

Justice Reinvestment in New Hampshire

Analyses & Policy Options to Reduce Spending on Corrections & Increase Public Safety



Background

IN JUNE 2009, GOVERNOR JOHN LYNCH, Supreme Court Chief Justice John Broderick Jr., then-Attorney General Kelly Ayotte, Senate President Sylvia Larsen, and House Speaker Terie Norelli requested intensive technical assistance from the Council of State Governments Justice Center (Justice Center) to help develop a statewide policy framework that reduces spending on corrections and reinvests in strategies that increase public safety and reduce recidivism.

To guide the Justice Center's analyses of the state's criminal justice system and development of policy options, the state established the Justice Reinvestment Work Group. Members of the bipartisan, bicameral, and inter-branch group include representatives of the House, Senate, Governor, the State Supreme Court, and the State Superior and District Courts. The work group identified a cross-section of stakeholders and data sources for the Justice Center to consult in analyzing New Hampshire's criminal justice system.

The Justice Center convened roundtable discussions and organized interviews with superior and district court judges, county attorneys, defense attorneys, behavioral health treatment providers, police chiefs, sheriffs, victim advocates, and county superintendents. The Justice Center also collected data from multiple sources to inform the analyses outlined in this brief, including the New Hampshire Department of Corrections (DOC), Department of Safety, along with other state agencies and individual county corrections agencies.

This report summarizes the findings of the Justice Center and provides state policymakers with a data-driven policy framework designed to achieve the three goals established by the work group: reduce spending on corrections, reinvest in sanction and treatment programs, and increase public safety by reducing recidivism.

I. Summary

Although New Hampshire's crime rate has been low and stable for the past ten years, the prison population has increased 31 percent – and spending on corrections has nearly doubled – over the same time period.

Three key factors contribute to the growth of New Hampshire's prison population:

Rising recidivism rates

The number of parolees who fail on supervision and are revoked to state prison has increased 50 percent since 2000.

Few resources to sanction and to treat people under community supervision

Resources to provide substance use treatment for parolees and probationers and to sanction them in the community are extremely scarce.

Inefficiencies in parole processes

People are held in prison unnecessarily after they have served 100 percent of their minimum sentence, costing taxpayers an estimated \$20 million a year.

II. Crime & Arrest Trends

New Hampshire is one of the safest states in the country.

- In 2008, the state's property crime rate (2,092 per 100,000) was the fourth lowest in the nation, and the state's violent crime rate (157 per 100,000) was the third lowest in the nation.
- Crime rates over the past eight years have been stable: property and violent crime rates in 2008 were essentially the same as they were in 2000.

Despite a low and stable crime rate, the number of arrests has increased in recent years.

- In the state's 28 largest cities/towns (which account for 52 percent of the state's population) the number of arrests reported increased four percent from 2005 to 2008. Within that time period, arrests for violent crimes increased 31 percent from 420 to 550, arrests for property crimes increased six percent from 2,609 to 2,754, and arrests for drug crimes decreased by four percent from 2,228 to 2,137.

Police chiefs and sheriffs point to insufficient substance use and mental health treatment services as one factor contributing to property and violent crime.

- In focus group discussions, police chiefs and sheriffs noted that drug use drives a significant percentage of crime that is categorized as property crime in New Hampshire.
- The absence of integrated mental health and substance use treatment services for people with co-occurring mental health and drug/alcohol problems create significant challenges for police officers and other first responders who encounter people who are in a mental health crisis and under the influence of drugs or alcohol.

III. Corrections Trends

New Hampshire's prison population increased 31 percent and state spending on corrections has nearly doubled between FY1999 and FY2009.

- The number of people incarcerated in state prison increased from 2,233 in FY1999 to 2,917 in FY2009.
- State spending on corrections has increased from \$52 million (or \$67 million adjusted for inflation) in FY1999 to \$104 million in FY2009.

The number of people sentenced to prison for committing a crime (as opposed to a prison admission for a parole or probation revocation) has not increased significantly since 2000.

- Admissions to prison with new sentences increased only slightly from 518 in 2000 to 532 in 2009.

