

SPECIAL REPORT

Views from the National Council on Crime and Delinquency

The Extravagance of Imprisonment Revisited

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Executive Summary

In his incisive essay of 1975, *The Extravagance of Imprisonment*, then-NCCD President Milton Rector eloquently articulated a central position of the organization: there are far more cost-effective and humane responses to nonserious crime than imprisonment.

Alas, mass imprisonment has steadily grown even from before Rector's essay. As of 2006, the US imprisoned over 1.6 million of its people at a cost of \$69 billion, an increase in cost of over six times during the prior quarter century.

There are compelling reasons to consider alternatives to incarceration for nonserious offenders.

- US jail and prison populations are the largest in the world, and its incarceration rates are the highest.
- Admissions continue to increase each year.
- "Get tough on crime" laws result in an increasingly larger percentage of inmates convicted of less serious crimes.
- Local and state coffers are low or empty.
- Alternatives to prison proven to protect public safety, reduce recidivism, and save taxpayer money are already in use across the country.
- Polls show the public supports alternatives.

(continued)

This report analyzes prison and jail populations in the US as a whole and in four key states—California, Florida, New York, and Texas—to determine 1) how many prisoners are nonserious offenders and what it costs to lock them up, 2) what proven effective alternatives are in use and what they cost, and 3) what savings could be realized if a portion of the nonserious offenders were sentenced to alternatives instead of prison and jail.

In recognition that finding a universally accepted definition of “nonserious” is a challenge, the term was defined conservatively for this report; nonserious offenses are those that are not violent, not sexual, and don’t involve significant property loss. This definition excludes a large number of offenses

such as most property and public order crimes, that a less conservative definition might include.

Similarly, cost savings estimates were made in a conservative manner; it is likely that savings could be much greater. This report is based on a hypothetical of adopting alternatives for 80% of the nonserious, nonsexual prison and jail population.

Each type of nonserious offender was assigned a level of supervision and treatment or rehabilitation appropriate for the type of offense committed. The alternatives selected are electronic monitoring, reporting programs (day reporting centers and work release programs), drug treatment, and drug courts—all currently in use in the four chosen states. All are shown to be effective.

Savings Summary

In 2008, there were 1.6 million sentenced persons in state prisons and county jails. One-quarter of this population—413,693 prisoners—were serving time for nonserious, nonsexual offenses and could be eligible for alternative sentences.

The following table summarizes the potential cost savings that could be realized if alternatives were used for 80% (330,954) of the nonserious, nonsexual offender population.

Potential Cost Savings for 80% of Nonserious Offenders

	US	California	Florida	New York	Texas
<i>Current expenditure</i>	\$12.9 billion	\$1.5 billion	\$399 million	\$1.8 billion	\$2.8 billion
<i>Cost of alternatives</i>	\$3.2 billion	\$120 million	\$128 million	\$692 million	\$433 million
<i>Potential savings</i>	\$9.7 billion	\$1.4 billion	\$271 million	\$1.1 billion	\$2.4 billion

Introduction

The US has the highest rates of incarceration in the world. Decades of “get tough on crime” laws have steadily increased prison and jail populations, resulting in ballooning costs and prison overcrowding. Many elected officials, policymakers, and the general public are supportive of alternative sentences to incarceration for nonserious, nonsexual offenders. Reasons for supporting alternative sentences include lower costs, the potential for rehabilitation, health and safety issues associated with overcrowding, and prison and jail being too harsh a punishment for certain offenses. Having the option to serve time in one’s own community allows offenders to stay connected to the support systems that often play a large role in reducing future criminal behavior. When alternatives are implemented appropriately, they serve the dual purposes of rehabilitation and punishment, while also maintaining public safety.

Incarceration Trends

Of every 100,000 persons in the US, nearly 2,500 are in some way involved in the criminal justice system. In 2008, there were 1.4 million state prisoners, 785,000 jail inmates, and another 5.1 million on probation or parole (Glaze & Bonczar, 2009; Minton & Sabol, 2009; Sabol, West, & Cooper, 2009). Overall, 19 state prison systems were over capacity and 19 others were approaching capacity (West & Sabol, 2008). The number of annual admissions to state prisons increased by 18% between 2000 and 2008 (Sabol, West, & Cooper, 2009).

As prison populations grow each year, governments dedicate larger budgets to corrections. In 2006, justice-related expenditures for federal, state, and local governments totaled \$214 billion. Corrections accounted for \$69 billion, law enforcement \$98 billion, and judicial \$46 billion—an overall increase of more than six times in the past three decades (Perry, 2008).

Public Support for Alternatives

In April, 2009, NCCD commissioned Zogby International to conduct a national public opinion poll about American voter attitudes toward our nation’s response to nonserious, nonsexual crimes (Hartney & Marchionna, 2009). The results of this poll showed that striking majorities favor using methods other than incarceration to respond to these offenders. These findings supported earlier NCCD/Zogby polls that showed public support for rehabilitative programming both inside and outside of secure facilities (Krisberg & Marchionna, 2006, 2007).

A Different Approach

This report presents estimates of cost savings that could be realized if a portion of nonserious offenders were sentenced to alternatives rather than jail or prison. It examines four evidence-based alternatives to incarceration and the potential savings they could garner nationally and in four states—California, Florida, New York, and Texas. These states are the four most populous in the country and those with the greatest numbers of prisoners. The goal of this report is to present a feasible policy alternative, one that might be supported by most stakeholders—justice and law enforcement representatives, elected officials, and the voting public.

