

**FINAL REPORT
OF THE
NEW JERSEY SENTENCING POLICY
STUDY COMMISSION**



JANUARY, 1994

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FORWARD

Whatever views one holds about the penal law, no one will question its importance in society. This is the law on which people place their ultimate reliance for protection against all the deepest injuries that human conduct can inflict on individuals and institutions. By the same token, penal law governs the strongest force that we permit official agencies to bring to bear on individuals. Its promise as an instrument of safety is matched only by its power to destroy. If penal law is weak or ineffective, basic human interests are in jeopardy. If it is harsh or arbitrary in its impact, it works a gross injustice on those caught within its coils. The law that carries such responsibilities should surely be as rational and just as law can be. Nowhere in the entire legal field is more at stake for the community or for the individual. Wechsler, The Challenge of a Model Penal Code, 65 Harvard Law Review 1097, 1098 (1952).

The New Jersey Sentencing Policy Study Commission was established to "study and review all aspects of the criminal justice and correctional systems with a view toward recommending the most effective and efficient use of limited resources in protecting the public safety and achieving the goals of a rational, predictable and uniform sentencing system." The Joint Resolution that brought the members of this Commission together and defined our responsibilities reminded us that the criminal justice and correctional systems exist "to ensure the public safety by preventing the commission of offenses." After much study and debate we report our findings and offer recommendations that we believe will improve our system for sanctioning offenders.

We do not recommend dramatic reform of the law. The members of this Commission agree that New Jersey laws governing the sanctioning of offenders are, for the most part, well-designed. We do, however, recommend significant reform of the programs we employ to punish and rehabilitate offenders. Meaningful sanctions for offenders who are not in need of incarceration must be made available, treatment for substance abuse that contributes to criminality must be provided, and the juvenile justice system must be improved.

We are also regretfully mindful that no changes in procedures or in the substance of the law can eliminate crime or provide complete protection to the public. There is a desperate need for social, economic and political action to deal with conditions that contribute to crime. It is of course far beyond the role of this Commission to deal with these root causes. We can only acknowledge their existence and join those who insist that these significant problems be addressed with a sense of urgency. Within the limited framework of our assigned responsibility, we have recommended reform designed to address the problems by better deterring, punishing and rehabilitating the individual offenders who bring themselves within the jurisdiction of the juvenile and adult criminal justice and correctional systems.

BACKGROUND

The Establishment of the Sentencing Policy Study Commission

The need for the Sentencing Commission was first identified in an October 1990 report by the Corrections System Task Group of the Governor's Management Review Commission (GMRC), which recommended the formation of a "Blue Ribbon Commission" to conduct a "thorough and systematic review of sanctioning policy."

The GMRC wrote that such a review represented the "single most important initiative state government can undertake to keep its corrections crisis from becoming a corrections catastrophe." Governor Jim Florio and then-Attorney General Robert J. Del Tufo unveiled a proposal to create the Sentencing Commission in remarks before the state Supreme Court's Judicial Conference on Sanctioning and Probation in March 1992. Del Tufo said:

Many of us share the concern that our current system of sanctioning offenders is losing credibility. Population growth in our state prisons and county jails continues unabated. Recidivism rates remain high. Criminals who have served their time often return to a life of crime immediately upon their release. It is fair to say that the public is skeptical at best about the ability of our criminal justice system to deal effectively with criminals.

A Joint Resolution of the Legislature, establishing the New Jersey Sentencing Policy Study Commission, was approved without dissent in both houses. The resolution, sponsored by Senator Louis Kosco and Assemblyman Gary Stuhltrager, directed the Commission to "study, review, and make recommendations concerning New Jersey's current laws, policies and practices involving the sentencing, incarceration, and parole of offenders, the availability of

treatment resources to respond to the needs of drug and alcohol dependent offenders, and the use of alternative and innovative sanctions." The Commission was charged with recommending "the most effective and efficient use of limited public resources in protecting the public safety and achieving the goals and objectives of a rational, predictable and uniform sentencing system."

The Joint Resolution establishing the Commission insured that its members would bring a wealth of experience and expertise and a wide variety of perspectives to the task before it. The Commission consisted of four legislators, six public members, the Attorney General, the Commissioner of Corrections, the Public Advocate, the Chief Justice, the Chair of the State Parole Board, the President of the County Prosecutors Association, the President of the New Jersey Association of Counties, the President of the New Jersey State Bar Association and the Chair of the Sheriff's Division of the New Jersey County Officers Association. In addition, the Commissioners of Health and Human Services were invited to participate in the work of the Commission. Staff assistance was contributed by the Office of the Attorney General, the Departments of Corrections, Health and Human Services, the Administrative Office of the Courts and the state Parole Board.

The members of the Commission first met on March 3, 1993, and continued to meet on a biweekly basis until December 8, 1993. The Commission's initial meetings were spent gathering necessary data and information. John J. DiIulio Jr., Professor of Politics and Public Affairs at the Woodrow Wilson School of Public and

International Affairs at Princeton University, served as a consultant to the Commission and provided a review of pertinent literature. With Professor Ann Morrison Piehl, formerly of the Woodrow Wilson School and now with Harvard University, he also designed a far-ranging survey of state inmates which was conducted by the Department of Corrections.

A number of experts made presentations to the Commission, including Judge Rudolph Hawkins, Presiding Judge, Superior Court, Family Division, Union County Family Court; Frank Gripp, Deputy Director, Division of Juvenile Services and Stanley Repko, Director, Division of Policy & Planning in the Department of Corrections; Ty Hodanish, Executive Director of the Juvenile Delinquency Commission; Terrence O'Connor, Assistant Commissioner of Health, Division of Alcoholism, Drug Abuse and Addiction Services; David Kerr, President of Integrity, Inc.; Joseph H. Hennen, Executive Director of the Daytop residential treatment program in Mendham; Ted Levay of the Substance Abuse Planning/Treatment Unit of the Department of Corrections; Riley Regan, Executive Director of the Governor's Council on Alcoholism and Drug Abuse; Ron Jackson, Executive Director of the Georgia State Board of Pardons and Parole and a consultant provided by the National Institute of Corrections; Ronald Susswein, Executive Assistant Prosecutor, Union County Prosecutor's Office; Charles Krantz, Jail Administrator, Morris County Sheriff's Office; James Hemm, Executive Director of the New Jersey Association on Corrections; Harvey Goldstein, Assistant Director for Probation and

William D. Burrell, Chief, Supervision Services, Administrative Office of the Courts; Commission Member Daniel J. Lombardo, President/CEO of Volunteers of America Delaware Valley; and Commission Member Mary Keating DiSabato, Chairman, New Jersey State Parole Board.

The Commission's remaining meetings were spent in deliberation. Drafts of reports summarizing or proposing findings and recommendations on the law, alternative sanctions, drug treatment, juvenile justice, mandatory sentencing, and parole reform were distributed, discussed, and revised. The Commission trusts that its recommendations will serve to help guide policy makers in improving current conditions and directing finite resources to cost-effective applications.

SUMMARY OF RECOMMENDATIONS

New Jersey's Criminal Code, embodied in Title 2C of the New Jersey Statutes, was the product of a comprehensive, decade-long effort at sentencing reform. The Commission does not believe that a radical departure from Title 2C is warranted. However, our criminal justice system can be rendered more cost-effective and rational by investing in strategies that (a) promote public safety through incarceration, supervision and control of dangerous and repeat offenders, (b) address underlying patterns of substance abuse among large numbers of offenders, (c) identify and intervene meaningfully at an early stage in the lives of youthful offenders before they become career criminals, and (d) provide a greater array of intermediate sanctions so that judges have effective sentencing options. Our recommendations in these major areas are as follows:

I. Substance Abuse

°Recommendation

The State should dedicate sufficient resources to assure the availability of a comprehensive and flexible array of effective treatment programs for alcoholics and drug addicts within the offender population, whether they are incarcerated or placed on probation, parole, or in community correctional facilities.

°Recommendation

While an overall strategy is being developed to implement the foregoing recommendation, the State should significantly expand existing initiatives.

°Recommendation

The State should provide funding to permit the Bureau of Parole to re-institute the Intensive Parole Drug Program for parolees with extensive histories of substance abuse, and purchase needed in-patient and out-patient substance abuse services for other indigent parolees from existing providers.

°Recommendation

In order for treatment to be as effective as possible, resources should be provided to identify and develop intervention programs for substance abusing and addicted offenders at the earliest possible opportunity within the criminal justice process.

°Recommendation

The State should develop a system by which to ensure that defendants in need of some form of drug or alcohol treatment are placed in an appropriate licensed program, based upon specific recommendations of licensed drug and alcohol treatment and diagnostic programs or personnel and in accordance with objective medical diagnostic criteria.

°Recommendation

Substance abusing and addicted offenders must be held accountable.

°Recommendation

Treatment services should be provided by programs which are licensed by some appropriate authority outside the traditional criminal justice or correctional system; such programs should be authorized to exercise appropriate control over the offenders committed to their care and custody.

°Recommendation

Legislation should be enacted mandating that substance-abusing offenders be assessed, offered treatment where needed, and referred to treatment as a condition of the sentence warranted by the offense where appropriate.

II. Juvenile Justice

°Recommendation

The State should focus more resources on juvenile justice.

°Recommendation

The State should develop a continuum of services and sanctions for delinquent youths.

°Recommendation

The State should focus the juvenile justice efforts locally and provide incentives for intervention and control at the local level.

°Recommendation

The juvenile justice system should be organized more effectively.

° Recommendation

The juvenile justice system must stress accountability and investing in what works.

° Recommendation

The State should develop a Juvenile Impact Offender Program, a comprehensive, coordinated initiative designed to deal more effectively with juvenile offenders who commit serious offenses, as recommended by the Juvenile Impact Offender Working Group, created through Executive Order by former Attorney General Del Tufo in 1990.

This initiative should include the following elements:

1. Establishment of criteria identifying juveniles who should be dealt with through the Juvenile Impact Offender Program. The criteria should be employed uniformly, throughout the State. The Attorney General, the Commissioners of Human Services and Corrections, the County Prosecutors and representatives of the Administrative Office of the Courts should promptly establish the criteria. The group should consider the definition of juvenile impact offenders previously proposed by the Juvenile Impact Offender Working Group -- i.e., juveniles who have five or more arrests; juveniles who have two or more arrests for first or second degree offenses; or juveniles with three or more adjudications for first, second or third degree offenses.

2. Establishment of county-based Juvenile Impact Offender Interagency Councils, comprised of representatives from police departments, intake services, the prosecutor's office, the courts, corrections, probation and parole, to focus on juvenile impact offender programs and needs.
3. Establishment of a comprehensive, coordinated system for effectively identifying, screening and referring juvenile impact offenders for appropriate handling and priority processing throughout the juvenile justice process.
4. Revision of the Juvenile Justice Code to increase the maximum length of incarceration permitted for certain specific serious crimes. By authorizing a more realistic term of incarceration to account for the serious nature of the offense and threat posed by the juvenile to public safety, the Legislature may reduce the need or incentive for prosecutors to seek involuntary waiver of jurisdiction to adult court in these cases.
5. Development of a system-wide data base to generate impact offender statistics from arrest through disposition and treatment to track, evaluate and monitor the successes or failures of juvenile impact offender programs.
6. Establishment of an adequate aftercare system to provide services to impact offenders returning to the community.
7. Expansion of special programming, dispositional and custodial alternatives, and rehabilitative treatment opportunities for impact offenders, including

specialized, intensive probation and parole services, juvenile boot camps, and shock incarceration.

III. Intermediate Sanctions

°Recommendation

The State should establish a full range of intermediate sanctions that would be available at sentencing, at parole release, and for enforcement of court and parole board orders upon violation.

°Recommendation

The State should provide funding to the Judiciary to implement the staffing standards adopted by the Supreme Court for probation.

°Recommendation

The State should provide funding to augment parole supervision services commensurate with the significant increase in the parole population.

°Recommendation

The county probation divisions should develop a comprehensive assessment of treatment and service needs. Funding requirements for services should be developed and presented to the Governor and Legislature.

°Recommendation

The State should provide resources to fully fund urine monitoring services for probation and parole statewide.

°Recommendation

The State should provide funding to permit the Bureau of Parole to purchase mental health services for parolees who require such services and who are not eligible for defrayal of treatment counselling fees.

°Recommendation

The State should provide funding to enable the Bureau of Parole to purchase educational and vocational services for parolees unable otherwise to pursue such services.

°Recommendation

The State should increase the funding for community residential facilities to provide phased release for appropriate inmates. The community residential facilities should be encouraged to develop and provide aftercare services which reinforce the treatment provided while incarcerated.

°Recommendation

The State should continue to identify strategies to ensure adequate funding for prison space needed for the confinement of violent and repeat offenders and to avoid the possibility of future release policies driven only by prison overcrowding.

°Recommendation

The State should provide full funding to support the development and implementation of the Comprehensive Automated Probation System (CAPS) and the automation of the Department of Corrections' revenue collection processes as quickly as is feasible. The design of CAPS should include linkages to

appropriate computer systems in corrections, parole and other criminal justice and government agencies to facilitate the sharing of appropriate information.

°Recommendation

Where the Legislature requires the imposition of a mandatory fine, penalty or assessment upon a person charged with or convicted of a criminal offense, the Legislature should authorize the court to permit a truly indigent adult or juvenile defendant to perform community or reformatory service in lieu of paying the statutorily required assessment entirely in cash.

OVERVIEW

A. Adult Inmate and Probation Population

New Jersey's prison population has grown from 5,886 inmates in 1980 to 22,277 at the end of 1992. While the prison population rose steadily between 1980 to 1991, between 1991 and 1992 it declined -- from 23,122 in 1991 to 22,277 at the end of 1992. In November of 1993, the adult inmate population was 23,206. (Chart 1)

New Jersey's current incarceration rate is slightly lower than the national average. In 1981, New Jersey's rate of incarceration (number of persons incarcerated per 100,000 residents) was far lower than the national average -- 107 per 100,000 in New Jersey to 153 per 100,000 nationwide (including federal prisoners). It is now only slightly lower -- in 1991 (New Jersey's high) 300 per 100,000 in New Jersey to 310 per 100,000 nationwide. (Chart 2)

Thus, from 1975 through 1980, New Jersey's rate of incarceration of offenders was stable, while the national rate increased. From 1980 through 1991, New Jersey's incarceration rate jumped 275%, while the national rate increased by 175%. Ranked in terms of incarceration, New Jersey was 32 in 1980 (i.e., 32 states sentenced more people to prison terms per 100,000 than New Jersey), and is now 18.

During the same period of time, the number of adults serving sentences of probation imposed by Superior Court judges has similarly risen -- from 21,793 in 1981 to 55,883 in 1992 (Chart 3). In 1993, a total of 87,794 adults were under probation supervision.

Only 18.2 percent of adult offenders are actually serving custodial terms. Most offenders are either on probation (39.8 percent), in community service programs (18.4 percent) or on parole (18.3 percent). (Chart 4)

Both the state prison and county jail systems are filled beyond recommended limits. As of October 1993, the state prison system was operating at 132% capacity, while the county jail system ranged from 213% of capacity in Passaic County to 77% of capacity in Gloucester County. There are differing views on the consequences of prisons operating at capacity-plus. In his report to the Commission, however, Professor DiIulio wrote, "Surprisingly, there is no systematic evidence to support the popular notion that crowding is associated with higher levels of cellblock violence, poor inmate health, or other serious problems." It appears that, at least in this regard, good management can compensate for crowded facilities.

The Department of Corrections budget grew 573% between fiscal years 1980 and 1994, from \$92.3 million to \$621.3 million (Chart 5). That rate is more than three times the overall state funding growth rate. In 1980, spending on corrections assumed three percent of the state budget; by 1993, it was seven percent.

By comparison, the total state budget for parole has grown from \$4.86 million in 1980 to \$19 million in 1993, an increase of 291%. Total spending at the State and county levels for probation has grown from \$37 million in 1980 to \$85 million in 1993, an increase of 130%.

This means that, as of today, the State is spending roughly 86% of its overall corrections budget on 18% of its offender population. It should also be noted that the entire probation system is funded out of county revenues. To date then, the state has made no investment in the largest component of the correctional system -- although this will change when the state assumes the cost of probation pursuant to legislation passed last year.

The public has repeatedly demonstrated its support for the construction of prisons. Voters overwhelmingly approved bond issues for new prisons in 1976, 1978, 1980, 1982, 1987 and 1989.

