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I. Introduction

A. “When ‘Justice’ is a Crime”

On October 10, 2003 the daily legal newspaper for metropolitan Atlanta carried a front page story about 24 people arrested in September for alleged traffic violations who had spent anywhere from 3 to 12 days in jail without seeing a lawyer or receiving anything more than a perfunctory court appearance (in a jailhouse courtroom) where they were informed of the charges, bond amount and court date. The newspaper reported that both the chief judge of Atlanta’s Traffic Court and the chief prosecutor “agreed that none of the inmates should’ve been held for more than 48 hours without a probable cause hearing” and further reported that both “said they were aware of the problems.” Their explanation was:

[T]he city doesn’t have procedures for probable cause hearings ... That’s because it’s so expensive to have the police officers, a public defender and the solicitor at the jail to hold those hearings, especially in cases involving minor traffic violations ...

The systematic failure of the Atlanta Traffic Court to conduct probable cause hearings was clearly illegal. More than 10 years ago the U.S. Supreme Court held, in County of Riverside v McLaughlin, that the Fourth Amendment requires that a probable cause hearing must be held “as soon as is reasonably feasible, but in no event later than 48 hours after arrest” whenever someone is arrested without a warrant, as is always the case for traffic violations. The practices of the Traffic Court also violated a Georgia statute dating back to the Civil War:

In every case of an arrest without a warrant, the person arresting shall, without

1 The authors borrow this title from an investigative reporting series published by the Atlanta Journal-Constitution. See, e.g., WHEN JUSTICE IS A CRIME – Funding lawyers cheaper than jail time: The 11th in a series on Georgia’s indigent defense system, ATLANTA JOURNAL-CONSTITUTION 19A (March 21, 2002).

2 Rachel Tobin Ramos, GSU Law Prof Sparks Traffic Court Reform, Frees Inmates, FULTON CO. DAILY REPORT, Oct. 10, 2003, at 1. The events reported in this newspaper article were prompted by a letter sent to the chief judge of the Atlanta Traffic Court by the Georgia Justice Project (see below at pp. ___, infra) and co-signed by one of the authors (Cunningham). (October 7, 2003 Letter to the Hon. Calvin Graves (“October 7 Letter”), available at http://law.gsu.edu/ccunningham/BIO/TrafficCourt.htm) (Last visited ___)

3 The Fourth Amendment to the U.S. Constitution requires a prompt judicial determination of probable cause to arrest as a prerequisite to any extended pretrial detention following a warrantless arrest. County of Riverside v McLaughlin, 500 U.S. 44, 47 (1991).

4 Ramos at 5.

5 Id.

6 The chief judge also told the newspaper that he was immediately implementing new procedures to make sure that no one arrested for a traffic violation was jailed more than 48 hours without a probable cause hearing. Id.

7 500 U.S. at 57.
delay, convey the offender before the most convenient judicial officer authorized
to receive and issue a warrant ... No such imprisonment shall be legal beyond a
reasonable time allowed for this purpose; and any person who is not brought
before such judicial officer within 48 hours of arrest shall be released.8
Under Georgia law, failure to release a defendant within 48 hours constitutes the tort of false
imprisonment and may even be considered a crime.9
Many of the 24 alleged traffic offenders were charged with minor violations that would
normally result in only a fine; nine were pedestrians, not motorists, charged with such offenses as
“Pedestrian Obstructing Traffic”10 or “Pedestrian in Road”11 (i.e. jaywalking) and “Pedestrian
Soliciting a Ride”12 (i.e. hitchhiking). These persons jailed for minor traffic violations received
punishment far in excess of what they should have received even if they were found guilty as
charged; for them, to borrow from Malcolm M. Feeley’s trenchant book title, “the process was
the punishment.”13

B. “The Process IS the Punishment!”

The Process is the Punishment, Feeley’s award-winning study14 of the “handling [of] cases in a lower criminal court,” was first published in 1979, based on his close observation of the Court of Common Pleas in New Haven, Connecticut. He began his book with the following quote from a famous 1924 book by Roscoe Pound, then dean of the Harvard Law School:

It is [in the handling of petty prosecutions] that the administration of criminal justice touches immediately the greatest number of people. It is here that the great mass of an urban population, whose experience of law is too likely to have been

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8 GA. CODE. ANN. § 17-4-62.
9 See Potter v Swindle, 77 Ga. 419, 3 S.E. 94 (1887) (“Though an arrest without
warrant be justifiable, yet to detain the prisoner longer than a reasonable time for suing out a
warrant ... is false imprisonment, if not kidnapping ...”)
10 Atlanta City Ordinance § 15-266. See e.g. Milton Kirkpatrick case (8 days in jail),
OctLetter1 at 5 and Chart1.
11 GA. CODE. ANN. § 40-6-96. See e.g. Sophretta Guah case (3 days in jail),
OctLetter at 6 and Chart2.
12 GA. CODE. ANN. § 40-6-97. See e.g. Sherman Asbery case (8 days in jail),
OctLetter1 at 5 and Chart1.
13 MALCOLM M. FEELEY, THE PROCESS IS THE PUNISHMENT: HANDLING CASES IN A
LOWER CRIMINAL COURT (2nd ed. 1992)
14 Feeley received the American Bar Foundation’s Silver Gavel Award for The
Process is the Punishment; the book also was awarded the American Sociology Association's
Citation of Merit. (Malcolm M. Feeley, Faculty Profile, School of Law Web Site, University of
California-Berkeley at http://www.law.berkeley.edu/faculty/profes/s/(last visited ____).
See also Joseph R. Grumsfeld, Foreword, Feeley at xv (“Feeley’s 1979 study has already taken its place
as one of the major studies of how laws are administered in the United States.”) Feeley, a
political scientist, is the Claire Sanders Clements Dean's Chair Professor of Law at the University
of California-Berkeley.
only an experience of arbitrary discretion of police officers and offhand action of magistrates, tempered by political influence might be taught the spirit of our institutions and made to feel that the law was a living force for securing their interests. The bad physical surroundings, the confusion, the want of decorum, the undignified offhand disposition of cases at high speed, the frequent suggestion of something working behind the scenes, which characterize the petty criminal court in almost all of our cities, create in the minds of observers a general suspicion of the whole process of law enforcement which, no matter how unfounded, gravely prejudices the law.\footnote{Pound, Criminal Justice in America, at 190-91 (1975 ed.), quoted Feeley at 6.}

Feeley found that Pound’s description of urban criminal courts was still accurate in New Haven fifty years later.

The very language used to describe the business of the lower courts reflects their low status. Cases in lower courts are universally labeled as “garbage,” “junk,” “trash,” “crap,” “penny ante,” and the like. These words not only describe the way in which court officials come to think of their work, they also reveal how they think of the defendants before them, and, ultimately, themselves as well.\footnote{Feeley at 4.}

When the second edition of Feeley’s book was published in 1992, he wrote in the new preface that, although the Court of Common Pleas had been replaced by a “lower division” of a unified trial court, despite “these and still other changes in New Haven and the criminal justice system more generally, the underlying processes ... have not altered appreciably” in the intervening eleven years.\footnote{Feeley at xxi.}

Feeley’s key insight, captured by the book’s title, is that the experience of being arrested, incarcerated and processed through pre-trial court procedures is the primary form of punishment administered by the lower criminal courts, making adjudication and sentencing essentially irrelevant.

In the lower courts, it is the cost of being caught up in the criminal justice system ... which shapes [defendants’] subsequent course of action once they are entrapped by the system. For every defendant sentenced to a jail term of any length, there are likely to be several others who were released from jail only after and because they pleaded guilty. For each dollar paid out in fines, a defendant is likely to have spent four or five dollars for a bondsman and an attorney. For each dollar they lose in fines, defendants who work are likely to have lost several more from docked wages. For every defendant who has lost his job because of a conviction, there are probably five more who have lost their jobs as a result of simply having missed work in order to appear in court. ... When we view criminal sanctioning from this broader, functional perspective, the locus of court-imposed sanctioning shifts dramatically away from adjudication, plea bargaining, and sentencing to the earlier
pretrial stages. In essence, the process itself is the punishment.  

C. When happens when the process becomes the punishment?

The Atlanta Traffic Court story illustrates the two most obvious injustices that can result when the process becomes the punishment. First, pre-trial incarceration, especially for petty offenses, can result in far greater punishment than could be legally imposed if the defendant was ultimately found guilty. Second, because pre-trial punishment falls equally on the innocent and guilty, inevitably innocent people are punished as if they were guilty. Therefore what predicts the probability of punishment for many defendants in the lower criminal courts is not likelihood of guilt nor severity of offense but simply degree of poverty: people who can afford neither a bond nor a zealous lawyer to advocate for their release do their time “up front.”

Punitive pre-trial process also can seriously distort the determination of guilt or innocence. Not only are incarcerated defendants often told, “if you plead guilty you can go home today,” but the consequences of a guilty plea are minimized. Most lower criminal courts offer various forms of probation that seem to provide that the initial conviction disappears if the defendant successfully completes the probation period. However, for many important purposes the conviction remains for ever, permanently marking the defendant as a criminal.

