

EXPLORING THE PROCESS OF DESISTANCE IN TWO  
HIGH-RISK PROBATION POPULATIONS

by

Steve Boehm, B.A., M.A.T.

A dissertation presented to the Graduate Council of  
Texas State University in partial fulfillment  
of the requirements for the degree of  
Doctor of Philosophy  
with a Major in Criminal Justice  
December 2013

Committee Members:

Joycelyn Pollock, Chair

Mark Stafford

Scott Bowman

Nathan Pino

**COPYRIGHT**

by

Steve Boehm

December 2013

## **FAIR USE AND AUTHOR'S PERMISSION STATEMENT**

### **Fair Use**

This work is protected by the Copyright Laws of the United States (Public Law 94-553, section 107). Consistent with fair use as defined in the Copyright Laws, brief quotations from this material are allowed with proper acknowledgment. Use of this material for financial gain without the author's express written permission is not allowed.

### **Duplication Permission**

As the copyright holder of this work I, Steve Boehm, authorize duplication of this work, in whole or in part, for educational or scholarly purposes only.

## **DEDICATION**

Dedicated to my parents, F. Don Boehm and Elizabeth Loring Boehm, who instilled in me the love of learning and the value of hard work.

## ACKNOWLEDGEMENTS

In the fall of 2008, I had the good fortune to be hired as a full-time lecturer in sociology at Texas Lutheran University. Had Germaine Walsh and John Sieben not extended that opportunity to me, none of what follows would have happened. My colleagues at TLU have been a source of support and inspiration throughout this process. I am especially grateful to Chris Bollinger for his insights into qualitative research and for his service as an independent data coder.

I appreciate the many hours of work that went into the creation of the criminal justice Ph.D. program at Texas State, and I hope this dissertation is worthy of those efforts. I am especially grateful to Joycelyn Pollock, Mark Stafford, Scott Bowman, Nathan Pino, and Michele Connolly who agreed to serve on my dissertation committee.

This dissertation would not have been possible without the generous support of Robert Thomas, who has the good fortune of supervising a dedicated and talented group of probation officers and staff. I have never worked as a probation officer, but should that opportunity someday present itself, Shawn Cooksey is the model for the officer I would aspire to be. The support and interest of W.C. “Bud” Kirkendall was crucial, and I am eternally grateful to the 38 probationers who participated in this study and who gave me their time, trust, and cooperation.

Finally, I am grateful to my wife, Esther, who endured my absences and emotional crises and with grace and good humor, mostly.

## TABLE OF CONTENTS

	<b>Page</b>
ACKNOWLEDGEMENTS .....	v
LIST OF TABLES .....	x
ABSTRACT .....	xi
CHAPTER	
1. INTRODUCTION .....	1
General Background of the Problem.....	1
Goals of This Study .....	4
Research Questions.....	5
Summary and Organization of the Dissertation.....	6
2. LITERATURE REVIEW .....	8
Probation, Risk Assessment, and Recidivism.....	8
Intensive Supervision Probation .....	9
Risk/Needs/Responsivity Model.....	12
Recidivism .....	14
Therapeutic Justice and Problem-Solving Courts.....	16
Dade County, Florida Drug Treatment Court.....	17
Hawaii’s HOPE Model .....	19
General Characteristics of Problem-Solving Courts.....	20
Deterrence Theory .....	21
Evaluations of Problem-Solving Courts .....	24
Controversies Surrounding Problem-Solving Courts .....	27
Cognition and Desistance .....	30
Maruna’s Redemption versus Condemnation Scripts.....	31
Agency versus Fatalism .....	32
Motivation versus Complacency.....	34
Labeling Theory.....	35
Summary .....	37

3. METHODS .....	39
Description of the Research Setting.....	39
An Empirical Phenomenological Approach .....	41
Constructs: Redemption, Agency, Motivation.....	44
Redemption .....	45
Agency .....	46
Motivation.....	47
Data Source.....	48
Confidentiality .....	49
Protocols and Procedures .....	50
Sample Size.....	51
Phenomenological Data Analysis .....	52
Issues Regarding Human Subjects Research .....	53
Summary .....	54
4. ANALYSIS.....	55
Reliability and Validity.....	60
Family Background.....	63
Redemption.....	66
Group Comparison.....	69
Condemnation and Positive Self-Image.....	70
Group Comparison.....	72
Agency .....	73
Group Comparison.....	75
Fatalism.....	76
Group Comparison.....	79
Motivation.....	80
Group Comparison.....	84
Complacency.....	84
Probation Perceptions .....	85
Interactions.....	86
Group Comparison.....	87
Support System .....	89
Group Comparison.....	90

Probation Officers .....	91
Group Comparison .....	94
Treatment Programs .....	94
Group Comparison .....	96
Comparisons to Prior Probation Experiences .....	96
Group Comparison .....	98
Financial Issues .....	98
Group Comparison .....	100
Probation as Priority .....	100
Group Comparison .....	102
Felon Label .....	102
Group Comparison .....	103
Summary .....	104
5. DISCUSSION AND CONCLUSION .....	105
Review of Research Questions .....	105
Summary of Other Findings .....	106
Positive Self-Image .....	106
Probation Perceptions .....	106
Court Effects .....	107
Support System .....	107
Officer Effects .....	108
Program Effects .....	109
Comparison with Prior Probation .....	109
Financial Issues .....	109
Probation as Priority .....	110
Effects of Felon Label .....	110
Policy Implications .....	111
Expansion of HRP court .....	111
Support for Probation Officers .....	113
Expansion of Treatment Programs .....	113
Probation as an Accomplishment .....	115
Peer Mentoring .....	117
Maintenance of Family Support .....	119
Theoretical Implications .....	120

Learning Theory.....	120
Social Bonding Theory .....	120
Labeling Theory.....	121
Deterrence Theory .....	122
Limitations .....	123
Conclusion .....	124
Suggestions for Future Research .....	125
APPENDIX SECTION.....	127
REFERENCES .....	140

## LIST OF TABLES

<b>Table</b>	<b>Page</b>
1: Description of Sample .....	55
2: Group Comparisons .....	59
3: Evaluations of Problem-Solving Courts .....	127
4: State and Sample Probation Demographics .....	139

## **ABSTRACT**

Problem-solving courts were developed in the 1980s and 1990s to reduce recidivism and probation revocations. The first problem-solving courts focused primarily on treating drug abuse, but the missions have expanded to include issues such as domestic violence and the problems faced by returning war veterans. Research has found these courts to be generally effective, but there is wide variation in their outcomes, and there are questions about the process offenders undergo as their identity shifts from offender to non-offender. This dissertation presents qualitative and quantitative analysis of interview data for a group of problem-solving court probationers (n = 19) and a similar group of regular probationers (n = 19) that explores the differences and similarities in how these groups describe the probation experience. In general, the groups' descriptions are more similar than they are different, but those small differences suggest that the problem-solving court may be a qualitatively better experience for probationers than regular probation.

# 1. INTRODUCTION

## **General Background of the Problem**

Since John Augustus first began intervening in the sentencing of criminals in 1841 (Dressler, 1962), probation has grown to play the dominant role in criminal sentencing. Today, over four million offenders are serving probated sentences in their communities, with half of them convicted of felonies (Glaze & Bonczar, 2011).

Community supervision, as probation has come to be known, has gained an elevated public profile in recent years as empirical evidence mounts that it can be effectively used to monitor offenders' behavior and to reduce the costs associated with more expensive incarceration (Petersilia, 1997; Zhang, Roberts, & Callanan, 2006). While the "tough-on-crime" mentality and its emphasis on prisons still dominates much of the criminal justice conversation, there is a growing realization among many policy makers that community supervision can be not only safe and cost-effective, it also may produce an additional benefit by excluding some offenders from the criminogenic environment of prison and thus reduce future offending (Cid, 2009; Gates & Camp, 2009; Lipsey & Cullen, 2007; Vieraitis, Kovandzic, & Marvell, 2007).

Ideally, all offenders who are assigned to probation would successfully complete the terms of probation and then be permanently reintegrated into the world of responsible citizens. While the success rate for probation (defined as the percent of those discharged who completed the terms of their probated sentences or were released early) is far from perfect, recent trends indicate that success rates have climbed from 58 percent in 2006 to 65 percent in 2010 (Glaze & Bonczar, 2011). However, despite the positive trend, high probation revocation rates still present problems. In 2009, the average cost of

incarceration in the U.S. for a day is \$78.95, compared to \$3.42 for a day of probation (Pew Center on the States, 2009, p. 12). In Texas, the cost of supervising offenders is lower, but the differences between incarceration and community supervision are equally dramatic. A day of incarceration in a Texas prison costs \$51 compared to \$1.51 for a day of probation (Legislative Budget Board, 2011). The high cost of incarceration has become increasingly problematic as states struggle to balance their budgets. Given the over four million people who are on probation, the number of persons incarcerated and their associated costs have the potential to go even higher if large numbers of those under community supervision are revoked and sent to jail or prison. Should the opposite trend emerge and a significant move toward deincarceration develops, it will be important to redirect adequate resources to probation so that effective levels of services can be delivered.

Taxman (2008) suggests that we are at a crossroads regarding the future of community supervision. There is some evidence that progress is being made in shifting away from the overuse of incarceration that has become unsustainable in the current economic climate, but it is also possible that if and when better economic times return, they will be accompanied by a return to the prison building and incarceration practices that dominated criminal justice policy in the 1980s and 1990s (Spelman, 2009). If such a scenario is to be avoided, advocates of community supervision will need to continue to publish and present convincing evidence that probation reduces reoffending and increases public safety. Further, it seems likely that probation programs that emphasize the same practices and get the same results will come under increasing pressure to develop innovations that produce improved outcomes.

As the economic realities facing governments continue to challenge policy makers, they will need to look beyond the usual responses to crime. Research that clearly identifies effective programs that reduce incarceration and reduce recidivism will become more important so that decisions regarding alternative programs can be made with confidence. Getting the information about effective programs to the policy makers is crucial, as is ensuring that programs are implemented with fidelity, but the first step is to identify programs that work (Cullen, Myer, & Latessa, 2009). This study explores the process by which offenders' identities shift from offenders to non-offenders. Insights from this qualitative data offer direction to probation professionals in their efforts to support probationers in their efforts to desist from crime.

Problem-solving courts, an innovative approach to boosting the effectiveness of probation practices, began in the late 1980s. These special courts rely on the cooperative efforts of court actors, probation departments, and social service agencies. These courts usually specialize in particular types of offenders and target their individual needs to reduce the likelihood that they will reoffend after the completion of their probated sentence (Berman & Feinblatt, 2001). This pioneering effort began with drug treatment courts and has now expanded to address problems such as domestic violence and the particular challenges faced by returning war veterans (Huddleston, Marlowe, & Casebolt, 2008). However, despite their growing popularity, problem-solving courts still handle only a small fraction of probation cases (Farole, 2006).

Evaluations of problem-solving courts have found consistent evidence of their effectiveness at reducing costs and recidivism (Belenko, 2001; Davidson, Pasko, & Chesney-Lind, 2011; Kalich & Evans, 2006), but these specialty courts are not without

their critics. Some question the role that judges play in these courts and suggest that issues regarding due process and coercion are inadequately addressed (Bozza, 2007; Jensen, Parsons, & Mosher, 2007). While there is considerable evidence that problem-solving courts can reduce recidivism (Belenko, 1998, 1999, 2001; Davidson et al., 2011; Deschenes, Ireland, & Kleinpeter, 1996; Jensen et al., 2007; Ronan, Collins, & Roskey, 2009), questions remain about their long-term effectiveness (Berman & Gulick, 2003). Many existing studies of problem-solving courts lack a comparison group (Slinger & Roesch, 2010), while others suffer from deficiencies such as low sample size and high attrition rates (Jensen et al., 2007). Further, there are questions about the process of cognitive change that those who desist from offending undergo and how programs can best support those positive changes (Maruna, 1999; Maruna, Lebel, Mitchell, & Naples, 2004; Wiener, Winick, Georges, & Castro, 2010). While a complete investigation of all of these issues is beyond the scope of this study, it does explore questions surrounding the self-perceptions of those who participate in a problem-solving court compared to a similar group who are assigned to regular probation protocols.

### **Goals of This Study**

The goal of the research is to determine whether participants in a specialized High-Risk Probation (HRP) court have a personal identity that is more conducive to desistance from offending than similarly situated probationers who do not participate in HRP court. An empirical phenomenological approach is used to gain insights into the changes in identity that probationers undergo as they move through the probation process. Specifically, it investigates whether probationers in a problem-solving court

view their past as evidence of incorrigibility or as a prelude to a better future (Maruna, 2001), express a stronger sense of agency than fatalism (Lloyd & Serin, 2012; Maruna, 2004; McAdams, 2001), and whether the experience of HRP court serves to motivate them to desist from crime (Giordano, Cernkovich, & Rudolph, 2002; Healy & O'Donnell, 2008; Sellen, McMurrin, Cox, Theodosi, & Klinger, 2006). Each of these three constructs can be seen as occurring on a continuum (redemption v. condemnation; agency v. fatalism; motivation v. complacency) with a stronger sense of redemption, agency, and motivation associated with desistance from offending.

### **Research Questions**

The following research questions are explored:

1. Do probationers view their pasts as preludes to a brighter future or as evidence of incorrigibility?

Interview questions asked subjects to reflect upon their histories and self-perceptions. Their responses were analyzed for patterns that can be classified as a “redemption script” or as a “condemnation script” (Maruna, 2001). It was hypothesized that the reflections of the HRP court participants will have a more redemptive character than will the reflections of the regular probationers.

2. Do participants in HRP court express a stronger sense of agency and a less fatalistic attitude toward the likelihood of future offending than regular probationers?

This question was addressed in two ways. Semi-structured interviews with current high-risk probationers from both HRP court and regular probation were conducted, coded, and analyzed using a phenomenological approach (see Methods section for a full

description). A quantitative measure of agency was also employed. The Mirowsky/Ross Scale of Perceived Powerlessness versus Control, an eight-item Likert-type scale produced a “perceived powerlessness” score that ranges from -2 to 2 (Mirowsky & Ross, 1991).

3. Do participants in HRP court express a stronger motivation to change than regular probationers?

It was hypothesized that HRP probationers would be more highly motivated to desist from offending due to the effects of direct judicial supervision and the positive reinforcement of good behavior by the HRP judge. Interview questions and the phenomenological analysis were designed to explore whether HRP probationers express more motivation to change than do regular probationers. A second measure of motivation produced a “motivational profile” using a four-item scale (Burnett, 1992; Farrall, 2002; Healy & O’Donnell, 2008).

### **Summary and Organization of the Dissertation**

The dissertation begins with a literature review that is divided into several sections relevant to the research questions. First, a brief history of probation is presented, including a discussion of intensive supervision probation, the development of the Risk/Need/Responsivity model of probationer assessment, and an overview of what we know about recidivism. Next the review examines the emergence of the therapeutic justice movement and its contribution to the creation of specialized problem-solving courts. This section ends with a discussion of how deterrence theory contributed to the development of problem-solving courts. Evaluations of problem-solving courts are next,

with a consideration of methodologies of the various studies and their findings regarding the costs and outcomes of the courts. The literature review continues with a brief section that discusses controversies concerning problem-solving courts. Finally, the paper reviews the desistance literature as it relates to cognition, agency, motivation to change, and labeling theory.

Next is the methods section. It describes the methods for selecting the sample, the constructs that were analyzed and how they were operationalized, and the details of how the qualitative and quantitative data were collected and analyzed. Quantitative data are used as a second measure of one of the qualitative constructs. This section also includes discussion of issues related to research on human subjects.

The analysis section is next. It begins with a detailed description of the sample and the coding procedure that was used to organize the qualitative data. Next is a discussion of how reliability and validity were established. After that is the analysis of the main constructs that emerged in the interviews, including quotes that illustrate each construct. At the end of the analysis of each construct is a comparison of the HRP court group and the regular probationers.

The discussion section concludes the dissertation. It begins with a reiteration of the research questions and the relevant findings of the study. Next is a summary of other findings as they apply to the themes that emerged from the interviews. Following that is a section of policy recommendations based upon the findings of the study. The chapter concludes with a discussion of the limitations of the study and suggestions for future research.

## 2. LITERATURE REVIEW

### **Probation, Risk Assessment, and Recidivism**

Policy debates that circulate around appropriate punishment of offenders abound in both our legislatures and our coffee shops. The "get tough on crime" theme is usually a popular one in both venues, but questions about its universal application and effectiveness are often raised, with critics quick to point to high rates of recidivism as evidence for the futility of policies that fuel an endless cycle of rearrests and incarcerations. The current budget shortfalls that are facing many states are leading more people to wonder if there is at least a more cost-effective way to manage crime.

The notion that there must be a better way to deliver justice is not a new one. It was this sentiment that led to the creation of the first prisons as support for corporal punishment waned in favor of a more humane system that would potentially deliver a reformed former offender to the productive ranks of society (Foucault, 1977). Similarly, the work of the child savers led to the development of the first juvenile courts as sentiment grew for a separate system that would recognize the differences between juveniles and adults and the greater potential for rehabilitation that was assumed to exist in the young offender (Jensen et al., 2007; Platt, 1969).

Probation was another innovation. It began in 1841 with the work of John Augustus who took it upon himself to divert offenders from jail by taking them under his supervision. Augustus' efforts were motivated by his religious faith in people's redemptive potential, but as probation practices became formalized and professionalized over the years, the job was usually filled by those with law enforcement experience

(Dressler, 1962). Little thought was given to how best to provide probation services, and there was conflict between those who advocated a strict regimen and those who favored a more rehabilitative approach (McAnany, Thomson, & Fogel, 1984).

This often punitive, uncoordinated, and idiosyncratic approach to probation and offender rehabilitation culminated in Robert Martinson's 1974 paper suggesting that "nothing works" to deter or reform those inclined toward crime. His analysis of offender intervention programs argued that virtually all efforts to reform offenders were misguided uses of criminal justice resources. Martinson concluded that "with few and isolated exceptions, the rehabilitative efforts that have been reported so far have had no appreciable effect on recidivism" (p. 25). Probation practices came under increased scrutiny as other researchers and policy makers found evidence that they were ineffective and a waste of public funds (Comptroller General of the United States, 1976).

Martinson's work was challenged by Palmer (1975) who argued that just because no program was effective in treating all offenders did not mean that all programs were always ineffective in all cases. Over the next several decades, researchers proceeded to publish a long list of papers circulating around the theme of "what works" (e.g., Cullen & Gilbert, 2012; Gendreau, Little, & Goggin, 1996; Lipsey & Cullen, 2007; Lipton, 1995; Lowenkamp & Latessa, 2005; MacKenzie, 2000; Paparozzi, & Gendreau, (2005), Pearson & Lipton, 1999; Wilson, Gallagher, & McKenzie, 2000).

### **Intensive Supervision Probation**

The pursuit of more effective probation practices led to risk classification systems and intensive supervision probation (ISP). High risk offenders were first identified simply

though criminal history and other characteristics and then assigned to smaller caseloads with higher supervision. However, this simple approach to ISP was hampered by the fact that smaller caseloads did not necessarily increase the level of supervision, and when higher supervision levels were achieved, they did not guarantee improved outcomes, in part because the more stringent requirements of ISP produced more rules to be violated (Clear and Hardyman, 1990).

The next generation of ISP programs was driven by efforts to reduce the growing prison population and to curtail some of those costs. In order to make them more palatable to the public, they were presented as an extension of the “get tough” model of criminal justice (Clear and Hardyman, 1990), which mirrored the earlier efforts’ emphasis on surveillance and punishment. These ISP programs were seen as a “middle ground” applied to offenders whose crimes were too serious for regular probation or whose criminal histories indicated a need for close supervision to discourage reoffending (Petersilia & Turner, 1993). While the new ISP programs were found to be somewhat more effective than their predecessors at reducing reoffending, the effects of ISP were not always apparent. In their analysis of 14 ISP programs that randomly assigned offenders to either an ISP program or to regular probation, Petersilia and Turner (1993) found that 37 percent of ISP probationers and 33 percent of the comparison groups were rearrested for similar offenses within one year and were also similar in their “time to failure.” Increasing levels of supervision appeared to have a ceiling effect, after which more supervision did not decrease recidivism. For example, an ISP program that averaged 3.4 face-to-face contacts per month saw a 46 percent rate of rearrests compared to a 42 percent rate in a program with 16.1 monthly face-to-face contacts (Petersilia & Turner,

1993). As with the earlier ISP programs, closer supervision in the new programs resulted in higher rates of technical violations because more violations were being detected, not necessarily because of a higher number of actual violations (Turner, Petersilia, & Deschenes, 1992). Another weakness was the strong emphasis on supervision and monitoring without a parallel emphasis on treatment and support. Programs that emphasized offender treatment and counseling had better outcomes than programs without those components (Petersilia & Turner, 1993).

ISP has continued to change through the years. While there is evidence that modern ISP programs are at least somewhat effective in reducing probation revocation for high risk offenders, questions remain about whether ISP is a cost-effective way to allocate probation resources in order to minimize reoffending. For example, Merrington's (2006) review of ISP programs in England produced a mixed finding of program effectiveness and suggested that those resources might be more effectively allocated. Lane et al. (2005) studied an enhanced probation program for youths in California. The 264 youth who were randomly assigned to the enhanced program did no better than the 275 who received standard treatment. They had similar rates of rearrest at 18 months (59 percent vs. 58 percent) and similar rates of reincarceration after two years (40 percent vs. 41 percent). Deschenes, Turner, and Petersilia (1995) found that the savings in incarceration expenses realized by ISP programs that diverted offenders from prison disappeared when the additional costs of the ISP were factored in. Petersilia and Turner (1990) found that unless ISP is closely monitored, it is no more successful than regular probation at preventing revocations.

Program philosophy and integrity appears to have an impact upon ISP program effectiveness. Program effectiveness is enhanced when programs are faithfully implemented and when there is a general “human service” philosophical approach (Lowenkamp, Flores, Holsinger, Makarios, & Latessa, 2010). A similar approach was taken by Pappozzi and Gendreau (2005) who noted the importance of organizational and professional commitment to a successful ISP program. Petersilia (1990) came to a similar conclusion in her examination of ISP programs in Georgia. Even when an ISP is properly administered, the failure rates are high, but a recent study of evidence-based practices (EBP) suggests that ISP can be effective, even if questions of cost and efficiency remain unanswered (Jalbert, Rhodes, Flygare, & Kane, 2010).

### **Risk/Needs/Responsivity Model**

The limitations of the ISP model spurred research into more effective alternatives. By the early 1990s, evidence began to emerge that effective practices that target the specific risks and needs of offenders could reduce recidivism (Andrews, Bonta, & Hoge, 1990; Andrews, Bonta, & Wormith, 2006). The Risk-Need-Responsivity (RNR) model was developed in the 1980s and 1990s (Andrews, Bonta, & Hoge, 1990) as an effort to create an empirical understanding of “what works” in probation and rehabilitative practices (Wormith, Gendreau, & Bonta, 2012). It has become the dominant set of principles that guides probation practices and the development of more complex risk/need assessment instruments such as the Level of Service Inventory-Revised (LSR-I) (Bonta & Andrews, 2007). Meta-analyses that explore the question of “what works” in correctional practices have found strong support for the principles of the RNR model

(Andrews & Dowden, 2006; Smith, Gendreau, & Swartz, 2009; Wormith, Gendreau, & Bonta, 2012).

The risk principle focuses on matching services and the level of supervision with the probationer's likelihood of reoffending (Bonta & Andrews, 2007). This speaks to the importance of the efficient allocation of resources as offenders assessed as being at higher risk generally benefit from higher levels of supervision, while low-risk offenders may have worse outcomes under conditions of close supervision (Andrews, Bonta, & Hoge, 1990; Lowenkamp & Latessa, 2005). This somewhat puzzling finding has been explained as greater involvement in the criminal justice system possibly disrupts existing healthy social bonds and behaviors (Smith, Gendreau, & Swartz, 2009). The risk principle indicates that focusing resources on high risk offenders yields the greatest reductions in overall rates of reoffending.

One of the dominant features of the RNR model is its focus on addressing criminogenic needs (Andrews, Bonta, & Wormith, 2006). Criminogenic needs are also called dynamic risk factors (i.e., they are mutable, as opposed to static risk factors such as criminal history that are unchangeable). Criminogenic needs are personal characteristics and social circumstances of probationers that make criminal behavior choices more likely. There are eight fundamental criminogenic needs: antisocial associates, antisocial cognitions, antisocial personality pattern, history of antisocial behavior, substance abuse, family problems, school and work problems, and leisure and recreation problems (Andrews, Bonta, & Wormith, 2011). A fully implemented RNR model includes reducing criminogenic needs while also working with offenders' strengths to create normal paths to gratify normal needs (Andrews, Bonta, & Wormith, 2011).

The responsivity principle requires the careful matching of services to offenders' personal characteristics and abilities (Andrews, Bonta, & Hoge, 1990). It considers the characteristics of the individual offender, the probation officer, and the overall probation program. Responsivity is a crucial element of the model that "overlays all treatment and program-based intervention" (Wormith, Gendreau, & Bonta, 2012, p. 117).

The responsivity dimension is further divided into general and specific responsivity. General responsivity focuses on addressing cognitions of all offenders, regardless of sex, ethnicity, or offense type. Strategies that address general responsivity include developing problem solving skills and reinforcing positive behaviors. Specific responsivity addresses individual differences that affect cognitions such as strengths and weaknesses, motivation, and issues particular to each offender (Bonta & Andrews, 2007; Dowden & Andrews, 2004).

The LSI-R risk/need assessment instrument is based upon RNR principles. The LSI-R has been extensively tested and validated and has arguably had the most influence in the development of modern risk/need assessment instruments (Ward, Mesler, & Yates, 2007). It has been successfully applied to a wide range of offender populations including males and females, probationers and inmates, Native Americans, juveniles, and sex offenders (Simourd, 2004).

## **Recidivism**

National statistics for recidivism rates for those released from state prisons indicate that little has changed in the past 18 years. Since 1994, the rate of those released from prison who returned within three years has stayed at around 40 percent (Pew Center

on the States, 2011). However, more positive results have been found in specific locations. For example, in Texas, a positive trend has emerged. From 2005 to 2010, the number of felons sentenced to community supervision increased every year while the number of those revoked declined over the same period. This produced a rate of revocations that declined from 16.4 percent to 14.7 percent over the five-year period (Legislative Budget Board, 2011).