A significant portion of prisoners committed crimes that were not violent or sexual, and that did not involve serious property loss or damage. Many of these individuals can be safely supervised through alternative means and still serve a sentence that fits the seriousness of their crime. Evidence-based alternatives are already in use in some places, usually for pre-trial supervision, probation, parole, or early release. Alternatives tend to be less costly than incarceration while also serving to rehabilitate the offender, which reduces recidivism. Thus, properly applied, alternatives save taxpayer money in both the short term—by saving incarceration costs—and the long term—by reducing recidivism and repeated system involvement.

Method

This report uses the most recent national and state data available. Numbers used in this report are primarily derived from the two most comprehensive justice-related federal datasets, *2003 National Crime Reporting Program* (NCRP) (Bureau of Justice Statistics, 2007a) and *2004 National Judicial Reporting Program* (NJRP) (Bureau of Justice Statistics, 2007b), and reports from the US Department of Justice (USDJ), Bureau of Justice Statistics (BJS). State estimates are derived from each state's department of corrections, county jails, or federal sources.

Defining nonserious, nonsexual offenses: Offense categories used are the most detailed available from USDJ datasets, NCRP and NJRP. Nonserious, nonsexual crimes included petty theft, non-sales related drug offenses, minor traffic, drunkenness, morals (e.g., adultery), liquor laws, public order, juvenile offenses, misdemeanors, habitual offenders, and certain non-classified offenses.

Serious offenses include all violent and most property offenses. Driving under the influence and weapons offenses are included in this category. Drug manufacturing, sales, and trafficking are also considered serious offenses, except in New York, where these offenders are eligible to participate in drug treatment programs.

Estimating current counts: Using the above definition of nonserious offenses, the number of sentenced prison inmates and convicted jail inmates in 2008 serving time for a nonserious offense was estimated using NCRP and NJRP.

Prison: Counts of the total population of sentenced prisoners were obtained from *Prison Inmates at Midyear 2008* (West & Sabol, 2009). Offense types and time served were calculated using NCRP and applied to the total population. This method to obtain a percentage breakdown of inmates by offense type follows the same methods used by BJS.

Jail: A national estimate of the average daily population of sentenced jail inmates was obtained from *Jail Inmates at Midyear 2008* (Minton & Sabol, 2009). A proportion of nonserious offenders was estimated using NJRP and applied to the population figures.

Detailed state-level offense data are not available for jails. Therefore, this report focuses on the five largest jail jurisdictions in each of the four states in order to demonstrate a portion of the potential jail savings. Data were requested from each of these jail jurisdictions. Of 20 counties, nine responded to data requests and are included in this report (Florida DOC, 2008; Texas Commission on Jail Standards, 2009; CSA, 2009). Four counties are represented for California, three for Florida, and two for Texas. No New York jails responded; New York jail population data were obtained from NJRP, which contained data for four of the largest New York counties. All counties highlighted in this report are among the nation's 30 largest jail jurisdictions, including the top two: Los Angeles and New York City.

Data requested from jails included costs, population, detention status (sentenced/unsentenced), level of offense (felony/misdemeanor), and offense type (violent, property, drug, other). Two variables—offense type and length of stay—were not provided by the counties. A percentage breakdown by offense type was estimated using NJRP and applied to the county population figures.

A large number of individuals held in jails are unsentenced but detained for a variety of reasons (e.g., awaiting arraignment, trial, or conviction, holding for other agencies, etc.). These individuals make up approximately 60% of the jail population (Minton & Sabol, 2009), but are excluded from our analyses, because jails do not report offense type or the reason for detainment for unsentenced inmates. It is likely that consideration of this population, possible with improved data collection methods, would increase savings.

Estimating current costs: To calculate incarceration costs, time served by offense type was multiplied by the annual cost of incarceration. Time served includes total time served for the current sentence. This includes pre-trial detention, actual sentence, and time served as a consequence of revoked parole.

Average length of stay in jails was obtained from BJS' *State Court Sentencing of Convicted Felons, 2000* (James, 2004).

National prison and jail costs were obtained from BJS' *Justice Expenditure and Employment Extracts, 2006* (Perry, 2008). State cost of incarceration for each state was obtained from each state's department of corrections (P. Coltharp, personal communication, August 13, 2009; CDCR, 2004; Mayor's Office of Operations, 2009; Dallas County Sheriff's Department, personal communication, August 18, 2009; Tarrant County Sheriff's Department, personal communication, August 17, 2009).

Choosing alternatives: An extensive review of alternatives was conducted to select those that had been evaluated and showed positive outcomes. Four alternatives were selected for this report: electronic monitoring, reporting programs (day reporting and work release), drug court, and drug treatment. Day reporting and work release have similar costs and can be considered as interchangeable in the cost analysis. These alternatives are currently in use in the states selected and could be expanded for wider use.

To the extent possible, this study used the same eligibility criteria currently used by the states for determining if offenders are eligible for alternatives and, if so, which alternatives are most appropriate. Each type of

nonserious offender was assigned a type of supervision and treatment or rehabilitation appropriate for the type of offense they committed. The duration of the alternative sentence was commensurate with the time they would have served in prison or jail, except in some cases when programs had a fixed duration.

In this report, nonserious, non-drug offenders are assigned to some combination of electronic monitoring or reporting program. Offenders remain on these alternative sentences for the same amount of time they would have served in prison or jail.

