

## TOWARD A SUSTAINABLE “ECOLOGY OF CRIMINAL JUSTICE®”

John L. Gannon, Ph.D.—Contact: [jg@ia4cfp.org](mailto:jg@ia4cfp.org)

**The International Association for Correctional and Forensic Psychology's (IACFP's) Executive Director submitted the following paper to the members of IACFP's Institute for the Behavioral Sciences, Law, and Public Policy's Board of Directors prior to their meeting October 12, 2009. The paper includes ideas that you may find interesting. If you have comments, contact Dr. Gannon using his e-mail address above.**

As you know, the IACFP Institute for the Behavioral Sciences, Law, and Public Policy has been inactive during 2009. This has been good for our finances, since we've not spent any money, but not good for the future of the Institute. As Executive Director, I take responsibility for our current situation and, if you will bear with me, I will share some thoughts about where we might go from here.

When the idea for the Institute first came up, I had four charges in mind: (a) a leadership program for psychologists, (b) an accreditation program for graduate-level forensic psychology programs, (c) professional advocacy, and (d) a model prisons project.

I continue to believe that each of these charges is important, useful, and achievable. However, I now see them as too *ad hoc*. They are important, but each in their own way. They appeal to different groups for development and change, and they would require different kinds of resources and focus from the Institute.

Consequently, I have been looking for a unifying principle or concept to corral these and related ideas in order to articulate a clearer, more specific vision of what we seek to do, and to move forward toward that goal. Until recently, the necessary principles and concepts have eluded me. However, I believe that I have now found what I have been looking for, and I would like to introduce my current view by way of analogy from the business world.

In 1994, Ray Anderson, Chairman of

Interface Carpet Company, recognized that his business was not sustainable. In fact, he came to believe that what his company was doing with respect to dependency on oil for raw materials, pollution of the air and water, and creation of mountains of waste (6 tons of carpet trimmings per day from each of his factories), while perfectly legal then, would, one day, be illegal and people like him would be sent to jail. This manufacturing approach, referred to now as “take-make-waste,” he concluded, was bad citizenship, perverse social policy, morally

*6...what I'd like to address through the Institute is a transformative effort toward a sustainable social ecology for the criminal justice system, with an emphasis on corrections. 9*

objectionable and, as an entrepreneur who had built his company from scratch to 5,000 employees and a billion dollars in revenue, just plain bad business.

With the typically inchoate vision but compelling intuition of a true leader, he could discern the outlines in 1994 of what others are only beginning to recognize now, 15 years later; that there is a strong appeal for “organic” groceries, “locally grown” food supplies, “green” products, and environmentally sound manufacturing processes. While others were “complying” with federal regulations, sabotaging environmental initiatives, and demeaning those who spoke on behalf of the then current health concerns and the well-being of future generations, Mr. Anderson could see that carpeting methods in 1994 were unnecessarily expensive, unacceptably damaging to his neighbors, and ultimately unsustainable.

He then embarked on a mission to reevaluate his company in an effort he  
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# INTERNATIONAL ASSOCIATION FOR CORRECTIONAL & FORENSIC PSYCHOLOGY

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## ASSOCIATION UPDATES

**“ECOLOGY OF CRIMINAL JUSTICE®”** (Continued from page 1)

calls “climbing the mountain of sustainability.” So far, his efforts to examine every part of his business: raw materials, chemical processes, machinery design, product styling, etc., have cut greenhouse gases by 82%, oil consumption by 60%, waste by 66%, and water use by 75%, while increasing sales by 66% and doubling his sales margins. He didn’t close up shop. He didn’t retreat into the bamboo mat business. He didn’t start growing organic avocados. Carpet was his business, and it still is. He just got very smart about it. He both opened a wider lens to see the effect of his company on his community and future generations, and brought a narrower focus to examine each of his business components to see what he could do about it. His goal? “Mission Zero” – Take nothing from the earth that cannot be rapidly renewed, put back more than you take out, and do no harm. His vision for his company, the environment, and himself was a call to lead and a call to hope. “If we do not lead,” he asked, “who will?”

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I find the situation in corrections remarkably similar. Instead of “take-make-waste,” we have “arrest-incarcerate-waste.” You may have heard of various “green” projects that some facilities are implementing around the country. They seek to recycle water, or use food waste in compost piles, or recycle plastics in prison industries. This is not at all what I have in mind. Eventually, I expect that there will be a much greater interest in the whole range of “social ecology,” but what I’d like to address through the Institute is a transformative effort toward a sustainable social ecology for the criminal justice system, with

an emphasis on corrections.

Further research will specify the exact numbers, but it is clear that prison populations are growing at a rate that is not sustainable. These populations are using up social resources at a rate that is not sustainable. Ethnic communities are being deprived of workers and fathers at a rate that is not sustainable. Ethnic communities are like niches in a physical environment. We cannot afford to let them fail. They may seem marginal, but like the physical environment, everything in the social environment is connected, and if they fail, certainly no good will come of it, and the consequences for other niches or the social fabric at large, cannot be predicted.

If an unwise cattle farmer seeks to exploit his current herd by overgrazing his pasture, he will soon have no pasture – and no cows either. If he exceeds the “carrying capacity” of his field, it will not be sustainable. If we continue the current unwise exploitation of our social resources, money, and manpower we will exceed the carrying capacity of the social fabric to deal with crime and criminals, and that will not be sustainable either.

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Ray Anderson makes a telling observation that pertains to our own dilemma. “We do not keep honest books,” he says, when he observes that the likes of health costs to children from polluted air, costs of damage done to downstream farms from polluted rivers, and depletion of wildlife and the associated life forms from deforestation do not show up on the corporate balance sheets of the individual companies who contribute to these problems. These are “externalities” that are rarely considered by the shareholders or

executives.

One does not have to be a wild-eyed tree hugger or a left-wing ideologue to recognize that we do not keep honest books in corrections either. We know what the prison budget is – what it costs to feed, house, and clothe the people incarcerated. We know the budgets of the district attorney’s and public defender’s offices, and jail and police department costs. But what is the cost in productivity and community wealth when large numbers of young men are removed, labeled with felonies, and returned a year or more older and that much farther behind socially and financially than their same-age cohorts? What is the cost to the welfare system of a family who now needs service because the father has been incarcerated? What is the cost in the affection given to children, and day-care fees or counseling hours when a single mother must work full-time while the father is away? What medical costs does society bear from untreated inmates who contract and spread diseases in prison, then bring them home upon release? Who protects the sister when the brother is gone? What is the cost to citizens in fear and anxiety when prison gangs regroup in the community after release? The list of unacknowledged and unexamined criminal justice “externalities” is both lengthy and serious, and, like corporate executives and their corporate externalities, people in the criminal justice system loath to admit that they exist, much less examine them and seek change. This too is unsustainable.

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In sum, it is my belief that prisons  
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## ASSOCIATION UPDATES

**“ECOLOGY OF CRIMINAL JUSTICE®”** (Continued from page 3)

and other related agencies and offices do some things well but that the criminal justice system in its current form is unsustainable; too much potential for abuse and exploitation, too much money, too many inmates, too many externalities. What I seek to implement is a call to lead and a call for hope. During 2010, in my work with the Institute, I propose to seek out and identify others with similar viewpoints and flesh out the details of a sustainable criminal justice ecology. The time seems propitious, given the general rising tide of interest in sustainable projects of every sort, and this might be the very approach that will help those who are invested in categorical responses to criminal justice issues to escape the noose of failing policies and take a fresh look.

There is probably no other area of American society where the gap between what is known by thoughtful experts and what is done in the trenches is broader than in corrections. Academics keep plowing the same ground in their search for “root causes,” correlations of criminal behavior, and theories of crime and criminality. The wardens and administrators keep their focus on less expensive suicide blankets, better stainless steel toilets, and new ways to jam contraband cell phones.

It's now time for a new examination of the entire system. Ray Anderson

did not go out of the carpet business in pursuit of ethereal quasi-spiritual goals, and I am not suggesting that we or the “system” should go out of the public safety business in pursuit of quasi do-gooder goals not supported by citizens concerned about crime. My ideas center on making sure that our policies actually work and accomplish the goals we seek, a dubious proposition at present. This notion was nascent in my initial proposals for the Institute, particularly for a model prisons project. But the sustainability concept serves as an organizing principle that can be applied much more broadly.

