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COURT DISPOSITION STUDY

Criminal Offenders in Connecticut's Courts in 1991

AN OVERVIEW

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I. THE STUDY

There has been a long-term commitment by Connecticut's Governors and the Judicial Branch to the creation of a range of intermediate sanctions for criminal offenders. In 1990, Connecticut's General Assembly created the Office of Alternative Sanctions (OAS) within the Judicial Branch by passage of Public Act 90-213. Since 1989, the legislature has also appropriated funds to the Judicial Branch "for the purpose of a grant to The Justice Education Center to conduct a public education and involvement campaign" and to engage in research to facilitate the planning and development of community-based sanctions programs.

In FY90/91, The Center completed the Offender Profile Study: A Comparison of Criminal Justice Clients in Prison and in the Community. This in-depth research was based on a "snapshot" comparison of offenders at one point in time. It enabled the newly created Office of Alternative Sanctions to project the numbers of incarcerated offenders who could be considered for intermediate sanctions instead of occupying a prison bed on a given day, thus providing a foundation for OAS' three-year strategic plan.

The research reported here substantially extends the previous findings by providing data that can inform policy and programming needs over a longer time.

- A. Background
- B. The research

A. BACKGROUND

In 1991, the Office of Alternative Sanctions (OAS) of Connecticut's Judicial Branch developed a three-year strategic plan for the statewide expansion of community-based punishment programs, both to give judges a broader range of sentencing options and to help alleviate prison and jail overcrowding. This plan was based on two premises:

1. Every individual convicted of a crime should be swiftly punished, and that punishment should be strictly enforced. The sanctions, however, should be consistent with offense severity, the offender's criminal and personal history, and public safety needs.
2. A continuum of credible, enforceable community-based sanctions, falling between probation and prison, should be created throughout Connecticut: sanctions that punish justly and sensibly and that ensure the availability of prison space for violent and chronic offenders.

The Office of Alternative Sanctions commissioned a research study:

1. To collect comprehensive data describing Connecticut's criminal offender population, including those charged with minor offenses, over the course of a year.
2. To project population flow and sentencing patterns that would facilitate OAS' planning and development of community-based sanction programs.
3. To identify criteria that would assist the judiciary and court personnel in identifying which offenders would be appropriate for a range of community-based sanction programs.
4. To provide a scientific sample of offenders that could form the basis for longitudinal studies of outcomes and program effectiveness in future years.

B. THE RESEARCH

The development of a full range of community-based sanctions for Connecticut's criminal offenders requires information about them: who they are, what crimes they have been charged and convicted of committing, their criminal and personal history, and their service needs. This description was gleaned from data gathered on a random sample of 3131 offenders with cases disposed in Connecticut's criminal courts during 1991. The information, never before collected in full, includes information on present and past criminal charges, pretrial and sentencing information, demographic statistics, and issues of special public concern: urban crime, drugs, female offenders and youth.

The Justice Education Center commissioned the Research and Evaluation Services division of Child & Family Services, Inc. to carry out the study. Data were provided by staff in the Information Systems Unit of the State's Judicial Branch, and supplemented by information gathered from the Office of the Chief Bail Commissioner, the Office of Adult Probation, the Department of Public Safety, and the Department of Correction.

The study sought to answer a range of questions, including:

- What kinds of crimes are being committed and by whom? How many are non-violent?
- What offenders are receiving what kinds of sentences?
- How do offense types and sentencing patterns vary by court size and by region?
- How do sentencing patterns relate to such offender characteristics as sex, age, gender, race/ethnicity and criminal history?
- What is the relationship between offenders' current offenses and known alcohol or substance abuse problems?

II. GENERAL CHARACTERISTICS OF THE 1991 SAMPLE OFFENDER PROFILE

This study describes the offender population disposed in the courts throughout the 1991 year and includes a full range of offenders, including those charged with minor offenses who were omitted in past studies. This base is useful for planning a comprehensive range of sanctioning options, including some that may be less severe than probation.

FINDINGS INCLUDE:

A. Demographic

Gender: 84% of the offenders in the sample were men; 16% were women.

Race/ethnicity: 51% were Caucasian; 33% were African-American; 15% were Latino; the remaining 1% were Asian or other designation.

B. Types of Charges

Felonies/misdemeanors: 38% had felonies as their most serious charge at disposition; 51% had misdemeanors; 9% were convicted of infractions; and the remainder were disposed with violations or other offense classifications.

