

A Justice Policy Institute Report  
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## Progress and Challenges:

*An analysis of drug treatment and imprisonment in Maryland from 2000 to 2005*

## Executive Summary

*"Six of seven areas in the state have seen an increase in the number of criminal justice referrals to drug treatment, and most have watched prison admissions for drug offenses decline over the four-year period."*

*"For every dollar spent to imprison people convicted of nonviolent drug offenses, the state spends an estimated 26 cents to provide drug treatment to patients referred by the criminal justice system."*

*"Eight of the 12 jurisdictions that made greater use of treatment have seen crime rates fall by 10 percent or more since 2000 compared to just two of 12 jurisdictions that made greater use of imprisonment."*

In the past five years, elected officials in a majority of states have responded to fiscal pressures and the public's waning enthusiasm for the war on drugs by enacting sentencing and correctional reforms designed to reduce costs and improve outcomes. Two years ago, Maryland lawmakers enacted a set of reforms designed to expand the options available to judges, prosecutors, and the state's parole commission for placing addicted defendants in community-based treatment rather than prison. In doing so, the state's elected leaders recognized that the long-term solution to the drug problem lies in "treatment, not incarceration."

Progress and Challenges provides an overview of Maryland's progress since 2000 in moving from reliance on the use of incarceration to combat drug abuse toward strategies that prioritize substance abuse treatment. The report compares local, regional, and statewide trends in the use of substance abuse treatment for drug users with the use of imprisonment for people convicted of drug offenses, using data supplied by the Alcohol and Drug Abuse Administration (ADAA) and the Department of Public Safety and Correctional Services (DPSCS). Our analysis shows the following:

- Maryland is making slow progress toward the goal of providing "treatment, not incarceration" to nonviolent substance abusers. The number of drug treatment admissions referred by the criminal justice system grew by 28 percent between 2000 and 2004, while the number of people sentenced to prison for drug offenses fell by seven percent. Six of seven areas in the state have seen an increase in the number of criminal justice referrals to drug treatment, and most have watched prison admissions for drug offenses decline over the four-year period.
- State funding for the substance abuse treatment has risen over the past half-decade, but Maryland continues to invest far more in drug imprisonment than drug treatment. For every dollar spent to imprison people convicted of nonviolent drug offenses, the state spends an estimated 26 cents to provide drug treatment to patients referred by the criminal justice system.
- The use of drug treatment and drug imprisonment varies widely by jurisdiction. Some counties rely heavily on imprisonment to fight drug abuse while others appear to have adopted approaches that emphasize treatment. Wealthier counties were more likely to rely on treatment, which suggests that funding issues (including substance abusers' access to private health insurance) may play a role. But reliance on treatment and imprisonment also varied among counties with similar incomes, pointing to differences in local practice.
- Jurisdictions that relied on drug treatment were more likely to achieve significant crime rate reductions than those that relied on drug imprisonment. Eight of the 12 jurisdictions that made greater use of treatment have seen crime rates fall by 10 percent or more since 2000 compared to just two of 12 jurisdictions that made greater use of imprisonment. While many factors affect crime rates, these results are in keeping with national research showing that treatment does more than imprisonment to reduce both crime and drug use.

Researchers have found that treatment is a far more cost-effective strategy for reducing both crime and drug use than imprisonment. A research team at the RAND Corporation has estimated that treatment of people addicted to cocaine reduces serious crime 15 times more effectively than imprisonment. Staff at the Washington State Institute for Public Policy concluded in 2003 that a dollar invested in

imprisoning people convicted of drug offenses produced just \$0.37 in crime reduction benefits, while the state's drug treatment courts produced \$1.74 in benefits for each dollar spent.

But the state has a long way to go before the full benefits of a treatment-oriented response to drug addiction can be realized, and some fear that ground is being lost. State appropriations for substance abuse treatment have not kept pace with rising costs since 2003. The \$7 million increase in treatment funding contained in the fiscal year 2007 state budget is an improvement but falls short of the \$11 million that advocates say is needed just to maintain current capacity.

*"A dollar invested in imprisoning people convicted of drug offenses produced just \$0.37 in crime reduction benefits, while the state's drug treatment courts produced \$1.74 in benefits for each dollar spent." –Washington State Institute for Public Policy*

There are several steps that state and local officials could take to accelerate progress toward the goal of making "treatment, not incarceration" the primary response to drug abuse and drug crime:

- First, state officials could make modest reforms to drug sentencing laws and guidelines that encourage the use of incarceration for low-level drug offenses, thereby freeing up resources and making it easier to sentence defendants to treatment. Justice Strategies estimates that these reforms could reduce annual corrections spending by more than \$20 million.
- Second, the state could follow the recommendations of treatment experts and advocates and commit an additional \$30 million to the fiscal year 2008 treatment budget. Such an investment would permit treatment programs to catch up with cost increases and fill critical gaps in capacity.
- Third, state and local officials could work together to develop a program that provides fiscal incentives for local jurisdictions to expand treatment alternatives to incarceration. Currently, poorer jurisdictions which have the greatest need for treatment alternatives to incarceration often have the fewest options, potentially forcing judges to impose costly prison terms. Successful programs that allow local governments to share in the savings generated by reducing use of incarceration have been employed in both adult criminal justice and juvenile justice systems in other states.

## Background

In the past five years, elected officials in a majority of states have responded to fiscal pressures and the public's waning enthusiasm for the war on drugs by enacting sentencing and correctional reforms designed to reduce costs and improve outcomes. Recent opinion polls have found overwhelming support for the use of substance abuse treatment as an alternative to incarceration for people convicted of nonviolent drug offenses. A national survey conducted in 2003 by Peter D. Hart Research Associates found that the public prefers treatment-oriented approaches over incarceration by a 2-to-1 margin.

Public support for treatment is, if anything, even stronger in Maryland than elsewhere. A 2006 poll commissioned by Open Society Institute-Baltimore found that likely voters favor mandatory treatment for drug users over prison by a more than 4-to-1 margin.<sup>1</sup>

The state's elected leadership has also demonstrated a willingness to prioritize substance abuse treatment. At the urging of a broad-based coalition of community groups, treatment providers, and civil rights advocates, Maryland's Republican governor and Democratic legislature bridged a deep partisan divide in 2004 to



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enact legislation designed to redirect substance abusers from prisons and jails into treatment.

In addition to encouraging local planning for substance abuse treatment needs, the reform package introduced a defendant's substance abuse problem as a decision-making factor — and created or streamlined options for placing a defendant in treatment — at every stage of the criminal justice process. The legislation (S.B. 194/H.B. 295):

- Encouraged prosecutors to divert defendants to treatment by creating a new class of case dismissals and suspensions with treatment conditions.
- Permitted courts to strike the entry of judgment for individuals who successfully complete treatment ordered as a condition of probation.
- Attempted to streamline the process through which substance-addicted defendants are committed to the Department of Health and Mental Hygiene for treatment (so-called "8-507" commitments).
- Allowed the parole commission to parole most nonviolent prisoners to substance abuse treatment at any time during their term of incarceration.
- Required that an individual's need for substance abuse treatment be considered before probation is revoked or parole is denied.
- Required counties to establish local alcohol and drug abuse councils to coordinate identification of treatment needs and delivery of services.

Even before the passage of the reform legislation, the state had been moving to expand the availability of treatment for drug abusers caught up in the criminal justice system. State support for substance abuse treatment grew significantly at the beginning of the decade, rising by nearly \$50 million between fiscal years 2000 and 2003.

The state's fiscal crisis brought an end to the growth in treatment spending, which remained at the same level between fiscal years 2003 and 2006. Treatment providers and experts warned that the combination of rising costs and "level funding" could push the availability of treatment back down if state officials failed to take action. The state's elected leaders responded by using a projected fiscal year 2007 surplus to add \$7 million to the treatment budget, including \$500,000 earmarked for drug treatment court expansion.

The Maryland State Commission on Criminal Sentencing Policy, which promulgates a set of voluntary sentencing guidelines for the state's judges, also took a modest step in 2001 to encourage greater use of treatment. The commission redefined compliance to include "corrections options" sentences, allowing judges to use alternatives to incarceration without departing from the guidelines. Finally, officials in many Maryland jurisdictions have made efforts to increase access to treatment — and to divert drug abusers from prison and jail terms — by investing local funds in substance abuse programming, and by establishing drug courts and other alternatives to incarceration.

*Progress and Challenges* provides an overview of Maryland's progress since 2000 in moving from reliance on the use of incarceration to combat drug abuse toward strategies that prioritize substance abuse treatment. A future brief will assess the implementation and impact of the aforementioned 2004 reforms.

