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2000

ALTERNATIVES TO REVOCATION

SAFELY SUSTAINING OFFENDERS IN THE COMMUNITY



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A paper prepared by the Strategic Planning and Policy Branch of the
Correctional Service of Canada
1999-2000

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Covering note for distribution

NOTA BENE: When giving this paper to anyone, individual or group, this covering note shall accompany **any** and **all** copies of the paper; the intent is to give a brief description of the purpose of the paper **at the very onset**. Hence, this note serves as an essential preliminary to the paper. The reader will also understand why the content of this covering note is identical to the content of the Executive Summary.

This paper, *Alternatives to Revocation — Safely Sustaining Offenders in the Community*, focuses on the Canadian federal correctional system. The objective is to provoke thought, which will hopefully be followed, as much as feasible, by an even more intensive use of alternatives to revocation, always bearing in mind public safety. The federal correctional system has been applying alternatives to revocation for many decades and this is reflected in policies and statutes. The intent of this paper is not to criticize the way alternatives to revocation are used in the federal correctional system, but to ask whether the system stresses using alternatives to revocation as much as it could and to highlight a range of innovative and best practices. Innovative and best practices are also addressed in the Consolidated Review of Suspension and Revocation Practices and Processes Report; the review was conducted by the Correctional Service of Canada with representation from the National Parole Board in 1999/2000. Emphasis is consistently placed on the need for federal corrections to strive to strike a balance between alternatives to revocation and public safety.

The correctional system has evolved different approaches for dealing with breaches of supervision conditions, or with offences, over time. In the not so distant past, corrections reacted to the offender's breach of release conditions, or offence, more often by removal of the offender from the community. The offender was seen as needing to be "straightened out", also, it was sometimes done as a result of limited resources.

Corrections then gradually introduced remedial steps—alternatives to revocation—before resorting to revocation. More recently, corrections have been increasingly promoting a wide range of effective interventions, including the principles of restorative justice and community interests, when dealing with offenders, from the beginning to the end of the criminal justice process. This evolution is addressed further in the section entitled "Emergence of a Social Development Approach to Criminal Justice." While recognizing the increasing influence of restorative justice philosophy on corrections, one would be remiss to overlook the contributions of the First Nations in sensitizing us to this philosophy. The First Nations approach to restorative justice is discussed in more detail in the section "Restorative Justice and Alternatives to Revocation at Work in CSC."

The paper compares suspension/revocation rates in two critical years: 1992–93, the first year the *Corrections and Conditional Release Act (CCRA)* came into force, and the fiscal year of 1998–99.

Data show that while the inmate population was larger in 1998–99 than in 1992–93, fewer offenders were released on parole and day parole in 1998–99. Additionally, more

offenders were revoked without offence in 1998–99 than in 1992–93. How can we account for this? Various hypotheses come to mind, which, hence, demand to be researched, such as: has there been a gradual decrease in programs in communities (which would include First Nations communities), insufficient support for alternatives to revocation from decision-makers, or an increasingly violent inmate population? What about the impact of the promulgation of the *CCRA*, or increased vigilance among parole officers with incipient problem cases?

A search was conducted for documents on the subject. Although literature on alternatives to revocation is scanty, a paper by R. P. Stroker from the State of Carolina was found to be particularly relevant. Stroker expounds on numerous basic principles and guidelines for applying alternatives to revocation that can be adjusted to the Canadian scene.

A conclusion, influenced by Stroker, is that a key requirement in handling community releases is consistency. If CSC is committed to exploring all possible steps to provide for the offender's gradual release back into the community, is it as committed, as much as is reasonably feasible, to considering a number of viable alternatives to custody where an offender breaches parole and faces revocation, while ensuring the safety of society?

The paper gives a quick overview of some projects in the Canadian criminal justice system that apply alternatives to revocation, some of which apply the principles of restorative justice. This overview includes some structured, innovative projects with the ultimate intention of avoiding revocation.

Finally, the paper has a section on motivation and cooperation since encouraging offenders to take responsibility for their behavior is critical. When corrections staff offer offenders help through alternatives to revocation, they expect, and legitimately so, that offenders would demonstrate motivation and cooperation. On the other hand, we must consider whether we create a climate that encourages offenders to discuss matters such as the significant others in their lives and their aspirations and fears.

The paper concludes with specific questions pertaining to CSC's willingness to make alternatives to revocation an even more important element of its reintegration strategy. The challenge is applying alternatives to revocation as much as possible and consistently - consistently, as discussed in the paper - in the spirit of CSC's Mission statement and the law, bearing in mind the paramount requirement to ensure public safety.

ALTERNATIVES TO REVOCATION

SAFELY SUSTAINING OFFENDERS IN THE COMMUNITY

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- Correctional Operations and Programs
- Performance Assurance
- Branches of the Corporate Development Sector
- CSC Regional Headquarters
- District Directors

Preface

This paper addresses one question: although federal corrections have been using various alternatives to revocation for a very long time, could we use them more extensively? The Strategic Planning and Policy Branch of the Corporate Development Sector of the Correctional Service of Canada developed this paper to provoke thought on alternatives to revocation in federal corrections. The paper discusses how alternatives to revocation, and restorative justice, fit into the framework of community corrections.

The concerns around revocation and its alternatives are not new. Excerpts from the Solicitor General's Study of *Conditional Release* (March 1981), which appear at the end of this preface, express some concerns about this issue. This paper on alternatives to revocation reminds us that we are still struggling with an issue that closely resembles the one described in the Solicitor General's study of conditional release, published almost 20 years ago.

Management and staff in federal corrections constantly try to maintain a healthy balance between ensuring public safety and the fact that most offenders return to the community sooner or later. Even when they are not granted a conditional release or are denied statutory release, offenders serving a definite sentence return to the community at the end of their sentences.

After sentences end, federal correctional agencies have no legal authority to impose controls, supervision, or assistance upon offenders. Because of public safety concerns, it

is preferable to plan offenders' reintegration into society through gradual release, by way of temporary absence, day parole or full parole. Gradual reintegration into the community offers offenders planned supervision, surveillance, guidance and community support to prepare for life after sentence expiry. These steps, many of which use alternatives to revocation, are aimed at sustaining the offender safely in the community. When parole is not feasible, federal corrections will offer to help the offender prepare for release.

Offering offenders alternatives to revocation if and when they experience difficulties on the street is risky. Nonetheless, it is safer for society to do so as much as possible, rather than return offenders to custody only to be obligated to release them at warrant expiry without the benefit of federal corrections assistance afterwards.

This paper focuses on what is being done in alternatives to revocation in Canada. Despite the importance of alternatives to revocation, there are almost no research papers or reports on this subject. Appeals to five Canadian universities for literature on this topic met with virtually no result. Amazingly, only one paper—published in the United States, not Canada—was found that outlines relevant guidelines and principles on alternatives to revocation. No literature was found on the impact of alternatives to revocation on recidivism.

A conceptual framework is needed to help determine if federal corrections could use alternatives to revocation more. The lack of research and academic reporting on this issue is alarming, particularly because alternatives to revocation are at the core of community

corrections. Although federal corrections strive to prepare offenders for reintegrating into the community, and much is written on this, little is written on alternatives to revocation, which constitute ways of keeping the offender in the community after release.