B. Factors Contributing to Growth In Prison and Probation Population

It is clear that the growth in prison and probation populations cannot be attributed to a single factor. Past studies have attributed the growth in prison population to the adoption and implementation of the Code of Criminal Justice, which took effect in September of 1979, and to subsequent laws modifying the sentencing provisions of the Code. The ratio of defendants sentenced to serve terms of incarceration to defendants sentenced to serve terms of probation has increased but not at a rate sufficient to attribute the overall growth in inmate population to changes in Title 2C alone. (Chart 6)

Other factors were clearly at work. From 1980 through 1992, the state population rose 5%, while crimes committed for every 1,000 New Jersey residents decreased from 64.1 per 1,000 to 51.0 per 1,000. Arrests, on the other hand, including arrests for index crimes and drug offenders, have increased by 31.9%. The speedy

trial program and dedication of additional resources to disposition of criminal cases has allowed New Jersey courts to reduce a significant backlog of criminal cases and to handle new cases at a greater rate. In 1980, 14,499 defendants were sentenced by Superior Court judges. Between 1981 and 1992, 76,500 more defendants were sentenced than would have been if sentencing had remained at the 1980 level. (Chart 7) These defendants were necessarily added to the ranks of those on probation and in prison.

Prison is not a routine disposition. At every stage of the criminal justice process screening and discretion are exercised: charges are dismissed for lack of evidence; charges are downgraded to conform to the evidence; offenders are admitted to pretrial diversion programs; and some are acquitted or convicted of less serious crimes. (Chart 8) For example, according to the state's Computerized Criminal History, 100,554 suspects were arrested for offenses requiring fingerprinting in 1991, but only 11,924 defendants convicted of those crimes were sentenced to a term of imprisonment.

C. Profile of Adult Prison Population

As of November 1, 1992, 46% of the adult inmates serving state prison sentences in New Jersey were incarcerated for offenses classified as violent by the Department of Corrections (the category includes murder, sexual assault, robbery and assault); 19% were incarcerated for offenses the Department classifies as non-violent (the category includes burglary, arson, theft and weapons offenses), and 35% were incarcerated for drug crimes (32% of the

offenses involved distribution and 3% were for simple possession).
(Chart 9)

The percentage of inmates confined for crimes related to the distribution of drugs has increased -- from 11% in 1975 to 35% in 1992. New Jersey is incarcerating more drug dealers than ever before, but New Jersey is also incarcerating more violent offenders. In 1982, 5,135 of New Jersey's adult inmates were serving sentences for violent crimes. In 1992, 9,803 of New Jersey's adult inmates were serving sentences for violent crimes.

According to the most recent data outlining the criminal histories of New Jersey inmates, 79% have prior convictions, and on average they have 9 prior arrests and 6 prior convictions. The prisoner self-report survey designed by Professors Di Iulio and Piehl and conducted by the Department of Corrections revealed that 75% of the New Jersey inmates surveyed had been on probation in the past, 50% had been paroled in the past, 40% were on probation or parole when they were arrested for their most recent offense, and 36% predicted that the odds were 50-50 or less that they would try to "make it" without committing a crime when released.

D. Cost of Incarceration

There is no question that it is expensive to incarcerate offenders. The average annual cost per offender, excluding capital costs, is \$31,446 (including fringe benefits), and the average construction cost per bed is \$75,000, excluding debt service.

These costs do not take into account the financial benefits of locking up criminals. Professor DiIulio notes that there is "some

estimable incapacitation value of imprisonment: the averted social costs of crime that the incarcerated offender would have committed if free. The social costs of crime, of course, can be quite large. They encompass not only whatever physical or psychological harm is suffered directly by crime victims, but the economic losses, health care expenditures, and other socially costly ramifications of criminal victimizations." The survey of New Jersey prisoners conducted on behalf of the Commission noted that the "return" on society's investment in prison construction and operation depends on the relative criminality of the offenders.

Prison often pays. Most inmates confined in New Jersey commit numerous crimes when they are at large. Professors DiIulio and Piehl estimated the social costs of crimes that some of New Jersey's inmates would have committed during one year if they had not been in prison. The median cost for the inmates included was estimated at \$70,098. Thus, at the median range, incarceration of the prisoners included in the count yields a net savings of \$38,632 per year. On the other hand, the DiIulio and Piehl survey also indicated that a significant fraction of the prison population, perhaps as much as 20%, "cost" the State more than the social costs saved by incapacitation.

E. Parole

Parole involves the release of offenders prior to the end of their maximum terms, followed by a period of supervision in the community. Parole is designed to serve three functions: (1) providing motivation for good behavior and rehabilitation in

prison; (2) determining when to release a prisoner; (3) facilitating reintegration into the community by providing supervision upon release from prison.

1. Parole Supervision.

There is one inescapable fact to be considered in any discussion of parole: under present law, almost everyone sentenced to prison (other than murderers) will eventually return to the community.

Once paroled, an inmate is supervised by the Bureau of Parole, which is a part of the Department of Corrections. The main objectives of parole supervision are:

- * To enforce compliance with conditions of release;
- * To minimize risk to the public; and
- * To reintegrate the parolee into a law-abiding lifestyle.

Parole officers utilize a combination of social casework and law enforcement techniques in their effort to accomplish these objectives. The Bureau of Parole operates 13 district offices throughout the state. From these offices come the activities attendant to the supervision of a daily average of over 36,000 offenders from New Jersey correctional institutions, county jails, training schools and offenders from out-of-state jurisdictions. District parole staff also collect and process court-ordered fines, restitution and penalties from parolees.

New Jersey currently spends approximately \$835 per year to supervise a parolee under general supervision. The Bureau of Parole's operating budget is about \$16.6 million. Because of

overwhelming parole officer caseloads, parole "supervision" in New Jersey often provides less support for the inmate and protection for the public than one might expect or desire. In 1980, a total of 8,500 persons were on parole. By 1993, the figure increased by more than 300 percent to approximately 36,000 parolees. The current population is composed of about 20,000 general supervision cases and another 16,000 cases where parolees still owe financial obligations after having completed their sentences.

The percentage of drug offenders (base offense) in the parolee population has risen from 13 percent to 40 percent since 1986. The dramatic overall increase has not been accompanied by a corresponding boost in staff or resources to supervise the parolees.

In 1980, the average parole officer supervised 70 offenders. The average caseload is now 114. As a result there is less contact with the parolee, fewer referrals to assistance programs and less opportunity to determine whether a parolee should be off the street. Supervision now varies depending on the potential danger to the community posed by the parolee. Parolees are first classified and then monitored either weekly, biweekly or monthly. Many parolees also need support in the way of drug rehabilitation, job counseling and other services if re-entry into society is to be successful.

2. Release Function.

The Parole Board, an independent agency, is charged with the responsibility of deciding whether to release prisoners from prison

after those prisoners have served a statutorily-specified minimum portion of their sentence. Release may be delayed for loss of good behavior or work credits, and release may be denied only on the ground that the inmate is likely to commit another crime if released. When the case comes before the Parole Board, the job is risk assessment, not retribution. Most inmates are eligible for parole after serving one third of their sentence "less commutation time for good behavior . . . and credits for diligent application to work and other institutional assignments" -- or as little as one fifth of the sentence announced in the courtroom. In practice, the State Parole Board reports that about half of the inmates are denied parole upon first eligibility on the only ground permitted - that it is likely they will commit another crime. On second eligibility, however, less than 15% are denied release. This is because the law requires the Board to base a second denial only on new evidence that indicates likelihood of commission of another crime. The majority of the Commission agreed that if parole is retained, the limitation to "new" evidence should be eliminated.

According to the Bureau of Justice Statistics, New Jersey's inmates are actually serving a higher percentage of their term than the average of the 37 states and the District of Columbia from which information was collected. Studies conducted by the Department of Corrections and the Criminal Disposition Commission give some indication that New Jersey does as good as or a better job than most jurisdictions in assessing risk. The State's reincarceration rate of 22-24 percent (inmates returned to prison

while on parole) compares favorably with other states and the federal system.

3. Release and "Truth-in-Sentencing".

Some questioned the value of the release function of parole and the perception that release at the statutory eligibility point is much less than the total term imposed. The concern is that a system which obscures the fact that inmates may only serve one out of every five years of a sentence acts to embitter the victim and create public distrust in the criminal justice process.

The Attorney General offered a proposal to eliminate the parole release function in favor of a determinate sentencing scheme in which sentences would be fixed at a set minimum term and a maximum term. Under this system, a prisoner could be released prior to expiration of the maximum term only on the basis of good behavior and work credits earned. And, under this system, a term of post-incarceration supervision would follow every sentence of incarceration in order to permit supervision of the inmate's transition back to the community. In contrast to current law, this system would provide a true, firm sentence. Those opposing such a system believe the Parole Board provides a useful second judgment on whether to release an inmate into the community, and that it is not necessary to eliminate this function in order to improve public understanding of the different elements of a prison sentence. The Commission took no position on this issue.

"Truth-in-sentencing" advocates have endorsed legislation that would require judges to state for the record the actual time an

inmate will serve before becoming eligible for parole and whether that inmate may qualify for an early release program such as the Judiciary's Intensive Supervision Program. Assembly Bill 35, introduced but not enacted in the last legislative session, would have required such an explanation. The concern, however, is that the complexity and variety of options under current law -- parole, early parole, ISP prior to parole, accrual and loss of good time credit -- make clear explanation difficult.

F. Probation

Probation is the enforcement arm of the Judiciary, charged with carrying out the supervision responsibilities imposed by the judges of the Superior and Municipal Courts. Those responsibilities translate into more than 150,000 persons under probation's jurisdiction for supervision, the performance of community service or the collection of court ordered financial obligations (Chart 10).

Probation in New Jersey remains the "disposition of choice." More than 60 percent of all sentences imposed, for both adults and juveniles, are to probation (including community service and pretrial intervention). Yet its lack of punitive "bite" continues to breed widespread contempt of the system. Since 1980, caseloads for the average probation officer have ballooned from 110 to 169 (250 in one county), allowing only minutes of largely ineffectual contact per month (Chart 11).

Adults under probation supervision have increased from 48,551 in 1986 to 87,794 in 1993. An additional number of more than

70,000 were under the jurisdiction of probation for community service, juvenile offenses, pretrial intervention or supervised collections. There are six times more persons under the jurisdiction of probation than in the state's prisons. More than 70 percent of Superior Court adult sentences for drug cases involve probation. In Family Court, 68 percent of the dispositions are to probation.

But as the state Supreme Court's Sentencing Pathfinder's Committee wrote in March 1992, "because resources have not kept pace with the caseload growth, probation's effectiveness is destroyed and its credibility is undermined." The Pathfinder's Committee was one of a host of special task forces and conferences in the past eight years to recommend increased staffing for probation. The Supreme Court Committee on Probation Management likewise found that the inability of overloaded probation officers to monitor adequate compliance of those under their jurisdiction is exacerbating the problem of enforcement of dispositions to probation. The Committee wrote that,

Judges are sometimes reluctant to be aggressive in the enforcement of their orders on violation of probation. Because that reluctance may well be based on the severity of the only perceived sanction (incarceration) or the lack of intermediate sanctions (short of incarceration) that could be imposed, enforcement becomes a forced choice of the ultimate sanction or effectively nothing.

As a consequence, the probationer who violates a court order "has an even chance of being continued on probation with nothing more than a tongue lashing from the court."

G. Assessments, Fines, and Restitution Payments

Whether sent to prison, released on parole or sentenced to probation, there is normally a financial penalty to pay for the crime. Unfortunately, few are paying it and fewer still are watching to see that it is paid. The Governor's Management Review Commission (GMRC) was recently asked to investigate the cause and magnitude of the state's problems in collecting debt owed by convicted persons. The Commission noted that monetary sanctions are a form of punishment commonly used by the courts. In total, approximately 170,000 individuals who are either serving or have completed periods of probation, prison or parole have court-ordered assessments and fines. The sanctions were levied at sentencing for criminal, disorderly, petty disorderly and specific motor vehicle offenses. The number of fees imposed for conviction of crimes has been steadily increased by the Legislature over the years. And the trend continues despite the difficulty involved in collecting the penalties.

The collection of fines, restitution and penalties has become a major part of the probation and parole workload. In 1981, nearly \$5.2 million was collected, exclusive of child support. Today, that figure has nearly quadrupled to more than \$19 million, fueled by four new financial penalties added in the 1980s - the Violent Crimes Compensation Board (VCCB) penalty, the Victim Witness Assistance fee, the Drug Enforcement and Demand Reduction (DEDR) penalty, and the Forensic Laboratory fee. However, the amount collected is woefully short of the debt owed - estimated to be well

in excess of \$100 million. As the GMRC report notes, a new law enacted in 1991 takes a major step toward improvement of collections by requiring the various governmental entities involved to cooperate in the development of a uniform system for recording and tracking fines and penalties. The GMRC has recommended that the State provide the financing to develop and implement the computer system to automate the collections process.

Notwithstanding the effectiveness and usefulness of fines as means of punishment and restitution, some have criticized laws which require courts to impose monetary sanctions without taking into consideration the ability of the offender to pay. While few of New Jersey's financial sanctions for crime are mandatory, those that are should be examined. Imposing a cash fine or monetary sanction under circumstances where full payment is unlikely can only breed frustration, waste scarce probation resources in futile collection efforts, and ultimately undermine the credibility of the entire system.

FINDINGS AND RECOMMENDATIONS

The Commission's charge was to recommend steps that would make the criminal justice system more cost-efficient and rational in protecting the public, deterring crime, punishing law-breakers and providing rehabilitation when possible in order to return offenders to the ranks of tax-paying, law-abiding citizens. The Commission has concluded that, in general, New Jersey's Criminal Code does not need a major overhaul. Rather, the problems with our system of sanctioning flow from failure to allocate sufficient resources to probation and parole. This is due in large part to a lack of overall perspective, planning and coordination that is required in order for the system to function effectively, prompting narrowly-focused decisions that in retrospect seem altogether penny-wise and pound-foolish. One sure consequence is that the state has not invested enough of its resources in strategies which have the potential to steer high-risk individuals away from criminal activity. Nowhere does this seem more apparent than in the areas of drug treatment, juvenile justice and intermediate sanctions.

I. SUBSTANCE ABUSE

It is difficult, if not impossible, to address the rationality and cost-effectiveness of sentencing policy and practices without addressing drug policy.

In its 1990 report, the Governor's Management Review Commission recommended the expansion and improvement of drug and alcohol treatment programs available to offenders, both incarcerated and under supervision in the community. As the GMRC report noted:

The relationship of drug and alcohol abuse to crime is evident and rarely disputed. If we hope to stem the tide of crime and delinquency, it is clear that we must address the substance abuse problem. Experience has shown that harsh punishment alone will not deter drug use. We have also found substantial evidence that treatment is effective in reducing drug use and subsequent crime. [emphasis added]

In its final report of April 1991, the Supreme Court's Task Force on Drugs and the Courts followed the general recommendation of the GMRC, but was much more comprehensive and detailed in addressing the policy, program and resource needs for Court-supervised offenders with alcohol and drug problems. It made 19 recommendations, with the major emphasis being to implement addictions screening, assessment and supervisory and community treatment alternatives for all offender populations under Court control.

Drug use among offenders

The number of adult offenders sentenced to the State's custody for drug offenses has doubled since 1986 and now constitutes over 40 percent of admissions. Almost 25 percent of the prisoners who

responded to the inmate survey reported that their first involvement in crime was to get money for drugs. Twenty-nine percent reported daily use of drugs in the months before their arrest. The self-reported inmate statistics are generally considered by department professionals to be conservative and to understate the real magnitude of drug and alcohol abuse problems among state inmates. In a Department of Corrections survey of 3,700 inmates entering the system, 67 percent of the new prisoners were identified as in need of drug treatment and 59 percent were found to be in need of treatment for alcohol abuse.

Parole and probation statistics reflect similar patterns. While New Jersey's parole population has also doubled since 1986, the percentage of drug offenders (base offense) has risen from 13 percent to 40 percent of the overall parolee population. Dwarfing the adult prison population (22,500) and parolee population (36,000) is the probation population (81,500, plus 70,000 under jurisdiction of probation for community services or collections). Over 70 percent of Superior Court adult sentences for drug cases involved probation.

State parole officials report that the "biggest reason" for parole violations is substance abuse, which has reached "epidemic proportions."

