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COUNTY PROGRAMMING
FOR
ALTERNATIVES TO INCARCERATION

(Pursuant to Chapters 907 & 908, Laws of 1984)

THIRD ANNUAL REPORT

March, 1987

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EDMUND B. WUTZER
Director

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EXECUTIVE SUMMARY

This Third Annual Report describes the progress of alternatives to incarceration programs implemented under the "Classification/Alternatives" bill, a major New York State initiative designed to reduce "inappropriate incarceration" through support of alternative programming. In the two and one-half years since its enactment, this statute has resulted in far-reaching changes in local criminal justice systems and has, during the past year, led to substantially increased utilization of new options at both the pretrial and sentencing stages of criminal case processing.

Among the highlights of the report are:

County Participation and Programming

- Forty-four counties and the City of New York are participating under the provisions of the statute, an almost 80 percent rate that reflects both the unique incentive system of the bill and the growing interest in and need for alternatives to incarceration.

- Sixty-seven new or enhanced programs are being operated by agencies of local government or non-profit service providers as a result of the legislation. Of these, 25 are pretrial release programs and 24 are community service sentencing programs, by far the two most common program models adopted by the counties.

- Approximately $3,000,000 in state financial assistance is committed to these 67 programs during the current contract year. Thirty-one counties are also making cash matches consistent with the bill's requirements, adding another half-million dollars to the pool of resources being utilized by the programs.

Program Activities

- Pretrial release programs interviewed 20,500 defendants to determine their eligibility for release without financial conditions, resulting in the release of 7,933 defendants.

- One thousand, three hundred and thirty eight offenders were sentenced to community service and completed a total of 84,000 hours of unpaid labor in their counties for public or non-profit agencies.

- Defender-based advocacy programs provided services to 709 clients and submitted a total of 269 reports to the courts offering alternative sentencing or release plans. Eighty-five percent of these reports were accepted in whole or in part by the courts.

- Nine specialized alternatives programs, ranging from domicile restriction to residential care, provided unique sentencing options to the courts in which they operated, resulting in 526 offenders receiving alternative sentences.

- One hundred and twenty five offenders were sentenced to domicile restriction as an alternative to incarceration and were effectively monitored (without electronic technologies) by the two local probation departments that undertook this type of programming.

Client Characteristics

- Thirty-nine percent of the individuals involved in these alternatives programs were charged with or convicted of felonies, while another 56 percent were charged with or convicted of misdemeanors.

- Seventy-four percent had records of prior arrests and 54 percent had records of prior convictions.

- Sixty-eight percent of all program participants were between the ages of 16 and 29.

- Minority members accounted for 52 percent of the program participants.

- Women comprised 13 percent of the programs' populations.

CHAPTER ONE

INTRODUCTION

The "Classification/Alternatives" bill (Chapters 907 & 908, Laws of 1984) was enacted on August 6, 1984 to help reduce overcrowding pressures in the county jails, to facilitate more efficient and practical jail population management, and to support the development and implementation of alternatives to incarceration. The statute reflects a unique and effective linkage of two distinct criminal justice issues to facilitate reduced reliance on confinement and more efficient utilization of that significant scarce resource -- jail beds. The legislation reduces the number of state mandated classification categories in local correctional facilities from twelve to four. However, in order for a county to take advantage of this reduced classification system, it must prepare and carry out a service plan (approved by the Division of Probation and Correctional Alternatives) for the development and implementation of alternatives to incarceration. The service plan must be the collaborative product of a county advisory board composed of the key criminal justice decision makers, and must present a comprehensive overview of the local criminal justice system which serves to identify target populations, factors contributing to overcrowding, programmatic needs, and specific proposals for the use of state aid available under the bill. In fiscal year 1986-87, a total of $3,050,000 was available to all counties and the City of New York, these funds to be distributed according to a modified population-based formula outlined in the statute.

In the two and one-half years that have passed since enactment of this legislation, important and far-reaching changes have taken place in the activities and organization of local criminal justice systems. Indeed, the practical ramifications and success of the statute have exceeded even the most optimistic predictions. Almost eighty percent of the jurisdictions in New York State have taken advantage of the bill's provisions. Forty-four

counties and the City of New York submitted alternatives to incarceration service plans and have now implemented alternatives to incarceration programs. Though in some cases program development has been somewhat slow and uneven, a total of 67 new or enhanced initiatives are now underway, many in jurisdictions that previously had never undertaken these types of innovative criminal justice programs. In many places, the impact of the programs on incarceration patterns has already been felt. Similarly, implementation of the reduced classification system has proceeded effectively and, as is described by the annual report prepared by the Commission of Correction, has resulted in improved correctional practices consistent with the statute's goal of more efficient and practical jail population management. On a broader scale, the activities of the local advisory boards have, in many instances, facilitated improved county criminal justice system coordination and operation. In summary, the impact of the "Classification/ Alternatives" bill has been so substantial that it is fair to describe it as one of the major criminal justice innovations introduced by the State in recent years.

A. Summary of Previous Reports

This report is the third in a series. The first report, prepared in March, 1985, described the county planning efforts initiated as a result of the bill's enactment. That report discussed in detail public outreach activities conducted to promote participation, the formation of the local advisory boards, the Division's development of comprehensive planning materials for utilization by these boards, and the technical assistance activities of the Division that enabled the numerous jurisdictions to successfully comply with the demanding requirements of the local planning process.

The report submitted in March, 1986 focused on the initial phases of county implementation of alternatives to incarceration programs. Among the subjects discussed in that volume were county participation, the nature and quality of the alternatives to incarceration service plans submitted by the

various jurisdictions, the plan review and approval processes, the types of programs to be developed (including the scope of services and the service providers), and the most fundamental aspects of implementation (including contracting, training, technical assistance and information system development).

It is worthwhile to note that neither of the previous reports discussed actual program performance. The reason for this was simply that the mandates of the statute, as well as the practical ramifications of program implementation, precluded more timely measurement and discussion of actual service delivery. The entire first year following enactment of the "Classification/Alternatives" bill was devoted to the county planning process and the revision and approval of the plans submitted. This lengthy planning period was anticipated by the legislation and was, as a practical matter, essential for the localities to effectively analyze local criminal justice practices and to identify appropriate programmatic interventions. Program implementation did not actually take place in most counties until the fall of 1985. The current report, therefore, constitutes our first opportunity to describe the performance of the new or enhanced programs.

B. Overview of This Report

This Third Annual Report begins with a comprehensive review of county participation under the statute and a summary of the varieties and numbers of new or enhanced programs. Chapter Three provides a detailed discussion of program development and implementation issues and the Division's various efforts to ensure effective services and proper utilization. The next chapter is devoted to a descriptive account of program activities during calendar year 1986, the first full year of programming. Included in this chapter is information on the number of clients served by the different types of programs and the characteristics of these program participants. When appropriate, various anecdotal notes regarding program utilization and impact are

also provided. However, it must be noted that this descriptive review of program activities does not constitute an evaluation of program performance or its impact on the local criminal justice systems. Such an evaluation, as will be discussed in a later chapter, represents a much more intensive, time consuming and expensive undertaking than current resources permit.

Following the description of program activities and client populations, this report concludes with a summary of the tasks to be undertaken by both the Division and the localities in the immediate future, and some of the issues that we expect to confront as the State and its local counterparts continue to build alternative approaches to handling offenders.

CHAPTER TWO

COUNTY PARTICIPATION AND PROGRAMMING

A. Background

The "Classification/Alternatives" bill mandates that each participating county establish an alternatives to incarceration advisory board consistent with membership requirements delineated in the statute. The initial role of the advisory boards was to prepare the actual service plan. To facilitate this effort, the Division established detailed planning materials, including a highly specific plan format that covered the following basic subject areas: (1) the composition of the advisory board; (2) an analysis of the jail population; (3) a descriptive overview of the county criminal justice system; (4) a discussion of recent jail overcrowding and remedial measures taken to address the problem; (5) a summary of existing alternatives to incarceration programs, related services and previous experiences with such programs; (6) proposal(s) for the use of state aid available for new or enhanced programming, and; (7) the county's long-range goals for alternatives to incarceration.

Under the time frames outlined in the bill, county service plans were submitted by May 2, 1985, after which the Division undertook a review and approval process designed to ensure compliance with the provisions of the legislation and programmatic appropriateness. (The details of this review and approval effort were presented in the Second Annual Report of this series.) Based upon these efforts, the first year contract term for all participating counties covered the period July 1, 1985 through June 30, 1986.

Though the statute called for at least three years of county programming, it was essentially silent regarding annual modifications of the service plans. Consequently, the Division initiated a process for updating the service plans each year to enable counties to describe their progress during the previous twelve months and to make modifications to the service plans based upon their experiences. Under these procedures, the annual Service

Plan Updates are forwarded to the advisory boards in late winter and are due back to the Division for review during the month of April. The timing of this process enables all parties to effectively consider the appropriateness of the original plan and to make necessary modifications in a timely manner so that program activities are not unnecessarily interrupted. Attached as Appendix A is a copy of the Service Plan Update forms that have been forwarded to the advisory boards this year.

B. County Participation

During the first full year following enactment of the legislation, 42 counties and New York City submitted alternatives to incarceration service plans. During the 1985 legislative session, an amendment to the statute reopened the deadline for filing service plans to December 31, 1985. As a result of this extension, two additional counties filed plans, bringing to 45 the total number of participating jurisdictions. Since new service plans can no longer be filed under the current statute, no additional counties have been able to participate. Perhaps more importantly, none of these 45 jurisdictions opted to terminate their participation during the current year.

The seventy-eight percent participation rate achieved under this legislation far exceeded anyone's expectations. As was discussed more fully in last year's report, the success of the bill, in terms of county participation rates, can be attributed to four major factors:

(1) The "incentive" approach of the legislation -- linking development and implementation of alternatives to incarceration to utilization of the reduced classification system -- provided substantial motivation for counties.

(2) The careful design of the planning materials and the technical assistance efforts of the Division helped to ease the burdens faced by local officials in completing the complex requirements of the statute in a timely manner.

(3) The availability of state financial assistance, including the opportunity to claim cash match credits based upon existing county support of alternatives to incarceration, provided an opportunity to establish essential services without overly burdening local revenues.

(4) The statute accurately anticipated both the interest in and the need for alternatives to incarceration throughout the State. Insofar as no previous statewide initiative had directly addressed this innovative type of criminal justice programming, the "Classification/Alternatives" bill effectively met a significant local need.

Non-participation appeared to be a function of different factors in different localities, ranging from local political considerations, to lack of interest in the reduced classification system, to a belief that alternatives programming was not necessary. It is important to mention, however, that during the past twelve months a number of counties not currently participating have expressed interest in submitting a service plan should the statute be amended to permit such application.

C. The Programs

The statute identifies a variety of different program models that are eligible for funding. However, because the listing of eligible programs is by no means exhaustive, the Division established an operational definition of eligibility to include all initiatives that "reduce either the frequency or duration of confinement." The reasoning behind this singular criterion is to ensure that all funded programs are designed to reduce reliance on incarceration. The one exception to this rule, as reflected in the statute, is a management information system "designed to improve the county's ability to identify appropriate persons for alternatives to detention or incarceration, as well as for improved classification of persons within the jail."

During state fiscal year 1986-87 (the second year of funding) a total of 67 programs were supported and operated consistent with the counties' service plans. This number represents a decrease of three programs from the total funded during the previous year. The decrease results from the fulfilled implementation of four management information systems during the previous year, the termination of one program in a county whose first year plan included three separate endeavors, and the establishment of two new program initiatives in other jurisdictions. Table I, on pages 9 through 12, presents a county-by-county breakdown of the programs operating during fiscal year 1986-87, including the local service provider(s), contract amount, local matches, and other relevant information. A total of $2,941,984 in state assistance is committed to these programs, representing 85 percent of the total costs of these services. Four hundred eighty-nine thousand, seven hundred twelve ($489,712) dollars will be provided as cash match by 31 participating counties, resulting in a total cost of $3,431,696 for the 67 programs. (An additional $107,191 in reappropriated fiscal year 1985-86 dollars will also be expended during the current contract term by several jurisdictions which had accruals and justifiable "one time only" expenditures toward which these funds were applied.)

During the second year of program activities, very few programmatic changes were undertaken by the participating counties. However, some service plan modifications were approved this year. As noted above, several counties completed their MIS programs and subsequently used the funds previously devoted to MIS to enhance or expand other alternatives. Sullivan County modified its service plan this year by placing its community service sentencing program under the auspices of a different service provider (based upon the original vendor's inability to effectively initiate this program). Delaware County, whose first year efforts included judicial training and implementation of bail review procedures, this year established an actual pretrial release service. Chenango County modified its service plan this year, replacing the community service program that had been operated by a

TABLE I

COUNTY PROGRAMMING FOR ALTERNATIVES TO INCARCERATION

COUNTY	TYPE OF PROGRAM	SERVICE PROVIDER	MATCH CREDIT	LOCAL MATCH	STATE AMOUNT
ALBANY	Defender-Based Advocacy	Albany Co. Public Defender		$ 20,280	$ 20,280
	Pretrial Release	Probation Dept.		30,526	30,526
ALLEGANY	Pretrial Release	Probation Dept.		1,250	1,250
BROOME	Pretrial Release	Probation Dept.	$ 37,965		37,965
CATTARAUGUS	Pretrial Release	Jamestown C.C.		6,735	6,735
CHAUTAUQUA	Pretrial Release	Probation Dept.	5,640		5,640
CHEMUNG	Pretrial Release	Project for Bail	13,910	7,490	13,910
	Community Service	Sheriff's Dept.		4,492	8,343
CHENANGO	Pretrial Release	Probation Dept.		1,900	1,900
CLINTON	Community Service	Probation Dept.		14,349	14,349
COLUMBIA	Community Service	Catholic Family & Comm. Services		11,200	11,200
	Pretrial Release	Catholic Family & Comm. Services		14,800	14,800
CORTLAND	Defender-Based Advocacy	County Planning Department		15,600	15,600
DELAWARE	Pretrial Release	Probation Dept.		2,500	2,500
DUTCHESS	Community Service	Sheriff/Probation	11,818	28,056	39,874
ERIE	Community Service	Co. CJ Planning	$ 75,504		$ 75,504
	Pretrial Release	Co. CJ Planning	81,877		81,877
	Women's Residen. Resource Center	Women for Human Rights & Dignity	23,072		23,072

TABLE I

COUNTY PROGRAMMING FOR ALTERNATIVES TO INCARCERATION

COUNTY	TYPE OF PROGRAM	SERVICE PROVIDER	MATCH CREDIT	LOCAL MATCH	STATE AMOUNT
GENESEE	M.I.S.	Co Planning Dept.	10,000		10,400
GREENE	Pretrial Release	Probation Dept.		$ 6,732	$ 6,732
HERKIMER	Community Service	Probation Dept.		5,879	5,879
	Pretrial Release	Probation Dept.		5,969	5,969
LEWIS	Pretrial Release	Probation Dept.		3,277	3,277
MADISON	Sex Offender	Probation Dept.	7,117		7,117
	Community Service	Probation Dept.	4,460		4,460
MONROE	Home Confinement	Probation Dept.	122,922		122,922
	Dev. Disability Advocate	Mental Health Clinic for Socio-Legal Services	44,558		44,558
MONTGOMERY	Community Service	TCC Dispute Res.		10,400	10,400
NASSAU	Pretrial Release	Probation Dept.	117,425		117,425
	Work Furlough	Sheriff's Dept.	117,425		117,425
NYC	Pretrial Release/ Bail Expediting	Criminal Justice Agency	137,469		137,469
	Community Service	Vera Institute of Justice	254,785		254,785
	Defender-Based Advocacy	Osborne Assoc.	174,101		174,101
	Defender-Based Advocacy	Legal Aid Society	78,210		78,210
	Pretrial Release	Court Employ Proj	421,825		421,825
	Community Service	Kings Co. D.A.	133,468		133,468
	M.I.S.	CJ Coord. Office		50,422	50,422

TABLE I

COUNTY PROGRAMMING FOR ALTERNATIVES TO INCARCERATION

COUNTY	TYPE OF PROGRAM	SERVICE PROVIDER	MATCH CREDIT	LOCAL MATCH	STATE AMOUNT
ONEIDA	Dom. Restriction	Probation Dept.	$ 20,358	$ 25,524	$ 45,882
	M.I.S.	Co Planning Dept.	24,683		24,683
ONONDAGA	Res Alcohol Abuse	Probation Dept.	102,334		102,334
ORANGE	Misdemeanor ASP	Probation Dept.	34,251		34,251
ORLEANS	Community Service	Sheriff's Dept.		15,768	10,400
OTSEGO	Community Service	Sheriff's Dept.		6,260	6,260
RENSSELAER	Pretrial Release	Probation Dept.	7,139		7,139
ROCKLAND	Community Service	Sheriff's Dept.		35,807	35,807
	Pretrial Release	Probation Dept.		10,312	10,312
ST LAWRENCE	Pretrial Release	Probation Dept.	31,165	2,672	31,165
SARATOGA	Community Service	Catholic Family & Community Serv.	27,731	11,670	31,200
SCHENECTADY	Pretrial Release	Probation Dept.	31,200		31,200
SCHOHARIE	Community Service	Catholic Family & Community Serv.	3,372	3,761	7,133
SCHUYLER	Community Service	Probation Dept.		4,759	4,759
SENECA	Community Service	Sheriff's Dept.		10,400	10,400
STEUBEN	Pretrial Release	Probation Dept.		7,617	7,617
	Community Service	Probation Dept.		14,383	14,383

TABLE I

COUNTY PROGRAMMING FOR ALTERNATIVES TO INCARCERATION

COUNTY	TYPE OF PROGRAM	SERVICE PROVIDER	MATCH CREDIT	LOCAL MATCH	STATE AMOUNT
SUFFOLK	Alcohol Treatment	Sheriff's Dept.	$ 173,975		$ 173,975
	Pretrial Release	Probation Dept.	54,825		54,825
SULLIVAN	Community Service	Department of Employment & Training		11,577	11,577
TIOGA	Community Service	Probation Dept.		5,500	5,500
	Pretrial Release	Probation Dept.		5,500	5,500
TOMPKINS	Community Service	Probation Dept.	15,218		15,218
ULSTER	Community Service	Co. Alternative Sentencing Prog.		42,391	39,130
WASHINGTON	Pretrial Release	Co. Alternative Sentencing Agency		11,960	11,960
WAYNE	Pretrial Release	Pretrial Svs. Inc		19,600	13,600
	Def-Based Advoc.	Public Defender		1,544	1,544
WESTCHESTER	Community Service	Probation Dept.	93,901		93,901
	M.I.S.	Corrections Dept.	49,590		49,590
WYOMING	Community Service	Probation Dept.		10,400	10,400
TOTALS	67 Programs	See Table II	$2,481,413	$ 499,712	$2,941,984

local non-profit agency with a pretrial release program under the direction of the probation department. Steuben County also modified its plan, introducing community service in addition to its pretrial program.

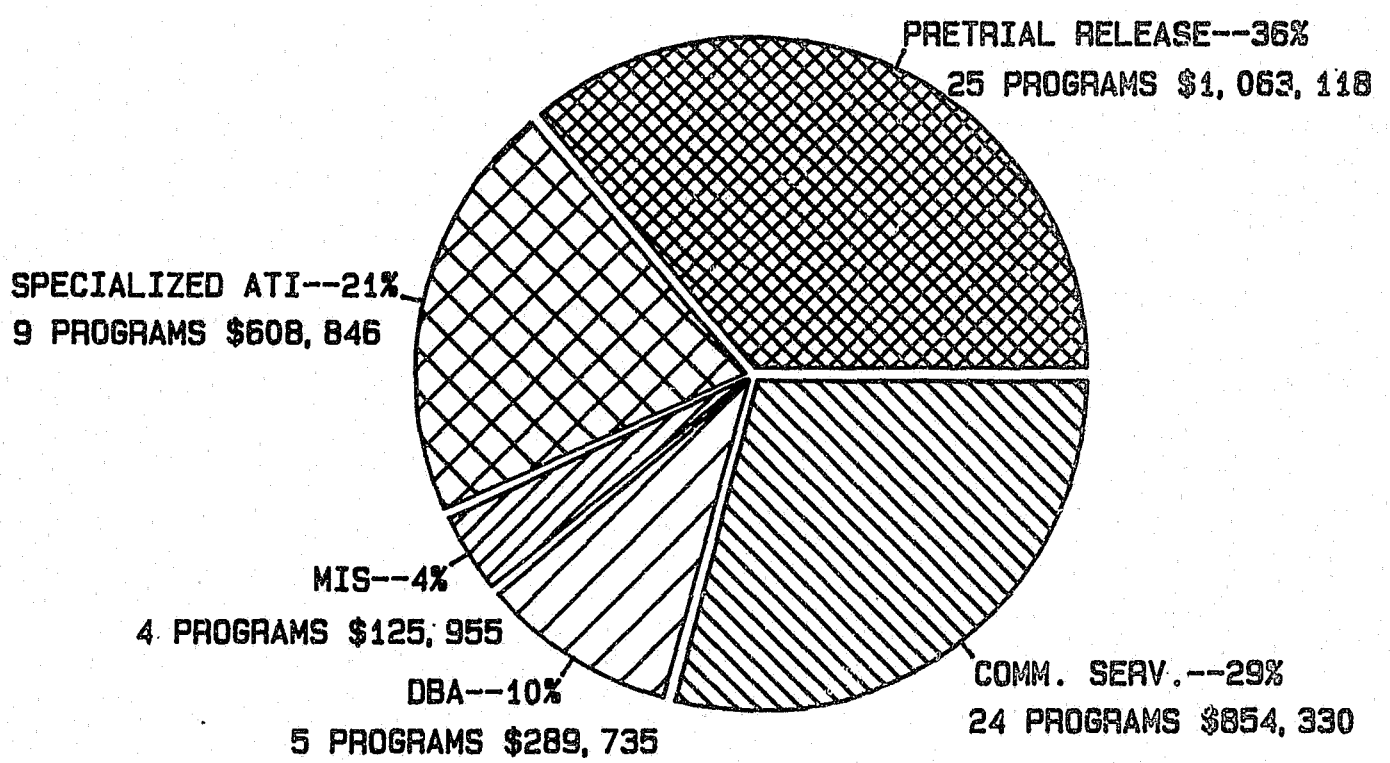
The 67 programs can be grouped into five major categories: pretrial release services; community service sentencing; defender-based advocacy; specialized alternatives to incarceration; and, management information systems. The chart on page 14 depicts the distribution of program types and funding across the state. Presented below is a brief overview of these groupings.