The Solicitor General of Canada's *Study of Conditional Release*' (March 1981) states:

Whether the revocation of a release and return to penitentiary (with consequent implications for the time to be served after revocation) is a "sufficiently" or insufficiently used sanction for persons under supervision or other types of release is also a complex question. About half the offenders returned to penitentiary from full parole or mandatory supervision are returned for technical violations, though the technical violation may mask a known or suspected but unproven criminal offence. Other technical violations and even criminal convictions, however, may not result in revocation of the parole or mandatory release...Finally, many offenders complained during our consultations of the "excessive" use of suspension and revocation in non-criminal circumstances. Ministry data sources show that of the persons released on full parole or MS in any given year, about half of the eventual revocations which occur are not accompanied by a new criminal conviction. "Technical" revocations of Mandatory Supervision seem to be increasing. Of course, many of the "technical" revocations may mask a new crime which is suspected but not proven, and there is no real data on the actual circumstances surrounding suspensions and revocations. Research is need [*sic*] in this area. (page 84)

Executive Summary

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The correctional system has evolved different approaches for dealing with breaches of supervision conditions, or with offences, over time. In the not so distant past, corrections reacted to the offender's breach of release conditions, or offence, more often by removal of the offender from the community. The offender was seen as needing to be "straightened out", also, it was sometimes done as a result of limited resources.

Corrections then gradually introduced remedial steps—alternatives to revocation—before

resorting to revocation. More recently, corrections have been increasingly promoting a wide range of effective interventions, including the principles of restorative justice and community interests, when dealing with offenders, from the beginning to the end of the criminal justice process. This evolution is addressed further in the section entitled "Emergence of a Social Development Approach to Criminal Justice." While recognizing the increasing influence of restorative justice philosophy on corrections, one would be remiss to overlook the contributions of the First Nations in sensitizing us to this philosophy. The First Nations approach to restorative justice is discussed in more detail in the section "Restorative Justice and Alternatives to Revocation at Work in CSC."

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A search was conducted for documents on the subject. Although literature on alternatives to revocation is scanty, a paper by R. P. Stroker from the State of Carolina was found to be particularly relevant. Stroker expounds on numerous basic principles and guidelines for applying alternatives to revocation that can be adjusted to the Canadian scene.

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The paper gives a quick overview of some projects in the Canadian criminal justice system that apply alternatives to revocation, some of which apply the principles of restorative justice. This overview includes some structured, innovative projects with the ultimate intention of avoiding revocation.

Finally, the paper has a section on motivation and cooperation since encouraging offenders to take responsibility for their behavior is critical. When corrections staff offer offenders help through alternatives to revocation, they expect, and legitimately so, that offenders would demonstrate motivation and cooperation. On the other hand, we must consider whether we create a climate that encourages offenders to discuss matters such as the significant others in their lives and their aspirations and fears.

The paper concludes with specific questions pertaining to CSC's willingness to make alternatives to revocation an even more important element of its reintegration strategy.

The challenge is applying alternatives to revocation as much as possible and consistently - consistently, as discussed in the paper - in the spirit of CSC's Mission statement and the law, bearing in mind the paramount requirement to ensure public safety.

Introduction

During the literature review on alternatives to revocation, the correctional environment was scanned for some examples of past or present programs involving alternatives to revocation at the federal level.

While there is a substantial body of literature on alternatives to incarceration and restorative justice, writers have tended to focus on the "front end", or early stages, of the criminal justice system. Although this paper addresses alternatives to revocation, it also discusses alternatives to incarceration and restorative justice as they are also linked with the "back end", or later stages, of the criminal justice system. The rationale is that if alternatives and/or restorative justice can be applied at the front end of the criminal justice system, why not apply them to later stages as well? In fact, the Restorative Community Reintegration Project, currently underway in Manitoba, and the Restorative Justice Options Project, conducted by the Victoria Parole Office, are examples of the way restorative justice is being applied at the back end of the judicial system. The paper will discuss these projects in "A Sample of Alternatives to Revocation."

The paper is not a criticism of the way CSC handles revocation or of the National Parole Board (NPB) as the body that holds the sole authority to revoke. Neither is it intended to give direction on policy pertaining to the handling of revocations in CSC. Rather, this paper creates an opportunity to step back from the daily routine and take time to reflect on how CSC deals with its share of responsibility regarding revocation when faced with an offender who may be on the edge of suspension or, perhaps, revocation. The objective

is to provoke thought and perhaps even to improve our attitudes in the handling of revocation.

Is CSC too quick to revert to the "technical stance" of violation/revocation? Does CSC constantly ask if there is an alternative to interrupting the offender's release, which alternative would involve the community and keep it safe while meeting the offender's needs? Gradual release is based on the philosophy that it is better for both the inmate's growth and the safety of society that he or she reintegrate into a community gradually. During the custody phase, the correctional system strives to avoid prolonging custody to the point of warrant expiry, thus preventing offenders from suddenly having to fend for themselves. Does CSC *consistently* subscribe to the *same philosophy* if the offender shows signs of failure after being released to the street?

This paper was written bearing in mind the principle of reviewing the subject without excluding any connections that have a bearing on alternatives to revocation, including any aspect of parole. As the paper develops, it also examines those situations that restrict or prohibit alternatives to revocation that are built into conditional release and statutory release law. In the same open spirit, this paper asks if alternatives to revocation can be applied outside the restorative justice process.

Definition(s) of Restorative Justice

The paper offers two definitions of restorative justice found in *The Framework Paper on Restorative Justice*: These definitions convey adequately the essence of this concept.

Other definitions of restorative justice may be equally appropriate.

Restorative Justice emphasizes the importance of elevating the role of victims and community members through more active involvement in the justice process, holding offenders directly accountable to the people they have violated and providing a range of opportunities for dialogue, negotiation and problem solving, which can lead to a greater sense of community safety, social harmony and peace for all involved." (Umbreit 1996)

Active community involvement strengthens the community itself and reinforces community values of respect and compassion for others. The role of government is substantially reduced from its current monopoly of the criminal justice process. Restorative Justice demands a cooperative effort by the community and the government to create an environment in which victims and offenders may reconcile their conflicts and resolve their injuries. Victims and offenders are able to do this best when the government preserves order and the community promotes peace. (Van Ness, 1996)

Emergence of a Social Development Approach to Criminal Justice

Although restorative justice principles that allow alternatives to incarceration have been entrenched in the Criminal Code, restorative justice approaches in managing offenders released into the community have not been entrenched in legislation. True, restorative justice is frequently applied in communities, examples of which are circles of support, peacemaking circles, and family or community conferencing, but these excellent initiatives are not systematic or coordinated. More importantly, restorative justice for offenders released into the community has not been sanctioned through legislation as it has been for the front end of the criminal justice system.

The National Strategy for Safe Communities and Crime Prevention encourages local communities to develop community safety and crime prevention projects. In Canada, emphasis is placed on crime prevention through social development. Bill C 41 in 1997 amended the Criminal Code to allow a restorative approach to sentencing. Instead of focusing on blame and punishment, a restorative model concentrates on problem-solving and on repairing social injury. In fact, the Criminal Code was amended in 1995 to require judges to apply this same approach when sentencing, with special attention to Aboriginal offenders:

A court that imposes a sentence shall also take into consideration the following principles:

- (d) an offender should not be deprived of liberty, if less restrictive sanctions may be appropriate in the circumstances; and
- (e) all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all

offenders, with particular attention to the circumstances of
Aboriginal offenders.
(subparagraphs 718.2 (d) and (e))
(See also paragraphs 716 and 717 for alternative
measures—Criminal Code of Canada)

The sketch below illustrates the gradual evolution from the traditional system, to some alternatives to revocation, to restorative justice, which in turn opens the door to more alternatives to revocation. It would be a gross simplification to conclude from the sketch that in the past every offence and every breach of parole resulted in revocation. Instead, the traditional system did use some alternatives to revocation, (although it did not include the type of community involvement associated with restorative justice) The system was more punitive; the offender was seen as needing to be "straightened out"; if an individual got in trouble with the law there may even be a suspicion that he acted out of choice. The system gradually became amenable to restorative justice, which involves the community, the victims, and the offender. This involvement led to more use of alternatives to revocation.

