

Issues in Maryland Sentencing - The Impact of Alternative Sanctions on Prison Populations

Ashira Lavine, Ben Lozowski, Heidi Powell, Maria Sivillo, Katharine Traeger
May 2001

Executive Summary

For the last 30 years, Maryland and the majority of states have been experiencing an increase in prison/jail populations with many now exceeding 100% of prison capacity. Included in the reasons for an over-crowded penal system are:

- Incarcerating drug offenders as a result of the "War on Drugs"
- Public pressure to support policies of "getting tough" on crime
- Increased lengths of sentences and truth in sentencing policies
- High numbers of offenders incarcerated for probation/parole revocation violations, especially for technical violations

Nationwide, to deal with these pressures, many counties and states have incorporated alternative sanctions in guideline grids for sentencing (e.g., pre-trial release, community service). Minnesota, Connecticut, Pennsylvania, Delaware, North Carolina, and Virginia all successfully reduced bed space and demonstrated cost-effectiveness utilizing alternative sanctions for non-violent offenders.

Traditionally, the state of Maryland has used similar programs to focus on back-end (i.e., assigned after prison time has been served) or "exit" Community Options Programs (COP) such as regimented offender treatment centers, day reporting, intensive supervision, and home detention. Baltimore City offers a front-end (i.e., initial sentence) diversionary program through its Drug Treatment Court. Maryland's use of alternative sanctions has reduced the annual cost to house an offender from \$20,000 to \$4,000.

More recently, Maryland has considered the statewide expansion of corrections options that would:

- Reduce the long-term demand on prison bed space
- Decrease recidivism rates for non-violent offenders

- Reduce state prison costs

This report examines the need for alternative sanctions to alleviate the problem of prison overcrowding (e.g., history, causes), options available in Maryland (state and local) jurisdictions, possible remedies, as well as other concerns. Further, it reflects input from experienced practitioners in Maryland as well as promising practices and programs identified in other communities. Possible remedies include:

- Establishing a pilot corrections options program in one or more counties
- Improving the coordination, collaboration and communication among various agencies who oversee offenders
- Ensuring adequate funding for programs, personnel and training of personnel
- Including funding for evaluations of programs in program budgets
- Developing strict eligibility criteria for screening offenders.

History of the Problem

The 1970's heralded a serious overcrowding in prisons, a problem that is still with us today. The initial "prison crisis" arose as the result of (1) an increase in reported crime that was prevalent in both Europe and on the American continent and (2) the ensuing tendency of judges to impose longer prison sentences in an attempt to combat the problem (Jackson, de-Keijser, & Michon, 1995). Since 1973, when the overall crime rate started to level off, the incarceration rate has almost quadrupled (Clear & Cole, 2000). At the end of 1997, 36 states and the federal prison system reported operating at 100% capacity or more. The federal system was estimated to be operating at 19% above capacity, and overall the state systems were operating at 15% above capacity (Clear & Cole, 2000).

Nationally, jails as well as prisons faced overcrowding. The number of people confined in jails reached nearly crisis proportions in the early 1990s. Remaining fairly stable during the 1970s, the jail population doubled between 1983 and 1993. Further, more than 150 jails were forced to close as a result of litigation, and ten times that number operated under court orders (Clear & Cole, 2000).

Along with policies such as "truth in sentencing" and "three strikes and you're out," the "War on Drugs" crusade played a major role in prison overcrowding. In 1987, Congress imposed stiff mandatory minimum sentences for federal drug law violations that were copied by many states. The "war" continued into the Bush and Clinton administrations, with both presidents urging Congress to appropriate billions for an all-out law enforcement campaign against drugs. The "War on Drugs" succeeded by packing the nation's prisons with drug law offenders. Today, 23% of state prisoners are incarcerated for drug offenses and in federal prisons the number climbs to almost 60% (Clear & Cole, 2000). According to Wayne Welsh and Philip Harris (1999) in *Criminal Justice Policy and Planning*, this in turn, has put tremendous pressure on state and federal budgets. Authorities have attempted to find bed space for 841,200 additional offenders since 1985, or more than 1,600 new beds every week (p. 40).

