Sentencing and Justice Reinvestment Initiative

Michigan Law Revision Commission
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Overview of Presentation

- Stakeholder Perspectives
- Reducing Criminal Behavior
- Sentencing Analyses
Stakeholder Perspectives

Reducing Criminal Behavior

Sentencing Analyses
Stakeholder Engagement Has Been Substantial and Rewarding

7 visits to Michigan
5 cities
50+ meetings
40+ conference calls
so far...

Council of State Governments Justice Center
Divergent Views of Michigan’s Longer Lengths of Stay

**Prosecutors** see longer lengths of stay as the natural effect of a serious crime problem - a hardening population - and of the difficulty of getting to a prison sentence under the sentencing guidelines.

**Defenders** see an accumulation of increased penalties in amendments to the guidelines, increased maximums, harsh mandatory minimum terms, increased authority for consecutive sentencing, wide discretion for habitual and repeat drug offenders, and tough parole practices and policies.
Divergent Views of the “Short Sentence” Problem

**Counties** feel burdened by existing sentences to jail and fear the “shift and shaft” where the guidelines are concerned.

**DOC** feels ineffective when short sentences defeat their ability to provide appropriate programming sufficiently before ERD.

### 2012 Felony Sentences

- 21% Prison
- 20% Jail
- 35% Jail + Probation
- 23% Probation
- 1% Other

- 76% of Sentences Involved Incarceration

50,638
Survey of Prosecutors Informs the Question of “Workability”

Almost 60% of Prosecutors Find the Guidelines Complex, But Most Feel the Complexity Is Necessary

Perceived Complexity of the Sentencing Guidelines

- Complex, but Necessary: 40%
- Too Complex: 19%
- Not Complex: 41%

- 79% reported they typically require less than 1 hour to score a case
- 20% need 1-2 hours
- 72% reported the training they receive is adequate
**Divergent Views on Disparities in Sentencing and Charging**

*Probation Agents* view PSIs as bench-driven, so practices differ from place to place.

*Prosecutors and judges* view sentencing recommendations in PSIs as driven by DOC policy.

*Prosecutors* perceive sentencing disparities and primarily attribute them to judicial philosophy.

*Defenders* perceive disparity in prosecutor charging practices.

**Rule 6.425 Sentencing; Appointment of Appellate Counsel**

(A) Presentence Report; Contents.

(1) Prior to sentencing, the probation officer must investigate the defendant’s background and character, . . .

Almost Half of Prosecutors Perceive Sentencing Disparities

- **Do you perceive there to be sentencing disparities in your county for similar offenses and guidelines scores?**
  - **No:** 51%
  - **Yes:** 49%

- **Percent of Respondents Indicating Causes of Disparity (could check more than one):**
  - Philosophy of Judge: 70%
  - PSI Officer: 25%
  - Publicity: 15%
  - Age of Defendant: 9%
  - Gender of Defendant: 7%
  - Race of Defendant: 5%
  - Prosecutorial Philosophy: 4%
  - Local Politics: 2%

Council of State Governments Justice Center
Legal Financial Obligations Are a Recurring Theme

Different perspectives:
• Reentry & Offender Impact
• Child Support Enforcement
• Court System Collections
• Crime Victim Compensation
• Crime Victim Restitution

Issues Emerging in Michigan:
• Victims: Courts not prioritizing restitution
• Defenders & Advocates: Courts using ‘pay or stay’ sentencing

Consensus? Many Stakeholders suggest Driver Responsibility Fees are excessive
Stakeholder Perspectives

Reducing Criminal Behavior

Sentencing Analyses
Knowledge on Improving Criminal Justice Outcomes Has Increased Dramatically Over the Last 20 Years

Academics and practitioners have contributed to this growing body of research

Risk Principle of Case Classification in Correctional Treatment
A Meta-Analytic Investigation

