

Justice Reinvestment in Washington

Analysis and Policy Framework



JANUARY 2015

Overview

Washington has the highest reported property crime rate in the country.¹ In recent years, an increasing number of individuals convicted of property crimes have been sentenced to prison. People convicted of property offenses have a high likelihood of committing a new crime, yet Washington is the only state in the country where supervision is not available as a sentence for most people convicted of property offenses, despite the significant impact supervision can have on reducing the likelihood of reoffending. Washington's prison population is growing, in part, due to an increasing number of repeat property offenders being sentenced to prison for long lengths of stay.

Between FY2003 and FY2014, Washington's prison population increased 8 percent, from 16,138 to 17,502. The Washington Caseload Forecast Council currently projects the prison population to grow by an additional 6 percent over the next 10 years, to 18,542 by FY2024, exceeding the current capacity of the state's prisons of 17,423 by 6 percent. Expanding capacity to address the projected growth is estimated to cost the state approximately \$291 million in construction and operation costs over 7 years. Policymakers came together because ensuring public safety is a state priority, and they realized that simply building a new prison without reconsidering current policies would do little to alter the state's high property crime rate, impact prison population growth, or reduce recidivism.

Washington is viewed as a national leader in using research and evidence to drive criminal justice policy and practice. The Washington State Institute for Public Policy (WSIPP), which conducts practical, nonpartisan

Projected 6-Year Outcomes of Justice Reinvestment Policy Framework

Provide property offenders with supervision and, if needed, treatment

2,000
Property offenders newly eligible for supervision

Reduce property crime rate by 2021

15%

Avert prison construction and operations costs by 2021

Up To \$291 Million

Invest in law enforcement, supervision, treatment, and support for victims and counties by 2021

\$90 Million

research for the state legislature, provides the state with guidance in making informed decisions about investments in evidence-based programs that improve statewide outcomes, including reducing recidivism. Based on WSIPP's research, Washington has already modified supervision policies and practices to focus treatment and supervision resources on individuals with a high likelihood of reoffending.

Continuing the state's long-standing practice of employing evidence-based criminal justice policies and strategies, in early 2014, Washington Governor Jay Inslee, House Speaker Frank Chopp, Senate Majority Leader Rodney Tom, Senate Republican Leader Mark Schoesler, Chief Justice Barbara Madsen, and Washington Department of Corrections Secretary Bernard Warner requested technical assistance from the Council of State Governments (CSG) Justice Center to employ a data-driven "justice reinvestment" approach to reduce corrections spending and reinvest a portion of savings in strategies that can reduce recidivism and improve public safety. Assistance provided by the CSG Justice Center was made possible in partnership with The Pew Charitable Trusts and the U.S. Department of Justice's Bureau of Justice Assistance.

Governor Inslee's Executive Order 14-05, issued in June 2014, established the bipartisan, interbranch

Washington State Justice Reinvestment Taskforce to study Washington's criminal justice system. The Taskforce is co-chaired by Senator Jim Hargrove and Governor Inslee's General Counsel Nicholas Brown. The co-chairs and the Taskforce's members represent a diverse group of state and local leaders working in criminal justice. The group reviewed analyses that the CSG Justice Center conducted and discussed policy options to increase public safety and avert growth in the prison population.

In preparing its analyses, the CSG Justice Center reviewed a vast amount of data, drawing on information systems maintained by the Caseload Forecast Council, Washington Department of Corrections (DOC), Washington State Patrol (WSP), Washington State Courts, and others. In total, the CSG Justice Center analyzed over 16 million individual records across these information systems.

In addition to these quantitative analyses, the CSG Justice Center convened focus groups and meetings with prosecutors, victim advocates, superior court judges, county officials, and others. Between June 2014 and January 2015, the CSG Justice Center conducted approximately 70 in-person meetings with more than 180 individuals. Ultimately, the CSG Justice Center helped state leaders identify three challenges contributing to Washington's prison growth.

Since 2010, the U.S. Department of Justice's Bureau of Justice Assistance (BJA) has supported the Justice Reinvestment Initiative (JRI), which has assisted state and local governments as they generate cost-effective, evidence-based policies to produce meaningful cost savings for states while maintaining a focus on public safety. In a public-private partnership with The Pew Charitable Trusts, BJA provides technical assistance and financial support for these system-wide criminal justice reform efforts.

We at BJA are pleased to support the work in Washington State described in this report and culminating in the state's Justice Reinvestment Policy Framework, a pivotal achievement of the state's Justice Reinvestment Taskforce. We look forward to working with Washington stakeholders to adopt and implement the policy changes described in this report.



Denise E. O'Donnell,
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U.S. Department of Justice

Summary

CHALLENGE I. HIGH PROPERTY CRIME. Washington has consistently had one of the highest reported property crime rates in the country.

STRATEGY I. Reduce property crime and support victims of property crime

FINDINGS	POLICY OPTIONS
1. Washington has the highest reported property crime rate in the country.	A. Reinvest in law enforcement efforts to deter property crime.
2. Washington's Crime Victim Compensation Program does not provide victims with financial assistance for expenses associated with property crime.	B. Create a fund to provide financial assistance to victims of property crimes
3. Funding for victim notification programs for jails in three large counties is set to expire in 2016.	C. Ensure funding for county victim notification programs.

CHALLENGE II. LIMITED ACCOUNTABILITY. Washington's sentencing guidelines restrict the state's ability to utilize supervision and, if needed, treatment to hold individuals accountable for their offenses.

STRATEGY II. Hold people convicted of property offenses accountable with supervision and, if needed, treatment

FINDINGS	POLICY OPTIONS
4. In recent years, an increasing number of individuals convicted of property crimes have been sentenced to prison. Supervision paired with treatment, which can have a significant impact on reducing the likelihood of reoffending, is not available as a sentence for most people convicted of property offenses.	A. Adopt a new sentencing grid for felony property offenses that mandates a period of supervision and, if needed, treatment for people convicted of less serious property offenses. ²
5. Current policy sometimes results in the inflation of certain individuals' felony conviction histories to increase offender score and therefore the length of incarceration.	B. Calculate the offender score based on an individual's actual number of felony convictions.

CHALLENGE III. RECIDIVISM. Washington has insufficient resources to continue its efforts to strengthen supervision and reduce recidivism.

STRATEGY III. Reinvest to strengthen supervision policies and practices to reduce recidivism

FINDINGS	POLICY OPTIONS
6. Supervision practices in Washington are promising and the DOC continues to refine its approach to community supervision, but there is an opportunity to further strengthen the quality of supervision.	A. Reinvest in supervision and treatment and monitor the effectiveness of supervision and the state's progress in reducing property crime.
7. Pretrial detainees take up a significant portion of county jail space and a portion of these individuals will be rearrested upon release. Only a fraction of counties in Washington utilize risk assessments to inform decision making regarding pretrial release.	B. Incentivize counties to improve pretrial practices.

Washington State Justice Reinvestment Policy Framework

These challenges were presented to the Washington State Justice Reinvestment Taskforce. With help from the CSG Justice Center and input from stakeholders from across the criminal justice system, the Taskforce then developed a proposed policy framework to reduce property crime and support victims; hold people convicted of property offenses accountable with supervision and, when appropriate, treatment; and strengthen supervision and programs to reduce recidivism.

The policy framework addresses the state's high property crime rate by providing law enforcement grants to deter crime and supporting victims of property crime with financial assistance. To hold individuals more accountable, the policy framework creates a new sentencing grid for less serious property offenses that balances incarceration with periods of supervision and

treatment. The Taskforce emphasized that expanding supervision could only achieve success if the state invested in ensuring sufficient resources for community-based treatment and supervision for the additional individuals who would be supervised under the new sentencing grid. To reduce recidivism, the framework recommends expanding resources for supervision and treatment, as well as incentivizing counties to improve pretrial practices. To ensure that policy changes achieve their intended results, the policy framework recommends establishing an interbranch committee to monitor and evaluate policies, practices, and budgetary implications of the justice reinvestment policies.

With the exception of policy 2(B), the Taskforce agreed to support the policy framework and develop the policies into legislation to be considered by the legislature during the 2015 session. The Taskforce supported the legislature's consideration of policy 2(B) separately from the Justice Reinvestment Policy Framework.

GOALS:

Avert prison population growth, reduce recidivism, and increase public safety

1 Reduce property crime and support victims of property crime

- 1 (A): Reinvest in law enforcement efforts to deter property crime.
- 1 (B): Create a fund to provide financial assistance to victims of property crime.
- 1 (C): Ensure funding for county victim notification programs.

2 Hold people convicted of property offenses accountable with supervision and, if needed, treatment

- 2 (A): Adopt a new sentencing grid for felony property offenses that mandates a period of supervision and, if needed, treatment for people convicted of less serious property offenses.
- 2 (B): Calculate the offender score based on an individual's actual number of felony convictions.

3 Reinvest to strengthen supervision policies and practices to reduce recidivism

- 3 (A): Reinvest in supervision and treatment and create an oversight committee to monitor the effectiveness of supervision and the state's progress in reducing property crime.
- 3 (B): Incentivize counties to improve pretrial practices.

