

# **Justice Fellowship Task Force**

**Recommendations for  
Correctional and Sentencing Reform  
in the State of North Carolina**

# **The Plan for RESTORING JUSTICE**

12-28-93

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Prepared By the North Carolina  
Justice Fellowship Task Force

142848

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**U.S. Department of Justice  
National Institute of Justice**

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Task Force

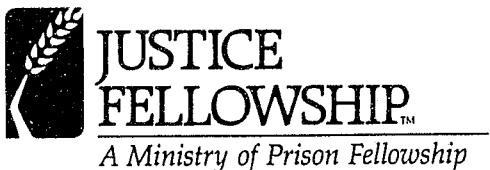
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February 18, 1993

The Honorable James B. Hunt, Jr.  
Governor  
State of North Carolina

The Honorable Marc Basnight  
President *Pro Tempore*  
North Carolina Senate

The Honorable Daniel T. Blue, Jr.  
Speaker  
North Carolina House of Representatives

Dear Gentlemen:

In September 1991, Justice Fellowship, the public policy division of Prison Fellowship Ministries, was asked to prepare recommendations for improving the efficiency, effectiveness and equity of the state's offender punishment and rehabilitation processes.

To ensure that Justice Fellowship's reform proposals for North Carolina were relevant to the needs and priorities of the state, Justice Fellowship's first step was to form the North Carolina Justice Fellowship Task Force, a state-wide policy-development committee composed of Christians from many denominations who have a common interest in improving the state's criminal justice system.

Over the past twelve months, the members of the North Carolina Justice Fellowship Task Force and the Justice Fellowship staff have carefully examined the systems and procedures for sentencing, punishing and rehabilitating criminal offenders in North Carolina. We have reviewed every major study of these issues that has been published in the last ten years; we have talked to inmates, crime victims, correctional workers and key correctional program administrators across the state; and we have heard the testimony of dozens of the state's top criminal justice officials at our six public Fact Finding Sessions.

*The Plan for Restoring Justice* is the end result of the Task Force's work. *The Plan for Restoring Justice* is intended to be both a call to you for immediate action in the areas of sentencing and correctional reform and an action plan for re-establishing standards of justice for offenders and crime victims alike that are compatible with the principles of justice that have been promulgated by God through the teachings of Jesus Christ.

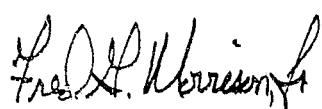
"A bruised reed he will not break . . .  
In faithfulness he will bring forth justice."  
*Isaiah 42:3*

We believe that the recommendations for sentencing and correctional reform that are included in *The Plan for Restoring Justice*, if fully implemented, would produce a balanced state correctional system and a structured sentencing system that would both protect the public and reduce offender recidivism rates. We also believe that these recommendations can be implemented at a cost that is compatible with the state's ability to pay.

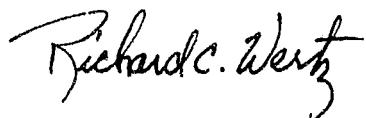
It is with great pleasure that we transmit to you, *The Plan for Restoring Justice*. It is our hope that you will seriously consider its findings and move boldly to implement its recommendations.

May the Lord bless your work.

Sincerely,



Fred G. Morrison, Jr.  
Task Force Chairman



Richard C. Wertz  
State Director

Members of the Task Force

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## Executive Summary of the Task Force's Findings and Recommendations

*The Plan for Restoring Justice* is intended to be both a call to the Governor and General Assembly of North Carolina for immediate action in the areas of sentencing and correctional reform and an action plan for re-establishing standards of justice for offenders and crime victims alike that are compatible with the principles of justice that have been promulgated by God through the teachings of Jesus Christ.

### Summary of Task Force Findings

1. The division of responsibility between the counties and the state for incarcerated misdemeanants and serious inmate overcrowding in the state prison system and in many county jails have led to sentencing inconsistencies and different rehabilitation standards for incarcerated misdemeanants across the state.
2. The state prison system does not have the bed capacity to house all of the offenders who are being sentenced to prison terms. As a result, state prisons are dangerously overcrowded, and between 500 and 600 prisoners must be released each week on early parole or unconditional release status to make room for newly sentenced offenders.
3. The state prison system's capacity problem is caused by the overuse of prison as a sentencing option for misdemeanants and non-dangerous felons rather than by a lack of prison beds. Of the offenders admitted to the state prison system in 1992, 40% were misdemeanants; 50% of the offenders in the state prison system during 1992 were serving time for non-dangerous offenses.
4. North Carolina overuses prison as a sentencing option for misdemeanants and non-dangerous felons because:
  - the state has few alternatives to incarceration available except regular probation;
  - regular probation caseloads are too large to provide adequate community-based offender supervision;
  - the state has no structured sentencing system to assist judges in the correctional program selection process; and
  - many offenders convicted of lower-level offenses exercise their statutory right to reject probation and accept in its place a prison term.

The absence of any structured sentencing system appears to contribute to felony sentence term inconsistencies that are very apparent in the inmate population. In addition, prison is presently being overused as a sentencing option for minority defendants convicted of lower-level offenses.

5. The state prison system is not rehabilitating many offenders sentenced to its custody. Over 65% of all of the offenders released from North Carolina prisons will be arrested for a new crime within three years of their release. Over half of these offenders will return to a North Carolina prison during this same period.

6. An estimated 75% to 85% of all offenders sentenced to the custody of the Department of Correction have substance-abuse problems. However, few drug or alcohol treatment programs are available in either the state prison system or the state probation system to effectively treat this group of offenders.
7. Few offenders are held accountable for making restitution to individual crime victims and to the community in order to alleviate the suffering and loss that occurred when crimes were committed against them.
8. Up to 20% of the arrestees booked in county jails have serious mental-health problems and between 75% and 85% have a substance-abuse problems. However, few counties have the ability to screen arrestees and divert individuals who have these problems to more appropriate treatment programs outside of the criminal justice system.
9. The state prison system is not effectively reintegrating offenders who have been confined in state prisons back into their communities after their sentences have been completed.

Based on the problems described above, the Justice Fellowship Task Force has concluded that North Carolina's criminal justice system is in serious trouble and that the state's offender punishment and rehabilitation processes often are neither effective nor equitable. Clearly, immediate action is required to resolve the serious problems that have brought the state and local correctional systems to their current state.

## Fundamental Principles for Reform

The Justice Fellowship Task Force proposes that the state initiate a fundamental restructuring and reorientation of North Carolina's systems and processes for sentencing, punishing and rehabilitating criminal offenders based on the following six principles:

1. The State of North Carolina should assume the responsibility for providing correctional services to all sentenced misdemeanants and felons except offenders who are convicted of and incarcerated for a DWI misdemeanor under the Safe Roads Act. This group of offenders could still be housed in county jails.
2. The State of North Carolina should authorize the North Carolina Department of Correction to develop a balanced, state-funded correctional system that provides a continuum of offender punishment and treatment options for all sentenced offenders. The state correctional system should have four distinct levels of programming:
  - Community Sanctions;
  - Intermediate Sanctions;
  - Institutional Sanctions (Prison); and
  - Community Reintegration.
3. The State of North Carolina should establish a structured sentencing system similar to the one proposed by the North Carolina Sentencing and Policy Advisory Commission to channel offenders into the proper level of correctional programming. However, the Sentencing Commission's proposed policies should be modified to ensure that:

- expensive prison resources are spent only sparingly on misdemeanants;
  - there is a significant and predictable flow of non-dangerous felons into Intermediate Sanctions;
  - judges have sufficient discretion to tailor sentences to the requirements of individual offenders; and
  - the number of offenders serving prison terms does not exceed the state's existing and authorized prison capacity—about 24,000—during at least the next five years.
4. The State of North Carolina should place a freeze on all new prison construction for at least a five-year period after the prisons that have been previously authorized and funded have been completed. Expensive prison space should be reserved for violent offenders, habitual offenders with long prior criminal records and offenders who violate the conditions of their Intermediate Sanctions sentences.
5. The State of North Carolina should not consider legislation that would increase the incarceration terms for offenders sentenced to Institutional Sanctions (Prison) in the future unless the following can be shown:
- the state has fully funded and developed its Community Sanctions, Intermediate Sanctions and Community Reintegration levels of programming;
  - the state has a sufficient number of unused prison beds to accommodate the proposed longer sentences or it is willing and financially able to build more prisons; and
  - the increase in sentence lengths would serve a rational public safety or offender rehabilitation purpose.
6. The State of North Carolina should establish standards of justice for its state correctional system that are consistent with biblical principles of justice and can be used as a guide in all future correctional program development. In particular, offenders should be held accountable for making their crime victims whole again by making individual and community restitution. The state correctional system should be held accountable for providing offenders with effective treatment programs so that they can change their lives and return to their communities as productive citizens.

## **Summary of Task Force Recommendations**

With these six principles in mind, the Justice Fellowship Task Force has developed 36 specific recommendations for establishing a unified state correctional system and a structured sentencing system that will both protect the public and provide more effective and equitable rehabilitation programs for all offenders. The Task Force's recommendations can be divided into seven major groups:

1. **Community Sanctions.** Recommendations in this area are aimed at developing a network of effective community-based correctional programs designed to monitor the activities of misdemeanants and lower-level, non-dangerous felons who do not have extensive prior criminal records and to hold them accountable for making restitution to individual crime victims and to the community. Here are some of the features of the Task Force's Community Sanctions recommendations:

- the state should maintain two primary Community Sanctions programs—regular probation and fines;
- all offenders sentenced to Community Sanctions should pay community restitution; offenders with individual crime victims should also pay individual restitution;
- the Department of Correction should be authorized to use excess community restitution collected to upgrade correctional services;
- regular probation caseloads should not exceed a range of 75-90 offenders per officer;
- regular probation sentences should be for specific terms not to exceed 18 months for misdemeanants and 30 months for felons; and
- the Division of Adult Probation and Parole should be given the administrative authority to increase the intensity of supervision for offenders who violate the conditions of their Community Sanctions sentences.

**2. Intermediate Sanctions.** Recommendations in this area are aimed at developing a network of effective community-based correctional programs designed to monitor the activities of misdemeanants and lower-level, non-dangerous felons with moderate prior criminal records, and mid-level, non-dangerous felons with short prior criminal records. In addition, the recommendations are aimed at developing systems that will hold Intermediate Sanctions offenders accountable for making restitution to individual crime victims and to the community and provide these offenders with solid rehabilitation programming. Here are some of the features of the Task Force's Intermediate Sanctions recommendations:

- the state should maintain a single program for offenders sentenced to Intermediate Sanctions; intensive supervision should be the backbone of this program, but judges should have the discretion to require offenders to participate in a variety of sentence enhancements;
- all offenders sentenced to Intermediate Sanctions should pay community restitution; offenders with individual crime victims should also pay individual restitution;
- intensive supervision caseloads initially should not exceed 25 offenders per two officer team and then not exceed 100 offenders per two officer team for the remainder of each sentence;
- intensive supervision sentences should be for specific terms not to exceed 24 months for misdemeanants and 36 months for felons;
- the Community Penalties Program should be strengthened and expanded to all judicial districts so that individualized Sentencing Plans can be prepared for all offenders eligible for Intermediate Sanctions; and
- the Division of Adult Probation and Parole should be given the administrative authority to increase the intensity of supervision for offenders who violate the conditions of their Intermediate Sanctions sentences. Offenders who continue to violate should be sentenced to an active term in the state prison system.

**3. Intermediate Sanctions Enhancement Development.** Recommendations in this area are aimed at developing a system for planning, funding and initiating a state-wide network of offender punishment and treatment enhancement programs designed to provide specialized rehabilitation programming to Intermediate Sanctions offenders. Here are some of the features of the Task Force's Intermediate Sanctions Enhancement Development recommendations:

- the state should establish an Intermediate Sanctions Commission to oversee the development of a biannual Intermediate Sanctions Plan and to allocate financial resources for the development and implementation of Intermediate Sanctions enhancement programs;

- the Department of Correction's strategic planning unit should be expanded so that it can provide staff support to the Intermediate Sanctions Commission;
- the state should appropriate a block of funds to the Intermediate Sanctions Commission so that five pilot enhancement programs can be started during the coming fiscal year; and
- after the next fiscal year, the state should appropriate a block of funds annually to the Commission for the development and implementation of the sentence enhancement programs that are identified in the biannual Intermediate Sanctions Plan.

**4. Institutional Sanctions (Prison).** Recommendations in this area are aimed at clearly reserving prison space for violent offenders, habitual offenders with long prior criminal records and offenders who willfully violate the conditions of their Intermediate Sanctions sentences. In addition, the recommendations are designed to upgrade the quality of prison work and rehabilitation programs for offenders. Here are some of the features of the Task Force's Institutional Sanctions recommendations:

- the state should authorize the Department of Correction to develop a Master Plan for Institutional Treatment, Educational and Vocational Programs pursuant to North Carolina General Statute §143B-261;
- the Department of Correction should be authorized to give merit-based good time credits to offenders who voluntarily participate in and successfully complete certified rehabilitation programs that meet the goals of the Master Plan; and
- the state should employ all able-bodied inmates in meaningful prison work programs that teach usable job skills and a positive work ethic.

**5. Community Reintegration.** Recommendations in this area are aimed at beginning the process of developing an effective program for helping offenders stay crime-free after their release from prison. Here are some of the features of the Task Force's Community Reintegration recommendations:

- the Department of Correction should establish a life-skills training program for incarcerated offenders;
- the Department of Correction should develop a network of highly structured community re-entry programs in halfway houses and substance-abuse treatment facilities for selected offenders; and
- the Department of Correction should establish problem-solving assistance centers for ex-offenders across the state.

**6. Pre-Trial Diversion.** Recommendations in this area are aimed at diverting arrestees with serious mental-health or substance-abuse problems to more appropriate, and less costly treatment programs outside of the criminal justice system. Here are some of the features of the Task Force's Pre-Trial Diversion recommendations:

- the state should fund a pilot project designed to provide county jails the resources to screen all detainees for mental-health problems and to divert those found to have serious problems into treatment programs; and
- the state should increase funding to programs such as TASC for screening arrestees for substance-abuse problems and for the purchase of substance-abuse treatment services for arrestees diverted into pre-trial programs.

7. **Sentencing Policy.** Recommendations in this area are aimed at making a number of changes in the ways that offenders are sentenced to correctional programs and at modifying the proposed policies of the Sentencing Commission. Here are some of the features of the Task Force's Sentencing Policy recommendations:

- the state should authorize judges to sentence offenders directly to Community Sanctions and Intermediate Sanctions, as well as Institutional Sanctions;
- the state should repeal the statute that gives offenders the right to reject a probationary sentence and accept a prison sentence in its place;
- the state should establish the North Carolina Sentencing and Policy Advisory Commission as a permanent state agency; and
- the state should establish a structured sentencing system similar to the one proposed by the Sentencing Commission. However, the Commission's proposed policies should be modified to ensure that (A) expensive prison resources are used only sparingly on misdemeanants, (B) there is a significant and predictable flow of non-dangerous felons into Intermediate Sanctions; (C) judges have sufficient discretion to tailor sentences to the requirements of individual offenders and (D) that the number of offenders serving prison sentences does not exceed existing and authorized prison capacity—about 24,000—during at least the next five years.

The Task Force recommends that the General Assembly appropriate the amount of money required each year to fully implement the Task Force's recommendations—\$25 million in FY 1993-94; \$50 million in FY 1994-95; and \$75 million in FY 1995-96 and all years thereafter—less the revenue generated from excess community restitution payments.

## Acknowledgements

The development of this report would not have been possible without the cooperation of so many people. First, the Task Force would like to thank each and every participant who spoke at the Fact Finding Sessions. Each presentation was valuable and insightful into the current problems that North Carolina's criminal justice system faces.

The Task Force would like to thank the North Carolina Department of Correction for its willingness to participate in each of the Fact Finding Sessions and for its suggestions and commentary during the various incarnations of this report. Without the Department's cooperation, the Task Force would not have been able to resolve many questions that were posed by the hearings. The management and the line staff of the Department exhibited the utmost in professionalism. The findings in this report do not necessarily reflect the work the Department of Correction has done, rather the situation they have been forced to deal with.

Also, the Task Force would like to thank the North Carolina Sentencing and Policy Advisory Commission staff, and in particular Judge Thomas Ross, Chairman, for being so willing to offer suggestions and to project what the impact of our recommendations would be on the state's correctional system.

Finally, the Task Force would like to thank all the criminal justice experts and other practitioners who reviewed this report at its various stages and who offered their insight to strengthen the recommendations within their areas of expertise.

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# Chapter 1

## Introduction

*The Plan for Restoring Justice* presents a series of recommendations for reforming North Carolina's sentencing and correctional systems that have been prepared by the North Carolina Justice Fellowship Task Force for the Governor and General Assembly of North Carolina.

*The Plan for Restoring Justice* is intended to be both a call for action in the areas of sentencing and correctional reform and an action plan for re-establishing standards of justice for offenders and crime victims alike in North Carolina's criminal justice system that are compatible with the principles of justice that have been promulgated by the Lord through the teachings of Jesus Christ.

### Prison Fellowship

Prison Fellowship was founded by former Nixon aide Charles Colson in 1976 following his incarceration for a Watergate-related offense. Prison Fellowship's mission is to recruit and train Christian volunteers to bring the Gospel of Jesus Christ to prisoners, ex-prisoners, crime victims and the families involved.

