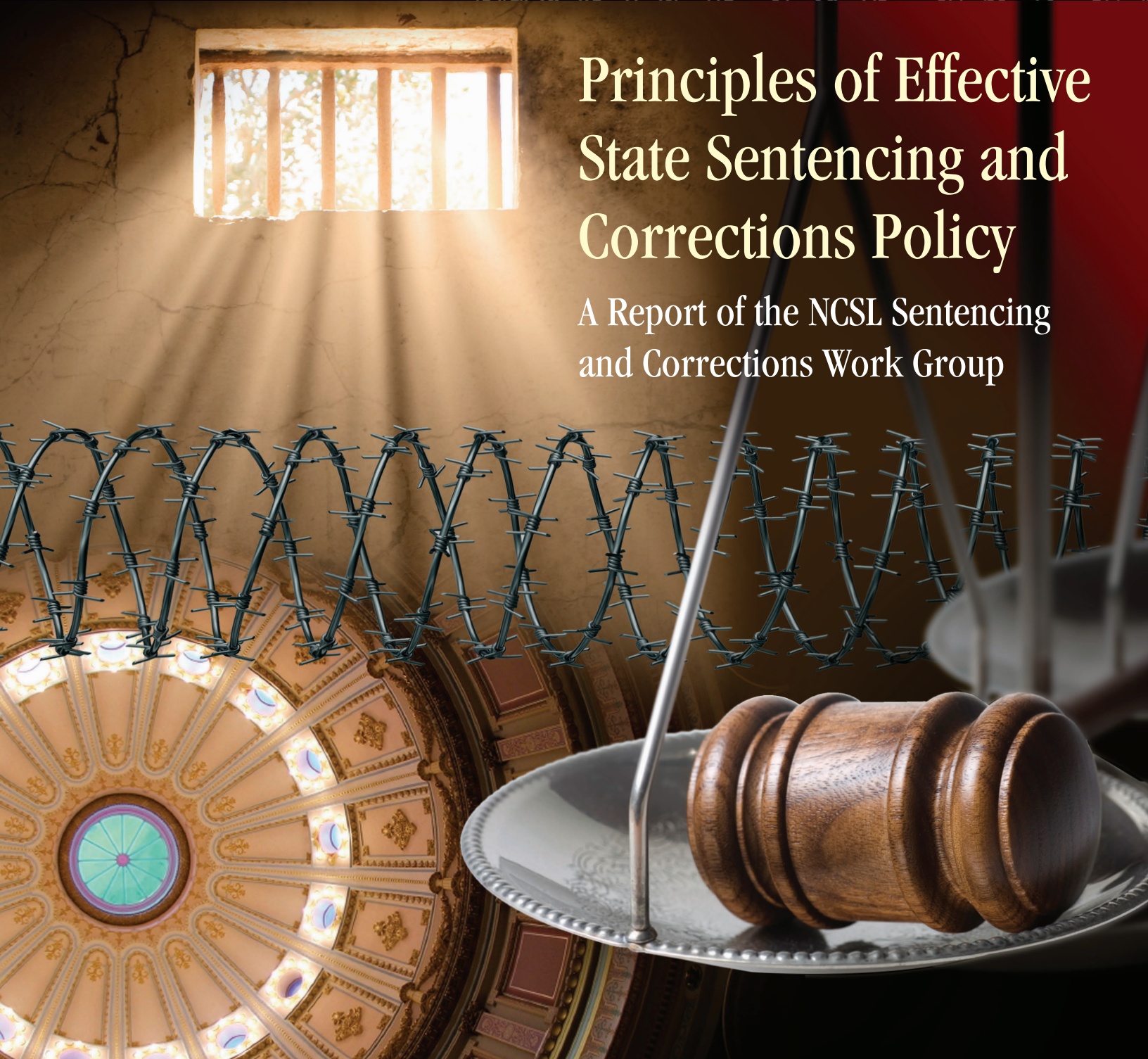




NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas



Principles of Effective State Sentencing and Corrections Policy

A Report of the NCSL Sentencing
and Corrections Work Group

PRINCIPLES OF EFFECTIVE STATE SENTENCING AND CORRECTIONS POLICY

A REPORT OF THE NCSL SENTENCING AND CORRECTIONS WORK GROUP

Prepared By Alison Lawrence and Donna Lyons



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- To ensure state legislatures a strong, cohesive voice in the federal system.

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ABOUT THE PROJECT AND WORK GROUP

The NCSL Sentencing and Corrections Work Group project was developed under an NCSL partnership with the Public Safety Performance Project (PSPP) of the Pew Center on the States. The NCSL project responds to the challenges faced by states as they consider corrections and sentencing policies that both manage state spending and protect the public. The Pew PSPP was launched in 2006 to help states advance fiscally sound, data-driven policies and practices in sentencing and corrections. Pew's work has included research, technical assistance, and funding and overseeing a variety of efforts both in states and nationally to support strategies that protect public safety, hold offenders accountable and control corrections costs.

The NCSL Criminal Justice Program assembled the Sentencing and Corrections Work Group in 2010. The bipartisan, 18-member group includes officers of NCSL's Law and Criminal Justice Committee and other legislators who are recognized as leaders on these issues. The group had a one-year work plan to discuss and identify overarching principles for effective state sentencing and corrections policy and to identify key issues and approaches that explain and illustrate the recommendations.

The issues addressed by the NCSL work group reflect the important role of state legislatures in enacting policies that manage prison populations and costs, address offender and community needs, and contribute to the safe and fair administration of criminal justice. The discussions took place during a difficult, recessionary budget climate. A major interest of the work group was how to have an immediate effect on state public safety dollars while also ensuring that the public safety is protected into the future. Many concepts addressed in the *Principles* reflect recent advances in resource-sensitive policies that actually reduce risk and recidivism. Mindful that sentencing and corrections policies reach into various levels and branches of government, the *Principles* also reflect the value that lawmakers place on stakeholders throughout criminal justice systems in policy development and discussions. Apparent throughout the *Principles* is the importance of interbranch and intergovernmental collaboration, information exchange and evaluation in working toward effective sentencing and corrections policies.

It is the intent of NCSL and this work group that the *Principles* and examples presented here will help guide and inform many aspects of state sentencing and corrections policy now and well into the future.

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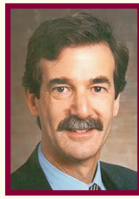
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PRINCIPLES AND POINTS

Preamble

Providing for justice and protecting the public are fundamental concerns of criminal justice systems. Sentencing and corrections policies should be designed with the goals of preventing offenders' continued and future criminal activity. State approaches to sentencing and corrections have been characterized by traditional views that lean toward incapacitation or rehabilitation. More contemporary policies to reduce recidivism look to evidence-based strategies that hold offenders accountable, are sensitive to corrections costs, and reduce crime and victimization.

State legislatures set both the tone and the framework for sentencing and corrections policies. The principles identified and described below resulted from the bipartisan NCSL work group and are not aligned with any particular opinion or approach. Their intended purpose is to provide broad, balanced guidance to state lawmakers as they review and enact policies and make budgetary decisions that will affect community safety, management of criminal offenders, and allocation of corrections resources.

Seven Principles

1. Sentencing and corrections policies should embody fairness, consistency, proportionality and opportunity.

- Establish sentences that are commensurate to the harm caused, the effects on the victim and on the community, and the rehabilitative needs of the offender.
- Strive to balance objectives of treating like offenders alike with allowing discretion to select correctional options that meet individual offender needs and contribute to crime reduction.
- Consider whether sentencing and corrections policies adversely or disproportionately affect citizens based on race, income, gender or geography, including, but not limited to, drug crimes.
- Review policies that affect long-term consequences of criminal convictions, including housing and employment opportunities.

2. Legislatures should convey a clear and purposeful sentencing and corrections rationale. The criminal code should articulate the purpose of sentencing, and related policies and practices should be logical, understandable, and transparent to stakeholders and the public.

- Provide for agency mission statements that reflect the goal of recidivism reduction and the intended balance of surveillance, incapacitation, rehabilitation and victim restoration.
- Articulate corresponding requirements of agencies and expectations of courts.
- Include in stated objectives that programs and practices be research-based, and provide appropriate oversight.
- Encourage collaboration among criminal justice, health and human services, and other relevant government agencies with intersecting (not conflicting) missions and goals.

Principles of Effective State Sentencing and Corrections Policy

- Include criminal justice system stakeholders in planning and deliberations. Consider a coordinating council or other structured body to facilitate policy development that includes input from a broad array of stakeholders.
- Engage and educate the public by providing meaningful and accurate messages about issues and approaches.

3. A continuum of sentencing and corrections options should be available, with prison space for the most serious offenders and adequate community programs for diversion and supervision of others.

- Ensure assessment of offender risk, needs and assets in order to provide appropriate placement, services and requirements.
- Strengthen placement decisions and supervision by encouraging coordinated interbranch efforts among courts, corrections departments, and state and local supervision agencies.
- Establish policies that consider an offender's risk and criminal history as the basis for sentencing options and program eligibility.
- Provide clear policies for violations of community supervision. Consider administrative remedies and court options for technical violations, and offer incentives for compliance with conditions and requirements.
- Consider time-served requirements and ensure that release mechanisms and policies are clear and complete. Allow incentives for prisoners who complete prescribed programming, treatment or training.
- Provide appropriate levels of supervision and services for all offenders as they reenter the community.

4. Sentencing and corrections policies should be resource-sensitive as they affect cost, correctional populations and public safety. States should be able to effectively measure costs and benefits.

- Consider how state-level policies affect state and local correctional populations, costs, and state-local fiscal partnerships.
- Target resources to make the best use of incapacitation, interventions and community supervision.
- Partner with and consider incentives to local jurisdictions as part of adequately funded and accountable community programs and services.
- Take into account how funding reductions to prison services or to state or local supervision programs affect short-term operations and long-term program benefits.
- Consider the appropriate role of private industry in providing correctional services, and leverage resources and expertise of nonprofit, faith-based and other community organizations.

5. Justice information should be a foundation for effective, data-driven state sentencing and corrections policies.

- Build legislative and executive capacity to consider the fiscal impacts of policy actions (or inaction).
- Provide a framework for data collection, analysis and technology improvements that support and fulfill information needs.

- Facilitate and require research and evaluation of programs and practices. Use measurements and information to hold systems and offenders accountable, with a focus on and expectation of reducing recidivism and increasing public safety.
- Measure successes as well as failures, and use information and data to develop policy and make budget decisions.
- Build justice information systems that allow intergovernmental sharing of critical case and client information. Pair with policies that enable appropriate information exchange at key discretion points.