Potential Causes of the Problem

New York Assemblyman Daniel L. Feldman summed up the crisis of correctional systems across the nation when he stated, "Lock 'em up and throw away the key attitudes are coming back to haunt state legislators across the nation" (Carter as cited in Petersilia, 1999, p. 483). The "tough on crime" attitude of the American public and elected officials has skyrocketed the prison and jail populations, forcing corrections officials to release some offenders early, before their full sentence is served, to make room for newly sentenced offenders. Along with the high incarceration rate of non-violent and drug offenders, high parole/probation revocations for technical violations, especially of those offenders who are not high public safety risks, significantly increase the pressure on prison space and resources (Petersilia, 1999).

A Bureau of Justice Statistics (BJS) study found that 25% of released prisoners are rearrested in the first six months and 40% within the first year (Beck & Shipley as cited in Petersilia, 1999). Some analysts argue this to be a result of few, if any, treatment programs. The Office of National Drug Control Policy reported that 70-85% of state prison inmates need treatment for drug addiction; however, only 13% will receive treatment while imprisoned. The risk of recidivism after incarceration is higher for drug dependent offenders than for any other population (BJS as cited in the Department of Public Safety and Correctional Services [DPSCS], 1996).

Parole and probation historically centered on the concept of rehabilitation. This included personal and family counseling, employment/vocational training and services, drug counseling, and improvement of social, cognitive and interpersonal skills. However, these services frequently did not have enough funds for all the programs and personnel to staff them. Additionally, the public's attitude in recent years has focused on retribution and "just deserts." This, in combination with dwindling correctional and health and human service resources, has resulted in fewer treatment-oriented services and more focus on punitive surveillance. The emphasis of parole is often on surveillance and control rather than treatment of offenders (Lynch, 1998), such as through alternative sanction programs as well.

States clearly must review how resources are used to incarcerate and supervise offenders, especially for non-violent drug offenders. Since preventing subsequent criminal behavior will have the greatest impact on correctional resources over time, so it makes sense that the state focus energy and funds on programs that will help reduce recidivism rates. While this may include incarceration, experience and research indicate the value of alternative sanction programs as well.

This report now turns to promising alternative sanction programs that have been implemented in other states. After that, it will examine programs available in the Maryland state system and in Maryland's twenty-three counties and Baltimore City.

Six States Examined

The most popular approach to reducing the demand for bed space in America's prisons is intermediate sanctions. Intermediate sanctions are intended to be less severe than incarceration, but more restrictive and accountable on the prisoner than probation or parole. Some examples of intermediate sanctions currently in use are: Intensive Supervised Probation, Electronic Surveillance, Boot Camps, Day Reporting Centers, Community Service, Day Fines, and Drug Courts.

Several states incorporate their intermediate sanctions into structured sentencing systems. These systems base sentences on the seriousness of the offense and the extent and seriousness of the offender's prior criminal record. Frequently, these systems include explicit options for sentencing to community sanctions. Kansas, for example, uses what are called "border boxes." These border boxes are placed within a sentencing guidelines grid to formalize the use of intermediate sanctions with offenders whose sentences fall within the boxes being considered for the alternative punishments.

Delaware also uses a form of a sentencing guidelines system. This system includes five "accountability levels," which are based on offense seriousness and prior record. Offenders can move across or within these levels, giving them more or less freedom, depending on their compliance and behavior. In this system, "judges can sentence offenders to serve set periods in more than one 'accountability level,' exposing offenders to a mix of sanctioning types" (Ostrom, 1999, p. 31).

North Carolina uses a matrix, which includes the arrestees' prior record level and the class of the offense. "North Carolina is the first state to attempt from the outset to include in its guidelines standards for felonies and misdemeanors and for incarcerative and nonincarcerative punishments" (Tonry, 1997, p. 39). The state separates its sentences into three categories: active punishments, intermediate punishments, and community punishments. Active punishments involve total confinement, including death or life without parole. Intermediate punishments include the split-sentences, electronic monitoring, and intensive supervision programs. Community punishments involve supervised and unsupervised probation, community service, and fines. What makes the North Carolina sentencing guidelines one of the best examples in the U.S. is that it includes its intermediate sanctions within its matrix. Also, after an offender is placed within a range in the matrix, two separate ranges can also be used to recognize any aggravating or mitigating factors.

