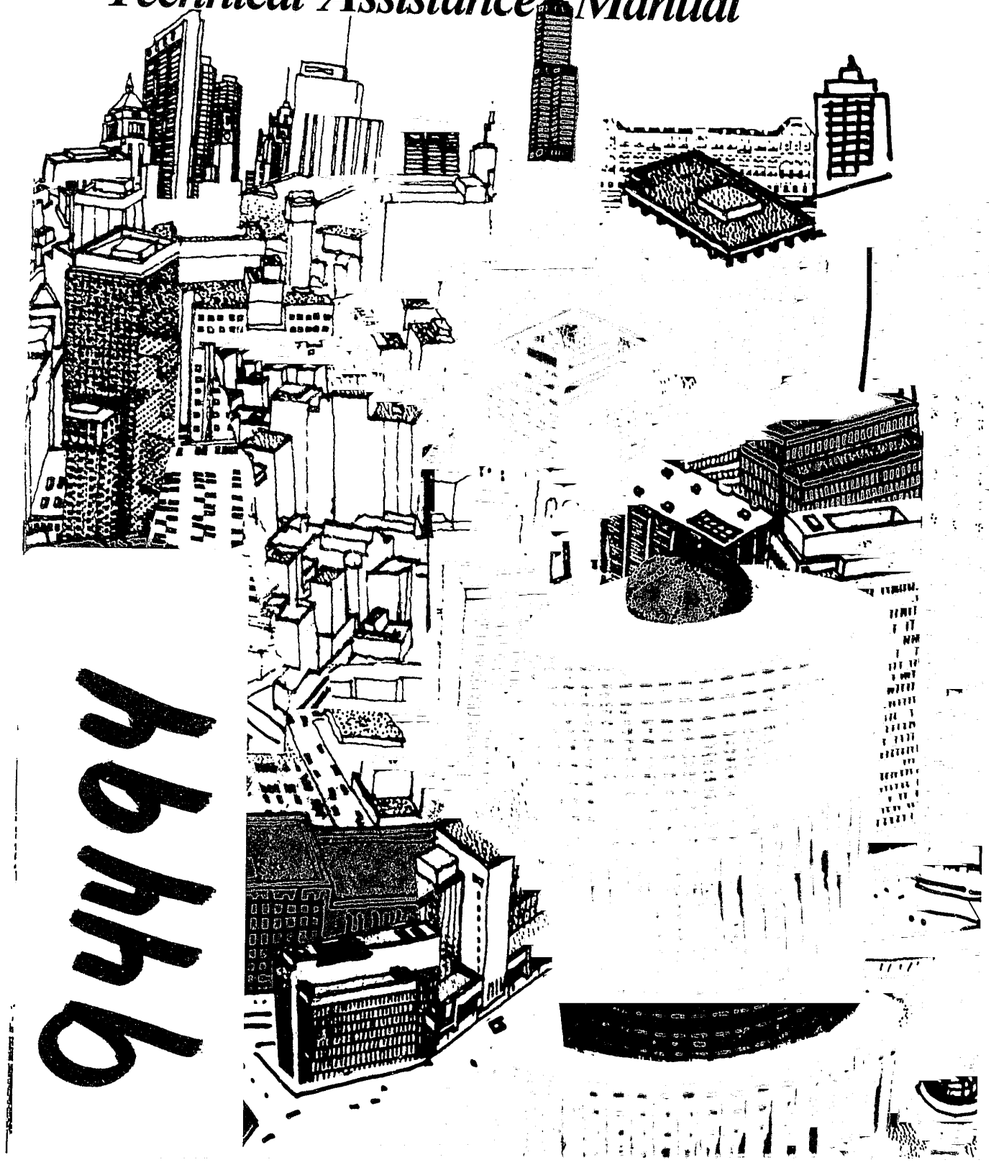
CR-Sent
12-2-84

COMMUNITY CORRECTIONS ACT

Technical Assistance Manual



94494

COMMUNITY CORRECTIONS ACT

Technical Assistance Manual

by
Patrick D. McManus
Lynn Zeller Barclay

Published by
The American Correctional Association
4321 Hartwick Road, L-208
College Park, Maryland 20740

This project was supported by Grant #ES-2 awarded by the National Institute of Corrections, United States Department of Justice. Points of view or opinions stated in this publication are those of the American Correctional Association and do not necessarily represent the official position of the United States Department of Justice.

Grant Recipient: **The American Correctional Association Task Force on Community Corrections Legislation**

ISBN 0-942974-59-X

PREFACE

The American Correctional Association is the oldest and most representative organization of corrections professionals in the country. Our identification began with prisons and prison issues in 1870 because of the need for professionalism in prison management following the Civil War. As our membership became interdisciplinary and correctional manpower expanded beyond the prison, the Association's interests broadened considerably. We support a balanced approach that includes community corrections as an integral component of a comprehensive correctional policy. In 1978 the Association promulgated a policy statement regarding this important aspect of corrections (Appendix I).

This booklet provides information and assistance to those interested in community corrections, particularly those who develop or implement correctional policy. Legislators, judges, local elected officials, prosecutors, defense attorneys and, of course, people working in the field of corrections might find it especially useful.

But others who are not directly connected with "the system" will find this booklet informative as well because corrections affects everyone, if in no other way than through the tax dollars required to support the field.

Community corrections has become something of a buzzword, with different meanings for different people. This booklet does not attempt to cover everything that might be broadly defined as community corrections, but rather focuses only on community corrections legislation defined as:

A statewide mechanism through which funds are granted to local units of government

to plan, develop and deliver correctional sanctions and services at the local level.

The overall purpose of this mechanism is to provide local sentencing options in lieu of imprisonment in state institutions.

Part I describes the dilemma facing American corrections in the 1980s and beyond. It sketches the context in which community corrections legislation is most often considered and debated.

Part II is an in-depth examination of several states that have community corrections legislation meeting the definition above. The essential elements of such legislation are highlighted.

In Part III, these same states are examined to see how well they have achieved their goals thus far and what results were either unintended or unforeseen.

Part IV addresses what community corrections legislation can and cannot be expected to accomplish. Building on the experience of other states, this section provides a guide to drafting and implementing these laws and pitfalls to be avoided.

This booklet on community corrections legislation is not meant to offer a cure-all approach that will work in every state. But community corrections legislation may be a part of some states' solution to the increasingly costly and ominous overcrowding of jails and prisons across the country.

An average reader can finish this booklet in 30 minutes. We hope you will take the time.