Prison Fellowship's in-prison programs—from on-going Bible Studies to Marriage Seminars (which help inmates and their spouse stay together despite incarceration) to Life Plan Seminars (which give inmates who are near release some guidance in managing money, finding a job and setting goals)—reflect the belief that Christ can change the basic character of men and women in prison and help make prisoners productive members of society.

Prison Fellowship currently has more than 40,000 Christian volunteers who work with prisoners in over 1,000 prisons in the United States. During the past 18 months, Prison Fellowship has recruited and trained more than 4,800 new volunteers to work with prisoners in North Carolina correctional facilities.

### Justice Fellowship

Justice Fellowship was established in 1982 as the public policy division of Prison Fellowship. Justice Fellowship's mission is to work with state and federal executive, legislative and judicial policymakers to promote effective biblically based reforms in the criminal justice system.

Justice Fellowship is currently working with elected and appointed officials in 24 states including North Carolina, on such issues as:

- the development of alternatives to incarceration for non-dangerous offenders;
- the development of community corrections legislation and funding mechanisms;
- the development of restitution programs for crime victims; and

- the development of private-sector prison industry ventures that teach inmates usable job skills and a positive work ethic.

## **North Carolina Justice Fellowship Task Force**

When Justice Fellowship begins to work in any state, the first step is to form a state-wide policy development committee composed of Christians from many different denominations who have a common interest in reforming their state's criminal justice system. The North Carolina Justice Fellowship Task Force is Justice Fellowship's policy development committee for North Carolina.

The mission of the North Carolina Justice Fellowship's Task Force is to study the systems and procedures for sentencing, punishing and rehabilitating criminal offenders in North Carolina and to prepare recommendations for improving the state's offender punishment and treatment process. For a listing of Task Force members, see page xi.

## **Restorative Justice**

Philosophically, Justice Fellowship's commitment to reform is based on the biblically based concept of *Restorative Justice*.<sup>1</sup> When a crime occurs many people are hurt in the process. Not only the crime victim, but also the victim's family, the offender's family, the community as a whole and even the offender himself suffer the adverse consequences of crime.

This is why *Restorative Justice* holds that the criminal justice system should actively engage the parties touched by crime in repairing the injuries caused by crime. In practical terms, this means that individual offenders should be held accountable for the fact that they have hurt real people and real communities by committing crime, and they should be required to help make their victims whole again. Making restitution to individual crime victims and to the community are also essential to offender rehabilitation.

*Restorative Justice* also means that correctional systems should do more than merely punish and warehouse offenders. Correctional systems should provide offenders with the opportunity to become whole again by offering high-quality counseling, education, vocational training, substance-abuse treatment and jobs that teach usable skills and a positive work ethic so that they can change their lives and return to their communities as productive citizens.

## **Fact Finding Sessions**

During the past twelve months, the members of the North Carolina Justice Fellowship Task Force and the Justice Fellowship staff have carefully examined the systems and procedures for sentencing, punishing and rehabilitating criminal offenders in North Carolina.

In addition to reviewing major studies about the North Carolina correctional system that have been published during the last ten years and talking to dozens of inmates, crime victims, correctional workers and key correctional program administrators across the state, the Justice Fellowship Task

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<sup>1</sup>For further information on *Restorative Justice*, see Appendix D for a selected reading list.

Force organized a series of six Fact Finding Sessions during July and August in the cities of Wilmington, Greensboro, Charlotte, Asheville and Raleigh.

More than 75 of the state's top criminal justice leaders—judges, district attorneys, public defenders, police chiefs, sheriffs, correctional administrators, probation officers, substance-abuse program directors, Community Penalties program managers, local elected officials, lawyers, victims rights advocates and ex-offenders—presented over 24 hours of testimony describing problems with the current system for sentencing, punishing and rehabilitating criminal offenders and offering solutions to these problems.

Summaries of the testimony given by each of these criminal justice leaders at the Fact Finding Sessions are published in the Summary of Testimony Before the North Carolina Justice Fellowship Task Force Fact Finding Sessions, available at Justice Fellowship's office in Raleigh, North Carolina.

# Chapter 2

## Task Force Findings

Based on the testimony at the six Fact Finding Sessions and other research done and observations made by the Justice Fellowship staff, the North Carolina Justice Fellowship Task Force has developed a series of narrative "snapshots" relating to North Carolina's current system for sentencing, punishing and rehabilitating criminal offenders that helps to explain the urgent need for action.

**Snapshot 1:** **The responsibility for incarcerating and rehabilitating misdemeanants sentenced to terms of confinement is divided between the North Carolina Department of Correction and the various counties. This division of responsibility has led to sentencing inconsistencies and different rehabilitation programming standards for incarcerated misdemeanants across the state.**

Judges can sentence misdemeanants to terms of confinement of up to six months in a county jail or to a longer period in the state prison system. On any given day, about 2,400 misdemeanants are held in the county jails, and about 1,500 misdemeanants are held in state correctional facilities.

During the Fact Finding Sessions, it became clear to the Task Force from the testimony of both jail and prison administrators that the amount of incarceration time actually served by a misdemeanor is determined, in large part, by how overcrowded the correctional facility is that the misdemeanor is assigned to.

The average time served by misdemeanants currently being sentenced to the state prison system is between 10 days and two weeks. The average time served by misdemeanants currently being sentenced to county jails appears to be considerably longer than this.

There appears to be no consistent relationship between the seriousness of the offense and the length of incarceration for misdemeanants. Misdemeanants who commit less serious offenses—those punishable by up to six months in a county jail—are likely to serve more actual incarceration time and a higher proportion of their overall sentence than misdemeanants who commit more serious offenses—those punishable by more than six months and up to two years in the state prison system.

In the area of rehabilitative programming, some counties have developed effective substance-abuse and work-release programs for incarcerated misdemeanants. However, many county jails are so overcrowded with pre-trial detainees that there is no room for treatment programs for sentenced offenders. The average prison term served by misdemeanants in state prison is so short that no effective rehabilitation programming is possible.

**Snapshot 2:** **The state prison system does not have the bed capacity to house all of the offenders who are being sentenced to terms of confinement in state prisons.**

The responsibility for incarcerating and rehabilitating felons who have been sentenced to terms of confinement has been assigned to the North Carolina Department of Correction. On any given day, approximately 19,200 felons are held in state prisons along with the 1,500 misdemeanants described in Snapshot 1.

The state prison system is dangerously overcrowded. The Department of Correction's minimum security institutions are operating at 125% of their rated capacity and the Department's close custody facilities are operating at 140% of their rated capacity. One specialized correctional facility—the Polk Youth Center—has twice as many inmates as it was designed to hold.

To control the extent of inmate overcrowding, the Governor and General Assembly of North Carolina have imposed limitations on the number of offenders who can be held in the state's prisons. The current inmate population cap is approximately 20,700. The cap is expected to increase to approximately 24,000 as the new prisons that have been previously authorized and funded come on-line.

More than 30,000 misdemeanants and felons were sentenced to terms of confinement in the state prison system during calendar year 1992. Because of the inmate cap, more than 30,000 offenders had to be released from prison on early parole or on unconditional release status to make room for these new arrivals. In a typical week in 1992, the members of the Parole Commission considered between 500 and 600 applications for parole.

The state's early release mechanism has kept the total number of inmates incarcerated in state prisons under the inmate population cap. However, the constant movement of large numbers of offenders through the system has created an administrative nightmare and reduced the effectiveness of correctional programming. In addition, the credibility of the state correctional system as a deterrent to crime has been severely damaged in the minds of the offenders who participate in this revolving-door process.

**Snapshot 3:** **The state prison system's capacity problem is caused by the overuse of prison as a sentencing option for misdemeanants and non-dangerous felons, rather than by a lack of prison beds.**

At the present time, more than 40% of all offenders admitted into the state prison system are misdemeanants.<sup>2</sup> Misdemeanants are, by definition, offenders who have been convicted of lesser criminal violations. While some misdemeanants do have violent or extensive criminal records, many do not pose a significant threat to public safety and would be good risks for properly supervised community-based correctional programs.

On any given day, approximately 50% of the inmates in the state prison system are offenders incarcerated for property crimes. As many as half of these would qualify as low-risk candidates for well-structured Intermediate Sanctions programs—alternatives to incarceration options that offer more supervision and rehabilitation programming than regular probation but have fewer restrictions than

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<sup>2</sup>North Carolina Department of Correction, Statistical Abstract, 1991.

prison.<sup>3</sup>

**Snapshot 4: North Carolina overuses prison as a sentencing option for misdemeanants and non-dangerous felons because:**

- the state has few alternatives to incarceration available except regular probation;<sup>4</sup>
- regular probation caseloads are too large to provide adequate community-based offender supervision;<sup>5</sup>
- the state has no structured sentencing system to assist judges in the correctional program selection process; and<sup>6</sup>
- many offenders convicted of lower-level offenses exercise their statutory right to reject probation and accept in its place a prison term.<sup>7</sup>

During the Fact Finding Sessions, the Task Force heard testimony that the Department of Correction's regular probation program is the largest and most significant alternative to incarceration program currently available in North Carolina. The program, which is administered by the Division of Adult Probation and Parole, has about 96,000 offenders under its supervision. The average caseload in the regular probation program is 110 offenders per officer.

Between regular probation on the one hand and prison on the other, judges have few sentencing options to choose from. The Division of Adult Probation and Parole has an intensive (probation) supervision program, but it can only accommodate about 4,000 offenders at a time. The Division also has a boot camp program that can accommodate about 300 offenders at a time and an electronic house arrest system that can monitor 2,000 offenders in the community. A few private correctional treatment providers like Delancey Street and Summit House in Greensboro offer quality specialized rehabilitation programming for sentenced offenders, but their capacity is very limited and funding for contract services is scarce. Another program, unique to North Carolina—Community Penalties—diverts a small number of lower-risk offenders into community-based alternatives including substance-abuse treatment, restitution and community service. A few offenders have the financial resources or medical insurance coverage to take advantage of private substance abuse residential treatment centers, but most do not.

From the testimony, it is clear that many judges are frustrated by the lack of credible alternatives to incarceration. When these judges sentence offenders who require more supervision than a regular

<sup>3</sup> Ed Hinson, Mecklenburg County Bar Association, Summary of Testimony Before the North Carolina Justice Fellowship Task Force Fact Finding Sessions, July 29, 1992, pages 57-58.

<sup>4</sup> Joe Kilpatrick, Z. Smith Reynolds Foundation, Summary of Testimony, August 20, 1992, page 127.

<sup>5</sup> Ray Warren, Attorney, Summary of Testimony, July 29, 1992, page 61.

<sup>6</sup> Judge Thomas Ross, Chairman, North Carolina Sentencing and Policy Advisory Commission, Summary of Testimony, July 22, 1992, page 39.

<sup>7</sup> Judge Becky Knight, Summary of Testimony, August 5, 1992, page 74.

probation officer can provide, and a more structured community-based alternative is not available, they will select incarceration in the hope that the Department of Correction will find some way of providing the needed services.

It is also clear from the testimony that many judges are well aware of the fact that the average caseloads for regular probation officers exceed generally recommended caseload standards by 25 to 30%. This may be causing judges to sentence offenders, who would otherwise get probation sentences, to prison terms.

The lack of a structured sentencing system or even sentencing guidelines to assist judges in the sentencing process appears to contribute to the overuse of incarceration for misdemeanants and non-dangerous felons.

The Task Force heard testimony that a significant number of lower-level, less dangerous felons have been diverted from prison into community-based alternative programs as a result of the individualized sentencing plans prepared for judges by the state's Community Penalties programs.

The Task Force has concluded that if the state had a structured sentencing system to identify low-risk candidates for alternatives to incarceration and if Community Penalties programs were available on a state-wide basis to prepare sentencing plans for qualifying offenders, then it is likely that some of the offenders currently being sentenced to prison would be diverted to other sentencing options.

The absence of any structured sentencing system also appears to contribute to the felony sentence term inconsistencies that are very apparent in the inmate population of the state prison system and to the apparent overuse of prison as a sentencing option for minority offenders who have committed misdemeanors or lower-level non-dangerous felonies.

Nearly 60% of the inmates in the state prison system at any point are black. Blacks make up approximately 23% of the state's population. The disproportionate numbers of minority offenders in the system lay the foundation for a strong argument for a structured sentencing system. A structured sentencing system would alleviate most of the sentencing bias that commonly occurs.

Misdemeanants are well aware of the state's prison problems and know that most minor offenders who are sentenced to a term of confinement in the state prison system will be released early on parole or unconditional release status within two weeks of being sentenced.

Section 15A-1341(c) of the General Statutes of North Carolina gives convicted offenders the right to reject probationary sentences offered by judges and accept in their place a prison term. By opting to serve a short prison term rather than a longer period of supervised probation, offenders avoid paying restitution, performing community service and sufficient accountability for their criminal acts.

In an October 1992 presentation to the General Assembly's Government Performance Audit Committee, Peat Marwick, a management consulting firm, estimated that the state could save \$13 million annually in prison operation costs if it stopped the practice of giving offenders the right to reject probationary sentences.

**Snapshot 5: The state prison system is not effectively rehabilitating the offenders who are**

**sentenced to terms of confinement in state prisons.**

The constant movement of large numbers of offenders through the state correctional system has reduced the effectiveness of rehabilitation programming for inmates.<sup>8</sup>

As the number of misdemeanants and felons sentenced to terms of confinement in the state prison system has increased, more and more rehabilitation programming space and resources have had to be diverted to the housing of inmates and the maintenance of institutional security. Classrooms are being turned into dormitories. New appropriations for corrections are being earmarked for the construction and operation of new institutions rather than for offender treatment programs. North Carolina's prisons have become huge warehouses that offer offenders few opportunities to change their behavior and to learn the skills that they will need to make an honest living and remain crime-free in the future.

Over 35% of all offenders released from a North Carolina prison will be arrested, convicted of a new serious crime and re-incarcerated in a North Carolina prison within three years of their release.<sup>9</sup> Another 30% of all offenders released from a North Carolina prison will be arrested for a new criminal violation of some sort within three years of their release. Some of the offenders in this category will be convicted of a new crime and sent to prisons in other states, some will be convicted of a new crime and put on probation in North Carolina, and some will have their cases dismissed or be found not guilty.

Since an estimated 97% of all offenders sentenced to terms of confinement in the state prison system will, eventually, be released back into their communities, a 65% re-arrest rate translates into large numbers of new crimes being committed by ex-offenders who have not had their behavior changed by North Carolina's current system for punishing and rehabilitating offenders.

**Snapshot 6:** It is estimated that between 75% and 85% of all misdemeanants and felons sentenced to the custody of the Department of Correction have serious substance-abuse problems. However, few drug or alcohol treatment programs are available in either the state prison system or the state probation system to treat this group of offenders.

A topic that provoked a good deal of response from speakers during the six Fact Finding Sessions was the lack of effective treatment for offenders with substance-abuse problems at any level in the state's correctional system.<sup>10</sup>

The Division of Adult Probation and Parole has the capability to monitor probationers for drug or alcohol use by urine tests, but the Division lacks the financial resources to purchase treatment for

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<sup>8</sup> Jim Wall, Legal Services of Lower Cape Fear, Summary of Testimony, July 15, 1992, page 8.

<sup>9</sup>North Carolina Department of Correction, Research Bulletin, February 25, 1992. (The North Carolina Department of Correction defines recidivism as the return to prison for a new crime within three years of release from prison.)

<sup>10</sup> Judge Lawrence McSwain, Summary of Testimony, July 22, 1992, page 28.

offenders with substance-abuse problems.

The Division of Prisons has a 28-day substance-abuse detoxification program at the Wayne Correctional Facility in Goldsboro, but its capacity is limited and the Department has no capability to provide the long-term follow up services that many substance abusers require.

The point was repeatedly made during the Fact Finding Sessions that punishment alone will not correct an offender with a serious substance-abuse problem. Unless the abuser's addiction and other mental-health concerns can be brought under control by proper treatment, he will continue to victimize his community with new crimes after his release to support his habit.

**Snapshot 7: Few offenders are held accountable for making restitution to individual crime victims and to the community.**

When a crime is committed, many people are victimized in the process. Individual crime victims suffer injuries and financial losses. The community as a whole suffers because of the increased fear of crime. The Task Force strongly believes that one of the purposes of any criminal justice system ought to be to make the victims of crime whole again by requiring offenders to make restitution.

When restitution is ordered by the courts, it is not always paid by offenders. When restitution is paid by offenders, the clerks of court are slow to pay it out to individual crime victims. Court costs are paid before restitution is paid to crime victims. Often, probationary terms end before all restitution obligations are paid in full and crime victims are never fully compensated for their losses.<sup>11</sup>

By statute, restitution is not a priority and crime victims suffer from the lack of emphasis in this area.

**Snapshot 8: Up to 20% of the arrestees booked in county jails have serious mental problems and between 75% and 85% of the arrestees booked have serious substance-abuse problems. However, few counties have the ability to screen arrestees and divert individuals with serious mental-health or substance-abuse problems to treatment programs outside of the criminal justice system.**

In the 1970s, large numbers of people with serious mental-health problems who had traditionally been housed in state mental institutions were de-institutionalized. They were supposed to have been diverted to community mental-health programs, but adequate funding for community mental-health programs never materialized and the mental-health systems have not been expanded to meet the need for services. As a result, the criminal justice system, in general, and jails, in particular, have become the treatment program of last resort for many individuals with mental-health problems.

