

THE CHALLENGES OF REPLACING
PRISON WITH DRUG TREATMENT

Implementation of New York State's Extended
Willard Program

James Wilson
Steven Wood
Robert Hope
Kajal Gehi

Vera Institute of Justice
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Additional copies of this report can be obtained from the communications department of the Vera Institute of Justice, 233 Broadway, 12th floor, New York, New York 10279, (212) 334-1300.

Requests for additional information about the research described in this report should be directed to Timothy Ross at the above address or to tross@vera.org.

Executive Summary

Citizens and officials increasingly agree that drug treatment should be provided to more of the thousands of non-violent, drug-addicted offenders currently receiving long prison sentences each year. But relaxing mandatory sentencing laws and building drug treatment programs may not be enough to change actual sentencing practices.

In New York, when the governor and legislature gave courts the option of sending some of these offenders to the Willard Drug Treatment Program instead of imposing a mandatory prison sentence, courts in New York City sent fewer offenders to Willard than expected. In response, state officials created an extended program in the Bronx and Queens on a pilot basis, adding a community residential phase and making other changes requested by judges and prosecutors. This study shows that more than half of those sentenced to Extended Willard are completing the program successfully, avoiding what otherwise would have been lengthy prison sentences. Yet prosecutors and judges are filling less than half of the treatment capacity provided by the state, continuing to send most offenders with Willard-eligible criminal records to prison, despite the available alternative.

Researchers from the Vera Institute of Justice, at the request of New York State's Division of Criminal Justice Services, analyzed the entrance and exit of offenders from the Extended Willard program from its inception and compared their criminal records with the records of program-eligible offenders who were sent to prison. Researchers also interviewed offenders who participated in the program, as well as prosecutors, judges, treatment providers, parole officers, and treatment professionals who assessed potential participants.

The results suggest that prosecutors and the courts in both the Bronx and Queens sent only a small portion of offenders with eligible criminal records to Extended Willard, sending most to prison instead. Moreover, the use of Extended Willard was less than planned in the first six months and declined from there. Prosecutors appear to be exercising their discretion in the direction suggested by the legislature, for example screening out those with violent convictions. Other offenders are being screened out on criteria such as poor employment history or mental health status that may make them inappropriate candidates for the treatment program at the Willard facility. Based on this research, officials should recognize that the creation of new sentencing options, however difficult that task, may not be sufficient to substantially change sentencing practices.

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Introduction

State governments across the United States are gradually changing how they deal with non-violent drug crime. Governors and legislatures are giving state courts and corrections officials more options, allowing them to substitute drug treatment for lengthy prison sentences. But is the growing availability of drug treatment within the criminal justice system changing the sentences that most drug-involved offenders receive, or are most continuing to go to prison? And when the courts do send offenders to treatment, do offenders successfully complete the programs, or do they violate the rules and end up in prison after all? If treatment options are going to reduce drug-related crime as well as the cost of lengthy prison sentences, those options need to be used for substantial numbers of offenders and offenders need to complete the programs. For their part, officials need to understand how to design programs to which courts will send substantial numbers of offenders and which offenders can benefit from and successfully complete.

This report examines the experience of New York State officials operating the Willard Drug Treatment Program. The experience with Willard is particularly valuable because state officials recognized early that the program, intended as a treatment alternative to mandatory prison sentences, was greatly underused in New York City and some upstate counties. State officials collected the views of prosecutors, judges, and treatment experts about the perceived shortcomings of the program and designed a new Extended Willard program that they hoped would attract more prison-bound offenders.

The Extended Willard program, using a three-phase design that is increasingly popular nationally, began operations in December 1999. Our research suggests that prosecutors and courts screened eligible offenders in a manner consistent with the law, sending about 200 offenders to Extended Willard over its first two-and-a-half years. But the effort to expand treatment options succeeded only in part, with most of the treatment slots remaining empty while most offenders whose crimes and records made them statutorily eligible were sent to prison. In the process, officials learned a series of lessons about treatment design, eligibility criteria, and program management that should inform subsequent efforts to substitute treatment for lengthy prison terms in New York State and across the country.

The increasing willingness to treat substance-abusing offenders rather than imprisoning them for years crosses political boundaries, with conservative and liberal voices alike advocating greater use of treatment. At the national level, for example, Republican and Democratic lawmakers co-sponsored the Drug Abuse Education, Prevention, and Treatment Act of 2001 in the Senate. The bill authorizes grants for states to develop and implement drug treatment alternatives to prison programs, for residential and outpatient treatment programs, and for a study of the impact of mandatory minimum sentences for drug offenses. It also reauthorizes support for state “drug courts” which

supervise drug treatment sentences.¹ The initiative garnered support from the Bush Administration’s Office of National Drug Control Policy and the National District Attorneys Association (NDAA).² In a statement supporting the legislation, the NDAA said, “Effective drug treatment programs . . . have been successful in bridging the gap between prosecutors and courts, and treatment and public health systems” and that “effective programs for substance abusing offenders can reduce crime.”³

At the state level, California voters in 2000 approved Proposition 36, which mandates that first- and second-time non-violent, simple drug possession offenders receive substance abuse treatment instead of incarceration. Similar measures are being considered or enacted in Alaska, Georgia, Ohio, Michigan and Washington State.⁴ In New York, Governor George Pataki has repeatedly proposed reform of the state’s Rockefeller-era drug laws, which carry some of the nation’s most stringent sanctions for drug offenders. The laws provide mandatory prison sentences of one to three years for first-time felony offenders and sentences of one and a half to six years for second-felony offenders. As Governor Pataki recently explained, “However well-intentioned, key aspects of those laws are out of step with both the times and the complexities of drug addiction.”⁵

Like many other states, New York has experienced a remarkable increase in the number of people entering prison on drug offenses. In 1970, 470 people entered state prison on a drug conviction, and by 1980, the annual figure had risen only to 886. But for the eleven-year period from 1990 through 2000, an average of 10,000 people each year entered the state’s prisons on drug convictions.⁶ Not all of those convicted of drug offenses are drug users, but many prisoners convicted of other crimes also suffer from drug addiction. As of 2000, 66 percent of the total prison population (just over 46,000 inmates) in New York had a drug problem; nationwide, the figure is 57 percent.⁷

As state officials begin to experiment with treatment programs in place of lengthy prison sentences, they are relying on a few basic models, operating them both within

¹ Senate Bill 304, introduced in the 107th Congress (<http://www.thomas.loc.gov>).

² National District Attorney’s Association (NDAA), “Nation’s Prosecutors Support the ‘Prosecution Drug Treatment Alternative to Prison Act,’”

http://www.ndaa.org/newsroom/pr_prosecution_drug_treatment.html, 2001.

³ NDAA, 2001.

⁴ National Association of Sentencing Commissions, *The Sentencing Guideline* (July 2002): 4 (2).

⁵ Chicago Tribune News Services, “With Prisons Jammed, Governor Seeks Reform of State Drug Laws” (January 4, 2001).

⁶ New York State Department of Correctional Services, *The Comprehensive Alcohol and Substance Abuse Treatment Program As of July 30, 2001* (Albany, New York, 2001): 1, 84-85.

⁷ New York State Department of Correctional Services, *Identified Substance Abusers: December 2000* (Albany, New York, 2001): 2; Bureau of Justice Statistics Special Report, *Substance Abuse and Treatment—State and Federal Prisoners—1997*, U.S. Department of Justice, NCJ 172871 (Washington, DC: 1999). In New York State, an inmate is identified as a drug abuser if he or she self-reports having recently used illegal substances prior to entering prison or is classified as an alcoholic by the Michigan Alcohol Screening Test (MAST). The nationwide figures refer to state prison inmates who self-report using drugs regularly in the months prior to their current offense.

prison walls and on the outside. Treatment in “therapeutic communities” is one of the most common models, found both inside and outside of prisons. When therapeutic communities are operated inside prisons, offenders are often segregated from the general prison population for the duration of the 6-18 month treatment program.⁸ Other treatment models integrate an array of components such as counseling, drug education, psychotherapy, relapse prevention, and educational and vocational services. These programs, in both residential and outpatient settings, can last from three months to two years.

Recently, some states have begun to experiment with programs that attach a community-based aftercare component to a prison-based intervention, with promising outcomes.⁹ The result is treatment that begins in a secure setting and continues through a supervised, community-based treatment phase. Pennsylvania’s Residential Substance Abuse Treatment (RSAT) program, for example, serves parole violators using a three-phase program—six months of treatment in prison, six months of treatment in a halfway house, and six months of less-intensive treatment while offenders are living on their own.¹⁰ Another example is the combination of Delaware’s “Key” and “Crest” programs, where Key is a 12- to 15-month program in a prison-based therapeutic community, and Crest follows with a three- to six-month stay in a transitional facility followed by six months of outpatient aftercare. Offenders who complete the combined programs show significantly better outcomes than participants who had no treatment or who went through only one of the two programs.¹¹

New York State’s original Willard Drug Treatment Program is a two-phase program consisting of a secure, three-month, treatment phase with a quasi-military boot camp component that is followed by at least six months of community-based treatment.¹² The Extended Willard program, structured to increase use of the original program, includes six months in community-based residential treatment between the boot camp and outpatient phases of the original Willard design, producing a three-phase program similar

⁸ National Institute on Drug Abuse, *Principles of Drug Addiction Treatment: A Research-Based Guide* (Washington, DC: National Institutes of Health, 1999); M. Douglas Anglin and Yih-Ing Hser, “Treatment of Drug Abuse,” in *Crime and Justice: A Review of Research* 13, edited by M. Tonry and J.Q. Wilson (Chicago: University of Chicago Press, 1990): 393-460.

⁹ For example, see E.L. Cowles, T.C. Castellano, and L.A. Gransky, ‘*Boot Camp*’ *Drug Treatment and Aftercare Interventions: An Evaluation Review*, NIJ Research in Brief, NCJ 155062 (Washington, DC: USDOJ, 1995); J. A. Inciardi, *A Corrections-based Continuum of Effective Drug Abuse Treatment*, NIJ Research In Brief (Washington, DC: USDOJ, 1996).

¹⁰ See Douglas Young and Rachel Porter, *A Collaborative Evaluation of Pennsylvania’s Program for Drug-Involved Parole Violators* (New York: Vera Institute of Justice, May 1999).

¹¹ S.S. Martin, C.A. Butzin, C.A. Saum, and J.A. Inciardi, “Three-Year Outcomes of Therapeutic Community Treatment for Drug-Involved Offenders in Delaware: From Prison to Work Release to Aftercare,” *The Prison Journal* 79, no. 3 (1999): 294-320; J.A. Inciardi, *A Corrections-Based Continuum of Effective Drug Abuse Treatment*, NIJ Research Preview (Washington, DC: USDOJ, 1996).

¹² In terms of the community-based treatment, 85 percent of individuals leaving the Willard treatment phase have been referred to outpatient treatment, 12 percent referred to residential treatment, and three percent referred to day treatment programs. New York State Division of Parole, memo dated August 29, 2002.

to the Pennsylvania and Delaware examples. The use of a boot camp facility rather than a traditional prison for the first phase of the program is not unusual. Although most studies indicate that shock incarceration or boot camp programs based exclusively on military-style training have no positive effects on offenders, boot camp programs that integrate a treatment regimen may have a positive impact on recidivism.¹³ At least one rigorous scientific study offers evidence that when boot camps dedicate a significant proportion of time to treatment, *and* the post-release period is characterized by aftercare in the community, significant reductions in recidivism can be achieved.¹⁴ These two conditions are defining characteristics of both the original and extended Willard programs.

The available evidence strongly suggests that well designed, well-implemented drug treatment programs can positively affect offender outcomes.¹⁵ But obstacles to effective implementation are often greater than imagined. Common obstacles include insufficient funding or a lack of commitment from program staff or administrators; but even where funding and commitment are strong, implementation is difficult.¹⁶ For example, in three-phase programs like Pennsylvania's RSAT, Delaware's Key and Crest, and New York's Extended Willard, continuity of care across program phases is crucial, requiring coordination between the prison-based treatment and community-based treatment providers. The importance of such coordination is underscored by research that shows that aftercare is more likely to have an impact if it continues the same type of treatment delivered in the prison-based program.¹⁷ This requires the alignment of treatment delivered in a few remote prisons and community-based residential or outpatient services delivered by diverse providers and supervised by many individual parole officers in widely varying communities.

The Extended Willard Drug Treatment Program

The Extended Willard Program, begun in 1999, built on a program that was established by New York's Sentencing Reform Act of 1995. That legislation made treatment at

¹³ See D.L. MacKenzie, "Criminal Justice and Crime Prevention," OJP Research Report, NCJ 165366, in *Preventing Crime: What Works, What Doesn't, What's Promising*, by L.W. Sherman, D. Gottfredson, D.L. MacKenzie, J. Eck, P. Reuter, and S. Bushaway (Washington, DC: USDOJ, 1997): 9.1-9.76.

¹⁴ D.L. MacKenzie, "Boot Camp Prisons and Recidivism in Eight States" *Criminology* 33, no. 3 (1995): 327-358. Also see Sherman, et al. 1997. It is also important to note that the Citizen's Budget Commission (2000) report indicated that DOCS has implemented three alternatives to conventional incarceration. The report concludes that of the three, the "Shock Incarceration" or boot camp model and the Comprehensive Alcohol and Substance Abuse Treatment Program (CASAT) are relatively successful, while the original Willard program is not.

¹⁵ G.G. Gaes, "Adult Correctional Treatment," in *Crime and Justice: A Review of Research* 26, edited by M. Tonry (Chicago: University of Chicago Press, 1999): 361-426.

¹⁶ Anglin and Hser 1990; Gaes, 1999.

¹⁷ Substance Abuse and Mental Health Services Administration, *Continuity of Offender Treatment for Substance Use Disorders From Institution to Community*, Treatment Improvement Protocol Series 30, DHHS Publication No. (SMA) 02-3691 (Rockville, MD: U.S. Department of Health and Human Services, 2002). Also see, Gaes, 1999.

Willard an alternative to the state's mandatory prison sentences for certain nonviolent, repeat offenders with drug problems. Both the original, two-phase Willard treatment program and the Extended Willard program are intended to divert these offenders from prison in order to free bed space for the violent offenders whose sentences were raised by the same 1995 law.¹⁸

When the number of offenders sentenced to the original Willard program failed to meet expectations, the New York State Division of Criminal Justice Services (DCJS) contracted with the Vera Institute to examine how prosecutors and judges were using the original Willard program. The resulting report showed that many judges and prosecutors were reluctant to send offenders to Willard in part because they did not receive feedback on participants' progress in treatment or on the consequences of failure. Many felt the program lacked a formal mechanism to assess potential participants' need for drug treatment and was not long enough to adequately treat substance abuse. In addition, some judges and prosecutors preferred other diversion programs, particularly the prosecutor-run Drug Treatment Alternatives to Prison (DTAP), which does not include an initial prison phase.

State officials developed the Extended Willard Drug Treatment program to address the limitations that judges and prosecutors perceived in the original Willard treatment model. DCJS, the New York State Office of Alcoholism and Substance Abuse Services (OASAS), Department of Correctional Services (DOCS), and Division of Parole collaborated in the design of Extended Willard. The three-phase program provided for three months of treatment at the Willard Drug Treatment Campus, followed by a minimum of 12 months of community-based treatment; this includes *at least* six months in residential treatment, followed by *at least* six months of outpatient treatment. The demonstration program only served offenders prosecuted in Bronx and Queens Counties. In addition to adding the middle phase of treatment, the Extended Willard model begins with a formal assessment of offenders' characteristics and substance abuse histories conducted by the private, nonprofit organization TASC (Treatment Alternatives to Street Crime). State officials contract with five state-licensed substance abuse treatment providers to deliver the new, middle phase of residential treatment and outpatient treatment services in the one-year period after release from the Willard facility.¹⁹ A Willard Workgroup, made up of the government agencies mentioned above, the five treatment providers, and representatives from the Bronx and Queens District Attorney's offices, meets regularly and has guided the development and operation of the pilot version of Extended Willard.

¹⁸ D. Young, R.W. Shacklet, and T. Ireland, *Utilization of New York State's Willard Drug Treatment Program* (New York: Vera Institute of Justice, 2000).

¹⁹ Cowles, et al., refer to this as a "Contracted Vendors Model"; see Exhibit 7. See E.L. Cowles, T.C. Castellano, and L.A. Gransky, *'Boot Camp' Drug Treatment and Aftercare Interventions: An Evaluation Review*, NIJ Research in Brief, NCJ 155062 (Washington, DC: USDOJ, 1995).

