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**REPORT OF THE TECHNICAL SECRETARIAT OF THE WORKING GROUP OF CICAD**  
**ALTERNATIVES TO INCARCERATION FOR DRUG-RELATED CRIMES**

# ALTERNATIVES TO INCARCERATION FOR DRUG-RELATED CRIMES

Report of the Technical Secretariat of the Working  
Group of the Inter-American Drug Abuse Control  
Commission (CICAD)  
Ministry of Justice and Law – Government of the  
Republic of Colombia



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## ALTERNATIVES TO INCARCERATION FOR DRUG-RELATED CRIMES

First Report of the Technical Secretariat of the Working Group of the Inter-American Drug Abuse Control Commission (CICAD)  
Ministry of Justice and Law – Government of the Republic of Colombia

Document based on the Technical Report drafted by the Technical Support Group of the Working Group on “Alternatives to Incarceration,” with the support of the CICAD Executive Secretariat.

Technical Support Group:  
Rodrigo Uprimny – Legal Technical Leader  
Diana Guzmán (Colombia)  
Corina Giacomello (Mexico)  
Julius Lang (United States)  
Alberto Amiot (Chile)

Support Group at CICAD-ES:  
Adriana Henao  
James Duguid

Technical Secretariat of the Group coordinated by the Ministry of Justice and Law of Colombia  
Coordinator: Claudia Paola Salcedo

Editors: Juan Carlos Garzón Vergara, Diana Esther Guzmán and Rodrigo Uprimny

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## Introduction

The Member States of Organization of the American States (OAS) adopted the Hemispheric Drug Strategy<sup>1</sup> and the 2011-2015 Plan of Action thereof,<sup>2</sup> agreeing “to explore the means of offering treatment, rehabilitation and recovery support services to drug-dependent criminal offenders as an alternative to criminal prosecution or imprisonment.”

In this same vein, the report titled “The Drug Problem in the Americas,” written by the OAS by the mandate of the Heads of State meeting at the 6<sup>th</sup> Summit of the Americas in Cartagena, Colombia in April 2012, identified several drug enforcement challenges that call for public policy responses from the countries of the hemisphere. The Report spotlighted challenges such as the growing prison population incarcerated for drug offenses and consequent overcrowding; the lack of access to treatment and difficulties in accessing social services for dependent drug users; as well as the vulnerability and risks to which particular groups of society are exposed, such as young people, women and the economically disadvantaged.

Likewise, in the Declaration of Antigua, Guatemala, “For a Comprehensive Policy against the World Drug Problem in the Americas,” the Ministers of Foreign Affairs and Heads of Delegation of the Member States of the OAS “encourage member states, in accordance with their domestic law, to continue strengthening measures and policies, including a gender perspective, as appropriate, to reduce overcrowding in prisons, while promoting greater access to justice for all, and establishing penalties that are reasonable and proportionate to the severity of the crime, and supporting alternatives to incarceration ....” At the subsequent OAS Special General Assembly, also held in Guatemala in 2014, this need is re-emphasized.

In this context, to meet these challenges, at the 54<sup>th</sup> Regular Session of the Inter-American Drug Abuse Control Commission (CICAD), in December 2013 in Bogota, Colombia, when the host country took over the chairmanship of this body, the CICAD Executive Secretariat was tasked with creating a **Working Group** to propose alternatives to incarceration for drug-related crimes. At the 55<sup>th</sup> Regular Session of CICAD, which took place in Washington, D.C. in April 2014, the plenary Commission approved the creation of this Group.

The **Working Group** is made up of experts appointed by the Member States and is supported by a **Technical Support Group (TSG)**.<sup>3</sup> The government of Colombia is in charge of coordinating the group and the Colombian Ministry of Justice and Law acts as the Technical Secretariat and, for this purpose, it is supported by a “Legal Technical Leader.”<sup>4</sup> The first meeting of the

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<sup>1</sup> Adopted by the Inter-American Drug Abuse Control Commission (CICAD) at its 47<sup>th</sup> regular session, May 2010.

<sup>2</sup> Adopted by the General Assembly of the Organization of American States at its 41<sup>st</sup> regular session in San Salvador, El Salvador, 2011.

<sup>3</sup> It is made up of five specialists selected by the Colombian government and CICAD, based on the criteria of expertise and knowledge, taking regional diversity into account. The members are: Diana Guzmán (Colombia), Corina Giacomello (Mexico), Julius Lang (United States), Mauricio Boraschi (Costa Rica) and Alberto Amiot (Chile).

<sup>4</sup> Rodrigo Uprimny Attorney, Doctor in Political Economics from the University of Picardie, Amiens; DSU (Masters) in Legal Sociology from the University of Paris 2 and a DEA (Masters) in Development Socioeconomics from the University of Paris 1 (IEDES). He is currently serving as the Director of the Center for the Study of Law, Justice and Society “DeJusticia” and as a professor at the National University of Bogota.



*Working Group* and the *Technical Support Group* to move toward completion of the *Report*, took place in the city of Antigua, Guatemala, from June 16 to 20, 2014, and was attended by sixteen (16) countries of the hemisphere. On that occasion, experiences were shared regarding alternatives to incarceration and justice system responses with a public health and human rights approach. Subsequently, in Cartagena, the second “High-Level Dialogue” was held on October 20 and 21, 2014, where a first draft of the report that the Working Group would submit at the 56<sup>th</sup> CICAD in Guatemala (November 2014) was introduced. On this occasion, the representatives of 18 countries had the opportunity to discuss this document, and gain further insight into this subject matter so that said report could reflect the variety and multitude of perspectives and experiences.

As a result of these meetings and in compliance with its mandate, the *Technical Support Group*, under the coordination of the Ministry of Justice and Law, presents the *First Technical Report* on “Alternatives to Incarceration,” with the support of CICAD. The main objective of the report is to examine alternatives to incarceration that have been used in different countries of the world for drug-related offenses. It is intended to offer Member States a wide range of options to move forward in the design and implementation of policies that are both effective and uphold human rights.

Drafted for the 56<sup>th</sup> Meeting of the CICAD in November 2014 in Guatemala City, this four-part document provides a four-part synopsis of the major findings and alternatives identified by the TSG.

The first part of the document explains the rationale behind the project, laying out why it is important to design and implement alternatives to incarceration for drug-related offenses. The second part outlines the legal, conceptual and methodological approaches guiding the TSG’s work. The third part provides essential information about the alternatives identified in this exercise, arranging these experiences by their most salient components and proposing a system of categorization thereof, as well as a few specific examples. Lastly, in the fourth part, conclusions are drawn and a list of guiding principles is provided for the adoption and development of alternatives, recognizing the importance of taking into account the context and particular needs of each country.

## **I. Point of Departure: the importance of exploring alternatives to incarceration for offenses based on some drug policies.**

The effort to explore alternatives which allow for a reduction in the rates of incarceration connected to some current drug policies is a product of the over-use of both penal law and excessive use of measures resulting in incarceration as a response to the drug problem. A close examination reveals that criminal legislation in this field has tended to lead to a rate of incarceration which could be seen as unnecessary, and even counterproductive, particularly for

drug-dependent persons,<sup>5</sup> and affecting the most vulnerable segments of the population. This fact paints a troubling picture, both from the point of view of respect for human rights and from the perspective of the actual effectiveness of criminal justice systems. Therefore, it would seem necessary to find alternatives to incarceration to provide real solutions to concrete situations.

#### **a. Trends in criminal legislation pertaining to drugs in the hemisphere and the challenges these pose.**

Over the past four decades, the countries of the hemisphere have adopted legislation concerning illegal drugs with many common traits. However, it is important to note that national differences can prove significant, and must be considered when trying to identify common trends.

At least three common threads appear to a greater or lesser extent in the drug laws of the countries of the Americas. Firstly, policies have heavily emphasized punitive responses, by favoring the use of criminal law in response to the drug problem, with less emphasis on other tools, such as prevention strategies. Secondly, the criminalization of drugs has tended to be expansive; there has been a significant increase in both the drug-associated conduct that is criminalized and the sanctions for those crimes. Thirdly, criminalization has usually involved a one-size-fits-all approach in many countries, meting out similarly harsh sentences for very different types of conduct without making any distinction between the different populations affected or different degrees of seriousness of the conduct involved. There is a trend in many countries to criminalize drug-related conduct without making any clear distinction between different types of conduct. Additionally, the laws regarding some drug offenses in the criminal code encompass a wide variety of conduct with varying consequences and degrees of liability, but nonetheless they are punished with the same sentence.

These trends in drug policy have led to an increase in the incarcerated population in most of the countries of the hemisphere. However, additional research is necessary to document these increases more accurately. This phenomenon takes place in the context of a general increase in the population of persons imprisoned for other reasons, too; however, in a significant number of countries of the region, persons incarcerated for drug offenses constitute a substantial percentage and are a growing population, aggravating prison overcrowding.. As has been documented in recent studies, the rise in the population incarcerated for drug offenses is closely linked to the gradual increase in the number of offenses prohibited by penal codes and the lengthening of prison terms for drug crimes.<sup>6</sup> This would explain why in many countries of the Americas today, drug-related offenses account for the number one or number two cause of incarceration among women and between the number two and number four cause among men.<sup>7</sup>

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<sup>5</sup> In the 2010 Hemispheric Drug Strategy, the Member States recognize that drug dependence is a chronic and relapsing disease.

<sup>6</sup> Research Consortium on Drugs and the Law (CEDD), *In Search of Rights: Drug Users and State Responses in Latin America* (Mexico, CEDD, 2014). Transnational Institute (TNI) & Washington Office for Latin America (WOLA), *Systems Overload: Drug Laws and Prisons in Latin America* (Amsterdam/Washington DC, TNI & WOLA, 2010).

<sup>7</sup> According to the 2013 World Female Imprisonment List of the International Centre for Prison Studies (ICPS), in 80% of the world's prison systems, women constitute 2% to 9% of the inmate population. The report also notes that the female prison population is on the rise in all regions since the last time the ICPS report was released in 2006.

