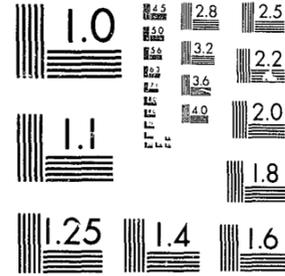


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**COST ANALYSIS OF CORRECTIONAL
STANDARDS: PRETRIAL DIVERSION**

STANDARDS AND GOALS PROJECT
CORRECTIONAL ECONOMICS CENTER
OF THE
AMERICAN BAR ASSOCIATION



COMMISSION ON CORRECTIONAL FACILITIES & SERVICES

October 1975

30715

COST ANALYSIS OF CORRECTIONAL
STANDARDS: PRETRIAL DIVERSION

VOLUME I

ANN M. WATKINS

PREPARED FOR
THE NATIONAL INSTITUTE OF LAW ENFORCEMENT
AND CRIMINAL JUSTICE

STANDARDS AND GOALS PROJECT
CORRECTIONAL ECONOMICS CENTER
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October 1975

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The Correctional Economics Center is a project of the ABA Commission on Correctional Facilities and Services which has been joined by the Association of State Correctional Administrators, Council of Criminal Justice Planning Agency Administrators as cooperating organizations. Initiated in December 1973, the Center is supported by a discretionary grant from the Edna McConnell Clark Foundation of New York City. The overall goal of the Center is to demonstrate how economic concepts and analysis can be applied to the corrections sector of the criminal justice system.

Implementation of innovations and system reform will require sound economic and cost analysis to help correctional systems and administrators employ limited budget resources to translate proposed innovations into fiscal reality. The Center offers assistance to correctional administrators analyzing policy decisions and seeks to promote economic analysis within corrections by stimulating evaluation by economists, correctional researchers and others. This is achieved through personal contacts, public appearances and publications. The Center responds to numerous requests for data, information and recommendations from federal, state and local agencies, legislative committees, special commissions, private organizations and independent research projects.

STANDARDS AND GOALS PROJECT

The Correctional Economics Center has been granted funds from the Law Enforcement Assistance Administration to undertake a Standards and Goals Project. The purpose of this Project is to perform a cost analysis of the Corrections Report of the National Advisory Commission on Criminal Justice Standards and Goals, and present it in a form which will aid state and local decision-makers as they set and implement their own standards and goals for corrections. Included in the Report are priorities and Standards for upgrading corrections and other criminal justice functions impacting on that process.

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PREFACE

Cost analysis which has been undertaken by the Standards and Goals Project has had two purposes:

- To analyze and estimate the costs of implementing Standards of the Corrections Report, issued in 1973 by the National Advisory Commission on Criminal Justice Standards and Goals (policy-oriented purpose);¹
- To provide cost guidelines and cost estimation techniques for use by jurisdictions in assessing costs of their own ongoing or contemplated activities (technical purpose).

To achieve both purposes, the Project is presenting the results of its cost analysis of diversion Standards and activities in two volumes, of which this is the first. In focusing on the Project's policy-oriented purpose, this first volume:

- Provides brief background on the Corrections Standard advocating use of diversion as an alternative to traditional criminal justice processing;
- Focuses on findings of the cost analysis and briefly explains the methodology used so that these findings can be interpreted accurately;
- Highlights the policy implications of the analysis.

It is intended for use as a separate document by justice system administrators, legislators and others in need of a reference to the policy issues of diversion implementation, particularly those related to cost. In addition, Volume I is to be used by justice system planners and analysts as a companion document to the more detailed cost analysis of Volume II.

¹National Advisory Commission on Criminal Justice Standards and Goals, Corrections (Washington, D.C.: Government Printing Office, 1973); hereafter referred to as Corrections.

INTRODUCTION

Pretrial diversion provides an alternative to traditional criminal justice processing. Following arrest, the defendant is "diverted" to an activity which provides services such as education and job training outside the criminal justice system. If he or she successfully participates in the diversion activity, often the charges are dropped. Thus diversion attempts to avoid or halt official processing all together.

Formalized pretrial diversion activities are advocated by the National Commission on Criminal Justice Standards and Goals in Standard 3.1 of their Corrections Report, shown in Figure 1 on page 4. Diversion is seen as a way to redistribute justice system resources. For example, if less serious first-time offenders are diverted, justice system resources can be devoted to serious cases. Of course some of the redistributed resources go to support the diversion activity itself. Therefore, as states and localities seek to follow the Commission's recommendation on diversion, its costs become an issue.

This report focuses on costs incurred by diversion activities. It provides bench marks for several types of diversion activities, discusses the factors that affect cost, and identifies the budget components and other types of costs to be considered in assessing costs of any operational or contemplated diversion activity. Averted costs or savings (benefits) resulting from diversion activities will depend on the path the defendant would have followed had there been no diversion alternative for him. They are discussed in a concluding section of this volume on cost/benefit comparisons.¹

In order to have been considered in the analysis, a diversion activity had to meet the following conditions:

- The intervention had to occur after a criminal act had been committed.