Pretrial Release Services

Pretrial release programs provide information to courts on defendants' roots in the community as a way of facilitating release on recognizance or release with conditions. These programs reduce reliance on financial conditions of release by identifying those individuals who are most likely to appear in court as scheduled. In doing this, the programs not only reduce unnecessary reliance on detention; they also minimize the inherently discriminatory impact that money bail has on those of limited financial means. Finally, by providing the courts with meaningful information about defendants, these programs help to improve the quality of judicial decisions regarding pretrial status.

The typical pretrial release program collects information on the defendant's address, length of residence, employment or education, prior criminal history and appearance records, and several other variables correlated with likelihood of appearance. The programs then verify this information and, based upon their findings, inform the court as to the individual's eligibility for release without financial conditions. Programs typically monitor appearance rates and undertake various endeavors aimed at minimizing failure to appear (such as notification of pending court dates or weekly

STATE FUNDING BY PROGRAM TYPE



$2,941,984
67 PROGRAMS

contact with the released individual). In limited instances, defendants are released with specific court-ordered conditions (such as participation in a treatment program) which the pretrial program then monitors.

This year, a total of 25 pretrial release programs were supported through this statute, 16 of which were new efforts while 9 were enhancements or expansions of already existing efforts. The 25 pretrial release programs funded this year will receive a total of $1,063,118 in state support.

Community Service Sentencing

A total of 24 community service sentencing programs are being funded pursuant to the service plans. Community service represents an alternative punishment that has grown in popularity throughout the country over the past five years. This sanction enables offenders to make reparation for the violation of law reflected in their convictions. It also demonstrates the criminal justice system's desire and intention to hold offenders accountable for their acts by imposing a meaningful punishment in the form of unpaid labor.

The typical community service program screens offenders to determine their appropriateness for participation and then places these individuals with carefully selected non-profit or governmental agencies where they will complete the number of service hours imposed by the courts. The programs monitor the offenders' compliance with the sentence and notify the court of any failures, or of successful completion of the sentence. The number of hours of community service imposed is typically related to the severity of the offense and the length of jail sentence for which the service substitutes.

Of the 24 community service sentencing programs funded pursuant to the "Classification/Alternatives" bill, 18 were new initiatives, while the remaining 6 were enhanced or expanded efforts. These programs will receive a total of $854,330 in state assistance during the current fiscal year.

Defender-Based Advocacy Programs

These programs receive referrals from defense counsel for interventions at key points in the criminal defense process. Typically staffed by trained social workers or social work interns, these programs prepare a variety of reports to facilitate pretrial release, plea bargaining, or alternative sentencing plans. In addition, defender-based advocacy programs routinely provide referrals for defendants to social service agencies based upon their evaluations of defendants' personal needs. The sentencing reports prepared by these programs assess the defendant's background and current circumstances and then present the court with a detailed alternative sentencing plan, typical elements of which include enhanced provisions for community supervision, alternative punishments (e.g., community service) and mandatory participation in treatment programs.

Five defender-based advocacy programs are currently funded, four of which were new undertakings while one is an expansion of existing services. These five programs will receive a total of $289,735 in state aid this year.

Specialized Alternatives to Incarceration

This category of programs includes a variety of endeavors not readily grouped in other models. In general, the specialized programs are creative innovations aimed at specific offender populations. The nine programs can be subdivided into the following categories:

(1) **Misdemeanor Alternative Sentencing**

These programs provide more stringent probation supervision and enhanced resource utilization to misdemeanants who would otherwise be incarcerated.

(2) **Domicile Restriction**

Monroe and Oneida Counties are operating domicile restriction programs whereby offenders are ordered to remain in their homes, pursuant to schedules developed in consultation with the sentencing court. Monitoring is conducted by local probation staff, in conjunction with various law enforcement agencies, through random phone calls, unannounced home visits, and detailed verification with employers, schools or community-based programs in which the offender might be enrolled.

(3) **Special Offender Groups**

Five counties have implemented programs designed to address the special needs of certain offender groups. Monroe County operates a program that provides intensive case management services for developmentally disabled offenders. Erie County supports a residential program for women offenders. Onondaga and Suffolk Counties operate programs for alcohol abusing individuals. Madison County has implemented a very unique and comprehensive service for non-violent sex offenders.

(4) **Work Furlough**

Nassau County is the only jurisdiction that opted to utilize work furlough as an alternative to incarceration. Under this program inmates in the county jail are screened and then released for 48 hours to facilitate job searches and to re-establish family ties.

These nine specialized alternatives to incarceration programs will receive a total of $608,846 in state funds this year. Of these, five are new programs initiated as a result of the county's service plan.

Management Information Systems

During the first year of programming, a total of eight management information systems were supported as a result of service plans. Four of these undertakings were completed during that year with the implementation of an automated jail management system. This year, four jurisdictions have continued with their MIS efforts as part of more comprehensive initiatives to automate and to evaluate the effectiveness of their alternatives programs and to generally monitor the flow of cases through the local criminal justice system.

A total of $125,955 in state aid will be provided this year to the four MIS programs that continue to be funded under the provisions of the statute.

D. Service Providers

The "Classification/Alternatives" bill requires the local advisory boards to designate the appropriate agency or organization to operate the programs funded as a result of their service plans. Table II provides a summary of the service providers by program model. Of the 67 programs funded this year, 53 or 79 percent are being operated by agencies of county government, with probation departments responsible for 31 or 46 percent. Sheriff's Departments represent the second most common county agency to provide alternatives programming, a rather significant development for this field, indicative of the support that has developed within law enforcement for new approaches to sanctioning offenders. Non-profit agencies have been designated as the service provider for 14 programs, representing 21 percent of the total. Interestingly, though these programs constitute only 21 percent of such undertakings, they account for 41 percent of the total funds allocated for services statewide.

TABLE II

PROGRAM MODELS BY SERVICE PROVIDERS

PROGRAM MODEL	PROBATION DEPARTMENT	PRIVATE NON-PROFIT	SHERIFF'S DEPARTMENT	OTHER AGENCIES OF COUNTY GOV'T	TOTALS
Pretrial	17	6	-	2	25
Community Service	9	5	6	4	24
Defender-Based Advocacy	-	2	-	3	5
Special-ized ATI	5	1	2	1	9
Management Info. Sys.	-	-	-	4	4
TOTALS	31	14	8	14	67

E. Cash Match and Cash Match Credits

The statute obligates participating counties to match any state dollars utilized for new or enhanced programming. However, in acknowledgement of the fact that some counties were already devoting local tax levy monies to support existing alternatives to incarceration, the statute permitted the claiming of "cash match credits" based upon local expenditures for such programs during the year preceding the current contract term. Claims for such credits had to be substantiated and then verified by Division staff.

Table III provides a summary of county matches and county match credit claims. Thirty-one of the participating jurisdictions are allocating new county dollars as part or full match to the state's contribution. A total of $489,712 in local funds are committed under the terms of the contracts for the current period (i.e., July 1, 1986 through June 30, 1987). Twenty-one counties had approved cash match credits totalling $2,481,413.

TABLE III

CASH MATCH AND CASH MATCH CREDITS		
	Number of Counties[1]	Total Dollars
Cash Match	31	$ 489,712
Cash Match Credits	21	$ 2,481,413 [2]

1/ Total of this column exceeds total number of participating jurisdictions since some counties made matches and also claimed match credits.

2/ Total match credits understates total local expenditures for alternatives to incarceration since only the amount necessary to match state share is included.

CHAPTER THREE

DIVISION PROGRAM DEVELOPMENT ACTIVITIES

A. Overview

While the "Classification/Alternatives" bill provided the foundation and the mechanism for the rapid expansion of alternatives to incarceration programming throughout the state, it did not (indeed, could not) establish the basis for meaningful program utilization within the local criminal justice systems. The success or failure of initiatives such as those described in the previous chapter is, in large part, a function of program development activities, those steps taken to ensure that programs are properly organized, potential consumers sufficiently informed, staff effectively trained, services credibly delivered, etc. Typically, program development is an ongoing process, though the initial gestation period for new programs is always critical to ultimate performance. The 67 new or expanded alternatives to incarceration funded pursuant to the legislation have confronted the highs and lows of program development and have, in most cases, successfully introduced themselves to their criminal justice systems. In other instances, substantial difficulties have been enountered.

This report will not attempt to provide a comprehensive summary of the developmental experiences of the various programs. Though we have a substantial body of information regarding this important initial period -- from site visit reports, quarterly program reports, and various other records maintained as part of our oversight and technical assistance activities -- presentation of these materials must remain the subject of a future report. Compiling and collating this information in a manner that would lend itself to analysis represents a major research undertaking lest it be reduced to little more than the relating of a variety of programmatic anecdotes. The Division hopes to be able to devote the resources necessary to prepare such a report during the coming year, recognizing that the findings of such research can contribute to future program development efforts.

The Division recognized from the outset that the quality of program development activities undertaken by all involved parties would be key to the success of the initiative. At the same time, we recognized not only the practical limitations that our local counterparts would confront, but also that we were restricted in our capacity to direct and control how the programs would unfold. Given the relative novelty of alternatives to incarceration programming and the absence of significant historical precedents for these activities, it was obvious that the needs of the programs for technical assistance could not be met with our limited resources. Consequently, we have sought to establish efficient methods of program monitoring and oversight that could maximize our contributions to the localities. Some of these approaches are detailed in later sections of this chapter.

All Division program development activities begin with the understanding that to meet the challenge of establishing these new programs, all parties must recognize and account for a number of dynamics that will affect program performance. Acknowledgement of these forces helps to establish a reasonable perspective on program development, especially as regards initial slow performance, and provides a conceptual framework for achieving planned change.

Criminal Justice System Dynamics

By virtue of its focus on public safety, the criminal justice system is inherently conservative. That is, all the pressures on and within the system militate against risk taking and, in many regards, against innovation. Such a conservative orientation may be appropriate in many instances. However, this orientation obviously poses substantial obstacles to the implementation of programs that seek to change the system's reliance on incarceration. Typically one hears "the program sounds great, but it won't work here" because "this is a conservative community." Consequently, criminal justice system acceptance (and, therefore, utilization) of these new programs is typically slow. Effective program development must, therefore, focus heavily

on establishing credibility, which in turn can only be achieved as a function of actual performance. A program viewed skeptically by potential consumers is a program which will be slow in building a performance record which, in turn, will be slow in developing the credibility that will lead to better utilization. This Catch-22 dilemma means that sufficient time must be committed to allow for program development before making judgments as to success or failure. It also places heavy emphasis on effective outreach and requires championing by influential criminal justice system members.

State-Local Dynamics

All state initiatives that are locally implemented confront and are influenced by the potential tensions between different levels of government. On occasion, state and local interests conflict. At other times, state mandates are viewed as cumbersome or too demanding relative to the benefits to local government. State agencies may be insensitive to local custom or procedure, producing friction and resistance. Sometimes, local governments seek to manipulate the purposes for which funding has been provided. These various dynamics ultimately have an impact on program performance. State program monitors may be pushing in one direction, whereas local officials may have a separate agenda. Effective program development, therefore, must seek to reconcile these potential tensions and establish a unified and accepted basis upon which to provide services.

Advisory Board Dynamics

One of the great contributions of the statute has been the establishment of local advisory boards which, in their best form, serve as information sharing, coordinating bodies that can have far-reaching impact on the operation of the local criminal justice systems. As the midwives of the programs funded through this bill, the advisory boards are potentially the ideal policy setting unit to nurture and to discipline their programmatic offspring. However, county advisory boards vary substantially in their operations and activities and, as was reported last year, may or may not opt to

continue to play an effective leading role in program development. Typically, advisory boards have no staff, resulting in heavy demands on their already busy membership. Absent leadership from the boards, programs may feel abandoned or, even worse, may lose out on the technical, liaison and promotional contributions that these boards can provide. Consistent advisory board input and leadership, therefore, can be critical to the success of these new programs and the responsiveness of the initiative to jail crowding problems.

Program Dynamics

The programs, of course, are ultimately affected by the different dynamics described above. In addition, programs confront their own special dynamics in seeking to develop their services. For example, funding has an obvious impact on program performance, not only in terms of scope of services, but in actual ability to consistently deliver. Many of the programs funded under this statute consist of a single program staff member. If that employee opts for another position, program operations will suffer substantially while a replacement is sought. Programs are also confronted by a peculiar dilemma in the alternatives area, namely that numbers alone are not necessarily good indicators of performance. For alternatives programs to be effective, they must not only serve a sufficient number of clients, they must seek to ensure that their clientele are people who would otherwise be incarcerated. Frequently, programs feel compelled to "put good numbers on the board", regardless of the quality of the cases. Such an approach, however, often sows the seeds of long-range failure by establishing a practice whereby the wrong clients (i.e., those who would not otherwise be incarcerated) become the largest part of the program population.

Confronted by these dynamics, but committed to facilitating the best in alternatives programming, the Division has adopted an active approach to program development that seeks not simply to monitor compliance with contractual budgets and performance objectives, but also to provide technical assistance and oversight aimed at long-range achievement of the statute's purposes. To understand these efforts during the past year, it is worthwhile

to review those implementation activities undertaken and summarized in last year's report.

B. Previous Program Development Activities

During the first year of program implementation, the Division established the following procedures and undertook the following activities to facilitate program development:

Contract Development

Based upon the time frames of the statute, a contract term of July 1 through June 30 was established for all programs funded as a result of county alternatives to incarceration service plans. This time frame facilitates a collaborative process between the state and county government by providing three months from passage of the state budget for finalization of contractual details and processing. The contracts are also critical in that they contain specific performance objectives, arrived at through negotiation and analysis of the actual service plans, that serve as bench marks for program performance.

Statewide Training

Last year the Division conducted a statewide training seminar for new program personnel. This three day session covered a range of relevant topics and served not only to impart important conceptual and technical knowledge, but also to develop a level of camaraderie and motivation among the new programs.

Dissemination of Literature

Over the past two years, the Division has been compiling a library of materials on alternatives to incarceration and related subjects. These materials constitute our Technical Assistance Information Bank and have been

available to all programs and other interested parties. Division staff have distributed a variety of publications on alternatives to incarceration to the various programs. These materials helped new initiatives to learn from the documented experiences of other programs across the nation, provided effective examples of how to deal with common program development issues, and aided Division staff in identifying innovative alternatives program models.

Site Visits

The principle mechanism used by the Division to monitor and assist the programs is the site visit. Programs are seen regularly and various aspects of their operations are reviewed by staff. The first year of implementation served as a learning laboratory for the Division and provided a basis for even more effective problem identification and problem solving by individual program monitors.

Quarterly Reports

All programs funded pursuant to the statute are required to submit quarterly reports of their progress. These reports were standardized last year by the Division in an effort to ensure that each program would report consistently and comprehensively on their efforts.

Information Systems

For programs to judge their performance meaningfully, they must collect information that describes their activities, their clientele, and their impact on the local criminal justice system. Towards this end, last year the Division introduced standardized case monitoring forms by which programs can record essential information regarding their cases.

Public Outreach

To help promote acceptance of these new programs, Division staff took every possible opportunity to speak at public forums and to publish articles

regarding these new alternatives to incarceration. Similarly, we sought to encourage and faciltiate the programs' utilization of the media to explain their purposes and services.

C. Recent Division Activities

The basic approach of the Division to the task of program development has remained consistent during the past year. That is, we have continued to undertake our oversight responsibilities in a manner that focuses primarily on technical assistance. Our goal is to be viewed by the various service providers and their counties as a resource center, a repository of information and guidance that can promote more effective performance. In so doing, of course, we have not forsaken our obligations as program monitors. However, it is clearly a more demanding challenge to promote meaningful change than it is to simply oversee performance. Though our limited resources have precluded, in many instances, the kinds of frequent involvement that we would prefer, the past year has clearly been one of substantial progress and positive program development. Our efforts to unify the technical assistance and program monitoring functions are paying dividends.

Routine Program Development Activities

Each of the sixty-seven programs is assigned a Division staff member who serves as the program monitor. Among the routine activities undertaken by these staff members are quarterly field visits to each of the programs. These visits include routine oversight activities (e.g., monitoring of staffing and administrative policies) as well as deeper investigations regarding program performance and utilization. Through the site visits, Division staff seek to establish a firsthand relationship not only with program staff, but also with other participants in the local criminal justice system. (Staff are, for example, frequent attendees at advisory board meetings.) Typically, site visits may result in identification of important operational problems for which solutions may be available based upon experiences in other jurisdictions. As part of the site visit protocol,

staff prepare a summary of their trip which is reviewed by a supervisor and the subject of further discussion. (These reports serve the additional purpose of creating a written record of program development essential to meaningful process evaluations.) Staff also provide written feedback to the visited programs, summarizing the issues discussed and highlighting areas that may need attention.

Another component of our routinized program development activities is the careful review of programmatic quarterly reports. Though such reporting requirements are frequently viewed as a bureaucratic nightmare, the submissions by the programs provide an important, indeed essential, description of key issues and actual performance. Through careful review of these reports staff seek to identify problems and to offer suggestions for solutions. They are also able to compare and contrast different programmatic experiences and to share this knowledge with the different agencies they monitor. Written feedback on quarterly reports is standard policy and typically the reports are discussed with program staff during the course of the site visits.

In seeking to encourage the advisory boards to remain active and helpful, the Division prepared a special mailing this year to the chairpersons, reminding them that, under the provisions of the statute, it was the advisory board's responsibility to submit the quarterly reports to the Division. This seemingly innocuous intervention did, in fact, result in the rejuvenation of many local boards, which in turn had the positive effect of promoting more conscientious local oversight of the service providers.

Training

Though the Division did not conduct a statewide seminar this year, we have received numerous requests for a comprehensive training program such as that undertaken during the first year of program activities. Consequently, we are now planning for such a retreat later in 1987. During the current year, training was offered as part of the Division's Second Annual Conference, where attendance and participation by alternatives to incarceration programs was very noteworthy and where a variety of different workshops

of relevance to these programs were conducted. We also conducted a series of regional one-day training sessions regarding the case monitoring formats established as part of our information system initiative. Finally, a module on alternatives to incarceration programming has now been incorporated in the Division's Fundamentals of Probation course and, consequently, all new probation officers are exposed to a basic orientation regarding these new program areas.

One of the more innovative undertakings during the past year has been the establishment of the "host program initiative" whereby selected, well-established programs have served as training grounds for newer program personnel. Division staff facilitate linking staff from newer programs with their more experienced counterparts. Typically, the visiting staff members spend a day or two on site with the experienced program, learning their particular approach to service delivery and the various methods that they have used to establish themselves within their local criminal justice system. The host program initiative has proven to be effective not only in providing practical training at virtually no cost; it has also facilitated programmatic linkages that will serve to establish a meaningful network of alternatives programs.

Standards Development

Prior to this year, no formal standards for the various alternatives to incarceration program models existed. The absence of detailed programmatic guidelines was a function of two things: (1) the immediate tasks posed by the statute did not provide the time or resources to promulgate such standards, and; (2) the newness of the field made it inappropriate to impose such standards until some more practical experience had been gained regarding the most effective approaches to programming.

However, as our own experience developing alternatives increased, and as all parties became increasingly aware of the most effective approaches to programming, the potential of and the need to establish standards became dominant. This year, the first standards development project was undertaken

with the State Director's appointment of the Pretrial Release Standards Committee. This group, composed of representatives from each of the Division's major bureaus and local practitioners, was charged with the task of preparing detailed standards (and related commentaries) to guide the operation of pretrial release programs.

The model used to establish these standards worked quite well. A series of meetings were held during which major issues were discussed and the rationales clarified. A final draft of the standards was then distributed to all programs and numerous other interested parties and four public meetings (recently completed) were held to solicit feedback. Based upon these responses, the committee will reconvene and adopt the final standards. A copy of the draft standards that were subject to this public scrutiny is attached to this report as Appendix B.

