

Sanction Certainty:
**An Evaluation of Erie County's Adult Probation
Sanctioning System**



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EXECUTIVE SUMMARY

December 2004 marked the completion of the second year in which the Sanction Certainty policy has directed Erie County's approach to nearly all adult probation and parole caseloads. Shortly thereafter, March 2005 marked the completion of a fourth evaluation period of this directive, the first two of which were pilot and pilot replication studies. Defined by the certainty, clarity, and celerity in which sanctions are imposed, Sanction Certainty was a response to the somewhat subjective nature of the previous Violation Matrix sanctioning policy. The approach itself was expected to result in fewer violations per violator as well as shorter detention lengths, both of which transpired in the pilot and replication studies. Additionally, both studies revealed a decrease in the overall rate of revocation. Given the firm mandates of Sanction Certainty, the policy also resulted in an increased rate of detention. Despite this, the decreased detention lengths ultimately served to lower the average cost of incarceration per violator.

Consistent with the pilot and pilot replication, the proceeding two study periods have revealed that Sanction Certainty, as applied to nearly the entire probation/parole caseload, still results in fewer technical violations per violator and shorter detention lengths than the previous Matrix directive. Thus, the average cost of incarceration per violator has remained lower than that of the Matrix. Furthermore, the increased rate of detention has been maintained. Unlike the first two studies, however, revocation rates over the last two years have surpassed those of not only the pilot and replication studies, but of the former Matrix policy as well.

When comparing the two full-caseload Sanction Certainty study periods, a second year of Sanction Certainty has revealed decreases in the total number of violators, total number of technical violations, and total number of detainers lodged as compared to the first year. In all cases, offenders committing only *technical violations* were responsible for these reductions, though in the category of *new charge violations* there were actually *more* violators and detentions during the second year. In contrast, the total number of days that violators spent detained increased (subsequently forcing an increase in the average incarceration cost), as did the total number of revocations. Here, offenders committing *new charge violations* were responsible for such rises.

In conclusion, an emerging trend seems to be that Sanction Certainty may have the greatest impact on technical only violators. It may be reasonable to speculate that individuals who perpetrate additional crimes cannot be deterred by such a sanctioning policy, perhaps because they are initially, more criminally-minded. Other circumstances that may have an impact include substance addiction, low educational achievement, or lack of employment, all of which emerged in the third evaluation study as important variables when considering offenders who commit multiple violations. Regardless of whether or not potential new charge offenders can be deterred by Sanction Certainty, it should be noted that any increases in detention lengths, incarceration costs, and revocation rates generated by such offenders as witnessed in the most recent study period are ultimately outside of the control of any such sanctioning policy. New charges require additional processing beyond that necessary for technical violations, and inherently present the possibility of lengthy detention stays and consequent revocations.

INTRODUCTION

This report compares the 2004-2005 (year two) Sanction Certainty (SC2) study group to the 2003-2004 (year one) study group (SC1), as well as the original Reade pilot study groups (ZT and MATRIX-p), in the areas of violations, detentions, incarceration costs, and revocations. The Reade ZT pilot reflects a two-caseload trial of the Sanction Certainty probation/parole supervision approach, originally named the Zero Tolerance (ZT) policy. The MATRIX-p reflects a four-caseload comparison group which functioned under the previous Violation Matrix supervision policy. Sanction Certainty years one and two represent the first two years for which the policy has replaced the Violation Matrix and been utilized for the entire population of Erie County's adult probationers/parolees; it is guided by the *New Policy Directive Towards Violators* which became effective on December 2, 2002.

The Sanction Certainty system is characterized by sanctions imposed with clarity, celerity, and certainty, as opposed to the somewhat subjective, hierarchical method of sanctioning outlined in the Violation Matrix policy. The original hypotheses included expected decreases in the number of violations per violator as well as shorter detention lengths.

Because the sample sizes vary between the studies, comparisons in this report are provided in rates per thousand where appropriate, in addition to actual counts. Also, information is organized by type of violation: "technical only," "new charges only," and "technical and new charges." It should also be noted that following the ZT pilot, a replication pilot study known as the Modified Adult Probation Sanctions or MAPS protocol was also conducted. The MAPS data, including its comparison group, is not included in this report, as the study is too different methodologically to make direct comparisons to the other studies. As a general note, however, the data from the MAPS replication revealed similar trends to that of the original pilot study.

