

Justice Reinvestment in Rhode Island

Analysis and Policy Framework

JUNE 2016

Overview

After years of steady decline, Rhode Island's incarcerated population is projected to increase by 11 percent by FY2025.¹ The Rhode Island Department of Corrections (RIDOC) estimates that this growth will cost the state \$28 million in additional operating and staffing costs.²

Rhode Island's antiquated probation policies contribute significantly to the number of people incarcerated in the state. Most laws governing probation sentencing and supervision in Rhode Island have not been updated in decades and do not support evidence-based practices, such as the use of risk and needs assessments to determine appropriate levels of supervision. As a result of these outdated policies, the number of probation revocations is high. One-third of pretrial admissions to the Adult Correctional Institutions (ACI) are for alleged violations of probation, and an estimated 60 percent of sentenced admissions are probation violators.³

Rhode Island has one of the lowest incarceration rates in the country. However, the state has the second highest probation rate in the nation, with 2,793 people on probation per 100,000 residents.⁴ There are currently more than 23,000 people on probation in the state, which represents 1 in 20 adult men and 1 in 6 adult black men.⁵ People released from the ACI to probation serve terms that average six years, which is three times the national average.⁶ Furthermore, two out of three people on probation have already served more than three years, after which time recidivism declines significantly.⁷ (See Figure 1)

Projected Outcomes of Rhode Island's Justice Reinvestment Policy Framework



Avert growth in the incarcerated population and \$13.4 million in costs over five years



Prioritize probation supervision resources and expand community-based programs to reduce recidivism



Modernize sentencing and probation supervision policies



Improve services to victims



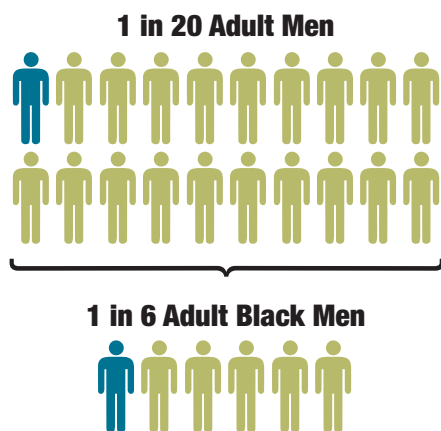
Respond to probationers' behavior with swift and certain incentives and sanctions



Assess defendants to inform decisions about diversion and pretrial supervision conditions

FIGURE 1. RHODE ISLAND'S PROBATION POPULATION, FY2015

More Than 23,000 People on Probation



As a result of the exceptionally large number of people on probation and the lengthy terms they are serving, probation officers are overwhelmed and are unable to provide the meaningful supervision that reduces recidivism and improves public safety. Each probation officer is responsible for supervising an average of 155 people.⁸ These high caseloads prevent officers from utilizing strategies that can help reduce recidivism, including focusing energy on people most likely to reoffend, helping connect them to needed treatment and services, and responding to violations swiftly and appropriately. As a result, half of the people on probation have their probation revoked or are resentenced for a new crime within three years from the start of their probation term.

In 2008, Rhode Island employed a justice reinvestment approach to reduce corrections spending and reinvest savings in strategies that can reduce recidivism and increase public safety. Although the policy options offered to state leaders in 2008 included reforms to probation policies and practices, the resulting legislation—House Bill 7204Aaa—did not include improvements to the probation system. Instead, the legislation made changes to earned time credit, risk-reduction programs in the ACI, and the use of risk and needs assessments in the parole release decision-making process. After the bill took effect, the state's incarcerated population declined and the recidivism rate decreased.⁹ However, the recent and projected growth in the incarcerated population and the desire to improve probation policies and practices caused state officials to return to the justice reinvestment approach that they had used in 2008 to build on those earlier efforts.

In May 2015, Governor Gina Raimondo, Chief Justice Paul Suttell, Senate President M. Teresa Paiva Weed, House Speaker Nicholas Mattiello, Senate Minority Leader Dennis Algiere, House Minority Leader Brian Newberry, and RIDOC Director A.T. Wall requested intensive technical assistance from The Council of State Governments (CSG) Justice Center, with support from The Pew Charitable Trusts (Pew) and the U.S. Department of Justice's Bureau of Justice Assistance (BJA), to again implement a justice reinvestment approach to address the issues in the state's criminal justice system, particularly probation.

"We have to make smart investments to break the cycle of crime and incarceration and improve public safety. We need to do more, we need to do better, and we need to do it now." — GOVERNOR RAIMONDO

In July 2015, Governor Raimondo issued Executive Order 15-11 to establish the bipartisan, interbranch group called the Justice Reinvestment Working Group.¹⁰ This 27-member working group—composed of state policymakers, members of the judiciary, corrections officials, prosecutors and defense attorneys, behavioral health administrators, community advocates, and local law enforcement executives—met five times between July and December of 2015 to review analyses conducted by more than a dozen CSG Justice Center staff members and to discuss and develop policy options for criminal justice reform in the state.

In preparing its analyses, CSG Justice Center staff reviewed an extensive amount of data from information systems maintained by RIDOC; the Administrative Office of State Courts; the Office of the Attorney General; and the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals. In total, CSG Justice Center staff analyzed approximately 2.3 million individual data records across these databases and conducted meetings with district and superior court judges, RIDOC officials, police chiefs, officials from the Attorney General's Office and Public Defender's Office, probation and parole officers, pretrial service investigators, victim advocates, community advocates, behavioral health experts, and people currently and formerly involved in the state's criminal justice system. Altogether, CSG Justice Center staff solicited input from nearly 300 stakeholders and ultimately helped state leaders identify three principal challenges facing Rhode Island's criminal justice system.

Summary of Challenges

CHALLENGE 1. OUTDATED PROBATION POLICIES. Rhode Island's antiquated probation laws and policies contribute significantly to the number of people incarcerated in the state.

- Unlike most other states in the Northeast, Rhode Island's incarcerated population has grown in recent years and is expected to increase further over the next ten years, adding a projected \$28 million in operating and staffing costs to RIDOC's budget.
- Although Rhode Island has a low incarceration rate, the state has the second-highest probation rate in the country, and probation terms for people released from the ACI average six years, which is three times longer than the national average.¹¹

CHALLENGE 2. INEFFECTIVE PROBATION PRACTICES. The probation system is overwhelmed, and officers are unable to provide the meaningful supervision that reduces recidivism and upholds public safety.

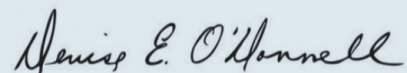
- The majority (87 percent) of the state's sentenced population is on probation, but less than 40 percent of the 23,000 people on probation receive active supervision.¹²
- Evidence-based practices, such as cognitive behavioral treatment and intermediate responses to probation violations, are not used to reduce recidivism.
- High-intensity supervision, treatment, and programming are not prioritized for high-risk, high-needs probationers.

CHALLENGE 3. INSUFFICIENT INFORMATION FOR PRETRIAL DECISION MAKING. Judges are not given the information they need to make pretrial release decisions, identify appropriate pretrial diversion options, and connect people to treatment.

- Pretrial risk assessments and needs screens are not conducted and are therefore not part of judicial decision making regarding diversion options and treatment needs.
- Eligibility and other requirements for existing diversion options are not clear, and therefore these options are not being utilized to their full potential.

Since 2010, the U.S. Department of Justice's Bureau of Justice Assistance (BJA) has supported the Justice Reinvestment Initiative (JRI), which has assisted state and local governments as they generate cost-effective, evidence-based policies to produce meaningful cost savings for states while maintaining a focus on public safety. In a public-private partnership with The Pew Charitable Trusts, BJA provides technical assistance and financial support for these system-wide criminal justice reform efforts.

We at BJA are pleased to support the work in Rhode Island described in this report and culminating in the state's Justice Reinvestment Policy Framework, a pivotal achievement of the state's Justice Reinvestment Working Group. We look forward to working with Rhode Island stakeholders to adopt and implement the policy changes outlined in this report.



Denise E. O'Donnell
Director, Bureau of Justice Assistance, U.S. Department of Justice

Policy Framework

In response to these challenges, the CSG Justice Center, in collaboration with the Rhode Island Justice Reinvestment Working Group, developed a proposal to modernize sentencing and probation supervision policies; strengthen probation practices and the quality of community-based programs to reduce recidivism; and assess and divert people at the pretrial stage, when appropriate.

State leaders agreed that high rates of failure among probationers in Rhode Island are costly and undermine public safety. To modernize sentencing and probation policies, the proposed policy framework brings average probation terms in Rhode Island in line with probation terms throughout the nation, increases the standard of proof for probation violations, allows people who are currently on probation to petition the court for early termination, and encourages judges to respond to probation violations with short periods of confinement.

To address the overburdened probation system, the policy framework reduces probation officers' caseloads and allows officers to use a range of incentives and sanctions to respond to probationers' behavior, improves community-based programs, and adopts an electronic case-management system to track the progress of people on probation more efficiently.

In order to provide judges with more information early in the criminal justice process, the policy framework proposes performing a pretrial risk assessment and needs screen to identify appropriate defendants for pretrial release and under what conditions, appropriate diversion opportunities, and help connect people to services in the community, as needed.

To make certain that any policy changes achieve their intended results, the state should create an advisory committee and establish mechanisms to assess, track, and ensure the sustainability of these proposed policy changes. In addition, the state should improve the collection and uniformity of race-related data within the criminal justice system.

Although the CSG Justice Center worked collaboratively with the Rhode Island Justice Reinvestment Working Group, the group did not vote to endorse the policy framework. Furthermore, the policy framework has been put forth to the General Assembly for their consideration, but the CSG Justice Center is aware that any resulting legislation may include compromises, meaning some policy options may be altered or not adopted.

Justice Reinvestment Policy Framework

1. Modernize probation sentencing and policies.

- 1A**—Define in statute the purpose and function of probation and require that a probation term following a term of incarceration for most felony offenses be no longer than three years.
- 1B**—Require that a suspended sentence be no longer than would be an appropriate length of incarceration based on the offense or nature of the probation violation.
- 1C**—Reduce the average length of incarceration for technical probation violations.
- 1D**—Require a hearing within 7 days of a person's arrest for a probation violation, instead of the 10 days required under current law.
- 1E**—Increase the standard of proof for probation violations.
- 1F**—Establish a policy that allows certain people who are currently on probation to petition the court for early termination of their probation.

2. Improve probation supervision practices and prioritize treatment and programming for high-risk, high-needs probationers.

- 2A**—Require RIDOC to conduct validated risk and needs assessments within 60 days of placement on probation so that judges can determine any special conditions of probation supervision, and probation officers can determine the appropriate intensity of supervision.
- 2B**—Require smaller caseloads for probation officers who supervise high-risk, high-needs people so they can provide more intensive supervision.
- 2C**—Require RIDOC to adopt a clear and consistent policy that allows probation officers to respond to probationers' behavior with incentives and sanctions based on evidence-based practices shown to reduce recidivism.

2D—Amend RIDOC’s policy for transitioning people on probation to lower levels of supervision so that they can be moved from active and low supervision to banked status more quickly, accounting for risk level, offense type, compliance with conditions of supervision, and time on supervision, when appropriate.

2E—Adopt an electronic case-management system that streamlines and improves record keeping and helps track the status of people on probation.

2F—Require and fund evidence-based programs in the community for high-risk people on probation.

2G—Incentivize behavioral health care providers to ensure access to treatment for high-risk, high-needs people on probation.

2H—Improve the quality of Batterer’s Intervention Programs and refer only people on probation who will benefit from this programming.

3. Assess defendants’ risk and needs and divert more eligible people to appropriate programs.

3A—Require the use of a pretrial risk assessment and needs screen for people detained for felony or domestic violence misdemeanor offenses.

3B—Expand the use of the district court’s Pretrial Services Unit (PTSU).

3C—Establish a superior court diversion program.

3D—Clarify in statute the eligibility and other requirements for existing diversion programs.