- The four largest counties (Hillsborough, Rockingham, Merrimack, and Strafford) account for almost 75 percent of the state population but only 65 percent of prison admissions.
- Only two counties, Belknap and Sullivan, send a significantly disproportionate number of people to prison each year. In 2009, Belknap County accounted for five percent of the state's resident population but eight percent of prison admissions. Sullivan County accounted for three percent of the state's resident population but 11 percent of prison admissions.

Nearly two-thirds of people sentenced to prison for committing a crime were convicted of non-violent, property or drug offenses.

- In 2009, 64 percent of people admitted to prison with a new sentence were convicted of non-violent, property, or drug offenses.

County Correctional Facilities

As the number of people held in county correctional facilities has grown, the average daily cost of incarcerating someone in a local jail has increased, too.

- From 2000 to 2008, the number of people held in county correctional facilities increased 21 percent.
- Average daily costs for county correctional facilities has increased 50 percent from 2000 to 2009.
- In 2009, 268 people on probation supervision were reincarcerated in local jail because their probation was revoked; the cost to counties of reincarcerating these probation revocations, who spend an average of 8 months in local jail, was approximately \$5.7 million.

COUNTY CORRECTIONS AVERAGE DAILY POPULATION

(Strafford Minus Inmate Boarders)

| COUNTY | 31-DEC-00 | 31-DEC-08 | PERCENT CHANGE |
|------------------|-------------|-------------|----------------|
| Belknap | 42 | 90 | 114% |
| Carroll | 47 | 61 | 30% |
| Cheshire | 78 | 95 | 23% |
| Coos | 28 | 39 | 39% |
| Grafton | 70 | 103 | 47% |
| Hillsborough | 556 | 583 | 5% |
| Merrimack | 200 | 232 | 16% |
| Rockingham | 265 | 332 | 25% |
| Strafford | 141 | 164 | 16% |
| Sullivan | 68 | 104 | 53% |
| TOTAL ADP | 1495 | 1811 | 21% |

- In 2004, people convicted of property offenses accounted for 15 percent of admissions. By 2009, people convicted of a property offense accounted for 28 percent of the state's prison admissions.

People revoked from parole supervision are the largest – and fastest growing – category of admissions to prison.

- The number of people revoked to prison for violating the conditions of parole increased from 360 in 2000 to 540 in 2009.
- Parole revocations have increased from 35 to 43 percent of all admissions to prison between 2000 and 2009.
- On average, people admitted to prison for a parole revocation spent an average of 10-11 months incarcerated before being released back to parole or completing their sentence while incarcerated.
- With state prison facilities overcrowded, program capacity limited and those revoked from parole often serving different lengths of time incarcerated, most people returned to prison because their parole was revoked do not participate in any programs or services prior to their re-release.

Most people whose probation supervision is revoked are incarcerated in county (as opposed to state) correctional facilities.

- Two-thirds of probation revocations serve an average of eight months in a county facility, while the remaining one-third of probation revocations are sentenced to an average of 34 months in state prison.
- The number of people whose probation was revoked and were sent to prison increased only slightly – from 152 in 2000 to 174 in 2009.

More than half of the state's prison admissions are people whose probation or parole supervision was revoked.

- In 2009, probation and parole revocations for condition violations (where there wasn't a new sentence) together accounted for 57 percent of all admissions to state prison.

Women Offenders in Prison

The number of women admitted to prison in New Hampshire has increased dramatically.

- The number of women admitted to prison has increased 133 percent, from 86 in 2003 to 201 in 2009.
- In 2000, women accounted for approximately 8-10 percent of all prison admissions. In FY2009, women accounted for 16 percent of all prison admissions.
- Half of the women admitted to prison in FY2009 had not committed a new crime; they were incarcerated because they had violated their conditions of probation or parole supervision.

Recidivism rates for women released from prison have increased faster than the increase in recidivism rates experienced by men.

- According to DOC recidivism studies, the three year reincarceration rate for women rose from 36 percent for those released in 2003 to 57 percent for those released in 2005. The recidivism rate for men, however, increased from 40 to 50 percent over the same time period.

IV. Probation & Parole Supervision

The number of people on probation and parole has increased significantly, while the total number of probation and parole officers has not increased.

