Justice Reinvestment in North Dakota

Third Presentation to the Incarceration Issues Committee: Prison Populations, Probation Supervision, and What Works

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National nonprofit, nonpartisan membership association of state government officials that engages members of all three branches of state government.

Justice Center provides practical, nonpartisan advice informed by the best available evidence.
What is Justice Reinvestment?

A data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease recidivism and increase public safety.

The Justice Reinvestment Initiative is supported by funding from the U.S. Department of Justice’s Bureau of Justice Assistance (BJA) and The Pew Charitable Trusts.
Justice reinvestment includes a two-part process spanning analysis, policy development, and implementation

I. Pre-enactment

1. Bipartisan, Interbranch Working Group
   - Assemble practitioners and leaders; receive and consider information, reports, and policies

2. Data Analysis
   - Analyze data sources from across the criminal justice system for a comprehensive perspective

3. Stakeholder Engagement
   - Complement data analysis with input from stakeholder groups and interested parties

4. Policy Options Development
   - Present a policy framework to reduce corrections costs, increase public safety, and project the impacts

II. Post-enactment

5. Policy Implementation
   - Identify needs for implementation and deliver technical assistance for reinvestment strategies

6. Monitor Key Measures
   - Monitor the impact of enacted policies and programs; adjust implementation plan as needed
States using the justice reinvestment approach with CSG Justice Center

Past states

Current states (Phase I or II)
Data analysis update, and challenges identified in source data used in today’s presentation

### Justice Reinvestment Data Request Update

<table>
<thead>
<tr>
<th>Data Requested</th>
<th>Source</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Criminal History Information</td>
<td>Attorney General Bureau of Criminal Investigation</td>
<td>Received; Analyzed</td>
</tr>
<tr>
<td>Filing, Disposition, &amp; Sentencing</td>
<td>Administrative Office of the Courts</td>
<td>Received; Analyzed</td>
</tr>
<tr>
<td>Probation and Parole Supervision</td>
<td>Department of Corrections and Rehabilitation</td>
<td>Received; Analysis pending</td>
</tr>
<tr>
<td>Prison Population, Admissions, &amp; Releases</td>
<td>Department of Corrections and Rehabilitation</td>
<td>Received; Analysis pending</td>
</tr>
<tr>
<td>County Jail Population, Admissions, &amp; Releases</td>
<td>Criminal Justice Information Sharing</td>
<td>Requested</td>
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### Challenges with Source Data Used in Today’s Presentation

#### Lack of detailed prison admission information for supervision violators
- Prison admission data does not include information on the type of violation for inmates admitted for violations of probation or parole. CSG Justice Center research staff were unable to differentiate between inmates admitted for violations due to a new offense, a technical violation, or absconding.

#### Lack of detailed offense information for supervision records
- The degree of offense is not tracked in the supervision case management system, so CSG Justice Center research staff could not provide a detailed analysis of supervision activity for low-level felony offenders.
North Dakota’s rich prison and supervision data powered the analysis in today’s presentation

1.4 million records received from DOCR

**Probation/parole admission**: Unit of supervision data analysis representing the event at which a person begins either probation or parole supervision. Admissions are based on case number and supervision start date, and can include multiple charges within a case.

**Prison admission**: Unit of prison data analysis representing the event at which a person is admitted to a DOCR or contracted facility. Prison admission counts are based on admission date and reason and can include multiple cases and charges if the sentences began on the same day.

**Prison release**: Unit of prison data analysis representing the event at which a person is released from a DOCR or contracted facility. Prison release counts are based on release date and can include multiple cases and charges, if the sentences ended on the same day.

**Governing Offense**: The single charge associated with a prison inmate or supervision case. If there are multiple charges, the governing offense is categorized by the most serious charge based on a prioritized scale. For prison length of stay analysis, the controlling offense is used as the governing offense.

**Probation/parole one-day snapshot**: Unit of supervision data analysis representing all active probation and/or parole cases on the last day of a fiscal year (June 30th).

**Probation/parole termination**: Unit of supervision data analysis representing the event at which a person ends either probation or parole supervision. Terminations are based on case number and termination date and can include multiple charges within a case.

**Prison one-day snapshot**: Unit of prison data analysis representing the standing population in DOCR or contracted facilities as of the last day of a fiscal year (June 30th).
## Definitions of offense categories used in this analysis

### Person
- Aggravated Assault
- Robbery
- Homicide
- Manslaughter
- Assault
- Kidnapping
- Domestic Violence
- Child Abuse
- Sexual Assault

### Property
- Theft of Property/Service
- Insufficient Funds
- Possession of Stolen Property
- Burglary
- Criminal Mischief
- Forgery/fraud
- Motor Vehicle Theft

### Drug
- Possession
- Distribution (includes possession with intent to distribute)
- Manufacturing
- Drug paraphernalia
- Forged prescription
- Controlled substance at school

### Other
- Disorderly conduct
- Criminal Trespass
- Resisting/Evading Arrest
- Reckless Driving
- Leaving the Scene of an Accident
- Minor in possession of alcohol
- Contributing to the delinquency of a minor
- Driving without Insurance
- Court offenses
- Cruelty to animals
- Hunting offenses
- Driving Under the Influence
- Driving while License Suspended

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*Source: NCIC offense information from BCI*
Today’s analysis focuses on prison and probation supervision, with a review of other areas to be addressed in future presentations.

