Sentencing and Justice Reinvestment Initiative

March 19, 2014

Michigan Law Revision Commission

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Council of State Governments Justice Center
Justice Reinvestment Partners

- National non-profit, non-partisan membership association of state government officials
- Engage 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.*

*Partner with Bureau of Justice Assistance and Pew Charitable Trusts*
Michigan’s Approach to Sentencing Grounded in Principles of Proportionality and Public Safety

1979 Zalman Study

“Not all sentencing variation should be considered unwarranted or disparate. . . It is only when such variation takes the form of differing sentences for similar offenders committing similar offenses that it can be considered disparate.”


"It is the mission of the Commission, based upon statutory mandates and the collective philosophy of its members, to:

- Develop sentencing guidelines which provide protection for the public, are proportionate to the seriousness of the offense and the offender's public record, and which reduce disparity in sentencing throughout the state."
Michigan’s Guidelines Take Greater Care to Categorize and Score Offenses and Crime Specific Variables

Michigan’s guidelines scores are based on more offense groupings, or grids, and incorporate more offense and prior record variables than in other guidelines states.

Michigan’s Examination of Sentencing, Parole, and Probation Is Fundamentally about Justice and Public Safety

Punishing Consistently
Predictably & Proportionately

Justice & Public Safety

Holding Offenders Accountable

Reducing Criminal Behavior
Findings to Date:

✓ Opportunities for significant disparity built into sentencing guidelines
✓ Significant disparity in actual sentencing for similar cases and between localities
✓ Minimum prison sentence lengths creeping upward based purely on discretion

Today’s Presentation:

☐ Use of habitual enhancement compounds disparity by “double counting” prior convictions in some, but not all, eligible cases.
☐ Disparity in minimum sentences can translate into greater disparity in time served for those sentenced to prison.
Findings to Date:

- Sentencing guidelines structure terms of incapacitation, but fail to structure supervision to reduce recidivism and accountability.
- Supervision revocation terms are not structured within the guidelines.
- Swift and certain sanctioning of probation violations dependent on voluntary adoption by courts.

Today’s Presentation:

- Guideline cell ranges increase disproportionately to risk.
- Time served beyond minimum has unclear impact on public safety but greatly increases cost to the State.
Investing Wisely:
Focusing Program Investments to Increase Public Safety

- Recent efforts to reduce parolee recidivism should be replicated in probation.
- Lengthy incarceration terms for violators limits resources for reducing violations.
- Existing state resources funding programs to reduce recidivism should be better targeted.

Improved investments will yield greater accountability and reductions in criminal behavior.
Section One

Punishing Consistently

Sentencing Enhancements Increase Disparity
- Automatic PRV scoring and discretionary habitual enhancements usually count the same convictions twice.

Sentencing Disparity in Time Served
- Range between minimum and statutory maximum allows for wide discretion in release decision making.
- Similar sentences can result in very different time served.
- Parole decisions consider many of the same factors as sentencing.

Accountability and Reducing Criminal Behavior

Investing Wisely
Multiple Ways of Counting Prior Felonies Create Disparity

1. Prior record of felony convictions (counted in the PRV) drives the sentencing cell rightward, increasing the lower end of the minimum range.

2. Optional habitual laws: any prior felonies may be counted a second time at sentencing to increase the upper end of the minimum range, widening the already wide standard cell range.

3. Disparity results from the dramatically different application of habitual sentencing by locality and the even wider (yet not always utilized) range it allows.

Sentencing Guidelines Require Scoring of Past Criminality Through Seven Prior Record Variables

7 PRV Questions

PRV questions address things such as prior felony convictions, prior misdemeanor convictions, and prior juvenile adjudications.

❖ Scoring of these 7 questions slots defendant into one of six PRV Levels on the sentencing grids.

