

Approaches to Reducing Recidivism: Model State Survey

Prepared for

The Sentencing Structure, Policy and Practices Committee of the
Connecticut Sentencing Commission

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Introduction

The Sentencing Structure, Policy and Practices Committee of the Connecticut Sentencing Commission asked the Criminal Justice Clinic at Yale Law School to explore how other states have approached the problem of recidivism. Specifically, the Committee asked the clinic to provide examples of how other states have successfully restructured their post-release supervision systems to reduce recidivism rates.

STATE SELECTION

This report details recent reforms aimed at reducing recidivism in Michigan, Missouri, New Hampshire and Oregon. The goal of the report is to provide some insight into the process of reforms in these states and to highlight commonalities in reform between the states.

The clinic chose to focus on reforms in Michigan, Missouri and Oregon because of their success in reducing recidivism rates. All three states were profiled as model states in the 2011 Council of State Governments' (Pew) report on recidivism, "State of Recidivism: The Revolving Door of America's Prisons."¹ Oregon led the country with a 31.9% decline in recidivism between 2002 and 2007. During approximately the same period of time (2002-2010), Michigan closed more than 20 correctional facilities and saw a 10% decline in recidivism rates. Missouri also saw a nearly 10% decline in recidivism rates between 2002-2010, due to newly enacted reforms.

On the other hand, we have included New Hampshire as an example of failed promise in reform efforts. Political partisanship in New Hampshire led to the almost immediate dismantling of reforms passed by the legislature. The New Hampshire experience highlights the importance of widespread and consistent political support for reform.

¹ The Pew Center, *State of Recidivism: The Revolving Door of America's Prisons* (April 2011), at 20, available at <http://www.pewstates.org/research/reports/state-of-recidivism-85899377338>.

NATIONAL INSTITUTE OF CORRECTIONS—TRANSITION FROM PRISON TO COMMUNITY MODEL

Three of the chosen states, Michigan, Missouri and Oregon, were pilot states in the National Institute of Corrections (NIC) Transition from Prison to Community Model (TPC). The implementation of the NIC agenda differs from state to state. Michigan, for example, channeled reforms through the Department of Corrections (DOC), while Missouri facilitated reforms through executive orders, independent committee recommendations, and leadership by the DOC. Although the implementation methods have varied, the focus of NIC reforms nationwide is to create more effective and collaborative reentry processes.

NIC recommendations focus on: the development of interdisciplinary and collaborative leadership teams; the involvement of non-correctional stakeholders including non-profits; the provision of basic survival resources (i.e. identification documents, appropriate medications, linkages to community services); the use of newly developed offender assessment tools; the expansion of pre-release programming; and the implementation of individualized, data-driven supervision strategies.

In 2002, NIC choose eight states for its pilot implementation program: Missouri, Georgia, Michigan, Rhode Island, Indiana, Oregon, New York, and North Dakota. Each of the eight states received extensive technical assistance from NIC and adopted similar evidence-based reforms.

BUREAU OF JUSTICE ASSISTANCE- JUSTICE REINVESTMENT INITIATIVE

Two of our chosen states, Michigan and Missouri, were part of the Bureau of Justice Assistance (BJA) Justice Reinvestment Initiative (JRI). In order to address recidivism, Congress initiated the Justice Reinvestment Initiative in 2010. It is administered by the Bureau of Justice Assistance (at the U.S. Department of Justice) and partially funded by independent organizations such as the Pew Center on the States. The program focuses on implementing data-driven approaches that reduce criminal justice spending. The JRI process begins by establishing a small, high-level, inter-branch, bicameral, and bipartisan working group of elected and appointed officials to work with nationally-recognized criminal justice policy experts. Together, these policymakers, technical assistance providers, and stakeholders work intensively over a two to three year period to analyze data, develop policy options, adopt new policies, implement new policies and put reinvestment strategies into place.

The BJA has provided, or funded, similar assistance efforts in more than a dozen states.² In order to be selected to receive BJA support, states must contact the Bureau of Justice Assistance (BJA) in the Office of Justice Programs, U.S. Department of Justice and express interest in being part of the program. This initiates a vetting process.

Guiding Principles

The four states highlighted in this memo adopted reforms based on a number of common themes. While it is impossible to claim that any one reform has independently reduced recidivism rates, we have identified a number of reforms that were used in all of the states to successfully reduce recidivism. These include:

- Collaboration between state and local governments and non-profit organizations.
- The creation of research-based evaluation tools that guide service provision.
- An emphasis on an institutional “reach-in” process, which begins the reentry program before release from incarceration through: partnerships with reentry organizations; transfer of inmates to facilities in their own communities before release; and the administration of research-based assessments aimed at identifying individual needs.
- Statewide commitments to decreasing parole revocations—both formally and informally.
- A combination of administrative, legislative and executive reforms. (New Hampshire, which adopted only legislative reforms, is included in this memo as a cautionary tale.)
- The use of “short and certain” sanctions as a form of administrative punishment and an alternative to long-term re-incarceration.
- The development and implementation of alternative sanctions to revocation.
- Increased flexibility for parole/probation officers in determining appropriate sanctions for parole/probation violations.

² Other states that have participated in the program include: Nevada, Arizona, Kansas, Oklahoma, Texas, Hawaii, Wisconsin, Indiana, Ohio, West Virginia, North Carolina, Pennsylvania, Vermont, Rhode Island, New Hampshire.

Michigan

HISTORY OF REFORM

Michigan was one of the first eight states chosen by the National Institute of Corrections (NIC) as a test state for its Transition from Prison to Community Model. This NIC initiative proposes a guide for state corrections departments to assist in creating more effective and restorative reentry processes. The Michigan Prisoner ReEntry Initiative (MPRI) was the product of this partnership between Michigan and the NIC.

According to the Michigan Department of Corrections, the MPRI “was born out of crisis.”³ Before the MPRI launched in 2004, Michigan’s prisons were over capacity and recidivism rates were not improving. Today, Michigan’s recidivism rate is down, as is its prison population. Between 2004 and 2011, Michigan closed 21 correctional facilities.⁴ Michigan’s recidivism rate had so vastly improved between 2000 and 2010 that it was featured in the Pew Center’s report “State of Recidivism: The Revolving Door of America’s Prisons”⁵ as a success story.

Data suggests that Michigan had tremendous success with the MPRI. Before 2003, one in two parolees returned to prison within three years.⁶ That number was down to one in three in 2010. In 2010, the rate of parolees returning to prison, either for new crimes or technical violations, was at its lowest level since record-keeping began.⁷ Parolees released through the MPRI were returning to prison 33 percent less frequently than similar offenders who did not participate in the program.⁸ By 2011, the prison population had fallen by 12 percent,⁹ as had Michigan’s spending on prisons.¹⁰ Michigan

³ Michigan Prisoner ReEntry Initiative, 2010 Progress Report at 4, *available at* http://www.michigan.gov/documents/corrections/MPRI_2010_Progress_Report_343664_7.pdf.

⁴ Elizabeth Dwoskin, *Michigan Let’s Prisoners Go—And Saves a Bundle*, Bloomberg BusinessWeek Magazine, Dec. 1, 2011, *available at* <http://www.businessweek.com/magazine/michigan-lets-prisoners-goand-saves-a-bundle-12012011.html>.

⁵The Pew Center, *State of Recidivism: The Revolving Door of America’s Prisons* (April 2011), *available at*

http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/sentencing_and_corrections/State_Recidivism_Revolving_Door_America_Prisons%20.pdf.

⁶ Progress Report, *supra* note 3, at 15.

⁷ *Id.* at 15.

⁸ Pew Center, *supra* note 5, at 21.

