

COMMUNITY
BASED PROBATION
AND PAROLE
OFFENDER
PROGRAMS IN USA

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by
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Judge Jack Simmons and Eddie Ozols - On the bench at Pittsburgh Court

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I must acknowledge personally the staff at the national office in Canberra and particularly Mrs Elvie Munday who made my departure overseas effortless. I would also like to acknowledge the NSW Minister for Corrective Services who approved my travel overseas, the Probation and Parole Service for supporting this study tour and special thanks to my colleagues at Lismore Probation and Parole Office who supported me by their magnificent efforts in covering my absence.

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EXECUTIVE SUMMARY

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1998 Churchill Fellowship awarded to study Domestic Violence programs for violent men; programs for mentally ill offenders and restorative justice.

Domestic Violence

In the experience of the Domestic Abuse Intervention Project (DAIP) in Duluth there are approximately 200 tasks undertaken by practitioners involved in the legal and community systems, any of which if not properly completed can compromise the safety of women and children in a violent household. Ellen Pence and other staff of DAIP were particularly helpful in providing information. Bob Foster of ADACSS in Ann Arbor Michigan and Bob Foster of DACC, Pittsburgh also provided useful insights and resources.

Domestic violence services are more than just providing programs for violent men or refuges for women and children. Whilst these are essential to provide safety, ultimately there must be changes to the way society views domestic abuse if it is ever to be reduced.

The Community Coordinated Response system is being utilised across America as governments at various levels seek to improve their systems responses to violence in the home. Government in NSW is delivered by centralised agencies which ensures consistent policy across the state which is a distinct advantage over the USA where each county and city develops its own policies.

The challenge for public administration in NSW is to look beyond the individual agency's response to domestic violence and seek to ensure that resources are utilised in such a way that victim safety and offender accountability are paramount. To this end the establishment of Regional Violence Against Women Specialists in NSW can be seen as the commencement of coordinating government services. However commitment by other agencies to the process is required, as are more manageable areas for these positions to operate in than they currently do.

Mentally Ill and Intellectually Disabled Offenders

A Federal Act prescribes obligations that state and county governments have in providing services to people in the community who are either mentally ill or intellectually disabled.

As a consequence, it appeared to me that in Lancaster there were many resources for this population group both in accommodation services of various kinds and day programs. Health Insurance paid for many of these services as well as taxation. The cost of health insurance in USA is prohibitive.

The Office of Special Offender Services provided excellent case management to offenders who fitted the criteria of mental illness or intellectual disability and were able to access appropriate services, or where not available, funding to acquire those services from the appropriate funding body in order to support this offender population in the community.

The large number of serious sexual offenders on the intellectual disability caseload highlighted a criminal justice system which was prepared to expend resources maintaining people in the community

who ordinarily would have been gaoled. The Office of Special Offender Services was a specialised service within a criminal justice system which by Australian standards was punitive and retributive.

The issue in NSW is ultimately one of resources both for the providers of mental health and intellectual disability services as well as the criminal justice system which houses a client population, which is better off, housed within the community sector.

Restorative Justice

Within the USA Restorative Justice is seen to be involving the community in the criminal justice system. Retribution is the cornerstone of sentencing in USA, resulting in crowded gaols, more gaols being built and Probation caseloads that are out of control by Australian standards. Minnesota Department of Corrections, Lancaster VORP, York VOMP and Juniata County Probation were invaluable sources of information.

Restorative justice seeks to give victims a voice within a system that they are not part of at present. Much of the political response to crime in USA appears to be that of victims seeking retribution from a system that does not acknowledge or hear them.

If NSW is to be spared the cries for increasing punishment and a tougher law and order approach by government that appear from time to time, then victim offender conferencing should be available for victims and offenders prepared to be involved in the process. This would acknowledge the individual as the victim and not the state. It would assist victims to feel that they have had a say in the process and in the case of some victims of violence could allow emotional healing.

The cost of such a program is not high compared to the long term benefits to be gained for both victims and offenders as well as the community.

INTRODUCTION

In publishing a document which reports on my findings and observations on the study tour I undertook, it quickly became apparent to me that it was necessary to include information on the way the United States of America is governed and to explain simply how the United States criminal justice system operates. The programs observed and agencies visited operate within their own national, legal and cultural framework. Without understanding this framework it is easy to be critical or complimentary about a program and to fail to fully appreciate why and how it operates.

The Winston Churchill Memorial Trust awarded me the fellowship primarily to travel to Duluth Minnesota to learn about programs for domestic violence perpetrators and to Lancaster, Pennsylvania to observe the Special Offender Services for mentally ill and intellectually disabled offenders. I had the opportunity whilst in Pennsylvania to visit a number of restorative justice projects and was granted permission to spend some time having a look at this concept which is fairly new to Australia.

Once I learned I had been awarded the fellowship, the itinerary changed from that submitted. This saw me visit Minneapolis Minnesota, Ann Arbor Michigan, Lexington Kentucky, Boston Massachusetts, Washington DC and Pittsburgh Pennsylvania to visit domestic violence programs and meet people working in both perpetrator programs and women's services.

Apart from the agencies and people visited, I visited a number of historical and cultural venues and was invited into the homes of various people along the way, which gave me a greater understanding and appreciation of America and its culture. Whilst Australia and the United States share many similarities, there are major differences in government, public administration and the judicial systems. I learned as much informally by discussing our respective histories and cultures as I did observing programs in operation. Hence a visit to Bunker Hill and Colonial Williamsburg taught me why the gun culture is so entrenched in the American national psyche as opposed to Australians' views on guns.

As people read this report I trust the programs described will be understood within the cultural, governmental and judicial frameworks in which they operate.

GOVERNMENT in USA

Australia has for years been challenged by the concept of economic rationalism and the need to work smarter and not harder. The public sector has been challenged to reduce its size as governments have tried to reduce public expenditure and services provided by the government. It has been suggested that as a nation we are over governed, over taxed and spend too much on government services. It has been implied that the USA has pared back services provided by government to a bare minimum and this has provided the catalyst for some of the radical reforms we in Australia have seen initiated by our Federal Government in the areas of Social Security, Employment and Training and by the states in public administration.

My observations over ten weeks in the USA have led me to conclude that contrary to popular misconception in Australia, Americans enjoy high levels of public and human services and pay as much if not more tax than Australians.

Levels of Government

The USA is governed at Federal, State, City, County and Township levels.

Township, City and County Government

Townships and cities most nearly approximate local government in Australia with elected 'supervisors' or 'commissioners' similar to councillors.

Each township has its own services such as schools, police force, fire service and ambulance. A number of townships may combine to form school districts which are funded from local property taxes. Due to the small population in some townships they may combine to form an area police service or contract with a neighbouring township's police service to have policing undertaken on their behalf. Each township or government authority will have its own magistrate which is a full time elected position.

Cities are usually the large population centre for the county and will have their own services such as police, but will house county wide services. The county, made up of all townships and cities will have combined services which cannot be readily met by smaller units of government. These include all courts other than magistrates courts, prisons, social and welfare services, probation and health services and other larger infrastructure such as water and sewerage supply. In Duluth, Minnesota as an example there were eight judges handling all criminal and civil cases that were not state or federal matters for a county population of 257,000 people. Each of these levels of government had their own administrative offices. Duluth was unusual in that corrections was provided on a Regional basis encompassing a number of counties. This meant one Probation Service across five counties.

In Lancaster County, Pennsylvania with a population of 400,000 there are over forty self governing townships in the county. Lancaster City with a population of 70,000 has its own police service of approximately 140. It provided policing to adjoining Lancaster Township. There are however over twenty other police services serving their own townships within the county. Each policing authority has its own recruitment, training and procedures as well as salary agreements (contracts). Therefore a base grade officer joining the Manheim Police Department earns more than a sergeant of twenty years in Lancaster City Police. Whilst townships may provide many services on a combined basis, policing is seen as a service that townships will maintain direct control of because of the power it gives communities over law and order and safety issues.

The levels of service a community receives are in direct proportion to their taxation base. At a local level people pay a school tax (based on property values) which directly funds the local school district. In addition there are separate property taxes which fund police, local magistrates, parks, roads and other local services. There is also a county tax (based on income) which pays for county wide services. In addition there is an "Occupation Privilege Tax" which in Lancaster City is a \$10 tax per person for the privilege of working. A "Per Capita Tax" is levied on adults living in the townships which varies in Lancaster County from \$15 to \$60 a head.

State Government

State governments are funded in part from state taxes which are usually in the form of a sales tax (GST) at the point of sale, as well as a state income tax. States have their own bureaucracy, such as prisons and were defined from county gaols as somewhere someone would be transferred to, depending on the length of sentence. In Duluth, a sentence of one year and a day, in Lancaster two years and a day meant transfer to the state penitentiary some place distant from home. A state Parole Service supervised state offenders. There is also a state police force which is involved in highway patrol and other duties not carried out by local and city police, and a state court system. Welfare assistance which is equivalent to our Social Security in Australia is a state responsibility and universities are funded by the state.

Federal Government

The Federal government's revenue base is from income tax and a social security tax. There is a federal penal code separate from the states and counties. Thus a bank robbery is a federal offence which will result in trial by a federal court and detention in a federal penitentiary. A robbery of a petrol station would be tried at the county court and depending on the length of sentence the offender could find himself in either the county gaol or state prison. Federal programs include defence, social security and immigration. In addition there are Federal Probation Offices supervising Federal Parolees.

The Federal bureaucracy is financed by income taxes and returns some of the money raised to local and state governments to spend on Federal Policy initiatives. Again there was a Federal Court system for prosecution of certain offences and a Federal Prison system, housing only Federal prisoners.

Effects of Government

The varying levels of government have advantages and disadvantages. Decision making in many areas is close to the people and allows for greater participation by ordinary citizens in issues such as the election of judges and the passing of local laws and the raising of taxes for different purposes such as the building of new schools. In Washtenaw County, Michigan the Domestic Violence Shelter was funded by the county at a cost of \$3 million after a public vote agreed to an increase in millage (county tax) to allow for this purpose. Employees such as police would certainly be more accountable as everyone knows their local cop.

Inequities such as in education are one disadvantage of this system of government where the local tax base dictates the quality of the education offered in each area. Each School Board has its own administrative structure and policies and curriculum. The chief of police would in many respects be captive to the public opinion of his community and policing and the court system are politicised. Reading a book about the struggle for civil rights in the 1960s on this trip made me aware of the abuse of authority by local police in many counties and the way the legal system was used and abused to try to contain the legitimate concerns of African Americans in their quest for justice.

Perhaps the greatest disadvantage I saw in USA from so much government and the way services were funded was the magnitude of poverty and the vast ghettos in Detroit, Philadelphia and New York City. Communities that had nothing to commence with seemed to have no way to improve their social standing or their communities' physical environments because of the taxation system being localised. The inefficiencies in so many levels of government are self evident. The number of different police services in Lancaster County meant a separate administrative structure for each and the inability to obtain the advantages of a larger organisation. Additionally ordinances from county to county differed and local ordinances could be passed for political reasons.

