Washington State
Justice Reinvestment Taskforce

First Meeting

June 24, 2014
Council of State Governments Justice Center

Marshall Clement, Director, State Initiatives
Carl Reynolds, Senior Legal and Policy Advisor
Monica Peters, Senior Research Associate
Karen Chung, Policy Analyst
Council of State Governments Justice Center

- National non-profit, non-partisan 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
Justice Reinvestment

a data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease recidivism and increase public safety.
CSG Justice Center Has Assisted 18 States Using the Justice Reinvestment Approach
In 2014, CSG Justice Center is Assisting Four States

The map shows that CSG Justice Center is assisting states in the following categories:
- NV (Nevada)
- AZ (Arizona)
- TX (Texas)
- HI (Hawaii)
Justice Reinvestment is a Bipartisan, Inter-Branch Process

“When I asked the Justice Reinvestment Working Group to come together to tackle the issue of prison overcrowding, I made it clear that any policies developed must directly address the criminal behavior that ends up putting more and more people behind bars.”

West Virginia Governor Tomblin, D

“Unless we made some important changes, the prison population would continue to grow significantly; that would mean spending much more without actually addressing the causes.”

Idaho Governor Otter, R
Justice Reinvestment Process – Phase I

Bipartisan, bicameral, inter-branch working group

Phase I
Analyze Data and Develop Policy Options

- Analyze data: look at crime, courts, corrections, sentencing, & supervision trends
- Solicit input from stakeholders
- Assess behavioral health system & treatment capacity
- Develop policy options & 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
State Leaders Requested Assistance to Build on Washington’s Success in Improving its Criminal Justice System

December 23, 2013

Julienne James
Senior Policy Advisor
Bureau of Justice Assistance
810 Seventh Street NW
Washington, DC 20531

Adam Gellb
Project Director
Pew Center on the States
901 E Street, NW, 10th Floor
Washington, D.C. 20004

Dear Ms. James and Mr. Gellb:

Washington State is a national leader in innovative and effective crime policy. We have implemented many best practices, such as sentencing alternatives, reduction, and evidence-based programming, to reduce recidivism. These initiatives have helped lower our state’s overall crime rate and reduced the growth of our prison population. We have closed older, less effective prison facilities and used risk assessment to target our resources in key areas of research.

Despite this, Washington is forecasted to need an additional 1,000 prison beds by 2025. As a state committed to job creation, improving education, preserving health care resources, as well as the health and safety of our citizens, it is important to approach this challenge thoughtfully and responsibly. We believe that investing in evidence-based programs to assess whether creating prison beds is the best response to the forecasted need or if other options exist that are more humane and within the mission and tradition of this state.

As a state that has been in the forefront of implementing many of the national best practices in smart criminal justice policy, we recognize that we will experience a unique challenge. Most of the strategies realized in other states through this collaborative process have already been implemented in Washington. However, we are certain that through this process, Washington will continue in its long tradition of identifying responsive, innovative, and data-driven changes to wisely target our limited resources and improve public safety. We know that Washington can provide a roadmap for the rest of the nation to follow.

Sincerely,

Jay Inslee
Governor

Frank Chopp
Speaker of the House

Bernie Warner
Secretary, Department of Corrections

Barbara Madsen
Chief Justice, Supreme Court

Rodney Tom
Senate Majority Leader

Mark Schoesler
Senator

Council of State Governments Justice Center
Data Will be Analyzed From Across the Criminal Justice System

<table>
<thead>
<tr>
<th>Data</th>
<th>Source</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Criminal History Data</td>
<td>Washington State Patrol</td>
<td>Received</td>
</tr>
<tr>
<td>Felony Sentences</td>
<td>Caseload Forecast Council</td>
<td>Received</td>
</tr>
<tr>
<td>Jail Data</td>
<td>Statewide Data Not Available</td>
<td>King County Data Pending</td>
</tr>
<tr>
<td>Probation Data</td>
<td>Department of Corrections</td>
<td>Received</td>
</tr>
<tr>
<td>Prison Data</td>
<td>Department of Corrections</td>
<td>Received</td>
</tr>
<tr>
<td>Parole Data</td>
<td>Department of Corrections</td>
<td>Received</td>
</tr>
<tr>
<td>Behavioral Health Data</td>
<td>Department of Corrections</td>
<td>Received</td>
</tr>
</tbody>
</table>
Stakeholder Engagement Will Be Critical