D. A. Andrews
Craig Downen
Carleton University, Ottawa, Canada

Recent meta-analyses have documented considerable evidence demonstrating that correctional treatment programs are indeed effective for reducing recidivism in offender populations. The effect of client risk, an issue that has received extensive coverage in the extant literature from an assessment perspective, has been relatively ignored in these efforts. The present study marks the first exhaustive meta-analytic investigation of the risk principle and its effects on correctional treatment program effectiveness. The results reveal moderate support for its utility, although the magnitude of the findings are affected by the reporting practices used in the primary studies. Finally, the evidence supporting the risk principle is much stronger for female offenders and young offenders and within programs that are deemed appropriate according to the principles of need and responsivity. It should be noted that justice interventions that did not include elements of human service (e.g., increased sanctions) yielded negative results regardless of level of client risk.

Keywords: risk principle; meta-analysis; what works; treatment

Two issues in regard to risk assessment are prominent in the health, human, and social services. One issue is now reasonably well understood. In many domains of human functioning and behavior and certainly in the analysis of criminal behavior, it is understood that individuals may be differentiated according to their chances of dis-
Reducing Criminal Behavior Requires Focusing on Risk, Need, and Responsivity

**Traditional Approach**

- **Supervise everyone the same way**
- **Assign programs that feel or seem effective**
- **Deliver programs the same way to every offender**

**Evidence-Based Practices**

- **Risk**
  - Assess risk of recidivism and focus supervision on the highest-risk offenders
- **Need**
  - Prioritize programs addressing the needs most associated with recidivism
- **Responsivity**
  - Deliver programs based on offender learning style, motivation, and/or circumstances
Identify and Focus on Higher-Risk Offenders

Who?

Without Risk Assessment...

With Risk Assessment...

Risk of Re-offending

LOW 10% re-arrested
MODERATE 35% re-arrested
HIGH 70% re-arrested
Target the Factors that Evidence Shows Are Most Central to Criminal Behavior

*What?*

- Target the Factors that Evidence Shows Are Most Central to Criminal Behavior
- Council of State Governments Justice Center
- Substance Use
- Employment/Education
- Past Criminality*
- Personality
- Thinking
- Peers
- Family
- Leisure
- Housing

*The Big Four* (impacting these are the major drivers to reducing criminal behavior)

- Higher-risk offenders are likely to have more of the Big Four.
- Programs targeting these needs can significantly lower recidivism rates

*Past criminality cannot be changed.*
After Getting the Who and the What, Supervision and Programming Should Be Well Targeted

<table>
<thead>
<tr>
<th>Risk of Re-offending</th>
<th>Low: 10% re-arrested</th>
<th>Moderate: 35% re-arrested</th>
<th>High: 70% re-arrested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low Supervision/Program Intensity</td>
<td><img src="image" alt="Low Supervision/Program Intensity" /></td>
<td><img src="image" alt="Moderate Supervision/Program Intensity" /></td>
<td><img src="image" alt="High Supervision/Program Intensity" /></td>
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<tr>
<td>Moderate Supervision/Program Intensity</td>
<td><img src="image" alt="Low Supervision/Program Intensity" /></td>
<td><img src="image" alt="Moderate Supervision/Program Intensity" /></td>
<td><img src="image" alt="High Supervision/Program Intensity" /></td>
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<tr>
<td>High Supervision/Program Intensity</td>
<td><img src="image" alt="Low Supervision/Program Intensity" /></td>
<td><img src="image" alt="Moderate Supervision/Program Intensity" /></td>
<td><img src="image" alt="High Supervision/Program Intensity" /></td>
</tr>
</tbody>
</table>
Ensure Programs Are High Quality and Properly Implemented

**How Well?**

- Is the program based on principles demonstrated to be effective?
- Is program matched with appropriate client population?
- Is program implemented as designed?
- Are program staff properly trained?
- Is performance tracked and measured against expectations?

**Program Effectiveness**

(reduced recidivism)
Elements of Effective Supervision

**Dosage/Intensity**
- Focus supervision officer time and program resources on the highest-risk offenders.

**Consistency**
- Use a graduated range of sanctions and incentives to guide specific type of response to violations and compliance.

