

## THE FUTURE FOR SOCIAL WORK IN JUVENILE AND ADULT CRIMINAL JUSTICE

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**Abstract:** *Critical contemporary issues in juvenile and adult criminal justice are identified followed by an examination of particular issues for social workers, including the increase in incarceration, the overrepresentation of people of color, and the numerous negative effects on children. The various roles for social workers in the criminal justice systems are presented and discussed. The paper also addresses the decline of social work professionals in the criminal justice systems and why it is imperative that the pattern be reversed now that there is growing interest in the rehabilitation and reintegration of offenders.*

*Keywords:* Future, social work, juvenile, adult, criminal justice, incarceration

### INTRODUCTION

Today there are many opportunities and challenges for social workers in criminal justice despite their relative absence in recent years, but the present systems have greater need than ever before. The United States has the highest rate of incarceration in the world (715 per 100,000 population) and the monies that are being expended in criminal justice have become an impediment to the support of many educational, health, welfare and environment programs.<sup>2</sup> The thrust of social policy has shifted from an emphasis on the provision of social benefits to those in need and at risk to systems of social control that provide little evidence of aiding public safety. Instead they have jeopardized the lives and future of millions of adults and youth, especially persons of color because of their overrepresentation in the criminal justice systems. Before considering the various roles for social work in the future we need to highlight several characteristics of these systems that deserve serious social policy attention because of their society-wide implications.

Moreover, they set the parameters for the roles for social workers.

1. More than 6.9 million adults are under some type of criminal justice supervision – 2 million in prison or jail and over 4 million on probation, parole or some other type of supervision (Harrison and Karberg, 2004).
2. More than 100,000 adjudicated youth are held in institutions, and over a period of a year, a half million youth are held in detention facilities. Many of the latter are abused and/or neglected youth who have “drifted” from child welfare agencies to juvenile detention. In addition, it is conservatively estimated that 85,000 youth annually spend time in an adult jail or prison (Harrison and Karberg, 2004; Lerman, 2002).

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3. The crime rate has declined nationally and continually since the mid-1990s, as have rates of criminal victimization, but the incarceration and control rates continue to increase. Increased incarceration is the result of mandatory sentencing, "three strikes" laws, zero tolerance school policies, drug laws that require incarceration but not treatment, punitive public attitudes and the decline in availability of community-based programs (Patillo, Weinman & Western, 2004).
4. Overrepresentation of persons of color characterizes both the juvenile and the adult justice systems. Approximately 2 out of 3 offenders is a person of color, with African Americans the largest group (Bonczar, 2003). Recently Petit and Western (2004) reported that with the mass incarceration of African American males, their path to adulthood has been transformed due to their increased probability of incarceration, their decline in human capital development because of incomplete education, and their lack of access to employment in urban communities.
5. There are 1.6 million children with an incarcerated parent currently in prison and overall 10 million children have had an incarcerated parent. These children are traumatized by the loss of their parents and the events surrounding their departure, but they seldom receive adequate health and social services, they are often denied the right to visit their parents, and parents are often not consulted about crucial decisions regarding their children (Mumola, 2000).
6. Placements in community-based programs have declined, although these programs have shown to be more effective in reducing recidivism. Particularly lacking are diversion, alternatives to incarceration and re-entry and reintegration programs for offenders released from prison (Travis and Waul, 2003). Barriers faced by persons with criminal records increasingly inhibit reintegration in the areas of employment, housing, financial benefits, child welfare, family support, voter disenfranchisement and immigration status.
7. Thousands of mentally ill persons and those with drug or alcohol addiction problems are inappropriately confined to prisons and jails because of the lack of appropriate treatment in the community (National Mental Health Association, 2004). Correctional facilities are not able to provide adequate treatment.
8. Most of the persons in all phases and areas of the criminal justice system are poor, young persons of color who have grown up in disorganized and disadvantaged neighborhoods and who experience discrimination, especially in health care, employment, and housing.
9. The numbers of female offenders are increasing rapidly in both juvenile and adult programs, but there has been insufficient attention to gender-specific needs in programming because the majority of offenders are male. Females of color are also seriously overrepresented, with their having a greater probability of incarceration than white females even when one takes seriousness

of crime into consideration (Pimlott & Sarri, 2002).

