Justice Reinvestment in Hawaii

Overview

There is consensus among policymakers in Hawaii that the state needs to reduce its dependence on out-of-state prisons, where, as of 2011, approximately one-third of the state's adult prison population is housed. At the same time, state leaders are determined to reduce violent crime, which, like the state prison population, has increased significantly over the last decade.

Governor Neil Abercrombie, Chief Justice Mark Recktenwald, Senate President Shan Tsutsui, House Speaker Calvin Say and Department of Public Safety Director Jodie Maesaka-Hirata seek to employ a data-driven justice reinvestment strategy to bring out-of-state prisoners back to Hawaii, reduce spending on corrections, and reinvest savings generated in strategies that would reverse recent crime trends.

To this end, they sought assistance from the Bureau of Justice Assistance, a division of the U.S. Department of Justice, and the Pew Center on the States. The state leaders agreed to establish a bipartisan, inter-branch Justice Reinvestment Working Group comprising leading state and local officials which would receive intensive technical assistance from the Council of State Governments Justice Center, in partnership with the Pew Center on the States. The CSG Justice Center will assist the working group in analyzing data and developing a comprehensive set of policy options.

June 2011

Property crime has declined, but violent crime has increased.

- Hawaii's violent crime rate was relatively low in 2009, at 275 reported incidents per 100,000 residents, which ranks it thirty-fifth among the states. This crime rate, however, is up from what it was in 2000. Hawaii was one of only twelve states to experience an increase in violent crime rates during this period.

- Violent crime increases were driven by a significant rise in the reported rape rate, up five percent from 2000, and aggravated assaults, up 37 percent from 2000. Murder and robbery rates dropped by 38 percent and 14 percent, respectively.

- During the same period, the number of arrests for reported rape offenses relative to the number of offenses fell by 30 percent. In 2009, the Honolulu Police Department estimated the department has a backlog of somewhere between 143 and 203 sexual assault kits left unexamined.

- Between 2000 and 2009, the property crime rate dropped 26 percent in Hawaii, from 4,955 to 3,661 reported crimes per 100,000 residents. Despite this decline, Hawaii's property crime rate remains above the national average; it is the twelfth highest in the nation.

All figures are subject to further analysis and revision.
Council of State Governments Justice Center

- National non-profit, non-partisan membership association of state government officials
- Engages members of all three branches of state government
- Justice Center provides practical, nonpartisan advice informed by the best available evidence
Justice Reinvestment in Montana

JUSTICE REINVESTMENT

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

SB 224 created the Montana Commission on Sentencing with a mandate for empirical study and evidence-based practices.

State leaders requested assistance to conduct a comprehensive analysis of Montana’s criminal justice system.
Following the Second Montana Commission on Sentencing meeting CSG Justice Center Staff conducted visits to facilities and with stakeholders to gain greater insight into the Montana justice system.

CSG Justice Center staff received a large collection of quantitative and qualitative data from various components of the justice system and provided early versions of some analyses to the Commission. The remaining analyses will be presented and discussed during this meeting.

This presentation will share current system trends and strategies used in other states with the Commission. CSG Justice Center staff anticipate the Commission will highlight areas for deeper analysis and policy exploration at the conclusion of this meeting.

The Council of State Governments is a national non-profit, non-partisan membership association of state government officials that engages members of all three branches of state government. The CSG Justice Center provides practical, nonpartisan advice informed by the best available evidence.
Since the Last Meeting

| Stakeholders Engagement | Behavioral Health: Helena Indian Alliance, DPHHS, Western Montana Mental Health Center, DOC clinical staff and leadership.  
Law Enforcement: Helena Police Department, Lewis and Clark County Sheriff’s Office, Butte-Silver Bow Sheriff’s Office; presentation to Sheriffs and Peace Officers’ Association; survey distributed and 12 responses received.  
County Attorneys: Presentation to MCAA; survey distributed and 13 responses received  
Victims: Ryan United, Victims Compensation, DOC Victims Program  
Probation and Parole: Focus groups and meetings with field probation officers and supervisors, institutional probation and parole officers, parole board analysts, and 3 parole board members.  
Community Corrections: Toured Missoula Prerelease Center, Helena Prerelease Center, Billings Prerelease Center (Passages), Elkhorn Treatment Center, Warm Springs Addiction and Treatment for Change (WATCH), and Sanction Treatment Assessment Revocation and Transition (START). |

| Facility and Program Observation | • Chemical Dependency Group at Elkhorn  
• Relapse Prevention Group at START  
• Thinking for a Change at WATCH  
• Cognitive Principles and Restructuring at Missoula Prerelease Center  
• Therapeutic Communities Groups at WATCH and Connections Corrections Program  
• Intake at Missoula Assessment and Sanctions Center (MASC)  
• Parole Board hearings at Montana State Prison  
• Tour of Butte-Silver Bow Jail  
• Conversations with residents of various facilities and participants of various programs. |
Risk Assessment: Reducing criminal behavior requires focusing on risk, need, and responsivity (RNR) and not adhering to the RNR principles can increase recidivism.