A process that punishes based primarily on an arresting officer’s discretionary decision to arrest combined with the poverty of the defendant also carries real risk of condoning substantive injustice. Consider the following scenario, which is based on several cases that one of the authors (Cunningham) observed in a court serving a suburban county which bordered a large city. A busy public defender scans a misdemeanor file containing a charge of assaulting a police officer. According to the police report, the defendant, a young black man, when stopped by a white police officer for riding his bicycle improperly, took a swing at the officer. The defendant tells his lawyer that he was stopped for no apparent reason and then maced by the officer when he did not immediately “take the position” and consent to being searched. The arrest took place a week ago, but because a $10,000 bond was set the defendant has been sitting in jail. Noting that this is the defendant’s first arrest, the prosecutor offers to accept the 7 days already spent in jail as “time served” if the defendant pleads guilty. The public defender advises the defendant to take this “deal,” telling the defendant, “I may believe your story, but it’s going to be your word against the cop in front of what is likely to be an all-white jury – and you’re going to be sitting in jail for weeks waiting for your trial.” The public defender believes that he is giving the defendant sound, practical advice, but in the process the lawyer is teaching his client two profoundly disturbing lessons: (1) that justice is not available to him because he is poor and black, and (2) that the next time a police officer stops him, he better just submit quietly and “take the position.”

Research by social psychologists Tom Tyler and Yuen Huo suggests that the lack of procedural justice in the lower criminal courts may also impair public safety by reducing voluntary compliance with law enforcement. In 1998 Tyler and Huo interviewed by telephone 1,656 residents of Los Angeles and Oakland, California; these respondents were selected from a larger sample because they indicated that they had at least one recent personal experience with either the police or the courts in their community. Each was asked a series of questions about
that experience, relating to the objective outcome, satisfaction, trustworthiness of the police officer or judge, procedural justice, and willingness to accept voluntarily the decisions or directives of the officer or judge.

Their survey results “strongly supported” the hypothesis that citizens will willingly accept decisions of the police and the courts, even when those decisions are unfavorable to them, if they believe those authorities are using fair procedures and they trust the motives of the authorities. Furthermore, “the favorability of the outcomes that legal authorities deliver is not central to the justice that people experience or the trust that they feel in the motives of the authorities.” Rather, the findings of this research were consistent with what Tyler and his colleagues have been showing for over two decades: “people’s assessment of procedural justice and motive-based trust flow primarily from their evaluations of the quality of decision-making and the quality of treatment that is part of the process.”

Tyler and Huo separately analyzed responses from a sub-group that police and courts consider a “high risk” for resisting their authority: young men (18-25 years old) self-identified as either African-American or Hispanic.

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**Cooperation with the Police and the Courts** 28 (2002).

Outcome questions inquired about how much was gained or lost, overall favorability, and how the outcome compared to expectations and outcomes obtained by others similarly situated. Huo at 38 (Table 3.3).

Satisfaction measures included questions about whether the officer or judge “generally did a good job” and whether the respondent was “generally satisfied.” Huo at 44 (Table 3.5).

In addition to asking whether the officer or judge was “someone that I trust,” Huo and Tyler inquired whether the authority considered the respondent’s views, tried hard “to do the right thing,” and cared about the respondent’s concerns. Huo at 68.

Procedural justice was measured by asking how fair were the procedures used to make the decision and how fairly was the respondent treated. Huo at 54 (Table 4.1)

Willingness to comply with authority was measured through questions such as whether the respondent willingly accepted the decision, would like to see a similar situation handled the same way in the future, or considered going to someone to change the decision. Huo at 44 (Table 3.5)

Huo at 95.

Huo at 96.

Huo at 96.

“The population to which high-risk characteristics are attached is young (eighteen to twenty-five), male, and minority. A small group in our sample, 123 respondents, fit these demographic characteristics.” ... Huo at 157 The researchers add this caveat: “[The] study did not target this high-risk subgroup. A telephone survey is likely to miss many high-risk respondents, and they are also more likely to refuse to be interviewed. Hence, research directed at this group is needed to test the arguments made here.” Huo at 159.
“Like people in general, high-risk young minority males are willing to defer to the decisions of legal authorities according to their assessments of the procedural justice they experience and the trustworthiness of the authorities’ motives. … [T]he two key concerns of these high-risk respondents are the fairness of the procedures used by the police or the courts during their personal experience with those authorities and trust in their motives. These two interrelated judgments are more important than assessments of either the fairness or the favorability of the outcomes that these young men receive. For them, procedural justice and motive-based trust are linked, in turn, primarily to the quality of the treatment they received when dealing with police officers and judges, although the quality of decision making procedures also plays a secondary role. If police officers or judges want to increase the willing acceptance of their decisions and voluntary deference to their authority by young, minority males, as well as receive more favorable evaluations of their own performance, they can most effectively do so by focusing on how well they treat members of this subgroup in their interactions.” 29

II. Programs specifically designed to minimize pretrial incarceration

Because pretrial incarceration is the most punitive form of procedural punishment imposed by the lower courts, because its imposition is caused primarily by poverty, and because it can so seriously distort the determination of guilt, programs that increase rates of pre-trial release are a critical first step. This section briefly describes two quite different but impressively cost-effective programs: (1) the Baltimore Lawyers at Bail Project, which tested the effects of adding free legal representation at the first court appearance, and (2) the San Francisco Misdemeanor Pre-trial Release program, which provides social services in the jail at the point of arrest. The following section provides a more in-depth study of a third program, the Georgia Justice Project (GJP), that combines both social services and legal aid but that goes far beyond the limited objectives of the first two programs. Born out of a passion for substantive justice and dedicated to procedural justice, the Georgia Justice Project has evolved over its 17 year history into a remarkable example of a new form of restorative justice.

A. Baltimore: Lawyers at Bail Project

The Lawyers at Bail Project was conceived by law professor Douglas Colbert.30 Noting that while the right to counsel is a well-known and heralded right, it is not consistently, or even

29 Huo at 157-9.

30 An in-depth description of the Baltimore City Lawyers at Bail Project, which outlines the issues regarding counsel at bail and the impact of bail on case outcomes, as well as the project itself, is provided in Douglas L. Colbert, Ray Paternoster & Shawn Bushway, Do Attorneys Really Matter? The Empirical and Legal Case For The Right of Counsel at Bail, 23 Cardozo L. Rev. 1719 (May 2002) Further discussion and assessment of this project can be found at http://www.law.umaryland.edu/dcolbert/asp/bail.asp and http://www.abell.org/publications/ (Last visited ___)
regularly, applied at the bail stage, Colbert and his colleagues set out to determine if having counsel at pretrial release hearings would increase the number of defendants charged with nonviolent crimes released on their own recognizance - thereby decreasing costs for local jails. They further posited that this would ultimately increase procedural justice, taking away from the punishment inflicted on these defendants by the process itself. As Colbert et al. describe, pretrial release hearings have become "perfunctory" and swift, and a proceeding at which the odds are stacked against a lower-class defendant. These odds are further worsened when the unrepresented defendant enters a proceeding in which the prosecutor "is present and recommends bail." The process itself thus becomes punitive as these indigent defendants are incarcerated through numerous continuances before trial.

The consequences should not be ignored as the costs, both to defendant and society, are high. Lower numbers of releases correlate with higher costs to taxpayers that result from full - to overflowing jails. The increased probability of continued detention that results from the lack of an attorney’s presence at bail proceedings has wide ranging impacts. Legally, the defendant’s case is disadvantaged as he or she cannot help the attorney from this point on with their case, and access to attorneys is, de facto, limited. Furthermore, defendants’ lives are greatly impacted, as they may lose jobs, homes, and family disruptions may amplified.

Baltimore supplied the setting for Colbert to explore the value of providing counsel at bail proceedings. An early experiment, conducted in the spring of 1998, involved twelve law students supervised by Colbert who represented non-violent misdemeanor clients - both meeting with them and at the proceeding - yielded either release on recognizance or reduced (and affordable) bond for 70% of those represented. What followed was the creation of the Lawyers at Bail experiment.

In August 1998, with funding support from the Abell foundation, the Lawyers at Bail Project was launched with a staff of 20 panel attorneys and 3 paralegals. Furthermore, the project enlisted participation of two criminologists from the University of Maryland - Ray Paternoster and Shawn Bushway - to conduct a randomized experiment and provide analytical expertise that would help determine if the presence of lawyers at bail does make a difference. Using a

31 The description of the pretrial process for misdemeanants in the Atlanta City Jail witnessed by Cunningham that is provided earlier in this article is a reflection of the processes described and addressed by Colbert et al.
32 Colbert at 1726.
33 Ibid at 1727.
34 Ibid.
35 See Colbert et al. at 1720-21, 1735-36, describing the impact on detainees.
36 Colbert et al. at 1736.
37 Ibid.
38 A full description of the methodology setting up the experiment, along with the variables and outcomes explored by Paternoster and Bushway is provided in a publication at the Abell Foundation, found at http://www.abell.org/Library/PRETRIAL_ADD2.PDF (Last accessed 12/11/03). Colbert et al. At 35 - 52 describe in somewhat less detail these methods and findings.
randomized process, LAB lawyers were assigned to cases and data (both current and follow-up) were collected not only on these clients, but also on a subset of other offenders that did not substantially differ from these clients on sociodemographic variables. Findings confirmed that the presence of an attorney did have a positive impact on the probability that a client would be released, with the researchers noting that “...lawyers’ advocacy led judges to release LAB clients on recognizance 2 ½ times more often, and to reduce bails for many others to affordable amounts...” 39

The presence of engaged attorneys for these proceedings seem to produced a more procedurally just process for clients at the lower end of the socioeconomic spectrum. Further analyses of interviews with represented clients and unrepresented defendants tapping their satisfaction with the process and their belief that they were treated fairly indicated that those with representation were both more satisfied with the process and the fairness of the process. These results demonstrate the viability of addressing the concerns of Feeley and Tyler. Notably, the LAB Project is not the only recognizable attempt to ensure that the process is more just and less punitive than it should be.