Table 1 - Intermediate Sanctions in the North Carolina Sentencing Guidelines Prior Record Level

	I	II	III	IV	V	VI
	(0 Pts.)	(1-4 Pts.)	(5-8 Pts.)	(9-14 Pts.)	(15-18 Pts.)	(19+ Pts.)
BI	A 240-300 192-240 144-192	A 288-360 230-288 173-230	A 336-420 269-336 202-269	A 384-480 307-384 230-307	A Life 346-433 260-346	A Life 384-480 288-384
E	I/A 25-31 20-25 15-20	I/A 29-36 23-29 17-23	A 34-42 27-34 20-27	A 46-58 37-46 28-37	A 53-66 42-53 32-42	A 59-74 47-59 35-47
H	C/I 6-8 5-6 4-5	I 8-10 6-8 4-6	I/A 10-12 8-10 6-8	I/A 11-14 9-11 7-9	I/A 15-19 12-15 9-12	A 20-25 16-20 12-16

	C	C/I	I	I/A	I/A	I/A
	6-8	6-8	6-8	8-10	9-11	10-12
	4-6	4-6	5-6	6-8	7-9	8-10
I	3-4	3-4	4-5	4-6	5-7	6-8

A=Active Punishment; I=Intermediate Punishment; C=Community Punishment Numbers Represent Months

As shown Table 1, an offender is placed within the guidelines system by looking at the class of the offense and the offender's prior record. Only a portion of the matrix has been selected to show the highlights of the North Carolina guidelines chart. The ranges in bold within each cell represents the presumptive range. The range directly above the presumptive range is the aggravated range, and the range directly below the presumptive range is the mitigated range. For example, if an offender commits an offense at the B1 level and has a prior record at Level 5, he or she will be sentenced between 346-433 months. However, if aggravating factors are included in the sentence, the offender will be sentenced in the aggravated range, which is life without parole. An offender who commits a crime classified in the I Level, has no prior record, and does not include any aggravating or mitigating factors, will be sentenced to 4-6 months at the community punishment level. This will include probation, community service, or a fine. If an offender commits the same crime but is determined to have a Level II prior record, then he or she will be sentenced to 4-6 months as well, but will receive either community or intermediate punishment (i.e., the introduction of intermediate and alternative sanctions). States such as North Carolina that incorporate intermediate sanctions and ranges that account for aggravating and mitigating factors, are considered by many to be more successful, as well as easier to use and understand.

Another example of an effective and successful program involving intermediate sanctions is Virginia's Intermediate Sanctions Program (ISP). In order to address the overcrowding of prisons in Virginia, the state has developed an ISP that is intended to divert criminal offenders from jail or prison. As stated in its 1993 DOC ISP Guide, the primary goal of Virginia's program is "to offer an alternative to incarceration which provides public safety and addresses offender needs in a cost-effective and less restrictive manner [than prison]" (Young, 2000).

Virginia's ISP includes two phases of supervision, with each phase lasting a minimum of three months. What makes this program effective is that it provides a greater number of face-to-face contacts than regular supervision, using curfews, weekly record checks, and required participation in employment, vocational training, or educational classes. The performance measures that were used in reviewing the impact of this program were both qualitative and quantitative, involving offender files, previous databases, and interviews. More specific data included: offender's prior criminal history, offense of conviction, and rate of re-arrest.

However, a few problems arose in the implementation of this program, including inadequate staff training and lack of improvement regarding access to providers. Another difficulty with implementation was the inadequate procedures for assessing, selecting, and referring of clients. However, despite these problems, Virginia's ISP achieved several successes, including:

- "Offenders in the ISP study group receive higher levels of substance abuse treatment than do offenders in the non-ISP study group" (Young, 2000).
- Results from this program included both cost and bed space savings to the criminal justice system.
- "As presently operated, ISP supervision is only slightly more expensive than regular offender

supervision" (Young, 2000).

Perhaps the best and most effective program for reducing recidivism and prison populations is the Substance Abuse Program of the Madison Correctional Unit in Madison, Indiana. There are six components to this program. The first is assessment. Upon arrival the offender is evaluated by a substance abuse counselor and is then either determined to warrant acceptance into the program or not. The second component is the pre-treatment group. This group is designed to help the offender in the beginning stages of treatment. This must be completed before the offender can enter the intensive phase of treatment. The intensive treatment group meets for approximately 9 to 12 weeks. Each group has a maximum of 10 offenders. The offenders in these groups meet 16 hours per week for six hours of therapy groups, eight hours of education, and two hours of other activities. All offenders are expected to participate and be active in the group that meets two hours once per week for 12 to 16 weeks. As with the intensive group, the aftercare groups consist of no more than 10 members. They are also expected to attend every session and complete treatment plan methods.