- The number of people on probation supervision has increased 26 percent from FY2000 to 2009.
- The number of people on parole has nearly doubled (93 percent increase) over the same time period.
- Because the number of PPO staff has not increased during this time period, caseloads have increased significantly.

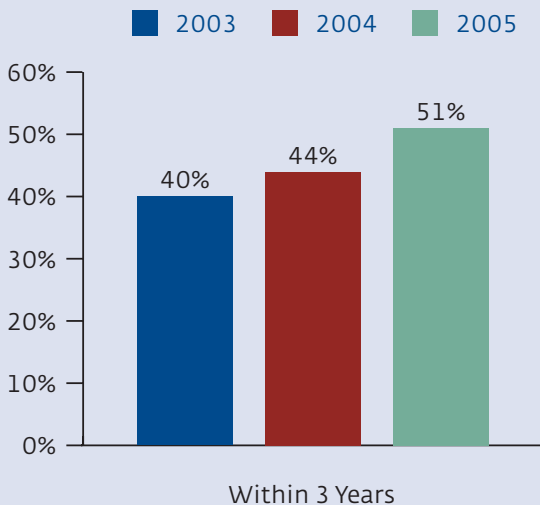
The percentage of people on parole supervision who are revoked and returned to prison varies significantly from one county to the next.

- In FY 2009, 23 percent of people on parole in Coos County were revoked to prison, while 88 percent of parolees in Sullivan County were revoked to prison.

The recidivism rate for people released from prison has increased.

- According to recidivism studies produced by the DOC, the percent of people released from prison who were reincarcerated within three years (for a new crime or violating a condition of parole) increased from 40 percent for those released in 2003 to 51 percent for those released in 2005.
- By comparison, the national average recidivism rate is 40 percent, according to the latest research from the Bureau of Justice Statistics (this average does not include California data, which due to its size in the sample increases the average to 50 percent).

New Hampshire Recidivism Rate: Percent of People Reincarcerated Within 3 Years



RECIDIVISM BY AGE (2004 Cohort)

| | |
|-------|-----|
| 17-19 | 60% |
| 20-25 | 51% |
| 26-29 | 42% |
| 30-39 | 43% |
| 40-49 | 41% |
| 50-59 | 29% |

RECIDIVISM BY OFFENSE TYPE

| | |
|--------------|-------|
| Violent | 40.0% |
| Property | 50.0% |
| Drug | 37.0% |
| Public Order | 48.0% |

Source: 2003 and 2004 cohort data come from New Hampshire Department of Corrections. Joan Schwartz, Ph.D. Recidivism in New Hampshire: A Study of Offenders Returned to Prison within Three Years of Their Release, September 2009. 2005 Cohort data are still preliminary and have not been published or finalized by the NH DOC.

FY09 Parole Revocation Rate

| Gender | |
|--------------|-----|
| Male | 55% |
| Female | 52% |
| Risk Level | |
| Maximum | 76% |
| Medium | 62% |
| Minimum | 37% |
| Offense Type | |
| Violent | 55% |
| Sex Assault | 52% |
| Non-Violent | 54% |
| Drug | 55% |
| Property | 58% |

Unlike many other states, no state dollars are appropriated to the NH DOC for electronic monitoring, rapid drug testing, substance use treatment or intermediate sanction facilities to monitor, treat, and sanction people on parole and probation.

- Probationers and parolees in New Hampshire are placed on electronic monitoring only if they are able to pay for the cost of the monitoring equipment.
- When PPOs test probationers and parolees for drug use, they must wait three to four weeks, on average, for the results of such tests.
- Although the DOC provides limited drug education programming in some correctional facilities, the DOC has no state resources to contract with community-based substance use treatment providers to ensure that high-risk, high-need probationers and parolees can access treatment in a timely manner.