Drug court and drug treatment are assigned to nonserious drug offenders. These programs are of fixed duration, and program models vary by state (see state sections for more information). Offenders assigned to drug treatment in Florida are also assigned to electronic monitoring for the duration of the program, as it currently does not have a supervision component. New York drug treatment is the only program that accepts drug sellers.

Calculating costs of alternatives: Costs of these alternatives were provided by the states. When states could not provide a cost, the national average cost was used to estimate state costs. In an attempt to calculate savings as conservatively as possible, it was assumed that only 80% of offenders eligible for alternatives would be placed in those programs. When one group of offenders is eligible for two alternatives, they are divided evenly between the available options.

Calculating cost savings: The cost of providing alternatives to nonserious offenders was subtracted from the total cost of incarcerating the same population. This is the potential cost savings.

The Alternatives

Alternatives to incarceration should not be considered necessarily more lenient than time served in prisons or jails. They impose restrictions on mobility and individual freedoms, but differ in that they do not require 24-hour, secure, isolated facilities. For offenders who have not committed a serious or sexual crime, alternatives can serve as both sanction and rehabilitation.

The following alternatives were selected for application in this study: 1) electronic monitoring, 2) reporting programs (day reporting and work release), 3) drug court, and 4) drug treatment. While states have the option of many other evidence-based alternatives, those chosen represent feasible and expandable strategies. Each of these alternatives is already in use in the four states in the report, whether for alternative sentencing, probation, parole, or prison or jail population reduction. With the exception of electronic monitoring, the selected alternative sentences entail a rehabilitation component along with some level of supervision. Depending on the program model, failure to successfully complete an alternative could mean either a return to regular court proceedings or reactivation of a prison sentence.

Electronic Monitoring

Electronic monitoring (EM) is a type of intermediate sanction used widely across the US in several situations, including pretrial, post-conviction probation, and post-incarceration parole. Post-conviction EM is used primarily with white collar offenders who are not considered a public safety risk. Post-incarceration EM targets offenders with a high risk of reoffending while on parole, such as sex offenders and chronic offenders. EM has also become commonly used with DUI/DWI offenders, with new technology that forces drivers to take a breathalyzer test before their car can be started.

Generally, EM devices are either active or passive. Active devices, such as GPS, continuously track the offender via a bracelet that transmits his or her whereabouts to

the supervising officer in real time. Any deviation from an established schedule is reported immediately. Passive devices, such as voice verification systems, require cooperation from the offender to either call a specific number or to answer the phone at home. Active systems are generally more commonly used and more cost-effective (National Law Enforcement and Corrections Technology Center, 1999; Harkness & Walker-Fraser, 2009).

Like prison, EM is a significant hindrance to further criminal activity during the time it is imposed. Unlike prison, EM allows prisoners a connection with their families and communities, employment, and a transition into a noncriminal lifestyle. Studies have found that it is most effective when used in conjunction with a major treatment component (Courtright, Berg, & Mutchnick, 2000; Payne & Gainey, 2004; Gable, 2007). Even when used without specific rehabilitative programming requirements, EM provides the potential for rehabilitation within the community, whereas incarceration reinforces negative interactions in prison and jail, weakens ties to society, and often increases the likelihood of reoffending (Courtright, Berg, & Mutchnick, 2000). Critics complain that EM is too controlling and violates an individual's privacy, risks public safety, and is often used in place of rehabilitation (Gable, 2007). However, in a study of 49 offenders who served one-third of their sentence on EM, these issues never arose. Instead, an overwhelming majority said it was an effective supervision tool. Most offenders say they would not have considered escaping (Payne & Gainey, 2004).

Currently, California uses EM primarily for high-risk parolees and sex offenders, approximately 6% of its parolee population (CDCR, 2009). In Florida, 1.2% of all offenders on active supervision are also on EM (Harkness & Estes, 2007). Florida's Office of Program Policy Analysis and Government Accountability (OPPAGA) found that Florida's Department of Corrections has underutilized the funds designated for electronic monitoring and makes recommendations for their more effective use (Harkness & Walker-Fraser, 2009).

Reporting Programs

Day Reporting Centers and Work Release Programs are sanctions that serve both punitive and rehabilitative purposes by allowing offenders to return to or remain in their communities under strict guidelines. These types of intermediate sanctions have historically been used as early release alternatives and have recently been expanded to sanction pretrial and low-risk nonserious offenders.

Day Reporting Centers

Day reporting centers are highly structured, nonresidential programs that offer treatment and close supervision to offenders who have not succeeded with traditional supervision, such as parole or probation. Participants are allowed to return home in the evenings, but are required to maintain a strict schedule that is closely monitored. Programs vary in duration and specific components. Some programs focus on drug treatment, others on vocational services, while others are primarily check-in centers. The flexibility and wide range of programs makes them adaptable to different groups. The National Institute of Justice recognizes the use of day reporting centers to reduce prison and jail overcrowding and details two essential elements: enhanced surveillance for offenders who have problems under routine supervision and the provision of or referral to treatment services (Parent, Byrne, Tsarfaty, Valade, & Esselman, 1995).

A preliminary study of programs in Wisconsin showed that day reporting participation yielded lower chances of rearrest and that participants are rearrested for less serious charges than those in a comparison group (Craddock, 2000). A Utah study showed that 22% of participants were rearrested after one year (Vleet, Hickert, & Becker, 2006).

