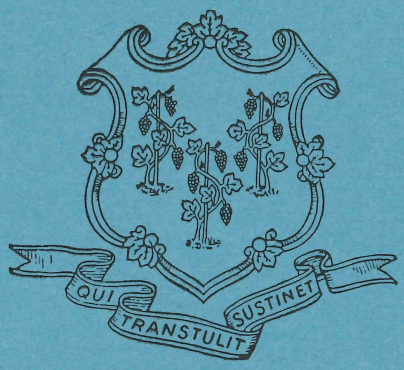
FACTORS IMPACTING PRISON OVERCROWDING

Connecticut

General Assembly



LEGISLATIVE
PROGRAM REVIEW
AND
INVESTIGATIONS
COMMITTEE

December 2000

CONNECTICUT GENERAL ASSEMBLY
LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

The Legislative Program Review and Investigations Committee is a joint, bipartisan, statutory committee of the Connecticut General Assembly. It was established in 1972 to evaluate the efficiency, effectiveness, and statutory compliance of selected state agencies and programs, recommending remedies where needed. In 1975, the General Assembly expanded the committee's function to include investigations, and during the 1977 session added responsibility for "sunset" (automatic program termination) performance reviews. The committee was given authority to raise and report bills in 1985.

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LEGISLATIVE PROGRAM REVIEW
& INVESTIGATIONS COMMITTEE

Factors Impacting Prison Overcrowding

DECEMBER 2000

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Report - Final

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FACTORS IMPACTING PRISON OVERCROWDING

- Prison overcrowding impacts all criminal justice agencies.
- Less than 25 percent of the average daily population of sentenced offenders is incarcerated; the majority are supervised in the community.
- For the past 20 years, Connecticut's prisons have operated at or over capacity despite the addition of thousands of new beds since 1990 and a steady 10-year decrease in crime and arrest rates.
- Department of Correction lacks both a sufficient number of beds to house total inmate population and an adequate system of high security beds to manage high-risk population.
- Correctional system is hampered by inaccurate population projections and lack of a needs analysis of total offender population, but in particular of the inmate population.
- The number of inmates released early from prison to community supervision or parole has dramatically decreased.
- Types of crimes for which offenders are convicted and sentenced to prison has not changed significantly since early 1990s.
- Almost 70 percent of all convicted offenders admitted to DOC have been sentenced to three years or less and most of those (47 percent) for one year or less.
- The court has not significantly changed its sentencing practices in imposing prison terms, but recently there has been an increase in the number of sentences of between five to 10 years and a decrease in sentences of one year or less.
- Violent crimes generally receive the longest prison sentence (about six years) and drug offenses the next longest (almost four years).
- Any increase in sentence length multiplied by the thousands of offenders sent to prison results in a sizable increase in the incarcerated population.
- Convicted inmates are remaining incarcerated for a greater portion of their court-imposed prison sentence.
- The "tough on crime" policy has allowed criminal justice agencies to take a more conservative and less controversial approach toward punishing convicted offenders.

Digest
Factors Impacting Prison Overcrowding

WHAT IS CAUSING PRISON OVERCROWDING?

FINDINGS

Continued increase in the number of offenders sent to prison

- *High recidivism rate*
- *High rate of offenders returned to prison for violating or unsuccessfully completing community supervision*
- *New criminal offenses added to penal code*
- *"War on drugs"*
- *Harsher penalties for certain types of offenses*
- *Increased role of victim and victim advocacy in the court and parole process*

Convicted inmates serving a greater portion of their sentences in prison

- *Shift from indeterminate to determinate sentencing caused average minimum sentences to increase*
- *Elimination of "good time"*
- *"Truth in sentencing" established time-served standards for parole eligibility and required 100 percent of court-imposed sentence be served either in prison or on parole*

Aggressive "tough on crime" approach by legislature and criminal justice system

- *Allows criminal justice system to narrow its use of discretion and take more conservative and less controversial approach to punishment*
- *General Assembly has increasingly supported more punitive response to crime*
- *Makes alternative, diversionary, and intermediate sanctions less appealing; viewed as "soft on crime"*
- *Targets community correction programs, especially treatment, for de-funding*
- *Does not reserve limited and expensive prison beds for serious, violent, and repeat offenders*

Lack of prison beds, especially high security beds

- *DOC currently operating at capacity*
- *Almost 500 inmates transferred to out-of-state prisons*
- *Dormitory facilities present obvious security and management concerns to department*
- *High security inmates cannot be housed in lower security prisons*
- *Accused offender population increasing, but bed space in jails has not been increased*

- *DOC reports it needs an additional 1,600 high security beds*

Poor planning and a lack of an accurate population projection and offender needs analysis

- *General Assembly and DOC cannot accurately or adequately plan for new facilities without accurate projection of total offender population*
- *Community correction options must be reviewed first to determine flow into and out of prison system*
- *Current projection methods contribute to cycle of overcrowding*
- *DOC cannot build its way out an overcrowding crisis*

What options are available to legislature to manage prison population?

Prison Expansion Model

- Connecticut's primary response to prison overcrowding over past 20 years
- Add new prison beds whenever inmate population exceeds existing capacity
- Disproportionate amount of criminal justice resources focused on most punitive sanction -- prison
- Services concentrated primarily on small percent of offender population in prison

Community Corrections Model

- Community-based sentencing and sanctions structure
- System of graduated sanctions provides supervision, treatment, rehabilitation, victim restitution, and public safety
- Includes a well-funded system of prisons and jails
- Focuses on reducing crime and recidivism
- Multi-agency approach
- Services concentrated primarily on majority of offender population supervised in the community

What recommendations are required to implement the community corrections model?

1. **The mission of the state's community corrections strategy shall be: "to assist the court and/or parole board in assessing offenders' suitability for community placement and, once offenders are placed in the community, to enforce the court-ordered sanctions, protect public safety, assist offenders' rehabilitation, and support the rights of their victims."**

2. **The General Assembly shall establish a sentencing task force responsible for evaluating, in accordance with the recommended community corrections policy, the criminal sentencing process at the felony level. The task force shall:**

   - **review existing sentencing laws;**
   - **evaluate the actual versus intended impact of sentencing practices and trends as they relate to the overall policy;**
   - **measure the impact of sentencing laws and practices on the growth of the inmate and community-supervised offender populations;**
   - **review all statutory and administrative bond options and practices (e.g., "cash" bail);**
   - **assess the effectiveness of mandatory minimum sentences, persistent offender statutes, and eligibility criteria for criminal justice sentencing and sanction options;**
   - **estimate the cost of any changes proposed; and**
   - **report its findings and recommendations to the Judiciary Committee and General Assembly by January 1, 2002.**

   The sentencing task force shall be comprised of the following members:

   - **state's attorney appointed by the chief state's attorney;**
   - **public defender appointed by the chief public defender;**
   - **chief administrative judge of the criminal court;**
   - **bail commissioner appointed by the chief court administrator;**
   - **probation supervisor appointed by the chief court administrator;**
   - **commissioner of the Department of Correction;**
   - **chairman of the Board of Parole;**
   - **state's victim advocate;**
   - **assistant attorney general from the criminal justice section appointed by the attorney general;**
   - **representative from the Connecticut Bar Association's criminal justice section;**
   - **House and Senate chairman of the Judiciary Committee; and**
   - **six legislators appointed as follows: one by the speaker of the house, one by the senate president pro tempore, one by the majority leader of the house, one by the minority leader of the house, one by the majority leader of the senate, and one by the minority leader of the senate.**

The House and Senate chairmen of the Judiciary Committee shall be the co-chairmen of the task force. Non-partisan, legislative staff shall be assigned to assist the commission, which shall terminate at the conclusion of its work.

3. **A Prison Impact Assessment shall be required for any legislation that may modify or impact the rate of prosecution, rate or length of incarceration, computation of time served, or may be expected to affect the number of offenders incarcerated, paroled, placed on probation, or sentenced to any other alternative sentencing option or sanction. The assessment will be conducted by the General Assembly's Office of Fiscal Analysis and Office of Legislative Research.**

4. **The Office of Policy and Management shall ensure the Justice Planning Division comply with its mandate. It is further recommended the Justice Planning Division conduct a systemwide study of recidivism that will:**

    - **define recidivism to include, but not be limited to: (1) new crimes committed by persons *not* in custody or under the supervision of the criminal justice system, but who have a previous adult or juvenile criminal conviction; and (2) offenses committed by offenders while under the supervision of the criminal justice system;**
    - **track rates of recidivism;**
    - **identify the point in the system at which offenders recidivate (e.g., length of time after discharge from custody or supervision before a new crime is committed and length of time an offender is under community supervision before a crime is committed);**
    - **identify the types of offenses committed (i.e., new crime, technical violation of supervision conditions, and increase or decrease in severity of offense);**
    - **determine services and programs provided prior to or at the time the offender recidivates;**
    - **examine the dispositions of offenses (e.g., new sentence, parole revoked, violation of probation, or other sanction such as placement in residential program or additional services or conditions); and**
    - **evaluate institutional and community-based programs and services provided to offenders to determine their efficacy at reducing recidivism.**

5. **The Prison and Jail Overcrowding Commission shall meet at least quarterly each year and comply with its statutory obligation to produce an annual statewide plan.**

6. **The director of the Office of Policy and Management's Justice Planning Division shall be designated in statute as the permanent chairman of the Prison and Jail Overcrowding Commission.**

7. **The chairman of the Board of Parole shall be added in statute as a voting member of the Prison and Jail Overcrowding Commission.**

8. **A permanent Community Corrections Subcommittee to the Prison and Jail Overcrowding Commission shall be established. The Community Corrections Subcommittee shall:**

   - **make recommendations to develop and implement community-based sentencing and sanction options;**
   - **coordinate the efforts of all criminal justice agencies in accordance with the recommended sentencing policy;**
   - **examine the impact of laws and policies on community-based sentencing and sanction options;**
   - **examine the impact of community-based sentencing and sanction options on prison overcrowding;**
   - **assist the Prison and Jail Overcrowding Commission to develop a statewide criminal justice plan to prevent overcrowding that includes pre-trial and post-sentencing options that minimize the number of offenders in prison;**
   - **coordinate community-based sentencing and sanction options with state mental health and substance abuse plans;**
   - **develop strategies to assist in the siting of community-based programs and services; and**
   - **research and analyze data regarding the impact of community correction efforts on reducing crime and recidivism and the resulting impact on prison overcrowding.**

   The subcommittee shall submit an annual plan with recommendations to the Prison and Jail Overcrowding Commission, which shall be included in the commission's annual statewide plan submitted to the governor and General Assembly. The subcommittee shall meet at least quarterly each year, and be staffed by the Office of Policy and Management.

   The Community Corrections Subcommittee shall be comprised of the following members appointed by the governor unless otherwise indicated:

   - **executive director of the judicial branch's Court Support Services Division;**
   - **executive director of Board of Parole;**
   - **deputy warden for Department of Correction Division of Community Enforcement ;**

- **director of Department of Mental Health and Addiction Services Community Forensic Services;**
- **two representatives from a community policing program, one from an urban police department and one from a suburban police department;**
- **two representatives from the Council of Municipalities, one from urban area and one from a suburban area;**
- **Superior Court judge from a Judicial District (JD) court appointed by chief court administrator;**
- **Superior Court judge from a Geographic Area (GA) court or community court program (i.e., drug court, family violence court, community court) appointed by the chief court administrator;**
- **assistant state's attorney appointed by the chief state's attorney;**
- **public defender appointed by chief public defender;**
- **state's victim advocate;**
- **four representatives from community-based service providers -- one from a residential substance abuse treatment program, one from an out-patient substance abuse treatment program, one from a residential program providing other types of services (i.e., shelter, mental health, work release), and one from a non-residential program providing other types of services; and**
- **director of the Connecticut Justice Education Center.**

9. **The General Assembly shall reinvest in the community corrections strategy to protect public safety and appropriately and efficiently reserve prison resources for the most serious, violent, and repeat offenders. The General Assembly shall provide funding to ensure: (1) adequate staffing levels for community supervision through adult probation and parole, adding at a maximum 50 parole officers and 160 probation officers to current personnel resources over the next three years; and (2) treatment, training, and rehabilitation programs including, but not limited to, substance abuse, mental health, education or vocational training, life skills, anger management, sex offender treatment, halfway house, and community service, that are sufficient to meet the service needs of the population of incarcerated and community supervised offenders.**

10. **A sentence worksheet shall be prepared as part of the pre-sentence investigation required by state law or upon request by the court. The sentence worksheet shall be presented to the court during the sentencing hearing. It shall serve to provide the court and the defendant with an estimate of the required time to be served on the sentence, parole eligibility, and period of probation or special parole. The sentence worksheet shall be a guideline based on prevailing sentencing laws, regulations, and policies. The worksheet shall not constitute a guarantee of any eligibility for an early release from prison, reduction of sentence length, or participation in a program.**

11. **The judicial branch shall establish sentencing teams at all criminal court locations. Each sentencing team shall be comprised of a judge, state's attorney, public defender, bail commissioner, probation officer, criminal sanctions monitor, a representative from the Department of Correction, and a parole officer from the board's hearings division. The objectives of the sentencing teams are to:**

    - **maximize the use of graduated sanctions for pre-trial and sentenced offenders;**
    - **increase criminal justice agencies' awareness of, investment in, and commitment to the community corrections strategy through the development of a collaborative planning and resource allocation process;**
    - **enhance efficiency and effectiveness of criminal sentencing by improving the organizational capacity of the criminal justice system; and**
    - **raise victim and public awareness of the safety and rehabilitative value of community corrections.**

12. **A "split" sentence of a period of incarceration followed by probation may only be imposed when the aggregate, non-suspended prison term is one year or less. A period of special parole may be imposed when the aggregate, non-suspended prison term is greater than one year.**

    When imposing a sentence of special parole, the courts shall set the conditions of release. The court may order the offender:

    - **be employed or participate in education or vocational training;**
    - **undergo medical or psychiatric treatment, including placement in an institution for that purpose;**
    - **support dependents and meet other family obligations;**
    - **make restitution to the victim or victim's family;**
    - **refrain from further criminal activity;**
    - **reside in a residential community center or halfway house;**
    - **participate in a community service program;**
    - **undergo specialized sexual offender treatment, if convicted of a sexual assault crime; and**
    - **satisfy any other conditions reasonably related to the offender's rehabilitation or public safety.**

    The Board of Parole shall monitor and enforce compliance with the court-ordered conditions of special parole. The board shall have the authority to modify, delete, or add, without a court hearing, any stipulation necessary to comply with the court's order or the supervision of the offender.

13. The special parole law shall be amended as follows. The parole board:

- **shall automatically take custody of an inmate under special parole upon the completion of the court-ordered prison term and discharge from DOC custody;**
- **may revoke special parole after an administrative hearing and re-parole an inmate at any time during the remaining period of special parole without a court order;**
- **may revoke special parole for a technical violation of a release condition set by the court or board or a new criminal offense; and**
- **shall have the authority to issue a mittimus to incarcerate without a court order an inmate for any period of the special parole sentence after special parole has been revoked.**

14. The Board of Parole shall retain all discretionary release authority granted under state law. The board, however, shall be required to reassess the suitability for parole release of those inmates who have not otherwise been paroled by the board after serving 50 percent of their court-imposed sentence. A panel of the board shall reassess inmates upon serving 75 percent of their sentence for release to parole based on the following standards:

- **there is reasonable probability the inmate will live and remain at liberty without violating the law; and**
- **the inmate's release to community supervision and transition substantially outweighs any period of continued confinement.**

The board shall also apply the recommended standards when determining suitability for parole release of those inmates required to serve 85 percent of their court-imposed sentence.

After reassessment, if the board determines continued confinement is necessary, it shall articulate for the record the specific reasons why the inmate and the public would not benefit from a period of community supervision.

15. The 15-member, part-time parole board as established in current state law shall be abolished and replaced with a three-member, full-time board consisting of a chairman and two board members. The terms of the three members shall be four-years, coterminous with the governor.

The chairman shall be qualified by education, experience, and training in the administration of community corrections, probation, or parole. One board member shall be qualified by education, experience, and training in the administration of substance abuse or mental health treatment services and one board member shall be qualified by education, experience, and training in the law.

The chairman of the Board of Parole shall be the chief executive of the agency and have the authority and responsibility for:

- **establishing policy and regulation in all areas of parole, including decisionmaking, release criteria, and supervision standards;**
- **consulting with the Department of Correction on shared issues, including prison overcrowding;**
- **consulting with the judicial branch on shared community supervision issues;**
- **signing and issuing subpoenas to compel the attendance and testimony of witnesses at parole proceedings;**
- **placing in a community-based residential program any inmate within 18 months of their voted-to-parole status; and**
- **overseeing the administrative affairs of the board.**

The chairman and two parole board members shall convene and conduct all panel, revocation, and rescission hearings and approve parole releases recommended by the administrative review process.

16. **The board shall create three new administrative positions: executive director for parole, an assistant director for hearings division, and an assistant director for parole supervision. The executive director shall be appointed by the chairman. The executive director shall oversee the administration of the agency and, at the discretion of the chairman:**

    - **direct and supervise all administrative affairs of the board;**
    - **prepare the budget and annual operation plan;**
    - **assign staff to administrative reviews, regions, and supervision offices;**
    - **organize parole hearing calendars;**
    - **implement a uniform case filing and processing system;**
    - **establish specialized parole units;**
    - **establish parole officer to parolee caseload ratios based on supervision levels and standards with the objective that the average parole caseload after January 1, 2004 does not exceed 65;**

- **enter into contracts with service providers, community programs, and consultants;**
- **create development, training, and education programs for staff and board members; and**
- **establish, develop, and maintain non-institutional, community-based service programs.**

The chairman and executive director shall be further required to develop policies and procedures for:

- **parole revocation and rescission hearings that include implementing due process requirements and creating a bifurcated system with a preliminary evidentiary hearing and a formal hearing;**
- **graduated sanctions system for parole violations including, but not limited to, re-imprisonment based on the type, severity, and frequency of the offense and specific lengths of incarceration for certain types of violations (e.g., 10 days re-incarceration for first failed drug test); and**
- **parole orientation program for all convicted, parole-eligible inmates upon their admission to DOC that provides general information on: the laws and policies regarding parole release; calculation of time-served standards; general conditions of release; supervision practices; revocation and rescission policies; procedure for administrative review and panel hearing; and any other information the board deems relevant for preparing inmates for parole.**

17. **The Department of Correction shall conduct a feasibility study on establishing a revocation center for parole and probation violators that includes an assessment of converting an existing DOC dormitory prison into such a facility. The department shall consult with the parole board and judicial branch's adult probation to develop a proposal for the institutional program and admission and release procedures for the revocation center. The study shall be submitted to the General Assembly by January 1, 2002.**

18. **To encourage the siting of necessary community-based programs and services for accused and sentenced offenders, the General Assembly shall consider the following options:**

    - **provide state funds to reimburse nonprofit agencies for full payment of local property taxes;**
    - **authorize state criminal justice agencies to purchase buildings to lease to nonprofit service providers as part of a contract for treatment, rehabilitation, monitoring, supervision, or other service or program;**

- **require state criminal justice agencies to provide technical, financial, or other assistance to nonprofit service providers in the local zoning and siting process; or**
- **appropriate state funds as part of the community corrections budget that are specifically set aside to provide incentive payments to communities sufficient to encourage them to host a residential or nonresidential program or service.**

19. **The Department of Mental Health and Addiction Services, in cooperation with the Connecticut Alcohol and Drug Policy Council, shall evaluate the need for substance abuse and mental health services among the pre-trial and sentenced, incarcerated and community-supervised offender population and shall develop a plan to fund and provide such treatment and services in correctional facilities and the community. The plan shall be submitted to the General Assembly January 1, 2002.**

INTRODUCTION

Factors Impacting Prison Overcrowding

Despite a steady decrease in crime and arrest rates over the past 10 years, Connecticut has had to struggle with the persistent growth of the inmate population and a high rate of recidivism among convicted offenders under supervision. The primary solution has been to add prison beds by building new facilities and expanding others -- almost 10,000 new beds costing well over $1 billion have been added since 1989. Less than five years after the Department of Correction (DOC) completed the comprehensive construction project, however, it is almost at capacity and has had to transfer 500 inmates to out-of-state prisons to relieve overcrowding.

To a lesser degree, Connecticut has implemented a system of graduated sanctions. The network of sentencing options and alternative sanctions: (1) punishes and rehabilitates offenders whose crimes and/or criminal histories do not demand a prison term; and (2) assists in the transition of inmates from prison back to their communities. This model is based on the recognition not all offenders are the same, and only a few deserve the most intensive and expensive sanction -- prison -- and almost all offenders sent to prison eventually return to their communities.

There are well documented societal issues that impact the prison population and crime rate. These factors include poverty, a lack of education or employment opportunities, drug or alcohol use and abuse, racial disparity, exposure to others involved in criminal activity, and mental illness. These complex societal issues cannot be addressed by a single state agency nor solely by the criminal justice system. In fact a criminal justice response to some of these factors often occurs because other state service systems have not been adequately funded or developed, or they have shifted the responsibility for addressing the issue or client population to the criminal justice system. Solutions to these problems are outside the scope of this study.

Many factors impacting prison overcrowding are, however, under the control of the criminal justice system. The factors include the nation's 20-year "war on drugs" that focused policing and prosecution efforts and resources on drug offenses and increased sanctions for those crimes. Increased prison bed space allowed the courts to sentence offenders to prison and adult probation and the parole board to return offenders to prison for a violation rather than use other alternative sanctions and programs. The high rate of recidivism among criminal offenders impacts the prison population.

The driving force behind prison overcrowding, however, is the aggressive "tough on crime" approach taken by policymakers, criminal justice administrators, and the court since the mid-1990s. A series of laws (referred to

as “truth in sentencing”) aimed at increasing penalties and reducing the discrepancy between the court-imposed prison term and the actual time served by an inmate has lengthened incarceration periods. Inmates are serving a greater portion of their sentence in prison prior to early release or discharge.

The ability of the criminal justice system to detain an offender relies on the availability of jail and prison beds throughout the process from arrest to parole. Prison overcrowding, therefore, is problem that impacts all criminal justice agencies; not just the Department of Correction. It is also an issue that must be addressed by the General Assembly, which is responsible for responding to the public demand for punishment of offenders, setting sentencing policy, and funding the criminal justice system.

The legislature is once again faced with the issue of prison overcrowding and the decision to authorize expansion of the correctional system. Because of this, in March 2000, the Legislative Program Review and Investigations Committee voted to study the factors impacting prison overcrowding and develop recommendations.

The committee found a workable, long-term solution to prison overcrowding must extend beyond simply adding prison beds. It must also address the cumulative impact of the thousands of criminals that eventually return to or remain in their communities. Until their criminal activity is curbed, any real reductions in crime or the prison population will be difficult to achieve. The ultimate goal of protecting the public will also be jeopardized.

Thus, Connecticut requires a comprehensive community corrections strategy that is based on a system of graduated sanctions and reserves prison for the most serious, violent, or habitual criminals. The basic elements of this model are already in place, but are not operating in a coordinated manner to: manage the growth in the inmate population; impose the least restrictive sentence based on the offender’s criminal history and current offense; provide effective and affordable public safety; or control crime and recidivism.

Also, Connecticut has not made the necessary financial investment or policy commitment to a community corrections strategy. Policymakers and criminal justice administrators have not yet recognized the importance of community supervision in terms of public safety and reducing crime and recidivism. The community corrections strategy suffers for a poor public image. It has come to symbolize the leniency of the criminal justice system -- it is viewed as letting inmates out early or not sufficiently punishing them for their crimes.

Inattention to the criminal and noncriminal behavior of offenders in the community, however, misses the opportunity to intervene in a positive manner and all but promises recidivism, eventual imprisonment, and risks to public safety. The public debate must not focus on whether a crime strategy is “tough” or “soft,” but rather is it an effective and efficient policy for reducing crime and recidivism and protecting public safety.

Scope. The scope of the committee study focused on identifying the main factors causing the current prison overcrowding problem and the options available to the legislative, executive, and judicial branches to control the growth of the inmate population.

Methods. A variety of methods were used to gather information for the prison overcrowding study. Committee staff reviewed state statutes, regulations, and historical legislative materials and federal laws related to the mandates of the Department of Correction, Board of Parole, Department of Mental Health and Addiction Services (DMHAS), and the judicial branch's criminal court, adult probation, and alternative sanctions systems. Executive and judicial branch criminal justice agencies' policies and written procedures as well as budget documents were also reviewed. Public policy and academic research on prison overcrowding, prison construction, community supervision, offender treatment and rehabilitation, alternative to incarceration sanctions, and recidivism were examined.

Interviews were conducted with administrators, judges, and key staff in the correction department, parole board, DMHAS, and judicial branch as well as with selected staff from a number of private, non-profit agencies that contract with the state criminal justice system to provide services, supervision, and treatment to accused and convicted offenders. Program review staff interviewed representatives from many advocacy and interest groups in the state. National organizations and professional associations that cover crime, offender supervision and rehabilitation, and prison management were contacted for information on recent findings and trends in controlling the growth in the prison population and addressing the substance abuse and mental health needs of the total offender population.

The program review obtained data from criminal justice agencies (i.e., Department of Correction, Board of Parole, and Department of Public Safety) and the judicial branch regarding criminal convictions, prison sentences, and probation and parole supervision. Crime and arrest rates in the state were examined. Caseload information from the agencies providing custody or supervision services was also reviewed. The program review committee held a public hearing on October 4, 2000.

Report Organization. This report contains background information and analysis organized into seven chapters: (1) an overview of Connecticut's criminal sentencing framework and significant sentencing reforms over the past 20 years; (2) the current capacity of the correction system and community-based service network; (3) an analysis of the offender population and sentencing trends; (4) the committee's findings on the factors impacting prison overcrowding; and (5) description of two options to manage the growth in the prison population. The report's final two chapters contain the committee's recommendations for community corrections policy and procedure.

Agency response. It is the policy of the Legislative Program Review and Investigations Committee to provide agencies subject to review with an opportunity to comment on recommendations in writing prior to the publication of the committee's final report. A written response to the report was solicited from the Department of Correction, Board of Parole, and judicial branch. Appendix D contains the response from the Department of Correction. The Board of Parole and judicial branch did not submit responses.

CHAPTER ONE

Overview of Sentencing Reforms and Practices

Sentencing laws guide the punishment imposed by the state on a person for criminal behavior. The policies and procedures developed based on these laws, therefore, have a direct impact on the prison population.

In Connecticut and the nation, there have been trends in sentencing laws that resulted in specific reforms to attempt to achieve "truth in sentencing" and to get "tough on crime." These reforms began in 1981 with the adoption of a determinate sentencing structure that was intended to identify the "correct" or "fair" prison term for a certain type of crime. The most recent reform, enacted in 1995, attempted to define the portion of a prison term that must be served to satisfy the state's interest in punishment for criminal activity.

An unintended result of the sentencing reforms implemented over the past 20 years appears to be prison overcrowding. Overcrowding has occurred despite an expansion of capacity -- over 10,000 new prison beds have been added since 1989 -- and a steady decrease during the past 10 years in the state's crime rate.

This section provides an overview of the sentencing policies and practices in place in Connecticut since the 1970s. As Figure I-1 shows, these include indeterminate sentencing, which was in place until 1981, and the major sentencing reforms enacted since: determinate sentencing; mandatory minimums; and "truth in sentencing." Also discussed are the effect each type of reform has had on the prison population. Figure I-2 provides an overview of sentencing reform, policy changes, and the impact on sentence length and time-served requirements between 1980 and 2000.

Indeterminate Sentencing

Indeterminate sentencing was the sentencing model in Connecticut and nationally until 1981. Under an indeterminate sentence, a convicted offender received a sentence with a minimum and maximum term and was eligible for parole release after completing the minimum term less any "good time" credits earned while in prison. Since most inmates were paroled at their first eligibility date, the minimum term minus "good time" became the de facto sentence length.

By the late 1970s, indeterminate sentencing practices were viewed as inequitable and ineffective and both too harsh and too lenient. The principal criticism voiced by policymakers and criminal justice research was the absolute discretion of an indeterminate sentencing system. It was impossible to determine a "correct" or "fair" sentence for a type of crime. In 1979, the General Assembly established a Sentencing Commission to recommend

sentencing policies and practices, including reviewing the option of developing sentencing guidelines (also called a sentencing grid or matrix).

At the same time sentence reform was being considered, Connecticut was beginning to experience the first significant increase in its incarcerated population. By 1980, the state had to focus for the first time on alleviating prison overcrowding. This was a result of various factors, including the onset of the nation's "war" on drugs, increased crime rates primarily as a result of a surge in the population in their crime-prone years (16 to 24), the public's demand for longer sentences, and a shortage of prison beds.

Figure I-1. Three Decades of Sentencing Reform 1970s through 1990s
Indeterminate Sentencing in effect until 1981. Imposed minimum and maximum terms and parole board had authority to release offender from prison after completing the minimum term less any "good time" credits earned. ***Determinate Sentencing***, enacted in 1981, imposes fixed prison term and reduced "good time". Discretionary release authority shifted from parole board to Department of Correction. ***Mandatory Minimum Sentences***, revised during late 1980s, require offenders convicted of certain crimes to be sentenced to statutorily specified amount of prison time. ***"Truth in Sentencing"***, begun in 1995, reduced discrepancy between court-imposed prison term and actual time served by establishing time-served standards and eliminating "good time." Parole re-instituted in early 1990s for sentences greater than two years and DOC discretionary release authority limited to sentences of two years of less.