¹ They will also be considered further in the Standards and Goals Project's subsequent system analysis, which will be looking at interrelationships among the Standards for diversion, sentencing, and so forth.

Figure 1

Use of Diversion Standard 3.1^a

Each local jurisdiction, in cooperation with related State agencies, should develop and implement by 1975 formally organized programs of diversion that can be applied in the criminal justice process from the time an illegal act occurs to adjudication.

1. The planning process and the identification of diversion services to be provided should follow generally and be associated with "total system planning" as outlined in Standard 9.1.

a. With planning data available, the responsible authorities at each step in the criminal justice process where diversion may occur should develop priorities, lines of responsibility, courses of procedure, and other policies to serve as guidelines to its use.

b. Mechanisms for review and evaluation of policies and practices should be established.

c. Criminal justice agencies should seek the cooperation and resources of other community agencies to which persons can be diverted for services relating to their problems and needs.

2. Each diversion program should operate under a set of written guidelines that insure periodic review of policies and decisions. The guidelines should specify:

a. The objectives of the program and the types of cases to which it is to apply.

b. The means to be used to evaluate the outcome of diversion decisions.

c. A requirement that the official making

the diversion decision state in writing the basis for his determination denying or approving diversion in the case of each offender.

d. A requirement that the agency operating diversion programs maintain a current and complete listing of various resource dispositions available to diversion decisionmakers.

3. The factors to be used in determining whether an offender, following arrest but prior to adjudication, should be selected for diversion to a noncriminal program, should include the following:

a. Prosecution toward conviction may cause undue harm to the defendant or exacerbate the social problems that led to his criminal acts.

b. Services to meet the offender's needs and problems are unavailable within the criminal justice system or may be provided more effectively outside the system.

c. The arrest has already served as a desired deterrent.

d. The needs and interests of the victim and society are served better by diversion than by official processing.

e. The offender does not present a substantial danger to others.

f. The offender voluntarily accepts the offered alternative to further justice system processing.

g. The facts of the case sufficiently establish that the defendant committed the alleged act.

^aDiversion is again highlighted in Standard 7.1, Development Plan for Community-Based Alternatives to Confinement: ". . . Minimum alternatives to be included in the plan should be the following: 1. Diversion mechanisms and programs prior to trial and sentence . . ." It is also emphasized in the Commission's report on Courts, Standard 2.1, "General Criteria for Diversion," and 2.2, "Procedure for Diversion Programs." National Advisory Commission on Criminal Justice Standards and Goals, Courts (Washington, D.C.: Government Printing Office, 1973), pp. 27-41.

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- The alleged offense had to be one that had not been decriminalized.
- The diversion activity had to be formalized and provide preadjudication dispositions for a definite population.¹

Diversion activities can be classified by the organization having primary responsibility for their operation, such as police, courts or a private community agency.² This report is intended to be applicable to all diversion activities regardless of the sponsoring organization, including a growing number of diversion activities operated by probation departments.³ Generally, distinctions of sponsorship are relevant to a cost analysis to the extent that they reflect the stage of the criminal justice system at which intervention occurs, and hence determine averted costs. For example, police diversion typically occurs at the point of defendant contact with the police and so saves more criminal justice resources than diversion by a court. Classification of diversion activities by the sponsoring agency is also a factor in a cost analysis if the sponsoring agency is at the state rather than the community level. This analysis focuses on diversion activities developed and implemented at the initiative of local jurisdictions because such activities provide the only available cost data and because local activities were recommended in the Corrections Report.⁴ Though recent legislation reflects a trend toward statewide diversion, no statewide diversion activity is yet operational.⁵

¹As in all Standards and Goals Project analyses, diversion activities directed solely at juveniles were excluded, except as they served as prototypes which can be replicated for adults. For the Standards and Goals Project, "deferred prosecution," "pretrial probation" and "pretrial intervention" activities were included as diversion activities.

²All such organizations fall within the broad definition given to "corrections" by the Corrections Report. These various types of diversion are discussed in the Corrections Report, p. 77.

³According to a recent survey, 40 percent of all diversion programs are sponsored by a probation or parole agency; 22 percent by a private agency and 15 percent by a court. National Center for State Courts, An Evaluation of Policy-Related Research on the Effectiveness of Pretrial Release Programs (Denver, Colo.: National Center for State Courts, 1975), Appendix C, p. 12. Pending federal legislation (S.798 and H.R.9007, 93d Cong., 1st sess.) would continue this trend.

⁴Corrections, p. 95.

⁵For example, see New Jersey's statewide plan and legislation in Tennessee, Rhode Island, Massachusetts, Washington and Florida.