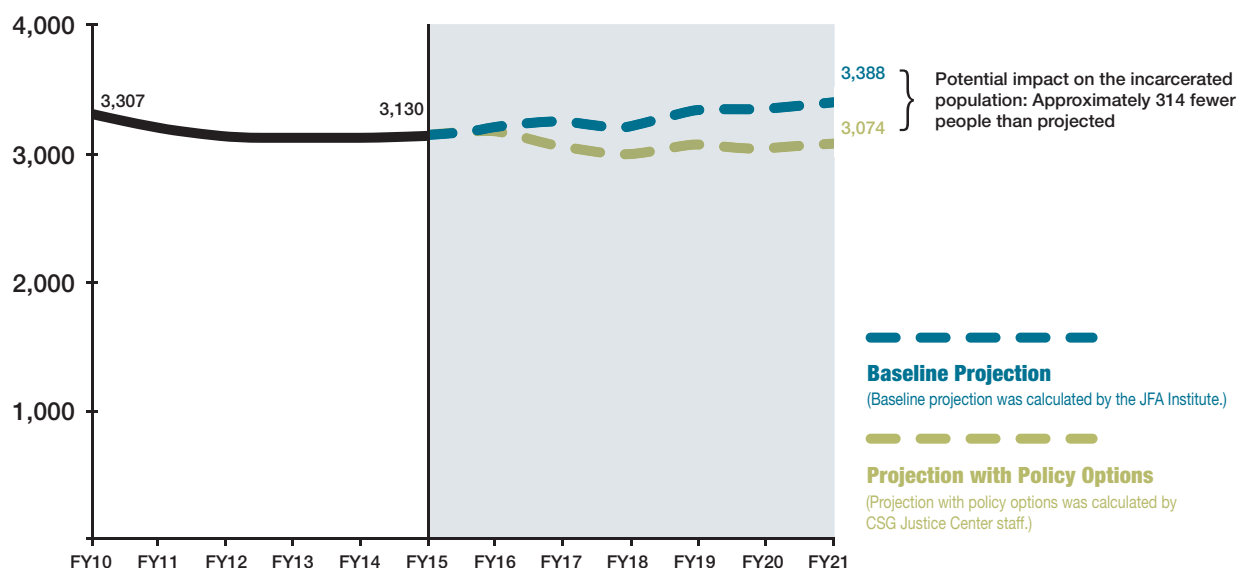
3E—Establish a process to report the length of stay for pretrial defendants detained in the ACI.

Projected Impact

As a package, the policies described in this report will improve public safety while averting the projected growth in Rhode Island’s ACI population by 9 percent (314 beds), reducing the active probation population by 46 percent (5,000 people), and reducing active caseloads per probation officer from 155 to 76 cases between FY2017 and FY2021. Probation officers with caseloads dedicated to high-risk

probationers would supervise no more than 40 people. By averting the projected growth in the ACI population, the state will avoid spending up to \$13.4 million for ACI operating costs and to open enough RIDOC housing modules by FY2021 to accommodate the forecasted ACI population growth. (See Figure 2)

FIGURE 2. PROJECTED IMPACT OF JUSTICE REINVESTMENT POLICY FRAMEWORK ON RHODE ISLAND’S INCARCERATED POPULATION



Reinvestments

To achieve these outcomes, reinvestments must be made in evidence-based strategies to reduce recidivism. It is critical that Rhode Island invest in assessment tools, diversion options, additional probation officers, and community-based cognitive behavioral programs. In addition, the CSG Justice Center recommends investing in victims' compensation benefits, Medicaid funds to help pay

for behavioral health treatment, and improvements to Batterer's Intervention Programs.

Proposed levels of reinvestment are based on projected impacts to the ACI population as calculated by the CSG Justice Center, in consultation with RIDOC. (See Figure 3)

FIGURE 3. SUMMARY OF JUSTICE REINVESTMENT POLICY FRAMEWORK AVERTED COSTS AND REINVESTMENTS

		FY2017	FY2018	FY2019	FY2020	FY2021	TOTAL
	Averted Costs*	\$1.1M	\$2.2M	\$3.2M	\$3.4M	\$3.5M	\$13.4M
Reinvestments	Pretrial assessment and diversion	\$250K	\$225K	\$225K	\$225K	\$225K	\$1.2M
	Expanded assessment of probationers	\$23K	\$13K	\$13K	\$13K	\$13K	\$.07M
	Leveraging Medicaid to pay for performance contracts	\$65K	\$300K	\$450K	\$525K	\$525K	\$1.9M
	Community-based cognitive behavioral programming	\$610K	\$560K	\$560K	\$560K	\$560K	\$2.9M
	Improved Batterer's Intervention Programs	\$100K	\$100K	\$100K	\$100K	\$100K	\$0.5M
	Victims' compensation benefits	\$120K	\$120K	\$120K	\$84K	\$48K	\$0.5M
	Additional probation officers	\$236K	\$590K	\$590K	\$590K	\$590K	\$2.6M
	Total Reinvestment	\$1.4M	\$1.9M	\$2.1M	\$2.1M	\$2.1M	\$9.5M
	Projected Net Savings	-\$0.3M	\$0.3M	\$1.1M	\$1.3M	\$1.4M	\$3.8M

* Estimates based on: (1) averted operating cost of \$4,593 per person, per year, and (2) averted personnel cost to accommodate projected growth in the incarcerated population.

CHALLENGE 1: OUTDATED PROBATION POLICIES

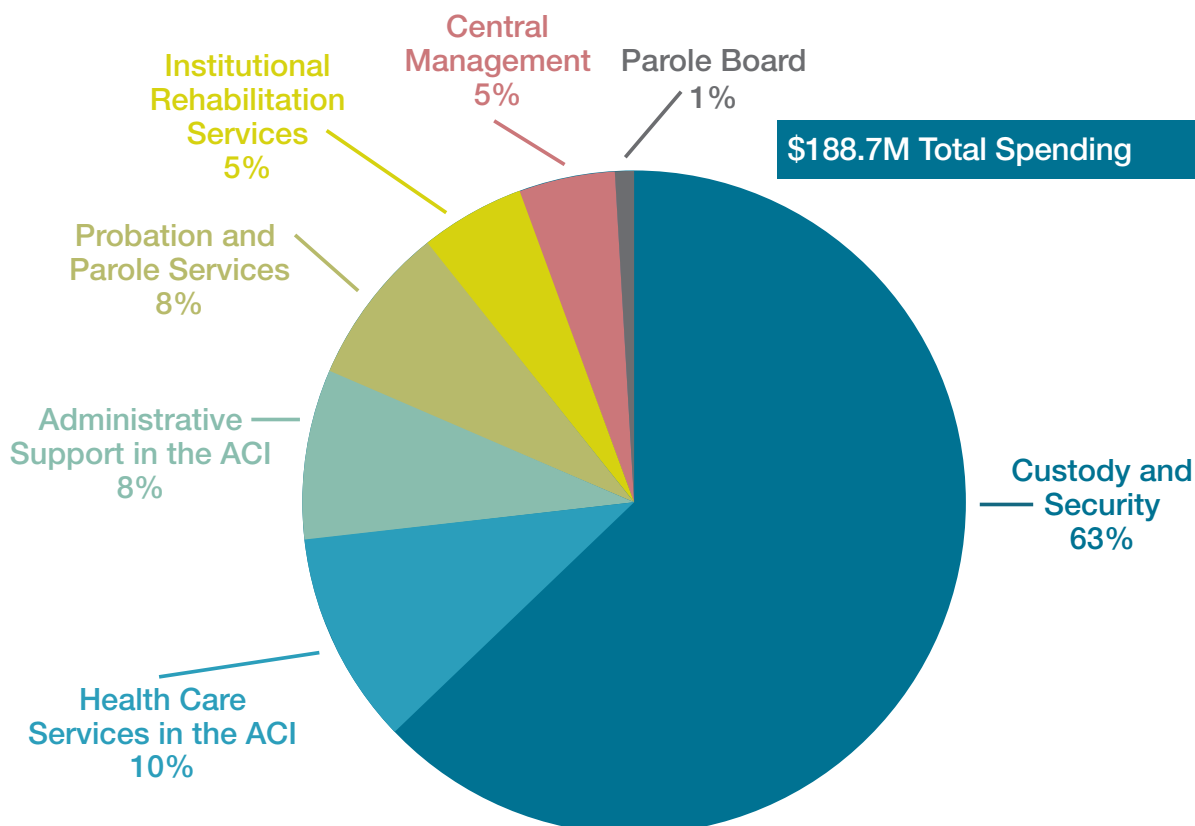
Rhode Island's antiquated probation laws and policies contribute significantly to the number of people incarcerated in the state.

FINDINGS AND ANALYSIS

Rhode Island's incarcerated population is growing.

- Following a 17-percent decrease in the incarcerated population from FY2008 to FY2014, the incarcerated population is growing and is projected to increase 11 percent by FY2025.¹³
- The projected increase in the incarcerated population is estimated to cost the state, at minimum, \$28 million in additional operating and staffing costs by FY2025.¹⁴
- In FY2015, total state costs related to public safety were \$411.8 million, which included expenditures for RIDOC (46 percent), the Department of Public Safety (23 percent), the Judiciary (22 percent), the Office of the Attorney General (6 percent), and the Office of the Public Defender (3 percent). Approximately 63 percent (or \$117 million out of \$188.7 million) of RIDOC's budget was allocated to custody and security.¹⁵ (See Figure 4)
- Corrections funding has remained relatively flat in recent years. From FY2010 to FY2015, general fund corrections spending increased by only 6 percent.¹⁶
- Even though people on probation account for most of the criminal justice population in Rhode Island, only about 8 percent of RIDOC's total budget (or \$15 million out of \$188.7 million) was allocated for probation and parole services in FY2015.¹⁷

FIGURE 4. RIDOC SPENDING, FY2015

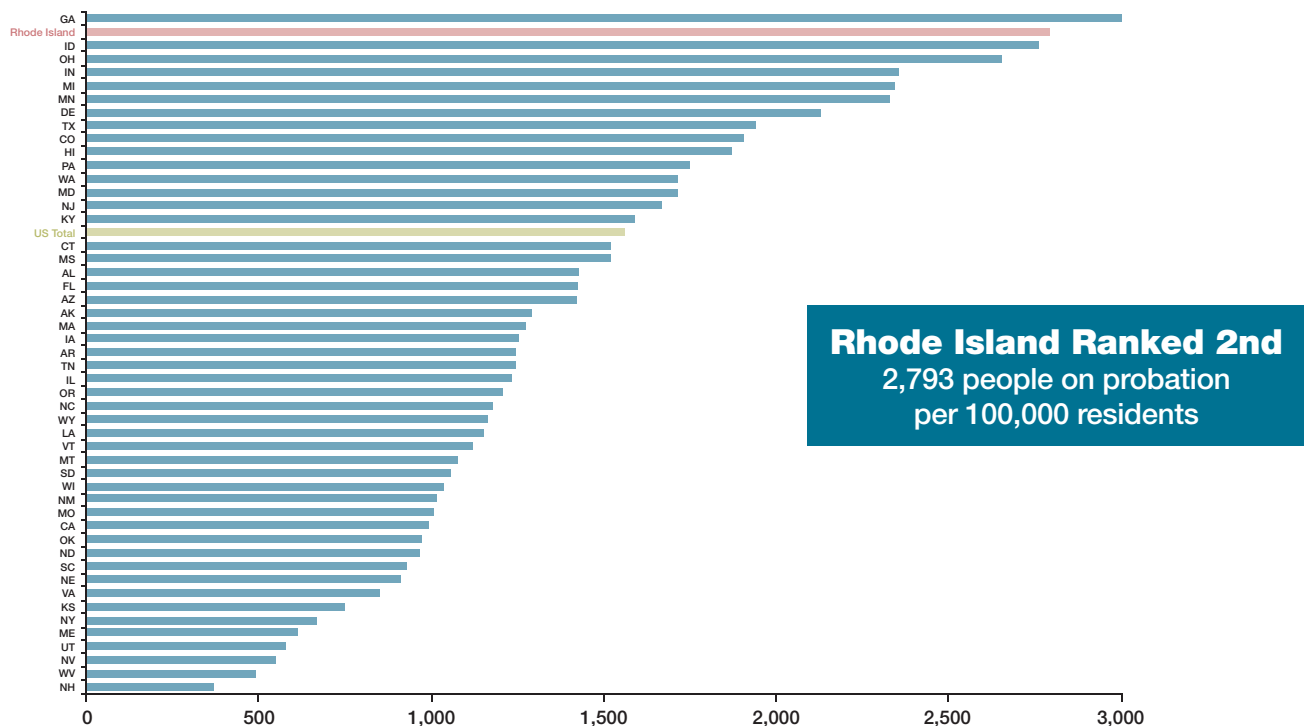


Although Rhode Island has a low incarceration rate, the state has a greater percentage of residents on probation supervision than almost any other state in the nation.