Effectiveness of Treatment

The DiIulio literature review noted that "[o]ne of the most promising criminal rehabilitation programs is drug treatment. . . . There is ample evidence to justify a strong move in the

direction of making drug treatment far more central to the sentencing policies and correctional practices of New Jersey than it is now."

The literature indicates that offenders involved in substance abuse treatment programs (either inpatient or outpatient) for less than 90 days have the same likelihood of returning to criminal activity and substance abuse as those not receiving any services. However, the longer an offender is involved with treatment, with 6-12 months the critical length of time for most offenders, the greater likelihood that he/she will not: return to substance abuse; commit crimes; be arrested and reincarcerated. The literature also indicates that the criminal justice system's goals for maintaining public safety, incapacitating criminal offenders, short and long term deterrence, punishment and reduction of recidivism are readily compatible with effective treatment for offenders. Compulsory assessment, evaluation and treatment are valuable tools in inducing addicted offenders to use available or needed services. Systematic sanctions combined with drug treatment can bring back control of criminal offenders and increase the effectiveness of treatment.

The costs to society of substance abuse

The problem of substance abuse is well documented. It robs victims of self-esteem, good health, and jobs. The victims are not only the substance abusers and their families, but also the victims of alcohol, drug, and other addiction-related crimes.

Substance abuse is also a contributing factor to a long list of other diseases and disorders including cancer, Fetal Alcohol

Syndrome and cardiovascular disease. It is closely linked to crime, violence and injuries. Finally, substance abuse -- particularly drug abuse -- is inextricably intertwined with HIV infection and AIDS. Two-thirds of New Jersey's AIDS cases are the direct or indirect result of drug abuse.

Substance abuse drives up the cost of health care and exacts telling economic and social costs on Americans and American society. Estimates of its total annual cost to the nation are as high as \$100 billion or more. In a 1990 study (using 1988 data), the Division of Alcoholism, Drug Abuse, and Addiction Services (DADAAS) of the New Jersey Department of Health (DOH) fixed the total annual cost to New Jersey of substance abuse at over \$3.5 billion, divided almost equally between alcohol abuse and other drug abuse. And the costs continue to rise. A more recent DOH update in 1992, using the latest consumer price index, revealed that the cost to New Jersey of substance abuse had increased by at least 20 percent, to more than \$4.2 billion.

Included in this estimate are the costs of drug and alcohol treatment; acute hospital care; morbidity and mortality; such related social costs as criminality and incarceration; injuries and accidents; and related illnesses such as Fetal Alcohol Syndrome and AIDS. The drug treatment costs for injection-drug users with HIV/AIDS alone were over a half-million dollars in 1988, and have risen since then. Drug crime can be drug-defined or drug-related. Drug-defined crimes are violations of laws prohibiting or regulating the possession, use, or distribution of illegal drugs.

The cost of all drug-defined crime is attributable to illegal drug use.

Drug-related crimes are not violations of drug laws, but are crimes in which drugs contribute to the offense. Illegal drug use is related to offenses against people and property in three major ways:

- o Pharmacologically, drugs can induce violent behavior;
- o The cost of drugs induces some users to commit crimes to support their drug habits; and
- o Violence often characterizes relations among participants in the drug distribution system.

Cost of treating vs. not treating substance abuse

New Jersey Department of Health calculations indicate that the direct cost of drug treatment, because of the many settings and programs utilized, ranges from \$825 to \$5,023 per treatment stay. Untreated drug abusers incur other costs - especially those that are the result of criminal activity including destroying property, legal fees, social welfare and incarceration. These amount to almost \$13,000 per abuser.

However, the cost of not treating a drug abuser is much greater. That is partly because some drug abusers are sicker than others, require more treatment and incur higher treatment costs. In most cases, clients most likely to enter the treatment system are the most severely ill, i.e., the ones who have "hit bottom." While these abusers incur higher treatment costs, they also account for a greater benefit per treatment dollar than less ill

abusers. DADAAS therefore estimates the average cost of not treating a drug abuser at more than \$19,000.

Availability of Treatment

The Department of Corrections, Bureau of Parole, and County Probation Divisions all report the need for meaningful supervision and treatment - and complain of an almost total absence of resources to meet that need. The Judiciary has long lamented the lack of treatment capacity. The 1990 Judicial Conference on Drugs and the Courts pointed out that "addressing the offender's substance abuse will increase the likelihood of crime-free and drug-free behavior, reducing the need for harsh penalties to deter drug use and crime." The Judicial Conference Task Force also reported that "the needs for treatment resources cut across the system."

Despite all the statistics, it is difficult to get a firm handle on the degree of the problem because of a lack of comprehensive data. There is no systematic testing or analysis of substance abuse or addiction performed at the arrest or arraignment stage. It is only when individuals enter the probation or corrections system that there is drug testing, and even that is spotty. Drug treatment should be a viable sentencing option for judges, but judges are not receiving adequate pre-sentence information to make recommendations with regard to substance-abusing offenders. Only eight counties currently have Treatment Assessment Services for Courts (TASC) programs, which are

designed primarily to provide assessments and secondarily to assist in treatment case management.

The number of New Jersey state inmates and parolees who avail themselves of some form of substance abuse programming currently approaches the 10,000 mark (4,223 inmates, 5,200 parolees). These programs run the gamut from once a week meetings of Alcoholics Anonymous and Narcotics Anonymous to intensive daily sessions that may last more than a year. Of the 4,233 inmates participating in in-house programs, only 546 are enrolled in full-time treatment. (Chart 12)

The Princeton-designed survey of inmates indicated that 77 percent believed drug treatment is vital to staying straight when released, and 25 percent said they tried but could not get drug treatment in prison. The survey also revealed that 33 percent of the sample reported having unsuccessfully sought drug treatment. Half of the respondents reported having been in an alcohol or drug treatment programs during the current prison term, but 25 percent of those who hadn't were unable to participate because of insufficient program slots. Those in treatment received an average of just 5.6 hours per week.

Ironically, just as the need is becoming more apparent, the state is scrambling to maintain its already-woeful level of treatment dollars. The number of residential drug treatment "slots" in the community and funded by or through the state Department of Health remains at 543, despite that Department's

estimates that 150,000 New Jerseyans are badly in need of drug treatment.

The BRIDGE and PIER (Persons Incarcerated Entering Recovery) programs are residential therapeutic communities operated by the Department of Corrections. Each has 90 beds. Early data suggest a rearrest rate of 20 percent over the next three years for program participants, compared with a 64 percent rearrest rate within the system as a whole. Despite their success, BRIDGE is borrowing employees from other areas of the department to keep the program running, while federal funding for PIER is scheduled to be exhausted by April 1994.

The Department's Mutual Agreement Program (MAP) is a joint initiative between DOH/DADAAS, DOC and the State Parole Board, with 84 beds under contract with eight community-based drug and alcohol treatment programs. Although MAP has also achieved significant results in reducing recidivism, its budget has also been imperiled. The program received an 11th hour state budget allocation of \$800,000 for the current fiscal year.

The Department of Corrections currently contracts for 95 community-based, in-patient treatment beds for abusers of both drugs and alcohol. The vast majority of Corrections Department clients utilizing community-based substance abuse treatment and counseling are parolees. Parolees are referred for in-patient and out-patient services to a number of geographically-dispersed, primarily private, non-profit facilities.

Specialized federally-funded caseloads for parolees with serious substance abuse problems had been operated by the Bureau of Parole for the past two years under the Intensive Parole Drug Project (IPDP). Until recently, one IPDP caseload was assigned to each of the 13 district parole offices in the state and the parole officer to parolee ratio for these caseloads was maintained at 1:25. There were approximately 360 parolees in the IPDP, with about 800 cycling through the program each year.

One of the chief unmet needs in the system involves juveniles. Only 8 percent of those who receive drug and alcohol treatment under correctional supervision are under 20 years of age. The potential for results in efforts directed at juveniles has been demonstrated by the Daytop program for delinquent and at-risk adolescents. The Attorney General's Office was instrumental in bringing Daytop's successful program to New Jersey. Daytop has a 50-bed facility located in Mendham. Of the 50 current residents, 37 are on probation or parole and eight have pending court dates. The program, which lasts from one to twelve months, is centered on the therapeutic community concept - a highly-structured, family environment where positive peer interaction is emphasized. Families must be integrally involved in the treatment, and the program is individualized to meet the needs of each client. In the year and a half the program has been operating in New Jersey, 28 young people have completed treatment and all but one have remained drug- and crime-free.

The therapeutic community approach has also enjoyed success at Integrity House, where more than 90 percent of those completing the program remain free from drugs and crime and are employed or in school for at least one year following graduation. The program has 300 residents and 250 outpatients.

Findings

Although New Jersey has adopted a law enforcement strategy to stem drug abuse, it has not matched that strategy with the provision of means for drug addicts to overcome their addiction. The vast majority of individuals who are in the criminal justice system because of drug-related offenses do not receive addiction treatment while there or after their punitive sentences are complete.

Comprehensive treatment can be effective in reducing crime and returning substance-abusing offenders to the ranks of law-abiding, tax-paying citizens. And as the state Supreme Court's Task Force on Drugs and the Courts wrote in 1991: "Without treatment, substance-abusing offenders will continue to pass through the revolving door between the courthouse and the prison." When drug-dependent inmates are released from prison without help, they are likely to commit additional drug crimes and break the law in other ways, some violent, in order to obtain money for drugs.

Early intervention is the key to success. Alcoholics and drug addicts usually wind up first in municipal court. Judges need information and options in order to make intelligent decisions.

In order to have an effective drug and alcohol treatment program that deals with the needs of the offender population, there has to be a continuity of care from institutional setting to return to the community. Re-entry is critical, with education, jobs and support all playing significant roles in the successful return of the offender to his or her community.

There also needs to be a much closer working relationship between the treatment community and the criminal justice system. Participants in the criminal justice system should not make treatment decisions, but call instead upon the expertise of the treatment community for advice and recommendations.

Whether for adult or juvenile offenders, it makes abundant sense to utilize the cost-effective and available means of countering substance abuse. As the National Association of State Alcohol and Drug Abuse Directors concluded, "treatment has been tragically undervalued and underfunded in fighting the so-called 'drug war.'"

Recommendation

The State should dedicate sufficient resources to assure the availability of a comprehensive and flexible array of effective treatment programs for alcoholics and drug addicts within the offender population, whether they are incarcerated or placed on probation, parole, or in community correctional facilities. An addict is not created overnight and cannot be cured overnight. Hard-core addicts require intensive long-term treatment and aftercare. Since substance-abusing offenders will exploit any gaps

in program supervision, supervision must be comprehensive and well-coordinated to ensure offender accountability.

Recommendation

While an overall strategy is being developed to implement the foregoing recommendation, the State should significantly expand existing initiatives. These include the Mutual Agreement Program: the 500 unfilled but licensed residential treatment beds should be funded as MAP beds. In addition, the existing in-prison therapeutic community beds should be expanded from 180 to 1000 beds by designating 1000 beds of the soon to be built correctional facility in Bridgeton and/or other sites deemed appropriate by the Department of Corrections. And steps should be taken to allow currently operating licensed residential substance abuse treatment agencies to receive funding from Medicaid.

Recommendation

The State should provide funding to permit the Bureau of Parole to re-institute the Intensive Parole Drug Program for parolees with extensive histories of substance abuse, and purchase needed in-patient and out-patient substance abuse services for other indigent parolees from existing providers.

The Intensive Parole Drug Program (IPDP) was operated by the Bureau for over two years until June 1993 when federal funding ended. This program used specially trained officers to coordinate counselling and treatment with community-based drug programs. Caseloads were kept small to maximize effectiveness. About 250 parolees participated in IPDP at any given time.

Expanding substance abuse programming to offenders while they are incarcerated must be coupled with sufficient after-care services in the community to support these inmates when they are paroled. Releasing an inmate who has completed treatment in prison without appropriate aftercare treatment and services in the community is foolish. The investment made in treatment in prison must be supported and protected once the inmate returns to the community. To release without such services is, in essence, to throw away the money spent on treatment. It only makes sense to protect and preserve the investments we have made in treatment by providing community-based aftercare.

Recommendation

In order for treatment to be as effective as possible, resources should be provided to identify and develop intervention programs for substance abusing and addicted offenders at the earliest possible opportunity within the criminal justice process. An addict is most vulnerable to successful intervention when he or she is in crisis -- i.e., immediately after initial arrest and incarceration. Moreover, the decision to require an offender to undergo some meaningful form of treatment should not wait for a final conviction or adjudication. Therefore, the State should have a comprehensive program for testing all persons who enter the criminal justice or juvenile justice systems as soon as possible following an arrest. This should include a Treatment Assessment Services for Courts (TASC) program in every county, coupled with a program for providing a professional drug and alcohol diagnostic

assessment of selected defendants to determine the scope and nature of their substance abuse or addiction problems.

Recommendation

The State should develop a system by which to ensure that defendants in need of some form of drug or alcohol treatment are placed in an appropriate licensed program, based upon specific recommendations of licensed drug and alcohol treatment and diagnostic programs or personnel and in accordance with objective medical diagnostic criteria. Once an offender has been diagnosed as being in need of treatment, the court or appropriate parole authority should, in the absence of special circumstances, be required to order the offender to participate in some appropriate licensed treatment program. As a general proposition, no offender diagnosed as drug or alcohol dependent should be permitted to exit the criminal justice system until he or she has undergone an appropriate form of treatment. The criminal justice system should be used constructively to motivate offenders to accept treatment: addicts who refuse to undergo the rigors of a residential program should be required to undergo treatment in prison; offenders who refuse to engage in the treatment process in prison should remain ineligible for parole, early release or any other benefits.

Recommendation

Substance abusing and addicted offenders must be held accountable. Offenders ordered to undergo drug or alcohol treatment should be subject to careful monitoring, including periodic urine testing. A system of fair, consistent punitive

sanctions must be available and applied to those offenders who test positive for substance use after placement in a treatment program. The consequences for programmatic violations should be both realistic and predictable, so as to deter such violations to the greatest extent possible while recognizing the likelihood of relapse and intermittent progress. A comprehensive management information system must be developed to assist in tracking individual offender assessment, drug testing, treatment and intervention/sanction records across all sectors of the criminal justice system.

Recommendation

Treatment services should be provided by programs which are licensed by some appropriate authority outside the traditional criminal justice or correctional system; such programs should be authorized to exercise appropriate control over the offenders committed to their care and custody. Licensing is important to assure that treatment services meet current medical and therapeutic standards, and that limited fiscal resources are being used efficiently to obtain the most effective services. In order for offenders to take drug treatment programs seriously, they must understand that the recommendations of treatment providers will carry considerable weight with courts and parole authorities. The criminal justice system should work closely with, and support, the treatment community in holding offenders accountable.

Recommendation

Legislation should be enacted mandating that substance-abusing offenders be assessed, offered treatment where needed, and referred to treatment as a condition of the sentence warranted by the offense where appropriate. The Legislature should also carefully review the Model Criminal Justice Treatment Act recently developed by the President's Commission on Model State Drug Laws. That Act was drafted to address many of the problems and intervention opportunities discussed in this Report. In addition, the Governor should establish a cabinet-level working group, charged with developing a strategy for expanding treatment capacity within the criminal justice system, educating participants within the system as well as the public about the effectiveness and availability of treatment programs, and assuring the credibility of such programs and the criminal justice system through periodic monitoring and evaluation.

II. JUVENILE JUSTICE

The juvenile justice "system" has evolved to respond to juvenile crime. Sometimes looking more like a puzzle than a system, juvenile justice consists of a large network of independent agencies that deal with delinquent youth. These include police, courts, correctional agencies and a wide variety of social service providers.

The following statistics describe the extent of the juvenile crime problem in New Jersey and the scope of responsibility of our juvenile justice system:

- * There are about 90,000 juvenile arrests in New Jersey each year.
- * More than one in every five arrests in New Jersey is a juvenile arrest.
- * New Jersey recently ranked 5th nationally in the number of juvenile arrests and 4th in the arrest rate for violent index offenses.
- * About 12,000 juveniles are admitted to county detention centers annually; the average daily population of individual detention centers throughout the state is around 650.
- * Almost 200 juveniles are waived to adult court each year.
- * Between 1983 and 1993, there was a 24 percent increase in the number of juveniles under the jurisdiction of the Department of Corrections.
- * On any given day over 13,000 juveniles are on probation and about 1,200 juveniles are under the jurisdiction of the state juvenile justice programs (evenly distributed between the state's two residential institutions and its community (residential and day) programs).
- * Our juvenile justice system is an expensive proposition. It consumes approximately 350 million dollars in direct annual operational costs; many millions more are spent on a wide variety of services aimed at helping turn delinquent youth around.