**B. Center for Juvenile and Criminal Justice in San Francisco**

The Center for Juvenile and Criminal Justice (CJCJ) is a private non-profit organization, headquartered in San Francisco, with a mission to reduce reliance on incarceration as a solution to social problems. 40 The CJCJ jail services division works to reduce incarceration levels in San Francisco by providing “safe and effective programs to persons facing imprisonment,” two of which are centered around reducing the bail population in San Francisco by providing supervision for those released. 41 The Supervised Misdemeanor Release Program (SMRP) provides an alternative to jail for misdemeanant offenders arrested on bench warrants because of a failure to appear in court. As part of this process, the staff of the program determined that a large number of these defendants were unable to qualify for this program or citation release because they were homeless. 42 With this recognition, a second program – aimed at the specific population of homeless misdemeanants – was developed. The Homeless Pretrial Release Project (HRP) mirrored the SMRP, yet focused on providing additional services to this population. Both programs respond to the need to ensure a more just and less punitive process at the stage of bail for those defendants who cannot afford bail or an attorney, similar to Baltimore’s LAB project. However, in contrast to the LAB project, these programs focus on intervention by social service advocates rather than attorneys.

1. **Supervised Misdemeanor pre-trial release**

39 Abell Foundation, found at [http://www.abell.org/Library/PRETRIAL_ADD2.PDF](http://www.abell.org/Library/PRETRIAL_ADD2.PDF) at 12.


42 Alissa Riker & Ursula Castellano, *The homeless pretrial release project: An innovative pretrial release option*, 65 *Fed. Probation* 9 (2001). As these author's describe, “Though homeless persons arrested for new misdemeanor offenses are regularly released on their promise to appear, those arrested on bench warrants were ineligible for SMRP because staff could not maintain contact with the defendants to remind them of court dates.” at 1.
Partnering with the San Francisco Sheriff’s Department, CJCJ initiated the SMRP in 1987 as a way to reduce the serious jail overcrowding problems they faced. This program involves the screening of all pretrial misdemeanants in the jail population, interviewing those who are eligible for the program to gather additional information, and checking the references of those that are eligible. This process guides the SMRP staff in making a recommendation to the court regarding pretrial release. If the client is granted release, the staff of the SMRP provide follow-up contacts, providing reminders of court dates and additional supervision until the case is disposed. Data provided by the CJCJ indicate that the program has been successful. In 1999, the organization reported that 85 percent of those released on recommendation of SMRP made their court appearances. These numbers essentially have remained steady over time. 

2. Homeless misdemeanants

As noted above, the homeless of San Francisco were identified as a unique population during the early stages of the SMRP’s implementation because their lack of address disqualified them from consideration of consent release. This yielded the “No Local [Address]” project, launched in 1991 and a second collaboration between the San Francisco Sheriff’s Department and CJCJ. This project was specifically aimed at releasing with a “promise to appear” homeless misdemeanor defendants who, had they not been homeless, would simply have received a citation or an infraction warrant. As with the SMRP, the success rate - measured in terms of appearance - for the “No Local” project was high; a compliance rate of 76 percent was reported over a six-year period with over 1700 persons released. The Sheriff’s Department amended its release criteria for such citations in 1997, leading to the closure of this program.

A second program, the Homeless Release Project (HRP), targeting homeless misdemeanor defendants was initiated in 1996 to assist those arrested on bench warrants to be released. This program is much more far-reaching in its effort to connect with homeless
defendants. With funding funding from the United Way,\textsuperscript{50} CJCJ developed a program based on a social work model to both provide community supervision and to develop a “care plan with the client,” which identifies the client’s needs and assists in linking the client with community resources to address these needs.\textsuperscript{51} In other words, the HRP program goes beyond simply serving as a pretrial release program that functions much like probation (with the probation officer doing an assessment and making a recommendation to the court, the following up in a supervisory role with clients who have been released) to one that is much more social service centered. This shift yields a more well-rounded program that not only gathers greater information – such as descriptions of the defendant’s “existing relationships with community providers,” and “information on where the offender can be found in the community”\textsuperscript{52} – that increases the likelihood of obtaining a release, but also assistance for the offender in re-establishing their ties to the community at large. The latter effort is pursued upon release as the HRP staff assist the defendant in first finding temporary housing, followed by a care plan that delineates short- and long-term goals, including substance abuse, mental, and physical health treatments. The HRP staff also not only notify these clients of court appearances, but also accompany them.

It is important to point out that the services and plans developed for HRP clients are developed “in collaboration with the client,”\textsuperscript{53} thus involving the client in the process, in a manner consistent with Tyler’s suggestion that defendants interpret a process in which they have a “voice” as being more procedurally just. Further, the addition of social services provides the basis for “restoring” the defendants, and more importantly segments of the homeless population, back to the community as a whole. Finally, by removing such clients from the criminal justice system, specifically the jails, this program ultimately provides a cost-effective way of dealing with misdemeanant defendants.

Programs such as those found in Baltimore and San Francisco do address the criticism of Feeley that transactional costs of the criminal justice system are higher for those who are at the lower economic end of our society, as well as Tyler’s criticisms that the system’s process generates procedural costs to these same citizens. Thus, while these programs are important and are valued for addressing these issues, the extent of these programs is limited. Specifically, these programs focus on narrow aspects of the criminal justice process, namely bail procedures. These programs are to be commended for noting the inherent inequities that exist because bail outcomes are destined to be different for those that can post bond compared to those who cannot (Stuntz,

\textsuperscript{50} The funding provided by the United Way was for the development and implementation of a four-year pilot program.

\textsuperscript{51} The social work model employed by HRP is referenced as a Community-Based Treatment Model by Riker\textsuperscript{2002}, at 2. Under this model, the social worker is charged with assessment of client’s needs, development of a resource attainment plan, and follow-up with the client.

\textsuperscript{52} Riker\textsuperscript{2002} at 2.

\textsuperscript{53} Riker\textsuperscript{2000} at 6.
Further, they highlight the role that defense attorneys, particularly public defenders, particularly those that rely on government funding, play in perpetuating and exacerbating procedural injustices (Stuntz, 1997). However, because they are limited to providing representation at bail, they fail to address inequities that are faced by disadvantaged individuals through the rest of the criminal justice process. Furthermore, they do not confront the social context of the accused. In contrast, the organization discussed in the next section not only assists defendants at every stage of the criminal justice system (including incarceration and post-release entry into society), it also combines a wide variety of legal advocacy and social services to enable defendants to rebuild all aspects of their lives.

III. Restorative Justice and the Georgia Justice Project

Douglas Ammar, the executive director of the Georgia Justice Project (GJP), in a recent law review article tells the following story:

Ben was married last month. Most of the GJP staff was there. We have worked with Ben for over ten years. Five years in prison and five years out of prison. He was imprisoned after being convicted of armed robbery. He was sixteen-years old and, quite unfortunately, he grew up in prison. We were with him throughout his case. We visited him during his mandatory five-year term in prison. He started working for GJP’s in-house business (New Horizon Landscaping) within a week of being released from prison. ... At his wedding, ten years after interviewing a scared kid in jail, I feel nothing but pride. He is marrying the mother of his children and he is in the best place I have seen him in years. He successfully went through a drug treatment program. He enrolled in a local community college. And he has been a dependable part of our landscaping company. ... For me, and many of our staff, Ben’s wedding was a celebration of our work with him. Ten years of investment. Now, in the company of so many who have touched each other, it had become a community. That is what I saw when I looked around the rented hall. As Ben’s grandfather performed the ceremony and about one hundred or so friends and family gathered around, I saw a community. I saw the lines blur between lawyer and client, employee and employer. Client turned counselor turned supervisor turned friend. I saw the breaking of old and the formation of community. It is this vision of community that keeps me going. After almost fourteen years of doing this work, Ben’s wedding provided a glimpse – a confirmation, really – of our goal.

Although GJP began as a non-profit law firm, representing indigent defendants in the Atlanta metropolitan area, it now operates in a way very different from conventional public defender programs. As Ammar explains:

At the GJP, the attorney-client relationship is only the beginning of the relationship, not the end. It does not define the boundary of our relationship. In

54 William J. Stuntz, *The uneasy relationship between criminal procedure and criminal justice*, 107 Yale L.J. 1, 5-6 (1997). Stuntz notes that it is the “ineffective assistance doctrine (that) tolerates a very low level by defense attorneys.”

55 Ammar03 at 1-3.
the realm of criminal defense and legal ethics, many assert that such amorphous boundaries cause problems in the attorney-client relationship and are beyond the scope of professionalism. We have found the opposite to be true. More permeable boundaries allow our clients to trust us more and begin to see us as true advocates.\footnote{Id. at 10.}

He insists that “being relationship driven is the most unique and powerful aspect of the GJP’s practice. At the GJP, we seek long-lasting, redemptive relationships with our clients. Attorneys and other staff delve deep into clients’ lives to better understand their legal, social, emotional, and mental health background.”\footnote{Id. at 9.} The “justice” in the middle of the organization’s name is not just the substantive justice of a correct adjudication of a criminal charge and even goes beyond the procedural justice of a fair criminal proceeding. Ammar reaches out to adapt another description of justice to explain their work – restorative justice:

\begin{quote}
[I]t is the status of the relationships (attorney-client, client-victim, client-community) that creates the opportunity for restoration – restoring defendants, victims, or the community (e.g. restorative justice). For restoration to be possible in the criminal justice system, the centrality of “relationship” is vital.\footnote{Id. at 10.}
\end{quote}

Although a story like “Ben’s Wedding” seems to be a powerful example of a person charged with a crime who has been restored in almost every imaginable meaning of the word, application of the term restorative justice to a public defender organization represents an important and novel expansion of the concept.

