Montana Commission on Sentencing

Second Meeting
November 17 and 18, 2015

The Council of State Governments Justice Center

Carl Reynolds, Senior Legal and Policy Advisor
Steve Allen, Senior Policy Advisor
Chris Fisher, Senior Policy Advisor
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David Sisk, Policy Analyst
The Council of State Governments Justice Center

- National nonprofit, nonpartisan 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
A data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease recidivism and increase public safety

The Justice Reinvestment Initiative is supported by funding from the U.S. Department of Justice’s Bureau of Justice Assistance (BJA) and The Pew Charitable Trusts
Montana’s prison population exceeds capacity and is projected to continue to increase.

Expanding capacity to address projected growth will cost the state at least $82 million over nine years.
Academics and practitioners have contributed to the dramatic growth in knowledge on improving criminal justice outcomes.

Rehabilitative era

Just desserts/“Nothing works”

What programs work to address criminal behavior?

What principles are linked to effective intervention?

Evidence-based practices are interventions that have been scientifically tested and found to be effective in controlled studies.

Evidence-Based Practices

- Rigorously tested
- Yielded consistent, replicable results
- Found to be safe, beneficial, and effective with measurable outcomes
Risk gauges the likelihood of reoffending.

**Recidivism** means reoffending within a given period of time.

- Rearrest
- Reconviction
- Reincarceration

**Risk** is a way of gauging the likelihood of rearrest, reconviction, or reincarceration.
The JR process can help identify how best to reduce recidivism using evidence and data, given the current system and political landscape.
The JR process focuses on improving core correctional elements and involves intensive stakeholder engagement.

**Justice Reinvestment Process**

**PHASE I**
- Working group formation / presentations
- Data analysis
- Stakeholder engagement
- Sentencing policy analysis
- Policy development
- Modeling of policy impact

**PHASE II**
- Implementation oversight structure & planning
- Translating projections into metrics
- Training strategies
- Communication plan
- Subaward plan development and tracking
- State monitoring of key metrics

**Analysis & Improvement of Core Correctional Elements**

1. **RISK ASSESSMENT**
   - System-wide assessment & analysis
   - On-site observation of current practice

2. **PROGRAMS**
   - Administrative policy review
   - Charting of current vs. ideal practice
   - Rollout of options for improvement connected to policy framework

3. **SUPERVISION**
   - Administrative policy redesign
   - Retraining, revalidation, QA processes
   - Troubleshooting the change process
   - Supporting leaders and oversight of the process

**Enhanced Focus Areas**

- Prosecutor engagement
- Victim advocates & service providers
- Parole board members
- Law enforcement
- Sentencing policies & case law
- Behavioral health state officials and providers
Montana Commission on Sentencing
Risk and Needs Assessment
November 17

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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**

- Assess risk of recidivism and focus supervision on the highest-risk offenders.
- Prioritize programs addressing the needs most associated with recidivism.
- Deliver programs based on offender learning style, motivation, and/or circumstances.

Evidence-Based Practices

Tradi6onal Approach

Supervise everyone the same way

Assign programs that feel or seem effective

Deliver programs the same way to every offender

Risk

Need

Responsivity
Risk assessments consider key factors that predict reoffending.

Ohio Risk Assessment System – Community Supervision Tool

35 questions assessing:

- Criminal history
- Education, employment, and financial situation
- Family and social support
- Neighborhood problems
- Substance use
- Peer associations
- Criminal attitudes and behavioral patterns

<table>
<thead>
<tr>
<th>Risk Categories for MALES</th>
<th>Risk Categories for FEMALES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scores</td>
<td>Score:</td>
</tr>
<tr>
<td>0-14</td>
<td>0-14</td>
</tr>
<tr>
<td>15-23</td>
<td>15-21</td>
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<tr>
<td>24-33</td>
<td>22-28</td>
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<tr>
<td>34+</td>
<td>29+</td>
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<td>Rating</td>
<td>Rating</td>
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<td>Low</td>
<td>Low</td>
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<tr>
<td>Moderate</td>
<td>Low/Moderate</td>
</tr>
<tr>
<td>High</td>
<td>Moderate</td>
</tr>
<tr>
<td>Very High</td>
<td>High</td>
</tr>
</tbody>
</table>
“Risk” refers to the likelihood of committing another crime.