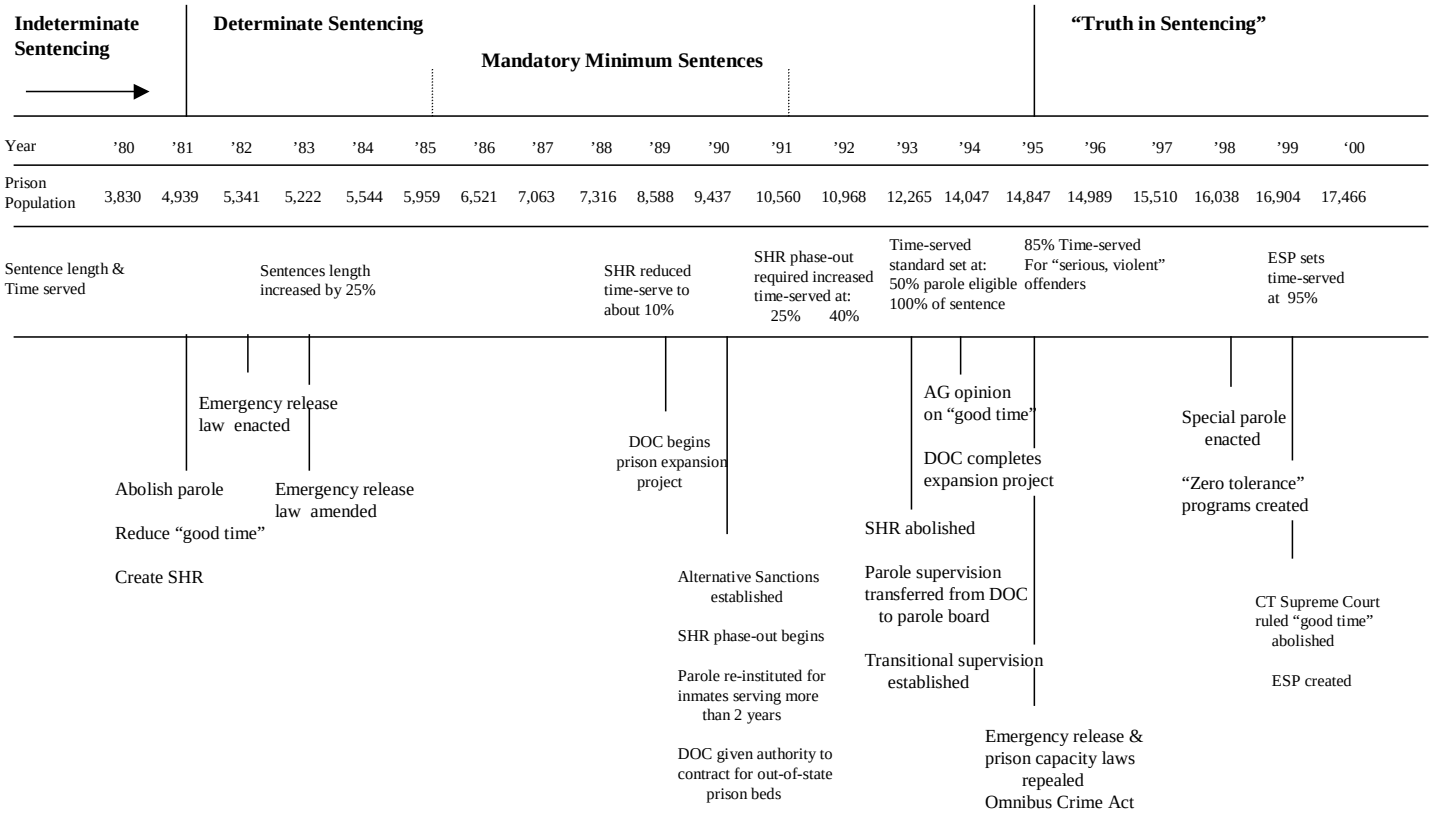
Determinate Sentencing

A determinate sentencing structure was the model enacted in 1981 upon the recommendation of the Sentencing Commission. The commission reported the goal of the new structure was to provide "just and consistent penalties based upon prior criminal record and the conviction offense," but to retain judicial discretion to consider a wide range of penalties within the statutorily defined limits in effect for each class of offense. The court then imposed a single (or fixed) term of imprisonment.

The role of the parole board, implicit in an indeterminate sentencing structure, was abolished under the new sentencing framework. Under a determinate sentence, there was no longer a need for a discretionary parole release. However, the parole board maintained its discretionary release authority for offenders serving indeterminate sentences -- those convicted and sentenced to crimes committed prior to July 1981.

The 1981 sentencing reform also reduced the amount of "good time" credits that could be earned for sentences over five years, thereby increasing the time served by about 20 percent. "Good time" was reduced from 15 days to 12 days per month of the sentence. (Appendix A contains a description of statutory "good time" credits available to certain sentenced inmates.) The General Assembly also began establishing mandatory minimum sentences for certain offenses and enacted the first in a series of persistent offender provisions, which allowed for enhanced penalties for repeat offenses of serious crimes.

Figure I-2. Flowchart of Sentencing Reforms and Policy Changes in Connecticut



National experience with a determinate sentencing structure resulted in sizeable increases in prison populations. At the time determinate sentencing was adopted in Connecticut, the incarcerated population was already at design capacity levels, and the correctional system could not accommodate an influx of inmates.

In 1984, the Sentencing Commission reported to the legislature the new determinate sentencing law was not producing its intended effects and had instead contributed to the growing prison and jail overcrowding problem. According to the commission, the percentage of inmates in prison for serious felonies remained constant, but the number (and percentage) of inmates confined for less serious, non-violent and even misdemeanor offenses increased significantly. The average sentence length for less serious felonies also dramatically increased.

Without the ability to balance the offender's criminal history and correctional needs by imposing a minimum term with the victim's and the public's demands for punishment by imposing a maximum term, the court was imposing sentences that were somewhat higher than the pervious customary minimums, thereby increasing time served. Overall, sentence lengths increased by about 25 percent. The total impact on the correctional system became clear when increased sentence lengths were multiplied by the thousands of offenders sentenced to prison each year.

The reduction in crediting "good time," another effect of the 1981sentencing reform, added to the overcrowding problem. Under the prior "good time" law, sentences were generally reduced by a third for an inmate's good behavior. After the law change, sentences were reduced by about 25 percent.

Emergency release to relieve overcrowding. The legislature enacted an emergency release provision in 1982 that authorized the Department of Correction to petition the court for the release of accused and sentenced inmates to relieve overcrowding. The law failed to address the problem. While DOC petitioned the court for the release of 200 inmates, only one inmate was discharged under the new program due to the court's reluctance to reduce sentences. Politically, declaring an prison overcrowding emergency was also not an option.

Supervised home release. A second legislative approach to the prison overcrowding problem was an early release program, called supervised home release (SHR), created in 1981. Through this program, discretionary release authority was shifted from the now defunct parole board to the correction department. The SHR program quickly became a mechanism for dealing with prison overcrowding, and eventually the legislative intent of the program and the overall criminal sentencing policy were undermined by the correction department's need to free prison beds for incoming inmates. Due to the lack of beds, most sentenced inmates were serving only about 10 percent of their court-imposed sentences before being released on SHR. Because of this, many offenders opted for prison sentences over community supervision, such as probation.

Amended emergency release provision. In 1984, an amended emergency release provision was adopted to allow DOC to declare an overcrowding emergency when the incarcerated population exceeded 110 percent of capacity for 30 consecutive days. It could then systematically release inmates based on specified criteria until the population fell below 100

percent of capacity. However, this policy also failed. Despite several years of sustained and severe prison overcrowding, an emergency was never declared and no inmates were released under this provision. Politically, an emergency release was still not an option and, therefore, the provision was not a viable release mechanism for the correction department.

Mandatory Minimum Sentences

During the late 1980s, changes to statutory mandatory minimum sentences were a significant sentencing reform. Mandatory minimums were established to ensure offenders convicted of certain offenses served a specified term in prison. The objective of these laws was to counter the reduction in sentences occurring under SHR release and the "good time" policies. Mandatory minimum sentences also bolstered a "tough on crime" image by imposing a required sentence for the specific types of crime drawing public attention and media scrutiny, particularly crimes involving violence, drugs, or weapons or against children and the elderly.

"Truth in Sentencing"

"Truth in sentencing" was the philosophy behind many of the sentencing reforms of the 1990s. The purpose of the reforms was to restore credibility to the criminal justice system by reducing the discrepancy between the court-imposed sentence and actual time served in prison, which had reached a low of about 10 percent of the court-imposed sentence. The reform also responded to the public's perception that "tougher" sentences reduce crime, especially violent crime. By restricting or eliminating provisions for early release or sentence reduction, "truth in sentencing" reforms require offenders serve more of their prison terms. These reforms, however, do not necessarily call for longer court-imposed sentences.

Time-served requirements. As the new "truth in sentencing" framework evolved, several other reforms were enacted. The cornerstone, however, was the establishment of three different statutory time-served requirements. First, a 50 percent time-served standard for early release eligibility was phased-in for all sentenced inmates -- meaning all inmates had to serve at least half of their sentence to be eligible for release to parole or any DOC community supervision program. Initially set at 25 percent, the standard was expanded to 40 and then 50 percent.

Second, all offenders who committed a crime on or after October 1, 1994, are required to serve the full term of their court-imposed sentences ***either*** in prison or on parole. This was a significant change to the sentencing laws and established, for the first time, a 100 percent time-served standard.

Third, in 1994, the United States Congress authorized funding for additional state prisons and jails through the Violent Crime Control and Law Enforcement Act. To be eligible for funding, a state must require serious, violent offenders to serve at least 85 percent of their sentence prior to release. Connecticut adopted the sentencing standard in 1995, establishing a third time-served requirement by mandating serious, violent offenders serve 85 percent of their sentence to be eligible for parole.

"Good time". The new laws were silent with respect to the awarding of "good time" credits, which were not repealed. Although there is no specific record of intent, the objective of the 100 percent time-served provision was to allow "good time" credits to continue to reduce the time an offender was incarcerated, but to require that time be served -- or paid back to the state -- on "mandatory" parole after discharge from prison. (See Legislative Program Review and Investigations Committee report on *Board of Parole and Parole Services*, January 1993.)

A 1994 attorney general opinion, however, interpreted the new law as eliminating the effect of "good time" on reducing a sentence. It stated the legislature intended to eliminate "good time." The attorney general's opinion was upheld by the Connecticut Supreme Court in 1999[1]. The "good time" laws now apply only to those inmates convicted of a crime committed prior to October 1994. The effect of that ruling is an inmate must serve between 50 and 85 percent of their court-imposed sentence to be eligible for any early release program and 100 percent of their sentence in custody or under supervision.

Other Developments in the 1990s

In addition to sentencing reform, there were a number of major initiatives undertaken during the 1990s that had an impact on prison overcrowding.

Supervised home release. Problems with the administration of supervised home release led the legislature to eliminate the program in 1990. It was phased-out over a three-year period ending in July 1993, but DOC retained discretionary release authority over inmates serving two years or less. Currently, the department administers the transitional supervision (TS) program for that purpose.

Parole. Persistent prison overcrowding -- routinely at 110 percent of capacity -- required the re-institution of parole in 1990, for all inmates sentenced to more than two years. The parole board was given discretionary release jurisdiction over determinate sentences and, after the end of SHR, became the primary mechanism for releasing inmates from prison into the community. While controlling prison overcrowding is not traditionally part of the board's mission, it was a major factor in re-instituting parole.

"Special parole" was created as a sentencing option, allowing the court to order a mandatory period of post-release parole supervision for any sentence greater than two years. Another parole release option, called extended supervision parole (ESP), was also established. ESP allows all offenders who have not been paroled by the board at eligibility (either 50 or 85 percent), to be released on parole if they have six months or less to serve. Certain violent offenders are automatically released after they have served at least 95 percent of their sentence. The inmate must agree to be supervised for one year, which is more time than they otherwise would have served in prison to complete their sentence.

Omnibus crime act. Also during the mid-1990s, the legislature enacted a series of anti-crime provisions, which increased maximum and mandatory minimum sentences, especially for offenses involving or against children and violent or sexual offenses, limited offender eligibility

[1] *Valez v Commissioner of Correction* 738 A.2d 604, 250 Conn. 536 (1999)

for alternative sentence options and programs, expanded persistent offender statutes, and toughened other criminal statutes. In addition, statutory prison capacity levels and the prison overcrowding emergency release laws were repealed. "Zero-tolerance" drug supervision programs were established. A number of changes were made to restrict eligibility for alternative sentencing programs for sexual offenses and offenses involved the "use, attempted use, or threatened use" of physical force.

Criminal Justice Policy

Connecticut, like all states, has an overriding interest in protecting its citizens and their property from crime. At the same time, the state is obligated to provide fair, consistent, and affordable judgment, punishment, and rehabilitation of criminal offenders. Under current law, however, no clear policy statement guides the overall efforts of the state to ensure public safety and to deter and justly punish criminals. The state's criminal justice policy instead must be pieced together from a variety of statutory mandates given to state agencies and the judicial branch, federal requirements, statutory guidelines for criminal sentencing, case law, and the record of legislative intent.

The policy established through these many sources appears to be a comprehensive system of graduated sanctions. It's based on criminal justice research that recognizes, in many cases, the public's interest and the criminal offenders' rehabilitation are better served by supervision, treatment, and/or education rather than long prison sentences. Incarceration, the most severe sanction in the system, is reserved for serious and violent offenders, habitual criminals, and offenders who have previously failed at lesser sanctions. The state policy also gives criminal justice agencies -- state and local police, state's attorneys and public defenders, courts and judicial support services such as bail and adult probation, the correction department, and the parole board -- considerable discretion in administering justice.

Over the past five years, however, the legislature has increasingly supported a more punitive policy that requires longer sentences and restricts the use of graduated sanctions for certain offenders. The shift is in response to the widespread "tough on crime" attitude of the public and the media, which is fueled by the perception of increasing levels of violence.

The development and implementation of criminal justice policy are also heavily influenced by advocacy groups and high profile incidents. The increasing role of the victim in policy development and in the actual criminal justice process, through victim rights legislation and advocacy groups, often times highlights only the most heinous crimes and further increases the public's demand for "toughness." The media, public, and legislative and executive branch officials frequently demand policy or procedural changes in response to a single, high profile incident that, in many cases, is not representative of the system or a majority of the offenders it processes.

Criminal justice agencies have responded to the "tough on crime" message by further narrowing their own discretionary authority and "toughening" administrative policies and procedures for sentencing, minimum time-served standards, restrictions on early release options and diversion and treatment programs, reduced rehabilitation, treatment, and educational

programming in prisons, and increased prison capacity. Many of the "tough on crime" initiatives were intended to increase the severity of the punishment of only the most serious and violent offender, but have been expanded to include less serious and non-violent offenders. The system of graduated sanctions established by state policy is overridden by the criminal justice system's effort to be "tough" by incapacitating offenders for lengthy periods of time.

In addition, terms such as "serious" and "violent" have not been defined in state law. Other language defining the types of crimes or offenders to be included in "tough on crime" initiatives is overly broad, such as "the use of, threatened use of, or attempted use of physical force" and "zero-tolerance." Criminal justice agencies are broadly interpreting the legislative intent of laws dealing with serious and violent offenders. As a result, while the legislative intent is to focus on serious violence, in practice the policies have led to many other offenders also being dealt with more harshly.

There are, therefore, conflicting criminal justice polices and vague statutes. The result is a criminal justice system that, absent clear and consistent objectives, takes the more conservative and least controversial approach to implementing the state's crime policy.

Criminal Sentencing Laws

The key to the implementation of overall crime policy is the state's criminal sentencing laws, contained in the penal code, which govern the type and length of punishment for convicted offenders. As noted above, state law has established a system of graduated sanctions that includes:

- diversionary programs for first time, young, addicted, mentally ill, or certain other types of offenders imposed in lieu of a criminal sentence (i.e., accelerated rehabilitation, youthful offender, pre-trial drug education program, and family violence education program);
- alternative sanction programs aimed at diverting certain offenders from prison who would have otherwise been sent there by the court (called "jail-bound" offenders);
- probation;
- prison; and
- parole.

Types of sentences. The criminal court must dispose of all criminal cases by: (1) dismissal or nolle[2] of the charges; (2) ordering participation in a pre-trial diversionary program and, upon successful completion by the offender, dismissing the charges; or (3) sentencing the offender who is found or pleads guilty. Within the system of graduated sanctions, by law the court may impose a sentence of a:

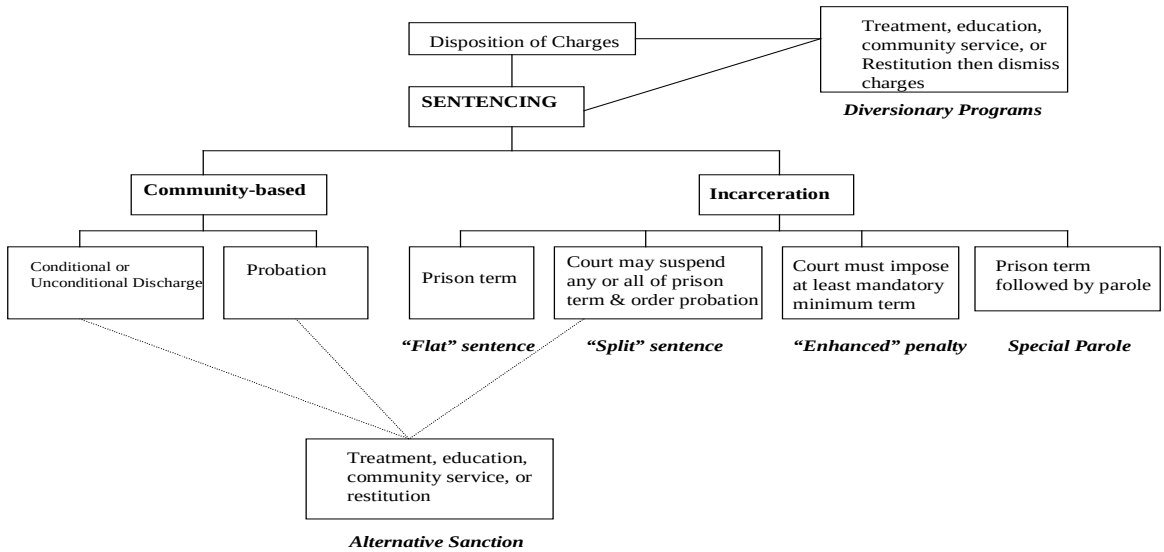
- term of imprisonment -- called a "flat" sentence;

[2] *Nolle prosequi* (nolle) is a formal court motion by the state's attorney stating the case will not be prosecuted any further.

- fine;
- term of imprisonment and fine;
- term of imprisonment with all or part suspended followed by a period of probation or conditional discharge plus a possible fine -- called a "split" sentence;
- unconditional discharge[3]; and
- term of imprisonment of more than two years followed by a period of special parole.

All sentences are imposed (or ordered) by the court. Figure I-3 outlines the sentencing options available to the court. As shown, the court can incarcerate a convicted offender or impose an alternative, community-based penalty. The court may also divert an offender from the penalty phase of the criminal justice process by ordering treatment, education, or participation in community service or other program. The sentences reflect the court's application of the state's penal code. Appendix B provides a detailed overview of the types of sentences and diversionary sanctions imposed by the court, information on eligibility and exclusionary criteria for each sentence and diversionary program, and the criminal justice agency responsible for administering the sentence.

Figure I-3. Criminal Sentencing Options



[3] The court may impose a sentence of unconditional discharge for any crime other than a class A felony if the offender's release is not necessary for public protection or inconsistent with the ends of justice and the offender is found to be in need of guidance, treatment, training, or assistance but does not require supervision.

CHAPTER TWO

Correction System Capacity

The ability of the criminal justice system to detain an offender relies on the availability of jail and prison beds throughout the process from arrest to parole. Although the correction department has a critical role in the process and is responsible for managing a system that is at capacity, the ramifications of prison and jail overcrowding -- in lowered productivity, increased caseloads and operating expenses, inability to effectively implement policy, and shifting of responsibilities -- affect all agencies involved in handling criminal cases. Most affected, however, is the correctional system, which is faced with the increased likelihood of prisoner and staff disruptions, assaults, and injuries, damage to facilities and equipment, inability to provide adequate programs and services, budgetary problems, and political backlash.

Also impacted is the state legislature. It is responsible for responding to public demand for punishment of offenders, setting criminal justice policy, and funding the criminal justice system. In 1981, 1990, and again in 2000, the legislature has been faced with the decision to build more prisons or develop alternatives to deal with the increasing inmate population.

While the current problem facing the state is prison overcrowding, it should be noted not all accused offenders are in jail nor sentenced offenders in prison. The majority of accused and sentenced offenders remain in the community awaiting disposition of pending charges or serving a sentence under some type of supervision. In fact, less than 25 percent of the average daily population of sentenced offenders is incarcerated.

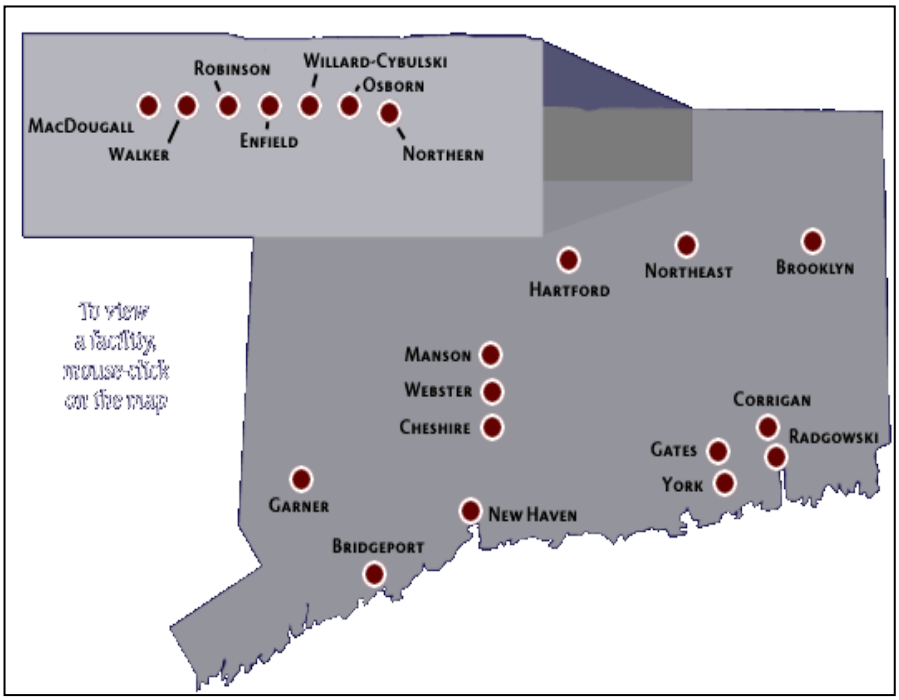
Over the past 20 years, Connecticut has greatly increased its resources and capacity to manage the accused and sentenced offender population. Since 1989, the Department of Correction has added almost 10,000 new beds to the correctional system and is currently planning to add more. A network of community-based alternative sanctions and programs, administered by the judicial branch, was established. Traditional community resources, such as halfway houses and residential and non-residential treatment programs, have increased each year. The Board of Parole and adult probation division have added supervision staff to monitor offenders in the community.

The steady growth in the offender population, however, offset many of the gains in capacity and resources. Connecticut is once again dealing with an inmate population that is exceeding the capacity of its prisons and jail.

This section will provide an overview of the institutional and community-based capacity and resources of the Department of Correction, the judicial branch, and the Board of Parole. Appendix C provides a summary of

the steps within the criminal justice process at which a decision is made to place an offender in the custody of the Department of Correction.

Department of Correction



Prisons and jails. Currently, the department operates 20 prisons and jails throughout the state housing nearly 18,000 inmates. A correctional institution (CI) is a prison primarily for sentenced inmates, and a correction center (CC) is a jail for accused offenders. The facilities range from minimum (to maximum security. Figure II-1 shows the location of each facility in Connecticut.

Table II-1 shows the security level, type of housing, and inmate status (either pre-trial or sentenced) for each facility. The department rates, or classifies, its prisons and jails into five security levels. Level 5 is maximum security, level 4 is high security, level 3 is medium security, and level 2 is minimum security. Level 1 is reserved for community release programs, such as halfway houses, treatment programs, and transitional supervision. An objective of the security level system is to transition an inmate to the lowest security level to ready him or her for release back to the community.

Currently, the state's only maximum (level 5) facilities are: Northern CI for men; York/Niantic CI for women; and the Walker Reception and Special Management Unit (RSMU). The York/Niantic facility is unique in that it incarcerates accused and sentenced offenders at security levels 2 through 5.

Northern CI is a specialized, restrictive, behavior management facility for the department's most problematic or violent sentenced inmates. The prison also has a pre-trial unit for offenders charged with capital felonies or detained on high bonds (i.e., $1 million or more). The Walker RSMU is the department's admission center for sentenced inmates to be classified according to security, treatment, and programming needs. It also houses inmates who require special management for security or other reasons. The Manson Youth Institution is also a specialized facility, which houses security level 2 through 4 inmates under 18.

Table II-1. Prison and Jail Capacity			
Facility	# of Permanent Beds	Type of Housing	Inmate Status
Minimum Security – Level 2			
Gates CI	1,014	Dormitory	Sentenced
Northeast CI	500	Dormitory	Sentenced
Webster CI	576	Dormitory	Sentenced
Willard/Cybulski CI	1,044	Dormitory	Sentenced
Medium Security – Level 3			
Brooklyn CI/CC	494	Dormitory	Sentenced
Enfield CI	724	Dormitory/Cells	Sentenced
Osborn CI	1,816	Dormitory/Cells	Pre-trial/Sentenced
Radgowski CI	662	Dormitory/Cells	Sentenced
Robinson CI	1,151	Dormitory	Sentenced
High Security – Level 4			
Bridgeport CC	840	Dormitory/Cells	Pre-trial/Sentenced
Cheshire CI	1,384	Cells	Sentenced
Corrigan CI	827	Cells	Pre-trial/Sentenced
Garner CI	750	Cells	Pre-trial/Sentenced
Hartford CC	984	Dormitory/Cells	Pre-trial/Sentenced
MacDougall CI	975	Cells	Sentenced
Manson YI*	670	Cells	Pre-trial/Sentenced
New Haven CC	724	Dormitory/Cells	Pre-trial/Sentenced
Maximum Security – Level 5			
Northern CI	584	Cells	Sentenced
Walker RSMU	576	Cells	Sentenced
York/Niantic CI*	1,305	Cells	Pre-trial/Sentenced
TOTAL BEDS	17,600		
*York/Niantic CI is the only correctional facility for women and Mason YI is for male inmates who are under 18. Source of data: Department of Correction			

The level 4 facilities, including all jails, operate as multi-level facilities with one overall high security rating. Many have other security level housing within the facility and have an array of functions. The department can house lower security inmates in a level 4 facility, but it does not place level 4 security inmates in lower security housing. Level 4 facilities house lower security level inmates for operational reasons, such as:

- work in restricted areas that cannot be serviced by level 4 inmates;
- medical or mental health services;
- awaiting transfer to lower level facility;
- protective custody;
- lower security housing unit (dorm) within a multi-level facility; and

- most accused (pre-trial) inmates are classified as level 3, but housed in level 4 jails.

Connecticut is one of only four states that operates a unified prison and jail system. In most states, the jail system is operated by county or local government agencies. Connecticut's jails primarily house accused offenders and sentenced offenders with pending criminal charges. However, the department can transfer an inmate to any facility regardless of his legal status.

As shown in the table, eight facilities provide celled housing and 12 provide dormitories or a combination of both types of units. Most of the cells are double-occupancy. For security and management reasons, the department prefers celled facilities. The dormitories were built during the prison expansion project in the early 1990s. The dormitory design was selected because it was less expensive, allowing more beds to be purchased. It was also quicker to build. The need for beds as a result of the severity of the overcrowding problem at the time took precedence over facility management and security issues.

Capacity. The department does not have an official total bed capacity for the prison system. It reports prison capacity as a fluid number based on daily inmate population needs, which are dictated by security issues, inmate admissions and discharges, court decrees, legal mandates, staffing, suitability and design of the facilities, and the number of beds. The number of beds in use can change due to building maintenance, opening or closing of a unit or facility, a renovation or expansion project, or other emergency situations (e.g., riots, fires, etc.). As a result, the department can increase and decrease the total number of available beds.

The department's ability to increase its capacity is in part due to its use of temporary beds to manage the overflow -- or overcrowding -- at a facility. Temporary beds are generally set up in nonresidential areas such as a gymnasium, service and programming areas, and storage rooms. They provide dormitory-style housing, even in celled facilities. Temporary beds, however, present the department with obvious security and management concerns.

For the purposes of this report, system capacity is defined as the number of permanent beds in a prison or jail. As shown in Table II-1, the correction department currently operates 17,600 permanent prison and jail beds, although this number may change daily for the reasons previously stated.

Since the number of temporary beds in use varies daily, the program review committee staff reviewed the number used at facilities housing the general male population[1] on specific days in 1999 and 2000. The number of temporary beds ranged from a low of one on January 1, 2000, to a high of 481 on November 18, 1999, the day the department experienced an all-time high for its daily male inmate population. Between April and November 1999, the department operated a daily average of almost 300 temporary beds. Since January 2000, however, very few temporary beds have been used.

[1] York/Niantic CI (women), Manson Youth Institution (youth under 18), and Walker RSMU (new admissions and special management) were not included in the analysis because they house special populations and cannot accept inmates from the general male population.

The greatest demand for temporary beds has been in the jails. The accused population fluctuates based on a number of factors such as the number of arrests, bond setting and posting, and the court's schedule. Since accused offenders are not sentenced, they may remain in jail overnight until posting bond or, if bond is denied or cannot be posted, for years while their cases are adjudicated.

Out-of-state beds. One of the reasons for the recent reduction in the use of temporary beds has been the transfer of inmates to out-of-state prisons. The transfer freed almost 500 level 4 beds in-state, relieving the strain placed on the jails.

In 1995, DOC was given statutory authority to contract with an out-of-state, public or private correctional agency for the transfer and confinement of not more than 500 Connecticut inmates. The department entered into a one-year, renewable contract, in 1999, with the Virginia Department of Correction. DOC transferred 484 inmates to the Wallens Ridge prison, a maximum security facility in Virginia.

In July 2000, 110 Connecticut inmates were transferred from Wallens Ridge to the Greensville prison, a medium security facility, also in Virginia. The Greensville prison provides more programming and treatment services, and its lower security rating and open-campus design allows for less restrictions on the inmate population. As of August 2000, there were 321 inmates at Wallens Ridge.

Inmates were selected for transfer out-of-state based on criteria established by DOC. The group of level 4 and 5 inmates included those with: (1) multiple disciplinary infractions; (2) high security risk (or gang) classifications; and (3) convictions for violent offenses. Basically, the department transferred high security and problematic inmates. Inmates ineligible for transfer are those who have:

- less than one year to serve on their sentence;
- pending criminal or civil court proceedings;
- significant medical or mental health needs (i.e., HIV positive);
- an active educational plan and are under 21; and
- been placed in level 5 restrictive housing.

