Justice Reinvestment in Indiana

Analyses & Policy Framework

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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 crime and strengthen neighborhoods.
### Justice Reinvestment Strategy

<table>
<thead>
<tr>
<th>1</th>
<th>Analyze Data &amp; Develop Policy Options</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Analyze data to look at crime, court, corrections, and supervision trends</td>
<td></td>
</tr>
<tr>
<td>• Solicit input from stakeholders</td>
<td></td>
</tr>
<tr>
<td>• Map allocation of resources</td>
<td></td>
</tr>
<tr>
<td>• Develop policy options &amp; estimate cost savings</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2</th>
<th>Adopt New Policies</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Identify assistance needed to implement policies effectively</td>
<td></td>
</tr>
<tr>
<td>• Deploy targeted reinvestment strategies to increase public safety</td>
<td></td>
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<tr>
<td>• Review implementation progress</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>3</th>
<th>Measure Performance</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Track the impact of enacted policies/programs</td>
<td></td>
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<tr>
<td>• Monitor recidivism rates &amp; other key measures</td>
<td></td>
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</tbody>
</table>
Governor Daniels speaking at a 6/28/10 press conference announcing the rollout of the Justice Reinvestment Initiative in Indiana.

Goals:

• Increase public safety
• Reduce spending on corrections
• Ensure adequate capacity for incarcerating serious and violent offenders
• Holding offenders accountable
Stakeholder Engagement

<table>
<thead>
<tr>
<th>Stakeholders Contacted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prosecutors</td>
</tr>
<tr>
<td>Defense Bar</td>
</tr>
<tr>
<td>Judges</td>
</tr>
<tr>
<td>Business Community</td>
</tr>
<tr>
<td>Probation</td>
</tr>
<tr>
<td>Community Corrections</td>
</tr>
</tbody>
</table>
Indiana’s Crime Rate is Declining

Violent & Property Crime Rates per 100,000 (2000-2009)

**Violent**
- 2000: 350
- 2001: 340
- 2002: 330
- 2003: 320
- 2004: 310
- 2005: 300
- 2006: 290
- 2007: 280
- 2008: 270
- 2009: 260

**US Avg.**
- 2000: 429
- 2009: 333

**Change:** -5%

**Property**
- 2000: 3,036
- 2001: 3,000
- 2002: 2,960
- 2003: 2,920
- 2004: 2,880
- 2005: 2,840
- 2006: 2,800
- 2007: 2,760
- 2008: 2,720
- 2009: 3,116

**US Avg.**
- 2000: 3,036
- 2009: 3,116

**Change:** -8%
But, the prison population increased over 40 percent since 2000

<table>
<thead>
<tr>
<th></th>
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<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>Indiana</td>
<td>20,125</td>
<td>28,322</td>
<td>41%</td>
<td>442</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>20,754</td>
<td>23,380</td>
<td>13%</td>
<td>374</td>
</tr>
<tr>
<td>Ohio</td>
<td>45,833</td>
<td>51,686</td>
<td>13%</td>
<td>449</td>
</tr>
<tr>
<td>Missouri</td>
<td>27,543</td>
<td>30,186</td>
<td>10%</td>
<td>509</td>
</tr>
<tr>
<td>Michigan</td>
<td>47,718</td>
<td>48,738</td>
<td>2%</td>
<td>488</td>
</tr>
<tr>
<td>Illinois</td>
<td>45,281</td>
<td>45,474</td>
<td>0%</td>
<td>351</td>
</tr>
</tbody>
</table>

Source: U.S Department of Justice, Bureau of Justice Statistics Bulletin, Prisoners in 2008
And is projected to continue to increase, costing taxpayers $1.2 billion by 2017

Prison Population Projection: 2010-2017

21% increase projected from 2010-2017
7 year cumulative costs to house additional population = $1.2 billion

- Construction: $630 million
- Operating: $571 million

Source: Indiana Department of Corrections
Nonviolent Offenders Account for Most of the Growth in Admissions in Each Felony Group

74% of the increase due to drug sale
39% of the increase due to drug sale/poss.

