

**CRIMINAL  
SANCTIONS  
TASK FORCE**

# CRIMINAL SANCTIONS TASK FORCE MEMBERSHIP

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SUPERIOR COURT  
STATE OF CONNECTICUT

CHAMBERS OF  
JAMES F. BINGHAM  
JUDGE

SUPERIOR COURT

The Honorable Ellen A. Peters  
Chief Justice  
Supreme Court  
State of Connecticut

December, 1987

Dear Justice Peters:

I am pleased to present the final report and recommendations of the Criminal Sanctions Task Force. Since our first meeting on March 23, 1987, the Task Force has studied Connecticut's current sentencing system and found that judges presently have too few sanctioning choices available to them. For this reason, the Task Force studied a range of intermediate sanctions - sanctions which are more restrictive than straight probation and less punitive than confinement in a correctional facility.

In its work, the Task Force examined the sanctioning programs of both public and private criminal justice agencies in Connecticut and other states which offer non-incarcerative options. These initiatives strongly suggest a model for the creation of a systemwide network of intermediate sanctions for Connecticut's criminal justice system.

In following the Task Force's recommendations, Connecticut will be breaking new ground. It will be establishing a new intermediate sanctions program within the Judicial Department with responsibility for insuring the development of new sentencing options, developing resources in jurisdictions throughout the state, and creating a system for tracking offenders who are directly sentenced to intermediate sanctions. In order to implement these recommendations, the Task Force report outlines a series of very specific steps which need to be taken to insure the success of this effort.

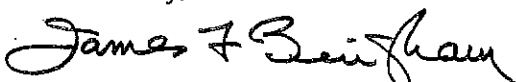
The Task Force report is divided into four specific areas: an introduction which describes the concept of intermediate sanctions and why their development in Connecticut is of paramount importance; a description of the principles which have guided the Task Force's decision making; a set of findings regarding present sentencing practices; and, the Task Force's recommendations.

Members of the Task Force wish to thank you for the opportunity to work on this challenging problem. We believe that the recommendations in this report will lead to a system of intermediate sanctions which can be fairly administered, effectively monitored and enforced.

The Task Force appreciates the diligent and thoughtful efforts of the staff of The Justice Education Center and its executive director, Sherry Haller, in working throughout the study and preparing this report.

The Criminal Sanctions Task Force wishes to make special mention of the late Frank J. Kinney, Jr., Chief Administrative Judge of the Criminal Division. His leadership in the beginning months of establishing the Task Force was instrumental in guiding our work.

Sincerely,

  
James F. Bingham

# **REPORT OF THE CRIMINAL SANCTIONS TASK FORCE**

December 1987

Prepared by The Justice Education Center, Inc.

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# TOWARD A MENU OF SANCTIONS

Connecticut judges have two principal choices when sentencing criminal offenders - probation and incarceration.

Probation is stretched far beyond its limits. The state has the highest caseload per probation officer in the United States, a caseload which is triple the recommended standard in the field.

Incarceration, on the other hand, is the subject of a jail and prison overcrowding crisis in Connecticut. If newly planned correctional facilities meet their construction schedules, some relief may be experienced by 1992. However, as long as incarceration remains the most widely used severe punishment, a U.S. Department of Justice study indicates that the demand for beds in correctional facilities will continue to push the system beyond its capacity.

Apart from crowding, the Task Force recognizes that the prison environment has basically negative effects on inmates. Although harmful, incarceration is a necessary punishment for some offenders. For other offenders, imprisonment is overly restrictive and particularly destructive, indicating the need for other options.

In this context, judges have too few sentencing options. Demand is growing for a menu of sanctions from which judges can choose.

In response to this need, a new concept - intermediate sanctions - has emerged. These sanctions are more restrictive than straight probation and less punitive than confinement in a correctional facility. Their major advantage lies in providing just punishment for convicted offenders without the potentially destructive effects of unnecessary imprisonment.

The concept of intermediate sanctions is best considered in light of historical developments in sentencing policy. Until the early 70's, advocates of non-incarcerative sanctions stressed rehabilitation through referrals to community agencies for such services as educational and vocational counseling, literacy training, housing and welfare assistance, alcohol and drug abuse counseling and treatment. Since that time, many criminal justice policymakers have urged a return to the greater use of incarceration, in part due to a perception that the public is demanding tougher punishments. However, several recent state and national opinion surveys have found that the public - when provided with adequate information about today's system - supports non-incarcerative sanctions that impose credible punishments on persons whose release does not endanger public safety.

A 1983 U.S. Department of Justice survey conducted in Maryland found strong public support for community-based programs. In 1986, a coalition of leaders from North Carolina's business community sponsored a survey that found that support for programs such as community service work and restitution grew stronger when citizens were informed about incarceration costs and overcrowded prison and jail conditions.

In 1987, the Public Agenda Foundation found similar attitudes in a study across twelve cities in the United States.

Sentencing programs that have emerged in recent years reflect a mixture of approaches. The Criminal Sanctions Task Force recognizes that a menu or range of intermediate sanctions can effectively assist judges in imposing sentences that are appropriate after considering the demands of public safety, the nature and severity of the criminal offense, the offender's background, and the needs of victims of crime.

All intermediate sanctions are punitive and as such may serve one or more purposes: deterrence, rehabilitation, incapacitation, or retribution. Some sanctions deprive the offender of liberty, some of property, and some of both. Sanctions other than incarceration that involve the deprivation of liberty include house arrest, halfway house placement, unpaid community service labor, electronic surveillance and intensive supervision. Deprivations of property can include fines, restitution, and forfeitures.

In many instances, options used as intermediate sanctions after conviction can be adapted to avoid unnecessary incarceration prior to trial. The Task Force therefore directs separate attention to the related issues in the pretrial release process. Like sentencing, that process presents a compelling need to establish effective and credible alternatives to unnecessary detention.

The bail issue is separate from sentencing because it involves accused persons rather than convicted offenders. Bail resembles sentencing, however, in that outright release and complete detention are its most common outcomes. Too few intermediate conditions of release are available to the courts, and as a result many defendants, held in jail awaiting trial, later receive a noncustodial sentence after conviction. On the other hand, studies have also shown that defendants unable to obtain pretrial release are more likely to be sentenced to terms of incarceration, and for longer periods of time, than those who make bond.

