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THE NEW YORK CITY
COMMUNITY SERVICE SENTENCING PROGRAM
(FOURTH INTERIM REPORT)

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ACKNOWLEDGEMENT

When New York City and New York State committed funds to expand the Community Service Sentencing Program, it was with the hope that wider use of the new, alternative punishment would help New York get some relief from mounting pressures for more jail cells. Therefore, commitments of funds were accompanied by a request that Vera's Research Department launch an impact analysis that would give as solid a picture as possible of the program's jail displacement effect. The question whether this program actually operates as an alternative to jail was, of course, central to Vera's own research agenda, which encompasses a host of other questions about program operations. With additional financial support from the Florence V. Burden and the Charles F. Culpeper Foundations, Douglas McDonald of Vera's Research Department undertook an empirical examination of the program. His formal research, which is nearing completion, is designed to explore the program's impact on the process by which lower courts decide to jail or not to jail, and to explore the program's impact on the attitudes and subsequent behavior of offenders sentenced to community service.

This is an interim program report, not a research report, but in it I draw on some preliminary statistical findings from Douglas McDonald's research. His full report will not be available until later this year. If, in my enthusiasm for the program for which I have management responsibility I have misinterpreted the data he has generated for his research (and from which he has not yet drawn final conclusions) it is I who should be held to account for the error. Should that occur, it cannot diminish my gratitude to Doug McDonald for carrying out his own work in a way that permits me, as a program manager, to understand rather precisely what we have done and how we might do it better.

Judith Greene
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Sentencing Function

Executive Summary

This report is the fourth in a series of interim reports on the impact of the New York City Community Service Sentencing Program. The program, to which 1,028 adult property offenders were sentenced in 1983, is intended to enforce a sentence (70 hours of supervised, unpaid labor for the benefit of community groups) imposed as an alternative to short jail terms in cases where the New York City courts typically punish by jailing because no enforceable alternative punishment is available. These cases are, for the most part, property misdemeanor cases involving offenders with prior records of recidivism in the property misdemeanor category.

The program and the research methodology are described more fully in the text. But, because most "alternative" sentencing programs do not, in fact, achieve substantial displacement of jail sentences, this summary focuses on the highlights of the impact analysis.

- oOf the 1,028 property misdemeanor recidivists sentenced to the project in 1983, 588 (57%) would have drawn jail sentences if the project had not been operating.
- oIn 1983, program operations reduced the demand for jail cells by 114 cells.
- oThe jail terms that would have been drawn by those sentenced to community service are short jail terms, but the number of cells that would have to have been reserved to incarcerate the 588 is significant; with Rikers Island at and over capacity, the economic value of reducing demand for cells is substantial.

The jail-displacement impact of this program is now better than the goal of 50 percent (already an ambitious goal in a field where research has shown it to be exceedingly difficult for "alternative" projects of size to displace jail terms at a rate of even 10 percent). The economic benefits of reduced demand for cells, together with the economic benefit to distressed inner-city communities from the supervised, unpaid labor, much more than offset the costs of program operations. And, of course, the cause of justice is served not only by the effective non-custodial punishing of the 57 percent who would have gone to jail, but also by the program's administering of a cost-effective punishment to the other petty recidivists who would have "walked".

At the current level of funding, the New York City Community Service Sentencing Project has stabilized with an intake rate of about 1,000 sentences per year. The program elements -- screening, supervision and enforcement -- have been tested and, although continuously under revision, have been refined during the five years of development; it is now clear that a large number of recidivist property offenders can be effectively and constructively punished without jailing. Almost nine out of ten offenders comply with the court-ordered term of service. For those who fail, it has been demonstrated that most can be located and returned to court for resentencing. The research effort (from which some of the preliminary findings on impact have been taken for this interim report) has found that only six percent of those sentenced to community service escape punishment; 94 percent either completed their term of unpaid, supervised community service or were jailed upon being returned to court after the violation. In addition, the follow-up studies show that, although a community service sentence does not often make a responsible citizen out of a petty recidivist, short jail terms don't do that either -- rearrest rates are virtually the same for similar groups sentenced to jail and sentenced to community service.

Background: The Difficulty of Finding Real Alternatives

The general enthusiasm for "alternatives to incarceration" persists in an uneasy co-existence with hardening views on penal policy and growing fascination with incapacitation as an organizing principle for sentencing policy. In the last couple of years, as the jails have become more overcrowded and the public purse has been strained, New York's search for real alternatives has intensified.