Offense classification: 26% had "crimes against persons"¹ (commonly called "personal" or "violent" crimes) as their most serious offense; 17% were convicted of substance crimes; 23% were adjudicated with property crimes as most serious; and 32% had crimes against the "public order."

C. Types of Dispositions

Prison	36%
Probation	32%
Fines	18%
Time served	3%
Guilty with release	9%
Nolle/Dismissal	2%

D. Incarcerated Offenders

Convicted of felonies: 56% of offenders convicted of felonies were incarcerated.

Convicted of misdemeanors: 27% of offenders convicted of misdemeanors were incarcerated.

¹ Crimes against persons, or "personal" crimes as they are called in this report, are generally considered violent crimes. They include murder, sexual assault, assault, robbery, risk of injury to a minor, kidnapping and others. Because of its invasiveness, burglary is included in this category in this study, although the FBI and other agencies consider it a "property" offense.

III. PREDICTORS IN JUDICIAL DECISION-MAKING

The study showed that the court placed primary consideration on the extent and severity of defendants' current and past criminal behavior in its determinations of pretrial incarceration and sentences to prison. The study was able to identify criminal justice factors which could predict, with over 70% accuracy, which offenders are jail- or prison-bound, both at the pretrial stage and at sentencing. This is a high prediction rate, revealing that the court, despite being overburdened and overcrowded, was disposing of cases primarily as it was designed to do. The principal determinants of incarceration were: the severity and type of charge, arrest history, number of felony convictions, and, in cases of sentencing, pretrial incarceration.

A. Pretrial incarceration

1. Data showed that it is possible to predict whether or not a defendant will be incarcerated pretrial almost 74% of the time, using a combination of variables in the following order: arrest history, number of felony convictions, defendant's race/ethnicity, severity and type of most serious charge and sex. When race/ethnicity was not included, pretrial incarceration could be predicted accurately 71% of the time. When sex was not included, predictions were still accurate 73% of the time.

B. At sentencing

1. **Sentenced to incarceration:** It is possible to identify whether defendants will be sentenced to prison or not about 75% of the time, using a combination of variables: severity of charge at disposition, total arrests on record, number of days in pretrial incarceration, number of recent felony convictions, type of charge and race/ethnicity, in that order. When race/ethnicity was not included, a sentence to incarceration could still be predicted accurately 71% of the time.
2. **Sentenced to probation:** Severity and type of charge, arrest history, felony convictions, pretrial incarceration and race/ethnicity were the major sentencing considerations, in that order. Data were able to predict accurately whether defendants would be sentenced to probation or incarceration about 72% of the time. When race/ethnicity was not included, sentences to probation could still be distinguished accurately 71% of the time.

Assessment tools, developed from this research data, could be administered throughout the criminal justice process to identify eligible offenders for community-based punishment, supervision and treatment programs early in the criminal justice process, thus maximizing the range of options for the judiciary and, to the extent possible, reserving prison and jail space for the chronic and violent felon.

IV. TARGET POPULATIONS FOR COMMUNITY-BASED SANCTIONS

The research sample yielded data critical to the identification of potential pools of offenders who might have been eligible and appropriate for alternative sanctions during 1991. The study accomplished this from four vantages:

- A. Total numbers of offenders potentially eligible for community-based sanction programming, extrapolating from the research sample of 3131 cases;
- B. Offenders categorized by race/ethnicity and gender who are priority populations for expanded system attention;
- C. Offenders categorized by nature of offense and age who would benefit from specialized program development;
- D. Offender populations of high service need by court volume.

A. **TOTAL NUMBERS OF OFFENDERS POTENTIALLY ELIGIBLE FOR COMMUNITY-BASED SANCTIONS**

1. **Sentenced to incarceration²**

FINDING: More than 22,000 misdemeanor and low-end felony offenders who were sentenced to short terms of incarceration in 1991 might have been eligible for, and better served by, community-based supervision, punishment and treatment programs.

a. **Misdemeanants**

- i. **14,500 misdemeanants** were given short-term sentences.

# of Months Served	# of Offenders Eligible	% of Misdemeanor Population
3 months	9,000	43%
6 months	13,000	68%
9 months	14,500	73%

- ii. **6,000 misdemeanants**, or 1/3 of the total misdemeanor incarcerated population, had short arrest histories: 5 or fewer arrests.