**Swiftness**
- Enable officers to respond meaningfully to violations without delay or time-consuming processes.

**Cost-effectiveness**
- Prioritize the most expensive, restrictive sanctions for offenders committing the most serious violations.
Where and How Treatment Is Delivered Impacts the Degree of Recidivism Reduction

Impact of Treatment Intervention on Recidivism Rates

Drug Treatment in Prison
-17%

Drug Treatment in the Community
-24%

Supervision with Risk Need + Responsivity
-30%

Supervision, with effective “RNR” principles, yields the biggest recidivism reduction


Source: Latessa, Lovins, and Smith, “Follow-up Evaluation of Ohio’s Community Based Correctional Facilities, Outcome Study, February 2010"
Stakeholder Perspectives

Reducing Criminal Behavior

Sentencing Analyses
Addressing Risk of Recidivism and Severity of Offense Are Critical Components of Effective Sentencing (and Parole)

- Public Safety
- Proportionality
- Certainty
- Predictability
- Workability

These features are central to the idea of all guidelines using severity and risk.

<table>
<thead>
<tr>
<th>Risk of Reoffending</th>
<th>Offense Severity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low Risk</td>
<td>Low Severity</td>
</tr>
<tr>
<td>Low Risk</td>
<td>High Severity</td>
</tr>
<tr>
<td>High Risk</td>
<td>Low Severity</td>
</tr>
<tr>
<td>High Risk</td>
<td>High Severity</td>
</tr>
</tbody>
</table>

Also fit within risk/severity framework
Michigan Sentencing Guidelines Attempt to Classify by Offense Severity and Risk of Recidivism

For all grids, defendants are:

- Moved along a ‘left to right’ scale based on prior criminal activity, AND
- Moved along a ‘top to bottom’ scale based on aggravating factors.

The intersection of the horizontal and vertical scores indicates a cell-type into which the defendant falls for sentencing. There are 3 cell-types (Intermediate, Straddle, and Prison).

Sentencing Begins with Crime

Crime and Arrest Statistics are Down, but...
- 17% and 11% declines in crime and arrests since 2008, respectively

High Crime Remains a Problem
- Four of nation’s 10 most violent cities
- Very low clearance rates in high crime areas

Resources Limited
- Loss of sworn officers
- Loss of entire police departments

With Arrests Declining, Felony and Misdemeanor Case Dispositions Declined 7% and 17% from 2003 to 2011

<table>
<thead>
<tr>
<th>Year</th>
<th>Felony Dispositions</th>
<th>Misdemeanor Dispositions</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003</td>
<td>293,902</td>
<td>61,841</td>
</tr>
<tr>
<td>2004</td>
<td>266,968</td>
<td>68,111</td>
</tr>
<tr>
<td>2005</td>
<td>244,198</td>
<td>57,442</td>
</tr>
</tbody>
</table>

Criminal Cases Disposed in Michigan, 2003 – 2011

Arrests falling during this period.

Change in Arrests from 2008-2011

- Index Violent: - 11%
- Index Property: - 9%
- Simple Assault: - 2%
- Weapons: - 18%
- Drug: - 4%
- OUI: - 23%

Source: Annual Statistical Supplemental Reports on Statewide Filing and Disposition Trends, Michigan Supreme Court, State Court Administrator Office; Michigan Incident Crime Reporting, 2008-11, Michigan State Police.
Number of Felons Sentenced Declined 15% from 2007 to 2011, but the Decline Slowed Considerably in 2012

Felons Sentenced in Michigan, 2003 – 2012

Most Felony Sentences Include Jail/Prison Time

2012 Felony Sentences

50,638

Sentence Imposed

“In” 76%

10,473
Prison
(21%)

10,438
Jail Only
(20%)

17,859
Jail + Probation
(35%)

“In” 76%

11,486
Probation Only
(23%)

382
Other
(1%)

“Out” 24%

Sentences to jail may be for no more than 12 months, with up to 25% of sentence eligible to be credited by sheriff.

