

Alternative Sentencing & Strategies for Successful Prisoner Reentry

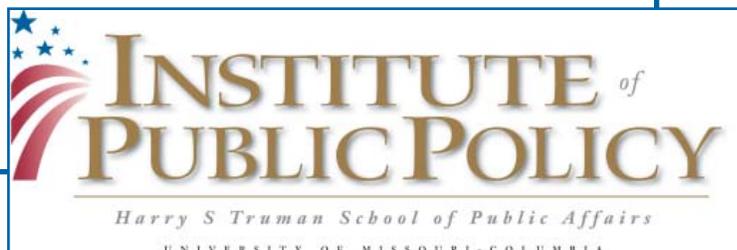
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Executive Summary

Nationally, more than two million people are serving time in prison on any given day. Missouri ranks eighth in the nation in terms of imprisonment and has experienced substantial growth in incarceration over the past two decades. The reality of mass incarceration and the accruing cost of corrections have led many states to consider implementing alternatives to traditional incarceration and parole. These alternatives between parole and confinement are often called intermediate sanctions and are intended to provide correctional options that save money and prison beds without introducing risk to public safety.

The State of Missouri has made strides in developing sanctions that can serve as an alternative to prison. Section 217.777.1, RSMo, charges the Missouri Department of Corrections with the administration of a community corrections program to encourage the establishment of local sentencing initiatives and correctional alternatives. Among the goals of this legislation and alternative sanctions in general, are to:

- Promote the accountability of offenders to crime victims, local communities and the state;
- Increase the use of restitution;
- Reduce the costs of treatment, punishment and supervision of offenders; and
- Improve public confidence in the criminal justice system by involving the public in the development of community-based sentencing options for eligible offenders.

Although the state of Missouri has passed legislation supporting the development of community sanctions and alternatives to imprisonment, there remains a need to develop alternative sanctions that are responsive to the needs of the offender community while maintaining public safety to the community.

This study has two main objectives:

1. To describe the problem of relying only on traditional sentencing and parole; and
2. To identify best practices in terms of alternative sentencing schemes used by other states.

To collect this information, the Institute of Public Policy evaluated the relevant research literature on alternative sentencing, reports from state agencies and think tanks, and other relevant state and federal data. Several states including Pennsylvania, Virginia, and Oregon all provide alternative sentencing models that seek to reduce recidivism and save taxpayer money.

Introduction

In courts across the country, judges, prosecutors, and defense attorneys have to balance the need for offender punishment, deterrence, rehabilitation, and public safety with the reality of overcrowded prisons, incarceration costs, while ensuring that the punishment fits the crime. This balance often means that traditional sentences are not appropriate for some offenders and traditional sentences may even be detrimental to the offender and society. Therefore, alternative sentencing programs have been



implemented across the country in various forms. Some of the synonyms used across the country for alternative sentencing are:

- Community corrections;
- Community justice;
- Community-based sanctions;
- Discretionary Sentencing;
- Restorative justice;
- Drug courts;
- Non-incarcerative punishments.

All of these project types have one thing in common. They are attempts to offer the best solutions to offenders so they will not re-offend, thus providing a service to society and the individual.

Often, traditional sentencing does not accomplish this goal. Traditional sentencing simply means prison terms and/or probation and parole for offenders. While these practices may provide adequate justice, often offenders and society are better served through alternative sentences that provide job skills, drug and alcohol counseling, and other interventions focused on rehabilitation. Placing a drug user in prison, for example, may do more harm than good especially when there are few treatment programs. In fact, an alternative sentence to a drug court can often be more cost effective and can lead to reduced recidivism.

Typically, alternative sentencing breaks into three broad categories. They are:

1. Life skills training;
2. Job skills training; and
3. Offender rehabilitation;
 - a. Drug counseling; and
 - b. Alcohol counseling

Prison Trends

Currently the United States has more than two million people serving time in prison or jail (Drucker 2002). Over the past generation, the rate of incarceration has increased substantially. Between 1920 and 1970, the per capita rate of incarceration was about 110 state and federal prisoners per 100,000 residents (Travis 2006). By 2002, the per capita rate of imprisonment had increased to 476 per 100,000 (Brown, et al. 1996). Since 1973, more than 200,000 people were incarcerated and the imprisonment rate has increased at approximately six percent each year (Brown et al. 1996). Furthermore, according to the Bureau of Justice Statistics,

approximately 5.6 million American residents — or 1 in 37 adults — have served time in prison (Bonczar and Beck 2003).

In the state of Missouri, the rate of incarceration has increased significantly also. In 1995, approximately 19,000 inmates were incarcerated (Missouri Department of Corrections 2006), and by the end of 2001, this number increased to roughly 29,000. Missouri's incarceration rate was 358 per 100,000 residents in 1995; however, by 2001 this number increased to 509, representing the eighth highest in the nation (Alarid 2002). Currently, there are approximately 30,946 inmates who are incarcerated in the state of Missouri (Missouri Department of Corrections, 2006).