Behavioral Health: Mental health and chemical dependency complexities impact successful reentry and length of stay. Effective behavioral health interventions require coordinated system responses and enhance motivation to change.

Supervision: Best practices include assessing for risk and need, targeting high-risk individuals, frontloading supervision and treatment, implementing proven programs, addressing criminal thinking, holding individuals accountable, and measuring outcomes.

Local-Level Criminal Justice Challenges: Local governments face many criminal justice pressures and challenges. CSG has helped states craft policy and reinvestment strategies that are responsive to local needs and priorities.
# Presentation Overview

<table>
<thead>
<tr>
<th>Crime &amp; Arrests Trends</th>
<th>Court &amp; Jail Pressures</th>
<th>DOC Population Trends &amp; Programs Assessments</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Review of initial analyses</td>
<td>• Presentation of quantitative findings</td>
<td>• Presentation of quantitative findings</td>
</tr>
<tr>
<td>• Presentation of qualitative findings</td>
<td>• Presentation of qualitative findings</td>
<td>• Cost information review</td>
</tr>
<tr>
<td>• Sharing of best practice examples</td>
<td>• Pre-trial best practices discussion</td>
<td>• Presentation of subject matter experts’ reviews findings</td>
</tr>
<tr>
<td>• Questions/discussion</td>
<td>• Legal Financial Obligations best practices examples</td>
<td>• Sharing of best practice examples</td>
</tr>
<tr>
<td></td>
<td>• Questions/discussion</td>
<td>• Questions/discussion</td>
</tr>
</tbody>
</table>

**Front End**
prevention & intervention efforts

**Pre-Trial**
prioritize services & expedite outcomes

**Corrections**
match risk/needs to service type/availability to improve outcomes
Overall Crime and Arrest Findings

*Montana has fewer Part I Index Crimes today than in 2000. In the face of a large decrease in these crimes, driven by a consistent decrease in property crime matched against a small increase in violent crime, arrests have consistently increased.*

<table>
<thead>
<tr>
<th>Overall Part I crime has decreased</th>
<th>Total reported arrests have increased</th>
<th>American Indians account for</th>
</tr>
</thead>
<tbody>
<tr>
<td>18% from 2000 to 2014.</td>
<td>12% from FY 2009 to FY2015.</td>
<td>27% of arrests related to supervision/FTA</td>
</tr>
<tr>
<td>Property crime has decreased 31%, while violent crime increased 4%. Property crime is at its lowest rate in more than 25 years. Violent crime has recently increased but remains under the levels of the early- to mid-2000s.</td>
<td>Between FY2009 and FY2015, arrests increased by 4,000. During the same period Part I crime decreased by 1,000 reported incidents.</td>
<td>American Indians/Alaskan Natives are 7% of the Montana population, 19% of all arrests, and 27% of supervision and failure to appear (FTA) arrests.</td>
</tr>
<tr>
<td>Drug-related charges account for about one-fifth of all misdemeanor arrests, as well as 24% of felony arrests.</td>
<td>64% of arrests are for misdemeanor charges</td>
<td></td>
</tr>
</tbody>
</table>

*Part I reported crimes have decreased so consistently that they likely are not exerting pressure on front-end resources. The relationship between drugs and misdemeanor crime, both directly and as an antecedent, is playing a key role in the pressure front-end law enforcement is experiencing.*
Overall, reported index crime is down 18 percent as a result of a steady decrease in property crimes.

Index Crimes per 100,000 Population, 2000-2014
(2 vertical axes presented for trend clarity)

Property Crime Rate fell 31%

Violent Crime Rate increased 4%

Despite the decline in reported crimes, total arrests have increased 12 percent, by 4,000 arrests, between FY2009 and FY2015.

Source: Montana Department of Justice Arrest Data, FY2009 – FY2015
Six localities, representing 45% of the population growth between 2009 and 2014, constitute 76% of the increase in arrests between FY2009 and FY2015.