Whilst the perception in Australia has been that taxation in USA is lower, in discussions with many Americans they perceive that their total tax burden is greater than forty percent of their income despite most Americans paying income taxes at the rate of 28%. The addition of state and county income tax, property tax and school tax plus sales tax soon adds up.

An advantage of the taxation system was a high level of services provided to the communities I visited. Public schools I visited were of a standard that most educators in Australia could only dream about. Staffing levels in public agencies were high and tended to cast a wide net.

Arrowhead Regional Corrections in Minnesota provided probation services to a population of 257,000 people. It had a staff of 115 and over 7,000 clients under supervision. The NSW Probation and Parole Service deals with about 20,000 clients statewide.

Whilst most Americans I spoke to felt they were over taxed and politicians campaigned on reduced taxation and efficiency in the government, I saw no evidence of anything actually being done to reign in expenditure. The public sector I observed in USA by comparison to the NSW Public Service was highly staffed, inefficient and poorly managed. Resources were not an issue although this was not the perception of staff I spoke to in different programs.

CRIMINAL JUSTICE IN USA

Public safety is on everyone's minds in USA. Apart from a handful of people I spoke to during the course of my trip, most Americans perceive that crime is out of control and have fears for their personal safety. Inner city districts are avoided, especially after dark because of this perception of danger. In Lancaster City and Detroit this has resulted in many residents and businesses locating to the suburbs, reducing property prices and eroding the taxation base for the city.

The law seems to invade every aspect of American life. Curfews on juveniles are in place in most states. This requires children under eighteen years to be off the street by 11 pm weeknights and midnight on weekends. Children can be arrested and suffer penalties for breaking this law.

Local magistrates finalise very few serious criminal matters. They are authorised to dispose of only very minor charges such as drunk and disorderly and lower category misdemeanours. They also hold preliminary hearings and then forward cases to the District Court. Many cases that start out as more serious charges will be plea bargained down and be disposed of at the district justice level.

Mandatory sentencing guidelines have been introduced in many jurisdictions in response to the perception that courts are not tough enough on crime. However it is not really the judges who decide the sentence. Due to its unique system of justice, prosecutors often accept a plea to a charge on an agreement to a certain sentence. The various parties work this out beforehand and the judge imposes the sentence in most cases. Only rarely will a judge question the appropriateness of the proposed sentence and decline to accept the recommendation. When this occurs the matter will generally go to trial.

Drink driving in Pennsylvania is referred to the District Court and results in a mandatory two days gaol for first offenders and twenty three months parole with stringent conditions. It matters not what the circumstances of the offence, everyone is treated the same unless qualifying for a diversionary program. Subsequent offences have higher mandatory sentences. In most cases where I saw people sentenced it appeared the judicial function was to ensure the constitutional rights of the offender were safeguarded. The judges were almost robotic in dealing with offenders given their limited discretion.

Sentencing is based on the "just deserts" philosophy which is retributive and takes no account of individuals when they enter the system. Victims of crime, especially violence are consulted and their feelings taken into account by the prosecution in negotiating plea bargains. Whilst providing certainty in sentencing and consistency it appears to be based on treating everyone as a worst case scenario. Judges have almost no discretion and must sentence within a tightly defined range.

This has resulted in a corrections system bursting at the seams. Probation systems are huge because just about all people who do not get a gaol sentence get probation. Probation is punitive and whilst offenders are expected to attend programs to address their offending behaviour they are responsible for meeting the fees. Breaches of probation are treated seriously and one case mentioned to me resulted in a probation officer breaching a client for missing three appointments and being sentenced to five to seven years. In Lancaster County Prison, sentenced prisoners are charged \$10 daily for their accommodation. Failure to pay this debt results in a bad credit reference.

Gaols are overcrowded and prison construction is a big industry in USA. Mandatory sentencing guidelines have resulted in harsh and unconscionable sentences by Australian standards for many crimes. Whereas a burglar might be sentenced to twelve months for his offences in NSW, a similar offence could result in five years prison in USA. The just deserts philosophy takes no account of any subjective material except for victims and leaves no room for compassion, mercy, rehabilitation or hope for the offender.

In Michigan State, the effects of mandatory sentencing are evident in their burgeoning state prisons. In response to the crack cocaine epidemic Michigan together with many states passed harsh laws and sentences for people convicted of drug offences. This now sees 40,000 people in the state prisons (serving greater than two years) in a state with one million more population than NSW. To this figure must be added all those in county gaols serving shorter sentences.

At the time I visited St Louis County Jail in Duluth, Minnesota it had 180 prisoners in a modern state of the art facility only three years old. However approximately 80% of the prisoners were pre trial and

unable to meet or refused bail. The gaol would have been a maximum security facility in NSW. Once inside, prisoners were unable to exercise outside or get outside for the duration of their stay, although all cells had a window that had views of the outside. In addition this county also had a prison farm.

Probable Cause

Many Americans expressed surprise and shock when told that in NSW police may arrest people suspected of committing a criminal act without a warrant. Unless actually caught in the act of commission of an offence, police in USA must apply for a warrant to arrest someone and in obtaining a warrant must establish "probable cause". The genesis of this constitutional guarantee is an anti British sentiment when people fighting for independence were arrested by British troops to prevent the settler's struggle for independence.

Thus police must have sufficient evidence they can place before a judge before arresting individuals, to satisfy the judge that they have a reasonable case established. Probable cause has often resulted in guilty people going free as police have acted to obtain information without ensuring they have sufficient reason to continue down a certain path without obtaining a warrant.

Random breath testing was struck down by the US Supreme Court as an infringement of liberty as guaranteed by the constitution. The basis of this was that police do not have probable cause to believe a crime has or is being committed to stop people and subject them to a breath test. Thus in Pennsylvania a rather cumbersome system of sobriety checkpoints exists. The Supreme Court has laid down guidelines for checking for intoxicated drivers which if not strictly followed could be subject to challenge. This involves a large number of Police (in Lancaster up to fifteen) setting up a checkpoint on the side of major roads and pulling up cars in a determinate fashion such as so many per hour, or every twentieth car. The officers speak to the driver, perhaps do a bit of public relations by giving away a key ring with a road safety message on it. If the officer has probable cause to believe the driver is intoxicated he can request the driver to attend a sobriety check which is literally walking a chalk line. If the driver fails this then they are asked to submit to a breath test. If this proves positive then a blood test is taken and if positive the driver is arrested. Consequently, whilst many people appear in courts on drink driving offences, a large number are there as a result of an accident.

Probable cause will be discussed further in relation to the Pro Arrest or Mandatory Arrest Policy for domestic violence established in many jurisdictions.

Separation of Powers

The question I was unable to have answered by anyone was my perception that the judiciary function in an executive area at the county level. The President Judge in Lancaster County also is the employer for the Probation and Court staff. It is the judge who decides policy for the executivewhich administers these departments. The president judge signs off any changes or initiatives. The President Judge also plays a part in the government of the county by sitting on the Board of Commissioners.

Personal Freedom

Whilst the USA is the leader of the free world and promotes personal freedom and liberty it was my perception that the fear of crime had resulted in legislation for anything and everything. It appeared to me that personal freedoms and responsibility were being legislated against as a political response to fear of crime and violence. Megan's Law legislation was a classic example of this where future behaviour or its likelihood was being legislated against. There are constitutional challenges to this law which may strike it down. However rather than a political response, in Australia the response may have been a change in policy and procedures by the relevant department. Tail 'em, Nail 'em and gaol 'em was the attitude of most Americans to law and order as stated to me by a member of the American Probation and Parole Association (APPA).

Nowhere was the challenge to individual liberty more glaring than the juvenile detention facilities I

visited in Pennsylvania. Whilst the staff were positive and had very good hearts and attitudes the system in which they worked dehumanised children detained in those centres.

Megan's Law

Following the rape and murder of seven year old Megan Kanka in July 1994 by a twice convicted child sex offender who lived next door to her, the Federal Government in response to an appeal by her parents passed legislation requiring states to pass reciprocal legislation to ensure convicted sex offenders could not engage in predatory behaviour towards unsuspecting people in the community. The consequences have been different legislation in the differing states that require some sort of registration and notification by sex offenders that they are resident in a community.

In Pennsylvania this legislation relates only to people convicted subsequent to the statute being passed. California however has defined it as applicable to all previously convicted sex offenders. Once registered by police, the local community is then formally advised of their presence in the neighbourhood. Failure to register results in a felony conviction which, if a third offence in California under their three strikes and you're out law can mean a life sentence.

In Pennsylvania the law operates differently. If convicted of a prescribed sex offence the offender must be referred by the presiding judge to the Sexual Offenders Assessment Board (SOAB) for pre sentence investigations. There are three investigators who go to great lengths to search out the history of the offender, administer psychological tests and arrange for another test which assesses response to stimuli. These are then forwarded to the Board who interpret the results and make a recommendation in their report to the SOAB. If assessed by the Board as a predator this information is then provided to the sentencing court. The legislation *assumes* the offender is a predator unless he can prove to the contrary in court by rebutting information from the assessment. If the judge determines that the offender, after hearing all evidence including rebuttal evidence from the defence, is a sexual predator the mandatory maximum sentence is life but the judge can set a minimum sentence. About 50% of people convicted and referred to the SOAB have had Megan's Law declarations made although the ridiculous situation is that they have been sentenced to life with minimum terms of as little as four months thus ensuring supervision forever. Due to the problems in state parole some people are not being released or having their cases considered by the time their minimum is completed. Most states have passed prospective legislation although a few passed legislation declaring all people convicted of certain offences to be predators who must register with local police when they move.

Probation and Parole Differences

I visited county probation offices in Duluth Minnesota, Ann Arbor Michigan, Lancaster, Juniata and Pittsburgh Pennsylvania and the State Office of Probation and Parole in Lancaster and the State Office of Corrections in Minneapolis.

Australian community corrections agencies need to understand that there are fundamental differences between what is meant by probation in both countries.

Probation in USA is a penalty imposed on most people appearing at the district or common pleas court. The expectation of the criminal justice system is that persons appearing before the court will be on supervised probation if they are not imprisoned. The net is very wide and in Lancaster for example it would have been a rare case where probation was imposed without supervision. There is no provision to terminate supervision. In Allegheny County Probation Office (Pittsburgh) approximately 5000 people are "supervised" by five agents on the Accelerated Rehabilitation Program. These are generally minor offenders who are required to undertake certain things in a two year period and if completed then no conviction is recorded. Probation officers typically interview the offender, explain the conditions and then send them on their way. If at the end of the two years the client has not complied with the terms of their release they are violated.

Probation officers are law enforcement officers. Caseloads ranged from 100 in Duluth to 1000 in Pittsburgh. Typical caseloads appeared to be between 150 to 200. At these levels agents (as Probation

Officers are referred to) have time to do nothing other than monitor and check that conditions of Probation are being enforced. There is little if any discretion other than to breach if a client fails to follow through with treatment, counselling or other conditions. Probation officers do not undertake counselling with offenders. The relationship is clearly defined as one in which the officer is there to monitor and check up on the offender.

