officer was reporting grave concern. The man was eventually involved in a further violent incident and was charged with murder.

A solution to this sort of development would seem to be what I have already proposed on pages 6-7, i.e. a provision whereby charges of further violence against someone under supervision with an established record of serious offences involving violence must be heard without delay. If for any reason delay is unavoidable, there must be a provision for the accused to be remanded in custody pending that hearing.

Although we cannot now state that our administration of sentences delivered by the Courts is doing anything to improve the ability of offenders to live within the law, we are already collecting data which we believe will allow us to get some measure of long-term effects on what we do to improve the capacity of offenders to adjust and live within the law. We have assumed that improvements in the various areas of an offender's life, including housing, education, health, money management, social relationships and employment are legitimate indicators of increased social stability.

I believe that a dedicated effort to research whether we can become effectively accountable in this area of reformation/crime reduction will require some 10 years before answers (be they positive or negative) will convincingly emerge or will be demonstrated as beyond our capacity to devise. In the meantime, and given that that dedicated effort is maintained, I am content to rest satisfied that we are able to account quite rigorously for our objective and humanitarian administration of the appropriate sentences delivered by the Courts.
IN PRAISE OF DIALOGUE

I very much appreciate the opportunity you have given me through the good graces of the Chief Judge of the New South Wales District Court, Judge Staunton, to place these considerations before you. Let me assure you that they are matters seriously exercising the minds of Corrective Services administrators throughout Australia and New Zealand. I trust that they have proved of interest to you and that in each jurisdiction judges and correctional administrators might keep in touch to ensure the effective provision of appropriate correctional services and the most mutually acceptable approach to areas of dilemma and difficulty in development.

I believe that for a complex of reasons we have not in the past been able to make it clear to sentencers what we have seen our role to be and how we have seen it as relating to the work of the Courts. I am hopeful that in this paper I have been able to state our role clearly and that in reading it you will find it proper and consistent with your practice as sentencers. If I am not entitled to be hopeful on either count, I would appreciate your frank response.