Justice Reinvestment

a data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease recidivism and increase public safety
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
Two phases of justice reinvestment

Phase I
Analyze Data and Develop Policy Options

- Analyze data
  - Look at crime/arrests, courts, corrections, and supervision trends
- Solicit input from stakeholders
- Assess behavioral health treatment capacity
- Develop policy options and estimate cost savings

Phase 2
Implement New Policies

- Identify assistance needed to implement policies effectively
- Deploy targeted reinvestment strategies to increase public safety
- Track the impact of enacted policies/programs
- Monitor recidivism rates and other key measures
Justice reinvestment project timeline

Data Analysis
- Initial Analysis
- Detailed Data Analysis
- Impact Analysis

Policymaker and Stakeholder Engagement
- Stakeholder Engagement and Policymaker Briefings
- Policy Option Development
- Ongoing Engagement
Data requests to state agencies have largely been fulfilled

<table>
<thead>
<tr>
<th>Data Type</th>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Crime and Arrests</td>
<td>✓ Crime Commission</td>
</tr>
<tr>
<td>- Jail</td>
<td>✓</td>
</tr>
<tr>
<td>- Sentencing</td>
<td>✓ Administrative Office of the Courts</td>
</tr>
<tr>
<td>- Probation Supervision</td>
<td>✓ Office of Probation Administration</td>
</tr>
<tr>
<td>- Problem-Solving Courts</td>
<td>✓</td>
</tr>
<tr>
<td>- Community-Based Programs</td>
<td>P</td>
</tr>
<tr>
<td>- Prison</td>
<td>✓ Department of Correctional Services</td>
</tr>
<tr>
<td>- Parole Decision-Making</td>
<td>✓</td>
</tr>
<tr>
<td>- Parole Supervision</td>
<td>✓</td>
</tr>
<tr>
<td>Other</td>
<td></td>
</tr>
<tr>
<td>- Population Data</td>
<td>✓ Census/State Data Center</td>
</tr>
<tr>
<td>- Behavioral Health Data</td>
<td>✓ Cross-System Sources</td>
</tr>
<tr>
<td>- Criminal History Information</td>
<td>P State Police</td>
</tr>
</tbody>
</table>
Update on criminal justice system stakeholder engagement since June working group meeting

- County Officials → Workshop with ~30 county commissioners, county attorneys, public defenders, sheriffs, and mental health professionals
- Reentry Alliance → Discussion with reentry service providers
- Probation Officers and Parole Officers → Three days of focus groups with probation officers and PSI writers, and with parole officers
- Law Enforcement → Visit to the Omaha Police Department to meet with Crime Analysis Unit and a police officer ride-along
- District Judges → Lancaster and Douglas County District Court Judges lunch meeting, and survey to be distributed in coming weeks

Upcoming Meetings
- Discussion organized by Nebraska Coalition for Victims of Crime
- Visit to Tecumseh prison
- Conference presentations to county attorneys, defense attorneys, sheriffs, and district judges
Recap of Nebraska trends reported at June meeting

**General Population Up 7%**

**Total Index Crimes Down 20%**

**Total Adult Arrests Down 15%**

**Prison Population Up 17%**

Source: FBI UCR Online Data Tool, Nebraska Crime Commission Online Data Tool, U.S. Bureau of Census, NDCS snapshot data
Three questions posed at June’s presentation that will be explored in August and October working group meetings:

1. What are the underlying drivers in the recent surge in prison growth?
2. How are probation and community corrections diverting from prison and reducing recidivism?
3. How do sentence lengths, good time policies, and parole release affect the prison population?

Source: NDCS release data
Presentation overview

Contributors to Nebraska Prison Crowding

Felony Sentencing Distribution

Effective Strategies to Reduce Offender Risk
In Nebraska, felony offenses are divided into levels with sentence length ranges, from which courts determine prison term.

