Justice Reinvestment Working Group

First Meeting

June 18, 2014

Council of State Governments Justice Center

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Funding and Partners

Justice Reinvestment

a data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease recidivism and increase public safety.
Council of State Governments Justice Center

- National non-profit, non-partisan membership association of state government officials
- Engages members of all three branches of state government
- Justice Center provides practical, nonpartisan advice informed by the best available evidence

CSG Justice Center has assisted 18 states using the Justice Reinvestment approach
In 2014, CSG Justice Center is assisting four states

Governor Bentley and other Alabama state leaders launch justice reinvestment (June 10)

Texas the first national justice reinvestment case study

Reinvested $241 million to expand treatment and diversion programs

36% reduction in parole revocations

Crime rate at 40-year low

$3 billion in cost savings
Post-financial downturn, North Carolina the next case study

State reinvestment into public-safety strategies

<table>
<thead>
<tr>
<th>STATE</th>
<th>FINDING</th>
<th>REINVESTMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>West Virginia</td>
<td>Substance use needs contributing to probation and parole violations</td>
<td>Reinvest $2.5 million in substance use treatment focused on higher-risk probationers and parolees with higher needs</td>
</tr>
<tr>
<td>Hawaii</td>
<td>Victims lack confidence that restitution orders will be managed effectively</td>
<td>Increase, by statute, prison-based restitution collections, reinvest in 15 victim service positions, and track collections using a database</td>
</tr>
<tr>
<td>Montana</td>
<td>Despite substantial community correction program investment, probation failures account for close to one third of prison admissions</td>
<td>Reinvest $10 million in funding for improving probation, including performance-incentive grants</td>
</tr>
</tbody>
</table>
Two phases of Justice Reinvestment

Phase I
Analyze Data and Develop Policy Options

- Analyze data
  - Look at crime/arrests, courts, corrections, and supervision trends
- Solicit input from stakeholders
- Assess behavioral health treatment capacity
- Develop policy options and estimate cost savings

Phase 2
Implement New Policies

- Identify assistance needed to implement policies effectively
- Deploy targeted reinvestment strategies to increase public safety
- Track the impact of enacted policies/programs
- Monitor recidivism rates and other key measures

Typical timeline for Justice Reinvestment processes

Phase I - Analyze Data & Develop Policy Options

Collect and Examine Quantitative Data
- Reported crime and arrests
- Jail data
- Court dispositions and sentencing
- Probation supervision
- Prison admissions, population and releases
- Parole decisions and supervision

Engage Stakeholders
- Judges
- Prosecutors
- Defense Bar
- Parole Board
- County Officials
- Behavioral Health Providers
- Victims/Advocates
- Faith-Based Leaders
- Probation Officers
- Parole Officers
- Law Enforcement

6 to 9 months

Develop and present a comprehensive analysis of the state’s criminal justice system

Develop a framework of policy options that together would increase public safety and reduce/avert taxpayer spending

2 to 3 months
Enacted legislation (LB 907) establishes the Justice Reinvestment Working Group

LB 907 establishes the Nebraska Justice Reinvestment Working Group

“Study and identify innovative solutions and evidence-based practices to ... reduce correctional spending and reinvest in strategies that can decrease recidivism and increase public safety”

Working Group composition represents broad spectrum of the criminal justice system

Governor Dave Heineman
Speaker Greg Adams Nebraska Legislature
Chief Justice Michael Heavican Nebraska Supreme Court

Senator Brad Ashford Judiciary Chair, Nebraska Legislature
Esther Casmer Chair, Board of Parole
Hon. John Colborn District Court Judge
Hon. Leo Dobrovolsky District Court Judge
Ellen Fabian-Brokofsky Office of Probation Administration

Darrell Fischer Director, Nebraska Crime Commission
Lieutenant Governor Lavon Heidemann
Joe Kelly County Attorneys Association
Michael Kenney Director, Department of Correctional Services
Senator Bob Krist Nebraska Legislature
Sheriff Ben Matchett Holt County