6. Sentencing and corrections policies should reflect current circumstances and needs.

- Review and consider whether policies of a different era should sunset or be modernized.
- Allow adaptations to the criminal code to reflect current needs, standards and values.
- Provide for policy updates that allow use of new technologies and ways to supervise offenders and protect the public.
- Consider whether some criminal offenses warrant redefinition or reclassification, and examine proposals for new crimes or sentences in the context of whether the current criminal code is adequate.
- Ensure that victims' rights are enforceable, and that services for victims are reviewed and refined in line with current policies, technologies and needs.

7. Strategies to reduce crime and victimization should involve prevention, treatment, health, labor and other state policies; they also should tap federal, academic and private resources and expertise.

- Consider investments in education and juvenile justice systems as part of efforts to reduce crime.
- Consider as part of crime prevention the needs of and the opportunity for services to children and families of incarcerated offenders.
- Connect health, employment and other related agencies to those providing correctional supervision, reentry services and prevention programs at state and local levels.
- Use assistance and resources provided by foundations and federal agencies that help advance the state's corrections mission and criminal justice initiatives.
- Call on NCSL or other state services organizations for objective information, assistance and connection to key national research.

THE PRINCIPLES AT WORK

Determining Criminal Sentences

Sentencing policies provide the means to hold offenders accountable and reduce the likelihood that they will commit new crimes. Protecting the public is the key objective of sentencing actions, and state laws provide guidance on which offenders should receive prison terms and for how long, and which offenders are suitable for community supervision or other alternatives. Legislatures provide courts, corrections departments and parole boards with a set of sentencing options and sanctions for offenders; they also set requirements for offender assessment to guide appropriate placements. To ensure that sentencing policies are most effectively protecting the public, legislatures can review certain crime classifications, enhance sentencing options, and consider time-served requirements and release policies.

Kentucky lawmakers in 2011 established that the primary objective of sentencing is “maintaining public safety and holding offenders accountable while reducing recidivism and criminal behavior.”

As expressed in the *Principles* section, effective sentencing policies strive for fairness and proportionality. That is, longer sentences make sense for serious and dangerous offenders, as do proportionally lesser sentences for less serious crimes. In addition, some states today are including in sentencing rationale the important objective of reducing recidivism. Responding to unsustainable growth in its prison population, Kentucky lawmakers in 2011 enacted a Public Safety and Offender Accountability Act, which established that the primary objective of sentencing is “maintaining public safety and holding offenders accountable while reducing recidivism and criminal behavior.” The act also established measures and reporting requirements with regard to crime reduction and cost effectiveness.

Modern Sentencing Strategies

The recent Kentucky action is among ways states are updating criminal codes and expanding sentencing options. Many of these approaches leave behind outdated notions of being “soft” or “tough” on crime. Instead they look to be smart on crime to ensure that sentencing policies contribute to a favorable state return on public safety expenditures. Modernization of sentencing policy also is seen in state actions related to risk-based sentencing, systematic use of intermediate sanctions, felony thresholds, and rethinking certain drug-crime sentences.

Risk-Based Sentencing Lawmakers in Kentucky also have facilitated court involvement to reduce recidivism. Starting in 2013, risk and needs assessments will be included in presentence reports, so that judges can review a defendant’s likelihood of future criminal behavior when considering different sentencing options.

Virginia courts use risk assessment to identify nonviolent offenders for whom community supervision, rather than prison, would be appropriate. In 1994, the General Assembly required the state’s sentencing commission to develop and use risk assessment to sentence to community sanctions 25 percent of nonviolent property and drug offenders who otherwise would be prison-bound under the state’s sentencing guidelines. A successful two-year pilot program led to statewide implementation of the practice in 2002.

Intermediate Sanctions States have developed community-based sentencing options that are less costly than incarceration. Combined with evidence-based practices, a continuum of intermediate sanctions can effectively target appropriate levels of supervision to offenders based on risk and need.

North Carolina uses intermediate sentencing options as part of its structured sentencing guidelines and a state-wide system of community corrections. Based on offense severity and prior criminal history, guidelines recommend three sentencing options: prison, basic probation and intermediate punishment. Intermediate punishment is a form of probation that provides additional sanctions along with tailored supervision and treatment services. Offenders may be required to serve some combination of jail and probation; live in a residential program; be under house arrest; or meet day-reporting, drug court, or other requirements.

Intermediate sanctions, pretrial release options and treatment programs are available to courts through the community-based corrections system, overseen by North Carolina’s Sentencing and Policy Advisory Commission. Enabling legislation stated that courts should be provided with information that assists in “imposing sentences that make the most effective use of available resources.” This is accomplished with presentence reports that make recommendations on level of supervision, victim restitution, community service, and treatment needs. Local “sentencing services” programs assess offenders for mental health and substance abuse needs, and work with community agencies and treatment providers to place offenders into appropriate pretrial and post-sentencing programs. (See also *Managing Offenders in the Community*.)

Drug-Crime Sentencing The National Center on Addiction and Substance Abuse (CASA) at Columbia University has extensively studied the effects of substance abuse on public expenditures at all levels of government. A recent CASA report estimated that substance abusing adult offenders account for about 80 percent of state costs for prisons, parole, probation and related aid to localities. Meanwhile, a growing body of research questions the use of incarceration as an appropriate and cost-effective means of dealing with low-level drug offenders, particularly those who possess rather than traffick in drugs. Many states in recent years have enacted policies to divert drug offenders to community supervision and treatment, and policymakers also are reviewing and revising drug offense crime classifications and penalties. (See also *Treating Drug Offenders*.)

Substance abusing adult offenders account for about 80 percent of state costs for prisons, parole, probation and related aid to localities.

In Pennsylvania, drug addicted offenders who would otherwise face a minimum of 30 months in prison are eligible for the state intermediate punishment program. The program follows a graduated “step-down” model that includes:

- A minimum period in prison, during which the offender participates in an intensive treatment program;
- A term in a community-based residential facility;
- Placement in outpatient counseling; and
- A period of community supervision.

Lawmakers there created this intensive treatment model in 2004 as a way to maintain punishment for serious drug offenders and also address substance abuse needs.

Other states are reviewing and reforming drug-crime penalties. In 2010, the Colorado General Assembly lowered most penalties for use and possession of controlled substances, with a few exceptions. Finding that “methamphetamine use poses a significant health and safety risk,” the legislature set the quantity threshold for possession of meth at a lower amount than for other controlled substances. A new crime of selling a controlled substance to a minor was established, which carries a mandatory prison term. The General Assembly also revised downward the penalties for marijuana offenses, based upon a recommendation of the Commission on Criminal and Juvenile Justice’s drug policy task force.

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Rockefeller Drug laws in New York also have been reviewed and revised. Named after then-Governor Nelson Rockefeller, these laws included some of the nation's toughest mandatory sentences for drug offenses. In 2004, the Legislature made the first in a series of changes to the state's drug laws, including fixing shorter prison terms for nonviolent offenders, expanding eligibility for prison-based treatment and raising drug quantity thresholds for certain drug possession offenses. In 2004 and 2005, certain offenders serving lengthy prison sentences under the previous law were allowed to apply for resentencing under the new laws. In 2009, the Legislature further modified the drug laws, authorizing community supervision and substance abuse treatment for many nonviolent offenders who previously would have served mandatory prison terms.

Statement of Intent for 2009 New York Drug Sentencing Law

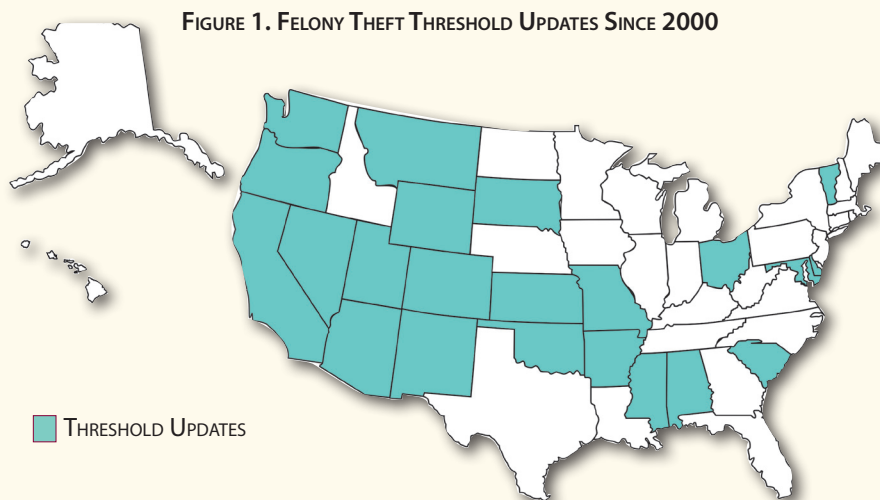
"New York has achieved great success in reducing the crime rate in recent years, in part, by targeting heightened penalties on violent felons. To achieve further dramatic success in reducing crime, our state must make a concerted effort to eliminate the substance abuse which lies at the core of most criminal behavior. Expanding the number of nonviolent drug offenders that can be court ordered to drug abuse treatment will help break the cycle of drug use and crime and make our streets, homes and communities safer. This will make New York's criminal justice policies not only tough -- but smart."

*A6085 (2009), quoted here, ultimately was enacted in the budget bill, Chapter 56 of 2009.

In 2011, the Kentucky General Assembly established drug quantity thresholds to distinguish offenders who are primarily drug users and in need of treatment from more serious drug dealers. Drug quantities were added to trafficking offenses and penalties for smaller amounts of controlled substances were lowered. The recent law also set probation as the presumptive sentence in lieu of a prison term for first or second-time convictions for possession of a controlled substance unless the court makes a finding that probation is not appropriate. Kentucky is among the states that have taken a comprehensive approach to screening felony defendants for substance abuse, diverting some to community supervision and sending others to secure treatment. Kentucky has 20 corrections-based treatment programs around the state.

Updating Theft Thresholds In many states, stealing a few hundred dollars' worth of property is or could be a felony. Over time, consumer goods increase in price. When felony theft thresholds do not keep pace, smaller thefts that would have been misdemeanors when the threshold was put in place become felonies, although that may not be the clear legislative intent.

Since 2000, at least 22 states have adjusted monetary thresholds for theft crimes; Figure 1 lists these states. Colorado's 2007 law included a provision requiring the Division of Criminal Justice to consult with state economists and make threshold recommendations to the General Assembly every five years to ensure that regular review and revision occur.