Nevertheless, the track records of programs that aim to provide alternatives to jail have not been very good. The reason is that it has proved very hard to prevent "alternatives" from being used exclusively for first (or minor) offenders for whom the prospect of being sentenced to jail is, in any event, unlikely. Using the alternatives for cases to which the courts would not ordinarily attach punishment makes the alternative unenforceable (when offenders refuse to comply); this quickly becomes obvious--to offenders and judges alike--and, in turn, makes it all the more difficult to move the courts toward using the alternative in cases that are serious enough for enforcement of the sentence to be an issue and jail a likely outcome.

The New York City Community Service Sentencing Project

(a) The Pilot

One of the most promising ideas for alternative sentencing is the imposition of a certain number of hours of unpaid work for the community's benefit, in lieu of incarceration. In practice, this concept has been widely embraced but has at the same time been diluted to the point where thousands of such sentences are imposed yearly in this country and virtually none of them are imposed in cases where jail would otherwise have been used. Convinced that there was nothing wrong in the concept of community service sentencing--and much to recommend it--Vera and the Bronx District Attorney launched a pilot project in 1979, to demonstrate how to target this alternative on jail-bound cases and how to administer the sentence when dealing with the much more difficult offender group that actually gets jail: the unskilled, unemployed Black or Hispanic offender who faces multiple personal problems and has a prior record.

From the inception, the project has stood outside the mainstream of community service sentencing in this country. Community service sentences customarily go to middle class, white first offenders who require little supervision and little support and who face little risk of jail. But by excluding first offenders, by proving to the court that the project could and would directly supervise the offenders' performance of their service obligations, and by proving to the court that staff

could and would (either themselves or through their close working relationships with the Police Warrant Squad) secure the re-sentencing of offenders who refuse to perform their community service or who disobey the rules for behavior at the community sites, the New York City project seems gradually to have won recognition from most prosecutors and judges that it is possible to administer a punishment--at least this punishment--without jailing.

The Bronx pilot ran from the end of February, 1979, through September, 1980. In the pilot phase, 260 offenders were sentenced by the Bronx Criminal Court to perform 70 hours of unpaid service for the benefit of the community, under the supervision of project staff. They cleaned up badly neglected senior citizens' centers, youth centers and neighborhood parks; they repaired appliances and installed smoke alarms for the elderly; they helped to staff recreational programs for retarded children, and painted and repaired community facilities and playgrounds; and they performed other useful work in one of the most service-needy areas of the city. Some continued to volunteer their services after completing their court-imposed obligations.

The evidence was strong that the pilot met its goal of restricting the use of this new sentence to those who would have served short jail terms. Eligibility criteria, established before the pilot began, ensured that all of the 260 had been convicted as adults at least once before; as a group they averaged 2.5 prior convictions; a third had been convicted of a felony some time in the past; over half received the community service sentence in a prosecution commenced by arrest on felony charges (all property offenses); 95 percent were Black or Hispanic; and almost all were unemployed at the time of the arrest and conviction that led to their being sentenced to the project. This is the profile of the jail-bound group in New York City. Additional evidence that the pilot project reached a group of offenders who faced a substantial risk of jail emerged from the re-sentencing data: although almost 90 percent completed the community service sentence, the rest were referred back to court to be re-sentenced; almost all were given jail sentences on the underlying convictions.

For the nearly 90 percent who satisfied the conditions of their community service sentences, the pilot project staff offered assistance in finding jobs, housing, and educational or other social services. This appears to have been essential for the offenders who did use the experience of making restitution by community service as a starting point for a change from petty property crime to a legitimate income and life-style. Few of the 260 had any past experience of steady employment, though most were in their mid-20s (they ranged in age from 16 to 45); at least a third were having evident problems with drugs, and others needed treatment for alcoholism; some were illiterate and few scored above elementary grade levels on reading and math tests. (The case summaries appended to the full report of the

pilot project more clearly convey the need of this Criminal Court population for basic services of all kinds.¹⁾ Staff provided emergency assistance to those who could not perform the sentence without it. In addition, two-thirds of the project participants accepted help in formulating and carrying out post-sentence plans; each was referred to at least one agency or employer (half had two or more appointments set up for them). Although only 50 percent of these appointments were kept, many participants went on to get jobs, stipended training, or treatment.