Work Release Programs

Work release programs are residential programs that allow offenders to work during the day but require them to return to a locked facility each evening. These programs ease an offender's transition to the community, while reducing the opportunity for reoffending. Many states use this intermediate sanction to reduce prison and jail sentences.

Work release programs, though not as heavily centered on treatment as day reporting, allow offenders to earn a living and acquire positive living habits (Aos, Miller, & Drake, 2006; Aos, Phipps, Barnoski, & Lieb, 2001). A meta-analysis of existing research found that such programs reduce recidivism and improve the job readiness skills of offenders (Seiter & Kadela, 2003). An evaluation of programs in Ohio that serve moderate- and high-risk offenders at the end of their terms reveals significantly decreased recidivism rates up to 34% lower than those in the comparison group (Lowenkamp & Latessa, 2002). A Washington state report finds that early release offenders who participate in work release programs have lower rates of recidivism (6-15%) than non-work release participants (22%) (Sommers, Mauldin, & Levin, 2000).

Work release programs in Texas are currently geared towards parole and probation violators and are used in place of return to prison (Levin, 2008). A 2007 study found that Florida's work release program significantly improves an early release offender's post-prison employment outcomes but that there are not enough beds for the individuals who qualify. There were 3,000 beds available, but another 1,000 prisoners were on the waiting list (Berk, 2007).

Drug Treatment

There is a variety of drug treatment programs for substance abusers, including outpatient, short-term residential, and long-term residential placements. Evaluations of individual programs tend to show similar results. Recidivism rates are significantly lower for successful graduates, but most drug treatment programs have only a 40-60% completion rate (Jolin & Stipak, 1992; Inciardi, Martin, & Butzin, 2004; McMurrin, 2007). Those who drop out or are terminated early tend to have similar recidivism rates as nonparticipants, highlighting the importance of correctly matching an offender's needs to the proper programming option and actively encouraging retention (Inciardi, Martin, & Butzin, 2004; Warner & Kramer, 2009). Completion rates depend in part on how relapse is handled. Although practitioners believe that relapse is an inevitable part of therapy, many programs terminate participants after a single relapse incident.

Despite a growing number of programs, state correctional facilities generally report a lack of program availability for prisoners. Many programs serve first-time offenders exclusively. None of these programs accept violent offenders and all are selective regarding the mentally ill population (depending on resource availability). Only the New York program accepts drug sellers. The number of prisoners served over the past decade represents a small portion of those eligible for treatment; there is a high prevalence of substance abuse among the general prison population.

Drug Courts

Drug courts are a relatively recent innovation in the judicial system. The model originated in Dade County, Florida, in 1989, when prison overcrowding jeopardized funding. The panel appointed to address the issue found that a large proportion of inmates had drug-related offenses, which often led to reincarceration. Today, drug courts are part of a system called collaborative courts, which include courts designed for the mentally ill population, the homeless, and domestic violence offenders.

Currently, there are over 2,300 drug courts in the US, with many more in the planning stages. Their success depends on available resources and the coordinated strategy and collaboration of stakeholders such as courts, attorneys, and community agencies. Drug courts serve different populations and vary in cost. Cost differences are tied to the scale of the program, the level of treatment, the degree of participation on the part of agencies, and the services available to participants. However, all drug courts combine long-term treatment with the structure and accountability of the justice system. Most combine at least one year of drug treatment with intensive supervision and may include rehabilitative programming apart from substance abuse treatment. They include routine drug testing, regular court appearances, and a system of rewards and sanctions. Participants are generally selected by the District Attorney's office and can agree to participate or not. Successful completion of the program most often results in dropped charges, while failure to complete can result in regular court proceedings or immediate activation of the sentence.

Evaluations of drug courts reveal promising results. A national review by the Government Accountability Office of 27 evaluations representing 39 programs showed that drug court participation reduced recidivism levels both during the program and after completion; program completion further reduced recidivism. This conclusion is supported by a growing body of research (Barnoski & Aos, 2003; Wilson, Mitchell, & MacKenzie, 2006; Bhati, Roman, & Chalfin, 2008). A study conducted by the Urban Institute found that drug courts, while effective, target only a very small population (Bhati, Roman, & Chalfin, 2008). For example, approximately 80% of drug courts exclude offenders with any prior conviction or offenders charged with sales (regardless of an offender's dependency issues). A number of drug courts reject offenders whose problems are too severe, while others reject those whose problems are not severe enough. Many programs reject offenders based on capacity. The Urban Institute estimates that, of the millions arrested yearly on drug charges, only 30,000 are accepted into a drug court (Bhati, Roman, & Chalfin, 2008).

Estimated Savings, Prisons and Jails, 2008

National

Prisons. In 2008, there were 1.3 million sentenced prisoners under the jurisdiction of states. An estimated 22% (301,331) of all prisoners were convicted of nonserious, nonsexual offenses.

The national average cost to incarcerate an offender for one year was \$28,648. Collectively, states spent \$39 billion in 2006 on state corrections, which includes prisons, parole, and juvenile justice.

Jails. In 2008, the average daily population of jails was 776,573. According to the Bureau of Justice Statistics, 37% (288,109) of these were convicted. Of convicted jail inmates, 39% (112,362) were nonserious, nonsexual

offenders. In 2006, the national average cost to house an offender in jail was \$27,237 per year. Collectively, states spent \$21 billion on local corrections, which includes jail and probation.