Review and revision of mandatory minimum sentences for some offenders and update of felony theft thresholds are among the significant ways state legislatures are modernizing criminal codes to reflect current circumstances and needs, as stated in *Principle 6*.

Review and revision of mandatory minimum sentences for some offenders and update of felony theft thresholds are among the significant ways state legislatures are modernizing criminal codes.

Time Served

Various factors affect how long an inmate will spend in prison and when he or she may be released. The sentence imposed is only part of the calculation to determine the length of time an inmate will serve in prison. Truth-in-sentencing requirements, mandatory sentences, good-time and earned-time, and parole eligibility policies also affect the portion of the sentence that will or must be served. Time served is an important factor in determining state prison populations and costs. In states that have parole, state sentencing systems give parole boards varying degrees of discretion to determine when an inmate may be released. A number of states are revisiting minimum sentence policies, while others are expanding earned-time. Some are using conditional release policies that allow corrections departments to make community placements to help inmates make the transition from prison to the community after a lengthy period of incarceration.

ing earned-time. Some are using conditional release policies that allow corrections departments to make community placements to help inmates make the transition from prison to the community after a lengthy period of incarceration.

Mandatory Minimum Sentences Mandatory minimum sentences apply in many states to violent and sex offenses; repeat and habitual offenders; offenses committed while possessing or using deadly weapons; certain drug crimes; and crimes involving a child or other vulnerable victim. Mandatory minimum sentences have been implemented in all types of sentencing schemes, and generally provide a sentence enhancement for certain offenders, crimes or circumstances.

The most common mandatory minimum sentences apply to habitual or repeat offenders. This includes “three strikes and you’re out” policies adopted by 25 states between 1993 and 1995. Three-strikes laws generally require a prison term for habitual or persistent offenders, although the number and types of crimes that trigger a three-strikes sentence—as well as the length of the prison term—differ from state to state. Many states have determined that mandatory minimum sentences are appropriate for dangerous offenders. This reflects objectives stated in the *Principles* section that sentencing policy seeks to protect the public.

Time served is an important factor in determining state prison populations and costs.

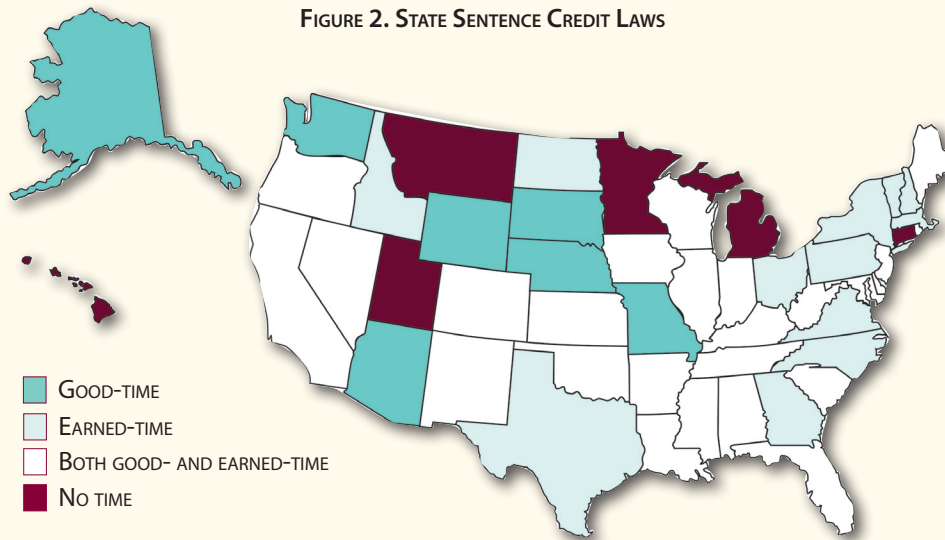
Other mandatory sentences apply to drug offenders and some misdemeanors. At least three states—Arizona, Florida and Texas—have adopted mandatory enhanced penalties for repeat misdemeanor offenses. Missouri and Wisconsin laws provide courts with discretion to increase penalties for those who are repeat misdemeanor offenders.

A 2007 Pennsylvania House resolution directed the Pennsylvania Commission on Sentencing to study the use and impact of the state’s mandatory minimum sentencing laws. The commission’s 2009 report said the state should strive for a more balanced and targeted approach to mandatory minimum sentences. It recommended mandatory minimum sentences as appropriate for offenders who pose a risk to the public and require incapacitation or when deterrence is a primary sentence purpose. Broader court discretion was recommended as more appropriate for less serious offenders who potentially could benefit from rehabilitative services and treatment. The 2011 General Assembly is reviewing the recommendations.

This same concept has prompted other states to revisit mandatory minimum sentences in recent years, and illustrates work in states to achieve more balanced and cost-effective sentencing and corrections systems. At least 14 states modified mandatory minimum sentences for certain drug offenders during the 2000s. Colorado, Louisiana, Michigan, Minnesota, Montana, New Jersey, New York, North Dakota, Rhode Island and South Carolina eliminated mandatory minimum sentences or permitted discretion for low-level, nonviolent drug crimes. Connecticut, Indiana and South Dakota narrowed the application of mandatory minimums, and Delaware eliminated mandatory prison time for some drug possession and sales.

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States have also made notable changes to three-strikes laws in recent years, including narrowing their application. California amended its policy to no longer impose a three-strikes sentence for many third convictions, limiting it to a third serious or violent crime. Colorado and Louisiana no longer require prison terms for some low-level, nonviolent, repeat offenders, while Nevada removed crimes involving fraud from the list of those that trigger a three-strikes penalty. A handful of states, including California, have replaced mandatory minimum sentences with sentence ranges that also give courts alternatives to a life sentence upon a third strike. In Colorado, Connecticut and Indiana, third convictions require the offender to be sentenced to a prison term equal to three times that of the underlying offense. Indiana courts may order life without parole for certain sex and violent crimes.



Sentence Credits Sentence credit laws—commonly known as good-time and earned-time—exist in at least 44 states and provide opportunities for some inmates to accelerate their release date, as shown in Figure 2.

Good-time credits generally are granted to inmates who follow prison rules and participate in required activities. At

least 32 states have good-time policies. Earned-time credits are available in at least 37 states for certain inmates who participate in or complete educational courses, vocational training, treatment, work or other programs. Earned-time credits are distinguished from and can be offered in addition to good-time credits.

These release incentives not only trim inmate time served and lower costs of incarceration, but also provide programs that improve offender success in the community and reduce recidivism. Even though some earned-time laws offer inmates a fairly small reduction in prison terms, those few days can add up to a significant cost savings when applied to hundreds or thousands of inmates. Mindful that any policy involving release of inmates must consider public safety, it is noteworthy that recidivism rates in states with earned-time provisions either remain unchanged or actually drop. This is attributed in large part to the benefits of prison-based programs inmates must complete to earn time off their sentences. More savings are captured when offenders who are better prepared to be in the community do not violate their supervision conditions or commit new crimes that create new crime and punishment costs.

Inmates in Oregon are allowed to earn up to 20 percent or 30 percent off their sentences, depending on the date and conviction offense. Time is awarded for good conduct and compliance with a prison program plan that includes programs such as cognitive behavioral classes, education and work assignments, parenting courses and substance abuse treatment. Certain inmates can earn additional sentence credits for attaining educational or vocational certificates and degrees. An audit of state sentence credit policies conducted by the secretary of state's audit division determined that, in FY 2009, inmates spent about 80 fewer days in prison, resulting in savings to the state of at least \$25 million.

Parole Board Release Parole boards, a standard component of indeterminate sentencing structures in the early and mid-1900s, had broad discretionary authority over the release of inmates from state prisons. With the rise of determinate and sentencing guidelines systems and the adoption of truth-in-sentencing provisions in the 1970s and 1980s, a number of states restricted or eliminated discretionary parole. Although parole boards still exist in most states, their function often has changed.

Mississippi's state prison population more than doubled and corrections costs increased three-fold following passage of a 1995 truth-in-sentencing law that required all inmates sentenced to state prison to serve at least 85 percent of their term before they could be considered for release. To deal with swelling prison populations and costs, the Mississippi Legislature twice increased the amount of good-time that low-level offenders were eligible to earn and reinstated parole eligibility for certain nonviolent offenders. In 2008, lawmakers reinstated discretionary parole at 25 percent of the sentence for inmates convicted of nonviolent crimes who have no violent history. The new provision also was applied retroactively; as a result, approximately 12 percent of the prison population was immediately eligible for parole consideration.

At the same time, Mississippi's parole board adopted a risk assessment tool to screen inmates for suitability for release. This, together with the revised parole eligibility policies, delayed the need for a new state prison by 10 years. An independent evaluation in 2010 found that, of some 3,100 offenders released between July 2008 and August 2009, 121 were returned to prison—116 for technical violations of parole and five for new crimes.

As with other criminal justice agencies, parole boards are beginning to use risk assessments in release decisions. An April 2008 survey by the Association of Paroling Authorities International found that 32 of 37 responding parole boards use a risk assessment instrument in the release decision process, and many have some form of parole guidelines. In 2010, the Colorado General Assembly incorporated use of a parole decision-making tool into the release and revocation process. This provides the board with information about an inmate's risk of reoffending, program needs and readiness for release. It also helps set parolee supervision requirements. The legislation declared that, "structured decision-making by the board of parole provides for greater accountability, standards for evaluating outcomes, and transparency of decision-making that can be better communicated to victims, offenders, and other criminal justice professionals and the community."

The Colorado General Assembly has required a parole decision-making tool that provides for accountability, outcome standards and transparency for victims, offenders, and other criminal justice professionals and the community.

Conditional Release Conditional release laws, which also affect time served, provide certain inmates with the opportunity to be released from prison before their prison term ends. These policies are among those referred to in the *Principles* section as providing incentives to prisoners who complete programming, treatment or training. Options can include placement in a residential facility or other structured access to services, treatment, or health care that is not available in secure correctional facilities. Residential treatment and work release facilities provide reintegration services while offenders work and pay room and board in addition to any required restitution or child support.

South Carolina lawmakers expanded eligibility for their work release program in 2010. Certain inmates who are not eligible for parole now may serve the last three years of their sentence in a residential, pre-release and work facility. The state's Sentencing Reform Commission recommended adoption of this policy, citing Department of Corrections data that showed a 10 percent rise in recidivism following a 2003 policy that broadly barred all violent offenders from eligibility for work release.