At both facilities, the Connecticut inmates are housed separately from inmates from Virginia and 11 other states. DOC has a full-time monitor at each facility to ensure compliance with the contract. Currently, the department has no plans to terminate the contract and return the inmates to Connecticut[2].

[2] A complaint is pending against the Department of Correction before the Commission on Human Rights and Opportunities (CHRO) regarding the transfer and treatment of the inmates in Wallens Ridge prison. CHRO has conducted preliminary hearings and is in the process of investigating the matter.

Cost of incarceration. Table II-2 shows the average daily cost of incarceration at each security level. The correction department calculates all costs directly associated with housing inmates such as meals, clothing, laundry, and personal items, and running the facility such as electricity, water, and heating. Health services for inmates and the department's administrative services are also included. The Department of Correction estimates it costs on average $71 system-wide per day for each inmate confined in a prison or jail.

Table II-2. Average Daily Cost of Incarceration (June 2000)		
Correctional Facilities	Total Average Daily Population	Average Daily Cost*
Level 5	960	$121.62
Level 4 Prison	3,037	$83.42
Level 4 Jail	3,358	$76.49
Level 3	4,814	$56.20
Level 2	3,077	$52.98
*Does not include fringe benefits, depreciation, or bond interest. Source of data. Department of Correction		

A more accurate analysis of the average daily cost to incarcerate an inmate includes the costs of fringe benefits for DOC staff, depreciation of prisons and jails, and the bond interest for building the facilities. When these costs are factored in, the average cost for each inmate rises to $95.82 per day[3].

The higher the security level, the more expensive it is to house an inmate. The facility design is more complex, and more staff are required to manage the population. Maximum security (level 5) is the most expensive at almost $122 per day for each inmate.

Minimum security facilities are the least expensive ($53 per day), but provide the most programming and treatment for inmates. The facilities are typically open-campus and, therefore, do not require the security and staff resources of a higher security level prison.

As shown, prisons and jails are both security level 4 facilities. The inmate cost is less for a jail because those facilities do not offer the programs, vocational and educational services, and treatment provided to sentenced inmates. They provide detention services for offenders awaiting release on bond and disposition of the charges against them.

Table II-2 does not include York/Niantic CI or Manson Youth Institution because those facilities house specialized populations covering a range of security levels. The average daily cost per inmate at York/Niantic, the state's only women's prison, is $96.95; it is $85.57 at Manson Youth Institution for inmates under 18. The average daily population is 1,225 at York and 667 at Manson YI. Both facilities emphasize educational, treatment, and other programs for the inmate populations.

[3] Analysis conducted by the General Assembly's Office of Fiscal Analysis.

Correctional facility planning. The Department of Correction has built new facilities or added new beds through expansion and renovation projects each year since 1989. However, less than five years after completing a prison expansion project that added 9,000 new prison beds at a cost of over $1 billion, the correction department is again attempting to build more new prisons. DOC requires an additional 1,600 high security beds to manage the current accused and sentenced inmate population.

The construction projects have been in response to an immediate need for beds due to increases in the inmate population. DOC is caught in a cycle of overcrowding. Prison projects, especially new construction, can take up to two to five years to complete. There is, therefore, a need for an accurate projection and analysis of the inmate and total offender populations to reduce the chance the system will be overwhelmed even before it has been completed.

The correction department and the Office of Policy and Management (OPM) do separate projections for the inmate population. Their current methods for projecting the growth of the inmate population has proved to be inaccurate. Both agencies track the trend by calculating growth based only on past increases. They do not calculate other factors that impact the inmate population such as the trends in the population within their crime-prone years, arrest and prosecution rates, and sentence lengths and the percentage served by inmates, or other influences such as policy changes, increases or decreases in funding or resources, sentencing and early release practices, and capacity of community-based supervision and treatment programs.

In 2000, the General Assembly appropriated $25 million to DOC for prison expansion -- the department had requested $50 million. DOC reports it has a need for about 1,600 more level 4 beds and has out-grown the existing jails. It is proposing building new or expanding existing facilities.

The department has contacted municipalities in the state to gauge interest in hosting a prison project. Formalization of construction, expansion, or renovation plans will be based on the willingness of towns to allow the project and local zoning laws and restrictions, environmental impacts, and other construction concerns. DOC anticipated finalizing the selection of a site by the end of 2000, but it has not yet received legislative bond authorization for construction.

The correction department estimated the cost of conventional construction of a level 4 security at $125,000 per bed. Given that estimate and the department's need for 1,6000 beds, the construction costs alone would amount to about $200 million, which does not include design and siting costs, bond interest, or operational or staffing costs.

DOC has explored building a facility using a non-conventional construction system of modular metal cell units. A typical structure consists of two housing units with 80 double cells per unit -- for a total of 320 beds -- and administrative and support service areas. The estimated construction costs for each building is $9 million, which is about $56,250 per cell or $28,125 per bed. Under this system, the department could build the needed 1,600 beds for approximately $45 million. Again, this cost estimate does not include any other design process or zoning costs, land purchase, bond interest, or operational or staffing costs.

Under any type of construction design, the department must resolve the siting issue. Many communities are reluctant or opposed to allowing a prison to be built and some towns that already host a prison do not want an expansion. If emergency authorization is provided by the legislature to allow the department to bypass certain building requirements (e.g., environmental impact evaluation), it estimates the facilities can be quickly constructed once a site has been approved and/or purchased.

Community-based Resources for Offender Population

Community-based capacity is determined by the number of residential program and treatment beds and the number of client openings (called "slots") at non-residential programs. Typically, more than one offender can be serviced by a single non-residential slot, which is a more flexible option than a residential bed that can only be used by one person for a specified period of time.

The Department of Correction, the Board of Parole, and the judicial branch contract for community-based resources. Table II-3 is a breakdown of the residential beds and nonresidential slots for two types of programs: (1) treatment for substance abuse, mental health, and sex offenders; and (2) work release and other service programs such as counseling, supervision and monitoring, education, out-patient treatment, employment assistance, educational and vocational training, and referral services.

The Department of Correction places inmates on transitional supervision, community release, and re-entry furloughs in community-based programs. The department currently contracts with 38 halfway houses throughout the state for a total of 743 beds -- 604 beds for male inmates and 139 for females.

Table II-3. Capacity of Community-Based Programs for Accused & Sentenced Offenders

	Residential Beds		Non-Residential Slots	
Agency	Treatment	Work Release & Other Services	Treatment	Work Release & Other Services
Department of Correction	192	551	235	331
Judicial Branch	290	137	2,400	1,835
(Board of Parole*)	(72)	(50)	(240)	(250)
TOTAL BEDS/SLOTS	482	688	2,635	2,166

*Board of Parole contracts with the judicial branch for access to program beds and slots. The number of beds and slots reserved for parole use are indicated by parentheses, but they are included in the judicial branch totals.

Source of data: Department of Correction, Board of Parole, and judicial branch.

The bulk of the community-based resources, however, are contracted for and administered by the judicial branch, which originally developed the network of alternative sanction programs for the court as a sentencing option for offenders who would otherwise have

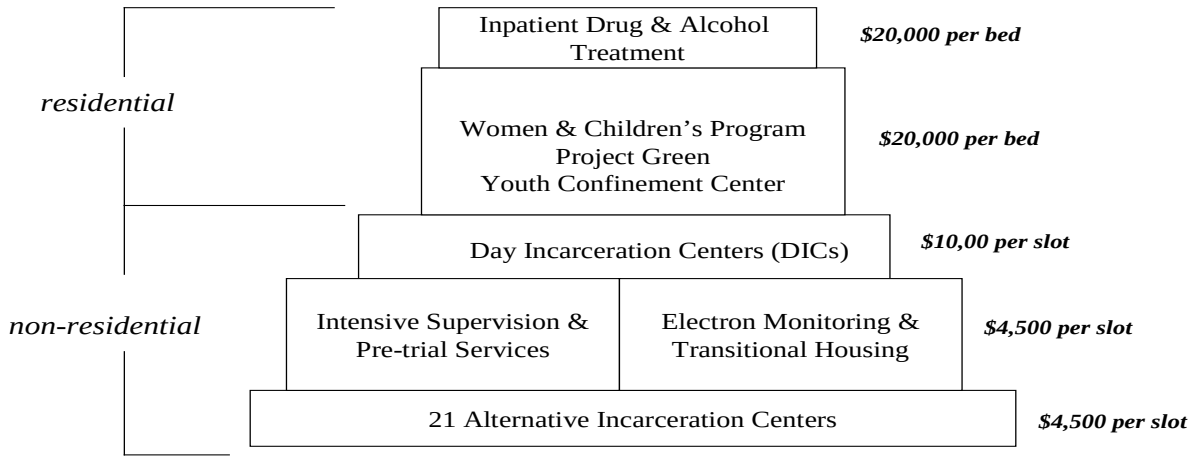
been sent to prison. Both accused and sentenced offenders are ordered into the programs by the court as a condition of bond, as a diversionary option in lieu of criminal prosecution, or as part of a sentence. The parole board also uses the programs for its parolees, and contracts with the judicial branch for access to a specific number of program beds and slots.

Figure II-2 shows the hierarchy of the alternative sanction programs. The bulk of the program slots are for nonresidential, day programs that provide a wide range of services from monitoring, supervision, and drug testing to counseling, training, and referral services. There are fewer specialized residential programs, which primarily offer substance abuse evaluations, detoxification, and treatment or work release programs.

The number of program beds and slots reflect only the capacity funded by the state. It is important to note that most offenders released to the community return to their homes or sponsors and not a state-funded bed, and many do not participate in a program or treatment. Instead, they are monitored by bail, probation, or parole staff for compliance with court-ordered restrictions on their behavior.

The cost per community-based residential bed or nonresidential program slot ranges from $4,500 to $20,000. These amounts reflect the cost of a program or service, rather than a daily participation cost. The less intensive programs such as alternative incarceration centers offer a wide range of services for a fee.

Figure II-2. Hierarchy of Alternative Sanction Programs



CHAPTER THREE

Offender Population and Sentencing Trends

The incarcerated offender population in Connecticut has steadily and substantially grown. From 1985 to 2000, the average daily prison population rose from 5,813 to 17,466, an increase of 200 percent. Throughout most of the past 15 years, the prison system has routinely operated at or over capacity.

The total offender population supervised in the community (i.e., probation, parole, and DOC community release programs) has grown comparably. Currently, there are about 58,000 offenders on probation, almost 1,600 on parole, and another 1,300 in the community under DOC supervision (i.e., transitional supervision, furlough, and halfway house release). Added to that are the thousands of accused offenders in the community on bond awaiting disposition of criminal charges, sentencing, or an appeal.

The program review committee staff obtained data from criminal justice agencies and the judicial branch regarding criminal convictions and prison sentences. Crime rates in the state were examined. Caseload information from the agencies providing custody or supervision services was also reviewed. This section presents an analysis of the incarcerated and community supervised criminal offender population and prison sentencing trends in Connecticut.

Crime Rates

In Connecticut, the crime rate for major crimes has dropped significantly -- showing a decrease each year since 1990. Major crimes include the violent offenses of murder, manslaughter, sexual assault, and robbery, and the property crimes of burglary, larceny, and motor vehicle theft. The analysis presented below is based on reported crimes, and not all crimes are reported to the police.

Figure III-1. Rates of Reported Crime

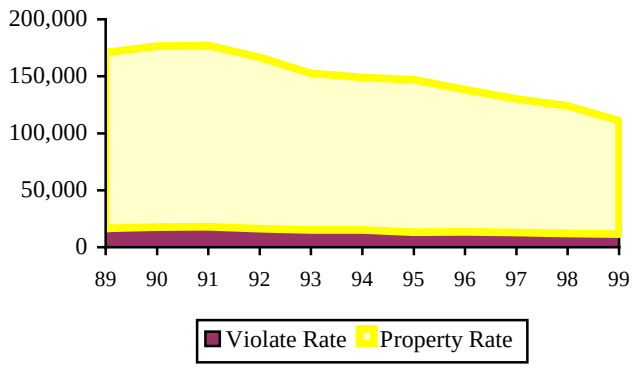


Figure III-1 shows the trend in reported index crimes, which are the offenses tracked by the federal and state governments for the annual Uniform Crime Report. The index crimes are categorized as violent and property crimes. Drug crimes are not included as part of the

index crime rate.

Overall, the rate of reported index crimes dropped 37 percent since 1989. The reduction is primarily driven by a decrease in reported property crimes, which declined from a high of 159,160 offenses in 1991 to 99,658 in 1999. The crime rate for reported violent crimes has not shown as dramatic a decrease as property crimes. Violent crimes, however, have similarly decreased 37 percent from 17,853 in 1991 to 11,380 in 1999.

Since not all reported crimes lead to an arrest, the number of persons arrested is a more accurate measure of the potential pool of inmates who may be transferred to the custody of the Department of Correction. A person can be arrested more than once during a year and over the 10-year period under analysis. Each arrest is counted separately.

Figure III-2. Number of Persons Arrested

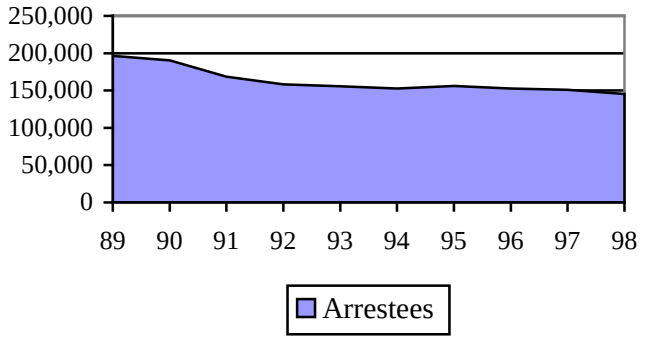


Figure III-2 tracks the number of persons 18 and older arrested for all types of crimes, including violent, property, and drug offenses. The number of arrestees decreased during the past decade. In 1990, 190,413 arrests were made. The total dropped to 145,521 in 1998 -- a decrease of 24 percent. (The data for the number of persons arrested in 1999 are not yet available.)

It is important to note the decrease in both the crime and arrest rates began five years before the prison expansion project was completed and the "truth in sentencing" initiatives were adopted. This trend supports the conclusion the reduction in crime is caused by several factors, which will be discussed in Chapter 5, and not simply the result of adding more prison beds or increasing the time served in prison.

Criminal Offender Population

Total offender population. Figure III-3 tracks the trend in the total Connecticut offender population from 1989 through 1999. The totals represent the average yearly prison population (pre-trial and sentenced offenders) and the caseloads for DOC community release programs, parole, and probation. The prison population and probation caseloads continuously climbed over the past 12 years. DOC community release caseloads decreased after the department's supervised home release program was abolished and parole supervision was transferred to the Board of Parole in 1993. After 1993, parole caseloads increased, but have not risen to the number of offenders in the community on supervised home release.

Currently, almost 19,000 offenders are under the supervision of DOC in prison or in the community. The total supervised population dipped in 1995 after new beds were added during

the prison expansion project, but began to increase as those beds were filled. The most recent increase came after the 1995 "truth in sentencing" reforms took effect.

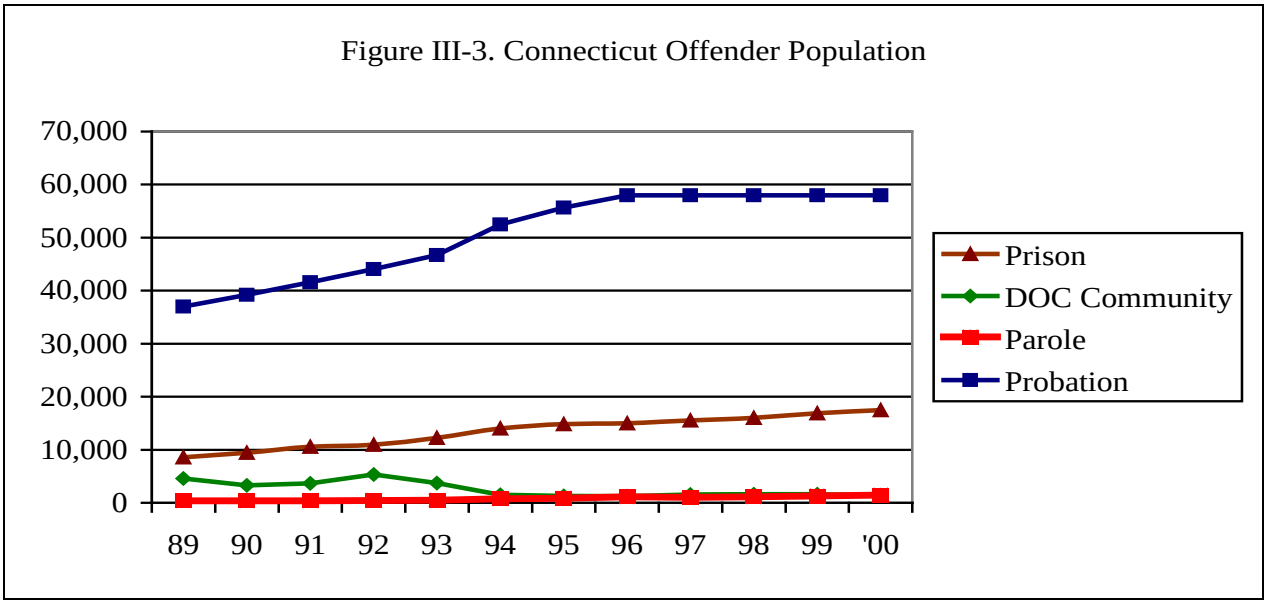
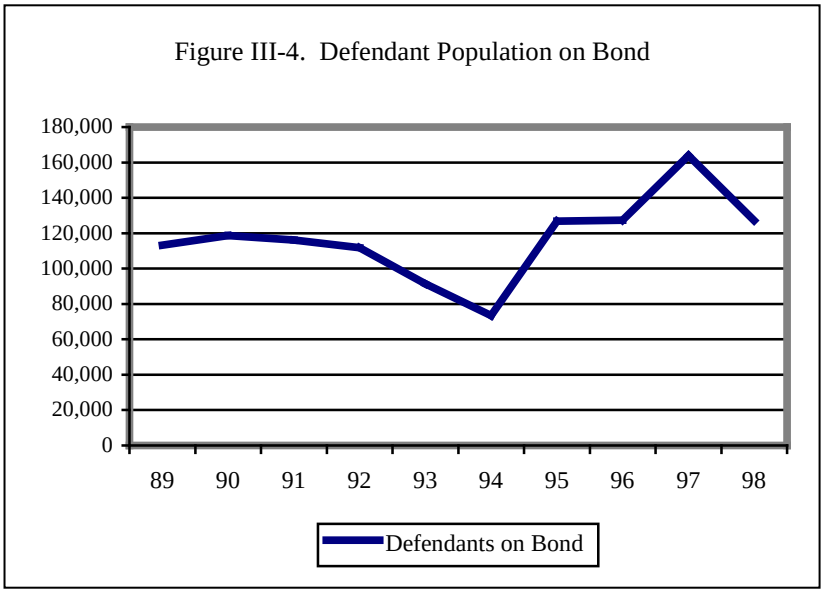


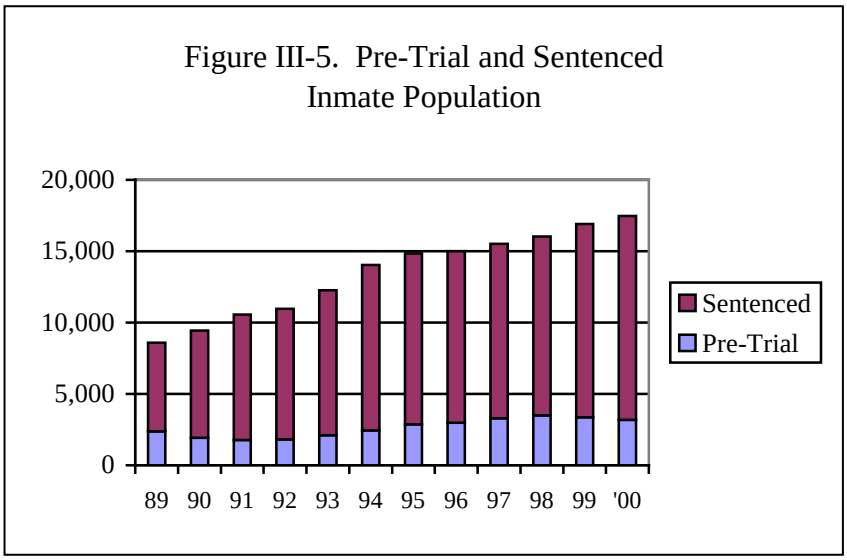
Figure III-4 tracks the trend in the number of defendants (or accused offenders) released from custody on bond by state or local police at the time of arrest, the bail commission prior to arraignment, or the court at arraignment. A defendant may be counted more than once in a year or over a span of years since he or she can be arrested more than once. For each arrest, a defendant can post bond if he or she is eligible.



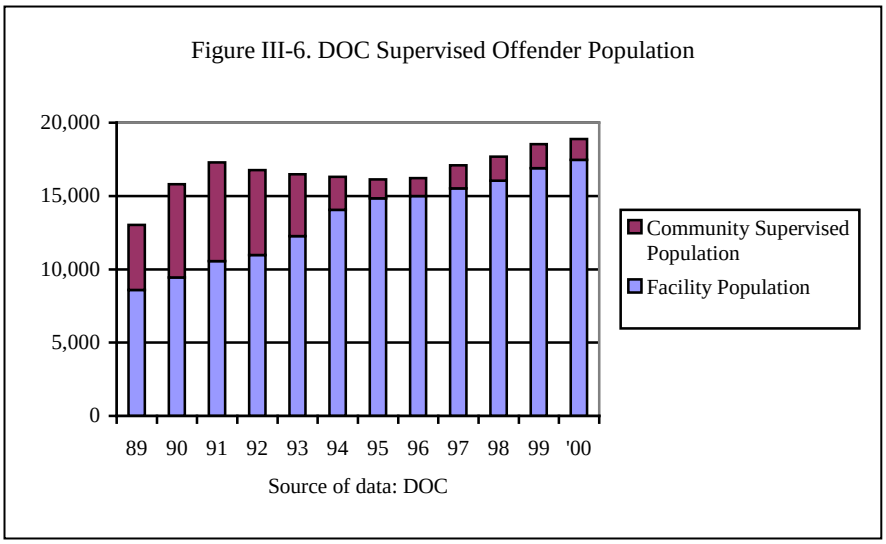
It is important to track the number of defendants released on bond because they have potential to impact the prison population. A defendant who has posted bail can be returned to custody for a violation of bond conditions, failure to appear in court, committing a new crime, or if convicted and given a prison sentence. This population is the pool from which the prison population is ultimately drawn.

The number of people released from custody on bond bottomed out in 1994. Interestingly that is the year the prison expansion project was completed, which added many new beds to the prison system.

Then number of defendants on bond increased until 1998, when it decreased 20 percent to about 130,000 from a high of over 160,000. (Statistics for 1999 have not been released yet by the judicial branch.)



Incarcerated population. The Department of Correction operates a unified system that houses accused defendants awaiting adjudication who could not post bond, are ineligible for bond, forfeited bond by failing to appear in court, and sentenced offenders. Figure III-5 shows the breakdown between the pre-trial and sentenced population in prison or jail. The total incarcerated population increased, but as a percentage the pre-trial population remained stable. In each of the past 12 years, approximately 20 percent of the prison and jail population was in pre-trial status.



Community supervision population. Figure III-6 shows the breakdown between the incarcerated inmate population and the inmates supervised under a community release program. Since the early 1990s, the number of inmates transferred from prison to an early release, community supervision program has dramatically decreased from a high of almost 7,000 inmates in 1991 to less than 1,500 in 2000. This 79 percent decrease in the community supervision population is a major cause of the rising prison and jail population.

There are two factors impacting this shift in the population. First, the Department of Correction undertook a major prison expansion project in the early 1990s, which added almost 9,000 new beds. This allowed more offenders to be incarcerated and accounts for much of the population increase through 1995. The available bed space reduced the need for and reliance on early release programs. Since 1995, the department has not significantly increased its prison bed capacity and is currently experiencing overcrowding at the jails.

Second, the 1995 "truth in sentencing" reform increased time-served standards that make offenders eligible for early release options, narrowed community release eligibility, and eliminated "good time." The policies require inmates to serve more time in prison prior to release and have also made more inmates ineligible for release because of the type of offenses they were convicted of or prior poor performance or failure on community release. Conservative release practices of both DOC and the parole board have also contributed to the decrease in inmates being released to the community.

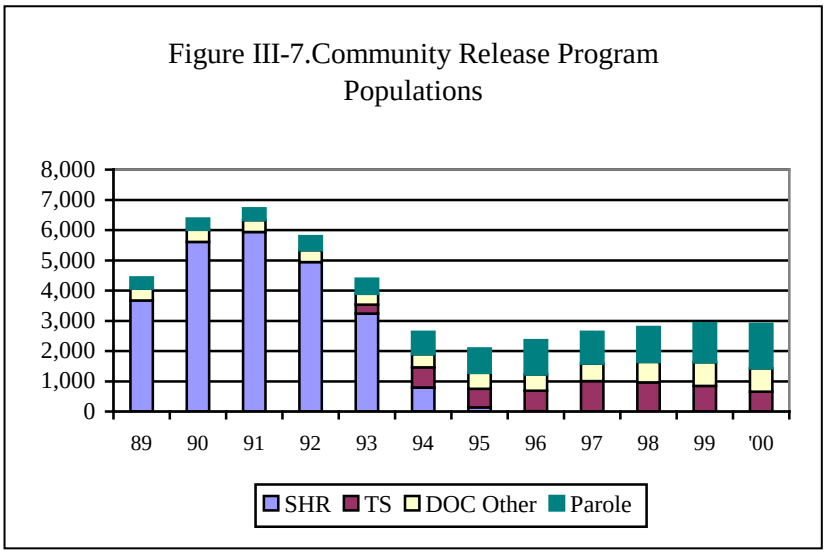


Figure III-7 breaks down the department's use of community release programs -- supervised home release, transitional supervision, parole, and furloughs and halfway house placements. It also tracks the decline in the overall use of community release options.

The parole totals only include Connecticut inmates released from prison and supervised in- or out-of-state. Out-of-state inmates supervised in Connecticut are not included because they do not impact the Connecticut prison population. If the parole of an out-of-state inmate is revoked, he or she returns to the state correctional system from which he or she was paroled.

It is important to note that in 1993, parole supervision responsibility was transferred from DOC to the Board of Parole. The board now has the authority to release an inmate from prison to parole and to return him or her to prison for a parole violation. The Department of Correction, however, is responsible for incarcerating those remanded parolees.

After hitting an all time low of about 2,000 inmates in 1995 -- the year of the "truth in sentencing" reforms -- early releases increased and then stabilized over the past four years. Currently, there are less than 3,000 inmates released from prison under TS, parole, furloughs, or halfway house programs.

As shown in Figure III-7, SHR was the primary early release mechanism until it was statutorily eliminated. The decrease in its use in 1992, 1993, and 1994 tracks the required phase-out of the program. Parole and TS then became the main early release options, however, these programs have not released as many inmates as SHR, which hit an all-time high of almost 6,000 inmates in 1992. DOC's use of furloughs and halfway houses increased slightly primarily as a result of added community-based beds and resources.

Crimes

The program review committee staff analyzed offense data for inmates sentenced to prison from the Department of Correction from January 1992 through July 2000. An inmate may be convicted of more than one offense for each admission to prison. It is not known from the data, however, the total number of offenses per admission. DOC provided the primary offense for each admission -- in most cases the most serious crime for which the inmate was convicted. For the purpose of this analysis, the specific offenses were grouped into six categories:

- **drug**: sale, possession, and manufacturing of paraphernalia, narcotic, hallucinogenic, and other illegal drugs and substances;
- **property**: larceny, burglary, forgery, and criminal trespass;
- **violent**: murder, manslaughter, arson, assault, sexual assault, kidnapping, robbery, and any conviction of the persistent offender statutes;
- **motor vehicle** (MV): driving under the influence of alcohol or drugs, driving with a suspended license, and any other motor vehicle offense;
- **violation of probation** (VOP): violation of probation[1], escape, and failure to appear in court; and
- **other:** possession or carrying weapon, risk of injury, prostitution, bribery, stalking, harassment, disorderly conduct, inciting or participating in a riot at a correctional facility, criminal liability, conspiracy, or criminal attempt to commit a crime, or any other offense.

An admission represents an individual inmate placed in the custody of DOC as a sentence. However, an inmate can be admitted more than once during a year or during the nine year period. Therefore, the number of admissions, not inmates, are counted.

Figure III-8 represents the percentage of admissions to DOC under each crime category for 1992 through 1999. Overall, the breakdown between the crime categories for which offenders are convicted and sentenced to prison has not changed significantly during the past eight years. Violation of probation, which also includes escapes and failure to appear in court convictions, represents the highest percentage (about one quarter each year) of admissions. Drug and property crimes are the next most frequent types, at about 18 percent of the total admissions

[1] A violation of probation conviction means an offender was originally convicted of a crime and sentenced to a period of probation either in lieu of a prison term or to be served after a prison term. During the period of probation supervision, the offender violated a court-ordered condition of release or committed another crime and was convicted and ordered to complete the original sentence or received a new sentence.

to DOC. The remaining crime categories, including violent crimes, account for about 12 percent each.