Cost savings of alternatives. In 2008, states spent \$12.9 billion to incarcerate 80% (330,954) of nonserious, nonsexual offenders in prisons and jails. Alternatives are estimated to cost \$3.2 billion. A total cost savings of at least \$9.7 billion can be expected with implementation of alternatives.

National Cost Savings

	Prison	Jail	Total
Total Serious	1,059,001	175,746	1,234,747
Total Nonserious	301,331	112,362	413,693
80% of Nonserious	241,065	89,890	330,954
Cost of Incarcerating 80% of Nonserious Offenders	\$12 billion	\$816 million	\$12.9 billion
Average Per Capita Cost of Incarceration (based on time served)	\$49,963	\$9,079	
Cost of Alternatives for 80%	\$2.7 billion	\$500 million	\$3.2 billion
Average Per Capita Cost of Alternatives* (based on program duration)	\$11,898	\$7,145	
Total Savings	\$9.4 billion	\$316 million	\$9.7 billion

* Electronic Monitoring: \$450/month; Reporting Programs: \$1,500/month; Drug Treatment: \$16,448/participant; Drug Court: \$4,333/participant.

California

Prisons. In 2008, California had jurisdiction over 173,186 prisoners. Of all prisoners, 23% (40,628) were nonserious, nonsexual offenders.

It costs California \$49,000 per year to house one offender in a state facility. The 2008 budget for California Department of Corrections (CDCR) was \$10.6 billion (7% of the state budget), which includes costs for administration, institution operation (adult and juvenile), and parole.

Jails. In 2008, the average daily population of jails in California was 82,398. The four counties used for this analysis—Los Angeles, Orange, San Diego, and San Bernardino—had a combined average daily population of 36,676. On average, about 31% (11,607) of this

population was sentenced. Of sentenced inmates, 80% (9,335) were serious offenders and 20% (2,273) were nonserious offenders.

The average annual cost for these four county jails is \$27,012 per offender. The Legislative Analyst's Office (LAO) estimates that all California counties spent an average of \$33,600 per year per offender on jails in 2005-2006. In that year, California counties spent a total of \$2.3 billion on local adult detention.

Cost savings of alternatives. In 2008, California spent \$1.5 billion to incarcerate 80% (34,321) of nonserious, nonsexual offenders in prisons and these four county jails. Alternatives are estimated to cost the state \$120 million. A total cost savings of at least \$1.4 billion can be expected with implementation of alternatives.

California Cost Savings

	Prison	Jail*	Total
Total Serious	132,558	9,335	141,893
Total Nonserious	40,628	2,273	42,901
80% of Nonserious	32,503	1,818	34,321
Cost of Incarcerating 80% of Nonserious Offenders	\$1.5 billion	\$14 million	\$1.5 billion
Average Per Capita Cost of Incarceration (based on time served)	\$46,110	\$9,004	
Cost of Alternatives for 80%	\$116 million	\$4 million	\$120 million
Average Per Capita Cost of Alternatives** (based on program duration)	\$4,591	\$2,164	
Total Savings	\$1.4 billion	\$10 million	\$1.4 billion

* Jail estimates are based on counties that represent 48.7% of the state's population.

** Electronic Monitoring: \$540/month; Reporting Programs: \$660/month; Drug Treatment: \$2,262/participant; Drug Court: \$1,593/participant.

Proposition 36, Substance Abuse and Crime Prevention Act

In 2000, California voters passed Prop 36, formally known as the Substance Abuse and Crime Prevention Act. The legislation was designed to divert first- and second-time nonviolent drug offenders charged with use, possession, or transportation of illegal drugs for personal use. The Act mandates one year of treatment followed by six months of aftercare. Participants generally have less serious charges than those entering drug court. An analysis by UCLA found that 43% of those who completed the program were rearrested for a drug offense, compared to 65% of those who did not complete treatment. Among participants, the state saved \$2.50 for every \$1 invested and \$4 (per \$1 investment) for every person who completed the program.

Prop 36 is a fitting example of how other states can save money and reduce prison and jail populations

by expanding drug treatment options for nonserious, nonsexual offenders. A study by the Justice Policy Institute found that, from 2000 to 2005—the years following the passage of Prop 36—drug possession prison admissions decreased over 30%. Also, while drug treatment facilities and spending has decreased in the rest of the country, California has increased its drug treatment facilities by nearly 25%, and spending on drug treatment has doubled. The study finds a cost savings from reduced prison use of \$2,861 per offender enrolled as a result of Prop 36.

Sources: Longshore, D., Hawken, A., Urada, D., & Anglin, M. D. (2006). *Evaluation of the Substance Abuse and Crime Prevention Act*. Los Angeles: University of California at Los Angeles.; Ehlers, S., & Ziedenberg, J. (2006). *Proposition 36: 5 years later*. Washington DC: Justice Policy Institute.

Drug Court

There are over 200 drug court programs in California's 58 counties. In 2005, the courts accepted over 7,000 adult felons into the program. In that same year, nearly 300,000 juveniles and adults were arrested in California for a drug offense.

California recently received a grant from the federal government to conduct a cost-benefit analysis of adult drug courts in the state. The study found that, after 2–4 years (depending on the court), only 17% of drug court graduates were rearrested, compared to 41% of nonparticipants. Participants who did not complete the

program still received some benefit; they were rearrested at a lower rate of 29%. Within the nine sites studied, the state saved \$90 million per year, with most of the savings found in corrections (\$3,292 per participant) and law enforcement (\$1,525 per participant).

