

introduction to probation and parole

## **Topic : Probation And Parole In Criminal Justice**

### **Topic Objective:**

At the end of this topic students will be able:

- Define the role of parole in the light of criminal justice system.
- Relate to the history of Parole in the United States.
- Define the parole process
- Define the type of parole called good time
- Define the role of parole in the US immigration process.

### **Definition/Overview:**

**Parole:** Parole may have different meanings depending on the field and judiciary system. All of the meanings originated from the French parole, meaning "(spoken) word". Following its use in late-medieval Anglo-French chivalric practice, the term became associated with the release of prisoners based on prisoners giving their word of honor to abide by certain restrictions.

### **Key Points:**

#### **1. Criminal Justice**

In criminal justice systems, parole is the supervised release of a prisoner before the completion of his/her sentence. This differs from amnesty or commutation of sentence in that parolees are still considered to be serving their sentences, and may be returned to prison if they violate the conditions of their parole. In nearly all cases, conditions of parole include obeying the law, obtaining some form of employment, and maintaining some contact with a parole officer.

#### **2. History of Parole**

In the United States, courts may specify in a sentence how much time must be served before a prisoner is eligible for parole. This is often done by specifying an indeterminate

sentence of, say, "15 to 25 years," or "15 years to life." The latter type is known as an indeterminate life sentence; in contrast, a sentence of "life without the possibility of parole" is known as a determinate life sentence.

In most states, the decision of whether an inmate is paroled is vested in a paroling authority such as a parole board. Mere good conduct while incarcerated in and of itself does not necessarily guarantee that an inmate will be paroled. Other factors may enter into the decision to grant or deny parole, most commonly the establishment of a permanent residence and immediate, gainful employment or some other clearly visible means of self-support upon release (such as Social Security if the prisoner is old enough to qualify). Many states now permit sentences of life imprisonment without the possibility of parole (such as for murder and espionage), and any prisoner not sentenced to either this or the death penalty will eventually have the right to petition for release (one state Alaska maintains neither the death penalty nor life imprisonment without parole as sentencing options). At the same time, most other nations, such as European nations and Mexico, have abolished life without the possibility of parole because it is considered cruel.

## 2.1 The Parole Process

Before being granted the privilege of parole, the inmate must first agree to abide by the conditions of parole set by the paroling authority. These conditions usually require the parolee to meet regularly with his or her parole officer or community corrections agent, who assesses the behavior and adjustment of the parolee and determines whether the parolee is violating any of his or her terms of release (typically these include being at home during certain hours, maintaining steady employment, not absconding, refraining from illicit drug use and sometimes, abstaining from alcohol). In some cases, a parolee may be discharged from parole before the time called for in the original sentence if it is determined that the parole restrictions are no longer necessary for the protection of society (this most frequently occurs when elderly parolees are involved).

Service members who commit crimes while in the US military may be subject to Court Martial proceedings under the Uniform Code of Military Justice (UCMJ). If

found guilty, they may be sent to Federal or Military Prisons and upon release may be supervised by U.S./Federal Probation Officers.

## 2.2 Good Time

A variant of parole is known as "time off for good behavior," or, colloquially, "good time." Unlike the traditional form of parole which may be granted or denied at the discretion of a parole board time off for good behavior is automatic absent a certain number (or gravity) of infractions committed by a convict while incarcerated (in most jurisdictions the released inmate is placed under the supervision of a parole officer for a certain amount of time after being so released). In some cases "good time" can reduce the maximum sentence by as much as one-third. It is usually not made available to inmates serving life sentences, as there is no release date that can be moved up.

## 3. US immigration law and Parole

In US immigration law, the term parole has three different meanings.

A person who does not meet the technical requirements for a visa may be allowed to enter the U.S. for humanitarian purposes. Persons who are allowed to enter the U.S. in this manner are known as parolees (the use is catachrestic, since as the individual gives his word rather than takes it, the term should be not "parolee" but "paroler") .

Another use related to immigration is advance parole, in which a person who already legally resides in the U.S. needs to leave temporarily and return without a visa. This typically occurs when a person's application for a green card (permanent residency) is in process and the person must leave the U.S. for emergency or business reasons. In the wake of September 11, 2001, there has been greater scrutiny of applications for parole and advance parole.

The term is also used to denote scenarios in which the federal government orders the release of an alien inmate incarcerated in a state prison before that inmate's sentence has been completed, with the stipulation that the inmate be immediately deported, and never permitted to return to the United States. The most celebrated example of this form of parole was that of Lucky Luciano, who was being "rewarded" for cooperating with the

war effort during World War II. In most cases where such parole is resorted to, however, the federal government has deemed that the need for the immediate deportation of the inmate outweighs the state's interest in meting out punishment for the crime the inmate committed.

Parole is "[t]he agreement of persons who have been taken prisoner by an enemy that they will not again take up arms against those who captured them, either for a limited time or during the continuance of the war." The U.S. Department of Defense defines parole more broadly. "Parole agreements are promises given the captor by a POW to fulfill stated conditions, such as not to bear arms or not to escape, in consideration of special privileges, such as release from captivity or lessened restraint."

### **3.1 Parole of War Prisoners**

The practice of paroling enemy troops began hundreds of years ago, at least as early as the time of Carthage. Hugo Grotius, an early international lawyer, favorably discussed prisoner of war parole. During the American Civil War, both the Dix-Hill Cartel and the Lieber Code set out rules regarding prisoner of war parole. Francis Lieber's thoughts on parole later reappeared in the Declaration of Brussels of 1874, the Hague Convention, and the Geneva Convention Relative to the Treatment of Prisoners of War.

In the United States, current policy prohibits prisoners of war from accepting parole. The Code of Conduct for the U.S. Armed Forces states: "I will accept neither parole nor special favors from the enemy." This position is reiterated by the Department of Defense. "The United States does not authorize any Military Service member to sign or enter into any such parole agreement

**Topic : Juvenile Court And Juvenile Justice****Topic Objective:**

At the end of this topic students will be able:

- Define the role of juvenile court.
- Understand the purpose of a juvenile court.
- Define the conditions under which eligibility for application in juvenile court is possible.
- Understand the prevailing conditions which allow the juvenile to avoid formal charges.

**Definition/Overview:**

**Juvenile Court:** A juvenile court or young offender court is a court of law having special authority to try and pass judgments for crimes committed by children or adolescents who have not attained the age of majority.

**Key Points:****1. Juvenile Court**

In most modern legal systems, crimes committed by children and minors are treated differently and differentially regarding the same crimes committed by adults.

Severe, like murder or gang-related, offenses in 44 states of the USA are treated the same as crimes committed by adults: "Beginning around 35 years ago, increases in violent juvenile crime spurred many states to modify laws so that young people could be tried as adults for serious crimes. By 2004, 44 states and the District of Columbia permitted judges to transfer juveniles to adult-criminal courts. No national data exist on the number of juvenile offenders prosecuted as adults." "The main difference between a juvenile court and an adult court in England is that the juvenile court has a much wider jurisdiction in terms of the offenses it can try. It can deal with a juvenile for any offense except homicide, although it is not bound to deal with a young person for a serious offense such as robbery or rape; on such a charge he can be committed to the Crown Court for trial in the same manner as an adult."