Diversion activities can also be classified by the primary type of services offered to clients, such as employment, drug treatment or conflict intervention. This classification is particularly useful in a cost analysis because most of the differences in the costs of diversion incurred by the criminal justice system are due to differences in the services offered.

The latter classification of diversion activities, that is, by the type of services offered, will be used in this report. Costs for two types of pretrial diversion are discussed in the greatest detail: those emphasizing the provision of employment services and those emphasizing drug treatment services. Alcohol diversion providing detoxification, mental illness diversion providing treatment, and conflict intervention providing arbitration and counseling, are mentioned briefly.

COSTS INCURRED BY DIVERSION ACTIVITIES

Three types of costs are incurred by diversion activities--criminal justice system public expenditures, most of which will appear in the correctional administrator's budget; external costs borne by non-criminal justice agencies and private individuals or groups; and opportunity costs, associated with the fact that when one activity is undertaken, another is foregone. In the sections which follow, each of these types of costs is first discussed separately. A concluding section discusses the total costs (which includes all three types) for diversion activities providing different kinds of services.

CRIMINAL JUSTICE SYSTEM PUBLIC EXPENDITURES

Criminal justice system costs for diversion include direct outlays for, or the imputed value of, goods and services provided by: law enforcement agencies; courts; legal services agencies, bureaus or firms; other agencies, organizations or individuals whose stated mission could not be carried out if there were no crime; and activities of organizational units or individuals financed by any of the above. Because diversion activities are primarily financed through governmental sources, the costs estimated here are called criminal justice system "public" expenditures.

Employment Diversion

A set of criminal justice cost estimates in the form of a sample budget for an employment diversion activity designed to serve 260 clients in a year is shown in Figure 2 on page 8. In interpreting these cost estimates, the following features of the sample budget should be noted:

- These cost estimates are intended to be applicable to a diversion activity regardless of the sponsoring agency. They are based on activities locally initiated and implemented, but should also be useful in planning local components of statewide diversion activities.
- Cost data from exemplary models of employment diversion, specifically seventeen Department of Labor-sponsored activities, were collected and used in preparing these estimates.

Figure 2

Sample Budget of Annual Criminal Justice Expenditures for an Operational, Employment Diversion Activity^a

| ITEM | AMOUNT (1974 DOLLARS) | | PERCENT OF TOTAL COSTS ^e |
|---|-----------------------|--------------|-------------------------------------|
| | AVERAGE LOW | AVERAGE HIGH | |
| PERSONNEL SERVICES | | | |
| Wages and Salaries | | | |
| 1 Administrator | \$ 14,700 | \$ 21,600 | 7.4% |
| 1 Career/Job Developer | 8,200 | 12,700 | 4.3 |
| 7 Counselors (\$9600-12,800 per counselor) | 67,200 | 89,600 | 32.2 |
| 3 Screeners (\$8900-10,800 per screener) | 26,700 | 32,400 | 12.1 |
| 1 Data Analyst/Researcher | 11,000 | 15,800 | 5.5 |
| 1 Secretary/Receptionist | 6,600 | 9,500 | 3.3 |
| 1 Accountant, Half-time | 5,700 | 8,100 | 2.8 |
| Total Wages and Salaries | 140,100 | 189,700 | (67.7) |
| Fringe Benefits (15 percent) | 21,015 | 28,455 | 10.1 |
| Overtime | 1,000 | 1,400 | 0.5 |
| TOTAL PERSONNEL SERVICES | \$162,115 | \$219,555 | (78.3)% |
| OTHER DIRECT COSTS | | | |
| Travel | \$ 6,600 | \$ 9,000 | 3.2 % |
| Consultants | 1,400 | 2,000 | 0.7 |
| Supplies and Equipment | 6,600 | 9,000 | 3.2 |
| Duplication Services | 1,400 | 2,000 | 0.7 |
| Rent, Utilities, and Maintenance | 12,000 | 16,300 | 5.8 |
| Communications | 4,600 | 6,200 | 2.2 |
| Administration | 6,200 | 8,400 | 3.0 |
| Bonding and Insurance | 400 | 600 | 0.2 |
| Clients Emergency Fund | 3,500 | 4,800 | 1.7 |
| Miscellaneous | 2,000 | 2,800 | 1.0 |
| TOTAL OTHER DIRECT COSTS | \$ 37,500 | \$ 51,300 | (21.7)% |
| TOTAL ANNUAL CRIMINAL JUSTICE EXPENDITURES | | | |
| | \$206,815 | \$280,655 | 100.0% |
| AVERAGE COST | | | |
| At Design Capacity of 260 Clients Per Year ^b | Per Client Year | \$ 3,182 | \$ 4,318 |
| | Per Client | \$ 795 | \$ 1,079 |
| At Actual Total Clients Served of 250 Per Year ^c | Per Client Year | \$ 3,309 | \$ 4,490 |
| | Per Client | \$ 827 | \$ 1,123 |
| Per "Successfully" Terminated Client At 200 Per Year ^{c d} | | \$ 1,034 | \$ 1,413 |

^aThis budget includes only those costs of an employment diversion activity which are borne by the criminal justice system. Excluded are the costs of services typically provided outside the criminal justice system--such as manpower training, aptitude testing, GED tutoring, and vocational testing. These services to which diversion clients are referred are treated as external costs. Also excluded from the above budget are opportunity costs of diversion, including the individual client's loss of the right to a speedy trial and any potential risk to society of increased crime committed by diversion clients.