The Willard facility is staffed by the Department of Correctional Services and the Division of Parole and is licensed as a treatment facility by OASAS. Willard participants are sentenced directly to parole supervision, and they remain under intensive parole supervision throughout all phases of both the original and Extended Willard programs. To be eligible for either Willard program, a person must be a second felony offender, and the prior conviction must not have been for a violent or other serious felony.²⁰ In addition, the statute that created the program specifies the second-felony offense convictions that can be considered for program eligibility; these are primarily low-level property and drug offenses.²¹ The law also requires that the person have a drug problem that can be addressed by the Willard program and that the offender is not subject to an “undischarged term of imprisonment.”²²

OASAS contracts with the community-based treatment providers to provide services to participants sentenced to parole supervision in the Extended Willard program.²³ Samaritan Village, Promesa, Daytop and Palladia (formerly Project Return) base services on a therapeutic community model for treating substance abuse. VIP Community Services employs a treatment model emphasizing self-help to build self-esteem and living skills and offers a variety of counseling services and educational classes. The state licensing agency, OASAS, and the five treatment providers work together to help individuals “develop or maintain recovery through a structured alcohol- and drug-free setting, encouragement of peer group support, and assistance in the skills of independent living.”²⁴ In general, the five providers all focus on rehabilitative services, vocational training, family involvement, educational upgrading, life skills management, and healthy and intensive collaboration between staff and clients.²⁵

TASC officials and others report differences among the treatment providers. Daytop, for example, is considered more intensive in its therapeutic approach, Palladia focuses more on life skills and vocational training, and Promesa is a Latino organization that teaches all classes in both Spanish and English.

How Does the Program Compare With Other Sentencing Options?

The Extended Willard program is one alternative in an array of sentencing options and drug treatment programs available in New York State for offenders with substance abuse histories who would otherwise serve lengthy prison terms. These can be roughly divided

²⁰ NY CPS CPL § 410.91, part 2. Readers may consult the full text of the statute in Appendix A. New York State Penal Law 70.06 defines “second felony offender”; the entire statute can be accessed at <http://caselaw.lp.findlaw.com/nycodes/c82/a18.html>.

²¹ NY CPS CPL § 410.91, part 5. See Appendix A for the full list of offenses.

²² NY CPS CPL § 410.91, part 2.

²³ These providers are also licensed by OASAS to provide substance abuse treatment services.

²⁴ <http://www.oasas.state.ny.us/pio/sds.htm>

²⁵ See the following web sites for each treatment provider: <http://www.daytop.org>, <http://www.samvill.org>, <http://www.palladiainc.org> (Project Return), <http://www.promesa.org>, and <http://www.vipservices.org>.

into two groups—sentencing options available to judges and prosecutors as an alternative to a prison sentence, and programs that allow offenders already sentenced to prison to participate in treatment.

Most of the alternatives available to judges and prosecutors at the time of sentencing are not available for offenders facing mandatory prison time as “second-felony offenders.” The state’s drug treatment courts target nonviolent offenders whose primary charge is either a misdemeanor or first-time felony drug offense. The drug courts offer the opportunity to reduce or eliminate criminal charges provided that the participant successfully completes the treatment program.²⁶ In addition, first-time felony drug offenders may receive probationary sentences that involve participation in some alternative to incarceration (ATI) programs.²⁷

Until Willard opened, the only drug treatment alternatives available to courts for second-felony offenders facing mandatory prison time were designed and managed by local prosecutors on a county-by-county basis. In the five boroughs of New York City, the major alternative is the prosecutor-run Drug Treatment Alternatives to Prison program.²⁸ DTAP is a 15- to 24-month program that begins with a residential phase followed by outpatient treatment. Offenders who are referred to DTAP have been convicted of a felony offense but their sentencing is deferred pending completion of the program. If they complete successfully, their convictions are vacated or reduced to misdemeanors, allowing them to avoid the mandatory minimum prison sentence. If the offenders fail the DTAP program, however, they are sentenced to prison on the original felony conviction. Starting in 1995, prosecutors within New York City could choose between the original Willard and the longer DTAP program when they wanted to sentence drug addicted, second felony offenders outside of the mandatory sentencing laws, and in 1999 prosecutors in the Bronx and Queens had the option of using Extended Willard.

A second group of programs allows those who have been sentenced to prison terms, including some who have been subject to mandatory minimum terms, to participate in treatment. Among these, CASAT (Comprehensive Alcohol and Substance Abuse Treatment) is a therapeutic community model followed by a community reintegration phase in a work-release facility and aftercare under parole supervision. CASAT serves nonviolent felons, 70 percent of whom are repeat offenders; most have been convicted of a drug offense.²⁹ The State’s Department of Correctional Services also operates a six-

²⁶ New York State Commission on Drugs and the Courts, *Confronting the Cycle of Addiction and Recidivism: A Report to Chief Judge Judith S. Kaye*, 2000. Accessed on 6/2/02 at <http://www.courts.state.ny.us/addictionrecidivism62000.html>.

²⁷ New York State Commission on Drugs and the Courts, 2000.

²⁸ Some county prosecutors outside of New York City also operate DTAP programs. There are several other prosecutor-administered treatment programs in New York State similar to DTAP, including Project PROUD, ITAP, and ADAPT; see New York State Commission on Drugs and the Courts, 2000.

²⁹ NYS Department of Correctional Services (DOCS), *The Comprehensive Alcohol and Substance Abuse Treatment Program* (New York: DOCS, 2001).

month “Shock Incarceration” program for felons who may have a previous felony conviction but are serving their first prison sentence. “Shock” incorporates academic instruction, substance abuse education, and group and individual counseling in a boot camp setting. The boot camp is followed by six months of intensive parole supervision. Although Shock is not strictly a drug treatment program, it does permit some offenders sentenced to mandatory time for drug offenses to leave prison early.

Research Questions, Methods, and Data

This evaluation of the implementation of Extended Willard addresses three basic sets of questions.

1. How do prosecutors and other gatekeepers interpret and implement the statutory criteria for eligibility in the program and how closely do the participants’ characteristics meet the intent of the law? In addition, and because the program was developed in response to underutilization of the original Willard program, we also examine patterns of intake during the first two-and-a-half years of the program.
2. What are the program’s retention rates? How long does it take participants to progress through the program’s three phases and how frequently do they successfully complete? We ask in which phase most violations occur, and we compare violation rates among the program’s five community-based treatment providers.
3. How can criminal justice agencies work cooperatively with treatment providers to substitute treatment for lengthy prison terms? Who participated in the design and implementation of extended Willard? What were the forums established for collaboration during the program? What problems arose and how did they address them? How did they harmonize their different perspectives?

The information contained in this report comes from multiple sources. During the course of the evaluation, TASC provided Vera researchers with “tracking sheets” that contained dates of entry for various program phases and alleged violation dates for all participants. The Division of Parole reviewed these data for accuracy, and, when differences arose, we modified the data to dates consistent with those maintained by parole. When offenders agreed to an Extended Willard sentence, a member of the research team conducted an interview on the day of sentencing in the holding cells at the court. These baseline interviews collected information on participant demographics, substance use history, mental and physical health history, and self-reported criminal history. Follow-up interviews were conducted after participants were released from the community residential phase and immediately following completion of the outpatient phase of treatment. Finally, we obtained demographic and criminal history data from

DCJS for Extended Willard participants and other offenders in the Bronx and Queens who met Willard eligibility criteria.

During the first and second years of the evaluation, researchers interviewed representatives from the various agencies connected to the development and operation of the Extended Willard program. In the first year, these interviews focused on judges and prosecutors from the Bronx and Queens, TASC officials, and residential and outpatient treatment providers. In the second year, after program participants had sufficient time to move into the community-based treatment phases under parole supervision, parole officials and field officers were interviewed about the program and the participants they were supervising. Second year interviews were also conducted with TASC officials and treatment providers.

In addition, research staff attended the regularly scheduled sessions of the Willard Workgroup. Representatives from each participating agency or organization met to review the program's progress and to discuss new or continuing issues relevant to its operation. Some information in this report is based on our observations of these meetings.

Intake, Enrollment, and Diversion

Program Eligibility

According to the law that created Willard, offenders must meet certain criteria to be eligible for the program. They must be second felony offenders, convicted of a specified list of offenses, without prior convictions for violent or other serious (class A or B) felony offenses, and without an undischarged term of imprisonment.³⁰ The offenders also must have a history of substance abuse that significantly contributes to their criminal conduct and that can be appropriately addressed by a sentence to the Extended Willard program. To determine eligibility, prosecutors assess an offender's criminal history in the initial stages of prosecution. If they refer the case for an Extended Willard plea, TASC conducts a more detailed assessment that includes an evaluation of the offender's substance abuse problem. Although the criteria for the program as described by law seem fairly straightforward, in practice, eligibility requirements are not so clear-cut.

Since the beginning of the program, prosecutors in the Bronx and Queens have implemented certain provisions of the statute differently, leading to substantive differences between the populations they refer to the program. There are two basic points on which the prosecutors differ. The first is the issue of which "second-felony" offenders they refer to the program.³¹ Under the law, the requirement is that the offender has "one or more" prior felony convictions. Queens' prosecutors primarily send to Extended Willard offenders who have only one prior conviction; the instant offense constitutes the second felony conviction. Bronx prosecutors, on the other hand, send offenders with multiple prior convictions. In 2000, for example, 20 percent of the offenders sent to Extended Willard from Queens had two or more prior felony convictions; the comparable percentage for the Bronx was 80 percent.³² In addition, the statute requires that the offender "...is not subject to an undischarged term of imprisonment," and prosecutors from the two boroughs also implement this differently.³³ Queens prosecutors tend to exclude offenders under parole supervision at the time of arrest, but Bronx prosecutors do not. Only 5 percent of the offenders sent to Extended Willard from Queens were on parole at the time of their arrest compared to 44 percent of those sent from the Bronx.³⁴ Bronx prosecutors do not generally consider probationers eligible for participation whereas Queens prosecutors do.

³⁰ See Appendix A for the specifics of the statute.

³¹ NY CPS CPL § 410.91, part 1.

³² According to DCJS data on the offenders sent to Willard in 2000, 80% of the 39 offenders sent from Queens (31 people) had one prior felony conviction, 18% (or 7 people) had two prior convictions and one person had 6 priors. Of the 59 people sent from the Bronx, 20% had one prior felony conviction, 37% had two, 36% had 3, and 7% (4 people) had four prior felony convictions.

³³ NY CPS CPL § 410.91, part 2.

³⁴ These data come from DCJS, not from the Division of Parole. The data are consistent with results from our interviews with Willard participants from the Bronx and Queens (see Appendix Table B-5). Their reports on their parole status are very close to the percentages recorded by DCJS.

On other measures of criminal history, the Willard participants from the Bronx have longer and more serious criminal histories than participants from Queens.³⁵ The Bronx group had, on average, a higher number of prior misdemeanor convictions, drug arrests and convictions, felony arrests, and prison sentences (data not shown).

Although the prosecutor is the initial entry point for the Extended Willard program, there is essentially a two-stage process for determining eligibility. Prosecutors review the case and determine whether the offender is eligible for Extended Willard. If the prosecutor recommends Willard, the case is forwarded to TASC for further assessment.

The TASC assessment is critical for a number of reasons. First, based on interviews with judges and prosecutors during the first year of this evaluation, the addition of the formal assessment was one of the ingredients that led to greater satisfaction with the Extended Willard program than with the original Willard model.³⁶ Without that assessment, these prosecutors might not have used Willard at all.

Second, there is strong evidence that identifying and treating the specific needs of the offender can have a substantial impact on ultimate outcomes.³⁷ Since the law requires that potential participants have a substance abuse problem that can be appropriately addressed by the Extended Willard program, formal assessment mechanisms help criminal justice officials to understand defendants' treatment needs and to match them to the appropriate treatment regimen. TASC uses the assessment to determine whether the offender is a suitable candidate for the program because of substance abuse history, and also to match participants with the most appropriate treatment provider during the program's community-based treatment phases. Although all participants begin in the Extended Willard facility, they are differentially assigned to the community-based providers based on TASC's assessment and tend to remain with one provider through both residential and outpatient treatment.

As noted, in conducting its assessment, TASC also screens for a participant's suitability for the Willard facility and potential for success in the program.³⁸ Those

³⁵ A more extensive criminal history is one of the best predictors of criminal recidivism; more recent behavior, for example, parole status at time of arrest, may be a more powerful predictor than behavior further in the past. See, for example, D. Andrews and J. Bonta, *The Psychology of Criminal Conduct* second edition (Cincinnati, OH: Anderson, 1998).

³⁶ Vera Institute of Justice, *Examining the Implementation and Operation of the Extended Willard Program in the Bronx and Queens: Year 1 Report* (New York: Vera Institute of Justice, 2000).

³⁷ See, for example, Don A. Andrews and James Bonta, *The Psychology of Criminal Conduct* second edition (Cincinnati, OH: Anderson, 1998); Francis T. Cullen and Paul Gendreau, "Assessing Correctional Rehabilitation: Policy, Practice, and Prospects" in *Policies, Processes and Decisions of the Criminal Justice System, Criminal Justice 3*, edited by Julie Horney, NCJ 182410 (Washington, DC: USDOJ, 2000): 109-176; Don A. Andrews, I. Zinger, R. D. Hoge, J. Bonta, P. Gendreau, and F. T. Cullen, "Does Correctional Treatment Work? A Clinically Relevant and Psychologically Informed Meta-Analysis," *Criminology* 23, no. 3 (1990): 369-404.

³⁸ Although drug treatment is often presented as a homogenous process, one of the fundamental principles of drug treatment is that there is no single intervention suitable for all individuals. See, for example, National Institute on Drug Abuse, *Principles of Drug Addiction Treatment: A Research-Based Guide* (Washington, DC: NIH, 1999).

deemed eligible, for example, include defendants with no history of serious mental illness, since the Willard facility and staff have a limited ability to deal with these problems. Defendants' educational background and work history must indicate a grasp of the basic skills that would enable them to find employment at the end of the program.

A Bronx TASC representative interviewed in July 2000 indicated the level of detail covered in the assessment:

The TASC assessment interview is about 25 pages long and asks extensive personal information. Questions are asked regarding family history, substance abuse history, and medical history. Offenders are questioned about their present and past psychological health and about their financial situation. In addition, the interview reveals the level of education attained by the offender.... in order for an offender to be eligible for Extended Willard, he/she must have a substantial substance abuse problem, must have attained a certain level of education, and must possess minor skills. Because Willard is such a short program, basic skills are necessary to ensure that the offender is able to get a job upon release.

Our interviews also indicate that TASC's screening considers individual "personality traits." One representative from Queens TASC indicated that "the clients' motivation and desire to change their lifestyle" are considered, along with age and number of prior treatment episodes. Over the 18 months between December 1999 and June 2001, TASC rejected 21 percent of the 238 offenders that the Bronx and Queens DAs referred for screening. Reasons for rejection include medical or psychiatric conditions, prior convictions on a sexual or violent offense, and inadequate work or educational history.³⁹

In any treatment program, there is always a danger that courts will send some ineligible offenders, but we found no evidence that this was a problem here. We analyzed data from the Division of Criminal Justice Services for the 99 Extended Willard participants sentenced in the Bronx and Queens during calendar year 2000. The data indicate that virtually all of these offenders met the eligibility criteria: 43 percent of the participants had one felony conviction prior to the Willard conviction, 29 percent had two prior convictions, and 21 percent had three.⁴⁰ Since second felony offender status means one or more prior convictions, all of these offenders qualify.

³⁹ James A. Wilson, Steven R. Wood, and Robert Hope, *Examining the Implementation and Operation of the Extended Willard Program in the Bronx and Queens: Year 2 Progress Report* (New York: Vera Institute of Justice, 2002). It is not clear whether the 21% rate at which TASC rejects potential Extended Willard participants is consistent with rates of rejection when TASC conducts screenings for other programs. As an example, the King's County DTAP report indicates that 42% of all potential DTAP eligibles are rejected through different screening mechanisms. Only 9% of that total is rejected by TASC. Because we do not have the data available about prosecutor or other screening processes that occur before referral to TASC, any statements regarding comparability would not be able to account for those differences.

⁴⁰ One of the 99 Willard participants had no prior felony convictions, according to DCJS records. This person could have had a conviction outside of New York State that would not appear in DCJS records. In

Similarly, those sent to Willard appear to have genuine substance abuse problems. We interviewed 82 offenders who had accepted an Extended Willard plea just before they were sentenced, using a standard instrument to gauge the severity of their substance abuse. In 94 percent of the interviews, their scores indicated a substance abuse problem (see Appendix Table B-4).⁴¹

Our interviews with participants also show that the screening criteria for Willard yield a participant population whose characteristics are similar to those of DTAP participants who were also interviewed.⁴² There are no statistically significant differences between the two populations in terms of their age, mean years of education, or employment status at the time they were arrested. A slightly higher proportion of the Extended Willard group reported being incarcerated during the three years prior to their arrest. DTAP and Willard participants reported similar substance abuse, criminal, and mental health histories. A significantly higher proportion of the Extended Willard participants reported receiving inpatient psychiatric treatment at some point during their life (13% to 4%), with more than double the proportion receiving psychiatric medication (15% to 7%). Thus, with only slight differences, the Willard and DTAP populations are similar on most measures we examined.

Program Intake

One of the central questions in evaluating this program, especially given the prior finding that the original Willard program was underused, was whether Extended Willard would reach and remain at capacity.⁴³ The pilot program was structured so that each participating borough (Queens and Bronx) would send 100 people per year to the Extended Willard program; thus, if the program were to reach and stay at capacity, we would expect admissions of approximately 50 Extended Willard participants each quarter to the Willard Facility (2 boroughs x 25 participants per quarter x 4 quarters = 200 total participants per year).⁴⁴ Admissions never came close to those numbers. In almost two and a half years, slightly fewer than 200 people were sentenced to the Extended Willard program despite capacity for about 500 during that period.

addition, five participants had a prior conviction for a violent offense, but these could have occurred earlier than the 10 years specified for second felony offenders under New York penal law.

