Volume III | Ha-Mu

EDITED BY

JAY S. ALBANESE

The Encyclopedia of CRIMINOLOGY AND CRIMINAL JUSTICE

WILEY Blackwell

The Encyclopedia of Criminology and Criminal Justice

Volume III
Ha–Mu

Edited by

Jay S. Albanese

常州大学图书馆
藏书章

WILEY Blackwell

This edition first published 2014
© 2014 John Wiley & Sons, Inc.

Registered Office
John Wiley & Sons Ltd, The Atrium, Southern Gate, Chichester, West Sussex, PO19 8SQ, UK

Editorial Offices
350 Main Street, Malden, MA 02148-5020, USA
9600 Garsington Road, Oxford, OX4 2DQ, UK
The Atrium, Southern Gate, Chichester, West Sussex, PO19 8SQ, UK

For details of our global editorial offices, for customer services, and for information about how to apply for permission to reuse the copyright material in this book please see our website at www.wiley.com/wiley-blackwell.

The right of Jay S. Albanese to be identified as the author of the editorial material in this work has been asserted in accordance with the UK Copyright, Designs and Patents Act 1988.

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, except as permitted by the UK Copyright, Designs and Patents Act 1988, without the prior permission of the publisher.

Wiley also publishes its books in a variety of electronic formats. Some content that appears in print may not be available in electronic books.

Designations used by companies to distinguish their products are often claimed as trademarks. All brand names and product names used in this book are trade names, service marks, trademarks or registered trademarks of their respective owners. The publisher is not associated with any product or vendor mentioned in this book.

Limit of Liability/Disclaimer of Warranty: While the publisher and editor have used their best efforts in preparing this book, they make no representations or warranties with respect to the accuracy or completeness of the contents of this book and specifically disclaim any implied warranties of merchantability or fitness for a particular purpose. It is sold on the understanding that the publisher is not engaged in rendering professional services and neither the publisher nor the editor shall be liable for damages arising herefrom. If professional advice or other expert assistance is required, the services of a competent professional should be sought.

Library of Congress Cataloging-in-Publication Data

The encyclopedia of criminology and criminal justice / Edited by Jay S. Albanese.
pages cm
Includes bibliographical references and index.
ISBN 978-0-470-67028-6 (cloth)
1. Criminology – Encyclopedias. 2. Criminal justice, Administration of – Encyclopedias. I. Albanese, Jay S., editor.
HV6017.E5297 2014
364.03–dc23

2013029529

A catalogue record for this book is available from the British Library.

Spine cover images: Gun buyback Seattle 2013 © NickAdams /Reuters.

Front cover images L–R: © Chris Bernard/iStockphoto; police training Claremont, CA © Alex Gallardo/Reuters; Correctional officer and inmates, California; © AP Photo/Rich Pedroncelli; Graffiti © Nathan Griffith/Corbis

Cover design by cyandesign.co.uk

Set in Minion 9.5/11.5pt by Laserwords, Chennai, India
Printed and bound in Singapore by Markono Print Media Pte Ltd

1 2014

The Encyclopedia of Criminology and Criminal Justice

The Wiley Series of Encyclopedias in Criminology and Criminal Justice

Criminal justice and criminology continue to enjoy growth and broad popularity within both academic and scientific contexts. As the two major paradigms influencing the study of crime and justice continue to merge into a single combined discipline, major topical areas are becoming increasingly pronounced and distinct areas of research specialization.

The works published in *The Wiley Series of Encyclopedias in Criminology and Criminal Justice* will capture the evolution, growth, and increasing specialization that have transpired over the past two decades within the discipline. The titles in the series will provide: (1) broad and comprehensive topic coverage; (2) a multidisciplinary and international approach; and (3) longer entries for key topics as compared to other encyclopedias currently available, with contributions ranging from 1,500 to 5,000 words in length.

Each encyclopedia in the series will provide coverage beyond US perspectives. As such, each title will integrate coverage of topics that will be meaningful both in the United States and around the world. The contributors for each encyclopedia will include authoritative scholars selected from multiple countries.

These encyclopedias will serve students and advanced researchers alike as both a ready source for immediate familiarization on specific and related (cross-referenced) topics as well as a "first-look" starting point for deeper inquiries.

J. Mitchell Miller, Series Editor
University of Texas at San Antonio

Published
1. *The Encyclopedia of Criminology and Criminal Justice*
Edited by Jay S. Albanese

Forthcoming Titles
The Encyclopedia of Theoretical Criminology
Edited by J. Mitchell Miller

The Encyclopedia of Juvenile Justice and Delinquency
Edited by Christopher J. Schreck

The Encyclopedia of Crime and Punishment
Edited by Wesley G. Jennings

此为试读,需要完整PDF请访问: www.ertongbook.com

Contents

H

Habeas Corpus

JENNIFER L. MOORE

Habeas corpus is a Latin term literally meaning "you have the body." In action, a writ of habeas corpus is a mechanism used by convicted prisoners to challenge the legality or duration of their imprisonment. It orders that a person in custody be brought before a court to determine whether they are being lawfully detained. Although primarily used to challenge imprisonment or a death sentence, habeas corpus is not limited to post-conviction relief. It can also be used to obtain judicial review of other situations, such as limited cases of extradition to a foreign country, immigration proceedings, and trials before military commissions.

Also known as "The Great Writ," habeas corpus has a strong common law tradition and developed as far back as the Magna Carta. The importance of the writ as a method of protecting liberty in England influenced the United States to incorporate habeas corpus into its Constitution. Known as the Suspension Clause, Article I, Section 9, Clause 2 states: "The Privileges of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the Public Safety may require it." The Judiciary Act of 1789 allowed federal courts to issue writs of habeas corpus in relation to federal prisoners. In 1867, Congress authorized federal courts to also review the detention of state prisoners who alleged their confinement violated the US Constitution or federal law.