Sources: Byrne, F., Taylor, N., Nunez, A., Parrish, K., & Tate, D. (2006). *California drug court cost analysis study*. San Francisco, CA: Center for Families, Children & the Courts.; California Department of Alcohol and Drug Programs. (2005). *Comprehensive Drug Court Implementation Act of 1999. Final report to the Legislature*. Sacramento, CA: Author.; NPC Research. (2005). *California drug courts: A methodology for determining costs and benefits. Phase II: Testing the methodology*. San Francisco, CA: Administrative Office of the Courts.

Florida

Prisons. In 2008, there were 100,494 sentenced prisoners in Florida state prisons. Of this number, 15% (14,827) were convicted of nonserious, nonsexual crimes.

Florida spends \$20,108 per year for each offender in state prison. The Florida Department of Corrections budget for 2008-09 is \$2.7 billion (3% of the state budget), which includes expenses for state institutions, parole, and administration.

Jails. Florida's average daily population for jails in 2008 was 61,500. The three Florida counties used for this

analysis—Orange, Palm Beach, and Miami-Dade—had a combined average daily population of 14,496 persons in 2008. Of these, 25% (3,743) were sentenced; and of these inmates, 87% (3,271) were serious offenders, and 13% (472) were nonserious offenders. The average annual cost for these three jails was \$37,524 per inmate.

Cost savings of alternatives. In 2008, Florida spent \$399 million to incarcerate 80% (12,240) of nonserious, nonsexual offenders in prisons and these three county jails. Alternatives are estimated to cost the state \$128 million. A total cost savings of \$271 million can be expected with implementation of alternatives.

Florida Cost Savings

	Prison	Jail*	Total
Total Serious	85,667	3,271	88,938
Total Nonserious	14,827	472	15,299
80% of Nonserious	11,862	378	12,240
Cost of Incarcerating 80% of Nonserious Offenders	\$393 million	\$4.7 million	\$399 million
Average Per Capita Cost of Incarceration (based on time served)	\$33,202	\$12,508	
Cost of Alternatives for 80%	\$126 million	\$1.4 million	\$128 million
Average Per Capita Cost of Alternatives** (based on program duration)	\$9,787	\$4,232	
Total Savings	\$267 million	\$3.3 million	\$271 million

* Jail estimates are based on counties that represent 25.8% of the state's population.

** Electronic Monitoring: \$300/month; Reporting Programs: \$1,500/month; Drug Treatment: \$10,362/participant; Drug Court: \$1,800/participant.

Nonsecure Substance Abuse Treatment Programs

Florida's Nonsecure Substance Abuse Treatment Programs offer six months of community-based treatment that combines intensive treatment (two months) and employment/reentry (four months). Offenders, including probation violators, can only be enrolled if referred by a judge as a special condition to probation or community supervision. Sex offenders and those with severe mental illnesses are prohibited from participating. Participants undergo treatment for a minimum of 6-10 hours weekly. The first component focuses on addiction education, life management skill-building, and

relapse prevention. The second requires various activities and full-time employment in addition to treatment. The Florida Department of Corrections reports a 60% completion rate since 1991. A three-year follow-up shows that those who complete the program are recommitted at a rate of 43%, whereas those who do not are recommitted at a rate of 61%.

Source: Bryant, P. T. (2000). Florida's award-winning Nonsecure Drug Treatment Program. *Corrections Today*, 62(3), 98-105; R. N. Fitch, personal communication, August 28, 2009.

Drug Court

There are 107 drug courts operating in Florida, 47 of which are for adults. Florida's drug courts serve approximately 10,000 individuals annually, only 25% of the eligible population.

Florida's drug courts serve nonviolent drug offenders, both first-time and those with prior convictions. Eligible participants are screened in jails, offered the opportunity to participate, undergo graduated treatment, are monitored by a probation officer and a case manager, and are offered aftercare services. Offenders charged with drug sales or trafficking are generally not eligible. Completion rates were approximately 50%, but among graduates, reincarceration rates were significantly lower than for nonparticipants. Only 6% of graduates were reincarcerated within a three-year period compared to nongraduates.

Currently, the Office of Program Policy Analysis and Government Accountability (OPPAGA) reports that Florida drug courts serve a population that would otherwise face a probation sentence and not a prison term. OPPAGA identifies three offender groups currently facing incarceration that could be targeted for expanding program eligibility: nonserious, nonviolent offenders; technical parole violators with a substance abuse problem; and inmates with a nonviolent criminal record who are facing a mandatory sentence. In 2007, this group of prisoners numbered 5,700.

Sources: Harkness, M., & Walker-Fraser, L. (2009). *State's drug courts could expand to target prison-bound adult offenders* (No. 09-13). Tallahassee, FL: Office of Program Policy Analysis & Government Accountability; Harkness, M. (2009). *Florida adult drug courts*. Tallahassee, FL: Office of Program Policy Analysis & Government Accountability.

New York

Prisons. In 2008, there were 61,799 sentenced prisoners in New York state prisons. Excluding drug traffickers, 13% (8,050) of prisoners had been convicted of a nonserious, nonsexual charge. Drug traffickers constitute another 32% (19,887) of offenders. In this analysis, 45% (27,937) of New York's sentenced prisoners are considered for alternative sentencing.

