Justice Reinvestment in Nebraska

Fourth Working Group Meeting

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Council of State Governments Justice Center

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Justice Reinvestment

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

- National nonprofit, nonpartisan membership association of state government officials
- Engages members of all three branches of state government
- Justice Center provides practical, nonpartisan advice informed by the best available evidence
Two Phases of Justice Reinvestment

**Phase I**

Analyze Data and Develop Policy Options

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

**Phase 2**

Implement New Policies

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

- Criminal justice system challenges
- Justice reinvestment policy framework
- Impact estimates
# Principles Underpinning Justice Reinvestment and Deliverables for Nebraska’s JR Project

<table>
<thead>
<tr>
<th>Justice Reinvestment Principles</th>
<th>Deliverables for Nebraska JR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Increase public safety</td>
<td>Structure sentencing and parole to require post-release supervision</td>
</tr>
<tr>
<td>Address the needs of crime victims</td>
<td>Increase the number of restitution orders and provide consistent collections</td>
</tr>
<tr>
<td>Lower recidivism</td>
<td>Strengthen parole supervision</td>
</tr>
<tr>
<td>Increase accountability</td>
<td>Respond to supervision violations with swift, sure sanctions</td>
</tr>
<tr>
<td>Avoid shifting pressures to county systems</td>
<td>Structure the use of jail for probation violators and reduce felony jail sentences</td>
</tr>
</tbody>
</table>
Nebraska’s prisons are projected to reach 170 percent of capacity if nothing is done to avert growth.

Nebraska’s Master Plan calls for $261.6 million in construction costs by 2019.

The NDCS 2014 Master Plan recommends adding 1,100 beds by 2019 at an estimated construction and project cost of $261.6M.

The operating costs alone to house 542 extra people by the end of FY2020 would be more than $30M*.

* Based on an estimated future annual direct cost per inmate that includes contract beds ($13,000)

Reported crime is down considerably in Nebraska, and arrests for most offenses have also fallen.

![Graph showing reported violent and property crimes from 2003 to 2012. Violent crime is down 10%, and property crime is down 23%.]

**Reported Violent and Property Crimes, 2003–2012**

- **Violent Crime**: -10%
- **Property Crime**: -23%

**Adult Arrests by Offense Type, 2003–2012**

- **Crimes Against Property**: Up 1% overall
  - 2003: 12,114
  - 2012: 12,264
- **Crimes Against Persons**: Down 9% overall
  - 2003: 9,299
  - 2012: 8,445
- **Crimes Against Society**: Down 3% overall
  - 2003: 10,538
  - 2012: 10,253
- **All Other Arrests**: Down 23% overall
  - 2003: 35,667
  - 2012: 46,560

Source: FBI UCR Online Data Tool.

**Adult arrests among likely prison crimes, 2003–2012 -4%**
District court case filings have increased, and most felony sentences are to prison.

District Court Criminal Case Filings, FY2007–FY2013

- FY07: 8,668
- FY08: 9,617
- FY09: 10,317

+7% FY2011–FY2013

Felony Sentencing Distribution, FY2012–FY2013

- Prison: 52%
- Jail: 22%
- Probation: 22%
- Other: 4%

Source: Nebraska Administrative Office of the Courts, District Court Annual Caseload Reports; JUSTICE FY2012-FY2013 sentencing data.
New commitments and parole revocations are driving admissions to prison.

Among some offense categories, prison admissions have increased not because of rising arrest volume, but following penalty enhancements.

<table>
<thead>
<tr>
<th>Offense</th>
<th>% Change in Arrests</th>
<th>% Change in New Prison Admissions</th>
</tr>
</thead>
<tbody>
<tr>
<td>DUI</td>
<td>-30%</td>
<td>+230%</td>
</tr>
<tr>
<td>Assault</td>
<td>-13%</td>
<td>+58%</td>
</tr>
<tr>
<td>Weapons</td>
<td>-1%</td>
<td>+180%</td>
</tr>
<tr>
<td>Drugs</td>
<td>+3%</td>
<td>+6%</td>
</tr>
<tr>
<td>Theft</td>
<td>+29%</td>
<td>+37%</td>
</tr>
</tbody>
</table>

Source: NDCS admissions data; Nebraska Crime Commission arrest data.
Despite the spike in parole violator admissions, their share of the snapshot population is relatively small.

Snapshot Prison Population by Admission Type, FY2003–FY2013

Parole Revocations constituted 8% of the total snapshot population in FY2013, up from 5% in FY2010 and FY2011.