Habe as corpus has only been suspended at a few notable moments in US history. For example, Abraham Lincoln independently suspended the privilege during the Civil War and received retroactive congressional authorization. In 1871, Congress authorized President Grant to suspend the writ in nine South Carolina counties in an effort to control the Ku Klux Klan. Congress also authorized suspension in Hawaii after the Pearl Harbor attacks and during the Philippines insurrection (Tyler 2012). Due to the limited number of suspensions, statutory and case law center primarily on the protocol and procedures for petitioning and granting a writ of habeas corpus.

Although habeas corpus also exists at the state level, the majority of habeas jurisprudence focuses on state prisoners seeking relief in federal courts based on alleged violations of federal law. The full name for this type of writ is *habeas corpus ad subjiciendum*, Latin for "that you have the body to submit to," since the writ directs a person holding another in custody to bring the "body" (i.e. the prisoner) to court. The petition is generally filed after a conviction and, as opposed to a direct appeal, is a method of collateral attack. The precise scope of the writ, however, varies depending on the makeup of the US Supreme Court at any given time. Modern jurisprudence interpreting habeas corpus began with the sentinel case of *Brown v. Allen* (1953), where the Supreme Court established an expansive reading of the writ. The Court concluded that a petitioner could raise a constitutional claim in federal court through habeas corpus even if

The Encyclopedia of Criminology and Criminal Justice, First Edition. Edited by Jay S. Albanese.
© 2014 John Wiley & Sons, Inc. Published 2014 by John Wiley & Sons, Inc.

that issue was fully litigated and rejected at the state level. This marked a significant increase in the federal courts' ability to intervene in state matters.

Under Chief Justice Earl Warren, a broad interpretation of habeas corpus for alleged constitutional violations continued. During the Warren Court, the Supreme Court also expanded numerous constitutional rights for criminal defendants under the Fourth, Fifth, and Sixth Amendments. By also increasing the availability of habeas review, the Court ensured that the federal courts could monitor enforcement of these newly expanded rights. Specifically, the Warren Court allowed prisoners to assert claims in a habeas petition not even raised at the state level (*Fay v. Noia* 1963). Additionally, the justices authorized fact development at a federal habeas corpus proceeding and permitted the filing of multiple habeas petitions (*Townsend v. Sain* 1963; *Sanders v. United States* 1963).

Concerned about the finality of state court decisions and federalism, the Burger and Rehnquist Courts subsequently restricted a state prisoner's access to the writ. Notably, in the 1976 case of *Stone v. Powell*, the Court eliminated habeas review of Fourth Amendment claims when the defendant fully litigated the issue at the state level. Additionally, in *Herrera v. Collins* (1993), the Court noted that claiming innocence of the crime does not automatically provide a basis for habeas corpus review without an independent constitutional violation. A continuously more restrictive interpretation of the writ continues under the Roberts Court. A 2011 decision limited a federal district court's ability to hold evidentiary hearings and develop facts during a habeas review in certain cases (*Cullen v. Pinholster* 2011).

Statutory law dictating the precise rules and regulations for habeas corpus review is found primarily in Title 28 of the United States Code (USC). The specific procedure for a state prisoner to obtain a writ of habeas corpus is outlined in the Code and the Supreme Court's interpretations of the statute. Before petitioning a federal district court for a writ of habeas corpus, however, a prisoner is required to satisfy several prerequisites. Specifically the state prisoner is first required to exhaust all available state remedies. The exact remedies vary by state, but can include additional appeals and state habeas corpus petitions. The statute does allow for a direct petition to a federal court if a state remedy is unavailable or if the remedy would be ineffective to protect the rights of the prisoner.

A petitioner must also be in "custody" in order to ask the district court for habeas corpus relief. Custody, however, does not require that the petitioner be currently in prison. The Supreme Court has interpreted the term broadly to include a variety of restraints on liberty, including individuals on probation and parole (*Jones v. Cunningham* 1963). An individual who is subject to future confinement, such as a person temporarily released on recognizance, is also considered to be in "custody."

Assuming the required prerequisites are satisfied, a prisoner initiates a habeas proceeding by filing a petition in the federal district where they are being detained. The petition details the alleged violations of the Constitution or federal law and will only be dismissed by the court in extreme cases of frivolous claims. The respondent, or person currently holding the prisoner in custody, is then given an opportunity to respond. Based on the discretion of the district court judge and subject to the applicable statutory and case law limitations, discovery is conducted and an evidentiary hearing may be held. After the court's ruling, the prisoner may appeal the habeas corpus decision.

While criminal defendants enjoy the Sixth Amendment right to counsel during criminal proceedings, the right does not continue indefinitely after conviction. The constitutional right to counsel is limited to direct appeals of right and does not include discretionary appeals. A petition for a writ of habeas corpus is considered discretionary, and accordingly a prisoner has no constitutional right to a public defender during the proceedings (*Ross v. Moffitt* 1974). The prisoner does maintain a constitutional right of access to courts and indigent petitioners can receive a free transcript if necessary (*Griffin v. Illinois* 1956). In addition, a prisoner is free to utilize a "jailhouse lawyer" and work with other prisoners to prepare a petition for habeas relief (*Johnson v. Avery* 1969). Nonprofit organizations, particularly in key death penalty cases, often provide complimentary legal representation for habeas petitions. For federal prisoners in federal court, there is a statutory right to counsel.