^bDesign Capacity associated with this sample budget for an employment diversion activity is 65 clients being served at any one time, with a typical client's tenure of three months for a total maximum number of 260 clients served annually. See the text for more discussion.

^cSee the text for the rationale behind "actual per client" and "per successful client" estimates.

^dA "successfully" terminated client is one against whom charges are dropped as a result of his participation in the diversion activity.

^ePercentages for the high and low estimates are not identical because of rounding; those shown here are the average for the two groupings. Percentages may not add to 100 because of rounding.

- The sample budget is for an on-going operational activity and as such excludes the higher start-up costs.
- For each budget item, two estimates are given, an average high and an average low; neither represents the extreme. The costs of three out of four similar activities are expected to fall within the sample budget's range.²
- The sample budget includes only those expenditures incurred by the criminal justice system in the operation of a diversion activity. Excluded from this budget are external costs for services outside the criminal justice system to which the diversion client may be referred (such as job training) and opportunity costs to society and to the individual.
- Diversion activities, like most criminal justice functions--and most governmental services--are labor intensive. Thus a high percentage of a diversion activity's budget goes for personnel expenditures.
- Certain budgetary trade-offs occur. For example, consider the trade-off between rental costs and travel: if a diversion office is located in a neighborhood safe for night counseling sessions, near public transportation and the courts, rent will probably be higher but travel costs lower.

As a result of the cost analysis reflected in the sample budget shown in Figure 2, a typical, operational, employment diversion activity serving approximately 260 clients per year is estimated to cost the criminal justice system between \$206,815 and \$280,655 annually. Analysis of cost variation across the projects surveyed, which ranged in size from 180 to 885 clients served per year, did not indicate any systematic average cost differentials (higher or lower) which could be attributed to scale (total persons served). Therefore average cost estimates based on this sample budget, discussed below, are expected to approximate the average costs of activities which vary in scale over the range surveyed. (In more technical economic terms, no "economies of scale" were discovered; long run "marginal costs" equal average costs, allowing for some factor indivisibilities discussed below.)

¹When "range of costs" is discussed subsequently in this report, it refers to the range between these two average high and average low cost estimates. Thus such discussion also excludes extremely high or extremely low average costs.

A cost analysis is concerned not only with total activity costs, but also with the average costs per service unit. Because the goals of diversion activities are to provide services to clients, the number of clients served is the "service unit" for which average costs are estimated. There are many approaches to measuring these averages or "per client" costs for a diversion activity. Five are estimated with the sample budget shown in Figure 2 and discussed below:

- Average cost at design capacity per client year and per client,
- Average cost at actual capacity per client year and per client, and
- Average cost per "successfully" terminated client.¹

The diversion activity presented in the sample budget is designed to provide a client with three months' service and to accommodate up to 65 clients at any one time. Thus the maximum potential or annual "design capacity" of this model activity is 260 clients per year.²

Most programs, once they are accepted by the local prosecutors and judges, tend to operate near capacity. Thus the estimate of actual number served shown with the sample budget is near, but not quite at capacity (250 or 96 percent capacity), to illustrate that enrollment below design capacity will increase the average costs (at design capacity, \$795 to \$1,079 per client; at actual capacity, \$827 to \$1,123 per client). The higher costs for operating below design capacity are due to the indivisibility effects of the resources mobilized in a diversion effort. For example, it is impossible to adjust the amount of the office space rented, the number on the staff and the hours per week for which staff is paid, in response to the week-to-week fluctuations in the number of diversion clients to be served.

¹In no case does the base for the average represent the expected flow of people through the sample activity during 1974. To include both clients terminated during the first week of 1974, who received services primarily covered in 1973's budget, and clients enrolled during the last week of 1974, who will receive most services during 1975, would be to underestimate the per capita costs of providing diversion services.

²These design capacity estimates are based on the actual enrollments per month and the caseloads per counselor of activities surveyed. It is assumed that a counselor's caseload responsibility includes some follow-up on former clients.

