Justice Reinvestment
Policy Framework for New Hampshire

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Council of State Governments Justice Center

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Justice Reinvestment Process

Bipartisan, inter-branch, bicameral structure

1 Analysis
- Identify Drivers
- Solicit Input from Stakeholders
- Map Key Issues
- Develop Framework
  - Identify Policy Options
  - Estimate Costs & Savings

2 Implementation
- Review initial analysis

3 Accountability
- Review intermediate analysis
- Review policy framework
Stakeholder Input

- Police Chiefs & Sheriffs
- County Attorneys
- Defense Bar
- Superior and District Court Judges
- County Superintendents
- Probation and Parole Officers
- Victim Advocates/Survivors
- Legislators
- DOC, BDAS, BBH Staff
- Behavioral Health Treatment Providers
Overview

1. Final Analysis of Criminal Justice Trends
2. Behavioral Health Analysis
3. Policy Framework
New Hampshire’s Criminal Justice System

**FY 2000-2008**

- **Reported Crime**: Low & Stable
- **Arrests 2005-2008**: +4%
- **Superior Court Filings**: +40%
- **Jail /HOC Population**: +21%
- **Admissions to Prison for New Offenses FY2000-2009**: +3%
- **Prison Population FY1999-2009**: +31%
- **Parole Populations FY2000-2009**: +50%
- **Parole Population FY2000-2009**: +93%
- **Releases to Parole FY2000-2009**: +33%
- **Probation Placements FY2000-2009**: ?
- **Probation Population FY2000-2009**: +26%
- **Probation Revocations FY2000-2009**: Stable
Prison Population & Costs Have Increased

- Prison Population: +31 percent
  - FY1999-2009

- State Spending on Corrections: +100 percent
  - $52m → $104m
  - FY1999-2009
Recidivism Rates Have Increased

### Percent Returned to Prison

**Within 3 Years**

- **2003**: 40%
- **2004**: 44%
- **2005**: 51%

### Recidivism by Age

(2004 Cohort)

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Recidivism Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>17-19</td>
<td>60%</td>
</tr>
<tr>
<td>20-25</td>
<td>51%</td>
</tr>
<tr>
<td>26-29</td>
<td>42%</td>
</tr>
<tr>
<td>30-39</td>
<td>43%</td>
</tr>
<tr>
<td>40-49</td>
<td>41%</td>
</tr>
<tr>
<td>50-59</td>
<td>29%</td>
</tr>
</tbody>
</table>

### Recidivism by Offense Type

<table>
<thead>
<tr>
<th>Offense Type</th>
<th>Recidivism Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Violent</td>
<td>40.0%</td>
</tr>
<tr>
<td>Property</td>
<td>50.0%</td>
</tr>
<tr>
<td>Drug</td>
<td>37.0%</td>
</tr>
<tr>
<td>Public Order</td>
<td>48.0%</td>
</tr>
</tbody>
</table>

Specific offenses with highest recidivism rates:

- Burglary: 57.8%
- Robbery: 53.7%
- Fraud: 53.2%

Source: 2003 and 2004 cohort data comes 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 is still preliminary and has not been published or finalized by the NH DOC.
Revocations Driving NH Prison Admissions

Parole revocations increased from 35% to 43% of all prison admissions.

In 2009, probation and parole revocations account for 57% of all admissions to prison.
Parole Revocation Rates: Wide Variation by County

<table>
<thead>
<tr>
<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Belknap</td>
<td>78</td>
<td>47</td>
<td>60%</td>
</tr>
<tr>
<td>Carroll</td>
<td>38</td>
<td>14</td>
<td>37%</td>
</tr>
<tr>
<td>Cheshire</td>
<td>68</td>
<td>29</td>
<td>43%</td>
</tr>
<tr>
<td>Coos</td>
<td>40</td>
<td>9</td>
<td>23%</td>
</tr>
<tr>
<td>Grafton</td>
<td>81</td>
<td>28</td>
<td>35%</td>
</tr>
<tr>
<td>Hillsborough</td>
<td>527</td>
<td>149</td>
<td>28%</td>
</tr>
<tr>
<td>Merrimack</td>
<td>274</td>
<td>64</td>
<td>23%</td>
</tr>
<tr>
<td>Rockingham</td>
<td>164</td>
<td>71</td>
<td>43%</td>
</tr>
<tr>
<td>Strafford</td>
<td>93</td>
<td>53</td>
<td>57%</td>
</tr>
<tr>
<td>Sullivan</td>
<td>84</td>
<td>74</td>
<td>88%</td>
</tr>
<tr>
<td>Other</td>
<td>373</td>
<td>2</td>
<td>1%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1,820</strong></td>
<td><strong>540</strong></td>
<td><strong>30%</strong></td>
</tr>
</tbody>
</table>

Parole revocations in FY 2009 will cost New Hampshire approximately $13.3 million based on a $90 per day cost of incarceration.
Case Review of 90 Parole Revocation Hearing Files

