Justice Reinvestment Working Group
Second Meeting
September 10, 2015

The Council of State Governments Justice Center

Ellen Whelan-Wuest, Project Manager
Steve Allen, Senior Policy Advisor
Carl Reynolds, Senior Legal and Policy Advisor
The Council of State Governments Justice Center

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

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

Supported by:
# Updated Working Group Roster

<table>
<thead>
<tr>
<th>Associate Justice (Ret.)</th>
<th>Chief Justice Paul Suttell, Co-Chair</th>
</tr>
</thead>
<tbody>
<tr>
<td>Judith Savage, Co-Chair</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Rep. Marvin Abney</th>
<th>Anna Cano-Morales, Latino Policy Institute</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rep. Cale Keable</td>
<td>Attorney General Peter Kilmartin</td>
</tr>
<tr>
<td>Mary McElroy, State Public Defender</td>
<td>Maria Montanaro, BHDDH</td>
</tr>
<tr>
<td></td>
<td>Col. Hugh Clements, Providence Police</td>
</tr>
<tr>
<td></td>
<td>Hon. John Flynn, Superior Court</td>
</tr>
<tr>
<td></td>
<td>Hon. Jeanne LaFazia, District Court</td>
</tr>
<tr>
<td></td>
<td>Hon. Michelle LaFazia, District Court</td>
</tr>
<tr>
<td></td>
<td>Col. Steven O’Donnell, RI State Police</td>
</tr>
<tr>
<td></td>
<td>Sen. Michael McCaffrey</td>
</tr>
<tr>
<td></td>
<td>Sen. Christopher Ottiano</td>
</tr>
<tr>
<td></td>
<td>James Vincent, NAACP</td>
</tr>
<tr>
<td></td>
<td>A.T. Wall, RIDOC</td>
</tr>
</tbody>
</table>

- Rep. Marvin Abney
- Anna Cano-Morales, Latino Policy Institute
- Col. Hugh Clements, Providence Police
- Megan Clingham, Mental Health Advocate
- Sen. Cynthia Coyne
- Rep. Robert Craven
- Michael Évora, Commission for Human Rights
- Hon. John Flynn, Superior Court
- Hon. Alice Gibney, Superior Court
- Sen. Paul Labour
- Rep. Cale Keable
- Attorney General Peter Kilmartin
- Hon. Jeanne LaFazia, District Court
- Sen. Michael McCaffrey
- Hon. John McConnell Jr., U.S. District Court
- Mary McElroy, State Public Defender
- Maria Montanaro, BHDDH
- Col. Steven O’Donnell, RI State Police
- Sen. Christopher Ottiano
- Laura Pisaturo, RI Parole Board
- Rep. Daniel Reilly
- Chief Brian Sullivan, Police Chiefs Assoc.
- Olin Thompson, Assoc. of Criminal Defense Lawyers
- James Vincent, NAACP
- A.T. Wall, RIDOC
Rhode Island launches justice reinvestment with interbranch press conference

“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

Governor Gina Raimondo signs Executive Order 15-11, establishing the Justice Reinvestment Working Group.
Data analysis is underway as agencies continue to fulfill data requests

<table>
<thead>
<tr>
<th>Data</th>
<th>Source</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crime and Arrest Data</td>
<td>Rhode Island State Police</td>
<td>Reports Retrieved</td>
</tr>
<tr>
<td>Criminal History Data</td>
<td>Office of the Attorney General</td>
<td>Preparing Request</td>
</tr>
<tr>
<td>Court Disposition and Sentencing Data</td>
<td>Rhode Island Judiciary/Office of the Attorney General</td>
<td>Partially Received</td>
</tr>
<tr>
<td>Problem Solving Court Data</td>
<td>Rhode Island Judiciary</td>
<td>Reports Received</td>
</tr>
<tr>
<td>Probation Supervision Data</td>
<td>RIDOC</td>
<td>Received</td>
</tr>
<tr>
<td>ACI Population Data</td>
<td>RIDOC</td>
<td>Received</td>
</tr>
<tr>
<td>Parole Supervision Data</td>
<td>RIDOC</td>
<td>Received</td>
</tr>
<tr>
<td>Parole Decision Data</td>
<td>Parole Board/RIDOC</td>
<td>Pending</td>
</tr>
<tr>
<td>Programming and Behavioral Health Data</td>
<td>RIDOC/BHDDH</td>
<td>Pending</td>
</tr>
</tbody>
</table>
An update on criminal justice system stakeholder engagement since the July working group meeting

