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## Criminal Justice Policy Strategies for Maine

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# Criminal Justice Policy Strategies for Maine

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*Are we controlling crime in ways that may lead to reductions in crime rates as well as a criminal justice system that is more cost-efficient for Mainers to support? McEwen and Hanneman indicate we are not and ask the question: Can we take advantage of our relatively low crime rate to rethink and improve crime control strategies? In answering this question McEwen and Hanneman present a forceful argument for restorative justice, where repairing the harm to victims and communities becomes the forefront of our response to crime. They suggest six strategies to achieve this change, including the planned closing of the Maine State Prison.*

*by Craig McEwen and  
Evelyn Hanneman*

### **Introduction**

During the 1990s Maine has remained relatively immune from the hysteria about violent crime that has played a prominent role in political campaigns and driven policy and spending decisions in many states. At one extreme, for example, prison populations in California have expanded by almost 600 percent between 1979 and 1994 while spending for corrections has grown from less than 4 percent of the state budget--roughly Maine's current rate--to more than 10 percent, now outstripping expenditures for higher education (Schiraldi, 1994). During the same period, California's violent crime rate increased by 66 percent. Maine stands in stark contrast. With a 1994 violent crime rate about one-eighth the size of California's and essentially the same as it was in 1979, Maine's prison population grew by 90 percent during that period but now is relatively stable, unlike in California where the rate is projected to triple during the next decade.

Since crime rates in Maine remain low, criminal justice expenditures appear under control, and prison populations are projected to rise only modestly due to a recent reduction in the amount of "good time" granted to reduce time served, why should criminal justice policy be a priority in this state? One reason is to avoid the policy choices of California, which could bankrupt itself with its prison expansion program. Second, although violent crime rates are relatively low in Maine, they remain of concern to citizens here and cannot be ignored. Third, criminal justice policy is especially challenging because it must bridge the executive, judicial, and legislative branches; connect state, county, and town or city government; and be coordinated with other social agencies and policies. Finally, Maine--by the very fact of its modest crime problems--provides an opportunity to think innovatively about criminal justice policy in ways that could help provide a national model.

Such innovative thinking cannot be bound by conventional assumptions about crime control that expect far more of the criminal justice system than it can deliver. Further, such thinking requires at its center a new paradigm for justice--restorative justice--to replace the retributive model for criminal justice that now dominates policy. Freed from past assumptions, policy makers can

design policies that emphasize reparation of harm to victims and communities and acknowledge the crucial role of conventional social institutions--family, work, school, and community--in shaping the behavior of people who find rewards through participation in them. Proposals to enhance community policing, increase the use of intermediate sanctions, improve capabilities for meaningful rehabilitation, develop targeted community crime prevention, and respond effectively to the harm done to victims would both advance restorative justice as well as strengthen these crucial controls, and thus promise success in controlling crime rates. To succeed, these proposals would require greater coordination among criminal justice and other state and local agencies and funding that might be obtained in part by a carefully planned closing of the Maine State Prison.

### **Rethinking the Purpose and Limits of Criminal Justice**

Criminal justice policy presumably advances two central public purposes--control of crime and justice. Powerful assumptions about how crime can be controlled and about what justice means drive contemporary criminal justice policy, making it increasingly expensive at the same time it proves itself ineffective. Any efforts to rethink criminal justice policy in Maine require that we examine and challenge these assumptions.

The primary, or even exclusive burden for controlling crime typically is placed on the police, courts, and corrections system. Yet, it is easy to overestimate the power of government intervention to control individual behavior. In fact, a quick glance at some of the experiences nationally and in Maine suggests these limits. In the period from 1979 to 1994, the United States tripled the number of people it imprisoned. Yet, the FBI's annual *Crime in the United States* shows that the rate of reported violent crime grew by 30 percent during the same period while the rate of property crime fell by only 6 percent. The dramatic and unprecedented increase in the use of imprisonment--arising from longer prison sentences and greater proportions of offenders sentenced to prison--appears on the surface not to have had a clear downward effect on crime rates. Why not?