This analysis is based principally on treatment data provided by the Alcohol and Drug Abuse Administration (ADAA) and corrections data supplied by the Department of Public Safety and Correctional Services (DPSCS). The data allow us to compare local, regional, and statewide trends in the use of substance abuse treatment for drug users versus the use of imprisonment for people convicted of drug offenses.<sup>2</sup>

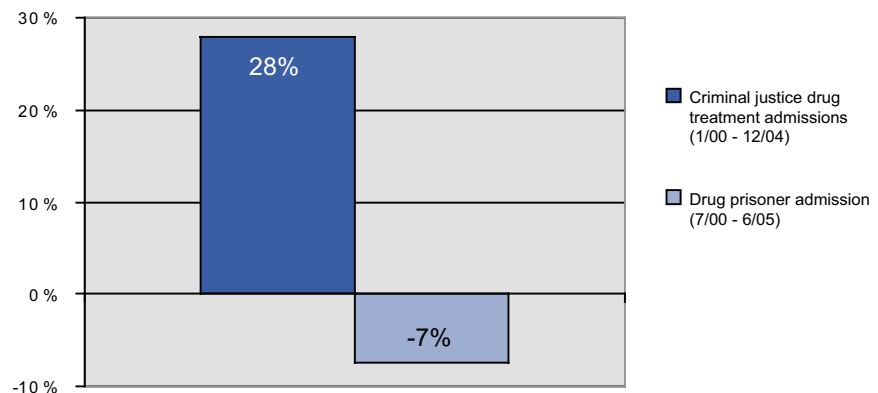
### Use of imprisonment falls as criminal-justice referrals to treatment rise

Since 2000, growth in drug treatment admissions has been associated with a drop in the number sentenced to prison for nonviolent drug offenses.<sup>3</sup> The annual number of adult drug treatment admissions referred by the criminal justice system rose from 10,922 in 2000 to 13,971 in 2004 — a 28-percent increase.<sup>4</sup> At the same time, drug prisoner admissions fell by just over seven percent — from 2,461 in fiscal year 2001 to 2,280 in fiscal year 2005.<sup>5</sup>

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**Criminal justice-referred admissions to drug treatment have risen 28 percent since 2000 while prison admissions for drug offenses have fallen by 7 percent**

#### Change in annual drug treatment and prison admissions in Maryland: 2000 to 2005



SOURCES: Department of Public Safety and Correctional Services; Alcohol and Drug Abuse Administration

The relationship between rising treatment admissions and falling prison commitments is not a simple one-to-one correspondence. Not all patients referred to treatment by the criminal justice system would otherwise have been prison-bound. Some would have been placed on probation or paroled whether or not a treatment slot was available. Others would have served their time in local jails.

Nonetheless, an inverse relationship between drug treatment and prison admissions can be observed in most regions of the state. Baltimore experienced a 10 percent drop in drug prisoner admissions while drug-treatment admissions referred by the criminal justice system grew by 50 percent. A 2005 review of sentencing patterns in Baltimore City’s circuit courts commissioned by the Campaign for Treatment Not Incarceration found that as treatment resources increased, sentencing practices shifted.<sup>6</sup> The proportion of drug distribution cases that resulted in 12 months or more of incarceration fell from 51 percent in 2000 to 44 percent in the year ending September 30, 2003, while criminal justice drug treatment admissions rose by a third.

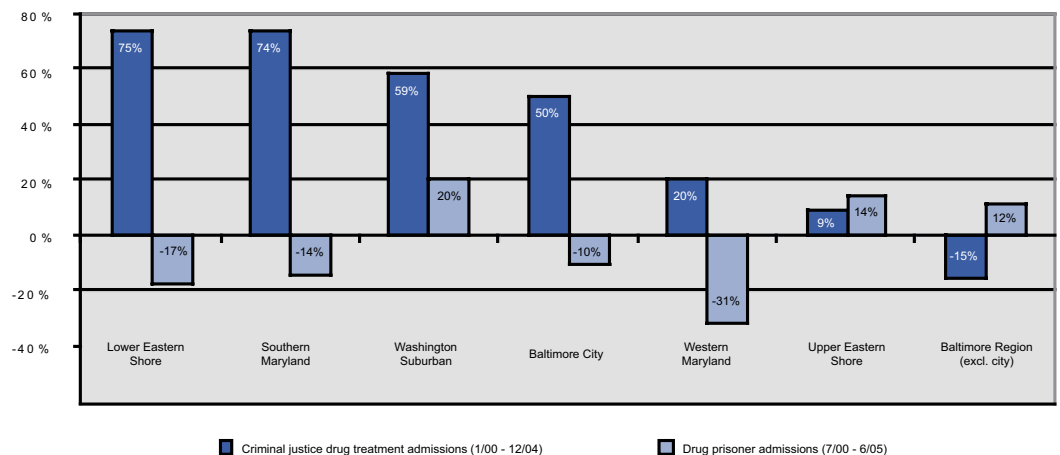
Drug prisoner admission trends are more difficult to track at the county level because proportional changes are magnified by small admissions numbers.<sup>7</sup> But by grouping counties in regions, it is possible to see that growth in criminal justice drug treatment admissions has generally corresponded to a reduced use of imprisonment for drug offenses.<sup>8</sup>

The Lower Eastern Shore (Dorchester, Somerset, Wicomico, and Worcester counties) led the trend with a 75 percent growth in drug treatment admissions and a 17 percent drop in drug prisoner admissions since 2000. Southern Maryland (Calvert, Charles, and St. Mary's counties) followed close behind with a 74 percent increase in treatment admissions and a corresponding 14 percent decline in use of imprisonment. Western Maryland (Allegany, Garrett, and Washington counties) saw a smaller growth in treatment (21 percent) and a larger drop in drug prisoner admissions (31 percent).

The Baltimore region (Anne Arundel, Baltimore, Carroll, Harford, and Howard counties) saw a similar pattern of change in drug treatment and prisoner admissions but in the opposite direction: criminal justice treatment admissions fell by 15 percent while prison admissions grew by 12 percent. The only parts of the state where the change in treatment admissions did not vary inversely with the change in drug prisoner admissions were the Upper Eastern Shore and the Washington Suburban region. The Upper Eastern Shore (Caroline, Cecil, Kent, Queen Anne's, and Talbot counties) saw comparatively little growth in criminal justice drug treatment admissions (9 percent) but larger growth in drug prisoner admissions (15 percent).

The Washington suburbs experienced a 59 percent rise in drug treatment admissions and a 20 percent jump in drug imprisonment, driven by increasing commitments from Frederick and Prince George's counties. Drug prisoner admissions from Montgomery County actually fell by 26 percent over the period. The trends in Frederick and Prince George's may be the result of an increase in drug activity or drug enforcement that pushed more people into both the treatment and prison systems.

**Most regions saw prison commitments for drug offenses fall as criminal justice-referred drug treatment admissions increased**  
**Change in annual drug treatment and prison admissions:**  
**2000 to 2005**



SOURCES: Department of Public Safety and Correctional Services, Alcohol and Drug Abuse Administration

## Despite recent increases, substance abuse treatment remains severely underfunded

In fiscal year 2005, the state of Maryland spent \$118 million through ADAA to assess and treat adult substance abusers.<sup>9</sup> This figure represents a significant investment in substance abuse treatment, but it falls short of what the state is spending to incarcerate drug prisoners: Maryland spends an estimated \$123 million annually to imprison more than 4,600 individuals (at a cost of \$26,398 per year) convicted of nonviolent drug offenses.<sup>10</sup>

This \$123 million figure is a conservative estimate as it does not include the costs of incarcerating people sentenced to local jails for nonviolent drug offenses, which are shared between counties and the state, nor does it include the cost of incarcerating people serving terms of a year or less in facilities run by the DPSCS Division of Corrections (DOC).<sup>11</sup> Also, the figure does not include the cost of imprisoning people convicted of other crimes (i.e. property offenses) whose behavior is driven by drug addiction.

The cost to the state of housing drug prisoners exceeded the funds made available to assess and treat substance abuse among adults for 10 of Maryland's 24 jurisdictions.<sup>12</sup> In Baltimore, the state's \$47 million investment in substance abuse treatment was dwarfed by an estimated \$76 million spent to imprison people sentenced to more than a year of incarceration for nonviolent drug offenses committed in the city.<sup>13</sup>

Further, not all state treatment dollars are available for the use of drug treatment as an alternative to incarceration or enhancement of criminal justice supervision. Alcohol was the primary substance abused for a third of the 43,038 adults admitted to ADAA-funded programs in 2005. Among those treated for drug abuse, two in five were referred by the criminal justice system while most were referred by other sources. Overall, drug-addicted individuals referred by the criminal justice system accounted for just over a quarter (27 percent) of admissions to state-funded treatment programs in 2005.

This does not mean that the users of illegal drugs or criminal justice agencies are being shortchanged in the allocation of treatment funds. Alcohol is still the most commonly abused substance in the state, which explains why it accounts for the greatest proportion of treatment admissions. Devoting the lion's share of scarce treatment resources to criminal justice referrals could force more people into the justice system by limiting opportunities to obtain treatment elsewhere. And the number of treatment patients with active court cases is undoubtedly higher than the number referred by the criminal justice system since many refer themselves or are sent to treatment by other agencies.

But the fact that criminal justice drug treatment accounts for a small share of admissions does mean that the resources available to court and corrections officials who want to use treatment as an alternative to incarceration — or to enhance the effectiveness of supervision — are limited. The information on treatment spending provided by ADAA does not separate expenditures by referral source or by the substances involved. But it is possible to produce a rough estimate of the level of state funding available for criminal justice purposes by using admissions data.<sup>14</sup>

The table below provides a jurisdictional breakdown of total ADAA expenditures; the proportion of admissions referred by the criminal justice system for drug treatment; estimated criminal justice drug treatment expenditures (based on the proportion of admissions referred by the justice system); and estimated drug imprisonment expenditures (based on drug prisoner populations and the average cost of imprisonment).

The results of this analysis are startling. For each dollar spent to incarcerate nonviolent drug prisoners, we estimate that the state provided just 26 cents through ADAA to treat drug-dependent adults referred by the criminal justice system.

