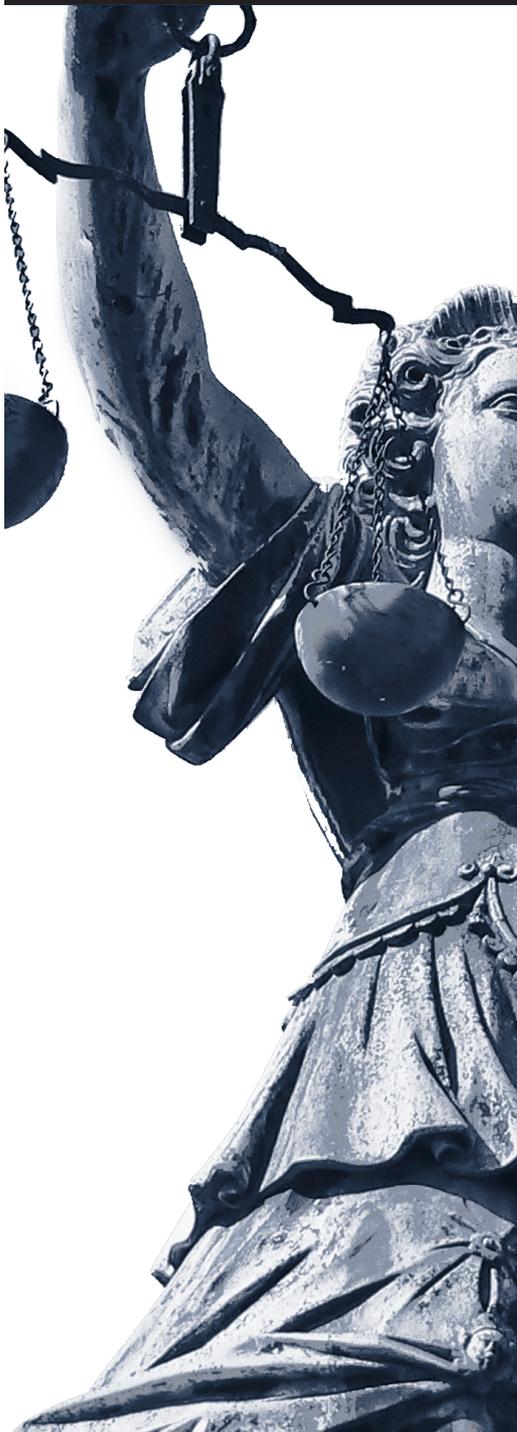


# Getting in Sync

## State-Local Fiscal Partnerships for Public Safety

Public Safety Policy Brief

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### Executive Summary

**S**ome offenders need to be put in prison. Others can be managed safely on probation in the community. But judges and prosecutors often face the difficult task of figuring out what to do with defendants who don't fit cleanly into either group.

When the right choice isn't clear, many court officers say they feel compelled to send offenders to prison because of a lack of confidence or capacity in their community corrections programs. If these programs had sufficient resources, and were better designed and managed, the courts would use them more. Since strong community corrections programs have been shown to cut recidivism, this would create safer communities while saving states millions of dollars in unnecessary prison expenses.

Adequate funding for community corrections is a perennial challenge in the criminal justice system, a problem that's exacerbated by the division of responsibility between state and local governments. Probation and other community corrections programs often are operated by counties, while states run the prisons and focus their resources and attention on those more expensive and demanding facilities. Typically, this intergovernmental disconnect creates a vicious cycle. If local courts put more close-call offenders on probation or in other community punishment options, those programs get more cases, but not more money from the state to manage them. The higher caseloads result in lower levels of supervision and services, which further damage confidence in community options, and prompt still greater use of incarceration.

State and local governments have been working on better ways to finance

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#### ABOUT THE PROJECT

Launched in 2006 as a project of the Pew Center on the States, the Public Safety Performance Project seeks to help states advance fiscally sound, data-driven policies and practices in sentencing and corrections that protect public safety, hold offenders accountable, and control corrections costs.