Anthony P. Travisono
Executive Director
American Correctional Association

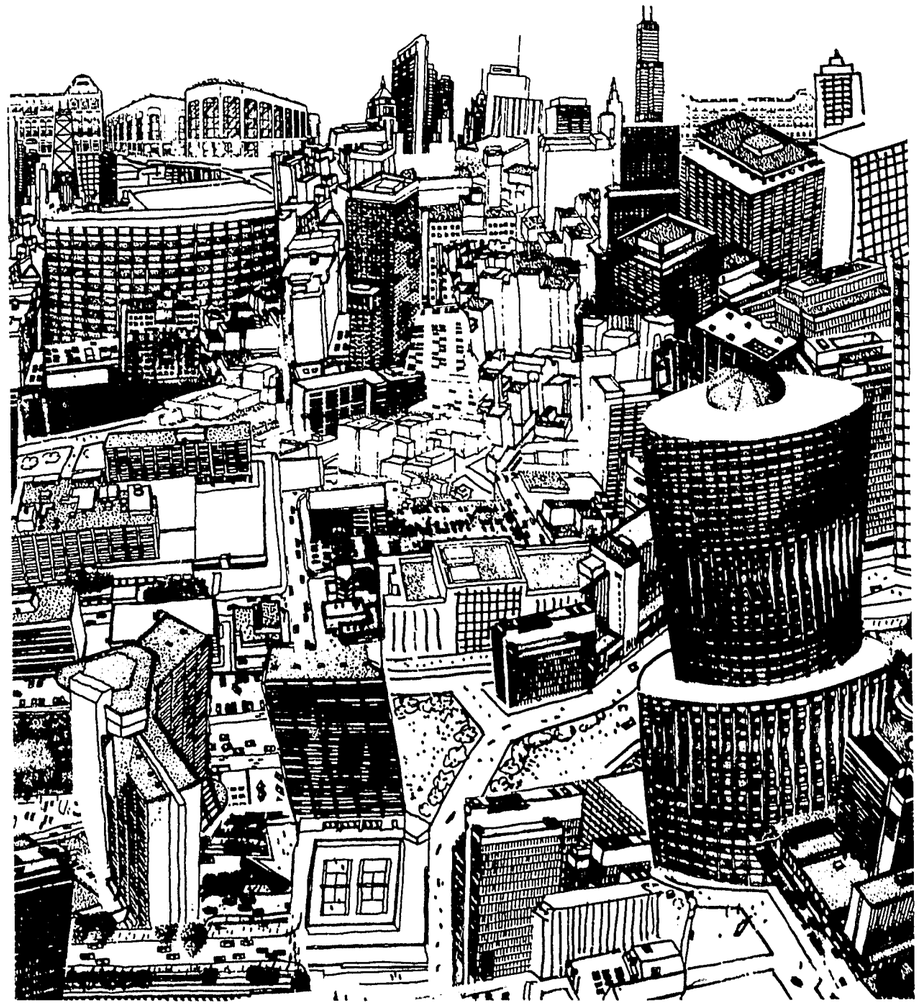
INTRODUCTION

In 1981, one of the Association's major concerns centered around burgeoning inmate populations in most state correctional systems. One solution was a community corrections policy stressing that if the concept of community corrections was accepted, we could lessen our reliance on institutional confinement. This concern was not new to the Association; however, we needed to develop an implementation process for the policy.

Bobbie Huskey, former manager of community diversion for the Virginia Department of Corrections and currently the Executive Director of PACT, Inc., in Michigan, was asked by Past President Amos E. Reed and President H.G. "Gus" Moeller to spearhead a task force to determine the best approach for marketing "Community Corrections Act" legislation. Task force members were chosen immediately and writers selected to develop an implementation booklet.

The enclosed booklet represents the first phase of the task force's efforts. The Association's members strongly believe in the concept of community corrections and appreciate the diligent work of the task force members and writers. The Association is also grateful to the National Institute of Corrections (NIC) for its financial assistance in developing this important booklet.

This booklet is written for corrections professionals and all state legislatures. It is not an academic treatise on community corrections. Rather, it is an action-oriented handbook of sound correctional strategy for developing effective community corrections programs.



Cover graphic by Marty Pociask

CONTENTS

PART I

THE PROBLEM

Overcrowding

The current state of affairs in most U.S. jails and prisons is a troublesome one. It supplies the context for debate about community corrections legislation. There are currently more men and women in America's jails and prisons than ever before. Over 400,000 people are serving sentences in state and federal prisons compared to half that number in 1974. If the current trend continues we will pass the half million mark by 1985. The situation in most of the country's jails is even worse.

But legislatures have only rarely provided the facilities and resources necessary to accommodate the increased populations. In most cases wardens and directors of corrections have been forced to simply stuff more bodies into already crowded prisons. Traveling around the country one sees inmates housed in tents, sleeping in corridors and gymnasiums, and crammed two and three to a tiny cell barely adequate to handle one.

But lack of space to house inmates is only a part of the problem. Jobs and other programs to occupy the inmates' time are woefully lacking, a situation that can only worsen as populations swell. As any warden will testify, too many inmates with little to do and crowded together in cramped quarters is an extremely dangerous combination.

The courts have not been unaware of the deplorable conditions in many of our prisons and have felt compelled to intervene. Thirty-eight states are currently under court order to improve prison conditions, not just because they are bad, but because they cannot even meet the minimal requirements guaranteed by the Constitution.

In ordering compliance with constitutional minima the courts have cited a variety of conditions, but running through nearly all of these decisions has been the common theme of overcrowding.

Why have things been allowed to get so bad? Why do we find ourselves with dangerously overcrowded prisons, unable to safely and humanely house and occupy inmates? A major part of the answer is cost. Prisons are extremely expensive both to build and to operate. The issue of cost, then, is an important part of the context for discussing community corrections legislation.

Cost

How much do prisons cost? A lot. Far more, in fact, than most people ever dreamed. The cost of a new prison used to be thought of primarily as the capital expenditure required for construction. Not that prison construction is cheap—it costs an average of $50,000 per inmate to build a maximum security prison. Therefore the initial price tag on a new 400 bed prison is about $20 million.

But that is just the tip of the iceberg. Consider the cost of financing the construction, whether through the cost of bonds or the loss of interest. As anyone making home mortgage payments knows, the expense of financing that purchase is a major part of the cost. Even states with excellent bond ratings would find that a $20 million prison would double in price and then some if the very real expense of financing the construction is added.

The real tax burden of expanding prison space to accommodate increasing populations, however, is neither construction cost nor the required financing expense; it is the cost of operating those prisons over the years ahead. Assuming for a new 400 bed prison a realistic annual operating expense of $5 million and a lifespan of 30 years (modest considering many U.S. prisons 75 to 100 years old are still operating), one

must add another $150 million to the equation.

Thus, a "$20 million prison" will really cost taxpayers nearly ten times that amount. By choosing prison construction a state is committing nearly $200 million in funds it will not be able to spend on things like highways, health care, or education. This is what economists call "lost opportunity costs" and they are very high indeed.

This is not to suggest that prisons, whatever the cost, are unnecessary. A fundamental purpose of government is to assure the safety of its people; prisons are required to remove dangerous, violent or chronic criminals from our midst. Yet between 1974 and 1978, the proportion of violent offenders in prison dropped from 52% to 47%. Less serious offenders make up an increasingly large percentage of the prison population even though cheaper but equally safe non-institutional alternative sentences have established a sound track record in cities across the nation.

Prisons are bulging at the seams and public dollars are more scarce than ever, while voters are sending a clear message to their elected representatives that more criminals ought to go to prison for longer periods of time. There seems to be no way out of the dilemma. As one state senator put it: "I can think of ways to respond to the prison crisis; I just don't know how to do it and get re-elected."

Crime Control Policy vs. Correctional Policy

As a nation we have attempted to do battle with an amorphous enemy called crime but, despite our efforts, the enemy remains intact and may be even growing stronger. One major weapon in this battle has been the prison. The assumption has been that imprisonment is a primary and important tool to bring crime under control. Sadly, this has not been the case.

One can search the statistical tables and check research findings, but nowhere can a correlation be found between crime rates and incarceration rates. The hope that putting more people behind bars will reduce crime is largely an empty one. Conversely, the fear that imprisoning at a relatively low rate will result in rampant crime also appears groundless.

There are, of course, influences that cause crime to increase or decrease but the "harshness" or "leniency" of correctional policy does not seem to be one of them.

There has been, then, a fundamental confusion between *corrections policy,* and what we can expect of it, and *crime control policy.* Corrections policy deals with questions like: Who ought to go to prison and for how long? What punishments can be imposed instead of prison? Do some sanctions work better than others and for whom? How can victims of crime be compensated? Can the offender somehow restore wholeness to the community for the damage his crime has caused? What will it cost? Policy-makers need to grapple with issues like these as they fashion a coherent corrections policy.

Crime, however, is a different and complex problem only tangentially related to corrections. Street crime is typically an activity of the young and so it follows that higher crime rates are likely when a higher proportion of the overall population are in the crime-prone ages betwen 15 and 25. This nation has been living through such a period in recent years.

Many experts also believe that a weak economy drives up the incidence of property-seeking crimes like theft, burglary, robbery and forgery. Even changes in lifestyles can affect crime rates. For example, in many families both adults now work out of the home, leaving neighborhoods unwatched and vulnerable to would-be burglars.

But because crime is such a complex and intractable problem, with many of its causes apparently beyond policy-makers' control, the typical American reaction has been one of fear, anger and frustration.