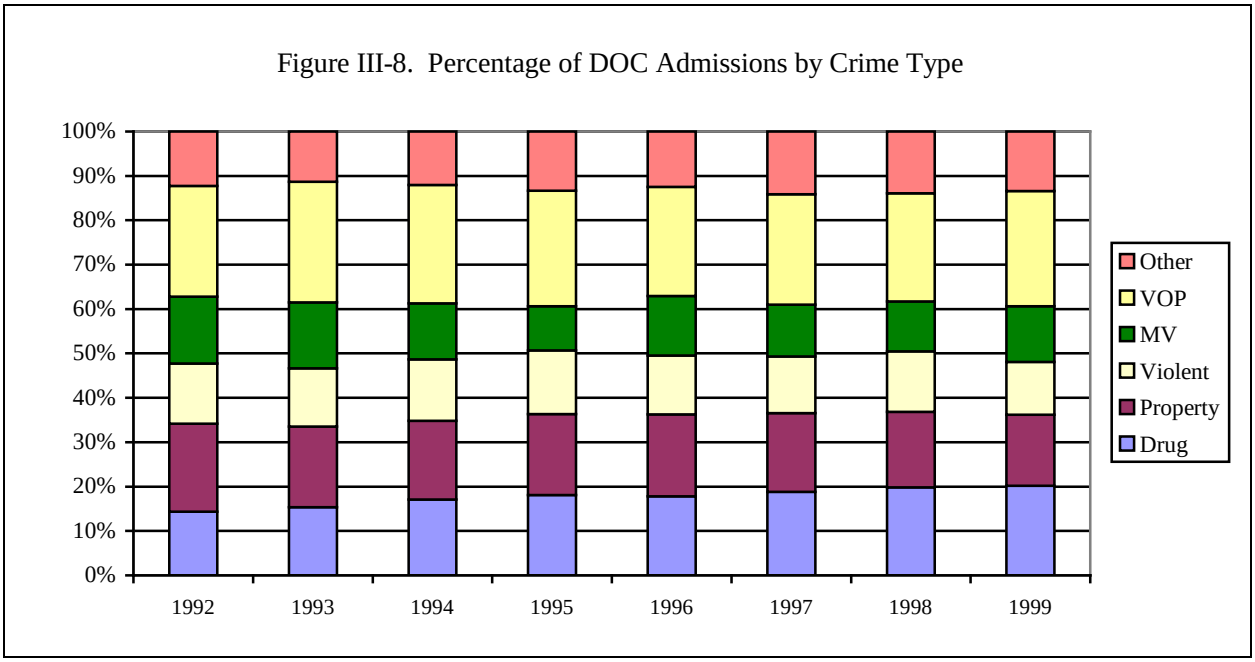
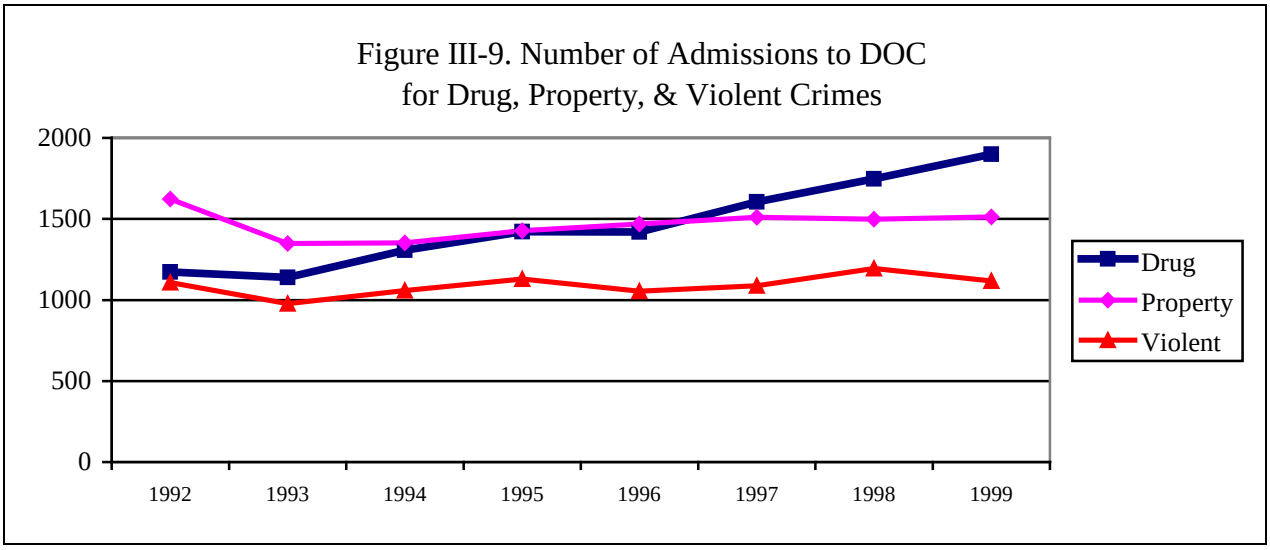


Figure III-9 shows the trend in the number of admissions to the department for convictions for drug, property, and violent crimes. The trend in the number of offenders convicted and sentenced to prison for drug offenses shows a consistent increase over the eight-year period. The trends in admissions for property and violent crime both decreased between 1992 and 1993, but have since remained stable. Any increases in the numbers have not been significant, especially when compared to the rise in admissions to DOC for drug crimes.



Criminal Sentencing Trends

The following analysis examines trends in the length of court-imposed sentences. The differences in sentence lengths between inmates admitted to DOC before and after the 1995 "truth in sentencing" reform were also compared.

Table III-1 shows the length of court-imposed sentences for all convicted offenders admitted to DOC during the past eight years. As discussed in Chapter 1, the court orders several types of sentences. This analysis focuses only on those given a sentence to prison -- requiring the offender be admitted to DOC for a fixed period of time.

Table III-1. Length of Court-Imposes Sentences for DOC Admissions. 1992-1999

Length of Sentence	Number of Admissions	Percentage of Total
1 year or less	47,370	47%
1+ year up to 3 years	22,944	23%
3+ years up to 5 years	14,007	14%
5+ years up to 10 years	12,183	12%
10+ years	4,872	5%
TOTAL ADMISSIONS*	101,376	

*Admissions for sentenced offenders only; does not include pre-trial.

Source of Data: DOC

Almost 70 percent of all admissions have been sentenced to three years or less, with most of those (47 percent) for one year or less. Five percent of admissions were for sentences greater than 10 years.

The program review committee staff reviewed the sentencing data to determine any trends or changes in the length of court-imposed sentences before and after the 1995 "truth in sentencing" reform and the completion of the prison expansion project in 1994. The two time periods under analysis include 1992 through 1995 and 1996 through 1999; each a four-year period.

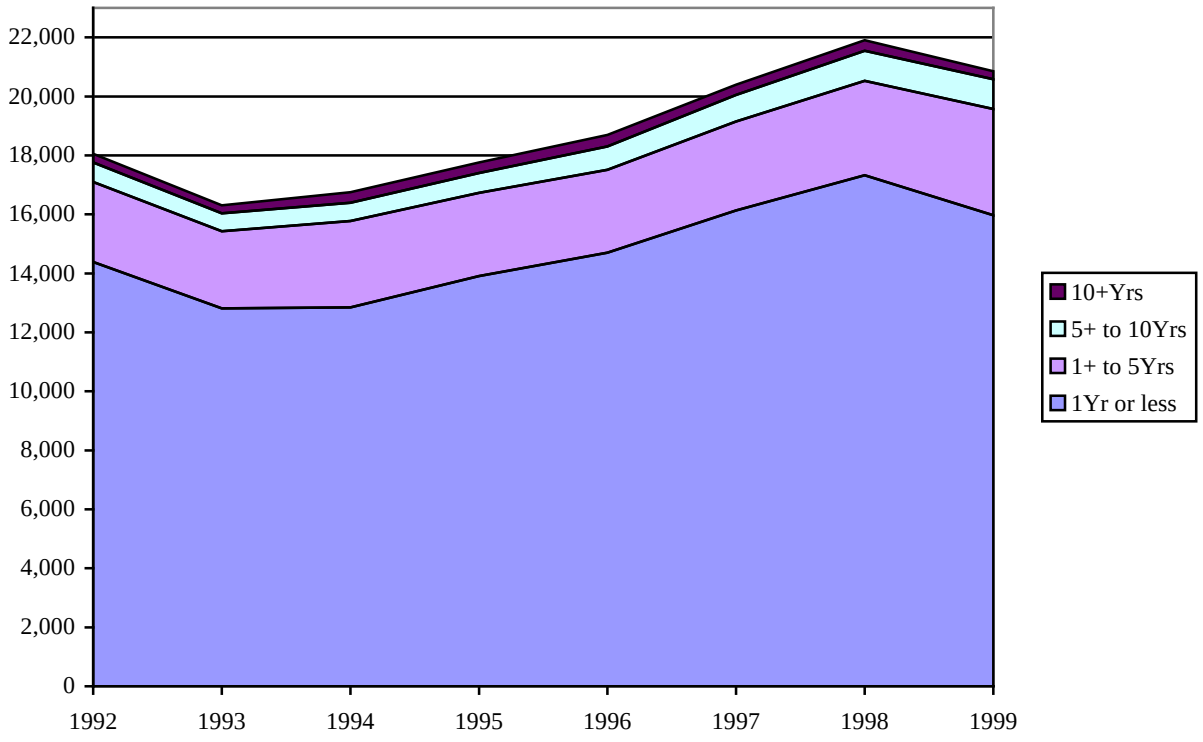
For the purposes of the analysis, prison terms imposed by the court were categorized by length. The four categories were: (1) one year or less; (2) greater than a year up to five years; (3) greater than five years up to 10 years; and (4) more than 10 years, which includes life sentences and death penalties.

Figure III-10 tracks the average sentence length for convicted offenders admitted to DOC for each year from 1992 through 1999. The proportion of admissions under a sentence of one year or less dominates the total, representing over three-quarters of the admissions in each year. The next largest proportion of admissions is for sentences greater then a year up to five years -- about 15 percent of the total. The graphic shows the total number of admissions decreases as the sentence lengths get longer.

The graphic also shows the total number of admissions bottomed out in 1993 and steadily increased through 1998. Admissions slightly decreased (5 percent) in 1999.

The greatest increase in sentence length (50 percent) was in sentences of more than five years up to 10 years, which grew from 671 in 1992 to 1,011 in 1999. Admissions under a sentence of more than one year up to five years increased 33 percent (2,705 in 1992 to 3,601 in 1999). Most recently, admissions under a sentence of one year or less decreased 8 percent from a high of 17,326 in 1998 to 15,969 in 1999.

Figure III-10. Trend in Sentence Lengths for DOC Admissions



A comparison of the total number of admissions for all sentence categories before and after the 1995 sentencing reform shows almost a 20 percent increase after "truth in sentencing" was enacted (1996 through 1999). Admissions for shorter prison terms (five years or less) increased 32 percent and longer terms (greater than five years) increased 18 percent after the 1995 sentence reform.

However, the percentage breakdown for each sentence category shows no major change in the prison terms imposed by the court over the past eight years. The most notable differences are the percentage of admissions under a sentence of more than one year up to five years, which

increased from 14 percent in 1992 to over 17 percent of the total in 1999. This trend suggests the court has not significantly changed its sentencing practices in imposing prison terms.

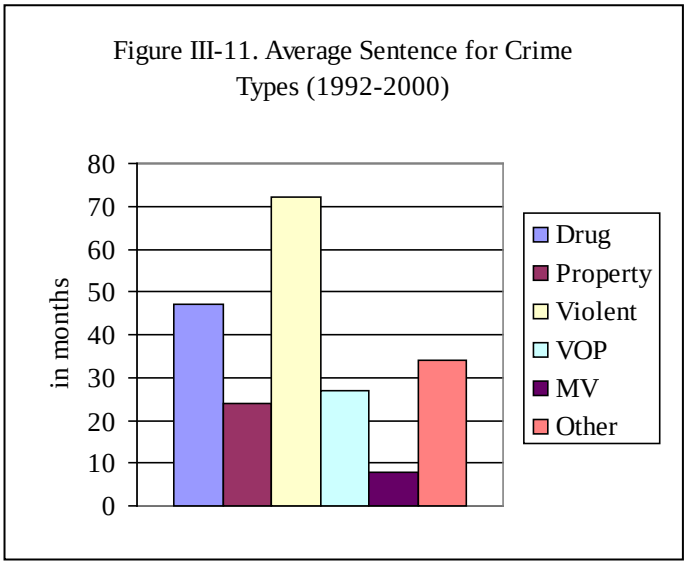


Figure III-11 shows the average sentence imposed (in months) for each of the crime categories analyzed. As expected, violent crimes received the longest prison sentences -- 72 months or six years. The average sentence for drug offenses was 47 months (almost four years). Property crimes received an average sentence of 24 months and motor vehicle offenses eight months. The average court-imposed sentence for a violation of probation, which also includes failure to appear in court, was 27 months; all other crimes averaged 34 months.

Figure III-12 tracks the average sentence (in months) for drug, property, and violent crimes over an eight-year period. The average sentence for a violent crime peaked in 1994 at 86 months. The average sentence length has since been decreasing -- to 78 months in 1996 and 56 months in 1999.

Sentences for drug crimes decreased during the early- to mid-1990s, but rose in 1997 and 1998. For the past two years, the average sentence imposed by the court remained at about 46 months. From 1992 through 1999, the sentence for property crimes has not shown any significant change -- averaging almost 24 months.

Figure III-13 tracks the average sentence (in months) for a violation of probation, motor vehicle, and other types of offenses. The average prison term for a violation of probation steadily increased each year from 19 months in 1992 to 33 months in 1998, and has since leveled off at around 31 months. From 1992 to 1998, motor vehicle crimes generally received six to seven month sentences, except during 1995 when the sentence length rose to 11 months and dropped back in 1996. In 1999, sentence length grew to 9 months, and through the first half of 2000, it is 12 months. The increased sentence length correlates to sentencing changes in state law regarding motor vehicle offenses for driving while under the influence of alcohol or drugs.

The range of crimes included in the other category varies year-to-year. Based on the DOC database, however, Figure III-13 shows the average sentence for all other types of crime reached a high of 41 months in 1994 and has consistently decreased over the past six years. In 2000, the average sentence is 23 months

Figure III-12. Average Sentence for Drug, Property, & Violent Crime

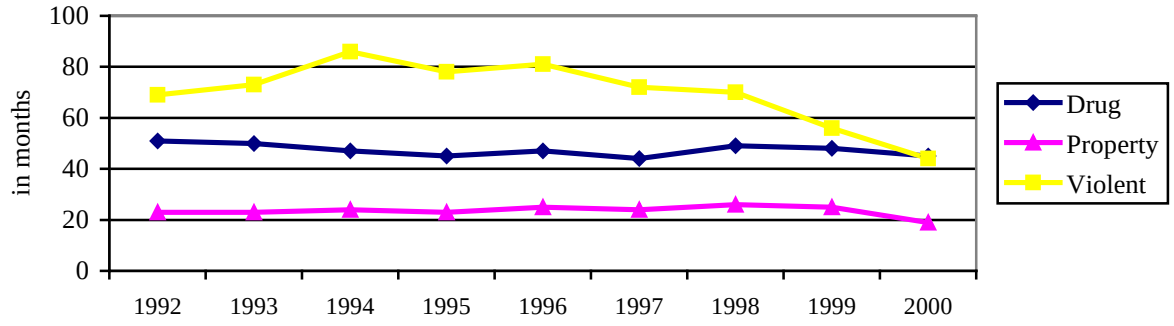


Figure III-13. Average Sentence for VOP, MV, & Other Crimes

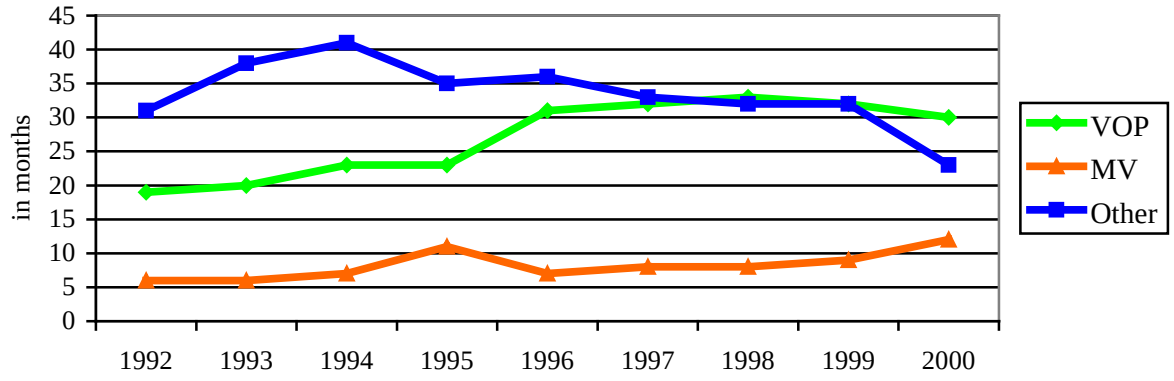


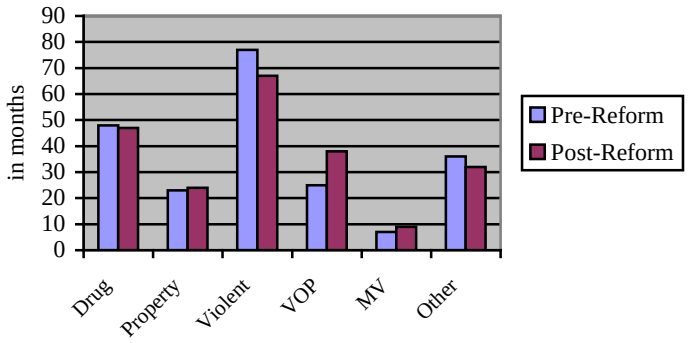
Figure III-14 shows the average sentence for each type of crime before and after the 1995 "truth in sentencing" reform. The average sentences for property, motor vehicle, and violation of probation offenses have gotten longer. Violation of probation sentences have had the largest increase (almost 50 percent). Sentences for drug crimes have not significantly changed -- decreasing from 48 months prior to the reform to 47 months.

Prison sentences for violent and all other crimes have also gotten shorter. The average sentence for a violent crime, which includes murder, manslaughter, sexual assault, kidnapping, robbery, and arson has decreased 15 percent from 77 months (or slightly more than 6 years) during the period before sentencing reform to 67 months (or almost five and a half years) in the period after sentencing reform. For all other crimes such as possession or carrying a weapon, risk of injury, stalking, rioting, disorderly conduct, prostitution, criminal liability, conspiracy,

and criminal attempt, the average prison sentence has decreased 13 percent from 36 months to 32 months.

Overall, the average sentence for all types of crime has not changed between the two periods under analysis -- before and after the 1995 sentencing reform. The average sentence has remained at about 15 months. However, a slight increase in the sentence length multiplied by the thousands of offenders sent to prison results in a sizable increase in the DOC population. The impact becomes even greater when the time-served standards are factored in -- inmates must serve a larger portion of their sentence in prison.

Figure III-14. Average Sentences Before and After 1995 "Truth in Sentencing" Reform



CHAPTER FOUR

Causes of Prison Overcrowding

Prison overcrowding is not a new problem in Connecticut. It is an issue that has consistently confronted the criminal justice system and the General Assembly since 1981. But, Connecticut has yet to find long-term solutions to managing the increasing inmate population within existing prison and jail resources.

The prison system has experienced some relief throughout the past 20 years from the addition of thousands of new beds and new and increased community correction resources. It has also operated in a crisis mode -- for several years during the early 1990s, DOC operated over 110 percent capacity.

Most of the causes of prison overcrowding occur outside the administration and jurisdiction of the Department of Correction. Indeed, the factors causing a crime that results in a prison term range from a lack of education or employment opportunities, family and social pressures, and poverty to drug and alcohol use and abuse, exposure to others involved in criminal activity, and mental illness. These complex issues and problems cannot be addressed by a single state agency. DOC, however, takes over when there are no other social service or criminal justice options to manage the offender in the community, and punishment and public safety become the overriding objectives.

The availability of comprehensive offender data from the Department of Correction, Board of Parole, and judicial branch allowed the program review committee staff to complete the analysis that identified the factors contributing to and impacting prison overcrowding. These factors are described below.

Factors Impacting Prison Overcrowding

First, since 1981, the number of offenders in prison or jail continues to increase despite decreases in both crime rates and the number of persons arrested. The growth in the inmate population can be attributed to several factors:

- the “war on drugs;”
- increased federal and state funding for policing;
- the increased role of victims and victim advocacy groups in the court process;
- added bed capacity in the correctional system;
- recidivism by the offender population;
- the high rate of offenders returned to prison for failing to successfully participate in or complete community

supervision (i.e., probation, parole, supervised home release, transitional supervision, furlough, and community release program);

- harsher penalties for certain types of offenses such as drunk driving and crimes involving guns or physical or sexual violence;
- narrowed eligibility for community release or alternative sanction options; and
- the aggressive approach taken by criminal justice agencies and the court in implementing the "tough on crime" policies enacted by the General Assembly.

Second, convicted inmates are remaining incarcerated for a greater portion of their court-imposed prison sentence. There are three primary reasons for this trend. First, the shift from indeterminate to determinate sentencing in 1981 caused the average minimum prison terms, especially for low level and non-violent offenses, to increase. Criminal justice administrators and policymakers had projected prison terms would eventually moderate. They expected the courts would find a fair and equitable average sentence for each type of crime that balanced the state's need to punish and rehabilitate with the victim and the public's demand for retribution. This did not occur in Connecticut, and the average sentence lengths remained higher than expected and sentences for certain crimes (i.e., drunk driving, drugs, property, and violation of probation) have continued to increase. Even a slight increase in sentence lengths has an impact on the incarcerated population.

Second, "good time" was reduced and then eliminated for offenders sentenced on or after October 1994. The Department of Correction has no control over the number of inmates admitted by the court or returned by the parole board -- its "front door" is controlled by other agencies. Without the authority to grant "good time" credits, it lost its ability to balance the population by controlling its "back door" -- reducing sentence length to discharge inmates.

Finally, the 1995 "truth in sentencing" reform instituted time-served standards that required inmates to serve a greater percentage of their sentence in prison. As discussed earlier in the report, convicted offenders must serve 100 percent of their sentence in prison or under supervision by DOC or the parole board in the community. To be eligible for early release (i.e., transitional supervision or parole), an inmate must serve at least 50 percent of their sentence or 85 percent if convicted of a serious, violent offense.

The Department of Correction is just beginning to experience the cumulative effect of these changes in sentencing. The full impact was delayed for two to three years because of the increased length of sentences imposed by the court and larger percentage of time served before early release or discharge due to the statutory requirements.

Third, the "tough on crime" policy has allowed the criminal justice system to narrow its use of discretion and take a more conservative and less controversial approach toward punishing convicted offenders. The General Assembly, the public, and the media have increasingly supported a more punitive response to convicted offenders. "Tough on crime" attitudes have forced a change in criminal justice practices. Politically, this narrow focus on

punishment has made alternative sanctions and community-based supervision less appealing options for the court, DOC, and the parole board.

The "tough on crime" and "truth in sentencing" policies only work as intended if there are prison beds always available to house inmates with long prison terms and offenders who violate a community supervision program. The correction department has a limited number of prison beds that have not been effectively used to fully implement these policies. In part, the lack of beds is because of the dramatic drop in the use of community-based, early release programs.

The program review committee concludes, by establishing 50 and 85 percent time-served standards in state law, the legislature has defined the punishment portion of a prison term. Once an inmate has served the required percentage of time, the state's interest in punishing him or her has been served. The needs of the state and the criminal justice system must then shift from punishment to transitioning the inmate back to the community.

The stated goal of the "tough on crime" policy is to protect public safety. Public safety, however, can be achieved through means other than incarcerating offenders. Based on the analysis presented in Chapter 3, the majority of convicted offenders are sent to prison for five years or less. Given that, it appears public safety would best be served by the supervision of those inmates as they transition back into the community.

Fourth, the Department of Correction lacks both a sufficient number of beds to house the total inmate population and an adequate system of high security beds to manage its high-risk population. This is a result of poor planning and the decision to build dormitory rather than celled facilities during the prison expansion project, which was completed in 1994.

The department's building projects have been in response to an immediate need for beds. Building a prison can take up to five years, but DOC and the Office of Policy and Management can only accurately project out for population growth one or two years. In the past, any gains in beds has been offset by unanticipated and persistent increases in the inmate population.

For the past two years, the department has been operating at over 95 percent capacity; optimally it should operate at 90 percent capacity. To alleviate the overcrowding, DOC has transferred almost 500 inmates to out-of-state prisons and used temporary beds in its facilities.

The department's classification system, which is used to determine an inmate's security and programming needs, is compromised because there are not enough beds to support placement decisions. The placement or transfer of an inmate to a facility is, therefore, influenced by the availability or lack of a bed.

Fifth, the system is hampered by inaccurate population projections and the lack of a needs analysis of the total offender population, but in particular of the inmate population. The correction department cannot adequately plan for new facilities without an accurate projection of the total offender population. The current methods of projecting population growth and planning for new prison beds will not permit the department to build its way out of an overcrowding crisis.

Policy and sentencing changes and criminal justice funding decisions have also not been based on a comprehensive analysis of the offender population. This has resulted in conflicting policy directives, vague and contradictory sentencing laws, and community correction programs that have only been marginally successful in easing overcrowding and reducing recidivism. Shifts in policy and procedure or changes in funding for other state systems such as mental health and substance abuse services and welfare benefits impact the prison population. These changes have also not been factored into criminal justice planning.

CHAPTER FIVE

Options to Manage Growth in Prison Population

An analysis of Department of Correction, Board of Parole, and judicial branch (i.e., adult probation) data from 1992 to 1999, conducted by the program review committee concluded:

- most convicted offenders are not sent to prison;
- nearly all prison inmates return to their communities -- most of them in less than three years;
- most sentenced inmates have a substance abuse problem, but few receive treatment during their incarceration;
- community-based supervision, treatment, and rehabilitative programs are under-resourced and typically the first targets for de-funding;
- the violation rate while on probation and parole is high -- about 25 percent of inmates in prison were sentenced for a violation of probation, and almost 40 percent of paroled inmates are returned for either a technical violation or a new crime; and
- the inmate population is continuing to increase -- by 2005, DOC estimates the inmate population will increase by 4,000 inmates to about 22,000.

There are two basic options for inmate population growth management -- prison expansion and a comprehensive community corrections approach. This chapter provides a description of each model. The advantages and disadvantages of implementing each strategy and the key differences between them are discussed in detail below.

Strategies for Controlling Prison Overcrowding

Prison expansion model. The first -- and most obvious, but expensive -- option is to continue to build new prisons to accommodate any significant increase in the inmate population. This option has been, for the most part, the primary response to prison overcrowding in Connecticut for the past 20 years. As stated, the Department of Correction currently administers 17,600 prison beds in 20 facilities throughout the state and contracts for 500 out-of-state beds in two Virginia prisons.

Prisons are an integral part of the criminal justice system and along with the police are the most visible sign to the public of the state's response to crime.

Incarceration is the most punitive form of punishment (except for the death penalty) the state may impose for a crime. Prisons allow the state to incapacitate an offender so that he or she may not engage in criminal behavior for a specified period of time -- it takes them "off the street." Incarceration also serves as retribution for the criminal offense committed by taking away the convicted offender's liberty.

The prison expansion model, most commonly associated with the "tough on crime" approach, is in concept straightforward. It simply requires new prison beds be added whenever the growth in the inmate population exceeds existing capacity.

This model is a simple response to complex problem of crime, especially given the public's demand for harsher penalties. It is not, however, an effective or affordable solution to inmate population growth management or a long-term strategy to reduce crime or recidivism. Criminal justice administrators and researchers agree that a crime enforcement model focused exclusively on prisons as a corrections strategy will do little to reduce crime, and thereby protect the public.

The prison expansion model has been difficult to implement in that there has been an almost constant need for new prison beds because there has been little focus on ***why*** the inmate population is increasing. The model perpetuates continued growth in the inmate population. For example, the Department of Correction has typically operated at or over its existing capacity despite a steady increase in prison beds; at times, as much as 110 percent over capacity.

Community corrections model. The second option for managing prison overcrowding is a community-based sentencing and sanctions model, which requires Connecticut redefine and reinvest in those agencies and programs that provide community-based supervision, treatment, and rehabilitation of accused and sentenced offenders and alternative sentencing options to the court (i.e., bail, probation, alternative sanctions, parole, and DOC transitional supervision and re-entry furloughs). This model will be referred to throughout this report as "community corrections."

Community corrections is based on a system of graduated sanctions that includes diversionary options, alternative sentences, intermediate sanctions, and prisons, which are the most intensive and punitive sanction. Connecticut already has established the framework for this strategy. The existing community corrections model is administered by various criminal justice agencies, including the criminal courts, bail commission, adult probation, correction department, and parole board.

Enabling legislation passed in 1991 (P.A. 91-213), established the Office of Alternative Sanctions (OAS), within the judicial branch. OAS is responsible for creating and expanding a statewide continuum of programs to supplement the alternatives to incarceration already available within the criminal justice system (i.e., probation, accelerated rehabilitation, education programs, etc). A primary goal of the program was to divert the "jail-bound" offenders from prison into another type of sanction option.

Also in the early 1990s, parole was re-established and subsequently its discretionary release and supervision functions were consolidated under the Board of Parole. State law

authorizes a series of diversionary options for the court, and probation is a well-established criminal justice program. The judicial branch, parole board, and correction department contract with a statewide network of providers of community-based residential and non-residential services and programs.

Table V-1 provides a description of each type of sanction or sentencing option within the graduated system and provides examples of each. A sentence can be comprised of a single option or a combination of sanctions depending on the severity of the crime, the offender's criminal history, and service needs.

Table V-1. Description of Graduated Sanction Options

Option	Description	Examples
Diversionary Option	redirects pre-trial and sentenced offenders from prosecution and/or sentencing by dismissing criminal charges after successful completion of education, treatment, restitution or community service, and no further crime	family violence or dug education programs, accelerated rehabilitation, unconditional discharge, youthful offender status, community service labor program
Alternative Sentence	non-incarcerative option for pre-trial and sentenced "jail-bound" offenders that effects punishment, offers deterrence and restitution, provides rehabilitative services, and serves the interests of public safety through supervision, treatment, and community service	alternative to incarceration program, day incarceration program, Project Green, residential substance abuse treatment, probation
Intermediate Sanction	sentencing option for convicted offenders used as alternative to or in addition to incarceration that deprives offender of liberty, property, or both through supervision, mandatory treatment or services, restitution, residential requirements, and community service	intensive probation, parole, special parole, extended supervision parole
Incarceration	most punitive sanction that deprives accused and sentenced offenders of their liberty	prison or jail

Under this strategy, at the front-end of the criminal justice system, the decision is which offenders get sent to prison and which stay in the community. At the back-end of the system, it is which inmates remain in prison and which are released early. The supervision period -- either in lieu of or after prison -- is a critical component to achieving public safety. It should balance surveillance for misbehavior or criminal activity with treatment to impact the causes of crime (e.g., substance abuse, unemployment, homelessness, etc).