<table>
<thead>
<tr>
<th>PRV Level A</th>
<th>PRV Level B</th>
<th>PRV Level C</th>
<th>PRV Level D</th>
<th>PRV Level E</th>
<th>PRV Level F</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 Pts</td>
<td>1-9 Pts</td>
<td>10-24 Pts</td>
<td>25-49 Pts</td>
<td>50-74 Pts</td>
<td>75+ Pts</td>
</tr>
<tr>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>7-23 Mos</td>
<td>10-23 Mos</td>
<td>12-24 Mos</td>
</tr>
</tbody>
</table>

Using Grid E, OV Level II as an example...

Non-Habitual Minimum Prison Sentence Length (SL) Ranges

Effect is that punishment severity increases based on accumulation of priors.

Defendants with Multiple Prior Felonies Will Typically Fall into Cells with Much More Severe Sentencing Options

2 of the 7 PRV questions already address prior* felony convictions

PRV 1 scores prior high severity felony convictions:
- 25 pts for 1 prior
- 50 pts for 2 priors
- 75 pts for 3+ priors

PRV 2 scores prior low severity felony convictions:
- 5 pts for 1 prior
- 10 pts for 2 priors
- 20 pts for 3 priors
- 30 pts for 4+ priors

* Must fall w/in a 10 year gap rule.

Grid E, OV Level II
Non-Habitual Minimum Prison SL Ranges for Grid E, Offense Level II

<table>
<thead>
<tr>
<th>PRV Level A</th>
<th>PRV Level B</th>
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</tr>
<tr>
<td>NA</td>
<td>NA</td>
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<td>7-23 Mos</td>
<td>10-23 Mos</td>
<td>12-24 Mos</td>
</tr>
</tbody>
</table>

Prison not an option (absent a departure).
Prison is an option ✓ With a minimum of up to 2 years in prison.

Habitual Sentencing Allows Double Counting of Prior Felony Convictions

Example of defendant with 3 prior felony convictions as an adult:

"10 Year Gap" from the discharge of the sentence for one conviction and the offense date of the next conviction.

Current Conviction

Counted in PRV Scoring

Can be counted toward habitual enhancement

Counted Twice

Double Counting of Prior Felonies
Adds Yet Another Layer of Time in Prison

Prior felony convictions can also be used to “habitualize” the defendant for even higher punishment ranges.

<table>
<thead>
<tr>
<th>PRV Level A</th>
<th>PRV Level B</th>
<th>PRV Level C</th>
<th>PRV Level D</th>
<th>PRV Level E</th>
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<tr>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>7-23 Mos</td>
<td>10-23 Mos</td>
<td>12-24 Mos</td>
</tr>
</tbody>
</table>

1 Prior Felony Conviction (HO2) | 7-28 Mos | 10-28 Mos | 12-30 Mos |
2 Prior Felony Convictions (HO3) | 7-34 Mos | 10-34 Mos | 12-36 Mos |
3+ Prior Felony Convictions (HO4) | 7-46 Mos | 10-46 Mos | 12-48 Mos |

Consider two defendants with the same instant offense underlying a new felony conviction:

A. Defendant with three prior low severity convictions (20 PRV points) will fall into Column C where prison is not an option.

B. Defendant with four prior low severity convictions (30 PRV points) will fall into Column D where prison is an option. Furthermore, the prior convictions can be counted again to double the minimum prison term.

Adding the Layer of Habitual Sentencing Further Increases Already Broad Minimum Prison Sentence Length Ranges

Prison sentence range for most frequently used cell in Michigan’s guidelines (Grid E, PRV-E, OV-II)

Non-Habitual Range
10-23 Months

\[ \text{Range} = 130\% \]

“Habitualization” further increases the minimum range

Habitual Ranges

2nd Time (HO2)
23+25%
10 - 28 mos

\[ \text{Range} = 180\% \]

3rd Time (HO3)
23+50%
10 - 34 mos

\[ \text{Range} = 240\% \]

4th Time (HO4)
23+100%
10 - 46 mos

\[ \text{Range} = 360\% \]

The cell range (span of possible minimum sentence) goes from 130% to 360%.