The growth of incarceration has had a profound impact on American society in significant part because the increasing rate of imprisonment has fallen primarily on young, African American males. In 2002, more than 10 percent of African American males between 25 and 29 years of age were imprisoned, compared to 2.4 percent of Hispanic males and 1.2 percent of white males (Travis 2006). When incarceration rates are assumed to remain the same, it is estimated that nearly 1 in 6 Hispanic men and 1 in 3 African American men will be sentenced to state or federal prison at some point in their lives, compared to 1 in 17 white males (Bonczar and Beck 2003). In the state of Missouri, as of 2005, jail and prison inmates comprised of 487 whites and 2,556 blacks per 100,000 residents (Harrison and Beck 2005). Furthermore, blacks comprise approximately 11% of the population in Missouri, while comprising 40% of the prison population (Missouri Department of Corrections 2006). The percent of blacks incarcerated in Missouri is about four times greater than their share of resident population. Such disparate racial impact stemming from mass incarceration has significant consequences within the minority community.

In addition to the consequences that mass incarceration has for those incarcerated and their families, an increasing share of tax dollars is used to maintain state and federal prisons. When all costs are considered, the state and federal government now spend between \$44 and \$60 billion a year to house 1.4 – 2 million individuals in prison depending on how those numbers are calculated (Stephan, 2001; U.S. Government, 2006; and Bauer and Owen, 2004). The amount spent on corrections increases substantially when jail, probation and parole expenditures are taken into account. The cost of operating prisons in the state

of Missouri is also extremely high and continues to escalate. In 2000, the total budget for Missouri prisons was \$526 million, which includes 25.6 million in capital costs (Rosenfeld, 2003). The annual cost of incarcerating one offender was approximately \$13,000 by Morrow's (2004) estimate and over \$14,000 by Sander's et al. calculation (2005).

The reality of mass incarceration and the accruing cost of corrections have led many states to consider implementing community-based sanctions. These sanctions are intended to provide correctional options that save money and prison beds without introducing risk to public safety. Although researchers and practitioners have called for an expansion in the use of community sanctions, little research has been done to identify 'what works' in community sanctions. Moreover, judges are rarely given guidance on the best manner in which to incorporate intermediate sanctions into the traditional sentencing structure.

Reentry Trends

The rapid increase in the prison population also means a rapid rise in prisoners being released back into society. Ninety-three percent of all inmates will be released into the general population while the other seven percent die in custody, are serving life sentences without parole, or are sentenced to be executed (Petersilia, 2005). Furthermore, states spend 38 billion dollars (Stephan, 2001) and the federal government spends approximately 6 billion dollars annually on prisons (Budget of the U. S. Government 2006).¹ Therefore, government at all levels must figure out not only how to fund and manage the burgeoning prison population, but also determine the best strategies to cope with the estimated 1,600 prisoners that are released back into society every day (Petersilia, 2005).

Keeping these 1,600 people from re-offending and winding up in the criminal justice system again has proven very difficult. Approximately, two-thirds of all ex-prisoners are arrested within three years of leaving prison and between 41% (Nelson, 2000) and 53% (Baltimore Prisoners Experiences, 2004) are incarcerated again nationally. No silver bullet exists to this vexing issue but certain lessons have been learned. Strategies to interrupt this pattern rest primarily on three tactics:

1. In-prison reentry programs. Incarcerating people and letting them lead a life dissimilar to what they will experience when they are released, seems to be a recipe for recidivism. While in prison, inmates must receive support that will lead to a successful transition into society.
2. Drug and alcohol counseling/therapy. Approximately seventy-five percent of prisoners scheduled to be released

from prison have some sort of substance abuse problem. Confronting this issue is key to successful reentry.

3. Employment counseling and assistance. Without employment prospects, released prisoners will often turn back to crime. Estimates put the unemployment rate for formerly incarcerated people one year after release as high as 60% (The Power of Work, 2006). Employment counseling can mean teaching life skills (i.e. show up on time, general behavior, etc.), teaching a trade or other skill, and/or where to look for a job.

Acknowledging and determining methods that best accommodate these issues offer the best solutions to ex-prisoners who do not want to re-offend.

The goal of this report is to demonstrate initiatives and alternative sentencing programs that best serve offenders by keeping them out of the criminal justice system while also identifying the most cost effective techniques. First, we present an example of what happens when alternative sentencing and stringent sentencing guidelines are not implemented widely as provided by California. Second, a description of sentencing commissions, guidelines and the use of guidelines is presented. Sentencing guidelines are considered one of the more feasible tools to use to help judges' structure their decisions concerning the use of nonincarcerative sentencing options, normalizing the use of intermediate punishment with a comprehensive system of punishment, and managing community and institutional corrections (Tonry 1996). Finally, best practices from Virginia, North Carolina, and Pennsylvania are described.