If changes in the criminal justice system--defined primarily as making it "tougher"--are to control crime rates, that effect must be achieved largely through increases in deterrence or incapacitation. On one hand, punishing criminals presumably "sends a message" to other potential lawbreakers and thus deters future crime. On the other hand, people kept under correctional supervision are not free to engage in criminal activity in the community. Certainly, the presence of a criminal justice system acts both to provide some deterrence and some incapacitation while also teaching and reinforcing moral lessons about right and wrong conduct. But the crucial policy question is not whether the system deters or incapacitates at all, but whether changes in that system significantly increase or decrease deterrence or incapacitation and thus have clear effects on crime rates.

#### ***Limits of Deterrence***

Those who study deterrence generally agree that 1) punishment that is highly likely deters more than punishment that is unlikely; 2) severe punishment deters more than less severe punishment; and 3) punishment that is administered as soon after the act it punishes as possible will deter

better than punishment administered at a more distant time (Andenaes, 1974). Of these three, the first--certainty of punishment--is understood as by far the most significant. Unfortunately, it also proves to be the most difficult to change radically. In the United States, for example, only thirty-two of every 1,000 serious crimes lead to conviction (Senna and Siegel, 1995)--largely because in 90 percent of felonies the crimes either are not reported to the police or the police cannot identify the offender (Petersilia, 1992). Prosecutors then screen out and dismiss cases with insufficient evidence. Popular perceptions aside, courts convict the vast majority of offenders prosecuted--95 percent of Classes A, B, and C cases in Maine in 1992 and 1993 (Judicial Branch, 1993). The biggest barriers to certainty of punishment--non-reporting and unsolved crimes-- are especially difficult to overcome. It is doubtful the likelihood of punishment can be increased substantially without resorting to police-state tactics we would find intolerable in the United States.

Increasing the severity of punishment is much easier to accomplish than increases in certainty. In fact, prison sentences in Maine (Market Decisions, 1993) and elsewhere are significantly longer in the 1990s than even a decade earlier. But will marginal increases in severity improve deterrence? Probably very little. First, for many people severity has little significance. Most of us who have much to lose with a criminal conviction do not care whether the penalty is one month or ten years. Any conviction would be shameful and stigmatizing. Individuals who live in strong and stable communities and experience success in family, school, and work are likely to fear the loss of respect coming from arrest and conviction far more than the punishment that might follow.

For people with much less to lose, the differences in severity of punishment also appear to matter little (Petersilia, 1992). The circumstances of many crimes make it unlikely that people will anticipate carefully the likelihood and severity of punishment by the state before they act or that they will weigh possible punishments more heavily than the short-term results of criminal acts. For example, more than half the violent offenders in state prisons reported committing their offenses while under the influence of alcohol or drugs (Bureau of Justice Statistics, 1992). Further, the circumstances of offending appear to restrict the attention of many offenders to the short-run consequences of their acts--for example, to getting money for a drug habit or to maintain status and respect among their peers--when engaging in criminal activity, and reduce the chance of considering remote and uncertain legal consequences (see, e.g. Wright and Decker, 1994). In addition, to the extent someone might anticipate severe penalties, they easily can be discounted by the assumption that he or she will not be caught. Finally, for those people with the least to lose, criminal punishment itself holds little fear because its stigma is meaningless and its conditions, however harsh, differ little from those of their unhappy lives. Thus, a wide range of forces significantly diminish the effects on crime rates of marginal increases in severity of punishment.

### ***Limits of Incapacitation***

Control of crime rates by marginal increases in deterrence is difficult to achieve, but incapacitation would seem to be a sure thing. The criminal justice system certainly has some downward effect on crime by keeping more and more offenders under correctional control, but the capacity to affect crime rates meaningfully has substantial limits (Zimring and Hawkins,

1995). These limits result largely from the fact that the social forces that help produce and reproduce crime quickly replace many of those people who are removed from communities through imprisonment. The sorts of crime that foster the greatest public concern are largely the work of young men. Boys replace those who are imprisoned almost as fast as they are convicted. Individuals typically do not receive long prison sentences until they are in their early to mid-twenties or older, a period during their life course when many are maturing out of crime as they take on jobs and accept family responsibilities (Petersilia, 1992). Thus, the turn to longer and longer sentences during the past decade results in the lengthy incarceration of many people who are apt to have relatively low offending rates in the future. As a result, incapacitation turns out to be a very expensive strategy with surprisingly little effect on crime rates. Yet its general failure as a long-term crime control strategy does not mean incapacitation is inappropriate or ineffective when used selectively for multiple offenders whose crimes--like drug sales--will not simply be replaced by others.