Connecticut, like most other states, has remained singularly focused in funding and public policy on the challenge of providing cells for the growing inmate population rather than

addressing crime and recidivism through alternatives to incarceration and diversionary sentencing policies and practices. The program review committee acknowledges a well-funded system of prisons and jails is necessary to achieve both the state's public safety and criminal justice goals. To be effective and efficient, however, the prison system must be only one component of the state's criminal justice response to crime.

Advantages and Disadvantages

Table V-2 outlines the advantages and disadvantages of each strategy for controlling prison overcrowding and reducing crime. There are some key pros and cons to each model, some that are unique to a single model, and some common to both.

The program review committee found fewer advantages than disadvantages to implementing the prison expansion strategy. For the most part, the advantages were symbolic. The disadvantages are more numerous, with most related to the state's allocation of resources. Moreover, it is a short-term approach for addressing prison overcrowding, not crime. Therefore, it does not offer a comprehensive public safety strategy.

The committee further found prison construction and especially renovation of existing facilities will always occur within any criminal justice strategy, but it should not be the first response to prison overcrowding.

The program review committee did find several real advantages to the adoption of the community corrections model. It not only provides a workable solution to managing inmate population growth, but offers a comprehensive strategy to reduce the incidence of crime and recidivism. It allows for punishment, rehabilitation, victim restitution, and public safety at a lower cost per offender than incarceration. Connecticut has the basic framework of a graduated sanctions system already in place.

The following is a discussion of the advantages and disadvantages of each model in terms of their implications for: public image; public safety; management of the offender population; rehabilitation and treatment opportunities; costs; and siting difficulties.

"Tough" versus "soft" on crime. An advantage of the prison expansion model is its inherent link to the "tough on crime" approach. Building new prisons and keeping them full is a visible sign criminals are off the streets and, therefore, the state has an aggressive crime policy. Because of this, it has generally been easy to garner legislative and general public support for this strategy.

Proponents point to the reduction in the state's crime rate as a result of sending more offenders to prison. Incarcerated persons cannot commit crimes. There is extensive research, however, that concludes the reduction in the crime rate is caused by several other factors, most notably changes in the population within their crime-prone years (16 to 24), the booming economy and good job markets, and the decrease in drug use, especially "crack" cocaine. Incarceration rates have been found to have only a minimal impact on crime.

Table V-2. Advantages and Disadvantages to Prison Overcrowding Strategies		
	Prison Expansion	**Community Corrections**
Advantages	Straightforward -- when number of inmates at or over existing capacity more beds added Political benefit to "tough on crime" image Costs spread out over many years Few "public" failures (i.e., escapes, riots)	Framework of model already exists in Connecticut Manages all accused and sentenced offenders in prison and community Provides range of sanctions Provides for public safety Proven effective at reducing crime and recidivism Lower total cost per offender
Disadvantages	Focuses on small percentage of offender population (i.e., those who are incarcerated) "Net widening" -- more low level, nonviolent offenders incarcerated if beds available Often fails to provide sufficient offender rehabilitation programs and treatment Short-term public safety strategy with negligible benefits for controlling crime Lag time for meeting prison bed space needs (i.e., long siting and construction process) Difficult to site a prison Most expensive option	Viewed as "soft on crime" "Failures" are more public Often first target for de-funding primarily due to its poor public image -- it is under-resourced, under-staffed, and yet responsible for three-quarters of the offender population Lacks a system advocate -- no single agency overseeing multi-agency approach Difficult to site community-based services and programs, especially for special populations (e.g., sex offenders, mentally ill offenders)
Estimated Costs	$35,000 per year per inmate ($96/day) $125,000 construction cost per prison bed	$4,000 per parolee per year (about $11/day) $833 per probationer per year (about $2/day) $20,000 per community-based residential bed per year $4,500-$10,000 per community-based nonresidential slot per year
Current Offender Population (as of June 2000)	17,466 inmates in-state 484 out-of-state	60,898 sentenced offenders in community 120,000 defendants on court-ordered bond

In comparison, the community correction model suffers from a poor public image. It has come to symbolize the leniency of the criminal justice system; or, in other words, the "soft on crime" approach. This option is typically viewed as letting inmates out of prison early or not sufficiently punishing them for their crimes. A disadvantage to the community corrections

model, therefore, is the lack of political support necessary to receive funding or be implemented as intended.

The "soft on crime" perception is contrary to 30 years of criminal justice research that concludes there is a punitive impact on offenders under community supervision. Community corrections typically:

- mandates treatment and counseling;
- restricts where an offender may reside or who he or she may associate with;
- imposes curfews and electronic monitoring;
- requires offenders to work, participate in an education program, or perform community service;
- ensures offenders meet family obligations and pay child support;
- collects and distributes victim or community restitution payments; and
- imposes sanctions such as a return to prison or electronic monitoring for failing to abide by conditions and rules.

The program review committee concludes the crime debate should not focus on whether a strategy is "tough" or "soft," but rather on the effectiveness and efficiency of a policy for reducing crime and recidivism. Under any crime policy, whether it is aggressive or lenient, serious violent offenders will most likely go to prison, even if the correctional system is at or over capacity. Having extra prison space, therefore, makes more difference in the sentencing of the non-violent and less serious offender who might be a better candidate for an alternative sentencing option; typically referred to as "net widening."

The impact of the "tough on crime" policy on sentencing becomes clear. As previously stated, the criminal justice system makes more conservative decisions and narrows its discretionary authority. As the system expands and more beds come on-line, the court may send certain offenders to prison rather then order alternative sanctions or treatment simply because prison beds are available. A consequence of increasing prison beds and an aggressive "tough on crime" policy is a disproportionate share of prison resources are invested on non-violent, low level offenders.

Figure V-1. Inmate Population by Crime, 1999

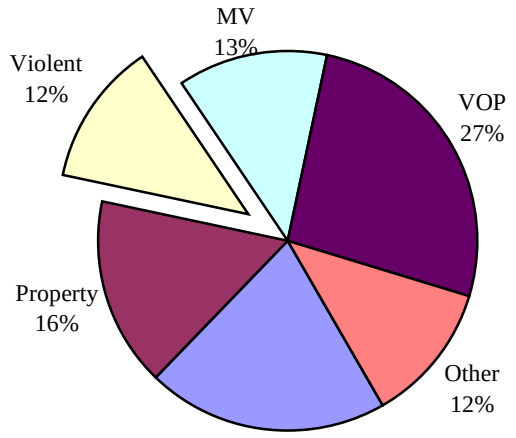


Figure V-1 breaks down the 1999 inmate population in terms of their primary offenses, which is the most serious crime for which an offender is convicted and

sentenced. Only 12 percent of the inmate population was convicted of a violent crime[1]. In fact, violation of probation offenses represent the largest percentage (27 percent) of inmate admissions.

Policymakers and criminal justice administrators have not yet recognized the importance of community supervision in terms of public safety and reducing crime and recidivism. Current public polling data on crime, however, indicate the public is more pragmatic about punishment options and less ideological than the current "tough on crime" political debate reflects[2]. The public appears willing to accept that punitive approaches (i.e., prison) alone won't work to reduce crime, and community-based supervision and treatment is necessary and effective at achieving these goals.

The program review committee, therefore, finds the General Assembly must redefine and reinvest in a comprehensive community corrections strategy to manage inmate population growth and reduce crime and recidivism.

The recommended model is based on a range or continuum of punishment options that provide graduated levels of supervision and harshness. Mandating this sentencing structure enables policy-makers and criminal justice administrators to maintain expensive prison cells to incapacitate violent and repeat criminals. At the same time, less restrictive, community-based treatment programs and restitution-focused sentences punish nonviolent and low level offenders, while holding them accountable for their actions and increasing their chances for rehabilitation. Ultimately, this model offers a comprehensive public safety strategy.

Public safety. The primary objective of the state's crime policy is to protect public safety, which can be achieved through means other than incarcerating criminals. Public safety is best served by a comprehensive system that provides incarceration for the most serious offender and supervision of offenders who are not incarcerated and inmates as they transition from prison back to their communities. Rehabilitative and treatment services must be provided within an institutional setting and in the community or risks to public safety will not be minimized.

The program review committee found the majority (78 percent) of convicted offenders are not sent to prison, but are supervised in the community. In addition, 69 percent of convicted offenders sent to prison are under a sentence of three years or less, with half serving a year or less. Inattention to the behavior -- criminal and non-criminal -- of offenders in the community misses the opportunity to intervene in a positive manner and all but promises recidivism and eventual imprisonment. Failing to provide, develop, and adequately fund a community corrections model invariably places the public at risk.

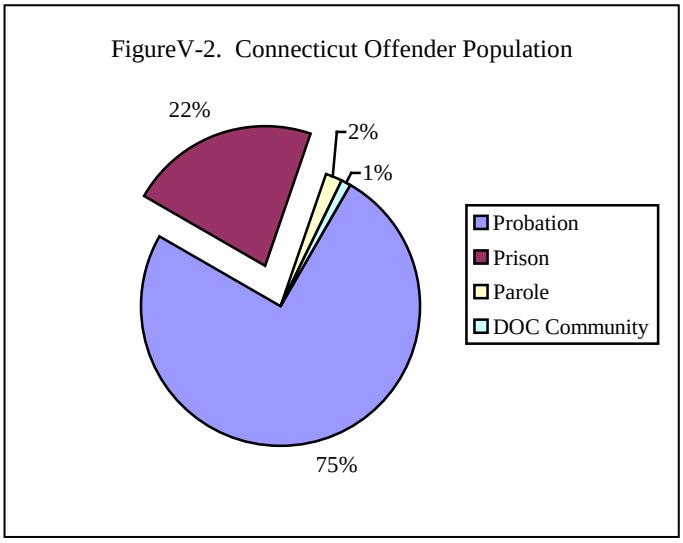
[1] The program review committee acknowledges other types of crimes may have involved violence, however, the court found (either through trial or plea bargaining) in those cases the violence was not the primary offense.

[2] For example, see *Community Corrections of Place*, December 1999, Todd Clear, PhD. and Ronald Corebett, EdD and *Public Support for Correctional Treatment: The Continuing Appeal of the Rehabilitative Ideal*, Prison Journal (1997), B.K. Applegate, F.T. Cullen, and D.S. Fisher

An advantage of the community corrections strategy is its comprehensive approach to ensuring public safety by distributing resources and attention to all offenders rather than focusing on the small percentage who are incarcerated. The community corrections model can offer a long-term strategy to reducing crime and recidivism by providing a range of graduated sanctions, including prison for the most serious offender. Resources are equally distributed based on punishment requirements, offender rehabilitative and treatment needs, victim restitution, and caseload.

The prison expansion model is a short-term crime strategy. Resources are focused on the small percentage of offenders in the most intensive and expensive punishment option -- prison. Under this model, a reduced share of resources and attention are typically given to the vast majority of offenders in the community where they pose the highest risk to public safety.

Management of total offender population. A disadvantage of the prison expansion model its focus on offenders coming into prison and "toughening" punishment by lengthening the period of time spent incarcerated, especially for serious and violent offenders. It fails to consider the cumulative impact of thousands of criminals who may also be serious and violent that eventually return to or remain in their communities.



Almost every offender sent to prison eventually returns to their community -- usually within less than three years. As previously discussed, most sentenced offenders (78 percent) are supervised on a daily basis in the community on probation, parole, or a DOC early release program such as transitional supervision or re-entry furlough. In addition, each year, about 120,000 accused offenders are released on bond by the court to await adjudication of their crimes. Figure V-2 shows only 22 percent of the sentenced offender population in 1999 was in prison

Obviously, Connecticut requires a comprehensive criminal justice strategy that focuses on the needs and risks posed by the total offender population in prison or the community. Until the criminal activity of the three quarters of offenders who reside and are supervised in the community is curbed, any real reductions in crime or the prison population will be difficult to achieve. Implementing a strategy to manage all accused and sentenced offenders is an advantage of the community corrections model.

Rehabilitation and treatment. The benefits of rehabilitation and treatment services for offenders are well documented[3]. Social intervention and treatment programs, particularly for drug and alcohol addiction, significantly contribute to reducing recidivism among the offender population who participate in the programs.

The Connecticut judicial branch conducted a longitudinal study[4] of accused and sentenced offenders who participated in the alternative to incarceration program from 1994 through 1996. Overall, offenders sentenced to supervised community-based programs posed less risk to public safety as measured by new arrests than a comparison sample who were released without supervision after serving a prison term. Offenders convicted of drug or violent crimes -- typically the persons of greatest concern to the public and policymakers -- did better under community supervision. Offenders from both samples re-offended, but the rate of arrest was less for those who participated in the alternative to incarceration program than those who had been released from prison without supervision.

The Connecticut Alcohol and Drug Policy Council (CADPC) found treatment for substance abuse reduces criminal behavior, reduces the use of illegal drugs, and improves social functioning more cheaply and for longer periods of time than does incarceration alone. In its 1999 report to the General Assembly, the council recommended doubling substance abuse treatment capacity for the prison system.

The community corrections model again has an advantage over the prison expansion model. A foundation of the community corrections model is its ability to mandate offender participation in treatment and rehabilitative programs as part of the sentence. Failure to participate in or successfully complete a court-ordered therapy results in an increase in punishment (e.g., mandatory placement in residential program or prison). Typically, the prison expansion model does not require an inmate accept treatment services. The services are available on a limited basis, but participation is voluntary. Inmates who do not accept services are more likely to discharge from prison with the substance abuse, mental health, or other problems that contributed to their criminal behavior. This increases their chances for re-offending and poses a definite public safety risk.

Estimate of need for substance abuse treatment. The following is an analysis of the need for substance abuse treatment among the sentenced offender population, including those in prison and in the community. Because neither the criminal justice system nor the Department of Mental Health and Addiction Services have conducted a needs assessment, the program review committee relied on substance abuse evaluations conducted by the DOC, judicial branch, and parole board. Offenders are generally rated by the agencies on their need for treatment.

DOC reports nearly 85 percent of inmates (approximately 14,846) have a substance abuse problem, either with alcohol or drugs or both. Table V-3 is an estimate of need for substance abuse treatment in prison based on DOC projections and program waiting lists.

[3] For example, see Connecticut Alcohol and Drug Policy Council 1999 *Annual Report*, *Prisons versus Probation*, July 1996, Joan Petersilia, et al, *Policy Implications of Recidivism*, August 1986, Stephen Klein and Michael Cagiano; RAND Corporation

[4] *Longitudinal Study: Alternative to Incarceration Sentencing Evaluation* (September 1996), The Justice Education Center

Table V-3. Estimate of Need for Substance Abuse Treatment in Prison and Community	
Institutional Need	
Inmate Population	17,466
Estimate of Substance Abuse Problem (about 85% of inmate population)	14,846
Current Demand (about 50% of those inmates needing treatment)	7,423
Current Program Availability (about 12% of inmates needing treatment)	1,782
Untreated Population	5,641
Community-based Need	
Offender Population in Community	60,898
Estimate of Substance Abuse Problem (about 80 percent of population)	48,718
Current Program Availability	
Residential Beds	1,170
Non-residential, Out-patient slots	4,801
Estimate of Untreated Population	23,543

As shown, within existing substance abuse treatment resources in the prison facilities, the department can provide treatment to only 12 percent (1,782) of the inmates who need it. The department estimates, however, that half of the inmates who need substance abuse treatment would actually accept it were it available -- this statistic is based on waiting lists for institutional programs and requests for treatment by inmates. Therefore, approximately 5,600 inmates who need and would participate in a treatment program are not receiving it.

Table V-3 also outlines the need for services for offenders under some form of community supervision. It is estimated by the criminal justice agencies supervising these offenders that 80 percent have a substance abuse problem.

Currently, almost 61,000 offenders are in the community, and nearly 49,000 of them require some form of drug or alcohol abuse treatment, which includes detoxification services, drug testing, and out-patient counseling programs. The criminal justice system maintains 482 community-based residential treatment beds and about 2,600 nonresidential treatment slots.

Given the treatment bed capacity and total offender population, on a daily basis less than 1 percent of the offenders are in a residential substance abuse treatment program, which provides the most intensive services. It is difficult to calculate the daily use of nonresidential program slots because more than one offender can be serviced by a single slot per day. For the purposes of analysis, however, one slot has been calculated to serve five offenders per day. Almost half (about 24,000) offenders under community supervision receive out-patient treatment services per day. However, half of the population who need treatment do not receive services.

These estimates highlight the acute need for treatment and rehabilitative programs for offenders. In order to have a real impact on controlling prison overcrowding, Connecticut must positively intervene in the behaviors, like substance abuse, that lead to crime. The prison

expansion model retains few programs and treats but a small percentage of the offender population -- a significant disadvantage. Although service capacity is still insufficient, an advantage of the community corrections model is a greater percentage of the offender population receives the necessary treatment.

Costs. The prison expansion and the community corrections models both require an investment by the state. Since there are no "cost-free" choices in public policy, the emphasis then should be on efficiency and effectiveness

As previously stated, a disadvantage of the prison expansion is that most resources are allocated to the fewest offenders -- only 22 percent of sentenced offenders are incarcerated. The community corrections model, which provides a comprehensive strategy to manage all offenders, can distribute resources throughout the system. Community corrections also has a lower total cost per offender. A disadvantage is community corrections and the prison system often compete for limited resources rather than being considered parts of the same criminal justice model. Given its current "soft on crime" image, community corrections often is under-funded.

As stated, adding prison and jail capacity is a very costly undertaking. The correction department estimated construction costs about $125,000 per bed for a high security prison (level 4). Given that estimate and the department's current need for 1,600 beds, the construction costs alone would amount to about $200 million, which does not include design, siting costs, and bond interest.

Construction, however, is not the most costly aspect of increasing prison and jail capacity. It is the operating costs. The FY 01 operating budget of the Department of Correction is almost $500 million, the bulk of which is appropriated for inmate care, direct services, and staffing at the prisons and jails. Given that, Connecticut spends over $1.3 million per day on prisons and jails.

Table V-4. Prison Construction Cost Summary

Current Prison Bed Need	1,600
Estimated Construction Cost (per bed)	$125,000
Estimated Construction Cost for New 1,600 Bed Prison	$200,000,000
Average Daily Incarceration Cost Per Inmate	$96
Annual Operating Cost for New 1,600 Bed Prison (based on current per inmate cost)	$56,064,000
Operating Costs Projected Over 30 Years* (based on current cost estimates)	$1,681,920,000

*Does not factor in inflation costs.
Source of data: Department of Correction & Legislative Office of Fiscal Analysis

Table V-4 outlines an estimated cost projection for building and operating a new 1,600-bed prison, which is based on DOC's current need.

Based on the daily average cost of about $96 per day per inmate, the 1,600-bed prison, which DOC reportedly needs to manage the current inmate population, would cost about $56 million per year to operate. As shown in the table, with an expected life cycle of 30 years for a correctional facility, the overall operating cost of that prison would be nearly $1.7 billion -- in addition to the annual operating costs for the other 20

prisons and jails. Add to that the construction costs and bond interest[5], and it should be clear the decision to build a prison requires a comprehensive examination of not only how many beds are required, but which offenders should be incarcerated and the alternative options to expansion.

As stated, an advantage of the community corrections model is a lower total cost per offender for supervision, treatment, and other service programs. The parole board spends approximately $4,000 per year on a parolee -- about $11 per day. The judicial branch estimated the annual cost per probationer at $833 -- about $2 per day. Similar to the operation of a prison, direct offender supervision services are the most expensive.

The bulk of the community-based services are contracted for by criminal justice agencies. Most of the services are provided in a nonresidential setting such as day programs offering monitoring, supervision, drug testing, counseling, training, and referral services. There are fewer specialized residential programs, which primarily offer substance abuse evaluations, detoxification, and treatment or work release programs.

The cost per community-based residential bed is about $20,000 per year and between $4,500 to $10,000 per year for a nonresidential program slot. These amounts reflect the cost of a program or service, rather than a daily participation cost. The less intensive programs such as alternative incarceration centers offer a wide range of services for a fee.

It is difficult to breakdown the costs for community-based programs because offenders participate in a variety of services and the lengths of their participation can vary from a few days to years.

Siting difficulties. A disadvantage that is common to both the prison expansion and community corrections models is the difficulty in siting a facility, whether it be a prison, halfway house, or treatment program. This issue -- commonly referred to as the "not in my backyard" argument -- has serious repercussions for the implementation of either strategy. Solutions to reconcile the state's need for services with municipal control over local zoning are beyond the control of the criminal justice system.

[5] The bond interest on $200 million -- the estimated construction cost for 1,600 bed prison -- is 6 percent per year and repayment for the construction bond is $10 million per year over 20 years. For example, in addition to $10 million in principal, bond interest would be $12 million in the first year. The second year bond interest would be $11.4 million, $10.8 million in the third year, $10.2 million in the fourth year, and $9.6 in the fifth year.

CHAPTER SIX

Recommendations for Community Corrections Policy

Connecticut maintains the appearance of a comprehensive community corrections strategy, but the basic criminal justice components are not operating in a coordinated manner to manage the growth in the inmate population, provide effective public safety, and control crime and recidivism. This section presents the program review committee's findings and recommendations for redefining the community corrections policy.

To adopt this strategy, Connecticut must redefine and reinvest in a criminal justice system that:

- offers swift, meaningful, and credible sanctions to regain the public's trust that public safety can also be achieved through sanctions other than prison;
- creates a political climate to support a reinvestment in community corrections;
- focuses on reducing crime and recidivism; and
- manages inmate population growth.

Community Corrections Policy

Sentencing policy. There is no clear policy statement guiding the overall efforts of the state to achieve its criminal justice goals, which are to protect the public and provide fair, consistent, and affordable adjudication, punishment, and rehabilitation of criminal offenders. A clearly articulated policy is necessary to provide the criminal justice system with an overriding objective of legislative intent and to create the political climate to support a reinvestment in the community corrections model.

The state's sentencing policy should encourage the criminal justice system to impose the least restrictive sentence necessary to protect public safety, reduce the incidence of crime and recidivism, offer victim restitution, and to punish and rehabilitate the criminal offender. **It is, therefore, recommended the mission of the state's community corrections strategy shall be: "to assist the court and/or parole board in assessing offenders' suitability for community placement and, once offenders are placed in the community, to enforce the court-ordered sanctions, protect public safety, assist offenders' rehabilitation, and support the rights of their victims [1]."**

[1] Petersilia, Joan, *Measuring the Performance of Community Corrections*

Sentencing commission. Over the past two decades, Connecticut has implemented sweeping sentencing reforms that have sent inconsistent messages regarding the state's crime policies. There have also been incremental changes to the laws establishing procedures for: offender eligibility criteria for bail, alternative sanctions, and parole; the creation of new felony offenses; and increased penalties for certain crimes. *This has resulted in conflicting criminal justice policies, vague sentencing laws, and undefined statutory terms that have allowed criminal justice agencies to broadly and, in some instances, incorrectly interpret legislative intent.*

The program review committee recommends the General Assembly establish a sentencing task force responsible for evaluating, in accordance with the recommended community corrections policy, the criminal sentencing process at the felony level. The task force shall:

- **review existing sentencing laws;**
- **evaluate the actual versus intended impact of sentencing practices and trends as they relate to the overall policy;**
- **measure the impact of sentencing laws and practices on the growth of the inmate and community-supervised offender populations;**
- **review all statutory and administrative bond options and practices (e.g., "cash" bail);**
- **assess the effectiveness of mandatory minimum sentences, persistent offender statutes, and eligibility criteria for criminal justice sentencing and sanction options;**
- **estimate the cost of any changes proposed; and**
- **report its findings and recommendations to the Judiciary Committee and General Assembly by January 1, 2002.**

The sentencing task force shall be comprised of the following members:

- **state's attorney appointed by the chief state's attorney;**
- **public defender appointed by the chief public defender;**
- **chief administrative judge of the criminal court;**
- **bail commissioner appointed by the chief court administrator;**
- **probation supervisor appointed by the chief court administrator;**
- **commissioner of the Department of Correction;**
- **chairman of the Board of Parole;**
- **state's victim advocate;**
- **assistant attorney general from the criminal justice section appointed by the attorney general;**
- **representative from the Connecticut Bar Association's criminal justice section;**
- **House and Senate chairpersons of the Judiciary Committee; and**

- **six legislators appointed as follows: one by the speaker of the house, one by the senate president pro tempore, one by the majority leader of the house, one by the minority leader of the house, one by the majority leader of the senate, and one by the minority leader of the senate.**

The House and Senate chairpersons of the Judiciary Committee shall be the co-chairmen of the task force. Non-partisan, legislative staff shall be assigned to assist the commission, which shall terminate at the conclusion of its work.

The first two recommendations will provide a consistent and coordinated policy and penal code that will give clear direction for discretionary decision-making throughout the criminal justice process from bond to parole.

Prison Impact Assessment. The growth in the prison population results from a variety of cumulative and interacting factors. One of the principal causes is change in state law, either when criminal justice policies are revised or new policies are adopted. It has, in the past, been difficult for the General Assembly and the criminal justice system to: (1) accurately project the impact of the changes in law on the prison population; and (2) determine if the changes will have the intended results.

The legislative agenda on crime will always be subject to change, but broad public policy cannot be dictated by the number of available prison beds. *However, the General Assembly should be fully informed of the implications of legislation under consideration and the potential for fiscal and administrative impacts that may have to be addressed in the future*.

Therefore, the program review committee recommends a Prison Impact Assessment be required for any legislation that may modify or impact the rate of prosecution, rate or length of incarceration, computation of time served, or may be expected to affect the number of offenders incarcerated, paroled, placed on probation, or sentenced to any other alternative sentencing option or sanction. The assessment shall be conducted by the General Assembly's Office of Fiscal Analysis (OFA) and Office of Legislative Research (OLR).

The legislature has already realized the need for similar information and currently requires a fiscal analysis and bill summary for all proposed legislation. In preparing the assessment, OLR and OFA shall review, but not be limited to, the following data:

- number of arrests;
- number of convictions;
- current sentencing trends by type of offense and length;
- bail, probation, alternative sanction, and parole caseloads;
- rate of admissions to and discharges from DOC;
- rate of parole revocations and violations of probation or alternative sanction and the types of violations (i.e., technical versus new crime);
- capacity of prison system and community corrections network; and

- any other information related to the analysis (e.g., demographics).

Policy development and system coordination. The Office of Policy and Management provides the information and analysis necessary to formulate public policy and assist state agencies in implementation of that policy. OPM is unique in that it is responsible for formulating policy and budgetary plans that cross agency lines to better coordinate services provided to Connecticut citizens.

Within OPM, the Justice Planning Division is responsible for improving the effectiveness of criminal justice services and ensuring efficient use of resources by:

- identifying emerging needs and developing strategic issues;
- providing leadership and interagency coordination for state agencies;
- collecting and analyzing information for informed policy decisions;
- evaluating the effectiveness of criminal justice activities and recommending improvements to complex public policy issues;
- implementing state and federal laws and programs; and
- improving integration of planning and policy development into the state budget process.

The division also oversees the development and implementation of the statutorily required automated offender-based tracking system -- called the Criminal Justice Information System (CJIS). The system, which is expected to be on-line in 2001, will link all criminal justice agencies to a central records management system.

The Justice Planning Division, however, has limited its primary focus to the management of the criminal justice grants program, which applies for and distributes funding from the federal government and other sources. *OPM's Justice Planning Division has not fulfilled its obligation to provide interagency leadership or coordination of criminal justice agencies. It has not evaluated or developed criminal justice policy based on a comprehensive analysis of data or information.*

The program review committee recommends the Office of Policy and Management ensure the Justice Planning Division comply with its mandate. It is further recommended the Justice Planning Division conduct a systemwide study of recidivism that will:

- **define recidivism to include, but not be limited to: (1) new crimes committed by persons *not* in custody or under the supervision of the criminal justice system, but who have a previous adult or juvenile criminal conviction; and (2) offenses committed by offenders while under the supervision of the criminal justice system;**
- **track rates of recidivism;**
- **identify the point in the system at which offenders recidivate (e.g., length of time after discharge from custody or supervision before a new crime is**

committed and length of time an offender is under community supervision before a crime is committed);

- **identify the types of offenses committed (i.e., new crime, technical violation of supervision conditions, and increase or decrease in severity of offense);**
- **determine services and programs provided prior to or at the time the offender recidivates;**
- **examine the dispositions of offenses (e.g., new sentence, parole revoked, violation of probation, or other sanction such as placement in residential program or additional services or conditions); and**
- **evaluate institutional and community-based programs and services provided to offenders to determine their efficacy at reducing recidivism.**

Prison and Jail Overcrowding Commission. In 1981, the legislature established the Prison and Jail Overcrowding Commission (PJOC) in response to the increasing awareness of the serious consequences of persistent overcrowding of correctional facilities. The PJOC consists of criminal justice administrators and other public and private sector policymakers. The statutory responsibilities of the commission are to:

- make recommendations to prevent prison overcrowding;
- examine the impact of laws and policies on prison overcrowding;
- develop a statewide criminal justice plan to prevent overcrowding that includes pre-trial and post-sentencing options that minimize the number of offenders in prison;
- consider state mental health and substance abuse plans in developing recommendations;
- research and analyze data regarding the impact of efforts to prevent prison overcrowding; and
- submit a plan annually to the governor and the General Assembly.

PJOC was instrumental in developing the state's system of graduated sanctions, including the Alternative to Incarceration Program (AIP). It provided the legislature with invaluable information to resolve the prison overcrowding problems of the 1980s and 1990s. After the completion of the prison expansion project in 1994, the commission stopped meeting even though it concluded in its 1995 report, "many important policy issues require the continued collaborative efforts" of the commission. PJOC did not meet its statutory reporting requirement -- an annual report due January 15 -- in 1996, 1997, 1998, or 1999. In January 2000, however, the council submitted a plan that recommended an increase in the number of prison beds to address the current prison overcrowding problem. Since then, the PJOC has met only once (May 11, 2000).