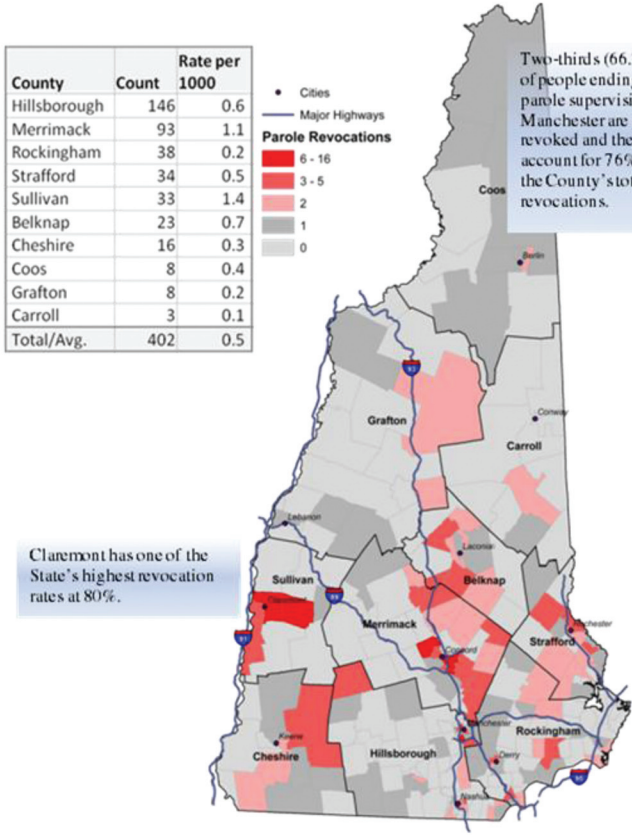
Parole Revocation Rates: Wide Variation by County

| COUNTY | PAROLE POPULATION (9/25/2009) | FY 2009 PAROLE REVOCATIONS TO PRISON (Prison Admissions Data) | REVOCATIONS AS PERCENT OF PAROLE POPULATION |
|--------------|-------------------------------|---|---|
| Belknap | 78 | 47 | 60% |
| Carroll | 38 | 14 | 37% |
| Cheshire | 68 | 29 | 43% |
| Coos | 40 | 9 | 23% |
| Grafton | 81 | 28 | 35% |
| Hillsborough | 527 | 149 | 28% |
| Merrimack | 274 | 64 | 23% |
| Rockingham | 164 | 71 | 43% |
| Strafford | 93 | 53 | 57% |
| Sullivan | 84 | 74 | 88% |
| Other | 373 | 2 | 1% |
| TOTAL | 1,820 | 540 | 30% |

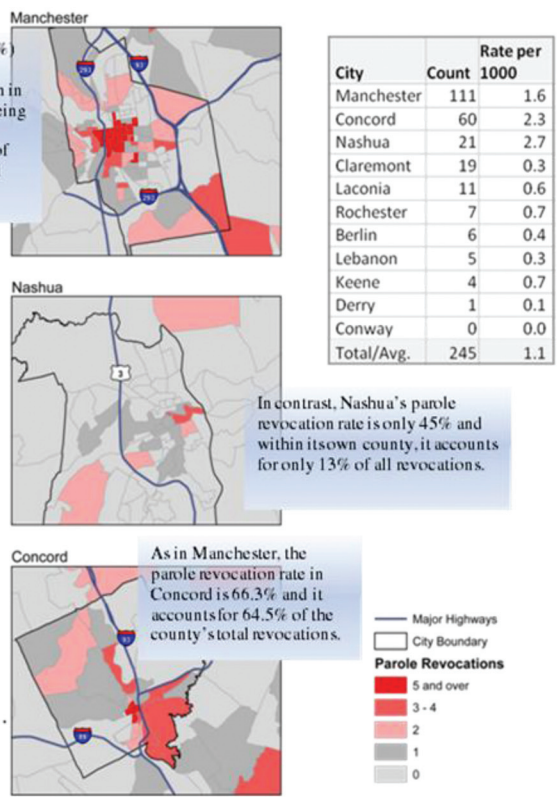
Parole revocations in FY 2009 will cost New Hampshire approximately **\$13.3 million** based on a \$90 per day cost of incarceration.

People Revoked From Parole (2008)

New Hampshire
by Census Tracts with County Borders



Manchester, Nashua, Concord
by Census Block Groups with City Borders



V. Behavioral Health

Treatment and other support services for addiction, mental health and co-occurring disorders are severely underfunded.