Revocations by Length of Parole Term, FY2013:

- 17% of people with a parole term of one year or less were revoked
- 54% of people with a parole term of one year or more were revoked

Lack of Evidence-Based Practices:
Nebraska’s parole system lacks the assessment and sanctioning options necessary to successfully supervise parolees for longer terms.

Source: NDCS admissions and snapshot population as well as parole supervision data.
Jails are impacted by felony sentencing trends and probation outcomes.

The Felony System Impacts Jails

1. **Class IV Felonies**: 34% of class IV felony sentences are to jail

2. **Probation Revocations**: 37% of felony probation revocations are sentenced to jail

3. **Probation Sanctions**: Courts have up to six months of jail time to attach to felony probation sentences

Presentation Overview

- Criminal justice system challenges
- Justice reinvestment policy framework
- Impact estimates
Nebraska’s Justice Reinvestment Policy Framework

Goal: Reduce recidivism, increase public safety, and lower costs

Challenge

1. Short prison stays without post-release supervision are a less effective option than probation for reducing recidivism

2. The current felony sentencing system lacks structure to deliver predictable sentence lengths and ensure periods of supervision

3. The parole supervision system lacks evidence-based practices related to actuarial risk assessment, effective sanctioning, and targeted treatment delivery
Short prison stays without post-release supervision are a less effective option than probation for reducing recidivism.

55% of felony sentences are for class IV convictions (FY2012–FY2013)

Class IV (55%)
- Class III (21%)
- Class IIIA (13%)
- Class II (7%)
- Class I(A-D) (3%)

Class IV Felonies

- Most are Nonviolent
  - 90% are nonviolent offenses (FY2012–FY2013)

- Prison Stays are Short
  - In FY2013, the average time served in prison was 10 months

- Most are Sentenced to Incarceration
  - 73% of these convictions are sentenced to jail or prison (FY2012–FY2013)

- One-third Released Without Supervision
  - 32% are released to the community without post-release supervision (FY2013)

Source: NDCS prison admission and release data, JUSTICE FY2012–FY2013 sentencing data
Recidivism rates are lower for class IV felony sentences to probation than to prison, regardless of risk level.

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

Class IV Felony Recidivism Rates by Risk Level

Source: NDCS admissions and release data; Nebraska Probation Administration PSI data
Nebraska invests heavily in community-based services, but resources are scattered across entire supervision population.

Between 2006 and 2015, Nebraska increased programs and treatment to lower recidivism from $0 to $22 million.

Programs and treatment are accessible by Nebraska’s entire supervision population, including high risk misdemeanor probationers.

Source: Nebraska Office of Probation Administration data, NDCS parole supervision data
The current felony sentencing system lacks structure to deliver predictable sentence lengths and ensure periods of supervision.

As the minimum sentence increases in proportion to the maximum sentence, the parole window and potential parole supervision period shrinks.

The average window for parole eligibility is so short that most inmates receive a single parole hearing. If denied, most will later jam out to no supervision.

### Minimum Sentence Length as a Percentage of Maximum Sentence Length by Offense Level, FY2003–FY2013

<table>
<thead>
<tr>
<th>Year</th>
<th>Felony 1 (All)</th>
<th>Felony 2</th>
<th>Felony 3</th>
<th>Felony 3A</th>
<th>Felony 4</th>
<th>Misdemeanor</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY2003</td>
<td>69%</td>
<td>63%</td>
<td>58%</td>
<td>60%</td>
<td>46%</td>
<td>22%</td>
</tr>
<tr>
<td>FY2004</td>
<td>77%</td>
<td>65%</td>
<td>58%</td>
<td>61%</td>
<td>46%</td>
<td>24%</td>
</tr>
<tr>
<td>FY2005</td>
<td>66%</td>
<td>66%</td>
<td>59%</td>
<td>66%</td>
<td>46%</td>
<td>28%</td>
</tr>
<tr>
<td>FY2006</td>
<td>68%</td>
<td>65%</td>
<td>59%</td>
<td>64%</td>
<td>48%</td>
<td>20%</td>
</tr>
<tr>
<td>FY2007</td>
<td>63%</td>
<td>66%</td>
<td>60%</td>
<td>61%</td>
<td>47%</td>
<td>20%</td>
</tr>
<tr>
<td>FY2008</td>
<td>71%</td>
<td>66%</td>
<td>59%</td>
<td>66%</td>
<td>51%</td>
<td>25%</td>
</tr>
<tr>
<td>FY2009</td>
<td>69%</td>
<td>64%</td>
<td>62%</td>
<td>64%</td>
<td>52%</td>
<td>28%</td>
</tr>
<tr>
<td>FY2010</td>
<td>67%</td>
<td>68%</td>
<td>62%</td>
<td>63%</td>
<td>50%</td>
<td>23%</td>
</tr>
<tr>
<td>FY2011</td>
<td>68%</td>
<td>68%</td>
<td>61%</td>
<td>63%</td>
<td>50%</td>
<td>25%</td>
</tr>
<tr>
<td>FY2012</td>
<td>67%</td>
<td>68%</td>
<td>63%</td>
<td>65%</td>
<td>49%</td>
<td>28%</td>
</tr>
<tr>
<td>FY2013</td>
<td>68%</td>
<td>66%</td>
<td>62%</td>
<td>65%</td>
<td>49%</td>
<td>29%</td>
</tr>
</tbody>
</table>

