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We're Back on Track: Preparing for the Next 50 Years

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WHAT WERE CONTRIBUTORS to *Federal Probation* writing about 50 years ago, in September 1961? That's the year that President Eisenhower warned of the "military industrial complex" in his farewell address, and NASA's Project Mercury made Alan Shepherd the first American in space. John F. Kennedy established the Peace Corps, Roger Maris broke Babe Ruth's home run record, and Joseph Heller published *Catch-22*.¹ It was an interesting year for sure, but what was going on in community corrections, as glimpsed in the September 1961 issue of *Federal Probation*?²

John J. Galvin, Warden of the Federal Reformatory in El Reno, Oklahoma, wrote about the need for a common philosophy of treatment that would bring together punishment, humanitarianism, and science. He explained that punishment alone may not be enough to change behavior. Likewise, a soft approach (he called it "an uncritical acceptance of the old dictum: "There but for the grace of God go I") by itself may inadvertently convey to the offender that he does not need to change, that his behavior is understandable given his background and circumstances. Galvin saw the need to stop "vacillating" between the two general approaches, and called for a "lasting synthesis of ideas" that employs science and would allow us "to choose differently at different times between the two approaches, depending upon the circumstances of each situation."³

Arthur E. Fink, Dean of the School of Social Work at the University of North Carolina, discussed the need for offenders to come to terms with authority and limits and take responsibility for themselves. He discussed the futility of lecturing an offender who is not ready to change. Simply telling an offender to behave himself or admonishing him for unwanted behavior brought this observation by Fink: "I am moved to observe that such an approach if not downright harmful is of limited usefulness or of no use at all, because it is based upon a misleading notion of human behavior." He pointed out that to be effective we must "engage the offender in the process of doing something about himself." We need to help the offender see the need to change and provide him opportunities to make it happen. Fink notes that the officer's approach to working with offenders:

...will depend to a great extent upon his convictions about people—his respect for them as human beings, with all of their shortcomings; his appreciation of the uniqueness of each person with whom he is working; his belief in the capacity of people to change; and his conviction that true change must come from within. As he works on these premises he can approach each of his parolees as individuals who have difficulties of a serious nature and who need help in getting themselves straightened out—and that he has the skill to help.⁴

Serapio R. Zalba, Executive Director, Northern California Services League of San Mateo County, discussed how an individual's behavior is related to physical, psychological, and social needs. Most of us satisfy our needs in socially acceptable, conventional ways. Others—those who end up in the correctional system—go about it in ways that are unacceptable to society. Zalba

makes the classic argument that "(t)he justification for treatment in corrections is the belief that delinquent actions are expressions of underlying emotional and social problems and needs." For correctional treatment to be effective, the person providing it must adhere to four concepts:

1. There must be a genuine desire to understand what the offender thinks, does, and feels from the offender's point of view.
2. Only the offender can live *his* life, and therefore he must assume responsibility for his own actions and decisions within the boundaries set by society.
3. People have the capacity to learn and to make constructive changes.
4. Correctional workers must use their authority wisely, avoiding excessive control over individuals who don't need it ... one approach applied to all offenders cannot be equally effective in each of the varying situations the worker must deal with."⁵

Wait a second. Aren't the three authors from 50 years ago saying the same sort of things that we're saying now? We could almost get away with changing the dates and republishing these articles today. We were pretty smart back then. From this one glimpse at the content of *Federal Probation* 50 years ago, it appears we were on the right track. What happened? Why did we stop?

The obvious answer is that we were distracted by the era of "nothing works" and the "tough on crime" generation of federal and state laws that filled the nation's prisons and caused hundreds more to be built. Others have done a fine job of describing the corrosive impact of these two phenomena on community corrections, and so I need not repeat the history here.⁶ It may be useful, however, to mention another reason cited in the December 1985 edition of *Federal Probation* by Harold B. Wooten, who made the following observation about the federal probation system:

(W)e have failed miserably to critically examine how well we have done, or can do, in helping offenders change their self-defeating behavior, and by our failure to discuss this issue, we have been less than candid.

Wooten described the federal system's failure to measure outcomes and evaluate supervision programs, and asserted that the system never really made behavior change a desired goal of supervision. Instead, the probation system was satisfied with "cursory supervision," and put almost all its attention on presentence investigations. He noted that new probation officers came into the system "to work with people," but their talents were diverted to presentence investigations and surveillance-type supervision.⁷

Having attended many federal judiciary conferences and ceremonies in my career, I'd have to agree with Wooten—up to a point. Many times over the years, I've heard federal district judges speak to audiences of probation and pretrial services officers and thank them for their excellent work. Almost invariably, they mentioned presentence reports and thanked the officers for their contributions in the difficult business of sentencing. The judges were sincere and meant well, but it always seemed a little uncomfortable for the officers in the room who did not prepare presentence reports, and instead supervised offenders or provided pretrial services. It was also understandable.