- Of Rhode Island's total sentenced population, 87 percent were on probation at the end of FY2015.¹⁸
- At the end of 2014, Rhode Island had the second-highest probation rate in the nation, with 2,793 people on probation per 100,000 adult residents. The national probation rate is 1,568 people on probation per 100,000 adult residents.¹⁹ (See Figure 5)

- Rhode Island's probation rate is nearly two times the national rate, and is two to eight times higher than the rates of surrounding states. In comparison, Massachusetts has less than half the probation rate of Rhode Island, but nearly the same incarceration rate.²⁰
- At the end of FY2015, 1 in 35 adult residents, or 23,686 people, were on probation supervision in Rhode Island. The probation rate is even higher in Providence, the state's capital, where 1 in 22 adult residents were on probation supervision at the end of FY2015.²¹

FIGURE 5. STATE AND NATIONAL ADULT PROBATION RATES, 2014



Most of Rhode Island's probation laws and policies have not been updated in decades.

- Most laws governing probation supervision in Rhode Island have not been updated in 30 to 60 years.²²
- Rhode Island's laws governing sentencing to probation do not support contemporary evidence-based practices, such as the use of risk and needs assessments or

intermediate sanctions to respond to supervision violations. Evidence-based practices have been adopted in many other states, such as North Carolina and Washington, where swift, certain, and shorter sanctions are being used to hold people accountable at a lower cost.²³ Risk and needs assessments are required for all people on probation in Texas, Mississippi, and Kentucky.²⁴

Rhode Island's large probation population is chiefly the result of long-standing sentencing practices.

- The standard sentencing practice in Rhode Island is to impose a suspended sentence or to sentence someone to a period of incarceration followed by a probation term. A straight probation sentence is uncommon in felony cases but is often used in misdemeanor cases in the state. (See Box: Rhode Island Sentencing Options and Processes)
- In FY2015, 93 percent of all felony sentences included a probation term. Probation can accompany a suspended sentence, follow a period of incarceration, or be ordered as a straight sentence to probation without incarceration.
- Each year, probation sentences for misdemeanor offenses result in approximately 6,000 cases, and probation sentences for felony offenses result in an additional 3,200 cases.²⁵

Rhode Island Sentencing Options and Processes

Imprisonment: A period of confinement in the ACI may be imposed for a fixed period of time as determined by the presiding judge.

Straight Probation: In lieu of imprisonment, the court may order straight probation, which requires the defendant to “keep the peace and be of good behavior.” The court may impose special conditions on probationers, such as payment of restitution or participation in substance use or mental health treatment programs. Violating probation subjects the probationer to the possibility of incarceration for a period up to the maximum sentence allowable for the offense. Imposition of straight probation does not result in a criminal record if the probation ends successfully.

Probation with a Suspended Sentence: The court may impose a suspended sentence in which a fixed period of incarceration is postponed while an individual serves a probation sentence. In cases where the sentence is *completely* suspended, the individual will not be incarcerated if the probationary period is successfully completed. For *partially suspended* cases, however, an initial period of incarceration is imposed, followed by a period of probation. If the probation is completed successfully, the suspended portion of the period of incarceration is not served.

RIDOC Community Confinement: Community confinement is a community-based sentencing option used by the district and superior courts for people who pose a minimal risk to the community but require structured supervision. All participants are electronically monitored and in most cases, participants are ordered by the court to participate in substance use or mental health treatment programs. RIDOC probation and parole officers enforce conditions or provide supervision to people on community confinement.

Wrapping: “Wrapping” is a process that can occur when a person on probation is charged with a probation violation based on a new criminal offense. The person forgoes a hearing on the violation and a trial on the new charge by admitting to the new violation *and* pleading guilty or *nolo contendere*. The person receives an entirely new sentence in the new criminal case and is also “continued on the same” original probation sentence in the old case. This results in two different criminal sentences that are wrapped together, and often the new probation sentence extends beyond the original probation term, lengthening the overall time on probation. The person may choose to “wrap” a new criminal plea into a violation admission to secure his or her imminent release from custody, have finality, or avoid a trial, but in exchange, the person waives the right to a criminal trial in the new case.

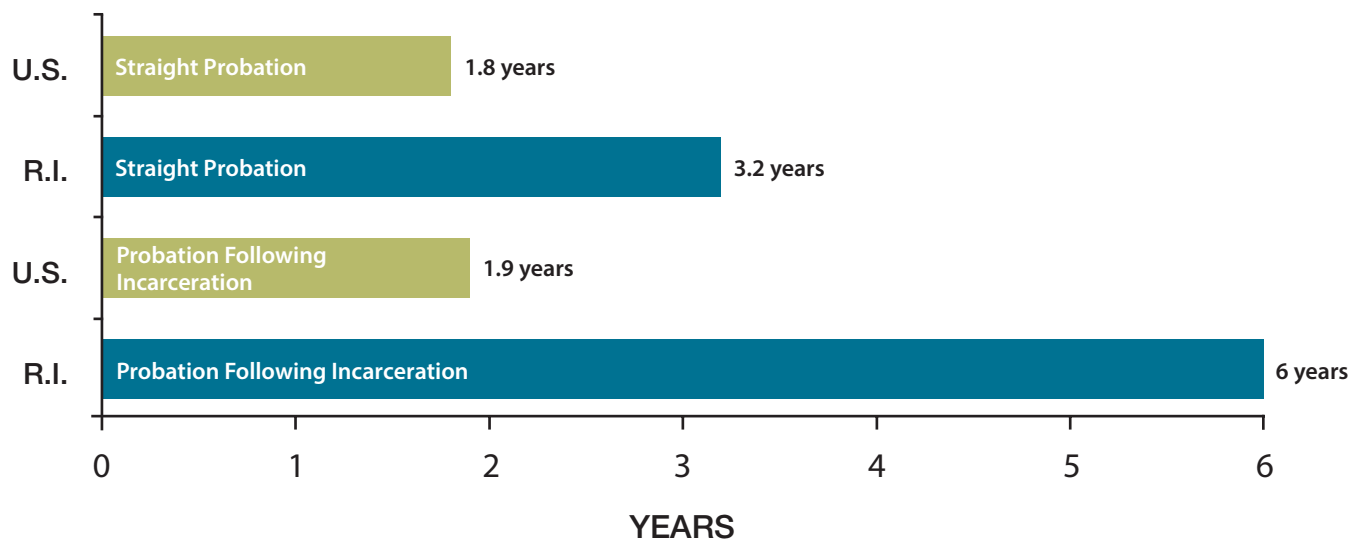
Suspended sentences are lengthy.

- Although the law states that suspended sentences may be longer, shorter, or the same length as the probation period, in practice, the suspended sentence and probation term are almost always the same length. Therefore, a long suspended sentence that represents a long potential incarceration term is typically accompanied by an equally long probation term that must be served before the suspended sentence expires.²⁶
- Each year the courts impose more than 17,000 bed-years in suspended sentences. Given that the ACI has a total operational capacity of 3,989 beds, the state imposes lengths of potential imprisonment that it cannot accommodate if probationers are required to serve.²⁷
- Because the courts issue so many suspended sentences and such long probation sentences, if probation was revoked and the suspended sentences were executed, the state would need to quadruple the ACI's capacity in order to house all of these people.
- Judges, attorneys, and community advocates have said that suspended sentences are imposed in Rhode Island without regard for whether the suspended sentence would be an appropriate punishment for the offense, if served.²⁸

Felony probation sentences in Rhode Island are exceptionally long, are not capped, and cannot be shortened.

- Between FY2010 and FY2015, sentences for the 10 most common felony offenses included probation (oftentimes as part of a suspended sentence) ranging from 24 to 90 months.²⁹
- The average length of a felony probation term following a period of incarceration is six years, which is three times the national average.³⁰ (See Figure 6) In FY2015, the average length of a probation term for property and drug-related felony offenses was 4.5 years, and for violent and felony sex offenses, the average term was 7 years.³¹
- In FY2015, 80 percent of people serving a felony probation term had served more than a year, and 62 percent had served three years or more.³² Studies show that after a year, people are much less likely to reoffend than in the first 12 months, and are even less likely to reoffend after three years.³³

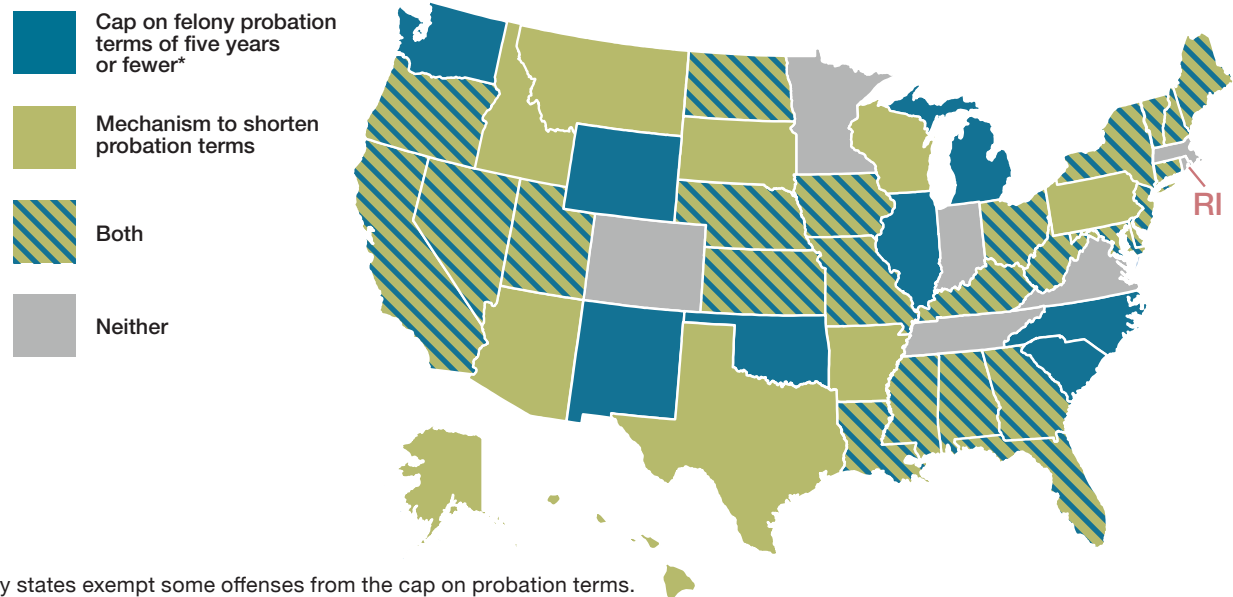
FIGURE 6. AVERAGE LENGTH OF PROBATION TERMS FOR PEOPLE CONVICTED OF FELONY OFFENSES, NATIONAL AND RHODE ISLAND



■ Rhode Island does not have a cap on felony probation terms other than the maximum sentence of incarceration allowed for the offense. The majority of other states have a felony probation term cap of five years or fewer.³⁴ (See Figure 7)

■ Rhode Island does not permit probation terms to be reduced after sentencing, while 35 other states do.³⁵

FIGURE 7. STATES WITH CAPS ON PROBATION TERMS AND MECHANISM TO SHORTEN PROBATION TERMS

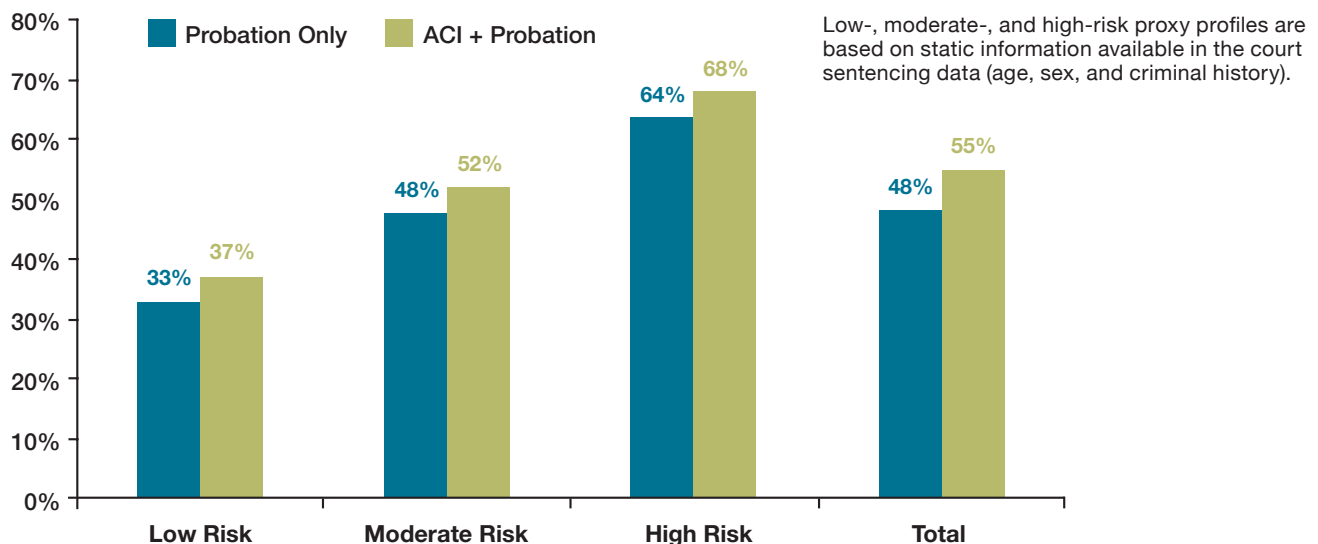


Recidivism rates are higher for people sentenced to a period of incarceration followed by probation than they are for people of comparable risk levels sentenced directly to probation.