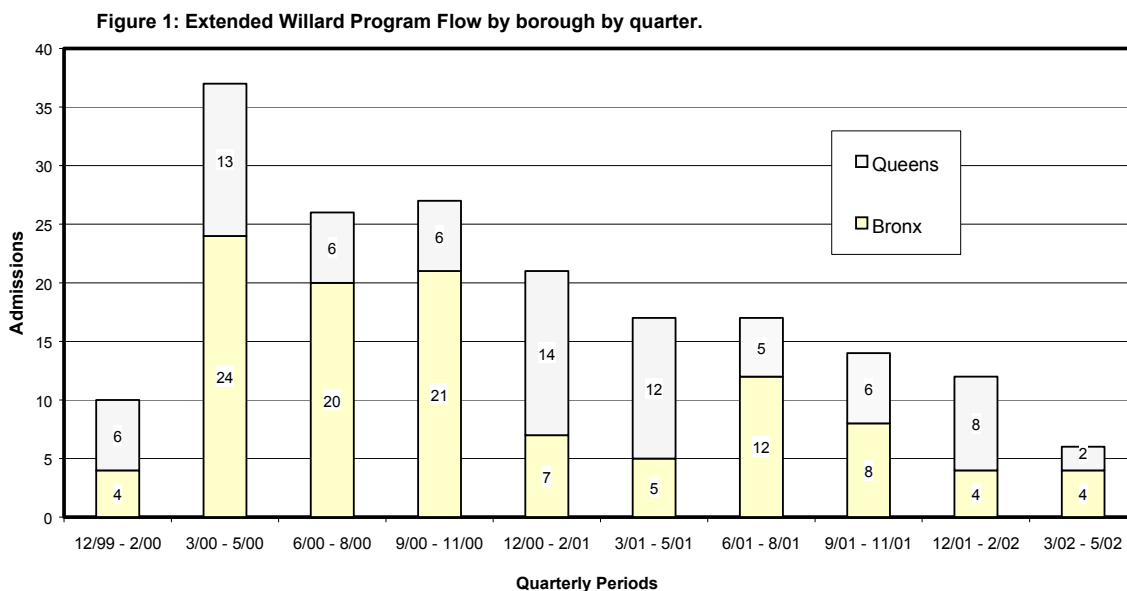
⁴¹ The DAST-20 (Drug Abuse Screening Test—20 items) is an assessment instrument for gauging substance abuse severity. A score of six or greater (the clinical cutoff score) is analogous to the diagnostic criteria for a substance abuse disorder. In addition, we expect that this underestimated the actual percentage since it is a self-report.

⁴² Our focus in this report is on the Extended Willard program. A comparison group of DTAP participants were also interviewed using the same interview instrument (DTAP N=119). See Wilson, Wood, and Hope 2002, for more detail on the DTAP participants.

⁴³ Young, Shacklet and Ireland, 2000.

⁴⁴ The 50-bed total is based on the assumption of participants staying at the facility for 90 days before moving on to a residential treatment program in New York City; 50 beds per quarter would serve 200 participants per year.

Further, rather than a stable flow of a small number of participants into the program over time, there has been a marked decrease in admissions by quarter. Figure 1 shows the flow into the facility by borough for each three-month period of the program's operation. An average flow of 50 inmates per quarter would keep the program at capacity.



A total of 10 participants entered the program in the first three months of its operation from December 1999 to February 2000. In the following three-month period, that number increased almost four-fold to 37 participants. As Figure 1 illustrates, however, there has been a steady decline in admissions to the program over the remaining two years; in the last three-month period only six participants entered the program. This drop in cases was a source of concern within the Extended Willard Workgroup; as early as July 2000, the Willard facility staff made note of the fact that the number of offenders sentenced to the program was dropping off.

Members of the Willard Workgroup offered several explanations for the low intake. Some pointed to a decline in the number of arrests. In the Bronx, felony drug arrests declined 20 percent between 1999 and 2001 (10,446 in 1999; 9,587 in 2000; 8,374 in 2001); in Queens, felony drug arrests declined 32 percent (3,709 in 1999; 3,730 in 2000; 2,506 in 2001).⁴⁵ In 2000 alone, drug arrests declined only eight percent in the Bronx and actually increased slightly in Queens. In this case, it does not appear that a decline in arrests accounts for the low utilization of the program, especially given that the pilot program was limited to approximately 200 participants per year.

⁴⁵ <http://criminaljustice.state.ny.us/crimnet/ojsa/areastat/areast.htm>

Members of the Workgroup suggested that low intake resulted from the focus of the selection process on offenders convicted of drug offenses. Less attention was paid to drug-involved offenders convicted of property offenses, even though the statute specifies eligible property offenses. The great majority of those sent to Willard are convicted on drug, not property, charges. From December 1999 through February 2002 all but one of the offenders sent to Willard from the Bronx were sentenced on a drug conviction, as were 82 percent of Queens participants. It is possible, therefore, that the program could have filled more of its capacity if those convicted on eligible property offenses had been referred.

It was also suggested during the Workgroup meetings that an increasing focus on drug convictions might have contributed to the declining use of Extended Willard over time, especially in the Bronx. While prosecutors in the Bronx had always referred offenders with at least one prior drug conviction, they eventually began to require that all of the offenders' prior convictions be for drug offenses.⁴⁶ This change probably accounted for some part of the decline in Bronx enrollments, but we cannot determine the extent from the data available to us. There is no reason to think that this shift played a role in Queens, where participants became only slightly more likely to have at least one prior drug conviction.

A third reason suggested for the low and declining enrollments was the decisions being made by offenders themselves. Queens prosecutors suggested that some offenders referred for Extended Willard were refusing the program, opting for the opportunity to participate in the less demanding Shock Incarceration program (a six-month DOCS program followed by six months of intensive parole supervision) over the lengthier, more demanding Extended Willard program. In this case, offenders would be choosing to take a prison sentence in the hope that DOCS would assign them to Shock Incarceration. In addition, TASC officials reported to a Willard Workgroup meeting that offenders who had accepted an Extended Willard plea were retracting it before sentencing. The officials believed that the offenders preferred prison to the long Extended Willard sentence and its lengthy period of parole supervision. We do not know how many potential participants made this choice because we did not interview offenders who declined to participate in Willard. A TASC official we interviewed at a later date indicated that plea retractions occurred in only a small number of cases.⁴⁷

Each of these reasons may each account for some portion of the low enrollment in Extended Willard and, perhaps, some of the decline over time. All focus on the “supply-side” of the program. To learn more about the potential pool of participants, we examined

⁴⁶ This resulted from an incident in which a person with a past non-violent burglary conviction was refused by the Willard facility and returned to the Bronx. In the end, this offender was offered participation in DTAP.

⁴⁷ The TASC official estimated that plea retractions occurred once or twice in the Bronx and three or four times in Queens.

the characteristics of offenders who were eligible for Extended Willard but were sentenced to prison.

The Role of Alternative Sentences: Willard and DTAP

Alternative to incarceration (ATI) programs, including Extended Willard and DTAP, have multiple goals. In addition to providing drug treatment to offenders and reducing rates of recidivism, the programs expect to reduce costs by diverting lower-risk, non-violent offenders from a lengthy period of incarceration, thereby freeing expensive prison space for more serious offenders. Absent an alternative permitted by statute or case law, second felony offenders must be sentenced to prison terms; in that sense, both Willard and DTAP divert offenders from prison.⁴⁸

It is more difficult to say how the alternatives are actually used. Are they being used to divert most of the non-violent second felony offenders who could benefit from treatment, or are most statutorily eligible offenders still being sentenced to prison? And are Willard and DTAP—designed as different programs—diverting different types of eligible offenders, thereby increasing the pool of non-violent felons who are sentenced to treatment rather than to prison? Both of these questions have cost implications for New York State. If the alternatives are used at less than capacity when treatment-ready eligible offenders are available, then money is spent unnecessarily on costly prison beds. And if Willard and DTAP do not divert different types of offenders but substitute for one another, then by going to Willard, offenders are spending more time in costly beds—even if only for a short period—than if they had been sentenced to the community-based DTAP.

To begin to address these questions, we examined data from DCJS on the criminal history of 760 offenders from the Bronx and Queens who met the statutory criteria for Extended Willard eligibility and were convicted in 2000 (See Appendix C for a more detailed description of the data, including Appendix Tables C-1 and C-2).⁴⁹ The statutory criteria are: the offender had second felony offender status, a current conviction of a D or E class felony that is included in the specific list of current offenses required by the Willard statute, prior convictions only of C, D, or E class felonies, and no current or prior violent felony convictions.

The analysis includes all offenders who met the eligibility criteria and who received Willard, prison, and “other” sentences. We obtained data on 209, or 44 percent, of the

⁴⁸ This assumes that the offender has been convicted of a second felony; if the offender is convicted of a misdemeanor then he or she is not subject to a mandatory prison sentence. An Assistant District Attorney explained, “Other than DTAP, there is not much else that can be done with these [Extended Willard-eligible] defendants under the law. The only other choice is to give them a misdemeanor and then have them do city, rather than state, time.”

⁴⁹ DCJS cannot reliably identify assignments to Willard and DTAP (or other ATIs) from its records; hence they were able to identify these offenders only on the basis of the identifying information we provided. That information was the state identifiers (NYSID numbers) and arrest dates that we received from TASC on the offenders sent to the two ATIs from the two boroughs in 2000.

offenders sent to DTAP—those whose state identifiers (NYSID numbers) and arrest dates in DCJS records matched exactly with the information recorded by TASC.⁵⁰ Of the 209, 56 percent (N=118) met the specific Willard eligibility criteria. In our analysis, therefore, we assumed that 56 percent of each group receiving a DTAP sentence were eligible for Willard.

The criminal history variables we focus on here are average number of prior misdemeanor and felony arrests and convictions, and average number of prior drug arrests and convictions. Our main purpose was to examine the sentences that the offenders received and to assess how the sentences corresponded to their criminal histories. We did not examine other factors that may be associated with sentencing outcomes such as the offenders' motivations, attitudes, and community ties or the nature and extent of their drug problem.

An important caveat to these analyses is that our research design is unable to account for selection processes that occur before participants accept an Extended Willard plea. Although offenders may be statutorily eligible for the program, there are multiple points at which they can be removed from consideration. Prosecutors make the initial decision about whom to refer to the Extended Willard program. After referral, TASC can reject offenders on multiple criteria. Offenders themselves may decide at any point up to sentencing to not participate in the program. As a result, we are unable to compare characteristics of offenders who do and don't enter the program. This constrains our ability to draw certain conclusions about the program. Nonetheless, even with the analysis limited to sentences and prior criminal history, we are able to draw some conclusions.

First, Table 1 shows that prison, DTAP, and Willard were, indeed, the major alternatives available for Extended Willard-eligible offenders in Queens and the Bronx during 2000. More than two-thirds of those statutorily eligible in Queens received a prison sentence, as did slightly more than half in the Bronx. A substantially larger proportion of the Bronx convictions were sent to DTAP. For the two boroughs combined, only 11 percent of the eligible cases accepted an Extended Willard plea. The majority—57 percent of all Willard-eligible cases—received a prison sentence; 29 percent went to DTAP, and 3 percent received “other” sentences.

⁵⁰ Arrest dates as recorded by the programs and by DCJS often differ slightly; had we asked for arrest dates that matched within 30 days, it is likely that we would have been able to identify more DTAP participants.

Table 1: Dispositions of Willard-eligible Convictions During 2000

	Queens		Bronx		Total	
	Total	Percent	Total	Percent	Total	Percent
Extended Willard	40	18%	58	9%	98	11%
DTAP	15	7%	248	36%	263	29%
Prison	150	68%	365	53%	515	57%
Other	16	7%	13	2%	29	3%
Total	221	100%	684	100%	905	100%

Note: Data obtained from DCJS and TASC. Although we were only able to match 209 of the 443 offenders sent to DTAP during 2000, 56 percent of the 209 met the specific Willard statutory criteria. The above DTAP calculations were based on the assumption that 56 percent of the 443 total (N=263) were Willard eligible (See Appendix C for more detail). For this reason, the total N for this table is 905 rather than 760. We also note that some of those in the prison group are likely to have rejected Willard or been rejected in the screening process. It is almost certain that some proportion of the people sentenced to prison were among those referred to the program, screened by TASC, and excluded based on non-statutory criteria, or among those who were offered a Willard plea but who declined it. Approximately 50 were rejected by TASC on non-statutory grounds over an 18-month period, another 54 declined to participate in the program and a small number retracted their plea. At most then, only 20% of the prison sample could have included those individuals screened by TASC or who declined to participate.

Second, the criminal histories of the offenders sentenced to prison and Extended Willard are very similar. Of course, all of the offenders are Willard-eligible, which means that by definition they have some basic criminal history characteristics in common. Nevertheless, some differences did arise even though the statistically significant differences between the groups were generally small.

Extended Willard does not appear to divert from prison offenders with less serious criminal histories. Table 2 compares specific criminal history measures for the Willard participants and two prison groups. The Total Prison group comprises individuals who were convicted of any Willard-eligible offense. The Prison Drug group is a subset of the Total Prison group and is composed only of those who were convicted of a drug offense.⁵¹ Both prison groups have a higher number of felony arrests on average—including violent felonies—than the Willard group, and the difference on the violent arrests between the Willard and total prison groups is significant. In contrast, Willard participants show a significantly higher number of felony convictions than the prison drug group and a significantly higher number of violent felony convictions than both groups.⁵²

⁵¹ Appendix Table C-2 shows that 96% of all Willard participants for that year were sentenced for drug offenses; 82% of those sent to prison were convicted of drug offenses. Thus, the prison drug group is more similar to the Willard group on the current incarcerating offense.

⁵² Because the Willard statute prohibits those with violent felony convictions from participating, the DCJS selection criteria remove all those with a violent conviction from consideration. The screening process for Willard is done by prosecutor’s offices and TASC and may allow those with violent convictions more than 10 years old to participate. Article 70, Section 70.06 (b)(iv) of New York State Penal Law clarifies that for someone to be considered a “second felony offender” the prior conviction “must have been imposed not more than ten years before commission of the felony of which the defendant presently stands convicted.” In

Table 2: Average Number of Prior Arrests and Convictions for Willard and Prison Groups⁵³

	Willard (N = 98)	Prison Drug (1) (N = 423)	Total Prison (1) (N = 515)
Felony arrests	5.83	5.92	6.39
Felony convictions	1.90	1.68*	1.73
Violent felony arrests	1.01	1.23	1.30*
Violent felony convictions	0.06	0.00*	0.00*
Drug Arrests	6.39	5.53	5.14**
Drug convictions	3.64	2.65**	2.44***
Misdemeanor arrests	6.27	4.58*	4.57*
Misdemeanor convictions	4.85	3.40	3.71

(1) Statistical significance for the two prison groups refers to comparison with the Willard participants.
* p < .05; ** p < .01; *** p < .001.

The Willard participants, on average, have a significantly higher number of misdemeanor arrests and drug convictions than both prison groups. They also have a significantly higher number of drug arrests than the total prison group. Although Willard participants appear to have slightly more serious criminal histories than those sent to prison, prosecutors are fulfilling the legislative intent to provide alternatives for non-violent, drug-addicted offenders facing mandatory prison sentences.

This conclusion is reinforced by an examination of the criminal history of the 118 DTAP participants for whom we had DCJS data and who met the Willard eligibility criteria (see Appendix C). The histories of the DTAP and Willard participants are similar on every measure except that the DTAP group had a significantly higher number of prior felony arrests on average.⁵⁴ For every other measure, including number of prior felony convictions, there were no significant differences between the DTAP and Willard groups.⁵⁵ And, like the Willard participants, the DTAP participants have a less violent history—with significantly fewer prior violent arrests, on average—than the prison groups and a significantly longer history of misdemeanor and drug arrests and convictions.

Finally, Extended Willard and DTAP participants received minimum and maximum sentences that were approximately 50 percent longer than the prison sentences received by

this case, prosecutors may have applied the same kind of criteria and still considered a person eligible if they were convicted of a violent felony more than ten years ago, since five offenders sent to Willard had a prior violent felony based on DCJS records.

⁵³ The combined total N for the groups listed on the table is 613 (the prison, drug conviction group is a subset of the total prison group). The table does not include the 118 eligible offenders sent to DTAP or the 29 who received other sentences, such as jail or probation.

⁵⁴ This may be due to the fact that the statute authorizing Extended Willard restricts the program to second felony offenders, and there appears to be a more conservative interpretation of the statute by Queens' prosecutors. Although the statute defines convictions and not arrests, the two are generally correlated.

⁵⁵ There may be differences between the DTAP and Willard participants apart from criminal history. Prosecutors told us that strength of community ties, for example, is another factor in sentencing decisions and that Willard is seen as the option for the more problematic offender group. Offenders with stronger community ties are seen as better candidates for DTAP.

those eligible for Extended Willard (see Appendix Table C-2). Extended Willard and DTAP participants, who accepted a plea involving treatment, received, on average, sentences of three to six years, while those who went directly to prison received sentences of two to four years. There are a few possible explanations. First, those who are facing longer sentences may be more likely to accept an option that would allow them to avoid a lengthy prison term. Thus, offenders who accept a Willard or DTAP plea are, in fact, facing longer prison terms, and accept the plea as a way of avoiding them. Another explanation, drawn in part from our interviews with prosecutors, is that criminal justice professionals may view the more serious consequences for treatment failure as an important form of leverage that gives participants an incentive to succeed. In this view, the threat of a long prison term can become an important means of coercing participants into completing the program.⁵⁶

The longer sentences may also be a reason why some offenders decline to participate in the program.⁵⁷ Other research suggests that offenders may choose incarceration rather than alternatives if there are many conditions attached to the alternatives.⁵⁸ Thus, combining the demands of a treatment alternative like Extended Willard with a longer sentence may work as a disincentive to participate in the program.