The Task Force recognizes that it is important to expand alternatives to pretrial detention for cases in which supervised release (accompanied where necessary by restrictions on residence, association, contact with victims, required treatment, abstinence from drugs, etc.) will suffice to assure that the accused person will appear at trial as required and not present an unreasonable risk to public safety.

The Criminal Sanctions Task Force has examined the non-incarcerative programs of a number of public and private criminal justice agencies in Connecticut. It believes that these initiatives, coupled with successful programs operating in other states, can be combined into a systemwide network of intermediate sanctions for Connecticut's criminal justice system.

# GUIDING PRINCIPLES OF THE CRIMINAL SANCTIONS TASK FORCE

Connecticut presently has a patchwork of criminal sanctions, but the quilt is unfinished and does not cover the entire state. Between imprisonment at one extreme and probation at the other, lie a host of intermediate sanctions, but they are not organized systematically, and judges make infrequent use of them in sentencing offenders. In its work, to fill out a comprehensive inventory of intermediate sanctions, the Criminal Sanctions Task Force has been guided by the following set of principles:

- Criminal sanctions should be consistent with public safety, offense severity, and the offender's criminal and personal history.

*Criminal sanctions should be based on well defined criteria which can be clearly communicated to offenders, victims and the general public.*

- Jail and prison space should be made available and reserved for those offenders whose offense severity and criminal history require incapacitation.

*Connecticut is currently in the process of a significant expansion in the number of cells available for criminal offenders. Public safety concerns suggest that scarce jail and prison space should be reserved for offenders for whom no alternatives are available or appropriate.*

- Incarceration is not the only method of providing severe punishment and of demonstrating society's condemnation of criminal conduct. Intermediate sanctions should be made available for offenders needing more supervision than probation but less incapacitation than imprisonment.

*Intermediate sanctions are more severe than straight probation, but are less restrictive than commitment to a secure custody institution. These middle-range sanctions are largely non-incarcerative, but they can be designed to include a short period of confinement. Intermediate*

*sanctions should include, but not be limited to: involuntary community service; short-term incarceration with a period of intensive supervision after the offender's release from custody; commitment to a community-based residential or non-residential facility permitting offender employment and educational, vocational, substance abuse and psychological counseling or treatment; restitution; and, short-term confinement with a work release option or supervision at a halfway house.*

- A system of graduated punishments should be uniformly available for all crimes (except where mandatory minimum sentences apply) throughout all geographic areas and judicial districts in Connecticut.

*Judges in Connecticut are required to travel from jurisdiction to jurisdiction. Wherever judges are assigned, they should have available the option of choosing from a uniform range of penalties.*

- Intermediate sanctions will be perceived as credible punishments if they are fairly administered, carefully monitored and effectively enforced.

*Research on the impact of criminal sanctions shows that penalties are more likely to deter future criminal activity when they are imposed with fairness, speed and certainty. Given the extraordinarily high caseloads and limited resources within the Office of Adult Probation, the adequacy and certainty of probation supervision (and revocation) is in question. To counter these deficiencies, probation agencies have been given some additional resources and some community-based programs have taken on a greater role in administering sanctions.*

*A menu of intermediate sanctions can relieve probation of part of its caseload and - by targeting certain offenders to more appropriate penalties - thus insure that those offenders remaining on probation will be more carefully supervised and their sentence conditions enforced. The menu will also enable an increased number of offenders to*



*be effectively punished through a wide range of structured sanctions tailored to the severity of the individual offense and offender's criminal and social history.*

■ Judges imposing intermediate sanctions should inform offenders of the requirements of these penalties and of the possible consequences of failure to comply. Judicial responses to violations should include graduated penalties approaching and/or including incarceration.

*Criminal offenders should know why they are being sentenced to particular penalties, and what their responsibilities are under these sentences. Courts should give offenders a clear idea of what will happen to them if they violate the conditions of their sentences. Such an approach enhances both system and offender accountability, and establishes a fair basis for monitoring and enforcing intermediate sanctions.*

■ Courts should continue to order offender presentence reports and victim impact statements, where appropriate, before imposing an intermediate sanction.

*Offender presentence reports and victim impact statements provide useful judicial tools for determining whether an offender is an appropriate candidate for an intermediate or other sanction. A presentence report describes for the court an offender's criminal, economic, educational, housing, mental health, occupational and substance abuse history. Victim impact statements help the court determine the crime's impact on the victim, the potential for victim and offender mediation, and the amount of restitution which may be appropriate to impose on the offender.*

■ In addition to the court ordered presentence reports generated by the Office of Adult Probation, defense and prosecuting attorneys should seek to assure that the sentencing court has available to it the best possible information about the offender, the offense, the impact on victims if any, and available

intermediate sanctions which might be appropriate in the particular case.

*Too often judges sentence offenders inappropriately either to incarceration or straight probation because they are unaware of the available alternatives and their suitability for a particular offender. As officers of the court, it is incumbent upon both prosecuting and defense attorneys to assure that the court has necessary information to make an intelligent choice among the available options.*

*The brunt of the burden rightly falls on the defense. Defense attorneys have the responsibility to inform themselves about the full range of sanctioning options and to explore those for which their client might be suitable. They also have the obligation to urge the imposition of appropriate alternatives to incarceration both in open court and in efforts to achieve negotiated dispositions.*

■ Sentences employing intermediate sanctions should include rehabilitative or treatment conditions when appropriate.

*Connecticut has in place a number of programs which offer offenders and their families a range of treatment and support services. While these services are not necessary in all cases, they serve useful purposes and can help restore an offender to healthy citizenship in the community.*

■ Supervised pretrial release should be made available for accused persons who may be poor public safety risks for release on their own recognizance, but who, if given appropriate supervision and service, will appear in court as required and not pose an unreasonable risk to public safety.