This national mood has demanded that *something* be done and "something" has usually been tougher sentences, more people in jails and prisons, fewer releases—all resulting in today's dangerously overcrowded correctional facilities. These shifts in correctional policy have not controlled crime, but they have and will continue to cost taxpayers a great deal of money.

The Future

There are solutions to the dilemma facing American corrections in the decade ahead, but they are not simple solutions. They will require both executive and legislative branches of state government to establish policy based on accurate information and careful thought. New and creative partnerships need to be forged between state and local government.

These changes will cost money. The question is not *whether* to spend money on corrections, but *how much* and *with what results.*

Most of all, the changes need to be systemic in nature. For too long we have tried to solve complex problems of correctional policy without considering the larger criminal and juvenile justice systems of which corrections is but a part.

Corrections professionals alone cannot solve the problem of overcrowded, dangerous, unconstitutional and costly prisons, because the cause lies beyond corrections. It is the result of a tangled maze of uncoordinated decisions and policies that stretch from the statehouse to the stationhouse.

Therefore, the solution to these problems needs to involve a great many people besides those who work in corrections. Community corrections legislation attempts to bring together that diversity to form a new constituency for sound, effective, reasoned correctional policy. It is this diversity that allows more creative and workable solutions to be found; it is this constituency, now often lacking, that makes it possible for the new solutions to be implemented.

PART II

COMPONENTS OF COMMUNITY CORRECTIONS LEGISLATION

Background

The forerunner of the Community Corrections Act model was the California probation subsidy. Initiated in 1966, this was a state subsidy available to counties if they could reduce commitments to state corrections institutions through improved local probation services. In its peak in the early 1970s, the probation subsidy program provided $22 million annually to 47 of the state's 58 counties and reduced commitments annually by over 5,000 people.

The probation subsidy was an attempt to stop the proliferation of state institutions through a shifting of the responsibility for handling some prison-bound offenders from the state to the counties at no increased cost. It was predicated on the belief that improved and increased use of probation, compared to state imprisonment, would be more effective, less costly, and no greater threat to public safety.

Counties interested in participating prepared a local plan for state reimbursement of certain county probation department costs. Past commitment patterns were used to determine a county's "quota" of both adult and juvenile commitments to state institutions. This quota increased or decreased according to annual changes in county population. To receive subsidy funds, the county had to commit fewer than its quota of offenders. The county could then be reimbursed by up to $4,000 per offender for reductions below its quota.

The counties used the subsidy mainly to provide specialized and intensive probation supervision, not regular supervision. The subsidy also was used to fund services such as drug treatment and residential placements. By and large, the counties used the funds to cover direct services, not administrative costs.

Results of the subsidy were initially quite impressive. Commitment reductions were achieved each year from 1967 through 1976, at the rate of about 3,000 to 5,500 per year statewide compared to estimates of what would have occurred without the program. The net savings to the state was about $10 million annually over the life of the program (not including any potential savings from averted institutional construction). Offenders placed on specialized probation through the program were found to have a higher re-arrest rate than those on regular probation but no higher than that of parolees, suggesting that specialized community supervision was no worse than imprisonment.

In the mid-1970's, the financial incentive of the probation subsidy began to lose its appeal. Counties grew disenchanted with the program, in part because the $4,000 reimbursment rate was never adjusted to reflect rising local costs. Commitments to state institutions rose from 1973 to 1976, paralleling the national trend toward longer sentences and more imprisonment.

In 1978, the probation subsidy was repealed and replaced by AB 90, the "County Justice System Subvention Program." This program combines various state-to-local corrections subsidies and allows a far wider range of uses for the new state subsidy. Significantly, linking the subsidy amount to reduced commitments is only optional under AB 90. Without that performance factor, some argue, the new subsidy is merely a transfer of state funds to meet local needs without benefit to the state.

Essential Elements of Community Corrections Legislation

The task force defines community corrections legislation as:

A statewide mechanism through which funds are granted to local units of government

to plan, develop, and deliver correctional sanctions and services at the local level.

The overall purpose of this mechanism is to provide local sentencing options in lieu of imprisonment in state institutions.

Community corrections legislation generally requires the state to continue its responsibility for housing serious offenders in state institutions while it allocates funds to communities to deal with certain nonviolent offenders at the local level. The eight key elements that characterize most community corrections legislation include:

1. *A clearly defined target group of prison-bound offenders:* The legislation specifies the type of offenders presumed appropriate for local sentencing alternatives in lieu of state imprisonment. These are generally nonviolent offenders, sometimes restricted to nonhabitual offenders, and sometimes including both adult and juvenile offenders. The key here is that states identify the kinds of offenders who are currently in state institutions but who could, in the future, be safely diverted into community alternatives. Even after identifying that group, however, there is no guarantee that the locality will use its subsidy to successfully divert offenders in the target group from prison. Virginia has attempted to improve this targeting process by requiring that offenders must actually be sentenced to prison before being considered for diversion into a community sentence. The judge, if in agreement with the diversion plan, can then suspend the imposition of the sentence before the offender is actually transported to prison.

2. *A subsidy to a local unit of government:* Although the legislation is generally administered by the state's department of corrections, the local units of government receive the funds to develop local correctional alternatives. Thus, the state transfers to communities not only the responsibility of handling certain prison-bound offenders but also the funds with which to do so. This creates a state-local partnership with tangible benefits for each.

3. *A performance factor or enforcement mechanism:* The amount of funding depends on the community's ability to reduce its commitments of target offenders to state institutions. This can either be through a "chargeback" scheme, where the funding eligibility is reduced each quarter by the per diem costs of confinement for target offenders committed, or by a per head subsidy, where the subsidy is based on a set amount per offender diverted. In either case, this provision is essential to assure that the funds provided are used to achieve the state's goal of reducing commitments.

4. *Local involvement in planning:* To be eligible for the subsidy, the community must establish a local advisory board that helps to guide the development of local correctional alternatives. The board is usually representative of law enforcement, the judiciary, prosecution, defense, probation, and the general community. This board has the flexibility to decide which services or sanctions are most suited to community needs; there is no set of stock programs required or recommended by the state.

   Communities can choose to use local jail sentences for the diverted population or to leave the jail out of their plans; they can choose residential programs (such as halfway houses) or non-residential programs (such as intensive probation); they can run programs themselves or contract them out to private agencies; they can focus on rehabilitation programs or on local punishment for offenders.

5. *An annual comprehensive plan:* The advisory board in each locality is required to prepare a local comprehensive plan detailing local correctional needs, proposed community corrections programs, and projected reduction of state commitments. The plan must first be approved by the local unit of government and then by the state commissioner of corrections before the subsidy can be released. During the year, the locality must comply with its approved plan or risk losing all or part of its subsidy. A new plan is submitted each year for approval.

6. *A formula for calculating subsidy amounts:* The legislation specifies the factors to be used in calculating the subsidy amount for each locality. The department of corrections calculates the amounts which may change annually if the factors change. The resulting subsidy must be enough to create an incentive for a locality to participate, but not so much that the locality can afford to pay, out of its subsidy, the cost of an unchanging rate of commitments. In some states, an inflation factor is built into the formula so that the incentive to participate will not lessen over time.

7. *Voluntary participation on the part of localities:* Community corrections legislation generally encourages, rather than requires, participation by local units of government. Since the legislation does not mandate that the target offenders be retained locally, it is important for the locality to choose for itself whether it can attain this goal. The locality can also choose to stop participating at any time.

8. *Restrictions on use of subsidy funds:* Community corrections legislation in most states is not a vehicle for funding local jail construction. Jail construction is either prohibited in the legislation or is too costly to be included in the locality's comprehensive plan for the subsidy. Nor is the subsidy available to pay for ongoing local corrections expenditures such as jail operating costs or existing probation officers' salaries. Instead, it is meant for new correctional alternatives.

Many states have programs that provide state subsidies for a variety of local correctional needs, but four states have developed comprehensive subsidy programs with the characteristics listed above. These are Virginia, Kansas, Oregon, and Minnesota. Summaries follow outlining how the legislation works in each of these four states.