Overall, these data suggest that prison, Extended Willard, and DTAP were the sentencing options most used for Extended Willard-eligible offenders in the Bronx and Queens in 2000, but it appears that a substantial proportion of those who are *statutorily* eligible in the two boroughs are being sent to prison rather than to treatment alternatives. The treatment programs are not simply drawing off the offenders with the least serious criminal histories, and, consistent with the apparent intent of the statute, there is evidence that offenders with violent histories are being excluded and those with drug histories are being admitted. Nevertheless, the similarity in the criminal histories of all the groups suggests that there are nonviolent offenders with one or more prior felony convictions who are being sent to prison, but who could be sentenced to a treatment alternative. We cannot determine from the data we analyzed, of course, the extent to which the offenders sent to prison had drug problems themselves or were ready for treatment. But, the overall similarity between the Extended Willard and DTAP participants suggests that the two treatment programs are not diverting Willard-eligible offenders with different criminal histories.⁵⁹

⁵⁶ Our interviews indicated that prosecutors see the treatment option as a “last chance” for these individuals to take control of their lives.

⁵⁷ We do know that between December 1999 and June 2001, 54 defendants refused to participate in the program, preferring to take the case to trial, go to prison, or participate in another alternative to incarceration program; see Wilson, Wood, and Hope 2002.

⁵⁸ See for example, P.B. Wood and H.G. Grasmick, “Toward the Development of Punishment Equivalencies: Male and Female Inmates Rate the Severity of Alternative Sanctions Compared to Prison,” *Justice Quarterly* 16, no. 1 (1999): 19-50.

⁵⁹ Also see Young, Shackel, and Ireland, 2000.

Program Completions, Violations, and Time in Program

It is not uncommon for substance abusers to have high rates of attrition and relapse in treatment settings.⁶⁰ In a criminal justice context, the same behaviors that constitute relapse in treatment are often considered program violations and can lead to participants being dismissed from a program (and possibly given jail or prison time as a consequence).⁶¹ Program violations are one of the key considerations when examining the implementation of a drug treatment program that replaces a prison sentence, either in part or entirely.

What is a program violation? A violation formally occurs when a participant breaks a program rule or a parole supervision requirement and the person's parole officer decides to issue a violation warrant. Participants can be cited for violating certain rules or requirements without having such a warrant issued, but some infractions, or repeated infractions, can result in a violation warrant (i.e., an *allegation* of a program violation). There are several potential outcomes when a violation warrant is issued, ranging from a revocation of parole status to restoration in the program at either the same or a different phase. In the case of parole revocations, individuals may be reincarcerated to serve the remainder of their sentence, or they may have their parole revoked but be restored to the program.

*Our analyses and results are based on revocations that result in a return to incarceration.*⁶² These data are based on a small number of cases and may not be representative of a general trend.⁶³ Alleged program violations and revocations were originally obtained from TASC; the Division of Parole verified these data for accuracy. In the case of discrepancies, parole data were substituted for information from TASC.⁶⁴

Of the 166 participants who entered the program from its inception through the time of our study, a total of 56 received at least one alleged program violation.⁶⁵ Based on more detailed data provided by Parole, 33 (64 percent) were revoked and returned to prison to serve the remainder of their sentences; nine had their parole revoked but were restored to the Willard program; seven were reinstated/restored without a revocation, and

⁶⁰ M. Douglas Anglin, and Yih-Ing Hser, "Treatment of Drug Abuse," in *Crime and Justice: A Review of Research* 13, edited by M. Tonry and J.Q. Wilson (Chicago: University of Chicago Press, 1990): 393-461.

⁶¹ U. S. Department of Health and Human Services, *Combining Substance Abuse Treatment with Intermediate Sanctions for Adults in the Criminal Justice System*, Treatment Improvement Protocol Series 12, DHHS Publication No. (SMA) 02-3643 (Washington, DC: USDHHS, 2002).

⁶² Individuals can have their parole revoked but they can be restored to the program; for the purposes of analyses in this report and consistent with parole policy, we do not treat these as failures. In this sense, "revocations" refer only to participants who were revoked and reincarcerated. See Appendix D for more detail on how data for these and other analyses are treated.

⁶³ Although 172 people had been sentenced to the Willard program, only 166 had actually entered it, based on the data provided by TASC. The remaining six had been sentenced but had not yet been transferred to Willard.

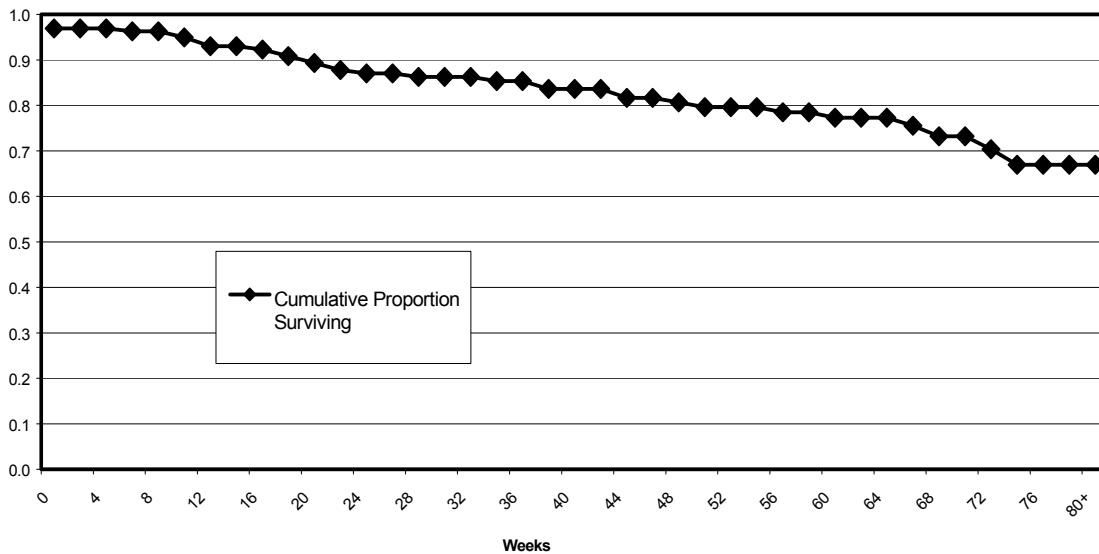
⁶⁴ There were a small number of minor discrepancies between the data provided by TASC and that maintained by the Division of Parole.

⁶⁵ Some individuals received multiple program violations.

seven were at large or have a pending status. Reinstatements to the Willard program in most cases involved a return to the Willard Drug Treatment Campus, although some violators returned to the program phase in which the violation occurred.

Figure 2 shows participants' probability of remaining in the Extended Willard program without having their parole revoked and being reincarcerated (see Appendix D for a more detailed description of the analyses, the associated life table for Figure 2, and the life tables for the individual program phases). Figure 2, an examination of the cumulative proportion surviving through the end of 80 weeks (almost 18 months), indicates that 68 percent of the study participants will remain in the program without being revoked and reincarcerated.⁶⁶ Although there are no periods of steep decline, there is a slightly greater decline after week 66; this is the point at which the most participants appear to complete the program. The impact of the small number of failures after that is magnified due to the decreased number remaining in the program who potentially could fail.

Figure 2. Life table estimated survival functions for parole revocations leading to reincarceration during Extended Willard Drug Treatment Program.



An analysis of the survival trends by borough shows no differences between the Bronx and Queens in overall program revocation (data not shown). When individual program phases are examined, there are still no differences in revocations in either the Willard or residential phase. A statistically significant difference does exist, however, between the two boroughs in the outpatient phase of the program, when eight participants from the Bronx—but none from Queens—were reincarcerated.⁶⁷

⁶⁶ Similar analyses based on *alleged* program violations, i.e., those for which a parole outcome is not yet known, shows a cumulative proportion surviving of .61 at a similar point in time.

⁶⁷ Significant at $p < .001$, based on Kaplan-Meier analysis.

Overall, based on the survival curve in Figure 2, the Extended Willard program's retention rates are well within the range found in other criminal justice programs with similar types of participants. The DTAP program operated by the Brooklyn District Attorney's office, which—like Willard—targets second felony non-violent offenders with substance abuse problems, reports a failure rate of 28 percent within the first year.⁶⁸ A national study of drug treatment programs in which 56 percent of the participants were on parole, probation, or awaiting trial found that failure rates after 90 days ranged from 35 to 79 percent in the residential programs and from 24 to 84 percent in the outpatient programs.⁶⁹ Pennsylvania's RSAT program targets offenders with more serious criminal histories than the Willard participants but, like Willard, begins in a secure setting followed by treatment in the community. A recent evaluation found that 55 percent of the RSAT study sample did not complete the program.⁷⁰

Time in Program

It is clear from these data that a significant proportion of the participants are taking longer than the 15-month minimum time frame to complete the program. In addition to helping us understand how long it actually takes for participants to progress through each phase, the data also tell us how long the program is delivering services to each person in each phase, which has implications for the cost of running the program. A close examination of when participants violate highlights critical times in each phase when participants are at greatest risk for failure, which may point to ways to minimize future violations.

Time to complete. A significant proportion of participants are taking substantially longer than 15 months to complete the program: 20 percent, for example, were still active after 15 months. Additionally, those who completed and those who violated may also have taken longer than the minimum program length before completing or violating. Table 3 shows length of time to complete each phase and the program overall.⁷¹ The median times

⁶⁸ Office of the District Attorney, *DTAP: Eleventh Annual Report, 2001* (Brooklyn, NY: Office of the District Attorney, 2001). Similar data are not available for DTAP programs operated in the Bronx or Queens. We also note that the findings from survival analyses are not directly comparable to the rates of failure which are commonly reported.

⁶⁹ D. Simpson, G. Joe, K. Broome, M. Hiller, K. Knight, and G. Rowan-Szal, "Program Diversity and Treatment Retention Rates in the Drug Abuse Treatment Outcome Study (DATOS)," *Psychology of Addictive Behaviors* 11, no. 4 (1997): 279-293. Although the DATOS study examines drug treatment programs outside the criminal justice context, 56% of the study sample had some type of legal status at admission (parole, probation, or awaiting trial), and fully 31% of the overall sample had been referred to treatment by a criminal justice agency.

⁷⁰ Rachel Porter, *Treating Repeat Parole Violators: A Review of Pennsylvania's Residential Substance Abuse Treatment Program* (New York: Vera Institute of Justice, 2002).

⁷¹ We present both the mean and the median statistics to offer a better sense of time in program. Both can be misleading when presented in isolation, but can present a clearer view when combined. The median is the midpoint of all cases.

suggest that most participants are completing the program on target or in just a few days more than the suggested time frame. The maximum times, however, show that some participants spend an exceptional amount of time in certain program phases (also reflected by the mean times). Ten percent of those who completed the Willard phase took longer than 120 days (or more than a month longer than the 90-day minimum; data not shown); 12 percent of those who completed the residential phase and the outpatient phase took longer than 240 days (or two months longer than the program’s six-month minimum) for each phase. Of the 41 participants who completed the entire program, 30 percent took longer than 17 months; almost 20 percent took longer than 18 months.

Table 3: Time (in days) to Completion by Program Phase

	Minimum	Maximum	Median	Mean	Minimum Program Length
Willard (N=142)*	85	194	90	99	90
Residential (N=73)*	172	663	182	210	180
Outpatient (N=41)*	130	354	188	200	180
Extended Willard (N=41)*	432	683	470	497	450

Note: *=one missing case

Participants may spend more time in the program as a consequence of relapse. In the Willard phase, for example, clients may be sentenced to an additional 30 days if they break just one rule or relapse. If participants have a positive urine test for substance use during the community-based residential or outpatient phases, treatment providers may give them a 45-day “contract,” meaning that their time in the phase is extended by 45 days.

Increased time also may occur due to difficulty locating housing for those exiting the residential phase. Housing must be approved before the participant can be referred to outpatient treatment.⁷² Interviews with parole officers, TASC representatives, and treatment providers also suggest that the minimum six-month time frame for the residential phase may be too short to “stabilize” some participants.⁷³ Extensions of time in the second phase have resulted from both this lack of stability and a lack of housing.⁷⁴

⁷² Residential treatment providers must get approval from parole and TASC to extend time in the residential phase.

⁷³ Although the Division of Parole considers the program’s 15-month time frame a minimum period for program participation, the manner in which these interviewees responded to the question suggests that this may not be a common understanding across treatment providers and other agency officials.

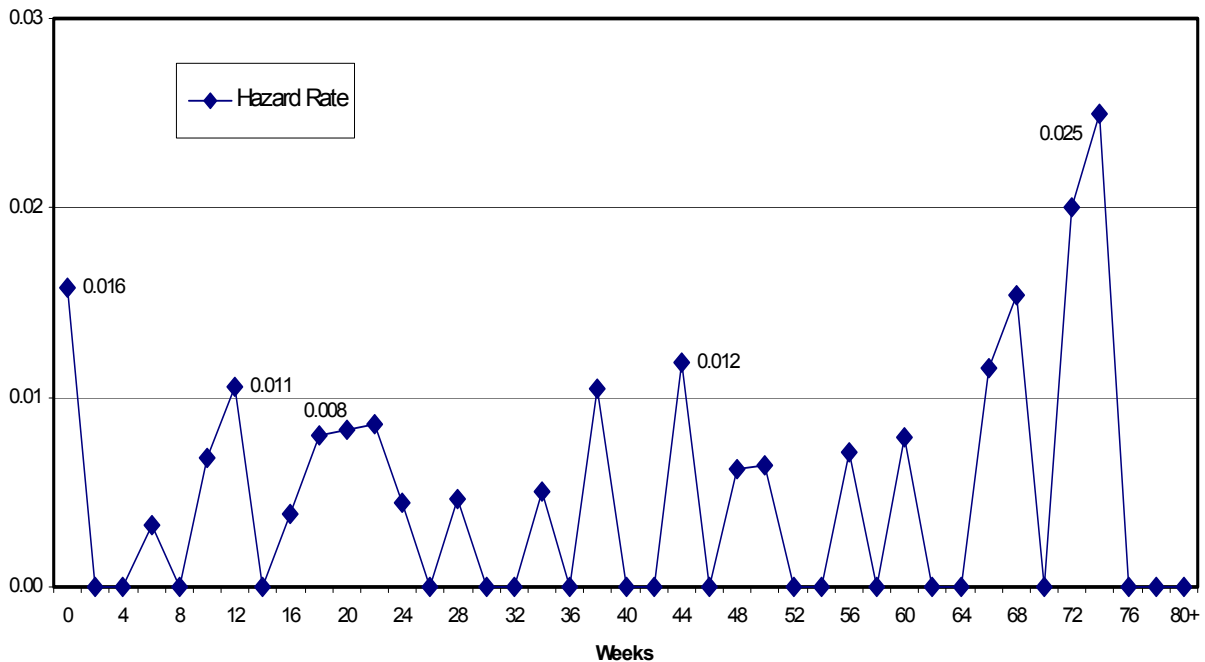
⁷⁴ Increased time in some phases before completing may also be due to alleged parole violations leading to a revocation hearing and program restoration (i.e., they were removed from the program for some period,

Timing of Revocations. Figure 2 does not show any significant shifts in the survival curve indicating a relatively steady and stable decline in the probability of survival from one point to the next. It is hazard rates, however, that present the best measure of the instantaneous risk for failure in the program, and those rates suggest some trends in the risk for revocation during the program phases. Figure 3 presents the timing of program violations by graphing the hazard rates from Appendix Table D-1—key intervals of interest in this figure are approximately 13, 39, and 65 weeks—these are the *minimum* expected periods of participation for each program phase. Figure 3 presents data for the entire 15-month program. Because some individuals will complete a particular program phase quickly and others will take more time, presenting the hazard rates for the entire program means that at the transition points between program phases, participants may actually be in different phases even though their overall time in the program may be the same. Thus, at week 14, some individuals are still in the Willard phase; others at week 14 are two weeks into the residential phase. For this reason, more detailed hazard rates for individual program phases are shown in Appendix Figures D-2, D-4, and D-6. Our analyses show that in both the Willard and the residential phases, there are slightly elevated hazard rates at the beginning and end of the phases; the outpatient phase primarily shows elevated risk for revocations toward the end of the phase. These data suggest that participants are slightly more likely to experience a revocation leading to a reincarceration at the transition from one phase to the next.⁷⁵

but were ultimately restored). We do not have the data available to test the impact of these alleged violations on time in program.

⁷⁵ Similar results are found when alleged program violations are used rather than revocations leading to reincarceration.

Figure 3. Life table estimated hazard rates for Extended Willard Drug Treatment Program.



What Led to Violations?