Today there is increasing emphasis on alternatives to revocation and on recognizing the benefits of restorative justice. It is likely this emphasis will increase, especially since restorative justice is now applied to the back end of the system as well as the front end.

On the other hand, revocation, of course, remains an inherent element of the parole system. This is discussed in the next section, "Revocation Today."

Traditional System
Breach: review/remove from community(?); offence: suspend/charge/revoke, or charge/suspend/revoke; reincarcerate (punish); offender seen as socially/emotionally maladjusted, could criminal behavior result from choice(?), etc.

Alternatives to Revocation
Breach/offence - suspend/review in custody: enhance chance of returning into community by giving offender support to achieve insight into behavior, etc., e. g., TD Unit, Kent I.; CCRU/RHC-Pacific; Maison d'Arrêt, FTC

Restorative Justice
Breach/offence - develop dispute resolution models, involve community/offender to achieve satisfactory resolution built on dialogue, etc., e. g., Restorative Resolutions/Restorative Community Reintegration, JHS, Manitoba/Victoria RJ Options Initiative

Revocation Today

The paper will now address the authority on which revocation is based in law, in the Mission statements of the Correctional Service of Canada and the National Parole Board, and in policy.

1. Legislation

Authority pertaining to conditional release (namely, temporary absence, work release, day parole and full parole) is stated in the *Corrections and Conditional Release Act (CCRA)* and *Regulations (CCRR)*. Although expounding on releasing authorities is not the purpose of this paper, mentioning some principles may be useful: authority over parole, day parole, and some unescorted temporary absences - namely, for an inmate serving a minimum life sentence or an indeterminate sentence, or for an inmate who committed an offence listed in Schedules I and II of the *Corrections and Conditional Release Act (1992)* - comes exclusively under NPB. NPB delegates its authority to CSC for many types of unescorted temporary absences. Other unescorted temporary absences and work releases come under CSC; generally, escorted temporary absences also come under CSC, although there are special provisions for certain offenders serving life imprisonment as spelled out in the Standard Operating Practice (SOP-700-16, para. 25 et al.). Further details are found in the *CCRA* on releasing authorities with regard to the foregoing, as well as on statutory release. Two paramount considerations are of particular legislative significance: 1) community protection, and 2) the least restrictive measure. Balancing these two considerations guides our offender/victim/community interaction.

2. Mission Statements

Conditional release is administered by CSC according to the Mission statements of CSC and of NPB.

2.1 Correctional Service of Canada

Mission Statement

The Correctional Service of Canada, as part of the criminal justice system and respecting the rule of law, contributes to the protection of society by actively encouraging and assisting offenders to become law-abiding citizens, while exercising reasonable, safe, secure and humane control.

The balance between community safety and victims' concerns on the one hand, and the judicious use of alternatives to revocation on the other is reflected in the following

Strategic Objectives and Core Values of CSC:

To provide opportunities for offenders to contribute to the well-being of the community. (Core Value 1, 1.6)

To ensure that the concerns of victims are taken into account in discharging our responsibilities.
(Core Value 1, 1.10)

To provide programs to assist offenders in meeting their individual needs, in order to enhance their potential for reintegration as law-abiding citizens. (Core Value 2, 2.3)

To ensure that the offender, while in the community, is adequately supervised and that any increase in risk is addressed promptly through the use of appropriate means of intervention and assistance. (Core Value 2, 2.10)

To mobilize community resources to ensure that offenders, upon release, are provided with support and assistance.
(Core Value 2, 2.12)

2.2 National Parole Board

Mission Statement

The National Parole Board, as part of the criminal justice system, makes independent, quality conditional release and pardon decisions and clemency recommendations. The Board contributes to the protection of society by facilitating, as appropriate, the timely reintegration of offenders as law-abiding citizens.

The balance between communities' safety and alternatives to revocation is also emphasized in the Mission of the National Parole Board.

To ensure that the constraints placed upon each offender are the least restrictive necessary to promote the protection of society. (Core Value 2)

3. Policy

The paper will now address some basic elements of the post-release decision process, including suspension and revocation as applied today by CSC and NPB.

The policy on the post-release decision process is found in the Standard Operating Practice and the Case Management Manual. The following excerpts indicate the extent to which alternatives to revocation can be applied.

SOP-700-10 states some *basic* principles of community supervision:

When a situation arises that may compromise the offender's ability to comply with parole conditions and/or raise the risk to public safety, the Parole Officer must respond by promptly re-assessing the case by discussing it with the person with delegated authority and by informing, where required, the decision-making authority (National Parole Board), and/or by suspending, if only temporarily, the offender's parole.
(SOP-700-10, paragraph 1, page 1)

Paragraph 10 of the SOP is of particular relevance to this paper:

In recognizing that protection of society is the paramount consideration in any decision, the Parole Officer and the person with delegated authority shall consider all reasonable *alternatives to suspension* [emphasis added] in order to manage the offender's reintegration effectively, such as:

- more intensive supervision, including increasing frequency of contacts;
- disciplinary interview;
- direction and special instructions;
- amendments to special conditions.

The reader may wish to refer to the "Suspension of Day Parole, Parole or Statutory Release Process" (SOP-700-10 paragraphs 15 et al.).

Paragraph 22 is also pertinent as it specifically refers to alternatives to revocation:

The purpose of the Post-suspension interview with the offender is to:

- a) inform the offender of the reasons for the suspension;
- b) give the offender an opportunity to explain his or her conduct;
- c) *discuss with the offender the alternatives to revocation*, including details of possible release plans, in order that the plans may be further investigated prior to referral to the Board for a decision. [emphasis added]

Another principle of the process of release decision-making is found in paragraph 12:

If there are reasons to believe that suspension of parole is needed to prevent a breach of condition or to protect society, the suspension process must be initiated.

Paragraph 12 is of particular interest because it gives CSC discretion. Suspension is not automatic in these situations; the policy does not state that suspension will take place but that the suspension process must be initiated. Moreover, according to paragraph 22(c), the parole officer must discuss the case, including alternatives to revocation, with the offender. By stating that the suspension process must be initiated without mentioning revocation, paragraph 12, especially when read in conjunction with paragraph 22, appears to remind staff that CSC must apply the least restrictive measures when applying restrictions. CSC and NPB recognize the principle laid down in law that, within the context of public safety, they must use the least restrictive corrective measures.

Furthermore, alternatives to revocation have their limitations and should not be considered adaptable to every situation. Paragraph 37 identifies some situations in which alternatives to revocation would not apply:

Should it be determined that, on the basis of the facts relating to the decision to suspend, there are reasonable grounds to believe that the offender is likely to commit

- an offence causing death or serious harm;
- a sexual offence involving a child; or,
- a serious drug offence

the case shall be referred for detention, but only once the Board has decided to revoke release.

Paragraphs 52 and 53 state that in cases involving a custodial sentence awarded by the courts revocation is automatic, regardless of the length of the sentence; a custodial sentence of even less than a day would bring about automatic revocation. Paragraph 53 states: "There is no flexibility or discretion."

