

Redesign of Adult Pre-trial Diversion Program in Hennepin County

February 28, 2000



Council on Crime and Justice

In November 1999 the Council on Crime and Justice submitted *Review of Adult Pretrial Diversion Services in Hennepin County* to the Hennepin County Board of Commissioners, Hennepin County Administration, and the Hennepin County Attorney's Office. Based on recommendations made in the report, the Hennepin County Attorney requested that the Council on Crime and Justice (hereafter referred to as "the Council") provide assistance in developing a redesign of diversion service delivery in the County. The redesign will establish the appropriate services to provide to the diversion population using County services already in place as well as services that might best be provided by an outside vendor. The redesign will also contribute to developing a new contract for services the County elects to open for competitive bid.

The current project consists of two phases. The first phase, completed in early January, involved providing the County Attorney with options for diversion service delivery based on research findings both from the initial report and from corrections research in general. This phase laid out the range of services a diversion program could potentially provide and made recommendations about a structure for these services specific to Hennepin County.

After review of the options for service delivery presented in Phase I, the County Attorney's Office and the Council met to determine the level and type of service the County wishes to either provide or purchase. Based on this determination, the Council has examined each service more closely, specifying the cost and a process for implementation. This analysis, summarized in the following pages, provides a basis for developing a Request for Proposals for services to be purchased through any outside vendors.

Issues with the Current Structure of Diversion Services

Based on findings from the initial report, a number of factors indicate a need for modifications to the current structure of diversion services in Hennepin County. These services are currently being provided by Operation de Novo, a vendor that has held the contract for 25 years. Factors of concern include the following:

Services are difficult to define or quantify. Operation de Novo's services include court screening, intake, chemical dependency assessments, restitution collection, individual counseling and referrals, some group counseling related to chemical dependency and theft prevention, and formal recommendations to the court to either dismiss the charges, or return defendants for prosecution. As outlined in the initial report, Operation de Novo has not developed a way to quantify or even describe some services in a manner that is useful from an evaluation standpoint.¹

¹ See pages 32-33 of the initial report.

Outcomes are poorly defined and not tied to services. Operation de Novo and Hennepin County currently have seven formal outcome measures defined in the contract, several of which were either not being measured by the program or the County, or were not related to the overall stated goals and objectives of the program. The conclusion of the initial report was that neither Hennepin County nor the program have developed outcomes that are appropriate and useful to both parties.²

The absence of a community service requirement. While nearly all the other diversion programs surveyed for the initial report have some sort of community service requirement, Hennepin County's program does not. In addition, community service appears to be an appropriate component of adult diversion programs according to national standards of diversion.³

The program's restitution collection process is poor and high dollar limits on amount of restitution owed contribute to a low collection rate. Operation de Novo's restitution collection and disbursement process was determined to be inefficient and lacking adequate controls to guard against loss. At the same time, unreasonable expectations for payment from clients with restitution obligations of up to \$10,000 point to a different approach to restitution for some diversion clients.⁴

The program is expensive. At \$827,136 a year, or approximately \$1213 per client, Diversion represents a significant expenditure. Coupled with hard to define services, poorly defined outcomes, no community service requirement, and an inadequate restitution collection and disbursement process, it is clear that significant modifications to program design and service delivery are warranted.⁵

Goals for Redesign

Based on information obtained while researching the initial report, the factors outlined above, and conversations with the County Attorney's Office, the following goals for a redesign of diversion services were determined:

Tie services to outcomes. Services should be designed to maximize the likelihood of achieving desired outcomes. The primary outcomes have been determined to be a low level of recidivism for those who successfully complete the program, and reparation to victims, whether through payment of restitution or fulfillment of a community service requirement.

More focus on collection of restitution, less on trying to "fix" clients. As stated above, diversion services should be targeted towards achieving diversion's primary goals. These goals do not include making a client whole, or addressing all of a client's

² See pages 34-35 of the initial report.

³ See page 34 of the initial report.

⁴ See pages 36-37 of the initial report.