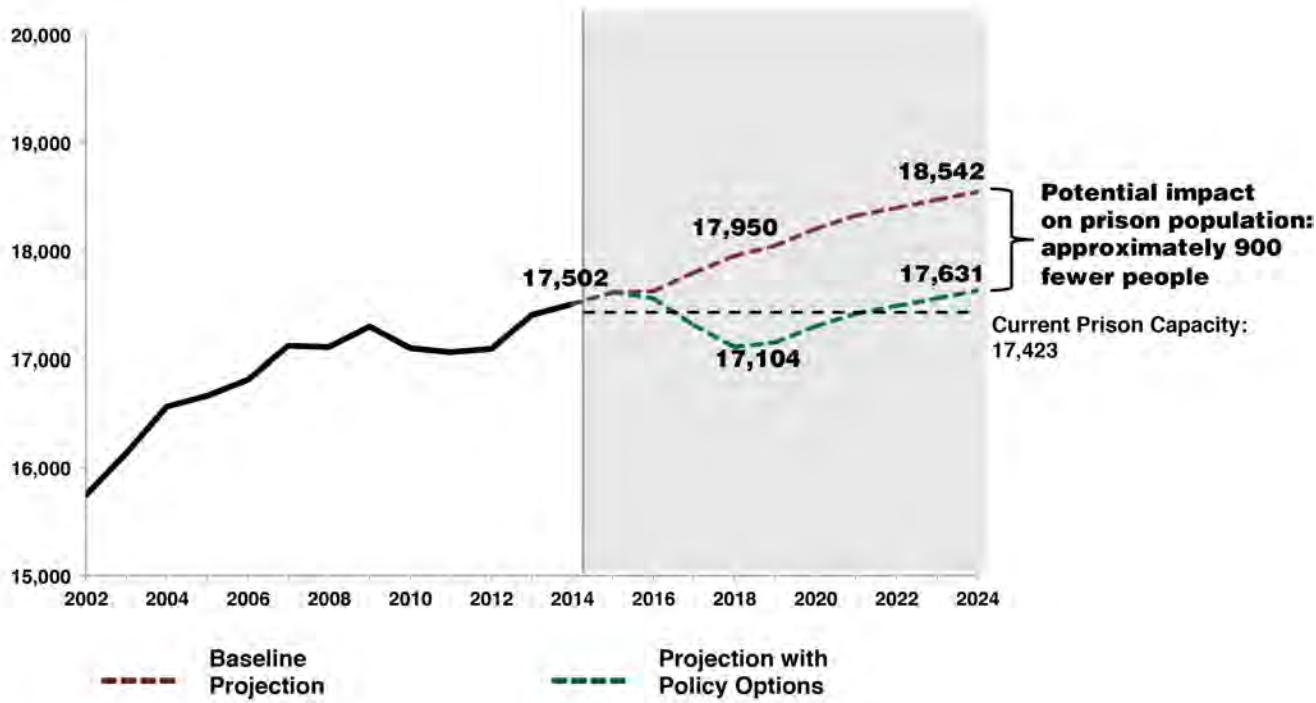
Projected Impact

As a package, the policies described in this report have the potential to avert significant costs and generate reductions in crime and recidivism for Washington. By averting the growth in the state prison population between FY2016 and FY2021, effective implementation of the policy framework will help the state avoid up to \$193 million in construction costs and \$98 million in operating costs that would otherwise be needed to accommodate the forecasted growth.³ While the Washington Caseload Forecast Council currently projects the prison population to grow from 17,502 to 18,542 by FY2024, the policy

framework is projected to mitigate the amount of growth by approximately 900 by FY2021.⁴ (See Figure 1) Even with the averted growth, by FY2024, the state's prisons are still projected to house approximately 100 more people than they do today. Adopting this framework would reduce prison growth by FY2024, however, it will not eliminate all future growth.

Through improvements to the criminal justice system, this policy framework establishes a goal of reducing the property crime rate by 15 percent by FY2021 by deterring crime and reducing recidivism.

FIGURE 1. PROJECTED IMPACT OF JUSTICE REINVESTMENT POLICY FRAMEWORK ON WASHINGTON'S PRISON POPULATION⁵



Reinvestment

To achieve these outcomes, a portion of the expected savings must be reinvested in law enforcement, supervision and treatment, assistance for victims, and support for counties. Cost savings and proposed levels

of reinvestment are based on projected impacts to the prison population as calculated by the CSG Justice Center in comparison to the Caseload Forecast Council's correctional population forecast, in consultation with the Washington DOC. (See Figure 2)

FIGURE 2. SUMMARY OF JUSTICE REINVESTMENT POLICY FRAMEWORK AVERTED COSTS AND REINVESTMENTS

	FY2016	FY2017	FY2018	FY2019	FY2020	FY2021	Total
Averted Costs							
Current Operating Costs Averted* (Based on reductions from current population)		\$2,392,904	\$4,883,977	\$4,319,498	\$2,515,617	\$1,043,061	\$15,155,057
New Construction Costs Averted	Up To \$4,700,000		Up To \$188,800,000				Up To \$193,500,000
New Operating Costs Averted	\$1,931,945	\$8,390,985	\$12,918,080	\$15,686,240	\$20,069,160	\$23,615,865	\$82,612,275
Total Averted Costs	Up To \$6,631,945	\$10,783,889	Up To \$206,602,057	\$20,005,738	\$22,584,777	\$24,658,926	Up To \$291,267,332
Reinvestments							
1a. Law Enforcement Property Crime Reduction Grants	\$2,000,000	\$2,000,000	\$4,000,000	\$4,000,000	\$4,000,000	\$4,000,000	\$20,000,000
1b. New Victim Compensation Benefit for Victims of Property Crime	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$400,000	\$2,400,000
1c. Victim Notification for King, Pierce, and Snohomish Counties	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$600,000
2a. Mandatory 12m Supervision for Property Offenders	\$353,481	\$7,303,365	\$11,368,392	\$11,704,769	\$11,761,782	\$11,790,288	\$54,282,077
2a. DOC Community Violator Bed Impact	\$59,736	\$1,314,190	\$2,031,021	\$2,090,757	\$2,120,624	\$2,120,624	\$9,736,952
3b. County Pretrial Improvement Grants	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$3,000,000
Total Reinvestment Costs	\$3,413,217	\$11,617,555	\$18,399,413	\$18,795,526	\$18,882,406	\$18,910,912	\$90,019,029
Net Savings		Up To \$2,385,062		Up To \$189,412,856			Up To \$201,248,303

* Current operating costs averted were calculated using the DOC's Average Unit Cost per day, while new operating costs averted were calculated using an estimated out-of-state contract cost per day provided by the DOC. This split calculation was used to distinguish between the cost of accommodating the projected growth in the prison population above the current average daily population and the cost of maintaining the current population.

CHALLENGE 1: HIGH PROPERTY CRIME. Washington has consistently had one of the highest reported property crime rates in the country.

Washington currently has the highest property crime rate in the country.

- In 2013, Washington had the highest reported property index crime rate in the country, with 3,710 reported property crimes per 100,000 residents, compared to the national rate of 2,730 per 100,000 residents.⁶
- Washington's property crime rate increased 1 percent from 2009 to 2013, compared to the 11-percent decline nationally.⁷
- The number of arrests compared to the number of reported property crimes remains low. (See Figure 3)

■ Washington's most populous counties are disproportionately affected by property crime, though it is prevalent statewide. In FY2013, King County, the state's most populous county, accounted for 29 percent of the state's resident population. In the same year, King County accounted for 33 percent of the state's reported property crime, 22 percent of felony arrests for property crime, and 13 percent of felony sentences for property crime. In FY2013, Spokane County, the state's fourth most populous county, accounted for 7 percent of the state's resident population, 11 percent of the state's reported property crime, 17 percent of felony arrests for property crime, and 9 percent of felony sentences for property crime.

FIGURE 3. REPORTED PROPERTY CRIMES AND ARRESTS, CY2009 AND CY2013⁸

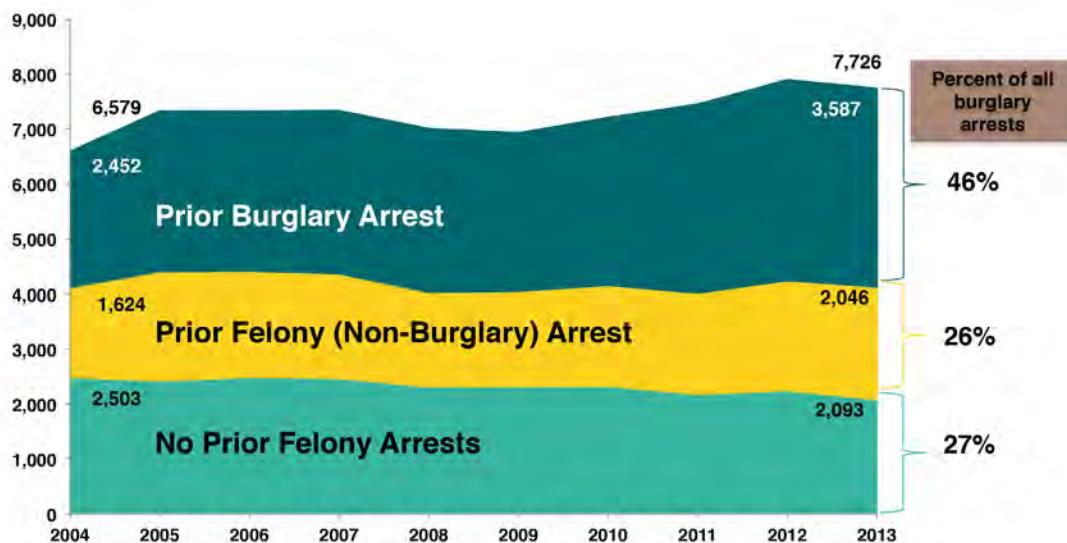
	2009	2013	Percent Change
Reported property crimes	245,215	258,662	+ 5%
Reported burglaries	53,047	58,353	+ 10%
Reported motor vehicle thefts	23,747	28,399	+ 20%
Arrests for property offenses	32,528	35,954	+11%
Arrests for burglaries	4,453	5,231	+ 17%
Arrests for motor vehicle thefts	1,204	1,232	+ 2%

A growing number of arrests for burglaries are of individuals with a prior burglary arrest.

- The number and proportion of burglary arrests of individuals who have a prior burglary arrest has

increased between FY2004 and FY2013, from 2,452, or 37 percent of all burglary arrests, to 3,587, or 46 percent.⁹ (See Figure 4)

FIGURE 4. NUMBER OF BURGLARY ARRESTS BY ARREST HISTORY, FY2004–FY2013¹⁰



The number of arrests made for property crimes is low compared to the number of property crimes reported.