<table>
<thead>
<tr>
<th>Working Group Members</th>
<th>Individual meetings/calls with working group members and their staff</th>
</tr>
</thead>
<tbody>
<tr>
<td>Organizations</td>
<td>OpenDoors, ACLU, Day One, University of Rhode Island, Direct Action for Rights &amp; Equality, Local Initiatives Support Corporation, and the Institute for the Study &amp; Practice of Nonviolence</td>
</tr>
<tr>
<td>Focus Groups/Board Meetings</td>
<td>Pretrial Investigators, Superior Court Judges, District Court Judges, Police Chiefs, and RIDOC Clinicians</td>
</tr>
<tr>
<td>Behavioral Health Experts</td>
<td>Mental Health Consumer Advocates of RI, Providence Center, and behavioral health staff at RIDOC, BHDDH, and the Department of Health</td>
</tr>
</tbody>
</table>

**Examples of Upcoming Discussions**
- Focus groups with probation & parole officers, victim advocates, and community advocates
- Criminal Defense Lawyers Association’s Executive Committee
The three initial focus areas from our previous presentation

1. **Pretrial.** How does the movement of a growing population awaiting trial achieve efficiency and effective public safety?

2. **Low severity offenders.** How can and does the state respond to the high volume of people admitted to the ACI for lower severity offenses?

3. **Probation.** Are there ways to strengthen the large probation system to achieve better outcomes?
Presentation Overview

Reducing Recidivism

Pretrial

Probation
### System Checklist: Reducing Recidivism and Promoting Recovery

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

**Initial Assessments Inform:**
- Immediate treatment needs
  - Diversion decisions
  - Sentencing
- Problem solving courts
- Need for confinement
- Community supervision strategy

**Subsequent Assessments Inform:**
- Risk management
- Programming & treatment needs
  - Case planning
  - Reentry
- Community supervision
- Programming effectiveness

---

The Council of State Governments Justice Center
2. **Target.** To reduce recidivism, supervision and programs must be focused on people with higher risk/need.
2. **Target.** Focus on high-risk offenders.

![Diagram showing average difference in recidivism by risk for halfway house offenders]

- **Low Risk:** +3%
- **Moderate Risk:** -6%
- **High Risk:** -14%

**Average Difference in Recidivism by Risk for Halfway House Offenders**

3. **Frontload**. Supervision should be focused on the period when people are most likely to reoffend.

3. **Frontload.** 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.

- **High Risk, High Need**
  - High Level of Supports
  - **Residential Treatment**

- **High Level of Supports**
  - **Intensive Outpatient**

- **Low Level of Supports**
  - **Outpatient**

- **Low Risk, Low Need**
  - **Maintenance & Recovery**
4. **Implement.** Evaluating the impact and cost of effective programs helps ensure resources are expended wisely.

**Who:** Targeting High Risk?

**How Well:** High Program Quality?

**What:** Effective Program Models?

---

**Impact on Recidivism Rates**

- **Cognitive Behavioral**
  - 14%

- **Drug Treatment in the Community**
  - 24%

---

5. **Criminal Thinking.** “Criminalized” thinking neutralizes an expected sense of responsibility.

### Examples of Types of Criminal Thinking

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

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

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

- **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.** CBT takes advantage of the interconnections between thoughts, feelings, and behavior.

### Cognitive-Behavioral Cycle

- **Situation**
  - tell us what conditions led to the behavior (people, places, things)

- **Thoughts**
  - drive behaviors

- **Feelings**
  - can be healthy or problematic depending on how one copes with the feelings

- **Consequences**
  - (negative or positive) determine the likelihood of continuance

- **Behavior**
  - represent the ultimate behavior the person engages in

A review of 58 studies found that CBT reduced recidivism on average 25% (up to 50%).

6. Accountability. Swift and certain responses to violation behavior are critically important.

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

Percent Arrested
Status Quo

47%

HOPE

21%

-55%

Georgia POM
Prompt sanctions to correct behavior of troublesome probationers

Days in Jail
Status Quo

31 Days

POM
8 Days

-74%

North Carolina
Swift and certain “dips” of brief jail sanctions and “dumps” of prison sanctions in response to violations

Prison Admissions
2011

15,188

2014

7,440

-51%

7. **Measure Outcomes.** Agencies and program providers must be held accountable for demonstrating results.