In the situations described in paragraphs 37, 52, and 53, the limitations are clear: no alternative to revocation can be applied. It should be noted that, in the case of revocation with offence, whether for Full Parole, Day Parole or Statutory Release, NPB often has less control over the decision to revoke. When offenders are alleged to have committed a new offence, NPB may often be compelled to revoke. In the case of offenders awarded custodial time, NPB must revoke.

However, while there is a degree of finality with automatic revocation and it is binding, it should not interfere with continuing the case planning process and considering a further discretionary release, if appropriate. This is especially true in the case of offenders who are automatically revoked as a result of a custodial sentence of even less than a day.

Statistical Comparison of Suspension and Revocation for the Years 1992-93 and 1998-99

Is there a difference between the application of revocation in 1992-93? and 1998-99?

Statistical Data

Full Parole

	# of active full parole supervision periods	# of suspension warrants issued	# of admissions as a result of revocation with offence *	# of admissions as a result of revocation without offence	total # of admissions as a result of revocation
1992-93	7,800	1,222	346	264	610

1998-99	6,605	1,107	196	268	464
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(Data provided by Performance Assurance Sector, CSC)

*Note: Total inmate population in 1992-93: 12,342; in 1998-99: 13,131

In 1992-93, there were 7,800 active full parole supervision periods; 264, or 2.96%, of these ended with a revocation without offence; in 1998-99, there were 6,605 active full parole supervision periods, and 268, or 4.06 %, of these ended with a revocation without offence.

Day Parole

	# of active day parole supervision periods	# of suspension warrants issued	# of admissions as a result of revocation with offence	# of admissions as a result of revocation without offence	total # of admissions as a result of revocation
1992-93	6,903	2,276	336	276	612
1998-99	5,161	1,578	205	379	584

(Data provided by Performance Assurance Sector, CSC)

In 1992–1993, there were 6,903 active day parole supervision periods, and 276, or 4.45 %, of these ended with a revocation without offence; in 1998–99, there were 5,161 active day parole supervision periods, and 379, or 7.3 % of these ended with a revocation without offence.

Statutory Release

	# of active SR supervision periods	# of suspension warrants issued	# of admissions as a result of revocation with offence	# of admissions as a result of revocation without offence	total # of admissions as a result of revocation
1992–93	6,082	2,539	689	919	1,608
1998–99	7,851	4,198	658	1,248	1,906

(Data provided by Performance Assurance Sector, CSC)

In 1992–93, there were 6,082 active statutory release supervision periods, and 919, or 15 %, of these ended with a revocation without offence; in 1998–99, there were 7,851 active statutory release supervision periods, and 1,248, or 16.6%, of these ended with a revocation without offence.

Statutory release legislation compels CSC to release inmates into the community after they have served two-thirds of the sentence imposed by the court, unless detention has been imposed on a particular case.

Explanatory Notes:

1. The new *Corrections and Conditional Release Act* came into force on November 1, 1992. The statistical comparisons tabled above are for 1992–93 and 1998–99. Compared to the former Parole Act and the Penitentiary Act, the new law's amendments have a significant impact on the data that is collected on the various aspects of conditional release and statutory release as contained in the *CCRA*. This paper deals with data collected under the new law.

2. The following observation applies to full parole (FP), day parole (DP) and statutory release (SR) data, tabled above. The total number of active FP, DP, and SR supervision periods does not correspond to the number of offenders actually on the street. Rather, the total comprises all FP, DP, and SR supervision periods for federal offenders—6605+5161+7851—that were active for at least one day during the two fiscal years 1992–93 and 1998–99. An offender may have multiple supervision periods during a given period of time. For information purposes, the population of offenders in the community was 8,996 at the end of the fiscal year 1998–99; unfortunately, a comparable figure for 1992–93, is not available.

When it comes to revocations without offence, it appears that CSC was not making more use of alternatives to revocation in 1998–99 than in 1992–93. It also appears that the federal correctional system is not putting more offenders on the street today than in 1992–

93. The above data show that fewer offenders were on full parole in 1998–99 than in 1992–93 even though there were 789 more inmates in 1998–99 than in 1992–93.

The data show that the proportion of revocations without offence increased from 1992–93 to 1998–99. If one relies on the data, CSC does not appear to use alternatives to revocation any more today than it did seven years ago. However, this statement should be weighed against the number of revocations that resulted from a new offence: indeed, if the number of revocations without offence is up, while the number of revocations with offence is down, is it possible that more preemptive action by the parole officers helped to decrease the number of actual offences? During these years, much emphasis was placed on finding alternatives and promoting parole officer discretion. However, the point is beyond the scope of this paper and requires further research.

The final report of the *Task Force on Reintegration*⁴ states:

When the legislation was changed to provide more time to CSC to cancel suspensions or refer cases to NPB, and somewhat more time for the subsequent NPB decision to cancel suspension or revoke parole, the main purpose was to allow CSC and NPB more time to decide what to do with the offender, with a view to determining risk management strategies that could keep offenders in the community. We think that reintegration could be improved by a consistent strategy for managing suspension cases. During the temporary detention period, there are services and programs that could be put in place to apply greater or different risk management tools.

The Task Force cites the Maison d'Arrêt program in the Quebec Region "where suspended offenders who potentially could be revoked are sent as a last resort." Please

see a brief discussion of the Maison d'Arrêt and other similar programs in "A Sample of Alternatives to Revocation" below.

The *National Community Case Management Review* conducted in October and November 1997 and completed in February 1998, included 1,241 supervision files and 975 suspension cases. Nowhere in it is there any mention of the term "alternatives to revocation." However, in tables in the section on the suspension process (page 28), some items include phrasing such as "reason for canceling suspension" and "specifically examines options other than suspension and revocation." Therefore, although the specific term "alternatives to revocation" does not appear in the review, the phrase "specifically examines options other than suspension and revocation" suggests that the philosophy of alternatives to revocation is well recognized.

As pointed out in the section "A Sample of Alternatives to Revocation," CSC does apply alternatives to revocation, as stated in its policy. The review does not use the relatively new term to describe what CSC had been doing long before the review was conducted. Nevertheless, if CSC had been using alternatives to revocation intensively, as an *inherent* part of its release programs, should the review not have examined how CSC applied the concept of alternatives to revocation?

However, the following quotation from the section on the Suspension Process emphasizes that staff are already familiar with alternatives to revocation:

An observation that was made to possibly account for the positive results in this area of the review was that the

suspension process is one that has been in use for many years without significant modification. Parole Officers and Clerical Staff are very familiar and comfortable with the process, which helps ensure that the process is completed accurately. (page 29)

Since staff are familiar with the suspension process, (a revocation alternative) shouldn't CSC promote even more aggressively the use of alternatives to revocation in the supervision process?

A study published by R. Cormier, et al.³ points to a 1976 study made on offenders in Quebec by Nicholas. Nicholas' study revealed that 26 per cent of suspensions occurred for clear criminal involvement while 74 per cent resulted from technical violations and general behavioral problems (page 32). Cormier also found that an offender perceived as higher risk was more likely to be revoked on a technical violation than was an offender perceived as a lower risk (pages 115-16). Examples of reasons for suspension follow: the offender committed a criminal offence, such as robbery, assault, break and enter, theft of a vehicle, fraud or possession of an offensive weapon; the offender breached a special release condition, such as abstaining from alcohol or drugs, avoiding particular persons or particular places; the offender breached a Community Correctional Centre (CCC) and Community Residential Centre (CRC) regulation, such as obeying curfew, following a special instruction, getting authorization for leave from residence. CSC may want to examine Cormier's findings on how suspension and revocation are administered in CSC today. Is CSC more likely, or less likely, today, to suspend or revoke offenders merely because of, and due to, the label "higher risk" rather than those labeled "lower risk"?