Policies and administrative procedures vary from county to county according to the views of the President Judge for each county. Recruitment for probation officers is generally from the criminal justice area. Probation officers will generally have a criminal justice degree and may have previously worked as police or sheriffs. It is my perception that by comparison NSW Probation and Parole has a workforce with superior skills in the human relations area to those of most jurisdictions in USA I visited. Staff in county offices appeared to have few skills from the social science field and seemed enmeshed in a system that is retributive and saw its primary purpose as providing public safety. A judgemental attitude that saw the offender as a criminal and a danger pervaded some jurisdictions I visited. Rehabilitation was the responsibility of the offender and was expected as part of the "break" they had been given by being placed on probation. Subjective matters that made it difficult for offenders to comply with conditions of release provided no excuses for non compliance. Of the 1,000 prisoners in Lancaster County Prison, 300 were there for violations of probation or parole.¹

Although there were provisions to have offenders who breached probation attend court on a walk in basis, in most cases it was preferred to have a warrant issued which would generally see violaters spend a few weeks in prison waiting for their case to come up as there was no bail for probation violation.

Offenders owing restitution at the expiration of their probation were breached and would be given a further period of probation equivalent to their previous order. Drink drivers were always on parole, first offenders generally getting 2 days gaol plus 23 months parole.

County Probation in Pennsylvania had 157,380 people under supervision in 1996 which was a 16% increase on 1993. The County Jails housed 22,081 people, an increase of 18% on 1993 figures.²

State Probation and Parole was administratively and philosophically similar to the NSW Probation and Parole Service. It was responsible for supervising offenders imprisoned for greater than two years who by virtue of their sentence were transferred to a State Penitentiary to serve their sentence. It had a strong emphasis on compliance with parole conditions but also had a rehabilitation focus for the offenders under its supervision. It was under some pressure to drop the word clients when referring to the people they supervised and refer to them as offenders.

Pennsylvania had 900 state parole staff supervising people released after serving a sentence which totalled two or more years. It had a caseload in the community of 25,481³ in 1993 and individual caseloads average 65. With 34537 prisoners in state prisons a large number of staff were involved in pre release preparation.

When state and county figures are combined one can see the enormity of criminal justice in Pennsylvania and the USA generally. In 1996 the total people in state and county jails and prisons was 56,618 and total people under supervision was 178,211. Combined figures of 234,829 people in custody or on some form of conditional supervised liberty translate to one in eighty or 1.23% of Pennsylvanians (population 19 million) having some responsibility to the criminal justice system at any time.⁴

DOMESTIC VIOLENCE

The Fellowship provided me an opportunity to visit various agencies and government departments that were concerned with providing programs to men helping them address violence in their personal relationships. A full list of agencies visited and individuals I met with is provided in Appendix I. I am assuming people reading this report are familiar with the complex issues surrounding domestic violence. As over 95% of perpetrators of domestic violence are men I have used the male and female personal pronouns to describe perpetrators and victims respectively.

Mandatory or Pro Arrest Policies

American police are generally unable to arrest offenders of misdemeanours unless they are actually caught in the act of the crime. Police investigating a crime must establish probable cause before a judicial officer who then authorises arrest of the alleged offender by issuing a warrant. Arrest without a warrant can affect the prosecution resulting in acquittal on legal grounds and possibly see police sued for false arrest.

In a number of states a policy of Mandatory Arrest has been established in the case of domestic violence offences. Minnesota was one state where legislation was enacted allowing police to arrest domestic violence offenders without a warrant provided they acted in good faith. Statistics from Duluth, Minnesota clearly demonstrated the effect of this legislative change with arrests for domestic violence increasing substantially over a three year period from discretionary arrest to a pro arrest policy. It also saw the percentage of racial minorities arrested for domestic violence reduce over the same period, consistent with their number in the general population.

Philosophy of Intervention

All perpetrator programs I visited operated within the context of the criminal justice system. Whilst most programs were operated by private profit and non profit agencies, all were dependant on the majority of their referrals coming from the courts, generally via the local Probation Office. The three principles that seemed to guide perpetrator programs were victim safety, offender accountability and an expectation that the offender could change his abusive behaviour.⁵

Domestic violence programs for men base their intervention on the program's beliefs about the causes of domestic violence. These are outlined as follows:

Feminist or Social Problem Approach is concerned with a gender analysis of power. According to this view, domestic violence mirrors the patriarchal organisation of society in which men play the dominant role in most social institutions. Along with other forms of abuse, violence is a means of maintaining male power in a family. Feminist based programs attempt to raise the consciousness about sex role conditioning and present a model of egalitarian relationships along with the benefits of nonviolence and of building relationships on trust instead of fear. Confrontation of men over their power and control tactics in all domains of the relationship is a feature of most programs based on this approach.

The Family Systems Model regards individual problem behaviours as a manifestation of a dysfunctional family unit with each member of the family contributing to the problem. This model advocates working with the family or couple together with the goal of keeping the family intact. Family systems theory leads to treatment that involves improving communication and

conflict resolution skill through solution focussed therapy.

Psychological Approaches focussing on Individual Problems holds that personality disorders or early experiences of trauma predispose certain individuals to violence. Two forms of perpetrator intervention have developed from this perspective - individual and group psychodynamic therapy and cognitive behavioural group therapy.⁶

People working in the domestic violence area would quickly see the difficulty of a program approach based on the family systems model. This provides no accountability for the perpetrator and apports blame to the victim of the violence as having in some way contributed to it. Couples counselling would place the victim at further risk if she raised issues of violence in the counselling sessions. None of the programs I visited operated on this model and in fact would contravene standards established in most states for operation of perpetrator programs.

Whilst most programs visited based their curriculum (at least notionally) on a feminist approach, it appeared that cognitive behavioural therapy formed a part of some programs. Many aspects of a cognitive behavioural approach are consistent with the feminist approach, although those coming from the feminist perspective would argue that men convicted of domestic violence do not commit violent acts generally against others outside their relationship. The cognitive behavioural approach places responsibility for the violence with the offender and has as its basis an acceptance by the offender of personal responsibility for the violence. These are consistent with the feminist approach.

Linkages with the Criminal Justice System

Of the programs visited, it appeared that the ones that maintained an approach consistent with the aims of the criminal justice system in providing safety for women were the ones with strong links to the local Probation Office or the court.

In Duluth, the Domestic Abuse Intervention Program (DAIP) assisted the local probation office in undertaking a safety audit to better provide protection for women as part of the systemic response through a community coordinated approach. This resulted in the Probation Office developing systems that focussed on safety of victims of domestic violence. This meant procedures being in place from the time Probation became involved at the Pre Sentence Report stage when probation officers, in addition to completing the normal inquiries on an offender would also complete an assessment that looked at many issues surrounding victim safety. This was linked to a sentencing matrix which gave an indication of the type of sentence the offender should receive for the assault. Given that in many American jurisdictions, Probation reports sentencing recommendations were generally accepted by the courts, this was a powerful tool in influencing the sentence. The matrix expressed sentences in length of gaol time and had equivalent periods for probation in the alternative. This checklist had common items on it that would be used by police, the shelter and other agencies involved in the system. Each agency would check those items that pertained to its responsibility. It provided a risk assessment and was heavily reliant on the victim's perspective when being completed. The overall aim was to maintain a consistent systemic approach by all those departments and agencies involved in domestic violence in ensuring the safety of the victim.

After disposition by the courts, all convicted batterers were referred to DAIP who arranged programs according to the individual circumstances of the offenders. Generally those with health insurance were referred to private fee for service providers where they paid a portion of their fees whilst DAIP ran its own programs for the poor, minorities and indigent without charge. The DAIP also had excellent links to the shelter and other women's services, thus ensuring a free flow of information regarding victim safety issues. Failure to abide by conditions of probation regarding program attendance was referred back to probation by DAIP and it then was the responsibility of the criminal

justice system to deal with the breach. Re-entry was always open to these people after being breached and it was not uncommon for some people to take over one year to complete the 26 week Duluth program.

In Washtenaw County Michigan I observed four different programs with various linkages to the criminal justice system. Clearly some programs saw the offender as the client despite the referral being via the probation office. Varying standards seemed to apply as to what information would be forwarded to the criminal justice system. Where it became apparent that violence was still occurring the responses of different programs was inconsistent. The most pro feminist program would refer this information to the probation office and discharge the offender from the program where other programs, not as closely aligned to the justice system would deal with the issue as part of the treatment or therapy.

The only diversionary program I visited was the Domestic Abuse Counselling Centre (DACC) of Allegheny County Pittsburgh, Pennsylvania. It had 1200 men annually attend its programs at one of approximately thirty locations in the county. It dealt directly with the criminal justice system and provided a worker to attend the domestic violence court twice weekly where new referrals could quickly be referred to a program near their home. Because the court was concerned with victim safety it would allow matters to be adjourned prior to conviction on the basis that men would undertake the DACC program. Men would return for review at thirty and sixty days and then for final disposition. Successful completion of the program would often see the charges dismissed or reduced to a lesser charge. This program must be understood in the context of plea bargaining and the difficulty I observed in many times even getting a conviction due to the reluctance and fear of victims to give evidence. The court deals with about 80 percent African Americans and during my time at this court a number of women appeared charged with assaults on their partners.

Whilst in Australian terms there would be strong objections to any similar diversionary program, it appeared to me that this program was successful in that it captured offenders earlier than would otherwise be the case in all other programs I visited. The judge who worked with the DACC was clearly concerned about the safety of the victims and it appeared this program in its legal and social setting was appropriate. Such a diversionary program would not be appropriate in an Australian criminal justice setting given the different environment under which our system operates.

Success Rates

In Duluth, Minneapolis, Ann Arbor and Pittsburgh, the courts strongly supported victim safety by being supporters of intervention programs for perpetrators of domestic violence. Given the way sentencing is carried out, I was interested to observe in Ann Arbor men sent to gaol for a week or two to reconsider their attitudes to non attendance at perpetrator programs after being breached by Probation. The courts in all locations sent a clear message to the community that domestic violence was a serious crime and that those released on non custodial orders could not treat lightly their release on probation and conditions regarding program attendance. With such strong support from the judiciary, it was surprising to learn that large percentages of men still failed to fulfil this requirement of their probation. Generally less than fifty percent of men completed the programs to which they were referred despite each program's strong ties to the criminal justice system. This apparent high failure rate reflects how difficult these programs would be for many men.