These statistics must be viewed in the context of a vastly changed society. Unemployment, urban decay and the drug trade have worked to undermine communities and create a world in which juveniles who are without adult supervision, activities or support often end up being involved with the juvenile justice system.

The intensity of juvenile crime in our urban centers is readily illustrated. While delinquency occurs everywhere in New Jersey, a majority of all juvenile arrests occur in a handful of counties. In 1992, six counties (Essex, Bergen, Union, Hudson, Monmouth and Middlesex) accounted for about half (49.9 percent) of all juvenile arrests. Likewise, the six counties of Essex, Hudson, Camden, Passaic, Atlantic and Bergen accounted for nearly two-thirds (65.3 percent) of arrests for violent index offenses. Essex and Hudson counties alone accounted for 41.5 percent.

Serious violent crime among youth is predominantly an urban phenomenon. Our six most populated cities (Camden, Elizabeth, Jersey City, Newark, Paterson and Trenton) contain about 14 percent of the state's under 18 population, yet accounted for 18.2 percent of the state's juvenile arrests and 37.2 percent of arrests for violent index offenses. The cities of Jersey City and Newark alone accounted for more than one-quarter (25.6 percent) of all juvenile arrests for serious violent crimes.

The cities have also been the locus of much of the recent drug problem (at least as measured by arrest statistics). The "big six" cities named above combined for 44.2 percent of the state's juvenile drug arrests, 36.9 percent of the arrests for

use/possession of drugs and more than half (53.6 percent) of the arrests for drug sales/distribution.

Accomplishments to date

Juvenile justice reforms range from early efforts to develop a separate juvenile court system to more recent efforts directed at deinstitutionalization and delinquency prevention.

Our last major effort at reform in New Jersey occurred in 1983. This involved two related steps: passage of a substantially revised Juvenile Justice Code and creation of a Family Court. Both were a reaction to pervasive concerns over perceived system shortcomings: judges with few dispositional options; a system handling too many minor delinquency situations that could better be handled in an alternative manner; a system closed to public scrutiny and, some claimed, a system soft on serious juvenile crime; a system lacking in uniformity and fairness; and a system failing to deal with delinquency as a family-related problem.

Legislators set out to develop solutions. What emerged was a bill that "recognizes that the public welfare and best interests of juveniles can be served most effectively through an approach which provides for harsher penalties for juveniles who commit serious acts or who are repetitive offenders, while broadening family responsibility and the use of alternative dispositions for juveniles committing less serious offenses."

The Code attempted to increase the uniformity and equity in handling cases by providing criteria to be used in waiver, short-term custody, detention and even dispositional

decisionmaking. Another key provision was to focus more on the family by extending the court's jurisdiction to include discretionary intervention with parents and family members found to be contributing to delinquency or a juvenile-family crisis. It also removed "status offenses" from the immediate jurisdiction of the court by providing alternative means for handling these cases. And the Code sought to provide judges with an expanded range of dispositional options.

The Code also emphasized local government's role in dealing with delinquency, mandating for the first time that counties routinely plan for the development of services for court-involved youths. Finally, the Code created the Juvenile Delinquency Commission to monitor the implementation and effectiveness of the new Code provisions and to provide the Legislature and other policymakers with periodic assessments so that problems could be regularly identified and addressed rather than "twenty years down the road."

More recently, the Executive branch successfully enacted another reform, a reorganization of the handling of delinquents at the state level. Executive Order No. 93 went into effect on May 21, 1993 and placed the community-based units of the Division of Juvenile Services of the Department of Corrections under the jurisdiction of the Department of Human Services. However, while the juvenile community (residential and day) programs are placed with the Department of Human Services, the plan leaves the day to day management and operation of the two juvenile institutions with

the juvenile section of the Department of Corrections. The results of this reorganization may well dominate a large part of the juvenile justice agenda for the next several years.

Shifting sentencing policy in New Jersey

The focus and philosophy of the juvenile justice system varies markedly from the adult model -- nationally and in New Jersey. Where the adult system focuses on punishment and proportionality, the juvenile system emphasizes rehabilitation and individualized justice. Where sentencing practices in the adult system nationally have moved to a more structured approach, extensive judicial discretion remains the norm for the juvenile system in most states. Along those lines, individualized justice remains a keynote of the juvenile justice system. Judges are asked to respond not only to the crime, but to the particular needs and circumstances of the juvenile offender. And the goal of effective rehabilitation is tied to the court's ability to tailor juvenile sentences (dispositions) to the individual.

However, the distinctions between the adult and juvenile systems have become somewhat blurred, although the main focus of New Jersey's juvenile system remains rehabilitation, with judicial discretion largely kept intact. For example, the Code now includes the nature of the current offense and prior offenses among the criteria to be used in deciding on a disposition -- and as potential aggravating factors in the decision to incarcerate. Additionally, along with the more traditional focus of its "purpose clause," the Code now provides that the juvenile should be subject

to the discipline . . . of the State" and that the State should intervene to "enforce the legal obligations due to them and from them."

Perhaps the most significant legislative change to the Code since 1983 -- and the most emphatic shift toward the approach of the adult system -- involves mandatory terms of community service or incarceration for specified auto theft and related offenses (with a focus on repeat offenders and offenses creating risk of injury or causing serious bodily injury). The law enacted in 1993 mandates short periods of incarceration or community service (30 and 60 days) for select first time and practically all repeat offenders adjudicated delinquent on auto theft related charges. The law also provides (contrary to the law confronting adult offenders) that no time spent in custody (e.g., in a county detention center) prior to adjudication of delinquency be considered as time served on the mandatory minimum portion of incarceration. The goal is to ensure participation in short-term rehabilitative programs designed to reach this special group of juvenile offenders.

Findings

There is a strong consensus that criminality relates to the earliest years of development. People whose parents, teachers, role models and institutions have not encouraged them to be empathetic and future oriented are most likely to become career criminals. There is a need to keep the focus on children, trying

everything from Head Start to family policy research, to reverse the trend in juvenile violence and crime.

Over sixty percent of the youth who come into the juvenile justice system never come back. A smaller number need treatment and intervention -- and respond positively. And a very small number require incapacitation and treatment within a secure facility.

Aftercare is also essential. Even with the best of programs, there must be safeguards and support for youth returning to their homes and communities. Although delinquent kids need multidisciplinary attention, they are usually last in line for social services.

It is generally agreed that the Code of Juvenile Justice represents a solid policy framework for juvenile justice. What is needed is a much greater commitment to assuring that the goals of the Code are actually accomplished.

The track record in addressing these goals is mixed. On the positive side, New Jersey has made great strides in some areas. A better local planning effort has been launched through Youth Services Commissions. The new Family Crisis Intervention Units are successfully diverting many former "status offense" cases from the courts; and more information is now available on the day to day workings of the system than perhaps ever before.

However, there are also a number of glaring deficiencies: far too few real options for dealing with delinquent youths (especially in our urban areas), continued disparity in how cases are handled,

a seeming inability to deal effectively with serious and repetitive juvenile offenders, and the continued overrepresentation of minority youths throughout the system, especially in our institutions and residential programs.

These shortcomings are not being adequately addressed. The reasons for this situation are complex. Although an array of sanctions and services were authorized by the new Code, they have never been funded at levels sufficient to make them generally available. Delinquency prevention and control efforts have not been focused at the local level to assure a matching of resources with needs. And the juvenile justice "system" remains disorganized and uncoordinated.

Finding - Resources

New Jersey is not investing enough of its resources in identifying and intervening with juveniles likely to fill the criminal dockets. As the report by Professor DiIulio put it, "The criminological research suggests that a justice system that spends most of its resources at the 'back end' is a justice system that has things exactly backwards. As spending data available to the Commission reveal, thus it is in New Jersey."

To a large extent, the growth in our criminal justice system is a result of our failures in the juvenile justice system. It therefore makes sense to focus more revenues at the front end of the system as both a crime and cost reduction strategy. Concurrently, the juvenile justice system itself must focus more of its attention on its entry points. Experts generally contend that

the most successful approach in dealing with delinquency involves early intervention and a focus on prevention. In our current system, we do far too little of either. The prisoner survey administered for the Commission by the Department of Corrections and designed and analyzed by Princeton University found that 65.5 percent of the inmates had once been in juvenile institutions.

The state's approach to delinquency must be multifaceted and include prevention, primary interventions and tertiary interventions. Prevention emphasizes community involvement: family, schools, community organizations and local government. Interventions primarily involve the formal juvenile justice system and emphasize control, although there is a continuum between prevention and intervention.

An example of this blending of prevention and primary intervention is the Department of Human Services' School Based Youth Services Program, which provides comprehensive services on a "one-stop shopping" basis in or near schools. Another example is the Youth Incentive Program, also operated by the Department of Human Services, which provides wraparound services for emotionally disturbed children and adolescents. Both of these programs receive referrals from the courts. Other promising programs include the Youth Corps, operated by the Department of Education, various Weed and Seed initiatives, Upward Bound, and the Newark Fighting Back Initiative.

While these programs are limited in their funding and therefore in their reach, early results indicate that they are

having a positive impact on significant numbers of youngsters, keeping them in their communities and reducing the need for more costly interventions in the short and long term.

Because of its needed emphasis on delinquency abatement and control, the juvenile justice system must become much more adept at identifying and responding to future repeat offenders early in their careers. One promising approach now underway is a research and demonstration project being conducted by the Juvenile Delinquency Commission. The project will attempt to identify and help high risk offenders early in their court careers. Not only does the approach hold promise to have a positive impact on juveniles' lives, it can also result in a more efficient use of the court's limited resources.

But better assessment of need is only part of the equation. More options must also be available, and interventions must be effective.

Recommendation

The State should focus more resources on juvenile justice.

Our ability to prevent and control delinquency will have a major impact on the subsequent cost of our criminal justice system. It simply makes sense to invest early to avoid greater costs at a later date. That is true within the juvenile justice system itself. There must be a greater emphasis on investing in early identification and intervention than is now the case. Programs that prevent juveniles from becoming involved in the juvenile justice system or that provide primary services to help

first and second time offenders avoid further involvement should be expanded. These include the School Based Youth Services Program, the Youth Incentive Program, Youth Corps, Weed and Seed, and Upward Bound. However, our investments must not be indiscriminate but be able to demonstrate their effectiveness in curtailing both delinquent and subsequent criminal activity. This means that our investment must be targeted carefully and programs evaluated periodically.

Finding - Sanctions and Services

While the Juvenile Code provides for a wide range of dispositional options, the Commission finds that a true continuum of sanctions and services has never been achieved. As a result, many juveniles do not receive the interventions that they require. And we continue to "overrespond" and "underrespond" to delinquency in specific cases because of lack of appropriate options.

An appropriate continuum would range from low cost accountability (such as restitution and community service) with related interventions where appropriate through the use of secure care when required for public safety. It would provide for individually based approaches and interventions, sometimes referred to as "wrap around" services. And the continuum would provide that sanctions and services be available at various points in the system as well as in various communities throughout the state.

One example of increasing efforts to expand the range of accountability options is Morris County's recently developed PASS Program. PASS is modelled after the highly acclaimed SLAP program

designed for adults. In Morris County and elsewhere, some juveniles ordered to perform community service or pay restitution refuse to comply because they feel there is little to fear - judges are not likely to send such juveniles to a training school and other options are severely limited. What PASS does is require these juveniles to complete a rigorous program of community service activities to work off their obligation. Failure to comply with the program requirements typically results in placement in the county detention center for one or more days.

Another potential component is boot camp programs, generally characterized by voluntary participation of young, often first-time offenders in a military-style facility. While still rare in the juvenile system, their use continues to grow for young adult criminals throughout the country. No boot camp programs currently exist in New Jersey, although legislative proposals (including boot camps for juveniles) have been introduced in recent legislative sessions and the current session as well.

Recommendation

The State should develop a continuum of services and sanctions for delinquent youths.

There are distinct steps that must be taken to help reach this goal. A planning process is needed to identify what sanctions and services are needed. Resources must be allocated to provide for options. And local government and local agencies must be the starting point for development of the continuum. Provision of the resources needed to establish a greater range of service and

sanction options would also provide judges added flexibility in serving the complex goals of our juvenile justice system.

Finding - Local Efforts

Our future policy direction should involve refocusing of our delinquency prevention, control and treatment efforts at the local level. But this will demand a total restructuring of our current policies and the provision of incentives to local government. A new approach would divest the state of direct responsibility for the delivery of many delinquency related services, with primary emphasis on a local response. The state effort would shift to such areas as providing local incentives (funding), research and monitoring of local efforts.

Recommendation

The State should focus the juvenile justice efforts locally and provide incentives for intervention and control at the local level. The primary agents of socialization - the family, the neighborhood and the school - must be considered strategic building blocks in our efforts to deal with delinquency.

Unfortunately, we have developed few public policy strategies to focus efforts locally. Those communities with the largest delinquency problems generally have the fewest resources to respond. Therefore, the Commission endorses the concept of a state-local partnership in dealing with delinquency and the development of an incentive package to encourage new and innovative approaches.

Finding - Organization

While the juvenile justice system will always be a fragmented and highly decentralized operation, efforts must be made to encourage consolidation and coordination whenever possible. Two principal issues in this regard are consolidations and coordination of Executive branch efforts in dealing with delinquent youth and a clearer definition of the role of state vs local government.

While we have refined the Judicial branch response in dealing with delinquency through the new Code of Juvenile Justice, the major focus must now be on the Executive branch. The juvenile justice reorganization now being implemented within the Departments of Human Services and Corrections shows much promise. Both the secure and community-based programs must be adequately supported. There must be better identification of who is entering this system, for what reasons, and with what specific needs. Individuals and programs must be matched and ongoing evaluation provided for both. The recently established Office of Juvenile Justice in the Department of Law and Public Safety is also a promising development. Representatives from this office participate in FamilyNet, an interdepartmental organization that brings together eight departments of state government to examine the needs of children and families and works to eliminate gaps in and barriers to services across departments. Additionally, through executive order, the Governor's Cabinet Task Force on Children and Families focuses on children and family issues including juvenile

delinquency. FamilyNet serves as staff to this Task Force. Concurrently, major attention must also be given to refocusing delinquent related activities to the local level.

Recommendation

The juvenile justice system should be organized more effectively. Much of the current fragmentation with the juvenile justice system can be overcome with increased Executive branch efforts to consolidate and/or coordinate its efforts. One promising direction is the consolidation of some delinquency prevention and control efforts under the Department of Human Services. Further points of consolidation and coordination should be considered in the future. Concurrently, the major emphasis should be on ongoing delinquency prevention and control efforts at the local level.

Finding - Accountability

The juvenile justice system has not been subject to the same type of oversight and accountability accorded to other major governmental activities. While this may be due to the highly decentralized nature of the system or the lack of clearly articulated goals, accountability must become a central theme in the future.

Recommendation

The juvenile justice system must stress accountability and investing in what works.

Agency and program accountability must be a hallmark of the juvenile justice system in the future. The ongoing program of

research, evaluation and oversight of the Juvenile Delinquency Commission is critical for improving the operation of the juvenile justice system. Additional resources should be provided to expand the identification of programs that work and for whom.

Finding - Serious Offenders

Dealing effectively with chronic and serious offenders remains a major problem for the juvenile justice system. A small group of juveniles is responsible for a large share of all delinquency and an even greater portion of serious juvenile crime. The Juvenile Delinquency Commission is currently conducting research, supported by the federal government, to help identify high risk juvenile offenders. A few years ago, the Juvenile Delinquency Commission found that a small group (about 11 percent) of court-involved juveniles were docketed four or more times over a three-year study period. This group was responsible for nearly half of all charges before the court and was charged with an even greater share of the more serious offenses: 62 percent of all first degree, 51 percent of all second degree and 54 percent of all third degree offenses. Clearly the profile of juvenile offenders provides a clear picture of the magnitude of the problem in New Jersey.

Recommendation

The State should develop a Juvenile Impact Offender Program -- a comprehensive, coordinated initiative designed to deal more effectively with juvenile offenders who commit serious offenses, as recommended by the Juvenile Impact Offender Working Group, created

through Executive Order issued by former Attorney General Del Tufo in 1990.