Presentence reports have long been highly visible and critical to the district court docket. In contrast, district judges see pretrial services reports infrequently, and usually only are involved in post-conviction supervision when there is an apparent violation. Supervision successes are typically invisible. It is not surprising, therefore, that presentence reports would jump to mind when a district judge spoke to audiences of probation and pretrial services officers.

Nowadays, however, it would not be all that surprising for a federal district judge to talk about his or her very own offender reentry program. In the last three years, about 40 districts have set up offender supervision programs that involve judges. While the programs vary significantly from district to district, they all attempt to leverage the authority of the court to improve the chances of offender success. All, therefore, operate under the assumption that people can change and that there are identifiable ways to help them do it.

Clearly, the sad "nothing works" era is over. The "tough on crime" voices no longer dominate

the conversation. We are again free to explore better ways to improve the likelihood of offender success and protect the community. The excitement over prisoner reentry is palpable, but will it fade away as did the ideas from 50 years ago? I don't think so, and here's why.

There is now broad acceptance in the federal system and the field of community corrections generally of the need to measure and study outcomes to determine program effectiveness. We have realized that counting activities and outputs and adding up expenditures tells us only that we did something and it cost something, not that we accomplished something. In the federal system, we clearly defined seven years ago what we want to accomplish with persons under supervision. The desired outcomes of supervision are:

... the execution of the sentence and the protection of the community by reducing the risk and recurrence of crime and maximizing offender success during the period of supervision and beyond. The goal in all cases is the successful completion of the term of supervision, during which the offender commits no new crimes; is held accountable for victim, family, community, and other court-imposed responsibilities; and prepares for continued success through improvements in his or her conduct and condition. "Continued success" within the context of the criminal justice mission is refraining from further crime. Offenders "prepare for continued success" during the term of supervision by actively dealing with those circumstances that relate to future criminality.⁸

It is now clear that officers are expected to help offenders change their behavior not just while we're watching, but for the longer term—after the period of supervision is over. If we are successful, the offender will be less likely to commit new crime and victimize others, and will be more likely to support himself and his family in a lawful manner. The individual and society will be better off.

Of course, there will be recalcitrant offenders who will not cooperate, and will not change their behavior seemingly no matter what interventions are made. Our strategy in such cases is to respond to noncompliance with the condition of supervision, simultaneously providing a negative consequence designed to deter further noncompliance and intervening to change the circumstances that led to the behavior. Officers may emphasize controlling strategies to detect new criminal behavior, including community observation⁹ and searches.¹⁰ The original arresting agency, federal task forces, local intelligence, or community policing meetings are good sources of information about an offender's pattern of criminal activities and associates and can provide valuable assistance to the officer in monitoring the offender's activities while under supervision.¹¹

Generally, however, we have renewed the assumption that people can change under the right circumstances, and we are pursuing—simultaneously—a two-pronged strategy to increase success rates and reduce recidivism. One prong is to foster the use of evidence-based practices (EBP) by probation and pretrial services officers. We are implementing risk assessment tools¹² and providing officers with core correctional skills training¹³ proven to make interactions with offenders more effective. Our pursuit of EBP is well described in this issue of *Federal Probation*, so I will comment here only on the second prong of our strategic approach.¹⁴

We are very close to completing the technical infrastructure by which to implement a results-based management and decision-making framework for the federal probation and pretrial services system. We now have the ability to collect records from the electronic files of thousands of probation officers in all 94 federal districts in the Probation and Pretrial Services Automated Case Tracking System (PACTS), and store these records in a single data warehouse called the National PACTS Reporting (NPR) System.

The crowning jewel of the technical infrastructure is the Decision Support System (DSS), which draws data from NPR and combines it with data from other judiciary systems, the United States Sentencing Commission, the FBI, the Federal Bureau of Prisons, and the Bureau of the Census. We can now begin to test underlying assumptions about the relationship between supervision practices and supervision outcomes, i.e., between what the system does versus what it accomplishes, and what other factors may be influencing the relationship.

In addition to putting data and analysis in the hands of decision makers and greatly enhancing our ability to conduct research, the technical infrastructure we have created enables managers at all levels of the probation and pretrial services system to access data for straightforward operational business. Having standard reports and dashboards only a few clicks away can help with monitoring investigations, caseload sizes, location monitoring equipment inventory, Risk Prediction Index (RPI) and criminal history score trends, treatment services costs, etc.