According to a report compiled by the US Department of Justice, of the programs visited by me successful annual completion rates were as follows:

- DACC (Pittsburgh) 47% completed with 33% dropout rate of those who enrolled;
- DAIP (Duluth) 46% completed with 25% dropout of those enrolled;

DAP (Minneapolis) 22% completed with 33% dropout rate;
EMERGE (Massachusetts) 25% completed with 50% dropout in first weeks (52 week program).⁷

Programs claiming completion rates and reduced recidivism rates of up to ninety percent were not well linked to the justice system, were generally private for profit and tended to run programs that were therapeutic rather than educational in nature. First Step in Jacksonville Florida, a profit organisation claimed a completion rate of 99% of the 900 men who annually attended its program and Compassion Workshop, a private mental health clinic in Maryland claimed an 80% completion rate for the 250 clients it worked with annually.⁸ Factors which may influence higher rates of completion by some programs include whether or not the program accepts health insurance, which may reduce the perpetrator's responsibility to pay for treatment, the curriculum and approach of each program and how confronting the curriculum is to the beliefs of the perpetrators. The level of mandated clients is also a factor. Minneapolis Domestic Abuse Project's low completion rate can be explained by the fact that only 50% of its clients are court mandated compared to 80% plus for the other programs it is compared to above. The length of the program is also a factor, although the Director of Probation at Quincy, Massachusetts stated that they accept that few clients will complete the full 52 week EMERGE program, which is used by Probation to filter clients who will prove difficult and non compliant by eventually seeing them gaoled for breaching probation.

Completion rates are only a measure of attendance at programs and are not an indicator of reductions in violent and abusive behaviour by men. Many programs emphasise to victims that just because the abusive male is undertaking a program does not mean he will change. Those programs that work in consultation with women's coalitions emphasise that for her safety a woman should have a safety plan. Research is not conclusive that treatment programs on their own provide anything more than modest reductions in recidivism.

Quasi-experiments by Dutton (1986), Chen et al (1989) and Dobash et al (1996), indicated recidivism of 4%, 5% and 7% respectively for those who undertook treatment and 40%, 10% and 10% respectively for those who were untreated. True experiments by Palmer (1992) and Davis and Taylor (1997) indicated recidivism rates of 10% and 5% for those who attended treatment and 31% and 13% for those who did not.⁹

A study by Gondolf of four programs sponsored by the Centers for Disease Control which used information from partners concluded that reassault rates following completion of a domestic violence perpetrators program ranged between 32% and 39%. Program dropouts were 13% more likely to have reassaulted their partners and there was no significant difference in outcomes of the four different programs. The shorter (12 week) programs appeared to be as effective as the longer, more comprehensive programs. The most significant finding was that eighteen months after completion the only significant difference was between mandated and voluntary participants in the program. Those who were mandated by the criminal justice system had a lower rate of reassault than those who had never been charged with domestic assault.¹⁰ This supported conclusions by Edelson and Syers who found that court involvement was a strong influence in stopping the use of violence eighteen months after treatment but not at a shorter six month follow up.¹¹

This research is supported by earlier work by Richard Berk who concludes that the scientific evidence shows that on average arrest, whilst not superior to other forms of intervention is at least as effective.¹² Edelson concluded that 2 out of 3 men who completed structured programs were reported by their women partners to be nonviolent at six and eighteen month follow ups and that 12 session and 32 session programs had similar outcomes. Court involvement was one factor he identified as influencing outcomes.¹³

Andrew Klein, Chief Probation Officer of Quincy, Massachusetts, District Court Model Domestic Abuse Program perhaps best sums up the current state of perpetrator programs when he stated,

"treatment programs alone are rarely enough - many provide only a small part of what is needed to stop serious batterers. To be effective, these programs must operate within the broader context of a comprehensive intervention effort. Treatment really begins with the issuance of a restraining order or arrest for domestic violence and continues with successful prosecution and significant, enforced sanctions. Tough monitoring is also necessary."

This highlights the issue that domestic violence is a community problem and no one agency or government department has total responsibility for providing safety for women. A co-ordinated community approach to domestic violence recognises the systemic nature of violence against women and the need for changes to the way agencies work to bring about a reduction in domestic violence.

Coordinated Community Response to Domestic Violence

In the late 1970s a woman was charged with the murder of her husband in Duluth, Minnesota. The evidence of her guilt was overwhelming. There was little doubt that a conviction would be a formality. She had been a victim of years of abuse at the hands of a violent husband. She had three children and had killed their father. She appeared before a grand jury. Despite the uncontested evidence that her husband died at her hands, the grand jury did not indict her for murder. The prosecution did not proceed. She was 19 years old.

It was against this background that the Domestic Abuse Intervention Program commenced in Duluth in 1979. The community was shocked at the murder. It seems they were more horrified that this young woman had been subject to years of abuse and her only way out was to kill the abuser. The message the grand jury sent to the community was that whilst the victim died at the hands of his wife, the issue was one that the community bore responsibility for and had to find solutions for.¹⁴

What message does the community send to women who are in violent relationships, when the criminal justice system treats domestic assault less seriously than any ordinary assault? What message do women and men get when police attend a domestic and view it as a family matter and take no action to prosecute despite evidence that violence has occurred? When the judicial system excuses a man's violence to his wife or partner by imposition of penalties that "excuse" the violence, what message are both parties receiving?

It is difficult to define the term "coordinated community response" (CCR) without asking some of those questions. A CCR is seeking to change the way society views domestic violence through a common approach of the criminal justice and other systems that deal with domestic violence. By working cooperatively it is assumed that a common message will be received that domestic violence is a criminal offence and that victim safety is paramount. Duluth defines a CCR as "an interagency effort to change the climate of tolerance toward battering by institutionalising practices and procedures which centralise victim safety and the notion of accountability in domestic assault related cases."¹⁵

The goal of intervention is to stop violence with the focus of intervention being to protect the victim.¹⁶ The interagency effort in Duluth has resulted in agreements with agencies that deal with domestic violence including victim advocates, law enforcement officers and administrators, prosecutors, probation officers, court administrators, mental health services, policy makers and judicial officers. The model focuses on ensuring that practitioners respond to domestic violence cases in a consistent manner and that their response centralises victim safety.

Coordination is not the primary goal and Duluth emphasises that when it becomes more than the process to the objective of victim safety, then the system could be more harmful to victims than existing structures.¹⁷

The experience of Duluth and dozens of other intervention projects in the USA has identified eight activities as effective strategies in a CCR to domestic violence.

- 1 Intervention changes how the community thinks about violence by building an underlying philosophical framework which guides the intervention process by helping practitioners in the justice system reduce conflicting theories about domestic violence, how to hold offenders accountable and increasing understanding of the complex dynamics of an abusive relationship so that victims are not revictimized by the system.
- 2 Development and implementation of policies and operating procedures of agencies in the CCR that are complementary yet flexible enough to allow discretion.
- 3 Ensuring practitioner and offender accountability.
- 4 Ensuring exchange of information and interagency communication on a need to know basis.
- 5 Ensuring resources and services are available to victims and other at risk family members which offer safety and protection from further abuse.
- 6 Utilising a combination of sanctions, restrictions and rehabilitation services to hold offenders accountable and to protect victims from further abuse.
- 7 Undoing harm to children by assessing for risk at each intervention point, provision of safe places to visit their non custodial parent and requiring abusive parents to participate in groups focusing on helping children heal from the effects of living with domestic violence.
- 8 Evaluating the CCR from the perspective of victim safety.¹⁸

Most of these activities are undertaken by an agency that has sole responsibility for implementation and management of the community coordinated response. Whilst undertaking the three day workshop at Duluth, I met one of the participants who had been appointed in her community specifically to implement a CCR in her county. The implementation of a CCR in NSW would be easier given that central agencies theoretically share common policies on domestic violence in line with the Premier's statement of 1991. However the disadvantage of the central agencies is that strict interpretation of policy may not allow sufficient flexibility at a local level to allow for development of local initiatives. Trial projects ultimately could become statewide responses which may or may not work in different communities depending on the makeup of local communities. The CCR in Duluth was different from that in Ann Arbor which was different again from that in Allegheny County.

SUMMARY - DOMESTIC VIOLENCE

I was able to visit agencies that offered programs for perpetrators of domestic violence in Duluth, Minneapolis, St Paul, Washtenaw County Michigan (four agencies plus Probation), Lexington and Pittsburgh. A number of issues became obvious to me that must be in place before programs for violent men can be successfully implemented in NSW.

- 1 *The operation of programs for perpetrators is not something that can be done in isolation from victim safety. Any program seeking to address violence by men against their female partners must first ask how will she be protected whilst the program is being undertaken by the offender?*

- 2 *Services for battered women in Australia are woefully inadequate by American standards. Given that many perpetrator programs in USA have their roots in the shelter movement and feminist programs it is not surprising that the same movements in Australia have not focussed on developing programs for men, given that basic levels of service to women are lacking and this has been the focus.*
- 3 *Given the lack of services for women, any programs for perpetrators that are publicly provided in NSW should only be funded within a criminal justice context, thus maximising resources for victims, whilst targeting those who will have some accountability for their behaviour.*
- 4 *The length of a perpetrator's program is not a major issue. Programs I visited operated from 12 weeks to 52 weeks. Research suggests that the "success" of each program is not affected by length but by content and whether participants have attended as part of a court imposed sanction.*
- 5 *Standards operate in each state of the USA that I visited that guide how perpetrator programs should operate. Whilst there is freedom within these guidelines as to presentation and content, the underlying philosophy in each state is that domestic violence is a criminal act, victim safety is paramount and offenders are held accountable for their actions through the criminal justice system. The state of Michigan intends to licence program providers once they have finalised standards and passed appropriate legislation.*
- 6 *All programs operating in cooperation with the criminal justice system, maintain accountability to the criminal justice system. Only one private provider visited indicated that the offender was seen as the client and reporting back to the Probation Office was restricted to only that which the client was prepared to have reported. This certainly was a compromise on victim safety.*
- 7 *Any perpetrator programs must be systemic in nature, challenging the cultural beliefs of batterers. Programs that are developed within a community must ensure that all men dealt with by the criminal justice system are held accountable. To this end, group process should be viewed as secondary to victim safety. This may mean operation of ongoing group programs in a modular format rather than forming groups with specific people for a specific period of time.*

OFFICE of SPECIAL OFFENDER SERVICES LANCASTER

I spent three weeks at the Office of Special Offender Services in Lancaster County Pennsylvania to observe the programs offered to people who were mentally ill or developmentally disabled who came before the courts. Given the increasing number of offenders in the NSW criminal justice system coming before the courts who have either a mental illness or intellectual disability I was confident that there would be principles that could be applied in Australia which would reduce incarceration for these client groups and provide increased options to Probation and Parole Officers when trying to manage these offenders in the community. Unfortunately, it became clearer as my time in Lancaster passed that the issue was one of legislation and resourcing.

Background

In the 1960s the USA passed Federal legislation providing certain rights for mentally ill and intellectually disabled people. President John Kennedy who had a sister who was intellectually disabled championed this legislation. The legislation prescribed certain standards in relation to the provision of services for this client group by both county and state governments.