The Pew Charitable Trusts applies the power of knowledge to solve today's most challenging problems. Our Pew Center on the States identifies and advances effective policy approaches to critical issues facing states.

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#### ABOUT THIS BRIEF

This document is part of a series of primers for policy makers about the critical choices they face in developing strategies to improve the public safety return on taxpayer dollars. For more on this topic, visit our website at [www.pewpublicsafety.org](http://www.pewpublicsafety.org).

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This document was peer reviewed by Robert Lee Guy and M. Kay Harris. Mr. Guy is Director of Community Corrections in North Carolina. Ms. Harris is Associate Professor in the Department of Criminal Justice at Temple University.

While these experts have screened the report for methodology and accuracy, neither they nor their current or former organizations necessarily endorse its findings or conclusions.

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community corrections programs since the 1960s, when California passed the Probation Subsidy Act (*see sidebar, page 3*). Since then, 36 states have created some form of state-local partnership, often called a Community Corrections Act, which defines the corrections relationship between the two levels of government and establishes a state funding stream to counties for community corrections. About half of the states also have enacted some form of sentencing guidelines, in part to better sort cases between prison and community punishments and to manage growth in prison systems.

Escalating state prison populations and costs are spurring fresh interest in partnerships that align state and local finances with policy goals. These partnerships can help ensure that states have sufficient prison space for violent, serious and chronic offenders, while counties have adequate resources to safely manage lower-risk cases in the community.

Improved partnerships can take effect at the sentencing stage or when offenders are found to have violated conditions of probation. In Kansas, where probation violators had accounted for 36 percent of prison admissions, legislators provided \$4 million in grants in 2007 to local community corrections programs that developed plans to reduce the percentage of violators sent to prison. A 2008 Arizona law rewards counties with 40 cents on every dollar the state saves by not having to lock up a probation violator. Arizona counties will use the funds to strengthen offender supervision and victim services, but they will get the dollars only if crime by probationers falls or holds steady.

Realigning state-local relationships is difficult work, and there is no one road map. But the cost of steadily growing prison populations and budgets is prompting lawmakers to roll up their sleeves and find creative solutions. Structured carefully, state-fiscal incentives hold great promise for building partnerships that protect public safety, hold offenders accountable and control corrections costs. [i](#)

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### Motivation for Change

In FY 2007, states spent more than \$49 billion on corrections, with more than \$44 billion coming from general funds, their main source of discretionary dollars. This marked an 8.4 percent increase over FY 2006 and amounts to 1 in every 15 state general fund dollars.<sup>1</sup> The United States has the world's highest rate of incarceration—about five times higher than that of European

countries<sup>2</sup>—and rising inmate populations are compelling new prison construction and the expansion of existing facilities. The national prison population rose by over 25,000 in 2007,<sup>3</sup> and current trends are projected to add \$27.5 billion to state prison operating and construction costs between 2006 and 2011.<sup>4</sup> The continuing increase in prison building and operating costs not only constrains state budget choices—with less money available for



transportation, tax relief, health care, education and other priorities—but also comes at the expense of correctional options that can place offenders on a path to becoming productive, law-abiding citizens.

Why are inmate populations increasing? One key factor is stricter sentencing and release laws that send more lawbreakers to prison and keep them incarcerated longer. From 1980 through 1992, the rise in prison admissions was the primary driver of prison growth. Since then, length of stay in prison has been the chief factor.<sup>5</sup>

Another often overlooked driver of prison growth is that the alternatives can be unappealing to local courts making sentencing decisions. Judges and prosecutors in many jurisdictions realize that their existing probation and community corrections programs are woefully underfunded and, as a consequence, less effective in managing offenders in the community. They also are acutely aware of local jail overcrowding and the challenges of obtaining local funding for new jail construction.

