PROBATION, PAROLE AND COMMUNITY CORRECTIONS. PAST, PRESENT AND FUTURE. ARE WE PREPARED TO GO THERE?

Kathy Waters
American Probation and Parole Association
United States of America

Paper presented at the
Probation and Community Corrections: Making the Community Safer Conference convened by the Australian Institute of Criminology and the Probation and Community Corrections Officers' Association Inc. and held in Perth, 23-24 September 2002
We believe that the best predictor of future behavior is past behavior, correct? As criminal justice professionals, we have continued to look to the past to base almost our entire practices and plans for the future. At least this is the strategy we use with offenders. Why then do we not use the same strategy or why do we choose to use the same strategy in the operations of our probation, parole and community correction business?

Travel with me today, into the past, as we reflect on the practices of John Augustus, the man whom we all refer to as the “Godfather of Probation” in America and perhaps in other countries around the world. I will reflect on his beliefs and his practices, his leadership qualities and the strengths he used to stay focused and committed to what he believed. This was a man of courage who took risks in an environment that wasn’t always so friendly. Did John learn from his mistakes? Did John make any mistakes? What did we learn from John Augustus? I am already beginning to see that many of us have traveled some of the same roads that John Augustus had to travel. Have we learned anything, or have we chosen to ignore history and plow forward into the future going boldly where men have gone before. But now we are in charge and we know better. My challenge for you today will be to reflect on what you are doing and ask if it is the right thing. Have you gotten too far away from the basics of what supervision should be?

Let’s first look at the approach in which John selected his “clients” and the strategies he thought best to guide them on a path to the straight and narrow. It is significant that the first probation officer was careful to make thorough investigations of candidates for release on probation, recognizing the need for a careful selection of persons suited to that particular form of corrective treatment and assistance.

“Great care was observed of course, to ascertain whether the prisoners were promising subjects for probation, and to this end it was necessary to take into consideration the previous character of the person, his age and the influences by which he would in future be likely to be surrounded, and although these points were not rigidly adhered to, still they were the circumstances which usually determined my action. In such cases of probation, it was agreed on my part, that I would note their general conduct, see that they were sent to school or supplied with some honest employment, and that I should make an impartial report to the court, whenever they should desire it.”

OK. Let’s stop right here and reflect. What have we learned and what have we not practiced or followed as we look at the very core and basis of a supervision strategy. This is the beginning of a risk/needs assessment whether we want to acknowledge that or not. Even that long ago, this simple man knew the value of this tool for supervision and the success of his clients. Many of you in this room today would quickly say, “Well that’s a no brainer”. Sadly to say we all believe in this supervision tool but we are not using it to the best of our ability.

There are debates about the proper assessment and history will show that as probation and parole practitioners have developed new instruments throughout the years, they are getting better and they are being refined. However, there are many jurisdictions where they are not properly utilized, if used at all. Some jurisdictions utilize a validated risk/needs instrument and take great measures to ensure that training to include an understanding of the instrument is utilized and that proper policy and procedure for this instrument is in place.

Some jurisdictions are still using instruments that were developed years ago, have been in their policy and procedures for years, are not being followed and have never been validated for their population. Would it surprise you to know this takes place even in the states and jurisdictions that
are known for their “premier” supervision strategies and are known as some of the best departments in the country, “the models” on which many other jurisdictions look to for direction. The very basis for supervision is not being followed and we wonder why we are not successful in the outcomes we hope to achieve with these offenders.

There are many jurisdictions in which sentencing takes place without a pre-sentence investigation and in some, not so much as an evaluation prior to the sentencing of this individual. A criminal history is usually the only information along with the current charge that the judge and the prosecutor will use to reach their plea agreement. Is this a good candidate for supervision? We sure hope so, because they are now on our caseloads! Now, it is up to us to make the proper assessment and develop a good sound case plan if we have any hope of this offender being successful.

We need to reflect on what it is we are trying to do and the outcomes we would like to achieve. We also need to understand that a certain percentage of the offenders we assess and have under supervision are going to fail. We are not perfect, but we can be better. We must do everything we can to avoid the worst. We assess the best we can and do everything we can possibly do to keep the offender on track and the public safe. We need to know that things may go wrong. We must do a better job of selecting the tools we use and following the practices that we know are effective. Reflect on the assessment tools of the past and you will find an instrument that was designed and adopted by a large group of practitioners’ back in 1976. It was called the Wisconsin Model.