## 2. Purpose of Juvenile Court

Juvenile courts exist because of a widespread belief that children are not always fully responsible for their actions, and that neither they nor society are best served by treating young children like adults.

The first juvenile court appeared in Chicago in 1899. It was founded on two principles: that juveniles were not ready to be held accountable for their actions, and was that they were not yet fully developed and could rehabilitate easier than adults. The idea was that the court should take over the discipline of troubled youth which would then establish a philosophy and a procedure.

The juvenile courts categorize juveniles into three types: those who are charged with criminal conduct, those who have been neglected, and those who have been accused of a status offense or conduct such as truancy or disobedience with reasonable parenting.

Therefore the juvenile courts were there to provide rehabilitation instead of punishment.

The idea was to focus on their needs, providing treatment instead of depriving them of their liberty and protecting them against self-incrimination. Some programs offer education, job skills, counseling, drug treatment, and other programs for rehabilitation.

## 3. United States of America

In all but three states, anyone charged with committing a criminal act before his or her eighteenth birthday is initially processed as a juvenile defendant. In New York, Connecticut and North Carolina, however, the minimum age at which all accused persons are charged as adults is 16, in other states such as Washington the minimum age depends on the seriousness of the crime.

The U.S. Supreme Court held in 1967, that children accused in a juvenile delinquency proceeding have the rights to due process, counsel, and against self-incrimination.

Writing for the majority, Associate Justice Abe Fortas wrote, "Under our Constitution, the condition of being a boy does not justify a kangaroo court."

## 4. Eligibility for Juvenile Court

There is no set age by which a child is accountable in the juvenile court system. Children below age seven are considered too young, and those above age fourteen are considered

old enough to be held accountable in either juvenile or adult courts. Not all minors who commit a crime end up in juvenile (or adult) court. A police officer has three choices:

- Detain and warn the minor against further violations, and then let the minor go free
- Detain and warn the minor against further violations, but hold the minor until a parent or guardian comes for the minor
- Place the minor in custody and refer the case to a juvenile court.

### 5. Ways to avoid Formal Charges

In a juvenile court, it is possible to have formal charges being placed avoided. "Find Law" lists seven official factors that can help formal charges be avoided:

- The severity of the offense. A serious crime is more likely to result in the filing of a petition than a less serious crime.
- The minor's age. Petitions are more likely to be filed in cases involving older children.
- The minor's past record. Formal charges are more likely when a minor has been previously involved with juvenile court.
- The strength of the evidence that the minor committed a crime. Obviously, stronger evidence leads to a greater likelihood of formal charges.
- The minor's gender. Formal charges are more likely to be filed against boys than against girls.
- The minor's social history. Petitions are more likely to be filed when children have a history of problems at home or at school.
- The parent's or guardians apparent ability to control the minor. The greater the lack of parental control, the more likely the intake officer is to file a petition.

Along with these seven, five "unofficial" factors can sway an official:

- The minor's attitude. Formal proceedings are less likely when a child shows remorse for committing a crime.
- The minor's appearance. If the young person dresses well, is neatly groomed and is polite, intake personnel are more likely to handle the case informally.
- Whether the minor has family or community support. The more support the young person has, the more likely the intake officer is to deal with the case informally.
- Whether the minor has an attorney. Disposing of a case informally may be less likely when a child has a lawyer.

- Ethnicity and socio-economic status. Statistics suggest (though few, if any, intake officers would admit) that the ethnicity and socio-economic status of minors often affects how aggressively their cases are handled.

### **Topic : Juvenile Probation, Institutions, And Aftercare**

#### **Topic Objective:**

At the end of this topic students will be able:

- Define the role of probation in the criminal justice system.
- Relate the history of probation in US
- Define probation violations

#### **Definition/Overview:**

**Probation:** Probation is the suspension of a jail sentence - the criminal who is "on probation" has been convicted of a crime, but instead of serving jail time, has been found by the Court to be amenable to probation and will be returned to the community for a period in which they will have to abide to certain conditions set forth by the Court under the supervision of a probation officer. General conditions may include maintaining employment, abiding to a curfew, living where directed, abstaining from unlawful behavior, following the probation officer's orders, not absconding, and refraining from contact with other individuals, who may include victims of the original crime (such as a former partner in a domestic violence case), potential victims of similar crimes (such as minors when the crime involves child sexual abuse), potential witnesses, or those who have partnered with the offender in the earlier crime.

#### **Key Points:**

##### **1. History of probation: origins and evolution**

The concept of probation, from the Latin word probatio - meaning testing period - has historical roots in the practice of judicial reprieve. In English Common Law the Courts could temporarily suspend the execution of a sentence to allow the defendant to appeal to the Crown for a pardon. Probation first developed in the United States when John Augustus, a Boston boot maker, persuaded a judge in the Boston Police Court in 1841 to

give him custody of a convicted offender, a "drunkard," for a brief period and then helped the man to appear rehabilitated by the time of sentencing. Even before John Augustus, the practice of suspended sentence was used as early as 1830, in Boston, Massachusetts and became widespread in U.S. Courts, although there was no statutory authorization for such a practice. At first, judges, most notably Peter Oxenbridge Thatcher of Boston, used "release on recognizance" or bail and simply failed to take any further legal action. In 1878 the mayor of Boston hired a former police officer, one "Captain Savage," to become what many recognize as the first official probation officer. By the mid-19th century, however, many Federal Courts were using a judicial reprieve to suspend sentence, and this posed a legal question. In 1916, the United States Supreme Court held that a Federal Judge (Killets) was without power to suspend a sentence indefinitely, which is known as the Killets Decision. This famous court decision led to the passing of the National Probation Act of 1925, thereby, allowing courts to suspend the imposition of a sentence and place an offender on probation.

Usually the offender is supervised by a probation officer, to monitor their performance during the probation period. The probation officer helps the offender to adapt to living in the community; to guide and help them to behave in a lawful and responsible way. Conversely, the probation officer also monitors the offender to ensure a lack of future criminal behavior. The probation officer may have to revoke the offender's probation or have to arrest the offender.

## 2. Probation violations

A probation officer may at his discretion issue a probationer a warning, or order him to appear before a court for a probation violation hearing. At the hearing, the probation officer will typically request additional punishment, usually involving incarceration. A prisoner released on parole may have parole revoked, and be recalled to prison. There is no "hard and fast" rule for what type of violation will result in a hearing. One violation that is almost always considered serious is failure to appear for scheduled meetings with the probation officer. Being found in possession of illegal drugs, or being arrested for another crime, is likely to result in a hearing. How seriously the violation is regarded may depend upon the facts of the original offense for example, if a person has been convicted

of a gang-related offense, "association with known criminals" may be viewed as a more serious violation than if the person were on probation for driving a car with a suspended license.