²These estimated numbers throughout the findings are based on projections extrapolated from the number of offenders in the sample processed through court in 1991.

b. Felons

i. **8,000 felons** who were sentenced to prison were convicted of low level C, D and unclassified felonies. They were not charged with "personal" crimes; they were not subject to a mandatory minimum sentence; and they had records of five arrests or less. Of these:

- **5,700** were convicted of drug-related crimes;

- **2,300** were convicted of nonviolent C or D property or public order crimes and might have been sentenced to community-based punishments or served with day fines.

RECOMMENDATIONS:

- The assessment to evaluate eligibility of all misdemeanants and low-end felons for a non-incarcerative alternative should be conducted by the Office of Adult Probation. Additional personnel to administer these assessments would be needed, but the cost would be offset by savings incurred in expanded numbers of offenders sent to community-based alternatives rather than jail.

- For offenders convicted of less serious offenses, expansion of such components as Alternative Incarceration Centers, transitional housing, treatment options, community service and day fines should be considered.

- For felons convicted of more serious offenses, 24-hour monitoring, expanded residential capacity, expanded Day Incarceration Center capacity, electronic monitoring, and increased use of Intensive Probation Supervision should be considered.

2. Sentenced to Probation

FINDING: Over 18,000 offenders, or 41% of probationers, were sentenced to a year or less.

- a. Of probationers sentenced to a year or less, 84% were convicted of misdemeanors.
- b. The most common probation conditions were, in order: drug treatment, drug evaluation, alcohol evaluation, alcohol treatment, and community service.

RECOMMENDATION:

●To reduce probation overload and enable probation officers to spend time on more serious cases, an expansion of community service, day fines, mediation, drug and alcohol treatment and educational programming should be used as diversions or parts of conditional release sentences.

3. Detained Pretrial

FINDINGS: ●Over 54,000 offenders were held in pretrial detention for some period of time in 1991. Low failure to appear rates among this population argue that the majority of those with short arrest histories might reasonably have been considered for community-based pretrial supervision and attendant programming.

●Offenders who were given conditional release and monitored by the Office of Adult Probation had lower than average rates of failure to appear and arrests on new charges during the pretrial period. In addition, offenders released on surety bond with conditions were less likely to commit pretrial violations than those who were released on surety bond alone.

- a. 57% of the offenders sentenced to six months or less were incarcerated for some portion of the pretrial period, and over 60% of the offenders with a sentence of up to a year.
- b. Rates of failure to appear in court in the study sample averaged only 5% and were primarily associated with long arrest histories.

RECOMMENDATIONS:

●Since data suggest that pretrial community supervision may be as effective, if not more effective, than monetary bond for ensuring defendants' court appearances, expansion of community-based pretrial supervision and a significant reduction in the use of bail should be considered.

●Expansion of voluntary pretrial diversions, especially drug treatment or educational programming, should be considered.

B. OFFENDERS CATEGORIZED BY RACE/ETHNICITY AND GENDER WHO ARE PRIORITY POPULATIONS FOR EXPANDED SYSTEM ATTENTION

1. Race/ethnicity³

FINDING: Most of the disparities seen in pretrial incarceration and sentencing rates could be attributed to primary criminal justice factors: type and severity of charge, number of arrests, felony convictions, and, in cases of sentencing, pretrial incarceration. However, some differences remained that could not be explained by these considerations. It is important to note that, while these differences appear to an extent to be due to race/ethnicity in the study, they might also be explained by other factors not available to this research: e.g., economic, educational and language differences, employment, family support or defendant demeanor in court.

a. At pretrial stage

- i. **Monetary bond:** Race/ethnicity was a statistically significant predictor of monetary bond orders. 76.5% of Latinos interviewed, by bail commissioners and 71% of African-Americans were ordered to pay monetary bond, compared to 68% of Caucasian men.
- ii. **Pretrial incarceration:** 56% of Latinos, 50% of African-Americans, and 27% of Caucasians were incarcerated for some part of the pretrial period.
 - (a) **Charged with violent crime:** Latinos charged with a violent crime had a 58% likelihood of being incarcerated some period pretrial, compared to 51% for African-Americans and 44% for Caucasians.
 - (b) **Charged with a non-violent crime:** Racial/ethnic differences in the likelihood of an offender being incarcerated pretrial also exist for the various forms of non-violent crime, with a 14-15% gap between Caucasians and Latinos. The difference between African-Americans and Caucasians remains at 6-7% across types of crime.