*Many offenders who are detained at the pretrial stage of the criminal justice process lack the financial resources for bail release, but do not significantly endanger public safety. Supervised pretrial release is an effective method of assuring the appearance of these accused persons at trial, and good behavior in the interim, without overburdening the state's correctional facilities.*

# FINDINGS

The Criminal Sanctions Task Force's major findings are:

■ **Incarceration**, the most frequently used severe criminal sanction, is often used due to the unavailability of intermediate options. Intermediate sanctions are more appropriate options for minor, first-time, and some serious offenders who can be supervised in settings other than jail or prison.

*Department of Correction statistics document increases in the incarceration of the groups more appropriate for alternative intermediate sanctions. Data indicate that the number of both first-time offenders and recidivists receiving incarcerative sentences of one year or less has risen each quarter since 1985. In this same period the number of convicted felons, who were imprisoned, increased by 69 percent. Certainly, intermediate sanctions could have been used for some of these offenders, as well. Finally, research studies show that incarcerative sentences may be over used for minor offenders.*

*The average number of persons incarcerated on any day increased from 4,376 in 1981 to 6,266 in 1986, prompting the state to begin a prison construction program costing over \$300 million. The new facilities are designed to alleviate overcrowding by 1992, but the state's prison population is projected to surpass its capacity again within five years. While the Task Force's major motivation for recommending an intermediate sanctions program is not to solve the prison overcrowding problem, it will surely have a positive impact on the situation.*

■ **Probation**, the state's primary alternative to incarceration, is overutilized because appropriate intermediate sanctions are not readily available to judges.

*A 1986 survey of states found that Connecticut had the highest average caseload per officer in the country. In response, the state budgets for 1987 and 1988 have added staff, reducing the average active caseload from 175 to 150 probationers. The National Council on Crime and Delinquency sets a national standard of 50 cases at any one time.*

*The Office of Adult Probation reported an alarming increase in probation cases (from 20,690 cases in 1980-81 to 47,900 in 1985-86). Currently there are 44,532 people on probation including 1,800 from other states being supervised under the terms of the Interstate Compact. The actively supervised caseload is now 25,482. According to the Office of Adult Probation, 43 percent of probationers are classified as inactive cases and receive no supervision services after the initial intake process. The Office of Adult Probation reported in December, 1986 that the remaining probationers who were classified as serious active cases were allotted an average of 23 minutes per month.*

*The Office of Adult Probation is also responsible for administering an intensive supervision program. The program is available by statute to a limited category of offenders and requires three face-to-face meetings each week between probation officers and their clients, and one contact per week between the probationer and family, employment or treatment service practitioners. The program has a capacity of 160 participants.*

*When probation is overloaded, it fails to be punitive or deter future criminality. Intermediate sanctions could redirect significant numbers of offenders from traditional probation to other sentences, enabling probation to more effectively supervise a manageable caseload.*

■ Some intermediate sanctions exist in Connecticut, but they are not available throughout the state, and operate differently in those jurisdictions where they are present.

*In the past decade, Connecticut has actively pursued the use of alternative sanctioning programs. (Please see the Appendix for a description of present sanctioning and pretrial options.) As a result, various programs exist in different parts of the state. These programs are only partially available for judges in some jurisdictions.*

*For example, judges frequently find that community service work requirements are not uniform, drug treatment programs have limited capacity, or halfway houses are unavailable. Moreover, these programs lack common operational guidance, causing confusion about what they are designed for and who should be sentenced to them.*

■ Connecticut judges lack both statutory authority and the operational mechanisms to sentence offenders directly to intermediate sanctions and to assure compliance with the conditions of their sentences.

*Convicted offenders are generally committed to the custody of either the Department of Correction or the Office of Adult Probation. The Connecticut Alcohol and Drug Abuse Commission can also receive some offenders directly.*

*The Department of Correction has developed a number of community treatment programs operating within the Department and through contracted agencies. Existing programs include: halfway houses, supervised home release, home arrest or incarceration, substance abuse treatment and psychiatric treatment facilities. Judges cannot sentence offenders directly to these programs; they must first sentence offenders to the Department of Correction which may transfer offenders to these programs after a period of incarceration.*

*The Office of Adult Probation monitors offenders in the community who have not been incarcerated or who have served jail terms under a split sentence. Probation operates at various levels from supervised to intensive supervision probation. The Office of Adult Probation also has contracts with some community treatment agencies.*

*Other community sanction and treatment programs exist on a small scale in some jurisdictions. But these programs can be used by judges directly only by way of the generally ineffective sentencing option of conditional discharge. This option requires the court to impose a jail or prison sentence and suspend its execution on condition that the defendant participate in some community sanction program.*

*However, no probation officer supervises compliance. The responsibility of these programs to report to the court about the defendant's progress or violations of the conditions is not clearly defined, and the programs lack any authority directly to enforce the sentence conditions.*

■ The judiciary, prosecutors and defense attorneys lack the necessary resources for targeting defendants for alternative sanctions or for developing appropriate sentencing plans.

*Criminal justice decisionmakers need better information about the offender, the victim and the resources which are available for various punishment, incapacitation and treatment options. Only a few programs in certain jurisdictions exist to help judges determine the most appropriate sanction to employ.*

# RECOMMENDATIONS AND COMMENTARY

The Criminal Sanctions Task Force has two fundamental recommendations:

*Resources should be expanded and made available to provide a full menu of sanctions in each jurisdiction throughout the state for the punishment purposes of deterrence, incapacitation, rehabilitation and retribution.*

*Judges should be able to sentence convicted offenders directly to all intermediate sanction programs.*

For the implementation of these recommendations, the Task Force has determined that:

1. A statute should be enacted to allow direct sentencing to intermediate sanction programs.
2. An advisory committee should be established within the Judicial Department. The committee, appointed by the Chief Justice, should include judges, prosecutors, defense attorneys, and administrators in the public and private sectors responsible for victim and offender service.
3. The Judicial Department should establish either a separate office or a unit within the Office of Adult Probation to:
  - develop new and expanded intermediate sanctions;
  - initiate resources for sentence planning;
  - monitor and enforce sentences made directly to intermediate sanction programs; and
  - conduct educational programs about intermediate sanctions.
4. The Judicial Department should initiate a contract with a criminal justice research and demonstration agency to:
  - survey court operations, sentencing patterns and data on community resources across the state;
  - design, operate and evaluate new intermediate sanction programs such as community service work and intensive supervision; and
  - evaluate current treatment options and develop a plan for expansion as needed.
5. The present network of treatment resources for offenders and their families should be expanded to insure adequate funding and statewide coverage.
6. Educational programs should be developed for judges, prosecutors, and defense attorneys to improve their ability to decide prison, probation and intermediate sanctions.
7. Alternative sentence planning and advocacy services should be expanded and made available for use by defense and prosecuting attorneys.
8. Courts should continue to order offender presentence reports and victim impact statements before imposing sentences.