- In CY2013, there were 258,662 reported property index crimes in Washington. In CY2013, there were 35,954 arrests for property index crimes. In FY2013, according to Washington's data, 16,171 individuals were arrested for felony property offenses.¹¹ (See Figure 5)

- Of the 16,171 individuals who were arrested for felony property offenses in FY2013, 68 percent had prior felony arrests.¹²
- To have a considerable impact on reducing the incidence of property crime, the state must utilize a strategy that combines efforts to deter crime, reduce recidivism, and incarcerate individuals. (See Box: A Comprehensive Strategy to Reduce Property Crime, page 9)

Analysis of Burglary Arrests

As part of Washington's justice reinvestment effort, the CSG Justice Center obtained over 30 years of arrest data from the Washington State Patrol (WSP), which houses the central repository for criminal history record information for the state of Washington. Information contained in this repository is submitted by local criminal justice agencies that are required by law to submit felony and gross misdemeanor arrest and disposition information to the WSP. The data provided to the CSG Justice Center, totaling just over 8.7 million records, allowed for the unprecedented analysis of prior criminal history for individuals arrested for burglary in FY2013. As a result of receiving access to this high-quality data, the Taskforce was able to see how many individuals arrested for burglary had previously been arrested for burglary or other felony offenses.

A Comprehensive Strategy to Reduce Property Crime

A comprehensive approach to reducing property crime must rely on a combination of law enforcement, recidivism reduction, and incarceration strategies. Each of these strategies can have varied impacts on the 258,662 property index crimes that were reported in CY2013.

Strategies to reduce recidivism, such as the use of supervision or substance use treatment and other programs, can contribute to lowering crime by reducing the risk of reoffending. Efforts to reduce recidivism as a strategy to reduce property crime, however, can at most impact only those who are already in the criminal justice system. In FY2013, of the 16,171 individuals who had been arrested for property offenses, 68 percent, or 11,000 individuals, had prior felony arrests and had therefore previously been involved with the criminal justice system. A crime reduction strategy that only promotes recidivism reduction might impact just these 11,000 individuals—a fraction of the number of people who committed the 258,662 reported property index crimes in Washington in 2013. (See Figure 5)

An even smaller number of individuals would be affected by employing policies solely focused on prolonging incarceration. Of the 16,171 individuals who were arrested for felony property offenses in FY2013, only 8 percent had been released from prison within the last two years. A crime reduction strategy that only relied on increasing incarceration time by two years might impact just these individuals.

Recidivism reduction and incarceration can have an impact on reducing property crime, but they cannot impact crimes that do not lead to an arrest or incarceration. Law enforcement strategies, however, have the potential to have the greatest and most immediate impact on property crime by preventing the occurrence of these crimes. To have the largest possible impact, the state must bolster strategies to deter criminal activity and reduce recidivism in addition to current incarceration strategies.

FIGURE 5. REPORTED PROPERTY CRIMES, ARRESTS, AND ARREST HISTORY, 2013¹³



Financial assistance is limited for the victims of property crime.

- Currently, the Crime Victim Compensation Program provides financial assistance to victims for expenses such as medical and dental treatment, wage loss, prescription coverage, mental health treatment, grief counseling, and funeral expenses.
- In Washington, victims can suffer significant financial losses as a result of property crime. Victim advocates reported that specific expenses incurred as a result of property crimes are not currently eligible for

financial assistance through the state's Crime Victim Compensation Program, despite the state having one of the highest property crime rates in the country.

- In FY2013, victim advocates in Washington provided 859 victims of property crime with essential services such as crisis intervention, legal advocacy, and support groups.¹⁴ Victim advocates report, however, that state resources to provide financial assistance to victims for expenses associated with property crimes are inadequate.

Funding for jail victim notification programs in three large counties is set to expire soon.

- The victim notification programs in King, Pierce, and Snohomish counties are funded by inmate phone fees in the counties' jails. The U.S. Federal Communications Commission recently capped jail phone fees to make costs more reasonable to

individuals in jails. As a result of these caps, jail victim notification programs in these counties stand to be discontinued by 2016 unless the counties find a new funding source.

Strategy 1: Reduce property crime and support victims of property crime

POLICY OPTIONS

1 (A) Reinvest in law enforcement efforts to deter property crime

- Reinvest \$4 million to establish a statewide competitive grant program that encourages law enforcement agencies to deploy data-driven strategies to reduce property crime at least 15 percent by FY2021.

- Direct grant funding to activities that reduce and deter property crime, including targeted policing strategies, the use of technology for crime prevention and problem solving, increased staffing, and improved crime analysis capabilities.
- Leverage federal funding to support crime deterrence efforts.

RATIONALE:

"Hot spots" policing, which increases police presence in high-crime areas, has been found by research to prevent crime.¹⁵ A 2013 WSIPP meta-analysis found that investing in additional police officers to execute a hot spots policing strategy could generate six to seven dollars of benefits per dollar of cost.¹⁶ (See Box: Place-Based Policing Strategies, page 11) Data-driven resource allocation through crime analysis models like intelligence-led policing can produce similarly positive results.¹⁷

In addition, the state should leverage federal funding to maximize the impact of efforts to deter property crime. The state should access federal funds that support state and local efforts to implement innovative and evidence-based criminal justice practices to enhance property crime deterrence strategies in local law enforcement agencies.

Place-Based Policing Strategies

In any given city, there are certain locations that account for a high proportion of crime and disorder. In a 2004 study of the concentration of crime in the City of Seattle, researchers found that between 4 and 5 percent of all street segments in Seattle accounted for about 50 percent of crime incident reports between 1989 and 2002.¹⁸ Hot spots policing enables local law enforcement agencies to strategically allocate scarce resources to impact crime. Increasing the visibility and number of patrols in these hot spots has been found to be an effective way to reduce criminal activity in such areas.¹⁹ In the United States, 7 in 10 departments with more than 100 sworn officers report using crime analysis and mapping to identify crime hot spots.²⁰

1 (B) Create a fund to provide financial assistance to victims of property crimes

- Create a fund to provide emergency financial assistance to victims for the following expenses related to property crimes: towing and impoundment fees to recover stolen motor vehicles; emergency housing for displaced

RATIONALE:

The Crime Victim Compensation Program was created to help victims with the many costs associated with being a victim of a violent crime. Victims can suffer substantial financial losses as a result of property crimes such as motor vehicle theft and burglary, yet expenses associated with property crimes are not eligible

victims; repair for physical damages to motor vehicles and housing; insurance deductibles; and court-filing fees for civil remedies.

for compensation. The creation of a fund to provide financial assistance to victims for expenses related to property crimes will enable the state to provide emergency financial aid to these victims, who are currently ineligible.

1 (C) Ensure funding for county victim notification programs

- Fund the victim notification programs for jails in King, Pierce, and Snohomish counties.

RATIONALE:

The victim notification programs in King, Pierce, and Snohomish counties were the first of their kind in the state, and as such, they have been operated and funded independently of the Statewide Automated Victim Information and Notification program that serves other counties throughout the state. These programs allow registered victims of crime to track custody status and

receive release notification regarding individuals in the jails in King, Pierce, and Snohomish counties. Funding for these three notification programs is slated to end by 2016, which would eliminate a key component of the safety net for victims of crime in these counties.

CHALLENGE 2: LIMITED ACCOUNTABILITY. Washington's sentencing guidelines restrict the state's ability to utilize supervision and, if needed, treatment to hold individuals accountable for their offenses.

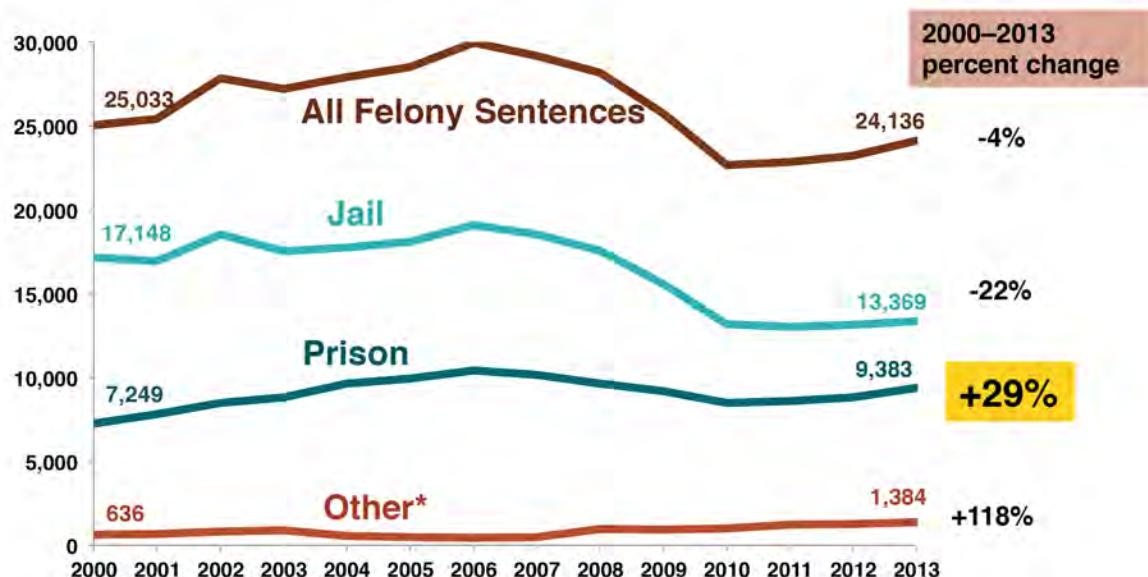
The number of sentences to prison for felony offenses has increased despite a decline in the overall number of felony sentences.

- Between FY2000 and FY2013, felony sentences overall declined 4 percent, yet felony sentences to prison

increased by 29 percent, from 7,249 in FY2000 to 9,383 in FY2013.²¹ (See Figure 6)

- Sentences to prison made up 29 percent of all felony sentences in FY2000 compared to 39 percent of all felony sentences in FY2013.²²

FIGURE 6. FELONY SENTENCES, FY2000–FY2013²³



*"Other" sentences include no confinement sentences such as the residential drug offender sentencing alternative (DOSA), which was enacted in 2005.