This initiative should include the following elements:

1. Establishment of criteria identifying juveniles who should be dealt with through the Juvenile Impact Offender Program. The criteria should be employed uniformly, throughout the State. The Attorney General, the Commissioners of Human Services and Corrections, the County Prosecutors and representatives of the Administrative Office of the Courts should promptly establish the criteria. The group should consider the definition of juvenile impact offenders previously proposed by the Juvenile Impact Offender Working Group -- i.e., juveniles who have five or more arrests; juveniles who have two or more arrests for first or second degree offenses; or juveniles with three or more adjudications for first, second or third degree offenses.
2. Establishment of county-based Juvenile Impact Offender Interagency Councils, comprised of representatives from police departments, intake services, the prosecutor's office, the courts, corrections, probation and parole, to focus on juvenile impact offender programs and needs.
3. Establishment of a comprehensive, coordinated system for effectively identifying, screening and referring juvenile impact offenders for appropriate handling and priority processing throughout the juvenile justice process.

4. Revision of the Juvenile Justice Code to increase the maximum length of incarceration permitted for certain specific serious crimes. By authorizing a more realistic term of incarceration to account for the serious nature of the offense and threat posed by the juvenile to public safety, the Legislature may reduce the need or incentive for prosecutors to seek involuntary waiver of jurisdiction to adult court in these cases.
5. Development of a system-wide data base to generate impact offender statistics from arrest through disposition and treatment to track, evaluate and monitor the successes or failures of juvenile impact offender programs.
6. Establishment of an adequate aftercare system to provide services to impact offenders returning to the community.
7. Expansion of special programming, dispositional and custodial alternatives, and rehabilitative treatment opportunities for impact offenders, including specialized, intensive probation and parole services, juvenile boot camps, and shock incarceration.

III. COMMUNITY CORRECTIONS AND INTERMEDIATE SANCTIONS

There is currently a virtual chasm between largely unsupervised probation and largely non-rehabilitative incarceration. A recent editorial cartoon depicts cans of convicts being dumped into an overflowing dumpster marked "prison" while a nearby recycling bin labeled "rehabilitation" sits empty. "Who has the time to separate?" asks the individual tossing the cans. While the editorial cartoon by its nature is exaggerated, the situation it highlights is not. New Jersey courts are technically authorized to select from a wide array of intermediate sanctions, but too often the only sanction other than incarceration that is available as a practical matter is unsupervised, or inadequately supervised, probation. There are also noncustodial programs missing from New Jersey's menu which, with proper supervision and screening, could help provide options that protect the community, punish offenders and offer the prospect of rehabilitation.

The lack of a meaningful array of intermediate sanctions creates significant inefficiencies in the system. As the Supreme Court Judicial Conference on Sanctioning and Probation reported last year:

Those released on probation are often not deterred effectively nor are they adequately controlled, due to impossibly high caseloads of probation officers and the lack of resources available to probation. Recidivism is commonplace, and our communities continue to suffer from a high incidence of crime. Intermediate sanctions would provide additional tools to control and influence the behavior of offenders who are released to the community.

At the same time Judges, especially in less affluent counties, have few real sentencing options. It is thus conceivable that a

defendant convicted of a less serious offense may be sentenced to a discretionary term of imprisonment, not because the law presumes much less requires this result or even because the court believed that incarceration was necessary to protect public safety, but rather because the court had no other meaningful options available given the paucity of local probation supervision services and "intermediate" sanctions. If more meaningful intermediate sanctions were actually available, courts would be able to take advantage of these options in those cases where, considering the sentencing provisions of the penal code, a nonincarcerative sentence could be imposed without jeopardizing public safety.

As the GMRC put it: "What is at stake is the ability to impose cost-effective sanctions at key points involving adult and juvenile offenders in ways that promote justice and protect the public. The current inability to do so undermines the credibility of the entire system of sanctions." And the Supreme Court Sentencing Pathfinders Committee found that "intermediate sanctions are vastly underused. A reform in our current approach to supervision in the community would tend to restore confidence in the ability of sentences to deter and reduce crime. . . ."

New Jersey lacks a true intermediate sanctions policy. Intermediate sanctions provide more options, thereby facilitating a better exercise of discretion. For some offenders, such sanctions can provide punishment, deterrence and public protection at less cost than prison -- while helping to return the offender to

the ranks of tax-paying citizens. The goal should be to provide as much supervision as necessary but no more.

One option that has won high marks is the Morris County Sheriff's Labor Assistance Program, or SLAP. Started in 1986 when the county's correctional facility was at 144 percent capacity, the program puts weekend inmates to work at various projects. In seven years, more than 4,600 individuals have entered the program. As many as 125 people report for this program on a given day, having been sentenced to jail with a recommendation for SLAP. Most have violated motor vehicle laws, including drunk driving. The participants work for non-profit organizations, municipalities and other entities. Since 1988, SLAP has saved municipalities in Morris County \$8.3 million in labor costs and saved the county \$3.5 million in incarceration costs. A model for other counties, SLAP is more structured and better monitored than traditional community service. A half dozen counties now operate SLAP programs to varying degrees.

Also enjoying praise, though qualified by those who object to the early release program because it undermines statutorily prescribed punishment and is inconsistent with the goal of "truth-in-sentencing", is the Judiciary's Intensive Supervision Program, or ISP. According to the Administrative Office of the Courts, the rearrest rate for ISP graduates (rates for those participants who are returned to prison are not reported) is relatively low - about 4.3 percent in terms of indictable crimes and 4.7 percent in terms of non-indictables. The program emphasizes control, surveillance

and monitoring. While in ISP, participants are required to be employed, submit to frequent drug testing, maintain a budget and personal diary, perform community service, keep a nightly monitored curfew, attend treatment meetings, and pay financial obligations which include contributions toward the cost of the program. Started in 1983, ISP is one of the most structured intensive supervision programs in the country, and its positive results have spawned similar efforts on the county level in New Jersey to relieve jail crowding.

It is important to note, however, that the comparatively low recidivism rate for ISP graduates (that is, those who have successfully completed the program) may well be attributed to the strict selection criteria employed by the ISP courts. Under the circumstances, any initiative substantially to enlarge the population of ISP participants which entails relaxing the current admission criteria must be carefully considered. Similarly, legislators who favor the Code's offense-based sentencing (and its intended effect of reducing disparity in sentencing by making the punishment fit the crime) and those who favor truth-in-sentencing should consider the impact of ISP on both disparity and truth-in-sentencing. Legislation making ISP a sentencing option could address these issues.

In order to help stop the revolving door of recidivism, it is essential that we do a better job of preparing inmates for their eventual release from prison. New Jersey spends \$630 million on incarceration, yet only an estimated \$7 million on programs to ease

the transition from prison to the street. Transitional programs serve only 1,200 individuals per year. So called "after-care" programs are the missing link in the rehabilitative cycle.

Commonly known as "halfway houses," community residential facilities provide a bridge between the full-time confinement of incarceration and the life in the community. Living in such a facility can provide a transition phase, allowing the inmate to get acclimated to life on the outside, while still having support and services available.

The Department of Corrections funds Residential Community Release Agreement Programs to provide halfway house or substance abuse treatment services to inmates under its jurisdiction. These services are provided mostly by private non-profit agencies in the community in accordance with a contractual agreement between the agency and the Department of Corrections. The halfway house program places specific emphasis on employment and/or educational activities while the emphasis of the Substance Abuse Treatment program is on addressing the use and abuse of alcohol and illegal drugs.

Eligibility criteria for residential community release require that:

- * a candidate have full minimum custody status;
- * there be a recent positive psychological evaluation;
- * the candidate be considered as not likely to pose a threat to the safety of the community; and
- * the candidate be within 12 months (15 months for substance abuse program candidates) of a parole date or expiration of maximum sentence.

The residential community release program is presently operating at full capacity (about 97 percent). There are currently 450 inmates in halfway houses. About 375 of these are housed at 14 contract halfway houses while the remainder reside in a state-operated facility in Newark. An additional 100 inmates are housed at nine community-based Substance Abuse Treatment facilities.

Finding - Intermediate Sanctions

New Jersey's experience with intermediate sanctions has been somewhat limited, but generally positive. The programs which do exist have been developed as a response to jail and prison crowding, and not as a part of a coordinated, policy-driven model. The availability of financial resources has determined whether programs will be established. The Code of Criminal Justice provides a flexible list of authorized dispositions which could accommodate many new program options.

The increased supervision which characterizes so many intermediate sanctions can help to increase the monitoring of offenders, helping to promote public safety. The process of "sorting" offenders, determining the extent of punishment needed and identifying needs and problems, can only be enhanced by a greater array of sanctions. The closer the decision-maker is able to match the legal requirements of sentencing and offender needs with the program of sanctioning and supervision, the better use the system will make of the limited resources it has available. Better matching of offenders to programs and services will also make the

system more effective at reducing future criminal activity and achieving positive offender behavior change.

Better choices in an intermediate sanctions environment and careful and structured expansion would provide sentencing judges with more tools with which to craft each sentence. The "intermediate" options, more punitive than straight probation but short of total incarceration, would allow the punitive value of a sentence to be increased incrementally to the point where it best suits the facts and circumstances of the case.

Similarly, when a probationer is found to be in non-compliance with court order, there is a limited range of responses available to the probation officer. Some counties utilize administrative hearings, presided over by a senior probation manager, to seek compliance. The options at these hearings are limited and require the consent of the probationer. Beyond that, the next step is to return the case to court for a violation of probation. The ultimate sanction is for the court to sentence the probationer to incarceration. That sanction is not often used, and as a result probation officers are frustrated by their inability to hold probationers accountable in any meaningful way. Probationers soon learn that there are few consequences except for the most serious violation, and lose respect for probation and the court. Research and experience have shown that it is more effective to respond quickly to non-compliance when it occurs, rather than wait until it becomes so egregious that incarceration is the only option.

There is also a need for useful intermediate sanctions for parolees. For years the Bureau of Parole operated a small halfway house facility (PROOF) in Jersey City which provided emergency housing in a controlled setting for selected parolees. The creation of up to three similar facilities strategically situated in the north, central and southern parts of the state could provide a structured mechanism to temporarily contain parolees experiencing adjustment problems. Such a focus would emphasize control rather than housing and would be a less costly alternative than institutional return for those whose violation history warrant this type of placement. Another alternative might be to contract with private non-profit halfway house providers for a specific number of "halfway in" beds at existing facilities.

Any initiative to expand the number of halfway house slots should emphasize the need to hold residents strictly accountable for their actions. As noted above, with respect to the needed reforms of the Juvenile Justice System, programs designed to provide transitional services to inmates must be held accountable and, therefore, must develop and strictly enforce rules governing the conduct of persons who have been placed in halfway house programs. This is necessary not only to ensure public safety, but also to enhance the public's confidence in these types of initiatives.

Accordingly, the selection criteria for halfway house candidates should be carefully established and adhered to. Just as importantly, inmates who are given an opportunity to make a

transition into the community in a halfway house program must come to understand that programmatic rules, including curfews and other restrictions, will be strictly enforced. Residents who violate these rules should be subject to swift, appropriate discipline and, in the case of significant rule infractions, should quickly be returned to a traditional correctional facility to continue serving their sentence.

Between 1989 and early 1993 the Bureau of Parole was involved in the supervision of inmates under the Electronic Monitoring/Home Confinement program (EM/HC). Under this program, inmates were released to their homes and were supervised by parole officers with monitoring augmented by electronic surveillance equipment. At its peak, as many as 680 inmates participated in EM/HC, at a cost of one-fifth of the cost of housing an inmate in a secure institution. The program was discontinued due to publicized incidents which involved criminal behavior by several program participants. Any future versions of EM/HC should be more structured with tighter screening and monitoring criteria.

Recommendation

The State should establish a full range of intermediate sanctions that would be available at sentencing, at parole release, and for enforcement of court and parole board orders upon violation.

A comprehensive set of policy guidelines should be developed to guide the process of selecting offenders for the intermediate

sanction programs. Each intermediate sanction program should have a fixed capacity based on program requirements and staffing.

Every intermediate sanction program should also have an evaluation component to provide information on program operations and offender outcomes. The evaluation results should be incorporated into the policies and guidelines for offender screening and placement, and into the operational policies of the programs. To ensure objectivity, the empirical evaluation should be conducted by an outside agency or institution of higher education, so as to enhance the credibility of the process or outcome evaluation and to avoid any claim that the research was biased because it was conducted by an agency which has a stake in the budgetary continuation of the program being assessed.

Finding - Probation Officer Staffing

The Commission did not have to look far for information on probation. The recent report of the Committee on Probation Management of the Judicial Conference on Sanctioning and Probation summarized the findings of no less than seven reports, issued since 1985, calling for increased staffing for probation.

It is clear that probation is understaffed and underfunded. As the report of the Committee on Probation Management noted, when staffing levels are not sufficient "implementation of the court order is impossible." As the number of probationers has risen, the number of officers has not kept pace. The result has been a steady and significant increase in average caseload size, from 110 per

officer for adult caseloads in 1981 to 175 per officer in 1993.

When it is not possible to implement court orders fully, the authority and integrity of the Judiciary is threatened. Offenders soon learn that it is possible to ignore the court order with little risk of consequences, if not total impunity. This inability to provide effective supervision and enforcement also threatens public safety, as offenders will also quickly learn that overloaded probation officers are unable to closely monitor their activities, including new criminal activity. With a caseload of 175 probationers, a probation officer has less than 10 minutes per probationer per week to conduct all the duties required on each case. That does not translate into effective supervision in anyone's book.

For probation supervision to be meaningful to offenders, for judges and other decision makers to have confidence in it, and for the public to feel that offenders are being held accountable, it is essential that the workload of the probation officers be reduced to a manageable level.

Recommendation

The State should provide funding to the Judiciary to implement the staffing standards adopted by the Supreme Court for probation.

Finding - Parole Officer Staffing

A 1993 examination of parole officers available for direct supervision of parolees revealed that the parole officer to parolee ratio for the entire parole caseload was 1:148. Even if

the Bureau could eliminate "revenue only" cases from this equation, the caseload ratio would still be 1:114. In either case it is hard to imagine that even a minimal level of service delivery and public protection can be maintained with caseloads of this size.

In a continuing era of tight budgets and limited revenues, it is essential that agencies focus on the fulfillment of primary objectives. In the case of the Bureau of Parole, achieving the objective of protecting the public would require that additional resources be provided to reduce caseload size (officer/parolee ratios). In efforts to stem criminal behavior by offenders in the community, there is no substitute for closer control and supervision of parolee activity.

Recommendation

The State should provide funding to augment parole supervision services commensurate with the significant increase in the parole population.

Finding - Treatment and Service Resources

The offenders placed on probation frequently present to their probation officer a number of difficult needs and problems which are directly or indirectly related to their criminality. These include substance abuse, mental health difficulties, lack of employment, family relationships, and others.

Probation officers attempt to deal with these needs and problems through a variety of strategies. The goal is to reduce or eliminate their impact on probationers' behavior, and thus

increase the likelihood of law-abiding behavior. Some of this is done through direct counseling and intervention by the officers, and much is done through referral to treatment agencies and other resources in the community.

The major difficulty with this process is the lack of resources to pay for these services. Many probationers are in need of assistance, but few can afford to pay for it. This is most evident in the area of substance abuse. Estimates are that almost three-quarters of the probation population have some degree of drug or alcohol involvement, and most of these need some type of treatment.

Probation also needs to increase its use of testing and monitoring technology. Urine testing to detect probationer drug use is an important and effective tool for supervision. Resources available at this point do not permit its use to full effectiveness. In a recent assessment, only one county was found to meet the recommended standard of quarterly urine tests.

Recommendation

The county probation divisions should develop a comprehensive assessment of treatment and service needs. Funding requirements for services should be developed and presented to the Governor and Legislature.

Recommendation

The State should provide resources to fully fund urine monitoring services for probation and parole statewide.

Finding - Mental Health Services for Parolees

A canvassing of the state's district parole offices revealed that 850 parolees are engaged in mental health counselling and that another 1,800 should be involved in these services. Failing to provide adequate support services for parolees with mental health problems increases the potential for dangerous behavioral incidents from an already admittedly volatile category of offenders. Such services are costly and it is often difficult to identify competent providers willing to offer services to this difficult client group.

Recommendation

The State should provide funding to permit the Bureau of Parole to purchase mental health services for parolees who require such services and who are not eligible for defrayal of treatment counselling fees.

Finding - Educational/Vocational Services for Parolees

Bureau of Parole estimates indicate that 870 parolees are involved in vocational education programs and that an additional 4,400 could benefit from such programming. Costs and availability of various vocational education programs differ substantially by institution (public or private) and by the nature and duration of the courses being pursued. Additional access to state funds to expand vocational educational opportunities for parolees could contribute to employability and help break the cycle of joblessness and crime for these offenders.