The growing concern of effectively preventing and punishing domestic and international terrorism resulted in a renewed emphasis on habeas corpus practice and procedures. After the bombing of the Alfred P. Murrah Federal Building in Oklahoma City on April 19, 1995, Congress considered multiple proposals for legal reform. The Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) was passed by Congress and signed into law by President Clinton. Focused on the new threat of domestic terrorism, the Act included a comprehensive legislative modification of habeas corpus law. It further restricted the scope and procedures for obtaining a writ of habeas corpus by both codifying prior Supreme Court decisions and creating additional requirements. Described by the US Supreme Court as "gatekeeping" functions, the AEDPA survived constitutional challenges (*Felker v. Turpin* 1996).

The AEDPA's first gatekeeping provision clarified the scope of habeas corpus relief available for state prisoners. A federal court can only grant a petitioner's application if they are "in custody in violation of the Constitution or laws or treatises of the United States." Additionally, habeas corpus can only be granted for an adjudicated claim if the state court's determination was either (1) contrary to clearly established federal law, or (2) an unreasonable determination of the facts presented. Thus, to be successful, the prisoner must establish both a constitutional violation and that the state courts' failure to remedy that error was contrary to established law or unreasonable.

The AEDPA also established a one-year statute of limitations for filing a habeas corpus petition. Prior to the passage of the AEDPA, habeas petitions were not subject to any specific time limitation. The change was motivated by a desire to more efficiently conclude criminal cases. Now, a prisoner must file within one year of their final judgment on direct appellate review, subject to any applicable tolling provisions. In reality, most prisoners have one year from the date the Supreme Court denies their petition for *certiorari* on direct appeal. The one-year statute of limitations also begins to run in several other circumstances, including from the date the Supreme Court announces a retroactive constitutional right, when new facts are discovered about the case through due diligence, or when a state impediment to filing a petition is removed.

In addition, the AEDPA also limits a prisoner's ability to file successive petitions for habeas corpus. Specifically, federal law requires that the federal district court dismiss any habeas corpus claims that were raised in an earlier application. If the petition presents a new claim that was not already litigated, it will only continue if it presents a new constitutional rule that is retroactively applicable, or if previously unavailable facts are discovered that demonstrate by a clear and convincing standard that a reasonable judge or jury would not have convicted the prisoner. In order for a successive petition to be considered at the district court, the prisoner must have a three-judge panel of the presiding court of appeals authorize the action. The decision of the three-judge panel is not appealable.

Chapter 154 of the AEDPA, commonly referred to as the "opt-in" provision, provides a unique set of rules and procedures regarding habeas relief in death penalty cases for qualifying states. In order for these rules to apply, a state must have a sufficient mechanism for providing competent counsel to indigent prisoners initiating post-conviction proceedings after their death sentences were upheld on direct appeal. If a state qualifies and "opts in," they receive a number of procedural advantages that ensure a quicker and more final resolution to capital cases. Specifically, the statute of limitations for filing a petition for habeas corpus relief is shortened to 180 days instead of one year. A strict timeline for the review and appeal of a habeas petition are also set for both the federal district court and the applicable court of appeals. Additionally, the use of ineffective assistance of counsel as grounds for a habeas petition is restricted.

After the terrorist attacks on September 11, 2001, access to the writ of habeas corpus became a central issue for the enemy combatants detained at the US military base in Guantanamo Bay, Cuba. In a series of cases and statutory measures, Congress and the Supreme Court struggled to determine what legal rights applied to the detainees. In 2004, the Supreme Court concluded that both US citizens and non-US citizens detained at Guantanamo Bay could have a federal court review the legality of their detention through habeas corpus (*Hamdi v. Rumsfeld* 2004; *Rasul v. Bush* 2004). The

debate, however, was not over. Congress subsequently passed additional statutory measures in response to the Court's rulings, including the Detainee Treatment Act of 2005 (DTA) and the Military Commissions Act of 2006 (MCA). The DTA specifically excluded access to habeas corpus as a means of reviewing military commissions, but did provide for limited judicial review by the DC Circuit Court of Appeals. While some procedural safeguards were put in place to review the legality of detainees' confinement, it stopped short of the relief available under the writ of habeas corpus.

The Supreme Court finally concluded the ongoing debate by ruling in *Boumediene v. Bush* (2008) that habeas corpus is in full effect at Guantanamo Bay. The review procedures outlined in the DTA and MCA were not legally adequate substitutes for habeas corpus and the portion of the statutes suspending habeas relief for enemy combatants was held unconstitutional. Congress subsequently passed the Military Commission Act of 2009, outlining the increased rights of the detainees and removing the prohibition against habeas corpus.

If a court ultimately rules in favor of a prisoner and finds their detention to be illegal, they have a variety of available remedies. Not all cases, however, result in simply setting the prisoner free. Depending on the circumstances, the court can order the state to retry or resentence the prisoner. Additionally, the court can reclassify the petitioner's conviction.

While most of the jurisprudence centers on state prisoners in federal court, federal prisoners are also able to challenge the legality of their confinement. In 1948, Congress created a statutory alternative to the traditional writ of habeas corpus in Title 28 of the US Code. A federal prisoner seeking to challenge their criminal conviction or sentence must utilize a "Section 2255" motion as opposed to petition for habeas relief. This section of the federal law specifically prohibits the use of habeas corpus unless a Section 2255 motion would be inadequate or ineffective. While a substitute to traditional habeas, Section 2555 does not constitute a suspension of the writ as prohibited by the Constitution (*United States v. Hayman* 1952).