Source: Montana Department of Justice Arrest Data, FY2009 – FY2015
The number and proportion of arrests involving revocations/violations/FTAs have increased (58%) and account for 45% of the increase in total arrests.

**Total Arrests, FY2009-2015**

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Arrests</th>
<th>Revocation/Violation/FTA Arrests</th>
<th>Felony Arrests</th>
<th>Misdemeanor Arrests</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>26,934</td>
<td>2,720</td>
<td>5,275</td>
<td>18,939</td>
</tr>
<tr>
<td>2010</td>
<td>26,201</td>
<td>3,230</td>
<td>4,030</td>
<td>18,941</td>
</tr>
<tr>
<td>2011</td>
<td>27,118</td>
<td>3,216</td>
<td>5,192</td>
<td>18,710</td>
</tr>
<tr>
<td>2012</td>
<td>30,279</td>
<td>3,947</td>
<td>5,815</td>
<td>20,517</td>
</tr>
<tr>
<td>2013</td>
<td>31,388</td>
<td>4,601</td>
<td>5,597</td>
<td>21,190</td>
</tr>
<tr>
<td>2014</td>
<td>30,190</td>
<td>4,292</td>
<td>5,926</td>
<td>19,972</td>
</tr>
<tr>
<td>2015</td>
<td>30,890</td>
<td>4,484</td>
<td>6,559</td>
<td>19,847</td>
</tr>
</tbody>
</table>

Source: Montana Department of Justice Arrest Data, FY2009 – FY2015
The increase in arrests for violations/revocations/FTAs is driven by recent steep increases in parole violations, probation violations, and especially failures to appear.
Drug-related arrests have increased 62% and now account for 18% of all arrests.

Felony and Misdemeanor Arrests for Drug Offenses, FY2009 – FY2015

- **Felony drug arrests increased 100%** (increased from 3% to 6% of all arrests)
- **Misdemeanor drug arrests increased 47%** (increased from 9% to 12% of all arrests)

Source: Montana Department of Justice Arrest Data, FY2009 – FY2015
Arrests for American Indian/Alaskan Native people are driven by higher rates for arrests for failure to appear or supervision violations.

Proportion American Indian/Alaskan Native Montana Population and Arrest Categories, FY2015

Source: Montana Department of Justice Arrest Data, FY2009 – FY2015
Crime Concerns (12 respondents)

- Primary crime and enforcement concerns are drugs, sex offenses, theft, DUI & domestic violence. The most frequent top concerns were drugs then sexual assault.

- Among the respondents, an average of 35% of calls for service involve a behavioral health need, with the highest being 80%.

- Among the respondents, an average of 24% of calls for service involve a person on DOC supervision, with the highest being 50%, and an average of 36% are for arrests, with the highest being 80%.
Initial Survey Results – County Attorneys

Crime Concerns (13 respondents)

- Primary crime concerns are drugs, domestic violence, burglary, and parole/probation violations. Drugs (RX & Meth) were the most frequent top concerns among respondents.

- Among respondents, an average of 26% of cases involve an alleged offender with a mental health need, with the highest being 90%.

- Among respondents, an average of 70% of cases involve an alleged offender with a substance abuse disorder, with the highest being 90%, and 45% of cases involve an alleged offender with a co-occurring disorder, with the highest being 90%.

Source: CSG Justice Center Survey of Montana County Attorneys (Distributed on 2/3/16 via the Montana County Attorneys Association)
Front-End Justice Best Practices

- Reclassify selected low-level misdemeanors to civil statutes
- Increase police opportunities to cite and release; issue appearance tickets in lieu of detention

- Police-assisted diversion to treatment for offenses driven by substance abuse issues (Seattle, WA; Albany, NY; Santa Fe, NM; Portland, ME)

- Single Point of Entry (SPOE) pre-booking assessment and diversion center

- Outsourcing fine collection and reduction programs; community service/sliding scale
Comments and Discussion

Stakeholder Responses

• Mark Murphy on behalf of Police Chiefs and County Attorneys
• Sheriff TJ McDermott, Missoula County
• Sheriff Donna Whitt, Toole County
2. Court & Jail Pressures

The increasing trend in arrests appears to be driving an increase in case filings in District Court, lengthier case processing, and pressure on county jails.