\section{A. Restorative Justice}

At the heart of the increasingly influential restorative justice movement\footnote{Id. at 10.} is the desire to heal. This movement developed initially from experiments in Ontario, Canada and Indiana in the 1970s which drew from Mennonite peace-making principles and Native American practices and applied them to burglary and other property crimes.\footnote{Citations for influential – New Zealand, Minnesota, Minneapolis, Texas, UN resolutions, academic centers ...} The crime was viewed as a breach in the social fabric that required restoration. Conventional prosecution and punishment of the criminal was inadequate to repair this breach, particularly because the harms experienced by both the victim and the community were not healed simply by punishment of the offender. One set of experiments brought the victim and offender together for an intimate encounter mediated by a third person in which the offender admitted his or her wrongdoing and came to understand the harm caused to the victim while the victim learned about what led the offender to commit the crime. If the victim and offender had a pre-existing relationship, this encounter was intended to promote the restoration of that relationship; if they were previously strangers, the encounter was still intended to heal the social fabric by reducing the fear, anger and alienation both victim and offender were likely to feel as a result of the crime. A related experiment expanded this encounter to include other persons directly or indirectly affected by the crime into a “sentencing circle” that

\begin{quote}
HOWARD ZEHR, THE LITTLE BOOK OF RESTORATIVE JUSTICE 4, 11 (2002).\footnote{Id. at 10.}
\end{quote}
Perhaps the most expansive definition of restorative justice has been offered by Howard Zehr: “Restorative justice is a process to involve, to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs and obligations, in order to heal and put things as right as possible.” Zehr at 37. Zehr’s book, Changing Lenses: A New Focus for Crime and Justice (1990), is a seminal work in the field and he is often described as the “grandfather” of the restorative justice movement. Id. at 74. He is co-director of the Conflict Transformation Program at Eastern Mennonite University. Id.

Restorative justice has now become a global movement, with applications in highly varied settings. Because restorative justice began and has developed as a set of practices and principles rather than as a conceptual theory, its leading proponents have been reluctant to promulgate a single unifying definition. However, the literature in the field consistently speaks in terms of “victims” and “offenders,” terms which assume both that a crime has been committed and that the criminal—the “offender”—has been conclusively identified. This terminology thus excludes from the potential scope of restorative justice at least three categories of criminal defendants:

–clearly innocent defendants who still need healing from the harm caused by accusation, arrest, incarceration and pretrial court procedures
–defendants whose legal guilt may be uncertain or unprovable who may nonetheless recognize that their own bad decisions contributed to the situation leading to arrest
–defendants who are being prosecuted not in response to a complaint by an individual victim but rather by a regulatory state (e.g. traffic offenses, drug possession, providing a false name to a police officer, prostitution, gambling, bootlegging).

Even if there is an identifiable victim and a defendant accepts the “offender” designation in order to participate in conventional restorative justice practices, most defendants need restoration to a different or larger community than one defined as those harmed by the crime. Arrest and incarceration is itself a radical separation from any kind of community other than that of other prisoners and is often likely to sever a low-income person’s ties to employment and housing. Defendants may emerge from jail not only homeless and unemployed but also to find that their family have shunned them and their children have been placed in foster care. Of course many defendants had already lost connection with any kind of healthy or supportive community before they were arrested.

The apparent requirement that a defendant be found an “offender,” either through confession or adjudication, also tends to exclude (or at least alienate) a key player in the criminal justice system, the defense attorney. The defense lawyer is likely the only person the defendant

61 Perhaps the most expansive definition of restorative justice has been offered by Howard Zehr: “Restorative justice is a process to involve, to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs and obligations, in order to heal and put things as right as possible.” Zehr at 37. Zehr’s book, Changing Lenses: A New Focus for Crime and Justice (1990), is a seminal work in the field and he is often described as the “grandfather” of the restorative justice movement. Id. at 74. He is co-director of the Conflict Transformation Program at Eastern Mennonite University. Id.

62 See, for example, the story of one GJP client, “Lynn,” who was charged with murder. Lynn (a teenaged girl) was present when her cousin’s boyfriend shot and killed a man who had previously insulted Lynn and her cousin. Lynn ultimately pled guilty to conspiracy to commit aggravated assault and was sentenced to four months of incarceration and five years of probation). During the pretrial period Lynn wrote a letter of sympathy to the victim’s family and after sentencing she and her mother met with the victim’s father. Ammar00 at 183-84.

63 The story of Ricks Anderson, see below at , is a powerful example.
can speak to freely without risking criminal liability and is the most competent person to help the defendant navigate the criminal justice system. But if the defendant has not yet been adjudicated guilty, the defense lawyer is understandably reluctant for his or client to enter into an encounter that requires admission of guilt without knowing in advance the likely sentencing consequences (or the likelihood of a dismissal or acquittal if the presumption of innocence is maintained). Further, the culture of criminal defense practice often discourages conversation between lawyer and client about either legal guilt or moral culpability. And if the defendant has been found guilty, many defense lawyers consider their job to be concluded.

Both because the restorative movement offers an appealing new vision for criminal justice and because its practice is becoming wide spread, many scholars are now engaging in constructive critique and suggesting reconceptualization. While it appears that a pure conceptualization of restorative justice envisions elimination of the traditional justice system, problems with the viability of this, in practice, are numerous, including issues regarding due process, ethnic / racial disparity in outcome, and further victimization of the victim through continued contact with the offender. Another critical question is the role and meaning of “community.” Ashworth has noted that one difficulty in including the community into a restorative justice policy model is the lack of a clear definition of “community.” He argues that a geographic depiction of community is insufficient given the complexity of our society and suggests that a better conceptualization would be those involved in the offense. Indeed, it is likely that the most successful program, as described by Ashworth, is one that can exist in today’s political setting, one which maintains the

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64 See, e.g., Ammar03 at 15-19.
65 “To my knowledge, there has been no consideration of the role that the criminal defense attorney might play. ... Today, restorative justice processes generally do not begin until after the criminal trial is over and the defense attorney is out of the picture.” Robert F. Cochran, Jr., The Criminal Defense Attorney: Roadblock or Bridge to Restorative Justice, 14 J. LAW & RELIGION 211, 213 (1999-2000).
66 Andrew Ashworth, Responsibilities, rights and restorative justice, 42 BRIT. J. CRIMINOLOGY 578 (2002); see also Kathleen Daly & Russ Immarigeon, The past, present, and future of restorative justice: Some critical reflections, 1 CRIM. JUST. REV. 21, 30 (1998), who note that restorative justice “sets itself against traditional justice practices.”
67 Ashworth at 578
68 Ashworth at 580-582
69 As Ashworth notes, the possibility of such secondary victimization is only beginning to be explored. Id.
70 Id. at 578-595.
71 Ashworth at 582.
72 Ashworth at 582.
73 Ashworth has highlighted the role of the offender in the restorative justice framework, noting in particular the link between the offender and the actors in the criminal justice system. Ashworth at 582-584. As he describes “the closer the adjudicators and enforcers
traditional justice system, would utilize a conceptualization of community that involves those who work in system.

As a result of these inquiries, a number of scholars have noted that perhaps we should broaden what restorative justice can look like, particularly as restorative justice must, at the moment, co-exist alongside the traditional justice system.\(^{74}\)

This section offers an extended case study of an innovative non-profit organization in Atlanta, the Georgia Justice Project, that is having notable success in restoring defendants to the community by integrating restorative justice principles into the setting of a criminal defense practice. Like any conscientious defense attorney, the GJP lawyers strive for substantive justice – vindication of the wrongfully accused and, for those found guilty, a sentence which is fair and appropriate. However, they also resist the procedural injustice of the criminal courts – working hard to keep defendants out of jail while the case is pending and affirming at every step the dignity and worth of their clients. Over time the organization’s commitment to substantive and procedural has caused it to evolve from a non-profit law firm into a complex organization that defies simple description. GJP describes itself as “an unlikely mix of lawyers, social workers, and a landscaping company.”\(^{75}\) The organization explains its mission in the following words:

> “When a poor person is accused of a crime, most of society sees this as an end — the Georgia Justice Project sees it as a beginning. GJP defends people accused of crimes and, win or lose, stands with our clients while they rebuild their lives.”\(^{76}\)

GJP undertakes this ambitious mission by first creating a more procedurally just process, as public defenders who involve the client in the case – e.g., promoting procedural justice from the public defender position (even though cannot control the other agents).\(^{77}\) In other words, the GJP is a program that is engaged in “restoring” the offender by increasing procedural fairness within traditional justice processing. Second, and perhaps more importantly, GJP both creates a “community” in which the success of the offender – not only in the legal case but also in the life

\(^{74}\) See for example, Daly and Immarigeon, at 30, 31, 37; see also Walgrave and Aertsen at 76, who each assert that restorative justice can be reflected in a wide range of programs. James Bonta, et. al., *An outcome evaluation of a restorative justice alternative to incarceration*, 5 CONTEMPORARY JUST. REV. 319 (2002), determine that the program they have evaluated, which focuses on offenders, “should encourage those who see restorative justice as offering a viable alternative or adjunct to traditional criminal justice.” (Ital. Added.) Bonta et al. at 333.

\(^{75}\) See *Who We Are*, <http://www.gjp.org/who_we_are.html> (Last visited ____).

\(^{76}\) Executive Summary (n.d.)

\(^{77}\) See Daly and Immarigeon, at 37, who note that one difficulty of restorative justice is the question of “restoring the injured parties.” They question “is priority given to offenders or to victims with respect to fairness?”
changes that they engage in – is supported.  