54% of the increase due to drugs, forgery, or theft

Property & Drug Offenders Account for 55% of the Overall Increase in Prison Admissions from 2005-2009

Source: 2008 Indiana Probation Report, The Supreme Court of Indiana
### Policy Framework

#### Sentencing

1-A Graduate drug penalties.

1-B Restructure theft penalties.

1-C Give judges more options when sentencing non-violent offenders.

#### Community Supervision

2-A Use community corrections for felony offenders.

2-B Create a probation improvement fund.

2-C Focus supervision resources on high-risk offenders.

2-D Ensure probation supervision after prison.

#### Public Safety

3-A Increase access to cognitive-behavioral therapy and substance use treatment.

3-B Apply swift and certain sanctions for probation violations.

3-C Incentivize local governments to reduce Class D felony admissions to prison.
Indiana’s laws do not result in sentences that are proportionate to the severity of the crime.
Indiana’s Sentencing Policy for Low-Level Sale of Cocaine is Among the Most Severe and Costly

Penalties for Selling 3 Grams of Cocaine

<table>
<thead>
<tr>
<th>State</th>
<th>Minimum</th>
<th>Maximum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indiana</td>
<td>20 years</td>
<td>50 years</td>
</tr>
<tr>
<td>Texas</td>
<td>2 years</td>
<td>20 years</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>--</td>
<td>Up to 12.5 years</td>
</tr>
<tr>
<td>Ohio</td>
<td>Probation</td>
<td>1 year</td>
</tr>
</tbody>
</table>

3 grams =
## Indiana Lacks Graduated Penalties for Drug Offenders

### Felony Penalty Thresholds for Sale of Cocaine

<table>
<thead>
<tr>
<th>State</th>
<th>Penalty Thresholds</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Indiana</strong></td>
<td>&lt; 3 g.</td>
</tr>
<tr>
<td><strong>Texas</strong></td>
<td>&lt; 1 g.</td>
</tr>
<tr>
<td><strong>Ohio</strong></td>
<td>&lt; 50 g.</td>
</tr>
<tr>
<td><strong>Michigan</strong></td>
<td>&lt; 50 g.</td>
</tr>
<tr>
<td><strong>Wisconsin</strong></td>
<td>&lt; 1 g.</td>
</tr>
</tbody>
</table>
The Average Sentence is Longer for Some Nonviolent Offenders than for More Violent or Serious Offenders

<table>
<thead>
<tr>
<th>Crime Type</th>
<th>Average Sentence (Months)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drug Sale</td>
<td>96</td>
</tr>
<tr>
<td>Burglary</td>
<td>79</td>
</tr>
<tr>
<td>Sexual Assault</td>
<td>65</td>
</tr>
</tbody>
</table>
• Revise Indiana law by implementing various gradations for the possession and sale of cocaine, methamphetamine, and certain controlled substances.

• Provide that possession of up to 5 grams will be a Class D felony, 5-50 grams will be a Class C felony, and more than 50 grams will be a Class B felony. Manufacture or dealing up to 10 grams will be a Class C felony, 10-100 grams will be a Class B felony, and more than 100 grams will be a Class A felony.
Indiana Also Lacks a Felony Theft Threshold

6 states raised their felony theft thresholds to at least $1000 in 2009

1-B Sentencing

Restructure the penalties for theft to establish a minimum threshold amount for what constitutes a felony offense.

<table>
<thead>
<tr>
<th></th>
<th>Current</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>C Felony</td>
<td>D Felony</td>
</tr>
<tr>
<td></td>
<td>$100,000+</td>
<td>&lt;$100,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>C Felony</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$50,000+</td>
</tr>
</tbody>
</table>
1-C Give judges sentencing people who have committed a nonviolent offense more options.

- Allow nonviolent Class D felony offenses to be suspended at the judge’s discretion.

- Remove “operating a vehicle with lifetime license suspension” from the current list of non-suspendible offenses.