Studies suggest that using evidence-based practices that focus on addressing the needs of individual offenders (the responsivity element of the RNR model described above) can be effective in reducing recidivism and probation revocation rates. In one study, smaller caseloads combined with evidence-based practices reduced recidivism by 30 percent, while the higher level of scrutiny and supervision increased technical violations by only 4 percent (Jalbert & Rhodes, 2012). A quasi-experimental design that compared two groups of Vermont probationers, one which received “reparative” probation and another which received a standard probation protocol, found improved outcomes for the group that received the reparative intervention (Humphrey, Burford, & Dye, 2012). Similar positive results were reported in an analysis of Oklahoma’s community supervision program. Revocations declined by 32 percent over a two-year period following the implementation of the LSR-I risk/need assessment instrument and the use of motivational interviewing (MI) techniques which feature a more active involvement of the probation officer in helping probationers think through their cognitive distortions and to see how their behaviors affect others (Holloway, 2010).

Much work remains to be done to develop the most effective probation practices that maximize the return on the public investment. However, Petersilia (2011) sounds an

optimistic note as she suggests that the recent slowing in the growth of the US incarcerated population signals that the “beginning of the end” of overreliance on mass incarceration is likely at hand. She argues that we have long ago crossed the line where the cost-benefit ratio of mass incarceration makes any financial sense and suggests that while the progress has not been as great as might have been hoped, ignoring the progress that has been made is foolhardy and risks a continuation of the budget-busting policies of mass incarceration. Moving forward efficiently requires the effective implementation of probation programs that divert offenders from prison to avoid the criminogenic effects of incarceration.

### **Therapeutic Justice and Problem-Solving Courts**

The development of better risk/need assessment instruments and the refining of intensive supervision probation practices have led to improved probation outcomes. A recent development that follows this trend of innovation is the therapeutic justice movement. Rooted in the work of David Wexler and Bruce Winick (1991), therapeutic justice emerged in the late 1980s in response to frustrations with the "business as usual" style of justice and its emphasis on efficiency and expediency. The traditional emphasis on processing produced impressive statistics in terms of numbers of cases processed but also produced impressively high numbers of repeat offenders (Hora, 2002). The philosophy behind the therapeutic justice movement is also seen in the work of John Braithwaite's (1989) reintegrative shaming model of jurisprudence and its emphasis on creating a path to redemption for offenders through the conscious efforts of the criminal justice system and the community.

Problem-solving courts are a concrete manifestation of the philosophy of therapeutic jurisprudence. These courts do not follow a strict rational actor model consistent with criminal jurisprudence, nor do they adopt a disease model that emphasizes some form of “cure.” Rather, in problem-solving courts, offenders are included and invited to participate in their own rehabilitation. These courts arose out of a sense of frustration with the lack of progress in addressing problems such as drug abuse and domestic violence (Berman & Feinblatt, 2001; Jensen, et al., 2007; Payne, 2006; Mirchandani, 2008). One judge summed up the frustrations felt by many in the traditional system as he observed, "I feel like I work for McJustice: We sure aren't good for you, but we are fast" (Berman, 2000, p. 80). Problem-solving courts attempt to address the roots of crime and the underlying social and personal issues that cause criminal behaviors (Mirchandani, 2008).

### **Dade County, Florida Drug Treatment Court**

The first problem-solving court was a drug treatment court established in Dade County, Florida in 1989. It was based upon three distinct practices: a more active role for courtroom officials (judges, prosecutors, defense attorneys, probation officers), a less adversarial approach to handling offenders, and specialized drug abuse treatment (Goldkamp and Weiland, 1993; Supreme Court Task Force, 2004).

The Dade County Drug Court has been evaluated twice, once in 1993, four years after its creation (Goldkamp & Weiland, 1993), and again in 2004 as a part of a larger evaluation of Florida drug courts that was undertaken by a Florida Supreme Court Task Force (2004). The 1993 evaluation found that participants in the drug court had better

outcomes than a comparison group in terms of dropped cases, incarceration rates, rearrests, and time to rearrest. The drug court participants did have higher failure-to-appear rates, which was attributed to the more stringent reporting requirements of the drug court protocol. Encouraged by the success of the “Miami drug court model,” other Florida counties established their own drug courts, and in 2004 the Florida Supreme Court Task Force evaluated them as a group. They concluded that drug courts reduce reoffending, reduce long-term drug use, and reduce criminal justice costs (Supreme Court Task Force, 2004). Three Florida drug courts reported recidivism rates of 19 percent, 6 percent, and 12 percent for program graduates, which are comparable to the 16.4 percent recidivism rate for drug court graduates nationwide (Roman, Townsend, & Bhati, 2003).

Building on the success of the Dade County DTC, problem-solving courts have expanded in both number and in the problems they address. There are over 3200 problem-solving courts operating in the U.S. today (Shadimah, 2010). The large majority of them are drug treatment courts, but there are over a dozen other types of problem-solving courts including mental health courts, veterans’ courts, and girls’ courts, among others (Casey & Rottman, 2005; Davidson et al., 2011). They reflect the efforts of legal professionals and the general public in their search for innovative ways to create lasting impacts on these types of problems, thus the moniker "problem-solving courts." Their growth has been supported by state governments burdened by the fiscal realities of the mass incarceration movement and its emphasis on warehousing large numbers of offenders in expensive prison systems (Lutze, Johnson, Clear, Latessa, & Slate, 2012). These courts’ popularity has also been bolstered by the positive view of the “broken windows” model of crime control with its emphasis on addressing small problems before

they turn into larger ones (Berman, 2000). While scholars still have valid questions about the effectiveness of problem-solving courts, the court of public opinion has rendered its favorable judgment as evidenced by the rapid growth of these courts. They have become established to the point where they are losing their status as "innovation" and are shifting to "institutions" (Dorf & Fagan, 2003).

### **Hawaii's HOPE Model**

Another problem-solving court that has attracted attention is Hawaii's Opportunity Probation with Enforcement (HOPE) program. As its name implies, the program combines incentives for good behavior with punishments that adhere to the principles of swiftness and certainty for violations of probation rules. HOPE is designed to address the deficiencies commonly found in drug offender probation programs. In traditional systems, violations are often allowed to accrue unpunished until a certain threshold is reached, and then harsh jail sentences are imposed. This emphasis on severity of punishment ignores the research that supports the effectiveness of practices that emphasize punishments that are certain and swift (Farabee, 2005; Grasmick & Bryjak, 1980; Taxman, 1999).

HOPE is described as a "triage" model of probation that targets resources to those most in need (Hawken, 2010). The HOPE program begins with a judge's order that includes informing drug offenders that each new probation violation will be immediately met with a short jail sentence. During their first two weeks in the program, probationers are randomly drug tested at least once a week. Any violation (including failure to appear) results in an immediate jail sentence, usually a few days that can be served on weekends.

Rather than having their probation revoked, after completing the jail sentence the offender is returned to the HOPE program.

Two evaluations of HOPE, one a quasi-experimental design and one using a more rigorous random assignment design, have shown that it is an effective program. In both studies, HOPE probationers had fewer positive drug tests, fewer missed appointments, and lower rates of rearrests than those assigned to a regular probation protocol (Hawken & Kleiman, 2009).

### **General Characteristics of Problem-Solving Courts**

In problem-solving courts, cases are closely monitored by individual judges and there is a close collaboration between the legal system actors and social service providers. These non-traditional roles for legal professionals emphasize teamwork and cooperation rather than the usual adversarial relationship with its emphasis on punishment (Green, Furrer, Worcel, Burrus, & Finigan, 2007; Jensen et al., 2007; Wexler & Winick, 1991). The different approach is seen in such qualities as the emphasis on counseling, attention to emotional issues, a view of offenders as having an illness, graduation ceremonies, and an emphasis on increasing social bonds (Green et al., 2007; Mirchandani, 2008).

Judges play distinctive roles in problem-solving courts. Rather than being the neutral arbiter between the prosecutor and the defense attorneys in an adversarial system, judges are active participants in probationers' treatment as they impose sanctions for violations and reward good behavior (Bozza, 2007). In problem-solving courts, probation officers still play a crucial role, but judges are the "chief behavior modifier" (p. 113). The authority of judges gives them a level of influence that other criminal justice agents may

lack (Berman & Feinblatt, 2005).

Problem-solving courts are distinct from other specialty courts that are created simply to relieve the general court of some of its burden. For example, some drug courts were organized simply to reduce the crushing burden of the volume of drug cases from the regular court docket. They are not therapeutic in nature and merely produce a separate "assembly line" that specializes in processing drug cases. For example, in Cook County, Illinois (Chicago), specialized drug courts operate from 4 p.m. to midnight and have helped speed up the processing of such cases, but the courts' fundamental processes are the same as regular courts and lack a therapeutic element (Lurigio, 2008). Specialized courts such as these are distinct from drug treatment courts, which are grounded in principles of therapeutic justice. In drug treatment courts, success is measured by outcomes that indicate tangible progress, such as "sobriety and employment" (Lurigio, 2008, p. 14), rather than by counting the number of cases processed.

### **Deterrence Theory**

Problem-solving courts operate on the principles of deterrence theory. Deterrence is the idea that punishing offenders causes them to modify their criminal behaviors. It is based on the assumptions that humans are rational and that they make conscious choices to seek pleasure and avoid pain. Deterrence theory traces its roots back to some of the earliest theoretical work in the criminal justice literature (Beccaria, 1764; Bentham, 1781), and is based on the idea that offenders engage in a "hedonic calculus" as they contemplate the potential consequences of getting caught and punished for their crimes. Deterrence theory's relevance to modern thinking is illustrated by its application to

justify much current criminal justice policy. The entire prison system is argued to function as a general deterrent as those who are caught and punished serve as a warning to other potential offenders who want to avoid the same fate (Apel & Nagin, 2011). Clearly all are not deterred as evidenced by the criminal behavior that occurs despite the threat of incarceration or other sanctions. However, Gibbs (1975) argued that merely pointing out that all are not deterred by the threat of sanctions does not demonstrate that the sanctions have no deterrent effect.

Deterrence theory was updated in 1993 by Stafford and Warr who argued that consideration of the deterrent effects of punishment overlooks the effects of committing a crime and not getting caught. For active offenders, it is unreasonable to think that the experience of knowing that their crimes usually go unpunished has no effect on their future decisions about committing further crimes. For example, Horney and Marshall (1992) found that offenders with low “arrest ratios” (the number of offenses compared to the number of arrests) perceived a higher likelihood of their crimes going unpunished. This reconstruction of deterrence theory also looks at the effects of vicarious experience. The experience of others is believed to have an effect on those who observe those experiences, and there is empirical evidence of this vicarious deterrent effect (e.g., Paternoster & Piquero, 1995; Piquero & Pogarsky, 2002).

Evidence suggests that offenders differ from the general population in their perceptions of the likelihood of punishment (Stafford and Warr, 1993). It is also reasonable to believe that there are differences between the general population of offenders and probationers who have already been caught and convicted. For deterrence to be effective, it must include the crucial ability to execute threats. Not only must the

threat be real, but it must also be perceived as being real, as reflected in the Thomas Theorem which states, “if men define situations as real, they are real in their consequences” (Thomas & Thomas, 1928, p. 572). In other words, offenders who have been caught, convicted, and sentenced to probation should have a different perception of the likelihood of detection and punishment than an offender who has not been caught up in the criminal justice system. Further, offenders who witness or experience swift and sure sanctions in problem-solving court should have a shift in their perception of the likelihood of punishment.

In problem-solving courts, the power of the judge to impose immediate sanctions plays a central role. Beccaria (1764) noted that swiftness and certainty of punishment were more effective deterrents than severity, and this thinking is supported by modern research (Farabee, 2005; Paternoster, 1989, Taxman, 1999). For a threatened punishment to have a deterrent effect, the threat must also be seen as credible. Credibility is established by a consistent and predictable pattern of punishment (Horai and Tedeschi, 1969). In other words, the person issuing the threat must be perceived as being sufficiently powerful and willing to apply the sanction immediately. The judge in a problem-solving court fits this description of a credible source of effective punishment. Further, problem-solving court judges have the power to impose immediate sanctions. Thus they meet the all of the criteria for effective punishment. They have and use their judicial power to impose immediate sanctions.

## **Evaluations of Problem-Solving Courts**

While the ideals of the problem-solving courts may sound to some like a soft-on-crime approach toward offenders who do real damage to their families and communities, much of the impetus for their creation came from practical concerns. Stinchcomb (2010) notes that drug treatment courts are the products of the drug war that led to a clogged court system. They represent a pragmatic vision of a way to address the revolving door of incarceration and recidivism (Hora, 2002). Kalich and Evans (2006) note that the United States incarcerates the highest percentage of its population, yet its recidivism rate (those rearrested within three years of release) is 63percent. At the very least, this indicates room for improvement in the way we attempt to rehabilitate offenders. Their analysis of a drug treatment court (DTC) indicated that it was more cost-effective than the \$25,000 cost of a year's incarceration. In a comparison of nonviolent drug offenders who were processed through the traditional courts system with those who went through a drug treatment court, one Oregon county saw a cost savings of 19% for the drug treatment court (Carey & Finigan, 2004). Aos, Miller, and Drake (2006) found that drug court saved an average of \$4767 per individual compared to traditional court. The cost savings of DTCs are attributed to a combination of not using jail and prison resources and a reduction in long-term criminality (Lurigio, 2008). Belenko's meta analyses (1998, 1999, 2001) of drug court studies found that they produce lower rates of recidivism in both the short and the long term compared to probationers who went through traditional courts, although he also notes that the details of how problem-solving courts operate vary from court to court and, and those difference have an effect on outcomes.

Critics argue that many studies that have been done on problem-solving courts are

flawed and inconclusive, and there is a need for "answers based on solid research rather than ideology" (Dorf & Fagan, 2003, p. 1506). Jensen et al. (2007) note that scholarly evaluations have not kept up with the growth of drug courts, with most studies suffering from deficiencies such as low sample size, high attrition rates, and lack of control groups. While studies that randomly assign offenders to either a drug treatment court or a traditional court would be the most useful, they note that ethical and practical barriers make these types of studies difficult.

Despite these obstacles, some studies that meet higher standards have been conducted. For example, in a study where subjects were randomly assigned to either a drug treatment court or a traditional court, there were fewer rearrests and fewer incarcerations for the drug court participants (Deschenes, Turner, Greenwood, & Chiesa, 1996). Similar results were found in a study of Dade County, Florida's drug treatment court (Goldcamp & Wieland, 1993), which also found that for those who were rearrested, those who did not go through drug treatment court were rearrested two to three times sooner than those who did. In their meta-analysis, Jensen et al. (2007) conclude that drug courts effectively reduce future contact with the formal criminal justice system and also reduce costs to the system. These findings mirror those of other researchers (Carey & Finigan, 2004; Kalich & Evans, 2006), leading to the general conclusion that DTCs have more positive outcomes than do traditional courts.

While drug courts comprise the large majority of problem-solving courts and the literature is dominated by research on drug treatment courts, other problem-solving courts have been studied. Twomey, Miller-Loncar, Hinckley, & Lester (2010) examined the effects of a family treatment drug court that included measures of child welfare. They

found positive short-term outcomes, but they also found that it was difficult for parents to maintain those gains in the long run after the program services end. A girls' court in Hawaii was analyzed using quantitative analysis, interviews, and focus groups. The study found that the program reduced recidivism and increased the prosocial behaviors of participants (Davidson et al., 2011). Participants in a DUI court in Idaho were found to have lower rates of recidivism compared to non participants over a 4.5 year time period (Ronan, Collins, & Rosky, 2009). A study of a community court in New York found reduced neighborhood crime and higher rates of compliance with community service requirements (Curtis, Ostrom, Rottman, & Sviridoff, 2000).

Another criticism is that the apparent effectiveness of drug treatment courts only exists due to selective assignment of offenders who are most likely to succeed in the alternative court. However, Kalich and Evans (2006) used a methodology that compared drug court completers, noncompleters, and those eligible for the alternative court who never entered the program. This inclusion of comparison groups allowed researchers to control for effects due to biased assignment to DTC, yet they still found significant differences between the groups which led them to conclude that the alternative court was more effective.

In general, studies find that problem-solving courts are effective in reducing recidivism, but that they are far from a panacea. A summary of 44 problem-solving court evaluations (see Appendix A) illustrates the range of methods used and the generally positive effects found. The differences between problem-solving courts and traditional court outcomes are not large, and methodological issues raise serious concerns about validity in many studies. Jensen et al. (2007) found that there are large differences

between programs, and those differences are associated with their rates of success. Effective programs feature high quality drug treatment, longer times in treatment, an aggressive drug-testing policy, less incarceration for noncompliance, and judges who support the goals of therapeutic justice. They also note the influence of informal social control and the higher rates of success for participants who have strong bonds to their families and communities. Correctional programs that fail to adhere to effective practices that are supported by empirical evidence may be ineffective and unintentionally bolster the case for their opponents (Latessa, 2012).

### **Controversies Surrounding Problem-Solving Courts**

Despite evidence of the effectiveness of problem-solving courts, they are not without their critics. Some suggest that any success that drug courts enjoy is only due to the coercive power of the courts to impose a stiffer sanction for those who choose not to comply with the drug diversion program (Jensen et al., 2007). Hepburn and Harvey (2007) acknowledged this possibility in their study of offenders who failed to complete a drug court program. However, they found no difference of outcome among two groups of noncompleters in a quasi-experiment conducted in the same jurisdiction with the same program staff, but with threat of jail for half of the DTC participants and no threat of jail for the other half. In other words, the coercive threat of incarceration did not affect the rates of compliance, thus raising doubts that coercion is a crucial factor in problem-solving courts' outcomes.

Another question that is raised is whether it is the effects of DTCs that produce the different outcomes or whether other variables may play a stronger role. One study

found that drug court participants who had stronger informal social controls in their lives, or "social attachments to conventional society," spent more time in drug treatment programs. The researchers suggest it is not the DTC program *per se* that creates success; rather it is the motivation to succeed in the program in order to maintain their valued social ties (Gottfredson, Kearly, Najaka, & Rocha, 2007)

When looking at the results from juvenile DTCs, the degree of uncertainty about the outcomes increases. While the number of these courts has grown rapidly, little research has been done on their effectiveness, and wide variations between programs make comparisons difficult (Hiller et al., 2010). Questions about which particular programs are effective and which juvenile offenders are most suitable for the programs are only beginning to be asked, let alone answered (Polakowski, Hartley, & Bates, 2008).

Bozza (2007) describes problem-solving courts as "oversold, wasteful, and largely unsophisticated" (p. 102). They require judges to abandon their impartiality as they shift roles to become an active change agent. The same principles of the problem-solving courts could be applied within the existing probation process without the extra time, expense, and shifting of judicial roles that problem-solving courts require (Bozza, 2007). In contrast, Wolf (2008) argues that the successes of the problem-solving courts suggest that their principles should be applied more broadly to other courts beyond those that are identified as problem-solving courts. Rather than continue to merely process cases through the system, the benefits of the problem-solving courts, such as reduced recidivism and lowering of system-wide costs, should be expected to accrue to any jurisdiction where the therapeutic justice model is implemented. The Center for Court Innovation cited five principles of problem-solving courts that could be readily and

effectively used in regular courts: a proactive judicial orientation, integration of social services, non-adversarial, team-based approach, interaction with probationers, and ongoing judicial supervision (Farole, Puffett, Rempel, & Byrne, 2005).

Cooper (2007) calls drug courts a "therapeutic oasis" in an otherwise punitive society. She notes that even if a felony drug offender successfully completes a drug court program, gains employment, and regains custody of his children, he is still subject to rules that restrict liberties and opportunities of ex-felons. For example convicted drug felons face restrictions on federal aid for education, the loss of access to welfare benefits and housing, and restrictions on voting rights. Cooper argues that public support for these disabilities creates a disconnect between drug court's efforts to restore offenders and the community's unwillingness to accept them as fully redeemed citizens. This contradiction needs to be corrected to increase the motivation of drug offenders to rehabilitate.

Studies have indicated that not everyone is likely to benefit from alternative courts. Kalich and Evans (2006) point out the need for better understanding of hard-core offenders and for programs tailored to their particular needs. All drug offenders are not the same, and they do not all respond to the same types of programs.

Jensen et al. (2007) warn of the risks of net-widening and "mesh tightening." They say that the availability of specialty courts may create situations where offenders who would have been ignored or given probation are now swept into the therapeutic court system and are more closely monitored and controlled than they would be otherwise. This concern may be especially applicable to juvenile drug courts. While a first-time juvenile drug offender might get off with a stern warning from a judge working in a traditional court environment, the existence of a teen drug court might lead to a more involved and

ultimately damaging exposure to the legal system. Similarly, Nolan (2002) argues that drug courts may be more onerous and punitive than incarceration, to the point of being out of proportion to the offense. Belenko (2001) suggests that for low-risk offenders, the cost and effectiveness of traditional courts may be comparable to drug treatment courts. This view is echoed by proponents of the RNR model of risk/need assessment which argues that the most efficient use of resources is achieved by a careful matching of offenders' assessed risks and needs with the appropriate level of supervision and service (Wormith, Gendreau, & Bonta, 2012). While there is the risk that problem-solving courts might be used to harass petty offenders, proponents would argue that addressing the problems while they are small makes for lighter dockets later in the traditional courts.

Many questions remain unanswered, but the literature makes it clear that alternative courts are not a magic bullet. There are problems and shortcomings in DTCs and other therapeutic courts, and their effectiveness is limited in situations where the offenders are resistant to changing their behavior. Despite their limitations, it appears that the overall impacts of these alternative courts are positive, both in terms of cost savings to the public and in the degree of success in the rehabilitation of offenders.

### **Cognition and Desistance**

While evidence is mounting that problem-solving courts can be effective in reducing reoffending, there is a lack of understanding of exactly how the courts achieve those improved outcomes. The psychological impact of these courts on the probationers assigned to them is poorly understood (Wiener et al., 2010), but this is not to say that no effort has been made. Research has investigated the process that offenders go through as

they move toward desistance, although these efforts have not focused on problem-solving courts. Maruna (1999) identified two general categories of explanations for desistance. The ontogenic model argues that desistance is a natural product of age and maturity and offenders simply grow out of crime (Glueck & Glueck, 1940). The sociogenic model suggests that the forming of strong social bonds, especially those related to work and marriage, leads to desistance (Sampson & Laub, 1993). According to Maruna, neither model provides a full understanding of the process of desisting from crime. The ontogenic model offers little in the way of explaining how aging leads to less criminality and tends to deemphasize differences in criminality among those of the same age. The sociogenic model identifies correlates of desistance, but falls short in explaining how the forming of bonds leads to less offending. This model also fails to firmly establish that the forming of bonds occurs prior to the desistance.

Maruna's research attempts to answer the question of the cognitive process that leads to desistance from crime. Other cognitive approaches look at the role of agency (versus fatalism) in desistance. Also, motivation has been identified and described as a cognitive construct that affects the likelihood of desistance. These three cognitive approaches will be described more fully below.

### **Maruna's Redemption versus Condemnation Scripts**

Maruna (1999) suggests that the missing detail in understanding the process of desistance is provided by a careful analysis of offenders' personal stories that describe how they view themselves and their place in the world. These narratives are best collected in the field using semi-structured interviews that allow the offenders to reveal

how they see themselves. He argues that the stories people tell about themselves reveal not only their history; these “subjective autobiographies” have a strong influence on the choices and direction their lives will take in the future. Desisters tend to tell their stories as “redemption scripts.” They view past transgressions as learning opportunities that have taught hard but important lessons that have prepared them for the road ahead. In contrast, persisters see their lives as “condemnation scripts” and tend to see the future as a series of obstacles that will inevitably block their path to success (Maruna, 2001).

Rather than stigmatizing offenders with a focus on punishment and incarceration, problem-solving courts work to foster participants’ identity as a non-offender (Fischer & Geiger, 2011). Offenders are encouraged to view the court as a turning point rather than as a step on the road to prison and to reframe their personal narrative into one of redemption rather than condemnation.

### **Agency versus Fatalism**

Agency can be defined as the degree to which people see themselves as being in control of their lives. Research has suggested that offenders who hold a fatalistic attitude toward their behavior tend to persist in criminal behaviors, while those who believe they control their actions and have a strong sense of agency are more likely to desist from criminal acts (Healey & O’Donnell, 2008; Maruna, 2001; McAdams, 2001; McNeill, Batchelor, Burnett, & Knox, 2005). Maruna (2004) identifies three dichotomous dimensions that differentiate those who persist in crime from those who desist. Events are perceived as internally or externally driven (i.e. caused by their own actions or caused by forces beyond their control), as being stable or unstable (i.e., likely to occur again or a

one-time fluke), and global or specific (i.e., whether this same thing can happen in other places or not). When good events occur, persisters view them as caused by external, unstable, and specific circumstances (i.e., a one-time lucky break), while bad events are viewed as being driven by internal, stable, and global forces (i.e., “that’s just the way I am”). Desisters see events in just the opposite way. Bad events are viewed as uncontrollable, unlucky, and unlikely to be repeated (external, unstable, specific), while good events are viewed as the products of their own agency (internal, stable, global).

McAdams (2001) identified four components of agency: self-mastery as a product of setting new goals and creating a new identity, status/victory as a product of peer recognition, achievement/responsibility as a product of goal attainment, and empowerment as a product of association with something larger than themselves. Agency is also related to the concepts surrounding locus of control which posits that behavior is affected by whether consequences are perceived as being under the control of the actor or as independent of one’s actions (Rotter, 1966). Mirowsky and Ross (1991) drew on locus of control concepts when they developed their Scale of Perceived Powerlessness versus Control (see Appendix B), which was used to measure the perceived powerlessness attributed to socially disorganized urban neighborhoods (Geis & Ross, 1998).

In drug treatment courts, offenders are encouraged and supported by judges, probation officers, and social service providers in their efforts toward rehabilitation. The immediate sanctions that may be imposed force offenders to acknowledge their counter-productive criminal behaviors (Hora, Schma, & Rosenthal, 1999). As the offenders take responsibility for their choices and actions, their sense of self-efficacy, or agency, is reinforced (Fischer & Geiger, 2011). McAdams (2001) identifies “empowerment” as an

element of agency, and suggests that empowerment is “enhanced by association with someone or something larger than the self” (p. 7). He includes authority figures and therapists among those viewed as supporting the development of a stronger sense of agency.

### **Motivation versus Complacency**

Offenders’ level of motivation to desist from crime has been posited to be an important variable in predicting recidivism (Giordano et al., 2002; Sellen et al., 2006). While there are questions about whether a desire to desist from crime actually translates into a crime-free future, there is evidence that motivation to change is an important element in the initial stages of desistance (Healy & O’Donnell, 2008). There are also questions about the source of the motivation to desist, with evidence that the perceived risk of punishment plays a role (Paternoster, 1989), as does the forming of conventional social bonds (Hirschi, 1969).