In Lancaster County there is a Mental Health / Mental Retardation Office which primarily provides case management to this client group. Whilst housed together the services are separately funded and administered. Intellectual disability is still seen as a health issue in Pennsylvania. Case managers in Lancaster have caseloads of up to about one hundred clients. They provide no direct services but broker the provision of all services on behalf of the county to the client population.

I had the opportunity to visit two state hospitals during my visit. One was due for closure on 30 June 1998 and had the last one hundred intellectually disabled residents who were being moved back to the community. The role of the case managers I attended this hospital with was to facilitate the planning for these residents, who although long term residents in the institution had been case managed for many years. They were responsible for arranging tenders for accommodation and all other services in the county for these residents. Funding was available from the county which was guaranteed an annual grant of US\$80,000 for each resident being housed back in the county. This money was designated for the resident leaving the institution and in addition there were supplemental funds to provide services to other community residents from savings once the institution closed. It was estimated that the annual cost of a resident at the institution was \$150,000 and these savings were earmarked for the community.

Referral to Mental Health/Mental Retardation Services and acceptance to case management was open to all with a disability that fitted the acceptance criteria. There was no discharge from case management unless a person moved or no longer required services. Case managers had access to available funds to purchase appropriate services for the client group. This could range from simple modifications at a parental home to full accommodation services including attendance at day activity programs. Whilst many of the support services were state funded, clients were still required to meet normal day to day living costs such as medication and medical services from any income they had (usually Social Security).

Services for the client group were generally contracted services with private not for profit providers. Even when placed in residential care such as a group home, a case manager was still involved to ensure contractual obligations were fulfilled by the provider as well as ensuring any additional services were able to be accessed.

Lancaster Office of Special Offender Services

The Pennsylvania Commission on Crime and Delinquency provided funding in 1981 to the Lancaster Mental Health and Mental Retardation Program and the Office of Probation and Parole to initiate a program to benefit mentally retarded offenders.

The Special Offender Services Office provides individual and specialised services for persons with either a mental illness or intellectual disability in the criminal justice system and provides an alternative to incarceration. The program revolves around intensive case management provided by a county mental health or mental retardation case manager and a probation officer who supervise a shared caseload of clients. Direct counselling, referral to specialised intellectual disability or mental health services, consultation for mental health and mental retardation, correctional and legal personnel and community liaison are related aspects of the program.

Services are provided to adults with either a mental illness or intellectual disability. In addition juveniles with an intellectual disability are also managed through this program. The office employs three teams of two, each comprising a probation officer and a case manager. Probation employs the probation officers and the manager of the program. The County Mental Health and Mental Retardation Program employs the caseworkers. The three teams work as a juvenile mental retardation, adult mental retardation and adult mental health teams

The criteria for acceptance into the Special Offender Services Programs are that clients are on Probation, Parole or some other form of community release. Intellectually disabled clients have an IQ of 70 or below and there is no limit as to the nature of the offences or length of sentence. Mentally ill offenders have admission criteria, which is restricted to non violent offenders with a diagnosis of schizophrenia, anxiety disorder, bipolar disorder, major depression or paranoid disorder.

The Office of Special Offender Services lists four objectives:

- (1) To assess the needs of the mentally retarded or mentally ill offender in a cost efficient manner;
- (2) To demonstrate the ability of county mental health and mental retardation programs to work with the local parole and probation authorities to serve the identified target group;
- (3) To provide appropriate alternatives to incarceration for the target offender population and provide services, which will enhance an individual's ability to successfully, complete probation or parole;
- (4) To educate criminal justice personnel regarding the need for specialised services and their impact on mentally ill and mentally retarded offenders.

My three weeks at this office convinced me that comparatively, NSW is generally under-resourced in the area of developmental disability and services for the chronically mentally ill. Once identified within the criminal justice system the courts were keen to see the target group supervised by Special Offender Services as this provided a rehabilitative approach rather than the punitive approach that regular probation took as its focus. Within the NSW criminal justice system many mentally ill and developmentally disabled adults end up in prison by default because of the lack of general support services available to them. Whilst the Special Offenders Office did not stop people going to prison this was generally a last resort after further offences and often where there was a failure to comply with counselling or treatment, which may have resulted in preventing reoffence.

Resources for Mentally Ill or Developmentally Disabled Offenders

Following is a list of agencies visited whilst in Lancaster with a brief description to highlight the resources in the mental health and developmental disability area available to a county with a population of 420,000.

Loysville Youth Development Centre about 1.5 hours drive from Lancaster is a State run detention centre for juveniles with a developmental disability. This facility was institutional but had a high degree of programs available to residents. Resources were expended on juveniles on the basis that they could still be rescued in their developmental years. Compared to the prisons I visited a lot of effort was put into the reclamation of juveniles before they turned eighteen.

Lancaster Re-entry Program for juveniles returning from a detention centre. This program recognised that there may be difficulties for youths returning to the school system from detention. Whilst the expectation was that all youths should complete high school graduation, it was recognised that there may be a transition period from detention to school and this program facilitated the return to mainstream school of youths who had completed their period of detention.

East McCaskey High School has a special needs class of 23 students and two teachers and an aide. Special needs included developmental disability, emotional and psychiatric problems. The class was basically a living skills class which also provided an academic focus.

JP McCaskey High was a new school which was dazzling to visit. Apart from classes it also ran a big vocational education (TAFE) program and had hair salons, wood and metal shops, computer labs, photo labs, print shops and child care facilities. The child care facilities provided day care for over sixty children of the students from the two schools which were close to each other. With the emphasis on graduating from high school, girls who gave birth were encouraged to return to school. There is no major welfare support for the girls although money is provided for the child.

Water St Rescue Mission which is similar to Sydney City Mission. This mission is run by over 50 churches and provides shelter for the homeless, meals and as a workshop and clothing recycling centre. Given the population of the County (400,000) the size of the facility said something about the levels of poverty and lack of public welfare. Many developmentally disabled and mentally ill people not in the county system would find support, shelter and food here.

Wernersville State Hospital. Eighteen years ago there were over two thousand patients in this facility for the mentally ill. The program to move people to the community has resulted in only three hundred people at present and the program to deinstitutionalise continues. Whether this hospital actually closes is dependant on whether other large institutions in Philadelphia close. There is a program called **CHIPPS** (Community Hospital Integration Placement Program) which supports residents moved to the community and provides up to forty hours of support weekly per person. The hospital also provides longer acute care services for mentally ill people. Anyone unable to be accommodated at community hospitals due to lack of insurance will be moved to the state hospital. Persons with a disability and unable to work will be supported by the state with a Supplementary Security Disability Income of \$521 monthly. If living at a residential facility licenced for the purpose they will apply on behalf of the resident for a further allowance of \$300 monthly to supplement board. These residences can retain all but \$60 of the resident's income. As a consequence many choose to live independently and are homeless as they seek to control their own funds.

Children and Adolescent Support System Program(CASSP). This is a system of collaboration and co-ordination by service agencies providing mental health care for children, adolescents and their

families. In USA developmental disability falls within the health care system. Mental health services for children and adolescents are fairly advanced compared to Australia and I attended a number of case management meetings where children with a range of mental illnesses were reviewed. Many of the programs provided were done so using health insurance which the county would purchase for indigent families. CASSP appeared to have a responsibility to ensure programs provided were done so efficiently as this could result in the county's health insurance premiums rising.

Barnes Hall Juvenile Detention Centre Lancaster is a 23 bed facility built in the 1960s and extended in the last decade. Walking through I was surprised it was as new as told to me. Whilst I was told the type of kids entering in recent years needed more care due to psychiatric and developmental disabilities, the facility to my mind was impersonal and dehumanising. All residents had single rooms with a stainless steel bunk attached to the wall on which was a foam mattress. Some rooms had nothing else in them but others had steel desks bolted to the floor. There was no curtaining or decoration on the walls. The bathrooms had no privacy for boys who showered two to three at a time under supervision. The day was very structured and ordered and the best part of the place was the school facilities where I counted eleven computers and two teachers. I doubt that in NSW there would be a facility for adult prisoners as antiquated as this. A new juvenile detention centre is planned housing up to 150 children.

Laurelton State Hospital is (was?) a state developmental disability hospital due for closure by 30 June 1998. The property is for sale and once housed 1,000 residents. In the last two years the population has reduced to 90. All residents are being moved to the community and have funding under a Federal Program called WAIVER. Residents who leave the program have \$80,000 per annum trailing them as opposed to the \$150,000 pa it costs in the institution. Private providers are invited to arrange for community placement. Residents are returned to the county from which they came. All residents in the institution have had a case manager in their county for years. The meeting I attended was to discharge three residents from the institution. Staff, the providers and the case managers attended it. Detailed discharge plans were discussed for clients who had been institutionalised for over twenty years.

Of interest was the fact that for staff who are unable to find alternative employment there is no redundancy payment. If they have paid into Unemployment insurance they can collect benefits for one year, otherwise they must seek employment. If they have seniority they can 'bump' staff at a nearby institution who then become unemployed. The interesting thing about my visit was the amount of resources available to support institutionalised people in the community.

CONCEPTS is a facility for training severely developmentally disabled clients living in the community and a work placement and support agency for mild and moderately developmentally disabled adults. Most people attending the facility have their fees for attendance paid as part of a contract between the county mental retardation program and the agency which is a private not for profit service.

I attended a Sex Offender Group for developmentally disabled adult clients of Special Offender Services run by **T W Ponessa and Associates**. Possibly the most fascinating thing I observed in USA. It involved eleven mild to moderately developmentally disabled men in a group where they introduced themselves and their reasons for being in the group. Two guys were minimising in denial but most acknowledged sexual abuse of children and in one case a dog. Focus was on challenging guys who minimised, and checking on what they were up to. All men paid \$20 for their weekly attendance at this group and all were required to attend as a condition of probation. The nature of the offences was very serious indeed and all men could be thankful that they were not incarcerated as a result of their offences.

Discussion with the case worker and probation officer at Special Offender Services revealed that sex offenders are the biggest problem group ranging from indecent assault to sexual intercourse without consent. A number of dual diagnosis clients are on the caseload and there is no restriction as to the

nature of the offences that can be referred. The program and courts recognise that this client group is less able to take responsibility for their actions. Much of the work is 1:1 undertaking to assist clients with very basic activities such as making and getting to appointments. 30% of the caseload has employment. Drug and alcohol problems cause the highest number of breaches of this client group.

Lancaster Mental Health Service Outpatients clinic with Dr Johnson.

This was a parade of chronically mentally ill people who were in for their injections. Many were clients of the Special Offenders Services. The psychiatrist was able to interview each client and have a nurse provide medication to about 15 people in 1.5 hours. Modecate and a depo medication for Bipolar disorders were the main ones administered although one sex offender received Depo Provera. All patients were responsible for the provision of their own medication or payment to the clinic for it. The psychiatrist was paid by the county Health Maintenance Organisation provided clients had joined it. The county to ensure they had some medical insurance often provided this for them.

Lancaster Mental Retardation Program.