⁹ *Id.* at 20.

paroled roughly 3,000 more prisoners in 2009 than it did in 2006.¹¹ Yet, between 2006 and 2009, rates of both serious and violent crime fell.¹²

We should note, however, that Michigan's approach to reentry changed in 2011, when Rick Snyder became governor. The MPRI no longer formally exists; instead there is a reentry program called "prisoner reentry," which retains much of the MPRI's basic structure.¹³ It is unclear what substantive changes occurred as a result of this shift, but it was accompanied by a number of significant developments. These include the reopening of at least two correctional facilities in Michigan¹⁴ and a change in the structure of the parole board.¹⁵

We only discovered that "prisoner reentry" had replaced MPRI through phone calls with Michigan's DOC. Little about the modification has been made public. Stuart Freidman, a criminal defense attorney in Michigan who specializes in appellate and post-conviction services, says that a philosophical shift underlies these changes.¹⁶ Specifically Mr. Freidman says that the Snyder administration has been cutting back on reentry services, limiting access to parole, and instead reinvesting in prisons.¹⁷ Whether these changes will affect Michigan's recidivism rate remains to be seen.

PAROLE PRACTICES

In Michigan, all offenders are eligible for parole other than those convicted of tampering with medicine or devices that result in the death of two or more people, first-degree criminal sexual conduct as an adult with a minor under the age of 13, and placing explosives with intent to terrorize if it results in death.¹⁸ According to Ross Marlan, an administrator in the Executive Bureau of Department of Corrections, "very few people" go from "jail to street."¹⁹ Not all those who are paroled, however, go through the special

¹⁰ Progress Report, *supra* note 3, at 15.

¹¹ Pew Center, *supra* note 5, at 21.

¹² Progress Report, *supra* note 3, at 15.

¹³ Phone conversation between Tamar Lerer and Melissa Rice, Offender Reentry Unit, Michigan Department of Corrections, Feb. 13, 2013.

¹⁴ See e.g., *Closed State Prison to Reopen in Detroit*, THE ASSOCIATED PRESS (Apr. 13, 2013); Rina Miller, *Muskegon Prison Reopens; Set to Employ 240*, MICHIGAN RADIO (Oct. 8, 2012) available at <http://www.michiganradio.org/post/muskegon-prison-reopens-set-employ-240>.

¹⁵ Michigan Department of Corrections, Parole from Past to Present, http://www.michigan.gov/corrections/0,4551,7-119-1435_11601-61290--,00.html.

¹⁶ Telephone conversation between Tamar Lerer and Stuart Friedman, Feb. 28, 2013.

¹⁷ *Id.*

¹⁸ Mich. Comp. Laws Ann. §§ 750.207, 791.234 (West).

¹⁹ Telephone conversation between Tamar Lerer and Ross Marlan, Administrator at the Executive Bureau of the Michigan Department of Corrections, Feb. 7, 2013.

reentry program; the parole board designates prisoners deemed to be at high risk for entry into the program.²⁰ It is also possible for an offender to be referred to the program later if it becomes clear that he or she needs the services it provides.²¹

REFORMS

THE CREATION OF THE MPRI

The Michigan Department of Corrections (MDOC) administered both the MPRI and its current incarnation (prisoner reentry). No legislation or executive orders were required to create either program. Between 2005-2011, the MPRI had the support of the governor's office, which issued executive orders to assist in its implementation.²² The MPRI also had the support of other government actors, such as the police and prosecutors.²³ For example, in Detroit, the police department collaborated with the MPRI through information sessions with parolees, community information forums, and community service programs conducted by parolees.²⁴ Further, the legislature had supported the MPRI by providing appropriations specifically for the program.²⁵

PRISONERS' REENTRY PROGRAM

The following description of Michigan's current reentry model is taken from materials regarding the MPRI as well as conversations with three administrators in the MDOC: Amanda Elliott, Reentry Specialist in the Michigan Department of Corrections, Ross Marlan, Administrator at the Executive Bureau of the Michigan Department of Corrections, and Melissa Rice, Offender Reentry Unit, Michigan Department of Corrections. It is possible that some of the information is not entirely accurate due to shifts in the transition from the MPRI to prisoner reentry, but the three administrators

²⁰ Conversation with Rice, *supra* note 13. Rice could not estimate the number of prisoners that are in the program; she said it fluctuates based on the population's needs. According to Rice, those offenders who get paroled without the program have a parole agent verify home placement, a 30-day supply of medicine, and are sent home. All offenders have Transition Accountability Plans (TAPs) in order to determine if they are in need of the program. TAPs are explained in the text corresponding to notes 26-29, *infra*.

²¹ *Id.*

²² See e.g., Executive Order No. 2008-18 (executive order directing establishment of Michigan Prisoner ReEntry Council), available at <http://www.michigan.gov/granholm/0,4587,7-168-21975-196467--,00.html>.

²³ Progress Report, *supra* note 3, at 10-11.

²⁴ *Id.* at 2.

²⁵ See e.g., 2007 Mich. Pub. Act. 124 (appropriations for MDOC accounting for MPRI), available at <http://www.legislature.mi.gov/documents/2007-2008/publicact/pdf/2007-PA-0124.pdf>.

indicated that the core of the program, including the Transition Accountability Plan and in-reach process, is the same.

The prisoner reentry program (like the MPRI before it) focuses on ensuring that all prisoners who are both eligible for parole and at high risk of reoffending are assigned a period of community supervision after their incarceration.²⁶ To this end, as with other NIC model states, the reentry program is built around each parolee's Transition Accountability Plan (TAP). The TAP "specifies programs, treatments, and interventions that will enable the prisoner to succeed in returning home and reintegrating into the community."²⁷ The TAP is a physical document, much like a social worker's case plan,²⁸ that is edited at each of the three phases of reentry described below, beginning with incarceration. In this way, the program's "involvement in the correctional process and in an offender's life begins when the offender is first sentenced to prison, continues until their target release date, and extends until the offender has been released from prison on parole."²⁹

Phase 1: Getting ready. This phase begins when the offender enters prison for the first time. During this first phase, prison staff members use an assessment and classification tool called the Correction Offender Management Profiling for Alternative Sanctions (COMPAS)³⁰ to measure each prisoner's risks, needs, strengths, and weaknesses.³¹ The COMPAS is a dynamic risk assessment instrument that consists of 130 questions, designed to measure a prisoner's risk of recidivism and violence.³² The prison staff creates the TAP based on this assessment and input from the prisoner.

Phase 2: Going home. Approximately eight weeks prior to release, each offender is transferred to the facility nearest his home community, as identified by the inmate him

²⁶ Michigan Prisoner ReEntry Initiative, *The MPRI Model: Policy Statements and Recommendations* (Jan. 2006), available at http://www.michigan.gov/documents/THE_MPRI_MODEL_1005_140262_7.pdf.

²⁷ Tamela Aikins, Michigan Prisoner ReEntry Initiative, available at <http://www.dcjp.com/ReEntry.pdf>.

²⁸ Telephone conversation between Tamar Lerer and Amanda Elliott, Reentry Specialist in the Michigan Department of Corrections, Feb. 7, 2013.

²⁹ Michelle Lynn Corwin, *The Michigan Prisoner Reentry Initiative: An Examination of a Statewide Reentry Program* (2008) at 25.

³⁰ COMPAS is a product of a company called Northpointe. For more information on Northpointe see their website at <http://www.northpointeinc.com/>.

³¹ Corwin, *supra* note 29 .