Section 2255 allows a federal prisoner to vacate, modify, or set aside a criminal sentence under four specific circumstances: (1) the sentence violates the Constitution or federal law; (2) the sentencing court lacked jurisdiction; (3) the sentence exceeds the maximum permitted by law; and (4) the sentence is otherwise subject to collateral attack. Procedurally, the motion mirrors a number of the rules applied to state prisoners under traditional habeas corpus petitions. A one-year statute of limitations also applies and successive motions require approval by a panel of the appropriate court of appeals. Unlike traditional habeas petitions, however, the statute does specifically provide for the appointment of counsel.

SEE ALSO: Appeal; Blended Sentencing; Capital Punishment and Legal Standing; Constitution and Criminal Justice; Criminal Justice Process; Due Process and Juvenile Justice; Judge, Role of; Terrorism, International; Wrongful Convictions.

References

Antiterrorism and Effective Death Penalty Act (AEDPA) of 1996, Pub. L. No. 104-132, 110 Stat. 1214.
Boumediene v. Bush, 553 US 723 (2008).
Brown v. Allen, 344 US 443 (1953).
Cullen v. Pinholster, 131 S.Ct. 1388 (2011).
Fay v. Noia, 372 US 391 (1963).
Felker v. Turpin, 518 US 651 (1996).
Griffin v. Illinois, 351 US 12 (1956).
Hamdi v. Rumsfeld, 542 US 507 (2004).
Herrera v. Collins, 506 US 390 (1993).
Johnson v. Avery, 393 US 483 (1969).
Jones v. Cunningham, 371 US 236 (1963).
Rasul v. Bush, 542 US 466 (2004).
Ross v. Moffit, 417 US 600 (1974).
Sanders v. United States, 372 US 1 (1963).
Stone v. Powell, 428 US 465 (1976).
Townsend v. Sain, 372 US 293 (1963).
Tyler, A. L. (2012) The forgotten core meaning of the suspension clause. *Harvard Law Review* 125, 901–1017.
United States v. Hayman, 342 US 205 (1952).
US Code, Title 28.
US Constitution, Article 1, Section 9, Clause 2.

Further Readings

Blume, J. (2006) AEDPA: "The 'hype' and the 'bite'". *Cornell Law Review* 91, 259–298.

Ex Parte Quirin, 317 US 1 (1942).
Fernandez v. Philips, 268 US 311 (1925).
Hafetz, J. (2011) *Habeas Corpus After 9/11: Confronting America's New Global Detention System*. New York: New York University Press.
Halliday, P. D. (2012) *Habeas Corpus: From England to Empire*. Cambridge, MA: Harvard University Press.
Hamdan v. Rumsfeld, 548 US 557 (2006).
I.N.S. v. St. Cyr, 533 US 289 (2001).
Lyon, A. D., Hughes, E., Prosser, M., & Marceau, J. (2010) *Federal Habeas Corpus: Cases and Materials*. Durham, NC: Carolina Academic Press.
Wert, J. J. (2011) *Habeas Corpus in America: The Politics of Individual Rights (Constitutional Thinking*. Lawrence, KS: University Press of Kansas.

Halfway Houses

AYANA CONWAY and
SHANIEKA S. JONES

Halfway houses are facilities in communities that provide living accommodation to male and female adults and youths. They are operated by government agencies, charitable organizations, and private businesses to assist in residents' transition to mainstream society following release from correctional institutions, drug treatment centers, psychiatric facilities, and other places of confinement, or by court order. As the title indicates, stays in halfway houses are temporary and transitory as residents' adjustment to society is expected to be short-lived. Supervised transition in these facilities supports residents' slow reintegration into society. The rationale supporting transitional placement of offenders is the belief that they lower residents' likelihood of reoffending and relapse to substance abuse compared to people who are not accorded opportunities for transition. While some halfway houses meet transition needs of non-offenders, correctional halfway houses meet the needs of offenders released from jail or prison or under court order. Counselors in some facilities assist residents with substance-abuse addiction while others help residents achieve independent living. During their stay, residents are required to achieve goals prescribed in individualized treatment plans, generally developed shortly after admission to the facility.

The operation of halfway houses usually reflects a social system modeled on a traditional family structure. The facilities vary in size, structure, location, services offered, policies and procedures for staff and residents, funding and other resources, and regulatory requirements. Even so, professionally trained personnel, preferably with clinical credentials, are usually responsible for case management work such as development and supervision of treatment plans, while security staff monitor the day-to-day activities of residents. Further, special needs of residents not addressed by facility personnel are usually addressed by local community agencies, for example, residents requiring vocational rehabilitation would be referred to agencies that offer this service.

Facilities generally provide room and board for residents; this is especially the case when residents are juvenile offenders. In the case of adult offenders, once they are employed they are expected to reimburse the facility for the costs of room and board, and some facilities charge a fee for treatment. Where needed, clothing and shoes are provided, with residents reimbursing these costs. In some facilities, responsibility for providing the evening meal, including planning a menu, developing a budget, purchasing required groceries, cooking, serving, and cleanup, is rotated among residents each week. Residents not assigned to evening meals are responsible for the daily cleaning of bathrooms, laundry of sheets and towels, and vacuuming and dusting of common area, while other residents are assigned responsibility for lawn and gardening work, such as mowing, weeding, edging, planting, and watering. Residents usually have weekends for on-site visits by family. Most programs provide for weekends away from the facility, for example, residents who have proved themselves trustworthy and who have earned points through exemplary employment and work at the facility are provided weekend furloughs to visit families (Grygier, Nease, and Anderson 1970).

Halfway houses provide opportunities for residents to learn and develop basic life skills, for instance, appropriate behavior in common areas such as media rooms, recreational areas, kitchens, and dining areas. Residents are taught what constitutes appropriate language and ways to behave in given situations, especially how to handle situations characterized by disagreements.