A policy to control crime rates through deterrence and incapacitation inevitably fails and promotes an endless spiral of escalating penalties, prison populations, and expenditures for criminal justice (Clear, 1994). Failure builds support for harsher penalties and more prisons under the assumption that the inability to control crime rates arises not from the false premises of the policy but from the limited character of its implementation. In this sense, prisons breed new prisons. California has embarked on this path. Recall that its 600 percent increase in prisoners during a sixteen-year period has been accompanied by a 66 percent increase in reports of violent crime.

Unlike California, Maine generally has steered clear of policies built largely on the overstated hopes for deterrence and incapacitation. Nonetheless, prison populations almost doubled over ten years in Maine as prison sentences were lengthened. These shifts generally don't seem to have made Maine safer but have cost substantial sums of money, since taxpayers pay about \$25,000 to imprison a person for one year in Maine. Public outcry about a particularly heinous crime in Maine could renew calls for the pursuit of such policies. However, if Maine policy makers want to have a real effect on crime rates, they would be served better by attending to other approaches, some of which already are underway in the state.

### **Retributive or Restorative Justice**

The criminal justice system is presumed to deliver justice as well as control crime. Crime offends us because people break moral and legal rules, threaten and harm others, profit at our expense, and undermine our trust. In response to such harms, we have attempted to achieve justice largely through retribution. That view of justice has had little competition until recently, but now is challenged by an alternative vision of restorative justice that provides a new paradigm for the criminal justice system.

Retributive justice entails punishing offenders in ways that presumably balance the wrong done to the individuals, organizations, and communities that have been victimized. The currency of retribution is severity of punishment. The greater the severity, the greater the retribution. Recent extensions of prison sentences in Maine--for example the doubling of the upper limit for sentences for Class A crimes from twenty to forty years in 1989--and the 90 percent increase in

the state prison population during the 1980s reflect this retributive approach.<sup>1</sup> Even if such increases do not diminish crime rates effectively through enhanced deterrence or incapacitation, they may satisfy a public urge for retributive justice.

Unfortunately, retributive justice also has economic and social costs. As Californians are discovering, retribution is very expensive, and we in Maine need to weigh carefully the tradeoffs between longer punishment at \$25,000 per person per year and other uses for scarce public dollars. The social costs of retribution are less clear but perhaps even more worrisome in the long run. Retribution enlists the state as an agent of private vengeance and emphasizes the imposition of pain as a public good. It turns our collective focus on crime to the contest between the state and the alleged offender over culpability while neglecting efforts to assist individual victims. It highlights the small minority of crimes that lead to an arrest and tends to ignore the much larger number for which no offender is identified. It emphasizes the individual offender to the exclusion of the community and social context of crime. Because most offenders plead guilty without trial, they never have to face their victims or recognize the human costs of their crime. By stigmatizing and alienating offenders, retribution can make their successful return to communities more difficult. Finally, a retributive approach has no built-in limits and easily can lead to an unchecked escalation in severity of punishment.

Until recently, there was no coherent set of principles to provide a plausible alternative to retributive justice. A restorative justice approach, however, has increasing visibility in the United States and has been adopted as one of the guiding principles of the Maine Department of Corrections. Restorative justice includes punishment and incapacitation of offenders but focuses less attention on the offender and more on the harm done by crime and the need to repair it. The primary questions in a retributive system are: "What laws were broken?" "Who did this?" or "What should the punishment be?" These change in a restorative system to: "Who was hurt?" "What is needed to repair the hurt?" and "Who is responsible to repair the hurt?" (Zehr, 1990). Thus, the harm and the victim are at the center of the restorative process. A restorative justice approach encourages attention to the many crimes in which offenders are not identified as well as to the few where they are discovered.