The development of standards should be a significant contribution to program development insofar as they detail key aspects of programmatic activity and ensure uniformity and consistency in program operations. The programs will be able to use the standards as guides for their efforts, as well as to clarify expectations within their local criminal justice system. For the Division, these standards offer a detailed basis for program monitoring and assessment and provide, therefore, a useful mechanism for problem identification. We expect that the standards will eventually facilitate the development of program monitoring protocols that increase the efficiency and effectiveness of these oversight activities.

Information Systems

As noted earlier, the Division developed uniform quarterly reports and case monitoring forms not only to assist us in our endeavors, but also to provide the programs with the basis for keeping track of their own progress. Implementation of these routinized instruments has been less than smooth. The case monitoring forms were cumbersome and, for programs with large client populations, posed a significant data collection burden. The quarterly

reports contained a very detailed statistical section which required tedious compilation of the data elements in the case monitoring forms.

Consequently, changes have been made in this system. We have also recognized that the Division can facilitate programmatic use of data through our own recently expanded data processing capacities. Recently, we revised the case monitoring forms in a streamlined, multi-copy format and the Division's Management Information Systems Unit has prepared itself to process the data reported by the programs (thereby relieving them of the compilation tasks). Under this revised system, programs will provide quarterly narrative reports and will send in case monitoring forms. The Division will process the case monitoring forms and then feed back compiled tables to the programs and their advisory boards.

Outreach and Education

Division representatives, recognizing the need for continuing public education and outreach regarding the nature and potential value of alternative programming, have been active making public presentations and participating in meetings with local officials. During the past year, staff made speeches at various conferences, prepared articles for publications, and appeared on radio shows. In addition, numerous requests for information on the implementation of the statute have been accommodated.

D. Compliance With Service Plans

One of the Division's important responsibilities under the "Classification/Alternatives" bill is determination of county compliance with its service plan. Failure to comply with the provisions of the service plan results in both the withholding of state aid and the loss of the right to utilize the reduced classification system. Obviously, non-compliance is a serious determination with far-reaching implications for the locality.

During the past year, our approach to compliance monitoring was based primarily on program implementation and development, rather than exclusively on the ability of the programs to meet the specific performance objectives contained in both the plans and the contracts. To determine compliance primarily on the basis of program utilization would have meant that we disregarded all the important issues of program development and their impact on performance that were discussed at length here. Most of the programs' performances were consistent with our expectations. The next chapter provides statistical information relative to their utilization.

Compliance, therefore, was viewed in broad terms: were program development activities proceding reasonably, was the service implemented and available, was the county complying with the general expectations reflected in the service plan? From this perspective, virtually all counties met their obligations and were found in compliance. In several instances, failure to submit plan updates or to otherwise move expeditiously with program activities led to preliminary notification that, absent change, a non-compliance letter would be forthcoming. In these instances, appropriate changes were undertaken by the localities. It was also the case in several counties that start-up of programs was much slower than we found acceptable, though the reasons for such problems made a non-compliance determination inappropriate. For example, in one jurisdiction a county attorney's concerns over minor language issues kept delaying final processing of the contract. The county, as is sometimes the case, had a policy precluding new initiatives absent a fully processed agreement. In another instance, absence of a suitable civil service list precluded filling program positions, again resulting in lengthy delay.

In only one instance, Chenango County, was a formal letter of non- compliance actually issued. This occurred because the county failed to submit a service plan update within the time frames established and, for a short while, was uncertain as to whether or not it would actually continue with an alternatives program. This situation arose because the service provider utilized during the first year of program activities opted not to continue with its community service program. It then took the county a long time to

decide whether to continue with the initiative and, if so, what type of program to operate. The Division's non-compliance notification included the specific steps that would be required for the county to return to compliance. When these steps were completed, the county was notified of its return to compliance, as was the New York State Commission of Correction.

At least two counties are currently under detailed scrutiny regarding their status, in one case because a particular program is experiencing major operational problems, and in the other case because it appears that staff designated for its alternatives program may be engaged in unrelated duties. However, no final determinations have been made regarding these counties and we are seeking to resolve these matters without having to find them in non-compliance.

CHAPTER FOUR

PROGRAM ACTIVITIES

A. Introduction

This report provides the first opportunity to describe the activities and clients of the programs funded under the "Classification/Alternatives" initiative. Until this writing, none of the programs had been in operation long enough to provide meaningful information regarding case processing activities. By the end of calendar year 1986, however, most of the programs had completed a minimum of twelve months of case intake.

In this chapter, data are presented on each of the program models identified in Chapter Two. It is most important to note that the information presented here is not intended to address questions of program impact or, in any other way, to serve as an evaluation of program performance. At the very early stages of development in which we find these programs, performance evaluations would be premature. The information should be viewed, instead, as providing preliminary indications of the potential of these programs for the future.

Program performance, as measured by these data, reflects all of the issues concerning program development, implementation, and maturation that were discussed in the previous chapter. While the levels of program activity are not consistent with contract objectives in certain instances, we believe the programs have, for the most part, made considerable progress toward this end. Moreover, we are optimistic that the programmatic accomplishments reflected in these data represent a good beginning to an even better future. We expect that in the years to come a variety of factors, including program maturity, increased familiarity with alternative programming, wider acceptance of the concept of alternatives to incarceration, and evidence that

non-violent offenders, traditionally incarcerated, can be safely and effectively managed in the community at considerable savings, will contribute to greater numbers of defendants/offenders being placed in alternatives to incarceration programs.

Because of the difficulties encountered in the past year in implementing the automated case-based monitoring system, we were unable to assemble the data for this report from that source. To obtain these data, therefore, a special data collection effort was required and each program was asked to cull and aggregate information from their records. For the most part, the information presented covers the period January 1, 1986 through December 31, 1986. Where information was not available for this time frame, explanatory notes are provided. Program performance data are presented in tabular form throughout this chapter. The tables include information on significant case processing dimensions, and offender and offense characteristics. Prior arrest data are provided for descriptive purposes only. The Division does not encourage the use of prior arrest information for determining program eligibility.

B. Pretrial Release Programs

The 25 pretrial release programs funded under the statute operated in 23 counties and New York City. Statewide, these programs screened 34,695 cases during calendar year 1986 (see Table IV). Interviews were conducted with 20,500 (59%) defendants identified via the screening process. Of those defendants interviewed, program intervention contributed to or was directly responsible for the release of 7,933 (39%) detained defendants.

Of the 25 programs, 4 were not operational long enough in 1986 to provide meaningful case processing data and are, therefore, not represented in Tables IV-VI. Tioga and Allegany counties were new participants in 1986. Contracts for the pretrial programs in these counties commenced on July 1, 1986 and most of the next six months was devoted to program development and implementation activities. In both Chenango and Delaware counties, programs previously approved in their service plans were

TABLE IV

PRETRIAL RELEASE

CASE PROCESSING DATA

PROGRAM NAME	NUMBER SCREENED #	NUMBER INTERVIEWED #	ELIGIBILITY DETERMINATION ROR #	ROR %	RUS #	RUS %	NOT ELIGIBLE #	NOT ELIGIBLE %	RELEASE OUTCOME ROR #	ROR %	RUS #	RUS %	BAIL #	BAIL %
ALBANY CO. ROR/RUS	1,852	238	43	18%	22	9%	173	73%	26	58%	19	42%	N/A	N/A
BROOME CO. PRETRIAL RELEASE	2,058	507	175	35%	16	3%	316	62%	142	90%	16	10%	N/A	N/A
CATTARAUGUS CO. PRETRIAL RELEASE	213	181	85	47%	0	0%	96	53%	40	100%	0	0%	N/A	N/A
CHAUTAUQUA CO. ROR/RUS	266	205	47	23%	16	8%	142	69%	18	55%	15	45%	N/A	N/A
CHEMUNG CO. PRETRIAL RELEASE	454	302	122	40%	112	37%	68	23%	52	39%	81	61%	N/A	N/A
COLUMBIA CO. PRETRIAL RELEASE	275	196	40	20%	41	21%	115	59%	25	78%	7	22%	N/A	N/A
ERIE CO. PRETRIAL SERVICES	7,569	5,442	1,508	28%	150	3%	3,784	70%	1,366	91%	132	9%	N/A	N/A
GREENE CO. RELEASE ON RECOGNIZANCE	262	102	30	29%	11	11%	61	60%	7	47%	8	53%	N/A	N/A
HERKIMER CO. PRETRIAL RELEASE	142	125	33	26%	36	29%	56	45%	11	33%	22	67%	N/A	N/A
LEWIS CO. PRETRIAL RELEASE	46	38	10	26%	3	8%	25	66%	8	62%	5	38%	N/A	N/A
NASSAU CO. PRETRIAL REDUCTION	3,036	267	0	0%	93	35%	174	65%	0	0%	72	100%	N/A	N/A
NYC COURT EMPLOYMENT PROJECT (1)	1,955	299	1	0%	188	63%	110	37%	8	5%	141	95%	N/A	N/A
QUEENS CO. BAIL EXPEDITING (CJA)	8,937	6,602	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1,953	N/A
RENSSELAER CO. PRETRIAL SERVICES	19	13	0	0%	12	92%	1	8%	0	0%	6	100%	N/A	N/A
ROCKLAND CO. PRETRIAL RELEASE	921	503	119	24%	116	23%	268	53%	278	91%	29	9%	N/A	N/A
St. LAWRENCE CO. PRETRIAL RELEASE	403	252	40	16%	141	56%	71	28%	40	24%	127	76%	N/A	N/A
SCHENECTADY CO. PRETRIAL RELEASE	909	414	216	52%	85	21%	113	27%	189	70%	81	30%	N/A	N/A
STEUBEN CO. PRETRIAL RELEASE	378	238	93	39%	36	15%	109	46%	45	58%	32	42%	N/A	N/A
SUFFOLK CO. PRETRIAL RELEASE (2)	3,892	3,892	N/A	N/A	57	1%	125	3%	945	98%	17	2%	1,838	N/A
WASHINGTON CO. COURT INFO. SERVICES	497	176	80	45%	0	0%	96	55%	72	100%	0	0%	N/A	N/A
WAYNE CO. PRETRIAL RELEASE	612	508	238	47%	0	0%	270	53%	60	100%	0	0%	N/A	N/A
TOTALS:	34,695	20,500	2,880	28%	1,135	11%	6,173	61%	3,332	42%	810	10%	3,791	48%

FOOTNOTES:

(1) Information for Court Employment Project based on cases interviewed between April 1 and December 31, 1986.

(2) In the Suffolk County Pretrial Release program, only cases eligible for RUS are reviewed for eligibility. Some defendents (945) were released ROR subsequent to additional verification of information by the Bail Expediting Staff of the program.

replaced by pretrial programs late in 1986. Due to these late changes, these programs were unable to process substantial numbers of defendants.

Of the 21 remaining programs, 20 provide services to facilitate non-monetary release either through personal recognizance or supervised release. Three of these programs serve only release on recognizance cases while two others provide for supervised release only. The Queens Bail Expediting Program does not engage in either recognizance or supervised release. The purpose of this program is to assist defendants in securing sureties to post bail, thereby avoiding lengthy periods of detention. The Suffolk County pretrial program has a bail expediting component in addition to the recognizance and supervised release program components.

Across the state the 20 recognizance and supervised release programs were influential in the release of a total of 4,142 defendants. These 20 programs screened a total of 25,758 defendants and interviewed 13,898 (54%) of those screened. Of the defendants interviewed, eligibility determinations were made for 10,188 defendants, resulting in affirmative eligibility findings for 4,015 (39%) defendants. Of the 4,015 defendants determined eligible for release by the programs' criteria, 3,197 (80%) were released without bail. Of these, 75 percent were released on personal recognizance and 25 percent were released for program supervision under explicit conditions ordered by the courts. An additional 945 defendants were released on recognizance in Suffolk County as a result of submission to courts of additional verified information obtained by the bail expediting staff of the program.

Examining these data across counties, there are clearly substantial differences in the levels of program activity. One reason for large differences in case screenings is, simply, large differences in the volume of cases in small versus large jurisdictions. A second explanation is that some programs are designed to reach a specific defendant population not already serviced by another program. The Nassau County program, for example, is aimed at

providing pretrial release services to offenders who were not eligible for the county's routine ROR and supervised release programs. Similarly, the Court Employment Project is intended to provide services only to defendants who have been detained for at least 10 days.

Variability in the number of case screenings and interviews may also be attributable to programs intervening at different points in the criminal process. Those programs, such as Erie County's, that screen and interview defendants prior to arraignment, are likely to be confronted with a larger volume of cases than post-arraignment programs. (Post-arraignment programs will not have to review all of those cases in which defendants made bail or were released ROR at arraignment.) Another explanation for the variability across counties relates to differences in eligibility criteria. In a number of counties, universal case screening and interviewing are not the norm. Instead, exclusionary criteria, based typically on offense type, result in sizeable reductions in the number of defendants to be interviewed. The differences in the proportions of defendants found eligible for pretrial release across programs may be similarly related to the restrictiveness of the eligibility criteria, the degree of subjectivity allowed in the eligibility determination, or the target population sought by the program. The pretrial standards, discussed previously, will significantly alter some of these programmatic practices and should result in more uniform activities and case processing outcomes.

Characteristics of the defendants and offenses, as reflected in Tables V and VI, indicate that statewide, for those cases on which information is available, defendants interviewed by the pretrial programs were overwhelmingly male (88%) and young (67% less than 30 years of age), and were also more likely to be minority members (55%). At the time of the interview, 39 percent of the defendants were facing felony charges, 58 percent were facing misdemeanor charges, and 3 percent were facing other charges such as non-penal law offenses and probation violations. Almost three quarters (74%) of these defendants had been previously arrested and half had prior criminal convictions.

TABLE V

PRETRIAL RELEASE

DEMOGRAPHIC DATA

PROGRAM NAME	AGE 16-18 YRS. #	AGE 16-18 YRS. %	AGE 19-21 YRS. #	AGE 19-21 YRS. %	AGE 22-29 YRS. #	AGE 22-29 YRS. %	AGE 30-39 YRS. #	AGE 30-39 YRS. %	AGE 40 + YRS. #	AGE 40 + YRS. %	SEX MALE #	SEX MALE %	SEX FEMALE #	SEX FEMALE %	RACE BLACK #	RACE BLACK %	RACE HISPANIC #	RACE HISPANIC %	RACE WHITE #	RACE WHITE %	RACE OTHER #	RACE OTHER %
ALBANY CO. ROR/RUS (2)	2	13%	4	25%	2	13%	4	25%	4	25%	14	88%	2	13%	6	38%	0	0%	10	63%	0	0%
BROOME CO. PRETRIAL RELEASE	85	17%	83	16%	197	39%	98	19%	44	9%	428	84%	79	16%	63	12%	8	2%	429	85%	7	1%
CATTARAUGUS CO. PRETRIAL RELEASE	32	18%	40	22%	59	33%	35	19%	15	8%	166	92%	15	8%	8	4%	0	0%	161	89%	12	7%
CHAUTAUQUA CO. ROR/RUS	69	34%	41	20%	85	41%	8	4%	2	1%	200	98%	5	2%	12	10%	5	4%	99	85%	1	1%
CHEMUNG CO. PRETRIAL RELEASE	78	26%	61	20%	62	21%	52	17%	49	16%	287	95%	15	5%	26	9%	10	3%	263	87%	3	1%
COLUMBIA CO. PRETRIAL RELEASE	29	15%	59	30%	63	32%	31	16%	14	7%	180	92%	16	8%	53	27%	19	10%	124	63%	0	0%
ERIE CO. PRETRIAL SERVICES	218	4%	488	9%	2,558	47%	1,633	30%	545	10%	4,712	87%	730	13%	3,265	60%	504	9%	1,633	30%	40	1%
GREENE CO. RELEASE ON RECOGNIZANCE	12	12%	16	16%	24	24%	31	31%	18	18%	95	93%	7	7%	18	18%	5	5%	79	77%	0	0%
HERKIMER CO. PRETRIAL RELEASE	15	12%	37	30%	49	39%	17	14%	6	5%	117	94%	8	6%	7	6%	1	1%	117	94%	0	0%
LEWIS CO. PRETRIAL RELEASE	5	13%	7	18%	15	39%	4	11%	7	18%	36	95%	2	5%	0	0%	0	0%	37	97%	1	3%
NASSAU CO. PRETRIAL REDUCTION	58	22%	48	18%	95	36%	53	20%	13	5%	243	91%	24	9%	162	61%	162	61%	69	26%	0	0%
NYC COURT EMPLOYMENT PROJECT (3)	99	33%	70	24%	84	28%	36	12%	8	3%	229	77%	70	23%	202	68%	86	29%	10	3%	0	0%
QUEENS CO. BAIL EXPEDITING (CJA)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
RENSSELAER CO. PRETRIAL SERVICES	1	8%	3	23%	5	38%	3	23%	1	8%	12	92%	1	8%	3	23%	0	0%	10	77%	0	0%
ROCKLAND CO. PRETRIAL RELEASE	69	14%	89	18%	193	38%	109	22%	43	9%	450	89%	53	11%	217	46%	61	13%	197	41%	0	0%
St. LAWRENCE PRETRIAL RELEASE (4)	49	27%	47	26%	44	24%	28	15%	13	7%	223	88%	29	12%	1	1%	3	2%	173	96%	4	2%
SCHENECTADY CO. PRETRIAL RELEASE (5)	81	28%	52	18%	74	25%	66	22%	21	7%	257	87%	37	13%	79	27%	3	1%	212	72%	0	0%
STEUBEN CO. PRETRIAL RELEASE	60	25%	42	18%	68	29%	37	16%	31	13%	226	95%	12	5%	17	7%	0	0%	221	93%	0	0%
SUFFOLK CO. MONITORED RELEASE	32	18%	46	25%	66	36%	26	14%	12	7%	165	91%	17	9%	82	45%	18	10%	32	18%	0	0%
WASHINGTON CO. COURT INFO. SERVICES	31	18%	40	23%	51	29%	31	18%	23	13%	153	87%	23	13%	0	0%	0	0%	176	100%	0	0%
WAYNE CO. PRETRIAL RELEASE	106	21%	92	18%	165	32%	90	18%	55	11%	462	91%	46	9%	155	31%	20	4%	324	64%	9	2%
TOTALS:	1,131	12%	1,365	14%	3,959	41%	2,392	24%	924	9%	8,655	88%	1,191	12%	4,376	45%	905	9%	4,376	45%	77	1%

FOOTNOTES:

(1) Demographic data are based on reported cases only.

(2) Demographic information for Albany County based on 16 cases interviewed by Albany County program between November 1 and December 31, 1986.

(3) Information for Court Employment Project based on cases interviewed between April 1 and December 31, 1986.

(4) Age and race breakdown for St. Lawrence County program based on 181 defendants interviewed between April 1 and December 31, 1986.

(5) Age, sex and race breakdown for Schenectady County program based on 294 defendants interviewed between April 1 and December 31, 1986.

TABLE VI

PRETRIAL RELEASE

CRIMINAL HISTORY DATA

PROGRAM NAME	PENDING CHARGE AT TIME OF INTERVIEW: FELONY #	FELONY %	MISDEMEANOR #	MISDEMEANOR %	OTHER #	OTHER %	PREVIOUS ARREST: YES #	YES %	NO #	NO %	PREVIOUS CONVICTION: YES #	YES %	NO #	NO %
ALBANY CO. ROR/RUS (2)	9	56%	7	44%	0	0%	13	81%	3	19%	11	69%	5	31%
BROOME CO. PRETRIAL RELEASE	235	47%	223	45%	40	8%	439	87%	65	13%	378	80%	95	20%
CATTARAUGUS CO. PRETRIAL RELEASE	67	37%	91	50%	23	13%	42	23%	138	77%	120	66%	61	34%
CHAUTAUQUA CO. ROR/RUS	76	37%	110	54%	19	9%	149	93%	12	7%	132	64%	73	36%
CHEMUNG CO. PRETRIAL RELEASE	145	48%	136	45%	21	7%	242	80%	60	20%	214	78%	61	22%
COLUMBIA CO. PRETRIAL RELEASE	20	11%	117	66%	39	22%	81	52%	76	48%	61	46%	73	54%
ERIE CO. PRETRIAL SERVICES	1,640	30%	3,802	70%	0	0%	4,082	75%	1,360	25%	2,177	40%	3,265	60%
GREENE CO. RELEASE ON RECOGNIZANCE	58	57%	39	38%	5	5%	82	80%	20	20%	78	76%	24	24%
HERKIMER CO. PRETRIAL RELEASE	40	32%	61	49%	23	19%	106	86%	17	14%	73	66%	38	34%
LEWIS CO. PRETRIAL RELEASE	18	47%	15	39%	5	13%	30	79%	8	21%	25	66%	13	34%
NASSAU CO. PRETRIAL REDUCTION	213	80%	54	20%	0	0%	166	62%	101	38%	104	40%	156	60%
NYC COURT EMPLOYMENT PROJECT (3)	280	94%	18	6%	0	0%	198	68%	93	32%	65	45%	78	55%
QUEENS CO. BAIL EXPEDITING (CJA)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
RENSSELAER CO. PRETRIAL SERVICES	1	8%	5	38%	7	54%	9	69%	4	31%	5	38%	8	62%
ROCKLAND CO. PRETRIAL RELEASE	289	57%	190	38%	24	5%	360	72%	143	28%	347	69%	156	31%
St. LAWRENCE CO. PRETRIAL RELEASE (4)	119	47%	124	49%	9	4%	157	87%	24	13%	157	87%	24	13%
SCHENECTADY CO. PRETRIAL RELEASE (5)	183	44%	197	48%	34	8%	187	64%	107	36%	217	53%	190	47%
STEUBEN CO. PRETRIAL RELEASE	137	58%	90	38%	10	4%	210	88%	28	12%	176	75%	58	25%
SUFFOLK CO. MONITORED RELEASE	46	25%	120	66%	16	9%	116	64%	66	36%	90	49%	92	51%
WASHINGTON CO. COURT INFO. SERVICES (6)	44	31%	80	57%	16	11%	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
WAYNE CO. PRETRIAL RELEASE (6)	217	43%	235	46%	54	11%	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
TOTALS:	3,837	39%	5,714	58%	345	3%	6,669	74%	2,325	26%	4,430	50%	4,470	50%

FOOTNOTES:

(1) Criminal History data are based on reported cases only.