Why Alternatives To Revocation?

In spite of its scope and effort, the review of the literature conducted for this paper was disappointing. Results of the search for publications or studies on the subject of alternatives to revocation outside CSC, namely, within five universities—Toronto, Ottawa, Simon Fraser, Montreal and Carleton—were scanty. Likewise, a Service-wide appeal to key staff failed to produce any literature on alternatives to revocation, with the exception of the note in the following paragraph. An extensive listing of the literature reviewed appears in the bibliography.

An evaluation of the Maison d'Arrêt program at the Federal Training Centre in the Quebec Region was sent to the authors. Data were also provided on the Temporary Detention (TD) Unit at Kent Institution and on the Community Corrections Relapse Unit (CCRU), Regional Health Centre, both in the Pacific Region. These programs are briefly discussed in the section "Sample of Alternatives to Revocation."

Despite the lack of published research on this topic, a paper by Richard P. Stroker from South Carolina offers valuable information on the meaning and implications of alternatives to revocation.⁶ In fact, Stroker's principles, while not claiming to be a model for revocation, may offer direction on how alternatives to revocation could be applied in CSC. Excerpts from Stroker's paper follow.

Challenges

Stroker proposes some guidelines that may be applied to revocation and that are supported by CSC:

- Be consistent in handling violations.
- The response to the violation must be consistent with the degree of the violation and the circumstances of the offender.

Creating a Parole Violation Framework

Stroker identifies two focal points: the risk posed by the offender and the needs of the offender.

While Stroker does not address the role of the community as such, this paper introduces the role of the community as a third focal point in suspension and revocation in order to emphasize the importance of the community in the reintegration process (see the section "A Sample of Alternatives to Revocation.") The critical role of the community is also inherent in the *Framework Paper on Restorative Justice* quoted above.

Stroker reports on a study conducted by the South Carolina Department of Probation, Parole and Pardon Services. This study had been given three goals, and the department set eleven expectations for itself. The three goals are;

1. To promote internal consistency in the handling of violations by setting forth broad departmental expectations;

2. To establish a framework and guidelines within which agents, hearing officers, and the board * can exercise their discretion in a meaningful way; and
3. To generate workable and innovative methods of responding to violations that benefit the client without presenting undue risk to the community. (page 145)

The eleven expectations of the department are:

- 1) Violations should be responded to in a manner that reflects the severity of the offence.
- 2) The severity with which violations are responded to should be in a proportional manner
- 3) Individuals who demonstrate a general unwillingness to abide by supervision requirements or who pose undue risk to the community should be removed from the community.
- 4) Not all violations require the issuance of warrants, citations, or full revocation—many violators can continue in the community.
- 5) All violations that are detected should result in some punishment response and there are a great many responses that can be used.
- 6) Agents, hearing officers, and the board will be encouraged to use the response that best reflects the situation in light of the nature of the violation, the circumstance of the client, the general risk and community adjustment of the client, and the need to maintain adherence to conditions.**

* American terms such as "agent," "hearing officer" and "board" in Stroker's paper differ slightly from Canadian terms. Their "board" resembles our NPB. As Stroker deals entirely with alternatives to revocation in the parole process, American agents have some similarity with CSC's community parole officers. American hearing officers have more extensive authority than our parole officers do. Hearing officers, at least in some states, are, to a degree, an alternative to the higher decision-making authority, for instance, in the application of some sanctions. The Agents also have the authority to apply some sanctions, sometimes with the agreement of supervisors. The CSC parole officers do not have the authority to apply such sanctions. For further observations on the agent and the hearing officer functions, see expectation 6)).

** This expectation is elaborated on in Stroker's paper: "By 'enforce' we mean that our agents will enforce the conditions of supervision established at the time of release...After considering the severity of the violations and the specific risk considerations present, the agent then determines which remedies or responses to pursue: full revocation, revocation with reconsideration of release, etc" (pages 144 and 147). As for the hearing officer, "If a warrant or citation is issued, the case is then presented to a hearing officer,

- 7) Agents will document justifications for responses to violations.
- 8) Hearing officers will make findings of fact in support of recommendations and orders.
- 9) The board will make findings of fact in support of revocation orders.
- 10) The board may impose special conditions in all appropriate circumstances.
- 11) Special conditions may be imposed by hearing officers as a means of reducing or better managing the perceived risks posed by the offender. (pages 145-6)

In the CSC setting, expectation 6) would read, "Parole Officers in the community and the National Parole Board will be encouraged to use the response that best reflects the situation." Stroker's principles could be modified for CSC.

All three of the study's goals are adaptable to CSC and NPB:

- 1) Greater consistency in handling violations when applying the whole parole process, as is further addressed below;
- 2) Establishing guidelines to enhance the discretion of parole officers and board members; and
- 3) Generating methods of responding to violations that benefit the client while avoiding undue risk to the community.

This last goal relates to the core of this paper, the use of alternatives to revocation.

who is a full-time employee of the department. If probable cause is found, the hearing officer then has a variety of sanctioning options that can be imposed. If the hearing officer recommends revocation, then the case is sent to a three-member panel of board members." (page 148) With regard to the "board," "Three factors that compose the risk considerations are the offender's risk score on our validated offender risk instrument, the violation of special conditions imposed by the parole board at the time of release, and current indications of community instability" (page 146).

The spirit of the eleven departmental expectations also applies to CSC and NPB.

Comments on each are as follows:

- 1) This expectation is acceptable in principle when read in conjunction with our comment on expectation 6).
- 2) This expectation is acceptable in principle, provided that it is read in conjunction with our comment on expectation 6) and with the principle that the least restrictive measures shall be applied.
- 3) This expectation is acceptable, bearing in mind the principle of application of least restrictive measures.
- 4) This expectation should be at the forefront of our dealings with released offenders; it is at the core of the concept of alternatives to revocation.
- 5) This expectation requires substantial rewording to fit it into the CSC philosophy; the following wording is suggested:
All detected violations shall be assessed on a case-by-case basis and appropriate corrective measures shall be applied, bearing in mind the principle of applying the least restrictive measures.
- 6) This expectation fits into the CSC/NPB philosophy:
"... use the response that best reflects the situation in light of the nature of the violation, the circumstances of the client, the general risk and community adjustment of the client, and the need to maintain adherence to conditions," as reflected in their respective Mission statements and the *CCRA* and *CCRR*.
- 7) This expectation is a given.
- 8) For this expectation, the reader should refer to footnote for expectation 7).
- 9) This expectation becomes a given if it is agreed that the board is the counterpart of the National Parole Board in the Canadian setting.

- 10) This expectation applies equally to the National Parole Board.
- 11) In Canada parole officers can, under certain circumstances, impose instructions, and the National Parole Board can impose special conditions.

At the heart of Stroker's argument are two challenging questions:

- (1) Are the policies and procedures that concern the handling of violators consistent with policies and procedures concerning parole release decision-making and supervision?
- (2) If we conclude that revocation of parole is not appropriate in a given case, then what other options could be developed and employed?