Additional Ways that Counting Prior Felonies and Habitual Sentencing Impact Sentencing

When electing to sentence as an habitual offender:

✓ Judge may also increase statutory maximum time in prison by 50%, 100% or up to life in prison depending on the habitual offender level.

When counting offenses to use as a fourth offender:

✓ Defendant does not have to have had three opportunities to reform; the three priors can arise from a single act or transaction. People v. Gardner (2008)

For person, property, and some drug offenses:

✓ Offense Variable 13 (Continuing Pattern of Criminal Behavior) scores all crimes within a five-year period, regardless of conviction, to determine a pattern of 3 or more offenses.
  
  – Scoring of this variable has the effect of moving defendants downward in the grids into more serious punishment ranges.

Unlike PRV Scoring, Application of Habitual Enhancement Is Discretionary

Wide Disparity in Use of Habitual Sentencing Among Top 10 Counties

| Percent of Eligible Cases Sentenced as Habitual Offender in 2012 (SGL Prison Bound Only) |
|---------------------------------|---------------------------------|
| Wayne                           | 0%                              |
| Oakland                         | 100%                            |
| Macomb                          | 40%                             |
| Kent                            | 20%                             |
| Genesee                         | 30%                             |
| Washtenaw                       | 10%                             |
| Ingham                          | 50%                             |
| Ottawa                          | 20%                             |
| Kalamazoo                       | 50%                             |
| Saginaw                         | 80%                             |

Wide variance in use of the habitual sentencing option guarantees that similar cases will be sentenced in very different ways.

“Sentenced as Habitual Offender” means that the sentence imposed actually fell into the elevated sentence range higher than the next lower level.

Cost of Habitual Sentencing Option Is Unpredictable and Potentially Huge

<table>
<thead>
<tr>
<th>Minimum Prison SL Range – High Utilization Guidelines Cell</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Lower</strong></td>
</tr>
<tr>
<td>10 Mos</td>
</tr>
<tr>
<td></td>
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<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

**10% Habitualized**
- 900 sentenced to 12 months in prison yields bed demand of 900 per day ($32M)
- 100 sentenced to 30 months in prison yields bed demand of 250 per day ($9M)

**36% Habitualized**
- 640 sentenced to 12 months in prison yields bed demand of 640 per day ($23M)
- 360 sentenced to 30 months in prison yields bed demand of 900 per day ($32M)

**90% Habitualized**
- 100 sentenced to 12 months in prison yields bed demand of 100 per day ($4M)
- 900 sentenced to 30 months in prison yields bed demand of 2,250 per day ($80M)

In 2012, there were over 1,000 defendants eligible to be habitualized at the HO3 level.

☑ Statewide, 36% were sentenced at the elevated level of the HO3 ranges.

**Michigan’s Sentencing Guidelines**

*Do Not Control Ultimate Length of Stay in Prison*

**Sentencing guidelines dictate minimum sentence in most cases.**

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For example, consider a court-imposed sentence of 12 months in prison for the offense of Retail Fraud – 1st Degree (Class E Grid)

<table>
<thead>
<tr>
<th>Min sentence</th>
<th>Max sentence = 60 months (set in statute)</th>
</tr>
</thead>
</table>

After serving sentence imposed by Court, the Parole Board determines release date.

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**Period of time controlled by Parole Board usually 300-400% longer than minimum imposed by the Court.**

- This introduces significant opportunity for disparity into the system.

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Inmates with this offense type served an **average of 19 months** in prison prior to first release.

- Range of 5 to 80 months.

* Based on 2012 Prison Releases

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Despite Similar Sentence Lengths Imposed by Court, Those Going to Prison Will Spend Much Longer Behind Bars

Despite receiving comparable sentences of time behind bars, those who are sent to prison spend up to four times as long behind bars than those sent to jail.