McNeill et al. (2005) emphasize that desistance is not a single event but rather is a process that involves changes in beliefs and perceptions as offenders discover their ability to make their own choices about their lives. This implies that there should be observable differences between offenders who are new to an effective probation program and those who have had more time to move toward a crime-free future. McNeill et al. (2005) suggest that “desistance may be provoked by someone ‘believing in’ the offender” (p. 3). Similarly, Wexler (2001) suggests that when support for change comes from a professional authority figure, it is likely to have a stronger influence than when such support, important as it may be, comes from peers and family. In problem-solving courts,

judges play an active role in encouraging offenders to steer their lives onto a new path. This support and encouragement from such a powerful authority figure may play a significant role in changing offenders' perceptions of themselves and their ability to change.

Maruna et al. (2004) point out the difficulty of distinguishing between true desistance and a temporary lull from offending. While it may be impossible to know that an offender will never offend again, if people undergo a shift in identity to the extent that they no longer think of themselves as an offender, if they are motivated and supported in their efforts toward desistance, and if they see themselves as being in control of their own destiny, this may be the best possible predictor of long-term desistance (Giordano et al., 2002; Maruna, 2001).

### **Labeling theory**

Each of the cognitive constructs above are influenced, no doubt, by the principles inherent in labeling theory. The "looking-glass self" was the term coined by Charles Cooley (1902/1983) to describe how our personal identities are socially constructed and influenced by how society reacts to our behaviors and thus reflects an image of our self back to us. Cooley argued that we adjust our "self" in order to get a favorable reflection from society. Similarly, George Mead (1934) argued that the "self" is a product of social interaction and learning by "taking the role of the other." It is possible that one's feelings of agency, degree of motivation, and the "redemption script" may be influenced by how others react to our behaviors.

The reflection we get from society may be influenced by societal prejudice against those who do not fit the norms and values of that society. For example, the way adults react to a teenager who wears “goth” clothes and accoutrements may influence the youth’s emerging identity. Erving Goffman (1963) argued that the stigma that attaches to some people overwhelms other more positive aspects of their character. This applies to those to whom the label “criminal” has been attached. Edwin Lemert (1948) argued that it was important to distinguish between what he called primary and secondary deviance. While the initial deviant act might be rooted in family dysfunction or some traumatic life event, subsequent offending is driven by the social consequences of the primary deviance. The offender’s self-identity is shaped by whether society is able to successfully apply the “deviant” label. This fits with Becker’s (1963) definition of deviance as being rooted not in the act itself but in society’s reaction to the act. This reaction, according to Lemert, is internalized and becomes a key part of a person’s identity. The deviant label is difficult to shed due to those so labeled being frequently reminded, by employers and the criminal justice system among others, that they are known deviants.

Probation can be viewed, at least in part, as an effort to reduce the stigma of being a convicted felon. Especially in cases where deferred probation is applied with the promise of clearing the criminal records of those who successfully complete their probated sentences, offenders have the opportunity to avoid a lifetime label that handicaps them in numerous ways, including exclusion from many lines of employment and disadvantages in housing options. This is especially salient given the research that indicates that employment and housing problems are closely associated with repeat offending (Kim, Joo, & McCarty, 2008; Meredith, Speir, & Johnson, 2007; Petersilia,

2003). While HRP court emphasizes swift and sure sanctions as a deterrent, the judge also encourages and rewards probationers who make significant progress toward completing the terms of their probation. By offering praise from his position of authority, the judge reinforces the offenders' creation of an identity as a non offender. Maruna (2001) refers to such support as a "personal voucher" that serves to legitimate offenders' emerging new view of themselves.

### **Summary**

A large body of literature about offender rehabilitation has emerged that circulates around the "what works" theme. Policy makers are becoming increasingly aware that the business-as-usual approach to dealing with crime is inefficient and financially burdensome at best. Therapeutic justice offers alternatives that emphasize the advantages of diverting offenders from the criminogenic environment of the prison system. Problem-solving courts are one manifestation of this approach, and there is a growing body of evidence to support their effectiveness in reducing reoffending. While they are not without their critics, problem-solving courts have been demonstrated to reduce both costs and levels of reoffending. While most problem-solving courts focus on drug abuse treatment, their mission has expanded to address issues such as domestic violence and mental health. These specialized courts are based upon partnerships between judges, prosecutors, social work agencies, and the offenders themselves that encourage active participation in the rehabilitation process. Part of that process is reshaping offenders' self-perceptions and supporting their efforts to take control of their lives and to see the potential for a brighter crime-free future. Questions remain about whether these

specialized courts' efforts are really necessary and about the best way to support their participants' efforts to forge a new identity that will lead to a future free from the criminal justice system. While there have been many evaluations measuring recidivism, there have been much fewer studies that attempt to understand the process of desistance from crime. Maruna's study on desistance stands out, but it is a study of general probationers, not specialized court clients. His qualitative research led him to identify the importance of the redemption versus condemnation script. Other research has identified other cognitive constructs that may affect desistance, including agency and motivation. There is, at this point, a gap in the literature regarding how these cognitive constructs affect desistance, especially within a specialized court.

### **3. METHODS**

#### **Description of the Research Setting**

This research studies the differences between similar groups of felony offenders sentenced to probation who have been assessed as having a high risk of failing to successfully complete the terms of their probation. One group received a standard probation protocol while the other was assigned to a specialized High Risk Probation (HRP) court. The subjects of this study are felony offenders in a fast-growing southern county that is served by three district judges from two different judicial districts. One district covers four counties and is served by two judges, while the other district covers three counties and is served by one judge. The HRP court is administered by one of the three district judges and operates out of one county courthouse. In order to minimize the problems associated with transportation issues, participants in HRP court are generally limited to those living within a 30-mile radius of the county courthouse, although there is some flexibility and discretion in applying the 30-mile guideline.

One of the strengths of this study is the use of a comparison group of similarly situated offenders. While the three judges all have the authority to use the HRP court, only one of them does so on a regular and frequent basis. The assignment of felony cases to a particular judge was previously done by the district attorney's office, but that duty shifted to the district clerk's office in January 2013 in order to facilitate a more random and equitable distribution of cases to the three judges. While there is some selection bias in the discretion of the HRP judge assigning his own cases to the HRP court, whether a

case is handled by the judge who favors HRP court or one who does not is essentially a matter of chance.

The HRP court is registered as a drug court, but its probationers' offenses go beyond drug charges. The common element is that all probationers are convicted of felonies and score 15 or above on the Texas Case Classification and Risk Assessment tool that is administered by the probation office. Factors that lead to high risk scores include residential instability, employment history, drug and alcohol use, criminal history, and the perceived level of motivation to change.

HRP court rests upon a "five-legged stool" of participant requirements. HRP probationers are expected to remain drug/alcohol free, maintain a stable residence, maintain full-time employment, refrain from associating with other criminals or crime-prone places, and to meet all of their obligations. These obligations include payments of all fines and fees, reporting faithfully to the monthly HRP court sessions, and the completion of 20 hours of community service work per month. HRP probationers usually report to the court once a month, although the judge may reduce that requirement to every other month as a reward for compliance with and progress in the program.

According to the chief probation officer, HRP probation practices differ from standard probation in several ways. HRP probationers are supervised more closely by specialized probation officers who have more experience and who carry a smaller caseload. They are subject to more frequent reporting in addition to their mandatory meetings with the judge. When the judge orders sanctions, they are applied immediately. Probationers are usually assigned to the HRP court for one year, after which they complete their sentences under regular probation protocols. HRP court probationers are

required to perform 20 hours of community service compared to the 10 hours assigned to regular probationers.

### **An Empirical Phenomenological Approach**

Qualitative research methods seek data that are rich and detailed and that offer insights based on the perceptions and experiences of those who are most directly involved in the phenomenon of interest, in this case, probation. Weber (1904/1939) used the term “verstehen” (German for “understanding”) to argue that in order to truly understand a social action, it was essential to see it from the point of view of the actors. Similarly, Thomas (1923) argued that understanding actors’ “definition of the situation” was crucial to fully understanding their actions. For example, probation looks much different when viewed from the perspective of a judge, a legislator, a probation officer, and an offender who is subject to a probated sentence. It is not enough to know the rules probationers are expected to follow and the numbers of them who adhere to the rules. Such approaches overlook the particular challenges that individual probationers face in fitting their lives into the strict confines of the probation conditions.

A relevant example of qualitative research is John Irwin’s (1970) study of parolees. His work was based on two major concepts. “Perspective” considers the “subcultural beliefs, values, meanings, and world view” (p. 3) that people carry within them as a result of the social environment in which they live. “Identity” refers to the self-concept that people adopt as a product of their perspective. Irwin’s investigation found a wide variety of perspectives and identities among his sample of parolees and illustrated the diversity among offender populations.

Qualitative data are sometimes referred to as “soft” data, which is occasionally interpreted as being less valuable and reliable than “hard” data that typically come in the form of large samples and sophisticated statistical techniques. Irwin (1970) disputes this characterization, first by pointing out that virtually no data can fully represent the reality that they attempt to depict. Second, for some phenomena, a qualitative approach will actually “come closer to the concrete reality” (p. 6) of a particular phenomenon than large-scale quantitative methods.

This study lends itself to a qualitative approach for several reasons. First, the numbers of active participants in the specialized court is around 20 at any given time, with a similar number of former participants who have been completed the HRP court requirements and have been returned to the general probation population. This small group makes it feasible to spend the additional time necessary to gather rich and detailed qualitative data. Further, the judge for the HRP court expressed his interest in and support for a descriptive, qualitative approach that would reveal details that are likely to be missed by a quantitative approach. Given that the director of the probation office granted “unprecedented” access to the probation population, it would seem to be almost wasteful to squander the opportunity by administering an anonymous survey that could potentially be limited by literacy issues in the population and by statistical problems created by low response rates.

The number and varieties of qualitative research methods create a challenge to researchers searching for the right approach to their particular research questions. The problem is exacerbated by the fact that different authors present opposing views of what exactly constitutes a particular approach (Groenewald, 2004), as illustrated by the

differences of the originators and later practitioners of grounded theory (Glaser & Strauss, 1967; Strauss & Corbin, 1990; Charmaz, 2006). Nevertheless, choices must be made and definitions settled upon before there can be progress. In some cases, it may be a matter of reading the literature until a particular approach “clicks” with the researcher. Such is the case with this study that uses a particular empirical phenomenological approach for the gathering and analysis of qualitative data (Aspers, 2009; Moustakas, 1994).

Based upon the work of Alfred Schütz (1932), empirical phenomenology makes connections between first-order constructs (the meaning of actions to the actors) and second-order constructs (scientific theories based upon first-order constructs). Schütz said that the first-order constructs must come first, and the second-order constructs of theories are then developed to explain them. However, Aspers (2009) argues that empirical phenomenology may start with a theory-based explanation that guides the development of first-order constructs prior to gathering data. Aspers (p. 5) identifies seven steps to empirical phenomenology:

1. Define the research question.
2. Conduct a preliminary study.
3. Choose a theory and use it as a scheme of reference.
4. Study first-order constructs (and bracket the theories).
5. Construct second-order constructs.
6. Check for unintended effects.
7. Relate the evidence to the scientific literature and the empirical field of study.

Aspers (2009) notes that the steps are not necessarily sequential, are often iterative, and a study need not necessarily utilize all of the steps. They should be thought of as a set of principles that guide research rather than as a strict set of procedures that hamper the investigative process.

Phenomenology emphasizes the importance of researchers “bracketing” their preconceived notions and biases about the topic of study and allowing the data to emerge as objectively as possible. Bracketing can be thought of as a conscious effort to see the topic anew through the eyes of the subjects who actually experienced the phenomenon of interest (Moustakas, 1994). Aspers’ approach emphasizes the importance of faithfully investigating the actors’ perspectives while maintaining a strong role for theory. Data for empirical phenomenology are best gathered through non-structured or semi-structured interviews that are guided by theory. The questions should be seen as sets of themes to explore rather than as a firm schedule of questions. This intentionally loose structure allows unexpected themes to emerge that can then be explored in the explicit and intentional step of searching for unintended consequences. This step mitigates against the threat that a strong theory will blind researchers to data that emerges unexpectedly (Aspers, 2009).

### **Constructs: Redemption, Agency, Motivation**

The research questions of this study ask whether HRP court participants undergo a different subjective probation experience from those who are assigned to a regular probation protocol. One goal of this study is to gain a better understanding of the probation experience from the probationers’ point of view. To this end, an empirical

phenomenological approach utilized semi-structured interviews with two groups of probationers, one from the HRP court and one from the regular high-risk probation protocol. The interviews were structured to produce data on probationers' self-concepts. The organizing theme for these data is "Identity," which refers to respondents subjective perceptions of themselves. Changes in self-perceptions that lead to more pro-social identities are associated with desistance from criminal behaviors (Giordano, 2002; Healy & O'Donnell, 2008). Identity is then broken down into three sub-themes: 1. Redemption versus Condemnation, 2. Agency versus Fatalism and, 3. Motivation versus Complacency.

### **Redemption**

Maruna (2001) found that people who desist from crime tend to frame their personal stories as stories of redemption where prior negative events are viewed as leading them to a better future. Persisters see negative events in their lives as evidence of their incorrigibility. The interviews asked probationers to reflect upon their pasts and speculate about their futures, and coded the responses based on whether the dominant theme was one of redemption or condemnation. Questions probed for the source of the probationers' redemptive or condemnatory scripts. The interview questions designed to explore the redemption construct are as follows:

In general, how would you describe yourself as a person?

How have you changed as a person over the past year or so?

How do you imagine your life 5 years from now?

Do you think you will still be involved in the CJ system? Why or why not?

What will your family situation be like?

### **Agency**

As noted in the literature review, research suggests that offenders who gain a sense of control and agency over their lives and their futures are more likely to be successful in their efforts to desist from crime, while those with a fatalistic outlook are more likely to reoffend (Maruna, 2001). It was hypothesized that the closer association with the judge would foster a stronger sense of agency among HRP court participants than among regular probationers who would be expected to have a less close relationship with the judge. The interview guide was designed to elicit responses that speak to probationers' sense of agency and were coded for whether the narratives expressed a "language of agency" (Healy & O'Donnell, 2008, p. 34). The interview questions designed to explore the agency construct are as follows:

What kind of circumstances led to your being on probation?

What types of decisions and influences and people were involved?

How hard will it be for you to successfully complete your probation?

What sorts of things will help you successfully complete your probation?

A quantitative measure of agency was also employed. The Mirowsky/Ross Scale of Perceived Powerlessness versus Control (see Appendix) is a validated measure of the degree to which people perceive that they control their lives (Mirowsky & Ross, 1991). The instrument measures four elements of agency: Control over Good Outcomes, Control over Bad Outcomes, Lack of Control over Good Outcomes, and Lack of Control over

Bad Outcomes using a Likert-type scale that asks respondents questions about whether outcomes are due to their own efforts or are more controlled by external forces. In addition to providing a quantitative measure of agency, using a second measure acts as a check on the analysis of the qualitative data that reflects subjects' sense of agency.

## **Motivation**

Offenders' level of motivation to desist from crime has been posited to be an important variable in predicting recidivism (Giordano et al., 2002; Sellen et al., 2006). While there are questions about whether a desire to desist from crime actually translates into a crime-free future, there is evidence that motivation to change is an important element in the initial stages of desistance (Healy & O'Donnell, 2008). Interview questions elicited responses about the degree to which offenders were motivated to change and the source of that motivation. It was hypothesized that the experience of HRP court would serve as a positive motivation to change more so than the regular high-risk protocol. The interview questions designed to explore the motivation construct are as follows:

What goals do you have?

What will you have to do to reach those goals?

What stands between you and your goals?

In addition to the general interview questions, a second measure of motivation produced a "motivational profile" for each subject with a modified four-item scale used by Healy and O'Donnell (2008) that was based on the work of Burnett (1992) and Farrall

(2002). Probationers were asked to respond with “yes,” “unsure,” or “no” to the following questions:

Would you describe yourself as wanting to move away from crime?

Do you feel you are able to move away from crime?

Is it likely that you might go back to crime in the future?

If you have an opportunity to commit a crime where it appears you would be successful with few risks, would you commit the crime?

The motivational profiles of HRP participants were compared with those from regular probation, and those who have been in HRP for a longer time were compared with those who have spent less time in the specialized court. Again, the sample size is too small to make general inferences, however if differences between the groups are found, they will suggest avenues for further research.

### **Data Source**

The data are necessarily from a convenience sample of volunteer participants from the HRP court and from a regular probation caseload. An incentive was offered to encourage voluntary participation. The HRP judge indicated a high level of interest in this study and said that he would allow probationers to count the time volunteered for the interviews toward their mandated community service hours. The other two judges who do not administer the HRP court also agreed to allow probationers from their courts to count interview time toward their community service requirement. It was made clear to the probationers that participation in the study was optional and that there was no penalty for not participating. This sample will be inadequate to generate inferential quantitative data,

but the depth of the interviews provide rich descriptive detail that reveal patterns of perception and attitude that shed light on the process of desistance and offer guidance to probation professionals.

A semi-structured interview schedule was administered and analyzed for evidence of the identified constructs and for the emergence of other themes that were not anticipated. It was hypothesized that the effects of HRP court would increase the degree of agency, motivation to change, and the tendency to view past events as preludes to a brighter future (redemption) compared to those assigned to a regular high-risk protocol. In order to investigate the role of other demographic variables in the data, an analysis of the effects of age, minority status, and time on probation will be included.

### **Confidentiality**

Due to the coerced nature of their legal circumstances, probationers are considered to be a protected population, and so efforts must be made to protect their privacy. Given that the interviews were conducted face-to-face and that the informed consent process involved a signed form, anonymity was impossible. However, in order to encourage candor from respondents that enabled the collection of data rich in detail, it was important to assure that the replies to interview questions cannot be attributed to any particular respondent. The attribution of a particular response to a particular subject does not serve the purposes of this study as the goal is to analyze the effects of structural policies upon probationers' perceptions. To ensure confidentiality, each respondent was assigned a unique code number that was used to distinguish between the different respondents, and respondents are identified with pseudonyms when their quotes are used

to illustrate the data. If the probationers identified any particular person or other identifying information in their interviews, those names were not included in the transcription. To ensure the preservation of the data, the transcriptions are stored in a locked cabinet inside a locked office at Texas Lutheran University for the duration of the analysis.

### **Protocols and Procedures**

Initial contact with potential respondents was made through their probation officers. While this ran the risk of creating a skewed perception of the purpose of the research, it offered the most consistent way to reach all potential participants, given that probationers' mailing addresses and telephone numbers are not public records. A letter written on university letterhead inviting their participation in the research conveyed the purpose and goals of the study (see Appendix C).

After a probationer expressed a willingness to participate in the study, most of the interviews were conducted immediately in a private office at the probation office. In some cases, appointments were made to interview respondents at a later time. Due to their work schedules that made it impossible to meet during probation office hours, three of the 38 interviews took place in alternative locations. Two of these were conducted at the researcher's university office, and one took place in the dining area of a fast food restaurant. As a standard procedure, the researcher introduced himself and expressed his gratitude for the respondent's time and interest in the study. The consent form (see Appendix D) was read to respondents, and their signature was obtained prior to beginning

the interview. Consent forms are secured in a locked file cabinet inside a locked office at Texas Lutheran University.

### **Sample Size**

There are questions about the appropriate sample size for qualitative studies. Charmaz (2006) suggests that 25 is enough for small studies, which matches with Creswell (2007) who says that 20-30 participants generally works for grounded theory studies and with Polkinghorn's (1989) recommendation of interviewing 5 to 25 individuals who have experienced the same phenomenon. Mason (2010) addressed this question as it applies to Ph.D. research in particular. He analyzed 560 Ph.D. abstracts for qualitative studies that were accepted since 1716 in Great Britain and Ireland. Most studies fell into one of seven categories: Action Research (28 studies), Case Studies (179 studies), Content Analysis (42 studies), Discourse Analysis (44 studies) Grounded Theory (174 studies), Life History (35 studies), and Phenomenology (25 studies). Of the 560 cases, the largest sample was from a case study with 95 participants; the smallest were a case study and a life history which both had a sample of 1. The mean sample size was 31, but the standard deviation of 18.7 indicates the wide range of sample sizes.

Beyond this analysis, Mason (2010) points out that qualitative research is less concerned with making broad generalizations than with producing data and analysis that are rich in detail and meaning. To this end, the number of respondents is less important than the quality of data extracted from them. Larger qualitative samples reach a point of diminishing returns as the same information is repeatedly found. This "saturation point" where all relevant data is identified is the real goal of qualitative data gathering, and

whether it is reached after studying six subjects or sixty subjects is not important as long as the information becomes part of the analysis. Further, the analysis of qualitative data takes a great deal of time, and so larger samples become impractical in the context of the timely completion of Ph.D. dissertations.

This leaves open the question of how to know when saturation has been reached. While it is impossible to know with certainty that unique information would not have been found if one more interview was conducted, saturation is generally understood to have occurred after several interviews have been conducted without revealing new information or creating a better understanding of the phenomenon of interest (Creswell, 2007). At the beginning of the data collection process, new constructs emerged regularly. As the number of interviews approached 30, several familiar patterns were identified and began to appear more or less predictably. After 38 interviews were conducted, it seemed unlikely that new information or patterns would be found, and so the data collection process was completed.

### **Phenomenological Data Analysis**

Different researchers take varying approaches to the analysis of phenomenological data, but the differences between methods are small. Moustakas (1994) offers an explicit set of analytical procedures that are well-suited to this study, and Creswell (1997) suggests a slight variation of Moustakas that also seems appropriate. While Moustakas recommends that researchers “bracket” or isolate their experiences with the phenomenon after collecting the data, Creswell prefers a brief “role of the researcher” discussion either as part of the methods section or at the beginning of the

phenomenological analysis. As the researcher in this study has no direct experience with probation, either as a probationer or as a probation officer, his expectations are guided mostly by the literature review and are reflected in the theory and constructs that are derived from it. Therefore it seems appropriate to adopt Creswell's approach to discuss researcher preconceptions as part of the methods section.

The main difference between Creswell's (2007) method and the approach suggested by Aspers (2009) is that Aspers argues for the use of theory to guide the development of first-order constructs prior to collecting data while remaining open to data that do not fit the original constructs (i.e., unintended consequences). This analysis adopted Aspers' modification of Creswell's method. First, a thorough description of the probation experience was obtained through the semi-structured interviews. "Significant statements" about the probation experience were identified in the interviews, and a list of "nonrepetitive, nonoverlapping" statements (or "units of meaning") were developed. Moustakas (1994) refers to this step as "horizontalization" of the data. From these statements, a set of themes was developed. Many statements fit into the themes of Agency, Motivation, and Redemption, but unexpected themes were also identified.

### **Issues Regarding Human Subjects Research**

This study involved conducting interviews with volunteer probationers, and their participation required that issues regarding coercion, informed consent, and confidentiality were fully addressed. A consent form (see Appendix D) makes it clear to the volunteer interviewees that the researcher is not an officer of the court and has no authority over them. They were read a set of statements that includes the purpose of the

interviews, the voluntary nature of their participation, and their privilege of terminating the interview at any time.

### **Summary**

This study offers a rich and detailed dataset to examine the process of a problem-solving court compared to a similarly situated group of probationers. The qualitative data provide valuable information to practitioners in their efforts to evaluate the court's effectiveness and to guide probation practices in the most productive and beneficial direction. While the small sample size and the focus on one court limit the ability to draw inferences about problem-solving courts in general, these rich descriptive data from this study add to the increasing body of knowledge about these courts and the role they play in criminal justice policy.

#### 4. ANALYSIS

Data collection began in late January 2013 and continued through mid-June 2013. Thirty-eight interviews were conducted, 19 HRP court probationers and 19 regular probationers. All respondents agreed to allow the interviews to be recorded on a digital voice recorder. Interviews ranged from 12.5 minutes to 69.5 minutes, with an average of 30.2 minutes. These times do not include the time spent completing the informed consent form, answering eight Likert scale questions on paper, and recording demographic data. These additional processes took between five and ten minutes for each respondent. Demographics and qualifying offenses of the sample are detailed in Table 1.

Table 1: Description of Sample

Racial/Ethnic	Hispanics: 21 Whites: 14 Blacks: 3
Sex	Males: 33 Females: 5
Average age	35.1 years
Average time on probation (Difference between groups is not statistically significant)	30.4 months HRP court: 28.8 months Regular: 32.5 months
Qualifying charges (total exceeds sample size due to two respondents with multiple charges)	Drug possession: 10 Three or more DWI: 7 Assault: 7 Theft: 3 Evading arrest: 3 Arson: 2 Injury to child, elderly, or disabled: 2 Robbery: 2 Deadly conduct with firearm: 2 Forgery: 1 Endangering child: 1

The sample demographics are at considerable variance with the state probation population, as illustrated in Appendix F (p. 133). The study was conducted in a county with a large Hispanic population, which helps explain the disproportionately large Hispanic numbers in the sample. Less clear is the reason for the small number of female respondents in the sample. Regardless of the reason for this difference, it does limit the ability to do meaningful statistical analyses of differences based on sex.

All respondents were volunteers who agreed to be interviewed. Each respondent met three criteria for inclusion. Each had been on probation for at least three months, each was on probation for a felony offense, and each was originally assessed as being high risk based on a standard probation intake instrument. In general, respondents were at least cooperative with the researcher, although some were more talkative than others. In no cases did the researcher detect any hostility directed toward him. In most cases, respondents were pleasant and enthusiastic about being interviewed and seemed to warm up as they gained a sense of the tone of the questions.

By prior agreement with the three presiding district court judges, the respondents were allowed to count the time spent with the researcher toward the community service requirement of their probated sentence. This incentive was of value to some of the respondents, but in many cases, they had completed their community service and so were participating for other reasons. Several respondents commented that the giving of their time to someone who requested it was simply a part of their identity of being a helpful person. Some made a point of mentioning that personal changes led them to agree to the interview, and that they would not have done so in the recent past.

While the respondents were generally cooperative, the hazards of working with a group of high-risk probationers were often apparent. Many of them have especially challenging and complicated lives that involve children, travel, and multiple jobs in addition to the challenges of fulfilling probation requirements which often included community service hours. Most interviews were conducted at the probation office following a scheduled meeting with their probation officer. In some cases, respondents' schedules did not allow time for the interview following appointments with their probation officer, and so appointments were made to meet at a later date. Often those appointments were forgotten, cancelled, or rescheduled. Even meeting probationers at the probation office was sometimes challenging as issues such as transportation and child care would cause them to miss or reschedule meetings with their probation officers.