If the people from 1961 cited in the beginning of this article were to come back to us today, what could we tell them? The news for President Eisenhower, Alan Shepard, and Roger Maris wouldn't make them happy. The military industrial complex may be even bigger and more powerful than President Eisenhower could have imagined. NASA just mothballed our manned space flight program with the retirement of the space shuttle, and the home run record is now owned by a convicted felon whose performance was enhanced by more than just Wheaties.

For the contributors of *Federal Probation* the news would be much better. We have embraced the balanced approach suggested by Warden John Galvin, adopted Dean Arthur Fink's focus on increasing the motivation of persons under supervision to improve themselves, and incorporated the wise use of authority advocated by Executive Director Serapio Zalba. The big difference 50 years later is that we now have scientific evidence to support the ideas promoted back then. They may have been right 50 years ago, but there was no proof. In the federal system, we have also built the technical infrastructure that will enable self-study and the strategic use of resources envisioned by Harold Wooten in 1985.

I am confident that our talented cadre of community corrections professionals and our commitment to rely on rigorous empirical research—by others and by ourselves—to inform policies and practices will continuously improve system performance and keep us on the right track for the next 50 years.

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[The Construction and Validation of the Federal Post Conviction Risk Assessment \(PCRA\)](#)

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1. Internet: infoplease.com; factmonster.com
2. Victor H. Evjen, editor, and William A. Maio, Jr. comprised the editorial staff. The journal was published by the Administrative Office of the United States Courts, as it is today, but in 1961 it was published in cooperation with the Bureau of Prisons. Warren Olney III was AO Director and Robert F. Kennedy was Attorney General. The Bureau of Prisons Director was James V. Bennett and the AO's Chief of Probation was Louis J. Sharp.
3. John J. Galvin, *Federal Probation*, "The Task of Corrections." September 1961.
4. Arthur E. Fink, *Federal Probation*, "Authority in the Correctional Process." September 1961.
5. Serapio R. Zalba, *Federal Probation*, "A Look at Correctional Treatment." September 1961.
6. See Cullen and Gilbert, 1982, *Reaffirming Rehabilitation* for an historical review of punishment, the progressive era, and the demise of rehabilitation during the late 20th Century.

7. Harold B. Wooten, *Federal Probation*, "It's OK, Supervision Enthusiasts: You Can Come Home Now!" December 1985.
8. *Guide to Judiciary Policy*, Volume 8, Part E, "The Supervision of Federal Offenders" (formerly Monograph 109). J-Net (federal judiciary intranet), § 150(a)(b) (last revised 12-10-10).
9. Community observation is fieldwork that does not involve a direct contact with the offender or collateral sources. It may be the preferred way to unobtrusively monitor compliance with specific conditions in a way that does not intrude on the activity itself. For example, an officer might drive by an Alcoholics Anonymous meeting to see if the offender's car is parked there or go to an offender's work site or residence during the start or end time of his or her reported work schedule, which may be appropriate if the offender is suspected of falsely reporting employment. *Guide to Judiciary Policy*, Volume 8, Part E, §450.30, op.cit.
10. The Judicial Conference Committee on Criminal Law set forth guidance for search and seizure in Search and Seizure Guidelines for Probation Officers in the Supervision of Offenders on Supervised Release, which was approved by the Judicial Conference at its September 2010 session (JCUS-SEP 2010).
11. *Guide to Judiciary Policy*, op. cit.
12. See Johnson et al. in this edition of *Federal Probation*, and Lowenkamp and Whetzel, 2010.
13. See Robinson et al. in this edition of *Federal Probation*.
14. See Hughes, *Federal Probation*, September 2008, "Results-based Management in *Federal Probation* and Pretrial Services"; and Baber, *Federal Probation*, December 2010, "Results-based Framework for Post-conviction Supervision Recidivism Analysis."

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Goodbye to a Worn-Out Dichotomy: Law Enforcement, Social Work, and a Balanced Approach (A Survey of Federal Probation Officer Attitudes)

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3. Chief Probation Officer, U.S. Probation, Middle District of North Carolina.
4. This observation is based on the authors' extensive experience as practitioners, consultants, and trainers for 40 years at the national and local levels.
5. Two respondents did not complete the OOQ and one did not complete the SAS. One officer, not represented in these numbers, did not initiate either survey.
6. Three respondents did not complete the OOQ.
7. One respondent did not complete the OOQ and one respondent did not complete the SAS.
8. One chief, not represented in these numbers, did not initiate either survey.
9. As a note, the alpha reliability coefficients generated with these data were somewhat smaller than those generated by Fulton et al. (1997). The alpha reliability scores for these data were .83 and .69 for the subjective role and strategies scales respectively, while the alpha reliabilities generated by Fulton et al.'s data were .88 and .78 respectively.