Similar Sentences Can Result in Very Different Amounts of Time Served

Time Served Behind Bars for 2008 Cases Sentenced to Terms of Incarceration of 9-15 Months
(“New” cases only; excludes habitualized cases)

<table>
<thead>
<tr>
<th>Months Behind Bars</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-6</td>
</tr>
<tr>
<td>7-12</td>
</tr>
<tr>
<td>13-18</td>
</tr>
<tr>
<td>19-24</td>
</tr>
<tr>
<td>25-30</td>
</tr>
<tr>
<td>31-36</td>
</tr>
<tr>
<td>37-42</td>
</tr>
<tr>
<td>43-48</td>
</tr>
<tr>
<td>49+</td>
</tr>
</tbody>
</table>

Sentence Imposed

- 9 to 15 months behind bars
- 7 to 12 months
- 3 months to 4 plus years

Jail Time Served

Prison Time Served

Average Jail sentence imposed = 333 days
Average Prison sentence imposed = 375 days

Sentencing Guidelines and Parole
Formally Consider Many of the Same Factors

Sentencing
- Criminal history
- Career criminal designation
- Relationship to the criminal justice system
- Aggravating circumstances of this crime
- Aggravating circumstances of past crimes
- Role in crime
- Victim impact and characteristics
  - Crime type

Parole
- Age
- Risk of re-offense
- Conduct in prison
  - Performance in programs
- Prison housing status
  - Situational crime unlikely to reoccur

Source: Sentencing Guidelines Manual, Michigan Judicial Institute, June 2012; and Michigan Dept. of Corrections Policy Directive 06.05.100 (Parole Guidelines).
Michigan’s Sentencing Structure Undermines Intent to Narrow Discretion and Reduce Disparity

Defendants Convicted of Felony

**Guidelines Scoring Process**
- Defendant is “scored” and awaiting sentencing.
- Narrowing down the offense/offender profile into 1 of 258 cells

**Sentencing Process**
- Opening up discretion: the narrowing is lost

**Release Process**
- 9 Different Grids
- 33 Different “Prior Record Variable” Scoring Choices
- 76 Different “Offense Variable” Scoring Choices

- 89% of cases fall in cells with wide-ranging punishment options
- Very wide prison SL ranges
- Habitual sentencing double counts past convictions and used inconsistently
- Actual sentencing disparity present
- Widely different lengths of stay behind bars for similar cases and imposed sentences.

Council of State Governments Justice Center
**Section Summary: Punishing Consistently**

<table>
<thead>
<tr>
<th>Habitual Sentencing</th>
<th>Prison Release</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is Discretionary and Not Always Used</td>
<td>Process Makes Time Served Unpredictable</td>
</tr>
<tr>
<td>But relies on double-counting of prior felonies:</td>
<td>Even among similar sentences:</td>
</tr>
<tr>
<td>- Adds more time to already increased sentence ranges</td>
<td>- Very different time served outcomes</td>
</tr>
<tr>
<td>- Varied use by locality ensures disparate sentencing results</td>
<td>- Parole reconsiders many factors already accounted for at original sentencing</td>
</tr>
</tbody>
</table>
Section Two

Punishing Consistently

Accountability and Reducing Criminal Behavior

Relationship of Sentencing Guidelines to Recidivism
- Offense level (OV) and prior record (PRV) as proxies for future criminality
- Questionable structure for punishment and assignment of supervision

Impact of Time Served
- Huge cost to system with unclear public safety outcomes

Investing Wisely
Sentencing Guidelines Should Be Structured to Support Recidivism Reduction and Public Safety

The “sorting” of the guidelines results in more severe punishment options as the PRV and OV scores increase.

- Do these increasing punishment options increase accountability?
- Do they generate reductions in future criminal behavior?

To what extent are increasing PRV Levels (higher criminal history) related to future criminal behavior?