<table>
<thead>
<tr>
<th>Felony Level</th>
<th>1, 1A, 1B, 1C, 1D</th>
<th>2</th>
<th>3</th>
<th>3A</th>
<th>4</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sentence Range</strong></td>
<td>1 – Death 1A – Life 1B – 20 years to life 1C – 5 mand. min. to 50 years 1D – 3 mand. min. to 50 years</td>
<td>1 to 50 years</td>
<td>1 to 20 years</td>
<td>Up to 5 years</td>
<td>Up to 5 years</td>
</tr>
<tr>
<td><strong>Common Offenses</strong></td>
<td>• Murder • Kidnapping • Sexual assault • Use of a firearm to commit a felony • Possession of a firearm by prohibited person • Possession with intent to distribute</td>
<td>• Attempt/Aid Class 1 felony • Hazardous drug delivery • Robbery • Sexual assault 1st degree • Assault 1st degree</td>
<td>• Controlled substance delivery • Burglary • Attempt/Aid Class 2 felony • Theft over $1,500 • Assault 2nd degree • Forgery 1st degree • Repeat DUI offenders • Possession of a deadly weapon by prohibited person</td>
<td>• Repeat DUI offenders • Child abuse • Assault on officer 3rd degree • Sexual assault on child 3rd degree</td>
<td>• Possession of controlled substance • Attempt/Aid Class 3 or 3A felony • Drive while suspended • Theft $500-$1,500 • Forgery 2nd degree • Terroristic threats • Sex offender registry violations • Operate motor vehicle to avoid arrest</td>
</tr>
</tbody>
</table>

Sentence lengths determine whether the sentence is served in jail (if less than 1 year) or prison (one year or more).
At the June presentation, we indicated we would explore contributors to prison population increase after 2012.

Nebraska Prison Snapshot Populations and Projected Growth, FY2003 – FY2023

- Capacity 3,275
- Percent Capacity
- 130%
- 139%
- 157%
- 167%
- Estimated cost to offset current capacity shortfall and accommodate forecasted growth: $499M

Source: NDCS Annual Reports; JFA Institute, NDCS Ten-Year Prison Population Projections, FY2012-2022
Estimated operating and construction costs from CSG Nebraska Working Group Presentation 1, June, 2014
Since 2009, new sentence and parole violator admissions to prison together climbed 30 percent.

Following 3 years of declining admissions, new sentences to prison begin to rise after 2009.

Parole revocation increase starts after 2011.

*Other includes Evaluator, Safekeeper, and Work Ethic Camp admissions.

Source: NDCS admission data
Certain offenses contributed disproportionately to the increase among new prison admissions.

### New Prison Admissions by Offense Type, FY2003 – FY2013

<table>
<thead>
<tr>
<th>Offense</th>
<th>Percent Growth 2003-2013</th>
<th>Total Highlighted Additional Admissions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drugs</td>
<td>+6%</td>
<td>+407</td>
</tr>
<tr>
<td>Theft</td>
<td>+37%</td>
<td>+219</td>
</tr>
<tr>
<td>Assault</td>
<td>+58%</td>
<td>+662</td>
</tr>
<tr>
<td>DUI</td>
<td>+230%</td>
<td>+646</td>
</tr>
<tr>
<td>Weapons</td>
<td>+180%</td>
<td>+259</td>
</tr>
</tbody>
</table>

Source: NDCS admission data
Apparent increase in admissions for certain offenses following penalty enhancements

New Prison Admissions by Offense Type, FY2003 – FY2013 and Total Adult Arrests by Offense Type, 2003 – 2012

Source: NDCS admission data, Nebraska Crime Commission Online Data Tool
## Examples of recent criminal penalty enhancements

<table>
<thead>
<tr>
<th><strong>Drugs</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>2005 (LB 117)</strong></td>
</tr>
<tr>
<td>• Added meth to “extremely hazardous substances” list, making possession, etc., of less than 10 grams a Class II rather than Class III felony. Adjusted felony amounts and levels for meth and heroin possession.</td>
</tr>
<tr>
<td>• Upgraded knowingly selling ephedrine to someone for making meth from Class III misdemeanor to Class IV felony.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>DUI</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>2006 (LB 925)</strong></td>
</tr>
<tr>
<td>• Increased penalty for motor vehicle homicide under the influence from Class IIIA to Class III felony. Second offenses raised to Class II felony.</td>
</tr>
<tr>
<td>• Increased penalty for most varieties of DUI—some up to Class II felonies.</td>
</tr>
<tr>
<td><strong>2011 (LB 675)</strong></td>
</tr>
<tr>
<td>• Increased many repeat DUI penalties.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Weapons</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>2009 (LB 63)</strong></td>
</tr>
<tr>
<td>• Stronger penalties for transferring a firearm to a juvenile, possession of a weapon on school grounds, use of a deadly weapon, and possession of deadly weapon during commission of felony.</td>
</tr>
<tr>
<td>• Possession of stolen or defaced firearm upgraded from Class IV to Class III felony. Discharging a weapon from or after exiting a motor vehicle made Class IC Felony.</td>
</tr>
<tr>
<td>• Adds felons and those convicted of misdemeanor domestic violence in the last seven years as people prohibited from possessing deadly weapons.</td>
</tr>
</tbody>
</table>
Possession accounts for at least half of all felony drug sentences