In Florida, there has been a significant increase in sentences to a “year and a day”—any offender sentenced to longer than a year must serve his time in state prison rather than county jail. In fiscal year 2007, 17.7 percent of total prison admissions were 366-day sentences, double the rate of 8.8 percent in fiscal 2002. State officials attribute the spike to counties seeking to avoid the cost of expanding local jails.<sup>6</sup>

While fiscal concerns may be far from the minds of courts deciding individual cases, some states and localities are

now realigning their fiscal relationships in ways that encourage local authorities to develop cost-effective, community-based sanctions for carefully selected offenders who otherwise would be sent to prison. Not only does this help states and counties save money, but also there is a growing body of research showing that a balanced approach to sanctions can reduce crime and victimization.<sup>7</sup>

### Teaming Up for Success

Traditionally, state legislation called a Community Corrections Act (CCA) has been the most widely used vehicle for achieving this realignment of fiscal relationships. Under a typical CCA, the state provides local agencies with funds to create or expand alternative sanctions for certain offenders in the community, and in return, the state benefits by avoiding the costs of incarceration. The funding usually supports a spectrum of community-based punishments, from traditional probation supervision to day reporting centers, electronic monitoring and other specialized programs and services such as drug courts. These programs usually range from a few hundred dollars per offender to \$7,000 per year for an intensive supervision and treatment program—far less than the average \$23,876 annual cost of housing a state prisoner.<sup>8</sup> CCA states aim to save more money on prisons than they provide local governments for the community-based punishments.

Most states now have a CCA or similar structure in place. The Center for Community Corrections lists 36 states

### California Led Way

The history of state-local corrections partnerships is often dated to California’s 1965 enactment of the Probation Subsidy Act, which provided counties up to \$4,000 for each prison-eligible adult or juvenile offender who was supervised, sanctioned and serviced in the community. In combination with other reforms, the act led to several successes achieved under Governor Ronald Reagan. Between 1969 and 1972, the state placed nearly all nonviolent property offenders under local supervision, cut its inmate population by 30 percent, closed eight prison facilities and drove recidivism (within two years of release) down from 40 percent to 25 percent. In his Second Inaugural Address, in 1971, Governor Reagan stated: “*Our rehabilitation policies and improved parole system are attracting nationwide attention. Fewer parolees are being returned to prison than at any time in our history, and our prison population is lower than at any time since 1963.*”

Sources: Tim Findley, “Story Behind the Decision—Dramatic Prison Reform,” *San Francisco Chronicle*, January 7, 1972, page 1.

Marcus Nieto, *Community Corrections Punishments: An Alternative to Incarceration for Nonviolent Offenders*, California Research Bureau (Sacramento, California: May 1996), [www.library.ca.gov/crb/96/08/](http://www.library.ca.gov/crb/96/08/).



that have enacted a CCA, probation subsidy program or community rehabilitation law.<sup>9</sup> Generally, these local efforts occur on the county level, though some states allow cities to apply for CCA funding. Most CCAs create a voluntary partnership structure, encouraging rather than requiring local agencies to participate.

Minnesota was one of the first states to enact a CCA. The Minnesota Community Corrections Act of 1973 provides funding to counties or groups of counties to develop community-based sanctions and programs. Formula funding—totaling \$39.6 million per year—is awarded based on

local population, and counties must submit a comprehensive plan every two years indicating how the dollars will be spent. Thirty-one counties representing about 70 percent of the state's population participate.<sup>10</sup>

While Minnesota's CCA does not include a mechanism to monitor whether counties are diverting otherwise prison-bound offenders, other states do reduce funding for counties that incarcerate offenders who are reasonable candidates for community placement. Michigan, for example, ties some of its funding for local corrections directly to the state's sentencing guidelines. The guidelines table is based

on the seriousness of the current offense and the offender's prior criminal record. Serious, violent and repeat offenders who fall into the "presumptive prison" section of the grid must be sentenced to prison, and minor offenders in the so-called "lockout" section must be sentenced to local sanctions, unless the courts depart from the guidelines. For the area in between, called the "straddle cells," offenders can be sentenced either to local sanctions or to prison. Counties are awarded additional funding for retaining offenders locally who fall into some of those straddle cells and therefore would have been eligible for prison.