VIOLATORS AND VIOLATIONS

Table 1 provides a comparison of the *number of violators* detained according to the type of violation committed. To calculate the totals, each individual violator was first counted once. Then, a small number of individuals were counted twice as a result of having violated under a particular category and subsequently committing a violation in a different categorization at a later date. Therefore, the numbers reflect the number of individual violators within each category.

Table 2 provides an overview of the *number of technical violations* committed. While only one violation is necessary to detain an offender under Sanction Certainty, all violations for a given detention can be tabulated. Note that the same information concerning "new charges only" and "technical and new charges" is not available; only the number of violating incidents for these categories is known (see Table 3).

Though Tables 1 and 2 include information from the Reade pilot studies (ZT and MATRIX-p), equivalent information about the SC1 and SC2 study groups was not available to allow for meaningful comparisons of the number of violators or technical violations. More specifically, under the Sanction Certainty directive, every violation, upon discovery, mandates immediate arrest and incarceration unless the violator meets the criteria of a two part exception standard. In the event that the violator meets the criteria of the exception standard, the probation officer is required to inform the offender that a subsequent violation will result in immediate arrest and incarceration. Additionally, many offenders under the Violation Matrix (MATRIX-p group) were not detained upon violating due to the nature of the policy they were under. Though available

for the pilot studies, information on year one and year two offenders who violated but were *not* detained is unavailable. Only the names of those who violated and were subsequently detained are known.

TABLE 1: Comparison of Violators

	SC YEAR TWO		SC YEAR ONE		READE PILOT	
	SC2		SC1		ZT	MATRIX-p
	15 Caseloads		15 Caseloads		2 Caseloads	4 Caseloads
	N ≈ 2138		N ≈ 2138		N ≈ 300	N ≈ 600
Technical Only:						
# Violators	319	372	76	159		
<i>Rate per thousand</i>	149	174	253	265		
Average per caseload	21	25	38	40		
New Charges Only:						
# Violators	129	108	13	9		
<i>Rate per thousand</i>	60	51	43	15		
Average per caseload	9	7	7	2		
Technical and New Charges:						
# Violators	47	52	15	26		
<i>Rate per thousand</i>	22	24	50	43		
Average per caseload	3	4	8	7		
Total:						
# Violators	495*	532	104	194		
<i>Rate per thousand</i>	232	249	347	323		

*The actual number of individual offenders within the study was 465, however, a small number of individuals (N=30) were counted twice as a result of violating under a particular category and subsequently committing a violation in a different categorization at a later date; the numbers reflect the number of individual violators within each category. This was the method of violator summation utilized in the previous studies.

Table 1 indicates that the impact of Sanction Certainty is most evident among “technical only” violators. The rate per thousand offenders for “technical only” violations under SC2 (149) is lower than the rate for year one (174). Additionally, the rate for “new charges only” violators (60) increased slightly from year one (51), while the rate for “technical and new charges” violators remained similar across the years (22 and 24).

TABLE 2: Comparison of Technical Violations

	SC YEAR TWO		SC YEAR ONE		READE PILOT	
	SC2		SC1		ZT	MATRIX-p
	15 Caseloads		15 Caseloads		2 Caseloads	4 Caseloads
	N ≈ 2138		N ≈ 2138		N ≈ 300	N ≈ 600
Technical Only:						
# Violations	529	599	128	569		
<i>Rate per thousand</i>	247	280	427	948		
Average per violator*	1.7	1.6	1.7	3.6		

*The average number of violations per violator is calculated using the number of technical violators, located in Table 1.

A comparison of the number of technical violations per violator (Table 2) indicates that the Sanction Certainty groups have approximately equal averages per violator (1.7 and 1.6). A comparison of the rates per thousand violations, however, indicates that the SC2 group has a lower rate (247) than the SC1 group (280).

Overall, a second year of Sanction Certainty seemed to yield a decline in the number of violators. Of all the violation categories, most notable is that there were a fewer number of “technical only” violators who committed fewer technical violations than the year before.

DETENTIONS

Information regarding the *number of detainers lodged* is provided in Table 3. Information regarding the *length of detention* for each violating incident is provided in Tables 4 and 5. Table 4 accounts for all detainers lodged. Table 5, however, makes some important distinctions. First, because some offenders will ultimately be revoked as a result of their violations (either a new charge or a second violation), they often remain detained for longer than typical periods of time while their coming revocations are processed. Second, both the SC1 and SC2 study groups include a small percentage of individuals who were detained for an unusually long period of time for reasons particular to their own situations; these offenders are considered outliers from the norm. Excluding outliers and revoked offenders from calculations such as the average detention length can provide a truer picture of the study period as experienced by the majority of violators.