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
### System Checklist: Reducing Recidivism and Promoting Recovery

<table>
<thead>
<tr>
<th></th>
<th><strong>Action</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td><strong>Assess</strong> risk and need</td>
</tr>
<tr>
<td>2</td>
<td><strong>Target</strong> the right people</td>
</tr>
<tr>
<td>3</td>
<td><strong>Frontload</strong> supervision and treatment</td>
</tr>
<tr>
<td>4</td>
<td><strong>Implement</strong> proven programs</td>
</tr>
<tr>
<td>5</td>
<td><strong>Address</strong> criminal thinking</td>
</tr>
<tr>
<td>6</td>
<td>Hold individuals <strong>accountable</strong></td>
</tr>
<tr>
<td>7</td>
<td><strong>Measure</strong> and incentivize <strong>outcomes</strong></td>
</tr>
</tbody>
</table>
Presentation Overview

Reducing Recidivism

Pretrial

Probation
Crime, arrests, and filings are all down, decreasing pressure at the front end of the system.

**Total Reported Crimes in 2014**
Down 15% in the last five years

**Total Adult Arrests in 2014**
Down 15% in the last five years

**52,580 Crimes**

**27,782 Arrests**

**Total Reported Crimes in 2014**
Down 15% in the last five years

**Total Adult Arrests in 2014**
Down 15% in the last five years

**ACI Pretrial Admissions in FY2015**
Up 8% from FY2010 to 2014, but down in FY2015

**11,378 ACI Pretrial Admissions**

Pretrial population not held in the ACI

**Total District Court Misdemeanor and Felony Filings in 2014**
Down 6% in the last five years

**District Court**
- Filings: 25,409 Misdemeanors
- Dispositions: 23,842 Misdemeanors

**Superior Court**
- Filings: 5,506 Felonies
- Dispos.: 5,126 Felonies

Source: Rhode Island State Police Crime in Rhode Island 2014, Rhode Island Judiciary Annual Reports, RIDOC pretrial data.
Rhode Island’s complex pretrial system uses diversion at various points.
For misdemeanor defendants, there are several diversion opportunities.

**Misdemeanor Defendants**

- **Arrest**
- **Bail** sometimes initially set by bail commissioners
- **District Court Initial Appearance**
  - **Dismissal**
  - **Plea**
  - **Misdemeanor Diversions**

Prior to arraignment, defendants are typically held in local facilities for 24 hours or less.

**Filing** (§12-10-12)
Typically: Plea of “guilty” or “nolo contendere;” first offenders and minor misdemeanors; case quashed and expunged if no new charges for a year

84 DC misdemeanor cases per year (2010–2014)

**Veterans Treatment Court**
Pre-plea; Kent Co. veterans with diagnosed trauma or trauma-related charges; criminal history, risk/needs assessed by review panel; must remain compliant with treatment and conditions

72 current active participants

**Pretrial Services Unit (PTSU)** (§12-13-24.1)
Programs offered in conjunction with Pretrial Supervision
- Trauma Court
- Intensive Diversion Program (IDP)
- Reducing Youthful Dangerous Decisions (RYDD)
Felony defendants with limited criminal history may also participate in several diversion programs.

**Felony Defendants**

- **Arrest**: Bail sometimes initially set by Bail Commissioners
- **District Court Initial Appearance**
- **Felony Diversions**
  - **AG Diversion**: Typically first-time nonviolent offenders; SA and MH programming, community service and restitution; if successfully completed case dismissed by AG
  - **Drug Court (§8-2-39.2)**: Plea of “nolo contendere”; alcohol/drug offense or nonviolent charge and history of substance abuse; no pending or prior violent felonies or controlled substance delivery; treatment, supervision, drug testing; 12–15 months total
  - **Deferred Sentence (§12-19-19)**: Plea of guilty or nolo in superior court; 5-year completion yields exoneration and sealing of records
  - **Filing**: Typically: Plea of “guilty” or “nolo contendere”; case quashed and expunged if no new charges for a year

**Felony Screening**

- **Superior Court Arraignment**
- **Felony Pretrial Conference**
- **Felony Trial**

- **249 accepted in 2014 (438 referrals)**
- **108 admissions in 2014, 166 current active participants**
- **39 SC misdemeanor and felony cases per year (2010–2014)**
Of these, the PTSU has the highest volume of cases and most are referred for mental health/substance use needs.