³² Conversation with Marlan, *supra* note 19. Marlan distinguished COMPAS from a static risk assessment instrument, which focuses on events that have already occurred. The use of a static instrument prevents a prisoner from demonstrating that any progress s/he had made has mitigated his/her risk of recidivism or violence.

or herself.³³ Another assessment tool, the COMPAS Re-Entry,³⁴ is used to identify the risks the offender poses as well as the offender's needs.³⁵ The TAP is then updated to reflect these needs, such as substance abuse treatment, housing, obtaining a form of identification, and family reunification.³⁶ The TAP also specifies the conditions and level of supervision the prisoner will receive when released.³⁷

The reassessment and the transfer closer to the offender's home community facilitate the "in-reach process." During this process, people who work in the offender's home community, including service specialists and case managers, come into the prison to establish relationships between the offender and those who can help him in the community.³⁸ One of those people is a parole agent from the county to which the offender is going to return.³⁹ The parole agent and MDOC staff develop a plan to meet the needs identified in the TAP, including setting up appointments for when the offender is released, so he or she has a concrete agenda upon returning to the community.⁴⁰

Phase 3: Staying Home. The parolee, the parole officer, and community service providers work together to ensure that the parolee successfully completes his term of community supervision. The parole agent is the lead case manager, but the agent works closely with other service providers.⁴¹ Two different groups of people provide services for people who are part of the reentry program: private contractors and volunteers.⁴² Each reentry program site has funding from MDOC's budget to provide services for their area.⁴³ In each region a steering team oversees each site, but MDOC oversees the entire program and has ultimate control over any decisions a site may make.⁴⁴ MDOC also works collaboratively with other government agencies to further successful reentry. For instance, MDOC is currently working with Michigan's Department of Military and Veterans Affairs to coordinate care for those veterans on probation or parole.⁴⁵

³³ Corwin, *supra* note 29, at 26; conversation with Marlan, *supra* note 32.

³⁴ See <http://www.northpointeinc.com/products/compas-re-entry>.

³⁵ Conversation with Elliott, *supra* note 28.

³⁶ *Id.*

³⁷ Aikins, *supra* note 29.

³⁸ Conversation with Marlan, *supra* note 19. For those who cannot be moved close to their home communities, members of community videoconference with the offender.

³⁹ Conversation with Elliott, *supra* note 28.

⁴⁰ *Id.*

⁴¹ Conversation with Rice, *supra* note 13.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ Conversation with Elliott, *supra* note 28.

The parolee and the community service providers also prepare together for the period after parole. The goal is to establish a “continuum of care that includes mentoring, development of positive social networks, and constructive community involvement,”⁴⁶ even once parole has ended and MDOC is no longer involved.

CHANGES TO PAROLE REVOCATION

MDOC has also unofficially changed the way it views parole revocation. Ross Marlan, an administrator in the MDOC’s Executive Bureau, noted that there was an “internal policy decision” to revoke parole less often.⁴⁷ He explained that in order to revoke parole less often but still have an arsenal of appropriate sanctions and treatment, MDOC has funded alternative sanctions and residential reentry centers, which are short-term, intense programs.⁴⁸ Amanda Elliott, a reentry specialist in MDOC, agreed and said that there has been “a culture change” at MDOC and its partner organizations, in “responding to violations by using sanctions, graduating sanctions, positive reinforcement” instead of by revoking an offender’s parole.⁴⁹ Because the policy is unofficial it is not possible to tell what specific changes are happening and what effects they have had on recidivism.

CONCLUSION

Many departments within the Michigan government, as well as many stakeholders within the community, backed the MPRI. Nevertheless, the MPRI was administered through the MDOC and did not require the passing of any legislation. Mr. Marlan, an MDOC administrator, called the MPRI “self-funded.”⁵⁰ by paroling more offenders, the prison population decreased, which provided funding for the MPRI.⁵¹

It is notable that Michigan managed to reduce its recidivism dramatically between 2000 and 2010 even though almost all offenders, including violent offenders, are eligible for parole. Mr. Marlan explained that the MDOC reached an understanding with the Michigan legislature that if they save \$30 million by closing prisons, MDOC would be “allowed” to keep \$10 million (in the next appropriations bill) and the legislature would “keep” the other \$20 million. In this way, the legislature had no incentive to interfere with MDOC’s plans to revamp parole.

⁴⁶ Aikins, *supra* note 27.

⁴⁷ Conversation with Marlan, *supra* note 19.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ Conversation with Marlan, *supra* note 19.

⁵¹ *Id.*

It is not clear how similar the current prisoner reentry program is to the MPRI and if it has similar support. The three MDOC administrators told us that the core of the program has remained unchanged. Nonetheless, Attorney Friedman indicated that MDOC is spending less money on its reentry program and associated services, such as drug treatment.⁵²

⁵² Conversation with Friedman, *supra* note 16.

Missouri

HISTORY OF REFORM

In the early 2000s, Missouri faced the same dilemma that states across the country were facing—increasing prison populations⁵³ and decreasing budgetary resources.⁵⁴ Not only did Missouri have sky rocketing rates of incarceration but it also led the country in recidivism rates.⁵⁵ In early 2002, the governor’s office and the General Assembly both announced their intentions to address mass incarceration and high recidivism.⁵⁶

The contours of reform in Missouri were largely dictated by the state’s participation in the National Institute of Correction’s (NIC) Transition from Prison to Community Model, as well as by the policy recommendations provided by the Justice Reinvestment Initiative (JRI). Missouri’s involvement as a test state for NIC resulted in administrative reforms empowered by a 2005 Executive Order. The reforms focused on more individualized and data-based approaches to supervision and re-entry strategies. Concurrently, JRI recommendations have resulted in a series of legislative reforms meant to decrease the prison population by allowing early release on parole or probation for low level offenders and limiting the number of people re-incarcerated for parole and probation violations. Over the last ten years, these reforms have resulted in a more than 10% drop in recidivism rates—from 46% to 36%.⁵⁷

⁵³ In 1995, approximately 19,000 inmates were incarcerated in Missouri and by the end of 2001, this number increased to roughly 29,000. Missouri’s incarceration rate was 358 per 100,000 residents in 1995; however, by 2001 this number increased to 509, representing the eighth highest in the nation. See Missouri Working Group on Sentencing and Corrections, *Missouri Working Group on Sentencing and Corrections Consensus Report* (December 2011), at 1, available at <http://www.senate.mo.gov/12info/comm/special/MWSC-Report.pdf>.

⁵⁴ This growth in the prison population produced an even greater spike in state corrections spending. From 1990 to 2009, spending on corrections increased 249 percent. During the past decade, general fund spending on corrections increased 39 percent while overall state general funds spending increased by 14 percent. By fiscal year 2011, the Department of Corrections budget had grown to more than \$660 million. See Missouri Working Group on Sentencing and Corrections, *Missouri Working Group on Sentencing and Corrections Consensus Report* (December 2011), at 1, available at <http://www.senate.mo.gov/12info/comm/special/MWSC-Report.pdf>.

⁵⁵ According to the PEW State of Recidivism Report the recidivism rate in Missouri was 54% in 2004—the third highest among the states. See The Pew Center, *State of Recidivism: The Revolving Door of America’s Prisons* (April 2011), at 23, available at <http://www.pewstates.org/research/reports/state-of-recidivism-85899377338>.

⁵⁶ *Id.*

⁵⁷ *Id.*

PAROLE PRACTICES

Missouri has a number of offenses punishable with a sentence of life without the possibility of parole. For instance, persons convicted of first-degree homicide,⁵⁸ witness tampering,⁵⁹ child molestation in the first degree, domestic assault in the first degree,⁶⁰ drug trafficking offenses, discharge of a firearm and persistent sexual offender⁶¹ are not eligible for parole.⁶² Moreover, the Parole Board has discretion to essentially transform a “life sentence” into a “life without the possibility of parole sentence” by refusing to set a minimum parole date for certain kinds of offenses.⁶³

Many of the programs addressed in this memo are not available to those who are incarcerated for certain serious crimes. Most programs, particularly those that were legislatively initiated, have eligibility restrictions. Programs with restrictions on eligibility include a number of post and pre-release programs such as: the shock incarceration program, the long-term, court-ordered substance abuse program, and the institutional treatment centers. Each of these programs is closed to people convicted of murder and certain crimes involving sexual abuse.⁶⁴

However, many of the NIC reform initiatives—including the institution of Transitional Housing Units (THUs) and Transition Accountability Plans (TAPs)—are available to all those eligible for state supervision, no matter the nature of the conviction.⁶⁵

Most post-release programs are dependent on the formerly incarcerated person being on parole or probation. However, some of the pre-release programs are available to

⁵⁸ Mo. Ann. Stat. § 565.020 (West).