SUMMARY

VIRGINIA COMMUNITY DIVERSION INCENTIVE ACT

1. *Target group of prison/jail-bound offenders:* ADULTS ONLY - Offenders convicted of non-violent felonies and misdemeanors and sentenced to the Department of Corrections or local jails. By statute and regulation, offenders should be those who would have otherwise been incarcerated in prison or jail and whose treatment needs can better be met in the community. By statute, each offender must have a behavioral contract which guides program participation. Also by statute, the court must impose a sentence to prison or jail and can suspend the execution of the sentence if the offenders successfully complete the program.
2. *Subsidy to local unit:* Recipient can be "a county or city or combination or a qualified, private non-profit agency."
3. *Performance factor:* Those recipients who can demonstrate an impact on their localities' commitments are eligible to receive a greater share of the incentive funding. As performance is realized towards this goal, a recipient is eligible for increased incentive funding.
4. *Local involvement:* The locality must establish a Community Corrections Resources Board representing the business, criminal justice, and private sector communities. The CCRB establishes contracts with providers for client evaluation and services, develops eligibility criteria, makes recommendations to the court on eligible offenders, oversees program operations, identify gaps in services, and develops new alternative sentencing programs for a county or city. By statute, the Board shall include an equal number of appointments to be made by the governing body of each county or city participating in the program. The local governing body, the court, and the DOC appoints representatives to the CCRB. The size of the Board is determined locally as long as it is aimed at diverting offenders from state prison and local jail.
5. *Comprehensive plan:* The Department of Corrections releases a request for proposal each year which outlines what is required by interested localities before they can receive funding. The proposal includes a statement of need, a description of the prison and jail bound population and a clearly defined community corrections program. This plan must be approved by the circuit and district court, the local governing body and key criminal justice officials before being submitted to the Department of Corrections. During the second year of a program, the CCRB is involved in the comprehensive planning for community corrections.
6. *Subsidy formula:* A recipient will receive funding for two overall types of programs - a non-residential community corrections program (Community Service, VORP/Restitution, Intensive Treatment) or a community diversion residential center. A cap is established each year on the administrative funding of non-residential community corrections programs. Funding for residential centers is based on the actual operation of an existing facility or the start-up of a new facility. The per bed cost of a community bed shall be less than the cost of a bed in a State facility. Residential programs can be operated either by the local government or under contract in the private sector. Client service funding is based on the projected cost of evaluations and services on each offender and the projected cost of casework and CSO staff under contract in the private sector.
7. *Voluntary participation:* The statute allows any locality to participate if it meets the State requirements. There were five programs established in January, 1981 and 13 in March, 1983 representing 11 cities and 33 counties.
8. *Restrictions on use of subsidy funds:* The incentive funding is not to be used in lieu of regular probation or for capital construction. Programs must comply with minimum standards set by the State Department and Board of Corrections.

Citation: Code of Virginia 53.1-180-185
Enacted: Passed in 1980
Fiscal Year 1984-86 Appropriation Request: $8.1 million

SUMMARY

KANSAS COMMUNITY CORRECTIONS ACT

1. *Target group of prison-bound offenders:* ADULTS - D and E felony (nonviolent) offenders who are first or second time felony offenders, except those convicted of sex offenses or aggravated assault, or those given a mandatory prison sentence under the state's gun law. JUVENILES - Offenders adjudicated for behavior that is the equivalent of a misdemeanor or D or E felony, except for sex offenses or aggravated assault. (Misdemeanor offenses can result in a youth center commitment in Kansas.)
2. *Subsidy to local unit:* Recipient is the county, or a group of cooperating counties in a regional plan.
3. *Performance factor:* A "chargeback" is assessed for each person in the target group sent to state prison or youth center. For adults, the charge is the actual per diem cost of confinement for each day of confinement ($29.40 in 1983), regardless of the length of confinement. For juveniles, there is a one-time charge of $3,000 for the first year commitments and $6,000 for commitments in the second and all subsequent years. Charges are assessed against the county's subsidy payment at the end of each quarter.
4. *Local involvement:* The county must set up an advisory board that is responsible for the development of the annual comprehensive plan. By statute, the board includes the sheriff, chief of police, administrative judge, probation officer, prosecutor, educator, and six citizen representatives appointed by the city and county. Wide range of programs allowed, including ones not aimed at reducing state imprisonment.
5. *Comprehensive plan:* Developed each year by advisory board, approved by the county commissioners, and submitted to secretary of corrections for final approval.
6. *Subsidy formula:* Formula compares individual county to the state average for a) per capita income, b) per capita adjusted valuation, c) crimes per 1,000 population, and d) percent of county population aged 5-29. Resulting factor divided by 4 and then multiplied by an annual appropriation factor ($5 in 1978-1983). Counties can receive 70% of the subsidy the first year, 90% in the second, and 100% in the third and subsequent years. The first year (70%) subsidy for the state's largest county (city of Wichita, pop. 365,000) will be $1.5 million, but it will be reduced by "chargeback" costs.
7. *Voluntary participation:* Statute allows any county to participate if it meets requirements, but state has placed an indefinite "lid" on the number of counties participating. These 9 counties make up 48% of the state's population and 60% of the state's prison population. Counties may opt out after giving notice within a specified period to the secretary of corrections.
8. *Restrictions on use of subsidy funds:* Jail construction is not prohibited by the legislation but the department of corrections has not allowed funding for construction. A county must maintain its pre-participation level of local corrections spending so that the funds are used for new programs only.

Citation: K.S.A. 75-5290 et seq.
Enacted: Passed in 1978 but implementation was delayed until 1980 due primarily to technical statutory problems.
Fiscal Year 1984 Appropriation: $4.9 million

SUMMARY

OREGON COMMUNITY CORRECTIONS ACT

1. *Target group of prison-bound offenders:* ADULT ONLY - All C felony offenders.
2. *Subsidy to local unit:* Recipient is the county. But if the county does not want to participate, the state's probation and parole field service office prepares a "regional manager plan" and recieves 49% of the amount the county is eligible to receive.
3. *Performance factor:* A "chargeback" is assessed for each Class C felon sent to state prison. The charge is $3,000 regardless of the actual length of stay. The ceiling on charges is $3,000 x the average number of Class C felony commitments from the county in the previous two years. Charges are assessed against the county's subsidy payment at the end of each quarter. (There are no chargebacks assessed against the regional manager plans.)
4. *Local involvement:* The county must set up an advisory board that is responsible for the development of the biennial comprehensive plan. By statute, the board includes a law enforcement officer, a prosecutor, a judge, a defense attorney, a probation or parole officer, a private service provider, a county commissioner, 7 lay citizens, and an ex-offender. Wide range of programs allowed including ones not aimed at reducing state imprisonment.
5. *Comprehensive plan:* Developed initially by advisory board which is also responsible in subsequent years for developing recommendations for improvements or modifications; plan and recommendations go to county commissioners for approval first and then to administrator of the corrections division of the department of human resources.
6. *Subsidy formula:* Under the regional manager plan, the state transfers to the county the funds that state would otherwise have spent to operate probation and parole. The amount is based on actual work requirements as determined by a workload formula. A fully participating county is eligible for an "enhancement grant" based on each county's proportion of the state's at-risk population, general population, and reported crime. Both these types of payments are a percentage share of whatever funds are appropriated by the legislature.

   In addition, a certain segment of subsidy funds was set aside initially for the operating, construction, or renovation costs of local correctional facilities. Currently no funds can be used for construction but separate funds are available for operating residential centers in 4 counties. Separate funds are also provided for mental health programs based on a percentage share per county.
7. *Voluntary participation:* Statute allows any county to participate if it meets the requirements. A total of 12 counties are currently fully participating, representing 60% of the state's population. The remaining 24 counties receive community corrections funding through their regional manager plans. If a county chooses to be a full participant, it is obligated to take over the local correctional services provided by the state corrections division. Counties may opt out after giving at least 180 days notice to the state.
8. *Restrictions on use of subsidy funds:* A participating county must maintain its pre-participation level of funds expended for existing correctional programs for misdemeanants.

