

**ANNUAL REPORT  
OF THE  
COMMITTEE ON CRIMINAL LAW AND PROBATION  
ADMINISTRATION  
TO THE ILLINOIS JUDICIAL CONFERENCE**

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## I. STATEMENT ON COMMITTEE CONTINUATION

The Committee on Criminal Law and Probation Administration is charged with providing recommendations regarding the administration of criminal justice and the probation system. The Committee believes the Judicial Conference should maintain a committee to study these issues during the coming Conference year.

The Committee is working on a number of significant issues of a continuing nature, including:

- a comprehensive review of probation programs centering upon Evidence-Based Practices (EBP)
- examination of the implementation and practices of specialty courts; i.e. "Drug Courts and Mental Health Courts"
- examination of new issues affecting criminal law and procedure
- review of proposals to amend Supreme Court Rules governing criminal cases

Given the importance of these tasks, the Committee requests that it be continued in the coming Conference year.

## II. SUMMARY OF COMMITTEE ACTIVITIES

### A. Probation Programs.

#### Probation System

One of the Committee's charges is to "monitor and provide recommendations (including standards) on issues affecting the probation system." In response to this charge, time has been devoted to address strategies to monitor, support and improve probation practices throughout the state. There has been some focus on probation's work in assessing, intervening and monitoring specialized offender populations which include domestic violence, gang, drug, and sex offenders. Another focus of this committee's work has been on the changing role of probation as it relates to the implementation of the Evidence-Based Practices (EBP) research.

This section of the report provides a summary of the Evidence-Based Practices research, highlights some of the changes probation departments are making to put the research into practice and provides some basic recommendations on how the judiciary can support this effort. Included is Attachment 1, containing articles from the National Institute of Corrections and the Crime and Justice Institute on Evidence-Based Practices, Collaboration and Organizational Development.

#### Evidence-Based Practices Research Overview

There is a preponderance of research evidence over the past decade confirming that community-corrections programs, if properly designed and implemented, can lower offender risk and significantly reduce recidivism. This is contrary to the negative opinions about rehabilitative interventions that influenced criminal justice policies in the mid-1970s through the mid-1990s. The research shows that re-offense rates can be significantly reduced when specific risk factors associated with criminal behavior are identified and targeted. The strategies that have been proven to be successful in lowering risk factors and reducing recidivism are often referred to as *Evidence-*

*Based Practices.*

### **The Changing Role of Probation**

Over the years, probation departments have been using a wide range of approaches, theories, and practices designed to reduce offender recidivism and increase public safety. In spite of the time, resources, and commitment that many probation departments have devoted to achieving better outcomes with offenders, some of the practices have not been grounded in research. However, in the past decade, prominent trends in the field of corrections have provided the impetus for probation's changing role in working with offenders and with criminal justice partners and community stakeholders. Drawn from the research studies and evidence-based innovative practices, a major movement towards more effective and responsive strategies for reducing offender recidivism has emerged. At both the state and local level, extensive education and training has prepared probation departments to begin putting the research into practice. Additionally, Illinois was one of two states chosen to receive a three-year technical assistance grant from the National Institute of Corrections to further promote the systemic integration of evidence-based practices, organizational development and collaboration in the criminal justice system. Six jurisdictions are serving as a prototype for the state on the integrated model: Cook County Adult Probation Department, Lake County, DuPage County, Adams County, Sangamon County and the Second Judicial Circuit.

### **The Eight Principles of Evidence-Based Practices**

This section outlines the eight principles of Evidence-Based Practices and the changes that probation departments are making to put the research into practice.

2. ***Assess Actuarial Risk/Need*** - Sound assessment that identifies dynamic and static risk factors that serves as the basis for developing and implementing the offender's case plan.  
Juvenile Probation: There has been statewide implementation of the Youth Assessment Screening Instrument (YASI), an advanced assessment tool designed to measure the offender's risk of re-offending and protective factors.  
Adult Probation: Fifteen probation departments have implemented the Level of Service Inventory (LSI-R), an advanced risk assessment tool for adult offenders. The entire state will be trained in the LSI-R over the next three years.
3. ***Enhance Intrinsic Motivation*** - Use of advanced interviewing techniques as a means to initiate and maintain pro-social behavioral change in the offender.  
Several probation departments throughout Illinois have been trained and are using advanced interviewing techniques to initiate and maintain behavioral change in the offender. The Probation Services Division of the Administrative Office of the Illinois Courts has provided training and technical assistance to departments in this area.

4. ***Target Interventions*** - Supervision and interventions should target higher risk offenders (risk principle), focus on the needs related to the criminal behavior (need principle, be responsive to the offender's unique issues (responsivity)), and be delivered in the correct amount (dosage).

Illinois probation has always provided differential supervision to offenders based on risk/needs. However, probation departments are making advancements in case planning to apply interventions that target those risk factors identified through the assessment process, improving the quality of the case plans in an on-going process. Some of the implementation sites in the EBP initiative have provided some excellent models in this area.

5. ***Skill Train with Directed Practice*** - Research shows that the biggest recidivism reduction comes from changing offender's thinking and behavior through the use of cognitive behavioral programming.

There are a number of proven research-based cognitive behavioral curricula developed for offenders which target their pro-criminal attitudes, values and beliefs. Many probation departments have trained their officers on the use of cognitive behavioral programming. Other departments have engaged their service providers to provide this type of intervention.

6. ***Increase Positive Reinforcement*** - Behaviorists note that individuals respond better and maintain changes when they receive positive reinforcement versus negative reinforcement.

The research indicates that offenders respond better when their positive behaviors are acknowledged/rewarded over their negative behaviors on a 4 to1 basis. Outcome measures have been developed on this principle for the implementation sites. This practice is also readily seen in drug courts.

7. ***Engage Ongoing Support in Natural Communities*** - Realigning offenders with pro-social support systems in their communities in order to sustain behavior change.

Probation officers have typically worked with the community to identify pro-social role models for offenders. Probation's work with the communities is an important aspect of EBP.

8. ***Measure Relevant Processes*** - Measurement of outcomes of offender changes and staff performance.

The measurement of offender change is a critical component of the EBP work. The National Institute of Corrections, the Crime and Justice Institute and the Department of Justice have developed a research matrix for the EBP implementation sites. They have also provided funding to the Illinois Criminal Justice Information Authority to evaluate the six implementation sites for this initiative. Some probation departments

have changed their performance appraisal tools for staff and managers to more accurately reflect the practices associated with the EBP principles.

8. ***Provide Measurement Feedback*** - Provision of feedback to offenders on their progress ensures accountability and can increase motivation. Information on organizational performance is also critical to ensure that EBP practices are being implemented with fidelity.

Measuring the work and making sure it is done in a quality fashion is vital to the EBP movement. The National Institute of Corrections, the Crime and Justice Institute, the Administrative Office of the Illinois Courts Probation Services Division and the implementation sites have been working on developing a quality assurance plan for the state. There are several existing tools available to departments to ensure the work they and their service providers are doing is with integrity to the model.

### **The Role of the Judiciary in EBP**

As indicated earlier, part of this committee's work has focused on reviewing the research on EBP. In addition, three members of this Committee participated in a 1½ day training event on Evidence-Based Practices for judges on June 28-29, 2005. In spite of the work that has taken place in probation on implementing the principles of EBP, the role of the judiciary is somewhat uncharted territory. Below is a list of some recommendations on how the judiciary can promote EBP practices in their jurisdiction. However, there may need to be more time devoted to examining the research and identifying some concrete steps judges can take to put the research into practice on the bench.

- Understand the evidence-based practices research
- Examine how to incorporate sentencing practices in alignment with EBP
- Ensure that probation departments are incorporating the EBP principles
- Work with justice stakeholders to promote the systemic implementation of EBP in each jurisdiction
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#### **B. Problem Solving/Specialty Courts.**

The Committee has explored the role of problem solving/specialty courts in Illinois. There has been a growing interest in implementation of these specialized courts throughout the state. There are approximately 13 existing drug courts with a number of jurisdictions exploring the feasibility of establishing one. The development and implementation of mental health courts is on the rise. Several counties including Cook County, Lake County, Madison County and DuPage County are among the few who have created mental health courts in response to the increasing number of individuals in the justice system who suffer from mental illness and the need to create a response to

deal with this specialized offender population. In addition to the drug and mental health courts, some counties have implemented domestic violence courts which are typically staffed by criminal justice partners and treatment professionals who understand the need to create a plan which incorporates controls, treatment interventions and surveillance with domestic violence perpetrators to help protect the victim from future violence.

### **The Implementation of Problem Solving/Specialty Courts in Illinois**

The Committee has examined the impetus behind the establishment of specialty courts. Most problem-solving courts have been developed in response to the overwhelming increase of individuals entering the system with drug, violence and mental health issues. The court recognizes that dealing with offenders, with these complex and myriad issues, requires collaboration with other justice and community stakeholders. Specialized strategies need to be implemented to address those specific criminogenic risk factors related to the offender's criminal behavior. Unfortunately, many individuals end up in the justice system as there are limited resources available within the community to address such issues. This is particularly the case with some individuals with mental health problems. The Committee noted that society today often looks to courts to help solve problems which may best be served by other community organizations.

### **Structure of Problem Solving Courts**

All of the problem-solving courts use a similar approach in dealing with the various specialized offender populations whether it is the drug, domestic violence or mental health court. The judge in each of these courts plays an integral role in monitoring, assessing and intervening with the offender throughout their sentence. All of these courts bring together a team of justice, treatment, and community stakeholders to design and deliver treatment intervention based on the unique needs of the offender. There are a variety of rewards and sanctions used with the offender to ensure compliance and to strengthen the offender's pro-social behavior. The team meets on a regular basis to staff the court call. The team typically has the training and expertise to effectively intervene with this offender population.

### **Evidence-Based Practices and Problem Solving Courts**

While there is literature, training and some funding to support the development and implementation of these specialized courts, there is concern that not all jurisdictions are applying the principles and practices as designed by the experts and researchers. One of the issues is related to jurisdictions identifying the appropriate offender populations based on their risk factors. In times of limited resources, it is critical to target moderate to high-risk offenders whose substance abuse, mental health or other issues are directly related to their offending behavior. Other areas that were raised by the committee include the need for additional training, ethical consideration for judges and other team members, legislation to support the design and intent of these courts, and the need for

outcome measures to confirm that these courts are having an impact on changing the offender's criminal behavior, and ultimately reducing offender recidivism and increasing public safety. The critical question is, are these problem solving/specialty courts being implemented with integrity to the model.

### **Issues and Factors to Consider When Planning and Implementing Specialty Courts**

Given the growing interest and implementation of problem-solving/specialty courts, the Committee conducted, researched, and examined a number of articles on the issue. A guideline on "Issues and Factors to Consider When Planning and Implementing Specialty Courts" was developed to assist jurisdictions who have existing speciality courts or are considering implementing one (see Attachment 2). This document was created for the Court's consideration as a possible guideline for jurisdiction. While the Committee does not take a position on whether a circuit/county should or should not implement a specialty court, clearly those that do should create one based upon thorough research and after thoughtful discussion and dialogue.

### **C. Youthful Offender Programs.**

#### **Alternative Sentencing for Youthful Offenders**

The Committee continued to examine the utility of implementing the Youthful Offender Program during the past Conference year. Several states have created statutes that provide for alternative sentencing for non-violent offenders to avoid the stigma of a criminal conviction. It is believed that non-violent offenders who demonstrate the ability to comply with the requirements of the court and become productive, law-abiding citizens will have a much better chance of long-term success without the burden of a record of conviction.

In a report submitted by the Committee at the September 2004 Illinois Judicial Conference, proposed legislation on the youthful offender program was crafted. This proposed legislation was based on extensive research in states that have implemented similar youthful offender programs. The Committee supports endorsing the principles underlying the Youthful Offender Sentencing Program, as such reforms broaden the sentencing options for judges focusing on rehabilitation and alternative treatment. The Committee continues to recommend the adoption of legislation that would support Youthful Offender Programming as an effective alternative sentencing option for non-violent offenders. (See Attachment 3.)

### **D. Criminal Law Revisions.**

The Committee continues to support revisions of Illinois criminal law statutes to simplify and clarify existing law, to provide trial courts with a range of effective sentencing options, and to provide trial judges with the discretion essential to a fair and effective system of criminal justice.

The Honorable Michael Toomin is a member of the Criminal Law Edit, Alignment and Reform (CLEAR) Commission. He has informed the Committee that while he cannot report on the specifics of the commission's work on this initiative, there has been much progress made in defining major crimes and offenses. It is anticipated that the commission will have considered a number of recommendations for improvement to the criminal offense chapter of the Illinois Compiled Statutes. The Committee will continue to keep abreast of this important initiative during the upcoming Conference year.

**E. Confrontation Clause Issues.**

**Crawford v. Washington, 541 U.S. 36, 158 L. Ed. 2d 177, 124 S. Ct. 1354 (2004)**

The Committee has continued to discuss and monitor the U.S. Supreme Court ruling in the case of *Crawford v. Washington*, and those cases and articles which discuss the way courts will review Confrontation Clause issues. A subcommittee has been reviewing the impact of this decision, along with subsequent decisions and treaties.

**III. PROPOSED COMMITTEE ACTIVITIES FOR THE NEXT CONFERENCE YEAR**

During the next Conference year, the Committee intends to continue its review of probation programs and practices. With the Court's permission, the Committee will continue to examine principles and implementation in Illinois Courts of both Evidence-Based Practices and the development of Problem Solving/Specialty Courts. The Committee will also study, review and analyze criminal law statutes. The Committee will also continue to review the existing Supreme Court Rules on criminal cases, and consider new and pending proposals to amend the Rules.

**IV. RECOMMENDATIONS**

The Committee is making no recommendations to the Conference at this time.

# **ATTACHMENT 1**



Supporting the effective management and operation of the nation's community corrections agencies

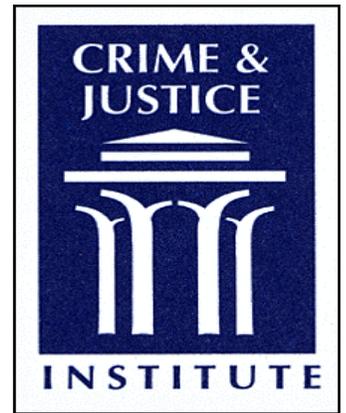
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Creative, collaborative approaches to complex social issues

*Special recognition and deepest thanks go to the following project team members who contributed to these documents:*

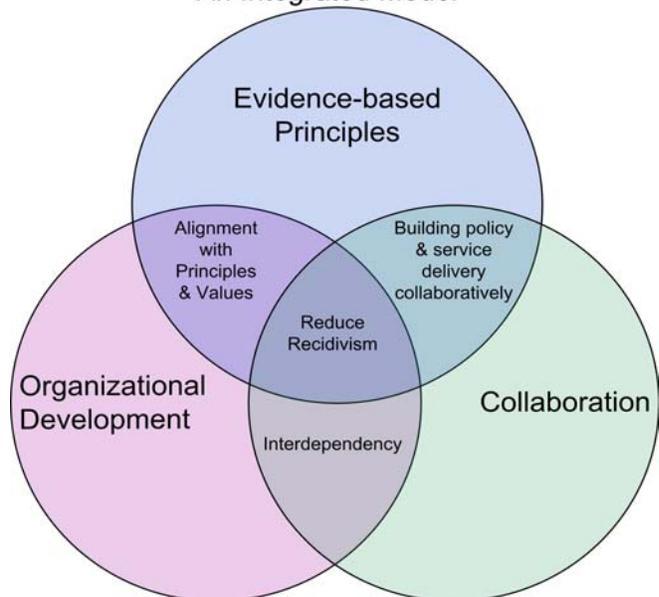
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*The project team is committed to enhancing community corrections systems to better reduce recidivism using research-supported principles.*

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### Implementing Effective Correctional Management of Offenders in the Community: An Integrated Model



## Appendix A: Components of Correctional Interventions

One way to deconstruct a community corrections treatment program for planning or evaluation purposes is to consider the separate aspects of the program experienced by an offender that might affect their outcome or potential for behavioral change. Researchers and practitioners are quick to recognize a number of common elements in all programs that have some potential impact on outcomes such as recidivism:

- ⇒ **(The Skills of Staff)**—a wide array of ongoing interpersonal relations specifically pertaining to the communication skills and interactions exercised between staff and offenders;
- ⇒ **(Decisions on Program Assignment)**—continuous programmatic decisions that match offenders to varying levels and types of supervision conditions;
- ⇒ **(Programming)** – services, i.e. both treatment and monitoring interventions;
- ⇒ **(Sanctions)**—determinations of accountability for assigned obligations and accompanying compliance consequences, i.e., both positive and negative reinforcements;
- ⇒ **(Community Linkages)**—formal and informal interfaces with various community organizations and groups;
- ⇒ **(Case Management)**—a case management system that relegates individual case objectives and expectations within a prescribed set of policies and procedures; and
- ⇒ **(Organization)**—internal (operational) and external (policy environment) organizational structures, management techniques, and culture.

Each of these factors can be construed as separate processes that interact with each other continuously in any community corrections setting (e.g., probation, parole, outpatient treatment, residential, etc.). Depending on how well the processes are aligned and managed, they can either enhance or diminish successful outcomes. An agency, for example, might provide an excellent cognitive skill-building curriculum that has good research support but is delivered by staff with relatively limited clinical skills. Conversely, an agency might be structured so that there is no differentiation of services (one size fits all) and the programming has limited or negligible research support, but staff's overall skills are excellent. A broad interpretation of the existing research suggests that each of the above seven factors have their own independent effect on successful outcomes.

Any agency interested in understanding and improving outcomes, must reckon with managing the operation as a set of highly interdependent systems. An agency's ability to become progressively more accountable through the utilization of reliable internal (e.g., information) controls is integral to EBP. This approach is based on established business management practices for measuring performance objectives and achieving greater accountability for specified outcomes. Providing routine and accurate performance feedback to staff is associated with improved productivity, profit, and other outcomes.

## Appendix B: Implementing the Principles of Evidence-Based Practice

Implementing the principles of evidence-based practice in corrections is a tremendous challenge requiring strong leadership and commitment. Such an undertaking involves more than simply implementing a research recommended program or two. Minimally, EBP involves:

- a) developing staff knowledge, skills, and attitudes congruent with current research-supported practice (principles #1-8);
- b) implementing offender programming consistent with research recommendations (#2-6);
- c) sufficiently monitoring staff and offender programming to identify discrepancies or fidelity issues (#7);
- d) routinely obtaining verifiable outcome evidence (#8) associated with staff performance and offender programming.

Implementing these functions is tantamount to revolutionizing most corrections organizations. Nevertheless, many agencies are taking on this challenge and have begun to increase their focus on outcomes and shift their priorities. Two fundamentally different approaches are necessary for such an alteration in priorities. One brings insights gleaned from external research evidence to bear on internal organizational practices. The other increases organizational capacity to internally measure performance and outcomes for current practice. When these two interdependent strategies are employed, an agency acquires the ability to understand what's necessary and practicable to improve its outcomes. The following describes how these approaches support EBP in slightly different ways.

### ***Outside (Evidence) — In Approach***

*Adopting research-supported program models fosters an outcome orientation and minimizes the syndrome of 'reinventing-the-wheel'. Insights, practices, and intervention strategies gleaned from external research can significantly improve the efficacy any program has if implemented with appropriate fidelity.*

One approach to EBP is to pay strict attention to the external research and carefully introduce those programs or interventions that are supported by the best research evidence. There are a growing number of examples of internal promotion of external evidence-based programs. The Blueprint Project, conducted by the Center for the Study and Prevention of Violence uses independent outside research to promote the implementation of effective juvenile programs.

The National Institute of Justice commissioned research investigators to conduct similar reviews of both adult and juvenile offender programming, recommending programs according to the caliber of the research support (Sherman et al, 1998). The Washington State Institute for Public Policy regularly conducts and publishes similar reviews for adult and juvenile offender programming implemented in Washington (Aos, 1998).

What these strategies have in common is the promotion of research-supported external program models within internal implementation and operations. These are *outside-in* applications striving to replicate proven models with fidelity. This approach is limited by the fact that environmental, cultural, and operational features vary between organizations and often have significant effect on program efficacy (Palmer 1995). Thus, the second *inside-out* approach to evidence-based practice attends to these internal factors.

### ***The Blueprint Project***

The Blueprint Project, conducted by the Center for the Study and Prevention of Violence (CSPV), examined literature on over 500 different program interventions with at-risk or delinquent youth. Ten programs met CSPV's strict criteria for scientific support. These were labeled *Blueprint* programs, while programs that partially met the criteria were designated *Promising* (Mihalic et al. 2001).

CSPV documented the operational details of these programs and distributed the descriptions to practitioners, emphasizing the importance of maintaining fidelity to the program models.

Programs that were scientifically determined to produce systematic and significant results were identified and promoted through a central clearing-house.

## Appendix B: Implementing the Principles of Evidence-Based Practice (con't.)

### *Inside (Evidence) — Out Approach*

*Developing and maintaining ongoing internal controls, particularly information controls related to key service components (e.g., treatment dosage, treatment adherence measures, etc.) ensures greater operational ability to effect outcomes.*

The program evaluation, performance, and audit research literature emphasizes that insufficient information controls not only hamper program assessment, but impede program performance (Mee-Lee et al, 1996; Burrell, 1998; Lipton et al, 2000; Dilulio, 1993). Such internal control issues appear not only in program evaluation research, but also in organizational development, business, and systems analysis.

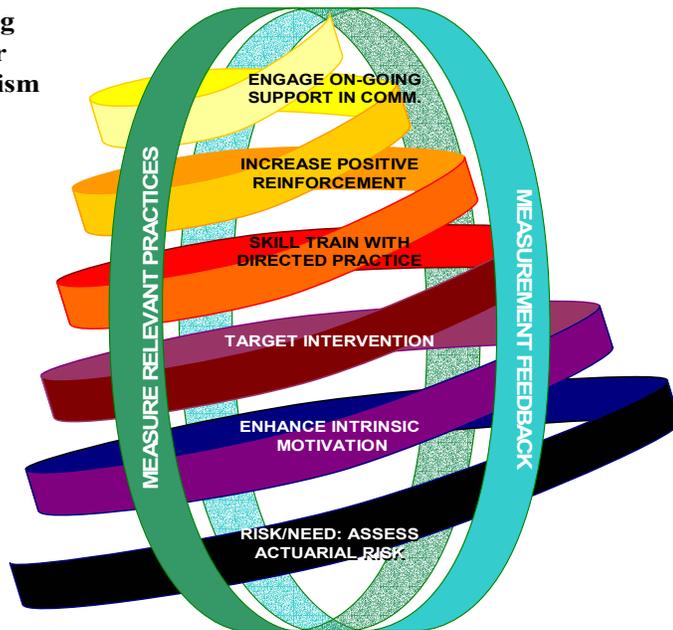
Internal controls provide information and mechanisms for ensuring that an agency will accomplish its mission (i.e., recidivism reduction). Agencies with *custodial* corrections orientations that emphasize *just-deserts* applications rarely utilize the same level of sophisticated information controls required by outcome-oriented corrections (Burrell 1998; Dilulio 1993; Lipton et al. 2000). Therefore, developing new methods for gathering operational information and then sharing and learning from them is a large part of the transition from *custodial* to outcome orientation in corrections.

Information controls necessary for implementing new or *best* practices specifically focus on key components within the desired practices. They include an ongoing process of identifying, measuring, and reporting key operational processes and functions:

<p>⇒ <b>Offender measures:</b></p> <ul style="list-style-type: none"><li>-Risk Level</li><li>-Criminogenic Needs</li><li>-Motivation</li></ul>	<p>⇒ <b>Operational measures:</b></p> <ul style="list-style-type: none"><li>-Program Availability</li><li>-Program Integrity</li><li>-Program Quality Assurance Norms</li></ul>	<p>⇒ <b>Staff measures:</b></p> <ul style="list-style-type: none"><li>-Interpersonal skills</li><li>-Abilities to discern anti-social thinking and behavior</li><li>-Attitudes and beliefs regarding interventions</li></ul>
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# Appendix C: Applying the Principles at the Case, Agency and System Levels

## Eight Guiding Principles for Risk/Recidivism Reduction



## The Eight Principles as a Guiding Framework

The eight principles (*see left*) are organized in a developmental sequence and can be applied at three fundamentally different levels:

- 1) the individual case;
- 2) the agency; and
- 3) the system.

Given the logic of each different principle, an overarching logic can be inferred which suggests a sequence for operationalizing the full eight principles.

### Case Level

At the case level, the logical implication is that one must assess (principle #1) prior to triage or targeting intervention (#3), and that it is beneficial to begin building offender motivation (#2) prior to engaging these offenders in skill building activities (#4). Similarly, positively reinforcing new skills (#5) has more relevancy after the skills have been introduced and trained (#4) and at least partially in advance of the offender's realignment with pro-social groups and friends (#6). The seventh (measure relevant practices) and eighth (provide feedback) principles need to follow the activities described throughout all the proceeding principles. Assessing an offender's readiness to change as well as ability to use newly acquired skills is possible anywhere along the case management continuum. These last two principles can and should be applicable after any of the earlier principles but they also can be considered cumulative and provide feedback on the entire case management process.

### Agency Level

The principles, when applied at the agency level, assist with more closely aligning staff behavior and agency operations with EBP. Initial assessment followed by motivational enhancement will help staff to prepare for the significant changes ahead. Agency priorities must be clarified and new protocols established and trained. Increasing positive rewards for staff who demonstrate new skills and proficiency is straightforward and an accepted standard in many organizations. The sixth principle regarding providing ongoing support in natural communities can be related to teamwork within the agency as well as with external agency stakeholders. The seventh and eighth principles are primarily about developing quality assurance systems, both to provide outcome data within the agency, but also to provide data to assist with marketing the agency to external stakeholders.

### System Level

The application of the Framework Principles at the system level is fundamentally no different than the agency level in terms of sequence and recommended order though it is both the most critical and challenging level. Funding, for most systems, channels through state and local agencies having either population jurisdiction or oversight responsibilities. Demonstrating the value of EBP is crucial at this level, in order to effectively engage the debate for future funding. However, as the scope and complexity increases with a system-wide application of these principles, the difficulties and challenges increase for communication, accountability, and sustaining morale. Therefore, in addition to adherence to a coherent strategy for EBP, development of implementation plans is warranted. Another distinction in applying the principles at the system level is the need for policy integration. The principles for EBP must be understood and supported by policy makers so that appropriate policy development coincides effectively with implementation. Once a system decisively directs its mission towards an outcome such as sustained reductions in recidivism, it becomes incumbent on the system to deliberately rely upon scientific methods and principles.

## Appendix D: Seven Recommended Guidelines for Implementing Effective Interventions

### Seven Recommended Guidelines for Implementing Effective Interventions

- I. *Limit new projects to mission-related initiatives.*
- II. *Assess progress of implementation processes using quantifiable data.*
- III. *Acknowledge and accommodate professional over-rides with adequate accountability.*
- IV. *Focus on staff development, including awareness of research, skill development, and management of behavioral and organizational change processes, within the context of a complete training or human resource development program.*
- V. *Routinely measure staff practices (attitudes, knowledge, and skills) that are considered related to outcomes.*
- VI. *Provide staff timely, relevant, and accurate feedback regarding performance related to outcomes.*
- VII. *Utilize high levels of data-driven advocacy and brokerage to enable appropriate community services.*

These recommended guidelines for implementing effective interventions are based on recent preliminary implementation research as well as some of the collective experience and wisdom of the field. They are not necessarily based on scientifically tested knowledge.

#### *I. Limit new projects to mission-related initiatives.*

Clear identification and focus upon mission is critical within business and the best-run human service agencies. When *mission scope creep* occurs, it has a negative effect on progress, morale, and outcomes.

(Harris & Smith, 1996; Currie, 1998; Ellickson et al, 1983)

#### *II. Assess progress of implementation processes using quantifiable data.*

Monitoring system implementations for current, valid information regarding progress, obstacles, and direction changes is pivotal to project success. These monitoring systems can not always be designed in advance but implementation plans should include provisions for obtaining this type of ongoing information.

(Harris & Smith, 1996; Burrell, 2000; Dilulio, 1993; Palmer, 1995; Mihalic & Irwin, 2003; Gottfredson et al, 2002)

## Appendix D: Seven Recommended Guidelines for Implementing Effective Interventions (con't.)

### *III. Acknowledge and accommodate professional over-rides with adequate accountability.*

No assessment tool, no matter how sophisticated, can (or should) replace a qualified practitioner's professional judgment. In certain instances, only human judgment can integrate and make the necessary subtle distinctions to adequately recognize and reinforce moral or behavioral progress. All professional over-rides need to be adequately documented, defensible, and made explicit.

(Burrell, 2000; Clear, 1981; Andrews, et al, 1990; Kropp, et al, 1995; Gendreau et al, 1999)

### *IV. Focus on staff development, including awareness of research, skill development, and management of behavioral and organizational change processes, within the context of a complete training or human resource development program.*

Staff need to develop reasonable familiarity with relevant research. Beginning in the 1990's there has been tremendous growth in the volume and quality of corrections related research. Much of the more recent research is directly relevant to everyday operational practice, therefore it is incumbent on professionals in the field to keep abreast of this literature. The current research literature includes *in-house* investigations, internet resources, and other public sector articles, as well as professional and academic journal publications. This literature is also evolving and becoming more international and inter-disciplinary in scope.

It is the responsibility of agency leadership to assist in the successful dissemination of recent research findings relevant to respective classes of job performers. Informed administrators, information officers, trainers, and other organizational *ambassadors* are necessary to facilitate this function in larger agencies or systems. Effective fulfillment of this principle is essential to promoting *Learning Organizations*.

(Latessa, et al, 2002; Elliott, 1980; Harland, 1996; Andrews, 1989; Miller & Rollnick, 2002; Taxman & Byrne, 2001; Taxman, 2002; Baer, et al, 1999; Gendreau, et al, 1999; Durlak, 1998)

### *V. Routinely measure staff practices (attitudes, knowledge, and skills) that are considered related to outcomes.*

Critical staff processes and practices should be routinely monitored in an accurate and objective manner to inform managers of the state of the operation. These measures occur at multiple levels (e.g., aggregate, for example: turnover and organizational cultural beliefs; and individual, for example: interviewing skills and ability to identify thinking errors) and should be organized accordingly and maintained in ongoing databases for the purposes of both supporting management and staff development.

(Gendreau, et al, 1999; Henggeler et al, 1997; Miller & Mount, 2001)

## Appendix D: Seven Recommended Guidelines for Implementing Effective Interventions (con't.)

### *VI. Provide staff timely, relevant, and accurate feedback regarding performance related to outcomes.*

Programs and agencies that want to produce better outcomes will ultimately learn to pay closer and more attention to what is involved in generating their own outcomes. Initially, agencies have much to learn and incorporate into policy from the generic research literature in corrections. Ultimately however, in order to achieve deeper adaptations and organizational support of effective practices, immediate, objective, and internal measures of the respective agency will be routinely required.

At an organizational level, gaining appreciation for outcome measurement begins with establishing relevant performance measures. Measuring performance implies a relationship between a given activity and a given output or outcome. These types of measures can be established at either the agency (aggregate) or individual job performer levels and there are several important issues related to establishing effective performance measures:

- 1) If a certain kind of performance is worth measuring, it's worth measuring right (with reliability and validity);
- 2) Any kind of staff or offender activity is worth measuring if it is reliably related to desirable outcomes;
- 3) If performance measures satisfy both the above conditions, these measures should be routinely generated and made available to staff and/or offenders, in the most user-friendly manner possible.

The primary ingredients of any correctional system or treatment program are staff and offenders. Therefore when a commitment emerges to develop greater focus on outcomes, it behooves management to learn how to better measure staff, offenders, and their related interactions. The latter is an evolutionary and ongoing process rather than change of operational components. Some examples of promising performance measures at the organizational level are: proportion of resource gaps at various treatment levels; degree of implementation and program fidelity; staff turnover; and organizational cultural norms. Examples of promising job performer level measures are: adequacy of communication (motivational interviewing) skills; consistency in certain functions (e.g., assessment, case planning, treatment referrals); and caseload average *gain* scores for offender dynamic risk indicators.

(Burrell, 1998; Lipton, et al, 2000; Carey, 2002; O'Leary & Clear, 1997; Bogue, 2002; Maple, 2000; Henggeler, 1997; Miller & Mount, 2001)

### *VII. Utilize high levels of data-driven advocacy and brokerage to enable appropriate community services.*

In terms of producing sustained reductions in recidivism, the research indicates that the treatment service network and infrastructure is the most valuable resource that criminal justice agencies can access. Collaborating and providing research and quality assurance support to local service providers enhances interagency understanding, service credibility, and longer-term planning efforts. It also contributes to the stability and expansion of treatment services.

(Corbette, et al, 1999; Gendreau & Goggin, 1995; Gendreau, et al, 1993; Meyers & Smith, 1995; Bogue, 2002; Maple, 1999)

## Appendix E: Levels of Research Evidence

This paper identifies eight principles from the research literature that are related to reduced recidivism outcomes. Research does not support each of these principles with equal volume and quality, and even if it did, each principle would not necessarily have similar effects on outcomes. Too often programs or practices are promoted as having research support without any regard for either the quality or the research methods that were employed. Consequently, we have established a research support gradient (*below*) indicating current research support for each principle. All of the eight principles for effective intervention fall between *EBP (Gold)* and *Promising EBP (Bronze)* in research support.

### RESEARCH SUPPORT GRADIENT

#### GOLD

- Experimental/control research design with controls for attrition
- Significant sustained reductions in recidivism obtained
- Multiple site replications
- Preponderance of all evidence supports effectiveness

#### SILVER

- Quasi-experimental control research with appropriate statistical controls for comparison group
- Significant sustained reductions in recidivism obtained
- Multiple site replications
- Preponderance of all evidence supports effectiveness

#### BRONZE

- Matched comparison group without complete statistical controls
- Significant sustained reductions in recidivism obtained
- Multiple site replications
- Preponderance of all evidence supports effectiveness

#### IRON

- Conflicting findings and/or inadequate research designs

#### DIRT

- Silver and Gold research showing negative outcomes



The five criteria listed above are similar to what has already been employed in a number of nationally recognized projects such as the Blueprints for Violence Prevention (Mihalic et al, 2001) and the National Institute of Justice's independent review of crime prevention programs (Sherman et al, 1998).

The highest quality research support depicted in this schema (gold level) reflects interventions and practices that have been evaluated with experimental/control design and with multiple site replications that concluded significant sustained reductions in recidivism were associated with the intervention. The criteria for the next levels of support progressively decrease in terms of research rigor requirements (silver and bronze) but all the top three levels require that a preponderance of all evidence supports effectiveness. The next rung lower in support (iron) is reserved for programs that have inconclusive support regarding their efficacy. Finally, the lowest level designation (dirt) is reserved for those programs that have research (utilizing methods and criteria associated with gold and silver levels) but the findings were negative and the programs were determined not effective.

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## Who Should Be Included?

A key concept in organizational development and the collaborative process is to ensure that those individuals and organizations most affected have a voice in the process of change. For collaboration to work, all relevant stakeholders must have a voice at the table. Since the actual number of participants must be somewhat limited to ensure efficiency, formal communication methods must be established to ensure that those unable to be at the table still have their views heard.

Leaders must assist stakeholders in understanding and appreciating the value that participation in the change process has for them. Involving external stakeholders not only increases their understanding of the system, but can also help to identify overlapping client populations and shared goals.

For example, as community corrections agencies implement evidence-based principles, they will shift their resource focus onto higher-risk offenders.

### Questions to Ask:

- *What partnerships currently exist in your system?*
- *Where do new partnerships need to be forged?*
- *How does participation in the change process assist partners in accomplishing their mission and vision?*

This shift in focus often results in decreased access to treatment resources for low-risk / high-need offenders. Involving human services agencies in the change planning process can help identify other treatment resources for these offenders.

The development of a policy-level committee that includes leaders from key stakeholder organizations and community groups and helps to guide change, is an essential component of implementing change in the public safety system.

Members of the policy committee should include policy makers from key stakeholder organizations and community groups, including those supportive of the change and those who may pose potential barriers to implementation. Involving those who may not be entirely supportive of all planned changes ensures a richer policy development, educates those policy makers more fully about the system, and may potentially alleviate future barriers.

This policy committee should be charged with guiding relative system-wide policy, implementing corresponding changes in their own organizations that support the system changes, and communicating with their own organizations about the impact of system changes.

**A common vision is an essential element of a successful collaboration.**  
*(See Appendix A.)*

## The Need for Structure

Every collaboration needs some structure, but the degree of structure varies for each collaboration. Collaboration participants should choose a structure that supports their endeavors and fits their desired level of joint activity and risk.

Methods of developing structure, such as charters, memorandums of understanding, and partnering agreements fulfill multiple purposes. For example, they can help clarify the authority and expectations of the group, roles/functions of all participants, focus parties on their responsibilities, and eliminate miscommunication and backtracking when staff changes occur. These tools should clarify decision-making responsibility and emphasize the concept that no single agency or individual is *in charge* in the familiar sense. Instead, professionals from each *center of expertise* are empowered to do what they do best to the enhancement of the collective goal.

**A charter clarifies the authority and expectations of a work group.**  
*(See Appendix B.)*

### Questions to Ask:

- *What are we doing? Why are we doing it?*
- *How are we going to get it done? Who is going to do what?*
- *What are the communication pathways within our collaboration?*
- *Who has authority to make specific decisions?*
- *How do we consciously develop mutual respect within our collaboration?*

## Sustaining Collaboration

Collaboration and system change are very time consuming and resource intensive processes. They require constant attention and nurturing to maintain momentum. *Acknowledging the inevitability of obstacles, admitting them when they reappear, developing collective strategies to overcome them, and having a sense of humor are all important in surviving the process* (Feely, 2000).

Working collaboratively with system partners provides a greater opportunity for successful implementation of true organizational change. With a united and common vision, the combined efforts of stakeholders can achieve more than any one organization could alone. No organization exists in a vacuum; therefore, recognizing the inherent interdependence, and including it in the development of change implementation strategies, greatly enhances the chance of success.

# A Collaborative Model for Implementing Change

Collaborative endeavors must develop a balance between broad participation and the need to make decisions and take action. *The collaborative process has to be perceived as fair, not dominated by one interest group, and accessible to all stakeholders* (Carter, Ley, Steketee, Gavin, Stroker, Woodward, 2002).

It should ensure that the number of participants is small enough to allow for productivity, but broad enough to get widespread support. The collaboration model illustrated in Figure 1 can be used to implement systemic change in criminal justice systems. It identifies multiple levels of systemic involvement, both internal and external to the targeted organization. The collaborative work takes place at all levels, including policy teams, work teams, and implementation teams. Although each of these teams may share an overriding vision of system change as reduced recidivism, each team has different work to do. A collaborative policy team focuses on policy

changes at a systemic level, site work teams direct the internal change work of the organization, and implementation teams are responsible for the practicalities of making change happen.

Mutual respect and understanding is key to sustaining shared authority in collaborative relationships. Borrowing from a concept developed by Michael Hammer in *Beyond Reengineering*, all partners are seen as *Centers of Excellence*, defined as a *collective of professionals, led by a coach, who join together to learn and enhance their skills and abilities to contribute best to whatever processes are being developed. Each agency is an expert at performing its piece of the work of public safety* (Carter, Ley, Steketee, et al, 2002).

In the model below, teams include representation from these *Centers of Expertise*, such as the court, prosecution, defense, corrections, law enforcement, probation, and parole. Each center may be a self-contained organization, but all are linked with

the other centers through the public safety system. The collaboration participants work together towards the shared vision of enhanced service provision and reduced recidivism.

## Questions to Ask:

- Are key stakeholders / centers of expertise involved within each locus of collaborative work?
- Do participants at all levels understand and buy in to the vision?
- Do participants understand how collaboration works?

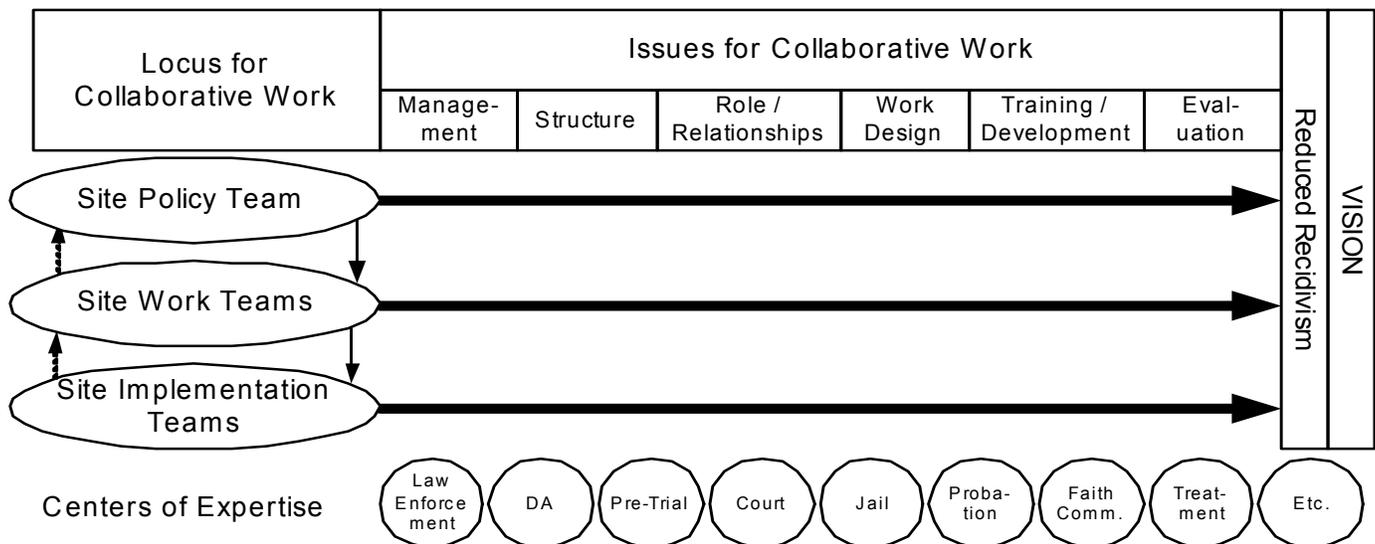
**Collaborations must determine how they will make decisions.**

*(See Appendix C.)*

**Build upon small wins. Celebrate and institutionalize changes quickly.**

*(See Appendix A.)*

**Figure 1: Collaboration Model**





Supporting the effective management and operation of the nation's community corrections agencies

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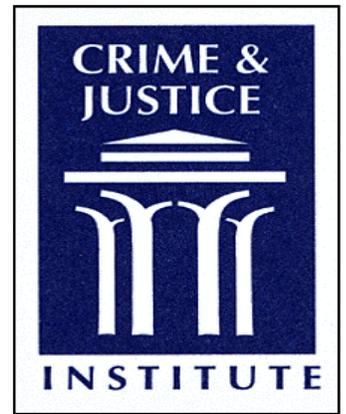
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Creative, collaborative approaches to complex social issues

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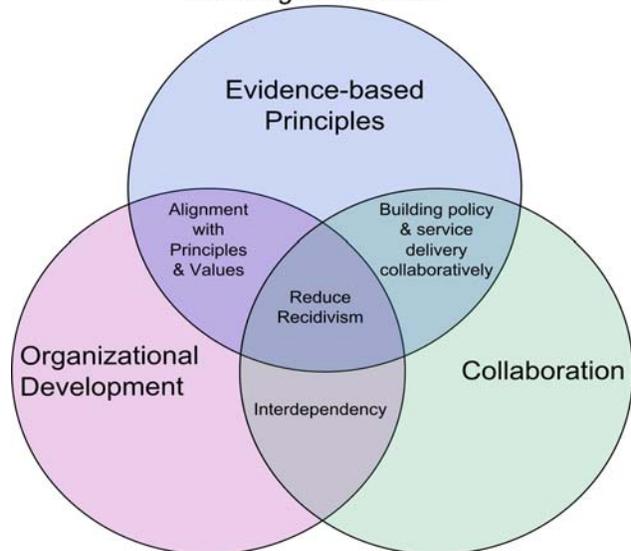
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*The project team is committed to enhancing community corrections systems to better reduce recidivism using research-supported principles.*

**List of Appendices:**

- ♦ **Appendix A** (pages 5-6):  
Essential Elements of Collaboration
- ♦ **Appendix B** (page 7):  
Chartering
- ♦ **Appendix C** (page 8):  
Consensus Decision-Making
- ♦ **References** (page 9)

Implementing Effective Correctional Management of Offenders in the Community:  
*An Integrated Model*



# Appendix A: Essential Elements of Collaboration

The following is a compilation of elements essential to creating and maintaining a successful collaboration.