One particularly troubling fact is the frequent use of pretrial detention when drugs are involved. According to the Inter-American Commission on Human Rights, more than 40% of the jail population – without distinguishing between offenses – is in custody awaiting a final disposition in their proceedings, with percentages varying from 30% to 85%<sup>8</sup> within the hemisphere.

Nonetheless, this growing trend toward criminalizing drug-related offenses has been defended at times as a necessity in light of the challenges posed by drug abuse to public health and the risk to public safety posed by drug trafficking. The effectiveness of large-scale incarceration can be questioned, as it has disproportionately affected the weakest links in the drug supply chain and, therefore, involves actors who are readily replaceable in the illicit economy of drug trafficking. Additionally, this massive confinement has overburdened prison facilities and judicial systems, while making inefficient use of the resources of law enforcement and the judiciary, which could be utilized more efficiently for other purposes.

Close examination of the make-up of the prison population incarcerated for drug offenses reveals that in most countries these offenders are mostly the weakest links of the drug trafficking chain – users who were caught in possession of drugs, people transporting small quantities ( “mules”), or small time distributors.<sup>9</sup> These individuals tend to live in precarious socioeconomic conditions and have a low level of education.<sup>10</sup> One segment of the population which is most clearly impacted by this is women, particularly those living in the most vulnerable of conditions. Even though most individuals serving drug-related sentences are men, a growing number of women are getting involved in this business and are criminalized as a consequence.<sup>11</sup>

Additionally, a look at how drug policies are implemented in the region reveals that while administration of justice systems in some countries has focused on minor offenses or misdemeanors,<sup>12</sup> more serious conduct involving the use of violence and directly affecting broad segments of the population has not been sufficiently addressed.<sup>13</sup> This is a troubling development in a region in which various countries post levels of violence far above the world average,<sup>14</sup> and where drug trafficking menaces institutions and the wellbeing of citizens.

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The region posting the highest increase has been the Americas, where the number of inmate women and girls has risen by 23% as compared to 6% in Europe. (This increase is attributed to high degree of involvement of women in activities tied to the illicit drug trade.)

<sup>8</sup> IACHR, *Report on the Use of Pretrial Detention in the Americas*, OAS: Washington, 2013.

<sup>9</sup> Meetal, P. & Youngers, C., *Systems Overload*, WOLA and TNI, Washington, 2010

<sup>10</sup> Van Zyl Smit, Dirk, *Handbook of Basic Principles and Promising Practices on Alternatives to Imprisonment*, UNODC, New York, 2010.

<sup>11</sup> Anitua, G, and V. Picco. “*Género, drogas y sistema penal: Estrategias de defensa en casos de mujeres “mulas.”*” [“Gender, drugs and penal system: defense strategies for women “mules””]. In *Violencia de Género: Estrategias de litigio para la defensa de los derechos de las mujeres*. [“Gender violence: litigation strategies for the defense of women’s rights”]. Buenos Aires: Defensoría General de la Nación (Office of the Public Defender), 2012, pg.219.

<sup>12</sup> 1988 United Nations Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

<sup>13</sup> Meetal, P. & Youngers, C., *Systems Overload*, WOLA and TNI, Washington, 2010

<sup>14</sup> Regional Human Development Report 2013-2014, *CITIZEN SECURITY WITH A HUMAN FACE: evidence and proposals for Latin America*: <http://www.latinamerica.undp.org/content/dam/rblac/img/IDH/IDH-AL%20Informe%20completo.pdf>

These trends in the definition and application of penal law mean that the proportionality and effectiveness of current policies must be analyzed. The excessive use of the criminal justice and penitentiary systems goes against the notion of criminal law as a last resort in addressing social issues, and necessitate a search for alternatives that consistently defend respect for human rights, while striking a balance between strategies to confront the problems of psychoactive substance use and public safety issues.

#### **b. The need to explore alternatives to incarceration.**

OAS Member States have emphasized that responses to the drug problem must be comprehensive and drug policies must take a public health and human rights approach.<sup>15</sup> This can only happen if States look beyond approaches that focus purely on punitive strategies, strategies that should be aimed at those individuals and criminal organizations who are a serious threat to security and the rights of citizens. This notion should not be construed as advocating for the elimination of all enforcement efforts to confront individuals and organizations that warrant being subjected to criminal prosecution. This initiative is intended to focus on exploring other options for individuals who meet the profiles described above in this report. In this context, the search for alternatives to incarceration can contribute to achieving at least five core objectives for the countries of the region:

- i) To streamline the use of criminalization of drug related offenses, making it more respectful of rights and consistent with the notion of criminal punishment as the *ultima ratio*.
- ii) To reduce the negative impacts of various forms of deprivation of liberty, while helping to reduce prison overcrowding and the human rights violations stemming from it.
- iii) To successfully provide a more humane and effective response to drug-related crimes.<sup>16</sup>
- iv) To better address problems associated with illicit drug use and, in particular, abuse.
- v) To help to better utilize public resources in order to direct them to more effective investments in the fight against organized crime.

Practical reasons reinforce the opportunities offered through the examination of alternatives to incarceration. A number of studies have yielded evidence that this type of measure is more economically sound than sending individuals to prison without any access to treatment. For example, a study conducted by the *Justice Policy Institute* has provided evidence to suggest that drug treatment in prison yields a return on investment of USD \$1.91 to \$2.69 for every dollar invested, while therapeutic programs operating outside of prisons yield up to USD \$8.87 for

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<sup>15</sup> Declaration of Antigua, Guatemala “For a Comprehensive Policy against the World Drug Problem in the Americas.” June 7, 2013.

<sup>16</sup> As explained hereunder, we basically define two types of behavior as “drug-related offenses.” The first type involves specific infractions of drug laws, namely, the violation of provisions of the law which penalize the production, distribution and, in certain instances, the consumption of controlled substances such as marijuana, cocaine and heroine. The second type is when a person commits other crimes, which are not specifically drug crimes, such as theft, but does so as a result of a drug abuse problem or problematic use of psychoactive substances, such as committing a crime under the influence of said substances or as a means of supporting the use thereof.

every dollar invested.<sup>17</sup> Additionally, studies conducted in England and Wales yielded evidence that alternatives can be more effective at reducing recidivism, and that they are more cost effective than deprivation of liberty.<sup>18</sup>

Furthermore, drug abuse is compulsive in nature and, consequently, drug abuse normally continues, and can even get worse, after entering prison. According to a report of the National Institute on Drug Abuse (NIDA),<sup>19</sup> in the United States, approximately 70% of the individuals imprisoned in state and local jails regularly abuse drugs, as compared with approximately 9% of the general population.<sup>20</sup> The findings of several other studies concur that drug treatment reduces substance abuse by up to 80%, and decreases arrests for repeat offenses by up to 64%. Nonetheless, less than one fifth of drug-dependent offenders receive treatment.

According to NIDA, not providing treatment for drug-dependent persons within the judicial system contributes to the unbroken cycle of drug abuse and crime. Among the negative effects of inadequate treatment of drug abuse is the occurrence of new violent property crimes committed, additional expenditures for prisons, courts and the criminal justice system in general, hospital emergency rooms, as well as child abuse and neglect, loss of child custody and social security costs.<sup>21</sup>

It is important to note that the countries of the hemisphere, as will be discussed later in this report, have been progressively promoting alternatives to a punitive approach, especially when drug use and possession for personal use are involved, under the premise that drug use is a matter requiring a public health approach and, with limited resources available to States, any resources allocated must be used efficiently in combating violence and organized crime. This report on alternatives to incarceration for drug-related offenses falls, accordingly, within the context of those new trends in the hemisphere.

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<sup>17</sup> McVay, Doug, Schiraldi, Vincent & Jason Ziedenberg, *Treatment or incarceration? National and State Findings of the Efficacy and Cost Savings of Drug Treatment versus Imprisonment*. Justice Policy Institute, Washington, 2004.

<sup>18</sup> Matrix Knowledge Group, *The economic case for and against prison*. Matrix Knowledge Group, London, 2007, p. 13. The study yielded this result for both residential drug treatment as well as for surveillance (supervised release) alone and surveillance with treatment. It also shows that when a prison sentence is considered unavoidable, such as for reasons of public protection or punishment for serious or violent crimes, enhanced prison sentences, such as prison with behavioral intervention, with education or vocational intervention, and prison with drug treatment, have proven to be more effective than a prison sentence alone.

<sup>19</sup> National Institute on Drug Abuse. *Drug Addiction Treatment in the Criminal Justice System*. [http://www.drugabuse.gov/related-topics/criminal-justice/drug-addiction-treatment-in-criminal-justice-system#\\_edn4](http://www.drugabuse.gov/related-topics/criminal-justice/drug-addiction-treatment-in-criminal-justice-system#_edn4)

<sup>20</sup> Mumola, C.; and Karberg, J.C. *Drug Use and Dependence, State and Federal Prisoners, 2004*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, 2007. Disponible en: <http://www.bjs.gov/content/pub/pdf/dudsfp04.pdf>

<sup>21</sup> National Institute on Drug Abuse. *Principles of Drug Abuse Treatment for Criminal Justice Populations - A Research-Based Guide..* Bethesda, MD: National Institutes of Health, National Institute on Drug Abuse. NIH publication No. 11-5316. 2012. Available at: <http://www.drugabuse.gov/publications/principles-drug-abuse-treatment-criminal-justice-populations>

## **II. Conceptual framework and methodology of the report**

For its task of documenting promising experiences of alternatives to incarceration, the TSG adopted a particular conceptual and normative approach and a methodological strategy in order to explicitly lay out the principles guiding its efforts and clarify the purview, methodology, scope and boundaries of the research.

### **a. Principles Guiding the Report**

The adoption and development of the alternatives to incarceration documented in this Report were based on five fundamental principles, the adoption of which will help states comply with their international obligations and generate drug policies which are more efficient and guarantee the human rights of their citizens.