During the Fact Finding Sessions, testimony was presented that indicated that up to 20%<sup>12</sup> of the arrestees booked in county jails in North Carolina could be diverted to mental-health treatment

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<sup>11</sup> Peter Gilchrist, Mecklenburg County District Attorney, Summary of Testimony, July 29, 1992, page 54.

<sup>12</sup> Rose Mary Mims, Mental Health Study Commission, Summary of Testimony, August 20, 1992, page 129.

programs if proper treatment programming were available.

In the substance abuse area, a number of TASC (Treatment Alternatives to Street Crime) programs are operating in North Carolina. However, TASC programs are not available in all jurisdictions, and the overall capacity of all of the programs combined is only about 4,200.

TASC programs are primarily referral services, though some programs screen arrestees in county jails to identify substance abusers who are good candidates for pre-trial diversion into substance-abuse treatment programs. TASC programs also monitor the progress of arrestees diverted to treatment.

During the Fact Finding Sessions, testimony was presented that led the Task Force to conclude that TASC has the potential for diverting substantial numbers of offenders from prison by providing treatment that correct their behavior problems even before they are brought to trial.<sup>13</sup>

**Snapshot 9:** The state correctional system is not effectively reintegrating ex-prisoners back into their communities after their sentences have been completed.

Like their counterparts in the regular probation program, parole officers have offender caseloads that exceed generally recommended caseload standards by 25 to 30%. As a result parole officers, out of necessity, spend most of their time monitoring parolees to detect gross violations of the conditions of their parole. Little assistance can be provided by parole officers to offenders in such areas as job placement and counseling.

North Carolina lacks structured residential programs that provide temporary housing, job training, job placement, life-skills training, education, mentoring support and substance-abuse counseling for inmates who are making the transition back to their communities. Without the sort of problem-solving support than can be provided by structured reentry programs, North Carolina will continue to have a 65% re-arrest rate for ex-offenders.<sup>14</sup>

## Additional Observations

In addition to the Task Force's snapshots, there are other observations from the testimony that also need to be mentioned.

**Observation 1:** Many offenders sentenced to terms of confinement in the state prison system could be more involved in productive work that teaches usable job skills and a positive work ethic. Many of the existing prison jobs do not prepare offenders for a successful community re-entry.

**Observation 2:** Most offenders sentenced to terms of confinement in the state prison systems do

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<sup>13</sup> Shirley Davis and David Lucas, Green Point Chemical Dependency Center of Guilford, Summary of Testimony, July 22, 1992, page 29.

<sup>14</sup> Thaddeus Cook, Energy Committed of Offenders (ECO), Summary of Testimony, July 29, 1992, page 55.

not earn sufficient wages to support their families, pay child support, pay restitution, pay taxes, pay room and board or save money for their release.

- Observation 3:** The state prison system is so overburdened with less serious offenders that there is little room for probation and parole violators. Many probation and parole officers believe that they cannot effectively control their caseloads unless there is a realistic possibility that offenders who violate the conditions of their probation or parole by committing new crimes will serve a significant amount of prison time.
- Observation 4:** The state correctional system does not have sufficient resources to do the level of strategic planning required to develop a truly effective multi-dimensional program delivery system.

## Conclusion

Based on the problems described above, the Justice Fellowship Task Force has concluded that the state's criminal justice system is in serious trouble and that the state's offender punishment and rehabilitation processes are neither efficient nor equitable. Clearly, immediate action is required to resolve the serious problems that have brought North Carolina's criminal justice system to its current state of affairs.

# Chapter 3

## Task Force Recommendations

Based on testimony presented at the Fact Finding Sessions and other research done during the past year, the Justice Fellowship Task Force has identified three alternative strategies that could be employed to resolve the state's criminal justice problems.

The first strategy would be to expand the capacity of the state prison system so that there would be enough beds to accommodate all of the misdemeanants and felons being sentenced to terms of incarceration. This is the position advocated in the minority report that is included in the North Carolina Sentencing and Policy Advisory Commission's 1993 report to the General Assembly.

The Task Force considered and rejected this first alternative because: 1) the construction and operating costs of the estimated 20,000 to 30,000 prison beds that this approach would require would be prohibitive; 2) secure prison beds are not required to protect the public from the large numbers of misdemeanants and non-dangerous felons who are overcrowding the state prison system nor are the types of correctional services provided by the prison system needed by these types of offenders; and 3) the expenditure of hundreds of millions of dollars on the construction and operation of more prisons would still leave the state with thousands of offenders with substance-abuse and other problems and few effective rehabilitation programs.

The second strategy would be to expand the capacity of the state prison system and the county jails, to expand the capacity of regular probation and the fledgling intermediate sanctions programs scattered across the state, and to implement a structured sentencing system to divert some of the lesser offenders who are currently being sentenced to prison to other correctional alternatives. This is the position advocated by the North Carolina Sentencing and Policy Advisory Commission's 1993 report to the General Assembly.

The Task Force considered this second alternative and incorporated the concept of structured sentencing and the idea of significantly expanding alternatives to incarceration for lesser offenders into its recommendations. The Task Force rejected the prison and jail expansion portion of this strategy for the same reasons it rejected the first strategy. In addition, the Task Force believes that the program delivery system for alternative programs needs to be much more clearly defined than it has been in the Sentencing Commission's report.

The third strategy, which forms the basis for the Task Force's recommendations, involves a fundamental restructuring and reorientation of North Carolina's systems and processes for sentencing, punishing and rehabilitating criminal offenders based on the following six principles:

1. The State of North Carolina should assume the responsibility for providing correctional services to all sentenced misdemeanants and felons except those offenders who are convicted of and

incarcerated for a DWI offense under the Safe Roads Act.<sup>15</sup>

2. The State of North Carolina should authorize the Department of Correction to develop a balanced, state-funded correctional system that provides a continuum of offender punishment and treatment options for all sentenced offenders. The state correctional system should have four distinct levels of programming:
  - Community Sanctions;
  - Intermediate Sanctions;
  - Institutional Sanctions (Prison); and
  - Community Reintegration.
3. The State of North Carolina should establish a structured sentencing system similar to the one proposed by the North Carolina Sentencing and Policy Advisory Commission to channel offenders into the proper level of correctional programming. However, the Sentencing Commission's proposed policies should be modified to ensure that:
  - expensive prison resources are spent only sparingly on misdemeanants;
  - there is a significant and predictable flow of non-dangerous felons into Intermediate Sanctions;
  - judges have sufficient discretion to tailor sentences to the requirements of individual offenders; and
  - the number of offenders serving prison terms does not exceed the state's existing and authorized prison capacity—about 24,000—during at least, the next five years.
4. The State of North Carolina should place a freeze on all new prison construction for at least a five-year period after the prisons that have been authorized and funded have been completed. Expensive prison space should be reserved for violent offenders, habitual offenders with long prior criminal records and offenders who violate the conditions of their Intermediate Sanctions sentences.
5. The State of North Carolina should not consider legislation that would increase the incarceration terms for offenders sentenced to Institutional Sanctions (Prison) in the future unless the following can be shown:
  - the state has fully funded and developed its Community Sanctions, Intermediate Sanctions and Community Reintegration levels of correctional programming;
  - the state has a sufficient number of unused prison beds to accommodate the proposed longer sentences or it is willing and financially able to build more prisons; and
  - the increase in sentence lengths would serve a rational public safety or offender

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<sup>15</sup>The Task Force has not addressed how DWI misdemeanants should be handled. As a result, the provisions of the Safe Roads Act would continue to apply and these misdemeanants would continue to serve any active time in the county jails.

rehabilitation purpose.<sup>16</sup>

6. The State of North Carolina should establish standards of justice for the state correctional system that are consistent with biblical principles of justice and can be used as a guide in all future correctional program development. In particular, offenders should be held accountable for making their crime victims whole again by making individual and community restitution, and the state correctional system should be held accountable for providing offenders with effective rehabilitation programs so that they have the opportunity to change their lives and return to their communities as productive citizens.

With these six principles in mind, the Task Force offers the following specific recommendations for establishing a balanced, state-funded correctional system and a structured sentencing system that will both protect the public and provide more effective and equitable rehabilitation programs for all offenders.

## Community Sanctions

The Community Sanctions level of correctional programming to be developed by the Department of Correction should be designed to hold offenders accountable for making restitution to individual crime victims and to the community and to monitor the activities of misdemeanants and lower-level, non-dangerous offenders without extensive prior criminal records.<sup>17</sup>

- Recommendation 1:** **The Task Force recommends that the state maintain two primary programs for offenders sentenced to Community Sanctions—regular probation and fines.**

The Task Force feels that this recommendation establishes a credible community-based program for misdemeanants and low-level, non-dangerous felons without extensive prior criminal records. The Task Force feels that judges should be given the discretion to either fine offenders eligible for a Community Sanctions sentence or to sentence them to regular probation. Not all offenders need to be under supervision because they pose no threat to their communities. Those offenders who need low-level supervision should be assigned to regular probation.

- Recommendation 2:** **The Task Force recommends that the state assign the Division of Adult Probation and Parole's regular probation program two co-equal purposes:**

- **to hold offenders accountable for making restitution to individual**

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<sup>16</sup>"Prison construction apparently has had very little effect on the levels of violent crime . . . the average prison time served per violent crime roughly tripled between 1975 and 1989, but reported levels of serious violent crime varied around the level of 2.9 million offenses per year." Excerpted from the Criminal Justice Newsletter, Vol. 23, No. 21, November 2, 1991, page 2.

<sup>17</sup>See Appendix A for the Task Force's Sentencing Matrix, for specific offender targets for Community Sanctions.

- crime victims and the community, and
- to monitor the activities of offenders to ensure compliance with all court-ordered sentence conditions.<sup>18</sup>

The addition of a restitution requirement for all regular probationers adds a structured rehabilitative element to regular probation that does not currently exist. The Task Force believes that one of the primary purposes of any correctional system should be to alleviate the pain and suffering experienced by individual crime victims and the community as a whole when an offense is committed by holding offenders accountable for making their victims whole again by making restitution. Additionally, monitoring an offender's compliance with the conditions of his/her sentence reduces the opportunities for the offender to commit new crimes and increases the possibility that the offender will be effectively rehabilitated.

**Recommendation 3:** The Task Force recommends that the state require all offenders sentenced to regular probation to make community restitution. Those offenders who have an identifiable crime victim should also be required to make individual restitution. In addition, judges should be given the discretion to require offenders sentenced to regular probation to perform community service.

Besides benefitting victims and the community, restitution is a rehabilitative tool that makes offenders take responsibility for their actions. The Task Force feels that all offenders sentenced to regular probation should be required to make community restitution consistent with their ability to do so.<sup>19</sup> Community restitution expands traditional restitution beyond direct victims. It recognizes that communities suffer losses and are harmed when crimes are committed. The amount of individual restitution should be equal to the actual losses of the offender's direct victims.

Community service should be ordered when the judge feels that the offender will gain rehabilitative benefits from performing such community service.

**Recommendation 4:** The Task Force recommends that the state require regular probation offenders to pay their community and individual restitution to the Department of Correction. The Department should immediately send the individual restitution to the appropriate crime victims; the community restitution payments should be deposited in a Restitution Fund controlled by the Department of Correction.

All individual and community restitution should be paid to the Department of Correction. When both types are required, the individual restitution obligation should always be paid first and disbursed to the victim as it is received. Community restitution should be deposited in the Restitution Fund. Restitution should be paid at the time of sentencing in one lump sum, or in monthly payments in an

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<sup>18</sup>In addition, regular probation has routinely identified individuals who need job training and substance-abuse counseling. We expect that these traditional roles will continue.

<sup>19</sup>An offender should comply with restitution requirements unless the judge determines that compliance is not possible because of physical or mental limitations.

amount determined by the judge.

**Recommendation 5:** The Task Force recommends that the state authorize the Department of Correction to hire indigent offenders who owe community and individual restitution to do public service work.<sup>20</sup> As these offenders accumulate public service work hours, their restitution should be paid out of the Restitution Fund at a rate at least equal to the minimum wage.

The Task Force recognizes that there are many offenders who cannot meet their restitution obligations through ordinary means. Indigent offenders who can prove their inability to comply with restitution requirements should be required to perform public service work to pay off their obligations. As indigent offenders accumulate public service work hours, their individual and community restitution should be paid out of the Restitution Fund at a rate at least equal to the federal minimum wage.

**Recommendation 6:** The Task Force recommends that the state authorize the Department of Correction to use any excess funds that accumulate in the Restitution Fund in the following ways:

- to fund a restitution accounting, billing and collection system;
- to fund supervisors for community service and public-service work programs;
- to fund the costs of delinquent restitution collection; and
- to fund additional regular probation and intensive supervision officers.

Excess revenue generated by community restitution should be used to offset the costs of administering a restitution system. It should also be used to fund additional regular probation and intensive supervision officers to ensure that offenders continue to be effectively monitored in their communities. The additional probation officers should be apportioned to the judicial districts on a *pro rata* basis. The more community restitution that a judicial district generates, the more probation resources it will receive.

**Recommendation 7:** The Task Force recommends that the state assign the responsibility for developing a comprehensive restitution accounting, billing and collection system to the Department of Correction.

In addition to accounting for the restitution owed and paid by offenders, the restitution accounting, billing, collection and disbursement system also should be able to track an offender's community service and public-service work hours. The effective implementation of this proposed restitution system requires the development of a computer-based accounting, billing, collections, disbursement and tracking support system. Because restitution would be the only structured rehabilitative programming (holding offenders accountable to their victims) required under Community Sanctions,

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<sup>20</sup>Public-service work is not the same as community service. Community service is unpaid labor that is intended to give offenders the opportunity to repay the community for damages by providing "in-kind" services. Public-service work is paid labor that allows indigent offenders to satisfy their restitution obligations.

the Task Force feels it is necessary to establish a system that enables the program to work effectively.

The Department of Correction has expressed concern about having their probation officers become too involved in restitution collection. The Task Force has recommended that the Department of Correction be given the responsibility because: 1) we feel that the payment of restitution and the accountability it requires is a valid correctional/rehabilitative tool; 2) the Department of Correction gains from the excess funds that accumulate in the Restitution Fund and thus, has a bigger stake in the process than any other agency; and 3) restitution collected by clerks of courts is paid to victims only after fines, fees and court costs have been paid. If the Department of Correction can develop an alternative restitution accounting, billing and collection system that is located outside the Department and satisfies the concerns raised above, the Task Force would not object. In any event, the Department of Correction should be given the discretion to hire a private contractor to do the work required.

**Recommendation 8:** The Task Force recommends that the state assign the responsibility for collecting delinquent restitution to an appropriate state agency and establish a process for initiating civil actions against offenders who fail to meet their restitution obligations.

There is bound to be a group of offenders who for one reason or another do not meet their restitution obligations. The state should establish a Special Restitution Collections Unit with the authority to initiate civil actions (e.g. wage garnishment, liens against tax returns and federal and state governmental benefits) on behalf of individual crime victims when restitution obligations have not been paid or when restitution has not been paid in full by the end of an offender's Community Sanctions term. This system could incorporate many of the techniques already in use to collect child support.

**Recommendation 9:** The Task Force recommends that the state provide the Division of Adult Probation and Parole sufficient resources so that the caseloads for regular probation officers do not exceed a range of 75 to 90 offenders per officer. Probation officers should also be provided sufficient administrative and clerical support so that they can effectively perform their duties.

Caseloads of regular probation officers in North Carolina average 25 to 30% above generally recommended caseload standards. At this level, services cannot be effectively provided and caseloads cannot be effectively managed. Judges, as a result, have limited confidence in probation as a viable alternative to prison. The Task Force feels that caseload levels should be significantly lower to give judges confidence that regular probation can provide a meaningful level of services and supervision to offenders. Additionally, the Task Force feels that probation officers should be given sufficient administrative support so that they can monitor their clients while not being tied down with time-consuming paperwork.

**Recommendation 10:** The Task Force recommends that the state authorize judges to sentence offenders to regular probation terms of not less than 6 months nor more than 18 months for misdemeanants, and not less than 12 months nor more than 30 months for felons. The Division of Adult Probation and Parole should be given the authority to administratively reduce the terms

of regular probation offenders by as much as 6 months if restitution obligations have been met and if no court-ordered sentence conditions have been violated.

On one hand, the Task Force feels it is necessary to establish a guaranteed minimum level of services and a minimum supervision term to increase confidence among judges that regular probation is a credible sanction. On the other hand, the Task Force feels it is necessary to establish a maximum supervision term to flush out offenders who no longer require supervision and have satisfied their restitution obligations so that scarce resources are not used on individuals who do not require them.

The Division of Adult Probation and Parole should be given the discretion to terminate the sentences of offenders who no longer require supervision because their obligations have been met by up to 6 months early.

**Recommendation 11:** The Task Force recommends that the state authorize the Division of Adult Probation and Parole to administratively increase the intensity of supervision for regular probation offenders who violate the court-ordered conditions of their sentences. Violators failing to respond to these increases in intensity should be sent back to court to be re-sentenced to Intermediate Sanctions.