<table>
<thead>
<tr>
<th>Description</th>
<th>Increase</th>
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<tbody>
<tr>
<td>District Court case filings increased</td>
<td>20% between FY 2009 to FY2015.</td>
</tr>
<tr>
<td>Between FY2011 and FY2015, case filings increased 29 percent.</td>
<td></td>
</tr>
<tr>
<td>Time from case filing to disposition increased</td>
<td>18% between FY2012 and FY2015.</td>
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<tr>
<td>Between FY2012 and FY2015, time from case filing to disposition increased from 181 days to 213 days.</td>
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<tr>
<td>Time from plea to disposition increased</td>
<td>60% between FY2012 and FY2015.</td>
</tr>
<tr>
<td>Between FY2012 and FY2015, time from plea to disposition increased from 77 days to 123 days.</td>
<td></td>
</tr>
<tr>
<td>Montana’s jail incarceration rate increased</td>
<td>67% between 2011 and 2013.</td>
</tr>
<tr>
<td>Montana’s jail incarceration rate grew significantly faster than other states in the region and at 360 is the highest in the region.</td>
<td></td>
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</tbody>
</table>
District court case filings are up sharply in the last four years. Almost half of the increase appears to be driven by increases in felony drug possession filings.

Source: Montana District Court Case Filings and Dispositions, 2005-2014. Cases include new offenses and “re-openings.”
The time it takes for a case in District Court to reach disposition from various stages has increased.

Source: Montana District Court Case Filings and Dispositions, 2005-2014
*Time calculations are based on the “oldest” filing for each unique filing. To attempt to control for abscond-delayed cases, those with a time to disposition over 500 days were excluded. Revocation proceedings also were excluded for this analysis.
Montana’s jail incarceration rate increased significantly in recent years, and is the highest of its neighbors. Jail length of stay is above average.
Initial Survey Results - Sheriffs

System Concerns (12 respondents)

- Average jail capacity is at 86%, with 5 jails close to or significantly over capacity.

- Among respondents, 34% of the jail population were pre-trial felons (peak of 69%) and 28% for pre-trial misdemeanors (peak 70%).

- Among respondents, 17% of the jail population were for state holds and 10% were for violations.

- Most sheriffs are administering medical, mental health, substance, suicide, and general risk instruments in jail.

- Sheriffs report training needs for crisis intervention, use of force, and violent crime prevention strategies.

- Sheriffs report that DOC commitments are “ready” for too long and consume bed days while waiting for placement.
Initial Survey Results - County Attorneys

System Concerns (13 respondents)

- Close to 50% of cases involve the crime lab.
- Up to 10% of misdemeanors are offered diversion (5% or less for felonies).
- Almost all report a lack of behavioral health resources to support case needs.
- 24/7 & SCRAM are reported as top tools to protect the public without adding to correction population
- Many report Probation as a vital tool, but some say they don’t have enough officers (PSIs take months)
- Consistent identification of pre-trial services as a strongly needed tool, in addition to aftercare for substance use.
## Eight Pretrial Best Practices

<table>
<thead>
<tr>
<th>Risk Assessment</th>
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<tbody>
<tr>
<td>Conduct a risk assessment, using a pretrial risk assessment tool, on all defendants in custody to inform release decisions.</td>
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</table>

<table>
<thead>
<tr>
<th>Pretrial Supervision</th>
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<tbody>
<tr>
<td>Create a pretrial supervision program that supervises and monitors defendants released by the court and reminds them of court dates.</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Citation Release</th>
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<tbody>
<tr>
<td>Use citation releases by law enforcement in lieu of custodial arrests for non-violent offenses when there is no reasonable cause to suggest a risk to the community.</td>
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</table>

<table>
<thead>
<tr>
<th>Eliminate Schedules</th>
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<tbody>
<tr>
<td>Eliminate bond schedules and replace them with validated pretrial risk assessments.</td>
</tr>
</tbody>
</table>

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<thead>
<tr>
<th>Early Screening</th>
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<tbody>
<tr>
<td>Ensure an experience prosecutor conducts early screenings of criminal cases before the initial court appearance to allow for appropriate charging and timely dismissals as well as early diversion.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Defense Counsel</th>
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<tbody>
<tr>
<td>Ensure that defense counsel is engaged prior to the initial appearance and is prepared to represent the defendant on the issue of bail.</td>
</tr>
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<thead>
<tr>
<th>Preventive Detention</th>
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<tbody>
<tr>
<td>Allow for risk-based preventive detention, using risk as the basis for allowing pretrial detention for those who pose unmanageable risks to public safety.</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Data Collection</th>
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<tbody>
<tr>
<td>Collect and public pretrial performance and outcome measures.</td>
</tr>
</tbody>
</table>