New York reported an average annual cost per offender of \$37,956. The Department of Correctional Services budget for 2008-09 was \$2.8 billion (3% of the state budget), which excludes the Division of Parole, which was budgeted \$196 million.

Jails. New York City accounts for nearly half of the state's population and is the second largest jail jurisdiction in the country. Four of New York City's five

boroughs are also the most populous counties in the state: Bronx, Kings (Brooklyn), New York (Manhattan), and Queens. In 2008, the average daily population in these jails was 13,849 persons. It could not be determined what percentage of these persons were sentenced. However, according to 2004 NJRP, 43% (1,667) of convicted jail inmates in these 4 counties were serious offenders and 57% (2,234) were nonserious offenders. New York City jails cost \$69,600 per year per offender.

Cost savings of alternatives. New York spent \$1.8 billion to incarcerate 80% (24,137) of nonserious, nonsexual offenders in prisons and these four jails. Alternatives are estimated to cost the state \$692 million. A total cost savings of \$1.1 billion can be expected with implementation of alternatives.

New York Cost Savings

	Prison	Jail*	Total
Total Serious	33,862	1,667	35,529
Total Nonserious	27,937	2,234	30,171
80% of Nonserious	22,350	1,787	24,137
Cost of Incarcerating 80% of Nonserious Offenders	\$1.7 billion	\$82 million	\$1.8 billion
Average Per Capita Cost of Incarceration (based on time served)	\$75,238	\$110,536	
Cost of Alternatives for 80%	\$650 million	\$42 million	\$692 million
Average Per Capita Cost of Alternatives** (based on program duration)	\$26,682	\$11,277	
Total Savings	\$1.0 billion	\$40 million	\$1.1 billion

* Jail estimates are based on counties that represent 40.4% of the state's population.

** Electronic Monitoring: \$450/month; Reporting Programs: \$1,500/month ; Drug Treatment: \$32,975/participant; Drug Court: \$4,333/participant.

Drug Treatment Alternative Program (DTAP)

Created in 1990, DTAP is a 15- to 24-month program that offers treatment in lieu of prison time. Like drug courts, successful completion leads to a withdrawal of charges, but termination leads directly to activation of the sentence. However, unlike drug courts and many treatment programs, DTAP services are also targeted to repeat offenders as well as first-time offenders. This includes drug sellers, whose sentence would be 4.5–9 years in prison. Most participants have had an average of five prior arrests and a number of years in prison. DTAP is a long-term residential program with a highly structured, hierarchical environment, where participants share the responsibility for rule enforcement with the staff. A five-year evaluation by the National Center on Addiction and Substance Abuse at Columbia University

(CASA) found that just over half (52%) completed the program successfully. In a two-year follow-up, those who participated in the program were 26% less likely to be rearrested, 36% less likely to be reconvicted, and 67% less likely to be reincarcerated than those in the matched comparison group. Program graduates did even better: 33% were less likely to be rearrested, 45% were less likely to be reconvicted, and 87% were less likely to be reincarcerated. Graduates were 3.5 times more likely to be employed upon graduation than at entrance. DTAP also showed impressive retention rates, with a median stay of 17.8 months.

Source: The National Center on Addiction and Substance Abuse at Columbia University (CASA). (2003). *Crossing the bridge: An evaluation of the Drug Treatment Alternative (DTAP) to prison program*. New York: Author.

Drug Court

By the end of 2007, 171 drug courts were operating in New York state, 91 of which were for adults. Almost all counties have a drug court or are planning one. About 7,000 persons participate in the program annually. In 2007, there were nearly 150,000 drug-related arrests in New York.

Almost all of New York drug court programs require at least one year of participation, with some proportion of that time spent clean. New York programs showed diversity in approach and population served.

In a recent evaluation of 11 New York drug courts, the Center for Court Innovation found that participants were about 27% less likely to be rearrested one year

after completing the program and 35% less likely to be rearrested three years after the initial arrest. As in other states, graduates were significantly less likely to recidivate than those who participated but were terminated before completing the program. Several New York drug courts exceeded the national average retention rate (60%), retaining 70% of all participants to graduation. Graduates were significantly more likely to be employed or enrolled in school at graduation than at intake.

Sources: Cissner, A., & Rempel, M. (2005). *The state of drug court research: Moving beyond "Do they work?"* New York: Center for Court Innovation.; Office of Court Drug Treatment Programs. (2008). *Drug treatment courts, 2007 Annual report*. New York, NY: Author.; Rempel, M., Fox-Kralstein, D., Cissner, A., Cohen, R., Labriola, M., Farole, D., et al. (2003). *The New York State adult drug court evaluation*. New York: Center for Court Innovation; S. Davis, personal communication, August 19, 2009.

Texas

Prisons. In 2008, Texas had jurisdiction over 162,578 sentenced prisoners. Of this number, 31% (50,460) were convicted of nonserious, nonsexual offenses.

Texas spends about \$17,400 per year for each prisoner. The Department of Criminal Justice was budgeted about \$3 billion in 2008 (2% of the state's total budget).

Jails. The average daily population of all county jails in Texas was 61,103 persons. Dallas and Tarrant Counties were included in this analysis. Their combined average daily population was 9,142 persons. Of this total, 16% (1,508) were sentenced. Of these inmates, 62% (942) were serious offenders, and 38% (566) were nonserious

offenders. The average annual cost of these jails is \$17,100 per person.