³There are many complex considerations in understanding sentencing and pretrial incarceration, which are discussed in detail in the full report. For example, one of the most significant factors that explains differences in rates of prison sentences is the number of prior arrests. **The study could not control for potential disparity in arrests prior to court activity.** If police are more likely to arrest African-Americans and Latinos than Caucasians under similar circumstances, as some national research has suggested, then this disparity prior to court could contribute to unequal treatment, even though judges were considering the criminal history criteria fairly.

b. **At sentencing:**

- i. **Sentenced to incarceration:** 50% of Latinos, 45% of African-Americans, and 25% of Caucasians were sentenced to prison.
 - (a) **Sentenced for a violent crime:** When holding other criminal justice factors constant, a Latino convicted of a violent crime had a 49% likelihood of being sentenced to prison, compared to 42% for African-Americans and 41% for Caucasians.
 - (b) **Sentenced for a non-violent crime:** Racial/ethnic differences in the likelihood of an offender being sentenced to prison also exist for the various forms of non-violent crime, with an 8% gap between Caucasians and Latinos and 1% between African-Americans and Caucasians.
- ii. **Sentenced to probation:** Probation sentences were ordered for 25% of the Latinos, 30% of the African-Americans, and 34% of the whites.
- iii. **Fines:** 25% of Caucasians, but just 10% of Latinos and African-Americans were levied fines.

RECOMMENDATIONS:

- Since misdemeanants and non-violent felons with short arrest histories account for a significant proportion of those incarcerated, targeted programs for these pools of offenders might reduce racial/ethnic disparities, and would have a particular impact on Latinos:

- a: If misdemeanants with five or fewer arrests were considered for community sanction options, 45% of Latinos sentenced to prison would be affected, compared to 30% of Caucasians and 29% African-Americans;

- b: If non-violent felons with five or fewer arrests were targeted, the approach would affect 43% of the Latinos sentenced to prison, in contrast to 21% of the Caucasians and 34% of the African-Americans.

- Pretrial release conditions should be more sensitive to economic and cultural variations, taking into account, for example, the importance of extended family support in minority communities.

- A reduction of monetary bond and an expansion of day fines might make the system more economically equitable.

- The high proportion of Latino clients in the system requires availability of bilingual bail commissioners, court liaisons, and community and treatment program staff, especially in the three largest cities.

- Training in cultural diversity issues for judges, prosecutors, public defenders, bail commissioners, probation officers and others in the system should be developed.

2. Gender

FINDINGS: ●Female offenders had identified drug problems at higher rates than men.

●Women were more likely to go to prison for drug possession than men, even though they were less likely to have criminal records.

- a. Women in the sample had shorter criminal careers than men. 37% of the women were adjudicated for their first known arrest, compared to 28% of the men.
- b. Women's convictions were for more minor offenses than men. 31% of the women were convicted of felonies, as opposed to 39% of the men.
- c. 33% of the women convicted of drug possession were sentenced to prison, compared to 24% of the men. 39% of the women imprisoned for possession had no other recorded arrests, compared to 18% of the men. None of the women convicted of possession had been originally charged with drug sales, compared to 18% of the men.
- d. 58% of the women had dependent children, compared to 29% of the men.

RECOMMENDATION:

●Expanded drug treatment programming for women is critical. This programming should be unique to women and should address women's needs and concerns for safety and child care.

C. OFFENDERS CATEGORIZED BY NATURE OF OFFENSE AND AGE WHO WOULD BENEFIT FROM SPECIALIZED PROGRAM DEVELOPMENT

1. Substance abuse

FINDING: 50,000 offenders, including 10,900 first offenders, were either convicted of a substance-related crime or were identified as having drug problems by bail commissioners or probation officers.

- a. Substance offenders had the shortest average arrest records. 72% had five or fewer arrests on record, compared to 66% of the public order offenders, 56% of those convicted of personal crimes, and 55% of property offenders.
- b. 6,900 first offenders were sentenced to probation on a first arrest who were either convicted of a substance-related crime or were identified as having drug problems by bail commissioners or probation officers.
- c. 65% of the offenders convicted of drug sales were sentenced to a period of incarceration, while 24% received probation and 2% were fined.

RECOMMENDATION:

● Many non-violent offenders, especially women, with substance abuse charges and short arrest histories would be better served by treatment than incarceration.