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# 1 Direct Sentencing To Intermediate Sanctions

The Criminal Sanctions Task Force recommends that a statute be enacted to give judges a direct route for sentencing offenders to intermediate sanction programs. Rather than indirectly sentencing to such programs via a commitment to the Department of Correction or placing a condition on probation, a judge would be able to commit an offender to a halfway house, community service work, intensive supervision program or any of the other alternative programs outlined in this report.

The rationale for a direct route is to give the judge more control over the offender's full sentencing plan. Currently, if the offender is remanded to the custody of the Department of Correction, the Department determines the point at which incarceration can cease and a halfway house or supervised home release becomes appropriate. Likewise, the Office of Adult Probation may be told to enforce a condition that the offender enroll in a program, but with the overload of cases on probation, the follow-up to insure compliance is limited.

There are three key elements to developing a successful direct sentencing mechanism:

1. The sentencing plan must be detailed and specific to the offender.
2. Acceptance by the sanctioning program must be confirmed prior to sentencing.
3. Enforcement of the sentence and consequences for violation must be reliably administered.

The Task Force recommends that these elements be institutionalized in a new intermediate sanctions program in the Judicial Department.

# 2 Criminal Sanctions Advisory Committee

A criminal sanctions advisory committee should be established for the Judicial Department's intermediate sanctions program. The advisory committee should be modeled after other committees that have advised the Office of Adult Probation in the past. Committee members should be appointed by the Chief Justice, and should represent judges, prosecutors, defense attorneys and public policy administrators responsible for victim and offender services. Representation should also include members from the Continuing Education Committee of the Judicial Department.

The primary charges of the committee should be:

- to continue studying alternative sanctions and pretrial release mechanisms that now exist in Connecticut and those which are available in other states;
- to review management and research data developed on the new alternative sanction programs;
- to review research on the state's community treatment programs;
- to recommend program or statutory changes that would improve the type, range, and quality of sentencing options available for judicial use; and
- to report to the Chief Justice for dissemination of findings to other branches of government and to the public.

# 3 New Intermediate Sanctions Program In The Judicial Department

In order to implement its fundamental recommendations for expanding available sanctions and for giving judges direct access to community sanction programs, the Task Force sees the need for an operating mechanism attached to the Court system. This new mechanism should be designed to:

- Develop new and expanded intermediate sanctions
- Initiate resources for sentence planning and educational programs on intermediate sanctions
- Monitor and enforce sentences made directly to intermediate sanction programs.

The Task Force recommends that the program be located in the Judicial Department, with two possible administrative options having the responsibilities and powers outlined above: a new intermediate sanctions office; or a special unit within the Office of Adult Probation. There are good arguments for choosing either option.

## A New Office of Criminal Sanctions

It is important that the new program have high visibility and credibility and be accessible to judges, prosecutors, defense attorneys and criminal justice professionals. The independence of a new office with a clearly defined charge would advance these goals more easily than expanding the duties of the Office of Adult Probation.

While Probation has a tracking and enforcement system in place, due to the enormity of probation caseloads it is unable to effectively monitor and enforce all the conditional sentences under its jurisdiction. The new intermediate sanctions program would run the risk of being preempted by other probation functions because of limited resources.

A new program with a single focus might be better able to implement a well rounded intermediate sanctions program. For example, the office would be developing resources for better sentence planning and for educational opportunities for judges and prosecuting and defense attorneys on the use of intermediate sanctions. It would also need to devote effort to research and program evaluation. These are necessary pieces to a full program that might be relegated to low priority by an already overburdened probation administration.

## Special Unit Within the Office of Adult Probation

The Office of Adult Probation is well established with the statutory power of enforcement and the professional experience in every aspect of supervision. Establishing a new office, separate from Probation, would not be building on that experience, but rather creating a new bureaucracy with some overlapping responsibilities.

Besides being less cost-effective, two offices would move the focus away from the need to improve the operations of Probation. The state has in the last few years recognized that Probation was greatly overextended. The state budgets for fiscal years 1987 and 1988 have included funds for adding probation officers in order to decrease the size of individual caseloads. The perception of Probation as an effective agent of the courts and a viable state office would be enhanced by the additional responsibility. Conversely, that viability would be undermined if a parallel office with operating and enforcement powers were established within the Judicial Department.

Locating the new office within Probation would probably effect greater support from Adult Probation on two counts. First, the sense of ownership and commitment to shaping a new program that would

# 4 Development of Intermediate Sanctions

result would be a powerful incentive. Second, a lessening of the traditional probation workload would occur through a shift in sentencing and the multiplication of alternative resources.

Probation already has experience with community treatment programs through the conditions currently placed on probation sentences and through the referrals that probation officers initiate themselves. Probation has some contracts with community agencies and could effectively build on those relationships.

The experience of the Office of Adult Probation already includes some aspects of intermediate sanctions programming. It is involved in planning alternative sentences for offenders and in operating an intensive supervision program as an independent unit. Staff are accustomed to using advisory committees for special projects and administering contracts with community agencies. Finally, Probation is scheduled to absorb the functions of the Bail Commission, thus giving it both pre and post sentence responsibilities.

In summary, a new intermediate sanctions program would have responsibility for coordinating the development of new sanction options, developing resources in jurisdictions throughout the state, and for tracking offenders that are directly sentenced to intermediate sanctions.

In following the Task Force recommendations, Connecticut will be breaking new ground. Regardless of where the intermediate sanctions program is housed, the Task Force recognizes that to insure its success, the program needs statutory authority to enforce sentences and bring violators back to court, and high visibility, support and independence within the Judicial Department and the broader criminal justice community.

