

Running head: Underlying Issues in Probation and parole

Name

Course

Tutor

Date

## Introduction

Law scholars trace the background of probation and parole from the English Criminal Justice guidelines of the middle ages (David et al, 2013). Before granting probation, the English Criminal Law required prisoner's pledge to meet certain conditions during the probation period. These conditions include, obeying the law and avoiding criminal activities, offering community service in community or government institution, reporting regularly to the probation officers, avoiding contact with the victim among others (Sunga, 2010).

The law considered those serving probation and parole as still serving their sentences. Therefore, the law considered any violation of the parole conditions as breaking the law rendering the offender back to prison. Therefore, a new problem of repeat offenders emerged. Repeat offenders served longer period in prison for violating probation requirements (Sunga, 2010).

The modern probation systems have various similarities with the ancient English Criminal Law including the above. The United States of America has a modern probation and parole system with the above similarities. However, various factors have influenced changes to the American parole and probation laws. These include the high rate of crime, sophisticated crimes, huge cost of managing the probation system, recidivism, and congested prisons (Richard, 2014).

Probation in the United States began in Boston in 1841 with a man charged with drunkardness in reference to Boston Law. John Augustus posted a bail to secure the release of the common drunk. John Augustus was a boot maker. He was also religious and of financial means. He had the willingness and ability to bail and support offenders. On the

day of sentencing, Augustus pleaded with the Judge to release the man instead of sentencing him for three weeks. Augustus assured the judge of his help to reform the man. At the end of the probationary period, the man convinced the judge of his reformed life therefore securing a little fine (Elizabeth, 2007).

Usually, Augustus bailed minor offenders and first time offenders who were not wholly depraved. He offered them a place to live, employment, or education. During his work, he met various challenge including criticism from police who wanted offenders punished and not helped. However, after bailing over 1800 persons and successfully reforming them, the judge and the police appreciated the effectiveness of his innovation thus accepting the notion that not all offenders needed jailing to reform (Friedman, 2010).

After observing the effectiveness of Augustus work in Boston, other states beginning with Massachusetts quickly followed suit. In 1869, Massachusetts opened a children rehabilitation center resembling probation. In 1878, the state of Massachusetts, developed and adopted a probation law for juveniles in response to concerns relating to the harsh penalties imposed on juveniles. Therefore, Massachusetts became the first state that officially adopted probation (Richard, 2010).

During this period, there was little support for adult probation. This is the reason it took quite long period before any state recognized the need for adult probation. In 1901, the state of New York passed a law that allowed the judges to grant probation to offenders above 20 years. However, first time offenders and minor offenders only qualified for adult probation. The success of the probation services in reducing congestion in prisons attracted public support for adult probation (Walter 2009). By 1956, all American states had developed and adopted juvenile and adult probation legal guidelines (Friedman 2010).

In the United States, there have been continuous developments including challenges in administering both adult and juvenile probation. These challenges have been developing overtime. These challenges include monitoring the persons on probation and recidivism. The state and local governments engage the various stakeholders in addressing some of these challenges. Some of the recommendations improve management of parolees and persons on probations. However, some recommendations increase recidivism due to the challenges in financing and follow up (Richard, 2014).

It is common knowledge that probation and parole have more advantages than imprisonment (Fuller, 2009). The state governments adopted parole and probation mainly due to congestion in prisons (Friedman, 2010). Other factors include the need to seclude hardcore criminals, avoidance of socialization between petty offenders and hardcore criminals, and the international adoption of parole and probation as alternative for jail sentencing for first time and petty offenders (Richard, 2014)

In the mid-80s, the local and state governments realized the reduced cost of maintaining prisons by granting probation to first time and petty offenders. Prisoners who had served a third of their jail term could apply for parole. This came because of the guidelines from the President Commission on Law in 1982. There was increased opportunity for rehabilitation and at a low cost. This won the public support on alternative collection rather than imprisonment (Fridman, 2010).

However, considering the high number of persons on community supervision in the United States, the states governments experienced financial difficulties in monitoring persons on probation. Data from Bureau of Justice Statistics indicate that 1 out 51 adults and 1 out of 98 children in United States were on probation in 2013. Besides, the budget allocation for probation

services in state governments approximates less than 10 per cent of states and local governments. According to data from Bureau of Justice and Statistics, every adult on probation spends approximately 3.4 dollars every day (Richard, 2014).