Clients referred to the Mental Retardation Program are assigned a case manager whose functions are threefold:

- To arrange assessment of client needs and locate services;
- Co-ordinate the provision of services;
- Monitor ongoing service provision and contracts arranged for the client.

Case management was previously contracted out but as the service grew the county chose to take responsibility for the service from an economic viewpoint. The provision of services to the developmentally disabled has its genesis in a 1960s Act that required counties to provide a systems management to manage services for the client group in the community using local, state and federal funds. Services are provided to developmentally disabled adults and children with an IQ of 70 or less. Mental retardation programs still fall within the health system as part of the psychiatric service although each area has its own budget.

There are 17 case managers and three supervisors and 1700 clients with an annual budget of \$19million. Case management is a brokered service, arranging services for clients on a contracted basis.

Attended Lancaster County Court on a number of occasions where I was able to see the court deal with a number of mentally ill and developmentally disabled adults. The court attitude to this client group was benevolent. On one occasion a woman who had failed to comply with the outpatients treatment condition for her mental illness was left in gaol by the judge who indicated to her that releasing her immediately “would be the uncaring thing to do” and that “this court was the closest she had to a supportive family.” The client told the judge that she really did not mind gaol and saw it as an option although she would go to a shelter if released.

SUMMARY - OFFICE of SPECIAL OFFENDER SERVICES

- 1 *The Office of Special Offender Services stands like a shining beacon in a justice system that I perceive to be overly punitive, highly judgemental and failing to appreciate the problems of the individual offenders entering the system.*
- 2 *The Office of Special Offender Services provides a convenient way for the judiciary to avoid mandatory sentencing and individualise sentencing for a client group who lack the legal responsibility for their offences. Sentencing laws in many USA jurisdictions has taken away most if not all discretion from judges in sentencing offenders. One could cynically suggest that Special Offenders Services provides some compassion in a system that lacks any sympathy for offenders.*

- 3 *What I saw however was a particularly disabled caseload, with serious offenders who were afforded leniency in a justice system that had removed from judicial officers the ability to exercise any leniency or take individual offenders' circumstances into account.*
- 4 *The nature of the offender population is not dissimilar to the types of offenders Probation and Parole Officers in NSW supervise. However the Office of Special Offender Services allowed for closer collaboration and cooperation between the justice and health systems than is the case in NSW.*
- 5 *The challenge for Probation and Parole in NSW is to seek greater cooperation for this difficult client group from health and welfare systems that have limited resources as it is.*
- 6 *The Corrections Health Service in NSW could be asked to look at a community component as part of its functions and perhaps provide domiciliary or community nurses to work within or alongside Probation and Parole. Again, no doubt this would be seen to be a resourcing issue.*

RESTORATIVE JUSTICE

Whilst my Churchill Fellowship was granted specifically to study domestic violence perpetrator programs and look at programs for mentally ill offenders, I was able to spend four days visiting three programs that operated Restorative Justice programs. Each of these programs was quite unique and highlighted the fact that restorative justice had a very broad definition.

The three programs visited were the *Lancaster Area Victim Offender Reconciliation Program (LAVORP)*, *York County Victim Offender Mediation Program* and *Juniata County Probation Office*. The three agencies could not have been more different or representative of the different types of Restorative Justice programs operating in USA. LAVORP was a faith based philosophy maintaining reconciliation of the victim and the offender as central to its purpose.. York County was a community based program operating in a mediation centre with an emphasis on allowing victims to be heard and have a voice in the criminal justice system. Juniata County operated a juvenile program focused on the offender's needs and assisting the offender to reintegrate by providing diversions from custody which included a meeting with the victim. In addition to visiting these agencies I had discussions at Minnesota Department of Corrections and the American Probation and Parole Association on restorative justice.

What is Restorative Justice?

As mentioned above the definitions are broad depending on the philosophical basis of the agency promoting restorative justice. I propose to define how restorative justice is viewed in both government and community agencies.

Government Approaches

Restorative Justice is defined as a new framework in which government responds to crime. Crime through a restorative justice lens is seen within the context of harm to relationships and violation of the victim and community rather than the state. It is seen to promote the process of repairing community peace.¹⁹ The high level of incarceration in the USA has given rise to a federal initiative - Balanced and Restorative Justice (BARJ). With its mandatory sentencing laws and limited range of diversionary programs, states are being encouraged to respond to crime in other than retributive frameworks.

In a paper prepared by the Minnesota Department of Corrections (undated) the author describes the changing relationship between the community and professional systems that has been occurring for some time and proposes the following model as it applies to the Criminal Justice System.²⁰

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USA**

<u>STAGE 1</u>	<u>STAGE 2</u>	<u>STAGE 3</u>	<u>STAGE 4</u>	<u>STAGE5</u>
Justice system operates separately from, independent of the community.	Justice system provides more information to the community about its activities.	Justice system provides information about its activities and asks for intelligence information from the community to help it do its work.	Justice system asks for some guidance in doing its work, recognises a need for more community help, places more activities in the community.	Justice system follows community leadership.
Expert model, "We (justice system) have the answers."	Expert model.	Expert model.	Modified expert model - experts provide leadership, contribution of the community valued.	Expert systems as support systems.
Community contact a nuisance, gets in the way of real work.	Community viewed as a client with a right to know something about what the professional system is doing.	Community seen as a good source of information for the expert work.	Community as a cooperative agent, but justice system still in leadership.	Justice system operates in support of achieving community goals while protecting individual rights and ensuring equity.
Professional system defines and solves the problem.	Professional system defines and solves the problem but keeps the community more informed about what it does.	Professional system defines the problem and solves the problem with useful information provided by the community.	Community asked to help define problem but justice system is still the chief problem solver, with help from community.	Community defines and solves the problems with help from the justice system.

In Minnesota this has resulted in the establishment within the Department of Corrections of various programs that are victim and community focussed. Examples of these include victim advocates and community volunteers, victim - offender conferencing, crime repair crews, community service on projects valued by the community, victim impact panels for offenders involved in victimless crimes, victim empathy classes, teen courts and numerous other initiatives. Whilst Australian corrections agencies have developed alternative community based sanctions in the last twenty years, the USA predominantly uses prisons and probation as the main sentencing tools. Community Service is not a sentence in its own right but is usually an addendum to a probation order. The BARJ approach is seen as a major move away from the punitive approach towards offenders and one that sees the victim and community as having a legitimate voice in the criminal justice system.

Pranis argues that in the USA most community corrections programs have operated at stage 4, but that many restorative justice models such as family group conferencing, circle sentencing and community panels operate at stage 5 with the justice system in a partnership, which gives

leadership to the community.

In Pennsylvania changes to legislation for juvenile offenders has moved away from “removing from children committing delinquent acts the consequences of criminal behaviour, and to substitute therefore a program of supervision, care and rehabilitation,” to “providing for children committing criminal acts programs of supervision, care, rehabilitation which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community.”¹

Whilst these changes reflect a tougher approach to juvenile crime, Juniata County Probation have used this to attempt to introduce victim offender conferencing, community service programs and involvement of the community in the justice system. In addition within forty eight hours of the arrest of a juvenile, the victim is contacted by a probation officer and informed of the process that operates and their role in the prosecution. Regular contact with the victim is maintained to ensure that they are not forgotten by the system. Only after final disposition by the court is an opportunity available for conferencing to take place between victim and offender.

Whilst Minnesota appeared more focussed on community involvement, the Juniata County approach was mindful of its involvement with the offender and sought to use conferencing to assist in rehabilitation of the offender. The focus appeared to be on the offender, and the victim, whilst having more voice in the system, could do so only with the consent of the offender for conferencing to occur.

The Faith Community Approach

The *Victim Offender Reconciliation Program (VORP)* movement has its genesis in the Mennonite Church² in Kitchener, Ontario, Canada in 1974 and in Elkhart, Indiana USA in 1977. VORPs in their classical sense are independent organisations outside the criminal justice system but working in cooperation with the system. The VORP process consists of a face to face meeting between the victim and offender in cases which have entered the criminal justice system and the offender has admitted the offence. The emphasis in the meetings is on facts, feelings and agreements. The meetings are facilitated by a trained mediator, usually a community volunteer.

The meetings have minimal structure and are conducted in such a way that outcomes and agreements are determined by the two parties. Both parties have the opportunity to tell their story, ask questions and talk about the impact of their experience. A signed written agreement is entered into usually involving financial restitution, but there are other possibilities including the offender undertaking some work for the victim or the community, agreeing to certain behaviour if the two parties were known to each other prior to the offence.³ Howard Zehr *Changing Lenses - A New Focus for Crime and Justice*, Herald Press, Scottsdale, PA 1995.

Whilst VORPs have worked with non violent crimes since their inception, discussions with the Director of LAVORP in Lancaster Pennsylvania revealed that the Department of Corrections in that state has begun training people to undertake and facilitate victim and offender meetings in that state's prisons. Howard Zehr, a leader in the VORP movement in USA is involved in this project which will provide an opportunity for victims of violent crime to meet their attackers after sentence and seek answers to questions that for many victims are never answered. These meetings would be by mutual consent. For an offender in a penal system where release on parole is granted

only after careful scrutiny by a Parole Board stacked with political appointees of the Governor of the day, the motivation to meet and express remorse to the victim is obvious.

Whilst Lancaster Area VORP works only with non violent offenders, I was given information about a woman who was raped some years ago and approached LAVORP seeking a meeting with the offender. It took some years to organise the meeting given that there was no structure in place for this to happen and it was necessary for the offender to be processed by the system so he could claim no advantage at sentencing from having participated in the process. The resultant meeting that took place was the subject of a sermon to her church by the victim in March 1997 and recounted in LAVORP's newsletter. It is recounted here in full to highlight the issues that arose for the victim as well as the healing process that took place for her. It perhaps best tells the advantages of victim offender reconciliation.

***Sermon to Community Mennonite Church of Lancaster - Where is God
Beth Graybill, March 1997 (excerpts)⁴***

"On February 22 1995 I was sexually assaulted at knife-point in my home, an attack which I resisted. This fall my assailant was sentenced to jail time. And in January, almost two years after the assault, I met face to face with him at Lancaster County Prison for a mediation through LAVORP, the Lancaster Area Victim Offender Reconciliation Program."

"My desire to meet with my assailant had something to do with wanting to understand the inexplicable: why did he try to rape me? While what I experienced is the scenario most women fear, in reality, 90% of women are sexually assaulted by someone they know, (someone) of their same race and class background. Few rape survivors, only 3-4% have the satisfaction of seeing their assailant sentenced and convicted to jail time. In both ways, my experience was the exception."

The primary purpose of the VORP mediation meeting, from my perspective, was for my assailant to be confronted with the human cost of what this event has meant

for me, and how difficult it has been in my life. I hoped he'd remember this if he ever thought about doing it again to some other woman."