TABLE 3: Detention Comparisons

	SC YEAR TWO	SC YEAR ONE	READE PILOT	
	SC2	SC1	ZT	MATRIX-p
	15 Caseloads	15 Caseloads	2 Caseloads	4 Caseloads
	N ≈ 2138	N ≈ 2138	N ≈ 300	N ≈ 600
Technical Only:				
# Violators detained	383	429	55	36
<i>Rate per thousand</i>	179	201	183	60
Average per caseload	26	29	28	9
New Charges Only:				
# Violators detained	137	113	12	8
<i>Rate per thousand</i>	64	53	40	13
Average per caseload	9	8	6	2
Technical and New Charges:				
# Violators detained	50	53	12	16
<i>Rate per thousand</i>	23	25	40	27
Average per caseload	3	4	6	4
Total:				
# Violators detained	570	595	79	60
<i>Rate per thousand</i>	267	278	263	100
Average per caseload	38	40	40	15

TABLE 4: Detention Length Comparisons

	SC YEAR TWO	SC YEAR ONE	READE PILOT	
	SC2	SC1	ZT	MATRIX-p
	15 Caseloads	15 Caseloads	2 Caseloads	4 Caseloads
	N ≈ 2138	N ≈ 2138	N ≈ 300	N ≈ 600
Technical Only:				
# Violators detained	383	429	55	36
Total days detained	6,680	7,592	470	1,099
Average days detained	17.4	17.7	8.5	30.5
New Charges Only:				
# Violators detained	137	113	12	8
Total days detained	11,406	9,241	673	587
Average days detained	83.3	81.8	56.1	73.4
Technical and New Charges:				
# Violators detained	50	53	12	16
Total days detained	3,712	2,662	571	1,153
Average days detained	74.2	50.2	47.6	72.0
Total:				
# Violators detained	570	595	79	60
Total days detained	21,798	19,495	1,714	2,839
Average days detained	38.2	32.8	21.7	47.3

As reflected in Tables 3 and 4, the original ZT pilot study revealed that the mandates of the Sanction Certainty policy resulted in an increased number of detainees lodged as compared to the Violation Matrix. Despite this increase, however, the average detention length decreased for all categories of violators.

Concerning “technical only” violators, this year’s rate per thousand offenders detained (179) shows a decrease from last year’s (201) to a rate similar to the original pilot group (183). The average number of days detained (17.4), however, remains similar to last year (17.7). Additionally, though still at approximately half of the MATRIX-p average (30.5), the SC1 and SC2 average detention lengths are double the ZT pilot average (8.5).

As for “new charges only” violators, the rate per thousand offenders detained (64) continues to show a steady increase which began with the original ZT pilot study. Moreover, the average detention length (83.3 days), though decreasing in the initial Sanction Certainty trial period (56.1 days), has remained steady since last year, surpassing the MATRIX-p level (73.4 days).

Finally, the rates per thousand “technical and new charges” violators detained during SC1 (25) and SC2 (23) have remained fairly consistent with the original MATRIX-p (27), all of which are lower than the ZT pilot group (40). Like “new charges only” violators, however, the average detention length for this category of violators (74.2 days) has continually increased since its initial drop during the ZT study period (47.6 days). It has actually risen to match the average detention length experienced by those in the MATRIX-p (72.0 days). More specifically, approximately the same number of violators this year (50) as last year (53) accounted for a total of over 1,000 more days detained.

Overall, there was a decrease in the total number of detainers lodged (Table 3), a drop that coincides with the decrease this year in the total number of individual violators (Table 1). This change is again most reflected in a drop in “technical only” detentions. Despite the drop in the total number of detentions, this year’s data shows an increase in the total number of days violators spent detained (Table 4). “Technical and new charges” violators appear to most account for this rise. Regardless of the protocol, probationers who commit additional misdemeanor or felony criminal acts are typically incarcerated; the period of confinement may range according to circumstances and protocol, but can often be quite lengthy.

Table 5 displays the same trends as exhibited in Table 4, but excludes revoked offenders and outliers. This analysis appears to provide a truer picture of the average detention length as experienced by typical violators who will not yet face revocation.