Risk factors are conditions associated with the risk of committing a crime, and not:
- Seriousness of an offense
- Dangerousness
- Relapse

Assess risk of reoffense and focus programs and supervision on the highest-risk offenders.
After assessment, levels of risk are identified.

LOW RISK
10% rearrested

MODERATE RISK
35% rearrested

HIGH RISK
70% rearrested
After applying risk principle, people with similar risk levels are differentiated.

<table>
<thead>
<tr>
<th>Risk of Reoffending</th>
<th>Low Supervision/Program Intensity</th>
<th>Moderate Supervision/Program Intensity</th>
<th>High Supervision/Program Intensity</th>
</tr>
</thead>
<tbody>
<tr>
<td>LOW RISK 10% rearrested</td>
<td>10%</td>
<td>35%</td>
<td>70%</td>
</tr>
<tr>
<td>MODERATE RISK 35% rearrested</td>
<td>35%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>HIGH RISK 70% rearrested</td>
<td>70%</td>
<td></td>
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</tbody>
</table>

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If risk principle is not adhered to, recidivism can increase.

- **High Supervision/Program Intensity**
  - Before Intervention: 0–5% increase
  - After Intervention: 20–30% reduction

- **Moderate Supervision/Program Intensity**
  - Before Intervention: 5–10% reduction
  - After Intervention: 0% reduction

- **Low Supervision/Program Intensity**
  - Before Intervention: 0% reduction
  - After Intervention: 0% reduction

**Before Intervention**
- **LOW RISK**: 10% rearrested
- **MODERATE RISK**: 35% rearrested
- **HIGH RISK**: 70% rearrested

**After Intervention**
- **LOW RISK**: 10% rearrested
- **MODERATE RISK**: 32–33% rearrested
- **HIGH RISK**: 49–56% rearrested
Conducting assessments at multiple system points informs key decisions.

**Initial Assessments Inform:**
- Immediate treatment needs
  - Diversion decisions
  - Sentencing
  - Problem-solving courts
  - Need for confinement
- Community supervision strategy

**Subsequent Assessments Inform:**
- Risk management
- Programming & treatment needs
  - Case planning
  - Reentry
- Community supervision
- Programming effectiveness

[Diagram showing flow from Law Enforcement to Pretrial to Courts to Prison to Supervision, with arrows indicating direction of assessment information flow.]
Risk factors associated with criminal thinking are the strongest predictors of reoffending.

**Risk**

The following risk factors are most strongly associated with reoffending:

- Antisocial attitudes
- Antisocial friends and peers
- Antisocial personality pattern
- Antisocial behavior

As programming and treatment impact risk factors, risk levels can also change over time.
“Criminalized” thinking neutralizes an expected sense of responsibility.

Examples of Types of Criminal Thinking

**Denial of Victim**
“I’m the one who is getting messed with.”
“They had it coming.”

**Denial of Responsibility**
“I didn’t do it.”
“I had no choice!”

**Denial of Injury**
“No one really got hurt here.”
“They have insurance for that.”

**The Condemnation of the Condemners**
“The cops are just out to get me.”
“You do the same things. You just haven’t been caught.”

**Appeal to Higher Loyalties**
“My friends needed me. What was I going to do?”
“I didn’t do it for myself.”

Cognitive behavioral therapy takes advantage of the interconnections between thoughts, feelings, and behavior.

Cognitive-Behavioral Cycle

**Situation**
- tell us what conditions led to the behavior (people, places, things)

**Feelings**
- can be healthy or problematic depending on how one copes with the feelings

**Behavior**
- represent the ultimate behavior the person engages in

**Consequences**
- (negative or positive) determine the likelihood of continuance

**Thoughts**
- drive behaviors

A review of 58 studies found that CBT reduced recidivism on average 25% (up to 50%)

Example Interaction Addressing Criminal Thinking
High-risk individuals do not improve with limited interventions.

**Ineffective Interventions**

- Weekly AA/NA meetings
- Limited supervision
- Job placement program

**Why?**

- AA/NA meetings do not provide enough intensity of programming to address substance abuse.
- Biweekly visits do not provide enough supervision/control to reduce recidivism.
- Without addressing antisocial thinking and personality through cognitive-behavioral interventions, offender is unable to maintain employment.