The Task Force feels that regular probation officers should have the ability to quickly respond to minor probation violations. The Task Force feels that regular probation officers should have the authority to administratively increase the intensity of supervision for offenders who violate their court-ordered sentence conditions. For example, regular probation officers should have the authority to initiate one or more of the following actions:

- require the violator to perform up to 50 hours of community service;
- require the substance abusing violator to submit to TASC monitoring or TASC treatment recommendations; or
- require the violator to report to the probation officer up to three times per week.

If the probationer continues to violate after the officer has increased the intensity of supervision, the offender should be referred to a Department of Correction Violations Hearing Officer. The Violations Hearing Officer should be delegated the authority to determine whether the offender should be returned to court to be re-sentenced to Intermediate Sanctions, or whether the offender should be kept in regular probation at an even higher level of supervision.<sup>21</sup> For example, Violations Hearing Officers should have the authority to initiate one or more of the following actions if the offender is kept in regular probation:

- require the violator to perform up to 100 hours of community service;
- require the substance abusing violator to submit to TASC monitoring or TASC

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<sup>21</sup>South Carolina has a system similar to the one being recommended here where probation officers are given authority to respond to violations quickly and have a second level of violations review through Violations Hearing Officers before an offender can be sent back to court.

- treatment recommendations; or
- require the violator to report to the probation officer up to five times per week.

**Recommendation 12:** The Task Force recommends that the state require all Community Sanctions offenders who do not receive regular probation sentences to pay community restitution in addition to any fine ordered by the court.<sup>22</sup> All community restitution revenue from this source should be collected by the clerks of court and deposited in a special Intermediate Sanctions Program Development Fund administered by the Intermediate Sanctions Commission.

The Task Force feels that all Community Sanctions offenders should be held accountable for repairing the harm they have done to their communities by committing crime. Offenders not sentenced to regular probation should not be exempt from this requirement. Community restitution from Community Sanctions offenders who do not receive regular probation should be paid into the Intermediate Sanctions Program Development Fund to be used for grants to local and state governmental agencies and private organizations for the purpose of developing and expanding the offender treatment enhancement programs identified in the Comprehensive Intermediate Sanctions Plan.<sup>23</sup> Revenue from this source should be allocated for grants for Intermediate Sanctions sentence enhancement programs on a *pro rata* basis back to its originating judicial districts.

## Intermediate Sanctions

The Intermediate Sanctions level of correctional programming to be developed by the Department of Correction should be designed to closely monitor the activities of misdemeanants and lower-level non-dangerous felons with moderate prior criminal records and mid-level, non-dangerous felons with short prior criminal records.<sup>24</sup> Intermediate Sanctions should also be designed to hold these offenders accountable for making restitution to individual crime victims and to the community and to provide offenders with solid rehabilitative programs.

**Recommendation 13:** The Task Force recommends that the state establish a single program for offenders sentenced to Intermediate Sanctions. The backbone of this level should be the Division of Adult Probation and Parole's intensive supervision program. However, judges should have the option of requiring offenders to also participate in a variety of sentence enhancements aimed at rehabilitating offenders and correcting some of the deficiencies that contributed to their inclination to commit crime.

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<sup>22</sup>The Task Force estimates that Community Restitution of \$100 for unsupervised offenders could generate \$5 million annually for the Intermediate Sanctions Program Development Fund.

<sup>23</sup>See Recommendation 24.

<sup>24</sup>See Appendix A for the Task Force's Sentencing Matrix, for specific offender targets for Intermediate Sanctions.

The Task Force sees the need to establish a credible intermediate level of correctional programming that addresses the needs of misdemeanants and non-dangerous felons with some prior criminal record. The Task Force feels that there should be a single program to which Intermediate Sanctions offenders are sentenced. Just like regular probation should form the backbone for Community Sanctions, intensive supervision should form the backbone for Intermediate Sanctions. Additionally, judges should be able to order sentence enhancements that are designed to offer offenders the opportunity to participate in rehabilitative program suited to their particular needs.

**Recommendation 14:** The Task Force recommends that the state require that all Intermediate Sanctions offenders be sentenced to intensive supervision. Intensive supervision should have these purposes:

- to monitor the activities of offenders to ensure compliance with all court-ordered sentence conditions;
- to effectively rehabilitate offenders by providing specialized treatment enhancement programs; and
- to hold offenders accountable for making restitution to individual crime victims and to the community.

The Task Force sees the need to strengthen and expand intensive supervision. One purpose of intensive supervision should be to monitor an offender's compliance with the conditions of his/her sentence and to reduce the opportunities for the offender to commit new crimes. Intensive supervision when coupled with treatment-oriented sentence enhancements should allow offenders to correct the deficiencies that led to an inclination to commit crime.

**Recommendation 15:** The Task Force recommends that the state require all offenders sentenced to intensive supervision to make community restitution. Those offenders who have an identifiable crime victim should also be required to make individual restitution. In addition, judges should be given the discretion to require offenders sentenced to intensive supervision to perform community service work.

The Task Force feels that all offenders sentenced to intensive supervision should be required to make restitution consistent with their ability to do so.<sup>25</sup> The amount of individual restitution should be equal to the actual losses of an offender's direct victims for which the offender was sentenced.

Community service should be ordered when the judge feels that the offender will gain rehabilitative benefits from performing the service.

**Recommendation 16:** The Task Force recommends that the state apply the provisions of Recommendations 4 through 7 to offenders sentenced to intensive supervision.

**Recommendation 17:** The Task Force recommends that the state provide the Division of Adult

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<sup>25</sup>An offender should comply with restitution requirements unless the judge determines that compliance is not possible because of physical or mental limitations.

**Probation and Parole sufficient resources so that offenders sentenced to intensive supervision initially can be assigned to caseloads that do not exceed 25 offenders per two-officer team (Level I) and then to caseloads that do not exceed 100 offenders per two-officer team (Level II). Intensive supervision officers should be provided with sufficient administrative and clerical support so that they can effectively perform their duties.**

The Task Force sees the need for Intermediate Sanctions offenders to participate in intensive supervision in a 25-offenders-to-2-officers caseload for a period at the beginning of their sentences. Offenders who have successfully completed a period in a 2:25 caseload (Level I) should be transferred, at the Division's discretion, into intensive supervision caseloads that do not exceed 100 offenders for every 2 officers (Level II). When an offender is ordered by the court to participate in a supervised sentence enhancement, the Division should have the discretion to put the offender into an administrative caseload that has no caseload limit. The Division should have the ability to require offenders assigned to an administrative caseload to report to the Division on a regular basis.

The purpose of defining these levels is to give judges confidence that offenders will receive a certain level of punishment. Additionally, the Task Force feels that intensive supervision officers should be given sufficient administrative support so that they can monitor their clients while not being tied down with time-consuming paperwork.

**Recommendation 18:** The Task Force recommends that the state authorize judges to sentence offenders to intensive supervision terms of not less than 12 months nor more than 24 months for misdemeanants, and not less than 18 months nor more than 36 months for felons. The Division of Adult Probation and Parole should be given the authority to administratively reduce the terms of intensive supervision offenders by as much as 6 months if restitution obligations have been met and if no court-ordered sentence conditions have been violated.

On one hand, the Task Force feels it is necessary to establish a guaranteed minimum level of services and a minimum supervision term to increase confidence among judges that intensive supervision is a credible sanction. On the other hand, the Task Force feels it is necessary to establish a maximum supervision term to flush out offenders who no longer require supervision, have satisfied their restitution obligations and have completed their sentence enhancements so that scarce resources are not used on individuals who do not require them.

The Division of Adult Probation and Parole should be given the discretion to terminate the sentences of offenders who no longer require supervision, by up to 6 months early.

**Recommendation 19:** The Task Force recommends that the state provide judges with a variety of Intermediate Sanctions enhancement options which can be added to the basic intensive supervision program to meet specific offender punishment and treatment needs.

In addition to an offender's intensive supervision requirement, judges should have the option of adding one of the following types Intermediate Sanctions sentence enhancements that are designed to

tailor sentences to an offender's individual treatment needs:

- mental-health, substance-abuse, or other correctional treatment programming provided by a state or local governmental agency or by a private-sector human services agency;
- education or vocational skills programming provided by a state or local governmental entity or by a private service provider;
- up to 3 months electronic house arrest;<sup>26</sup>
- up to 3 months of the IMPACT program; or
- up to 1 month of incarceration in a county jail (split sentence).<sup>27</sup>

Each of the sentence enhancements should be tied to the offender's individual treatment and rehabilitation needs. Sentence enhancements could change as a result of the work that would be done by the Intermediate Sanctions Commission.<sup>28</sup>

**Recommendation 20:** **The Task Force recommends that the state expand the Community Penalties Program to every judicial district and adequately fund existing and new programs so that Intermediate Sanctions Sentencing Plans can be prepared for all offenders eligible for Intermediate Sanctions.**

For the last 9 years, Community Penalties Programs have provided judges with sentencing reports. Sentencing plans recommend what treatment and punishment enhancements a judge should order an offender to participate in based on that offender's individual treatment needs and his/her risk to the community. This unique capability allows judges to tailor sentences to the individual needs of offenders and further adds confidence among judges that such enhancements are credible. Expanding the Community Penalties Program to every judicial district and funding each program (both new and old) at levels where they can prepare a sentencing plan for every offender eligible for Intermediate Sanctions is vital. The sentencing plans should be compatible with the sentence lengths proposed in Recommendation 18.

**Recommendation 21:** **The Task Force recommends that the state authorize the Division of Adult Probation and Parole to administratively increase the intensity of supervision for Intermediate Sanctions offenders who violate the court-ordered conditions of their sentences. Violators failing to respond to these increases in supervision intensity should be required to serve a**

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<sup>26</sup>The Task Force recommends that the Division be given the authority to require any DWI offender sentenced to intensive supervision to submit to monitoring by electronic house arrest.

<sup>27</sup>The Task Force recommends that counties be authorized to make a set number of beds available to the Department of Correction for use in split sentence enhancements. Split sentences would be available to those judges whose jurisdictions opt to participate in the program and whose facilities meet minimum standards for the program as set forth by the Department. This pilot program should run for three years and would be evaluated by the Intermediate Sanctions Commission at the end of the pilot period. The Commission should then recommend to the state whether or not the program should be continued in the future. Split sentences should be used only for Intermediate Sanctions offenders.

<sup>28</sup>See Recommendation 22.

**Shock Incarceration sentence of up to 30 days, or could be returned to court for trial on a contempt of court citation.<sup>29</sup>**

The Task Force feels that intensive supervision officers should have the ability to respond quickly to minor violations by increasing the intensity of supervision within defined limits. For example, intensive supervision officers could have the authority to initiate one or more of the following actions:

- require the violator to perform up to 50 hours of community service;
- require the violator to submit to electronic house arrest;
- require the substance abusing violator to submit to TASC monitoring or TASC treatment recommendations; or
- require the violator to attend educational or vocational programs until a specified level of achievement is reached.

If the offender continues to violate after the officer has administratively increased the intensity of the supervision, the offender should be referred to a Department of Correction Violations Hearing Officer.<sup>30</sup> The Violations Hearing Officer should be delegated the authority to determine whether the offender should be returned to court to be tried for contempt of court or whether the offender should be kept in intensive supervision at an even higher level of supervision. The Violations Hearing Officer should have the authority to order the incarceration of violators for up to 30 days in a Shock Incarceration Program if the offender is kept in intensive supervision. Time served for contempt of court should not exceed 6 months and should not count toward satisfying the original Intermediate Sanctions sentence.

## **Intermediate Sanctions Enhancements Development**

The key to the Intermediate Sanctions level of correctional programming is the development of a state-wide network of enhancement programs designed to provide specialized punishment and rehabilitation programs to Intermediate Sanctions offenders.

**Recommendation 22:** **The Task Force recommends that the state establish an Intermediate Sanctions Commission to oversee the development of an Intermediate Sanctions Enhancement Plan and to allocate financial resources for the development and implementation of Intermediate Sanctions enhancement programs.**

The Intermediate Sanctions Commission should be an independent state governmental agency with staff support provided by the Department of Correction's strategic planning section. The Commission should engage in a biannual process to plan the development of enhancement programs. The

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<sup>29</sup>The Department of Correction should reserve 1,000 beds for the Shock Incarceration program, and an additional 4,000 to 5,000 beds for offenders found to be in contempt of court. All contempt and shock sentences should be served in the state prison system and these reserved beds need to be set aside exclusively for use in these two programs.

<sup>30</sup>See Recommendation 11 for a description of the Violations Hearing Officer function.

Commission should also be responsible for evaluating enhancement programs on an on-going basis.

The biannual Comprehensive Intermediate Sanctions Plan prepared by the Intermediate Sanctions Commission should do the following:

- estimate the numbers of felons and misdemeanants eligible for Intermediate Sanctions during the coming two years in each judicial district;
- identify the types of Intermediate Sanctions program enhancements and the number of slots need to adequately provide programming to offenders in each judicial district;
- estimate the cost of the enhancement program slots needed in each judicial district; and
- recommend an equitable formula and procedure for distributing revenue made available to the Commission.

The biannual plan should be developed in conjunction with the counties, which should also solicit input from their local Community Penalties and TASC programs.

In addition to developing the biannual Intermediate Sanctions Enhancement Plan, the Intermediate Sanctions Commission should be responsible for the allocation of financial resources for the development and implementation of Intermediate Sanctions enhancement programs. The Commission's program implementation funding would come from two sources:

- **Intermediate Sanctions Program Development Fund.** Revenue from this source would be allocated on a *pro rata* basis back to the judicial districts from which it was generated in the form of grants to state agencies, local agencies or private non-profit organizations to provide Intermediate Sanctions enhancement programs that are compatible with the state Intermediate Sanctions Enhancement Plan, and
- **Block-grant appropriation from the General Assembly.** Revenue from this source would be allocated in the form of grants to state agencies, local agencies and private non-profit organizations to provide Intermediate Sanctions enhancement programs that are compatible with the state Intermediate Sanctions biannual plan.

Membership on the Commission should be composed of representatives of the private sector, state government, local government, and community interests. Each member should have experience or expertise in providing effective treatment for offenders in non-institutional settings. The members of the Commission should be appointed by the Governor and the leadership of the General Assembly. Members of the Commission should include representatives from the following interests: law enforcement; correctional service providers; substance-abuse treatment providers; mental-health treatment providers; district attorneys; public defenders; district, superior and appeals court judges; ex-offenders; trial lawyers; Community Penalties Program representatives; TASC representatives; and interested citizens.

**Recommendation 23:** The Task Force recommends that the Department of Correction expand its strategic planning section to provide professional staff support to the

**Intermediate Sanctions Commission in the development and evaluation of Intermediate Sanctions enhancement programs and to perform other planning functions.**

The Department of Correction's strategic planning section should be expanded. The planning section should be assigned the responsibility for the following:

- providing staff support to the Intermediate Sanctions Commission;
- preparing long-range plans for improving correctional services;
- monitoring the utilization of correctional resources at all levels of correctional programming; and
- evaluating the effectiveness of all treatment programs serving offenders.

**Recommendation 24:** **The Task Force recommends that the state appropriate a block of funds to the Intermediate Sanctions Commission for the purpose of establishing at least five pilot sentence enhancement programs across the state during the next fiscal year.**

The Task Force recognizes that this new system cannot get off the ground overnight. The state should fund five pilot enhancement programs in different areas of the state which would allow enhancements to be developed before the Intermediate Sanctions Program Development Fund becomes fully operational. The pilots should be either substance-abuse/mental-health treatment programs, or educational/vocational programs because these areas are where the greatest needs exist. These proposals could be generated by churches, community groups or non-profit organizations.

**Recommendation 25:** **The Task Force recommends that after the next fiscal year, the state appropriate a block of funds annually to the Intermediate Sanctions Commission for developing and implementing the sentence enhancement programs identified in the biannual Intermediate Sanctions Plan.**

The Task Force believes that, in time, the Intermediate Sanctions Program Development Fund should be a significant funding source for Intermediate Sanctions sentence enhancement programs. It is anticipated, however, that the state will need to supplement these funds with an annual block grant appropriation.

## **Institutional Sanctions (Prison)**

The Institutional Sanctions level of correctional programming is, for the most part, already in place. The Task Force recommends that this level be reserved for violent offenders, habitual offenders with extensive prior criminal records and offenders who violate the conditions of their Intermediate Sanctions sentences.<sup>31</sup> Institutional Sanctions should be designed to protect the public from dangerous offenders and to provide incarcerated offenders with rehabilitation opportunities.

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<sup>31</sup>See Appendix A, the Task Force's Sentencing Matrix, for specific offender targets for Institutional Sanctions.

**Recommendation 26:** **The Task Force recommends that the state assign two primary purposes to the Division of Prisons' Institutional Sanctions program:**

- to protect the public against dangerous and habitual offenders, and
- to provide offenders with the opportunity to participate in quality treatment, educational and vocational programs that are designed to rehabilitate.

Incarcerating dangerous and habitual property offenders in prison ensures public safety during the incarceration term. During incarceration, the Division of Prisons should offer quality programs that provide treatment, educational and vocational training according to an offender's needs. These programs should provide offenders the opportunity to become rehabilitated.

**Recommendation 27:** **The Task Force recommends that the state authorize the Department of Correction to develop a Master Plan for Institutional Treatment, Educational and Vocational Programs.**

The Master Plan for Institutional Treatment, Educational and Vocational Programs should be prepared by the Department of Correction's strategic planning section in conjunction with the Division of Prisons. An interdisciplinary advisory group comprised of representatives of public and private agencies involved in offender treatment and education should be appointed by the Secretary of Correction to assist in the development of the Master Plan.