- In Section 2 of this course you will cover these topics:
- Nbsp; Probation And The Courts: History And Administration
- Sentencing And The Persistence Investigation (Psi)
- American Prisons And Community-Based Corrections

### **Topic : Nbsp; Probation And The Courts: History And Administration**

#### **Topic Objective:**

At the end of this topic students will be able:

- Relate the history of development of probation laws in US

#### **Definition/Overview:**

**Unsupervised probation** does not involve direct supervision under a specifically appointed probation officer. Terms of probation are expected to be completed within a specific duration of time. For example, if given 1 year of unsupervised probation, a probationer might be required to have his/her terms (i.e. community service, court costs, etc) completed within the first 6 months. For the remaining 6 months, he/she must maintain good and lawful behavior, may not enter bars/taverns/liquor stores, submit their right to having a firearm, and give up their 4th Amendment rights to search and seizure. Probationers may be asked to meet with their officers toward the end of the term of unsupervised probation; however, if they complete their terms early, may not require meeting with their officer at all. If terms are not completed, their officer may file a petition to revoke probation.

**Key Points:****1. History of Probation**

Massachusetts developed the first state wide probation system in 1880, and by 1920, 21 other states had followed suit. With the passage of the National Probation Act on March 5, 1925, signed by President Calvin Coolidge, the U.S./Federal Probation Service was established to serve the U.S. Courts. On the state level, pursuant to the Crime Control and Consent Act passed by Congress in 1936, a group of states entered into agreement by which they would supervise probationers and parolees for each other. Known as the Interstate Compact For the Supervision of Parolees and Probationers, the agreement was originally signed by 25 states in 1937. In 1951, all the states in the United States of America had a working probation system and ratified the Interstate Compact Agreement. In 1959, the newly adopted states, Alaska and Hawaii, in addition the Commonwealth of Puerto Rico, U.S. Virgin Islands and the territories of Guam and American Samoa ratified the act as well.

Probation began as a humanitarian effort to allow first-time and minor offenders a second chance. Early probationers were expected not only to obey the law but also to behave in a morally acceptable fashion. Officers sought to provide moral leadership to help shape probationers' attitudes and behavior with respect to family, religion, employment, and free time. They aimed to ensure that this was enforced as well, and early probationers were given the opportunity to prove themselves and possibly even reduce their sentence.

**1.1 1920s to 1950s**

During the 1920s through the 1950s, the major developments in the field of psychology led probation officers to shift their emphasis from moral leadership to therapeutic counseling. This shift brought three important changes. First, the officer no longer primarily acted as a community supervisor charged with enforcing a particular morality. Second, the officer became more of a clinical social worker whose goal was to help the offender solve psychological and social problems. Third, the offender was expected to become actively involved in the treatment. The pursuit of rehabilitation as the primary goal of probation gave the officer extensive discretion in defining and treating the offender's problems. Officers used their

judgment to evaluate each offender and develop a treatment approach to the personal problems that presumably had led to crime. Many states offered to dismiss or expunge the conviction if the probationer fulfilled the terms of the probation.

## 1.2 The 1960s

During the 1960s, major social changes swept across the United States. These changes also affected the field of community corrections. Rather than counseling offenders, probation officers provided them with concrete social services such as assistance with employment, housing, finances, and education. This emphasis on reintegrating offenders and remedying the social problems they faced was consistent with federal efforts to wage a "War on Poverty." Instead of being a counselor or therapist, the probation officer served as an advocate, dealing with private and public institutions on the offender's behalf.

In the late 1970s the orientation of probation changed again as the goals of rehabilitation and reintegration gave way to "risk management." This approach, still dominant today, seeks to minimize the probability that an offender will commit a new offense. Risk management reflects two basic goals. First, in accord with the deserved-punishment ideal, the punishment should fit the offense, and correctional intervention should neither raise nor lower the level of punishment. Second, according to the community protection criterion, the amount and type of supervision are determined according to the risk that the probationer will return to a life out of compliance with the law.

### **Topic : Sentencing And The Persistence Investigation (Psi)**

#### **Topic Objective:**

At the end of this topic students will be able:

- Define the Presentence Investigation report.
- Relate the whole process which leads to the drafting of the PASI report.
- Define the drafting process of the PSI report.

**Definition/Overview:**

**Presentence Investigation Report:** A presentence investigation report (PSI) is a legal term referring to the investigation into the history of person convicted of a crime before sentencing to determine if there are extenuating circumstances which should ameliorate the sentence or a history of criminal behavior to increase the harshness of the sentence.

**Key Points:****1. PSI**

The reports trace their origins to the efforts of prison reformer John Augustus who in the 1840s began a campaign to allow discretion in sentencing to help those who were deemed undeserving of harsh sentences and could be reformed. The practice became firmly entrenched in the 1920s under a theory that crime was a pathology that could be diagnosed and treated like a disease. The reports had normally been prepared by the government (usually by the probation officer) but in the 1970s and 1980s, defense attorneys began also preparing the reports. This in turn has led to new laws taking away judge discretion and imposing mandatory sentences based on formulas of previous criminal behavior.

The basic information now includes:

- Identification data
- Family history
- Marital history
- Education history
- Employment history
- Economic data
- Military record
- Health history
- Substance abuse/use and any mental health history
- Arrest record, including any prior or pending cases (non-public record)

Additional information deemed relevant by the probation officer or the defendant. The report is immediately to help the court determine an appropriate sentence and also serves other purposes. Since the advent of the sentencing guidelines, the importance of the presentence report has increased because the document is now designed to frame factual and legal issues for sentencing. Thereafter, if a defendant is incarcerated, the Bureau of Prisons or State Department of Corrections will use information in the report to designate the institution where the offender will serve the sentence and determine the offender's eligibility or need for specific correctional programs. Also, depending on the jurisdiction, the presentence report can be used to calculate the release date. The probation officer assigned responsibility for the offender's case during probation and supervised release will use the report to make an initial assessment of case needs and risks. Additionally, the report may be used as a source of information for future research.

## 2. **PSI and probation officer**

Probation officers investigate by interviewing and reviewing documents. Unless the defendant declines, the defendant is questioned in every case. Additionally, the officer should interview the defense counsel, the prosecutor, law enforcement agents who investigated the conduct that led to the defendant's conviction, victims, the defendant's family, present or previous employers, school officials, doctors, counselors, and others. The diverse interview settings that probation officers encounter require them to be proficient in a variety of questioning techniques.

During any investigation a probation officer may review numerous documents including: court dockets, plea agreements, investigative reports from numerous agencies, previous probation or parole records, pretrial services records, medical records, counseling and substance abuse treatment records, scholastic records, employment records, financial records, and others. The probation officer must scrutinize each document received and determine the likely accuracy of the record.

Whether interviewing or reviewing documents, the probation officer must weigh the evidence based on the best available information. The final report must contain only accurate information. The goal is to produce a report that the court may rely upon at sentencing. Though it is inevitable that there will be data that the probation officer is

unable to verify, that information should be clearly identified. The probation officer must distinguish between facts and the inferences, opinions, or conclusions based upon those facts.

When a defendant is referred for a presentence investigation, the officer must immediately begin to gather the facts. Though the procedure varies somewhat from jurisdiction to jurisdiction, the officer usually conducts several aspects of the investigation concurrently to ensure that the presentence report is submitted to the court on time. Since officers routinely conduct multiple presentence investigation simultaneously, meeting the deadlines can be difficult. Local rules, adopted by the judges of each jurisdiction, supplement the federal rules and set a specific schedule for the disclosure of the initial draft of the presentence report to the defendant and both counsel, for the filing of objections to the report by counsel, and for the submission of the final report to the court, the defendant, and counsel. The report must be disclosed to the court, the defendant, defendant's counsel, and the attorney for the government at least before the sentencing.