- According to the New Hampshire Bureau of Drug and Alcohol Services (BDAS), the state's publicly-funded addiction treatment system has the capacity to provide treatment for approximately 6,000 people, which is just 10 percent of the people in the community who need it.
- Mental health services funded by the New Hampshire Bureau of Behavioral Health (BBH) are limited almost exclusively to individuals with serious and persistent mental illnesses. Many people with mental health disorders require care that is essentially unfunded.
- The majority of persons with mental illnesses and substance use disorders have co-occurring disorders (when at least one disorder of each type can be established independent of the other). Traditional care models are not effective with this population and integrative approaches are required. BDAS funds only one program in the state that serves clients with co-occurring mental and substance abuse disorders. Community mental health providers have limited capacity to serve co-occurring conditions within the populations they serve.

The majority of individuals in jail and prison have either addiction or mental health disorders (or both); these people are a significant driver of the state's increasing revocation rates of people under community supervision.

- National data indicate the following: a) approximately 70 percent of individuals admitted to prison have a diagnosable addiction disorder that requires treatment; and b) 17 percent of people admitted to prison have a serious mental illness.
- Based on a review of parole revocation hearing files covering a three-month period, 75 percent of those revocations that were due to condition violations involved parolees who used drugs or alcohol, and 41 percent failed to access and/or complete a treatment program to address their need for substance use or mental health treatment.
- According to county superintendents it is not unusual for people incarcerated in county jails to wait there for months while awaiting placement in a substance use treatment facility; increasing the availability of community-based treatment could expedite the movement of individuals into the community more quickly and avoid county incarceration costs.

Although research demonstrates the effectiveness and value of specialized treatment and supervision programs for high-risk and high-need populations on probation and parole, the state does not appropriate any funds for these models.

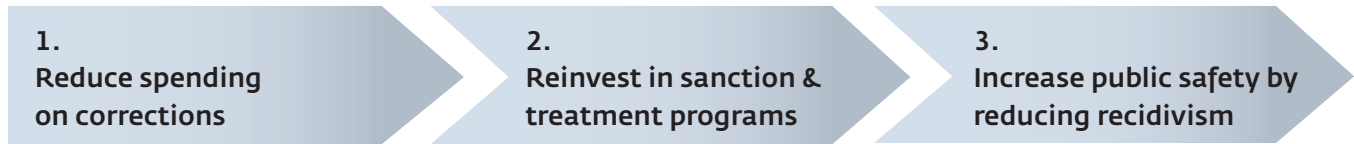
- Research indicates that intensive probation or parole supervision, combined with effective addiction treatment has been shown to result in an 18 percent reduction in recidivism.
- Fifteen percent of the clients served in the state's addiction treatment system in 2008 were under parole or probation supervision.
- No standardized or coordinated approach exists to identify which probationers or parolees should be prioritized for access to state substance abuse treatment resources.

A modest investment in targeted and evidence-based treatment services for the high-risk and high-need individuals would have a significant impact on recidivism.

- Of the approximately 2,000 people sentenced to felony probation or released to parole in FY2009, 1200 number are medium or high risk. Of these almost 700 need addiction and/or mental health treatment services.
- For an annual investment of \$350,000 the state could provide addiction, mental health and co-occurring services to approximately 100 high-risk parolees and felony probationers.
- For an annual investment of \$1,300,000 the state could provide services for approximately 400 medium/ high risk parolees and high risk felony probationers.
- For an annual investment of \$2,400,000 the state could provide services for approximately all 700 medium and high risk parolees and probationers.

