Preliminary Questions

This chapter will introduce the application of the strengths perspective to the field of criminal justice. As the development of a background is important for any sketch, four preliminary questions are asked to establish a backdrop:

1. Why does criminal justice focus almost exclusively on problems, failure, and flaws when it is an offender’s strengths, resources, and aspirations that propel law-abiding behavior?

Problems are important and certainly call for our attention, but criminal justice departments who have adopted the strengths perspective understand that problems do not include directions on how to get us past the trouble. Problems may get the ball rolling and start the process, but that is not the same as saying problems will finish the job. Change always comes from a person’s place of power and strength. Criminal justice certainly knows this on some level, yet systemically the methods and practices to elicit, amplify, and utilize strengths are not in place.

2. Why does our field occupy itself with punishment when a host of new meta-analytic research has proven that the exclusive use of punishment—in the absence of treatment—increases criminal behavior?

The persistent nature of the problem arises in the very efforts to solve it. The attempted solution has become the problem. Even though these meta-analyses (Gendreau et al., 2002; Gendreau, Little, & Goggin, 1996; Gibbs, 1986; Taxman, 1999) are very clear that pure punishment makes things worse, the field of criminal justice has found it difficult to transition away from harsh and heavy-handed tactics to more motivational interventions (Walters, Clark, Gingerich, & Meltzer, 2007). Criminal justice seems like a massive naval vessel trying to alter its course. It doesn’t “turn on a dime,” thus, leaving any change of directions to be a slow and cumbersome process.
CHAPTER SEVEN THE STRENGTHS PERSPECTIVE IN CRIMINAL JUSTICE

Treating offenders as subhuman entities that need punishment to change has been not only tolerated, but in some instances applauded. A good summation is offered by Viets et al. (2002), “There is no reason to believe that offenders respond to fundamentally different principles of learning, thinking, and motivation than the rest of humankind. Confrontational approaches . . . become a self-fulfilling prophecy, engendering evasiveness and resentment while doing nothing to decrease the likelihood of repeat offenses” (p. 27). With our criminal justice departments geared toward punishment and slow to change, then hear again the words of Oliver Hazard Perry: “We have met the enemy, and they are ours.”

3. **Why do we construct solutions solely from our point of view, when we are not the ones being asked to change?**

If officers don’t listen to those they supervise, they may fall prey to establishing court plans that are more for the officer than they are for the probationer. Consider that effectiveness rates for working with offenders have not improved since the 1960s (Clark, 2007). During this five-decade span, all punishment and offender treatment has had one frame of reference—it has occurred from the criminal justice professional’s point of view. Telling offenders why and how—why they should change and how to go about these alterations has not brought the intended results. Can criminal justice change perspectives to one that may possibly offer more productivity—the offender’s point of view? With little or no formal training to help them understand human motivation, criminal justice staff continue to predominantly advise, castigate, and coerce. Without knowledge of the mechanics of human behavior change, conditions and efforts so critical to assist change are ignored or left to wither. Burnett (2004) points out that it has now been about forty years since Matza’s (1969) influential call for criminologists to adopt a method of “appreciation” in which the aim is to comprehend and to illuminate the subject’s view and to interpret the world as it appears to him or her. It was almost fifteen years ago that Berg (1994) suggested, “Stay close to the client’s definition of the problem and possible solutions, since it is he or she who will be asked to do the necessary changing” (p. 36). Could this be the decade that we finally turn to this sensibility?