B. History of the Georgia Justice Project

In the 18 years since its founding in 1986 the Georgia Justice Project has grown from a one-person operation operating out of a house into a nationally-known organization with seven full-time employees (including three attorneys and a social worker) as well as two part-time counselors, a landscaping crew, and at almost all times a large contingent of student interns from a variety of disciplines.

The organization began as the initiative of a single attorney, John Pickens. While employed as a partner at one of Atlanta’s largest law firms, Pickens had volunteered for a number of years at the homeless shelter operated by his church, which was located in downtown Atlanta. When people at the shelter learned he was a lawyer, they began asking for legal advice and representation. As a result, Pickens started going to Atlanta’s various criminal courts, first as an observer:

Before I became actively involved in the criminal justice system, I went to the courts to observe what was happening. From the outside, things felt rushed – hectic – somewhat confused by the speed of persons passing through the courts. Something wasn’t right. It seemed like people were being expedited. That feeling of years ago has now been confirmed – expedited justice is no justice at all.

Pickens then moved from observation to doing volunteer criminal defense work for the homeless. That experience led him on a pilgrimage that began when he left the law firm in 1981 to start a small partnership that included criminal defense work. Over the next five years Pickens came to feel ever more intensely that the conventional model of legal representation was inadequate to meet the needs of indigent defendants. As a result, in April 1986 he left private practice entirely to found a non-profit organization that was initially called “The Atlanta Criminal Defense and Justice Project.”

In the first of what became a series of regular newsletters to friends and supporters, Pickens explained his decision:

I have come to believe that it is important to look at the way justice is dispensed in our criminal courts from a faith perspective, and not from just a worldly view, because a faith perspective brings into the system a sensitivity that fosters

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78 Paul McCold & Benjamin Wachtel, Community is not a place: A new look at community justice initiatives, 1 CONTEMP. JUST. REV. 71, 81 (1998), argue that within the restorative justice framework “it is important for community justice to encourage and create community, as a perception of connectedness to an individual or group in its efforts to respond to and prevent crime. The micro communities created by incidents of crime are a useful framework for action.” This is consistent with Ashworth’s position that different actors in the criminal justice process are important “community” elements.

79 Unless otherwise indicated, the information in this section is based on Cunningham’s interview of Douglas Ammar on Nov. 14, 2003.

80 John Pickens, Counselor, You’re Wasting Our Time, MATTERS OF JUSTICE (Newsletter of the Georgia Justice Project Oct. 30, 1986) (copies of this newsletter and subsequently cited GJP newsletters are on file with the authors).

81 The organization was renamed “The Georgia Justice Project” in 1993.
compassion, reconciliation, understanding, truth, relatedness and an end to oppression. Such sensitivity gives balance to a system so prone and subject to harshness, disrespect, punishment and closed-mindedness. From a faith perspective, ‘criminals’ become human again, no better or worse than ourselves; the poverty, racism and physical and psychological abuses suffered by many become understandable circumstances of the crime, not just intolerable excuses; fear is transformed into caring; forgiveness overrides desires for revenge; and hope for positive, life-giving change replaces apathy and disinterest. Viewed through such eyes of faith, much of what the world calls justice is exposed as injustice and cries out for transformation.82

Pickens described the work of this organization as a “ministry,” and for its early years the organization was affiliated as a “ministry with Family Consultation Service,” a Christian community development organization.83 From 1986-88 the organization operated out of Pickens’ home. During the summer of 1986 Douglas Ammar, who would later succeed Pickens as executive director, worked with Pickens as a volunteer during the summer before he started law school.84 In the Fall of 1987 the Mennonite Central Committee (MCC) placed a recent college graduate, Gray Fitzgerald, with the organization as a long-term service volunteer, primarily to do work with persons in prison or recently released from prison. Apart from these two volunteers, Pickens was the organization’s sole staff person – and the only person providing legal services – during its first four years.

A five year grant from the Public Welfare Foundation combined with small donations, primarily from individual lawyers who knew Pickens personally, enabled Pickens in 1988 to move the organization out of his home into a small store-front location at 458 Edgewood Avenue, sharing space with a non-profit restaurant that provided meals to the homeless. This location was near downtown and in the heart of the Martin Luther King, Jr. National Historic Site. (Around the

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82 John Pickens, Justice Through the Eyes of Faith, MATTERS OF JUSTICE (Aug. 29, 1986)
83 Id.
84 About FCS, <http://www.fcsministries.org/fcsum/about.htm>
85 Ammar graduated from Davidson College in 1984 and worked in Atlanta during 1985 with FCS Urban Ministries. In Fall 1986 he began law school at Washington & Lee University.
86 Long-term service volunteers do not receive a salary but are paid a modest monthly stipend and full living expenses by the MCC. See Volunteering with the MCC, <http://www.mennonitecc.ca/servicetree/faq4_frame.html> (Last visited ____).
87 The Public Welfare Foundation is a non-governmental grant-making organization located in Washington, D.C., that is supports organizations that provide services to disadvantaged populations and work for lasting improvements in the delivery of services that meet basic human needs. See About the Public Welfare Foundation, <http://www.publicwelfare.org/about/about.asp> (Last visited __). The Foundation’s five year grant ran from 1987-92 and provided about $15,000 per year to the organization.
corner from the new office, and on the same block, were Dr. King’s grave, the Martin Luther King Jr. Center for Nonviolent Social Change, and Ebeneezer Baptist Church where Dr. King’s grandfather, father, and Dr. King himself served as pastors.)

For a number of years, I have felt it important to have an office in the Edgewood-Auburn Avenue area ... [M]any of my clients frequent and live there. In ministry, I have come to believe that where you do your work (i.e. where you place your body) is just about as important as what you actually do. This is especially true when working with the poor and marginalized.  

In 1990 Ammar returned as the organization’s second lawyer and paid staff member. The following year the organization took a significant turn when it hired as its third staff member Ricks Anderson. Although Anderson earned a law degree in 1977, by 1990 he had spent over 8 years living in the street, committing petty crimes, sometimes eating out of garbage cans – due to a drug habit that started soon after law school. When his father died in 1981 Anderson put his mother in a nursing home, squandered his parents’ life savings to buy drugs, and abandoned his wife and five children in Chicago to “adopt the lifestyle of a nomad.”  

Pickens represented Anderson three times between 1987 and 1989 on theft and burglary charges. When Anderson first became a client, the organization not only represented him in court, but also found him a place to live, money for food and a job after he got out of jail. But Anderson reverted to his old ways and walked out on the job. It was not until 1990 that Anderson finally succeeded in conquering his addiction, spending 11 months in a residential drug treatment program.

Although initially hired with the thought that he would primarily assist Pickens and Ammar as a paralegal, Anderson’s personal experience motivated him enter into intense counseling relationships with clients that paralleled the legal representation the lawyers were providing. Ammar credits Anderson as the main initiator of two of the most innovative aspects of the GJP program. It was Anderson who successfully urged that the zealous legal advocacy being provided for free by the lawyers be used explicitly as an incentive for clients to begin making profound changes in their personal lives – a strategy that eventually evolved into the multi-stage agreement that clients make with GJP as a condition of receiving services. The client counseling informally initiated by Anderson became an explicit component of GJP’s structure in 1992 when

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88 John Pickens, New Beginning at Year’s End – Year-End Funding Request,  
Matters of Justice (Dec. 1, 1987)

89 Shirley L. Smith, Addict exchanges desperate lifestyle for hope and a chance to help others, Atlanta Journal-Constitution D8 (Aug. 8, 1993)

90 Id.

91 In most of its publicity GJP describes itself as “an unlikely mix of lawyers, social workers, and a landscaping company.” See Who We Are,  
<http://www.gjp.org/who_we_are.html> (Last visited ____). Anderson’s insights and ideas led to adding social workers and the landscaping company to “the mix.”

92 During his first period of employment with GJP, from 1991-93, Anderson started work on becoming a Certified Addiction Counselor, receiving his certification after leaving in 1993 for employment with Welcome House, an Atlanta social service agency which provided
a recently graduated seminarian, Kevin Wilkinson, was hired to provide social services. Fitzgerald had been replaced by Bob Jones, who served as an MCC volunteer until 1992.

Although Wilkinson was not, like Anderson, a former client, he also had deep personal connections to the kinds of problems experienced by GJP clients.

Wilkinson, a former professional player turned successful businessman, had decided to enter the ministry following the intersection of two events. First his great aunt, to whom he was very close, was assaulted and raped by a homeless man addicted to crack cocaine. Then, just a few weeks after this crime, Wilkinson’s brother came to him, admitting that he was addicted to crack and near the point of suicide. After getting his brother through a drug treatment program, Wilkinson moved to Atlanta to attend seminary, where he focused on inner-city ministry to the homeless and addicted. Wilkinson’s hiring coincided with the phasing out of the MCC volunteer program, and apparently his initial job description, like the work of the MCC volunteers, focused on prison visitation and post-release support. However, as indicated in a newsletter published the month he was hired, Wilkinson like Anderson immediately became intimately involved with clients during their pre-trial representation:

Several of our clients in the community relate almost exclusively to Kevin, and we are in closer community with all our people because of Kevin’s efforts. ... Kevin and two of our former clients are co-leading our Friday night support meetings for our clients living in the community. Additionally, the three of them are planning other ways that we can be of service to our clients.

It was also Ricks Anderson who first suggested that GJP start its own business to provide employment for clients. GJP hired another former client, Fred Francis, to develop a business plan, which led to the establishment of New Horizon Landscaping as a subsidiary of GJP in 1993 with Francis as the first director.