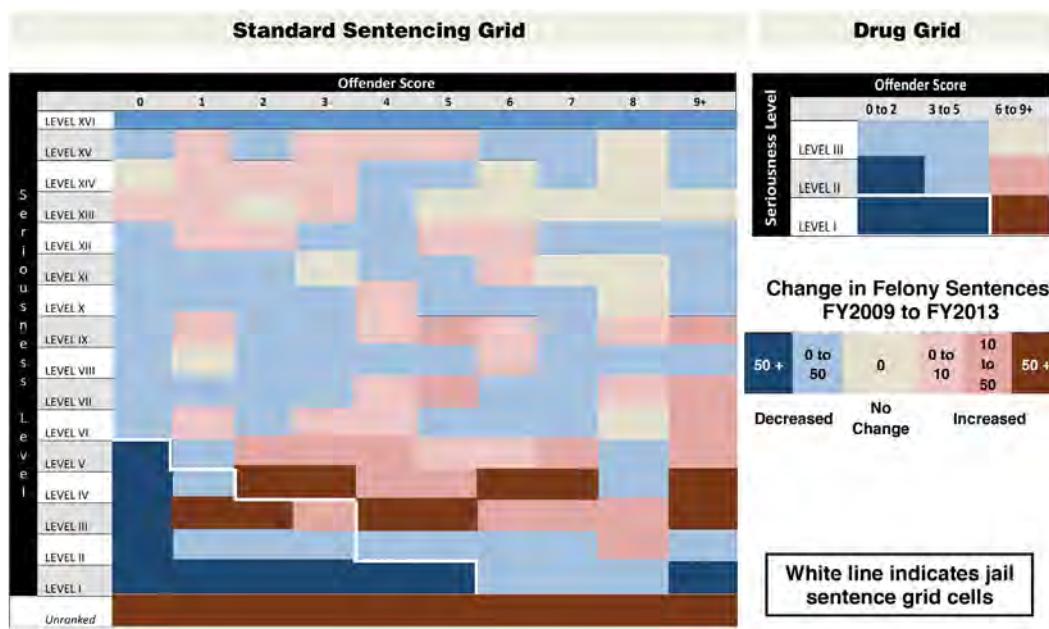
The number of sentences for less serious felony offenses, which account for the majority of all felony sentences, has increased.²⁴

- Between FY2009 and FY2013, the largest growth in the number of felony sentences occurred for Seriousness Levels III and IV in the standard grid

and Seriousness Level I of the drug sentencing grid.²⁵ (See Figure 7)

- In FY2013, there were 13,857 felony sentences for Seriousness Level I–IV offenses, accounting for 57 percent of all felony offenses.²⁶

FIGURE 7. CHANGE IN NUMBER OF FELONY SENTENCES BY SERIOUSNESS LEVEL AND OFFENDER SCORE, FY2009–FY2013²⁷

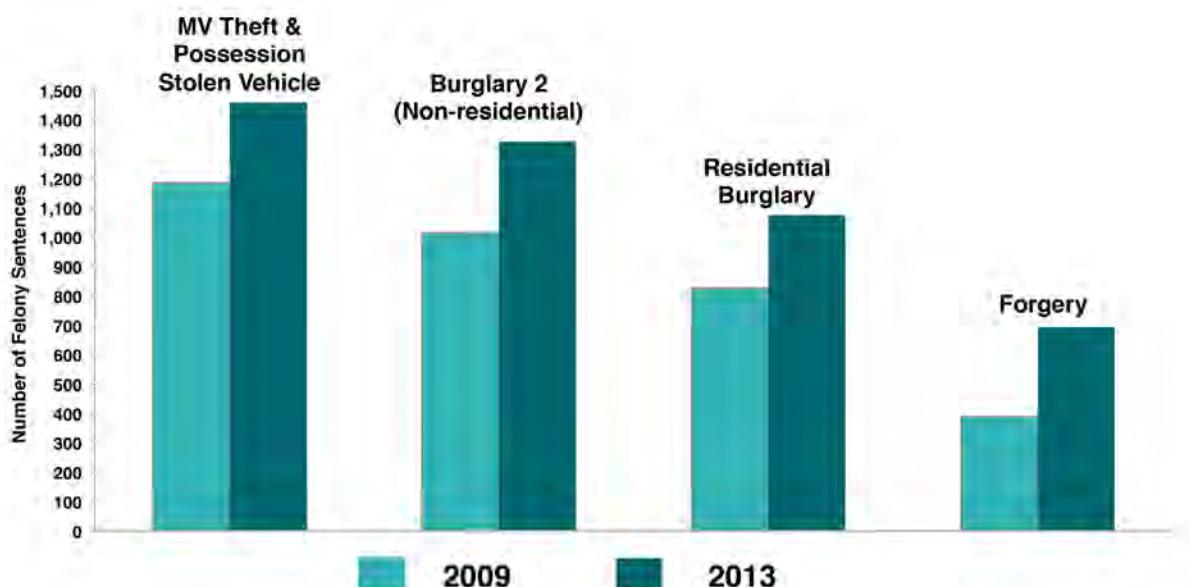


Among less serious felony property offenses, the number of sentences for burglary has increased significantly.

- Felony sentences for second-degree burglary, residential burglary, motor vehicle theft, and forgery increased between FY2009 and FY2013.²⁸ (See Figure 8)

- During the same period, the number of felony sentences for second-degree burglary increased by 31 percent and felony sentences for residential burglary increased by 30 percent.²⁹

FIGURE 8. PROPERTY OFFENSES WITH THE GREATEST INCREASE IN NUMBER OF FELONY SENTENCES, FY2009–FY2013³⁰



Washington's Sentencing Guidelines

In 1981, the Washington Legislature enacted the Sentencing Reform Act, which created the Sentencing Guidelines Commission to develop a structured sentencing system that would ensure that individuals who commit similar crimes and have similar criminal histories receive comparable sentences. In 1984, the state adopted the commission's sentencing guidelines, which eliminated parole release in favor of a determinate sentencing model that is based on fixed prison and jail terms. The guidelines provide the courts with sentencing ranges based on the seriousness of the offense and the individual's criminal record.

Washington is one of 21 states that use guidelines to help determine felony sentencing. In some states, these are suggested guidelines that judges use on a voluntary basis while others, including Washington, have presumptive guidelines, meaning that judges are required to adhere to the guidelines in sentencing.³¹

The Sentencing Grids

Washington's sentencing guidelines use two grids to help determine felony sentences—a standard sentencing grid and a drug sentencing grid. In 2002, the legislature enacted legislation to create a drug sentencing grid that is separate and distinct from the standard sentencing grid. In creating the drug sentencing grid, the legislature reduced the length of confinement and increased the use of community-based substance use treatment in an effort to reduce recidivism for these offenders. The drug sentencing grid became effective for drug offenses committed on or after July 1, 2003.

There are two factors that affect a felony sentence in both the standard sentencing grid and the drug sentencing grid: *seriousness level* and *offender score*.

The seriousness level of an offense is measured on the vertical axis of both the standard and the drug sentencing grids and is determined by the offense for which an individual was convicted. Non-drug offenses are categorized into 16 levels of seriousness, from less serious offenses (Level I) to more serious offenses (Level XVI). Offenses on the drug sentencing grid are categorized into three seriousness levels, from less serious offenses (Level I) to more serious offenses (Level III). (See Figure 9)

Offender score is measured on the horizontal axis of both grids, and is determined by taking into account an individual's prior adult felony convictions, prior juvenile felony dispositions, other current felony convictions, and an individual's community custody status when the current offense was committed. (See Figure 13 for an example of an offender score calculation) The lowest offender score is 0. There is no maximum limit on the offender score, but individuals who receive an offender score higher than 9 are subject to the same sentencing ranges as an individual with an offender score of 9.

All prior felony convictions are counted in an offender score unless they have been “washed out,” which happens when an individual spends a certain number of years in the community without a conviction, based on the type of offense for which he or she was convicted (categorized as offense classes A, B, and C). Prior Class C felony convictions—the least serious category of felony convictions—are not counted as part of the individual's criminal history if the individual has spent five consecutive years in the community without a new conviction. Prior Class B felony convictions are not counted if the individual has spent 10 consecutive years in the community without a new conviction. Prior Class A felony convictions—the most serious category—and prior felony sex convictions are always counted in the offender score.

Offender scores are calculated based on the type of offense of the current conviction, as different offenses can trigger different counting rules. The offender scoring process weights prior offenses that are similar to the current offense by double- or triple-counting these prior offenses. For example, offender scoring for a current second degree burglary offense assigns more weight to prior second degree burglary offenses, counting each of these prior offenses twice rather than once. (See Figure 13)

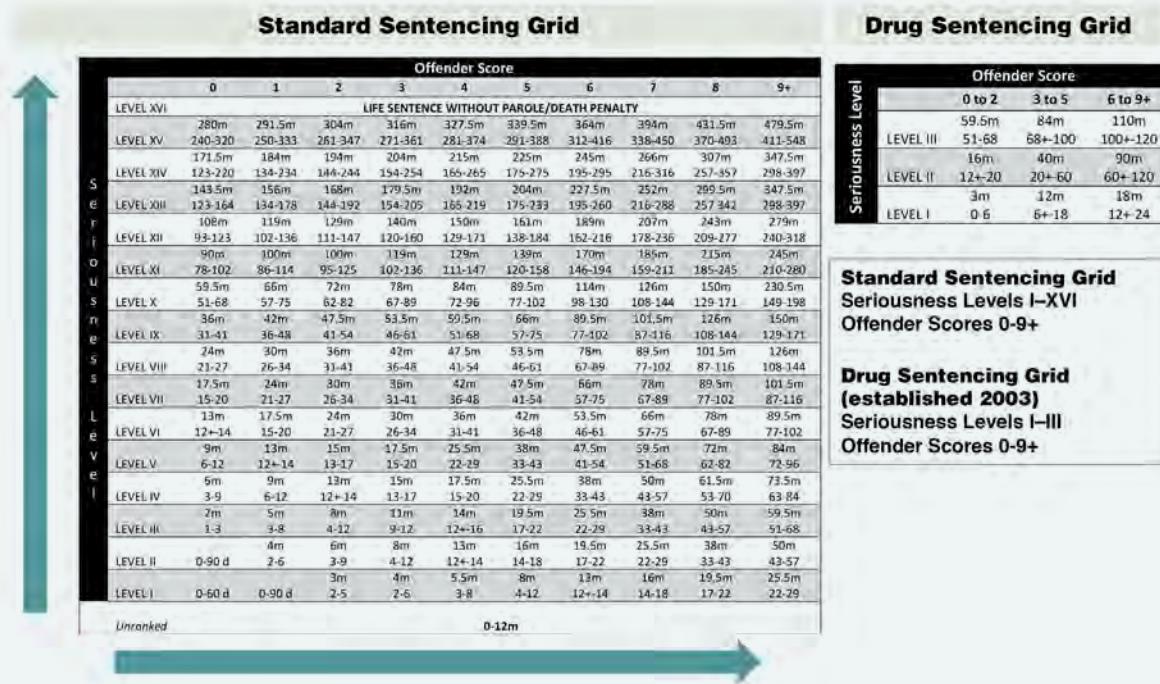
How Standard Felony Sentences Are Determined

Each cell on the sentencing grid is an intersection of the seriousness level row and the offender score column. Every cell contains two rows of numbers—the first row represents the midpoint of each sentencing range and the second contains a presumptive sentencing range in days or months. A judge may depart from the presumptive sentencing range in a cell if there is a finding of mitigating or aggravating circumstances, such as displaying an egregious lack of remorse.