The measure of restorative justice is not the amount of punishment imposed but rather the extent to which the harm to individuals and to communities is repaired. Restorative justice further emphasizes the direct accountability of the offender to the victim--not just to the state through appropriate punishment--through acknowledgment of wrong, remorse, and shame, through payment of restitution, and through community service. This approach also leaves room for those victims who desire to meet with offenders in structured settings to express their anger, fear, and loss, and also to learn to understand the offender and offense and, if they can, to move toward forgiveness as a way of gaining closure in the aftermath of the crime. In the restorative justice view, the community must play a central role in assisting crime victims, holding offenders accountable, reintegrating offenders into the community, and taking responsibility for preventing future crime. Reconciliation and forgiveness are central principles of restorative justice because they imply that breaks in the community fabric have been repaired as offenders take responsibility for the harm they have done and that they and the community have done as much as is within their power to repair those harms.

The restorative justice model helps to free policy makers from the trap laid by an exclusive reliance on a retributive approach. In that latter view, the central response to the very real problems of crime and victimization are ever harsher punishments that presumably appease the victim and prevent future crimes. The failure of a retributive system to deliver significantly greater public safety is overlooked. The system also leaves many victims unsatisfied, in part because punishment may do little to resolve their problems and because most victimizations never lead to an arrest and punishment. A restorative justice model provides an alternative approach that advances important public values and supports policies that promise greater effectiveness in controlling crime.

## **Criminal Justice Policy Strategies for Maine**

To identify strategies that have promise to reduce crime rates, one first must identify the causes of those crimes that most concern citizens and policy makers--violent crimes, drug sales, and property crimes such as burglary and theft. Those most likely to become involved in such crimes appear to be young people who have little attachment to their communities. Although the structure of small communities in Maine limits the extent of such detachment, it still poses a problem that policy can address. A wider understanding of crime causes leads to policy proposals that can promote more effective crime control and advance restorative justice.

### Understanding the Causes of Crime

To begin to assess the causes of crime, let us return to the comparison between Maine and California and ask ourselves why crime rates in California are so much higher than those in Maine. Before answering that question, it is important to observe that in both Maine and California, the people most likely to find themselves in the criminal justice system are young men with few resources--low income, weak formal education, unemployed or marginally employed, and often unmarried (see, e.g. Perkins, 1994). Significant differences in crime rates between Maine and California, therefore, are likely to reflect differences in the numbers and concentrations of such young people in the states and in the capacity of their communities to involve even these most marginal members in the life of the "mainstream."

To explain the differences between Maine and California crime rates, it also helps to recognize that the most powerful forces that shape individual behavior are families, communities, friends and peers, schools, and employers. They guide and direct us through rewards of status, security, respect, love, and income, as well as the threat of their loss. In other words, they create a stake in conformity. When they offer or deliver few rewards, however, families, employers, schools, and community institutions have a weaker hold on individuals, who then have a reduced commitment to conformity. Under these circumstances, the lure and acceptability of illegitimate opportunities increase.

Crime occurs most often then when these controls are weakened. Large cities, especially of areas of concentrated poverty, may have the weakest institutions and controls and thus the highest crime rates. One of the biggest differences between Maine and California, therefore, is the concentration of residents in our state in smaller communities while California has sixteen cities with more than 170,000 residents. When considering the reasons for higher crime rates in

California than in Maine, we thus are likely to focus not on differences in criminal justice policies in the two states but rather on distinctive features of community life.

This comparison suggests that if we accept as a policy objective the reduction of crime rates, we need to turn our attention largely to strengthening community institutions and widening the availability of rewards in order to build a larger stake in conformity among those most at risk of crime involvement. Even in smaller Maine communities, people find themselves estranged from families, communities, or schools. How can we reduce the likelihood that such estrangement will occur and lead to crime? Initiatives that connect criminal justice control to the controls available in communities provide the answer to this question.