<table>
<thead>
<tr>
<th>TOPIC OF ANALYSIS</th>
<th>WHEN ANALYSIS WILL BE COVERED</th>
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<tbody>
<tr>
<td>Sentencing policy</td>
<td>April</td>
</tr>
<tr>
<td>Sentencing practices</td>
<td>April</td>
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<tr>
<td>Statute review</td>
<td>April</td>
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<tr>
<td>Probation</td>
<td>Today</td>
</tr>
<tr>
<td>Prison</td>
<td>Today</td>
</tr>
<tr>
<td>Recidivism/outcomes</td>
<td>Today</td>
</tr>
<tr>
<td>Parole</td>
<td>Today/July</td>
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<tr>
<td>Front-end pressures</td>
<td>July</td>
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<tr>
<td>County Jails</td>
<td>July</td>
</tr>
<tr>
<td>Pretrial processes (pretrial release, length of stay, bail, etc.)</td>
<td>July</td>
</tr>
</tbody>
</table>
CSG Justice Center staff are pursuing regional perspectives in stakeholder engagement, reflecting the state’s size and diversity.

Probation and parole officers across the state participated in an online CSG Justice Center staff survey. 71 percent of probation officers responded, and their input is included in today’s presentation.
Stakeholder input informs the data analysis presented today

**Incarceration Issues Committee**
Individual meetings/calls with working group members and their staff

**North Dakota Legislature**
Meetings with Senators and House Representatives

**Courts**
Meetings/calls with individual judges, state attorneys, and the Attorney General’s Office; administration of a judicial survey; and court observations

**Community and Tribal Organizations**
NDACo, Indian Affairs Commission, Three Affiliated Tribes, CAWS North Dakota, North Dakota Council on Abused Women Services Coalition, and North Dakota Board of Addiction Counseling Services

**Corrections**
Meetings with DOCR staff, Centre Inc., and the Dakota Women’s Correctional Rehab Center; probation officers survey; and observation of probation reporting sessions

**Behavioral Health**
DHS, Regional Human Services Centers, Ruth Meiers Hospitality Center, ADAPT Inc., Heartview Foundation, Heart River Alcohol and Drug Abuse Services, Native American Resource Center, and Choice Recovery Counseling

**Law Enforcement**
Burleigh, Ward, and Cass County Police Department; Bismarck and Minot Police Department; Stark and Williams County Sheriff’s Office; Southwest Multi Correction Center; and presented at the joint Chiefs and Sheriffs Associations meeting
North Dakota’s jail and prison populations are growing faster than nearly every other state.

The North Dakota prison population had the **FOURTH HIGHEST percent increase** in the country between 2005 and 2014.

The North Dakota jail population had the **THIRD HIGHEST percent increase** in the country between 2006 and 2013.

*The 2006–2013 timeframe is the most recent data available for national data comparisons on jail populations.

Without action, public safety dollars will be consumed trying to keep up with growth rather than investing in crime and recidivism reduction strategies.

General Fund Corrections Appropriations (in millions), FY2007–2017

Corrections Spending Increase, FY07–09 to FY15–17

The FY2009–11 state budget provided **$64 million** ($22.5 million from the General Fund) for construction and renovation at the North Dakota State Penitentiary.

DOCR also receives special funding allocations.

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*Budgeted, not spent for 2016 and 2017.

Maintaining the status quo will cost North Dakota a minimum of $485 million in additional spending over the next decade.

Ten-year cost of relying on contracted capacity to accommodate projected prison growth:

- Current contract beds (530) carried forward through 2025: $220M
- Population growth (1,310) carried through 2025: $265M

Total Estimated Cost of Accommodating Prison Growth Through Contract Beds: $485M

daily rate estimate is $114/day

HISTORICAL AND PROJECTED ONE-DAY TOTAL INMATE COUNTS, FY2005–2025

Actual One-Day Count: 1,329
Projected One-Day Count: 3,061

EXISTING CAPACITY: 1,515

Building a **NEW STATE PRISON** would add costs above the contract beds.

OUT-OF-STATE CONTRACT BEDS likely would be needed, possibly increasing collateral costs.

Contract beds within the state of North Dakota are **NOT ADEQUATELY EQUIPPED** to handle inmates’ special needs.

Source: DOCR emails (2015-17 contract facility budget information and DOCR facility cost-per-day figures); DOCR housing data; DOCR inmate projections; “Locking Up North Dakota,” DOCR 2015.
Overview

01 Project Update
02 Prison Populations
03 Supervision Populations
04 What Works—Supervision Best Practices
05 Next Steps
Section Preview: Supervision failures and lowest-level property and drug offenses are creating prison population pressure.