⁵ See pages 35-36 of the initial report.

presenting issues. The program should focus only on those issues that are directly tied to lowered recidivism and the payment of restitution or fulfillment of community service. This requires differentiating between criminogenic and non-criminogenic risks and needs.⁶

One size does not fit all. The diversion population is not a homogenous one and the appropriate structure and level of services may vary by client. The structure of the program redesign should take these differences into account. Therefore, expectations for program participation, restitution collection, or community service will vary by client.

Decrease the cost of the program. Adult diversion services represent a significant expenditure for Hennepin County. Any redesign of services should attempt to either lower total overall cost of the program, or make the program more efficient (serve more clients without compromising an appropriate level of services).

The Diversion Population

Demographic and offense-related information illustrates the significant differences within the diversion population. In taking these differences into account, conditions and service levels may vary across identifiable subgroups of diversion clients.

Significant findings about the diversion population include⁷:

Demographic Characteristics

- More than half are unemployed at intake (54%)
- 30% have no high school diploma or GED at time of admission
- Of those with no high school diploma, 77% have no continuous employment at time of admission (21% of entire sample)
- Of those with a high school diploma, 68% are either not employed, or are employed only part time at time of admission (50% of entire sample)
- 15% of clients were identified as having potential chemical use issues at entrance

Offense/Restitution-Related Characteristics

- 68% of clients enter with a restitution obligation
- The average amount of restitution owed by all clients is \$2734

⁶ Criminogenic risks and needs are factors that are directly tied to an offender's risk for reoffense. They include such things as anti-social attitudes, employment, chemical use, and prior criminal history. They do not include such things as low self-esteem, or vague emotional or personal complaints that are not linked to the crime.

⁷ All statistics are taken from the samples used for the initial report, the 677 clients entering Operation de Novo in 1998, and the 723 clients who left the program in 1998.

- Of those who owe restitution, 37% were charged with fraud against the government
- The average amount of restitution owed by those charged with fraud against the government is \$5042
- Over half of those charged with fraud against the government (55%) have no continuous employment at entrance
- The average percentage of restitution collected from this group is 12.7% (this compares to a 58% collection rate for clients charged with offenses not related to government fraud).

Based on the characteristics of diversion clients summarized above, it is possible to make the following assumptions:

- 1) A significant number of clients could benefit from employment and/or education services
- 2) It might be unreasonable to expect that clients with a high restitution obligation will be able to complete full payment in a twelve month period, especially if they are not employed or are underemployed
- 3) A significant minority of clients might have chemical issues that are a barrier to them getting or keeping a job. This in turn reduces the likelihood of that person being able to complete full payment of restitution
- 4) For the 32% of entering clients that do not have a restitution obligation, community service might be an appropriate alternative for “paying back” the community for the harm caused by the offense.

Desired Service Type and Level

Information on the composition of the diversion population, as well as the identified goals of the redesign, led researchers to formulate a generalized picture of what diversion services might look like. Components of diversion are summarized below and would include:

- Referral and program acceptance
- Group orientation
- Assessment and intake
- Restitution collection and disbursement
- Community service
- Additional services for those who need it
- Case management and monitoring
- Restorative Justice
- Client fees

Referral and Program Acceptance

Referrals to adult pretrial diversion originate in the County Attorney’s office, with a few referrals coming from the City Attorney. Each day, a court screener from Operation

de Novo attends arraignment hearings and is provided with a list of defendants to be arraigned that day who are eligible for diversion. The role of the court screener is to a) inform the defendant of the diversion option, what the program entails, and what rights they would forfeit if they elect to participate; b) encourage any client who feels they have been falsely accused to consult with an attorney; c) to conduct a very preliminary screening to ensure that the defendant is indeed appropriate for the program; and d) schedule clients for intake interviews.