⁵⁹ Mo. Ann. Stat. § 575.270 (West).

⁶⁰ Mo. Ann. Stat. § 565.063 (West).

⁶¹ Mo. Ann. Stat. § 558.018 (West).

⁶² Mo. Ann. Stat. § 217.690 (West).

⁶³ According to the Parole Board, Rules and Regulations Governing Parole: “For offenders serving multiple life sentences or other sentences concurrent or consecutive to a life sentence the Board may, due to the nature and length of the sentence, determine not to set a minimum eligibility date.” See Department of Corrections and Board of Probation and Parole, *Procedures Governing the Granting of Paroles and Conditional Release* (April 2009), available at <http://doc.mo.gov/Documents/prob/Blue%20Book.pdf>.

⁶⁴ Missouri Reentry Process, *Report to the Governor* (2011), available at <http://doc.mo.gov/Documents/mrp/GovReport2011.pdf>.

⁶⁵ Missouri Department of Corrections, available at: <http://www.doc.missouri.gov/>.

those who are not under state supervision.⁶⁶

REFORMS

INTERAGENCY NIC REFORM INITIATIVES

In 2002, Missouri was the first of eight states chosen by the National Institute of Corrections (NIC) as a test state for the Transition from Prison to Community Model (TPC).

Missouri implemented NIC-inspired reforms through the creation of a specialized committee—empowered by an executive order and led by former Director of Corrections, Gary Kempker. Missouri was the first state to implement the NIC reentry model in 2002 and renamed it the Missouri Reentry Process (MRP). In 2005, Governor Matt Blunt signed Executive Order 05-33, which entrenched and expanded the MRP by establishing a permanent interagency MRP Steering Team. The order defined the Steering Team’s role as “integrat[ing] successful offender reentry principles and practices in state agencies and communities resulting in partnerships that enhance offender self-sufficiency, reduce re-incarceration, and improve public safety.”⁶⁷

In addition to the MRP Steering Committee, the governor established a Cabinet Level Leadership group. The Cabinet Level Leadership group was created as a working group and it has spearheaded much of the work of the MRP. Eight state agencies have collaborated in the MRP process.⁶⁸ The membership of the Cabinet Level Leadership group includes top-level staff from the aforementioned state agencies as well as representatives from private service providers and community members. Local community representatives include law enforcement officers, members of the faith-based community, crime victims, and service/treatment providers.

The MRP Cabinet Level Leadership group, under the directives of the MRP Steering Committee, began its work with extensive research aimed at discovering what was driving Missouri’s inmate populations and recidivism rates. The MRP group found

⁶⁶ Missouri Reentry Process, *Report to the Governor* (2011), available at <http://doc.mo.gov/Documents/mrp/GovReport2011.pdf>

⁶⁷ Executive Order 05-33, September 21st, 2005. Executive Order 09-16, March 26th, 2009, reauthorized this order in 2009.

⁶⁸ These agencies include: The Departments of Corrections, Social Services, Mental Health, Revenue, Health and Senior Services, Economic Development, Elementary and Secondary Education, and the office of the State Courts Administrators, along with representatives from the community.

that the primary contributor to the rise in prison population was an increase in the number of parole and probation violators behind bars.⁶⁹ As part of its initial research, the group identified factors that are highly correlated with successful transition. The factors that the Team identified included: substance abuse, medical and mental health, transportation, education, employment, housing, family, and information sharing. The group focused on addressing these risk factors because data suggested that when these factors were addressed by a comprehensive case management plan, recidivism rates declined.⁷⁰

The MRP model was based on a philosophy of state and local collaboration. Fundamental to the reforms has been the acknowledgement that “multiple state and local agencies not associated with an offenders’ arrest, prosecution or incarceration will be called upon to provide services.”⁷¹

In addition to a number of successful local initiatives⁷² the MRP Steering Committee launched two major statewide reforms:

- 1) Transitional Housing Units (THUs): THUs are special units inside the correctional facility where people are housed for the last 180 days of their incarceration. During this period, the DOC provides programs such as employability/life skills training, cognitive skills training, parenting training,

⁶⁹ Accounting for nearly three-quarters of admissions (71 percent), revocations are a major driver of Missouri’s prison population. This hasn’t always been the case: In 1990, 55 percent of Missouri’s admissions were for revocations of probation and parole. Nearly two-thirds of this 16 percentage-point increase is the result of an increase in probation revocations. Missouri Working Group on Sentencing and Corrections Consensus Report, December 2011 at 4.

⁷⁰ Missouri Reentry Process, *Report to the Governor* (2011), at 2, available at <http://doc.mo.gov/Documents/mrp/GovReport2011.pdf>.

⁷¹ Missouri Department of Corrections, *Missouri Reentry Process and Women’s Program Fact Sheet* (October 2004), at 1, available at <http://bcom-felons.wikispaces.com/file/view/Missouri+Reentry+Fact+Sheet.pdf>.

⁷² In its 2010 Report to the Governor, the MRP Steering Committee listed a number of accomplishments: 1) The DOC, in collaboration with the Department of Social Services and the Department of Mental Health has expanded the pre-release Medicaid application process; 2) The DOC formed a partnership with the Missouri Veterans Commission and the Department of Veterans Affairs to ensure incarcerated veterans are aware of veteran benefits and are able to receive assistance for a successful transition into the community; 3) DOC, in partnership with the Department of Revenue are assisting offenders in obtaining state identification prior to release--- this has made obtaining employment, benefits and housing easier; 4) Missouri prisons have instituted kiosks in all institutions, which allow offenders to access information about jobs; 5) DOC has supported local faith based initiatives such as the Innerchange Freedom Initiative in order to provide faith-based reentry to those who choose to participate---this program includes a connection to the faith based community prior to release which entails mentoring, case management and reentry services; 6) The DOC issued \$3 million dollars from the Intervention Fee Funds in 2010 to local community organizations that provide reentry services. Missouri Reentry Process, *Report to the Governor*, 2010 at 9.

substance abuse education, long-distance visits programs, and training on the impact of crime. Faith-based organizations and other community based organizations provide additional resources including mental health assistance and personal identification assistance.

- 2) The Transition Accountability Plans (TAP): TAPs in Missouri start after a prisoner is sentenced. Upon being placed in DOC custody each convicted person receives a detailed individualized plan that identifies key community and institutional mentors and assigns them to the convicted person's case management team. Over the period of incarceration, the prisoners, their families, DOC staff and community organizations work together to address past issues and to address possible problems upon reentry. The plan is modified, as goals are met. Missouri parole and probation staff undergoes continuous training to implement the TAP program.