The Task Force recommends that the Judicial Department contract with an outside agency to develop, operate, and evaluate intermediate sanctions by performing the following tasks:

- Survey court operations, sentencing patterns and data on community resources across the state;
- Design, implement and evaluate new intermediate sanction programs such as community service work and intensive supervision;
- Evaluate current treatment options and develop a plan for expansion as needed.

In addition to the tasks outlined above, the new intermediate sanctions program should work with the Judicial Department to develop a plan for the necessary court-screening, community supervision, enforcement mechanisms and treatment options for a statewide system of intermediate sanctions.

The Criminal Sanctions Task Force has chosen to focus on two sanctions - community service and intensive supervision - as the first step in expanding available intermediate sanctions. The Task Force recommends that the Judicial Department contract with a private agency to help in the creation of these as well as in expanding the availability of a full range of intermediate sanctions. The Task Force recommends that the following program models be used in developing new community service work and intensive supervision programs for Connecticut.

## Community Service

The Vera Institute of Justice initiated a program in the late 1970's which offers courts the option of sentencing persistent petty property offenders facing jail terms to 70 hours of hard labor working on community construction projects. After experimenting with various time periods, Vera determined that two weeks of 35

hours each is the optimum punishment for the targeted population. The program wanted a finite length of time that was manageable and that would be perceived by these offenders as a significant punishment. Vera's community service work program is now operating in four boroughs of New York City. Vera staff in each jurisdiction monitor offender behavior in the program, and they report offenders' successful or unsuccessful participation in the program to the court.

In Connecticut, a community service work program might operate along these lines: Court liaison staff operating under the auspice of the contracted agency would examine daily court dockets for cases which match well-researched profiles of those offenders who are most likely to receive short-term jail terms. A court liaison staff worker would briefly interview these persons in court or in court detention facilities to determine their interest in program participation. The court liaison worker would notify the judge, prosecutor and defense attorney in each case that they are interested in accepting this person into the program. The court liaison worker would appear at the sentencing hearing.

If the court accepts the court liaison worker's recommendation, the offender would be sentenced to the community service program. Program staff would then monitor the offender's participation in the program, making sure that the offender fully completes all sanction requirements. Since this program is a punishment option, the main requirement would be that the offender successfully complete 70 hours of community service work within a two week period. Violations of this requirement would be immediately reported back to the court for re-sentencing.

Research similar to that conducted by the Vera Institute in its program is a crucial aspect of this program. Working with research staff, program administrators will be able to routinely track the characteristics of offenders who the courts are sentencing to short-term

jail sentences and to assess whether the program is effective in its targeting of this group as program participants. Other evaluation measures, such as the rate of recidivism, can be incorporated in the research design.

### **Intensive Supervision**

The Task Force recommends reviewing and expanding the intensive supervision program to target more serious offenders, offer more intensive supervision and services such as vocational training and counseling, and to make the program a direct sentencing option for judges.

The program will be designed for felony offenders facing jail terms. Staff would identify and process program participants in a manner similar to the community service work program described earlier. Court liaison workers would examine court dockets for offenders who fit the program's eligibility criteria. The program would focus on those incarceration-bound offenders who are considered inappropriate for community service work, but who are nonetheless suitable (i.e., a good public safety risk) for more intensive community intervention services. Offenders failing to meet program requirements would be reported back to the court.

### **Treatment Programs**

Some treatment programs are already operating and providing much needed services in Connecticut. However, these programs are not large enough nor adequately funded to address the demand for their services. The contracted agency, having assessed the expansion requirements of these programs, will assist the Judicial Department in devising a plan for expansion of these programs where they are needed to help establish treatment opportunities in jurisdictions across the state.

(Please see the Appendix for a full description of present treatment programming.)



# 5 Treatment Programs

The Connecticut Department of Correction's Division of Field Services assists approximately 7000 sentenced offenders re-enter their communities each year. The Division has developed an extensive network of community corrections agencies that provides services to offenders and their families. Many of these programs are operating within long-established social service agencies that also have contracts with other state agencies. Components of this network fall into three categories: residential halfway houses, non-residential P/PREP agencies, and substance abuse programs.

Halfway houses are residential programs that serve as transition from correctional facilities to the community. They provide shelter, meals, personal counseling, job development, substance abuse monitoring and treatment, housing assistance and money management counseling. The average stay in halfway houses is three months.

The Public/Private Resource Expansion Project (P/PREP) is a state and privately-supported group of non-profit social service agencies providing a range of support services in non-residential settings. This support can be individual, group or family counseling, vocational workshops, job development, housing assistance, referrals and advocacy. Some of the volunteer programs serve prisoners and their families during periods of incarceration.

Substance abuse programs, called Project FIRE (Facilitating Integration and Re-Entry Experience), attempt to treat ex-offenders with histories of alcohol and drug abuse. Professional staff and volunteers operate community clinics and work with prisoners at various correctional facilities.

Treatment program clients come from referrals by community agencies as well as the Department of Correction. These programs are vital tools for easing offenders' exit from prison, but they are essentially not available to judges at sentencing. Rather, the offender is sentenced to the custody of the Department of Correction which may later use the treatment program in lieu of a portion of the offender's term of imprisonment. The Task Force recommends that judges should be given the ability to sentence offenders directly to these treatment services.

Community treatment programs are important as intermediate sanctions themselves or as support services that buttress sanction programs. The Task Force is concerned that these effective programs need adequate resources available for their use. A recent survey<sup>1</sup> of community treatment professionals identified the following major needs of community treatment programs. The Task Force concurs with its findings and recognizes that the new intermediate sanctions program may increase the demand for treatment programming. Expansion of these programs will certainly be needed to support community-based sentences.

## ■ Employment

Public/Private Resource Expansion Project (P/PREP) agencies need to expand their resources to provide fundamental life skills counseling as well as practical job counseling and search services. Because employment services are the most important service these agencies provide, such additional expenditures for staff expansion and training would be cost-effective.

## ■ Housing

Affordable housing for former incarcerated offenders especially those with children, is extremely limited.

More resources are needed to add beds to the state's halfway house system and to provide relatively inexpensive shelter housing for ex-offenders and their families in the first weeks of release, and for families of prisoners.