It is our conclusion that the services provided by the court screener are both repetitive and would be better provided in another setting. We offer the following support for this conclusion:

- It is the County Attorney's responsibility to determine diversion eligibility prior to arraignment. Occasionally, the court screener finds that defendants are inappropriate (defendants who admit a prior felony conviction or more than three misdemeanor convictions that did not appear on the criminal record). Previously unrecorded convictions are just as likely to be reported at the time of intake as at arraignment. Therefore, while it is preferable to identify inappropriate referrals early, the volume of these types of cases is probably too small to make this "double check" by the intake screener worthwhile.
- It is the role of the defense attorney to inform defendants of their legal rights. Clients are screened for public defender eligibility prior to arraignment. The public defender could inform eligible clients of their rights and the rights that they would forfeit by electing diversion.
- Although the program overview is not a thorough orientation, it does provide the defendant with enough information to choose between diversion and the traditional court process. While this information is important, this function does not necessarily have to be provided in-person by the vendor.
- Clients who elect to participate in diversion should be provided with more than just cursory information about the program. As indicated below, a group orientation for defendants who decide to participate in diversion is an efficient and effective way to provide an overview of the program. In addition, the group orientation may be a more appropriate time to schedule clients for the initial assessment and intake interview.

Based on these factors we recommend that the referral and acceptance process be modified as follows, thus eliminating the need for a court screener. Defendants eligible for diversion would be notified of this option by the County Attorney. Defendants would also be informed of their rights and the rights forfeited by choosing diversion. Defendants would formally elect the diversion option at their scheduled arraignment hearing. The County Attorney would forward a list of defendants electing diversion to the diversion program. Clients would be notified of the next regularly scheduled group orientation. A client who is unable to attend the orientation would be required to call the vendor to make other arrangements.

Group Orientation

After referral to diversion, each client should be oriented to the program. This orientation should include an overview of the purpose and structure of the program, and should inform clients of expectations and conditions of diversion. This session should also clearly outline the process by which a person will either have the charges against them dismissed or be returned to court to face prosecution. Clients should also be scheduled for an individual assessment and intake session at this time.

We anticipate that orientation sessions would be provided by a contracted vendor and would take place at regular intervals. With close to 700 clients entering the program each year, these sessions could be held once a week, with approximately 13 clients in each session. Orientation should be required, and failure to attend a scheduled orientation session should be a reason for being terminated from the program.

Outcome measures for this component include but may not be limited to:

- Client understanding of the program measured through a written questionnaire given immediately following orientation and at program completion

Assessment and Intake

Following orientation, a client assessment should take place. Assessment is vital in that it determines the level of services appropriate for a particular client. Assessment should focus on identifying the criminogenic risks and needs of clients. There are a number of assessment tools available for assessing the relative risks and needs of an offender population. Some of the tools, including the Wisconsin Risk Assessment, are normed, widely used and free of charge.

The assessment can be incorporated into an intake interview, which becomes the mechanism for gathering baseline information that is essential for measuring program outcomes. Information to be obtained at intake should include 1) client demographics and criminal history; 2) services currently received (to assure that services will not be duplicated); and 3) client financial information (amounts of income and financial obligations) to determine appropriate levels of restitution and/or community service requirements. This process should be coupled, when appropriate, with a restitution investigation to establish the amount of restitution owed.

We anticipate that the assessment/intake process will be conducted by a contracted vendor. The vendor should be responsible for identifying an appropriate assessment tool to use with this population.

Outcome measurement for this component includes but may not be limited to:

- Program completion, payment of restitution, fulfillment of community service, and recidivism. These measures will assist the County Attorney and the provider of diversion services to continue to refine and improve the

assessment process as well as develop and implement programming that is appropriate based on client needs.

Restitution collection and disbursement

In determining the most appropriate process for the collection and disbursement of restitution, we explored the feasibility of dividing responsibilities between the Hennepin County Department of Community Corrections (DOCC) and the diversion provider. Under such a system, the payment processing and accounting functions would be a function of the DOCC Restitution Unit while the functions of loss determination, payment plans, order of payment, and compliance would be the responsibility of the diversion provider. This process was explored because: a) findings from the initial report indicated that the current process for the collection and disbursement of restitution payments is inefficient and lacks adequate controls to guard against loss; and b) utilizing the County's restitution information system could reduce the cost of this program component.

For a number of reasons the proposed process is not feasible at this time. These reasons include:

- 1) Although a system in which roles and responsibilities of both the Restitution Unit and the contracted vendor would be clearly defined was envisioned, it seems that this is not realistic. Management of the Adult Restitution Unit raised concerns about an unavoidable blurring of the lines between functions.
- 2) The Restitution Unit is in the process of implementing a new restitution and correctional service fee software application. Because the implementation is still underway, the Unit has a large backlog of cases that are waiting to be processed.
- 3) The diversion population is not currently one of the Restitution Unit's target populations.

