



# Justice Reinvestment in Michigan

## Overview

## Background

In June 2013, Governor Rick Snyder, Senate Majority Leader Randy Richardville, House Speaker Jase Bolger, Chief Justice Robert Young, Department of Corrections Director Dan Heyns, Senate Democratic Leader Gretchen Whitmer, and House Democratic Leader Tim Greimel requested technical assistance from The Pew Charitable Trusts and the U.S. Department of Justice’s Bureau of Justice Assistance to explore a data-driven “justice reinvestment” approach to review state corrections and criminal justice policies and spending and to determine the appropriate reinvestments in effective strategies that will increase public safety.

In 1998, Michigan introduced sentencing guidelines that provided judges with recommendations for setting an appropriate length for the minimum term of a sentence. Under the direction of a Sentencing Commission,<sup>1</sup> the guidelines were designed to ensure that adults with similar criminal histories convicted of similar offenses would receive comparable and appropriate sentences, regardless of where their cases are adjudicated. The guidelines have not been comprehensively evaluated since their adoption, and state leaders are interested in determining to what extent these guidelines have met their objective. State and local officials are also interested in learning to what extent the sentencing laws have been effective in deterring crime, holding people accountable for the crimes they commit, and reducing the likelihood that someone convicted of a crime will reoffend.

The Michigan Law Revision Commission (MLRC), a bipartisan group of legislators and appointed members, will lead the effort to examine the state’s sentencing structure. Established in 1965, the MLRC was created by the state legislature to “examine the common law and statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and



recommending needed reforms.”<sup>2</sup> In January 2013, state leaders charged the MLRC to partner with the Council of State Governments Justice Center (CSG Justice Center) to conduct a review of Michigan’s sentencing guidelines and practices, which will include an analysis of length of stay in prison and the decision-making practices of the parole board.

Recognizing the opportunity to incorporate the sentencing study into a larger analysis of Michigan’s criminal justice system, state leaders expanded the initial scope of work to include a comprehensive analysis of jail, prison, probation, and parole data. In order to interpret and understand the data, CSG Justice Center staff will convene focus groups and lead interviews with people working on the front lines of the Michigan criminal justice system. Based on these quantitative and qualitative analyses, CSG Justice Center staff will present findings to the members of the MLRC at public meetings. The MLRC will review these findings and assist in developing policy options for policymakers’ consideration that are designed to increase public safety and make most efficient use of scarce resources.

This overview highlights the issues and potential areas of analysis surrounding Michigan’s sentencing guidelines, as well as recent criminal justice trends based on initial analyses of available summary level data. In the upcoming months, the CSG Justice Center staff will continue to request, analyze, and contextualize this and other data to provide a greater understanding of the drivers and trends in Michigan’s criminal justice system.

# Michigan's Sentencing Guidelines

**Michigan's sentencing system is one of the nation's most complex, yet has received limited evaluation since its implementation.**

- Michigan policymakers have not undertaken a comprehensive analysis of the state's sentencing guidelines and their impact since their adoption in 1998.
- Michigan's sentencing guidelines comprise a complex system of sentencing grids meant to incorporate prior criminal conviction history and offense and offender variables across nine different offense classes (or grids). Without consideration of possible habitual offender penalties, there are 258 potential sentencing ranges applicable, a number that exceeds that of every other state but one.<sup>3</sup>
- Accounting for habitual offender status, determining the appropriate sentence depends on navigating nine grids with over one thousand cells and as many as 20 or more variables for any single sentence.<sup>4</sup>
- A report by the National Center for State Courts based on 2004 sentencing data found inconsistent application of the guidelines across the state.<sup>5</sup>
- Recidivism outcomes based on these different sentencing characteristics for similar offenders have not been analyzed.

## **Michigan's sentencing grids contain three types of cells:**

**Prison cells:** recommended sentence exceeds a minimum of one year of imprisonment.

**Straddle cells:** sentence may be either to prison or an intermediate sanction.

**Intermediate sanction cells:** recommended sentence may include jail, probation, or other non-prison sanction.

- *Judges must include a rationale for departing from the presumptive sentence for prison cells and intermediate sanction cells.*
- *For cases whose score results in a straddle cell—meaning they are eligible for either prison or a community-based sanction—judges may impose very different types of sentences on defendants, and they can be under the control of the criminal justice system for very different lengths of time.*

**While Michigan does have a truth-in-sentencing system, the current sentencing system provides little certainty to victims and the community about the amount of time individuals in prison will serve beyond their minimum sentence prior to release.**

- Individuals sentenced to prison may spend widely varying amounts of time in prison or on supervision after release. This happens because once an individual satisfies the minimum sentence imposed by the court, the parole board determines on a case-by-case basis how much of the remaining maximum sentence length will be served.
- Maximum sentence lengths for criminal offenses are determined by statute. According to Department of Corrections reporting, the average minimum prison sentence imposed by the court is four years.<sup>6</sup> The maximum sentence is often three or four times that length.<sup>7</sup>

**Michigan's truth-in-sentencing system** requires individuals to serve the entire minimum sentence in prison prior to being considered for parole. "Disciplinary time," or bad time, is accumulated for misconduct while in prison. This disciplinary time is not formally added to the minimum sentence, but the parole board must consider the amount of time each person has accumulated when it considers parole. There is no system for individuals to accumulate "good time" for complying with prison rules.

