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Probation and Parole in the United States

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*To Betty and Charlie
Frank and Elaine
Janice and Don
Gail and Anna*

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Preface

Probation and Parole in the United States is about adults and juveniles who have been convicted of criminal offenses or adjudicated as delinquent and are punished. Judges may sentence offenders to incarceration in prison or jail for a definite period or they may suspend the sentence, subject to the offender's compliance with certain conditions. Judges may also sentence offenders to incarceration for a fixed period of years, but offenders might serve only a portion of that time. Parole boards, the court, or others may authorize the early release of offenders, again subject to certain conditions.

Some adult and juvenile offenders are permitted by the courts to remain free in their communities, provided that they comply with certain conditions. Other offenders are granted early release from incarceration under similar provisions. These offenders will be supervised by officers and agencies as provided by law. This book is also about the personnel and agencies who monitor these offenders.

The distinction between probation and parole is not clear-cut. Probation applies to a class of programs for those offenders sentenced to incarceration but who have had these sentences conditionally suspended. Parole applies to those programs for offenders who have been incarcerated but have been released prior to serving the full term of their incarceration. Therefore, *parolees* are convicted or adjudicated offenders who have been incarcerated but have been released before their sentences have been fully served. *Probationers* are convicted or adjudicated offenders who are ordered to serve non-incarcerative conditional sentences in the community in lieu of incarceration.

In both instances, parolees and probationers are supervised by parole and probation officers. But there are other classes of offenders whose activities are monitored by these officers as well. Sometimes offenders are granted diversion by the court. *Diversion* is a pretrial alternative whereby offenders might avoid prosecution altogether. If

offenders successfully comply with the conditions of their diversion, then criminal charges against them are either dropped or reduced in seriousness when they complete their diversionary period.

Distinguishing clearly between probation and parole is difficult for at least two reasons. First, there are many probation and parole programs, and several of them overlap. Thus, the clients of a specific program might be comprised of both probationers and parolees. Second, there are many different kinds of probationers and parolees to be supervised. There is disagreement among professionals about which programs are most effective. Furthermore, there are disagreements about the philosophical objectives of probation and parole programs. This book describes the objectives of probation and parole and whether these objectives are achieved. Understanding these philosophies will be enhanced through an examination of the history of parole and probation in the United States.

Besides describing probation and parole programs, various classes of offenders are portrayed. Additionally, several problems associated with the selection and training of probation and parole officers are highlighted, including their relationships with offender-clients.

Juvenile offenders pose special problems for probation and parole officers assigned to supervise them. A profile of juvenile offenders is also presented, together with a discussion of several controversial issues associated with processing juveniles. The juvenile justice system is gradually acquiring several characteristics that are making its distinctiveness less apparent compared with the criminal justice system. Larger numbers of juveniles are being processed as adult offenders, either through statutes or recommendations from prosecutors and juvenile judges. Since 1966, juveniles have been granted certain constitutional rights equivalent to those of adult offenders. Some of these rights will be described, and the influence of these rights upon juvenile probation and parole programs will be examined.

One premise of this book is that all components of the criminal and juvenile justice systems are interrelated to varying degrees. While experts contend that these systems are better described as loosely related processes, each component has an impact on each of the other components. Police discretion influences the disposition of adult and juvenile offenders. In turn, the courts influence police discretion and affect prisons and jails through particular sentencing practices. Prison and jail problems such as overcrowding often overburden probation and parole officers with excessive offender caseloads. Varying offender caseloads influence the quality of officer-offender interaction and the ultimate effectiveness of probation and parole programs. Ineffective probation and parole programs may increase the number of repeat offenders who come to the attention of police when they commit new crimes. Thus, probation and parole programs do not exist in a vacuum, unaffected by other agencies and organizations.

Probation and parole policy decisions are sometimes politically motivated. Economic considerations and limited human resources, however, also play important parts in shaping correctional priorities. The influence of political and economic considerations on probation and parole programs as well as officer effectiveness will be described.

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Part I

Probation

Chapter 1

Probation in the United States

The Criminal Justice System

Probation Defined

The History of Probation in the
United States

The Philosophy of Probation

Models for Dealing with Criminal
Offenders

Functions of Probation

Types of Probation

A Crime Profile of Probationers in the
United States

First-time Offenders and Recidivists

Probation Trends in the United States

Nobody wants to go to jail. Jails are bad places. In the game of Monopoly, besides going bankrupt or having to pay high rent to another player, the most frustrating punishment is drawing the card that says "Go Directly to Jail—Do Not Pass 'GO,' Do Not Collect \$200." But if the players are fortunate enough to draw another card that says, "Get Out of Jail Free," they can redeem it and avoid confinement. This book is about people who commit crimes, get caught, and are punished. As in Monopoly, some of these people draw the card that says "Go Directly to Jail." As in Monopoly, some are fortunate and avoid confinement; other, unlucky ones end up being confined. Also as in Monopoly, most of those confined are released after a time.

But here the analogy ends. Crime is not a game. Those who commit crimes risk getting caught and processed, to one degree or another, by the **criminal justice system**. This system consists of a complex, loosely connected network of agencies, bureaus, and organizations designed to process criminal offenders (Samaha 1988, 6). Those who have been arrested by police, charged with a criminal offense, prosecuted in court, found guilty, sentenced, and incarcerated in a **jail** or **prison** for a fixed period or allowed to remain free subject to several stringent behavioral conditions have been "processed" by the criminal justice system at all stages.

THE CRIMINAL JUSTICE SYSTEM

The criminal justice system consists of the **law enforcement**, the **courts**, and **corrections**. Ideally, the police (law enforcement) serve the public by controlling crime and apprehending criminals. The courts determine a defendant's guilt and sentence the convicted offender. And corrections "punishes" or "rehabilitates" those who have been sentenced. In practice, however, it doesn't always work that way. The criminal justice system has numerous flaws.

Many criminals are never caught. Many of those criminals who are apprehended never go to trial. Some criminals who do go to trial are found innocent by judges or juries even though they are guilty. Not all criminals found guilty are incarcerated. And criminals sentenced to imprisonment for "correction" and/or "rehabilitation" aren't always corrected or rehabilitated. Thus, all components of the criminal justice process are flawed in some respect. This applies equally to the programs described in this book: **probation** and **parole**.

Before beginning an in-depth discussion of probation and parole, it is important to understand where these programs fit into the criminal justice system. Figure 1.1 is a diagram of the criminal justice system. Entry into the criminal justice system begins with the commission of a crime followed by an arrest for that crime. Assuming offenders have been identified and apprehended, their movement through the criminal justice system is fairly uniform at both the state and federal levels.

Alleged offenders are arrested, booked, and charged with one or more crimes. These crimes are either petty or serious. They are classified according to **misdemeanors** and **felonies**. *Misdemeanors* are crimes for which the maximum pos-