The average costs per client year are useful measures for comparing diversion activities with alternative criminal justice activities (such as the average cost per inmate year for an institutional-based program). They are estimated by dividing the total annual budget by the number of slots for clients (65 at design capacity; between 62 and 63 at actual capacity). Thus the per client year costs of diversion range between \$3,182 and \$4,318 at design capacity, \$3,309 and \$4,490 at actual capacity. The terms "design capacity" and "actual capacity" make no distinction between participants who stay the full three months and those who drop out. In fact, approximately 80 percent of the participating clients in the activities surveyed were "successfully" terminated, that is charges were dropped (by the judge, at the recommendation of the diversion activity staff) as a result of three months of participation in the diversion activity. Therefore 200 (80 percent of actual capacity, 250) is used as the base for estimating average cost per "successful" termination. Assuming this 80 percent success rate for the activity in the sample budget, the average cost per client "successfully" terminated would range between \$1,034 and \$1,413. These estimates are considerably higher than those for average cost per total actual clients served (also sometimes described as per client enrolled), which range from between \$827 and \$1,123.

The average cost per enrollee at actual capacity (\$827 to \$1,123) tends to understate the true cost of achieving the activity's goal of diverting an individual from the criminal justice system. Those who do stay receive more benefits than those who voluntarily or involuntarily drop out and thus do not have their cases dismissed. On the other hand, the average cost per "successful" client (\$1,034 to \$1,413) tends to overstate the actual cost per client since "success" is narrowly defined as the decision by the court to drop charges on the individual. A better definition would include as "successes" those individuals who drop out of the diversion activity (and so are prosecuted) but who do not recidivate and have better employment records as a result of services rendered from the diversion activity. Unfortunately, there is no data to measure the benefits these drop outs receive from their brief encounter with diversion.

Drug Diversion

A set of criminal justice cost estimates in the form of a sample budget for a drug diversion activity designed to serve 500 clients in a year is shown in Figure 3 on page 12. Cost estimates are based on a survey of projects sponsored by LEAA's Office on Treatment Alternatives to Street Crime (TASC). The general discussion of features of the employment diversion sample budget, presented in the previous section, is also applicable to this sample budget.

Figure 3

Sample Budget of Annual Criminal Justice Expenditures for an Operational Drug Diversion Activity

| ITEM | AMOUNT (1974 DOLLARS) | | PERCENT OF TOTAL COSTS |
|---|-----------------------|------------------|------------------------|
| | AVERAGE LOW | AVERAGE HIGH | |
| PERSONNEL SERVICES | | | |
| Wages and Salaries | | | |
| <u>Administrative Unit:</u> | | | |
| Project Director | \$ 17,600 | \$ 22,100 | } 13.6% |
| Deputy Director | 9,800 | 14,100 | |
| Administrative Assistant/Bookkeeper | 8,800 | 13,700 | |
| Secretary | 6,800 | 7,900 | |
| <u>Intake and Diagnostic Unit</u> | | | |
| Clinical Psychiatrist | 17,600 | 27,300 | } 14.1 |
| Social Worker | 8,400 | 11,300 | |
| Counselor | 9,200 | 16,200 | |
| Secretary | 6,800 | 7,900 | |
| <u>Screening Unit</u> | | | |
| Supervisor | 10,200 | 11,300 | } 16.7 |
| Interviewers (3 @ \$8,300 and 9,400) | 33,200 | 37,600 | |
| Lab Technician | 6,500 | 9,800 | |
| Escort | 7,300 | 8,200 | |
| Court Liaison Unit (2 @ \$8,800 and 9,800) | 17,600 | 19,600 | |
| <u>Tracking Unit</u> | | | |
| Supervisor of Evaluation | 11,200 | 11,600 | } 19.2 |
| Case Managers (4 @ \$9,300 and 9,600) | 37,200 | 38,400 | |
| Statistical Clerk | 7,300 | 8,400 | |
| Records Clerk | 6,300 | 7,400 | |
| Secretary | 6,800 | 7,900 | |
| Total Wages and Salaries | 228,000 | 250,700 | (68.7) |
| Fringe Benefits | 34,290 | 42,105 | 10.3 |
| TOTAL PERSONNEL SERVICES | \$262,890 | \$322,805 | (79.0)% |
| OTHER DIRECT COSTS | | | |
| Travel | \$ 11,000 | \$ 13,500 | 3.3 % |
| Equipment | 1,300 | 1,600 | 0.4 |
| Supplies | 5,700 | 6,900 | 1.7 |
| Duplication Services | 2,300 | 2,900 | 0.7 |
| Rent, Utilities and Maintenance | 14,300 | 17,600 | 4.3 |
| Communications | 3,300 | 4,100 | 1.0 |
| Urinanalyses (5,000 @ \$2.75 and \$3.00) | 13,750 | 15,000 | 3.9 |
| Miscellaneous | 18,200 | 24,200 | 5.7 |
| TOTAL OTHER DIRECT COSTS | \$ 69,850 | \$ 85,800 | (21.0)% |
| TOTAL ANNUAL CRIMINAL JUSTICE EXPENDITURES | \$332,740 | \$408,605 | 100.0% |
| <u>AVERAGE COST</u> | | | |
| Per Client Year (250 per Year) | \$ 1,331 | \$ 1,643 | |
| Per Client Referral (500 per Year) | \$ 665 | \$ 817 | |
| Per "Successfully" Terminated Client (350 per Year) | \$ 951 | \$ 1,167 | |