This First Technical Report, submitted to the 56<sup>th</sup> CICAD, is a compilation of a number of alternatives from different countries. It is important to recognize that this list does not include every existing option. Member States may continue to nurture this first effort to document such alternatives at a future date through the CICAD Executive Secretariat, in fulfillment of its different mandates and in support of advancements and decisions made by the Member States in this regard. It is, therefore, important for this report to be viewed as a first step to guide future efforts, which by no means excludes any other existing experiences on the subject.

#### **1. Compatibility of alternatives to incarceration with international drug control standards**

A careful reading of the international drug control conventions reveals that States are afforded a measure of leeway to use alternatives to incarceration instead of criminal prosecution for conduct linked to drug use, production, transportation and trafficking. For example, States are free to not criminalize drug use and may reduce existing sentences for drug-related offenses. The practices of Member States show sharp differences in this regard. In some countries, mandatory minimum sentences for drug-related offenses are strictly enforced, while in others, sentences for this type of offense are left to the discretion of the judge, and there is a blurry line between simple possession for personal use and distribution. All of the alternatives to incarceration compiled in this report are aimed at preventing or reducing the prison population associated with drug crimes and are compatible with the international drug conventions.

#### **2. Public Health Approach**

Article 38 of the 1961 UN Single Convention on Narcotic Drugs establishes that “the Parties shall give special attention to take all practicable measures for the prevention of abuse of drugs and for the early identification, treatment, education, after-care, rehabilitation and social reintegration of the persons involved and shall co-coordinate their efforts to these ends.” This has been interpreted by a number of bodies as a commitment to health-focused and social intervention. Under this interpretation, adopting this type of approach entails, among other

elements, opting for non-punitive and non-enforcement focused policies regarding drug use, or even some related conduct, and designing and implementing such policies based on the principle of the right to health.<sup>22</sup> **As stated in the study “Drugs and Public Health,” from the report “The Drug Problem in the Americas,”<sup>23</sup> the public health approach seeks to ensure that the harms associated with drug control interventions do not outweigh the harms of the substances themselves.** Either within this non-punitive interpretation of drug use, or based on other interpretations, the alternatives to incarceration featured in this report are based on a public health approach.

### **3. Human Rights Approach**

Adopting a human rights approach involves humanizing drug policy by protecting the individual in a setting that provides access to opportunities and social inclusion as the primary objective. As emphasized in the resolution adopted at the 44<sup>th</sup> OAS General Assembly, “Promotion and protection of human rights in the search for new and effective approaches to global drug problem solutions in the Americas” (AG/RES. 2868 -XLIV-O/14), drug policies must be implemented with full respect for national laws and international law, including due process, and unrestricted respect for human rights, which include their obligations with regard to civil, political, economic, social and cultural rights. The alternatives to incarceration featured in this report uphold human rights.

### **4. Differential Approach**

This approach is based on the right to equal treatment under the law, which compels States to adopt policies that are not only non-discriminatory but that also contribute to eradicating discrimination. Along these same lines, some individual characteristics, such as race, gender and age can be a factor in persons becoming subjected to exclusion, marginalization or alienation, discrimination or violence. Therefore, in order to fully ensure their rights and place them on an equal footing, drug policies must be sensitive to potential discriminatory impacts on vulnerable populations, especially women, children, adolescents, and older adults, ethnic and racial minorities and persons with a variety of disabilities. To the extent that it was possible, an attempt was made in this report to document the differential impact that alternatives to incarceration had on these segments of the population.

### **5. Empirical Evidence-Based Approach**

Drug policies should be based on empirical evidence so they are more suitable to the particular context involved, become increasingly effective and not infringe upon human rights. Adopting this approach requires analysis, exchange of experiences and taking a close look at policies in order to figure out what has been successful and what needs improvement and how to improve it. This approach entails recognizing that over the past years a number of alternatives to incarceration have been developed in several countries. Consequently, a wide range of options is

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<sup>22</sup> United Nations Office on Drugs and Crime, *From coercion to cohesion. Treating drug dependence through health care, not punishment, Discussion paper*. UNODC: New York, 2010.



available for States to explore in order to move forward in the design and implementation of specific alternatives that are useful and appropriate for the particular contexts they face in their home countries. However, it is obvious that States must at times adopt certain policies in contexts of uncertainty and, therefore, it is not always possible for a solid empirical foundation to be in place to support a particular public policy option. To always demand a prior empirical basis for a policy would stand in the way of innovation. But when novel and innovative policies are implemented, States must put monitoring and follow-up mechanisms into place to provide for periodic evaluation of policy outcomes.

## **b. Defining Concepts and Methodology**

In order to accomplish its mission, the TSG defined the concepts and methodology it would employ, building upon earlier studies on alternatives to incarceration, especially the report written by Dirk van Zyl for the UNODC on promising principles and practices on alternatives to incarceration.<sup>24</sup> Based on this review of the academic literature, the TSG crafted a general definition of alternatives to incarceration in the context of drugs, and then set the scope and boundaries of its research, as well as the methodology for drafting and documenting promising experiences.

The TSG defines alternatives to incarceration as any measure (whether legal reforms, strategies, programs or policies) intended to i) reduce criminal prosecution, or ii) limit incarceration in the event of prosecution, or iii) decrease the time of actual deprivation of liberty in the event of prosecution of persons, who have committed what are known as “drug-related offenses.”

This report refers to three types of measures: i) those taken prior to the opening of an investigation and a criminal proceeding, aimed at preventing the case from entering the criminal justice system; ii) those aimed at preventing the criminal case from resulting in incarceration or making the incarceration proportional to the offense; and iii) those providing for early release of convicted and imprisoned individuals along with social integration strategies.<sup>25</sup>

We define two types of behavior as “drug-related offenses.” The first type involves specific infractions of drug laws, namely the violation of provisions of the law which penalize the

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<sup>24</sup> See UNODC (Document written by Dirk van Zyl Smit ) *Handbook of basic principles and promising practices on Alternatives to Imprisonment*. New York, UNODC, 2005, available at [http://www.unodc.org/pdf/criminal\\_justice/Handbook\\_of\\_Basic\\_Principles\\_and\\_Promising\\_Practices\\_on\\_Alternatives\\_to\\_Imprisonment.pdf](http://www.unodc.org/pdf/criminal_justice/Handbook_of_Basic_Principles_and_Promising_Practices_on_Alternatives_to_Imprisonment.pdf)

<sup>25</sup> This three-type classification system closely mirrors the UNODC report’s classification system on alternatives to incarceration, which introduces four types of measures: i) measures which limit the scope of the criminal justice system; ii) pre-trial and presentence measures; iii) alternative sentence measures; and iv) measures involving early release. For reasons of simplification, we prefer to join the second and third types.



production, distribution and, in certain instances, the consumption of controlled substances such as marijuana, cocaine and heroine. The second type is when a person commits other crimes which are not specifically drug crimes, such as theft, but does so as a result of a drug abuse problem or problematic use of psychoactive substances, such as committing a crime under the influence of said substances or as a means of supporting their use.

Even though it is recommendable for countries to reflect on the need to implement alternatives to incarceration for a variety of drug-related crimes, the report focuses on lesser offenses, such as: i) use and possession for use, when such behavior is criminalized, as well as problematic use in instances of drug-dependent offenders; ii) small-scale growing and producing, especially in the case of peasant farmers or indigenous people or for personal use; and iii) non-violent, small-scale transporters, traffickers and distributors, such as the couriers known as “mules” or what in some countries is known as *‘narcomenudeo’* – retail or small-scale drug dealing. The report also takes into account iv) persons who have committed other crimes under the influence of illicit drugs, or to support their addiction.

Lastly, for this report, the TSG made the decision to only document alternatives designed for adults. This decision to limit the sampling to alternatives designed and implemented for adults should not be taken to mean that we are negating the importance of these measures for children and adolescents. In fact, the States of the region must develop alternative measures to incarceration for this population as well, particularly, because available evidence<sup>26</sup> in some countries suggests that involvement of children and adolescents in drug-related offenses (such as acting as distributors and couriers, among other roles), is on the rise and, in some instances, associated drug use does not seem to have triggered a clear public health response. This limitation to the scope of the survey was for purely operational reasons. The TSG believed that juvenile justice poses specific issues of great complexity, rendering it impossible to address all of them in this report because of time constraints in documenting the experiences.

Based on these operational definitions, with the invaluable support of the CICAD-ES, the TSG decided to explore alternatives to incarceration for drug-related offenses, which fit the following profiles: i) alternatives which were previously put into operation in one or several countries and were not simply at the proposal stage; ii) alternatives which show promise in serving the purpose of reducing incarceration, without adversely affecting public safety or efforts to counter drug abuse; iii) alternatives which were previously documented, since due to time and resource constraints the TSG’s research could not be based on fieldwork nor primary research, but instead had to come from existing sources; and iv) there had to be a variety of documented experiences, so that the selection of experiences could provide the states of the Americas with a broad range of alternative options to incarceration, which could be tailored to their particular context.

It is important to note that due to the lack of information on the results, impact and costs, this report is not, nor is it held up to be, an evaluation of the alternatives identified herein. On the contrary, this document is only intended to spotlight the many experiences, all of which are of

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<sup>26</sup> SUBREGIONAL INFORMATION AND INVESTIGATION SYSTEM ON DRUGS IN ARGENTINA, BOLIVIA, CHILE, COLOMBIA, ECUADOR, PERU AND URUGUAY – SISUID, 5<sup>th</sup> Joint Report. The Drug-Crime Relationship in Adolescent Criminal Offenders, The experience of Bolivia, Chile, Colombia, Peru and Uruguay, 2010,

interest on their own, while recognizing the limitations each one has in its objectives and implementation.