"At the mediation, slowly and through tears, I talked through what had been going on for me during the assault itself, in its aftermath, and in the months since then, as I have struggled to work through my feelings and regain a sense of personal security. I told him I have worked hard not to fear or mistrust all Puerto Rican men - since he is Puerto Rican - and to recognize that most men do want to treat women well. What helped me to begin to heal this issue was remembering the positive actions of my Puerto Rican male neighbours. When I appeared on their doorstep after the assault, undressed, hands cut and bleeding, they immediately called the police and loaned me clothes to wear to the hospital."

"As I told my story at the mediation, my assailant listened quietly, occasionally burying his face in his hands as I told my story. After I had finished, (he)

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talked about the situation from his perspective. He told me how he thinks about the crime against me.... how outraged he would feel if someone assaulted his infant daughter (and how) he is not the sort of man who rapes women. He apologised, admitting that saying he is sorry does not change how hard it has been for me. He also said a lot of things that were hard for me to hear. He told me (that) I should have known better than to open the door, that the experience could have been worse."

"I would like to be able to say I have felt the rightness of my decision to meet face to face with my assailant. I would like to be able to say that this experience has brought me closer to God. I trust these feelings may come eventually. I am not there now."

"My primary feeling since the mediation has been a sense of anger and disappointment in God. Those verses in Psalms seem especially relevant to me: 'Why have you abandoned me, O God? Why don't you slay the wicked?'"
"I've thought about what it feels like to have your most shameful moment help(sic) up for public scrutiny. Most of my sins are done in secret; (my assailant's) ended up on the front page of the newspaper. I think (he) is probably both very sorry, and very sorry he got caught. Now that he is sober, and in prison with time on his hands to think, he cannot bear to face the pain of how bad it makes him feel to have done this. Better somehow to blame me."

"For me on a feeling level, going

through this experience feels like being abandoned by God. For Paul, my husband, and I, this is one more difficult experience among many that we have had to face in the last 4-5 years. It makes me wonder, 'Where are you God?'"

"All this makes me realise how inadequate my theology is. I refuse to believe that our misfortunes are related to God's punishment, although on a feeling level, some of that theology dies hard. I also find it difficult to believe that this suffering is somehow sent by God for any larger purpose. I cannot believe that God wants anyone to suffer what we have faced in the last few years. I have to believe that God is a God of love who wants good things for me."

"At the time of the assault I remember asking (my pastor), where was God while the assault was taking place? He said he thought God was with me in the struggle. I trust that God continues to be with me in the struggle, that God weeps and rages with me, that God is big enough to handle my doubts, but will not abandon me to despair."

"Romans 8 reminds us that nothing can separate us from God's love. I am always in the presence of God, whether I am aware of love or not."

"God's presence surrounds me and God stands with me, though(sic) this experience as in all others."

Whilst the above account of a victim of a violent crime meeting her assailant does not seem to

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answer all her questions, it can be seen that it has assisted her in dealing with some of the issues. Especially significant is viewing the offender as human and not demonising him. Her hope that this experience would make him rethink any future attack gives her some meaning for confronting her attacker.

There are over 100 victim offender programs operating in the USA today. Not all trace their roots to VORP, but it is thought that 60% are explicitly tied to the VORP tradition even though operated in a secular agency.¹

The VORP tradition views crime through a different lens to that of the criminal justice system in the USA. The justice lens is a retributive one whereas the VORP view on perceives injuries which need healing. The injuries represent four dimensions of harm-

- to the victim;
- to interpersonal relationships;
- to the offender;
- to the community,

and seeks restoration. The retributive approach makes the community abstract, defining the state as victim and sees the relationship between victim and offender as irrelevant. Restorative justice identifies people as victims and recognises the centrality of interpersonal relationships. The following chart clearly defines the difference in approach to crime.²

Retributive Lens

Crime Defined by violation of rules (ie broken rules)

Harms defined abstractly

Crime seen as categorically different from other harms

State as victim

State and offender seen as primary parties

Victim's needs and rights ignored

Interpersonal dimensions irrelevant

Conflictual nature of crime obscured

Wounds of offender peripheral

Offence defined in technical, legal terms

Restorative Lens

Crime defined by harm to people and relationships (ie broken relationships)

Harms defined concretely

Crime recognised as related to other harms and conflicts

People and relationships as victims

Victim and offender seen as primary parties

Victim's needs and rights central

Interpersonal dimensions central

Conflictual nature of crime recognised

Wounds of offender important

Offence understood in full context: moral, social, economic, political

Whilst the Australian criminal justice system is less inclined to a retributive focus than the USA the results of the criminal justice system in Australia are not dissimilar to the retributive model above. From my experience the Australian justice system gives greater weight to the subjective issues of offenders before criminal courts. Victims however are still without a voice in Australia.

Community Mediation Centres

The third type of Restorative Justice Program visited was the *Victim Offender Mediation Program* in York Pennsylvania. This program was based in a community mediation centre, which prior to the VOMP being funded had no paid staff. The Director was the only employee and operated on principles similar to the VORP at nearby Lancaster but outside the context of a faith based program. She has nothing to do with the general mediation service but her program funds their office and she provides some administrative support to the mediation

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program. Jane Reise the Director was a former Victim Advocate in the District Attorney's office and moved into this position after becoming involved in a victim-offender conference by accident. Her story again describes how the program operates and the benefits to both victims and offenders.

Her involvement in Restorative Justice came after being approached by a judge who was continually being harassed by the mother of a 'vehicular homicide' victim. After sentencing the man to a period of one year in prison, which could be served at a works, release centre the mother took to phoning the judge at home. In desperation the judge contacted her as the Victim Advocate and asked what could be done for the mother. A mediation was proposed.

The facts of the offence were that the young nineteen year old offender drove a car at high speed, which ploughed, into the lounge room of the deceased girl who was sitting watching television. Unharmed, the offender fled the scene, being arrested sometime later. The judge in sentencing him had difficulties due to the age of the offender, prior good record, employment and prospects of a good future. As there was no alcohol involved the charge was less serious than if alcohol had been involved.

At the mediation the mother of the dead girl arrived with about seven relatives and Jane Reise in her role as victim advocate. The young man arrived with his step father. The mother was invited by the facilitator to commence by stating what the previous two years had meant for her. She vented her anger at the innocent death of her daughter in her own home watching TV. She expressed her anger towards the offender. She described how she had been unable to sleep since the accident. She expressed anger that having been uninjured the young man fled the scene without checking to see if anyone had been hurt. She vented feelings about the loss of her daughter whilst the offender was dealt with leniently by the court and even though gaoled was able to serve this time at a work release centre. The inconvenience to him was minimal in her estimation. Why had he driven like that? He must have been speeding excessively to have ended up in the lounge room. How could he do it? It was from all accounts a fairly torrid time for the young man to sit and listen to this. Eventually, the mother finished and the young man was given an opportunity to speak.

He spoke about not remembering anything to do with the accident. He had no explanation for fleeing the scene that night because he could not remember what happened. He spoke about being arrested and going to court and facing the prospect of going to gaol. He imagined his future career prospects wrecked by his actions of that evening - actions of which he had no memory. He spoke of seeing the face of the girl he killed every morning in the mirror as he shaved. He spoke of the guilt and the fact that he did not believe he would ever be able to forget that he took the life of someone else through his recklessness. He talked about crying himself to sleep. He expressed his sorrow to the mother and apologised for something that was unforgiveable.

The mother asked him when he finished if she could touch his hand. His positive response was guarded. She expressed her forgiveness to him and pleaded with him that he never again drive as he had on the night he killed her daughter.

The victim advocate who related this story to me told me that even though some of the responses by the young man from her view left questions unanswered, the mother was happy with the way the mediation worked. She expressed to her sometime afterwards that she was now able to sleep undisturbed for the first time since her daughter's death and she wondered why it took so long to have questions answered that had haunted her since the accident. As this was told to me from a victim's perspective no one knows the impact on the offender. One could

speculate that the meeting is one that will not leave his memory for many years.

As a former Victim Advocate Jane Reise feels the retributive and punitive attitude prevalent in the USA towards criminals is based on the lack of voice victims have and their exclusion from justice. Their cry for punishment is their perception that this is their only shot at justice in a system that alienates them. Her experience as a Victim Advocate for eight years sees victims further victimised by a system that is unfriendly and unhelpful to them. Often victims perceive that offender's have more rights in the system than victims. She gave the example of victims perceiving police and others stepping over injured victims to give offender's their rights.

To date the York program has handled 58 cases of which 13 have resulted in a mediation. Of those that decline to proceed she stated it is equal numbers of offenders and victims that decline to proceed.

SUMMARY - RESTORATIVE JUSTICE

- 1 Retribution is the dominant philosophy within the criminal justice system in the USA. Gaol sentences by Australian standards are harsh indeed. The pendulum has swung to the right and has stayed there, resulting in a burgeoning corrections system unable to cope with the large numbers and prison construction being a major growth industry.
- 2 Many victims perceive they are not heard in this system, which to them is preoccupied with offenders. Public reaction to violent crime was front page news almost daily wherever I travelled in USA.
- 3 The policy of retribution will reap massive social consequences for USA in coming generations. People sentenced to lengthy periods of custody will no doubt return to the community embittered by a system of containment that has provided no opportunity for rehabilitation, and has brutalised them emotionally and spiritually.
- 4 Restorative Justice seems to be a means by which alternatives to incarceration may be available.
- 5 Victim - offender conferencing is a process that has advantages for both parties. For the victim it involves them personally and gives them a means to be heard. For offenders it provides an opportunity to gain some insight into the harm their behaviour has caused.
- 6 For victims of violent crime conferencing will allow those who choose to meet their attackers to ventilate their feelings and thereby be assisted in healing the trauma they have undergone. For offenders it gives releasing authorities an opportunity to know if contrition and remorse are experienced and could provide an incentive for violent offenders to think about their actions.
- 7 Victim Offender Reconciliation would be a fairly inexpensive program to implement in NSW. Corrective Services would gain in a number of ways by establishing such a program. Such a program could arrest the law and order lobby who continually seek a tougher approach to sentencing and crime generally. It would involve the community directly and provide education for the community.

It would appear to me that Probation and Parole has an interest in promoting the rights of

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victims possibly through a VORP that allows the healing discussed above to flow to the victim. If victims do not feel that they have received justice the danger in Australia could be that a militant victims' movement becomes active in seeking more severe penalties for offenders. A balanced criminal justice system will seek to ensure that it is not only the state that is satisfied by the process but that individuals damaged by crime have an opportunity to receive healing.