- Property and drug offenses and probation and parole revocations make up 72 percent of all prison admissions.
- 62 percent of new offense admissions are from the lowest felony class; most are for property and drug offenses.
- 27 percent of people in prison on any given day are there following a probation or parole revocation.
Prison admissions spiked 21 percent between 2011 and 2014


Source: DOCR prison admission data files
New offense admissions drove the increase in prison admissions, with property and drug offenses accounting for over half the growth.
People sentenced for property and drug offenses present the biggest challenge—and opportunity—for recidivism reduction

What we know about people convicted of property and drug offenses

• Property and drug crimes represent a large share of arrests and sentences, consuming law enforcement and court resources.

• These people tend to have criminal records (more prior arrests) but are convicted of nonviolent offenses.

• They may have significant criminogenic needs, including substance use and criminal attitudes, that must be addressed to prevent future criminal behavior.

• A combination of effective supervision and treatment is shown to produce the largest reductions in recidivism.

Source: DOCR prison admission data files; BCI criminal history data
New offense admissions to prison increased in every judicial district

*Less than 1% of prison admissions are missing district information in each fiscal year*

Source: DOCR prison admission data files
Admissions for new drug and property offenses, probation violations, and parole violations make up almost three-fourths of all prison admissions.

“Other admissions” include Appeal Bond, Federal Authorities, Out of State, Recapture, and Transfer admissions.

“Other” offenses include DUI, traffic offenses, obstruction, escape, and other offenses.
62 percent of new offense admissions are from the lowest felony class, mostly property and drug offenses.
The share of the prison population serving sentences for the most serious offenses (Class AA and A) increased 21 percent.

<table>
<thead>
<tr>
<th>Year</th>
<th>FY2010</th>
<th>FY2011</th>
<th>FY2012</th>
<th>FY2013</th>
<th>FY2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class AA and A</td>
<td>163</td>
<td>181</td>
<td>211</td>
<td>250</td>
<td>258</td>
</tr>
<tr>
<td>Class B and C, and misdemeanors</td>
<td>353</td>
<td>366</td>
<td>344</td>
<td>332</td>
<td>365</td>
</tr>
</tbody>
</table>

*Inmate population as of 6/30/2014.

Source: DOCR prison one-day population snapshot data files
Individuals with person offenses have an outsized representation in the snapshot population due to longer lengths of stay.

**Prison Population of New Offense Admissions, FY2014**

- **Admissions** (n = 777):
  - Person: 26%
  - Property: 22%
  - Drug: 34%
  - Other: 18%

- **Snapshot Population** (n = 1,138):
  - Person: 51%
  - Property: 16%
  - Drug: 24%
  - Other: 9%

*As of 6/30/2014. Population admitted for new offenses only. Probation violations, parole violations, and other admission types are excluded.*

Source: DOCR prison admission and one-day population snapshot data files
One in four people in prison was revoked from probation and parole supervision

Prison Snapshot Population, FY2014*
N=1,609

- Probation Revocation: 21%
- Parole Revocation: 6%
- New Offense Admission: 70%

Length of Stay Following a Probation or Parole Revocation

- Parole Revocation: 178 days
- Probation Revocation: 391 days

Some “New Offense Admissions” are likely individuals who were on community supervision but were convicted of a new offense without having their supervision terminated.

*Prison population on June 30, 2014. 1% of the prison population had an admission type of “Other.”

Source: DOCR prison one-day snapshot and release data files

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Native Americans make up a much larger portion of prison admissions from probation revocations than new offense admissions.

**NEW OFFENSE ADMISSIONS**  
*N = 777*  
- 18% Native American  
- 4% Hispanic  
- 70% Caucasian  
- 1% Asian  
- 7% Other  

**ADMISSIONS FOR PROBATION REVOCATIONS**  
*N = 282*  
- 32% Native American  
- 3% Hispanic  
- 5% Caucasian  
- 1% Asian  
- 59% Other

*Rates shown are for FY2014  
In 2014, the Native American population made up 5.4% of North Dakota’s resident population.  
Source: DOCR prison admission data files*
North Dakota spends $25 million incarcerating lowest-level property and drug offenders and people revoked from probation and parole.