- Repeal the provision mandating that if an adult is convicted of a felony within three years of committing a felony-equivalent offense as a juvenile, the sentence for the new felony is nonsuspendible.
## Policy Framework

### Sentencing

<table>
<thead>
<tr>
<th>CHALLENGE</th>
<th>STRATEGY</th>
<th>GOAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indiana’s laws do not result in sentences that are proportionate to the severity of the crime.</td>
<td><strong>Shift from a one-size-fits-all sentencing policy for theft and drug offenses to a more graduated approach; give judges options when sentencing a person charged with a nonviolent offense who has prior convictions.</strong></td>
<td>Graduated drug and theft penalties and increased judicial options ensure that the degree of punishment imposed is proportional to the severity of the crime committed.</td>
</tr>
</tbody>
</table>

### Community Supervision

### Public Safety
Probation, community corrections, and parole agencies do not coordinate operations, have overlapping authority, and do not share information about individuals under supervision.
Community Supervision and Information Systems are Fragmented & Uncoordinated

Each offender may be supervised by four or more different supervision officers, working for four different agencies, each with their own database, intake assessments, filing systems, and policies.
Community Corrections Serves Mostly D Felony & A Misdemeanor Offenders

New Cases Received = 10,300
1st quarter FY 2007-08

Felonies: 5077 = 51%
- A 132 = 1%
- B 608 = 6%
- C 1058 = 10%
- D 3279 = 32%

Misdemeanors: 4917 = 49%
- A 3235 = 31%
- B 737 = 7%
- C 945 = 9%
- Other 306 = 3%

Source: Community Corrections - Quarterly Report for Active Clients – Adults (1st quarter, FY 2007-2008)
Policy Framework

Community Supervision

2-A  Require that state dollars allocated to community corrections agencies be dedicated to the provision of evidence-based practices for felony offenders.

- Remove community corrections statutory language specifying what program models can be used and replace it with a directive to use evidence-based practices that have been shown to reduce recidivism.

- Mandate that state community corrections funds can be used only for programs serving people convicted of a felony (not a misdemeanor) offense.
The Felony Probation Population Has Increased by 56% in the Last 10 Years

Source: 2008 Indiana Probation Report, The Supreme Court of Indiana
Probation Revocations Have Increased from 25% of All Terminations in 1999 to 34% in 2008

Source: 2008 Indiana Probation Report, The Supreme Court of Indiana
Percent Revoked for Probation Violations in 2009 Varies from 33% in Marion County to 11% in St. Joseph County

<table>
<thead>
<tr>
<th>County</th>
<th>% Complete</th>
<th>% New Offense</th>
<th>% Violation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marion</td>
<td>44%</td>
<td>24%</td>
<td>33%</td>
</tr>
<tr>
<td>Allen</td>
<td>61%</td>
<td>11%</td>
<td>27%</td>
</tr>
<tr>
<td>Madison</td>
<td>59%</td>
<td>25%</td>
<td>16%</td>
</tr>
<tr>
<td>Vanderburgh</td>
<td>79%</td>
<td>4%</td>
<td>17%</td>
</tr>
<tr>
<td>Lake</td>
<td>56%</td>
<td>22%</td>
<td>22%</td>
</tr>
<tr>
<td>Elkhart</td>
<td>56%</td>
<td>21%</td>
<td>23%</td>
</tr>
<tr>
<td>Hendricks</td>
<td>70%</td>
<td>11%</td>
<td>19%</td>
</tr>
<tr>
<td>St. Joseph</td>
<td>77%</td>
<td>12%</td>
<td>11%</td>
</tr>
<tr>
<td>Hamilton</td>
<td>70%</td>
<td>14%</td>
<td>16%</td>
</tr>
<tr>
<td>Delaware</td>
<td>76%</td>
<td>11%</td>
<td>13%</td>
</tr>
<tr>
<td>Other</td>
<td>71%</td>
<td>15%</td>
<td>14%</td>
</tr>
<tr>
<td>State</td>
<td>64%</td>
<td>16%</td>
<td>19%</td>
</tr>
</tbody>
</table>

Over 32% of probationers in Marion county are revoked due to technical violations compared to 10.6% in St. Joseph.

Source: 2008 Indiana Probation Report, The Supreme Court of Indiana
Community Supervision

2-B Create a probation improvement fund that provides counties with incentives to reduce probation revocations and coordinate with other supervision agencies.