Based upon Aspers' (2009) recommendations regarding empirical phenomenology, six constructs (Redemption, Condemnation, Agency, Fatalism, Motivation, Complacency) were pre-identified based on the literature prior to beginning the coding process. As significant statements were identified that did not fit into one of these preconceived constructs, other categories were created and modified as the data suggested. On the one hand, there needed to be enough constructs to accommodate all of the significant statements, but on the other hand, identifying too many separate constructs would make pattern identification difficult. Thus, a middle-ground was sought, and constructs were subdivided or combined in order to capture the essence of the data in a manageable and meaningful way.

After each interview was conducted and transcribed, it was imported to the NVivo program for coding and analysis. Except for a trial run on two interviews (to get

acquainted with the software and to receive feedback from the committee chair), no coding was conducted until all of the interviews were completed. This practice goes against the recommendation of Miles and Huberman (1994) who suggest coding continuously during the data collection process. However, Agar (1980) recommends that researchers become thoroughly familiar with their data before beginning the analysis.

For this research, a two-step coding strategy was used. After all of the interviews were completed, each interview was given a primary analysis in order to identify patterns in the data. Coding categories were created as significant statements were identified. This process was not focused on capturing each significant statement; rather, its purpose was the identification of constructs that regularly appeared in the data. This initial coding process identified 12 main constructs (including the original six). In order to create a more subtle and nuanced coding scheme that captured more detail, seven of the main constructs were subdivided into sub-constructs. For example, “work ethic” was classified as a sub-construct of “agency.”

After the initial coding and construct identification, each interview was coded again. This involved a more painstaking effort to classify each significant statement into one of the identified constructs or sub-constructs. For this second coding process, interviews were coded in a random order. This was done to reduce coder bias regarding whether a case was from the HRP court case-load or from the regular probation case-load.

The purpose of the coding process was to identify the most salient constructs and significant statements, but it can also be interesting to note what is rare or absent in the data. Two of the original six constructs (Condemnation and Complacency) were

mentioned very rarely in the interviews, and they are analyzed in the context of that rarity.

The HRP court group and the regular probation group were compared in terms of the prevalence of identified constructs. Table 2 (below) summarizes these differences. When the percent differences between the groups exceeded 15%, the analysis includes the p-values from Fisher's exact test to see if the differences were statistically significant. This Fisher's exact test was used instead of chi-square because of the small sample which often resulted in cells where the frequency of observations was below five (Bower, 2003). The constructs Family Background, Support System, and Prior Probation Experiences are excluded from Table 2 as they are unrelated to participation in the HRP court.

Table 2: Group Comparisons

	HRP (n=19)	Regular (n=19)	Fisher's exact test (2 sided)
Redemption	95%	84%	
Condemnation	0%	11%	
Positive Self-Image	89%	68%	p = .232
Agency	100%	84%	p = .230
Fatalism	84%	79%	
Motivation	100%	89%	
Complacency	5%	5%	
General positive probation comments	74%	58%	p = .495
General negative probation comments	58%	53%	
Effects of court or judge	74%	21%	p = .003
Positive comments about officer	79%	95%	p = .340
Treatment Programs (positive comments)	84%	53%	p = .079
Financial issues	42%	58%	p = .517
Probation as priority	47%	47%	
Burden of felon label	21%	42%	p = .295

With the exception of the construct Family Background, the differences between the two groups are discussed under a separate heading called Group Comparison at the end of the discussion of each construct. Family Background is excluded from this analysis as this construct describes events that occurred prior to respondents' involvement in the adult criminal justice system.

This distinction of occurring prior to criminal justice system intervention as an adult also leads to Family Background being the first construct discussed as it is seen as being a good introductory descriptor of the sample. The next constructs discussed are the six original constructs that were the basis of the original research questions for the study. They are analyzed in the same order as the research questions are presented on pages 5 and 6.

The final constructs presented are the ones that emerged from the analysis of the interviews most frequently, and they are presented in order of their frequency of mention. In some cases, these constructs were present due to specific questions about them in the interview schedule. For example, respondents were asked directly about their relationship with their probation officer. There were no questions that asked directly about financial issues or the effects of having the felon label, but these constructs emerged regularly without being prompted.

### **Reliability and Validity**

Given the subjective nature of qualitative research, it is unreasonable to expect any two interpretations of the data to match perfectly. Some researchers (Eisner, 1991; Lincoln & Guba, 1985; Wolcott, 1994) suggest that qualitative research is so different

from quantitative that the terms “validity” and “reliability” should not be used to describe qualitative research. However, it is important to have some way to assess the consistency of data analysis in order to support the credibility of the research and to argue that other researchers could reliably use this model in other settings. With the understanding that the terms may be used less precisely here than in a quantitative study, “validity” and “reliability” will be used to describe the data for this study. Validity refers to whether the significant statements identified by the researcher accurately match the constructs used to label them. Reliability refers to the consistent use of the constructs and whether the study could be replicated by another researcher in another setting.

One check on reliability was done to see if patterns identified by the author could be matched by an independent coder who is an experienced qualitative researcher. Four interviews, two from the HRP court group and two from the regular probation group that were close to the average length, were selected by the author. The independent coder was provided with a list of the dominant constructs that had been identified in the data by the researcher. The second coder then read the interviews, identified significant statements, and classified them based on the construct list. This was then compared with the coding of the researcher. In the four interviews, the independent coder identified 67% of the constructs that the researcher had identified, and this was interpreted as being indicative of general agreement between the coders that supports a claim of interrater reliability for the construct coding.

The use of two different measures of a construct provides another means of assessing the validity of the coding by comparing the outcomes of the two measures. The coding of the construct “motivation” was analyzed as part of the data description, and it

was also measured using Healy and O'Donnell's (2008) Motivational Profile. In the descriptive analysis of the interviews, the construct of motivation was identified in 36 of the 38 interviews. All 19 HRP court participants made some type of motivation reference at least once; 17 of the regular probationers did so. Of the original six constructs, motivation had the largest number (158) of total references coded in the interviews.

The ubiquity of the construct of motivation is also noted in the analysis of the motivational profile. The profile, described on p. 46, asked four yes-no questions regarding respondents' ability and desire to move away from crime in their lives. This generated a total of 152 responses (38 respondents X 4 responses each) regarding their degree of motivation to cease offending. Only eight of the 152 responses were inconsistent with the profile of a probationer who is motivated to cease offending, and they were evenly distributed among the HRP court and regular probationers.

Complacency is seen as being the opposite of motivation, and here too the analysis is consistent between the motivational profile and the qualitative data analysis. The construct of complacency was extremely rare in the coding of the interviews (two respondents made one reference each). Likewise it is notable for its rarity in the motivational profile data (8 out of 152 responses). While the match between the two measures of motivation and complacency is not perfect, it is viewed as being sufficiently similar to support the claim of validity for the analysis of the motivation construct.

The Mirowsky/Ross Scale of Perceived Powerlessness versus Control provides a second example of two measures of the same constructs. Powerlessness and Control are seen as analogous to the qualitative constructs of Fatalism and Agency. The median Mirowsky/Ross scores of the HRP court respondents and the regular probationers were

identical (-1.125), and the percents of the two groups' responses that were coded for those constructs were similar (see Table 1). Again, the outcomes are not identical, but the differences do not support the argument that the qualitative analysis is invalid.

Finally, while face validity is generally viewed as the weakest form of validity, the nature of this study and the transparent reporting of the data lend themselves to both claims of and challenges to face validity. In other words, any reader can look at the constructs identified in the interviews and at the quotes used to illustrate the constructs and judge for themselves whether the coding system used by the researcher is valid on its face. No coding system is perfect, and there is bound to be some degree of disagreement among those who examine the data. However, despite those differences, the author is confident that others who read this study will agree that the analysis has face validity.

### **Family Background**

Some degree of dysfunction in their family of orientation (the family they were born into) was a common theme in the interviews. Typically, the dysfunctions involved violence, neglect, drugs and alcohol, and abandonment. Twenty-two of the 38 respondents (58%) made statements that were coded as negative family history, with a total of 36 significant negative statements noted. As with all of the constructs in this analysis, it was common for the same respondent to mention the same construct more than once. Thus the number of total references for a given construct often exceeded the number of respondents. Five respondents (13%) made both positive and negative statements about their families of orientation. These generally reflected a change in circumstances or attitude in a formerly abusive or neglectful parent, or they discussed the

source of problems in one family member compared to another member being a source of support.

My dad was a Vietnam veteran. He was in the Marines, so he saw a lot of combat, saw a lot of stuff going on over there. Me and my mom caught a lot of those things from my dad. It was a very violent relationship between him and my mom. I was abused as a child, had bruises, bleeding, had all kinds of stuff. – Arthel

During the course of my childhood, during the course of my life my parents' marriage got a little rocky, right around the age of 14 they ended up getting divorced. There was some abuse in our family, mostly directed toward myself and my younger brother. It's me, my younger brother, a younger sister, another younger sister, and then another younger brother. Myself and my brother, we pretty much took the brunt of the abuse. With my brother and myself it was basically only physical, but with myself, later on in life as I grew older, it turned sexual, and the abuser was my father. – Norman

I had it bad with my family. My mom just kept on marrying other guys, and through the years when I was young, I had a lot of abuse, like getting whapped and everything. When she had married my stepdad, he still whapped me a lot because I wasn't his son. Out of all that hatred that I had for him, I hated my dad more 'cause he was never there for me. – Tony

Don't have much of a childhood, it was kind of a sidetrack. By age 3 my mother was killed in front of me. It was me and my brother, my dad, and my mom. We stayed at my mother's parents, from them kinda learned the hard way of growing up. – Martin

I had an abusive father, very abusive father... he was...the most abusive person I've ever known. Like for discipline he used to make us stand on ant beds, put pillow cases over our head, fight for air, pick us up by our hair on our head and take us inside. Take us to the country, drop us off and make us chase the car. I was like 5 or 6 years old scared of the dark. So he used to beat up my mom a whole lot. So I'd see my mom beaten like every day. Black eyes and pushed to the wall. Food thrown outside because it wasn't what he wanted to eat. – Oscar

While statements about dysfunctional family background dominated the interviews, it was not a universal condition. Fourteen of the 38 respondents (37%) reported having functional, supportive families while growing up.

Had a real good upbringing even though it was just my mom until she remarried when I was 9. She was real involved in my activities. She put me in sports, baseball, soccer, all that kind of stuff. – Earl

My childhood was pretty normal. My parents brought us up with good Catholic values, they tried to instill in us to be good, and to stay within the confines of the law. My father was a very strict disciplinarian, my mother not so much. I have two brothers and two sisters, and we all grew up here in [this town] pretty much under the watchful eye of my parents. – Norman

My parents are wonderful people, they raised me very well. – Alison

My mom finally clicked a little bit and said “man, I need to get this boy home, get some stability going for him.” And she did, from when I was 15 up until I was 17, she started working, she started doing better. That helped a lot. – Lester

While the relationship between dysfunctional childhoods and adult criminal behavior is well established (Gendreau, Little, & Goggin, 1996; Laub & Sampson, 1993; Mednick, Baker, & Carothers, 1990), the sizeable number of positive comments about families of orientation runs counter to expectations. These data provide support for programs that focus on intervening in dysfunctional families for the benefit of the children and adolescents, but other forces are clearly at play in some of the respondents’ lives that led them to criminal acts despite supportive families. In some cases, the family support they received may have been too little or too late to have a significant impact on the respondent, but in other cases, the situation is more complex and involves factors other than parental upbringing.

## **Redemption**

Redemptive statements were those that refer to changes in attitudes and behaviors that lead away from offending. Given that change is an element in redemption, most of these statements involve a time element that compares the past to the present. In this study, redemption is viewed as being on a continuum with condemnation at the other end.

Redemptive statements were made by 34 of the 38 respondents (89%).

Respondents made a total of 142 statements that were identified as redemptive. This was the third highest number of references for the six pre-identified constructs. Four types of redemptive statements were identified: general redemptive statements, statements that expressed regret for their offending, statements that reflected changes in attitude or behavior that respondents attributed to maturation and aging, and statements that reflected an interest in using their experiences in the criminal justice system as a basis for teaching others to avoid their mistakes. While regret for past actions may not be indicative of a redeemed self-image, it is argued that the change that leads to redemption often begins with an acknowledgement that past actions were wrong and regretful.

General redemptive statements were made by 25 of the 38 respondents (66%).

After seeing other people in that program, the HRP program, and the way they changed, I said to myself, I could change that way too, 'cause I was seeing their life, you know, I seen them coming up from their life, and they were more of a drug addict than what I was. So I said, well if they could change I could change, and I did. – Bill

I've done a year. Ever since I remember, I've always drank or done coke or both. Now I've done it [been sober] for a year. If I can do it for a year, I can do it for another year, and I can keep doing it. – Ralph

I've been working hard to change my life. It's going to help me at work and everything, so I think I've changed big time. I used to be irresponsible. Now I'm way more responsible than I've ever been. I'm trying to be accountable for my actions, when I used to not, I used to just sweep everything under the rug.

– Stuart

I'm not saying I'm perfect, but I'm trying to change my old ways. In these past 3 years I've done a pretty good damn good job. I stopped drug usage, I stopped drinking, I stopped all my negative activity. – Patsy

I remember I used to tell my P.O. that it sucks to be me. Well, now it's good to be me. – Norman

Twenty-five respondents (66%) made statements that attributed behavioral and attitudinal changes to maturation and aging.

I have a different mind. I'm through with it. I'm not a teenager no more. I've actually grown up. It took me 25 years to grow up, and I finally grew up. – Bill

My personality and my way of life have changed. I think a lot of it was just immature and wanting to fit in. I look back and it's not worth it, at all. I just live different. I hopefully will not be getting into young, dumb trouble again like I have been. – Stuart

I'm almost 40 years old now, and I've gotta let go of all that stuff, because I can't go on another 40 years like this. I've gotta change something drastically because that negative attitude is really what brings me down. I've gotta stay positive.

– Arthel

As a younger man I was not a very law abiding citizen. But with age comes wisdom, and as I grew up, I literally grew up. After my last stint at the penitentiary, I decided that's it, I'm done, you know, the drugs, the alcohol, the abuse, all that other stuff, I mean I decided to leave it all behind. – Norman

I was badass back in the day, but not no more. I'm getting old. I had a birthday just a while ago. I'm 40 years old, and I ain't trying to go back (prison) when I'm old. – Tony

Statements that reflected regret for their offending behavior were made by 18 respondents (47%).

I've been through a lot of money, and I think about things I could have had, should have had, and I'm thinking drugs and alcohol took everything away from me. – Ralph

I felt bad about what I did to her. She's a little bitty girl, and the way I handled her that night was wrong. No matter what she did, it was wrong. – Norman

Ever since she had my kid I was always abusive when I was drinking. I ended up getting her into that stuff. In the long run I regret everything I have done to her. – Tony

The people involved that I hurt real bad was my mother, first of all, and the girl I was with and her child. It didn't hurt me. I knew what was going to happen to me, 'cause after everything calmed down I knew what was going to happen. I just knew it. But that's who was hurt the most was her and her child and my mother. I deeply regret it every moment of my life. I regret it a lot. – Del

I could kick myself for doing that, because I stayed clean for so long, and then just that one deal is all it takes, and I'm back in the system again and having to go through all this again. And it's just not worth it. – Merle

Statements about using their experiences in the criminal justice system to teach others were the least common redemptive statements. Only nine of the 38 respondents (24%) made such statements. However, it was interesting to note that most of those statements were in response to a question that asked whether they thought they would be involved in the criminal justice system in five years. The researcher did not anticipate responses that indicated a future positive engagement with the criminal justice system.

I would one day hope to become successful enough to talk to juveniles, young kids who are at that fork. Just tell them what I went through and how much it's not working, how little mistakes turn into big consequences. I want to help younger people who are going through problems. – Stuart

I would like to help other kids, talk to them about things, volunteer work. I would like to do that kind of stuff. – Chet

I've always shown an interest in trying to help the younger generation, trying to help kids. My own kids didn't listen to me, and I didn't listen to my father. I'd like to impress on some of these at-risk kids that prison is not a rite of passage, probation is not a rite of passage, this shit ain't no joke, man. And once you've got that black "X" on your back, it does not go away. – Norman

I'd like to do some sort of like outreach to help kids. I'd like to do something like that. I thought about going back to [prison rehab program] and speaking to the guys over there, telling them hey you know don't listen to them people there, you might not be that 90%, All it takes is somebody to go and convince them to try harder. I'd like to do something like that, maybe get involved with the youth probation. – Carter

The process of desistance from crime is a complicated one, and having a redemptive narrative is only a part of this process. However, it is easy to understand how probationers without this perception of being on a path to a better future would find the way forward more difficult than those whose stories have an element of positive personal change. The prevalence of this construct in the interviews supports an optimistic view for the successful rehabilitation of these respondents, and to the degree that their efforts support and foster a redemptive identity, the courts and probation officers can play an important part in those rehabilitative processes.

### **Group Comparison**

HRP court participants were slightly more likely to make redemptive statements than were regular probationers. Eighteen of the 19 (95%) HRP court participants made redemptive statements, compared to 16 regular probationers (84%). Only one HRP court participant (5%) made statements that reflected all four redemptive themes, compared to

two regular probationers (11%). Six HRP court interviews (33%) reflected three of the four themes compared to two regular interviews (11%). Fisher's exact test was used to analyze the relationship of redemption with minority status ( $p = .132$ ) and age ( $p = .624$ ). Neither relationship was statistically significant.

### **Condemnation and Positive Self-Image**

Condemnation was one of the original six constructs and is viewed as being the opposite of redemption. Both condemnation and redemption imply a time element. For redemption, a person must be redeemed from past events and behaviors. Condemnation implies a failure or refusal to change and expectations of more problematic behaviors in the future.

Sometimes in research, the most interesting outcome is what is not found. Condemnatory statements were extremely rare in the data. Only two of the 38 respondents (5%) made statements that were coded as condemnation, each of the two only made one such reference, and neither was a participant in the HRP court. Respondents generally acknowledged that their missteps were the results of bad decisions they had made, but those choices were perceived as being driven by a lack of thought and poor decision making rather than by fundamental flaws in their character. One respondent referred to himself as an "asshole," but these two responses that follow were remarkable for their rarity.

For me, I'm freaking impatient. I get pissed off. People outside, they see me as the nice guy. No man, I'm always pissed off. I know I'm always pissed off. I'm an asshole. I tell my wife I'm going to live to be 100 years old because I'm a fucking asshole. I know I am, that's how I see it. My cousin tells me, 'Damn I hate this. You're gonna live past all of us.' Yeah, I know, I'm an ass, ain't I?  
– Martin

Best way I can describe me is what I am, a Libra, a balance between good and evil. I know I'm bad at times, but I'm good at times. I'm not going to go out and kill nobody, but honestly, if I found a purse with \$10,000 in it, I might not be the guy to turn it in. – Hank

As opposed to condemnation, another construct was identified in the data that was labeled “positive self-image.” These statements were elicited from an interview question that asked, “In general, how would you describe yourself as a person?” These responses may or may not include a perception of change of character. Many of the positive statements expressed a willingness to help others in need. Positive self-image is seen as distinct from redemption in that it has less of an element of change over time and is more a description of their fundamental character. Thirty of the 38 respondents (79%) made statements that express a positive self-image.

I have a big heart for everybody. If it's anybody in the streets, if I see that they need help I would help them. If I had enough money to throw out there, I would even throw money to them if I had it. That's the kind of person I am. I'm a big hearted person. – Bill

I'm the type that I like to help. So if I can help you in anyway, I'm going to try, even if it's just giving you an 800 number to call or someone that can help you. That's just me. – Patsy

I try to be helpful. I don't judge, I don't stereotype. If I can help you I'm going to help you. If you tell me you want to better yourself and I can help you do that, I'm going to do it. – Lester

I'm an outgoing person, I'm nice, I'm funny, I'm easy to get along with, I'm caring. I don't care just about myself, I'm not selfish. I care about other people, how they feel, what they think. I'm a good person. – Jimmie

Caring, understanding, sweet hearted, defender of the poor people, hate bullies. Real compassionate, understanding, a helpful person. If I have it, if I have a dollar, I give it to anybody to help them. Just a real genuine person. – Oscar

### **Group Comparison**

HRP court participants were more likely to make statements that reflected a positive self-image than were regular probationers. Seventeen (89%) of the HRP court participants made positive self-image statements compared to 13 regular probationers (68%), but the difference is not statistically significant (Fisher's exact test  $p = .232$ ). Fisher's exact test revealed no statistically significant differences for positive self-image and age ( $p = 1.0$ ) or for minority status ( $p = .433$ ).

Seen in combination with Redemption, most respondents see themselves in a positive light and as being on a better path than before. Future research might explore the degree to which the differences in the two groups' self-image can be attributed to the effects of the supportive efforts of the problem-solving court.

While the differences between the groups are not large and cannot be assumed to be the result of the different probation practices, the fact that so many of the respondents made statements that reflect a positive self-image may provide a useful tool to probation officers. Many probationers fail in their efforts to desist from crime, but these data indicate that clinging to a criminal identity is not a major cause of those failings. Efforts to support and reinforce a former offender's positive identity may prove to be a fruitful strategy in reducing recidivism. However, structural conditions, such as employer bias against convicted felons that lead to reoffending despite a redeemed or positive self-image must also be addressed. One strategy to support this type of change is suggested on p. 115 of the Policy Implications section.

## Agency

Agency refers to people's willingness to take responsibility for their actions and is associated with desistance from crime. In this study, agency is seen as being on a continuum with fatalism at the opposite end. Agency was a dominant construct in the interviews with 150 total statements coded; 35 of the 38 respondents (92%) made at least one statement that was coded as agency.

Three types of agency were identified in the interviews. General agency was noted in statements that reflected respondents' ability and desire to have control over the events and direction of their lives. Such statements were made by 32 of the 38 respondents (84%).

I mean, it's your life, and it's in your hands. These people are going to watch over you, but your life is in your hands, and you can do what you want. – Earl

I've always told myself you have the ball, the ball is always on your court, yeah, but I didn't really understand that concept 'til I actually put 2 and 2 together. – Patsy

I don't call 'em mistakes no more 'cause I figure a mistake is once or twice and after that you already know that you're doing something wrong. It's more like a bad choice or a bad decision, so it's no longer a mistake no more. – Stephan

The only thing that stands between me and my goals is myself. If I let myself fall, that's the only thing that's going to stop me cause I can't blame it on anybody else. If I choose to go and do drugs, it's not your fault for being at the party and offering them to me. It's my fault for doing it. If I choose to go out there and commit a crime, I can't say I did it because I needed the money, I could've just kept going to work. – Carter

I see that, and I want it. I want it bad. I want it with a passion. I go out every day. I go out at 7 in the morning 'til 7 at night, just to get it. I do that Monday through Friday, and I won't stop. Sometimes it leads to Saturday, but I don't mind at all. I'll suffer today to hope that I have a better tomorrow. – Lester

Two sub-categories of agency were identified in the interviews. One was the expression of a work ethic, and the other was the accepting of responsibility for their offending behaviors. Seventeen respondents (45%) made statements that reflected a work ethic.

Through all the partying, I've never missed work. I'm passionate about work, I like it. I'm doing good at work, I'm moving up quick. They have high expectations and hopes for me. They sent me to school, and they paid for everything. They invested in me, so obviously they see something in me, and I put back as much as I can. – Stuart

I had a new drive, instead of doing wrong I wanted to do right. So three months later, soon after I got out of prison I immediately went to work in New Braunfels, working at a rock yard, the only white guy there, it was all Spanish guys so they didn't think I would last, but I worked twice as hard 'cause that was my new look on life. You gotta work hard. – Carter

I started working after I dropped out of school in the 11<sup>th</sup> grade. I knew I wasn't going to go to college. My parents couldn't afford no college fees. But I've always been a hard worker, so I went to work doing construction, and I'm still working out there. – Nick

I'm the farthest thing from lazy, I spread myself too thin with so much work.  
– Doyle

I got out (military) on a medical, but I didn't use the benefits, 'cause I was always brought up to work. So I came home, and started working at a weaving mill.

– Charles

Statements that reflected taking responsibility for offending behaviors were made by 25 of the 38 respondents (66%).

I put myself where I was at. I can be mad at my probation officer all day long. They didn't send me there, they have their jobs, I sent myself, I made the decision. – Patsy

I'm not blaming nobody, 'cause I chose my path. They say your path always bites you in the ass. I've been bad all my life. The judge, he's tired of us. I don't blame him. I don't blame anybody. – Tommy

They're (probation) doing their job. I put myself here, I did this to myself, so I've got to do what I've got to do. – Norman

But it was no decisions or influences of anybody else, it was just my stupid decision to do that, and I have to pay the consequences. – Merle

It ain't probation's fault, it ain't the court's fault. It ain't nobody's fault but yours, and once you start learning to accept that, you'll start knowing that the truth hurts, but I'd rather hear the truth now than a lie, 'cause the lies, I already know 'em.  
– Charles

There is no “magic bullet” that ensures that a former offender will make the final turn away from future offending, but like redemption, agency is one quality that is associated with desistance. If desistance is viewed as a process that occurs over a period of time (McNeill et al., 2005) and is associated with the development of a perception that one is in control of future events, then the connection between choices made and the consequences of those choices becomes clearer over time. This in turn leads former offenders to become more motivated to take an active role in the future direction of their lives. Probation officers, in their role as counselors, can reinforce agency with their probationers by pointing out instances where good choices have led to good outcomes.

### **Group Comparison**

HRP court participants were more likely to make agency statements than were regular probationers, although the differences were not large. Eighteen of the 19 HRP court participants (95%) made general agency statements compared to 14 out of 19 regular probationers (74%). Nine HRP court probationers (47%) mentioned their work ethic compared to 8 regular probationers (42%). The largest difference was in statements that took responsibility for offending behaviors. Fifteen HRP court participants (79%)

made such statements compared to 10 regular probationers (56%). In the aggregate, all 19 HRP court participants made at least one agency statement compared to 16 regular probationers (84%), although this difference is not statistically significant (Fisher's exact test  $p = .230$ ). The relationships between agency and age ( $p = .249$ ) and minority status ( $p = .542$ ) were also not statistically significant.

### **Fatalism**

Fatalism is generally defined as a failure to take responsibility for one's actions and to blame events on outside forces. Fatalism can be seen as the opposite of agency, wherein people perceive themselves as being in control of and responsible for their actions.