**Current conviction:**
- Burglary

**Previous convictions:**
- Burglary
- Assault
- Felony theft

**Risk factors:**
- Substance abuse – high need
- Antisocial thinking
- Antisocial personality

**Other factors:**
- History of trauma
- No employment
- No pro-social supports
Intensive interventions can increase low-risk individuals’ likelihood of reoffending.

**Ineffective Interventions**

- Residential substance abuse program
- Intensive supervision

**Why?**

- Participation in a residential program and intensive surveillance:
  - Disrupts pro-social networks and ability to maintain employment;
  - Enables fraternizing with and learning antisocial attitudes and values from high-risk offenders.

- **Current conviction:**
  - Felony theft

- **Previous conviction:**
  - Misdemeanor theft

- **Risk factors:**
  - Antisocial thinking
  - Substance abuse – low need

- **Other factors**
  - Employed
  - Strong network of pro-social family and friends
Risk assessments can go wrong, and it is important to have oversight of the assessment process and to identify ways to improve.

The CSG Justice Center has developed an instrument to help measure risk assessment quality and identify ways to improve the assessment process.

**Example Questions**

- What, if any, risk assessment tool is your department currently using?
- When is the tool administered?
- Does your department regularly review risk assessments to ensure scoring accuracy?
- If deficiencies are identified through the quality assurance process, what does the department do to improve the assessor’s skill?
- Has your department had a validation study conducted for the risk assessment tool?
- Does the assessment instrument appear to predict recidivism in your jurisdiction?
Montana Commission on Sentencing

Behavioral Health
November 17

The Council of State Governments Justice Center

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David Sisk, Policy Analyst
Behavioral health care challenges in corrections are complex and involve multiple systems.
Most people in the justice system have multiple risks and needs.

<table>
<thead>
<tr>
<th>Objective</th>
<th>Public Safety</th>
<th>Public Health</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Risk</strong></td>
<td>• Recidivism</td>
<td>• Relapse</td>
</tr>
<tr>
<td></td>
<td>• Violence</td>
<td>• Decompensation</td>
</tr>
<tr>
<td><strong>Needs</strong></td>
<td>• Criminal Thinking*</td>
<td>• Substance Abuse</td>
</tr>
<tr>
<td></td>
<td>• Associates</td>
<td>• Mental Illness</td>
</tr>
<tr>
<td></td>
<td>• Drugs &amp; Alcohol</td>
<td>• Co-occurring</td>
</tr>
<tr>
<td></td>
<td>• Family &amp; Relationships</td>
<td>• Physical health</td>
</tr>
<tr>
<td></td>
<td>• Work/School</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Lifestyle</td>
<td></td>
</tr>
</tbody>
</table>

*Most predictive*
Behavioral health encompasses both mental health and substance use.

- Mental Illnesses
  - Psychotic Disorders
  - Mood Disorders
  - Bipolar
- Substance Use Disorders
  - Alcohol
  - Other drugs
- Severity
- Co-occurring disorders
Behavioral health complexities impact successful reentry and length of stay in jails and prisons.

Criminal Justice Outcomes for Persons with and without Mental Illness

- Screened 2,934 probationers for mental illness:
  - 13% identified as mentally ill
  - Followed for average of two years

No more likely to be arrested ...

... but 1.38 times more likely to be revoked

Source: Vidal, Manchak, et al. (2009)
Incarceration is not always a direct product of mental illness.

How likely is it that the inmates’ offenses were a result of serious mental illness (SMI) or substance abuse (SA)?

- **Direct Effect of SMI**: 4%
- **Indirect Effect of SMI**: 4%
- **Direct Effect of SA**: 19%
- **Indirect Effect of SA**: 7%
- **Other Factors**: 66%

Behavioral Health Risk and Responsivity Factors

- Antisocial Attitudes
- Antisocial Personality Pattern
- Antisocial Friends and Peers
- Substance Abuse
- Family and/or Marital Factors
- Lack of Pro-social Leisure Activities
- Poor Employment History
- Lack of Education

Behavioral Health
People with mental illnesses have more risk factors that predict recidivism.

Average LS-CMI Risk Assessment Scores for Persons with and without Mental Illness

Risk factors are more predictive of recidivism than the presence of a mental illness.

Source: Skeem, Nicholson, & Kregg (2008)
High rates of co-occurring substance use disorders in corrections further complicate effective treatment delivery.