4. **When receiving probation services, probationers only spend an average of one-third of one percent (.03 percent) of their lifetime with their probation officer (Farrell, 2002). So, if probationers end up changing, where does it come from?**

It is a stretch to think large lifestyle changes are enacted because of what criminal justice staff do. The far more convincing notion is that the bulk of change comes from what offenders do. Stephen Farrell (2002), a noted criminologist in Great Britain, states, “. . . continued concentration upon ‘what the officer/probation services does’ inevitably misses a huge number of other factors which are at play when people desist or persist.” (p. 175). Even newly minted criminologists would concede that most change is self-change, whether it occurs via contact with the criminal justice field, from participation in treatment, or through self-determination. Will criminal justice ever begin an earnest investigation into the other 99.7 percent of a defendant’s life to find what intrinsic reasons for change may exist—and what indigenous resources await to power those changes?
A BASELINE

The field of criminal justice has developed over time to deal with crime and justice. It's a huge complex that consumes billions of dollars annually and affects millions of citizens and their families. Consider these recent figures:

- More than 7 million men and women are currently under some form of criminal justice supervision in the United States (U.S. Department of Justice, 2006).
- Among nations, the United States has one of the world's highest rates for incarcerated citizens, ranking with the most oppressive societies (Walters et al., 2007).
- The rate of U.S. adult residents placed under correctional supervision nearly tripled between 1980 and 2005 (USDOJ, 2006).

When one reviews these figures, the oft-heard labels of "crisis" and "epidemic" regarding the state of this field seem wholly justified. Why is our criminal justice system an entity that cannot seem to stabilize? Worse yet, why is this a system that seems to be in a state of perpetual growth? There are several reasons for a field that seems to have all the earmarks of a "growth industry":

- Major social problems scorch opportunities and resources. Poverty, inadequate healthcare, and the paucity of gainful employment at a living wage continue in the absence of public policies and social programs to address these significant problems. Desolation and despair abound and the lack of prospects (social capital) becomes a root cause for a good portion of illegal activity.
- A second reason is a philosophical orientation toward offenders that creates a self-fulfilling prophecy. A lack of compassion and a penchant to label offenders as unsavory, dangerous, and disreputable only serves to perpetuate a climate of fear towards this group—and a reason to distance and separate them from the rest of society. There is a mindset that if ever a group were to deserve the label of "others"—reprehensible, undeserving, and beyond help—then offenders represent this class. Offenders are a group in our society whom it is generally acceptable, even laudable, to abuse and disparage because "these people" need or deserve it. We justify this treatment believing it is good for them and for society. We collectively imagine that degradation and contempt, even beyond measured punishment, somehow makes them better, and makes us a safer and a more just society. Enter a world where one act can make you deviant, but a thousand good acts may not bring redemption.
- A third reason is a willingness to rely solely on the use of punishment as a means of addressing drug addiction and crime. The public erroneously believes in the effectiveness of punishment for reducing crime and making our streets safer. A domino effect is created where punishment does not bring the results, which issues a call for more of what's not working. Politicians fall prey to the public's cry, believing they must be seen as the toughest on crime in order to be elected to office. All of this prompts
the enactment of new laws that call for harsher punishment and longer sentences. This situation twists into a never-ending pretzel of futility.

As bleak as this all sounds, I do not wish to share in the pessimism that nothing is good and nothing seems to get better! Over my career, I have seen too many advances and improvements in the field of criminal justice to indulge in cynicism and gloom. It is the premise of this chapter that many of the advancements underway in the field of criminal/juvenile justice are being propelled by a strengths perspective, whether the actions are unwitting or intentional.

A PHRASE FOREVER LINKED: “CRIME AND PUNISHMENT”

Crime. Punishment. To become aware of how culturally linked the two issues have become—and to understand how truly ineffective they are in tandem—is to begin to appreciate the central benefit for the application of a strengths approach to this field. Delivering punishment via the criminal justice system in the United States is a truly complex social act. Hollin (2002) notes that the key point to focus on with respect to the administration of punishment are the outcomes to be achieved.