The list is adapted from The Wilder Foundation and incorporates views from Kathleen Feely's *Pathways to Juvenile Detention Reform: Collaboration and Leadership, 2000* as well as Madeline Carter, Ann Ley, Martha Wade Steketee, et al's 2002 *Collaboration: A Training Curriculum to Enhance the Effectiveness of Criminal Justice Teams* and Gwendolyn Griffith's *Report to Planning Committee on the Study of Three Collaborations, 2000*.

## 1. Common Vision

- Define a problem to be solved or task to be accomplished that will result in a mutually beneficial outcome.
- Seek agreement regarding a shared vision to develop system-wide commitment.
- Develop strategies for achieving the vision.
- Ensure a safe environment for vocalizing differences.
- Find a common ground and keep everyone engaged and at the table.

## 2. Purpose

- Develop a unique purpose and clarify the need for change.
- Build concrete, attainable goals and objectives.
- Seek agreement between partners regarding strategies.
- Create incentives for collaboration and change.

## 3. Clarity of Roles and Responsibilities

- Value the unique strengths that each partner brings to the collaboration.
- Clarify *who does what*, and create a sense of accountability.
- Take time to develop principles defining how participants will work together and revisit them often.
- Focus on strengths.
- Listen to, acknowledge, and validate all ideas. Be inclusive.

## 4. Healthy Communication Pathways

- Ensure open and frequent communication.
- Establish formal and informal communication links to strengthen team bonds and direct the process.

## 5. Membership

- Develop an atmosphere of mutual respect, understanding, and trust that is shared between participants.
- Help participants to see that collaboration is in their

self-interest.

- Develop multiple layers of decision-making or consensus-based decision-making to create ownership of the project and maintain communication.
- Ensure that members share a stake in both the process and outcomes, have the ability to make compromises, and the authority to make decisions.

## 6. Respect and Integrity

- Ensure that respect and integrity are integral to the collaborative relationship. A collaboration will fail without these two elements.
- View all partners as representatives of organizations and as *Centers of Expertise*.
- Ensure that all partners offer each other *procedural respect* and *role respect*.
- Overcome feelings of skepticism and mistrust. If not, they will undermine achievements of the collaboration.

## 7. Accountability

- In order to clarify mutual expectations, partners must explicitly understand the following: their accountability to each other, to the collaboration as a whole, and to his or her parent organization.
- In order to create mutually agreed-upon expectations of accountability, each collaborative partner must understand the others' *accountability landscape* (i.e.: their organization's history, successes, and challenges).
- Once a common understanding is achieved, the modes of attaining accountability can be developed among the partners.

## 8. Data-Driven Process

- Focus on data. *The centerpiece of reform implementation is a data-driven, outcome oriented, strategic planning process and a cross-agency coordinated plan* (Feely, 2002).

(Continued on page 6)

## Appendix A: Essential Elements of Collaboration (con't.)

(Continued from page 5)

- Maintain a process that is flexible and adaptable to obstacles or barriers.
- Develop clear roles and policy guidelines, and utilize process improvement strategies.
- Identify and collect outcome data. *Identifying clear, measurable outcomes and charting progress toward their attainment is the most concrete and visible basis for accountability in complex change strategies* (Feely, 2002).
- Utilize data to review and refine processes and outcomes.
- Evaluate the process; self-assessment and data are essential tools for effective collaboration. The strength of the collaboration will grow as access and capacity to use data to inform policy and program decisions increases.

### 9. Effective Problem Solving

- Identify problems in a safe way before they become crises.
- Offer collaboration participants an agreed-upon process to resolve problems effectively and efficiently.
- Continually assess team effectiveness and take steps to strengthen their work together (Carter, Ley, Steketee, et al, 2002).

- Build upon *small wins*. Celebrate and institutionalize changes quickly.

### 10. Resources

- Provide sufficient funds and staffing necessary to maintain momentum.
- Use skilled convener(s), as they can help to keep leadership and working groups on task and organized.

### 11. Environment

- Develop a reputation for collaborating with the community.
- Be seen as a leader in collaborative work within the community.
- Develop trust, as it is a critical element in a collaborative climate.
- Develop a favorable political/social climate – a political climate that supports collaboration is one that recognizes what collaboration is, values it as a process for social action, and supports collaborative efforts.

### Questions to Ask: *How Do We Know if We're Successful?* (Griffith, 2000)

Once you've begun a collaboration process, ask yourself and your collaboration participants the following questions to determine how well you're doing.

- ❖ **Reliability** – Does the collaboration consistently produce the desired substantive outcome (the work it intended to accomplish)?
- ❖ **Adaptability** – Is the collaboration adaptive to changes in its environment, in the collaboration itself, and in the problem domain? Change is inevitable, and a successful collaboration will be on the lookout for change and respond to it appropriately.
- ❖ **Legitimacy** – Do the collaboration members view each other as legitimate players in the problem domain? Do they view the collaboration as a legitimate player in the larger problem domain? How is the collaboration viewed by those not involved?
- ❖ **Efficiency** – Is the work of the collaborative performed in an efficient and cost-effective way? Is there sufficient structure to allow the members to communicate and accomplish necessary joint problem solving?
- ❖ **Accountability** – Is the collaboration accountable to the “right” people in the “right” ways?
- ❖ **Sustainability** – Is the collaborative work sustainable in the long term? Has the collaboration identified any of its vulnerabilities and/or adapted for them? Is its robustness tied to particular funding streams, people or organizations?

## Appendix B: Chartering

Chartering is a technique used to guide the efforts of workgroups, providing structure and specifying outcomes, clarifying decision-making authority, and ensuring organizational and leadership support for the work of the group. The technique should be used for defining the work of all teams, especially those faced with long-term projects. Upon convening a workgroup, a charter document is written and approved by leadership. The charter document provides a *road map* for any work group, clearly identifying goals and guiding efforts to achieve those goals.

Steps to developing a charter are as follows:

### Background

- ❖ Outline the problems and issues behind the organizational change effort.
- ❖ Express the commitment of management to the change effort.
- ❖ Clearly outline and communicate the purpose of the group.

### Task

- ❖ Describe the importance of the group's work in relation to the organizational change effort.
- ❖ Describe, in detail, the tasks the work group is directed to complete.

### Guidelines

- ❖ Describe guidelines for how the group will complete its work; and clearly indicate any internal and/or external boundaries that restrict the group's work.
- ❖ Use ground rules to describe how the group will operate in terms of decision-making and group process. The following is a list of ground rule examples:
  - Decisions will be reached by consensus.
  - One person speaks at a time.
  - All group members are equal for the purposes of the chartered work and related group activities.
  - Confidentiality must be respected in the group, i.e., what is stated in the group remains in the group.
  - Share all relevant information.
  - Open disagreement is safe.
- ❖ Guidelines should also outline how the group will interact with the rest of the organization:
  - What information should be shared with leadership and who will bring that information to them?
  - To what degree will the group engage stakeholders external to the organization?
  - How will the group celebrate its progress? Celebrate those small steps!

### Chartered Work Group Membership

Work group membership, while as inclusive as possible, should be limited to a workable number. For most purposes, groups should not exceed eight to twelve members. A specific listing of the group membership should be included in the chartering document. Group member roles should be clearly identified, including how the roles of facilitator and recorder will be managed. These roles may be assigned to one particular member or rotated among members.

### Resources

The charter should identify other individuals or groups that may act as resources to the group, such as an external consultant or clerical support. The group's sponsor (management / leadership) should be clearly identified. This individual will act as a liaison for the group with organizational leadership and should have the authority to allocate organizational resources that may be needed.

### Due Dates

The charter should identify a timeline for the group's work and any interim status reports. The reporting format and audience should be clearly identified.

## Appendix C: Consensus Decision-Making

(Primary contributor: Bob McCarthy and Co.)

Decision-making by consensus allows all group members a voice and opinion. This discussion allows for compromise to reach consensus. Consensus occurs when all group members can honestly say:

*I am willing to support and implement the chosen direction.*

Although the ultimate decision may not be what all group members had personally hoped for, given their knowledge on the subject, the range of opinions in the group, and the time available to work the issues and personalities involved, the decision is one that *they can live with*.

Consensus decision-making involves a cooperative effort to find a sound solution acceptable to everyone

rather than a competitive struggle in which an unacceptable solution is forced on the losers. With consensus as a pattern of decision-making and interaction, group members should not fear being outsmarted or outmaneuvered. They can be frank, candid, and authentic in their interaction at all steps in the decision-making process.

The process of arriving at consensus is a free and open exchange of ideas which continues until agreement is reached. A sound consensus process ensures that the concerns of all group members are heard; and a sincere attempt has been made to take them into consideration in the search for, and the formulation of, a conclusion. The conclusion may not reflect the exact wishes of each member, but it should not violate the deep concerns of any.

Achieving real consensus requires skill in straight communication and working through differences.

The following communication guidelines assist groups to reach consensus:

- ❖ Take responsibility for what you want and do not want. Be specific about who you want it from.
- ❖ Make your position known: what do you think, want, or feel.
- ❖ Make liberal use of sentence structure: *I want/don't want x from y* and *I think/feel x*.
- ❖ Do not hide behind questions. Make proposals instead.
- ❖ Avoid *shoulds*.
- ❖ No plops! Respond to others. Do not leave them hanging.
- ❖ Talk to, not about, a person.
- ❖ Listen for feelings and try feeding them back.
- ❖ Check out assumptions, do not mind read.
- ❖ No *chicken soup*: do not smooth over problems.
- ❖ Take responsibility for your own feelings. No one *makes* you angry.

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## References for Collaboration

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# Implementing Evidence-Based Principles in Community Corrections: Leading Organizational Change and Development



*Project Vision:* To build learning organizations that reduce recidivism through systemic integration of evidence-based principles in collaboration with community and justice partners.

## Changing the Way We Do Business: The Integrated Model

States across the nation are struggling to manage burgeoning offender populations in the face of major budget cuts. Prisons and jails are operating at or over capacity and the offender population continues to grow. Policy-makers are focusing increasingly on community corrections, recognizing the need to rely more heavily on less expensive and more effective methods of supervising offenders.

Community corrections leaders are being called on to alleviate system pressures by supervising increasing numbers of offenders more efficiently and effectively: maintaining public safety with a larger population of offenders and a smaller budget.

Meeting this challenge requires community corrections leaders to rethink how they do business and to lead their organizations through rapid change

and innovation. Change is needed because traditional methods of offender supervision will not meet the current challenges facing community corrections agencies.

To improve supervision effectiveness and enhance the safety of our communities, agencies must adopt evidence-based principles of supervision -- principles that have been scientifically proven to reduce offender recidivism. Agency budgets can no longer support programs and supervision practices that are not proven effective.

Shifting the way community corrections agencies do business is no easy task. It requires energetic leadership with a willingness to place equal focus on evidence-based principles in service delivery, organizational development, and collaboration.

### An Integrated Model



These three components form an integrated model for system reform. Each component of the integrated model is essential. Evidence-based principles form the basis of effective supervision and service provision. Organizational development is required to successfully move from traditional supervision to evidence-based practice. Organizations must rethink their missions and values; gain new knowledge and skills; adjust their infrastructure to support this new way of doing business; and transform their organizational culture. Collaboration with system stakeholders enhances internal and external buy-in and creates a more holistic system change.

***Successful implementation of evidence-based principles can be achieved when equal emphasis is placed on organizational development and collaboration.***

## Organizational Case Management

The organizational development concepts and strategies presented here mirror the evidence-based principles of effective offender supervision. The same principles used to manage offender cases and change offender behavior can be used to manage organizations and change organizational behavior. These principles include: *assessment, intervention, and monitoring / measurement*. These concepts are broad enough to fit most in-progress organizational development efforts and yet sufficiently simple and direct to allow for guided implementation in community corrections agencies.

Shifting to an evidence-based agency management approach may require significant changes in the way business is conducted. Some changes may include how staff: are recruited and hired; conduct their job duties; receive performance feedback, and interact with each other, offenders, and system stakeholders. While the strategies that follow will help guide leaders toward the goal of implementing evidence-based practices both in offender supervision and organizational management, leaders must be prepared for the inherent challenges of conducting such a transition process.

## Assessment/Diagnosis:

Assessment determines the existing status of an individual, organization, and/or practice by providing information on the potential and options for change. Assessment strategies include:

- ❖ Surveys (Gather information either through self-report or third party reporting. Survey designs can either be used *off the shelf* or customized to fit specific organizational needs.)
- ❖ Interviews
- ❖ Observation
- ❖ Data review and analysis

**A Search Conference helps to create a shared future vision.**  
*(See Appendix B.)*

## Intervention:

Intervention activities are designed to respond to the needs/issues identified in the assessment/diagnosis process.

Intervention strategies include:

- ❖ Strategic planning
- ❖ Systems restructuring
- ❖ Change management
- ❖ Facilitation
- ❖ Team building
- ❖ Coaching and mentoring
- ❖ Education/training
- ❖ Skill building activities & competency development
- ❖ Solicit and use input from across the organization to create a sense of ownership
- ❖ Feedback activities (Designed for individuals and/or groups. Strategies include 360° feedback tools and feedback intensive programs.)
- ❖ Performance measurement
- ❖ Succession planning

## Monitoring and Measuring Performance:

Monitoring and measuring performance on both a short and long-term basis provide data on changes in knowledge, skills, attitudes, and behavior. Types of measures include:

- ❖ Process measures: Provide feedback throughout change process.
- ❖ Outcome measures:
  - Individual: Measure actual change in knowledge, skills, attitudes, and/or behavior. Measurement tools include surveys, performance evaluation, and data analysis.
  - Organizational: Measure improvement in productivity as well as progress toward organizational goals. Measurement tools include surveys and data analysis.

**The concept of *providing value* should drive decision-making in the public sector.**  
*(See Appendix A.)*

*The same principles used to manage offender cases and change offender behavior can be used to manage organizations and change organizational behavior.*

## The Leadership Challenge

Leadership is the art of mobilizing others to struggle for shared aspirations.

~ Kouzes & Posner,  
the Leadership Challenge

The artistry of leadership exists in choosing the manner by which one will influence people. Different situations require different leadership styles and strategies. Leaders are most effective when they create a *shared desire* by a group to attain a goal or to move in a particular direction.

In the public sector, leaders are expected to articulate the values that drive their beliefs about needed change. Reiterating those values throughout the

change process helps to institutionalize them.

Strong and flexible organizational leadership is key to the success or failure of any change effort. It is especially true when implementing evidence-based practices in community corrections due to the complexity of implementing change in the public safety system.

The systemic nature of the public safety system requires that leadership identify, create, and show value to internal and external stakeholders. In Mark Moore's *Creating Public Value*, he emphasizes a key assumption for any service provided by the public sector: the service or product provides value for a variety of constituents.

Public sector leaders must focus on: defining the value their organization provides to the public; building support for the organization and its services as they align with that value; and ensuring the necessary organizational capacity exists to achieve that value.

Leaders of community corrections organizations interested in building value through implementing this level of systemic change must evaluate their readiness to lead this intensive transition.

Developing and leading an organization that not only provides public value, but also functions as a learning organization, requires the capacity and willingness to practice outcome-oriented, collaborative leadership styles instead of more traditional, authoritarian styles of leadership.





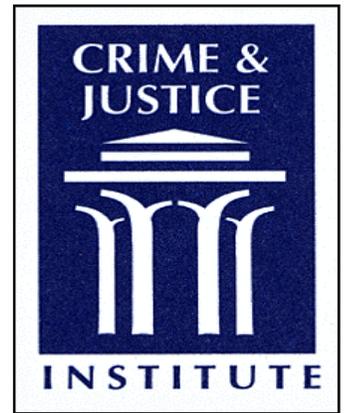
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Creative,  
 collaborative  
 approaches to  
 complex social  
 issues

Supporting the  
 effective  
 management and  
 operation of the  
 nation's community  
 corrections agencies

*Special recognition and deepest thanks go to the following project team members  
 who contributed to these documents:*

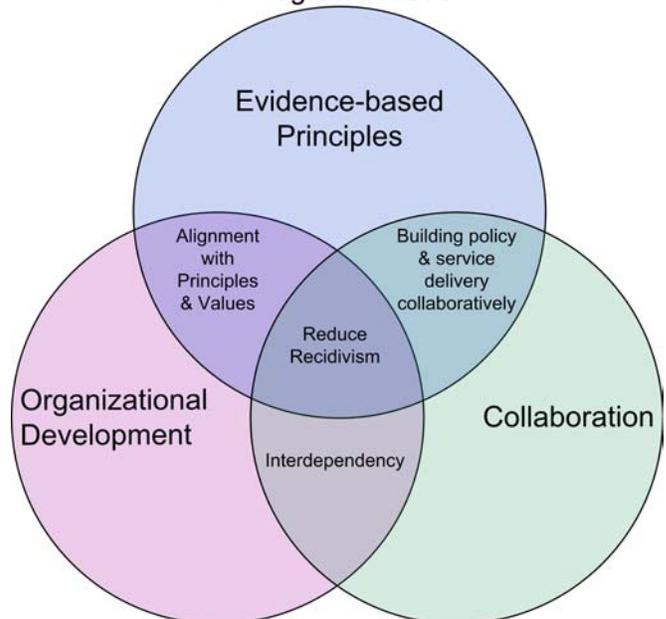
Brad Bogue, Nancy Campbell, Mark Carey, Elyse Clawson, Dot Faust, Kate Florio, Lore Joplin,  
 George Keiser, Billy Wasson, and William Woodward

*The project team is committed to enhancing community corrections systems  
 to better reduce recidivism using research-supported principles.*

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Implementing Effective Correctional Management  
 of Offenders in the Community:  
*An Integrated Model*



## Appendix A: The Literature

The organizational development component of this project relies heavily on Peter Senge's *The Fifth Discipline* and Mark Moore's *Creating Public Value*. Senge's and Moore's models provide a framework upon which organizations can begin their internal work. In Senge's *The Fifth Discipline*, he introduces the concept of a *Learning Organization* – an organization that is continually aware of and working to implement evidence-based principles, develop corresponding organizational capacity, and develop collaborative relationships with public safety and community partners. The learning organization strives for alignment and parallel development in all three areas to better achieve the outcome of reduced recidivism. The alignment or intersection of these three components is the creative zone where it is most possible to reduce the recidivism of offenders and minimize the number of new or repeat victims in our communities.

### *The Fifth Discipline - Peter Senge*

Senge highlights five disciplines as the keys to achieving the capacity of a learning organization, emphasizing the fifth discipline, *systems thinking*, as the most important:

1. **Personal Mastery:** Continually clarifying and deepening our personal vision, focusing our energies, developing patience, and seeing reality objectively;
2. **Mental Models:** Understanding the deeply ingrained assumptions, generalizations, or mental images that influence how we understand the world and how we take action (manage offenders);
3. **Building a Shared Vision:** Collaborative creation of organizational goals, identity, visions, and actions shared by members;
4. **Team Learning:** Creation of opportunities for individuals to work and learn together (collaboratively) in a community where it is safe to innovate, learn, and try anew; and
5. **Systems Thinking:** View of the system as a whole (integrated) conceptual framework providing connections between units and members; the shared process of reflection, reevaluation, action, and reward.

*A Learning Organization is continually aware of and working to implement evidence-based principles, develop corresponding organizational capacity, and develop collaborative relationships with public safety and community partners.*

Also emphasizing the importance of systems thinking, Mark Moore focuses on the leader's ability to identify, create, and show value internally and externally. A key assumption for any service provided by the public sector is that the service or product provides value for the variety of constituents. Just as in the private sector, where the goal is to provide value to the shareholder, the public sector attempts to provide value to its stakeholders. The concept of providing value should drive decision-making in the public sector.

The question that then arises is *what do citizens want or value of the services corrections has to offer?* Citizens often see the value of corrections systems as limited, confined to those convicted of a crime. Many citizens are not familiar with the complexity of corrections systems or the various options available for supervision. While it is clear that some offenders must be incarcerated based on the seriousness of the crime, in the interest of public safety, and as a consequence for their behavior, research indicates that most offenders can be more effectively and efficiently managed in the community. Clearly citizens want recidivism reduction, but they often do not understand how best to achieve this goal.

## Appendix A: The Literature (con't.)

### Creating Public Value - Mark Moore

*What would it take for citizens to see community-based corrections as the preferred option for recidivism reduction?*

What would it take for citizens to see community-based corrections as the preferred option for recidivism reduction? To be taken seriously, the field must measure results in a way that helps citizens to understand the value of the service. Community-based corrections agencies must operate as learning organizations, constantly measuring themselves and their ability to enhance public safety and reduce recidivism. They must measure how well they are assessing and delivering *what works*, how productive the organization is, and how well it is collaborating with stakeholders.

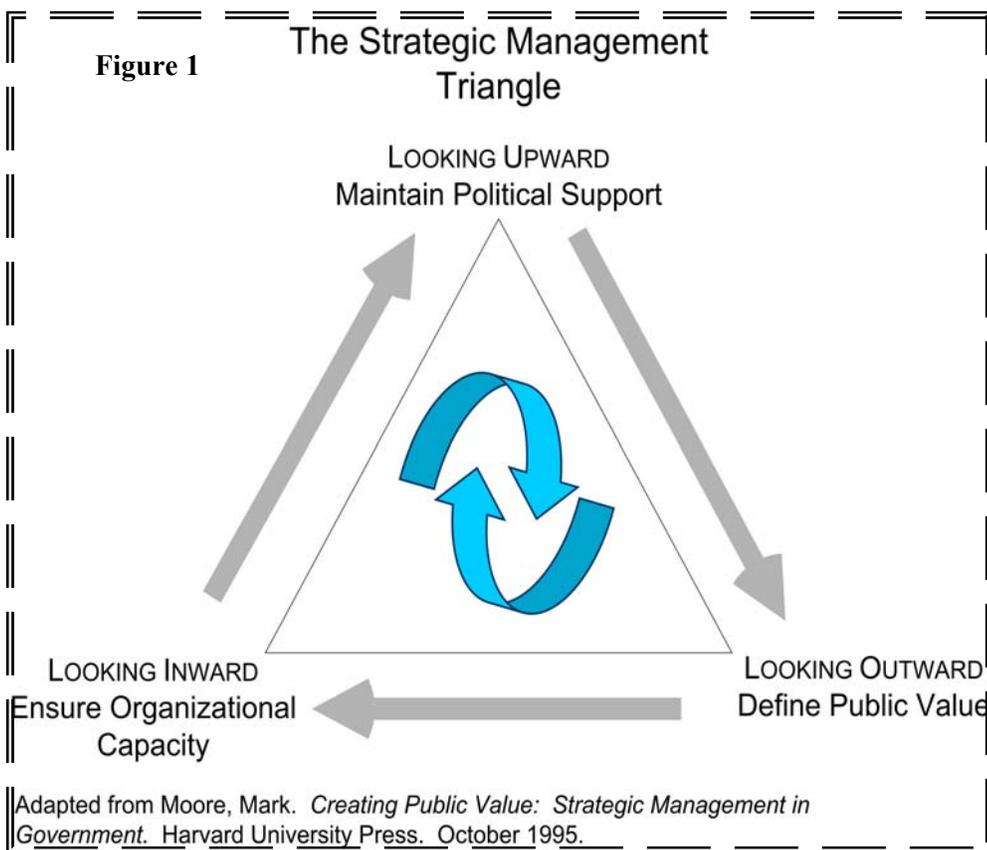
In his book, *Creating Public Value*, Mark Moore's framework, the Strategic Management Triangle (Figure 1) provides a simple yet powerful framework that helps leaders to ensure that their organizations are *creating public value*. Public sector leaders must focus on defining public value, building support for the organization / services as they align with that value, and ensuring the necessary organizational capacity exists to achieve that value.

Moore argues that the first job of any public sector leader is to *define the value* of the services provided to key stakeholders. Unless authorizing bodies, i.e., legislative and judicial bodies, funding entities, and citizens, see the value in the services provided, they won't support the agency's efforts to acquire the resources and / or the legislative or executive mandates necessary to deliver the services. This means it is important to define for authorizing bodies why a service should be provided and funded. Collaboration and partnership building with stakeholders ensure that those entities understand *and support the organization's vision and incremental efforts*.

Second, the agency must produce the services in a way that *builds political and legal support* for the service. The service must be evaluated to ensure that it meets the interests and concerns of the citizens and their representatives. The strategic manager is adept at developing an organizational strategy that addresses the often conflicting concerns of many stakeholders. The leader must build political support for the service.

Finally, the strategy must be one that is *administratively and operationally feasible*. The agency must be capable of executing the strategy. For example, if a leader proposes a new service, but fails to either reduce existing workload or provide new resources, staff are unlikely to be able to deliver that service well. The agency must be capable of delivering all of its services in the most effective and efficient way.

The *Strategic Management Triangle* framework reminds practitioners that to achieve the goal of reduced recidivism requires not only the implementation of evidence-based practices, but also the ability to develop the requisite organizational capacity, to build and maintain collaborative relationships with stakeholders, and to demonstrate the value of evidence-based practices to those stakeholders.

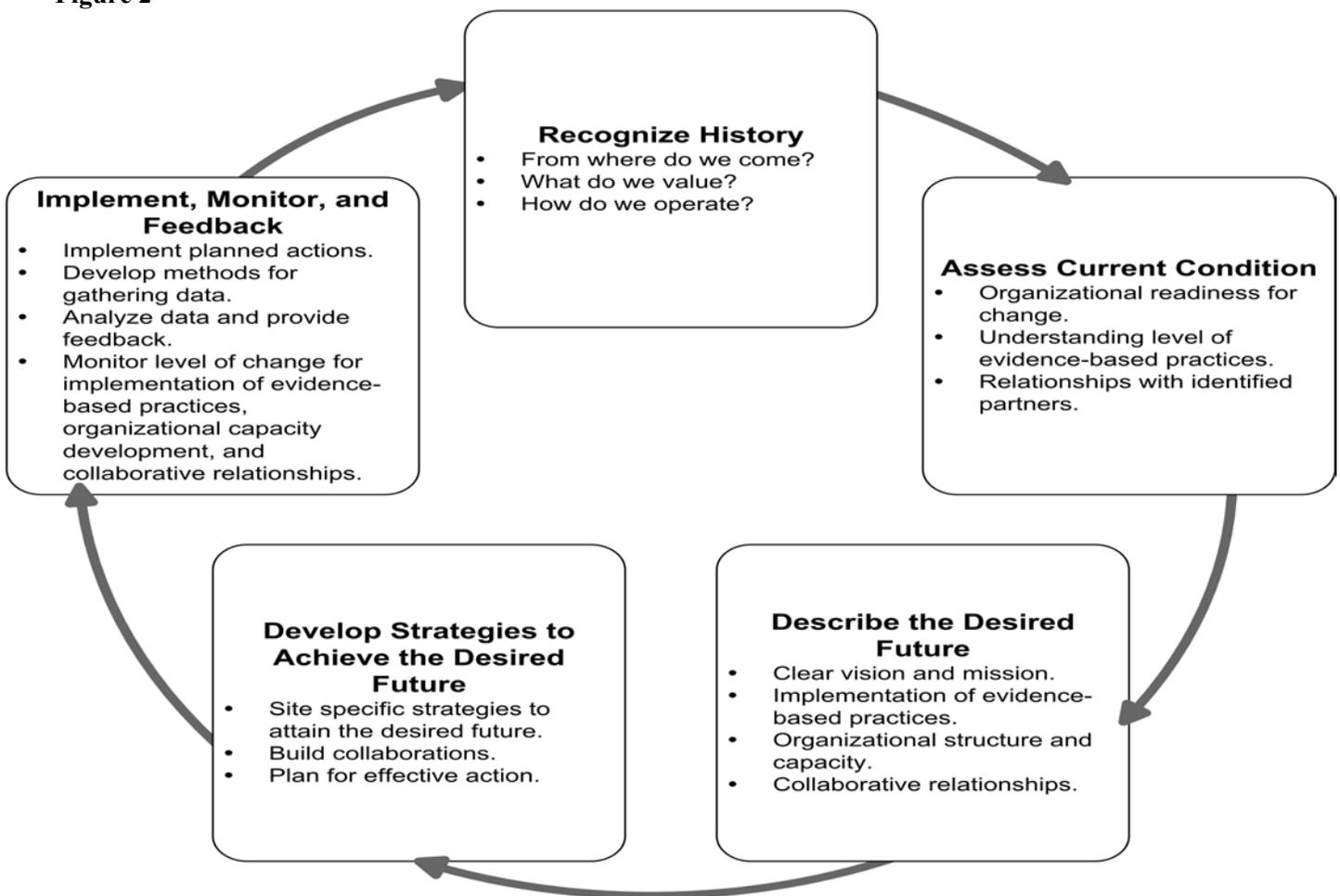


## Appendix B: An Integrated Organizational Change Process Model: *Using the Search Conference*

Organizational change in public safety organizations requires a complex systemic transformation. No agency operates in isolation; therefore, the inclusion of system stakeholders is critical to the success of any such change effort. The organizational change process model in Figure 2 assumes that all stakeholders have a voice in the change process. It is based heavily on the *Future Search* model of Marvin Weisbord and Sandra Janoff. Their model uses a large group planning meeting that brings together all system stakeholders to work on a task-focused agenda.

*In a future search, people have a chance to take ownership of their past, present, and future, confirm their mutual values, and commit to action plans grounded in reality.*

Figure 2 **The Integrated Model Organizational Change Process**



Organizations implementing significant systemic change will benefit from considering each of these phases and by asking themselves the related questions prior to beginning and throughout the implementation process.

## Appendix B: An Integrated Organizational Change Process Model: *Using the Search Conference* (con't.)

### ❖ Recognize History:

Organizational members must reflect on *where they come from as an organization, where they have been, and what they have experienced during that journey*. This reflection enables organizations to clarify and articulate a collective narrative and shared vision of history. This shared history can then become a launching pad for change rather than a warehouse for an uninterpretable array of artifacts and anecdotes.

#### Questions to Ask:

- *How did we, as an organization, arrive at our current structure, technologies, and culture?*
- *What do we value?*
- *How do we operate?*

### ❖ Assess Current Condition:

Assessment and documentation of the present condition assists the organizational members in determining *where they are at the current time and what gaps remain*. Participants must assess the degree to which the organization's beliefs, operational systems, technologies, policies, and practices are consistent with, and supportive of, evidence-based practices. Participants must pay attention to the organizational culture, as well as the quality and types of existing collaborations and partnerships with internal and external stakeholders.

#### Questions to Ask:

- *What is our organization's level of change readiness?*
- *How well are evidence-based practices understood and implemented in our system?*
- *Who are our partners?*
- *How well are we working with them?*

### ❖ Describe the Desired Future:

In expressing a vision for the future, the organizational members describe their ideal picture of the changed organization. The participants, along with leadership, articulate a vision for organizational change at all levels. By creating a vision of a learning organization, members become committed to the journey of change that provides value to employees, clients, and stakeholders.

#### Questions to Ask:

- *What do we want our organizational future to look like?*
- *What is our organizational vision and mission?*
- *At what level do we envision the implementation of evidence-based practices?*
- *What type of organizational structure is needed to best support evidence-based practices?*
- *What collaborative relationships need to be developed to strengthen implementation?*

## Appendix B: An Integrated Organizational Change Process Model: *Using the Search Conference* (con't.)

### ❖ **Develop Strategies to Achieve the Desired Future:**

- Build collaborations of mutual interest. Correctional organizations relate to and are dependent on many partners throughout the public, private, and community-based sectors who share a commitment to achieving the outcomes of reduced recidivism and increased public safety.

#### Questions to Ask:

- *With whom does the organization partner and collaborate?*
- *How do partnerships and collaborations help members successfully achieve their goals and further their unique corporate mission?*

- Plan for effective action to reach the desired future. Develop a detailed, concrete plan of action that is time phased, measurable, politically and culturally competent, and includes effective, sustainable accountability and feedback loops. Clearly define the multiple roles of participants.

#### Questions to Ask:

- *What steps does the organization need to attain its goals?*
- *What are the specific activities needed to ensure an equal focus on evidence-based practices, organizational development and capacity building, and collaborative relationships?*

### ❖ **Implement, Monitor, and Provide Feedback:**

- Carry out the implementation: Planning without action often leads to desperation and hopelessness for staff and stakeholders. Successful implementation results from a broad and deep commitment throughout the organization, relentless attention to the vision, support for the change process, removal of barriers, and careful monitoring and adjustment of the change process.

#### Questions to Ask:

- *How will we gather data?*
- *What types of feedback are needed by which groups?*
- *How will we monitor progress and make adjustments when necessary?*

- Feedback: Gathering, sharing, assessing, and constructing a valid and shared interpretation of the information. Successful implementation results from the availability and management of information that is meaningful, timely, and accurately represents the progress made on the change plan within the unique cultural and political context of the participating site.

## Appendix C: The Importance of a Healthy Organization

A healthy organization forms the foundation for an effective change process. One of the first steps in the change process — and one that must be maintained throughout the process — is ensuring the health of the organization.

**The organization can survive -- and thrive -- if it can sustain itself through the inevitable ups and downs experienced during change.**

Mark Carey, an expert on community justice, defines the characteristics of communities that are ready for significant change and community building. The components he describes are the same characteristics that mark a healthy organization and are critical to the success of any change effort. Leadership must foster these characteristics within the organization at all times.

- ❖ Trust among diverse groups
- ❖ Shared meaning
- ❖ Meaningful work for members of the organization
- ❖ Respect
- ❖ Commitment to the change process
- ❖ Clear communication
- ❖ Social cohesion
- ❖ Leadership and continually emerging new leadership
- ❖ Widespread participation
- ❖ Simultaneous focus on the purpose, process, and product
- ❖ Building organizational development skills
- ❖ Appropriate decision making

## Appendix D: Leadership Styles and Leading Change

### Leadership Style

Traditionally, public safety agencies have relied on para-military or other highly stratified command and control management models. These models hinder the successful implementation of evidence-based practices, and require significant changes in organizational structure and leadership philosophy. Changes are also required in practice, supervision, recruitment, hiring, training, work plans, and rewards systems. The illustration below (based on the work of Douglas McGregor and James Burns) highlights the shift in leadership style necessary to successfully implement this type of organizational change.



### Leading Change

The role of leadership in the implementation of this level of systemic change is key to its success. Leaders must be willing to commit to the following process steps:

1. Create the vision.
2. Identify partnerships.
3. Develop strategies for achieving the vision.
4. Seek agreement with partners regarding vision & strategies.
5. Utilize process improvement strategies.
6. Identify and collect outcome data.
7. Review and refine processes and outcomes.

## Appendix D: Leadership Styles and Leading Change (con't.)

### Create the Vision

Before the change process begins, there must be a clear vision of what the changed organization will look like. This vision should be articulated in a concise statement describing the changed organization and how it interacts with others, including service recipients, system partners, and employees.

**Strong, visionary leadership is a must.** The vision for change can be formed in numerous ways by various groups, including the leadership of the organization, policymakers, or diagonal slice groups (Figure 3). No matter how the vision is formed, leadership must embrace it and take responsibility for charting the direction and change process for the organization.

Once the leadership has crystallized the direction of change, it needs to look broadly throughout the organization and consider the many layers of change that will occur as a result of the process. The most progressive public policy direction for an organization is meaningless at the line staff and client level without leadership and strategic action to cultivate the change at all levels. True change happens at the top, at the bottom, and in between – it's up to the leadership to consider each of those layers.

### Communicating the Vision

Once the leadership clarifies the organizational goals for change, the next step is communication of the vision. Involving staff in the development of the vision leads to greater commitment from and more effective communication with those staff. Effective communication is a critical ingredient to achieving successful and long-lasting change, and leadership must model openness and ongoing dialogue. **Communication is key.** The clearer a leader communicates the goals of organizational change, the more helpful staff, community, clients, and policy makers can be. Once they understand what leadership seeks to accomplish, they can assist in reaching those goals.

How an idea or goal is communicated can be as important as the goal or idea itself. **Leaders attend to both process and outcomes.** People will draw conclusions from how the message is communicated as well as from the content of the message. For example, if a leader directly and personally communicates an idea to the organization, the message has more impact and meaning than if it comes down to line staff through *channels*. If a leader convenes a focus group of staff to discuss an issue, the importance of the issue is heightened, simply by the fact that the leader cared enough to gather a group to address it.

Leadership must also tailor communication strategies to the groups they seek to reach. Leaders need to think about their audience in advance, consider how they receive information, and strategize about how to best reach them. Communication must occur continually throughout the organization – both horizontally and vertically.

Leaders also need to pay close attention to the collective impact of seemingly minor decisions during the change process. For example, if leadership determines that those employees who actively participate and cooperate with the change process will be rewarded, that strategy must be consistent throughout the organization, even in seemingly minor decisions. One act, in one part of the organization, such as the promotion of a line staff person who is still doing business the *old way* might not seem like it could affect the change process. However, if it happens several times in different parts of the organization, these independent, unrelated decisions can collectively send a message that undermines the change process.

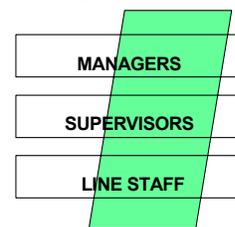
Trust and confidence in the organization's vision and leadership is built through understanding and awareness of how decisions are made. Decisions and the process by which they are reached should be transparent to the members of the organization. Good leaders seek broad input into decision-making and encourage consideration of different perspectives. **Diverse perspectives build strength.** Good leaders also ensure that decisions support the stated vision, values, and direction of the organization. This requires the leader to stay in touch with decision-making at many levels in the organization in order to ensure that the organization walks its talk.

#### Questions to Ask:

- *Is there a story or a metaphor for what the organization is trying to become? Can you draw a picture of it?*
- *If the organization achieves its goals for change, what will a client say about their experience of this organization?*
- *What will a member of the public say?*
- *What will staff say?*
- *What facets of the organization will be affected by the change?*

Figure 3

The Diagonal Slice Group



#### Questions to Ask:

- *What is your personal communication style?*
- *What are your strengths and weaknesses in this arena?*
- *How is information communicated in your organization?*
- *Are there more effective communication strategies for reaching multiple audiences?*
- *What are the greatest communication challenges for the organization?*
- *What leadership, management, and staff behavior supports the vision?*

## Appendix D: Leadership Styles and Leading Change (con't.)

### Identify partnerships

Leaders seeking change must work closely with organization staff, other government entities, and service providers. **Collaboration with partners is critical and powerful.** The partners, both internal and external, can be identified using several methods. Leadership can identify partners in consultation with others. Staff can conduct system mapping to identify unusual partners. The organization can hold planning circles where partners come and identify more partners, who identify more partners, etc. All of these strategies can be effective ways to identify important stakeholders in the change process.

**Internal Stakeholders:** Internal stakeholder groups will be affected by organizational change, some more than others. It is important that those groups most affected have a voice in the process. **Broad participation creates commitment.** Leaders should consider the multiple levels of authority in the formal chain of command and classifications of employees, and then ensure that all of these groups understand the vision of change, have a voice, and a means to communicate their opinions. Diagonal slice work groups can help to achieve this goal by providing representation from throughout the organization.

Leaders should also consider more informal networks as they identify internal partners. While the organizational chart of an agency may show a vertical hierarchy, organizations are rarely so cleanly defined. Instead, organizations are webs, with informal leaders and power brokers throughout the organization. Leadership should think beyond the formal hierarchy to ensure they reach out to all key partners.

Diagonal slice work groups can serve a variety of roles -- as sounding boards, transition monitoring teams, steering committees with decision-making power, and implementation teams. Leadership must clearly define the roles and authority of each group, and charters should be developed upon convening work groups.

Chartering will help guide the group's efforts, provide structure, describe outcomes, clarify decision-making authority, and codify organizational and leadership support for the group's work. Communication is a key function of these workgroups and should be highlighted in their charter. A large part of their responsibility is ongoing communication with the larger organization about the change process. To enhance productivity and efficiency, all groups should be provided with a trained facilitator or be trained in the basics of group process and facilitation prior to beginning work. (*see Appendix B of the Collaboration document for more on chartering*)

#### Questions to Ask:

- *What diverse groups are represented in your organization?*
- *Who are the natural leaders in the organization?*
- *What groups are forgotten or feel excluded?*
- *Who can help create a buzz about the change process in your organization?*

**External Stakeholders:** The changes your organization undergoes will also affect external partners.

Community corrections agencies are intertwined with a host of other criminal justice, social service, and community organizations and systems. This means that any significant, long-lasting change in your organization requires the participation of and acceptance by external entities. These organizations will need to be collaborative participants in this process every step of the way.

Partner organizations need to understand the value that participation in this change process has for them. Their leaders should know how supporting your change aids them in accomplishing their organizational mission. The impact that specific changes will have on their service delivery must be completely clear. Leaders need to consider these issues and craft specific plans for engaging their partners.