### NEW OFFENSE ADMISSIONS (FY2014)

<table>
<thead>
<tr>
<th></th>
<th>Admissions</th>
<th>Average LOS</th>
<th>Cost Per Day</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drug Offense (Class C)</td>
<td>99</td>
<td>233 days</td>
<td>$113.59</td>
<td>$2.6M</td>
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<tr>
<td>Property Offense (Class C)</td>
<td>139</td>
<td>349 days</td>
<td>$113.59</td>
<td>$5.5M</td>
</tr>
</tbody>
</table>

### PROBATION AND PAROLE REVOCATIONS (FY2014)

<table>
<thead>
<tr>
<th></th>
<th>Admissions</th>
<th>Average LOS</th>
<th>Cost Per Day</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parole Revocations</td>
<td>206</td>
<td>178 days</td>
<td>$113.59</td>
<td>$4.2M</td>
</tr>
<tr>
<td>Probation Revocations</td>
<td>282</td>
<td>391 days</td>
<td>$113.59</td>
<td>$12.5M</td>
</tr>
</tbody>
</table>

$25 Million

Spent on lowest-level felony property and drug offenses and probation and parole revocations (FY2014)

Source: DOCR prison admission and release data files; DOCR cost-per-day estimates
## Overview

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>01</td>
<td>Project Update</td>
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<tr>
<td>02</td>
<td>Prison Populations</td>
</tr>
<tr>
<td>03</td>
<td>Supervision Populations</td>
</tr>
<tr>
<td>04</td>
<td>What Works—Supervision Best Practices</td>
</tr>
<tr>
<td>05</td>
<td>Next Steps</td>
</tr>
</tbody>
</table>
Section Preview: Failures on probation and parole supervision add significant cost to the prison system

46 percent of probation revocations involve noncriminal violations of supervision conditions

There is a substantial need for substance use treatment, and barriers exist to accessing adequate care

Half of people revoked from probation are sent to prison and another third are sent to jail, creating state and local costs
Revocation rates climb as supervision levels increase, indicating a need to shift resources to higher supervision levels.

Higher-risk probationers require more intensive supervision and programs to reduce recidivism.

Applying similar supervision and program intensities to lower-risk probationers can have the reverse effect, increasing recidivism.

*979 probationers were categorized as “Not Classified” and are not represented in this chart because they are incarcerated or out of state and not actively overseen by the North Dakota probation department. Less than 1% of probation cases were missing classification levels. 2% of probation cases had an outcome of “Death” or “Other.”

Source: DOCR supervision data
Twice as many probationers, 2.5 times as many high-risk probationers, live in the South Central judicial district than anywhere else in the state.

POs in many areas of the state reported that their caseloads allowed time to regularly employ supervision best practices.

75 PERCENT of POs in the South Central district reported having challenges employing best practices due to the high volume of higher-risk individuals (and associated higher contact standards) on their caseloads.

<table>
<thead>
<tr>
<th>Region</th>
<th>Total Probationers</th>
<th>High/Moderate-High Probationers</th>
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</thead>
<tbody>
<tr>
<td>East Central</td>
<td>984</td>
<td>295</td>
</tr>
<tr>
<td>North Central</td>
<td>668</td>
<td>276</td>
</tr>
<tr>
<td>Northeast</td>
<td>591</td>
<td>218</td>
</tr>
<tr>
<td>Northeast Central</td>
<td>711</td>
<td>288</td>
</tr>
<tr>
<td>Northwest</td>
<td>402</td>
<td>129</td>
</tr>
<tr>
<td>South Central</td>
<td>2,202</td>
<td>938</td>
</tr>
<tr>
<td>Southeast</td>
<td>581</td>
<td>177</td>
</tr>
<tr>
<td>Southwest</td>
<td>369</td>
<td>109</td>
</tr>
</tbody>
</table>

Rates shown are based on probation one-day snapshot population on 6/30/2014

Source: DOCR supervision data; CSG Justice Center Probation and Parole Officer Survey
South Central had both the highest rate and the largest number of probation revocations.
46 percent of probation revocations across the state were for noncriminal violations of supervision conditions.

One case was missing revocation information.

Source: DOCR supervision data

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Half of revoked probationers were sent to prison, and one in three were sent to county jails.
POs work extensively with probationers and parolees to address behavior before moving to revoke community supervision.

Most POs felt there were barriers to using some sanctions such as overburdened jails, lack of health insurance for offenders, inability of some individuals to pay the out-of-pocket expense of private treatment.

Source: CSG Justice Center Probation and Parole Officer Survey
Probation and parole officers reported an acute need for substance use services in the community.

**SUBSTANCE USE**

Half of POs reported that 75% or more of their clients needed substance use treatment.

**MENTAL HEALTH**

Half of POs reported that fewer than 50% of their clients needed mental health treatment.

Source: CSG Justice Center Probation and Parole Officer Survey
A majority of POs observed wait times of at least three weeks to access all forms of community treatment.

Reported Wait Time for Treatment Services

- **Substance use treatment**: 74% over 3 weeks
- **Mental health treatment**: 82% over 3 weeks
- **Cognitive behavioral treatment**: 79% over 3 weeks

Source: CSG Justice Center Probation and Parole Officer Survey
Barriers to treatment and effective sanctions left POs feeling only moderately confident in their ability to hold offenders accountable.

Confidence and Accountability

How confident are you that you are able to hold probationers/parolees accountable for technical violations?

- Very confident: 4%
- Somewhat confident: 37%
- Not very confident: 37%
- Not confident at all: 22%

The lack of treatment results in a number of violations for substance use while an individual is waiting for access.