- If the criminal justice field seeks retribution—that is, to answer crime with painful responses and impose sanctions for the criminal behavior—then the punitive measures ladled out (arguably) achieve that outcome.
- If the criminal justice field seeks incapacitation for public safety—that is, to lock someone up behind bars and thereby prevent them from committing any more crimes—then inflicting a loss of freedom (e.g., punishment) will achieve that outcome as well.
- However, if the criminal justice field seeks to change behavior—that is, to supplement prosocial behavior to override and eliminate antisocial criminal behavior, then the achievement of this outcome is highly uncertain. (pp. 245–246).

Using punishment to change behavior is the foundation to deterrence theory. However, Hollin (2002) continues by citing that punishment has not proven effective for either general or specific deterrence. For general deterrence, or the notion that punishing criminals will deter other members of society from committing crimes, the returns on punishment for deterring the actions of others have been poor. It is also doubtful that punishment lends itself to specific deterrence, or the notion that it deters the specific person and motivates long-term behavior change at the individual level. Rather, new meta-analyses notes that punishment, in the absence of any treatment, increases criminal behavior (Walters et al., 2007). Hollin (2002) concludes that on either level (society or individual) “punishment demonstrably fails to motivate offenders to change” and wonders what the criminal justice field will turn to as alternative methods for changing behavior (p. 246).
THE TWO Cs OF PROBATION HISTORY—CONTROL AND COMPLIANCE

At its most elemental level, the field of criminal justice—as an extension of our government—is charged with public safety and preserving order. To “speak the language” and be considered a true member in the world of criminal justice, one must understand the levels of success that loom for the average correctional professional.

The first level can be determined in how one answers the question: Is it strengths based to handcuff a citizen and lock him or her up in a detention center?

If you answered, “yes—under certain circumstances,” you’ve attained the critical first level for understanding how strengths-based practice is implemented within this field. When someone is out of control and is harming others, placing self and those around them in physical jeopardy, then appropriate authorities taking control is certainly warranted. Restraint is necessary to stabilize and bring into control those who have lost all control.

It is at the next level—compliance—where further differences begin to emerge between those that think they understand the application of a strengths approach and those who truly do. Compliance is conceptualized as a waystation, an incremental stop on the journey to behavior change. We can always use the court’s authority to have probationers parrot back to us what we want to hear, but deference is not change. Conformity is not transformation.

In the face of frustration, staff will often take the stance of “We didn’t come find you (offender), you found your way to us (court, probation department) through your illegal behavior, now it’s your task to take our direction and cooperate.” Although seemingly correct, this a posture that creates resistance. With confrontation initiated, this stance will inevitably have to rely on coercion and heavy-handed methods to achieve cooperation. Human motivation is much more complicated than establishing what is the “right” or “wrong” thing to do—and it is created out of a host of cultural, gender-based and community-specific resources and dynamics. Gaining compliance to ensure stability following an out-of-control situation is imperative, and demanding obedience is important for crisis situations. However, a strengths-based doctrine does not believe obedience is a lofty goal—even dogs can be taught to obey.

Compliance, while part of a continuum of control, cannot rest as a final goal. Behavior change is always in ascendancy with strengths-based practice. In community corrections, it is important to be able to appreciate how internal and external forces work together tofacilitate positive behavior. Because we work with a mandated population, change might begin because of external pressure (e.g., conditions of probation), but later can be continued for internal reasons (e.g., probationer sees personal benefits). The process would ideally take the form of the incremental stages, “I have to change, I need to change, I want to change.” Officers can choose to use strategies that move change to the “inside” or just as easily allow compliance to remain pressure-driven and superficial. It is important for those who seek to increase a defendant’s readiness to change to understand where change comes from.
ADDING ONE MORE: THE 3 Cs OF STRENGTHS PERSPECTIVE—CONTROL, COMPLIANCE, AND CHANGE

Raising motivation levels and increasing an offender’s readiness to change requires a certain “climate”—a helpful attitude and a supportive approach that one would take with an offender. This climate becomes grist for developing a helping relationship—and it is imperative that this relationship occur between agent and probationer if enduring change is to occur. This chapter continues to sketch a criminal justice field that begins to form an atmosphere for assisting behavior change. I will examine this type of climate across the criminal justice field (the macro perspective), within probation departments (the mezzo perspective), and into the individual pairing of any officer and offender (the micro perspective).