In Mr. Anderson's terms, we need to know what raw materials (kinds of offenders) we have been, and are going to deal with in our factories (prisons), how that material is and should be processed (correctional programming and discipline) and what kinds of products (public safety and other outcomes) we want to produce. We need to examine each of these components and look for appropriateness, savings, changes, improvements, and, perhaps most importantly, clarity about our presumed social purposes.

Though now more profitable than ever, Mr. Anderson did not want to sacrifice the well-being of future generations by the current generation by the simple expediency of pursuing current profits. Those of us who claim an expertise in criminal justice matters have an equal obligation not to sacrifice future

generations of inmates' children, community members affected by gangs, and innumerable mothers, wives, and employers to a criminal justice system that is never a system and too rarely produces justice. Ray Anderson has been successful in reducing pollution and environmental damage while increasing profits. Why can't we reduce cultural pollution and attacks on ethnic communities and increase public safety at the same time? Why can't we bring back to the community something more than we take from it? Why can't we “first, do no harm?”

Obviously, details need to be worked out and strategies developed, but I think that the IACFP Institute for the Behavioral Sciences, Law, and Public Policy could be a particular useful vehicle for defining, understanding, and nurturing a new and sustainable criminal justice ecology. This is my vision. I hope that you find it as interesting and exciting as I do. After all, if we do not lead, who will?

(Ray Anderson's book titled, *Confessions of a Radical Industrialist* is available at Amazon. Publisher is St. Martin's Press, September 15, 2009, ISBN-10: 0312543492).

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## ITEMS OF INTEREST

**CENTRE FOR JUSTICE AND RECONCILIATION**

Elizabeth A. Elliott, B.A.—*Contact: eelliott@creighton.edu*

After a crime has been committed and the perpetrator is behind bars, the wounds from the offense do not just go away for those who are involved—victim or perpetrator. The need for restoration, healing, and sometimes even reconciliation remains. Prison Fellowship International (PFI) is an organization that is working to help in that area. In 1996, PFI established a division, now called the Centre for Justice and Reconciliation, devoted to addressing justice issues, according to Daniel W. Van Ness, Executive Director of the Centre for Justice and Reconciliation. “The mission of the Centre is to assist PFI national affiliates to develop and promote restorative justice around the world,” he said. “The vision of the Centre is that, one day, restorative justice will be the normal way of responding to crime throughout the world.”

Van Ness explained that PFI is an association of 116 national, indigenous non-governmental organizations. He said that the national prison fellowships are self-governed and self-funded and PFI is the association made up of these members. “Services include providing assistance to affiliates as they carry out their work, developing or packaging programs that they can use, acting on their behalf in the United Nations or other intergovernmental bodies, providing training, and assisting in other ways as needed,” he said.

“The Centre does this work on topics related to restorative justice and human rights,” added Van Ness. “In addition, we promote restorative justice as a better approach than current practice. We

do this largely through our website: [restorativejustice.org](http://restorativejustice.org).” Van Ness said that there are challenges faced in the topic of restorative justice. “I think that the biggest challenge facing restorative justice advocates is disbelief on the part of policymakers and members of the public,” he said. “They are so conditioned by the adversarial relationship that was created by the offender and that is perpetuated by the criminal justice system, that it seems incredible that they would be willing to work together or that doing so would be beneficial.” Van Ness said that while there is disbelief on the part of policymakers and the public, knowledge of the process changes viewpoints. “When the process is explained, there is very strong public support because of the logic that someone who has caused harm should have the responsibility and opportunity to make things right,” he said.

There are three processes identified with restorative justice. They include: (a) victim offender mediation, (b) family or community conferencing, and (c) sentencing or peacemaking circles.

“In terms of process, all focus on having the participants engaged in the discussion with the facilitator creating a context in which they can talk with each other,” explained Van Ness. “The facilitator is not the center of attention. Conversation should be directed to each other.”

He said that the processes differ from each other in how they operate. “Victim offender mediation is a facilitated meeting of the victim and the offender. Conferencing includes the family and friends of both, as well as, sometimes, government representatives,” he said. “Circles

add members of the community to conferencing.” Van Ness said that the circle approach appeals to many people. “I think that many people feel that the circle is an optimal approach when it is possible, because it involves more people and because of the conversation flow,” he said. “But there are strong proponents of the other two forms, and those may be used when necessary, for example, when a victim wishes to go into prison to meet their offender.”

One project of the PFI is the Sycamore Tree Project (STP). “The STP is a program that our affiliates carry out inside prisons. They bring a group of community members who have been victims of crime into prison to meet over time with a group of unrelated prisoners, that is, they are not each others’ victims and offenders,” explained Van Ness. “During the course of 8 weeks they explore issues together such as taking responsibility, confessing what you have done, committing to change behavior (repentance), forgiveness, making amends, and reconciliation.”

“Studies have shown that it changes prisoners’ attitudes in ways that have been demonstrated as reducing repeat offending,” he said. “There is ample anecdotal evidence that while victims initially participate in order to help prisoners understand the trauma crime causes, many of them find a measure of healing themselves because of their participation.”

When asked how members of the International Association for Correctional and Forensic Psychology could apply this to their work,

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## ITEMS OF INTEREST

**CENTRE FOR JUSTICE AND RECONCILIATION** (Continued from page 5)

Van Ness said that the past needs to be addressed. "People who commit crimes and those who are victimized have very real needs to address the point in the past when this happened. Often the focus with offenders is future-oriented, in part because the trial and sentence are supposed to have dealt with the criminal behavior," he said. "But offenders understand that they have left people behind who are

hurt, including secondary victims like their families."

"Victims are frequently told to look forward, often because their friends and families do not know how to help them address the trauma caused by crime," he added. "Forgive and forget become neat slogans that do not work neatly in their lives." To find out more about PFI and the Centre of Justice and Reconciliation, go to: [pfi.org](http://pfi.org).

Elizabeth A. Elliott, B.A., is a freelance writer and has a post-graduate certificate in paralegal studies. She is employed as an administrative assistant with Boyle, Hess, & Elliott, CPAs, P.C., Omaha, Nebraska.

**NEWS FROM SAGE****TOP-CITED ARTICLES IN CRIMINAL JUSTICE & BEHAVIOR IN 2009:****Violent Recidivism of Mentally Disordered Offenders: The Development of a Statistical Prediction Instrument**

Grant T. Harris, Marnie E. Rice, Mental Health Centre, Penetanguishene; Vernon L. Quinsey, Queen's University, Kingston

Multivariate techniques were used to derive and validate an actuarial instrument for the prediction of violent postrelease offenses by mentally disordered offenders. The 618 subjects were a heterogeneous group of men who had been charged with serious offenses. Approximately half had been treated in a maximum security psychiatric institution and the rest had been briefly assessed prior to imprisonment. The actuarial instrument consisted of 12 variables and significantly predicted violent outcome in each of five subgroups. The instrument's practical application and its use in clinical appraisals of dangerousness are discussed.

*CJB*, December, 1993...pp. 315-335. [cjb.sagepub.com/cgi/content/short/20/4/315](http://cjb.sagepub.com/cgi/content/short/20/4/315).

For a full list of Top-Cited Arti-

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**TOP-READ ARTICLES IN CRIMINAL JUSTICE & BEHAVIOR IN 2009:****Violent Video Games and Aggression: Causal Relationship or Byproduct of Family Violence and Intrinsic Violence Motivation?**

Christopher J. Ferguson, Stephanie M. Rueda, Amanda M. Cruz, Diana E. Ferguson, Texas A&M International University; Stacey Fritz, Shawn M. Smith, University of Wisconsin-Whitewater

Two studies examined the relationship between exposure to violent video games and aggression or violence in the laboratory and in real life. Study 1 participants were either randomized or allowed to choose to play a violent or nonviolent game. Although males were more aggressive than females, neither randomized exposure to violent-video-game conditions nor previous real-life exposure to violent video games caused any differences in aggression. Study 2 examined correlations between trait aggression, violent criminal acts, and exposure to both violent games and family violence. Results

indicated that trait aggression, family violence, and male gender were predictive of violent crime, but exposure to violent games was not. Structural equation modeling suggested that family violence and innate aggression as predictors of violent crime were a better fit to the data than was exposure to video game violence. These results question the common belief that violent-video-game exposure causes violent acts.