We conclude that at least in the near term, all functions of the restitution process for diversion clients will be provided by a vendor. The DOCC is willing to revisit the issue at a future time. We recommend that in designing or modifying a restitution collection and disbursement process the vendor ensure that:

- Restitution payments are made payable to the vendor, not the victim;
- Payments are deposited into a segregated account managed by the vendor and disbursements to victims are to be drawn from this account;
- All payments should be accompanied by a statement, including the amount of each payment and the balance on the restitution owed;
- Current information on the status of clients restitution obligations is maintained electronically and easily accessible to the program.

The vendor should also be responsible for conducting a restitution investigation to determine loss and a reasonable payment schedule, monitor compliance, and respond to non-compliance and victim inquiries.

It is in the interest of the County Attorney to further investigate whether, as an agent of Hennepin County, a contracted vendor could be licensed to use the restitution and correctional service fee software application being implemented in the DOCC. The software was purchased through a cooperative agreement involving several Minnesota counties. For little or no additional cost, it may be possible to implement this automated system for collecting and tracking restitution payments and fees imposed on diversion clients.

Outcome measurement for this component should assess the restitution process as well as rates of collection. Outcome indicators include but are not limited to:

- Number and percent of clients with a restitution obligation.
- Range of the amount of restitution owed.
- Total amount collected annually.
- Rates of collection overall and within client sub-groups of clients.
- Approximate cost of collecting restitution.
- Victim satisfaction at the completion of a client's diversionary period.

Community Service

Of the diversion programs surveyed for the initial report, all but one had some community service requirement incorporated into their programming. We selected three programs considered to have a significant community service component (in terms of the number of participating clients) as models for the design of this component for Hennepin County's diversion program. The three programs examined were Ramsey County (Project Remand), Dakota County, and Merrimack County (New Hampshire).

We found that each program requires all clients to perform community service in addition to other program conditions such as payment of restitution. Project Remand and the program in Dakota County base the number of hours of community service on the level of the charged offense (100 hours for a felony, 40-50 hours for gross misdemeanor, and 25-30 hours for a misdemeanor). The program in Merrimack County requires every client to complete 500 hours of community service. In most cases clients can reduce the requirement. For example in Dakota County, clients can "buy" up to one half of their hours at five dollars an hour. The program in Merrimack County has automatic reductions for good behavior, and most clients work a total of 350-400 hours.

One option for incorporating a community service component into diversion programming in Hennepin County is to have a contracted vendor provide the service. The contractor would be responsible for assisting clients in arranging community service opportunities, monitoring compliance, and handling all issues that arise. While it is likely that there are vendors that would be able to perform this function, given the size of the

diversion population and the number of staff that would be needed, we recommend utilizing existing County services.

Sentencing to Service (STS) is a community service program operated by Hennepin County's DOCC. In order for probationers to be eligible for STS, they must be considered low-risk and non-dangerous. The program involves labor intensive work within communities, performed by offenders on a work crew. At least five adult crews operate seven days a week, with up to seven crews working in the community on weekends. The crews do not compete with union labor because they only work on projects that would otherwise not be done. The program infrastructure is a sound, organized and efficient system for scheduling crews, monitoring compliance and working with offenders to complete their service requirement. In addition, the program has a strong positive reputation in the community and has entered into a number of city and county contracts in which permanent crews are purchased for ongoing work.

Discussions with the Director of Hennepin County's STS program, led researchers to conclude that diversion clients would be appropriate candidates for the STS work crews. Minnesota statutes do not prohibit diversion clients from participating in STS or from working on crews with convicted offenders. In addition, STS has served clients on diversion through Drug Court. These clients also represent a non-convicted population. Finally, Minnesota Rules of Criminal Procedure 27.05 Subd. 1 state that community service may be required as a condition of a pretrial diversion program.