#### Questions to Ask:

- *What partnerships currently exist in your system?*
- *Where do new partnerships need to be forged?*
- *How does participation in this change process assist partners in accomplishing their mission and/or vision?*

## Appendix D: Leadership Styles and Leading Change (con't.)

### Develop Strategies for Achieving the Vision

The development of strategies moves the vision from concept into action. While strategies must be broad enough to encompass the work of many parts of the organization, they must also be specific enough that objectives, outcomes, and work plans can be developed to achieve the strategies. Leaders can use many different processes to develop strategies. Tools for developing strategies must balance broad participation in decision-making with the creation of the most innovative strategies infused with best practice knowledge. The relative importance of these two issues in an organization's change process will drive the selection of the tool for strategy development.

Engaging the broadest number of internal and external partners in the development of the strategy is essential, and a system- or organization-wide development conference can be a helpful tool. This type of conference is a day- or more-long meeting where the participants gain understanding of the vision and then in smaller groups develop the strategies to accomplish this vision. Conference techniques often result in maximum participation and buy-in, and allow participants opportunities to understand best practices and expand their thinking in order to create an innovative new direction for the organization.

The diagonal slice group from your organization can also be charged with creating strategies. This method provides opportunities for input from a variety of levels and perspectives in a more controlled process. It also provides an opportunity for alternative perspectives to weigh more heavily in the process. In the conference model, minority voices may not be heard.

In another method, the management team can use stakeholder groups to review and refine strategies - including the diagonal slice group. This method does not allow for as much diverse input into the strategies. However, if the management team has been intensively schooled in innovative new practices, they can still create effective strategies that are informed by the literature. The strategies must be approved and supported by the policy makers in your jurisdiction, regardless of the method chosen.

#### Questions to Ask:

- *How much participation is required to build maximum trust in the organization?*
- *How much do various stakeholders know about best practices in order to incorporate them into strategies?*
- *How can you best incorporate diverse perspectives into the strategies?*
- *How involved do policy makers wish to be in the strategy development process?*

#### ***Overcoming Resistance:***

Leadership and work teams need to plan strategies for overcoming resistance to change. Resistance of employees may stem from the organization's failure to consider and eliminate barriers with changing work conditions, a lack of tools to do the new job, or an inadequate understanding of the need for change. Leadership must assess worker needs in relation to the strategic implementation of change, structure the work, and provide the tools and the information required for success. For example, if leadership asks officers to spend more time out in the field and less time in the office, providing tools such as laptops, personal data assistants, and cell phones will facilitate that transition. Leadership must be empathetic and create a climate for success for workers to do their job. Culture changes are difficult for workers to accommodate but can be made easier with responsive, responsible leaders.

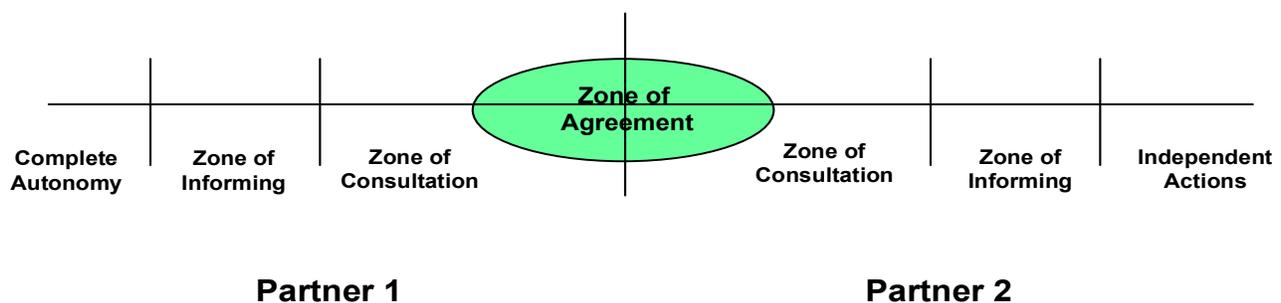
## Appendix D: Leadership Styles and Leading Change (con't.)

### Seek Agreement with Partners about Vision and Strategy

Relationships among partners must be based on mutual respect and understanding of the opportunities and constraints each partner faces. One tool partners can use to work on their agreements is the Zone of Agreement model (Figure 4). Groups of internal and external partners can use this model to clarify their decision making process. Partners must have a clear and common understanding of the decisions that: complete agreement is necessary; consultation with other partners is sufficient; and can be made solely by one organization, independent of their partners.

Figure 4

#### Zones of Agreement



### Sustaining collaboration and agreement between partners

The change process can be slow and may alter direction mid-course. Given the importance of partnerships and the challenge of maintaining them, leadership must take specific steps to sustain collaborations. Some suggestions include:

- ❖ ***Build upon small wins:***  
Identify steps that a collaboration can take together. Seemingly minor change can reward partners and solidify their commitment to the process. These wins can also persuade other partners to join and support the change process.
- ❖ ***Create incentives for collaboration and change:***  
Align rewards, including public recognition, with the collaboration. Take time to understand the needs of internal and external partners and develop ways to meet some of them.
- ❖ ***Address leadership changes:***  
Leadership will change during the change process. It is important to bring new leaders into the change process, share the vision and the history of the change with them, and invite and incorporate their fresh perspectives.
- ❖ ***Maintain the momentum for change:***  
Key players and/or groups may stall changes through diversions or suggesting far-fetched scenarios. If changes can be institutionalized quickly, with some details worked out later, the system change can maintain momentum.

## Appendix E: Managing Transitions

Changing an organization is complicated business and understanding how transition occurs is critical to effectively implementing change. Leaders must understand the emotional process of change and must be comfortable with working through the various stages, including the end of the old, the chaos of transition, and the new beginnings. Moving through these stages often does not occur in a linear progression. Guiding an organization through this process takes patience and perseverance.

In *Managing Transitions: Making the Most of Change*, William Bridges offers an excellent analysis of organizational change and provides concrete suggestions for helping people and the organization cope with change. Bridges describes the opportunities and challenges inherent in the change process and describes three zones of transition: endings; the neutral zone; and the new beginning. He offers the following strategies for moving through each zone:

**As in substance abuse recovery, organizations can *relapse*, returning to old ways and cultural norms.**

### Endings:

This stage is characterized by loss: loss of comfort and security in operations; loss of practices; and possibly loss of history. Leaders can effectively manage this transitional state by addressing the following issues:

- ❖ Identify who is experiencing loss and what they are losing.
- ❖ Accept the reality and importance of subjective losses.
- ❖ Don't be surprised at *overreaction*.
- ❖ Acknowledge the losses openly and sympathetically.
- ❖ Expect and accept the signs of grieving.
- ❖ Compensate for the losses.
- ❖ Give people information, and do it again and again.
- ❖ Define what is over and what is not over.
- ❖ Mark the endings.
- ❖ Treat the past with respect; let people take a piece of the old way with them.

### The Neutral Zone:

This stage follows the ending stage prior to the new beginning stage. It is in this stage that workers can slip back to the old ways or veer off the path of change. Relentless attention to details and ongoing feedback of data to management and those closest to the work can help prevent this tendency. Leaders can creatively manage the neutral zone by strengthening group connections, redefining the zone as a creative period, and focusing on the following issues:

- ❖ "Normalize" the neutral zone.
- ❖ Redefine the neutral zone.
- ❖ Create temporary systems for the neutral zone.
- ❖ Strengthen intra-group connections.
- ❖ Implement a transition monitoring team.
- ❖ Support creativity in the neutral zone.

### New Beginnings:

Finally, re-visiting the purpose, providing a clear vision of the outcome, and making sure all players have a role consistent with the vision can ease the transition to the new beginning. During this period of new beginning, leaders must focus on the following:

- ❖ Clarify and communicate the purpose.
- ❖ Provide a picture of the outcome.
- ❖ Create a transition plan with specifics (a transition plan is different from a change plan – the transition plan focuses on the *process* of change, rather than the change itself).
- ❖ Give people a part to play.
- ❖ Reinforce the new beginning.
- ❖ Be consistent, ensure quick successes, symbolize the new identity, and celebrate success.

## Appendix F: Structural Supports for Change

Aligning the organization's infrastructure with an intended change is essential to successfully transition an organization to a new way of doing business. In community corrections agencies, all infrastructure systems and policies, particularly those within the human resources management system (HRMS) must be consistent with evidence-based practices. Implementation work groups should be assigned the responsibility of developing or modifying the organization's HRMS to meet needs identified through organizational assessment. Policies regarding activities such as recruitment and hiring, training, job descriptions, performance appraisals, promotional decisions, and reward systems must be aligned with the new models. This alignment must also be promulgated throughout the organization in written documents and practice. Alignment in policy and practice must occur in the following areas:

- **Recruitment and Hiring**— Organizations must rethink and revise recruitment efforts, candidate screening processes, minimum criteria, and other standards. All new employees must be knowledgeable about the new vision and have appropriate skills sets for a changed work environment.
- **Training** —The importance of investing in training at all staff and management levels cannot be overestimated. Failure to provide comprehensive training can undermine even the most well conceived implementation plan. Throughout the implementation process, internal and external stakeholders should be apprised of the principles of evidence-based practices. Recruit academy, orientation, and ongoing training curricula must be restructured and infused with the philosophies of evidence-based practices. Training supports the notion that change is warranted and desirable. Training on evidence-based practices, their efficacy, philosophy, and work expectations must be part of any ongoing training curriculum.
- **Job descriptions** – Workers' tasks, skill sets, and responsibilities should be clearly linked with evidence-based practices and the agency mission and goals.
- **Performance appraisals** – Individual performance plans, appraisals, and reviews should be informed by outcome data and connected to the mission, job description, skill set requirements, and training. The use of technology to create automatic feedback systems facilitates this process by providing staff and supervisors with accurate performance measurement data.
- **Promotional decisions** – The promotional system must be structured to value organizational goals and reward desired performance. Promotion should occur when behavior is consistent with organizational goals; individual goals are achieved; and when evidence-based practices are embraced.
- **Reward systems** – Rewards can be separate or linked with promotions and appraisal systems. Publicly recognize and celebrate behavior that is desirable and refrain from the reverse.

This alignment of HRMS with evidence-based practices will ease implementation, minimize pitfalls, and create a climate that supports the new philosophy and changes in worker behavior. Failure to create this alignment can have a detrimental impact on the implementation of new operational philosophies.

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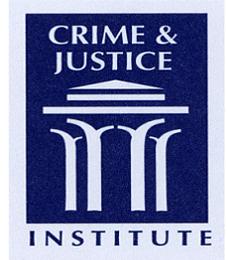
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# Implementing Effective Correctional Management of Offenders in the Community:

## *An Integrated Model*



A Project of the National Institute of Corrections  
in partnership with the Crime and Justice Institute

### **Overview**

Since the mid-1990s, the National Institute of Corrections (NIC) has promoted evidence-based practices in community corrections through training, information sharing, and technical assistance. Now, through a cooperative agreement established in the fall of 2002, NIC has joined with the Crime and Justice Institute (CJI) to assist two pilot states (Illinois and Maine) in applying an integrated approach to the implementation of evidence-based principles in community corrections. The project model maintains an equal and integrated focus on three domains: the implementation of evidence-based principles, organizational development, and collaboration. The project vision is *to build learning organizations that reduce recidivism through systemic integration of evidence-based principles in collaboration with community and justice partners.*

This document serves to introduce the integrated model. There are three supporting documents that provide more in-depth information on each of the model components: *Leading Organizational Change and Development*, *Collaboration for Systemic Change in the Criminal Justice System*, and *The Principles of Effective Intervention*.

### **The Project**

The first phase of the project brought together a national team of experts from across the country to develop an integrated model for the implementation of evidence-based practices in community corrections. This team includes practitioners, academics, and consultants knowledgeable in the areas of evidence-based practices in community corrections, organizational development, and collaboration.

During the second phase of the project, interested states submitted applications for participation. Illinois and Maine were chosen from the pool of applicants to participate in the project as pilot sites. As such, they will receive coaching and assistance designed to help them implement the integrated model to achieve lasting change.

In addition to the two pilot sites, Iowa and Oregon were awarded special status in the project. They were recognized as jurisdictions that have made significant progress toward implementation of evidence-based practices and are participating in the project as learning sites—sharing their experiences and lessons learned through years of implementation. Their participation enhances the resources and learning opportunities for the pilot sites and each other.

The third phase is focused on implementation during which the national project team will assist the pilot states to assess site-specific needs; identify strengths and weaknesses throughout the jurisdiction's community corrections system (organizational infrastructure and service delivery system); develop a plan for system enhancement; and begin implementation of that plan.

### ***The Challenge of Implementing Evidence-based Principles***

NIC, CJI, and the national project team members have all led or worked closely with organizations involved in efforts to reduce recidivism. Their experience in the field of community corrections indicates that organizations often begin implementation of evidence-based principles with the goals of reducing recidivism and making more efficient use of limited resources. Many of these organizations are able to successfully implement components of evidence-based principles, such as cognitive-behavioral programming, risk and needs assessment, and assertive case management. Unfortunately, very few organizations have successfully implemented or been able to sustain implementation of evidence-based principles throughout their operations. While some organizations may have developed a certain breadth of implementation, many have not managed to achieve the depth necessary to change the organizational culture and attain desired outcomes. As a result, change efforts often lose focus, stagnate, and are not institutionalized. An integrated approach to implementation provides the depth and breadth necessary to ensure lasting change.

### ***The Integrated Model***

The project's *Integrated Model* is based on the premise that successful implementation of evidence-based principles in community corrections can only be achieved when integrated with corresponding organizational development and collaboration. The project was designed to provide a series of needs assessment-based interventions focused on these three components; implementation of these components using an integrated model (Figure 1) will assist jurisdictions to better reduce recidivism and increase public safety.

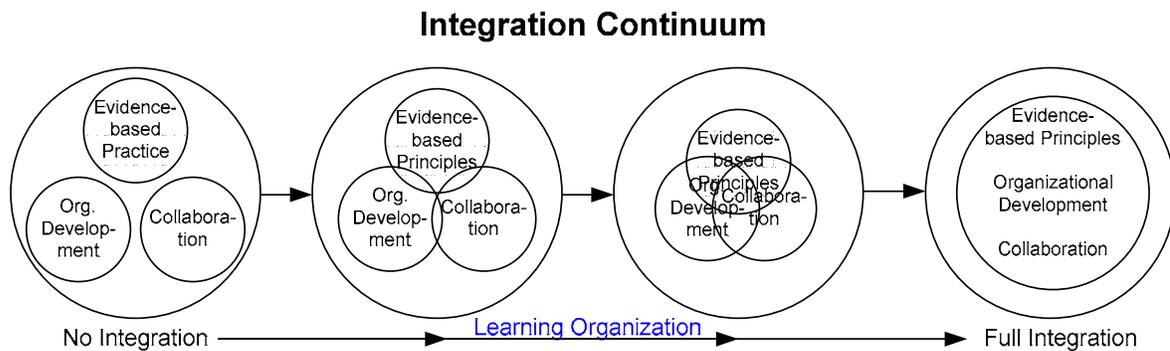
**Figure 1**



Many organizations are beginning to use or want to use evidence-based principles in their supervision practices and program design to better achieve reductions in recidivism. Most

organizations have spent time on organizational development initiatives and collaborations. Few organizations though, have focused their attention concurrently on these three areas. This project aims at merging the three separate areas of focus into one integrated model (Figure 2).

**Figure 2**



***Conclusion***

The research on evidence-based practices continues to emerge and organizations around the world continue to attempt implementation of these concepts. The unique feature of this model is its insistence that systemic change cannot be fully implemented or sustained without equal and integrated focus on evidence-based principles, organizational development, and collaboration. The model builds heavily on work already being done by community corrections systems. While it may not require heavy investment of new resources, it may require a change in the way existing resources are allocated, which can be just as challenging. Implementing this model requires strong leaders who are willing to challenge the status quo, advocate for better service provision, and strive for better outcomes. The research is clear about which interventions result in reduced recidivism. This model will help community corrections agencies be clear about how to implement those interventions and achieve those improved outcomes.

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# Implementing Evidence-Based Practice in Community Corrections: The Principles of Effective Intervention



*Project Vision:* To build learning organizations that reduce recidivism through systemic integration of evidence-based principles in collaboration with community and justice partners.

## Introduction and Background

Until recently, community corrections has suffered from a lack of research that identified proven methods of reducing offender recidivism. Recent research efforts based on meta-analysis (the syntheses of data from many research studies) (McGuire, 2002; Sherman et al, 1998), cost-benefit analysis (Aos, 1998) and specific clinical trials (Henggeler et al, 1997; Meyers et al, 2002) have broken through this barrier and are now providing the field with indications of how to better reduce recidivism.

This research indicates that certain programs and intervention

strategies, when applied to a variety of offender populations, reliably produce sustained reductions in recidivism. This same research literature suggests that few community supervision agencies (probation, parole, residential community corrections) in the U.S. are using these effective interventions and their related concepts/principles.

The conventional approach to supervision in this country emphasizes individual accountability from offenders and their supervising officers without consistently providing either with the skills, tools, and resources that science

indicates are necessary to accomplish risk and recidivism reduction. Despite the evidence that indicates otherwise, officers continue to be trained and expected to meet minimal contact standards which stress rates of contacts and largely ignore the opportunities these contacts have for effectively reinforcing behavioral change. Officers and offenders are not so much clearly directed what to do, as what not to do.

An integrated and strategic model for evidence-based practice is necessary to adequately bridge the gap between current practice and evidence supported practice in community corrections. This model must incorporate both existing research findings and operational methods of implementation. The biggest challenge in adopting better interventions isn't identifying the interventions with the best evidence, so much as it is changing our existing systems to appropriately support the new innovations. Identifying interventions with good research support and realigning the necessary organizational infrastructure are both fundamental to evidence-based practice.

*Specificity regarding the desired outcomes is essential to achieving system improvement. -Harris, 1986; O'Leary & Clear, 1997*

### An Integrated Model



**Scientific learning is impossible without evidence.**

## Evidence-Based Practice (EBP)

Evidence-based practice is a significant trend throughout all human service fields that emphasize outcomes. Interventions within corrections are considered effective when they reduce offender risk and subsequent recidivism and therefore make a positive long-term contribution to public safety.

This document presents a model or framework based on a set of principles for effective offender interventions within federal, state, local, or private community corrections systems. Models provide us with tangible reference points as we face unfamiliar tasks and experiences. Some models are very abstract, for example entailing only a set of testable propositions or principles. Other models, conversely, may

be quite concrete and detail oriented.

The field of community corrections is beginning to recognize its need, not only for more effective interventions, but for models that integrate seemingly disparate *best practices* (Bogue 2002; Carey 2002; Corbett et al. 1999; Gornik 2001; Lipton et al. 2000; Taxman and Byrne 2001).

As a part of their strategy for facilitating the implementation of effective interventions, the National Institute of Correction (NIC), Community Corrections Division has entered into a collaborative effort with the Crime and Justice Institute to

*(Continued on pg 2)*

# Evidence-Based Practice (EBP) (con't.)

(Continued from pg 1)

develop a model for implementing evidence-based practice in criminal justice systems. This *Integrated Model* emphasizes the importance of focusing equally on evidence-based practices, organizational change, and collaboration to achieve successful and lasting change. The scope of the model is broad enough that it can be applied to all components of the criminal justice system (pretrial, jail, probation, parole, private/public, etc.) and across varying jurisdictions (local, county, state, etc.).

*Community corrections will only develop into a "science" as it increases its commitment to measurable outcomes.*

This model recognizes that simply expounding on scientific principles is not sufficient to guide the ongoing political and organizational change necessary to support implementation of evidence-based principles in a complex system. While this paper focuses on the evidence-based principles, there are two additional papers that focus on the other model components (organizational development and collaboration).

The evidence-based principles component of the integrated model highlights eight principles for effective offender interventions. The organization or system that is most successful in initiating and maintaining offender interventions and supervision practices consistent with these principles will likely realize the greatest recidivism reductions.

## Clarifying Terms:

- ||| The terms *best practices*, *what works*, and *evidence-based practice* (EBP) are often used interchangeably.
- ||| While these *buzz words* refer to similar notions, pointing out the subtle distinctions between them helps to clarify the distinct meaning of *evidence-based practices*.
- ||| For example, *best practices* do not necessarily imply attention to outcomes, evidence, or measurable standards.
- ||| Best practices are often based on the collective experience and wisdom of the field rather scientifically tested knowledge.
- ||| *What works* implies linkage to general outcomes, but does not specify the kind of outcomes desired (e.g. just desserts, deterrence, organizational efficiency, rehabilitation, etc.). Specificity regarding the desired outcomes is essential to achieving system improvement (Harris 1986; O'Leary and Clear 1997).
- ||| In contrast, *evidence-based practice* implies that **1**) there is a definable outcome(s); **2**) it is measurable; and **3**) it is defined according to practical realities (recidivism, victim satisfaction, etc.). Thus, while these three terms are often used interchangeably, EBP is more appropriate for outcome focused human service disciplines (Ratcliffe et al, 2000; Tilley & Laycock, 2001; AMA, 1992; Springer et al, 2003; McDonald, 2003).

*Any agency interested in understanding and improving outcomes, must reckon with managing the operation as a set of highly interdependent systems.*

**(See Appendix A.)**

*Two fundamentally different approaches are necessary for such an alteration in priorities.*

**(See Appendix B.)**

The current research on offender rehabilitation and behavioral change is now sufficient to enable corrections to make meaningful inferences regarding what works in our field to reduce recidivism and improve public safety. Based upon previous compilations of research findings and recommendations (Burrell, 2000; Carey, 2002; Currie, 1998; Corbett et al, 1999; Elliott et al, 2001; McGuire, 2002; Latessa et al, 2002; Sherman et al, 1998; Taxman & Byrne, 2001), there now exists a coherent framework of guiding principles. These principles are interdependent and each is supported by existing research. (see Appendix A)

## Evidence-Based Practice (EBP) (con't.)

The following framework of principles is listed in developmental order and they are all highly interdependent. For example, offender assessments must consider both risk to reoffend and criminogenic needs, in that order. Research indicates that resources are used more effectively when they are focused on higher-risk rather than lower-risk offenders, therefore considering offenders' risk to reoffend prior to addressing criminogenic needs allows agencies to target resources on higher-risk offenders (*see Appendix B*).

### Eight Evidence-Based Principles for Effective Interventions

1. Assess Actuarial Risk/Needs.
2. Enhance Intrinsic Motivation.
3. Target Interventions.
  - a. *Risk Principle*: Prioritize supervision and treatment resources for higher risk offenders.
  - b. *Need Principle*: Target interventions to criminogenic needs.
  - c. *Responsivity Principle*: Be responsive to temperament, learning style, motivation, culture, and gender when assigning programs.
  - d. *Dosage*: Structure 40-70% of high-risk offenders' time for 3-9 months.
  - e. *Treatment*: Integrate treatment into the full sentence/sanction requirements.
4. Skill Train with Directed Practice (use Cognitive Behavioral treatment methods).
5. Increase Positive Reinforcement.
6. Engage Ongoing Support in Natural Communities.
7. Measure Relevant Processes/Practices.
8. Provide Measurement Feedback.

#### 1) Assess Actuarial Risk/Needs.

Develop and maintain a complete system of ongoing offender risk screening / triage and needs assessments. Assessing offenders in a reliable and valid manner is a prerequisite for the effective management (i.e.: supervision and treatment) of offenders. Timely, relevant measures of offender risk and need at the individual and aggregate levels are essential for the implementation of numerous principles of best practice in corrections, (e.g., risk, need, and responsivity). Offender assessments are most reliable and valid when staff are formally trained to administer tools. Screening and assessment tools that focus on dynamic and static risk factors, profile criminogenic needs, and have been validated on similar populations are preferred. They should also be supported by sufficiently detailed and accurately written procedures.

Offender assessment is as much an ongoing function as it is a formal event. Case information that is gathered informally through routine interactions and observations with offenders is just as important as formal assessment guided by instruments. Formal and informal offender assessments should reinforce one another. They should combine to enhance formal reassessments, case decisions, and working relations between practitioners and offenders throughout the jurisdiction of supervision.

(Andrews, et al, 1990; Andrews & Bonta, 1998; Gendreau, et al, 1996; Kropp, et al, 1995; Meehl, 1995; Clements, 1996)

#### Questions to Ask:

- *Does the assessment tool we're using measure for criminogenic risk and need?*
- *How are officers trained to conduct the assessment interview?*
- *What quality assurance is in place to ensure that assessments are conducted appropriately?*
- *How is the assessment information captured and used in the development of case plans?*

## Eight Principles for Evidence-Based Practice (EBP) in Community Corrections (con't.)

### 2) Enhance Intrinsic Motivation.

Staff should relate to offenders in interpersonally sensitive and constructive ways to enhance intrinsic motivation in offenders. Behavioral change is an *inside job*; for lasting change to occur, a level of intrinsic motivation is needed. Motivation to change is dynamic and the probability that change may occur is strongly influenced by interpersonal interactions, such as those with probation officers, treatment providers, and institution staff. Feelings of ambivalence that usually accompany change can be explored through motivational interviewing, a style and method of communication used to help people overcome their ambivalence regarding behavior changes. Research strongly suggests that motivational interviewing techniques, rather than persuasion tactics, effectively enhance motivation for initiating and maintaining behavior changes.

(Miller & Rollnick, 2002; Miller & Mount, 2001; Harper & Hardy, 2000; Ginsburg, et al, 2002; Ryan & Deci, 2000)

#### Questions to Ask:

- *Are officers and program staff trained in motivational interviewing techniques?*
- *What quality assurance is in place?*
- *Are staff held accountable for using motivational interviewing techniques in their day-to-day interactions with offenders?*

### 3) Target Interventions.

- A. **RISK PRINCIPLE:** Prioritize supervision and treatment resources for higher risk offenders.
- B. **NEED PRINCIPLE:** Target interventions to criminogenic needs.
- C. **RESPONSIVITY PRINCIPLE:** Be responsive to temperament, learning style, motivation, gender, and culture when assigning to programs.
- D. **DOSAGE:** Structure 40-70% of high-risk offenders' time for 3-9 months.
- E. **TREATMENT PRINCIPLE:** Integrate treatment into the full sentence/sanction requirements.

#### a) Risk Principle

Prioritize primary supervision and treatment resources for offenders who are at higher risk to re-offend. Research indicates that supervision and treatment resources that are focused on lower-risk offenders tend to produce little if any net positive effect on recidivism rates. Shifting these resources to higher risk offenders promotes harm-reduction and public safety because these offenders have greater need for pro-social skills and thinking, and are more likely to be frequent offenders. Reducing the recidivism rates of these higher risk offenders reaps a much larger *bang-for-the-buck*.

Successfully addressing this population requires smaller caseloads, the application of well developed case plans, and placement of offenders into sufficiently intense cognitive-behavioral interventions that target their specific criminogenic needs.

(Gendreau, 1997; Andrews & Bonta, 1998; Harland, 1996; Sherman, et al, 1998; McGuire, 2001, 2002)

#### b) Criminogenic Need Principle

Address offenders' greatest criminogenic needs. Offenders have a variety of needs, some of which are directly linked to criminal behavior. These criminogenic needs are dynamic risk factors that, when addressed or changed, affect the offender's risk for recidivism. Examples of criminogenic needs are: criminal personality; antisocial attitudes, values, and beliefs; low self control; criminal peers; substance abuse; and dysfunctional family. Based on an assessment of the offender, these criminogenic needs can be prioritized so that services are focused on the greatest criminogenic needs.

(Andrews & Bonta, 1998; Lipton, et al, 2000; Elliott, 2001; Harland, 1996)

(Continued on pg 5)

# Eight Principles for Evidence-Based Practice (EBP) in Community Corrections (con't.)

(Continued from pg 4)

## c) Responsivity Principle

Responsivity requires that we consider individual characteristics when matching offenders to services. These characteristics include, but are not limited to: culture, gender, motivational stages, developmental stages, and learning styles. These factors influence an offender's responsiveness to different types of treatment.

The principle of responsivity also requires that offenders be provided with treatment that is proven effective with the offender population. Certain treatment strategies, such as cognitive-behavioral methodologies, have consistently produced reductions in recidivism with offenders under rigorous research conditions.

Providing appropriate responsivity to offenders involves selecting services in accordance with these factors, including:

- a) Matching treatment type to offender; and
- b) Matching style and methods of communication with offender's stage of change readiness.

(Guerra, 1995; Miller & Rollnick, 1991; Gordon, 1970; Williams, et al, 1995)

## d) Dosage

Providing appropriate doses of services, pro-social structure, and supervision is a strategic application of resources. Higher risk offenders require significantly more initial structure and services than lower risk offenders. During the initial three to nine months post-release, 40%-70% of their free time should be clearly occupied with delineated routine and appropriate services, (e.g., outpatient treatment, employment assistance, education, etc.) Certain offender subpopulations (e.g., severely mentally ill, chronic dual diagnosed, etc.) commonly require strategic, extensive, and extended services. However, too often individuals within these subpopulations are neither explicitly identified nor provided a coordinated package of supervision/services. The evidence indicates that incomplete or uncoordinated approaches can have negative effects, often wasting resources.

(Palmer, 1995; Gendreau & Goggin, 1995; Steadman, 1995; Silverman, et al, 2000)

## e) Treatment Principle

Treatment, particularly cognitive-behavioral types, should be applied as an integral part of the sentence/sanction process.

Integrate treatment into sentence/sanction requirements through assertive case management (taking a proactive and strategic approach to supervision and case planning). Delivering targeted and timely treatment interventions will provide the greatest long-term benefit to the community, the victim, and the offender. This does not necessarily apply to lower risk offenders, who should be diverted from the criminal justice and corrections systems whenever possible.

(Palmer, 1995; Clear, 1981; Taxman & Byrne, 2001; Currie, 1998; Petersilia, 1997, 2002, Andrews & Bonta, 1998)

### Questions to Ask:

- *How do we manage offenders assessed as low risk to reoffend?*
- *Does our assessment tool assess for criminogenic need?*
- *How are criminogenic risk and need information incorporated into offender case plans?*
- *How are offenders matched to treatment resources?*
- *How structured are our caseplans for offenders, especially during the three to nine month period in the community after leaving an institution?*
- *How are staff held accountable for using assessment information to develop a case plan and then subsequently using that caseplan to manage an offender?*

## **Eight Principles for Evidence-Based Practice (EBP) in Community Corrections (con't.)**

### **4) Skill Train with Directed Practice (using cognitive-behavioral treatment methods).**

Provide evidence-based programming that emphasizes cognitive-behavioral strategies and is delivered by well trained staff.

To successfully deliver this treatment to offenders, staff must understand antisocial thinking, social learning, and appropriate communication techniques. Skills are not just taught to the offender, but are practiced or role-played and the resulting pro-social attitudes and behaviors are positively reinforced by staff. Correctional agencies should prioritize, plan, and budget to predominantly implement programs that have been scientifically proven to reduce recidivism.

(Mihalic, et al, 2001; Satchel, 2001; Miller & Rollnick, 2002; Lipton, et al, 2000; Lipsey, 1993; McGuire, 2001, 2002; Aos, 2002)

#### **Questions to Ask:**

- *How are social learning techniques incorporated into the programs we deliver?*
- *How do we ensure that our contracted service providers are delivering services in alignment with social learning theory?*
- *Are the programs we deliver and contract for based on scientific evidence of recidivism reduction?*

### **5) Increase Positive Reinforcement.**

When learning new skills and making behavioral changes, human beings appear to respond better and maintain learned behaviors for longer periods of time, when approached with *carrots* rather than *sticks*. Behaviorists recommend applying a much higher ratio of positive reinforcements to negative reinforcements in order to better achieve sustained behavioral change. Research indicates that a ratio of *four positive to every one negative* reinforcement is optimal for promoting behavior changes. These rewards do not have to be applied consistently to be effective (as negative reinforcement does) but can be applied randomly.

Increasing positive reinforcement should not be done at the expense of or undermine administering swift, certain, and real responses for negative and unacceptable behavior. Offenders having problems with responsible self-regulation generally respond positively to reasonable and reliable additional structure and boundaries. Offenders may initially overreact to new demands for accountability, seek to evade detection or consequences, and fail to recognize any personal responsibility. However, with exposure to clear rules that are consistently (and swiftly) enforced with appropriate graduated consequences, offenders and people in general, will tend to comply in the direction of the most rewards and least punishments.

This type of extrinsic motivation can often be useful for beginning the process of behavior change.

(Gendreau & Goggin, 1995; Meyers & Smith, 1995; Higgins & Silverman, 1999; Azrin, 1980; Bandura et al, 1963; Bandura, 1996)

#### **Questions to Ask:**

- *Do we model positive reinforcement techniques in our day-to-day interactions with our co-workers?*
- *Do our staff understand and use the four-to-one theory in their interactions with offenders?*

### **6) Engage On-going Support in Natural Communities.**

Realign and actively engage pro-social supports for offenders in their communities. Research indicates that many successful interventions with extreme populations (e.g., inner city substance abusers, homeless, dual diagnosed) actively recruit and use family members, spouses, and supportive others in the offender's immediate environment to positively reinforce desired new behaviors. This Community Reinforcement Approach (CRA) has been found effective for a variety of behaviors (e.g., unemployment, alcoholism, substance abuse, and marital conflicts). In addition, relatively recent research now indicates the efficacy of twelve step programs, religious activities, and restorative justice initiatives that are geared towards improving bonds and ties to pro-social community members.

#### **Questions to Ask:**

- *Do we engage community supports for offenders as a regular part of case planning?*
- *How do we measure our community network contacts as they relate to an offender?*

(Azrin, & Besalel, 1980; Emrick et al, 1993; Higgins & Silverman, 1999; Meyers & Smith, 1997; Wallace, 1989; Project MATCH Research Group, 1997; Bonta et al, 2002; O'Connor & Perryclear, 2003; Ricks, 1974; Clear & Sumter, 2003; Meyers et al, 2002)

## **Eight Principles for Evidence-Based Practice (EBP) in Community Corrections (con't.)**

### **7) Measure Relevant Processes/Practices.**

Accurate and detailed documentation of case information, along with a formal and valid mechanism for measuring outcomes, is the foundation of evidence-based practice. Agencies must routinely assess offender change in cognitive and skill development, and evaluate offender recidivism, if services are to remain effective.

In addition to routinely measuring and documenting offender change, staff performance should also be regularly assessed. Staff that are periodically evaluated for performance achieve greater fidelity to program design, service delivery principles, and outcomes. Staff whose performance is not consistently monitored, measured, and subsequently reinforced work less cohesively, more frequently at cross-purposes and provide less support to the agency mission.

(Henggeler et al, 1997; Milhalic & Irwin, 2003; Miller, 1988; Meyers et al, 1995; Azrin, 1982; Meyers, 2002; Hanson & Harris, 1998; Waltz et al, 1993; Hogue et al, 1998; Miller & Mount, 2001; Gendreau et al, 1996; Dilulio, 1993)

#### **Questions to Ask:**

- *What data do we collect regarding offender assessment and case management?*
- *How do we measure incremental offender change while they are under supervision?*
- *What are our outcome measures and how do we track them?*
- *How do we measure staff performance? What data do we use? How is that data collected?*

### **8) Provide Measurement Feedback.**

Once a method for measuring relevant processes / practices is in place (principle seven), the information must be used to monitor process and change. Providing feedback to offenders regarding their progress builds accountability and is associated with enhanced motivation for change, lower treatment attrition, and improved outcomes (e.g., reduced drink/drug days; treatment engagement; goal achievement).

The same is true within an organization. Monitoring delivery of services and fidelity to procedures helps build accountability and maintain integrity to the agency's mission. Regular performance audits and case reviews with an eye toward improved outcomes, keep staff focused on the ultimate goal of reduced recidivism through the use of evidence-based principles.

(Miller, 1988; Project Match Research Group, 1997; Agostinelli et al, 1995; Alvero et al, 2001; Baer et al, 1992; Decker, 1983; Luderman, 1991; Miller, 1995; Zemke, 2001; Elliott, 1980)

#### **Questions to Ask:**

- *How is information regarding offender change and outcomes shared with officers? With offenders?*
- *With whom do we share information regarding outcome measures?*
- *How is staff performance data used in the performance evaluation process?*

## **Eight Principles for Evidence-Based Practice (EBP) in Community Corrections (con't.)**

### **Conclusion**

Aligning these evidence-based principles with the core components of an agency is a consummate challenge and will largely determine the impact the agency has on sustained reductions in recidivism. In order to accomplish this shift to an outcome orientation, practitioners must be prepared to dedicate themselves to a mission that focuses on achieving sustained reductions in recidivism. The scientific principles presented in this document are unlikely to produce a mandate for redirecting and rebuilding an agency's mission by themselves. Leadership in organizational change and collaboration for systemic change are also necessary.

The framework of principles and the developmental model they comprise can and should be operationalized at three critical levels: 1) the individual case; 2) the agency; and 3) the system. At each of these levels thorough, comprehensive, and strategic planning will be necessary in order to succeed. Identifying, prioritizing, and formulating well-timed plans for addressing such particular issues are tasks requiring system collaboration and a focus on organizational development.

A final caveat here is a caution about implementation; the devil's in the details. Though the track record for program implementation in corrections may not be especially stellar, there is helpful literature regarding implementation principles. Prior to embarking on any implementation or strategic planning project, a succinct review of this literature is recommended (Mihalic & Irwin, 2003; Ellickson et al, 1983; Durlak, 1998; Gendreau et al, 1999; Gottfredson et al, 2000; Henggeler et al, 1997; Harris & Smith, 1996).

*Initial assessment followed by motivational enhancement will help staff to prepare for the significant changes ahead.*  
**(See Appendix C.)**

*At an organizational level, gaining appreciation for outcome measurement begins with establishing relevant performance measurement*  
**(See Appendix D.)**

*Too often programs or practices are promoted as having research support without any regard for either the quality or the research methods that were employed.*  
**(See Appendix E.)**

# **ATTACHMENT 2**

**ISSUES AND FACTORS  
TO CONSIDER WHEN  
PLANNING  
AND  
IMPLEMENTING  
SPECIALTY COURTS**

Submitted to:

Illinois Judicial Conference

Committee on Criminal Law and Probation Administration

Submitted by:

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## ISSUES AND FACTORS TO CONSIDER WHEN PLANNING AND IMPLEMENTING SPECIALTY COURTS

### I. INTRODUCTION

- A. Historically, the American Judicial system has focused on two types of courts: civil and criminal. Today, many jurisdictions across the United States have begun to establish courts that are dedicated to addressing some of the root problems that give rise to criminal activity. The emergence of specialty courts is the result of the realization that criminal behavior is often predicated upon an underlying addiction or condition, that if left untreated, will likely result in further criminal behavior.
- B. **Types of Specialty Courts** include, but are not limited to:
  - 1. Drug Court
  - 2. Mental Health Court
  - 3. Family Court
  - 4. Abuse and Neglect Court
  - 5. Domestic Violence Court
  - 6. Sexual Crimes Court
  - 7. Poverty Court
  - 8. Juvenile Court
- C. The process of planning and implementing a specialty court can be a long and complicated process.
  - 1. There are essentially two ways to develop a specialty court:
    - a. Create a new court based upon study and discussion, without regard to existing courts or models.
    - b. Replicating an already existing court.
  - 2. The most thorough and successful way to create a specialty court is to visit and study an existing court, and then consider adapting certain features from the existing court(s) based upon local goals, objectives, and resources.

### II. ISSUES AND FACTORS TO CONSIDER

#### D. INITIAL CONSIDERATIONS

- 1. **Need for the Specialty Court**
  - a. What is the number of offenders who suffer from the problem that the specialty court will focus on.
  - b. How many offenders would benefit from participation in a specialty court and from treatment.
- 2. **Goals and Objectives of the Court**
  - a. Goals and Objectives shared by most jurisdictions:
    - 1) Rehabilitation of the participants which involves:
      - i. Getting offenders to participate in the program,
      - ii. Ordering offenders to undergo appropriate treatment,
      - iii. Monitoring the offender to ensure



- 4) How would potential participants be referred to the court?

## E. JUDICIAL AND ORGANIZATIONAL CONSIDERATIONS

1. These considerations involve the basic building blocks of the actual court.

### 2. FUNDING

- a. Things to think about early on:
  - 1) Initial Funding—How much will it cost to get started?
  - 2) Long Term Funding to Sustain court—How much will it cost to keep the court running and to handle increased capacities in the future?
  - 3) Where will this funding come from in the beginning and in the future?
- b. There is not a single source of funding. Furthermore, there is no complete guide to obtaining funding. So, officials must be creative and look at all available resources.
- c. Funding may be obtained generally from four sources:
  - 1) Federal Money
    - i. From Agencies such as Health and Human Services, Drug Court programs Office, Alcohol and Drug Agency, etc.
    - ii. Grants
  - 2) State Money
    - i. From Agencies such as Health and Human Services, Drug Court programs Office, Alcohol and Drug Agency, etc.
    - ii. Grants
  - 3) Local Government Funding
    - i. Funding from local governments will vary greatly from community to community.
    - ii. Officials should meet with a member of the local government and discuss possible funding.
  - 4) Private Funding
    - i. It is important to put together a plan on how to approach private sources for funding.
    - ii. Sources
      1. Local businesses, organizations, groups, and members of the community
        - a. Donations
        - b. Volunteer work
      2. Associations and Foundations
        - a. Professional associations
        - b. Bar associations:

Countrywide, statewide, and countywide.

- iii. Non-monetary partnerships with community businesses and members:
  - 1. To ease the costs of the treatment.
  - 2. And seek volunteers to assist the court team and treatment services.
- iv. Participates can be ordered to contribute to the cost of their own treatment.
  - 1. This option will vary depending on the participant's ability to pay.
  - 2. The court may not receive the money immediately.
- d. Attached in the Table of Resources are potential funding sources for Specialty Courts.

### 3. PHYSICAL SPACE

- a. Will an existing courtroom be utilized or will a new courtroom have to be opened up?
- b. Is there space to expand as the number of participants and cases increases?
- c. Are there conference rooms for counselors, probation officers, treatment providers, attorneys, and participants to use?
- d. If a participant needs to be sent to a treatment facility:
  - 1) Where will the participant be sent? Are there facilities nearby?
  - 2) When will the participant be sent there?
  - 3) What is the name and location of the service provider?
  - 4) Who will make arrangements for the participant to be sent for treatment?
  - 5) Who will provide the transportation to the facility?
  - 6) How much will the treatment services cost?
  - 7) Who will bear the expense of treatment service?

### 4. STAFFING NEEDS

- a. Necessary Staff
  - 1) Available Judge to preside over the program
  - 2) Director and assistant director of the program
  - 3) Circuit Clerks
  - 4) Court Reporters
  - 5) Bailiff
  - 6) Security Guards
  - 7) Counselors, probation officers, social workers, health care professionals, etc.
- b. Salaries of the specialty court staff:
  - 1) Source of the funding to pay for the salaries.