### 3. PSI investigation process

The probation officer must manage the investigation process within the time line established by those rules. In addition to gathering information, the officer must plan to verify that information, interpret and evaluate the data, determine the appropriate sentencing guidelines and statutes to the specific facts of the case, and present the results of the investigation in an organized and objective report. The probation officer must set deadlines for the submission of information by the defendant and others and monitor compliance with the deadlines.

Ideally, the offender is available for the interview early in the investigation. The defendant interview is the pivotal point around which the presentence investigation turns. Often, the format is a structured interview during which a standard worksheet is completed. The worksheet follows the format of the presentence report and provides space for recording data about the offense and the offender's characteristics and history. Each item on the form is reviewed with the defendant. Even though some of the data solicited from the offender during this interview may not appear in the final report, it is

impossible at this stage to determine what information will be included. No question is asked without a purpose. The defendant's answers will determine follow up questions, items for further investigation or corroboration, and, ultimately, whether the data should be included in the report.

### **3.1 The first Interview**

The presentence investigation is often the first inquiry into the offender's past, and the initial interview provides the framework for the report's description of the offender's history and circumstances. The probation officer inquires about the defendant's family and developmental history, familial and marital relationships, education, employment history, physical and mental health, alcohol or controlled substance abuse, and finances. The emphasis throughout the questioning is on identifying information that is relevant for understanding the defendant's offense conduct and present situation. During the interview, the probation officer will ask the offender to sign authorizations to release confidential information. At the conclusion of the initial interview, the offender may be asked to provide numerous documents to the probation officer substantiating the offender's complete life history. Additionally, the offender may be asked to submit an autobiography fleshing out the skeletal information already gathered about the social history. Before interviewing the defendant about the offense, the probation officer must review official descriptions of the offense conduct and the applicable guidelines. As a result, it is often necessary to postpone a discussion of the offense until a second interview. The offender is also asked to submit a written statement about the offense conduct.

### **3.2 The second Interview**

The second interview may be schedule either in the probation office or in the offender's home. By visiting the home, the probation officer may verify information by talking to other family members and may obtain clues about the offender's standard of living, community ties, and use of alcohol or controlled substances. A

second interview is also an opportunity to clarify any vague, contradictory, or confusing information.

### **3.3 The investigation**

The probation officer's investigation of the offense usually begins with an examination of the complaint, information, or indictment charging the defendant and the docket describing the judicial history of the case. These documents may be found in the district court clerk's file. The officer will use them to develop a brief chronological history of the prosecution of the case and identify the specific charges that resulted in the conviction. The review of the clerk's file may also reveal the identities of co-defendants or related cases, the status of which must be investigated and reported in the presentence report. At the same time, the probation officer may also request information about the offender's history, circumstances, and release status from the pretrial services officer or from a separate pretrial services agency. Another step that must occur early in the investigation is contact prosecutor assigned to the case. The prosecutor will be asked to provide information about the conduct that resulted in the defendant's conviction, victim's losses, the defendant's history, and any other data relevant to the sentencing decision. During the investigation, the defense counsel will also be asked to discuss the same topics.

### **3.4 The Criminal History**

Additionally, the probation officer must make an inquiry into the offender's criminal history. This is usually accomplished by using databases maintained by the Federal Bureau of Investigation (FBI), the National Crime Information Center (NCIC,) or state law enforcement agencies. Though the guideline criminal history category is based only upon sentences imposed for juvenile adjudications and criminal convictions meeting specific criteria, the probation officer reports all known incidents in which the defendant has been involved in criminal behavior to partially fulfill the statutory mandate to provide information to the court regarding the history and characteristics of the defendant. The early examination of computerized criminal history records enables the officer to identify which law

enforcement, court, and correctional records must be reviewed. In addition, the initial interview of the defendant should include questioning about the offender's residential history so that the officer can check local police and court records in every jurisdiction where the defendant has lived.

### **3.5 Identification of Information Gaps**

After the interview of the offender, contact with the prosecutor, and the criminal history inquiry, the probation officer must identify any information gaps, must identify potential sources for the missing information, and must plan on how to eliminate the gaps. It may be necessary for the investigating officer to request another probation officer in another jurisdiction to conduct a collateral investigation about a specific aspect of the case. Supplemental interviews may be scheduled with case agents, victims, family members, employers, counselors, or others.

Additionally, the probation officer may request physical and mental health, educational, employment or financial records from a variety of sources to corroborate information provided by the offender.

Gradually, the emphasis shifts from gathering information to analyzing data. The probation officer must take the tentative findings of fact regarding the offense conduct and criminal history and must make tentative applications of the sentencing guidelines. The applicable sentencing options that the probation officer must recite in the presentence report. Additionally, the probation officer must study the case to identify potential grounds for departure from the guidelines and then must analyze any potential departure to determine if it is valid. During the investigation, the probation officer may consult a probation officer specialist who is a subject matter expert about guidelines, financial investigation, mental health, substance abuse, or some other aspect of the case. The probation officer may also consult a supervisor or, in a team environment, other members of the officer's team.

## **4. Drafting of the PSI Report**

Finally, the probation officer must write a draft of the report for disclosure to the defendant and the attorneys. When objections to report are received, the probation officer

must manage the resolution of disputes. The officer must be impartial and open to opposing perspective and must consider all relevant and reliable information before making an independent judgment about the tentative findings of fact and guideline applications that will be recommended to the court. The probation officer must be prepared to report unresolved disputes to the court in a detached, dispassionate manner focusing on the factual or legal disagreement among the parties.

After revising the report in response to objections, the probation officer develops a sentencing recommendation based on the facts and sentencing options identified in the report. The written justification for the recommendation is the probation officer's evaluation and analysis of the offense, the offender, and the sentencing options. The justification provides the officer's rationale for the specific sentencing recommendations. It should address the statutory factors to be considered in imposing a sentence and should assist the court in the preparation of the judge's statement of reasons for imposing a sentence.

The officer then discloses the final report and sentencing recommendation to court. Also, the officer discloses the report (excluding the recommendation) to the defendant, and both attorneys, but the job is not finished. The probation officer must be prepared to discuss the case with the sentencing judge in chambers or in court, to answer questions about the report that arise during the sentencing hearing, and, ultimately, to testify under oath in open court as to the basis for the factual findings and guideline applications recommended in the report.

In the Federal System, after the offender's sentencing by the Court, the probation officer must ensure that copies of the pre-sentence report and other requested documents are forwarded to the U.S. Bureau of Prisons and the U.S. Sentencing Commission. If possible, the probation officer must also interview the offender after sentencing and instruct the defendant about the conditions of supervision that the court imposed. A written copy of the conditions of supervision must be provided to each offender.

**Topic : American Prisons And Community-Based Corrections****Topic Objective:**

At the end of this topic students will be able:

- Define prison system of the US
- Differentiate between the various security level types of prisons, like Supermax, maximum and minimum security.
- Understand privatization issue in the Prison System
- Define and understand the community based correction as an alternative means of penalizing the offenders.