What Happens Without Alternative Sentencing?

California

California provides an extreme example of what happens when alternative sentencing programs and prisoner reentry programs are not properly managed or implemented. California's incarceration rate of 456 people in prison for every 100,000 residents is similar to the national statistic of 432 per 100,000 residents (Petersilia and Weisberg, 2006). Also, California does not have a substantially larger population of non-violent offenders imprisoned than other states. In fact, two-thirds of the growth in the prison population has been from violent offenders while only 10% has been from drug offenses since 1994 (Petersilia and Weisberg, 2006). California's biggest problem has been its high recidivism rate.

California has been cited as having the highest recidivism rate in the country, but determining that rate is problematic due to



the way different states count recidivism (Fischer, 2005). One answer for California's 70% recidivist rate is its policy of returning parolees to prison for technical violations. California incarcerates substantial numbers of ex-prisoners for violations such as failure to refrain from alcohol or inability to maintain employment (Petersilia, 2003). States such as Washington do not return offenders to prison for a technical violation; rather the offender is dealt with in the community through counseling, training, or a similar tactic. This difference in approach accounts for California's high recidivist rate. Therefore, while it may be unfair to infer that California is doing worse than other states based purely on recidivism rates, it may be time for California to provide alternative sentences for ex-prisoners guilty on technical violations. This tactic will reduce their recidivist rate, but more importantly provide services to offenders at a cost considerably more palatable to California's taxpayers. California's high recidivist rate is the result of a lack of alternative solutions for offenders committing relatively insignificant offenses, thus taking up prison space that should be reserved for more serious offenders. Some may think California's policy of imprisoning individuals for technical violations sends a message to other would be criminals. While the research presented here is not a treatise on deterrence theory, this "get tough on crime approach" means offenders are not getting the treatment they need, they are put back into an environment surrounded by other criminals, and the financial cost becomes burdensome to the state.

Another possible reason for California's high recidivist rate is the scarcity of programs, counseling, and training for prisoners prior to their release. One major factor for this scarcity is the intense overcrowding that exists in California prisons. Currently, there are over 16,000 California inmates living in prison libraries, gyms, and classrooms across the state (*The Economist*, 2006). The physical and programmatic infrastructure designed for inmate reentry programs has been overrun by the need to house prisoners.

In the case of California, decisions made about aspects of the criminal justice system, whether they pertain to the response of technical parole violations, three strikes, or the provision of treatment and training, have had major negative implications for the ability of the criminal justice system as a whole to reduce criminal activity.

The Purpose of Sentencing Commissions

Sentencing commissions have been established in many states beginning with Minnesota in 1978. Sentencing

commissions review the criminal justice system as a whole, including an assessment of incarceration trends, the identification of alternatives to imprisonment, and the development of sentencing guidelines to reduce disparities in sentencing. The creation of a sentencing commission was proposed by Judge Marvin Frankel in 1972, who argued that sentencing decisions were "lawless" because no substantive criteria existed that gave judges guidance as to the decisions they made (Morris and Tonry 1990). In addition to the lack of guidance for judges, there were no standards for the appellate courts to assess whether the judges had made their sentencing decisions correctly. One solution to the problem of sentencing that Frankel proposed was a sentencing commission model that incorporated three main elements: sentencing commission, presumptive sentencing guidelines, and appellate sentence review. The sentencing commission is considered an administrative agency that has "enough leisure, expertise, and insulation from outside pressures to draft [guidelines] with care" (Von Hirsch et al. 1987: 7). Presumptive sentencing guidelines were developed by sentencing commissions and presume that judges will follow the guidelines in making an offender's sentence decision. Departures from guidelines are often allowed if judges present justifiable reasons, which are then subject to appellate reviews in some states. The appellate sentence review is intended to be a procedural review that provides additional guidance to courts by assessing sentencing decisions made by judges.

Traditionally, sentencing commissions have developed two-tier sentencing guidelines that are meant to separate offenders into two groups — those that warrant prison and those that merit probation. In 1978, Minnesota was the first state to develop sentencing guidelines, which brought about greater predictability and larger justice to sentencing than previously obtained (Morris and Tonry 1990). The sentencing guidelines developed in Minnesota created detailed standards that held judges accountable regarding the decisions they made about whom to imprison and for how long. Although the state of Minnesota has been a pioneer in developing sentencing guidelines, the sentencing grids, as developed, provide little guidance to judges concerning community sanctions.