The pilot showed that in many cases which would otherwise end in jail time of up to 90 days, the court could view the community service sentence as a suitable alternative penalty for the offense, and that nearly all who got the sentence would, if properly supervised, perform it. The result was to introduce into regular use a new penal sanction--one that is more positive, less burdensome and less costly than jail time, but more burdensome, more likely to be enforced, and, thus, more credible than the previously existing "alternatives" to jail (e.g., pre-trial diversion, probation, fines).

(b) The Demonstration

As a result of the pilot, the City asked Vera to manage a formal demonstration project in community service sentencing. It began on October 1, 1980, with a slight expansion of the Bronx operation and the laying of groundwork for a Brooklyn replication. The Brooklyn office opened in December. In the Spring of 1981, when the swelling volume of short-term prisoners presented the City with an over-crowding crisis on Rikers Island, Vera was asked to expand the project further to handle 1000 sentences per annum, and to adapt it to the Manhattan Criminal Court as well.

The City allocated up to \$610,000, matched by \$150,000 from the Edna McConnell Clark Foundation, for this larger effort. Expansion in the Bronx and Brooklyn began and a Manhattan project got up and running at the end of September, 1981. For Fiscal Year 1983-84, the City held its financial support constant, and New York State added \$250,000. The financing has permitted the projects to build to a supervision capacity sufficient to handle the growing intake which, since mid-1983, has been running in excess of 1,100 sentences on an annualized basis; the average cost of a community service sentence stands at \$750. It is probable that this cost per sentence, which is already quite favorable when compared with the far less intense

¹The New York City Community Service Sentencing Project: Development of the Bronx Pilot (New York: Vera Institute, 1981).

probation supervision sentence, will decline further as the boroughs continue to expand and stabilize their operations.

Although caseloads have tripled over the past two years, the rate at which project staff have secured compliance with the terms of the sentence from persons sentenced to community service is holding in the 85 to 90 percent range. To protect the integrity of the community service sanction and to ensure its usefulness to the courts, project staff are rather vigorous in their enforcement efforts. First, all reasonable assistance is offered to offenders to aid them in completing their 70-hour terms (e.g., emergency lodging, detox, nutrition and health services). Phone calls, warning letters and visits to the homes of participants who fail to report as ordered to the service sites exact compliance in most cases; when these efforts fail, a letter is presented to the court alleging non-compliance, and asking that the case be restored to the calendar for resentencing. Close cooperation from the Police Department Warrant Squad helps to bolster the project's ability to return most violators to court. In the majority of delinquent cases, project staff are able to arrange to have the offender brought back before the original sentencing judge.

Once violation of the community service obligation has been established, the judge resentsences; the new sentence may be chosen from the full array of sentencing options the law provides for the original conviction. Because almost 9 out of 10 offenders sentenced to community service complied, because at least two-thirds of the offenders who failed to comply were returned to the court for resentencing, and because 8 out of 10 of those so returned received jail terms, the program's enforcement record continues to encourage compliance by a difficult-to-manage offender group and this, in turn, encourages continued use of the sentence in cases where punishment is a priority for the court. Only six percent of the offenders sentenced to perform community service under project supervision have so far escaped full punishment; 94 percent have either completed their term of unpaid, supervised community service or have been jailed upon being returned to court to answer for the violation.

c) The Impact Analysis--Method Used

Vera's Research Department has been studying the impact of this project on the demand for jail cells at Rikers Island. However successful project operations may be, the bottom line questions are: how many of the offenders sentenced to community service would, if the projects did not exist, have been sentenced to jail, and for how long? And, to what extent has the operation of this alternative sentencing program affected the level of crime in the City?

From the beginning of the pilot project through December, 1983, almost 2,500 offenders had been sentenced to perform community service under the project's supervision. The profile is

still that of a jail-bound group: those sentenced to community service average 8.7 prior arrests and 5.3 prior convictions, and 44 percent had received a jail or prison term on their last conviction.

But knowing that the profile is similar to the profile of offenders drawing short jail terms is not enough. The most certain method of determining how, if the community service sentence had not been available, the courts would have disposed of the cases of offenders sentenced to community service would be to establish randomly-selected experimental and control groups. Although this method would yield the least ambiguous results, it would also require randomizing the sentencing options available to judges in paper-eligible cases. In the Criminal Court sentencing context, such a procedure raises problems that would be at least difficult to overcome, and implementing such a procedure might so distort the normal decision-making process as to render any findings questionable.