The Prison and Jail Overcrowding Commission is a necessary component for the development of the state's criminal justice policy and an effective and efficient inmate population

growth management strategy. **It is, therefore, recommended the PJOC meet at least quarterly each year and comply with its statutory obligation to produce an annual statewide plan.**

The objectives of the justice planning division and the mandate of the PJOC are very similar. OPM, however, provides a neutral, systemwide perspective on policy development and resource allocation. **Therefore, the director of the Office of Policy and Management's Justice Planning Division shall be designated in statute as the permanent chairman of the Prison and Jail Overcrowding Commission.**

Parole, the only early release mechanism for inmates sentenced to more than two years, is an important component of any plan to manage the growth of the inmate population. It is also a necessary criminal justice element. The existing state statute does not include the parole board chairman as a member of PJOC, although a vice-chairman from the board has been appointed by the governor as one of the three government officials on the commission. **The committee recommends the chairman of the Board of Parole be added in statute as a voting member of the Prison and Jail Overcrowding Commission.**

Community Corrections Subcommittee. Currently, there is no systemwide mechanism for: promoting community corrections policies; integrating its procedures and service delivery; setting priorities; or evaluating the effectiveness of the strategy for controlling growth of the inmate population and reducing crime and recidivism. *Community corrections, as a strategy and a system, has not been a priority of the criminal justice system or public policy.*

It is recommended a permanent Community Corrections Subcommittee to the Prison and Jail Overcrowding Commission be established. The Community Corrections Subcommittee shall:

- **make recommendations to develop and implement community-based sentencing and sanction options;**
- **coordinate the efforts of all criminal justice agencies in accordance with the recommended sentencing policy;**
- **examine the impact of laws and policies on community-based sentencing and sanction options;**
- **examine the impact of community-based sentencing and sanction options on prison overcrowding;**
- **assist the Prison and Jail Overcrowding Commission develop a statewide criminal justice plan to prevent overcrowding that includes pre-trial and post-sentencing options that minimize the number of offenders in prison;**
- **coordinate community-based sentencing and sanction options with state mental health and substance abuse plans;**
- **develop strategies to assist in the siting of community-based programs and services; and**

- **research and analyze data regarding the impact of community correction efforts on reducing crime and recidivism and the resulting impact on prison overcrowding.**

The subcommittee shall submit an annual plan with recommendations to PJOC, which shall be included in the commission's annual statewide plan submitted to the governor and General Assembly. The subcommittee shall meet at least quarterly each year, and be staffed by OPM.

The Community Corrections Subcommittee shall be comprised of the following members appointed by the governor unless otherwise indicated:

- **executive director of the judicial branch's Court Support Services Division;**
- **executive director of Board of Parole** (to be discussed in Chapter 7)**;**
- **deputy warden for Department of Correction Division of Community Enforcement ;**
- **director of Department of Mental Health and Addiction Services Community Forensic Services;**
- **two representatives from a community policing program, one from an urban police department and one from a suburban police department;**
- **two representatives from the Council of Municipalities, one from urban area and one from a suburban area;**
- **Superior Court judge from a Judicial District (JD) court appointed by chief court administrator;**
- **Superior Court judge from a Geographic Area (GA) court or community court program (i.e., drug court, family violence court, community court) appointed by the chief court administrator;**
- **assistant state's attorney appointed by the chief state's attorney;**
- **public defender appointed by chief public defender;**
- **state's victim advocate;**
- **four representatives from community-based service providers -- one from a residential substance abuse treatment program, one from an out-patient substance abuse treatment program, one from a residential program providing other types of services (i.e., shelter, mental health, work release), and one from a non-residential program providing other types of services; and**
- **director of the Connecticut Justice Education Center[2].**

[2] The Connecticut Justice Education Center is funded through the judicial branch budget.

CHAPTER SEVEN

Recommendations for Community Corrections Procedure

To fully adopt and implement a community corrections strategy, legislative and administrative changes must be made to existing sentencing options and the current criminal justice process. Budget appropriations should proportionally support all components of the community corrections model. The following chapter provides specific recommendations to improve the criminal justice procedure and reinvest in Connecticut's implementation of a comprehensive community corrections strategy.

Community Corrections Procedure

Reinvestment in community corrections. Currently, a disproportionate share of the state's criminal justice budget is spent on the smallest percentage of offenders -- although arguably the most serious population. Table VII-1 shows the General Fund expenditures for the Department of Correction, Board of Parole, and judicial branch adult probation and bail services. The table tracks the funds spent on incarceration and community corrections since FY 92.

Generally, budgets for all of the agencies grew over the nine-year period. The greatest increases in expenditures occurred during the early 1990s in response to the persistent prison overcrowding crisis at that time. The budget for adult probation significantly increased (almost 54 percent from FY 92 to FY 94) due to the initiation of the Alternative to Incarceration Program. The DOC's budget jumped 21 percent from FY 93 to FY 94 to bring on-line 9,000 new prison beds. The parole board experienced a dramatic increase of 437 percent between FY 94 and FY 95 when it was transferred out of DOC and became a separate state agency with release and supervision responsibilities.

The parole board and the judicial branch, through its Office of Adult Probation and Alternative to Incarceration Program, supervise about 60,000 offenders in the community. The cost associated with this supervision was approximately $68 million in FY 00. The cost for those offenders in the custody of the Department of Correction, both within the state's prisons and in the community, was about $464 million. The department has a current prison population of about 18,000 with an additional 1,000 inmates supervised in the community under transitional supervision, community placement program, or re-entry furlough. Based on the data, approximately 87 percent of the resources are spent on less than 25 percent of the offender population -- inmates in prison.

As discussed in Chapter 2, prison is the most intensive sanction and as such is the most expensive. A benefit of community corrections is its lower cost per offender. Connecticut spends about $96 per day to house an inmate and

thereby protect the public from possible criminal activity. In contrast, approximately $2 is spent to supervise offenders on probation, and $11 is spent per parolee each day. It is these offenders, living in the community, however, who pose the most immediate risk to public safety.

Table VII-1. Expenditures for Criminal Offender Incarceration and Community Supervision (General Fund)*

FY	DOC	Parole**	Probation^	Bail
92	$247,544,594	$260,514	$22,525,527	$3,155,320
93	$285,774,762	$343,342	$26,167,798	$3,322,935
94	$346,031,301	$448,816	$34,692,231	$2,799,239
95	$376,293,297	$2,408,315	$37,420,075	$3,336,063
96	$372,716,723	$5,491,904	$39,052,613	$4,139,075
97	$401,163,537	$6,435,906	$41,718,276	$3,971,548
98	$391,970,720	$6,011,195	$41,997,365	$4,457,323
99	$414,776,321	$6,848,582	$45,683,335	$4,875,639
00	$464,037,252	$8,070,564	$54,630,784	$5,119,421

*Division of Criminal Justice, Public Defender Services, and judicial branch court operations budgets not included.
**In 1995, funds were removed from DOC to support Board of Parole as a separate state agency.
^Budget includes adult probation and alternative sanctions program.
Source of data: Legislative Office of Fiscal Analysis

The average caseload per probation officer is currently 241. Because of different levels of supervision, the caseloads range from a low of 25 offenders in special management units such as the sex offender supervision and the relapse units to a high of 12,500 offenders who are monitored via the mail and telephone rather than supervised in person by a probation officer. On average, the caseload for high security probation supervision is between 100 and 200 offenders -- the caseload goal is 75 -- and medium security supervision caseload is about 400 -- the caseload goal is 250. The judicial branch is expected to hire an additional 60 probation officers during 2001, which will slightly reduce caseloads, and it plans to hire 120 more during the next two years.

Currently, the parole board maintains an average caseload of 60 parolees -- only slightly more than its caseload goal. The board has a much smaller client population than probation. The recommendations discussed throughout this section have the potential to greatly increase the board's caseload. Therefore, budget decision should reflect the possible growth in caseload.

In recent years, budgetary shortfalls and continued growth in the number of offenders under supervision have resulted in larger community corrections caseloads and fewer services and programs. An unintended result of a disproportionate share of the total budget being allocated to incarceration services is a high rate of failure among offenders under community supervision.

During 1999, 25 percent of the admissions to prison were for a violation of probation. The DOC estimates the percentage of probation violators is even higher given that many are admitted under a new sentence for the most recent criminal charge rather than a VOP -- the court often vacates the sentence of probation and imposes a new sentence for the current offense[1]. In addition, almost 40 percent of the inmates released to parole are returned to prison for a violation of their release conditions.

The community correction failure rate increases when violations that do not result in re-imprisonment are included. Violations of either probation or parole often times do not require an arrest or return to prison, but rather an increased sanction such as drug testing, residential program placement, or electronic monitoring. The ability to sanction an offender under community supervision without resorting to re-imprisonment is vital to community corrections effectiveness in protecting public safety and rehabilitating criminals and efficient use of prison beds.

Inequities in state expenditures for incarceration and community supervision staff and programs have stalled the development, operation, and effectiveness of the community corrections model over the past five years. It is also evidence of the current lack of commitment to implementing a workable system of graduated sanctions. **Thus, the committee recommends the General Assembly reinvest in the community corrections strategy to protect public safety and appropriately and efficiently reserve prison resources for the most serious, violent, and repeat offenders.**

The General Assembly shall provide funding to ensure: (1) adequate staffing levels for community supervision through adult probation and parole, adding at a maximum 50 parole officers and 160 probation officers to current personnel resources over the next three years; and (2) treatment, training, and rehabilitation programs, including but not limited to substance abuse, mental health, education or vocational training, life skills, anger management, sex offender treatment, halfway house, and community service, that are sufficient to meet the service needs of the population of incarcerated and community supervised offenders.

Presumptive sentencing authority. In addition to the statutory sentencing guidelines for felony offenses, the state penal code allows for enhanced penalties to be imposed for certain crimes or offenders through mandatory minimum sentences and the persistent offender provisions. Mandatory minimums are required for certain crimes, typically violent or drug offenses. The provisions generally require a longer period of incarceration than the statutory minimum for the offense class. Upon conviction, the mandatory term of a sentence must be imposed and may not be reduced or suspended by the court.[2]

[1] The DOC database tracks only the primary offense for which an offender is sentenced. If the crime resulting in a sentence of probation is vacated and the offender is admitted to prison under a new sentence, that crime becomes the primary offense.

[2] Existing state law allows the court to reduce or suspend a mandatory minimum only if the offender is under 18 or has impaired mental capacity.

Mandatory minimums and the persistent offender provisions limit the court's discretion to impose a sentence based on the offender's criminal and personal history and the specific facts of the case. These provisions assume all offenders and crimes carrying a mandatory sentence are the same.[3] For certain offenses, however, state law[4] currently authorizes the court to impose a sentence other than an established mandatory minimum -- this authority is typically referred to as "presumptive sentencing." The court may, upon a showing of "mitigating circumstances", suspend the mandatory portion of the sentence and impose a lesser term.

Also, a recent change in the law, authorizes the parole board to disregard any portion of a mandatory minimum sentence in the calculation of parole eligibility. The offender is still subject to supervision for the full term of the mandatory minimum prison term, but may be released early from prison before serving the required portion of the sentence. This law diminishes the impact of a mandatory minimum sentence.

Program review staff developed information that favored establishing statutory authority to give the court the discretion to impose a sentence other than that required by a mandatory minimum or persistent offender provision based on the facts of the case presented and to more clearly reflect the intent of sentencing legislation. However, the committee believes such action would be inconsistent with the intent of the "truth in sentencing" policies established over the past five years.

Sentence calculation. Criminal sentences can be complex. A sentence can consist of several sanctions (i.e., prison, parole, probation, and victim restitution). The custody status of the offender can change during a criminal sentence between incarceration and community supervision.

The major sentencing reforms over the past 20 years have established different standards and procedures for calculating sentence length and time served, determining parole and early release eligibility, and the criteria for the types of offenders eligible for alternative sentences, "good time," and parole. The effective dates of the new laws are used to delineate which offenders are affected by the changes. Sentences are also subject to administrative procedures implemented by criminal justice agencies (i.e., the parole board's policy to designate offenders as serious and violent in accordance with the "85 percent rule").

The court, to make fair and rationale sentence decisions, must be aware of the implications of the sentence based on the policies and procedures of the criminal justice agencies administering the sentence. **The program review committee, therefore, recommends a sentence worksheet be prepared as part of the pre-sentence investigation required by state law (C.G.S. §54-91a) or upon request by the court. The sentence worksheet shall be presented to the court during the sentencing hearing[5]. It shall serve to**

[3] Routinely, the increased sanctions required by the mandatory minimum and persistent offender laws are used by prosecutors during the plea bargaining process. Amending the criminal charges to an offense with a lesser penalty is used as an incentive to induce an offender to plead guilty rather than go to trial.

[4] For example, Connecticut General Statute §29-37.

[5] Before imposing a sentence, the court holds a sentencing hearing to: allow the parties to present evidence relevant to the disposition of the case; explain or controvert information used by the court in sentencing; provide the victim a

provide the court and the defendant with an estimate of the required time to be served on the sentence, parole eligibility, and period of probation or special parole. The sentence worksheet shall be a guideline based on prevailing sentencing laws, regulations, and policies. The worksheet shall not constitute a guarantee of any eligibility for an early release from prison, reduction of sentence length, or participation in a program.

The information provided by the sentence worksheet will give the court a "snapshot" of its implementation. It will also offer a day-to-day reinforcement of sentencing rules and procedures. The calculation should provide the court with an approximate:

- date of discharge from prison, taking into consideration any "good time credits," pre-trial jail credits, and the 100 percent time-served requirement;
- date of discretionary parole eligibility, if any, based on the 50 or 85 percent time-served standards;
- date of presumptive parole release (which will be discussed later in this section);
- date of DOC community release eligibility, if any;
- period of probation or alternative sanction; and
- any other information that may effect the administration of the sentence.

Sentencing teams. In the early 1990s, the judicial branch began administering the Alternative to Incarceration Program that created a range of alternative and intermediate sentencing options for the court. As part of the implementation process, the judicial branch developed intermediate sanction project (ISP) teams comprised of judges, state's attorneys, public defenders, bail commissioners, probation officers, and criminal sanctions monitors. A team was assigned to each court.

The ISP teams were responsible for determining the alternative or traditional sanction options that were best for certain targeted offender populations. Specifically, the ISP teams analyzed aggregate data on the offender population to identify needs, establish referral protocol for alternative sanctions, assure the appropriate use of alternative sanction programs, and review other criminal justice issues impacting alternative sentencing and sanctions.

Since the reorganization of the judicial branch's court support services, however, the ISP teams have remained operational in only a few court locations. The reliance on and importance of data analysis has been minimized. Important interagency links have not been fostered. *It is now unclear how successful the Alternative to Incarceration Program has been in diverting "jail bound" offenders from prison and thereby assisting in an inmate population growth management strategy.*

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reasonable opportunity to make a statement regarding the sentence; allow the defendant to make a personal statement; and inform the court of any plea agreement.

Therefore, it is recommended the judicial branch establish sentencing teams at all criminal court locations. Each sentencing team shall be comprised of a judge, state's attorney, public defender, bail commissioner, probation officer, criminal sanctions monitor, a representative from the Department of Correction, and a parole officer from the board's hearings division. The objectives of the sentencing teams are to:

- **maximize the use of graduated sanctions for pre-trial and sentenced offenders** (i.e., describe the core sentencing structure, other sentencing laws that restrict use of alternatives to incarceration, and the scope of discretion among the court and criminal justice agencies for imposing and administering sentences, and identify the target offender groups suitable for alternative sentences)**;**
- **increase criminal justice agencies' awareness of, investment in, and commitment to the community corrections strategy through the development of a collaborative planning and resource allocation process** (i.e., define the role and responsibilities of the court and criminal justice agencies and track and analyze outcome measures for each process from bail to parole)**;**
- **enhance efficiency and effectiveness of criminal sentencing by improving the organizational capacity of the criminal justice system** (i.e., identify the decision-making points within the system at which an offender's custody may be changed, describe the formal and informal practices occurring within the sentencing process, and track the rates of recidivism, community supervision violations, and successful completions of alternative sentences)**; and**
- **raise victim and public awareness of the safety and rehabilitative value of community corrections.**[6]

To maximize the effectiveness and efficiency of the community corrections strategy, the graduated system of alternative and traditional sentencing options must be appropriately imposed and administered. The participation and endorsement of the criminal justice administrators and judges whose decisions will determine its use are critical to the strategy's effectiveness. The sentencing teams will foster an interagency liaison to support the use of a range of graduated sanctions.

"Split" sentences and special parole. Probation and parole are similar in function, but are linked to different segments of the criminal justice system. Traditionally, probation is imposed in lieu of incarceration and is associated with keeping nonviolent and low level offenders in their communities through rehabilitative and treatment services. It is a front-end sanction that helps to divert offenders from prison. At the back end of the system is parole, which is a conditional release from prison. Parole supervises and assists the offender to learn to live in a community after a term in a prison. Probation is administered by the judicial branch and parole by the Board of Parole, an executive branch agency.

[6] Refer to *Alternative Sanctions: A Three-Year Strategic Plan*, (Fiscal Years 1994-1997), Connecticut Judicial Branch

One of the sentences the court may impose is a prison term followed by a period of probation supervision. Typically, the court will suspend a portion or all of the prison term, but require the full period of probation be imposed. This sentence is referred to as a "split" sentence. Under a "split" sentence, probation is the post-incarceration supervision option.

The "split" sentence uses probation in place of parole supervision. This practice, which was codified in state law, began after parole was statutorily eliminated in 1980 as a result of the shift from indeterminate to determinate sentencing. The practice continued after parole was reinstated in 1990 because, at the time, the average sentence lengths and release practices of the board resulted in short periods of parole supervision -- generally one year or less. The period of parole was shortened by the awarding of "good time," which significantly reduced the maximum term of the sentence, and the conservative release practices of the board that required longer periods of incarceration prior to release. The board also used its discretion to deny parole (referred to as "maxing out"), thereby eliminating any post-prison supervision. The court imposed "split" sentences to: (1) ensure some period of community supervision after release from prison; and (2) extend the length of that supervision. "Split" sentences are now a common practice of the courts.

Special parole, established in 1998, is a sentencing option available to the court that allows for a period of mandatory parole supervision added to a prison sentence greater than two years. The court may impose a fixed period of special parole of between one and 10 years for most felony offenses, provided the total amount of the sentence and special parole do not exceed the maximum statutory sentence for the crime. Offenders convicted of certain sexual assault and persistent offender crimes are eligible for a prison term along with a period of special parole that can equal a life sentence under supervision. The parole board, not the court, sets the conditions of release. Parolees who violate special parole are subject to serving a prison term equal to the unexpired period of special parole. (Refer to Appendix B for a detailed description of special parole.)

The General Assembly recognized the distinction between probation and parole supervision and intended to provide the court with an alternative to the traditional "split" sentence by enacting special parole. The court, however, has generally continued its practice of imposing "split" sentences, which overburdens adult probation and under-utilizes parole.

The program review committee recommends a "split" sentence of a period of incarceration followed by probation may only be imposed when the aggregate, non-suspended[7] prison term is one year or less. A period of special parole may be imposed when the aggregate, non-suspended prison term is greater than one year.

When imposing a sentence of special parole, the courts shall set the conditions of release. The court may order the offender:

- **be employed or participate in education or vocational training;**

[7] An offender can be convicted of more than one crime and receive more than one sentence. The aggregate sentence is the total cumulative term to be served in prison; the suspended portions of the sentences are not calculated.

- **undergo medical or psychiatric treatment, including placement in an institution for that purpose;**
- **support dependents and meet other family obligations;**
- **make restitution to the victim or victim's family;**
- **refrain from further criminal activity;**
- **reside in a residential community center or halfway house;**
- **participate in a community service program;**
- **undergo specialized sexual offender treatment, if convicted of a sexual assault crime; and**
- **satisfy any other conditions reasonably related to the offender's rehabilitation or public safety.**

The Board of Parole shall monitor and enforce compliance with the court-ordered conditions of special parole. The board shall have the authority to modify, delete, or add, without a court hearing, any other stipulation necessary to comply with the court's order or the supervision of the offender.

The judicial branch's adult probation estimates approximately 8,000 (14 percent) of the 58,000 offenders on probation are serving a "split" sentence, which requires them to serve some time in prison. Realistically, this population should be under parole supervision.

Reducing the adult probation caseload will assist the judicial branch in the implementation of a new risk assessment and supervision policy that assigns offenders to different levels of supervision, which is currently being piloted in New London. The new policies and procedures are intended to increase supervision, accurately assess treatment and programming needs, and reduce the incidences of probation violations and recidivism.

This recommendation will incrementally shift offenders from probation to the parole board's caseload,[8] which will require an increase in staffing and resources. However, there are benefits. Parole supervision is more responsive, intensive, and structured than probation and can better meet the needs of the serious offender who has served a prison term. The parole board also has the authority to return a parolee to prison without a court order; a parole revocation hearing is an administrative process.

Technical amendments to special parole statute. *The existing law establishing special parole does not specifically provide for or clarify the necessary authority for the Board of Parole to fully implement the program.* **It is, therefore, recommended the special parole law be amended as follows. The parole board:**

- **shall automatically take custody of an inmate under special parole upon the completion of the court-ordered prison term and discharge from DOC custody;**

[8] Offenders currently serving a "split" sentence will not be affected nor have their custody transferred to the jurisdiction of the Board of Parole.

- **may revoke special parole after an administrative hearing and re-parole an inmate at any time during the remaining period of special parole without a court order;**
- **may revoke special parole for a technical violation of a release condition set by the court or board or a new criminal offense; and**
- **shall have the authority to issue a mittimus to incarcerate without a court order an inmate for any period of the special parole sentence after special parole has been revoked.**

Parole reassessment hearing. The program review committee found one of the key causes of prison overcrowding is inmates are serving a greater portion of their sentence incarcerated prior to being released on parole. This is occurring for three reasons. First, "truth in sentencing" laws, enacted during the 1990s, established time-served standards for parole eligibility. As discussed previously, the majority of inmates are required to serve at least 50 percent of their sentence prior to being eligible for parole and serious, violent offenders must serve at least 85 percent. Second, "good time" was statutorily reduced and then eliminated. Third, over the past several years, the discretionary release decisions of the parole board have become more conservative. The board has required inmates to serve significantly more time than is mandated by state law.

As shown in Table VII-2, prior to the "truth in sentencing laws" (1992-1995), two-thirds (66 percent) of the eligible inmates were released on parole after serving the mandatory portion of their sentence -- 50 percent. Almost all of the remaining inmates (32 percent), were paroled after serving between 60 or 75 percent of their sentences. After the sentencing reforms, the amount of time served prior to parole release increased. The percentage of inmates paroled at first-eligibility dropped from 66 percent to 55 percent. As shown in the table, 10 percent serve at least 85 percent or "max out", meaning they are not paroled at all and serve the full 100 percent of their sentence, as compared to about 2 percent prior to the sentencing reforms.

Table VII-2. Percentage of Time Served Prior to Parole by Inmates Eligible at 50 Percent

	Pre-Sentence Reform (1993-1995)		Post-Sentence Reform (1996-2000)	
Time Served	Number	Percent	Number	Percent
50%	1,326	66%	3,455	55%
Up to 60%	435	22%	1,237	20%
Up to 75%	189	10%	940	15%
Up to 85%	24	1%	460	7%
Up to 100%	26	1%	174	3%
TOTALS	2,000	100%	6,266	100%

Source of Data: Board of Parole

The law establishing the 85 percent time-served standard for serious, violent offenders was enacted in 1995. Many of the offenders required to meet this standard have not yet done so because they typically receive the longest prison terms. Therefore, an analysis was conducted on a sample of inmates who were: (1) required to serve 85 percent of their sentence prior to parole because of the crime for which they were convicted; and (2) released or discharged from their sentence during 1999. There were 105 inmates in the sample.

Only 41 inmates (39 percent) in the sample were actually paroled. The board required those inmates to serve significantly more than the mandated 85 percent of their sentence prior to release -- an average of 92 percent of the sentence.

Half of those inmates in the sample (52 inmates) served their full term in prison -- or "maxed out" -- and returned to their communities with no supervision[9]. Twelve of the inmates (8 percent) were released by the Department of Correction rather than the parole board under a re-entry furlough, which releases the inmate from prison early to prepare for his or her eventual discharge (i.e., secure a residence or apply for a job).

When the period of parole supervision is reduced by delaying release or eliminated by denying release, Connecticut loses the ability to supervise and provide services to inmates when they have the highest risk of recidivism and are most in need of services -- during their transition from prison back to their community. This is especially true of offenders with long prison terms and/or who committed serious or violent crimes. *The parole board's practice of reducing the available period of parole supervision has significant consequences for its ability to minimize the potential risks to public safety posed by an inmate's return to the community and the offender's chances of re-offending.*

An option might be establishing a mandatory period of parole supervision -- called "presumptive parole" -- for those inmates who had not been discretionarily paroled by the board, but had served a specific percentage of their court-imposed sentence (i.e., 75 percent). Inmates with serious prison disciplinary records would be ineligible for presumptive parole release. However, the committee believes a mandatory release law would be inconsistent with the intent of the "truth in sentencing" policies established over the past five years.

Therefore, the program review committee recommends the Board of Parole retain all discretionary release authority granted under state law. The board, however, shall be required to reassess the suitability for parole release of those inmates who have not otherwise been paroled by the board after serving 50 percent of their court-imposed sentence. A panel of the board shall reassess inmates upon serving 75 percent of their sentence for release to parole based on the following standards:

- **there is reasonable probability the inmate will live and remain at liberty without violating the law; and**

[9] Some of the inmates who were not paroled and served their full sentence in prison may have a "split" sentence with a period of probation following discharge from DOC, but the parole board data did not include that sentence information.

- **the inmate's release to community supervision and transition substantially outweighs any period of continued confinement.**

The board shall also apply the recommended standards when determining suitability for parole release of those inmates required to serve 85 percent of their court-imposed sentence.

After reassessment, if the board determines continued confinement is necessary, it shall articulate for the record the specific reasons why the inmate and the public would not benefit from a period of community supervision.

Figure VII-1 diagrams the objectives of a criminal sentence.[10] The total sentence is punishment of the offender. The state's interest in punishment, however, shifts at some point from retribution to risk management because almost all criminals return to the community. As this study has pointed out, most return after serving less than three years in prison.

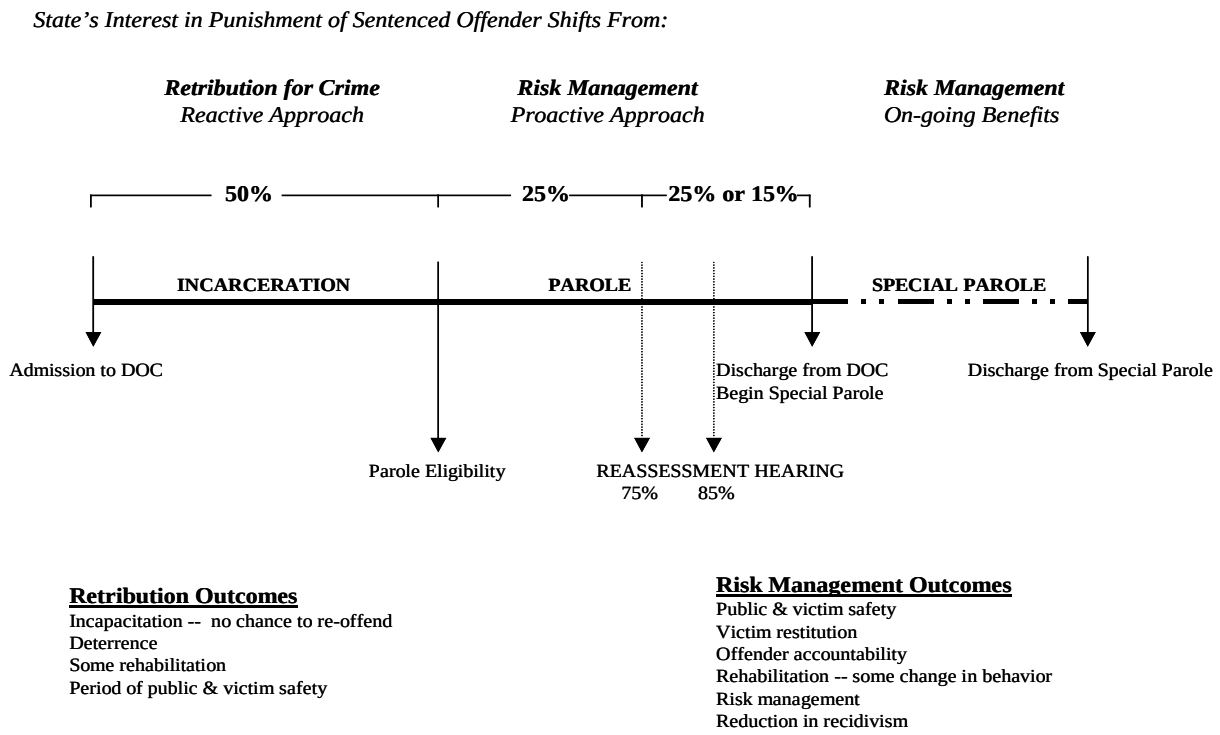
The period of retribution, which is currently defined in state law as at least the first 50 or 85 percent of the prison term, is a reactive sanction. Through incarceration, the state incapacitates an offender and achieves some deterrence against crime, rehabilitation of the offender, and a period of public and victim safety. Incarceration also plays an important symbolic role in the state's efforts to reduce crime.

At some point in the sentence, however, the state's interest ***must*** shift toward a more proactive sanction. This portion of a sentence acknowledges public safety and a reduction in crime is best achieved by managing the risks posed by an offender in the community. Risk management is typically achieved through parole or probation supervision. The outcomes of community supervision are public safety, victim restitution, offender accountability, rehabilitation, and reduced recidivism.

Given the current conservative nature of the parole board, the committee acknowledges by establishing a parole reassessment mandate the board may be even less apt to grant discretionary parole release at or near an inmate's eligibility -- upon serving either 50 or 85 percent of the sentence. Limiting the board's discretionary parole release authority or establishing a high standard for release, however, is not the intended purpose of the recommendation as it would continue to shorten the available period of parole supervision for inmates returning to their communities and absolve the board of its primary mandate. The board will retain and should continue to use its discretionary release authority for those inmates suitable for parole prior to serving 75 percent of their court-imposed sentence.

[10] The figure diagrams a sentence involving parole and special parole, however, it can be applied to a traditional "split" sentence that includes a period of probation after a period of incarceration.

Figure VII-1. Diagram of Objectives of A Criminal Sentence



Administrative reviews. Under existing state law, the parole board may conduct either a panel hearing or administrative review without a hearing. The panel hearing is a traditional hearing conducted by three members of the parole board. In 1993, the board was given the authority to determine an inmate's suitability for parole release through an administrative hearing process, which is completed by a parole officer. A panel of at least two parole board members must approve any release recommendations made through the administrative review process.