In addition to increasing case management, recently-released people in Missouri are subject to “e-driven supervision.” This is a model derived largely from Virginia, which “uses a new risk assessment tool to categorize parolees and help set supervision levels.”⁷³ The major components of “e-driven supervision” include: the Field Risk Reduction Instrument (FRRI), the increased role of probation officers, an initial assessment phase, and motivational interviewing.⁷⁴ The FRRI uses data from the DOC offender management system to calculate the likely benefit in reduced recidivism from community supervision strategies and community treatment programs. The assessment, which is based on pre-release interviews and personal data, also determines the appropriate supervision level.⁷⁵

In addition to evidence-based diagnostics, “e-driven supervision” has expanded the role of probation and parole officers. Notably, when violations do occur, parole and probation officers have more discretion in determining the appropriate sanction—ranging from verbal reprimand, modification of conditions, electronic monitoring, to residential drug treatment or “shock time” in jail. “E-driven supervision” also relies on an extensive initial assessment phase. During this phase DOC employees and others involved in the case plan set levels of supervision and develop a personal probation plan for the soon to be released person.

⁷³ The Pew Center, *State of Recidivism: The Revolving Door of America's Prisons* (April 2011), at 23, available at <http://www.pewstates.org/research/reports/state-of-recidivism-85899377338>.

⁷⁴ National Center for State Courts, *Evidence-Based Practice to Reduce Recidivism* (August 2007), available at <http://static.nicic.gov/Library/023358.pdf>.

⁷⁵ Missouri Department of Corrections, *Strategic Plan Fiscal Year 2012-2014* (August 2012), available at http://doc.mo.gov/Documents/publications/FY2012_2014StrategicPlan.pdf.

DOC employees have also been trained in “motivational interviewing.” Motivational interviewing is a style of interviewing which is person-centered, directive and non-confrontational. It attempts to identify an individual’s personal strengths and the discrepancies between stated values and behaviors.

JRI-INSPIRED LEGISLATIVE REFORMS

In 2009, state leaders created the Missouri Working Group on Sentencing and Corrections—which ultimately led to a series of legislative reforms focused on decreasing incarceration costs. The Working Group conducted extensive analysis of state data and trends. In 2011, a bi-partisan group of political and legal leaders in Missouri requested technical assistance from the Public Safety Performance Project of the Pew Center on the States and the Bureau of Justice Assistance, as part of the Justice Reinvestment Initiative (JRI).

Missouri was selected to participate in a collaborative, research-based reform project with the JRI. The Working Group on Sentencing, in collaboration with Bureau of Justice Assistance (BJA) and Pew researchers, agreed on a package of reforms meant to decrease prison populations and lower supervision costs. These goals have been reached by creating data-based supervision which targets high-risk formerly incarcerated persons and creates more efficient supervision practices and programs.

According to the Missouri Working Group, the JRI-recommended package is estimated to reduce Missouri’s prison population by between 245 to 677 inmates by 2017, at a savings of between \$7.7 and \$16.6 million. The Working Group recommended that \$4 million of those savings be directed to swift and certain sanctions at the local level, such as an immediate 48-hour jail term for technical violations or a 120-day shock prison sentence, ordered by a judge, for more serious violations. Additionally, a portion of the remaining savings is to be reinvested in evidence-based practices.⁷⁶

As part of the recommended reforms, Missouri legislators passed Bill HB 1525 in 2012. The law provides for earned-time credit for certain low-level offenders who comply with the terms of their parole or probation.⁷⁷ For that select group they will have

⁷⁶ Missouri Working Group on Sentencing and Corrections, *Missouri Working Group on Sentencing and Corrections Consensus Report* (December 2011), at 1, available at <http://www.senate.mo.gov/12info/comm/special/MWSC-Report.pdf>.

⁷⁷ According to statute the court determines the conditions of probation. However, in practice they seem to be similar to the conditions of parole. The conditions of parole were revised by the

one month subtracted from their sentence for every month they serve. The legislation also imposes swift and certain sanctions for violations of community supervision, including the suggested 48-hour jail hold and the “shock jail” time. Additionally, the legislation provides for a cap on the amount of time that low-level offenders may serve for technical violations of parole or probation.⁷⁸ The bill had wide support, including a vote of confidence from the Department of Corrections and the Missouri Association of Prosecuting Attorneys.⁷⁹

The newly passed bill only applies to people convicted of lower-level felonies. Under the law, “[o]nly certain offenders of Class C and D felonies or drug crimes who are not on lifetime supervision may earn...credits...[and] the court may limit eligibility for offenders of certain felonies.”

The fiscal note from the bill predicts that its reforms will result in 218 fewer prisoners (and \$702,000 in savings) by 2015. As of 2011, there were a total of 73, 248 people on parole or probation.⁸⁰ In this light, the estimated 218-person reduction in prisoners seems relatively small. But the fiscal impact may be significant, as the Pew study projected as much as \$12.6 million in savings by 2017. However, funds paid to local jails for the 48-hour holds have to be subtracted from the total savings.

The results of this legislation are not yet clear as it was recently enacted.

CONCLUSION

Missouri was also profiled as a success story in the 2011 Pew Report on recidivism. According to the Pew report the impact of Missouri’s changes in policy and practice has been dramatic and swift. Since 2004, the recidivism rate has dropped steadily

Board of Probation and Parole in May of 2012 and include restrictions on travel without a travel permit, residency and association, as well as bans on illegal drugs, weapons and illegal activity. The new rules also mandate that the recently released person complete a supervision strategy, be employed and report to a parole officer. DEPARTMENT OF CORRECTIONS, BOARD OF PROBATION AND PAROLE, MBPP-258 RULES AND REGULATIONS GOVERNING THE CONDITIONS OF PROBATION, PAROLE AND CONDITIONAL RELEASE (2012).

⁷⁸ DEPARTMENT OF CORRECTIONS, BOARD OF PROBATION AND PAROLE, MBPP-258 RULES AND REGULATIONS GOVERNING THE CONDITIONS OF PROBATION, PAROLE AND CONDITIONAL RELEASE (2012).

⁷⁹ *Nixon Signs Changes to Missouri Sentencing Laws*, CBSLocal St. Louis, July 7, 2012, available at <http://stlouis.cbslocal.com/2012/07/07/nixon-signs-changes-to-missouri-sentencing-laws/>.

⁸⁰ As of 2011 there were 54,588 people on probation and 18,660 people on parole. MISSOURI DEPARTMENT OF CORRECTIONS, ANNUAL REPORT (2011).

and is now down more than 10%—going from 46% to 36%.⁸¹

In addition to overall improvements in general recidivism rates, Missouri has tested its specific reforms with positive results. Notably, a study instigated by the MRP Steering Team found that in the last five years, offenders who received services in a Transitional Housing Unit for five months or more, had 8-10% lower recidivism rates. These rates were measured two years from release.⁸²

⁸¹ The Pew Center, *State of Recidivism: The Revolving Door of America's Prisons* (April 2011), at 23, available at <http://www.pewstates.org/research/reports/state-of-recidivism-85899377338>.

⁸² Missouri Reentry Process, *Report to the Governor* (2011), at 2, available at <http://doc.mo.gov/Documents/mrp/GovReport2011.pdf>.

Oregon

HISTORY OF REFORMS

Pew has also highlighted Oregon as a national example of effective reentry reform strategies. In Pew's 2011 report, *State of Recidivism: The Revolving Door of America's Prisons*, Oregon recorded the lowest overall recidivism rate between 2002 and 2007. Oregon also had one of the largest drops in recidivism among the 41 states included in the study.⁸³

Oregon's commitment to recidivism reduction has been ongoing. It began in 1995 with a restructuring of the allocation of state funding with the goal of empowering local governments to create their own solutions to recidivism issues. Oregon's reforms continued with the 2003 passage of a bill mandating that all prevention, treatment and intervention programs be evidenced-based. Some of the key innovations resulting from these reforms include: the use of evidence-based programs for incarcerated people; the use of individual criminal risk factor assessments to drive correctional case planning; the targeting of in-prison treatment programs for medium to high-risk individuals; the funding of alternatives to incarceration including drug courts; the development of a new risk assessment model; an expansion of collaborative partnerships with corrections partners throughout the state; and the deployment of swift and certain administrative sanctions for violations.⁸⁴

This memo will address each of the major strategies developed by Oregon.