To better understand the types of behavior that resulted in alleged program violations, we supplemented the violation warrant data reported in the TASC tracking sheets with a limited review of violation summaries (N= 27) contained in files maintained by the Division of Parole.⁷⁶ These reviews revealed that before violation warrants were issued, participants usually had been cited for several separate violations of parole supervision.⁷⁷ For the 27 summaries reviewed, 117 total parole citations were recorded. An excerpt from one violation report states:

The subject tested positive for opiates, without medical authorization, four times before she was violated. As an alternate to incarceration, she was readmitted to Samaritan for another six months of drug treatment. By the fourth month, she had reverted back to drugs and was discharged.

⁷⁶ These reviews were limited to individuals under supervision by the Manhattan and Brooklyn parole offices. We would have liked to review documentation for people from the Poughkeepsie office who were violated, as well as further documentation from the different offices on those who were not violated, to compare behaviors and violation reports, but time constraints prevented this.

⁷⁷ Our examination of these files were for incidences of violating parole supervision requirements. These data indicate when a participant was “cited” for a rule violation—we will refer to these as “citations” rather than parole violations which carries a different connotation. When a participant violates too many supervision requirements or commits a serious enough violation, a violation warrant is likely to be issued.

Slightly more than 40 percent of the citations we reviewed in the parole files (48 of 117) were related to special conditions of parole; often these involved failing to attend outpatient treatment or absconding from treatment. These findings are consistent with the TASC tracking reports, which showed that most violation warrants were related to absconding. Other common rule citations included use of controlled substances (N=15), failing to report to parole office (N=17), or failing to notify parole officer of changes in residence or program status (N=15).⁷⁸ Three parole violation summaries indicated illegal activities (aside from positive urine tests). We did not examine official data from DCJS on participants' arrests during the program, but the TASC tracking reports we reviewed showed only one arrest.

Comparing Violations Among Treatment Providers

We were also interested in comparing violation rates among groups of participants who were sent to each of the five contract providers that delivered drug treatment services in the residential and outpatient phases.⁷⁹ Table 4 shows how the proportion of revocations leading to reincarceration among participants at each provider relates to the proportion of program participants overall who were sent to that program.⁸⁰

Table 4: Comparison of Program Violations Resulting in Revocation and Reincarceration during Community Treatment Phase by Treatment Provider (Total N=144).

	% of Participants Sent to Provider	Provider's Revocation Rate	% of All Revocations From Provider
Daytop (N=41)	28.5	19.5	32.0
Palladia (N=31)	21.5	9.7	12.0
Promesa (N=13)	9.0	15.4	8.0
Samaritan (N=47)	32.6	25.5	48.0
VIP (N=12)	8.3	0.0	0.0
Total	100.0	N/A	100.0

Although Samaritan received 32.6 percent of the Extended Willard participants entering the residential phase, its participants accounted for 48 percent of the program

⁷⁸ In addition, it is not unusual for multiple violations to be associated with a single incident (much like criminal offenses).

⁷⁹ For this purpose, three measures were computed as follows: (1) % of Participants Sent to provider = Number Provider Participants / Number EW Participants Entering Residential; (2) Provider's Revocation Rate = Number of Revocations / Number of EW Participants in the Program; (3) % of All Revocations From Provider = Number of Revocations Within Program / Total EW Revocations.

⁸⁰ These do not account for any differences that may be due to the time in the program.

revocations resulting in reincarceration. Samaritan and Daytop in combination accounted for 61 percent of all participants in community treatment but 80 percent of all revocations. The three other programs combined accounted for only 20 percent of all parole revocations with almost 40 percent of the participants in community-based treatment; VIP had no revocations leading to a reincarceration.

Differences in revocation rates among the providers likely reflect differences in the characteristics of their participants as much as program efficacy. In our interviews, we asked TASC officials about the different considerations when placing offenders into various treatment providers. A representative from Bronx TASC told us:

The placement into different programs depends mostly on the offenders' personal needs rather than their criminal history. Those clients who speak Spanish are most often sent to Promesa....Offenders with a high level of education are often sent to Palladia because this program focuses on getting them back into the community and working. On the other hand, those with no skills are often sent to Daytop or Samaritan Village.

Another representative from TASC indicated that:

If the offender needs a structured, confrontational program, he/she will be sent to Daytop, while someone who is more sensitive will likely be placed at Samaritan Village.

Consistent with the statement made by the Bronx TASC official, we found that Daytop, with one of the higher revocation rates, had the highest percentage of participants with little education and the highest with a recent history in a controlled environment. On the other hand, Palladia—with one of the lower revocation rates—had the lowest percentage of participants with a recent history of incarceration or institutionalization and the lowest percentage of participants with little education. Given the size of our samples, we were not able to conduct a logistic regression analysis, which means we cannot assess whether the differences among the providers would continue to exist even when these participant characteristics are controlled.

To sum up our findings on completions, violations, and time in the program, significant proportions of the participants spend two to three months longer than the minimum 15 months in the program. The additional time is at least partially explained by behavior problems that result in participants spending more time in each phase and to some degree by difficulties participants have in securing housing before the outpatient phase. In addition, there is some indication that the probability for program failure is slightly higher at or around the times when participants are moving from one phase to another.

How Can Criminal Justice Agencies and Treatment Providers Work Together to Run a Program?

With so many government agencies collaborating to run the Extended Willard Drug Treatment program—DCJS, OASAS, DOCS, Parole, and the Queens and Bronx District Attorney’s Offices—as well as nongovernmental groups—TASC, Palladia, Samaritan Village, VIP, Promesa, and Daytop—it was crucial for these organizations to have a regular forum in which to discuss and negotiate issues. The Willard Workgroup meetings drew the agencies together during the first year on a monthly basis, and later on a bimonthly and then quarterly basis, and allowed members to voice concerns or problems and to learn how other agencies were functioning.

This forum was important given the program’s need to balance criminal justice and treatment goals. Criminal justice agencies usually assign a higher priority to public safety concerns, while treatment providers tend to prioritize treatment issues for individual participants.⁸¹ A program that delivers treatment to criminal offenders can expect these different priorities to create conflict. Workgroup meetings allowed competing interests to be heard and policy questions to be negotiated and resolved.

Membership in the meetings was (and continues to be) fairly stable. Each agency was represented by at least one person, and multiple representatives frequently attended. Meetings were typically co-chaired by DCJS and OASAS during the time of our study, although no one organization dominated the discussion. Agendas rarely contained general topics to be discussed; instead, they consisted mainly of the order in which members would report. Representatives provided the group with an account of their progress, problems they experienced, and the solutions they proposed. TASC gave updates on how many offenders were entering the program and how many were violating.

Overall, the Workgroup was more successful in identifying and solving specific issues related to the operation of the program than it was in dealing with broad, ongoing issues, such as declining enrollment, that affected the program as a whole.

For example, one specific problem the group resolved was the question of whether participants could leave residential facilities on passes and, if so, how soon. Parole was wary of allowing parolees to leave the facility too soon without a staff escort. The treatment providers considered limited and gradually longer excursions to the outside world to be a crucial component of recovery. This issue took almost a year to resolve, an indication of how difficult it was for treatment providers and parole officers to reach a compromise. Eventually, selected members of the Workgroup met separately to iron out a specific policy that established incremental steps for passes based on length of time in the program and approval by the treatment staff and supervising parole officer.

⁸¹ U.S. Department of Health and Human Services, *Combining Substance Abuse Treatment with Intermediate Sanctions for Adults in the Criminal Justice System*, Treatment Improvement Protocol (TIP) 12, DHHS Publication No. 02-3643 (Rockville, MD: USDHHS, 2002).

Consequences for Program Violators

Workgroup meetings repeatedly dealt with problems concerning the consequences for participants who violated the program. In this case, however, criminal justice and treatment professionals were on the same side: both were sometimes frustrated by the fact that participants whom they wanted removed from the program were not sent to prison but were instead returned to the program. There were several cases in which TASC, parole, and the treatment provider agreed that a person needed to leave the program, and the person was returned.

Consistent with Division of Parole policy, the adjudication process involving parole revocations requires an impartial hearing; administrative law judges are the central arbiters in revocation hearings. The Extended Willard program relies on the judges to enforce the consequences of failing when a violation warrant is issued. Even in cases where all program staff believed a participant should be removed, the administrative law judge occasionally decided to reinstate the participant to the program. When the judges returned parolees to the program, they may have been treating program violators as regular parolees—not realizing that as part of their plea bargain participants were told that if they failed the Willard program they would have to serve an alternative sentence of three to six years. These decisions led to a degree of frustration among some Workgroup members. From their perspective, the judges were sending a message that there were no serious consequences for failing the program.

The judges however, were not included in the Workgroup and, therefore, their knowledge and understanding of Extended Willard may have been limited. In addition, their views regarding the adjudication process and consequences for failure were not part of any ongoing discussion.⁸² In this instance, the predictability in violation outcomes desired by members of the Workgroup competes with Parole requirements guiding the administrative revocation process. In an attempt to resolve the issue, an official from DCJS spoke with the chief administrative law judge for parole, explained the plea agreement, and requested that the judges encountering Extended Willard parolees heed the advice of prosecutors and parole officers. The chief judge agreed to try to bring the other judges on board. Reports at Workgroup meetings suggest the issue receded for a time but has never been fully resolved.

The Workgroup and Intake

Workgroup members were aware that the program was falling short of its intended capacity. As early as July 2000, Willard facility officials reported that the flow of

⁸² This does not imply that administrative law judges should be or should have been part of the process; it simply reinforces the notion that without some degree of inclusion, the judges are unlikely to be aware of the concerns expressed by the Workgroup.

participants into the program was slowing down. One explanation was that the slowdown occurred because district attorneys were not referring people convicted of property or other offenses—such as grand larceny—who could be eligible if found to have a drug problem. Excluding this group, they agreed, was limiting intake.

The impact of excluding these cases seemed to be bigger in Queens than in the Bronx. The assistant district attorney from Queens told the Workgroup that his prosecutors would have to start considering non-drug cases. He also noted the need to make attorneys and judges in non-narcotics courtrooms aware of the program and who was eligible, and he held a special talk to educate them. In the fall of 2001, the Queens DA's office began considering people convicted of non-drug offenses. The program enrolled increasing participants from Queens in the months that followed but continued to experience declining enrollment overall. The Workgroup was never able to find a long-term solution to the decline.

Nonetheless, most attendees considered the Workgroup meetings useful. A staff member from one of the treatment providers told us the meetings allowed providers to bring up problems and share solutions. A TASC representative concurred, stating:

The Workgroup meetings have been very helpful: brainstorming with the different agencies, working out differences, and seeing the collaboration between parole and the treatment providers.

The meetings were often quite large, which was a source of consternation for some. One parole official told us:

As the meetings get bigger, they become less effective. There is a lot of posturing, with some people being important and some not so important. I feel that it was better when meetings were smaller and more nitty-gritty, where we got something accomplished.

Big Picture Issues

The official's comment reflects the Workgroup's ability to deal with the "nitty-gritty" issues while the biggest problem facing the program, its declining number of participants, remains unresolved. While some aspects of the enrollment problem have been raised and some solutions proposed, the Workgroup as a whole has not taken it on and attempted to marshal common resources to deal with it. No single agency representative has called on the group to examine and find solutions to major issues that affect the program as a whole. A more structured agenda, and a group leader, might focus attention on these larger concerns.

Conclusion

The Extended Willard program is New York State's latest entry in the growing number of programs that shift emphasis from long prison sentences to treatment for nonviolent substance-abusing offenders. In that sense, it is timely and sits comfortably with a growing national consensus. But, as this report shows, Extended Willard has yet to attract the numbers of drug-involved offenders for which it was designed.

Our research on the implementation of the three-phase, 15-month Extended Willard program set out to evaluate enrollment, the rates at which participants completed the program or were cited by their parole officers for violations, and the way in which the myriad criminal justice agencies and non-governmental treatment providers worked together to run the program. The research suggests specific lessons for those designing and implementing subsequent programs:

- Neither legislative permission to substitute treatment for lengthy sentences, nor the enhancement of treatment programs to the specifications of judges and prosecutors appears to be sufficient to divert substantial numbers of eligible offenders from prison to treatment. Although prosecutors and judges described themselves as satisfied with the design of Extended Willard in the early stages, the pilot program attracted less than half of the offenders for whom it was designed.
- Officials estimating the cost of treatment programs should assume that between a third and one-half of participants will fail the program and receive a prison sentence and that successful participants will often exceed the prescribed length of treatment. Here, slightly more than half of the participants are expected to complete the Extended Willard program successfully, although they frequently take longer than the 15-month minimum time for completing the program. Programs like Extended Willard should be able to improve these rates in the future, but for now, these rates are typical of treatment programs in the criminal justice system.
- Providing a continuum of treatment as participants transition from a secure institutionalized setting back into the community is generally recognized as enhancing the probability of a successful transition. Multi-phase programs have some advantages over single-phase programs, but they also create moments of transition at which violations may rise. Program operators may be able to reduce the number of people who violate the terms of their participation in treatment by better managing the transitions between phases of treatment. Here, the risk of revocation was higher at times of transition between the phases—especially in the

transition from the initial phase in the secure Willard facility to the second phase in a community-based residential treatment center.

- Criminal justice officials and treatment providers need forums like the Willard Workgroup in which they can work together to solve problems that arise in treatment programs, but these groups need leadership, structure, and discipline if they are to solve problems quickly or tackle big issues that threaten the program's success. Here, the Willard Workgroup, comprised of representatives of the agencies and organizations running the program, dealt successfully, although sometimes slowly, with procedural and policy issues involved in the operation of Extended Willard, but it did not resolve the overarching problems of insufficient intake and declining enrollment.

Program Issues

In terms of actual operation of three-phase programs like Extended Willard, there are a number of choices that designers should confront based on this research. For example, should the prescribed time periods in each phase of such programs represent real limits, or are these programs actually like indeterminate sentences, allowing offenders to complete each phase only when they are deemed ready? Here, the 15 months allotted for completion of Extended Willard is six months longer than the original Willard, but even this was deemed insufficient in many cases for participants who stayed longer than the minimum time in each of the three phases. While there are a number of reasons for these extensions—violations that add time to their sentences, the lack of housing for participants entering the out-patient phase, etc.—treatment providers observed that many participants were simply not ready to transition from residential to outpatient treatment. Are these decisions, which add to the cost of programs, appropriately made by treatment providers in consultation with parole officers, or should there be some limits on program length?

Because the risk of violations is higher at the transition between phases, additional attention could be directed to preparing participants for the move between phases, especially at the end of the secure phase when participants are preparing to move to the less restricted environment of a residential treatment center. It is possible that increased assistance at the beginning of the community-based phases could reduce the number of violations as well.

Two-phase and three-phase programs depend heavily on the sensible judgment of parole officers supervising offenders in the final, community phase of treatment. Returning these offenders to prison squanders months of investment in treatment, making careful guidance of discretion imperative. Making sure that violation criteria are clearly delineated and widely disseminated could lead to greater consistency, fewer violations, and greater cost-effectiveness.

Finally, multi-phase programs need strong mechanisms for coordination and solving problems. The Willard Workgroup, as constituted and organized, was aware of but unable to resolve the problem of low enrollment. The group worked from an agenda that was generally limited to reports from the member agencies rather than from an agenda that reflected the larger issues facing the program as a whole. Moreover, the administrative law judges, who make decisions about whether violators should be returned to prison, were not part of the program's information-sharing protocol. That omission led to frustration on the part of prosecutors, parole officers, and treatment providers who wished to expel violators from the program but were overruled by judges who had their own views on the strictures of an Extended Willard sentence or who may not have been aware of the consequences for program failure that parolees had been informed of and had agreed to.

The Enrollment Problem

As enrollment in Extended Willard declined from initially low levels, a number of suggestions were made about the causes. Because low enrollment will likely be a problem for new treatment programs, officials need a strong analytic capacity to diagnose the problem and frame possible solutions. Here, for example, various members of the Willard Workgroup suggested that low enrollment could be attributed to declining arrests, excessive focus on those convicted of drug crimes rather than property crimes, eligible offenders declining to participate, and competition with other treatment programs. Our analysis suggests that while each of these factors may have affected some cases, none is likely a major factor in explaining the substantial underuse of Extended Willard or the decline in its use over time.

Prosecutors in the Bronx were clearly more willing than those in Queens to refer second felony offenders to an ATI, but their clear preference was for DTAP, the prosecutor-run treatment program without Willard's initial secure residential component. Prosecutors used Willard for less than one-fifth of the eligible offenders—18 percent in Queens and only nine percent in the Bronx. Instead they sent almost 60 percent of those with Willard-eligible records to prison and almost 30 percent to DTAP. Program designers need to focus their analysis on this population, identifying the factors beyond mandatory sentences and treatment availability that send so many eligible offenders to prison.

Further Research

We have noted but were not able to evaluate the differences in the alleged violation rate among treatment providers. Further study could determine if these differences occurred because of variations in the treatment regimen, the profile of the participants who were

assigned to each provider, the discretion of individual parole officers in determining when to issue violation warrants, or some other factor.

Because this report is an implementation evaluation, we did not follow participants after they completed the Extended Willard program in order to track rearrests, either for technical parole violations or for new crimes. Such a study, comparing Willard participants to eligible offenders who went to prison, would contribute to measuring the success of the program both as a treatment option and as a way of reducing crime.