**Definition/Overview:**

**Prisons in the US:** Prisons in the United States are operated under strict authority of both the federal and state governments as incarceration is a concurrent power under the Constitution of the United States. Imprisonment is one of the main forms of punishment for the commission of felony offenses in the United States. Less serious offenders, including those convicted of misdemeanor offenses, may be sentenced to a short term in a local jail or with alternative forms of sanctions such as community corrections (halfway house), probation, and/or restitution.

**Community Based Corrections:** Community Based Corrections is a division of ACT Corrective Services and consists of the Probation and Parole Unit, Rehabilitation Programs Unit and the Sentence Administration Board.

**Key Points:****1. Prisons in the US**

In the United States, prisons are operated at various levels of security, ranging from minimum-security prisons that mainly house non-violent offenders to Supermax facilities that house well-known criminals and terrorists such as Terry Nichols, Theodore Kaczynski, Eric Rudolph, Zacarias Moussaoui, and Richard Reid. The United States has

the highest documented incarceration rate, and total documented prison population in the world. As of year-end 2006, a record 7.2 million people were behind bars, on probation or on parole. Of the total, 2.2 million were incarcerated. More than 1 in 100 American adults were incarcerated at the start of 2008. The People's Republic of China ranks second with 1.5 million, despite having over four times the population of the US.

## 2. Federalism

The federal government, states, counties, and many individual cities have facilities to confine people. Generally, "prison" refers to facilities for holding convicted felons (offenders who commit crimes where the sentence is more than one year). Individuals awaiting trial, being held pending citations for non-custodial offenses, and those convicted of misdemeanors (crimes which carry a sentence of less than one year), are generally held in county jails. In most states, cities operate small jail facilities, sometimes simply referred to as "lock-ups", used only for very short-term incarceration can be held for up to 72 business hours or up to five days until the prisoner comes before a judge for the first time or receives a citation or summons before being released or transferred to a larger jail. Some states operate "unified" systems, where the state operates all the jails and prisons. The federal government also operates various "detention centers" in major urban areas or near federal courthouses to hold defendants appearing in federal court. Many of the smaller county and city jails do not classify prisoners (that is, there is no separation by offense type and other factors). While some of these small facilities operate as "close security" facilities, to prevent prisoner-on-prisoner violence and increase overall security, others may put many prisoners into the same cells without regard to the criminal histories of the prisoners. Other local jails are large and have many different security levels. For example, one of the largest jails in the United States is in Cook County (located in Chicago). This facility has eleven different divisions (including one medical unit and two units for women prisoners), each classified at a different security level, ranging from dormitory style open housing to super-secure lock-down. In California, to prevent violence, prisoners are segregated by race, ethnicity, and sexual orientation while held in county jails and in the California Department of Corrections and Rehabilitation's

reception centers, where newly committed prisoners are assessed prior to being transferred to their "mainline" (long-term) institutions.

### 3. Duration of incarceration

A judge sentences a person convicted of a crime. The length of the prison term depends upon multiple factors including the severity and type of the crime, state and/or federal sentencing guidelines, the convicted's criminal record, and the personal discretion of the judge. These factors may be different in each state and in the federal system as well. The vast majority of criminal convictions arise from plea bargains, in which an agreement is made between prosecutors and defense counsel for the defendant to plead guilty to a lesser charge for a lesser sentence than they would receive if found guilty at trial. Some prisoners are given life sentences. In some states, a life sentence means life, without the possibility of parole. In other states, people with life sentences are eligible for parole. In some cases the death penalty may be applied. Many legislatures continued to reduce discretion in both the sentencing process and the determination of when the conditions of a sentence have been satisfied. Determinate sentencing, use of mandatory minimums, and guidelines-based sentencing continue to remove the human element from sentencing, such as the prerogative of the judge to consider the mitigating or extenuating circumstances of a crime to determine the appropriate length of the incarceration. As the consequence of "three strikes laws," the increase in the duration of incarceration in the last decade was most pronounced in the case of life prison sentences, which increased by 83% between 1992 and 2003

### 4. Security levels

Prisoners reside in different facilities that vary by security level, especially in security measures, administration of inmates, type of housing, and weapons and tactics used by corrections officers. The federal government's Bureau of Prisons uses a numbered scale from one to six to represent the security level. Level six is the most secure, while level one is the least. State prison systems operate similar systems. California, for example, classifies its facilities from Reception Center through Levels I through IV (minimum to maximum security) to specialized high security units (all considered Level IV) including

Security Housing Unit (SHU) California's version of supermax and related units. As a general rule, county jails, detention centers, and reception centers, where new commitments are first held either while awaiting trial or before being transferred to "mainline" institutions to serve out their sentences, operate at a relatively high level of security, usually close security or higher.

#### **4.1 Supermax prison**

Supermax prison facilities provide the highest level of prison security. These units hold those considered the most dangerous inmates. These include international and domestic spies, terrorist, inmates who have committed assaults, murders or other serious violations in less secure facilities, and inmates known to be or accused of being prison gang members. The United States Federal Bureau of Prisons operates multiple Supermax facilities, and one such facility that is exclusively Supermax (ADX Florence).

#### **4.2 Maximum Security Prison**

In a maximum security prison or area, all prisoners have individual cells with sliding doors controlled from a secure remote control station. Prisoners are allowed out of their cells one out of twenty four hours. When out of their cells, prisoners remain in the cell block or an exterior cage. Movement out of the cell block or "pod" is tightly restricted using restraints and escorts by correctional officers. Under close security, prisoners usually have one or two person cells operated from a remote control station. Each cell has its own toilet and sink. Inmates may leave their cells for work assignments or correctional programs and otherwise may be allowed in a common area in the cellblock or an exercise yard. The fences are generally double fences with watchtowers, housing armed guards, plus often a third, lethal-current electric fence in the middle. Prisoners that fall into the medium security group may sleep in dormitories on bunk beds with lockers to store their possessions. They may have communal showers, toilets and sinks. Dormitories are locked at night with one or more correctional officers supervising. There is less supervision

over the internal movements of prisoners. The perimeter is generally double fenced and regularly patrolled.

#### **4.3 Minimum Security Prison**

Prisoners in minimum security facilities are considered to pose little physical risk to the public and are mainly non-violent "white collar criminals". Minimum security prisoners live in less-secure dormitories, which are regularly patrolled by correctional officers. As in medium security facilities, they have communal showers, toilets, and sinks. A minimum-security facility generally has a single fence that is watched, but not patrolled, by armed guards. At facilities in very remote and rural areas, there may be no fence at all. Prisoners may often work on community projects, such as roadside litter cleanup with the state department of transportation or wilderness conservation. Many minimum security facilities are small camps located in or near military bases, larger prisons (outside the security perimeter) or other government institutions to provide a convenient supply of convict labor to the institution. Many states allow persons in minimum-security facilities access to the internet.

### **5. Privatization**

In recent years, there has been much debate over the privatization of prisons. The argument for privatization stresses cost reduction, whereas the arguments against it focus on standards of care, and the question of whether a market economy for prisons might not also lead to a market demand for prisoners (tougher sentencing for cheap labor). While privatized prisons have only a short history, there is a long tradition of inmates in state and federal-run prisons undertaking active employment in prison for low pay.