We propose that every client be required to perform two days of community service.⁸ Clients may be required to perform additional days based on their ability to pay restitution in full.⁹ Clients with an additional requirement (above the minimum of two days) would be able to reduce up to half of the additional requirement at a cost of \$100 dollars per day. This money would be used to supplement restitution payments to victims who otherwise would not receive the full amount they are owed.

A community service or STS requirement should be one of the conditions of diversion. Failure to complete this requirement should be a reason for termination from the program.

Outcome measurement for this component includes, but may not be limited to:

- Total STS days served by diversion clients.
- Percent of STS days served.
- Percent of STS days that were purchased through the "buy down" option.
- Total amount of revenue generated from the "buy down" option.

⁸Based on conversations with other diversion programs, with the Hennepin County STS Director and with the County Attorney's Office, two days appears to be appropriate as a minimum amount of community service for all clients.

⁹ See "Program Structure" ages 13-14.

- Total number of clients charged with government fraud and additional days served.

Additional Services

We anticipate that a significant portion of diversion clients will have needs that are criminogenic, that is, needs specifically related to the likelihood to reoffend. These needs will be identified during the assessment process. Clients with more extensive needs will be provided additional services. The vendor should not provide direct services to these clients individually, instead the vendor will be responsible for case management. Case management includes referring clients to existing service providers in the community, referral follow-up, and reassessing client needs throughout the duration of the program.

Case managers employed by the vendor will have personal contact with clients and should be viewed as a source of support to clients as they progress through the program. Case managers should be knowledgeable about community resources and should have experience working with an offender population.

These additional services are expected to increase the likelihood that clients will complete restitution or community service requirements and reduce the likelihood of reoffense after clients complete the program. Therefore, referrals made by a case manager should be conditions of diversion and failure to follow through on referrals should be a reason for program termination.

Outcomes for this component include but may not be limited to:

- Type and number of referrals.
- Rate of client follow-through on referrals (by type of referral).
- Average number of referrals per client.
- Change in client need for the type of service.

Restorative Justice

One of the purposes of adult pretrial diversion is to provide an alternative to traditional court processing for first time felony property offenders, thereby reducing the cost and workload burden on the criminal justice system. Another alternative to traditional court processing is restorative justice. Unlike a punitive justice model, restorative justice focuses on repairing the harm caused by crime within the communities in which the crime takes place.

Restorative justice often involves community conferencing, a process that combines face-to-face dialogue between an offender and the affected community resulting in reparative agreements. This process resolves crime at the community level, giving community members a direct role in addressing crime committed in their neighborhoods, and empowering offenders to repair the damage caused by their offenses.

There are several restorative justice programs active in a number of neighborhoods in Minneapolis. Most of these programs are working alongside the criminal justice system

while a few have established formal relationships with the City or County Attorney's Office to obtain referrals to their programs. Generally, restorative justice programs have focused on misdemeanor offenses. Recently, some programs have started to accept and actively seek out referrals of felony level drug or property offenders. There is interest among restorative justice providers in obtaining referrals of adult diversion clients. One program in particular, the Central Cities Neighborhood Partnership (CCNP)¹⁰, is enthusiastic about expanding restorative justice to the diversion population.

The client profile indicates that some diversion clients may be appropriate for community service that is part of a reparative agreement with a community. In 1998, 32% of clients entering the Adult Diversion program had no restitution obligation. These clients as well as those with only a small restitution obligation may be most appropriate for a restorative justice process.

One of the basic tenants of the restorative justice model is that the process must take place in the neighborhood in which the offense is committed. Therefore, in order to be eligible for CCNP's restorative justice program, the crime must have occurred in the Loring Park, Downtown, Elliot Park, or Steven's Square neighborhoods. The percentage of defendants referred to diversion for offenses that were committed in these neighborhoods is unknown. CCNP states that their program, as it currently operates, could handle 4-6 new referrals per month. Up to 50 referrals per year could be made to CCNP and other neighborhood restorative justice programs.

We recommend that the County Attorney consider implementing CCNP's community conferencing and the resulting reparative agreement, as the community service component for appropriate clients. We anticipate that similar programs serving other local neighborhoods would also be interested in expanding their pool of referrals. We recommend that the contracted vendor seek out the participation of other programs.