10. Lastly, the U.S. has been reluctant to ratify and enforce many of the UN Conventions on Human Rights that provide protection to juvenile and adult offenders. This has resulted in toleration of unacceptable conditions of confinement in many jails and prisons such that the U.S. Justice Department has charged more than 20 states with violations (Schiraldi, 2004). Unwillingness of the U.S. to eliminate the death penalty for juveniles was a key factor in our lack of ratification of the UN Convention on the Rights of the Child, but that obstacle is now eliminated by the U.S. Supreme Court decision in *Roper v Simmons* (543 U.S.\_\_\_\_2005) so we can now see if there will be efforts toward ratification.

Given the current situation, it is important to ask: What roles has social work played in recent years and what challenges are there for the future? Early in the 20<sup>th</sup> Century, social workers were the leaders in juvenile justice reform, the development of the juvenile court, and the development of probation systems. One only has to note the work of Julia Lathrop, Lucy Flower, Edith and Grace Abbott, and Jane Addams (Tanenhaus, 2002). They were instrumental in developing the juvenile court as a model that is found throughout the U.S. today and also in several other countries. Social workers continued to be important professionals in the justice system throughout most of the twentieth century until the 1980s. Between 1950 and 1980, they were key professional leaders in reform in most phases of the criminal justice systems when efforts were made to reduce prison populations. They played critical roles in the development of national policies to reduce incarceration and poverty while increasing resources for education, employment and treatment in the community (Miller, 1991; Rosenheim., 2002). They played significant roles in community work in central cities, in the development of community-based alternatives to incarceration and in developing treatment programs in prisons, jails and residential treatment centers. Many even filled important administrative and policy roles at the state and national levels.

More recently, particularly in the 1990s, many social workers withdrew from participating as professionals in criminal justice. Part of the reason was the withdrawal of funds for community-based and treatment programs during the Reagan administration. There also was a reduction in funds for grants to support training of social workers. At the state level, statutes were passed to emphasize punishment and incarceration and to deemphasize or eliminate treatment programs, particularly in facilities serving adult offenders. Even NASW and other professional social work organizations deemphasized criminal justice as an important field for social workers, arguing that a professional could not function effectively in an environment where punishment and control were priorities. Relatively little attention was given to the fact that more and more poor and disadvantaged persons were ending up in the justice systems and received little or no treatment, despite serious problems of substance abuse and mental illness. Instead it was the courts and human rights attorneys who took up the campaign for reform as is evidenced in a series of federal court decisions about the right to treatment.<sup>3</sup> Also active in recent years on behalf incarcerated offenders have been Human Rights Watch, the American Friends Service Committee, the Youth Law Center, Justice Policy Institute, the Annie E. Casey Foundation, and Amnesty

International.

As a response to the policies of punishment and control, schools of social work reduced their training of social workers and there was also a significant decline in research related to practice in criminal justice by social work faculty. This trend continued throughout the 1990s, and today it is safe to say that the majority of schools of social work no longer have a specialization in social work for criminal justice as most have for mental health.<sup>4</sup> Specialized training for criminal justice roles for social workers is as essential as is training for any other professional role in social work. Further, a noted social worker who revolutionized juvenile justice programs in Massachusetts said that what is needed in addition to knowledge and skill is a passion for caring for the offenders and their families (Miller, 1991). The demands in managing the ongoing conflict between custody and treatment are challenging, but there is a growing awareness of the need for social workers in the criminal justice systems as we shift from systems that focus primarily on punishment and retribution to a concern for rehabilitation.

### **FUTURE ISSUES IN WHICH SOCIAL WORK CAN PLAY A CRITICAL ROLE**

Because of limited space, it is not possible to delineate all of the areas in which social work is needed in criminal justice today; thus, we highlight only a few which appear to be particularly important for the near future and for which social workers are or can be well prepared to provide effective services.