Justice Reinvestment in Washington

- Law Enforcement
- Prosecuting Attorneys
- Victim Advocates
- Business Leaders
- Legislators
- Advocacy Groups
- Local Government Officials
- Sentencing Guidelines Commission
- Corrections
- Defense Bar
- Judges
- Community Leaders
Proposed Timeline

**Project Launch**
- Taskforce Meeting #1

**Data Analysis**
- Initial Data Analysis
- Detailed Data Analysis
- Final Data Analysis
- Impact Analysis

**Stakeholder Involvement**
- Stakeholder Engagement
- Policy Option Development
- Bill Drafting
- Provide Info to Policymakers and Media and Keep Stakeholders Involved

**2015 Session**
- May
- Jun
- Jul
- Aug
- Sep
- Oct
- Nov
- Dec
Washington is Viewed as a Leader in Employing Evidence-Based Criminal Justice Strategies

**Washington Institute for Public Policy**

Washington has been recognized nationally for supporting criminal justice research to inform decision-making; highlighting what works in programs to reduce recidivism and crime.

**Evidence-Based Criminal Justice Policies**

In 2012, Washington became the first state to implement “swift and certain” sanctions statewide to increase offender compliance on supervision.

**Evidence-Based Juvenile Justice Policies**

Washington has a rich history of investing in evidence-based and promising prevention and intervention services for juveniles.

**Supervision Strategies**

The Washington State Department of Corrections continues to refine its approach to community supervision, focusing its resources on higher-risk individuals and using tactics to change offender behavior.

**Effective Changes to Drug Sentencing**

In 2003, Washington began implementing a separate drug offense sentencing grid with the intent to reduce recidivism among drug offenders.
## Overview of Initial Analysis

### What is driving prison growth?
- Role of population growth and crime rates
- Impact of sentencing policies

### How to achieve greater public safety?
- Responding to property crime
- Continuing to reduce recidivism

### What is the local impact of state policies?
- Jail population impacts
- Outcomes of alternatives to confinement
Despite an Increasing State Population, Total Crime and Arrests are Down Especially Since 2005

Washington’s Incarceration Rate Increased More Slowly Than Many States

The national incarceration rate includes a wide range.

893 Louisiana

145 Maine

Today, Washington’s Prison Population Exceeds Capacity and is Projected to Continue to Increase

Expanding capacity to address projected growth will cost the state $387 to $481 million in capital outlay and operational costs over ten years.

Source: Caseload Forecast Council, June 2014 Forecast
Since 2000 the Number of Felony Sentences has Decreased Overall, but Sentences to Prison have Increased Nearly 30 Percent

Felony Sentences, FY2000 to FY2013

All Felony Sentences

-2000-2013 % change
-4%

All felony sentences have increased 7% since FY2010

Jail

-2000-2013 % change
-22%

Prison

2000-2013 % change
+7%

Other

2000-2013 % change
+118%

“Other” sentences include no confinement sentences such as residential drug offender sentencing alternative (DOSA), which was enacted in 2005

Prison sentences made up 29% of all sentences in FY2000 compared to 39% in FY2013

Source: Justice Center data analysis of sentencing data provided by the Caseload Forecast Council.
Washington Sentencing Grids Increase in Offense and Criminal History Severity from Lower Left to Upper Right

### Current Standard Sentencing Grid

<table>
<thead>
<tr>
<th>Level</th>
<th>Offender Score</th>
<th>Seriousness Level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level XVI</td>
<td>LIFE SENTENCE WITHOUT PAROLE/DEATH PENALTY</td>
<td></td>
</tr>
<tr>
<td>Level XV</td>
<td>280m-291.5m</td>
<td>59.5m</td>
</tr>
<tr>
<td>Level XIV</td>
<td>171.5m-184m</td>
<td>51-68</td>
</tr>
<tr>
<td>Level XIII</td>
<td>143.5m-158m</td>
<td>12-20</td>
</tr>
<tr>
<td>Level XII</td>
<td>108m-119m</td>
<td>3m</td>
</tr>
<tr>
<td>Level XI</td>
<td>90m-100m</td>
<td>0-6</td>
</tr>
<tr>
<td>Level X</td>
<td>1-12</td>
<td>0-12m</td>
</tr>
</tbody>
</table>

### Current Drug Grid

<table>
<thead>
<tr>
<th>Level</th>
<th>Offender Score</th>
<th>Seriousness Level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level III</td>
<td>59.5m-84m</td>
<td>51-68</td>
</tr>
<tr>
<td>Level II</td>
<td>16m-40m</td>
<td>12-20</td>
</tr>
<tr>
<td>Level I</td>
<td>3m-12m</td>
<td>3m</td>
</tr>
</tbody>
</table>