While fatalism is generally viewed as a negative trait associated with reoffending, another dimension to fatalism is the phenomenon of probationers turning their fate over to a "higher power." Given that their own efforts to control their lives have often led to unfavorable outcomes, and given that many probationers regularly attend Alcoholics Anonymous and Narcotics Anonymous meetings, it is not surprising that some respondents made reference to seeking guidance from a "higher power" as this is one of the tenets of these organizations. However, this was not a dominant theme in the data as only seven respondents made such comments. In the coding scheme for the interviews, "higher power" was included as a sub-construct under the broader theme of "support system," which captured respondents' comments regarding the influence of outside agencies and family. A brief discussion of this construct is presented on page 88 in the "group comparison" section under the general heading of "support system."

Fatalism plays an important role in the data. Of the original six constructs, three are thought to foster desistance from crime (redemption, agency, and motivation), and three are associated with criminal persistence (condemnation, fatalism, and complacency). Of the three constructs thought to foster persistent criminal activities, only fatalism was mentioned by more than two respondents. Thirty-one respondents (82%) made statements that were coded as fatalistic, with a total of 71 references (the difference being due to individual respondents making multiple references).

Three types of fatalism were identified in the interviews. One type was general fatalism that was reflected in statements that expressed a general lack of ability to control events. Two other types involved assigning blame for their behaviors to other people or to drugs and alcohol. These fatalistic statements often implied that offending behavior was not within offenders' control but was more a product of environmental factors. Ten respondents made generally fatalistic statements.

We were just in the wrong place at the wrong time, I guess. – Emmy

I'm a good person, but I can be an asshole or whatever you want to call it. It depends what happens and what's going on. It just depends on what's going on around me, my surroundings. – Vince

I'm not saying I'm going to catch any new cases, but if something goes wrong in this probation, then I can see myself being in jail for a little while. – Jimmie

Drug and alcohol offenses were the most common category of qualifying offenses (10 out of the 38 respondents were on probation for a drug possession and seven were charged with a third DWI), but only 11 respondents made statements that expressed the view that drugs or alcohol had caused their offending behavior.

Alcohol was the main one. The victim, my ex-girlfriend, she's not a bad person, she's a good person too, she's got a good heart. But alcohol comes into it, and we just turn into different people, maybe. With alcohol, we just didn't go good together. – Stuart

It's really drinking that has caused all the problems in my life. – Chet

A lot of smoking marijuana and drinking alcohol will impair your judgment, so a lot of those were a lot of causes of my problems. – Hank

I kept on doing it, kept on hitting her when I was drinking. I would never do it when I was sober. – Tony

The most common fatalistic statements expressed a view that others were to blame for their offending. Of the 38 respondents, 21 (55%) made these types of statements.

The thing that caused me to keep drinking was there was a man, and he was kind of hermit, and for some reason I drove by his house one day and he was sitting there on his porch of an old dilapidated house. I pulled in there. He had people living behind his house who paid him rent, some of them did, some of them didn't. I ended up going there and drinking hard liquor. – John

I got around the wrong people and got hooked on drugs, and got caught at the wrong place at the wrong time. – Roy

My husband should have got on a plane and come got his kids instead of putting me in jail. – Alison

As an adult, the forgery charges that I have, that got me hanging out with the wrong people as well because I knew this one lady, and she introduced me to this one guy, and he got me into hot checks and stuff like that. – Jimmie

But what happened, I started going more and more to the horse races with my brother, and he got me involved in drugs. – Charles

Just as agency is associated with desistance from crime, fatalism is thought to be a factor in persistent criminal careers. Respondents often expressed the shift from blaming others to taking responsibility for their actions as an important turning point in their lives.

This was often coupled with statements about maturing and growing up. To the extent that probation officers and the courts can encourage this shift in attitude, it suggests another way to support offenders' rehabilitative efforts. However, it may be that the most potent force in this change is the passage of time, and thus the ability of the criminal justice system to advance the process of desistance may be limited.

### **Group Comparison**

HRP court probationers made fatalistic references at rates comparable to regular probationers. The number of fatalistic responses was most similar between the two groups of probationers for the three main categories of fatalism (general, blaming others, blaming drugs). Sixteen HRP court probationers (84%) made fatalistic responses compared to 15 regular probationers (79%). The numbers were most similar for the sub-categories of blaming others (11 HRP court, 10 regular) and blaming drugs (6 HRP court, 5 regular). The largest difference was in the category of general fatalism. Three HRP court respondents (16%) made these types of statements compared to seven regular probationers (37%). No respondents from either group made statements that reflected all three types of fatalism. There was also little difference between the two groups in the numbers of references to a higher power. Three HRP court respondents mentioned this construct compared to four regular probationers. Fisher's exact test indicated no statistically significant relationship between fatalism and age ( $p = 1.0$ ) or minority status ( $p = 1.0$ )

The Mirowsky/Ross Scale of Perceived Powerlessness versus Control was used as a quantitative measure of respondents' degree of agency and fatalism. The scale produces

a mean score with a possible range of -2 to 2. Negative scores indicate higher degrees of perceived power and control. All scores in the sample were negative, which is interpreted as meaning respondents perceived more agency than fatalism in their lives. Scores ranged from -.25 (one respondent) to -1.875 (four respondents). The median score for both groups of probationers was exactly the same, -1.125. Scores were analyzed using a two-sample Wilcoxon rank-sum test. There was no statistically significant difference between the scores of the HRP court group and the regular probation group ( $z = .22$ ;  $p = .826$ ).

## **Motivation**

Motivation was the most prevalent construct identified in the interviews. Among the pre-identified constructs, motivation was viewed as being on a continuum with complacency. Statements were coded as motivation if they offered some reason for trying to comply with probation terms, expressed a general desire for a better future, or mentioned specific goals. All but two respondents made statements that were coded as motivation (all 19 HRP court participants and 17 regular probationers), and motivation also had the highest number of total references (158). Four types of motivational statements were identified: general motivational statements, desire for normality, family and children, and the desire to stay out of jail or prison. General motivation was mentioned by 21 of the 38 respondents (55%).

Another thing they used to tell me is I'm never going to finish probation. I want to prove them wrong that I can finish probation. I've never in my life finished probation. I've always revoked it. But this time I like my little folder with everything I have to do. – Ralph

My stepdad, I forgot to mention this, he's an alcoholic, but he's been sober now since 2007, and I never thought that man would be sober, never, never in my wildest dreams. And to see that, that's motivation for me to see him. – Earl

By the time I came home I called to check up with my counselor and a lot of people had overdosed. Died. A lot of people had gone back to jail. A lot of people recommitted their crime. And I was like I don't want to be that statistic. I'm going to show them I'm different. – Patsy

It doesn't bother me to go see my PO, it does a lot of other people, the HRP Court doesn't bother me. It's kinda good, because not only am I trying to do good for me, I'm trying to do good for them. So they can be proud of me. So they can be, aw man that's the one. See that guy there, he's doing everything he's supposed to do." – Carter

I see how my boss and my brother live. My brother's a hard working man. Where he got the drive to be that type of person, I don't know. I see he has nice cars, has his own place, has TVs, furniture, a fridge full of food, pocket full of money, bank account. He's living real good, and I want that. – Lester

Another theme that was coded as motivation was the desire for normality. While one probationer mentioned winning the lottery as a feasible path to a better future, most respondents had much more prosaic goals and means to achieve them. These types of statements which were made by 26 respondents (68%) were coded as "desire for normality."

Hopefully I see myself in a home with my children, going on vacation again, baseball games, football games. We have 14 month old twins. Just living the life that I should have been living. – James

I've got three more years left, then things will be normal again. – Vince

I just hope to have my own place, my own car, have somebody who cares about me as I care for them and maybe one day have a family with them. Have a good job, be done with probation. Just living life like the rest of y'all Americans.  
– Chet

I can't do that until I get off probation. So that's like a little motivation for me to better so I can live a normal life. – Stephan

This last time I was in prison I had pretty much lost everything. I was well on my way to having my own house, I had my own vehicle, and I want to get back to that again. I want to get back at that level where I'll be independent and self sufficient and basically carve my little niche in life and in society. – Norman

I want a stable home, I want something that's rent to own, a nice bank account in case anything bad happens so I don't have to beg people for money. Just have a healthy, stable life with my fiancé and my son. – Lester

Family and children were often mentioned as motivating forces in respondents' lives. They were mentioned by 20 of the 38 respondents (53%).

I want to be a dad that my kids can look up to. With everything that I put my children through with me going to prison, and then me coming out, and then seeing me go through all this other crap and bullshit. I want them to have a dad that they can rely on. – Earl

I guess my main goal would really be to see my daughter one day. I haven't seen my daughter in two years. I gave her up for adoption to her grandmother because I thought I was going to prison over this, and I didn't. That's my biggest goal. When I am able to see my kid, I'm not a fuckup, and my kid sees that. I don't necessarily want to tell my kid what I've been through. I might, if I see her doing wrong, but my main goal is to be with my kid and be a father to my kid. – Homer

I hated it [probation]. I didn't want to be here. I would rather to just go to jail, but I couldn't do that because my kids were on my mind. – Tony

I have a son on the way next month, and I just feel it's a new energy, it's a new feeling, it's keeping me motivated. – Lester

I have a brother that's been incarcerated all his life. I raised my nephew and my niece for him, and it's just something I don't want my own kids to have to go through, so that keeps me motivated to stay on the right path. It's either that, or I'll see my kids grow up from behind bars. – Ricky

The fourth notable category of motivation is the desire to stay out of jail or prison which was coded in 26 of the interviews (68%).

I knew it [probation] was going to be bad, but it couldn't have been worse than jail. – Frank

He (judge) gives you an option, either out here or in there (prison), and I would rather be out here than in there 'cause it was going to be a long, long time. – Bill

Honestly, because I don't want to be in prison. I don't want to lose my freedom. Not that I'm scared to go or nothing, that's just not for me. I don't want to be in prison, that's the bottom line. I don't want to lose my freedom. – Stuart

It's not fun but if you're on the road that I was on, going into the drugs and stuff, it doesn't stop everybody but it did stop me. I put the brakes. I had to think either go spend 10 years of my life in prison or straighten myself out and be able to better myself. To me, for me, it helped me. It helped me a lot. I changed my priorities and the people I hang around with because I'd rather be out here than in prison. – Carl

I would rather take probation than having to go to prison again. That's not a place for me. There's too many crazy youngsters over there. You go, and you're not sure if you're coming back out. With the background checks, you go to prison, and it looks worse on your record and on your background than probation.  
– Merle

The prevalence of motivation in the data may be reason for optimism about the prospects for the successful completion of probation for this sample. The expressed desires to exchange a deviant lifestyle for a normal one, to be a contributing member of their families, and to remain unincarcerated imply a readiness to leave a troubled past behind and a vision for a better future. Without these motivating forces in their lives, it is easy to imagine the respondents yielding to temptation and reverting to the old behaviors that led to their current situation. However, motivation to cease negative behaviors is likely to be inadequate to if it is not coupled with a desire to move in a positive direction. In other words, while it is important to “just say no” to incarceration and reoffending, it is equally important to “just say yes” to some type of pro-social activities.

## **Group Comparison**

The differences in the numbers of HRP court respondents making motivation statements compared to regular probationers were small. All 19 of the HRP court respondents made such statements compared to 17 of the regular probationers. The relationship between motivation and age was not statistically significant (Fisher's exact test  $p = 1.0$ ), nor was the relationship between motivation and minority status ( $p = .129$ ).

## **Complacency**

Complacency is viewed as being at the opposite end of the continuum from motivation. Complacency implies a lack of interest in making positive changes in one's life. As with condemnation, statements that reflected a complacent attitude were extremely rare in the data. Only two respondents made such statements; one was from the HRP court group and one was a regular probationer. Given the volunteer nature of the sample, this absence of complacency cannot be assumed to exist in the general probation population.

I just pulled a dime out of another county, just pulled a dime, 10 years, for the same thing, evading arrest. I guess the cops don't like for me to outrun them.  
– Eric

I'm kind of at a standstill, and I kinda just keep myself from doing what I need to do. – Lucille

While this study cannot make the inference that probation causes probationers to be motivated versus complacent, these data do suggest that probationers often profess the desire to have a better life. Given the high rates of probation failure, we know this motivated attitude does not always translate into a positive outcome. However, if the

desire to change is the first step in that process, for the most part this sample has at least taken that first step.

### **Probation Perceptions**

Respondents were asked about their experiences being on probation. Their responses were coded as being generally positive or generally negative. Positive perceptions often included comments about support programs such as Alcoholics Anonymous and Substance Abuse Felony Punishment (SAFP). Negative responses often circulated around financial burdens and the challenges of dealing with being a convicted felon. It was common for respondents to make both positive and negative comments about probation. Twenty-five respondents (66%) made comments that were coded as generally positive, 21 (55%) made general negative comments, and 15 (39%) made both positive and negative general comments about probation.

The following comments reflected generally positive perceptions of probation.

I'm kind of glad I got caught, but not. It's really changed my life for the better. I would imagine that without four years of probation, doing the constant drug testing, I never would have stayed clean for so long. – Frank

So they kept me real tight. Reporting weekly to probation is one of the things that kept me good too, and I've been doing that for four years already, so they know me. I'm like a family member to them (laughs). – Bill

It's (probation) helpful. At first, I used think, "aw, shit, they just want to screw you. They just want to throw your ass back into prison." But it's not like that. That's the way I used to think back then, but it's not like that. They're here to help you. They want to help you. That's part of the program. If you've got problems, call your probation officer. The more people you talk to, the better. – Ralph

Hopefully I've got it [drug problem] under control, thanks to probation. They really kinda saved my ass. – James

I believe it's [probation] just like an AA program. It works if you work it. If you really want to change for the better, it's a great gateway to help you do that.  
– Hank

The following comments reflected generally negative perceptions of probation.

Excuse my language, it [probation] sucks, I mean, but that's probably what it's there for, to make it so miserable you won't want to do what you did again.  
– Frank

I hate it. I wish this building would burn down, not that I'm going to burn it down, but sometimes you just wish, oh a tornado is coming, can you just please go down [probation office] street, please? – Patsy

Yeah, I can't stand it. I really resent probation right now. I want to get off of it as soon as possible. – James

Sometimes I wish I would have stayed in jail and served my time. The only thing that really gets me on probation is the community service and the fees. That's the only thing that kills me, that's the only thing that could get me revoked, my fees and community service. – Jimmie

It's still dictatorship. It's either do as we do, or do as we say, or we lock your ass up. And they threaten you like that. So it just really like gets you on fright mode. You don't know if you're going to come in the next month because you might have a warrant. They verbally, emotionally, assault you and terrorize you. It makes you just want to explode. – Oscar

### **Interactions**

Age, sex, race/ethnicity, and time served on probation were examined for their effects on probation perceptions. None of the four variables appeared to have a large effect on the respondents' perceptions. Fisher's exact test indicated that the age of respondents ( $p = .490$ ), their minority status ( $p = .486$ ), or the time served on probation ( $p$

= 1.0) did not have an effect upon whether respondents perceived probation as being generally positive.

The number of females in the sample was small (n=5), but it was interesting to note that every female probationer made at least one statement that expressed a negative perception of probation, compared to 16 of the 33 (48%) male probationers making negative statements. Males and females had more similar rates of positive perceptions. Twenty-two males (66%) made positive comments compared to three females (60%).

### **Group Comparison**

The differences between HRP court probationers and regular probationers were small regarding general perceptions of probation. Fourteen HRP court probationers (74%) made general positive comments about probation compared to 11 regular probationers (58%). This difference is not statistically significant (Fisher's exact test  $p = .495$ ). Numbers were even more similar for those making general negative comments (11 HRP court vs. 10 regular).

One of the largest differences between the HRP court group and the regular probationers was in the discussion of the effects of the courts or the judge. No questions in the interview guide asked specifically about perceptions of the courts, but 18 of the 38 respondents (47%) mentioned the court or the judge, with a total of 47 references. Fourteen HRP court probationers (74%) mentioned the court or the judge, while only four regular probationers (21%) did so. This is a statistically significant difference (Fisher's exact test  $p = .003$ ). HRP court is generally viewed as being more strict and demanding than regular probation, but most comments do not reflect feelings of resentment or

injustice in the additional burdens of the HRP court. The following comments typify the perceptions of the HRP court participants

And this last time in 2004, I was doing drug use again, and I got probation for eight years, and I got into this HRP program, and he [judge] really put my life straight. He really taught me that this ain't no joke no more, this was my third time and it was my last strike. But this program had helped turn my life around. It was like an extra parent on my side. (laughs). It was. He's [HRP judge] like that. He's real good at what he does. This program is real good, it keeps you motivated. – Bill

It's the courts that are going to stop me. They'll put me in prison. And I know, five DWIs, I'm one of the lucky ones. The judge told me, "You've never completed probation. What makes you think you're going to do it now?" I didn't have an answer until the last time he told me that. I just started HRP court. Hopefully if I do everything right, they'll start dropping little things. I like going to court. – Ralph

But I'm glad because the one [HRP court] that I'm on is more structural. The regular probation is not so structural. Not that I need to be babysat but if you're more lenient, I'm going to get comfortable I feel, 'cause this has happened before. – Patsy

I could have given the judge a hug. If he would have let me, I would have given him a hug and said thank you very much. But I did tell him thank you. I said thank you for being lenient [by not sending him to prison]. I knew it was going to be a battle from that day forward, because I had so many stipulations in HRP. They want all this done within the first six months. But then I knew that if I could just get those first six months behind me and do everything in those first six months, it's pretty much downhill. – Arthel

The interviews suggest that HPR court makes a strong and generally positive impression upon its participants. The court is less formal than a regular court, and the judge actively reviews probationers' progress along with the probation officer. He praises probationers' accomplishments and rewards them with early releases from additional scrutiny of the special court. Likewise, he scolds them when they are remiss in meeting

their obligations and occasionally sends them directly to jail for their transgressions. In general, the respondents seem to appreciate the extra supervision the court provides and view it as a form of support and structure rather than as an additional burden.

### **Support System**

While family dysfunction played a large part in respondents' description of their formative years, they frequently described their current family as being important parts of their support system that helped them manage their lives in a positive way. Twenty-nine of the 38 respondents (76%) mentioned at least one member of their current family in this way.

I don't have a lot of family, the family that I do have, I made them proud of me. They believe in me, they trust in me. In turn, that makes me proud of me. I know that I can call my mom, call my dad or my brother if I need to talk or if I need help or anything. We're close, so I got my immediate family. – Carter

My family, my boyfriend. He is on probation too. We support each other by making sure we both get our stuff done. Him, 'cause he's on probation here and 2 other counties so it's a lot for him. My family just pushes me to make sure I get my stuff done that I'm supposed to. – Emmy

My family and my daughter. My daughter is going to be two, but that's what keeps me. My mom, my sisters, and my brother. My aunts and uncles, they've all stood behind me through it. I did wrong but family sticks together and they've held it together for me. When I was down, didn't have a job, they helped me. Me and my dad have a better relationship now 'cause I don't argue with him the way I used to. – Carl

My family is 100% supportive. They are always telling me "You can do this, you're good." They are always reinforcing to me, "you're too smart, you're too intelligent, you're not going to do this wrong, you're going to do this fine."  
– Norman

My husband; he knows it all, and he's always reassuring. He's the one that says, it's OK, we're going to get through it. It's like a "we" thing rather than a "me" thing, so that's good. I think that's what helps keep me sane about this. – Lucille

After family, employment and employers were the most frequently mentioned elements of subjects' support system. Eleven respondents (29%) mentioned their work or their employer as being important parts of their lives and their rehabilitation.

Even co-workers, they brought me back onto the jobsite after everything subsided. They just said, "hey, we all make mistakes" and we leave it at that.  
– Frank

My employer is also very supportive. They jump through hoops to keep me, to make sure I'm here when I have to be here. Any community service, any program that I have to go to, they'll try to schedule around it so I could be here for that.  
– Norman

My employer supports me in that they let me go to my meetings without firing me. They're Mormons. They don't cuss, they don't drink, they don't drink coffee, they don't smoke cigarettes. They're a good support system. I work with people that have very good morals. It's whoever has the more dominating characteristics, and they have some very dominating characteristics of they don't do this, they don't do that, and that keeps me kind of straight. And they're funny guys. It's cool to see people that have fun lives, and they do good, and they don't even have to pick up a cigarette. That's cool. – Homer

My boss is very supportive. She knows that I'm on probation. – Rhonda

### **Group Comparison**

The two groups were very similar in their descriptions of their support systems. Fifteen HRP court participants (79%) mentioned their families compared to 14 regular probationers (74%). Five HRP court participants (26%) mentioned their work as an important source of support while six regular probationers (32%) did so. The influence of

a higher power in their lives was mentioned by three HRP court participants (16%) and by four regular probationers (21%). Given that all of these sources of support lie outside of the formal probation system, it is not surprising that the groups are similar on these dimensions. The important role that families play in supporting the respondents suggests the possibility of engaging family in a more structured and purposeful way as a way to strengthen the role they play in rehabilitative efforts.

### **Probation Officers**

Despite the mixed perceptions of probation in general, probation officers were almost universally praised. Thirty-three of the 38 respondents (87%) made comments about their officers, with a total of 61 comments. Each of those 33 respondents made positive comments about their current probation officer. Positive comments circulated around issues of structure, understanding, respect, and support. Respondents stressed the importance of having a good relationship with their probation officer that recognized each probationer as an individual with particular issues and needs.

She gives me kudos when kudos is deserved, and of course gets on me when I start to slack off. I think she is a very nice person. I don't think I would want to try another probation officer. – Frank

Finished probation, stayed clean, everything was good. There were even times after probation I would call my P.O. 'cause I was on the fence. I was ready to go on another binge, just get back into the drugs and alcohol and everything, and I wanted to stay clean. My P.O. would steer me the right direction. She was great.  
– Earl

I think it's pleasant. I couldn't ask for a better P.O. I wouldn't want another officer. When I get off of HRP, I understand that I'll be getting another probation officer. I really don't want another one because I've built a relationship with this P.O., to where I can call her and talk to her about certain things. That would have to start all over again with somebody else. She's a good lady. I think if I had had another probation officer, I don't think I'd be here right now. I think I'd be in prison. That's just my opinion. Maybe I'm wrong, but she does care. She gives a crap about her people, or at least me anyway. – James

Obviously, number one, my probation officer. I just can't put enough credit to her. She's the best, she's the greatest one they've got here. – Norman

I have a friendly relationship. He's a good probation officer. He drug tests randomly, he does his thing, but he talks to me about what's going on. He doesn't just, as soon as I see him, here's a cup, where's your money, and goodbye. It's "How have you been? What have you been doing new? How's your family?" It's a good relationship, and I really like him as my probation officer. – Homer

The few negative comments about probation officers typically referred to former officers who compared poorly with current officers.

I tell you what makes a lot of difference is P.O.s, how we relate to each other. There's a difference. I haven't had one this time around, but before there were some hard ass P.O.s that would make it hard on you, and that's not good. They make you want to go do something wrong. But having a nice P.O. that we can relate to each other and get along, that makes a lot of difference. – Merle

She's good. I like how she's helpful. If I have questions and she's not able to answer, she'll find me an answer. I think the past two that I've had have been very helpful. You know, when I first started off, my probation officer that I had wasn't too concerned about what was going on in my life. It's not kind of a one-on-one kind of a thing. It was like, OK, you have to be here, now you can leave. She's [current officer] is really good about getting me to open up. – Lucille

That's what I'm talking about, that woman right there. Come to your door, go through your trash can, go by false reports, talk shit to you about shit that ain't true, handling you rough. That made me just want to flee. I'm glad they changed me to this one over here. – Oscar

I've had two probation officers here. The first probation officer, to me I felt like she was just mean, even though I was doing what I was supposed to be doing. She never gave me the information that my new probation officer now is giving me. My officer now is a lot more helpful with resources and with telling me what I need to do. She gave me the proper paperwork, saying "here, this is your set of paperwork, here's mine. You have a copy, I have a copy." My last probation officer, I was with her for a year, and she never once gave me the information that my new officer has given me for the case that I'm on, like stipulations, things I can do to better myself while I'm on probation. – Ricky

Many of the positive comments about probation officers reflect respondents' appreciation for the individual attention they receive from their officers. The extra time the officers take to personalize the probation experience appears to make an important difference. This is a change from the depersonalized and bureaucratic qualities that are often associated with the criminal justice system. The responsivity element of Bonta and Andrews' (2007) Risk/Need/Responsivity model of offender assessment and treatment (discussed on pp. 13-15) emphasizes the importance of matching treatment programs to the individual needs of the offender. While probation officers are not usually considered to be therapists, they do perform counseling functions, and when that counseling reflects an understanding of the specific issues that face a particular offender, that effort is recognized and appreciated by the probationers.

The tendency to view their probation officer in a positive light might be the result of selection bias in the sample. Given that the initial contact with the sample was made through the probation officers, probationers with positive relationships with their officer might have been more inclined to cooperate with the research than those with a conflicted relationship

### **Group Comparison**

Differences between the HRP probationers and the regular probationers regarding their comments about their probation officer were small. Fifteen HRP court probationers (79%) made positive comments compared to 18 regular probationers (95%), although this difference is not statistically significant (Fisher's exact test  $p = .340$ ). Only two respondents made negative comments. Both of these respondents were regular probationers, they referred to former officers, and both made positive comments about their current officers. Given the generally positive nature of the comments, it speaks highly of the probation department and the efforts the officers take to support their probationers.

### **Treatment Programs**

The Risk/Needs/Responsivity model (Bonta & Andrews, 2007) argues that addressing offenders' criminogenic needs is a crucial element of any effective rehabilitation program. Programs to address those needs include Alcoholics Anonymous, cognitive thinking programs, various drug rehabilitation programs, batterers' intervention programs, anger management programs, and the like. These types of programs were regularly mentioned by the probationers; 27 of the 38 respondents (71%) mentioned some type of rehabilitation program at least once. In general, the comments were positive and were often enthusiastic, crediting the programs with major positive changes in their lives.