The Master Plan, at minimum, should identify the deficiencies that exist among Institutional Sanctions offenders in the areas of literacy, basic education, higher education, moral development, vocational training, mental-health and substance-abuse control and should establish offender rehabilitation goals in each of the identified areas. The Master Plan should also identify the types of treatment and education programs required to meet the development goals and the relative priority of each type of program.

**Recommendation 28:** **The Task Force recommends that the state authorize that the Department of Correction give Merit-Based Good Time Credits to incarcerated offenders who voluntarily participate in and successfully complete certified rehabilitation programs that meet the goals set forth in the Master Plan.**

Under the structured sentencing system proposed by the Sentencing Commission, good time credits would be eliminated. The Department of Correction should be able to reduce inmate sentences if the inmates voluntarily participate in and successfully complete certified rehabilitation programs that are identified by the Master Plan. The state should establish a process for certifying rehabilitation programs. The certification process should review the relevance of the treatment and education programs to the offender rehabilitation process and evaluate the quality of each program. The process should lead to the development of an objective set of criteria for program certification and should lead to the certification of programs meeting the criteria. For each program certified, guidelines for the amount of Merit-Based Good Time Credits to be awarded also should be developed. The Department of Correction should adopt rules and regulations on Good Time Credits. The reduction of sentence

based on Good Time Credits should not exceed 25%.

**Recommendation 29:** The Task Force recommends that the state employ all able-bodied inmates in meaningful prison work programs that teach usable job skills and a positive work ethic.

The Division of Prisons should employ inmates who are eligible to work in one of five types of work activities (in order of increasing responsibility and skill level):

- institutional maintenance, including kitchen duties;
- public-service work crews;
- traditional prison industries;
- private-sector business ventures; or
- work-release programs.

The Division of Prisons should put all inmates in a "career track" aimed at moving them up through the work levels as their individual job and education skills improve. Prison work programs should have the following goals:

- teach inmates marketable jobs skills;
- teach and develop a positive work ethic among inmates; and
- pay inmates fair wages so that they can make restitution to their victims, support their families, pay for room and board to defray taxpayer costs, and establish savings for their release.

The state should increase the wages inmates can earn by working in the first three levels from the current \$1.00 per day. Inmates employed in private-sector work and in work-release programs should be paid the prevailing wage for the type of work done.

The Division of Prisons should establish at least three pilot projects involving private-sector businesses in prison settings during the next 2 years, one of which should be located in a women's facility. The goal of these pilot projects should be to employ at least 200 inmates.

## Community Reintegration

The Community Reintegration level of correctional programming to be developed by the Department of Correction would replace the state parole function if the Sentencing Commission's recommendation to abolish parole is adopted or would supplement the parole function if the Sentencing Commission's proposal is not adopted.

**Recommendation 30:** The Task Force recommends that the state establish a Community Reintegration system that includes the following programs:

- life-skills training for incarcerated offenders;
- highly structured community re-entry programs in halfway houses

- and substance-abuse treatment facilities for selected offenders;<sup>32</sup>
- and
- problem-solving assistance for ex-offenders after their release from prison.

The purpose of the Community Reintegration system should be to increase the likelihood that offenders released from prison will remain crime-free after their release. Community Reintegration programs should begin within one year of an offender's earliest release date.

The Division of Prisons should develop and implement a comprehensive life-skills training program for all inmates who are within one year of their earliest release dates. Life-skills training could include, for example, instruction on how to interview for a job, how to get a drivers license and how to open a checking account. Life-skills programs should address the problems offenders face when re-entering their communities after a period of incarceration.

The Department of Correction should have the discretion to place selected inmates in halfway houses or community-based substance-abuse treatment facilities. The Division of Prisons should be given sufficient resources to contract with private service providers for a minimum of 300 halfway house or substance-abuse treatment beds. The Division should be responsible for monitoring both the quality of the community-based programs and for the progress of the offenders participating in these programs. Offenders who fail to abide by program rules should be re-incarcerated for the remainder of their sentences.

The Division of Adult Probation and Parole should establish a network of Ex-offender Assistance Centers across the state. The Division should be able to contract with private service providers to offer problem-solving support to ex-offenders for up to three years after their release. The purpose of these centers would be to assess the needs of the ex-offenders and to point them to existing mental-health, substance-abuse, religious, educational, and job placement organizations where services can be obtained. The Centers should be staffed by a combination of full-time staff and volunteers.

## Pre-Trial Diversion

The Task Force believes that the state's correctional systems have become the treatment program of last resort for many people with serious mental-health and substance-abuse problems. Many of these individual could be more effectively served by other social services agencies at far less cost than incarceration.

**Recommendation 31:** The Task Force recommends that the state fund a pilot program designed to provide county jails the resources to screen all pre-trial detainees within 48 hours of their arrest for potential mental-health problems and to divert those found to have serious problems into treatment programs. Existing pre-trial service staff, can serve as the base for providing effective screening and referral recommendations.

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<sup>32</sup>The Secretary of Correction apparently already has the authority to place offenders in pre-release programs.

It is estimated that as many as 20% of all prisoners in county jails have mental-health problems. County jails should be given the resources to hire trained mental-health professionals to screen all detainees for mental illness. Those identified as having serious mental-health problems should be diverted into community mental-health centers or into other specialized mental-health programs before charges are filed. Neither jails nor prisons offer the kinds of treatment services that individuals with mental illness require, nor should they be expected to provide them.

**Recommendation 32:** **The Task Force recommends that the state increase funding to programs such as TASC (Treatment Alternatives to Street Crime) for the screening of arrestees for substance abuse and for the purchase of substance-abuse treatment services for arrestees diverted into pre-trial rehabilitation programs.**

The Task Force believes that the functions performed by programs such as TASC should be available on a state-wide basis. TASC or other suitable alternative groups should be given additional resources so they can screen all detainees for substance abuse. Arrestees identified as having a substance-abuse problem who pose little threat to their communities should be diverted into community-based substance-abuse treatment programs in lieu of prosecution.

## **Sentencing Policy**

The Task Force believes that the state needs to make a number of changes in the ways that offenders are sentenced to correctional programs.

**Recommendation 33:** **The Task Force recommends that the state authorize judges to sentence offenders directly to Community Sanctions and Intermediate Sanctions, as well as Institutional Sanctions.**

At the present time, if a judge wants to place an offender in either regular probation or on intensive supervision, the judge must first sentence the offender to a term of incarceration, suspend that sentence and then seek the offender's concurrence with the terms of the probationary sentence.

If an offender violates the conditions of the probationary sentence, the only sanction that a judge has is to revoke the probationary sentence and impose the original prison term. If this is done, the offender can successfully avoid paying restitution, participating in treatment programs, and generally, any accountability that might have been built into the probationary sentence by the judge.

**Recommendation 34:** **The Task Force recommends that the state repeal the statute that gives offenders the right to reject a probationary sentence offered by a judge and accept a prison sentence in its place.**

North Carolina General Statute §15A-1341(c) gives offenders the option of rejecting a probationary sentence offered by a judge and accepting a prison sentence in its place. Offenders are well aware of the state's prison overcrowding problems and they are using the provisions of this law to avoid the requirements and accountability of probationary sentences. By opting for their prison sentence, usually 10 days to 2 weeks of time actually served, these offenders can avoid restitution payments, community supervision and treatment programs, which they consider to be more burdensome than

prison. The Task Force believes that this is a classic example of the "tail wagging the dog". North Carolina General Statute §15A-1341(c) should be immediately repealed.

It should be noted that some of the presenters at the Task Force's Fact Finding Sessions felt it might be necessary to also amend the state Constitution before judges could be given the authority to sentence offenders directly to Community Sanctions and Intermediate Sanctions. The Task Force has concluded that there is no clear case law on this matter and recommends that the state proceed by repealing §15A-1341(c). If a constitutional amendment is required at a later point, this issue is important enough to warrant the effort.<sup>33</sup>

**Recommendation 35:** The Task Force recommends that the state establish the North Carolina Sentencing and Policy Advisory Commission as a permanent, independent state agency.

The Task Force believes that the structured sentencing system proposed by the Sentencing Commission is a good starting point for reforming the state's sentencing laws and practices. The Task Force also believes that the Sentencing Commission's sentencing matrix could be redesigned to be more consistent with the state's current ability to fund new correctional resources.

There will be an on-going need to do research in the sentencing field and to develop recommendations to fine-tune whatever structured sentencing system and policies are ultimately adopted. The Task Force recommends that the Sentencing Commission be established as a permanent, independent state agency to undertake these tasks.

**Recommendation 36:** The Task Force recommends that the state establish a structured sentencing system similar to the one proposed by the North Carolina Sentencing and Policy Advisory Commission (Sentencing Commission). However, the Sentencing Commission's proposed policies should be modified to ensure that:

- expensive prison resources are spent only sparingly on misdemeanants;
- there is a significant and predictable flow of non-dangerous felons into Intermediate Sanctions;
- judges have sufficient discretion to tailor sentences to the requirements of individual offenders; and
- the number of offenders serving prison terms does not exceed existing and authorized prison capacity during, at least, the next five years.<sup>34</sup>

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<sup>33</sup>"It is unclear whether the defendant's consent is required to make suspension of sentence (probation) constitutionally valid.", Stevens H. Clarke, Law of Sentencing, Probation, and Parole in North Carolina. The Institute of Government, University of North Carolina at Chapel Hill, 1991.

<sup>34</sup>Prison capacity is expected to be about 24,000 beds when all authorized construction is completed.

In its May 15, 1992, interim report, the Sentencing Commission proposed a structured sentencing system designed to "classify offenders based on the seriousness of their crime (Offense Class) and on the extent and gravity of their prior criminal record (Prior Record Level) and then, based on these classifications, prescribe the type and length of sentence to be imposed."<sup>35</sup> Specifically, the Sentencing Commission recommended:

- that offenses be assigned to severity levels based on an assessment of the harm that is caused or threatened to people, to property, or to society by the criminal conduct. The Commission grouped harms into nine felony classes and assigned offenses to each class by comparing the statutory elements of the offense to the classification criteria.
- that numerical weights based on the number of prison convictions an offender has, the severity of the convictions, the criminal justice status at time of arrest and the existence of a prior conviction for the same type of offense be assigned. Based on the total weights, each offender would be assigned to one of six Prior Record Levels.
- that a presumptive active (prison or jail) sentence, intermediate sentence or community sentence be established for each combination of Offense Class and Prior Record Level.
- that judges be required to impose both a minimum and maximum sentence on each offender. The minimum sentence would set the minimum time that an offender must serve before being released from prison. Judges would be free to select the minimum sentence from a range of sentence lengths provided for each combination of Offense Class and Prior Record Level, however, once the minimum is selected, the maximum sentence would automatically be set at 120% of the minimum. The maximum sentence would establish the maximum time an offender could serve before being released from prison. Whether an offender serves the minimum, maximum or somewhere in between, would depend upon the amount of earned-time credits awarded while the offender is incarcerated.

The Task Force endorses the concept of the structured sentencing system that is described in the Sentencing Commission's May 15, 1992 report. The Task Force believes that such a system could reduce sentence disparities, improve the effectiveness of the state's correctional system and save the state substantial tax dollars in the future by requiring the development of a more balanced correctional program.

Since the May 15 report was issued, the Sentencing Commission has adopted a set of policy recommendations aimed at implementing its structured sentencing system proposal. The Sentencing Commission's Sentencing Matrix is presented in Appendix B. This matrix recommends one or more

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<sup>35</sup>North Carolina Sentencing and Policy Advisory Commission, Report to the 1991 General Assembly of North Carolina 1992 Session, May 15, 1992, page 1.

presumed types of sentences for each combination of Offense Class and Prior Record Level.<sup>36</sup> The matrix also recommends a range of minimum sentence lengths (in months) for each combination of Offense Class and Prior Record Level.

The Task Force strongly recommends that the policy recommendations and the accompanying sentencing matrix adopted by the Sentencing Commission be modified in a number of significant ways.

**First, expensive prison resources should be spent only sparingly on misdemeanants.** The Sentencing Commission's matrix has a six-stage Prior Record Level structure for felons but only a three-stage Prior Record Level structure for misdemeanants. As a result, large numbers of misdemeanants would continue to be sentenced to jail or prison. The Task Force believes that jails should not be used to house sentenced offenders. The Task Force also believes that misdemeanants should end up in the state prison only under two sets of circumstances—when they have violated the conditions of their Intermediate Sanctions sentence and when they have extensive prior criminal records.

The Task Force recommends that the Sentencing Commission's sentencing matrix be redesigned to have a six stage Prior Record Level structure for misdemeanants and that an active prison sentence be designated as the presumed sentence only in Prior Record Level VI of Misdemeanor Classes I and II.

**Second, there should be a significant and predictable flow of non-dangerous felons into Intermediate Sanctions.** The Sentencing Commission's matrix has more than one presumed type of sentence for many of the combinations of Offense Classes and Prior Record Levels. For example, an offender who qualifies for Prior Record Level I of a Class F felony could be sentenced to either an active sentence or an intermediate sentence.

The Task Force believes that when more than one presumed type of sentence is recommended to a judge, that the judge would naturally choose the lowest risk sentencing option available. As a result, many non-dangerous felons who are excellent risks for Intermediate Sanctions programs would end up in prison rather than in less expensive Intermediate Sanctions programs where they could get specialized rehabilitation.

The Task Force recommends that the Sentencing Commission's matrix be redesigned to have a single presumed type of sentence for each combination of Offense Class and Prior Record Level. Where the Sentencing Commission currently has more than one presumed type of sentence, the least restrictive sentencing option should be chosen.

**Third, judges should have sufficient discretion to tailor sentences to the requirements of individual offenders.** While the Task Force believes that there should be a single presumed type of sentence for each combination of Offense Class and Prior Record Level, the Task Force also believes that judges should be given the discretion to sentence offenders to the next higher dispositional level if aggravating factors exist and to the next lower dispositional level if mitigating factors exist. Judges should not, however, have the discretion to change the presumed prison sentences of serious violent

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<sup>36</sup>On the Sentencing Commission's matrix, "P" = active (prison or jail) sentence; "I" = intermediate sentence; and "C" = community sentence.

offenders and for property offenders who have long criminal records.<sup>37</sup> Judges should also have the discretion to increase or decrease the sentences of offenders sentenced to prison by a reasonable amount by applying aggravating or mitigating factors. The reasons for the application of aggravating or mitigating factors should be set forth in writing by the judge and should be subject to appeal.

**Fourth, the number of offenders serving terms of confinement in the state prison system should not exceed the total number of existing prison beds and those authorized by the \$200 million bond referendum at any point during at least the next five years.** The Sentencing Commission's matrix begins with a range of minimum sentence lengths for Prior Record Level I of each felony Offense Class roughly equal to the amount of prison time now actually being served by offenders in each class. The Sentencing Commission's matrix appears to escalate the range of the minimum sentence lengths by about 25% for each higher Prior Record Level in each Offense Class. The result is a sentencing time bomb that will require the expansion of the state prison system both in the short-term and in the coming 10 to 15 years.

The Task Force believes that if misdemeanants and non-dangerous felons are diverted from prison to well-structured Intermediate Sanctions and Community Sanctions, there will be more than enough prison beds to house dangerous and habitual offenders and Intermediate Sanctions violators without building any more prisons than currently exist or are authorized to be built.

The Task Force recommends that the Sentencing Commission's matrix be redesigned to have minimum sentence lengths for all of the combinations of Offense Classes and Prior Record Levels that will, in the aggregate, produce a state prison system inmate population that will not exceed 24,000—the number of prison beds existing and authorized—at any point during, at least, the next five years.

The Task Force has developed its own Sentencing Matrix which is presented in Appendix A. This matrix integrates the Task Force's proposed modifications to the Sentencing Commission's matrix with the basic outline of the Sentencing Commission's proposed structured sentencing system. The Task Force's Sentencing Matrix:

- uses prison as the sentence of last resort for misdemeanants;
- establishes a single presumed type of sentence for each Offense Class and Prior Record Level, and increases the flow of non-dangerous felons into Intermediate Sanctions;
- allows judges to deviate from the presumed type of sentence prescribed by the matrix, if aggravating or mitigating factors are found;
- begins with a minimum sentence length for each Offense Class that is roughly equal to the amount of prison time actually being served by offenders in each class, then escalates the minimum sentence lengths by 5% for each higher Prior Record Level in each Offense Class;
- allows 5,000 to 6,000 prison beds to be reserved for offenders who violate the conditions of their Intermediate Sanctions sentences; and

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<sup>37</sup>The Task Force recommends that no dispositional mitigation be allowed for those offenders whose Offense Class and Prior Record Level places him/her in one of the shaded boxes on the Task Force's Sentencing Matrix in Appendix A.

- stabilizes the total inmate population of the state prison system at less than 24,000 during the next five years.

# Chapter 4

## Impact of Task Force Recommendations on North Carolina's Correctional System

The North Carolina Justice Fellowship Task Force has made its recommendations and assumptions available to the North Carolina Sentencing and Policy Advisory Commission. Using its computerized simulation model, the Commission has generated data that has allowed the Justice Fellowship staff to predict the impact of the Task Force's recommendations on the state's correctional system.