Between 700 and 750 people are actively supervised on PTSU at any given time.

**Characteristics:**

- **Sex**
  - 72% Male
  - 28% Female

- **Race**
  - 71% White
  - 9% Hispanic
  - 6% Black

- **Age**
  - 8% <20
  - 35% 20-29
  - 22% 30-39
  - 17% 40-49
  - 13% 50-59
  - 4% >60

80% of placements are categorized as having a substance use or mental health needs.

- District Court judges indicate confidence in PTSU’s ability to identify individualized treatment plans and monitor defendants.
- PTSU is one of the only opportunities for risk/needs assessments pre-sentencing.

Source: Rhode Island PTSU data.
But while misdemeanor PTSU completers have a high rate of case dismissal, outcomes for felony defendants are less clear.

Dispositions among FY2013 Misdemeanor Placements

- Dismissal: 60%
- Filing/Probation: 31%
- Incarceration: 15%
- Other: 1%
- Unknown: 6%

Average length of stay for misdemeanors is 3 months

Dispositions among FY2013 Felony Placements

- Dismissal: 24%
- Filing/Probation: 8%
- Incarceration: 7%
- Other: 1%
- Unknown: 60%

Average length of stay for felonies is nearly 6 months

Among FY2013 misdemeanor cases disposed:
- 95% were arrest-free during supervision
- 87% made their court appearance
- 82% complied with PTSU monitoring

Stakeholder Input
1.) PTSU investigators don’t know what happens to felony cases
2.) Superior Court practitioners don’t know what happened on PTSU
3.) Defendants get no credit for their work on pretrial status if the case moves forward

Source: Rhode Island PTSU data.
Of those who were detained in the ACI awaiting trial, the population reflects an accumulation of more serious offenses.

<table>
<thead>
<tr>
<th>Offense Level and Type</th>
<th>FY2015, N=11,378</th>
<th>Pretrial Admissions by Offense Level and Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Felony</td>
<td>59%</td>
<td>New Commits 53%</td>
</tr>
<tr>
<td>Violent/Sex</td>
<td>40%</td>
<td>Other 6%</td>
</tr>
<tr>
<td>Property/Drug/Other</td>
<td>60%</td>
<td>FTA/FTP 41%</td>
</tr>
<tr>
<td>Misdemeanor</td>
<td>41%</td>
<td>Probation Violators 24%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Offense Level and Type</th>
<th>FY2015, N=695</th>
<th>Pretrial On-Hand Population by Offense Level and Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Felony</td>
<td>94%</td>
<td>Violent/Sex 68%</td>
</tr>
<tr>
<td>Violent/Sex</td>
<td>24%</td>
<td>New Commits 53%</td>
</tr>
<tr>
<td>Property/Drug/Other</td>
<td>32%</td>
<td>Other 5%</td>
</tr>
<tr>
<td>Misdemeanor</td>
<td>6%</td>
<td>FTA/FTP 8%</td>
</tr>
<tr>
<td>Other</td>
<td>6%</td>
<td>Probation Violators 34%</td>
</tr>
</tbody>
</table>

Source: RIDOC pretrial data.
Demographics of the detained pretrial population also skew toward younger, male defendants of color.

- 92% Male
- 8% Female

Pretrial On-Hand Population by Age Group, FY2015

- Age 60+ 3%
- 50-59 8%
- 40-49 20%
- 30-39 25%
- 20-29 38%
- Under 20 5%

Total = 695

Pretrial On-Hand Population by Race/Ethnicity, FY2015

- White 53%
- Hispanic 20%
- Other 3%
- Black 24%

Pretrial On-Hand Population by Sex, FY2015

- 92% Male
- 8% Female

Pretrial Admissions by Race/Ethnicity, FY2015

- White 40%
- Hispanic 25%
- Other 3%
- Black 32%

Source: RIDOC pretrial data, Rhode Island State Police Crime in Rhode Island 2014.
More recent data shows the 2014 growth in pretrial admissions has receded.