Senator Heath Mello Appropriations Chair, Nebraska Legislature
Gerard Piccolo Hall County Public Defender
Chief Todd Schmaderer Omaha Police Department
Senator Les Seiler Nebraska Legislature
Corey Steel State Court Administrator

Legislation designates Speaker Adams, Chief Justice Heavican, and Governor Heineman as three working group co-chairs
LB 907 identifies several areas of analysis

- Reported crimes and arrests
- Courts, problem-solving courts, and sentencing trends
- Alternatives to incarceration
- Community services
- Probation and parole services
- Effectiveness of all available offender programs
- Analysis of the prison population and its growth
- Prison admissions and length of stay
- Prison programming
- Recidivism rates of offenders released from prison, jail, parole, probation, and other community-based programs

Understand Broader System Trends —
Prison data alone won’t answer all essential questions

Opportunities to improve effectiveness, reduce pressure on prisons and jails, and increase public safety exist at multiple points in the system.
Policy development tied to principles of focusing resources and avoiding shifting of burdens

The Goal: Contain corrections costs and increase public safety

Combine policy options with reinvestment based on “what works” to reduce recidivism

Avoid shifting burdens elsewhere in the system, and help relieve pressures at the local level

Although this presentation is based largely on published reports, future presentations will be based on independent analyses

Data gathering is well underway

Data roadblocks that sometimes arise

<table>
<thead>
<tr>
<th>Data Type</th>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Crime and Arrests</td>
<td>Crime Commission</td>
</tr>
<tr>
<td>- Jail</td>
<td></td>
</tr>
<tr>
<td>- Sentencing</td>
<td>Administrative Office of the Courts</td>
</tr>
<tr>
<td>- Probation Supervision</td>
<td></td>
</tr>
<tr>
<td>- Parole Decision-making</td>
<td></td>
</tr>
<tr>
<td>- Parole Supervision</td>
<td></td>
</tr>
<tr>
<td>- Community Based Programs</td>
<td></td>
</tr>
<tr>
<td>- Other</td>
<td></td>
</tr>
<tr>
<td>- Population Data</td>
<td>Census/State Data Center</td>
</tr>
<tr>
<td>- Behavioral Health Data</td>
<td>Cross-system Sources</td>
</tr>
<tr>
<td>- Criminal History Information</td>
<td>State Police</td>
</tr>
</tbody>
</table>

- Shortage of data and IT staff
- Data delivery delays / Time needed to prepare research-ready files
- Unavailable data instead collected through samples and surveys
- Previously unexamined data requiring additional validation
Process will complement data analysis with input from stakeholder groups and interested parties

Presentation Overview

- Nebraska System Trends
- Using “What Works“ to Lower Recidivism
- Nebraska Big-Picture Questions And Next Steps
Summary of Nebraska criminal justice system trends

- **Reported crime and arrests down**
- **Probation population stable, parole up considerably**
- **Admissions to prison up, and 60% enter with “short mins”**
- **Prison population up, and operating at 158% of capacity**
- **Almost 1/3 released from prison without supervision**

Nebraska’s total population has grown and remains geographically concentrated

- **29% of the total population lives in Douglas County**
- **53% live in the three largest counties (Lancaster, Sarpy)**
- **70% of Nebraska’s 93 counties have less than 10,000 residents**

Source: US Census Bureau

**2010 Population Density**

Population in Millions, 2003-2013
Up 7%
Nebraska’s index crime rate falls in the middle of the pack

Source: FBI, Crime in the U.S. 2012

Substantial reductions in crime happening across the country also seen in Nebraska

Change in Crime Rates since 1990

<table>
<thead>
<tr>
<th>Property Crime</th>
<th>U.S. Total</th>
<th>Nebraska</th>
</tr>
</thead>
<tbody>
<tr>
<td>Violent Crime</td>
<td>U.S. Total</td>
<td>Nebraska</td>
</tr>
</tbody>
</table>

Source: FBI UCR Online Data Tool
Despite growing population, nearly all reported crime categories are down substantially in the last ten years.