In their seminal book, *Between Prison and Probation: Intermediate Punishments in a Rational Sentencing System*, Morris and Tonry (1990) called for the development of comprehensive sentencing guidelines that encompass a range of punishments from community-based sanctions to imprisonment. They believed intermediate sanctions would serve as a viable



solution to address issues such as cost-saving, diversion of offenders from jail to prison, reduction in recidivism rates, and provide the appropriate level of punishment for certain non-violent offenses. The absence of intermediate punishment in sentencing guidelines has resulted in guidelines application to focus exclusively on imprisonment sentencing. States that have incorporated intermediate punishments into their sentencing guidelines include Alabama, Arkansas, Delaware, Missouri, North Carolina, Ohio, Oregon, Oklahoma, Pennsylvania, Utah, and Virginia. Unfortunately, more than fifteen years after Morris and Tonry's (1990) recommendation that sentencing guidelines take into account intermediate punishment, just a few states, such as North Carolina and Pennsylvania, have successfully attempted to incorporate the use of intermediate punishment and community sanctions into their guidelines. Although Minnesota was the first state to enact sentencing commissions, the state has failed to make serious attempts to establish guidelines for the use of nonincarcerative punishments (Morris and Tonry, 1990). Missouri has used drug courts as an alternative sentencing mechanism since the early 1990's. In November 2005, Missouri implemented guidelines that include alternative sentencing options for a variety of non-violent offenders.

Legislators in states such as North Carolina and Pennsylvania have enacted laws that increase the use of prison sentence and lengthen the terms for serious violent offenders, while reducing use and prison sentences for nonviolent offenders and diverting them into intermediate sanctions instead. When it comes to predicting general risk of reoffending, Virginia goes farther than any state in terms of utilizing risk assessment in their sentencing guidelines. The state of Washington has also attempted to utilize risk assessment measures in the juvenile system. The following section summarizes the assessment of risk in these states which provide ideas and 'best practices' for replication in other states.

Sentencing Guidelines and Predicting Risk for Reoffending

Virginia

Guideline Development

Virginia is one of the few states that has been successful in diverting nonviolent offenders from prison to some form of community punishment. Much of Virginia's success has been attributed to the use of sentencing guidelines for its community-based correction program (Ayers et al. 2001). The state of Virginia also credits the success to an empirically based risk assessment instrument that identifies and shifts 25% of drug and property offenders into alternative non-

incarceration sanctions. The risk assessment instrument, which was developed by the Virginia Criminal Sentencing Commission, serves as a program model that has proven to be an effective tool for identifying low-risk drug and property offenders who might be suitable for non-prison sanctions. More recently, the Virginia Sentencing Commission has enhanced its sentencing guidelines to incorporate community sanctions. Traditionally, the risk assessments were used to determine whether or not someone would be imprisoned or placed on probation. However, in 1994, as part of a reform legislation that instituted truth-in-sentencing, the General Assembly directed the Commission to study the practicality of using risk assessment instruments to divert low-risk offenders to non-prison sanctions. The Commission developed the instrument in 1996 and it was implemented in six pilot studies in 1997. Now, individuals that have committed a drug, fraud or larceny offense and have been sentenced to prison are considered for diversionary programming.

The risk assessment, fully implemented in 2002, is designed to divert low-risk offenders, who are sentenced to incarceration, to an alternative sanction other than prison. Unlike guidelines developed in other states, the risk assessment is only to be used for offenders who traditionally would have been sentenced to a term of imprisonment. Individuals who have committed a crime that warrants probation would not be assessed through this instrument. The risk instrument is also unique in that it is only used for individuals convicted of felony drug, fraud, and larceny offenses. Individuals who are charged with other crimes are not eligible for this program. In addition, offenders convicted of distributing one ounce or more of cocaine and those who have a current or prior violent felony conviction cannot be diverted from imprisonment.

Sentencing Framework

In Virginia, judges contemplate community sanctions in several phases. First, the judge evaluates the circumstances of the most serious charge. There are sixteen different charge groups including: assault, burglary/dwelling, burglary/other, drug/other, drug/schedule I/II, fraud, kidnapping, larceny, miscellaneous, murder/homicide, other sexual assault, rape, robbery, and traffic/felony. (See <http://www.vcsc.state.va.us/>, for further information on the Virginia sentencing guidelines and sentencing commission.) A unique risk assessment instrument has been developed for each crime type. This first phase of risk analysis is used to determine whether the nature of the most serious conviction warrants imprisonment.

Figure 1 presents an example of the risk assessment items that are used to determine whether an offender receives a prison or nonprison recommendation. A score is calculated and that



score is then used as a sentencing tool. Individuals that are deemed to present the most risk are given longer sentences than those that are of lesser risk. Some factors, such as the primary offense type, are weighted more heavily than others. For instance, offenders who sell more than five pounds of marijuana for profit, transport more than five pounds of marijuana into the Commonwealth, sell marijuana or a Schedule three or four drug to a minor, manufactures marijuana for non-personal use, and have two counts of selling five pounds of marijuana for profit are scored between 8-12 points. Both primary offense additional counts and additional offenses are scored according to the *total* maximum penalties for counts of the primary offense and the *total* maximum penalties for counts of additional offenses, in which scores range from 0-5 points. Offenders receiving mandatory firearm convictions for the current offense automatically receive a score of 6 points. In addition, individuals who were in the possession of a knife or weapon at the time of the offense and individuals who had been incarcerated in the past are given 2 additional points. Individuals with a prior juvenile record are also given one additional point. All other categories are scored between 0 and 4 points. Table 1 shows various offenses and the points that are given for each.