Pretrial Best Practices - Examples

- Use a pretrial risk instrument to inform release and detention decisions.
- Support a pretrial monitoring unit to supervise the completion of service and fine and program requirements.
- Implement an automated court date reminder system and a tracker system for those who are difficult to reach.
- Implement presumptive deferred sentencing for low-level, limited-history offenders.
- Utilize pretrial monitoring to increase deferred prosecution.
- Implement an accelerated misdemeanor system in which pre-plea cases are dismissed upon the completion of community service.
- Increase the utilization of community court and dismiss charges upon completion.
- Utilize swift, certain, and fair sanctions for violations of diversion and deferral conditions.
Comments and Discussion

**Stakeholder Responses**

- Judge Ingrid Gustafson, Yellowstone County
- Commissioner Peter Ohman
- Commissioner Mary Ann Ries, Pondera County
Research on Policing

• Increasing the visibility of police and the **perceived risk of apprehension** through intelligent allocation can have substantial marginal effects on crime
  • Increasing incarcerative sanctions has a modest effect at best, while non-custodial sanctions are more likely to prevent reoffending

• It’s about **Smarter Policing** – using crime analysis, technology, alternative responses, and procedural justice --- and making the right arrests.
  • “Sentinel vs Apprehension” or “Guardian vs Warrior”

• **Broken windows** or **zero tolerance** policing have shown effectiveness at imposing order in specific areas where social control has completely failed; however, it brings high costs if implemented over prolonged periods of time

• Economic models have found that for every dollar spent on police, an approximately **$1.60 is saved** through reduced victimization costs.
3. DOC Population Trends & Programs Assessments

Courts in Montana direct most new placements to a probation placement, with a large portion of those placements assessed as high/very-high risk. A quarter of exits from Alternatives have a subsequent admission to prison.

<table>
<thead>
<tr>
<th>Community Supervision averages</th>
<th>Violent offenders are</th>
<th>Probation placements are</th>
<th>Of those originally placed to an alternative</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>68%</strong> Of the DOC population</td>
<td><strong>41%</strong> Of the prison population</td>
<td><strong>~62%</strong> Of initial placements for original sentences</td>
<td><strong>26%</strong> Went to prison in the next 3 years</td>
</tr>
</tbody>
</table>

Prison is 20% and the Alternatives 12% of the daily population.

Probation has an average time on supervision of just under 3 years, with sexual offenders, property offenders, and DUI offenders on supervision the longest.

Prison placements are 8%, but have grown 42% between FY2012 and FY2015. Probation placements have the highest rate of high/very high risk offenders (44%).

199 people with an original sentence in FY2012 had 5 or more subsequent system admissions by the end of FY2015.
Supervision population up 1%, prison up 10%, alternatives up 29%.

Violent offenses constitute 25% of the overall DOC population. Most prison sentences last less than 2 years, except for sexual offenses.

### DOC Stock Population by Supervision Type, Charge, & Release Length of Stay, FY2015

<table>
<thead>
<tr>
<th>Overall 712 days</th>
<th>Overall 1,071 days</th>
<th>Overall 657 days</th>
<th>Overall 455 days</th>
</tr>
</thead>
<tbody>
<tr>
<td>563 days 9%</td>
<td>1,184 days 16%</td>
<td>562 days 17%</td>
<td>422 days 11%</td>
</tr>
<tr>
<td>566 days 5%</td>
<td>1,150 days 12%</td>
<td>554 days 10%</td>
<td>566 days 11%</td>
</tr>
<tr>
<td>415 days 7%</td>
<td>855 days 18%</td>
<td>598 days 12%</td>
<td>399 days 23%</td>
</tr>
<tr>
<td>615 days 15%</td>
<td>1,264 days 24%</td>
<td>530 days 20%</td>
<td>447 days 25%</td>
</tr>
<tr>
<td>1,264 days 24%</td>
<td>1,156 days 25%</td>
<td>1,029 days 10%</td>
<td>466 days 3%</td>
</tr>
<tr>
<td>907 days 41%</td>
<td>1,642 days 6%</td>
<td>828 days 31%</td>
<td>490 days 27%</td>
</tr>
<tr>
<td>1,058 days 23%</td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

- Violent offenders are 41% of the prison population, but mainly on community supervision (25% of population).
- Sexual offenders are most likely in prison (9% of population).
- Drug offenders are mostly on community supervision (15% of population).
- Property offenders are mostly on community supervision (21% of population).
- DUI offenders are mostly on community supervision (9% of population).
- The collection of “other” offenses are mostly on community supervision (22% of population).