To what extent are increasing OV Levels (more aggravating offense factors) related to future criminal behavior?
OV Score Does a Poor Job Predicting Risk of Re-Arrest

Cases in the more serious OV Levels actually have lower re-arrest rates.

- In other words, having more aggravating factors associated with the underlying case is not correlated with higher likelihood of recidivism.

- Suggests value of OV scoring is not about preventing future crime but more about “just desserts.”

PRV Score Does a Good Job Predicting Risk of Re-Arrest

Two Year Re-Arrest Rates by PRV Level:
All Probation and/or Jail Sentences (2008-10 Sentence Cohorts)

- Cases in the more serious PRV levels have higher re-arrest rates.
  - In other words, having more criminal history associated with the underlying case is correlated with higher likelihood of recidivism.
  - Suggests PRV scoring can be used to help predict future criminality.

Guidelines Fail to Structure Supervision In Relation to Future Criminality

There is no connection between the guidelines and imposition of supervision:

- Who gets supervised?
- And for how long?

For example, does it make sense that those in PRV Level A would be supervised for as long as those in PRV Levels D-F?

Does it make sense that those in PRV Levels D-F sentenced to jail would have no supervision after release?

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### Sentencing Grid for Class E Offenses—MGL 777.66

Includes Ranges Calculated for Habitual Offenders (MGL 777.21(3)(a)–(c))

<table>
<thead>
<tr>
<th>OV Level</th>
<th>PRV Level</th>
<th>Offender Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>I 0-9 Points</td>
<td>A 0 Points</td>
<td>B 1-9 Points</td>
</tr>
<tr>
<td>0</td>
<td>0</td>
<td>0</td>
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<tr>
<td>0</td>
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<td>0</td>
</tr>
<tr>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

| IV 35-49 Points | 0 | 11* | 17* | 23 | 29 | 35 | 40 |
| 0 | 0 | 13* | 19* | 25 | 31 | 37 | 43 |
| 0 | 0 | 16* | 22 | 28 | 34 | 40 | 46 |
| 0 | 0 | 22 | 24 | 30 | 36 | 42 | 48 |
| 0 | 0 | 24 | 28 | 34 | 40 | 46 | 52 |
| 0 | 0 | 26 | 30 | 36 | 42 | 48 | 54 |
| 0 | 0 | 28 | 34 | 40 | 46 | 52 | 58 |
| 0 | 0 | 30 | 36 | 42 | 48 | 54 | 60 |
| 0 | 0 | 32 | 38 | 44 | 50 | 56 | 62 |
| 0 | 0 | 34 | 40 | 46 | 52 | 58 | 64 |
| 0 | 0 | 36 | 42 | 48 | 54 | 60 | 66 |
| 0 | 0 | 38 | 44 | 50 | 56 | 62 | 68 |
| 0 | 0 | 40 | 46 | 52 | 58 | 64 | 70 |
| 0 | 0 | 42 | 48 | 54 | 60 | 66 | 72 |
| 0 | 0 | 44 | 50 | 56 | 62 | 68 | 74 |
| 0 | 0 | 46 | 52 | 58 | 64 | 70 | 76 |
| 0 | 0 | 48 | 54 | 60 | 66 | 72 | 78 |
| 0 | 0 | 50 | 56 | 62 | 68 | 74 | 80 |
| 0 | 0 | 52 | 58 | 64 | 70 | 76 | 82 |
| 0 | 0 | 54 | 60 | 66 | 72 | 78 | 84 |
| 0 | 0 | 56 | 62 | 68 | 74 | 80 | 86 |
| 0 | 0 | 58 | 64 | 70 | 76 | 82 | 88 |
| 0 | 0 | 60 | 66 | 72 | 78 | 84 | 90 |
| 0 | 0 | 62 | 68 | 74 | 80 | 86 | 92 |
| 0 | 0 | 64 | 70 | 76 | 82 | 88 | 94 |
| 0 | 0 | 66 | 72 | 78 | 84 | 90 | 96 |
| 0 | 0 | 68 | 74 | 80 | 86 | 92 | 98 |

---

Twice as likely to be re-arrested as those in PRV Level A.
Sentencing Guidelines Can Result in Time Served that Is Disproportionate to Future Criminality

Twice as likely to be re-arrested as those in PRV Level A.