(2) Previous conviction and previous arrest information for Albany County based on 16 cases interviewed between November 1 and December 31, 1986.

(3) Number of cases interviewed for Court Employment Project April 1 to December 31, 1986; prior conviction information based on 143 cases interviewed between July 1 and December 31, 1986.

(4) Previous conviction and previous arrest information for St. Lawrence County based on 181 cases interviewed between April 1 and Dec. 31, 1986.

(5) Previous arrest breakdown for Schenectady County is based on 294 cases interviewed between April 1 and Dec. 31, 1986.

(6) Previous conviction and previous arrest information for Washington County and Wayne County programs not available.

The program performance of the two bail expediting operations appears to be impressive. In both programs, defendants not previously released on bail or ROR are reinterviewed and assisted in securing release. The Queens Bail Expediting Program targets defendants who have bail amounts of $2,500 or less who neither make bail nor are released through other mechanisms. This program identified 8,937 persons who met the program criteria. Seventy-four percent (6,602) of these defendants were reinterviewed. Of these, 1,953 (30%) were subsequently released on bail as a result of program intervention. The Suffolk County Pretrial Program's Bail Expediting component identified and reinterviewed 3,710 defendants who were not released on bail or recognizance or included in the supervised release program. After completing a second interview and verifying information reported by the defendant, the program assisted 1,838 (50%) defendants to secure sureties resulting in their release on bail. As a result of this additional information being provided to the court, another 945 (24%) defendants (accounted for earlier in this section) were released ROR. Thus, these two programs intervened in a total of 10,312 cases and helped effect the release of 4,736 (46%) defendants. Data on defendant characteristics and criminal histories were not available for the cases processed by the bail expediting programs.

C. Community Service Sentencing Programs

In 1986 funding under the "Classification/Alternatives" bill was provided for 24 community service programs, 36 percent of the total number of programs funded. One program was funded in each of 22 counties and two programs were supported in New York City.

Statewide, 1,338 offenders were sentenced to perform community service via these programs during calendar year 1986. As shown in Table VII, almost one-fourth (23%) of 1,311 offenders for whom data are available were convicted of felony offenses. Sixty-one percent were convicted of misdemeanors and 16 percent were required to perform community service for a probation violation or conviction for a non-penal law offense or an ordinance violation. In

addition, the available data (see Table VIII) indicate that almost two-thirds (64%) of these offenders had prior criminal convictions and 70 percent had prior arrests.

Looking across programs at the conviction offense for which community service was imposed (see Table VII), we find that over half (54%) of the programs handled a significant portion (20% or more) of cases involving felony convictions. In 38 percent of the programs, at least one-third of the cases involved felony convictions. At this early stage in the development of these programs it is encouraging to find that a substantial portion of the offenders ordered to perform community service were convicted of relatively serious charges that may be indicative of jail-boundness. It is similarly encouraging to find that most of the offenders have prior criminal convictions and arrests (see Table VIII). To the extent that these case characteristics are indicative of case seriousness and an increased likelihood of incarceration, one can infer that many of the offenders sentenced through these programs were in jeopardy of being incarcerated.

Offenders discharged from community service programs during 1986 totaled 881. Of these, 662 (75%) were released after successfully completing their community service obligations. A total of 84,005 hours of community service were completed in 1986. The number of hours completed varies across programs from a high of 11,975 to a low of 139. The variation in the number of hours completed is attributable to the total number of offenders sentenced to the program, the frequency with which service is to be performed, and, most importantly, the number of hours ordered per case.

Although the data currently available do not lend themselves to a definitive analysis of this issue, it seems fairly obviously that there is considerable variation across programs in the average number of hours of community service ordered. Such variation raises important questions regarding whether or not the sanction is being used as a true alternative, and whether or not these programs are implemented in a manner consistent with proportionality in sentencing. As a general rule, if very short community service sentences are meted out, it is often true that the instant cases were not ones that would have resulted in jail sentences.

TABLE VII

COMMUNITY SERVICE

CASE PROCESSING DATA

PROGRAM NAME	SENTENCED #	CONVICTION CHARGE (1) FELONY #	FELONY %	MISDEMEANOR #	MISDEMEANOR %	OTHER #	OTHER %	SERVICE HOURS COMPLETED	DISCHARGED #	SUCCESSFUL #	SUCCESSFUL %
CHENANGO CO. COMMUNITY SERVICE (2)	17	2	12%	15	88%	0	0%	6,244	13	9	69%
CHEMUNG CO. WORK ORDER PROGRAM	32	16	52%	14	45%	1	3%	9,041	15	13	87%
CLINTON CO. ALTERANTIVE SENTENCING	49	3	6%	31	63%	15	31%	2,650	36	27	75%
COLUMBIA CO. ALTERNATIVE SENTENCING (3)	19	4	21%	12	63%	3	16%	668	19	17	89%
DUTCHESS CO. WORK ALTERNATIVES	41	15	37%	24	59%	2	5%	3,647	20	14	70%
ERIE CO. COMMUNITY SERVICE	94	3	3%	37	41%	51	56%	2,290	52	41	79%
HERKIMER CO. COMMUNITY SERVICE	35	4	11%	30	86%	1	3%	961	17	13	76%
KINGS CO. D.A. ALTERNATIVE SENT.	229	41	19%	132	60%	47	21%	10,260	177	118	67%
MADISON CO. COMMUNITY SERVICE	11	3	27%	8	73%	0	0%	1,104	5	3	60%
MONTGOMERY CO. COMMUNITY SERVICE	70	11	16%	33	47%	26	37%	2,166	28	24	86%
ORLEANS CO. COMMUNITY SERVICE	79	21	29%	37	51%	14	19%	3,376	49	46	94%
OTSEGO CO. COMMUNITY SERVICE	56	10	18%	28	50%	18	32%	1,352	52	38	73%
QUEENS CO. COMMUNITY SERVICE	184	1	1%	183	99%	0	0%	6,160	147	88	60%
ROCKLAND CO. COMMUNITY SERVICE	136	58	43%	62	46%	16	12%	7,448	109	93	85%
SARATOGA CO. ALTERNATIVE SENTENCING	19	1	5%	16	84%	2	11%	1,864	11	9	82%
SENCEA CO. COMMUNITY SERVICE	43	4	9%	36	84%	3	7%	2,314	24	20	83%
SCHOHARIE CO. COMMUNITY SERVICE	21	9	43%	11	52%	1	5%	1,475	14	14	100%
SCHUYLER CO. COMMUNITY SERVICE	41	11	28%	21	54%	7	18%	3,899	39	36	92%
SULLIVAN CO. COMMUNITY SERVICE	9	3	33%	6	67%	0	0%	139	3	0	0%
STEUBEN CO. COMMUNITY SERVICE (4)	4	2	50%	2	50%	0	0%	348	2	0	0%
TOHPKINS CO. COMMUNITY SERVICE	34	15	44%	17	50%	2	6%	2,456	23	20	87%
ULSTER CO. COMMUNITY SERVICE (5)	17	3	18%	14	82%	0	0%	484	2	1	50%
WESTCHESTER CO. COMMUNITY SERVICE	80	52	69%	23	31%	0	0%	11,975	16	12	75%
WYOHING CO. COMMUNITY SERVICE	18	8	44%	10	56%	0	0%	1,684	8	6	75%
TOTALS:	1,338	300	23%	802	61%	209	16%	84,005	881	662	75%

FOOTNOTES:

(1) Conviction charge data are based upon reported cases only.

(2) Chenago County Community Service data covers the peiod through 3/31/86.

(3) Columbia County Alternative Sentencing accepted cases for 10 months during 1986.

(4) Steuben County Community Service accepted cases for 3 months during 1986.

(5) Ulster County Community Service accepted cases for 9 months during 1986.

TABLE VIII

COMMUNITY SERVICE

CRIMINAL HISTORY DATA

PROGRAM NAME	PRESENT CONVICTION: FELONY #	FELONY %	MISDEMEANOR #	MISDEMEANOR %	OTHER #	OTHER %	PRIOR ARREST: YES #	YES %	NO #	NO %	PRIOR CONVICTION: YES #	YES %	NO #	NO %
CHENANGO CO. COMMUNITY SERVICE (2)	2	12%	15	88%	0	0%	7	41%	10	59%	15	88%	2	12%
CHEMUNG CO. WORK ORDER PROGRAM	16	52%	14	45%	1	3%	26	81%	6	19%	20	63%	12	38%
CLINTON CO. ALTERANTIVE SENTENCING	3	6%	31	63%	15	31%	20	47%	23	53%	19	43%	25	57%
COLUMBIA CO. ALTERNATIVE SENTENCING (3)	4	21%	12	63%	3	16%	8	47%	9	53%	6	38%	10	63%
DUTCHESS CO. WORK ALTERNATIVES	15	37%	24	59%	2	5%	31	78%	9	23%	29	73%	11	28%
ERIE CO. COMMUNITY SERVICE	3	3%	37	41%	51	56%	50	55%	41	45%	38	42%	53	58%
HERKIMER CO. COMMUNITY SERVICE	4	11%	30	86%	1	3%	28	80%	7	20%	28	80%	7	20%
KINGS CO. D.A. ALTERNATIVE SENT.	41	19%	132	60%	47	21%	163	76%	52	24%	169	97%	5	3%
MADISON CO. COMMUNITY SERVICE	3	27%	8	73%	0	0%	11	100%	0	0%	11	100%	0	0%
MONTGOMERY CO. COMMUNITY SERVICE	11	16%	33	47%	26	37%	49	70%	21	30%	20	29%	50	71%
ORLEANS CO. COMMUNITY SERVICE	21	29%	37	51%	14	19%	37	49%	39	51%	37	49%	39	51%
OTSEGO CO. COMMUNITY SERVICE	10	18%	28	50%	18	32%	40	80%	10	20%	13	36%	23	64%
QUEENS CO. COMMUNITY SERVICE	1	1%	183	99%	0	0%	183	99%	1	1%	183	99%	1	1%
ROCKLAND CO. COMMUNITY SERVICE	58	43%	62	46%	16	12%	N/A	N/A	N/A	N/A	53	47%	60	53%
SARATOGA CO. ALTERNATIVE SENTENCING	1	5%	16	84%	2	11%	14	82%	3	18%	8	53%	7	47%
SENCEA CO. COMMUNITY SERVICE	4	9%	36	84%	3	7%	23	53%	20	47%	17	43%	23	58%
SCHOHARIE CO. COMMUNITY SERVICE	9	43%	11	52%	1	5%	3	14%	18	86%	14	67%	7	33%
SCHUYLER CO. COMMUNITY SERVICE	11	28%	21	54%	7	18%	4	10%	37	90%	4	10%	37	90%
SULLIVAN CO. COMMUNITY SERVICE	3	33%	6	67%	0	0%	7	78%	2	22%	7	78%	2	22%
STEUBEN CO. COMMUNITY SERVICE (4)	2	50%	2	50%	0	0%	3	75%	1	25%	3	75%	1	25%
TOMPKINS CO. COMMUNITY SERVICE	15	44%	17	50%	2	6%	30	88%	4	12%	22	69%	10	31%
ULSTER CO. COMMUNITY SERVICE (5)	3	18%	14	82%	0	0%	11	65%	6	35%	11	65%	6	35%
WESTCHESTER CO. COMMUNITY SERVICE	52	69%	23	31%	0	0%	47	63%	28	37%	44	59%	30	41%
WYOMING CO. COMMUNITY SERVICE	8	44%	10	56%	0	0%	12	67%	6	33%	9	50%	9	50%
TOTALS:	300	23%	802	61%	209	16%	807	70%	353	30%	789	64%	430	36%

FOOTNOTES:

(1) Criminal History data are based upon reported cases only.

(2) Chenago County Community Service data covers the period through 1986.

(3) Columbia County Alternative Sentencing accepted cases for 10 months during 1986.

(4) Steuben County Community Service accepted cases for 3 months during 1986.

(5) Ulster County Community Service accepted cases for 9 months during 1986.

If community service is to be a viable sentencing option, it must be meted out in a manner that is both proportional to the term of incarceration for which it substitutes, and consistent with how other possible sentences are perceived (and, therefore, "weighted") in each county and across the state. Proportionality is essential lest the introduction of such an option result in inappropriately long or short community service orders, both within and across jurisdictions. Unduly long orders may become impractical to manage and enforce. Orders reflecting short periods of community service, on the other hand, may not constitute a sufficient sanction and may serve to devalue other sanctions that might be imposed.

Proportionality of community service orders across offense classes is currently being addressed in the formulation of the Division's Community Service Sentencing Standards. In these standards, several different methods for determining the number of hours to be assessed in a given case will be authorized. These options are likely to include a maximum number of hours for each offense class for which community service is statutorily authorized. The maximums provided will seek to preserve proportionality across offense classes while providing room for discretion in setting the number of hours to be imposed. Of course these standards cannot impose limits on judicial discretion that is allowed by law. They will, however, suggest guidelines that will inhibit wide variation across similar cases. We anticipate that program recommendations, if based on rationally structured methods for determining the number of hours, will influence judicial decisions and result in general conformity with the guidelines reflected in the standards.

Across the state, offenders sentenced to community service were predominantly young (73% less than 30 year of age), male (85%) and white (63%). As shown in Table IX, the distribution of offenders across age categories is, for most programs, consistent with the statewide distribution. Across programs there is considerable variation in the proportion of males and females served. Over 90 percent of the offenders served by seven of the programs were male, while in five programs, at least 25 percent of the offenders were female. The racial composition of the offenders performing community service varies across programs, with the two New York City programs serving a predominantly minority population while the remainder of the programs serve a predominantly white population.

TABLE IX

COMMUNITY SERVICE

DEMOGRAPHIC DATA

PROGRAM NAME	AGE 16-18 YRS. #	%	19-21 YRS. #	%	22-29 YRS. #	%	30-39 YRS. #	%	40 + YRS. #	%	SEX MALE #	%	FEMALE #	%	RACE BLACK #	%	HISPANIC #	%	WHITE #	%	OTHER #	%
CHENANGO CO. COMMUNITY SERVICE	7	41%	4	24%	5	29%	1	6%	0	0%	11	65%	6	35%	0	0%	0	0%	17	100%	0	0%
CHEMUNG CO. WORK ORDER PROGRAM	2	6%	7	22%	11	34%	3	9%	9	28%	21	66%	11	34%	6	19%	0	0%	26	81%	0	0%
CLINTON CO. ALTERANTIVE SENTENCING	16	33%	16	33%	7	14%	6	12%	4	8%	39	80%	10	20%	1	2%	0	0%	48	98%	0	0%
COLUMBIA CO. ALTERNATIVE SENTENCING	0	0%	5	26%	9	47%	5	26%	0	0%	11	58%	8	42%	3	16%	0	0%	16	84%	0	0%
DUTCHESS CO. WORK ALTERNATIVES	4	10%	6	15%	20	50%	6	15%	4	10%	35	85%	6	15%	9	22%	1	2%	31	76%	0	0%
ERIE CO. COMMUNITY SERVICE	18	19%	17	18%	35	38%	14	15%	9	10%	77	82%	17	18%	37	39%	5	5%	52	55%	0	0%
HERKIMER CO. COMMUNITY SERVICE	4	11%	13	37%	11	31%	5	14%	2	6%	32	91%	3	9%	0	0%	0	0%	35	100%	0	0%
KINGS CO. D.A. ALTERNATIVE SENT.	50	23%	49	22%	75	34%	34	16%	11	5%	212	93%	17	7%	125	55%	55	24%	48	21%	1	0%
MADISON CO. COMMUNITY SERVICE	2	18%	2	18%	6	55%	1	9%	0	0%	10	91%	1	9%	0	0%	0	0%	11	100%	0	0%
MONTGOMERY CO. COMMUNITY SERVICE	14	20%	18	26%	21	30%	14	20%	3	4%	56	80%	14	20%	1	1%	20	29%	46	66%	3	4%
ORLEANS CO. COMMUNITY SERVICE	17	22%	19	25%	21	27%	13	17%	7	9%	62	78%	17	22%	8	10%	1	1%	70	89%	0	0%
OTSEGO CO. COMMUNITY SERVICE	21	41%	11	22%	8	16%	10	20%	1	2%	50	89%	6	11%	0	0%	0	0%	56	100%	0	0%
QUEENS CO. COMMUNITY SERVICE	5	3%	24	13%	70	38%	66	36%	18	10%	151	82%	33	18%	98	53%	39	21%	44	24%	3	2%
ROCKLAND CO. COMMUNITY SERVICE	11	8%	22	16%	63	46%	30	22%	10	7%	125	92%	11	8%	31	23%	6	4%	99	73%	0	0%
SARATOGA CO. ALTERNATIVE SENTENCING	6	32%	6	32%	5	26%	1	5%	1	5%	16	84%	3	16%	1	7%	0	0%	14	93%	0	0%
SENCEA CO. COMMUNITY SERVICE	20	47%	10	23%	9	21%	0	0%	4	9%	34	79%	9	21%	1	2%	1	2%	41	95%	0	0%
SCHOHARIE CO. COMMUNITY SERVICE	11	52%	6	29%	2	10%	2	10%	0	0%	16	76%	5	24%	0	0%	0	0%	21	100%	0	0%
SCHUYLER CO. COMMUNITY SERVICE	17	44%	5	13%	9	23%	4	10%	4	10%	39	95%	2	5%	0	0%	0	0%	41	100%	0	0%
SULLIVAN CO. COMMUNITY SERVICE	1	11%	3	33%	0	0%	3	33%	2	22%	8	89%	1	11%	3	33%	0	0%	6	67%	0	0%
STEUBEN CO. COMMUNITY SERVICE	1	25%	1	25%	0	0%	0	0%	2	50%	3	75%	1	25%	1	25%	0	0%	3	75%	0	0%
TOMPKINS CO. COMMUNITYS SERVICE	9	26%	9	26%	11	32%	5	15%	0	0%	34	100%	0	0%	7	21%	0	0%	26	76%	1	3%
ULSTER CO. COMMUNITY SERVICE	5	29%	4	24%	6	35%	2	12%	0	0%	16	94%	1	6%	1	6%	2	12%	14	82%	0	0%
WESTCHESTER CO. COMMUNITY SERVICE	15	20%	6	8%	25	33%	17	23%	12	16%	67	84%	13	16%	20	25%	5	6%	49	61%	1	1%
WYOMING CO. COMMUNITY SERVICE	2	11%	3	17%	10	56%	3	17%	0	0%	13	72%	5	28%	0	0%	0	0%	18	100%	0	0%
TOTALS:	258	20%	266	20%	439	33%	245	19%	103	8%	1138	85%	200	15%	353	27%	135	10%	832	63%	9	1%

NOTE: Demographics data are based on reported cases only.

The under-representation of minorities among those sentenced to community service programs, relative to the population of sentenced offenders in local jails, is of serious concern to the Division, and has been routinely addressed in the course of program monitoring. The racially skewed population of some programs raises questions regarding the extent to which the offenders sentenced to these programs would have received sentences of incarceration in the absence of these programs. While the evidence with respect to prior record and conviction offense suggests the potential for incarceration in many instances, the under-representation of minorities among program clients (in comparison with the jail data for those counties) casts doubts on such a conclusion. Moreover, even if it were determined that the offenders in these programs, albeit predominantly white, were overwhelmingly jail bound, the Division will not tolerate alternatives to incarceration programs that do not include minority offenders in numbers that are at least approximately proportional to their representation among offenders sentenced to jail for similar offenses. It is also important to acknowledge, however, that the low minority participation rates in some counties may have no direct relationship to program activities, but may reflect broader criminal justice case processing issues that are, in part, beyond the ability of the programs to control.