Source: Montana Department of Corrections Stock Population Data
More than 60% of individuals successfully completing probation do so after serving more than three years on supervision.

FY2015 Probation Releasee Length of Stay for Successful “Completers”

Source: Montana Department of Corrections FY Release Data
Placements into prison on original sentences have increased, though probation continues to receive a majority of placements.

New Conviction on Original Sentences by Type of Initial Placement, FY2012-2015

<table>
<thead>
<tr>
<th>Year</th>
<th>DOC Commit</th>
<th>Prison</th>
<th>Probation</th>
<th>DPHHS</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>1,667</td>
<td>193</td>
<td>862</td>
<td>279</td>
</tr>
<tr>
<td>2013</td>
<td>1,848</td>
<td>219</td>
<td>838</td>
<td>249</td>
</tr>
<tr>
<td>2014</td>
<td>1,977</td>
<td>249</td>
<td>875</td>
<td>275</td>
</tr>
<tr>
<td>2015</td>
<td>2,077</td>
<td>275</td>
<td>966</td>
<td>2077</td>
</tr>
</tbody>
</table>

DOC Commit consistently ~29% of placements (12% raw increase)

Prison consistently 8% of placements (42% raw increase)

Probation consistently ~62% of placements (25% raw increase)

Source: Montana Department of Corrections Offense History Data
A majority of new “entrances” to the system either enter probation and remain there for the duration, or proceed to alternatives after probation. Most “entrances” have an average of just over 2 system admits in the time period, though 199 have 5 or more.

Admission Patterns for FY2012 Original Sentences through FY2015

**1st Admission**

- **Prison**
  - 130 (6%)
  - 50 (38%) no other admits
  - 2% Overall

- **Probation**
  - 883 (66%) no other admits
  - 43% Overall

- **Alternatives**
  - 564 (28%)
  - 2 (0%) no other admits
  - 0% Overall

**2nd Admission**

- **Probation**
  - 15 (12%)
  - 1% Overall

- **Parole**
  - 33 (25%)
  - 2% Overall

- **Alts**
  - 32 (25%)
  - 2% Overall

- **Probation**
  - 20 (2%)
  - 1% Overall

- **Prison**
  - 47 (4%)
  - 1% Overall

- **Alts**
  - 396 (30%)
  - 19% Overall

- **Probation**
  - 235 (42%)
  - 11% Overall

- **Prison**
  - 148 (26%)
  - 7% Overall

- **CR**
  - 171 (30%)
  - 9% Overall

**3rd Admission**

- **Probation**
  - 19 (5%)
  - 60 (15%) no other admits

- **Prison**
  - 107 (27%)
  - 1% Overall

- **CR**
  - 209 (53%)
  - 2% Overall

- **Prison**
  - 9 (4%)
  - 1% Overall

- **Alts**
  - 43 (18%)
  - 1% Overall

- **CR**
  - 183 (78%) no other admits

Source: Montana Department of Corrections Sentencing Data

*1% went directly to CR or Parole

**FY 2012 Original Sentences**

- **2,046**

**A majority of new “entrances” to the system either enter probation and remain there for the duration, or proceed to alternatives after probation. Most “entrances” have an average of just over 2 system admits in the time period, though 199 have 5 or more.**
The use of multiple systems, as opposed to one, accrues significantly higher costs although outcomes are similar.

<table>
<thead>
<tr>
<th>Estimated Costs of Typical System Patterns</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Probation – 5 years</strong></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td><strong>Total Costs</strong></td>
</tr>
<tr>
<td>$9,398</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Probation</th>
<th>PRC</th>
<th>Prison</th>
<th>Parole</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 year:</td>
<td></td>
<td>180 days:</td>
<td></td>
</tr>
<tr>
<td>$1,880</td>
<td></td>
<td>$10,969</td>
<td></td>
</tr>
<tr>
<td>1.5 years:</td>
<td></td>
<td>$55,954</td>
<td></td>
</tr>
<tr>
<td>2 years:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>$3,739</td>
</tr>
</tbody>
</table>

Total Costs: $72,542

Probation carries the largest proportion of high-risk offenders, though it is vital to lower the number of cases missing risk information.
Resentencing analysis demonstrated diminished recidivism with passage of time.

Source: Montana Department of Corrections Admissions & Offense History Data
Three-year re-arrest rates suggest that discharge through parole and probation achieve reductions in reoffending.