1. *High rates of incarceration.* Reduce incarceration by providing community-based alternative options for diversion, treatment of convicted offenders, family counseling and support, employment and housing programs. In the last two decades, expenditures for correctional programs only have risen from 9 billion dollars to 60 billion dollars, but effectiveness has not improved as recidivism rates are essentially unchanged despite the increase in expenditures. When one investigates why the increased dollars have had so little effect, it is apparent that most monies are spent for custody and control. Through advocacy work, community organization and provision of effective treatment services, social workers can demonstrate that there are alternatives to incarceration.
2. *Juveniles tried as adults.* Since 1990, the numbers of juveniles waived for processing as adults and sentenced to adult prisons has increased substantially, partly as the result of an increased juvenile crime 'blip' in the early 1990s and because of statutory changes in most of the 50 states that mandated or permitted the processing of juveniles into the adult system (Bishop, 2000). The juvenile crime rate has declined continually since 1995, but the number of youth tried and convicted as adults has continued to rise. Little attention has been given to the competence of the juvenile with respect to his/her awareness of culpability and his/her competence in the adjudicative proceedings. Social workers who work in the court can document the failure of these policies and point out that findings from new brain development research require that there be comprehensive assessment of the competence of these juveniles, and they can suggest alternative processing and treatment.

They can also raise issues with respect to the confinement problems for juveniles in adult prisons and jails and present other disposition alternatives to the court. Collaboration with law enforcement and judicial officials as well as treatment professionals will be necessary to effect the many changes that are required in legislation, policies and programming.

3. *Children of incarcerated parents.* Social workers can perform several roles for the children of incarcerated parents and also for the parents themselves. These children are severely traumatized by their parents' incarceration and deserve comprehensive and on-going intervention. Social workers can see that these children are treated sensitively by the child welfare system as persons in need of protection. They can arrange for parental visitation and for facilitating treatment of the children so that parental rights are maintained where that is appropriate. They also can advocate that the rights of these children be acknowledged (San Francisco Partnership, 2003). Since most children face more serious problems when a mother is incarcerated, social workers can advocate for non-custodial sentences for women convicted of property and drug crimes, as they do not provide a threat to public safety in most instances. In instances where grandparents assume custodial responsibility for children of incarcerated parents, social workers can advocate for financial subsidies that other adults would receive as foster parents. They can also ensure the maintenance of continuing support services because the children are at risk for drifting to crime, for suicide, for mental illness and for other maladaptive coping patterns. Some of the most successful intervention programs that have been recently developed including the provision of mentors who provide ongoing caring and support for these children.
4. *Conditions of confinement.* Conditions of confinement in correctional institutions are problematic for incarcerated juveniles and adults. Physical and social conditions in prisons and jails are often seriously damaging to most occupants because of assaultive behavior by custodial staff and other inmates. In addition, unhealthful conditions exist because of overcrowding and insufficient resources. The U.S. Justice Department has charged more than 20 states in recent years for a variety of conditions that violate human rights and required conditions of confinement for prisoners (Schiraldi, 2004). There is also increasing support for action by groups such as Amnesty International, Human Rights Watch and the American Friends Service Committees. Social workers who work in residential facilities and observe violations are obligated by NASW Ethical Standards to take action so that the conditions are remedied and that rehabilitation services are provided (Miller, 1991; Puritz & Scali, 1998; Building Blocks for Youth, 2004; Human Rights Watch, 1999). Effecting changes in these conditions is difficult, so collaboration with other professional groups is important as is seeking redress from the courts for violations.
5. *Overrepresentation of people of color.* One of the most complex problems that urgently needs attention today and in the future is the reduction in

the overrepresentation of persons of color at all stages of the justice systems. There is federal law that mandates states achieve proportional representation, but that is far from reality in all of the states. Many of the practices that result in overrepresentation are institutionalized. Without systematic and ongoing monitoring, problematic decision making goes unrecognized. Persons of color are often covertly discriminated against because of where they reside, problems of family members or associates, racial profiling, poverty, and unemployment (Pettit & Western, 2004). The majority of decision makers are unaware of their own behavior patterns which maintain disproportionality in decision making. Social workers are trained in multicultural practice which is important in treatment intervention, but they also need to be sensitive to institutionalized racism so that it can be corrected. Again, this is a problem that will require sustained collaboration with other officials and professionals if positive change is to result. One example of a social worker who has devoted his career to seeking change toward reducing overrepresentation is Marc Mauer, and he has been very successful in securing national support for many of the policies that he has advocated regarding sentencing, incarceration, and disenfranchisement.<sup>5</sup>