These two questions are intertwined. The first question addresses the issue of consistency.

Decisions to grant parole to inmates stem from the philosophy that in the medium and long term, gradual release is more beneficial to the community and the inmate than keeping the inmate in custody until the end of the sentence. The second question flows naturally from the first: if things go wrong, and if revocation is not appropriate, what alternative to revocation can be applied?

As the offender benefits from assistance in the community, he or she gradually learns to deal with life on the street under the guidance of a supervisor. Most inmates are released from prison sooner or later. It is preferable, for the benefit of the offender and for the safety of society, to release offenders gradually with assistance throughout the release period rather than to let them go on their own without any assistance. By law, CSC can not keep inmates in its custody after their sentences expire. However, with regard to inmates released at Warrant Expiry Date (WED), CSC's policy is to help the inmates plan

for WED. For instance, the use of circles of support and accountability highlights creative case planning for these offenders who are nearing their WED. Case planning is critical even if the offender refuses to cooperate and the plan is limited to community control as opposed to community assistance.

It is assumed that CSC and NPB personnel share this basic philosophy of gradual release. Hence, they should apply its principles consistently and also be aware that, in some cases, revocation can be inappropriate.

The issue of consistency is central to this paper. If CSC is committed to exploring all possible steps to provide for the offender's gradual release back into the community, is it as committed, as much as is reasonably feasible, to considering a number of safe and viable alternatives to custody where an offender breaches parole and faces revocation, while ensuring the safety of society? As a comparison, consider the situation of a failing student. Do we give up on the student before trying to help through tutoring or switching to a new class or even to a new school? Should we not be as innovative with an offender whose future is at stake? Consistency may also be challenged by the fact that parole officers are individuals. Their education, experiences, and personal beliefs influence how they apply CSC policies and procedures from case to case.

As explained earlier, this paper is not meant as a criticism of how revocation is currently applied in CSC and NPB. However, the questions it raises may offer the distance necessary to ask if CSC really explores all alternatives before deciding to have an

offender revoked. Is CSC inclined to move to an even more progressive attitude, bearing in mind the limitations described in the above section "Revocation Today"? Does CSC lean too heavily toward playing it safe, as suggested by the above excerpt from the Task Force on Reintegration report? (page 23)

An article published by the Canadian Criminal Justice Association cautions against overreacting to the offender's behavior:

The ultimate decision is a matter of discretion. It is difficult to gather statistical information on what motivates people; yet, many experienced observers have noted that many case supervisors have become over-cautious and are no longer prepared to take reasonable risks in dealing with the more difficult offender. Once again, it appears that many have become 'gun-shy' and fearful of public backlash... We need to reinforce the fact that quality decisions made in good professional judgement will not lead to undue sanctions for the supervisor and to encourage professionals to trust their judgment... It is important that professionals acting as supervisors be afforded a reasonable amount of latitude in performing their dual role, without fear of reprisal. 7

Part of encouraging case supervisors to use alternatives to revocation is, of course, to provide those alternatives to decision-makers and to case supervisors.

Support from decision-makers at all levels is crucial if CSC and NPB are to increase the use of alternatives to revocation. Parole officers struggle with the decision whether to revoke offenders who show signs of failure. Parole officers also struggle with the possible consequences of this decision for both the offenders and themselves. Parole officers may wonder if they have support from decision-makers if something goes wrong. What

message is given by decision-makers at all levels to CSC and NPB personnel about parole failure in general, and especially parole failure without violence?

Operational Considerations

The primary focus of alternatives to revocation should be the offender, the victim or surrogate victim, and the community. However, using alternatives to revocation, could, perhaps, also help with operational considerations, such as institution overcrowding, budgets and the requirement to expend correctional resources efficiently and effectively.

In a paper published in 1996, Angela Lee reports on a focus group discussion commissioned by the New Zealand Department of Justice in which participants expressed the view that restorative justice would be a move in the right direction:

...We are running out of alternatives. The prisons are full. The justice system is choking. ...Approval of restorative justice reflected the desire expressed by many participants for a society which is concerned about people, and emphasizes healing and caring. ⁸

Lee's paper suggests that if alternatives to revocation are applied, carefully targeting the initial focus of alternatives to revocation, this avenue of resolution will be applied to the largest possible number of offenders; hence, is it not possible to consider that alternatives to revocation may contribute to alleviate some operational concerns?

Alternatives to Revocation and Recidivism

No literature on the impact of alternatives to revocation on recidivism was found.

However, the John Howard Society in Winnipeg, Manitoba, has been conducting a project called Restorative Resolutions (RR), in which restorative justice is applied at the

front end of the justice system. The project was evaluated in October 1998. The evaluation reports that "in all but one analysis, RR clients demonstrated significantly lower recidivism rates than the comparison groups". (page 21) These findings were consistent regardless of the type of comparison group or measure used in the analysis. The evaluation also states that RR is a viable tool for supervising offenders in the community and encouraging the involvement of victims in the justice process.'

While the RR project does not address alternatives to revocation, it deals with offenders who benefit from the application of restorative justice at the front end of the justice system. The evaluation notes that "[p]roviding an alternative to incarceration within a restorative justice context is one of the most important features of RR" (page 6). The evaluation concludes that Restorative Resolutions offers a viable option for supervising offenders in the community. And, begging the question, if the principles of restorative justice are a viable option at the front end of the correctional system, should the same not be true of alternatives to revocation at the back end of the correctional system?

Another report " compared 18 male property offenders released on parole to the Minnesota Restitution Center after four months of imprisonment, referred to here as the "restitution group," to a group of matched offenders who were released to conventional parole supervision. The men were matched on five background variables shown by previous research to be closely related to parole outcome. These variables are: age at first offence, number of prior felony convictions, age at release, type of offence, and race.

While the restitution group was not assessed with regard to revocation, the study examines the application of restorative justice to offenders, in this case, parolees. This study states that

[t]he restitution group had fewer convictions, were employed for a higher percentage of time, and were rated higher on the Glaser scale of parole success. The study, although limited, offers support for continued experimentation with the use of restitution as an alternative to imprisonment for property offenders. (page 148)

Finally, the report on the Minnesota Restitution Center presents a view on the applicability of restorative justice similar to the view generally held by other informed writers on this subject: restorative justice should be applied in the case of offenders committing non-violent offences, such as crimes against property. However, this is the view of the paper on the Minnesota Restitution Center; it is suggested that this should not be a set rule; each case should be assessed on its own merit when considering alternatives to incarceration or revocation, except when restrictions to the use of alternatives to revocation apply.

A Sample of Alternatives To Revocation

While the literature on the subject of alternatives to revocation is scarce, the federal correctional system has been applying alternatives to revocation for a long time. In fact, the policy in the Case Management Manual specifies avenues that should be considered before suspending and revoking an offender: these avenues are alternatives to suspension and revocation. It is clear that the federal correctional system is familiar with the concept.

For the reader's convenience, paragraph 10 of SOP-700-10 is reprinted here:

In recognizing that protection of society is the paramount consideration in any decision, the Parole Officer and the person with delegated authority shall consider all reasonable *alternatives to suspension* [emphasis added] in order to manage the offender's reintegration effectively, such as:

- more intensive supervision, including increasing frequency of contacts;
- disciplinary interview;
- directions and special instructions;
- amendments to special conditions.