The probation agencies experience financial constrains in executing their mandate. Due to financial limitations, the agencies employ inadequate personnel to monitor parolees and those on probation. Most of the states' law on probation and parole require the offender to report to the parole and probation officers at least once a month. However, due to shortage of personnel there is little or no supervision of offenders. Most of them end up breaking other regulations such as movement from their restricted geographical location and committing the same or a different crime. It is only until this time that the law enforcement personnel encounter the offender (Walker, 2009).

Most of the offenders also mock the probation and parole system due to its ineffectiveness. Most of deviants especially drug addicts repeat their previous crimes during the probation and parole period. Therefore, there is a crisis about the effective form of collection for the repeat offenders on parole and probation. To avoid petty offenders socializing with hardcore criminals in jail, the National Congress adopted a law to create and finance jails for probation and parole violators (Friedman, 2010)

In 1981, all state governments had established collection facilities for parole and probation violators. These violators included drug addicts and extremely violent juveniles. The facilities provided counseling and other productive skills to reform the violators. Most offenders reform while in these facilities and majority of those who finish their term are in meaningful employments (Richard, 2014).

However, various states and individual judges constantly draft new strategies to counter recidivism (Maveal, 2007). Some judges have decided to act individually and impose more punitive requirement for persons on probation. For example, a 66 years old music instructor charged with molesting two minors was forced to surrender his \$12000 piano and put a post on his door warning children to stay away. The state judge also barred him from buying another piano or even playing one until he completed his 20 years sentence (Friedman, 2010)

In 1999, the state of New York required the police to help parole and probation officers in monitoring offenders to reduce repeat of offences. The probation agencies provided the police with the list of persons on probation and parole. The agencies rewarded the police for making frequent visits to ensure the offender does not engage in crime (Walker, 2009).

States that have a history of high crime rates such a Texas, California, and New Mexico consider radical and tougher measures to manage persons granted parole and probation. In these states, there is a high number of repeat offenders previously on probation and parole. Some of the measures taken include, repeat offenders automatically losing their right for probation and parole. They serve their jail term in prison. The authorities act this way to protect the public from the high risk of rape and robbery witnessed in these states (Mark, 2014).

In the United States, the number of persons on parole and probation has been relatively constant. However, the above measures have helped to reduce crime and recidivism in the United States. The number of people on probation and the rate of recidivism have constantly reduced since 2010. As a result, crime rate is reducing.

However, parole and probation agencies, and other stakeholders should be keen to observe any new development and respond appropriately (Richard, 2014).

The above information reveals how probation and parole helps decongest prison facilities and promote change of habits for first time, minor, and even repeat offenders. There is also need to allocate more funds to rehabilitation facilities for drug addicts. This is because drug addicts take more time to reform compare to other deviants. The national Congress should develop tougher laws against illegal drug peddling, for example, increasing the number of jail term for the offenders, or denying them probation (Richard, 2014).

This study reveals that developments on probation and parole are spontaneous. Therefore, authorities should be observant and learn from each other's practices. Parole and probation agencies should involve the police more on enforcing the probation and parole requirements. This will enhance efficiency

## References

- Richard C, Sharon M (2014). *Crime and Punishment in America*. Oxford University press:  
New York
- Mark N, (2014). *Fabricating Social Order: A Critical History of Police Power*. Pluto press:  
London
- David et al, (2013). *Introduction to law Enforcement*. Boca Raton: Florida
- Sunga S. (2010). *The Emerging Systems of International Law: Deveopment in Condification  
and Implemetation*. The Hague: Kluwer Law International
- Friedman, B. (2010). *Crime and Punishment in American History*. Basic Books: New York
- Fuller G, John R (2009). *Criminal Justice: Mainstream and Crosscurrents*. Prentice Hall:  
Upper Saddle River.
- Walker, S. (2009). *A Critical History of Police Reform: The Emergence of Professionalism*.  
Lexingtone
- Elizabeth, D. (2007). *Criminal Justice in the United States*. Cambridge University
- Maveal, G. (2007). *Federal Presentence Reports: Multi-Tasking at Sentencing*. Seton Hall