### 5. TRAINING AND EDUCATION OF STAFF

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- a. Circuit Clerk—special training will be necessary since federal and state confidentiality laws require that the files be handled differently.
- b. Probation Officer and Security Officers—trained by their department supervisors on the special matters to consider when dealing with participants in the specialty court.
- c. Judicial training to acquaint the judge with the particular requirements of the specialty court as well as the type of offenders and problems that may be encountered.
- d. Instructions for counselors, social workers, volunteers, and other necessary participants on the legal requirements of the court.
- e. Attached in the Table of Resources is a list of resources for training.

### 6. SAFETY CONCERNS

- a. Increased security for potentially more violent participants.
- b. Transportation of the participants to treatment institutions if they are so sentenced.
- c. The safety of the Judges and court personnel.
- d. The safety of the public and other people in the courthouse.

### 7. TIME CONSIDERATIONS

- a. Caseload will be low in the beginning but will increase in the future, so is there enough time to spend on each case?
- b. Since the focus will be on the participants and their underlying problems and treatment, each case will presumably take a longer period of time than a typical case. Will enough time be available?
- c. Cases will potentially be under the Judge's review for a longer period of time than for the average case.

### 8. TREATMENT SERVICES AND PROVIDERS AVAILABLE

- a. It will be difficult for a specialty court to be successful if there are no treatment providers available in the area.
- b. What agencies would be involved?
- c. What services are available in the area for participants?
- d. Are participants required to obtain services out of the area? And if so, who provides transportation?
- e. Does the court have contracts/agreements with the providers to provide treatment? Who pays for it?
- f. Are there any institutions around for participants who need to be in a facility throughout treatment?
  - 1) What about transportation to and from the institution and court?
  - 2) Who will bear the cost for this?

### 9. DETERMINING APPROPRIATE TREATMENT

- a. How will the court determine the appropriate treatment for each participant?

- b. Who will decide on the appropriate treatment?
  - 1) Judge, director, counselors, probation officers, attorneys, social workers, medical professionals, etc.
- c. What factors will be looked at?

#### **10. LONG-TERM CARE AND MONITORING OF THE PARTICIPANT**

- a. Monitoring
  - 1) Throughout treatment, participants are brought into court to ensure compliance.
  - 2) What about monitoring compliance outside the courtroom? Who does it? How often? Where? How?
- b. After Care
  - 1) Even after treatment is received and completed successfully, participants need to be monitored to ensure they have not relapsed. How will this be done? By whom? For how long?
- c. Compliance Awards and Noncompliance Punishments
  - 1) Compliance should be rewarded and noncompliance should be dealt with swiftly and effectively. The participants should know, from the beginning, what to expect if they comply and what to expect when they do not comply.

#### **11. IT IS IMERATIVE THAT THE COURT BE SET UP IN A MANNER THAT WILL ALLOW ITS EFFECTIVENESS TO BE MEASURED.**

- a. A model should be developed to measure the effectiveness of the specialty court.

#### **12. IF THE SPECIALTY COURT UNDER CONSIDERATION IS A DRUG REHABILITATION COURT, IT IS RECOMMENDED THAT THE COURT BE IMPLEMENTED IN A MANNER THAT IS CONSISTENT WITH THE TEN KEY COMPONENTS OF THE FEDERALLY RECOMMENDED SET OF STANDARDS FROM THE UNITED STATES DEPARTMENT OF JUSTICE.**

- a. The Ten Key Components are as follows:
  - 1) Drug courts integrate alcohol and other drug treatment services with justice system case processing.
  - 2) Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.
  - 3) Eligible participants are identified early and promptly placed in the drug court program.
  - 4) Drug courts provide access to a continuum of

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alcohol, drug, and other related treatment and rehabilitation services.

- 5) Abstinence is monitored by frequent alcohol and other drug testing.
- 6) A coordinated strategy governs drug court responses to participants' compliance.
- 7) Ongoing judicial interaction with each drug court participant is essential.
- 8) Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.
- 9) Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations.
- 10) Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness.

### **13. HOW TO MEASURE THE EFFECTIVENESS OF THE SPECIALTY COURT**

- a. Establish a model whereby the specialty court can be measured and the results can be analyzed.
- b. Statistical information that must be recorded:
  - 1) Number of participants that enter the program.
  - 2) Number of participants that complete treatment.
  - 3) Number of participants that are determined to be rehabilitated.
  - 4) Number of participants that relapse and when that relapse took place.
  - 5) Number of participants that are still rehabilitated after a certain number of years.
  - 6) Rate of recidivism.
- c. Results should be measured at the beginning, middle, end, and in the long term.
- d. Creation of an all encompassing model can be difficult, so it is advised that officials seek advice from other jurisdictions and study the programs existing in those courts.

### **14. IT IS IMPERATIVE TO BRING THE PROSECUTING AUTHORITY ON BOARD EARLY IN THE PROCESS AND TO DEVELOP THE PROGRAM BASED UPON THE INPUT AND COOPERATION OF THE LOCAL PROSECUTING AUTHORITY.**

### **15. SUPPORT SHOULD BE SOUGHT FROM THE COUNTY BOARD AND LOCAL COMMUNITY MEMBERS.**

## **F. PHILOSOPHICAL CONSIDERATIONS**

### **1. JUDICIAL THINKING**

- a. Specialty Court Judges are considered be problem solvers

as well as decision makers.

- b. There is less focus on time considerations and more focus on rehabilitating the participants.
- c. Specialty Court Judges are generally required to be more proactive in overseeing the cases.
- d. Judges interact more with the participants than in traditional courts.
- e. Judges are generally invited to motivate the participants to want to change.

## 2. INSTITUTIONAL THINKING

- a. The traditional system is made up of separate parts that, to a large extent, work independently of each other.
- b. The Specialty Court approach is different. It is a team-based approach whereby all the individual parts work closely together to ensure the success of the participant.
  - 1) Judges, attorneys, treatment providers, social workers, counselors, probation officers, medical professionals, etc. all work together with each participant.
  - 2) Each of these agencies must feel free to share case information, files, results, treatments, and reports.

## G. LEGAL CONSIDERATIONS

### 1. In Illinois, there are drug court statutes that cover the operation of drug courts.

- a. 730 ILCS 166/1 et seq. (2005) Illinois Drug Court Treatment Act
- b. 705 ILCS 410/1 et seq. (2005) Illinois Juvenile Drug Court Treatment Act
- c. People v Anderson, \_\_\_ Ill. App. 3d \_\_\_ (Ill. App. 4<sup>th</sup> Dist. July 19, 2005)

### 2. A specific set of rules and regulations governing the operation of a specialty court should be promulgated and adopted in the county where the program is being implemented.

- a. Enabling documents should set forth the mission statement and purpose of the court.
- b. Consideration must be given to all statutory provisions governing the operation of the court.
- c. Consideration must be given to recent case law governing the operation of the court.
- d. The population the program will target should be set forth and defined.
- e. Services to be provided should be set forth.
- f. The goals, objectives, and outcome measures should be set forth.
- g. The requirements of the court should be set forth.
- h. Referral procedures should be specified.

- i. A participant handbook should be developed that clearly outlines what is expected of each participant in the program, what is needed to be successful in the program and the specific sanctions that may be imposed for a violation of the rules of the program.
- 3. **The following basic publications should be reviewed:**
  - a. Ethical consideration for judges and attorneys in drug court.
    - 1) Judge Karen Freeman-Wilson, Professor Robert Tuttle & Susan Weinstein, *Ethical Considerations for Judges and Attorneys in Drug Court* (National Drug Court Institute 2001).
  - b. Federal Confidentiality laws and how they affect drug court participants.
    - 1) Judge Jeffrey Tauber, Susan Weinstein & David Taube, *Federal Confidentiality Laws and How They Affect Drug Court Practitioners* (National Drug Court Institute 1999).
- 4. It is recommended that those jurisdictions that are currently operating specialty courts should be visited and observed.
- 5. Attached to the Table of Resources are those circuits and counties in the State of Illinois that have specialty Courts.

### III. CONCLUSION

- H. This outline is intended to be a practical guide for any jurisdiction that is considering establishing a specialty court. The committee does not take a position on whether a circuit should or should not implement a specialty court.

### IV. TABLE OF RESOURCES

- I. This table is a list of resources to aid in the planning process.
- J. Officials should refer to the Guide to Finding Federal Funding as a starting point in locating money to initiate the specialty court.
- K. Officials can locate the names of various associations that deal with the same or similar subject matter as the specialty court. The Encyclopedia of Associations will be useful to begin this process.
- L. Officials should also contact the local and national Bar Associations to get information on funding and other resources that may be available.
- M. This table is not an exhaustive list. It is meant to be the starting place for the planning process.

### II. TABLE OF COUNTIES

- N. This table is a list of those circuits and counties in the State of Illinois that have Specialty Courts and the contact person for those courts.

The committee would like to acknowledge the research contributions of Tracy Lynn Jones, law clerk for the Sixteenth Judicial Circuit, Kane County, Illinois.

## TABLE OF RESOURCES

### **Funding**

1. *Guide to Federal Funding for Governments and Nonprofits*, vol. 1-2, 1998 (Government Information Services an affiliate of Thompson Publishing Group 202-872-4000)
2. [www.grants.gov](http://www.grants.gov)
3. [www.lib.msu.edu/harris23/grants/federal.htm](http://www.lib.msu.edu/harris23/grants/federal.htm)
4. [www.fedgrants.gov/applicants](http://www.fedgrants.gov/applicants)

### **Courts**

1. Supreme Court of Illinois [www.state.il.us/court/](http://www.state.il.us/court/)
2. Seventh Circuit Court of Appeals [www.ca7.uscourts.gov](http://www.ca7.uscourts.gov)
3. Administrative Office of the U.S. Courts [www.uscourts.gov](http://www.uscourts.gov)
4. Illinois Second Judicial Circuit [www.illinoissecondcircuit.info](http://www.illinoissecondcircuit.info)
5. Illinois Sixteenth Judicial Circuit [www.co.kane.il.us/judicial/index.htm](http://www.co.kane.il.us/judicial/index.htm)
6. Illinois Seventeenth Judicial Circuit [www.co.winnebago.il.us/main.htm](http://www.co.winnebago.il.us/main.htm)
7. Illinois Eighteenth Judicial Circuit [www.Dupageco.org/circuitcourt/index.cfm](http://www.Dupageco.org/circuitcourt/index.cfm)
8. Illinois Nineteenth Judicial Circuit [www.19thcircuitcourt.state.il.us/](http://www.19thcircuitcourt.state.il.us/)
9. Illinois Circuit Court of Cook County [www.cookcountycourt.org](http://www.cookcountycourt.org)

### **Government Websites**

1. National Association of Counties [www.naco.org](http://www.naco.org)
2. National Center for State Courts [www.ncsconline.org](http://www.ncsconline.org)

### **Bar Associations**

1. American Bar Association [www.abanet.org](http://www.abanet.org)
2. Chicago Bar Association [www.chicagobar.org](http://www.chicagobar.org)
3. Illinois Bar Association [www.illinoisbar.org](http://www.illinoisbar.org)
4. National Bar Association [www.nationalbar.org](http://www.nationalbar.org)
5. International Bar Association [www.ibanet.org](http://www.ibanet.org)
6. Various County Bar Associations

### **Professional Associations & Federal Agencies**

1. Illinois Government Agencies [www.illinois.gov/government/agency.cfm](http://www.illinois.gov/government/agency.cfm)
2. Federal Government Agencies [www.firstgov.gov/](http://www.firstgov.gov/)
3. *Encyclopedia of Associations*, 39<sup>th</sup> ed., vol. 1 parts 1-3, 2003 (The Gale Group, Inc. of Thomson Learning, Inc.)
4. National Institute on Drug Abuse [www.drugabuse.gov](http://www.drugabuse.gov)
5. National Drug Court Institute [www.ndci.org/aboutndci.htm](http://www.ndci.org/aboutndci.htm)
6. American Correctional Association [www.corrections.com/aca](http://www.corrections.com/aca)
7. American Judges Association [www.ncsc.dni.us/aja](http://www.ncsc.dni.us/aja)
8. Drug Courts Program Office [www.ojp.usdoj.gov/dcpo](http://www.ojp.usdoj.gov/dcpo)
9. Drug Court Technology [www.drugcourtech.org](http://www.drugcourtech.org)
10. National Association of Drug Court Professionals [www.nadcp.org](http://www.nadcp.org)
11. National Institute of Corrections [www.nicic.org/inst](http://www.nicic.org/inst)

### **Training**

1. National Association of Court Management [www.nacmnet.org](http://www.nacmnet.org)
2. National Association of State Judicial Educators <http://nasje.unm.edu>
3. American Judges Association <http://aja.ncsc.dni.us>
4. National Judicial College [www.judges.org](http://www.judges.org)
5. Financial Management Training Seminars for Grant Recipients [www.tech-res-intl.com/doj-octraining](http://www.tech-res-intl.com/doj-octraining)
6. Understanding and Implementing Effective Offender Supervision Practices and Programming [www.appa-net.org](http://www.appa-net.org)
7. Criminal Courts Technical Assistance and Training <http://spa.american.edu/justice/ccta.php>
8. Drug Court Training Initiative <http://dcpi.ncjrs.org/index.html>

Court Name	Contact Person	Phone Number	Email
<b>Illinois Mental Health Courts</b>			
Cook County Mental Health Court	Mark Kammerer	(773) 896-2258	markkannerer@hotmail.com
Dupage County Mental Health Court	A.S.A. Augusta Clark	(630) 407-803	
Winnebago County Mental Health Court	Marci Raiber	(815) 987-1699	mraiber@co.winnebago.il.us
<b>Illinois Drug Courts</b>			
Champaign County Drug Court	Mike Carey	(217) 384-3753	
Coles County Drug Court	Michael Hughes	(217) 348-0535	
Cook County Adult Drug Court	Sue Stanger	(773) 869-5127	
Cook County Adult Social Services Court	James Edwards	(773) 869-6025	
Cook County Juvenile Drug Court	Jordanette Matthews	(312) 433-6501	
Dupage County Drug Court	Roben Partin	(630) 407-8846	
Jersey Count Drug Court	Richard Perdun	(618) 498-5571	
Kane County Adult Drug Court	Mike Daly	(630) 232-5882	
Kane County Juvenile Drug Court	Mary Hyatt	(630) 232-5808	
Kankakee County Drug Court	Joseph Ewers	(815) 937-2971	
Macon County Drug Court	Erica Wagner	(217) 424-1444	
Madison County Drug Court	Teri Worger	(618) 692-8961	
Morgan County Drug Court	Todd Dillard	(217) 243-9468	
Peoria County Adult Drug Court	Robert Askins	(309) 672-6018	
Peoria County Juvenile Drug Court	Greg Carruth	(309) 672-6080	
Pike County Drug Court		(217) 285-2041	
Rock Island County Drug Court	Janet Leone	(309) 558-3710	
Saline County Drug Court	Jeff Watkins	(618) 252-2701	
Vermilion County Drug Court	Brad Norton	(217) 431-2595	
Will County Adult Drug Court	Julie McCabe-Sterr	(815) 727-8453	
Will County Juvenile Drug Court	Julie McCabe-Sterr	(815) 727-8453	
Winnebago County Drug Court	Todd Schroeder	(815) 987-2547	



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# **ATTACHMENT 3**

ALTERNATIVE SENTENCING  
FOR YOUTHFUL OFFENDERS

Submitted to:

The Illinois Judicial Conference

Committee on Criminal Law and Probation Administration

Submitted by:

Judge Vincent M. Gaughan

Judge Lewis M. Nixon

Judge Mary Schostok

Jim Jordan, Staff Attorney

Matt Feery, Summer Law Clerk, University of Illinois College of Law

Philipp Esser, Attorney (NY Bar), University of Leipzig, Leipzig, Germany

July 22, 2005

## Basic Principles:

# Justifications for Youthful Offender Sentencing Reform

### I. Issue

At least ten states have passed Youthful Offender Acts. The similar nomenclature applied to these legislative enactments – “Youthful Offender Acts” – obscures important differences. Some of them redesign the procedure by which courts may return juveniles to juvenile court after being charged as an adult. Others create institutions within jails to better rehabilitate young adult offenders.

This memorandum focuses on another group of statutes commonly referred to as Youthful Offender Acts, a group designed to broaden sentencing options for Judges faced with a youthful offender (usually defined as those persons between 18 and 21 years old).<sup>1</sup> In effect, a youthful offender finding results in non-conviction for the underlying offense. The conviction is replaced by an alternative disposition focused on rehabilitation and alternative treatment. Four jurisdictions – Alabama, Florida, South Carolina, and Washington, D.C. – have adopted such acts, acts that, for the purposes of this memorandum, will be referred to as “Youthful Offender Sentencing Reform.” ALA. CODE § 15-19-1, *et seq.*; FLA. STAT. ch. 958, *et seq.*; S.C. CODE ANN. § 24-19-10, *et seq.*; WASH REV. CODE § 24-901, *et seq.* (Ex. A-D).

The General Assembly of the State of Illinois has not yet enacted Youthful Offender Sentencing Reform.

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<sup>1</sup> Other statutes define eligible youth offenders as those defendants between 16 and 19 years old.

## II. Question Presented

Should the Illinois Supreme Court Committee on Criminal Law and Probation Administration endorse the basic principles underlying Youthful Offender Sentencing Reform?

## III. Short Answer

**Yes.** The memorandum will support this conclusion by first examining the Committee's jurisdiction to make alternative sentencing recommendations to the Court. After establishing proper jurisdiction, focus will shift to the basic purpose and design of Youthful Offender Sentencing Reform. Finally, the memorandum will present constitutional, fiscal and historical justifications for reform.

## IV. Analysis

### A. Jurisdiction

#### **1. The Supreme Court Committee on Criminal Law and Probation Administration possesses authority to make recommendations with respect to Youthful Offender Sentencing Reform.**

The Supreme Court Committee on Criminal Law and Probation Administration possesses authority to make recommendations with respect to Youthful Offender Sentencing Reform. The Illinois Supreme Court directs the Committee on Criminal Law and Probation Administration with a four-part charge. What follows are two of those four parts:

- “Monitor and provide recommendations (including standards) on issues affecting the probation system.”

- “Review and recommend to the conference on matters affecting the administration of criminal justice.”

*Charge for the Committee on Criminal Law and Probation Administration (Ex. E).*

These portions of the charge provide the basis for the Committee’s current interest in Youthful Offender Sentencing Reform.

2. **While this memorandum will discuss the merits of Youthful Offender Sentencing Reform and make recommendations based upon that discussion, it in no way intends to suggest improper intrusion upon legislative powers.**

While this memorandum will discuss the merits of Youthful Offender Sentencing Reform and make recommendations based upon that discussion, it in no way intends to suggest improper intrusion upon legislative powers. Article II, Section I of the Constitution of the State of Illinois delineates the proper separation of powers. “The legislative, executive and judicial branches are separate. No branch shall exercise powers properly belonging to another.” Ill. Const. art. II, § 1. The legislature, pursuant to the State’s inherent police power, possesses wide discretion to fix penalties for various criminal offenses. *People v. Taylor*, 114 Ill. App. 3d 265, 267 (1983).

3. **Case law makes clear courts only rarely can interfere with the legislature’s power to define crimes and their punishment.**

Case law makes clear courts only rarely can interfere with the legislature’s power to define crimes and their punishment. “In enacting statute designed to suppress an evil,” the Illinois Supreme Court noted, “[the] general assembly may make classifications with which courts will not interfere unless they are shown to be unreasonable and arbitrary.” *People v. Keegan*, 52 Ill. 2d 147, 152 (1971). Recommendations produced by this

Committee regarding Youthful Offender Sentencing Reform are, therefore, just that – recommendations.

## **B. Youthful Offender Sentencing Reform**

### **1. Purpose and Assumptions**

- a. The general purpose of Youthful Offender Sentencing Reform is to utilize judicial discretion in order to promote rehabilitative outcomes for youthful offenders.**

The general purpose of Youthful Offender Sentencing Reform is to utilize judicial discretion in order to promote rehabilitative outcomes for youthful offenders. The Florida Youthful Offender Act, which contains proposals similar to those being considered by this Committee, contains purposeful language. It explicitly notes the grant of judicial discretion to impose alternative sanctions on youthful offenders is designed to improve the “chances of correction and successful return to the community.” FLA. STAT. ch. 958.01 (Ex. B). No one disagrees with the general rehabilitative purpose of these statutes; some young offenders undoubtedly deserve a second chance to become productive members of society.

- b. One key assumption also informs the design of Youthful Offender Acts. Namely, the Acts assume the current legal regime *underutilizes* judicial discretion.**

One key assumption also informs the design of Youthful Offender Acts. Namely, the Acts assume the current legal regime *underutilizes* judicial discretion. The universal acceptance of the Acts’ general purpose may not continue when the topic shifts to this

critical assumption. Legislators often change sentencing rules precisely because they believe sentencing statutes *overutilize* judicial discretion.

Given a basic understanding of the purpose and assumption associated with Youthful Offender Sentencing Reform, the memorandum now shifts attention to specific and common elements of statutory design.

## 2. Statutory Design

### **a. Youthful Offender Sentencing Reform carefully defines the class of offenders who qualify for “youthful offender” status.**

Youthful Offender Sentencing Reform carefully defines the class of offenders who qualify for “youthful offender” status. Statutory restrictions upon judicial grant of this status vary, but usually include limitations based upon: 1) age (e.g., the Committee could adopt Florida’s age limits – 18 to 21 – or could choose to be more/less generous); 2) class of felony (e.g., the Committee could exclude violent crimes and/or sex crimes and/or crimes for which capital or natural-life sentence); 3) prior criminal record (e.g., the Committee could exclude offenders previously convicted of a felony); and 4) prior classification as a youthful offender (e.g., Florida excludes youth who already received Youthful Offender status).

### **b. Even if a particular defendant meets the statutory requirements for Youthful Offender status, the decision to grant such status rests solely with the discretion of the court.**

Even if a particular defendant meets the statutory requirements for Youthful Offender status, the decision to grant such status rests solely with the discretion of the court. No existing or proposed statute resembling the reform now considered *requires*

courts to grant Youthful Offender status. The language is clear. Florida's Youthful Offender Act declares "the court *may* sentence as a youthful offender" any defendant who meets the statutory requirements. Maryland similarly declares "the court, *in its discretion, may direct*" a defendant be arraigned a youthful offender. FLA. STAT. ch. 958.04; ALA. CODE § 15-19-1(b) (emphasis added) (Ex. A-B).

**c. Judicial discretion is a powerful limitation on the grant of youthful offender status.**

Judicial discretion is a powerful limitation on the grant of youthful offender status. Remember, no one disagrees with the objective of the reform at issue – to identify and treat differently a group of youthful offenders who are amenable to court-supervised rehabilitation. The controversy brews when discussion moves to means used to achieve the objective. When responding to critics of Youthful Offender Sentencing Reform – critics who express legitimate public safety concerns – proponents too often focus on the explicit, black-and-white statutory limitations. Greater emphasis should be placed on judicial discretion. Judges, after all, remain free to assess the character of defendants – a skill judges hone every day they preside over a criminal courtroom – and deny youthful offender status to an otherwise eligible defendant.

**d. Because it serves to further limit the grant of youthful offender status, the grant of judicial discretion should reassure, not worry, the legislature.**

**3. Constitutional Justifications for Reform**

**a. The Illinois State Constitution specifically mandates that all criminal penalties be determined with rehabilitation in mind,**

The Illinois State Constitution specifically mandates that all criminal penalties be determined with rehabilitation in mind. Article 1, Section 11 reads: “All penalties shall be determined both according to the seriousness of the offense and *with the objective of restoring the offender to useful citizenship.*” Ill. Const. art. I, § 11 (emphasis added) (Ex. F). The Constitution of 1870 did not contain the highlighted language. The emphasis on rehabilitation appeared after ratification of the Illinois Constitution in 1970.

**b. The constitutionally mandated consideration of rehabilitation applies to both judicial and legislative acts.**

The constitutionally mandated consideration of rehabilitation applies to both judicial and legislative acts. In *People v. Taylor*, 102 Ill. 2d 201 (1984), the Illinois Supreme Court wrote:

This section of the State Constitution providing that all penalties shall be determined according to the seriousness of the offense and with the objective of restoring the offender to useful citizenship is applicable to the legislature as well as to the courts; it is directed to the legislature in its function of declaring what conduct is criminal and the penalties for the conduct, and it is directed to the judiciary in that it requires courts not to abuse discretion in imposing sentences within the framework set by the legislature.

*Id.* So while the legislative and judicial branches certainly perform different functions with respect to criminal sentences, the Illinois Constitution forces both to consider the objective of restoring the offender to useful citizenship.

**c. What does it mean for the courts to engage in the constitutionally required consideration of rehabilitation? No clear answer exists.**

What does it mean for the courts to engage in the constitutionally required consideration of rehabilitation? No clear answer exists. The Constitutional Commentary to the Article 1, § 11 points out that “[d]eveloping sentencing criteria for restoring

offenders to useful citizenship, beyond the broad language of the Constitution, will be difficult for the Courts...What specific factors must be used...is unanswered by the Constitutional language.” Helman, Robert A. and Wayne W. Whalen, “Constitutional Commentary, Ill. Const. art. I, § 11 (West 2004) (Ex. F).

**d. Youthful Offender Sentencing Reform presents an opportunity for the General Assembly and the courts to more clearly fulfill their constitutional duty to consider the objective of rehabilitation.**

Youthful Offender Sentencing Reform presents a historic opportunity for the General Assembly and the courts to more clearly fulfill their constitutional duty to consider the objective of rehabilitation. By passing an Illinois Youthful Offender Sentencing Act, the General Assembly would act pursuant to its constitutional duty under Article 1, §11 of the Illinois State Constitution to consider the objective of rehabilitation. This constitutional exercise of legislative power would in turn provide guidance to courts seeking to act pursuant to the same constitutional consideration.

**4. Fiscal Justifications for Reform**

**a. Current incarceration rates of youthful and other offenders impose significant fiscal burdens on society.**

Current incarceration rates of youthful and other offenders impose significant fiscal burdens on society. For 2006, the Illinois Department of Corrections had a budget of \$ 1,335,254,000. *Illinois State Budget, Table 1-A* (Ex. G). The estimated cost of prison incarceration per inmate for one year is \$22,627.<sup>2</sup> *Illinois Department of Corrections, Financial Impact Statement* (Ex. H). This per-inmate cost applies to over

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<sup>2</sup> Based on fiscal year 2003.

44,000 adult and over 1,600 juvenile inmates.<sup>3</sup> *Id.* On average, each Illinois taxpayer pays \$105 per year for the Department of Corrections. *Id.* Thus, keeping convicted criminals in jails and prisons is costly. It makes sense to review periodically whether our efforts lead to the desired results.

**b. High recidivism rates increase the fiscal burden.**

High recidivism rates increase the fiscal burden. By punishing convicted offenders, we intend to penalize unlawful behavior and to prevent future crime. Our success in preventing convicted offenders to commit further crimes is expressed in the recidivism rate. However, 54.6% of adult inmates and 46.6% of juvenile inmates return to the Department of Corrections within three years after release.<sup>4</sup> *Id.* These numbers challenge the criminal justice system.

**b. Youthful Offender Sentencing Reform has the potential to reduce recidivism rates.**

Youthful Offender Sentencing Reform has the potential to reduce recidivism rates. Lowering the recidivism rate pays off. If an offender refrains from future crime, he does not impose costs on the judicial system, of which the Department of Corrections is only a small section. He also can then contribute to society as a taxpayer. Prevention of crime therefore creates a dual benefit: it decreases expenses and - on average - it increases revenue.

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<sup>3</sup> Data as of June 30, 2004.

<sup>4</sup> Recidivism rate indicates the percentage of inmates who return to IDOC within three years after release. The data cited above represents those released from IDOC in fiscal year 2001. Juveniles include only those returned to juvenile facilities within three years after release.

## 5. Historical Justification for Reform: Efficacy of Existing Alternative Sentence Reform in Illinois

### a. Recently, Illinois has expanded the availability of alternative sentences for adults.

Recently, Illinois has expanded the availability of alternative sentences for adults and youthful offenders. Three examples follow. First, certain first-time adult drug offenders are eligible for “410” and “710” probation, which allow courts to dismiss the underlying charges against an offender if that same offender successfully completes probation. 720 ILCS 550/10; 720 ILCS 570/410 (Ex. I-J). A “410” or “710” dismissal of charges gives the offender a better chance to contribute to the community. Second, as recently as June 1, 2005, Illinois again expanded the class of offenses eligible for expungement and sealing of records. Public Act 93-1084. These expansions allow former offenders to more easily find work, housing etc.

Finally, in 2004, the Criminal Division of the Circuit Court of Cook County began operating two mental health courts. Statistics gathered by the Cook County State’s Attorney’s Office demonstrate that these courts promise to dramatically reduce recidivism rates for mentally-ill offenders. Mark Kammerer, Office of the Cook County State’s Attorney, *Mental Health Court Referrals as of 7/14/05* (Ex. K). Why do mental health courts succeed? Among other things, they provide intensive monitoring and treatment instead of or in addition to periods of incarceration.

**b. Illinois is also implementing successful reform with respect to juveniles.**

Illinois is also implementing successful reform with respect to juveniles. The Juvenile Justice Reform Act of 1998 is proof of our State's adoption of a balanced, restorative-justice approach to juveniles. This approach quickly produced results. From 1999 to 2000, Illinois experienced a 15 percent drop in the number of juveniles residing in facilities overseen by the Illinois Department of Corrections. *Illinois Department of Corrections, Statistics on Youthful Offenders Under 18, 1999-2004* (Ex. L). The trend continued between 2000 and 2001, when the IDOC juvenile population fell by nearly 10 percent. *Id.* Overall, from 1999-2004, the IDOC has seen a 22% reduction from 1999 levels. *Id.*

With the help of the Annie E. Casey Foundation, Cook County also developed alternative sentencing tools for juveniles. Cook County now runs evening reporting centers where youths can engage in recreational activities, tutoring, and counseling. Bill Russ, *Juvenile Jailhouse Rocked: Reforming Detention in Chicago, Portland, and Sacramento*, Anna E. Casey Foundation (Ex. M). These centers provide a success story for both the youthful offenders and the taxpayers. The youthful offenders receive help while the taxpayers receive a reduction in crime and realize \$3.5 million in tax savings. *Id.*

**c. Additionally and more pertinent to this memorandum, Illinois is already on the forefront of successful and adaptive change with respect to alternative sentences for youthful offenders.**

Additionally, and more pertinent to this memorandum, Illinois is already on the forefront of successful and adaptive change with respect to alternative sentences for youthful offenders. Boot camps demonstrate the powerful rehabilitative potential of creative alternative sentencing regimes. The State's boot camp, officially known as the Impact Incarceration Program, reduced recidivism by 30% over a three-year period. *Illinois Department of Corrections, Impact Incarceration Program, 2003 Annual Report to the Governor, Recidivism Rates* (Ex. N). Statistics released by Cook County Boot Camp on June 30, 2005, also tell a compelling success story: 1) 2,929 individuals have successfully completed the program; 2) of the 2,462 graduates two-years out from the program, 2,286 remain incarceration free; 3) the aggregate five-year recidivism rate is 29 percent.<sup>5</sup> *Letter from Durkin to Judge Gaughan of 7/19/2005* (Ex. O).

## **V. Conclusion**

Because the charge governing the Committee on Criminal Law and Probation Administration directs it to make sentencing recommendations to the Court, and because Youthful Offender Sentencing Reform promises to benefit both youthful offenders and the people of the State of Illinois, it is requested that the Committee endorse the basic principles underlying Youthful Offender Sentencing Reform.

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<sup>5</sup>Even more statistics indicative of successful rehabilitation can be found in Exhibit M.

# **EXHIBIT A**

## ALABAMA

## Title 15: Criminal Procedure; Chapter 19: Youthful Offenders

Section 15-19-1

**Investigation and examination by court to determine how tried; consent of minor to trial without jury; arraignment as youthful offender.**

(a) A person charged with a crime which was committed in his minority but was not disposed of in juvenile court and which involves moral turpitude or is subject to a sentence of commitment for one year or more shall, and, if charged with a lesser crime may be investigated and examined by the court to determine whether he should be tried as a youthful offender, provided he consents to such examination and to trial without a jury where trial by jury would otherwise be available to him. If the defendant consents and the court so decides, no further action shall be taken on the indictment or information unless otherwise ordered by the court as provided in subsection (b) of this section.

(b) After such investigation and examination, the court, in its discretion, may direct that the defendant be arraigned as a youthful offender, and no further action shall be taken on the indictment or information; or the court may decide that the defendant shall not be arraigned as a youthful offender, whereupon the indictment or information shall be deemed filed.

Section 15-19-2

**Investigations for court by probation officers.**

It shall be the duty of all probation officers of the State of Alabama to make such investigations for the court as requested by the court for the purpose of determining whether or not the person shall be charged as a youthful offender.

Section 15-19-3

**Trial - Sessions to be separate from adult trials.**

The trial of youthful offenders and proceedings involving them shall be conducted at court sessions separate from those for adults charged with crime.

Section 15-19-4

**Trial - Without jury.**

If a defendant does not plead guilty, the trial of the charge as a youthful offender shall be before the judge without a jury.

**Section 15-19-5****Inadmissibility of examination and investigation statements, admissions and confessions; consideration of statements, etc., at time of sentencing.**

No statement, admission or confession made by a defendant to the court or to any officer thereof during the examination and investigation referred to in Section 15-19-1 shall be admissible as evidence against him or his interest; provided, however, that the court may take such statement, admission or confession into consideration at the time of sentencing after the defendant has been found guilty of a crime or adjudged a youthful offender.

**Section 15-19-6****Disposition upon adjudication.**

(a) If a person is adjudged a youthful offender and the underlying charge is a felony, the court shall:

(1) Suspend the imposition or execution of sentence with or without probation;

(2) Place the defendant on probation for a period not to exceed three years;

(3) Impose a fine as provided by law for the offense with or without probation or commitment;

(4) Commit the defendant to the custody of the Board of Corrections for a term of three years or a lesser term.

(b) Where a sentence of fine is not otherwise authorized by law, then, in lieu of or in addition to any of the dispositions authorized in this section, the court may impose a fine of not more than \$1,000.00. In imposing a fine the court may authorize its payment in installments.

(c) In placing a defendant on probation, the court shall direct that he be placed under the supervision of the appropriate probation agency.

(d) If the underlying charge is a misdemeanor, a person adjudged a youthful offender may be given correctional treatment as provided by law for such misdemeanor.

**Section 15-19-7****Effect of determination; records not open to public inspection; exception.**

(a) No determination made under the provisions of this chapter shall disqualify any youth for public office or public employment, operate as a forfeiture of any right or privilege or make him ineligible to receive any license granted by public authority, and such determination shall not be deemed a conviction of crime; provided, however, that if he is subsequently convicted of crime, the prior adjudication as youthful offender shall be considered.

(b) The fingerprints and photographs and other records of a person adjudged a youthful offender shall not be open to public inspection; provided, however, that the court may, in its discretion, permit the inspection of papers or records.

## Title 12: Courts; Chapter 15: Juvenile Proceedings

Section 12-15-1

(Subject to the satisfaction of contingencies specified in Act 98-392) Definitions.

When used in this chapter, the following words and phrases shall have the following meanings:

(1) ADULT. An individual 19 years of age or older.

[.....]

(3) CHILD. An individual under the age of 18, or under 19 years of age and before the juvenile court for a matter arising before that individual's 18th birthday.

[.....]

(18) MINOR. An individual who is under the age of 19 years and who is not a "child" within the meaning of this chapter.

# **EXHIBIT B**

Select Year:

## The 2004 Florida Statutes

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### CHAPTER 958

#### YOUTHFUL OFFENDERS

958.011 Short title.

958.021 Legislative intent.

958.03 Definitions.

958.04 Judicial disposition of youthful offenders.

958.045 Youthful offender basic training program.

958.046 Placement in county-operated boot camp programs for youthful offenders.

958.06 Suspension of sentence by court.

958.07 Presentence report; access by defendant.

958.09 Extension of limits of confinement.

958.11 Designation of institutions and programs for youthful offenders; assignment from youthful offender institutions and programs.

958.12 Participation in certain activities required.

958.13 Sealing, expunction, and dissemination of records.

958.14 Violation of probation or community control program.

958.15 Mutual participation agreements.

**958.011 Short title.**--Sections 958.011-958.15 shall be known and may be cited as the "Florida Youthful Offender Act."

**History.**--s. 1, ch. 78-84.

**958.021 Legislative intent.**--The purpose of this chapter is to improve the chances of correction and successful return to the community of youthful offenders sentenced to imprisonment by providing them with enhanced vocational, educational, counseling, or public service opportunities and by preventing their association with older and more experienced criminals during the terms of their confinement. It is the further purpose of this chapter to encourage citizen volunteers from the community to contribute time, skills, and maturity toward helping youthful offenders successfully reintegrate into the community and to require youthful offenders to participate in substance abuse and other types of counseling and programs at each youthful offender institution. It is the further intent of the Legislature to provide an additional sentencing alternative to be used in the discretion of the court when dealing with offenders who have demonstrated that they can no longer be handled safely as juveniles and who require more substantial limitations upon their liberty to ensure the protection of society.

**History.**--s. 2, ch. 78-84; s. 18, ch. 85-288; s. 97, ch. 94-209.

**958.03 Definitions.**--As used in this act:

- (1) "Department" means the Department of Corrections.
- (2) "Community control program" means a form of intensive supervised custody in the community, including surveillance on weekends and holidays, administered by officers with restricted caseloads. Community control is an individualized program in which the freedom of the offender is restricted within the community, home, or noninstitutional residential placement and specific sanctions are imposed and enforced.
- (3) "Court" means a judge or successor who designates a defendant as a youthful offender.
- (4) "Probation" means a form of community supervision requiring specified contacts with parole and probation officers and other terms and conditions as provided in s. 948.03.
- (5) "Youthful offender" means any person who is sentenced as such by the court or is classified as such by the department pursuant to s. 958.04.

**History.**--s. 3, ch. 78-84; s. 119, ch. 79-3; s. 19, ch. 85-288; s. 98, ch. 94-209.

**958.04 Judicial disposition of youthful offenders.**--

- (1) The court may sentence as a youthful offender any person:
  - (a) Who is at least 18 years of age or who has been transferred for prosecution to the criminal division of the circuit court pursuant to chapter 985;
  - (b) Who is found guilty of or who has tendered, and the court has accepted, a plea of nolo contendere or guilty to a crime which is, under the laws of this state, a felony if such crime was committed before the defendant's 21st birthday; and

(c) Who has not previously been classified as a youthful offender under the provisions of this act; however, no person who has been found guilty of a capital or life felony may be sentenced as a youthful offender under this act.

(2) In lieu of other criminal penalties authorized by law and notwithstanding any imposition of consecutive sentences, the court shall dispose of the criminal case as follows:

(a) The court may place a youthful offender under supervision on probation or in a community control program, with or without an adjudication of guilt, under such conditions as the court may lawfully impose for a period of not more than 6 years. Such period of supervision shall not exceed the maximum sentence for the offense for which the youthful offender was found guilty.

(b) The court may impose a period of incarceration as a condition of probation or community control, which period of incarceration shall be served in either a county facility, a department probation and restitution center, or a community residential facility which is owned and operated by any public or private entity providing such services. No youthful offender may be required to serve a period of incarceration in a community correctional center as defined in s. 944.026. Admission to a department facility or center shall be contingent upon the availability of bed space and shall take into account the purpose and function of such facility or center. Placement in such a facility or center shall not exceed 364 days.

(c) The court may impose a split sentence whereby the youthful offender is to be placed on probation or community control upon completion of any specified period of incarceration; however, if the incarceration period is to be served in a department facility other than a probation and restitution center or community residential facility, such period shall be for not less than 1 year or more than 4 years. The period of probation or community control shall commence immediately upon the release of the youthful offender from incarceration. The period of incarceration imposed or served and the period of probation or community control, when added together, shall not exceed 6 years.

(d) The court may commit the youthful offender to the custody of the department for a period of not more than 6 years, provided that any such commitment shall not exceed the maximum sentence for the offense for which the youthful offender has been convicted. Successful participation in the youthful offender program by an offender who is sentenced as a youthful offender by the court pursuant to this section, or is classified as such by the department, may result in a recommendation to the court, by the department, for a modification or early termination of probation, community control, or the sentence at any time prior to the scheduled expiration of such term. When a modification of the sentence results in the reduction of a term of incarceration, the court may impose a term of probation or community control which, when added to the term of incarceration, shall not exceed the original sentence imposed.

(3) The provisions of this section shall not be used to impose a greater sentence than the permissible sentence range as established by the Criminal Punishment Code pursuant to chapter 921 unless reasons are explained in writing by the trial court judge which reasonably justify departure. A sentence imposed outside of the code is subject to appeal pursuant to s. 924.06 or s. 924.07.

(4) Due to severe prison overcrowding, the Legislature declares the construction of a basic training program facility is necessary to aid in alleviating an emergency situation.

(5) The department shall provide a special training program for staff selected for the basic training program.

**History.**--s. 5, ch. 78-84; s. 1, ch. 80-321; s. 20, ch. 85-288; s. 1, ch. 87-58; s. 3, ch. 87-110; s. 7, ch. 90-208; s. 11, ch. 90-211; s. 11, ch. 91-225; s. 8, ch. 93-406; s. 101, ch. 94-209; s. 22, ch. 96-312; s. 31, ch. 97-94; s. 36, ch. 97-194; s. 21, ch. 98-204; s. 61, ch. 98-280.

**958.045 Youthful offender basic training program.--**

(1) The department shall develop and implement a basic training program for youthful offenders sentenced or classified by the department as youthful offenders pursuant to this chapter. The period of time to be served at the basic training program shall be no less than 120 days.

(a) The program shall include marching drills, calisthenics, a rigid dress code, manual labor assignments, physical training with obstacle courses, training in decisionmaking and personal development, general education development and adult basic education courses, and drug counseling and other rehabilitation programs.

(b) The department shall adopt rules governing the administration of the youthful offender basic training program, requiring that basic training participants complete a structured disciplinary program, and allowing for a restriction on general inmate population privileges.

(2) Upon receipt of youthful offenders, the department shall screen offenders for the basic training program. To participate, an offender must have no physical limitations that preclude participation in strenuous activity, must not be impaired, and must not have been previously incarcerated in a state or federal correctional facility. In screening offenders for the basic training program, the department shall consider the offender's criminal history and the possible rehabilitative benefits of "shock" incarceration. If an offender meets the specified criteria and space is available, the department shall request, in writing from the sentencing court, approval for the offender to participate in the basic training program. If the person is classified by the department as a youthful offender and the department is requesting approval from the sentencing court for placement in the program, the department shall, at the same time, notify the state attorney that the offender is being considered for placement in the basic training program. The notice must explain that the purpose of such placement is diversion from lengthy incarceration when a short "shock" incarceration could produce the same deterrent effect, and that the state attorney may, within 14 days after the mailing of the notice, notify the sentencing court in writing of objections, if any, to the placement of the offender in the basic training program. The sentencing court shall notify the department in writing of placement approval no later than 21 days after receipt of the department's request for placement of the youthful offender in the basic training program. Failure to notify the department within 21 days shall be considered an approval by the sentencing court for placing the youthful offender in the basic training program. Each state attorney may develop procedures for notifying the victim that the offender is being considered for placement in the basic training program.