To address these concerns, the Division's Community Service Sentencing Standards will require fair and objective eligibility criteria to be established by each program and procedures to ensure that community service is implemented fairly and equitably. In addition to these standards, the Division will continue its efforts to work directly with individual programs to increase minority participation in community service programs. One significant way in which both the Division's standards and the program monitors are attempting to ensure the participation of more minority offenders and higher proportions of jail-bound offenders is to encourage early case intervention by programs. Programs should be intervening at a point in the process that precedes any commitments regarding sentence. Early eligibility determinations and program recommendations to the court should increase the likelihood that the programs will be utilized in a fair and equitable manner for offenders otherwise destined to be incarcerated.

D. Defender-Based Advocacy Programs

Defender-based advocacy programs, despite constituting only 7 percent of the total funded programs (5 of 67), represent an important new alternatives model. Though virtually any ATI program may receive referrals for consideration from defense counsel, the defender-based programs discussed here are unique in that they are designed to serve the needs of defense lawyers (and, therefore, their clients) as they carry out their representational duties. Perhaps the most important aspect of this direct program-to-attorney relationship is the opportunity for improved client selection. As noted in other sections of this report, the most fundamental dilemma faced by alternatives programs is the determination of whether the prospective client is likely to be incarcerated. Defender-based advocacy programs have a distinct advantage insofar as the defense attorney is in a strategic position to assess whether or not a particular defendant is likely to be confined. These programs, therefore, have an opportunity to have a substantial impact on jail or prison populations.

Defender-based programs offer a variety of services and intervene at various points in criminal case processing. A review of these services will help to clarify the data. One basic service is assessment of defendants' needs and subsequent referrals to appropriate community-based agencies. This function is referred to as "information and referral" (I & R). It is distinguished from other defender-based efforts in that a formal report is not necessarily prepared for the courts, though defense counsel or the program typically makes the court aware of these efforts and positive participation at the referral site usually has a positive impact on case dispositions. In other instances, the program prepares formal memoranda or reports to the court relative to important case processing decisions. For example, an attorney may seek an affidavit in support of a bail application for a detained client, or may request a pre-pleading report designed to convince the judge and/or district attorney of the appropriateness of a reduced plea. The most common report, however, is the defendant's presentence memorandum, authorized by the Criminal Procedure Law. These memoranda typically include a detailed and verified social and legal history of the defendant and his/her current circumstances, and a comprehensive alternative sentencing plan. Such

a plan usually includes provisions for community supervision, alternative sanctions (e.g., community service) and treatment or employment options. In virtually all instances, the plans seek to provide a comprehensive and verifiable routine of activities for the client, one that imposes a level of accountability that can reduce the chances of returning to criminal behavior. The alternative sanctions that are proposed seek to accommodate the retributive needs of sentencing as well as the interests of victims. In some instances, presentence memoranda prepared by defender-based advocacy programs seek reduced periods of incarceration (which is why defender-based advocacy programs can have a positive impact even in cases where incarceration is mandatory).

These programs are frequently located within the public defender's office (or the office of the institutional provider of legal services for the indigent). This is true of three of the five programs currently funded. Cortland County's program, however, exists as an independent agency of county government and is not necessarily restricted to accepting cases exclusively from the county's public defender. The Osborne Association program in New York City is unique in that its services are intended for members of the assigned counsel panel (18-B Panel), private attorneys who are assigned individual cases when the City's institutional provider of defense services (the Legal Aid Society) cannot represent the defendant in question. Programs that are not housed directly in the defender's office must establish themselves with the defense bar even before they can confront the challenge of establishing credibility with the courts. In both the Cortland County and Osborne Association programs, the defense bar has responded enthusiastically to the availability of these services. Consequently, we believe that it is quite possible to implement successfully defender-based services without necessarily housing the program in defender offices.

During calendar year 1986, the five defender-based advocacy programs funded through the "Classification/Alternatives" bill served a total of 709 defendants (see Table X). Most of these individuals were the subject of I&R services. That is, the program made assessments and referrals and then provided the attorney and/or court with follow-up information on the client's

TABLE X

DEFENDER-BASED ADVOCACY

CASE PROCESSING DATA

PROGRAM NAME	CLIENTS SERVED #	I&R SERVICES #	REPORTS PREPARED #	REPORTS ACCEPTED #	REPORTS ACCEPTED %	PENDING CHARGE FELONY #	PENDING CHARGE FELONY %	PENDING CHARGE MISDEMEANOR #	PENDING CHARGE MISDEMEANOR %	PENDING CHARGE OTHER #	PENDING CHARGE OTHER %
ALBANY CO. PUBLIC DEFENDER ASP (1)	110	23	87	70	80%	66	67%	30	0%	2	2%
CORTLAND CO. ALTERNATIVES	72	30	49	37	76%	23	32%	38	42%	11	15%
NYC LEGAL AID SOCIETY ATI (2)	216	213	51	51	100%	156	84%	30	20%	0	0%
NYC OSBORNE ASSOC. ADVOCACY PROJECT	96	N/A	59	54	92%	93	97%	3	3%	0	0%
WAYNE CO. DEFENDER ADVOCACY (3)	215	201	23	16	70%	N/A	N/A	N/A	N/A	N/A	N/A
TOTALS:	709	467	269	228	85%	338	75%	101	22%	13	3%

FOOTNOTES:
(1) Albany County Public Defender ASP Pending Charge data is based on 98 cases.
(2) NYC Legal Aid Society ATI Pending Charge data is based on 186 cases.
(3) Wayne County Defender Advocacy program did not report Pending Charge data.

progress. A total of 467 I&R services were provided during this year. Though current data do not make it possible to provide detailed statistics on types of referrals, preliminary indications are that a majority of these referrals are to drug and alcohol abuse treatment programs, followed by job training or job placement efforts.

It is important to note that the data indicate clear differences in the volume of I&R services reported across the programs. The Osborne Association's Assigned Counsel Alternatives Advocacy Project in the Bronx, for example, does not usually handle simple I&R cases, preferring to accept referrals only in more complex cases where preparation of written advocacy materials is instrumental to case outcomes. (This program, of course, makes assessments and referrals; however, these are part of a more intensive case management effort and are reflected in the memoranda prepared for the courts. This program, moreover, does accommodate requests from attorneys for referral information, but typically views such services as "technical assistance" to the inquiring counsel. These services are not reported in the various tables presented here.) The Legal Aid Society program, on the other hand, because it was designed in large part to intervene immediately prior to arraignment and to link defendants unlikely to be released pretrial with appropriate community agencies, performs a large number of I&R services. Similarly, Wayne County's small program, because it operates in a jurisdiction where there are few, if any, other court related programs offering such services, also completes many I&Rs.

A total of 269 reports to the courts were prepared and submitted by these programs, the majority of which were presentence memoranda. Strikingly, the programs reported that 85 percent of these reports were accepted in whole or in part by the court hearing the case. Though it is not currently possible to assess the degree of court acceptance or its significance to case outcomes, this figure does indicate that these reports are influential and do have an impact on judicial decision-making. And, since the reports are developed as advocacy pieces that seek to reduce reliance on incarceration, one can reasonably assume that many of the reports had the effect of either avoiding incarceration or reducing the particular defendant's exposure to jail or prison time.

An examination of the criminal history characteristics of the client population (See Table XI) for this program model supports the previous claim that defender-based advocacy programs are likely to have an advantage in terms of client selection and, therefore, will serve a population more likely to be jail or prison bound. Almost three-quarters (72%) of the defendants served were facing felony charges at the time of referral, by far the highest percentage of such defendants for any program model. Similarly, 76 percent of these cases had prior criminal convictions and 77 percent had prior arrest histories.

The demographic data (Table XII) are also consistent with this perspective in that client characteristics are similar to demographic distribution of incarcerated offenders. Eighty percent of the clients in these programs are aged 29 and under and 82 percent are males. Perhaps more significantly, the racial composition of the client population is generally consistent with the corresponding data for jail admissions (based upon 1985 Sheriffs' Annual Reports to the New York State Commission of Correction). Overall, 45 percent of the clients served by these programs were minority members. A more detailed comparison, however, reveals close approximation to the distribution of incarcerated individuals. The two New York City programs had client populations that were 96 percent (Osborne) and 90 percent (Legal Aid Society) minority, figures that are every much representative of the City's jail population. The Cortland County program's client population was 97 percent white, while Wayne County's program population was 79 percent white. The corresponding figures for the jail population in those counties are 97 percent and 72 percent respectively. Albany County's program population consisted of 28 percent minority members, whereas local admissions to its two correctional facilities were 39 percent minority.

E. Specialized Alternatives To Incarceration

As noted in Chapter Two, the Specialized Alternatives to Incarceration category includes a variety of different program types not readily grouped with any of the other models. Because these nine programs do not constitute

TABLE XI

DEFENDER-BASED ADVOCACY

CRIMINAL HISTORY DATA

PROGRAM NAME	PENDING CHARGE: FELONY #	FELONY %	MISDEMEANOR #	MISDEMEANOR %	OTHER #	OTHER %	PRIOR ARRESTS: YES #	YES %	NO #	NO %	PRIOR CONVICTIONS: YES #	YES %	NO #	NO %
ALBANY CO. PUBLIC DEFENDER ASP	66	60%	30	27%	14	13%	54	69%	24	31%	29	52%	27	48%
CORTLAND CO. ALTERNATIVES	23	32%	38	53%	11	15%	60	83%	12	17%	60	83%	12	17%
NYC LEGAL AID SOCIETY ATI	156	84%	30	16%	0	0%	82	74%	29	26%	100	88%	13	12%
NYC OSBORNE ASSOC. ADVOCACY PROJECT	89	93%	3	3%	4	4%	N/A	N/A	N/A	N/A	36	39%	56	61%
WAYNE CO. DEFENDER ADVOCACY	N/A	N/A	N/A	N/A	N/A	N/A	16	100%	0	0%	115	100%	0	0%
TOTALS:	334	72%	101	22%	29	6%	212	77%	65	23%	340	76%	108	24%

NOTE: Defender-Based Advocacy Programs criminal history data are based upon reported cases only.

TABLE XII

DEFENDER-BASED ADVOCACY

DEMOGRAPHIC DATA

PROGRAM NAME	AGE: 16-18 YRS. #	16-18 YRS. %	19-21 YRS. #	19-21 YRS. %	22-29 YRS. #	22-29 YRS. %	30-39 YRS. #	30-39 YRS. %	40 + YRS. #	40 + YRS. %	SEX: MALE #	MALE %	FEMALE #	FEMALE %	RACE: BLACK #	BLACK %	HISPANIC #	HISPANIC %	WHITE #	WHITE %	OTHER #	OTHER %
ALBANY CO. PUBLIC DEFENDER ASP	29	26%	21	19%	27	25%	22	20%	11	10%	92	84%	18	16%	29	26%	1	1%	79	72%	1	1%
CORTLAND CO. ALTERNATIVES	28	39%	12	17%	14	19%	10	14%	4	6%	62	86%	10	14%	1	1%	1	1%	70	97%	0	0%
NYC LEGAL AID SOCIETY ATI	9	8%	26	24%	47	43%	19	17%	9	8%	104	95%	6	5%	36	33%	63	57%	11	10%	0	0%
NYC OSBORNE ASSOC. ADVOCACY PROJECT (2)	21	22%	13	14%	31	32%	19	20%	5	5%	79	82%	17	18%	39	41%	53	55%	4	4%	0	0%
WAYNE CO. DEFENDER ADVOCACY	125	62%	20	10%	37	18%	11	5%	8	4%	144	72%	57	28%	31	15%	12	6%	158	79%	0	0%
TOTALS:	212	37%	92	16%	156	27%	81	14%	37	6%	481	82%	108	18%	136	23%	130	22%	322	55%	1	0%

FOOTNOTE:

(1) Demographics data are based on reported cases only.

(2) NYC Osborne Association Advocacy Project age demographics include 6 juvenile offenders under the age of 16 years old in the 16-18 years category.

a uniform model, it is difficult and potentially misleading to aggregate some of the performance data that have been reported. Consequently, this section will present some gross aggregations related to program performance and will follow with more detailed discussions of individual program models as appropriate.

Table XIII presents some basic caseload data for the nine specialized programs. During calendar year 1986, these initiatives served a total of 526 clients. Approximately one-half of the offenders who participated in these programs were convicted of felonies (a figure skewed somewhat by the fact that the Orange County misdemeanor alternative sentencing program is, by definition, restricted exclusively to misdemeanants). Overall, approximately 83 percent of the program participants successfully complied with the terms of program participation, though there is considerable variation among program models. (Data are not available on successful participation rates for the Madison County Sex Offender program because all participants were still under program supervision at the time the data were reported and none had been terminated, either successfully or unsuccessfully.)

Most participants in these programs had prior criminal histories, with 75 percent of the reported cases having prior convictions and 85 percent having prior arrests (See Table XIV). Demographically, 67 percent of the Specialized ATI clients were age 29 or younger, 80 percent were males and 35 percent were minority members (See Table XV). Again, there is significant variation across program models with respect to these characteristics and, in certain cases, low minority participation rates are of prominent concern.

Eight of the nine Specialized programs screen potential clients, make eligibility determinations and then recommend program placement to the courts. Table XIII includes data regarding outcomes for all eligible cases presented to the courts. Of the total number of positive recommendations made to the courts, 68 percent were accepted and resulted in court-ordered placement with the program, typically as a condition of probation supervision. One should not expect or desire 100 percent acceptance of program recommendations by the judiciary, for such a finding would indicate that the programs are probably focusing on a client population for which the court is predisposed to impose a non-incarcerative sanction. In several instances, however, a high rate of judicial acceptance is expected. For example, the Onondaga County residential program, which reported a 100 percent acceptance

TABLE XIII

SPECIALIZED ALTERNATIVES

CASE PROCESSING DATA

PROGRAM NAME	CLIENTS SERVED #	RECOMMENDATIONS TO COURT TOTAL #	ACCEPTED #	ACCEPTED %	SUCCESSFUL #	SUCCESSFUL %	PENDING CHARGE FELONY #	FELONY %	MISDEMEANOR #	MISDEMEANOR %	OTHER #	OTHER %
ERIE CO. WOMEN'S RESIDENTIAL CENTER	48	40	36	90%	25	64%	11	23%	37	77%	0	0%
MADISON CO. SEX OFFENDER PROGRAM (1)	13	16	12	75%	N/A (2)	N/A	5	38%	8	62%	0	0%
MONROE CO. DEVELOPMENTALLY DISABLED (3)	148	63	63	100%	135	100%	74	51%	61	42%	9	6%
MONROE CO. HOME CONFINEMENT	51	107	44	41%	28	80%	32	63%	19	37%	0	0%
NASSAU CO. WORK FURLOUGH PROGRAM	32	N/A	N/A	N/A	32	100%	15	47%	9	28%	8	25%
ONEIDA CO. DOMICILE RESTRICTION	74	89	74	83%	40	68%	16	22%	57	77%	1	1%
ONONDAGA CO. RESIDENTIAL ALCOHOL	45	42	42	100%	8	31%	28	62%	17	38%	0	0%
ORANGE CO. ALTERNATIVE SENTENCING	43	25	24	96%	6	46%	0	0%	43	100%	0	0%
SUFFOLK CO. SHERIFF'S TREATMENT OPTION	72	155	72	46%	57	92%	61	85%	11	15%	0	0%
TOTALS:	526	537	367	68%	331	83%	242	46%	262	50%	18	3%

FOOTNOTES:

(1) Madison County Sex Offender Program accepted cases for 6 months during 1986.

(2) Madison County Sex Offender Program provides offender psychological assessment and evaluation services.

(3) In the Monroe County Developmentally Disabled Program, a sizable portion of the clients served did not receive court recommendations.

TABLE XIV
SPECIALIZED ALTERNATIVES
CRIMINAL HISTORY DATA

PROGRAM NAME	PENDING CHARGE FELONY #	FELONY %	PENDING CHARGE MISDEMEANOR #	MISDEMEANOR %	PENDING CHARGE OTHER #	OTHER %	PRIOR ARREST YES #	PRIOR ARREST YES %	PRIOR ARREST NO #	PRIOR ARREST NO %	PRIOR CONVICTION YES #	PRIOR CONVICTION YES %	PRIOR CONVICTION NO #	PRIOR CONVICTION NO %
ERIE CO. WOMEN'S RESIDENTIAL CENTER	11	23%	37	77%	0	0%	37	77%	11	23%	20	42%	28	58%
MADISON CO. SEX-OFFENDER PROGRAM (2)	5	38%	8	62%	0	0%	5	38%	8	62%	5	38%	8	62%
MONROE CO. DEVELOPMENTALLY DISABLED	74	51%	61	42%	9	6%	120	82%	26	18%	77	64%	44	36%
MONROE CO. HOME CONFINEMENT	32	63%	19	37%	0	0%	40	78%	11	22%	38	75%	13	25%
NASSAU CO. WORK FURLOUGH PROGRAM	15	47%	9	28%	8	25%	32	100%	0	0%	32	100%	0	0%
ONEIDA CO. DOMICILE RESTRICTION	16	22%	57	77%	1	1%	55	74%	19	26%	54	73%	20	27%
ONONDAGA CO. RESIDENTIAL ALCOHOL	28	62%	17	38%	0	0%	44	98%	1	2%	44	98%	1	2%
ORANGE CO. ALTERNATIVE SENTENCING	0	0%	43	100%	0	0%	39	91%	4	9%	30	70%	13	30%
SUFFOLK CO. SHERIFF'S TREATMENT OPTION	61	85%	11	15%	0	0%	72	100%	0	0%	72	100%	0	0%
TOTALS:	242	46%	262	50%	18	3%	444	85%	80	15%	372	75%	127	25%

FOOTNOTES:
(1) Criminal History data are based upon reported cases only.
(2) Madison County Sex Offender Program accepted cases for 6 months during 1986.

TABLE XV
SPECIALIZED ALTERNATIVES
DEMOGRAPHIC DATA

PROGRAM NAME	AGE 16-18 YRS. (f)	AGE 16-18 YRS. (%)	AGE 19-21 YRS. (f)	AGE 19-21 YRS. (%)	AGE 22-29 YRS. (f)	AGE 22-29 YRS. (%)	AGE 30-39 YRS. (f)	AGE 30-39 YRS. (%)	AGE 40 + YRS. (f)	AGE 40 + YRS. (%)	SEX MALE (f)	SEX MALE (%)	SEX FEMALE (f)	SEX FEMALE (%)	RACE BLACK (f)	RACE BLACK (%)	RACE HISPANIC (f)	RACE HISPANIC (%)	RACE WHITE (f)	RACE WHITE (%)	RACE OTHER (f)	RACE OTHER (%)
ERIE CO. WOMEN'S RESIDENTIAL CENTER	17	35%	10	21%	16	33%	5	10%	0	0%	0	0%	48	100%	36	75%	5	10%	7	15%	0	0%
MADISON CO. SEX-OFFENDER PROGRAM	2	15%	0	0%	3	23%	1	8%	6	46%	13	100%	0	0%	0	0%	0	0%	12	92%	1	8%
MONROE CO. DEVELOPMENTALLY DISABLED	37	27%	26	19%	41	30%	23	17%	11	8%	127	86%	21	14%	48	33%	3	2%	95	65%	0	0%
MONROE CO. HOME CONFINEMENT	4	8%	9	18%	18	35%	11	22%	9	18%	43	84%	8	16%	23	45%	2	4%	26	51%	0	0%
NASSAU CO. WORK FURLOUGH PROGRAM	1	3%	3	9%	6	19%	19	59%	3	9%	27	84%	5	16%	4	13%	2	6%	26	81%	0	0%
ONEIDA CO. DOMICILE RESTRICTION	17	23%	13	18%	28	38%	12	16%	4	5%	51	69%	23	31%	30	41%	0	0%	44	59%	0	0%
ONONDAGA CO. RESIDENTIAL ALCOHOL	0	0%	12	27%	24	53%	6	13%	3	7%	45	100%	0	0%	5	11%	1	2%	37	82%	2	4%
ORANGE CO. ALTERNATIVE SENTENCING	8	19%	11	26%	16	37%	6	14%	2	5%	42	98%	1	2%	5	12%	4	9%	34	79%	0	0%
SUFFOLK CO. SHERIFF'S TREATMENT OPTION	0	0%	0	0%	25	35%	19	26%	28	39%	72	100%	0	0%	6	8%	3	4%	63	88%	0	0%
TOTALS:	86	17%	84	16%	177	34%	102	20%	66	13%	420	80%	106	20%	157	30%	20	4%	344	66%	3	1%

NOTE: Demographics data are based on reported cases only.

rate, is designed as an alternative for probation violators with serious alcohol abuse problems. Because the probation violation process is initiated by the local probation department and includes a recommendation for disposition of the violation, it is not surprising that the courts would rely heavily on the department's suggestions for resolution of these technical violations. In these cases, therefore, program eligibility screening becomes the key decision making point and requires careful scrutiny by the department to ensure that they are recommending this alternative only in cases where they would otherwise seek incarceration as the disposition of the violation. In contrast, the Orange County Misdemeanor Alternative Sentencing Program, which also has a very high judicial acceptance rate (96%), may be screening out difficult cases since one would not normally expect such a high percentage of eligibles actually placed under its supervision.