Like those sentenced to prison, felony sentences to jail and probation result in a period of supervision upon completion of a period of confinement.

Felony probation terms are typically set at 2 to 3 years.

Other sentences are mainly fees, fines, and restitution.

10% Increase in Share of Sentences to Jail or Prison, and 21% Decrease in Share of Sentences to Probation, 2008-2012

### 2008 Felony Sentences
- 19% Prison
- 18% Jail
- 33% Jail + Probation
- 29% Probation
- 1% Other

70% of Sentences Involved Confinement

### 2012 Felony Sentences
- 21% Prison
- 20% Jail
- 35% Jail + Probation
- 23% Probation
- 1% Other

76% of Sentences Involved Confinement

55% of Sentences Involved Jail Confinement

64% of Felons Sentenced in 2012 Were not Involved with the Criminal Justice System at the Time of Their Offense

## All Offense Grids Show Increase in Share of Sentences Involving Jail or Prison Incarceration

<table>
<thead>
<tr>
<th>Offense Class</th>
<th>2008</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td># Sent</td>
<td>% Incarc.</td>
</tr>
<tr>
<td>All Felony Sentences</td>
<td>58,108</td>
<td>70%</td>
</tr>
<tr>
<td>Class H</td>
<td>2,217</td>
<td>61%</td>
</tr>
<tr>
<td>Class G</td>
<td>13,316</td>
<td>66%</td>
</tr>
<tr>
<td>Class F</td>
<td>7,571</td>
<td>63%</td>
</tr>
<tr>
<td>Class E</td>
<td>15,661</td>
<td>72%</td>
</tr>
<tr>
<td>Class D</td>
<td>7,060</td>
<td>72%</td>
</tr>
<tr>
<td>Class C</td>
<td>2,844</td>
<td>81%</td>
</tr>
<tr>
<td>Class B</td>
<td>1,828</td>
<td>84%</td>
</tr>
<tr>
<td>Class A</td>
<td>1,103</td>
<td>97%</td>
</tr>
<tr>
<td>2nd Deg. Murder</td>
<td>168</td>
<td>100%</td>
</tr>
<tr>
<td>Subtotal SGL</td>
<td>51,768</td>
<td>70%</td>
</tr>
<tr>
<td>Non SGL</td>
<td>6,340</td>
<td>72%</td>
</tr>
</tbody>
</table>

The least serious offense grids have experienced the largest increase in sentences involving confinement.

Sentencing outside of the guidelines:
- Offenses of 1st Degree Murder or Felony Firearm
- Term of years sentences
- Filed as felony but reduced to misdemeanor
- Offense date preceding effective date of SGL

**Share of Felons Falling in *Prison* Cells Is Virtually Unchanged**

### Distribution of Felons Across the Cell Types on the Grids

<table>
<thead>
<tr>
<th>2008 Felony Guidelines Sentences</th>
<th>2012 Felony Guidelines Sentences</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Prison Cells</strong></td>
<td><strong>Prison Cells</strong></td>
</tr>
<tr>
<td>10%</td>
<td>11%</td>
</tr>
<tr>
<td><strong>Straddle</strong></td>
<td><strong>Straddle</strong></td>
</tr>
<tr>
<td>24%</td>
<td>27%</td>
</tr>
<tr>
<td><strong>Intermediate Sanction Cells</strong></td>
<td><strong>Intermediate Sanction Cells</strong></td>
</tr>
<tr>
<td>66%</td>
<td>62%</td>
</tr>
</tbody>
</table>

89% of all SGL sentences fall in ‘Intermediate’ or ‘Straddle’ cells.