### **Institutional Sanctions**

The Task Force believes that its recommendations would over the next five years result in the stabilization of the inmate population of the Department of Correction's prison system at levels below the 24,000 beds that have been previously authorized and funded by the General Assembly.

Assuming a 6% per year growth in the number of offenders convicted and sentenced to prison, the Task Force projects the following inmate populations for the next five years if its recommendations are implemented.<sup>38</sup>

FISCAL YEAR	DANGEROUS OFFENDERS	INTERMEDIATE SANCTIONS		TOTAL INCARCERATED
		CONTEMPT OF COURT	SHOCK INCARCERATION	
1993-94	17,740	4,000	1,000	22,740
1994-95	18,114	4,000	1,000	23,114
1995-96	16,968	5,000	1,000	22,968
1996-97	17,184	5,000	1,000	23,184
1997-98	17,922	5,000	1,000	23,922

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<sup>38</sup>The 6% figure used here is higher than the recent rate of growth in North Carolina. It was chosen because the Task Force wanted to err on the side of conservatism in its estimates.

## Intermediate Sanctions

The Task Force believes that its recommendations would result in the need to greatly expand the Division of Adult Probation and Parole's intensive supervision program so that services can be provided to approximately 25,000 Intermediate Sanctions offenders annually.

It should be noted that the Task Force has recommended that Intermediate Sanctions offenders be sentenced to intensive supervision and assigned for at least six months to caseloads that do not exceed 25 offenders per two-officer team. After six months, these offenders would be reassigned to caseloads that do not exceed 100 offenders per two-officer team for the remainder of their terms.

The Task Force has also recommended intensive supervision term limits of not more than 24 months for misdemeanants and not more than 36 months for felons.

The Task Force believes that these recommendations would result in a need for an estimated 6,500 intensive supervision slots in caseloads that do not exceed 25 offenders per two-officer team and an estimated 10,500 intensive supervision slots in caseloads that do not exceed 100 offenders per two-officer team. It is estimated that at any point in time, 8,000 intensive supervision offenders would be assigned to administrative caseloads while participating in an Intermediate Sanctions sentence enhancement program.

The Task Force estimates that 10,000 to 12,000 of the offenders sentenced to Intermediate Sanctions each year would receive a sentence enhancement in addition to their intensive supervision sentence. Based upon experience in other states and the high rate of drug and alcohol abuse among convicted offenders in North Carolina, the Task Force estimates that the enhancements ordered by the courts will have an average cost of \$3,000 per offender.

## Community Sanctions

The Task Force believes that its recommendations would result in the need to greatly upgrade the Division of Adult Probation and Parole's regular probation program so that a high level of service can be provided to approximately 100,000 Community Sanctions offenders annually.

It should be noted that the Task Force has recommended that regular probation offenders be sentenced to caseloads that do not exceed a range of 75 to 90 offenders per officer. The Task Force has also recommended regular probation term limitations of not more than 18 months for misdemeanants and not more than 30 months for felons. The Task Force believes that while the lower caseload limits will require more probation officers, the impact of this recommendation will be partially offset by the termination of offenders' sentences as a result of the term limitations for Community Sanctions sentences.

The Task Force believes that approximately 50,000 Community Sanctions offenders will not be sentenced to a regular probation caseload but merely fined and required to pay community restitution each year.

## County Jails

The Task Force believes that its recommendations will result in a significant reduction in the number of sentenced misdemeanants held in county jails. County jails would still house misdemeanants sentenced under the Safe Roads Act for DWI offenses, but non-DWI misdemeanants who qualify for Institutional Sanctions would be housed in a state prison.

The Task Force believes that any reduction in the number of misdemeanants held in county jails would be offset by voluntary county participation in the split-sentence enhancement program for Intermediate Sanctions offenders. As a result, it is assumed that the counties would continue to house approximately 2,400 sentenced offenders on an on-going basis.

## Cost Projections for the Task Force Recommendations<sup>39</sup>

The North Carolina Justice Fellowship Task Force has projected the cost of implementing its recommendations for a three-year period.<sup>40</sup> A summary of these cost projections appears in Table A, "Cost Projections for Task Force Recommendations, FY 1993-94 to FY 1997-98" on page 52.<sup>41</sup>

The Task Force recommends that the General Assembly appropriate the amount of money required each year to fully implement the Task Force's recommendations—\$25,000,000 in FY 1993-94; \$50,000,000 in FY 1994-95; \$ 75,000,000 in FY 1995-96—less the revenue generated from excess community restitution payments. A summary of these revenue projections appears in Table B, "Revenue Projections for Task Force Recommendations, FY 1993-94 to FY 1997-98" on page 53.<sup>42</sup>

Seventeen Task Force recommendations would require funding:

### 1. Establish the DOC Restitution Accounting System (Recommendation 7).

The purpose of this recommendation is to establish an automated restitution accounting, billing and collection system so that all Community Sanctions and Intermediate Sanctions offenders who owe community restitution, individual restitution or community service can be held accountable. The Task Force's first-year cost projections includes the expense of acquiring data processing equipment.

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<sup>39</sup>All cost figures are based on data from the North Carolina Department of Correction and other sources and were developed for the use of the Task Force by the Justice Fellowship staff.

<sup>40</sup>All Task Force cost projections are based on funds needed in addition to any currently authorized appropriations.

<sup>41</sup>The cost projections for FY 1996-97 and 1997-98 are the same as for FY 1995-96.

<sup>42</sup>The revenue projections for FY 1996-97 and 1997-98 are the same as for FY 1995-96.

<b>TASK FORCE COST PROJECTIONS</b>	
FY 1993-94	\$1,000,000
FY 1994-95	\$500,000
FY 1995-96	\$500,000

**2. Establish the Delinquent Restitution Collection System (Recommendation 8).**

The purpose of this recommendation is to establish a process for initiating civil legal actions such as wage garnishment and liens against income tax returns against Community Sanctions and Intermediate Sanctions Offenders who fail to make a good-faith effort to pay their community and individual restitution. The process would require a team of attorneys located in an appropriate state agency.

<b>TASK FORCE COST PROJECTIONS</b>	
FY 1993-94	\$500,000
FY 1994-95	\$500,000
FY 1995-96	\$500,000

**3. Expand the DOC Regular Probation Program (Recommendation 9).**

The purpose of this recommendation is to reduce the average caseloads for regular probation offenders to a range of 75 to 90 offenders per officer so that a higher, more credible level of service can be provided to approximately 100,000 Community Sanctions offenders annually.

At the present time, regular probation caseloads average 110 offenders per officer. The Department of Correction has requested \$3,927,000 in FY 1993-94 to hire 162 new probation officers and support staff to bring the caseload ratio down to 100:1. The Task Force endorses this request. In addition, the Task Force proposes that the Department be funded to hire 162 additional new probation officers and support staff in FY 1994-95 to bring the caseload ratio down to 90:1 and to hire 81 additional new probation officers and support staff in FY 1995-96 to bring the caseload ratio down in 85:1.

<b>TASK FORCE COST PROJECTIONS</b>	
FY 1993-94	\$3,900,000
FY 1994-95	\$7,800,000
FY 1995-96	\$9,700,000

**4. Establish the DOC Violations Hearing Officer System (Recommendation 11).**

The purpose of this recommendation is to establish an equitable procedure so that the Department of Correction can administratively increase the intensity of the supervision provided to Community Sanctions and Intermediate Sanctions offenders who violate the conditions of their sentences without taking the offender back to court. The procedure would require at least eight independent "circuit-riding" Violations Hearing Officers so that due process requirements can be met.

<b>TASK FORCE COST PROJECTIONS</b>	
FY 1993-94	\$300,000
FY 1994-95	\$300,000
FY 1995-96	\$300,000

**5. Expand the DOC Intensive Supervision Program (Recommendation 17).**

The purpose of this recommendation is to greatly expand the Division of Adult Probation and Parole's intensive supervision program so that services can be provided to approximately 25,000 Intermediate Sanctions offenders annually.

The Task Force estimates that the offender population of the Division's intensive supervision program will stabilize at 25,000 after three years. Of this number it is estimated that 8,000 will be assigned at the Division's discretion to administrative caseloads while they are involved in a sentence enhancement program. Of the remainder, it is estimated that 6,500 would be assigned to caseloads that do not exceed 25 offenders per two-officer team (Level I) and 10,500 would be assigned to caseloads that do not exceed 100 per two-officer team (Level II).

At the present time, the Division of Adult Probation and Parole has 4,113 intensive supervision slots in caseloads that do not exceed 25 offenders per two-agent team. The Department of Correction has requested \$4,200,000 in FY 1993-94 to hire 117 new intensive supervision officers and support staff to increase the number of intensive supervision slots by 1,323. The Task Force endorses this request. In addition, the Task Force proposes that the Department be funded to hire sufficient officers and support staff to add approximately 1,000 slots in caseloads with ratios of 25:2 and approximately 5,250 slots in caseloads with ratios of 100:2 in FY 1994-95. In FY 1995-96, the Department should be funded to hire sufficient officers and support staff to add an additional 5,250 slots in caseloads with ratios of 100:2.

<b>TASK FORCE COST PROJECTIONS</b>	
FY 1993-94	\$4,200,000
FY 1994-95	\$11,400,000
FY 1995-96	\$15,600,000

**6. Expand the Community Penalties Program (Recommendation 20).**

The purpose of this recommendation is to expand the Community Penalties Program to all judicial districts and to significantly upgrade the capabilities of all the programs so that Intermediate Sanctions Plans can be prepared for all offenders who are eligible for an Intermediate Sanctions sentence.

At the present time, the state appropriation for the Community Penalties Program is approximately \$1,500,000 annually. Approximately two-thirds of the state's judicial districts are covered and the existing programs have the staff capability to prepare Intermediate Sanctions Plans for only a fraction of the offenders who would be eligible for Intermediate Sanctions sentences under the Task Force's proposal.

TASK FORCE COST PROJECTIONS	
FY 1993-94	\$1,500,000
FY 1994-95	\$2,500,000
FY 1995-96	\$2,500,000

**7. Establish an Intermediate Sanctions Commission (Recommendation 22).**

The purpose of this recommendation is to establish a state agency which would be responsible for overseeing the development of the Intermediate Sanctions enhancement system and allocate resources available for the development of enhancement programs. Since staff support for the Commission would be provided by the DOC Strategic Planning Unit, the cost projections for this recommendation should be reviewed in conjunction with the cost projections for the Strategic Planning Unit which follows.

TASK FORCE COST PROJECTIONS	
FY 1993-94	\$100,000
FY 1994-95	\$100,000
FY 1995-96	\$100,000

**8. Expand the DOC Strategic Planning Unit (Recommendation 23).**

The purpose of this recommendation is to expand the strategic planning staff of the Department of Correction so that it can provide professional staff support to the Intermediate Sanctions Commission and undertake the various tasks described in the Institutional Sanctions recommendations.

<b>TASK FORCE COST PROJECTIONS</b>	
FY 1993-94	\$300,000
FY 1994-95	\$300,000
FY 1995-96	\$300,000

**9. Establish the Intermediate Sanctions Enhancement Pilot Program (Recommendation 24).**

The purpose of this recommendation is to provide seed money so that Intermediate Sanctions enhancement programs can be established during FY 1993-94 in at least five jurisdictions. The Task Force understands that it will take some time for the Intermediate Sanctions Commission to get organized and to complete its first biannual Intermediate Sanctions Plan.

However, there are obvious Intermediate Sanctions treatment enhancement needs—particularly in the substance-abuse treatment area—that need to be addressed as soon as the new Intermediate Sanctions correctional programming level is operational. The funding proposed for this recommendation would allow 2,000 Intermediate Sanctions offenders to become involved in treatment enhancements ordered by the court at an average cost of \$3,000 per enhancement.

<b>TASK FORCE COST PROJECTIONS</b>	
FY 1993-94	\$6,000,000
FY 1994-95	\$0
FY 1995-96	\$0

**10. Establish the Intermediate Sanctions Enhancement Funding System (Recommendation 25).**

The purpose of this recommendation is to provide funding to implement the Intermediate Sanctions Enhancement Plan developed by the Intermediate Sanctions Commission for FY 1994-95 and FY 1995-96.

The Task Force estimates that when the Intermediate Sanctions correctional programming level is fully operational that 10,000 to 12,000 Intermediate Sanctions offenders will be ordered by the courts each year to become involved in a Intermediate Sanctions sentence enhancement in addition to their intensive supervision sentence.

While the Task Force is not in a position to recommend exactly what these enhancements should consist of—this is the task for the Intermediate Sanctions Commission and the purpose of the biannual Intermediate Sanctions Enhancements Plan—the Task Force is proposing that sufficient funding be provided so that 5,000 Intermediate Sanctions offenders can become involved in treatment enhancements ordered by the courts in FY 1994-95 and 10,000 Intermediate Sanctions offenders can become involved in treatment enhancements ordered by the court in FY 1995-96 at an average cost of \$3,000 per enhancement.

<b>TASK FORCE COST PROJECTIONS</b>	
FY 1993-94	\$0
FY 1994-95	\$15,000,000
FY 1995-96	\$30,000,000

**11. Establish the Prison Industries Pilot Program (Recommendation 29).**

The purpose of this recommendation is to establish, at least three pilot prison industry programs that teach usable job skills, teach a positive work ethic and pay at least the federal minimum wage. It is anticipated that the funding proposed would be used to match venture capital funding from the private sector to establish private business ventures in prison settings.

<b>TASK FORCE COST PROJECTIONS</b>	
FY 1993-94	\$100,000
FY 1994-95	\$200,000
FY 1995-96	\$0

**12. Establish a Structured Pre-Release Program (Recommendation 30).**

The purpose of this recommendation is to develop a network of pre-release centers so that between 300 and 400 inmates can be placed in half-way houses and residential drug and alcohol treatment programs up to 12 months before their earliest release dates. The pre-release center would be either operated by the Department of Correction or by private service providers under contract to the Department. The Task Force has proposed a three year phase-in for the program and has based its figures on the average cost of holding an inmate in a minimum security setting in the state prison system and on the experience of existing pre-release programs.

<b>TASK FORCE COST PROJECTIONS</b>	
FY 1993-94	\$3,000,000
FY 1994-95	\$4,000,000
FY 1995-96	\$5,000,000

**13. Establish a Life-Skills Training Program (Recommendation 30).**

The purpose of this recommendation is to develop a life-skills training program for all prison inmates who are within 12 months of their earliest release dates to improve the community reintegration process for ex-offenders.

<b>TASK FORCE COST PROJECTIONS</b>	
FY 1993-94	\$300,000
FY 1994-95	\$300,000
FY 1995-96	\$300,000

**14. Establish an Ex-Offender Assistance Center Pilot Program (Recommendation 30).**

The purpose of this recommendation is to develop several pilot ex-offender assistance centers to reduce recidivism by providing better problem-solving support services to offenders recently released from prison.

<b>TASK FORCE COST PROJECTIONS</b>	
FY 1993-94	\$200,000
FY 1994-95	\$400,000
FY 1995-96	\$400,000

**15. Establish a Jail Mental Health Screening Pilot Program (Recommendation 31).**

The purpose of this recommendation is to demonstrate that the populations of the county jails and the state prison system can be reduced by diverting arrestees with serious mental-health problems out of the criminal justice system and into mental-health treatment programs where more appropriate rehabilitation programming can be provided. The funding proposed would be used to provide grants to selected counties to hire on contract with professionally trained mental-health workers to screen arrestees for the purpose of identifying candidates for pre-trial diversion into mental-health treatment programs.

<b>TASK FORCE COST PROJECTIONS</b>	
FY 1993-94	\$200,000
FY 1994-95	\$300,000
FY 1995-96	\$400,000

**16. Expand the TASC Abuse Diversion and Substance Treatment Program (Recommendation 32).**

The purpose of this recommendation is to strengthen the TASC (Treatment Alternative to Street Crimes) program across the state and provide funding so that candidates for pre-trial diversion who have serious drug- or alcohol-abuse problems can be placed in treatment programs. The Task Force

believes that money spent for treatment programs in this area can reduce the number of offenders who are sentenced to more expensive Intermediate Sanctions programming. The funding proposed would allow the pre-trial diversion of 1,000 arrestees in FY 1993-94, 2,000 arrestees in FY 1994-95 and 3,000 arrestees in FY 1995-96 with serious substance-abuse problems into treatment programs.

TASK FORCE COST PROJECTIONS	
FY 1993-94	\$3,000,000
FY 1994-95	\$6,000,000
FY 1995-96	\$9,000,000

**17. Establish a Permanent Sentencing Commission (Recommendation 35).**

The purpose of this recommendation is to establish the North Carolina Sentencing and Policy Advisory Commission as an on-going state agency so that it can continue to advise the Governor and General Assembly about sentencing issues in the future.<sup>43</sup>

TASK FORCE COST PROJECTIONS	
FY 1993-94	\$400,000
FY 1994-95	\$400,000
FY 1995-96	\$400,000

## **Revenue Projections for the Task Force's Recommendations**

**Table B,** "Revenue Projections for Task Force Recommendations, FY 1993-94 to FY 1995-96" summarizes the revenue that the Task Force's recommendations are expected to generate—\$6,250,000 in FY 1993-94; \$9,375,000 in FY 1994-95; \$12,500,000 in FY 1995-96.