# Criminal Justice Trends in Michigan

## **Michigan's violent crime rate is higher than the national average, but has declined over the past decade.**

- Michigan's violent crime rate ranked 13th among all 50 states in 2011, with 445 reported violent crimes per 100,000 state residents. By comparison, the national violent crime rate was 386 per 100,000 U.S. residents.<sup>8</sup>
- Between 2000 and 2011, Michigan's violent crime rate dropped 20 percent, from 555 to 445 reported crimes per 100,000 Michigan residents. During the same period, the national violent crime rate decreased 24 percent, from 507 to 386 reported crimes per 100,000 U.S. residents.<sup>9</sup>
- In 2011, Michigan's property crime rate ranked 29th in the nation, with 2,612 reported property crimes per 100,000 residents, compared to 2,909 per 100,000 residents for the U.S. nationally.<sup>10</sup>
- Between 2000 and 2011, Michigan's property crime rate decreased 27 percent, from 3,555 to 2,612 reported crimes per 100,000 residents. Meanwhile, the national rate declined 20 percent, from 3,618 to 2,909 per 100,000 U.S. residents.<sup>11</sup>

## **Arrests are down for violent crime, but are largely stable for property and drug crime.**

- Between 2000 and 2011, arrests for violent index offenses in Michigan decreased 31 percent, from 18,257 to 12,520.<sup>12</sup>
- During this period, arrests for property index offenses decreased slightly, by 0.4 percent, from 35,490 to 35,352.<sup>13</sup>
- Between 2000 and 2011, arrests for drug-related offenses in Michigan increased 3 percent, from 34,069 to 35,124.<sup>14</sup>

## **The number of people sentenced to prison remains steady in recent years even though the number of people convicted of felony offenses for which a prison sentence is possible has declined.**

- The number of people convicted of felony offenses declined by 9 percent between 2009 and 2012, from 55,592 to 50,833.<sup>15</sup> However, the number of people sentenced to prison declined by only 1 percent during that same period. There were 10,702 sentences to prison in 2009 and 10,547 in 2012.<sup>16</sup>
- The proportion of felony convictions resulting in a prison sentence increased from 19 percent in 2009 to 21 percent in 2012.<sup>17</sup>
- The number of people admitted to prison for new crimes—crimes committed by people not currently under supervision—increased 3 percent, from 4,691 to 4,841 between 2009 and 2012.<sup>18</sup>

## **Revocation rates for parolees and probationers have declined since 2006, but revocation rates for probationers have increased slightly since 2010.**

- Since 2006, the number of parolees revoked to prison has decreased by 21 percent, while the number of probationers revoked to prison has declined by 28 percent. Since 2010, however, the number of probationers revoked to prison has increased by 6 percent.<sup>19</sup>
- To assess whether the changes in revocation rates are due to changes in parolees' and probationers' behavior, changes in supervision practices, or both, a comprehensive analysis of rearrest rates is necessary. Such analysis will help inform how supervision trends impact jail and prison populations and also highlight areas where better supervision practices can improve outcomes.

## **Whereas Michigan's prison population declined significantly in the five-year period from 2006 to 2011, the number of people in state prison increased between 2011 and 2012, and this number is projected to continue growing over the next five years.<sup>20</sup>**

- Between 2006 and 2011, the Michigan prison population decreased 17 percent, from 51,515 to 42,904. However, between 2011 and 2012, the prison population increased 2 percent, from 42,904 to 43,594.<sup>21</sup>
- The Michigan Department of Corrections (MDOC) projects that, between 2012 and 2017, the state prison population will grow by 3.2 percent, from 43,594 to 44,978 people.<sup>22</sup>

# The Justice Reinvestment Approach

## STEP 1

### Analyze Data and Develop Policy Options

CSG Justice Center staff will conduct a comprehensive analysis of crime, arrest, sentencing, probation, prison, parole, and behavioral health data. The analyses will result in findings regarding prison and jail capacity, length of stay in jail or prison, and the effectiveness of supervision practices.

To incorporate perspectives and recommendations from across Michigan, the CSG Justice Center will collect input and recommendations from criminal justice system stakeholders including prosecuting attorneys; the defense bar; judges; law enforcement executives; service providers and community leaders; victims, survivors, and their advocates; local officials; and probation and parole officers, among many others.