• Provide probation departments with competitive grants to support the adoption of best practices.

• Create a performance incentive that provides additional funding for jurisdictions that are able to reduce revocations to state prison.

• Require that funding be made available only to those jurisdictions that are actively working to improve coordination between the community corrections and probation departments operating within the county.
Contact Standards Were Related to Risk and Did Not Vary Significantly Across the State

61% of respondents had contact standards related to risk

<table>
<thead>
<tr>
<th>Risk Level</th>
<th>Number of Contacts per Month</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum</td>
<td>2.3</td>
</tr>
<tr>
<td>Medium</td>
<td>1.3</td>
</tr>
<tr>
<td>Minimum</td>
<td>1.1</td>
</tr>
</tbody>
</table>

Maximum risk group contact twice as often as minimum

Little difference between medium and minimum risk contacts
Average Probation Officer Caseload Size by Risk Level*

Maximum

Sex Offender: 75

Medium

Mental Health: 95

Minimum

93

*These averages may include juvenile offenders and supervising officers.

Source: CSG Probation Survey, 2010
Policy Framework

Community Supervision

2-C Focus probation supervision resources on high-risk offenders.

• Limit active supervision of low and medium-risk offenders to the first nine months for misdemeanor probationers and the first 12 months for felony probationers, unless they have violated a condition of supervision during that initial period.

• Place people who complete this supervision period successfully – and for whom additional active supervision is unnecessary – on administrative supervision.
Judges & Prosecutors Often Prefer People to be Supervised by Probation Instead of Parole After Prison

<table>
<thead>
<tr>
<th>Felony Class</th>
<th>% Released from Prison to Probation with a Suspended Sentence</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>39%</td>
</tr>
<tr>
<td>B</td>
<td>38%</td>
</tr>
<tr>
<td>C</td>
<td>32%</td>
</tr>
<tr>
<td>D</td>
<td>27%</td>
</tr>
</tbody>
</table>
Community Supervision

2-D

Require probation (as opposed to parole) supervision after release from prison, except for the most serious violent and sex offenders, who would be supervised on parole.

• Continue to ensure that following a period of incarceration in prison, all people convicted of murder, a Class A felony, or a sex offense be supervised on parole unless the judge also imposed a suspended sentence.

• Require judges to impose a period of mandatory supervision for all other offenders sentenced to prison. Require that the period of supervision be at least six months and no more than three years.
## Policy Framework

### Sentencing

### Community Supervision

<table>
<thead>
<tr>
<th>CHALLENGE</th>
<th>STRATEGY</th>
<th>GOAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Probation, community corrections, and parole agencies do not coordinate operations, have overlapping authority, and do not share information about individuals under supervision.</td>
<td><strong>Strengthen community supervision by focusing resources on high-risk offenders; create incentives for coordination among supervision agencies.</strong></td>
<td>Taxpayers get the most value from their investments in community supervision.</td>
</tr>
</tbody>
</table>

### Public Safety
Adults under community supervision often cannot access substance use treatment programs; responses to violations of supervision conditions are slow and ineffective.
Few D Felony Offenders Receive Intensive Substance Use Treatment While in Prison

Few, if any, D Felony Offenders Access Programs Due to Short Length of Stay, Limited Incentive of Program Credits, and Large # in Held in Jail
Services for Offenders with Mental Illness and Substance Abuse Were Rated Poor or Fair

43% Determine presence of mental illness

81% Determine presence of substance abuse disorder

68% Use standardized assessments for sex offenders

75% Respondents rated services fair or poor

61% Respondents rated services fair or poor

62% Of departments use special population assessments

Source: CSG Probation Survey, 2010
Policy Framework

Public Safety

3-A Increase access to substance use treatment in the community and cognitive-behavioral therapy in prison.

• Establish a grant program for localities to increase access to substance use treatment for high-risk felony probationers who have a high need for community-based treatment.

• Increase the number of people who complete the Therapeutic Community program and ensure access to community-based programming upon release to increase the impact on recidivism.

• Increase the availability of cognitive-behavioral therapy programming for people immediately prior to their release from prison.
Responses to Violations Are Not Always Swift

Indiana sheriffs report many probationers can stack up in local jails when violation hearings are not held for 30, 60, 90 days.