As suggested in Task Force recommendations #8, #14 and #18, the revenues should be used to offset some of the costs of implementing the Task Force's other proposals. The three revenue sources proposed by the Task Force are as follows:

**1. Excess Community Restitution from regular probation offenders that accumulates in the Restitution Fund (Recommendation 8).**

The Task Force has proposed that all Community Sanctions offenders sentenced to regular probation pay community restitution. The Task Force believes that it is reasonable to assume that, on

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<sup>43</sup> The Sentencing Commission is currently operating on a budget of about \$400,000 per year. The Task Force recommends that the Commission continue to be funded at this level after the current fiscal year.

the average, \$10 per month can be collected in community restitution from the 100,000 offenders in regular probation caseloads for a total of \$12,000,000 per year.

It is estimated that half of the money paid into the Restitution Fund from this source will be used to pay the wages of indigent offenders hired to do public service work so that they can pay their community and individual restitution so the excess revenue available in the Restitution Fund from this source should be about \$6,000,000 per year.

It is anticipated that 50% of all regular probation offenders will pay community restitution in FY 1993-94. This figure should increase to 75% in FY 1994-95 and 100% in FY 1995-96.

**2. Community Restitution from unsupervised Community Sanctions offenders that accumulates in the Intermediate Sanctions Program Development Fund (Recommendation 14).**

The Task Force has proposed that all Community Sanctions offenders who are not sentenced to regular probation be required to pay community restitution in addition to any fines ordered by the courts.

The Task Force estimates that 50,000 offenders are ordered to pay fines by the courts each year. The Task Force believes that it is reasonable to assume that on average, \$100 can be collected in community restitution from these offenders for a total of \$5,000,000 per year.

It is estimated that the courts will order 50% of the Community Sanctions offenders who are not sentenced to regular probation to pay community restitution in FY 1993-94. This figure should increase to 75% in FY 1994-95 and 100% 1995-96.

**3. Excess Community Restitution from intensive supervision offenders that accumulates in the Restitution Fund (Recommendation 18).**

The Task Force has proposed that all Intermediate Sanctions offenders sentenced to intensive supervision pay community restitution. The Task Force believes that it is reasonable to assume that, on the average, \$10 per month can be collected in community restitution from the 25,000 offenders in intensive supervision caseloads for a total of \$3,000,000 per year.

It is estimated that half of the money paid into the Restitution Fund from this source will be used to pay the wages of indigent offenders hired to do public-service work so that they can pay their community and individual restitution. As a result, the excess revenue available in the fund from this source should be about \$1,500,000 per year.

It is anticipated that 50% of all intensive supervision offenders will pay community restitution in FY 1993-94. This figure should increase to 75% in FY 1994-95 and to 100% in FY 1995-96.

## **Cost Savings Projections for the Task Force Recommendations**

**Table C, "Cost Savings Projections for Task Force Recommendations, FY 1993-94 to FY 1997-98"** on page 54, presents the Task Force's estimates of the costs associated with constructing

and operating enough prison space to house the inmate population that would result from the structured sentencing policy recommendations adopted by the North Carolina Sentencing and Policy Advisory Commission as of October 30, 1992.<sup>44</sup>

The Sentencing Commission assumes growth rates of 8%, 6%, 4%, 3% and 3% in the number of offenders convicted and sentenced to prison during the next five years. The Commission then projects the following inmate populations if its structured sentencing policy recommendations are implemented:

Sentencing Commission Proposal Projected Inmate Populations			
FISCAL YEAR	FELONY OFFENDERS	MISDEMEANANT OFFENDERS	TOTAL INCARCERATED
1993-94	23,520	4,779	28,299
1994-95	28,225	5,330	33,555
1995-96	28,652	5,470	34,122
1996-97	30,071	5,649	35,720
1997-98	31,150	5,863	37,013

Assuming that approximately 2,500 misdemeanants would continue to be held in county jails under the Sentencing Commission's proposals and assuming that the state prison system ends up with 24,000 beds after all of the prison construction projects that have been previously authorized and funded by the General Assembly have been completed, the Task Force estimates the following need for additional prison beds if the Sentencing Commission's policy recommendations are implemented:

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<sup>44</sup>These impact projections are based on the Sentencing Commission's matrix as of October 30, 1992.

<b>Sentencing Commission Proposal New Construction of Felony and Misdemeanor Beds</b>				
<b>FISCAL YEAR</b>	<b>TOTAL INCARCERATED</b>	<b>PRISON &amp; JAIL BEDS AVAILABLE</b>	<b>FELONY BEDS NEEDED</b>	<b>MISDEMEANOR BEDS NEEDED</b>
1993-94	28,299	26,500	0	1,800
1994-95	33,555	26,500	4,225	1,030
1995-96	34,122	26,500	425	140
1996-97	35,720	26,500	1,420	180
1997-98	37,013	26,500	1,080	215
<b>GRAND TOTAL OF BEDS NEEDED</b>			<b>TOTAL</b>	<b>10,515</b>

Assuming prison construction costs of \$19,500 for each misdemeanor (minimum security) bed and \$27,100 for each felon (medium security) bed and assuming prison operating costs of \$16,250 per year for each incarcerated misdemeanant and \$21,700 per year for each incarcerated felon, the Task Force estimates the following costs associated with constructing and operating enough prison space to house the additional inmate population that would result from the Sentencing Commission's policy recommendations:<sup>45</sup>

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<sup>45</sup>These cost estimates were provided to the Sentencing Commission by the Department of Correction. The Sentencing Commission has used lower construction cost figures for misdemeanants, but their estimates are not supported by past experience. Whatever the exact cost figures are, the state can be assured that the construction and operation of 10,515 prison or jail beds cannot be done inexpensively.

<b>Sentencing Commission Proposal New Prison Construction and Operating Costs</b>			
<b>FISCAL YEAR</b>	<b>CONSTRUCTION COSTS</b>	<b>OPERATING COSTS</b>	<b>TOTAL COSTS</b>
1993-94	\$ 35,100,000	\$ 29,250,000	\$ 64,350,000
1994-95	\$ 134,582,000	\$ 137,670,000	\$ 272,262,000
1995-96	\$ 14,247,500	\$ 149,167,500	\$ 163,415,000
1996-97	\$ 41,992,000	\$ 182,706,500	\$ 224,898,500
1997-98	\$ 33,460,500	\$ 209,836,250	\$ 243,296,750
<b>TOTAL CONSTRUCTION</b>	<b>\$ 259,382,000</b>		
<b>TOTAL OPERATING</b>		<b>\$ 708,830,250</b>	
<b>GRAND TOTAL</b>			<b>\$ 968,212,250</b>

The total estimated cost of constructing and operating enough prison space to house the additional inmate population that would result from the Sentencing Commission's policy recommendations during the next five years is \$968,212,250. The Task Force estimates that the total net cost to the state of implementing all of the Task Force's recommendations would be \$246,875,000.<sup>46</sup> The cost difference between the two proposals is \$721,337,250.<sup>47</sup>

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<sup>46</sup>For the purposes of this figure, the Task Force assumed that the costs of implementing its recommendations and the amount of revenue generated by the recommendations would be the same as for FY 1995-96.

<sup>47</sup>The cost savings figure does not include the Sentencing Commission's proposal for alternatives to incarceration while the Task Force figure includes the whole range of programming options outlined in its plan. As a result, we expect the cost savings to be even greater than stated here.

<b>Cost Savings of Task Force Plan v. Sentencing Commission Proposal</b>				
<b>FISCAL YEAR</b>	<b>INTERIM REPORT COSTS</b>	<b>LESS COSTS OF TASK FORCE PLAN</b>	<b>PLUS REVENUE GENERATED BY TASK FORCE PLAN</b>	<b>COST SAVINGS</b>
1993-94	\$ 64,350,000	\$ 25,000,000	\$ 6,250,000	\$ 45,600,000
1994-95	\$ 272,252,000	\$ 50,000,000	\$ 9,375,000	\$ 231,627,000
1995-96	\$ 163,415,000	\$ 75,000,000	\$ 12,500,000	\$ 100,915,000
1996-97	\$ 224,898,500	\$ 75,000,000	\$ 12,500,000	\$ 162,398,500
1997-98	\$ 243,296,750	\$ 75,000,000	\$ 12,500,000	\$ 180,796,750
<b>TOTAL</b>				<b>\$ 721,337,250</b>

## **Implementation of Task Force's Recommendation**

If the State of North Carolina wishes to implement the recommendations outlined in this report by the North Carolina Justice Fellowship Task Force, it needs to take the following actions:

1. Appropriate the required funding so that the work tasks listed in **Table A** can be initiated: \$25,000,000 in FY 1993-94, \$50,000,000 in FY 1994-95 and \$75,000,000 in FY 1995-96.
2. Enact a structured sentencing system that ensures (A) that experience prison resources are only sparingly used on misdemeanants, (B) that there is a significant and predictable flow of non-dangerous felons into Intermediate Sanctions programs, (C) that judges have the discretion to tailor sentences to the requirements of individual offenders, and (D) that the number of offenders serving prison terms at any point in time during the next five years does not exceed the total number of prison beds that have been previously authorized and funded by the General Assembly 24,000.
3. Enact an Omnibus Correctional Reform Act that: (A) assigns the responsibility for all sentenced misdemeanants and felons to the Department of Correction, (B) requires the DOC to establish a balanced correctional system that provides a continuum of offender punishment and treatment options for all sentenced offenders, (C) develops a state correctional system with four distinct levels of correctional programming, (D) establishes a system for planning and funding alternatives to incarceration, (E) holds offenders accountable for their actions by requiring that they pay community and individual restitution, (F) develops job opportunities for inmates that teach usable job skills and a positive work ethic; and (G) assists ex-offenders to reintegrate back into the community after they have served their sentences. An outline for such an Omnibus Correctional Reform Act appears in Appendix C.

**Table A**

**Cost Projections For Task Force Recommendations**  
**FY 1993-94 TO FY 1995-96**

	Recommendation	FY 1993-94	FY 1994-95	FY 1995-96
<b>Responsibility for Sentenced Offenders</b>				
<b>Community Sanctions</b>				
1. Establish the DOC Restitution Accounting System	No. 7	\$1,000,000	\$500,000	\$500,000
2. Establish the Delinquent Restitution Collection System	No. 8	\$500,000	\$500,000	\$500,000
3. Expand the DOC Regular Probation Program	No. 9	\$3,900,000	\$7,800,000	\$9,700,000
4. Establish the DOC Violations Hearing Officer System	No. 11	\$300,000	\$300,000	\$300,000
<b>Intermediate Sanctions</b>				
5. Expand the DOC Intensive Supervision Program	No. 17	\$4,200,000	\$11,400,000	\$15,600,000
6. Expand the Community Penalties Program	No. 20	\$1,500,000	\$2,500,000	\$2,500,000
<b>Intermediate Sanctions Enhancement Development</b>				
7. Establish an Intermediate Sanctions Commission	No. 22	\$100,000	\$100,000	\$100,000
8. Expand the DOC Strategic Planning Unit	No. 23	\$300,000	\$300,000	\$300,000
9. Establish Intermediate Sanctions Enhancement Pilot Program	No. 24	\$6,000,000	\$0	\$0
10. Establish Intermediate Sanctions Enhancement Funding System	No. 25	\$0	\$15,000,000	\$30,000,000
<b>Institutional Sanctions</b>				
11. Establish the Prison Industries Pilot Program	No. 29	\$100,000	\$200,000	\$0
<b>Community Reintegration</b>				
12. Establish a Structured Pre-Release Program	No. 30	\$3,000,000	\$4,000,000	\$5,000,000
13. Establish a Life-Skills Training Program	No. 30	\$300,000	\$300,000	\$300,000
14. Establish an Ex-Offender Assistance Pilot Program	No. 30	\$200,000	\$400,000	\$400,000
<b>Pre-Trial Diversion</b>				
15. Establish a Jail Mental Health Screening Pilot Program	No. 31	\$200,000	\$300,000	\$400,000
16. Expand TASC Substance Abuser Diversion/Treatment Program	No. 32	\$3,000,000	6,000,000	\$9,000,000
<b>Sentencing Policy</b>				
17. Establish a Permanent Sentencing Commission	No. 35	\$400,000	\$400,000	\$400,000
<b>TOTAL</b>		<b>\$25,000,000</b>	<b>\$50,000,000</b>	<b>\$75,000,000</b>

**Table B**

**Revenue Projections For Task Force Recommendations  
FY 1993-94 TO FY 1995-96**

	Recommendation	FY 1993-94	FY 1994-95	FY 1995-96
<b>Responsibility for Sentenced Offenders</b>				
<b>Community Sanctions</b>				
1. Excess Community Restitution from Regular Probation				
Offenders that accumulates in the Restitution Fund	No. 6	\$3,000,000	\$4,500,000	\$6,000,000
2. Community Restitution from Unsupervised Community Sanctions				
Offenders that accumulates in the Intermediate Sanctions Program				
<b>Development Fund</b>	No. 12	\$2,500,000	\$3,750,000	\$5,000,000
<b>Intermediate Sanctions</b>				
3. Excess Community Restitution From Intensive Supervision				
Offenders that accumulates in the Restitution Fund	No. 16	\$750,000	\$1,125,000	\$1,500,000
<b>Intermediate Sanctions Enhancement Development</b>				
<b>Institutional Sanctions</b>				
<b>Community Reintegration</b>				
<b>Pre-Trial Diversion</b>				
<b>Sentencing Policy</b>				
	<b>TOTAL</b>	<b>\$6,250,000</b>	<b>\$9,375,000</b>	<b>\$12,500,000</b>

**Table C**

**Cost Savings Projections For Task Force Recommendations**  
**FY 1993-94 TO FY 1997-98**

	FY 1993-94	FY 1994-95	FY 1995-96	FY 1996-97	FY 1997-98
<b>Prison Construction Cost Savings</b>					
1. Prison Beds for Misdemeanants					
FY 1993-94 - (1,800 beds at \$ 19,500 per bed)	\$35,100,000				
FY 1994-95 - (1,030 beds at \$ 19,500 per bed)		\$20,085,000			
FY 1995-96 - (140 beds at \$ 19,500 per bed)			\$2,730,000		
FY 1996-97 - (180 beds at \$ 19,500 per bed)				\$3,510,000	
FY 1997-98 - (215 beds at \$ 19,500 per bed)					\$4,192,500
2. Prison Beds for Felons					
FY 1993-94 - (0 beds at \$ 27,100 per bed)	\$0				
FY 1994-95 - (4,225 beds at \$ 27,100 per bed)		\$114,497,500			
FY 1995-96 - (425 beds at \$ 27,100 per bed)			\$11,517,500		
FY 1996-97 - (1,420 beds at \$ 27,100 per bed)				\$38,482,000	
FY 1997-98 - (1,080 beds at \$ 27,100 per bed)					\$29,268,000
<b>Prison Operating Cost Savings</b>					
3. Fewer Misdemeanants than Projected					
FY 1993-94 - (1,800 at \$ 16,250 per offender)	\$29,250,000				
FY 1994-95 - (2,830 at \$ 16,250 per offender)		\$45,987,500			
FY 1995-96 - (2,970 at \$ 16,250 per offender)			\$48,262,500		
FY 1996-97 - (3,150 at \$ 16,250 per offender)				\$51,187,500	
FY 1997-98 - (3,365 at \$ 16,250 per offender)					\$54,681,250
4. Fewer Felons than Projected					
FY 1993-94 - (0 at \$ 21,700 per offender)	\$0				
FY 1994-95 - (4,225 at \$ 21,700 per offender)		\$91,682,500			
FY 1995-96 - (4,650 at \$ 21,700 per offender)			\$100,905,000		
FY 1996-97 - (6,070 at \$ 21,700 per offender)				\$131,719,000	
FY 1997-98 - (7,150 at \$ 21,700 per offender)					\$155,155,000
<b>TOTAL</b>		<b>\$64,350,000</b>	<b>\$272,252,500</b>	<b>\$163,415,000</b>	<b>\$224,898,500</b>
					<b>\$243,296,750</b>

# Appendix A

## Sentencing Matrix

### North Carolina Justice Fellowship Task Force

Prior Record Level

	I	II	III	IV	V	VI
A	Mandatory Life or Death as Established by Statute					
Felony Offense Class	B	P 162	P 170	P 178	P 186	P 194
	C	P 75	P 59	P 82	P 86	P 90
	D	P 66	P 69	P 73	P 76	P 79
	E	I	P 28	P 29	P 31	P 32
Misdemeanor Offense Class	F	I	I	P 19	P 20	P 21
	G	I	I	I	P 15	P 16
	H	C	C	I	I	P 7
	I	C	C	I	I	P 4
	I	C	C	C	I	P 3
	II	C	C	C	I	P 2
	III	C	C	C	C	I

P=Institutional Sanctions

I=Intermediate Sanctions

C=Community Sanctions

Note 1 – Shaded area in Offense Classes B through F denotes that no mitigation of the dispositional level is allowable.

Note 2 – The Task Force disagrees with the Sentencing Commission's mode of structuring of misdemeanors. It would seem logical to continue the felony chart downward to include misdemeanors.

Note 3 – All numbers on the chart are the presumed sentence lengths in months. For Intermediate Sanctions offenders the sentence range for felons is 18 – 36 months, for misdemeanants is 12 – 24 months. For Community Sanctions offenders the sentence range for felons is 12 – 30 months, for misdemeanants, 6 – 18 months.