One type of alternative program included in the specialized category receiving considerable nationwide attention is domicile restriction (also known as house arrest or home confinement). Part of the reason for the current interest in this model is that a number of jurisdictions around the country are implementing domicile restriction utilizing newly developed electronic surveillance technologies. The two programs funded in our state under this statute, however, are monitoring domicile restriction orders without this technology, relying instead on random phone checks, unannounced home visits and other methods of verifying the offender's compliance with the court imposed schedules. This approach to monitoring is very labor intensive, but indications so far are that the monitoring methods used in both Monroe and Oneida Counties are effective in detecting violations. In Monroe County, 20 percent of the program participants have been cited for violations of the domicile restriction orders and subsequently sentenced to a term of incarceration. In Oneida County, 32 percent of those terminated to date were unsuccessful and were incarcerated as a result of their failure to abide by the terms of the order. In the future, these two programs will serve as important comparisons with electronically monitored house arrest models.

Table XVI presents data regarding the lengths of time under domicile restriction for these two programs. Eighty-eight percent of all such terms were for six months or less, with 56 percent being no more than 90 days.

These data reveal that there is considerable variation between the two programs in terms of the length of time for which domicile restriction is ordered. For example, the Monroe County program reported that 31 percent of its participants were in the program for more than 180 days, while Oneida had no offenders sentenced to such a lengthy period. These differences, however, may be appropriate insofar as the length of domicile restriction should be proportional to the amount of incarceration for which it is substituted. One can infer from the data on conviction offenses (see Table XIV) that Monroe County's client population was generally likely to face more time than their counterparts in Oneida given that 63 percent of Monroe's participants were convicted of felonies as opposed to 22 percent of the Oneida County caseload.

TABLE XVI

LENGTH OF DOMICILE RESTRICTION SENTENCES BY COUNTY

	Length of Sentence in Days										
County	0 - 30		31 - 60		61 - 90		91 - 180		181+		Totals
	#	%	#	%	#	%	#	%	#	%	#
Monroe	3	6	7	14	8	16	17	33	16	31	51
Oneida	10	13	28	35	17	21	25	31	0	0	80
Totals	13	10	35	27	25	19	42	32	16	12	131

The two programs designed exclusively for alcohol abusing offenders also present interesting comparisons. As noted, the Onondaga County program is designed to divert probation violators from incarceration. Those selected for the program are placed in a residential treatment facility operating under contract with the local probation department. Participants remain in residence for three to six months, but participate in employment, training or other activities that take place outside the facility. The Suffolk County Sheriff's Treatment Option Program is a very different model, involving extensive collaboration between the probation department and the sheriff's

department. Designed for recidivist DWI offenders, the program actually is a correctional treatment program in which the intensive treatment services are provided during the period of incarceration. The probation department, however, performs initial evaluations of eligibility prior to sentencing and, in the presentence report to the court, recommends either a straight jail sentence or a reduced jail sentence based upon program participation. If the judge grants the reduced sentence, and if the offender completes the correctional treatment program, the probation department follows up the period of incarceration with supervision in their specialized alcohol abuse caseloads.

One of the obvious outcome differences for these two programs is the successful termination rates reported for 1986. Only 31 percent of Onondaga County participants successfully completed program involvement, whereas 92 percent of the participants in Suffolk County were deemed successful. Since the Suffolk County population is, in essence, a captive audience, one would expect high completion rates. (It is still too early to determine how these program participants performed once they were released from the correctional treatment program, though such findings will obviously be key to assessing program impact.) The Onondaga County completion rate reflects, in part, the difficulties inherent in treating serious alcohol abusers. Recently, the program changed some of its acceptance criteria in an effort to better select those individuals with greater likelihood of success. Still, it is perhaps unrealistic to expect programs such as this to be more sucessful in their treatment outcomes than are similar, non-criminal justice based programs.

The Nassau County Work Furlough Program is unique among the 67 funded programs, though work furlough is certainly not new to correctional administrators. Performance by this program has been problemmatic during the past year and has recently been the subject of intense compliance negotiations between this Division and the County. Despite Nassau's chronic overcrowding crisis, the program has fallen far short of its objectives. Ironically, however, it is in large part because of the overcrowding that this has been true. Nassau County has been forced to board large numbers of sentenced offenders in other county jails in order to remain within the population cap established by federal court order. Consequently, many offenders who would

be eligible for work furlough participation are housed outside the county, making participation impossible. A pool of only 59 potential inmates was identified during the calendar year, of which only 32 were found eligible. As a result of these problems, Nassau County has modified its service plan for the remaining quarter of its current contract (by reducing personnel for the program to reflect this limited workload) and will be reconsidering its approach to work furlough when it submits its service plan update for the coming contract year.

F. Summary

Data reported in this chapter, for calendar year 1986, indicate that a total of 23,073 clients were served by the 59 programs included in this data collection effort (see Table XVII). The vast majority, 20,500, of these clients were defendants interviewed by pretrial release programs. Another 2,573 individuals were participants in: community service (1,338), defender-based advocacy (709) or specialized alternatives (526) programs. Statewide, 56 percent of these clients were either facing (at program intervention) or convicted of misdemeanors, while 39 percent were facing or convicted of felonies and the remaining 5 percent were facing violations of probation or various non-penal law violations. Almost three-fourths (74%) had prior arrests and over half (54%) had prior convictions (see Table XVIII). Demographically, the alternatives programs had client populations that were young (68% aged 29 or under), male (87%) and fairly evenly divided racially between minority and white participants (52% minority compared to 48% white) (see Table XIX).

TABLE XVII

ALTERNATIVES TO INCARCERATION PROGRAMS

STATEWIDE CLIENTS SERVED 1986

PROGRAM TYPE	CLIENTS SERVED #	CLIENTS SERVED %
Pretrial Release	20,500	89%
Community Service Sentencing	1,338	6%
Defender-Based Advocacy	709	3%
Specialized Alternatives	526	2%
Total	23,073	100%

TABLE XVIII

ALTERNATIVES TO INCARCERATION PROGRAMS

STATEWIDE CRIMINAL HISTORY DATA 1986

Criminal History	Reported Cases	
Instant Offense		
Felony	4,713	39%
Misdemeanor	6,879	56%
Other	601	5%
Total	12,193	100%
Prior Arrest		
Yes	8,132	74%
No	2,823	26%
Total	10,955	100%
Prior Conviction		
Yes	5,922	54%
No	5,135	46%
Total	11,057	100%

In general, the data reported here indicate that programs funded pursuant to this statute have made a positive start and are quickly assuming a significant role in the local criminal justice systems. Though there are a number of problem programs, most progressed well during the past year and appear likely to perform even better during the next twelve months. Of course, as has been repeated at various points in this narrative, these data are not intended to draw conclusions about program impact. Still, a number of important issues have been culled from these various statistics.

First, it is clear that much work needs to be done to improve client selection to ensure that these programs are serving individuals who would otherwise have been incarcerated. This point is not relevant to the pretrial programs, however, since each of the almost 8,000 defendants released through their intervention were incarcerated at the point of program involvement. In this regard, then, these pretrial programs achieved significant savings in terms of local jail space. However, many of the post-disposition alternatives continue to need to refine selection criteria and to engage in outreach activities that will help to identify appropriate cases. Much of the

Division's oversight and technical assistance work in the coming year will continue to focus on this issue.

TABLE XIX

ALTERNATIVES TO INCARCERATION PROGRAMS

STATEWIDE DEMOGRAPHICS 1986

Demographics		Reported Cases	
Age			
	16-18 years	1,687	14%
	19-21 years	1,807	15%
	22-29 years	4,731	39%
	30-39 years	2,820	23%
	40+ years	1,130	9%
	Total	12,175	100%
Sex			
	Male	10,694	87%
	Female	1,605	13%
	Total	12,299	100%
Race			
	Black	5,022	41%
	Hispanic	1,190	10%
	White	5,874	48%
	Other	90	1%
	Total	12,176	100%

The data also indicate that there is considerable variation among programs. For example, community service program data reveal important differences in the volume of cases handled, criteria used and lengths of sentences imposed. Development of program standards during the coming year will help to ensure uniformity in many aspects of these operations and should, therefore, limit unwarranted variability. These efforts should also help to ensure that program interventions are undertaken in a manner that reflects proportionality in sentencing, thereby reducing disparities across jurisdictions.

There are indications from the data that minority participation in some of these alternatives programs is disproportionate to the incarceration rates for minority members. The Division has historically taken a proactive stance on this issue, pushing programs to take various steps to ensure that their minority clientele is at least comparable to the minority composition of the jail population. Continued monitoring of these participation rates will result in a more careful analysis of this issue and appropriate action will be taken to ensure that the alternatives programs include minority populations that at least conform with the racial composition of local jail populations.

CHAPTER FIVE

TASKS FOR THE COMING YEAR

A. Overview

Over the course of the first two and one half years of activity under the "Classification/Alternatives" bill, DPCA staff amassed a wealth of experience in designing, implementing, promoting, and monitoring alternatives to incarceration programs. During this time the Division was concerned that programmatic creativity not be stifled and that local differences in criminal justice practices be accommodated in promoting alternatives programming. To this end, the Division was careful not to impose detailed, formal guidelines for programmatic models. Instead, program development has been guided by general goals and objectives that allow for, and encourage, innovation and variation to accommodate local criminal justice culture in establishing alternatives to incarceration programs. Similarly, because of the programmatic diversity and the anticipated need for flexibility in providing technical assistance to developing programs, the Division did not establish rigid protocols for monitoring programs. Consistent with this approach, program monitoring, while carefully structured to ensure that program designs and expenditures were consistent with the enabling legislation, was primarily aimed at providing programs with assistance and guidance in refining policies and procedures to maximize the success of alternative programs.

As we approach the next year of state support of alternatives to incarceration, both the programs and the Division have matured sufficiently to allow for, and require, a more structured approach to program development and monitoring. Building upon efforts beginning in 1986-87, Division staff will engage in a variety of projects aimed at formalizing and standardizing program models and monitoring activities, improving program performance and the delivery of technical assistance, and developing additional opportunities for expanding options for alternatives programming.

B. Statutory Changes

Over the previous years of funding the Division has identified a number of areas in which legislative changes could expand or enhance the opportunities for alternatives to incarceration programming. Three proposed changes are supported by the Division in the current legislative session.

The "Classification/Alternatives" bill included a "sunset" provision that will repeal its relevant sections effective September 30, 1987. The purpose of this "sunset" provision, of course, was to establish a trial period for the statute's innovative sections. The positive experience of the alternatives to incarceration efforts and the promise of even greater program effectiveness (as well as the successful implementation of the new classification system) warrant an amendment to sustain these initiatives and to continue the flow of state funds.

A gubernatorial program bill has been submitted to amend the "Classification/Alternatives" bill to extend the initiative and state financial support for three more years. In addition to providing continued state support, the proposed amendment would allow those counties that did not choose to participate in the first phase of the initiative to submit a service plan to the Division. We strongly support passage of this amendment and consider it essential to the future of alternatives programming in New York State.

Another legislative proposal supported by the Division would expand eligibility for community service to all individuals convicted of offenses for which either probation or a conditional discharge is a lawful disposition. Currently, state law permits only those felony offenders convicted of class E or class D felonies to be sentenced to community service. Those felony offenders who are convicted of more serious crimes, but who are still eligible for probation, cannot be ordered to perform community service. This situation does not make sense. In effect, current law precludes imposition of more comprehensive and more severe sanctions upon individuals convicted of

more serious offenses. The proposed statute would simply resolve this inequity and offer courts the option of imposing community service in all cases where a non-incarcerative disposition is lawful.

This proposed legislation in no way alters the categories of offenses currently eligible for a sentence of probation or conditional discharge, nor does it require imposition of community service. Consequently, there should be no direct impact on public safety as a consequence of this change. Before imposing such a disposition, a court must consider the nature and circumstances of the crime, the history, character and condition of the defendant and be of the opinion that the defendant can be released into the community without jeopardizing public safety. In addition, community service programs, through their routine screening and placement activities, provide a second level of review that further safeguards the community.

A third legislative proposal would amend existing law regarding access to criminal history records to allow correctional alternatives programs, certified by the State Director of Probation and Correctional Alternatives, access to criminal history information needed to perform their duties and functions. Access to such information would reduce delays, allow programs to provide more complete and accurate information to decision-makers, permit more effective client selection and monitoring, and facilitate screening consistent with public safety concerns. This, in turn, would lead to increased program credibility and utilization and, ultimately, a reduction in the utilization of incarceration where less restrictive options would satisfy concerns for justice and public safety.

C. Standards Development

During the coming year the Division will continue the process of developing program standards. As with the Pretrial Standards, standards for other program models will establish minimum performance requirements for program activities and provide models for program operations consistent with state law and constitutional principles. Although the standards will be

designed to limit disparity and promote fairness across programs throughout the state, they will be crafted to accommodate local differences.

In addition to pretrial release, six program areas have been identified for standards development. In the coming year, standards will be prepared for community service, home confinement/electronic surveillance and defender-based advocacy. In addition, the Division will prepare general standards for alternatives to incarceration that will apply to all such programs. A community service standards committee has been appointed and the drafting process is now underway. Standards regarding residential programs and community treatment/offender rehabilitation programs will be undertaken in the near future. The process for the preparation and promulgation of these standards will follow the pattern employed in drafting the Pretrial Standards.

D. Regionalization Of ATI Staff

Since the formation of the Division of Probation and Correctional Alternatives in 1985, ATI staff have been assigned to the central office in Albany. In keeping with the spirit of the legislation that created the Division, efforts to integrate the probation and alternatives to incarceration functions will be undertaken during the coming year. During the initial phase, two ATI staff positions have been reassigned to the DPCA Regional Office in Syracuse. The second phase of regionalization will take place with the assignment of staff to the New York City Office this summer.

Regionalization of the ATI staff will result in more frequent, efficient and effective program monitoring and development. More time will be available to assist programs as a result of reduced travel time required to visit program sites. In addition, regionalization will encourage collaboration between ATI and probation monitoring staff and ultimately lead to enhanced program effectiveness for both ATI and probation operations. ATI staff will

be in a better position to utilize the experience and knowledge of DPCA consultants and staff who have developed relationships and familiarity with local jurisdictions within the regions. At the same time, the DPCA staff currently assigned to the regional offices will become more familiar with the alternatives to incarceration initiative, thereby facilitating and nurturing the collaborative efforts that will be required to realize the integration of probation and alternatives to incarceration across the state.

E. Technical Assistance And Program Monitoring

To enhance our ability to provide programs and other interested parties with current, relevant information on alternative programming and related issues, the ATI unit will undertake to computerize our Technical Assistance Information Bank (TAIB). The TAIB is an extensive collection of articles, monographs, directories and other information that is maintained by the ATI unit. In the coming year, we will develop an automated, systematic approach to acquiring, organizing, and disseminating the information currently gathered and maintained manually. We expect that, once operationalized, the automated information system will be used to generate an updated list of TAIB acquisitions on a regular basis. This listing would be disseminated statewide to ATI programs and other interested parties.

As discussed in Chapter 3, in the past year considerable attention has been devoted to the development of a case-based monitoring system. As a result of the new monitoring system, program staff will be required to spend less time in labor intensive statistical reporting. The introduction of the new monitoring forms also occasions the revision of the programs' quarterly reporting format such that it will be more streamlined and less burdensome for program staff to complete. The new quarterly reporting format is expected to be in place by mid-summer 1987. This should result in richer, more accurate, and more timely reporting which, in turn, will allow for earlier identification of programmatic difficulties and more timely response by Division staff. The automated case-based information system and the new quarterly reporting format will provide the Division with the ability to undertake descriptive and inferential statistical analyses heretofore not possible. In addition, the automated data base will provide basic data required for process and impact evaluations.

Consistent with our belief that good information systems are essential to effective program development, we have been investigating various options that could increase the programs' abilities in this area. For example, we facilitated purchases of computers at the end of the first contract year (when slow implementation resulted in accrued funds that could be used for this purpose). Also, we have recently been in contact with computer programmers who have prepared a comprehensive software package for pretrial programs. This particular software package may offer the opportunity to provide programs with an automated information system that not only computerizes data about clients, but also facilitates important program activities (e.g., tracking of court dates, mailing notifications to defendants). If possible, we will encourage development of similar software packages for other program models.

F. ATI Program Evaluations

As in the past, this Division remains committed to rigorous process and impact evaluation of the "Classification/Alternatives" bill programs. The Division believes the ATI initiative has broken new and fertile ground for expanding meaningful alternative programming. To capitalize on this opportunity, the Division is devoting considerable resources to developing a plan for conducting limited program evaluations.

Rigorous, meaningful evaluation requires the commitment of significant resources and time. Obviously, to successfully evaluate the impact of programs, sufficient time must pass to allow programs to mature and stabilize, and to allow enough cases to pass through the entire program process so that program outcome can be adequately assessed. Although the resources to conduct a full-scale evaluation of these programs are not currently available, we will begin program evaluations on a limited scale in the coming year.

Given the large number of programs funded under the "Classification/Alternatives" bill, the prospects for increasing this number in the near future, and the Division's commitment to the evaluation of these programs, we will seek to increase funding for the initiative to enable a more thorough and comprehensive evaluation of the programs.

G. Needs For The Future

Building upon what has already been accomplished and that which is planned for the coming year, the Division will continue to improve and expand the application of alternatives to incarceration programming throughout the state. An anticipated need for the future is an increase in the resources available to support alternative programming at the local level. While there is legislation pending to extend the "Classification/Alternatives" bill and allow non-participating counties to join in the initiative, the funding level in future years should be increased. Additional funds will be needed, for example, to encourage the expansion of existing successful programs, a number of which are nearing the point of maturation where increased resources can result in the diversion of more offenders from incarceration. These programs will be unable to expand their services unless resources needed to increase staff are made available. In other jurisdictions, there is interest in implementing additional program models. However, despite local willingness to match state dollars, current appropriation limitations preclude such worthwhile assistance.

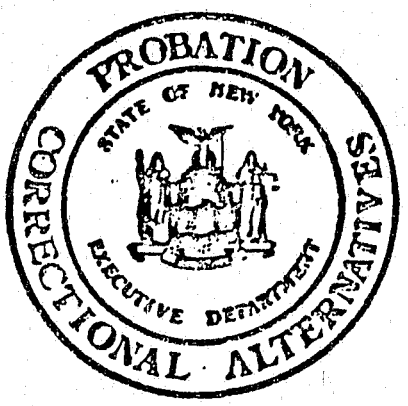
A second area of pressing need, as noted above, is funding for on-going, rigorous evaluation of the programs. As indicated earlier, the Division is committed to evaluating programs but the resources have not been made available to perform the level of evaluation necessary to adequately assess the effectiveness of the various program types and variations within program type. It is important that we begin now to scrutinize these programs to enable us to make informed, critical judgments in the future regarding program replication and funding.

Funding for additional ATI staff positions will also be needed to complete the regionalization of the ATI Bureau. Ideally, each regional office will be staffed by two ATI program monitors, thus permitting the ATI unit to be more responsive to local needs and to ensure quality programming.

Our intermediate and long range plans, if implemented, would establish the Division as a comprehensive resource center for alternatives to incarceration programming. Trained and experienced Division staff would be available to provide fledgling and struggling programs with assistance in development and implementation. Information, including research and evaluation results, would be available from the Division's comprehensive, automated information bank. On-going program evaluations and specialized research projects conducted by Division staff would serve to shape program practices and inform public policy. Still other staff would engage in designing innovative alternative program models or components. These experimental programs might be operated by the State with strict controls and detailed evaluations. Once determined to be effective alternatives, these models could be promoted at the local level.

A comprehensive approach to alternatives to incarceration programming is essential to reducing the disproportionate and unnecessary reliance on incarceration as the criminal disposition of choice for many offenses and offenders. An investment in alternative programming based on a well orchestrated, comprehensive approach will produce numerous benefits ranging from a reduced need for costly construction and maintenance of jail and prison cells to more humane and socially constructive treatment of non-violent offenders. Such an enlightened, rational approach will not only prove beneficial to the State but will also provide a model for the rest of the country to look toward in dealing with jail and prison crowding.

APPENDIX A



ALTERNATIVES TO INCARCERATION

SERVICE PLAN UPDATE

1987-1988

Submitted By: _____ *County*

Date of Submission: _____

For Further Information, Contact:

Name: _____

Address: _____

_____

Telephone: ( ) _____

Please Return To:

Division of Probation & Correctional Alternatives
Alternatives to Incarceration Bureau
60 South Pearl Street
Albany, New York 12207

GENERAL INSTRUCTIONS

The attached materials are provided to enable your county's Alternatives to Incarceration Advisory Board to submit its annual Service Plan Update to the Division of Probation and Correctional Alternatives, consistent with the provisions of the "classification/alternatives" bill (Chapters 907 & 908, Laws of 1984). These materials are the Advisory Board's opportunity to describe program progress and to propose any changes to the Service Plan currently in effect. In addition, information requested here will be utilized to prepare new contracts for the coming contract term (July 1, 1987 through June 30, 1988). Your timely submission of these materials will ensure that your county continues in compliance with the provisions of this legislation and that it receives all relevant contracts in a timely manner.