Based on the estimates shown in Figure 3, a drug diversion activity in a large city accommodating 250 clients at any time is estimated to cost between \$332,740 and \$408,605. The typical client's tenure is six months; thus 500 clients can be accepted by the diversion activity during a year for referral to drug treatment. Based on specific activities surveyed, an estimated 70 percent or 350 of these clients referred will be "successfully" terminated. "Successful" termination means they will complete the requirements of the drug diversion activity (including the requirements of drug treatment) and their cases will either be dismissed by the court or their penalties will be reduced. The set of average costs associated with the sample budget shown in Figure 3 includes the following:

- \$1,331 to \$1,643 per client year;
- \$655 to \$817 per client referral;
- \$951 to \$1,167 per "successfully" terminated client.

Average costs of drug diversion activities in small towns and rural areas tend to be higher.

Other Types of Diversion

The only other type of diversion for which criminal justice costs have been calculated is conflict intervention. Conflict intervention can be described as a form of diversion which typically occurs at the first point of contact with the criminal justice system when police are called in to settle a dispute.¹ Costs of conflict intervention include training police officers in crisis management (about \$1,000 per officer) and expenses incurred each time a case is handled (about \$27 per case).²

¹Corrections, pp. 80-81.

²Training costs are from preliminary results of an LEAA evaluation of crisis management in several U.S. cities. The \$1,000 estimate includes both the time of the officer and the costs of professional instructors and materials. Interview with Louis Mayo, LEAA, Washington, D.C., 8 October 1970. Average cost per case is based on data from the Night Prosecutor Program in Columbus, Ohio, presented in Office of Technology Transfer National Institute of Law Enforcement and Criminal Justice, Exemplary Programs (Washington, D.C.: U.S. Department of Justice, Law Enforcement Assistance Administration, April 1975), p. 7.

EXTERNAL COSTS

External costs associated with a diversion activity will depend on the needs of each client and the types of services provided to fill those needs. Typically, the non-criminal justice costs of providing services to diversion clients do not differ from providing services to the general public. External costs estimates for employment diversion are shown in Figure 4 on Page 15. These may exceed criminal justice expenditures. For example, the diversion activity may cost up to \$1,079 per client; the job training may add up to \$2,400 per client, for a total of \$3,479. A similar relationship between criminal justice expenditures and external costs exists in other types of diversion. External costs of various types of diversion are:

- For drug diversion, between \$515 and \$1,813 per client;
- For alcohol diversion, between \$53 and \$1,274 per client stay;
- For mental illness diversion, between \$5 and \$73 per client day.

The wide range in each type of external costs is due to a wide range of treatment modalities. For example, in the case of costs for drug treatment shown in Figure 5 on page 16, the lower estimate is for a drug-free residential community.

OPPORTUNITY COSTS

The opportunity costs of diversion are difficult to quantify in dollars. Often they depend on the local circumstances. The diversion client, pays a high opportunity cost if he or she must give up certain rights (such as a speedy trial) in order to participate.

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Figure 4

Estimates of External Costs Incurred as a Result of Employment Diversion Referrals

| SERVICE | COST PER CLIENT (1974 dollars) |
|---|-----------------------------------|
| Psychological Testing | \$ 75 |
| Psychological Counseling 5 hours @ \$40/hour | \$200 |
| Legal Assistance 1 hour @ \$25/hour | \$ 25 |
| Educational Training | \$350 |
| Vocational Training | \$2,000-\$2,400 |

Source: Atlanta Pretrial Intervention Project, "Proposal for Action," Atlanta, 1975, (Mimeographed), and J. Blackburn, U.S. Department of Labor, interview with A. Watkins, 14 May 1975.

Such issues are of increasing concern to decision makers.¹ Also of concern to decision makers are the opportunity costs paid by society as a result of implementing diversion activities, such as any increase in crime committed by diversion clients. (The increased risk is estimated to be minimal.²)

TOTAL COSTS OF DIFFERENT TYPES OF DIVERSION

The decision maker should consider (and his analyst should estimate) the total costs of diversion, including external costs and opportunity costs and not just criminal justice expenditures shown in

¹ See H. S. Perlman, Legal Issues in Addict Diversion: A Layman's Guide and H. S. Perlman and P. A. Jaszi, Legal Issues in Addict Diversion: A Technical Analysis (Washington, D.C.: Drug Abuse Council, Inc. and American Bar Association, Commission on Correctional Facilities and Services, 1974 and 1975, respectively); M.R. Biel, Legal Issues and Characteristics of Pretrial Intervention Programs (Washington, D.C.: American Bar Association, National Pretrial Intervention Service Center, 1974); Nancy E. Goldberg, "Pretrial Diversions; Bilk or Bargain?" National Legal Aid and Defenders Association Briefcase 31, p. 490; Daniel L. Skolar, "Protection of the Rights of Defendants in Pretrial Intervention Programs," American Bar Association, Resource Center on Correctional Law and Legal Services, Washington, D.C., 1973; and National Pretrial Intervention Service Center, Legal Opinions on Pretrial Diversion Alternatives, Kramer v. Municipal Court 49 C.A. 3rd 418, Information Bulletin No. 1, August 1975.