• 59% of parole revocations to prison did not involve any new offense convictions or allegations, and of these:
  
  ✓ 75% involved drugs
  ✓ 41% involved program failure
  ✓ 25% involved absconding
  ✓ 19% indicated prior violations

• 86% of revocations will be eligible for parole again
Prison Population Past Minimum Parole Eligibility

Prison Population
November 20, 2009
2,915

65% Still Serving Minimum Sentence
1,907

35% Past 100% of Minimum Sentence
1,008

64% Admitted for New Offense or Probation Revocation
649

36% Admitted for Parole Revocation
359

Median # of Days Beyond Minimum: 500
People Released From Prison Without Supervision

Prison Releases
FY 2009
1,394

79%
Paroled/Released to Supervision
1,100

16%
Discharged ("Maxed Out") & Released without supervision
224

5%
Other
1. Final Analysis of Criminal Justice Trends

2. Behavioral Health Analysis

3. Policy Framework
Principles of Treatment for Justice-Involved Persons with Behavioral Health Disorders

High rates of behavioral disorders among criminal justice populations

Co-occurring mental and addictive disorders are common and require integrated treatment approaches

Drug addiction and mental illnesses are brain diseases that affect behavior and decision-making

Recovery from these disorders requires effective treatment over sufficient length of time
Principles of Treatment for Justice-Involved Persons with Behavioral Health Disorders

- Screening & assessment
- Tailoring services
- Drug use / medication compliance
- Continuity of care is essential
Tailor Supervision & Treatment to Level of Risk and Functional Impairment

High Functional Impairment

Intensive mental health case management coordinated with good routine supervision (e.g., Forensic Assertive Community Treatment)

Intensive supervision integrated with intensive mental health case management (e.g., specialized probation caseloads that integrate supervision and treatment)

Low Risk

Criminogenic Risk

Good routine supervision coordinated with good routine mental health services

Low Functional Impairment

Criminogenic Risk

Intensive supervision coordinated with good routine mental health services (programs based on RNR principles)

Community-Based Programs Produce the Biggest Reductions in Recidivism

Drug Treatment in Jail

Drug Treatment in the Community

- 6%

- 12%

Challenges in New Hampshire

• Underfunded public treatment system

• Addiction and mental health disorders are significant drivers of revocation rates

• No DOC-funded treatment and supervision programs for the high-risk and high-need populations. County funding is variable.
## DOC Funded Programs for Probation/Parole

<table>
<thead>
<tr>
<th>State</th>
<th>State DOC Funding for Community Based Programs for:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Probation</td>
</tr>
<tr>
<td>New Hampshire</td>
<td>$0</td>
</tr>
<tr>
<td>Michigan</td>
<td>$30 million</td>
</tr>
<tr>
<td>Ohio</td>
<td>$120 million</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>$30 million</td>
</tr>
<tr>
<td>Texas</td>
<td>~$60 million</td>
</tr>
</tbody>
</table>
No rapid drug testing; tests are sent to state lab and take 3-4 weeks

No drug testing protocol for probationers and parolees
Goal: Identify, monitor, and treat high risk/high need

1. Develop organizational capacity

2. Expand access to treatment with focus on:
   ✓ Targeting the right individuals
   ✓ Effective treatment
   ✓ Integrated treatment
   ✓ Rapid drug testing

3. Develop a community supervision approach that incorporates treatment
Assumptions

- 60 percent of individuals within prison have a diagnosable addiction disorder and 17 percent have a serious mental illness.

- Individuals with severe mental illnesses and co-occurring addiction disorders will be served in mental health system, not the substance use treatment system.

- BDAS indicates that 15 percent of individuals in the NH public system in 2008 were under parole or probation supervision.

- National estimates of treatment need for high risk community corrections populations were used to develop NH estimates.
## Estimated Addiction Treatment Costs

<table>
<thead>
<tr>
<th>Level of Care</th>
<th>1206 Medium/High Risk Parolees &amp; Felony Probationers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Substance Use Disorders (SUD)</td>
<td>724</td>
</tr>
<tr>
<td>SUD minus Co-Occurring MH/ SUD and Existing Capacity*</td>
<td>485</td>
</tr>
<tr>
<td>Residential Treatment: <strong>$6,286</strong></td>
<td>(49) $308,000</td>
</tr>
<tr>
<td>Intensive Outpatient: $2,186</td>
<td>(194) $424,000</td>
</tr>
<tr>
<td>Outpatient: $878</td>
<td>(122) $108,000</td>
</tr>
<tr>
<td>Recovery Support and Case Management</td>
<td>(120) $107,000</td>
</tr>
<tr>
<td><strong>Total for Treatment Continuum</strong></td>
<td><strong>$947,000</strong></td>
</tr>
</tbody>
</table>
# Estimated Mental Health Treatment Costs