Two similar risk calculations are then used to determine whether an offender is recommended for probation or jail (if a non-prison sentence is recommended in Section A in Figure 1) and to determine the length of sentence (if a prison sentence is recommended on Section A).

If the individual is recommended for imprisonment and has been convicted for fraud, larceny, or a drug offense, then the nonviolent risk report is completed. There are several ineligibility conditions that preclude participation in the program.

- Was the offender recommended for probation/no incarceration on Section B in Figure 1?
- Do any of the offenses at sentencing involve the sale, distribution or possession with intent, etc. of cocaine of a combined quantity of 1 ounce or more?
- Are any prior record offenses violent?
- Are any of offenses at sentencing violent?
- Do any of the offenses at sentencing require a mandatory term of incarceration?

If the answer is yes to any of the questions, then the Nonviolent Risk Assessment Recommendation are not applicable and the individual is sentenced to a term of

imprisonment. If the answer is no to all questions, then the individual completes a worksheet that will further define what type of measures should be applied to the individual. For example, does he need drug counseling, employment assistance upon reentry or some other service?

The worksheet includes measures of the offense type, additional offense(s) committed, offender's demographic characteristics, prior incarceration, and prior felony convictions and incarceration. Individuals convicted of a larceny offense are considered to be of highest risk and are given a score of 11 (drug and fraud offenders are given a score of 3). A mandatory five points is also given to offenders who were charged with multiple offenses. An offender's sex, age, marital and employment status are also used to assess risk with young (<30 years of age at time of the offense), male, unmarried, and unemployed offenders given the highest risk scores. Measures of prior criminal history and prior adult convictions are also used to assess risk.

Each factor is assigned a separate score according to its relative importance, and the total sum provides the overall risk score. The total score on the risk assessment instrument is an estimated likelihood that an offender will commit a felony crime in the future. A higher score on the instrument indicates an increased likelihood that an offender would commit a new crime.

The Commission believes this threshold value meets the legislative mandate of diverting 25% of felons who would otherwise be prison bound, while ensuring public safety.² The instrument does not recommend any specific type of alternative punishment because the decision is left to the discretion of the sentencing judge. In keeping with the state's voluntary guidelines, judges have the discretion of sentencing an offender to prison or to alternative sanctions, regardless of scores on the risk assessment.

Outcome Evaluation

Results from the six court pilot study demonstrated that many drug, fraud, and larceny offenders were eligible for risk assessment. One-third of offenders were diverted to an alternative sentence, but of the 674 diverted offenders, 60% scored above nine points on the instrument. During the 22-month study period, 24% of eligible offenders scored at or below the nine-point threshold, and were therefore recommended for sanctions other than traditional incarceration. Of the 2,043 offenders screened with the risk assessment instrument, 270 (13%) were recommended