### TABLE 1. Estimated Proportion of Adults with Mental Health, Substance Use, and Co-occurring Disorders in the U.S. Population and under Correctional Control and Supervision†

<table>
<thead>
<tr>
<th>Disorder Type</th>
<th>General Public</th>
<th>State Prisons</th>
<th>Jails</th>
<th>Probation and Parole</th>
</tr>
</thead>
<tbody>
<tr>
<td>Serious Mental Illness</td>
<td>5.4%&lt;sup&gt;21&lt;/sup&gt;</td>
<td>16%&lt;sup&gt;22&lt;/sup&gt;</td>
<td>17%&lt;sup&gt;23&lt;/sup&gt;</td>
<td>7–9%&lt;sup&gt;24&lt;/sup&gt;</td>
</tr>
<tr>
<td>Substance Use Disorders (Alcohol and Drugs) — Abuse and/or Dependence</td>
<td>16%&lt;sup&gt;25&lt;/sup&gt;</td>
<td>53%&lt;sup&gt;26&lt;/sup&gt;</td>
<td>68%&lt;sup&gt;27&lt;/sup&gt;</td>
<td>35–40%&lt;sup&gt;28&lt;/sup&gt;</td>
</tr>
<tr>
<td>Drug Abuse Only&lt;sup&gt;29&lt;/sup&gt;</td>
<td>1.4%</td>
<td>17%</td>
<td>18%</td>
<td>N/A</td>
</tr>
<tr>
<td>Drug Dependence Only&lt;sup&gt;30&lt;/sup&gt;</td>
<td>0.6%</td>
<td>36%</td>
<td>36%</td>
<td>N/A</td>
</tr>
<tr>
<td>A Co-occurring Substance Use Disorder When Serious Mental Illness Is Diagnosed†</td>
<td>25%&lt;sup&gt;31&lt;/sup&gt;</td>
<td>59%&lt;sup&gt;32&lt;/sup&gt;</td>
<td>72%&lt;sup&gt;33&lt;/sup&gt;</td>
<td>49%&lt;sup&gt;34&lt;/sup&gt;</td>
</tr>
</tbody>
</table>
What makes effective corrections programs?

Program Impact

Target population

Program type

WHAT

Recidivism Reduction

HOW WELL

Program quality

WHO
• Treat both the substance abuse and the criminality
• Treatment takes time
• Collaboration is critical
• Individualize treatment
• Address co-occurring disorders
• Mandatory treatment is effective

Effective behavioral health interventions enhance motivation to change.

A simple truth...

“People are usually more convinced by reasons they discovered themselves than by those found by others.”

-Blaise Pascal
Higher-risk and higher-complexity cases require specialized interventions.

Risk Assessment

Treatment Assessment

Interventions

Low Risk

Low to High Treatment Needs

Standard Supervision

Standard Treatment

Enhanced Supervision

Enhanced Treatment

Mod/High Risk

Low to High Treatment Needs
Effective systems ensure a continuum of services to provide the right services at the right time.

While people should start at the level of supports they initially need to address their risk and needs, they should “step down” into lower intensity and lower cost interventions.

High Risk, High Need
High Level of Supports

- Residential Treatment
- Intensive Outpatient
- Outpatient
- Maintenance & Recovery

Low Risk, Low Need
Low Level of Supports

High Risk, High Need
High Level of Supports
Coordinated system responses are more effective at reducing recidivism.

Research suggests that for adults with mental illnesses, combined supervision and treatment are more effective at reducing recidivism than supervision alone.

The supervision plan outlines the requirements that an offender must adhere to while on community supervision.

The treatment plan outlines how the offender will manage his/her illness(es) and identifies specific steps toward recovery.

Ideally, behavioral health and community corrections stakeholders should come together to develop integrated treatment and supervision plans for offenders.
The goal: Prioritize resources for individuals who are most likely to reoffend.

Research indicates that targeting moderate- and high-risk individuals for programming can have a substantial impact on recidivism reduction. Targeting low-risk individuals for programming has the potential to increase recidivism.¹

Addressing multiple criminogenic needs will have a greater impact on reducing recidivism for moderate- and high-risk individuals than only addressing one criminogenic need, or multiple non-criminogenic needs.²

2. What types of services and supports are provided?

The goal: Rely on approaches that have a demonstrated impact on reducing recidivism while enhancing recovery.
3. How well are programs being delivered?