*“The proportion of drug distribution cases that resulted in 12 months or more of incarceration fell from 51 percent in 2000 to 44 percent in the year ending September 30, 2003, while criminal justice drug treatment admissions rose by a third.”*

Garrett and Howard counties are the only jurisdictions where the state currently invests more in drug treatment for people referred by the criminal justice system than it spends on drug imprisonment. Even Baltimore, which accounts for roughly 45 percent of state treatment expenditures, received between 21 cents and 26 cents for criminal justice drug treatment for every dollar spent to house the city's drug prisoner population.<sup>15</sup> As previously noted, the estimated costs of imprisonment do not include costs incurred by the state to house Baltimore drug defendants sentenced to terms of a year or less, nor do they include the cost incurred by counties and the state to incarcerate people in local jails as a result of drug convictions.

The current distribution of resources is difficult to justify in light of what is known about the relative cost-effectiveness of treatment and incarceration. A research team at the RAND Corporation has estimated that treatment of people addicted to cocaine reduces serious crime 15 times more effectively than imprisonment.<sup>16</sup> Staff at the Washington State Institute for Public Policy concluded in 2003 that a dollar invested in imprisoning people convicted of drug offenses produced just \$0.37 in crime reduction benefits, while the state's drug courts produced \$1.74 in benefits for each dollar spent.<sup>17</sup>

**For every dollar spent to imprison people for drug offenses,  
the state spends 26 cents on drug treatment for people referred by the criminal justice system**

Maryland state expenditures on substance abuse treatment and drug imprisonment: FY 2005						
Jurisdiction	ADAA adult substance abuse treatment expenditures	Criminal justice drug treatment proportion of admits	Criminal justice drug treatment expenditures (estimated) <sup>18</sup>	Drug imprisonment expenditures (estimated) <sup>19</sup>	All treatment \$ per drug prison \$	CJ drug treatment \$ per drug prison \$
Allegany	\$1,903,014	8%	\$155,813	\$976,726	\$1.95	\$0.16
Anne Arundel	\$4,587,761	21%	\$981,539	\$3,273,352	\$1.40	\$0.30
Baltimore County	\$6,251,910	19%	\$1,194,146	\$5,807,560	\$1.08	\$0.21
Calvert	\$997,830	30%	\$294,631	\$501,562	\$1.99	\$0.59
Caroline	\$560,862	17%	\$96,963	\$1,003,124	\$0.56	\$0.10
Carroll	\$1,619,457	24%	\$389,931	\$686,348	\$2.36	\$0.57
Cecil	\$1,327,669	36%	\$475,748	\$1,425,492	\$0.93	\$0.33
Charles	\$2,077,983	28%	\$581,978	\$3,035,770	\$0.68	\$0.19
Dorchester	\$1,800,110	38%	\$678,651	\$1,399,094	\$1.29	\$0.49
Frederick	\$2,330,979	35%	\$820,865	\$3,141,362	\$0.74	\$0.26
Garrett	\$772,875	27%	\$205,605	\$184,786	\$4.18	\$1.11
Harford	\$1,984,841	23%	\$453,377	\$3,326,148	\$0.60	\$0.14
Howard	\$1,659,021	29%	\$486,111	\$475,164	\$3.49	\$1.02
Kent	\$1,879,169	11%	\$210,409	\$739,144	\$2.54	\$0.28
Montgomery	\$4,513,416	15%	\$664,630	\$1,319,900	\$3.42	\$0.50
Prince George's	\$10,354,315	32%	\$3,270,109	\$4,329,272	\$2.39	\$0.76
Queen Anne's	\$742,789	30%	\$225,166	\$1,240,706	\$0.60	\$0.18
Somerset	\$988,232	25%	\$247,058	\$923,930	\$1.07	\$0.27
St. Mary's	\$2,709,065	18%	\$491,281	\$1,319,900	\$2.05	\$0.37
Talbot	\$845,188	32%	\$272,641	\$1,451,890	\$0.58	\$0.19
Washington	\$3,637,494	35%	\$1,265,699	\$6,678,694	\$0.54	\$0.19
Wicomico	\$1,975,331	28%	\$553,639	\$3,405,342	\$0.58	\$0.16



Maryland state expenditures on substance abuse treatment and drug imprisonment: FY 2005 (Continued)						
Jurisdiction	ADAA adult substance abuse treatment expenditures	Criminal justice drug treatment proportion of admits	Criminal justice drug treatment expenditures (estimated)	Drug imprisonment expenditures (estimated)	All treatment \$ per drug prison \$	CJ drug treatment \$ per drug prison \$
Worcester	\$2,962,714	17%	\$507,710	\$765,542	\$3.87	\$0.66
Baltimore City <sup>20</sup>	\$46,933,618	34% (42%)	\$15,811,778 (\$19,814,433)	\$76,131,832	\$0.62	\$0.21 (\$0.26)
Statewide	\$12,807,736	32%	\$4,157,372	\$79,194		
Total	\$118,223,379	27%	\$31,730,058	\$123,621,834	\$0.96	\$0.26
SOURCES: Department of Public Safety and Correctional Services; Alcohol and Drug Abuse Administration						

## Diverse problems, resources, and approaches

Local jurisdictions differ widely in the character and severity of their substance abuse problem, the resources available for addressing the problem, and how those resources are used. This section of the report examines local use of drug treatment and imprisonment by calculating drug treatment rates (drug treatment admissions per 100,000 residents) and drug imprisonment rates (drug prisoners per 100,000 residents) for each county and the City of Baltimore. The calculation of treatment and imprisonment rates allows us to make basic comparisons between more and less populous jurisdictions.

Such an approach has certain limitations: there are currently no good local measures of the prevalence or severity of substance abuse; it is difficult to quantify the use of criminal justice sanctions other than imprisonment (i.e. jail, probation, or other “corrections options”) for defendants charged with drug offenses; and reporting issues (including the problem of reporting on program resources that are shared among counties) may affect the precision of treatment admissions data. Nonetheless, comparing local drug treatment and imprisonment rates provides a useful beginning point for a discussion of how state and local governments could work together to expand access to treatment, reduce use of imprisonment, and improve criminal justice outcomes.

The problem of substance abuse crosses geographic, racial and economic lines. But the impact of substance abuse can vary greatly depending on factors that include the substance in question and the health of affected communities. Heroin and alcohol addiction both have significant social and health consequences, but because possession of the former is illegal, heroin is more likely to prevent users from maintaining stable lives than alcohol. Cocaine use takes place in both poor and affluent communities, but its effects on families where the adults are unemployed and cannot afford child or health care may be different than on families that are better resourced.

In 2005, the typical local jurisdiction — based on median rates of treatment and imprisonment — imprisoned 56 people convicted of nonviolent drug offenses per 100,000 residents; accepted adults referred by the criminal justice system at an annual rate of 228 admissions per 100,000; and admitted adults to treatment from all referral sources (both criminal justice and non-criminal justice) at an annual rate of 604 per 100,000 residents.<sup>21</sup> The City of Baltimore both treats drug abuse and imprisons people convicted of drug offenses at the highest rates in the state — a result that should be expected given the widely recognized severity of the city’s drug problem. When compared to the typical jurisdiction, however, Baltimore reliance on imprisonment appears greater than the city’s reliance on treatment.

Baltimore’s criminal justice-referred drug treatment rate — 841 admissions per 100,000 residents — was a little less than four times the state median in 2005. But Baltimore’s drug imprisonment rate on June 30, 2005 — 453 drug prisoners per 100,000 residents — was more than *eight times* the state median. The typical Maryland jurisdiction admitted 10 people to drug treatment for every person serving a prison sentence for a drug offense, while the ratio in Baltimore was eight-to-one.

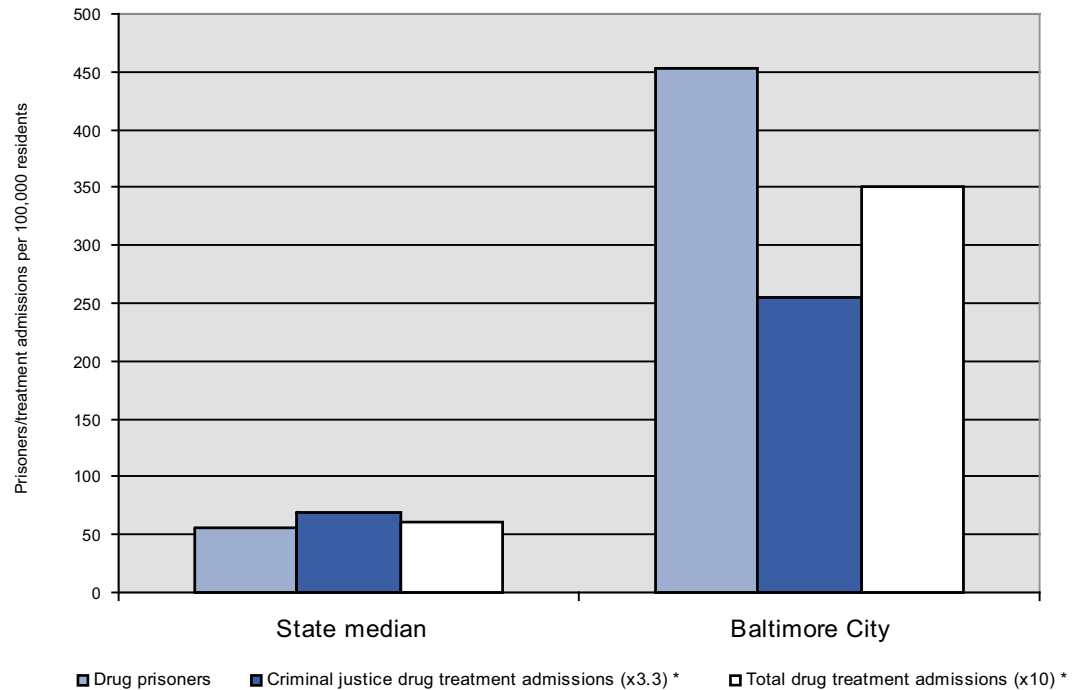
The chart below, and others in the section, uses a scaling system that is designed to portray a jurisdiction’s relative reliance on imprisonment, criminal-justice referred drug treatment, and all drug treatment when measured against the state as a whole. The scaling system produces bars of equal height when the ratios between imprisonment, criminal justice-referred treatment, and all treatment rates approximate state median ratios. Thus, the fact that Baltimore’s

“Drug prisoners” bar is higher than its total drug treatment bar does not mean that the city imprisons more people than it treats, but that Baltimore’s relative reliance on imprisonment is greater than most other jurisdictions.

