

GAO Highlights

Highlights of [GAO-16-516](#), a report to Congressional committees

Why GAO Did This Study

Since 1980, the federal prison population increased from about 25,000 to almost 200,000, as of March 2016. In part to help reduce the size and related costs of the federal prison population, DOJ has taken steps to slow its growth by pursuing alternatives to incarceration at various stages of the criminal justice process for nonviolent, low-level offenders. Senate Report 113-78 included a provision for GAO to review DOJ's management of the federal prison population.

This report (1) describes factors criminal justice stakeholders consider when using incarceration alternatives at or before sentencing and identifies the extent to which those alternatives are used, (2) describes factors BOP considers when using incarceration alternatives for inmates and the extent of their use, and (3) assesses the extent DOJ has measured the cost implications and outcomes of using the alternatives.

GAO analyzed DOJ and federal judiciary branch data and documents from fiscal years 2009 through 2015, and interviewed DOJ and judiciary officials at headquarters and in 11 selected nongeneralizable judicial districts about the use of alternatives. GAO selected districts to provide geographic diversity and a mix of districts using and not using the alternatives.

What GAO Recommends

GAO recommends that DOJ enhance its tracking of data on use of pretrial diversions and that DOJ and BOP obtain outcome data and develop measures for the alternatives used. DOJ concurred.

View [GAO-16-516](#). For more information, contact Diana C. Maurer at (202) 512-9627 or maurerd@gao.gov.

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FEDERAL PRISON SYSTEM

Justice Has Used Alternatives to Incarceration, But Could Better Measure Program Outcomes

What GAO Found

Department of Justice (DOJ) and federal judiciary officials reported considering numerous factors when using alternatives to incarceration at or before an offender's sentencing, but DOJ does not reliably track the use of some alternatives. A variety of alternatives can be used for offenders at or before sentencing, such as referral to state and local prosecutors, pretrial release, and probation. Other such alternatives include pretrial diversion programs which divert certain offenders from the traditional criminal justice process into a program of supervision and services or into court-involved pretrial diversion practices, such as drug courts, that provide offenders an opportunity to avoid incarceration if they satisfy program requirements. DOJ and judiciary officials most commonly reported considering the presence of violence and the offender's role in the crime when determining use of an alternative at or before sentencing. Based on DOJ and judiciary data on referrals to other jurisdictions, pretrial release, and alternatives at sentencing, the overall use of such alternatives across districts was largely consistent during the periods for which data were available from fiscal years 2009 to 2015. However, DOJ data on the use of pretrial diversion is unreliable because DOJ's database does not distinguish between the types of pretrial diversions. Further, when and whether the use of the pretrial diversion is recorded into the database varies across DOJ staff responsible for entering the data. By revising its system to track the different types of pretrial diversion programs, and issuing guidance as to when staff are to enter their use into its database, DOJ would have more reliable and complete data.

DOJ's Bureau of Prisons (BOP) considers statutory requirements and risk levels when placing inmates into incarceration alternatives such as residential reentry centers (RRCs, also known as halfway houses) and home confinement, and has increased its use of alternatives, particularly home confinement, in the past seven years. In addition to the basic eligibility requirements, BOP evaluates inmates' needs for reentering society, risk for recidivism, and risks to the community if placed in RRCs or home confinement. For low-risk and low-need inmates, home confinement is the preferred alternative according to BOP and BOP increased its use by 67 percent for minimum security inmates and 58 percent for low security inmates from fiscal years 2009 through 2015. Relative to home confinement, use of RRCs grew at a slower pace for low security inmates and declined for minimum security inmates.

DOJ has tracked some data on the cost implications of using incarceration alternatives, but could better measure their outcomes. For example, DOJ conducted a survey in 2014 and 2015 of U.S. Attorneys to obtain district-level information about the use of court-involved pretrial diversion practices. However, the data collected do not measure the outcomes or cost implications of the alternatives. For alternatives used at the end of inmates' sentences, BOP maintains data on the costs, such as average daily costs, of placing inmates in RRCs and home confinement. While BOP has measures in its strategic plan to monitor the use of RRCs and home confinement and has contracted for an analysis of its use of RRCs and home confinement that is expected to be completed during the summer of 2016, BOP, does not currently track the information needed to help measure the outcomes of these alternatives. By taking steps to obtain outcome data and developing performance measures for the alternatives used, DOJ and BOP would be better able to determine the extent to which the alternatives are achieving their goals and objectives and what adjustments may be necessary to make them more effective.