In lieu of a classical experimental approach, the Research Department undertook a retrospective statistical analysis to determine how the courts reached the decision to jail or not to jail in cases similar to those in which community service sentences were in fact imposed. With the aid of a computer, a number of statistical models were developed to find the set of statements which most closely predicted the actual proportion of defendants jailed, out of a test sample of defendants who were, on paper at least, eligible for sentencing to the program. These models were then used to estimate the proportion of community service participants who would have received a jail sentence if the community service sentencing option had not been available to the court.

The population used to develop and to test these statistical models consisted of a pool of criminal court defendants who were initially screened as eligible for community service by project court representatives, but who were subsequently dropped from consideration for a variety of reasons. The utility of a model that predicts the sentences of "rejects" can be seen more clearly by examining the screening process that generates the pool of defendants from which rejects and project participants are both ultimately drawn. Initially, cases are culled from the daily court calendars on the basis of appropriate charges--these being the basic range of property and theft offenses which lack elements of threat or violence against the person. The court papers for such cases are then searched for a variety of factors which help to determine first-cut eligibility: indicia of jail-boundness (e.g., a record of prior conviction, pretrial detention status, markings by judges or assistant district attorneys as to the plea offer); reliability of the defendant, indicated by his or her community ties; and a determination that the defendant does not have a recent and significant record of violent criminal behavior. Once this check of threshold eligibility had been made, the data about eligible candidates are

entered on the project's MIS forms, from which they enter the research data base.

Discussions are then held with defense attorneys, assistant district attorneys and defendants. At any of these stages, the case may be rejected from further consideration. Eligible defendants wind up in the reject pool for many reasons: ADAs may indicate that a case is not substantial enough to warrant a community service sentence or may so strongly insist on a heavier sentence that community service is effectively barred. Some defendants may be dropped because they have pending Supreme Court cases which ultimately yield a negotiated settlement to cover the Criminal Court case. Other defendants, or their counsel, turn down the suggestion of community service because they prefer to try for a more favorable disposition. Probation officers may object to a defendant taking the plea offer if he is already on probation, demanding that the court impose a stiffer sanction. Judges sometimes reject plea recommendations involving community service and impose other sentences, both lighter and heavier. The project's court representatives themselves may decide to reject a defendant because, upon further investigation, they decide he has a pattern of past violence or a current problem with drugs or alcohol that is severe enough to pose an unacceptable risk on the work sites. Some cases are simply lost: the case may be held over for a night arraignment or a defendant who had been released from detention may fail to show up at the next court date.

Because of the complex way the pool of eligibles is separated into the two separate pools (participants and rejects), those who end up as rejects do differ in various ways from those who are ultimately sentenced to community service. Therefore, a simple projection onto the participant pool of the dispositional pattern found to occur in the cases of rejects is not the soundest method of measuring the proportion of participants who would have drawn jail sentences in the absence of the project.

But the research strategy followed here does not require an identical composition of the participant pool and the reject pool. What matters is that there be a good deal of variation in the reject pool, both in the characteristics of the defendants and in the types of dispositions reached in their cases. This variation is needed so that one can construct statistically the set of predictive statements (expressed in mathematical form) that best predicts how the cases were disposed by the courts. Fortunately, the program's reject pool was sufficiently varied for these purposes.

The predictive models were built by testing many "what if" propositions to find the one that best fits the actual pattern of jail/no jail dispositional decisions. For example, what

if the courts systematically imposed more severe sanctions upon defendants who had heavier criminal records, higher charges, more recent convictions, and were older? Furthermore, what if the prior record were 5.7 times more influential in this result than the level of the charge and 3.2 times more important than the recency of last conviction? Obviously, there are hundreds of such possible combinations. Fortunately, using a computer speeds up this modelling process; one can quickly test a number of different combinations of predictive variables, and the computer is programmed to generate for each combination the estimated weight given to each variable.

The first step was to identify factors found to be associated with going to jail so that they could be included in the modelling process. Rejects whose cases were screened by project court representatives in the three boroughs between October 1, 1981, and September 30 1982, were measured along a number of different dimensions, and the statistical correlation between each of these dimensions and the disposition reached was examined. For the purpose of this analysis, outcomes were categorized either as "jail" or as "non-jail" (i.e., all other dispositions combined, including dismissals). "Time served" was conservatively classified as a non-jail disposition. Cases not reaching final disposition in the Criminal Court (those transferred to other courts) were omitted.