2. Crimes of assault

FINDING: 8,500 offenders, over half the misdemeanants convicted of a "personal" crime in 1991, were convicted of Assault 3, a large percentage of which were family violence incidents.

- a. Violent offenses are associated more with indications of alcohol problems than with drug problems. In addition, alcohol was more strongly associated with violent offenses than with other types of crimes.
- b. Crimes of assault, especially misdemeanor offenses, are particularly prevalent in Connecticut's three largest cities.

RECOMMENDATIONS:

- Programs that address misdemeanor assaultive behavior, should be expanded, especially in urban areas.
- A range of intermediate sanctions specifically designed for offenders convicted of domestic violence should be developed. This range should include counseling for minors who witness the violence.
- Alcohol treatment components are critical to programs for offenders arrested for assault.

3. 16- and 17-year-olds

FINDING: 16- and 17-year-olds were less likely than older offenders to be convicted of a personal or public order crime and more likely to be convicted of a substance or property offense.

- a. 25% of the 16- and 17-year-olds were sentenced to prison. 50% of these youth were convicted of property crimes; 44% of personal or substance crimes.
- b. There is a strong link between lack of education and drug abuse among youthful defendants.

RECOMMENDATIONS:

- Community-based sanction programs need to be developed that offer age-appropriate drug treatment and educational components to offenders ages 16 and 17, especially Latino youth.
- Youth were identified in the sample who had histories of multiple arrests. Expanded early intervention programming for juveniles would be valuable.

D. OFFENDER POPULATIONS OF HIGH SERVICE NEED BY COURT VOLUME

FINDING: Courts in the three largest cities saw higher proportions of violent and substance-related crimes, and higher rates of pretrial incarceration and prison sentences than other courts. This is due primarily to higher rates of misdemeanor assaults.

1. Urban crime

- a. 58% of defendants in the three largest city courts were seen for violent or substance-related crimes, compared to 46% of the offenders seen in both the medium and smaller city courts.
- b. Defendants in the three largest city courts were more likely to be sentenced to incarceration: 44% compared to 33% of those in the medium and 32% of those in the smaller city courts.
- c. 54% of the state's Latino defendants were heard in the three largest urban courts, compared to 46% of African-Americans and 14% of Caucasians.
- d. 24% of the offenders in the three largest cities' courts were seen for substance abuse crimes, compared to 16% in other city courts.

RECOMMENDATION:

●Community-based supervision and treatment options are critical to Connecticut's three largest cities and their outlying regions, especially for Latinos.

IV. SUMMARY OF THE FINDINGS

The study findings have major policy and program implications and potential for enhancing the equitable use of alternative sanctions in Connecticut.

- A. Policy implications
- B. Program implications

A. POLICY IMPLICATIONS

- a. Assessment tools, developed from the research data, could be administered early in the criminal justice process to identify offenders who are appropriate for community-based diversion programs or other alternative sanctions, thus maximizing the range of options for the judiciary and, to the extent possible, reserving prison and jail space for the chronic and violent felon.
- b. Pretrial community supervision may be as effective, if not more effective, than monetary bond for ensuring defendants' court appearances. This is an important finding for the judiciary in considering an expansion of pretrial intervention programs and a reduction in the use of bail.
- c. System planning efforts must be continually sensitive to cultural diversity. For example, Latinos are overrepresented in the courts and underrepresented in alternative sanction programs. The language barrier they face is an example of issues that must be addressed on a system-wide basis.

B. PROGRAM IMPLICATIONS

- a. There are large numbers of offenders who might be eligible for community-based supervision, punishment and treatment programs: offenders who have been charged with or convicted of non-violent or substance abuse crimes and have minor arrest histories.
- b. Specialized program interventions are especially critical for certain identified populations: Latinos, women, 16- and 17-year-olds, substance abusers and offenders charged with crimes of misdemeanor assault.
- c. People with substance abuse charges, especially possession, have the shortest average criminal "careers." Treatment/punishment options for these offenders may be more effective than purely punitive sanctions.
- d. While illegal substance abuse is frequently identified as a major contributor to increased crime rates, the study reveals that alcohol abuse is more directly associated with violent crime. Alcohol treatment should be a key component of alternative sanctions programming.
- e. Courts in Connecticut's three largest cities see the highest proportions of violent and substance-related crimes, and higher rates of pretrial incarceration and prison sentences than other courts. Expansion of community-based supervision and treatment options is especially critical for urban areas.