#### **5.1 Advantages**

Some advantages of private prisons have been cited. These include flexibility, including the ability to terminate a contract more easily and cost-effectively than it would be to close down a government prison and lay off civil servants in the event of a decline in prison population. Private prisons also have an incentive to look for

ways to save on costs; for instance, Travis Snelling of the Corrections Corporation of America notes that his prisons are designed to save on labor, which represents 70% of the total costs over the useful life of a prison. This is particularly important given that posts must often be manned 24 hours a day, requiring more than 5 employees to cover all the shifts. Snelling estimates: "If you can eliminate one post by your architectural design, just one, that'll save you well over \$100,000 in a given marketplace, as far as labor is concerned."

The three leading corporations in the private prison business in the U.S. are the Corrections Corporation of America, the GEO Group, and Cornell Companies. Private companies which provide services to prisons combine in the American Correctional Association, which advocates legislation favorable to the industry. Some feel the high levels of incarceration are due to the long sentences mandated under American law, especially for nonviolent crimes like theft and drug possession. Some also feel that repeat offenders are not properly handled and that more focus should be on rehabilitation, and that shorter sentences would even reduce the criminal culture in general and especially reduce re-arrest rates for first-time convicts.

## 5.2 Criticism

Some have criticized the United States for incarcerating a large number of non-violent and victimless offenders; half of all persons incarcerated under state jurisdiction are for non-violent offences, and 20% (in State prisons, whereas Federal prison percentages are higher) are incarcerated for drug offences. "Human Rights Watch believes the extraordinary rate of incarceration in the United States wreaks havoc on individuals, families and communities, and saps the strength of the nation as a whole." The population of inmates housed in prisons and jails in the United States exceeds 2 million, with the per capita incarceration population higher than that officially reported by any other country. Because of its size and influence, the U.S. prison industry is often referred to as the prison-industrial complex. Criminal justice policy in the United States has also been criticized for the disproportionate representation of African Americans and other minorities

## 6. Community Based Corrections

In this form of community service, convicted individuals are required to perform charitable services or to work for agencies in the sentencing jurisdiction either entirely or partly in lieu of other judicial remedies and penalties.

For instance, a fine may be reduced in exchange for a prescribed number of hours of community service. In some cases, the subject may be able to choose their community service, which then must be documented by credible agencies, or they may be ordered by the judge to perform certain services or work for certain agencies.

Sometimes the sentencing is specifically targeted to the subject's transgression. Examples of this may range from sentencing a litterer to pick up litter along the highway, to a drunk driver being required to appear before school groups to explain why drunk driving is a crime and an ethical breach.

The philosophy behind alternative sentencing is at least partially that providing services that benefit society is a more constructive way to punish perpetrators. Through community service, the community sees a benefit while saving the costs associated with incarceration. It is also thought to be a way to introduce the idea of ethical action into the value of the perpetrator. Opponents worry that requiring community service as a punishment sets a poor example for young people who might associate community service with a negative impression.

Community service is only one of a variety of alternative sentencing techniques designed to be more effective at reforming perpetrators, to reduce recidivism, to benefit society, to help people, and to reduce the overall cost to society of sentencing criminals. Other alternatives include home-based incarceration, targeted payback of funds to victims, and drug addiction treatment rather than imprisonment. For those who want to participate in such a program Facing the Future with Hope's Transformative Therapy program can assist. Transformative therapy uses a variety of techniques sometimes known as integrative medicine to help people recovery from drug and alcohol dependency.

Most local jurisdictions in the United States which adjudicate criminal offenses have programs by which minor offenders may be allowed by the court to perform work for city or county agencies under the supervision of the police or sheriff's department, often on

weekends, as an alternative to confinement in jail. Jail and prison inmates are also typically used for labor in operating the correctional facility or in outside work benefiting society, such as in light manufacturing and repair work, office work, on labor camps or farms, on chain gangs or on land conservation projects. This is, however, more properly considered a form of penal labor rather than community service.

- ▀ In Section 3 of this course you will cover these topics:
- ▀ Nbsp; Parole And The Indeterminate Sentence
- ▀ Nbsp; Parole Administration And Services
- ▀ Rehabilitation: Theory And Practice

### **Topic : Nbsp; Parole And The Indeterminate Sentence**

#### **Topic Objective:**

At the end of this topic students will be able:

- Define Indeterminate sentencing

#### **Definition/Overview:**

**Indeterminate sentences:** Indeterminate sentences are believed to support the rehabilitation and specific deterrence models of sentencing while determinate sentences are believed to support the general deterrence and just deserts models of sentencing.

**Key Points:****1. Indeterminate sentencing**

Indeterminate sentencing, in which a sentence with a maximum (and, perhaps, a minimum) is pronounced but the actual sentence is determined by a parole commission or similar administrative body after the person has started serving their sentence. As part of the guidelines reform, the United States Parole Commission was abolished. In general, indeterminate sentences are believed to support the rehabilitation and specific deterrence models of sentencing while determinate sentences are believed to support the general deterrence and just deserts models of sentencing.

**1.1 Life Sentence**

A life sentence is an indeterminate sentence given automatically for murder and treason, and is the maximum sentence for manslaughter and Class A drug-dealing. In reality it is unheard of for a prisoner to die of old age in prison, as most are paroled. The default non-parole period for murder is 10 years, though in cases of particular violence the starting point is 17 years.

The sentencing judge may demand a longer non-parole period, and as of 2006 the longest non-parole period handed down was 33 years, in 2003 to William Dwane Bell.

**Topic : Nbsp; Parole Administration And Services****Topic Objective:**

At the end of this topic students will be able:

- Define the parole board.
- Relate the history of US Parole Board.

**Definition/Overview:**

**Parole Board:** A parole board is a panel of people who decide whether an offender should be released from prison on parole after serving at least a minimum portion of their sentence as prescribed by the sentencing judge. Parole boards are used in many jurisdictions, including the United Kingdom and the United States. A related concept is the board of pardons and paroles, which may deal with pardons and commutations as well as paroles.

**Key Points:****1. Parole Board**

A parole board consists of people qualified to make judgements about the suitability of a prisoner for return to free society. Members may be judges, psychiatrists, or criminologists. Many states do not have written qualifications for parole board members and will allow community members to serve in that capacity. Some states require all members to possess a 4 year degree, while others do not. Each state has a different requirement for parole board appointment. The universal requirement is that the candidate for membership has to be of good moral fiber.

**2. Parole Boards in the US**

There are 52 parole boards in operation in the United States.

On the federal level and in the District of Columbia, there is no longer parole. The United States Federal Sentencing Guidelines (enacted in 1987) discontinued parole for those convicted of federal crimes for offenses committed after November 1, 1987. This truth in sentencing legislation required federal prisoners to serve 85 percent of their sentences.

The United States Parole Commission remains the parole board for those who committed a federal offense before November 1, 1987, as well as those who committed a D.C. Code offense before August 5, 2000, a Uniform Code of Military Justice offense and are parole-eligible, and persons who are serving prison terms imposed by foreign countries and have been transferred to the United States to serve their sentence.

Every U.S. state also has a parole board. The autonomy of the board from the state governor also varies; in some states the boards are more powerful than in others. In some

states the board is an independent agency while in others it is a body of the department of corrections. Determinate sentencing has also severely reduced the power of many parole boards. Often, consideration of the opinion of the victim or victims or their family is taken into account in the board's final determination.