At the time I was actually taking courses up there at [local agency]. I was going to therapy and actually had been applying everything I was learning, actively using it. The red flags, recognizing when I was becoming upset, saying ok look I don't need to be doing this right now, we are both arguing. So I was actually using that and it was very helpful. – Conrad

I felt that that cognitive thinking program was the best thing that could've happened to me. – Patsy

I got caught, I went to treatment, and that's how they saved my ass. – James

AA is cool. I don't agree with everything that they believe in, but it's cool to understand that there are people out there just like you, so you don't feel like you're the only one out there dealing with all these problems. – Arthel

And that's one thing that I will tell you that the whole cognitive thinking class that I took kind of retaught me to stop and think before you act out, because I think that's what I did. I jumped the gun. I reacted at the time, and that's what got me in trouble. – Lucille

Negative comments about treatment programs were notable for their rarity. Of the 62 statements about programs that were coded, only seven (11%) expressed negative views. The negative views were dominated by specific complaints about the fit of the program with their particular needs, which again reflects the importance of the responsivity element of the RNR model. One of the respondents who was unhappy with one program that was a poor fit for his needs highly praised another for “saving his ass.”

They generalize everything. Every addiction is handled this way with what they deem appropriate. And it was wild, because I was an alcoholic, but yet this man was addicted to meth, and they're trying to handle both addictions the same, and it just didn't work out. They have a saying over there, “fake it to make it.” It's 90 days then you're home, and everybody did that. So I came home and explained that to my P.O. when I got out of there, “do you guys ever get any positive reviews out of that place?” because me, myself, I didn't see how. I went with an open mind, I was optimistic. I was going to go and get the help, it was going to be addressed. Needless to say, it wasn't. – Earl

I have to do this domestic violence program. They already told me that I'm not qualified to be in their program, 'cause I'm not a violent assault towards female or male kind of a person. I won't even be able to be in with the group sessions.  
– James

I had a theft charge, but I had to take a drug class. That made absolutely no sense to me. – Hank

In general, treatment programs appear to be effectively used to treat the particular needs of the probationers. In a few instances, it appears that bureaucratic pressures to place an offender into some type of treatment may have misapplied therapeutic resources with possibly counterproductive results. While a perfect fit between probationers' needs and the available resources may not always be possible, the interviews suggest that the pressure to "do something" may lead to worse outcomes or may foster a resentful attitude toward treatment in general.

### **Group Comparison**

More HRP court participants (16 of 19; 84%) discussed programs than did regular probationers (11 of 19; 58%). With one exception, the few respondents who made negative comments about treatment also made positive comments. Comparing the groups for their positive comments about treatment, the percentages shift slightly, with 84% of HRP court participants making positive comments compared to 53% of regular probationers. This difference approaches but does not reach statistical significance (Fisher's exact test  $p = .079$ ).

### **Comparisons to Prior Probation Experiences**

Twenty respondents (53%) reported prior experience of being on probation. Not surprisingly, the average age of this group was higher than the general sample (general sample mean age = 35; repeat probationer mean age = 36.8). Four of them (ages 24, 28,

33, and 43) viewed their current probation as being about the same as their prior experience. Most of these 20 respondents indicated that they were taking this probation more seriously. This is not to say that respondents necessarily viewed their current probation in a more positive manner.

It was just the in and out on probation. I was a drug user, so I got put on probation, and I got violated like a month later, violated and got put back in jail. But this program had helped turn my life around. It was like an extra parent on my side. – Bill

The very first time I was placed on probation I was 18. And like I said, when you're young, you think you have the world by the balls. I used to go report stoned. I would smoke weed on the way to go see my probation officer. In hindsight, that was very stupid. But now, I wouldn't even think of doing anything like that. – Earl

This one I'm actually trying to accomplish. The others, I was much younger, I had a, 'scuse my French, I-don't-give-a-fuck attitude. I was younger. Now I'm 30, so I'm trying to just get it over and done with. You could say it's experience, so I'm doing it again, so I kinda know what to do and what not to. – Hank

This probation here [in this county], my P.O. is more in tune with me, when I talk with him there is direct eye contact. He wants me to succeed as I see it. It's not like, "Oh well, if you fuck up you fuck up." It's more like "I don't want you to screw up, so I'm going to help you out, and I'm going to put you through things you might not like, but it's going to help." – Homer

This probation in the last couple of years, it's really strict compared to what it used to be. Before, probation was real lax. Just come in and pay when you can. The first few times I didn't pay until, I wouldn't pay and then when I'd get my income tax, I'd pay it all at one time. I would go months without paying. Now it's like oh you need to pay. They're getting their butts chewed so I understand that. – Martin

## **Group Comparison**

This analysis reflects well upon the HRP court as it does not indicate that the extra requirements of the special court are viewed particularly negatively. Ten respondents from each group of probationers (HRP court and regular probation) reported prior experiences of being on probation. Six of the ten (60%) HRP court probationers made comments that indicated a more positive view of their current probation compared to their past experiences, while only two regular probationers (20%) made such comments. No HRP court probationers expressed a worse view of their current probation, while three regular probationers made negative comments which were focused on the strictness of the terms. Those making negative comments tended to be older (ages 62, 38, and 33).

## **Financial Issues**

Another theme that emerged from the interviews was complaints about the financial burdens of probation. Nineteen of the 38 respondents (50%) made references to the challenges of paying for the required fees and restitution. It was rare for a probationer to suggest that their fines were unfair. More common was the perception that the probation system is driven by financial interests and that probationers need more flexibility in paying their fines.

Really that's all they care about. If you're good with your fees, you're good with them. But it shouldn't be that way. It shouldn't be just me paying you and getting out of your hair so you can get out of mine. We need more understanding from this county. I just feel like they're out for the money. They're not really out to help us much. – Lester

She [probation officer] asks how's it been going and I tell her almost every time about the money. It's a lot of money. I make like about \$900 a month, minimum wage. And then I'm supposed to pay \$120 for probation fees, \$72 for court fees, \$30 to the Texas Department of Public Safety for my license, then another \$80 for interlock device on my car, \$250 restitution fee, \$700 on rent, \$150 electric bill, so what am I supposed to do? – Sam

Probation is set up for you to fail. And that's just coming from like, ah man, the money. If you don't have a good job, you're not going to be able to pay for it. – Martin

It is costly. Having to miss work, go to court. Well first of all, you have to go through the jail system, miss days of work because you're there, spend money on a bail bondsman, and then having to go through all these classes, and having to pay for everything. It costs quite a bit to be on probation. – Merle

And the people who get in trouble are the poor people, so the fees are like harsh 'cause the economy is messed up, so it's not like the economy is messed up so the fees go down. It could fluctuate with the economy but it still stays like if it was going strong 10 or 15 years ago. So it's real hard. They just want money. – Oscar

While carrying the convicted felon label for the rest of their lives will probably take an enormous financial toll for most of these offenders (see analysis below), the interviews reflected more awareness of the immediate financial burden of paying their probation fees. Cynicism about the entire probation process was reflected in comments that suggested that collecting fees is the main function of probation. Given the dominant role that fines and fees play in the probation process, it is understandable how these perceptions come to be, and unless the financial realities of probation are changed, it seems unlikely that the perceptions will change either.

## **Group Comparison**

More regular probationers (11 of 19; 58%) made comments regarding financial issues than did HRP court probationers (8 of 19; 42%). This small difference is not statistically significant (Fisher's exact test  $p = .517$ ), but it suggests that there might be some aspect of HRP court that somehow softens the blow of the financial burdens of probation or at least creates a better understanding of the monetary aspect of the program.

## **Probation as Priority**

Another theme that emerged from the data was the perception that probation played the dominant role in respondents' lives. Eighteen respondents (47%) made comments that were coded as "probation as a priority." In two cases, this was expressed as a positive thing in supporting their efforts to stay focused.

It keeps your mind off of doing anything else. If you're focused on doing nothing but what they want you to do, you have no time to think about anything else. Maybe that's some part of rehabilitation. – Frank

I don't do anything wrong, I don't go anywhere, I don't go to bars, I don't have any friends, all I do is I work, I do what I'm supposed to, I go home, I'm really family oriented. I like to go camping, I'd rather go do that than like some people go to clubs. I just don't do that, it's not my thing. I'm 110% on completion.  
– Carter

More often, probation as a priority was expressed as a hindrance to moving on in life.

What stands in front of me? Just coming here. It has taken a little bit of my time, and my mind. It's like a duty to me all the time, having to be here every week, . . . . having to think about this every week and talk to my probation officer and let her know how I'm doing, you know. If I didn't have that maybe I could move on, but now it's like I'm stuck. I'm stuck for a while, it's not letting me go. – Bill

First and foremost I need to complete my probation, because throwing school on top of probation, on top of work, that would make things just too difficult.  
– Conrad

Right now I'm just trying to get through probation, trying to finish this first before I can move on with my life. No, I really haven't given much thought to what I want to do after this. – Chet

Once I do that I'll move on to bigger and better things, but the main thing before I do any of that I have to complete probation. That's my main goal. – Stephan  
Probation is the main thing that stands in the way of anything I have for goals, 'cause I really can't do nothing when I'm on probation. It's like my goals don't even exist with me being on probation, so I've gotta finish this, then I can go do my goals. – Jimmie

On one hand, it might be a good thing that many probationers perceive probation as the most dominating aspect of their lives. Without having this level of priority, it is easy to imagine a higher rate of technical revocations due to missed appointments and the general failure to abide by the rules. On the other hand, to the extent that probation hinders probationers' efforts to rebuild their lives, the rules and regulations may be counterproductive. The interviews suggest that holding probationers accountable while allowing them more flexibility to move in a positive direction might yield better outcomes.

## **Group Comparison**

Equal numbers of HRP court and regular probationers (nine out of 19, or 47% of each group) made statements that expressed their focus on probation. The two positive perceptions of the dominant role that probation plays in their lives both came from HRP court participants.

## **Felon Label**

Twelve respondents (32%) made reference to the difficulties they faced as a result of being a convicted felon, with this group dominated by regular probationers. Notably, one regular probationer said that a felony conviction was not a barrier to employment, although he made specific reference to having an independent business compared to getting hired by someone.

It's not hard to get a business and have your own business with a felony. I know people who have been convicted of almost killing somebody, and they have a business license, and they have three felonies. – Eric

All the other references to being convicted felons described the difficulties created by the label.

The thing that bothers me most is that when people see a felon or they hear about a felony, it's like they push them away. I would like to see things change about that in the justice system, where just because you're a felon you don't have the opportunity to do well. I want a program where they accept felons and they want to help felons. 'Cause me, all my life I was struggling at working or going to try to work, and just because of my background and history they didn't accept me. And that's the way, with this economy it pushes people away. There needs to be a program where they accept felons for what they do. Everybody has a talent and everybody's good at something. – Bill

Now because of what I've been through, it's hard to get a good job, because a background check, it just kills everybody. That's the worst thing. – Merle

It's just hard. Nobody wants to employ someone with my background. – Lucille

I can't really do that now with my record. There's a lot of things I can't do now with my record 'cause I'm a felon now. – Sam

I'm not going to sit there and lie to them. On the applications I fill out, at the end of them is the question "have you ever been convicted of a felony?" I do put "yes" but if I get an interview, I go into that in more detail but at this point, I haven't got no phone calls back. – Ricky

Maintaining productive employment is a challenge for many people in today's economy, and the added burden of being a convicted felon is clearly felt by most of these respondents. Given the competitive nature of the job market, it is difficult to fault employers for preferring to hire staff with clean criminal histories or to fault the state for restricting some licenses to former offenders who would be working with a trusting public. Nevertheless, the "one strike, you're out" nature of the convicted felon label is a severe burden that weighs heavily on the minds of these respondents.

### **Group Comparison**

Eight regular probationers (42%) noted the effects of the felon label compared to four HRP probationers (21%). While these numbers are small and the difference is not statistically significant (Fisher's exact test  $p = .295$ ), they suggest further research that would examine whether the effects of the problem-solving court include a less pessimistic view of the effects of being a convicted felon.

## **Summary**

The analysis of the six original constructs (Redemption, Condemnation, Agency, Fatalism, Motivation, Complacency) revealed some general patterns in the interviews and several subcategories of the original constructs. In addition to these six constructs, ten other dominant themes were identified: positive self-image, general perceptions of probation, court effects, support system, officer effects, treatment program effects, comparison with prior probation experiences, financial issues, probation as a priority, and the effects of the felon label.

The differences between the two groups of probationers were not large, but the HRP court participants had generally more positive perceptions than did the regular probationers. These differences are discussed in the following chapter along with policy implications for these findings.

## 5. DISCUSSION AND CONCLUSION

### Review of Research Questions

The three original research questions for this study were:

1. Do probationers view their pasts as preludes to a brighter future or as evidence of incorrigibility?
2. Do participants in HRP court express a stronger sense of agency and a less fatalistic attitude toward the likelihood of future offending than regular probationers?
3. Do participants in HRP court express a stronger motivation to change than regular probationers?

The original questions for this study focused on whether participants in the problem-solving HRP court had substantially different perceptions of themselves and of the probation experience compared to a similar group assigned to a regular probation protocol. Three pairs of constructs were identified in the literature as being indicators of future reoffending or of desistance. The three pairs were Redemption-Condensation, Agency-Fatalism, and Motivation-Complacency. As noted in Table 2 (p. 57), the differences between the two groups on these six constructs were usually not large. However, for four of the six constructs (Redemption, Condensation, Agency, Motivation), a higher percentage of HRP court participants expressed self-perceptions that are more favorable toward desistance from crime. While the differences are not statistically significant, and there is not enough data to support a causal inference, this outcome suggests that a larger study focused on establishing a causal relationship might be worthwhile. For all six of the original constructs, the majority of respondents from

both groups expressed perceptions associated with desistance. This suggests that probation officers' efforts to encourage and support those perceptions among probationers would not meet with much resistance and might produce beneficial outcomes.

### **Summary of Other Findings**

In addition to the six original constructs, the coding process identified several other themes that occurred regularly in the interviews.

#### **Positive Self-Image**

In general, the problems faced by the respondents in this sample are not rooted in negative self-images. While a positive self-image is not necessarily associated with desistance from crime (Andrews, Bonta, & Wormith, 2011), the finding that most respondents think well of themselves in general suggests that efforts aimed at improving offenders' self-images might be misplaced. Instead, officers might want to build on those existing positive self-perceptions and work with offenders to channel those perceptions into actions that lead away from crime.

#### **Probation Perceptions**

Respondents' perceptions of the probation experience were decidedly mixed. Given its punitive nature, negative views of probation are to be expected. What is perhaps less expected is the frequency with which positive perceptions were reported. Most respondents are able to see beyond the punishing aspects of probation and to appreciate

how probation provides structure to their lives and supports their efforts to turn their lives in a more positive direction.

### **Court Effects**

No questions in the interview asked directly about respondents' experiences in court, but comments that reflected these courtroom experiences were commonly mentioned by HRP court participants. The difference between the groups on this construct is the only one that met the threshold of statistical significance. In the problem-solving court under investigation in this study, the judge recounted to a probationer how his own father used to tell him to picture his face whenever he was contemplating doing something bad. The judge then told the probationer, "When you are thinking of doing something bad, I want you to picture my face." The judge believed that his stern countenance coupled with his position of authority served as a deterrent against future offending, and while a comparison of outcomes is beyond the scope of this study, the comments noted on p. 86 suggest that the judge is having his intended effect upon the HRP court probationers.

### **Support System**

Families play a crucial role in the lives of probationers as they attempt to rebuild their lives. In some cases the support was material in the form of transportation and housing, but more often, respondents spoke of the psychological support of knowing that someone believed in them and loved them. The effects of employment had a similar psychological impact. While the benefits of a steady income are important, knowing that

someone was willing to give them a chance and to trust them is an important part of the rehabilitative process.

### **Officer Effects**

With a different set of circumstances, opportunities, and obstacles, the lives of the probationers who participated in this study might have taken very different paths. While in many instances their stories unfolded as tragedies, it often seemed as if their problems were almost inevitable given the situations they were in. They tend to perceive themselves as fundamentally good people who have made a few bad choices or been victims of disadvantaged social environments. Most of the respondents expressed their appreciation for their probation officers and their efforts to treat them as people with unmet needs rather than only as offenders to be punished. While probation may have many negative associations in the minds of both the offender population and the general public, the relationship with their probation officer is clearly a valued source of stability and support for the probationers in this study.

It is possible that the sample is skewed toward an appreciative type of respondent, but it is likely that the officers are aware of the importance of treating probationers with dignity and respect while maintaining professional relationships and the authority that their positions require. It is important for probation officers to maintain their professional distance and not become too emotionally close to probationers, but this does not preclude efforts to be empathetic and supportive. Probationers often lack stability in their lives, and probation officers can play a crucial stabilizing role as is clearly the case among the sample for this study.

### **Program Effects**

Based on the interviews, it is clear that the programs available to probationers are doing many things right. Anger management, drug and alcohol treatment, and cognitive therapy programs all were reported to have positive effects on probationers' lives. Although it was not a dominant theme, the biggest problem noted was the lack of fit between some respondents' needs and the program to which they were assigned. This implies that probationers are aware of their particular problems and know what type of help they need. Given that effective treatment requires active, motivated participation of the participants, getting the right treatment to the right probationers is crucial.

### **Comparison with Prior Probation**

Despite the additional requirements of the HRP court, the experience of being in the problem-solving court compares positively to prior probation experiences among those who have been on probation before. Probationers appear to perceive their inadequacies in managing their lives, and they express appreciation for the extra support, structure, and motivation that the HRP court provides. While probation is often viewed primarily as a form of punishment, the social work element of the probation process, especially as practiced in the HRP court, appears to be understood and appreciated by the respondents.

### **Financial Issues**

Probationers are often on shaky financial ground under the best of circumstances, and the additional monetary burdens imposed by probation are usually significant. These

burdens are multiplied by their status of being convicted felons, and this often leads to the perception that probationers are set up for failure. Despite the compounding effects of probation fees and low-wage jobs, probationers have little choice but to soldier on or else face revocation of their probation and serve their time in a prison cell.

### **Probation as Priority**

Whether probation is primarily meant to punish or to rehabilitate is a debatable point, but among these respondents, probation has many qualities in common with the punishing aspects of incarceration. Probation may be preferable to a prison cell, but the restrictions on their freedoms are strongly felt. Sometimes these restrictions are perceived as limitations that support efforts toward rehabilitation, but more often they are viewed as hindrances that prevent probationers from moving on with their lives. While the frustration the respondents expressed is understandable, given the directions their lives had taken prior to being sentenced to probation, an objective observer would probably conclude that the restrictions serve the purposes of rehabilitation.

### **Effects of Felon Label**

The effect of the felon label can be profound as employers regularly screen for it and presumably reject job applicants because of it. Supporters of a permanent convicted felon label may argue that the best predictor of future behavior is past behavior, but this may become a self-fulfilling prophesy if former offenders are denied the opportunity to support themselves and their families through legitimate means. While someone serving a probated sentence is still in the active phase of their punishment, there does seem to be a

question of fundamental fairness in attaching a permanent stigmatizing label to offenders who have completed their sentences.

### **Policy Implications**

While the findings from this study were not definitive, some overall trends and patterns in the data were strong enough to suggest several avenues for ways to deliver probation services more effectively. None of these suggestions should be interpreted as an argument that the services currently being provided to probationers at the study site are inadequate or counterproductive. Rather, they are offered in the spirit of improving on an effective set of established practices in an office that clearly values its probation officers and the community and probationers they serve. Six areas to be targeted are identified.

#### **Expansion of HRP Court**

Given that one of the largest differences between the HRP court participants and regular probationers was their frequency of noting the beneficial effects of going to court and regularly reporting to the judge, this suggests expanding the use of the HRP court to include more probationers.

Expanding the use of HRP court would pose logistical issues and could reduce the effectiveness of the court. Roughly a third of high-risk, felony probationers are currently in HRP court, and those convicted of sex offenses are excluded from consideration. Another disqualifying factor is residential location. To minimize the inconvenience of the monthly reporting to court, the HRP court excludes those who live more than 30 miles

from the courthouse. Further, if the same judge were to monitor a larger number of cases, it is possible that he might make less of an impression on each probationer as his attentions and energies became more dispersed.

One way to address these obstacles to HRP court expansion is to recruit a second HRP court judge. It is important that this effort be a persuasive one and that the new judge be fully committed to the HRP court philosophy. If the new judge were to see HRP court as just another burdensome duty of his office, then it is likely that it would soon devolve into just another example of “assembly line” justice. The current judge is the originator of the HRP court and brings a level of commitment that might be difficult to match. However, if a new judge was convinced that his efforts were making a real difference in probationers’ lives, then the effects of the HRP court could be maintained and even multiplied.

A second approach to expanding the effects of the HRP court follows the suggestion of Bozza (2007) who argues that most of the goals of problem-solving courts could be achieved by allowing probation officers to use a more vigorous form of probation that would include the imposition of swift and sure sanctions similar to the behavior modification efforts employed by problem-solving court judges. However, this approach comes with considerable risk. One of the dominant themes of the interviews from this study is the value that probationers place upon their relationship with their probation officer. Respondents repeatedly mentioned their perception of their probation officer as a source of help, information, and support. They highly valued their probation officers’ roles as social workers. If probation officers’ roles were to become more judicial

and punitive and less supportive, it might produce the opposite effect upon probationers from what was intended.

### **Support for Probation Officers**

There is considerable support across the political spectrum for a more judicious use of incarceration (Rapoport, 2013; Reddy & Levin, 2013; Williamson, 2013). If current efforts to rein in costs lead to a future that relies less on incarceration and more on community supervision, it will be crucial that the dehumanizing effects of prison not be transferred to the probation departments. While it is important to process probation cases efficiently, the potential benefits of deincarceration are likely to be muted or lost entirely if those efficiencies come at the expense of meaningful, supportive bonds between probation officers and their probationers. If more expectations and responsibilities are to be placed on probation departments, then they must be funded and staffed adequately. Failure to do so risks a return to the attitudes of the “nothing works” era that led to an overreliance on incarceration and a financially unsustainable system of criminal justice.

### **Expansion of Treatment Programs**

The Risk/Need/Responsivity model (Bonta & Andrews, 2007) of offender risk assessment and treatment is the most widely used model (see p. 13). It recognizes that to effectively change offenders’ behaviors, we have to understand their past (risk), their current situation (need), and the treatment has to be an appropriate fit with the particular offender (responsivity). All of this must be done as effectively as possible within the realities of budgetary constraints. These constraints limit the number and variety of

programs that are available and the degree of “tailoring” of these programs to individual needs that is possible.

It is crucial that the criminal justice system’s desire to “do something” with offenders not create the illusion that any effort is better than no effort. Assignment to inappropriate programs leads to anger, frustration, and cynicism toward the system that may do more harm than good. Certainly it is not economically feasible to create an infinite number of treatment programs that are a perfect fit for each probationer’s assessed needs. However, if one takes the long-term view, it is equally fiscally irresponsible to take a one-size-fits-all approach to therapy that creates a misfit between needs and treatment. This approach is ineffective at best and is likely to be counterproductive.

It is important to avoid a penny-wise, pound-foolish mentality when it comes to the creation and funding of treatment programs. When budgetary challenges emerge, it may be tempting to think of offender programs as easily expendable, and politicians will usually face little resistance to such attitudes from the electorate. However, given the costs of incarceration compared to supervision in the community (Legislative Budget Board, 2011; Pew Center on the States, 2009), and given the costs of processing recidivists back into the prison system, this short term mentality toward offender treatment can impose a heavy financial burden in the long run.

A generation of criminal justice researchers has refuted Martinson’s (1974) retracted (1979) contention that “nothing works” to rehabilitate offenders. Clearly there is no program that always works, and there are offenders who appear to be impossible to

reach with any program, but this does not justify a conclusion that effective programs are not a wise investment of public dollars.

Those who favor a “get tough” approach know that we lack the financial resources and the will to incarcerate all felons forever, and it is clear that incarceration without treatment sends offenders back to their communities with a higher likelihood of committing more crimes (Cullen & Gendreau, 2000). Effective programs that address offenders’ criminogenic needs is a win/win/win situation. The offenders get the help they need to live productive lives, crime is reduced, and money is saved.

### **Probation as an Accomplishment**

Having successfully completed a daunting series of probation requirements that includes paying substantial fees and fines, maintaining employment, getting therapeutic treatment, attending meetings, regular reporting to their probation officer, and abstaining from drugs and alcohol, the successful probationer is rewarded with a life-long “felon” label and perhaps a wish for good luck, which they will surely need as they attempt to rebuild their lives in a society that often turns its back on them.

Given the difficulties that convicted felons have in their efforts to reintegrate into society, one way to address this issue is to work to reshape the public’s perception, especially employers, of what it means to have successfully completed a probated sentence. It is probably naïve to imagine that an employer might look upon a former probationer as a more desirable hire than someone with a clean criminal record, but the fact is that for many offenders, the successful completion of probation is a real accomplishment, sometimes the most substantial one in their lives, that requires exactly

the types of skills and character that employers claim to desire. Rather than seeing probationers as people who have been given a break by avoiding prison, completing probation could be viewed as a positive accomplishment that is indicative of one who possesses admirable qualities, especially perseverance in the face of adversity.

Both the effectiveness and the vulnerability of government programs aimed at employing ex-offenders is illustrated by Texas' Project RIO (Reintegration of Offenders), a state-funded program that worked both inside and outside of the prisons to train offenders and to match them with employers. Despite the evidence of the program's effectiveness (Finn, 1998; Menon et al., 1992), the legislature defunded the program in 2011 in response to a state budget shortfall (Jones, 2011).

An alternative approach to fostering this crucial change in the perception of probationers would be for probation departments to develop relationships with a select group of employers who fully appreciate the risks and rewards of working with ex-offenders. While this approach might involve a large government bureaucracy, it could also be developed on the local level in a more creative and informal way. This approach would allow a more tailored program that fits local residents with local employers as opposed to a bureaucratic uniform approach that would inevitably be a poor fit in some cases. A local, free-market approach is more in line with current political and economic thinking and realities. Probation departments could be incentivized by the state to develop effective local employment initiatives with state support based upon successful job placements. These incentives would involve budgeting of public funds, but the savings would be realized as the investment yields more employed citizens and a reduced rate of reoffending. The time for such a program might be right given the passage of a

new state law that limits the liability of employers that hire ex-offenders (HB 1188, 2013).

On a more pragmatic level, another way to create an incentive for desistance could be to reward probationers incrementally as they progress through their sentence. Given the financial challenges that most probationers face, a series of fee reductions based on the number of months of successful compliance with probation rules could serve as a powerful motivator for reform.

This type of cultural change will be very challenging to bring about. The occasional rehabilitative failure that leads to reoffending, especially if the employer is the victim, will be magnified out of proportion and used as evidence that rehabilitation does not work. A tailored approach will help to reduce these instances by careful selection and placement of those probationers who show the most promise. To some degree, the culture of distrust can be changed from within as probationers who appreciate the opportunity for steady employment will serve as examples of the change that can occur given opportunity and support. While the risks to such a plan are considerable, so is the up-side potential for employers, probationers, and tax-payers.