此为试读,需要完整PDF请访问: www.ertongbook.com

Although some facilities do not require employment of residents, most correctional facilities do. Further, they collaborate with employment agencies in locating jobs for residents. In many facilities, residents complete employment workshops where they learn how to impress potential employers, for example, completing employment applications, techniques for face-to-face interviews and telephone interviews, appropriate dress, and how to handle questions about criminal convictions.

Halfway houses originated in England during the eighteenth century for the placement of juveniles who committed criminal offenses. Some of the earliest halfway houses in the United States include the Isaac T. Hopper Home for male prisoners, opened in 1845 in New York City, and the Temporary Asylum for Discharged Female Prisoners, opened in Boston in 1864 (Parent et al. 1994). By 1896, Maud Ballington Booth accepted offenders in Hope Hall in New York City. Not long afterwards, a second Hope Hall was established in Chicago. Similar to contemporary halfway houses, these facilities provided food and shelter to ex-prisoners; however, they seldom provided treatment or services. Within seven years, 3,000 prisoners had been served by the two Hope facilities and, by the end of the nineteenth century, private halfway houses were operating in eight other states. Work-release, commonly associated with contemporary correctional halfway-house facilities, originated in Wisconsin in 1913 when the state allowed prisoners to work in communities during the day, then return to prison at the end of the workday. Eventually, most work-release programs were operated in halfway-house facilities rather than prisons (Grygier et al. 1970). During the early twentieth century, halfway houses were typically operated by religious and/or other charitable groups. The early facilities, often referred to as training schools, were basically boarding houses where ex-offenders could live in more affable environments compared to custodial care facilities. Unlike many halfway houses of today, early halfway houses were not usually associated with corrections. Residents were expected to pay a small fee for room and board. Continuation of any treatment begun in prison was the responsibility of residents' parole officers.

During the 1960s, policy changes encouraged rehabilitation and alternatives to training schools. One of the first states to open a state halfway house was Michigan, which opened the first facility for juveniles in 1964. The facility, characterized as an educational cooperative with supervision, operated as an open facility. Its success challenged the myth that juvenile delinquents require highly supervised, closed environments (Mcneil 1967). These earlier facilities demonstrated that youths were more likely to succeed in communities using supportive controls. This approach provided youths with opportunities to develop appropriate decision-making skills, a necessity for successful transition to communities (Vasoli and Fahey 1970). The passage of the Safe Streets Act in 1968 resulted in funding that supported the expansion of halfway houses throughout the 1970s (Rhine, Smith, and Jackson 1991). More recently, the Federal Anti-Drug Abuse Act (1988) included incentives to promote the development of alcohol- and drug-free dwellings. Further, funds were, and still are, made available through block grant appropriations to states for qualifying cities to establish or expand programs, such as halfway houses, to treat alcohol and drug addiction and mental illness.

Currently, many halfway houses offer community-based correctional programs. Known as residential reentry centers, these halfway houses provide room and board for residents, ranging in number from a few to more than 50 adult or juvenile offenders. Typical security ranges from minimum to medium, and order is maintained by strict enforcement of policies and procedures by staff. Residents are often recently released parolees. Substance abuse is disallowed, including smoking, and curfews are enforced by staff. Privileges are earned by residents who consistently obey facility rules and maintain good behavior. Personnel, in contemporary halfway houses affiliated with correctional systems, work closely with community agencies that provide human services, for example, vocational training, employment, welfare, mental health, and education. Unlike earlier halfway houses, contemporary facilities are operated by professionally trained personnel. These drug-free facilities are an integral component of the federal Bureau of Prisons' (BOP) community corrections programs. Further, many halfway houses, independently owned and operated, offer

assistance ranging from basic lodging to intensive therapeutic treatment. The BOP contracts with private and state facilities to provide correctional services for detained and recently released juvenile and adult federal offenders. Contractors include tribal, state, city, and county governments, the United States Department of Corrections, and private agencies. With a goal of protecting the public, available services are designed to advance community reintegration by providing rehabilitation, accountability, and close monitoring of behaviors.

Halfway houses are ordinarily located in the downtown part of an urban area and serve as an extension of corrections. More specifically, a halfway house is a residential facility for offenders, whose selection depends on stringent criteria and evaluation. Placement in halfway house programs is often an intermediate sanction for probation violators and parolees lacking employment and places to live. Residents are usually required to work, participate in community service, and attend substance-abuse treatment when applicable. A potential disadvantage is continued associations with other criminals. Corrections-affiliated halfway houses have two primary functions: to reduce recidivism and increase prosocial behavior. Their purpose is to provide an environment where offenders successfully transition to society. Some believe that halfway houses bridge the gap between prison and community.

Before placement in halfway houses, offenders are evaluated to determine their needs and risks to communities. Evaluations are necessary because criminal justice systems are responsible for the safety of communities. Individual assessments include risk-prediction scores that indicate an offender's likelihood and level of aggressive behavior. Treatment plans that address the needs of offenders likely reduce the probability that an offender will endanger the lives of citizens. Two assessment instruments are favored for classification of halfway-house residents: the Megargee MMPI-based Typology and Level of Supervision Inventory (LSI). Both provide information about offenders that is required for the development of appropriate treatment plans and successful management strategies. The Minnesota Multiphasic Personality Inventory (MMPI), a psychological assessment instrument, measures an offender's personality, behavior, and level of adaptation. However, the LSI does not require a psychiatrist's evaluation and is applicable to all offenders. It is based on 58 items that indicate level of risk and treatment. LSI scores are also good predictors of recidivism (Bonita and Motiuk 1985; Motiuk, Bonita, and Andrews 1986).