6. *Gender-responsive programming for girls and women.* The majority of offenders in the U.S. are males, primarily under the age of 25 when they are incarcerated for the first time so programming has largely focused on the characteristics and needs of males. However, today female offenders, adult and juvenile, are growing faster in institutional populations and, with few exceptions, there is little recognition of their needs as different from those of men. Social workers need to develop gender-sensitive programming, see that staff are trained to recognize and respond appropriately to the individual and social needs of females. For example, more women offenders are incarcerated because of serious substance abuse problems, but most prisons and jails today do not have adequate programs to treat their problems. Physical and mental health needs of female offenders often differ substantially from those of males, so social workers need to advocate for the provision of appropriate gender-responsive services.
7. *Mental health services.* Because of many unfortunate changes in the mental health systems of most states in the past several decades, it is now probable that thousands of disadvantaged mentally ill persons end up in prisons and jails for extended periods of time because they are picked up on the street or because they commit a crime as a result of their mental illness. Very few receive adequate treatment in correctional institutions with the possible exception of new forensic center programs for persons who are seriously mentally ill. Largely ignored are those with chronic problems where the mentally ill person is the primary victim. All too often they also are homeless, addicted, and without family support. Social workers and other professionals in the mental health system must assert the need for resources for appropriate treatment for these individuals as has been suggested by the

- National Mental Health Association (2004).
8. *Substance abuse.* Substance abuse and related behaviors today result in more persons being in jail, prison or under correctional supervision than any other single law-violating behavior. Punitive laws urgently need evaluation and change so that addicted persons receive treatment not just punishment. What is also needed is a comprehensive approach to substance abuse, but it is unlikely that this problem will be solved within the criminal justice system. Worthy of attention is the fact that middle-class persons with insurance and other resources can obtain treatment, but the poor are thrust into jails and prisons without treatment.
  9. *Child welfare drift.* One of the most disturbing and growing trends is the drift of child welfare clients to the juvenile justice system and then to the adult system (Keller, 2002; Courtney, Terao and Bost, 2004). Child welfare clients are victims whose problems have arisen because of abuse and/or neglect, but without comprehensive habilitation programs, they often end up in the justice system for minor problems and then seldom are removed. It has long been recognized that youth problems come in 'bundles' not as isolated problems, but services have often been specialized and separate. The lack of integrated services to children and youth is at least a contributing factor to those at risk for entering the justice system. What is needed is a comprehensive plan to provide a youth services system that is comprehensive and integrated so that children receive appropriate services promptly and in an optimal environment.
  10. *Re-entry and reintegration.* Lastly, and perhaps most important, is the role that social work needs to play in the development and implementation of varied re-entry and reintegration programs for offenders returning to the community from prisons and other institutional settings. It is estimated that approximately 600,000 offenders return to the community each year, but the vast majority are likely to recidivate within two years, primarily because they receive no assistance in reintegration. Research findings have indicated that offenders who have family support, housing, and receive help with employment, education or substance abuse are likely to succeed in reintegration (Travis, 2004). Social workers are well trained for designing and providing the services that are necessary for success because that type of assistance is and has been important for many other clients facing the tasks of reintegration in other fields of practice.

## ROLES FOR SOCIAL WORKERS IN THE JUSTICE SYSTEMS

We now identify the crucial roles for which we believe it is imperative to train social workers as soon as possible so that they can have a positive impact. There are opportunities for well-trained social workers who can contribute significantly to the increased effectiveness and humanity in the criminal justice systems

1. Social workers are needed to *organize, develop and administer prevention programs* at the local level but also at the state and national levels, especially in areas of

conflict, high crime, poverty, and racial discrimination (Hawkins & Catalano, 1992). Community organizers can play valuable roles in community education and in mobilizing the public toward more rehabilitative perspectives.