How Sentences for Unranked Offenses Are Determined

Some unranked felony offenses are not included in the standard sentencing grid or the drug sentencing grid. The most common unranked felony offenses are anticipatory offenses such as attempted possession of drugs with intent to distribute. Sentences for unranked felonies can range from 0 to 12 months of confinement, community service, and/or community supervision.³²

FIGURE 9. WASHINGTON'S CURRENT STANDARD SENTENCING AND DRUG SENTENCING GRIDS 33

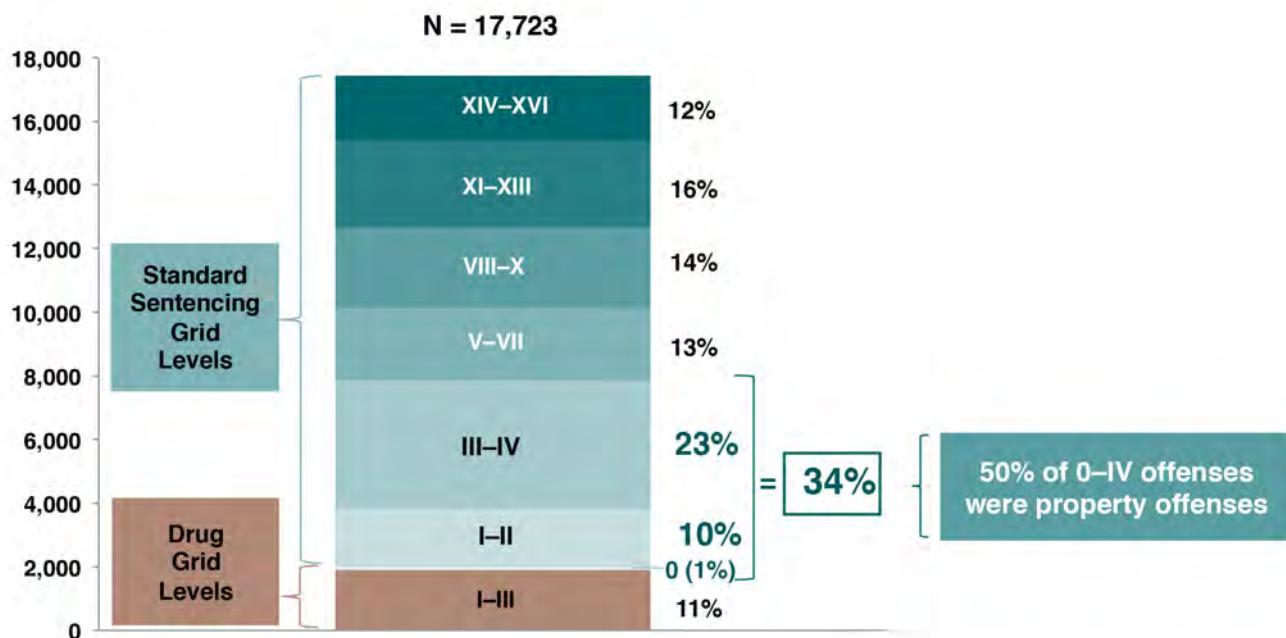


As felony sentences to prison have increased, a growing number of individuals are in prison for less serious property offenses.

- Between FY2009 and FY2013, prison admissions for individuals convicted of an offense in Seriousness Levels III and IV increased from 29 percent of all admissions to 34 percent of all admissions, from 2,315 to 2,730.³⁴

- In FY2013, 2,533 of Washington's 8,124 prison admissions were for property offenses, amounting to nearly one-third of total prison admissions.³⁵
- In FY2013, individuals convicted of an offense in Seriousness Levels I–IV accounted for 34 percent of the year-end prison population, and 50 percent of these individuals had been convicted of a property offense.³⁶ (See Figure 10)

FIGURE 10. YEAR-END PRISON POPULATION BY SERIOUSNESS LEVEL, FY2013³⁷



State sentencing guidelines restrict the use of supervision in lieu of incarceration.

- In order to impose a sentence to supervision in lieu of incarceration, a judge must utilize a legislatively authorized sentencing alternative, as the state's sentencing grids do not allow for a sentence of supervision in lieu of incarceration. (See Box: Supervision for Property Offenders, page 17)
- In FY2013, 39 percent of felony sentences in Washington were to prison and 49 percent of felony

sentences to jail. Only 10 percent of Washington's felony sentences were to supervision in lieu of incarceration.³⁸ (See Figure 11)

- In the most recent comparison of states by the Bureau of Justice Statistics, 41 percent of 2006 felony sentences nationally were to prison, 28 percent were to jail, and 27 percent to probation supervision.³⁹
- States such as North Carolina and Kansas utilized probation as a sentencing option for 34 percent and 69 percent, respectively, of felony sentences.⁴⁰

FIGURE 11. NATIONAL AND SELECT STATE PERCENTAGE OF SENTENCES TO PRISON, JAIL, AND SUPERVISION⁴¹



Supervision of Property Offenders

Few people convicted of property offenses in Washington receive supervision. Among people convicted of felony property offenses, only those who receive the following sentencing alternatives can receive a term of post-release supervision or supervision in lieu of incarceration.

Drug Offender Sentencing Alternative (DOSA) is a sentencing alternative for individuals convicted of felony offenses and identified as needing substance use treatment. The prison-based option of this alternative allows the court to waive the standard prison sentence required by the sentencing grids and impose instead a shorter term in prison, along with a term of post-release supervision and treatment. The residential option of this alternative allows the court to waive the standard sentence and impose a term of supervision and in-patient substance use treatment in lieu of prison.

First Time Offender Waiver is a sentencing alternative for individuals with no prior felony convictions. This alternative allows the court to waive the standard sentence and impose instead a sentence that includes up to 90 days in jail and a 6- or 12-month term of post-release supervision.

Family Offender Sentencing Alternative is a felony sentencing alternative for individuals with minor children. This alternative allows the court to impose a sentence of supervision and treatment in lieu of prison.

Washington's wide sentencing ranges can cause people convicted of the same offense to serve significantly different sentence lengths.

- Compared to other states with sentencing guidelines, Washington is both more lenient with people convicted of their first offense, who receive short sentences, and much harsher with people with significant criminal histories, who receive lengthy sentences.
- For example, for an individual convicted of second-degree burglary, the sentence can range from 1 month

in jail to 68 months in prison, depending on the individual's criminal history.

- In comparison, other states with sentencing guidelines, such as North Carolina, Kansas, and Minnesota, provide up to two years of probation as an option for people convicted of second-degree burglary who have limited criminal histories (approximately 0–3 prior felony convictions). People who have the most extensive criminal histories would receive prison sentences ranging from 30 to 36 months, which is about half of Washington's 68 months.⁴² (See Figure 12)

FIGURE 12. SENTENCING RANGE FOR SECOND-DEGREE BURGLARY IN WASHINGTON AND SELECT STATES WITH SENTENCING GUIDELINES⁴³

	First offense	Significant criminal history
Washington	1 month confinement	68 months confinement
North Carolina	10 months probation	30 months confinement
Kansas	12 months probation	32 months confinement
Minnesota	12 months probation	36 months confinement

The offender scoring mechanism results in different sentence lengths for individuals with similar criminal histories.

- Certain offenses, such as second-degree burglary, trigger double-counting of similar prior convictions when calculating the offender score, which can result in different sentence lengths for people with the same number of prior felony convictions.⁴⁴
- For example, an individual convicted of second-degree burglary who has 3 prior second-degree burglary convictions would be assigned 2 points for each prior burglary conviction, for a total offender score of 6 and a sentence range of 22–29 months. An individual convicted of second-degree burglary with no prior burglary convictions, but who had 3 prior felony drug or assault convictions, would receive just 1 point for each of these prior felony convictions and

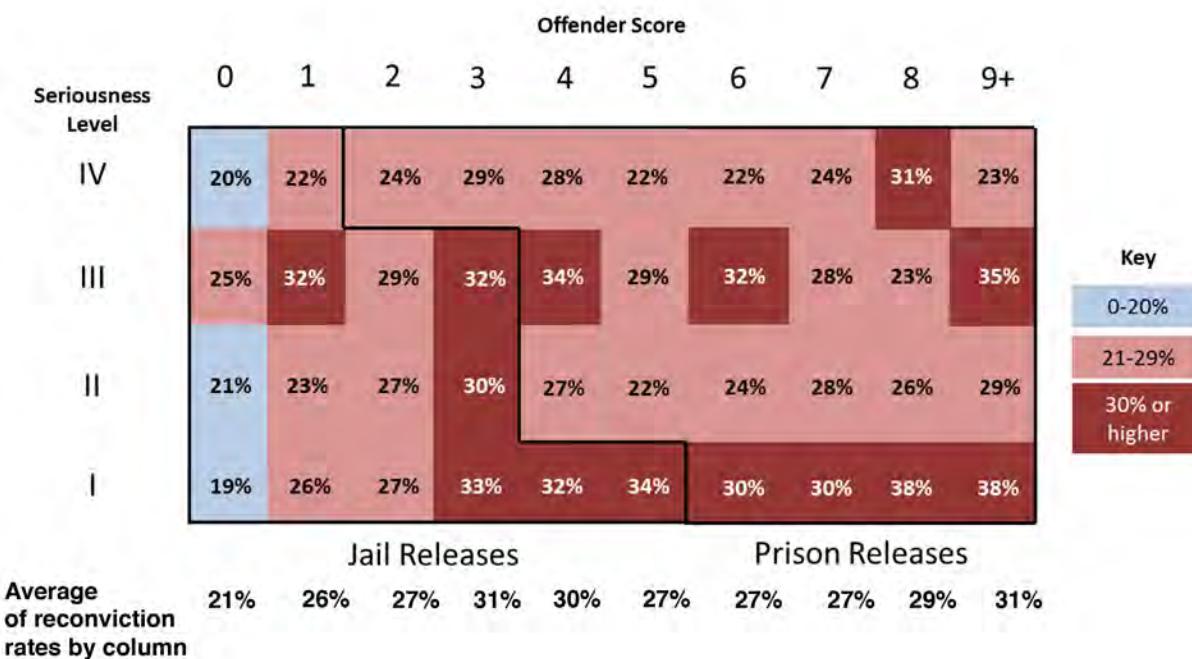
have a total offender score of 3, for a sentence range of 9–12 months.⁴⁵ (See Figure 13)