We anticipate that a restorative justice process in the form of community conferencing would be provided by CCNP and other neighborhood programs. It would be preferable that resulting reparative agreements including any community service be performed in the neighborhood as well. However the coordination of these additional conditions would be simplified if they were handled in the same way as for other diversion clients.

Outcome measurement for this component includes but may not be limited to:¹¹

- Rate of successful completion of restorative justice program requirements.
- Client satisfaction with the restorative justice process.
- Community satisfaction with the restorative justice process.

¹⁰ CCNP's restorative justice program serves four neighborhoods in and around downtown Minneapolis. The four neighborhoods include: Loring Park, Downtown, Elliot Park and Stevens Square.

¹¹ It is likely that these are already being measured in aggregate by restorative justice programs. Data on diversion clients specifically should also be gathered.

Case monitoring/management

Regardless of the number of service referrals or the number of conditions, coordination is very important. After conditions of diversion are established, it is necessary to ensure that clients fulfill the conditions of diversion and that the services are coordinated. Case monitoring may include receiving status reports on the fulfillment of community service obligations, the payment of restitution, as well as completion of any restorative justice requirements.

Clients who receive additional services through referrals to community resources will require a case manager. In addition to providing a monitoring function as described above, the case manager is also responsible for making referrals and periodically reassessing a client's needs. A contracted vendor would provide all case management and monitoring services.

Outcome measurement for this component includes but is not limited to:

- Client assessments of the quality of case management services.
- Performance measures time spent on various conditions of diversion.

Client Fees

One of the recommendations of the initial report was that clients be charged a fee for participating in diversion. This recommendation was based partly on the fact that all but two of the 12 diversion programs surveyed recovered a portion of program costs through client fees. These fees ranged from a monthly fee of \$15.00-\$85.00 dollars to a flat fee of \$350.00 for every client. The charging of fees is authorized under M.S. 373.41 which states in part:

“...The County may charge fees for service provided by any county office, official, department, court, or employee...”

We recommend a fee structure in which the amount of the fee is based on the level of the charged offense. Hennepin County currently charges local corrections fees to offenders on traditional probation. These include fees of \$200 for felony offenders, \$150 for gross misdemeanor offenders, and \$100 for misdemeanor offenders. Because conditions imposed upon diversion clients should not be more onerous than those imposed on the convicted offender population, fees charged to diversion clients should also be less than those charged to convicted offenders. We recommend a flat fee of \$150 for those charged with a felony-level offense, \$75 for those charged with a gross misdemeanor offense, and \$50 for those charged with a misdemeanor offense.

In addition to recommending that diversion clients be charged a fee, the initial report also recommended that additional community service in lieu of fee payment be an option for those clients who were unable to pay. We recommend that clients unable to pay the fee be required to perform one additional day of STS. We also suggest that client inability to pay be based on the same criteria that qualifies a defendant for a Public Defender; that is,

any client who would qualify for a Public Defender could be required to work one additional day of STS in lieu of paying a fee.

Outcome measurement for this component includes but may not be limited to:

- Number of clients assessed a fee and total amount assessed
- Total fees collected annually
- Fee collection rate, total and by client sub-group
- Amount of waived fees, total and by client subgroup

Program Structure

Identifying the components of diversion is only part of the program design.

Demographic and offense-related data indicate that the population is heterogeneous and may benefit from different conditions. We make the following general assumptions about appropriate service levels for this population:

- 1) Every client will be required to perform a minimum amount of community service or STS. The minimum amount is the same for all clients (we recommend two days) and clients are not given the opportunity to reduce this community service obligation.
- 2) Clients who do not have a restitution obligation will be required to perform additional community service, the number of days to be based on the level of their offense. We recommend additional community service of twelve days for persons charged with a felony, six days for persons charged with a gross misdemeanor, and four days for persons charged with a misdemeanor. Clients should be required to serve at least half of the additional requirement, but should have the option of “buying down” the remainder at a cost of \$100 per day. For example, after working the two day minimum on the STS crew, clients who are not required to pay restitution and are charged with a felony offense would have an obligation to work twelve additional days with the option of “buying” up to six of those days at a cost of \$100 per day. The revenue generated from these “buy downs” could be used to supplement restitution payments to victims who would otherwise not receive full payment.
- 3) The second group of clients who would be required to perform additional community service or STS time are those who are unable to pay restitution in full. The factors that are associated with an inability to pay in full include large restitution orders, young children at home, unemployment or a sporadic history of employment, and lack of a high school diploma. In our initial review clients with these characteristics paid only a small portion of their overall restitution obligation (12.7%). While it may not be reasonable to expect a single parent with small children, no history of steady employment, and no high school diploma to pay up to \$10,000 in restitution, it is also not reasonable to simply write off this debt.