² See Roberta Rovner-Piecznik, Pretrial Intervention Strategies: An Evaluation of Policy-Related Research and Policy Maker Perceptions (Washington, D.C.: American Bar Association, Commission on Correctional Facilities and Services, National Pretrial Intervention Service Center, 1974), p. 231.

Figure 5

Estimates of External Costs Incurred as a Result of Drug Diversion Referrals to Drug Treatment Projects, by Treatment Modality

| MODALITY | COST PER CLIENT YEAR (1974 dollars) | COST PER CLIENT |
|---|--|--------------------|
| Drug Free-Residential Community | \$6,254 | \$1,813 |
| Outpatient Abstinence Clinic | \$1,278 | \$ 59 ₂ |
| Day-Care, Drug-Free Project | \$2,750 | not available |
| Outpatient Methadone Treatment Center | \$1,300-\$2,100 | \$ 515 |
| Residential Methadone Maintenance Project | \$5,135 | \$1,000 |

For more detail and sources, see Volume II of this report.

budgets. Putting together information in previous sections:

- Based on available data, criminal justice expenditures per client for employment diversion range between \$795 and \$1,079, for drug diversion between \$655 and \$817.
- However, the total costs of employment diversion might include the diversion activity (up to \$1,079 per client) as well as external costs for psychological testing (\$75) and job training (\$2,400), for a total of \$3,554 per client. To this must be added the difficult-to-quantify opportunity costs.
- Scant data exist on the criminal justice expenditures of diversion for the mentally ill or for the alcoholic. Only preliminary data are available on crisis intervention costs.
- Based on available data, the external costs of diversion activities exceed the criminal justice costs, regardless of the services emphasized.
- However, the external costs of diversion vary widely depending on the type of service to which the diversion client is referred and, in the case of alcohol, drug, or mental illness, the treatment modality used.
- The opportunity costs of diversion are probably high for the individual client, but low for society as a whole. That is, the individual must give up valuable rights in order to participate. The extent of those rights depends upon the demands of the prosecutor and the courts. The risk to society of increased crime committed by diversion clients is minimal.

COMPARING COSTS AND BENEFITS OF DIVERSION ACTIVITIES

In deciding whether or not to undertake a diversion program, or what particular type of diversion activity to implement, the decision maker needs to compare the expected costs of the activity, discussed above, with its expected benefits.

Advocates, including the National Advisory Commission on Criminal Justice Standards and Goals, have seen the potential reallocation of resources as one of the benefits of diversion. Other benefits accruing outside the criminal justice system, such as increased client earnings, are also mentioned. Much of the benefit of diversion may be in the quality of justice it offers its clients. Often they are "outsiders," suspicious of the establishment. Diversion activities may be the first services "the establishment" has offered which meet their needs. As a result of their participation in diversion they may "join the system," and society as well as the individual benefits. Reduced recidivism rates among diversion clients, though inconclusive, do support this conclusion.

The most sophisticated study of the reduced criminal justice system costs resulting from a diversion activity (specifically, employment diversion) is a cost/benefit study of Project Crossroads in Washington, D. C.¹ When Project Crossroads clients were matched with a control group, the 1969 judicial system costs were estimated to be reduced by \$34,000, correctional system costs by \$82,000.² While the type of control group chosen (and thus these averted costs) has been questioned,³ the estimated costs of various types of criminal justice processes prepared for the Crossroads study (adjusted to 1974 dollars) are useful in establishing the approximate magnitude of criminal justice resources potentially available for reallocation:

- Grand Jury Hearing, \$37.10;
- Jury Trial, U.S. District Court, \$3,096.66;
- Non-Jury Trial, U.S. District Court, \$1,151.36;

¹John F. Holahan, A Benefit-Cost Analysis of Project Crossroads, (Washington, D. C.: National Committee on Children and Youth, December 1970), pp. 11-30.

²Ibid., pp. 28, 30.

³For example, see Rovner-Pieczenik, Pretrial Intervention Strategies, pp. 101-102.