### Minimum Sentence Length as a Percentage of Maximum Sentence Length by Offense Level, FY2003–FY2013

<table>
<thead>
<tr>
<th>Offense Level</th>
<th>Average Min</th>
<th>Average Max</th>
<th>Average Parole Window*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class III</td>
<td>3.9 Years</td>
<td>6.2 years</td>
<td>14 months</td>
</tr>
<tr>
<td>Felony</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Class IIIIA</td>
<td>2.5 years</td>
<td>3.9 years</td>
<td>8 months</td>
</tr>
<tr>
<td>Felony</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Class IV</td>
<td>1.7 years</td>
<td>3.5 years</td>
<td>11 months</td>
</tr>
<tr>
<td>Felony</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Assumes 50% good time awarded

Source: CSG Justice Center analysis of NDCS FY2003–FY2013 prison admissions data
One-third of people released from prison leave without supervision, and their offenses vary considerably.

**Prison Releases by Type, FY2013**

- Released to Parole: 63%
- Released to No Supervision (N = 1,006): 35%
- Other: 2%

**Offense Types Among People Released to No Supervision, FY2013**

- Property: 26%
- Person: 22%
- Drug: 16%
- Sex: 13%
- Motor Vehicle: 10%
- Weapons: 6%
- Other: 6%

Source: NDCS Annual Reports and release data.
The parole supervision system lacks evidence-based practices related to actuarial risk assessment, effective sanctioning, and targeted treatment delivery.
**Nebraska’s Justice Reinvestment Policy Framework**

**Goal: Reduce recidivism, increase public safety, and lower costs**

<table>
<thead>
<tr>
<th>Challenge</th>
<th>Strategy</th>
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<tbody>
<tr>
<td>1. Short prison stays without post-release supervision are a less effective option than probation for reducing recidivism</td>
<td>1. Reserve prison space for individuals convicted of violent felonies, and use probation to manage people convicted of lower-level offenses effectively</td>
</tr>
<tr>
<td>2. The current felony sentencing system lacks structure to deliver predictable sentence lengths and ensure periods of supervision</td>
<td>2. Structure felony statutes to make sentencing more transparent and ensure post-release supervision</td>
</tr>
<tr>
<td>3. The parole supervision system lacks evidence-based practices related to actuarial risk assessment, effective sanctioning, and targeted treatment delivery</td>
<td>3. Enhance parole supervision to hold people accountable once they leave prison and increase public safety</td>
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Nebraska’s Justice Reinvestment Policy Framework

Goal: Reduce recidivism, increase public safety, and lower costs

Strategy 1
Reserve prison space for individuals convicted of violent felonies, and use probation to manage people convicted of lower-level offenses effectively

A. Adjust property offense penalties to account for inflation
B. Require misdemeanor sentences be served in jail, rather than prison
C. Hold people convicted of low-level, nonviolent offenses accountable with probation
D. Prioritize resources for felony probationers at the highest risk
E. Create effective responses for probation violations
F. Expand access to SSAS

Strategy 2
Structure felony statutes to make sentencing more transparent and ensure post-release supervision

D. Prioritize resources for felony probationers at the highest risk
E. Create effective responses for probation violations
F. Expand access to SSAS

Strategy 3
Enhance parole supervision to hold people accountable once they leave prison and increase public safety
Nebraska’s felony theft threshold is due for an update to account for inflation.