A third former client, Juliana Moore, also joined the staff in 1993. GJP had defended Moore in 1990 when she was charged with murdering her infant son. Although even the state’s psychiatric expert agreed that Moore’s previously diagnosed mental illness caused her actions, on GJP’s advice Moore negotiated a guilty plea to manslaughter rather than seek an acquittal based on mental illness.
on insanity which could lead to an indefinite term of commitment to a mental hospital.\textsuperscript{100} She received a two-year prison sentence (with credit for a year of pre-trial incarceration). GJP visited her in prison and several months before her release started to make arrangements for her, including a successful application for treatment in an out-patient mental health program. GJP threw her a “freedom party” the week after her release and when her living arrangements with a relative became strained, the organization found her housing and paid her rent for several weeks. She also went through intensive counseling with Wilkinson, culminating in a cathartic visit to the grave of her son. Moore worked as a volunteer receptionist at GJP which helped her obtain an internship with another agency. In September 1993 GJP began a fundraising effort to hire Moore as its first full-time receptionist and she was hired soon thereafter.

Although GJP’s hiring of former clients, especially Anderson and Moore, was motivated in large part by a desire to help those individuals rebuild their own lives,\textsuperscript{101} the insights and increasing leadership provided by them and the other non-lawyer, Kevin Wilkinson, were a significant force that lead to the transformation of the organization from a non-profit law firm into its current unique form. GJP’s founder, John Pickens, originally saw the work of substantive and procedural justice as the task of the lawyers in the phases leading up to case resolution and the work of restorative justice as the work of the non-lawyers in the post-resolution period in the form of jail visitation and post-release housing, employment, and counseling.\textsuperscript{102} Although both lawyers (Pickens and later Ammar) were motivated by their personal values and religious beliefs to view their clients as whole people and to enter into caring relationships with them,\textsuperscript{103} their professional socialization as attorneys still inclined them to separate “legal work” from “social work,” as indicated by the organization’s early practice of labeling the work of non-lawyers as “paralegal,” “receptionist,” “prison visitation,” and “post-release support.” However, as former clients became co-workers and colleagues a new kind of community was formed – the kind described by Ammar in “Ben’s Wedding” – in which the lines between legal representation and social work blurred and many different approaches to working with criminal defendants blended.

The 1993-95 period marked the transition to a new generation of leadership on the GJP staff. Anderson took a new job in 1993, Pickens resigned as executive director at the end of 1994,\textsuperscript{104} and Wilkinson left in 1995. Ammar took over as executive director effective January 1, 1995. Much of GJP’s growth over the next two years was attributable to student interns and other volunteers. Juliet Želkowitz worked as a full-time lawyer volunteer from May-December 1995, nine law students interned during the summer of 1995, and students from the Candler School of Theology at Emory University began providing social services in Fall 1995.

In August 1996 David Rocchio joined GJP as a full-time volunteer under the Jesuit

\textsuperscript{100} Doug Ammar et al, \textit{Juliana – Part Two: A Lesson in Patience and Compassion, Matters of Justice} (Sep. 3, 1993).

\textsuperscript{101} Ammar interview.

\textsuperscript{102} Ammar interview (although Pickens probably did not use the specific terms \textit{procedural justice} and \textit{restorative justice} to describe the organization’s work in its early years).

\textsuperscript{103} Pickens-Aug86; Ammar03

\textsuperscript{104} Pickens is now the executive director of the Alabama office of the Appleseed Foundation.
Volunteer Corps (JVC) program; his major responsibility was co-ordination of the Emory student volunteers. When he was hired to replace Francis as director of the landscaping operation in 1997, he was replaced by another JVC volunteer; there has continued to be a JVC volunteer on staff from then to the present. (Rocchio is now director of development at GJP.) In 1998 Anderson’s daughter, Kenya Anderson – who had just completed a degree in criminal justice – was hired part-time to implement her father’s original vision for a comprehensive social service component to GJP’s work. Her work led to a grant from the Woodruff Foundation in 1999 that enabled GJP to hire Julie Smith as Director of Social Services. Also in 1999 GJP was able to add a second, permanent staff attorney position, hiring Deborah Poole, who also has a master’s degree in counseling and had previously served as director of human services for Fulton County (the urban county where Atlanta is located). In August 2001 GJP added a third attorney position, hiring Amy Vosburg, a former summer intern who had earned both an M.S.W. as well as a law degree. Ricks Anderson also rejoined the GJP staff in ___ as a part-time drug counselor and another former client, Faheem Martin, was hired as a part-time youth counselor in _____.

During its period of growth GJP moved three times, while always staying within a one-block radius of its initial location. In February 2002 it moved into its present location at 438 Edgewood – a renovated gas station that includes both a spacious kitchen for GJP’s frequent feasts with clients and their families and a bay for the trucks and other equipment of the landscaping operation. The new office is within 100 feet of Dr. King’s grave.

C. Current Practice

1. Selection criteria

Because of its status as a private, non-profit organization, GJP, in contrast to public defender systems, has complete discretion in choosing the clients it will represent. The organization selects clients through an intensive and extensive process of data collection, client meetings, and internal review.

The process begins when potential clients, or representatives for them (such as family

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105 JVC is the largest Catholic lay volunteer program in the country. JVC pays for the volunteer’s transportation to and from the agency site and provides a small monthly stipend; the host agency pays the volunteer’s living expenses. Volunteers typically serve for one year. See Who JVs Are, <http://www.jesuitvolunteercorps.org/whojvsare.html> (Last visited ___).

106 Smith has a Ph.D. in Education from New Orleans Theological Seminary as well as an M.S.W. from the University of South Carolina.

107 Zelkowitz had become a full-time employee in January 1996, working both as a lawyer and fund raiser. She left in May 1998; except for a short-term employee later that year, the second lawyer’s position remained empty until Poole was hired in March 1999.

108 Vosburg had also worked as a JVC volunteer, but in Micronesia, not Atlanta.

109 Ammar admits that this is a luxury afforded to this organization. Ammar03 at 8 However, it should be noted that GJP does not shy away from serious felonies and controversial cases. For example, GJP has represented a number of people accused of murder. See, e.g. the case of Juliana Moore, discussed above, text accompanying notes ____, supra.
members, friends, etc.), contact the organization and provide the bare facts of the situation.\textsuperscript{110} Such facts usually include a brief description of the charge, the potential client’s bond status, whether they are on probation or have other holds and for what charges. At this initial stage GJP usually rejects cases: (1) from outside the Atlanta metropolitan area, (2) that only involves traffic charges, \textsuperscript{111} or (3) if it appears the person can afford a private attorney, \textsuperscript{112} The organization also has a general policy of not representing defendants on charges relating to domestic violence, child abuse, rape, or large-scale drug trafficking.\textsuperscript{113} Finally, the stage of a case generally impacts the decision to consider a potential client. If the case has already proceeded past the indictment stage or is already on the trial calendar, GJP usually will not accept the case.\textsuperscript{114}

If the case passes this initial screening, further information is collected, including identifying information, such as names and aliases, addresses, and social security numbers, as well as information about the arresting agency, the specific court involved, the next court appearance and purpose.\textsuperscript{115}

As an aside, it should be noted that if GJP decides at this early stage – prior to the social selection criteria being examined – that it is advisable to provide preliminary legal assistance, such as appearing at hearings or obtaining bond, the potential client must sign a preliminary contract with the organization. This contract specifies that the organization is not agreeing to

\textsuperscript{110} Most clients “are referred by former clients, word of mouth, or by other social service agencies.” Ammar03 at 8. The various public defender offices in metropolitan Atlanta have also contacted GJP to request representation for clients originally assigned to them. Ammar03 at 26.

\textsuperscript{111} From various discussions with attorneys, it is clear that given the limited resources of GJP, these cases would be a drain on the agencies resources.

\textsuperscript{112} Ammar03 at 8 (those referred cannot afford an attorney; GJP is the only organization other than the public defender to provide indigent defense in Atlanta’s court system).

\textsuperscript{113} Cases involving sexual assault are not pursued “because we are unwilling to employ defense tactics that are tantamount to ‘attacking the victim,’ Ammar03 at 8 n10, and drug trafficking cases would be too burdensome on the agencies staff and resources because of their complex and multi-jurisdictional nature. (\text{Http://www.gjp.org/legal.html}). Bonta, at 323, who evaluated the program “Restorative Resolutions,” noted that this program did not accept “offenders charged with sexual assaults, gang violence, drug offenses, and domestic violence.” Thus, it is clear that one advantage such programs have is the selection of the cases that they will pursue. However, this also indicates that GJP is not alone in the use of such requirements.

\textsuperscript{114} From the standpoint of zealous representation, GJP prefers to work on cases from the outset of prosecution, while evidence is fresh and when there is the maximum amount of time for investigation and research. GJP staff also want as much time as possible to develop their relationship with the client and to initiate a process of rebuilding client lives before a case comes to a point of resolution either through plea negotiation or trial.

\textsuperscript{115} The information gathered in this initial screening process is gathered using a form referenced as a “one-pager” by GJP staff (copy on file with authors).
more extensive representation until the review and selection process is completed.