The TSG, accordingly, identified 41 alternatives that have been adopted over the past years in the countries in the Western Hemisphere, as well as Europe and Africa, and have shown promise in reducing incarceration; are compatible with international drug conventions; are respectful of human rights; and, in particular, have a positive impact on populations in situations of vulnerability. The basic information relating to the 41 experiences can be found on the web page of the Ministry of Justice and Law's Drug Observatory's: <http://www.odc.gov.co/PUBLICACIONES>. Information sheets offering further details are being created for each of the 41 experiences, and this is one of the priorities for coming months.

### III. Inventory of alternative measures to incarceration: evidence of a promising way forward

The TSG report profiles the variety of alternatives and shows that the countries of the region use a broad range of policy options to provide tailored responses to the deprivation of liberty for those who commit drug-related offenses. The document is not intended to rank alternatives from best to worst; instead, operates under the assumption that the best approach for a state may be to develop several alternatives, in view of the particular context and variety of crimes that it must confront.

It is important to note that no matter how successful alternatives may be in one country, a detailed analysis and, most likely, a number of adjustments will be required for them to be successful in another country. Because context plays such a central role in the way rules and institutions actually function, significant differences between countries can mean that a particularly successful alternative in one country may not necessarily be successful in another.

For purposes of analysis, the alternatives have been grouped into three typologies in order to highlight the wide-ranging profiles and the options offered by them. The first typology, which is similar to the typology used in the UNODC report on alternatives to imprisonment, is based on the **stage when the alternative is put into effect**, and provides for a whole continuum of measures ranging from keeping the person from entering the judicial system, keeping the person from being deprived of liberty as he or she is undergoing judicial proceedings, to conditional release at sentencing or while serving a prison sentence, in particular, early release. The second typology is based on who the **principal beneficiaries** of the alternatives are. This typology enables different alternatives to be used for people fitting a particular profile, such as users, women or indigenous peoples, among others. The third typology focuses on **mechanisms and levels of implementation**, meaning it takes into account relevant variables on how the alternative is adopted and implemented. This typology shows that alternatives can be adapted to different contexts and may require different levels of institutional development and coordination.

The value of these three typologies must not be overestimated: it is purely organizational in nature. They simply represent an attempt to lay out the different alternatives in an ordered manner, so that states are able to have an overview of the options presented. In the interest of brevity, this document simply outlines each category, using some examples of alternatives to illustrate the major components and characteristics thereof.

#### **a. Alternatives based on point in time of application**

Alternatives to incarceration can be grouped into three broad categories, based on what point in time, relative to judicial proceedings, they occur: a) measures intended to avoid criminal prosecution for certain offenses, b) measures applied during judicial proceedings and c) measures for prison populations.

##### **1. Alternatives limiting entry into the criminal justice system**

This category of alternatives enables the person to stay out of the criminal justice system. These alternatives are usually associated with two fundamental strategies: i) decriminalization of certain conduct,<sup>27</sup> which basically involves amending a law to remove it from criminal law and, therefore, removing the possibility of sanctioning previously criminal behavior with the deprivation of liberty; and ii) diversion mechanisms, other than the criminal justice system, in response to criminal conduct that could be sanctioned with incarceration, but that through administrative or judicial measures are treated otherwise.

The first strategy – decriminalization – has been adopted by several countries around the world for use and possession of small amounts of illicit drugs for personal use. This group of countries includes Portugal, which has decriminalized<sup>28</sup> possession of substances in amounts equal to or lower than those considered to be for personal use. In Portugal, as is the case in other European countries, even though possession continues to be considered illicit conduct, instead of punishing offenders with a penal measure, an administrative response is used. Portugal has instituted a body called a “Dissuasion Commission.” These commissions are empowered to impose different types of measures, such as admonishments or warnings, community service, suspension of driver’s licenses and fines, depending on the particular circumstances of the case and the type of drug use involved. When problematic use or drug dependency is involved and the individual requires treatment, the Commissions and the person (voluntarily) enter into an agreement for treatment, under which the person accepts that he or she has a dependency problem or is a problematic user.<sup>29</sup> In Box No. 1, this experience is described in greater detail.

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<sup>27</sup> It must be clarified that there is no academic or political consensus about the terms depenalization and decriminalization. This report defines decriminalization as the elimination of a conduct or activity from the sphere of criminal law, which means that the act no longer constitute a criminal offense. It continues to be prohibited, but non-criminal sanctions may apply. When drugs are involved, the term is generally used to refer to acts pertaining to demand for drugs, such as acquisition, possession and use. The term depenalization is defined as reducing the chance of being punished for a criminal offense. The action continues to be prohibited under criminal or non-criminal law and it may result in punishment, although the punishment may not necessarily be applied in all cases.

<sup>29</sup> Domostawski, A, *Drug Policy in Portugal: the benefits of decriminalizing drug use*, Open Society Foundation, 2011.

#### **Box No. 1**

##### **Dissuasion Commissions in Portugal**

In 2000, a new law was approved in Portugal that decriminalizes possession of all drugs. Even though possession continues to be an illicit conduct, an administrative response is provided for offenders, instead of sanctioning them with a penal measure.

The mechanism to implement the administrative measures is called a Dissuasion Commission. There are 18 commissions, one for each province of the country, and they are located under the Ministry of Health in the organizational structure of government. They are made up of three members selected by the Ministries of Health and Justice. Usually, the members are one expert on the law, one health professional and one social worker. The commissions are also supported by psychologists and sociologists.

When a person is found in possession of an amount of psychoactive substance below an amount consistent with ten days of personal use, the drugs are seized and the person is summoned to appear before a Commission. When the amount of drugs exceeds this threshold, the conduct falls under the criminal sphere; however, it must be noted that quantity is not the only element taken into account to determine the difference between personal use and trafficking.

At the appearance, the user discusses their drug use history with the members of the Commission in order to identify whether or not occasional use or problematic use is involved and be able to offer a response tailored to individual needs. The first appearance usually entails suspension of the judicial proceedings and no sanction is issued. The Commission provides guidance about treatment options; however, joining the program is always voluntary. The Commissions can impose administrative measures, such as suspension of driver's license, a ban on presence in certain locations, community service and fines, among others. By law, no fine can be imposed on a drug-dependent person, because in so doing, it could compel him or her to commit a crime to procure the money to pay it.

In 2009, some 68% of the cases heard by the Dissuasion Commissions were non-dependent users and no sanction was applied. In 15% of the cases, it was agreed that the person would go to treatment. Around 14% received an administrative measure; 4%, a fine; and 10%, a non-pecuniary sanction. Some 76% of the cases were for possession of cannabis, 11% for heroine, 6% for cocaine and 6% for a combination of drugs.

The second strategy – diversion – also offers a number of options. It may involve referral to an administrative monitoring system, treatment or other non-punitive measures, such as educational measures. In all of these instances, the key point is that the person is not referred to the judicial system and, therefore, does not end up being criminally punished, thus helping to relieve pressure on the system. Some examples of this type of measure can be found in Australia, England and the United States. Programs of this type implemented in these countries include tiered sanctioning mechanisms, access to treatment, education, housing and employment, as well as tracking and monitoring systems and ongoing testing. One program, which has been widely featured in recent literature, is LEAD (Law Enforcement Assisted Diversion), which originated in Seattle (Washington) in October 2011. It is an independent program, targeted to persons

arrested for minor drug offenses and prostitution. The arresting police officer has the power to decide whether or not to divert the person into the program. This entails referring the person to a case manager in charge of deciding the type of monitoring arrangement the person will be subjected to and usually includes a program tailored to the individual needs of the person.

In the United States, there are several programs in place in which the police officer makes the decision not to refer the person to the judicial system, but instead refer to administrative mechanisms of different types. In the context of Latin America and the Caribbean, two major reasons are given for the great skepticism there seems to be about adopting this type of alternative, where a police officer plays a key role in diversion. On the one hand, there is apprehension that, in some countries, such programs could be a hotbed for corrupt practices. On the other hand, from the legal standpoint, such programs would be tantamount to granting the police the legal authority to bring criminal actions and, in some countries, this would be inconsistent with the way their judicial systems work. In any case, these alternatives suggest that the police can play an important role and, therefore, countries could make some changes in order to reduce the risks that seem to be associated with this type of intervention.

## **2. Alternatives to incarceration through the criminal justice system**

These alternatives take place during the course of a criminal proceeding, which might vary from country to country, but generally would include the phases of prosecution and/or trial. In Latin America and the Caribbean, there have been several initiatives that could be regarded as alternatives used during the stage of proceedings.

Out of all the alternatives profiled in this report, Drug Treatment Courts<sup>30</sup> warrant special examination, inasmuch as they are the only example that is being explored or implemented in almost half of the OAS Member States. Currently, there are more than 2,700 DTCs in the Western Hemisphere. This model operates under a set of key common components, combined with local variations that reflect the particular context of each particular jurisdiction and/or country. Its documented successful use is contingent upon many factors. Scientific evidence<sup>31</sup> shows that the model, when it is properly implemented,<sup>32</sup> can help to reduce crime, relapses in

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<sup>30</sup> This document refers to the “Drug Treatment Court model,” even though this model has different titles in different countries. For example, Drug Treatment Program under Judicial Supervision, Addiction Treatment Court, and Drug Court.

<sup>31</sup> See Rempel, Michael, Lomba, Antonio; Raine, Valerie (2014): Estudio Diagnóstico del Modelo de Tribunal de Tratamiento de Adicciones de Guadalupe [‘Diagnostic Study of Addiction Treatment Courts of Guadalupe’], State of Nuevo León, Organization of American States, Washington D.C.. Also see Rossman, S. B., Roman, J. K., Zweig, J. M., Rempel, M., and Lindquist, C. H., eds. 2011. *The Multi-Site Adult Drug Court Evaluation*. Washington, D.C.: The Urban Institute. And also see Shaffer, D.K. 2011. “Looking Inside the ‘Black Box’ of Drug Courts: A Meta-Analytic Review.” *Justice Quarterly* 28: 3: 493-521.