In collaboration with the MLRC, which will review analyses and share recommendations, CSG Justice Center staff will analyze data to determine the extent to which sentencing guidelines and parole processes are meeting their intended objectives and will develop policy options to improve the achievement of these objectives. Policy options will also be proposed to improve the effectiveness of the criminal justice system's ability to prevent crime, hold people accountable for their crimes, and reduce recidivism.

## STEP 2

### Adopt New Policies and Put Reinvestment Strategies into Place

If the policy options are approved as legislation and enacted, Michigan policymakers must ensure that the policies are implemented effectively. The CSG Justice Center will assist Michigan with translating the new policies into practice and make certain that related programs and system investments achieve projected outcomes. This assistance includes developing implementation plans with state and local officials and keeping policymakers apprised through frequent progress reports and testimony to relevant legislative committees. The implementation plan will include a detailed list of technical assistance to be delivered by the CSG Justice Center staff. Michigan will also have the opportunity to request additional technical assistance to meet important one-time implementation needs, such as enhancing the skills of the probation and parole supervision workforce.

## STEP 3

### Measure Performance

Finally, the CSG Justice Center will ensure that Michigan officials receive brief, user-friendly, and up-to-date information that explains the impact of enacted policies on prison populations, criminal activity, and recidivism. Typically, this includes tracking multiple indicators that make it easy for policymakers to understand—in real time—the changes occurring in various components of the criminal justice system.

# Notes

1. The Sentencing Commission, established pursuant to Public Act 1994 445 to oversee development of the sentencing guidelines, was dissolved in 2002.
2. The MLRC was established pursuant to Public Act 1965 412 (See MLRC 4.1401 *et seq.*). The MLRC did not create the sentencing guidelines that were adopted in 1998.
3. Neal B. Kauder and Brian Ostrom, "State Sentencing Guidelines: Profile and Continuum," (Williamsburg: National Center for State Courts, July 2008).
4. *Ibid.* Michigan Sentencing Guidelines Manual prepared by State Court Administrative Office. There are 1,032 potential sentencing options when including habitual offender sentencing options (258 sentencing ranges multiplied by four possible habitual classifications).
5. "Assessing Consistency and Fairness in Sentencing: A Comparative Study in Three States," National Center for State Courts (2008), available at: <http://www.ncsc.org/~media/microsites/files/csi/assessing%20consistency.ashx>.
6. Michigan Department of Corrections, "Observations Regarding Felony Sentencing," September 7, 2012 (PPT).
7. Council of State Governments Justice Center, *Justice Reinvestment in Michigan: Analysis of Crime, Community Corrections, and Sentencing Policies* (New York: Council of State Governments Justice Center 2009).
8. United States Department of Justice, Federal Bureau of Investigation, "Crime in the United States 2011," accessed April 2012 at: <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2011>. The FBI Uniform Crime Report includes under its violent crime category the following offenses: murder and non-negligent manslaughter; forcible rape; robbery; and aggravated assault.
9. United States Department of Justice, Federal Bureau of Investigation, "Crime in the United States 2000," accessed April 2012 at: <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2000/tocoo.pdf>.
10. United States Department of Justice, Federal Bureau of Investigation, "Crime in the United States 2011." The FBI Uniform Crime Report includes under its property crime category the following offenses: burglary; larceny-theft; and motor vehicle theft.
11. United States Department of Justice, Federal Bureau of Investigation, "Crime in the United States 2011."
12. Michigan State Police, "Michigan Incident Crime Reporting" (2011) and "Uniform Crime Report" (2000).
13. *Ibid.*
14. *Ibid.*
15. Michigan Department of Corrections, "Statistical Report Supplement" and "Court Dispositions 2003-2011." Office of Community Alternatives, "Statewide Disposition: Fiscal Year 2012."
16. *Ibid.*
17. *Ibid.*
18. Michigan Department of Corrections. "Statistical Reports" (2006-2011) and "Intake Profile Report" (2012).
19. *Ibid.*
20. The prison population figures refer to the population as of December 31, the last day of the calendar year.
21. Michigan Department of Corrections, "Statistical Report" (2011) and "Prison Population Projections Report" (February 2013).
22. Michigan Department of Corrections, "Prison Population Projections Report" (February 2013).

To learn more about the justice reinvestment strategy in Michigan and in other states, please visit:  
[csgjusticecenter.org/jr](http://csgjusticecenter.org/jr)



The Council of State Governments Justice Center is a national nonprofit organization that serves policymakers in the local, state, and federal levels from all branches of government. The Justice Center provides practical, nonpartisan advice and evidence-based, consensus-driven strategies to increase public safety and strengthen communities.



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To learn more about the Public Safety Performance Project, please visit: [pewstates.org/publicsafety](http://pewstates.org/publicsafety).

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