**The goal:** Ensure that programs are being implemented with quality and fidelity and that outcomes are being evaluated.

<table>
<thead>
<tr>
<th>Assessment</th>
<th>Training</th>
<th>Data Monitoring</th>
</tr>
</thead>
</table>
| • Programs are routinely assessed for quality & effectiveness | • Facilitators are trained regularly in evidence-based practices  
• Program evaluators are trained to evaluate programs | • Program attendance and quality of participation are tracked, by individual  
• Program completion is tracked, by individual  
• Recidivism measures are adopted and tracked, by individual and by type of program |
Diagnosing Current Practices in Montana

CSG Justice Center staff will:

- Take stock of different types of programs in institutional and community settings
- Conduct a review of program curricula
- Review administrative policies on risk assessments and programs
- Analyze risk assessment and program placement practices
- Visit with treatment providers
- Observe programs and current practice on site
- Analyze program outcomes with available data
Montana Commission on Sentencing

Supervision

November 17

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System Checklist: Reducing Recidivism

<table>
<thead>
<tr>
<th></th>
<th>Step</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Assess</td>
<td>risk and need</td>
</tr>
<tr>
<td>2</td>
<td>Target</td>
<td>the right people</td>
</tr>
<tr>
<td>3</td>
<td>Frontload</td>
<td>supervision and treatment</td>
</tr>
<tr>
<td>4</td>
<td>Implement</td>
<td>proven programs</td>
</tr>
<tr>
<td>5</td>
<td>Address</td>
<td>criminal thinking</td>
</tr>
<tr>
<td>6</td>
<td>Hold individuals</td>
<td>accountable</td>
</tr>
<tr>
<td>7</td>
<td>Measure</td>
<td>and incentivize outcomes</td>
</tr>
</tbody>
</table>
1. Assess Risk and Need: Examples

Best Practices
- Continue to use screening tool to triage low-risk people to low supervision unit.
- Use full validated risk and need assessment for those identified as higher risk by the screening tool.
- Conduct periodic reassessment to monitor changes in risk.
- Respond to the changing risks and needs.

Examples
- Ohio required the statewide adoption of a single validated risk assessment.
2. Target the Right People: Examples

**Best Practices**

- Use risk and needs assessment to drive supervision intensity and placement in appropriate programming.
- Prioritize programming resources for individuals who are most likely to reoffend.
- Move felony probationers from active to banked based on risk level and demonstrated compliance.

**Examples**

- North Carolina adopted risk assessments to inform supervision practices and focused resources on high-risk offenders.
3. **Frontload**: Supervision should be focused on the period when people are most likely to reoffend.

![Graph showing recidivism rates by time from release to first arrest](image)

- **3 years**: 89% rearrested
- **2 years**: 78% rearrested
- **57%** rearrested within 1 year of release

3. Frontload: In Rhode Island, a resentencing analysis demonstrated diminished recidivism with passage of time.

Source: RI Supreme Court Sentencing Data.
3. Frontload Supervision and Treatment: Examples

No frontloading

Frontloaded supervision

Frontloaded supervision and services

Best Practices

• Continue more frequent contact with officer at the onset of supervision.
• Reduce frequency of contact with ongoing compliance over time.
• Reallocate resources to make a difference in the critical first year for higher-risk offenders.

Examples

• Arizona, New Hampshire, and Nevada frontloaded supervision by adopting policies allowing compliant offenders to earn time on supervision.
• Kansas adopted a presumptive discharge policy, allowing offenders to earn their discharge from supervision after 12 months upon satisfying restitution obligations and compliance with supervision conditions.
4. Implement Proven Programs: Examples

Programs do not adhere to best practices

Programs based on what works

Programs based on what works and regularly assessed for quality

Best Practices

- Implement and fund evidence based practices.
- Invest in CBI to address criminal thinking.
- Require community-based programs to use evidence-based interventions for offenders.

Examples

- North Carolina replaced an outdated formula used to fund providers for treating people on supervision with a fee-for-service model. Of the state’s total funding for treating people on supervision, 80 percent is now allocated for community-based cognitive behavioral services.
- Idaho conducted a comprehensive assessment of programs, examining who they served, whether they were evidence-based, and how well they were being administered.
5. **Criminal Thinking**: Officers should apply the principles of effective intervention, including cognitive restructuring and problem solving.