As a result, most POs ultimately end up recommending about one third of their caseloads for revocation each year.

Source: CSG Justice Center Probation and Parole Officer Survey
Overview

01 Project Update

02 Prison Populations

03 Supervision Populations

04 What Works—Supervision Best Practices

05 Next Steps
Section Preview: DOCR utilizes many evidence-based practices, but systemic challenges impede maximum impact.

Risk assessment informs access to programs within DOCR facilities and supervision intensity in the community.

Individuals at higher supervision levels are revoked at higher rates, suggesting that additional supports and services are needed earlier in their supervision period.

Supervision, programs, and treatment that adhere to evidence-based practices are able to reduce recidivism at lower cost than interventions in prison.
**SYSTEM CHECKLIST:** Reducing recidivism and promoting recovery

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<table>
<thead>
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<tbody>
<tr>
<td>1</td>
<td>Assess risk and need</td>
</tr>
<tr>
<td>2</td>
<td>Target the right people</td>
</tr>
<tr>
<td>3</td>
<td>Frontload supervision and treatment</td>
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<tr>
<td>4</td>
<td>Implement proven programs</td>
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<tr>
<td>5</td>
<td>Address criminal thinking</td>
</tr>
<tr>
<td>6</td>
<td>Hold individuals accountable</td>
</tr>
<tr>
<td>7</td>
<td>Measure and incentivize outcomes</td>
</tr>
</tbody>
</table>
1. **ASSESS**: Efforts to reduce recidivism fall short unless driven by high-quality risk and needs assessments.

**Without Risk Assessment...**

**With Risk Assessment...**

<table>
<thead>
<tr>
<th>Risk of Reoffending</th>
<th>Low 10% re-arrested</th>
<th>Moderate 35% re-arrested</th>
<th>High 70% re-arrested</th>
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<tbody>
<tr>
<td></td>
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</table>
1. **ASSESS RISK AND NEED**: North Dakota has adopted and consistently uses a modern risk and need assessment tool.

**CURRENT PRACTICE**
Probation and parole officers are regularly trained on and consistently use a validated risk tool. Officers conduct re-assessments on the LSI-R every 6 months.

**GOING FORWARD**
- Conduct a validation study every 5 years
- Implement recommendations of 2011 validation study
- Consider adopting the Woman’s Risk Needs Assessment (WRNA) to add predictive validity of the LSI-R for women
- Examine the predictive validity of the current LSI-R for Native Americans
2. **TARGET**: To reduce recidivism, supervision and programs must be focused on people with higher risk/need.
2. **TARGET THE RIGHT PEOPLE**: Officers consider risk levels when setting supervision contacts and developing supervision plans.

**CURRENT PRACTICE**
Officers conduct the LSI-R and use risk levels to determine contact standards and supervision plans.

**GOING FORWARD**
- Ensure that risk levels are used to prioritize access to community programs and treatment.
- Step down felony probationers from active to diversion caseload based on risk level and demonstrated compliance.
3A. FRONTLOAD: Supervision and supports should be focused on the period when people are most likely to reoffend

North Dakota Three-year re-arrest rates among prison releases, FY2012
N = 1,048

- 44% not re-arrested (459)
- 32% re-arrested within 1 year of release (335)
- 17% re-arrested 1–2 years after release (178)
- 7% re-arrested 2–3 years after release (76)

A majority of new arrests are for drug offenses or court violations.

Average number of days from release to re-arrest: **166**

FY2012 releases are used to allow for three full years from the date of release.

Source: DOCR prison release data files; BCI criminal history data
3A. FRONTLOAD SUPERVISION: Probation officers prioritize contact with individuals at the onset of probation

CURRENT PRACTICE
At the onset of probation, officers make referrals to programs and treatment and initiate case planning. After a proven period of compliance, contact standards may be decreased.

GOING FORWARD
- Clarify the step-down processes to diversion and other supervision levels
- Expand treatment and programing available to probationers
3B. FRONTLOAD SUPPORTS: A continuum of services must be able to provide the right services at the right time

While people should start at the level of supports they initially need to address their risk and needs, they should “step down” into lower-intensity and lower-cost interventions.
3B. FRONTLOAD ACCESS TO EVIDENCE-BASED TREATMENT: Individuals have prompt access to treatment services that will support their success on community supervision.

CURRENT PRACTICE
Judges report sentencing to prison to access treatment that is not currently available in the community. Officers report that a lack of treatment options contributes to a high supervision failure rate.