<sup>32</sup> In addition to tracking key components of this model as an ingredient for success, the Drug Treatment Courts for the Americas initiative, spearheaded by the OAS, does not recommend including drug use and possession. cases as an eligibility requirement for these models, DTCs should accept cases in which drug dependence has been diagnosed as a trigger or causal element for the commission of a separate crime. In short, cases in which the individual would have gone to the prison for the crime he committed (crimes of -property theft, for example), and in which there is a diagnosis of said dependence, he is referred to treatment as an alternative sentence to deprivation of liberty.

drug use, and the prison population, and best utilizes resources from a long-term perspective. Based on different studies conducted on this model, successful and unsuccessful practices have been identified. The Drug Treatment Court model is described in Box No. 2.

#### **Box No. 2**

##### **Drug Treatment Courts**

Since the time the first DTC was created in the United States in 1989, a growing number of countries have implemented this model. Canada, Bermuda, Cayman Islands and Jamaica joined the list as of 2000. In 2004, the first court of this type emerged in Chile; in 2009, in Mexico. In 2010, the Organization of American States (OAS), through the Inter-American Drug Abuse Control Commission (CICAD), launched the Drug Treatment Courts for the Americas Program in order to provide support for the expansion of the model to other Member States. As of 2014, this model has been implemented in Argentina, Barbados, Bermuda, Canada, Cayman Islands, Chile, Costa Rica, United States, Dominican Republic, Jamaica, Mexico, Panama and Trinidad and Tobago. Outside of the Americas, it can be found in countries such as Australia, Belgium, Ireland, New Zealand, Norway and the United Kingdom (England and Scotland). Colombia, Peru and Belize are currently engaged in the exploration phase of this model.

DTC programs can serve as an alternative to the regular criminal justice procedure in many ways, including but not limited to: (1) conditional suspension of the proceeding (Chile), or (2) supervised release when the person is in custody or is serving sentence. In both instances, a substance-dependent individual (the typology of drug consumers varies from country to country and, sometimes, within the same country), who has committed a certain type of crime (eligible crimes vary from jurisdiction to jurisdiction), agrees voluntarily to receive comprehensive rehabilitation treatment under strict judicial supervision. During that time, the participant (mostly drug dependent offenders) voluntarily engages in substance abuse treatment and other supportive services, is subjected to periodic drug use testing and regularly appears before the court. At the end of the term, the candidate leaves the drug treatment court and, when the proceeding was conditionally suspended, the case is usually dismissed without prejudice (or the equivalent thereof in the particular jurisdiction), and, consequently, the person's criminal record is expunged for this offense. When this model is used during the phase of sentence execution, if the person successfully completes the program, he or she is released.

The specific objectives of the program are: (1) Rehabilitation: it seeks to eliminate or reduce drug use; (2) Social integration by providing the person an opportunity for work or education equivalency certificates, among other things; (3) Decrease in criminal recidivism: this is the broad objective, which encompasses the previous two, inasmuch as the participant decreases or eliminates future offending and justice system involvement. Instead of being designed to punish, DTCs are designed to directly address the causes of crime.

The use of this model varies in different countries. In Costa Rica, for example, the model is combined with a Restorative Justice program. In the Dominican Republic, constitutional right guarantee judges, as well as sentence execution control judges have become involved. In Mexico, the model has spread to different states but in very different ways from one another.

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Ultimately, though, each country makes the decision in the end as to what eligibility requirements will apply to the model. For more information on eligibility profiles, see [http://www.cicad.oas.org/Main/Template.asp?File=/fortalecimiento\\_institucional/dtca/publications\\_spa.asp](http://www.cicad.oas.org/Main/Template.asp?File=/fortalecimiento_institucional/dtca/publications_spa.asp)



Several studies show that the model, when properly implemented, is effective<sup>33</sup> at reducing the recidivism rate and the crime rate, which is generally measured by a decrease in arrests for new crimes and technical offenses. The drug relapse rate of participants in drug courts ranges from 8% to 26% lower than the rate for other judicial response systems. The best drug treatment courts reduced the number of reoffending by 45% more than other methods.

Even though there is evidence about this model in the United States, Canada and Australia, the expansion of this model to the rest of the hemisphere is recent and, therefore, evidence is needed from the other countries in order to be able to compare results. For this purpose, the Organization of American States (through CICAD) and its associated bodies worldwide, are working with the Member States on implementation of the monitoring and evaluation system to create installed capacity for research and evaluation for countries to be able to generate evidence on their own.

Another example of a pre-trial measure is the HOPE program in Hawaii, United States, which is described in Text Box No. 3, and seeks to make the use of suspended sentences more effective.

#### Box No. 3

##### HOPE Probation

The HOPE (Honest Opportunity Probation with Enforcement) model was launched in Hawaii in 2004. Its goals are to reduce recidivism and probation violations among probationers at high risk of drug use, missed appointments or new criminal behavior. The model relies on the idea that *swiftness and certainty* of responses are more important than *severity* in improving outcomes.

The HOPE program starts with a warning hearing, where a judge clearly explains the conditions of probation to be complied with, as well as the consequences for noncompliance. In particular, the judge emphasizes that each violation will lead to a short but immediate stay in jail. Each probationer is told to call a phone number every morning to find out whether they are to be tested for drug use, and that if they miss their appointment or fail their drug test they will be arrested and brought before the judge. Every positive drug test and every missed probation appointment is met with a sanction. If probationers continue to test positive for drugs, or they request treatment at any time, they will be sent to intensive inpatient drug treatment.

The original Hawaii HOPE program was the subject of an independent evaluation, which found that, compared to probationers in a control group, after one year the HOPE probationers were 55% less likely to be arrested for a new crime; 72% less likely to use drugs; 61% less likely to skip appointments with their supervisory officer; and 53% less likely to have their probation revoked. As a result, HOPE probationers served or were sentenced to 48% fewer jail days, on average, than the control group. To determine whether these results could be replicated in other settings, the U.S. Department of Justice has funded a field experiment in four different states with a rigorous evaluation to determine the impact of HOPE in reducing probationer re-offending and identify the likely challenges and costs a jurisdiction should expect when implementing the program. Results are expected in 2015.

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<sup>33</sup> In addition to the bibliographic references at the end of this Report, visit: <http://www.nij.gov/topics/courts/drug-courts/Pages/welcome.aspx>

In conjunction with the above-cited measures, which seek alternative forms of court processing and sentencing to avoid incarceration, certain states have opted for reforms aimed at reducing sentences for drug crimes and thus avoiding the disproportionate punishments that are still meted out in several countries. This leads to a decrease in incarceration rates as the average prison term is brought down. One interesting example we can cite is England and Wales, where guidelines were established to ensure more proportional sentences. For this purpose, several criteria were defined in order to allow judges to impose more reasonable and suitable sentences, which are commensurate with the degree of responsibility and the specific profile of the conduct. This is an outstanding example of how legal measures that allow for better differentiation between substances, quantities, types of conduct and levels of liability can contribute to making punishments more proportional and, consequently, make offenders spend less time deprived of liberty and this deprivation is more reasonable. This point is further explained in Text Box No. 4.

#### **Box No. 4**

##### **Sentencing Guidelines for Drug Crimes in England and Wales**

In early 2012, the Sentencing Council for England and Wales – created in 2010 – issued sentencing guidelines for drug crimes. The guidelines provide an example of a measure that seeks to set more consistent and proportional sentencing criteria.

The guidelines do not amend the law on the subject matter – the Misuse of Drugs Act – but instead provide guidance to judges with regard to sentencing ranges and criteria to be taken into account in setting punishment. Accordingly, it establishes seven degrees of offenses: introduction or extraction of controlled drugs into or from the country, supply or offer of supply, possession for the purpose of supplying it to another person, production, growing cannabis plants, allowing the use of facilities and possession of controlled substances. A specific offense range is laid out for each crime, which is the maximum and minimum sentence that can be given.

In order to establish the punishment, the following factors are taken into account: type of crime, type and quantity of the substance and the role of the offender (leading, significant or minor role). Additionally, aggravating and mitigating circumstances were established. This is a highly novel element, because usually drug laws – as provided by the 1998 Convention – provide only for aggravating and not mitigating factors.

One of the groups that has greatly benefited from these guidelines are women used as human couriers by the international drug trafficking rings: under the guidelines, the length of the average sentence in this circumstance is reduced by almost half of the prison term.

An evaluation conducted by the Sentencing Council shows how, overall, in the first ten months from the time the guidelines were enacted, 100% of the sentences were in line with the suggested ranges. It must be clarified that in most of the cases, the punishments given are community service and only around 9% of the persons charged with a drug crime are sentenced to deprivation of liberty. In the case of possession, emphasis has been placed, since 1998, on diversion or referral programs and rarely is a prison term imposed. In general, these cases are settled with a verbal admonishment or fines.



Another similar example is the recent initiative of the United States federal government, known as “Smart on Crime,” which aims to reduce the prison population in that country by changing the sentencing guideline parameters for drug-related crimes, as explained in greater detail in Box No. 5.

#### **Box No. 5**

##### **Smart on Crime**

During the 1970’s, a significant change took effect in United States sentencing laws. These changes in United States sentencing laws gave rise to a huge increase in the use of prison sentences, with the figure shooting up from 700,000 to the current total of 2.2 million. The national violent crime rate began to drop as of 1992 and continued to do so until 2000, when it held steady and then it began to climb again in 2007 until 2011 (with similar trends in the homicide rates) and, over this time, the prison populations continued to grow. In economic terms, this situation was and continues to be unsustainable. One illustration of this is the percentage of the budget of the U.S. Department of Justice, which handles prisons and arrests. The incarceration budget has risen from 27% of total in 2000 to 31% of its total budget in 2013 and it is expected to increase even more over the next years.