(3) The program shall provide a short incarceration period of rigorous training to offenders who require a greater degree of supervision than community control or probation provides. Basic training programs may be operated in secure areas in or adjacent to an adult institution notwithstanding s. 958.11. The program is not intended to divert offenders away from probation or community control but to divert them from long periods of incarceration when a short "shock" incarceration could produce the same deterrent effect.

(4) Upon admittance to the department, an educational and substance abuse assessment shall be performed on each youthful offender. Upon admittance to the basic training program, each offender shall have a full substance abuse assessment to determine the offender's need for substance abuse treatment. The educational assessment shall be accomplished through the aid of the Test of Adult Basic Education or any other testing instrument approved by the Department of Education, as appropriate. Each offender who has not obtained a high school diploma shall be enrolled in an adult education program designed to aid the offender in improving his or her academic skills and earning a high school diploma. Further assessments of the prior vocational skills and future <sup>1</sup>career education shall be provided to the offender. A periodic evaluation shall be made to assess the progress of each offender, and upon completion of the basic training program the assessment and information from the department's record of each offender shall be transferred to the appropriate community residential program.

(5)(a) If an offender in the basic training program becomes unmanageable, the department may revoke the offender's gain-time and place the offender in disciplinary confinement for up to 30 days. Upon completion of the disciplinary process, the offender shall be readmitted to the basic training program, except for an offender who has committed or threatened to commit a violent act. If the offender is terminated from the program, the department may place the offender in the general population to complete the remainder of the offender's sentence. Any period of time in which the offender is unable to participate in the basic training activities may be excluded from the specified time requirements in the program.

(b) If the offender is unable to participate in the basic training activities due to medical reasons, certified medical personnel shall examine the offender and shall consult with the basic training program director concerning the offender's termination from the program.

(c) The portion of the sentence served prior to placement in the basic training program may not be counted toward program completion. Upon the offender's completion of the basic training program, the department shall submit a report to the court that describes the offender's performance. If the offender's performance has been satisfactory, the court shall issue an order modifying the sentence imposed and placing the offender on probation. The term of probation may include placement in a community residential program. If the offender violates the conditions of probation, the court may revoke probation and impose any sentence that it might have originally imposed as a condition of probation.

(6)(a) Upon completing the basic training program, an offender shall be transferred to a community residential program and reside there for a term designated by department rule. If the basic training program director determines that the offender is not suitable for the community residential program but is suitable for an alternative postrelease program or release plan, within 30 days prior to program completion the department shall evaluate the offender's needs and determine an alternative postrelease

program or plan. The department's consideration shall include, but not be limited to, the offender's employment, residence, family situation, and probation or postrelease supervision obligations. Upon the approval of the department, the offender shall be released to an alternative postrelease program or plan.

(b) While in the community residential program, as appropriate, the offender shall engage in gainful employment, and if any, shall pay restitution to the victim. If appropriate, the offender may enroll in substance abuse counseling, and if suitable, shall enroll in a general education development or adult basic education class for the purpose of attaining a high school diploma. Upon release from the community residential program, the offender shall remain on probation, or other postrelease supervision, and abide by the conditions of the offender's probation or postrelease supervision. If, upon transfer from the community residential program, the offender has not completed the enrolled educational program, the offender shall continue the educational program until completed. If the offender fails to complete the program, the department may request the court or the control release authority to execute an order returning the offender back to the community residential program until completion of the program.

(7) The department shall implement the basic training program to the fullest extent feasible within the provisions of this section.

(8)(a) The Assistant Secretary for Youthful Offenders shall continuously screen all institutions, facilities, and programs for any inmate who meets the eligibility requirements for youthful offender designation specified in s. 958.04, whose age does not exceed 24 years. The department may classify and assign as a youthful offender any inmate who meets the criteria of s. 958.04.

(b) A youthful offender who is designated as such by the department and assigned to the basic training program must be eligible for control release pursuant to s. 947.146.

(c) The department shall work cooperatively with the Control Release Authority or the Parole Commission to effect the release of an offender who has successfully completed the requirements of the basic training program.

(d) Upon an offender's completion of the basic training program, the department shall submit a report to the releasing authority that describes the offender's performance. If the performance has been satisfactory, the release authority shall establish a release date that is within 30 days following program completion. As a condition of release, the offender shall be placed in a community residential program as provided in this section or on community supervision as provided in chapter 947, and shall be subject to the conditions established therefor.

(9) Upon commencement of the community residential program, the department shall submit annual reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives detailing the extent of implementation of the basic training program and the community residential program, and outlining future goals and any recommendation the department has for future legislative action.

(10) Due to serious and violent crime, the Legislature declares the construction of a basic training facility

is necessary to aid in alleviating an emergency situation.

(11) The department shall provide a special training program for staff selected for the basic training program.

(12) The department may develop performance-based contracts with qualified individuals, agencies, or corporations for the provision of any or all of the youthful offender programs.

(13) An offender in the basic training program is subject to rules of conduct established by the department and may have sanctions imposed, including loss of privileges, restrictions, disciplinary confinement, alteration of release plans, or other program modifications in keeping with the nature and gravity of the program violation. Administrative or protective confinement, as necessary, may be imposed.

(14) The department may establish a system of incentives within the basic training program which the department may use to promote participation in rehabilitative programs and the orderly operation of institutions and facilities.

(15) The department shall develop a system for tracking recidivism, including, but not limited to, rearrests and recommitment of youthful offenders, and shall report on that system in its annual reports of the programs.

**History.**--s. 99, ch. 94-209; s. 1703, ch. 97-102.

<sup>1</sup>**Note.**--The term "career education" was substituted for the term "vocational education" by the editors pursuant to the directive of the Legislature in s. 16, ch. 94-232.

**958.046 Placement in county-operated boot camp programs for youthful offenders.**--In counties where there are county-operated youthful offender boot camp programs, other than boot camps described in s. 958.04 or s. 985.309, the court may sentence a youthful offender to such a boot camp. In county-operated youthful offender boot camp programs, juvenile offenders shall not be commingled with youthful offenders.

**History.**--s. 50, ch. 95-283; s. 62, ch. 98-280.

**958.06 Suspension of sentence by court.**--The court, upon motion of the defendant, or upon its own motion, may within 60 days after imposition of sentence suspend the further execution of the sentence and place the defendant on probation in a community control program upon such terms as the court may require. The department shall forward to the court, not later than 3 working days prior to the hearing on the motion, all relevant material on the youthful offender's progress while in custody.

**History.**--s. 7, ch. 78-84.

**958.07 Presentence report; access by defendant.**--The defendant is entitled to an opportunity to present to the court facts which would materially affect the decision of the court to adjudicate the

defendant a youthful offender. The defendant, his or her attorney, and the state shall be entitled to inspect all factual material contained in the comprehensive presentence report or diagnostic reports prepared or received by the department. The victim, the victim's parent or guardian if the victim is a minor, the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, or the victim's next of kin in the case of a homicide may review the presentence investigation report as provided in s. 960.001(1)(g)2. The court may withhold from disclosure to the defendant and his or her attorney sources of information which have been obtained through a promise of confidentiality. In all cases in which parts of the report are not disclosed, the court shall state for the record the reasons for its action and shall inform the defendant and his or her attorney that information has not been disclosed.

**History.**--s. 8, ch. 78-84; s. 102, ch. 94-209; s. 1704, ch. 97-102; s. 2, ch. 2001-209.

#### **958.09 Extension of limits of confinement.--**

(1) The department shall adopt rules permitting the extension of the limits of the place of confinement of a youthful offender when there is reasonable cause to believe that the youthful offender will honor the trust placed in him or her. The department may authorize a youthful offender, under prescribed conditions and following investigation and approval by the department which shall maintain a written record of such action, to leave the place of his or her confinement for a prescribed period of time:

(a) To visit a designated place or places for the purpose of visiting a dying relative, attending the funeral of a relative, or arranging for employment or for a suitable residence for use when released; to otherwise aid in the correction of the youthful offender; or for another compelling reason consistent with the public interest and to return to the same or another institution or facility designated by the department; or

(b) To work at paid employment, participate in an educational or a training program, or voluntarily serve a public or nonprofit agency or a public service program in the community; provided, that the youthful offender shall be confined except during the hours of his or her employment, education, training, or service and while traveling thereto and therefrom.

(2) The department shall adopt rules as to the eligibility of youthful offenders for such extension of confinement, the disbursement of any earnings of youthful offenders, or the entering into of agreements between the department and any municipal, county, or federal agency for the housing of youthful offenders in a local place of confinement. However, no youthful offender convicted of sexual battery pursuant to s. 794.011 is eligible for any extension of the limits of confinement under this section.

(3) The willful failure of a youthful offender to remain within the extended limits of confinement or to return within the time prescribed to the place of confinement designated by the department is an escape from the custody of the department and a felony of the third degree, punishable as provided by s. 775.082.

(4) The department may contract with other public and private agencies for the confinement, treatment, counseling, aftercare, or community supervision of youthful offenders when consistent with the youthful offenders' welfare and the interest of society.

(5) The department shall document and account for all forms for disciplinary reports for inmates placed on extended limits of confinement, which reports shall include, but not be limited to, all violations of rules of conduct, the rule or rules violated, the nature of punishment administered, the authority ordering such punishment, and the duration of time during which the inmate was subjected to confinement.

(6)(a) The department is authorized to levy fines only through disciplinary reports and only against inmates placed on extended limits of confinement. Major and minor infractions and their respective punishments for inmates placed on extended limits of confinement shall be defined by the rules of the department, except that any fine shall not exceed \$50 for each infraction deemed to be minor and \$100 for each infraction deemed to be major. Such fines shall be deposited in the General Revenue Fund, and a receipt shall be given to the inmate.

(b) When the chief correctional officer determines that a fine would be an appropriate punishment for a violation of the rules of the department, both the determination of guilt and the amount of the fine shall be determined by the disciplinary committee pursuant to the method prescribed in s. 944.28(2)(c).

(c) The department shall develop rules defining the policies and procedures for the administering of such fines.

**History.**--s. 9, ch. 78-84; s. 4, ch. 83-274; s. 21, ch. 85-288; s. 24, ch. 93-156; s. 103, ch. 94-209; s. 1705, ch. 97-102; s. 13, ch. 2003-179.

**958.11 Designation of institutions and programs for youthful offenders; assignment from youthful offender institutions and programs.--**

(1) The department shall by rule designate separate institutions and programs for youthful offenders and shall employ and utilize personnel specially qualified by training and experience to operate all such institutions and programs for youthful offenders. Youthful offenders who are at least 14 years of age but who have not yet reached the age of 19 years at the time of reception shall be separated from youthful offenders who are 19 years of age or older, except that if the population of the facilities designated for 14-year-old to 18-year-old youthful offenders exceeds 100 percent of lawful capacity, the department may assign 18-year-old youthful offenders to the 19-24 age group facility.

(2) Youthful offender institutions and programs shall contain only those youthful offenders sentenced as such by a court or classified as such by the department, pursuant to the requirements of subsections (4) and (6), except that under special circumstances select adult offenders may be assigned to youthful offender institutions. Female youthful offenders may continue to be housed at Florida Correctional Institution and Broward Correctional Institution until such time as a female youthful offender institution is established or adapted to accommodate all custody classifications.

(3) The department may assign a youthful offender to a facility in the state correctional system which is not designated for the care, custody, control, and supervision of youthful offenders or an age group only in the following circumstances:

- (a) If the youthful offender is convicted of a new crime which is a felony under the laws of this state.
  - (b) If the youthful offender becomes such a serious management or disciplinary problem resulting from serious violations of the rules of the department that his or her original assignment would be detrimental to the interests of the program and to other inmates committed thereto.
  - (c) If the youthful offender needs medical treatment, health services, or other specialized treatment otherwise not available at the youthful offender facility.
  - (d) If the department determines that the youthful offender should be transferred outside of the state correctional system, as provided by law, for services not provided by the department.
  - (e) If bed space is not available in a designated community residential facility, the department may assign a youthful offender to a community residential facility, provided that the youthful offender is separated from other offenders insofar as is practical.
  - (f) If the youthful offender was originally assigned to a facility designated for 14-year-old to 18-year-old youthful offenders, but subsequently reaches the age of 19 years, the department may retain the youthful offender in the facility if the department determines that it is in the best interest of the youthful offender and the department.
  - (g) If the department determines that a youthful offender originally assigned to a facility designated for the 19-24 age group is mentally or physically vulnerable by such placement, the department may reassign a youthful offender to a facility designated for the 14-18 age group if the department determines that a reassignment is necessary to protect the safety of the youthful offender or the institution.
  - (h) If the department determines that a youthful offender originally assigned to a facility designated for the 14-18 age group is disruptive, incorrigible, or uncontrollable, the department may reassign a youthful offender to a facility designated for the 19-24 age group if the department determines that a reassignment would best serve the interests of the youthful offender and the department.
- (4) The Office of the Assistant Secretary for Youthful Offenders shall continuously screen all institutions, facilities, and programs for any inmate who meets the eligibility requirements for youthful offender designation specified in s. 958.04(1)(a) and (c) whose age does not exceed 24 years and whose total length of sentence does not exceed 10 years, and the department may classify and assign as a youthful offender any inmate who meets the criteria of this subsection.
- (5) The Population Movement and Control Coordinator shall coordinate all youthful offender assignments or transfers and shall consult with the Office of the Assistant Secretary for Youthful Offenders. The Office of the Assistant Secretary for Youthful Offenders shall review and maintain access to full and complete documentation and substantiation of all such assignments or transfers of youthful offenders to or from facilities in the state correctional system which are not designated for their care, custody, and control, except assignments or transfers made pursuant to paragraph (3)(c).

(6) The department may assign to a youthful offender facility any inmate, except a capital or life felon, whose age does not exceed 19 years but who does not otherwise meet the criteria of this section, if the Assistant Secretary for Youthful Offenders determines that such inmate's mental or physical vulnerability would substantially or materially jeopardize his or her safety in a nonyouthful offender facility. Assignments made under this subsection shall be included in the department's annual report.

History.--s. 11, ch. 78-84; s. 22, ch. 85-288; s. 104, ch. 94-209; s. 51, ch. 95-283; s. 39, ch. 96-312; s. 1882, ch. 97-102.

#### 958.12 Participation in certain activities required.--

(1) A youthful offender shall be required to participate in work assignments, and in career, academic, counseling, and other rehabilitative programs in accordance with this section, including, but not limited to:

(a) All youthful offenders may be required, as appropriate, to participate in:

1. Reception and orientation.
2. Evaluation, needs assessment, and classification.
3. Educational programs.
4. Career and job training.
5. Life and socialization skills training, including anger/aggression control.
6. Prerelease orientation and planning.
7. Appropriate transition services.

(b) In addition to the requirements in paragraph (a), the department shall make available:

1. Religious services and counseling.
2. Social services.
3. Substance abuse treatment and counseling.
4. Psychological and psychiatric services.
5. Library services.
6. Medical and dental health care.

7. Athletic, recreational, and leisure time activities.

8. Mail and visiting privileges.

Income derived by a youthful offender from participation in such activities may be used, in part, to defray a portion of the costs of his or her incarceration or supervision; to satisfy preexisting obligations; to pay fines, counseling fees, or other costs lawfully imposed; or to pay restitution to the victim of the crime for which the youthful offender has been convicted in an amount determined by the sentencing court. Any such income not used for such reasons or not used as provided in s. 946.513 or s. 958.09 shall be placed in a bank account for use by the youthful offender upon his or her release.

(2) A comprehensive transition and postrelease plan shall be developed for the youthful offender by a team consisting of a transition assistance officer, a classification officer, an educational representative, a health services administrator, a probation and parole officer, and the youthful offender.

(3) A youthful offender shall be visited by a probation and parole officer prior to the offender's release from incarceration in order to assist in the youthful offender's transition.

(4) Community partnerships shall be developed by the department to provide postrelease community resources. The department shall develop partnerships with entities which include, but are not limited to, the <sup>1</sup>Department of Labor and Employment Security, the Department of Children and Family Services, community health agencies, and school systems.

(5) Supervision of the youthful offender after release from incarceration is required and may be accomplished in a residential or nonresidential program, intensive day treatment, or supervision by a probation and parole officer.

**History.**--s. 12, ch. 78-84; s. 23, ch. 85-288; s. 55, ch. 91-110; s. 105, ch. 94-209; s. 1706, ch. 97-102; s. 326, ch. 99-8; s. 66, ch. 2004-357.

<sup>1</sup>**Note.**--Section 69, ch. 2002-194, repealed s. 20.171, which created the Department of Labor and Employment Security.

**958.13 Sealing, expunction, and dissemination of records.--**

(1) The records relating to the arrest, indictment, information, trial, or disposition of alleged offenses of a person adjudicated a youthful offender under this act shall be subject to such sealing, expunction, and control of dissemination as are the criminal justice records of other adult offenders under applicable provisions of law.

(2) Nothing in this section shall be construed as prohibiting a youthful offender or his or her attorney from discovery of records or information as otherwise authorized by law or required by the state or the federal constitution.

**History.**--s. 13, ch. 78-84; s. 1, ch. 94-71; s. 1707, ch. 97-102.

**958.14 Violation of probation or community control program.**--A violation or alleged violation of probation or the terms of a community control program shall subject the youthful offender to the provisions of s. 948.06. However, no youthful offender shall be committed to the custody of the department for a substantive violation for a period longer than the maximum sentence for the offense for which he or she was found guilty, with credit for time served while incarcerated, or for a technical or nonsubstantive violation for a period longer than 6 years or for a period longer than the maximum sentence for the offense for which he or she was found guilty, whichever is less, with credit for time served while incarcerated.

**History.**--s. 14, ch. 78-84; s. 193, ch. 83-216; s. 24, ch. 85-288; s. 19, ch. 90-208; s. 1708, ch. 97-102; s. 6, ch. 97-239; s. 38, ch. 2004-373.

**958.15 Mutual participation agreements.**--The provisions of this act shall not restrict the participation of youthful offenders in a mutual participation agreement adopted pursuant to s. 947.135.

**History.**--s. 15, ch. 78-84.

# **EXHIBIT C**

## CHAPTER 19.

## CORRECTION AND TREATMENT OF YOUTHFUL OFFENDERS

**SECTION 24-19-10. Definitions.**

As used herein:

- (a) "Department" means the Department of Corrections.
- (b) "Division" means the Youthful Offender Division.
- (c) "Director" means the Director of the Department of Corrections.
- (d) "Youthful offender" means an offender who is:
  - (i) under seventeen years of age and has been bound over for proper criminal proceedings to the court of general sessions pursuant to Section 20-7-7605 for allegedly committing an offense that is not a violent crime, as defined in Section 16-1-60, and that is a misdemeanor, a Class D, Class E, or Class F felony, as defined in Section 16-1-20, or a felony which provides for a maximum term of imprisonment of fifteen years or less, or
  - (ii) seventeen but less than twenty-five years of age at the time of conviction for an offense that is not a violent crime, as defined in Section 16-1-60, and that is a misdemeanor, a Class D, Class E, or Class F felony, or a felony which provides for a maximum term of imprisonment of fifteen years or less.
- (e) "Treatment" means corrective and preventive guidance and training designed to protect the public by correcting the antisocial tendencies of youthful offenders; this may also include vocational and other training considered appropriate and necessary by the division.
- (f) "Conviction" means a judgment in a verdict or finding of guilty, plea of guilty, or plea of nolo contendere to a criminal charge where the imprisonment is at least one year, but excluding all offenses in which the maximum punishment provided by law is death or life imprisonment.

**SECTION 24-19-20. Youthful Offender Division created in Department of Corrections; staff.**

There is hereby created within the Department of Corrections a Youthful Offender Division. The division shall be staffed by appointees and designees of the Director of the Department of Corrections. The staff members shall be delegated such administrative duties and responsibilities as may be required to carry out the purpose of this chapter.

**SECTION 24-19-30. Duties of Division generally.**

The division shall consider problems of treatment and correction; shall consult with and make recommendations to the director with respect to general treatment and correction policies and procedures for committed youthful offenders, and recommend orders to direct the release of youthful offenders conditionally under supervision and the unconditional discharge of youthful offenders; and take such further action and recommend such other orders to the director as may be necessary or proper to carry out the purpose of this chapter.

**SECTION 24-19-40. Adoption of rules.**

The division shall adopt such rules as the South Carolina Department of Corrections approves and promulgate them as they apply directly or indirectly to its procedure.

**SECTION 24-19-50. Powers of courts upon conviction of youthful offenders.**

In the event of a conviction of a youthful offender the court may:

- (1) suspend the sentence and place the youthful offender on probation;

- (2) release the youthful offender to the custody of the division before sentencing for an observation and evaluation period of not more than sixty days. The observation and evaluation must be conducted by the Reception and Evaluation Center operating under joint agreement between the Department of Vocational Rehabilitation and the Department of Corrections and the findings and recommendations for sentencing must be returned with the youthful offender to the court for sentencing;
- (3) if the offender is under the age of twenty-one, without his consent, sentence the youthful offender indefinitely to the custody of the department for treatment and supervision pursuant to this chapter until discharged by the division, the period of custody not to exceed six years. If the offender is twenty-one years of age but less than twenty-five years of age, he may be sentenced in accordance with this item if he consents in writing;
- (4) if the court finds that the youthful offender will not derive benefit from treatment, may sentence the youthful offender under any other applicable penalty provision. The youthful offender must be placed in the custody of the department;
- (5) not sentence a youthful offender more than once under this chapter.

#### **SECTION 24-19-60. Institutions for treatment of youthful offenders.**

Youthful offenders shall undergo treatment in minimum security institutions, including training schools, hospitals, farms, forestry and other camps, including vocational training facilities and other institutions and agencies that will provide the essential varieties of treatment.

The director, as far as is advisable and necessary, shall designate, set aside and adopt institutions and agencies under the control of the department and the division for the purpose of carrying out the objectives of this chapter. The director may further maintain a cooperative program with the Department of Vocational Rehabilitation involving the operation of reception and evaluation centers, utilizing funds and staffing services of the department which are appropriate for matching with Federal Vocational Rehabilitation funds.

Insofar as practical and to the greatest degree possible, such institutions, facilities and agencies shall be used only for the treatment of committed youthful offenders, and such youthful offenders shall be segregated from other offenders, and classes of committed youthful offenders shall be segregated according to their needs for treatment.

#### **SECTION 24-19-70. Facilities for Division provided by Department.**

Facilities for the Division are to be provided from facilities of the Department.

#### **SECTION 24-19-80. Reception and evaluation centers.**

The director may establish agreements with the Department of Vocational Rehabilitation for the operation of reception and evaluation centers. The reception and evaluation centers shall make a complete study of each committed youthful offender, including a mental and physical examination, to ascertain his personal traits, his capabilities, pertinent circumstances of his school, family life, any previous delinquency or criminal experience, and any mental or physical defect or other factor contributing to his delinquency. In the absence of exceptional circumstances, such study shall be completed within a period of thirty days. The reception and evaluation center shall forward to the director and to the division a report of its findings with respect to the youthful offender and its recommendations as to his treatment. At least one member of the division shall, as soon as practicable after commitment, interview the youthful offender, review all reports concerning him and make such recommendations to the director and to the division as may be indicated.

#### **SECTION 24-19-90. Director's options upon receiving report and recommendations from Reception and Evaluation Center and members of Division.**

On receipt of the report and recommendations from the Reception and Evaluation Center and from the members of the division, the director may:

- (a) recommend to the division that the committed youthful offender be released conditionally under supervision; or
- (b) allocate and direct the transfer of the committed youthful offender to an agency or institution for treatment; or
- (c) order the committed youthful offender confined and afforded treatment under such conditions as he believes best designed for the protection of the public.

**SECTION 24-19-100.** Transfer of youthful offenders.

The director may transfer at any time a committed youthful offender from one agency or institution to any other agency or institution.

**SECTION 24-19-110.** Procedure for conditional release of youthful offenders; fee.

The division may at any time after reasonable notice to the director release conditionally under supervision a committed youthful offender. When, in the judgment of the director, a committed youthful offender should be released conditionally under supervision he shall so report and recommend to the division.

The division may regularly assess a reasonable fee to be paid by the youthful offender who is on conditional release to offset the cost of his supervision.

The division may discharge a committed youthful offender unconditionally at the expiration of one year from the date of conditional release.

**SECTION 24-19-120.** Time for release of youthful offenders.

A youthful offender shall be released conditionally under supervision on or before the expiration of four years from the date of his conviction and shall be discharged unconditionally on or before six years from the date of his conviction.

**SECTION 24-19-130.** Revocation or modification of orders of Division.

The Division may revoke or modify any of its previous orders respecting a committed youthful offender except an order of unconditional discharge.

**SECTION 24-19-140.** Supervisory agents.

*Committed youthful offenders permitted to remain at liberty under supervision or conditionally released shall be under the supervision of supervisory agents appointed by the Division. The Division is authorized to encourage the formation of voluntary organizations composed of members who will serve without compensation as voluntary supervisory agents and sponsors. The powers and duties of voluntary supervisory agents and sponsors shall be limited and defined by regulations adopted by the Division.*

**SECTION 24-19-150.** Further treatment of youthful offenders; return to custody.

If, at any time before the unconditional discharge of a committed youthful offender, the Division is of the opinion that such youthful offender will be benefited by further treatment in an institution or other facility any member of the Division may direct his return to custody or if necessary may issue a warrant for the apprehension and return to custody of such youthful offender and cause such warrant to be executed by an

appointed supervisory agent, or any policeman. Upon return to custody, such youthful offender shall be given an opportunity to appear before the Division or a member thereof. The Division may then or at its discretion revoke the order of conditional release.

**SECTION 24-19-160.** Courts' powers not affected; jurisdiction of Department of Probation, Parole and Pardon Services.

Nothing in this chapter limits or affects the power of a court to suspend the imposition or execution of a sentence and place a youthful offender on probation.

Nothing in this chapter may be construed to amend, repeal, or affect the jurisdiction of the Department of Probation, Parole, and Pardon Services or the Probation, Parole, and Pardon Services Board. For purposes of community supervision or parole, a sentence pursuant to Section 24-19-50(e) shall be considered a sentence for six years.



# **EXHIBIT D**

1 of 19 DOCUMENTS

DISTRICT OF COLUMBIA COURT RULES ANNOTATED  
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\*\*\* CURRENT THROUGH D.C. LAW 16-51, EFFECTIVE FEBRUARY 15, 2006 \*\*\*  
 \*\*\* ANNOTATIONS CURRENT THROUGH NOVEMBER 15, 2005 \*\*\*

TITLE 24. PRISONERS AND THEIR TREATMENT  
 CHAPTER 9. YOUTH OFFENDERS PROGRAMS  
 SUBCHAPTER I. YOUTH REHABILITATION

**GO TO DISTRICT OF COLUMBIA CODE ARCHIVE DIRECTORY**

*D.C. Code § 24-901 (2006)*

§ 24-901. Definitions [Formerly § 24-801]

For purposes of this subchapter, the term:

- (1) "Committed youth offender" means an individual committed pursuant to this subchapter.
- (2) "Conviction" means the judgment on a verdict or a finding of guilty, a plea of guilty, or a plea of no contest.
- (3) "Court" means the Superior Court of the District of Columbia.
- (4) "District" means the District of Columbia.
- (5) "Treatment" means corrective and preventive guidance and training designed to protect the public by correcting the antisocial tendencies of youth offenders.
- (6) "Youth offender" means a person less than 22 years old convicted of a crime other than murder, first degree murder that constitutes an act of terrorism, and second degree murder that constitutes an act of terrorism.

**HISTORY:** 1981 Ed., § 24-801; Dec. 7, 1985, D.C. Law 6-69, § 2, 32 DCR 4587; June 8, 2001, D.C. Law 13-302, § 9(a), 47 DCR 7249; Oct. 17, 2002, D.C. Law 14-194, § 157, 49 DCR 5306.

**NOTES:**

**EFFECT OF AMENDMENTS.**—D.C. Law 13-302 deleted "for treatment in the District of Columbia" from the end of (1).

D.C. Law 14-194 added "first degree murder that constitutes an act of terrorism, and second degree murder that constitutes an act of terrorism" to the end of (6).

**EMERGENCY ACT AMENDMENTS.**—For temporary amendment of section, see § 9(a) of the Sentencing Reform Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-2, February 2, 2001, 48 DCR 2239), and § 9(a) of the Sentencing Reform Second Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-51, May 2, 2001, 48 DCR 4370).

**LEGISLATIVE HISTORY OF LAW 6-69.**—Law 6-69, the "Youth Rehabilitation Amendment Act of 1985," was introduced in Council and assigned Bill No. 6-47. The Bill was adopted on first and second readings on June 25, 1985 and July 9, 1985, respectively. Signed by the Mayor on July 29, 1985, it was assigned Act No. 6-72 and transmitted to both Houses of Congress for its review.

**LEGISLATIVE HISTORY OF LAW 13-302.**—Law 13-302, the "Sentencing Reform Amendment Act of 2000," was introduced in Council and assigned Bill No. 13-696. The Bill was adopted on first and second readings on June 26, 2000,

## D.C. Code § 24-901

and July 11, 2000, respectively. Signed by the Mayor on August 2, 2000, it was assigned Act No. 13-406 and transmitted to both Houses of Congress for its review. D.C. Law 13-302 became effective June 8, 2001.

LEGISLATIVE HISTORY OF LAW 14-194.—Law 14-194, the "Omnibus Anti-Terrorism Act of 2002," was introduced in Council and assigned Bill No. 14-373. The Bill was adopted on first and second readings on April 9, 2002, and May 7, 2002, respectively. Signed by the Mayor on June 3, 2002, it was assigned Act No. 14-380 and transmitted to both Houses of Congress for its review. D.C. Law 14-194 became effective on October 17, 2002.

EDITOR'S NOTES.—Section 11 of D.C. Law 13-302 provides that the act shall apply to offenses committed on or after August 5, 2000.

## ANALYSIS

Eligibility.

Findings.

Plea agreements.

Revocation of probation

Voluntariness of guilty plea

## ELIGIBILITY.

The Youth Rehabilitation Act did not apply where a 19-year-old was sentenced to an adult term prior to the effective date of the Act. *Douglas v. United States, App. D.C., 703 A.2d 1235 (1997)*.

Where defendant turned 22 years of age four months after he noted his appeal and thus was no longer eligible for youth sentencing, the remedy commensurate with the prejudice he claimed to have suffered was no longer available to him, and the manifest injustice rule would not permit a surrogate remedy in the form of a chance to go to trial and win acquittal or a more favorable deal with the prosecution. *Williams v. United States, App. D.C., 656 A.2d 288 (1995)*.

Petitioner, sentenced as an adult after pleading guilty to murder while armed, and incarcerated in adult maximum security facility, was not entitled to be categorized as a youthful offender under the D.C. Youth Rehabilitation Act which applies only to persons less than 22 years old who are convicted of a crime other than murder; accordingly, petitioner's application for a writ of habeas corpus was denied. *Anderson v. Stempson (D.D.C. Oct. 19, 1990)*.

## FINDINGS.

Trial court did not err by failing to explicitly find that defendant would not benefit from youth offender treatment or that public safety concerns justified an adult sentence; it was sufficient that the trial judge was aware of his authority to order treatment of defendant as a youth offender, considered that rehabilitative option, and consciously rejected it. *Edwards v. United States, App. D.C., 721 A.2d 938 (1998)*.

Findings were sufficient where the trial court explicitly considered the option of sentencing the defendant under the Youth Rehabilitation Act and rejected it. *Peterson v. United States, App. D.C., 657 A.2d 756 (1995)*.

A "no benefit" finding is not required under the Youth Rehabilitation Act. *Veney v. United States, App. D.C., 658 A.2d 625 (1995)*.

## PLEA AGREEMENTS.

The preclusion of sentencing under the Youth Rehabilitation Act by a plea agreement did not result in manifest injustice where, by surrendering his eligibility, the defendant was allowed to plead guilty to attempted murder while armed instead of being tried for felony murder and other charges, which charges would in any event have disqualified him from eligibility under the Act upon conviction. *Williams v. United States, App. D.C., 656 A.2d 288 (1995)*.

There was no manifest injustice in the preclusion of sentencing under the Youth Rehabilitation Act in a plea agreement where that agreement played only a minor role in the judge's decision to sentence the defendant as an adult because the court viewed the crime as a particularly serious one and stated that it had an obligation to protect the community. *Williams v. United States, App. D.C., 656 A.2d 288 (1995)*.

## REVOCAION OF PROBATION.

By its plain wording, D.C. Code § 24-304 does not preclude the trial court from revoking Youth Rehabilitation Act, D.C. Code § 24-901 et seq., probation ordered in lieu of imposition of sentence and then imposing an adult sentence. *Smith v. United States, App. D.C., 597 A.2d 377 (1991)*.

D.C. Code § 24-901

## VOLUNTARINESS OF GUILTY PLEA.

Trial court abused its discretion by not inquiring at sentencing whether defendant wanted to adhere to guilty plea, and summarily denying defendant's motion to withdraw plea that was based upon manifestly incorrect information, where defendant had entered plea to second-degree murder in exchange for the government not opposing an alternative sentencing study under the Youth Rehabilitation Act, but where the court, the prosecutor, and defense counsel all failed to realize that those convicted of murder were ineligible for alternative sentencing. *Goodall v. United States, App. D.C., 584 A.2d 560 (1990)*.

CITED in *Dickerson v. United States, App. D.C., 650 A.2d 680 (1994)*; *Bogan v. District of Columbia Bd. of Parole, App. D.C., 749 A.2d 127 (2000)*.

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TITLE 24. PRISONERS AND THEIR TREATMENT  
CHAPTER 9. YOUTH OFFENDERS PROGRAMS  
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**GO TO DISTRICT OF COLUMBIA CODE ARCHIVE DIRECTORY**

*D.C. Code § 24-902 (2006)*

§ 24-902. Facilities for treatment and rehabilitation [Formerly § 24-802]

(a) The Mayor shall provide facilities and personnel for the treatment and rehabilitation of youth offenders convicted of misdemeanor offenses under District of Columbia law and sentenced according to this subchapter.

(b) (1) The Mayor shall periodically set aside and adapt facilities for the treatment, care, education, vocational training, rehabilitation, segregation, and protection of youth offenders convicted of misdemeanor offenses.

(2) Insofar as practical, these institutions maintained by the District of Columbia shall treat committed youth offenders convicted of misdemeanor offenses only, and the youth offenders shall be segregated from other offenders, and classes of committed youth offenders shall be segregated according to their needs for treatment.

(c) The Federal Bureau of Prisons is authorized to provide for the custody, care, subsistence, education, treatment, and training of youth offenders convicted of felony offenses and sentenced to commitment.

**HISTORY:** 1981 Ed., § 24-802; Dec. 7, 1985, D.C. Law 6-69, § 3, 32 DCR 4587; June 8, 2001, D.C. Law 13-302, § 9(b), 47 DCR 7249.

**NOTES:**

**EFFECT OF AMENDMENTS.**—D.C. Law 13-302 inserted "of misdemeanor offenses" in (a); added "convicted of

D.C. Code § 24-902

misdemeanor offenses" to the end of (b)(1); inserted "maintained by the District of Columbia" and "convicted of misdemeanor offenses" in (b)(2); and added (c).

EMERGENCY ACT AMENDMENTS.—For temporary amendment of section, see § 9(b) of the Sentencing Reform Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-2, February 2, 2001, 48 DCR 2239), and § 9(b) of the Sentencing Reform Second Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-51, May 2, 2001, 48 DCR 4370).

LEGISLATIVE HISTORY OF LAW 6-69.—See note to § 24-901.

LEGISLATIVE HISTORY OF LAW 13-302.—See note to § 24-901.

EDITOR'S NOTES.—Section 11 of D.C. Law 13-302 provides that the act shall apply to offenses committed on or after August 5, 2000.

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*D.C. Code § 24-903 (2006)*

§ 24-903. Sentencing alternatives [Formerly § 24-803]

(a) (1) If the court is of the opinion that the youth offender does not need commitment, it may suspend the imposition or execution of sentence and place the youth offender on probation.

(2) The court, as part of an order of probation of a youth offender between the ages of 15 and 18 years, shall require the youth offender to perform not less than 90 hours of community service for an agency of the District government or a nonprofit or other community service organization, unless the court determines that the youth offender is physically or mentally impaired and that an order of community service would be unjust or unreasonable.

(3) Within 120 days of January 31, 1990, the Mayor shall develop and furnish to the court a youth offender community service plan. The plan shall include:

(A) Procedures to certify a nonprofit or community service organization for participation in the program;

(B) A list of agencies of the District government or non-profit or community service organizations to which a youth offender may be assigned for community service work;

## D.C. Code § 24-903

(C) A description of the community service work to be performed by a youth offender in each of the named agencies or organizations;

(D) Procedures to monitor the attendance and performance of a youth offender assigned to community service work;

(E) Procedures to report to the court a youth offender's absence from a court-ordered community service work assignment; and

(F) Procedures to notify the court that a youth offender has completed the community service ordered by the court.

(4) If the court unconditionally discharges a youth offender from probation pursuant to § 24-906(b), the court may discharge the youth offender from any uncompleted community service requirement in excess of 90 hours. The court shall not discharge the youth offender from completion of the minimum of 90 hours of community service.

(b) If the court shall find that a convicted person is a youth offender, and the offense is punishable by imprisonment under applicable provisions of law other than this subsection, the court may sentence the youth offender for treatment and supervision pursuant to this subchapter up to the maximum penalty of imprisonment otherwise provided by law. The youth offender shall serve the sentence of the court unless sooner released as provided in § 24-904.

(c) Where the court finds that a person is a youth offender and determines that the youth offender will derive benefit from the provisions of this subchapter, the court shall make a statement on the record of the reasons for its determination. The youth offender shall be entitled to present to the court facts that would affect the decision of the court to sentence the youth offender pursuant to the provisions of this subchapter.

(d) If the court shall find that the youth offender will not derive benefit from treatment under subsection (b) of this section, then the court may sentence the youth offender under any other applicable penalty provision.

(e) If the court desires additional information as to whether a youth offender will derive benefit from treatment under subsection (b) of this section, the court may order that the youth offender be committed for observation and study at an appropriate classification center or agency. Within 60 days from the date of the order or an additional period that the court may grant, the court shall receive the report.

(f) Subsections (a) through (e) of this section provide sentencing alternatives in addition to the options already available to the court.

**HISTORY:** 1981 Ed., § 24-803; Dec. 7, 1985, D.C. Law 6-69, § 4, 32 DCR 4587; Jan. 31, 1990, D.C. Law 8-61, § 2, 36 DCR 5798.

**NOTES:**

**SECTION REFERENCES.**—This section is referenced in § 24-403.01 and § 24-403.02.

**LEGISLATIVE HISTORY OF LAW 6-69.**—See note to § 24-901.

**LEGISLATIVE HISTORY OF LAW 8-61.**—Law 8-61, the "Youth Offender Community Service Amendment Act of 1989," was introduced in Council and assigned Bill No. 8-138. The Bill was adopted on first and second readings on June 27, 1989, and July 11, 1989, respectively. Signed by the Mayor on August 1, 1989, it was assigned Act No. 8-84 and transmitted to both Houses of Congress for its review.

**ANALYSIS**

Comparison with federal law.

Conditions of probation

Consecutive sentences.

Discretion of judge

Finality of conviction

Findings.

"No benefit" finding required

Release date.

D.C. Code § 24-903

#### COMPARISON WITH FEDERAL LAW.

While the Federal Youth Corrections Act (FYCA) created a scheme whereby youth offenders were mandatorily released on parole two years prior to the expiration of their sentence, the D.C. Youth Rehabilitation Act does not use that scheme but provides that youth offenders are to serve their term in confinement unless released on parole at the discretion of the Board. *Bogan v. District of Columbia Bd. of Parole, App. D.C., 749 A.2d 127 (2000)*.

#### CONDITIONS OF PROBATION.

Trial court did not exceed authority in setting child support as a condition of probation under the District of Columbia Youth Rehabilitation Act (YRA) for youth who entered plea to cocaine charge; however the court did exceed its authority in determining the amount in an arbitrary manner, by failing to make findings on the relevant circumstances, or following established child support guidelines. *Brown v. United States, App. D.C., 579 A.2d 1158 (1990)*.

Trial court did not exceed authority in setting child support as a condition of probation under the District of Columbia Youth Rehabilitation Act (YRA) for youth who entered plea to cocaine charge; while the statute is silent on whether or not child support can be made a condition of probation, like the Federal Youth Corrections Act (FYCA), on which the YRA is largely modeled, the YRA provides that its sentencing alternatives are in addition to those otherwise available under law; moreover, broad discretion is vested in the court in determining a disposition designed to rehabilitate a juvenile delinquent. *D.C. Code § 24-903* is comparable to the broad goals of the YRA. In adult criminal cases the sentencing judge is vested with broad discretion imposing conditions of probation, the statute referring only to probation "upon such terms as [the court] deems best." *Brown v. United States, App. D.C., 579 A.2d 1158 (1990)*.

#### CONSECUTIVE SENTENCES.

Adult sentencing rule which required multiple sentences to be served consecutively, unless the judge specified otherwise, was applicable to sentences under *Youth Rehabilitation Act*. *Bragdon v. United States, App. D.C., 717 A.2d 878 (1998)*.

#### DISCRETION OF JUDGE.

Judge violated the canons when he initiated ex parte communications with the parole board concerning sentencing the defendant as an adult or child, but in view of the judge's broad sentencing discretion, the judge's errors did not entitle appellant to resentencing before another judge. *Foster v. United States, App. D.C., 615 A.2d 213 (1992)*.

#### FINALITY OF CONVICTION.

Trial court did not improperly enhance defendant's sentence for adult drug offense because of prior conviction of a drug offense under the District of Columbia Youth Rehabilitation Act, *D.C. Code § 24-903(a) (Act)*, on grounds defendant had been placed on probation and the conviction had not attained finality as there is no intent in the Act to alter the finality of a conviction in such circumstances, where the prior conviction did not remain subject to direct attack. *United States v. Smith, 897 F.2d 1168 (D.C. Cir. 1990)*.

#### FINDINGS.

Before revoking defendant's probation and sentencing him as an adult, the sentencing judge was required to make explicit finding that defendant would not benefit from continued treatment under Youth Rehabilitation Act; remand was therefore required for determination of whether defendant would have benefited from continued treatment. *Handon v. United States, App. D.C., 651 A.2d 814 (1994)*.