### **Topic : Rehabilitation: Theory And Practice**

#### **Topic Objective:**

At the end of this topic students will be able:

- Define Rehabilitation
- Define the theory of punishment
- Understand the deficiencies of the Rehabilitation theories.

#### **Definition/Overview:**

**Rehabilitation:** Rehabilitation means; to restore to useful life, as through therapy and education or To restore to good condition, operation, or capacity.

#### **Key Points:**

##### **1. Rehabilitation**

The assumption of rehabilitation is that people are not natively criminal and that it is possible to restore a criminal to a useful life, to a life in which they contribute to themselves and to society. Rather than punishing the harm out of a criminal, rehabilitation would seek, by means of education or therapy, to bring a criminal into a more normal state of mind, or into an attitude which would be helpful to society, rather than be harmful to society.

### 1.1 Theory of Punishment

This theory of punishment is based on the notion that punishment is to be inflicted on an offender so as to reform him/her, or rehabilitate them so as to make their re-integration into society easier. Punishments that are in accordance with this theory are community service, probation orders, and any form of punishment which entails any form of guidance and aftercare towards the offender.

### 1.2 Deficiencies of Rehabilitation theories

Rehabilitation theories present however the following deficiencies:

- o First, there are no sound scientific research to determine how different individuals react to the same rehabilitating methods.
- o Second, rehabilitation may depend more decisively on the individual psychological background, hence on his particular motives to commit crimes, than on the rehabilitating methods or philosophy.
- o Third, a rehabilitation program may prove to be too costly and complex to be successfully implemented in most countries.
- o Finally, rehabilitation must refer to the sociological findings on the socialization and resocialization processes, as change in life-long socially acquired patterns of behavior and values entails a much more complex and sometime traumatic change on the individual's structure of character.

- ▀ In Section 4 of this course you will cover these topics:
- ▀ Probation And Parole Officers
- ▀ Nbsp; Probation And Parole Supervision
- ▀ Special Problems And Programs In Probation And Parole

**Topic : Probation And Parole Officers****Topic Objective:**

At the end of this topic students will be able:

- Define the role of probation and parole officers.
- Apply the role of Probation officer to the Probation and parole system of the US
- Define the presentnce investigation

**Definition/Overview:**

**Probation officers and parole officers:** Probation officers and parole officers function as agents or officers of the courts.

**Key Points:****1. Probation and Parole in the United States**

In the United States, there can be probation officers in the city, county, state or federal level - wherever there is a court of competent jurisdiction. Probation Officers, depending on the jurisdiction, may or may not also be Parole Officers. Since the abolishment of parole in the federal system in 1984, there are essentially no parole officers on the federal level in the United States. However, there is a small and decreasing number of parolees still being supervised that were sentenced before 1984, or court-martialed military service personnel and U.S. Probation Officers serve as parole officers in that capacity. Most jurisdictions require officers to have a four year college degree, and prefer a graduate level degree for full consideration for probation officer positions on the federal level.

**1.1 Function of a Probation Officer**

A probation officer can perform any function assigned to him or her by the court. However, their usual mandate is to supervise offenders placed on supervision, and to investigate offender's personal and criminal history for the Court prior to sentencing. Probation and parole officers are required to possess excellent oral and written communication skills and a broad knowledge of the criminal justice system and the roles, relationships, and responsibilities distributed among the courts, the

parole authority the Bureau of Prisons or Department of Corrections and/or local jails, police, substance abuse counseling and social services agencies, applicable case law, sentencing guidelines (if applicable) and the prosecutor. Additionally, they must have an ability to work with an extremely diverse population and wide variety of government agencies and community organizations and accept the potential hazards of working closely with a criminal population.

In various states and localities, Probation Departments have a specialized officer position known as the Surveillance Officer. These officers have full Probation Officer authority, are peace officers, with arrest authority, and are badged and often armed. The purpose of a Surveillance Officer is generally to serve as the eyes and ears of a probation team on specialized caseloads, performing mostly field work, including random home and work visits, overt and covert surveillance, and performing arrests and searches; whereas the Probation Officer does much of his/her work in the office. Surveillance Officers usually attend the same training academy and generally only require a two-year degree or high school diploma with Public Safety experience.

## 2. **Pre-Sentence Investigation**

Probation Officers who prepare presentence reports must be especially skilled in gathering, organizing, and analyzing information. In the report and accompanying sentencing recommendation, the probation officer must assess the probability of risk to the community in the form of future criminal behavior, the harm the offense caused and the need for restitution, any profit the defendant received from the crime, and the defendant's ability to pay sanctions such as a fine, restitution or cost. The officer must identify the defendant's need for treatment to correct characteristics, conditions, or behavioral patterns that limit motivation or ability to obey the law and must assess the availability and suitability of rehabilitative programs. The preparation of presentence reports is critical not only to the individual offender and those directly affected by the offense, but to the systematic administration of criminal justice. In which is a very complicated job.

In the U.S, pursuant to the Privacy Act of 1974, a copy of the Presentence Report must be provided to each offender, or their counsel, before sentencing and, depending on the jurisdiction, must provide both counsels with a copy of the sentencing guidelines (if applicable) and be able to explain the calculations, resolve disagreements and noted objections to the Court. After sentencing, the presentence writer should provide the offender with a written explanation of his or her conditions of supervision. In addition, the probation officer should forward a copy of the Presentence Report to the incarceration agency to be used in classification of the inmate to ensure proper placement of the inmate and a better utilization of prison programs and resources.

### **Topic : Nbsp; Probation And Parole Supervision**

#### **Topic Objective:**

At the end of this topic students will be able:

- Define the supervised probation and parole.
- Define the role of Probation and Parole agencies

#### **Definition/Overview:**

**Supervised Parole:** In criminal justice systems, parole is the supervised release of a prisoner before the completion of his/her sentence. This differs from amnesty or commutation of sentence in that parolees are still considered to be serving their sentences, and may be returned to prison if they violate the conditions of their parole. In nearly all cases, conditions of parole include obeying the law, obtaining some form of employment, and maintaining some contact with a parole officer.

**Key Points:****1. Probation and parole supervision**

Probation Officers investigate and supervise defendants who have not yet been sentenced to a term of incarceration. Transversely, Parole Officers supervise offenders released from incarceration after a review and consideration of a Warden, Parole Board or other parole authority. Parolees are essentially serving the remainder of their incarceration sentence in the community due to the excellent adjustment and behavior while an inmate. However, some jurisdictions are modifying or abolishing the practice of parole and giving post-release supervision obligations to a community corrections agent, generically referred to as a Probation Officer. Typically, probation and parole officers do not wear a uniform, but simply dress in business or casual attire. Probation officers are usually issued a badge/credentials and, in many cases, may carry concealed weapons and pepper spray for self protection or serving arrest warrants. Parole Officers, in many jurisdictions, are also issued a badge and firearm and often have full police powers. Probation/Parole officers with law enforcement powers, technically classified as peace officers, must attend a police academy as part of their training and certification.