Nonetheless, the U.S. has recently been attempting to introduce reforms. The Smart on Crime initiative, launched by the Office of the Attorney General of the United States in 2013 and partly designed to control and reduce the prison population, is mostly based on the change in the sentencing guideline parameters for federal drug trafficking crimes. The punishments for drug trafficking have been quite harsh and the federal system prosecutes some 25,000 people each year for drug trafficking, and the average prison term of those convicted is 6.8 years. This has significantly contributed to the high number of inmates in federal prisons. The Smart on Crime initiative seeks to reduce the minimum sentences to 2 and 5 years (currently they are 5 and 10 years, respectively), and if these sentences are combined with adequate efforts and investments in social reintegration and law enforcement, they should not have a negative impact on public safety and could free up resources to implement programs such as LEAD, HOPE, and 24/7. In this way, the government would be in a better position to focus on preparing persons deprived of liberty for their return to the community, and on reducing criminal recidivism.

The U.S. Department of Justice is attempting to utilize the federal mandatory sentence statute more selectively and target resources on trying to reduce repeat offenses. Greater effort is needed to improve social reintegration of persons deprived of liberty, and it will take both an economic investment and legal reforms.

### **3. Alternatives for Prison Populations**

These alternatives are put into effect following sentencing and involve an intentional reduction of the term of incarceration (even if incarceration is combined with other activities such as community service). Relevant examples of this type of measure can be found in several countries around the world, including Uganda, Tanzania and Kenya, as well as in several

European countries,<sup>34</sup> where a person can be released from serving a prison term in exchange for performing community service.

In the United States, Community Courts are a noteworthy example. The purpose of these courts is to bring judges closer to the community and allow them to actively participate in doing justice. The community court of Red Hook, in Brooklyn (New York), which is a branch of the New York Court State court system, can be cited as a fine of example of how such courts deal with drug-related crimes. At this court, if an eligible person is in agreement, by performing community and social service, the case can be disposed of, and this can include treatment for drug dependent participants. Those who are referred to treatment are subject to ongoing monitoring, which includes drug testing to detect any further drug use, judicial supervision and incentives and punishments (a carrot and stick approach) for compliance and non-compliance with the program.

Another post-sentencing alternative with a similar approach is called Right Living House (RLH), which has been operating in Bermuda since 2010 and allows persons who have committed crimes and have a drug use disorder to received residential treatment and community care after sentencing. In the countries of the Caribbean, there is wide use of Community Service Orders (CSO), whereby the judge may, at his or her discretion, send the convicted person into treatment or to perform community service at the time of sentencing.

#### **b. Alternatives based on the particular population benefiting from or impacted by them**

Alternatives to incarceration can be targeted towards different populations. Even though a wide variety of measures have been identified in the report, it is evident that a majority of them are focused on users (drug possession and use)<sup>35</sup> and very few are targeted to producers or small-scale dealers. This predominance of focus on users is particularly obvious when grouping alternatives by type of crime and procedural stage, as can be seen in Annex B.

However, we can cite two programs in the United States that do cover distributors and traffickers. Firstly, the Back on Track (BOT) program in San Francisco (California), which targets young adults who have been involved in the sale and distribution of illicit drugs on a small scale. Box No. 6 provides a more detailed description of this program.

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<sup>34</sup> Case of Spain:

[http://www.institucionpenitenciaria.es/web/export/sites/default/datos/descargables/instruccionesCirculares/I\\_8-2009.pdf](http://www.institucionpenitenciaria.es/web/export/sites/default/datos/descargables/instruccionesCirculares/I_8-2009.pdf)

<sup>35</sup> It is important to differentiate between alternatives offered to persons with abuse problems, and those with problematic use or dependence and, under these last two categories, persons whose crime is not use, but a property crime, for example, committed under the influence of drugs, or in order to support an addiction.

#### **Box No. 6**

##### **Back on Track**

The “Back on Track” program was launched in 2005 by the San Francisco District Attorney’s Office for young adults, ages 18-30 (primarily 18-24) with no prior convictions, charged with micro-trafficking not involving violence. The program is notable for its focus on dealers rather than problematic users of drugs.

Program participants are referred by the prosecutor’s office, plead guilty to the offense, and are supervised by a designated judge. Working with local NGO’s, Back on Track is a 12-18 month program that, under ongoing judicial monitoring, offers job training and other programming, while requiring participants to complete community service. Upon successful completion, the case is dismissed and the participant’s record is sealed. If a participant fails to meet program requirements, a judge can immediately impose jail or prison.

According to the San Francisco District Attorney’s Office, which continues to operate Back on Track after nearly a decade, the program has reduced recidivism amongst graduates to less than 10 percent. However, Back on Track has not been subject to an independent evaluation. The most notable replication of the program is in Philadelphia, where the local prosecutor’s office has established a program called The Choice is Yours (TCY). TCY serves a similarly youthful population although it allows for the inclusion of more serious offenses than Back on Track. TCY was recently the subject of a thorough process evaluation, and the office reports that an independent impact evaluation will soon get underway.

Another example is the Conviction and Sentence Alternatives (CASA) program in Los Angeles (California), targeting persons who have committed non-violent minor crimes and are involved in the drug market.

Among the wide range of targeted alternatives, two examples focusing on particular populations stand out. In Canada, the Aboriginal Restorative Justice Project has been in operation since 2002 in Manitoba. This initiative is designed to provide services to persons belonging to indigenous communities, but who live in urban setting and are in conflict with the law for offenses related to drug possession or non-violent offenses stemming from heavy or problematic use. The purpose of the program is to provide culturally appropriate services to these individuals, based on the concept of restorative justice.

In Costa Rica, the 2013 legal reform was intended to provide a more proportional response to women who bring drugs into prisons and are in a situation of vulnerability. The change in the law reduced the punishment for that offense, specifically for any qualifying women, as described in greater detail in Text Box No. 7.

#### **Box No. 7.**

##### **Amendment to Article 77 for Women in Costa Rica**

This is an innovative legal reform which was instituted in Costa Rica to enable sentence reductions and access to other penal benefits for women tried for bringing drugs into a jail and who are in a situation of vulnerability.

It is the first amendment to Law 9161, which is the Psychotropics Law, and it involved changing Article 77, in order to reduce the punishment set forth for the conduct described therein (making the prison term from 3 to 8 years instead of from 8 to 20 years). The amendment also enabled women who are standing trial and are living in conditions of poverty, are heads of household living in conditions of vulnerability, or have custody of minor children, older adults or persons with some form of disability, to be granted the benefit of home arrest, supervised release, residence in a halfway house or electronic monitoring.

It is innovative because it represents a significant departure from the underlying punitive approach of the Psychotropics Law. It incorporates a gender perspective and provides a specific response to a criminological phenomenon that had been affecting the country and to which the only possible response was the deprivation of liberty for at least 8 years, with judges unable to take into account the particular situation of each woman.

The measure is being implemented and has yielded very promising results, inasmuch as it has allowed for the release of women who were deprived of liberty even though they were clearly living in a situation of vulnerability. In Costa Rica, it is anticipated that an inter-institutional network will be built to make it possible to provide the women with comprehensive socioeconomic care in response to risk factors that led them into involvement in the crime.

#### **c. Alternatives based on mechanisms of and levels of implementation**

Alternatives can be grouped according to the way they are adopted or implemented. These variables include the geographic area they are intended to cover, the mechanism used to create the alternative and the authority responsible both for adopting and implementing it. The report focuses on the first two variables.

Alternatives can be implemented at a particular level: neighborhood, local, regional and national. Contrary to what one may think, not all alternatives to incarceration are implemented nationwide, at least in their early stages. For example, the many alternatives found in the United States were adopted at the neighborhood, city or state level.

One example of this is

Drug Courts, which eventually spread to other states of the country, were first launched at the local level and have now expanded their range to almost the entire territory of the nation (in the case of the United States), and to different jurisdictions in 11 Member States that currently have this model in place, albeit with significant variations. This type of strategy increases the ability to tailor measures to the specific context involved, inasmuch as contexts can vary greatly even

within each country. Additionally, pilot projects can be mounted to enable sustainable growth over time, during which programs are tweaked as needed in order to adapt them to the particular context and needs of the countries.

In fact, this model of Drug Treatment Courts (DTC) was launched in Latin American and the Caribbean through pilot projects at the local level in particular cities or geographic areas. As was noted above, there are currently 14 OAS Member States that are either exploring, implementing or expanding this model.

Measures have also been implemented at a national level. This generally happens when such measures are adopted through legal or administrative reforms that are in effect for the entire nation. Decriminalization in Portugal and the sentencing guidelines in England and Wales are two fine examples of this. Both of these cases, which were briefly explained above, share the trait of being implemented throughout the respective nation.

Alternatives can also be grouped according to whether they have been adopted by regular or special mechanisms, or as new approaches permitted by existing law. This first category of adoption by regular mechanism covers alternatives which become part of the legal and regulatory framework, or of a public policy, through constitutional and regular legal procedures, and generally become part of State criminal policy. Post-trial alternatives linked to prison sentence rules are an example of this type of alternative because they are generally adopted by law and become part of the general legal framework of the country. Special alternatives involve measures adopted by the state at a specific point in time and for a specific time period. A clear example of this type of measure was the pardon granted in Ecuador because, while the constitution does provide for this mechanism, applying it to drug-related offenses was specific. In any case, it had a significant effect on reducing the prison population deprived of liberty for drug-related offenses. The reduction was only temporary however, and so Ecuador has taken a national measure of a more permanent nature, which could have a significant impact on reducing the population of inmates imprisoned for drugs: a legal reform designed to achieve greater proportionality in prison sentences for drug crimes. It is described in more detail in Box No. 8.