*CJB*, March, 2008...pp. 311-332. [cjb.sagepub.com/cgi/content/short/20/4/315](http://cjb.sagepub.com/cgi/content/short/20/4/315).

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**UPCOMING CRIMINAL JUSTICE & BEHAVIOR ARTICLES:****•Job Involvement, Job Stress, Job Satisfaction, and Organizational Commitment and the Burnout of Correctional Staff**

Marie L. Griffin, Nancy L. Hogan, Eric G. Lambert, Kasey A. Tucker-Gail, and David N. Baker  
[cjb.sagepub.com/cgi/content/abstract/0093854809351682v1](http://cjb.sagepub.com/cgi/content/abstract/0093854809351682v1).

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## ITEMS OF INTEREST

## NEWS FROM SAGE

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•**Reactive and Proactive Aggression in Adolescent Males: Examining Differential Outcomes 10 Years Later in Early Adulthood**

Paula J. Fite, Adrian Raine, Magda Stouthamer-Loeber, Rolf Loeber, and Dustin A. Pardini

[cjb.sagepub.com/cgi/content/abstract/0093854809353051v1](http://cjb.sagepub.com/cgi/content/abstract/0093854809353051v1).

•**Adolescent Antisocial Behavior as Predictor of Adverse Outcomes to Age 50: A Follow-Up Study of 1,947 Individuals**

Yasmina Molero Samuelson, Sheilagh Hodgins, Agne Larsson, Peter Larm, and Anders Tengström

[cjb.sagepub.com/cgi/content/abstract/0093854809350902v1](http://cjb.sagepub.com/cgi/content/abstract/0093854809350902v1).

•**Inmate Self-Injurious Behaviors: Distinguishing Characteristics Within a Retrospective Study**

Hayden P. Smith and Robert J. Kaminski

[cjb.sagepub.com/cgi/content/abstract/0093854809348474v1](http://cjb.sagepub.com/cgi/content/abstract/0093854809348474v1).

•**Does Family Process Mediate the Effect of Religiosity on Adolescent Deviance? Revisiting the Notion of Spuriousness**

Lloyd E. Pickering and Alexander T. Vazsonyi

[cjb.sagepub.com/cgi/content/abstract/0093854809347813v1](http://cjb.sagepub.com/cgi/content/abstract/0093854809347813v1).

•**Testing the Validity of the K6 in Detecting Major Depression and**

**PTSD Among Jailed Women**

Sheryl Pimlott Kubiak, Marisa L. Beeble, and Deborah Bybee

[cjb.sagepub.com/cgi/content/abstract/0093854809348139v1](http://cjb.sagepub.com/cgi/content/abstract/0093854809348139v1).

•**Chronic Violent Patients in an Inpatient Psychiatric Hospital: Prevalence, Description, and Identification**

Patrick Lussier, Simon Verdun-Jones, Nadine Deslauriers-Varin, Tonia Nicholls, and Johann Brink

[cjb.sagepub.com/cgi/content/abstract/0093854809347738v1](http://cjb.sagepub.com/cgi/content/abstract/0093854809347738v1).

Articles publishing ahead of print online, on SAGE Journals Online / [cjb.sagepub.com/pap.dtl](http://cjb.sagepub.com/pap.dtl).

**RSS Feeds**

Rich Site Summary (RSS) is a new web-based technology which allows users to subscribe and follow news websites and blogs, much the way e-mail alerts work, where content is sent directly to a user. At SAGE, RSS feeds are used to send information on journal articles as they publish, giving a user the information as soon as it is available. The RSS feeds provide summaries of articles together with links to the full versions of the articles and has had a direct effect on the growth in citation of a journal. It is for this reason, that we encourage all readers to subscribe to these feeds.

Updated information from the feed is automatically downloaded to your computer's reader and can be viewed in Internet Explorer and other programs. To learn more about feeds, visit [cjb.sagepub.com/rss/mfr.xml#](http://cjb.sagepub.com/rss/mfr.xml#). SAGE offers RSS feeds from all journal homepages located on SAGE Journals Online. [online.sagepub.com/](http://online.sagepub.com/)

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Also new is the IACFP Ethics Hotline: an anonymous service for correctional and forensic mental health practitioners. For more information visit: [ia4cfp.org](http://ia4cfp.org).

**IN BRIEF**

**Vasquez to Head APA in 2011.**

Melba Vasquez, Ph.D., is President Elect of the American Psychological Association (APA). Vasquez bested four other candidates in the 2009 ballot count. Vasquez has a full-time independent practice in Austin, Texas. She is Past President of the Texas Psychological Association, and APA Divisions 35 (Society of Psychology of Women)

and 17 (Society of Counseling Psychology). She will become President in 2011.

**Georgia.** Georgia's Supreme Court has ruled that prosecutors cannot use results of a murder suspect's court-ordered psychological test against him. The unanimous decision said a Bibb County judge erred in ordering the test at the

request of prosecutors. Such testing should only be ordered if the defendant intends to enter expert mental health testimony or if there is question as to the defendant's competence to stand trial, the high court ruled. The ruling came in the case of Jomekia Dechelle Pope, who was accused of dousing his girlfriend with gasoline and then setting her house on fire.

## MEMBER ARTICLE

# IMPROVED PRE-FRONTAL LOBE FUNCTIONING, REDUCED CLINICAL SYMPTOMS, AND REDUCTIONS IN EXCESSIVE ALPHA AND THETA BANDWIDTH ACTIVITY SECONDARY TO AN ALPHA-STIM SCS TREATMENT REGIMEN WITH A VIOLENT/AGGRESSIVE JAIL INMATE: A SINGLE CASE STUDY

Ronald R. Mellen, Ph.D., Keaton Manners, M.S., and Jamell Ruckers, M.A.—*Contact: rmellen@jsu.*

## ABSTRACT

Increasingly, the literature has addressed the existence of a relationship between offender behavior and cortical and subcortical dysfunctions. In the present study a cranial electrotherapy stimulation (CES) device, the Alpha-Stim SCS (Electromedical Products International, Inc.), was used with a violent and aggressive county-jail inmate attending a substance abuse treatment program.

The comparisons of pre- and post-treatment means showed improvements in all four dependent variables: (a) Mini-Q EEG results showed improvements in the Alpha, Beta, Delta, and Theta bandwidths; (b) Behavioral Rating Inventory Executive Functioning-Adult (BRIEF-A): a measure of frontal lobe functioning, (c) 16 PF: personality factors, and (d) Brief Symptom Inventory (BSI): a measure of clinical symptoms. The present study was a replication and extension of an earlier single case study also with a violent jail inmate in a substance abuse program.

## REVIEW OF THE LITERATURE

A substantial literature, over 126 studies (Kirsch, 2002), exists demonstrating the utility of CES in reducing the clinical symptoms of depression and anxiety (Bianco, 1994; Gibson & O'Hair 1987), stress (Hefferman, 1995), aggressive/violent behavior (Childs, 1995; Voris, 1995; Mellen & Mitchell, 2008), drug

and alcohol addictions (May & May, 1993; Braverman, Smith, Smayda, & Blum, 1990), alcohol/drug detoxification (Patterson, Firth, & Gardiner, 1984).

However, only a few recent studies apply CES to offender populations (Childs, 2005; Mellen & Mitchell, 2008; Mellen & Parmer-Shedd, 2009). Childs examined the use of the Alpha-Stim 100 with violent mentally retarded inmates in a state maximum security hospital. His sample pool of nine inmates' was from a population which was refractory to pharmacological and behavioral interventions. The course of treatment lasted for 3 months. Results included a 59% reduction in aggressive episodes, a 72% reduction in seclusions, 58% reduction in use of restraints and a 53% drop in prescribed PRN medications.