Across the Criminal Justice Field (macro): What Business Are We In?

Duncan, Miller, and Sparks (2004), promoting outcome-informed efforts, recall a landmark article by Theodore Levitt, a Harvard business professor. Levitt (1975) recounted the rise of the railroad industry throughout much of the 1800s and into the next century. The railroad industry vaulted to tremendous success as it laid track from city to city, crisscrossing and connecting our continent. Millions of dollars were pocketed by those laying the track and building this nation’s rail infrastructure. The pace of life quickened and demand rose for speedy travel.

However, as the first baby boomers began to leave their nests in the 1960s, the railroads were in trouble—actually in serious decline. Why? Railroad executives would answer that it was due to the need for speedier transportation and faster communication that was being filled in other ways (i.e., cars, trucking industry, telecommunications). That reasoning made no sense to Levitt. To this business professor it begged a question. Duncan, Miller, and Sparks (2004) note the irony:

The railroad industry, Levitt (1975) argued, was not in trouble “because the need was being filled by others . . . but because it was not filled by the railroads themselves.” Why did the industry not diversify when it had the chance? Because, as it turns out, railroad executives had come to believe they were in the train rather than the transportation business. (pp. 81–82)

Due to this limiting conception, trucking and airfreight industries prospered while locomotive engines fell into disrepair, parked on rusted track in the back of neglected railroad yards. The railroad industry had come to believe it was in the railroad business instead of the transportation business. It would seem that probation, as a criminal justice entity, is much like the railroad industry of our past century—it has come to believe that it is in probation business rather than the behavior change business. Our field seems primarily concerned with the process of probation—ensuring adequate supervision, compliance to probation orders, and the completion of mounds of attendant paperwork. Process takes center stage rather than a principal focus on strategies and techniques that will encourage positive behavior change (outcomes).
The problem lies in the mindset that pervades the probation field that allows outcomes to take a back seat to process. Consider a recent lament by a deputy director who manages a fairly large community corrections division. Engaged in a discussion regarding the “business of probation” during a recent training session, he offered his state’s probation officer of the year award as an example. This annual contest awards much more than a certificate or a new wristwatch—the prize is a week-long vacation in the Caribbean! As can be imagined, staff keep a constant eye on their efforts and work hard to win the prize. However, this deputy director noted the field is so process oriented that whatever agent might win this trip would do so because of timely paperwork completion, more face-to-face meetings than required, comprehensive report writing, and punctual court appearances. Yet if outcomes were considered, this same officer, enjoying the sun and waves from a relaxing beach-side cabana, might be embarrassed to know his or her caseload detailed a 30 percent absconding rate or a 60 percent recidivism rate. Sadly, this situation is not one of a kind. Another state’s officer of the year award is even easier to determine; it is awarded to the staff member who has the highest rate for collection of court fees. Process is king. The business of probation occupies the limelight.

For those who might bristle at this implication, a quick inventory is telling: If your department requires new-agent training, how much of that orientation curriculum involves motivational enhancement training or strategies/techniques to encourage positive behavior change? Consider any continuing education training recently conducted by your department. More often than not, training titles would have included phrases such as, “Managing the . . .,” “Supervising the . . .,” “Officer Safety,” “Computer Training,” “Risk Assessment,” or the ubiquitous phrase, “How to Deal with the . . . (sex offender, dually diagnosed, hostile client, etc.)” This is not to imply these training topics are unimportant, but rather to point out the sheer absence of any tactical curiosity regarding positive behavior change. Whether training topics or journal articles, both appear pertinent to probation services—not behavior change. The business of probation proliferates. Managing trumps motivating. Supervision obscures relationships. Intimidation overshadows encouragement. Compliance remains in ascendancy. Whither change?