Value of Nebraska’s Historical Felony Theft Threshold in 2014 Dollars, 1977–2014

Source: JUSTICE sentencing data.
Reserve prison space for individuals convicted of violent felonies, and use probation to manage people convicted of lower-level offenses effectively

Adjust property offense penalties to account for inflation

- Reserve felony penalties for those offenses involving property valued at $1,500 or more

- For theft, offenses involving less than $500 in property would be class II misdemeanors, $500–$1,499 would be class I misdemeanors, $1,500–$4,999 would be class IV felonies, and $5,000 or more would be class III felonies

- Align penalties for other property offenses to be consistent with the revised felony theft framework
Reserve prison space for individuals convicted of violent felonies, and use probation to manage people convicted of lower-level offenses effectively.

Require people convicted of misdemeanors to serve sentences in jail, rather than prison

- Require that misdemeanor sentences, including those with a term of one year or more, be served in county jails and reserve prison space for people convicted of serious felony crimes.

Source: NDCS prison admissions data
Reserve prison space for individuals convicted of violent felonies, and use probation to manage people convicted of lower-level offenses effectively

Hold people convicted of nonviolent, low-level offenses accountable with sentences to probation

- Create a statutory presumption that people convicted of nonviolent class IV felony offenses will be sentenced to probation rather than incarceration
- Allow judges to override the statutory presumption in limited circumstances, such as when the defendant is simultaneously convicted of a more severe felony
STRATEGY

1. Reserve prison space for individuals convicted of violent felonies, and use probation to manage people convicted of lower-level offenses effectively.

Prioritize resources for felony probationers at the highest risk to reoffend

- Transition misdemeanor probationers placed on high intensity supervision down to medium intensity supervision after 12 months and felony probationers after 18 months. Enable overrides of this policy for probationers who are found to have committed major violations of their conditions of supervision.

- Discharge probationers after six months of successful medium intensity supervision (i.e., no major violations of supervision conditions are reported) for misdemeanor sentences and 12 months for felony sentences, if restitution is paid in full.

- If restitution is not paid in full, transition probationer to an administrative caseload until restitution is paid or the probation sentence is completed, whichever comes sooner.
Elsewhere, swift and sure policies have resulted in decreased arrests, less jail time, and shrinking prison populations.

**Hawaii HOPE**
Intensive, random drug testing with swift, certain, and brief jail sanctions for supervision violations

**Georgia POM**
Prompt sanctions to respond to probationers who demonstrate noncompliance

**North Carolina**
A combination of short jail stays responding to noncompliance and longer prison stays following major violations

### Arrested
- **Control**: 47% HOPE: 21%

### Length of Stay in Jail
- **Control**: 31 days
- **POM**: 8 days

### Prison Admissions
- 2011: 15,188
- 2014: 7,440

Reserve prison space for individuals convicted of violent felonies, and use probation to manage people convicted of lower-level offenses effectively

Create effective options for responding to probation violations

- Provide greater structure and consistency to the 180 days of jail time courts currently have authority to include in probation sentences
- Provide courts authority to impose custodial sanctions for probationers who are at a higher risk of reoffending, who commit a serious violation of the conditions of their probation, and who have already exhausted other sanctioning options
- Allow custodial sanctions of up to three days in jail for violations or up to 30 days for probationers who commit the most serious violations after receiving lower level sanctions and shorter custodial sanctions
- Establish probation policies and probation officer training to ensure that these confinement periods are designated as the most severe response on the violation sanction matrix short of recommendation for revocation
- Preserve courts’ authority to impose longer periods of incarceration for probationers who are convicted of a new criminal offense
Reserve prison space for individuals convicted of violent felonies, and use probation to manage people convicted of lower-level offenses effectively.

Expand access to Specialized Substance Abuse Supervision (SSAS)

- Clarify in policy the admission criteria for SSAS, which will include having a high risk of reoffending as assessed via a validated risk assessment and high substance use needs that would be best served through intensive supervision and treatment.

- Remove existing offense-based criteria for SSAS, which currently limit eligibility to those convicted of a drug offense, and allow all individuals sentenced to probation that meet risk and needs criteria to be candidates for SSAS.
Nebraska’s Justice Reinvestment Policy Framework

**Goal:** Reduce recidivism, increase public safety, and lower costs

**STRATEGY**

1. Reserve prison space for individuals convicted of violent felonies, and use probation to manage people convicted of lower-level offenses effectively

2. Structure felony statutes to make sentencing more transparent and ensure post-release supervision

3. Enhance parole supervision to hold people accountable once they leave prison and increase public safety

**A** Sort offenses across felony classes according to whether they involve violence

**B** Provide structured incarceration and post-release supervision for class III, IIIA and IV felonies

**C** Require that people convicted of the highest felony classes be supervised after release

**D** Improve the management of victim restitution

**E** Evaluate good time policies and estimate impacts of proposed modifications
Structure felony statutes to make sentencing more transparent and ensure post-release supervision