#### "NO BENEFIT" FINDING REQUIRED.

The language of *D.C. Code § 24-903(d)* is virtually identical to *18 U.S.C.S. § 5010(d)* (repealed) at issue in *Dorszynski*, and none of the legislative history of the Youth Rehabilitation Act, *D.C. Code § 24-901* et seq., or of § 24-903(d) in particular, indicates a desire to depart from the well-established interpretation *Dorszynski* put on that language; thus, the reasoning of the Federal Youth Corrections Act (FYCA), *18 U.S.C.S. § 5010(d)* (repealed), applies to § 24-903(d), and requires the trial court to make an explicit no benefit finding, although the court need not supply supporting reasons. *Smith v. United States, App. D.C., 597 A.2d 377 (1991)*.

The plain language of *D.C. Code § 24-903(d)* authorizes the court to rescind the Youth Rehabilitation Act (YRA), *D.C. Code § 24-901* et seq., status of any youth offender, including those placed on probation pursuant to § 24-903(a), and to impose an adult sentence if, but only if, the court finds that the youth offender will not derive benefit from treatment in a YRA facility. *Smith v. United States, App. D.C., 597 A.2d 377 (1991)*.

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When a trial court revokes probation ordered after suspension of sentence imposition, the court may impose any sentence which might have been imposed at the time of original sentence; however, where appellant was a youth offender, *D.C. Code § 24-903(d)* required the trial court to make an explicit finding on the record that appellant would not derive benefit from continued Youth Rehabilitation Act, *D.C. Code § 24-901 et seq.*, treatment before the court could lawfully impose an adult sentence. *Smith v. United States, App. D.C., 597 A.2d 377 (1991)*.

**RELEASE DATE.**

Youth offender was not entitled to be released at least two years before his mandatory release date where he was sentenced under the D.C. Youth Rehabilitation Act rather than the *Federal Youth Corrections Act*. *Bogan v. District of Columbia Bd. of Parole, App. D.C., 749 A.2d 127 (2000)*.

APPLIED in *Allen v. United States, App. D.C., 580 A.2d 653 (1990)*; *United States v. Crockett, 861 A.2d 604 (2004)*.

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TITLE 24. PRISONERS AND THEIR TREATMENT  
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**GO TO DISTRICT OF COLUMBIA CODE ARCHIVE DIRECTORY***D.C. Code § 24-904 (2006)*

§ 24-904. Conditional release; unconditional discharge [Formerly § 24-804]

(a) A committed youth offender may be released conditionally under supervision whenever appropriate.

(b) A committed youth offender may be unconditionally discharged at the end of 1 year from the date of conditional release.

(c) Notwithstanding any other provision of law, subsections (a) and (b) of this section shall not apply to a youth offender convicted of any offense committed on or after August 5, 2000.

**HISTORY:** 1981 Ed., § 24-804; Dec. 7, 1985, D.C. Law 6-69, § 5, 32 DCR 4587; June 8, 2001, D.C. Law 13-302, § 9(c), 47 DCR 7249.

**NOTES:**

SECTION REFERENCES.—This section is referenced in § 16-2320 and § 24-903.

EFFECT OF AMENDMENTS.—D.C. Law 13-302 added (c).

EMERGENCY ACT AMENDMENTS.—For temporary amendment of section, see § 9(c) of the Sentencing Reform

D.C. Code § 24-904

Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-2, February 2, 2001, 48 DCR 2239), and § 9(c) of the Sentencing Reform Second Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-51, May 2, 2001, 48 DCR 4370).

LEGISLATIVE HISTORY OF LAW 6-69.—See note to § 24-901.

LEGISLATIVE HISTORY OF LAW 13-302.—See note to § 24-901.

EDITOR'S NOTES.—Section 11 of D.C. Law 13-302 provides that the act shall apply to offenses committed on or after August 5, 2000.

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**GO TO DISTRICT OF COLUMBIA CODE ARCHIVE DIRECTORY**

*D.C. Code § 24-905 (2006)*

§ 24-905. Determination that youth offender will derive no further benefit; appeal [Formerly § 24-805]

(a) If the Director of the Department of Corrections ("Director") determines that a youth offender will derive no further benefit from the treatment pursuant to this subchapter, the Director shall notify the youth offender of this determination in a written statement that includes the following:

(1) Notice that the youth offender may appeal the Director's determination to the sentencing judge in writing within 30 days of the youth offender's receipt of the Director's statement required by this section;

(2) Specific reasons for the Director's no further benefit determination; and

(3) Notice that an appeal by the youth offender to the sentencing judge will stay any action by the Director regarding a change in the youth offender's status until the sentencing judge makes a determination on the appeal.

(b) The decision of the sentencing judge on the appeal of the youth offender shall be considered a final disposition of the appeal and shall preclude further action by the Director to change the status of a youth offender for a 6-month period from the date of the sentencing judge's decision.

(c) Notwithstanding any other provision of law, subsections (a) and (b) of this section shall not apply to a youth offender convicted of any offense committed on or after August 5, 2000.

**HISTORY:** 1981 Ed., § 24-805; Dec. 7, 1985, D.C. Law 6-69, § 6, 32 DCR 4587; June 8, 2001, D.C. Law 13-302, §

## D.C. Code § 24-905

9(d), 47 DCR 7249.

**NOTES:**

EFFECT OF AMENDMENTS.—D.C. Law 13-302 added (c).

EMERGENCY ACT AMENDMENTS.—For temporary amendment of section, see § 9(d) of the Sentencing Reform Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-2, February 2, 2001, 48 DCR 2239), and § 9(d) of the Sentencing Reform Second Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-51, May 2, 2001, 48 DCR 4370).

LEGISLATIVE HISTORY OF LAW 6-69.—See note to § 24-901.

LEGISLATIVE HISTORY OF LAW 13-302.—See note to § 24-901.

EDITOR'S NOTES.—Section 11 of D.C. Law 13-302 provides that the act shall apply to offenses committed on or after August 5, 2000.

**ANALYSIS**

Exhaustion of remedies

Findings

Hearing

Remedies

**EXHAUSTION OF REMEDIES.**

Absent a showing that the administrative remedy is unavailable or inadequate, a youth offender, who is given notice of his procedural rights within the District of Columbia Department of Corrections (Department), is precluded from complaining about the denial of those rights on appeal under § 24-905(a)(3) unless he or she first exhausts Departmental appeals. *Vaughn v. United States, App. D.C., 598 A.2d 425 (1991)*.

**FINDINGS.**

General authority to make "no further benefit" findings regarding an inmate who had been found eligible for young offender treatment during incarceration in a federal prison did not, under the plain language of § 24-905, empower a trial court to order special services for the inmate once sentencing had occurred. *United States v. Crockett, 861 A.2d 604 (2004)*.

Where the government seeks to rely upon decisions in the disciplinary process as a basis for its "no-further-benefit" determination, the youth offender may raise in a hearing before the sentencing judge any due process challenges to the validity of the disciplinary decision; the judge must make findings on whether violations occurred, and if they did, determine whether the untainted evidence is sufficient to sustain the "no-further-benefit" determination. *Vaughn v. United States, App. D.C., 598 A.2d 425 (1991)*.

**HEARING.**

Because a protected liberty interest is at stake, the sentencing judge must conduct a hearing at which a defendant is allowed to allocute and to present evidence regarding the alleged procedural deficiencies in the disciplinary proceedings which constitute the basis for the District's Department of Correction's "no-further-benefit" determination. *Vaughn v. United States, App. D.C., 598 A.2d 425 (1991)*.

**REMEDIES.**

Although the extraordinary writ of habeas corpus was available to offender to challenge the disposition of disciplinary hearings which resulted in his being transferred to an adult facility following a determination by director of the District Department of Corrections that he would receive no further benefit from continued treatment as a youthful offender, it was not the exclusive means by which he could challenge the constitutional and regulatory deficiencies in the disciplinary proceedings. *Vaughn v. United States, App. D.C., 598 A.2d 425 (1991)*.

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**GO TO DISTRICT OF COLUMBIA CODE ARCHIVE DIRECTORY**

*D.C. Code § 24-906 (2006)*

§ 24-906. Unconditional discharge sets aside conviction [Formerly § 24-806]

- (a) Upon unconditional discharge of a committed youth offender before the expiration of the sentence imposed, the youth offender's conviction shall be automatically set aside.
- (b) If the sentence of a committed youth offender expires before unconditional discharge, the United States Parole Commission may, in its discretion, set aside the conviction.
- (c) Where a youth offender is sentenced to commitment and a term of supervised release for a felony committed on or after August 5, 2000, and the United States Parole Commission exercises its authority pursuant to *18 U.S.C.S. § 3583(e)(1)* to terminate the term of supervised release before its expiration, the youth offender's conviction shall be automatically set aside.
- (d) In any case in which the youth offender's conviction is set aside, the youth offender shall be issued a certificate to that effect.
- (e) Where a youth offender has been placed on probation by the court, the court may, in its discretion, unconditionally discharge the youth offender from probation before the end of the maximum period of probation previously fixed by the court. The discharge shall automatically set aside the conviction. If the sentence of a youth offender who has been placed on probation by the court expires before unconditional discharge, the court may, in its discretion, set aside the conviction. In any case where the court sets aside the conviction of a youth offender, the court shall issue to the youth offender a certificate to that effect.
- (f) A conviction set aside under this section may be used:
- (1) In determining whether a person has committed a second or subsequent offense for purposes of imposing an enhanced sentence under any provision of law;
  - (2) In determining whether an offense under § 48-904.01 is a second or subsequent violation under § 24-112;
  - (3) In determining an appropriate sentence if the person is subsequently convicted of another crime;
  - (4) For impeachment if the person testifies in his own defense at trial pursuant to § 14-305;
  - (5) For cross-examining character witnesses; or
  - (6) For sex offender registration and notification.

**HISTORY:** 1981 Ed., § 24-806; Dec. 7, 1985, D.C. Law 6-69, § 7, 32 DCR 4587; June 28, 1991, D.C. Law 9-7, § 2, 38 DCR 1978; Aug. 17, 1991, D.C. Law 9-15, § 2, 38 DCR 3382; June 8, 2001, D.C. Law 13-302, § 9(e), 47 DCR 7249.

D.C. Code § 24-906

**NOTES:**

SECTION REFERENCES.—This section is referenced in § 24-903.

EFFECT OF AMENDMENTS.—D.C. Law 13-302 rewrote this section.

EMERGENCY ACT AMENDMENTS.—For temporary amendment of section, see § 9(e) of the Sentencing Reform Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-2, February 2, 2001, 48 DCR 2239), and § 9(e) of the Sentencing Reform Second Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-51, May 2, 2001, 48 DCR 4370).

LEGISLATIVE HISTORY OF LAW 6-69.—See note to § 24-901.

LEGISLATIVE HISTORY OF LAW 9-7.—Law 9-7, the "Youth Rehabilitation Amendment Act of 1985 Temporary Amendment Act of 1991," was introduced in Council and assigned Bill No. 9-99. The Bill was adopted on first and second readings on February 5, 1991, and March 5, 1991, respectively. Signed by the Mayor on March 15, 1991, it was assigned Act No. 9-13 and transmitted to both Houses of Congress for its review.

LEGISLATIVE HISTORY OF LAW 9-15.—Law 9-15, the "Youth Rehabilitation Amendment Act of 1985 Amendment Act of 1991," was introduced in Council and assigned Bill No. 9-109. The Bill was adopted on first and second readings on April 9, 1991, and May 7, 1991, respectively. Signed by the Mayor on May 17, 1991, it was assigned Act No. 9-33 and transmitted to both Houses of Congress for its review.

LEGISLATIVE HISTORY OF LAW 13-302.—See note to § 24-901.

EDITOR'S NOTES.—Section 11 of D.C. Law 13-302 provides that the act shall apply to offenses committed on or after August 5, 2000.

**ANALYSIS**

Construction with other law

**CONSTRUCTION WITH OTHER LAW.**

Where defendant was sentenced on a federal drug offense, the lower court properly counted defendant's set aside juvenile conviction under the District of Columbia Youth Rehabilitation Act, *D.C. Code § 24-906*, in determining defendant's criminal history because under § 24-906(d), the words "set aside" are not the functional equivalent of "expunged convictions" under the U.S. Sentencing Guidelines Manual § 4A1.2(j). *United States v. McDonald*, 991 F.2d 866 (D.C. Cir. Apr. 30, 1993).

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TITLE 24. PRISONERS AND THEIR TREATMENT

CHAPTER 9. YOUTH OFFENDERS PROGRAMS

D.C. Code § 24-907

SUBCHAPTER I. YOUTH REHABILITATION

GO TO DISTRICT OF COLUMBIA CODE ARCHIVE DIRECTORY

*D.C. Code § 24-907 (2006)*

§ 24-907. Rules [Formerly § 24-807]

The Mayor may issue rules to implement the provisions of this subchapter pursuant to subchapter I of Chapter 5 of Title 2.

**HISTORY:** 1981 Ed., § 24-807; Dec. 7, 1985, D.C. Law 6-69, § 8, 32 DCR 4587; June 8, 2001, D.C. Law 13-302, § 9(f), 47 DCR 7249.

**NOTES:**

**EFFECT OF AMENDMENTS.**—D.C. Law 13-302 deleted "including the division of responsibility between the District of Columbia Board of Parole and the District of Columbia Department of Corrections" from the end of the section; and deleted "division of responsibility" from the end of the section heading.

**EMERGENCY ACT AMENDMENTS.**—For temporary amendment of section, see § 9(f) of the Sentencing Reform Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-2, February 2, 2001, 48 DCR 2239), and § 9(f) of the Sentencing Reform Second Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-51, May 2, 2001, 48 DCR 4370).

**LEGISLATIVE HISTORY OF LAW 6-69.**—See note to § 24-901.

**LEGISLATIVE HISTORY OF LAW 13-302.**—See note to § 24-901.

**EDITOR'S NOTES.**—Section 11 of D.C. Law 13-302 provides that the act shall apply to offenses committed on or after August 5, 2000.

**APPLIED** in *Foster v. United States, App. D.C., 615 A.2d 213 (1992)*.

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GO TO DISTRICT OF COLUMBIA CODE ARCHIVE DIRECTORY

D.C. Code § 24-921

*D.C. Code § 24-921 (2006)*

§ 24-921. Definitions [Formerly § 24-821]

For the purposes of this subchapter, the term:

(1) "BOOT CAMP" means the Basic Operations Options Training Children to Adults Maturity Program for eligible juvenile offenders, established pursuant to the rules of the Department of Human Services adopted under this subchapter, which provides rigorous physical activity, intensive regimentation, discipline, education, and vocational training for a minimum of 40 participants, to begin the program, for a period of 90 days.

(2) "Eligible juvenile offender" means a youth 14 through 18 years of age who has been committed to the custody of the Youth Services Administration and who:

(A) Has not been previously incarcerated in an adult prison facility and has not committed a crime of violence, as defined in § 22-4501, except burglary and robbery;

(B) Has not been prohibited by a judge or law from participating in the BOOT CAMP;

(C) Has no known contagious or communicable disease;

(D) Has no known mental or physical impairments that would prevent him or her from performing physical activity; and

(E) Agrees to the terms and conditions of the BOOT CAMP.

**HISTORY:** 1981 Ed., § 24-821; Jan. 27, 1994, D.C. Law 10-67, § 101, 40 DCR 5768.

**NOTES:**

**LEGISLATIVE HISTORY OF LAW 10-67.**—Law 10-67, the "Basic Operations Options Training Children to Adults Maturity Program Establishment Act of 1993," was introduced in Council and assigned Bill No. 10-111. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on July 29, 1993, it was assigned Act No. 10-67 and transmitted to both Houses of Congress for its review. D.C. Law 10-67 became effective on January 27, 1994.

**EDITOR'S NOTES.**—All property, positions, assets, records, and obligations, and all funds relating to the powers, duties, functions and operations of the Department of Human Services relating to the Youth Services Administration were transferred by § 2-1515.08 to the Department of Youth Rehabilitation Services in 2005.

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D.C. Code § 24-922

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*D.C. Code § 24-922 (2006)*

§ 24-922. Establishment of the BOOT CAMP [Formerly § 24-822]

The Director of the Department of Human Services ("Director") shall establish a BOOT CAMP that may be used for eligible juvenile offenders who the Department of Human Services may permit to serve their commitment in the BOOT CAMP.

**HISTORY:** 1981 Ed., § 24-822; Jan. 27, 1994, D.C. Law 10-67, § 201, 40 DCR 5768.

**NOTES:**

LEGISLATIVE HISTORY OF LAW 10-67.—See note to § 24-921.

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*D.C. Code § 24-923 (2006)*

§ 24-923. Location of BOOT CAMP [Formerly § 24-823]

(a) The Director shall use an existing building or set of buildings, which may be located in the Washington Metropolitan area, to establish a residential center for the BOOT CAMP participants.

(b) The residential center shall include classrooms, a counseling and vocational training center, separate sleeping accommodations for male and female participants, a dining facility, outdoor drill and recreation areas, and other usages that are necessary for the efficient operation of the BOOT CAMP.

**HISTORY:** 1981 Ed., § 24-823; Jan. 27, 1994, D.C. Law 10-67, § 202, 40 DCR 5768.

**NOTES:**

LEGISLATIVE HISTORY OF LAW 10-67.—See note to § 24-921.

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*D.C. Code § 24-924 (2006)*

§ 24-924. Daily schedule [Formerly § 24-824]

The daily schedule at the BOOT CAMP shall include:

- (1) An early morning regimen of physical training, military style drilling, and cleaning of residence areas;
- (2) Education designed to result in the attainment of a General Equivalency Diploma ("GED"), which may utilize as academic teachers persons who have volunteered their services to the program and who satisfy the appropriate certification criteria;
- (3) Vocational training in an employment skill, including wood shop, electrical work, and plumbing, which may utilize as vocational teachers persons who have volunteered their services to the program and who satisfy the appropriate certification criteria;
- (4) Employment counseling and a full range of counseling, to include life skills training and stress and anger management;
- (5) Appropriate physical labor; and
- (6) Daily group meetings, substance abuse counseling, and organized physical recreation.

**HISTORY:** 1981 Ed., § 24-824; Jan. 27, 1994, D.C. Law 10-67, § 203, 40 DCR 5768.

**NOTES:**

LEGISLATIVE HISTORY OF LAW 10-67.—See note to § 24-921.

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*D.C. Code § 24-925 (2006)*

§ 24-925. Evaluation process [Formerly § 24-825]

The Director shall establish a system of evaluating the eligible juvenile offenders, with the purpose of obtaining an objective assessment of each eligible juvenile offender's progress in the BOOT CAMP. The system of evaluation may include weekly evaluations by drill instructors, academic and vocational teachers, substance abuse counselors, and recreation leaders. The results of these evaluations may be used in determining the juvenile offender's eligibility for conditional release or unconditional discharge at the end of the BOOT CAMP.

**HISTORY:** 1981 Ed., § 24-825; Jan. 27, 1994, D.C. Law 10-67, § 204, 40 DCR 5768.

**NOTES:**

LEGISLATIVE HISTORY OF LAW 10-67.—See note to § 24-921.

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*D.C. Code § 24-926 (2006)*

D.C. Code § 24-926

§ 24-926. Discipline [Formerly § 24-826]

(a) Eligible juvenile offenders are expected to adhere to strict standards of discipline within the BOOT CAMP. Eligible juvenile offenders in the BOOT CAMP will be expected to comply with the following procedures:

- (1) Stand-up count;
- (2) Keeping living areas clean and neat at all times;
- (3) Mandatory attendance at all scheduled functions; and
- (4) Exhibiting respectful behavior towards drill instructors and other personnel.

(b) The Director shall promulgate rules and procedures governing discipline within the BOOT CAMP.

**HISTORY:** 1981 Ed., § 24-826; Jan. 27, 1994, D.C. Law 10-67, § 205, 40 DCR 5768.

**NOTES:**

LEGISLATIVE HISTORY OF LAW 10-67.—See note to § 24-921.

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*D.C. Code § 24-927 (2006)*

§ 24-927. Grooming [Formerly § 24-827]

The Director shall promulgate regulations regarding grooming habits.

**HISTORY:** 1981 Ed., § 24-827; Jan. 27, 1994, D.C. Law 10-67, § 206, 40 DCR 5768.

**NOTES:**

LEGISLATIVE HISTORY OF LAW 10-67.—See note to § 24-921.

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*D.C. Code § 24-928 (2006)*

§ 24-928. Agreement form [Formerly § 24-828]

The Director shall promulgate an agreement to be signed by each eligible juvenile offender prior to entering into the BOOT CAMP. The agreement shall describe the terms and conditions of the BOOT CAMP, including a provision that states that participation in the BOOT CAMP is a privilege which may be revoked at any time at the discretion of the Director.

**HISTORY:** 1981 Ed., § 24-828; Jan. 27, 1994, D.C. Law 10-67, § 301, 40 DCR 5768.

**NOTES:**

LEGISLATIVE HISTORY OF LAW 10-67.—See note to § 24-921.

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*D.C. Code § 24-929 (2006)*

§ 24-929. Removal [Formerly § 24-829]

## D.C. Code § 24-929

An eligible juvenile offender participating in the BOOT CAMP may be removed at the discretion of the Director. The Director shall promulgate rules and procedures for removal of an eligible juvenile offender from the BOOT CAMP. The rules and procedures shall include the following provisions:

(1) Removal from the BOOT CAMP for any reason shall be treated as a violation of conditional release.

(2) An eligible juvenile offender may petition for removal from the program. The Director shall grant the petition for removal upon a finding of good cause.

**HISTORY:** 1981 Ed., § 24-829; Jan. 27, 1994, D.C. Law 10-67, § 401, 40 DCR 5768; May 16, 1995, D.C. Law 10-255, § 19, 41 DCR 5193.

**NOTES:**

LEGISLATIVE HISTORY OF LAW 10-67.—See note to § 24-921.

LEGISLATIVE HISTORY OF LAW 10-255.—Law 10-255, the "Technical Amendments Act of 1994," was introduced in Council and assigned Bill No. 10-673. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 25, 1994, it was assigned Act No. 10-302 and transmitted to both Houses of Congress for its review. D.C. Law 10-255 became effective May 16, 1995.

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*D.C. Code § 24-930 (2006)*

§ 24-930. Graduation [Formerly § 24-830]

Upon completion of the BOOT CAMP, a graduation ceremony may be held, at which time earned GED's may be awarded, as well as other appropriate recognition.

**HISTORY:** 1981 Ed., § 24-830; Jan. 27, 1994, D.C. Law 10-67, § 501, 40 DCR 5768.

**NOTES:**

LEGISLATIVE HISTORY OF LAW 10-67.—See note to § 24-921.

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*D.C. Code § 24-931 (2006)*

§ 24-931. Post-BOOT CAMP supervision [Formerly § 24-831]

The Director shall promulgate rules establishing a program of continuing supervision for BOOT CAMP participants released on conditional release. The program shall be 9 months in length and shall include participation by the eligible juvenile offender's family members. The program may include follow-up substance abuse treatment, educational assistance such as tutoring, assistance in seeking employment, and, if appropriate, inclusion in the Mayor's Mentoring and Volunteerism program, created pursuant to Mayor's Order 92-24 dated March 4, 1992. The program may utilize volunteers.

**HISTORY:** 1981 Ed., § 24-831; Jan. 27, 1994, D.C. Law 10-67, § 502, 40 DCR 5768.

**NOTES:**

LEGISLATIVE HISTORY OF LAW 10-67.—See note to § 24-921.

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*D.C. Code § 24-932 (2006)*

D.C. Code § 24-932

## § 24-932. Report [Formerly § 24-832]

The Director shall prepare a report assessing the BOOT CAMP, which shall be presented to the Mayor and the Council of the District of Columbia 12 months after the first day of operation of the BOOT CAMP. This report shall include the following:

- (1) A summary of the original structure of the pilot program, and a summary of all changes to that original structure, along with the reasons for any changes;
- (2) A summary of the effectiveness of the pilot program, according to the Director;
- (3) An analysis of the total cost of the pilot program, including cost per participant;
- (4) A summary of the standards used to determine removal from the BOOT CAMP;
- (5) A listing of the offense(s) committed by each participant which led to his or her commitment to the BOOT CAMP;
- (6) A listing of the number of participants who completed the BOOT CAMP, and the number of those who did not complete the program, along with a designation as to the reason for removal from the program;
- (7) A summary of the effect of the pilot program on the population at other juvenile facilities;
- (8) An analysis of the recidivism rate of eligible juvenile offenders who completed the BOOT CAMP and the recidivism rate of non-completers and a comparison sample of juvenile offenders who participated in a sanction other than the BOOT CAMP; and
- (9) Any recommendations as to changes to or expansion of the BOOT CAMP.

**HISTORY:** 1981 Ed., § 24-832; Jan. 27, 1994, D.C. Law 10-67, § 601, 40 DCR 5768.

**NOTES:**

LEGISLATIVE HISTORY OF LAW 10-67.—See note to § 24-921.

# **EXHIBIT E**

**CHARGE FOR THE COMMITTEE ON  
CRIMINAL LAW AND PROBATION ADMINISTRATION**

The Committee shall:

Monitor and provide recommendations (including standards) on issues affecting the probation system.

Review procedures relating to the annual plan required by Section 204-7 of the Probation and Court Services Act.

Monitor statistical projections of workload. Review the work measurement formula for probation and pretrial services offices and make recommendations on such formula.

Review and comment to the Conference on matters affecting the administration of criminal justice.

# **EXHIBIT F**

## TUTION OF 1970

ate offense of aggravated related to goal of comm- and thus did not im- ble jeopardy purposes regarding offenses of in by felon and posses- t identification card. Dist.1996, 218 Ill.Dec.

urs no rational relation government for its loss, accounting of govern- s to determine if sanc- itutes second punish- purposes. People v. 218 Ill.Dec. 391, 669

which trial court, in on of municipal ordi- less than minimum imposed by the ordi- mand with directions proper fine would not le jeopardy. City of App. 4 Dist.1979, 27 3d 112, 388 N.E.2d

ed, fined, and sen- either branch of sen- ded alone, paid fine, npose on him further onment would be to sion one cannot be offense. People v. , 284 Ill. 28.

is, sentence and pun- opardy

tions, including re- time credit and his did not constitute of double jeopardy App. 4 Dist.1996, 219 d 382, 672 N.E.2d Dec. 197, 172 Ill.2d

posed by prison au- rison regulations do nt criminal prosecu- People v. Baptist, .Dec. 890, 284 Ill. 3, appeal denied 223

imposed by prison nent does not mean it for double jeopar- aptist, App. 4 Dist. Ill.App.3d 382, 672 23 Ill.Dec. 197, 172

tions, including re- time credit and his ising out of his as- s did not alter or ginal sentence and,

## LIMITATION OF PENALTIES

thus, did not bar prisoner's criminal prosecu- tion for assault under double jeopardy clause as any punishment resulting from criminal prose- cution would not result in second punishment for same conduct. People v. Baptist, App. 4 Dist.1996, 219 Ill.Dec. 890, 284 Ill.App.3d 382, 672 N.E.2d 398, appeal denied 223 Ill.Dec. 197, 172 Ill.2d 555.

Compliance with conditions for awarding good-time credit is one of terms of defendant's original sentence such that withholding such credits, even though it may have punitive effect, does not alter original sentence for double jeop- ardy purposes; it only means prisoner must serve a larger part of that sentence in prison. People v. Baptist, App. 4 Dist.1996, 219 Ill.Dec. 890, 284 Ill.App.3d 382, 672 N.E.2d 398, appeal denied 223 Ill.Dec. 197, 172 Ill.2d 555.

Changes in conditions of incarceration do not constitute a second punishment for the same offense for purposes of double jeopardy. People v. Baptist, App. 4 Dist.1996, 219 Ill.Dec. 890, 284 Ill.App.3d 382, 672 N.E.2d 398, appeal denied 223 Ill.Dec. 197, 172 Ill.2d 555.

## 326. — Taxation, sentence and punishment, double jeopardy

Civil tax assessment which included interest and penalties against taxpayer for failing to pay taxes in timely manner did not constitute "criminal punishment" and, thus, taxpayer's prosecu- tion for filing fraudulent tax returns was not barred by double jeopardy clause where penal- ties and interest were not grossly disproportion- ate as tax had legitimate revenue raising pur- pose and interest and penalties compensated State for its revenue collection efforts even though penalties also deterred evasive tactics by taxpayers. People v. Kim, App. 2 Dist.1996, 220 Ill.Dec. 293, 672 N.E.2d 1305.

## § 11. Limitation of Penalties after Conviction

All penalties shall be determined both according to the seriousness of the offense and with the objective of restoring the offender to useful citizenship. No conviction shall work corruption of blood or forfeiture of estate. No person shall be transported out of the State for an offense committed within the State.

## Constitutional Commentary

By Robert A. Helman and Wayne W. Whalen

With one major exception, Section 11 is similar to Section 11 of Article II of the 1870 Constitution. Section 11 imposes, for the first time, the requirement that all penalties must be determined with the objective of restoring the offender to useful citizenship. The provision was added on the floor of the Convention. Thus, there is no report of the Bill of Rights Committee concerning the language.

At several points in the debates, statements were made by the sponsor of this provision that it was not intended to abolish the death penalty. That conclusion is reinforced by the fact that the Convention submitted separately to the voters

## Art. 1, § 11

Taxpayer's receipt of final notice of civil tax assessment and demand for payment of taxes, including interest and penalty, was not suffi- ciently final to qualify as former jeopardy and, thus, taxpayer's prosecution for filing fraudulent tax returns was not barred by double jeopardy clause where taxpayer had not yet appeared in administrative proceedings, no exaction or sanction had yet been imposed against taxpayer and taxpayer still had opportunity to challenge tax and penalties. People v. Kim, App. 2 Dist. 1996, 220 Ill.Dec. 293, 672 N.E.2d 1305.

Drug tax imposed on defendant by Depart- ment of Revenue under the Cannabis and Con- trolled Substances Tax Act, following defend- ant's criminal prosecution, was the functional equivalent of a successive criminal prosecution that placed defendant in jeopardy a second time for the same offense and thus, Act violated double jeopardy clause; overruling *Rehg v. Illinois Department of Revenue*, 152 Ill.2d 504, 178 Ill. Dec. 731, 605 N.E.2d 525. *Wilson v. Depart- ment of Revenue*, 1996, 214 Ill.Dec. 849, 169 Ill.2d 306, 662 N.E.2d 415.

Four hundred percent penalty for nonpay- ment of tax due under Cannabis and Controlled Substances Tax Act appeared to be excessive so as to require hearing on whether tax had any rational relation to damages suffered by state and violated double jeopardy. *Rehg v. Illinois Dept. of Revenue*, 1992, 178 Ill.Dec. 731, 152 Ill.2d 504, 605 N.E.2d 525.

Double jeopardy did not bar prosecution of defendant on drug-related charges even though state filed notice of state tax lien against defend- ant based on statute allowing tax assessment upon dealer distributing or possessing cannabis or controlled substances. People v. Adawi, App. 4 Dist.1992, 173 Ill.Dec. 310, 231 Ill.App.3d 896, 596 N.E.2d 1189, appeal denied 180 Ill. Dec. 152, 147 Ill.2d 629, 606 N.E.2d 1229.

Art. 1, § 11

CONSTITUTION OF 1970

*the Act really clarifies existing Constitutional provisions*

*but reads with clear by judicial sentencing*

*get case law re legislative power to define sentences and case law re: now re § 11. it applies also to legislature (Taylor) see key in Summary*

the question of abolition of the death penalty which was not approved. (Separate Question Number 3; 1970 Constitutional Referendum Blue Ballot.)

The new language requires that sentences be based upon criteria designed to restore a defendant to useful citizenship. This provision expands upon the prior language that penalties shall be proportioned to the nature of the offense. It is unclear whether trial courts must articulate some reason for setting a particular sentence to show it was imposed for the Constitutional purpose. Compare *North Carolina v. Pearce*, 89 S.Ct. 2072, 395 U.S. 711, 23 L.Ed.2d 656 (1969), holding under the due process clause of the Fourteenth Amendment that the record must demonstrate a valid Constitutional reason for the imposition of a more severe sentence after a second trial for the same offense.

Developing sentencing criteria for restoring offenders to useful citizenship, beyond the broad language of the Constitution, will be difficult for the Courts. Clearly, the new Section 11 language prohibits arbitrary or discriminatory sentencing. Cf. *North Carolina v. Pearce*, *supra*. What specific factors must be used by the sentencing judge to demonstrate that his objective is restoring an offender to useful citizenship is unanswered by the Constitutional language. See *McGautha v. California*, 91 S.Ct. 1454, \_\_\_ U.S. \_\_\_, 28 L.Ed.2d 711 (1971).

Under the 1870 Constitution, Supreme Court Rule 615(b) granted reviewing courts the power to reduce punishment or the degree of the offense. However, the standards for the review were not prescribed, and the requirements were ambiguous. See, e.g., *People v. Spann*, 20 Ill.2d 338, 169 N.E.2d 781 (1960). Compare *People v. Evrard*, 55 Ill.App.2d 270, 204 N.E.2d 777 (Fifth Dist. 1965), with *People v. Smith*, 62 Ill.App.2d 73, 210 N.E.2d 574 (First Dist. 1965).

The United States Constitution, through the due process clause, requires that sentencing be conducted in a fundamentally fair manner. See, e.g., *Townsend v. Burke*, 68 S.Ct. 1252, 334 U.S. 736, 92 L.Ed. 1690 (1948). Additionally, the Supreme Court of the United States has held that sentencing is a critical stage in the criminal process, requiring the assistance of counsel. See, e.g., *Mempa v. Rhay*, 88 S.Ct. 254, 389 U.S. 128, 19 L.Ed.2d 336 (1967).

Historical Notes

Prior Constitutions:  
1818, Art. 8, §§ 14, 16, 17.  
1848, Art. 13, §§ 14, 17, 18.

1870, Art. 2, § 11.

The complete text of the 1870 Constitution is set out at the end of the present Constitution.

Cross References

- Early release for good conduct, see 730 ILCS 5/3-6-3.
- Mitigation of penalties, hearing, see 730 ILCS 5/5-4-1.
- Penalties proportioned to seriousness of offense, see 720 ILCS 5/1-2.
- Probation of offenders, see 730 ILCS 5/5-5-3, 5/5-6-1, 5/5-6-2.
- Reduction of punishment, powers of reviewing court, see S. Ct. Rule 615.
- Rehabilitation possibilities, penalties recognizing, see 720 ILCS 5/1-2.
- Resentences, see 730 ILCS 5/5-5-4.
- Sentence of persons convicted, see 730 ILCS 5/5-4-1.
- Voting disqualifications, persons convicted of felony, see Const. Art. 3, § 2; 730 ILCS 5/5-5-5.

Law Review and Journal Commentaries

- Analysis and discussion of the Criminal Code of Illinois of 1961. 1965, 15 DePaul L.Rev. 27.
- Collateral consequences of a felony conviction in Illinois. John F. Decker, 1980, 56 Chi.-Kent L.Rev. 731.
- Common law doctrine of deodand; modern application. Edmund Webster Burke, 1930, 8 Chi.-Kent L.Rev. No. 3, p. 15.
- Compulsory eugenic sterilization and Constitution of the United States. Charles P. Kindregan, 1967, 43 Chi.-Kent L.Rev. 123.



# **EXHIBIT G**



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# ILLINOIS STATE BUDGET

**Governor Rod R. Blagojevich**

**Fiscal Year 2006**  
**July 1, 2005 – June 30, 2006**

Printed by Authority of the State of Illinois



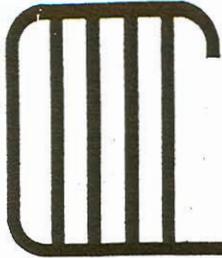
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Table I-A - Operating Appropriations by Agency

Agency (\$ thousands)	Fiscal Year 2004		Fiscal Year 2005		Fiscal Year 2006
	Enacted Appropriation	Actual Expenditure	Enacted Appropriation	Estimated Expenditure	Recommended Appropriation
<b>Department Of Central Management Services<sup>4</sup></b>	<b>726,508</b>	<b>518,679</b>	<b>838,737</b>	<b>748,965</b>	<b>1,035,441</b>
General Funds	143,112	135,746	114,645	114,418	94,906
Other State Funds	583,396	382,933	724,092	634,547	940,535
Federal Funds	0	0	0	0	0
<b>Department Of Children And Family Services</b>	<b>1,357,282</b>	<b>1,267,871</b>	<b>1,280,318</b>	<b>1,280,318</b>	<b>1,304,190</b>
General Funds	818,814	794,865	781,176	781,176	824,597
Other State Funds	520,586	459,987	480,774	480,774	461,225
Federal Funds	17,883	13,019	18,368	18,368	18,368
<b>Department Of Commerce And Economic Opportunity</b>	<b>912,582</b>	<b>457,399</b>	<b>847,559</b>	<b>443,571</b>	<b>666,197</b>
General Funds	52,739	47,922	57,580	54,272	65,688
Other State Funds	235,320	122,639	167,019	112,614	132,765
Federal Funds	624,523	286,838	622,960	276,685	467,745
<b>Department Of Natural Resources</b>	<b>204,450</b>	<b>174,200</b>	<b>189,568</b>	<b>181,740</b>	<b>192,802</b>
General Funds	108,381	93,770	93,903	93,796	89,010
Other State Funds	88,056	74,581	88,054	80,333	96,061
Federal Funds	8,013	5,849	7,611	7,611	7,730
<b>Department Of Corrections</b>	<b>1,403,735</b>	<b>1,243,224</b>	<b>1,353,139</b>	<b>1,285,208</b>	<b>1,335,254</b>
General Funds	1,256,626	1,170,046	1,189,610	1,189,264	1,223,946
Other State Funds	147,109	73,179	163,529	95,944	111,308
Federal Funds	0	0	0	0	0
<b>Department Of Employment Security</b>	<b>309,499</b>	<b>227,571</b>	<b>303,703</b>	<b>295,703</b>	<b>291,350</b>
General Funds	16,773	16,437	20,769	20,769	19,730
Other State Funds	2,018	1,937	1,917	1,917	1,917
Federal Funds	290,709	209,197	281,018	273,018	269,703
<b>Department Of Financial And Professional Regulation</b>	<b>99,147</b>	<b>84,542</b>	<b>91,683</b>	<b>89,686</b>	<b>92,466</b>
General Funds	0	0	1,310	1,310	0
Other State Funds	98,447	84,137	89,772	87,965	91,666
Federal Funds	700	406	600	411	800
<b>Department Of Human Rights</b>	<b>9,281</b>	<b>8,345</b>	<b>9,731</b>	<b>9,530</b>	<b>9,614</b>
General Funds	6,816	6,551	7,184	7,001	6,997
Other State Funds	0	0	0	0	0
Federal Funds	2,465	1,794	2,547	2,529	2,617
<b>Department Of Human Services</b>	<b>5,020,252</b>	<b>4,632,619</b>	<b>5,116,036</b>	<b>5,116,036</b>	<b>5,296,932</b>
General Funds	3,696,002	3,596,734	3,765,690	3,765,690	3,845,799
Other State Funds	413,493	350,339	412,403	412,403	461,068
Federal Funds	910,756	685,546	937,943	937,943	990,065
<b>Department Of Labor</b>	<b>6,124</b>	<b>5,707</b>	<b>6,010</b>	<b>6,010</b>	<b>6,075</b>
General Funds	5,978	5,566	5,853	5,855	5,917
Other State Funds	146	141	158	156	158
Federal Funds	0	0	0	0	0
<b>Department Of Military Affairs</b>	<b>41,975</b>	<b>28,617</b>	<b>37,450</b>	<b>37,321</b>	<b>40,468</b>
General Funds	15,149	12,687	12,581	12,581	12,987
Other State Funds	9,000	1,508	6,461	6,332	6,461
Federal Funds	17,826	14,422	18,408	18,408	21,020



# **EXHIBIT H**



Illinois  
Department of  
Corrections

Rod R. Blagojevich  
Governor

Roger E. Walker Jr.  
Director

1301 Concordia Court / P.O. Box 19277 / Springfield IL 62794-9277 / Telephone: (217) 522-2666 / TDD: (800) 526-0844

# Financial Impact Statement

The Illinois Department of Corrections hereby submits to the Clerk of the Circuit Court a Financial Impact Statement based on fiscal year 2003 data.

*Chapter 730 ICLS 5/3-2-9:*

Annual Cost of Incarcerating an Individual in a Department Facility ... **\$22,627**

*The estimated annual cost of incarcerating an individual in a Department facility is derived by taking the annual expenditures of Adult Division facilities and all administrative costs and dividing the sum of these factors by the average annual inmate population of the facilities.*

Monthly Cost of Incarcerating an Individual in a Department Facility... ..... \$1,886

Construction Cost per Bed (Medium Security-Double Ceiling) ... ..... \$55,826

*Chapter 730 ILCS 5/5-4-1:*

*In sentencing an individual, the court shall consider, among other factors, the financial impact of incarceration based on the financial impact statement filed with the clerk of the circuit court by the Department of Corrections.*

Please direct any questions to Jessica A. Pickens, Chief of Intergovernmental Relations, extension 2104.