**Offense Type Among All Felony Sentences, FY2012 – FY2013**

- **Prison** 43%
  - Man/Del/PwI 45%
  - Poss. 55%
  - Poss. 92%
  - M/D/PwI 45%
- **Jail** 27%
  - Poss. 92%
- **Probation** 21%
- **Other** 9%

**Drugs 22%**

**Drug crime is the most common felony offense in District Courts**

- 70% of drug crimes are sentenced to prison or jail
- 52% of all drug crimes are possession cases

Source: JUSTICE sentencing data
Nebraska is one of 17 states with a felony theft threshold of $500 or less.

**Recent Examples of Raising Theft Thresholds:**
- Georgia: $500-$1,500 (2012)
- Rhode Island: $500-$1,500 (2012)
- North Dakota: $500-$1,000 (2013)
- Arkansas: $500-$1,000 (2011)
Recalibrating felony threshold amounts could save Nebraska millions of dollars per year.

Value of Nebraska’s Historical Felony Theft Threshold in 2014 Dollars, 1977 – 2014

<table>
<thead>
<tr>
<th>Year</th>
<th>Threshold</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0</td>
<td>1977</td>
</tr>
<tr>
<td>$500</td>
<td>1992-2014</td>
</tr>
<tr>
<td>$1,184</td>
<td>1977</td>
</tr>
<tr>
<td>$526</td>
<td>1979</td>
</tr>
<tr>
<td>$850</td>
<td>1981</td>
</tr>
<tr>
<td>$500</td>
<td>1983</td>
</tr>
<tr>
<td>$1,184</td>
<td>1985</td>
</tr>
<tr>
<td>$500</td>
<td>1991</td>
</tr>
<tr>
<td>$850</td>
<td>1993</td>
</tr>
<tr>
<td>$1,184</td>
<td>1995</td>
</tr>
<tr>
<td>$500</td>
<td>1997</td>
</tr>
<tr>
<td>$850</td>
<td>1999</td>
</tr>
<tr>
<td>$1,184</td>
<td>2001</td>
</tr>
<tr>
<td>$500</td>
<td>2003</td>
</tr>
<tr>
<td>$850</td>
<td>2005</td>
</tr>
<tr>
<td>$1,184</td>
<td>2007</td>
</tr>
<tr>
<td>$500</td>
<td>2009</td>
</tr>
<tr>
<td>$850</td>
<td>2011</td>
</tr>
<tr>
<td>$1,184</td>
<td>2013</td>
</tr>
</tbody>
</table>

In 1977, felony theft was like stealing a 21” iMac.
In 2014, it’s like stealing the lowest end iPhone.

Number of sentences to prison for theft in the $500 to $1,500 range 175 per year.

Average minimum sentence length 1.5 years.

Cost to incarcerate a one-year cohort of $500-$1,500 theft offenders $8.5M.

Source: JUSTICE sentencing data

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19
Despite fewer admissions, more serious offenses accumulate in the snapshot population.

Source: NDCS admission and snapshot data
“Short Max” sentences represent about one third of all new admissions and consume considerable resources.
Short Max admissions to prison are frequently lower level, nonviolent offenders.