For Sentences Involving Incarceration:
- Time behind bars limited to 1-3 months in jail.
- Time behind bars could be anywhere from to 5-60 months in prison.

While the odds of future criminality are 2 times higher, the length of incarceration is 5 to 20 times higher.

Prison Population Driven More by Prison Release Rates than Prison Commitments

*Prison commitments include new sentences, all probation violators (technical and new offense), and new offense parole violators.

Source: 2006-2011 Statistical Reports, MI Dept. of Corrections; 2008-2012 Intake Profiles, MI Dept. of Corrections; Trends in Key Indicators, MI Dept. of Corrections, February 2013.
Two Thirds of Initial Parole Releases Occur within Six Months of Becoming Eligible

First Release to Parole – Length of Stay Beyond Required Minimum 2008, 2011 and 2012 (excludes all parole violator admissions)

In 2012, this represented 1,711 inmates released seven or more months after their ERD.

Re-Arrest Rates Very Similar for Those Held Further Beyond Earliest Release Date

2 Year Re-Arrest Rates by Time Served Beyond Minimum:
(2010 Releases to Parole Excluding Parole Violator Admissions)

Re-arrest rates are similar regardless of when paroled.

Additional Incarceration Time Imposes Costs that Could Have Been Used to Bolster Supervision and Reentry

2012 First Releases to Parole
7 Months or More After ERD

1,711

22% Re-arrested w/in 2 Years

376

78% not Re-arrested w/in 2 Years

1,335

At $98 per day, holding these inmates for an average of 2.6 years beyond ERD costs the State $159 million.

$35 Million

$124 Million

$159m over the 2.6 years is roughly $61m spent each year.

Is incarcerating the 78% who don’t get re-arrested worth $61m annually?

These High Costs Actually Represent Best Case Scenario Under Present Approach

Since 2010, despite the parole approval rate rising to highest levels, the prison population has actually begun to trend upward.

* Prison commitments include new sentences, all probation violators (technical and new offense), and new offense parole violators.

Source: 2006-2011 Statistical Reports, MI Dept. of Corrections; 2008-2012 Intake Profiles, MI Dept. of Corrections; Trends in Key Indicators, MI Dept. of Corrections, February 2013.
Time Served Beyond Minimum Sentence Carries Potential for Enormous Fiscal Impacts

2012 Sentences to Prison*

8,851

Avg. Min SL = 46 mos
Avg. Max SL = 175 mos

*Excludes non-guidelines and life sentences

<table>
<thead>
<tr>
<th>Percentage</th>
<th>Sentence Length</th>
<th>Beds</th>
<th>Annual Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>100% Min SL</td>
<td>46 mos</td>
<td>33,464</td>
<td>$1.2 billion</td>
</tr>
<tr>
<td>125% Min SL</td>
<td>58 mos</td>
<td>42,194</td>
<td>$1.5 billion</td>
</tr>
<tr>
<td>140% Min SL</td>
<td>64 mos</td>
<td>46,559</td>
<td>$1.7 billion</td>
</tr>
<tr>
<td>100% Max SL</td>
<td>175 mos</td>
<td>127,309</td>
<td>$4.6 billion</td>
</tr>
</tbody>
</table>

Section Summary: Accountability and Reducing Criminal Behavior

Criminal History Predicts Future Recidivism

But guidelines fail to use this strength:

- No structuring of supervision
- Sentence length ranges increase disproportionately to increasing risk of recidivism