We recommend that this group of clients be required to perform twelve additional days of community service or STS (the number of additional days required for felony offenders) while at the same time receiving services aimed at improving education and employment readiness. The client would be expected not only to follow through on referrals for these services, they would be expected to secure employment and begin making regular restitution payments during the diversionary period. When the client begins making regular restitution payments their additional community service requirement would be dropped. As an example, a client completes the minimum two days of community service as well as three days of the additional community service obligation in the first three months of program participation. Also during this period, the client has attained a GED and has secured employment that will allow the client to make regular restitution payments. At this time, as long as the client continues making regular payments, the additional nine days of community service will be forgiven. If for any reason the client stops making regular payments, the community service requirement will be reinstated. In so doing, the program maintains flexibility to address changing circumstances and client accountability. Clients would still be expected to sign a Confession of Judgement when they are admitted to the program.

- 4) The remainder of clients who have a restitution obligation would not be required to perform additional community service above the two-day minimum.
- 5) Additional services will be minimal and will only be provided for those clients that demonstrate specific criminogenic needs in the area of employment assistance, educational assistance, and chemical dependency issues. These clients will be provided with case management and referral services. We anticipate that some clients who receive additional services at the time of entry in the diversion program will not need those services for the entire diversionary period. Some clients may need services only during the first month of diversion while others might require referrals for six months or more. The program should have some limited discretion in handling situations that could ultimately result in termination from the program. In addition, there should be a mechanism by which clients who are not receiving additional services can access a case manager for referrals upon request.
- 6) Finally, we anticipate that there will be a subset of clients for whom a restorative justice, community service component will be appropriate. Characteristics of appropriate clients should be determined in conjunction with both participating restorative justice programs and with the provider of diversion services. Reparative agreements would be coordinated through the provider of diversion services.

Cost and Service Level Estimates

With the exception of the community service function, we anticipate that diversion services would continue to be performed by a contracted vendor. The services include: orientation; assessment/intake; restitution collection and disbursement; referral; case monitoring/management; recommendations to the court; and outcome measurement.

Cost and service level estimates are based on the use of the STS program for community service. Remaining services will be open for competitive bid.

Cost of STS

According to the Director of STS, a work crew costs \$43,500. Expenses include a van, a supervising agent, and all ancillary services including scheduling, monitoring compliance, responding to non-compliance, etc. A crew consists of up to 14 people (the maximum a van can hold), although 6-7 person crews are more manageable.

Implementation of a community service requirement for diversion clients would require approximately two crews resulting in a cost of **\$87,000** per year. (See Appendix A for the calculation of STS utilization.)

Revenue Generated through Client Fees

Assuming a fee schedule in which the fees are based on the level of the charged offense, and approximately 700 new diversion clients per year, we estimate the potential revenue from client fees is \$98,350. A estimate of the total fees for each offense level appears below.

88% of entering clients are charged with a felony-level offense:

616 clients x \$150 flat fee = **\$92,400**

10% of entering clients are charged with a gross misdemeanor-level offense:

70 clients x \$75 flat fee = **\$5,250**

2% of entering clients are charged with a misdemeanor-level offense:

14 clients x \$50 flat fee = **\$700**

Assuming (conservatively) that at least half of all clients will be able to pay the fee, we anticipate that the program can generate approximately \$50,000 to be put toward the annual program cost.

Cost of Contracted Services

Based on a total budget of \$650,000 we estimate that approximately \$563,000 will be available to provide diversion services after accounting for the cost of providing community service through STS. A conservative estimate of the revenue generated through client fees yields an additional \$49,175. This results in a total of \$612,175 for a contracted vendor to provide diversion services.