Looking to our past may help us to understand the present, allowing us to examine why we find ourselves in this current state. It would seem we were born into a correctional world that had always known tension between the ideals of punishment and treatment. Our field seems unable to extricate itself from a seemingly hypnotic hold of a “tough-as-nails” approach. To try and understand how the probation field became mesmerized is to appreciate two swings of the crime control pendulum that have occurred over the last fifty years. Psychological and sociological theories of criminal behavior gained prominence in the 1940s and helped the principle of rehabilitation of offenders (offender treatment) to flourish throughout the 1950s and 1960s (Gendreau & Ross, 1987). However, evidence to support the treatment paradigm did not keep pace by tracking outcomes and building supportive evidence, so the pendulum swing of correctional policy started to move back to the punishment and “just desserts” approach. Rehabilitation lost favor by the late 1970s and began to recede during the 1980s.

One swing followed another as the ideal of punishment lost ground. Clive Hollin (2001) notes, “If the 1980s saw the fall of the rehabilitation ideal, then the early 1990s witnessed a spectacular resurrection. . . . (This) resurrection of treatment can be directly traced
to the impact of a string of meta-analytic studies of the effects of offender treatment published towards the end of the 1980s and into the 1990s” (p. 10). The predominance of punishment had not demonstrated effectiveness, and in many instances, was shown to increase recidivism. With the advent of the 1990s, supervision and treatment enjoyed more certainty of success (Andrews & Bonta, 2003; Bernfield et al., 2001).

How, then, is probation staff to be responsive to motivational issues and work to enhance offender readiness to change, when a good portion of our criminal justice culture (macro) remains stuck in an adversarial “get-tough” atmosphere? Anthropology may offer an explanation. Steven Pinker, in his 1997 landmark book, How the Mind Works, notes there are parts of our current human brain and body that once served a survival purpose in our primordial cave-dwelling past—yet today these same body parts no longer serve any real function. These anthropological remnants become an appropriate analogy for the “tough-as-nails” stance that many embrace within our probation field. What worked for the sole emphasis on retribution continues only as an obstacle for employing strengths and assisting change (starting positive behavior).

A Second Pendulum Swing? We’ve witnessed the pendulum swing between the punishment and treatment camps in our field, yet could there actually be two pendulums? This author (Clark, 2006) has proposed earlier there are two, one that is research based and another that is practice based. The research pendulum swings in the foreground, set in motion by criminologists who suggest what course of action will reduce crime. However, I have noted there is a second pendulum, with a swing moving in the background, moving much slower and shadowing the first. This pendulum swing involves the atmosphere and attitudes of those who work within the probation field. The strengths perspective assists the practice pendulum, which is created by—but not always in sync with—the research pendulum. To understand this second pendulum is to understand that our field seems shackled by a lag-effect, out-of-date attitudes held by many in the field who seek not only compliance from offenders but dominance and primacy over them as well. This hold-over from the “just desserts”?punishment era remains alive, suppressing behavior change as it limits an offender’s involvement to passive and submissive roles. The brain is dead, but the body continues.

Within Probation Departments (mezzo): The Obstacle of the “Either/Or”

What about this recent pendulum swing has brought our field back to a focus on treatment? What is this business of behavior change? How does change occur? And more importantly to our field, how can department policy and a probation officer’s efforts increase an offender’s readiness to change? These questions can guide departments toward a fundamental change in both attitude and objectives.

Change is a process that often takes time. It can occur by sudden insight or dramatic shifts (i.e., epiphanies, “wake up calls”), but the vast majority of change occurs slowly and incrementally. The stages of change theory (Prochaska & DiClemente, 1983) has even mapped out these incremental steps, lending support to the idea that change is a process rather than a point-in-time event. When working with probationers new to our system (or those returning) who may pose harm to themselves or others, initial objectives must begin