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Other forms of conditional release include furloughs, such as those statutorily authorized in Vermont. The Vermont Department of Corrections supervises short-term release of eligible inmates to meet with prospective employers or secure housing as they prepare for discharge from prison. Upon completion of the minimum term of confinement, inmates also can be released to participate in locally run restorative justice reentry programs. Treatment furloughs allow the corrections department to move an inmate to a hospital or residential-based treatment program at any point during the term of confinement, if it is determined that an inmate needs services not available in a correctional facility.

Medical parole moves certain inmates who have an incapacitating or terminal medical condition to a residential care facility or other setting suited to treatment of medical needs. Policies that provide for release to medical care for aged or infirm inmates are among those that follow the *Principles* suggestion that discretion be exercised in placement and release of offenders and also that legislatures strive for balance in cost, population control and safety (*Principles 3 and 4*).

As of 2010, laws in at least 39 states provide for medical parole; use of such policies is limited, however. A 2010 analysis by the Vera Institute of Justice found that, while medical parole may be a promising cost-control policy, use of these laws is hindered by unclear eligibility and complex release procedures. The Vera study suggested that states clarify eligibility and consider setting up processes for automatic, scheduled review for those offenders who meet eligibility based on age or infirmity.

Lack of suitable housing and care in the community limits medical release, according to a 2008 report to the Virginia General Assembly. The Department of Corrections reported that, between 2003 and 2007, only seven inmates were granted medical release. In some cases, the seriousness of the offense and other factors related to public safety were reasons the Parole Board did not grant release. Further limiting medical releases, according to the report, are lack of available beds in nursing homes and unwillingness on the part of private nursing homes to accept people with a criminal record. The report recommended creating a statewide correctional medical center.

A period of post-prison supervision provides offenders a formal link to transitional support services from treatment providers and other community and faith-based organizations.

Mandatory Release Sentencing policies in some states affect not only opportunities for post-release services and supervision, but also time served. A period of post-prison supervision provides offenders a formal link to transitional support services from treatment providers and other community and faith-based organizations. Post-release supervision also enables correctional agencies to monitor offenders during their initial return to the community, at which time they are at the highest risk of reoffending. Release from prison on a fixed sentence with no community supervision means less access to services and little or no monitoring, both of which are particularly troublesome for high-risk offenders.

In New Hampshire, 16 percent of all inmates released in 2009 had completed their maximum sentence in prison and were not subject to supervision upon release. In 2010, the General Court enacted legislation to require that inmates be released to community supervision nine months before their maximum release date. Kentucky faced a similar situation when the legislature amended release laws in 2011. Certain lower-level inmates who are serving a prison term of more than two years now are required to be released to parole supervision six months before their maximum release date. For inmates who are not eligible for the six-month release—those who are convicted of the most serious crimes, are not statutorily eligible for parole, or are serving their term in a maximum security facility—an additional year of community supervision is now required after the maximum sentence has expired.

Effective sentencing and corrections policies use information and research to weigh safety risks and offender supervision needs in determining appropriate sentence types and lengths. State efforts to study and involve stakeholders can result in a package of policies that help to reduce crime and manage corrections resources.

Managing Offenders in the Community

Prisons are expensive. The Public Safety Performance Project of the Pew Center on the States reported that approximately \$9 of every \$10 spent by states on corrections in FY 2008 was devoted to state prisons, even though nearly 70 percent of offenders are supervised in the community. The 2009 Pew report shows that prison spending has increased in recent years at a faster rate than spending on community corrections. The analysis of corrections department data from eight states—Alabama, Georgia, Louisiana, Missouri, Montana, New York, Oregon and Wyoming—covered a 25-year period. During that time, Pew reported, 88 percent of new corrections dollars were allocated to prisons and only 12 percent went to community corrections supervision.

Non-prison options for suitable offenders not only helps states do more with their corrections money, but also ensures prison space is available for the most dangerous offenders. Intermediate supervision options such as electronic monitoring, residential programs and problem-solving courts are less costly than incarceration, and they provide a greater degree of monitoring and requirements than traditional probation or parole programs. Residential and community treatment can address substance abuse and mental health needs commonly related to criminal behavior (see also *Treating Drug Offenders*). Non-prison sanctions for probation and parole violations can also provide for offender accountability and reserve costly prison space for offenders who may present a public safety concern.

Adequate funding for community corrections is a perennial challenge, especially as states struggle with the recent recession. Some states are finding ways to use data and evidence to invest in successful, effective supervision strategies; they use savings gained to reinvest in identified policies that further manage costs and achieve better

Using community-based supervision options for suitable offenders not only helps states do more with their corrections money, but also ensures prison space is available for the most dangerous offenders.

result for both offenders and corrections systems. Policies such as risk-based supervision, administrative supervision and compliance credits allow agencies to focus community resources on the highest-risk offenders and at the same time, hold accountable all offenders who are in the community.

Tailored Supervision

Many states allow courts and agencies to tailor supervision based on an offender's risk of reoffending and treatment needs (see also *Using Data and Evidence*). Intermediate supervision options, which provide varying levels of surveillance and services, may include such

options as electronic monitoring and home confinement, residential placements, or required participation in problem-solving courts. As noted in *Principle 4*, the value of intermediate sanctions depends upon policies that target resources effectively and focus the highest-level supervision on the highest-risk offenders. Creating more intensive supervision for lower-risk offenders usually does not help meet corrections goals, affect cost control, or reduce reoffending.

Electronic Monitoring Electronic monitoring uses technology to track an offender's whereabouts and monitor compliance. For nonviolent offenders, it often is combined with house arrest or is used to enforce curfew and travel restrictions. Correctional agencies also use electronic monitoring as an alternative sanction to jail or prison for violations of supervision conditions or to monitor offenders who are making the transition into the community after prison.

Of every \$10 spent by states on corrections in FY 2008, \$9 was devoted to state prisons, even though nearly 70 percent of offenders are supervised in the community, according to Pew's Public Safety Performance Project.

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Savings Identified in Florida		
Florida's Office of Program Policy Analysis and Government Accountability (OPPAGA) identified several intermediate sanctions for nonviolent offenders that, when used in lieu of prison, could significantly reduce criminal justice costs and reserve prison beds for the most dangerous criminals. Shown below are these sanctions, the suitable offenders and savings expected. The per diem savings are comparable to the state's \$55.54 per diem cost of incarceration.		
Intermediate Sanctions	Target Population	Per Diem Savings Per Offender
GPS monitoring	Nonviolent felony offenders with minimum sentence of 12 to 24 months' incarceration.	\$41.51
Non-treatment residential facilities	Probation technical violators, nonviolent offenders with restitution ordered, or nonviolent offenders in need of structured assistance to obtain employment and gain stability.	\$29.53
Day reporting centers	Low-level felony or misdemeanor offenders.	\$44.06
Residential substance abuse treatment	Offenders with substance abuse issues.	\$26.66

Source: Florida Office of Program Policy Analysis and Government Accountability, 2010.

The Vermont General Assembly increased use of electronic monitoring to provide community supervision for certain offenders who otherwise would be incarcerated. A 2008 law authorized use of electronic monitoring for probation violations and as part of supervision provided in a structured, community transition program. In 2010, the General Assembly created a house arrest sentence for offenders who otherwise would be sent to prison. This allows offenders to continue working, attend treatment, support their families, and remain in their residences except for travel approved by a supervising officer.

Electronic monitoring has been found to be a cost-effective supervision strategy when used in lieu of jail and in conjunction with appropriate services. A 2006 Washington State Institute for Public Policy (WSIPP) analysis of evidence-based policy options determined electronic monitoring to be an economically beneficial supervision tool that does not affect crime incidence. The WSIPP analysis determined that electronic monitoring, when used in lieu of jail, could save Washington State \$870 per offender.

Residential Facilities Residential facilities provide offenders with a structured environment and support services in a community-based setting. Colorado's 35 residential facilities serve both offenders diverted from prison and some who are making the transition from prison into the community. Most facilities require offenders to keep a job, and pay room and board, state and federal taxes, and any restitution and child support owed. Offenders participate in programs such as substance abuse treatment; counseling designed to address cognitive reasoning and criminal behavior; employment and vocational courses; and life skills, financial, and anger management training. A Department of Corrections analysis in FY 2008 found that employed offenders were three times more likely to finish the program than those who were unemployed, underscoring the importance of job readiness for community-based offenders.

Problem-Solving Courts Problem-solving courts were identified by state chief justices and court administrators in a 2006 National Center for State Courts survey as one of the two most effective supervision programs

available in their states; mental health and substance abuse programs are the other. These courts, which vary in size, target population and structure, are designed to address the special needs of the target population. In Nevada, 42 problem-solving courts throughout the state include adult, juvenile and family drug courts; mental health courts; reentry courts; driving under the influence courts; a prostitution prevention court; habitual offenders' courts; and veterans' courts.

At least six state legislatures—Colorado, Hawaii, Illinois, Indiana, Nevada and Texas—authorized establishment of veterans' treatment courts in 2009 and 2010.

Veterans' treatment courts are the most recent type of problem-solving court being established in states. At least six state legislatures—Colorado, Hawaii, Illinois, Indiana, Nevada and Texas—took action in 2009 and 2010 to authorize courts that address needs of veterans who become involved in the criminal justice system. Many of these offenders have substance abuse and mental health needs stemming from combat experience; services overseen by the courts partner with veterans' agencies and eligible benefits. California, Iowa, New Hampshire and Oregon have similar policies that authorize diversion of veterans convicted of nonviolent crimes into treatment programs in lieu of prison.

Drug courts are the oldest and most common type of problem-solving courts—in 2010 there were more than 2,500 such courts operating across all 50 states, according to the National Association of Drug Court Professionals. Missouri's first drug court was established in 1993; today that state has the most drug courts per capita of any state in the nation. A Drug Court Coordinating Commission was established by the General Assembly in 2001 to evaluate resources, oversee operation and recommend funding for the state's drug courts. An academic study conducted for the commission projected savings of \$7,800 per year for each offender who is supervised in drug court instead of being sent to prison.

The federal Bureau of Justice Assistance's Drug Court Clearinghouse tracks and summarizes cost-benefit evaluations of drug court programs dating back to 2000. Studies comparing drug court participants to similar offenders who are not enrolled have found criminal justice system savings as a result of reduced prison and jail time, lower re-arrest and re-conviction rates, and decreased victim and law enforcement costs. Other benefits—such as increased employment rates and wage earnings, reduced health care costs, and increased parental participation and payment of child support—also have been noted. Studies of statewide drug court programs reveal that, while some drug courts cost more than typical court dockets or probation caseloads, the specialty courts still are more cost-effective than jail or prison.