**1.1 Probation agencies**

Probation Agencies have a loosely based paramilitary command structure and are usually headed by a Chief Probation Officer or Director. The chain-of-command usually flows to Deputy Chief or Assistant Director, then to Supervisor or Senior Probation Officer, then to the line probation officer. Some Parole and Probation Officers supervise general caseloads with offenders who are convicted of a variety of offenses. Others hold specialist positions, and work with specific groups of offenders such as Sex Offenders, offenders sentenced to electronic monitoring (house arrest) or GPS Monitoring, cases with severe mental health, substance abuse, and violent histories.

**Topic : Special Problems And Programs In Probation And Parole****Topic Objective:**

At the end of this topic students will be able:

- Define the various parole and probation programs in the US.

**Definition/Overview:**

**Parole officers:** Parole officers generally function as agents or officers of the Parole Board or the Department of Corrections. Probation officers serve under the court system as the enforcing arm of the court's sentence of someone who has been placed on supervised probation.

**Key Points:****1. Parole and probation programs****1.1 National Probation Service**

The National Probation Service is charged with supervising offenders and compiling relevant data regarding offender supervision and its modern form was set out in April 2001 by the Criminal Justice and Court Services Act. However, it has existed since 1907 The Probation of Offenders Act but the practice of placing offenders on probation was routinely undertaken in the London Police Courts by voluntary organisations such as the London Police Court Mission later known as the Rainer Foundation as early as 1876. These earlier probation services provided the inspiration for similar ideas in the humane treatment and supervision of offenders throughout the British Empire and also in former colonies of Britain as missionaries and members of the British criminal justice system travelled the globe.

In modern times the duties of probation officers mirror the duties of their US counterparts with some notable exceptions. Probation officers make regular recommendations to sentencers regarding an offender's progress and potential to contribute to the community after release although recent legislation creating new orders such as the Drug Treatment and Testing Order have introduced U.S. style

reporting to the English Courts for the first time. Additionally, probation officers will supervise a Restorative Justice plan that provides the victim of a crime an opportunity to address the impact of the crime to the offenders. In England and Wales some attempts have been made to follow the United States and Canada style corrections services but this has sometimes led to poor or inappropriate implementation of politically expedient ideas for changes in the supervision of offenders that do not fit easily with the stable and somewhat conservative criminal justice System in England and Wales.

### **1.2 United States Parole Commission**

The United States Parole Commission is the parole board responsible to grant or deny parole and to supervise those released on parole to incarcerated individuals who come under its jurisdiction. It is part of the United States Department of Justice.

The commission has jurisdiction over:

- o Persons who committed a Federal offense before 1987-11-01
- o Persons who committed a D.C. Code offense before 2000-08-05
- o Persons who committed a Uniform Code of Military Justice offense and are parole-eligible
- o Persons who are serving prison terms imposed by foreign countries and have been transferred to the United States to serve their sentence

Additionally, the Commission has the responsibility to supervise two additional groups for whom they do not have parole jurisdiction

- o Persons who committed a D.C. Code offense after 2000-08-04
- o Persons who have been placed on probation or paroled by a state that have also been placed in the Federal Witness Protection Program

### **1.3 Federal Probation service**

The Federal Probation Service came into existence in 1925, shortly after Congress passed the Federal Probation Act. The Federal Probation Act originally provided for the establishment of a probation system for all United States District Courts, except

the District of Columbia, gave the court, after conviction or after a plea of guilty or nolo contendere for any crime or offense not punishable by death or life imprisonment, the power to suspend the imposition or execution of sentence and place the defendant upon probation for such period and upon such terms and conditions it deemed best and to revoke or modify any condition of probation or change the period of probation, provided the period of probation, together with any extension thereof, did not exceed 5 years. A fine, restitution or reparation could be made a condition of probation, as well as support for whom the probationer was legally responsible. The Federal Probation Officer was to report to the court on the conduct of each probationer. The court could discharge the probationer from further supervision, or terminate the proceedings against him, or extend the period of probation.

The Federal Probation Service has since evolved to where the Federal Probation Officer can supervise defendants sentenced to probation, those granted parole from the United States Parole Commission, military parolees, from all branches of services, that were previously court-martialed under the Uniform Code of Military Justice, and those sentenced to a term of supervised release, supervision to be served after their release from Federal Prison.

- In Section 5 of this course you will cover these topics:
- Intermediate Punishments
- Probation And Parole In The Twenty-First Century

### **Topic : Intermediate Punishments**

#### **Topic Objective:**

At the end of this topic students will be able:

- Define the Intermediate punishments

### **Definition/Overview:**

**Intermediate punishments:** They are also known as intermediate sanctions are more severe than traditional probation, but less costly than prison. Together with prison and probation, they form a ladder of punishments: probation at the bottom, prison at the top, and community-based, intermediate punishments on the middle rungs. Today, almost every state has at least one or two of these punishments, although almost nowhere have they been used to their full potential. Electronic monitoring and intensive supervision are among the most commonly used.

### **Key Points:**

#### **1. Intermediate punishments**

Many states have developed a systemic approach to these intermediate punishments. More than half the states, for instance, have adopted community corrections acts to permit counties to plan and control the intermediate punishments administered within their communities.

And a few states have incorporated the sanctions into their sentencing guidelines to make sure that certain offenders receive these punishments rather than prison terms.

Intermediate punishments are delivered through a variety of programs: fines, intensive supervision, restitution, substance abuse treatment, electronic monitoring, boot camps and halfway houses.

Different punishments may be coupled, such as restitution with intensive supervision or substance abuse treatment, or used in sequence, such as boot camp followed by intensive supervision.

The graduated range of controls also allows a probation or parole officer to decrease or increase levels of supervision as the offenders behavior warrants.

Confinement in prison or jail always remains an option for noncompliance with the terms of a sentence.

## Topic : Probation And Parole In The Twenty-First Century

### Topic Objective:

At the end of this topic students will be able:

- Define the evolving role of Probation and parole in the 21<sup>st</sup> century.

### Definition/Overview:

**Federal Probation Service:** The Federal Probation Service or United States Probation Service is an agency that services the United States district court in all 94 judicial federal districts nationwide and constitutes the community corrections arm of the Federal Court System.

### Key Points:

#### 1. Parole in the 21<sup>st</sup> Century

Parole is a controversial political topic in the United States. According to the U.S. Department of Justice, at least sixteen states have abolished parole entirely, and four more have abolished parole for certain violent offenders. During elections, politicians whose administrations parole any large number of prisoners (or, perhaps, one notorious criminal) are typically attacked by their opponents as being "soft on crime". The US Department of Justice (DOJ) stated in 2005 that about 45% of parolees completed their sentences successfully, while 38% were returned to prison, and 11% absconded. These statistics, the DOJ says, are relatively unchanged since 1995; even so, some states (including New York) have abolished parole altogether for violent felons, and the federal government abolished it in 1984 for all offenders convicted of a federal crime, whether violent or not. Despite the decline in jurisdictions with a functioning parole system, the average annual growth of parolees was an increase of about 1.5% per year between 1995 and 2002.

The accused perpetrators of the infamous July 2007 Cheshire, Connecticut home invasion were convicted burglars paroled from Connecticut prisons. The New York Daily News has called on parole to be abolished in the wake of this massacre. On September 21, 2007

Governor M. Jodi Rell announced a moratorium on the parole of violent offenders in the wake of the Cheshire massacre

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