#### **Box No. 8**

##### **Seeking proportionality in Ecuador: from pardons to criminal code reform**

In the past few years, Ecuador has embarked on several initiatives in order to streamline the use of criminal law for drug crimes. On July 4, 2008, the Constituent Assembly issued a pardon for “drug trafficking mules.” As a result of this measure, more than 2,232 persons deprived of liberty were released from prisons. Nonetheless, while in principle there was a significant but temporary drop in the incarceration rate, which fell from 18,675 persons in 2007 to 10,881 persons in 2009, subsequently, there was a major rise in the incarceration rate from 2010 to 2014, which skyrocketed from 13,436 to 26,591 persons. The pardon did not stem the influx of people into the penal system; the released inmates were stigmatized by the police as criminals; judicial rigidly held fast; released inmates were demonized by the media; there was political-institutional opposition to the measure and the number of persons incarcerated for drug crimes was trending

upward.<sup>36</sup>

As a result of the pardon, it became evident that in order to comprehensively address over incarceration for drug crimes, criminal law would have to be changed, as it was marred by a failure to differentiate between conducts and by disproportional punishments. This paved the way for approval of the Comprehensive Organic Criminal Code (COIP, for its Spanish acronym), by means of a legislative process characterized by evidence-based discussion, spearheaded by civil society and academia. The drug chapter of the new Code was even supported by the institutions of the social sector and was defended by the National Council of Narcotic and Psychotropic Substance Control (CONSEP). The COIP was geared, in the view of the Office of the Public Defender, toward *“reinforcing the proportionality denied by the Law of Narcotic and Psychotropic Substances (Law 108), [which is] the reason why more than 60,000 persons have been arrested since it came into force on September 17, 1990 until its repeal on February 10, 2014,”*<sup>37</sup> which by 2012, led to 34% of all persons deprived of liberty were imprisoned for committing a drug-related crime.

On the subject of drugs, the COIP repealed 60% of the Law on Narcotic and Psychotropic Substances (Law 108) in order to: 1) bring criminal legislation in line with the ban from Article 364 prohibiting any form of criminalization of users of both legal and illegal drugs; and 2) redefine the description of the elements of the offenses and the punishments. With regard to the first purpose, the CONSEP had previously defined thresholds of possession by substance type, below which the law establishes that it must always be presumed that the possession is for use, in order to thus avoid *de facto* criminalization of users. It also relaxed the punishments for growing for personal use. As to the second purpose of the repeal, the COIP introduced distinctions based on three types of criteria: 1) the level of perpetration, differentiating between the *“instrumentos”* (‘tools of the crime’) or *“partícipes”* (‘accessories to the crime’) in the production or supply chain of illegal drug trafficking, for whom the punishment was reduced, and the principal perpetrators or leaders of the drug trafficking, for whom the sanction became regulated under a different article (Article 221 of the COIP) with a higher punishment than the one established in Law 108; 2) it also differentiated between production of chemical precursors and substances (for which 4 degrees of punishment were differentiated, based on amounts and types of substance, on the basis of the Mexican legal reform of 2009).

This more proportional treatment for drug offenses, which are committed without any attribution of perpetrator (*autoría*), has led to the option of applying the principle of favorability to those who have been convicted or were being tried under the old law. The potential beneficiaries, either through the office of the public defender or through retained counsel, can file a motion for application of the principle of favorability. The mission of the office of the public defender is to trigger application of the principle of favorability or the subsequent more lenient law on behalf of persons deprived of liberty, for whom Law 108 is infringing their rights, as compared to the new criminal law: the COIP.

In compliance with this duty, the Office of the Public Defender has been particularly active, and

<sup>36</sup> Paladines, Jorge. La racionalización de la penalidad anti-drogas en Ecuador. Presentación realizada en el marco I Diálogo de Alto Nivel sobre Alternativas al Encarcelamiento realizado en Cartagena el 21 y 22 de octubre en Cartagena de Indias, y organizado por la CICAD y el Ministerio de Justicia de Colombia. 2014.

<sup>37</sup> Pazmiño, Ernesto; Paladines, Jorge and Brito, Mario (2014). Guía de aplicación del principio de favorabilidad para las personas condenadas por delitos de drogas en Ecuador [‘Guide to the application of the principle of favorability for persons convicted of drug crimes in Ecuador’]. Office of the Public Defender of Ecuador. Pg. 3.



has also developed support mechanisms for persons who are released in order to facilitate their integration into society. In conjunction with the Executive Secretariat of CONSEP, it has designed a technical form to fill in information at the interview of the person deprived of liberty requesting application of the principle of favorability. Feedback is also received on this form from other entities in order to coordinate, at a future time, the services required to meet the needs of persons who are subsequently released. The objective is to provide the ministries or offices of the social sector of the State with the information they need to prevent criminal recidivism and promote efficient social inclusion, as provided by Article 203 of the Constitution of the Republic. The Office of the Public Defender also offers the petitioners the chance to join an “Association of Released Persons,” which serves as a platform for persons deprived of liberty for drug crimes to assert legitimate demands before the State, with a mind toward strengthening recognition of their full citizenship.

As of October 10, as a result of the efforts of the Office of the Public Defender, 1,063 inmates had been released for drug crimes under the benefit of application of the principle of favorability.

Finally, many of the experiences from the U.S. are examples of judges, prosecutors, and police creating alternatives to incarceration without explicit authority in the law but not in conflict with it.

## IV. Conclusions

Some conclusions can be drawn from the description and inventory of experiences in this last section, which are tentative and could be adjusted for the final version of the TSG report.

This inventory shows that there are alternatives to incarceration in place, which the States of the Americas can use as points of reference to reduce the incarceration spotlighted in the first section of this report. With so many groups such as users, women, and indigenous peoples, among others, there are promising experiences of alternatives to incarceration, which respect international obligations in the field of drugs and human rights, and which seem to not only have a significant impact on reducing the prison population, but also seem to be more appropriate responses to address the problems of drug abuse and public safety, in the short, medium and long term.

This report yielded a menu of options, which each State may tailor to its own context, given that each State is facing different issues on the ground. These measures usually have certain common threads running through them, such as viewing drug use as a matter of public health. Additionally, they involve community interventions and alternative forms of justice and take into account available empirical evidence, all to identify mechanisms that better ensure compliance with intended objectives. But there is no across-the-board magic formula that works everywhere. We must take stock of alternatives to incarceration in order to make headway toward more humane and democratic alternatives that meet the different needs of the criminal justice and health systems within each state, in coordination and conjunction with public policy.

Despite the variation in alternatives, we can identify certain basic strategic approaches which represent the conceptual and theoretical foundations, or strategic principles, behind the

alternatives to incarceration examined. In examining these key concepts, we see that although different alternatives may have different tacks, they can be complementary to each other and contribute to designing customized alternatives that conform to each particular context. Based on identification and examination of the 41 alternatives, we can point to some “key concepts” or strategic approaches, which have helped to promote and strengthen the alternatives. We also believe that examination of the alternatives can help to generate practical considerations, which may be useful to States should they decide to implement alternatives to incarceration. Presented below is a brief explanation of the most promising strategic approaches and the most prudent practical considerations.

#### **a. Strategic approaches or key concepts for alternatives to incarceration**

For now, we have gleaned from our study the five following strategic approaches, which could be useful to the States of the Americas in dealing with this subject matter:

##### **- Decriminalization/depenalization (see footnote 27)**

The relaxing of penal sanctions, known as decriminalization, is fundamentally used as an alternative for drug users. It seems to be the most suitable strategy for users because it meshes closely with a public health approach and social assistance mechanisms. This measure is also in line with international drug control law.

UNODC has established that treatment, rehabilitation, social reintegration and other types of care must be considered alternatives to criminal justice; and persons who use drugs and have committed drug-related crimes, must be encouraged to enter treatment as an alternative to punishment. In any case, treatment (and rehabilitation as part of treatment) must be voluntary and indicated only when use is problematic.

Therefore, when measures of decriminalization or depenalization are adopted in combination with the creation of administrative bodies, or some form of referral to treatment, it is absolutely essential for the type of drug use involved in each case to be analyzed so that a person who simply uses drugs on a recreational or occasional basis, is not forced to undergo treatment, when he or she does not require it. Instead, for example, Portugal’s Dissuasion Commission might require the payment of a fine or performance of community service. Additionally, it is important for a health specialist to conduct a clinical diagnosis in order to identify persons who are truly dependent users, and thus avoid referral to treatment as an alternative to imprisonment for persons who are traffickers or members of a criminal organization. The criminal justice system was made precisely for this type of individual. It is not the intent of this report to suggest that every type of person must be referred to treatment, but only those who do not pose a real threat to society and have a problem of drug abuse or dependence.

Threshold levels can play a key role in the process of decriminalizing or depenalizing use and possession for use, as long as thresholds are set at realistic levels, in keeping with the particular market context, and the operators of justice are not inflexible in applying these thresholds.



## **- Proportionality**

Achieving proportionality would entail changing existing punishments in order to achieve an effective and fair correlation between the seriousness of the conduct committed and the severity of the punishment. This is done mostly through legislative amendments or reforms providing for changes in the standing sanctions or including procedural benefits for persons who have committed drug-related offenses. Ensuring proportionality is fundamental to any democratic state, not only because it constitutes a fundamental guarantee of criminal law, but also because it helps to streamline criminal law and humanize its enforcement.

## **- Diversion from the Judicial System**

The strategy of diversion is fundamentally a pre-trial alternative, as it entails departure from criminal procedure prior to conviction. It can be carried out through prosecutorial discretion or police-initiated diversion. Though no clear alternatives limiting entry into the justice system for small-scale growers and small-scale drug dealers have been found, diversion by means of prosecutorial discretion to institute criminal proceedings or the waiving of the right to bring criminal action would be potential alternatives for these instances, especially when the livelihood of peasant farmers is totally dependent on growing and no alternative crop is available to them. This said, lawful options would have to be offered for them to be able to make a living.

## **- Serving sentence outside of prison (non-custodial measures)**

The strategy of imposing non-custodial measures involves the person exiting the system after being sentenced to prison. The virtue of this strategy is that it helps to weed out those serving time in prison for minor drug offenses after the judicial system has served its purpose for the potential beneficiaries, thus contributing to relieve overcrowding. It is a post-trial measure because it takes place after a prison term is imposed or in lieu of a prison sentence. It can take on a variety of forms, such as probation, general pardons, specific pardons, referral to treatment or reduced sentences.