### What is Community Corrections?

"Community corrections" refers to sanctions other than prison. This includes probation supervision imposed by a court instead of a prison sentence, and parole supervision occurring after an offender is released from prison. In addition to these traditional supervision programs, community corrections can include day reporting centers, halfway houses and residential work and restitution centers.

Strong community corrections programs assess individual offender risks and needs and match offenders to appropriate programs with three key elements:

- **Information tools** that monitor offenders' whereabouts and behavior, such as electronic or GPS surveillance, drug tests and alcohol-sensing devices.

- **Service tools**, such as substance abuse and mental health treatment, cognitive skills development, and employment or job training programs that target risk factors for criminal behavior.

- **Incentive tools** designed to punish or reward offenders for violating or complying with their terms of release, including enhanced surveillance or reporting requirements, increased community service hours or short-term incarceration.

Community-based punishments that employ these and other evidence-based practices can reduce recidivism by 10 to 20 percent, and even more if they target multiple risk factors. Since they are far less expensive than prison, community options can provide a cost-effective way to hold

lawbreakers accountable, encourage payment of restitution and child support, and prevent future victims.

Source: Faye S. Taxman, Eric S. Shepardson, James M. Byrne et al, *Tools of the Trade: A Guide to Incorporating Science into Practice*. U.S. Department of Justice, National Institute of Corrections and Maryland Department of Public Safety and Correctional Services (Washington: 2003).

For more information on effective community programs, see *What Works in Community Corrections*, an interview with Dr. Joan Petersilia, one of the nation's leading experts on the subject. Available at [www.pewpublicsafety.org](http://www.pewpublicsafety.org).



The incentive appears to have worked. In fiscal year 1989, the first year under the Michigan program, nearly 35 percent of felony dispositions resulted in a prison sentence. By fiscal year 2007, that figure had fallen, with some fluctuation, to less than 22 percent. The Department of Corrections estimates that it would have received an additional 8,152 inmates in 2007 alone if the higher imprisonment rate had continued.<sup>11</sup> The significant drop in prison sentences doesn't appear to have increased crime: From 1987 through 2006, the violent and property crime rates in Michigan fell faster than the national averages, despite Michigan's woeful economic conditions.

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## Targeting Violators

Another type of state-local realignment attracting attention involves the handling of probation or parole violators—people who break the rules of their community release, such as missing an appointment or failing a drug test, but are not charged with committing a new crime. One of the latest states to plot a course in this direction is Kansas, where a bill passed in 2007 provided community corrections agencies with \$4 million in FY 2008 to reduce probation-revocation rates. Money authorized by SB 14 was awarded through a competitive grant process, with agencies pledging to increase the success of community supervision, reduce the risk of offenders under their oversight and improve public safety. The overarching and specifically stated goal: cutting the number of probation violators returned to the Kansas Department of Corrections by 20 percent.

Local agency officials have used a variety of approaches in working toward that benchmark. In Reno County, for example, leaders invested a portion of their \$120,000 grant in treatment and counseling programs, as well as expanded skills and job training. County Community Corrections Director Ken Moore said the new fiscal relationship has substantially changed how success is measured within his agency. “The DOC has announced to us [that] our funding will no longer be based solely on how many clients we have, but on our performance,” he said. “In my mind, the funding will have to be connected to reducing the revocations by 20 percent.” So far, the results in Kansas are encouraging. Despite earlier predictions that the state would run out of prison beds, the prison population actually declined during fiscal year 2008.