Recommendation

The State should provide funding to enable the Bureau of Parole to purchase educational and vocational services for parolees unable otherwise to pursue such services.

Finding - Community Residential Facilities

Halfway houses are effective in providing a transition between the closed environment of an institution and total freedom in the community. They provide an important support structure that facilitates the re-integration of halfway house residents into the community and are a cost-effective means of providing services to address offender problems. Reinvolvement in new criminal offenses is lower among halfway house residents.

It costs approximately \$19,000 per year to contract for a bed at a community residential facility. Doubling current occupancy in this program would cost an additional \$10.5 million per year. Since the cost of a halfway house bed is 78% of a minimum security institutional bed, increasing the funding levels for these programs as indicated above would translate into savings of about \$2.75 million per year based upon the cost of housing these same inmates in a minimum security DOC facility.

Inmates are being released from incarceration to the community without any realistic transition support. Many inmates, especially those involved in substance abuse treatment, need aftercare services to support the treatment regimen begun in prison. The transition phase in a community residential facility provides a graduated return to the community. This has been shown

to reduce the new criminal behavior of released offenders.

Recommendation

The State should increase the funding for community residential facilities to provide phased release for appropriate inmates. The community residential facilities should be encouraged to develop and provide aftercare services which reinforce the treatment provided while incarcerated.

Finding - Automation

The adult probation supervision function - the largest correctional function in the state in terms of numbers of offenders - is still working without the substantial benefits of full statewide automation. The county probation departments have developed their own computer systems over the years, but these are independent, for the most part incompatible, and far behind the capability of state of the art computerization. This results in a great deal of probation staff time wasted maintaining paper records and accounts.

This lack of automation is probably most inefficient in the area of financial collections. Probation collects more than \$19 million each year in fines, restitution and penalties. That is but a small portion of what is ordered by the courts. The exact size of the debt owed to the state and to victims of crime is not known, but it is estimated to be well in excess of \$100 million.

The Administrative Office of the Courts has begun to develop a statewide Comprehensive Automated Probation System (CAPS) to handle adult probation case management, community service and

financial collections. The project's funding is not firm, and there is a risk that without further financial support implementation of CAPS and the substantial benefits it will bring will be delayed for years.

In a similar vein, the automation capabilities in the Department of Corrections are seriously underfunded, particularly in the area of revenue collection for fines, penalties and restitution. The Department has been hampered in collection of court-imposed fines, VCCB payments and other restitution payments levied against both inmates and parolees because of the lack of data processing systems and automated collection software. Despite continuous budget requests for computer hardware and software to address this serious revenue collection problem, no funding has been appropriated for these purposes.

The Governor's Management Review Commission recently issued a report calling for substantial improvements and investments in both the CAPS and the Department of Corrections revenue collection processes. These include a substantial investment for funding the implementation of CAPS and the DOC systems. Without investment of funds to develop effective automated systems, collection efforts will continue to fall far short of expectations.

°Recommendation

The State should continue to identify strategies to ensure adequate funding for prison space needed for the confinement of violent and repeat offenders and to avoid the possibility of future release policies driven only by prison overcrowding.

Recommendation

The State should provide full funding to support the development and implementation of the Comprehensive Automated Probation System (CAPS) and the automation of the Department of Corrections' revenue collection processes as quickly as is feasible. The design of CAPS should include linkages to appropriate computer systems in corrections, parole and other criminal justice and government agencies to facilitate the sharing of appropriate information.

Finding -- Fines and Penalties

There are currently no exceptions for the imposition of fines and penalties, especially DEDR penalties, even under circumstances where such penalties are uncollectible. Nor does the law make any distinctions between juveniles and adults in requiring payments. This situation breeds cynicism and disrespect, while generating wasted efforts by already overly-strained probation personnel.

Recommendation

Where the Legislature requires the imposition of a mandatory fine, penalty or assessment upon a person charged with or convicted of a criminal offense, the Legislature should authorize the court to permit a truly indigent adult or juvenile defendant to perform community or reformatory service in lieu of paying the statutorily required assessment entirely in cash. "Reformatory" service might include participation in beneficial programs such as Narcotics Anonymous or Alcoholic's Anonymous meetings, vocational or training programs, or G.E.D. equivalency programs. The community or

reformatory service option should only be used as a last resort, where it is readily apparent to the court that the defendant will not be able to satisfy the mandatory assessment entirely in cash. Upon such a finding of indigency, the defendant should be required to pay the greatest portion of the penalty, fine, or assessment which is consistent with his or her ability to pay, considering the court's authority under current law to allow the person to pay off the debt in installments over time.

IV. THE CRIMINAL CODE AND MANDATORY MINIMUM SENTENCES

A. Title 2C

After careful review and full debate, the Commission reached a consensus that there is no need radically to change the basic structure or orientation of the sentencing provision of the New Jersey Code of Criminal Justice.

The comprehensive, decade-long reform that produced Title 2C was fueled by general dissatisfaction with a system that generated a wide disparity in sentencing. The New Jersey Criminal Law Revision Commission reported that "disparity and inequity" in sentences were sources of "serious injustice" and caused "loss of respect for the system." The goal was to create a new system in which the length and nature of sentences of imprisonment would reflect both "the seriousness of the crime" and "the character of the offender." The reform was also designed to eliminate what the New Jersey Criminal Law Revision Commission had described as "the anarchy in sentencing" created by the large number and variety of legislatively-imposed distinctions in the old criminal laws.

The three major aims of the reform effort were to:

- * Eliminate irrational differences between the punishments statutorily authorized for crimes of equal gravity;
- * Provide a range of authorized punishment for each degree of crime broad enough to account for differences in individual cases but narrow enough to avoid unjustified disparity between the sentences of persons convicted of similar crimes; and
- * Guide the exercise of discretion by the individual judges who would be required to determine whether to impose a sentence of imprisonment and where to set that term within the authorized range, by establishing presumptions in favor of custodial or non-custodial dispositions

according to the degree of the offense, by setting presumptive terms for each degree of offense, and by requiring that deviation from a presumptive disposition be justified with reference to the balance of specified aggravating and mitigating factors.

As the Criminal Law Commission explained:

The books . . . are full of statutes creating crimes and providing specifically for the punishment available. A favorite response to a particular problem of the day has been for the Legislature to increase the potential penalty for the crime involved. Over the years, some clearly irrational distinctions as to the severity of penalty have crept into the law.

Any effort to rationalize the situation must result in the reduction of distinctions to a relatively few important categories. More important than the particular number of such categories is the adoption of the principle that it is both desirable and possible for the Legislature, both in the Code and in future enactments, to distribute major crimes among such categories. A limited group of distinct sentencing categories should represent the entire range of statutorily authorized punishment for crime. Perhaps of greater importance, once the Legislature has adopted such an orderly and rational classification system it must strictly adhere to it in enacting any future penal legislation. By doing so, the ad hoc determinations now made, leading to substantial disparity and inequity, would be eliminated. It is important to note that adoption of this principle would, in no way, remove the question of punishment from the Legislature because that body would still have to assign crimes to the particular categories and prescribe the specific sentencing limits for the various categories.

We cite this portion of the Criminal Law Revision Commission Report because since that Report was issued in 1971, many state legislatures and the United States Congress have adopted (and have continuously tinkered with) sentencing "guidelines" which employ a far more sophisticated, or at least complicated, sentencing scheme. After careful consideration, it is the consensus of our Commission that there is at present no need to adopt an intricate sentencing

matrix such as the one developed by the United States Sentencing Commission that permits "upward" or "downward" departures from a predetermined sentencing outcome only in limited circumstances.

As a practical matter, any attempt to develop such a sentencing matrix in New Jersey would require substantial time and effort. We believe that such a project is simply unnecessary since our current sentencing laws, while hardly perfect, generally achieve the legitimate goals and objectives of a rational sentencing scheme. Moreover, we are satisfied that as a general proposition the caselaw which explains and interprets the sentencing provisions of Title 2C serves to provide adequate guidance to trial courts as to when to impose a term of imprisonment, the appropriate length of imprisonment when incarceration is warranted, and when it is appropriate to impose a term of parole ineligibility where the court finds that the aggravating factors substantially outweigh the mitigating factors.

In sum, while our present recommendations are proof that our sanctioning system can be improved, there is no need to abandon either the philosophy or the text of our current Penal Code. The Code is designed to "insure the public safety by preventing the commission of offenses through the deterrent influence of the sentences authorized, the rehabilitation of those convicted, and their confinement when required in the interests of public protection." The focus on public safety is appropriate.

While the Legislature in enacting the Code created a system of sentencing that permits judges to consider both "the seriousness of

the crime" and "the character of the offender," the Supreme Court has said that "the Penal Code focuses inexorably on the offense rather than the offender." Thus, in State v. Hodge, 95 N.J. 369, 376 (1984), our Supreme Court concluded that the drafters of Title 2C intended that punishment must fit the crime, not the criminal.

Eight objectives of sentencing are articulated in 2C:1-2:

- * To prevent and condemn the commission of offenses;
- * To promote the correction and rehabilitation of offenders;
- * To insure the public safety by preventing the commission of offenses through the deterrent influence of sentences imposed and the confinement of offenders when required in the interest of public protection;
- * To safeguard offenders against excessive, disproportionate or arbitrary punishment;
- * To give fair warning of the nature of the sentences that may be imposed on conviction of an offense;
- * To differentiate among offenders with a view to a just individualization in their treatment;
- * To advance the use of generally accepted scientific methods and knowledge in sentencing offenders; and
- * To promote restitution to victims.

The Criminal Code mandates that a sentence of imprisonment be imposed for all first and second degree crimes unless, considering the character and condition of the defendant, the court believes that imprisonment would be a serious injustice which overrides the need to deter such conduct of others. Once the trial judge makes the initial determination that imprisonment is warranted in a given

case, the judge must decide the appropriate term to be imposed. Unless the preponderance of aggravating or mitigating factors weighs in favor of a higher or lower term, the court must impose the presumptive term appropriate for each degree of crime (Chart 9).

The Code guides discretion, but for the most part it does not "mandate" any disposition. There is discretion to override presumptions of incarceration applicable to first- and second-degree offenders and presumptions of non-incarceration applicable to first-time third- and fourth-degree offenders. There is discretion to deviate from presumptive terms, and to sentence a person convicted of a crime of the first or second degree to a sentence appropriate for a crime of one degree lower.

The Criminal Law Revision Commission also expressed its belief "that the Court should play a major role in sentencing and that the matter should not be left entirely to the administrative penal-correctional agencies. It is desirable that the Court play a substantial role in sentencing, with authority not only to determine whether the offender should be sentenced to imprisonment but also to exercise some influence upon its length."

In sum, the general sentencing provisions of Title 2C provide fairly precise guidance to sentencing courts as to the two pivotal questions which arise in any sentencing proceeding: whether to impose a custodial term (the so-called "in/out" decision) and, if so, for how long. This sentencing structure has withstood the test of time and has generally served us well. In the circumstances,

the current degree classification scheme, including its reliance upon prescribed sentencing ranges, presumptive sentences, and presumptions of imprisonment and non-imprisonment, is adequate (to quote from the charter of this Commission) to "ensure the public safety by preventing the commission of offenses," and that it does so in a manner which is generally consistent with "the most effective and efficient use of limited public resources in ... achieving the goals and objectives of a rational, predictable, and uniform sentencing system."

B. Mandatory Sentences

The Criminal Law Revision Commission described mandatory sentences of imprisonment (other than for murder) "extremely undesirable," and called for their abolition. However, the Commission also "recognize[d] as valid the legislative interest in expressing its severe disapproval of some criminal conduct and the overriding need to deter such conduct." This was to be accomplished by the "presumption of imprisonment," which would leave the sentencing judge with only "a residuum of power . . . not to imprison in those few cases where it would be entirely inappropriate to do so."

Since enactment of the Code and in order to address particularly serious crime problems, the Legislature has added statutory provisions that require incarceration upon conviction for certain offenses. But such sentences remain the exception. In contrast to federal law, which has more than 100 distinct mandatory sentences included in 59 statutory provisions, the New Jersey

Criminal Code contains over 200 criminal offenses, but only 19 provisions which mandate a sentence of imprisonment. Four of those 19 cannot truly be considered mandatory sentence provisions because the judge sets the minimum term of imprisonment.

Provisions requiring imprisonment for a specific minimum term include:

- * Murder (30 years);
- * Kidnapping and sale of or sex offense against a child (25 years);
- * Drug kingpin (25 years);
- * Carjacking (5 years);
- * Repeat sex crimes (5 years);
- * Employing a child to distribute drugs (5 years);
- * Weapon in prison (3 years);
- * Firearm/child (3 years);
- * Assault firearm/crime (10 years, 5 years, 18 months);
- * Firearm/crime (3 years, 18 months);
- * Drugs/school zone (3 years, 1 year);
- * Reckless endangerment (6 months);
- * Death by auto/DWI (270 days);
- * Three time shoplifter (30 days); and
- * Repeat domestic violence (30 days).

Several of New Jersey's mandatory sentences include provisions that permit some deviation. The Graves Act, for instance, which mandates prison for the commission of a designated offense while in the possession of a firearm, does not apply when court and

prosecutor agree that justice would not be served. And the mandatory sentences provided by the drug laws can be waived pursuant to plea agreement at the discretion of the prosecutor or by the court and prosecutor when drug treatment is available and appropriate.

The Criminal Code provides two very distinct kinds of parole ineligibility terms - discretionary and mandatory. The Code permits imposition of a discretionary parole ineligibility term when the judge is clearly convinced that the aggravating factors associated with a crime substantially outweigh the mitigating factors. Mandatory parole ineligibility terms, on the other hand, are imposed by statute and can be varied only with explicit statutory authorization.

Prior reports describing sentencing patterns and prison populations in New Jersey tend to describe parole ineligibility terms of both kinds with one label - "mandatory minimums." This is misleading. For example, a statistic presented to the Commission indicated that the percentage of the prison population serving "mandatory minimum terms" jumped from 11 percent in 1982 to 56 percent in November 1992. Those figures, however, included both forms of parole ineligibility terms, and the manner in which data has been kept to date precludes breakdown and, therefore, meaningful analysis of the impact of statutory versus discretionary minimum terms.

However, statistics derived from a study of sentences imposed in 1990 shed some light on the issue. In that year, 37% of the

adult inmates sentenced to state prison received some form of "mandatory minimum" term. Of this group, 27% of the terms were discretionary parole ineligibility terms imposed by the court, and 73% were mandatory parole ineligibility terms. Of these mandatory parole ineligibility terms, eighty percent were imposed for drug offenses as a result of the exercise of prosecutorial discretion. Nine percent of the balance were for Graves Act Offenses; five percent were for murder, and six percent were for reckless endangerment.

Each type of parole ineligibility term serves a distinct purpose. Discretionary parole ineligibility terms give the sentencing court the authority to identify individual cases in which the need for punishment or incapacitation of an individual offender demands a sentence of incarceration for a definite and certain period of time. Mandatory terms permit the Legislature to state its judgment on the need for incarceration for a set period in order to deter or punish specific criminal conduct or to incapacitate repeat offenders.

The Commission was unable to reach a consensus on mandatory sentencing. Professor DiIulio wrote,

There are a number of reasons why blanket assertions, either for or against mandatory sentencing, are unwarranted at this time. First, it is by no means clear that mandatory sentencing explains most or even much of the growth in prison populations nationally. In New Jersey, the effects of these laws on prison population growth seem hard to dispute. But there are still good reasons to question the mandatory penalty-prison growth nexus, even in New Jersey. Second, regardless of whether mandatory sentencing explains all, some, or none of the growth, it is by no means clear that the growth itself has resulted in an overly 'punitive' system that places

petty offenders behind bars for long terms. The best available research suggests that mandatory sentencing remains a policy toss-up: its incapacitation value could be more than enough to justify it; but its general deterrence value is in grave doubt, especially in relation to drug crimes, and its superiority to indeterminate sentencing has yet to be proven.

The only consensus recommendation fairly drawn from the Commission debate is that all changes in New Jersey sentencing law (including changes in the grade of specific crimes) should be carefully evaluated in the overall context of sentencing policy and practice and in light of the interest in public safety.

CONCLUSION - LOOKING AHEAD

This is not the first report, nor will it likely be the last, to detail problems and recommend changes in the way the state punishes criminal offenders.