**Sort offenses more consistently across felony classes according to whether they involve violence**

- Enhance the rationality of Nebraska’s felony classifications by more uniformly grouping offenses by the severity of the conduct involved
- Move violent offenses now penalized as a class IV felony to the existing class IIIA felony category
- Create a new class IIA felony classification to distinguish violent offenses now penalized as a class III felony from nonviolent offenses contained in that class
<table>
<thead>
<tr>
<th>Felony Class</th>
<th>Changes Based on Policy Option 2(A)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Classes I, IA, IB, IC, ID</td>
<td>Unchanged</td>
</tr>
<tr>
<td>Class II</td>
<td>Unchanged</td>
</tr>
<tr>
<td>Class IIA</td>
<td>Newly created felony class consisting of current class III felony violent and sex offenses</td>
</tr>
<tr>
<td>Class III</td>
<td>Consists of all current class III felony offenses except violent and sex offenses</td>
</tr>
<tr>
<td>Class IIIA</td>
<td>Expand to include additional violent and sex offenses currently designated as class IV felonies</td>
</tr>
<tr>
<td>Class IV</td>
<td>Retain as the class containing the lowest-level nonviolent, non-sex offenses</td>
</tr>
</tbody>
</table>

**Offense Examples:**
- 2nd degree sexual assault
- 2nd degree assault
- Manslaughter

**Offense Examples:**
- Terroristic Threats
- Strangulation
- 3rd degree domestic assault
Provide structured periods of incarceration and post-release supervision for all people sentenced to prison for class III, IIIA, and IV felonies

- Enhance the predictability of prison length of stay and ensure post-release supervision for Nebraska’s three lowest felony classes by providing for defined periods of incarceration and mandatory reentry supervision
- Order mandatory reentry supervision at the time of sentencing, to ensure that every person sentenced to prison for class IV, IIIA, and III felonies reenters the community under supervision
- Deliver mandatory reentry supervision through the state’s probation system
Provide structured periods of incarceration and post-release supervision for all people sentenced to prison for class III, IIIA, and IV felonies

<table>
<thead>
<tr>
<th>Felony Class*</th>
<th>Determinate Prison Sentence</th>
<th>Prison Length of Stay**</th>
<th>Mandatory Reentry Supervision Period</th>
<th>Total Time in Criminal Justice Control** (Prison Stay + Reentry Supervision Period)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class III</td>
<td>Up to 4 years</td>
<td>Up to 2 years</td>
<td>2 years</td>
<td>Up to 4 years</td>
</tr>
<tr>
<td>Class IIIA</td>
<td>Up to 3 years</td>
<td>Up to 1.5 years</td>
<td>1.5 years</td>
<td>Up to 3 years</td>
</tr>
<tr>
<td>Class IV</td>
<td>Up to 2 years</td>
<td>Up to 1 year</td>
<td>1 year</td>
<td>Up to 2 years</td>
</tr>
</tbody>
</table>

*Felony class as reconstituted under policy option 3(A)
**Assumes 50% good time awarded

Source: NDCS prison release data
Structure felony statutes to make sentencing more transparent and ensure post-release supervision

Require that individuals convicted of the most serious offenses—class I(A-D), II, and IIA felonies—be supervised after release from prison

- Adopt parole guidelines ensuring all parole-eligible people receive a minimum of nine months of post-release supervision
- Utilize risk assessment information in parole-release decision-making
In Nebraska, restitution is much more likely to be collected from people on probation than those in jail or prison.

NE law requires judges to consider the defendant’s ability to pay when imposing restitution. Judges responding to a survey said this is why so few people sentenced to incarceration are ordered to pay restitution.

Among those ordered to pay restitution, 70% of probationers paid some or all restitution ordered compared to 24% of people in prison.