PAROLE PRACTICES

Oregon has a number of offenses that are punishable by a sentence of life without the possibility of parole. These include: murder, murder of a pregnant woman,⁸⁵ aggravated murder,⁸⁶ and some sexual abuse crimes.⁸⁷

⁸³ See The Pew Center, *State of Recidivism: The Revolving Door of America's Prisons* (April 2011), at 20, available at <http://www.pewstates.org/research/reports/state-of-recidivism-85899377338>.

⁸⁴ Justice Center The Council of State Governments, *States Report Reductions in Recidivism* (2012).

⁸⁵ Or. Rev. Stat. Ann. § 163.155 (West).

⁸⁶ Or. Rev. Stat. Ann. § 163.150 (West).

⁸⁷ Or. Rev. Stat. Ann. § 163.427 (West).

Oregon’s “life sentences,” which do not include the possibility of parole, can be converted to “life with parole” if an individual serves thirty years of his or her sentence. After thirty years the Board of Parole and Probation has the discretion to review the case and convert the sentence. Once a sentence is converted to “life with the possibility of parole,” the convicted person is released and supervised according to the rules of parole and probation. Oregon’s parole and probation systems do not allow for those convicted of serious crime to leave prison without some form of supervision.⁸⁸

REFORMS

LOCAL EMPOWERMENT

In 1995 the Oregon legislature amended the Oregon Community Corrections Act. The reforms funded state/local partnerships for community corrections and manifested a statewide shift to local leadership empowerment.⁸⁹ Pew and others have lauded the tenant of state/local partnerships as critical in piloting innovative responses to violations. The DOC insists that the local partnerships reinforce principles of local decision-making and local management, while increasing local flexibility. The partnerships are grounded in the belief that formerly incarcerated people are most likely to succeed if they are managed in their own communities.⁹⁰

Because in Oregon technical violations rarely result in incarceration, the hope was that local community corrections offices would create innovative and effective responses to managing violating behavior.

The 1995 reforms contained a number of significant changes and gave local governments more power and responsibility in sentencing and re-entry. The legislation:

- Mandated that the state provide incarceration for offenders sentenced to more than 12 months in prison. Counties, with state funding, became responsible for incarcerating offenders sentenced to prison terms of 12 months or less.

⁸⁸ Board of Pardons and Parole, *Parole Consideration and Eligibility* (2012), available at http://oldweb.pap.state.ga.us/parole_consideration.htm.

⁸⁹ The reforms resulted in revisions to a number of statutes including: Or. Rev. Stat. Ann. § 137.124 (West); Or. Rev. Stat. Ann. § 137.661(West); Or. Rev. Stat. Ann. § 423.570(West); Or. Rev. Stat. Ann. § 144.108 (West); Or. Rev. Stat. Ann. § 144.232 (West); Or. Rev. Stat. Ann. § 144.340 (West).

⁹⁰ Criminal Justice Commission, *Offender Reentry Programs Preliminary Evaluation* (2011), available at http://www.oregon.gov/CJC/docs/reentry_eval_final.pdf.

- Allowed counties to design and deliver a continuum of sanctions and services to fit the needs of the community and the offender. Locally-appointed supervisory authorities were given the ability to move offenders serving 12 months or less between incarceration and community sanction alternatives
- Began requiring counties to take responsibility for felony offenders on probation, parole, or post-prison supervision.
- Gave increased control to communities and local government in determining the sentences for substantive crimes (which result in prison terms of 12 months or less of incarceration), the conditions of release for parole or probation, and the decision to impose alternative sanctions in case of parole or probation violations.
- Allowed counties to withdraw from operating community corrections if the legislature provided funds at a rate below the baseline funding defined in statute.
- Established local public safety coordinating councils. These councils required the participation of local criminal justice system actors in allocating state funds provided for community corrections. These groups are also responsible for coordinating the local criminal justice system response to criminal behavior for both adults and juveniles.⁹¹

The shift in control from the state to local level has resulted in a number of local initiatives, many of which have spread throughout the state. Local governments focused on alternatives to incarceration.⁹² Two prominent success stories of alternatives to incarceration, which were developed at the local level, include drug courts and the establishment of administrative sanctions.

STATE LEGISLATIVE GUIDANCE

While Oregon has given local governments flexibility and control over recently-released populations, there have been a number of state-wide legislative initiatives that have guided local governments' methodology and aims. A 1997 law, for example, required that the reduction of criminal behavior must be a dominant performance measure when assessing the success of any criminal justice reform. The legislation required criminal justice agencies to collect, maintain, and share data in order to facilitate policies

⁹¹ Oregon Department of Corrections, Community Corrections, http://www.oregon.gov/DOC/CC/Pages/cc_in_oregon.aspx (last visited May 12, 2013).

⁹² Commission on Public Safety, Report to the Governor (December 2012), available at: <http://www.oregon.gov/CJC/Documents/CPS%202012/FinalCommissionReport12.17.12.pdf>.

based on the correlation between dispositions and future criminal conduct.⁹³ Oregon's Criminal Justice Commission also developed a "Public Safety Plan." Among its recommendations the Plan advocated for an "offender-based data system" that could track the accused and convicted through the system and allow for evidence based pre-trial and post sentencing and supervision decisions.⁹⁴ Responding to the recommendation, Oregon's Multnomah County deployed an electronic sentencing-support tool that displays for judges and advocates the recidivism outcomes of various dispositions for similarly situated inmates.⁹⁵

The state government has also used legislation to dictate the method and metrics of local reform. Namely, Oregon emphasizes the importance of cost-effective solutions premised on evidence-based data. In 2003, the Oregon legislature passed SB 267, which requires prevention, treatment, or intervention programs for reducing future criminal behavior in adults and juveniles to be evidence-based.⁹⁶ By 2005, 25% of funds spent by the Oregon Department of Corrections and several other agencies had to be allocated to evidence-based programs; by 2007, the amount increased to 50% and to 75% by 2009. Oregon seems to be the first state to statutorily require evidence-based programs for offenders.

SB 267 defines an "evidence-based program" as a "treatment or intervention program or services...that is intended to reduce the propensity of a person to commit crimes...incorporates significant and relevant practices based on scientifically based research...and is cost effective."⁹⁷

ADMINISTRATIVE SANCTIONS

An example of a successful local initiative that was later adopted throughout the state is the use of swift and certain administrative sanctions. Prior to the establishment of an administrative sanctions process, persons who violated their conditions of supervision were brought before a judge (if on probation) or the Parole Board (if on parole). The judge or Board then imposed a sentence or sanction in response to the violation, often

⁹³ 1997 Or. Laws Ch. 433 (HB 2229).

⁹⁴ Michael Marcus, *Justitia's Bandage: Blind Sentencing*, 1 International Journal of Punishment and Sentencing 25 (2005).

⁹⁵ *Id.*

⁹⁶ The Pew Center, *Arming the Court with Research: 10 Evidence-Based Sentencing Initiatives to Control Crime and Reduce Costs* (May 2009), available at http://www.colorado.gov/ccjdir/Resources/Resources/Ref/PEW_ArmingTheCourtWithResearch.pdf.

⁹⁷ 2003, Or. Laws Ch. 669.

including revocation. This process began to change when major criminal justice actors in Multnomah County collaborated on a new approach.