As policymakers explore the value of drug courts, they also can be aware of opportunities for improvement. A two-year examination of problem-solving courts by the National Association of Criminal Defense Lawyers resulted in a 2009 report that questioned the effectiveness of drug courts in addressing the societal problems of substance abuse. The report also cautioned about procedural matters and questioned whether drug court caseloads are adequately diverse and if clients are predominately those with the greatest need for intensive judicial supervision and treatment services (see also *Determining Criminal Sentences* and *Treating Drug Offenders*). As suggested in the *Principles*, policymakers can improve the effectiveness of intermediate and alternative sanctions both by ensuring that approaches are evidence-based and by requiring that community resources safely target offenders who can most benefit from community interventions in lieu of prison.

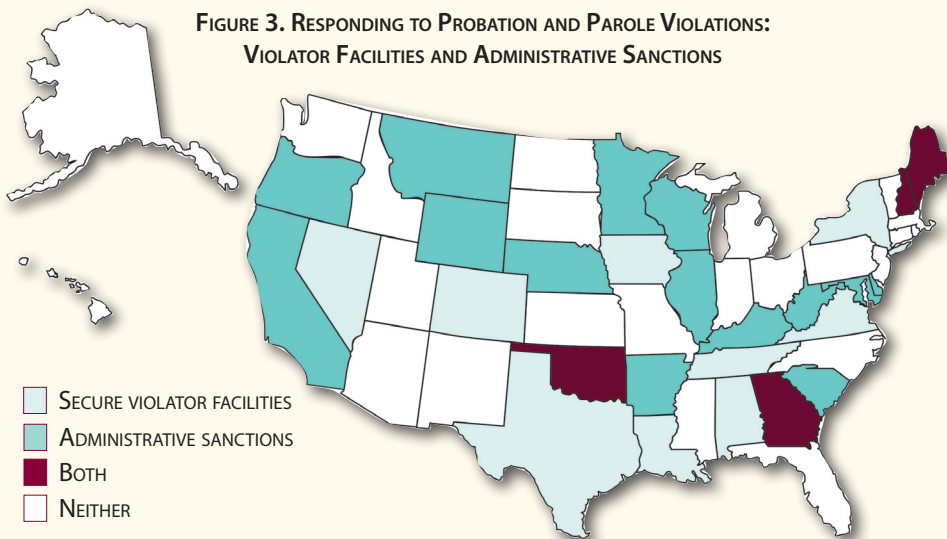
Probation and Parole Violations Offenders sent to prison for probation and parole violations contribute substantially to state prison populations and related costs. According to the Bureau of Justice Statistics, 35 percent of all state prison admissions in 2009 were offenders who returned to incarceration as a result of parole violations. Although some violators must be returned to prison to protect society, a growing number of states are developing non-prison sanctions for offenders who break the rules of their supervision, known as technical violations.

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Alternative sanctions for probation and parole violators are designed to hold offenders accountable for breaking the rules, address issues related to the violations, and minimize the cost of incarceration to the state. Intermediate options allow a violator to remain in the community, continue to work, and pay restitution and child support. Sanctions include residential and community-based treatment programs, specialty court supervision, house arrest, electronic monitoring, work release, community service, secure and residential facilities, increased monitoring and reporting, and possible short periods in jail.

Several states have statutorily authorized community supervision agencies to impose intermediate sanctions for technical violations of probation or parole in lieu of formal court revocation proceedings (see Figure 3). Administrative sanctions allow violations to be swiftly dealt with at the agency level. This not only reduces time and costs of court and parole board hearings, but also provides for offender accountability and reduces reliance on prison as a sanction. Under the Oregon Department of Corrections' structured sanctions program, officers can impose immediate sanctions for violations of probation or parole conditions. A grid is used to determine

appropriate sanctions—jail, residential work centers, house arrest and community service—based on the offender's risk level, crime of conviction, and seriousness of the violation. Officers also can order violators to participate in programs such as substance abuse and mental health treatment, employment assistance, and anger management classes. A 2002 evaluation by the Department of Corrections found that offenders who were ordered to community sanctions had lower rates of future re-conviction than those ordered to jail; those ordered to community service had the lowest rate of re-conviction among all community-based options. The overall evaluation conclusions noted that the most effective sanctions include a rehabilitative component.



ordered to community service had the lowest rate of re-conviction among all community-based options. The overall evaluation conclusions noted that the most effective sanctions include a rehabilitative component.

Several states have secure facilities that are designed to house and treat probation or parole violators instead of sending them to prison, as shown in Figure 3. In 2006, the Tennessee General Assembly authorized the Parole Technical Violators Diversion Program. Parolees who violate a condition of parole but have not committed a new felony may be sent to a secure facility for a six-month term to participate in a community service work crew or attend GED classes during the day and complete treatment programs in the evening. Tennessee offers probation violators the opportunity to complete programming in a Special Technical Violator Unit (STVU) in lieu of revocation to a state prison. In the STVU, the probationer will participate for at least four months in an intensive work and treatment program. As of 2010, New Hampshire requires that all programs and services provided at a parole violator facility be evidence-based and designed to re-engage parolees in their parole plan.

Funding Strategies

Prison populations are beginning to decline as a result of changes in front-end sentencing policies, availability of strategies to provide community-based sanctions for probation and parole violators, and specialized court and other treatment programs for drug offenders and those with mental health and other needs. Some states have created funding mechanisms to reinvest prison savings into programs that safely and successfully supervise offenders in the community.

In some states, state-local partnerships provide “incentive funding” to localities that successfully supervise offenders in the community instead of sending them to state prison for probation and parole violations. At least nine states—Arizona, Arkansas, California, Colorado, Illinois, Kansas, Kentucky, Ohio and Texas—have such arrangements, under which local correctional agencies usually receive state funding and other assistance to implement evidence-based supervision and programming. The goal is to reduce the rate at which probationers and parolees commit new crimes or violate their supervision conditions and are then sent or returned to prison.

In Kansas, a Risk Reduction Initiative adopted by the Legislature in 2007 was designed to increase offender success by reducing the number of revocations to state prison by at least 20 percent. To accomplish this, a grant program was established for local probation agencies that developed risk-reduction supervision and programming. Targeting medium- to high-risk offenders, the initiative uses specialized caseloads, employment training and placement, educational assistance, transportation and housing, and other services to help offenders remain crime- and drug-free. Careful assessment is used to assign offenders to the appropriate level and type of substance abuse, mental health, cognitive and other treatment.

At least nine states—Arizona, Arkansas, California, Colorado, Illinois, Kansas, Kentucky, Ohio and Texas—have “incentive funding” for localities that safely and successfully supervise offenders in the community.

The first round of funding in FY 2008 went to all 31 probation agencies in the state. By FY 2009, the Department of Corrections reported a 25 percent decrease in revocations to prison compared to the FY 2006 baseline; this exceeded the initial goal of 20 percent reduction.

In 2009, the California Legislature created a performance-based state-local funding partnership. Using one-time federal stimulus money, the Legislature allocated funding to local probation departments to implement evidence-based supervision practices designed to increase successful probation completion. Success is measured in terms of decreases in the number of probationers sent to prison for technical violations or new crimes. Continued funding under the act depends upon the rate at which the revocations decline. Each year, counties will be eligible to receive a portion of state savings achieved by reducing the number of prison admissions.

These funding strategies are examples of ones that, related to *Principle 4*, help states partner with local jurisdictions to create incentives for and hold accountable community programs and services.

Options for Low-Level Offenders

Other state community supervision strategies are risk- and resource-sensitive in terms of identifying offenders who are not serious criminals, pose little threat and can be safely sanctioned at lower levels of supervision. State policies provide for administrative supervision, which consists of minimal reporting and monitoring requirements so long as restitution is being paid and the offender remains crime- and drug-free. Other policies move offenders who comply with their supervision conditions to less active supervision or provide an opportunity for early termination of the community supervision term. Table 1 identifies additional information on policies for supervising low-risk offenders. Limiting and decreasing supervision and services for lower-risk offenders focuses resources more effectively on higher-risk offenders, and are among the strategies states can consider that, as suggested in the *Principles*, update and adapt criminal codes to reflect current standards and needs.

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Type	Supervision Components	Examples
Administrative Supervision	Minimal reporting requirements; monitoring to ensure court-ordered payments are being made and no new criminal activity occurs.	Kentucky created an administrative caseload supervision program in 2011 for low-risk offenders who are identified via risk assessment.
Risk-based Supervision Levels	Offender is assigned to a supervision level based on offense, compliance with supervision conditions and risk assessment scores.	In New Hampshire, risk assessments guide both the level of supervision and time spent at each level of supervision. For example, a low- or medium-risk offender will be placed on active supervision for the first 12 months and, if compliant, moved to administrative supervision for the remainder of the term.
Early Termination	Gives courts discretion to review and grant early termination of a probation or parole sentence. Often requires the offender to have paid restitution in full and completed all program and treatment requirements.	Texas has incorporated early termination into a “progressive sanctions and incentives program” administered by local supervision agencies. Includes use of structured, swift and incremental sanctions for violations of supervision, and incentives such as early termination for compliance.
Compliance Credits	Provides probationers or parolees with a monthly credit for compliance with supervision requirements.	Nevada law permits certain probationers to earn 10 days per month for complying with supervision requirements and staying on schedule with all court-ordered fee and restitution payments. An additional 10 days per month can be earned for maintaining employment and participating in education or rehabilitation programs.
Probation Term Limits	Caps the length of time a court can order for a probation sentence.	In 2003, Delaware limited probation sentences to two years for any violent felony, 18 months for drug offenses and one year for all other offenses. Previous law did not set an upper limit on probation terms, and lengthy probation sentences were common.

Source: 2007 Tex. Gen. Laws, Chap. 1205; 2009 Nev. Stats., Chap. 44; 2010 N.H. Laws, Chap. 247; 2011 Ky. Acts, Chap. 2; and Vol. 74 Del. Laws, Chap. 27.

The variety of strategies described help states safely and cost-effectively manage many offenders in the community. Community corrections resources can be maximized with other risk- and resource-sensitive policies that focus the most supervision and services on offenders who need to be watched most closely and who have significant needs that can be addressed in the community.

Treating Drug Offenders

Inmates incarcerated for drug offenses make up about 20 percent of state prison populations, but more than half of all inmates meet the criteria for drug abuse or dependence, according to a 2006 report of the federal Bureau of Justice Statistics. Despite high rates of addiction among offenders, few receive treatment in prison. Many state legislatures are addressing the drug-crime connection with policies that divert appropriate drug offenders to treatment.