GOING FORWARD
- Expand availability of treatment services for individuals in the community
- Ensure individuals have needed health care coverage
- Ensure timely access to effective services

Supervisees have prompt access to high-quality treatment

Lack of access

Community behavioral health treatment is available
4. IMPLEMENT: Selecting and implementing proven programs helps ensure resources are expended wisely

![Diagram](image)

**Cost/Benefit ratios**

<table>
<thead>
<tr>
<th>Intervention</th>
<th>ROI</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cognitive behavioral treatment (for high and moderate risk offenders)</td>
<td>$24.01</td>
</tr>
<tr>
<td>Therapeutic communities for drug offenders (community)</td>
<td>$7.39</td>
</tr>
<tr>
<td>Outpatient drug treatment (community)</td>
<td>$5.46</td>
</tr>
<tr>
<td>High quality community supervision (for high- and moderate-risk offenders)</td>
<td>$3.42</td>
</tr>
<tr>
<td>Intensive supervision (surveillance only)</td>
<td>($0.77)</td>
</tr>
</tbody>
</table>

4. IMPLEMENT PROVEN PROGRAMS: Some programming is offered in the community, but availability fluctuates by region

Programs do not adhere to best practices

Programs based on what works

Programs based on what works and regularly assessed for quality

CURRENT PRACTICE
The only programming provided through probation is at transitional centers like BTC or Centre Inc., though some offices are conducting T4C pilots. There is limited access available through Human Service Centers or private providers.

GOING FORWARD
- Options should be explored that look at the ability for community providers to adopt cognitive-behavioral programs like Thinking for a Change
- Examine whether probation and parole officers have the capacity to offer groups in the probation offices
- Identify opportunities to expand capacity with existing providers
5. CRIMINAL THINKING: Programs intended to reduce recidivism must address needs as well as criminal thinking

Examples of Types of Criminal Thinking

Denial of Victim
“I’m the one who is getting messed with.”
“They had it coming.”

Denial of Responsibility
“I didn’t do it.”
“I had no choice!”

Denial of Injury
“No one really got hurt here.”
“They have insurance for that.”

The Condemnation of the Condemners
“The cops are just out to get me.”
“You do the same things. You just haven’t been caught.”

Appeal to Higher Loyalties
“My friends needed me. What was I going to do?”
“I didn’t do it for myself.”

5. CRIMINAL THINKING: Probation and parole officers target criminogenic needs of the people they supervise

**CURRENT PRACTICE**
Officers integrate cognitive-behavioral interventions during reporting and target the thoughts, values, and attitudes that contribute to the criminal behavior of individuals under supervision.

**GOING FORWARD**
- Fully implement EPICS across all districts
- Options should be explored that look at the ability for community providers to adopt cognitive-behavioral programs like Thinking for a Change
- Examine whether probation and parole officers have the capacity to offer groups in the probation offices
6. ACCOUNTABILITY: Swift, certain, and fair responses to violation behavior are critically important

**Washington**

*Technical violators can be held for 2–3 days for low-level violations and up to 30 days for high-level violations*

**Days Incarcerated**

- **Status Quo**
  - 23 Days
  - **2013**
  - 8 Days

- **POM**
  - 8 Days

**Georgia**

*Prompt sanctions to correct behavior of troublesome probationers*

**Days in Jail**

- **Status Quo**
  - 31 Days
  - **POM**
  - 8 Days

**North Carolina**

*Swift and certain “dips” of brief jail sanctions and “dunks” of prison sanctions in response to violations*

**Prison Admissions**

- **Status Quo**
  - 15,188
  - **2011**
  - 7,440

- **POM**
  - 7,440
  - **2014**

6. ACCOUNTABILITY: While policies provide guidance on violation responses, system challenges limit the ability to hold offenders accountable.

CURRENT PRACTICE
Officers struggle to hold offenders accountable due to limitations of resources in the community. Officers do reinforce positive behavior, but there are not formalized incentives defined in policy.

GOING FORWARD
- Revise policies on offender management with input of officers across the state to reflect regional differences
- Update the offender management policy to include more detail on incentives and reinforcement
- Improve collaboration between DOCR, the courts, and jails to develop solutions that allow officers to use the jails consistently in order for jail sanctions to work as a deterrent
7. **MEASURE OUTCOMES**: Agencies and program providers must be held accountable for demonstrating results

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**Are key outcomes identified and measured across all systems?**

- Tracking recidivism rates over time at each part of the system
- Creating incentives to drive performance, especially by program providers
- Assessing how well agencies are coordinating efforts with shared populations
7. MEASURE OUTCOMES: While DOCR collects internal data, there are no formal mechanisms in place to monitor the quality of services of outside providers.

CURRENT PRACTICE
DOCR collects data on revocation rates and risk assessment overrides and conducts QA on contract facilities. Officers reported a wide variety of quality of services, but no formal assessment of services exists.

GOING FORWARD
- Develop mechanisms to collect data on quality assurance from community programming.
- Assess the quality of community providers and identify whether they use cognitive-behavioral interventions.
- Analyze trends to monitor recidivism rates, identify training opportunities, and assess the efficacy of treatment and programming.
Overview

01 Project Update
02 Prison Populations
03 Supervision Populations
04 What Works—Supervision Best Practices
05 Next Steps
Key challenges identified by sentencing analysis

- Felony sentence events doubled between 2011 and 2014, primarily due to drug offenses

- Three-quarters of lowest-level felony sentence events (Class C) were to incarceration

- Over half of sentence events to probation included suspended periods of incarceration
Key challenges identified by prison population and probation supervision analysis

- Probation and parole revocations and lowest-level felony property and drug offenses account for nearly three-quarters of all admissions to prison.