It is clear that New Jersey can do a more effective and cost-efficient job in dealing with certain people who break the law, particularly juvenile delinquents, drug addicts and non-violent offenders at the crossroads of either productive or crime-ridden lives. "Punishing smarter" means investing in early identification and intervention strategies for youthful offenders before they commit serious offenses or become career criminals, offering and funding a greater array of intermediate sanctions so that judges have meaningful sentencing options between incarceration and probation when appropriate, and providing drug treatment and other rehabilitative services both in and out of prison. It also means identifying strategies -- including planning for and construction of appropriate prison space and avoiding release policies driven by a desire to make room in prison -- that protects the public safety by ensuring that dangerous and repeat offenders are punished in prison for a sufficient period of time and remain under adequate supervision and control if released on parole.

That is not to say the State needs to radically rework its criminal justice and correctional systems. For the most part, those who occupy prison and jail cells deserve to be there and for the most part those who are convicted of violent crimes are sent

there. And the Criminal Code has eliminated much of the unwarranted disparity in sentencing.

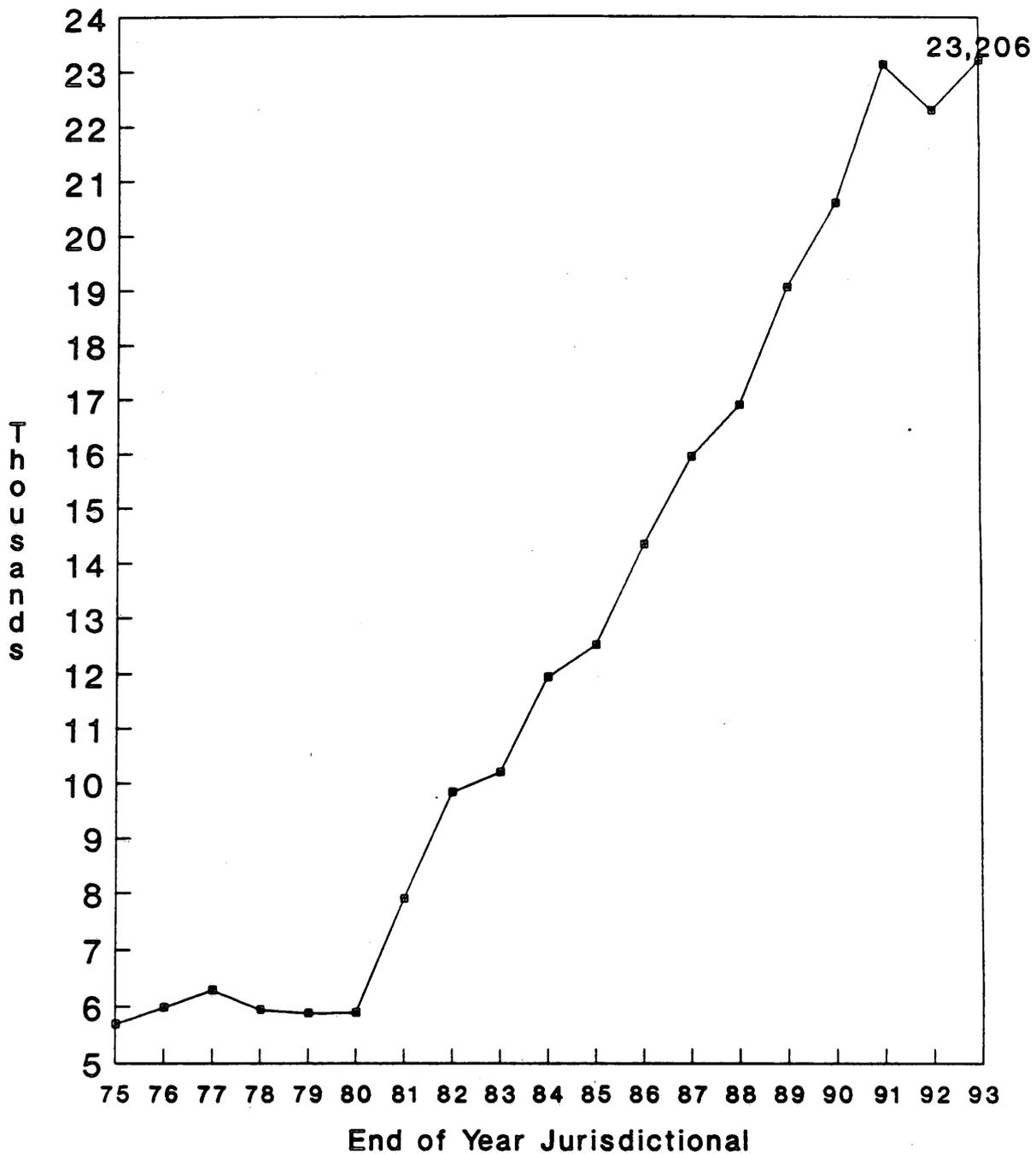
What we advocate are investments in long term public safety that, over time, hopefully will yield both reduced criminal activity and system-wide savings. A small number of offenders commit a disproportionate amount of the crime in this State and elsewhere. Those offenders can, and should, be identified as early as possible in their careers. And the conditions that gave rise to their criminal predilections should be addressed to the extent possible.

Likewise, prison is only one part of the correctional system, and virtually everyone who enters will ultimately leave to return to the community. It therefore makes sense to require treatment, education and training while in prison. Similarly, for the large majority of offenders who receive sentences of probation or who are serving the parole term of their custodial sentence, adequate supervision, treatment, training and education are also necessary to protect the public, punish the offender, deter others from offending, and hopefully rehabilitate the individual offender.

What is needed, in other words, is overall perspective, planning and coordination so that we can achieve rationality and cost-effectiveness throughout the criminal justice system. In this fashion, the public safety -- and the overall public interest -- will be enhanced.

APPENDIX - CHARTS

ADULT INMATE POPULATION N.J. DEPARTMENT OF CORRECTIONS

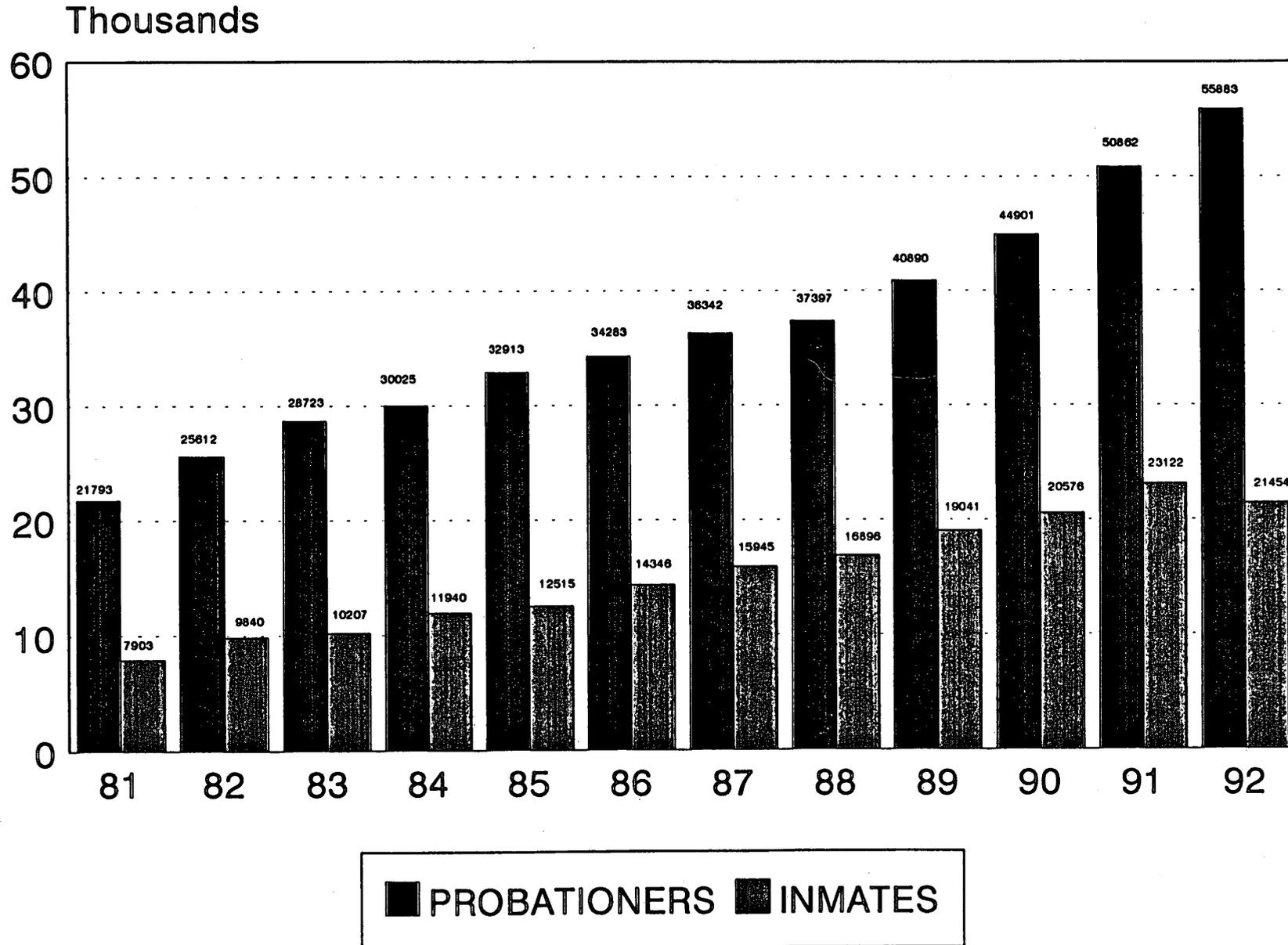


**PRISON POPULATION GROWTH AND THE RATE OF
INCARCERATION PER 100,000 POPULATION
IN NEW JERSEY: 1981 – 1991**

YEAR	ADULT INMATE POPULATION	RATES OF INCARCERATION:		
		NEW JERSEY	U.S. INCLUDING FEDERAL	STATES AVERAGE
1981	7,903	107	153	144
1982	9,840	132	170	160
1983	10,207	137	178	167
1984	11,940	159	188	176
1985	12,515	165	201	187
1986	14,346	188	216	201
1987	15,945	208	228	212
1988	16,896	219	244	227
1989	19,041	251	274	255
1990	20,576	271	292	272
1991	23,122	300	310	287

Source: Bureau of Justice Statistics, Sourcebook of Criminal Justice Statistics – 1992

PROBATION AND INMATE POPULATION SUPERIOR COURT



**ADULT OFFENDERS UNDER SOME FORM OF CORRECTIONAL SUPERVISION
IN NEW JERSEY ON JANUARY 1, 1993**

SANCTION	#	%
<u>NON-CUSTODIAL:</u>		
Pre-Trial Intervention	8,532	4.77%
Community Service	32,899	18.38%
Probation Supervision	71,262	39.81%
Intensive Supervision Program (ISP)	666	0.37%
Parole Supervision	32,719	18.28%
Intensive Surveillance & Supervision Program (ISSP)	261	0.15%
Electronic Monitoring/Home Confinement (EM/HC)	<u>16</u>	<u>0.01%</u>
SUBTOTAL	146,355	81.76%
<u>CUSTODIAL:</u>		
County Jail Inmates (Excludes State Sentenced)	10,393	5.81%
State Inmates (Includes State Inmates in County Jails)	<u>22,261</u>	<u>12.44%</u>
SUBTOTAL	<u>32,654</u>	<u>18.24%</u>
TOTAL	179,009	100.00%