Another important phase is the transition phase. This program concludes the final 90 days of an offender's sentence. "This program is designed to assist the offender with reintegration into society" (Vance, 2000). This 80-hour program consists of areas including: stress management, parenting skills, leisure activities, community resources, substance abuse education, social identity, economic, health-care, family and domestic issues. Other optional areas include: counseling, AIDS testing, developing a job resume, applying for colleges, and financial assistance. The final component is parole. After the offender completes the confinement portion of his or her sentence (s)he is supervised on parole for 24 months, or until the end of the (maximum) sentence.

Another effective alternative incarceration program comes from the state of Connecticut. "In the 1980's, the total Department of Correction population tripled from 5,500 to 16,000. As a result, during 1989, most incarcerated offenders served only 10% of their sentence. Currently the Connecticut Legislature appropriates \$22 million to the Office of Alternative Sanctions for the purpose of diverting approximately 4,000 jail-bound offenders" ("Innovative court program", 2000). The Connecticut program includes:

- Traditional Inpatient Drug and Alcohol Programs
- Women and Children Offender Program
- Project Green
- Youth Confinement Centers
- Day Incarceration Centers
- Electronic Monitoring
- Community Service Labor Program
- Alternative to Incarceration Centers

The program currently consists of 4,200 offenders, allowing the DOC to hold incarcerated individuals for longer periods. "Offenders with sentences over two years currently serve 50% of their sentences," ("Innovative court program", 2000) and surprisingly has been shown to produce significant monetary savings. This program has also won several awards for its effectiveness in the criminal justice system.

Alternative Sanctions in Maryland

Maryland is not exempt from the problems that our nations correctional systems have experienced. The statistics are daunting in that Maryland's prison population increased from 10,877 in 1990 to 22,751 in July of 1999. The state's prison expansion did not keep pace with the increasing offender population. Attempting to save money, yet punish offenders, without risking the safety of the public, the state introduced the Correctional Options Program (COP). The COP program is a system of graduated sanctions established to divert carefully screened low-risk drug offenders from prison (DPSCS, 1997; Appendix 3). In the 1996 Report to the Budget Committee of the Maryland General Assembly, the State's response to overcrowding and increasing costs associated with prisons is summarized in the quotation below:

"Despite several years of minimal economic growth, the State has devoted significant resources to satisfy the public's demand for the incarceration of criminal offenders. During the past ten years, approximately \$500 million has been appropriated for repairs to and expansion of Maryland's Correctional Institutions. The annual operating budget for adult correctional facilities increased from \$212 million in fiscal year 1987 to \$527 million in fiscal year 1997. Despite this unprecedented financial commitment, State-operated adult correctional facilities remain crowded with more than 27,000 offenders in confinement. The ongoing drain on State resources in combination with the State' timeframe for planning, designing, and constructing capital projects prompted the DPSCS to rethink how facilities, personnel, and financial resources are utilized to incarcerate and manage offenders. Consequently, the Department established COP to address changing programmatic needs, and initiated efforts to re-engineer its business processes" (p. iv).

The Maryland Correctional Options Program

Maryland's COP program was developed in March 1994. The program is supposed to provide intensive community management of selected offenders, and to provide substance abuse treatment to alcohol and drug addicted offenders in an attempt to prevent recidivism. The correctional options that are used are as follows:

Boot Camp: Herman L. Toulson Boot Camp inmates serve 6 months followed by intensive parole supervision. It is a rigorous program modeled after the military and is both physically and emotionally challenging. The program includes counseling, life skills, dispute resolution, moral/value clarification, and focuses on offender accountability.

Regimented Offender Treatment Center (ROTC): This program is housed in the Patuxent Institute. It serves as an inpatient substance abuse treatment center. Generally offenders are housed there for 30-45 days.

Home Detention/Electronic Monitoring: Offenders are monitored via electronic surveillance and random visits by correctional staff.

Day Reporting (DRC): This program is a structured, non-residential program, intended to provide a transition into the community as law-abiding citizens. Three sites are available in Baltimore City. Services include relapse prevention, job placement, NA/AA meetings, and life skills training.

Intensive Supervision Probation (ISP): This program focuses on stabilizing the offender. It provides

more intensive surveillance of offenders than standard supervision. It is used in monitoring drug offenders.

Standard Supervision: This program consists of traditional probation/parole supervision.

Patuxent Re-Entry After-Care Center (Baltimore City): These are certified treatment and aftercare programs intended to be outpatient programs for offenders who completed ROTC or outpatient treatment in the community. The emphasis is on staying drug-free and providing support for offenders who were/are substance abusers.