Most Parole Releases Occur w/in 6 Months of Eligibility

But benefits of holding others longer are unclear:

- No real difference in recidivism rates
- High costs of extended incarceration may actually outweigh limited benefits
Section Three

Investing Wisely

Michigan Has Success Story on Reentry

Targeting of Resources to the Front End
- Why it matters
- Community Corrections and CJRP
Michigan Has Focused on Reducing Parolee Recidivism and Achieved Nationally Recognized Reductions

Changes Begun in 2005:

- Integration of risk assessment into parole supervision
- Training of field agents in best practices
- Engaging communities
- Increasing funding for community-based programming for parolees
- Targeting supervision resources towards higher risk parolees

Percentage of Parolees Returning to Prison Within 3 Years of Release

Source: 2006-2013 Statistical Reports, MI Dept. of Corrections.
Reductions in Parolee Recidivism Hold Up When Analyzed in Terms of Arrests

One Year Parolee Re-Arrest Rates

The 6 point decline in parolee re-arrest rate from 2008-11 is a 20% reduction.

Felony Probation Outcomes Have Not Improved in the Same Way

One Year Felony Probation Re-Arrest Rates

If the felony probationer re-arrest rate from 2008-11 experienced a 20% reduction similar to parole:

❖ Re-arrest rate would be 18%.

Reducing Probationer Recidivism Could Lower Victimization and Ease the Strain on Local Resources

Total Felony Probation Placements in 2012

29,432

At current re-arrest rates:

23% w/in 1 Year
6,769 Arrests

If probation re-arrest rates had fallen like parole:

18% w/in 1 Year
5,298 Arrests

Almost 1,500 fewer arrests...

...and instances of victimization

...and bookings into county jail

...and initiations of court proceedings

Less Funding Devoted for Probationers Despite Higher Population and Impact on New Felony Offenses

With a parole investment that is 4 times greater per person, is it surprising that parole outcomes have improved and probation outcomes have not?

Source: Written and verbal communications with Budget Office, Michigan Dept. of Corrections.

* FY 2013 Funding
** Rounded based on 2012 population data
Public Safety Outcomes Impact Prison Pressure

Parole Violators Returned to Prison

<table>
<thead>
<tr>
<th>Year</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>3,900</td>
</tr>
<tr>
<td>2009</td>
<td>4,096</td>
</tr>
<tr>
<td>2010</td>
<td>4,167</td>
</tr>
<tr>
<td>2011</td>
<td>3,416</td>
</tr>
<tr>
<td>2012</td>
<td>4,100</td>
</tr>
<tr>
<td>2013*</td>
<td>3,417</td>
</tr>
</tbody>
</table>

Crackdown on Absconders

Probation Violators Revoked to Prison

<table>
<thead>
<tr>
<th>Year</th>
<th>Number</th>
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</thead>
<tbody>
<tr>
<td>2008</td>
<td>2,846</td>
</tr>
<tr>
<td>2009</td>
<td>2,631</td>
</tr>
<tr>
<td>2010</td>
<td>2,482</td>
</tr>
<tr>
<td>2011</td>
<td>2,509</td>
</tr>
<tr>
<td>2012</td>
<td>2,634</td>
</tr>
<tr>
<td>2013*</td>
<td>2,708</td>
</tr>
</tbody>
</table>

Number of parolees returned to prison trending downward.

✓ Down 18% since 2010 high point.

Note: Parole approval rates during this time at their highest since the early 1990s.

Number of probationers revoked to prison trending upward.

✓ Up 9% since 2010 low point.

Note: Number sentenced to probation during this time down 10%.