Figure 1. Virginia’s Sentencing Guidelines and the Path to Risk Assessment

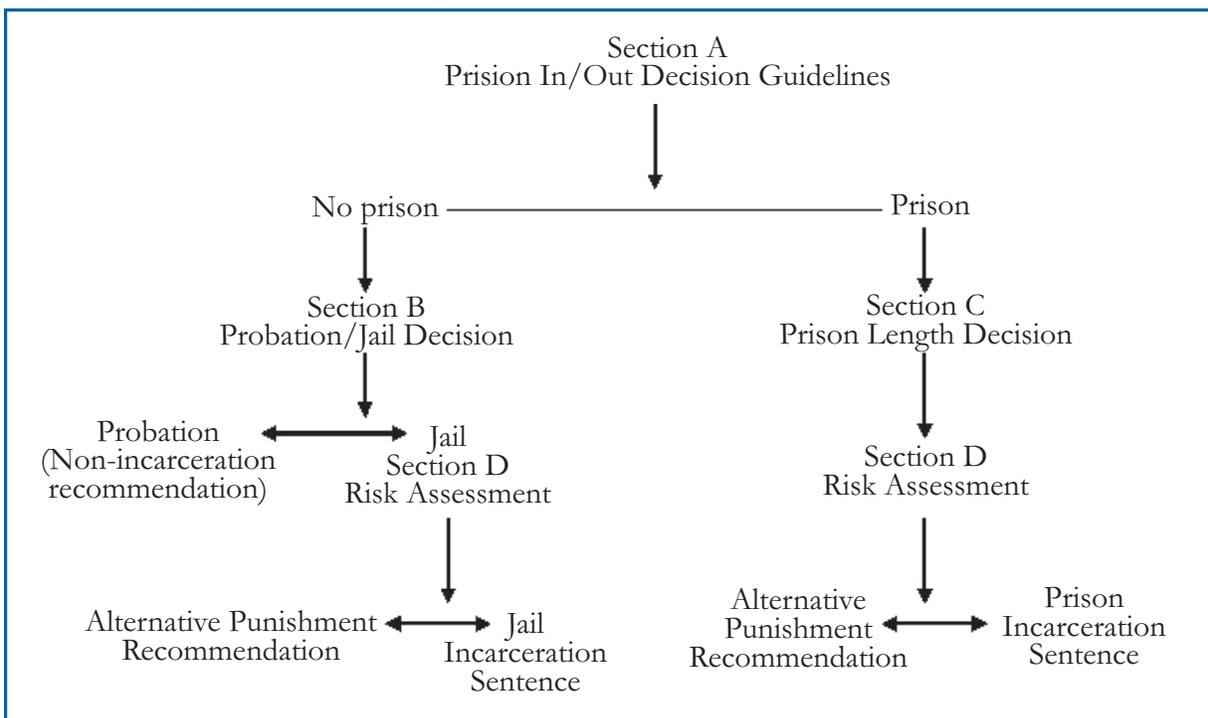


Table 1: Virginia’s Risk Assessment Worksheet for Felony Drug Offenders

<i>Factors</i>	<i>Range of Points</i>
Primary offense	1 – 12
Primary offense Additional Counts	0 – 5
Additional Offenses	0 – 5
Knife or Firearm Possession	Add 2 points
Mandatory Firearm Conviction	Add 6 points
Prior Convictions/Adjudications	0 – 3
Prior Incarcerations	Add 2 points
Prior Felony Drug Convictions/Adjudications	0 – 4
Prior Juvenile Record	Add 1 point
Legally Restrained at Time of Offense	0 – 4



for diversion. Another 215, or 11%, scored nine points or less on the risk assessment; however, they were sentenced to traditional incarceration. Interestingly, approximately 20% (404) scored above the nine-point threshold but were still sentenced to an alternative sanction. Over half of the screened cases, 1,154, 56% of the total, were not recommended for alternative punishment and sentenced to traditional incarceration by the judge. Based on its findings, the evaluation team concluded that the risk assessment instrument was successful in identifying low-risk candidates for diversion. The instrument was found easy to administer, and the program was cost-effective without jeopardizing the safety of citizens.

Of the eligible offenders screened with the risk assessment instrument, 21% were recommended for and sentenced to an alternative punishment. Another 27% were sentenced to a traditional term of incarceration despite being recommended for an alternative sanction by the risk assessment instrument. In 13% of the screened cases, the offender was not recommended for, but was sentenced to, an alternative punishment.

Sentencing Guidelines, Intermediate Punishment, and Community Sanctions

North Carolina

North Carolina has also been successful in incorporating intermediate sanctions into its sentencing guidelines. In 1994, North Carolina was the first state to provide standards for felonies and misdemeanors and for incarcerative and nonincarcerative punishment in its sentencing guidelines (Tonry 1997). The sentencing commission in North Carolina recognizes three types of sentences:

1. active punishment (immediate total confinement);
2. intermediate punishment (split-sentences, residential programs, electronic house arrest, and intensive supervision probation); and
3. community punishment (supervised or unsupervised probation, community services, outpatient treatment programs, fines).

(See <http://www.nccourts.org/Courts/CRS/Councils/spac/Default.asp>, for additional information on the North Carolina Sentencing Commission.)

In 1994, the new sentencing guidelines included a felony punishment chart that is used by North Carolina trial judges when sentencing felony offenders (see Structured

Sentencing in North Carolina: Training and Reference Manual, 2004). Across the top of the two-dimensional matrix are six Prior Record Levels into which an offender is classified depending upon his/her prior criminal history. Points are assessed based on the number and severity of past convictions.

On the left side of the chart are 10 crime classifications to which all felonies in North Carolina are indexed. Felony crimes are classified into letter classes (from Offense Class A through Class I) depending on their seriousness. Crimes which involve victim injury or the risk of victim injury are assigned to the highest classes. Property crimes and other crimes which do not normally involve the risk of victim injury are assigned to lower classes.

An offender's Prior Record Level and the current class of conviction intersect at one of the charts "cells," which guide the judge to the type and minimum duration of sentence (in months). Within each cell are three ranges of presumptive sentences for each offender including: aggravated, presumptive (standard), and mitigated range. At the top of each cell, the type of sentence available to the judge is noted as "A" for "Active" or prison, "I" for "Intermediate sanctions," such as boot camps and day reporting centers, and "C" for "Community-based sanctions."

In North Carolina, community service sanctions are utilized at every stage of the criminal justice system. Community punishment can be used as a sole punishment if the offender's offense class and prior records or conviction level authorize a community punishment as a sentence disposition, or it can be used in combination with other sanctions. Eligible offenders include non-violent first time offenders, and felons sentenced to prison under the Fair Sentencing Act for a minimum six month sentence (except for those convicted of a sex offense, kidnapping, abduction of children and drug trafficking).