Arizona officials have taken this model to another level. Under legislation (SB 1476) enacted in June 2008, that state created funding incentives designed to reduce crime by probationers. The state will calculate probation failures (the number of violators revoked to prison) by county for each year. If crime by probationers is down and the number of probation revocations is down, the state will provide the county with 40 percent of the money the state saves by avoiding the incarceration of probation violators. Counties can use the funds to strengthen community supervision and victim services.

If new convictions of probationers in a county go up, however, that county would be ineligible for incentive funding. This provision ensures that jurisdictions are given incentives to

increase public safety and forfeit funding if they turn a blind eye to risky or illegal behavior. By including this safeguard, the bill puts the focus squarely where it ought to be: on protecting public safety.

The measure was supported strongly by Arizona counties, which recognized that it packs a double fiscal punch. On top of receiving the incentive funding from the state, having fewer violators sit in jail awaiting revocation hearings saves them dollars directly.

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## Achieving Results

Realigning state-local relationships to save corrections dollars can be carried out in a variety of ways. But experience shows that whatever the method, a successful transition—and a long-term payoff in terms of cost savings and public safety—depends on certain important factors. The most obvious ingredients are effective leadership, quality program staff, a strong risk-assessment process that identifies which offenders are appropriate for community-based punishments, an ongoing evaluation process, consistent and sufficient funding, and close collaboration.

Other conditions are essential as well, including the intensive involvement of local officials in planning the new approach. Because success in community corrections relies on local enthusiasm and initiative, states must engage local leaders in developing their systems. In addition, local officials often have the most current information on offender characteristics and program capacity.



In realigning their relationship, state and local officials must be careful to designate clear, mutually accepted roles. Friction can arise between state and local managers over state funding levels, controls and accountability. To avoid downstream disagreements, leaders should negotiate funding formulas up front and agree on a

method to allow a continual exchange over management decisions. Most CCAs vest authority to coordinate state-supported community corrections programs in a single state agency, such as a department of corrections. This is generally the most efficient course, and affords the agency autonomy to dispense funding

based on merit rather than political considerations. A shortcoming of this approach, however, is that corrections agencies tend to give budgetary priority to prison needs. Thus, directing funding to a community corrections unit within the larger agency may be a better approach.

## Juvenile Justice as a Model

Beyond the traditional arrangement offered by CCAs, several states are using the management of young offenders as a fruitful arena in which to redesign fiscal relationships with their local counterparts. A leader in this effort is Ohio, where realignment began in 1993 with a program called Reasoned and Equitable Community and Local Alternatives to the Incarceration of Minors, or RECLAIM.<sup>12</sup> Launched in response to overcrowding in youth institutions and a growing demand for local alternatives, the program was tested in a handful of counties before it was expanded statewide in 1995. RECLAIM provides subsidy grants to counties to serve up to 100,000 youth annually through about 700 programs. About \$30 million in RECLAIM funds and \$20 million in “base” youth services funding combine to pay for programs. RECLAIM gives each county a fund for local programs based on a formula, and encourages courts to keep low-risk juvenile offenders in county programs by deducting amounts from the fund for each low-risk offender sent to state facilities.

Since initiating, RECLAIM has seen a drop of approximately 45 percent in admissions to the state’s residential facilities. A trio of University of Cincinnati evaluations has shown that the program saves Ohio taxpayers between \$11 and \$45 for every dollar spent.<sup>13</sup> A state administrator who helped establish the program states: “One of the most significant parts of RECLAIM is our partnership with the counties. It’s really driven by the counties, and what they want to do based on local needs.”<sup>14</sup> In addition, this cost-saving approach allows more youths to face sanctions in their own communities, where family can participate in rehabilitative efforts.