Once the introductory information is collected, the case passes through an early review by the GJP staff. A six-page form\textsuperscript{116} guides a more extended personal interview of the potential client, which often takes place in jail. The legal information collected includes: the defendant’s personal data,\textsuperscript{117} detailed information on the charge,\textsuperscript{118} the defendant’s account of incidents leading to the charge, a summary of the defendant’s criminal history - both adult and juvenile, and current probation/parole status. Preliminary personal information is also gathered, including: educational background, military service, employment history/source of income information, and medical and mental health history.\textsuperscript{119}

An important step of this particular interview is the description of GJP that the interviewer provides to the defendant. Specifically, the mission of GJP\textsuperscript{120} is shared with the defendant and the selection process is explained within the context of that mission, with an emphasis on the idea that GJP works with clients who are committed to rebuilding their own lives. The defendant is informed that while there is no monetary payment for the legal services rendered, if they are accepted as a GJP client they will be undertaking obligations that will be worked out between the client and GJP through the social service part of the case review process.

The information from this interview is verified through calls to the courts, collecting arrest and conviction records, reviewing police reports, and obtaining information from the current defense attorney, if there is one, and the prosecutor’s office. Often these information-gathering pursuits will uncover additional charges that the potential client faces, some of which the potential client did not know about.

The attorneys at GJP will review the information collected in the interview along with the follow-up information collected and usually meet personally with the prospective client if they not already done so. The attorneys consider the degree to which a “quality” defense, which includes contacting witnesses, filing motions, and considerable levels or investigation (that a public defenders’ office likely will not have time to pursue), will enhance a positive outcome for the potential client. But because the organization is concerned not only about winning cases, but also the client as a person, the staff will also consider all of these case aspects in the context of the stakes faced by the client. In other words, they consider the magnitude of the charge not only in a legal sense, but as it will impact the life of the client as a whole.\textsuperscript{121} If at that point the attorneys are

\textsuperscript{116} This form is referred to by GJP staff as “the six-pager” (copy on file with authors).

\textsuperscript{117} In gathering this information, the staff are able to fill in gaps from the initial information provided.

\textsuperscript{118} Specifically, case, accusation, or indictment information, presence of co-defendants/companion cases, bond status, and arrest information are collected from the client. (Georgia Justice Project Potential Client Interview form (“6 pager”), on file with authors.)

\textsuperscript{119} Id. (Source)

\textsuperscript{120} The Mission Statement provided to defendants, is stated on the 6-pager (at 1), as follows: “The Georgia Justice Project’s Mission is to ensure justice for the indigent criminally accused and assist them in establishing crime-free lives as productive citizens. GJP’s unique holistic approach combines social services with legal representation.”
interested in representing the client, or if they want to gather more information, the next step of the assessment process moves to the social services unit. It should be noted that as a general rule, if the organization commits to represent a client, the attorneys will work on all criminal cases affecting the client, even those uncovered as a result of the legal assessment. The goal of GJP is that their clients leave with a legally “clean slate.”

The third and final stage of the review process is the completion of a social service assessment. It is at this stage that the client’s contextual information and desire to change is most closely assessed. As Ammar notes, “The focus has been to accept clients who are willing to make a serious commitment to changing their lives. This helps to ensure that they move beyond the social, emotional, and personal challenges that may have contributed to their legal problems.” In very real terms, then, the social service assessment becomes the heart of the client’s relationship with GJP. The social service assessment involves a meeting of the social service staff with the client that involves an in-depth assessment of the potential client’s social history; the interview form guides the interviewer to gather information on the social context of the offense, family issues, their social support system, employment history and status, educational background and any physical or mental health issues that they face. If appropriate the social worker gathers information on the client’s medical background, including history and current use of drugs and alcohol as well as prior treatment for substance abuse. The social service staff ask potential clients about the significant others who are present in the client’s life and what the dynamics of their home were like while they were growing up. In addition, the assessment involves an attempt to determine with whom the potential client has as personal and other support providers (such as friends, religious leaders, and other community/public agencies).

The social service staff will also discuss the offense or offenses for which the potential client is charged. The direction of this discussion, in contrast to that in the legal assessment, is designed to find out the potential client’s perception of whether the person has some responsibility in relation to the incidents giving rise to the alleged offense, even if the person may not consider himself or herself guilty of the offense. This may include discussions of use of drugs or alcohol and whether such use affected the person’s emotional state at the time of the offense.

The social worker then discussws with the potential client the kinds of services that GJP provides, both internally and as referrals to other programs. The staff ask clients for their personal assessment of how GJP can help them in their lives.

In sum, the social service assessment is designed to aid the social service staff in

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121 In a personal communication with Julie Smith (12/12/03 via email) noted that they (GJP) consider if it is “a case in which the stakes are high for the client,” noting that this “may be from either end of the spectrum - from a first offender who has a good chance at having their good record preserved to a serious offender (murder) for whom a good defense is critical.”

122 Ammar03 at 8.

123 Id.

124 Probes used to encourage this discussion include asking the defendant how they came to be placed in the situation, what mistakes they made, what choices they would make differently and how, as well as their emotional state at the time.
evaluating “the client’s strengths, needs, and goals in light of their current legal situation.”\textsuperscript{125} The final decision to take a case is usually turns on an overall picture of whether potential clients need to change their lives, the extent to which clients seem to be committed to doing what it takes to make those changes, and the degree to which GJP can assist in that transformation, both in a legal context and in all the other aspects of the person’s life.

After gathering the information from the social service assessment a final decision will be made by the staff at GJP to accept a client or to decline representing the potential client. If the client and the organization agree to pursue a relationship, a two-step process – punctuated by different contracts – is initiated.

2. The Role of Contracts

The first step in developing the client relationship is a “probationary client contract. This contract represents a “contingent agreement” between the two parties for a four-week period. During this period, the client typically agrees to meet with a GJP counselor on a weekly basis to establish goals toward which the client will work and to complete assignments given by the GJP counselor; if substance abuse is an issue, the contract may specify steps to be taken toward a treatment or relapse-prevention plan as well as random alcohol and drug\textsuperscript{126} It is not uncommon for clients to enter residential drug treatment programs at this point, often as a condition of pretrial release negotiated by GJP with the prosecutor and judge. The client and GJP also delineate the exact charges that the organization will be pursuing on the client’s behalf. If clients do not follow-through with the commitments they have made to GJP and themselves, the probationary contract can be terminated.\textsuperscript{127} For clients who make a good faith start on the plan for rebuilding their lives, the result is the beginning of a “long-lasting, redemptive” relationship, marked by signing of a “full” contract.\textsuperscript{128} The contract begins with the following language: “As part of the goal of the Georgia Justice Project to assist the client in establishing a crime free and productive life, the client agrees to the following recommendations…”\textsuperscript{129}

It is in this way that the structure of the process toward representation hinges on the social service element of GJP’s workings. And it is the social service aspect of GJP that, combined with the legal representation, provides the entrance of restorative justice into the legal model employed by the organization.

3. The Multidisciplinary Approach

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\textsuperscript{125} Ammar03 at 8.

\textsuperscript{126} These requirements are stated on the “Georgia Justice Project Probationary Client Contract” form. If the client is incarcerated, the requirements will be different. (http://www.gjp.org/social.html). Last visited 12/13/03.


\textsuperscript{128} Ammar03, at 9.

\textsuperscript{129} Quote taken from Georgia Justice Project “Full Client Contract” form. By signing this contract, the client usually continue the commitments made in the probationary contract. Clients also agree to provide volunteer service at GJP.
While some conventional public defender offices do employ social workers\textsuperscript{130} the integration of legal and social work processes at GJP is distinctive. The approach taken by GJP can be called multidisciplinary in many ways. The GJP lawyers differ from the traditional public defender model by taking a small number of clients, not only to provide high-quality legal representation, but also to develop relationships with their clients as people. Meanwhile, the social service unit of GJP does not limit its influence to any particular facet of a client’s life. It is the breadth and depth of the relationships that a client forms within the organization that provide for an experience that Ammar refers to as “transformative.”\textsuperscript{131}

As Ammar describes, “By providing quality and caring representation …, we are reversing the way legal services have traditionally been provided to the poor. We make sure that our representation is both thorough and personal, involving the client in all stages of the representation.”\textsuperscript{132} It is the formation of such a relationship that provides the attorneys with the ability, and likely the drive, to secure a more procedurally just process as the client’s case proceeds. It is also through the formation of these relationships that the attorneys provide a building block for the creation of “community,” another cornerstone of restorative justice.

The social service unit of GJP also is imperative to the formation of “community” in a restorative justice sense. It is in this realm that the multidisciplinary aspect of GJP is apparent. The social service unit provides comprehensive case management\textsuperscript{133} for GJP clients. The assessment, described above, is a key aspect of the social service component of GJP as it lays the foundation of the client’s needs and the identification of the services that will be provided by GJP as well as the referrals that GJP will make to external sources. The areas addressed range from a need for housing to individual and group counseling, from drug and alcohol treatment to employment. The social service unit works closely with the client to provide an arena in which the client can change.

This unit also provides useful information and, sometimes, even solutions that can be utilized by the attorneys in the legal case being pursued. This multidisciplinary approach, combining the legal with the social, has, according to Ammar, attracted the attention of many local judges:

“It is not uncommon for a judge to release clients to our custody with the agreement that they seek treatment for their substance abuse, educational or mental health issues. …The implementation of the social services plan often helps clients

\textsuperscript{130} Insert footnote from BJS bulletin..

\textsuperscript{131} Ammar03 at 9.

\textsuperscript{132} Ammar03 at 9.