**Standard Sentencing Grid**
- Seriousness Levels 1-16
- Offender Scores 0-9+

**Drug Grid (est. 2003)**
- Seriousness Levels 1-3
- Offender Scores 0-9+

“High Growth” Grid Cells are Concentrated in Levels III and IV of the Standard Grid and Level I of the Drug Grid

Source: Justice Center data analysis of sentencing data provided by the Caseload Forecast Council.
“High Growth” Cells Accounted for an Increase of 1,108 Felony Sentences from FY2009 to FY2013

Of the 1,108 additional sentences in FY2013, 916 (83%) were in prison sentencing grid cells

Source: Justice Center data analysis of sentencing data provided by the Caseload Forecast Council.
Certain Property and Drug Offenses are the Recent Drivers in “High Growth” Grid Cells

Offense Types in “High Growth” Cells With the Greatest Increase in Number of Sentences, FY2009 and FY2013

*Schedule I drugs: no medical use, high potential for abuse (heroin, ecstasy, peyote, marijuana)
*Schedule II drugs: high potential for abuse, but less than Schedule I (cocaine, meth, oxycodone [Oxycontin], Aderall)
*Schedule IV drugs: low potential for abuse and low risk of dependence (alprazolam [Xanax], diazepam [Valium], zolpidem [Ambien])

Source: Justice Center data analysis of sentencing data provided by the Caseload Forecast Council.
Nearly 40 Percent of All Felony Sentences Were Seriousness Level 3 - Standard Grid, or Seriousness Level 1 - Drug Grid

All Felony Sentences by Seriousness Level, FY2013
(N = 24,136)

*Unranked offenses have a seriousness level of “0”

Source: Justice Center data analysis of sentencing data provided by the Caseload Forecast Council.
One Third of Felony Sentences Had the Lowest Offender Score, While 12% Had the Highest Offender Score

Felony Sentences by Offender Score, FY2013
(N=24,136)

Average Offender Score, FY2013

All Felony Sentences
2.98

Sentences in High Growth Cells
4.92

The number of points an offender receives to determine offender score depends on the following factors:

- Number of prior felony convictions
- Relationship between prior offense(s) and current offense
- Presence of multiple prior or current convictions
- Community placement status at time of offense

Future analysis should enable examination of offender scoring and how predictive scores are of future re-arrest.

Source: Justice Center data analysis of sentencing data provided by the Caseload Forecast Council.
Issues to Analyze Prior to Next Meeting – Prison Growth

Questions About Prison Growth

- How are “high growth” grid cells impacting the prison population?

- How predictive is offender score of future criminal activity?

- How has length of time served in prison changed over time as the drug grid, earned time, and other policies have been altered?
Overview of Initial Analysis

What is driving prison growth?
- Role of population growth and crime rates
- Impact of sentencing policies

How to achieve greater public safety?
- Responding to property crime
- Continuing to reduce recidivism

What is the local impact of state policies?
- Jail population impacts
- Outcomes of alternatives to confinement
Washington’s Property Crime Rate Declined 36 Percent Since 1990, but Remains the Third Highest Among the States

Index Crimes per 100,000 Population, 1960-2012

Change in Crime Rates since 1990

<table>
<thead>
<tr>
<th>Crime Type</th>
<th>U.S. Total</th>
<th>Washington</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property Crime</td>
<td>-44%</td>
<td>-36%</td>
</tr>
<tr>
<td>Violent Crime</td>
<td>-47%</td>
<td>-41%</td>
</tr>
</tbody>
</table>

Washington has the 3rd highest property crime rate in the country, with only South Carolina and Arkansas ranked higher. Neighboring states Oregon and Idaho rank 16th and 49th, respectively.

Source: Federal Bureau of Investigation, United Crime Reports Data Tool 2060-2012). *Property crime rate rank excludes the District of Columbia
Burglaries Reported to Police are Increasing, and the Number of Arrests in Comparison is Low

In 2012 the number of burglary arrests accounted for 8% of the burglary crimes reported. Nationally, burglary arrests accounted for 12% of crimes reported.