Appendix A

Sentencing to Service Utilization Calculation

The service utilization calculations are based on 700 clients entering the program per year (in 1998, 677 new clients entered the program). This is the equivalent of approximately 58 new clients per month. Since clients will be encouraged to complete the STS requirement as quickly as possible, calculations are based on anticipated monthly utilization. While community service is typically calculated in terms of hours, the STS program measures service in day units. Therefore all service level estimates are given in day units.

These estimates assume that 20% of clients who owe restitution will not be able to pay in full and for these clients twelve additional days of community service would be required. Although the estimate reflects an additional twelve days per client, an undetermined number of clients will begin paying restitution at some point during their diversionary period; therefore, they would not be required to complete all twelve additional days.

Step A. Each month, 100% of new clients will be required to perform two days of STS

$$58 \text{ clients} \times 2 \text{ days} = \mathbf{116 \text{ days}}$$

Step B. Each month, 32% of clients (those who do not have a restitution obligation) will have an additional community service requirement based on the level of the charged offense. In the original report, of those who did not owe restitution, 80% were charged with a felony, 17% were charged with a gross misdemeanor, and 3% were charged with a misdemeanor. Based on the amount of community service required by other diversion programs, the following requirements appear to be appropriate:

Felony = 100 hours or approximately 12 days
GM = 50 hours or approximately 6 days
Misd. = 30 hours or approximately 4 days

$$32\% \times 58 \text{ clients} = 19 \text{ clients with an additional community service requirement}$$

$$80\% \times 19 \text{ clients} = 15 \text{ clients (Felony) at 12 days for a total of 180 days}$$

$$17\% \times 19 \text{ clients} = 3 \text{ clients (GM) at 6 days for a total of 18 days}$$

$$3\% \times 19 \text{ clients} = 1 \text{ client (Misd.) at 4 days for a total of 4 days}$$

Additional days per month for clients with no restitution obligation equals **202 days**
(180 + 18 + 4)

Step C. Of those clients that owed restitution, 20% had two of the characteristics that were found to affect clients' ability to pay the full amount. These characteristics are a large amount of restitution owed and an inconsistent history of employment. Although

these clients may be unable to pay their debt monetarily, payment through performing community service is another option.

Requiring 12 additional days (approximately 100 hours) has the following result:

$20\% \times 39 = 8$ clients entering each month who may be unable to pay restitution in full

$8 \text{ clients} \times 12 \text{ additional days} = \mathbf{96 \text{ days}}$

The total client days per month is the sum of the basic requirement (Step A.) and the two sub-groups of clients who would be required to perform additional days of community service (Step B. and C.).

$116 + 202 + 96 \text{ (Step A + Step B + Step C)} = \mathbf{414 \text{ days}}$

Crew sizes vary from 6 to 7 persons per crew to a maximum of 14 persons. The number of crew days per month, or service utilization, was calculated assuming four possible crew sizes. Crew days equal the total number of client service days (414) divided by the number of persons per crew. For a 14 person crew there is a total of 29.5 crew days per month (414/14). Crew days increase to 41.4, 51.8 and 69 days per month as the crew size decreases from 10 to 8 to 6 persons, respectively.

Service utilization ranges from 30 days to 69 days per month. To calculate the number of crews needed, the service utilization is divided by the number of days worked per crew. Assuming that a given crew works 20 days per month (based on a five-day week), it is estimated that somewhere between 1.48 and 3.45 crews will be required to serve diversion clients. Most STS crews operate seven days a week. Assuming 30.4 working days per month (the average number of days in a month), it is estimated that somewhere between .97 and 2.27 crews would be required.

Crews will not be specialized, that is diversion clients will work on crews with the regular probation population. It is anticipated that diversion clients can fill gaps where crews are not full.

The cost of one crew including a van and a supervising agent, in addition to scheduling and support services is \$43,500. The total cost of adding a community service requirement through STS is estimated to be **\$87,000**. This should be viewed as a startup cost, depending on the amount of revenue generated through contracts for services it may not be a fixed cost. After the first year of operation the County Attorney's Office could re-negotiate the amount paid to the Department of Community Corrections to reflect the ongoing costs of the crews.