- Individuals convicted of less serious offenses with similar criminal histories had disparate lengths of confinement as a result of their offender scores. For example, individuals released from prison in FY2010 who had been sentenced for Seriousness Level I–IV offenses with 3 to 5 prior felony arrests served an average of 11 months in prison if their offender scores were 4 or lower, and an average of 19 months if their offender scores were 5 or higher.
- In addition, offender score does not appear to be a good predictor of recidivism. Among the same group of individuals released from prison in FY2010, 43 percent of those released from prison with offender scores of 4 or lower were rearrested for a felony offense within 3 years, compared to 46 percent of those with offender scores of 5 or higher.⁴⁶ (See Figure 14)

FIGURE 13. EXAMPLE OF DOUBLE-COUNTING SIMILAR PRIOR CONVICTIONS IN THE OFFENDER SCORE⁴⁷



FIGURE 14. TWO-YEAR FELONY RECONVICTION RATES BY GRID CELL FOR PROPERTY OFFENDERS RELEASED FROM JAIL AND PRISON, FY2010–FY2011⁴⁸

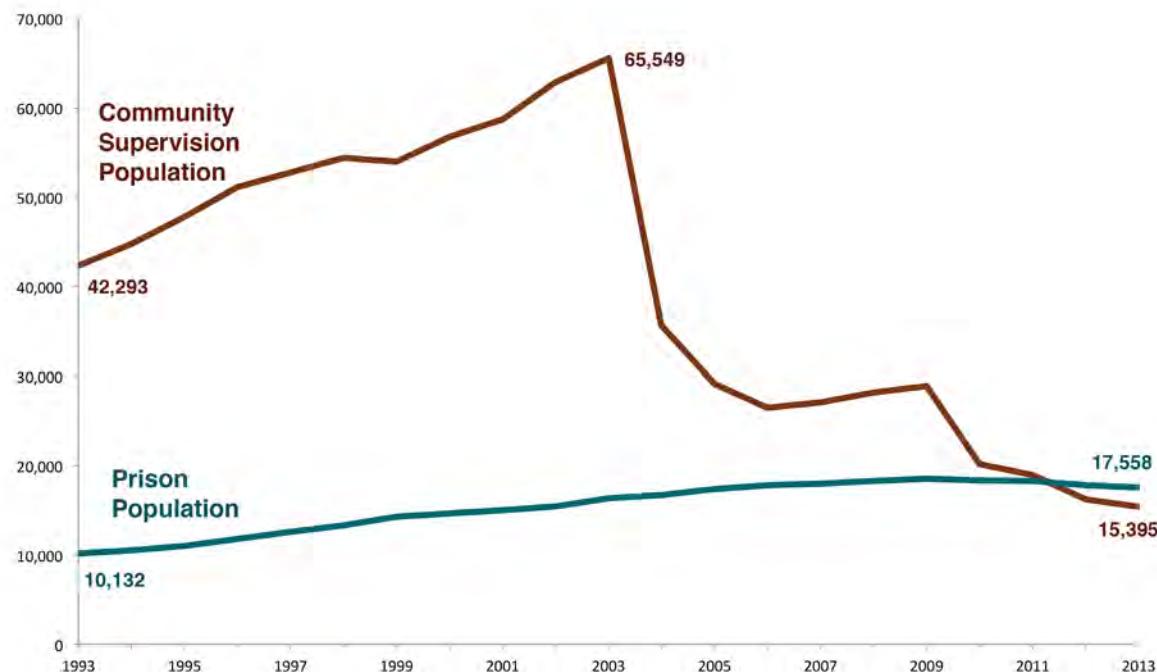


Policy changes over the past two decades have greatly reduced the number of people receiving supervision.

- Statutory changes limiting the types of offenses and risk levels for which supervision is required upon release from jail or prison reduced the total number of individuals on supervision by 77 percent between FY2003 and FY2013, from 65,549 individuals to 15,395.⁴⁹ (See Figure 15) (See Box: Supervision Policy Changes, page 21)
- The proportion of individuals released from prison without supervision increased significantly between FY2003 and FY2013, from 15 percent to 44 percent.⁵⁰

- The court may sentence an individual to receive post-release supervision, but there is no certainty that the individual will actually receive supervision upon release. State statute requires the DOC to determine whether the individual is eligible for post-release supervision based on various factors including type of offense or risk level. The DOC also decides the length of the term of supervision, if the individual is deemed eligible. Judges and victim advocates express frustration at this uncertainty.⁵¹

FIGURE 15. CHANGES TO COMMUNITY SUPERVISION POPULATION, FY1993–FY2013⁵²



Supervision Policy Changes in Washington

Prior to the adoption of the sentencing guidelines in 1984, every person convicted of a felony was eligible for community supervision. When the state enacted determinate sentencing guidelines, however, it eliminated parole and probation supervision. Over the years, Washington reinstated the use of community supervision and adopted various changes to supervision policy based on evidence-based principles, yet the state's sentencing guidelines do not prescribe the use of supervision.

Seeking to shift supervision policy and practice toward an evidence-based model, in 1999 Washington enacted the Offender Accountability Act (SB 5421), which directed the DOC to conduct risk assessments of individuals convicted of felony offenses and to direct more resources to supervising high-risk individuals. The state reinstated post-release supervision for individuals sentenced to prison for drug, violent, and crimes-against-persons offenses, but not for property offenses. (See Figure 16)

In 2003, the state continued its shift toward an evidence-based supervision model and enacted SB 5990, which eliminated post-release supervision for individuals who were only on supervision for outstanding legal financial obligations, as well as for certain low-risk individuals. This change in policy reduced the state's supervision population from approximately 65,000 to 30,000.

In 2009, Washington eliminated post-release supervision for low- and moderate-risk people sentenced to jail or prison for a drug, violent, or crime-against-a person offense, further reducing the number of people on supervision to below 20,000.

Today, only the following people are eligible for supervision: individuals released after serving a sentence for either a sex offense or a serious violent offense; high-risk individuals released after serving a sentence for a drug, violent, or crime-against-persons offense; and individuals who receive a sentencing alternative.

FIGURE 16. POLICY CHANGES AFFECTING POST-RELEASE SUPERVISION ELIGIBILITY BASED ON OFFENSE TYPE

Supervision Post-Release from Jail or Supervision as a Sentence			Supervision Post-Release from Prison			
	Property Offenses	Drug Offenses	Violent* Offenses	Property Offenses	Drug Offenses	Violent* Offenses
Pre-Sentencing Reform Act	L,M H	L,M H	L,M H	L,M H	L,M H	L,M H
Sentencing Reform Act (1984)	L,M H	L,M H	L,M H			
Offender Accountability Act (1999)	L,M H	L,M H	L,M H		L,M H	L,M H
SB 5990 (2003)		H	H		H	H
Today		H	H		H	H

L,M Low- and Moderate-Risk H High-Risk

*Includes violent offenses and crime-against-person offenses.

People convicted of less serious offenses have much higher recidivism rates than people convicted of more serious offenses, yet are least likely to be supervised.

- Of people released from prison in FY2010 who had been convicted of an offense in the drug sentencing grid or in Seriousness Levels I–IV of the standard sentencing grid, 45 percent were rearrested for a felony and 32 percent were convicted for a felony and returned to prison within three years of release. Of those individuals convicted of an offense in Seriousness Levels V or higher, 33 percent were rearrested for a felony and 19 percent were convicted and returned to prison within three years of release.⁵³ (See Figure 17)

- People convicted of less serious offenses are most likely to reoffend and therefore effective supervision can have the most significant impact on these individuals. Since FY2004 the proportion of people convicted of less serious offenses receiving post-release supervision has decreased. In FY2004, 88 percent of people convicted of a property offense in Seriousness Levels I–IV received supervision upon release from prison. In FY2013, 55 percent received supervision.⁵⁴
- Of the individuals convicted of an offense in Seriousness Levels I–IV, 86 percent of those admitted to prison in FY2010 were assessed as being at high risk of reoffending.⁵⁵

FIGURE 17. THREE-YEAR REARREST AND RETURN-TO-PRISON RATES BY SERIOUSNESS LEVEL FOR FY2010 PRISON RELEASES⁵⁶



Washington is the only state in the country that does not utilize post-release supervision for people convicted of property offenses, despite their high likelihood of reoffending.

- Currently, people convicted of property offenses are released from prison without supervision, regardless of risk of reoffending, unless the individual received

a sentencing alternative or they were serving a concurrent sentence for an offense eligible for supervision and were assessed as high-risk.

- In FY2013, three out of four people convicted of property offenses who were released from prison without supervision were classified as being at high risk of reoffending.⁵⁷ (See Box: Understanding Risk Assessment, page 29)

A substantial number of people convicted of property offenses stay in prison for less than a year.

- Individuals convicted of property offenses serve significantly less time in prison than the term determined at the time of sentencing due to credits for time served in jail prior to sentencing and/or earned time credits for good behavior in prison and jail.

- Approximately 50 percent of people convicted of property offenses who left prison in FY2013 served less than a year in prison.⁵⁸ Due to the short length of time spent in prison and the lack of supervision upon release, these individuals have little opportunity to participate in programs or treatment either during confinement or in the community.

Strategy 2: Hold people convicted of property offenses accountable with supervision and, if needed, treatment

POLICY OPTIONS

2 (A) Adopt a new sentencing grid for felony property offenses that mandates a period of supervision and, if needed, treatment for people convicted of less serious property offenses.