- **Felony Level**
  - Felony 1: 0%
  - Felony 2: 4%
  - Felony 3: 21%
  - Felony 3A: 12%
  - Felony 4: 46%
  - Misd.: 17%

- **Violence of Current Offenses**
  - Violent: 24%
  - Nonviolent: 76%

- **Offense Type**
  - Person: 19%
    - Sex: 6%
    - Weapons: 4%
  - Property: 31%
  - Drug: 21%
  - Motor Vehicle: 12%
  - Other: 6%

Source: NDCS admission data
Short Max prisoners jam out to no supervision twice as often as those with longer stays

The average Short Max admission is parole eligible in 3 months
Average length of sentence 4.8 months

Given short time frames, entry into programming is unlikely and completion is nearly impossible

Source: NDCS release data
Unless releases can keep up with or exceed admissions, the prison population will climb.

Two periods in which the prison population spiked when admissions substantially outpaced releases.

Source: NDCS admission and release data
Despite increase in parole releases over jam outs, bed savings are restricted due to narrow parole windows.

New Commitment Releases by Type, FY2003 – FY2013

- Paroles +190%
- Jam Outs -38%

The average sentence length for new admissions is roughly 4 to 6 years.

For most inmates, these lengths will be cut in half with good time.

500 additional parolees released 6 months before jam out yields only 250 beds for one year.

Narrow parole windows means less time saved per parole grant and little post-release supervision time.

Source: NDCS release data
Higher volume of parole revocations to prison also mitigates the impact of increased parole release

Parole Snapshot Population and Parole Terminations by Type, FY2003 – FY2013

As more parolees were placed on supervision, the volume of revocations spiked

Parole Discharges

Parole Revocations

200 additional parolees revoked and returned for 6 months in prison consuming 100 beds for one year

Source: NDCS parole snapshot and release data
As the volume of parole releases rises, the pool of eligible parole candidates recedes.


Source: NDCS snapshot data
Sentencing in Nebraska tilts heavily toward incarceration

Felony Sentencing Distribution, FY2012 – FY2013

- Prison: 52%
- Jail: 22%
- Probation: 22%
- Other: 4%

Expanded Detail on Probation Sentences with Jail Time

- §29-2262 enable courts to impose up to 6 months of jail time at any point during the probation term.
- The average jail order with a probation sentence is 3 months.
- 34% of probation sentences include jail time.

Source: JUSTICE sentencing data
Nebraska utilizes probation less often than the national average and several other recent JR states

<table>
<thead>
<tr>
<th>State</th>
<th>Incarcerated</th>
<th>Probation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nebraska</td>
<td>74% Prison 52% Jail 22%</td>
<td>22% Probation Only 23%</td>
</tr>
<tr>
<td>Michigan</td>
<td>76% Prison 21% Jail 55%</td>
<td>27% Probation Only 23%</td>
</tr>
<tr>
<td>BJS National Study</td>
<td>69% Prison 41% Jail 28%</td>
<td>34% Probation Only 27%</td>
</tr>
<tr>
<td>North Carolina</td>
<td>66% Prison 42% Jail 24%</td>
<td>58% Probation Only 34%</td>
</tr>
<tr>
<td>Idaho</td>
<td>42% Prison 42%</td>
<td>69% Probation Only 69%</td>
</tr>
<tr>
<td>Kansas</td>
<td>31% Prison 24% Jail 7%</td>
<td>69% Probation Only 69%</td>
</tr>
</tbody>
</table>

Percent of felony sentences to probation is lowest in Nebraska’s most populous judicial districts (4 and 3)

Hypothetical Scenario:
If Districts 2, 3, 4, 6 and 7 sentenced felonies at same rate as the national average, prison admissions would drop by 500 per year