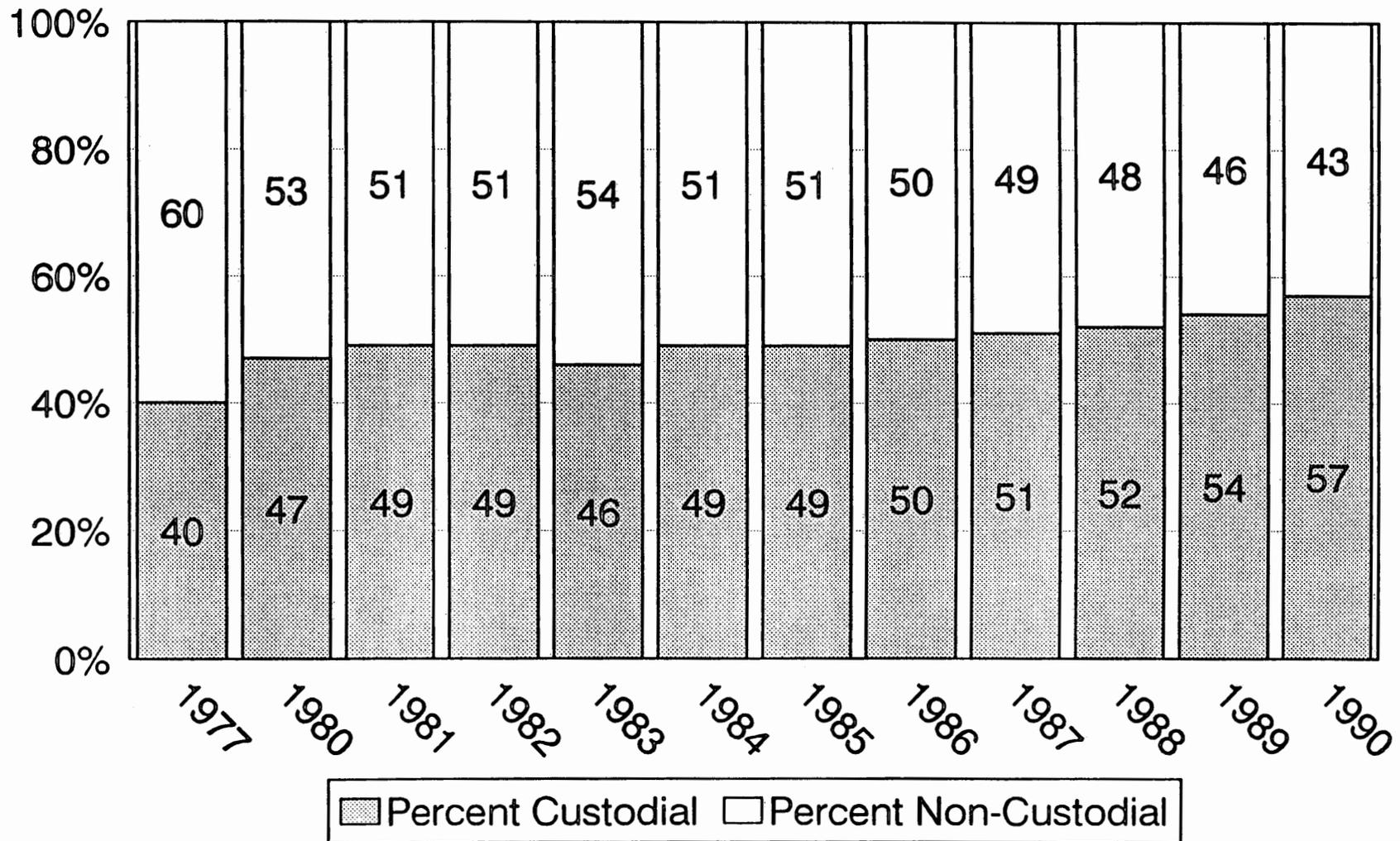
01/05/94

**DEPARTMENT OF CORRECTIONS
APPROPRIATIONS FOR FISCAL YEARS 1980 - 1994**

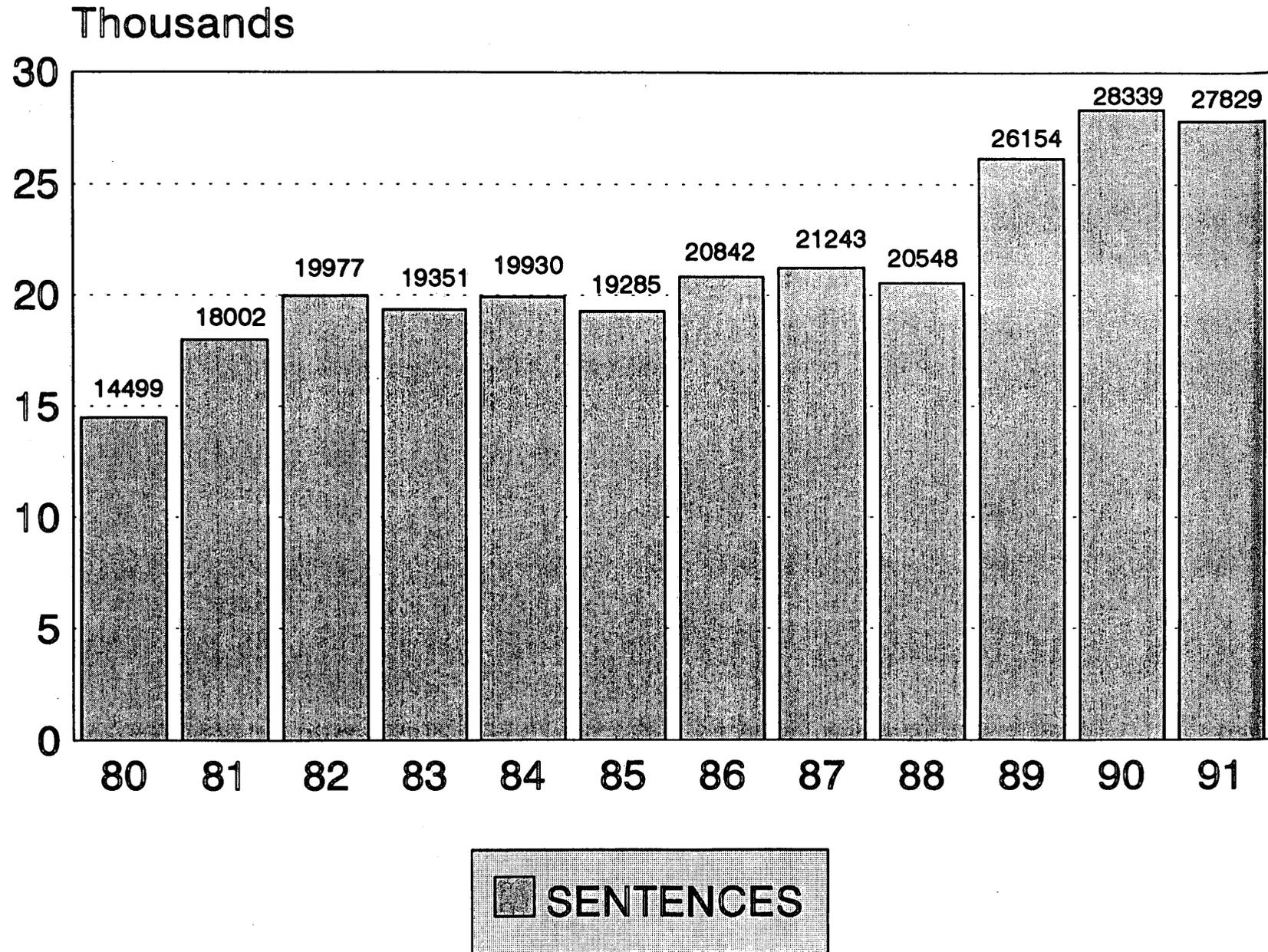
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FISCAL YEAR	DIRECT STATE SERVICES & G-I-A	CAPITAL CONSTRUCTION	DEBT SERVICE	TOTAL D.O.C. FUNDING	% INCR. OVER FY 1980
1980	86,944	1,000	4,361	92,305	—
1981	97,499	3,921	5,374	106,794	15.7%
1982	128,064	—	8,196	136,260	47.6%
1983	171,862	13,325	12,859	198,046	114.6%
1984	203,512	—	19,197	222,709	141.3%
1985	219,267	13,000	24,125	256,392	177.8%
1986	257,952	70,400	28,705	357,057	286.8%
1987	301,671	6,250	32,724	340,645	269.0%
1988	377,783	7,200	33,710	418,693	353.6%
1989	434,930	10,589	35,414	480,933	421.0%
1990	471,006	—	33,965	504,971	447.1%
1991	558,119	—	41,244	599,363	549.3%
1992	601,784	—	45,775	647,559	601.5%
1993	606,718	—	53,247	659,965	615.0%
1994	616,294	5,025	—	621,319	573.1%

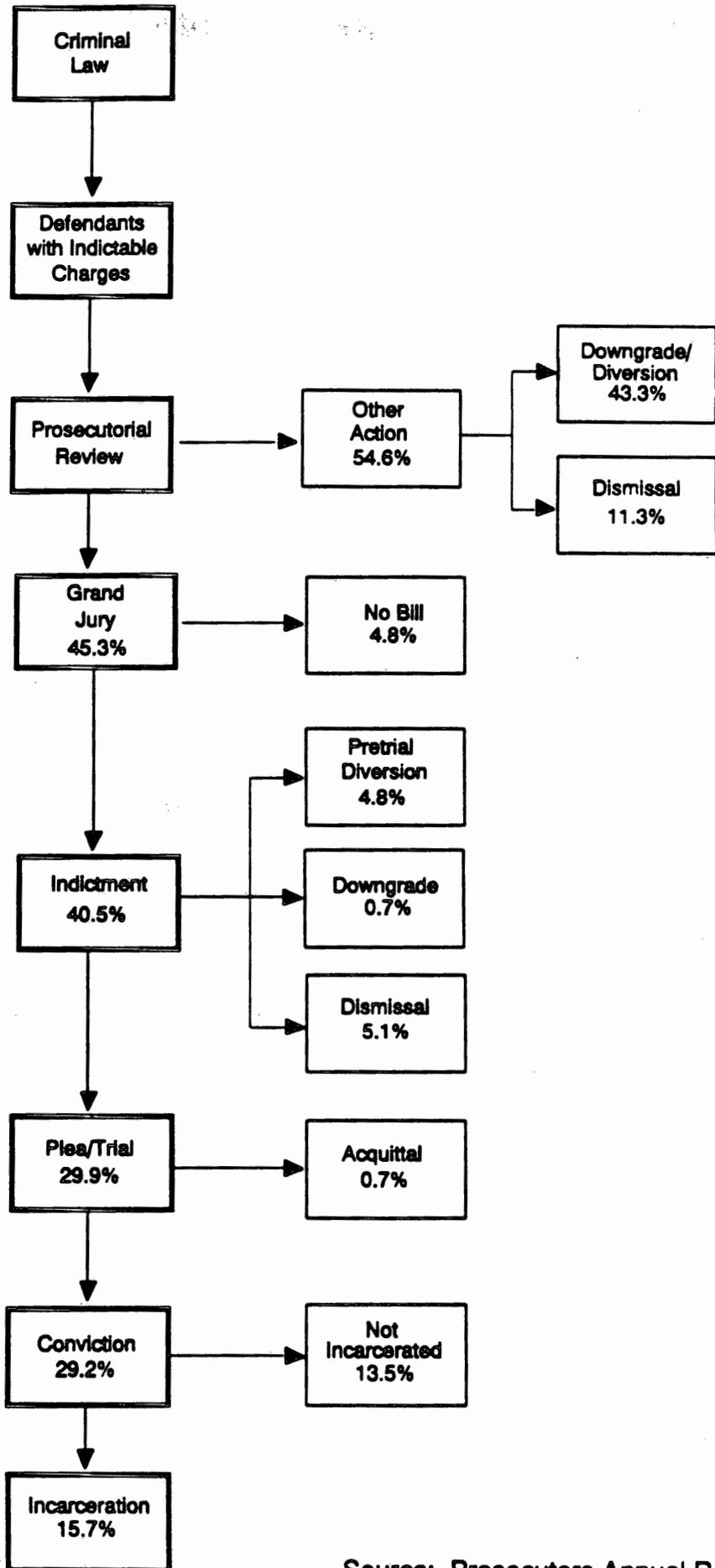
Percent of all Sentences: Custodial vs. Non-Custodial



NUMBER SENTENCED



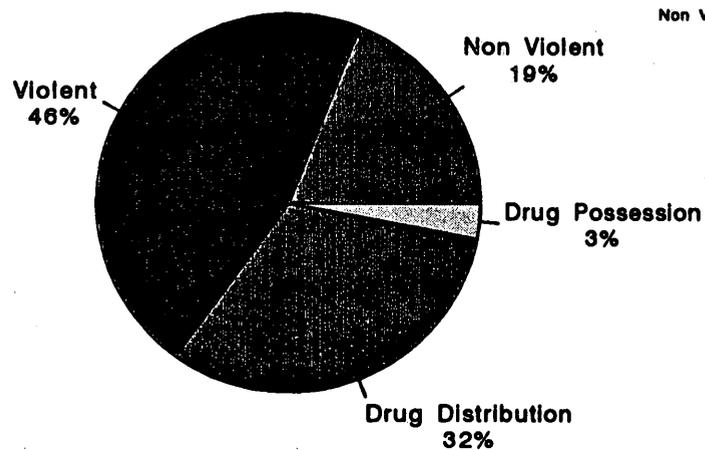
The Criminal Justice System



Source: Prosecutors Annual Report

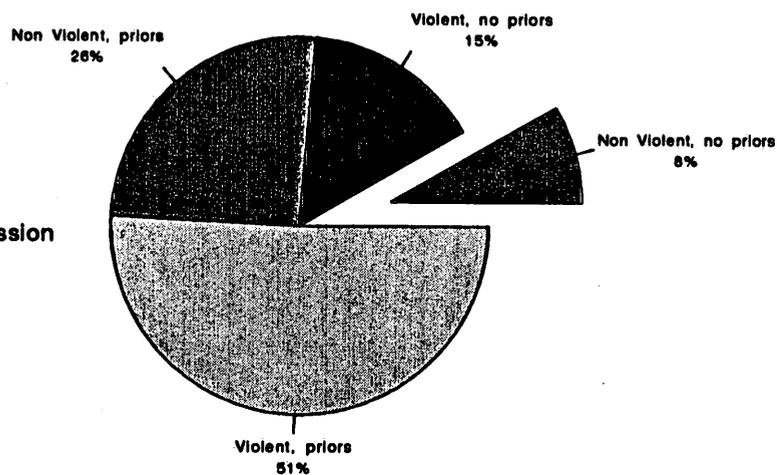
INMATE PROFILE

GRAPH A



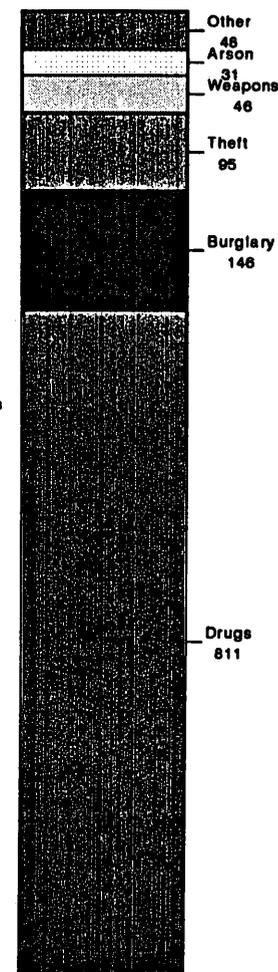
CRIMES FOR WHICH NJ INMATES ARE SENTENCED

GRAPH B



CURRENT OFFENSE AND PRIOR CONVICTION HISTORY OF NJ INMATES

GRAPH C



OFFENSE CHARGED FOR THOSE NONVIOLENT OFFENDERS WITH NO PRIORS N=1,177

GRAPH A DEPICTS 1992 N.J. ADULT INMATE POPULATION
 (SOURCE: DEPARTMENT OF CORRECTIONS, "CORRECTIONAL POPULATION:
 GROWTH AND CHARACTERISTICS 1975 - 1992" (MARCH 1, 1993))

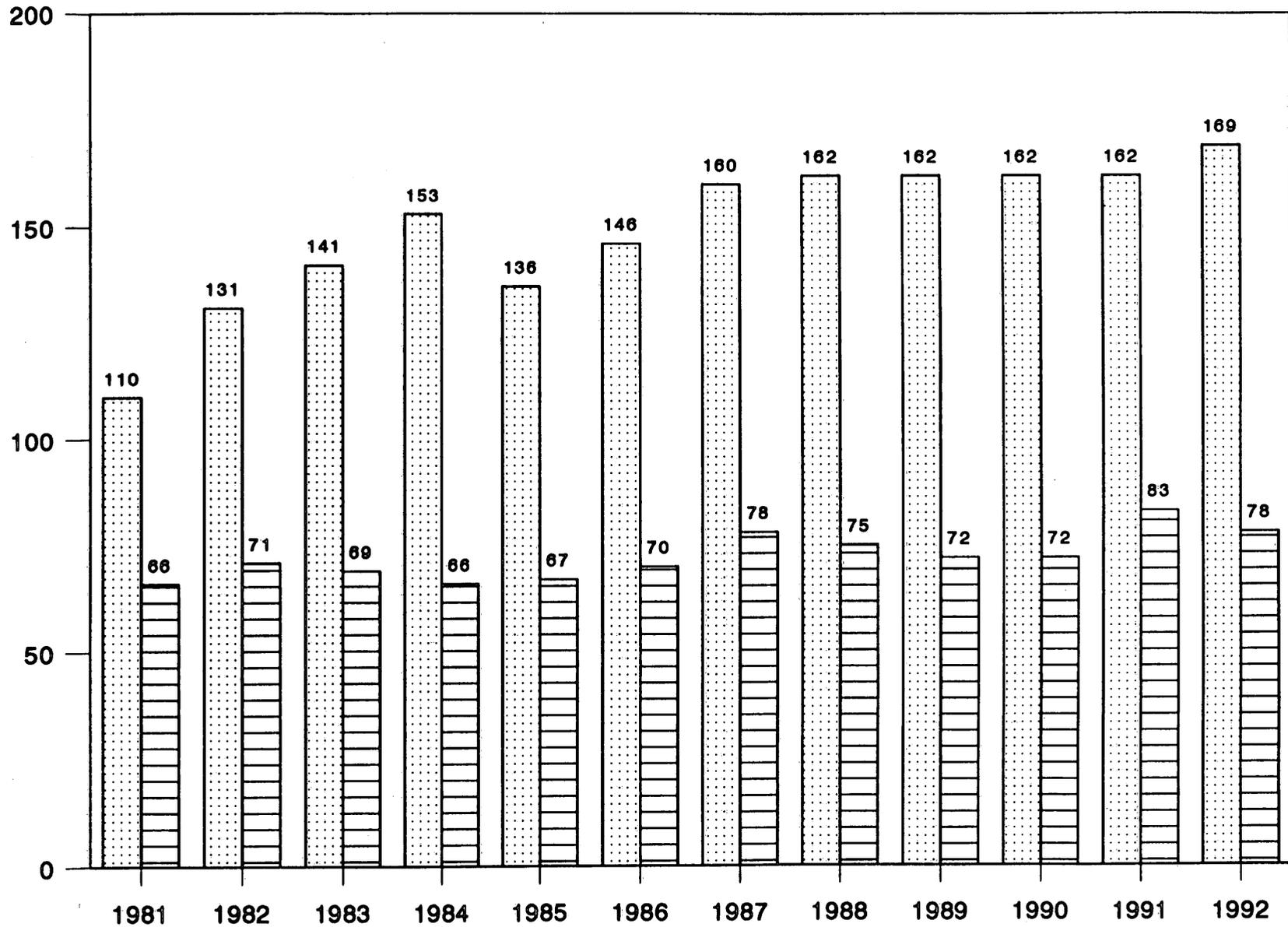
GRAPHS B AND C DEPICT 1989 N.J. ADULT INMATE POPULATION

PERSONS UNDER PROBATION SUPERVISION
(As of June 30, 1993)

ADULT PROBATION	87,794
JUVENILE PROBATION	14,423
PRETRIAL INTERVENTION	9,126
CONDITIONAL DISCHARGE	7,039
SUPERVISED COLLECTIONS	19,752
COMMUNITY SERVICE	18,506
DOMESTIC VIOLENCE	747

Source: N.J. Administrative Office of the Courts

Average Probation Caseload Size



**SUBSTANCE ABUSE TREATMENT
DOC FACILITIES ***

Institution	Full-Time	Part-Time Substance Education Group & Individual Counseling	Part-Time A.A. and N.A.	Grand Total
Edna Mahan	44	15	907	966
Mid-State		91	104	195
Southern State	90			90
ADTC		244	80	324
Mountainview	60			60
Riverfront	95	95	75	265
Albert C. Wagner		385	74	459
Garden State	195	277	264	736
NJSP		230	110	340
East Jersey	62	85	95	242
Bayside		199	347	546
TOTAL	546	1621	2056	4223

* Figures from Northern State Prison Juvenile Medium Security Facility and New Jersey Training School for Boys were not available for this report.