Despite the low enrollment in Extended Willard, these questions need to be pursued, for Extended Willard represents an early step on a journey that government officials across the United States are making together. Indeed, New York officials, having started earlier than others, are farther along that road. The original Willard program and Extended Willard were created as alternatives to harsh mandatory sentences in the belief that significant numbers of offenders and society as a whole would benefit from treatment in place of lengthy prison sentences. Today, the belief in the wisdom and efficacy of treatment is stronger than ever, and nothing in this research challenges it. Instead, our research simply underscores how difficult it will be to act effectively to put that belief into practice.

Appendix A: The Extended Willard Statute

NY CPS CPL § 410.91⁸³

ARTICLE 410—* SENTENCES OF PROBATION, CONDITIONAL DISCHARGE AND PAROLE SUPERVISION

* NB Effective until September 30, 2005

* SENTENCES OF PROBATION AND
OF CONDITIONAL DISCHARGE

*NB Effective September 30, 2005

Section	410.10 Specification of conditions of the sentence.
	410.20 Modification or enlargement of conditions.
	410.30 Declaration of delinquency.
	410.40 Notice to appear, warrant.
	410.50 Custody and supervision of probationers.
	410.60 Appearance before court.
	410.70 Hearing on violation.
	410.80 Transfer of supervision of probationers.
	410.90 Termination of sentence.
	*410.91 Sentence of parole supervision.
	* NB Repealed September 30, 2005.

* S 410.91 Sentence of parole supervision.

1. A sentence of parole supervision is an indeterminate sentence of imprisonment which may be imposed upon an eligible defendant, as defined in subdivision two of this section. Such sentence shall have a minimum term and a maximum term within the ranges specified by subdivisions three and four of section 70.06 of the penal law. Provided, however, if the court directs that the sentence be executed as a sentence of parole supervision, it shall remand the defendant for immediate delivery to a reception center operated by the state department of correctional services, in accordance with section 430.20 of this chapter and six hundred one of the correction law, for a period not to exceed ten days. An individual who receives such a sentence shall be placed under the immediate supervision of the state division of parole and must comply with the conditions of parole, which shall include an initial placement in a drug treatment campus for a period of ninety days at which time the defendant shall be released therefrom.

2. A defendant is an "eligible defendant" for purposes of a sentence of parole supervision when such defendant is a second felony offender convicted of a specified offense or

⁸³ <http://caselaw.lp.findlaw.com/nycodes/c25/a58.html>

offenses as defined in subdivision five of this section, who stands convicted of no other felony offense, who has not previously been convicted of either a violent felony offense as defined in section 70.02 of the penal law, a class A felony offense or a class B felony offense, and is not subject to an undischarged term of imprisonment.

3. When an indeterminate sentence of imprisonment is imposed upon an eligible defendant for a specified offense, as defined in subdivision five of this section, the court may direct that such sentence be executed as a sentence of parole supervision if the court finds (i) that the defendant has a history of controlled substance dependence that is a significant contributing factor to such defendant's criminal conduct; (ii) that such defendant's controlled substance dependence could be appropriately addressed by a sentence of parole supervision; and (iii) that imposition of such a sentence would not have an adverse effect on public safety or public confidence in the integrity of the criminal justice system.

4. If the sentence is for a specified offense that is a class D felony, the court may not impose a sentence of parole supervision without the consent of the people. If the conviction is as a result of a plea of guilty, the people must communicate their consent, or lack thereof, at the time of the plea. If the conviction is not as a result of a plea of guilty, the people must communicate their consent, or lack thereof, at least ten days before sentencing. In either case, if the people do not consent, they must state on the record or in writing the reason or reasons for their opposition.

5. For the purposes of this section, a "specified offense" is an offense defined by any of the following provisions of the penal law: criminal mischief in the third degree as defined in section 145.05, criminal mischief in the second degree as defined in section 145.10, grand larceny in the fourth degree as defined in subdivision one, two, three, four, five, six, eight, nine or ten of section 155.30, grand larceny in the third degree as defined in section 155.35 (except where the property consists of one or more firearms, rifles or shotguns), unauthorized use of a vehicle in the second degree as defined in section 165.06, criminal possession of stolen property in the fourth degree as defined in subdivision one, two, three, five or six of section 165.45, criminal possession of stolen property in the third degree as defined in section 165.50 (except where the property consists of one or more firearms, rifles or shotguns), forgery in the second degree as defined in section 170.10, criminal possession of a forged instrument in the second degree as defined in section 170.25, unlawfully using slugs in the first degree as defined in section 170.60, or an attempt to commit any of the aforementioned offenses if such attempt constitutes a felony offense; or any class D or class E controlled substance or marijuana felony offense as defined in article two hundred twenty or two hundred twenty-one.

6. Upon delivery of the defendant to the reception center, he or she shall be given a copy of the conditions of parole by a representative of the division of parole and shall acknowledge receipt of a copy of the conditions in writing. The conditions shall be established in accordance with article twelve-B of the executive law and the rules and regulations of the division of parole. Thereafter and while the parolee is participating in the intensive drug treatment program provided at the drug treatment campus, the division of parole shall assess the parolee's special needs and shall develop an intensive program of parole supervision that will address the parolee's substance abuse history and which shall include periodic urinalysis testing. Unless inappropriate, such program shall include the provision of treatment services by a community-based substance abuse service provider which has a contract with the division of parole.

7. Upon completion of the drug treatment program at the drug treatment campus, a parolee will be furnished with money, clothing and transportation in a manner consistent with section one hundred twenty-five of the correction law to permit the parolee's travel from the drug treatment campus to the county in which the parolee's supervision will continue.

8. If the parole officer having charge of a person sentenced to parole supervision pursuant to this section has reasonable cause to believe that such person has violated the conditions of his or her parole, the procedures of subdivision three of section two hundred fifty-nine-i of the executive law shall apply to the issuance of a warrant and the conduct of further proceedings; provided, however, that a parole violation warrant issued for a violation committed while the parolee is being supervised at a drug treatment campus shall constitute authority for the immediate placement of the parolee into a correctional facility operated by the department of correctional services, which to the extent practicable shall be reasonably proximate to the place at which the violation occurred, to hold in temporary detention pending completion of the procedures required by subdivision three of section two hundred fifty-nine-i of the executive law.

* NB Repealed September 30, 2005

Appendix B: Description of Program Participants

Tables B-1 through B-5 present demographic information and criminal offense history collected in baseline interviews we conducted with participants on the day of sentencing. Between December 1999 and June 2001, 87 baseline interviews were conducted with participants accepting an Extended Willard plea. The information presented is disaggregated by borough of conviction. This is especially important because prosecutors in the two boroughs implement the Extended Willard statute differently. Thus, Table B-1 shows that almost 31% of Bronx participants report a prior three-year pattern of being in a “controlled environment” (either incarceration or a treatment facility) compared to only three percent of Queens participants. Table B-5 also reflects this difference, with 40% of Bronx participants reporting being on parole supervision at the time of arrest compared to only three percent of Queens participants.

Table B-1: Self-Reported Characteristics of Participants

Characteristics	Bronx (n=55; 63%)	Queens (n=32; 37%)	Total Willard (n=87; 100%)
Sex**			
Male	89.1	68.8	81.6
Female	10.9	31.3	18.4
Race/Ethnicity***			
White	3.6	18.8	9.2
Black	36.4	53.1	42.5
Hispanic	50.9	15.6	37.9
Other	9.1	12.5	10.3
Marital Status			
Single/Never Married	40.7	59.4	47.7
Married	31.5	25.0	29.1
Divorced, Separated or Widowed	27.8	15.6	23.3
Age (mean years)	36.1 (8.23)	34.6 (9.33)	35.57 (8.63)
Education (mean years)	9.85 (2.42)	10.97 (2.04)	10.26 (2.34)
Employment Status (at arrest)			
Full-time	35.2	35.5	35.3
Part-time	18.5	19.4	18.8
Unemployed	46.3	45.2	45.9
Employment Pattern (past 3 years)**			
Full-time	32.7	40.6	35.6
Part-time	12.7	28.1	18.4
Unemployed	20.0	25.0	21.8
Controlled Environment /Incarcerated	30.9	3.1	20.7
Other (Student/Retired/Disabled)	3.6	3.1	3.4

Levels of significance: * $p \leq .1$, ** $p \leq .05$, *** $p \leq .01$. Note: Standard deviations shown in parentheses.

Table B-2 Self-Reported Substance Abuse History for Participants; Lifetime

Substances	Bronx (n=55)	Queens (n=32)	Total Willard (n=87)
Age at First Use			
Alcohol	15.1 (5.58)	14.6 (3.27)	14.9 (4.83)
Marijuana	14.4 (4.39)	15.1 (3.63)	14.6 (4.14)
Cocaine	20.1 (7.83)	20.9 (7.05)	20.3 (7.55)
Crack Cocaine	25.6 (6.62)	27.6 (9.17)	26.4 (7.69)
Heroin	20.5 (7.44)	21.6 (7.35)	20.7 (7.35)
Methadone	29.8 (7.94)	31.0 (13.08)	29.9 (8.30)
Percent Reporting Regular Use			
Alcohol	38.2	56.3	44.8
Marijuana	63.6	68.8	65.5
Cocaine	58.2	43.8	52.9
Crack Cocaine	34.5	46.9	39.1
Heroin	61.8	18.8	46.0
Methadone	30.9	9.4	23.0
Years of Regular Use			
Alcohol	11.7 (8.40)	12.7 (9.83)	12.2 (8.98)
Marijuana	8.9 (6.48)	8.5 (4.77)	8.8 (8.54)
Cocaine	9.7 (8.59)	10.1 (6.32)	9.8 (7.90)
Crack Cocaine	10.5 (7.41)	9.3 (4.95)	9.9 (6.38)
Heroin	13.6 (9.66)	14.7 (4.76)	13.7 (9.06)
Methadone	6.8 (6.87)	2.7 (2.89)	6.2 (6.55)

Levels of significance: * $p \leq .1$, ** $p \leq .05$, *** $p \leq .01$. Significance levels not computed for Percent Reporting Regular Use. Standard deviations in parentheses. Regular Use defined as three or more times a week for six or more months. Mean Years of Regular Use: means based on only those reporting “ever using” that drug regularly (range = 0-41 years).

Table B-3 Self-Reported Substance Use of Participants; Past 30 Days

Substances	Bronx (n=55)	Queens (n=32)	Total Willard (n=87)
Percent Reporting Use in Past 30 Days			
Alcohol	49.1	62.5	54.0
Marijuana	29.1	40.6	33.3
Cocaine	32.7	31.3	32.2
Crack Cocaine	25.5	43.8	32.2
Heroin	47.3	12.5	34.5
Methadone	25.5	6.3	18.4
Poly-Drug Use	38.2	50.0	42.5
Average Days of Use in Past 30			
Alcohol	14.0 (10.83)	15.8 (11.96)	14.8 (11.23)
Marijuana**	16.4 (12.86)	27.1 (6.09)	21.2 (11.55)
Cocaine**	21.5 (10.76)	10.4 (10.84)	17.5 (11.89)
Crack Cocaine	21.0 (11.36)	20.2 (10.74)	20.6 (10.86)
Heroin	25.4 (8.12)	23.0 (14.00)	25.1 (8.82)
Methadone	23.3 (10.68)	30.0 (0.00)	24.1 (10.20)
Poly-Drug Use	18.5 (12.36)	14.1 (11.40)	16.6 (12.00)
Years of Regular Use			
Alcohol	11.7 (8.40)	12.7 (9.83)	12.2 (8.98)
Marijuana	8.9 (6.48)	8.5 (4.77)	8.8 (8.54)
Cocaine	9.7 (8.59)	10.1 (6.32)	9.8 (7.90)
Crack Cocaine	10.5 (7.41)	9.3 (4.95)	9.9 (6.38)
Heroin	13.6 (9.66)	14.7 (4.76)	13.7 (9.06)
Methadone	6.8 (6.87)	2.7 (2.89)	6.2 (6.55)

Levels of significance: * $p \leq .1$, ** $p \leq .05$, *** $p \leq .01$. Significance levels not computed for Percent Use in past 30 days. Standard deviations in parentheses. Days of Use in Past 30: Means are based on only those reporting use of that drug in past 30 days (range = 1-30 days). Years of Regular Use reported only for those reporting use in the past 30 days.

Table B-4 Bronx and Queens Participants' Substance Abuse Scores

	Bronx (n= 53)	Queens (n= 29)	Total (n= 82)
DAST-20 Total Score**			
Mean	12.1 (3.91)	10.1 (4.71)	11.4 (4.3)
DAST Clinical Cutoff Score (%)**			
Below	1.9	13.8	6.1
At or above	98.1	86.2	93.9
Collapsed DAST Category (%)*			
Low to Moderate Drug Problem	35.8	58.6	43.9
Substantial to Severe Drug Problem	64.2	41.4	56.1

Levels of significance: * $p \leq .1$, ** $p \leq .05$, *** $p \leq .01$. Standard deviations in parentheses. DAST-20 = Drug Abuse Screening Test-20 Items.

Table B-5 Self-Reported Criminal Offense History of Participants

Criminal History	Bronx (n=55)	Queens (n=32)	Total Willard (n=87)
Offense Charges			
All Charges (mean) ⁽¹⁾	8.4 (6.84)	7.7 (9.71)	8.2 (7.97)
Felony Charges (mean) ⁽²⁾	5.6 (3.98)	5.0 (5.48)	5.4 (4.56)
Violent (mean) ⁽³⁾	0.2 (0.51)	0.2 (0.57)	0.2 (0.53)
Offense Convictions (mean)	5.8 (5.49)	6.4 (9.51)	6.1 (7.18)
On Parole at Arrest (%)****	40.0	3.1	26.4
On Probation at Arrest (%)***	5.5	25.0	12.6
Drug Sales (%)			
Ever sold marijuana	43.6	29.0	38.4
Ever sold cocaine	3.6	12.5	6.9
Ever sold heroin	29.1	6.3	20.7
Ever sold crack	10.9	18.8	13.8
Juvenile History			
Arrested before age 16 (%)	23.6	25.0	24.1
Number of times arrested (mean)	1.7 (1.25)	2.5 (2.39)	2.0 (1.76)
Convicted as a juvenile (%)	16.4	6.3	12.6
Number convictions (mean)	1.0 (0.00)	1.5 (0.71)	1.1 (0.30)
Lifetime Incarceration			
Incarcerated after age 18 (%)	98.2	93.8	96.6
Months incarcerated (mean)****	65.1 (52.99)	20.3 (17.08)	49.1 (48.59)

Levels of significance: * $p \leq .1$, ** $p \leq .05$, *** $p \leq .01$, **** $p \leq .001$. Standard deviations shown in parentheses. Notes: ⁽¹⁾ All charges include shoplifting/vandalism, parole/probation violations, drug charges, forgery, weapons offense, burglary-larceny-B & E, robbery, assault, arson, rape, homicide-manslaughter, prostitution, contempt of court, other. ⁽²⁾ Felony charges include only drug charges, forgery, weapons offense, burglary-larceny-B & E, robbery, assault, arson, rape, and homicide-manslaughter. ⁽³⁾ Violent offenses include only robbery, assault, rape, and homicide-manslaughter.

Appendix C: Data from Official Records

We were interested in examining the case dispositions for all “Willard-eligible” offenders convicted in the Bronx and Queens during calendar year 2000. We received from DCJS a file with criminal history and demographic data for the offenders convicted in the two boroughs between January 1, 2000 and December 31, 2000 who met the statutory eligibility criteria for Extended Willard. The criteria we specified for DCJS were:

- a. Second felony offender status (one or more prior felony convictions)
- b. Current conviction of a D- or E-class felony
- c. Prior convictions of a C-, D- or E-class felony
- d. No current or prior violent felony convictions
- e. New court commitment (target offense is not a parole violation)

Selecting Initial Study Group By Basic Criteria

Based on the criteria that we sent, DCJS generated a sample from the electronic records maintained in its Computerized Criminal History (CCH) database. Since DCJS records do not specifically identify Willard sentences or DTAP assignments, we obtained a file from TASC listing all TASC-screened offenders from the Bronx and Queens who were admitted to Willard and DTAP in 2000. The TASC file included 470 DTAP participants—27 from Queens and 443 from the Bronx. We forwarded this TASC file to DCJS and also provided a file of 99 offenders we were following who had been convicted in 2000 and sent to the Extended Willard program.

DCJS generated a file of the offenders who met the eligibility criteria listed above and matched this file with the ones we had provided in order to identify the offenders sent to Willard and DTAP. DCJS also separately matched the CCH database with the files we had provided on DTAP and Willard participants without screening for the eligibility criteria. Included in the file we received from DCJS was the criminal history for offenders who met the criteria and received prison or “other” sentences.

All 99 of the Willard participants were also included, whether or not they met the screening criteria. Also included, finally, were the DTAP participants on the TASC list whose NYSID numbers and arrest dates from TASC matched DCJS records exactly—whether or not the participants met the screening criteria. In this way, DCJS generated criminal history data for 209 DTAP participants out of the 470 TASC had provided. DCJS, therefore, was not able to make an exact match for 261 of the DTAP participants TASC had provided. Had we not required an exact match on arrest date—but accepted instead a range of dates, requiring, for example, that the dates not diverge more than 30 days—it is likely we would have captured more of the universe of DTAP participants.