### **Policy Initiatives Connecting a Restorative Criminal Justice to Communities**

Those policies most likely to succeed in controlling crime rates are ones that connect the powers of legal control to the even more powerful social controls in communities, families, work, and schools. Policies to promote restorative justice also need to involve communities centrally in repairing harm and holding offenders accountable. A recognition of this need to connect criminal justice to communities has begun to reshape police departments across the United States through community policing. This innovative approach to policing provides an important model for other parts of the criminal justice system.

Community policing generally rests on the assumption that active cooperation between community residents and police is essential to effective law enforcement and crime prevention. Thus, community policing practices can help change public understanding about who is responsible for crime control. In community policing, that task is no longer delegated exclusively to the police and criminal justice system but is shared by community residents and organizations. A well-developed community policing system engages local police with community leaders and service providers in designing coordinated and targeted enforcement and preventive responses to local crime patterns. In this model, police de-emphasize routine patrols that have questionable effectiveness in crime control and devote more attention to analyzing crime patterns and finding solutions to the problems that produce them.

Such initiatives in Richmond, Maine led to a focus on a small youth population and yielded dramatic declines in the rate of reported crime--cutting it by two-thirds (Churchill, 1995). In Portland, community policing initiatives have focused attention on the intersections between poverty, public health, community disorder, and crime. One community policing center, for example, works closely with the University of Southern Maine's School of Nursing and the Portland City Health Department to address a wide variety of interrelated community health and service needs. Other Maine cities and towns pioneering in the use of community policing include Biddeford, Brunswick, Lewiston, and South Portland.

Community policing efforts appear to succeed in controlling crime rates to the degree that they create partnerships that strengthen local community institutions. For example, community policing efforts may reduce public disorder and increase the number of families using public places, assist in redeploying public resources for recreation programs that draw youths to constructive activities, organize neighborhood residents to report suspicious acts and people to

the police, reinforce family control through the enforcement of curfews, and increase citizen-police trust and cooperation (e.g. Sadd and Grinc, 1996). At a local level, community policing integrates criminal justice approaches to crime with the work of schools, families, social service agencies, town planners, and local community groups. It also recognizes the restorative justice principle that crime control must be worked through locally in response to the needs and characteristics of each community. ***By providing modest support for increased local training and initiatives to further develop community policing, Maine policy makers could significantly advance crime control and restorative justice.***

The theory of community policing provides a model for other parts of the criminal justice system--prosecutors, courts, and corrections. Like police, these agencies cannot succeed in crime control--or in doing the work of restorative justice--without substantial connections to local communities. For example, to the degree prosecutors see their role as helping to reduce crime rates, they must try to find ways not simply to punish offenders, but also to build community resources that enable offenders to remain in or to re-enter communities with supporting and controlling connections to family, work, school, and supportive social and mental health services. The same is true for courts where judges now sentence offenders to probation--which has a caseload of over 9,000 juvenile and adult offenders--without any certainty that resources exist to ensure that probation conditions for treatment and work can be met. Jail and prison officials must find ways to connect the people

leaving their institutions to the communities they return to so social controls in them can operate effectively. Restorative justice requires attention to rebuilding and strengthening communities. Thus, for crime control and restorative justice to have a chance, criminal justice officials must follow the lead of police in linking their work to the powerful forces for good in Maine communities as well as to the resources of public and private agencies outside the traditional criminal justice system.

What does all this mean more specifically in terms of other policy initiatives and models in Maine? The first steps may be both conceptual and organizational. ***Criminal justice officials must understand their roles more broadly and make connections at a policy-making level to other public officials whose work relates to crime and crime prevention.*** The Children's Cabinet, chaired by Corrections Commissioner Joseph Lehman, provides a model for this sort of coordination. Its charge is to develop a "seamless service delivery system for children and families and . . . to pool funding to maximize limited resources." The creation of the Children's Cabinet recognizes the problem of divided responsibilities and the mandates of state agencies that all work with the same target population. The same problem of divided services and uncoordinated approaches exists in the area of criminal justice, where the population most at risk is served by agencies with very little contact and coordination. For example, we know significant segments of the jail population in Maine consist of individuals who draw heavily on local and state social and mental health resources. This pattern suggests a need to coordinate what now are almost totally separate activities of police, courts, prosecutors, probation officers, Department of Human Services workers, mental health staff, substance abuse treatment professionals and agencies working with the homeless. At the local level, police in Brunswick and Portland have begun to model such programs.