The availability of halfway houses makes early release possible for many parole-eligible offenders, especially those who lack acceptable ties to the community. For example, most jurisdictions require prospective parolees to provide acceptable home placement plans which include addresses of residences when paroled. By providing a residence, halfway houses make parole possible for these offenders. Even so, these post-prison residences are not appropriate for most offenders; therefore, only a small number of paroled inmates are served by halfway houses. Successfully reentering communities without support following release from custody, while maintaining sobriety and conformity, can be daunting. Halfway houses are designed to help bridge this gap and improve outcomes for offenders by reducing opportunities for negative experiences and offering positive reinforcement (Beha 1976). Despite these benefits, potential neighbors often voice strong resistance to the placement of halfway houses in their communities.

Halfway houses can be a vital part of comprehensive drug-rehabilitation programs. Also called recovery homes or sober-living homes, substance-abuse halfway houses are residential facilities that promote recovery from alcoholism and illicit drug dependency. Abstinence-based, these therapeutic settings are designed to help juvenile or adult residents make successful transitions from addiction treatment to their communities. Such transitional living centers for recovering males and females can assist with dependency to alcohol and/or drugs by providing specialized rehabilitation in nurturing environments. There is considerable variation in recovery facilities. However, routine rehabilitation processes include detoxification to remove chemicals from the body, followed by case management and group counseling services designed to help residents become and remain alcohol- and drug-free. Typically, during a 30-day stay or longer, a team of clinical experts helps residents deal with core problems that contribute to and reinforce chemical dependency. The goal is for participants to learn how to resist

intoxicating substances while living in the facilities. Once improvement is demonstrated in this area, attention turns to helping occupants construct a new sober and illicit drug-free life so they can live independently and continue to progress (Baker and Sobell 1976).

Many centers also provide support for family members so they will know how to help those recovering from addiction. Because returning to a previous living environment following treatment can be difficult, many halfway houses offer follow-up care. Extended services, such as phone calls, internet chats, e-mails, meetings, assignment of sponsors, and the like, allow former residents to stay connected to facility staff and other recovery-community associates. These extended services provide support that is often critical to success following release. Opportunity for aftercare varies among halfway-house providers. The more sophisticated centers have alumni associations that invite graduates to remain involved and help current residents years after their own treatment has ended.

Historically, chronically mentally ill people spent their lives confined in large hospitals for the mentally ill unless they recovered, which was not typical. Because patients were extremely reliant on hospital staff, this compromised their ability to adapt to independent living outside a hospital environment. Beginning in the 1960s, the care of the mentally ill shifted from institutionalized custodial care to treatment in community settings, such as in therapeutic halfway houses. Many patients need an intermediate step where they can still receive some form of clinical supervision before being released to an environment with little or no direct oversight. Such supervision becomes particularly important when the patient encounters stressful situations. Transitions to cooperative residential facilities, like halfway houses, are possible due to the availability of controlled narcotics, such as tranquillizers, that help manage psychotic symptoms and disturbing behavior. Through supervised, therapeutic residential care, psychiatric halfway houses can provide supportive environments and positive influences that help prevent relapses and increase successful outcomes. During their stay, residents are slowly weaned from staff dependency and are encouraged to complete daily tasks for themselves, in preparation for leaving the halfway house (Budson 1978). Like programs suitable for ex-inmates and people recovering from substance abuse, psychiatric halfway houses vary greatly in terms of patients' treatment goals and operations (Rog and Raush 1975). Personnel working in these facilities provide emotional and environmental support to residents. Such consistent assistance can be very effective in terms of easing the transition of residents to communities. Thus, halfway houses have been an integral component in the deinstitutionalization of the mentally ill as these patients, who lived for years in hospitals for the mentally ill, have successfully transitioned to halfway houses for psychiatric residents and then to communities.

Evaluation of halfway-house programs for offenders indicates mixed results. Researchers usually measure program success by comparing recidivism rates of halfway-house residents with matched samples of probationers and parolees. Most researchers recognize that halfway-house residents have more treatment needs than traditional probationers and parolees; however, most findings suggest recidivism rates of halfway-house residents are similar to those of traditional probationers and parolees (Gottfredson, Gottfredson, and Garofalo 1997). The strongest predictor of program success is criminal history; in fact, probability of recidivism increases as residents' criminal histories increase (Beck and Shipley 1989).

SEE ALSO: Community Corrections; Deinstitutionalization; Parole and Parolees; Reformatory Movement.

References

Baker, T. B., & Sobell, M. B. (1976) Halfway houses for alcoholics: A review, analysis and comparison with other halfway house facilities. *International Journal of Social Psychiatry* 22, 130–139.

Beck, A. J., & Shipley, B. E. (1989) *Recidivism of Prisoners Released in 1983*. Special Report. Washington, DC: US Department of Justice, Bureau of Justice Statistics.

Beha, J. A., II (1976) Testing the function and effect of the parole halfway house: One case study. *The Journal of Criminal Law and Criminality* 37(3), 335–350.

Bonita, J., & Motiuk, L. L. (1985) Utilization of an interview-based classification instrument: A study

of correctional halfway houses. *Criminal Justice and Behavior* 12, 333–352.

Budson, R. D. (1978) *The Psychiatric Halfway House: A Handbook of Theory and Practice*. Pittsburgh, PA: University of Pittsburgh Press.

Federal Anti-Drug Abuse Act (1988) Federal Anti-Drug Abuse Act. Public Law 100–690, approved November 18, 1988 (102 Stat. 4181).