### **Peer Mentoring**

Comments from some probationers regarding helping others learn from their experiences imply that there might be potential in some type of a peer mentoring program wherein probationers who have successfully completed their probation could act as mentors to others who may perceive the requirements as impossible or that they have been set up to fail. There is very little mention of such probation peer mentoring

programs in the literature, and what few there are seem to be concentrated in the United Kingdom (Fletcher & Batty, 2012).

Critics will point to the risks of innovations such as probation peer mentors, and they will also point out the lack of evidence for their effectiveness. However, failure to try new approaches does not necessarily reduce the inherently risky nature of any type of rehabilitative effort. Failure is always a risk, whether that risk is the failure of the probationer to successfully complete his sentence or the failure to provide adequate support to those who would benefit from it. If one looks only at the risk side of the equation and ignores the benefits side, that would argue for the complete elimination of probation given that the risk for victimizing the public is virtually eliminated for those in prison.

A probation peer-mentoring program is not as much of a conceptual stretch as might first be imagined. Alcoholics Anonymous and Narcotics Anonymous have been using this approach for many years as those who struggle daily with drug and alcohol issues serve as guides to others with the same challenges. Just as the AA/NA model could provide guidance for such a program, it would also serve as a guide to what not to do. Participants in AA and NA are discouraged from forming relationships with other participants outside of the group due to the risk of reinforcing negative behaviors and attitudes among participants who are tempted to regress to alcohol or drug use. A probation peer-mentoring program would need to operate under similar guidelines so that the peer mentoring that occurs leads away from reoffending rather than towards it.

The great advantage of such a program is the credibility that successful probationers would bring to the discussion. Probationers' complaints that no one

understands how hard probation is could be quickly dismissed, and energies could be focused on more positive strategies for moving forward with their lives. While the focus of a mentoring program would be to support the mentees in their efforts toward rehabilitation, the other potential benefit would be the therapeutic effect upon the mentors as they bolster their redemptive identity through their efforts to help others learn from their mistakes.

### **Maintenance of Family Support**

One of the purported advantages of probation over prison is that it allows the continuation of family relationships that are severely strained by incarceration. Given the important role that families play in these respondents' lives and the empirical evidence that maintenance of those ties reduces recidivism (Flavin, 2004; Hairston, 1991; Wright & Wright, 1994), there seems to be some potential to capitalize upon family ties to reinforce the goals of probation. These efforts must be judiciously applied on a case-by-case basis to avoid fostering family ties that would lead to further victimization of either probationers or members of their families upon whom they have preyed in the past. However, in cases where the familial relationships are supportive, motivating, and nurturing, efforts to maintain and reinforce those ties would appear to serve the goal of leading probationers away from future offending.

## **Theoretical Implications**

### **Learning Theory**

Among the requirements of probation is the expectation that probationers will refrain from keeping company with anti-social companions. This requirement is supported by learning theory in general and by differential association theory in particular. Differential association theory argues that criminal behaviors are learned in the same way that other behaviors are learned and that criminals are motivated by the same needs and values as non-criminals (Sutherland, 1947). Akers' (1985) version of learning theory emphasizes that everyone experiences conflicting influences regarding the importance of adhering to norms. When that balance shifts to a dominance of influences that favor deviance, the likelihood of criminal behaviors increases.

One of the goals of probation is to shift that balance back toward a preference for conforming behavior. This shift is supported by the requirements to refrain from associating with anti-social peers. A peer-mentoring program that matches former probationers with current probationers would also be supported by learning theory. Such a program might be especially effective for offenders who have few pro-social influences in their lives. While the probation requirement to avoid anti-social association is probably useful, the benefits would be compounded by the addition of the influence of a supportive former probationer who could speak realistically of the benefits of a crime-free life.

### **Social Bonding Theory**

Hirschi's (1969) social bonding theory emphasizes the role of attachments, commitments, involvements, and beliefs in the development of conforming behaviors.

The formation of pro-social bonds is supported by the requirements of probation to maintain employment, participate in rehabilitative programs, and report to the probation officers on a regular basis. All of these activities create attachments, commitments, and involvements in non-deviant activities that leave less room in probationers' lives for anti-social activities. Bonding theory also supports the policy recommendations that efforts should be made to support existing healthy family relationships (p. 117) and to promote probationers as valuable members of the workforce (p. 114). Replacing the anti-social activities that once filled probationers' lives with activities that produce positive social bonds should decrease their likelihood of reoffending. To the degree that the HRP court judge can use his authority to emphasize and reinforce these pro-social probation practices, bonding theory suggests that these efforts are worth the investment.

### **Labeling Theory**

Changing someone's self-perceptions may be a daunting task, especially for adults who have held particular views of themselves for a long time. However, efforts to change offenders' self-perceptions may be among the most effective way to reduce reoffending. As long as an offender sees himself as an offender, little in the way of behavioral change can be expected. If the self-perceptions of probationers can be shifted toward non-offending identities, these changes are likely to support the goal of rehabilitation. If probationers already have self perceptions that are associated with desistance, then the focus can shift from changing self-perceptions to reinforcing and building on those positive perceptions that exist.

This study suggests that the probation practices of the HRP court may support these rehabilitative types of changes in self-perception. Although the differences between

the two groups were small, they were generally indicative of a marginal improvement in probationer self-perceptions.

Labeling theory also supports the policy recommendation to promote the positive aspects of completing probation. The felon label that burdens probation completers needs to be coupled with a path to redemption as recommended by the proponents of the reintegrative shaming approach to punishment and rehabilitation (Braithwaite, 1989) . Without a path to social redemption, the barriers created by the felon label work against rehabilitative efforts and may virtually eliminate the effects of all of those positive efforts.

### **Deterrence Theory**

The ability of the HRP court judge to impose immediate sanctions upon those who violate their probation terms is supported by deterrence theory that suggests that the swift application of sanctions is an important element of deterrence. This not only deters those to whom the sanctions are applied, but it may also impact the court participants who witness the imposition of immediate sanctions upon those who meet with the judge's disfavor (Piquero & Pogarsky, 2002).

Questions remain about how long any deterrent effect produced by the HRP court might last. This question could be addressed by a longitudinal study that would track the subjects of this study to see if the HRP court participants had lower rates of arrests in the future than the regular probationers.

## **Limitations**

Given that this research was conducted at a single community supervision office in one rural county (2010 population 131,533), the ability to generalize the results to other sites is limited. This is especially true given the research that indicates that it is one thing to have a program that claims to effectively address the problems of certain populations of probationers, but it is another to assess how well the programs are implemented and the degree to which they adhere to their own written procedures (Lutze, Johnson, Clear, Letessa, & Slate, 2012). Even if the HRP court is effective at increasing probationers' sense of agency, motivation, and redemption, it may be that idiosyncrasies in the court and probation department play a large role, and those qualities may be absent in other programs that appear on the surface to mirror the HRP court. Other limitations include the possibility that all of the constructs that influence probation experiences were not captured and analyzed. For example, criminal history is known to be among the strongest predictors of recidivism (Gendreau, Little, & Goggin, 1996), but this study does not include a comparison of respondents' criminal backgrounds. This is not to say that there is no mention of criminal histories in the interviews, but that is not the focus of this proposed study. Questions about the external validity of the data may also be raised by the particular racial/ethnic characteristics and sex ratio of the sample which is not typical of the state's general felony probation population (see Appendix F, p. 139 for comparison).

The sample size also limits external validity. The number of current participants in HRP court is relatively small (around 20 in a typical month), and while it was hoped that most would choose to participate in the interviews, the final sample size could not be

predicted with certainty. HRP court completers remain on probation after completing the specialized court processes, so there was an opportunity to interview a larger sample that includes both current HRP court participants and completers. Regardless of those details, the sample is a convenience sample of 38 volunteer interviewees, 19 from the HRP group and 19 regular probationers. While it is argued that patterns were found in the descriptive data that provide useful insight into the process of desistance, it cannot be assumed that those same patterns will be found in other problem-solving courts which have different populations and different personnel who interact with clients.

The instrument used to measure agency (Mirowsky/Ross Scale of Perceived Powerless versus Control; see Appendix B) has been validated and is designed to eliminate bias caused by defensiveness and a bias toward respondent agreement (Mirowsky & Ross, 1991). The motivational profile questions have been developed and refined in multiple studies (Burnett, 1992; Farrall, 2002; Healy & O'Donnell, 2008). Despite these efforts, they provide an imperfect measure of the constructs of agency and motivation, given that it is impossible to perfectly match an abstract construct to a concrete measure (Shadish, Cook, & Campbell, 2002). However, this shortcoming is partly addressed by combining these measures with the qualitative interview data.

## **Conclusion**

Broadly speaking, the experiences and perceptions of the HRP court participants and the regular probationers are more alike than they are different. While this might lead to the conclusion that the HRP court is not a particularly effective tool to increase probation success rates, its effects appear to be generally and consistently positive.

Although the differences between the two groups are usually small and only one of the differences rises to the level of statistical significance, the small differences could yield outcomes that make a real difference in outcomes for some probationers. As a practical matter, it is not necessary that all participants in the HRP court have better outcomes than regular probationers. Given the expenses of incarceration compared to probation, a small marginal improvement that results in fewer revocations would still have a significant impact in both the short and long terms.

Regular probation processes are also perceived as being generally beneficial, and the fact that the two groups are so similar can be seen as supporting Bozza's (2007) argument that the effects of problem-solving courts can be achieved without burdening the court or distorting the traditional role of judges. However, in situations where judges choose to support problem-solving courts and are motivated by a sincere desire to augment the probation process, it seems unwise, especially in an environment of scarce resources, to ignore the interests of these judges who want to help. While this may lead to sustainability issues when judge turnover makes program continuity problematic, in situations where a judge wants to be an active part of the probation process, the wiser choice seems to be to err on the side of the judge's inclusion.

### **Suggestions for Future Research**

One important unanswered question is whether the small differences between the perceptions of the HRP court participants and the regular probationers will translate into significantly different outcomes in the long run. Future longitudinal research that tracks this group of participants would help to answer that question.

Another question is how probation officers perceive their roles in the probation process and whether those perceptions lead to better or worse outcomes for their probationers. While it is possible that a more punitive attitude creates a stronger deterrent effect that reduces reoffending, this study suggests that a more supportive approach is certainly appreciated by probationers and leads to attitudes that are associated with desistance. There is also potential in using validated quantitative instruments to survey large populations of probationers to measure the effects of different rehabilitative approaches and programs upon respondents' self-perceptions.

**APPENDIX SECTION**

**APPENDIX A**

Table 3: Evaluations of Problem-Solving Courts

Aos, Miller, & Drake, 2006	drug treatment	meta-analysis	cost savings
Banks & Gottfredson, 2003	drug treatment	survival analysis	reduced recidivism
Belenko 1998, 1999, 2001	drug treatment	meta-analyses	decreased drug use and criminal activity
Butzin, Saum, and Scarpitt, 2002	first offender drug treatment	longitudinal analysis	different outcomes for different groups
Carey & Finigan, 2004	drug treatment	cost analysis	cost savings
Carey, Fuller, & Kissick, 2007	DUI	outcome evaluation	reduced drug use, reduced criminality, cost savings
Dannerbeck et al., 2006	drug treatment	chi square comparison of racial differences	Better outcome for Whites than for Blacks
Davidson, Pasko, & Chesney-Lind, 2011	female juvenile	mixed mode	decreased recidivism, increased pro-social behavior
Deschenes, Ireland, & Kleinpeter, 1996	drug treatment	random assignment	similar recidivism rates as comparison group
Deschenes, Turner, & Greenwood, 1995	drug treatment	random assignment	mixed outcomes
Eibner et al., 2006	DUI	random assignment	generally better outcomes; more costs for minor offender, cost savings for more serious offenders
Fell, Tippetts, & Langston, 2011	DUI	impact analysis	reduced recidivism
Finigan, 1998	first offender drug treatment	historical data/comparison groups	reduced recidivism

Frank & Vegega, 2005	DUI	random assignment	reduced reoffending, questions about costs/benefits
Goldkamp, 1996	hybrid domestic violence/drug court	mixed mode	tentative evidence of better outcomes
Goldkamp and Weiland, 1993	drug treatment	historical data/comparison groups	decreased drug use and criminal activity
Gottfredson et al., 2007	Drug treatment	Random assignment	Drug treatment reduces drug use which reduces crime
Gottfredson, Kearley, & Bushway, 2008	Drug treatment	Random assignment	DTC reduced drug use
Gottfredson, Najaka, and Kearly, 2003	drug treatment	random assignment	reduced recidivism, improved life chances, doubts about cost reductions
Grover, MacDonald, & Alpert, 2006	domestic violence	interrupted time series	Cost savings, lower recidivism
Harrell, Cavanaugh, & Roman, 1998	drug treatment	meta-analysis	reduced drug use, reduced short term criminality, questions about long-term effectiveness
Hawken & Kleiman, 2009	drug treatment	random assignment	fewer positive drug tests, lower rates of rearrest
Johnson & Latessa, 2000	drug treatment	quasi-experiment/matched groups	reduced rearrests
Jones, 2011	DUI	random assignment/survival analysis	more effective than standard probation at reducing reoffending
Kalich & Evans, 2006	drug treatment	historical data/comparison groups	reduced rearrests at 6, 9, & 12 months
Labriola, Rempel, & Davis, 2005	domestic violence	random assignment and quasi-experiment	no significant differences between treatment groups

Latessa et al., 2001	drug treatment	quasi-experiment/ matched groups	treatment group had fewer rearrests, fewer drug charges, program completers better outcomes than non-completers
Listwan, Shaffer, & Latessa, 2001	drug treatment	quasi-experiment/ matched groups	reduced rearrests
MacDonald et al., 2007	DUI	random assignment	few differences between groups
Mackin et al., 2009	DUI	outcome and cost analysis	slightly better outcomes than comparison group, differences produce significant cost savings
Marchand, Waller, & Carey, 2006	drug treatment	mixed mode	reduced drug use, reduced recidivism, substantial cost savings
Mullaney & Peat, 2008	drug treatment	process evaluation	education, employment, criminal history, best predictors of program completion; completers less recidivism than non-participants
Peters and Murrin, 2000	drug treatment	historical data/comparison groups	fewer arrests, reduced drug use
Rempel et al., 2003	drug treatment	quasi-experiment with comparison group	short and long term recidivism reduction for program completers
Ronan, Collins, & Roskey, 2009	DUI	historical data/comparison groups	reduced recidivism
Russell, 2009	veteran treatment court	process and outcome analysis	zero recidivism to date, improved social functioning

Schiff and Terry, 1997	drug treatment	logistic/likelihood of success	white, hi ed. level, low "crack" use predicted better outcomes
Solop et al., 2003	DUI/drug treatment	process and outcome evaluation mixed mode w/random assignment	court's processes perceived as contributing to better outcomes, reduced drug use, reduced criminality, reduced costs
Spohn et al., 2001	drug treatment	historical data/comparison groups	reduced recidivism, risk level as important predictor
Sviridoff et al., 1997	community court	process/impact analysis	reduced neighborhood crime, increased community service compliance
Thompson, 2002	juvenile drug court	quasi-experiment/comparison group	reduced recidivism, reduced costs
Twomey et al., 2010	family drug court	interview assessments at multiple time periods	short term improvements, but difficult to maintain progress
Vito and Tewksbury, 1998	drug treatment	quasi-experiment with comparison group	reduced recidivism, program completion best predictor of success
Wolfe, Guydish, and Termond, 2002	drug treatment	historical data/comparison groups	youth, male, prior history, failure to complete predicted short-term rearrest, no long term differences

## APPENDIX B

### **Mirowsky/Ross Scale of Perceived Powerlessness versus Control**

#### Control over Good Outcomes

1. I am responsible for my own successes
2. I can do just about anything I really set my mind to

#### Control over Bad Outcomes

3. My misfortunes are the result of mistakes I have made
4. I am responsible for my failures

#### Lack of Control over Good Outcomes

5. The really good things that happen to me are mostly luck
6. There is no sense planning a lot – if something good is going to happen, it will

#### Lack of Control over Bad Outcomes

7. Most of my problems are due to bad breaks
8. I have little control over the bad things that happen to me

Responses to the Perceived Powerlessness questions (5-8) are coded -2 = strongly disagree, -1 = disagree, 0 = neutral, 1 = agree, 2 = strongly agree. Responses to Questions on Perceived Control are coded in reverse. Following Geis and Ross (1998), a mean Perceived Powerlessness score will be produced for each respondent.

## APPENDIX C

### **Invitation to participate**

Greetings,

You have been selected to participate in a study of probation from the probationer's point of view. The study is being conducted by Steve Boehm, a PhD student at Texas State University. The study is designed to learn more about how probationers view themselves. It is hoped that information from this study will help support probationers' efforts to successfully complete their probation.

Your participation is completely voluntary, but if you choose not to participate, there is no penalty. If you choose to participate, you may refuse to answer any questions, and you may change your mind and withdraw from the study at any time. You will not be asked to reveal any incriminating information. Your probation officer will know that you are participating in the study, but your responses to the questions will be private.

In appreciation for your participation, the time you spend in the interview will be counted toward your community service hours. The interview is estimated to last around one hour.

Thank you for considering participating in this study.

Sincerely,

Steve Boehm

## APPENDIX D

### Consent Form

Thank you for your interest and agreement to participate in this research. The study is designed to learn more about how probationers view themselves. It is hoped that information from this study will help support probationers' efforts to successfully complete their probation. The study is being conducted by Steve Boehm, a PhD student in Criminal Justice at Texas State University who is employed as a lecturer at Texas Lutheran University. Mr. Boehm is not an officer of the court and has no legal authority over you. If you have any questions or concerns about the study, you may contact the researcher at:

Steve Boehm  
Texas Lutheran University  
1000 West Court Street  
Seguin, Texas 78155  
(830) 372-6098  
[sboehm@tlu.edu](mailto:sboehm@tlu.edu)

Dr. Joycelyn Pollock  
Department of Criminal Justice  
Texas State University  
San Marcos, TX 78666  
(512) 245- 7706  
[jp12@txstate.edu](mailto:jp12@txstate.edu)

The researcher will ask you to comment about your past, your present, and how you imagine your future might be. Some questions can be answered with simple "yes" or "no" answers, but most of them will ask you to speak freely about what is most important to you. **You will not be asked to reveal any criminal behaviors and you should not do so as the researcher could be required to reveal such information in court.** An example of a question you will be asked is: How hard will it be for you to successfully complete your probation?

Your probation officer will know that you participated in the study, but your answers to the questions are confidential. In the paper that is produced from this study, either a code name or a code number will be assigned to your answers. Your real name will not be used. Your responses will be kept in a locked file cabinet inside a locked office at Texas Lutheran University until the study is completed. After the study is completed, all recordings and transcripts of your information will be destroyed. If you would like to

receive a summary of the study when it is completed, one will be provided to you.

I will ask for your permission to make a digital audio voice recording of your answers so that I can record them as accurately as possible. If you are uncomfortable with your answers being recorded in that way, I will type your responses into a computer word processing program.

Your participation in this study is completely voluntary. You may refuse to answer any question, and you may change your mind at any time and withdraw from the study. If you withdraw from the study, all of your answers will be destroyed and will not be included in the final results. If you agree to have your voice digitally recorded, you may tell me to stop the recording at any time.

It is hoped that you will find the interview to be interesting, but if anything about it makes you uncomfortable, you may stop answering questions at any time. If at the conclusion of the interview you feel disturbed or anxious about any of the topics discussed, you might want to seek counseling. Such services will be charged to you on a sliding scale based on your ability to pay at

The Teddy Buerger Center  
1331 West Court Street  
Seguin, TX 78155  
(830) 401-7367

You may also receive an immediate assessment of mental health needs and support services by calling Bluebonnet Trails Community Services through their 24-hour crisis hotline at 1-800-841-1255.

The interview is estimated to last around one hour. The time you spend in the interview will be documented and will be counted toward your community service hours. Other than that, your decision to participate in or withdraw from this study will have no effect upon your probation, either good or bad.

If you have any other concerns about this study, you may contact:

Dr. Jon Lasser (512-245-3413 – [lasser@txstate.edu](mailto:lasser@txstate.edu)), or to Ms. Becky Northcut, Compliance Specialist (512-245-2102).

My signature below indicates that I am willingly volunteering to participate in this study. I understand that I may withdraw from the study at any time with no penalty.

---

Signature of participant

---

Date

---

Signature of researcher

---

Date

## APPENDIX E

### Interview Guide

First General Question:

"I want you to tell me about your life as if it was a story.

Start with,.... I was born .... and go from there telling me about your life, what your family was like growing up, your school, your first job, experience with the criminal justice system, everything in order just as if it was a story."

What is it like to be on probation?

If on probation before, compare experiences??

Can you describe your relationship with your probation officer?

How did you feel when you were first sentenced to probation?

How have your feelings about probation changed?

Agency v. Fatalism Questions:

What kind of circumstances led to your being on probation?

What types of decisions and influences and people were involved?

How hard will it be for you to successfully complete your probation?

What sorts of things will help you successfully complete your probation?

What will be the biggest challenges?

What is your personal support system like?

e.g., family, employer, friends, organizations

Motivation v. Complacency Questions: What goals do you have?

What will you have to do to reach those goals?

What stands between you and your goals?

Redemption v. Condemnation Questions:

In general, how would you describe yourself as a person?

How have you changed as a person over the past year or so?

How do you imagine your life 5 years from now?

Do you think you will still be involved in the CJ system? Why or why not?

What will your family situation be like?

Mirowsky/Ross scale questions and Motivational Profile questions

Give sheet – Confidential (I will code and read later)

Read aloud but answer privately on paper

Demographic questions:

Age:

Race/Ethnicity:

Sex:

Beginning of probated sentence:

HRP court?      Yes      No

Is there anything else you would like to comment on?

Do you have any questions for me?

Record interview end time

APPENDIX F

Table 4: State and Sample Probation Demographics

	State Felony Probationer Demographics	Sample Demographics
Average Age	35	35.1
Male	73%	87%
Female	27%	13%
Black	24%	8%
White	40%	37%
Hispanic	35%	55%

## REFERENCES

- Agar, M. (1980). *The professional stranger: An informal introduction to ethnography*. San Diego, CA: Academic Press.
- Akers, R. (1985). *Deviant behavior: A social learning approach*. Belmont, CA: Wadsworth.
- Andrews, D., Bonta, J., & Hoge, R. (1990). Classification for effective rehabilitation: Rediscovering psychology. *Criminal Justice and Behavior*, 17, 19-52.
- Andrews, D., Bonta, J., & Wormith, S. (2006). The recent past and near future of risk and/or need assessment. *Crime & Delinquency*, 52(1), 7-27.
- Andrews, D., Bonta, J., & Wormith, S. (2011). The Risk-Need-Responsivity (RNR) model: Does adding the Good Lives Model contribute to effective crime prevention? *Criminal Justice and Behavior*, 38(7), 735-755.
- Andrews, D., & Dowden, C. (2006). Risk principle of case classification in correctional treatment: A meta-analytic investigation. *International Journal of Offender Therapy and Comparative Criminology*, 50(1), 88-100.
- Aos, S., Miller, M., & Drake, E. (2006). *Evidence-based public policy options to reduce future prison construction, criminal justice costs, and crime rates*. Olympia, Washington: Washington State Institute for Public Policy.
- Apel, R., & Nagin, D. (2011). Deterrence. In (Michael Tonry, ed.), *The Oxford Handbook on Crime and Criminal Justice*. New York: Oxford University Press.
- Aspers, P. (2009). Empirical phenomenology: A qualitative research approach. *The Indo-Pacific Journal of Phenomenology*, 9(2), 1-12.

- Beccaria, C. (1764). On crimes and punishments. in J. Jacoby, T. Severance, & A. Bruce (Eds.) *Classics of Criminology*, pp. 406-414, fourth edition (2012). Long Grove, IL: Waveland Press.
- Becker, H. (1963). *Outsiders: Studies in the Sociology of Deviance*. New York: Free Press.
- Belenko, S. (1998). Research on drug courts: A critical review. *National Drug Court Institute Review*, 1(1), 1-42.
- Beleko, S. (1999). Research on drug courts: A critical review update 1999. *National Drug Court Institute Review*, 2(2), 1-59.
- Belenko, S. (2001). *Research on drug courts: A critical review*. New York: The National Center on Addiction and Substance Abuse, Columbia University.
- Bentham, J. (1996). *An introduction to the principles of morals and legislation*. Originally published 1781. New York: Oxford University Press.
- Berman, G. (2000). What is a traditional judge anyway?: Problem solving in the state courts. *Judicature*, 84: 78-85.
- Berman, G., & Feinblatt, J. (2001). Problem-solving courts: A brief primer. *Law and Policy*, 23(2), 125–140.
- Berman, G., & Feinblatt, J. (2005). *Good courts: The case for problem-solving justice*. New York: New Press.
- Berman, G., & Gulick, A. (2003). Just the (Unwieldy, Hard to Gather, But Nonetheless Essential) Facts, Ma'am: What We Know and Don't Know about Problem-Solving Courts. *Fordham Urban Law Journal*, 30(3), 1027-1053.

- Bonta, J. & Andrews, D. (2007). *Risk-Need-Responsivity model for offender assessment and rehabilitation*. Her Majesty the Queen in Right of Canada. Retrieved from [http://securitepubliquecanada.gc.ca/res/cor/rep/\\_fl/Risk\\_Need\\_2007-06\\_e.pdf](http://securitepubliquecanada.gc.ca/res/cor/rep/_fl/Risk_Need_2007-06_e.pdf)
- Bower, K. (2003). When to use Fisher's exact test. *Six Sigma Forum Magazine*, 2(4), 35-37.
- Bozza, J. (2007). Benevolent behavior modification: Understanding the nature and limitations of problem-solving courts. *Widener Law Journal*, 17, 97-143.
- Braithwaite, J. (1989). *Crime, shame, and reintegration*. New York: Cambridge University Press.
- Burnett, R. (1992) *The Dynamics of Recidivism*. Oxford: University of Oxford, Centre for Criminological Research.
- Carey, S. & Finigan, M. (2004). *A detailed cost analysis in a mature drug court setting: A cost-benefit evaluation of the Multnomah County drug court*. Portland, Oregon: NPC Research, Inc.
- Casey, P., & Rottman, D. (2005). Problem-solving courts: Models and trends. *Justice System Journal*, 26(1), 35-56.
- Charmaz, K. (2006). *Constructing grounded theory*. London: Sage.
- Cid, J. (2009). Is imprisonment criminogenic? A comparative study of recidivism rates between prison and suspended prison sanctions. *European Journal of Criminology*, 6(6), 459-480.
- Clear, T., & Hardyman, P. (1990). The new intensive supervision movement. *Crime & Delinquency*, 36(1), 42-60.