Kansas addressed high rates of drug abuse among criminal offenders in 2003 by requiring a community-based drug treatment sentence for certain non-violent drug offenders. The enabling legislation reduced penalties for possession of illegal drugs and authorized community supervision in lieu of incarceration for some offenders. Eligible offenders, identified on the state's drug-specific sentencing grid, undergo a specialized drug abuse assessment to determine the level of treatment needed. Community-based treatment programs are administered under a coordinated effort among local community corrections agencies and private treatment providers. Offenders may be placed in residential and outpatient treatment settings, receive substance abuse aftercare services, and face sanctions for violating community supervision requirements.

Justice statistics reveal that inmates incarcerated for drug offenses make up about 20 percent of state prison populations, but more than half of all inmates meet the criteria for drug abuse or dependence.

The state established a special fund to support supervision and treatment costs, and offenders make court-ordered payments if it is determined they can do so. As a result of sending these offenders to treatment instead of prison, the Kansas Sentencing Commission says the state realized net savings more than \$8 million between 2004 and 2010.

The Texas Legislature has increased funding to community-based treatment options in recent years. An evidence-based continuum of care model has been established to provide a variety of secure and community-based treatment options to address both substance abuse and mental health needs of probationers. Supervision officers use assessment tools to appropriately place offenders in the least restrictive setting available without compromising public safety.

Other states also have created pre- and post-charge diversion programs and have expanded secure residential treatment. In Minnesota, certain first-time, low-level drug possession and sale offenders are placed on probation in a pre-conviction program that focuses on alcohol and drug abuse education. Courts there also can offer a post-conviction program for higher-level drug possession and sale offenders who are supervised on a probation sentence.

California's substantial experience with drug offender diversion includes San Francisco's Back on Track program. The San Francisco District Attorney's Office said the pilot phase in 2005 and 2006 showed 92 percent of participants successfully completed the program. This success prompted the Legislature in 2009 to authorize expansion to other superior courts; those eligible are first-time, nonviolent felony drug offenders. The Bureau of Justice Assistance has reported the Back on Track program to be an evidence-based strategy that combines offender accountability and opportunity for self-improvement. In addition to treatment services, the program includes training in a variety of vocational and life skills.

Following a successful pilot program in Utah, lawmakers there adopted the Drug Offender Reform Act (DORA) in 2007. The law required that more information be made available to judges about the substance abuse needs of defendants and expanded community-based treatment options in the state. Eligible offenders are those convicted of a felony or felons being released on parole for the first time whose assessments identify them to be in

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need of substance abuse services. Human services and criminal justice agencies collaborate to create and implement individual plans that include treatment and intensive supervision. The state continues to find high rates of treatment completion among participants.

A trio of options is available in Idaho to treat drug-addicted offenders in a secure setting. The treatment options vary in length and intensity, and offenders are placed in one of the programs based on assessment. An “early intervention” 90-day program is designed to provide intensive substance abuse treatment for offenders whose participation in community-based treatment programs has not been successful. These offenders include probationers and parolees who violate the conditions of supervision. The second option, a 180-day program, addresses a broader range of issues related to criminal behavior, including substance abuse, mental health, education, and employment issues. The most intense program is based on a therapeutic community treatment model. It targets offenders who have more chronic or serious criminal histories and chronic substance abuse issues. Offenders can remain in that treatment setting for up to a year. Completion of any of the secure treatment programs is followed by appropriate levels of aftercare and supervision in the community.

Hawaii’s Opportunity Probation with Enforcement (HOPE) program, started in 2004, took a new approach to dealing with high-risk drug offenders who are on probation and on the verge of being sent to prison. Offenders identified for the program attend a formal “warning hearing” and are notified that violations will result in swift and certain sanctions such as a short jail stay or a longer jail term for additional violations. Treatment sanctions also may be ordered, depending on the offender’s needs and history. In 2007, the Hawaii Legislature appropriated funds to continue and expand HOPE. A Pepperdine University study found HOPE participants were 55 percent less likely to be arrested for a new crime, 72 percent less likely to use drugs, and 53 percent less likely to have probation revoked. The program continues to expand, and in 2010 the Legislature asked the Paroling Authority to develop a similar pilot program for high-risk parolees.

Specialized Treatment Funding

Finding that well-structured treatment for offenders under correctional supervision can reduce drug use by 50 percent to 60 percent, decrease criminal behavior by more than 40 percent, and provide up to \$7 in taxpayer benefits for every \$1 in cost, a treatment funding work group of the Colorado Commission on Criminal and Juvenile Justice was created to increase availability of offender substance abuse, mental health and co-occurring disorder treatment. The 2010 Colorado General Assembly adopted several of the workgroup recommendations and substantially increased funding for offender treatment. Two measures directed savings from decreased prison costs to specific offender treatment and services, shown in Table 2.

Law	Summary	Source of Savings	FY 2011 Savings Allocation
2010 Chap. 263	Reduces penalties for technical violations of parole.	Reduced parole revocations to prison.	Residential and outpatient treatment, reentry and job training services.
2010 Chap. 259	Lowers penalties for use and possession of controlled substances.	Decreased prison sentences and shorter lengths of stay.	Community-based treatment for substance abuse and co-occurring disorders.

Source: Colorado Criminal and Juvenile Justice Commission, December 2010.

In 2011, Kentucky adopted legislation that distinguishes between drug dealers and drug users. The measure reduced penalties for drug users and authorized probation and treatment participation for some first- and second-time drug offenders. Starting with the 2012 biennium, savings attributed to having fewer inmates in state prison will be reallocated to expanding evidence-based treatment programs. Savings are projected to reach nearly \$10 million for FY 2013 and \$12 million in FY 2014.

Treatment Yields Savings

Policies that divert drug offenders into treatment programs are a fiscally sound investment if they reduce future drug use and crime. Research in a growing number of states shows drug diversion meets these objectives. The following chart highlights selected, representative findings.

State	Summary	Savings
Arizona Drug Medicalization, Prevention and Control Act passed in the November 1996 general election.	Requires first or second possession and use offenses to be placed on probation with drug treatment.	FY 2001: \$6,538,432; FY 2002: \$10,307,568; FY 2003: \$11,824,226; and FY 2004: \$12,140,300.
California Proposition 36 passed by voters in 2000. Amended by the Legislature in 2006, including redefining “successful completion” and allowing courts to order incarceration or secure treatment for violations of sentence.	Requires certain adult offenders who use or possess illegal drugs to be sentenced to drug treatment and supervision in the community rather than sent to prison or jail.	A Legislative Analyst’s Office report in 2010 said that past studies indicate state and local governments save about \$2.50 for every \$1 spent on community programs.
Washington State Institute of Public Policy (WSIPP) for Washington State Legislature.	A 2006 study of cost-effectiveness of prison and community-based treatment for drug offenders.	WSIPP analysis found prison drug treatment saves the state \$7,835 per offender, and community-based treatment saves \$10,054 per offender. Both reduce crime; prison treatment by 5.7 percent and community treatment by 9.3 percent.

Source: Aos, Steve; Marna Miller; and Elizabeth Drake, 2006; Arizona Judicial Branch, 2001-2004; California Legislative Analyst’s Office, 2010; and Darren, Urada, et al., 2008.

Research in these states and elsewhere shows the benefits of addressing offender substance abuse problems. Sophisticated policies generally involve graduated treatment levels to meet a variety of substance abuse needs. Over time they contribute to a culture change in how criminal justice systems deal with drug dependent or abusing offenders.

Using Data and Evidence

Throughout state government, lawmakers are interested in results-based policies. Many aspects of effective state sentencing and corrections rely on data to help make decisions and on incorporating evidence-based practices. Reliable risk and need assessments are part of state objectives to incapacitate dangerous offenders, invest in programs that work, and make the best use of corrections resources.

Risk and Needs Assessments

Legislatures increasingly require that courts, supervision agencies and release authorities use offender assessments. A valid assessment tool can be used in conjunction with professional judgment to prepare pre-sentence reports, develop offender program plans, determine supervision levels, and provide information for release and revocation decisions.

Typically, a risk assessment is used in sentencing and release contexts to determine appropriateness or level of community supervision and conditions. A needs assessment can help to determine the amount and types of programs and services necessary to address issues that contribute to criminal behaviors. Public safety and corrections resources can be better distributed when risk and needs assessments place offenders in appropriate programs, treatment and services.

Assessment tools predict the likelihood that an individual will reoffend based on factors that are related to criminal behavior. Some factors, such as date of birth, age of first offense, and prior criminal history do not change. More modern assessment tools, often referred to as “fourth generation” assessments, also consider “dynamic” offender characteristics—such as criminal thinking, unstable employment and substance abuse—that can change. In addition to determining risk, fourth generation assessments are used to identify treatment and program needs related to criminal behavior.

Experts suggest that effective assessments focus on the offender rather than on the offense. They define risk as the likelihood of committing future crimes. Obviously, judgments about potentially dangerous offenders are important in order to incapacitate or closely watch them in the community. Public interests also are served by identifying offenders who are likely to continue to commit property or drug crimes or who are not amenable to supervision or treatment. Effective assessments go beyond determining risk to include examining an offender’s dysfunctions and needs to determine better program placement. This helps target the highest levels of supervision and specific interventions for offenders who most need them.

These elements, together with evidence-based dispositions and performance-based expectations of both the offender and supervision and services agencies, not only lead to better results for offenders but also help prioritize and manage corrections resources.

States increasingly are requiring state-funded corrections programs to have evidence that they work to protect the public and reduce recidivism. Today more than ever, policymakers expect these programs to be both effective and cost-effective. This requires information and analysis that is recommended throughout the *Principles* for policy development, review and oversight. Illinois, Oregon and Washington are among the first states to legislatively take broad, systemic approaches to evidence-based corrections.

In 2003, the Oregon Legislative Assembly instructed the Department of Corrections to begin graduated implementation of evidence-based requirements for all offender recidivism reduction programs that receive state general funds. This included prison and community-based alcohol and drug treatment, various behavioral and training programs, community-based mental health care, sex offender treatment, and intervention services in cases of domestic violence. The law required that 25 percent of all programs be evidence-based by the 2005 biennium, 50 percent by the 2007 biennium, and 75 percent by the 2009 biennium.

The law requires the Legislative Assembly to consider compliance with evidence-based programming when making agency appropriations. As of September 2010, 97 percent of all designated prison programs and 61 percent of designated community-based programs met the evidence-based requirements.

Community-based programs were below the 75 percent mark because several new programs had not yet been thoroughly researched as required to determine if they qualify as being evidence-based. Of the programs assessed, 92 percent were evidence-based.

