

An Easy Ride for Felons on Probation

By John J. DiIulio Jr.
and Joseph P. Tierney

The violent crime rate in the United States has fallen by about a third since 1993, but it could fall further if we took better control of the millions of criminals who are on probation rather than in prison or jail.

A growing body of evidence is showing that the "broken windows" strategy used effectively by police departments — taking petty crimes seriously as a way to establish a low tolerance for lawbreaking at every level — can be adapted to the treatment of people on probation. If those who break the conditions of probation, even with what seem like minor lapses, are held accountable for it, the public will be safer.

Although our jails and prisons hold nearly two million people, there are many more on probation — and not just for misdemeanors marring otherwise clean records. The Bureau of

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Justice Statistics reports that in 1999 more than 3.7 million adults were under supervision of probation officers nationwide. Nearly two million of them had been convicted of one or more felony crimes but sentenced to probation for those crimes, rather than to prison. In many states, about half the people on probation have histories of criminal violence.

Probation is supposed to rehabilitate the offender and protect the public. But about 40 percent of all felony probationers are rearrested for fresh felonies within three years of being placed under community supervision. Others walk away: in 1990, with a probation population a third smaller than what we have now, probation agencies had lost track of a quarter-million "absconders" — people still under sentence but not reporting in. Because record keeping has become so spotty, no one knows how many absconders there are today. Few attempts are made to locate them or bring them to court.

Half of all probationers violate the terms of their sentences, but only a fifth go to jail as a result. In 1998, some 255,000 probationers were incarcerated for new felony crimes committed while under supervision, and another 615,000 violated one or more terms of their sentences but received no punishment. And though courts routinely make drug treatment a condition of probation (since an estimated 80 percent of probationers have serious sub-

stance abuse problems), fewer than 40 percent of all probationers nationwide actually participate in drug treatment during their sentences.

We spend only about \$200 a year per probationer, and we get what we pay for. Strapped for time and overburdened by their caseloads, probation officers too often resort to "fortress probation," shuffling paperwork and rarely leaving their offices or having face-to-face contact with the offenders they supposedly supervise. One recent study found that in 1998 fewer than

How much could crime drop with strict supervision?

one in 20 people who worked for probation agencies ever actually spent time supervising felony probationers on the streets.

A lax attitude toward enforcement pervades the system, and probationers have come to expect two or more "free ones" when it comes to drugs in urine samples, electronic monitoring violations, or failure to comply with a wide variety of conditions. The Manhattan Institute recently released a report by the Reinventing Probation

Council, a group of probation officials from across the country, which argues that the response to violations should be graduated sanctions, like curfews or house arrest, more intensive supervision or monitoring, mandatory drug treatment, a brief period of confinement in jail, or placement in a close-watch residential facility. As the report stresses, firsthand knowledge of an offender's family and neighborhood are critical elements of effective supervision. Probation supervision must cease to be a 9-to-5 occupation. It must be delivered at nights, on weekends and on holidays.

Such reforms will not be easy. Adult probation caseloads have soared to more than 500 per officer in many cities. Some 60 percent of Los Angeles probationers, for example, are tracked solely by computer. Many probation agencies, monitoring both adult and juvenile offenders, lack even basic data like addresses and phone numbers.

Where strict probation has been tried, however, the results are encouraging. After Williamson County, Tex., probation officers decided to crack down on absconders, they arrested over 1,000 probation violators and collected more than \$65,000 in unpaid penalties.

In Boston, where probation officers formed partnerships with police and clergy to reduce juvenile violence, more probationers than ever got face-to-face visits, drug treatment, family

counseling, and help finding jobs. During the first year of the effort, the number of people arrested for violating probation quadrupled. Shortly afterward, the city went for more than two years without a single gun-related juvenile homicide.

In Philadelphia, officials discovered that a quarter of the murders in the city's most violent police district were committed by felons on probation. Police, prosecutors, clergy and outreach workers pooled information about young probationers in this district identified as being at extreme risk of killing or being killed. The police carefully monitored the group, and community leaders offered counseling. A year later, while youth violence remained high elsewhere in the city, the homicide rate had plummeted in the district, and none of the targeted young people had lost their lives or taken those of others.