<table>
<thead>
<tr>
<th>Judicial District</th>
<th>Probation</th>
<th>Other</th>
<th>Jail</th>
<th>Prison</th>
</tr>
</thead>
<tbody>
<tr>
<td>District 4</td>
<td>16%</td>
<td>26%</td>
<td>52%</td>
<td></td>
</tr>
<tr>
<td>District 3</td>
<td>17%</td>
<td>24%</td>
<td>56%</td>
<td></td>
</tr>
<tr>
<td>District 7</td>
<td>18%</td>
<td>23%</td>
<td>56%</td>
<td></td>
</tr>
<tr>
<td>District 6</td>
<td>22%</td>
<td>20%</td>
<td>55%</td>
<td></td>
</tr>
<tr>
<td>District 2</td>
<td>25%</td>
<td>10%</td>
<td>61%</td>
<td></td>
</tr>
<tr>
<td>District 10</td>
<td>27%</td>
<td>11%</td>
<td>61%</td>
<td></td>
</tr>
<tr>
<td>District 11</td>
<td>29%</td>
<td>29%</td>
<td>38%</td>
<td></td>
</tr>
<tr>
<td>District 5</td>
<td>29%</td>
<td>17%</td>
<td>53%</td>
<td></td>
</tr>
<tr>
<td>District 9</td>
<td>32%</td>
<td>17%</td>
<td>49%</td>
<td></td>
</tr>
<tr>
<td>District 12</td>
<td>34%</td>
<td>22%</td>
<td>43%</td>
<td></td>
</tr>
<tr>
<td>District 1</td>
<td>39%</td>
<td>16%</td>
<td>42%</td>
<td></td>
</tr>
<tr>
<td>District 8</td>
<td>41%</td>
<td>18%</td>
<td>35%</td>
<td></td>
</tr>
</tbody>
</table>

Source: JUSTICE sentencing data
Variation in felony offenses across judicial districts fails to explain differences in sentencing distribution.

Although the sentencing distribution is drastically different in Districts 4 and 8, the felony offense levels are very similar.

Source: JUSTICE sentencing data
Although probation receives a smaller share than prison, it receives a portion of all offense types.

Felony Sentencing Distribution by Offense Type, FY2012-FY2013

Source: JUSTICE sentencing data
Majority of lower-level felony sentences are disposed to jail or prison

<table>
<thead>
<tr>
<th>Felony Level</th>
<th>1 (All)</th>
<th>2</th>
<th>3</th>
<th>3A</th>
<th>4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prison</td>
<td>3%</td>
<td>6%</td>
<td>15%</td>
<td>6%</td>
<td>21%</td>
</tr>
<tr>
<td>Jail</td>
<td>0%</td>
<td>.1%</td>
<td>1%</td>
<td>3%</td>
<td>19%</td>
</tr>
<tr>
<td>Probation</td>
<td>0%</td>
<td>1%</td>
<td>5%</td>
<td>4%</td>
<td>12%</td>
</tr>
<tr>
<td>Other</td>
<td>0%</td>
<td>.3%</td>
<td>1%</td>
<td>.1%</td>
<td>2%</td>
</tr>
</tbody>
</table>

Source: JUSTICE sentencing data

Dark slivers depict proportion with a current violent offense.
In Kansas, sentencing guidelines create a structure that yields a higher percentage of sentences to probation.

### Kansas Felony Sentencing, FY2011

<table>
<thead>
<tr>
<th>Non-Drug Offense Grid</th>
<th>Type and Number of Priors</th>
<th>Border Box (prison or probation)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>B</td>
<td>11% of all sentences fall into these cells (82% of which receive probation)</td>
</tr>
<tr>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Presumptive Prison**
- 29% of all sentences fall into these cells (35% of which receive probation)

**Presumptive Probation**
- 60% of all sentences fall into these cells (88% of which receive probation)

Source: Kansas sentencing data
In Idaho, probation receives almost 60% of felony sentences.

### New Felony Sentences by Offense Type, FY2012

<table>
<thead>
<tr>
<th>Offense Type</th>
<th>Prison</th>
<th>Secure Intermediate Option</th>
<th>Probation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crimes Against Persons (19%)</td>
<td>29%</td>
<td>31%</td>
<td>40%</td>
</tr>
<tr>
<td>Other (5%)</td>
<td>18%</td>
<td>22%</td>
<td>60%</td>
</tr>
<tr>
<td>Controlled Substances (35%)</td>
<td>15%</td>
<td>23%</td>
<td>62%</td>
</tr>
<tr>
<td>Crimes Against Property (27%)</td>
<td>14%</td>
<td>24%</td>
<td>62%</td>
</tr>
<tr>
<td>DUI (14%)</td>
<td>11%</td>
<td>29%</td>
<td>60%</td>
</tr>
</tbody>
</table>

Source: Idaho DOC admission data
While in Nebraska, the proportion of felony sentences to probation falls in the 20% range or less.