The county corrections director, a judge, the district attorney, and the defense bar developed a program they called Drug Reduction of Probationers, or DROP. This program was based on a swift and certain response when an offender had a positive urine test. The first positive test resulted in a 5-day jail sentence, a second positive test resulted in a 15-day jail sentence, and a third mandated 30 days in jail.⁹⁸ If the offender chose to appear before the judge rather than to accept the sanction, the judge, after a hearing, would impose a sentence that was at least as long as the mandated swift sanction.⁹⁹

This swift and certain administrative response was effective in reducing drug use. A review of the results of this successful experiment led in 1993 to the introduction of legislation that gave probation officers the authority to use administrative sanctions. The Parole Board already had this authority and in 1990, adopted administrative guidelines for its hearings officers to respond quickly to violations of parole. The success of the Board's initiative provided additional motivation to adopt a similar system for probationers. These swift and consistent administrative sanctions are now used throughout the state and have been credited, by Pew and others, as effective tools against recidivism.¹⁰⁰

COLLABORATIVE REENTRY PROGRAMS

Pew and Oregon government websites attribute “collaborative reentry programs” as a key to Oregon’s success. Collaborative reentry attempts to adopt a comprehensive approach to reentry, focuses on evidence-based practices, uses risk assessment, and emphasizes individualized assessments and service provisions both pre- and post-release.

One of the first, and most successful, examples of a collaborative reentry program is the Multnomah County Reentry Enhancement Coordination Program, or REC. REC is a specialized reentry initiative for high-risk individuals with substance abuse disorders.

⁹⁸ National Center for Justice Planning, *From Treatment to Savings: How Oregon is Addressing Recidivism* (2012), available at <http://ncjp.org/content/treatment-savings-how-oregon-addressing-recidivism>.

⁹⁹ *Id.*

¹⁰⁰ National Center for Justice Planning, *From Treatment to Savings: How Oregon is Addressing Recidivism* (2012), available at <http://ncjp.org/content/treatment-savings-how-oregon-addressing-recidivism>; The Pew Center, *State of Recidivism: The Revolving Door of America’s Prisons* (April 2011), at 20, available at <http://www.pewstates.org/research/reports/state-of-recidivism-85899377338>.

REC focuses its resources on those individuals who are most likely to recidivate as determined by a validated risk-assessment tool.¹⁰¹

The Multnomah REC program was designed to close gaps in services provided to those transitioning from prison to the community. The program targets individuals awaiting release who have sought substance abuse treatment while incarcerated and finds ways to help them continue their treatment and succeed through a comprehensive package of wrap-around services including: housing, substance abuse treatment, vocational rehabilitation, peer-to-peer mentoring, and more.

The REC program also developed an “institutional reach in” component, which is now being used throughout the state.¹⁰² As part of the institutional reach in, REC staff connects with inmates before they are released and works to establish ongoing relationships with potential clients. REC staff, many of whom are ex-offenders acting as peer-to-peer mentors, approach inmates and begin case planning before an inmate’s release. This “institutional reach in” culminates during reentry/discharge planning and during the initial weeks after release from a correctional facility.¹⁰³

The Multnomah REC program provides services and supervision for an average of 80 individuals at any given time and is an example of both cost sharing and public-private partnerships.¹⁰⁴ The core of this multi-disciplinary REC team is composed of two full-time probation/parole officers whose salaries are paid by the state, three substance abuse/mental health practitioners and five ex-offender mentors, who work closely with REC clients on a daily basis. The substance abuse/mental health practitioners, ex-offender mentors, vocational rehabilitation, and transitional housing are provided through partnerships with nonprofits, each of which is funded through a combination of county and state funds.¹⁰⁵

Using the in-house expertise of Oregon’s Statistical Analysis Center, the state conducted a preliminary two-year evaluation of the Multnomah County REC program as well as three similar reentry programs throughout the state. Between April 2009 and March 2011, the programs were evaluated on outcomes and cost-effectiveness. The

¹⁰¹ National Center for Justice Planning, *From Treatment to Savings: How Oregon is Addressing Recidivism* (2012), available at <http://ncjp.org/content/treatment-savings-how-oregon-addressing-recidivism>.

¹⁰² Criminal Justice Commission, *Offender Reentry Programs Preliminary Evaluation* (2011), available at http://www.oregon.gov/CJC/docs/reentry_eval_final.pdf.

¹⁰³ *Id.*

¹⁰⁴ National Center for Justice Planning, *From Treatment to Savings: How Oregon is Addressing Recidivism* (2012), available at <http://ncjp.org/content/treatment-savings-how-oregon-addressing-recidivism>.

¹⁰⁵ *Id.*

resulting report, *Offender Reentry Programs: Preliminary Evaluation*, found that the programs generated a 33 percent decrease in all new felony and misdemeanor arrests when compared to similar offenders matched by risk.¹⁰⁶ When looking at individuals receiving new charges, the programs showed a 27 percent drop for all charges collectively; when divided by type of charge, there was a 41 percent drop in misdemeanor charges and a 33 percent drop in felony charges.¹⁰⁷

Part of the perceived success of the REC is its cost effectiveness. Each dollar invested in these offender reentry programs generates \$6.73 in benefits—including avoided criminal justice costs to taxpayers and reduced victimization costs.¹⁰⁸ The Multnomah REC program served as a model, which was replicated in counties throughout the state. It also exemplifies the Oregon practice of starting reentry with in-prison treatment programs and services as well as the use of risk assessment to focus services on high-risk individuals.¹⁰⁹

CONCLUSION

Oregon's innovative locally-based reforms have been successful both in terms of lowering incarceration rates and recidivism rates. Not only does Oregon have one of the lowest overall recidivism rates, it also experienced one of the largest drops in recidivism among the 41 states included in the 2011 Pew study.¹¹⁰ In 2011, Oregon's recidivism rate was 22.8%, which is nearly half of the national average of 43.3%. Between 2002 and 2007, Oregon reported a drop of 11% in its recidivism rates.¹¹¹ Since 2002, Oregon has documented the largest drop in new crimes and the largest decrease in returns for technical violations. In Oregon, only 3.7% of formerly incarcerated people released in 2004 returned to prison for technical violations.¹¹²

¹⁰⁶ Criminal Justice Commission, *Offender Reentry Programs Preliminary Evaluation* (2011), available at http://www.oregon.gov/CJC/docs/reentry_eval_final.pdf.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ See The Pew Center, *State of Recidivism: The Revolving Door of America's Prisons* (April 2011), at 20, available at <http://www.pewstates.org/research/reports/state-of-recidivism-85899377338>.

¹¹¹ *Id.*

¹¹² *Id.*

New Hampshire

HISTORY OF REFORMS

In the summer of 2010, the New Hampshire legislature overhauled the state's parole policies with the passage of the Justice Reinvestment Act (the "Act"). This act was almost entirely based on the findings of a "bipartisan, bicameral, and inter-branch" Reinvestment Work Group established with the help of the Justice Reinvestment Initiative (JRI).¹¹³ Unfortunately, many of these changes were subsequently rolled back by new legislation passed a year after the Justice Reinvestment Act became law. The story of New Hampshire's attempt to reduce recidivism through legislative reform should serve as a cautionary tale.

PAROLE POLICIES

All offenders in New Hampshire are eligible for parole other than those convicted of: (1) first-degree murder; and (2) aggravated felonious sexual assault for the third time.¹¹⁴

REFORMS

THE WORK GROUP REPORT

In January 2010, the Reinvestment Work Group published a report ("the Report") recommending major changes to New Hampshire's criminal justice policy in order to reduce spending on corrections, increase public safety, and reduce recidivism.¹¹⁵ The report noted that even though New Hampshire's crime rate had been low and stable from 2000-2008, the prison population had increased 31 percent. In addition, spending on corrections had nearly doubled during that time period. These increases were largely a function of rising rates of technical violations by those on probation or parole, limited resources to sanction and treat people under community supervision, and inefficiencies in

¹¹³ Justice Center, *Justice Reinvestment in New Hampshire: Analyses and Policy Options to Reduce Spending on Corrections and Increase Public Safety* (Jan. 2010) at 1, available at http://www.nh.gov/nhdod/divisions/publicinformation/documents/012010_justice_rein_analyses.pdf.

