

MARGARET MEAD AWARD LECTURE

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BEFORE THE

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The ICCA Margaret Mead Award recognizes an individual who has demonstrated leadership in the field of community corrections through guidance, innovative ideas, influence of policy and/or dedicated service to the ideals and goals of community-based correctional programming. This award is considered to be the highest honor presented by the Association.

A New Initiative in Community Corrections

Prosecutors to Push Reentry

I am both humbled and awed to be associated in any way with the world famous Margaret Mead. How appropriate it is to recognize that her seminal work in anthropology has led us to present applications in the field of criminal justice in both prevention and corrections.

One could well ask why I am here tonight, having started my professional life as an enthusiastic young federal prosecutor and enthusiastic and aggressive young House and Senate Judiciary Committee counsel helping to write then notorious criminal statutes authorizing pre-trial detention and no-knock search entries, but now standing before you as a convert serving a lifetime commitment to community-based correctional reform. Well, thereby hangs a tale.

A Fundamental Problem With the Detention System

While busily working on prosecution-oriented interests, it became ever evident to me during the pre-trial detention debates that there was something fundamentally wrong in the criminal justice system with respect to detention, both pre-trial as well as post-conviction. The prevalent practice in which money bail determines who is jailed before trial led me to work for the vaunted U.S. Senator Sam Ervin of North Carolina, who was then chairman of the Senate Judiciary Subcommittee on the Constitution, on what we then called "bail reform."

Rather than having money as the key to pre-trial release, we believed in and created a statute to provide for a full-blown evidentiary hearing to determine facts relevant to pre-trial release or detention such as community ties, seriousness of the offense, weight of the evidence, likelihood of flight, etc. Only after such a due process proceeding by a judicial officer should some be detained prior to trial, and then, only for the limited period as required.

While working on Capitol Hill, one cannot fail to note the lightning strikes of politics. The next thing I knew I was the Associate Deputy Attorney General for Criminal Justice in the new administration, handling all of the criminal law and policy issues for the department.

I continued my strong interest in corrections and became very interested in the work of the then U.S. Parole Commission and Federal Bureau of Prisons. I was privileged to serve on the selection committee endorsing Norm Carlson for BOP Director. He went on to become a gigantic figure in the field of corrections and a leading voice for the then so-called medical model, which emphasized treatment over punishment, while responsibly accomplishing both.

The Law Enforcement Assistance Administration

While working in the heady atmosphere of the Congress, I also was privileged to work on what became the Omnibus Crime Control and Safe Streets Act, which created the Law Enforcement Assistance Administration (LEAA). Little did I know I would later head it. The significance of that Act needs to be appreciated because it marked a watershed in federal criminal justice policy. At that time, the solons of the Congress were very concerned that the rise

in violent crime across the country, which was highlighted by the then famous presidential crime commission report (*The Challenge of Crime in a Free Society*) headed by former Attorney General Nicholas Katzenbach, would lead to pressure on the federal government to assume some responsibility for the crime issue.

The wise men and women of the Congress recognized that the Constitution gave the federal government no general police power and that the basic responsibility for law enforcement lay with the states and local governments. In order to avoid being pushed into assuming direct federal enforcement responsibility for what was then called “street crime,” the Congress enacted and appropriated to the LEAA a \$1 billion federal grant that was to be administered to the states for law enforcement and to be divided among police, courts, and corrections.

The LEAA went through some troubled times as a semi-independent agency led by a three-man administration. The Congress then reauthorized the Agency to be led by a single administrator, to which position I was presidentially appointed and happily confirmed by my former employers, the Senate Judiciary Committee, and then the full Senate.

It was an exciting time because there were no earmarks or federal mandates, and we were free to pursue the needs of state and local government without imposing federal initiatives or substantial federal policy conditions. The Act required statewide and regional planning to receive the federal funds, thus, all local and regional competitive interests could be resolved, properly, at the state and local level and not by federal selective policies. The program was extremely popular.

Because the original intent of the congressional authors was that the LEAA should be independent of the attorney general for sound constitutional federalism-based reasons, there was great covetousness of the program and its funds by the Department of Justice. When the time was “right” and the House and Senate and presidency were in the same party’s hands, LEAA was subsumed into the Department of Justice, where it became the Office of Justice Programs. We all know its subsequent history and its transition into an administrative machine for funding congressionally earmarked pet projects and changing federal initiatives, largely ignoring the needs or wants of state and local governments.

The National Institute of Corrections

There were some bright spots along the way, including creation of the National Institute of Corrections (NIC). The placement of the NIC within the Federal Bureau of Prisons in the Department of Justice has limited its ability for more free-ranging initiatives aimed at the needs of state and local governments (although location in the BOP gives it some political insulation). Nevertheless, the NIC serves an important function in pursuing and finding good initiatives and has great potential for the future.