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### A New Direction Out West

Last year, California took a page out of Ohio’s book and launched its own version of fiscal realignment, also targeting young lawbreakers. With a widely-maligned juvenile system operated under a court-appointed special master, California has long struggled to improve programs within its secure institutions and cut a staggering recidivism rate among its youthful offenders. In August 2007,

Republican Gov. Arnold Schwarzenegger signed SB81, a move designed to reserve the state’s youth prisons for the most serious, violent offenders and retain nonviolent juveniles in local jurisdictions for supervision and treatment. The product of extensive negotiations between county and state officials and lawmakers, the bill was hailed by juvenile justice advocates as the most significant piece of legislation affecting young offenders in California in decades.

Under the legislation, which took effect immediately, counties receive block grant funds—an average of \$130,000 annually per youth—to pay for alternatives to a state commitment. To receive a grant, counties must submit a Juvenile Justice Development Plan outlining their intended use of the funds. SB81 also authorized up to \$100 million statewide in bond funds for the design and construction of new or renovated county facilities for youthful offenders. Oversight is provided by the state’s Juvenile Justice Commission. The reform law is expected to cut the population in state juvenile facilities from 2,500 to about 1,500 within two years.



On the local level, an advisory board or other mechanism for continuing involvement is an essential feature for success. A board can help plan and develop programs, educate the public, monitor programs, coordinate services and set eligibility standards for offenders. A board also can perform the vital function of recruiting private agencies to rally community support, provide services or contribute additional funding. Some boards serve only an advisory purpose, while others may be responsible for preparing applications for state funding or even for deciding which offenders to assign to a program.

Policy makers experienced in community corrections relationships offer a handful of other guidelines for a productive relationship:

- **Goals** such as reducing crime and containing prison expenditures should be clearly stated and consistent with community values.
- **A sufficient up-front investment** must be provided, using some of the savings from reduced state incarceration costs, along with a timely and well-controlled mechanism for transferring funds from the state to local agencies—recognizing that the biggest savings may emerge in future years.
- **Community-oriented sentencing** should be established by formal guidelines or at least permitted to allow a broad range of sanctions.
- **Implementation** should be phased in, with eligibility criteria specified for target populations and local decision making a part of the mix.

- **Coordination** among state and local agencies must ensure that cases move through the system efficiently and are tracked carefully, and that judges remain involved and continually informed.
- **Security** must be maintained in all residential and program facilities.
- **Flexibility** in handling individual offenders should be permitted.
- **Accountability** should be ensured through ongoing monitoring.
- **Broad-based support** should be built for proposals well before legislation is introduced. Once the programs are in place, legislators must be kept informed of developments so programs are not derailed by isolated negative incidents.

One final staple of successful programs is creativity. Leaders need to adapt to changing circumstances, including reductions in resources and other unforeseen conditions. In short, restructuring the corrections relationship can't be done by following a manual.

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## A Worthy Option

Community Corrections Acts and other state-local corrections partnerships can improve the effectiveness of the criminal justice system and empower state, local and private agencies to plan, deliver and evaluate community-based sanctions. Their effectiveness in aligning state and local fiscal interests is an increasingly attractive feature.

Reshaping a longstanding relationship between levels of government is never easy, especially when the volatile issues of criminal justice are in play. Any state effort to realign fiscal arrangements in corrections is bound to confront some significant barriers, including the perception among many budget analysts that new programs—even programs designed to contain spending—will generate additional costs, especially in the short term. New approaches are likely to face tough sledding simply because of inertia among administrators and frontline workers accustomed to business as usual. And elected officials wary of appearing “soft on crime” may be reluctant to embrace reforms that could appear to benefit, rather than simply punish, offenders.

Increasingly, however, lawmakers weary of relentless prison growth are overcoming those barriers. Their drive is sparked by frustration over the perpetual demands of prison budgets that compete with other pressing public priorities, from education to health care and transportation. At the same time, many believe the return on their prison investment in terms of crime control has been disappointing at best and that community corrections programs rooted in evidence-based practices can effectively hold offenders accountable and reduce recidivism.