■ Of the people who began their felony probation terms in FY2012 following a period in the ACI, 55 percent

were resentenced within three years. In comparison, 48 percent of comparable people sentenced directly to probation (in the form of a suspended sentence or straight probation) in FY2012 were resentenced in the following three years.³⁶ (See Figure 8)

FIGURE 8. THREE-YEAR RESENTENCING RATE BY RISK LEVEL AND PROBATION SENTENCE TYPE, FY2012 PROBATION START



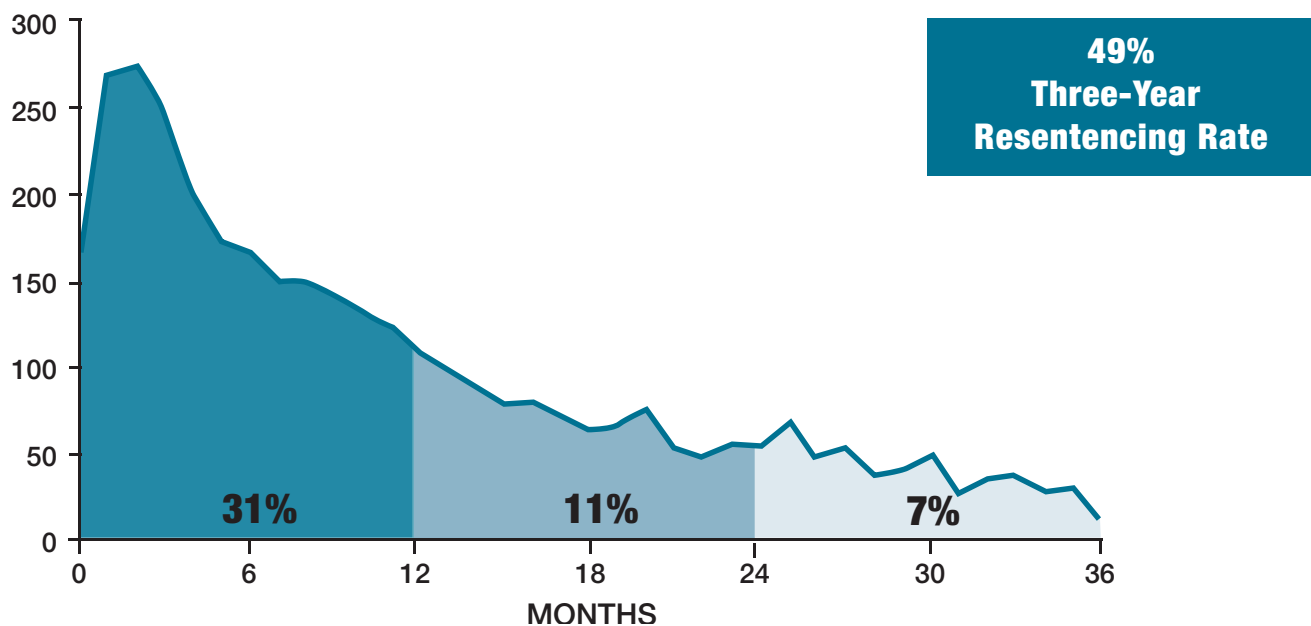
One out of every two people on probation is revoked or resentenced within three years.

- Forty-nine percent of people on probation are resentenced within the first three years of probation.³⁷
- Recidivism rates for the people who started their probation terms in FY2012 peaked in the first year after release and diminished during each subsequent

year.³⁸ Within the first year following the start of their probation terms, 31 percent of people were resentenced. In the second year, 11 percent were resentenced, and in the third year, only 7 percent of people in this cohort were resentenced.³⁹ (See Figure 9)

- In FY2015, 62 percent of people on probation had already served more than three years on supervision.⁴⁰

FIGURE 9. RESENTENCING RATE FOR THE 2012 PROBATION COHORT: ONE, TWO, AND THREE YEARS



Probation violations and revocations contribute significantly to the number of people incarcerated in the state.

- The size of the incarcerated population is influenced by two factors: the number of admissions and the length of stay. In FY2015, 2,785 alleged probation violators (37 percent of total pretrial admissions) were admitted to the ACI, and they were detained an average of 31 days.⁴¹
- In FY2015, among pretrial admissions for alleged probation violations, 32 percent had been charged with a domestic violence offense.

- In FY2015, 1,336 sentenced probation violators (27 percent of all sentenced admissions) were admitted to the ACI.⁴²

- Felony probation violators had served an average of 10.5 months for technical violations and 13 months for new charges. In FY2015, misdemeanor probation violators had served approximately 2 months for either technical or new offense violations, on average.⁴³

More than half of people sentenced and admitted to the ACI have been revoked from probation supervision.

- In FY2015, probation violators who were revoked made up about 38 percent (or 1,336 people) of the state's sentenced admissions to the ACI. Among these people, 68 percent had been reincarcerated for new charges, and 29 percent had been reincarcerated for technical violations of the conditions of their supervision.⁴⁴
- Court data was matched to the 2015 ACI admissions, which uncovered 789 possible additional revocations. The data showed that in FY2015, up to 61 percent of sentenced admissions to the ACI may have been people whose probation was revoked.⁴⁵

The length of time people spend in the ACI awaiting trial or probation hearings has increased.

- There was a 19-percent increase in the length of stay for people awaiting a probation violation hearing in the ACI over the same time period. In FY2010, the average length of time people awaited a probation violation hearing was 26 days, and in FY2015 it was 31 days.⁴⁶

Rhode Island has a low standard of proof for probation violations.

- Rhode Island is one of only three states that uses "reasonable satisfaction" as the standard of proof for probation violations, meaning minimal evidence is required to substantiate the violation charge at a violation hearing.⁴⁷
- In statute, people accused of a probation violation can be held in the ACI without bail for up to 10 days; however, in practice, they are usually held for an average of 31 days while awaiting their violation hearings.⁴⁸
- Due to the low standard of proof and the long waiting period for a violation hearing, people on probation are likely to plead guilty to the violation regardless of whether they are actually guilty and accept an offer to "wrap" the new sentence with the original sentence for fear of losing employment, housing, and connection to family members if their probation is revoked and they are incarcerated.⁴⁹

Strategy 1: Modernize probation sentencing and policies.

POLICY OPTIONS

1A—Define in statute the purpose and function of probation and require that a probation term following a term of incarceration for most felony offenses be no longer than three years.

- Establish that the purpose of probation is to reduce recidivism through effective supervision and programming and to hold people accountable for complying with the conditions of their supervision, including paying restitution, when required.
- Establish a presumptive sentence of six months of probation for misdemeanor offenses.
- Establish a presumptive sentence of straight probation for most first-time felony offenses, with exceptions for violent and sex offenses.
- Establish a presumptive sentence of a suspended sentence for all non-first-time felony offenses.
- Cap probation terms following a period of incarceration at three years, allowing for longer terms of probation for offense-specific exceptions.
- Allow for the continuation of no-contact orders for victims of crime after probation is completed.
- Require that any unpaid restitution remaining after probation is completed must continue to be paid through the Superior Court Central Registry or district court, as applicable.

RATIONALE:

Although probation is widely imposed in Rhode Island, its purpose and standard practices are not clearly defined in statute. Effective probation is the best tool for reducing recidivism in a cost effective way compared to incarceration.

In Rhode Island, people sentenced to straight probation are less likely to recidivate within three years (48 percent) compared to people sentenced to a period of incarceration followed by probation (55 percent), regardless of people's risk level. Therefore, a presumptive sentence of straight probation should be utilized more often than it is currently used. To increase the use of straight probation sentences, other states, like Idaho, have adopted a presumptive sentence of probation for certain offenses.⁵⁰

With regard to the length of probation terms, research shows that there is little public safety benefit to keeping most people on probation longer than three years.⁵¹ Even so, the average length of probation terms for people released from the ACI in Rhode Island is six years.⁵²

By requiring a person on probation to continue paying any remaining restitution after probation is completed, this policy will ensure that people are not placed on probation longer than necessary and that victims retain their rights to restitution. (See Box: Victim Restitution and Compensation)

Victim Restitution and Compensation

Courts order restitution as part of a sentence when it is demonstrated that the victim sustained pecuniary losses (such as medical expenses, lost wages, or stolen or damaged property) as a result of the crime. Restitution can be vitally important to victims because they may lack the resources to make up for these losses. In addition, collection of restitution can provide the victim with assurance that the person who committed the crime is being held accountable for his or her actions.

Court-ordered restitution does not guarantee that the person ordered to pay it will do so, but it creates a process through which victims can legally pursue restitution that is owed to them.⁵³

The Rhode Island Crime Victim Compensation program is also available to assist victims of crime who have suffered a financial loss directly related to a crime, such as expenses related to medical treatment, mental health services, wage loss, relocation, or funeral expenses. While it is the payer of last resort, this program was established to mitigate the financial burden of victimization and to support victims of crime. Unlike restitution, the victim receives reimbursement for expenses at the outset and directly from the Rhode Island Crime Victims Compensation Fund.

1B—Require that a suspended sentence be no longer than would be an appropriate length of incarceration based on the offense or nature of the probation violation.⁵⁴

- Revise the Superior Court Sentencing Benchmarks to provide guidance to judges on the appropriate length of suspended sentences that the defendant may be required to serve if the probationer's probation is revoked.

RATIONALE:

Lengthy suspended sentences are routinely imposed without consideration for whether they would be an appropriate amount of time for someone to spend in the ACI for the offense or probation violation. The potential imprisonment time that the courts impose far exceeds the ACI's current operational capacity of 3,989 beds.

Current law allows judges to impose a longer or shorter suspended sentence than the probation term; however, the length of the probation term and the suspended sentence is almost always equal. Judges can and should take advantage of the latitude provided in the statutory language to determine an appropriate length of the suspended sentence.

1C—Reduce the average length of incarceration for technical probation violations.

- Define probation violation types, including technical, absconding, and new crime.
- Respond to probation violations swiftly and consistently, with non-incarceration options for lower-level violations and short periods of incarceration for higher-level violations.
- Allow the execution of the full suspended sentence or the revocation of probation for new crimes, absconding, or repeat technical violations.
- Allow probation violations that constitute a new criminal charge to be prosecuted as a separate sentence.

RATIONALE:

Currently, there is minimal distinction between responses to different violation types. For example, sentenced felony probation violators serve an average of 10.5 months in the ACI for technical violations and 13 months for new

criminal charges. Rhode Island can reduce the average length of incarceration for technical probation violations by responding to lower-level violations with sanctions that do not include incarceration, such as drug testing or increasing reporting requirements, and responding to higher-level violations with shorter periods of incarceration.

Research shows that people on probation are more responsive to sanctions and incentives that are swift, certain, and proportionate compared to sanctions that are delayed, inconsistently applied, and not proportionate to the seriousness of the violation.⁵⁵ In Rhode Island, responses to probation violations are severe, not swiftly administered, and costly to the state. Felony probation violators spend an average of 31 days in the ACI awaiting their probation violation hearings, and when sentenced, both felony and misdemeanor probation violators receive severe penalties of about six months in the ACI. Other states, including Alabama, Georgia, Hawaii, Idaho, Mississippi, Missouri, North Carolina, Oklahoma, Pennsylvania, Utah, and Washington have adopted shorter, more cost-effective sanctions to respond to different types of probation violations, with upper limits of 30 days, 60 days, or 90 days.

By reducing the length of incarceration for technical probation violations, Rhode Island could safely and effectively realize savings to be reinvested in improving supervision and community-based services to reduce recidivism. For example, if the average length of stay for sentenced felony probation violators who committed a technical violation were reduced from 10.5 months to 3 months, this alone could avert projected growth in the ACI population by 3 percent and avert \$1.7 million in spending over 5 years.