Because we asked DCJS to identify Extended Willard and DTAP cases from our data and from TASC data, they constructed several variables that flagged cases not meeting each of the selection criteria. According to DCJS records on the 209 identified DTAP

participants, 33 had prior A or B convictions (which excludes people from Willard but not from DTAP), and 48 had no prior felony convictions. We excluded these offenders from the initial Willard-eligible DTAP group, which then numbered 128.

In the prison group, 55 of the 742 cases had no prior felony convictions. DCJS did its initial screen for second felony offender status based on both prior felonies and sentence length. An offender was sentenced as a second felony offender if the minimum sentence was one-half the maximum sentence. In the case of the 55 offenders, the DCJS records show no prior felony convictions but a sentence that indicates second felony offender status. Some prior felonies occasionally do not show up in the CCH database; for example, prior out-of-state convictions that would appear in a rap sheet would not be contained in the CCH, or prior convictions could simply be missing from the CCH. We excluded these 55 cases from the analysis, leaving an initial Willard-eligible prison group of 687. We identified a subgroup of 423 offenders who had received the prison sentence on a drug charge.

One Willard case, according to DCJS records, had no prior felony conviction and was excluded from the analysis, leaving a total of 98 Willard participants.

In addition, a small number of Willard and DTAP participants were recorded as having a prior violent felony conviction—five, or five percent, of the total participants for Willard and seven, or five percent of the 128 initially eligible participants for DTAP. We retained these cases in the analysis because the numbers are small, the offenses could have occurred prior to the 10-year period for a second felony offense, and the percentages are the same for the two groups.

The DCJS data also included criminal history information for 87 offenders who received sentences other than Willard, DTAP, and prison—primarily jail, split sentences, and probation. These offenders all passed the initial eligibility screen—they were convicted of the appropriate class of offenses, had at least one prior felony conviction not at the A or B level, and had no prior convictions for violent offenses. All 87 were included in the initial Willard-eligible pool.

Finally, 22 cases were missing sentencing information and three had inconsistent sentencing information and were also excluded.

The total initial group of Willard-eligible offenders numbered 1,000: 913 for the Willard, DTAP, and prison groups and 87 for the “other” sentence group.

Selecting Final Study Group by Statutory Criteria

The Willard eligibility criteria we specified for DCJS on prior and nonviolent convictions met the specific requirements of the law concerning Willard eligibility. On current conviction, however, the law requires specific offenses, not just the class of felony offense, which is the criterion we specified for DCJS. The specific offenses required by the law are: second and third degree criminal mischief, third and fourth degree grand larceny, second degree unauthorized use of a vehicle, third and fourth degree criminal

possession of stolen property, second degree forgery, second degree criminal possession of a forged instrument, first degree unlawful use of slugs, or an attempt to commit any of the aforementioned offenses, or any class D or E offense for controlled substances or marijuana felony offense.⁸⁴ There are 945 D- and E-level felony offenses listed in the Division of Criminal Justice Services “Coded Law File.”⁸⁵ Offenders convicted of any of these offenses who met the other criteria could be included in the initial Willard-eligible study group.

For this reason, we further analyzed the DCJS data to identify the offenders within each sentencing group who also met the Willard criteria regarding specific current conviction offense.

All of the Willard offenders met the more specific current conviction criteria. Some of the offenders in the other sentencing groups, however, did not, and we created a final eligible study group within each sentencing group to identify those who were convicted of a required specific offense.

Of the 687 offenders in the prison group who passed the initial screen, 75 percent or 515 also were sent to prison on an offense that is statutorily eligible for Willard. The most common offenses among those *not* eligible for Willard were third degree burglary (51) and third degree robbery (37); these two offenses accounted for about half of those in the prison group who did not meet the specific offense criterion. Of the 515 who met the Willard eligibility criterion for conviction offense, 423 were convicted of one of the required drug offenses, and they constitute the subset of the prison group we used in the analysis. They are the best match to the Willard and DTAP groups, virtually all of whom were convicted for these same drug offenses.

Of the 128 DTAP participants who met the general Willard criteria we provided to DCJS, 118 or 92 percent also met the specific current conviction requirement.

Of the 87 people receiving “other” sentences—primarily jail, split sentences, and probation—only 29 also met the specific current conviction requirement—16 from Queens and 13 from the Bronx. The major offense that was not specifically Willard-eligible was driving while intoxicated, which accounted for 30, or about half, of the people who did not meet the specific current conviction requirement. Of the 29 people who were specifically Willard-eligible, the conviction offenses accounting for more than one of the offenders were: criminal possession of stolen property (10), criminal sale of a controlled substance (7), and grand larceny (6). The offenders with Willard-eligible offenses received sentences of probation (13), jail and probation (7), jail (6), conditional discharge (2), and fine and license suspension (1). This means that of the offenders who

⁸⁴ See Appendix A, part 5.

⁸⁵ <http://criminaljustice.state.ny.us/crimnet/clf/clf.htm>. The Coded Law File describes criminal offenses under New York State law including all felonies and misdemeanors. Variables within the file include descriptions of the penal codes, violent felony or juvenile delinquent indicators, offense class (A, B, C, etc.), offense category (felony, misdemeanor, violation, infraction), and categorizations of each offense based on the FBI’s Incident-Based Reporting (IBR) System.

were specifically eligible for Willard and received “other” sentences, 45 percent were sentenced to probation, 24 percent to a split sentence of jail and probation, 21 percent to jail, 7 percent to conditional discharge, and 3 percent to fine and license suspension.

To conclude, the number of offenders meeting the strict Willard eligibility criteria for current as well as prior criminal history is 760.⁸⁶

A remaining issue regarding the Willard-eligible sentencing groups is that low-level property offenses are among the offenses specifically eligible for Willard. Yet prosecutors from the Bronx and Queens overwhelmingly referred drug offenses to Extended Willard. The DTAP participants sent to the program on a conviction for a specific Willard-eligible offense were also overwhelmingly sent on a drug conviction. All of the prison subgroup was also sentenced on a drug conviction. Some members of the total prison group were sentenced on eligible non-drug charges. However, the overwhelming majority of the total prison group has a criminal history that gives evidence of drug-involvement—fewer than 10 percent have no prior drug arrests.

Table C-1. Demographics of Willard-Eligible Population

	Willard (N = 98)	DTAP (N = 118)	Prison, drug conviction (N = 423)	Prison, ANY conviction (N = 515)
Demographics				
Age (mean years)	36.7	37.8	33.0	32.8
Sex*				
Male	82 (83.7%)	93 (78.8%)	369 (87.2%)	457 (88.6%)
Female	16 (16.3%)	23 (19.5%)	53 (12.5%)	58 (11.4%)
Race				
White	6 (6.1%)	7 (5.9%)	13 (3.1%)	27 (5.2%)
Black	42 (42.9%)	54 (45.8%)	192 (45.4%)	230 (44.6%)
Hispanic	49 (50.0%)	57 (48.3%)	218 (51.5%)	259 (50.2%)
Other	1 (1.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)

*Two DTAP cases and 1 Prison case had “both” recorded for sex.

⁸⁶ We note however, that if it is reasonable to assume that 56 percent of all those sent to DTAP would have been Willard eligible, then the total number of offenders from the two boroughs who would be defined as Willard-eligible would be 905. This is based on the notion that 118 DTAPs of 209 (.56) who were matched were Willard-eligible. Thus, 263 of the 470 total DTAPs would have been Willard-eligible (.56 * 470 = 263). The difference between total DTAPs assumed to be Willard-eligible and those we identified is 145 (263 - 118 = 145). This would make the total Willard-eligible from the two boroughs 905 (145 + 760).

Table C-2. Criminal History and Arrest Offense for Willard-Eligible Population

	Willard (N = 98)	DTAP (N = 118)	Prison, drug conviction (1) (N = 423)	Prison, ANY conviction (1) (N = 515)
Qualifying Offense Types				
<i>Arrests</i>				
Class A	0 (0.0%)	2 (1.7%)	9 (2.1%)	10 (1.9%)
Class B	92 (93.9%)	115 (97.5%)	406 (96.0%)	409 (79.3%)
Class C	2 (2.0%)	0 (0.0%)	4 (0.9%)	9 (1.7%)
Class D	3 (3.1%)	0 (0.0%)	3 (0.7%)	53 (10.3%)
Class E	0 (0.0%)	1 (0.8%)	0 (0.0%)	34 (6.6%)
Misdemeanor	1 (1.0%)	0 (0.0%)	1 (0.2%)	1 (0.2%)
<i>Convictions</i>				
Class A	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)
Class B	0 (0.0%)	64 (54.2%)	0 (0.0%)	0 (0.0%)
Class C	0 (0.0%)	14 (11.9%)	0 (0.0%)	0 (0.0%)
Class D	95 (96.9%)	27 (22.9%)	338 (79.9%)	368 (71.3%)
Class E	3 (3.1%)	1 (0.8%)	85 (20.1%)	148 (28.7%)
Misdemeanor	0 (0.0%)	12 (10.2%)	0 (0.0%)	0 (0.0%)
Criminal History (mean)				
Convictions for drug crimes (%)	94 (95.9%)	117 (99.2%)	423 (100.0%)	423 (82.0%)
Min prison sentence (months)	38.81	36.98	24.58***	23.97***
Max prison sentence (months)	77.51	73.95	49.23***	48.19***
Prior misdemeanor arrests	6.27	7.63	4.58*	4.57*
Prior misdemeanor convictions	4.85	6.76	3.40	3.71
Prior felony arrests	5.83	7.56	5.92	6.39
Prior felony convictions	1.90	1.95	1.68*	1.73
Prior drug arrests	6.39	8.24	5.53	5.14**
Prior drug convictions	3.64	4.63	2.65**	2.44***
Prior violent felony arrests	1.01	1.22	1.23	1.30*
Prior violent felony convictions	0.06	0.11	0.00*	0.00*
Prior jail, TS or split sentences	4.87	6.23	3.63	3.83
Prior prison sentences	0.90	1.03	0.65*	0.70

(1) Statistical significance refers to comparisons between the prison groups and the Willard participants. Statistical comparisons for DTAP are not presented.

* p < .05; ** p < .01; *** p < .001

Appendix D: Life Table Survival Estimations for Parole Revocations by Program Phase

To examine trends in parole revocations over time, we employed the life-table method of survival analysis to estimate life table functions for the entire Extended Willard program and for each phase individually. We used dates of entry into program phases provided by TASC and parole violation information from TASC and the New York State Division of Parole to calculate survival times.

Life tables are an accurate method of summarizing time-to-event data and are fairly straightforward in their interpretation. For the purposes of this analysis, terminal (or failure) events are defined as revocations resulting in incarceration. Table D-1 is the life table for the entire Extended Willard program and is the basis for Figures 2 and 3 in the text. Each row in the table represents two-week time intervals as shown in the first column. The *Number Entering* column denotes the number of cases surviving at the beginning of the two-week interval. In the first row, although 166 participants have entered the program, valid dates are missing for 4 of those cases and the beginning number for the interval is therefore 162. The *Number Withdrawn* refers to the number of cases that are censored, or removed from risk, during that interval. In table D-1, we censored cases for the following reasons: 1) a participant was still active as of May 2, 2002 when we completed our observations; 2) a participant completed the program prior to the end of the observation period; or 3) a participant received an alleged parole violation that did not lead to reincarceration. We censored individuals who received parole violations and were not reincarcerated, but did not treat them as terminal events. Despite the fact that they may have been restored to the program, the alleged violation terminated their time at risk. For the first row of Table D-1, two individuals had started the program but had been at the Willard Campus less than two weeks and were censored during that interval. The *Number Exposed to Risk* is a computation based on the number starting the interval and those censored. *Terminal Events* are the number of revocations resulting in incarceration during that time interval. The first row of the table shows, for example, that five individuals failed during the first two weeks (all five were actually revoked on the first day). The *Proportion Terminating* is the number of *Terminal Events* divided by the *Number Exposed to Risk* and the *Proportion Surviving* is simply equal to $(1 - \text{Proportion Terminating})$. The *Cumulative Proportion Surviving* estimates the probability of surviving to the beginning of that interval without experiencing a revocation that will result in incarceration. The *Hazard Rate* is the instantaneous rate of event occurrence at that interval given that the event has not already occurred.

The following life tables and figures show estimated survival and hazard functions for each of the three program phases.

Table D1. Life Table for Extended Willard Drug Treatment Program.

Interval Start Time (Weeks)	Number Entering Interval	Number Withdrawn in Interval (Censored)	Number Exposed to Risk	Number of Terminal Events	Proportion Terminating	Proportion Surviving	Cumulative Proportion Surviving	Hazard Rate
0	162	2	161.0	5	0.031	0.969	0.969	0.016
2	155	2	154.0	0	0.000	1.000	0.969	0.000
4	153	1	152.5	0	0.000	1.000	0.969	0.000
6	152	2	151.0	1	0.007	0.993	0.963	0.003
8	149	1	148.5	0	0.000	1.000	0.963	0.000
10	148	0	148.0	2	0.014	0.987	0.950	0.007
12	146	5	143.5	3	0.021	0.979	0.930	0.011
14	138	5	135.5	0	0.000	1.000	0.930	0.000
16	133	4	131.0	1	0.008	0.992	0.923	0.004
18	128	3	126.5	2	0.016	0.984	0.908	0.008
20	123	3	121.5	2	0.017	0.984	0.893	0.008
22	118	2	117.0	2	0.017	0.983	0.878	0.009
24	114	2	113.0	1	0.009	0.991	0.870	0.004
26	111	1	110.5	0	0.000	1.000	0.870	0.000
28	110	1	109.5	1	0.009	0.991	0.862	0.005
30	108	6	105.0	0	0.000	1.000	0.862	0.000
32	102	0	102.0	0	0.000	1.000	0.862	0.000
34	102	3	100.5	1	0.010	0.990	0.854	0.005
36	98	0	98.0	0	0.000	1.000	0.854	0.000
38	98	3	96.5	2	0.021	0.979	0.836	0.011
40	93	5	90.5	0	0.000	1.000	0.836	0.000
42	88	0	88.0	0	0.000	1.000	0.836	0.000
44	88	4	86.0	2	0.023	0.977	0.816	0.012
46	82	0	82.0	0	0.000	1.000	0.816	0.000
48	82	2	81.0	1	0.012	0.988	0.806	0.006
50	79	1	78.5	1	0.013	0.987	0.796	0.006
52	77	3	75.5	0	0.000	1.000	0.796	0.000
54	74	2	73.0	0	0.000	1.000	0.796	0.000
56	72	3	70.5	1	0.014	0.986	0.785	0.007
58	68	3	66.5	0	0.000	1.000	0.785	0.000
60	65	2	64.0	1	0.016	0.984	0.773	0.008
62	62	2	61.0	0	0.000	1.000	0.773	0.000
64	60	9	55.5	0	0.000	1.000	0.773	0.000
66	51	14	44.0	1	0.023	0.977	0.755	0.012
68	36	6	33.0	1	0.030	0.970	0.732	0.015
70	29	2	28.0	0	0.000	1.000	0.732	0.000
72	27	3	25.5	1	0.039	0.961	0.703	0.020
74	23	5	20.5	1	0.049	0.951	0.669	0.025
76	17	3	15.5	0	0.000	1.000	0.669	0.000
78	14	2	13.0	0	0.000	1.000	0.669	0.000
80+	12	12	6.0	0	0.000	1.000	0.669	**

Table D2. Life Table for Willard phase of the Extended Willard Drug Treatment Program.

Interval Start Time (Weeks)	Number Entering Interval	Number Withdrawn in Interval (Censored)	Number Exposed to Risk	Number of Terminal Events	Proportion Terminating	Proportion Surviving	Cumulative Proportion Surviving	Hazard Rate
0	162	2	161.0	5	0.031	0.969	0.969	0.016
2	155	2	154.0	0	0.000	1.000	0.969	0.000
4	153	1	152.5	0	0.000	1.000	0.969	0.000
6	152	2	151.0	1	0.007	0.993	0.963	0.003
8	149	1	148.5	0	0.000	1.000	0.963	0.000
10	148	0	148.0	2	0.014	0.987	0.950	0.007
12	146	112	90.0	2	0.022	0.978	0.928	0.011
14	32	3	30.5	0	0.000	1.000	0.928	0.000
16	29	20	19.0	0	0.000	1.000	0.928	0.000
18	9	4	7.0	0	0.000	1.000	0.928	0.000
20	5	1	4.5	0	0.000	1.000	0.928	0.000
22	4	2	3.0	0	0.000	1.000	0.928	0.000
24	2	1	1.5	0	0.000	1.000	0.928	0.000
26+	1	1	0.5	0	0.000	1.000	0.928	**

Table D3. Life Table for residential phase of the Extended Willard Drug Treatment Program.