Gottfredson, D., Gottfredson, M., & Garofalo, J.. (1997) Time served in prison and parolee outcomes among parolee risk categories. *Journal of Criminal Justice* 5, 1–12.

Grygier, T., Nease, B., & Anderson, C. S. (1970) An explanatory study of halfway houses. *Crime and Delinquency* 16, 280–291.

Mcneil, F. (1967) A halfway-house program for delinquents. *Crime and Delinquency* 13, 538–544.

Motiuk, L. L., Bonita, J, & Andrews, D. A. (1986) Classification in correctional halfway houses: The relative and incremental predictive criterion validities of the Megargee-MMPI and LSI systems. *Criminal Justice and Behavior* 13, 33–46.

Parent, D. G., Wentworth, D., Burke, P., & Ney, B. (1994) *Responding to Probation and Parole Violations*. Washington, DC: National Institute of Justice, US Department of Justice.

Rhine, E. E., Smith, W. R., & Jackson, R. W. (1991) *Paroling Authorities: Recent History and Current Practices*. Laurel, MD: American Correctional Association.

Rog, D. J., & Raush, H. L. (1975) The psychiatric halfway house: How is it measuring up? *Community Mental Health Journal* 11, 155–162.

Vasoli, R. H., & Fahey, F. J. (1970) Halfway house for reformatory releasees. *Crime and Delinquency* 16, 292–304.

Further Readings

Calathes, W. (1991) Project Green Hope, a halfway house for women offenders: Where do they go from here? *Journal of Contemporary Criminal Justice* 7, 135–145.

Coursey, R. D., Ward-Alexander, L., & Katz, B. (1990) Cost-effectiveness of providing insurance benefits for post-hospital psychiatric halfway house stays. *American Psychologist* 45(10): 1118–1126.

Federal Bureau of Prisons, Residential reentry management. www.bop.gov/locations/cc/index.jsp, accessed January 31, 2013.

Federal Register, www.federalregister.gov/articles/1995/08/02/95-18949/anti-drug-abuse-act-of-1988, accessed January 30, 2013.

Fischer, P. J., & Breakey, W. R. (1991) The epidemiology of alcohol, drug, and mental disorders among homeless persons. *American Psychologist* 46(11), 1115–1128.

Gerstein, D. R., & Harwood, H. J. (eds.) (1990) *Treating Drug Problems*. Washington, DC: National Academy Press.

Rubington, E. (1977) The role of the halfway house in the rehabilitation of alcoholics. In B. Kissin & H. Begleiter (eds.), *Treatment and Rehabilitation of the Chronic Alcoholic*. New York: Plenum.

Seiter, R. P., & Kadela, K. R. (2003) What works, what does not, and what is promising. *Crime and Delinquency* 49, 360–388.

Wittman, F. D. (1993) Affordable housing for people with alcohol and other drug problems. *Contemporary Drug Problems* 20, 541–609.

Hate Crime

SHANNON T. GRUGAN

A hate crime, or bias crime, is any criminal act in which the offender is motivated, in whole or in part, by social prejudice against a particular group. Victims are targeted based on their actual or perceived race, ethnicity, religion, gender, gender identity or expression, sexual orientation, or disability status. While essentially any crime committed against a person or property can be considered a hate crime when prejudice is a motivating factor, the most commonly experienced hate offenses are vandalism, intimidation, and simple assault across all victim types (US Department of Justice 2010).

Crimes that occur as a direct result of offender bias are not new phenomena and have been committed throughout recorded time. However, like other victims' issues, use of the phrase "hate crime," as well as recognition and understanding of the distinct legal and social implications of these particular crimes, came to the forefront in the 1980s. Over the last 30 years, organizations like the Southern Poverty Law Center, the National Center for Victims of Crimes, the Anti-Defamation League, the Gay and Lesbian Taskforce, and many others have worked as advocates by providing resources for victims, increasing public awareness of the bias crime issue, and maintaining victimization data.

Additionally, policy makers have created various pieces of hate crime legislation in recent years to define protected victims, provide enhanced penalties for offenders, and outline the investigative role that the government should play in the local, state, and federal levels. Though not referred to as hate crime laws, the first pieces of legislation dealing with bias-motivated crimes in the United States were those that developed as a result of the African American civil rights movement of the 1960s. These early laws were limited to acts committed as a result of a victim's race, religion, and national origin. As time went on, and the social climate changed, other groups were included. The most recent piece of hate crime legislation in the United States, the Matthew Shepard and James Byrd Jr Hate Crime Prevention Act, was signed into law in 2009 and is noteworthy for expanding the jurisdiction of federal investigations to crimes motivated by bias against gender, sexual orientation, gender identity and/or expression, and disability status (Wagner 2011). Another important piece of hate crime legislation, the Hate Crimes Statistics Act of 1990, was created to deal with record-keeping requirements and collection of hate crime data by the Federal Bureau of Investigation (FBI) via the Uniform Crime Report (UCR). Collection of hate crime data can be problematic, however. Crimes included in the UCR are only those reported to law enforcement agencies as hate crimes; therefore because many crimes go unreported or are misreported as something other than hate crimes, they are also never reported in the UCR. To illustrate this fact, a study by the Bureau of Justice Statistics (BJS) using data from the National Crime Victimization Survey (NCVS) revealed an average of 210,000 hate crime victimizations occurred each year between 2000 and 2003, while only 92,000 of these were reported to police per year (Harlowe 2005).

