

Catch-22: What psychological staff can (and cannot) do for offenders after their sentence expires

*Currently, offenders who have completed their sentence receive no official support from Correctional Service of Canada staff. This can create problems for offenders who are not released into the community until the end of their sentence. These offenders may not receive professional assistance in re-adjusting to community life.*

*The cessation of treatment at sentence completion also creates problems for sex offenders, many of whom may need extensive lifelong clinical and supervisory intervention. Few sex offender treatment programs are available outside the correctional system.*

*This article, therefore, examines what Service staff should do to further the Service mission of protecting society by actively encouraging offenders to become law-abiding citizens while exercising appropriate control.<sup>(2)</sup> When do our responsibilities to the offender and the community end?*

## Current problems

Offenders are normally detained until the end of their sentence to protect society. However, it can be argued that bypassing the usual gradual release program (from escorted temporary absences to work release to unescorted temporary absences to day parole to full parole to statutory release) puts the community at greater risk, because the offender is left to re-integrate without professional support.

There is no empirical evidence that demonstrates that gradual release decreases the risk of offender recidivism. However, combining a gradual lessening of restraint with an increasing degree of offender re-integration into the community seems logical.

Despite increasing public support for detention, many sex offenders receive statutory release after serving two thirds of their sentence. But, although many sex offenders may qualify for conditional release, the length of time between this release and the end of their sentence often does not give clinical staff enough time to adequately address their treatment needs. This situation could decrease community safety -- particularly with regard to high-risk sex offenders.

Many sex offenders need long-term treatment. However, few sex offender treatment programs are available outside the correctional system. For example, Metropolitan Toronto has a population of more than 3 million but only 40 sex offender outpatient group spaces.<sup>(3)</sup> Further, cuts to government social service and health care funding threaten the existence of even these programs.

Apart from the bureaucratic difficulties, it is also rare for offenders to want to continue treatment once they have served their sentence. They instead prefer to distance themselves from the "system" and any professionals associated with it. However, it is possible that some offenders might want to continue working with the Service psychologist with whom they have already established a rapport if that option were available.

These difficulties must be examined from several perspectives, including morality, ethics, legal responsibility, and civil and criminal liability. The following example illustrates dilemmas faced by Service psychologists with respect to this issue.

### John's story

John (not his real name) was a recidivist sex offender (he sexually assaulted adult women) who recently successfully completed a 16-month conditional release program during which he attended regular relapse-prevention counselling. John formed a strong clinical relationship with his therapist and developed an understanding of relapse-prevention principles.

However, relapse-prevention treatment is like an inoculation -- you often need "boosters" to maintain the process. Therefore, John was certainly not "cured" but was, by the time his sentence ended, at low to moderate risk of reoffending. He was also keenly aware that his past offences made it likely that he would be indeterminately incarcerated if he ever recidivated sexually.

At the end of his sentence, John declined a referral to follow-up care in the community. He instead began to phone his former Service therapist periodically to report his success in the community. John had resumed contact with his ex-wife and children, and had found a rewarding job.

However, after resuming contact with his family, John became increasingly depressed about his ex-wife's reluctance to re-instate their marital relationship. After about five or six months, John called his former therapist and told him that his depression had become much worse and that he had tried to kill himself four times in the last four months. John also told the Service therapist that he intended to make another attempt on his life.

The therapist explained that, as a Service employee, he would not be able to resume treating John, and suggested that he go to a local psychiatric hospital.

This brief account illustrates the frustrating dilemma faced by many Service psychologists whose clients reach out for help after completing their sentences. Current Service policy virtually prohibits contact with offenders who have completed their sentence on the grounds that such contact could result in Service liability should the offender commit another offence.

This prohibition is, however, at odds with the codes of clinical conduct for many board-regulated clinical professionals. For example, American Psychological Association<sup>(4)</sup> and Canadian Psychological Association<sup>(5)</sup> standards suggest that a clinician's obligation to a client cannot be arbitrarily ended (as occurs at the end of an offender's sentence). The professional must maintain some continuity of care.

Yet, in this case, John's therapist's hands were tied. The therapist had the benefit of 16 months of intervention with John and a strong client-clinician relationship, but was prevented from offering him

any real help because of Service policy.

The policy could be relaxed by loosely defining when a clinical relationship has been initiated. It can be argued that a clinical relationship is not in place until the psychologist agrees to provide clinical care. This could allow Service staff to help offenders to a limited extent after their sentence has expired.

However, a more conservative interpretation might characterize even accepting a telephone call from a former client as re-instituting counselling. Therefore, John's therapist could be said to have provided clinical advice by suggesting that John go to a psychiatric facility.

## Balance

This article is not an attempt to judge whether dangerous offenders belong in institutions or in the community under appropriate supervision. However, a Service core value emphasizes that offenders have the potential to live as law-abiding citizens.<sup>(6)</sup> We must, therefore, actively encourage and assist offenders in their re-integration into the community.

Ultimately, the best approach is probably a fair balance between ethical conduct and the limitation of Service liability. Although the formal obligations of Service personnel to offenders ends with their sentence, the Service and its clinical staff should not turn a blind eye to post-sentence offenders with clearly identified needs. To do so places several groups at risk -- offenders, therapists, the Correctional Service of Canada and, most of all, the community.

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(1) 330 Keele Street, Main Floor, Toronto, Ontario M6P 2K7.

(2) *Basic Facts About Corrections in Canada* (Ottawa: Correctional Service of Canada, 1993).

(3) Metropolitan Toronto Service Flow Committee, Personal communication.

(4) *Ethical Standards of Psychologists* (Washington: American Psychological Association, 1977). See also *Standards for Providers of Psychological Services* (Washington: American Psychological Association, 1977). These standards were endorsed by the College of Psychologists of Ontario. See *Standards of Professional Conduct* (Toronto: College of Psychologists of Ontario, 1994).

(5) "Canadian code of ethics for psychologists," *Canadian Psychological Association Directory* (Old Chelsea: Canadian Psychological Association, 1992): 83-107.

(6) *Mission of the Correctional Service of Canada* (Ottawa: Correctional Service of Canada, 1991).