The Illinois Crime Reduction Act of 2009 similarly established graduated implementation of evidence-based policies to “ensure that state and local agencies direct their resources to services and programming that have been demonstrated to be effective in reducing recidivism and reintegrating offenders.” In addition to complying with

evidence-based principles, program supervision practices must include evidence-based risk assessments as part of preparing offender supervision plans. A system of administrative sanctions for noncompliance and incentives for compliance with supervision requirements also is necessary.

A Washington prison population forecast in 2005 indicated the state would need two new prisons by 2020 and a third by 2030. The Legislature subsequently directed the Washington State Institute for Public Policy to study the effectiveness of prevention and adult and juvenile corrections programs in lowering crime, reducing the need for future prison construction and producing savings for the state. The 2006 study concluded that some adult corrections programs—such as drug treatment, cognitive-behavioral treatment, educational and vocational courses and drug courts—can cost-effectively reduce crime. Based on these findings, the 2007 Legislature expanded a set of evidence-based programs, and the prison forecast was adjusted downward.

Data-driven Justice Reinvestment

Justice reinvestment is a data-driven approach to managing corrections resources and improving offender success. It involves reducing spending on corrections and reinvesting savings in evidence-based strategies designed to increase public safety and hold offenders accountable. Using the justice reinvestment concept, states are collecting and analyzing data about factors that contribute to corrections population growth and costs; crafting policy approaches and implementing programs that address these factors; and measuring the fiscal and criminal justice effects of these reforms.

Justice reinvestment is a data-driven approach to managing and targeting corrections resources.

In 2007, Texas faced a growing prison population that would require construction of new prison space at a minimum cost of \$2 billion by FY 2012, including \$500 million in the FY 2008-2009 biennium. A bipartisan team of lawmakers put forth policy recommendations to address the growing number of probationers revoked to prison; the shortage of substance abuse and mental health treatment programs; and the low parole approval rate. Instead of spending \$500 million on new prisons, the Legislature allocated \$240 million to expand in-prison, residential and outpatient treatment programs; establish maximum parole caseloads; limit the length of probation for drug and property offenses; and provide funding to local corrections agencies for intermediate sanctions for technical violations of probation and parole.

These corrections reforms saved the state \$443 million during the 2008-2009 biennium. As a result of these savings, the Legislature has been able to increase funding in other areas of the budget that contribute to recidivism reduction. In the FY 2008-2009 biennium, \$4.3 million was allocated to the state's Nurse-Family Partnership program, which was designed to provide services that assist low-income families and reduce crime related risk factors. (See also *Preventing Crime and Reducing Recidivism*.)

Kansas reforms in recent years have allowed the state to reinvest funds—saved as a result of reducing the number of probation and parole violators who were returned to prison—to expand and improve community supervision programs. In 2007, the Legislature created state-local incentive funding to keep probation violators in the community; increased the amount of good-time certain inmates convicted of nonviolent crimes can earn; and established a additional 60-day earned-time credit for inmates who successfully complete education, vocational or treatment programs. (See also *Managing Offenders in the Community*.) One estimate indicated the legislation would save the state up to \$80 million during the ensuing five-year period as a result of decreased operating costs and averted prison construction. Of the projected savings, \$7 million was reinvested to support implementation of the new policies, including expansion of community-based and in-prison programming and training for state and local correctional officers in risk-reduction supervision strategies.

South Carolina's Omnibus Crime Reduction and Sentencing Reform Act of 2010, a package of comprehensive sentencing and corrections legislation, is expected to slow prison growth and reduce the need for new correc-

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tional facilities. Savings of up to \$175 million in prison construction costs and more than \$66 million in operating costs are projected as a result of the act.

In 2008, the General Assembly established the Sentencing Reform Commission to review and make recommendations on the state's sentencing guidelines, parole system and options for alternatives to incarceration. The commission's work included an in-depth analysis of the state's sentencing and corrections data, which was used to generate policy options.

Passed with bipartisan support in both chambers, the omnibus legislation restructured criminal offenses and penalties, increased penalties for certain violent offenses, and permitted judicial discretion for some drug crime sentences. It also required use of evidence-based practices for community supervision, including use of risk assessments. The legislation put in place formal mechanisms for data collection on court-based diversion and treatment and the administrative sanctions program, community good-time, and revocations to prison for technical violations and new offenses. The legislation also requires corrections impact statements for any proposed legislation that would establish a new criminal offense or amend penalties for an existing offense.

A Sentencing Reform Oversight Committee established in the act monitors and evaluates implementation. It provides annual reports to the General Assembly about state expenditures avoided by reductions in new felony conviction and return-to-custody revocations, and recommendations on how to reallocate up to 35 percent of the savings. The act provides a basis for reinvesting the savings in evidence-based practices, increasing the availability of risk reduction programs, or providing grants to assist victims and increase the amount of restitution collected from offenders.

Many state efforts are supported by the Bureau of Justice Assistance, in the U.S. Department of Justice's Office of Justice Programs, and the Public Safety Performance Project of the Pew Center on the States. State and local governments and tribal authorities receive assistance for data collection and analysis, policy formulation and implementation from a number of national organizations.

South Carolina Justice Reinvestment Data and Responses

In 2009, the South Carolina prison population was projected to grow by more than 3,200 inmates by 2014, with an estimated increase of \$141 million in operating costs and an additional \$317 million for construction of new prisons. The corrections population had nearly tripled, and state spending on prisons had increased by more than 500 percent during the past 25 years. A study of the causes of and how to address this unsustainable growth resulted in the General Assembly's Omnibus Crime Reduction and Sentencing Reform Act of 2010.

Drivers of Prison Growth	Policy Approaches
Forty-four percent of prison admissions in 2009 were for low-level offenses and sentences of less than 18 months.	Reserved prison space for high-risk, violent offenders, and added to list of "violent crimes." Increased the felony property theft threshold from \$1,000 to \$2,000, thereby reducing numbers of low-level thefts handled as felonies.
In 1980, 6 percent of the prison population was serving a sentence for a drug crime. By 2009 this had tripled to 20 percent of the prison population.	Authorized alternatives to incarceration and provided for parole, work release and sentence credits for certain drug offenders. Narrowed the application of enhanced penalties for certain habitual drug offenders.
In 2009, probation and parole violations accounted for 24 percent of prison admissions, 66 percent of which were for non-criminal, technical violations of supervision.	Required use of evidence-based practices for assessment and supervision of offenders in the community. Authorized administrative sanctions for probation and parole technical violations. Created a fee for drug convictions to fund expansion of drug court programs.
More than half of all inmates released in 2009 left prison without any kind of supervision or access to services.	Authorized work release for certain inmates during the last three years of a prison term. Required mandatory reentry supervision for nonviolent offenders during the last 180 days of their sentences.
The parole grant rate declined from a 63 percent approval rate in 1980, to 27 percent in 2000, and 10 percent in 2008.	Required the parole board to use a risk and needs assessment tool for making parole decisions and setting parole conditions. Allowed parole for terminally ill, geriatric or permanently incapacitated inmates.

Source: Public Safety Performance Project, June 2010; South Carolina Sentencing Reform Commission, February 2010; and 2010 S.C. Acts, Act 273.

Preventing Crime and Reducing Recidivism

Crime and criminal activity are complex issues, and efforts to reduce crime do not necessarily begin and end in criminal justice systems. Volatility of crime keeps the public, law enforcement agencies and policymakers vigilant even when crime rates—including violent offenses—are declining in many areas of the country. Effective crime prevention consists not only of state investments in early childhood and family services, but also corrections and sentencing policies that deter, treat and supervise offenders.

Many adult offenders were previously seen in the juvenile justice system, so it makes sense to prevent and reduce delinquency as part of crime reduction. Decades of research supports leveraging adult corrections and sentencing policies with prevention efforts aimed at very young children who experience certain risks associated with development of anti-social, aggressive and criminal behaviors. Long-term studies of the best of these early childhood programs have shown them to be remarkably effective. As expressed in *Principle 7*, policymakers can look to investments in such programs as part of efforts to reduce crime and future corrections costs.

Risk factors generally fall into four areas: individual factors, family factors, peer factors, and school and community factors.

- Individual risk factors include early antisocial behavior, emotional factors, poor cognitive development, low intelligence and hyperactivity.
- Family risk factors include parenting, maltreatment, poverty, family violence, divorce, parental mental health needs, antisocial behavior among family members and other family dysfunction, and teenage parenthood.
- Peer risk factors include association with deviant peers and peer rejection.
- School and community risk factors include failure to bond to school, poor academic performance, low academic aspirations, disadvantaged and disorganized neighborhoods, concentration of delinquent peers, and access to weapons.

Many of these risk factors overlap; the existence of one risk factor may contribute to the existence of one or more others. Experts say the negative effects of risk factors are cumulative, and that three or more can make a child especially susceptible to future criminal involvement.

Delinquency Interventions

Approaches that build in “protective factors” help buffer or minimize the likelihood and degree to which risk factors prompt delinquent behavior. Factors that contribute substantially to crime and delinquency may be mitigated with interventions at home, in school and in the community, and can help reduce juvenile and adult crime. Today, a good deal of research and information is available to guide states in using evidence-based and cost-effective early childhood services to reduce crime and delinquency.

Even serious criminal involvement that includes gangs can be reduced as a result of delinquency interventions. Research on criminal gangs shows that gang members and other delinquents share the same risk factors. Gang members tend to have more risks present; and gangs often are rooted communities characterized by concentrated economic and social disadvantage.

The Colorado Criminal and Juvenile Justice Commission and the Washington State Institute for Public Policy each have examined programs to determine their effectiveness as crime prevention investments, and to project crime and cost-reduction benefits. Selected findings from those studies are highlighted in Table 3.

Table 3. Crime and Cost Reduction Benefits of Prevention Investments		
Program	Description	Crime and Cost Results
Early Childhood Programs	Educational programs for prekindergarteners that focus on improving learning and social skills.	In general, early childhood programs result in a return of more than \$12,000 on investment per child. A 19-year follow up of a specific model program found lower rates of felony arrests (-4.6 percent), convictions (-4.4 percent) and incarceration (-5 percent) than a comparison group.
Home Visitation Models		
Nurse-Family Partnerships	Regular home visits to low-income, first-time mothers prior to birth and up to two years after birth, to provide support and parenting skills.	Reduction in future crime: 56 percent for mothers and 16 percent for children. Cost savings up to four times the original investment by the time the child reaches age 18.
Juvenile Justice Treatment Models		
Functional Family Therapy	Short-term, family-based intervention that engages youth and families and addresses risk factors in the family.	Reduction in future crime: 16 percent. Achieves \$6.29 in taxpayer benefits for every \$1 in costs.
Multidimensional Treatment Foster Care	Alternative to residential treatment for youth with chronic antisocial behavior and delinquency.	Reduction in future crime: 16 percent. Provides \$4.74 in taxpayer benefits for every \$1 in costs.
Multisystemic Therapy	Targets specific factors in the youth and family environment that contributes to behavior problems.	A 14-year follow up study found 54 percent fewer arrests and 57 percent fewer days incarcerated. Results in \$18,000 return on investment per child.
Restorative Justice	Involves mediation with the offender and victim and mutual agreement on action that can be taken to help repair the harm caused.	Found to be a more effective method of improving victim/offender satisfaction—increasing compliance with restitution and decreasing recidivism—than non-restorative approaches. Results in \$7,000 return on investment per child.