\textsuperscript{133} Marianne Woodside and Tricia McClam, Generalist Case Management: A Method of Human Service Delivery (2\textsuperscript{nd} Ed. 2003). Woodside and McClam define case management as “a creative and collaborative process, involving skills in assessment, consulting, teaching, modeling, and advocacy that aim to enhance the optimum social functioning of the client served. …it includes the dual role of coordinating and providing direct service.” At 4.
avoid a prison sentence, but not always. Members of the bench often want to keep
offenders out of prison if it does not seem that prison will be the best option for
them. This willingness on the part of the judiciary makes a restorative justice
framework possible.\textsuperscript{134}

Finally, it should not go unnoted that the key element of GJP’s approach – that of forming
relationships with their clients – is not limited to the duration of the legal case. Recall that one
requirement of the full contract is that clients must volunteer at GJP for a period of time. In
addition, the organization hosts/provides a monthly “family” dinner for their clients and former
clients. The staff at GJP take the creation of “community” to heart, and these relationships tend to
stand the test of time. If a client does not receive a sentence involving incarceration, the
organization will continue to work with the client to achieve their goals, opening the door for
counseling and additional referrals as needed, as well as continuing education classes and,
sometimes, even employment at their landscaping business. If a client does receive
incarceration, the organization also continues its relationship with the client, albeit in different
ways. The GJP staff visit,\textsuperscript{135} “write letters,” and “accept collect calls,” thus providing a solid
community for the client to return to. The organization goes a step further, to “provide emotional
support for their family” – ranging from driving family members to visit the client to talking
with the family member/s to provide emotional support to securing a spot at summer camp for
clients’ children. These contacts are constant, and the clients’ are consistently reminded of the
community that they have joined.

When a client is released, social services continue, with the coordination of services
needed (such as finding a home, medical care, etc.) and the provision of services by the
organization (such as individual and group counseling and education). The organization’s
landscaping business, New Horizon Landscaping, exists in large part to provide the key first job
for persons released from prison.

D. Outcomes

In 2001 GJP conducted a recidivism study of the group of clients they had represented in
1996. Forty-eight persons were considered “full clients” for 1996.\textsuperscript{136} GJP was able to obtain
criminal history records for 44 clients from the Georgia Criminal Information Center (GCIC),
operated by the Georgia Bureau of Investigation. Of those 44 persons, according to the GCIC
records, only 8 were convicted of a new crime\textsuperscript{137} during the period of 1997-2000.

In none of these periods was incarceration the outcome for more than 8% of cases upon
resolution. GJP contrasts this outcome with data showing a typical incarceration rate in excess of

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\textsuperscript{134} Ammar03 at 11.

\textsuperscript{135} The full-time JVC volunteer regularly visits the clients who are incarcerated and
other staff may visit as well

\textsuperscript{136} GJP accepted 52 clients during 1996 but terminated four for non-compliance with
their GJP contract.

\textsuperscript{137} GJP did not count as a new crime conviction any probation violation or traffic
violation.
70% for urban public defender offices. This difference is not attributable to a higher rate of acquittals; the acquittal rate for GJP was very small, as it is for the comparison group. GJP did achieve an outright dismissal about twice as often; however, equally important was the outcome of negotiated pleas. It is obvious that pleas entered into by GJP clients are much less likely to result in incarceration than for the comparison group of urban public defenders. However, as discussed in the conclusion, determining the causes of these differences in outcome -- both in terms of recidivism and rates of incarceration -- is a complex undertaking.

IV. Conclusion

This symposium issue has its origins in the 4th Annual Public Law Conference, hosted by Duke Law School in December 2002. The conference was organized around the question of whether there were distinctive “progressive and conservative” versions of the Constitution and other legal system. A very early version of this article was presented at a panel on criminal justice. Also participating on that panel was Louis Michael Seidman, who identified himself as a “criminal justice progressive” but went on to offer a concise and trenchant critique of seven different progressive models of criminal justice. When he was done, he offered the following observation:

So what in the end [does the] Left [have] to say about crime and justice? The answer, I’m afraid, is not much. ... Still, there is one thing to say in defense of the left ... The left is not the right. ... True, there’s not much left of the left, but neither is there much right about the right. public discourse about whether to spend more resources on the lower criminal courts, particularly on indigent defense, do tend to get stuck on “left v. right” distinctions: opposing the rights of defendants on the one hand against a concern for public safety and limiting government spending on the other. At the December 2002 panel, one of the authors (Cunningham) suggested one way to transcend these distinctions by posing a kind of “thought experiment”: “What if spending more money on indigent defense ended up saving taxpayer dollars and made communities safer?” The Lawyers at Bail project in Baltimore and the misdemeanor release programs in San Francisco, both have proven that making pretrial procedures less punitive,
reducing pretrial incarceration, can produce significant government savings.\textsuperscript{145} These savings were not offset by one form of short-term costs in that defendants released from jail through these programs had an excellent rate of appearing for subsequent court appearances in the pending case. The cost-benefit ratio sufficiently impressed the sheriff of San Francisco that he took over funding of the misdemeanor release programs out of the jail budget when the initial foundation support ended.\textsuperscript{146}

But what about the concern for public safety? It seems that even some proponents of increased spending on indigent defense take as a given that better indigent defense means less public safety. For example, one newspaper in Georgia published an editorial under the headline, \textit{Save Indigent Defense}, that offered the following argument against a proposal then circulating in the state legislature to provide for election of public defenders.

\begin{quote}
What incentives do voters have to elect competent public defenders? District attorneys run on their records of successful prosecutions -- putting bad guys behind bars. What would a good public defender run on? A record of keeping bad guys on the streets?\textsuperscript{147}
\end{quote}

The work of the Georgia Justice Project seems to indicate that it is possible to provide meaningful, indeed comprehensive, justice to criminal defendants while at the same time making “the streets safer.” However, GJP has not yet produced analytic reports that address the following key issues. First, to what extent could these different outcomes be attributable to different inputs? Could it be that because of GJP’s unique procedures for selecting clients, their clients are inherently less likely to engage in recidivism to a degree that matches the outcome differentials? Second, which of GJP’s many innovative approaches contributes most significantly toward better outcomes? Third, what is the cost-benefit ratio of GJP’s approach? How much more does it cost per client to produce a better outcome than for the persons in the comparison groups?

Fortuitously, at the time the authors began their study of GJP the organization had already decided to give a high priority to the creation of a sophisticated data base to record much of the information collected about clients at point of intake as well as tracking case activities and outcomes. Such a data base would make possible much of the analysis needed to address these questions. One of the authors (Cunningham) offered to use research funds at his disposal to assist GJP in designing its data base so that it would not only meet its case management and reporting needs but also provide a rich and reliable source of data for empirical research. GJP accepted this offer and the other author (Blackwell) agreed to be a consultant for the data base design and implementation.

Although the process of developing the data base is ongoing as of the date of writing, the authors have identified a number of issues of general application. The evaluation of programs such as GJP that are based on restorative justice principles raises several questions that must be considered in the design of a data collection instrument. Indeed, as pointed out by Bonta and colleagues,\textsuperscript{148} to date evaluations of restorative justice programs are vastly different in their

\begin{footnotesize}
\textsuperscript{145} Colbert at ____, CJCJ at ____.
\textsuperscript{146} Cunningham interview with Sheriff Michael Hennessey on Sep. 3, 2002.
\textsuperscript{147} \textit{Save Indigent Defense}, AUGUSTA CHRONICLE (GEORGIA) A04 (Editorial Feb. 27, 2003).
\textsuperscript{148} Bonta et al., 2002.
\end{footnotesize}
presentation, ranging from "descriptions of program processes and anecdotal accounts of their value to more sophisticated experimental evaluation." They also note that a "problem with evaluations of restorative justice programs to date is the lack of reliance on recidivism as an outcome." As with evaluations of other criminal justice programs, there also is a need to control for both legal variables, such as offense seriousness, criminal history, aggravating and mitigating circumstances, and sociodemographic characteristics of offenders and victims, such as sex, race, class, and age. Controlling for these factors is particularly important in the case of an evaluation of GJP given the selection process that GJP utilizes, a process that raises concerns about selection effects when the recidivism rates of GJP clients are compared with those of other offenders.

It is also important to ensure that in the creation of a data base that an agency like GJP collects data that will make it compatible with data collected by other agencies on like offenders. This has been the goal of database design process to this point. Variables that are included in reports of recidivism rates for comparable offenders in Georgia are being collected using the data that GJP has at hand.

A third issue, then, is capturing the "goal" of the agency in outcome measures. While Bonta argues that recidivism should be viewed as an outcome, the risk is that other important elements of restorative justice, which are the focus of the program, may be left out. This would occur at a great cost to the discussion surrounding the value of a program such as GJP. Hence, an important consideration in the design of the database is the need to include multiple measures to tap the different outcomes sought by the programs implemented for clients. For example, the database is being designed to capture not only the recidivism rates for the clients served by GJP, but also to look at the outcomes produced by the legal team. For an adequate evaluation of GJP, the data must include measures that look at the range of possible outcomes, from findings of guilt or innocence, and all that may fall between. In some cases, exoneration may not be sought by the legal staff, but rather a lighter sentence. The data must capture these nuances in order to provide a meaningful context for evaluation of success. Finally, the data should also consider the social service outcomes. The feature of GJP that sets it so far apart from public defender offices is the degree to which the organization services "the whole client." This is the framework under which the strength of relationships, and ultimately "community," are build at GJP. The degree to which this community exists, with continued contact and continued "life" success in the larger community must also be measured.

If the punishment is taken out of the process, and the processes of criminal justice become effective at restoration — and if rigorous empirical research might show that a restorative process cost less money and produced greater public safety – that would be a result both the "left" and the "right" (and everyone in between) would embrace.

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149 Bonta et al. at 321.
150 Bonta et al. at 326.
151 These have been the focii of the development of the database for GJP. However, with the growth of GJP over the past few years, the database is being designed to serve not only as a source of information for evaluation efforts, but also as a tool for the staff to use on a daily basis.
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