Jail Is the Most Common Sentence for Intermediate and Straddle Cell Felons

2012 Felony Guidelines Sentences

**Intermediate**
- 27,180 (62% of Total)

  - Sentence Disposition Breakdown
    - 968 to prison (4%)
    - 17,658 to jail (65%)
    - 8,354 to probation (31%)
    - 200 to other (< 1%)

**Straddle**
- 12,032 (27% of Total)

  - Sentence Disposition Breakdown
    - 3,840 to prison (32%)
    - 6,719 to jail (56%)
    - 1,425 to probation (12%)
    - 48 to other (< 1%)

**Prison**
- 4,837 (11% of Total)

  - Sentence Disposition Breakdown
    - 4,073 to prison (84%)
    - 562 to jail (12%)
    - 185 to probation (4%)
    - 17 to other (< 1%)

Intermediate Cell Felons Sentenced to Jail Confinement Account for 40% of all Guidelines Sentences

<table>
<thead>
<tr>
<th>Type of Sentence</th>
<th>Intermediate Cells</th>
<th>Straddle</th>
<th>Prison</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>62% of all SGL Defendants</td>
<td>27%</td>
<td>11%</td>
</tr>
</tbody>
</table>

2012 Guidelines Sentences (N = 44,049)

- **Intermediate Cells**: 62% of all SGL Defendants
- **Straddle**: 27%
- **Prison**: 11%

Almost 85% of All Guidelines Sentences Fall in Four Grids, D - G

2008 and 2012 Guidelines Sentences by Offense Class

Workability: 84% of Class D-G Sentences
Only Utilize the First Two Rows of the Grids

<table>
<thead>
<tr>
<th>2012 Sentences</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Class G</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11,367</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>I</td>
<td>12.7%</td>
<td>10.1%</td>
<td>15.1%</td>
<td>12.0%</td>
<td>6.3%</td>
<td>5.1%</td>
</tr>
<tr>
<td>II</td>
<td>2.9%</td>
<td>2.3%</td>
<td>5.3%</td>
<td>4.8%</td>
<td>3.1%</td>
<td>2.2%</td>
</tr>
<tr>
<td>III</td>
<td>2.3%</td>
<td>2.0%</td>
<td>4.3%</td>
<td>4.5%</td>
<td>3.0%</td>
<td>2.0%</td>
</tr>
<tr>
<td><strong>Class F</strong></td>
<td></td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td>6,326</td>
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<td></td>
</tr>
<tr>
<td>I</td>
<td>11.7%</td>
<td>8.4%</td>
<td>13.4%</td>
<td>10.3%</td>
<td>4.7%</td>
<td>3.1%</td>
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<tr>
<td>II</td>
<td>6.8%</td>
<td>5.0%</td>
<td>7.9%</td>
<td>8.0%</td>
<td>4.2%</td>
<td>2.9%</td>
</tr>
<tr>
<td>III</td>
<td>2.4%</td>
<td>2.0%</td>
<td>2.9%</td>
<td>2.6%</td>
<td>1.2%</td>
<td>1.0%</td>
</tr>
<tr>
<td>IV</td>
<td>0.3%</td>
<td>0.1%</td>
<td>0.4%</td>
<td>0.3%</td>
<td>0.2%</td>
<td>0.2%</td>
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<tr>
<td><strong>Class E</strong></td>
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<tr>
<td>13,176</td>
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</tr>
<tr>
<td>I</td>
<td>9.6%</td>
<td>7.0%</td>
<td>10.2%</td>
<td>9.0%</td>
<td>4.3%</td>
<td>3.5%</td>
</tr>
<tr>
<td>II</td>
<td>5.6%</td>
<td>6.0%</td>
<td>10.5%</td>
<td>9.2%</td>
<td>5.7%</td>
<td>4.0%</td>
</tr>
<tr>
<td>III</td>
<td>1.1%</td>
<td>0.9%</td>
<td>2.1%</td>
<td>2.1%</td>
<td>1.5%</td>
<td>1.8%</td>
</tr>
<tr>
<td>IV</td>
<td>0.5%</td>
<td>0.4%</td>
<td>0.9%</td>
<td>1.0%</td>
<td>0.6%</td>
<td>0.6%</td>
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<tr>
<td>V</td>
<td>0.2%</td>
<td>0.1%</td>
<td>0.3%</td>
<td>0.3%</td>
<td>0.2%</td>
<td>0.3%</td>
</tr>
<tr>
<td>VI</td>
<td>0.1%</td>
<td>0.1%</td>
<td>0.1%</td>
<td>0.1%</td>
<td>0.0%</td>
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<tr>
<td><strong>Class D</strong></td>
<td></td>
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<td>5,874</td>
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<tr>
<td>I</td>
<td>8.6%</td>
<td>6.4%</td>
<td>13.4%</td>
<td>11.6%</td>
<td>7.0%</td>
<td>7.6%</td>
</tr>
<tr>
<td>II</td>
<td>3.6%</td>
<td>3.0%</td>
<td>6.5%</td>
<td>7.3%</td>
<td>4.3%</td>
<td>4.6%</td>
</tr>
<tr>
<td>III</td>
<td>0.6%</td>
<td>0.7%</td>
<td>1.4%</td>
<td>1.4%</td>
<td>0.7%</td>
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<tr>
<td>IV</td>
<td>0.8%</td>
<td>0.4%</td>
<td>1.0%</td>
<td>0.8%</td>
<td>0.7%</td>
<td>0.6%</td>
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<tr>
<td>V</td>
<td>0.6%</td>
<td>0.4%</td>
<td>1.1%</td>
<td>0.8%</td>
<td>0.4%</td>
<td>0.6%</td>
</tr>
<tr>
<td>VI</td>
<td>0.4%</td>
<td>0.1%</td>
<td>0.6%</td>
<td>0.4%</td>
<td>0.4%</td>
<td>0.3%</td>
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</tbody>
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Proportionality: Within Narrowly Defined Cell Types, Considerable Variation in Sentencing