Baltimore Pre-Release Center for Women: This program consists of 90 days of counseling and treatment for drug addiction, parenting, life skills, and domestic violence before release from incarceration.

Drug Court (Baltimore City): This is a front-end diversionary program that allows drug-addicted offenders to be diverted into drug treatment alternative sanctions in lieu of prosecution or as a sentencing option.

COP is intended to leave prison space for the incarceration of violent offenders and falls under the jurisdiction of the Maryland State Division of Parole and Probation. The Department is responsible for screening and placing offenders in the various alternative sanction programs available.

Maryland's COP program is generally a "back-end" program (except for the Baltimore City Drug Court program). In other words, DPSCS assigns offenders to alternative sanctions after some period of incarceration or when they are released on parole. For example, an offender may serve sixteen months and then be released into ISP or DRC.

The Drug Court in Baltimore City generally is a "front-end" entry program in which alternative sanctions are used as either diversion from prosecution or as a sentencing option for non-violent, substance-involved offenders. In July, 1996, the University of Maryland published its evaluation of the Drug Court Program implemented in Baltimore City. The evaluation was a retrospective study of 145 drug court probation participants who were enrolled between March 1994 and March 1995. The study group was matched with 529 probation offenders supervised by probation officers. The results of this short-term evaluation indicated that :

1. The program succeeded in targeting non-violent, substance involved offenders who were assessed as low risk to public safety.
2. As intended, the program is being used as an alternative to incarceration.
3. 75% of the participants did not commit new offenses during the six-month follow-up period.
4. 83% of the participants maintained a stable residence, and 50% are employed and enrolled in an after care program.

There were a few factors that may negate any cost reductions and reduction in prison overcrowding through drug courts. First, the drug courts used the threat of incarceration to facilitate detoxification and punish noncompliant participants. Secondly, often, offenders were sentenced to incarceration due to violations of

conditions set by drug court. This is generally a more severe sanction than for similar offenders who never enrolled in a program through drug court (DPSCS, 1997).

Additionally, the state is attempting to use the COP program as an alternative to incarceration for violation of parole/probation conditions. For example, an offender may move up from standard supervision to ISP. As offenders transition through the correctional options system, they can move up or down the varying levels of supervision-from complete loss of freedom (ROTC) to standard community parole.

Offenders targeted for the COP program are:

1. Sentenced inmates at point of entry into the State Correctional system with sentences of one to five years.
2. Inmates who have received a delayed release from the Parole Commission.
3. Inmates serving a sentence of 12 years or less.
4. Technical parole violators.
5. Boot camp graduates.
6. Pre-trial detainees and offenders under pre-trial supervision.
7. Within 3 months of mandatory supervision release date.
8. Any inmates who are sentenced to incarceration are screened for eligibility by correctional case managers.

In addition to meeting the criteria of the COP program, the inmate must be interested in the program and demonstrate this in his/her interview/screening.

In the preliminary review of the COP program, the National Council on Crime and Delinquency (NCCD) observed that the recidivism rate for the COP experimental group was lower than the control group. However, participants were returned to prison for technical violations at a higher rate than those not in the programs, thus not reducing the prison population (DPSCS, 1997). Additionally, according to NCCD (as cited in DPSCS, 1997):

"...with an average population of 1,593 participants, COP saved over \$32 million in prison construction and debt service costs and over \$9 million in annual operating expenses...Increased construction costs and growth in COP participation have increased the savings to about \$50 million in construction costs and \$12.5 million in operating costs" (p. 1).

Another comprehensive strategy, called Break the Cycle (BTC), was implemented in parts of Maryland to reduce criminal behavior and substance abuse among drug-involved offenders, who made up the largest percent of non-violent offenders incarcerated. Those who designed this program believed that the majority of these individuals were sentenced unnecessarily to correctional facilities, were exposed to greater harm, and increased the problems of overcrowding. Therefore, interagency teams comprised of law enforcement, treatment, probation and parole, prosecutors, defenders, and the judiciary were responsible for strategic

planning, developing and implementing BTC in Maryland.

In 1998, the state of Maryland appropriated \$2.9 million funds to enhance coerced treatment efforts in seven jurisdictions. These funds provided intensive treatment services, drug testing, and responses to non-compliance to retain the individual in treatment. By January 1999, 6,293 offenders participated in BTC treatment. Officials are confident they can produce much better results than what is being done in Maryland and believe they can accomplish these results after two years of their start. Lastly, BTC also provided a new management information system for probation and parole, standardizing offender's supervision to ensure consistency, and involving a collaborative effort of treatment and criminal justice agencies (Taxman, F.S., Kirkwood, K., 1999).