VI. Policy Framework

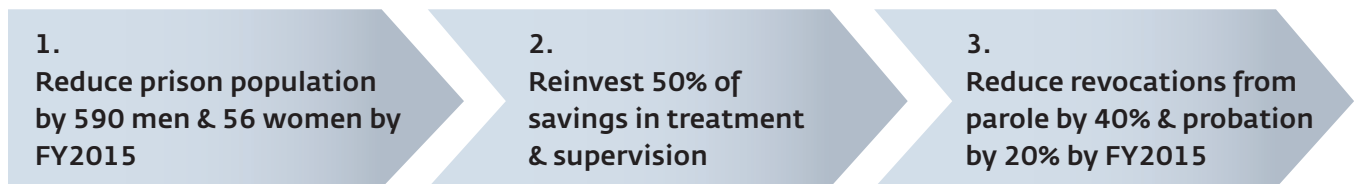
Goals



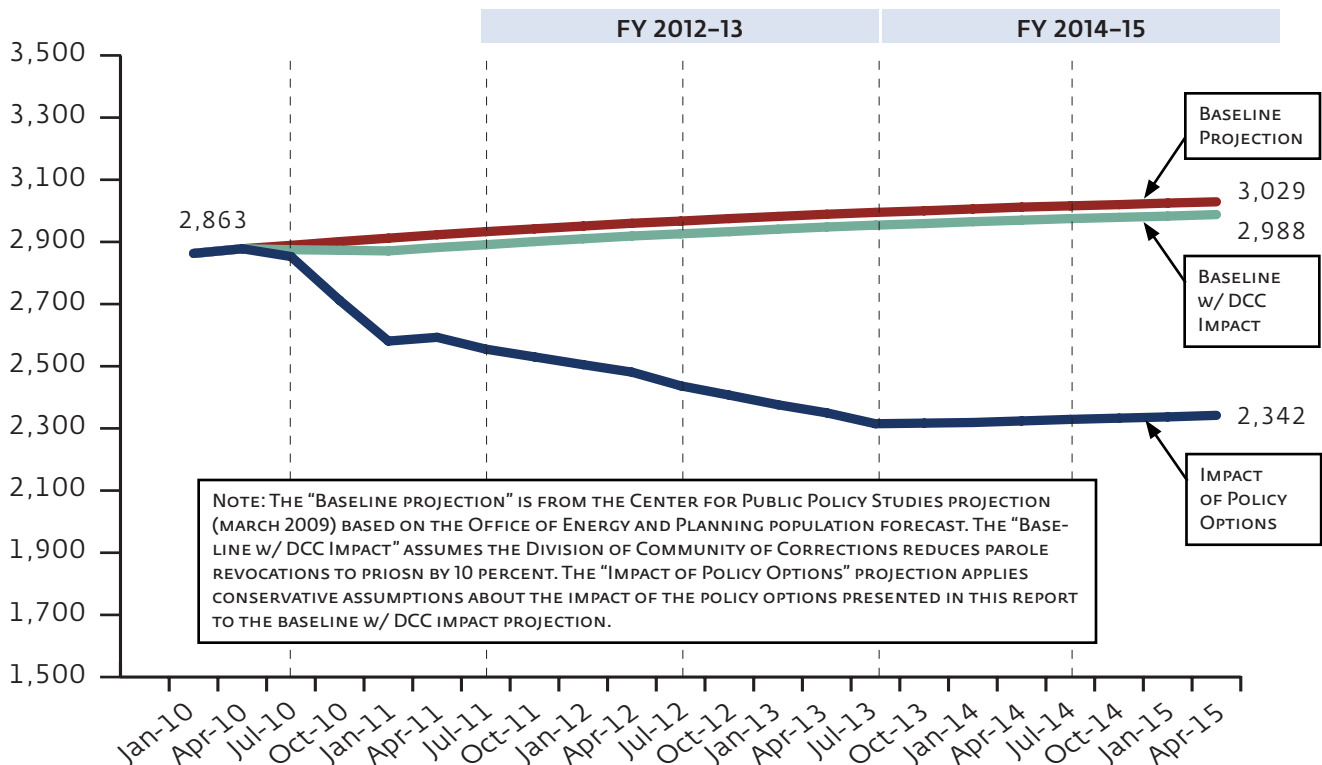
Policy Options

- A. Focus supervision on high-risk offenders.
- B. Use short, swift and certain jail sanctions.
- C. Establish intermediate sanction program & designated parole revocation facility.
- D. Reinvest in treatment for high-risk, high-need probationers and parolees.
- E. Ensure everyone leaving prison receives at least nine months of supervision.
- F. Require nonviolent offenders to serve 100-120% of their minimum sentence.

Outcomes



Projected Impact on the Prison Population



A

Focus community-based supervision resources on high-risk offenders.

Description

- Direct, by statute, probation and parole officers (PPOs) to actively supervise low and medium risk offenders on misdemeanor probation for no more than nine months, felony probation for 12 months and parolees for 18 months. Direct further, by statute, that the PPO place people who complete this supervision period successfully – and for whom additional active supervision is unnecessary – on administrative supervision.