I must pay particular compliments to Phyllis Modley of NIC, with whom I am privileged to share this occasion, and to commend her on her Dillingham Public Service Award. Having known of her work from my days at LEAA and thereafter, I am happy to commend her career as a public service professional in providing quiet but steady and important leadership at NIC.

As the political wheels turned and political appointments came to an end, I entered private practice. The call of children and their education could not be ignored for long.

The National Committee on Community Corrections

However, my interest in detention policies and the role of corrections in our criminal justice system never waned. As the political winds grew harsher and the medical model began to be replaced by the punitive model for dealing with antisocial conduct, which we choose too often to criminalize, the voices of many elected and appointed officials began to shift with those political winds.

As a result, many clearheaded and progressively minded officials could no longer offer the kind of public leadership required to keep the values of community-based sanctions alive. So then, Parole Commission Chairman Benjamin Baer, a courageous and farsighted Californian, whose memory deserves honoring, asked me to take on the chairmanship of a national committee on community corrections. The theory was that if the committee were led by a private-practicing lawyer with a substantial enforcement background, it could be an independent voice in the public forum to counter some of the punitive rhetoric and to promote the values of community-based sanctions as part of the correctional process.

Willingly I took on this responsibility, and for approximately the past 20 years, I have been privileged to chair this committee made up of very distinguished practitioners, thinkers, political and community leaders, public policy mavens, community service organizations, and the occasional repentant prosecutor. Many of you have participated in our meetings and programs.

The Center for Community Corrections

We established a 501(c)(3), the Center for Community Corrections, which serves as a clearinghouse of practices, analyses, publications, and dissemination. Through some modest funding by the Office of Justice Programs and some even more modest private funding, the Center for Community Corrections continues to serve as a clearinghouse and is the actual grant recipient and publisher of a series of monographs promoting and supporting community corrections concepts and projects.

Thus, here I am before you tonight. To be in your midst and under the auspices of the International Community Corrections Association (ICCA) and its shy and modest director Jane Browning, I bring to you the commendations from the members of the National Committee on Community Corrections and the Center for Community Corrections.

Having reviewed the play and players up to the present, before taking a step into the future let us review the present terrain, starting with your leadership.

ICCA's Leadership

The board of the National Committee on Community Corrections commends ICCA for its long dedication to the “what works” agenda. Without the vision of ICCA’s board, staff, and founding members to assemble researchers each year at its conferences and to commission scholarly papers, the research would have remained on shelves as academic papers. The conferences and ICCA publications around the topic of what works have challenged community corrections practitioners to apply scientific methods and measure their programs’ effectiveness.

Canadian Research

Our Canadian colleagues are to be credited for their long and thoughtful development of research that has practical applications for community corrections. The vision of Don Evans, a former ICCA president and ACA leader, has helped provide a practical and theoretical perspective to those of us in the United States with our 50 states and territories. This is particularly evident in the area of cognitive behavioral programs dedicated to changing behavior and to management programs that are accountable for what they achieve. Our Canadian friends have stimulated an increasing number of states that are adding cognitive behavioral programs to their training, standards, and management protocols each year.

U.S. Federal Initiatives

In the United States, our federal colleagues have provided strong support for community corrections at the federal level, despite a sentencing guidelines structure imperfectly designed to accommodate a vibrant community corrections system. The Federal Bureau of Prisons, Administrative Office of the Courts, and the United States Parole Commission are to be commended for their courage in forging ahead. In particular, we recognize the work of board members of the National Committee on Community Corrections, who have worked on the front lines. Harley Lappin, Laurie Robinson, Nancy Gist, Gerry Vroegh, Stew Rowles, John Clark, Anne Schmidt, J. Michael Quinlan, Ed Reilly, Richard Sutton, and many others have devoted considerable energy and leadership to improving the federal infrastructure for community corrections agencies.

Center Committee Members

Our executive committee at the Center for Community Corrections has worked hard with staff, volunteers, and researchers to provide accessible documents about basic community corrections issues. Vice Chair Emeritus Warren Cikins has worked extensively with courts and correctional officials through his Brookings seminars to promote interagency collaboration and a “middle ground” between prison and unrestricted probation. Margot Lindsay has continually helped us focus on the importance of the public’s understanding and acceptance of community corrections and has vastly improved our ability to network with a broad-based constituency. Don Murray of the National Association of Counties, and Nolan Jones of the National Governors Association, have helped us connect with the issues of concern to elected officials, such as the mentally ill in jails. Mary Shilton has helped research and write a series of monographs that

present a range of views and experiences on topics related to the community corrections field. Jill Murphy has provided the oversight and day-to-day management for our entire effort.

In the law enforcement area, we have worked with the International Association of Chiefs of Police and the National District Attorneys Association, about which you will hear much more, toward integrating community corrections with policing and community prosecution.

Coordinating a Comprehensive System

The challenge to sustain such local programs as halfway houses, day reporting centers, and reentry employment has been huge, because there is no single infrastructure at any level capable of coordinating the multi-jurisdictional tasks necessary for a comprehensive system.