The Maryland Public and Intermediate Sanctions

The citizens' of Maryland hold different views of how taxpayer money should or should not be used to manage offenders. A survey conducted by the Maryland State Commission on Criminal Sentencing Policy entitled, *Crime and Sentencing: A Public Opinion Survey of the People of Maryland* (September 1997) found:

- People were willing to support the use of judicial discretion in the sentencing of non-violent offenders. Most respondents indicated support for limited judicial discretion in sentencing violent offenders. The majority of people believed that early release should be allowed for non-violent offenders.
- The majority of people supported boot camps and intensive supervision as the only acceptable sentencing alternatives for violent offenders. Intensive Supervision Probation (ISP) must have good interagency communication when monitoring offender in order to avoid a potential crisis, the recent killing of a Maryland State Trooper by a Break the Cycle Participant ("Early prison release put savings ahead of safety," 2000).
- More than one-half of people surveyed believed that the leniency of judges to be a major cause of crime.
- People in Maryland reported they were willing to pay higher taxes to cover the cost of supervising the productive work of inmates. They were divided on paying more taxes to cover the expense of treatment programs, education programs and supervision during recreation.

Nevertheless, research such as The Correctional Education Association's 3-State Recidivism Study Conducted in Maryland, Ohio and Minnesota (Stockwell, 2000) showed the positive effects of education in reducing recidivism rates of inmates. The key to getting the public and elected officials to use alternative sanctions as an option is to focus on the high cost of prison combined with valid evidence that treatment programs and education are effective for certain carefully screened offenders.

Additional research reveals that the public favors both punishing and treating criminals. When the public is informed about the great expense involved in incarcerating offenders, its attitude towards punitive measures decreases, especially if alternative sentencing options are available that are more cost-effective (Applegate, Cullen, Turner, & Sundt, 1996). Support can be gained for treatment programs when an emphasis is placed on the fact that a majority of offenders are released without proper treatment only to recidivate and return once again to prison (Petersilia as cited in Fox & Stinchcomb, 1994, p. 63).

"Building more prisons will not significantly reduce crime. We could argue civil rights implications of prisons and the value of education forever, but as long as people believe prisons work, we'll never garner enough support to make a difference. There are alternative sanctions, which work at least as well

as prisons. This doesn't mean that the alternatives have to solve the crime problem. Prisons haven't solved the problem. We don't have to defend every alternative, just demonstrate that there are enough alternatives which work well enough to avoid the need for new prisons" (No More Prisons, 2000, p. 5).

Conclusion

Ideally, the government should understand the short and long-term effects of publicly funded programs and target public money to interventions that can demonstrate that they achieve measurable outcomes. The current research base identifies few well-designed evaluations of Maryland and local jurisdictions that document the effectiveness of specific alternative sanctions in reducing recidivism and bed space.

Numerous surveys and studies provide valuable information about the characteristics of interventions and the number of offenders served. A limited number document the short-term effectiveness on recidivism and cost reduction. The majority of reports on alternative programs are descriptive reports that fail to offer reliable measures of the intervention's impact on outcomes such as long-term recidivism rates and prison population reduction.

A particular difficulty facing evaluation of alternative sanction programs is the involvement of multiple departments and service agencies. The processes and the services delivered are interrelated. Offenders receive services and supervision from various county and state agencies including state-run probation and parole, county-run or -contracted counseling programs, both state- and county-run health and human service agencies, and the state run court system. In addition, the individual characteristics of offenders influence the effectiveness of an intervention. All of these factors make it analytically difficult to discern and measure the effect of a specific intervention. The successful functioning of an inter/intra agency decision-making system relies on the efficient flow of information across agency and departmental boundaries. Ideally, a system has a methodology to collect information and a mechanism that distributes information to decision-makers across the system before key decisions are made.

It has been found through interviews and media accounts from highly publicized cases that the system is flawed. The way in which information flows to decision-makers reveals significant gaps in the information obtained, used, and shared by state and county agencies. It is recognized that many of the gaps result from resource allocation decisions based on available funding. In many cases, agency staff are aware of the gaps and are attempting to deal with them as best as they can considering the lack of funding for the programs.