- Balance the use of incarceration with supervision at sentencing for individuals convicted of Seriousness Level I–IV property offenses, with the exception of

residential burglary. (See Box: Levels I–IV Property Offenses, page 25)

- Mandate 12 months of supervision for every individual convicted of Seriousness Level I–IV property offenses, with the exception of residential burglary, who has an offender score of 2 or above. (See Figure 18)

FIGURE 18. CURRENT STANDARD SENTENCING GRID AND PROPOSED PROPERTY SENTENCING GRID

Offender Score →		0	1	2	3	4	5	6	7	8	9+
Seriousness Level ↓											
Current Standard Grid	IV	3-9	6-12	12+-14	13-17	15-20	22-29	33-43	43-57	53-70	63-84
	III	1-3	3-8	4-12	9-12	12+-16	17-22	22-29	33-43	43-57	51-68
	II	0-90 d	2-6	3-9	4-12	12+-14	14-18	17-22	22-29	33-43	43-57
	I	0-60 d	0-90 d	2-5	2-6	3-8	4-12	12+-14	14-18	17-22	22-29

Offender Score →		0	1	2	3	4	5	6	7	8	9+	
Seriousness Level ↓												
Proposed Property Grid		Jail + State Funded Supervision			Prison + State Funded Supervision							
	IV	0-6	0-8	0-10 +12	0-12 +12	12+-16 +12	14-18 +12	16-24 +12	24-30 +12	30-36 +12	36-42 +12	
	III	0-3	0-6	0-6 +12	0-8 +12	0-10 +12	0-12 +12	12+-16 +12	14-18 +12	16-24 +12	24-30 +12	
	II	0-90 d	0-4	0-6 +12	0-6 +12	0-8 +12	0-10 +12	0-12 +12	12+-16 +12	14-18 +12	16-20 +12	
	I	0-60 d	0-90 d	0-4 +12	0-6 +12	0-8 +12	0-10 +12	0-10 +12	0-12 +12	12+-16 +12	14-18 +12	

Sentence lengths are in months, unless noted with a “d” and then sentence lengths are in days.

RATIONALE:

Creating a new Property Sentencing Grid would balance incarceration with supervision for individuals convicted of less serious property offenses (See Box: Levels I–IV Property Offenses, page 25) who represent a high percentage of felony sentences and prison admissions. Most of the individuals convicted of Seriousness Level I–IV property offenses who are being admitted to prison are assessed as being at high risk of reoffending, yet current statute in Washington precludes people convicted of property offenses from receiving supervision, with the exception of a small subset of individuals. Mandating supervision for individuals convicted of Seriousness Level I–IV property offenses

who have an offender score of 2 or above ensures that these individuals are held accountable beyond the term of confinement and are required to participate in community-based treatment and programs that can help reduce their risk of recidivism. (See Figure 19)

Research clearly demonstrates that community supervision coupled with community-based treatment and programming can have a significant impact on efforts to reduce recidivism. Structuring the use of supervision within a Property Sentencing Grid would also increase certainty about who receives supervision, regardless of risk level.

FIGURE 19. SUPERVISION PRACTICES FOR PROPERTY OFFENDERS UNDER CURRENT AND PROPOSED POLICY

Supervision Practice	Current Policy	Proposed Policy
Supervision of approximately 2,070 property offenders (offender score 2+)	None	12 months of supervision established at sentencing
Assessment of risk and needs	None	Conducted for every individual to develop individualized case plans
Regular meetings with supervision officer	None	Office visits in addition to home and work visits
Treatment	None	Required, if needed, and funded by state
Ability to sanction behavior short of new criminal activity	None, until law enforcement is called	Swift and certain sanctions in county jails paid by the DOC
Drug testing	None	Required, if needed
Cognitive behavioral treatment to address criminal thinking	None	Required, if needed

Levels I–IV Property Offenses

The new Property Sentencing Grid would impact individuals convicted of the following offenses:

Seriousness Level I

False Verification for Welfare
Forgery
Malicious Mischief 2
Possession of Stolen Property 2
Reckless Burning 1
Taking Motor Vehicle Without Permission 2
Theft of Rental, Leased, or Lease-purchased Property (valued at \$250 or more but less than \$1,500)
Unlawful Issuance of Checks or Drafts
Unlawful Possession of Fictitious Identification
Unlawful Possession of Instruments of Financial Fraud
Unlawful Possession of Payment Instruments
Unlawful Possession of a Personal Identification Device
Unlawful Production of Payment Instruments
Unlawful Trafficking in Food Stamps
Unlawful Use of Food Stamps

Seriousness Level II

Commercial Fishing Without a License 1
Counterfeiting
Engaging in Fish Dealing Activity Unlicensed 1
Health Care False Claims
Identity Theft 2
Malicious Mischief 1
Organized Retail Theft 2
Possession of Stolen Property 1
Possession of a Stolen Vehicle
Retail Theft with Special Circumstances 2
Scrap Processing, Recycling, or Supplying Without a License (second or subsequent offense)

Theft 1
Theft of a Motor Vehicle
Theft of Rental, Leased, or Lease-Purchased Property (valued at \$1,500 or more)
Theft with the Intent to Resell 2
Trafficking in Insurance Claims
Unlawful Factoring of a Credit Card or Payment Card Transaction

Seriousness Level III

Burglary 2
Organized Retail Theft 1
Retail Theft with Special Circumstances 1
Theft of Livestock 2
Theft with the Intent to Resell 1
Trafficking in Stolen Property 2
Unlawful Hunting of Big Game 1

Seriousness Level IV

Counterfeiting
Identity Theft 1
Theft of Livestock 1
Trafficking in Stolen Property 1
Unlawful Factoring of a Credit Card or Payment Card Transaction

The proposed Property Sentencing Grid would not impact individuals convicted of residential burglary or first-degree burglary, which includes any burglary that involves assault or the use of a deadly weapon.

2 (B) Calculate the offender score based on an individual's actual number of felony convictions.

- Eliminate the double- and triple-counting of prior felony convictions in offender scoring for individuals

RATIONALE:

Eliminating double- and triple-counting of similar prior felony convictions in offender scoring for individuals convicted of second-degree burglary and theft of a motor vehicle ensures that the offender score reflects the number of past felony convictions.

Offender scores that reflect the actual number of past felony convictions ensure that long sentences are reserved for those

convicted of a second-degree burglary and theft of a motor vehicle.

with extensive criminal histories, and that individuals are not penalized more harshly for having committed the same types of crimes than individuals who committed a similar number, but different types, of crimes. Double- and triple-counting prior felony convictions to increase the offender score result in longer terms of incarceration but do little to address high recidivism rates.

CHALLENGE 3: RECIDIVISM. Washington has insufficient resources to continue its efforts to strengthen supervision and reduce recidivism.

The state requires more funding to accommodate the increase in the supervision population that will result from adopting the proposed Property Sentencing Grid.

- In response to fiscal pressures, in FY2003 the legislature modified policies and reduced the number of people on supervision by 77 percent by FY2013. (See Box: Supervision Policy Changes, page 21)
- The proposed Property Sentencing Grid is projected to add 2,068 individuals to the DOC's supervision average daily population by FY2021.

Washington has made significant investments in the DOC's efforts to reengineer the delivery of community supervision, however additional resources will be needed to support these efforts.

- Changes to supervision policy over the years have transformed the DOC's supervision caseload into a predominantly high-risk one. As the DOC increasingly focused on high-risk offenders, between FY2004 and FY2013 the average daily expenditure per offender on supervision increased from \$7.88 to \$19.06. During the same period, expenditures for community supervision programming increased from about \$4 million to \$20 million to fund substance use treatment, programming that addresses the underlying factors that contribute

- To accommodate this increase in the DOC's supervision population, the state must provide the resources necessary for the DOC to deliver effective supervision.
- Criminal justice stakeholders have expressed support for the proposal to adopt the proposed property grid and increase the number of individuals on supervision. However, stakeholders have also expressed concern that supervision for these individuals might not be maintained in the face of future fiscal pressures and encouraged policymakers to adopt the proposed policy options and provide sufficient funding for supervision and programming resources.

to criminal behavior, job training, and sex offender treatment. (See Box: Promising Supervision Practices in Washington, page 27)⁵⁹

- Supervision based on individualized case plans would require officers to spend more time with each person on supervision and increase costs as people are connected to necessary treatment and programming. The DOC has launched an intensive effort to adopt a dynamic risk and needs assessment tool to inform individualized case plans for each person on supervision.
- As the DOC continues to improve its supervision practices, policymakers must understand what resources are needed to ensure that supervision has the largest possible impact on reducing recidivism.

Promising Supervision Practices in Washington

The Washington DOC prioritizes training Community Corrections Officers on using evidence-based practices that have been shown to be effective in reducing recidivism for people on supervision. One key element of effective supervision includes focusing supervision and treatment resources on individuals most likely to reoffend. Research demonstrates that when community-based supervision incorporates treatment based on risk of reoffending, criminogenic needs that are most closely associated with recidivism (e.g., criminal thinking and attitude), and an individual's responsivity factors (e.g., mental and co-occurring disorders), recidivism can be reduced significantly. Among people convicted of violent and drug offenses, the state targets supervision resources on high-risk individuals and treatment is provided for individuals on supervision who need it. Individuals on supervision receive cognitive behavioral programming, which helps people who have committed crimes identify how their thinking patterns influence their feelings, which in turn influence their actions.

In 2012, Washington became the first state to implement “swift and certain” sanctions statewide to increase offender compliance on supervision. Swift and certain sanctions can help increase accountability for individuals on supervision, deter recidivism, and reduce the cost of responding to supervision violations. Using these sanctions can help supervision officers respond consistently to violations with a level of swiftness and severity that is directly related to the individual’s risk level and the condition of supervision that has been violated. Community Corrections Officers respond to less serious violations with a 2- to 3-day jail sanction, while a response to more serious violations involves a 30-day jail sanction.

Although the DOC has adopted promising supervision practices, many policymakers and practitioners are not aware of what the DOC has done to improve the effectiveness of supervision.

- The DOC has modified its supervision model to make it more effective by focusing supervision resources on high-risk individuals.

Few counties use pretrial risk assessment to inform judicial decision making regarding pretrial release.