- Probation revocations cost the state more than $12 million each year in state prison costs, plus additional costs at the county level.

- Probation supervision policies are based on best practices but face real-world challenges in being carried out effectively.
North Dakota’s criminal justice system poses significant financial challenges unless policy action is taken.

**Ten-year cost of relying on contracted capacity to accommodate projected prison growth**

- Current contract beds (530) *carried forward through 2025* $220 M
- Population growth (1,310) *carried through 2025* $265 M

**Total Estimated Cost of Accommodating Prison Growth Through Contract Beds** $485 M

Source: DOCR emails (2015-17 contract facility budget information and DOCR facility cost-per-day figures); DOCR housing data; DOCR inmate projections; “Locking Up North Dakota,” DOCR 2015.

Building a **NEW STATE PRISON** would add costs above the contract beds.

**OUT-OF-STATE CONTRACT BEDS** likely would be needed, possibly increasing collateral costs.

Contract beds within the state of North Dakota are **NOT ADEQUATELY EQUIPPED** to handle inmates’ special needs.
In FY2014, just **19 PERCENT** of felony sentences were to probation. In other states, this rate is higher: nationally, it is 27 percent; in Idaho, 58 percent, and in Kansas, 69 percent.

The majority of people sentenced for offenses under the lowest felony class (Class C) receive sentences to prison, where their average length of stay is 10 months, a costly sanction that provides limited options for programs that can lower recidivism. Sentencing people convicted of a Class C offense to probation, however, enables a sentence of up to 5 years that provides longer periods of accountability and monitoring. Probationers can receive treatment as needed, be sanctioned for failure to comply with conditions, and be revoked and sentenced to prison.
Similar dynamics existed in Nebraska, where a majority of sentences to prison were for lowest-level felonies.

Justice reinvestment research found that 55% of felony sentences were for class IV convictions (FY2012–FY2013).

90 percent of Class IV offenses were nonviolent, 73 percent of Class IV sentences were to incarceration, the average time served was 10 months, and one-third were released without supervision. People with sentences for low-level felony offenses had lower recidivism rates on probation than following prison.

2-Year Recidivism Rates for Probation (FY2011) and Prison (FY2010) by Sentence Type

Source: NDCS prison admission and release data, JUSTICE FY2012–FY2013 sentencing data
POLICY AREAS EXPLORED BY OTHER STATES

Use probation + treatment for people with nonviolent, low-level offenses

**Nebraska**

Reclassified felony offenses according to whether they involve violence or are sex offenses. This enhanced the rationality of the state’s felony classifications by more uniformly grouping offenses by the severity of the conduct involved.

**Ohio**

Requires people convicted of first-time, low-level property and drug offenses to serve probation terms.

**Alabama**

Created a new felony category for the lowest-level property and drug offenses for which sentences to community corrections programs or intensive probation may be imposed.
POLICY AREAS TO EXPLORE

Use probation + treatment for people with nonviolent, low-level offenses

APPROACHES FOR THE INCARCERATION ISSUES COMMITTEE TO CONSIDER

• Provide greater structure in statute regarding populations that should be sentenced to probation rather than incarceration.

• Distinguish offenses within felony classes according to whether they contain violence or are sex offenses.
CRIMINAL JUSTICE SYSTEM CHALLENGE

Individuals failing on community supervision put significant pressure on county and state facilities.

On any given day, **27 PERCENT** of North Dakota’s prison beds are occupied by people who were on probation and parole supervision prior to being revoked and required to serve a term in prison.

Probation and parole revocations impose substantial costs for county governments as well: 33 percent of people revoked from probation are required to serve terms in jail. 45 percent of revocations from probation involved no new criminal offenses; the probationer violated the conditions of his or her supervision. In surveys, probation and parole officers indicated they are seeking additional tools—sanctions, incentives, and treatment where needed—to hold probationers and parolees accountable.
In North Carolina, more than half of prison admissions to prison were probation revocations.

**Challenge**

76% of probation revocations to prison were for violating the conditions of supervision.

**Impact**

Since policy enactment, probation revocations fell by half.

- In FY2011, probation revocations accounted for 52% of prison admissions.
- In FY2014, probation revocations accounted for 33% of prison admissions.