## Despite high treatment rates, Baltimore City relies more heavily on imprisonment to combat drug abuse than most Maryland jurisdictions

### Drug treatment and imprisonment rates: 2005

*“Even Baltimore, which accounts for roughly 45 percent of state treatment expenditures, received between 21 cents and 26 cents for criminal justice drug treatment for every dollar spent to house the city’s drug prisoner population.”*



SOURCES: Department of Public Safety and Correctional Services, Alcohol and Drug Abuse Administration

\* The scaling system uses a ratio of one drug prisoner, 3.3 criminal justice-referred treatment admissions, and 10 total drug treatment admissions for each vertical unit represented on the graph. The underlying treatment rates can be calculated by multiplying the bar height times 3.3 (criminal justice referrals) or 10 (all drug treatment admissions).

Drug treatment and imprisonment rates vary greatly across Maryland’s 23 counties. The typical jurisdiction, as mentioned previously, imprisons 56 people for drug offenses per 100,000 residents, not including individuals sentenced to county jails. But the state’s largest county, Montgomery, imprisons just five people for every 100,000 residents. State prisons hold 181 people convicted of drug offenses in Washington County per 100,000 county residents.

Drug treatment rates also vary around a state median rate of 604 admissions per 100,000 residents. On the bottom end, Howard County treated 208 adults for every 100,000 residents. At the top, Dorchester County admitted 3,009 adults to drug treatment for every 100,000 residents. When the scope is narrowed to patients referred by the criminal justice system, treatment rates range from 67 per 100,000 in Montgomery County to 626 per 100,000 in Wicomico County around a median rate of 228 per 100,000.

Counties in the Baltimore region imprison people for drug offenses at relatively low rates and treat drug addiction at somewhat higher rates. The main exception is Harford County where the drug imprisonment rate nearly equals the state median at 53 drug prisoners per 100,000 county residents. Carroll and Howard counties are particularly notable for their

*“A research team at the RAND Corporation has estimated that treatment of people addicted to cocaine reduces serious crime 15 times more effectively than imprisonment.”*

reliance on treatment over imprisonment. Carroll’s drug imprisonment rate is the second-lowest in the region while the county’s drug treatment rates are the highest. Howard’s treatment rates are lower but the county still treats 17 drug abusers referred through the criminal justice system for each drug prisoner serving a Howard County sentence.

The counties of the Lower Eastern Shore tend to treat drug addiction *and* imprison people for drug offenses at high rates. Worcester imprisons people convicted of drug offenses at a fairly typical rate (59 per 100,000), but drug imprisonment rates in Dorchester, Somerset, and Wicomico counties are more than twice the state median. Criminal justice referrals comprise a large share of the region’s drug treatment admissions — 40 percent or more in Worcester and Wicomico and over half in Somerset — with the exception of Dorchester County where the criminal justice system accounts for just 17 percent of treatment admissions.

Drug treatment and imprisonment rates in Southern Maryland fall between those of the Baltimore region and the Lower Eastern Shore, but there are sharp differences within the region. Calvert County’s drug imprisonment rate (22 per 100,000 residents) is *less than half* the state median while the county’s rate of criminal justice-referred drug treatment admissions (398 per 100,000) is close to *twice* the median. Neighboring Charles County imprisons people convicted of drug offenses at a high rate (85 per 100,000 residents) and treats drug abusers at a below-average rate (459 per 100,000). Most drug treatment referrals in both Calvert and Charles take place through the criminal justice system.

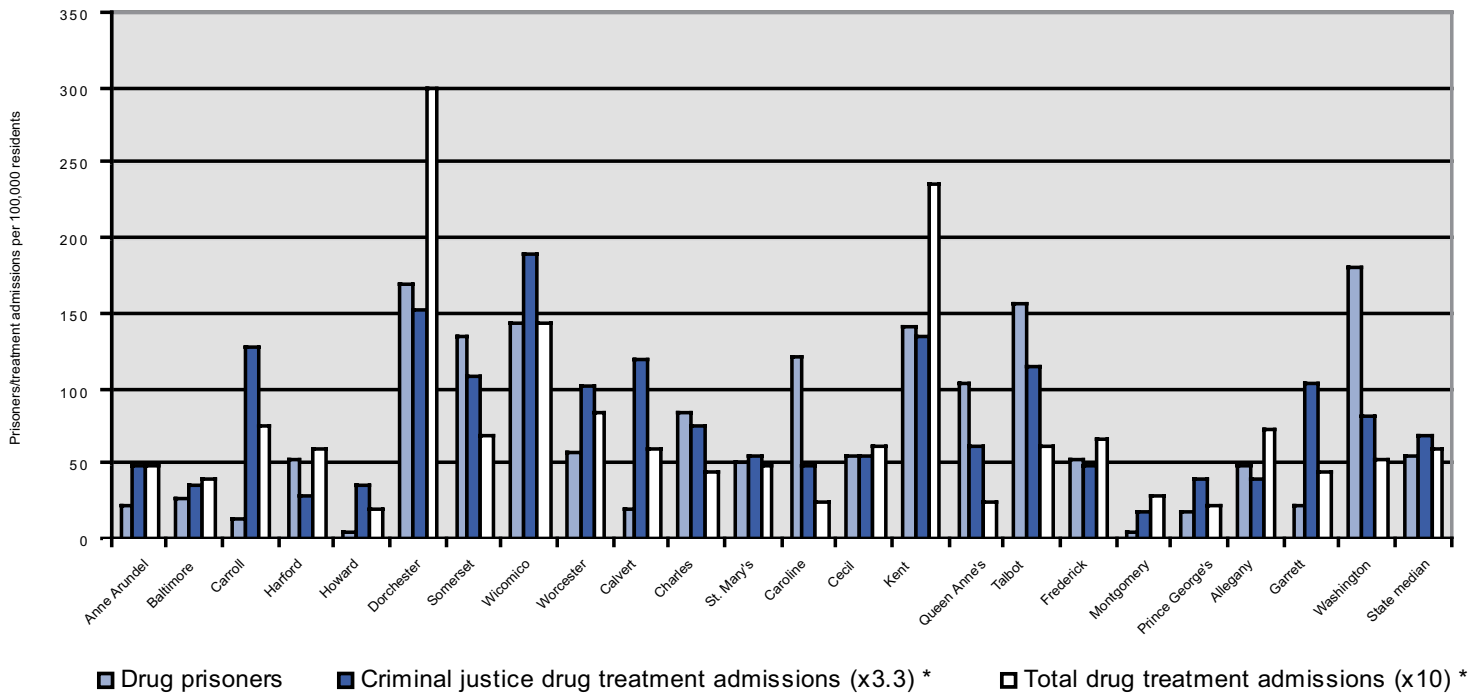
The Upper Eastern Shore resembles the Lower Eastern Shore in its high drug imprisonment rates, but drug treatment is far less available. Four of five Upper Eastern Shore counties imprison more than 100 people convicted of drug offenses for every 100,000 residents. Two of these counties (Caroline and Queen Anne’s) treat residents for drug problems at rates — around 260 per 100,000 — that are far below the state median, while treatment rates in Talbot County barely exceed the median at 637 per 100,000. Kent County imprisons and treats residents at high rates while Cecil County treats and imprisons residents at more typical rates.

Two of three Washington Suburban region counties — Montgomery and Prince George’s — treat relatively few residents for drug abuse but imprison them for drug offenses at even lower rates. Prince George’s County provides the bulk of drug treatment through the justice system — criminal justice referrals comprise over half (57 percent) of the county’s drug treatment admissions. In Montgomery County, by contrast, criminal justice referrals account for less than a quarter (23 percent) of drug treatment admissions. Frederick County looks more like the rest of Maryland in its use of treatment for drug abuse and its use of imprisonment for drug offenses.

The use of drug treatment and imprisonment varies greatly among the three counties that make up Western Maryland. Garrett County relies heavily on drug treatment — three-fourths of which is provided through criminal justice referrals — and imprisons people convicted of drug offenses at a rate that is less than half the state median. The opposite is true of Washington County, which imprisons people convicted of drug offenses at a higher rate than any other county while treating drug abuse at a slightly below-average rate (549 admissions per 100,000 residents).

## Drug treatment and imprisonment rates vary widely by jurisdiction

### County drug treatment and imprisonment rates: 2005



SOURCES: Department of Public Safety and Correctional Services, Alcohol and Drug Abuse Administration

\* The scaling system uses a ratio of one drug prisoner, 3.3 criminal justice-referred treatment admissions, and 10 total drug treatment admissions for each vertical unit represented on the graph. The underlying treatment rates can be calculated by multiplying the bar height times 3.3 (criminal justice referrals) or 10 (all drug treatment admissions).