Source: 2006-2011 Statistical Reports, MI Dept. of Corrections; 2008-2012 Intake Profiles, MI Dept. of Corrections; MDOC Data Fact Sheet, MI Dept. of Corrections, January 2014.
More than $300 Million Spent Annually Locking Up Probation Violators

2008-12 Average Admissions of Probation Violators to Prison and Jail, and Length of Stay

- New Off. Prob. Revs. = 1,590 for 37 mos
- Tech. Prob. Revs. = 1,030 for 25 mos

2,620 violators admitted to prison annually
  - 39% are compliance violators

6,951 Beds per Day
at $98 per day
= $249 million Annually

- New Off. Prob. Revs = 2,295 for 7 mos
- Tech. Prob. Revs. = 3,742 for 7 mos

6,037 violators admitted to jail annually
  - 62% are compliance violators

3,473 Beds per Day
at $45 per day
= $57 million Annually

State Spends Twice as Much Per Person Incarcerating Probation Technical Violators than for Parole

Technical Parole Violators

2,193

13 months

2,343

$84 Million

= $38,304 per technical violator returned

Annual Returns/Revocations to Prison (2008-12)

Length of Stay in Prison

Prison Bed Impact

Cost of Incarceration

Technical Probation Violators

1,030

25 months

2,116

$76 Million

= $73,786 per technical violator revoked

### Front-End Resources Include Community Corrections, Voluntary Swift & Sure Program, and Jail Reimbursements

<table>
<thead>
<tr>
<th><strong>Community Corrections</strong></th>
<th><strong>Swift &amp; Sure Sanctions</strong></th>
<th><strong>County Jail Reimbursement</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>MDOC awards funding for programs aimed at reducing prison commitment rate.</td>
<td>SCAO awards funding for voluntary adoption by circuit courts.</td>
<td>State reimburses counties for sending to jail <em>some</em> of those otherwise headed to prison.</td>
</tr>
</tbody>
</table>

- **Community Corrections**:
  - Local Buy-In
  - Well Run
  - Some programs lack evidence base
  - Tired Process

- **Swift & Sure Sanctions**:
  - Commitment to EBP
  - Generous Funding
  - Limited Adoption
  - No Delegation to Agents

- **County Jail Reimbursement**:
  - Fulfills Headlee Obligation
  - But...
    - Complex Eligibility
    - Variable Funding

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**Focus should be on:**

- Getting programs to the right people regardless of where they fall in the grids
- Ensuring programs have fidelity to evidence base for recidivism reduction (or diversion?)
- Promoting accountability for probationers
Section Summary: Investing Wisely

**Michigan Has Had Success Reducing Parolee Recidivism**

But front-end probation has not:

- Re-arrest rates unchanged in recent years
- Missed opportunity to reduce crime, victimization, and local costs

**Solid Investments Have Been Made in Prison Reentry**

But investments towards the front-end are lacking:

- Program investments per probationer are half that of parole
- Largest probation expenditures are on locking up violators
Punishing Consistently

Holding Offenders Accountable

Reducing Criminal Behavior

- Opportunity for disparity built into guidelines
- Actual sentencing reveals disparity in practice
- Habitual sentencing double counts prior felonies
- Time served for similar sentences very different

- Guidelines silent on supervision: Who gets it? How much? Violation Responses?
- Limited adoption of voluntary swift & sure sanctions program
- Sentencing ranges increase disproportionately to risk of recidivism
- Time served often unpredictable and adds unclear public safety value at high cost
- Opportunity to achieve better public safety outcomes at the front end
Project Timeline Through 2014

- **May 2013**
  - MLRC Meetings 1-4

- **March 2014**
  - MLRC Meeting #6 & CSG Report

- **April**
  - Stakeholder Engagement

- **May**
  - Policy Discussions

- **June**
  - Data Analysis

- **July**
  - Policy Modeling

- **November**
  - MLRC Report

- **December**
  - MLRC Report

Today: MLRC Meeting #5
Thank You

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This material was prepared for the Michigan Law Revision Commission and the State of Michigan. 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 agencies supporting the work.
This project was supported by Grant No. 2010-RR-BX-K071 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Department of Justice’s Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the SMART Office. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.