1D—Require a hearing within 7 days of a person's arrest for a probation violation, instead of the 10 days required under current law.

RATIONALE:

People on probation who are awaiting violation hearings account for one-third of the total pretrial admissions to the ACI. Even though current law states that these people

should be held without bail for no longer than 10 days, in practice, alleged felony probation violators are most often held in the ACI for about a month, which causes them to feel pressure to accept “wrapped” plea deals for fear of losing liberty, employment, housing, and connection to family members if their probation is revoked and they are incarcerated. Also, a swift process that takes into account risk of reoffending when considering whether or not to release someone from the ACI will reduce the length of stay for low-risk probation violators and save the state the cost of incarcerating them.

1E—Increase the standard of proof for probation violations.

- Adopt statutory language or court rule to increase the standard of proof for a probation violation to require a preponderance of the evidence.

RATIONALE:

The growing number of people sentenced to the ACI for probation violations is due, in part, to the low standard of proof for probation violations. Rhode Island is one of only three states that uses “reasonable satisfaction” as the standard of proof for probation violations, meaning minimal evidence is required to substantiate the violation charge at a violation hearing. This may contribute to a significant number of people (more than 2,000 people in FY2015) being convicted of violations and sentenced to the ACI. Increasing the standard of proof will bring Rhode Island in line with 47 other states and may help reduce the number of people sentenced to the ACI.

1F—Establish a policy that allows people who are currently on probation to petition the court for early termination of their probation.

- Define a category of eligible probationers who may petition the court for early termination of their probation.
- Request that the supreme court adopt procedures that:
 - Allow the superior court to grant early probation termination, in consultation with the attorney general;
 - Provide for a hearing in the event the attorney general objects; and
 - Allow for denial of termination if the individual on probation poses a current threat to public safety.

RATIONALE:

In Rhode Island, there are more than 23,000 people on probation, many of whom are on banked supervision and not actively supervised by their probation officer. In focus groups, people on probation described the difficulties they face when on prolonged probation, such as securing employment or low-income housing.⁵⁶ Establishing procedures for early probation termination for a category of eligible probationers would steadily, safely, and appropriately reduce the banked probation population without overwhelming the courts.

CHALLENGE 2: INEFFECTIVE PROBATION PRACTICES

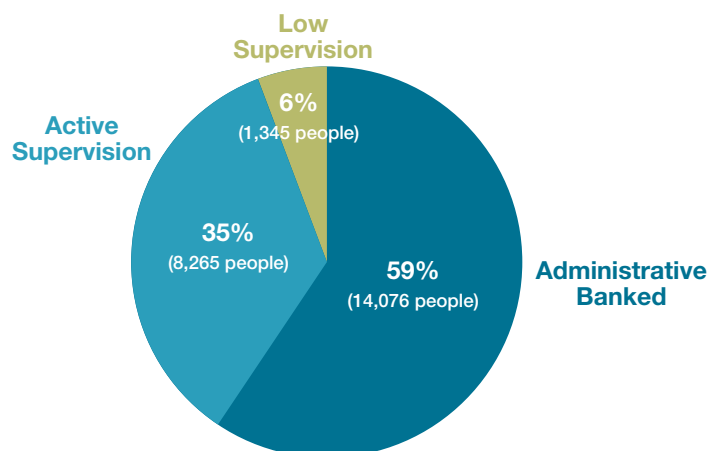
The probation system is overwhelmed, and officers are unable to provide the meaningful supervision that reduces recidivism and upholds public safety.

FINDINGS AND ANALYSIS

A majority of the probation population does not receive active supervision.

- In FY2015, 59 percent of the probation population was banked, 6 percent were on low supervision, and 35 percent were actively supervised.⁵⁷ (See Box: Probation Supervision Levels; see Figure 10)
- In FY2015, 21 percent of the banked probation population was black, 24 percent was Hispanic, and 49 percent was white.⁵⁸ (See Box: The Racial Composition of Rhode Island's Criminal Justice Population)

FIGURE 10. PROBATION POPULATION BY SUPERVISION LEVEL, FY2015



Probation Supervision Levels

In order to manage the large probation population, RIDOC's Probation and Parole Unit has established three levels of supervision:

Active: People on active supervision receive the most intensive supervision, which includes regular contact with a probation officer, as well as rehabilitation programming or treatment if required as a special condition of supervision by the court.

Low: People who receive a low level of supervision usually meet with a probation officer once a month or less, and may be required to participate in rehabilitation programs or treatment as special conditions of supervision determined by the court. People on low supervision do not remain at this level for a long period of time and typically transition quickly to banked supervision.

Administrative Banked: People who are banked receive no supervision and rarely meet with a probation officer, if at all.

Probation officers have the authority to transfer people on probation from one level of supervision to a lesser level, taking into account offense type, compliance with conditions of supervision, and completion of a LSI-R:SV risk screen conducted by probation officers. People who committed a nonviolent offense can be transferred to a lower level after six months, people who committed a violent offense can be transferred after one year, and people who committed a sex offense are ineligible to be transferred to a lower level of supervision.

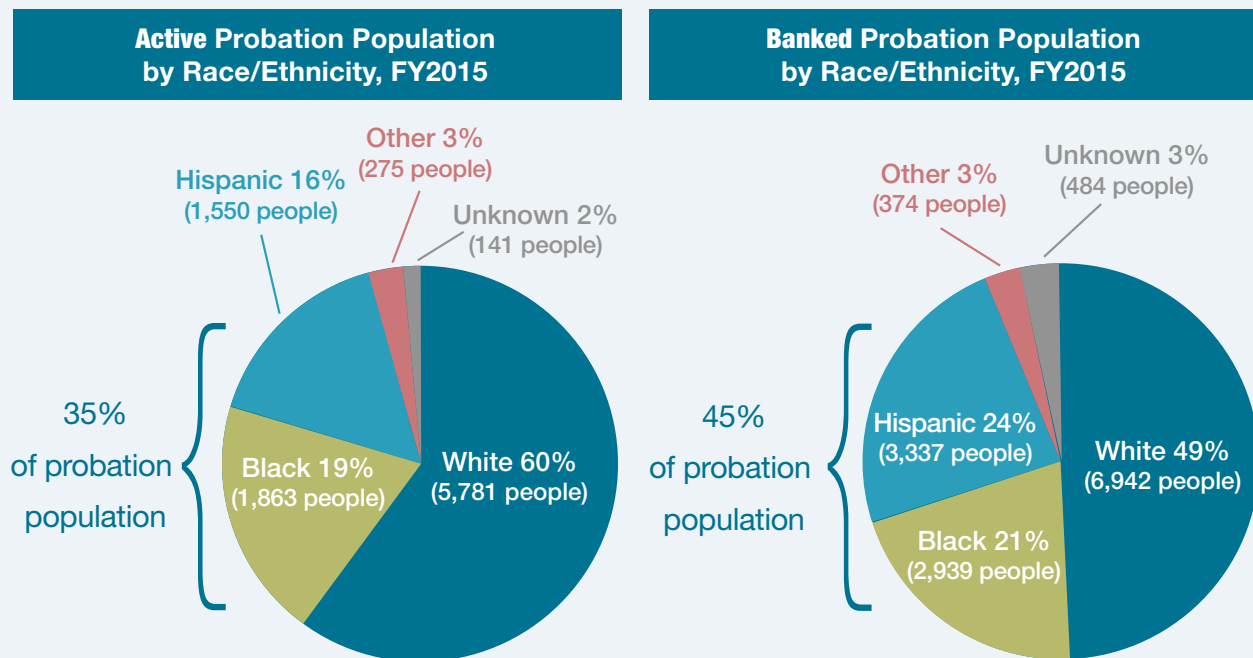
The Racial Composition of Rhode Island's Criminal Justice Population

Rhode Island's Justice Reinvestment Working Group expressed concern about the disproportionate representation of people of color in the state's criminal justice system as compared to the state's general population. A review of data in Rhode Island revealed that race information is not uniformly collected throughout the system, hampering efforts to analyze racial disproportionality in the system or to consider the related impact on the state's criminal justice policies.

Race data is adequately collected, however, at the point when an individual enters the probation system. Analysis of the FY2015 probation population showed that 35 percent of the active probation population and 45 percent of the banked probation population was black or Hispanic. (See Figure 11) In comparison, data from the 2010 census reports that only 23 percent of Rhode Island residents identify as black or Hispanic.⁵⁹

If the state wants to understand how criminal justice policies are impacting people of color, it must begin by improving data collection and reporting on race.

FIGURE 11. PROBATION POPULATION BY SUPERVISION TYPE AND RACE, FY2015



Probation officer caseloads are high and unmanageable.

- In FY2015, the average active caseload per probation officer was 155 people of mixed risk levels.⁶⁰
- Probation officers reported that their active caseloads are unmanageable, and they spend most of their time on paperwork, leaving them with very little time per visit to interact with each of the people they supervise. As a result, they are not able to properly apply evidence-based practices, such as motivational interviewing.⁶¹
- Some people on probation feel that because of unmanageable caseloads, probation officers do not have the capacity to recognize the accomplishments of probationers and instead only focus on issuing sanctions for negative behavior.⁶²

Probation supervision protocols do not include evidence-based practices, such as using risk and needs assessments to inform supervision intensity levels and prioritizing resources for high-risk, high-needs probationers.

- In FY2015, RIDOC began using an 8-factor risk-screening tool (LSI-R:SV), but screening scores are used minimally to inform supervision levels or to prioritize programming resources.⁶³
- Probation supervision does not routinely include cognitive-behavioral interventions (CBI) to mitigate criminal thinking. Although probation officers have recently been trained in Effective Practices in Community Supervision (EPICS)—a model for using CBI to structure supervision interactions—they have been unable to apply this training because they lack adequate time with the probationers they supervise to do so.⁶⁴

Understanding Risk and Needs Assessments

Risk and needs assessments can be administered at any time during a person's contact with the criminal justice system—pre-sentence, placement on probation, admission to a correctional facility, pre-release from a correctional facility, and during post-release supervision. These assessments are similar to actuarial tools used by insurance companies to rate risk: they predict the likelihood of future outcomes according to their analysis of “static” or past activities (e.g., criminal history) and “dynamic” or present conditions (e.g., behavioral health needs).

Objective risk and needs assessments have been shown to be more reliable than a professional's individual judgment. These assessments can be used at multiple decision points to direct the supervision intensity, case planning, programming, and treatment referrals.⁶⁵

The reliability of risk and needs assessments must be routinely validated to ensure accuracy. Validation studies should examine the instrument's ability to identify groups of people with different probabilities of reoffending, inter-rater and intra-rater reliability, fairness across all populations, and practicality and efficiency of use.⁶⁶

Rhode Island's policies and practices do not ensure that responses to violations are swift, consistent, and fair.

- Probation officers have limited authority to implement sanctions for violations. Probation officers reported that the best tool currently available to them for sanctioning behavior is inconveniencing the probationer by increasing the number of contacts or denying travel vouchers.⁶⁷
- Probation officers lack the authority to direct higher-risk people on probation to resources. Specifically, probation officers cannot modify conditions of probation even in light of new or changing circumstances that impact a person's ability to comply with probation supervision, such as fluctuations in behavioral health needs.
- People on probation are detained an average of 31 days in the ACI while awaiting probation violation hearings, and responses to violations are at the full discretion of the presiding judge. Current policies lack specificity to ensure that responses to violations are swift, consistent, and proportionate to the seriousness of the violation.⁶⁸

The state does not have an electronic probation case-management system.

- Currently, RIDOC does not have an electronic case-management system for tracking the status of people on probation. As a result, probation case data cannot be exported into data files in order to glean even the most basic patterns, such as how many people completed or were terminated from supervision and under what circumstances.
- Probation officers are saddled with paper files and outdated information about the people they supervise.⁶⁹

The state lacks community-based treatment resources for people on probation.

- Timely access to behavioral health care for people on probation is an issue that multiple stakeholders have identified as a significant challenge. Specifically, discharge planners in the ACI report having difficulty connecting people being released to probation supervision with substance use treatment programs in the community, which have limited capacity.⁷⁰
- In a focus group, many probationers said that substance use disorders and mental health needs contributed to their criminal behavior. Rhode Island's probation system does not use a validated risk and needs assessment to help probation officers understand the behavioral health needs of the probationers they supervise.⁷¹
- Batterer's Intervention Programs (BIP) are court-mandated programs for people convicted of a domestic violence offense but they are not funded by the state. All BIPs require offenders to pay for their own treatment at each session. This reliance on program participant fees makes program funding precarious.⁷²
- There are currently only five treatment providers in the state that offer the court-mandated BIP. As a result, the waitlist for BIPs is lengthy and cannot meet the demand of the justice system. Probation officers reported that in many cases, the length of time a probationer waits to access a BIP is longer than his or her probation term.