The creation of the Maine Criminal Justice Commission<sup>2</sup> has helped to improve communication and coordination among disparate state-level agencies involved in criminal justice. Modest support for working groups--for example, on mental health and criminal justice--coordinated by this commission but drawing in other state-level agencies would provide a start in developing a "seamless response" to those most at risk of contact with the criminal justice system--both victims and offenders.

***Maine needs to rely more heavily on intermediate sanctions--punishments between low supervision probation and imprisonment (Morris and Tonry, 1990).*** During the past decade, Maine has flirted with a more varied system of punishments that still promises to reduce reliance on prison and strengthen the bonds between offenders and the communities in which they live. Unhappily, restitution centers proposed in a bond issue fell victim to voter resistance to spending, and intensive supervision probation foundered on its own too strict eligibility rules and budget cutting within the Department of Corrections. Former Kennebec County Sheriff Frank Hackett pioneered the use of community-service sanctions for drunk drivers--such as weekend incarceration that included work on projects like painting local schools or cleaning up litter in park areas--with great success, and that now is spreading slowly to other Maine counties. However, Maine still relies heavily on prisons, jails, or traditional probation, and has remarkably few alternative sanctions, especially for its significant number of non-violent offenders. While there may be short-term increases in costs to make intermediate sanctions operative, Maine policy makers need to promote these alternatives and overcome barriers to their use. A system of intermediate sanctions, if used to divert some offenders from prison, could decrease long-term corrections costs while providing more clearly graded punishments that help reconnect offenders to communities and the controls they provide. Further, if guided by a restorative justice paradigm, these intermediate punishments could help repair harm and ensure accountability of the offender to victim and community.

Despite the widespread perception that citizens single-mindedly choose "locking up criminals and throwing away the key," strong evidence exists that an educated public would support further development of intermediate sanctions in Maine. For example, after learning a little bit about the costs of imprisonment and the nature of these intermediate sanctions, 94 percent of a cross-section of Mainers surveyed in 1992 indicated they favored the use of intermediate sanctions for offenders who had not committed serious violent crimes (Market Decisions, 1992).

***Courts, prosecutors, and corrections officials in Maine should expand their support of restorative justice approaches that help to repair harm and respond to the needs of victims.*** Maine now has a crazy quilt of programs for victims but little sense of a thoughtful and coordinated approach to assisting crime victims, most of whom now must fend for themselves. The shelter movement for abused women and the ten centers in Maine for victims of sexual assault all reflect private nonprofit efforts to assist selected victims. The state also has a victim compensation law that has paid out \$500,000 during its first three years of operation, largely to people who had suffered crime-related physical injury. Prosecutors and some police departments have victim-witness advocates, although it is not clear that they are universally available. The Department of Corrections recently hired its first Victim Services Coordinator. But Maine policy

makers need to think comprehensively about assistance to crime victims, identifying serious gaps, needed resources, and potential improvements in services consistent with a restorative justice philosophy.

In addition, police, prosecutors, and courts in Maine should be encouraged to promote the selective use of victim-offender meetings (or mediation), which have been pioneered in this state by the Community Dispute Resolution Center of Portland. These meetings presume an offender who will take responsibility for the crime and a victim willing to meet, talk, and listen to the offender in a safe setting. Victim-offender mediation has been going on in the U.S. since 1974, and has been viewed as extremely successful by participants (Coates and Gehm, 1989). There is even some evidence that participation may lower the likelihood that juvenile offenders will return to crime (Umbreit and Coates, 1993).