<table>
<thead>
<tr>
<th>Level of Care</th>
<th>All Medium and High Risk Parole and Felony Probation (1206)</th>
</tr>
</thead>
<tbody>
<tr>
<td>SPMI, including co-occurring disorders*</td>
<td>204</td>
</tr>
<tr>
<td>Assertive Community Treatment (ACT) Teams**</td>
<td>(11) $175,000</td>
</tr>
<tr>
<td>Non-Medicaid eligible ***</td>
<td>(98) $828,000</td>
</tr>
<tr>
<td>Medicaid eligible ****</td>
<td>(98) $414,000</td>
</tr>
<tr>
<td>Total</td>
<td>$1,417,000</td>
</tr>
</tbody>
</table>
## Annual Treatment Costs

<table>
<thead>
<tr>
<th>Phase I: Medium/High Risk Parolees &amp; High Risk Probationers</th>
<th>Phase II: Phase I + Medium Risk Probationers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number Served</td>
<td>386</td>
</tr>
<tr>
<td>Substance Use Disorders</td>
<td>$535,000</td>
</tr>
<tr>
<td>Mental Health and Co-occurring</td>
<td>$792,000</td>
</tr>
<tr>
<td><strong>TOTALS</strong></td>
<td><strong>$1,327,000</strong></td>
</tr>
<tr>
<td>Drug Testing</td>
<td>$50,000</td>
</tr>
</tbody>
</table>
## Current & Additional Treatment Capacity

<table>
<thead>
<tr>
<th>Level of Care</th>
<th>Current State Funding Level</th>
<th>Additional Capacity Proposed for Phase II</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clinically-Managed Residential Treatment</td>
<td>97 adult beds: Manchester (8 Co-occurring Disorders), Bethlehem, Keene, Dover, and Dublin</td>
<td>25 beds</td>
</tr>
<tr>
<td>Intensive Outpatient</td>
<td>Approximately 300 slots: Concord, Manchester, Nashua, Lebanon, Dover</td>
<td>50 slots</td>
</tr>
<tr>
<td>Outpatient</td>
<td>23.25 FTE Staff</td>
<td>FTE capacity to serve 122</td>
</tr>
<tr>
<td>Recovery Support and Case Management</td>
<td>0</td>
<td>FTE Capacity to serve 120</td>
</tr>
</tbody>
</table>
Additional Recommendations

• Implementation Workgroup

• Probation/parole service coordinator

• Invest in New Hampshire Center of Excellence and BDAS Training Institute for criminal justice specific technical assistance and training
Summary Points

1. Develop organizational capacity to support accountability, collaboration and communication across DOC, DCC, BDAS, BBH and Governor’s Commission

2. Expand access to treatment for target population with focus on:
   ✓ Matching individuals to the right level of care using valid AOD/MH screen and assessment
   ✓ Effective treatment that can reduce re-arrests and re-incarcerations and support recovery
   ✓ Integrated treatment approaches
   ✓ Implementation of rapid drug testing

3. Develop collaborative supervision approach that incorporates treatment and emphasizes behavioral health management
Overview

1. Final Analysis of Criminal Justice Trends

2. Behavioral Health Analysis

3. Policy Framework
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 increasing size of New Hampshire’s prison population:

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

2. Few resources to sanction and to treat people under community supervision
   Resources to provide substance use treatment and to sanction are extremely scarce.

3. Inefficiencies in parole processes
   People are held in prison beyond 100 percent of their minimum sentence, costing taxpayers an estimated $20 million a year.
Goal 1: 
Reduce spending on corrections.

A. Focus supervision on high risk offenders.

B. Use short, swift and certain jail sanctions.

C. Establish intermediate sanction program & designated parole revocation facility.

Goal 2: 
Reinvest in treatment and sanction programs.

D. Reinvest in treatment for high-risk, high-need probationers and parolees.

Goal 3: 
Increase public safety by reducing recidivism.

E. Ensure everyone leaving prison receives at least nine months of supervision.

F. Require nonviolent offenders to serve 100-120% of their minimum sentence.
Focus community-based supervision resources on high risk offenders.

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

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

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.

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.
• Reinvest correctional savings to expand availability of effective addiction and mental health treatment programs.

• Use rapid drug screening technology to enable probation and parole officers to conduct random drug use tests.

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

- Require people in prison to be released to parole supervision at least 9 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.
• 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.
Impact of Policy Framework

Note: The “Baseline projection” is from the Center for Public Policy Studies projection (March 2009) based on the Office of Energy and Planning population forecast. The “Baseline w/DCC Impact” assumes the Division of Community of Corrections reduces parole revocations to prison by 10 percent. The “Impact of Policy Options” projection applies conservative assumptions about the impact of the policy options presented in this report to the baseline w/DCC impact projection.
Outcomes

1. Reduce prison population by 646 from baseline projection by FY2015
2. Reinvest 50% of savings in treatment & supervision
3. Reduce revocations from parole by 40% & probation by 20% by FY2015
Thank You

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