Strategy 2: Improve probation supervision practices and prioritize treatment and programming for high-risk, high-needs probationers.

POLICY OPTIONS

2A—Require RIDOC to conduct validated risk and needs assessments within 60 days of placement on probation so that judges can determine any special conditions of probation supervision, and probation officers can determine the appropriate intensity of supervision.

- Define, in statute, the general conditions for probation, including reporting to the probation officer as directed and paying restitution, if ordered.
- Require the use of a validated risk and needs assessment within 60 days of placement on probation so that probation officers can determine the appropriate intensity of supervision.
- Provide judges with the results of risk and needs assessments to help them set special conditions of supervision, as necessary.
- Screen for behavioral health needs, and when necessary, conduct a full clinical assessment.
- Revalidate risk and needs assessments routinely.
- Require ongoing training for probation officers in evidence-based practices, such as motivational interviewing.

RATIONALE:

Judges impose special conditions of probation without reviewing the results of validated risk and needs assessments. Consequently, people on probation may be mandated to complete treatment or programming that does not address their specific criminogenic needs. Conversely, they may not be given treatment or programming that does meet their needs. For example, a person with a serious substance use issue may need treatment but unless treatment is required by the court as a special condition of probation, probation officers cannot force the person to get treatment. Timely access to the results of risk and needs assessments will help judges identify appropriate special conditions of supervision.

Validated risk and needs assessments also help identify people who are at a high risk of reoffending, along with the

level of supervision and services that are most likely to help these people succeed in the community. Research shows that over-supervising low-risk people can actually increase recidivism, while targeting high-risk people for more intensive supervision ensures that resources are concentrated on individuals for whom they will have the greatest impact.⁷³ Reviewing the results of risk and need assessments helps RIDOC appropriately classify the composition of caseloads and prioritize supervision intensity for those who are high-risk in order to reduce recidivism and improve public safety.

2B—Require smaller caseloads for probation officers who supervise high-risk, high-needs people so they can provide more intensive supervision.

RATIONALE:

People who are high risk and high needs are more likely to reoffend and require intense supervision. Because active caseloads are currently so large (an average of 155 people per probation officer), probation officers can only provide a minimal level of supervision for everyone on their caseloads, regardless of their risk or needs.

Probation can reduce recidivism rates when the intensity of supervision is matched to the risk and needs of the probationer. While there is no universal caseload size standard, the American Probation and Parole Association suggests that probation officers who supervise high-risk probationers should have from 20 to 30 cases, while probation officers who supervise low-risk probationers should have from 120 to 200 cases.⁷⁴ By requiring smaller caseloads for probation officers who supervise high-risk, high-needs people, these officers will be able to tailor supervision practices for these probationers.

2C—Require RIDOC to adopt a clear and consistent policy that allows probation officers to respond to probationers' behavior with incentives and sanctions based on evidence-based practices shown to reduce recidivism.

- Establish guidelines for incentives and sanctions for technical violations that are proportionate.

- A non-incarceration sanction might include: issuing a warning ticket, increasing urine testing, increasing contacts, or imposing a curfew.
- Incentives might include: verbal praise, issuing certificates of completion, reducing contacts, or transferring to a lower level of supervision.

- Require probation officers to use these guidelines to respond appropriately to behavior.

RATIONALE:

Probation officers need more effective options to help change the behavior of the people they supervise. Currently, if a person on probation is not following the conditions of his or her supervision, probation officers respond primarily by increasing the frequency of meetings with the probationer and have few other options. To change behavior, research shows that providing incentives for positive behavior is more effective than just using sanctions to respond to negative behavior.

Establishing guidelines for when and how probation officers should use incentives and sanctions will promote responses to behavior that are effective, consistent, and proportionate.

2D—Amend RIDOC’s policy for transitioning people on probation to lower levels of supervision so that they can be moved from active and low supervision to banked status more quickly, accounting for risk level, offense type, compliance with conditions of supervision, and time on supervision, when appropriate.

- Require probation officers to transfer low-risk people with misdemeanor offenses to banked status immediately at the start of the probation term.
- Require probation officers to transfer moderate-risk people with misdemeanor offenses and low-risk people with a felony offense from active or low supervision to banked status three months after the start of the probation term, assuming compliance, with exceptions for people who have committed violent or sex offenses.
- Require probation officers to transfer high-risk people with misdemeanor offenses and moderate-risk people with felony offenses from active or low supervision to banked status nine months after the start of the probation term, assuming compliance, with exceptions for people who have committed violent or sex offenses.

- Require probation officers to transfer high-risk people with felony offenses from active or low supervision to banked status 12 months after the start of the probation term, assuming compliance, with exceptions for people who have committed violent or sex offenses.
- People who have committed more serious offenses, such as violent and sex offenses, would not be subject to these transfer guidelines.
- Apply this new policy to the existing probation population, as well as to people sentenced to probation in the future.

RATIONALE:

Transferring people on probation from active and low supervision to banked status based on risk level, offense type, compliance, and time on supervision will help prioritize supervision resources for high-risk, high-needs people. Placing high-risk people onto active and low-risk people onto banked caseloads, respectively, will make caseloads more manageable for probation officers and will incentivize people on probation to comply with the conditions of their probation in order to achieve lower levels of supervision. Applying this policy to people currently on probation, as well as to future probationers, will have an immediate impact on the size of caseloads.

2E—Adopt an electronic case-management system that streamlines and improves record keeping and helps track the status of people on probation.

- Adopt a computerized case-management system that allows probation officers to develop case plans and record information about the people they supervise, including but not limited to, information about compliance with supervision, results of risk and needs assessments, demographic details, and prior criminal history.
- This case management system should allow RIDOC to analyze and report on key indicators, including factors contributing to delays in corrections and parole processes; ACI admissions and releases for all types of offenses; availability of and participation in community-based programs; and recidivism.

RATIONALE:

The state’s paper-based record system is outdated and cumbersome. Probation officers are inundated with paperwork, spending most of their time on administrative tasks rather than actively supervising people on probation.

Transitioning from a paper-based system to an electronic case-management system would streamline administrative duties and allow more time for probation officers to interact with the people they supervise. Without sufficient data system upgrades, RIDOC cannot conduct the monitoring and tracking that is necessary to evaluate the impact of probation policies and practices.

2F—Require and fund evidence-based programs in the community for high-risk people on probation.

- Require behavioral health care providers to utilize evidence-based programs and practices that reduce recidivism, such as CBIs, when providing treatment services for probationers.

RATIONALE:

Research demonstrates that supervising high-risk probationers with behavioral health needs without incorporating treatment or programming has minimal impact on recidivism. For example, a meta-analysis from the Washington State Institute for Public Policy looked at studies on surveillance-oriented supervision and found it to have no effect on recidivism. Supervision coupled with treatment and programming based on risk and need, however, was shown to reduce recidivism by as much as 30 percent.⁷⁵ Increasing funding for and availability of community-based treatment and programming will help reduce recidivism by addressing probationers' risks and needs.

2G—Incentivize behavioral health care providers to ensure access to treatment for high-risk, high-needs people on probation.

- Leverage Medicaid to implement a value-based incentive program to motivate behavioral health care providers to render timely and effective services to people on probation.
- Require behavioral health care providers that serve people on probation to tailor their interventions to people with higher risk and needs.

RATIONALE:

People on probation who have substance use and mental health needs have a high likelihood of failing on probation at great cost to themselves and society. Unfortunately, many people transitioning from incarceration to probation who have behavioral health needs do not have timely access to treatment. Due to gaps in Medicaid coverage,

people transitioning from incarceration to probation have difficulty maintaining continuity of behavioral health care, a key component to successful reentry.

Furthermore, people on probation with serious behavioral health disorders require more specialized and expensive interventions than current rate structures are designed to support. Treatment providers consistently report that they cannot recruit and retain the specialized behavioral health practitioners needed to do this work within the restrictions of the current rates for services. As a Medicaid expansion state, Rhode Island is positioned to take advantage of value-based incentives to encourage providers to offer effective interventions while fully leveraging federal resources.⁷⁶

2H—Improve the quality of Batterer's Intervention Programs and refer only people on probation who will benefit from this programming.

- Require only people sentenced for a domestic violence offense involving an intimate partner to complete a BIP, and tailor program requirements according to each person's assessed criminogenic needs.
- Provide expansion grants to cover the cost of participation in a BIP for indigent offenders who are not able to pay their own fees for service.
- Provide program improvement grants to providers to help them transition to a more effective program design and to train staff.

RATIONALE:

In Rhode Island, every person convicted of a domestic violence offense is required to participate in a BIP. This program is designed specifically for people who engage in intimate partner violence or spousal abuse, yet people who do not fall in this category also must participate.

There are not enough BIPs to accommodate the large number of people who are on probation due to domestic violence offenses. There are long waitlists for BIPs and oftentimes misdemeanor probationers cannot access the program before the end of their probation terms. All of the BIPs have outdated curricula and rely solely on participant fees to fund the program. Improving the capacity and quality of BIPs and ensuring that only probationers identified as appropriate for the program participate better applies resources to people most likely to benefit.

Challenge 3: INSUFFICIENT INFORMATION FOR PRETRIAL DECISION MAKING

Judges are not given the information they need to make pretrial release decisions, identify appropriate pretrial diversion options, and connect people to treatment.

FINDINGS AND ANALYSIS

Rhode Island has a validated pretrial risk assessment tool, but it is rarely used.

- The state's validated pretrial risk assessment tool is not routinely used to determine risk of failure to appear (FTA) in court and risk of reoffending during the pretrial stage, and only a small number of people are ever assessed.
- Most states with a unified correctional system statutorily require a pretrial risk assessment. For example, Delaware requires its courts to base release decisions on pretrial risk assessment results, and Connecticut conducts pretrial risk assessments on all defendants who are not released on personal recognizance.⁷⁷

Most people who are awaiting trial in the ACI have not been assessed for risk and needs.

- In FY2015, 11,378 people were arraigned and then detained in the ACI without being assessed for their risk of FTA, risk of reoffending, or mental health and substance use treatment needs.
- People awaiting trial accounted for a significant portion (20 percent) of the ACI population in FY2015. Of this population, 92 percent were male, 47 percent were non-white, and 43 percent were under the age of 30.⁷⁸

The length of time people spend in the ACI awaiting trial has increased.

- The length of stay in the ACI for people awaiting trial for a new felony offense and who were bail eligible increased 47 percent, from 21 days in FY2010 to 32 days in FY2015. During the same period, the length of stay in the ACI for people awaiting trial for a new misdemeanor offense increased 20 percent, from 5 to 6 days.⁷⁹

Pretrial admissions to the ACI for failure to pay (FTP) court fees and FTA in court have increased in recent years.

- Between FY2010 and FY2015, pretrial admissions for FTP/FTA increased 37 percent, from 3,452 to 4,717

admissions. The average length of stay for this population is six days, and the increase in admissions places a strain on the ACI's resources.⁸⁰

Admissions to the ACI for probation violations have increased significantly.

- Annual admissions for people charged with probation violations increased 45 percent between FY2010 and FY2015, from 1,925 to 2,785 admissions.⁸¹
- At the end of FY2015, people charged with probation violations who were detained in the ACI occupied 238 beds, accounting for at least one-third of the total pretrial population.⁸²

Although behavioral health assessments are not routinely conducted during the pretrial stage, data matches across systems show that more than half of the pretrial population in the ACI has mental health or substance use disorders, or both.⁸³

- In FY2015, 11 percent of people awaiting trial for new offenses were flagged as having mental health disorders, 11 percent were flagged as having substance use disorders, and 29 percent had co-occurring disorders. In total, 51 percent of the pretrial population held in the ACI for new offenses were identified as having behavioral health disorders.⁸⁴
- In FY2015, 12 percent of people held in the ACI awaiting court hearings for probation violations were flagged as having mental health disorders, 15 percent were flagged as having substance use disorders, and 26 percent had co-occurring disorders. In total, 53 percent of people held in the ACI for probation violations were flagged as having behavioral health disorders.⁸⁵
- In the same year, 51 percent of people awaiting trial for new drug- or property-related offenses had mental health disorders, substance use disorders, or both, and 51 percent of people awaiting trial for new violent or sex offenses had behavioral health needs.⁸⁶

- At the front end of the criminal justice system, members of law enforcement may lack the training to determine whether a person is experiencing a mental health crisis and/or may not be aware that they have the ability to issue a summons rather than arrest someone when it does not serve a public safety need.⁸⁷
- When a mental health issue is identified by law enforcement, there are few facilities where an officer can take someone to be stabilized aside from an emergency room.