¹¹⁴ N.H. Rev. Stat. Ann. §§ 632-A:10-a; 651-A:6, 7.

¹¹⁵ *Justice Reinvestment*, *supra* note 113.

the parole system (for example, keeping people in jail even after they completed 100 percent of their minimum sentences).¹¹⁶

Recidivism was a particularly troubling problem for the Work Group.¹¹⁷ Prison admissions for parole or probation revocations had increased from 2000-2009, even though the number of people sentenced to prison for committing a crime over that time period had not increased significantly.¹¹⁸ People revoked from parole supervision were the largest and fastest growing category of admissions to prison between 2000 and 2009.¹¹⁹ Further, in 2009, more than half of the state's prison admissions were people whose probation or parole supervision was revoked.¹²⁰ Due to these trends, the three-year reincarceration rate had increased from 40 percent for those released in 2003 to 51 percent for those released in 2005, well above the national average of 40 percent.¹²¹

RECOMMENDATIONS REGARDING RELEASE AND SUPERVISION

The Report contained a number of suggestions to combat these trends. Because the Work Group determined that a transition period is necessary for successful reentry, it recommended that everyone leaving prison receive at least nine months of post-release, community supervision.¹²² The Work Group also recommended that nonviolent, property, or drug offenders serve no more than 120 percent of their minimum possible sentence.¹²³ The drafters emphasized “that the same services [provided in prison] can be delivered in the community and have a much greater impact than if they were provided behind the walls.”¹²⁴

The Report also advocated focusing available supervision resources on those at greatest risk of recidivating. It suggested shortening the periods of community supervision for low- and medium-risk offenders so that resources could be focused on those most likely to reoffend.¹²⁵ The Report further proposed the use of “short, swift, and certain sanctions, including jail time.”¹²⁶ To that end, it recommended the establishment

¹¹⁶ *Id.*

¹¹⁷ More data on New Hampshire's recidivism rates can be found at its website:<http://www.nh.gov/nhdoc/divisions/publicinformation/index.html> (last visited Jan. 19, 2013).

¹¹⁸ *Justice Center, supra* note 113, at 4.

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.* at 5.

¹²² *Id.* at 14.

¹²³ *Id.* at 15.

¹²⁴ *Id.*

¹²⁵ *Id.* at 11.

¹²⁶ *Id.*

of an intermediate sanction program for parole violators, using a halfway house to create a one-week residential sanction in lieu of revocation.¹²⁷ For cases where revocation was necessary, the Report suggested designating a secure housing unit as a “parole revocation facility.”¹²⁸ Further, it recommended the expansion of mental health services available to those on community-based supervision.¹²⁹

LEGAL REFORMS

On June 30, 2010, New Hampshire’s governor signed¹³⁰ the Justice Reinvestment Act (JRA).¹³¹ The JRA included seven of the Report’s recommendations mentioned above. Namely, the JRA:

- (1) required probation and parole officers to actively supervise low- and medium-risk offenders on misdemeanor probation for no more than 9 months, felony probation for 12 months and parolees for 18 months;¹³²
- (2) mandated that any prisoner convicted of a nonviolent offense be released on parole after completing 120 percent of his or her minimum sentence;¹³³
- (3) provided for post-incarceration supervision of most offenders by requiring that all prisoners who had not been previously paroled or who were recommitted to prison more than one year prior to the expiration of their maximum sentences be released on parole at least 9 months prior to the expiration of their maximum sentences;¹³⁴
- (4) established an intermediate sanction program;¹³⁵
- (5) shortened the length of time a prisoner whose parole was revoked was compelled to stay in jail;¹³⁶
- (6) required that offenders who had their parole revoked be “housed separately in a prison housing unit that provides focused, evidence-based programming aimed at reengaging parolees in their parole plan.”¹³⁷

¹²⁷ *Id.* at 12.

¹²⁸ *Id.*

¹²⁹ *Id.* at 13.

¹³⁰ New Hampshire Charitable Foundation, Gov. Lynch Joins State Leaders, Law Enforcement in Signing Corrections Reforms Aimed at Strengthening Public Safety and Reducing Costs to Taxpayers (June 30, 2010), *available at* <http://www.nhcf.org/page.aspx?pid=874>.

¹³¹ 2009 Senate Bill 500. *Available at* <http://www.gencourt.state.nh.us/legislation/2010/SB0500.html>.

¹³² *Id.* at § 247:4.

¹³³ *Id.* at § 247:6.

¹³⁴ *Id.*

¹³⁵ *Id.* at § 247:8.

¹³⁶ *Id.* at § 247:10.

¹³⁷ *Id.*

REFORMS REPEALED

Almost immediately after the passage of the JRA, members of the legislature began to attempt to repeal it.¹³⁸ In July 2011, the JRA opponents succeeded when SB 52 was passed to “[p]rovide the parole board with greater discretion to recommit a person who reoffends while on mandatory early supervised release.”¹³⁹

This new law eliminates most of the reforms made by the JRA. The law overrode provision (2) above by making it permissive: the law gave the parole board the choice of whether to release a nonviolent offender who had served 120 percent of his minimum sentence. At the same time, the law added more offenses to the list of crimes that were disqualified from this release provision.¹⁴⁰ The new law also overrode provision (3) above by making the prisoner’s release nine months prior to termination of his maximum sentence permissive, at the discretion of the parole board, instead of mandatory.¹⁴¹ It overrode provision (5) above by allowing, at the discretion of the parole board, an offender whose parole was revoked to be recommitted for longer than 90 days.¹⁴² It overrode provision (6) above by eliminating separate housing for those whose parole was revoked.¹⁴³

In a telephone interview, Stephen Shurtleff, the Democratic Majority Leader of the New Hampshire House of Representatives, said that despite the JRA’s bipartisan support, “unfortunately, the Republican candidates made an election issue of it.”¹⁴⁴ After the Republicans won the majority in the legislature in the 2010 elections, they were able to undo large sections of what the Act had done. When asked what he learned from his experience with the JRA, he said that he still fully supported the bill and that the bill had support from stakeholders all over the state. He said further that the only thing he would change is its enactment date—he would have selected January 1 instead of September 1 to “get it past” state elections. There is currently a bill pending in the House of Representatives to try to reenact some of what the new law has undone.

¹³⁸ See e.g., 2011 NH HB 552 (introduced Jan. 6, 2011) entitled, “establishing a committee to study repealing the revisions to the law implemented by SB 500-FN of the 2010 legislative session.”

¹³⁹ 2011 NH SB 52, Amended Analysis.

¹⁴⁰ 2011 NH SB 52 at § 1. adding the phrase “unless the parole board votes to deny such release” to the previously mandatory parole language.

¹⁴¹ *Id.* at § 2, adding the phrase “unless the parole board votes to deny such release” to the previously mandatory parole language.

¹⁴² *Id.* at § 3.

¹⁴³ *Id.*

¹⁴⁴ Telephone conversation between Tamar Lerer and Stephen Shurtleff, February 7, 2013.

CONCLUSION

New Hampshire attempted to lower recidivism rates by passing the JRA; however, these changes were substantially overridden barely a year later. The legislative repeal of the JRA occurred despite the fact that that New Hampshire had gathered together a coalition that contained a wide range of stakeholders and politicians. It also occurred despite the fact that the policies that briefly became law were based on a thorough, evidence-based study made with the support of the Council of State Governments, the Pew Center, and the Bureau of Justice Statistics. Whatever changes that Connecticut hopes to make to its parole policies, it must be aware of the relevant political context in order to ensure that these changes become more permanent.