Citation: O.R.S. 423.500 et seq.
Enacted: Passed in 1977
Fiscal Biennium 1983-1985 Appropriation: $13.5 million

SUMMARY

MINNESOTA COMMUNITY CORRECTIONS ACT

1. *Target group of prison-bound offenders:* ADULTS - Originally, offenders convicted of felonies subject to sentences of up to five years. See below under #3. JUVENILES - All juveniles are presumed eligible for community corrections, regardless of offense.
2. *Subsidy to local unit:* Recipient is the county, or a group of cooperating counties in a regional plan.
3. *Performance factor:* Originally, a "chargeback" was assessed for each adult or juvenile in the target group sent to state prison or youth facility. The Minnesota Sentencing Guidelines have eliminated the need for the adult "chargeback" feature since the Guidelines instruct the courts as to exactly which adult offenders should be given community sanctions and which should be sent to prison. The juvenile chargeback remains in effect, with a per diem charge of $56.00 in 1983, regardless of length of confinement. Charges are assessed against the county's subsidy at the end of each quarter.
4. *Local involvement:* The county must set up an advisory board that is responsible for the development of the annual comprehensive plan. By statute, board consists of at least 9 members representative of law enforcement, prosecution, the judiciary, education, corrections, ethnic minorities, the social services, and the lay citizen. Wide range of programs allowed, including ones not aimed at reducing state imprisonment.
5. *Comprehensive plan:* Developed each year by advisory board, approved by the county governing board, and submitted to the commissioner of corrections for final approval.
6. *Subsidy formula:* Formula compares individual county to the state average for a) per capita income, b) per capita taxable value, c) per capita expenditure per 1,000 population for corrections purposes, and d) percent of county population aged 6-30. Resulting factor divided by four and then multiplied by an annual appropriation factor ($10.00 in 1983). The 1983 subsidy available to Hennepin County, the state's largest county, is $4.3 million, but it will be reduced by juvenile "chargeback" costs.
7. *Voluntary participation:* Statute allows any county to participate if it meets requirements, but funding has not been available for new counties since 1981. A total of 27 counties are currently participating, representing 60% of the state's population. Counties may opt out after giving notice within a specified period of time to the commissioner of corrections.
8. *Restrictions on use of subsidy funds:* New jail construction is not prohibited by the legislation but the excessive cost makes it impossible to fund through the subsidy. Some counties have used the subsidy to improve existing jail facilities through programming or renovation needed for programming. A county must maintain its pre-participation level of local corrections spending; the community corrections subsidy is for correctional purposes in excess of that level.

Citation: M.S. 401.01 - 401.16
Enacted: Passed in 1973
Fiscal Year 1984 - 1985 Biennium Approp. Request: $24 million

A SAMPLE COMMUNITY CORRECTIONS PLAN

Objectives of the Plan

- To provide the courts an extensive presentence assessment for nonviolent, nonhabitual offenders who can be retained in the community with a structured sentence.
- To reduce by 60% the number of nonviolent, nonhabitual offenders committed to state youth centers or prisons.
- To provide more sentencing alternatives for the judges.
- To extract restitution from 70% of the offenders sentenced to community corrections through direct payment to victims for their losses or through court-ordered community service when no victim has been identified or when monetary restitution is not feasible.
- To reduce the costs of crime by avoiding the expense of institutional confinement, and by requiring offenders to repay victims for their losses and to pay court costs.

Target Population

- Adult nonviolent felons who:
  - - are first or second time felony offenders, and
  - - have no prior history of convictions for violent felonies, and
  - - have no history of serious psychological disorders that would render them a danger to the community, and
  - - would be likely candidates for state prison commitment in the absence of a structured community corrections sentence.
- Juvenile nonviolent felons or misdemeanants who have characteristics similar to those youths who in the past have been committed to state youth centers.

Programs in the Plan

- Intensive Supervision Program for Adults and Juveniles:
  - - Evaluation team to identify prison- or youth center-bound offenders and prepare alternative sentence plans for the courts.
  - - Intensive supervision involving 16-20 contacts per month between target offender and case manager as a local substitute for the supervision and structure of institutional confinement.
  - - Restitution or community service plan arranged for each offender and monitored by case manager.
  - - Employment services including job-readiness training, vocational training, and job search assistance.
  - - Educational services to assist offenders to acquire basic skills, achieve functional literacy, or obtain a high school diploma.
  - - Counseling for individual, family, or substance abuse problems.
  - - Case manager assistance to help offenders develop suitable living arrangements, realistic household budgets, and time management plans.
- Child Abuse and Neglect Intervention Services:
  - - Central clearinghouse to coordinate and track referrals to agencies of all child abuse and neglect cases.
  - - In-home services where counselors work with families on parenting skills, anger control, and household management.
  - - Crisis intervention for children and families.

PART III

WHAT HAVE BEEN THE RESULTS?

Since community corrections legislation is an ambitious undertaking which attempts to bring about major systemic changes, its impact is likely to be broad and gradual. Evaluation of the changes have occurred in Minnesota, Oregon, and Virginia. The results suggest some tentative but useful findings.

Minnesota

Minnesota has had its community corrections legislation in place the longest and has done the most extensive research on results. In 1981, Minnesota released a controversial evaluation of its 1973 Community Corrections Act (CCA), and people have been arguing about it ever since. Despite the controversy, however, the evaluation concluded that all of the explicit objectives of the Minnesota Community Corrections Act were met. These objectives were: improved local planning and administration, increased community-based programs for offenders, and increased retention of offenders in the participating counties.

An important goal of the Minnesota Community Corrections Act in 1973 was to reduce the institution population. But beginning in 1974, prison populations around the country started to soar. Minnesota was not totally insulated from this national trend toward increased punishment. The evaluators noted that some areas of Minnesota, and perhaps Minnesota itself, already had a high level of community corrections programming and retained locally a large proportion of nonviolent offenders before the Act was passed. Despite these two factors—a national trend toward more punitiveness and a history of very low incarceration rates in Minnesota—the evaluators found that the Act could be credited with reducing commitments to both juvenile and adult institutions. The impact on state juvenile institutions ranged from a 1% reduction in 1974 to a 19% reduction in 1978. For adult felons, the Act resulted in a 4% annual reduction in nonviolent commitments to state prisons.

Several problem areas were identified in the evaluation. One had to do with the "appropriateness" of local sanctions imposed. The evaluators found that the community sentence imposed most frequently was probation plus a local jail term. (Many participating counties in Minnesota used part of their subsidy to improve jail programming in order to make jail a more constructive penalty.) Evaluators found that these probation-jail terms were imposed on offenders who would not otherwise have been sentenced to prison. In other words, counties had increased the severity of local sanctions for those types of offenders who had traditionally been kept in the community before the Act.

The cost of operating the CCA was found to be greater than the cost of continuing the pre-CCA system. Several factors contributed to these increased costs including state and county increases in overhead expenditures to implement the CCA, increased program expenditures per targeted offender, and increased jail/workhouse costs (due in part to efforts to comply with more stringent state standards).

The evaluators concluded that public safety under the Minnesota CCA was maintained but not improved. Many had hoped that recidivism would be reduced through the use of more structured community sanctions. Such improvements were not found. Nonetheless *maintaining* public pro-

tection is a key finding, given the general public reluctance to accept more offenders into the community.

In sum, the evaluators concluded that meeting the explicit objectives of the CCA in Minnesota increased costs, maintained (but did not improve) public safety, and had a desirable but limited impact on reducing state institutional populations.

Oregon

Oregon completed an evaluation of its Community Corrections Act in 1981. The results were considered to be preliminary in nature, but showed significant progress in meeting the Act's goals. The Act was seen as responsible for holding down commitments to state institutions and for reducing commitments to local jails. The incarceration rate for the target group of (nonviolent) C felons dropped from 21% to 17%. This did not result in a smaller institutional population, however, in part because of a large increase in the statewide total of felony convictions.

