

A Short History of Vera's Work on Sentencing and Corrections

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While Americans disagree on many issues, they are particularly vexed and divided about how to deal with people who commit crimes. Should government compensate victims and help them heal? Should it punish offenders? Rehabilitate them? Should it prevent crime? While most people agree these are all worthy goals, there is little consensus about how to balance conflicts among them.

Because conversations about sentencing and corrections are usually polarized, and public opinion can shift dramatically in reaction to a single event, it is particularly hard to create change in this area of the justice system. Vera's strategy for spurring innovation has been to advance each of the purposes criminal sentences serve, often simultaneously, resisting temptation to privilege any one purpose or constituency. This may be the only way to convince public leaders to test new ways of serving the individuals who depend on government for justice.

Over the years, Vera has mounted a wide range of research, demonstration, and technical assistance projects in the area of sentencing and corrections. Each furthers one of three broad commitments: to develop alternatives to incarceration that take punishment seriously, to help ex-offenders successfully rejoin society, and to balance the justice system's obligation to respond to individuals while maintaining some consistency across situations.

Developing alternatives to incarceration that take punishment seriously

Punishing people by requiring them to work was not a new idea when Vera launched the Community Service Sentencing Project in 1979. Because community service sentences were rarely enforced, however, they were not taken seriously. Vera understood that expanding their use depended on making the punishment credible. Copying the British model, the project organized offenders into closely supervised work crews. Anyone who refused to work or left a job early was sent back to court and usually sentenced to jail as a consequence. As a result of strict enforcement, seven out of ten offenders completed the required seventy hours of labor, and with help from project staff many of them found permanent employment, housing, and services needed to stabilize their lives. According to a 1998 study by Vera, the project continues to have high completion rates and to be valued by the communities where offenders work.

In addition to toughening a sentence of community service, the project stretched its boundaries by enrolling people likely to spend time in jail. By 1986 about 5,000 petty thieves had been sentenced to the project—at least half of them chronic offenders who would have spent a month in jail. While today the project focuses less on diverting people from jail, it still provides a punishment more meaningful than the only other alternative in most cases, unsupervised probation.

After successfully refining community service sentences, in 1988 Vera decided to recast an existing youth employment program as an alternative to confinement for young offenders convicted of their first serious felony. The remodeled Court Employment

Project provided six months of job training and intensive counseling followed by several years of routine probation. Again, Vera deliberately created an alternative based on close supervision and serious consequences for failure: people who didn't work or who broke other rules were placed in detention or jail depending on their age. The combination of intensive services and strict enforcement convinced judges that the program would benefit young offenders and they would take it seriously. As Vera restructured the Court Employment Project, it prepared to merge it in 1989 with the Community Service Sentencing Project, creating the Center for Alternative Sentencing and Employment Services (CASES), an independent agency dedicated to developing viable intermediate sanctions and alternatives to incarceration.

In 1983 while Vera was running the Community Service Sentencing Project, the Institute joined then New York Governor Mario Cuomo's task force exploring the potential of alternative sentences to reduce jail and prison crowding. Following the task force's recommendations, Vera helped monitor the start-up of more than 43 new alternatives to incarceration—many of them in New York City—and developed a system to track information about who participated and how they benefited. Nearly two decades later, Vera completed a three-year study of the quality and effectiveness of all New York City-funded alternatives to incarceration. The results show that participants of these programs are no more likely to be convicted of new crimes than a comparison group, despite the greater time they spend free in the community. Serious offenders, then, can be sent to rigorous community programs rather than jail without an increased risk to the public. And the ATIs could reduce recidivism further by dealing more promptly with offenders who violate program rules and by increasing completion rates.

Similarly, Vera's close look at the start-up of three New York City drug courts helped administrators refine these courts while generating lessons that could advance drug court practices around the country.