Cost savings of alternatives. Texas spent \$2.8 billion to incarcerate 80% (51,026) of nonserious, nonsexual offenders in prisons and these two county jails. Alternatives are estimated to cost the state \$433 million. A total cost savings of \$2.4 billion can be expected with implementation of alternatives. In this analysis alternatives for jail inmates result in a negative cost savings. This is due largely to the extended duration (two years), and cost of the drug treatment program. Tailoring that alternative to be shorter in duration and achieving economies of scale would likely lead to a greater cost savings.

Texas Cost Savings

	Prison	Jail*	Total
Total Serious	112,118	942	113,060
Total Nonserious	50,460	566	51,026
80% of Nonserious	40,368	453	40,821
Cost of Incarcerating 80% of Nonserious Offenders	\$2.8 billion	\$2.7 million	\$2.8 billion
Average Per Capita Cost of Incarceration (based on time served)	\$69,405	\$5,700	
Cost of Alternatives for 80%	\$429 million	\$3.2 million	\$433 million
Average Per Capita Cost of Alternatives** (based on program duration)	\$23,750	\$6,747	
Total Savings	\$2.4 billion	- \$458,582	\$2.4 billion

* Jail estimates are based on counties that represent 17.1% of the state's population.

** Electronic Monitoring: \$480/month; Reporting Programs: \$1,530/month; Drug Treatment: \$16,175/participant; Drug Court: \$1,681/participant.

Drug Treatment: Substance Abuse Felony Punishment (SAFP)

This statewide program, with a capacity of 4,500 beds, is offered to probation violators who would otherwise be returned to prison for approximately three years. The program is operated by the corrections department and requires a year in institutional (secured facility) treatment, three months in residential facilities, and three to nine months in outpatient services. Perhaps due to the length of the program, retention rates are lower (44%) than those of other treatment programs. Most participants relapse in the outpatient phase, but over half of these relapsed offenders are directed to more intense treatment options; 44% of those terminated are returned to prison. Recidivism rates for those redirected to other treatment options are significantly lower (29%) than those returned to prison (68%). Those who

completed the entire SAFP program are significantly less likely to be reincarcerated (7%) than those on probation (31%) or leaving other residential treatment programs (32%). Overall, program participants had a recidivism rate of 25%. Greater cost savings would be realized if retention, particularly during the outpatient phase, could be improved; if more technical violators were sent to treatment programs instead of prison; or if eligibility criteria were expanded. For one cohort of 1,506 offenders, the evaluation estimated that the state saved \$6.4 million.

Source: Eisenberg, M. (2001). *The Substance Abuse Felony Punishment Program: Evaluation and recommendations*. Austin, TX: Criminal Justice Policy Council.

Drug Court

As of 2009, there were 90 current and planned drug courts in Texas, 65 of which were for adults. A 2003 study found that, in five representative counties with drug courts, there were over 22,000 arrests for drug possession. The five courts had a combined capacity of 855.

Essential components of the Texas program include screening and assessment, weekly court hearings and drug testing, monitoring and evaluation by case managers, and a continuum of treatment services. The programs range from 12 to 18 months and are generally open to nonviolent, first-time drug or DUI/DWI offenders. A 2003 study ordered by the Legislature chose three counties with drug court programs

representative of those in the rest of the state. Over half of participants (52%) completed the program and had a rearrest rate of 29% within three years. Of all program participants, including those who did not complete, the rearrest rate was 41%, compared to 65% for nonparticipants. Reincarceration rates were similar to rearrest rates.

The report found that Texas had fewer programs compared to other states, and the existing programs had limited capacity, despite successful results.

Sources: Martinez, A., & Eisenberg, M. (2002). *Overview of drug courts in Texas*. Austin, TX: Texas Criminal Justice Policy Council.; Martinez, A., & Eisenberg, M. (2003). *Initial process and outcome evaluation of drug courts in Texas*. Austin, TX: Texas Criminal Justice Policy Council.

Summary

The US spends billions of dollars on corrections, locking away more than half a million people each year in secure facilities. This has largely been a result of the “get tough on crime” approach to sentencing favored in the past few decades. Each state has its own blend of sentencing practices that affect increasing incarceration rates. Laws such as three strikes, mandatory minimum sentencing, mandatory parole, and compulsory return to prison for minor infractions have had a significant impact on the size of prison populations and corrections budgets.

It is time to explore alternative sentences to incarceration. Although incarceration is an effective way of protecting public safety and is necessary for serious offenses, it also often has adverse impacts on the

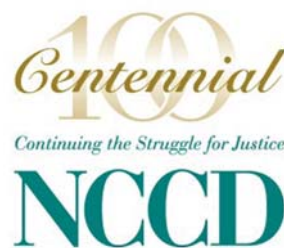
offenders, their families, and their communities due to lost jobs, neglected children, broken relationships, and cycles of poverty, crime, and incarceration.

A significant number of offenders do not require secure confinement and isolation. Well run alternatives to incarceration have proven to reduce recidivism. Alternatives for nonserious offenders still assure public safety and are an appropriate sanction for these crimes. They also allow the offender to undergo rehabilitation while maintaining their ties to family, work, professional services, and community. Moreover, in light of the budget deficits states are current facing, alternative sentences would lead to a significant savings in the short term and the long term. Alternative sentences thus represent the more humane, cost-effective, and crime reducing alternative to imprisonment that Milton Rector sought.

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