Drop in crime is reflected in arrests, although to a smaller degree.

Source: Nebraska Crime Commission Online Data Tool
District Court criminal case filings are up 19%, the majority of guilty dispositions receive incarceration

Nebraska’s rate of adult residents on probation is 11th lowest

Source: Nebraska Administrative Office of the Courts, District Court Annual Caseload Reports; JUSTICE data extract; BJS, Felony Sentencing in State Courts, 2006

Source: BJS, Proba4on and Parole in the United States, 2012
Felony probation population stable over recent years

Felony probation population shows modest growth +3%

![Graph showing Felony probation population from FY11 to FY13 with values 4,099, 4,162, and 4,217]

The average probation term length is 3 years, consistent with national figures

<table>
<thead>
<tr>
<th>Year</th>
<th>Discharge</th>
<th>Revocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY11</td>
<td>1 2 3</td>
<td>1 2 3</td>
</tr>
<tr>
<td>FY12</td>
<td>2.3 years</td>
<td>1.7 years</td>
</tr>
<tr>
<td>FY13</td>
<td>2.3 years</td>
<td>1.7 years</td>
</tr>
</tbody>
</table>

28% of probation terminations

Source: Nebraska Office of Probation Administration data extract

Three components of community corrections in Nebraska

<table>
<thead>
<tr>
<th>Coverage Areas</th>
<th>Distribution</th>
<th>Populations Accessing Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Specialized Substance Abuse Supervision (SSAS)</td>
<td>9 sites State, county, and supervision fees</td>
<td>Probationers and parolees</td>
</tr>
<tr>
<td>Reporting Centers</td>
<td>9 sites State, county, and supervision fees</td>
<td>Probationers, parolees, problem-solving courts, and misdemeanants</td>
</tr>
<tr>
<td>Fee for Service</td>
<td>Statewide State, supervision fees, and participant fees</td>
<td>Probation, parole, and problem-solving courts</td>
</tr>
</tbody>
</table>

Source: Information shared by the Nebraska Office of Probation Administration

LB 907 provides $7.6M over 2 years for new reporting centers/services and probation staff
Total General Fund correction spending increased 34% from 2003 to 2013

*Budgeted total

Source: FY2002-2013 Biennial Budget Reports; Communication from Legislative Fiscal Office to the Judiciary Committee, Oct. 31, 2013

In 2010 and 2011 American Recovery and Reinvestment Act (ARRA) funds were used to supplant General Fund spending

Prison population growth expected to continue

Source: NDCS Annual Reports; JLA Institute, NDCS Ten-Year Prison Population Projections, FY2012-2022
Accommodating the current capacity shortfall and projected prison growth would cost Nebraska millions

The operating costs alone to house 598 extra people by the end of FY2023 would be $149M*

The cost of increasing the current design capacity by 2,200 beds to accommodate the prison forecast would likely be in excess of $350M

* Based on current average annual cost per inmate ($32,600).

Source: NDCS Annual Reports; JFA Institute, NDCS Ten-Year Prison Population Projections, FY2012-2022

Releases are not keeping pace with admissions

Admissions were higher than releases in all but two years

<table>
<thead>
<tr>
<th>Year</th>
<th>Difference between admissions and releases</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003</td>
<td>110</td>
<td>-240</td>
</tr>
</tbody>
</table>

Source: NDCS Annual Reports
New sentences, which include probation revocations, account for over 75% of admissions to prison.

![Graph showing Prison Admissions by Source, FY2003-FY2013]

- **Total**: +31%
- **Other***: -37%
- **Parole Revocations**: +132%
- **New Sentences**: +34%

*Other includes Evaluator, Safekeeper, and Work Ethic Camp admissions

Average prison sentence lengths are 4 to 6 years and appear to have increased in recent years.