Evidence from North Carolina suggests that guidelines incorporating community sanctions can work. During the first full year of operation, in 1995, 80% of violent felons received prison sentences, up from 67% in 1993 (Tonry 1997). In contrast, 23% of non-violent felons were sent to prison, down from 42% two years earlier. For all imprisoned felons, the mean predicted time to be served increased from 16 to 37 months.

Although North Carolina has experienced success with intermediate sanctions, the primary problem North Carolina faces is matching offenders with appropriate

community sanctions (see <http://www.ussc.gov/states/transcri.htm>). Expanded resources have been made available to judges and money has been provided to counties to develop community sanctions. Many programs have long waiting lists, while other programs are under-utilized. In order to facilitate proper community placement, the sentencing commission publishes a report outlining the available community correctional resources so that judges may better link offenders with community programming (Compendium for Community Corrections programs in North Carolina, 2004). Despite some of operational challenges North Carolina has faced, the state currently incorporates more non-prison sentences into their guideline scheme than any other state.

Pennsylvania

Pennsylvania has also moved to include intermediate sanctions in its guidelines and to foster and fund community-based programs. In 1994, the Sentencing Commission in Pennsylvania revised its guidelines which recommended harsher sentences for certain serious/violent offenders while providing community-based sanctions and intermediate punishment for certain non-violent offenders. Under Pennsylvania's guideline system, each offense is assigned an offense gravity score and prior record score. For each combination of offense gravity score and prior record score, the sentence guidelines recommend a standard sentence range, such as 60 – 78 months, and an aggravated and mitigated range, which is up to 12 months more or less than the standard range (See <http://pcs.la.psu.edu/>, for additional information on the sentencing grid).

When an offender is sentenced in Pennsylvania, he is sentenced to one of five levels including:

1. Restorative sanctions such as restitution, treatment and community service;
2. Total/partial confinement to county jail, restrictive intermediate punishment, or restorative sanctions;
3. Total/partial confinement to county jail, total confinement in state prison, or restrictive intermediate punishment;
4. Total confinement in county jail or state prison or restrictive intermediate punishment; or
5. Total confinement in state prison.

Pennsylvania has a Basic Sentencing Matrix that covers all felony and misdemeanor offenses. The Offense Gravity Score is ranked according to 14 levels of seriousness, which is divided into five levels of sentencing. Each level of sentencing pertains to certain types of offenders, and within each level a variety

of sentencing options are provided to the judge. With the sentencing options, the judge also has discretion to determine the purpose (rehabilitation, deterrence, or incapacitation) behind the imposed sentence (see Table 2).

In 1998, a report assessed the impact Pennsylvania's guideline revisions had on correctional admissions using 1994, 1995, and 1996 sentencing data so as to compare statewide sentencing practices before and after the revision were implemented (Sontheimer 1998). The analysis focused on nine offense categories accounting for approximately half of all non-DUI cases reported to the Pennsylvania Commission on Sentencing in a given year. The impact analysis was based on 26,295 cases from 1994 sentenced under previous guidelines, 13,814 cases from 1995, and 19,428 cases from 1996 sentenced under revised guidelines from 1996 sentenced under the revised guidelines. A simulation methodology was utilized to estimate the impact of sentencing for the nine offense categories. Findings demonstrated that guideline revisions resulted in 2,032 fewer sentences to prison in 1995 – 1996 or 15%; 261 additional sentences to jail; 1,329 more intermediate punishment; and 441 more to probation. The analysis demonstrated that the percentage of intermediate punishment sentences increased steadily from 1994 – 1996. Despite the large impact the guidelines had on sentencing, the analysis did not control for factors such as prior record, degree of offenders involvement, or other offense circumstances which may also have affected sentencing outcomes.

The Accountability Model

Oregon

Perhaps one of the most successful and comprehensive strategies in alternative sentencing comes from Oregon. While not specifically related to alternative sentencing, Oregon's Accountability Model (OAM), a five year old six part model of best correctional practices, takes into account all phases of a prisoner's life as he moves through the corrections process (O'Connor, 2004). The part of this program that is most relevant to alternative sentencing is the focus Oregon puts into keeping offenders from reoffending and the attention they spend on prisoner reentry. The six part model includes the following steps.

1. Criminal Risk Factor Assessment and Case Planning. Every inmate received by the Department of Corrections is assessed and a plan is developed for that individual to help him through prison and guide a successful reentry back into the community.