Analysis

- Focus group meetings among PPOs, county attorneys, public defenders, and judges reflected a consensus that probation and parole caseloads are too high and some probation sentences are too long; as a result, there are insufficient resources to concentrate on those offenders most likely to reoffend.

- Half of all people on parole supervision in New Hampshire who fail to comply with their conditions of supervision do so within the first eight months of their release from prison.
- Shortening the length of time spent actively supervising probationers and parolees who have complied with their conditions of supervision and who are low or medium risk enables probation and parole officers to concentrate their attention on high-risk probationers and parolees.
- In the last five years, laws have been enacted in Arizona, Nevada, and Delaware to “frontload supervision resources,” and recidivism rates subsequently declined in each of these states.

B

Use short, swift and certain sanctions, including jail time, to reduce crime and revocation rates among people sentenced to felony probation.

Description

- Enable judges to establish a sanction period of up to five days in jail, which would allow PPOs to respond to probation violations without a court hearing, unless requested by the probationer.
- Limit the use of this jail sanction by statutory policy to a maximum of five days for each felony probation sentence.

Analysis

- In FY2009, approximately 2,800 people were sentenced to probation supervision in New Hampshire. In the same year, PPOs brought 1,735 probationers to court for violation hearings. Well over half of these violation hearings (1,129) were for violations of conditions of supervision.
- In one-third of the hearings held for probationers who had violated a condition of supervision, the judge revoked the person’s probation, sentencing

him or her to prison or jail. In the remaining two-thirds of condition violation hearings, the judge returned the person to probation supervision.

- County jail superintendents report that probationers awaiting violation hearings spend as much as 10 to 30 days in jail.
- Providing probation officers with some discretion to hold offenders accountable for breaking the rules of supervision – as opposed to requiring them to respond in every instance with a court hearing – can substantially boost the immediacy and certainty of responses.
- Probation departments in both Georgia and Hawaii have implemented policies that enable probation officers to respond to condition violations with short, swift, and certain sanctions. Researchers evaluating these policy changes have found that the Georgia policy reduced the number of days that probationers spent in jail on violations or awaiting court hearings by 70 percent.

C

Establish an intermediate sanction program and a designated parole revocation facility to respond more effectively to parole violations.

Description

PART I – INTERMEDIATE SANCTION PROGRAM

- Establish an intermediate sanction program, to be used in lieu of revocation, for parole violators. Use 20 C1 (halfway house) beds to create the one week residential sanction, which would create the capacity to serve up to 973 parolees annually.
- Use of the intermediate sanction program will reduce the number of parolees admitted to prison for a revocation by 20 percent. This reduction is in addition to the 20 percent reduction referenced in Option D.

PART II – PAROLE REVOCATION FACILITY

- Designate a secure housing unit as a parole revocation facility for all parolees revoked to prison. Deliver focused evidence-based programming aimed at reengaging parolees in their supervision plan. Modify the revocation process to require a standardized three-month revocation period in the parole revocation facility.

Analysis

- Wardens and correctional officers at the Concord State Prison reported that most people admitted to that facility for a parole revocation were incarcerated in the reception facility, where no programs are offered that might address substance use or other issues that contributed to the revocation of the person's parole.
- PPOs report that they do not have access to residential, day reporting centers, or other intermediate sanctions. Without such options, they often end up ignoring violations of conditions of release, until they become serious or frequent enough to merit revocation to prison.
- Probation and parole officers in Texas have access to intermediate sanction facilities and, in 2007, policymakers increased the capacity of these facilities to reduce the number of people revoked to prison and to avert growth in the prison population. Policymakers in Kansas shortened the mandatory parole revocation period from six to three months for all parole revocations to focus resources on community-based programming/treatment.

D

Ensure that high-risk probationers and parolees with serious addiction and/or mental health disorders are monitored with rapid drug tests and have access to treatment programs.