Community-based sentencing alternatives were developed and expanded under the Act. These included expanded probation services, alcohol and drug counseling, community service (court ordered work) programs, restitution collection, employment assistance, mental health services, and residential centers.

The financial benefits of the Act were calculated to include fines, restitution, community service work, offender fees for probation supervision, averted welfare costs, and offender employment. The net cost of the Act, considering these benefits and some of the social costs of incarceration, showed it to be superior to operating the old system. In fact the evaluators projected that, without the Act, commitments could have increased substantially causing the state to incur major capital costs rather than just additional operating costs. The projected cost of institutionalizing those who were instead diverted was as much as $30 million, which included capital and operating costs but excluded long-term debt service. The net cost of operating the community corrections system was $14 million.

Virginia

Virginia completed an evaluation of its Community Diversion Incentive Act in late 1982. After being in operation in 10 localities for less than eighteen months, the Act was found to have achieved a 200 bed savings for the state prison system at an annualized cost avoidance of $865,000. Virginia projects a 344 bed savings by June of 1983 and a 517 bed savings by June of 1984.

As was intended, the Act is being used for offenders who would otherwise be sent to prison. The average sentence imposed on these offenders prior to their being diverted into a community sentence was 4.7 years. Had the community sanctions been unavailable, then, the same offenders

would have been imprisoned. It is projected that the bed savings impact on a 4.7 year sentence is approximately one year at an average cost of $13,400 per year. The evaluators also concluded that community service orders can and are used by judges as a real alternative to state imprisonment, and not just as an add-on sanction for regular probationers.

Conclusion

In sum, then, community corrections legislation appears to be working. Problems remain to be worked out but that is not unusual with an experimental approach to social policy. New states looking at the potential of community corrections legislation have an advantage of learning important implementation lessons from the states with such laws in place. The next chapter will look at some of these lessons learned.

PART IV

IMPLEMENTATION ISSUES

Is This an Idea That Makes Sense for Us?

Many factors can influence a decision to pursue the enactment of community corrections legislation. It is an ambitious undertaking that will consume a great deal of time and energy and will involve many people before it can be successfully accomplished. Community corrections laws change *systems* and there are no quick and painless ways for such changes to happen.

There is, of course, no single answer to whether community corrections legislation is either possible or desirable in a given jurisdiction. But here are some indicators that might suggest an answer:

- *Is there a tradition of strong local government or a trend away from centrally delivered services at the state level?* If so, there is likely to be a more receptive attitude toward applying that sentiment to the delivery of correctional sanctions and programs.
- *How big is the "problem"?* To the extent that prison overcrowding and its attendant cost is seen as a problem, policy-makers are motivated to look seriously at alternatives to building more prisons. It is very important, however, that this kind of legislation *not* be sold as a quick fix for overcrowded prisons. It can be part of a long-term solution to that problem, but by itself it can offer little immediate relief to existing population pressures. Nonetheless a decision to pursue a community corrections policy may well shape and influence the other strategies chosen to solve the more immediate problem.
- *Is there informed leadership in the department of corrections and is there interest in exploring the community corrections option?* The correctional leadership in a state needs to have some level of enthusiasm for undertaking the task, even if that is accompanied by some questioning and healthy skepticism. But there needs to be a genuine interest and willingness to take on the considerable work of planning for, designing, and implementing a community corrections law.
- *Are there citizen groups that currently are providing (or might be expected to provide) support for such an effort?* In several states the activity of these groups has been very important to the adoption of community corrections legislation and their influence should not be overlooked.
- *Have policy decisions been made in other areas that will make a community corrections policy more or less likely to succeed?* For example, a law requiring mandatory prison sentences for nonviolent offenders would work at cross purposes. Conversely, an emergency powers release act designed to directly address prison crowding might make a more comprehensive community corrections law less attractive. For a state to pass contradictory laws is not without precedent. It is therefore an area that bears watching.
- *What are the relationships among key decision-makers in the state?* Since passage and successful implementation of community corrections legislation requires the interaction and support of a wide range of decision-makers, it is important to consider those relationships. For example, alliances or divisions among policy-makers over totally unrelated issues may well influence the success or failure of efforts to pass community corrections legislation. The relationship between the executive branch and the legislature; the relationship between

the state and local elected officials; and the attitudes of the judiciary, law enforcement, and other groups are significant variables to consider.

Where Do We Start?

Assuming an interest in putting together some type of community corrections bill, these are some issues that ought to be dealt with early on:

- *Clarify the goals of the legislation.* Beyond the fundamental goal of reducing state prison commitments there will be other goals; it is imperative to come to a common understanding and acceptance of these goals. The success of the legislation will be measured against these stated goals, and they will also serve as guides in drafting the various provisions in the bill.
- *Identify the various constituencies who will be affected by the legislation.* This is closely related to the process of clarifying goals and will, in all probability, complicate that process. One should not assume that all the parties affected by a law will necessarily have the same goals or that various outcomes will be viewed as equally important by all. For example, if easing the population pressures in state prisons comes at the cost of overcrowding local jails, sheriffs and county commissioners will view that goal quite differently. Groups that need to be considered will certainly include sentencing judges, prosecutors, local elected officials, legislators, and others who, by virtue of position or personal prestige, can influence the eventual outcome.
- *Develop strategies to gain the support of or neutralize resistance to the effort by key constituent groups or individuals.* Success in this endeavor largely will depend on how well the legislation meets the different needs of the various constituent groups. Gaining widespread support is a difficult task that requires a great deal of communication, education, and patience—but it is possible to accomplish and probably indispensable. Not only are these groups invaluable in getting a bill passed, their sense of ownership of the legislation makes successful implementation infinitely more likely.
- *Avoid ideological "labeling" of community corrections.* Community corrections laws are neither conservative nor liberal, neither soft on crime nor tough on crime. They represent a different, perhaps more thoughtful, method of applying alternative punishments to certain offenders while reserving the very expensive prison sanction for those who require it.

How Do We Choose Our "Target Population"?

Before actual legislation can be drafted one needs to determine what kind of offenders can receive community sanctions without compromising

public safety. Which offenders can the community systems be expected to handle, and perhaps more importantly, *who will be excluded?* There is a common stereotype of the prison inmate which conjures up images of vicious, bloodthirsty creatures who have killed, maimed, and raped and who will do so again if only given the opportunity. There are people in prison who approximate that description but they are relatively few in number and certainly not candidates for community corrections.

Statutes vary so much from state to state that no specific recipe for selecting a target group of offenders for community corrections would be very useful. However, the target group would generally be nonviolent, victimless crime or property offenders without a history of chronic law violations. In order to identify this group who will in fact receive community sanctions once the law is in place, at least three steps must be taken:

1. *Get a clear picture of present sentencing practices and the resulting corrections system.* What kind of offender currently goes to prison and for how long? How many current prisoners could have received community sanctions using various criteria for selecting a target population? How many of the group now serving sentences for less serious crimes have one or more prior convictions? What about crimes committed as juveniles? You must be able to answer these and other questions like them before you will be able to know:
   - The potential for the legislation to significantly reduce prison populations.
   - The number of offenders which the community systems will be expected to handle.
   - Whether the proposed legislation can be cost effective.

   Obtaining reliable data in usable form can be a real problem. Some states have made significant progress in developing sophisticated criminal justice data systems; other have a rather limited capacity in this area.
2. *Make the community corrections legislation a policy statement that, in the main, these offenders ought to be punished with community sanctions rather than prison.* This approach does not remove from the judicial branch the traditional authority to sentence as it sees fit but it does articulate an expectation that some change in sentencing behavior will occur. It is important that sentencing judges will be willing to make this change if alternative community sanctions are made available to them.
3. *Identify a mechanism for intervening at the pre-sentence, sentencing, or post-sentencing stage so that specific community sanctions can be used for otherwise prison-bound offenders.* A sophisticated array of alternative sentences will not reduce prison commitments without an effective system to link appropriate offenders and sentences in a timely, organized and ongoing fashion. A common pitfall is that alternative sanctions are not applied to offenders who

would otherwise go to prison, but rather are used for those who otherwise would receive straight probation. While probation with an additional sanction may be an arguably "better" sentence for typical probationers it is also a more expensive sentence without any corresponding savings. The propensity to add an available sanction to probationers and continue the same sentencing policy to prisons needs to be addressed seriously. Such a practice will not reduce prison populations but rather expand the "net" of social control and produce a parallel, not alternative, system of community sanctions.