### Felony Sentences by Type and Offense Type, FY2012 – FY2013

<table>
<thead>
<tr>
<th>Type</th>
<th>Prison (52%)</th>
<th>Jail (22%)</th>
<th>Probation (22%)</th>
<th>Other (4%)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Weapons</strong></td>
<td>3%</td>
<td>12%</td>
<td>22%</td>
<td>18%</td>
</tr>
<tr>
<td><strong>Person</strong></td>
<td>61%</td>
<td>18%</td>
<td>12%</td>
<td>18%</td>
</tr>
<tr>
<td><strong>Sex</strong></td>
<td>59%</td>
<td>25%</td>
<td>14%</td>
<td>14%</td>
</tr>
<tr>
<td><strong>Other</strong></td>
<td>53%</td>
<td>18%</td>
<td>28%</td>
<td>18%</td>
</tr>
<tr>
<td><strong>Property</strong></td>
<td>52%</td>
<td>23%</td>
<td>22%</td>
<td>25%</td>
</tr>
<tr>
<td><strong>Motor Vehicle</strong></td>
<td>44%</td>
<td>27%</td>
<td>29%</td>
<td>27%</td>
</tr>
<tr>
<td><strong>Drug</strong></td>
<td>43%</td>
<td>27%</td>
<td>20%</td>
<td>9%</td>
</tr>
</tbody>
</table>

Source: JUSTICE sentencing data
70 percent of Nebraska probationers successfully complete probation supervision terms

Probation Terminations by Type, FY2011 – FY2013

- **Probation Discharges**
  - FY11: 1,014
  - FY12: 1,138
  - FY13: 1,150

- **Probation Revocations**
  - FY11: 458
  - FY12: 523
  - FY13: 465

- **Other**
  - FY11: 1,014
  - FY12: 1,138
  - FY13: 1,150

Roughly half of all probation revocations are for technical violations and half are for new offenses.

Source: Nebraska Probation Administration release data
Probation revocations represent a small portion of total prison admissions

- Probation revocations represent only about 11% of new admissions and 9% of total admissions.

- Probation revocation average sentence length is 3.4 years.

Prison Admissions by Type, FY2011 – FY2013

<table>
<thead>
<tr>
<th>Year</th>
<th>New Sentences</th>
<th>Probation Revocations</th>
<th>Other*</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY11</td>
<td>2,100</td>
<td>2,976</td>
<td>342</td>
<td>3,400</td>
</tr>
<tr>
<td>FY12</td>
<td>2,205</td>
<td>3,302</td>
<td>411</td>
<td>3,713</td>
</tr>
<tr>
<td>FY13</td>
<td>2,313</td>
<td>3,400</td>
<td>563</td>
<td>3,963</td>
</tr>
</tbody>
</table>

Source: Nebraska Probation Administration release data and NDCS admission data
Presentation overview

Contributors to Nebraska Prison Crowding

Felony Sentencing Distribution

Effective Strategies to Reduce Offender Risk
Risk, need, and responsivity (RNR) forms the foundation of effective supervision and programming

- **Risk**: Focus resources on people most likely to reoffend. Match level of supervision and programming to risk.

- **Need**: Target factors that can change a person’s likelihood of committing a new crime.

- **Responsivity**: Refers to individual and group characteristics that present barriers to treatment or supervision. Work to mitigate barriers, where possible.
RNR principles are the essential components of effective supervision

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
Characteristics of effective responses to probationer risk and adherence to conditions of supervision

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

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

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

**Cost-effectiveness**
Prioritize the most expensive, restrictive sanctions for offenders committing the most serious violations
Initial observations of probation policies are positive and identify opportunity for further strengthening supervision

- **Dosage**
  Probationers are assessed for risk and assigned to caseloads accordingly. Supervision/program resources then are focused on higher-risk probationers. Caseloads vary based on probationer risk, enabling higher-quality engagement of higher-risk cases.

- **Swiftness**
  Statutes specify administrative responses to violations that may be imposed without a court hearing. Hearings are required for custodial sanctions, such as for show cause terms. Delays between probable cause and revocation hearings often last two or more months.

- **Consistency**
  Policies specify levels of administrative responses that may be applied to violations. Although officer training includes use of the sanctions matrix, policies do not structure responses in a graduated fashion based on risk, violation severity, and other criteria.