**Probation Revocations**

- FY 2001: 11,586
- FY 2002: 12,500
- FY 2003: 14,000
- FY 2004: 15,000
- FY 2005: 16,000
- FY 2006: 17,000
- FY 2007: 18,000
- FY 2008: 19,000
- FY 2009: 20,000

**New Offense Convictions**

- FY 2001: 15,118
- FY 2002: 17,500
- FY 2003: 19,000
- FY 2004: 21,000
- FY 2005: 23,000
- FY 2006: 25,000
- FY 2007: 27,000
- FY 2008: 29,000
- FY 2009: 31,000

**Other**

- FY 2001: 2,500
- FY 2002: 3,000
- FY 2003: 3,500
- FY 2004: 4,000
- FY 2005: 4,500
- FY 2006: 5,000
- FY 2007: 5,500
- FY 2008: 6,000
- FY 2009: 6,500

*Confinement in response to a violation is a flat period of confinement that probation violators may be required to serve as a sanction.
JUSTICE REINVESTMENT POLICY IMPACT

Public safety and corrections trends following enactment of the justice reinvestment statutes

2005 Actual Prison Population 36,663

Prison Population at JRA Passing June 2011 41,030

Baseline Projected Prison Population 43,220

JRA Projected Prison Population 38,264

June 30, 2014 Actual Prison Population 37,665

8% drop in prison population

$560m averted costs and savings by FY2017

10 prisons closed since 2011

175 new probation officers in FY2014 and FY2015

11% drop in crime between 2011–2013
POLICY AREAS EXPLORED BY OTHER STATES

Strengthen Supervision

North Carolina

Provides probation officers with tools to respond immediately to supervision violations, including short, cost-effective periods of incarceration.

New Hampshire

Frontloads supervision by focusing resources on individuals early in their supervision periods, when risk is highest.

Arizona & Nevada

Developed earned-time policies to incentivize success on probation and focus supervision on people who are at high risk of reoffending.

Idaho

Created a violation response matrix to sanction supervision violations and provide incentives for positive behavior.
POLICY AREAS TO EXPLORE

Strengthen Supervision

APPROACHES FOR THE INCARCERATION ISSUES COMMITTEE TO CONSIDER

• Focus supervision resources on higher-risk probationers and parolees

• Improve probation and parole officers’ ability to respond to violations with swiftness and certainty

• Respond to major violations with cost-effective periods of incarceration followed by supervision
There is a substantial need for substance use treatment, and barriers exist to accessing adequate care.

POs believe that 75 PERCENT of people on probation or parole have a need for substance use treatment, and probation and parole officers indicate long wait periods to access behavioral health treatment.

A shortage of behavioral health treatment is a factor underpinning many of North Dakota’s criminal justice challenges. This issue has been raised by numerous criminal justice system stakeholders, including local law enforcement, prosecutors, judges, and defense attorneys. Over a three-year period, from 2011 to 2014, the number of felony sentences for drug offenses increased two-and-a-half times. In 2014, four out of five felony drug sentences were for possession.
Before justice reinvestment, WV provided few substance use services for the probation and parole population

Justice reinvestment research found that:

- 22% of new commitments are for drug offenses
- 62% of probation revocations to prison had a substance score indicating abuse or addiction
- Alcohol and drug use cited in 78% of technical parole revocations and 65% of revocations for new crimes

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<tr>
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<th>Probation</th>
<th>Parole</th>
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<td>Capacity to provide services</td>
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<tr>
<td>Residential with step down</td>
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<td>98</td>
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</table>

In the three years after enacting policies, West Virginia has reinvested $9 million in substance use treatment.

Also recommended investments to grow the provider base and improve rural treatment access.

Successful Treatment Supervision programs cover a continuum of treatment, supervision, and collaboration activities.

IOP/OP are the only program components that require credentialed behavioral health practitioners.
Increase Behavioral Health Treatment Capacity

West Virginia
Allocated $9 million between FY2014 and FY2016 to expand access to substance use treatment for people on supervision, with county-level grants awarded for treatment services and more.

Alabama
$12 million over two years for behavioral health treatment for people on supervision.

Kansas
$5 million added over two years in behavioral health treatment for people on supervision.

Wisconsin
$10 million over two years to expand community-based recidivism reduction programs including mental health services, substance use treatment, and employment services.
POLICY AREAS TO EXPLORE

Increase Behavioral Health Treatment Capacity

APPROACHES FOR THE INCARCERATION ISSUES COMMITTEE TO CONSIDER

• Reinvest savings in community-based behavioral health treatment

• Expand the base of treatment providers and provide training to providers who treat people involved in the criminal justice system

• Maximize existing opportunities under Medicaid expansion
North Dakota Justice Reinvestment Timeline

Press Conference & Project Launch

Meeting 1
Initial Analysis

Meeting 2
April 20
Interim Report

Meeting 3
June 7
Interim Report

Meeting 4
TBD
Final Analysis

Meeting 5
TBD
Policy Options Discussed

Legislation Pre-Filed

Jan | Feb | Mar | Apr | May | June | July | Aug | Sept | Oct | ... | Jan 2017

Initial Analysis | Detailed Data Analysis | Impact Analysis

Stakeholder Engagement

Policymaker & Stakeholder Engagement, Briefings
Policy Development

Ongoing Engagement
Thank You

Michelle Rodriguez, Program Associate
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