Dozens of characteristics were tested for their association with jail sentences, including numerous features of the prior criminal records, the charges, the socio-economic backgrounds of defendants, as well as various characteristics of the adjudication process (such as the time between arraignment and disposition, the defendant's pretrial detention status, and the type of court part where the case was disposed). Many of these factors were correlated with going to jail, but were also correlated with each other. By a process of elimination, a statistical model was built to predict the sentences for each borough's rejects which was both parsimonious (having the fewest number of predictive variables) and most strongly predictive of

sentenced inmates.³ The project's operations also reduced demand for detention cells because defendants sentenced to community service spend less time in the system waiting disposition. An estimated 17 cell/years were freed up in calendar 1982 by the project's impact on time to disposition.

Thus, the total number of cell/years saved by the project's displacement of defendants from Rikers Island can be estimated, with reasonable reliability, at 65 cell/years in calendar 1982. Attaching a dollar value to this reduced demand for jail cells is difficult. With Rikers Island at capacity, the easiest method (but one that inevitably overstates the economic value to the city of this impact) is to reckon the costs avoided as 65 new cells not built, at roughly \$100,000 per cell, or \$6.5 million. In addition, the services provided to the community through the unpaid labor of offenders sentenced to the project in 1982 can be valued at roughly \$200,000.

³A reliable estimate of the jail time community service participants would have served was developed from a simple analysis of the sentences imposed on the jailed rejects who were in the data base from which the jail displacement models were developed. During the October 1, 1981 - September 30, 1982 period, rejects who were sent to jail were given sentences that averaged 68 days in the Bronx, 70 days in Brooklyn, and 115 days in Manhattan. For the sake of deriving an estimate of time actually served, it was assumed that all inmates were given full credit for "good time" at the rate of one-third off the definite sentence. (This yields a conservative estimate of time actually served, for a portion of those sentenced to jail lost good time credits for misbehavior and thereby serve a larger portion of their court-imposed sentence than is being counted here.) The number of pre-trial detention days which were served before sentencing were computed and subtracted from this definite sentence-minus-good-time figure. After these adjustments were made, the time actually spent in jail by jailed rejects, subsequent to sentencing, in 1983, was estimated at an average of 38 days in the Bronx, 49 days in Brooklyn, and 63 days in Manhattan.

It is valid to assume that those program participants who would have been sent to jail in the absence of the community service sentence would have been given sentences of similar lengths. This is because the reject and participant populations were nearly identical in those characteristics which were found to be at all correlated with sentence length.

(e) Impact Analysis--Calendar Year 1983 Results

With the 1982 impact analysis in hand, the underlying body of new knowledge about the dispositional process in each borough (and the factors most powerfully predicting jail sentences there) permitted each project manager to try to adjust the program intake procedures so as to meet or better the program objective of 50 percent displacement. The computer modeling process had revealed marked differences in the rate of jail displacement between the boroughs--the City-wide rate for 1982 was actually the result of jail displacement rates ranging from 20 percent in the Bronx, to 28 percent in Brooklyn, to 66 percent in Manhattan. In 1983, the focus of efforts to make the program even more efficient as a mechanism for reducing pressure on the jails fell on the two boroughs with the lowest jail displacement rates.

Research staff provided the project managers with profile data, from each borough's reject pool, which helped enormously to distinguish (within the class of recidivist property misdemeanants) those likely to get jail sentences and those likely to "walk". More detailed case screening criteria were drawn from these profiles. For example, because very few of the 1982 jailed rejects had been at liberty at the time of sentencing, the projects' court representatives were instructed to avoid initiating project consideration of defendants who had been ROR'd or who had made bail. Similarly, where factors such as length of time since last conviction, or length of prior record had been found to be powerfully predictive of dispositional outcome, borough-specific standards for these factors were developed to assist court representatives to weigh the likelihood of a jail sentence in a particular case.

As was hoped, the new screening standards soon resulted in a marked shift in the profiles and case characteristics of offenders receiving the community service sentence in the Bronx and Brooklyn. As a result, the 1983 program participants' profile more strongly resembles the profile of the jailed rejects from the research pool. To test whether these changes in intake procedures did, in fact, improve the jail displacement impact of the program in Bronx and Brooklyn, the researchers have undertaken a second modelling process which--when completed--will result in a reliable estimate of the extent of the improvements city-wide. The new model for one borough--the Bronx--has already been executed, and the results show substantial success. The jail displacement rate rose from 20 percent to 52 percent.

