

**Alternative Sentencing:
Statement Prepared for the
United States Sentencing Commission**

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I appreciate the opportunity to testify before the United States Sentencing Commission regarding alternatives to incarceration. My remarks are intended as practical observations based on:

- (a) experience gained in my current position as Director of a community corrections program that provides reentry services to persons formerly incarcerated in Federal prisons, and that also serves as an alternative to incarceration for persons under the supervision of the United States Probation Office; and
- (b) previous experience in a court services department of the Circuit Court of Cook County, Illinois, overseeing programs that provided non-custodial interventions for persons with substance abuse or mental health issues, and for perpetrators of domestic or family violence, as well as serving on a team that created and implemented the program design for a Drug Court.

Alternative sentencing provides options other than incarceration for certain offenders (e.g., first-time offenders, offenders committing crimes other than crimes of violence, offenders involved in drug-related crimes who could benefit from treatment). Courts considering sentencing alternatives utilize clearly defined eligibility criteria and a continuum of sanctions. When alternative sentencing began to emerge in the 1980's, much of the emphasis was on the potential of alternative sentencing to reduce the costs of incarceration. Potential cost savings still provide a reason to consider sentencing alternatives, especially with the high incarceration rate in the United States. But research that also began in the 1980's reveals that evidence-based correctional programming, if incorporated into alternative sentencing, can offer additional benefits in terms of reduced recidivism, lower social costs to victims and communities, and changes from antisocial to prosocial behavior.

According to the United States Sentencing Commission report of January 2009, 15% to 25% of federal offenders received alternatives to incarceration in the previous 10 years. However, the report also shows that, despite the availability

of alternative sentences for nearly 25% of federal offenders, courts most often imposed prison, and that the rate of using alternative sentencing had decreased slightly. In the states, the current financial climate has caused budget crises, leading some states to revisit alternative sentencing as a means of cutting costs. Perhaps the use of alternative sentencing would increase if courts had information available about specific sentencing options (e.g., community confinement, GPS tracking, and correctional programs) available in their districts. Discussions among judges, prosecutors, defense attorneys and probation administrators also may clarify the value or availability of alternatives to imprisonment. The following observations from the viewpoint of a provider of correctional services and supervision may be helpful to that dialogue.

Alternative sentencing can serve a number of interests:

1. reducing the high costs associated with incarceration;
2. seeing justice done, while allowing courts more latitude to find a punishment that fits a crime;
3. assuring public safety through appropriate monitoring and accountability procedures;
4. changing offenders into productive citizens, or, more precisely, engaging offenders in a process by which they can change themselves into productive citizens.

Changes in criminal beliefs, thinking patterns and behavior provide the truest basis for public safety, and break the too familiar cycle of recidivism. Even modest recidivism reduction means fewer crimes and victims, and lower costs to the justice and correctional systems.

In its fullest sense, the term "alternative sentencing" involves more than community-based confinement or supervision; it also includes access to programming that addresses criminogenic needs (i.e., needs giving rise to criminal conduct), which include antisocial attitudes and associates, lack of education and employment skills, poor self-control, and the need for substance abuse and/or mental health treatment. Alternative sentencing allows offenders to obtain education and training, seek or maintain employment, develop and practice behavioral changes, and pursue substance abuse or mental health treatment, while avoiding the significant transitional difficulties of ex-prisoners.

Alternative sentencing can be most effective in reducing recidivism, protecting public safety and promoting change if it begins with accurate and comprehensive assessment of an offender's criminogenic needs and risk of reoffending. Validated, reliable instruments identify and gauge the strength of needs and risk. Risk/needs assessment can inform decisions about conditions of sentencing, with courts ordering specific consequences that promote public safety by decreasing risk of reoffending. Assessment is not static, but follows the offender over time to measure progress in meeting needs and reducing risk.

Assessment leads to development of a case plan that helps move the person from "offender" to "ex-offender." The plan sets a sequence of goals that serve as an outline for behavioral change. Additionally, the case plan provides an external structure that promotes development of offenders' internal structures of accountability and self-control. Involving the offender in case planning leads to a sense of ownership and responsibility for the components of the plan, creating an internal motivation that is stronger and lasts longer than external motivation alone.

At the community corrections program that The Salvation Army conducts in Chicago, one aspect of the assessment and case planning process is having the offender complete a validated instrument by which the offender self-identifies areas of need, ranging from employment and housing to family relationships, or dealing with anxiety, depression or substance abuse. Offenders initially may not be aware of or able to articulate needs. The instrument provides offenders and case managers with a framework for discussion, effective case planning and offender commitment to the process of change.

If the assessment reveals a lower risk of reoffending, the case plan is relatively simple; in fact, requiring low risk individuals to participate in programming not only is an unnecessary use of resources, but actually can be counterproductive. Efficient use of resources targets higher risk offenders, who both require greater structure and respond to evidence-based programming. Higher risk offenders can function in and benefit from alternative sentencing if appropriate programs are in place.

During the earliest part of the period of supervision, when the possibility of reoffending is high, actively involving the offender in programs and services keeps the offender's time and energy focused on the process of change. Programming enhances the effectiveness of alternative sentencing to the extent it targets criminogenic needs and other deficiencies common to offenders, such as problems with communication, planning, problem solving and self-control. The programming can be provided by an agency that offers comprehensive correctional services, or through specialized agencies within the community that provide specific services. Examples of programming include:

1. Education, ranging from basic literacy to computer skills or job training.
2. Employment-related services, such as resume preparation, assistance with locating job opportunities and completing applications, preparation for interviews, and job retention skills. Of special importance is creating a response to questions by potential employers about criminal history; the offender is advised to admit past convictions, but to cite steps taken toward positive change.