**Example Interaction**
5. Criminal Thinking: Examples

No CBT programming

CBT programming

CBT programming & CBT-driven supervision

Best Practices

- Fully implement Effective Practices in Community Supervision (EPICS) and ensure quality in application.
- Adjust workload to create ability for probation officers to deliver CBI to higher risk probationers.
- Institute quality assurance mechanisms to ensure effective practices are continually used regarding risk assessment and interventions between probation officers and offender.

Examples

- Kansas and Pennsylvania implemented EPICS, teaching supervision officers how to apply the principles of effective intervention, including relationship skills, cognitive restructuring, and problem solving based on the risk, need, and responsivity principles.
6. Accountability: Swift and certain responses to violation behavior are critically important

**Hawaii HOPE**
*Intensive, random drug testing with swift, certain, and brief jail sanctions to supervision violations*

<table>
<thead>
<tr>
<th></th>
<th>Percent Arrested</th>
<th>Percent Reconvicted</th>
<th>Prison Admissions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Status Quo</td>
<td>47%</td>
<td>35%</td>
<td>15,188</td>
</tr>
<tr>
<td>HOPE</td>
<td>21%</td>
<td>29%</td>
<td>7,440</td>
</tr>
</tbody>
</table>

**Washington**
*Swift and certain jail sanctions in response to supervision violations*

<table>
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<tr>
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**North Carolina**
*Swift and certain “dips” of brief jail sanctions and “dunks” of prison sanctions in response to violations*

<table>
<thead>
<tr>
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6. Accountability: Most Effective Interventions to Change Behavior on Supervision

Key Characteristics of Effective Interventions

- Certainty
- Swiftness
- Proportionality

Types of Responses

**Incentives**
(4 incentives : 1 sanction)
- Verbal praise and reinforcement
- Removal from electronic monitoring
- Modification of curfew hours

**Interventions**
- Assessment and program referral
- Skills practice with officer
- Written assignment (cost-benefit analysis)

**Sanctions**
- Verbal reprimand
- Community service hours
- Electronic monitoring
- Increased reporting
- Modification of curfew hours

6. Accountability: Examples

Delayed, inconsistent, and severe sanctions

Use of consistent responses to non-compliance

Applying swift, certain, and fair sanctions

Best Practices

• Give probation officers the ability to modify conditions of supervision to address emerging risks and needs.
• Give probation officers the authority to apply swift and certain responses to violations.
• Create detailed guidance to respond to non-compliance with supervision.

Examples

• West Virginia adopted 60- and 120-day revocations for probation and parole.
• North Carolina adopted 2- and 3-day sanctions and 90-day revocations for probation, and 3-month revocations for post-release supervision.
• Washington adopted 1-, 2-, 3-day, and 30-day sanctions for post-release supervision.
• Kansas adopted 2-, 3-, 120-, and 180-day sanctions for probation.
7. Measure Outcomes: Agencies and program providers must be held accountable for demonstrating results

Are key outcomes identified and measured across all systems?

- Tracking recidivism rates over time at each part of the system
- Creating incentives to drive performance, especially by program providers
- Assessing how well agencies are coordinating efforts with shared populations
7. Measure Outcomes: Examples

Best Practices

- Measure multiple measures of recidivism by region, risk level, programs, etc.
- Use outcomes to manage probation supervision strategies, training, and resources for programming.
- Require community-based programs for offenders to measure impacts on recidivism.
- Explore using incentives to improve quality of programs.

Examples

- Pennsylvania implemented a “pay for performance” approach in contracts with private program providers and tracked recidivism rates by program.
- Travis County, Texas implemented a personnel evaluation system for probation supervision, emphasizing case work and treatment targeting the risks and needs of the population.
## System Checklist: Reducing Recidivism

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<td>1</td>
<td>Assess</td>
<td>risk and need</td>
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<td>2</td>
<td>Target</td>
<td>the right people</td>
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<td>3</td>
<td>Frontload</td>
<td>supervision and treatment</td>
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<td>4</td>
<td>Implement</td>
<td>proven programs</td>
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<td>5</td>
<td>Address</td>
<td>criminal thinking</td>
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<td>6</td>
<td>Hold</td>
<td>individuals accountable</td>
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<tr>
<td>7</td>
<td>Measure</td>
<td>and incentivize outcomes</td>
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Montana Commission on Sentencing

Win-Wins for Local and State Governments

November 18

The Council of State Governments Justice Center

Carl Reynolds, Senior Legal and Policy Advisor
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CSG helps states craft policy and reinvestment strategies that are responsive to local needs and priorities.