### A few counties approach goal of “treatment, not incarceration” but others face challenges

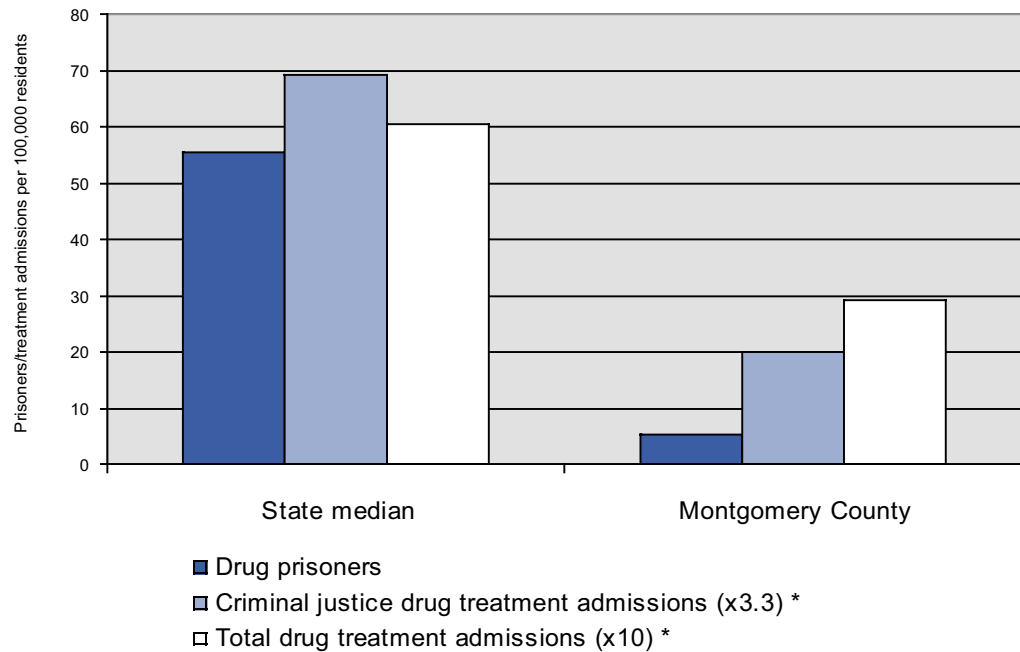
In the ideal system, substance abuse treatment would largely occur outside the criminal justice system. When individuals slipped through the broader treatment net, the criminal justice system would quickly identify the substance abuse problem and refer users to community-based treatment programs that offer the appropriate level of supervision and services. Incarceration would be used as a last resort for individuals whose behavior is nonviolent and related to substance use.

The use of treatment and imprisonment in Montgomery County appears to fit this model. The county’s drug treatment and imprisonment rates fall well below the state median — an indication that the local drug problem may be less severe than that faced by other jurisdictions. But Montgomery’s response to the problem clearly emphasizes the provision of substance abuse treatment – before and after addicted individuals become involved with the criminal justice system – over imprisonment.



## Montgomery County treats drug abuse at lower rates than most counties but relies much more heavily on treatment than imprisonment

### Drug treatment and imprisonment rates: 2005



SOURCES: Department of Public Safety and Correctional Services, Alcohol and Drug Abuse Administration

\* The scaling system uses a ratio of one drug prisoner, 3.3 criminal justice-referred treatment admissions, and 10 total drug treatment admissions for each vertical unit represented on the graph. The underlying treatment rates can be calculated by multiplying the bar height times 3.3 (criminal justice referrals) or 10 (all drug treatment admissions).

The pattern of investment in community-based treatment services that are largely delivered outside the justice system is also evident in Baltimore County and Anne Arundel County. Drug imprisonment rates are low in both jurisdictions and each devotes no more than a third of treatment admissions to criminal justice referrals.

A greater number of jurisdictions appear to have adopted an approach that emphasizes provision of drug treatment through the criminal justice system. Calvert, Carroll, Howard, and Prince George's counties all have low drug imprisonment rates and devote over half of drug treatment admissions to referrals from the justice system. Worcester uses prisons at a more typical rate, but the county's criminal justice drug treatment admissions rate significantly exceeds the state median. Several jurisdictions — including Dorchester, Kent, and Wicomico counties — respond to their drug problems by treating *and* imprisoning at high rates.

Finally, many jurisdictions rely much more heavily on imprisonment than treatment to fight drug abuse. Caroline, Queen Anne's, and Washington counties all imprison people convicted of drug offenses at very high rates while treating drug abusers at below-average rates. Somerset and Talbot provide drug treatment at higher rates than most counties, but do not treat substance abusers in proportion to drug imprisonment rates that are more than *double* the state median. Baltimore falls into the latter category despite having the state's highest drug treatment rates because of the city's extraordinary use of imprisonment for drug offenses.

Baltimore's reliance on drug imprisonment does not mean that city judges hand down tougher sentences than their counterparts elsewhere. In fact, previous analysis of data provided by the Maryland State Commission on Criminal Sentencing Policy shows that Baltimore's circuit court judges are less likely to sentence drug defendants to incarceration than judges in other jurisdictions.

*“The typical Maryland jurisdiction admitted 10 people to drug treatment for every person serving a prison sentence for a drug offense, while the ratio in Baltimore was eight-to-one.”*

The disparity between Baltimore and other jurisdictions appears instead to be rooted in other factors that have combined to overwhelm the city’s treatment system, including a high concentration of people with drug addictions; elevated levels of poverty and unemployment; and aggressive drug enforcement. Substance abusers in Baltimore are much more likely to be addicted to heroin and less likely to be alcoholics than counterparts in other jurisdictions. High rates of poverty and unemployment reduce the likelihood that Baltimore’s drug abusers will be able finance their habits through legal means or secure the kind of treatment services that are available to wealthier state residents.

Baltimore residents also appear to be overrepresented among arrestees for drug offenses. Baltimore residents are more than four times more likely to be arrested for drug offenses than other Marylanders, but the available data on substance use does not support the notion that they are four times more likely to use illegal drugs.<sup>22</sup> Research conducted by the University of Maryland’s Center for Substance Abuse Research (CESAR), with a sample of arrestees from several jurisdictions, found that Baltimore arrestees were 31 percent more likely than arrestees in Prince George’s County, and 67 percent more likely than arrestees in Anne Arundel County, to test positive for drugs — a gap that falls far short of the 400 percent gap in arrests.<sup>23</sup> It is likely that drug users in Baltimore’s heavily policed urban neighborhoods face a greater risk of arrest than those than in suburbs or rural areas.

The reliance of Baltimore and many other jurisdictions on drug imprisonment does not necessarily reflect local preference for incarceration over treatment. Interviews with both local and court officials in Baltimore and elsewhere suggest that many would prefer to redirect nonviolent drug abusers to community-based treatment programs but lack the necessary resources. Their pressing needs include drug treatment court slots (or entire drug court programs where they do not currently exist); halfway house and residential treatment beds; and “wrap-around” services designed to address other problems faced by drug-addicted individuals in the area of housing, employment services, and mental health treatment. Absent such resources, court and law enforcement officials may believe that they have little choice but to incarcerate nonviolent drug abusers.

## **Ranking counties by reliance on drug treatment and drug imprisonment**

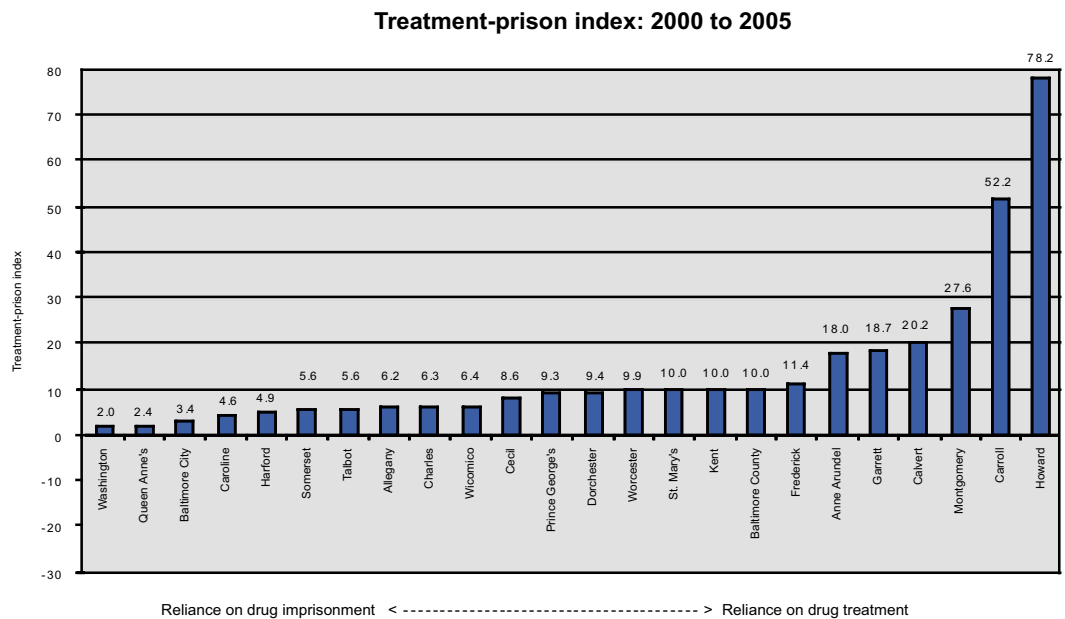
There are no uniformly accepted measures of the extent of substance abuse treatment or its use as an alternative to imprisonment that can be used to track change over time or compare one jurisdiction to another. But comparison of jurisdictions’ relative reliance on treatment and imprisonment using the rates presented above may provide a useful point of departure.