All submissions must be reviewed and approved by the county Advisory Board and submitted in accordance with these instructions. A transmittal letter, signed by the Advisory Board chairperson, will serve as official notification to this Division that the submission has been properly reviewed and approved.

The Service Plan Update is divided into four sections. Section A requests an updated listing of the Advisory Board membership and a summary of the Advisory Board's activities during the past year.

Section B requests information on each specific program that is to receive continued funding pursuant to your county's Service Plan. If your Service Plan includes more than one program, a separate Section B must be completed for each program to receive continued funding. Multiple copies of Section B have been provided for your convenience.

Section C, New Programmatic Proposals, should only be completed by those counties seeking to substantially alter the programmatic initiatives currently reflected in the county Service Plan. If a new program is proposed for funding, or if the focus of a previously funded effort is to be significantly altered, Section C must be completed. We urge the Advisory Board to contact the appropriate Division staff member to discuss any proposed programmatic changes prior to submission of your Service Plan Update.

Section D requests information required for the county to obtain approval for cash match credits. Cash match credits will again be available to qualified counties, consistent with the provisions of the statute. Counties may claim cash match credits if (1) such local expenditures were incurred from July 1, 1986 through June 30, 1987; (2) these local expenditures supported alternatives to incarceration programs other than those which were subject to the provisions of the "classification/alternatives" bill; and (3) adequate documentation for these expenditures is provided by the county. Counties not seeking cash match credits need not complete Section D.

In preparing program goals and objectives, please refer to the goals and objectives currently contained in the program contracts. (A copy of the goals and objectives for the current year contract(s) is attached for your reference). Whenever appropriate, use the same language as in the current contract(s). Any major deviations from the current goals and objectives should be explained in detail in the appropriate section.

In preparing budgets, the total amount of state funds available to the county (as noted in the transmittal letter accompanying these materials) should serve as the basis for determining the amount of state funds available for program contracts. Please refer to the budget in the current program contract(s) as a guide in completing this Service Plan Update. (A copy of the budget(s) from the current year contract(s) is attached for your reference.) Any major changes in program funding should be explained in the appropriate section. If a particular program is to receive substantially increased funding (or substantially reduced funding), it is most likely that Section C will need to be completed to adequately describe the proposed changes and the rationale for same.

Completed Service Plan Updates should be returned to the Division no later than April 15, 1987 in order to ensure timely review and processing of contracts. Earlier return of these forms is encouraged, especially if major revisions or new programs are proposed.

SECTION A

1. Please provide an updated listing of your county's Alternatives to Incarceration Advisory Board:

NAME	TITLE/AFFILIATION
(Chairperson)	

2. Please describe the activities of the county's ATI Advisory Board during the past year, including frequency of meetings, official duties undertaken, program oversight activities, etc.

SECTION B

CONTINUED PROGRAM ACTIVITIES

NOTE: A completed Section B must be submitted for each program to receive continued funding pursuant to your county's Alternatives to Incarceration Service Plan.

1. Program Title: _____

2. Agency Operating Program: _____

   Address: _____

   _____

   Telephone: ( ) _____

3. Agency Contact Person: _____

   Title: _____

4. Describe the past year's progress and general accomplishments of the program as it relates to your county's Alternatives to Incarceration Service Plan. Please include both qualitative and quantative descriptions of the program's impact within the local criminal justice system.

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

5. If the program had difficulty in achieving the goals and objectives in its current contract:

   (a) Describe and discuss these shortcomings:

(b) What problems in program activities or criminal justice system utilization contributed to these performance difficulties?

(c) What steps will be taken during the coming year to improve program performance and/or program utilization?

6. Describe any proposed changes in program activities or policies anticipated during the coming year? Include any new or expanded services, major alterations in procedures, etc.

7. Describe any changes in program staffing or administration anticipated during the coming year.

8. Present below the goals and objectives of the program for the coming year.

Goals:

Objectives:

9. If significant changes in goals or objectives are proposed (compared to those currently reflected in the program contract), describe the reasons for these proposed changes.

10. Attach a detailed Project Budget form. If the proposed budget varies significantly from that in effect during the current year, describe and justify these changes.

SECTION C

NEW PROGRAMMATIC PROPOSALS

NOTE: This Section should only be completed by those counties proposing major changes in their Alternatives to Incarceration Service Plan. If more than one new or significantly redefined program is to be proposed, please complete a separate Section C for each program.

1. Describe, in detail, the programmatic services which you propose to implement this year.

2. What factors make these program changes necessary? If you are discontinuing a program funded as part of last year's Service Plan, describe the reasons why the county wishes to discontinue the previous program.

3. What target population(s) will the new program or services seek to accommodate? Provide relevant criminal justice data from your county sufficient to justify the implementation of these new or expanded services.

4. Proposed Program Title: _____

5. Agency That Will Operate Program: _____

Address: _____

Telephone: ( ) _____

6. Agency Contact Person: _____

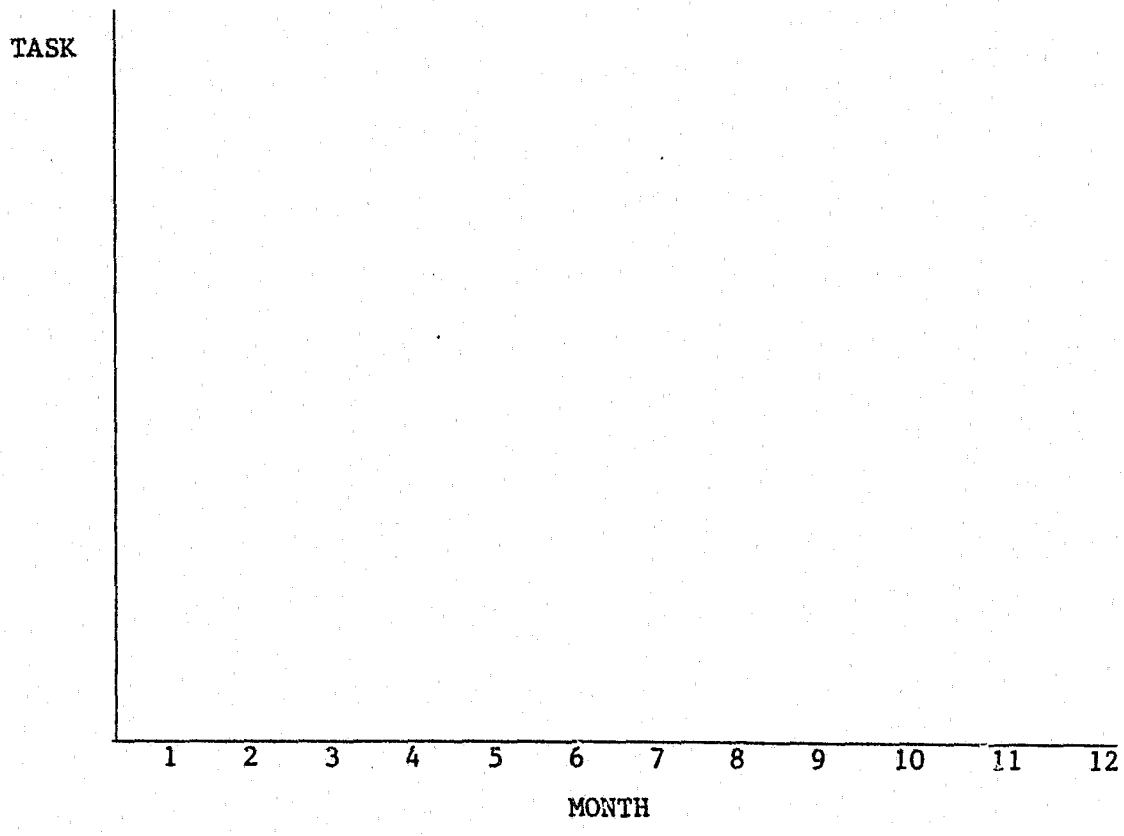
Title: _____

7. Present below the goals and objectives of the proposed program for the coming year:

Goals:

Objectives:

8. Provide a detailed time frame for project tasks that are to be implemented during the coming year.



9. Diagram the staffing patterns of the proposed program and attach job descriptions and job qualifications for each position.

10. Attach a detailed Project Budget Form.

SECTION D

CASH MATCH CREDITS

NOTE: If your county is claiming credit toward the required cash match based upon 1986-87 expenses for alternatives to incarceration programs, provide the following information for each program for which cash match credits are being claimed. PLEASE INCLUDE SUPPORTING FISCAL DOCUMENTATION (e.g., program budget, legislative appropriation resolutions, etc.) AND PROGRAM LITERATURE FOR ANY PROGRAM BEING USED TO CLAIM CASH MATCH CREDITS.

1. Program Name: _____

   Agency: _____

   Program Description: _____

   _____

   _____

   County expenditures incurred in support of this program during the period July 1, 1986 through June 30, 1987: $_____

2. Program Name: _____

   Agency: _____

   Program Description: _____

   _____

   _____

   County expenditures incurred in support of this program during the period July 1, 1986 through June 30, 1987: $_____

3. Program Name: _____

   Agency: _____

   Program Description: _____

   _____

   _____

   County expenditures incurred in support of this program during the period July 1, 1986 through June 30, 1987: $_____

STATE OF NEW YORK

DIVISION OF PROBATION & CORRECTIONAL ALTERNATIVES
PROJECT BUDGET

DPCA No. _____ Project Duration _____ months
From _____ To _____ _____

BUDGET ITEMS	STATE FUNDS	OTHER

A. Personnel

Sub-Totals		

B. Fringe Benefits

Sub-Totals		

DPCA No. _____

BUDGET ITEMS	STATE FUNDS	OTHER

C. Consultant Services

Sub-Totals		

D. Equipment

Sub-Totals		

E. Supplies

Sub-Totals		

DPCA No. _____

BUDGET ITEMS	STATE FUNDS	OTHER

F. Travel & Subsistence

Sub-Totals		

G. Rental of Facilities

Sub-Totals		

H. Alteration & Renovations

Sub-Totals		

DPCA No. _____

BUDGET ITEMS	STATE FUNDS	OTHER

I. All Other Expenses

Sub-Totals		

BUDGET SUMMARY: TOTAL: _____

Continuation Sheet

BUDGET ITEMS	State Funds	Other

APPENDIX B

DRAFT

PRETRIAL RELEASE PROGRAM STANDARDS

New York State Division of Probation
and Correctional Alternatives
60 South Pearl Street
Albany, New York 12207

CONTENTS

OVERVIEW

Introduction

Incarceration patterns in New York State reveal that a large majority of the admissions to local jails are pretrial detainees, most of whom are confined (for less than ten days) for want of modest amounts of bail. Such current practices often reveal an unnecessary, inefficient and inequitable use of confinement. Consequently, almost three-quarters of the counties in New York operate some form of pretrial release program. These programs facilitate release without financial conditions by identifying appropriate defendants for release on recognizance or conditional release.

Pretrial release programs interview defendants and assess their roots in the community to determine if they are appropriate candidates for non-financial release. These programs are based upon over twenty years of practical experience and extensive research that has demonstrated that non-financial conditions can be as effective in ensuring appearance in court as can money bail. Though the specifics of the programs may vary, all pretrial release efforts are founded on the positive correlation between meaningful community ties and high court appearance rates. Typically, programs seek to further strengthen this correlation through various additional services, including notification to defendants of pending court dates, periodic reporting requirements, or more extensive supervision and monitoring of release conditions.

These Pretrial Standards have been established consistent with the Division of Probation and Correctional Alternatives' mandated responsibility to regulate, assist and fund such programming. The Standards establish minimum performance requirements for pretrial release activities and provide a model for program operations consistent with state law and constitutional principles that impact on this area of criminal justice decision making. In establishing these Standards, we seek to reduce disparities in the delivery of these services so as to maximize efficiency, fairness and equity across the state in regard to pretrial release and detention.

Pretrial program practices have evolved over a number of years. Any attempt to create greater uniformity in such services must recognize that many factors will influence policy and procedures and that the importance of these various factors will change over time. Consequently, the Standards should not be viewed as static statements resistant to new developments and changes in the field. Rather, these Standards are part of an ongoing process of development and will be modified as the dictates of law, time and practice require.

Purposes and Principles of Pretrial Release Programming

Pretrial release services, as described by these Standards, are designed to accomplish at least the following four purposes:

1) to maximize the release of defendants on non-financial condition by identifying those defendants most likely to appear in court;

2) to help facilitate judicial release decisions by providing the courts with standardized information about defendants in the most timely manner possible;

3) to identify those defendants who are most appropriate for release without financial conditions, thereby reducing unnecessary incarceration and relieving overcrowding in local correctional facilities; and

4) to minimize the inherently discriminatory impact that the money bail system has on those of limited means by facilitating the release of those individuals who would otherwise be incarcerated for want of money bail.

Among the more important principles underlying these Standards and their approach to pretrial release are the following:

1) Pretrial release programs do not release defendants. Judges alone are responsible for setting bail or for releasing individuals on recognizance. Pretrial programs are providers of information and assessments that may enable judges to release those defendants who are good risks to reappear when scheduled. By using standardized, statistically sound approaches to assess likelihood of appearance, such programs provide the courts with an important service that can lessen reliance on money bail.

2) Defendants are presumed innocent and entitled to be treated as such at the point of pretrial intervention. It is inappropriate for pretrial programs to make judgments about potential clients as a result of the instant charge. These Standards do not preclude any category or class of defendant from pretrial services simply because of the severity of the current charges. To the extent that the instant charge is a relevant factor in release decisions, it is the province of judges and prosecutors who are in far better positions to weigh the seriousness of the case, the strength of the evidence, and the possible penalties that could result from conviction.

3) Pretrial programs should be concerned only with the likelihood of appearance in court in making assessments and recommendations to the courts. New York State law does not allow the detention of adult defendants on the basis of predictions of

future dangerousness. That is, "preventive detention", which allows confinement of defendants on the grounds that they are likely to commit additional crimes while the instant case is pending, is not permissible in this state. Though it may be argued that many defendants are the subject of high bail precisely because of concerns regarding potential dangerousness, it is neither appropriate nor possible for pretrial programs to reinforce or support such decisions, especially since they are inconsistent with existing statutes and caselaw and are based on inherently unreliable predictions.

Approach to Pretrial Release Programming

To accomplish these goals and to operate in a manner consistent with these principles, these Standards envision service delivery that includes timely interviewing of all detained defendants using a standardized interview format and an objective approach (i.e., point scale) to determine eligibility. Information collected through the interview should be verified and then provided to the court of jurisdiction in an expeditious manner, along with the program's recommendation or eligibility determination. Programs are expected to keep track of the appearance rates of defendants released through their intervention and to make modifications in program design to improve both release and appearance rates. Programs may require periodic reporting (either face-to-face or by telephone) by RORed defendants and may provide notification of pending court dates as related services.

Recommendations for conditional release by pretrial programs are consciously limited by these Standards to those defendants who are either not found eligible for release on recognizance following the program's initial interview and assessment, or who, having had such a positive recommendation, are still not released by the court (but might be if more stringent conditions were imposed). In essence, the approach outlined by these Standards anticipates a bifurcated service, the basic components of which are the systematic interviewing, assessment and release recommendation of all detained defendants. Conditional release services, whereby a program may undertake additional investigatory steps and recommend restrictive conditions for release (e.g., participation in a treatment program) should only be undertaken when the basic pretrial component is operating and achieving the maximum numbers of releases feasible. The rationale for this approach is straightforward: if individuals unable to post bail can satisfy the basic purpose of bail (i.e., appear in court as scheduled) they should not be subject to un-

necessarily restrictive conditions with which someone able to post bail would not be required to comply. Under any circumstances, the development of conditional release plans should be based exclusively on those conditions deemed necessary to ensure appearance in court.

Conclusion

Implementation of pretrial release programming based upon these Standards will surely be affected by current practices and customs of the local criminal justice system. In many jurisdictions, compliance with these Standards will require significant changes in current approaches to pretrial release. Consequently, attention must be devoted to educational and other outreach activities so that program policies and procedures can be articulated in a manner consistent with the ideas reflected here and justified on the basis of their potential contribution to the local system. The introduction of change within criminal justice is frequently difficult and uneven. However, the goals of greater equity and efficiency in the administration of justice are important to all members of the criminal justice system. With careful planning, implementation and promotion, the viability of the program model described by these Pretrial Standards should ultimately provide its own justification and acceptance by those who will be served by the program's activities.

I. Statutory Authority

Article 510 of the Criminal Procedure Law authorizes criminal courts to release defendants on their own recognizance during the pendency of the criminal action or proceeding upon the condition that he will appear whenever attendance may be required and will at all times render himself amenable to the orders and processes of the court. Specifically, Section 510.30 of the Criminal Procedure Law requires the court to consider the kind or degree of control that is necessary to secure court attendance.

Commentary

Article 510 provides the legal parameters which a judge should employ in determining whether to release a defendant on his/her own recognizance, or to set bail. The following are statutorily recognized criteria which a court must consider and take into account in determining the nature of the control necessary to insure a defendant's attendance:

1) Character, reputation, habits, and mental condition;

2) Employment and financial resources;

3) Family ties and the length of residence, if any, in the community;

4) Prior criminal record;

5) Record of previous adjudication as a juvenile delinquent as retained pursuant to Section 354.2 of the Family Court Act or, of pending cases where fingerprints are retained pursuant to Section 306.1, or a youthful offender, if any;

6) Previous record in responding to court appearances when required; or record with respect to flight to avoid criminal prosecution;

7) Weight of evidence in the pending case and any other factor indicating the probability of conviction. If the application is made pending appeal, the merit or lack of merit of the appeal should be considered.

8) The sentence which may be or has been imposed upon conviction.

All persons released are expected to adhere to two conditions of release: appear as required by the court and refrain from criminal activity. The first condition is directly linked with the purpose of bail - to assure court appearance. The second emphasizes obedience of criminal laws.The concept of preventive detention is not included

among the above-listed statutory criteria. This concept, which predicates possible danger to society or to the defendant as a valid reason for fixing high bail, was contained in an early legislative draft of Article 510 but eliminated from the finalized version. Risk or danger to community is often argued to be a legitimate factor in determining whether bail should be granted or denied. Despite the New York State Court of Appeals ruling in Matter of Sardino vs. State Commission on Judicial Conduct (461 NYS 2d 229, Ct. App. 1983), which criticized a judge for "acting punitively with little or no interest in the only matter of legitimate concern, namely whether any bail or the amount fixed was necessary to insure the defendant's future appearances in court", this debate will no doubt continue until this issue is specifically and unequivocally addressed by the Court of Appeals. Pretrial detention is contrary to the presumption that a person has a right not to be punished for a criminal offense until guilt has been demonstrated beyond a reasonable doubt.

Safety is an appropriate factor that may only be considered in limited instances. A judge has statutory authority to issue an order of protection as a condition of pretrial release or as a condition of bail in order to protect victims of family offenses, and victims of crimes other than family offenses. Additionally, violation of such an order or reasonable cause to believe a defendant subject to bail or recognizance with respect to a previous felony charge, has committed one or more class A or violent felony offenses while at liberty may lead to revocation of an order of recognizance or bail. Any threat made by a defendant to a witness after fixation of bail is further recognized as sufficient to warrant decision revoking bail or release on recognizance.

The release decision of a defendant on his/her own recognizance or the granting or denial of bail rests solely with the judiciary. It is the prosecutor's role to provide a judge with relevant legal history of a defendant, nature and circumstances of the offense, weight of evidence, and applicable sentencing dispositions which will assist the judge in determining whether there is a potential risk of nonappearance or flight, and any control necessary to secure court attendance. Implicitly recognized as a prosecutor's duty is to inform a judge whenever an order of protection is believed to be necessary. The burden for providing the need for restrictive conditions of release falls appropriately on the prosecution.

A pretrial service agency has the responsibility of providing objective, relevant factual information on the defendant obtained through the course of the interview which relates to the remaining statutory criteria. The agency should remain neutral and independent of prosecution and

defense attorneys and avoid bias towards either defense or prosecution.

II. Regulatory Authority

Section 243 of the Executive Law authorizes the State Director of Probation and Correctional Alternatives to exercise general supervision over correctional alternative programs throughout the state. The Director further exercises general supervision over the administration and implementation of alternative to incarceration service plans under the provisions of Article 13-A of such law. Eligible programs are defined under Section 261(1)(b) to include pretrial release programs. The State Director is authorized to adopt general rules and regulations to regulate methods and procedures in the administration and funding of alternative to incarceration programs. Such rules and regulations are binding upon all counties and eligible programs and, when duly adopted, shall have the force and effect of law.

As a result of the authority given to the State Director, the State maintains a statewide oversight system for local pretrial services programs. The State's responsibilities include but are not limited to:

- Maintenance of program standards through monitoring local delivery of program services;
- Continual assessment, refinement and development of statewide standards;
- Provision of technical assistance to local programs; and
- Development and maintenance of a statewide management information system which shall collect and analyze the data gathered by each local program.