**PRETRIAL:**
Washington’s Justice Reinvestment Taskforce proposed establishing a state-funded grant program to support and incentivize counties to use a pretrial screening instrument.

**ASSESSMENTS:**
Oklahoma instituted presentence mental health and substance abuse screens in jails to help guide decisions related to treatment and supervision.

**LAW ENFORCEMENT:**
Washington also proposed establishing a statewide competitive grant program to encourage and support local law enforcement agencies to deploy data-driven strategies to reduce property crime.

**LAW ENFORCEMENT:**
Oklahoma established a statewide competitive grant program to support local law enforcement agencies to implement data-driven strategies to reduce violent crime.
Crafting Win-Wins for State and Local Governments

PRETRIAL:
West Virginia adopted a statewide pretrial risk assessment instrument to inform judicial decision-making.

JAIL POPULATION:
Nebraska adopted a safeguard fund to reimburse counties that demonstrated cost increases due to justice reinvestment legislation.

PROBATION AND PAROLE:
Alabama adopted intermediate sanctions to respond to technical violations on probation and parole, allowing for short jail stays prior to revocation.

MENTAL ILLNESS IN JAILS:
Both Lewis and Clark County and Missoula County in Montana have passed resolutions to join the national Stepping Up Initiative to reduce the number of people with mental illness in jails.
Justice Reinvestment in North Carolina

How State and County Governments in North Carolina Worked Together to Achieve Positive Outcomes
Probation revocations and misdemeanor admissions were driving prison growth in North Carolina.

53% of prison admissions were for probation revocations.

76 percent of revocations were people who had violated their supervision conditions.

Prison Population Growth in North Carolina

DOC Expenditures

+ 68%

+ 29%

- 3%
PROBLEM: a large number of people were failing on probation and adding pressure to jails and prisons

CAUSE: few meaningful graduated sanctions for minor condition violations

REFORM STRATEGY
Assess probationers for risk and prioritize programs and services accordingly

POLICY OPTION
Create graduated administrative and incarceration sanctions

BENEFIT
Reduce revocation admissions and time spent in jail awaiting hearings

RISK
Strain to probation staff, not enough resources to lower recidivism
Opportunities to Address Misdemeanor Sentencing

**PROBLEM:** individuals with misdemeanor offenses were housed in prisons designed for more those with serious offenses

**CAUSE:** statutory structure requiring all sentences over 90 days be served in state prison

<table>
<thead>
<tr>
<th>REFORM STRATEGY</th>
<th>POLICY OPTION</th>
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<tbody>
<tr>
<td>Prioritize prison space</td>
<td>Create a program to allow some individuals with misdemeanor offenses to serve</td>
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<td>for individuals who have</td>
<td>their sentences in county jails</td>
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<tr>
<td>committed felony offenses</td>
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</table>

**BENEFIT**
- Reduce strain on state prisons, more effectively manage risk

**RISK**
- Strain to county facilities and budgets
Justice reinvestment’s consensus-based approach led to a partnership between the state and counties.

**SUPERVISION SOLUTIONS**

- Required usage of risk assessment/response
- Established funding strategy for treatment programs
- Invested averted spending in hiring 175 new probation officers to implement policy

**SENTENCING SOLUTIONS**

- Created the Statewide Misdemeanor Confinement Program, allowing some individuals with misdemeanor offenses to serve sentences in county jails
- Created an opt-in for sheriffs—those with bed capacity and interest could choose to participate
- Created a funding stream to reimburse counties on a per-bed basis

Endorsed by the North Carolina Sheriff Association
Outcomes from North Carolina’s justice reinvestment policies exceeded projections for cost savings and population reductions.

- $560m averted costs and savings by FY2017
- 11 prisons closed since 2011
- 175 new probation officers in FY2014 & FY2015
- 11% drop in crime between 2011–2013

Outcomes:
- 8% drop in prison population
- 41% drop in releases w/o supervision
- 50% drop in probation revocations
Thank You

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This material was prepared for the State of Montana. 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.

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This project was supported by Grant No. 2013-ZB-BX-K002 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.