Post-Release (FY2012) Three Year Re-arrest Rates

<table>
<thead>
<tr>
<th>Release Type</th>
<th>Prison</th>
<th>Parole</th>
<th>Probation</th>
<th>Alternatives</th>
<th>Conditional Release</th>
</tr>
</thead>
<tbody>
<tr>
<td>Percentage</td>
<td>34%</td>
<td>26%</td>
<td>18%</td>
<td>30%</td>
<td>32%</td>
</tr>
</tbody>
</table>

Post-Release (FY2012) Three Year Re-arrest Rates for Those Directly Discharged

<table>
<thead>
<tr>
<th>Release Type</th>
<th>Prison</th>
<th>Parole</th>
<th>Probation</th>
<th>Alternatives</th>
<th>Conditional Release</th>
</tr>
</thead>
<tbody>
<tr>
<td>Percentage</td>
<td>55%</td>
<td>25%</td>
<td>17%</td>
<td>47%</td>
<td>33%</td>
</tr>
</tbody>
</table>

Note: Many releases progress immediately to another system, so multiple effects are in play.

Source: Montana Department of Corrections Admissions & Offense History Data
The Department of Corrections helps inmates meet important terms of a sentence by collecting restitution and fees through offender accounts.

Source: Montana Department of Corrections [website](#)
# System Checklist: Reducing Recidivism

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td><strong>Assess</strong> risk and need</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td><strong>Target</strong> the right people</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td><strong>Frontload</strong> supervision and treatment</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td><strong>Implement</strong> proven programs</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td><strong>Address</strong> criminal thinking</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Hold individuals <strong>accountable</strong></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td><strong>Measure</strong> and incentivize <strong>outcomes</strong></td>
<td></td>
</tr>
</tbody>
</table>
1. **Assess Risk and Need**: Montana has adopted a risk and needs assessment tool, yet not everyone in the system has been assessed.

**Current Practice**
- DOC uses the Montana Offender Reentry Risk Assessment (MORRA) which has been validated on DOC’s population
- Approximately 10% of the prison, P&P, and alternatives population are missing risk level in DOC’s data (23-38% are missing, but most are interstate compact)
- The parole board and some alternatives facilities utilize assessment tools other than the MORRA

**Moving Forward**
- Develop consistent policies to ensure assessments are conducted on every offender
- Implement the MORRA system wide for the post-sentencing population
- Develop policies around reassessment practices and implement a quality assurance process for assessments
2. Target the Right People: Supervision and programs are not adequately focused on people with higher risk/need.

Current Practices

- Supervision is differentiated by risk
- Risk assessments do not drive decisions about placement, length of stay, or special conditions
- There is a lack of commonly agreed upon decisional protocol between DOC and the parole board
- The current parole board structure could lead to inconsistencies in the evaluation of cases

Moving Forward

- Develop actuarial guidelines and a response matrix that incorporates the MORRA to ensure that assessment centers and the parole board use risk and needs assessments to determine placements and special conditions
- Ensure alternative facilities and P&P use risk and needs assessments to determine program placement, length of stay, and conditions
- Guarantee community corrections programs have adequate resources to address high-risk individuals and prioritize programming resources for individuals who are most likely to offend
3. **Frontload Supervision and Treatment**: Probation terms are long and access to treatment at the onset is limited.

**Current Practice**
- The incentives and interventions grid guides probation and parole officers to increase the frequency of contacts in response to violations.
- In FY15, 31% of those discharged from probation were on probation for more than 5 years.
- Violations are too often the only way to access needed programming and treatment.
- Current law requires that all special conditions of parole be established exclusively by the board.

**Moving Forward**
- Increase access to community-based treatment and programs so offenders can participate in recidivism reducing programs before a violation happens.
- Allow POs to establish special conditions and modify existing special conditions based on risk and needs without approval from the board or court.
4. Implement Proven Programs: Montana does not have adequate resources to address its needs.