Since 2002 Index Crimes Reported and Arrests Have Declined Together

<table>
<thead>
<tr>
<th>Year</th>
<th>Crimes Reported</th>
<th>Arrests</th>
<th>Clearance Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>309,931</td>
<td>42,404</td>
<td>13.7%</td>
</tr>
<tr>
<td>2007</td>
<td>283,544</td>
<td>43,345</td>
<td>15.3%</td>
</tr>
<tr>
<td>2012</td>
<td>272,719</td>
<td>38,511</td>
<td>14.1%</td>
</tr>
</tbody>
</table>

*Arrests include only violent and property index crime categories

Index crimes: aggravated assault, forcible rape, murder, robbery, arson, burglary, larceny-theft, and motor vehicle theft.
Arrests Have Declined Overall Due in Large Part to the Decline in Drug Arrests

Between 2002 and 2012, the resident population in Washington increased 13%

2002-2012 % change

Overall -23%
Drug -47%
Property -12%
Violent +1%

2007-2012 % change in Drug Arrests by County

Clark -42%
King -72%
Pierce -62%
Snohomish -25%
Spokane +4%

Recidivism Rates Have Declined for Prison Releasees, Especially for High Risk Offenders

- Includes only offenders released from prison
- Felony reconviction rates
- Latest data is for prisoners released in 2006

### Policy Changes Over 30 Years Have Greatly Altered Who Receives Post-Release Supervision

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<tbody>
<tr>
<td><strong>Post-Jail/As a Sentence</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Property</td>
<td>L,M</td>
<td>L,M</td>
<td>L,M</td>
<td>H</td>
<td>H</td>
</tr>
<tr>
<td>Drug</td>
<td>H</td>
<td>H</td>
<td>H</td>
<td>H</td>
<td>H</td>
</tr>
<tr>
<td>Violent*</td>
<td>L,M</td>
<td>L,M</td>
<td>L,M</td>
<td>H</td>
<td>H</td>
</tr>
<tr>
<td><strong>Post-Prison</strong></td>
<td></td>
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<td></td>
<td></td>
<td></td>
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<tr>
<td>Property</td>
<td>L,M</td>
<td>L,M</td>
<td>L,M</td>
<td>H</td>
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<tr>
<td>Drug</td>
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<td>H</td>
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<td>H</td>
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<tr>
<td>Violent*</td>
<td>L,M</td>
<td>L,M</td>
<td>L,M</td>
<td>H</td>
<td>H</td>
</tr>
</tbody>
</table>

*Violent includes violent offenses and crime against a person offenses.

Supervision has been maintained for serious violent offenses, sex offenses, and those with alternative sentences regardless of risk.

Source: Communications with Washington Department of Corrections staff.  
Washington State Legislature. 56th Legislative Session. [SB 5421] Enhancing supervision of offenders.  
Washington State Legislature. 58th Legislative Session. [SB 5990] Changing times and supervision standards for release of offenders.  
Washington State Legislature. 61st Legislative Session. [SB 6162] Providing for the supervision of offenders sentenced to community.
The Supervision Population Has Increased and Decreased as a Result of the Policy Changes

The Percentage of Felony Sentences Including a Period of Supervision Following Confinement Has Decreased

Percent of Felony Sentences with Orders of Supervision, FY2000 to FY2013
Issues to Analyze Prior to Next Meeting – Public Safety

Questions About Public Safety

- What is the extent and effectiveness of current efforts to reduce recidivism, and what more could be done?

- Of those arrested for property crimes, what percentage of individuals had prior criminal history?

- How have re-arrest rates changed over time for different cohorts?

- To what extent have changes to supervision policy had an impact on public safety?
Overview of Initial Analysis

What is driving prison growth?
- Role of population growth and crime rates
- Impact of sentencing policies

How to achieve greater public safety?
- Responding to property crime
- Continuing to reduce recidivism

What is the local impact of state policies?
- Jail population impacts
- Outcomes of alternatives to confinement
Despite Decline in Felony Sentences to Jail, the Statewide Jail Average Daily Population has Remained Steady


Jail data are missing data from 2 counties in 2000 (San Juan and Stevens), 2 counties in 2006 (San Juan and Pend Oreille), and 1 county in 2012 (San Juan).