Alternatives to Incarceration in Rhode Island

As an alternative to incarceration, diversion opportunities for felony and misdemeanor defendants in Rhode Island include:

Law Enforcement Diversion (pre-arrest and pre-arraignment): Members of law enforcement may divert a person from being admitted into the ACI under the following circumstances: (1) police officers may issue a summons in lieu of arrest for people charged with a misdemeanor offense; and (2) the highest ranking officer in a police station has the authority to release someone who was arrested for mere drunkenness.

District Court's Pretrial Services Unit (PTSU) (pre-sentence): The PTSU is a district court diversion program to which judges may refer defendants as a condition of their bail. Pretrial investigators supervise these defendants and often refer them to substance use and mental health treatment or to the Community Confinement Program. Judges have the discretion to dismiss a case when a defendant successfully participates in the PTSU. Currently, judges referring people to the PTSU do not have access to validated risk assessments so they are unaware that there may be more people who are eligible for and might benefit from the program.

Attorney General's Adult Diversion Unit (pre-sentence): The attorney general's office has authority over the Adult Diversion Unit, a program for first-time nonviolent felony defendants with no criminal history who must participate in behavioral health treatment, community service at a nonprofit organization, and/or pay victim restitution in lieu of incarceration or probation. The attorney general's office has the authority to dismiss a case if the person successfully completes the program. The Adult Diversion Unit is not governed by statute and has narrow eligibility requirements, which are subject to the attorney general's discretion. In 2014, 438 people were referred to this diversion program, 249 were accepted, and 223 successfully completed it.⁸⁸

Filing (pre-sentence): A filing allows a judge to postpone for a period of one year a formal criminal complaint against a person who allegedly committed a misdemeanor after which time the case will be dismissed if the person does not commit any filing violations, such as a new crime.

Deferred Sentence (sentence): With approval from the attorney general's office, judges may impose a deferred sentence for people convicted of certain felony offenses. When a sentence is deferred, a defendant must successfully complete five consecutive years of probation, after which time no conviction or criminal record will result. If the person violates the conditions of supervision, however, and receives a term of incarceration during the deferred sentence, the five-year probation period begins anew when the person is released. Deferred sentences are not an option for people who plead guilty, only for those who plead *nolo contendere*.⁸⁹

Straight Probation (sentence): If someone is sentenced to straight probation, he or she is monitored by a probation officer for a set period of time. While on probation, the person may be required to comply with special conditions set by the court, such as maintaining sobriety or participating in mental health treatment. Successful completion of a straight probation sentence results in the expungement of the person's criminal record.

Superior Court's Adult Drug Court (sentence): With approval from the attorney general's office, judges may sentence certain nonviolent offenders with a history of substance use to the Adult Drug Court, which requires a combination of intensive probation supervision and substance use treatment typically over a 12- to 15-month period. In 2014, 108 people were referred to the Adult Drug Court, 52 graduated, and 10 were terminated from the program.⁹⁰

The District Court's PTSU has a high completion rate for people charged with misdemeanor offenses.

- In FY2015, approximately 750 people were diverted to supervision by the PTSU; 36 percent were felony defendants and 63 percent were misdemeanor defendants.⁹¹
- Misdemeanor PTSU participants who complete the program have a high rate of case dismissal. Among FY2013 misdemeanor PTSU participants, 95 percent were arrest-free, 87 percent made their court appearances, 82 percent complied with PTSU monitoring conditions, and 46 percent of these cases were dismissed.
- In Rhode Island, every criminal case originates in the district court regardless of the charge. If the charge rises to the felony level, the case is then transferred to the superior court, but while in the jurisdiction of the district court, a felony defendant can be ordered to the PTSU.⁹²
- Participants in the PTSU tend to be young white males. In FY2015, the PTSU population was 71 percent male, 72 percent white, and 41 percent under the age of 30.⁹³

Strategy 3: Assess defendants' risk and needs and divert more eligible people to appropriate programs.

POLICY OPTIONS

3A—Require the use of a pretrial risk assessment and needs screen for people detained for felony or domestic violence misdemeanor offenses.

- Use a pretrial risk assessment for risk of FTA in court and risk of reoffending and a needs screen to help determine eligibility for diversion that can be conducted in a timely manner.
- Initially use the pretrial risk assessment and needs screen on people charged with felony offenses and domestic violence misdemeanor offenses, and ultimately assess everyone regardless of offense type, as court resources are made available.
- Require a behavioral health assessment for people assessed as high risk by the pretrial risk assessment and needs screen.
- Require a dangerousness or lethality assessment for people accused of an intimate partner domestic violence offense who are assessed as high risk by the pretrial risk assessment.

RATIONALE:

Multiple diversion opportunities currently exist in Rhode Island for felony and misdemeanor defendants. However, insufficient information is provided to the courts to appropriately determine someone's risk for FTA in court or risk of reoffending, as well as information about who is eligible for unsupervised release at the pretrial stage or diversion opportunities. Currently, determining who should participate in diversion programs is subjective and is not based on the results of a risk assessment and needs screen.

A pretrial process that requires the use of a risk assessment and needs screen will provide judges with more information about the defendant prior to key decision points and ensure that they are able to determine who may be eligible for diversion programs.

While this policy should ultimately be implemented for all defendants, the district court should first focus on

people charged with felony offenses and misdemeanor domestic violence offenses.

3B—Expand the use of the district court's PTSU.

- Provide the results of the pretrial risk assessment and needs screen to district court judges so that they can identify opportunities to divert more defendants for the PTSU.
- Place high-risk felony defendants and those charged with misdemeanor domestic violence offenses under the supervision of the PTSU, if they are released pretrial. Supervision of PTSU participants and services should be tailored based on risk and needs assessments, with reports regularly provided by the PTSU investigators to the court, attorney general, and public defender or private defense attorney.
- Establish a process whereby records from the PTSU for people charged with a felony offense are provided to the superior court.

RATIONALE:

Between 700 and 750 people are actively supervised on PTSU at any given time. Of people in the PTSU program, 63 percent are misdemeanor defendants and 36 percent are felony defendants.⁹⁴ The PTSU has a high completion rate for people who are charged with misdemeanor offenses, and if expanded, could have similar outcomes for high-risk felony defendants. Felony defendants can be in the district court for a significant amount of time before being transferred to the superior court and would benefit from the high-intensity supervision provided by the PTSU investigators.

PTSU investigators provide high-intensity supervision and have the ability to connect defendants to appropriate services, while keeping them out of the overburdened probation system. Further, by providing the court, attorney general, and public defender or private defense

attorney with regular updates on the defendant's progress, the PTSU contributes to a more informed judicial process.

3C—Establish a superior court diversion program.

- Establish a superior court diversion program that would be directed by the presiding justice of the superior court, in which defendants enter into contractual conditions of diversion and report regularly to the magistrate.
- Upon successful completion of the program in one year, the case may be dismissed and sealed.

RATIONALE:

Unlike the district court, the superior court does not have any diversion programs for felony defendants. By establishing a diversion program within the superior court, eligible felony defendants have an opportunity to have their case dismissed and sealed if they successfully complete the program.

3D—Clarify in statute the eligibility and other requirements for existing diversion programs.

- Establish the attorney general's Adult Diversion Unit in statute.
- Give judges exclusive authority to use deferred sentences as a diversion option, and allow a deferred sentence for three years instead of the five years required under current law.
- Provide clear authority for law enforcement to divert people who are having a mental health crisis.

RATIONALE:

Some of the diversion opportunities that exist in Rhode Island are not established or described clearly in law, such as the attorney general's Adult Diversion Unit.

Other diversion options have been established in statute, but the language describing the option is restrictive or unclear. For example, deferred sentences are established in statute, but eligibility criteria are unclear and the courts must have approval from the attorney general to impose the sentence.

3E—Establish a process to report the length of stay of pretrial defendants detained in the ACI.

- Establish a process in the district and superior courts to monitor and report the length of stay for defendants detained in the ACI at the pretrial stage.⁹⁵

RATIONALE:

In Rhode Island, felony defendants are detained in the ACI for an average of 31 days, regardless of their risk level. Research shows that detaining low-risk defendants, even just for a few days, correlates with higher rates of new criminal activity. One study showed that low-risk defendants have a 40-percent higher chance of committing a new crime before trial when held for 2 or 3 days compared to those held 1 day or less, and a 51-percent higher chance of committing a new crime within 2 years when held for 8 to 14 days compared to 1 day or less.⁹⁶

SUSTAINABILITY POLICY OPTIONS

The state may consider four additional policies to assess, track, and ensure the sustainability of the recidivism-reduction strategies outlined in the Justice Reinvestment Policy Framework:

1. Require that a statewide identification number be assigned to each person convicted of a crime for the purpose of tracking rearrest rates across the criminal justice system.
2. Improve the collection and uniformity of race data at various points in the criminal justice system to enable the analysis of outcomes by race.
3. Use correctional population impact statements to inform proposed legislation and require appropriations committees to approve future implementation costs for such legislation.
4. Create an advisory body to monitor and assess the impact of the Justice Reinvestment Policy Framework on an ongoing basis across all relevant data systems.

ADDITIONAL POLICY OPTIONS

The state may consider 10 additional policies that would improve victim services, due process, certain criminal penalties, and parole.

Victims

1. Expand eligibility for the victim compensation program.
 - a. Remove time restrictions for reporting crimes to law enforcement and applying to the program.
 - b. Disassociate a victim's prior criminal history from his or her eligibility for the victim compensation program.
2. Increase victim compensation benefit caps for relocation and transportation expenses.
3. Improve victim notification services throughout the criminal legal system, unless the victim opts out.

Due Process

4. Impose fees for warrants based on the person's ability to pay.
5. Eliminate the law that requires a defendant to negotiate a fee to pay the justice of the peace for bail hearing services when the court is closed.

Criminal Penalties

6. Establish more graduated penalty levels for felony property crimes (over \$1,500) and felony assault without serious bodily injury.

Parole

7. Direct the parole board to focus attention on the population serving more than one year in the ACI who would otherwise reach their maximum sentence and be released from the ACI without parole supervision.
8. Allow community confinement without risking ineligibility for parole.
9. Give the parole board the discretion to grant good time credit for an individual who is revoked from parole.
10. Give the parole board greater discretion to grant medical paroles.