Separate residential programs are needed to treat certain offenders with special needs such as mental retardation.

## ■ Substance Abuse

Research is needed into the long-term effectiveness of substance abuse treatment.

The Department of Correction's Project FIRE, a community-based substance abuse program, is

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<sup>1</sup> PREP Council, The PREP Network, 1985.

overcrowded and needs to expand or assign some clients to other agencies.

The practice of taking frequent, unscheduled urine samples should be incorporated into all substance abuse programs.

The referral system for substance abuse clients should be improved to better match clients with appropriate drug or alcohol programs.

Families of ex-offenders with substance abuse problems should be included in the treatment programs.

#### ■ Female Offenders

Adequate residential and non-residential community-based treatment programs should be established reflecting the unique needs of women offenders throughout the state.

The referral system between the women's correctional institution at Niantic and the network of available social services in the state is inadequate to enable full re-entry planning.

Specific services should be established both within the women's correctional institution and within local communities that address the bonding and support needs of inmate mothers and their children.

#### ■ Mental Health Services

A pilot outpatient treatment program is needed to provide services to mentally disturbed accused and convicted persons.

A residential mental health treatment program should be developed for mentally disturbed corrections clients in need of continuing care.

A residential treatment program for persons convicted of sexual offenses should be developed and present outpatient services should be expanded statewide.

A residential facility and outpatient services for the treatment of convicted arsonists should be developed.

#### ■ Families

Criminal justice counselors should be provided special training in serving the family reintegration needs of offenders.

Regional probation and parole offices should have at least one officer who has family reintegration training.

Daycare, family life education, and family visiting programs should be increased for offenders and their families. Visitation rights for children should be expanded.

#### ■ Research and Evaluation

Service providers and decisionmakers need research on the effectiveness of treatment programs.

Research should determine the effectiveness of intervention models for specific client groups.

## 6 Educational Programs

The Criminal Sanctions Task Force recommends that an educational program be instituted to familiarize judges, prosecutors and defense attorneys with the range of intermediate sanctions available, their specific operations, and the purpose of the new intermediate sanctions program housed within the Judicial Department.

The educational program should include criteria for targeting clients for various sanctions and information about available programs. The purpose is to improve the ability of all the key players in the sentencing process to determine which sentencing sanction is most appropriate in particular cases - prison, probation or an intermediate punishment.

# 7 Alternative Sentence Planning

The Criminal Sanctions Task Force has determined that there is a need to improve and expand the resources available to defense and prosecuting attorneys for developing sentencing plans, particularly for intermediate sanctions. Sentence planning is a major step in shifting sentencing in the new direction of intermediate sanctions. The Task Force recommends that the new intermediate sanctions program in the Judicial Department be charged with addressing this need and determining ways to expand sentence planning resources.

In addition, the Task Force recommends that the Division of Public Defender Services develop such sentencing planning and advocacy programs as are necessary to enhance the abilities of the attorneys within that division to discharge their responsibilities at sentencing. The Task Force further recommends that resources be allocated to implement these programs.

# 8 Offender Presentence Reports and Victim Impact Statements

The Criminal Sanctions Task Force affirms the value of offender presentence reports and victim impact statements in the sentencing process and recommends that judges continue to order them where appropriate before imposing sentences. This initiative on the part of judges will help foster the use of intermediate sanctions by giving attorneys and judges relevant information for planning appropriate sentences.

# APPENDIX

## PRESENT MIDDLE-RANGE OPTIONS FOR CRIMINAL OFFENDERS IN CONNECTICUT

The Criminal Sanctions Task Force has identified intermediate sanctions and programs which offer a potentially rich range of options for sentencing criminal offenders. This section outlines this menu of possible sanctions, details their current use in Connecticut, and briefly summarizes research evaluations of their effectiveness and impact.

### *1. Intermediate Sanctions and Community Programs*

#### ■ Community Service Work Programs

Community service work programs exact punishment and restitution by requiring the offender to work a specified number of hours in a community setting for a nonprofit or public agency. Some placements are individually fashioned to match the skills of the offender or to have direct relevance to the crime committed. Other programs are based on a concept of forcing hard labor for a usually shorter period of time. To be effective, the Task Force believes a community service work program should be organized with firm work placements, a mechanism to assess offenders' eligibility and suitability, a system for performance monitoring, and a means of reporting back to courts about offenders' performance in the program.

Currently, scattered programs exist as a result of independent judicial initiative. The New Haven-West Haven Community Service Program, for instance, was established at the request of the late Judge Frank Kinney. This program started in March, 1986 and now has 250 affiliated community agencies offering work placement sites. Offenders in this program are generally males under 21 years of age who have less than a tenth grade education, have committed larceny-related offenses (Class B and C misdemeanors), and have received fewer than 25 community service hours. Similar programs exist at other locations in the state.

Community work service assignments are also included as part of sentencing plans devised by private, non-profit alternative sentencing organizations, and as part of the intensive supervision probation program.

#### ■ Intensive Supervision Probation

Intensive supervision probation programs offer increased probation officer supervision and social service intervention with probationers. These programs are for convicted offenders and by definition are separate from pretrial options, such as alternative to detention and pretrial release programs. A crucial aspect of this program is that these probation officers have much smaller caseloads. Intensive supervision probation programs emerged in the early 1980's as a method of reducing increasingly high levels of jail and prison crowding. The most recent survey finds that these programs are operating in more than 30 states.

An intensive supervision probation program was established in Connecticut with passage of The Jail and Prison Overcrowding Act of 1984. Intensive supervision officers are currently located in Fairfield County, Hartford, New Haven, New London County and Waterbury. Connecticut law mandates that each intensive supervision probation officer should have no more than 20 cases, that three face-to-face meetings between probationer and probation officer occur each week, and that the officer have at least one personal contact with family, employer or treatment services that are defined as part of the sentence.

Intensive supervision practice in Connecticut has met with mixed results. The Office of Adult Probation strongly supports the program. With a program capacity of 160 offenders, there has never been more than 73 offenders on intensive probation supervision at any one time. Other operational measures suggest that even these few offenders do not represent a firm commitment to the program. A newly-enacted statute that broadens eligibility for the program may increase its acceptance. Statistical evidence of the program's overall effectiveness is scant at this point. The program released 174 offenders between December, 1984 and June, 1987, judges have denied release for about 50 percent of program applications, and probation has been revoked for 55 program clients.