- Fewer than 12 of 39 Superior Courts in Washington consistently use a pretrial risk assessment tool that predicts risk of flight and risk of rearrest to inform judicial decision making related to pretrial release.⁶⁰

- Many policymakers and criminal justice stakeholders across the state, including judges, prosecutors, and victim advocates, are not aware of the changes to supervision practices that have been adopted and how these changes have impacted recidivism and crime.

- These 12 counties utilize the Adult Static Risk Assessment tool, which was not developed for the purpose of predicting pretrial risk of flight and rearrest.
- Pretrial detainees take up a significant portion of jail space in certain counties. For example, in Thurston County, 33 percent of the jail population was made up of pretrial detainees in 2012. In King County, 67 percent of the 2012 jail population was made up of pretrial detainees.⁶¹

Strategy 3: Reinvest to strengthen supervision policies and practices to reduce recidivism

POLICY OPTIONS

3 (A) Reinvest in supervision and treatment and create an oversight committee to monitor the effectiveness of supervision and the state's progress in reducing property crime.

- Provide the DOC with sufficient resources to continue to build on an effective supervision and treatment model.
- Hire additional Community Corrections Officers to supervise individuals convicted of property offenses who would receive supervision if the legislature adopts policy option 2(A).
- Validate the DOC's new risk and needs assessment tool and ensure the proper use of the tool and the tool's results in developing individualized case plans for each person on supervision.

RATIONALE:

If the legislature adopts the proposed Property Sentencing Grid, resources for the DOC must be expanded to allow the department to properly supervise every individual on supervision. Increased resources for community-based supervision, treatment, and programming will help reduce recidivism by addressing the factors that contribute to an individual's likelihood of reoffending.

As the DOC continues to reengineer supervision practices, it is important that its new risk assessment tool is validated to ensure that risk classifications accurately represent the likelihood of reoffending among the group of individuals for which the tool will be used. Staff should also have ongoing access to training opportunities, and officials should regularly assess whether supervising officers are helping individuals on supervision succeed.

Establishing a permanent criminal justice oversight entity that will consistently monitor and measure the

- Assess the quality and effectiveness of programs provided to individuals on supervision to help the DOC and the state legislature make informed investment decisions.
- Establish an interbranch oversight entity to monitor and evaluate the policies, practices, and budgetary implications of enacted justice reinvestment policies. The entity should track the state's progress in reducing property crime through grants to law enforcement, holding property offenders accountable with supervision, and reducing recidivism with effective supervision and treatment. In addition to tracking property crime, the entity should coordinate additional data analysis and research to advise policymakers on how to further reduce crime and inform continuous improvements to the criminal justice system.

impact of supervision changes will inform continuous improvements to the quality and funding of supervision. The DOC needs legislative and stakeholder support to continue its efforts to strengthen the quality of community supervision, and stakeholders and legislators need to have a better understanding of how the DOC is transforming its supervision model and what resources it needs to continue to improve public safety and reduce recidivism.

Independent evaluations of community-based supervision practices and programs are necessary to ensure fidelity and quality assurance. Evaluations are designed to assess program effectiveness and the integrity of treatment, and can be used to assess correctional intervention programs and ascertain how closely they meet known principles of effective intervention.

Understanding Risk Assessment

Risk assessment tools help sort individuals into low-, medium-, and high-risk groups. They are designed to gauge the likelihood that an individual will come in contact with the criminal justice system again, either through a new arrest and conviction or reincarceration for violating the conditions of supervision. These tools usually consist of 10 to 30 factors that are designed to ascertain an individual's history of criminal behavior, attitudes and personality, and life circumstances.

Risk assessments can be administered at any time during a person's contact with the criminal justice system—during the pretrial period, while on probation, after admission to a correctional facility, prior to release, and during post-release supervision. These assessments are similar to actuarial tools used by insurance companies to rate risk; they predict the likelihood of future outcomes according to their analysis of past activities (e.g., criminal history) and present conditions (such as behavioral health or addiction). Objective risk assessments have been shown to be more reliable than any professional's individual judgment.⁶²

3 (B): Incentivize counties to improve pretrial practices.

- Create a state-funded grant program to support and incentivize counties to use a pretrial screening instrument that predicts the risk of flight and risk of

rearrest to inform judicial decisions regarding pretrial detention and release.

- Review the potential impact of providing earlier access to pretrial defense counsel.

RATIONALE:

A portion of pretrial defendants will be rearrested upon release. The use of a validated risk assessment tool could greatly assist judges in the prompt and careful determination of who should be released to the community and under what conditions. With access to an objective scientific tool, the courts have the potential to enhance public safety and make the best use of limited jail space. Such data beyond just an individual's charge and criminal history could lead to better decision making. For example, the Ohio Risk Assessment System-Pretrial Assessment Tool found that people identified as low risk were 6 times

less likely than high-risk people to fail to appear for future court proceedings or to be rearrested (5 percent of low-risk people compared to 29 percent of high-risk people).⁶³

Early access to defense counsel can lead to more timely decisions regarding pretrial detention and release. In conjunction with a grant program to support and incentivize the use of pretrial risk assessment, public defenders in Washington requested a comprehensive review of the potential impact of providing defendants with earlier access to defense counsel on pretrial outcomes and county budgets.

Sustainability

If legislation is enacted, additional strategies will be necessary to assess, track, and ensure the sustainability of the policies outlined in the Justice Reinvestment Policy Framework and to identify opportunities for additional measures to reduce recidivism and improve public safety in the future. To enhance the state's ability to implement enacted legislation, Washington has the opportunity to request funding from BJA to enhance additional capacity-building efforts, such as workforce training, IT support, and ongoing quality assurance efforts. If approved for such funding, the state also has the opportunity to continue working with the CSG Justice Center to receive technical assistance in implementing the justice reinvestment policies.

ENDNOTES

¹ United States Department of Justice, Federal Bureau of Investigation, “Crime in the United States 2013” (Washington, DC: U.S. Department of Justice, 2013). Property crime is a category of crimes that involves the theft or destruction of someone else’s property.

² For purposes of this report, references to supervision refer to supervision paired with programming and, if needed, treatment.

³ The “cost of doing nothing” is based on the CFC’s forecasted prison population through FY2021, the DOC FY2014 Average Unit Cost per day, the DOC FY2014 estimated out-of-state contract cost, and the DOC’s estimated planning and construction costs to accommodate the population forecast and current capacity needs.

⁴ The impact on the prison population is projected to be approximately 900 fewer people by FY2021. Projections for the state’s supervision population are limited to FY2021, therefore, the impacts of the total package are estimated through FY2021. The CFC’s forecast projects the prison population through FY2024.

⁵ CFC Adult Inmate Forecast, November 2014. CSG Justice Center projection based on analysis of felony sentencing and prison data and in consultation with the DOC and CFC.

⁶ U.S. Department of Justice, Federal Bureau of Investigation, “Crime in the United States 2013” (Washington, DC: U.S. Department of Justice, 2013). Index crimes consist of incidents reported by law enforcement to the FBI as part of the Uniform Crime Reporting Program, and are considered representative of the most serious crimes. Violent index crimes are murder and non-negligent manslaughter, forcible rape, robbery, aggravated assault, and property index crimes are burglary, larceny-theft, and motor vehicle theft. Police departments use one of two methods of reporting crime to the FBI: Uniform Crime Reports (UCR) and National Incident Based Reporting System (NIBRS). Many agencies in Washington use NIBRS, which allows for the reporting of more types of crimes than UCR allows; however, the FBI has developed standardized definitions to overcome variations in the two reporting methods and state and local definitions of crimes. Although small discrepancies may exist in the reporting of crime among states, it is common practice to draw comparisons among states using the FBI’s UCR Summary Reporting System, as the FBI has provided for national uniformity and consistency in data reporting.

⁷ U.S. Department of Justice, Federal Bureau of Investigation, “Crime in the United States 2009” (Washington, DC: U.S. Department of Justice, 2009); U.S. Department of Justice, Federal Bureau of Investigation, “Crime in the United States 2013” (Washington, DC: U.S. Department of Justice, 2013).

⁸ *Ibid.*

⁹ CSG Justice Center analysis of WSP felony arrests data FY2004–FY2013.

¹⁰ *Ibid.*

¹¹ U.S. Department of Justice, Federal Bureau of Investigation, “Crime in the United States 2013” and CSG Justice Center analysis of WSP data FY2013. The FBI publishes reported index crime data for each calendar year. Reported index property crimes and arrests for index property crimes include misdemeanor crime and arrests in addition to felony crime and arrests. The arrest data for Washington used in this analysis include arrests for felony offenses by the state’s fiscal year. Index crimes do not include every type of property crime included in Washington’s arrest data.

¹² CSG Justice Center analysis of WSP data FY1980–2013.

¹³ CSG Justice Center analysis of DOC and WSP data, FY2013; U.S. Department of Justice, Federal Bureau of Investigation, “Crime in the United States 2013.”

¹⁴ Office of Crime Victim Advocacy, Washington InfoNet Statewide Data Report: July 1, 2012 through June 30, 2013 (Olympia: Office of Crime Victim Advocacy, 2013). For the purposes of this report, “property crimes” include property crimes and identity theft.

¹⁵ Anthony Braga and David Weisburd, *Policing Problem Places: Crime Hot Spots and Effective Prevention* (Oxford University Press, 2010).

¹⁶ Steve Aos and Elizabeth Drake, “Prison, Police, and Programs: Evidence-Based Options that Reduce Crime and Save Money” (Olympia: Washington State Institute for Public Policy, 2013).

¹⁷ U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, *Intelligence-Led Policing: The New Intelligence Architecture*, (Washington, DC: Bureau of Justice Assistance, 2005), NCJ 210681.

¹⁸ David Weisburd, Cynthia Lum, and Sue-Ming Yang, “The Criminal Careers of Places: A Longitudinal Study” (National Institute of Justice grant final report, 2004), NCJ 207824.

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³³ *Ibid.*

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³⁵ *Ibid.*

³⁶ CSG Justice Center analysis of DOC on-hand prison population and CFC sentencing data FY2009–FY2013.

³⁷ CSG Justice Center analysis of DOC on-hand prison population and CFC sentencing data FY2013. This analysis excludes approximately two percent of the on-hand prison population whose Seriousness Levels are unknown.

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