In order to further this analysis, the author has developed a “treatment-prison index” that combines treatment and imprisonment rates into a score which roughly represents the extent of reliance on treatment. The index is not a scientifically validated instrument and should not be taken as the last word in evaluating progress toward the goal of providing “treatment, not incarceration” to nonviolent drug abusers. It is designed instead to provide a snapshot of current practice and initiate conversations about the challenges facing local and state officials as they confront crime, substance abuse, and associated ills.

The index score is calculated by dividing a jurisdiction’s treatment score — which gives equal weight to criminal justice drug treatment admissions and total adult drug treatment admissions since 2000 — by its rate of drug prisoner admissions over the past four fiscal years.<sup>24</sup> The index does not distinguish between “good” and “bad” jurisdictions but roughly depicts the current use of resources, which we hope will begin a useful discussion of how local jurisdictions and the state could work together to expand

treatment options and reduce unnecessary incarceration. The resulting scores are shown on the chart below:

### Relative reliance on drug treatment and imprisonment varies widely by jurisdiction



*“The state’s largest county, Montgomery, imprisons just five people for every 100,000 residents.”*

It is no coincidence that the jurisdictions with the highest treatment-prison index scores are generally among the wealthiest in the state. All of the counties with scores above 10 had median estimated household incomes of more than \$70,000 with the exception of Garrett County where the estimated median income was \$37,050.<sup>25</sup> (Income data was obtained from *The Maryland 2005 Statistical Handbook* (Maryland Department of Planning-Planning Data Services). The *Statistical Handbook* is available online at [http://www.mdp.state.md.us/msdc/md\\_statistical\\_handbook.pdf](http://www.mdp.state.md.us/msdc/md_statistical_handbook.pdf).) Higher-income individuals are more likely to have access to treatment programs through insurance and/or personal and family resources. Wealthy counties also benefit from a stronger tax base and lower demand for social services, making it easier for them to fund local treatment programs.

The current system of funding treatment and imprisonment may serve to exacerbate the impact of income disparity on the problem of substance abuse. A prison sentence costs a county nothing and jail sentences of more than 90 days are partially subsidized by the state. But the cost of treatment comes straight out of the limited funds provided to local jurisdictions by ADAA. Poorer jurisdictions which have the greatest need for treatment alternatives to incarceration are least able to secure or likely to see defendants who are covered by private health insurance, forcing judges to sentence defendants to prison because adequate alternatives are lacking.

Wealth is not a sufficient explanation, however, for the variance in treatment-prison index scores. Several counties with relatively high median household incomes — including Queen Anne’s, Harford, and Charles — rely more heavily on imprisonment. And a number of lower-income counties — including Garrett, Kent, Worcester, and Dorchester — have above-average index scores. Further research is needed to determine what is driving the use of drug treatment and imprisonment at the local level; and to identify both changes in local practice and forms of state support that could help to expand the use of treatment as an alternative to incarceration.

## Drug treatment, imprisonment, and crime

Those who advocate “tough” responses to drug crime and drug abuse claim that imprisoning individuals who engage in nonviolent drug crime provides an overall public safety benefit. They argue that even if removing low-level drug users and sellers does not significantly reduce the availability of illegal drugs, the practice protects the public from crimes that these individuals might commit if they remained in the community.

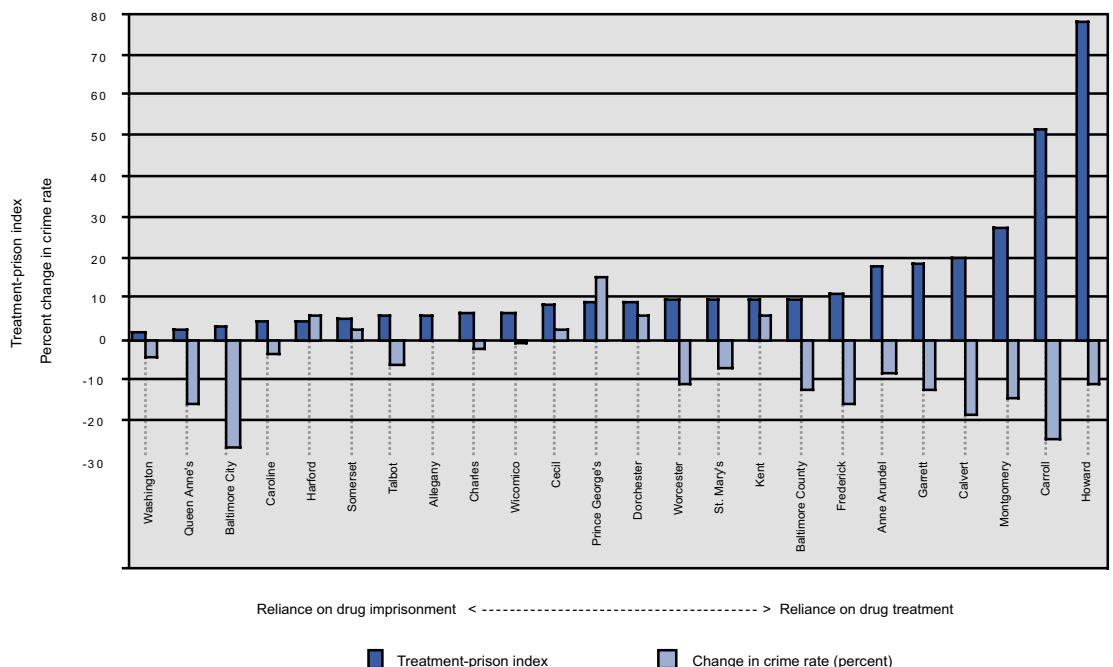
On the other hand, proponents of drug treatment respond that imprisoning people convicted of drug offenses — a large majority substance abusers — does nothing to address the underlying problem of addiction. They point to research discussed above which shows that reliance on treatment is a more effective strategy than reliance on imprisonment for reducing both drug use and drug-related crime.

Crime trends since 2000 appear to support the argument that treatment does more than imprisonment to reduce crime. Although two jurisdictions — Baltimore City and Queen Anne’s County — have managed to achieve significant reductions in crime while relying more heavily on drug imprisonment than drug treatment, the vast majority of counties that achieved major crime reductions over the period did so while emphasizing treatment of drug abuse over imprisonment.

Eight of 12 counties with above-average treatment-prison index scores saw their crime rate fall by 10 percent or more between 2000 and 2004, while only two saw crime increase.<sup>26</sup> In contrast, just two of 12 counties with below-average treatment-prison index scores experienced similarly large drops in crime and four saw crime rates rise. Each of the five counties that rely most heavily on treatment achieved a major crime-rate reduction compared to just two of the five counties that rely most heavily on drug imprisonment.

**Eight of the 12 jurisdictions that rely more heavily on treatment have seen crime rates fall by 10 percent or more since 2000 compared to just two of 12 jurisdictions which rely more heavily on imprisonment.**

Treatment-prison index and crime rate change: 2000 to 2005



SOURCE: Maryland Department of Planning (Crime Rates)



*“In the ideal system substance abuse treatment would largely occur outside the criminal justice system. Incarceration would be used as a last resort for individuals whose behavior is nonviolent and related to substance use.”*

Many factors contribute to changes in crime rates so it is impossible to say that reliance on treatment caused crime rates to fall in a given jurisdiction. At a minimum, however, the results appear to contradict the argument that imprisoning people convicted of drug offenses contributes to lower crime rates.

The success of counties that emphasize treatment over incarceration in reducing crime rates gives added support to the research findings of the RAND Corporation and the Washington State Institute for Public Policy which show far greater cost-benefits for treatment than for imprisonment of people convicted of nonviolent drug offenses. The most recent data released by ADAA in the 2005 *Outlook and Outcomes* report also suggest that treatment is having a significant and positive impact on crime reduction efforts. Standard outpatient treatment, the most common and least expensive form of treatment, is associated with a 72 percent drop in the incidence of arrests — from an annual rate of 64 percent in the two years before initiation of treatment to 18 percent during the course of treatment.<sup>27</sup> Most other modalities showed similar or greater effects.

## Recommendations

Despite significant forward movement, Maryland has a long way to go before the state can be said to have adopted a treatment-centered approach to reducing the harms of drug abuse and drug-related crime. State spending on the imprisonment of people convicted of nonviolent drug offenses far outstrips investments in treatment alternatives to incarceration. “Treatment, not incarceration” has become the norm in a handful of local jurisdictions. But many continue to rely on imprisonment because they lack the political will, or more often the resources, to make the transition.

### **1) Reform Drug Mandatory Minimums and Sentencing Guidelines.**

First, lawmakers and members of the state’s sentencing commission could make modest reforms to the drug sentencing laws and guidelines, thereby freeing up tens of millions of dollars and making it easier to sentence defendants to treatment. Maryland’s harsh mandatory minimum drug laws and sentencing guidelines expose people convicted of nonviolent drug offenses to stiffer penalties than others convicted of equally serious property and person offenses. These policies encourage the use of incarceration for low-level drug offenses and drain the state of resources that are badly needed in the fight against addiction.

Justice Strategies has estimated that more than \$20 million might be saved annually by reducing guidelines ranges for small-scale drug distribution offenses, and by reserving the longest recommended sentences for individuals with prior convictions for person offenses.<sup>28</sup> Extensive interviews with court officials also suggest that significant cost-savings could be generated by reforming or repealing a law that mandates 10-year prison terms for second-time drug distribution – a penalty that applies regardless of the amount involved or the defendant’s role in the transaction.