![Graph showing Length of Min and Max Sentence Lengths Among New Sentences to Prison, FY2004-FY2013]

Sentence lengths are up 10% to 15% in FY2010-13 compared to FY2004-09

Parole eligibility at half the minimum sentence
61 percent of new admissions to prison have minimum sentences of two years or less

Newly Sentenced Prison Admissions by Minimum Sentence Length, FY2013

Source: NDCS Annual Reports

Nebraska’s rate of adult residents in prison is ninth-lowest

Nebraska's rate of adult residents in prison is ninth-lowest

2012 Incarceration Rate
(Sentenced prisoners per 100,000 population)


U.S. Total Incarceration Rate 480
Although fairly low in incarceration and crime rate, Nebraska could enjoy a lower crime rate without increasing the prison population.

Nebraska among the minority of states where prison population continues to rise
The volume of releases to parole has increased considerably in the last two years.

![Prison Releases by Type, FY2003-FY2013](chart1)

**Parole Releases**: +139%

**Jammers**: -23%

**Other**: -43%

Source: NDCS Annual Reports

Jammers represented one third of 2013 total releases from prison.

The rise in parole releases has created a larger parole supervision population and twice as many revocations.

![Parole Supervision Snapshot Population, FY2005-FY2013](chart2)

**Parole Supervision Population**: +113%

**Length of stay on supervision for successful parolees**: dropped 18% from 10 months to 8 months.

![Parole Revocations to Prison, FY2003-FY2013](chart3)

**Parole Revocations**: More than doubled from 2011 to 2013

Revocations constituted 28% of all parole terminations in FY2013.

Source: NDCS Annual Reports
Nebraska has the tenth-lowest rate of adults residents on parole supervision

Questions raising opportunities for analysis

Why are felony case filings increasing despite crime drop?

Why is the probation population stable?

How do “short mins” compare to the probation population?

What are recidivism rates from correction and supervision?

What have other states done to reduce max outs?
75% of today’s slides have been presented

Break

Presentation Overview

Nebraska System Trends

Using “What Works“ to Lower Recidivism

Nebraska Big-Picture Questions And Next Steps
Reducing criminal behavior requires focusing on risk, need, and responsiveness

**Traditional Approach**
- Supervise everyone the same way
- Assign programs that feel or seem effective
- Deliver programs the same way to every offender

**Evidence-Based Practices**
- Assess risk of recidivism and focus supervision on the highest-risk offenders
- Prioritize programs addressing the needs most associated with recidivism
- Deliver programs based on offender learning style, motivation, and/or circumstances

Risk is about sorting and tailoring resources to higher-risk

**Assess for Risk Level...**

<table>
<thead>
<tr>
<th>Risk of Re-offending</th>
<th>LOW 10% re-arrested</th>
<th>MODERATE 35% re-arrested</th>
<th>HIGH 70% re-arrested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low Supervision/ Program Intensity</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Moderate Supervision/ Program Intensity</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>High Supervision/ Program Intensity</td>
<td></td>
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</tr>
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</table>

Assess risk of re-offense and focus supervision on the highest-risk offenders... and Focus Accordingly

...and Focus Accordingly
Target the factors that evidence shows are most central to criminal behavior