***Maine policy makers need to address the serious shortage of rehabilitation and assistance programs for offenders in jails, prisons, and under probation supervision in the community.*** Seventy-nine percent of Maine citizens believe that "with adequate treatment, most offenders can be helped so they can be better citizens when they get out of prison" (Market Decisions, 1992). Despite the clear sensibility of and support for rehabilitation, it typically has been hard hit by cutbacks or constraints in both the Department of Corrections budget and in funding for community-based programs. Thus, programs to deal with substance abuse and sex offending and for job training, education, and counseling currently do not come close to serving the needs of both imprisoned offenders and those on probation. Such programs have limited long-term effects on behavior, unless offenders can forge new and constructive social bonds in their communities. Contractions in the size of the probation staff during the early 1990s--while caseloads were rising--have hampered their capacity to assist offenders upon their release from confinement. Although Maine eliminated parole and post-release supervision in 1975, the heavy use of split sentences, with probation following prison or jail provides a legal framework for supervising offenders while they establish bonds to work, school, and family upon release. However, the lack of staff resources in probation and community support services limits that possibility. Maine thus needs to redevelop its rehabilitative programming for offenders in prison and on probation, as well as its probation resources, if it hopes to make punishment an effective tool of crime control.<sup>3</sup>

The rehabilitative efforts in prisons and jails also should advance restorative justice by highlighting the accountability of offenders to their victims and encouraging them to undertake restitution in some form. Imprisonment in a retributive system demands that the offender pay a "debt to society," but that debt often can be paid passively by "doing time." A restorative justice system would actively encourage offenders to make amends, to earn money to pay back victims, and to make contributions to their communities. Reparation could go far to connect offenders positively to communities in ways that may help them reintegrate more successfully upon release.

***Finally, if Maine is to make serious strides toward crime control, it must plan carefully for general prevention efforts that take place largely outside the purview of the criminal justice system but should be coordinated with it.*** General prevention focuses either on individuals at risk of offending or on the social processes or structures that produce delinquent and criminal conduct. Prevention programs might include home visits and day care for poor single mothers,

training for parents whose young children "act out," and graduation incentives for disadvantaged high school students. A recent study by RAND of such efforts underlines the potential of early crime prevention efforts. It reports limited effects on crime rates of prison building and incarceration and much more substantial impacts for each dollar expended on these sorts of targeted crime prevention programs (Greenwood et al., 1996).

Maine needs to support and encourage statewide and local efforts to craft crime prevention programs that recognize the varying character of crime and communities in the state. A serious effort to examine evidence about crime patterns, to assess existing state and local resources for intervening with groups such as at-risk youth and substance abusers, and to map strategies for crime prevention would give the public evidence that crime was being taken seriously. The state could set targets for measuring the effectiveness of such efforts and focus public attention on potentially productive and cost-effective efforts at crime control. The leadership for such efforts might come from working groups convened by the Criminal Justice Commission--but only if it has increased resources.

### **Resources for Change: A Modest Proposal**

An imaginative approach to Maine's criminal justice policy runs counter to continuing budget pressures that limit opportunities to start new initiatives while continuing old ones. Thus, even if new approaches might prove less costly in the long run, they typically require start-up funds. Legislators understandably are reluctant to commit such funds unless they can be certain these investments will be paid back by future cost savings. How can Maine guarantee future cost reductions in order to encourage the commitment of current resources to support significant improvements in its capacity to control crime and to advance restorative justice?

The obvious target for such savings is the closure of a corrections facility. The Maine State Prison at Thomaston, the state's oldest and least efficient institution, provides the best possibility (Rooks, 1996). With an annual operating cost of about \$16 million, the state prison absorbs 20 to 25 percent of the Department of Corrections' general fund budget. Its closure could be achieved by a planned decrease in the total prison population through the increased use of intermediate sanctions for non-violent offenders and by increasing the capacity of other existing correctional facilities. For example, by investing capital in a small and lower-security addition to the "Super Max" at Warren (including a kitchen and other central facilities), by adding capacity at the prison farm across the road, and by adding a new medium-security living unit at the Maine Correctional Center, the state could move some inmates to enlarged existing institutions. Because of economies of scale at these other facilities and the efficiencies of new construction, such additions would cost significantly less to operate per inmate. A modest expansion at the two facilities in Warren also would reduce the economic impact on the Thomaston-Warren area with the closure of the Maine State Prison. With its closure, the substantial operating costs of the Maine State Prison could be diverted to pay for the increased costs of other institutions, a dramatically enlarged program of intermediate sanctions, improved pre-release and post-release services that would help offenders become reintegrated in their communities, modest efforts at targeted crime prevention across the state, and significant initiatives to promote restorative justice.