Over One-Third of Jail Sentences Receive an Alternative to Confinement or a Sentencing Alternative

Felony Sentences, FY2013

*First Time Offender Waiver (FTOW) sentences: standard sentence is waived with up to 90 days of confinement ordered in a county facility

*DOSA (prison-based) sentences: confinement in a state facility for 1/2 the midpoint of the standard sentence range or 12 months, whichever is greater

*Not included here are drug courts and other diversionary programs that occur prior to sentencing

Source: Justice Center data analysis of sentencing data provided by the Caseload Forecast Council.
Use of First Time Offender Waiver for Those Eligible Appears Low and Declining

In FY2013, 22% of eligible sentences received the FTOW compared to 28% in FY2000

Source: Justice Center data analysis of sentencing data provided by the Caseload Forecast Council.
Alternatives to Confinement Have Increased in Proportion for the Sentenced Jail Population

Jail Sentences with First Time Offender Waiver (FTOW) or an Alternative to Confinement, FY2000-FY2013

Source: Justice Center data analysis of sentencing data provided by the Caseload Forecast Council.
Options are Available at County and State Level as Alternatives to Strict Confinement

<table>
<thead>
<tr>
<th>Alternatives to Confinement (also called Diversions)</th>
<th>Sentencing Alternatives</th>
</tr>
</thead>
<tbody>
<tr>
<td>Work release, home detention, work crew, Breaking the Cycle</td>
<td>FTOW, DOSA, Sex Offender, and Parenting Sentencing Alt</td>
</tr>
</tbody>
</table>

**Examples include:**

- Work release
- Home detention
- Work crew
- Breaking the Cycle

**Eligibility requirements:**

- Eligibility includes any offender sentenced to jail
- Eligibility is statutorily defined

**Programs involve:**

- Program used as a substitute for confinement
- Program generally involves shortened sentence and supervision time

**Operated by:**

- County
- State

The Number of DOSA Sentences Has Increased in Recent Years

Prison Sentences with Enhancements, Exceptional Sentences or a Prison-based DOSA Alternative, FY2000-FY2013

*Enhancements include Deadly Weapon/Firearm or Sexual Motivation

Enhancements and exceptional sentences have remained flat

Source: Justice Center data analysis of sentencing data provided by the Caseload Forecast Council.
Issues to Analyze Prior to Next Meeting – Local Impact

Questions About Local Impact

- Are alternatives to jail confinement effective at reducing further criminal involvement?

- How do pretrial practices and misdemeanor jail sentences impact jail ADP?

- What is the impact of DOSA on prison and jail ADP, and how do re-arrest rates vary by type of participant? How is DOSA utilized in relation to drug courts?
Summary of Initial Analysis

**Prison Growth**

- Despite a growing state population, the number of reported crimes and arrests has declined.
- Washington’s incarceration rate is below the national average and grew at a slower pace than most other states.
- The state prison population is above capacity and is projected to continue increasing by 1,461 by 2024.
- Sentences to prison have increased 11% since 2010, driven by sentences in just a handful of “high growth” cells for burglary and drug possession.
- Individuals sentenced in these “high growth” cells had higher than average offender scores.
Summary of Initial Analysis

Public Safety

• Washington has a persistently high property crime rate compared to the national average, with a recent spike in burglaries.

• Clearance rates for property crimes are low and in Washington appear below the national average.

• Policy changes ended supervision of property offenders and focused on higher risk drug and violent offenders.

• The percentage of felony sentences including a period of supervision has fallen from 64 to 46 percent.

• Individuals released from prison in 2006 had a much lower reconviction rate than those released in 1990, suggesting the state’s efforts to reduce recidivism have been successful.
Summary of Initial Analysis

Local Impact

- Felony sentences to jail have declined by 22 percent since 2000.
- Jail populations statewide have not declined, but capacity has increased.
- Individuals sentenced to jail are twice as likely to receive a locally-administered alternative to confinement instead of FTOW.
- Only 22 percent of eligible individuals received FTOW.
- Use of prison-based DOSA has varied over the years, but use of residential DOSA has increased significantly.
Typical timeline for Justice Reinvestment processes

Phase I - Analyze Data & Develop Policy Options

Collect and Examine Quantitative Data
- Reported crime and arrests
- Jail data
- Court sentencing
- Community custody
- Prison admissions, population and releases

Engage Stakeholders
- Judges
- Prosecutors
- Defense Bar
- County Officials
- Behavioral Health Providers
- Victims/Advocates
- Faith-Based Leaders
- Law Enforcement

Develop and present a comprehensive analysis of the state’s criminal justice system

Develop a framework of policy options that together would increase public safety and reduce/avert taxpayer spending

6 to 9 months

2 to 3 months
Thank You

Karen Chung, Policy Analyst
kchung@csg.org

csgjusticecenter.org/subscribe

This material was prepared for the State of Washington. 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.