Breakdown of most common offense for the ‘G’ grid, Possession of less than 25g of Certain Controlled Substance Schedule I or II (MCL 333.7403(2)(a)(v)).

<table>
<thead>
<tr>
<th></th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>14.3%</td>
<td>13.6%</td>
<td>20.4%</td>
<td>17.6%</td>
<td>10.2%</td>
<td>9.2%</td>
</tr>
<tr>
<td>II</td>
<td>1.1%</td>
<td>1.1%</td>
<td>2.5%</td>
<td>2.9%</td>
<td>2.2%</td>
<td>1.8%</td>
</tr>
<tr>
<td>III</td>
<td>0.4%</td>
<td>0.2%</td>
<td>0.5%</td>
<td>0.7%</td>
<td>0.6%</td>
<td>0.7%</td>
</tr>
</tbody>
</table>

Note: Shaded cells account for 66% of all sentences.

2012 Sentences = 3,409

Regardless of Prior Record (PRV) score, similar odds for getting:

- Probation term in lieu of confinement, or
- Jail term of varying length which may/may not include supervision afterward

### Prior A (489)
- Pris: 2
- Jail: 246
  - Range: 1-365 days
  - Avg: 52 days
- Prob: 238
  - Range: 1-60 mos
  - Avg: 18 mos

### Prior B (462)
- Pris: 0
- Jail: 283
  - Range: 1-365 days
  - Avg: 75 days
- Prob: 177
  - Range: 1-48 mos
  - Avg: 19 mos

### Prior C (696)
- Pris: 5
- Jail: 435
  - Range: 1-365 days
  - Avg: 116 days
- Prob: 251
  - Range: 1-60 mos
  - Avg: 21 mos

### Prior D (601)
- Pris: 27
- Jail: 399
  - Range: 1-365 days
  - Avg: 152 days
- Prob: 172
  - Range: 1-60 mos
  - Avg: 23 mos

### 4 PRV Groups (2,248)
- Prior A: 34
  - Pris: 34
  - Jail: 1,363
    - Range: 1-365 days
    - Avg: 106 days
  - Prob: 838
    - Range: 1-60 mos
    - Avg: 20 mos

Proportionality: Within a Single Cell Type, Considerable Variation in Sentencing

Breakdown of most common offense for the ‘G’ grid, Possession of less than 25g of Certain Controlled Substance Schedule I or II (MCL 333.7403(2)(a)(v)).