How Much Will It Cost?

There is no absolute answer to the question of cost. A price tag is attached to community corrections legislation, however, and it can be substantial. In a general way, whatever it costs to develop the programs and offender supervision at the local level will determine the size of the appropriation necessary to support community corrections. This appropriation will be in addition to the existing state corrections budget which will not suddenly shrivel because a CCA is passed. The major savings comes only if enough offenders are diverted to enable the state to close an entire prison or a wing of a prison (which is unlikely) or if construction that would otherwise have been needed is averted.

The cost per offender in a local community corrections program is hard to estimate because of the vast differences among various programs. Halfway houses are typically more expensive to run than non-residential alternatives. States with a high cost of living tend to pay more in salaries than other areas in order to attract qualified local staff in whom the judges can have confidence. One cautionary note: the cost per day per offender in some programs, such as work release centers and "therapeutic communities," can be greater than prison. The only way these programs save money over prison is if the length of stay is relatively short.

One county in Kansas, in the Kansas City area, spends an average of $1,800 per year for each adult offender in community corrections. This compares to $10,700 per year per offender in a Kansas prison. This community corrections program provides intensive supervision to offenders who live in their homes but have an average of 16-20 contacts per month with their community corrections supervisor. These same offenders are required to pay restitution or perform community service, and participate in job training, educational programs, family counseling, and substance abuse treatment. An offender serving an 18 month sentence in the community corrections program costs taxpayers one-fifth the expense of an 18 month prison sentence.

In trying to establish the amount of funds needed statewide, these are some rules of thumb:

- *The amount of money available to each locality must be sufficient to motivate local decision-makers to act.* A relatively meager subsidy will not generate much interest if it results in additional responsibility for planning, implementing and administering a system which had heretofore been the "state's problem." The degree to which the financial incentive generates interest locally is central to the success of any program where participation is voluntary.
- *The subsidy need not be so generous that it would allow unlimited program development.* There will never be "enough" money available to do all the laudable things that might be done to improve local juvenile and criminal justice systems. The subsidy, then, ought to be sufficient to accomplish important but limited goals while requiring planners to make choices and establish priorities.
- *The subsidy ought to be as free of unnecessary constraints as possible.* The intent of the legislation should be clearly stated, of course, and further defined by administrative regulation and policy. There must be accountability and straightforward direction about what the subsidy dollars are expected to accomplish. But there should also be room for decision-makers at the local level to be creative and to tailor their correctional responses to their particular needs. The ability to make significant choices locally increases the investment of participants in making sure the programs are successful and accommodate very real local and regional differences.

How to Divide the Pot: A Question of Equity

Perhaps no element of community corrections legislation consumes more time or generates as much controversy as the question of subsidy formulas. This is understandable. When state funds are disbursed it ought to be done in a way that is fair to all concerned. But even if there is consensus on the principle underlying a subsidy formula, there is likely to be little agreement on a practical way to achieve it.

At one level, the importance of subsidy formulas is probably exaggerated. The "perfect" formula does not exist because the affected parties bring to the discussion quite different perspectives. The old saying applies well here: "Where I stand on the issue depends on where I sit."

Given that no one formula will distribute subsidy funds to the complete satisfaction of all concerned and, given that fundamentally fair and defensible criteria should be used, here are some general characteristics to be considered in developing a subsidy formula:

- *Keep it simple.* Try to avoid extravagantly complex formulas that nearly no one will understand. There is little evidence that complicated formulas are more fair than simple ones.
- *Use the general population of the locality as the primary indicator of need for subsidy dollars.* To the extent that variations from this base

indicator are required, they ought to be based on a verifiable level of need greater or lesser than the norm.

- *Base the formula on comparable data available from all of the affected areas.*
- *Base the formula on data which cannot be manipulated by local jurisdictions wishing to improve their eligibility.*
- *Design the formula so that it remains responsive to changing demography or other relevant conditions and can be adjusted as circumstances change.*
- *Consider other factors such as local tax base which effect the local jurisdiction's ability to generate its own resources.*

What About Disincentives: The Chargeback Issue

Community corrections laws seek to change sentencing behavior with a two-pronged approach. The subsidy, with its requirement to plan and operate a local system of alternative penalties, is clearly the "carrot" part of the approach, the incentive. Why then is it necessary to have a "stick" component, a disincentive to use prison sentences for the targeted population?

The answer lies in the strong tendency, already alluded to, for the local criminal justice system to use newly developed sanctions and programs for offenders other than the prison-bound population, usually those who would have received normal probation. Experience makes clear that just funding alternative sentences will not necessarily reduce commitments to prison. There needs to be a mechanism to focus more directly on the target population; this is the reason for the "stick" or penalty provision in the CCA.

There are various ways to build into the legislation penalties for the inappropriate use (as defined by law) of prison sanctions. The California probation subsidy combined the incentive and disincentive elements by awarding a fixed dollar "reward" for each offender not committed to prison. Over time, as the program moved farther away from the base year, this approach proved less and less satisfactory and was finally eliminated.

In some jurisdictions, the state charges the participating county for the use of state prison for those whom the legislation has defined as amenable to community corrections. This is called a "chargeback" feature. In some states the chargeback is determined by the actual per person per day cost of operating the prison multiplied by the number of days the offender is actually confined. One state calls for the committing jurisdiction to pay a pre-determined amount at the time of commitment. The advantage of the latter method is that it simplifies record keeping considerably, while the former more graphically demonstrates to the county the actual "cost" of a decision to incarcerate.

Both methods bring into clear focus the financial implications of a sentencing choice. In most jurisdictions nearly all sentencing options, except commitment to a state prison, will cost something locally. The apparently "free" prison option is anything but free for state taxpayers but, to those more concerned about the local coffers, state incarceration imposes no additional burden.

All that changes under community corrections. Now the decision to imprison a targeted offender has an impact on local funds, namely, the amount of the state subsidy which can be spent locally. If it costs $10,000 to send an individual to prison, then that $10,000 will be subtracted from the subsidy and will not be available for local programs and alternative sentences.

The chargeback mechanism, then, is designed to force changes in sentencing behavior in order to avoid undesirable financial consequences for the local jurisdiction. In theory the concept is sound and in practice it can work effectively; but there are some practical shortcomings to this approach which should not be ignored.

First of all, it is a very indirect method of influencing the sentencing decision. A legislature could simply say that certain kinds of offenders with certain characteristics will not be sent to prison. This would have a far more immediate and predictable impact on sentencing practices and the resultant prison population. In fact, Minnesota's Sentencing Guidelines legislation comes very close to accomplishing this.

In most states, however, the likelihood of direct legislative intervention in sentencing as a means of controlling populations is remote, but it is available and can respond more simply and directly to prison overcrowding. Some questions remain, however, whether this approach can work in a state that does not have a relatively elaborate network of community sentencing alternatives already in place as Minnesota does.

A second complaint often voiced about the disincentive or chargeback approach is that the local community corrections system pays the bill although the ultimate decision that triggers the penalty is solely in the hands of the judge. The success or failure of the program clearly requires the involvement and cooperation of the local judiciary.

How Do We Bring About the Necessary Coordination and Cooperation?

Collective experience with community corrections legislation teaches one undisputed lesson: It cannot succeed without the cooperative effort of a great many people representing a wide diversity of interests. How to form new coalitions to attack a common problem is one of the most formidable tasks facing the developers of such legislation but, if successful, perhaps one of the greatest contributions.

Criminal and juvenile justice "systems" are really not operational systems at all. The various activities beginning with an arrest and ending with a paroled release from prison give the appearance of being a system only because there is a somewhat predictable sequence in which the various activities occur. But they lack the core ingredient of a system—a common, agreed upon purpose.