# Appendix B

## Sentencing Matrix

### N.C. Sentencing and Policy Advisory Commission

		Prior Record Level					
		I	II	III	IV	V	VI
A		Mandatory Life or Death as Established by Statute					
	B	P 140-180	P 173-216	P 202-252	P 230-288	P 259-324	P 288-360
Felony	C	P 67-84	P 92-115	P 107-134	P 122-152	P 138-172	P 154-192
Offense	D	P 59-74	P 71-89	P 94-118	P 108-135	P 122-152	P 134-168
Class	E	P 25-31	P 29-36	P 34-42	P 45-56	P 51-64	P 58-72
	F	P/I 17-21	P/I 19-24	P 21-26	P 25-31	P 34-42	P 38-48
	G	P/I 13-16	P/I 15-19	P 17-21	P 20-25	P 22-28	P 29-36
	H	I/C 6-8	I 7-9	P/I 9-11	P/I 11-14	P 14-18	P 19-24
	I	C 3-4	I/C 4-5	I 6-8	P/I 7-9	P/I 8-10	P 10-12

Note: Felony sentence lengths are in months.

		No Prior Convictions	1 to 4 Prior Convictions	5 or More Prior Convictions
		M1	C/I/A 1 - 60 days	C/I/A 1 - 180 days
		M2	C/I 1 - 45 days	C/I/A 1 - 120 days
Misdemeanor		M3	C 1 - 30 days	C/I/A 1 - 60 days

P = Active Prison Sentence I = Suspended Sentence, Intermediate Punishment Imposed

C = Suspended Sentence, Community Punishment Imposed A = Active Sentence (either prison or jail)

Note: Cells with slash allow either disposition at the discretion of the judge.

## **Appendix C**

### **Outline for the Omnibus Correctional Reform Act of 1993**

#### **I. Purposes of the Act**

To assign the responsibility for providing correctional services to all sentenced misdemeanants and felons to the North Carolina Department of Correction ("DOC"); to require the DOC to develop a balanced correctional system that provides a continuum of offender punishment and treatment options for all sentenced offenders; to develop a state correctional system with four distinct levels of correctional programming; to establish a system for planning and funding alternatives to incarceration; to hold offenders accountable for their actions by requiring that they pay community and individual restitution; and to assist ex-offenders to reintegrate back into the community after they have served their sentences.

#### **II. Responsibility for Sentenced Offenders**

- Section 1:** Responsibility for providing correctional services to all sentenced misdemeanants and felons (except misdemeanants sentenced under the Safe Road Act for DWI offenses) is assigned to the DOC.
- Section 2:** The DOC is directed to develop a balanced correctional system that provides a continuum of offender punishment and treatment options for all sentenced offenders.
- Section 3:** A state correctional system with four distinct levels of correctional programming—Community Sanctions, Intermediate Sanctions, Institutional Sanctions and Community Reintegration—is established.

#### **III. Sentencing Authority and Policy**

- Section 1:** Judges are authorized to sentence offenders directly to Community Sanctions and Intermediate Sanctions as well as Institutional Sanctions (Task Force Recommendation 33).
- Section 2:** The statute which gives offenders the right to reject probationary sentences offered by judges is repealed (Task Force Recommendation 34).
- Section 3:** The North Carolina Sentencing and Policy Advisory Commission is established as an independent permanent state agency (Task Force Recommendation 35).

## **IV. Community Sanctions**

- Section 1:** Regular probation and fines are established as the two primary programs for offenders sentenced to Community Sanctions (Task Force Recommendation 1).
- Section 2:** The regular probation program operated by the Division of Adult Probation and Parole ("Division") is redefined to have two co-equal purposes—to hold offenders accountable for making community and individual restitution and to ensure that court-ordered sentence conditions are not violated (Task Force Recommendation 2).
- Section 3:** Caseload limitations not to exceed a range of 75 to 90 offenders per officer are established for regular probation officers (Task Force Recommendation 9).
- Section 4:** Judges are authorized to sentence Community Sanctions offenders to regular probation terms of not less than 6 months nor more than 18 months for misdemeanants and not less than 12 months nor more than 30 months for felons (Task Force Recommendation 10).
- Section 5:** The Division is authorized to administratively reduce the terms of regular probation offenders by up to six months if restitution obligations have been met and if no court ordered sentence conditions have been violated (Task Force Recommendation 10).
- Section 6:** The Division is authorized to administratively increase the intensity of the supervision for regular probation offenders who violate the court-ordered conditions of their Community Sanctions sentences. The authority of regular probation officers and DOC Violations Hearing Officers in the violations process is defined (Task Force Recommendation 11).
- Section 7:** Judges are authorized to re-sentence regular probation offenders who violate the conditions of their Community Sanctions sentences to Intermediate Sanctions (Task Force Recommendation 11).

## **V. Intermediate Sanctions**

- Section 1:** A single program is established for all offenders sentenced to Intermediate Sanctions with the Division's intensive supervision program as its backbone. Judges are required to sentence all Intermediate Sanctions offenders to intensive supervision (Task Force Recommendation 13).
- Section 2:** Judges are authorized to require Intermediate Sanctions offenders to participate in a variety of sentence enhancements aimed at rehabilitating offenders and correcting some of the deficiencies that contribute to their inclination to commit crime (Task Force Recommendation 13).
- Section 3:** The intensive supervision program operated by the Division is defined to have three purposes—to monitor the activities of offenders to ensure that all court-ordered sentence conditions are not violated, to hold offenders accountable for making restitution to individual crime victims and to the community and to effectively rehabilitate offenders by providing specialized sentence enhancement programs (Task Force Recommendation 14).

- Section 4:** The Division is required to initially place Intermediate Sanctions offenders sentenced to intensive supervision in caseloads that do not exceed 25 offenders per two-officer team (Task Force Recommendation 17).
- Section 5:** The Division is required to place Intermediate Sanctions offenders sentenced to intensive supervision in caseloads that do not exceed 100 offenders per two-officer team for the remainder of their terms, except when these offenders are involved in a sentence-enhancement program or when involved in the 2 to 25 caseload. The Division is given the discretion to place offenders who are involved in a sentence enhancement program in an administrative caseload with no caseload limits (Task Force Recommendation 17).
- Section 6:** Judges are authorized to sentence Intermediate Sanctions offenders to intensive supervision terms of not less than 12 months nor more than 24 months for misdemeanants and not less than 18 months nor more than 36 months for felons (Task Force Recommendation 18).
- Section 7:** The Division is authorized to administratively reduce the terms of intensive supervision offenders by up to 6 months if restitution obligations have been met and if no court-ordered sentence conditions have been violated (Task Force Recommendation 18).
- Section 8:** The Community Penalties Program is expanded to all judicial districts and Intermediate Sanctions Sentencing Plans are required for all offenders who are eligible to be sentenced to Intermediate Sanctions (Task Force Recommendation 20).
- Section 9:** The Division is authorized to administratively increase the intensity of supervision for intensive supervision offenders who violate the court-ordered conditions of their sentences. The authority of intensive supervision officers and DOC Violations Hearing Officers is defined (Task Force Recommendation 21).
- Section 10:** Violations Hearings Officers are authorized to order intensive supervision offenders who violate the court-ordered conditions of their sentences to serve up to 30 days of incarceration in a state prison Shock Incarceration Program (Task Force Recommendation 21).
- Section 11:** Judges are authorized to sentence intensive supervision offenders who violate the court-ordered conditions of their sentences to up to 6 months of incarceration in a state prison for contempt of court. Time served for contempt of court by offenders does not count toward the completion of the original Intermediate Sanctions sentence (Task Force Recommendation 21).

## **VI. Offender Accountability and Restitution**

- Section 1:** All Community Sanctions offenders sentenced to regular probation and all Intermediate Sanctions offenders sentenced to intensive supervision are required to make community restitution (Task Force Recommendations 3 and 15).
- Section 2:** All Community Sanctions offenders sentenced to regular probation and Intermediate Sanctions offenders sentenced to intensive supervision who have identifiable crime

victims are required to make individual restitution in addition to their community restitution (Task Force Recommendations 3 and 15).

**Section 3:** All Community Sanctions offenders not sentenced to regular probation are required to make community restitution in addition to paying any fines and court costs ordered by the court (Task Force Recommendation 12).

**Section 4:** Judges are authorized to require Community Sanctions offenders sentenced to regular probation and Intermediate Sanctions offenders sentenced to intensive supervision to perform community service work (Task Force Recommendations 3 and 15).

## **VII. Administration of Restitution Program**

**Section 1:** Community Sanctions offenders sentenced to regular probation and Intermediate Sanctions offenders sentenced to intensive supervision are required to pay their community and individual restitution to the DOC (Task Force Recommendations 4 and 16).

**Section 2:** The DOC is directed to immediately send individual restitution payments collected to the appropriate crime victims (Task Force Recommendations 4 and 16).

**Section 3:** The DOC is directed to deposit into a Restitution Fund all community restitution payments (Task Force Recommendations 4 and 16).

**Section 4:** The DOC is authorized to hire for public-service work indigent regular probation and intensive supervision offenders who owe community and individual restitution. DOC is also authorized to pay the restitution owed by these offenders out of the Restitution Fund as they accumulate public-service work hours (Task Force Recommendations 5 and 16).

**Section 5:** The DOC is authorized to use any excess money that accumulates in the Restitution Fund for specified public purposes (Task Force Recommendations 6 and 16).

**Section 6:** The DOC is required to develop a restitution accounting, billing and collection system (Task Force Recommendations 7 and 16).

**Section 7:** A process is established for initiating civil actions against offenders who fail to meet their restitution obligation and the responsibility for collecting delinquent restitution is assigned to an appropriate state agency (Task Force Recommendations 8 and 16).

**Section 8:** Community Sanctions offenders not sentenced to regular probation are required to pay their community restitution to the clerks of courts (Task Force Recommendation 12).

**Section 9:** The clerks of court are required to deposit community restitution payments collected from Community Sanctions offenders who are not sentenced to regular probation in the Intermediate Sanctions Commission's Intermediate Sanctions Program Development Fund (Task Force Recommendation 12).

## **VIII. Intermediate Sanctions Commission**

- Section 1:** The Intermediate Sanctions Commission is established as a permanent state agency. The membership of the Commission is outlined; the appointing authorities are identified (Task Force Recommendation 22).
- Section 2:** The Intermediate Sanctions Commission is given the responsibility for developing a biannual Intermediate Sanctions Plan (Task Force Recommendation 22).
- Section 3:** The Intermediate Sanctions Commission is required to involve the various counties, local TASC programs and local Community Penalties programs in the biannual plan development process (Task Force Recommendation 22).
- Section 4:** The DOC Strategic Planning Unit is assigned the responsibility for providing staff support to the Intermediate Sanctions Commission (Task Force Recommendation 23).
- Section 5:** The Intermediate Sanctions Commission is authorized to allocate money that accumulates in the Intermediate Sanctions Program Development Fund for the purpose of developing and implementing Intermediate Sanctions sentence enhancement programs that are compatible with the biannual Plan (Task Force Recommendation 12).
- Section 6:** The Intermediate Sanctions Commission is authorized to allocate block grant funds appropriated by the General Assembly for the purpose of developing and implementing Intermediate Sanctions sentence enhancement programs that are compatible with the biannual Plan (Task Force Recommendations 24 and 25).

## **IX. Institutional Sanctions**

- Section 1:** The DOC is required to develop a Master Plan for prison treatment, educational and vocational programs (Task Force Recommendation 27).
- Section 2:** The DOC is required to develop a process for evaluating and certifying prison rehabilitation programs (Task Force Recommendation 28).
- Section 3:** The DOC is authorized to give incarcerated offenders Merit-Based Good Time Credits if they participate in and successfully complete certified rehabilitation programs that meet the goals set forth in the Master Plan (Task Force Recommendation 28).

## **X. Community Reintegration**

- Section 1:** The DOC is required to develop a Life-Skills Training Program to be provided to all inmates within 12 months of their earliest release dates (Task Force Recommendation 30).
- Section 2:** The DOC is authorized to place Institutional Sanctions offenders in community-based pre-release centers up to 12 months before their earliest release dates (Task Force Recommendation 30).

## Appendix D

### Selected Reading List on Restorative Justice

Colson and Van Ness. Convicted: New Hope for Ending America's Crime Crisis. Westchester, IL: Crossway Books, 1989.

Morton MacCallum-Paterson. Toward a Justice that Heals: The Church's Response to Crime. United Church of Canada: United Church Publishing House, 1988.

Virginia Mackey. Punishment: In the Scripture and Tradition of Judaism, Christianity and Islam. New York: National Interreligious Task Force on Criminal Justice, 1983.

Virginia Mackey. Restorative Justice: Toward Nonviolence (A Discussion Paper on Crime and Justice). Louisville, KY: Presbyterian Church (U.S.A.), 1992.

Gerald Austin McHugh. Christian Faith and Criminal Justice: Toward a Christian Response to Crime and Punishment. New York: Paulist Press, 1978.

Daniel W. Van Ness. Crime and its Victims. Downers Grove, IL: InterVarsity Press, 1986.

Van Ness, Carlson, Crawford, Strong. Restorative Justice Series, Volume I, Restorative Justice: Theory. Washington, DC: Justice Fellowship, 1989.

Henrietta Wilkinson. Victims of Crime: A Christian Perspective. Presbyterian Criminal Justice Program, 1982.

Martin Wright. Justice for Victims and Offenders: A Restorative Response to Crime. Philadelphia: Open University Press, 1991.

Howard Zehr. Changing Lenses: A New Focus for Crime and Justice. Scottdale, PA: Herald Press, 1990.

# Appendix E

## Glossary

**Aggravating Factors:**

Special or extenuating circumstances that judges take into consideration to allow them to impose a more severe sentence than would customarily be given.

**Community Penalties:**

A diversion program for prison-bound, lower-risk offenders who have individualized sentencing plans developed for them.

**Community Reintegration:**

A type of correctional programming that is aimed at helping incarcerated offenders make a successful transition back in their communities. (e.g., life-skills training, how to dress for a job interview)

**Community Restitution:**

A type of restitution made by all Community and Intermediate Sanctions offenders to make amends for the harm they have caused their communities.

**Community Sanctions:**

The lowest level of correctional programming that includes regular probation. Its main purpose is to hold offenders accountable to their victims and communities through the making of restitution. Community Sanctions offenders remain in their communities under the supervision of a regular probation officer.

**Contempt of Court:**

Used for habitual probation violators, who, in the determination of a judge, can be sentenced to a period of incarceration that does *not* count toward satisfying the original sentence.

**Electronic House Arrest:**

Also called electronic monitoring. Used for probationers who require a greater degree of supervision than regular probation traditionally provides. The probationer is monitored through the use of a electronic sensor bracelet.

**Halfway House:**

A non-secure residential facility where treatment, education, life-skills and other program services are provided as an alternative to incarceration.

**IMPACT Program (Intensive Motivational Program of Alternative Correctional Treatment):**

A military-style boot camp alternative program used for young male offenders (16 - 25 years) who have not spent more than 120 days in jail or prison and are facing a sentence of one year or more.

**Individual Restitution:**

A type of restitution made by offenders who have identifiable victims. The amount of restitution paid is equal to the victim's actual losses and is designed to make amends for the harm caused by the crime.

**Intensive Supervision:**

An intermediate level of supervision (between regular probation and prison) done in the community. There are two levels of intensive supervision caseloads: Level I = 2 officers to 25 offenders and Level II = 2 officers to 100 offenders. In addition to the supervision functions, intensive supervision officers will aide offenders in their rehabilitation programs.

**Intermediate Sanctions:**

The middle level of correctional programming that uses intensive supervision as its base program for supervision of offenders in the community. Additionally, offenders may be required to participate in any number of sentence enhancements ordered by the judge.

**Intermediate Sanctions Commission:**

The agency responsible for identifying the types of Intermediate Sanctions sentence enhancement programs needed and developing and allocating grants to localities to implement the programs.

**Institutional Sanctions (Prison):**

The highest level of correctional programming. It is designed to incapacitate habitual and violent offenders and to present them with the opportunity to participate in rehabilitative programs.

**Mitigating Factors:**

Special or extenuating circumstances that judges take into consideration to allow them to impose a less severe sentence than would customarily be given.

**Regular Probation:**

The lowest level of supervision in the community with caseloads of 75 to 90 offenders per probation officer.

**Restitution Fund:**

A fund whose revenue is generated by community restitution payments. Revenue is used for paying indigent offenders to do public-service work in order to meet their restitution obligations.

**Sentence Enhancement:**

Any one of the Intermediate Sanctions programs ordered by a judge in addition to the base intensive supervision program (e.g. electronic house arrest, IMPACT).

**Shock Incarceration:**

A probation violation punishment in which a violator is sent to prison for a brief period.

**Split Sentence:**

A sentence enhancement for Intermediate Sanctions offenders in which part of the probation term is served in jail. (May be available only in certain jurisdictions)

**TASC (Treatment Alternatives to Street Crime):**

Serves as a bridge between the criminal justice system and the substance-abuse treatment community. Refers offenders with substance-abuse problems to appropriate treatment programs.

**Violations Hearing Officer:**

Department of Correction personnel who can recommend increased sanctions for probation violators or can recommend that violators be returned to court for trial for contempt of court.