- Plea, U.S. District Court, \$140.35;
- Jury Trial, Local Court, \$756.00;
- Non-Jury Trial, Local Court, \$197.82;
- Parole, Marginal Daily Cost per Parolee, \$1.36;
- Probation, Marginal Daily Cost per Case, \$0.53-\$0.91;
- Incarceration, \$5.78 per day.¹

Similarly, in Atlanta in fiscal year 1974, an estimated \$825,000 in criminal justice costs were averted, giving the Atlanta diversion activity a benefit/cost ratio of 2.6. This savings is due to the fact that 50 percent of the clients in Atlanta's diversion activity would have gone to trial had there been no diversion alternative.² Of those, 47 percent would have been given probation and 37 percent would have been incarcerated.³ On the other hand, the averted costs in San Jose's Project Intercept would be minimal because

. . . those offenders [sic] enrolled in Intercept would not normally proceed to subsequent steps in the justice process (trial and imprisonment) anyway. Thus there would be no major processing costs involved. It is therefore most probable that Project Intercept is not producing significant cost savings in the benefit area-even theoretically.⁴

Thus, in order to estimate the averted criminal justice costs of other diversion activities, it is necessary to ask how many of the diversion clients would have in fact been tried and sentenced were it not for the existence of a diversion activity.⁵ The averted costs are reduced to the extent that weak cases which traditionally would have been

¹Holahan, A Benefit Cost Analysis, pp. 12-20, 24-25.

²Rovner-Pieczenik, Pretrial Intervention Strategies, p. 130

³Edward E. McBride, Research Analyst, Atlanta Pretrial Intervention Project, letter to A. Watkins, 15 May 1975, and Dr. Herbert W. Eber, Consultant, in interview with A. Watkins, 23 September 1975.

⁴"Project Intercept of Santa Clara County: Evaluation Report," November, 1973, pp. 47-48. (Mimeographed)

⁵The averted costs of Project Crossroads now are probably less significant than they were in 1969 because fewer 1974 Crossroads clients would have been tried and incarcerated in the absence of a diversion activity. Rick Okenberg, ABA Pretrial Intervention Services, Washington, D.C., interview with A. Watkins, May 1975.

dropped by the prosecution are kept in the criminal justice system because of the existence of a diversion activity.¹

Some costs associated with a more traditional pass through the criminal justice system may be averted as a result of drug diversion. However, averted costs are probably less for drug diversion than for employment diversion for two reasons. First, criminal justice procedures are not halted as frequently in drug diversion cases as they are in cases eligible for employment diversion. Not all "successfully terminated" drug diversion clients will have charges against them dropped. In fact, legal inducements (such as reduced bail, ROR and improved chances for probation and parole) are often offered to arrestees for their entry into drug diversion activities. Such legal procedures are typically more costly to the court than merely granting a continuance and subsequently dropping charges for successful diversion clients. Second, clients with drug problems, when compared with employment diversion clients, are less likely to successfully participate in diversion. While 20 percent of the clients in employment diversion activities are typically unsuccessful and hence returned to the criminal justice system for traditional processing (that is for costly trials and potential incarceration), up to 38 percent of drug diversion clients have been returned to face trial, often because they do not respond to treatment.²

¹A survey of opinions of several different types of local officials (judges, county executives, public defenders, district attorneys, police chiefs and sheriffs) conducted by the National Center for State Courts in March and April, 1974, indicated that 49 percent of those responding felt that diversion programs in their jurisdictions had "very significantly" improved the "fair and effective functioning of the criminal justice process." 46 percent of the respondents felt that they had "helped somewhat." Because the sample was so small (41 respondents from a mailing to 107 officials), and because the survey did not specify types of diversion or exactly what was meant by "fair and effective functioning," the survey results have limited applicability to this cost analysis. National Center for State Courts, Policymakers' Views Regarding Issues in the Operation and Evaluation of Pretrial Release and Diversion Programs: Findings from a Questionnaire Survey (Denver, Colo.: National Center for State Courts, 1975).

²Science Systems, Inc., "Comparative Evaluation of Five TASC Projects," Report submitted to the National Institute on Drug Abuse, U.S. Department of Health, Education and Welfare, June, 1975, pp. 17, 19 and 56. (Mimeographed.) For estimating average costs associated with the sample budget in Figure 3, an unfavorable termination rate of 30 percent, based on statistics from operational TASC activities, was assumed.

The magnitude of averted costs cannot be analyzed adequately without better techniques to evaluate the paths clients in diversion activities would have followed in the absence of the diversion alternative. Such an analysis is beyond the scope of this report, but will hopefully be pursued. Policy makers were asked recently which issues were most critical in their decisions concerning pretrial diversion. In this survey, "the costs and benefits of diversion's implementation" was shown to be second only to "the impact of diversion on recidivism."¹

Only when a locality has considered the various types of diversion available, the needs of clients to be served by diversion, and the relative costs and benefits of diversion or its alternatives, can that locality wisely implement the diversion Standard of the National Advisory Commission. The development of information such as has been discussed in this volume (and its companion for the analyst), adapted to fit the local situation, should be of considerable help in that implementation.

¹Rovner-Piecznik, Pretrial Intervention Strategies, p. 130.

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