- Comptroller General of the United States (1976). *State and county probation: Systems in crisis, Report to the Congress of the United States*. Washington, D.C.: U.S. Government Printing Office.
- Cooley, C. (1983). *Human nature and the social order*. Piscataway, NJ: Transaction Publishers. (Original work published 1902).
- Cooper, C. (2007). Drug courts – Just the beginning: Getting other areas of public policy in sync. *Substance Use & Misuse*, 42, 243-256.
- Creswell, J. (2007). *Qualitative inquiry & research design: Choosing among five approaches*. Thousand Oaks, CA: Sage Publications.
- Cullen, F., & Gendreau, P. (2000). Assessing correctional rehabilitation: Policy, practice, and prospects. *Criminal Justice*, 3, 109-175.
- Cullen, F., & Gilbert, K. (2012). *Reaffirming rehabilitation*. New York: Elsevier.
- Cullen, F., Myer, A., & Latessa, E. (2009). Eight lessons from *Moneyball*: The high cost of ignoring evidence-based corrections. *Victims and Offenders*, 4, 197–213.
- Curtis, R., Ostrom, B., Rottman, D., & Sviridoff, M. (2000). *Dispensing justice locally: The implementation and effects of the midtown community court*. Amsterdam: Harwood Academic Publishers.
- Davidson, J., Pasko, L., & Chesney-Lind, M. (2011). “She’s way too good to lose”: An evaluation of Honolulu’s girls court. *Women & Criminal Justice*, 21, 308-327.
- Deschenes, E., Ireland, C., & Kleinpeter, C. (2009). Enhancing drug court success. *Journal of Offender Rehabilitation*, 48, 19–36.

- Deschenes, E., Turner, S., Greenwood, P., & Chiesa, J. (1996). An experimental evaluation of drug testing and treatment interventions for probationers in Maricopa County, Arizona. National Institute of Justice. Retrieved from <http://www.rand.org/pubs/drafts/2008/DRU1387.pdf>
- Deschenes, E., Turner, S., & Petersilia, J. (1995). A dual experiment in intensive community supervision: Minnesota's prison diversion and enhanced supervised release programs. *The Prison Journal*, 75(3), 330-356.
- Dorf, M. & Fagan, J. (2003). Problem-solving courts: From innovation to institutionalization. *The American Criminal Law Review*, 40(4), 1501-1511.
- Dowden C., & Andrews, D. (2004). The importance of staff practice in delivering effective correctional treatment: A meta-analytic review of core correctional practice. *International Journal of Offender Therapy and Comparative Criminology*, 48(2), 203-214.
- Dressler, D. (1962). *Practice and theory of probation and parole*. New York: Columbia University Press.
- Eisner, E. (1991). *The enlightened eye: Qualitative inquiry and the enhancement of education practice*. New York: Macmillan.
- Farabee, D. (2005). *Rethinking rehabilitation: Why can't we reform our criminals?* Washington, D.C.: AEI Press.
- Farole, D., Puffett, N., Rempel, M., & Byrne, F. (2005). Applying problem-solving principles in mainstream courts: Lessons for state courts. *The Justice System Journal*, 26(1), 57-75.

- Farrall, S. (2002). *Rethinking what works with offenders: Probation, social context and desistance from crime*. Cullompton: Willan Publishing.
- Finn, P. (1998). Texas' Project RIO (Re-Integration of Offenders). National Institute of Justice. Retrieved from [www.ncjrs.gov/pdffiles/168637.pdf](http://www.ncjrs.gov/pdffiles/168637.pdf)
- Fischer, M., & Geiger, B. (2011). What "works" in drug court: A bottom-up female participants perspective. *Journal of Human Behavior in the Social Environment*, 21, 752-765.
- Flavin, J. (2004). Employment counseling, housing assistance ... and Aunt Yolanda? How strengthening families' social capital can reduce recidivism. *Criminology & Public Policy*, 3, 209-216.
- Fletcher, D., & Batty, E. (2012). Offender peer interventions: What do we know? *Centre for Regional Economic and Social Research*. Retrieved from <http://www.shu.ac.uk/research/cresr/sites/shu.ac.uk/files/offender-peer-interventions.pdf>
- Foucault, M. (1977). *Discipline and punish*. New York: Pantheon.
- Gates, G., & Camp, S. (2009). Unintended consequences: Experimental evidence for the criminogenic effect of prison security level placement on post-release recidivism. *Journal of Experimental Criminology*, 5(2), 139-162.
- Geis, K., & Ross, C. (1998). A new look at urban alienation: The effect of neighborhood disorder on perceived powerlessness. *Social Psychology Quarterly*, 61(3), 232-246.
- Gendreau, P., Little, T., & Goggin, C. (1996). A meta-analysis of the predictors of adult offender recidivism: What works! *Criminology*, 3(4), 575-607.

- Gibbs, J. (1975). *Crime, punishment, and deterrence*. New York: Elsevier.
- Giordano, P., Cernkovich, S., & Rudolph, J. (2002). Gender, crime and desistance: Toward a theory of cognitive transformation. *American Journal of Sociology*, 107(4), 990-1064.
- Glasser, B., & Strauss, A. (1967). *The discovery of grounded theory*. Chicago: Aldine.
- Glaze, R., & Bonczar, T. (2011). Probation and parole in the United States, 2010. *Bureau of Justice Statistics*. Retrieved from <http://bjs.ojp.usdoj.gov/content/pub/pdf/ppus10.pdf>
- Glueck, S., & Glueck, E. (1940). *Juvenile delinquents grown up*. New York: Commonwealth Fund.
- Goldcamp, J., & Wieland, D. (1993). *Assessing the impact of Dade County's felony drug court: Final report*. Washington, DC: U.S. Department of Justice, National Institute of Justice.
- Goffman, E. (1963). *Stigma*. London: Penguin.
- Gottfredson, D., Kearley, B., Najaka, S., & Rocha, C. (2007). How drug treatment courts work. *Journal of Research in Crime and Delinquency*, 44, 3-35.
- Grasmick, H., & Bryjak, G. (1980). The deterrent effect of perceived severity of punishment. *Social Forces*, 59(2), 471-491.
- Green, B., Furrer, C., Worcel, S., Burrus, S., & Finigan, M. (2007). How effective are family treatment drug courts: Outcomes from a four-site national study. *Child Maltreatment*, 12(1), 43-59.
- Groenewald, T. (2004). A phenomenological research design illustrated. *International Journal of Qualitative Methods*, 4(1), 1-25.

- HB1188 (2013). 83<sup>rd</sup> Legislative Session Bills. *Texas Tribune*. Retrieved from <http://www.texastribune.org/session/83R/bills/HB1188/>
- Hairston, C. (1991). Family ties during imprisonment: Important to whom and for what? *Journal of Sociology and Social Welfare*, 18, 87.
- Hawken, A. (2010). The message from Hawaii: HOPE for probation. *Perspectives: The Journal of the American Probation and Parole Association* 34(3), 36–49.
- Hawken, A. & Kleiman, M. (2009) *Managing drug involved probations with swift and certain sanctions: Evaluating Hawaii's HOPE*. Washington, D.C.: U.S. Department of Justice, National Institute of Justice.
- Healy, D., & O'Donnell, I. (2008). Calling time on crime: Motivation, generativity and agency in Irish probationers. *Probation Journal*, 55, 25-38.
- Hepburn, J., & Harvey, A. (2007). The effect of the threat of legal sanction on program retention and completion: Is that why they stay in drug court? *Crime & Delinquency*, 53(2), 255-280.
- Hiller, M., Malluche, D., Bryan, V., DuPont, M., Martin, B., Abensur, R., Lukefeld, C., & Payne, C. (2010). A multisite description of juvenile drug courts. *International Journal of Offender Therapy and Comparative Criminology*, 54(2), 213-235.
- Hirschi, T. (1969). *Causes of delinquency*. Berkeley, CA: University of California Press.
- Holloway, K. (2010). Community supervision in Oklahoma goes evidence-based. *Corrections Today*, 72(3), 76-79.
- Horney, J., & Marshall, I. (1992). Risk perceptions among serious offenders: The role of crime and punishment. *Criminology*, 30(4), 575-594.

- Huddleston, C., Marlowe, D., & Casebolt, R. (2008). Painting the current picture: A national report card on drug courts and other problem solving court programs in the United States. National Drug Court Institute. Retrieved July 20 from [http://www.ndci.org/sites/default/files/ndci/PCPII1\\_web%5B1%5D.pdf](http://www.ndci.org/sites/default/files/ndci/PCPII1_web%5B1%5D.pdf)
- Humphrey, J., Burford, G., & Dye M. (2012). A longitudinal analysis of reparative probation and recidivism. *Criminal Justice Studies*, 25(2), 117-130.
- Irwin, J. (1970). *The felon*. Berkeley, CA: University of California Press.
- Jalbert, S. & Rhodes, W. (2012). Reduced caseloads improve probation outcomes. *Journal of Crime and Justice*, 35(2), 221-238.
- Jalbert, S., Rhodes, W., Flygare, C., & Kane, M. (2001). Testing probation outcomes in an evidence-based practice setting: Reduced caseload size and intensive supervision effectiveness. *Journal of Offender Rehabilitation*, 49, 233-253.
- Jensen, E., Parsons, N., & Mosher, C. (2007). Adult drug treatment courts: A review. *Sociology Compass* 1(2), 552-571.
- Jones, L. (2011). Closeout of Project Reintegration of Offenders Services. Texas Workforce Commission Letter. Retrieved from [www.twc.state.tx.us/boards/wdletters/letters/29-11.pdf](http://www.twc.state.tx.us/boards/wdletters/letters/29-11.pdf)
- Kalich, D. & Evans, R. (2006). Drug court: An effective alternative to incarceration. *Deviant Behavior*, 27, 569-590.
- Kim, D, Joo, H., & McCarty, W. (2008). Risk assessment and classification of day reporting center clients: An actuarial approach. *Criminal Justice and Behavior*, 35, 792-812.

- Laub, J., & Sampson, R. (1993). Turning points in the life course: Why change matters to the study of crime. *Criminology*, 31, 301–325.
- Latessa, E. (2012). Why work is important, and how to improve the effectiveness of correctional reentry programs that target employment. *Criminology & Public Policy*, 11(1), 87-91.
- Legislative Budget Board (2011). Statewide criminal justice recidivism and revocation rates. Retrieved from [http://www.lbb.state.tx.us/PubSafety\\_CrimJustice/3\\_Reports/Recidivism\\_Report\\_2011.pdf](http://www.lbb.state.tx.us/PubSafety_CrimJustice/3_Reports/Recidivism_Report_2011.pdf)
- Lemert, E. (1948). Some aspects of a general theory of sociopathic behavior. *Proceedings of the Pacific Sociological Society. Research Studies, State College of Washington*, 16, 23-29.
- Lincoln, Y., & Guba, E. (1985). *Naturalistic inquiry*. Beverly Hills, CA: Sage.
- Lipsey, M., & Cullen, F. (2007). The effectiveness of correctional rehabilitation: A review of systematic reviews. *Annual Review of Law and Social Science*, 3, 297-320.
- Lipton, D. (1995). *The effectiveness of treatment for drug abusers under criminal supervision*. National Institute of Justice Research Report. Retrieved from <http://books.google.com/books?hl=en&lr=&id=Lbm8MGn6WpwC&oi=fnd&pg=PP1&dq=lipton+what+works+criminal+rehabilitation&ots=6mQ9WYB5jG&sig=tnmKi1B0wmAPjoCzU1FIFEjrqt#v=onepage&q=lipton%20what%20works%20criminal%20rehabilitation&f=false>

- Lloyd, C., & Serin, R. (2012). Agency and outcome expectancies for crime desistance: measuring offenders' personal beliefs about change. *Psychology, Crime & Law*, 18(6), 543-565.
- Lowenkamp, C., Flores, A., Holsinger, A., Makarios, M., & Latessa, E. (2010). Intensive supervision programs: Does program philosophy and the principles of effective intervention matter? *Journal of Criminal Justice*, 38(4), 368-375.
- Lowenkamp, C., & Latessa, E. (2005). Increasing the effectiveness of correctional programming through the risk principle: Identifying offenders for residential placement. *Criminology and Public Policy*, 4 263-290.
- Lurigio, A. (2008). The first 20 years of drug treatment courts: A brief description of their history and impact. *Federal Probation*, 72(1), 13-17.
- Lutze, F., Johnson, W., Clear, T. Latessa, E., & Slate, R. (2012). The future of community corrections is now: Stop dreaming and take action. *Journal of Contemporary Criminal Justice*, 28(1,) 42–59.
- MacKenzie, D. (2000). Evidence-based corrections: Identifying what works. *Crime & Delinquency*, 46(4), 457-471.
- Martinson, R. (1974). What works?—Questions and answers about prison reform. *The Public Interest*, 35, 22–54.
- Martinson, R. (1979). New findings, new views: A note of caution regarding sentencing reform. *Hofstra Law Review*, 7, 243-258.
- Maruna, S. (1999). Desistance and development: The psychosocial process of ‘going straight.’ *The British Criminology Conferences: Selected Proceedings. Volume 2.* Editor: Mike Brogden.

- Maruna, S. (2001). *Making good: How ex-convicts reform and rebuild their lives*. Washington, DC: American Psychological Association.
- Maruna, S. (2004). Desistance from crime and explanatory style: A new direction in the psychology of reform. *Journal of Contemporary Criminal Justice*, 20(2), 184-200.
- Maruna, S., Lebel, T., Mitchell, N., & Naples, M. (2004). Pygmalion in the reintegration process: Desistance from crime through the looking glass. *Psychology, Crime & Law*, 10(3), 271-281.
- Mason, M. (2010). Sample size and saturation in PhD studies using qualitative interviews. *Forum: Qualitative Social Research*, 11(3). Retrieved from <http://www.qualitative-research.net/index.php/fqs/article/view/1428/3028>
- McAdams, D. (2001). Coding autobiographical episodes for themes of agency and communion. Retrieved from [http://www.sesp.northwestern.edu/docs/Agency\\_Communion01.pdf](http://www.sesp.northwestern.edu/docs/Agency_Communion01.pdf)
- McAnany, P., Thomson, D., & Fogel, D. (1984). *Probation and justice: Reconsideration of mission*. Cambridge, MA: Oelgeschlager, Gunn & Hain.
- McNeill, F., Batchelor, S., Burnett, R. & Knox, J. (2005). *21st Century Social Work Reducing Re-offending: Key Practice Skills*. Glasgow School of Social Work: Edinburgh, Scotland.
- Mead, G. (1934). *Mind, self, and society*. Chicago: University of Chicago Press.
- Mednick, B., Baker, R., & Carothers, L. (1990). Patterns of family instability and crime: The association of timing of the family's disruption with subsequent adolescent and young adult criminality. *Journal of Youth and Adolescence*, 19(3), 201-220.

- Menon, R., Blakely, C., Carmichael, D., & Silver, L. (1992). *An evaluation of Project RIO outcomes: An evaluative report*. Texas A&M University, Public Policy Resources Laboratory, College Station.
- Meredith, T., Speir, J., & Johnson, S. (2007). Developing and implementing automated risk assessments in parole. *Justice Research and Policy*, 9, 1-24.
- Merrington, S. (2006). Is more better? The value and potential of intensive supervision probation. *Probation Journal*, 53(4), 247-360.
- Merton, R. (1968). *Social theory and social structure*. New York: Free Press.
- Miles, M., & Huberman, A. (1994). *Qualitative data analysis: A sourcebook of new methods*. Thousand Oaks, CA: Sage.
- Mirchandani, R. (2008). Beyond therapy: Problem-solving courts and the deliberative democratic state. *Law & Social Inquiry*, 33(4), 853-893.
- Mirowski, J., & Ross, C. (1991). Eliminating defense and agreement bias from measures of the sense of control: A 2 x 2 index. *Social Psychology Quarterly*, 54(2), 127-145.
- Moustakas, C. (1994). *Phenomenological research methods*. Thousand Oaks, CA: Sage.
- Nolan, J. (2002). Drug treat courts and the disease paradigm. *Substance Use & Misuse*, 37(12&13), 1723-1750.
- Palmer, T. (1975). Martinson revisited. *Journal of Research in Crime and Delinquency*, 12 133-152.
- Paparozzi, M., & Gendreau, P. (2005). An intensive supervision program that worked: Service delivery, professional orientation, and organizational supportiveness. *The Prison Journal*, 85(4), 445-466.

- Paternoster, R. (1989). Decisions to participate in and desist from four types of common delinquency: Deterrence and the rational choice perspective. *Law and Society Review, 23*, 7-40.
- Paternoster, R., & Piquero, A. (1995). Reconceptualizing deterrence: An empirical test of personal and vicarious experiences. *Journal of Research in Crime and Delinquency, 32*(3), 251-286.
- Payne, J. (2006). *Specialty courts: current issues and future prospects*. Trends and Issues in Crime and Criminal Justice. Australian Institute of Criminology. Retrieved from <http://www.aic.gov.au/documents/A/8/E/%7BA8EACDBF-3072-4300-9FD5-BE6E42B18D49%7Dtandi317.pdf>
- Pearson, F., & Lipton, D. (1999). A meta-analytic review of the effectiveness of Corrections-based treatments for drug abuse. *The Prison Journal, 79*(4), 384-410.
- Petersilia, J. (1990). Conditions that permit intensive supervision programs to survive. *Crime & Delinquency, 36*(1), 126-145.
- Petersilia, J. (1997). Probation in the United States. *Crime and Justice, 22*, 149-200.
- Petersilia, J. (2003). *When prisoners come home: Parole and prisoner reentry*. New York, NY: Oxford University Press.
- Petersilia, J. (2011). Beyond the prison bubble. *Federal Probation, 75*(1), 2-4.
- Petersilia, J., & Turner, S. (1990). Comparing intensive and regular supervision for high-risk probationers: Early results from an experiment in California. *Crime & Delinquency, 36*(1), 87-111.

- Petersilia, J., & Turner, S. (1993). Intensive probation and parole, in Michal Tonry (ed.) *Crime and Justice: An annual review of research*, University of Chicago Press, pp. 281-335.
- Pew Center on the States (2009). One in 31: The long reach of American corrections. Retrieved from [http://www.pewstates.org/uploadedFiles/PCS\\_Assets/2009/PSPP\\_1in31\\_report\\_FINAL\\_WEB\\_3-26-09.pdf](http://www.pewstates.org/uploadedFiles/PCS_Assets/2009/PSPP_1in31_report_FINAL_WEB_3-26-09.pdf)
- Pew Center on the States (2011). State of recidivism: The revolving door of America's prisons. Washington, D.C.: The Pew Charitable Trusts. Retrieved from [http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/sentencing\\_and\\_corrections/State\\_Recidivism\\_Revolving\\_Door\\_America\\_Prisons%20.pdf](http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/sentencing_and_corrections/State_Recidivism_Revolving_Door_America_Prisons%20.pdf)
- Piquero, A., & Pogarsky, G. (2002). Beyond Stafford and Warr's reconceptualization of deterrence: Personal and vicarious experiences, impulsivity, and offending behavior. *Journal of Research in Crime and Delinquency*, 39(2), 153-186.
- Platt, A. (1969). *The child savers*. Chicago: University of Chicago Press.
- Polakowski, M., Hartley, R., & Bates, L. (2008). Treating the tough cases in juvenile drug court. *Criminal Justice Review*, 33(3), 379-404.
- Polkinghorne, D. (1989) Phenomenological research methods. In R. S. Valle & S Halling (Eds.), *Existential-phenomenological perspectives in psychology* (pp. 41-60). New York: Plenum Press.
- Rapoport, A. (2013). Prison reform: No longer politically toxic? *The American Prospect*. Retrieved from <http://prospect.org/article/prison-reform-no-longer-politically-toxic>

- Reddy, V., & Levin, M. (2013). Conservatives welcome Eric Holder to the criminal-justice-reform bandwagon. Texas Public Policy Foundation. Retrieved from <http://www.texaspolicy.com/center/effective-justice/opinions/conservatives-welcome-eric-holder-criminal-justice-reform>
- Roman, J., Townsend, W., & Bhati, A. (2003). *National Estimates of Drug Court Recidivism Rates*. Washington, DC: National Institute of Justice, U.S. Department of Justice.
- Ronan, S., Collins, P., & Rosky, J. (2009). The effectiveness of Idaho DUI and misdemeanor/DUI courts: Outcome evaluation. *Journal of Offender Rehabilitation*, 48, 154-165.
- Rotter, J. (1966). Generalized expectancies for internal versus external control of reinforcement. *Psychological Monographs*, 80, 1-28.
- Sampson, R., & Laub, J. (1993). *Crime in the making: Pathways and turning points through life*. Cambridge, MA: Harvard University Press.
- Schütz, A. (1976). *The phenomenology of the social world* (G Walsh & F. Lehnert, Trans.). London: Heinemann Educational Books. (Original work published in 1932).
- Sellen, J., McMurrin, M., Cox, W., Theodosi, E., & Klinger, E. (2006). The Personal Concerns Inventory (Offender Adaptation): Measuring and enhancing motivation to change. *International Journal of Offender Therapy and Comparative Criminology*, 50(3), 294-305.

- Shadimah, C. (2010). Taking a stand in a not-so-perfect world: What's a critical supporter of problem-solving courts to do? *University of Maryland Law Journal of Race, Religion, Gender & Class*, 10, 89-111.
- Shadish, W., Cook, T., & Campbell, D., (2002). *Experimental and quasi-experimental designs for generalized causal inference*. New York: Houghton Mifflin Company.
- Simourd, D. (2004). Use of dynamic risk/need assessment instruments among long-term incarcerated offenders. *Criminal Justice and Behavior*, 31(3), 306-323.
- Slinger, E., & Roesch, R. (2010). Problem-solving courts in Canada: A review and a call for empirically-based evaluation methods. *International Journal of Law and Psychiatry*, 33, 258-264.
- Smith, P., Gendreau, P., & Swartz, K. (2009). Validating the principles of effective intervention: A systematic review of the contributions of meta-analysis in the field of corrections. *Effective Correctional Intervention*, 4(2), 148-169.
- Spelman, W. (2009). Crime, cash, and limited options: Explaining the prison boom. *Criminology & Public Policy*, 8(1), 29-77.
- Stafford, M., & Warr, M. (1993). A reconceptualization of general and specific deterrence. *Journal of Research in Crime and Delinquency*, 30, 123-135.
- Stinchcomb, J. (2010). Drug courts: Conceptual foundation, empirical findings, and policy implications. *Drugs: education, prevention and policy*, 17(2), 148-167.
- Strauss, A., & Corbin, J. (1990). *Basics of qualitative research: Grounded theory procedures and techniques*. Newbury Park, CA: Sage.
- Supreme Court Task Force on Treatment-Based Drug Courts (2004). *Report on Florida's Drug Courts*. Tallahassee, Florida: Office of the State Courts Administrator.

- Sutherland, E. (1947). *Principles of criminology*. Philadelphia: Lippencott.
- Taxman, F. (1999). Graduated sanctions: Stepping into accountable systems and offenders. *Prison Journal*, 79, 182-205.
- Taxman, F. (2008). To be or not to be: Community supervision déjà vu. *Journal of Offender Rehabilitation*, 47(3), 209-219.
- Thomas. W. (1923). *The unadjusted girl*. Oxford, England: Little, Brown.
- Thomas, W., & Thomas, D. (1928). *The child in America: Behavior problems and programs*. New York: Knopf.
- Turner, S., Petersilia, J., & Deschenes, E. (1992). Evaluating intensive supervision probation/parole (ISP) for drug offenders. *Crime & Delinquency*, 38(4), 539-556.
- Twomey, J., Miller-Loncar, C., Hinckley, M., & Lester, B. (2010). After family treatment drug court: Maternal, infant, and permanency outcomes. *Child Welfare*, 89(6), 23-41.
- United States Census Bureau (2012). State and County QuickFacts. Retrieved from <http://quickfacts.census.gov/qfd/states/48/48187.html>
- Vieraitis, L., Kovandzic, T., & Marvell, T. (2007). The criminogenic effects of imprisonment: Evidence from state panel data, 1974-2002. *Criminology & Public Policy*, 6(3), 589-622.
- Ward, T. Mesler, J., & Yates, P. (2007). Reconstructing the Risk-Need-Responsivity model: A theoretical elaboration and evaluation. *Aggression and Violent Behavior*, 12, 08 – 228.

- Weber, M. (1904/1949). Objectivity in social science and social policy” in *The Methodology of the Social Sciences*, E. A. Shils and H. A. Finch (ed. and trans.), New York: Free Press.
- Wexler, D. B. (2001). Robes and rehabilitation: How judges can help offenders “make good.” *Court Review*, 38, 18-23.
- Wexler, D., & Winick, B. (1991). *Essays in Therapeutic Jurisprudence*. Durham, NC: Carolina Academic Press.
- Wiener, R., Winick, B., Georges, L., & Castro, A. (2010). A testable theory of problem solving courts: Avoiding past empirical and legal failures. *International Journal of Law and Psychiatry*, 33, 417-427.
- Williamson, K. (2013). Not too soft, not too hard...but just Right on Crime. *National Review*. Retrieved from <http://www.nationalreview.com/article/358910/not-too-soft-not-too-hard-kevin-d-williamson>
- Wilson, D., Gallagher, C., & MacKenzie, D. (2000). A meta-analysis of corrections-based education, vocation, and work programs for adult offenders. *Journal of Research in Crime & Delinquency*, 37(4), 347-368.
- Wolcott, H. (1994). *Transforming qualitative data: Description, analysis and interpretation*. Thousand Oaks, CA: Sage.
- Wolf, R. (2008). Breaking with tradition: Introducing problem solving in conventional Courts. *International Review of Law Computers & Technology*, 22(1–2), 77–93.
- Wormith, J., Gendreau, P. & Bonta, J. (2012). Deferring to clarity, parsimony, and evidence in reply to Ward, Yates, and Willis. *Criminal Justice and Behavior*, 39(1), 111-120.

Wright, N., & Wright, E. (1994). *Family life, delinquency, and crime: A policymaker's guide*. Office of Juvenile Justice and Delinquency Prevention. Washington, D.C.

Zhang, S., Roberts, E., and Callanan, V. (2006). The cost benefits of providing community-based correctional services: An evaluation of a statewide parole program in California. *Journal of Criminal Justice*, 34(4), 341-350.