When the number of drug-addicted offenders convicted for selling narcotics swelled in the late 1980s, Vera joined with others to advance alternatives to incarceration that guaranteed close supervision, restricted freedom, and, through treatment, promised long-term recovery. In 1992 researchers at the Institute began monitoring New York City's Drug Treatment Alternative to Prison (DTAP) program. The study yielded compelling evidence for the power of legal pressure to convince people to enter residential treatment and stick with these demanding programs. In subsequent research, however, Vera learned that the threat of incarceration may not be necessary: even minor penalties— withholding certain privileges and stepping up supervision—can reduce drug use and other problem behavior if applied without delay.

As Vera began monitoring DTAP, the Institute launched its own treatment alternative. Delta aimed to divert people from jail and prison and show that new cognitive-behavioral therapies used to treat middle-class drug abusers in private clinics could work with disadvantaged offenders. It closed in 1994, just two years after opening,

because of a fundamental disagreement between treatment and criminal justice professionals: Delta's counselors accepted minor relapses as a natural part of the recovery process while judges punished relapse severely. As a result, the project put people at risk of longer jail and prison sentences than they had faced originally. Whether programs intended as alternatives to incarceration actually conserve jail and prison beds is a question that has long concerned Vera. Most recently, researchers here reviewed existing studies of drug courts to define how they influence bed savings in the short term and over time.

Helping offenders successfully rejoin society

About a year after closing Delta, Vera asked five established criminal justice researchers to write about the unintended consequences of incarceration for offenders, their families, and their communities. The problems those researchers identified include rises in crime, particularly among juveniles; high unemployment among former inmates; economic stagnation in these neighborhoods, and the neglect and involuntary abandoning of children—all strong reasons to invest in alternatives to incarceration. The papers have another important value: they provide insight into the challenges people face when they come home from jail and prison.

Finding work, staying drug free and healthy, re-establishing family ties, and fulfilling family responsibilities are formidable challenges. Without help many offenders find them impossible to overcome. Three out of five inmates released this year will be rearrested within three years, and two of them will be reincarcerated. To interrupt this cycle and its effects on individuals and government, planners at Vera developed and tested a transitional center where inmates can prepare to meet those challenges.

Located in the Queensboro Correctional Facility, Project Greenlight served men returning to New York City from prisons upstate. The inmates spent the last two to three months of their sentences in the project before returning home. Less structured and restrictive than prison but still secure, Greenlight helped people prepare for the upcoming leap in autonomy and responsibility. In particular, its urban location enabled them to connect in advance with parole officers, potential employers, drug treatment and health care providers, and with the family members who will help to support them immediately after release. The one-year test of Project Greenlight ended in February 2003. The New York State Department of Correctional Services and the New York State Division of Parole—Vera's partners in the demonstration—have taken up most aspects of the project while doubling the number of inmates served.

Researchers at Vera recently studied a somewhat different model of transitional services, one operated by Episcopal Social Services. The Network Program runs therapeutic groups for inmates in eight New York correctional facilities and also in the community for people recently released from prison. Among many findings, this research

shows that by involving families, ex-offenders are more likely to sustain and build on what they achieve in a therapeutic setting.

Relationships between inmates and their children are the focus of two other Vera projects. Staff in Vera's National Associates Programs Department recently documented how parenting programs can engage men in prison and in the community. In a separate project, Vera researchers reviewed literature on the special problems child welfare agencies and family face when the biological mothers of foster children are incarcerated and documented the extent and nature of the overlap between maternal incarceration and foster care in New York City.

Many of Vera's efforts to give inmates a better chance of succeeding focus on bridging criminal justice and drug treatment. In 1986 researchers at Vera discovered the costs of poor communication between treatment providers and parole officers. Many people on parole who were required to get treatment never entered programs; others waited months before finding one. Even more discouraging, they typically left treatment prematurely.

Efforts to combine drug treatment with criminal justice supervision have advanced since then, and today La Bodega de la Familia, a family and neighborhood drug crisis center that Vera launched in 1996, has refined that collaboration and expanded it to include offenders' families. Founded on the belief that families can provide much of the support and restraint drug abusers need to stick with a treatment program, La Bodega counsels and strengthens whole families, rather than just individual drug users, and actively involves parole and probation officers in the process. Vera's evaluation of the center shows that it reduces substance abuse and helps families get the social services they need. Vera recently spun off La Bodega as one component of the newly created Family Justice, Inc. In addition to running the center, Family Justice provides advises and assists government officials around the country who want to become more responsive to both the needs and strengths of families with a member involved in the criminal justice system.