Mellen and Parmer-Shedd (2009) completed a study using the Alpha-Stim SCS with subjects who were under court-order to attend outpatient group counseling for drug and alcohol dependence. The positive changes included decreases in multiple clinical symptoms as measured by the BSI. The experimental group experienced statistically significant reductions in five of the nine clinical scales on the BSI: Somatization ( $\leq .008$ ), Obsessive/Compulsive ( $\leq .002$ ), Depression ( $\leq .015$ ), Anxiety ( $\leq .015$ ), Psychoticism ( $\leq .05$ ) and all three of the global stress scales: GSI ( $\leq .007$ ), PSDI ( $\leq .042$ ), and the PST ( $\leq .004$ ). Other reductions, while not

statistically significant, were found on the subscales of Paranoia ( $\leq .066$ ), Hostility ( $\leq .077$ ) and Interpersonal Sensitivity ( $\leq .077$ ). Finally, the attrition rate for the treatment group was 29% compared to that of the control group 59%.

Finally, a single-case study using the Alpha-Stim with a violent 19-year-old jail inmate (RR) enrolled in an in-facility substance abuse treatment program was completed by Mellen and Mitchell (2008). The inmate had been removed from the treatment program on two separate occasions due to violence perpetrated against other inmates living in his pod and a jail security officer. The Alpha-Stim was initiated upon the inmate's third entry into the program. Fifteen sessions of Alpha-Stim treatment were provided. The dependent variables were the 16 PF and behavioral measures.

The outcomes included the inmate's successfully completion of the program and his eventual promotion to pod leader. The inmate's post-treatment results on the 16 PF found increases in warmth and sensitivity toward others and greater animation. Also, there were reductions in tension and apprehension with the end result that the inmate became more open and trusting toward others. The present study was an attempt to replicate and extend the Mellen and Mitchell (2008) findings.

(Continued on page 9)



## MEMBER ARTICLE

**IMPROVED PRE-FRONTAL LOBE FUNCTIONING** (Continued from page 8)**METHODOLOGY**

The current single-case study expanded the dependent variables used in the above mentioned RR study to include a measure of executive functioning (BRIEF-A), a measure of clinical symptoms (BSI) and a Mini-Q EEG (BrainMaster) assessment of cortical activity. The 16PF was used as in the RR study.

Inmate DH signed an informed consent which addressed possible side-effects and his right to withdraw from the experiment at any time, without penalty. He was also given a description of the study and he completed a personal data form. Information from the personal data form is reviewed below. Inmate DH then volunteered to participate in the study and was administered the pre-treatment dependent variables.

Inmate DH received 12 treatment sessions with the Alpha-Stim over 20 days with each session lasting 45 minutes. The uA (micro amperes) range was 100uA to 500 uA. The treatment level was set by the inmate, typically at 300 uA. At the end of each session the inmate was quizzed regarding any negative reactions during the session. He had no difficulties adapting to the treatment. After the 12th session was completed the post-treatment dependent variables were administered to the inmate.

**HYPOTHESES**

1. The Alpha-Stim SCS can improve the inmate's cortical functioning as measured by the Mini-Q EEG.
2. The Alpha-Stim SCS can improve the inmate's frontal lobe activity as measured by the BRIEF-A.
3. The Alpha-Stim SCS can improve the inmate's personality vari-

ables as measured by the 16 PF.

4. The Alpha-Stim SCS can reduce the inmate's clinical symptoms as measured by the BSI.

**SUBJECT**

The subject was chosen by the director of the detention center in consultation with the principal investigator. The final decision was based on the inmate's extensive history of substance abuse, incarcerations, and his current charge attempted capital murder of a deputy sheriff. He was a 31-year-old male Caucasian with a history of aggressive and violent behavior and verbal and emotional abuse of others. He was not on medication and as with many substance abusers he was highly manipulative.

Inmate DH reported an 18-year history of substance and alcohol abuse. His poly-substance abuse began at the age of 13 and was continuous thereafter. He noted, that as a child his step-brothers taught him how to obtain and use drugs while his step-sister enabled his drug use by "letting me to stay with her and having self-pity on me."

The inmate noted significant childhood physical, mental, and verbal abuse from both his father and step-father but did not report sexual abuse. One of his childhood memories was of a sheriff's officer arriving at DH's home on a domestic violence call. The memory includes one of his step-brothers holding the officer to the floor with a shotgun pointed at the officer's head and DH's father screaming "shoot him" over and over again. Inmate DH's positive memories of his father, who died of a heroin overdose at age 36, was when his father was drug free. In addition to his father's death the inmate mentioned the death of numerous family mem-

bers including his mother.

Inmate DH noted that his mother was a co-dependent "crying alcoholic" who engaged in enabling behavior. For example, as a child he was frequently sent to the principal's office for problematic behavior. Regardless of circumstances, his mother would always defend DH and accuse the school of being at fault. Despite the above description, the most difficult death for him to handle was his mother's, which occurred while she was on a motorcycle. Inmate DH was 24 when she died and his reported method for handling the emotional upheaval was by drinking (alcohol) for an entire year.

Inmate DH was separated from his wife with whom he had one child, a daughter. His wife has not allowed him to visit his daughter. He reported completing the 9th grade before dropping out of school but finished the GED and 1 year of college. His work history has been unstable.

The inmate stated his jail incarcerations were too numerous to count but he had only been to prison once. He reported stress as a reoccurring feature of drug use relapse. This is consistent with recent research showing a dopamine activation connection between the brain's anxiety circuit and its pleasure circuit. (Kash, Nobis, Matthews, & Winder, 2008).

**INDEPENDENT VARIABLE**

The Alpha-Stim SCS was utilized as the independent variable in the present study to maintain continuity of treatment with earlier studies. The device has been cleared by the U.S. Federal Drug Administration (FDA) for use in the

(Continued on page 10)

## MEMBER ARTICLE

**IMPROVED PRE-FRONTAL LOBE FUNCTIONING** (Continued from page 9)

treatment of depression, anxiety, pain, and insomnia. It is used by the U.S. Department of Defense and the U.S. Veteran's Administration. The treatment mechanism for the Alpha-Stim is a proprietary waveform (square-wave) that creates an electronic harmonic resonance in neurons and neuro-networks. The treatment seems to increase calmness and decrease agitation in these subjects. The end result is that the inmate can respond more calmly during stressful situations.

The device generates its micro-amperage (uA) current from a standard 9 volt battery. The current is delivered via ear clips placed on the earlobes and has a side-dial which allows the user to adjust the uA current to a comfortable level. The range is from 100 to 500 uA. The 100 uA is 80% as effective as the maximum 500 uA level. In research environments the length of time a subject has kept the device attached ranged from 20 minutes to 8 hours and longer.

In the literature, most treatment times fall between 20 minutes and 1 hour. The 12 sessions in this study were each 45 minutes in length.

Device failures are rare and are usually remedied by replacing the 9 volt battery. Back-up devices were also available for emergencies.

Typical side-effects are minimal and include nausea and dizziness. These are generally self-correcting or can be addressed by reducing the uA current level. There is one less benign possible side-effect. That is about one in 5,000 cases will report that the device seriously increases his/her sense of agitation.

**DEPENDENT VARIABLES**

Four assessments were used in a pre- post- treatment paradigm. They

were the Mini-Q EEG, the BRIEF-A, the BSI, and the 16 PF.

**Mini-Q EEG:**

The Mini-Q EEG is an EEG (electroencephalograph) device designed to work with the BrainMaster neurofeedback unit. It allows for broad assessments of cortical activity. As with the standard EEG, the Mini-Q EEG measures the brain's electrical activity and provides information regarding its functional and dysfunctional activities. Measurements were taken with the inmate in a relaxed, eyes-closed state.