<table>
<thead>
<tr>
<th>Current Practice</th>
<th>Moving Forward</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Montana does not have adequate behavioral health resources to address its population’s needs</td>
<td></td>
</tr>
<tr>
<td>• Across the system, treatment is not informed by risk assessment and there is a lack of individualized treatment planning</td>
<td></td>
</tr>
<tr>
<td>• The system lacks an effective quality assurance and oversight process to ensure program consistency, fidelity, and quality in prisons and in community corrections</td>
<td></td>
</tr>
<tr>
<td>• Specify a treatment model and strengthen minimum clinical standards for DOC and contract facilities</td>
<td></td>
</tr>
<tr>
<td>• Institute quality assurance mechanisms and strengthen standards to ensure accountability and performance</td>
<td></td>
</tr>
<tr>
<td>• Establish incentives to create timely access to effective community-based behavioral health services</td>
<td></td>
</tr>
<tr>
<td>• Provide training to staff on evidence-based principles and core correctional practices</td>
<td></td>
</tr>
</tbody>
</table>
5. Criminal Thinking: DOC and alternative facilities offer CBT, but the programs are not always evidence-based.

Current Practice

- DOC and alternative facilities identified the need to switch the cognitive behavioral therapy (CBT) offering from Cognitive Principles and Restructuring (CP&R) to the evidence-based Thinking for a Change Program, yet CP&R continues to be offered widely

Moving Forward

- Continue phasing out CP&R and fully implement Thinking for a Change
- Train POs and adjust workload to allow POs to deliver CBT to higher risk probationers
- Institute quality assurance mechanisms to ensure that effective practices are continually used
6. **Hold individuals accountable**: It is unclear how consistently swift and certain sanctions are being utilized.

**Current Practice**

- DOC uses an incentives and interventions grid to guide POs but it is unclear if there is a formal process to ensure consistency.
- Sanctions include 1-30 day jail stays and 30-60 day sanctions
- The lack of jail beds across the state prevents POs from using short jail stays as sanctions

**Moving Forward**

- Conduct an assessment of how the incentives and interventions grid is being used by POs in actual practice
- Train POs to ensure consistency in the use of sanctions and incentives
- Reallocate resources to ensure that swift and certain sanctions can be utilized consistently to respond to behaviors
7. Measure Outcomes: DOC measures recidivism, but does not track outcomes by providers and programs.

Current Practice
- Recidivism measures are broad
- DOC does not measure outcomes by providers and programs
- DOC does not measure outcomes of its placement decisions

Moving Forward
- Require DOC to measure the outcomes by providers and programs in addition to the outcomes of its placement decisions
- Explore incentives to improve access and quality of community interventions
## System Checklist: Reducing Recidivism

1. **Assess** risk and need
2. **Target** the right people
3. **Frontload** supervision and treatment
4. **Implement** proven programs
5. **Address** criminal thinking
6. **Hold** individuals **accountable**
7. **Measure** and incentivize **outcomes**
Comments and Discussion

**Stakeholder Responses**

- Commissioner Jennie Hansen
- Director Mike Batista
- Commissioner Derek Gibbs
- Commissioner Roxanne Klingensmith
Presentation Summary

**Front End:** Drug- and supervision-related arrests are driving front-end pressures on the entire system. Improved prevention efforts and alternative response models for these offenses could produce increased public safety and lessen back-end pressures.

**Admissions:** The Montana criminal justice system places a large proportion of sentenced offenders – including high/very-high risk—on probation. The prison population primarily consists of violent offenders.

**Flow & Outcomes:** A portion of the DOJ population goes through up to five different “front doors” of the system in under three years. Of those originally placed to an alternative, 26% were admitted next to prison, within 3 years. Probation & parole produce lower re-arrest rates than other system actors. Close to 50% of post-probation “recidivism” occurs in the first year on probation.

**Best Practices:** Decisions can involve objective data, in a structured process that can be evaluated. Supervision decisions, including where to supervise and when and how to sanction, should be grounded in assessments of risks and needs.
Moving Forward

Next Steps

• Fourth Commission on Sentencing meeting in May/June
• Conduct additional stakeholder engagement, including attending association meetings for judges, sheriffs, county attorneys, and police chiefs
• Continue strategic discussions with the parole board, victim advocates, DOC, community corrections, and other stakeholders
• Organize visits with national experts on topics of specific interest to commissioners (pretrial, sentencing, etc.)
• Work at the request of state leaders, stakeholders, and the commission to develop a package of policy options with impact projections

Questions/Research

• Identify trends requiring deeper quantitative and qualitative analyses
• Develop increased intelligence on recidivism trends across systems
• Specify initial policy options for further investigation and begin projection calculations on potential policy recommendations
• Work with local stakeholders and experts to develop increased clarity around challenges facing Native Americans
• Identify additional stakeholders we have not yet contacted
Thank You

Karen Chung, Policy Analyst
Chris Fisher, Senior Policy Advisor
Grace Call, Senior Policy Advisor

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.