Vera has also explored the problems government encounters when it tries to bridge drug treatment provided in custody with care in the community. Researchers at the Institute evaluated prison-based treatment programs in Pennsylvania and New York that each have aftercare components. In May 2001, Vera launched a treatment program that ensures continuity in a unique way: by making it portable. Adolescent Portable Therapy serves a needy and neglected group of young people in New York City—kids who are involved in delinquency and who also drink or take drugs regularly, daily in some cases. The project identifies them within hours after they are arrested and detained, begins treatment immediately, and continues counseling them and their parents as the kids move among justice agencies and after they return home.

Not all treatment programs for offenders include community phases. But a brief jail-based program can prepare people to receive more intensive treatment in the community

or in prison. Identifying the inmates who will remain in jail long enough to finish even a short treatment program is very difficult, however. New York City corrections officials recently asked researchers at Vera to help them develop a statistical model able to predict whether an inmate is likely to remain in jail for at least 45 days.

Vera's work today to smooth the transition from cellblock to neighborhood block can be traced back to a cluster of projects that helped ex-offenders find and keep decent jobs. Vera launched the first of these ventures, the Pioneer Messenger Service, in 1971 with funding from the U.S. Department of Labor. The project enrolled former offenders and some recovering addicts and coached them as they took on their role as messengers. This unconventional crew of workers delivered more than 30,000 parcels the first year—not one was lost—and the messenger fees soon covered their salaries. A year later Vera institutionalized Pioneer as Wildcat Services Corporation. Today Wildcat provides vocational education and training for New York City's persistently unemployed: teenage mothers, high-school dropouts, welfare recipients, recovering addicts, and ex-offenders.

Following Pioneer, Vera established a number of supported work programs in New York City and one in London, but the Institute's most lasting contributions to the field is a pair of demonstration projects launched in 1978 and 1979. The Neighborhood Work Project offered temporary, minimum-wage jobs for people coming out of prison. Its innovation—as distinctive today as it was more than twenty years ago—was to provide a daily paycheck immediately after release. The work crews grew in scale over the years, from small neighborhood restoration projects to larger ones for the New York City Department of Housing Preservation and Development. To help people train for and find better paying jobs with room for advancement, the following year Vera created the Vocational Development Program. In 1996 the Institute formally united the two projects to create an independent organization, the Center for Employment Opportunities (CEO). Along with its full complement of employment services, the center also helps participants with children structure their lives and finances so they can provide the emotional and material support their kids need.

Responding to individuals while maintaining consistency across cases

Usually when judges sentence offenders they are most concerned with maintaining consistency across cases. In 1978 Vera attempted to shift the emphasis slightly and make the sentencing process more responsive to the concerns of individual victims. The project put advocates in the courtroom to listen to victims and communicate their interests to prosecutors and, occasionally, directly to judges. Judges were somewhat more likely to require restitution and to admonish offenders after learning about the victim's perspective, but the project failed to have a larger impact and to satisfy most victims because prosecutors did not have the discretion to argue cases in a way that truly reflected the wishes of victims. They faced resistance from judges worried about slowing the process and from senior prosecutors who felt such an approach would create so much

inconsistency they would no longer be able to predict case outcomes. While the project failed in these respects, its lessons helped shape Vera's subsequent efforts to give victims a greater role in the court process.

Nearly a decade later, Vera launched a very different project but also with the aim of making the sentencing process more responsive to individuals—in this case, to differences in income among people convicted of the same crime. The project helped criminal court judges in Staten Island expand their use of fines by offering a new approach: setting fines according to the offense as well as the ability to pay based on the person's daily net income.