Sincerely,

Roger E. Walker Jr.  
Director

# Illinois Department of Corrections

Data: June 30, 2004, except where noted

Department Budget				Population		Adult		Juvenile	
Budget: (FY04 GRF Appropriation)		\$1,269,565,752		Institutions		44,379		1,603	
Per Capita Cost (FY04)				Parole		32,666		1,906	
Adult Institutions		\$20,868		Institution Characteristics		Adult		Juvenile	
Juvenile Institutions		\$64,406		Gender		N		%	
Workforce				Male		41,573		94%	
Total GRF Staff (6/30/04)		14,026		Female		2,806		6%	
General Office		273		Race		N		%	
School District		327		Asian		109		0%	
Adult Field Services		777		Black		26,858		61%	
Adult Institutions		11,312		Hispanic		4,995		11%	
Juvenile Division		1,337		Native American		58		0%	
Adult Security Staff		8,721		White		12,355		28%	
Juvenile Custody Staff		940		Unknown/Missing		4		0%	
Facilities				Average Age		34.0 years		17.2 years	
Correctional Centers		27		Committing County		N		%	
Work Camps		7		Cook County		24,587		55%	
Boot Camps		2		Collar Counties <sup>2</sup>		4,862		11%	
Adult Transition Centers		8		Downstate Counties		14,902		34%	
Juvenile Institutions		8		Out of State		28		0%	
Parole Offices		24		Offense Class		N		%	
Adult Sentences and Exits - (FY04)				Murder		7,367		17%	
Average Sentence (Admissions)		4.1 years		Class X		10,835		24%	
Average Prison Stay (Exits) - Total		1.1 years		Class 1		7,409		17%	
Court Exits		1.2 years		Class 2		9,077		20%	
New Offense Violator Exits		1.4 years		Class 3		3,868		9%	
Technical Violator Exits		0.5 years		Class 4		5,690		13%	
Juvenile Sentences and Exits - (FY04)				Unclassified (SDP) <sup>3</sup>		133		0%	
Average Sentence Felons (Admissions)		6.9 years		Misdemeanor		-----		113	
Average Length of Stay (Exits) - Total		6.8 mos		Missing		0		0%	
Felons		13.0 mos		Offense Type		N		%	
Delinquents		9.6 mos		Person		18,856		42%	
Court Evaluations		2.6 mos		Property		9,527		21%	
Contempt		----- mos		Drug		11,292		25%	
First Degree Murderer		45.1 mos		Sex		4,292		10%	
Extended Jurisdiction Juvenile		12.9 mos		Other		412		1%	
Habitual Juvenile Offenders		33.3 mos		Missing		0		0%	
Secure Care Transfers		----- mos		Security Level - Adult/Juv		N		%	
Violent Juvenile Offenders		22.8 mos		Level 1/1 - Maximum		8,779		20%	
Technical Parole Violators		4.6 mos		Level 2 - Secure Medium		7,184		16%	
Admissions & Exits		Adult		Level 3/2 - High Medium		10,369		23%	
Admissions		N		Level 4/3 - Medium/Low Med		7,697		17%	
Court		24,241		Level 5 - High Minimum		3,366		8%	
New Offense Violator		4,567		Level 6/4 - Minimum		3,582		8%	
Technical Violator		9,145		Level 7 - Low Minimum		2,035		5%	
Total Admissions		37,953		Level 8/5 - Transitional		1,334		3%	
Exits		36,804		Other <sup>4</sup>		33		0%	
Recidivism Rate <sup>1</sup> (FY01 Exits)		54.6%		Type - Juvenile		N		%	
				Felon		-----		84	
				Delinquent		-----		1,336	
				Court Evaluation		-----		166	
				First Degree Murderer		-----		12	
				Other <sup>5</sup>		-----		5	
				Miscellaneous		N		%	
				Death Row		5		0.0%	
				Life Sentence		1,314		3.0%	
				Indeterminate Sentence		352		0.8%	

<sup>1</sup>Recidivism rate indicates the percentage of inmates who return to IDOC within three years after release. The data represent those released from IDOC in fiscal year 2001. Juveniles include only those returned to juvenile facilities within three years after release.

<sup>2</sup>Collar Counties (5): DuPage, Kane, Lake, McHenry & Will

<sup>3</sup>Unclassified are Sexually Dangerous Persons

<sup>4</sup>Other - Federal/Other State, Women & Children's Program or In-Transit

<sup>5</sup>Other - Extended Jurisdiction (4) and Habitual Juvenile (1)



# **EXHIBIT I**

720 ILCS 570/410

*"410 Probation"*

LEXSTAT 720 ILCS 570/410

ILLINOIS COMPILED STATUTES ANNOTATED  
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\*\*\* THIS SECTION IS CURRENT THROUGH PUBLIC ACT 94-0012 \*\*\*  
 \*\*\* ANNOTATIONS TO STATE CASES CURRENT THROUGH MAY 1, 2005 \*\*\*

CHAPTER 720. CRIMINAL OFFENSES  
 OFFENSES AGAINST THE PUBLIC  
 ILLINOIS CONTROLLED SUBSTANCES ACT  
 ARTICLE IV.

GO TO THE CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

720 ILCS 570/410 (2005)

§ 720 ILCS 570/410. [Probation]

Sec. 410. (a) Whenever any person who has not previously been convicted of, or placed on probation or court supervision for any offense under this Act or any law of the United States or of any State relating to cannabis or controlled substances, pleads guilty to or is found guilty of possession of a controlled or counterfeit substance under subsection (c) of Section 402 [720 ILCS 570/402], the court, without entering a judgment and with the consent of such person, may sentence him to probation.

(b) When a person is placed on probation, the court shall enter an order specifying a period of probation of 24 months and shall defer further proceedings in the case until the conclusion of the period or until the filing of a petition alleging violation of a term or condition of probation.

(c) The conditions of probation shall be that the person: (1) not violate any criminal statute of any jurisdiction; (2) refrain from possessing a firearm or other dangerous weapon; (3) submit to periodic drug testing at a time and in a manner as ordered by the court, but no less than 3 times during the period of the probation, with the cost of the testing to be paid by the probationer; and (4) perform no less than 30 hours of community service, provided community service is available in the jurisdiction and is funded and approved by the county board.

(d) The court may, in addition to other conditions, require that the person:

(1) make a report to and appear in person before or participate with the court or such courts, person, or social service agency as directed by the court in the order of probation;

(2) pay a fine and costs;

(3) work or pursue a course of study or vocational training;

(4) undergo medical or psychiatric treatment; or treatment or rehabilitation approved by the Illinois Department of Human Services;

(5) attend or reside in a facility established for the instruction or residence of defendants on probation;

(6) support his dependents;

(6-5) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act [720 ILCS 550/1 et seq.] or the Illinois Controlled Substances Act [720 ILCS 570/100 et seq.], unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug;

*Terms of Probation*

## 720 ILCS 570/410

(7) and in addition, if a minor:

- (i) reside with his parents or in a foster home;
- (ii) attend school;
- (iii) attend a non-residential program for youth;
- (iv) contribute to his own support at home or in a foster home.

(e) Upon violation of a term or condition of probation, the court may enter a judgment on its original finding of guilt and proceed as otherwise provided.

(f) Upon fulfillment of the terms and conditions of probation, the court shall discharge the person and dismiss the proceedings against him.

(g) A disposition of probation is considered to be a conviction for the purposes of imposing the conditions of probation and for appeal, however, discharge and dismissal under this Section is not a conviction for purposes of this Act or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(h) There may be only one discharge and dismissal under this Section or Section 10 of the Cannabis Control Act [720 ILCS 550/10] with respect to any person.

(i) If a person is convicted of an offense under this Act or the Cannabis Control Act [720 ILCS 550/1 et seq.] within 5 years subsequent to a discharge and dismissal under this Section, the discharge and dismissal under this Section shall be admissible in the sentencing proceeding for that conviction as evidence in aggravation.

**HISTORY:** Source: P.A. 86-265; 87-754; 88-510, § 15; 88-680, § 25-15; 89-507, § 90C-34; 91-696, § 25-15.

**NOTES:****NOTE.**

This section was Ill.Rev.Stat., Ch. 56 1/2, para. 1410.

P.A. 91-696, § 1, effective April 13, 2000, provides for the purpose of the Act, and is quoted in a note under 720 ILCS 5/32-4.

Section 990-1 of P.A. 91-696 contains a severability provision.

**CROSS REFERENCES.**

For provision regarding issuance of a driver's license or permit, see the following: to persons convicted of violating this Act, see 625 ILCS 5/6-103; minors who have violated this Act, see 625 ILCS 5/6-107.

For provision regarding cancellation of the license or permit of any minor who has violated this Act, see 625 ILCS 5/6-108.

For provision regarding conviction of sex or narcotics offense as grounds for revocation of a teaching certificate, see 105 ILCS 5/21-23a.

For provisions limiting a discharge or dismissal of charges under this section for first-time offender to one occurrence, see 720 ILCS 550/10.

**EFFECT OF AMENDMENTS.**

The 1993 amendment by P.A. 88-510, effective January 1, 1994, added subdivision (d)(6-5).

The 1994 amendment by P.A. 88-680, effective January 1, 1995, in subsection (b) substituted "a period of probation of 24 months" for "the period of probation in accordance with subsection (b) of Section 5-6-2 of the Unified Code of Corrections"; in subdivision (c)(1) deleted "and" from the end; added subdivisions (c)(3) and (c)(4); and added subsection (i).

The 1996 amendment by P.A. 89-507, effective July 1, 1997, in subdivision (d)(4) substituted "Human Services" for "Alcoholism and Substance Abuse".

The 2000 amendment by P.A. 91-696, effective April 13, 2000, reenacted this section with no additional changes.

**CASE NOTES****ANALYSIS**



# **EXHIBIT J**

720 ILCS 550/10

*"710 Probation"*

LEXSTAT 720 ILCS 550/10

ILLINOIS COMPILED STATUTES ANNOTATED  
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\*\*\* THIS SECTION IS CURRENT THROUGH PUBLIC ACT 94-0012 \*\*\*  
 \*\*\* ANNOTATIONS TO STATE CASES CURRENT THROUGH MAY 1, 2005 \*\*\*

CHAPTER 720. CRIMINAL OFFENSES  
 OFFENSES AGAINST THE PUBLIC  
 CANNABIS CONTROL ACT

GO TO THE CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

720 ILCS 550/10 (2005)

[Prior to 1/1/93 cited as: Ill. Rev. Stat., Ch. 56 1/2, para. 710]

§ 720 ILCS 550/10. [Probation]

Sec. 10. (a) Whenever any person who has not previously been convicted of, or placed on probation or court supervision for, any offense under this Act or any law of the United States or of any State relating to cannabis, or controlled substances as defined in the Illinois Controlled Substances Act [720 ILCS 570/100 et seq.], pleads guilty to or is found guilty of violating Sections 4(a), 4(b), 4(c), 5(a), 5(b), 5(c) or 8 of this Act [720 ILCS 550/4, 720 ILCS 550/5 or 720 ILCS 550/8], the court may, without entering a judgment and with the consent of such person, sentence him to probation.

(b) When a person is placed on probation, the court shall enter an order specifying a period of probation of 24 months, and shall defer further proceedings in the case until the conclusion of the period or until the filing of a petition alleging violation of a term or condition of probation.

(c) The conditions of probation shall be that the person: (1) not violate any criminal statute of any jurisdiction; (2) refrain from possession of a firearm or other dangerous weapon; (3) submit to periodic drug testing at a time and in a manner as ordered by the court, but no less than 3 times during the period of the probation, with the cost of the testing to be paid by the probationer; and (4) perform no less than 30 hours of community service, provided community service is available in the jurisdiction and is funded and approved by the county board.

(d) The court may, in addition to other conditions, require that the person:

(1) make a report to and appear in person before or participate with the court or such courts, person, or social service agency as directed by the court in the order of probation;

(2) pay a fine and costs;

(3) work or pursue a course of study or vocational training;

(4) undergo medical or psychiatric treatment; or treatment for drug addiction or alcoholism;

(5) attend or reside in a facility established for the instruction or residence of defendants on probation;

(6) support his dependents;

(7) refrain from possessing a firearm or other dangerous weapon;

## 720 ILCS 550/10

(7-5) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act [720 ILCS 550/1 et seq.] or the Illinois Controlled Substances Act [720 ILCS 570/100 et seq.], unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug;

(8) and in addition, if a minor:

- (i) reside with his parents or in a foster home;
- (ii) attend school;
- (iii) attend a non-residential program for youth;
- (iv) contribute to his own support at home or in a foster home.

(e) Upon violation of a term or condition of probation, the court may enter a judgment on its original finding of guilt and proceed as otherwise provided.

(f) Upon fulfillment of the terms and conditions of probation, the court shall discharge such person and dismiss the proceedings against him.

(g) A disposition of probation is considered to be a conviction for the purposes of imposing the conditions of probation and for appeal, however, discharge and dismissal under this Section is not a conviction for purposes of disqualification or disabilities imposed by law upon conviction of a crime (including the additional penalty imposed for subsequent offenses under Section 4(c), 4(d), 5(c) or 5(d) of this Act) [720 ILCS 550/4 or 720 ILCS 550/5].

(h) Discharge and dismissal under this Section or under Section 410 of the Illinois Controlled Substances Act [720 ILCS 550/410] may occur only once with respect to any person.

(i) If a person is convicted of an offense under this Act or the Illinois Controlled Substances Act [720 ILCS 570/100 et seq.] within 5 years subsequent to a discharge and dismissal under this Section, the discharge and dismissal under this Section shall be admissible in the sentencing proceeding for that conviction as a factor in aggravation.

HISTORY: Source: P.A. 80-1202; 88-510, § 10; 88-680, § 25-10; 91-696, § 25-10.

## NOTES:

## NOTE.

This section was Ill.Rev.Stat., Ch. 56 1/2, para. 710.

P.A. 91-696, § 1, effective April 13, 2000, provides for the purpose of the Act, and is quoted in a note under 720 ILCS 5/32-4.

Section 990-1 of P.A. 91-696 contains a severability provision.

## CROSS REFERENCES.

As to revocation of a teaching certificate, under the School Code, for possession of cannabis violation, see 105 ILCS 5/21-23a and 105 ILCS 5/34-84b.

As to payment of court services fees, enacted by a county board, when a defendant pleads guilty to violation of this Act, see 55 ILCS 5/5-1103.

As to what persons shall not be licensed as drivers or granted permits, under the Illinois Vehicle Code, when they are first offenders for violating this Act, see 625 ILCS 5/6-103.

As to the denial of a minor's license application, under the Illinois Vehicle Code, for violating the Cannabis Control Act, see 625 ILCS 5/6-107.

As to cancellation of a minor's driving license, under the Illinois Vehicle Code, for violating the Cannabis Control Act, see 625 ILCS 5/6-108.

As to the authority of the Secretary of State to cancel licenses and permits under the Illinois Vehicle Code, where a person violates this Act, see 625 ILCS 5/6-201.

As to fines against persons placed on probation, and conditional discharge of supervision under this section, see 720 ILCS 550/10.3.

As to the limitation of one discharge and dismissal with respect to any person under this section, see 720 ILCS 570/410.

For the amount of fines for violating this Act, see 730 ILCS 5/5-9-1.



# **EXHIBIT K**

**MENTAL HEALTH COURT REFERRALS**

(AS OF 7/14/05)

NUMBER REFERRED - 72

SOURCE OF REFERRAL:

CERMAK HEALTH SERVICES - 44; OTHER - 28

TOTAL NUMBER ENROLLED:

FEMALE -18 (CURRENT:16)

MALE - 17 (CURRENT:15)

NUMBER NOT ADMITTED - 30

NUMBER STILL UNDER EVALUATION: 7

(FEMALE - 4 MALE - 3)

NUMBER RESENTENCED AND/OR TERMINATED FROM THE PROGRAM - 4

CRIMINAL HISTORY OF MALE ENROLLEES:

LIFETIME FELONY ARRESTS - 130 (AVERAGE - 7.6/PARTICIPANT)

LIFETIME TOTAL ARRESTS - 643 (AVERAGE - 37.8/PARTICIPANT)

PAST YEAR TOTAL ARRESTS - 58 (AVERAGE - 3.4/PARTICIPANT)

LIFETIME FELONY CONVICTIONS - 56 (AVERAGE - 3.3/PARTICIPANT)

LIFETIME TOTAL CONVICTIONS - 118 (AVERAGE - 6.9)

PAST YEAR TOTAL CONVICTIONS - 25 (AVERAGE - 1.5/PARTICIPANT)

SENTENCES TO IDOC - 58 YEARS (AVERAGE - 3.4/PARTICIPANT)

SENTENCES TO CCDOC - 906 DAYS (AVERAGE - 53.3/PARTICIPANT)

SENTENCES TO PROBATION - 36 YEARS (AVERAGE -2.1/PARTICIPANT)

SENTENCES TO CONDITIONAL DISCHARGE - 4 YEARS (AVE-2.8 MONTHS)

SENTENCES TO SUPERVISION - 3.5 YEARS ( AVE- 2.5 MOS/PARTICIPANT)

CRIMINAL HISTORY OF FEMALE ENROLLEES:

LIFETIME FELONY ARRESTS - 86 (AVERAGE - 4.8/PARTICIPANT)

LIFETIME TOTAL ARRESTS - 565 (AVERAGE - 31.4/PARTICIPANT)

PAST YEAR TOTAL ARRESTS - 75 (AVERAGE - 4.2/PARTICIPANT)

LIFETIME FELONY CONVICTIONS - 44 (AVERAGE - 2.4/PARTICIPANT)

LIFETIME TOTAL CONVICTIONS - 109 (AVERAGE - 6.1/PARTICIPANT)

PAST YEAR TOTAL CONVICTIONS - 42 (AVERAGE - 2.3/PARTICIPANT)

SENTENCES TO IDOC - 51 YEARS (AVERAGE - 2.8/PARTICIPANT)

SENTENCES TO CCDOC - 433 DAYS (AVERAGE - 24.1/PARTICIPANT)

SENTENCES TO PROBATION - 35 YEARS (AVERAGE- 1.9/PARTICIPANT)

SENTENCES TO COND. DISC. - 547 DAYS (AVERAGE - 30.4/PARTICIPANT)

SENTENCES TO SUPERVISION - 2189 DAYS (AVE. 121.6/PARTICIPANT)

CRIMINAL HISTORY OF ALL ENROLLEES:

LIFETIME FELONY ARRESTS - 216 (AVERAGE - 6.2/PARTICIPANT)

LIFETIME TOTAL ARRESTS - 1198 (AVERAGE - 34.2/PARTICIPANT)

PAST YEAR TOTAL ARRESTS - 133 (AVERAGE - 3.8/PARTICIPANT)  
 LIFETIME FELONY CONVICTIONS - 100 (AVERAGE - 2.9/PARTICIPANT)  
 LIFETIME TOTAL CONVICTIONS - 227 (AVERAGE - 6.5/PARTICIPANT)  
 PAST YEAR TOTAL CONVICTIONS - 67 (AVERAGE - 1.9/PARTICIPANT)  
 SENTENCES TO IDOC - 109 YEARS (AVERAGE - 3.1/PARTICIPANT)  
 SENTENCES TO CCDOC - 1339 DAYS (AVERAGE - 38.3/PARTICIPANT)  
 SENTENCES TO PROBATION - 71 YEARS (AVERAGE - 2.0/PARTICIPANT)  
 SENTENCES TO COND. DISC. - 2007 DAYS (AVE. - 57.3/PARTICIPANT)  
 SENTENCES TO SUPERVISION - 3467 DAYS (AVE. - 99/PARTICIPANT)  
 TOTAL INCARCERATION COSTS (FOR PAST PERIODS SENTENCED)  
 IDOC (IF FULL SENTENCE SERVED) - \$3,052,000 (\$87,200/PARTICIPANT)  
 IDOC (IF 50% OF SENTENCE SERVED) - \$1,526,000.00  
 IDOC (IF 25% OF SENTENCE SERVED) - \$763,000.00  
 CCDOC (IF FULL SENTENCE SERVED) - \$93,730 (\$2,678/PARTICIPANT)  
 CCDOC (IF 50% OF SENTENCE SERVED) - \$46,865 (\$1,339/PARTICIPANT)  
 CCDOC (IF 25% OF SENTENCE SERVED) - \$23,433 (\$670/PARTICIPANT)  
 (NOT INCLUDING IN-CUSTODY COSTS PRECEDING NON-CONVICTIONS.)

IN THE YEAR PRIOR TO ADMISSION TO THE PROGRAM, THE 35 ENROLLEES SPENT A TOTAL OF 4,044 DAYS IN COOK COUNTY CUSTODY, AT A COST OF APPROXIMATELY \$283,080 (\$8,088/PARTICIPANT). IN THE AGGREGATE TOTAL OF 20 YEARS IN THE PROGRAM, THE 35 ENROLLEES HAVE 14 MISDEMEANOR AND 2 FELONY ARRESTS VS. THE AVE. OF 3.8 ARRESTS IN THE YEAR PRIOR TO ENTRY. THESE ARRESTS HAVE RESULTED IN 72 DAYS TRADITIONAL INCARCERATION TO THIS DATE (96% BY 1 PARTICIPANT). 21 HAVE HAD VOPS FILED, WITH 14 TAKEN INTO CUSTODY SINCE ADMISSION TO THE PROGRAM, RESULTING IN 382 DAYS OF MENTAL HEALTH TREATMENT INCARCERATION, FOR A TOTAL OF 458 DAYS INCARCERATION. IF WE ONLY CONSIDER THE STANDARD JAIL CHARGE (\$70/DAY) THIS RESULTS IN A COST OF \$32,060, TOTAL, FOR ALL ENROLLEES (\$916/PARTICIPANT). HOWEVER, IT IS ASSUMED THAT THESE INDIVIDUALS WOULD BE AT A MUCH HIGHER COST, DUE TO THEIR MEDICAL AND PSYCHIATRIC NEEDS, SO THE SAVINGS WOULD BE SIGNIFICANTLY GREATER. 46% OF ENROLLEES HAVE NOT BEEN HELD IN CUSTODY, 74% HAVE NO NEW ARREST, 89% HAVE NO NEW CONVICTIONS, 94% NO FELONY ARREST. FINALLY, 16 PARTICIPANTS HAVE HAD IN-PT IDMH HOSPITALIZATIONS PRIOR TO ADMISSION, A TOTAL OF 174 HOSPITALIZATIONS (10.9/PARTICIPANT), TOTALING 3375 DAYS (211/ PARTICIPANT). OF THOSE 16, DURING THEIR AGGREGATE 10.5 YEARS IN THE PROGRAM, 1 HAS A STATE HOSPITALIZATION, TOTALING 21 DAYS. ADDITIONALLY, 7 PARTICIPANTS HAVE HAD 14 ADMISSIONS TO PRIVATE PSYCHIATRIC HOSPITALS, FOR 127 TOTAL DAYS. OF THE OTHER 19 PARTICIPANTS, NONE HAS HAD A STATE PSYCHIATRIC HOSPITALIZATION SINCE ADMISSION, 5 HAVE HAD A PRIVATE PSYCHIATRIC HOSPITALIZATION, FOR A TOTAL OF 88 IN-PATIENT DAYS. SO, WHILE IN THE PROGRAM, 15 PARTICIPANTS HAVE HAD AT LEAST 1 PSYCHIATRIC HOSPITALIZATION, 57% HAVE NOT BEEN PSYCHIATRICALY HOSPITALIZED. THE TOTAL NUMBER OF IN-PT DAYS IS 236 (6.7/PARTICIPANT).

## MENTAL HEALTH COURT PARTICIPANTS

(AS OF 7/14/05)

### CRIMINAL JUSTICE HIGHLIGHTS

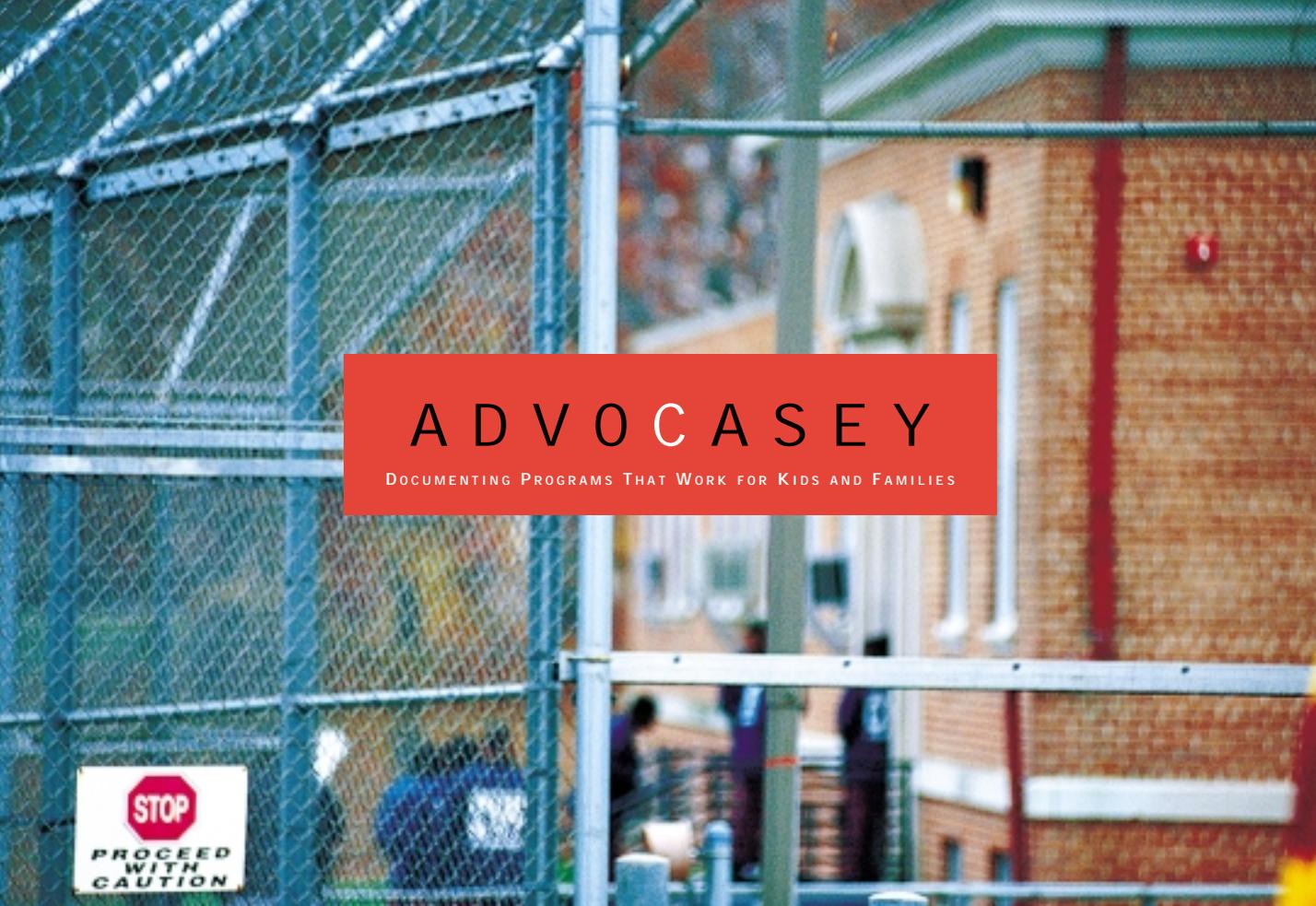
- SEVENTEEN MALE ENROLLEES AVERAGES
  - ARRESTS: 37.8
  - CONVICTIONS: 6.9
  - PAST YEAR ARRESTS: 3.4
  - PAST YEAR CONVICTIONS: 1.5
- EIGHTEEN FEMALE PARTICIPANTS AVERAGES
  - ARRESTS: 31.4
  - CONVICTIONS: 6.1
  - PAST YEAR ARRESTS: 4.2
  - PAST YEAR CONVICTIONS: 2.3
- MALES: 20% FELONIES, 80% MISDEMEANORS/OTHERS ARRESTS
- FEMALES: 15% FELONIES, 85% MISDEMEANORS/OTHERS ARRESTS
- ALL MALES, AVERAGE, LIFETIME INCARCERATION/SUPERVISION
  - 3.4 YEARS IDOC
  - 53.3 DAYS CCDOC
  - 25.0 MONTHS PROBATION
  - 5.3 MONTHS SUPERVISION/CONDITIONAL DISCHARGE
- ALL FEMALES AVERAGE:
  - 2.8 YEARS IDOC
  - 24.1 DAYS CCDOC
  - 22.8 MONTHS PROBATION
  - 2.9 MONTHS SUPERVISION/CONDITIONAL DISCHARGE
- ALL ENROLLEES AVERAGE, COST OF TIME IN-CUSTODY AT CCDOC IN THE YEAR PRIOR TO ADMISSION TO THE PROGRAM (INCLUDING THE CURRENT CHARGE): \$8,088 (AN AVERAGE OF 116 DAYS/EACH); TOTAL FOR ALL: \$283,080.
- TOTAL COST OF TIME IN-CUSTODY AT CCDOC (CERMAK OR OTHER) FOR ALL ENROLLEES, COMBINED, DURING THEIR AGGREGATE 18 YEARS IN THE PROGRAM: \$32,060 (AN AVERAGE OF \$916 EACH).
- THERE HAVE BEEN 39 VOPS FILED AGAINST 21 PARTICIPANTS THUS FAR, PLUS 14 MISDEMEANOR AND 2 FELONY ARRESTS AGAINST 9 PARTICIPANTS, WITH 74% OF ENROLLEES HAVING NO NEW ARRESTS AND 89% HAVING NO NEW CONVICTIONS SINCE ADMISSION; 94% HAVING NO FELONY ARREST, 97% HAVING NO FELONY CONVICTION.
- EXCLUDING THE 54% OF THOSE WHO HAVE REMAINED IN CUSTODY SINCE BEING DENIED ADMISSION TO THE PROGRAM AND THOSE WHO HAVE BEEN OUT OF CUSTODY LESS THAN ONE MONTH, 90% OF THOSE NOT ADMITTED HAVE HAD NEW SUBSEQUENT ARRESTS (55% OF THOSE RESULTED IN A CONVICTION, THE REMAINING 45% ARE PENDING) 10% HAVE OPEN WARRANTS ISSUED AGAINST THEM CHARGE, ALL HAVE HAD SUBSEQUENT CRIMINAL JUSTICE INVOLVEMENT

# **EXHIBIT L**

	1999			2000			2001			2002			2003			2004		
	Number	Change From Previous Year		Number	Change From Previous Year		Number	Change From Previous Year	Change From 1999	Number	Change From Previous Year	Change From 1999	Number	Change From Previous Year	Change From 1999	Number	Change From Previous Year	Change From 1999
<b>Population</b>																		
Institutions	2199	5.82%	2071	1940	6.33%	11.78%	1668	14.02%	24.15%	1565	6.18%	28.83%	1603	-2.43%	27.10%			
Parole	1603	-1.06%	1620	1426	11.98%	11.04%	1643	-15.22%	-2.50%	1814	-10.41%	-13.16%	1906	-5.07%	-18.90%			
<b>Gender</b>																		
Male	2047	6.45%	1915	1780	7.05%	13.04%	1541	13.43%	24.72%	1438	6.68%	29.75%	1483	-3.13%	27.55%			
Female	152	-2.63%	156	160	-2.56%	-5.26%	127	20.63%	16.45%	127	0.00%	16.45%	120	5.51%	21.05%			
<b>Race</b>																		
Asian	10	-20.00%	12	5	58.33%	50.00%	2	60.00%	80.00%	3	-50.00%	70.00%	0	100.00%	100.00%			
Black	1267	4.97%	1204	1074	10.80%	15.23%	945	12.01%	25.41%	875	7.41%	30.94%	915	-4.57%	27.78%			
Hispanic	280	20.36%	223	212	4.93%	24.29%	157	25.94%	43.93%	146	7.01%	47.86%	135	7.53%	51.79%			
Native American	7	42.86%	4	5	-25.00%	28.57%	4	20.00%	42.86%	3	25.00%	57.14%	4	-33.33%	42.86%			
White	635	1.10%	628	644	-2.55%	-1.42%	559	13.20%	11.97%	537	3.94%	15.43%	549	-2.23%	13.54%			
Unknown/Missing	0	0.00%	0	0	0.00%	0.00%	1	0.00%	0.00%	1	0.00%	0.00%	0	100.00%	0.00%			
<b>Average Age</b>																		
<b>Offense Class</b>																		
Murder	48	29.17%	34	20	41.18%	58.33%	16	20.00%	66.67%	16	0.00%	66.67%	12	25.00%	75.00%			
Class X	276	6.52%	258	219	15.12%	20.65%	164	25.11%	40.58%	148	9.76%	46.38%	171	-15.54%	38.04%			
Class 1	417	8.15%	383	326	14.88%	21.82%	304	6.75%	27.10%	296	2.63%	29.02%	284	4.05%	31.89%			
Class 2	565	5.66%	533	564	-5.82%	0.18%	540	4.26%	4.42%	475	12.04%	15.93%	467	1.68%	17.35%			
Class 3	387	8.27%	355	349	1.69%	9.82%	283	18.91%	26.87%	286	-1.06%	26.10%	330	-15.38%	14.73%			
Class 4	354	4.52%	338	321	5.03%	9.32%	234	27.10%	33.90%	248	-5.98%	29.94%	222	10.48%	37.29%			
Unclassified (SDP)	0	0.00%	0	0	0.00%	0.00%	0	0.00%	0.00%	0	0.00%	0.00%	0	0.00%	0.00%			
Misdemeanor	152	-11.84%	170	141	17.06%	7.24%	126	10.64%	17.11%	95	24.60%	37.50%	113	-18.95%	25.66%			
Missing	0	0.00%	0	0	0.00%	0.00%	1	0.00%	0.00%	1	0.00%	0.00%	0	100.00%	0.00%			
<b>Offense Type</b>																		
Person	913	8.19%	819	728	11.11%	20.26%	565	22.39%	38.12%	535	5.31%	41.40%	578	-8.04%	36.69%			
Property	796	4.77%	758	763	-0.66%	4.15%	721	5.50%	9.42%	641	11.10%	19.47%	667	-4.06%	16.21%			
Drug	319	2.51%	311	264	15.11%	17.24%	197	25.38%	38.24%	191	3.05%	40.13%	181	5.24%	43.26%			
Sex	151	-3.31%	156	158	-1.28%	-4.64%	155	1.90%	-2.65%	162	-4.52%	-7.28%	155	4.32%	-2.65%			
Other	20	-35.00%	27	27	0.00%	-35.00%	29	-7.41%	-45.00%	35	-20.69%	-75.00%	22	37.14%	-10.00%			
Missing	0	0.00%	0	0	0.00%	0.00%	1	0.00%	0.00%	1	0.00%	0.00%	0	100.00%	0.00%			
<b>Security Level</b>																		
Level 1/1 - Maximum	529*	7.94%	487*	435*	10.68%	17.77%	389			402	-3.34%		420	-4.48%				
Level 2 - Secure Medium																		
Level 3/2 - High Medium	1592*	4.19%	1465*	1425*	2.73%	10.49%	961			938	2.39%		926	1.28%				
Level 4/3 - Medium/ Low Med							186			109	41.40%		143	-31.19%				
Level 5 - High Minimum																		
Level 6/4 - Minimum	78*	-52.56%	119*	80*	32.77%	-2.56%	64			47	26.56%		32	31.91%				
Level 7 - Low Minimum																		
Level 8/5 - Transitional							68			69	-1.47%		82	-18.84%				
Other																		
<b>Type - Juvenile</b>																		
Felon	149	18.12%	122	84	31.15%	43.62%	80	4.76%	46.31%	85	-6.25%	42.95%	84	1.18%	43.62%			
Delinquent	1910	4.03%	1833	1728	5.73%	9.53%	1475	14.64%	22.77%	1318	10.64%	30.99%	1336	-1.37%	30.05%			
Court Evaluation	102	11.76%	90	112	-24.44%	-9.80%	95	15.18%	6.86%	142	-49.47%	-39.22%	166	-16.90%	-62.75%			
First Degree Murder	27	29.63%	19	8	57.89%	70.37%	11	-37.50%	59.26%	12	-9.09%	55.56%	12	0.00%	55.56%			
Other	11	36.36%	7	8	-14.29%	27.27%	7	12.50%	36.36%	8	-14.29%	27.27%	5	37.50%	54.55%			

\* Prior to 2002, IDOC classified five security levels: maximum, medium, minimum, community corrections, and electronic detention

# **EXHIBIT M**



# ADVOCASEY

DOCUMENTING PROGRAMS THAT WORK FOR KIDS AND FAMILIES

A PUBLICATION OF THE ANNIE E. CASEY FOUNDATION

A PREPRINT FROM THE FALL/WINTER 1999 ISSUE

BY BILL RUST

## JUVENILE JAILHOUSE ROCKED

REFORMING  
DETENTION IN  
CHICAGO,  
PORTLAND, AND  
SACRAMENTO

*Each year hundreds of thousands of kids charged with delinquent acts are locked up in juvenile detention facilities.* Between 1987 and 1996, the number of delinquency cases involving pretrial detention increased by 38 percent. Nearly 70 percent of children in public detention centers are in facilities operating above their design capacity. And according to a new report from the U.S. Office of Juvenile Justice and Delinquency Prevention, secure detention “was nearly twice as likely in 1996 for cases involving black youth as for cases involving whites, even after controlling for offense.”<sup>1</sup>

<sup>1</sup> *Juvenile Offenders and Victims: 1999 National Report*, Howard N. Snyder and Melissa Sickmund, September 1999.

Of the many troubling facts about pretrial juvenile detention perhaps the most disturbing one is that many incarcerated youth should not be there at all. These are the kids who pose little risk of committing a new offense before their court dates or failing to appear for court — the two authorized purposes of juvenile detention. “When you talk to judges, prosecutors, or anyone involved in the juvenile justice system,” says Bart Lubow, senior associate at the Annie E. Casey Foundation, “many of them say things like, ‘We locked that kid up to teach him a lesson.’ Or, ‘We locked him up for his own good.’ Or, ‘We locked him up because his parents weren’t available.’ Or, ‘We locked him up to get a mental health assessment.’ None of these reasons are reflected in statute or professional standards.”

In many jurisdictions, the problem of arbitrary admissions to detention is compounded by an

*(continued on page 2)*

(continued from page 1)

absence of alternatives to either locked confinement or outright release. Moreover, inefficient case processing by the juvenile justice system unnecessarily prolongs a young person's stay in confinement and increases overall detention populations, often to dangerous and unhealthy levels. According to Jeffrey Butts, a senior research associate at the Urban Institute who directed the OJJDP Delays in Juvenile Justice Sanctions Project, almost half of the nation's large jurisdictions take more than 90 days to dispose of cases — the maximum time suggested by professional standards of juvenile justice.

The inappropriate use of secure detention poses hazards for youth, jurisdictions, and society at large. Research indicates that detention does not deter future offending, but it does increase the likelihood that children will be placed out of their homes in the future, even when controlling for offense, prior history, and other factors. "Children who are detained, rather than let go to their parents or released to some other kind of program, are statistically much more likely to be incarcerated at the end of the process," says Mark Soler, president of the Youth Law Center. "If they are released, and they stay out of trouble, judges are more likely to let them stay released when it comes to disposition. If they are locked up until disposition, judges are more likely to keep them locked up afterwards."

For taxpayers, the financial costs of indiscriminately using secure detention are high. Between 1985 and 1995, the operating expenses for detention facilities more than doubled to nearly \$820 million — a figure that does not include capital costs and debt service for constructing and remodeling detention centers. For public officials, the cost of overusing detention can include expensive and time-consuming litigation for overcrowded and inadequate conditions of confinement in their facilities.

### **"The Least Favorite Kids in America"**

In December 1992 the Annie E. Casey Foundation launched the Juvenile Detention Alternatives Initiative

(JDAI). Based in part on a successful detention reform effort in Broward County (Fort Lauderdale), Florida, JDAI sought to demonstrate that communities could improve their detention systems without sacrificing public safety. The Casey Foundation awarded grants to five urban jurisdictions,<sup>2</sup> each of which pursued four major objectives:

- to reach consensus among all juvenile justice agencies about the purpose of secure detention and to eliminate its inappropriate or unnecessary use;
- to reduce the number of alleged delinquents who fail to appear in court or commit a new offense;
- to use limited juvenile justice resources in a more efficient manner by developing responsible alternatives to secure confinement rather than adding new detention beds; and
- to improve conditions and alleviate overcrowding in secure detention facilities.

Three JDAI sites completed the initiative's implementation phase — Cook, Multnomah, and Sacramento counties — and each had notable achievements in detention reform. "Every measure we have suggests that in Chicago, Portland, and Sacramento, JDAI achieved significant reductions in detention admissions and significant improvements in the conditions of confinement," says Barry Krisberg, president of the National Council on Crime and Delinquency (NCCD) and primary author of the final evaluation of JDAI, scheduled for release in early 2000. "And there were no increases in either failure-to-appear rates or pretrial crime rates. In fact, JDAI seemed to make things better, because kids were now getting better pretrial supervision."

Despite the fairly straightforward case for improving pretrial detention policy and practice, reforming detention systems has proven very difficult. One reason

<sup>2</sup> Cook County, Illinois; Milwaukee County, Wisconsin; Multnomah County, Oregon; New York City; and Sacramento County, California.




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THE JDAI APPROACH TO PRETRIAL DETENTION: SECURE CUSTODY FOR DANGEROUS YOUTH AND LESS RESTRICTIVE SUPERVISION FOR KIDS WHO POSE LITTLE RISK OF REOFFENDING OR FLIGHT.

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is that diverse and autonomous juvenile justice agencies have to learn to work together in new ways. Another is that public safety and other politically charged issues embedded in detention reform are sensitive topics and sometimes immune to rational debate. A third reason is that adolescent youth who are charged with a crime, particularly kids of color, do not naturally attract public sympathy or attention. “These are the least favorite kids in America,” says Mark Soler.

The report that follows is organized around JDAI’s key detention reform strategies: collaborative planning and decision making, objective admissions practices, case processing innovations, and alternative programs. Also discussed are the sites’ efforts to improve the conditions of confinement in detention centers and to reduce the disproportionate number of minorities

incarcerated there. For more detailed analyses of the JDAI strategies and related topics, please refer to the Casey Foundation series *Pathways to Juvenile Detention Reform*, which began publication at the end of 1999 (see page 14).

**Collaboration: “A Gut Check”**

Perhaps the most critical JDAI strategy was the commitment to collaborative planning and decision making among the agencies that constitute the juvenile justice system — the judiciary, prosecution, defense bar, police, probation, and others. One reason collaboration was essential is that the term “juvenile justice system” is something of an oxymoron. The agencies involved in it have a high degree of fiscal and operational autonomy as well as differing cultures and constituencies. The judiciary, for example, has an

obligation to remain independent, and the roles of prosecutors and defense attorneys are, by definition, adversarial.

Despite their autonomy, juvenile justice agencies are also highly interdependent. In Cook County, for example, the county board of commissioners has legal responsibility for operating the juvenile detention center. The judiciary, on the other hand, decides which kids are sent there. Historically, such mutual interests were an insufficient inducement for Chicago's juvenile justice agencies to work together. "There was no collaboration prior to '94," says Michael Rohan, director of the county's Juvenile Probation and Court Services Department. "There were limited relationships between the agencies and players."

The collaborative environment was better in Sacramento, where juvenile justice agencies had worked together to address overcrowding in the county detention center, and in Portland, where the juvenile justice system was responding to a lawsuit over conditions of confinement in the juvenile lockup. Yet even in these jurisdictions, individuals and agencies still had a tendency to focus narrowly on their particular role in detention rather than on the overall system. "People have been doing things the same way for so long that getting them to reexamine the way you do business in juvenile court is very difficult," says Ingrid Swenson, a public defender in Multnomah County.

The Casey Foundation's JDAI grants, \$2.25 million over three years for each site, were small compared to the budgets of the juvenile justice agencies in the three counties. The funds did, however, provide the opportunity for key stakeholders concerned about kids and their community to look at their system collectively, question one another, and, in the words of Talmadge Jones, former presiding juvenile court judge in Sacramento County, "examine whether our detention policies made real sense."

Such an examination prompted tough discussions within the collaboratives on such politically and emotionally charged issues as community safety, rights of the accused, and the most efficient use of public

dollars. "We had some arguments, and we had some people storm out of meetings," recalls Michael Mahoney, president of the John Howard Association, a Chicago nonprofit organization that advocates for correctional reform. "But we kept it together."