Percent of felony sentences with a restitution order, FY2013

Percent of felony restitution orders that were fully or partially paid during a one- to two-year follow-up period, FY2013

Source: JUSTICE sentencing data and NDCS restitution report.
Structure felony statutes to make sentencing more transparent and ensure post-release supervision

Improve the management of victim restitution

- Clarify, in statute, that sentencing courts may include restitution orders in sentences to prison or jail
- Specify that potential wages paid while incarcerated and potential deposits into the defendant’s institutional trust account may be considered when the sentencing court calculates the amount of restitution to be paid
- Adopt a uniform sentencing order that clearly directs NDCS to collect restitution from all people committed to NDCS facilities
- Require NDCS to deduct a consistent percentage (25 percent) on a monthly basis from deposits into institutional trust accounts and from wages earned in prison or while on work release until restitution obligations are satisfied
Structure felony statutes to make sentencing more transparent and ensure post-release supervision

Evaluate the role of the prison good time policies and generate impact estimates for proposed modifications

- Establish a task force of criminal justice system representatives to assess good time statutes and departmental policies, evaluate reform proposals such as repeal of current statutes and implementation of an earned time system, and generate impact estimates

- Direct the task force to evaluate how reform proposals could impact sentencing by surveying criminal justice system practitioners, study how good time is applied as a behavior management tool inside correctional facilities, and analyze how reforms would impact correctional costs, demand for prison beds, and public safety

- Submit the results of the study to the Unicameral and governor
Nebraska’s Justice Reinvestment Policy Framework

Goal: Reduce recidivism, increase public safety, and lower costs

STRATEGY

1. Reserve prison space for individuals convicted of violent felonies, and use probation to manage people convicted of lower-level offenses effectively

   - A. Assess parolee risks and needs using an actuarial tool
   - B. Adopt evidence-based practices in parole supervision to impact criminal thinking
   - C. Respond to parole violations with swift and certain sanctions
   - D. Respond to major parole violations with incarceration followed by supervision

2. Structure felony statutes to make sentencing more transparent and ensure post-release supervision

3. Enhance parole supervision to hold people accountable once they leave prison and increase public safety
Parole administration has not had the opportunity to implement evidence-based practices fully.

- **Dosage**: Parolees are not assessed for risk and need to inform frequency of contacts. The population is not sorted across officer caseloads to focus more intensive supervision and treatment on higher-risk parolees.

- **Swiftness**: Parole officers may apply administrative responses to violations, but lack the authority to impose short periods of confinement as sanctions for more serious violations.

- **Consistency**: A graduated violation matrix is used, but is not mandatory and the extent to which responses are applied consistently to violations is unclear. Risk assessment could help guide most intensive responses for higher-risk parolees.

- **Cost-effectiveness**: Intensive supervision practices, such as electronic monitoring, are not prioritized for the highest-risk, most serious cases. The volume of revocation hearings appearing before the board is up, causing delays between the violation and the response.
STRATEGY

3

Enhance parole supervision to hold people accountable once they leave prison and increase public safety

Assess each parolee’s risk of reoffending and treatment needs using an actuarial tool

- Adopt parole supervision policies requiring the use of a validated actuarial risk and needs assessment and ensure that individuals are assessed upon release to parole supervision and reassessed regularly

- Revalidate the adopted risk and needs assessment tool regularly
Enhance parole supervision to hold people accountable once they leave prison and increase public safety

Adopt evidence-based practices in parole supervision to impact criminal thinking and behavior

- Adopt parole supervision policies differentiating caseloads based on the assessed risks and needs of parolees and provide the most intensive supervision to people assessed as having the highest risks and needs

- Implement new pre- and in-service training for parole officers regarding risk-based differentiation of caseloads, officer contacts, and program and treatment prioritization
Enhance parole supervision to hold people accountable once they leave prison and increase public safety

Respond to parole violations with swift and certain sanctions

• Direct NDCS to enhance the existing graduated violation sanction and rewards matrix to factor in the parolee’s assessed risk of reoffending and the seriousness of the violation

• Provide officer training and agency oversight to ensure consistent statewide application of the matrix

Source: Parole Board hearing data.
Although the proportion is down in recent years, half of parole violators return to the community without supervision.

Parole Violator Releases by Type, FY2004–FY2013

- **Re-Paroles**
  - FY04: 24%
  - FY05: 26%
  - FY06: 18%
  - FY07: 24%
  - FY08: 31%
  - FY09: 36%
  - FY10: 33%
  - FY11: 40%
  - FY12: 48%
  - FY13: 50%

- **Jam Outs**
  - FY04: 76%
  - FY05: 74%
  - FY06: 82%
  - FY07: 76%
  - FY08: 69%
  - FY09: 64%
  - FY10: 67%
  - FY11: 60%
  - FY12: 52%
  - FY13: 50%

Source: NDCS prison release data.
Enhance parole supervision to hold people accountable once they leave prison and increase public safety