**BRIEF-A:**

The BRIEF-A (Roth, Isquith, & Gioia, 2005) is a self-report instrument that assesses the quality of the pre-frontal lobes, the area of the brain that is responsible for executive functioning. One set of sub-scales addresses the subject's ability to manage his behavior. These include the Inhibit, Shift, Emotional Control, and Self-Monitor scales. The second set of sub-scales on the BRIEF-A relates to an individual's meta-cognitions such as short-term memory and problem solving skills. These sub-scales include: Initiate, Working Memory, Plan/Organize, Task Monitor, and Organization of Materials. A t-score above 65 suggests an individual with difficulties in the assessed variable.

**BSI:**

The BSI (Derogatis, 1993) provides information on the subject's responses to nine clinical scales that relate to mental disorders. Cumulatively these scales give a sense of the subject's level of life stress. The scales include:

1. Somatization: Subjects reports of bodily dysfunctions.
2. Obsessive/Compulsive traits: Unremitting thoughts and impulses.
3. Interpersonal Sensitivity: High

scores indicate difficulties in relating to other people.

4. Depression: Dysphoric mood and emotions.

5. Anxiety: Nervousness, tension, and apprehension.

6. Hostility: Anger related thoughts, feelings and/or actions.

7. Phobia: Persistent fear of a person, place, object, or situation.

8. Paranoia: Projective thought, delusions, fears loss of autonomy.

9. Psychoticism: Withdrawn, schizoid lifestyle, thought control, and schizophrenia.

**16 PF:**

The 16 PF (Cattell, Cattell, & Cattell, 2002) was administered to provide insight into core characteristics of DH's personality. These factors are typically more stable over time than clinical variables. High scores for each trait include, but are not limited to, the following descriptors:

1. Warmth: Attentive to others needs and generally likes people.
2. Reasoning: Abstract thinking and more intelligent.
3. Emotional Stability: Adaptive, mature and emotionally calm.
4. Dominance: Forceful, stubborn, bossy.
5. Liveliness: Animated, cheerful, and expressive.
6. Rule-consciousness: Dutiful, conforming, and conscientious.
7. Social Boldness: Thick-skinned and venturesome.
8. Sensitivity: Intuitive, sentimental, and aesthetic.
9. Vigilance: Suspicious, distrustful, and oppositional.
10. Abstractness: Imaginative, absorbed in ideas.
11. Privateness: Non-disclosing, shrewd, and discreet.
12. Apprehension: Worried, self-

(Continued on page 11)

## MEMBER ARTICLE

# IMPROVED PRE-FRONTAL LOBE FUNCTIONING (Continued from page 10)

blaming, and insecure.

13. Openness to change: Liberal, free-thinking, and flexible.

14. Self-reliance: Solitary, self-sufficient/reliant.

15. Perfectionism: Exacting, compulsive, and precise.

16. Tension: Driven, frustrated, and impatient.

## RESULTS

Positive changes in DH were observed on all four dependent measures secondary to treatment with the Alpha-Stim SCS. In the Tables below, gray = pre-treatment and maroon = post-treatment.

### Review of Table 1: Mini-Q EEG Results

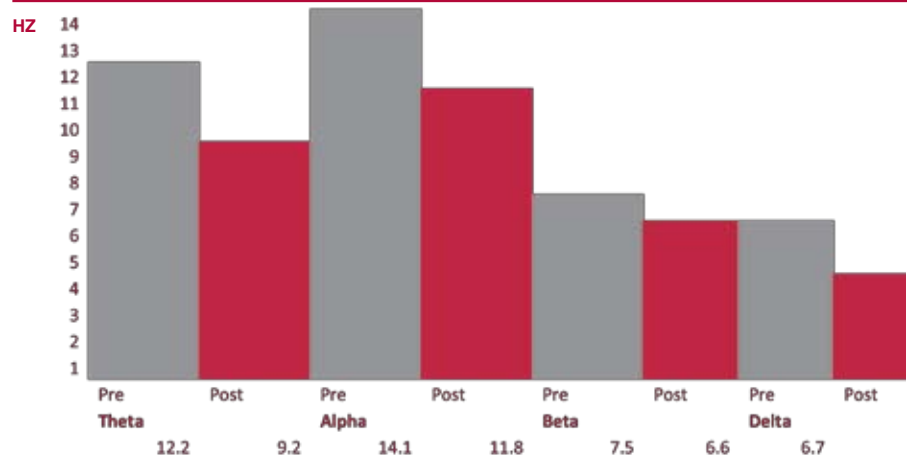
Results from the Mini-Q confirmed the first hypothesis. Reductions were found in all four bandwidths by the end of 15 treatment sessions. Delta dropped 40%, Theta was reduced by 25%, while Alpha was reduced 17%. Beta also dropped by 12%. Greatest reductions in Alpha and Theta occurred in C3/C4 and P3/P4.

### Review of Table 2: BRIEF-A Results

The BRIEF-A results confirmed the second hypothesis that Alpha-Stim could improve DH's frontal lobe functioning. As noted above there are two broad domains to this instrument; ability to manage one's behavior and second, meta-cognitive skills.

A t-score of 65 is the cutoff used to identify a subject with significant adjustment problems in the defined variable. The BRIEF-A pre-treatment assessment revealed three of four t-scores at or above 65 in the

**TABLE 1: Mini-Q Reductions in HZ**



behavior self-management domain: inhibition ( $t=65$ ), shifting ( $t=65$ ), and emotional control ( $t=84$ ). The fourth variable, self-monitoring had a t-score of 64. That meant three of the four variables that measure one's ability to moderate one's behaviors were in the clinical range and the fourth was one point away.

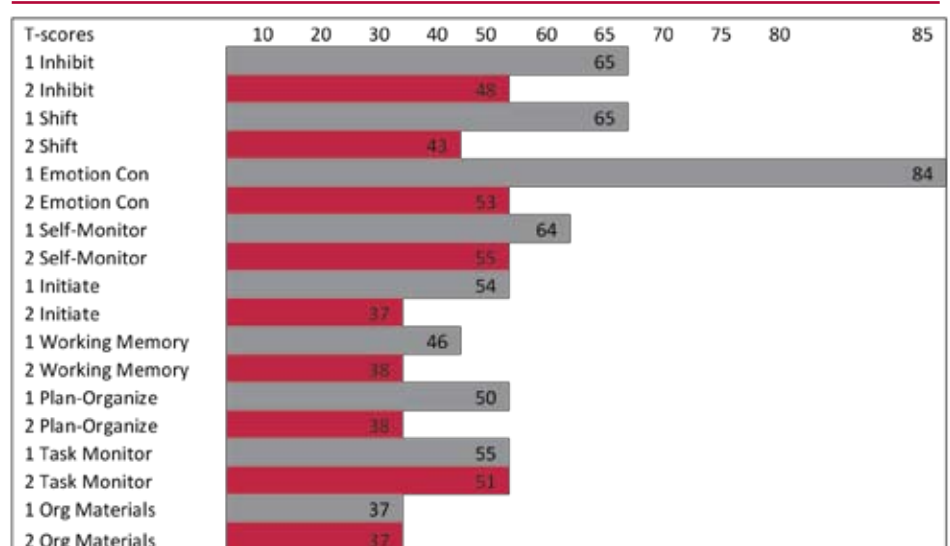
Results from the meta-cognition sub-scales were all within the normal range suggesting that DH's deficits were related to self-control not meta-

cognitive abilities.

Post-treatment scores for all eight sub-scales, both self-management and meta-cognition, were within normal range. The meta-cognition sub-scales which were within the average range on the pre-treatment assessment showed further reductions following treatment.

Finally, while the inmate's Negativity score of 2 was well within normal range (6 or less), the post-treatment score dropped to zero.

**TABLE 2: BRIEF-A Results**



(Continued on page 12)

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IMPROVED PRE-FRONTAL LOBE FUNCTIONING (Continued from page 11)

Review of Table 3: 16 PF Results

Results from the pre- post-treatment 16 PF scores supported Hypothesis 3 that DH's personality variables would show improvement secondary to Alpha-Stim treatment. Most noteworthy were reductions in tension and vigilance. The inmate's need for privateness dropped. A similar reduction in the self-reliance score was found which showed an increased willingness to trust others.