APPENDIX I - List of Agencies Visited

- 2-4 April 98 Domestic Abuse Intervention Project Duluth Minnesota “*Coordinated Community Response to Domestic Assault Institute.*” Included observations to Duluth District Court for AVO hearings, police ride-along (2), meeting with Police Chief, Chief Probation Officer and Chief Prosecutor in District Attorney’s office. Meetings with Judges Heather Sweetland and Gerald Martin.
- 6/4/98 Arrowhead Regional Community Corrections Office - Dave Nyquist. Attended Court and observed Domestic Violence assessment. Met Community Service Organiser. Attended Messabi Work Release Program, which operates on contract electronic monitoring for Probation, Women Offenders Program, Work Release and the Chemical Dependency Unit. Observed an electronic canteen which provides reporting for minimum risk offenders at Probation. Attended the St Louis County Jail Duluth.
- 7/4/98 Sat in on a men’s class. Met with Ellen Pence and discussed programs for men and programs offered for women convicted of violence in the relationship. Spoke as guest speaker at the St Louis County Family Violence Council on domestic violence issues in NSW. Attended a presentation of draft videos prepared by DAIP regarding women’s violence. To Probation to read files on domestic violence clients.
- 8/4/98 Duluth District Court for sentencing of DV offenders. Met with Ty Schroyer, Director of Men’s Programs for DAIP. Attended Interagency meeting at DAIP. Funeral.
- 9/4/98 Domestic Abuse Project Minneapolis. Met Leah Steenberg, Training Coordinator, Carol Arthur, Executive Director with participants from men’s therapy group. Meeting with Brad Hanson and Aaron Milgrom to discuss men’s program and also a new adolescent program for boys. Met with Graham Bowden and sat in on aftercare group facilitated by him.
- 10/4/98 Attended the Minnesota Department of Corrections St Paul Minnesota. Met till 10.30am with Donna McNamara Manager Violence Against Women-Victim Funding Services Unit. Amazingly the Women’s Refuges Funding is located in the Department of Corrections. Met with Jeff Martin Community Corrections Grants Coordinator. Discussed Restorative Justice. Met Dick Mulcrone, Assistant Commissioner for Community Services- Department of Corrections.
- 11/4/98 Visited African American Museum of History - Detroit Michigan.
- 13/4/98 American Probation and Parole Association, Lexington Kentucky. Met with Anne Crowe author of “*Intervening in Family Violence-A Resource Manual for Community Corrections Professionals.*” Discussed issues of Restorative Justice, Teen Courts and other corrections issues with Dr Harry Boone Jr and Karen Dunlap, both research associates with APPA.
- 14/4/98 Alternatives to Domestic Aggression (Catholic Social Services) Washtenaw County, Ann Arbor Michigan.
Sat in on perpetrator’s group. Attended a brown bag lunch at the Domestic Violence Shelter where the guest speaker Jean Bernard’s topic was “How men can be Allies in the fight Against Violence Against Women.” Meeting with David Garvan, Director of ADACSS. Team meeting with staff.
- 15/4/98 Visit to 15th Judicial Court Probation Office with Ron Rinker, Supervisor. Attended Domestic Violence Court of Judge Carol Matson. Met with Judges Matson and senior

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- Judge Elizabeth Hines and Court Administrator Bob Randolph in chambers. Meeting with Patrick Burgett, Senior Parole Officer, Michigan Dept of Corrections regarding state parolees and incarceration rates. Attended Service Centre adjacent to county jail to observe committal hearings. Attended Education Training Research Services (a private company) Domestic Violence Groups (2) in Livonia with Jim Henderson from Probation.
- 16/4/98 Attended ADA Advisory Board meeting. Met with Probation staff from 14-B District Court of Washtenaw County. Attended evening "Aggression Management Course" operated by the Wolkota Company , Ypsilanti Michigan (Michael Rudy).
- 17/4/98 Ann Arbor Consultation Services Inc meeting with Terry Dunivin and staff discussing their domestic violence program. Then to Domestic Violence Project/Safe House tour with Lisa Farst.
- 19/4/98 Visit to Colonial Williamsburg - early American history and legal system.
- 21/4/98 Jewish Holocaust Museum Washington DC.
- 22/4/98 Met with Roberta Valente, Commissioner on Domestic Violence, American Bar Association, Washington DC. Legal issues including mandatory arrest policies discussed.
- 28/4/98 Boston Massachusetts tour. Early American colonial and Civil War history. Visit to Plymouth Rock and Salem Witch Museum.
- 29/4/98 Join Together Boston an organisation supporting communities in fighting drug and alcohol abuse. Met with David Rosenbloom, Director and discussed criminal justice issues, sentencing policy and public policy issues.
- 30/4/98 Met with Dr Andy Klein, Chief Probation Officer of Quincy County who operate a domestic violence program in tandem with providers.
- 4/5/98 Office of Special Offender Services Lancaster Pennsylvania. Deon Roth Director.
- 22/4/98 Addressed 40+ mental health workers at Lancaster Mental Health/Mental Retardation Service on services in NSW.
Attended Special Entry Program for intellectually disabled offenders returning to school from juvenile detention. Attended Loysville Youth Development Centre with Bill Wentling and Jo Mitchell.
East McCaskey and McCaskey High Schools to special classes for students with special needs. Water Street Rescue Mission. Meeting with Steve Walter, Director of Community and Voluntary Service Program, Lancaster Probation.
"Successful Supervision" course attended by County Managers as part of change management strategy. Wernersville State Hospital - Mary Krick, discussed CHIPPS which supports mentally ill residents moved to the community.
Lancaster Court of Common Pleas with John Forsythe of Probation. Attended County Human Services Managers Meeting and observed management.
Children and Adolescent Support System Program with Evelyn Duncan. Observed the range of mental health and intellectual disability services for Lancaster county. Police Ride-along with Sgt Pete Glatfelter of Lancaster City Police.
Barnes Hall Juvenile Detention Centre - Ed Klinovski, Operations Manager.
Spoke to a high school sociology class on Australia.
Laurelton State Hospital with Earle Scheaffer and Tracey Baker of Lancaster MH/MR.
Attended hook up of a new client to home detention in his home and observed the technology used in Lancaster.
Met with Marilyn Stein and Bruce Campbell (Director) of the Impaired Driver Program. Visit to CONCEPTS with Kerri Martin and Sue Glatfelter of SOS. Attended Sex

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- Offender Group for intellectually disabled sex offenders on Probation.
Probation Violations Court, Lancaster with Mark Wilson of SOS.
Pennsylvania Board of Probation and Parole Office Lancaster - met with Les Nagle, Supervisor. Discussion about current trends in criminal justice and changes observed in his 31 years as a state Parole Officer. Meeting with Bail Administrator, Russell Glass.
Adult Probation Staff Meeting attended. Meeting with Wayne Geltz, Deputy Director of Probation.
Lancaster County Gaol - full day observing and learning. Met with Andrew Brommer (Training Officer), Danni Brazill (Counsellor), Sergeants Willy Caine and Mike Ennis and Robert Siemasko Deputy Warden for treatment. Visited K-9 Dog Squad.
Mental Health Outpatients Clinic with Dr Johnson. Meeting with Bob Carey, Supervisor of Mental Retardation.
Harrisburg State Hospital for a seminar on managing the elderly resistant patient.
Meeting with Diane Dombach, Executive Director of Sexual Offenders Assessment Board, Pennsylvania (Megan's Law Unit).
- 26/5/98 Pennsylvania Coalition Against Domestic Violence, Harrisburg PA. Met with Kaarin Reinhartsen, Probation and Parole Project Trainer.
- 27/5/98 Domestic Abuse Counselling Centre, Pittsburgh PA. Met with Julie Johnson and reviewed program content and presentation.
Visit to Allegheny County Probation with Bob Foster (Director of DACC). Met Robert Galardy Senior Supervisor and discussed probation issues.
Met with Bob Foster and discussed history of project, philosophy and direction. Lunch meeting with Judge William (Jack) Simmons Chief Magistrate City of Pittsburgh. After lunch sat on the bench with him in the domestic violence court. Attended evening group for perpetrators run by Lori Thomas.
Visit to the Women's Shelter of Greater Pittsburgh - tour with Babs
- To 29/5/98 Bourdon. Meeting with Executive Director Martha Friday.
- 1&2 June 98 Lancaster Area Victim Offender Reconciliation Project (LAVORP) Meetings with Barb Toews, Director and Linda Gehman Peachey, Case Manager. Also met with Chairman Greg Armstrong and Jim Stutzman treasurer. Lunch meeting with Linda Fisher Nowak who is likely to be a District Court Judge after the next elections for judges.
- 3/6/98 Victim Offender Mediation Service York PA. Met with Jane Reise Director.
- 4/6/98 Juniata County Probation Office. Meeting with Mindy Davis Musser Probation Officer (Victim Offender Program) and Keith Graybill Chief Probation Officer.

APPENDIX II- Acknowledgements and Special Thanks

Coral McDonnell and Ellen Pence (DAIP) for Sunday breakfast and Ellen Pence for the opportunity to learn about tree felling at her home.

Dave Nyquist for dinner at his home.

Staff at Minnesota Department of Corrections for a tour of St Paul and transport to the airport.

American Probation and Parole Association, Lexington Kentucky for lunch.

Ron Rinker, Supervisor Probation Dept, 15th Judicial District Court Ann Arbor Michigan for accommodation, transport and a tour of Washtenaw county.

Michael Rudy of the Wolkota Company for sharing his life experiences over dinner.

Dr Andy Klein, Chief Probation Officer for lunch and a walk around the neighbourhood.

Lee and Pam Smucker, Sam and Hannah Smucker and Lloyd and Mary Ann Miller for friendship, meals and hospitality during my time in Lancaster.

Mark Wilson of SOS for the opportunity to attend his daughter's second birthday party.

Sergeant Pete Glatfelter of Lancaster County Police for arranging to have the parking ticket taken care of.

Judge Jack Simmons and Bob Foster for lunch.

Bob Foster for coffee at his home and meeting the family as well as an evening view of Pittsburgh.

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⁷Healey K, Smith C, O'Sullivan C, *Batterer Intervention*.

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²⁰Kay Pranis, Restorative Justice Planner, Minnesota Department of Corrections, *Rethinking Community Corrections: Restorative Values and an Expanded Role for the Community*, Undated paper obtained from Minnesota Department of Corrections, St Paul, Minnesota.

¹Juvenile Court Judges' Commission, *Balanced and Restorative Justice in Pennsylvania: A New Mission and Changing Roles within the Juvenile Justice System*, March 1997 Pennsylvania USA.

²The Mennonite Church is not well known in Australia. It is a church born during the Reformation with an emphasis on social justice, peacemaking and non-violence and non resistance. Theologically it is a Protestant denomination and its members have Conscientious Objector status by virtue of their church affiliation in the USA. They are the spiritual parents to the Amish people. During the Reformation both Catholics and Protestants persecuted them because they were viewed as undermining the authority of the state by emphasising a separation between personal beliefs and conscience and state imposed religion.

³Personal Discussions with Barbara Toews, Director, LAVORP, Lancaster PA, May 1998.

⁴Beth Graybill, *Where is God?*, doing justice loving mercy, LAVORP, Lancaster PA, April 1998. Note that in the original the name of the assailant was used but in the published version his name has been omitted. Most references in parantheses could have a male name substituted which makes it more powerful reading.

¹Howard Zehr, *Changing Lenses - A New Focus for Crime and Justice* pp159-160, Herald Press, Scottdale PA.

²Id, pp 184-185