## Conclusion

Maine and California have very different crime problems, but in many ways have adopted similar strategies for dealing with them. Both states rely heavily on an expensive retributive system to control crime and provide justice, and both tend to conceive of crime control as the exclusive province of the criminal justice system. In neither state is there good evidence that retributive approaches produce practical benefits--that they significantly affect crime rates by deterrence and incapacitation. Without a high and rising rate of violent crime in Maine, however, thus far we have avoided most of the excesses of escalating criminal penalties and prison expenditures faced by California. Can we take advantage now of our relatively low crime rate to rethink and improve crime control strategies and alter and enhance the nature of our justice system?

It is clear that police, prosecutors, judges, and corrections personnel can by themselves do little to bring about marginal reductions in crime rates. However, by recognizing the potential for building connections between the relatively weak controls offered by the justice system and the relatively powerful controls that exist in communities for those people who find rewards in family, work, and school, Maine can enhance crime control. But that enhancement requires change in the organization of criminal justice. It means new and improved linkages between criminal justice and other agencies of government, private institutions, and individual citizens. It means a serious commitment to community policing, development of intermediate sanctions, serious investment in resources for treatment and rehabilitation in both prisons and communities, and thoughtful, targeted crime prevention efforts. All these efforts can and should be organized around what we know through research will work or offers the promise of working, and all need to be monitored for their effects and effectiveness. To do the latter will require more serious attention to coordinated computerized data systems that link police, courts, and corrections, as well as modest investments in research and evaluation. Long-term funding for at least some of these changes could come from a carefully planned closure of the Maine State Prison.

These efforts to achieve crime control make sense by themselves, but they also would advance restorative justice in Maine. A commitment to restorative justice would free policy makers from the trap of a single-minded commitment to retributive justice that can drive ineffective and costly criminal justice policies. Just as important, such a commitment would encourage wider attention to the needs of victims and to the reparation of the harm done by crimes, a peripheral focus of the current offender-focused justice system.

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## **Endnotes:**

<sup>1</sup> For a period of time, ideas of "just desserts" and of "proportionality" in punishment helped to restrain retribution. The revisions of the Maine Criminal Code that took effect in 1976 reflected these views by setting out a carefully graded and limited set of punishments, presumably proportional to the seriousness of the crime. Such restraint on the severity of punishment proves hard to maintain in the face of pressures for increased retribution and hopes for marginal increases in deterrence. Thus, Maine's criminal code has been revised repeatedly during the last twenty years, with increases of one penalty or another.

<sup>2</sup> The Maine Criminal Justice Commission was created in 1991. The purpose of the commission is "to monitor and evaluate the state's criminal justice system on an ongoing basis and to provide recommendations regarding changes in the system to the appropriate state departments and the Legislature." Members include heads of all the relevant state agencies, including the attorney general, chief justice, and commissioner of corrections. Lack of funding has

handicapped the commission from its inception, however. Although limited funding now supports a part-time staff position, the commission's resources are minimal, and it is neither equipped to respond rapidly to questions raised in the Legislature or to set and pursue its own agenda.

<sup>3</sup> Efforts to build rehabilitation programs should be made in light of research evidence about what works and what does not work. Ever since Lipton, Martinson and Wilks (1975) wrote their important critique of correctional efforts at rehabilitation, researchers have been re-examining their conclusion that "nothing works." There is increasing evidence that although no single strategy works for all offenders, some rehabilitation efforts—for example, therapeutic communities for drug offenders, treatment for some types of sex offenders, education programs and so on—are relatively effective in the long run (e.g. Immarigeon, 1995; Wexler, 1995).

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