Relevant information on offenders is not readily shared across all agencies that have a role in monitoring/treating offenders. In fact, it appears that few agency staff are aware what happens to an offender after his/her agency has completed its work. The lack of information sharing can lead to decisions that compromise public safety and offender accountability. "The biggest challenge to the implementation of the COPS program has been the coordination between the various departments and agencies" (P. Magee, personal communication, October 23, 2000).

Local facilities need the funds, support and personnel to effectively run alternative programs. It is reasonable to consider establishing a pilot program in one or a few local jurisdictions with alternative sanctions included in sentencing guideline grids. A pilot program identifies costs and problems of implementation. However, it requires full funding and staffing as well as program evaluation before sentencing alternative programs can be considered statewide.

What is first needed is adequate funding and staffing to implement, monitor, and evaluate whether programs are effective in lowering recidivism rates of offenders (both short-term and long-term), as well as reducing the demand on prison and jail bed space. If there is not adequate funding for programs, they will most likely backfire and leave the public and elected officials with the "nothing works, so let's just lock 'em up and throw away the key" attitude. However, the real reason the program may have not been successful was due to lack of funding, correct implementation, training of staff in charge of programs, and lack of funds for performing both process and outcome evaluations. Additionally, one high profile case can illustrate the flaws in the system and reinforce the public's notion that the only acceptable alternative for offenders is incarceration.

Suggestions for Solutions

The following are examples of possible remedies for the State Commission on Criminal Sentencing Policy and other sentencing policymakers to consider:

- Establish a pilot sentencing guidelines program in one county that will be fully funded and staffed and that will keep accurate data on offenders sentenced, as well as follow-up data for a period of 6 months, 1 year, 3 years, and 5 years.
- Use both back-end and front-end options.
- Work to improve the coordination, collaboration, and communication between the various agencies that oversee offenders.
- If possible, allow and adequately fund counties to administer, implement, monitor, and evaluate programs.
- Expand corrections options statewide and into local jurisdictions if a pilot program proves to be effective, but allow local jurisdictions to run them in partnership with the state.
- Recognize the need for implementation of culturally responsive alternative sanction programs in diverse communities such as Montgomery County, Prince George's County, and Baltimore City.
- If alternative sanctions are added to sentencing guidelines, develop strict criteria.
- Recognize the need for public education/awareness on alternative sanctions as well as publicized information on the high cost of imprisonment, and overcrowding in prisons.
- Recognize the need for effective monitoring, case management, access to services, continuity of care, after care services, and assessment and modification of program based on needs assessment.
- Explore other sources of funding for alternative programs such as federal grants and private foundation grants.
- Establish statewide and national advisory committees of correctional officials and judges/prosecutors to discuss the successes, problems, and challenges of their alternative sanctions programs as well as share information and guidance.

Additional Questions to be Answered

Finally, if and when extensive intermediate sanction programs are available and implemented throughout Maryland, practitioners and policymakers will still face difficult questions that will have to be addressed through experience and deliberation. Among those questions are:

- If a judge sentences an offender to a program who does not meet the criteria, will the correctional agency be able to turn the offender away? If so, what happens to the offender? Will judges agree to re-sentence the offenders who are turned away?
- Will there be local acceptance from each county of alternative sanctions programs? If a county's judges, State's Attorney, public defenders, and correctional officials do not all buy into the concept of alternative sanctions, it will not succeed.
- If the economy goes into a recession and government funding is cut from program budgets, will community corrections programs be the first cut?
- Given concern about "net widening" (i.e., offenders who would initially be sentenced to probation receiving alternative sanctions), will policymakers clearly define appropriate offenders for alternative sanctions to match their preferred goals and objectives?
- Would it be beneficial to focus on other types of offenders such as high or medium risk, without jeopardizing public safety? Would elected officials and the public support such measures?

Alternative sanctions in sentencing in the 21st century seem to be the wave of the future. In the long run, fully implemented correctional options may reduce the state's demand on prison bed space and lower recidivism rates of offenders. But first, their acceptance and use must become a higher priority for Maryland policymakers and practitioners in the short run.

References

Adler, F., Muller, G., & Laufer, W. (1994). *Criminal Justice*. New York: McGraw Hill.

Applegate, B., Cullen, F.T., Turner, M., & Sundt, J. (1996). "Assessing public support for three-strikes you're out laws: Global versus specific attitudes." *Crime and Delinquency*, 42, 517-534.

Bonini, M., Grothe, K., Hickey, T., Roe, M., & Zuback, K.C. (1997).