In searching for new approaches, some states are finding that restructuring traditional fiscal relationships with local agencies, while challenging, is an approach well worth a sharp look. 



## Notes

- <sup>1</sup> Analysis of National Association of State Budget Officers data in The Pew Center on the States, Public Safety Performance Project, *One in 100: Behind Bars in America 2008* (Washington, D.C.: February 2008), p. 14.
- <sup>2</sup> Roy Walmsley, *World Prison Population List*, International Centre for Prison Studies, 6th ed. (London: 2006), [www.kcl.ac.uk/depsta/law/research/icps/worldbrief/wpb\\_stats.php](http://www.kcl.ac.uk/depsta/law/research/icps/worldbrief/wpb_stats.php)
- <sup>3</sup> This constitutes a 1.6 percent increase in the prison population nationwide. *One in 100*.
- <sup>4</sup> The Pew Charitable Trusts, Public Safety Performance Project, *Public Safety, Public Spending: Forecasting America's Prison Population 2007-2011*, (Washington, D.C.: February 2007).
- <sup>5</sup> Alfred Blumstein and Allen J. Beck, "Population Growth in U.S. Prisons, 1980-1996," in Michael Tonry and Joan Petersilia, eds., *Crime and Justice: Prisons*, (Chicago: University of Chicago Press, 1999), pp. 17-61.
- <sup>6</sup> "Prison Funding Decisions in Florida," prepared for the National Governors Association Executive Policy Retreat on Sentencing and Corrections, May 2008, [www.nga.org/Files/pdf/0805SENTENCEPRES12.PDF](http://www.nga.org/Files/pdf/0805SENTENCEPRES12.PDF)
- <sup>7</sup> See, for example, Sherman, L.W., "Thinking About Crime Prevention," p. 60, in Sherman, L.W., D. Gottfredson, D. MacKenzie, J. Eck, P. Reuter, and S. Bushway (eds). *Preventing Crime; What Works, What Doesn't, What's Promising*. U.S. Department of Justice, National Institute of Justice. (Washington, D.C.: 1997).
- <sup>8</sup> Community program costs from Steve Aos, Marna Miller, and Elizabeth Drake, *Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs, and Crime Rates*, Washington State Institute for Public Policy (Olympia, WA: October 2006). Annual state prisoner costs from *Public Safety, Public Spending*.
- <sup>9</sup> The Center for Community Corrections, *Community Corrections Works* (Washington, D.C.: 2007), [http://centerforcommunitycorrections.org/?page\\_id=78](http://centerforcommunitycorrections.org/?page_id=78). The 36 states are AL, AZ, AR, CA, CO, CT, FL, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MO, MT, NE, NM, NC, MD, OH, OK, OR, PA, SC, SD, TN, TX, VT, VA, WA, and WY.
- <sup>10</sup> Minnesota Department of Corrections, Community Services Division, Administrative Services, [www.corr.state.mn.us/org/communityserv/adminserv.htm#grants](http://www.corr.state.mn.us/org/communityserv/adminserv.htm#grants)
- <sup>11</sup> Michigan Department of Corrections, Biannual Report, March 2008, p. 3.
- <sup>12</sup> See Ohio Rev. Code Ann. sec. 5139.41-44 (Supp. 2000).
- <sup>13</sup> Christopher T. Lowenkamp and Edward J. Latessa, *Evaluation of Ohio's RECLAIM Funded Programs, Community Correctional Facilities, and DYS Facilities: Cost-benefit Analysis—Final Report*. University of Cincinnati, Division of Criminal Justice, (Cincinnati, OH: August 2005), [www.dys.ohio.gov/dysweb/Reclaim/DYSCostBenefit121205.pdf](http://www.dys.ohio.gov/dysweb/Reclaim/DYSCostBenefit121205.pdf).
- <sup>14</sup> Linda Modry (Chief, Bureau of Subsidies and Grants, Ohio Department of Youth Services), personal communication, November 2007.

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