A common characteristic of these "non-systems" is that not all the actors are moving in the same direction. Indeed, they may be working at cross purposes. A district attorney's "solution" of more vigorous prosecution may well be part of the warden's "problem" of dangerously overcrowded prisons. Or, conversely, the need to maintain a constitutionally acceptable jail may contribute to the police officers' lament that criminals they arrest are out before they get back to the stationhouse.

Each of the various participants in the criminal or juvenile justice process has a legitimate perspective on the problem, but an incomplete one. And not only is there no consensus on what the common goals are, there is usually no forum in which at least some agreement might be sought.

Community corrections legislation requires some level of local agreement on goals; thus some mechanism is needed by which a working consensus can be reached. The vehicle most commonly chosen to accomplish this purpose at the local level is a community corrections advisory board.

Advisory boards differ in size, membership, and function but a common characteristic is the linkage they provide among the various parts of the criminal and juvenile justice systems and the larger community. In some cases the interaction is direct, i.e. judges, the district attorney, the sheriff, probation officers, a defense attorney, etc. actually serve as members of the advisory board. In other cases they are represented through appointees.

The primary task of these boards is to develop a common strategy for dealing with the targeted offender population in their locale. The advantages of such an arrangement are obvious. Often for the first time, a forum is created not just to allow but to require discussion of goals, programs, sentences, conflicts between various agencies, and opportunities for new levels of cooperation.

While the advantages may be obvious, the difficulty in agreeing to a common strategy should not be overlooked. Many board members bring with them a genuine suspicion of the others. Only time and patience can eventually wear down the barriers that often exist between board members and the constituencies they represent. But it can occur and when it does the energies previously spent in blaming one another for not solving the problem coalesce into a powerful force for positive change within the community.

These are some suggestions to help get the community corrections advisory board off to a healthy start:

- *Appointments to these boards should be carefully made by the counties and based solely on the individual's ability and willingness to contribute to the group's task.* There may be places in the grand scheme of things for political appointments, but the community corrections advisory board is not one of them.
- *People accepting appointments to the board ought to be willing to invest considerable time.* This is especially true during the first year or so. There appears to be no shortcut to a smoothly functioning board and so it requires frequent meetings to explore issues, share information, learn to trust each other, and develop a local plan.
- *By-laws requiring an acceptable level of attendance ought to be a first order of business.* People who are appointed to advisory boards are usually busy people and sustaining regular attendance can otherwise become a problem.
- *The board will require some staff assistance in compiling data, researching issues, and reviewing options.* Some states offer planning funds to pay for this. But the board itself must maintain an active role in all deliberations and decision-making.

Advisory boards at the local level have become an integral and seemingly necessary component of most community corrections laws. Their support and functioning require a good deal of time and energy but the results seem worth it.

Who Ought to Run the Local Systems?

The answer to this question, like many others, depends on the political configuration and traditions of a given state. Most states have used the county as the entity charged with developing and implementing a local community corrections plan. Others have vested this responsibility with the courts or municipal government. Still other states have retained a larger state role in developing plans with less reliance on the local jurisdiction.

No one model has emerged as necessarily better than the rest provided it is consistent with the mores of that particular state.

Other questions arise, however, around the issue of selecting local jurisdictions. An important one is whether the program will be voluntary or mandated. There is an appealing tidiness to universally mandated programs and a certain logic suggesting that if it is good for one jurisdiction it will be good for the rest.

There are strong arguments, however, on the side of allowing voluntary participation. The most persuasive argument is that something freely undertaken is more likely to be enthusiastically pursued than something imposed from above. One could also argue that differences in demography, local politics, geography, the economy and other conditions could allow a community corrections law to succeed in one jurisdiction and fail miserably in another.

One approach is to test the concept on a voluntary basis until such time as the program's acceptance suggests it ought to be applied to all. Experience thus far would suggest, however, that such a time may never come. Large, sparsely populated areas, for example, often have great difficulty assembling the resources necessary to make a plan work locally.

One strategy having elements of both the voluntary and mandated approach is to select pilot jurisdictions which agree to participate. This retains the voluntary quality as far as local participants are concerned but also allows the program to start up slowly and in different kinds of settings.

There is a strong fiscal argument in favor of starting the program out in relatively few jurisdictions in order to test and perhaps modify it before committing large amounts of state dollars for a more extensive effort. The experience of other states seems to indicate that if participation is voluntary this is, in fact, what will happen in any case. A few jurisdictions will volunteer and the others will take a wait-and-see attitude.

What role can private agencies play in the development of a local system of alternative sentences? Many states have established a presumption in favor of using existing private resources over developing duplicative services. The rationale behind this is the recognition that developing new programs and services will almost always be more expensive than incremental expansion of existing resources. In addition, private agencies often exhibit a cost consciousness that translates into cheaper services as good as or better than government can provide.

SUMMARY

Community corrections legislation represents a significant departure from traditional solutions to corrections problems. It provides:

- An incentive for counties to participate and establish new local corrections programs (the state subsidy).
- A disincentive designed to "penalize" participating counties by reducing their subsidy each time a nonviolent offender is sent to state prison (the chargeback provision).
- A requirement that the various components of the local criminal justice system and representatives of the public meet regularly to increase local planning, coordination, and cooperation (the community corrections advisory board).
- A requirement that the county agree on a specific comprehensive plan of action for improving its local corrections system and increasing its local alternatives to state imprisonment (the annual comprehensive plan).

Community corrections legislation offers states the opportunity to establish reasonable, safe, productive local alternatives to increased prison overcrowding and construction. Community corrections is not the only solution, nor can it stand by itself. But carefully constructed community corrections legislation can be an integral part of a state's broader strategy to make better use of its limited resources.

COMMUNITY CORRECTIONS LEGISLATION

DOs and DON'Ts

DOs

1. Do specify in the legislation the fundamental goal of reducing state prison commitments.
2. Do identify in the legislation a target group of otherwise prison-bound offenders who will instead be diverted into community corrections.
3. Do provide sufficient funds to establish locally run non-institutional alternative sentences that judges will be willing to use for the target group.
4. Do establish a "chargeback" provision to assure that the locality's receipt of the state subsidy depends on its ability to reduce state prison commitments.
5. Do require the locality to establish a community corrections advisory board to plan and oversee the local community corrections program.
6. Do involve a broad spectrum of state policy-makers and citizen groups in the formulation of the legislation.

DON'Ts

1. *Don't promise that community corrections legislation will reduce crime.*
2. *Don't promise that community corrections legislation will have an immediate impact on prison overcrowding.*
3. *Don't promise that community corrections legislation will reduce the existing budget of the state corrections department.*
4. *Don't allow people to think community corrections is designed for violent offenders.*
5. *Don't allow the subsidy to be used for costs associated with the existing probation or parole caseload.*
6. *Don't require all localities to develop the same type of local sentencing alternatives.*

Appendix I

Policy Statement
Adopted 1978

COMMUNITY CORRECTIONS

As a relatively new process to effective involvement in the Justice System, the American Correctional Association supports Community Corrections. We endorse those efficient and effective programs already in operation as models of the system. Legislative action and appropriate funding allocation at the state and local level is encouraged where Community Corrections does not exist. This includes private, local, and state government support for correctional agencies and halfway houses.

Continued funding and support for those already established cost-effective Community Correction facilities is urged by this Association.

DISCUSSION:

Community Corrections is a viable alternative which requires diversified programs capable of meeting all the needs of varied type offenders in a non-institutional type setting, emphasizing due process and the development of service delivery systems to divert the maximum number of offenders.

Provisions through Community Corrections allows more effective and economical reintegration of offenders into normal community roles for a great number of juvenile and adult offenders; a more selective use of institutionalization by the Court (reserving this sentencing alternative for dangerous and persistent offenders); and an increased opportunity for offenders to provide family support.

Gains to local and state government are recognized in a greater fiscal savings by provisions for the individual to contribute to the tax base through his continued employment. Additionally, already exisiting services established in the community can be utilized by easily accessible referrals from the Community Corrections staff.

END