Immediately many states began using this instrument and unfortunately this is the instrument I was talking about that many states are still using after changing and bastardizing it universally. Practitioners began making decisions about caseload sizes and dividing up work rather than thinking about the need to make the public safer and meeting the needs of the offenders that would really make a difference. How do we explain this to a family and to the Attorney General who is defending us in a lawsuit? Yes, we do have an assessment in place, yes we do have procedures in place, but we did not follow the policy or the assessment placement properly and we did not ask for a warrant because we thought we could find the offender and bring him back into compliance. Lessons learned? We put policy and procedure in place without determining what we want the goals of supervision to be. It is not good organizational or public policy to proceed in this manner. When we say in our policy that we will do certain things such as make a determined amount of contacts based on the level of supervision or we will pursue a warrant within a specific time frame when an offender can not be found and the offender is in violation, we had better well do this if this is the goal we have set to provide what we think is proper supervision to protect the public.

Why then do we set goals and make promises we can’t keep? Wouldn’t we be better off by saying to the public: “We will provide quality supervision based on the best information we know about this offender. We will hold this offender accountable, making him work or pursue an education or trade, attend the necessary counseling, pay restitution if owed, and if not complete community service hours and do everything possible to assure this individual is not a threat to the public. Because we can not predict human behavior, we can not guarantee that this individual will not re-offend or cause harm to another.” As community correction’s professionals, we all agree that there are certain things the public wants and expects: (1) to be safe from violent crime; (2) offenders to be held accountable; (3) offenders to repair the damage they have caused; (4) offenders to get treatment where that makes for safe release from incarceration and (5) public and victim involvement in the decision-making process. Why then, do we not practice what we know the public wants and expects? We need to begin to monitor what the public wants and not what we think is the desired outcome. We are still intent on counting the numbers of things we are doing instead of measuring the outcome of what we are doing. Quality as opposed to quantity. What is it we are trying to achieve? One thing is for certain. When it comes to assessment and supervision, we must have goals
that have value and are grounded in research. The goal must be related to the outcome that is being produced. In so many jurisdictions, we have sold the judges, politicians and the public a bill of goods that we have no proof that it is working. Mainly because we have not determined what the goals of probation, parole or community corrections are. Until we determine that, we will remain in the past and continue to face the skepticism and lack of understanding and respect that have plagued us through the years.

Next, I would like to take a look at the leadership qualities of John Augustus and see if the same principles are being followed today. We know that he was very much a lone ranger in his determination to see justice done and to bring to the attention of the court the need to take a quite different measure of sentencing than had been known before. Haven’t many of us found ourselves in these same situations today. Sitting alone in an “Executive Staff” meeting in many organizations, you will find the lone community correction’s administrator sitting with his or her peers from the rest of the organization, usually institutions or court functions, fighting for the very principles of the day to day value of the work being done. Most always begging for additional resources just to deal with the responsibilities we have been given, and hoping someone else will understand what we are trying to do and the value it carries in the big scheme of things.

The work of John Augustus, had it not been met with opposition, would probably still have found a place in the history books of penology. However, when you read of the challenges he faced it makes us admire the man even more. This was a man who saw injustice and tried to right it, even if it meant challenging the police, prosecutor and judge. He was determined to stand up for what was right and no matter the consequences, he stood by what he believed. Not only did John have strong humanitarian beliefs but he also had a definite view that “the object of the law is to reform criminals, and to prevent crime and not to punish maliciously, or from a spirit of revenge.” When challenging a judge once, he was asked to come and sit in the black robe, his answer was, then you should come down here and supervise for awhile.