In July we presented data indicating a significant increase in pretrial admissions.

With new FY2015 data, the FY2014 admission spike has returned to expected levels.

There are questions about how well new commitments and probation violators are distinguished in the data.

Source: RIDOC pretrial data.
However, the length of time people are detained on pretrial has grown by offense and admission types.

Length of Stay in Days for ACI Pretrial Releases by Offense Level, FY2011-2015

- **Felony**: 26.9 to 34.4 days, +28%
- **Misdemeanor**: 4.5 to 4.0 days, -11%
- **Total**: 18.3 to 21.9 days, +20%

Length of Stay in Days for ACI Pretrial Releases by Admission Type, FY2011-2015

- **New Commits**: 26.4 to 37.2 days, +58%
- **Probation Violators**: 23.5 to 31.4 days, +19%
- **Other**: 6.2 to 6.0 days, +78%
- **FTA/FTP**: 12.4 to 6.0 days, -5%

Source: RIDOC pretrial data.
New commitment admissions are down, but long stays mean they still constitute a large portion of pretrial beds.

New Commitment Admissions -44%

New Commitment Pretrial Average Length of Stay in Days by Release Type, FY2015


Source: RIDOC pretrial data.
Increasing volume of FTA/FTP admissions likely create costs despite short lengths of stay.

**FTA/FTP Admissions**
- FY2010: 3,452
- FY2015: 4,717
- Increase: +37%

**Length of Stay in Days for FTA/FTP Pretrial Releases, FY2010–2015**
- **Felony**
  - FY2010: 12.2
  - FY2015: 12.5
  - Increase: +2%
- **Misdemeanor**
  - FY2010: 2.6
  - FY2015: 2.3
  - Decrease: -11%
- **Total**
  - FY2010: 6.0
  - FY2015: 2.3
  - Decrease: -5%

**FTA/FTP Pretrial Average Length of Stay in Days by Release Type, FY2015**
- **Bailed**
  - Felony: 11.6
  - Misdemeanor: 2.5
- **Court Discharge**
  - Felony: 5
  - Misdemeanor: 6.2
- **New Sentence**
  - Felony: 57.6
  - Misdemeanor: 2.6

**FTA/FTP Proportion of Pretrial On-hand Population, FY-end 2010 and 2015**
- **FY2010**
  - Felony: 6%
  - Misdemeanor: 8%
- **FY2015**
  - Felony: 6%
  - Misdemeanor: 8%

Source: RIDOC pretrial data.
Growing probation violator admissions and increasing length of stay lead to a larger share of the ACI pretrial population.

![Graph showing Probation Violator Admissions +45% over FY2010 to FY2015.](image)

**Probation Violator Release Types, FY2015**

- **19%** Bailed
- **37%** Court Discharge
- **44%** New Sentence

**Probation Violator Pretrial Average Length of Stay in Days by Release Type, FY2015**

- **Bailed**: 15.3 days
- **Court Discharge**: 30.7 days
- **New Sentence**: 51.3 days

**Probation Violator Proportion of Pretrial On-hand Population, FY-end 2010 and 2015**

- **FY2010**: 27%
- **FY2015**: 34%

*Source: RIDOC pretrial data.*
Reduced pretrial admissions and length of stay are both viable options for achieving bed savings.

**Bed space in the ACI for pretrial detainees is determined by two factors:**

\[
\text{Volume of people admitted to the ACI for pretrial detention} \times \text{Length of time those people spend detained in the ACI} = \frac{\text{Number of bed-days needed to detain the pretrial population}}{365} = \text{Number of pretrial beds occupied for a full year}
\]

**Example: Beds saved from volume reduction of FTA/FTP admissions**

<table>
<thead>
<tr>
<th>FTA/FTP pretrial admissions in FY2015: 4,717</th>
<th>Average length of stay among these releases: 6.0 days</th>
<th>Pretrial bed-days: 28,302</th>
<th>Pretrial beds for a full year: 78</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cutting FTA/FTP admissions in half would save 39 beds</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Example: Beds saved from length-of-stay reduction among probation violators**

<table>
<thead>
<tr>
<th>Probation violator admissions in FY2015: 2,785</th>
<th>Average length of stay among these releases: 31.4 days</th>
<th>Pretrial bed (days): 87,449</th>
<th>Pretrial beds for a full year: 240</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cutting Probation Violator LOS by 1/3 would save 80 beds</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: RIDOC pretrial data.
Research shows that longer lengths of stay for low-risk defendants increases their likelihood of recidivism.