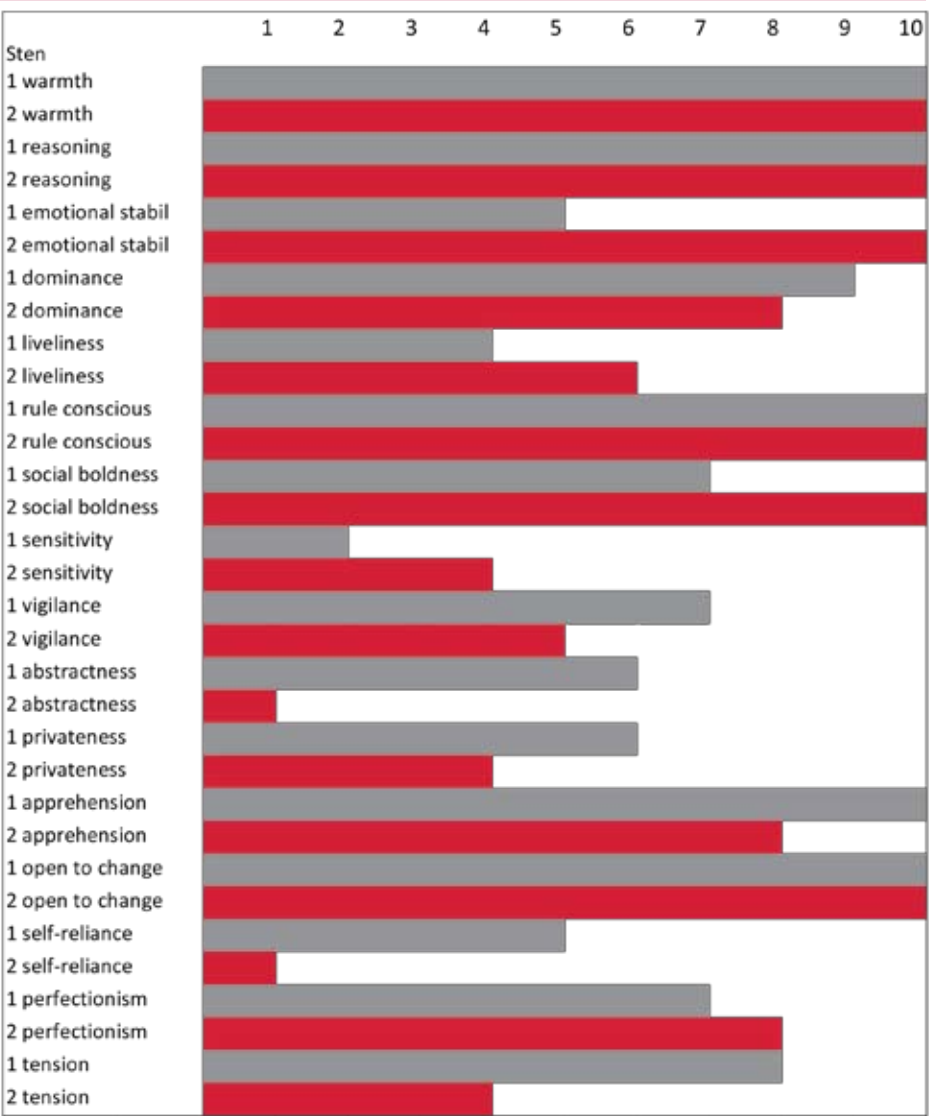
In addition to a greater trust in others, three scores showed increases: Liveliness, Emotional Stability, and Social Boldness. As Table 2 indicates, DH's improvements in Emotional Stability were impressive. Additional support for this change was noted in the Emotional Control sub-scale on the BRIEF-A. The above findings suggest the inmate had moved from a highly defensive lifestyle to one that was more emotionally balanced and trusting of self and others.

Review of Table 4: BSI Results

The BSI results confirmed Hypothesis 4, that clinical symptoms would be reduced following treatment with the Alpha-Stim. Pre- to post-treatment sub-scale scores strongly support the belief that improved global brain modulation effects can be created by the Alpha-Stim in some individuals.

On the pre-treatment BSI all clinical sub-scale t-scores were above 70 suggesting an individual under significant stress. However, seven of the post-treatment t-scores were in the 50 to 58 range suggesting improvements in the inmate's mental health. The remaining two t-scores were I-S, (t=64) and Paranoia, (t=63). These were still elevated

TABLE 3: 16PF Results



but showed notable reductions when contrasted with the pre-treatment assessment.

DISCUSSION

Over 70 research studies have shown brain dysfunctions in the frontal lobes correlate with diminished executive functioning and increased violent/aggressive behavior (Raine, 2004). In the present study an inmate with a history of violent behavior, significant substance abuse and multiple incarcerations demonstrated

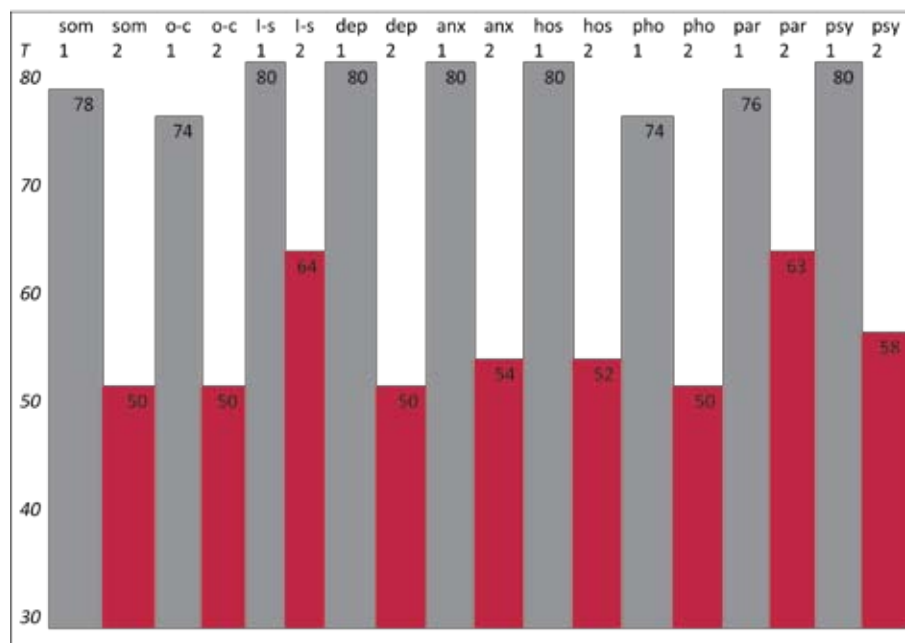
improvement in all four dependent measures secondary to 15 treatments with the Alpha-Stim SCS.

Mini-Q EEG results showed reductions in all four bandwidths: Delta (40%), Theta, (25%), Alpha (17%), and Beta (12%). Mini-Q findings also fit with the overall improvement seen in DH's other dependent variables.

Pre- post-treatment results on the BRIEF-A identified specific areas of improvement in execu- (Continued on page 13)



## MEMBER ARTICLE

**IMPROVED PRE-FRONTAL LOBE FUNCTIONING** (Continued from page 12)**TABLE 4: BSI Results**

tive functioning. Inmate DH's most important changes related to self-management including increased ability to inhibit himself, greater capacity to shift more quickly in his thinking and responding to others, enhanced emotional stability, and improved ability to self-monitor.

His changes on the 16 PF were strongest on improved emotional stability, reduced tension, ability to work with others and the ability to problem-solve. It is important to note that the change in emotional stability was supported by a similar change in the Emotional Control sub-scale of the BRIEF-A.

Since the Alpha-Stim is FDA certified to treat anxiety and depression the large reduction in his Tension score was not surprising. The inmate's scores reflect a move from being tense and driven to a more relaxed approach to life.

Along with improvements in cortical functioning, frontal lobe processing, and the enhanced changes in personality variables, DH's BSI

results showed significant reductions in clinical features. Post-treatment scores reflected important reductions in all nine clinical scales. A similar picture has occurred in other studies (Mellen & Mackey, 2008, Mellen & Mackey, 2009, Mellen & Parmer-Shedd (2009) where the treatment was the Alpha-Stim and one of the dependent variables was the BSI. For example, results from Mellen & Parmer-Shedd's (2009) research with substance abusing subjects under court supervision, found general reductions in seven of nine clinical scales and all three global scales.