Following the research strategy discussed in some detail in section (e), above, the researchers gathered all the necessary data about a pool of 221 eligible-but-rejected Bronx defendants whose cases were screened between July 1 and December 30, 1983. Again, the characteristics statistically associated with a jail disposition were identified through statistical tests, and these characteristics were used to build a statistical model that could predict the sentencing outcome of the

reject-pool cases within a reasonably small margin of error.⁴ As before, the model was then applied to each case in which an offender had been sentenced to community service in the Bronx between July 1 and December 30, 1983. The result--a reliable estimate of the proportion of project participants who would have drawn jail sentence--is a 52 percent jail displacement rate for the Bronx project. Estimates of actual cell/years saved in 1983, after introduction of the new screening procedures and the resulting improvement in displacement effect, jumped even more dramatically over 1982, because the terms that would have been received by the jail-bound participants has grown longer, and because the Bronx project intake volume increased in 1983. The Bronx project was responsible for 7 of the cell/years saved in 1982; it was responsible for the saving of 20 cell/years in 1983.

Until the remodelling process is completed for the other two boroughs, the overall gains in displacement and cell/year savings cannot be projected with accuracy. A conservative estimate can be made now, however, as follows: we know the improved jail displacement rate for the Bronx project to be 52 percent. As the Brooklyn project was refocused, through a similar process of refining the screening criteria and since this has also resulted in a marked shift of the participant profile (in the desired direction--to conform to the profile of jailed rejects), it is probably conservative to estimate that the displacement rate in Brooklyn has gone from the 28 percent in 1982 to, at least, 50 percent in 1983. Assuming the rate in Manhattan, where the 1982 displacement effects were satisfactory and no major efforts to increase it were undertaken in 1983, has held at 66 percent, we can extrapolate a new city-wide displacement estimate by applying the borough displacement rates to each borough's intake volume.

The result of these estimating calculations is that, in 1983, community service sentences displaced jail sentences in 57 percent of the cases where the offender was sentenced to community service. Thus, of the 1,028 offenders sentenced to community service in 1983, 588 would have drawn jail sentences. Although we already know that the length of the jail sentences they would have drawn increased between 1982 and 1983 in the Bronx, we have not yet analyzed the data from the other two boroughs to permit a uniform recalculation of this variable. But, for the purpose of estimating the number of cell/years saved by program operations in 1983, we can use the most conservative measure--the 1982 average time served by jailed rejects. The result of these estimating calculations is a saving, by jail sentence displacement, of 91 cell/years. In addition, the saving of pretrial detention time can be calculated (using the conservative measure, again, of the pretrial detention days saved on each community service sentence in 1982) at 23 cell/years.

⁴ See, section (e), above.

Thus, the projected savings in jail space resulting from operation of the New York City Community Service Sentencing Program in 1983 was 114 cell/years. (Again, with Rikers at capacity and new cells being built at roughly \$100,000 per cell, the easiest way to state the cost benefit, but a way that inevitably overstates it, is \$11.4 million in capital outlays.)

f) Impact on Crime

Meanwhile, research attention has also been devoted to recidivism data. The pattern of offending for the petty recidivists who draw short jail terms in New York City is pretty clear. About half are re-arrested within six months of release from jail. It turns out that these rates are not much affected by the nature of the punishment imposed: Being punished by community service does not make boy scouts and virgins out of petty recidivists, but neither does jailing them.

The computerized files of the New York City Criminal Justice Agency were searched for data on all new court cases against persons sentenced to perform community service between January, 1981 and March, 1982 in Brooklyn and the Bronx, and all those sentenced to the project in Manhattan between September, 1981 and March, 1982. Of all these project participants, 494 had been at risk of rearrest for at least 180 days at the time City-wide data were last collected. Forty-six percent had been re-arrested.

That 46 percent of project participants were arrested again within six months of being sentenced to perform community service was disappointing, but not surprising; it would have been unreasonable to expect a short, punitive alternative sentence to reverse (through some unsuspected, powerful, "rehabilitative" impact) the underlying pattern of recidivism that characterizes the group of chronic petty offenders who conventionally get short jail term after short jail term and who were targetted by project staff for this sentencing alternative.