The Hidden Costs of Pretrial Detention
Detaining low-risk defendants, even just for a few days, is strongly correlated with higher rates of new criminal activity both during the pretrial period and years after case disposition.

Low-risk defendants had a **40% higher chance of committing new crime before trial** when held 2–3 days compared to those held one day or less and **51% higher chance of committing a new crime** in the next two years when held 8–14 days compared to one day or less.

With only limited use of risk assessment tools (PTSU), it is impossible for judges to know which defendants are low or high risk for absconding or committing new crimes on release.

Almost half of pretrial admissions were people who cycled through the ACI at least twice.

### 27,770 Unique Individuals Admitted to the ACI on Pretrial, FY2011–2015

Average of 2.1 Admissions per Person

- **15,370 people (55%)**
  - 15,370 people were admitted to the ACI only once
  - 15,370 admissions (26%)

- **12,400 people (45%)**
  - 12,400 people had two or more admissions and accounted for 74% of the pretrial admission volume
  - 43,122 admissions (74%)

### 58,492 Total Pretrial Admissions

The most frequent flyer had 22 admissions over the five-year period

Source: RIDOC pretrial data.
Summary of takeaways from pretrial system analysis

1. **Thousands are diverted** prior to reaching ACI, but the data is limited as to why most are diverted or their outcomes.

2. **Reported crime and arrests have declined by 15%** since 2009, and court filings are also down.

3. However, increases in **probation violators and FTA/FTP defendants continue to drive pretrial admissions**.

4. At the same time, the **length of stay for new commitments and probation violators has grown**, particularly among felony populations.

5. A reduction in pretrial admissions and/or length of stay **could significantly reduce ACI beds** used for pretrial detainees.

6. Research suggests **longer lengths of stay can yield worse outcomes** for low-risk defendants.

7. Only a small portion of pretrial defendants are assessed for their risk, and **release decisions are not currently informed by risk assessments**.
1. What are the outcomes for the thousands of people released pretrial who are not admitted as ACI detainees? Do current diversion options maximize the potential for reaching eligible participants?
2. Why are so many felony FTA/FTP defendants admitted into the ACI for a short period of time? Is there potential to reduce their volume?
3. Why are felony new commitment admissions rising even as crime and arrest rates fall?
4. Why are felony admission lengths of stay increasing?
5. Why are felony probation violator pretrial admissions on the rise?
6. Are there opportunities to reduce the volume and length of stay among the felony pretrial population?
7. Could greater use of a risk/needs assessment help target treatment and referral resources for more of the “frequent flyer” defendants cycling through the courts?
Presentation Overview

Reducing Recidivism

Pretrial

Probation
In July, we showed the ways Rhode Island’s large probation system stands apart nationally and regionally.

Proportioners per 100,000 Adult Residents, 2013

**Ranked 3rd**
2,737 people on probation per 100,000 residents

**~23,000**
Proportioners at FY-end 2015

**1 in 45**
Rhode Island residents on probation

**1 in 22**
Providence residents on probation

Two elements of Rhode Island’s system create the large probation population.

1. The volume of people sentenced to probation terms

2. The length of time people serve on probation

- Long Probation Terms
- No Mechanism to Shorten Initial Probation Sentence

23,686 Probationers
As of FY-end 2015

Sentenced to Probation in Lieu of Incarceration
Probation Following Incarceration
The use of probation for post-release supervision creates a second “in-flow” into the probation system.

According to judges:

“There is a culture of sentencing that tends toward split sentences.”

“We impose long terms of probation following prison, instead of flat sentences where parole supervision would be the norm after release.”

Awaiting further data analysis to understand the contribution of straight probation and split sentences to the probation population
Most states have caps on felony probation terms and mechanisms to shorten them—Rhode Island has neither.

43 states have either a cap on probation terms, or a statutory mechanism for shortening probation terms or both.

- States with a cap on maximum felony probation terms of 5 years or less*
- States with statutes allowing for probation terms to be shortened, but no caps
- States with both a cap of 5 years or less and mechanism for shortened probation

* Many states exempt some crimes from the cap
Another area where Rhode Island stands apart is in the standard of proof for probation violations.