2012 Sentences = 3,409

<table>
<thead>
<tr>
<th></th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>14.3%</td>
<td>13.6%</td>
<td>20.4%</td>
<td>17.6%</td>
<td>10.2%</td>
<td>9.2%</td>
</tr>
<tr>
<td>II</td>
<td>1.1%</td>
<td>1.1%</td>
<td>2.5%</td>
<td>2.9%</td>
<td>2.2%</td>
<td>1.8%</td>
</tr>
<tr>
<td>III</td>
<td>0.4%</td>
<td>0.2%</td>
<td>0.5%</td>
<td>0.7%</td>
<td>0.6%</td>
<td>0.7%</td>
</tr>
</tbody>
</table>

PRV Level A (489)

- Pris: 2
- Jail: 246
- Prob: 238

Despite falling in the same cell on the same grid for the same offense, defendants faced a wide range of possible punishments:

- As little as 3 days in jail,
- As much as 5 years on probation, or
- A combination of the two, with widely ranging lengths of jail and probation time.

Proportionality: Top 10 Counties Show Wide Variance in *Intermediate* Cell Sentences

**2012 Class D-G Intermediate Sentences in Top 10 Counties**

*Type of Punishment Imposed*

<table>
<thead>
<tr>
<th>County</th>
<th>Prison</th>
<th>Jail</th>
<th>Probation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wayne</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Oakland</td>
<td></td>
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<tr>
<td>Macomb</td>
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<td>Saginaw</td>
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</tr>
</tbody>
</table>

**Type of Sentence Imposed**

- **Jail**
  - *Lowest*: Wayne 24%
  - *Highest*: Ingham 96%

- **Probation**
  - *Lowest*: Ingham 3%
  - *Highest*: Wayne 73%

Proportionality: Top 10 Counties Show Wide Variance in *Straddle* Cell Sentences

2012 Class D-G Straddle Sentences in Top 10 Counties
Type of Punishment Imposed

<table>
<thead>
<tr>
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Public Safety & Risk Reduction: Guidelines Do Not Effectively Direct Who Should Receive Jail

<table>
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</thead>
<tbody>
<tr>
<td>Class H</td>
<td>345</td>
<td>217</td>
<td>406</td>
<td>347</td>
<td>176</td>
<td>139</td>
</tr>
<tr>
<td>Class G</td>
<td>2,039</td>
<td>1,626</td>
<td>2,814</td>
<td>2,421</td>
<td>1,411</td>
<td>1,056</td>
</tr>
<tr>
<td>Class F</td>
<td>1,334</td>
<td>983</td>
<td>1,555</td>
<td>1,343</td>
<td>658</td>
<td>453</td>
</tr>
<tr>
<td>Class E</td>
<td>2,264</td>
<td>1,909</td>
<td>3,169</td>
<td>2,847</td>
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<tr>
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- No prior criminal history
- Significant criminal history

55% received a jail sentence

- These felons should be the lowest risk of recidivism based on their lack of criminal history
- 3,556 sentenced to an average of 78 days at $45 per day =

$12.5M cost to counties

Public Safety & Risk Reduction: Guidelines Do Not Effectively Direct Who Should Receive Supervision

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33% received a jail sentence without probation supervision

- These felons should be a higher recidivism risk by virtue of their criminal history (PRV) scores.

Public Safety: Indications Are that Guidelines Do Not Maximize Effectiveness of Scarce Resources

Breakdown of most common offense for the ‘G’ grid, Possession of less than 25g of Certain Controlled Substance Schedule I or II (MCL 333.7403(2)(a)(v)).

| 4 PRV Groups |  
|---|---|
| Pris: | 34 |
| Jail: | 1,363 |
|   Avg | 106 days |
| Prob: | 838 |
|   Avg | 20 mos |

- **1,363 Jail**
  - 3.5 months avg.
- **838 Probation**
  - 20 months avg.