Research Suggests Swift & Certain (& Not Severe) Sanctions Work Best to Reduce Recidivism

**Georgia POM**
Enabling probation officers to employ administrative sanctions & probationers to waive violation hearings reduced jail time three-fold, reduced time spent in court, and increased swiftness of responses to violations.

**Hawaii HOPE**
Court-run intensive, random drug testing with swift, certain, and brief jail sanctions.

![Graph showing reduction in arrests, drug use, skipped appointments, and probation revocations.](image)
Policy Framework

Public Safety

3-B Enable the use of short, swift, and certain responses for probation supervision.

• Cap at 15 the number of days a person returned to jail for a probation violation can stay there while awaiting a court hearing.

• Provide probation officers with options, including short stays in local jails, that enable them to hold people on felony probation accountable for breaking the terms of their supervision, as opposed to requiring a court hearing in response to every violation.

• Administrative policies to ensure a process for enabling swift and certain sanctions while protecting due process rights of offenders shall be developed by the Indiana Judicial Conference.
Class D Offenders Admitted to Prison

19,600 Prison Admissions in 2009

Class D Offenders:
< 180 days expected to be served in DOC

Felony A: 689  4%
Felony B: 4,213  21%
Felony C: 4,909  25%
Felony D: 9,789  50%

22 %
• Sentenced to prison for violating conditions of supervision or committing a new crime
• On supervision

41 %
• Sentenced for a new crime
• One or more prior offenses in DOC file
• Not on supervision

37 %
• Sentenced for a new crime
• First offense according to DOC file

47% from Marion County
28% from Hamilton, Wayne, Huntington, Jennings, Putnam
• Create a funding program that would allow the Department of Correction to provide performance-based funding to those counties that reduce the number of Class D felony offenders sentenced to prison. The prorated incentive would be 50 percent of the marginal costs the Department of Correction would otherwise assume for food, medical, and clothing expenses.

• Reduce other criminal justice funding for those counties that increase the number of Class D felony offenders sentenced to prison.
Adults under community supervision often cannot access substance use treatment programs; responses to violations of supervision conditions are slow and ineffective.

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<thead>
<tr>
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<th>STRATEGY</th>
<th>GOAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Increase availability of substance use treatment in the community and availability of cognitive-behavioral therapy in prison; encourage local governments to reduce the number of Class D offenders sentenced to prison; enable probation officers to use swift and certain sanctions for people who violate conditions of supervision.</td>
<td>Crime and recidivism decline when offenders have access to community-based treatment, are supervised effectively and swift and certain sanctions are used in response to violations.</td>
<td></td>
</tr>
</tbody>
</table>
## Policy Framework

### Sentencing

1-A  
Graduate drug penalties.

1-B  
Restructure theft penalties.

1-C  
Give judges more options when sentencing non-violent offenders.

### Community Supervision

2-A  
Use community corrections for felony offenders.

2-B  
Create a probation improvement fund.

2-C  
Focus supervision resources on high-risk offenders.

2-D  
Ensure probation supervision after prison.

### Public Safety

3-A  
Increase access to cognitive-behavioral therapy and substance use treatment.

3-B  
Apply swift and certain sanctions for probation violations.

3-C  
Incentivize local governments to reduce Class D felony admissions to prison.
Impact of Policies

<table>
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<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Projection</td>
<td>29,904</td>
<td>30,669</td>
<td>31,453</td>
<td>32,257</td>
<td>33,081</td>
<td>33,927</td>
<td>34,794</td>
</tr>
<tr>
<td>Impact of Policy Framework</td>
<td>29,904</td>
<td>28,852</td>
<td>28,707</td>
<td>28,907</td>
<td>29,112</td>
<td>29,330</td>
<td>29,547</td>
</tr>
</tbody>
</table>

- Marginal Cost Savings Per Biennium: $12,200,000, $13,600,000, $11,600,000
- Avoided Prison Expansion Costs: $1,200,000,000
- Reinvestment Per Biennium: $8,000,000, $9,500,000, $9,500,000
Thank You

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