When it comes to listing alternatives to revocation, we can give only a sample of various measures, some of which are sanctions, that may all serve as alternatives to revocation. It is not possible to produce an exhaustive list of possible alternatives to revocation. Many of the ones listed here appear in an article by Burke, Bellassai, and Toborg." Experienced parole personnel could add many more examples. Some of these examples are either not currently applied or are not available in CSC:

- Suspension
- Placement in half-way house
- Residential or non-residential treatment placement
- Home detention/electronic monitoring
- Restitution

- Vocational training
- Reprimand, verbal or written
- Impose curfew/restrict outings in residential setting
- Restructure supervision plan
- Switch to new supervisor
- Switch to new supervision office
- Counsel client
- Intensify supervision
- Begin/increase drug testing
- Continue parole with added conditions

Restorative Justice and Alternatives to Revocation at Work in CSC

The role of the community is one of the three focal points involved in parole, parole suspension, and revocation. The First Nations have greatly influenced the introduction of restorative justice philosophy to Canada's criminal justice system. Traditionally, the First Nations have employed restorative justice to involve the community in situations in which a person has made a serious mistake or committed an offence. They have used this approach, not so that the person will be judged by his/her peers, but to offer support and to help the person understand the scope of the mistake and its impact on other community members. The person has a chance to explain his or her behavior, feelings, and plans, and to apologize to the community. The ultimate objective is to restore peace and harmony. The First Nations have long demonstrated that in many cases there is no need for a complex criminal justice system, known for its slowness, insensitivity and expense.

For quite some time, restorative justice has been applied at the front end of the criminal justice system, at the pre-sentence phase and during the probation period. Currently, the Victoria Parole Office is developing a restorative justice program that addresses the offender's needs as well as the needs and response of the community. In this project, the

restorative justice philosophy will be introduced at the back end of the correctional system. The plan is to have the offender meet with a panel representing the community before any suspension action is taken. This allows the offender to hear the community's views on his or her actions and possible return to the community. The offender also has a chance to discuss his or her offence, attitudes and plans. This program develops the revocation process by securing the community as vital to this process.

There are other projects that incorporate a restorative/community orientation approach, such as the Winnipeg John Howard Society's Restorative Resolutions project that intervenes at the front end of the criminal justice system; and their Restorative Community Reintegration Project, funded by the Solicitor General of Canada, that intervenes at the back end of the criminal justice system. The Collaborative Justice Project in Ottawa should also be mentioned here. This project is funded by the Crown Attorney, Justice Canada, CSC and the Church Council on Justice and Corrections. This project intervenes at the front end of the criminal justice system; people who may benefit from this project are adults or youths whose criminal behavior may result in long incarceration periods and who are willing to take responsibility for the harm they have done.

CSC has developed a few other projects: the Temporary Detention (TD) Unit at the maximum security Kent Institution as well as the Community Corrections Relapse Unit (CCRU) at the Regional Health Centre, both in the Pacific Region; and the Maison d'Arrêt program at the minimum security Federal Training Centre in the Quebec Region.

The objective of these programs is to avoid revocation by interrupting the offender's release before revocation becomes inevitable. The programs try to revamp the correctional plan and develop a reasonable alternative to revocation with offenders during periods of temporary custody. These efforts aim to make the custodial period only temporary. Thus far, the community and the victim are not included in the application of any of these three programs.

Without giving a detailed overview of these three programs, the following information is of interest. The Kent project has been in operation for nearly two years. The TD Unit admitted 451 cases in 1998-99; of these, the Board revoked 62. All the others were released into the community after making it through the TD Unit program. This result shows the potential of alternatives to revocation and should be considered by those in CSC who plan to develop alternatives to revocation.

The CCRU, which started in May 1997, focuses on drug dependency. It states that its primary philosophy is to "provide suspended parolees with a brief and intense intervention to address issues underlying substance abuse related to risk."¹² The CCRU program admitted 346 people in 1997-98 and 1998-99, and 336 of these successfully completed the program and were released back into the community. During these two years, seven offenders were transferred to the TD Unit at Kent Institution, and three were revoked. Only 10 out of 346 participants did not complete the program in the two years. The CCRU reports that "[f]ollow-up information six months after program completion

was collected on 104 participants. A third of the participants did not receive a post-program suspension" (page 6). It also notes that "[r]esearch of the community at large indicates that 2 out of 3 (66%) individuals who are motivated to change regarding a substance abuse problem will, in fact, experience at least one relapse" (page 7). While recognizing the inevitable limitations of such projects, CSC should also recognize their effectiveness.

Maison d'Arrêt was started in May 1995. It focuses on offenders confronted with problems related to violence, emotional dependency, drug addiction, and life in the community.⁴⁴ From its inception until March 1999, Maison d'Arrêt admitted 453 residents. Of these, 302 successfully completed the Maison d'Arrêt program, 64 were formally revoked as a result of their assessment during their stay in the program, 20 were still in the program as of March 31, 1999, and 67 voluntarily left or were removed from the program for various reasons, such as failing to abide by program rules. Despite its inevitable limitations, the project is an example of a productive alternative to revocation.

The merit of these programs is their attempt to help offenders avoid revocation and succeed in their communities. All three programs meet with appreciable success in that they give the offender more time in the community during the sentence, do not increase the risk to the community, show long-term success, and support a gradual, structured release. And yet, these projects are not exhaustive; other avenues deserve to be explored.

Of course, alternatives-to-revocation projects may be used differently in different areas, as some such projects may apply in some areas and not in others. In the Atlantic Region, an action plan to deal with revocation includes the following initiatives:

- Reviewing all revocation recommendations;
- Adding a program development officer to a parole office who will work individually with offenders to help develop alternative release plans;
- Assigning a community parole officer to work with case management staff at a federal institution to review TD offenders and help develop alternative release plans.

In Ontario, while planning its Regional Reintegration Strategy, the Regional Management Committee decided not to develop programs such as some existing programs in other regions that focus on post-suspension intervention with the offender to avoid revocation. Instead they chose to invest directly in community programs and intervene more intensively to avoid suspension. This strategy includes programming in CRFs and placing unstable cases in those CRFs.

Motivation And Cooperation

The offender's motivation and cooperation are crucial to the success of reintegration. CSC staff often work with individuals who, for a variety of reasons, lack motivation and a sense of cooperation. In fact, programs such as the TD Unit at Kent Institution, the CCRU at the Regional Health Centre, and the Maison d' Arrêt at the Federal Training Centre offer alternatives to revocation; these centres are likely attended by the less cooperative and less motivated offenders. How does a parole officer deal with an unmotivated, uncooperative offender? Three publications on motivation and cooperation were found that are useful to this paper.

Excerpts from the first article appear below: "

... effective correctional rehabilitation is commonly considered to be founded on four principles: the risk principle, the need principle, the responsivity principle and the principle of professional discretion. (page 5)

This article examines the responsivity principle—focusing on offender motivation for treatment as a responsivity factor. The article assesses the relationship between ratings of offender motivation for treatment and conditional release outcome. The researchers conclusions follow: "As such, motivation for treatment should be considered as just one component of a thorough assessment". (page 5)

The second paper by William E. Reed ¹⁵ outlines some very simple, strong motives among human beings such as, fear of failure, the need for a sense of affiliation, power, and achievement. All of these motives are linked: the offender may be motivated to achieve

something, to gain peer acceptance and power in the peer group. These motives are apparent in academic training and vocational training. Sports could be added to these two.

The third publication is an inspiring book by Stewart and Stewart.¹⁶ While the book does not focus on corrections, it discusses some related views. It examines human needs, beginning with the most basic: food, air, shelter, and social belonging.