A total of 174 revoked offenders (42% representing “new charges only” or “technical and new charges” violations – see Table 8) were excluded from the SC1 calculations, in addition to 10 violators who were not revoked but who spent an exceptionally long period of time detained. Nine of these 10 represented offenders awaiting the outcome of “new charges only” and “technical and new charges” violations, while only 1 awaited the outcome of a “technical only” violation. The number of days they spent detained ranged from 153 to 656 days. A total of 184 revoked offenders (51% representing “new charges only” or “technical and new charges” violations – see Table 8) were excluded from the SC2 calculations, in addition to 6 violators who were not revoked but who also spent an exceptionally long amount of time on their detentions. Four of these 6 represented offenders awaiting the outcome of “new charges only” violations, while 2 awaited the outcome of “technical only” violations. The number of days they spent detained ranged from 169 to 399 days.

TABLE 5: Detention Length Comparisons minus Revoked Violators and Outliers

	SC YEAR TWO		SC YEAR ONE	
	15 Caseloads		15 Caseloads	
	N ≈ 2138		N ≈ 2138	
	Total minus Revoked & Outliers	Total All Violators (Table 4)	Total minus Revoked & Outliers	Total All Violators (Table 4)
Technical Only:				
# Violators detained	290	383	326	429
Total days detained	3,407	6,680	3,920	7,592
Average days detained	11.8	17.4	12.0	17.7
New Charges Only:				
# Violators detained	64	137	56	113
Total days detained	2,377	11,406	2,061	9,241
Average days detained	37.1	83.3	36.8	81.8
Technical and New Charges:				
# Violators detained	26	50	28	53
Total days detained	1,029	3,712	480	2,662
Average days detained	39.6	74.2	17.1	50.2
Total:				
# Violators detained	380	570	410	595
Total days detained	6,813	21,798	6,461	19,495
Average days detained	17.9	38.2	15.8	32.8
Mode days detained	2	2	5 & 7	5 & 7
Range days detained	1-132	1-399	1-125	1-656

Excluding outliers and revoked offenders, SC1 violators were typically detained for an overall average of 15.8 days. SC2 violators were typically detained for an overall average of 17.9 days. These numbers stand in contrast to an overall average detention length that when considering all detentions, calculates to more than a month. Additionally, it should be noted that the overall mode or most common number of days spent detained in SC1 was both 5 and 7 days; the overall mode for SC2 dropped to 2 days.

DETENTION COST COMPARISONS

Table 6 shows the average *cost of incarceration* per violator for each of the policies regardless of the violation type, calculated by multiplying the average number of days detained by the daily cost of incarceration. The Erie County Prison utilized a daily cost of \$53.00 for housing individuals detained in their facilities during 2005.

TABLE 6: Cost of Incarceration

	SC YEAR TWO	SC YEAR ONE	READE PILOT	
	SC2	SC1	ZT	MATRIX-p
Total # Violators Detained	570	595	79	60
Total # Days Detained	21,798	19,495	1,714	2,839
Average # Days Detained	38.2 days	32.8 days	21.7 days	47.3 days
Total Cost of Incarceration	\$1,115,294	\$1,033,235	\$90,842	\$150,467
Average Cost of Incarceration per Violator[†]	\$2,025	\$1,738	\$1,150	\$2,507

[†] Calculated using the daily cost of incarceration of \$53.00, as reported by the Erie County Prison as of September 2005.

Due to decreased detention lengths, the average cost of detaining a violator under the ZT pilot was less than half the average cost per MATRIX-p offender. Though up from SC1 as a result of increased detention lengths, the average cost of incarceration per violator during SC2 is still below that of the MATRIX-p cost.

One important caveat to consider before calculating cost comparisons between policies is the number of violators detained under each of the different sanctioning policies. As indicated in Table 3, the Zero Tolerance and Sanction Certainty policies generally result in higher numbers of detained violators than the preexisting Violation Matrix. A straight comparison of the policies would therefore assume that the Violation Matrix would have detained the same number of probation/parole violators; however, this is not the case and would not accurately reflect cost savings.

Corrections in cost of incarceration based upon differential sanctioning between policies are provided in Table 7. These calculations utilize the total rate of violators detained per thousand offenders, the average incarceration length of detainees per specific sanctioning policy, and the daily rate of incarceration as reported by the Erie County Prison. The total rate of violators detained per thousand offenders was multiplied by the average incarceration length. The product was then multiplied by the Erie County Prison's daily cost of incarceration.

TABLE 7: Cost of Incarceration per Thousand

	SC YEAR TWO	SC YEAR ONE	READE PILOT	
	SC2	SC1	ZT	MATRIX-p
Total Rate of Violators Detained per Thousand	267	278	263	100
Average # Days Detained	38.2 days	32.8 days	21.7 days	47.3 days
Cost of Incarceration per Thousand[†]	\$540,568	\$483,275	\$302,476	\$250,690

[†] Calculated using the daily cost of incarceration of \$53.00, as reported by the Erie County Prison as of September 2005.