### **2) Expand Treatment Options.**

Second, state officials could take up where they left off in 2003 by making the expansion of treatment a major budget priority. The fiscal year 2007 budget included a nearly \$7 million increase in funding for substance abuse treatment (including \$500,000 earmarked for drug court treatment programs). But Addiction Treatment Advocates of Maryland estimated that an \$11 million increase was needed just to keep pace with rising costs which have eaten away at the state’s treatment capacity over three years of “level funding.”

Treatment experts and advocates believe that the state should commit an additional \$30 million to substance abuse treatment in the fiscal year 2008 budget in order to meet urgent needs in Baltimore and elsewhere in the state. If the trends observed since 2000 hold, at least a portion of the funds invested in expanding treatment would be recouped over the medium-term through reduced corrections costs. And the benefit of long-term gains in health, public safety, and employment would far exceed the cost of providing treatment to a larger share of the addicted population.

### **3) Fiscal Incentives to Support County Treatment Capacity.**

Third, state and local officials should consider working together to create fiscal incentives to support local innovations that enhance public safety while reducing costly reliance on incarceration. The current system of criminal justice funding encourages local jurisdictions to send people to prison and let the state pick up the tab, rather than spend limited local funds on effective treatment alternatives that would do more to reduce crime and substance abuse. Jurisdictions that volunteer to participate could be reimbursed in proportion to the number of cases they keep in the community and out of state institutions and local jails. The rate of payment could be set to reflect a substantial share of the cost of maintaining prisoners in state custody.

State efforts to create incentives for greater reliance on local community corrections have proven effective in the past. For example, in 1966 California lawmakers established

a probation subsidy program designed to improve community supervision and expand program services. By the end of its first decade, participating counties had received more than \$160 million and state officials deemed the program a resounding success, claiming a fiscal savings of over \$120 million.<sup>29</sup> This decade has seen a half-dozen states put in place legislation to subsidize the local cost of expanding community-based treatment options for youth in exchange for efforts by counties to limit their use of secure facilities for youth.<sup>30</sup>

## Methodology

Prison admission and population figures come from data tables generated by DPSCS in December 2005. The data tables break down annual prison admissions and standing prison populations by sentencing jurisdiction and whether or not the major conviction was for a nonviolent drug offense.

Prisoners convicted of nonviolent drug offenses are not all substance abusers, nor are all imprisoned substance abusers serving time for drug offenses. But there is a strong correlation between drug convictions and substance abuse. More than seven in 10 defendants convicted of a drug offense in Maryland have substance abuse treatment needs as indicated by alcohol- and/or drug-treatment conditions attached to their probation or parole supervision orders.<sup>31</sup> The drug prisoner population also represents a commitment of state resources to fighting drug abuse through incarceration and therefore provides an appropriate contrast to measures of drug treatment.

Prison admissions were used to track changes in the use of imprisonment and average annual prison admissions were used to calculate treatment-prison index scores. Standing prison populations were used to estimate the cost of drug imprisonment because this measure best captures use of correctional resources. Standing prison populations were also used to calculate drug imprisonment rates because they are less subject to the year-to-year fluctuations in admissions that can distort the picture in smaller counties.

At the request of the author, the DPSCS data set includes only individuals sentenced to serve terms of more than a year in state custody. The data do not include individuals sentenced to serve terms of up to 18 months in county jails, nor do they include Baltimore City defendants serving terms of a year or less in DOC custody. The latter group was excluded from our analysis in order to facilitate comparison with other jurisdictions, which are required to house all individuals sentenced to terms of a year or less in local facilities.

Treatment admission figures come from data tables generated by ADAA in November 2005 and May 2006. The tables that form the basis for the bulk of the analysis in this report break down adult drug treatment admissions — defined as admissions for which the primary substance was a drug other than alcohol — by a number of variables, including program location, referral source, treatment modality, and whether the program received ADAA funds.

Not all forms of drug abuse entail illegal activity. Some drug treatment patients could, therefore, be ineligible for criminal sanctions because they abuse licit drugs obtained through legal means. However drug abusers who stay within the law comprise too small a share of Maryland's treatment population to significantly affect our analysis. Together, cocaine, hallucinogens, heroin, marijuana, methamphetamine, and PCP account for 96 percent of all drug treatment admissions statewide and over 90 percent of admissions in 22 of the state's 24 jurisdictions. The only other substance category that comprised a significant share of statewide admissions (2.9 percent) was "Other Opiates," which can include controlled substances as well as illegally distributed prescription narcotics.

The total number of adult drug treatment admissions referred by the criminal justice

system — including both ADAA-funded and non-funded programs — was used to compare change in the use of drug treatment and imprisonment, calculate criminal justice drug treatment rates, and calculate treatment scores for two reasons: First, treatment can potentially serve as an alternative to incarceration whether or not the program is state-funded. Second, the designation of programs as ADAA-funded or non-funded can change, raising and lowering the number of admissions in a given category without changing the total number of available treatment slots.

The number of state-funded adult drug treatment admissions was used to estimate the proportion of state treatment dollars available for treatment as an alternative to incarceration or enhancements of supervision because only state-funded programs receive support from ADAA. Finally, the total number of adult drug treatment admissions was also used to calculate total drug treatment rates and treatment scores.

## Acknowledgments

This report would not have been possible without the help of the staff of the Department of Public Safety and Correctional Services, led by Secretary Mary Ann Saar; and the staff of the Alcohol and Drug Abuse Administration, directed by Dr. Peter Luongo. Special thanks are due to DPSCS Director of Planning and Statistics Robert Gibson and ADAA Research Director William Rusinko for supplying the data, reviewing our use of it, and providing critical insights. Ann Ciekot of Binderman and Ciekot, Bonnie Cypull of Baltimore Substance Abuse Services, and Dr. Robert Schwartz of The Open Society Institute-Baltimore also gave us valuable feedback on earlier drafts of the report. We are grateful to the staff of OSI Baltimore, especially to Diana Morris and Aurie Hall for their financial and moral support. Finally, the author would like to thank the JPI staff — Jason Ziedenbergh, Jasmine Tyler, Debra Glapion, and Laura Jones for the good humor and work they have put into this report.

This report is dedicated to Michael Blain (1959-2006), an inspired champion for criminal justice reform in Maryland and throughout the nation. He will be deeply missed.

## About the author

**Kevin Pranis** is a policy analyst with Justice Strategies, a nonprofit organization that provides research to advocates and policymakers in the fields of criminal justice and immigrant detention. Mr. Pranis has produced educational materials, training manuals, and reports and white papers on topics that include corporate accountability, municipal bond finance, prison privatization, and sentencing policy. Recent reports authored or co-authored by Mr. Pranis include: “Cost-Saving or Cost-Shifting: The Fiscal Impact of Prison Privatization in Arizona” (Private Corrections Institute, 2005); “Alabama Prison Crisis” (Justice Strategies, 2005); “Treatment Instead of Prisons: A Roadmap for Sentencing and Correctional Policy Reform in Wisconsin” (Justice Strategies, 2006); “Disparity by Design: How drug-free zone laws impact racial disparity — and fail to protect youth” (Justice Policy Institute, 2006); and “Hard Hit: The Growth in the Imprisonment of Women, 1977-2004” (Women’s Prison Association, 2006).

**The Justice Policy Institute** is a Washington DC-based think tank dedicated to ending society’s reliance on incarceration and promoting effective and just solutions to social problems. This is the fifth in a series of studies published by the Justice Policy Institute on Maryland drug and sentencing policies. Previous reports by the organization include: “Cutting Correctly in Maryland”; “Race and Incarceration in Maryland”; “Treatment, and Incarceration: National and State Findings on the Efficacy and Cost Savings of Drug Treatment versus Imprisonment”; and “Tipping Points: Maryland’s Overuse of Incarceration and the Impact on Public Safety.” This report was supported by a generous grant from the Open Society Institute-Baltimore. For more information, visit our website, [www.justicepolicy.org](http://www.justicepolicy.org)