3. Life skills classes, including money management, anger management, and parenting skills. Offenders not infrequently lack skills to navigate daily life. Correcting deficiencies that relate to the wellbeing of others is particularly important.
4. Counseling and activities to strengthen families. Dysfunctional family backgrounds are common to many offenders. At the same time, the family remains their strongest influence and source of support. Program involvement by family members may be beyond the reach of court mandates, but their participation can be vital to the offender's overall success in completing the sentence successfully and ceasing criminal activity. Programs that offer opportunities to family members, either directly or through referrals to community agencies, increase the likelihood of positive outcomes.
5. Assistance in finding housing for offenders needing to relocate away from negative associates, or nearer to opportunities for education, employment, treatment, or other services.
6. Substance abuse and mental health treatment. Therapists providing services to offenders need more than good clinical skills; they also need an understanding of criminal thinking and behavior, and the interplay between criminal thinking and mental health or substance abuse issues.
7. Specialized groups for female offenders. Females comprise a larger segment of the criminal population than in the past. At one time, correctional programs were designed on the basis of the male majority and applied to both men and women. Female offenders' issues differ from those of men. Female offenders more typically have suffered abuse, and have higher incidence of substance abuse and mental health problems than male offenders. Women also more commonly have custody of their children and issues related to the children's wellbeing.
8. Cognitive/behavioral programs. Research has established the effectiveness (especially for higher risk offenders) of programs that teach offenders about how faulty thinking leads to criminal conduct, and how both thinking and conduct can change. Cognitive/behavioral programs require participants to do homework and to engage in class exercises. An example is the program, "Thinking for a Change," developed by the National Institute of Corrections. The program teaches participants skills commonly lacking in higher risk offenders:
 - Communication (active listening, asking a question, giving feedback);
 - Understanding how thinking controls behavior;
 - Recognizing the thinking that leads to trouble, and finding new thinking;

(continued)

- Understanding and responding to emotions (both one's own and those of others);
- Dealing appropriately with stress and anger;
- Problem solving, goal setting and planning;
- Self-evaluation.

As offenders serve alternative sentences, their success relates to their motivation to satisfy the conditions imposed. Alternative sentencing can promote motivation by incorporating incentives. The possibility of reducing the length of community-based confinement or frequency of supervision contacts can provide powerful motivations for compliance.

Staff providing supervision and programming to offenders also need to make efforts to build and sustain motivation. Awarding certificates or other markers of achievement serves as positive reinforcement. More subtle support for motivation results from having offenders articulate specific steps they will take to work through their case plans. Because offenders may not engage in self-reflection, case managers can offer feedback about offenders' decisions to reinforce those that are positive and challenge those with potential negative consequences.

Counterbalancing the use of incentives is the need for prompt response to violations. The response need not be incarceration, but can include community-based (re)confinement, increased frequency of supervision contacts, participation in additional programs that relate to the nature of the violation, or use of GPS tracking devices. To help avoid violations, staff who provide supervision or programming can address relapse prevention with offenders. Borrowed from substance abuse treatment, the concept of relapse prevention acknowledges the possibility that the offender may resume criminal thinking and fail to meet conditions, or even reoffend. Staff can analyze past criminal acts with offenders to show that the offenses came from a sequence of specific decisions and preventable behaviors. The analysis may reveal that the offenders responded to a desire for immediate gratification without considering delayed negative consequences. A "relapse rehearsal" can be of help, with a staff member and offender acting out a situation in which reoffending might occur, and identifying preventive measures.

The staff responsible for the components of alternative sentencing, from assessment to supervision and service delivery, require appropriate training, supervision and performance evaluation. Beyond the skills required for their particular positions, staff at the community corrections program conducted by The Salvation Army in Chicago receive yearly training in accountability and integrity. Other factors, while harder to instill by training, relate to the quality of alternative sentencing: respect for the offender, commitment to the goals of the

program, consistency in expectations and performance. Positive reinforcement can be as important for staff as for the offenders with whom they work. Recognizing exceptional performance and honoring anniversaries of service communicate appreciation for work with a challenging, often difficult population.

Just as staff needs to be held accountable, so do the agencies responsible for effecting the supervision and programming of alternative sentencing. The American Correctional Association and the American Probation and Parole Association provide standards for evaluating program design and performance. Outcome measures and statistics can reveal success rates and guide ongoing agency development. External program audits by accrediting agencies or supervising entities that have objective distance from day to day functioning can identify agency strengths and areas for improvement. At the Salvation Army community corrections program, an exit survey provides participants the opportunity to comment on services and the way in which they were provided. These "customer satisfaction" comments provide a perspective that, taken together with other forms of program evaluation, helps give a rounded view of program effectiveness.

Recognizing the value of alternative sentencing thus requires focusing not only on what does not happen to the offenders involved (imprisonment), but also on what does happen (consequences for crime, offender accountability, the opportunity to reduce recidivism by fostering personal change). A prison population that continues to expand, and strides in correctional research and programming since alternative sentencing developed in the 1980's, support reassessing the value and use of alternative sentencing today.