Even though legislation in most countries of the region allows for this type of measure, as well as other procedural benefits, drug-related crimes are usually excluded from these options. It would be worthwhile, however, to allow for individuals who are at least the weakest links in the drug supply or trafficking chain to benefit from these types of measures, as they could effectively contribute to the social reintegration of this type of offender.<sup>38</sup>

## **- Differentiation between types of conduct, substance and use**

Diferentiation can be achieved by changing laws and policies in order to clearly distinguish between different types of conduct, substances and use. As was noted in the first part of this report, most legislation in the region does not differentiate between different substances and

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<sup>38</sup> When Brute Force Fails: How to Have Less Crime and Less Punishment, Mark A. R. Kleiman 2009. See chapters 5,6 and 7

types of conduct and, consequently, the same punishment is mandated for types of conduct as dissimilar from each other as drug possession, dealing and trafficking. Additionally, it is fundamental to take further steps to distinguish more clearly between different degrees of criminal liability in the chain of command of drug trafficking rings, because it is all too common to find individuals who played an insignificant role in these rings sentenced to very long prison terms.

#### **b. Practical considerations.**

No matter how sound the philosophical, political and criminological approach to an alternative to incarceration is, it cannot be successful in any way if it is not supported by a comprehensive design and an implementation plan to enable ongoing follow-up and evaluation in order to identify issues, challenges and any aspect that could be improved. That is why it is important for alternatives to be adopted as part of public policies along with all of the elements required to ensure proper implementation, such as institutional backing and adequate funding.

In particular, it is important to recognize the importance of context and of launching every design and implementation process of alternatives to incarceration on the basis of in-depth knowledge of that context, especially with regard to the current institutional capacity, how institutions function, differences in public opinion concerning alternatives to incarceration, restrictions in legal codes and budgets, and the specific profile of the target criminal behavior. One alternative that works well in a particular context may very well be a resounding failure in another, if in the new context essential elements are missing in order to successfully implement it. It is, therefore, important to take a close look at the conditions that account for the success of experiences and figure out whether or not they can be replicated in the country seeking to adopt a given alternative. Additionally, implementation must take into account cultural differences that may be relevant for the success of the alternative.

Lastly, it is worthwhile to note that the study of the 41 alternatives helped to shed light on the fact that certain themes cut across several of these experiences and, while none of themes is central to any of alternatives, they could be important elements of public policy, which could have a significant impact on reducing the prison population, especially people belonging to groups in a situation of vulnerability. Though by no means a comprehensive list of such themes, we would like to suggest two, by way of example: i) strengthening public defenders' offices, since many times disadvantaged persons have landed in prison simply because they could not afford adequate defense in the proceedings; and ii) the importance of combining alternatives with education processes about their importance in order to make conditions ripe for implementation of these measures. Often, certain measures are rejected flat out, such as using pre-trial detention sparingly and as an exception, insomuch as society is unaware that pre-trial detention is not advanced punishment, but rather a precautionary measure that must only be applied in exceptional circumstances.

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## **Annex A. List of 41 documented alternatives.**

1. Decriminalization and dissuasion commissions – Portugal.
2. Decriminalization– Czech Republic.
3. Police diversion programs – Australia.
4. Diversion policies for cannabis possession – England.
5. LEAD (Law Enforcement Assisted Diversion) – United States.
6. TAD (Treatment Alternatives and Diversion) - United States.
7. SAM (Small Amount of Marijuana Program) - United States.
8. Cook County Drug School Deferred Prosecution Program - United States.
9. Drug Market Intervention – United States.
10. 24/7 – United States.
11. RICC (Rapid Intervention Community Court) - United States.
12. DTAP (Drug Treatment Alternative to Prison) - United States.
12. Treatment programs under judicial supervision – Costa Rica.
13. HOPE (Honest Opportunity Probation with Enforcement). United States.
14. Drug Treatment Court - Chile.
15. Drug Treatment Court –Salta (Argentina).
16. Sentencing guidelines – England and Wales.
17. Retained Jurisdiction Hybrid Model - United States.
18. Right Living House – Bermuda.
19. CSO (Community Service Order). United States.
20. Community Courts - United States.
21. Mass amnesty – Georgia.

22. Pardon – Bolivia.
23. Pardon – Ecuador.
24. Sentence reduction and alternative sentences –Spain.
25. Treatment for convicted persons – Spain.
26. DTAP (Drug Treatment Alternative to Prison) - United States.
27. RJP (Restorative Justice Panels) – United States.
28. Differential prosecution – Belgium.
29. Back on Track (BOT) – United States.
30. CASA (Conviction and Sentence Alternatives) – United States.
31. Reform Article 77 for women – Costa Rica.
32. Aboriginal Restorative Justice Project - Canada.
33. Community Service – Uganda.
34. Conditional release and community service - Tanzania.
35. Conditional release – Kenya.
36. Conditional release – Argentina.
37. Curative security measure – Argentina.
38. Health and Social Inclusion Home [‘Casa de salud con Inclusión Social’] (SIS) – Argentina.
39. Education security measure – Argentina.
40. Organic Comprehensive Criminal Code (COIP) – Ecuador.
41. Smart on Crime – United States.

## **Annex B. Inventory of alternatives based on point in time and beneficiary**

In the document, we have described some of the 41 alternatives documented by the TSG, based on the point in time they are applied and on the principal beneficiary. In order to provide a more complete picture of all of the alternatives, the double entry chart below features the 41 alternatives reflecting both criteria. For the sake of simplification, only the names of the alternatives are mentioned and, in some instances, their acronym or initials, but the reader can find summaries of each one of them on the Web page of the Drug Observatory.

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	1.Consumer	2. Small-Scale Producer	3. Micro-Traffickers	4. Other traffickers	5. Other problematic use offenses
<b>A. Pre-Trial</b>	<b>1A</b> -LEAD – United States. -RJP – United States. -Czech Republic. - Differential Prosecution. Belgium. -Police Diversion. Australia -Dissuasion Commissions. Portugal - Cannabis referral policies– England and Wales. - Smart on Crime – United States.	<b>2A</b> - COIP – Ecuador.	<b>3A</b> -LEAD – United States. -RJP – United States. - Drug Market Intervention – United States. - COIP – Ecuador. - Smart on Crime – United States.	<b>4A</b> - COIP – Ecuador.	<b>5A</b> -LEAD -RJP - Smart on Crime – United States.
<b>B. Pre-Conviction</b>	<b>1B</b> -SAM. United States. -DTAP. United States. -TAD – United States. -Rapid Intervention. United States. -Drug School –	<b>2B</b>	<b>3B</b> -Back on Track. United States. -RJP – United States. -DTAP. United States. -Spain Drug Mules -Pardon. Ecuador - Drug Market	<b>4B</b>	<b>5B</b> -DTAP – United States. -TAD – United States. -Rapid Intervention – United States. -Drug School – United States. -RJP – United

	<p>United States.</p> <p>-RJP – United States.</p> <p>- HOPE – United States.</p> <p>- Aboriginal Restorative Justice - Canada</p>		<p><i>Intervention – United States</i></p> <p>- <i>Reform Article 77 for women.</i> Costa Rica.</p>		<p>States.</p> <p>- Treatment under judicial supervision– Costa Rica.</p> <p>- HOPE – United States.</p> <p>- Drug Treatment Court– Argentina and Chile.</p> <p>- Aboriginal Restorative Justice - Canada</p>
<b>C. Post-Trial</b>	<p><b>1C</b></p> <p>- CSO – United States.</p> <p>-Community Courts – United States.</p> <p>-CASA – United States.</p> <p>-RJP – United States.</p> <p>-Retained Jurisdiction – United States.</p> <p>-Right Living House Bermuda.</p> <p>- Mass amnesty - Georgia</p> <p>- Differential prosecution – Belgium.</p> <p>- Conditional release–</p>	<p><b>2C</b></p> <p>Differential prosecution - <i>Belgium.</i></p> <p>-Sentencing Guidelines– England and Wales.</p>	<p><b>3C</b></p> <p>-RJP – United States.</p> <p>-Pardons – Bolivia.</p> <p>- Differential prosecution - <i>Belgium.</i></p> <p>-Sentencing Guidelines– England and Wales.</p> <p>- Sentence reduction and substitution– Spain</p> <p>- Community Service – Uganda.</p> <p>- Conditional Release– Kenya and Tanzania.</p>	<p><b>4C</b></p> <p>-CASA – United States.</p> <p>- Differential prosecution - <i>Belgium.</i></p> <p>- Sentencing Guidelines– England and Wales.</p> <p>- Sentence reduction and substitution – Spain</p> <p>- Community Services– Uganda</p> <p>- Conditional release– Kenya and Tanzania.</p>	<p><b>5C</b></p> <p>- CSO – United States.</p> <p>-Community Courts – United States.</p> <p>-CASA – United States.</p> <p>-RJP – United States.</p> <p>-Retained Jurisdiction – United States.</p> <p>-Right Living House – Bermuda.</p> <p>- Differential prosecution - <i>Belgium.</i></p> <p>- Treatment for convicted persons– Spain</p> <p>- Conditional</p>

	<p>Argentina.</p> <p><i>-Curative security measure -</i> Argentina.</p> <p>- Aboriginal Restorative Justice– Canada.</p> <p><i>Community Service</i>– Uganda.</p> <p>Conditional release– Kenya and Tanzania.</p> <p><i>-Education security measure</i> - Argentina</p>				<p><i>Release</i>– Argentina</p> <p>- Drug Treatment Courts – Chile.</p> <p>- DTAP – United States.</p> <p>- Aboriginal Restorative Justice– Canada.</p> <p>- Conditional Release– Kenya and Tanzania.</p> <p>- Casa SIS – Argentina.</p>
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1889 F. Street, NW, Washington, DC 20006 | Tel: +1.202.370.5000 • Fax: +1.202.458.3658  
cicadinfo@oas.org | CICAD.OAS.org



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