In July, we showed that a growing proportion of sentenced admissions are probation violators.

“At a probation-violation hearing, the sole issue for a hearing justice is whether or not the defendant has breached a condition of his or her probation by failing to keep the peace or remain on good behavior. The state need only show that reasonably satisfactory evidence supports a finding that the defendant has violated his or her probation.”

Supreme Court of Rhode Island, in numerous decisions, e.g., State v. Barrientos, 88 A. 3d 1130 (2014) (citations omitted)

Rhode Island is one of only three states that uses “reasonable assurance” as the standard of proof for probation violation.
Justice reinvestment has allowed other states to identify supervision challenges and adopt policy changes.

- **Authorized graduated responses** to supervision violations
  - ID
  - DE

- **Improved interventions** in the areas of substance abuse, mental health and cognitive behavioral therapy
  - SD
  - WV

- **Focused probation supervision** resources on higher risk offenders through policy or incentive credits
  - WA
  - AZ

- **Required/improved risk-needs assessments** for people supervised in the community
  - KY
  - MS

- **Adopted more effective swift, certain, and graduated responses to violation behavior** to reduce probation revocations to prison
  - NC
  - OR
Early analysis indicates that Rhode Island probation policies contrast with emerging trends in other states.

<table>
<thead>
<tr>
<th></th>
<th>Use of Probation</th>
<th>Length</th>
<th>Assessment</th>
<th>Targeting</th>
<th>Revocation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Other States</strong></td>
<td>In lieu of prison</td>
<td>Terms capped</td>
<td>Risk/needs assessed</td>
<td>Higher risk receives most intensive supervision</td>
<td>Burden of Proof: ‘Preponderance of Evidence’ Defined sanctions</td>
</tr>
<tr>
<td><strong>Rhode Island</strong></td>
<td>In lieu of prison and in addition to prison</td>
<td>No cap short of statutory maximum</td>
<td>?</td>
<td>?</td>
<td>Burden of Proof: ‘Reasonable Assurance’ Sanctioning limited only by suspended time</td>
</tr>
</tbody>
</table>
How can probation in Rhode Island achieve better long-term outcomes?

Other states face the challenge of many offenders reentering the community without supervision, regardless of the risk they pose.

In Rhode Island, however, the challenge is to identify how current probation sentencing and practices can be structured, utilized, and resourced to increase accountability, reduce recidivism, and increase public safety.

**Additional Areas for Analysis and Understanding**

1. Probation sentencing, volume, length of stay, recidivism, and violation rates (data permitting)
2. Outcomes among people with behavioral health needs in and outside the ACI (data permitting)
3. Probation supervision policies and practices
4. Supervision resources
5. Larger impacts of probation terms, for individuals, communities, and the state
6. Restitution orders and collection rates
To effectively reduce recidivism, Rhode Island’s criminal justice system must assess, target, frontload supervision & treatment, implement proven programs, address criminal thinking, hold people accountable, and measure & incentivize outcomes.

Few pretrial defendants are assessed for their risks/needs, referred to services, or monitored while awaiting trial, and pretrial detainees are held for longer times in the ACI.

Aspects of Rhode Island’s probation law and practice are unique and may be contributing to the large probation population, including the allowance for long terms, the lack of a shortening mechanism, and the low standard of proof required for violations.
Justice Reinvestment Timeline

Press Conference & Project Launch
Working Group Meeting 1
Working Group Meeting 2
Working Group Meeting 3
Working Group Meeting 4: Policy Option Rollout
Final Report Rollout
Bill Introduction

May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | 2016 Session

Data Analysis

Initial Analysis | Detailed Data Analysis | Impact Analysis

Policymaker and Stakeholder Engagement

Stakeholder Engagement and Policymaker Briefings | Policy Option Development | Ongoing Engagement
Thank You

Chenise Bonilla, Policy Analyst
cbonilla@csg.org

This material was prepared for the State of Rhode Island. The presentation was developed by members of the Council of State Governments Justice Center staff. Because presentations are not subject to the same rigorous review process as other printed materials, the statements made reflect the views of the authors, and should not be considered the official position of the Justice Center, the members of the Council of State Governments, or the funding agency supporting the work.