In the present study, DH's pre-treatment assessment results found all nine clinical scales well into the clinical range. However, in juxtaposition, post-treatment assessments found seven of those scales returned to the non-clinical range. The two scales that remained elevated, Interpersonal Sensitivity ( $t=67$ ) and Paranoia ( $t=64$ ) were well below pre-treatment levels.

Finally, the authors' clinical obser-

vations included DH's intra-session calmness which increased across sessions. For example, a reduction in pressured speech was noted by all three researchers with comments like, "DH's speech was amped up initially. Toward the last sessions he talked like a normal person."

Inmate DH's self-reports included statements such as "My legs don't bounce up and down all the time like they use to." "I'm less agitated." "Even though my brain used to be more active, I now get more things accomplished."

As a treatment device for working with offender populations, the Alpha-Stim is exceptionally well suited for a least some sub-populations. Further research is needed to identify offender characteristics that would enhance treatment decisions. Inmate DH reported no side-effects resulting from the treatment. Unlike pharmacological treatments that can lead to drug seeking behavior by the offender, excessive utilization of the Alpha-Stim generally leads to boredom. Also, fiscal costs are minimal compared to pharmacological treatments and approval for its use can be provided by any licensed correctional mental health staff member.

Finally, treatment effects can be cumulative over time. Once a goal has been achieved, e.g., reductions in depression, anxiety, hostile feelings, etc., then the patient, at most, may require periodic booster sessions to maintain his higher level of functioning.

**LIMITATIONS**

1. Inmate DH was attending a substance abuse treatment program which he had responded (Continued on page 14)

## MEMBER ARTICLE

## IMPROVED PRE-FRONTAL LOBE FUNCTIONING (Continued from page 13)

to positively. While this probably contributed to the changes seen in the post-treatment assessments, the degree of contribution is unknown.

2. As with all single case studies, a causal relationship between the independent variable and the study's dependent variables cannot be established.

3. Inmate DH was the only member in the substance abuse treatment program singled out for participation in the research study and the related prestige may have contributed to any positive changes.

4. Also, inmate confabulation, malinger, and manipulations are well known and could not be ruled out.

5. Despite the strong support of detention center staff, running a Mini-Q EEG in jail conditions is difficult. While impedance was controlled for, the subject did not have the advantage of a recliner chair or the quiet, relaxing atmosphere found in a professional's office.

6. The use of only 12 sensor placements is a weakness of the Mini-Q EEG.

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**Hans Toch and Our Apology.**

Our publication of Hans Toch's article, "*I Am Not Now Who I Used To Be Then:*" *Risk Assessment and Claimed Identity Transmutations of Prison Inmates* in the January, 2010, issue of *The Correctional Psychologist* was done with retroactive permission from SAGE. We were unaware at the time of our publication that Dr. Toch's article had also been submitted and accepted for publication in the March, 2010, issue of *The Prison Journal* from SAGE. Doctor Toch had planned to publish his piece in *The Prison Journal* only. We apologize for any misunderstanding or any inconvenience to Dr. Toch or SAGE.

## IN BRIEF

**Hoffman Presented at the ICPA Annual General Meeting and Conference in October 2009.**

Avraham Hoffman, former Director General of Israel's Prisoner Rehabilitation Authority and now distinguished lecturer at Judea Samari College, Ariel, Israel, presented a paper titled, *Defeating Crime At Its Beginning: Rehabilitation of Young Released Prisoners* at the International Corrections and Prisons Association's (ICPA's) 11th Annual General Meeting and Conference in Barbados, October 25-30, 2009. Hoffman detailed the results of two Israeli programs for youth, one called the Shoshan Program, the other, the Milestone Program. The Shoshan Program incorporates individual, group, and family therapy, as well as community intervention for offenders ages 14-18 in two stages: (a) Preparation, which begins 3-6 months before prison release, and (b) Post-Release for a maximum of 2 years in the community. The Milestone Program, an add-on program, because Shoshan proved to be, according to Hoffman, "not a sufficient solution." Milestone was more intensive, and, according to Hoffman, "a considerable improvement." The difference was that before the offenders joined the Shoshan Program, they received an additional 3 months of therapy.

**The National Psychologist.** *The National Psychologist* is published six times a year and is intended to keep psychologists informed about practical issues. Contributions and letters are invited. A 1-year subscription, \$35, 2-year's, \$60. Contact: 1-800-486-1985. Visit: [nationalpsychologist.com](http://nationalpsychologist.com).

## CONFERENCES

**18th Annual International Community Corrections Association Research Conference on What Works in Community Corrections, Louisville, Kentucky**

*"Doing What Works: How To Get It Done"* October 31-November 3, 2010. The Galt House Hotel and Suites, Louisville, Kentucky. Contact: [janebrowning@iccaweb.org](mailto:janebrowning@iccaweb.org).

**12th Annual International Corrections and Prisons Association Conference, Belgium**

In collaboration with Ghent Institute for International Research on Criminal Policy, the Belgium public Federal Service of Justice will host ICPA's 12th Annual General Meeting and Conference in the Cultural Centre of Ghent University, October 24-29, 2010. Contact: [edwozniak@icpa.ca](mailto:edwozniak@icpa.ca) or call (202) 828-5605.

## ASSOCIATION UPDATES

## DEAN AUFDERHEIDE, PH.D., NOW PRESIDENT ELECT

It is the pleasure of the IACFP's Board of Directors to announce the unanimous Board election of Dr. Dean Aufderheide as President Elect of IACFP. The position came open between regular elections after Dr. Richard Althouse, the previous Presi-

dent Elect, assumed the responsibilities of President following the resignation of Dr. Lorraine Reitzel. Doctor Aufderheide, Director of Mental Health Services for the Florida Department of Corrections, is very knowledgeable about mental health issues in corrections

and about our Association, having volunteered for years as an Association Board member and advisor. The Board expresses our appreciation to him for his willingness to serve.

## ETHICS HOTLINE OPERATIONAL

As another service to our members, the IACFP's Ethics Hotline is now up and running on the IACFP website. Association members may now submit ethical questions to the hotline moderator, Dr. Richard Althouse, via the available submission form and receive a response from the hotline's panel. Doctor Althouse submits the

completed form anonymously to the panel, and the panel makes every effort to provide a response within 10 working days. Panel members include: Dr. Joel Dvoskin, University of Arizona, Dr. Dawn Cisewski, APA, Division 18, Dr. Carl Middleton, U.S. Federal Bureau of Prisons, Maren Strenziok, U.S. National Institutes of Health, and Dr. Ida

Dickie, Spalding University. Thus far, members have submitted questions regarding a shortfall of medical services in prisons and confidentiality of mental health records. Go to: [ia4cfp.org](http://ia4cfp.org) for submission forms and more hotline information.

## IN BRIEF

**High Court and Sex Offenders.** Several U.S. Supreme Court justices continue to be open to the idea of continuing to let the federal government indefinitely hold inmates considered "sexually dangerous" after their federal prison terms are completed. Lower courts have indicated that this cannot be done. Solicitor General Elena Kagan said that the federal government has a responsibility to ensure that sexual predators are not returned to the streets. The federal government's responsibility and power extends to ensuring "those people who have been in custody are released responsibly." Justice John Paul Stevens indicated that the constitutional answer is the same as in the case of offenders with highly-contagious and deadly diseases and the need to quarantine them after expiration of their sentences in order to prevent the offender from affecting the community.

**Training Romanian Prison Staff.** An international conference, November 23-27, 2009, was held at the Gherla Prison in Romania and focused on innovative ideas in training

Romanian prison staff. Presentations compared career development and personnel training in the British and Romanian prisons systems. Electronic-learning platforms for training staff in Romanian prisons were the focus and projects underway in the Romanian system using modular and flexible electronic modalities were the highlights of the conference. For more information, contact: [luc2000cj@yahoo.com](mailto:luc2000cj@yahoo.com).