ENDNOTES

1. E. Ann Carson, Prisoners in 2012 (Washington, DC: Bureau of Justice Statistics, December 2013) <http://www.bjs.gov/content/pub/pdf/p12tar9112.pdf>; E. Ann Carson, Prisoners in 2014 (Washington, DC: Bureau of Justice Statistics, September 2015), <http://www.bjs.gov/content/pub/pdf/p14.pdf>.
2. Wendy Ware and Roger Ocker, "Rhode Island Department of Corrections (RIDOC) Ten-Year Prison Population Projections Brief, FY2015–2025," (Denver: The JFA Institute, 2014).
3. CSG Justice Center analysis of FY2015 RIDOC pretrial data; CSG Justice Center analysis of RIDOC sentenced admission data matched to RI Supreme Court sentencing data; Rhode Island has a unified correctional system in which people who are detained awaiting disposition of their cases, those who are already sentenced to incarceration, and those on probation and parole supervision are under the jurisdiction of RIDOC. RIDOC correctional facilities are collectively referred to as the Adult Correctional Institutions (ACI) and include seven correctional facilities.
4. Bureau of Justice Statistics, "Probation and Parole in the United States, 2014." The most recent data available for probation rates across the nation is from 2014.
5. RIDOC, "Adult Probation and Parole: Offenders Living in RI Communities as of 06-30-14," (Providence: RIDOC, 2014); The per capita statistics exclude probationers who were out of the state or held in the ACI.
6. Bureau of Justice Statistics, "Felony Sentences in State Courts" (2006); CSG Justice Center analysis of FY2012 RIDOC probation stock data.
7. CSG Justice Center analysis of RIDOC pretrial and sentenced stock data.
8. Email correspondence between CSG Justice Center and RIDOC, September 2015.
9. 2008 H-7204Aaa standardized the calculation of earned time credits, established risk reduction program credits, and required the use of risk assessments to inform parole release decisions.
10. For more information please see: http://www.governor.ri.gov/documents/orders/ExecOrder15-11_07072015.pdf.
11. Bureau of Justice Statistics, "Probation and Parole in the United States, 2014." Bureau of Justice Statistics, "Felony Sentences in State Courts" (2006); CSG Justice Center analysis of FY2012 RIDOC probation stock data.
12. CSG Justice Center analysis of RIDOC data; Email correspondence between CSG Justice Center and RIDOC, September 2015.
13. Ware, *RIDOC Ten-Year Prison Population Projections Brief*; Incarcerated population includes both the sentenced and the pretrial populations.
14. *Ibid.*
15. Rhode Island Budget Office, "FY2015 Budget as Enacted," (Providence: Rhode Island Budget Office); Custody and security includes: Inmate Population Housing, Correctional Officer Overtime, Transfer of State Fleet Unit, State Criminal Alien Assistance Program (SCAAP), Transfer CO Cost to Capital Funding.
16. *Ibid.*
17. Rhode Island Budget Office, "FY2015 Budget as Enacted."
18. CSG Justice Center analysis of RIDOC data. Total criminal justice population includes all probationers, parolees, and the ACI sentenced and pretrial population.
19. Bureau of Justice Statistics, "Probation and Parole in the United States, 2014." The most recent data available for probation rates across the nation is from 2014.
20. *Ibid.*
21. RIDOC, "Adult Probation and Parole: Offenders Living in RI Communities as of 06-30-14," (Providence: RIDOC, 2014). The per capita statistics exclude probationers who were out of the state or held in the ACI.
22. CSG Justice Center analysis of RI laws and statutes.
23. CSG Justice Center analysis of RIDOC probation and parole unit; Council of State Governments Justice Center, *Justice Reinvestment in North Carolina: Three Years Later* (New York: Council of State Governments Justice Center, 2014); Evaluation of Washington State Department of Corrections (WADOC) Swift and Certain (SAC) Policy Process, Outcome and Cost-Benefit Evaluation, Washington State University (2015).
24. Tex. Gov. Code § 509.0041; Miss. Code Ann. § 47-7-9; KY. Rev. Stat. Ann. § 439.3101.
25. CSG Justice Center analysis of FY2006–FY2015 RI Supreme Court sentencing data.
26. *Ibid.*
27. CSG Justice Center analysis of FY2006–FY2015 RI Supreme Court sentencing data; RIDOC, "Population Report FY2015," (Providence: RIDOC, 2010).
28. CSG Justice Center focus group of superior and district court judges, August 2015.
29. CSG Justice Center analysis of FY2006–FY2015 RI Supreme Court sentencing data.
30. Bureau of Justice Statistics, "Felony Sentences in State Courts" (2006); CSG Justice Center analysis of FY2012 RIDOC probation stock data.
31. CSG Justice Center analysis of FY2006–FY2015 RI Supreme Court sentencing data.
32. CSG Justice Center analysis of RIDOC pretrial and sentenced stock data.
33. D.A. Andrews and James Bonta, *The Psychology of Criminal Conduct*, 5th Edition. (New York, New York: Routledge, 2010).
34. Bureau of Justice Statistics, "Felony Sentences in State Courts" (2006).
35. CSG Justice Center analysis of national probation practices.
36. CSG Justice Center analysis of RI Supreme Court sentencing data.
37. *Ibid.*
38. *Ibid.* Due to data limitations, resentencing after three years was used as a measure of recidivism. The resentencing measure was based on court sentencing data only, includes only new probation starts, relies on estimate of probation start date for split sentences, and is defined as a revocation or new case conviction within three years of probation start.
39. CSG Justice Center analysis of RI Supreme Court sentencing data.
40. CSG Justice Center analysis of RIDOC probation stock population data.
41. CSG Justice Center analysis of RIDOC pretrial and sentenced stock data. Date rounded to the nearest whole number.
42. *Ibid.*
43. *Ibid.*
44. CSG Justice Center analysis of RIDOC sentenced admission data; A technical violation of probation or parole is misconduct by a person under supervision that is not a criminal offense and generally does not result in arrest, such as failing to report for a scheduled meeting with the probation officer, missing a curfew, or testing positive for drug or alcohol use.
45. CSG Justice Center analysis of RIDOC sentenced admission data matched to RI Supreme Court sentencing data.
46. *Ibid.*
47. Alabama and South Dakota also use "reasonable assurance" as the standard of proof for probation violations.
48. CSG Justice Center analysis of RIDOC pretrial data.
49. CSG Justice Center focus group of community advocates, service providers, and individuals who were formerly incarcerated or currently on probation/parole, October 2015.
50. For more information on Idaho's §19-2521, see the statute at <https://legislature.idaho.gov/idstat/Title19/T19CH25SECT19-2521.htm>.
51. Patrick A. Langan and David J. Levin, *Recidivism of Prisoners Released in 1994* (NCJ 193427) (Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 2002); Matthew Durose, Alexia Cooper, and Howard Snyder, *Recidivism of Prisoners Released in 30 States in 2005: Patterns from 2005 to 2010* (NCJ 244205) (Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 2014).
52. CSG Justice Center analysis of RI Supreme Court sentencing data.
53. For more information about victim restitution, see "Making Restitution Real Toolkit," The National Center for Victims of Crime, accessed December 1, 2012, available at www.victimsofcrime.org/library/publications/restitution-and-compensation/restitution-toolkit.
54. Serious violations may include absconding, violation of a protective order, and arrest for a new crime.
55. Crime and Justice Institute, *Implementing Evidence-Based Policy and Practice in Community Corrections*, Second Edition (Washington, DC: National Institute of Corrections, 2009); Tony Fabelo, Geraldine Nagy, and Seth Prins, *A Ten-Step Guide to Transforming Probation Departments to Reduce Recidivism* (New York: CSG Justice Center, 2011); American Probation and Parole Association, "Effective Responses to Offender Behavior: Lessons Learned for Probation and Parole Supervision" (Lexington: The American Probation and Parole Association, 2013); Faye S. Taxman, David Soule, and Adam Gelb, "Graduated Sanctions: Stepping into Accountable Systems and Offenders," *Prison Journal*, 79(2)(1999).
56. CSG Justice Center focus group of community advocates, service providers, and individuals who were formerly incarcerated or currently on probation/parole, October 2015.
57. Email correspondence between CSG Justice Center and RIDOC, September 2015.
58. CSG Justice Center analysis of RIDOC probation stock population data.
59. U.S. Census Bureau (2010). Rhode Island Quick Facts. Retrieved from <http://quickfacts.census.gov/qfd/states/44000.html>.
60. Email correspondence between CSG Justice Center and RIDOC, September 2015; 63 probation officers carry a caseload.
61. CSG Justice Center focus group of probation and parole officers, September 2015.

62. CSG Justice Center focus group of community advocates, service providers, and individuals who were formerly incarcerated or currently on probation/parole, October 2015.
63. Email correspondence between CSG Justice Center and RIDOC Probation and Parole Unit, October 2015.
64. CSG Justice Center focus group of probation and parole officers, September 2015.
65. Christopher Lowenkamp and Edward Latessa, "Understanding the Risk Principle: How and Why Correctional Interventions Can Harm Low-Risk Offenders," *Topics in Community Corrections* (2004) 3–8; Edward Latessa, "The Challenge of Change: Correctional Programs and Evidence-Based Practices," *Criminology & Public Policy*, 3, no. 4 (2004), 547–560; Marshall Clement, Matthew Schwarzfeld, and Michael Thompson, *The National Summit on Justice Reinvestment and Public Safety: Addressing Recidivism, Crime, and Corrections Spending*, (New York: CSG Justice Center, 2011).
66. Inter-rater reliability means that two different staff members would score the same individual the same way on the risk instrument. Intra-rater reliability means the same staff person would score the same individual the same way repeatedly with no change in circumstances.
67. CSG Justice Center focus group of probation and parole officers, September 2015.
68. *Ibid.*
69. *Ibid.*
70. CSG Justice Center focus group of discharge planners, September 2015.
71. CSG Justice Center focus group of community advocates, service providers, and individuals who were formerly incarcerated or currently on probation/parole, October 2015.
72. CSG Justice Center focus group of victim advocates, September 2015.
73. The Pew Center on the States, "Risk/Needs Assessment 101: Science Reveals New Tools to Manage Offenders," (Washington D.C., September 2011).
74. American Probation and Parole Association, "Caseload Standard: APPA Issues Committee Report," (Lexington, Kentucky: 1991). For more information see: https://www.appa-net.org/eweb/docs/APPA/stances/ip_CSP.pdf.
75. Edward Latessa, *From Theory to Practice: What Works in Reducing Recidivism?* (Cincinnati: University of Cincinnati Press, 2007).
76. A provision in the Affordable Care Act called for expanding Medicaid eligibility to cover more low-income individuals. However, in 2012 the Supreme Court ruled that states could not be required to expand their Medicaid programs, and instead each state had the option to participate or not. Rhode Island is among the 31 Medicaid expansion states.
77. CSG Justice Center analysis of unified correctional systems.
78. CSG Justice Center analysis of FY2015 RIDOC pretrial data; Rhode Island State Police, "Uniform Crime Report Crime in Rhode Island," (North Scituate, 2014).
79. CSG Justice Center analysis of FY2010–FY2015 RIDOC pretrial data. Days rounded to the nearest whole number.
80. CSG Justice Center analysis of FY2010–FY2015 RIDOC pretrial data. Days rounded to the nearest whole number.
81. CSG Justice Center analysis of FY2010–FY2015 RIDOC pretrial data.
82. CSG Justice Center analysis of FY2015 RIDOC pretrial data.
83. CSG Justice Center conducted a special match between RIDOC data to BHDDH data to determine the volume of admissions to RIDOC that were also recent mental health or substance use clients with various treatment providers. The "flags" are not from the results of assessments. Instead, these flags are indications of severe behavioral health issues that are being addressed or have been addressed in the last five years. The use of assessments will further uncover additional needs in these pretrial admission groups that have not been addressed.
84. CSG Justice Center analysis of BHDDH data.
85. CSG Justice Center analysis of BHDDH data.
86. *Ibid.*
87. CSG Justice Center focus group of behavioral health experts, October 2015.
88. Email correspondence between CSG Justice Center and the RI Attorney General Office, September 2015.
89. *Ibid.*
90. Email correspondence between CSG Justice Center and the RI Superior Court, September 2015.
91. CSG Justice Center analysis of Rhode Island PTSU data.
92. *Ibid.*
93. *Ibid.*
94. *Ibid.*
95. Rule 46(i) in both Superior Court and District Court Rules of Criminal Procedure states, in part: "For the purposes of eliminating all unnecessary detention, the Superior Court [or District Court as the case may be] shall exercise supervision over the detention of defendants and witnesses who have been detained pending indictment or filing of information, arraignment, or trial in the Superior Court [or District Court]. The Attorney General shall make a biweekly report to the Presiding Justice [or Presiding Judge] listing each defendant and witness who has been held in custody for a period in excess of ten (10) days. ...As to each defendant so listed the Attorney General shall make a statement of the reasons why the defendant is still held in custody."
96. Lowenkamp, Christopher T, VanNostrand, Marie, and Holsinger, Alexander, "The Hidden Costs of Pretrial Detention," (Laura and John Arnold Foundation, 2013).



This project was supported by Grant No. 2013-ZB-BX-K002 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the SMART office. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice. To learn more about the Bureau of Justice Assistance, please visit bja.gov.



Research and analysis described in this report has been funded in part by the Public Safety Performance Project of The Pew Charitable Trusts. Launched in 2006 as a project of the Pew Center on the States, the Public Safety Performance Project seeks to help states advance fiscally sound, data-driven policies and practices in sentencing and corrections that protect public safety, hold offenders accountable, and control corrections costs. To learn more about the Public Safety Performance Project, please visit pewtrusts.org/publicsafety.



The Council of State Governments (CSG) Justice Center is a national nonprofit organization that serves policymakers at the local, state, and federal levels from all branches of government. The CSG Justice Center provides practical, nonpartisan advice and evidence-based, consensus-driven strategies to increase public safety and strengthen communities. Points of view, recommendations, or findings stated in this document are those of the authors and do not necessarily reflect the official position or policies of The Pew Charitable Trusts, The Council of State Governments Justice Center, or The Council of State Governments' members.

For additional information about Justice Reinvestment in Rhode Island, please visit csgjusticecenter.org/jr/ri.

Project Contacts:

Chenise Bonilla
Policy Analyst
cbonilla@csg.org

Michelle Rodriguez
Program Associate
mrodriguez@csg.org