Stewart and Stewart suggests a number of questions related to motivating people:

- 1) How satisfied are you with***
 - your working conditions?
 - challenge in your job?
 - your pay?
 - the time your job leaves for social activities?
 - opportunities for training?
 - opportunities for improving your situation?
 - feedback on how well you do on the job?
 - the cooperation you get from others?
- 2) Can you think of events where you have felt motivated to do the best you possibly can, events where you felt disillusioned or discouraged, and routine events you liked or disliked? Give examples of such events or circumstances.
- 3) Are you really clear on what exactly is expected of you? Do you feel free to say what you have on your mind or is the climate not conducive to encouraging you to say what you would like to say?
(paraphrase)

The second and third sets of questions can apply to how CSC deals with offenders.

Motivation has many sources: recalling happy events or motivated times, taking time to

*** These questions are relevant to parolees, especially those questions about training, improving one's situation, receiving feedback, correctional plans, and satisfaction with cooperation received from others.

talk about events in which one felt put down, disillusioned or discouraged, and clarifying expectations. As staff gain a better understanding of parolees' motivation, they are better able to assist them. CSC must consider if it creates a climate conducive to open exchanges with offenders on matters that are important to them, such as the significant others in their lives, and their fears and aspirations.

Very little, if anything, can be done with some offenders. With others, the smallest cooperative gesture is the beginning of progress and can be a sign of motivation. While no guarantee of improvement, any development of motivation and cooperation may nonetheless lead the way to an alternative that may help to prevent revocation.

Conclusion

The Correctional Service of Canada must consider if it could use alternatives to revocation even more effectively, starting with its use of suspensions. This approach promotes individual growth and is valuable from an operational standpoint. Furthermore, it reflects the requirements of the Criminal Code of Canada:

(d) an offender should not be deprived of liberty, if less restrictive sanctions may be appropriate in the circumstances; and

(e) all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of aboriginal offenders.

(subparagraphs 718.2 (d) and (e))

This paper was not intended to research statistically the benefits of alternatives to revocation by showing the impact of alternatives to revocation on recidivism. As noted earlier, nothing was found in the literature, in CSC and outside CSC, on the impact of alternatives to revocation on recidivism. However, the results of projects such as the CCRU, TD Unit and Maison d'Arrêt suggest the real benefit of alternatives to revocation. More recent projects such as the Restorative Justice Options Project by the Victoria Parole Office and the Restorative Community Reintegration Project in Winnipeg are also promising. CSC may want to conduct research specifically to compare the differences between groups or individuals who benefited from alternatives to revocation and those who did not.

CSC did not use alternatives to revocation more in 1998–99 than in 1992–93, when the *CCRA* came into force (November 1, 1992). The data show that the proportion of

revocations without offence was not smaller in 1998–99 than in 1992–93, but, in fact, increased in 1998–99. Fewer offenders were on full parole in 1998–99 than in 1992–93, even though there were 789 more inmates in 1998–99, and the number of revocations of full parole without offence was slightly higher. Is it possible that parole officers are, in their vigilance, preventing a number of offenders from committing new offences by revoking them? The point is well taken but beyond the scope of this paper and would demand further research.

An observation deserves to be made at this point on statutory release (SR). Detentions have decreased as a result of increased use of (SR) with residency. As SR cases are usually more problematic than those involving full parole, using the same argument as above, is it possible that the number of revocations without offence has also increased—while revocations with offence have decreased, thanks to the parole officers' vigilance?

Alternatives to revocation were not applied more intensively in CSC in 1998–99 than in 1992–93. CSC places much emphasis on reintegration and staff hardly need to be reminded of this when they must decide whether to recommend revocation. However, one factor that CSC and NPB may have to consider is the changing profile of offenders admitted into CSC institutions: Is it true that the population of offenders is becoming increasingly violent? If so, this would likely restrict the use of alternatives to revocation. Nonetheless, CSC should continue striving to increase its use of alternatives to revocation. How well has CSC adopted the concept that "...where risk is assumable,

priority should be given to moderate and intensive programs in the community, so as to limit the use of undue incarceration."¹⁷

Considering that reintegration has been emphasized in the last number of years, CSC is still struggling with two disturbing questions:

- 1) Why were fewer inmates put on full parole and day parole in 1998–99 compared to 1992–93, even though the inmate population was larger in 1998–99?
- 2) Why were the proportions of full parole and day parole revocations without offence the same or higher in 1998–99 than in 1992–93, even though there were fewer inmates on full parole and day parole in 1998–99?

The following consist of hypotheses on the causes of this situation and require research before they can be considered as conclusive:

- *CCRA's* implementation may have had a more significant impact on parole grants and on revocation decisions than anticipated because of its emphasis on protecting society and victims' rights.
- Inmates may be becoming increasingly difficult and violent, which, for reasons of community safety, severely limits the use of alternatives to revocation.
- CSC may not fully understand the concept and potential of benefits of alternatives to revocation? Parole officers may require further training to apply alternatives to revocation?
- Is CSC deeply committed to the philosophy of alternatives to revocation?
- CSC may use traditional approaches to working with inmates out of habit or routine.
- To what degree can the increase in revocations without offence and the corresponding decrease in revocations with

offence be ascribed to increased vigilance among parole officers?

- Decision-makers may not sufficiently support alternatives to revocation. For instance, in a case of a positive urinalysis test, whereas the offender is performing satisfactorily in the community, does CSC hastily revert to revocation before taking all possible steps to seek out a community treatment program that would more effectively help the offender remain drug-free in the long term?
- Is there a lack of programs and facilities, particularly in Aboriginal communities, to apply alternatives to revocation? For instance, CSC formerly had community development officers in Aboriginal communities, as well as in other areas of Canada, to provide community support services to assist offenders when they returned to their communities. What is the situation now?

This paper raises questions to provoke thought, not to evaluate or to cast blame. While CSC is committed to alternatives to incarceration and to restorative justice, is its commitment to alternatives to revocation as clear and as consistently applied?

Before closing, a useful point of comparison might be made with best practices as evidenced in the unescorted and escorted temporary absence programs, for which decision-making is shared between NPB and CSC. NPB and CSC have a remarkably good record—an over-99 per cent success rate—with escorted and unescorted temporary absences. Might the success factors be translated into best practices in terms of applying alternatives to revocation to day parole, full parole, and even statutory release? Granted, risk is diminished with respect to temporary absence by the mere brevity of the release period. However, would a closer look at those offender-specific success factors on temporary absence suggest ways of improving the offender's success on other forms of

release; indeed, are there factors that influence the offender's behavior positively while on temporary absence that might apply equally to longer term releases? Considering that it is perhaps the presence of such factors that contributes to generate good results, and even best practices, in temporary absence releases, could these factors not be explored - and drawn on - as well with regard to developing best practices in the application of alternatives to revocation?

In conclusion, this paper does not submit recommendations; rather, it is hoped that it has provoked thought on this topic. The paper, therefore, ends not with assertions, but with specific questions:

- Is CSC prepared to emphasize the use of alternatives to revocation as an even more integral element of its reintegration strategy?
- If so, is CSC prepared to increase its efforts to ensure that alternatives to revocation are used consistently and as much as possible?
- Could CSC do a better job at publicizing its programs focussed on alternatives to revocation and to encourage other CSC components to adapt these programs to their own communities?

Any changes would occur in the spirit of the Mission and the law, cautiously bearing in mind the paramount requirement to ensure the safety of society.

Endnotes

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