Respond to major parole violations with incarceration followed by supervision

- Allow custodial sanctions of 30 days in prison, post good time, for parolees who are at a higher risk of reoffending, who commit a serious violation of the conditions of their parole, and who have already exhausted other sanctioning options
- Permit individuals who commit a new serious violation to be revoked to prison after parolees receive two custodial sanctions
- Establish policies and training parole supervision officers to ensure that these confinement periods are designated as the most severe response on the violation sanction matrix
- Preserve judges’ authority to impose longer periods of incarceration for parolees who are convicted of a new criminal offense and sentenced to prison or jail
**Nebraska’s Justice Reinvestment Policy Framework**

**Goal:** Reduce recidivism, increase public safety, and lower costs

<table>
<thead>
<tr>
<th>Challenge</th>
<th>Strategy</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Reserve prison space for individuals convicted of violent felonies, and use probation to manage people convicted of lower-level offenses effectively</td>
</tr>
<tr>
<td>2</td>
<td>Structure felony statutes to make sentencing more transparent and ensure post-release supervision</td>
</tr>
<tr>
<td>3</td>
<td>Enhance parole supervision to hold people accountable once they leave prison and increase public safety</td>
</tr>
</tbody>
</table>

- Short prison stays without post-release supervision are a less effective option than probation for reducing recidivism
- The current felony sentencing system lacks structure to deliver predictable sentence lengths and ensure periods of supervision
- The parole supervision system lacks evidence-based practices related to actuarial risk assessment, effective sanctioning, and targeted treatment delivery
Presentation Overview

Criminal justice system challenges

Justice reinvestment policy framework

Impact estimates
Policy framework projected to reduce overcrowding to 2011 levels and avert more than $300M in spending.

- Potential averted construction costs: $261.6M
- Total operational costs averted: $44.8M*
- Percent of current design capacity: 138%

---

**Projected Prison Beds Saved at Fiscal Year-end**

<table>
<thead>
<tr>
<th>Year</th>
<th>FY2016</th>
<th>FY2017</th>
<th>FY2018</th>
<th>FY2019</th>
<th>FY2020</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>864</td>
<td>1,065</td>
<td>1,057</td>
<td>1,030</td>
<td>1,047</td>
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</table>

* Based on an estimated future annual direct cost per inmate that includes contract beds ($13,000) for those above the current total and the FY2014 annual direct cost ($7,124) for those below the current total.

Increases to the felony probation population are partially offset by reductions in the misdemeanor population.

Source: Office of Probation Administration supervision data.
Estimates indicate little impact on county jails.

Statewide Total Jail Bed Impact at 2020 Fiscal Year-end

+32 beds

Policies that decrease the volume of county jail sentences or jail length of stay

1(C) Hold people convicted of low-level, nonviolent offenses accountable with probation

1(E) Create effective responses for probation violations

Policies that increase the volume of county jail sentences or use of jail as a sanction

1(A) Adjust property offense penalties to account for inflation

1(B) Require misdemeanor sentences be served in jail, rather than prison

1(E) Create effective responses for probation violations
Counteracting effects of policies creates moderate impact on the parole supervision population.

Policies that will decrease prison population and eventually reduce the volume of parole releases

1(A) Adjust property offense penalties to account for inflation

1(B) Require misdemeanor sentences be served in jail, rather than prison

1(C) Hold people convicted of low-level, nonviolent offenses accountable with probation

1(E) Create effective responses for probation violations

2(B) Provide structured incarceration and post-release supervision for class III, IIIA and IV felonies

Parole Population Impact at 2020 Fiscal Year-end

+250 parolees

Policies that increase the volume of parole releases or reduce parole revocations

2(C) Require that people convicted of the highest felony classes be supervised after release

3(D) Respond to major parole violations with incarceration followed by supervision
### Summary of Averted Costs and Reinvestment