But what would have been the effect on crime if these offenders had received jail terms instead? To answer this question, a comparison was made between participant rearrest data and rearrest data on similar offenders actually sentenced to jail. A comparison group of 358 jailed offenders, whose profiles consist of similar prior histories and current charges, was assembled for this purpose, and rearrest information was obtained on each offender for the period running 180 days from his release from jail. By the end of six months of being at risk of rearrest, the proportion of the city-wide comparison group rearrested (44 percent) was statistically indistinguishable from the proportion of participants rearrested (46 percent). Although more than half of each group were not re-arrested, these recidivism rates are high; they suggest that property offenders who receive short jail terms in New York Criminal Courts tend to remain petty recidivists and that being

given short jail terms--as opposed to serving a community service sentence--makes no significant difference in the subsequent rearrest pattern. Put another way, jail seems no better a deterrent than is the enforced punishment of community service.

It is impossible to develop an accurate estimate of how much crime would have been averted had the project and its jail displacement effects not been operating. The best that can be done is to project the most unfavorable comparison--the "worst case"--by contrasting the rearrest pattern of the participant group (as before) with the rearrest pattern (from date of sentence) of the offenders who were actually sent to jail. This is a "worst case" comparison because it assumes that all of those sentenced to community service would have been incapacitated by jail if the program had not been operating--despite the research finding that only about half of them would actually have been jailed. The worse case comparison measures the proportion rearrested from the time of sentencing (so that the short jail sentences get the benefit of their incapacitative effect). The city-wide proportion of jailed offenders rearrested, 180 days from sentencing, was 35 percent (as compared to 46 percent for participants), presumably because all of the jailed offenders in the comparison group had been removed from the streets for at least a portion of the time after sentencing. This 11 percent spread provides one measure--albeit an overstated measure--of the crime control benefit (reduced property misdemeanors) of jailing this population.

But this does not end an inquiry into the relationship between community service sentencing and crime. Two other questions--more difficult to probe--remain. First, does the apparent crime-reduction effect from incapacitating jailed offenders persist, if the measurement period is extended (to twelve months, for example)? Second, are those offenders who are rearrested arrested more or less frequently, depending on which sentence (jail or community service) they get?

Because the proportion of program participants rearrested was highest in Manhattan, and because the difference 180 days from sentencing was greatest there in the "worst case" comparison (51% of participants rearrested, compared to 39% of jailed offenders), a second look at Manhattan recidivism data was undertaken. Contrasting the proportions rearrested over a full year from date of sentence (making, again, the "worst case" comparison), the proportion of those sentenced to jail in Manhattan who were rearrested within the year reached 59 percent. The gap, presumably caused by the incapacitative effects of short jail terms at the beginning of the year, was narrower than when measured at six months, but the proportion of this jailed group rearrested was still ten points lower than the 69 percent of community service participants rearrested--the crime control advantage of short term incapacitation appeared to persist.

However, those who had originally been sent to jail were much more likely to be arrested more than once. The jailed offenders were rearrested an average of 2.1 times each over the twelve months following their release from jail, while the offenders sentenced to community service were rearrested an average of 1.5 times each over the twelve months at risk. As a result of this lower frequency of offending among the group sentenced to community service, the average number of rearrests over the year following sentencing was identical for the two groups (1.5 for each), despite the early incapacitation of the jailed offenders. The program staff believe that this may be explained, in part, by the service provided, at the end of their performance of the sentence, to those sentenced to community service (e.g., link-up with paid employment, help finding shelter or treatment for substance abuse, etc.). Whatever the explanation, the crime control advantage of jail sentences seems to disappear when one examines the total number of rearrests rather than the proportion rearrested.

These rearrest data do not permit certainty of interpretation--the two groups of offenders whose post-sentence behavior is being compared are not, after all, perfectly comparable. Nevertheless, the data give little comfort to those who assume that the incapacitative effects of short jail terms offer a lasting crime control advantage over punishing these same offenders through community service sentences. Further research on rearrest patterns after jail sentences and after community service sentences is underway. The principal objective of this new research is to reduce rearrest rates, either by screening out offenders whose propensity to continue petty theft is markedly greater than the bulk of petty recidivists, or to provide better-targetted services to those whose recidivism is most likely to be affected by them.