Alternative-to-incarceration programs: Review of Maryland's local jails and detention centers. Baltimore, Maryland; University of Baltimore, Department of Fiscal Services, Maryland General Assembly.

Bureau of Justice Statistics. (1995). *National Prisoner Statistics, 1994*. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics.

Clear, T., & Cole, George. (2000). *American Corrections*. California: Wadsworth Publishing Company.

Department of Public Safety and Correctional Services. (1996) *State of Maryland correctional options program: Report to the budget committees of the Maryland general assembly*. Towson, MD: Department of Public Safety and Correctional Services.

Department of Public Safety and Correctional Services. (1997). *Recidivism status report on the Correctional Options Program*. Towson, MD: Department of Public Safety and Correctional Services.

Department of Public Safety and Correctional Services. (1986). *Department of Public Safety and Correctional services: Master Facility Plan FY 1987-FY 1991*. Department of Public Safety and Correctional Services.

Department of Public Safety and Correctional Services. (1986). *Criminal Justice Agency Processing Statistics: FY 1986 versus FY 1985*. Baltimore, Maryland: Office of the Secretary Office of Research and Statistics.

"Early prison release put savings ahead of safety." (2000, December 3). Editorial. The Baltimore Sun, p. 2c.

Fox, V., & Stinchcomb, J. (1994). Introduction to Corrections (4th ed.). Englewood Cliffs, NJ: Paramount Communications Company.

Innovative court program: results from state and local program workshops. (1995). State of Connecticut's alternative incarceration program. [Online]. Available: www.ncjrs.org/txtfiles/portland.txt.

Jackson, J., de-Keijser, J., & Michon, J. (1995). "A critical look at research on alternatives to custody." *Federal Probation*, 59, 43-51.

Johnson, C., & Hoffman, D. (1996). *A descriptive study of the state of Maryland's Herman L. Toulson boot camp*. National Council on Crime and Delinquency.

Kopel, D. (1994). *Prison blues: How American's foolish sentencing policies endanger public safety*. Policy Analysis No. 208 [Online]. Available: www.cato.org/pubs/pas/pa-208.html.

Lee, D., & Wellford, C. (1997). *Crime and sentencing: A public opinion survey of the people of Maryland*. Maryland State Commission on Criminal Sentencing Policy - Maryland Justice Analysis Center.

Lynch, M. (1998). "Waste managers? New penology, crime fighting, and parole agent identity" *Law and Society Review*, 32 839-869.

Maryland Uniform Crime. (1975). *State of Maryland Uniform Crime Reports*. Pikesville, Maryland: Maryland State Police.

Maryland Uniform Crime. (1985). *State of Maryland Uniform Crime Reports*. Pikesville, Maryland; Maryland State Police.

Maryland Uniform Crime. (1998). *State of Maryland Uniform Crime Reports*. Pikesville, Maryland; Maryland State Police.

Montgomery, L. (2000, November 10). "Maryland probation program is failing expectations." *Washington Post*, p. B1, B5.

No More Prisons. (2000). Prison Moratorium Project. [Online]. Available: www.nomoreprisons.org.

Ostrom, B. (1999). "Intermediate sanctions. *Sentencing Digest: Examining Current Sentencing Issues and Policies*. [Online]. Available: www.ncjrs.org/txtfiles/portland.txt.

Petersilia, J. (1999). "Parole and Prisoner Reentry." *Crime and Justice Series: Prisons*, 26, edited by M. Tonry & J. Petersilia (479-529). Chicago: University of Chicago Press

Stockwell, J. (2000, November 23). "Study finds value in inmate education." *Washington Post*, p. M21.

Taxman, F.S., Kirkwood, K. (1999). *Break the cycle in Maryland: Implementing Analysis of first year's activities*. Towson, Maryland: Department of Public Safety Correctional Services.

Tonry, M. (1997). *Intermediate sanctions in sentencing guidelines*. Washington, D.C.: National Institute of Justice: Issues and Practices.

Tonry, M., & Petersilia, J. (Eds.) (1999). *Crime and Justice Series: Prisons*, 26 (1-16). Chicago: University of Chicago Press.

Welsh, W.N., & Harris, P.H. (1999). *Criminal justice policy and planning*. Cincinnati, Ohio: Anderson Publishing Company.

Zajac, G. (2000). *Quehanna motivational boot camp: performance analysis and evaluation*. Pennsylvania Department of Corrections.

[| Back to Top |](#)