Table 2: Pennsylvania’s Basic Sentencing Matrix

<i>Sentence Level</i>	<i>Offense Gravity Score</i>	<i>Purpose</i>	<i>Sentencing Option</i>
5	9 – 14	Punishment commensurate with seriousness of offense & incapacitation	Total confinement to state facility; or total confinement in State Boot Camp (for certain offense classes)
4	8	Punishment & incapacitation	Total confinement, boot camp, or total confinement in a county facility as a state offender
3	6 – 7	Retribution & control over the offender	Total or partial confinement in a county facility; restrictive intermediate punishment (e.g., house arrest)
2	3 – 5	Control over the offender & restitution to the victim	Restrictive intermediate punishment or restorative sanctions
1	1 – 2	Minimal control over the offender	Restorative sanctions

Source: Pennsylvania Sentencing Commission, 2006. <http://pcs.la.psu.edu/>

2. Staff/Inmate Interactions. This step in the process acknowledges that prison staff interaction with inmates can shape positive behavior. Prison staff are encouraged to offer positive feedback to inmates and provide incentives for good behavior.

3. Work and Programs. Part of the plan each prisoner receives upon prison entry includes prison programs that would best mitigate the risks that inmate may be subject to. Most prisoners also have jobs and responsibilities in the prison.

4. Children and Families. This program seeks to work with the children of inmates in an attempt to break the cycle of family incarceration (children of the incarcerated are 7 times more likely to end up in prison than the rest of the population (Mumola, 2002 and Janku, 2003).

5. Reentry. Oregon has 7 facilities physically located in areas most likely to receive the inmates upon exit from prison. This allows relatively easy access for the prisoner to partially reenter the community. These facilities also are specifically focused on reentry and assist the inmate with housing, jobs, and other things he may need to make the transition into society.

6. Community Supervision and Programs. The Department of Corrections works intimately with the community based programs including the faith based community, other government agencies, and non-profits to offer technical assistance and resources in order to support their work. The goal of the Department of Corrections between steps 5 and 6 is to offer a seamless transition for offenders so that they have the best chance possible to become productive citizens (The Oregon Accountability Model, www.doc.or.state.us).

The OAM is in essence a comprehensive “birth to death” approach to managing offenders by the Oregon Department of Corrections. Each of the aforementioned six steps operates as a separate program, but they are all linked by the common goal of keeping an offender from reentering the prison system. By having a plan from day one, the offender has resources and accountability that will help to keep him from offending again. Accountability is a critical component of the OAM for both prisoners and Corrections staff. Offenders have their plan from the first day they enter prison thus letting them know what is expected of them. Staff is held accountable as to how effective they are helping the inmate implement his plan.

Perhaps one of the most crucial aspects of the OAM is its focus on the fact that approximately 93% of all inmates will be released from prison and that the prison system plays a crucial part in the reentry process. The Oregon Department of Corrections also works closely with faith-based programs through projects like Home for Good, a partnership aimed at providing antidotes to the anti-social associates and environments many offenders come from (O'Connor, 2004). The OAM and the Oregon Department of Corrections looks for a variety of resources that will assist an offender with his successful re-entry. This is in stark contrast to California where there is limited emphasis on alternative sentencing and practices to make reentry more successful. Oregon also constructed and implemented the OAM during a time of increased awareness of crime and public interest in "get tough policies." In 1994 the Oregon voters passed measure 11 which was designed to provide concrete sentences for many offenses and reduce judicial discretion in sentencing (Merrit, et al, 2003). Measure 11 passed the same year as the Violent Offender Initiative / Truth in Sentencing (VOI/TIS) federal legislation which was a national reaction to the desire of the public to see crime punished with less emphasis on rehabilitation. Therefore, Oregon ostensibly managed to combine the public's interest in "get tough policies" while simultaneously offering prisoners the skills needed to re-enter society.

Conclusion

Alternative sentencing is not only offering judges the opportunity to use discretion when sentencing offenders. It offers the array of programs, strategies, and tactics used to help offenders who will become successful members of society. Clearly, some offenders will reenter the prison system upon release despite the best intentions of state agencies, law enforcement, non-profits, faith based initiatives and perhaps the offenders themselves. However, this paper highlights a few strategies across the country that can be seen as best practices in terms of reducing recidivism and providing the most cost effective techniques for managing offenders. These strategies include:

- Offering flexible and discretionary sentencing guidelines;
- Providing a matrix or process in which to guide decision making;
- Address specific offender risk factors; and
- Planning for reentry as soon as an offender enters the corrections system.

Alternative sentencing also provides a way to help minimize the cost of corrections. Diverting individuals away from prison

saves money and in many cases provides a better solution for the individual. Often, alternative sentences enable individuals to enter society successfully whereas prison can have the reverse effect.

Alternative sentencing strategies offer offenders, taxpayers, and society the best methods for successfully reintegrating offenders back into society.

Endnotes

¹ Total amount spent on prisons varies between researchers and whether the total amount includes federal, state and local prisons.

² The Commission based its conclusions on the sample of offenders released from prison between July 1, 1991, and December 31, 1992, with subsequent felony convictions tracked through December 31, 1995. Based on this cohort, the Commission estimated that placing all offenders who scored nine points or less on the risk assessment instrument in an alternative punishment would divert 25% of felons who would be prison bound.

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