Description

- Reinvest correctional savings to expand availability of effective addiction and mental health treatment programs, which community-based behavioral health providers deliver to high-risk, high-need individuals on probation and parole supervision.
- Direct DOC, with BDAS, the Governor’s Commission and BBH, to identify, train, and approve behavioral health treatment providers to serve high risk, high need probationers and parolees.
- Use rapid drug screening technology to enable probation and parole officers to conduct random drug use tests of high-risk substance using offenders to help monitor treatment progress and compliance with conditions of release.
- The allocation of these dedicated and targeted behavioral health treatment resources, along with rapid drug screening and freeing up PPOs time to focus on high risk offenders (Option A) will together reduce parole revocations by an additional 10 percent (beyond the 10 percent reduction estimated due to the Division of Community Corrections), and will reduce probation revocations by 20 percent.

Analysis

- Research demonstrates that significant reductions in recidivism can be achieved only when treatment and supervision resources are concentrated on high-risk, high-need individuals and when the treatment programs are delivered by high quality community-based providers.
- Ohio has demonstrated the impact of targeting contracted community-based treatment programs at high risk offenders and evaluating programs for quality.

E

Ensure everyone leaving prison receives at least nine months of post-release, community-based supervision.

Description

- Require people in prison to be released to parole supervision at least nine months prior to reaching the end of their maximum sentence.
- Apply this policy to those individuals with, at the time of enactment, 12 months or more remaining until the end of their maximum sentence.
- Provide victim advocates with the opportunity to work closely with crime victims and survivors to assist them through the prisoner's release period; identify and assess the crime victim's most important needs related to information, notification, protection/safety, restitution and other issues and concerns; and develop a case plan to address their most important needs, and link them with appropriate support and services.

Analysis

- Sixteen percent of the people released from prison in FY2009, or 224 individuals, completed their maximum sentence in prison and, as a result, were released to no community-based supervision.
- People who remain incarcerated in prison, either because of a parole board decision or because they prefer to avoid parole supervision, may present a high risk of reoffending when released. By requiring these offenders to serve the remaining nine months of their sentence on intensive supervision, PPOs can monitor their transition to the community.
- Most states with a typical 85 percent truth-in-sentencing policy have reserved 15 percent of the sentence for post-release supervision in the community as part of their sentencing structure (e.g. Arizona, Kansas).

F**Reinforce truth-in-sentencing by requiring nonviolent, property, and drug offenders to serve 100 to 120 percent of their minimum sentence****Description**

- Revise the existing disciplinary credit policy to incentivize good conduct as well as participation in recommended (and available) programs.
- Establish that nonviolent, property, or drug offenders sentenced on or after a future date serve no less than 100 percent and no more than 120 percent of their minimum sentence. The revised disciplinary credit policy should determine when the DOC or parole board shall place the offender on parole supervision.

Analysis

- In a focus group, victim advocates stressed that the state's truth-in-sentencing policy of requiring offenders to serve 100 percent of their minimum before being released should not be modified.
- Twenty-two percent of New Hampshire's prison population in November 2009 (or 649 people) had served 100 percent of their minimum sentence, but remained incarcerated. People in this group had served an average (median) of 500 days past their minimum sentence date. Approximately 270 of these people were convicted of nonviolent, property, or drug offenses.
- Parole board staff and members cite the following reasons delaying parole release: institutional misconduct, lack of program participation or completion, or an unacceptable parole plan for housing upon release.
- Waiting for someone to complete a program in prison – after that person has been warehoused without participation in a program for an extensive period of time – is inefficient and costly, especially considering that the same services can be delivered in the community and have a much greater impact than if they were provided behind the walls. Research reflects that prison-based programs are only half as effective at reducing recidivism as similar programs delivered in a community-based setting while the offender is under supervision. For example, providing drug treatment in a correctional facility has only been shown to reduce recidivism by six percent while providing the same programming in the community can reduce recidivism by 12 percent.

To learn more about the justice reinvestment strategy
in New Hampshire and other states,
www.justicereinvestment.org

JUSTICE★CENTER

THE COUNCIL OF STATE GOVERNMENTS

The Council of State Governments Justice Center is a national nonprofit organization that serves policymakers at the local, state, and federal levels from all branches of government. The Justice Center provides practical, nonpartisan advice and consensus-driven strategies, informed by available evidence, to increase public safety and strengthen communities.



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