- <sup>1</sup> "Maryland Likely Voters Support Alcohol and Drug Treatment." Opinion Works. 2006.
- <sup>2</sup> There are no uniformly accepted measures of the extent of substance abuse treatment or its use as an alternative to imprisonment that can be used to track change over time or compare one jurisdiction to another. The author has developed several measures — including estimates of state spending on drug treatment and drug imprisonment; rates of admission to treatment per 100,000 residents; and an "index" comparing treatment and imprisonment rates — which we believe help to illustrate various dimensions of the issue. These measures are not scientifically validated instruments and should not be taken as the last word in evaluating progress toward the goal of providing "treatment, not incarceration" to nonviolent drug abusers. Instead, they are designed to provide snapshots of current practice and initiate conversations about the challenges facing local and state officials as they confront crime, substance abuse, and associated ills.
- <sup>3</sup> For purposes of this report, "imprisonment," "prison admissions," and "prisoners" refer to individuals sentenced to more than a year of incarceration in the custody of the DPSCS Division of Corrections (DOC).
- <sup>4</sup> "Drug treatment admissions" is used in this report to refer to substance abuse treatment admissions where the primary substance mention is a drug other than alcohol.
- <sup>5</sup> ADAA provided treatment admissions data in calendar years that run from January to December while DPSCS provided admissions data by fiscal years that run from July to June, making it necessary to compare treatment and prison admissions over slightly different time periods. Interviews with judges and other court officials indicate that perceived availability of treatment impacts sentencing decisions, so the time frames for treatment and prison admissions were chosen to capture any lag between growth in treatment admissions and a reduction in the number of people sentenced to prison for drug offenses.
- <sup>6</sup> Pranis, Kevin. "Unfinished Business: How Sentencing Guidelines Reform Can Further Efforts to Reduce Substance Abuse in Maryland." Annapolis, MD: Justice Strategies. September, 12, 2005.
- <sup>7</sup> For example, annual prison commitments from Garrett County (where the resident population is just over 30,000) have ranged from a low of just one person to a high of five people between fiscal years 2000 and 2005 — numbers that are too small to differentiate chance events from changes in policy and practice.
- <sup>8</sup> This report largely employs the regional breakdown used by the Maryland Department of Planning in the agency's 2005 *Statistical Handbook*, which divides the state into Baltimore, Lower Eastern Shore, Southern, Upper Eastern Shore, Washington Metropolitan, and Western regions. The only exception is the City of Baltimore, which we have separated from the "Baltimore Region" because of its unique treatment needs and crime problems.
- <sup>9</sup> Treatment spending figures reported here were provided by ADAA and do not include expenditures for the treatment of adolescents.
- <sup>10</sup> The estimate is based on the most recent available figures on the annual cost of prison operations in Maryland (\$26,398 per prisoner). See Stephan, James. "State Prison Expenditures," 2001. Washington, DC: Bureau of Justice Statistics. June 2004. The cost of imprisonment includes the provision of housing, food, and medical care for a year. Such costs are not covered by most outpatient treatment programs, nor are they necessarily covered fully by inpatient treatment. On the other hand, just over half of participants in outpatient programs are employed by the time they leave treatment. Further, those who remain unemployed during treatment may be eligible for federally funded housing, income, and/or medical assistance which can relieve the state of the burden of their care.
- <sup>11</sup> The state of Maryland partially subsidizes the cost of incarcerating individuals sentenced to county jails. In fiscal year 2005, payments to counties for sentenced detainees who served more than 90 days in local jail amounted to \$38.8 million. There is no way to determine from the available data what proportion of the funds covered the cost of incarcerating people convicted of nonviolent drug offenses.
- <sup>12</sup> Prisoners and costs of imprisonment are assigned based on the jurisdiction where a prisoner was sentenced rather than the jurisdiction where he or she happens to be housed during the period of confinement.
- <sup>13</sup> Baltimore's estimated prison expenditures do not include the cost of incarcerating individuals with sentences of a year or less in order to facilitate comparison with other jurisdictions which house such individuals in local jails. If this population were included in the cost comparison, Baltimore's prison costs would be higher and the ratio of treatment to prison spending even lower.
- <sup>14</sup> Based on conversation with experts, treatment providers, and corrections officials, the authors believe that counting only criminal justice referrals to treatment is likely to underestimate the number of admissions that result from court involvement and serve the needs of the criminal justice system. On the other hand, individuals referred to treatment by the criminal justice system are less likely to receive costly residential treatment services than their counterparts. Nearly a quarter (24 percent) of non-criminal justice referrals to state-funded programs in 2004 received residential treatment compared to just 14 percent of criminal justice referrals. The divide is even larger — 34 percent and 16 percent respectively — when residential detoxification admissions are included. Drug and alcohol users were equally likely to be admitted to residential programs (18 percent and 19 percent, respectively). Dividing criminal justice drug treatment expenditures based on referral source is likely to underestimate the number entering treatment as the result of a court case but overestimate the cost of the each treatment episode. Weighing these factors together for purposes of this analysis, we assume that admissions data provide a reasonable basis for estimating the share of treatment dollars available for alternatives to incarceration and enhanced supervision.
- <sup>15</sup> According to ADAA data, just 37 percent of referrals to state-funded drug treatment programs in Baltimore came from the criminal justice system — a surprisingly low figure given what we know from previous research and practitioners about the incidence of substance abuse among Baltimore defendants. Comparison of Baltimore and state admissions data for 2004 suggests that this unexpected result is largely due to greater use of medically monitored inpatient intensive inpatient treatment, inpatient detoxification, and methadone treatment — treatment modalities that report fewer criminal justice referrals. Medically monitored intensive inpatient treatment and inpatient detoxification are short-term therapies which last an average 21 days and seven days, respectively, according to ADAA's 2005 *Outlooks and Outcomes* report. While critical to stabilizing drug abusers, these treatment modalities are unlikely to serve as diversion or sentencing options.

The average episode of methadone treatment, on the other hand, lasts more than two years, making methadone a viable alternative to incarceration. The fact that just 17 percent of methadone admissions in Baltimore — and 15 percent of methadone admissions statewide — were recorded as criminal justice referrals may be due to anomalies in the way such admissions are reported, and likely understates the role of methadone treatment in the criminal justice system. If Baltimore methadone treatment admissions followed the pattern of outpatient admissions in the city, roughly 60 percent would be considered criminal justice referrals. Using this assumption brings the criminal justice proportion of city's treatment admissions up to 42 percent, and it brings the ratio of criminal justice drug treatment to drug prison spending up to 26 cents per dollar.
- <sup>16</sup> Caulkins, Jonathan P. and C. Peter Rydell, William Schwabe, James R. Chiesa. "Are Mandatory Minimum Sentences Cost-Effective?" Santa Monica, CA: RAND Drug Policy Research Center. 1998.
- <sup>17</sup> Barnoski, Robert and Steve Aos. "Washington State's Drug Courts for Adult Defendants: Outcome Evaluation and Cost-Benefit Analysis." Olympia, WA: Washington State Institute of Public Policy. March 2003.

- <sup>18</sup> Criminal justice treatment expenditures are estimated by multiplying the proportion of a jurisdiction's total adult substance abuse treatment admissions that were referred by the criminal justice system and involved a primary substance other than alcohol times total ADAA adult substance abuse treatment expenditures.
- <sup>19</sup> Drug imprisonment expenditures are estimated by multiplying the number of people serving a state prison term on June 30, 2005 for a nonviolent drug conviction sentenced in the jurisdiction times the average annual cost of imprisonment in Maryland (\$26,398).
- <sup>20</sup> See footnote 15 for an explanation of the rationale for the estimate range.
- <sup>21</sup> Treatment admissions data record treatment episodes rather than individual patients so a person who was admitted to two separate treatment programs in the same year would count as two admissions. As a consequence, the rate at which unique individuals enter treatment in a given jurisdiction is likely to be lower than the treatment rates presented here.
- <sup>22</sup> According to the University of Maryland's Center for Substance Abuse Research (CESAR), Baltimore, which comprises 12 percent of the Maryland's population, accounted for 60 percent of adult drug arrests statewide in 2003. ("Drug Arrests by Type of Violation, Drug Type, Age Group, and Year, Baltimore City, 1999-2003" and "Drug Arrests by Type of Violation, Drug Type, Age Group, and Year, State of Maryland, 1999-2003." Adapted by CESAR from Uniform Crime Reporting (UCR) Program data generated by the Maryland State Police.)
- <sup>23</sup> Wish, Eric D. and George S. Yacoubian. "Statewide Adult Substance Abuse Need for Treatment Among Arrestees (SANTA) in Maryland." College Park, MD: CESAR. May 2002.
- <sup>24</sup> The formula for calculating the treatment-prison index score is:
- |                                       |   |                                      |
|---------------------------------------|---|--------------------------------------|
| All drug Tx admits<br>(CY 00-05 avg.) | + | CJ drug Tx admits<br>(CY 00-05 avg.) |
| 6                                     |   | 2                                    |
| -----                                 |   |                                      |
| Drug prison admits<br>(FY 01-05 avg.) |   |                                      |
- <sup>25</sup> Median household income data was obtained from *The Maryland 2005 Statistical Handbook* (Maryland Department of Planning- Planning Data Services). The Statistical Handbook is available online at [http://www.mdp.state.md.us/msdc/md\\_statistical\\_handbook.pdf](http://www.mdp.state.md.us/msdc/md_statistical_handbook.pdf).
- <sup>26</sup> Crime rate data was obtained from *The Maryland 2005 Statistical Handbook* (Maryland Department of Planning- Planning Data Services) based on the Maryland State Police Uniform Crime Report. The Statistical Handbook is available online at [http://www.mdp.state.md.us/msdc/md\\_statistical\\_handbook.pdf](http://www.mdp.state.md.us/msdc/md_statistical_handbook.pdf).
- <sup>27</sup> The incidence of arrest during treatment is calculated on an annualized basis in order to facilitate comparison with pre-treatment arrest rates, according to ADAA Research Director William Rusinko.
- <sup>28</sup> Pranis, Kevin. "Unfinished Business: How Sentencing Guidelines Reform Can Further Efforts to Reduce Substance Abuse in Maryland." Annapolis, MD: Justice Strategies. September, 12, 2005.
- <sup>29</sup> Lemert, Edwin M. and Forrest Dill. *Offenders in the Community: The Probation Subsidy in California*. Lexington, MA: Lexington Books. 1978. A more complete description of California's probation subsidy program can be found in "Treatment Instead of Prisons: A Roadmap for Sentencing and Correctional Policy Reform in Wisconsin" authored by Judy Greene and Kevin Pranis (2006).
- <sup>30</sup> Tyler, Jasmine, Ziedenberg, Jason, Lotke, Eric. (2006) "Cost-Effective Correction: Rationalizing the Fiscal Architecture of Juvenile Justice Systems." Washington, DC.
- <sup>31</sup> Pranis, Kevin. "Unfinished Business: How Sentencing Guidelines Reform Can Further Efforts to Reduce Substance Abuse in Maryland." Annapolis, MD: Justice Strategies. September, 12