Vera had been exploring the use of day fines as a criminal punishment in Europe and believed they could be used here to punish and deter crimes ranging from disorderly conduct to assault and generate revenue. The trick was setting amounts large enough to sting yet not unreasonably burdensome. Based on the success of Vera's work in Staten Island, the Institute helped start day fines projects around the country.

Spurred by the adoption of new federal sentencing guidelines, in 1987 Vera also launched the *Federal Sentencing Reporter*, hoping to nurture a common law of sentencing in these courts. The journal was one of the first places practitioners and academics could find the written opinions of trial and appellate courts, showing how judges applied the principles of sentencing in individual cases. In later years as these judicial opinions became widely available, Vera redesigned *FSR* and expanded it to include discussions of sentencing practices in state courts and courts in other countries. Today the University of California Press at Berkeley publishes *FSR* for Vera, distributing six issues annually to approximately 1,000 subscribers.

In 1991 the Institute helped the British Home Office implement a law requiring reports on all offenders before sentencing. The law aimed to reserve prison sentences for the most dangerous criminals by providing a way for judges to consider all the pertinent facts. Vera mounted demonstration projects in several Crown Courts aiming to standardize the process and make the reports efficient and genuinely useful to judges. That work created procedures that remain in place today and helped developed a new level of cooperation between high court judges, the probation department, and the bar. The broader impact of the system was blunted, however, when Parliament reversed course on sentencing reform a few years later.

Ten years later, Vera researchers studied the effect on incarceration rates of sentencing policies aimed at maintaining consistency across cases. They examined the influence of presumptive guidelines, the least flexible type of sentencing guideline, finding that they significantly reduced overall rates of incarceration as well as new admissions to prison. Today, researchers are directing a comprehensive study of sentencing and corrections reforms in all 50 states to discover how different kinds of sentencing policies have affected state prison populations over the past 25 years. The

results will be of interest to policymakers of all political stripes as state governments seek to balance public safety with the need to control prison costs.

Prisons have their own procedures for controlling and punishing inmates, rules that are often capricious. Up until the mid-1970s in New York, rules varied considerably among the state's prisons. Behavior that was permissible in one prison might be prohibited in another. As a result, when inmates were transferred among facilities they were often punished for breaking rules unknown to them. In the wake of the Attica uprising and the reforms that followed, Vera decided to eliminate this cause of unfair punishment. By observing life in these facilities, talking with corrections staff and inmates, and reading rulebooks used in other jurisdictions, in 1975 Vera created New York's first statewide inmate rulebook.

Mining the knowledge

After more than twenty years of work in this field, in June 1999 the Institute launched the National Associates Program on State Sentencing and Corrections to advise and help state policy makers shaping this field. The program aims to help officials in all three branches of government balance considerations of public safety, fairness, and cost as they develop new policies that affect millions of individuals involved in the criminal justice system and the public overall. Expert practitioners and policy makers from around the country—many of them former Vera partners and clients—serve as the program's associates. Combining their personal experience, Vera's legacy, and knowledge of the latest trends, they help state officials diagnose problems and advance their own reform agendas.

Along with assisting specific state officials, the program produces tools and information that profit the field at large. The program recently created a database that, for the first time, combines crime, sentencing, corrections, and census data for all fifty states going back many years, allowing officials to pursue questions on topics from the impact of adopting sentencing guidelines to the sources of racial disparities. It also produces an ongoing series of issue briefs addressing issues such as drug courts and pre-release programs for inmates.

Techniques for innovation

To promote concrete innovation in one of the most contentious areas of public policy, Vera draws on five simple techniques: focus on specific problems, create new options, convey new information, build incentives for people to act on what we offer, and evaluate the outcome of the innovation. Used in different combinations, these methods enable the Institute to inspire and facilitate change in this and other areas of the justice system. Here are just a few examples.