Our most recent review of state laws by Mary Shilton shows 37 states with either community corrections acts or extensive probation subsidies for localities and nonprofit agencies as partners. These laws have changed over the past three decades to incorporate victim services, restitution, restorative justice, sex offender and mental health services, education, employment and drug abuse treatment. Other changes include legislative oversight committees, reporting of outcomes measures, and independent review boards that oversee community corrections in the states.

Federal Sentencing Placements

At the federal level, we are challenged by issues related to the placement of inmates in halfway houses at the end of their federal sentences. The U.S. Sentencing Commission never has been able to develop a full-blown sentencing grid that accommodates and fully utilizes halfway houses, and there have been continued efforts to provide a “fix” for federal halfway house placements through legislation, most recently in the “Second Chance Act.” We commend ICCA and its members for their active participation and advocacy in improving the federal sentencing placements.

Mental Health and Substance Abuse Treatment

The Center for Community Corrections has long advocated for a range of appropriate screening, assessment, and treatment options for offenders in the justice system. Sadly, we are still using our hospital emergency rooms and jails as the primary intervention for people with mental health and/or substance abuse needs.

At the federal level, we have long advocated for access to recovery resources for substance abusers. Although there have been resources poured into drug courts for more than a decade, these resources have not significantly affected the percentage of offenders who actually get treatment. They remain a statistical drop in the bucket. Information from the CJDATS studies shows that access to treatment and retention in treatment for mentally ill and substance abusing offenders is the area in which we can have our greatest improvement at the lowest cost. By motivating and engaging individuals in the treatment process, the work of halfway houses, day

reporting centers, and reentry programs will be successful. Furthermore, it saves \$7 for every dollar spent.

Cost-Effectiveness and New Directions

The notion of cost-effectiveness has changed in part due to the work of ICCA and the Center for Community Corrections involving researchers and practitioners in cost-effectiveness discussions. In an early publication on correctional costs, the Center for Community Corrections and ICCA provided early cost figures on types of correctional options. The Center for Community Corrections also worked with the American Bar Association on a cost-effective correctional options study in the mid-1990s. This study recommended that states and localities employ a range of options to improve their processes for allocating funding to community corrections. Such early works pointed to the need for the more refined cost studies undertaken by the Rand Corporation and, more recently, by the Washington State Institute of Public Policy.

Exploration of the dimensions of cost-effectiveness is an endeavor that has taken community corrections practitioners into a number of uncharted places where research is thin. Among these are:

- Neuroscience;
- Institutional organization;
- Systems intervention theory;
- Anthropology of neighborhoods and cultural groups;
- Health and physiology;
- Cognitive behavioral therapy;
- Criminology;
- Legal theory;
- Addiction science; and
- Chemical dependency.

A marker of the importance of these fields has been the spawning of new journals and meetings, research findings, and technologies. Electronic monitoring, drug testing, mapping, and computerized case management and information management have taken community corrections agencies into a high-tech world. The data collected by these technologies can be used to shape individual decisions, management strategies, and government funding. This array would challenge even the venerable Margaret Mead.

Although the technical capacity of community corrections has grown by leaps and bounds, intergovernmental relationships have not changed dramatically over the years. Privacy, confidentiality, records sharing, and surveillance issues remain a concern, where all kinds of individual information is now collected through “listening posts.”

Ongoing Goals

As we have reviewed where we have been going, let us also set out some goals toward which the Center for Community Corrections is working. I am sure you will share these goals with us in varying degrees. We believe that:

- Community corrections will succeed to the extent that its operations are transparent to the public in general without being detrimental to the individual privacy needed for rehabilitation.
- Community corrections needs to have a constant and informed exchange with the media so as to open a window for the public to understand, interact, and shape programs. This means more open websites, public hearings, and campaigns for public funding of services, so that the public understands the value and individual impact of such programs.
- Applying the lesson learned from the last 20 years of the drug court experience, community corrections should aim to be collocated and connected to every part of the justice system. This means even closer ties with community policing, prosecutors, and courts. This is where the biggest number of cases can be turned around.
- Community corrections needs to take on juveniles and “what works.” We simply do not have enough information about youth, particularly females and ethnically diverse cultural groups, and what motivates and changes their behavior.
- Every state should have community corrections legislation that funds true state and local partnerships with adequate resources to do the job.
- At the national level, we need federal legislation that acknowledges the need for devoted resources to support intergovernmental solutions at the federal, state, and local levels of community corrections.

We at the Center for Community Corrections want to team with you in these pursuits.

The Role of Prosecutors

There is more good news. A newly emerging cohort is joining our team—the nation’s prosecutors.

As a longtime member, present with Presidential Counsel Ed Meese at the founding of the board of directors and board of trustees of the American Prosecutors Research Institute (APRI), the technical assistance, training, and research arm of the National District Attorneys Association (NDAA), let me tell you that there is a new initiative about to be announced by NDAA. First, let me give you some background.