Connecticut's intensive supervision probation program has not yet been evaluated, but research evaluations in other states have found generally promising results. Georgia's intensive supervision probation program, for instance, has become an increasingly integrated part of the state's criminal justice system. The program has had a measured effect in reducing the numbers of offenders sent to the state's prison system and has been proven cost effective. It has lowered recidivism rates

for program participants and has gained acceptance among criminal justice practitioners and judges. Research on the Georgia program suggests that it serves as a vital part of a graduated sanctioning response to repeat offenders.

#### ■ House Arrest and Monitoring

House arrest or monitoring is a mechanism for total or partial confinement of an offender at any point in the pretrial to post sentence process. It requires the offender to remain in a designated residence in the community. Monitoring is provided either by staff or more recently by advancements in technology such as electronic surveillance.

Since February, 1986, the Office of Adult Probation, the Department of Correction and the Office of the Bail Commission have been operating an electronic surveillance program for selected offenders charged with or convicted of serious crime. Computerized telephone calls are made to an offender's home, and the offender is required to insert a wristlet into a transmitter attached to his or her telephone. This process notifies authorities that the offender is meeting the incapacitative conditions of his or her home arrest.

The Office of Adult Probation uses the program primarily for its intensive supervision cases, but efforts are underway to use this technology as a means to establish a sentencing mechanism for prison bound offenders. The Division of Parole currently has a program for selected offenders from the Department of Correction, the Office of Adult Probation and the Bail Commissioner's Office.

Evaluations of the use of electronic surveillance are currently underway. Preliminary Department of Correction records show a failure rate of less than 10 percent.

#### ■ Halfway Houses

Halfway houses are residential programs that serve as a transition from correctional facilities to the community. They provide shelter, meals, personal counseling, job development, substance abuse monitoring and treatment, housing assistance and money management counseling. The average stay in halfway houses is three months.

The Department of Correction currently has 300 beds under contract. The twenty houses are located in every county throughout the state.

Halfway house programs are designed to bridge the reentry into society allowing former inmates to prepare for the demands of responsible community living. The programs provide the support services to assist the client/offender to get a job, secure community housing, budget and save money and deal with substance abuse and personal problems. The environment becomes less and less restrictive as clients meet their goals and approach their release dates. Residents who fail to comply with the rules of the house or their stipulations are subject to reincarceration.

A 1983 evaluation of Connecticut halfway houses and the P/PREP program found that in comparison to similar offenders released directly to the community, the participants in halfway house programs show a lower recidivism rate. The programs also have a positive impact on the level of public safety and, to the extent that offenders do not have to be incarcerated, alleviate prison overcrowding. The job development services of halfway houses are effective in placing offenders in jobs. Finally, with a 30 percent lower cost than imprisonment, the programs are cost-effective and the benefits seem to justify the expense.<sup>2</sup>

#### ■ Supervised Home Release

Supervised home release is a community release program that allows selected incarcerated offenders to be released directly to approved community living arrangements with varied amounts of supervision. It is not a pretrial program.

The Connecticut program has been used by the Department of Correction to make more institutional beds available for dangerous inmates. It is also the program that is employed following a stay in a halfway house program.

The Department of Correction screens its incarcerated population to identify inmates with ties to the community, i.e., family, job, housing. The Division of Parole Services is responsible for supervision.

In 1986, 1,500 people participated in the program with an average of more than 500 community release inmates on any given day. Department of Correction data suggests a failure rate of only 11 percent.

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<sup>2</sup> MetaMetrics Inc., Technical Report, Evaluation of Connecticut's Community Programs, February, 1983

## ■ The P/PREP Network

The Public/Private Resource Expansion Project (P/PREP) is a state and privately-supported group of over 30 non-profit social service agencies providing a range of support services in non-residential settings. This support can be individual, group or family counseling, vocational workshops, job development, housing assistance, referrals and advocacy. Some of the volunteer programs serve prisoners and their families during periods of incarceration.

In 1972, the Connecticut Department of Correction initiated the Public/Private Resource Expansion Project (P/PREP) to increase informed public concern with criminal justice services, to eliminate patchwork approaches toward offender services, and to encourage private agency involvement with state and local government public safety responsibilities.

In 1985, more than 4,500 criminal offenders were helped by multi-service centers, volunteer service agencies, and halfway houses in Bridgeport, Danbury, Danielson, Hartford, Manchester, New Britain, New Haven, Norwalk, Stamford, and Torrington. The P/PREP Network, overall, addresses needs concerning employment, housing, substance abuse, women and families, mental health services, pre-release planning, and community punishment sanctioning.

A 1983 evaluation comparing outcomes for P/PREP and non-P/PREP offenders found that P/PREP offenders had a significantly lower rate of recidivism, including rearrests, readmissions, parole violations, and conditional release rule violations, than non-P/PREP offenders. P/PREP offenders also had higher employment rates than non-P/PREP offenders. Finally, it was shown that P/PREP helped alleviate prison overcrowding and was cost effective.

## ■ Substance Abuse Treatment Programs

Alcohol and drug abuse programs can be developed along many models. They may be residential, outpatient, or as an adjunct to an institution such as a prison, halfway house or mental health facility. They may be designed for a targeted group such as offenders or a more general population. The Department of Correction's substance abuse programs, called Project FIRE (Facilitating Integration and Re-Entry Experience), attempt to treat ex-offenders with histories of alcohol and drug abuse. Professional staff and

volunteers operate community clinics and work with prisoners at various correctional facilities.

Offenders can be directly sentenced to programs operated by the Connecticut Alcohol and Drug Abuse Commission (CADAC) for enrollment in one of their treatment programs.

A few halfway houses in the state accept criminal justice clients with substance abuse problems and have services to treat them. These programs have substantial waiting lists, prompting the Commission on Jail and Prison Overcrowding to recommend their expansion.

As with other community treatment programs, research continually shows that the more intense the program and the earlier it is started, the more effective it is. Inpatient programs are generally the most successful.