The administrative review process was initially limited by the board to inmates serving a sentence of four years or less, but was legislatively expanded to include any inmate within three years of discharge from their sentence. Given that many inmates are serving longer portions of their sentences prior to parole release, the potential pool of inmates eligible for an administrative review rather than a panel hearing has increased. The administrative review process is an efficient and effective mechanism for determining an inmate's suitability for release on parole.

The program review staff developed information that favored allowing the parole board to assess all inmates eligible for release after serving 50 percent of their sentence through the administrative hearing process, unless a panel hearing is deemed necessary by the chairman of the parole board. However, the committee believes such action was not warranted at this time.

Board of Parole. Parole was legislatively re-established after being eliminated as a result of the shift to determinate sentencing. The Board of Parole became a separate state agency in 1993, consolidating its discretionary release and supervision authorities. It has added statutory

responsibilities for administrative hearings, structured decision-making, special parole, and extended supervision parole.

The board has assumed new roles in the criminal justice system, including policymaking, management of a growing organization, participation in criminal justice systemwide policy groups, and liaison to victims and the public. In addition, recommendations presented in this section have proposed further expansion of the parole board's authority, responsibilities, and caseload.

The mandate of the Board of Parole and its role as a key component of the state criminal justice system require a move toward a full-time, qualified board and away from the traditional part-time, lay board. There should be an organizational structure in place to perform the administrative functions of the board, including conducting administrative reviews and providing parole supervision.

It is, therefore, recommended the 15-member, part-time parole board as established in current state law be abolished and replaced with a three-member, full-time board consisting of a chairman and two board members. The terms of the three members shall be four-years, coterminous with the governor.

The chairman shall be qualified by education, experience, and training in the administration of community corrections, probation, or parole. One board member shall be qualified by education, experience, and training in the administration of substance abuse or mental health treatment services and one board member shall be qualified by education, experience, and training in the law.

The chairman of the Board of Parole shall be the chief executive of the agency and have the authority and responsibility for:

- **establishing policy and regulation in all areas of parole, including decisionmaking, release criteria, and supervision standards;**
- **consulting with the Department of Correction on shared issues, including prison overcrowding;**
- **consulting with the judicial branch on shared community supervision issues;**
- **signing and issuing subpoenas to compel the attendance and testimony of witnesses at parole proceedings;**
- **placing in a community-based residential program any inmate within 18 months of their voted-to-parole status; and**
- **overseeing the administrative affairs of the board.**

The chairman and two parole board members shall convene and conduct all panel, revocation, and rescission hearings and approve parole releases recommended by the administrative review process.

The board shall create three new administrative positions: executive director for parole, an assistant director for hearings division, and an assistant director for parole supervision. The executive director shall be appointed by the chairman. The executive director shall oversee the administration of the agency and, at the discretion of the chairman:

- **direct and supervise all administrative affairs of the board;**
- **prepare the budget and annual operation plan;**
- **assign staff to administrative reviews, regions, and supervision offices;**
- **organize parole hearing calendars;**
- **implement a uniform case filing and processing system;**
- **establish specialized parole units;**
- **establish parole officer to parolee caseload ratios based on supervision levels and standards with the objective that the average parole caseload after January 1, 2004 does not exceed 65;**
- **enter into contracts with service providers, community programs, and consultants;**
- **create development, training, and education programs for staff and board members; and**
- **establish, develop, and maintain non-institutional, community-based service programs.**

The chairman and executive director shall be further required to develop policies and procedures for:

- **parole revocation and rescission hearings that include implementing due process requirements and creating a bifurcated system with a preliminary evidentiary hearing and a formal hearing;**
- **graduated sanctions system for parole violations including, but not limited to, re-imprisonment based on the type, severity, and frequency of the offense and specific lengths of incarceration for certain types of violations (e.g., 10 days re-incarceration for first failed drug test); and**
- **parole orientation program for all convicted, parole-eligible inmates upon their admission to DOC that provides general information on: the laws and policies regarding parole release; calculation of time-served standards; general conditions of release; supervision practices; revocation and rescission policies; procedure for administrative review and panel hearing; and any other information the board deems relevant for preparing inmates for parole.**

There is a national trend toward smaller, full-time, professional parole boards. Currently, 30 states have full-time boards, and only 18 have part-time boards[11]. Many states (29) statutorily require certain qualifications for appointment to the parole board.

Revocation center. As previously discussed, there is a high rate of offenders returned to prison because they have "failed" probation or parole supervision. Currently, these offenders are housed in the general prison population, which creates administrative and management difficulties for all agencies involved. Criminal justice administrators agree there is a need for a facility to incarcerate offenders who have violated the conditions of their community release.

The program review committee recommends the Department of Correction conduct a feasibility study on establishing a revocation center for parole and probation violators that includes an assessment of converting an existing DOC dormitory prison into such a facility. The department shall consult with the parole board and judicial branch's adult probation to develop a proposal for the institutional program and admission and release procedures for revocation center. The study shall be submitted to the General Assembly by January 1, 2002.

Siting difficulties. Siting controversial facilities or programs, such as a prison or a community-based residential program, is difficult. Almost all criminal justice agencies, however, implement their policies and programs through community-based residential and non-residential programs established to serve and supervise the accused and sentenced offender population. In most cases, private non-profit agencies are responsible for siting and establishing community residences that are subject to local zoning control. The state's role in the siting process for community-based programs, unlike public facilities such as prisons, is primarily funding, licensing, and monitoring their development and operation.

Ideally, siting processes for controversial programs should balance two goals: efficiency and equity. In Connecticut, most siting decisions are left to the control of local authorities. There is no formal, comprehensive state policy regarding siting of controversial facilities or programs nor any single state agency responsible for overseeing locational decisions about state owned, regulated, or funded public facilities and programs.

The siting of programs and services necessary for achieving generally accepted public purposes often generates controversy and opposition from towns proposed as the "host" locations. Despite their social benefits, controversial facilities are unwanted because of real or perceived negative side effects on the host community, such as safety risks, diminished property values and other economic harm, or adverse social impact. In addition, a town may fear that by accepting one unwanted program, it will be targeted for more controversial services.

The Department of Correction has become more successful at gaining legal and public acceptance of a new or expanded facility. In part, this is because of its ability to offer incentives to a host community such as tax reimbursements, funds for municipal police or fire services, and payments for water and sewage treatment services. Community correction agencies and, in

[11] Four of the part-time boards, including Connecticut, have a full-time chairman.

particular, the nonprofit service providers generally do not have the resources to offer such incentives.

"It is clear the state must intervene and, if necessary, override local control of land use to get publicly needed programs established. It is also evident local resistance frequently results from a lack of trust in government to act fairly or to adequately protect the public from possible health, safety, or economic harm. In the absence of a workable equity-based model, the legislature must concentrate on identifying ways to promote fairness in siting decision by state government"[12]

The program review committee recommends the following options:

- **provide state funds to reimburse nonprofit agencies for full payment of local property taxes;**
- **authorize state criminal justice agencies to purchase buildings to lease to nonprofit service providers as part of a contract for treatment, rehabilitation, monitoring, supervision, or other service or program;**
- **require state criminal justice agencies to provide technical, financial, or other assistance to nonprofit service providers in the local zoning and siting process; or**
- **appropriate state funds as part of the community corrections budget that are specifically set aside to provide incentive payments to communities sufficient to encourage them to host a residential or nonresidential program or service.**

Substance abuse policy. Traditionally, federal and state governments have relied heavily on the criminal justice system for the solution to the drug problem -- evidenced by the nation's 20-year "war on drugs." Although penalties and sanctions are important components of Connecticut's drug policies, the criminal justice system alone cannot solve the problem. State policy, to a lesser extent, has embraced substance abuse treatment and has marginally dealt with prevention and education.

During 1995, the legislative and executive branches conducted extensive research on the state's efforts to address substance abuse. The Legislative Program Review and Investigations Committee, the Law Revision Commission, and the Governor's Blue Ribbon Task Force on Substance Abuse all concluded the state's current policy, which emphasized a criminal justice response, did not sufficiently focus on a comprehensive public health approach that included treatment, prevention, and education in addition to criminal sanctions.

To advance the recommended public health policy, the Connecticut Alcohol and Drug Policy Council was statutorily created. The council is responsible for conducting and interpreting research and data analysis and reviewing the policies and practices of state agencies and contracted service providers as they relate to the overall state substance abuse policy.

[12] *Siting Controversial Land Uses*, Legislative Program Review and Investigations Committee (January 1992)

The council has failed to address substantive policy issues regarding the state's criminal justice response to substance abuse. There has been virtually no change in the rate of drug arrests or convictions or the sentences imposed for those crimes. The program review committee finds CADPC has not fulfilled its statutory mandate in this area.

It is therefore recommended the Department of Mental Health and Addiction Services, in cooperation with the Connecticut Alcohol and Drug Policy Council, evaluate the need for substance abuse and mental health services among the pre-trial and sentenced, incarcerated and community-supervised offender population and develop a plan to fund and provide such treatment and services both the correctional facilities and the community. The plan shall be submitted to the General Assembly January 1, 2002.

Appendix A
Statutory "Good Time" Credits for Criminal Sentences

1. Inmates ***sentenced*** prior to October 1, 1976, may earn:
    - 60 days "good time" credit for each year and pro rata for part of a year served for a sentence of not more than five years
    - 90 days for each subsequent year (after the fifth) and pro rata for part of a year served
    - five days per month for each month served as a meritorious time service award may be granted by warden or commissioner

2. Inmates sentenced for a crime ***committed*** on or after October 1, 1976, may earn:
    - 10 days "good time" per month and pro rata for part of a month served for the first five years of a sentence
    - 15 days per month and pro rate for part of a month served for each subsequent year
    - "good time" credit applies to minimum and maximum terms of indeterminate sentence
    - credit applies to term of determinate sentence

3. Inmates sentenced for a crime ***committed*** on or after July 1, 1981, may earn:
    - 10 days per month and pro rata for part of a month served for first five years of sentence
    - 12 days per month and pro rata for part of a month served for each subsequent year

4. Inmates sentenced for a crime ***committed*** on or after July 1, 1983, may earn:
    - 10 days per month and pro rata for part of a month served for first five years
    - 12 days per month and pro rata for part of a month served for each subsequent year

5. All inmates sentenced prior to October 1994, may earn:
    - employment time credits of 1 day deducted for every 7 consecutive days worked
    - Outstandingly Meritorious Performance Award of up to 120 days deducted for exceptional personal achievement, accomplishment, or performance in prison

Appendix B
Criminal Sentencing Framework

This section describes the types of sentences the court may impose as punishment of a convicted criminal offender. The requirements of the sentences range from a release from custody without supervision to a prison term. Table B-1, at the end of the appendix, provides an overview of the types of sentences and diversionary sanctions imposed by the court. The table also provides information on eligibility and exclusionary criteria for each sentence and diversionary program and the criminal justice agency responsible for administering the sentence.

Prison sentence. A "flat" sentence is a fixed period of incarceration. Connecticut has a determinate sentencing structure that imposes a specific prison term for offenses committed after July 1, 1981.[1] As shown in Table B-2, each determinate (or "flat") sentence for a felony or misdemeanor is based on statutory guidelines, which establish the minimum and maximum range within which the court must sentence the offender.

It is not uncommon for an offender to receive more than one sentence because he or she has been convicted of more than one crime. Sentences may be served either concurrently (at the same time) or consecutively (one after another) as per the order of the court. The court may suspend any portion or all of a "flat" sentence.

The court may also impose a period of probation supervision following a prison term -- called a "split" sentence. Typically, the court will suspend (called "execution suspended") a portion or all of the prison term of a "split" sentence.

For example, the court will impose a five year prison term with execution suspended after two years, followed by three years probation. This means the offender will serve two years in a correctional facility and then be under probation supervision in the community for three years. If the offender violates probation, the court may order the offender to serve the suspended three years of the "flat" sentence in prison or may vacate that sentence and impose a new sentence for the violation. In addition, any offender serving a "split" sentence with a period of incarceration greater than two years is eligible for parole. If released by the parole board, the offender is supervised in the community on parole for the remainder of the prison term, followed by the court-ordered term of probation supervision.

Enhanced penalties. In addition to the statutory sentencing guidelines, the penal code also allows for enhanced penalties to be imposed for certain types of crimes or offenders through mandatory minimum sentences and the persistent offender provisions. Mandatory minimum sentences are required for certain crimes, typically violent or drug offenses. The mandatory sentence requires generally a longer a period of incarceration than the statutory minimum for the offense class. Upon conviction, the mandatory

[1] Prior to July 1, 1981, an indeterminate sentencing structure was in place that imposed a minimum and maximum sentence range rather than a fixed sentence length.

minimum term of a sentence must be imposed and may not be reduced or suspended by the court unless the offender is under 18 or has impaired mental capacity.

Table B-2. Statutory Criminal Sentencing Guidelines		
Offense	Minimum Term	Maximum Term
Capitol felony	Life in prison* w/out parole	Death sentence
Class A felony murder	25 years	Life
Class A felony	10 years	25 years
Class B felony manslaughter 1 w/ firearm	5 years	40 years
Class B felony assault on victim 60 years or older, aggravated sexual assault 1, kidnapping 2 w/ firearm, burglary 1 w/ firearm, robbery 1 w/ firearm	5 years	20 years
Class B felony	1 year	20 years
Class C felony manslaughter 2 w/ firearm	3 years	10 years
Class C felony	1 year	10 years
Class D felony assault 2 on victim 60 years or older and criminal possession of firearm	2 years	5 years
Class D felony assault 2 w/ firearm on victim 60 years or older	3 years	5 years
Class D felony	1 year	5 years
Class A misdemeanor	None	1 year
Class A misdemeanor assault 3 w/ weapon and assault 3 w/firearm on victim 60 years or older	None	1 year (not suspendable)
Class B misdemeanor	None	6 months
Class C misdemeanor	None	3 months
*Life in prison is statutorily defined as 60 years unless it is without the possibility of release, which is the natural life of the offender. Source of Data: Connecticut General Statutes		

A recent change in the law, authorizes the parole board to disregard any portion of a mandatory minimum sentence in the calculation of parole eligibility. However, the offender is still subject to supervision for the full term of the mandatory minimum sentence. Table B-3 is a listing of the offenses carrying mandatory minimum sentences

Table B-3. Mandatory Minimum Sentences		
Offense	G.C.S.	Mandatory Minimum Sentence
Capital Felony		
Capital felony	53a-54b	Life imprisonment or death
Unclassified Felony		
Arson murder	53a-54d	Life imprisonment
Class A Felony		
Murder (other than capital)	53a-54a	25 years
Felony murder	53a-54c	25 years
Kidnapping 1*	53a-92	1 year^
Kidnapping 1 w/firearm	53a-92a	1 year
Employing minor in obscene performance	53a-196a	10 years
Arson 1	53a-111	^^
Class B Felony		
Manslaughter 1 w/firearm*	53a-55a	5 years
Assault 1*	53a-59	5 or 10 years based on facts
Assault 1 on victim 60 years or older	53a-59a	5 years
Sexual assault 1*	53a-70	1 year
Sexual assault 1 on victim under 10 years*	53a-70	10 years
Aggravated sexual assault 1*	53a-70a	5 years
Kidnapping 2*	53a-94	3 years
Kidnapping 2 w/firearm*	53a-94a	3 years
Burglary 1 w/deadly weapon	53a-101	5 years
Robbery 1 w/deadly weapon*	53a-134	5 years
Class C Felony		
Manslaughter 2 w/firearm*	53a-56a	1 year
Sexual assault 2	53a-71	9 months
Burglary 2 w/firearm	53a-102a	1 year
Larceny 2 from elderly, blind, disabled victim	53a-123/ 53a-60b	2 years
Interference with cemetery or burial ground	53a-218	$500 fine
Selling or transporting assault weapon	53-202b	2 years 6 years if sale to minor
Class D Felony		
Illegal sale or transfer of handgun to minor	29-34	1 year
Assault 2 w/firearm	53a-60a	1 year
Assault 2 on victim 60 years or older	53a-60b	2 years
Assault 2 w/firearm on victim 60 years or older	53a-60c	3 years
Sexual assault 3 w/firearm*	53a-72b	1 year
Burglary 3 w/firearm	53a-103a	1 year

Table B-3. Mandatory Minimum Sentences		
Offense	G.C.S.	Mandatory Minimum Sentence
Criminal use of firearm	53a-216	5 years
Criminal possession of pistol or revolver	53a-217	2 years
Possession of assault weapon	53-202c	1 year
Class A Misdemeanor		
Assault 3 w/deadly weapon	53a-61	1 year
Assault 3 on victim 60 years or older	53a-61a	1 year
Other Offenses		
Driving during license suspension for DWI & related offenses	14-215(c)	30 days, unless mitigating factors
First DWI conviction	14-227a(h)	48 hours or community service
Second DWI convictions	14-227a(h)	2 days, 10 days, 120 days, 1 year
Use, possession, delivery, drug paraphernalia near school by non-student	21a-267 (c)	1 year
Illegal manufacture or sale of drugs	21a-278	5 years for first offense 10 years for subsequent offenses
Sale of drugs to minor	21a-278a(a)	2 years
Sale of drugs to minor w/in 1500 feet of school, public housing, or day care center	21a-278a(b)	3 years
Using person under 18 to sell drugs	21a-278a(c)	3 years
Possession of narcotic, hallucinogenic, or controlled substance w/in 1500 feet of school	21a-279(d)	2 years
Carrying handgun w/out permit	29-37(b)	1 year if no mitigating factors
Persistent felony offender	53a-136a	3 years
Carjacking	53a-136a	3 years
Committing Class A, B, or C felony w/assault riffle	53-202j	8 years
Committing Class A, B, or C felony w/firearm	53-202k	5 years
Conviction for an offense committed while release awaiting trial	53a-40b	Not more than 10 years for a felony or not more than 1 year for misdemeanor in addition to term imposed for offense
Multiple convictions for sexual assault or assault on young victims	53a-29 and 53a-30	Up to 35 years probation with sex offender treatment Additional condition of psychological counseling if victim under 11 years (53a-40c)
Carjacking during commission of robbery	53a-136a	3 years
*Offenses also subject to persistent offender provisions ^1 year mandatory minimum pursuant to State v Jenkins, 198 Conn. 671 (1986) ^^no mandatory minimum pursuant to State v O'Neill, 200 Conn. 268 (1986) Source of Data: Connecticut General Statutes		

It should be noted the penal code contains conflicting provisions with regard to mandatory minimum sentences and sentence guidelines for certain offenses. This

situation has led the Connecticut Supreme Court to rule[2] that in situations with conflicting sentencing provisions when the more serious crime carries a lesser statutory penalty, the lesser penalty must prevail over a mandatory minimum sentence and also be applied to the less serious crime.

The persistent offender statutes are Connecticut's interpretation of the "three strikes and you're out" sentencing initiative. The "three strikes" provision, adopted by 23 other states and Congress, is a way to deal with habitual (or "career") criminals by allowing increasingly tough penalties for repeat offenses. The state's persistent offender laws provide for enhanced penalties for offenders with previous convictions for certain offenses if the court finds the offender to be in need of extended incarceration and lifetime supervision.

The statutory provisions are primarily aimed at offenders with a history of violent or serious offenses, such as manslaughter, assault, sexual assault, and threatening. In addition to a conviction for the type of crimes listed, the offender must have at least two or three prior convictions for the same type of crimes. Table B-4 is a summary of the persistent offender categories, the types of crimes, and sentencing information established by the persistent offender laws.

Probation and conditional discharge. Under a sentence of probation, the court imposes conditions for the offender's behavior and places him or her under its supervision. The court may impose a sentence of probation for the conviction of any crime other than a class A felony and must first find: (1) release of the offender to the community is not a threat to public safety; (2) the offender is in need of guidance, treatment, training, or assistance that can be provided through supervision; and (3) a sentence of probation is not inconsistent with the "ends of justice."

A conditional discharge is a sentence similar to probation. It may be imposed for the conviction of any crime other than a class A felony where probation supervision is deemed not appropriate, but conditions for the offender's behavior are necessary.

The statutory sentencing guidelines for probation and conditional discharge terms range from not more than one year up to not less than 10 years depending on the class of crime. The court may, as a condition of probation or conditional discharge, order the offender:

- be employed or participate in education or vocational training;
- undergo medical or psychiatric treatment, including placement in an institution for that purpose;
- support dependents and meet other family obligations;
- make restitution;
- post bond or other security for release;
- refrain from further criminal activity;

[2] *State v Jenkins*, 198 Conn. 671 (1986) and *State v O'Neill*, 200 Conn. 268 (1986)

- participate in an alternative incarceration program, unless convicted of certain specified crimes;
- reside in a residential community center or halfway house;

Table B-4. Persistent Offender Sentencing Guidelines

Type of Offender	Eligibility based on conviction for:	Sentence
Persistent dangerous felon	Manslaughter, arson, kidnapping, robbery 1 or 2, assault 1 Previous federal or state conviction and sentence to more than 1 year (or death) for listed offenses or sexual assault 1 or 3, aggravated sexual assault 1 or 3, sexual assault 1 or 3 w/firearm	Up to 40 years for 2nd offense Life for 3rd offense
Persistent serious felon	Any felony (except those listed above) Previous federal or state felony conviction and sentence to more than 1 year (or death)	Term authorized for the next most serious degree or felony
Persistent dangerous sexual offender	Sexual assault 1 or 3, aggravated sexual assault 1, sexual assault 3 with firearm Previous conviction and sentence of more than one year or death for murder, manslaughter, arson, kidnapping, robbery 1 or 2, assault 1 or attempt of any of the listed offenses	Prison term and special parole term to equal life
Persistent serious sexual offender	Sexual assault 1 or 3, aggravated sexual assault 1, sexual assault 3 with firearm Previous conviction and sentenced to more than one year for listed crimes	Prison term and special parole term to equal maximum sentence for next more serious degree of felony
Persistent larceny offender	Larceny 3,4,5, or 6 2 separate and previous convictions for larceny	Minimum of 1 year to maximum of 5 years (Class D felony sentence)
Persistent felony offender	Any felony other than Class D 2 separate and previous convictions for felony other than Class D	Minimum of 1 year to maximum of 5 years Term authorized for next most serious degree of felony with a minimum of 3 years nonsuspendable
Persistent offender of crimes involving bigotry or bias	Depravation of rights, desecration of property, cross burning, ridicule on account of race, creed, or color, or creating public disturbance Previous conviction for listed offenses	Term authorized for next most serious degree of felony or misdemeanor If Class A misdemeanor, sentence for Class D felony
Persistent offender of assault, stalking, trespass, threatening, harassment, or criminal violation of protective order	Assault, stalking, trespass, threatening, harassment, or criminal violation of protective order	Term authorized for next most serious degree of misdemeanor

Table B-4. Persistent Offender Sentencing Guidelines		
Type of Offender	Eligibility based on conviction for:	Sentence
	Within 5 years of most recent conviction, convicted of capital or Class A felony, Class B felony except promoting prostitution 1 or larceny 1, Class C felony except promoting prostitution 2, bribery of juror, bribe receiving by juror, Class D felony for assault, sexual assault 2, sexual assault 2 w/firearm, unlawful restraint, burglary 3, burglary 3 w/firearm, reckless burning, robbery 3, robbery 3 w/firearm, criminal use of firearm or electronic defense weapon, assault 3, stalking, threatening, harassment, criminal violation of protective order, or criminal trespass 1 and 2	If Class A misdemeanor conviction, sentence for Class D felony
Persistent while under the influence felony offender	Manslaughter 2 w/motor vehicle, assault 2 w/motor vehicle Within 10 years of most recent conviction, convicted of listed crimes or operating motor vehicle while under the influence of alcohol or drugs	Term authorized for next most serious degree of felony
Source of Data: Connecticut General Statutes		

- participate in the community service labor program;
- undergo specialized sexual offender treatment, if convicted of a sexual assault crime; and
- satisfy any other conditions reasonable related to rehabilitation.

The period of supervision or the conditions of probation or conditional discharge may be modified at any time by the court after a hearing. The court may also issue an arrest warrant or notice to appear for any offender who has violated a condition of probation or conditional discharge. The warrant authorizes the return of the offender to the custody of the court or detention facility. A hearing is held and, if the offender is found to be in violation, the court may: (1) continue the sentence; (2) modify the condition of supervision; (3) extend the period of supervision; or (4) revoke the probation or conditional discharge and order the offender incarcerated or impose a new sentence of probation or conditional discharge.

Special parole. Special parole, established in 1998, is a sentencing option available to the court that allows for a period of mandatory parole supervision added to a prison sentence greater than two years. It is similar to a "split" sentence, however, parole rather than probation supervision follows the prison term.

The court may impose a fixed period of special parole of between one and 10 years for all felony offenses except specific sexual assault or persistent offender crimes, provided the total amount of the sentence and special parole do not exceed the maximum

statutory sentence for the crime. Offenders convicted of certain sexual assault and persistent offender crimes are eligible for a prison term along with a period of special parole that can equal a life sentence under supervision. The parole board, not the court, sets the conditions of release. Parolees who violate special parole are subject to serving a prison term equal to the unexpired period of special parole.

Diversionary sentences. As mentioned previously, the court may divert an accused offender, typically a first-time or low level offender or one charged with a specific type of crime who does not pose a public safety threat and would benefit more from treatment or education rather than a prison sentence. Diversionary sentences include accelerated rehabilitation, youthful offender status, pre-trial alcohol or drug education or family violence education programs, community service, "zero-tolerance" drug supervision, and alternative sanction programs. Probation is also a diversionary sentence.

The court can divert an offender prior to disposition (pre-trial) or at sentencing after a conviction. Upon an order for pre-trial diversion, the court suspends the prosecution of the pending criminal charge while the offender participates in a specific program or complies with certain conditions, such as community service, restitution, periodic drug testing, or no further criminal activity. Upon successful completion, the charges are dismissed by the court and the offender has no criminal record. However, if the offender fails to complete the program, violates a condition, or is again arrested, the court may proceed with the prosecution and, upon conviction, sentence the offender.

A frequently used diversionary sentence is probation supervision with a court-ordered condition of participation in an alternative sanction program. The network of alternative sanction programs include: non-residential services such as alternative to incarceration centers (AICs), intensive probation supervision; electronic monitoring and/or transitional housing, day incarceration centers (DICs); and residential programs such as inpatient substance abuse (drug or alcohol) treatment, women and children's programs, youth confinement centers, and Project Green, which is four-month inpatient drug treatment and work crew program.

State law places restrictions on participation in diversionary programs. The most common being offenders may only participate in a program on one or two separate occasions and charges for certain offenses make offenders ineligible.