Underreporting aside, data and research that are available regarding hate crimes indicate that they have a unique impact on victims as well as the communities or groups to which the victims belong. Victims of hate crimes suffer a greater amount of psychological harm when compared to victims of similar crimes in which the offender is motivated by something other than bias. According to the American Psychological Association, hate crime victims suffer from depression, anxiety, and conditions like post-traumatic stress disorder (PTSD) at a much higher rate than other crime victims (Psychology of Hate Crimes 2007). The overall impact of these crimes is also much further reaching than just the harm caused specifically to the victim. Hate crimes have been argued by some to be akin to a sort of "social terrorism," with violent and nonviolent hate crimes having been noted as instilling fear in a victim's entire community or within the group that shares the trait, characteristic, or beliefs that led to the targeting of the specific victim in the first place (Barnes and Ephross 2004).

Although the percentages may change from year to year, trends over the lifetime of hate crime data collection indicate the order of frequency for the various victim typologies remains consistent, from most reported victims to least – race, religion, sexuality, and disability (US Department of Justice 2010). Data regarding victimization based specifically on gender and gender identity are very limited, as these two victim types have not previously been included in collection of official hate crime statistics. In addition, little research has been performed examining hate crimes against these two groups. In many cases, increases in the targeting of a certain victim type have come as a result of social, political, and legal issues of a specific time and place.

Hate crimes motivated by race and/or ethnicity occur most frequently. The latest available UCR data for 2009 shows 62% of all hate crimes victims were targeted based on these traits, with a majority of these involving African American victims (US Department of Justice 2010). In terms of actual victimization rates within the African American community, research indicates that eight out of every 100,000 African Americans have been the victim of a hate-based crime (Stotzer 2007). Although there are numerous accounts of the various types of crimes committed, as well as statistical data from the UCR, BJS, and various victims groups, there has been surprisingly little research specifically examining the impact of hate crimes on African American victims.

One of the most highly publicized incidents of violent hate crimes perpetrated against African Americans was the 1991 murder of James Byrd Jr, who, along with Matthew Shepard, is the eponymous subject of the most recent federal legislation discussed above. Byrd was beaten by three men, who tied him to the back of a truck and dragged

him along the road for three miles before he died. More recently, highlighting the impact of current events on the frequency of hate crime occurrence, the election of Barack Obama in 2008 as the first African American president led to an increase in anti-black hate crimes. According to the Leadership Conference on Civil and Human Rights, as quickly as Election Night 2008, numerous incidents of violence against African Americans were reported throughout the nation. In the days since, the number of crimes of intimidation, including cross-burning and verbal threats against African Americans has reportedly increased as well (Confronting the New Face of Hate 2009).

While violent attacks are serious offenses and leave the victim physically as well as psychologically harmed, scholars have noted that attacks on churches and other community centers tend to have a much more substantial impact on African American communities as a whole. Vandalism or arson of a church is a particular blow because the church is not only the focal point in many African American communities, but also serves as the place they would usually turn to for refuge in the wake of an incident like this occurring (Simsparris 1998). It should be noted that although churches are religious centers, when a church with a predominantly African American congregation is targeted, the crime is generally the product of racial bias, and not bias against a particular religious denomination. According to the US Fire Administration, in the 1990s there was an increase in the number of African American church arsons. By 1996, the number of churches targeted by arsonists had grown to such an alarming rate that Congress passed the Church Arson Prevention Act and the Department of Justice created the National Church Arson Taskforce (NCATF) to deal specifically with this issue (US Fire Administration 2001). In more recent years, perhaps as a result of these actions by the federal government, the number of church arsons has decreased significantly.

Other racial and ethnic groups have seen sharp increases in victimization rates in recent years. For instance, according to UCR data, since 2003, victimization of Hispanic/Latino individuals is noted to have increased by 40% (US Department of Justice 2010). This is likely attributed to political maneuvering on immigration issues and legislation created in various states to crack down on undocumented workers. Significant increases in the number of reported anti-Hispanic hate crimes in the state of Arizona, where much of the immigration issue has been centered, began in 2008 and have continued. In one incident, in May 2010, just days after controversial immigration legislation was passed in that state, a white man walked up to his Hispanic neighbor of more than eight years, shouted racial slurs to the man, and shot him in the head, killing him (Hate Incidents 2011).

While racially motivated hate crimes are the most commonly occurring, there are a large number of religious hate crime incidents as well. According to the 2009 UCR, 19% of all reported hate crimes were religious bias crimes, with most of these perpetrated against Jewish victims (US Department of Justice 2010). In terms of victimization rates, 15 out of every 100,000 Jewish individuals have been a victim of a reported hate crime (Stotzer 2007). This is the highest victimization rate among all of the protected hate crime typologies. A common element seen in hate crimes against Jews is the drawing, painting, or use of some other method of depicting the swastika symbol as a reference to the Nazi Party and the Holocaust. Violent offenses against Jewish individuals are rare, but they do occur. In June 2009, a noted white supremacist and Holocaust-denier entered the National Holocaust Museum in Washington, DC with the intention of going on a shooting spree. He was able to shoot and kill a museum security guard before being shot himself.

Hate crimes against Muslims have become a concern in recent times. The terrorist attacks on September 11, 2001 led to an almost instant increase in hate crimes perpetrated against those of Arab and Middle Eastern descent. Victimization totals are comparatively much lower than crimes against other races or religions, but incidents increased almost seventeenfold in the days following the terrorist attacks. There were 28 total reported hate crimes against this group in 2000. This increased to 481 in 2001 (US Department of Justice 2010). According to the American Arab Anti-Discrimination Committee, over 700 violent incidents, reported or not, occurred in just the nine-week period following the attacks (Stewart 2003). Many additional anti-Islamic hate

此为试读,需要完整PDF请访问: www.ertongbook.com