Because the Sanction Certainty policy detains violators at a substantially higher rate than the Violation Matrix, cost increases are inherent. Though the SC2 rate of violators detained per thousand decreased, the average detention length still increased. Thus, the cost of incarceration per thousand in SC2 has surpassed that of SC1.

While these incarceration cost figures indicate how alterations in the number of detainers lodged and length of detentions might affect incarceration costs, they should not be mistaken for a complete cost-benefit analysis. For instance, costs due to revocations are not included. Also, since potential recidivism rates are not available for the individuals subsumed under the

Sanction Certainty policy, it is impossible at this time to say whether or not the policy has dissuaded offenders from committing future crimes, the cost savings of which would be immense.

REVOCATIONS

Probation revocations under Sanction Certainty result from frequent violations or as a response to new criminal charges. Table 8 documents the *number of revocations* according to type of violation committed.

TABLE 8: Revocation Comparisons

	SC YEAR TWO	SC YEAR ONE	READE PILOT	
	SC2	SC1	ZT	MATRIX-p
	15 Caseloads	15 Caseloads	2 Caseloads	4 Caseloads
	N ≈ 2138	N ≈ 2138	N ≈ 300	N ≈ 600
Technical Only:				
# Violators revoked	91	102	5	19
Rate per thousand	43	47	17	32
New Charges Only:				
# Violators revoked	69	50	6	8
Rate per thousand	32	23	20	13
Technical and New Charges:				
# Violators revoked	24	23	-	-
Rate per thousand	11	11	-	-
Total:				
# Violators revoked	184	175	11	27
Rate per thousand	86	82	37	45
Average per caseload	12	12	5.5	6.8

The overall number of revocations in SC2 (184) has only slightly increased since the SC1 level (175). Since the number of revocations for “technical only” violators actually decreased (91), the slight increase in the overall total mainly reflects the rise in revocations for “new charges only” violators (69). The SC2 number of “technical and new charges” violators revoked (24) remained consistent with SC1 (23).

CONCLUSION

Overall, and consistent with the pilot studies and the original hypotheses, Sanction Certainty as applied to nearly the entire probation/parole caseload has yielded fewer technical violations per violator and shorter detention lengths than the previous Matrix directive. Given the firm mandates of the policy, it has also resulted in an increased rate of detention for all study periods, and the accompanying high cost of incarceration per thousand. Despite this, the decrease in detention lengths has produced the added benefit of lower *average* incarceration costs as compared to the Violation Matrix. Finally, unlike the pilot studies, revocation rates during Sanction Certainty have increased and actually surpassed those of the former Matrix policy.

When comparing the two full-caseload Sanction Certainty study periods (SC1 and SC2), a second year of Sanction Certainty has revealed a decrease in the total number of violators, total number of technical violations, and total number of detainers lodged as compared to year one. Drops in both the total number of violators and total number of detainers lodged are best accounted for by decreases in “technical only” detentions. Though the number of “new charges only” violators and detentions actually increased, the decreases in “technical only” detentions outweighed their rise.

Despite a decrease in overall detentions in year two, there was an increase in the total number of days detained, and subsequently, an increase in incarceration costs. These increases are primarily accounted for by offenders committing combined “technical and new charges” violations. A slight increase in detention lengths for “new charges only” violators also contributed to this overall rise. Detention lengths for “technical only” violators remained consistent with year one, at an average that remains lower than that of the Violation Matrix study group.

Concerning revocations, SC2 saw a slight increase in the total number. This is best accounted for by an increase in the number of “new charges only” offenders who were revoked as a result of their violations. Revocations of “technical only” violators slightly decreased.

In conclusion, a plausible trend that Sanction Certainty may have the most impact on technical only violators may be emerging. It may be reasonable to think that individuals who perpetrate additional crimes cannot be deterred by such a sanctioning policy, perhaps because they are initially, more criminally-minded. Other circumstances that may have an impact include substance addiction, low educational achievement, or lack of employment, all of which emerged in the previous evaluation study (SC1) as important variables when considering offenders who commit multiple violations. Regardless of whether or not potential new charge offenders can be deterred by Sanction Certainty, it should be noted that any increases in detention lengths, incarceration costs, and revocation rates generated by such offenders as witnessed in the most recent study period are ultimately outside of the control of any such sanctioning policy. New charges require additional processing beyond that necessary for technical violations, and inherently present the possibility of lengthy detention stays and consequent revocations.