III. Program Objectives

Pretrial release programs shall strive to achieve the following objectives:

a. provide relevant, objective information to assist courts in making release decisions;

b. reduce unnecessary pretrial incarceration by identifying those defendants most likely to appear in court;

c. maximize the number of defendants released under non-financial conditions, thereby reducing the discriminatory impact of money bail;

d. ensure speedy release from custody or detention of persons awaiting trial through timely program intervention;

e. facilitate the release of defendants on the least restrictive conditions deemed necessary to assure court appearance;

f. ensure the integrity of the judicial process by minimizing failure to appear rates;

g. reduce costs incurred by the community in providing pretrial detention;

h. periodically assess specific program policies and procedures to determine if program objectives are being achieved and to make appropriate modifications.

IV. Procedural Standards

A. Universal Screening

Except in those cases where the court has no jurisdiction to effect release, all defendants in custody shall be given an opportunity to be interviewed by the Pretrial Services Program. No group of individuals shall be excluded from the process merely because of instant charge or prior criminal history.

Commentary

All defendants should be afforded the opportunity to be interviewed by the pretrial release program. Exclusions based upon charge alone should not occur. Research has demonstrated that in most instances offense charge has little effect on the likelihood of future court appearances. Moreover, to the extent that more serious charges can result in greater motivation to flee, such considerations are the responsibility of the prosecution to raise. All defendants shall be deemed eligible for pretrial release services except those over whom the court has no jurisdiction to effect release (e.g., federal detainees, boarder inmates).

B. Timely Intervention

1) All defendants shall be interviewed at the earliest possible time after arrest. If the program has access to defendants prior to arraignment, the interview should take place before the initial court appearance so as to effect the earliest possible release and provide for more informed bail decisions. Absent such ability, interviews shall take place within twenty-four hours of detention on weekdays and within seventy-two hours of detention on weekends.

2) Verification and notification to the courts shall occur immediately after the initial interview.

3) Programs shall seek to deploy staff and services in a manner consistent with achieving earliest possible intervention and release.

Commentary

Effective delivery of pretrial release services requires that every possible effort be made to intervene and secure release at the earliest possible moment in the court process. Failure to intervene rapidly results in unnecessarily long periods of detention.

Ideally, pretrial release intervention should occur between arrest and arraignment so that the judicial officer making the first release decision has the most complete and relevant information on each and every defendant. Such pre-arraignment intervention, however, is frequently impossible because arraignments take place throughout the jurisdiction and insufficient resources may be available to conduct the interviews in a timely manner. Consequently, it is often possible to conduct the pretrial release interview only after the defendant has had an initial court appearance and has been confined to the jail.

These Standards call for daily interviewing of all newly detained defendants so that everyone confined during the past twenty-four hours has been contacted by the program. Since staff may not be available to conduct interviews on weekends, the Standards envision that defendants arrested from Friday through Sunday will be contacted no later than Monday morning (hence within seventy-two hours after detention).

In seeking the most efficient means to deploy staff to accomplish intervention at the earliest possible time, each pretrial program should undertake a careful examination of arraignment caseloads in the various

courts within their jurisdiction. Such an analysis will assist the program in determining how to maximize early intervention. For example, in many jurisdictions, a single city court may handle most of the arraignments. Consequently, the pretrial release program may deploy staff so that pre-arraignment interviewing is conducted for the high volume court, while all other defendants are interviewed post-arraignment, but within the time periods specified by the Standards.

Early intervention implies more than just conducting interviews and verifications at the earliest possible time following arrest. It must also include communicating the information gathered and the program's recommendation for release to the court as quickly as possible. Procedures should be developed, and arrangements made, to communicate the results of the pretrial investigation to the bail-setting court immediately following completion of the interview and verification phases. Some programs communicate the information by telephone directly to the judge. Other programs hand deliver their report and recommendation to the court. The use of mail, or waiting until the next formal court appearance, are unsatisfactory methods because these approaches result in significant and unnecessary delays in effecting release.

C. The Interview

1) Programs shall conduct a structured, face-to-face interview with each defendant.

2) A standard interview form shall be utilized to collect information necessary for making a release recommendation to the court.

3) Programs shall collect objective and verifiable information that is directly related to the program's criteria for release recommendations.

4) The interview of the defendant shall not include any questions concerning the alleged instant offense.

Commentary

Standardized interviews help ensure that programmatic approaches to release recommendations are non-discriminatory and afford equal treatment to all defendants. Such an approach also prevents interviewer bias from contaminating the basic purpose of the pretrial investigation, which is to identify those

defendants who are the best risks to return to court when required.

Use of a standardized interview by pretrial release programs is common practice across the country (though the specific elements of the interview may vary from jurisdiction to jurisdiction). This approach provides programs with a rapid, routine and easy to apply method for collecting relevant information. It also serves to simplify verification. The information gathered through the standardized interview is directly related to the criteria for release. Insofar as these criteria are statistically valid predictors of appearance, they provide the rationale for the program's release recommendations. Finally, standardized interview formats can provide pretrial programs with a convenient form with which to report findings to court and a ready reference for judicial officers to those factors deemed important by the program in making its recommendations.

The pretrial interview shall not include questions or discussions concerning the alleged instant offense. Such questions may cause defendants to incriminate themselves. More importantly, such questions or discussions may impede the program's ability to conduct an impartial inquiry relevant to the question of release. Finally, gathering such information may likely subject the program to unanticipated and unintended court actions (e.g., prosecutorial subpoenas). This practice may also result in defendants declining to participate in the interview, thus affecting the program's ability to fulfill its purpose.

D. Verification

1) Defendants shall be informed that the program will seek to verify the information obtained during the interview. The defendant shall be asked to provide the name, relationship and phone number of an appropriate verification source.

2) At a minimum, the program shall seek to verify the following information:

- o address;
- o length of time in community;
- o family ties; and
- o employment or schooling.

3) The program shall seek to verify any other information directly affecting the program's eligibility determination or recommendation for release.

4) Verification may be achieved through interviews with third party contacts (e.g., relatives or friends) and need not require direct contact with employers, schools or other primary sources.

5) Programs shall respect the defendant's wishes not to contact certain potential verification sources (e.g., employers and schools).

6) Programs shall continue to seek verification of information in those instances where release is not secured due to the absence of verification.

7) Inability to verify information shall not necessarily result in a negative release recommendation. Programs shall establish procedures and policies governing the reporting of unverified information to court.

Commentary

The rationale for verifying pretrial release interviews is based on the following: (1) it allows the interviewer to check the accuracy of information gathered from the defendant; (2) it may serve as a notification to family and/or friends of the arrest, answer their questions regarding time and place of arraignment or future court appearances, and gain their assistance in returning the defendant to court; (3) it may also provide useful information for the court (e.g. misidentification, severe mental or physical illness that may require immediate attention by the court and/or jail personnel); and (4) it adds credibility to the interview information.

Effective verification can be accomplished by phone or in person. Program staff need to explain the purpose of the inquiry. "Blind interviews", which do not reveal the answers already given by the defendant, are preferable since they are the most efficient and effective tool for verification. This method involves asking the same questions, in the same manner as were used in the interview with the defendant. This is a quick informative procedure and does not require presentation of official documents (e.g., birth certificates, pay stubs, etc.). Careful, non-directive, non-judgmental questions to both the defendant and verification source minimize the possibility of discrepancies. Skillful interviewing ensures that the respondent is not giving answers that he/she thinks are expected by the program.

Verification inquiries to employers or schools may needlessly jeopardize a defendant's job or enrollment.

Permission to make these inquiries should come from the defendant. Under most circumstances, family and friends can usually verify these facts satisfactorily.

Pretrial Release program procedures and policies regarding unverified information may vary. Some experimentation (with the court's awareness) may be appropriate. Common practices include:

- Utilizing a separate recommendation/eligibility category, such as "qualified (based on interview information), not verified".
- Recommending defendants for release based on interview information but requiring defendants to produce proof of address to the program within 24 hours.
- Continuing verification efforts, if the defendant is detained, and immediate recommendation to the court once the information is verified.
- Developing separate statistical categories for defendants released without verified information.

E. Criteria for Release Eligibility

1) Criteria for release eligibility shall be based on valid, reliable predictors of return to court.

2) Criteria for release eligibility shall not discriminate against a class of defendants based on age, sex, race, religion, color, national origin, economic status or other factors not related to court appearance or the orderly administration of justice.

3) Criteria for release eligibility shall include:

   - length of time in the community;
   - current availability of a place to live in the community;
   - stable means of support;
   - family and community ties;
   - prior record of failures to appear in court;
   - prior criminal history.

Commentary

Criteria for release eligibility should be well-defined in order to promote consistent and equitable application. Studies reveal that a prior record of failure to appear is a strong predictor of risk of flight and/or non-appearance in court. History of prior criminal convictions, in particular felony or violent felony convictions, increases the severity of the potential sentence, therefore likely creating a higher risk of flight.

"Length of time in the community" should not be narrowly construed. Community could mean the five boroughs of New York City; in other areas of the state, it could encompass contiguous counties.

"Current availability of a place to live in the community" is not limited to the defendant's residence at the time of the alleged crime. In circumstances where the defendant resides with the complaining witness, and is unable to return to the residence, an alternative living arrangement should be identified and verified.

"Stable means of support" does not refer solely to employment. It also includes social security, public assistance, unemployment compensation, support by his or her family or significant other.

"Family ties" refers to close relations with family members or with a significant other. "Community ties" refers to participation in activities that would indicate the defendant's likelihood to remain in the community and appear in court. Such activities could include participation in community organizations, treatment programs, educational classes or vocational courses.

F. Point Scale

1) An objective, statistically validated point scale, designed to predict the likelihood of appearance in court, shall be used to determine the appropriate release recommendation.

2) In cases where a defendant fails to initially meet the criteria for release, or where deemed appropriate, relevant factors other than those specifically stated in the point scale may be considered.

3) Reasons for any deviations from point scale recommendations shall be recorded.

4) Programs shall establish policies and procedures for those cases where the point scale is overridden.

Commentary

These Standards call for the use of an objective, statistically valid point scale in the pretrial eligibility screening process. The rationale for using objective, predictive, risk-assessment instruments is based on three essential advantages: (1) point scales provide the judiciary with statistically valid, standardized criteria as an aid in the decision making process; (2) by basing predictions on actual past performance, point scales help to reduce biases in the pretrial release process; and (3) point scales predict group responses (i.e., return-to-court behavior) rather well.

Although the predictive point scale has proven to be a valuable tool in the pretrial screening process, it is important to understand its limitations so that proper use is assured. The point scale does not predict individual behavior. Rather, it categorizes a defendant into a group (i.e., "good risk" or "bad risk"), and then predicts how members of that group will behave. Prediction of future behavior is based on past group experiences. Because they are based on past group performance, point scales do not provide an absolute prediction regarding individual behavior. Rather, point scales simply indicate that an individual is similar to others who have performed well (i.e., appeared in court) or poorly (i.e., failed to appear) and, therefore, the individual should be considered for release based upon these similarities.

Consequently, the potential for overriding the predicted outcome should exist in each system. To ensure that such overrides are based upon reasonable grounds, each program should establish clear criteria for those instances where an override is to be considered, and the reasons for each override should be explicitly recorded in the case record.

G. The Release Recommendation and Report

1) The program shall report its determination of release eligibility to the court in a timely manner, in accordance with Section B.(2) of these standards.

2) The report may include all verified and unverified information received from the defendant relevant

to release eligibility criteria as specified in Section E.(3) of these Standards.

3) Any information relevant to the release criteria that is unavailable at the time of the report shall be specified as such.

4) When appropriate, the report should include information about unique circumstances concerning the defendant's situation that are pertinent to the release recommendation.

5) The report shall specify the type of release being recommended.

6) The report shall be made available, upon request, to all parties (i.e., judge, prosecutor, defense counsel) involved in the release decision.

Commentary

At a minimum, each program shall provide the courts with explicit release recommendations or findings of eligibility based upon the programmatic release criteria. In addition, programs typically provide the courts with specific information obtained during the pretrial interview. Such practices serve to highlight for the court the nature of the information on which the release recommendation is based and reinforce the program's criteria for release.

Program recommendations may be expressed through different terminologies. For example, some programs indicate that defendants have been found "eligible" for release; some report that the defendant is "qualified" for release; and others "recommend" the defendant for release. Programs may utilize whatever language or terminology is most suitable to their locality, provided that an explicit statement regarding eligibility is clearly communicated.

The findings of the pretrial program may be communicated to the court in a variety of ways, depending on the circumstances in the local jurisdiction. Oral presentations may be made at court hearings or through telephone communication with the bail setting judge. Written reports may also be submitted. Such written reports may include only the release recommendation or eligibility finding, or they may include the specific information collected during the interview. The format of written reports may be narrative in nature, or may simply involve presentation of a summary of the interview information (or a copy of the actual interview).

H. Types of Release

1) Programs shall recommend the least restrictive form of release necessary to assure appearance and/or secure release.

2) The type of release to be recommended by the program shall be based upon the information gathered, verified and assessed by the program consistent with the criteria for release eligibility.

3) There shall be a presumption in favor of release on recognizance and every defendant shall initially be considered for such release.

4) Programs shall adopt procedures to maximize the number of defendants released on their own recognizance.

5) Programs may develop a system to make subsequent, more comprehensive conditional release recommendations to the court in cases where the defendant does not initially qualify for release on recognizance or where the initial recommendation was not favorably acted upon by the court.

6) A conditional release recommendation shall only be made in those cases where it is determined that conditions are necessary to secure release and assure appearance, or where the initial recommendation was not favorably acted upon by the court.

7) In seeking conditional release orders, the program shall recommend to the court the least restrictive conditions directly related to assuring appearance and/or securing release.

8) Any conditions recommended shall be individualized to the particular circumstances of the defendant.

9) Programs shall ensure that the defendant receives written notice of any conditions imposed and that he or she fully understands the circumstances and conditions of release.

Commentary

Research and practical experience regarding pretrial behavior has consistently revealed that, for most cases, a simple promise to appear (i.e., release on recognizance) can be as effective as the posting of money bail in assuring appearance in court. Consequently, in making release recommendations,

programs should emphasize the least restrictive means of release and should seek to minimize the imposition of conditions that are unrelated to likelihood of appearance. These Standards envision the use of conditional release in a very limited number of cases, for those defendants who do not qualify for ROR or who do qualify but are not released by the court.

Release on recognizance may occur in two principal ways. "Straight ROR" refers to release with no other requirements than to appear as required and to refrain from all criminal activity. "Program ROR" refers to release whereby the defendant is expected to abide by standard programmatic procedures or requirements (e.g., weekly contacts) instituted by the program to assure appearance in court. Such procedures or requirements should not be confused with court-ordered conditions of release over and above standard program policies.

Since the purpose of money bail is to assure appearance in court, the purpose of any conditions recommended to the court by the program shall also be directly related to this single goal. Such conditions may include additional contact with the program (beyond that required through "program ROR"), participation in a social services program, remaining within a specified geographic area, or no contact with the complaining witness or other persons. Programs shall refrain from recommending conditions of release that are unrelated to assuring appearance in court and that would not be imposed upon individuals with the financial means to post bail.

I. Notification

1) Programs shall attempt to insure that defendants are notified of the date, time and location of the next court appearance.

2) Programs shall seek to provide defendants with a procedure to follow (e.g., a telephone number to call) in case of a question or problem regarding court appearance.

Commentary

Ideally, pretrial service programs should provide written or telephonic notice of all pending court dates to each defendant released through their intervention. Practical considerations may make such a comprehensive notification service difficult to achieve. Consequently, notification may be accomplished by the program, by the court, or by a combination of efforts, and by

letter, telephone or by written notice given to the defendant at the end of each court appearance. To the extent that current court policies do not include providing such a written notice of the next court date, the program should seek to have courts establish such a procedure.

J. Monitoring

1) Programs shall establish a system to monitor defendants' appearances in court.

2) Programs shall establish procedures to monitor, investigate and report the compliance of defendants conditionally released through specific court orders.

3) Programs shall establish procedures to assist defendants in keeping court appearances and to aid defendants in complying with release conditions.

Commentary

In order to determine whether the pretrial release program is operating effectively, it is essential for the program to monitor defendants' court appearances. Absent such monitoring, programs cannot determine whether individuals released through program intervention are appearing in court. The program's failure to appear (FTA) rate that is generated through such monitoring is one of the most important measures of program effectiveness and serves to demonstrate the viability of non-financial conditions of release.

Monitoring court appearances does not require daily program attendance in court. Rather, programs are expected to establish an efficient method for obtaining information regarding the scheduled and actual appearances of those released through program intervention.

In maintaining information on failures to appear, programs should seek to distinguish between "willful failures" and "systemic failures". Willful FTAs are those when a defendant knowingly and purposefully does not appear at a scheduled time. Systemic FTAs are those that may occur doe to accident, scheduling confusion or other unanticipated contingencies. Typically, systemic failures lead to voluntary returns by the defendants and continued processing of their cases.

In computing failure to appear rates, two approaches are most common. Appearance-based FTA rates are computed by dividing the number of failures to appear by the total number of scheduled appearances for the program population. This is the most common and most meaningful FTA rate. Defendant-based FTA rates are computed by dividing the number of defendants who failed to appear (at any time during their case) by the total number of defendants released through program intervention. Since most cases involve multiple appearances, appearance-based FTA rates will always be lower than defendant-based rates.

K. Violations

1) Programs shall attempt to contact defendants who fail to appear in court or who are not complying with court-ordered conditions of release in order to encourage voluntary return or compliance before the court is notified.

2) Programs shall establish procedures to inform courts in a timely manner of defendants' non-compliance with court-ordered conditions of release.

3) Programs shall develop procedures to seek defendants' compliance with those uniform programmatic requirements utilized to assure appearance in court.

Commentary

Programs shall develop procedures to inform the courts of violations of court-ordered conditions of release. The program's procedures should include notification to the defendant of any violations and an opportunity for the defendant to respond to same. In determining circumstances which warrant reporting noncompliance to the court, the program should consider the nature of the condition violated, the reason for noncompliance and the degree of the violation. It is the court's responsibility to establish and impose appropriate responses to such violations.

A distinction should be made between court-ordered release conditions and uniform program requirements (such as weekly contacts). Routine program requirements are not court imposed but are utilized by the program to maximize appearance in court. Consequently, a defendant's failure to strictly adhere to the program's procedures should not be grounds for a

negative report if, in fact, the defendant appears in court as scheduled. In instances where a defendant exhibits a flagrant and chronic disregard for such programmatic requirements, the program, at its discretion, may decide that it is appropriate to inform the court of these failures.

L. Confidentiality

1) In general, information obtained during the course of the pretrial release program's investigation and during post-release supervision of defendants shall remain confidential.

2) Programs may release, but should exercise judgement in disclosing information that:

- will be submitted to the court for the purpose of setting conditions of release;
- relates to violations of conditions of release, including failure to appear;
- may be given to other service programs;
- may be given to law enforcement officials attempting to serve process for failure to appear;
- may be used in presentence reports;
- may be made available for research purposes to qualified personnel provided that no single defendant be identified in the research report by name, docket number, or any other label which might allow identification.

3) At the time of the initial interview, the defendant should be clearly advised of the potential uses to which the information offered will or may be put.

4) In releasing such information, programs shall seek to ensure that unnecessary or potentially prejudicial information is not disclosed and that names and addresses of references are not provided that may lead to unwarranted invasions of privacy.

5) Express written permission should be obtained from the defendant prior to the release of any information.

6) Programs shall establish written policies regarding access to defendants' files.

7) Programs shall seek to establish an agreement with the courts, prosecutors and defense counsel which would preclude program staff from being subpoenaed for purposes of providing testimony relating to the program's initial interviewing or monitoring of the defendant at any proceeding where a determination of innocence or guilt on the charge is being made.

8) The Division shall have access to all program records and shall approve all policies and procedures for programs funded pursuant to these Standards.

V. Administrative Standards

A. General

1) Programs shall be established and maintained pursuant to the standards prescribed herein, Division rules and regulations, applicable laws and court orders.

2) Programs shall operate in such a manner that all defendants and courts within the jurisdiction can be effectively served.

3) Programs shall be neutral and independent of either prosecution or defense so that reliable, unbiased information can be provided to the courts for more informed release decisions.

B. Information Gathering and Data Collection

1) Programs shall develop and maintain an information system that permits ongoing monitoring of the effectiveness of the program and evaluates local practices in relation to statewide standards.

2) Programs shall conduct periodic studies to determine whether any pretrial program practices need to be reassessed.

3) Programs funded by the Division shall submit data as required in the Division's pretrial services quarterly reporting forms.

C. Training

1) Programs shall ensure that their employees are sufficiently trained to undertake the duties and responsibilities of the program.

2) Training shall include timely orientation of all program staff regarding these Standards and shall seek to ensure that all employees perform their duties consistent with the provisions of these Standards.

3) Programs shall initiate training to educate other members of the criminal justice system regarding the policies and practices of pretrial release services.

D. Public Information

1) Programs shall provide information to inform the public and the criminal justice system of the policies, practices and achievements of pretrial services.

2) Programs shall have available, for both criminal justice officials and the public at large, copies of an annual report on program operations and their contribution to the local criminal justice system.

E. Funding

Pretrial release programs funded by the Division of Probation and Correctional Alternatives shall adhere to the standards prescribed herein; noncompliance may be ground for termination of funds.