Now I am not saying we should be indignant or challenging to the point of being unprofessional, but too often over the years I fear we as community corrections professionals have sat back with our mouths closed when we should have been standing up and being heard. There were times in the past I fear we have let the politics of the organization, the state, and even the nation take this profession in a direction that it never should have gone. Programs are developed many times for the wrong reasons. As an example, prison overcrowding has lead to the development of early release programs that were not well thought out. One after the other, creative concept after concept, lead to the release of many inmates into the community that never should have been released in the first place, and forget about the fact no additional resources were made available for their supervision. Flavor of the day supervision has evolved out of many a good corrections professional or politician’s mind. In one state, an officer’s caseload might be comprised of deferred and suspended probation cases, parole cases, and inmates. The only differentiating factor in the way supervision was being administered was when an officer took steps to pursue a violation status on the offender. Why would we have allowed this to happen? We as community correction professionals have failed in this regard. We have not tried or have been unable to demonstrate and convince the decision-makers of the right and wrong of supervision. In our own cowardliness and their arrogance, others become experts in the subject matter we have failed to stand up for. Other examples in more recent times are the abolishing or parole and the establishing of re-entry and the evolution of specialty courts such as mental health and drug courts. These programs have been established out of frustration with the current practice and the acceptance by ourselves and others that traditional probation, parole and community corrections is not working. Unfortunately, we have been silent at a time when we should have been able to provide solid research and documentation that we are the experts and we have proof we know “what works”.
What then is required of the leadership of today and tomorrow? First, leadership must come from individuals who care about probation, and who are not satisfied with the status quo. It comes from those who possess the courage to acknowledge that all is not well with the profession and the vision and dedication to do something about it. We as leaders must take a look in the mirror and ask ourselves if we are prepared to pay the price that John Augustus paid. Our own personal characters may be at risk, and at some point possibly even our future in the position we hold. Are we prepared to pay that kind of price? Sometimes leadership is so painful that we question if we are doing the right thing at all and if it is really worth all of the fight. However, we must come to terms with the fact that doing the right thing is not always easy. But true leaders continue to lead and know that it is the right course of action to take. Good leadership involves everyone in the organization’s evolution. A leader has a vision for the future and sets the goals high but gives every opportunity for each committed player to reach the goals. As stated by General Colin Powell, “Leadership is the art of accomplishing more than the science of managing says is possible.” A leader must state the mission and purpose of the organization, clearly define the goals and chart the course for a successful journey to those goals. The goals must have value and meaning and must convey the purpose of the organization and what we hope to achieve. As a leader, if you are in a position to make decisions, you must do so with competence. You have an obligation as a leader to fulfill your duties with ethical and competent behavior and beliefs. If you are not willing to lead in this manner, you should step aside and allow others who are willing and able to do so. We as leaders have an obligation to also prepare others for future leadership positions. A clear succession plan for the future of your agency and your organizations is necessary to ensure that the work of today’s leaders is continued long after we are gone.

Virtually every basic practice of probation in America was conceived by Augustus in 1841. By 1956, all states had adopted adult and juvenile probation laws. Between the 1950’s and the 1970s, U.S. probation evolved in relative obscurity. A number of reports in the 1970s brought national attention to the inadequacy of probation services and their organization. Throughout the years probation agencies have struggled with the continued lack of resources.

How then are we to make a difference and put value in community corrections? How do we take a major player in the criminal justice system and turn them into the leading player of the system. We know we account for two thirds of the population under some sort of correctional supervision even though we receive only a fraction of state and local resources to accomplish our goals. We also suffer from a lack of public support and a poor public image. What are we to do?

The best solutions I have heard came from a Presiding Judge I recently heard at the APPA Institute in Denver, Colorado. Judge William O’Neil gave some very straightforward advice to the attendees. He said you must possess the three P’s. You must first have a purpose. A purpose being what it is you hope to achieve by being a probation, parole or community correction’s professional. What is the purpose of probation? Do we even know? If we don’t have a purpose, what are we trying to do? Next, you must have a plan. The plan would be to put into action the goals you wish to meet in order to reach the outcomes of your purpose. Last, make it personal. If you are not committed to the purpose and plan and can not own every aspect of what it is you are trying to achieve, you need to look elsewhere for your walk in life. You need to believe that what you do makes a difference and that you will reach down inside of yourself for that individual drive and spirit that personalizes and gives you ownership to everything you do.

Reflecting back to the beginning, don’t you think that John Augustus and the other leaders before us had a purpose, plan and made it personal. I believe that documented evidence tells us they did.

There comes a time when every program must be judged either a success or failure. Where we find success, we should reward it, repeat it, and make it the standard. And where we find failure, we must call it by its name. Government action that fails in its purpose must be reformed or ended.
References


Transforming Probation Through Leadership The “Broken Windows” Model, By the reinventing Probation Council, Published by the Center for Civic Innovation at the Manhattan Institute.


Rethinking Probation: Community Supervision, Community Safety, December 1998, U.S. Department of Justice, Office of Justice Programs.