## ■ Alternative Incarceration Centers

Alternative incarceration centers are multi-purpose programs that provides a variety of services to offenders at various stages of the pretrial to post-sentence process, with an aim of preventing incarceration.

The Connecticut Prison Association's Alternative Incarceration Center (AIC) started operating as a pilot project serving the Hartford area in January, 1986. AIC examines court and corrections data at four stages of the criminal justice process - pretrial, sentencing, intensive supervision and supervised home release - to identify "borderline" offenders who are likely to receive incarceration instead of release.

AIC informs bail commissioners, state's attorneys, public defenders, judges, probation officers and Department of Correction staff that the program is primarily concerned with working with offenders who would not ordinarily be released from the criminal justice system. AIC offers intensive social and supervision services directly and through outreach efforts with other social service agencies. These services include drug and alcohol counseling, crisis intervention, supervised community service, urinalysis, employment placement and housing assistance.

The AIC program can be expanded to other sites in the state. The Connecticut Prison Association reports that the program's expansion to Bridgeport, New London,

New Haven and Waterbury would result in a daily "on the street" program population of 200 persons, who would otherwise be occupying a jail or prison cell.

## 2. Supervised Pretrial Release

Supervised pretrial release is not an intermediate sanction as defined by the Task Force because it is not a sentencing option, but it is relevant to the issues in this report. Supervised pretrial release requires criminal defendants to comply with court-ordered release conditions that are closely monitored and more restrictive than those typically imposed when accused persons are released on their own recognizance. Potential clients for these programs are those persons courts feel are too risky for non-conditional release, but are nonetheless suitable for release if provided appropriate levels of supervision and services.

Supervised pretrial release programs incorporate careful eligibility screening procedures, a range of controls that replace the need for pretrial detention, and release options for persons who are not released on their own recognizance and cannot otherwise post bail.<sup>3</sup> In Connecticut, supervised release programs are coordinated by the Office of the Chief Bail Commissioner with private agencies in Bridgeport, Hartford, New Haven, Norwalk, Stamford and Waterbury. The Bail Commissioner's office also screens cases at the state's correctional centers to see if detained defendants can be safely released on a lower bond or on a structured supervised release plan. These initiatives have been cited by Connecticut's Prison and Jail Overcrowding Commission as pretrial mechanisms which effectively reduce the number of accused persons being held in state detention facilities. Between 1981 - 1985, the Commission observed, Connecticut detainee population had decreased by 25 percent at the same time as the state's sentenced population has increased by 67 percent. Figures for 1987 show however that the detainee population has grown back to the earlier proportion of the sentenced population.

Research results show that most (86 percent) supervised pretrial release defendants appear for all required court hearings; their court appearance rate was higher than that of defendants released on their

own recognizance, on cash bail, or on a citation; court appearance rates were similar for those defendants who received only supervision and those who received supervision and services; most (88 percent) supervised pretrial release defendants completed their program without being rearrested; and most (73-85 percent) of those defendants who were released on supervised pretrial release and then were later convicted of the offense they were charged with, received sentences of community supervision or probation.

## 3. Sentencing Planning Programs

Sentencing planning programs provide courts with information about the use of intermediate sanctions for specific offenders appearing at sentence hearings. While these programs do not provide direct services, they are an important mechanism for targeting offenders into alternative programs and for providing valuable information about the consequences of alternative penalties.

Traditionally, the state's probation services prepare presentence reports or investigations providing courts with information about offenders' criminal and social histories. These reports are mandated by statute only for offenders convicted of felony offenses.

Defense attorneys and citizens organizations have long held, however, that many of these probation-based plans fail to offer specific alternative penalty plans for the court's consideration. Thus, judges are often faced with a wealth of information about criminal offenders, and a paucity of suggestions about how this information can most appropriately be used for a criminal sanction.

In the late 1970's, the Division of Public Defender Services initiated pilot programs offering defense attorneys in its Hartford and Windsor offices the services of a social worker to help develop sentencing plans for specific offenders facing periods of incarceration. Starting in the early 1980's, a growing number of private, non-profit organizations began offering similar services.

The number of social workers doing alternative sentence planning for the Office of the Chief Public Defender has increased steadily. Full-time staff are now located in Hartford and New Haven, while part-time staff operate in Bridgeport, New Britain and New London. Shortly, additional social workers, funded

<sup>3</sup> Supervised release programs in Dade County (Miami), Florida, Milwaukee County (Milwaukee), Wisconsin and Multnomah County (Portland), Oregon have been evaluated by the National Council on Crime and Delinquency.

through the state's "drug court" program, will be working in Hartford, Stamford and Waterbury, and some part-time positions may be expanded to full-time positions.

In 1983, the Office of the Chief Public Defender began a project to give its defense attorneys access to structured, individualized sentencing plans for offenders facing a term of imprisonment. Initially, these plans were done by the Connecticut Center on Sentencing Alternatives (CCSA), through a contract with the Connecticut Prison Association. In 1986, CCSA became an independent agency and continued to do alternative sentence planning for public defenders on a part-time basis.

The Connecticut Center on Sentencing Alternatives has presented nearly 200 sentencing plans since starting its work in March, 1983. CCSA reports that 57 percent of these plans have been accepted in whole by the courts, and that 16 percent have been accepted in part.

Like most such programs in the state, the Connecticut Center on Sentencing Alternatives works with serious felony offenders who are facing a potential period of incarceration. CCSA also reports that sentencing plans prepared by its office have, on average, cut 2-3 years off the sentence which would ordinarily have been imposed were it not for the availability of the Center's services.

CCSA's program was evaluated by the National Council on Crime and Delinquency's Sentencing Project in late 1984/early 1985. Results based on interviews with defense attorneys using the program's services show that the cases reviewed involved offenders facing serious felony charges and likely prison terms.

Because of CCSA's intervention, the evaluation found, the length of incarceration for 46 offenders sentenced between July, 1982 and December, 1984 was reduced by 94 years. Moreover, CCSA's services facilitated the plea bargaining process (prosecutors accepted sentencing plans in one-third of the 26 cases reviewed). Overall, CCSA was found to have given judges sentencing options which increased social control over offenders while on probation and enabled victims to receive restitution from the offender.