A fundamental task of the collaboratives was to learn more about the kids in detention, what they were charged with, and how long they stayed. "We

"EVERY MEASURE WE HAVE SUGGESTS THAT IN CHICAGO, PORTLAND, AND SACRAMENTO, JDAI ACHIEVED SIGNIFICANT REDUCTIONS IN DETENTION ADMISSIONS AND SIGNIFICANT IMPROVEMENTS IN THE CONDITIONS OF CONFINEMENT. AND THERE WERE NO INCREASES IN EITHER FAILURE-TO-APPEAR RATES OR PRETRIAL CRIME RATES."

really didn't know who was in detention or why," says Rick Jensen, coordinator for the Detention Reform Project in Multnomah County. The challenge of learning more about a jurisdiction's detention population was invariably hampered by inadequate and fragmented data systems. "There was not an integrated management information system in 1994," says Michael Rohan of Cook County. "Every department in the juvenile justice arena had a separate database."

Once the sites had a better picture of their detention populations, members of the JDAI collaboratives were in a better position to start "asking the 'why' questions," says Bart Lubow. "Why is this group here? What are they charged with? What public policy purpose does that serve?"

Although the legal basis for secure detention is narrow — to assure that young people appear in court and do not commit another offense — locked facilities are used for a broad range of purposes. One unauthorized use of pretrial detention is punishment — “a bite of the apple” — aimed at deterring future offending. There is little evidence that such an approach is effective and a great deal of research on the negative consequences of juvenile incarceration, particularly in overcrowded facilities. “Imposing punishment before a kid has been adjudicated is not legitimate,” says Amy Holmes Hehn, the chief juvenile prosecutor in Multnomah County, “and I don’t think it’s constitutional.”

Another unauthorized purpose of secure detention is its use as a 24-hour-per-day, seven-day-per-week dumping ground for children who have been failed by overburdened mental health and child welfare systems. In *Reforming Juvenile Detention: No More Hidden Closets*, Ira Schwartz, dean of the School of Social

Work at the University of Pennsylvania, and William Barton, an associate professor at the Indiana University School of Social Work, write: “When families, neighborhoods, schools, and other programs no longer wish to deal with troubled children, the detention center is the one resource that cannot turn them away.”

The struggle to reach consensus on the appropriate uses of pretrial detention forced members of the JDAI collaboratives to confront their philosophical and factual assumptions about detention. “It was doing a gut check on actual practices,” says Cook County’s Michael Rohan. “Had we somehow gotten to a point where we were holding kids who didn’t need to be held?”

**Admissions: “Yes or No?”**

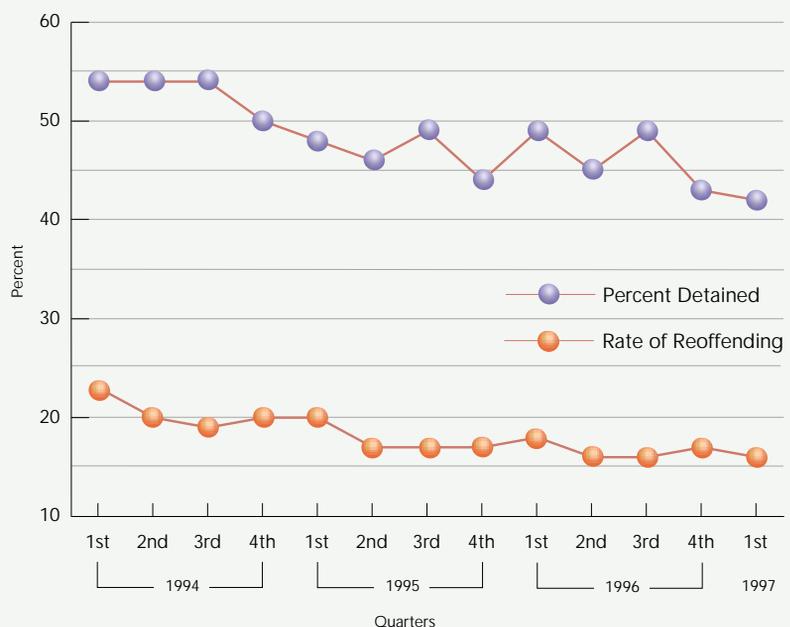
To make the consensus about pretrial detention operational, the JDAI sites had to develop objective policies and practices for admitting youth to secure confinement. As with the other detention reform strategies, each site developed its own tactics that reflected local values

BY THE NUMBERS

REDUCING DETENTION AND REOFFENDING IN SACRAMENTO COUNTY

JDAI seeks to demonstrate that jurisdictions can reduce the unnecessary and inappropriate use of secure juvenile detention without compromising public safety. In Sacramento, there have been decreases in both the percentage of alleged delinquents who were detained and the rate of reoffending by youth who were released to a parent or placed in an alternative program.

Source: Sacramento County Juvenile Justice Initiative Database



and conditions. “The fundamental issue about admissions,” says Bart Lubow, “is changing arbitrary, subjective decisions to ones that are rational and objective and that make sense relative to the public policies you are trying to accomplish.”

*Eligibility Criteria.* State or local admissions criteria define a jurisdiction’s detention policy for police, judges, and intake staff at detention centers. “Admissions criteria are a cornerstone to any kind of detention reform, but they seem to be frequently overlooked,” says Frank Orlando, director of the Center for the Study of Youth Policy at Nova Southeastern University Law School and a retired judge who led the detention reform effort in Broward County, Florida.

In 1989 the Florida state legislature adopted eligibility criteria for secure detention that were initially developed in Broward County. These guidelines limited locked detention to situations “where there is clear and compelling evidence that a child presents a danger to himself or the community, presents a risk of failing to appear, or is likely to commit a subsequent law violation prior to adjudication.”

The legislation also specifically prohibited the use of secure pretrial detention for punishment or administrative convenience. In other words, young people charged with serious offenses could be detained, as well as youth who commit low-level offenses and have other charges or a record of failing to appear in court. All others — including kids charged with status offenses, traffic violations, and low-level misdemeanors — were to be given a court summons and returned to a parent or guardian, or delivered to a local social service agency. In the first three years after Florida’s legislative detention reforms, annual admissions to secure detention statewide decreased by 13 percent.

Like many states, California has a somewhat vague detention admissions statute that, in the words of one JDAI participant, “would admit a ham sandwich to detention.” To develop more specific eligibility criteria for Sacramento County, the Juvenile Justice Initiative

(the local JDAI effort) looked at detention guidelines throughout the country, then developed its own criteria to determine who should be brought to juvenile hall. “Based on offense and some other factors, we provided a one-page check sheet for law enforcement officers out in the field,” says Yvette Woolfolk, project coordinator for the Juvenile Justice Initiative. “It helps them decide if they should bring that minor in for booking, or if that minor can be cited and released back to the parents.”

Buy-in from local law enforcement was an essential part of developing the eligibility criteria. John Rhoads, then superintendent of the Sacramento Juvenile Hall and currently chief probation officer in Santa Cruz County, recalls police concerns that no guideline could cover every contingency in the field. “If you ever feel in doubt with anybody, go ahead and bring

“THE FUNDAMENTAL ISSUE ABOUT ADMISSIONS IS CHANGING ARBITRARY, SUBJECTIVE DECISIONS TO ONES THAT ARE RATIONAL AND OBJECTIVE AND THAT MAKE SENSE RELATIVE TO THE PUBLIC POLICIES YOU ARE TRYING TO ACCOMPLISH.”

him,” Rhoads responded. “We won’t argue with you. We’ll do our regular intake, and maybe we’ll release him. But at least you got him out of the area, and we’ll do what we have to do.”

*Objective Screening.* “Risk-assessment instruments,” or RAIs (pronounced “rays”), help probation officers, detention officials, and judges make objective decisions about detaining young people charged by police with delinquent acts: Who should be released to a parent or guardian? Who needs more formal supervision but could be served by an alternative

program in the community? Who is a risk to public safety and needs to be locked up?

Before JDAI, the screening process for detaining kids in Cook County was haphazard. “Probation officers would be called by a police officer and asked to

detain young people,” says William Hibbler, a former presiding judge in the county’s juvenile court and currently a federal judge. “The problem was that there were no objective standards for saying, ‘Yes’ or ‘No.’ If the officer was persuasive enough, the child would be locked up. If there was not room or the officer was not that persuasive, the child would not be locked up.”

To make the detention screening process less arbitrary, each site developed RAIs that measure such variables as the seriousness of the alleged offense and the youth’s prior record, probation status, and history of appearing for court. Administered by probation or detention-intake staff, RAIs classify whether a particular child is a low, moderate, or high risk to reoffend or fail to appear in court. The RAI score, in turn, helps determine the appropriate level of supervision a young person requires.

As jurisdictions gain experience with their screening instruments, they continue to adjust them. “If failure-to-appear rates are too high, analysis can indicate which factors deserve higher points,” writes Judge Orlando in a monograph on admissions policy and

practice. “Similarly, if rearrest rates are extraordinarily low, it probably means that the system is too risk averse.”<sup>3</sup>

Multnomah County is on the third version of its RAI and working on a fourth. “We’ve been pretty happy with the risk-assessment instrument that we developed,” says Portland prosecutor Amy Holmes Hehn. “It still needs some work and some tweaking, but our reoffense rate for kids that are out of detention, awaiting trial, is pretty low. I think it’s in the 13 percent range. And our failure-to-appear rate is really low. It’s about 7 percent.”

Rick Lewkowitz, the chief juvenile prosecutor in Sacramento County, also believes his county’s RAI is “working fairly well.” Yet he cautions against the “robotic” use of the screening instrument. As an example, he cites a first offense for a residential burglary, which might score relatively low on the RAI. The arresting officers, however, had information that the burglary was gang related and its purpose was to acquire guns. “It’s such a serious offense and serious circumstances,” says Lewkowitz, “that public safety requires [secure detention].”

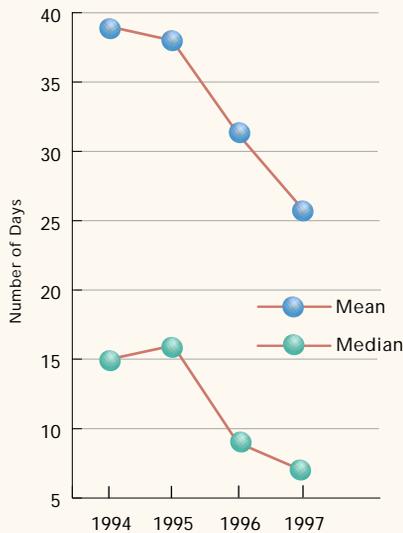
#### **Case Processing: “A New Way of Doing Business”**

More efficient case processing is an administrative strategy to reduce unnecessary delays in each step of the juvenile justice process — arrest by police, referral to court intake, adjudication (judgment), and disposition (placement). For detained youth, prompt case processing reduces the time individual juveniles stay in secure detention and, consequently, overall detention populations. Efficient case processing also provides benefits in pretrial cases that are not detained. “When an arrest for an alleged offense is followed by months of inaction before disposition, the juvenile will fail to see the relationship between the two events,” writes D. Alan Henry, executive director of

<sup>3</sup> “Controlling the Front Gates: Effective Admissions Policies and Practices,” Frank Orlando, Vol. 3, *Pathways to Juvenile Detention Reform*, Annie E. Casey Foundation.

BY THE NUMBERS

IMPROVING CASE PROCESSING  
IN MULTNOMAH COUNTY



More efficient case processing is an administrative strategy to reduce unnecessary delays in each step of the juvenile justice process. The goal is a better system of juvenile justice, not just a quicker one. Multnomah County, a jurisdiction with a national reputation for prompt courts, has used a variety of techniques to reduce further case processing time for detained youth.

Source: Multnomah County TJIS Database

the Pretrial Services Resource Center in a monograph on case processing. “Any lesson that might be learned about accountability and responsibility is lost.”<sup>4</sup>

In Cook County, nearly 40 percent of the alleged delinquents who were issued summons in 1994, rather than detained, failed to appear for their court dates. One reason for this high rate was the typical

<sup>4</sup> “Reducing Unnecessary Delay: Innovations in Case Processing,” D. Alan Henry, Vol. 5, *Pathways to Juvenile Detention Reform*, Annie E. Casey Foundation.

eight-week interval between issuing a summons and the actual court date. By collectively analyzing the problem and discussing possible solutions, the JDAI project in Chicago made a few, relatively simple changes in case processing that reduced failure-to-appear rates by half.

One improvement was an automatic notification system that included written and telephone confirmation of court appearances. “It sounds so simple,” says probation director Michael Rohan, “but it helped us.” Another change was reducing the time between issuing a summons to a juvenile and his or her court appearance. “When a young person leaves the police station, those who are not detained know that they have to be in court three weeks after their arrest date,” says Judge Hibbler. “They’re given that date right there by the police department.”

In Sacramento County, the wheels of justice also ground slowly for young people who were issued a summons but not detained. In some cases, two months might pass before the Probation Department called an alleged delinquent for an informal interview. County law enforcement officers were particularly concerned about kids who did not qualify for detention under the new eligibility criteria yet needed immediate attention. In response, the Sacramento County Juvenile Justice Initiative established an accelerated intake program, which enabled the Probation Department to respond to such cases in 48 hours.

Another case processing innovation in Sacramento, the Detention Early Resolution (DER) program, applied to youth who were held in juvenile hall for routine delinquency cases. By California statute, detained cases must be adjudicated within 15 days, with disposition ten days later. The day before a trial, the prosecution, defense, and others review the case and often resolve it through plea bargains instead of going to court. What about advancing the pretrial date? asked the county’s chief juvenile prosecutor. This would reduce the amount of time kids spend in detention as well as the number of routine cases for which attorneys have to prepare fully.

To make the DER program work, a paralegal in the district attorney's office promptly assembles police reports, statements by witnesses, and related evidence, then distributes them. Complete and immediate discovery allows defense attorneys to assess whether charges against their clients are sustainable. The district attorney's office is required to make its best plea offer. And timely probation reports are prepared that enable prosecutors, defenders, and judges to make informed decisions about resolving the case.

Since the adoption of the DER program, the time for routine cases from first court appearance to disposition has been reduced from 25 days to five days. "That has lightened the trial schedule load," says Yvette Woolfolk, Sacramento County project coordinator, "and attorneys are better prepared for the more serious cases that they know are going to trial."

**"WHEN AN ARREST FOR AN ALLEGED OFFENSE IS FOLLOWED BY MONTHS OF INACTION BEFORE DISPOSITION, THE JUVENILE WILL FAIL TO SEE THE RELATIONSHIP BETWEEN THE TWO EVENTS. ANY LESSON THAT MIGHT BE LEARNED ABOUT ACCOUNTABILITY AND RESPONSIBILITY IS LOST."**

One way that Multnomah County improves case processing and reduces the unnecessary use of detention is through a process called Pretrial Placement Planning. When juveniles charged with delinquent acts are detained, the arresting police officers complete their reports the same day. The following morning, staff from the Department of Community Justice, the county's probation department, distribute police reports, RAI scores, and discovery to the defense attorney and prosecutor. At an 11:30 a.m. meeting

that same day, representatives from probation, prosecution, and defense discuss the risks of reoffending or flight posed by the youth and possible detention alternatives. "We never discuss the case," says Rick Jensen. "We only discuss the kid's level of risk and viable options to detention."

At a 1:30 p.m. detention hearing, the Department of Community Justice makes a recommendation for either outright release to a parent or guardian, more structured supervision through a detention alternative program, or secure detention in the county's juvenile home. The district attorney or defense may dissent from the recommendation, but in almost every case the court accepts it. And usually by 3:30 p.m., the alleged delinquent is on his way to the appropriate pretrial placement.

"It couldn't have happened unless the prosecution, the defense, the probation agency, and the judges were willing to work together on a new way of doing business," says Bart Lubow. "And unless they all could see that they all win."

#### **Detention Alternative "Jewels"**

A key concept of JDAI is that "detention" is a continuum of supervision — not a building — that ranges from secure custody for dangerous youth to less restrictive options for kids who pose little risk of reoffending or flight. The three basic alternatives to detention are: home confinement with frequent unannounced visits and phone calls by probation officers or surrogates from nonprofit agencies; day reporting centers that provide more intensive oversight and structured activities; and shelters serving runaways, homeless children, and other youth who need 24-hour supervision

In the early 1990s, Chicago — poet Carl Sandburg's "City of the big shoulders" — had one of the largest secure detention facilities in the country but no alternative programming for alleged delinquents. "The decision used to be either you locked them up or you sent them home," says Judge Hibbler.

Today, Cook County has a range of detention alternatives that have reduced overcrowding in the Juvenile Temporary Detention Center and provided a more cost-effective way of preventing kids from getting into trouble before their court appearances. The programs, which include home confinement and shelters, have served more than 10,000 children since 1994. According to the Probation Department of Cook County, the average success rate of these programs — defined as the proportion of juveniles who remain arrest free during their term of placement — is more than 90 percent, with some programs having rates of more than 95 percent.

The “jewel” of Chicago’s programs, according to Judge Hibbler, is the evening reporting center, a practical, community-based alternative that focuses on minors who would otherwise be detained for probation violations. Initially implemented by the Westside Association for Community Action (WACA) network, Chicago’s six evening reporting centers operate from 3 p.m. to 9 p.m. — hours when working parents are not at home and kids are most likely to get into trouble.

Offering a range of educational and recreational opportunities, the evening reporting centers provide transportation and a meal — both of which are occasions for informal counseling. “One of the things that’s missing in the lives of so many youth,” says Ernest Jenkins, chief executive officer of the WACA network, “is a meaningful relationship with an adult who really cares and really reaches out and shows that young person that he or she is important.”

Chicago’s evening reporting centers have served some 3,800 youth, 92 percent of whom were arrest free during their tenure in the program. Paul DeMuro, a former juvenile justice administrator and currently a private consultant, notes the importance of weaving juvenile justice institutions into the fabric of neighborhoods where the youth live. The evening reporting centers, says DeMuro, have been “well accepted by judges and probation and the community.”

In downtown Portland, a magnet for runaways and homeless youth, the police were annually arresting some 1,500 juveniles for minor offenses and taking them to the county’s detention center. Because they did not meet the state’s eligibility criteria for detention, the youth were soon released, wasting the time of police and intake staff, and ignoring the underlying needs of the children.

An imaginative public-private partnership in Multnomah County led to the establishment of the Youth Reception Center at Portland’s Central Police Precinct. Operated by New Avenues for Youth, a non-profit social service agency, the center is open 24 hours per day, seven days a week. “Kids are triaged so their immediate needs such as shelter and food and medical attention and clothing are arranged,” says project coordinator Rick Jensen. “Then the following day or so, the youth is provided a case manager to get the kid back home and back into school or treatment.”

In Sacramento County, about 80 percent of the young people diverted from secure detention are placed in the Home Supervision Program. Targeting low-risk youth, the program restricts young people to their homes unless accompanied by a parent or guardian. Probation officers make daily visits to ensure compliance with home detention policies. Depending on a variety of factors, moderate-risk youth may be required to wear an ankle bracelet with a tracking transmitter and to remain at home at all times unless granted permission by the court. “Ankle monitoring,” says prosecutor Rick Lewkowitz, “is very difficult to violate and not get caught.”

One challenge posed by new detention alternatives is the likelihood that they will end up serving kids for whom the programs were not intended — “widening the net” in the jargon of juvenile justice and child welfare reform. One could argue that in an urban environment with many unmet needs and limited resources, a variety of kids could potentially benefit from structured supervision. On the other hand, a community committed to keeping the detention

population within bounds must exercise some discipline in the use of alternatives to secure confinement. “If you open up ten alternative spots, you’re never going to get precisely ten reductions in detention,” says Paul DeMuro. He believes that six or seven reductions in confinement for every ten new alternative spots is a more realistic expectation.

### Conditions: “We’ve Come A Long Way”

Conditions of confinement in detention centers and the appropriate use of detention alternatives are inextricably linked. Overcrowded detention centers are dangerous and unhealthy places with high rates of injuries to juveniles and staff. In the words of a young woman detained in Sacramento, “When there are too many girls in here, we get all up in each others’ faces.”

On the other hand, if a jurisdiction can manage its detention population, it is possible to provide professional care for young people who should be locked up. “The kinds of treatment kids get in detention can have an impact on them for a very long period of time, either positively or negatively,” says Mark Soler of the Youth Law Center. “There are situations where kids have developed good values or have come into contact with role models in detention. There are situations where they have gotten into educational programs that may be the best they have ever had.”

Committed to the belief that jurisdictions have a constitutional obligation to provide reasonable care and custody for detained youth, the Casey Foundation required periodic inspections of its grantees’ detention centers by independent assessment teams. “Facilities in the sites remained remarkably open to this ongoing scrutiny and responded by making significant improvements in conditions and institutional practices,” writes Susan L. Burrell, an attorney with the Youth Law Center and author of a monograph on conditions of confinement.<sup>5</sup>

At the beginning of JDAI, Multnomah County was under a federal court order for operating a detention facility that did not meet constitutional standards of care. The county replaced the old detention center with an attractive new facility that has a rated capacity of 191 beds. The changes in the Donald E. Long juvenile home, however, were not merely cosmetic. The facility reduced its traditional reliance on locked room time for disruptive youth, some of whom had mental health problems and were almost always isolated behind closed doors. In addition to engaging mental health professionals in special programs for kids with behavioral problems, the detention center enhanced its education programs, improved training for staff, and introduced a behavior management program that rewarded positive behavior by young people.

Perhaps the largest improvements in conditions of confinement were made in Sacramento County’s Juvenile Hall. In the early 1990s, the detention center was badly overcrowded, and the staff maintained order by relying heavily on lock downs and pepper spray, a painful chemical agent that causes temporary blindness, choking, and nausea. The detention center’s staff members “were at war with their kids,” says Paul DeMuro, a member of the Sacramento inspection team.

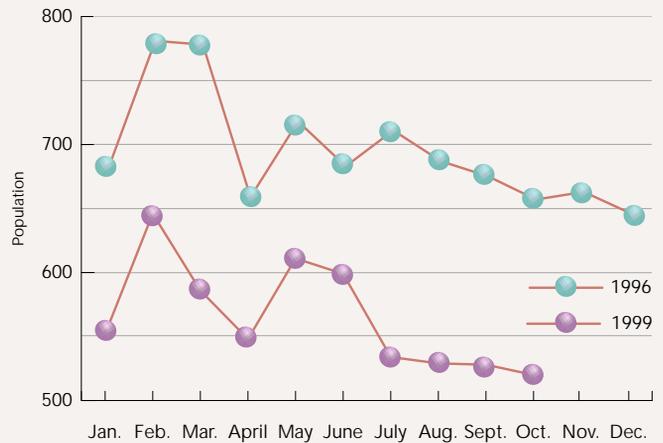
<sup>5</sup> “Improving Conditions of Confinement in Secure Juvenile Detention Centers,” Susan L. Burrell, Vol. 6, *Pathways to Juvenile Detention Reform*, Annie E. Casey Foundation.

BY THE NUMBERS

## COOK COUNTY JUVENILE TEMPORARY DETENTION CENTER AVERAGE POPULATION, 1996 AND 1999

Although the massive Juvenile Temporary Detention Center in Chicago has a rated capacity of 498 beds, its daily population frequently topped 700 in the mid-1990s. More objective, rational admissions standards, combined with the development of responsible alternative programs, have contributed to substantial reductions in the facility's average daily population.

Source: Cook County Juvenile Probation and Court Services Department



John Rhoads, then superintendent of the facility, clearly recalls the day that DeMuro and Mark Soler of the Youth Law Center made a preliminary report on their findings: “Paul DeMuro started out saying, ‘This is a clean and well lit facility, but....’ And then they went on to list a host of issues in their minds that we needed to address. My staff and I were taken aback and somewhat angry over this assault on our beautiful institution.”

Although temporarily stung by the report, Rhoads and his staff set out to make every improvement that was within their power. There were more than 30 specific issues to address — including meals, mental health services, and educational opportunities — but the underlying problem of the Sacramento County Juvenile Hall was its punitive culture. “Everything,” says Rhoads, “was based on negative sanctions.”

One element of changing that culture was the adaptation of a behavior modification program developed at New York City’s Spofford Juvenile Detention Center. The program, which basically awards points for good behavior and deducts them for bad, enables kids who do well in school, clean their room, and stay

out of trouble to redeem their points for sodas, snacks, and other small items and privileges. “All the kids understood it,” says Bart Lubow. “And it works.”

By retraining staff, increasing mental health resources, and making other changes, Rhoads and his staff were able to turn around Sacramento’s Juvenile Hall. “It had really changed from a prison-like environment to a place that was really a youth-oriented facility,” says Mark Soler.

The Cook County Juvenile Temporary Detention Center, occupying two adjoining buildings on the west side of Chicago, is a massive facility with a total capacity of 498 beds. After many years of below-capacity operation, the facility consistently began to exceed its rated capacity in the early 1990s, with daily detention populations frequently topping 700. Other problems with the detention center included frequent lock downs and “some hitting of kids,” says Paul DeMuro. Because of the facility’s size, “the line staff were left to their own devices to do what they wanted to do.”

About the time JDAI began its implementation phase, Cook County recruited a new superintendent

for the detention center, Jesse Doyle, a detention reform advocate and a former administrator at Spofford. According to inspections by the Youth Law Center, Cook County made significant improvements in such areas as mental health care, training and supervision of staff, and the physical plant itself. There were also reductions in overcrowding. In 1996 the average daily population at the detention center was 692. For the the first ten months of 1999, that average was 565.

The likelihood that Cook County's detention center has room for further improvement is suggested by a lawsuit filed by the American Civil Liberties Union (ACLU) on June 15, 1999. The lawsuit charges that the facility is overcrowded, understaffed, and chroni-

OVERCROWDED DETENTION CENTERS ARE DANGEROUS AND UNHEALTHY PLACES WITH HIGH RATES OF INJURIES TO JUVENILES AND STAFF.

cally mismanaged. The result, the ACLU charges, is "a frightening, punitive, and dangerous environment for youths."

Although the courts will ultimately decide whether the conditions of confinement in Cook County are constitutional, several JDAI consultants and participants from Chicago say that the ACLU lawsuit more accurately reflects the conditions of several years ago, rather than the present. "I think we've come a long way on the conditions," says Michael Mahoney of the John Howard Association.

**Disproportionate Confinement: "Limited Success"**

A disproportionate number of minority youth are held in secure detention nationwide. African-American children, for example, who constitute about 15 per-

cent of the population under age 18, made up 30 percent of the juvenile cases processed and 45 percent of the cases detained in 1996. "The degree of minority overrepresentation in secure detention far exceeds the rates of minority offending," says Bart Lubow.

The disproportionate confinement of minorities is the cumulative consequence of individual decisions made at each point in the juvenile justice process — from the practices of police officers, who make the first decision about releasing or locking up kids, to the assessments of probation officers, judges, and others who determine the risks posed by a youth. "At each stage of the juvenile justice process, there's a slight empirical bias," says Jeffrey Butts of the Urban Institute. "And the problem is that the slight empirical bias at every stage of decision making accumulates throughout the whole process. By the time you reach the end, you have virtually all minorities in the deep end of the system."

The causes of this bias are often "very subtle," according to NCCD's Barry Krisberg. Many detention decisions, for example, are based on perceptions of the fitness of families and the strengths within communities — perceptions that in some cases may be true and in others false. "If you think there are no assets, your default [decision] will be, 'Well, bring the kid to juvenile hall, and we'll figure out what to do,'" says Krisberg. "If your operating in a community where you think there are a lot of resources, a lot of help, a lot of care, you're going to do something very different."

Although none of the JDAI sites can claim victory over the problem of disproportionate minority confinement, there is evidence of progress. The objective screening measures in Multnomah County, for example, have changed the odds that minority youth who arrive at court intake are more likely to be admitted to secure custody than white children. "Kids of color, particularly black kids, are coming to the doors of our system at higher rates than they should be," says prosecutor Amy Holmes Hehn. "But it appears to us that

# PATHWAYS TO JUVENILE DETENTION REFORM

TO DOCUMENT THE INNOVATIONS AND EXPERIENCES OF SITES in the Juvenile Detention Alternatives Initiative, the Annie E. Casey Foundation recently began publishing a series of monographs called *Pathways to Juvenile Detention Reform*. Written by administrators, researchers, and other juvenile justice authorities, 11 of the volumes focus on key components of detention reform. A report on replicating the Broward County reforms statewide and a journalist's account of JDAI are also included in the series.

The *Pathways* volumes are:

**Overview. *The JDAI Story: Building a Better Detention System*** by Rochelle Stanfield

1. *Planning for Juvenile Detention Reforms: A Structured Approach* by David Steinhart

2. *Collaboration and Leadership in Juvenile Detention Reform* by Kathleen Feely

3. *Controlling the Front Gates: Effective Admissions Policies and Practices* by Frank Orlando

4. *Consider the Alternatives: Planning and Implementing Detention Alternatives* by Paul DeMuro

5. *Reducing Unnecessary Delay: Innovations in Case Processing* by D. Alan Henry

6. *Improving Conditions of Confinement in Secure Juvenile Detention Centers* by Susan L. Burrell

7. *By the Numbers: The Role of Data and Information in Detention Reform* by Deborah Busch

8. *Ideas and Ideals to Reduce Disproportionate Detention of Minority Youth* by Eleanor Hinton Hoytt and Brenda V. Smith

9. *Special Detention Cases: Strategies for Handling Difficult Populations* by David Steinhart

10. *Changing Roles and Relationships in Detention Reform* by Malcolm Young

11. *Promoting and Sustaining Detention Reforms* by Robert G. Schwartz

12. *Replicating Detention Reform: Lessons From the Florida Detention Initiative* by Donna M. Bishop and Pamala L. Grisct

For additional information about the *Pathways* series or the Juvenile Detention Alternatives Initiative, contact the Annie E. Casey Foundation  
701 St. Paul Street  
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when they get here, the decision making is pretty even handed in terms of bias.”

Sacramento County has also made decision making about detention more equitable once young people arrive at juvenile hall. In addition to using objective screening measures for detained youth, the Sacramento Juvenile Justice Initiative instituted training programs to help eliminate personal and institutional bias in decision making. “There is no longer that growing impact on minority youth going through our system,” says Gerry Root, director of planning and public information for Sacramento Superior Court. “It’s no longer a cumula-

tive effect at each decision point through our system.”

The difficulty that officials, agencies, and communities have in frankly addressing the issue of disproportionate minority confinement would be hard to overestimate. The combustible mixture of race, crime, and justice makes the topic a discomfoting one that many people would rather not discuss. Yet participants in all of the JDAI sites are convinced that such dialogue is essential. “What you have to do, and we’ve had limited success,” says Michael Rohan of Cook County, “is challenge every policy and every program by virtue of open discussion. Is there any inadvertent or inherent bias [in the system]?”

### “The Big Picture”

One of the major challenges of JDAI — or any initiative aimed at reforming a complex public system — is sustaining the collaboration of agencies and individuals that is essential to success. Collaboration is time consuming, and individual agencies often cede a measure of their own discretion in the interest of the common good. “There are a lot of down sides [to collaboration] if you are just looking at it from a very narrow view,” says Sacramento County prosecutor Rick Lewkowitz. “But in terms of the big picture, everybody benefits. The system benefits, and the kids and public benefit.”

The challenge of leadership — which in a collaborative environment is less about being the boss and more about presenting a vision, keeping people focused, and moving forward — becomes particularly acute as members of JDAI governing bodies naturally rotate on and off over time. Chicago’s Michael Rohan says he is particularly proud that the reform effort was “not driven by one personality or one force. It’s pretty much shared values throughout our juvenile justice system. That’s what’s made it work.”

For public defender Ingrid Swenson and her colleagues in Multnomah County, institutionalizing detention reform — “to make it part of the way we do business” — has been a major goal. “For the most part, I think that has happened,” she says.

One setback for Multnomah County was statewide legislation that made it mandatory for youth charged with some 20 different offenses to be tried as adults and to be detained automatically for approximately 100 days before trial. Although these juveniles could not be released to a parent or an alternative program, Multnomah County has applied its screening instrument to them and found that many posed little risk of flight or reoffending. Reflecting on Oregon and other states, Judge Orlando says: “We’re still detaining a lot of kids around the country based on legislative mandates, as

opposed to what data and research prove is more effective and saves the public a lot of money.”

Perhaps the biggest challenge of JDAI was the simple reality that in the 1990s encouraging rational debate about detention policy and practice was to invite charges of being “soft on crime.” In his 1996 book *Killer Kids*, New York City juvenile prosecutor Peter Reinharz made the absurd accusation that JDAI “is designed to ensure that every offender has the maximum opportunity to victimize New York.” And in Sacramento, a local television news reporter found it troubling that JDAI opposed the “inappropriate use of juvenile detention.”

Such comments reflected a public policy and media environment that was extremely hostile to juvenile justice reform. Although juvenile crime, including violent crime, has been declining since 1993, the juvenile justice system has been subjected to unprecedented attacks, particularly for its alleged inability to cope with a new generation of so-called “superpredators.” Helping to demonize young people, particularly children of color, and to persuade lawmakers to pass increasingly harsh juvenile justice legislation, the superpredator turned out to be a mythological creature. “[I]t is clear,” write the authors of *Juvenile Offenders and Victims: 1999 National Report*, “that national crime and arrest statistics provide no evidence for a new breed of juvenile superpredator.”

In Chicago, Portland, and Sacramento, the juvenile justice agencies have come together to deal with the real issues in detention — community safety, objective appraisals of the risks posed by alleged delinquents, a range of alternatives to meet their varying supervision needs, and the most effective use of limited public resources. “We need to make sure we are intervening appropriately with the right kids at the right level,” says Amy Holmes Hehn. “And we need to try to use data to drive that decision making, rather than just whim or emotion or gut reaction.”

*Bill Rust is the editor of* ADVOCASEY.



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*The Annie E. Casey Foundation is a private charitable organization dedicated to helping build better futures for disadvantaged children in the United States. The primary mission of the Foundation is to foster public policies, human-service reforms, and community supports that more effectively meet the needs of today's vulnerable children and families. In pursuit of this goal, the Foundation makes grants that help states, cities, and neighborhoods fashion more innovative, cost-effective responses to these needs.*

*The Annie E. Casey Foundation was established in 1948 by Jim Casey, one of the founders of United Parcel Service, and his siblings, who named the Foundation in honor of their mother.*

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## 2005 REPORT

# **EXHIBIT N**

**Illinois Department of Corrections**

# **Impact Incarceration Program**

**2003 Annual Report  
to the Governor  
and the General Assembly**

**Roger E. Walker Jr.  
Director**

Impact Incarceration Program Recidivism Rates

FY91 - FY93 Releases				
	Graduates	Recidivism Rate	Comparison Group	Recidivism Rate
12 Months				
Cases	1388		5796	
New Crime	89	6.4%	693	12.0%
Technical	162	11.7%	166	2.9%
Total Violators	251	18.1%	859	14.8%
24 Months				
Cases	1388		5796	
New Crime	252	18.2%	1623	28.0%
Technical	176	12.7%	216	3.7%
Total Violators	428	30.8%	1839	31.7%
36 Months				
Cases	1388		5796	
New Crime	342	24.6%	2179	37.6%
Technical	178	12.8%	220	3.8%
Total Violators	520	37.5%	2399	41.4%

FY01 Releases				
	Graduates	Recidivism Rate	Comparison Group	Recidivism Rate
12 Months				
Cases	1228		3491	
New Crime	68	5.5%	259	7.4%
Technical	339	27.6%	860	24.6%
Total Violators	407	33.1%	1119	32.1%
24 Months				
Cases	1228		3491	
New Crime	163	13.3%	526	15.1%
Technical	434	35.3%	1140	32.7%
Total Violators	597	48.6%	1666	47.7%
36 Months				
Cases				
New Crime				
Technical				
Total Violators				

FY94 - FY98 Releases				
	Graduates	Recidivism Rate	Comparison Group	Recidivism Rate
12 Months				
Cases	7557		21365	
New Crime	458	6.1%	2513	11.8%
Technical	877	11.6%	591	2.8%
Total Violators	1335	17.7%	2447	11.5%
24 Months				
Cases	7557		21365	
New Crime	1299	17.2%	5544	25.9%
Technical	999	13.2%	959	4.5%
Total Violators	2298	30.4%	5172	24.2%
36 Months				
Cases	7557		21365	
New Crime	1916	25.4%	7397	34.6%
Technical	1019	13.5%	1000	4.7%
Total Violators	2935	38.8%	6720	31.5%

FY02 Releases				
	Graduates	Recidivism Rate	Comparison Group	Recidivism Rate
12 Months				
Cases	1176		3791	
New Crime	80	6.8%	363	9.6%
Technical	183	15.6%	667	17.6%
Total Violators	263	22.4%	1030	27.2%
24 Months				
Cases				
New Crime				
Technical				
Total Violators				
36 Months				
Cases				
New Crime				
Technical				
Total Violators				

FY99 - FY00 Releases				
	Graduates	Recidivism Rate	Comparison Group	Recidivism Rate
12 Months				
Cases	3222		7427	
New Crime	165	5.1%	671	9.0%
Technical	693	21.5%	974	13.1%
Total Violators	856	26.6%	1645	22.1%
24 Months				
Cases	3222		7427	
New Crime	443	13.7%	1425	19.2%
Technical	1055	32.7%	1809	24.4%
Total Violators	1498	46.5%	3234	43.5%
36 Months				
Cases	3222		7427	
New Crime	574	17.8%	1797	24.2%
Technical	1113	34.5%	1935	26.1%
Total Violators	1687	52.4%	3732	50.2%

Total Releases				
	Graduates	Recidivism Rate	Comparison Group	Recidivism Rate
12 Months				
Cases	14571		41870	
New Crime	860	5.9%	4499	10.7%
Technical	2254	15.5%	3258	7.8%
Total Violators	3114	21.4%	7757	18.5%
24 Months				
Cases	13395		38079	
New Crime	2157	16.1%	9118	23.9%
Technical	2664	19.9%	4124	10.8%
Total Violators	4821	36.0%	13242	34.8%
36 Months				
Cases	12167		34588	
New Crime	2832	23.3%	11373	32.9%
Technical	2310	19.0%	3155	9.1%
Total Violators	5142	42.3%	14528	42.0%

## 2005 REPORT

# **EXHIBIT O**



## COOK COUNTY BOOT CAMP

2801 South Rockwell Avenue ■ Chicago, Illinois 60608 ■ Phone (773) 869-7955

**MICHAEL F. SHEAHAN**  
SHERIFF

June 30, 2005

The Honorable Vincent Gaughan  
Criminal Division  
Cook County Circuit Court  
2600 S. California Avenue  
Room 500  
Chicago, IL 60608

Dear Judge Gaughan:

Since the opening of the Boot Camp, five thousand one hundred thirty-eight (5,138) individuals have been received. Five hundred sixty-three (563) individuals have been removed previous to the completion of the eighteen-week incarceration phase.

One hundred thirteen (113) platoons or four thousand four hundred one (4,401) individuals have completed the eighteen-week incarceration phase. Of these one hundred thirteen, one hundred three (103) have completed the entire one-year program.

The following numbers are based upon those ten (10) platoons that have completed the eighteen-week incarceration phase, but not the entire one-year program.

<b>Total</b>	<b>433</b>
<b>Failure to Comply with the Rules of Post Release or AWOL</b>	<b>24 (6%)</b>
<b>Pending judicial disposition for failure to abide by all rules of post release</b>	<b>21 (5%)</b>
<b>Sentenced for a new crime while on post release</b>	<b>10 (2%)</b>
<b>Employed</b>	<b>378/114 (30%)</b>

The following numbers are based upon those one hundred three (103) platoons that have completed the entire one (1) year Boot Camp program.

<b>Total</b>	<b>3,969</b>
<b>Failure to comply with the rules of post release or AWOL</b>	<b>336 (9%)</b>
<b>Sentenced for a new crime while on post release</b>	<b>704 (17%)</b>
<b>Employed</b>	<b>2,929/1,322 (45%)</b>
<b>Successfully completed one year</b>	<b>2,929 (74%)</b>

### Recidivism Rates

One hundred three (103) platoons have completed the one year program with two thousand nine hundred twenty-nine (2,929) successful completions.

Eighty-six (86) platoons are now two years removed from the program with two thousand two hundred eighty-six (2,286) individuals out of a total of two thousand four hundred sixty-two (2,462) remaining incarceration-free.

Seventy-three (73) platoons three years removed from the program have seventeen hundred thirty-eight (1,738) of nineteen hundred thirty-one (1,931) individuals not being reincarcerated.

Forty-three (43) platoons are now five (5) years removed from the program. Eight hundred sixty-four (864) out of nine hundred sixty-seven (967) individuals remained incarceration-free.

The aggregate five (5) year recidivism rate is 29%.

### Post Release Phase

Approximately four hundred twenty (420) individuals participate in the post release phase on a daily basis.

Random drug testing for all participants.

Additional substance abuse counseling provided, if needed.

Attend job preparation classes.

Assistance is provided in obtaining employment.

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Familiarized with U.S. Military and Job Corps opportunities.

Birth certificates, state identification cards and social security cards are secured for those without.

Those 18 and older become registered to vote.

Informal hearings provided by the Secretary of State's Office to determine what is necessary to validate expired driver's licenses.

### Education

\*Seven hundred twenty-nine (729) participants have received their G.E.D.'s.

\*The GED will be offered on site twelve (12) times this fiscal year. Approximately two hundred and forty (240) individuals will take the test.

\*Reading and math levels have risen 2.0 and 1.5 grades respectively for each platoon.

\*Tutoring classes are conducted to enhance preparation for taking the GED examination and the Armed Services Vocational Aptitude Battery Test.

\*Computer training and basic industrial math courses available.

### Counseling

Substance abuse counseling offered throughout the entire eighteen (18) week incarceration phase and eight (8) month post release phase.

Over eight hundred (800) participants have been referred to and have completed offsite substance abuse programs during the post release phase.

Since the introduction of a formalized Anger Management curriculum, approximately three thousand one hundred twenty-five (3,125) individuals have successfully completed the course.

DUI/DWI therapeutic and educational program available.

### Relocations

Eighty-two (82) individuals who completed the incarceration phase petitioned the court to relocate out of state. Relocations granted based upon pending employment and separation from previous undesirable environment.

### Employment

Over fourteen hundred twenty (1,425) individuals have found meaningful employment following the incarceration phase.

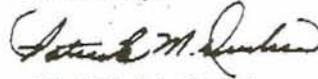
Personnel from Construction Industry Service Corporation (CISCO) review with each graduating platoon all the opportunities available in the construction industry. Each trade's apprenticeship program is explained and instruction is provided for signing up for these programs. Interested individuals are contacted when submitted applications are accepted by the trade of their choice.

Thirteen (13) individuals have been accepted into Job Corps.

Five (5) individuals have entered the United States Marine Corps, five (5) the United States Army, four (4) the United States Navy, and one (1) the United States Air Force.

If you have any questions about this report, please do not hesitate to contact me at (773) 869-7957.

Sincerely,



Patrick M. Durkin  
Director