Interval Start Time (Weeks)	Number Entering Interval	Number Withdrawn in Interval (Censored)	Number Exposed to Risk	Number of Terminal Events	Proportion Terminating	Proportion Surviving	Cumulative Proportion Surviving	Hazard Rate
0	162	30	147.0	5	0.034	0.966	0.966	0.017
2	127	5	124.5	1	0.008	0.992	0.958	0.004
4	121	1	120.5	0	0.000	1.000	0.958	0.000
6	120	4	118.0	1	0.009	0.992	0.950	0.004
8	115	3	113.5	1	0.009	0.991	0.942	0.004
10	111	0	111.0	0	0.000	1.000	0.942	0.000
12	111	1	110.5	1	0.009	0.991	0.933	0.005
14	109	1	108.5	0	0.000	1.000	0.933	0.000
16	108	7	104.5	1	0.010	0.990	0.924	0.005
18	100	0	100.0	0	0.000	1.000	0.924	0.000
20	100	2	99.0	1	0.010	0.990	0.915	0.005
22	97	1	96.5	1	0.010	0.990	0.906	0.005
24	95	13	88.5	0	0.000	1.000	0.906	0.000
26	82	52	56.0	1	0.018	0.982	0.889	0.009
28	29	1	28.5	1	0.035	0.965	0.858	0.018
30	27	3	25.5	0	0.000	1.000	0.858	0.000
32	24	3	22.5	0	0.000	1.000	0.858	0.000
34	21	2	20.0	0	0.000	1.000	0.858	0.000
36	19	1	18.5	0	0.000	1.000	0.858	0.000
38	18	2	17.0	0	0.000	1.000	0.858	0.000
40+	16	15	8.5	1	0.118	0.882	0.757	**

Table D4. Life Table for outpatient phase of the Extended Willard Drug Treatment Program.

Interval Start Time (Weeks)	Number Entering Interval	Number Withdrawn in Interval (Censored)	Number Exposed to Risk	Number of Terminal Events	Proportion Terminating	Proportion Surviving	Cumulative Proportion Surviving	Hazard Rate
0	162	92	116.0	0	0.000	1.000	1.000	0.000
2	70	0	70.0	1	0.014	0.986	0.986	0.007
4	69	1	68.5	1	0.015	0.985	0.971	0.007
6	67	1	66.5	0	0.000	1.000	0.971	0.000
8	66	4	64.0	1	0.016	0.984	0.956	0.008
10	61	1	60.5	0	0.000	1.000	0.956	0.000
12	60	0	60.0	0	0.000	1.000	0.956	0.000
14	60	2	59.0	0	0.000	1.000	0.956	0.000
16	58	1	57.5	0	0.000	1.000	0.956	0.000
18	57	3	55.5	1	0.018	0.982	0.939	0.009
20	53	2	52.0	1	0.019	0.981	0.921	0.010
22	50	4	48.0	1	0.021	0.979	0.902	0.011
24	45	7	41.5	1	0.024	0.976	0.880	0.012
26	37	14	30.0	0	0.000	1.000	0.880	0.000
28	23	7	19.5	0	0.000	1.000	0.880	0.000
30	16	5	13.5	0	0.000	1.000	0.880	0.000
32	11	0	11.0	0	0.000	1.000	0.880	0.000
34	11	4	9.0	0	0.000	1.000	0.880	0.000
36	7	1	6.5	1	0.154	0.846	0.745	0.083
38	5	1	4.5	0	0.000	1.000	0.745	0.000
40+	4	4	2.0	0	0.000	1.000	0.745	**

Figure D-1. Cumulative proportion surviving, Willard phase

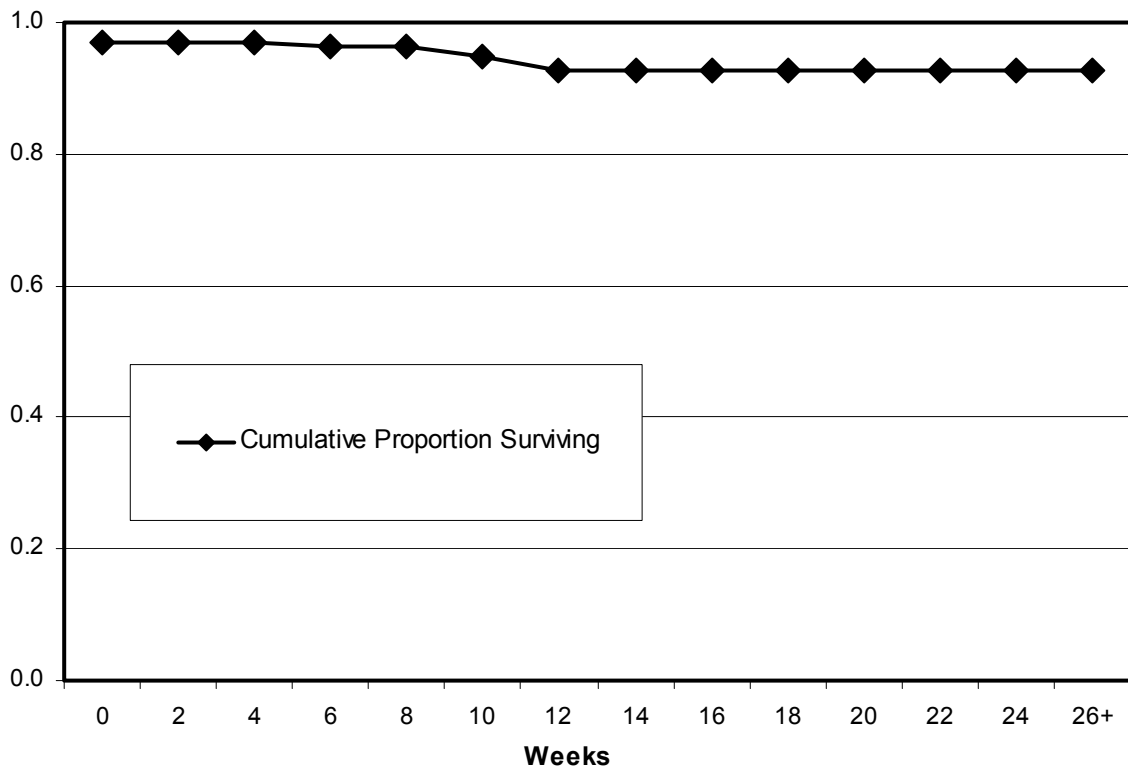


Figure D-2. Hazard rates, Willard phase

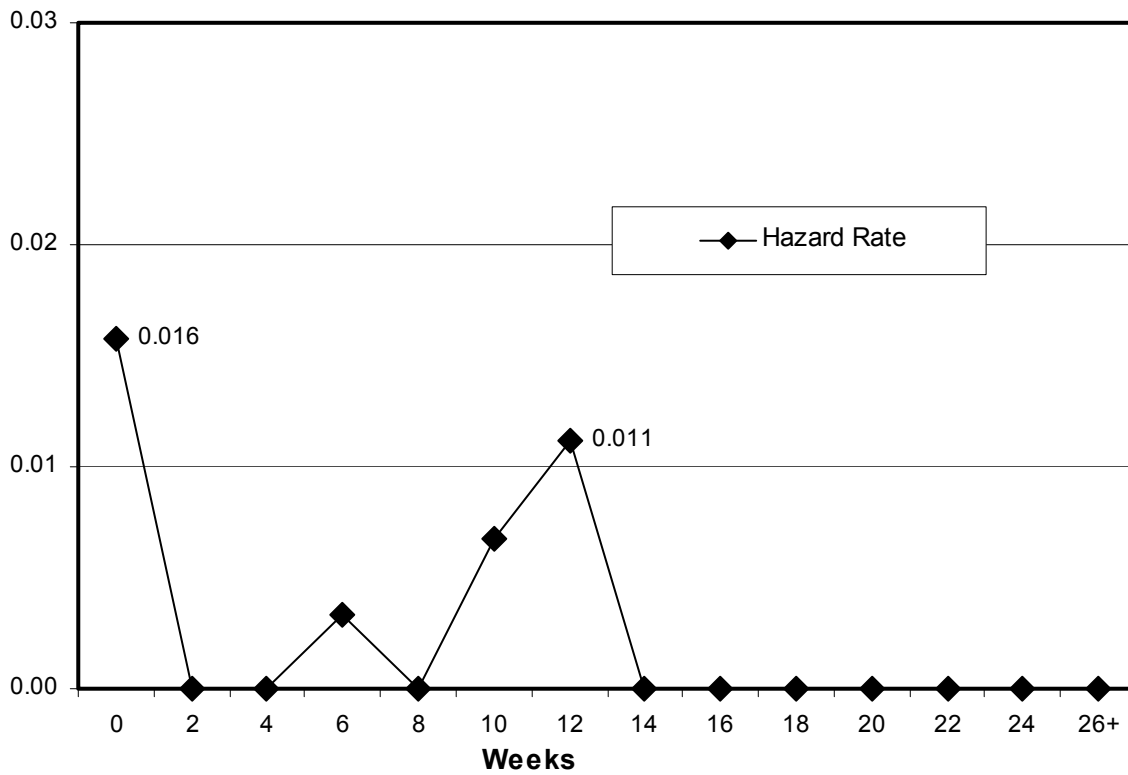


Figure D-3. Cumulative proportion surviving, Residential phase

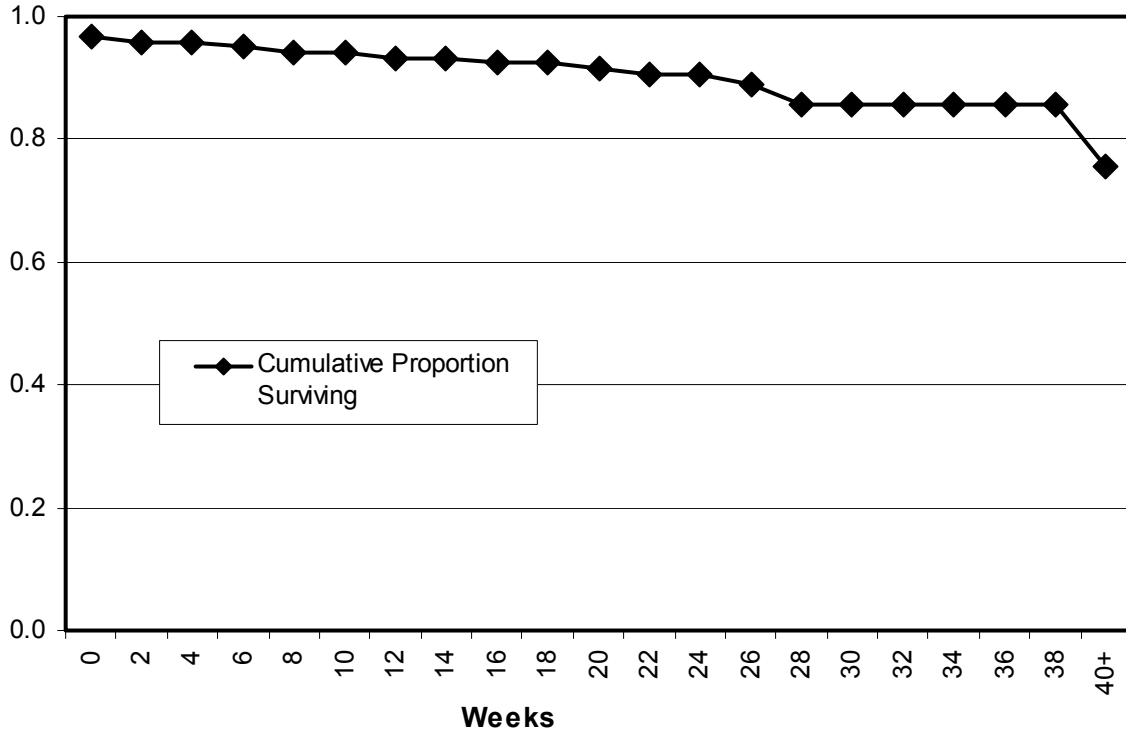


Figure D-4. Hazard rates, Residential phase

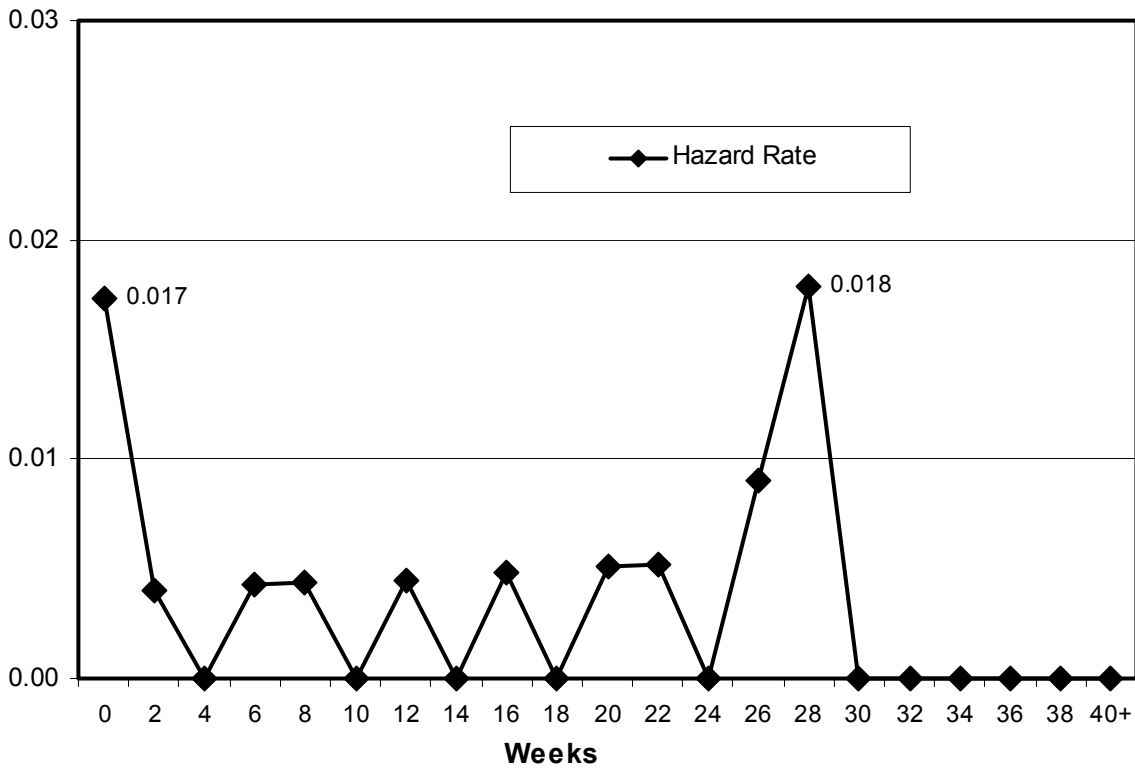


Figure D-5. Cumulative proportion surviving, Outpatient phase

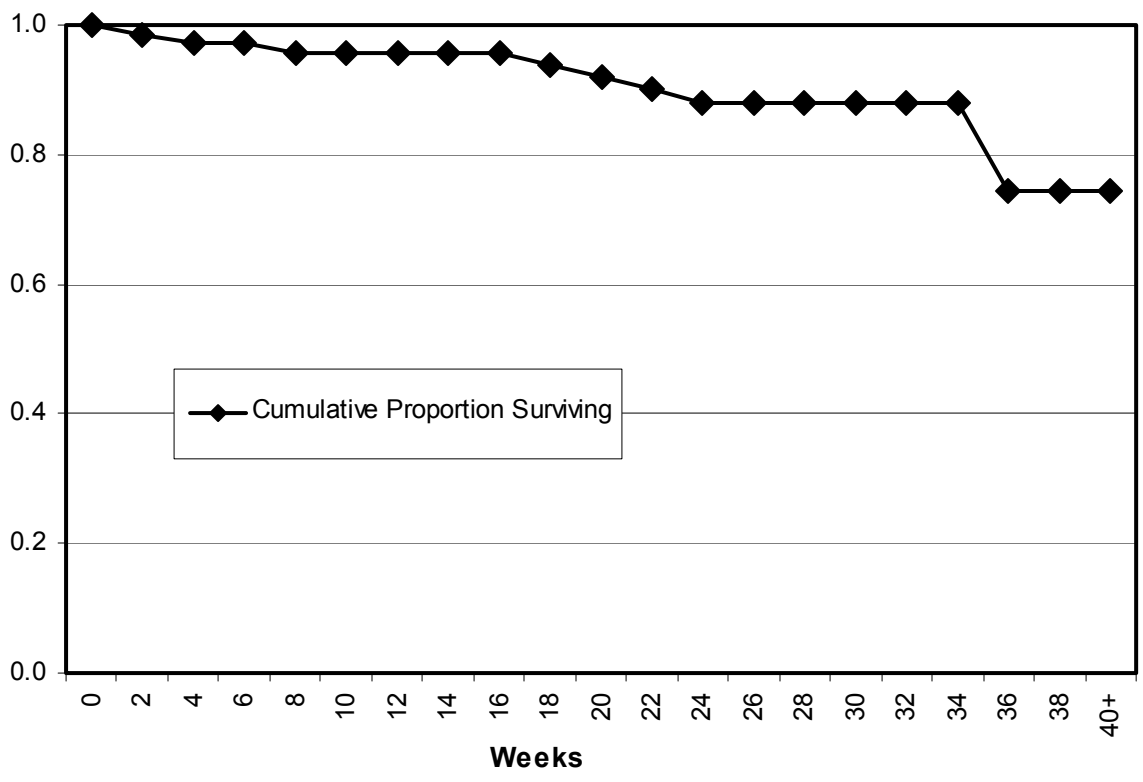


Figure D-6. Hazard rates, Outpatient phase