**Serving Life and God at Angola.** At the Louisiana State Penitentiary, Angola, God has been finding men regularly. So far, 150 of them have earned bachelor of arts degrees from the New Orleans Baptist Theological Seminary, and another 100 are on track to graduate. "It was an idea that just grew and has kept growing," said Norris C. Grubbs, the seminary professor who oversees the Angola Program. "It's not easy," he said. The offenders are taking the same program that our students at the seminary take: 126 hours, and the requirements for passing are the same. The program at Angola costs about \$50,000 a year and is financed by the seminary, the Louisiana Baptist Convention, and private donations. Since

starting the Angola program, the Baptist seminary has begun similar programs in Mississippi and Georgia prisons. At the Mississippi State Penitentiary, there are 75 students enrolled, and 35 have already graduated from the associate program. At the Georgia State Prison, the first associate degrees were awarded in December, 2009.

**Washington, D.C.** The Department of Justice's Office of Justice Programs announced the availability of *Children's Exposure to Violence: A Comprehensive National Survey*, published by the U.S. Office of Juvenile Justice and Delinquency Prevention with support from the U.S. Centers for Disease Control and Prevention. The survey measures 2009 and lifetime exposure to violence for children 17 and younger. The categories in the survey include: conventional crime, child maltreatment, victimization by peers and siblings, sexual victimization, witnessing and indirect victimization, school violence and threats, and Internet victimization.



## MEMBER ARTICLE

# INVESTIGATING DEATHS IN CUSTODY: THE NEED FOR GUIDELINES

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## THE PROJECT

Deaths in custody are a common, yet often not thoroughly investigated, incident. They can occur due to many reasons, including death by natural causes, ill-treatment or possibly linked to inadequate detention conditions. All deaths in custody should be investigated, to differing degrees, depending on the situation, in order to prevent future avoidable death, ensure the security of prisoners, and of the community, provide information to the next-of-kin and, when necessary, conduct civil/criminal proceedings.

However, despite their prevalence, it seems that there are no common forensic and legal standards on investigating deaths in custody. The International Committee of the Red Cross (ICRC) has already stressed the need for guidelines to train authorities and humanitarian workers for conducting such investigations. Human rights and humanitarian law provide for the obligation to investigate suspicious deaths, but there is no internationally accepted document setting, precisely, the international requirements for such investigations.

In order to fill this gap, the University Centre for Legal Medicine of Geneva and Lausanne, Switzerland, the Geneva Academy of International Humanitarian Law and Human Rights, Geneva, Switzerland, the University of Bern, Bern, Switzerland, and the ICRC, in collaboration with the International Centre for Prison Studies, have undertaken research on deaths in custody. The objective of the research is to provide authorities

and humanitarian workers with the minimum standards that must be applied in all circumstances, and the procedures that should be followed in the occurrence of death in custody. The aim is also to recommend best practices in order to better investigate and prevent such deaths.

To reach this goal, the project will be conducted with both empirical and legal methodologies. It will: (a) identify the actual causes of death in custody worldwide; (b) study the existing national procedures and identify the best practices regarding deaths in custody in countries with diverse judicial systems; and (c) review international and regional human rights bodies practices on the subject to identify and set the standards of investigation.

It is anticipated that the outcome of this research will facilitate the drafting of guidelines to assist governments and humanitarian workers for investigating deaths in custody, not only regarding best practices in Western countries, but also regarding minimal techniques that will permit efficient death investigations in countries without forensic infrastructure. The guidelines will be supplemented by an academic law book on the same issue.

## THE LEGAL BASIS FOR THE OBLIGATION TO INVESTIGATE DEATHS IN INTERNATIONAL LAW

The international legal basis for the obligation to investigate deaths is found in human rights treaties as part of judicial guarantees. Regarding deaths in custody, the obligation to investigate is also intrinsically linked with the right to life. Human rights bodies have consistently

emphasized that, in order to effectively guarantee the right to life, it is necessary to comply with the obligation to investigate suspicious deaths. Therefore, the absence, or inadequacy of investigation into suspicious deaths may amount to a violation of the right to life under its procedural aspect. The question to define a threshold for “suspicious” remains unresolved.

In times of armed conflict, international humanitarian law treaties, like the 1949 Geneva Conventions and its 1977 Additional Protocol I, do also provide for the obligation to investigate suspicious deaths of prisoners of war and of civilian internees. The obligation to investigate is also implicit in the obligation to prosecute grave breaches. It would indeed be impossible to prosecute war criminals without conducting a proper investigation first. It should be recalled that the wilful killing of detainees, like prisoners of war or civilian internees, is a war crime.

The obligation to investigate war crimes is also considered as part of customary law. This means that even if a government had hypothetically not ratified international humanitarian law treaties, it would still be considered as bound by this rule, because it is a general practice accepted as law.

## THE LACK OF UNIVERSAL AND BASIC LEGAL AND FORENSIC STANDARDS TO ENSURE THE EFFECTIVENESS OF INVESTIGATIONS OF DEATHS IN CUSTODY

The United Nations (U.N.) has published a set of principles titled:

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*Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary, and Summary Executions* (recommended by the Economic and Social Council Resolution 1989/65 of May 24, 1989), which have been complemented by a manual titled: *Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions*. This U.N. manual includes (a) a model protocol for a legal investigation of extra-legal, arbitrary, and summary executions ("Minnesota Protocol"), (b) a model autopsy protocol and (c) a model protocol for disinterment and analysis of skeletal remains (U.N. Doc. E/ST/CSDHA/12, 1991).

These principles, the U.N. manual, as well as case-law of human rights bodies stress that investigations must be independent, impartial, and effective. This last criterion implies that investigations must be promptly conducted by government authorities (even without a family request) and that they must include some important stages, mainly: (a) crime-scene management, (b) corpse management, (c) autopsy, (d) processing of the evidence, and (e) collection of testimonies. Finally, investigations must involve victims and the results must be publicly disclosed.

However, it is very difficult for government authorities and humanitarian workers to know what they should actually do to act in conformity with these international requirements. For example, what type of entity conducting the investigations is considered independent and impartial? In which cases is an administrative investigation considered sufficient? How should the crime scene be managed to be considered efficient? How should the autopsy be conducted? How should

the evidence be processed?

The dilemma is that, for practical reasons and based on the present law, important margins of appreciation are left to governments. They decide how to conduct such investigations. Therefore, it is essential to know what is implied by these criteria and what are the minimum requirements for an investigation to be considered effective.

The U.N. manual mentioned above attempts to set international standards for autopsies, in particular. However, these standards are not realistic even for many wealthy countries, and even more, for poor or war-torn countries. What if the government or humanitarian workers do not have the financial means and expertise to conduct autopsies?

## CONCLUSION: THE NEED FOR GUIDELINES

In practice, in many countries, deaths in custody are not investigated at all. Even in developed countries, investigations are sometimes inadequate. Nevertheless, the obligation to investigate has a strong legal basis in international law. The general criteria of these investigations are also set by international law, but their actual

content remains quite vague.

It is contended that clear and realistic guidelines, explaining what is legally required in all circumstances and taking into account national best-practices, may help and encourage government authorities and humanitarian workers to conduct such investigations. This document will be an important tool for staff training and will propose practicable solutions for poor and war-torn countries. It may also provide for an implementation mechanism to help governments in need of technical assistance.

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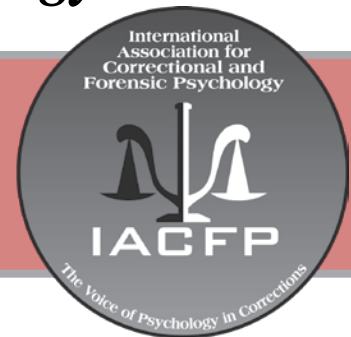
cilities for the confinement of federally adjudicated juveniles and for the detention for secure confinement of some federal inmates. The Bureau's community-based programs are administered by staff of the Correctional Programs Division in Central Office, Washington, DC, community corrections regional management teams in each of the Bureau's six regional offices, and the employees of 28 community corrections management (CCM) field offices serving specific districts within their regions. Contact: bop.gov for more information.

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