Table B-1. Criminal Sentencing Options				
Sentence	Eligibility Criteria	Restrictions/Exclusions	Supervision Agency	Guidelines
"Flat"	Conviction for felony or misdemeanor offense		DOC & parole board	Statutory minimum & maximum ranges for classes of offenses Sentences for more than 1 offense can run concurrently or consecutively
Mandatory Minimum	Conviction for certain felony and misdemeanor offense	Ordered for only those offenses set out in state law as having mandatory minimum	DOC	Minimum sentence for specific offense set in state law Mandatory minimum term is not calculated in determining parole eligibility
Execution Suspended	Conviction for felony or misdemeanor offense		Any portion of the sentence not suspended administered by DOC & parole board Supervision during suspended portion may be administered by judicial branch – adult probation if followed by probation. If violation of probation, court may re-impose suspended portion that is administered by DOC	Court may impose a sentence length & then suspend all or part of it Court may order probation or condition or unconditional discharge instead of prison – can suspend total sentence
"Split"	Conviction for felony or misdemeanor offense		DOC, parole board, & judicial branch – adult probation	Sentence of incarceration followed by a court-ordered period of probation
Fine	Conviction for felony or misdemeanor offense Offender's financial resources, ability to pay, & rehabilitative effect		Collected by judicial branch	Statutory maximum amounts for felony & misdemeanor May be imposed in lieu of or in addition to any definite sentence option
Probation	Incarceration not necessary for public protection Offender needs guidance,	Class A felony not eligible	Judicial branch – adult probation	Statutory maximum periods for classes of offenses May be imposed in addition to a definite

Table B-1. Criminal Sentencing Options				
Sentence	Eligibility Criteria	Restrictions/Exclusions	Supervision Agency	Guidelines
	treatment, training, or assistance Disposition not inconsistent with "ends of justice" Conviction for felony or misdemeanor offense Conditions can be modified any time during probation period after a court hearing			sentence ("split") or in lieu of incarceration (alternative sentence) Court may order placement/participation in alternative sanction program as part of condition of probation Court may order restitution based on calculated damages for victim injury, loss of property, treatment or lost wage expenses, & "reasonable" costs, but may not calculate reimbursement for victim mental anguish, pain, suffering, or intangible losses
Conditional discharge	Incarceration not necessary for public protection Probation supervision not appropriate or necessary Felony or misdemeanor offenses charge Court can modify or add conditions at any time after hearing	Class A felony not eligible Class B or C must be supervised	Judicial branch – adult probation	Statutory maximum periods for classes of offenses Released from conviction but subject to conditions Imposed in lieu of definite sentence
Unconditional discharge	Incarceration not necessary for public protection Probation supervision not appropriate No "proper purpose" for supervision conditions Sentenced felony or misdemeanor offender			Released from conviction without supervision or conditions Imposed in lieu of definite sentence
Special Parole	Felony or misdemeanor offenders sentenced to more than 2 years Criteria established		Parole board	Specific period of parole ordered after definite sentence: 1-10 years for felony convictions & 10-35 years for specific violent or sexual felony conviction

Table B-1. Criminal Sentencing Options				
Sentence	Eligibility Criteria	Restrictions/Exclusions	Supervision Agency	Guidelines
	by BOP Period of mandatory parole to follow the term of definite sentence			Parole conditions not set by court at time of sentencing but by parole board at time of release Violators subject to incarceration for term of special parole – not to exceed statutory max term for offense – after hearing by parole board not court
Diversionary Sentence Options for Criminal Offenses				
Accelerated Rehabilitation	First-time offenders accused of "less serious" or MV violations offenses punishable by a term of imprisonment Criteria: probable will not re-offend; waives right to speedy trial; & suspended statute of limitations	Charge or violation of: Class A or B felony; Class C unless good cause shown; DUI; sexual or indecent conduct with minor; specific violent offenses; offense resulting in a death; & any family violence offense in which offender is eligible for pre-trial family violence ed program Prior participation in AR or YO programs Prior criminal or specific MV conviction	Judicial branch – adult probation	Supervision for up to 2 years under CSSD, drug court, YSB May have conditions of release Successful completion dismisses charges
Youthful Offender	16-17 year old offenders Eligibility based on investigation by court, severity of crime, & victim's age or physical incapacity	Class A felony & specific sexual assault charge Prior conviction of felony, SJO, SRJO Prior participation in YO or AR	Judicial branch – adult probation & DOC	Defendant pleads to being YO YO sentenced & conditions imposed, can also serve prison time YO status is not a criminal conviction
Pre-trial Alcohol Education	Charged with operating a MV under influence	Previous participation in program Convicted of manslaughter 2 w/MV, assault 2 w/MV, operating MV under influence of alcohol, operating MV under influence of alcohol or drugs on/after 10/1/85 If violation of operating MV under influence resulted in serious physical injury of another, unless good cause is shown	CSSD- bail commission determines eligibility DMHAS does evaluation & placement in program Program administered by contracted provider	Suspend prosecution & order treatment program for 1 year and at least 10 counseling sessions Driver's license suspended for 1 year during program participation $425 program fee, indigent person may not be excluded Charges dismissed upon successful completion of program
Pre-trial Drug	Charge of possession of drug	Previous participation in program or community	CSSD- bail commission	Abide by conditions of program and participate

Table B-1. Criminal Sentencing Options				
Sentence	Eligibility Criteria	Restrictions/Exclusions	Supervision Agency	Guidelines
Education	paraphernalia or possession of controlled substance other than narcotic, hallucinogenic, or less than 4 oz cannabis	service labor program	determines eligibility DMHAS does placement in program Program administered by contracted provider	for 4 days in community service labor program $600 program fee, indigent person may not be excluded Suspend prosecution & charges dismissed upon successful completion of program
Pre-trial Family Violence Education	Criminal charge involving family violence Class D or unclassified felony carrying sentence of more than 5 but less than 10 years only if "good cause" is shown	Previous conviction for family violence crime that occurred on or after 10/1/86 or previous referral to family violence education program Previous invoked AR for family violence charge that occurred on or after 10/1/86 Class A, B, C, or unclassified felony carrying sentence of more than 10 years unless good cause is shown or a Class D or unclassified felony carrying sentence of more than 5 years	Judicial – family violence intervention unit Program administered by contract provider	Suspend prosecution & order participation in program for 2 years with conditions imposed by court Court must notify victim of offender's participation $200 program fee, indigent person may not be excluded Charges dismissed at successful completion of program
Pre-trial Community Service Labor	Charged with illegal possession of narcotic, hallucinogenic, cannabis, marijuana, Participation limited to 2 separate admissions Participation pre-trial or upon conviction	Previous conviction for drug sale or possession Previous participation in pre-trial drug education program	Imposed by court Administered by judicial CSSD & contracted provider	Drug education is a component if participation is pre-trail and prosecution suspended If pre-trial, charges are dismissed upon successful completion If part of sentence, participation is part of plea agreement Period of participation is statutorily mandated at: possession of narcotic, 14 days for 1st violation & 30 days for 2nd possession of hallucinogenic/4+ oz of cannabis, 10 days for 1st violation & 20 days for 2nd possession of controlled substance other than narcotic, hallucinogenic, or less than 4 oz of cannabis, 2 days for 1st violation & 10 days for 2nd
"Zero-Tolerance" Drug Supervision	Convicted & eligible to be sentenced to period		Judicial – adult probation	Participation is condition of probation

Table B-1. Criminal Sentencing Options				
Sentence	Eligibility Criteria	Restrictions/Exclusions	Supervision Agency	Guidelines
	of probation		Program administered by contracted provider	Periodic drug testing and failed test results in 2-day detention in halfway house and/or charge of violation of probation (VOP)
Source of Data: Connecticut General Statutes				

Appendix C
Criminal Justice System Decision Points Affecting Custody

The Department of Correction is responsible for managing Connecticut's prison system, but almost all criminal justice agencies have some discretionary authority to place an offender in custody or release him or her to the community. An understanding of the steps within the criminal process at which custody decisions are made and the dispositions available at each step are essential to identifying workable solutions to prison overcrowding.

A detailed discussion of each criminal justice agency will not be included. The focus is on the agency's discretionary authority to detain an offender and the point in the process at which the agency makes that decision, and not the specific operations of the agency. However, Table C-1 lists the key agencies in the state criminal justice system and summarizes their roles.

Table C-1. Criminal Justice Agencies and Their Roles

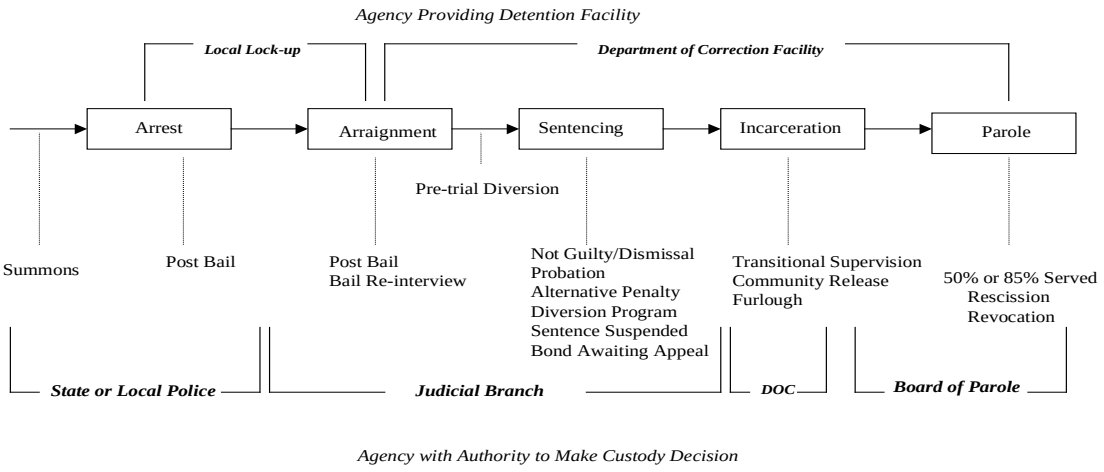
State Agency	Responsibilities
Division of State Police	prevent crime, apprehend criminals, enforce motor vehicle laws, and investigate crimes and traffic accidents local police have the same responsibilities within the jurisdiction of the municipality it serves
Division of Criminal Justice (state's attorneys)	investigate, charge, and prosecute all criminal matters -- adult and juvenile -- and represent the state in all appellate, post-trial, and post-conviction proceedings resulting from the prosecuting of criminal matters
Office of the Public Defender	provide legal assistance to indigent persons accused of a criminal offense private defense attorneys provide the same service for a fee to non-indigent clients
Judicial branch (courts, bail, and adult probation)	administer the adult criminal (judicial district and geographical area court locations) and appellate courts for the adjudication and disposition of criminal charges, sentence all convicted criminal offenders, administer bail, probation, and alternative sanction services for accused and sentenced offenders
Department of Correction	confine and control accused offenders and sentenced inmates in prisons and jails by direction of the court, operate 20 correctional facilities for male and female inmates from maximum to minimum security, provide medical, mental health, rehabilitative, educational and vocational training, and community-based service programs to the supervised accused and sentenced population
Board of Parole	determine when and under what circumstances eligible offenders are released early from prison and provide parole supervision services in the community to manage risk and maximize the potential for offenders to remain

	crime-free

Criminal Justice Process

Program review committee staff has identified five main steps within the criminal justice process at which a custodial decision is made: arrest, bond setting, sentencing, community release, and parole. As shown in Figure C-1, most steps are sequential, but some can be repeated. Information about the agency with decision-making authority, the scope of that authority, and the custody or release options available for each step are presented below.

Figure C-1. Criminal Justice Decision Points Affecting Custody of An Offender



Arrest. State and local police are responsible for arresting criminal offenders. The first custody decision at this point is whether to make an arrest or issue a summons to appear in court, which allows the offender to remain at liberty. The police also may take no action.

If the police make a custodial arrest the offender is detained in local lock-up facilities to be processed and charged by police. The police set a surety (or financial) bond -- also called bail -- in order that the accused offender may secure his or her release from custody pending disposition of the charges by the court. There are no statewide guidelines governing the setting of bond by police; each department establishes its own standards and criteria. Upon posting the bond, an offender is released from custody and, in order to remain in the community, must appear at every court appearance until the disposition of the charges against him or her.

Techniques and policies such as community policing, "zero-tolerance," and targeting specific locations or types of offenses have an impact on the number of arrests and the types of criminal charges. Decisions surrounding arrest practices are critical determinants of the jail population. State and local police discretion dominates the initial admission decision into the criminal justice system.

Bond. A defendant not released on bond by police is referred to the judicial branch for bond setting. There are two points at which bail may be set and posted. First, judicial bail staff -- formerly known as bail commissioners -- interview offenders detained in local police lock-up facilities and set bond.[1] The bail staff may change the initial bond set by the police. Typically the bond amount is lowered because the offender cannot post the initial amount or meet the conditions imposed by police. Upon posting of the bond, the defendant is released from lock-up pending disposition of the charges.

Because of resource limitations, bail staff do not interview all arrested offenders. They focus mainly on the busiest and largest police departments. A defendant unable to post the bond set by the police or bail staff or who was not interviewed by the bail staff while in a local lock-up remains in the custody of the arresting police department until his or her arraignment hearing. An arraignment is the first court appearance for an accused offender. It has two purposes: (1) the defendant enters a plea (guilty or not guilty) against the pending formal charges; and (2) the court sets bond, based upon a recommendation by the bail staff, who interview those defendants not previously released on bond. Defendants posting bond are released from custody. Those unable to post bond are transferred to the custody of the Department of Correction and detained in a correctional center (jail) pending disposition of the charges or the posting of bond.

In 1997, the judicial branch established the bail re-interview project to screen pre-trial defendants in jail to reassess the possibility of release on bond. Defendants typically remain in jail because they cannot raise the cash necessary to post bond or cannot meet the nonfinancial release conditions set by the court. Bail staff re-interview primarily offenders whose history of violent or sexual offenses or mental health problems would make them ineligible for placement in a program. The bail staff present the court with an alternative plan, which usually includes substance abuse treatment or another treatment or service program that will ensure the defendant's appearance in court. The court may modify the original bond order and release the defendant on a bond of a written promise to appear on the condition that he or she comply with the conditions of release plan.

Offenders charged with certain crimes such as murder, larceny first degree, assault first degree, and sexual assault second and third degrees with a firearm are not eligible to be released on bond and must remain in the custody of the Department of Correction until the disposition of the charges. Convicted offenders may be released on bond while awaiting sentencing or appealing a conviction. However, defendants convicted of murder cannot be released on bond. The court may issue an arrest warrant

[1] The court must set a bond based on the "the first condition of release" that will "reasonably" assure the defendant's appearance in court.

for any defendant released on bond who fails to appear in court. It may also modify a bond or release conditions after a hearing.

All conditions of release are monitored by bail staff, but the offenders are not supervised. The defendant's compliance is reported to the court at all appearances, and bond conditions may be modified by the court, after a hearing, for failure to comply.

For each type of bond, there is a process for the court to recover the bond amount if the defendant fails to appear in court. Upon disposition of the charges, the defendant or professional bail bondsman is released from the bond.

The Table C-2 shows the four types of bonds set out in state law. Special or non-financial conditions of release, such as electronic monitoring, participation in a program or treatment, reporting requirements, substance abuse or mental health evaluations, and no contact with a victim or witness, may be imposed by the police or the court as part of a bond. No further criminal activity by the offender is also a standard condition of release.

Table C-2. Types of Bonds

Bond	Requirements	Non-financial Conditions
Non-financial Bonds		
Written Promise to Appear (WPTA)	No dollar amount set Offender released on own recognizance	May be set by police or courts
Non-surety	Police or court sets bond amount No cash posted by offender to secure release Court may attempt to recover bond amount for failure to appear	May be set by police or courts
Financial Bonds		
Surety	Police or court sets bond amount Professional bondsman guarantees bond & offender posts 7 to 10% of bond amount in cash with bondsman as service fee Bondsman pays court 50% of bond amount for failure to appear or returns offender to court	May be set by police or courts
10% cash	Court sets bond amount Offender posts 10% of bond amount in cash with court & guarantees the balance -- no bondsman used Court may attempt to recover balance of bond (90%) and retain posted 10% for failure to appear Upon disposition of charges, posted 10% is returned to offender	May be set by courts
Real Estate	Offender posts owned real estate equal to value of bond in lieu of cash	

Source of data: Connecticut General Statutes and Connecticut Practice Book 2000

Another type of bond that has been recently used by the court is "cash bail". It is not a statutorily authorized bond, but has developed as a practice is some courts as a way to ensure certain offenders are unable to secure release by posting bond. As its name implies, under a cash bail, the defendant is required to post the total amount of the bond in cash. Professional bail bondsmen cannot be used because they are unwilling to guarantee 100 percent of the bond. Typically, cash bail is set at a very high amount (i.e., $1 million) that, if not posted, requires the offender be transferred to the custody of the correction department pending disposition of the charges or until bond is posted.

Sentencing. All criminal charges before the court must be adjudicated. The charges may be dismissed by the court or the defendant found guilty or not guilty. Only a very small percentage (about 2 percent) of criminal cases actually progress to trial. The adult criminal court system relies heavily upon plea bargaining, the process of negotiation between the state's attorney (or prosecutor) and the defense counsel aimed at reaching an agreed upon disposition of the case. It is based on the prosecutor's authority to reduce the charges, dismiss or drop multiple charges, and make sentencing recommendations to the court.

Offenders whose charges are dismissed or who are found not guilty are released from custody and any further criminal proceeding against them for those charges. Offenders who are found or plead guilty proceed to the sentencing phase of the adjudication process.

As discussed in Appendix B, there are several types of sentencing options available to the court. However, it is only a sentence of a prison term that immediately affects the custody of a convicted offender. Only about 24 percent of the average daily population of convicted offenders is in prison. Most convicted offenders are under sentences or diversionary programs that place them in the community under a some form of supervision, with restrictions and conditions on their behavior. The possibility of being sent to prison is the punishment for failing to comply with the community release and supervision conditions. The court retains the authority, until the completion of the sentence, to impose a prison term.

Community release from prison. The Department of Correction administers court-imposed sentences of incarceration and assumes custody of sentenced offenders. The department determines the security and custody needs of the inmates and, to meet those needs, operates a system of prison facilities ranging from minimum to maximum security and a network of community-based residential and non-residential programs.

Convicted inmates must serve 100 percent of their court-imposed sentence either in the custody of the correction department or parole board. DOC cannot modify the length of the court's sentence, but can authorize the early release of certain inmates into the community to complete their sentences under supervision. DOC has discretionary release authority over inmates sentenced to two years or less and those who have already

been voted to parole and have a scheduled parole release date. The department administers three types of community-based early release programs: transitional supervision (TS); community residence; and re-entry furlough.

Transitional supervision. The transitional supervision program[2] allows eligible inmates sentenced to two years or less to be released from prison after serving at least 50 percent of their sentence. The release is authorized by the warden of the facility where the inmate is housed.

Inmates who are convicted of certain crimes (e.g., driving while under the influence of alcohol or dugs) or have other criminal charges pending are not eligible for TS. An inmate who does enter the program must:

- comply with treatment or rehabilitative program requirements;
- remain free of disciplinary reports for specified periods of time;
- have no or low sex offender or mental health classification scores;
- have no charge of escape; and
- have an approved sponsor.

Correctional TS counselors who review and approve the release plan, also establish release conditions and supervise the inmates. Release conditions generally include a curfew, a requirement to be employed or enrolled in school or a training program, no further participation in criminal activity, compliance with a reporting schedule, and restrictions on visiting specific crime-prone areas or having contact with the victim of the crime for which the offender was incarcerated.

TS inmates are classified to determine their level of supervision:

- intensive: report to counselor a minimum of twice per week;
- regular: report a minimum of once per week; and
- minimum: report once every other week or monthly.

Community residence. The community residence program allows sentenced inmates who are within 18 months of discharge or who have been voted to parole (and have a parole release date) to be released from prison to an approved community residential program, generally a halfway house.

To be eligible for a community residence, an inmate must:

- be classified at security level 2 (minimum security);
- remain free of disciplinary reports for specified periods of time;
- have no charge of escape during the preceding year;

[2] The TS program was established in 1994 after the phase-out of the Supervised Home Release (SHR) program.

- have no community release failures within the preceding six months; and
- have no pending criminal charges or detainers, unless bond has been posted or pre-trial release criteria are met.

Re-entry furlough. A re-entry furlough allows an inmate to be released to an approved residence in the community -- typically a halfway house -- during the final portion of the sentence for the purpose of reintegration. A furlough may be granted to inmates who are within 15 days of their discharge from prison or parole release date.

Furlough eligibility criteria include:

- minimum security classification;
- no serious disciplinary infractions;
- a verified reason for the furlough, an approved residence, and a sponsor;
- served a minimum of 30 days or 40 percent of sentence and served all of mandatory minimum portion of sentence for driving while intoxicated;
- no prior furlough violation or escape; and
- no pending criminal charge for which bond has not been posted.

Inmates released on re-entry furlough or community release to halfway house inmates must comply with conditions such as a curfew, no criminal activity or use of alcohol or illegal drugs, remaining within a designated town and residing at an approved residence, returning to the correctional facility as per the order of DOC, submit to alcohol or drug testing, and abide by any other special conditions imposed. Failure to comply with release conditions may result in disciplinary action by DOC. Inmates who fail to return to prison at the end of the furlough are considered to have escaped and are referred for prosecution.

Parole. To be eligible for parole, an inmate is required to serve either 50 or 85 percent of their sentence. The parole board determines which time-served standard applies to each inmate. An inmate convicted of any one of the 33 "serious, violent" offenses identified by the board or who has two prior convictions for violence within the preceding 10 years is required to serve 85 percent of his or her sentence to be eligible for parole.

The Board of Parole developed in regulation the criteria used in determining whether an inmate must serve 85 percent of their sentence to be eligible for parole. The offenses include:

- manslaughter 1 (C.G.S. §53a-55);
- manslaughter 1 with firearm (§53a-55a);
- manslaughter 2 (§53a-56);

- manslaughter 2 with firearm (§53a-56a);
- manslaughter 2 with motor vehicle (§53a-56b);
- misconduct with motor vehicle (§53a-57);
- assault 1 (§53a-59);
- assault 1 on victim 60 years or older (§53a-59a);
- assault 2 (§53a-60);
- assault 2 with firearm (§53a-60a);
- assault 2 of victim 60 years or older (§53a-60b);
- assault 2 with firearm of victim 60 years or older (§53a-60c);
- sexual assault 1 (§53a-70);
- aggravated sexual assault 1 (§53a-70a);
- sexual assault in a spousal or cohabitating relationship (§53a-70b);
- sexual assault 3 with firearm (§53a-72b);
- kidnapping 1 (§53a-92);
- kidnapping 1 with firearm (§53a-92a);
- kidnapping 2 (§53a-94);
- kidnapping 2 with firearm (§53a-94a);
- unlawful restraint 1 (§53a-95);
- burglary 1 (§53a-101);
- burglary 2 with firearm (§53a-102a);
- burglary 3 with firearm (§53a-103a);
- arson 1 (§53a-111);
- arson 2 (§53a-112);
- robbery 1 (§53a-134);
- robbery 2 (§53a-135);
- robbery 3 (§53a-136);
- assault on policeman or fireman (§53a-167c);
- rioting in a correctional facility (§53a-179b);
- inciting a riot in a correctional facility (§53a-179c); and
- stalking 1 (§53a-181c).

Currently, only inmates convicted of capital felony or arson murder are ineligible for any parole program. Public Act 99-196 made two significant changes to parole eligibility criteria. First, prior to the change, inmates convicted of murder, including felony murder, or an offense committed with a firearm in, on, or within 1,500 feet of a school were ineligible for parole. Now, inmates convicted of those offenses are eligible for parole after they serve at least 95 percent of their sentence, or if they have six months or less remaining. To be released on parole, the inmate must agree to be supervised for one year rather than the remaining period of time of their sentence, even if it is less than one year. Second, inmates may be paroled by the board before serving the court-imposed mandatory minimum term of a sentence, if they are otherwise eligible.

Since 1993, the parole board has had discretionary release and supervision authority over all inmates sentenced to more than two years. The board conducts either a panel or administrative parole hearing, usually six months prior to the inmate's parole

eligibility date. In general, an inmate is paroled if: (1) it appears from the available information, there is reasonable probability he or she can live in the community without violating the law; and (2) the release of the inmate is not incompatible with the "welfare of society."

If parole is granted, the board sets the actual date of release from prison, which may extend beyond the inmate's parole eligibility date requiring the inmate serve more than 50 or 85 percent of their sentence to be released. If parole is denied, the board can reconsider paroling the inmate at a later date or continue the decision to parole indefinitely, which may require the inmate to serve the remainder of his or her sentence in prison (called "maxing out"). When denying parole, the board has determined the inmate is not and will not be suitable for parole and that incarceration is the best possible situation. There is no appeal process for a parole denial.

Parole supervision. The goal of parole supervision is two-fold: (1) to successfully transition the inmate back into the community by reducing the likelihood he or she will re-offend; and (2) to protect the community. All inmates released from prison on parole are supervised by the board's parole officers. The officers are responsible for: meeting with parolees according to a set schedule; tracking compliance and adherence to the stipulations of release; and maintaining a working relationship with local and state police and program and treatment providers.

Parole supervision levels determine the frequency with which the parolee must report to the parole officer and the restrictions placed on the parolee. The levels are: intensive; maximum; medium; and minimum. The level of supervision may increase or decrease depending on the behavior of the parolee.

The board also established a special management unit (SMU) to supervise those parolees requiring ongoing intensive supervision or specialized treatment. The board generally refers to the SMU inmates: (1) convicted of sexual assault or sexually involved offenses; (2) on medical parole due to a serious or terminal illness; or (3) with a criminal history indicative of a need for specialized supervision. Parolees may also be referred to SMU at any point during supervision. They may be referred for new criminal arrests, failure to maintain contact with a parole officer, substance abuse relapse, significant gang affiliation, and mental health treatment needs.

Revocation. For the purposes of this study, a parole officer's main responsibility with respect to the custodial status of a parolee is the authority to remand (or arrest) a parolee back to prison for a violation. The violation may be technical in that the parolee failed to comply with a stipulation of release, or it may be for a new criminal offense.

The remand procedure requires the parole officer to take the parolee into custody and return him or her to the facility from which he or she was paroled. A probable cause hearing is held at the prison by a parole board staff member, who is not involved with the supervision of the parolee, to determine if there is sufficient evidence to continue incarceration. The hearing may be waived by the inmate.

If no probable cause if found, the inmate is released and continues parole. If probable cause is found, a revocation hearing is conducted by a three-member panel of the board. At this hearing, inmates are afforded due process rights, such as assistance of counsel, cross examination of witnesses and review of documents, and the ability to present witnesses. The principal behind these rights is that the parolee has a constitutionally protected liberty interest when his or her freedom is in jeopardy[3].

The board may:

- revoke parole and subsequently reinstate parole (and may add new stipulations);
- require the inmate serve more time prior to a new parole hearing date;
- not revoke parole and release the inmate; or
- revoke parole and set no new parole hearing date.

Rescission. Once approved for parole, an inmate is under the jurisdiction of the parole board. The board retains the authority to cancel -- or rescind -- parole. The board may rescind parole when an inmate receives a disciplinary report from the prison, is involved in criminal activity prior to release, or the board receives information that directly affects its decision.

The rescission hearing process is similar to the revocation process. The board may:

- rescind and subsequently reinstate parole (and may add new stipulations);
- require the inmate to serve more time prior to a new hearing date;
- not rescind parole and allow its prior decision to stand; or
- rescind parole and set no new hearing date.

Special parole. Special parole allows for a period of mandatory parole supervision after a prison sentence of more than two years. The court may impose a fixed period of special parole, but the parole board, not the court, sets the conditions of release. Parolees who violate special parole are subject to serving a prison term equal to the unexpired period of special parole, provided the total amount of the sentence and special parole does not exceed the maximum statutory sentence for the crime.

Extended supervision parole. Extended supervision parole (ESP) allows an inmate who has been denied discretionary parole to apply for parole release within the last six months of his or her prison term. If granted ESP, the inmate must agree to

[3] *Morrissey v Brewer* and *Gagnon v Scarpelli* found that parolees and probationers are entitled to certain elements of due process during revocation hearings.

supervision for one year. They are trading the last six months of their prison term for an extended period of community supervision.

If granted ESP, inmates are subject to the same supervision standards and stipulations as regular and special parole, including being returned to prison for a violation to complete the suspended portion of their prison term.

STATE OF CONNECTICUT

DEPARTMENT OF CORRECTION

24 WOLCOTT HILL ROAD
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John J. Armstrong
Commissioner

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February 5, 2001

Mr. Michael L. Nauer
Executive Director
Legislative Program Review and Investigations Committee
State Capitol, Room 506
Hartford, CT 06106

Dear Mr. Nauer:

In response to your letter of January 17, 2001 offering an opportunity for state agencies to comment on the report "Factors Impacting Prison Overcrowding, I am forwarding a letter previously sent to Committee Chairperson's identifying concerns in the report.

As offered during my testimony at the public hearing before the Program Review and Investigations Committee on October 4, 2000, I agree with many aspects of this report and commend the efforts of Principal Analyst Renee LaMark Muir. However, I also believe that an all or nothing approach, as suggested in the scope of the report and during her presentation before the committee, does not appropriately balance the complexity of this issue.

The report identifies two models, Community Corrections **or** Prison Expansion, and offers them as separate options for the legislature to consider. These recommendations should coincide and need to be offered jointly as a strategy to effectively balance the program, treatment, crowding and classification issues that we face today.

Sincerely,

John J. Armstrong
Commissioner

Enclosure

STATE OF CONNECTICUT

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December 12, 2000

The Honorable Julia B. Wasserman
State Representative, 106th District

The Honorable John W. Fonfara
State Senator, 1st District
Co-Chairs, Program and Review Committee
Legislative Office Building
Hartford, CT 06106-1591

Dear Representative Wasserman and Senator Fonfara:

Upon review of the recent recommendations that have been released by the Program Review and Investigations Committee concerning prison crowding, I feel obligated to share my concerns with the findings of this report. Although I commend the efforts of Principal Analyst Renee LaMark Muir and the research she has submitted, I must emphasize the complexity of this extremely important issue and the effect that it will ultimately have on our state.

I am submitting the following concerns that I believe should be reviewed before considering a policy change that may potentially effect truth in sentencing legislation:

- The report indicates that only 12% of our incarcerated population are identified as violent offenders.

  Notwithstanding public opinion regarding "non-violent" offenses such as burglary and the like, repetitive "non-violent" criminal conduct was not identified in the report.

  The query that was conducted to ascertain this figure only identifies the current charge that is entered into our internal computer system. In many instances an offender's current charge may list violations of parole, probation or community release provisions, but the initial charge for which they were sentenced no longer is displayed as the primary charge, though it is in fact the underlying offense.

Many offenses committed by offenders within our custody are plea-bargained and often reflect reduced charges that may have originally been violent in nature. During the public hearing regarding this report, I presented testimony indicating this concern and offered examples whereupon offenders were serving sentences that can be perceived as non-violent on the face, but in actuality were plea-bargained from a more serious charge, often directly victim related. Many of the examples I offered were drug-related offenses.

The cumulative criminal history of an offender must be considered in addition to the instant offense. This would mean that despite a current incarceration for a non-violent offense i.e., sale of narcotics, a criminal history check often indicates convictions for weapons use or violence.

On a final note, we conducted an internal query within our computer network to determine the percentage of our total population that have been found guilty or plead guilty to disciplinary code infractions in accordance with our code of penal discipline. The query determined the percentage of offenders versus the total population who were found or plead guilty to our most serious offense category; class "A" disciplinary infractions. Of the approximate 17,400 offenders who are currently incarcerated, 60% have committed at least one class "A" violation, which may include violent conduct. For your review, I have enclosed a copy of the infractions an offender may be charged with in accordance with our administrative directives.

- Presumptive Parole mandates that offenders convicted of a non-violent charge shall be managed in the community after completing 75% of their sentence for a sentence of two years or less, or managed in the community after completing 85% of a sentence greater than two years.

  This is the equivalent of restoring good time and is in conflict with the intent of the legislature upon passing truth in sentencing legislation. This presumptive release was recently adjudicated, and was in fact found in favor of the state. In addition, I am not certain that the public would support automatic release mechanisms due to the prior controversial history of similar programs of the past (Supervised Home Release).

- Require the Justice and Planning Division of the Office of Policy and Management to conduct a statewide study of recidivism.

  As you may be aware, the Justice and Planning Division is aggressively pursuing an Offender Based Tracking System (OBTS) that will allow all criminal justice agencies from within the state to extract information from one universal network. The implementation of this system as I have learned from a representative of the Department of Information and Technology will have the ability to measure recidivism, as well as other vital trends and statistics.

Requiring OPM to conduct a study at this juncture may not be appropriate at the present time considering the technology to do so is already being pursued. Mandating this to occur by statute may be premature and redundant.

By January 15, 2001 the Prison and Jail Overcrowding Commission will submit a report to both the Governor and the General Assembly in accordance with its statutory obligations. This report will provide a series of recommendations to deal with the crowding issue we face today. I am confident that the commission is fully capable of offering recommendations that will be in the best interest of public safety, and provide continued public confidence in the integrity of the criminal justice system.

In closing, the legislation that has been enacted to sustain the low crime rates that our state has experienced over recent years is related to a tough, smart and effective crime policy. Any legislation that may impact the success of this accomplishment should be scrutinized in the highest regard to ensure public safety, continued system collaboration and public support.

If I can answer any questions or concerns, please feel free to contact me directly.

Sincerely,

John J. Armstrong
Commissioner

enclosure

cc: Eileen Daily, Senator
Kevin DelGobbo, State Representative
Paul Doyle, State Representative
Anthony Guglielmo, Senator
Robert Heagney, State Representative
Michael Jarjura, State Representative
Robert Landino, State Representative
Gary LaBeau, Senator
William Nickerson, State Representative
Win Smith, Senator
Michael Lawlor, State Representative, Judiciary Chair
Donald Williams, Senator, Judiciary Chairman
Renee LaMark Muir, Principal Analyst