* Past antisocial behavior cannot be changed

**Need** refers to which risk factors will be targeted

<table>
<thead>
<tr>
<th>Risk Factor</th>
<th>Example</th>
<th>Needs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Antisocial</td>
<td>Attitudes, values, beliefs and rationalizations supportive of crime,</td>
<td>Reduce antisocial cognition, recognize risky thinking and feelings,</td>
</tr>
<tr>
<td>Attitudes</td>
<td>cognitive emotional states of anger, resentment &amp; defiance</td>
<td>build up alternatives, adopt a reformed or anti-criminal identity</td>
</tr>
<tr>
<td>Antisocial</td>
<td>Close association with criminals &amp; relative isolation from pro-social</td>
<td>Reduce association with criminals, enhance association with pro-social people</td>
</tr>
<tr>
<td>Peers</td>
<td>people</td>
<td></td>
</tr>
<tr>
<td>Antisocial</td>
<td>Adventurous, pleasure seeking, weak self control, restlessly aggressive</td>
<td>Build problem-solving, self-management and coping skills</td>
</tr>
<tr>
<td>Personality</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Antisocial</td>
<td>Early and continued involvement in a number of antisocial acts</td>
<td>Build noncriminal alternative behaviors in risky situations</td>
</tr>
<tr>
<td>Behavior*</td>
<td></td>
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</tbody>
</table>
Intensity of services can have positive or negative impacts on recidivism, depending on risk

Intervention Effects on Recidivism among HIGH RISK Offenders

- Minimum Intervention: 56%, 37%, 31%, 25%
- Intensive Intervention: 78%, 58%, 92%

Intervention Effects on Recidivism among LOW RISK Offenders

- Minimum Intervention: 16%, 3%, 20%, 23%
- Intensive Intervention: 22%, 20%, 23%, 39%

Intensive interventions led to **BETTER** recidivism outcomes for HIGH risk offenders, but.....

.... intensive interventions led to **WORSE** recidivism outcomes for LOW risk offenders.

Where and how treatment is delivered impacts the degree of recidivism reduction

Research on the impact of treatment intervention on recidivism rates

- **Drug Treatment in Prison**: -17%
- **Drug Treatment in the Community**: -24%
- **Supervision with Risk, Need, Responsivity**: -30%

Supervision with effective “RNR” yields the largest recidivism reduction

Increasing prison capacity alone won’t identify underlying drivers or contain future costs and increase public safety.

Since 2012, percent capacity jumped 19 percentage points.

Estimated cost to offset current capacity shortfall and accommodate forecasted growth $499M.
(1) How effective are probation and community corrections at diverting the right offenders from prison and reducing recidivism?

Data analysis questions:

- What distinguishes an offender receiving a “short-min” prison term from one receiving straight probation or community corrections?
- Do community correction programs prioritize otherwise prison-bound and high-risk probationers?
- How many people admitted to prison were previously on probation?
- How does the composition of Nebraska’s probation population differ from other states?

(2) How do sentence lengths, good time policies, and parole release decision-making affect Nebraska’s prison population?

Example Offense:
Robbery (Class II Felony)

<table>
<thead>
<tr>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
<th>8</th>
<th>9</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parole Eligibility Date with Good Time</td>
<td>Half of Minimum = 3.5 years</td>
<td>Parole Window 1 year</td>
<td>Jam Out Date with Good Time</td>
<td>Half of Maximum = 4.5 years</td>
<td></td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

Sentence 7 to 9 years

Data analysis questions:

- How are lengths of min and maxes of sentences affecting prison time served?
- How does average time served vary by offense and what are the trends?
- What is the average percent of minimum sentence served in prison?
- How do narrow parole windows affect parole decision-making and jammers?
(3) How can recidivism be reduced for those leaving prison, and why are so many unsupervised?

Data analysis questions:
- Are resources prioritized based on risk and need?
- How is parole supervision affected by relatively short supervision terms?
- Are graduated responses applied consistently to supervision violations?
- Can victim safety planning be developed for jammers?

For discussion purposes, possible Justice Reinvestment project timeline

Press Conference & Project Launch
Working Group Meeting 1

Working Group Meeting 2
Working Group Meeting 3
Working Group Meeting 4: Policy option rollout

Press conference to unveil report
Bill introduction

May Jun Jul Aug Sep Oct Nov Dec 2015 Session

Data Analysis
- Initial Analysis
- Detailed Data Analysis
- Impact Analysis

Policymaker and Stakeholder Engagement
- Stakeholder Engagement and Policymaker Briefings
- Policy Option Development
- Ongoing engagement
Thank You

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