Costs to the Criminal Justice System

- **$6.4M** in local county costs for jail confinement (assuming average cost/day of $45)
- **$3.5M** in state costs for supervision (assuming average cost/day of $7)

Recidivism Reduction Potential

- Up to **5% reduction** if programs provided. Potential increase.
- Up to **20% Reduction** in Re-Arrests.

More cost-effective path towards better public safety outcomes.

# Does System Achieve Goals?

<table>
<thead>
<tr>
<th>Goal</th>
<th>Questions</th>
<th>Current Knowledge</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Public Safety</strong></td>
<td>Do the sentencing and parole decisions promote risk reduction?</td>
<td>Probation recidivism is increasing</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Guidelines do not effectively direct jail and supervision sentencing</td>
</tr>
<tr>
<td><strong>Proportionality</strong></td>
<td>Is there disparity in sentencing and time served for similar cases? If so, what are the causes?</td>
<td>Considerable variation within a narrowly defined cell type or individual cell; top 10 counties show wide variation</td>
</tr>
<tr>
<td><strong>Certainty</strong></td>
<td>Are victims satisfied or frustrated with the uncertain portion of a sentence?</td>
<td>Unknown but under study</td>
</tr>
<tr>
<td><strong>Predictability</strong></td>
<td>To what degree are sentencing and parole decisions driving population trends?</td>
<td>Sentencing contributes, but parole is major driver</td>
</tr>
<tr>
<td><strong>Workability</strong></td>
<td>Is the complexity of the sentencing system sufficiently advancing other goals to be worth the effort?</td>
<td>Lots of appellate activity but not much user dissatisfaction OV scoring adds low value</td>
</tr>
</tbody>
</table>
## Summary of Sentencing Analyses

### High Odds of Doing Time
- 88% of Straddle sentences involve confinement in jail or prison
- 69% of Intermediate sentences involve confinement in jail or prison

### Illusory Precision of Guidelines
- OV scoring adds little precision
- Wide variance on type of sentence imposed within narrowly defined offense ranges

### Sentencing Poorly Aligned with Goals of Public Safety
- Guidelines direct low risk to jail and high risk away from potentially effective supervision
Recap of Key Points For the Day

1. ✓ Distinct stakeholder perspectives make consensus difficult
   ✓ Divergent views reinforce the value of data analysis
2. ✓ Identify and focus on high-risk offenders
   ✓ Target the factors that most influence criminal behavior
   ✓ Ensure programs are high quality and properly implemented
3. ✓ Crime is a serious problem, particularly in four cities
   ✓ Felons typically, increasingly sentenced to do time, most often in jail
   ✓ Wide discretion in sentencing and observable disparity
   ✓ Sentencing is not well aligned with public safety objectives
Forthcoming Analyses and Engagement

More Sentencing

- Predictive validity of PRV scoring
- Sentence length imposed
- Use of jails at original sentencing and for detaining supervision violators

Effectiveness

- Re-arrest rates for jail, probation, community corrections and parole populations
- Qualitative analysis of programs and policy

Parole and LOS

- Interplay of recidivism risk and denial of parole
- Factors contributing to denial of parole

Stakeholder Perspectives

- Victim perceptions of certainty, restitution satisfaction, and realization of victims’ rights
- Faith community and business community engagement
- Further surveys of practitioners
Project Timeline – We Need an Additional Meeting

- MLRC Meeting #1
- MLRC Meeting #2
- MLRC Meeting #3
- MLRC Meeting #4
- MLRC Meeting #5

Timeline:
- May
- Jun
- Sep
- Dec
- Jan
- Feb
- Mar

Years:
- 2014

Activities:
- Data Analysis
- Stakeholder Engagement
- Additional Meeting
Thank You

Ellen Whelan-Wuest
Policy Analyst
ewhelan-wuest@csg.org

www.csgjusticecenter.org

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