After the public learned that a suspect in the murders of five people at a Wendy's restaurant in Flushing, Queens, last May had previously been convicted of armed robbery and sentenced to probation, there were calls to abolish probation. But that would be a profoundly unwise and unworkable response, tantamount to doubling the prison population overnight. We would do better to give probation departments across the country the administrative tools and financial support they need to do their public-safety jobs right.

Public Interests

GAIL COLLINS

Spies In the Attic

There were very few public enemies as nefarious as the 1999 version of Wen Ho Lee, the 60-year-old scientist who's accused of downloading the "crown jewels" of our nuclear secrets with the intent of harming the United States.

The 1999 Lee model, brought to you courtesy of the F.B.I. and the Department of Energy, lied to his colleagues in order to get mounds of top secret data out of the secure computers in the Los Alamos labs and put it on tapes, which are still missing — out there somewhere. He had fishy-looking contacts with Chinese scientists when he was abroad, and kept them secret from American authorities. The director of nuclear weapons at Los Alamos testified that if the data Dr. Lee downloaded fell into the wrong hands it could "change the global strategic balance."

Well, you could see why they put

The second version of Wen Ho Lee.

the guy in a segregated cell. With manacles. "For a long time, during his one-hour of exercise, he'd have to try to kick the soccer ball around with leg shackles," said his lawyer.

But after being held for eight months without bail, the biggest danger to national security since Benedict Arnold is starting to look a tad less threatening. It turns out:

- The data Dr. Lee downloaded was classified as secret only after the fact. Defense experts — who seem just as smart as the prosecution experts — say virtually all of it is already public knowledge, and what isn't probably wouldn't pose a threat even if it wound up on Muammar el-Qaddafi's bedside table.

- The lie Dr. Lee told his colleague to get access to the computer existed only in the mind of an F.B.I. agent, who now says he made "an honest error." That agent, Robert Messemmer, also now acknowledges that Dr. Lee did file reports of his meetings with Chinese scientists.

- Mr. Messemmer threatened Dr. Lee with the death penalty during one interview, pointing out what happened to Julius and Ethel Rosenberg when they refused to come clean. The agent, unlike Dr. Lee, is still working at his job.

Nobody is denying that Dr. Lee spent hours and hours downloading one large mountain of codes. And nobody has a good explanation for why. Did he want a backup file? A scientific version of the "Collected Works of Wen Ho Lee"? So far, he hasn't explained himself, although his lawyer says the missing tapes were all destroyed.

Other Los Alamos employees in the past have been fired or disciplined for mishandling classified information. But Asian-American civil rights groups point out that Dr. Lee, an American citizen who was born in Taiwan, is the first person in the lab's history to be charged in a criminal case, let alone one carrying a penalty of life in prison.

Whatever Dr. Lee was doing, the government has offered not one iota of evidence that it was espionage. The prosecution, despite its grim talk of Chinese spies, claimed in its court papers that Dr. Lee wanted to use the data to impress potential employers during a job search. We have gone from worrying about rogue nations to a research lab in Switzerland. And there seems to be no evidence, by the way, that he ever actually contacted anybody about a job. Last week a judge in New Mexico ruled that the government's case "no longer has the requisite clarity and persuasive character" needed to keep holding Dr. Lee without bail.

Security cases always involve the politics of paranoia. Dr. Lee looks harmless from here. (How many spies call the computer help line for advice while they're stealing secrets?) But maybe the F.B.I. can't tell us the whole story because laying it all out in court would compromise our security even more. If the prosecution says "hundreds of millions of people could be killed," who wants to take a risk?

The problem is that right now, an average citizen might conclude that the multitudinous embarrassments over Los Alamos left federal officials desperate for somebody to arrest. They might assume that, in a facility where security was so lax even the vending machine was probably downloading secrets, the authorities picked on Dr. Lee because of his race. They might suspect that the F.B.I. ignored evidence that he was telling the truth, gave false testimony about his past activities in court, and kept a 60-year-old man isolated in a maximum security prison for months in the hopes of getting him to confess to something that would allow them to save face.

Paranoia works both ways. □