<table>
<thead>
<tr>
<th></th>
<th>FY2016</th>
<th>FY2017</th>
<th>FY2018</th>
<th>FY2019</th>
<th>FY2020</th>
<th>Total</th>
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<tbody>
<tr>
<td><strong>Prison</strong> Averted</td>
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<tr>
<td>Operational Costs</td>
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<td>$9.1M</td>
<td>$10.4M</td>
<td>$10.6M</td>
<td>$10.6M</td>
<td>$44.8M</td>
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<td>Costs Averted</td>
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<tr>
<td>New Construction</td>
<td>2014 Master Plan Report recommended construction of 1,100 beds by 2019 at a cost of $261.6M</td>
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<tr>
<td>Costs Averted</td>
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<td></td>
<td></td>
<td></td>
<td>$261.6M</td>
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<tr>
<td><strong>Total Averted Costs</strong></td>
<td>$4.0M</td>
<td>$9.1M</td>
<td>$10.4M</td>
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<td>$10.6M</td>
<td>$306.4M</td>
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<td><strong>Reinvestments</strong></td>
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<td>Probation officer</td>
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<td>$5.0M</td>
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<td>programs and treatment to reduce recidivism</td>
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<td>Enhance parole</td>
<td>$0.3M</td>
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<td>$0.3M</td>
<td>$0.3M</td>
<td>$0.3M</td>
<td>$1.5M</td>
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<td>supervision</td>
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<tr>
<td>Sustainability</td>
<td>$0.5M</td>
<td>$0.2M</td>
<td>$0.2M</td>
<td>$0.2M</td>
<td>$0.2M</td>
<td>$1.3M</td>
</tr>
<tr>
<td>package</td>
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<td></td>
</tr>
<tr>
<td><strong>Total Reinvestment</strong></td>
<td>$2.9M</td>
<td>$6.4M</td>
<td>$7.5M</td>
<td>$8.0M</td>
<td>$8.0M</td>
<td>$32.8M</td>
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<tr>
<td><strong>Net Savings</strong></td>
<td>$1.1M</td>
<td>$2.7M</td>
<td>$2.9M</td>
<td>$2.6M</td>
<td>$2.6M</td>
<td>$273.6M</td>
</tr>
</tbody>
</table>

Source: Council of State Governments Justice Center
Sustainability Options

1. Establish an oversight committee to measure and assess policy impacts of the justice reinvestment policy framework on an ongoing basis.

2. Evaluate the quality of prison- and community-based programs and use results to improve outcomes.

3. Track and report restitution collections within the OPA and NDCS in order to establish a baseline against which future collections may be measured.

4. Require criminal justice agencies to complete fiscal impact statements that include, to the extent feasible, projections of the number of prison beds and the estimated cost of adding capacity.

5. Create a sentencing information database to help judges appreciate variations in sentencing practices within their districts and others across the state.

6. Launch process for reaching agreement between county governments and the state on the overhead costs associated with probation operations.

7. Enable access to State Patrol criminal history data for research purposes.
# Nebraska’s Justice Reinvestment Policy Framework

## Goals
Reduce recidivism, increase public safety, and lower costs

### STRATEGY 1
Reserve prison space for individuals convicted of violent felonies, and use probation to manage people convicted of lower-level offenses effectively

- a) Adjust property offense penalties to account for inflation
- b) Require misdemeanor sentences be served in jail, rather than prison
- c) Hold people convicted of low-level, nonviolent offenses accountable with probation
- d) Prioritize resources for felony probationers at the highest risk
- e) Create effective responses for probation violations
- f) Expand access to Specialized Substance Abuse Supervision (SSAS)

### STRATEGY 2
Structure felony statutes to make sentencing more transparent and ensure post-release supervision

- a) Sort offenses across felony classes according to whether they involve violence
- b) Provide structured incarceration and post-release supervision for class III, IIIA and IV felonies
- c) Require that people convicted of the highest felony classes be supervised after release
- d) Improve the management of victim restitution
- e) Evaluate good time policies and estimate impacts of proposed modifications

### STRATEGY 3
Enhance parole supervision to hold people accountable once they leave prison and increase public safety

- a) Assess parolee risks and needs using an actuarial tool
- b) Adopt evidence-based practices to impact criminal thinking
- c) Respond to parole violations with swift and certain sanctions
- d) Respond to major parole violations with incarceration followed by supervision

## Current 5-Year Trajectory
- 11% Prison Pop.
- $292.5 Million
- No Change in Recidivism

## Projected 5-Year Outcomes
- Reduce prison overcrowding 10%
- Avert $306.4 million
- Reinvest $32.8 million
- 20% reduction in revocations
- 70% fewer people jamming out
- $1.6 million annual increase in restitution orders

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Justice Reinvestment Project Timeline

May
Press Conference & Project Launch
Working Group Meeting 1

Jun
Working Group Meeting 2

Jul
Working Group Meeting 3

Aug
Working Group Meeting 4: Policy option rollout
Press conference to unveil report
Bill introduction

Sep

Oct

Nov

Dec
2015 Session

Data Analysis

Initial Analysis
Detailed Data Analysis
Impact Analysis

Policymaker and Stakeholder Engagement

Stakeholder Engagement and Policymaker Briefings
Policy Option Development
Ongoing engagement

Council of State Governments Justice Center
Thank You

Chenise Bonilla, Program Associate
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