- **Cost-effectiveness**
  Although administrative responses are permitted and longer jail sanctions are used, policy doesn’t authorize short (2- to 3-day) jail stays as more restrictive behavioral response. Certain courts apply short jail stays but the practice is inconsistent statewide.
Probation could generate greater recidivism impact and cost-effectiveness than short maxes to prison

**Probation**
- Up to 5 years of supervision
- Access to programs based on assessed risk and need
- Respond to probationer behavior with administrative responses
- Recidivism Reduction*: ~30%
- Cost per year: $800 (Supervision only)

**Short Max Prison Stay**
- Average 4.8 months in prison
- Access to prison-based programs unlikely
- Supervision upon release to monitor and mitigate risk unlikely
- Recidivism Reduction*: ~0%
- Cost per year: $32,600

* Based on Washington State Institute for Public Policy analysis of return on investment from evidence based intervention programs and policies.

Courts much more likely to attach restitution orders to probation than to jail or prison sentences

- **Prison**: 6%
- **Jail**: 6%
- **Probation**: 22%

**460**
Total felony sentences in FY2013 that included a restitution order

**$1.9 million**
Total amount ordered

**$4,125**
Average amount ordered

Source: JUSTICE sentencing data
Restitution collections much more likely for people on probation than for people in jail or prison

In FY2013, the average felony restitution order was $4,125
An average $1,537 (37%) had been collected through July 2014 (1 to 2 year follow up period)

Of all restitution orders (460):
- 28% paid in full (129)
- 23% made partial payments (106)
- 55% paid none (225)

Probationers are given the largest restitution dollar amounts and they pay more within the 1-2 year follow-up period

<table>
<thead>
<tr>
<th></th>
<th>Prison</th>
<th>Jail</th>
<th>Probation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average Amount</td>
<td>$3,177</td>
<td>$1,449</td>
<td>$5,342</td>
</tr>
<tr>
<td>Total Orders</td>
<td>151</td>
<td>41</td>
<td>246</td>
</tr>
<tr>
<td>Paid All</td>
<td>23 (15%)</td>
<td>8 (20%)</td>
<td>89 (36%)</td>
</tr>
<tr>
<td>Paid Some</td>
<td>14 (9%)</td>
<td>3 (7%)</td>
<td>84 (34%)</td>
</tr>
<tr>
<td>Paid None</td>
<td>114 (75%)</td>
<td>30 (75%)</td>
<td>73 (30%)</td>
</tr>
</tbody>
</table>

Source: JUSTICE sentencing data and NDCS restitution report

In the last 5 years, as few as 25 DCS inmates have been ordered to pay restitution in prison and total collections have amounted to less than $2,800
54 percent of people sentenced for felonies are convicted of offenses at the lowest level (F4)

- 87 percent of these convictions were for nonviolent offenses
- One factor is Nebraska’s lower felony theft threshold ($500) compared to most states
73 percent of Felony 4s are sanctioned with prison and jail terms, rather than probation

- Within Nebraska the rate of felonies sentenced to probation varies considerably, from as low as 16 percent (District 4) to as high as 41 percent (District 8)
- In contrast, other states have and the US as a whole have higher rates of sentences to probation
(3) Presentation Recap

**Short Max prison terms do not provide much accountability during or after the brief lock up**

- Short Max prison stays are shorter than allowable probation terms, and more in line with a misdemeanor jail sentence.
- Short incarceration periods are more costly and less effective at reducing recidivism than longer periods of community supervision and treatment.
- Most don’t receive supervision and programming upon release.
- Restitution among those ordered to probation is far more likely to be collected than those sentenced to prison.

![Graph showing the comparison between Short Maxes and other sentences over FY03-FY13.](attachment:graph.png)
Proposed timeline

Press Conference & Project Launch
Working Group Meeting 1

Working Group Meeting 2

Potential Special Presentation
Working Group Meeting 3
Working Group Meeting 4: Policy option rollout

Press conference to unveil report
Bill introduction

May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | 2015 Session

Data Analysis

Initial Analysis | Detailed Data Analysis | Impact Analysis

Policymaker and Stakeholder Engagement

Stakeholder Engagement and Policymaker Briefings | Policy Option Development | Ongoing Engagement
Thank You

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