Rather than tackle how community service could be applied to any offender, Vera focused on a specific group, chronic petty thieves, and devised compelling incentives for judges and city criminal justice policy makers to support the Community Service Sentencing Project. Because close supervision compelled most offenders to complete the required work, it made sentencing someone to community service as easy for judges as sending the person to jail—and more gratifying. Equally important, the project provided an opportunity to free up the jail beds about half these offenders would otherwise occupy. Vera’s evaluation proved that a tough form of community service was a viable way to punish this group of repeat nonviolent offenders and conserve jail space at the same time.

Day Fines gave judges an entirely new sentencing option applicable to a wide variety of offenders. Because the project created revenue for the court and prevented the additional appearances that occur when people fail to pay their fines, judges and court administrators supported the change. Researchers at Vera showed that day fines increased offender accountability and revenue in Staten Island.

Vera developed Delta to serve a very specific group of drug offenders and introduced a new treatment alternative to incarceration. Because the project promised to supervise people closely and report drug use and other misbehavior, it gained approval from the district attorney and judges. And because these offenders would otherwise be incarcerated, the project captured the support of criminal justice leaders eager to conserve scarce resources. However, when Vera learned the project put people in danger of receiving longer jail sentences than they would have originally, the Institute closed it to protect their rights and avoid increasing the cost of punishing them.

La Bodega de la Familia provides a new way to support drug abusers as they move from custody to community and receive treatment. But the project gained buy-in from criminal justice leaders largely by offering parole and probation officers the information they need to make wise decisions about whether to reincarcerate people who relapse or violate other supervision rules.

One of Vera’s newer projects, Adolescent Portable Therapy—a program for the most serious drug users in the juvenile justice system—both defines a narrow problem and creates an entirely new solution. The solution appeals to agency leaders throughout the juvenile justice system because it relieves the burden on the agencies to identify and treat these teens and to pass on crucial information about addiction to the next agency that assumes custody.

From Vera’s early success refining community service as punishment to the recent initiative to help state leaders advance reforms, the Institute has expanded the way people in government think about sentencing and corrections and increased their options for dealing justly with individuals who break the law.

Chronology of Vera's Work on Sentencing and Corrections

- 1971 Pioneer Messenger Service [spun off as Wildcat Services Corp. in 1972]
- 1972 Wildcat Services Corporation
- 1975 New York State Inmate Rule Book
- 1978 Victim Involvement Project [closed in 1980]
Neighborhood Work Project [spun off as part of CEO in 1996]
- 1979 Vocational Development Program [spun off as part of CEO in 1996]
Community Service Sentencing Project [spun off as part of CASES in 1989]
- 1983 Technical Assistance to Expand Alternatives to Incarceration in New York
- 1986 Research on Bridging Parole Supervision and Drug Treatment
- 1987 *Federal Sentencing Reporter* [continuing]
Staten Island Day Fines Project [closed 1989]
- 1988 Remodeled Court Employment Program [spun off as part of CASES in 1989]
- 1989 Center for Alternative Sentencing and Employment Services (CASES)
- 1991 National Technical Assistance on Day Fines
Pre-Sentence Report Demonstrations in Britain
- 1992 Research on Legal Coercion [continuing]
Delta Drug Treatment Program [closed in 1994]
- 1995 Exploration of the Unintended Consequences of Incarceration
- 1996 Center for Employment Opportunities (CEO)
La Bodega de la Familia [spun off in 2002 as part of the new Family Justice, Inc.]
- 1997 Research on New York City-Funded Alternatives to Incarceration
Research on Prison-Based Drug Treatment and Aftercare
- 1998 Research on New York City Drug Courts
- 1999 National Associates Program on State Sentencing and Corrections [continuing]
Review of the Literature on Drug Courts and Bed Space
Survey of Parenting Programs for Men in Prison
Research on Foster Children Whose Parents are Incarcerated
- 2001 Adolescent Portable Therapy [continuing]
State Sentencing and Corrections Archive [continuing]
Research on the Effects of Sentencing Guidelines on Incarceration Rates
Research on Episcopal Social Services Network Program
Research on Sentencing and Corrections Reform 1975 – 2000 [continuing]
- 2002 Project Greenlight [closed in 2003]

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