2. Social workers are needed in police departments to *assist in the training of police* regarding the processing and handling of at-risk offenders, juveniles, mentally ill and disabled, addicted, victims and perpetrators of domestic violence, and non-English speaking immigrants. The actions of law enforcement at the "front-end" of the justice system usually have long-term consequences for the offender.
3. Social workers could assume responsibility for the *organization and operation of community-based programs* for diversion of offenders from justice system processing, for operating alternatives to incarceration, and for the development and operation of re-entry and reintegration programs.
4. Social workers can play *critical roles in prosecutors' and judicial offices in the court as well as in probation*. They can assist in the interviewing of victims, in risk assessment and pre-sentence investigation. Increased emphasis on effective assessment of the risk of offenders is of critical importance in disposition decision making and placement so that alternatives to incarceration can be increasingly utilized and not jeopardize public safety or recidivism. Increasing numbers of social workers are completing dual degrees in law and social work, so they are particularly well prepared to work in the courts.
5. As *advocates*, social workers can support those charged with crime so that they receive the best defense and the most appropriate disposition. Advocates can educate the public for less punitive intervention. They can call attention to the importance of adherence to Human Rights Conventions. They can also advocate for active involvement of offenders in decision making regarding program choices, family matters and other options.
6. Social workers are needed to *assess juvenile and adult offenders with appropriate procedures and instruments* that acknowledge the differences with respect to mental competence so that those who are incompetent to be tried are placed in treatment-oriented appropriate programs.
7. Social workers are needed in residential and non-residential programs as *effective treatment specialists* who are trained to meet the different needs of females as well as males, mentally ill or addicted offenders, juvenile as well as adult offenders, violent and/or chronic offenders.
8. Social workers are needed to *collaborate with family and child welfare agencies* to help them function effectively in serving families and neighborhoods where there is delinquency and crime.
9. A current national policy priority is the *development and operation of reentry and reintegration programs for both juvenile and adult offenders*. These are particularly challenging tasks because they have received far too little attention up to now with the result that we lack knowledge about what



is required for effectiveness. Returning offenders have significant needs of housing, family reunification, education and employment, but there are too few resources at a time when public resources are declining because of the priorities of budget deficits, defense spending, and health care.

Although this paper has only scratched the surface of the challenges for social workers in the criminal justice systems, we have documented the great need for well-trained social work professionals and the many roles that they can play in important areas of criminal justice. In the past century social workers have demonstrated that their efforts made important differences in policies, programs and services. More than ever today they are needed to take risks to effect major change in the systems at the local, state and national levels. They are needed as treatment agents, as community organizers, as advocates, as challengers to existing law and practice, as trainers, supervisors and administrators, as court officials, as program evaluators and as designers of new and better services for thousands of persons who seek to be assisted to lead law-abiding and successful lives.

Schools of social work have a particular obligation to prepare a new generation of professionals for the criminal justice systems. There are many reasons why they shifted their emphasis to other fields of practice, but with 6.9 million persons under correctional supervision in the United States, it should be a priority to provide well-trained social workers for the variety of roles demanding attention today. In addition, substantial funding is available for program assessment and evaluation so it is hoped that more social work faculty would view this as an important avenue to see that "best practices" program models are adopted in criminal justice. There are role models in social work leaders of the past such as Julia Lathrop, Jane Addams, Jerome Miller, Paul Lerman and David Hawkins, all of whom demonstrated in different times and ways what social workers can accomplish in changing the juvenile and adult criminal justice system. Such leaders are needed now more than ever.

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## Footnotes

- <sup>1</sup> This ignores the influence of organized labor in promoting employee job benefits.
- <sup>2</sup> Harrison and Karberg (2004) report that the rate of incarceration averaged 100 per 100,000 of the total population between 1925-1975 and then steadily increased to 715 in 2003. More than half of the inmates are between the ages of 18 and 34 and 58% are persons of color, 8 times the rate of whites for African Americans (Bonczar, 2003).
- <sup>3</sup> See federal court decisions in *Glover v Johnson* 934F.2d 703;1991 U.S. App.Lexis 100900; *Haddix v. Johnson* 143 F.3d 246 (6<sup>th</sup> Cir.1998); *Bred v. Jones* 421 U.S. 519; *Morales v Terman* 364 F.Supp. 166 (E.D. Tex, 1973). .
- <sup>4</sup> In reviewing recently published Handbooks for fields of practice, only one had a chapter related to the justice system and that chapter focused only on juvenile justice.
- <sup>5</sup> Marc Mauer has written on a variety of issues related to racial and gender discrimination in the justice systems. See *Race to Incarcerate* (1999). New York: Doubleday; *Invisible Punishment: Collateral consequences of Mass Imprisonment*. (2002). New York: New Press; and *Losing the Vote*. (1999). Washington, DC: The Sentencing Project.

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