Source: Przybbiski, Roger, 2008 and Aos, Steve, Miller, Marna and Drake, Elizabeth, 2006.

Children of Incarcerated Parents

Children of incarcerated parents are a particular sub-group of young people who often experience multiple risk factors for juvenile delinquency and crime involvement. Data collected by the federal Bureau of Justice Statistics estimates that more than 1.5 million children—2.3 percent of the total U.S. child population—have an incarcerated parent. State policies that focus on these children and their families include comprehensive measures and other actions that provide sentencing alternatives, visitation and reentry services that help foster the parent-child relationship.

Principles of Effective State Sentencing and Corrections Policy

Using work of a California-based nonprofit organization concerned with children of incarcerated parents, in 2008 the Hawaii Legislature statutorily adapted and adopted the group's "Bill of Rights for Children of Incarcerated Parents." The eight principles contained in the bill of rights include state agency requirements with regard to children's safety and care; the opportunity for these children to see, speak to and visit parents; and allowing children's wishes to be considered in decisions about their welfare or the incarcerated parent. These principles have provided a framework for lawmakers and various state agencies as they develop policy that affects children of incarcerated parents.

Other states legislatures, as well, have addressed maintenance of the parent-child relationship when a parent is incarcerated.

- A 2010 California law authorized a parenting diversion program for female inmates with minor children, allowing some offenders to remain at home, work, care for their children, and complete conditions of intensive treatment and programming.
- Hawaii law requires inmates to be placed in correctional facilities that logistically make it easier for them to maintain contact with their family.
- Florida statute requires the corrections department to promote contact between inmates and their children by making phone services accessible and affordable and by providing family-friendly visitation areas within prisons.
- A 2010 Vermont law required information to be collected from inmates about their minor children; the information then is compiled and used to allocate state resources for these children.
- The Oregon Department of Corrections designed a reentry curriculum to teach inmates effective parenting practices and provides support services in the community. A successful reconnection with their children after a period of incarceration can play a critical role in an offenders' successful reentry into the community.

Strategic Recidivism Reduction

Nearly 680,000 prisoners were released from state prisons in 2009, according to the Bureau of Justice Statistics. The challenges and barriers these individuals face are significant, and their continued involvement in the criminal justice system comes at great cost to them and to society.

The Public Safety Performance Project of the Pew Center on the States recently reported that 43 percent of offenders released in 2004 had been returned to prison within three years. When released, an offender must locate suitable housing, secure and maintain employment, renew relationships with family members, and comply with restitution and other supervision requirements. Yet, many offenders have low levels of education, histories of drug use and addiction, and mental health and other issues that hinder their ability to work, meet family obligations and remain crime-free.

State legislatures are addressing offender reentry with policies and coordinated efforts to help break the cycle of crime.

State legislatures are taking a key role in elevating offender reentry from a corrections program to an integral part of corrections and sentencing policy. Many such policies provide a framework for planning and collaboration among state and local agencies and stakeholders. These efforts also are supported by federal initiatives such as the Second Chance Act. These coordinated efforts can be effective in breaking the cycle of crime.

In 2009, Texas law required the Department of Criminal Justice to adopt a comprehensive reentry policy that addresses the risks and needs of offenders who are reentering the community. Programs include assessing offenders during prison intake to determine the skills he or she will need upon release, matching prison programs

with inmates' assessed needs, and establishing a formal network of residential and community-based programs and transitional services. A new reentry division centralizes resources for comprehensive, coordinated reentry services among state and local criminal justice agencies. Included are workforce development, care for offenders with medical or mental impairments, and prerelease services such as helping inmates obtain identification.

The Iowa General Assembly allocated funding to the Department of Workforce Development for inmate employment training programs that match current workforce needs in the state. In South Carolina, the Department of Corrections coordinates with the Department of Motor Vehicles to provide inmates with identification before their release from a correctional facility; this helps them obtain employment, housing and health care. Illinois law requires an inmate's Medicaid edibility to be suspended, rather than canceled, upon incarceration. The Department of Health Care and Family Services reviews and monitors eligibility requirements and helps inmates apply for assistance shortly before release. This allows inmates to regain access to Medicaid benefits quickly upon release. Access to housing immediately upon release is addressed in Washington. Inmates who have not been released from prison because they do not have housing are given up to three months of housing vouchers.

In Florida, recommendations from two statewide task forces and an agency recidivism reduction strategic plan guide the Department of Corrections on reentry. Florida legislators participated in developing these recommendations and have led efforts that include a 2010 enactment requiring local development of services for housing, health care, education, substance abuse treatment and employment in coordination with local community organizations, treatment providers and law enforcement agencies.

Federal efforts under the Second Chance Act passed by Congress in 2008 include grants to states, local governments and nonprofit groups for innovative reentry-related programs aimed at reducing recidivism. As with state efforts, the federal funding supports comprehensive approaches to offender reentry. To receive funding, a state must demonstrate that it has a framework for coordinating and collaborating with local government agencies, nonprofit organizations and community stakeholders on a range of service and supervision functions. A task force and strategic plan also must be in place to oversee, implement and track the success of reentry efforts.

Sentencing and corrections policies can contribute a great deal to the efforts to address crime and victimization. State legislatures today also rely upon investments in children and family services to reduce delinquency and crime, and to connections to agencies and services in the community to aid offender reentry and reduce recidivism.

GLOSSARY

Administrative supervision is a type of community supervision with minimal reporting and monitoring requirements that includes paying court-ordered restitution and remaining crime- and drug-free.

Community supervision refers to supervision of an offender on probation or parole. Specific types of community supervision can include house arrest, electronic monitoring and problem-solving courts. (See also probation and parole)

Compliance credits provide opportunities for some probationers or parolees to reduce the period of active supervision. Credits are granted to offenders for compliance with conditions of supervision, including payment of restitution.

Cost analysis analyzes the expenses related to a certain policy or program. It provides basic cost information and is the foundation for other types of economic analysis.

- *Cost-benefit analysis* compares the costs and benefits of policies and programs. Both costs and benefits are monetized, so policies or programs with different purposes and outcomes can be compared. It allows lawmakers to weigh multiple options and determine which will achieve the greatest results for the lowest cost.
- *Cost-effectiveness analysis* compares the costs of a program or policy to the results. It allows lawmakers to determine which program or policy produces the desired result for the lowest cost. Cost-effectiveness differs from cost-benefit analysis in that it does not turn all results into monetary values.

Diversion is the formal routing of offenders away from formal criminal processing for a specified period of time and under certain requirements and conditions, after which the charges will be dismissed.

Electronic monitoring uses technology to track an offender's whereabouts and monitor compliance.

Evidence-based practices are policies, procedures and programs that scientific research has demonstrated to reduce recidivism for specific offender populations such as probationers, parolees, and drug-addicted offenders.

Felony is a serious crime that generally carries a term of one year or more of incarceration, up to a life term. Felonies include the most serious crimes such as murder, rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft, arson and drug trafficking. (See also Misdemeanor.)

Felony threshold is the use of a measure, such as dollar amount of stolen goods or weight of seized controlled substances, to determine if a crime is classified as a misdemeanor or felony.

Furlough is a type of temporary conditional release granted to an inmate to pursue employment, education, treatment or other approved purposes.

Habitual offender, also referred to as persistent offender, is an offender with multiple convictions. States have created enhanced penalties for habitual offenders.

House arrest requires an offender to remain at his or her residence except for authorized purposes. House arrest often is combined with electronic monitoring.

Incentive funding is a specific type of state-local funding that rewards local supervision agencies that successfully supervise offenders in the community instead of sending them to state prison. Local agencies commonly receive state funding and other assistance to implement evidence-based supervision and programming designed to reduce revocation to prison. A portion of a state's savings from a reduction in prison admissions is reinvested in the localities that successfully reduce recidivism.

Jail is a facility used to confine inmates and is operated by local units of government. Jail inmates usually have a sentence of less than one year or are being held pending a trial, awaiting sentencing, or awaiting transfer to other facilities after conviction. (See also prison.)

Justice reinvestment is a data-driven approach to managing corrections resources and improving offender success. It involves reducing spending on corrections and reinvesting savings in evidence-based strategies designed to increase public safety and hold offenders accountable. Using the justice reinvestment concept, states are collecting and analyzing data on factors that contribute to corrections populations and costs; crafting policy approaches and implementing programs that address these factors; and measuring the fiscal and criminal justice effects of these reforms.

- *Justice Reinvestment Initiative* is a national initiative supported by the Bureau of Justice Assistance in conjunction with the Pew Center on the States. It provides technical assistance and financial support to states, counties, cities and tribal authorities that would like to engage in justice reinvestment.

Medical parole is a type of conditional release that moves certain inmates who have an incapacitating or terminal medical condition to a residential care facility or other setting suited to treatment of medical needs.

Misdemeanor is a crime less serious than a felony, generally punishable by a fine or less than one-year incarceration. (See also felony.)

Parole, also referred to as post-prison supervision or post release supervision, is the placement of an offender under supervision after release from prison, with requirements and conditions imposed by the releasing authority for a specified period. (See also Community Supervision)

Persistent offender see habitual offender.

Post-prison supervision see parole.

Post-release supervision see parole.

Presentence report is a report prepared, often by a probation officer, in advance of sentencing to help the judge determine an appropriate sentence.

Prison, a facility used to confine inmates, is operated by state governments. It typically holds inmates with sentences of more than one year. Alaska, Delaware, Connecticut, Maine, Rhode Island and Vermont operate unified systems that combine prisons and jails. (See also jail.)

Probation is placement of an offender under supervision, with requirements and conditions imposed by a court for a specified period during which a sentence of imprisonment is suspended in part or in whole or criminal proceedings are deferred without an adjudication of guilt. (See also Community Supervision)

Probation or parole revocation occurs when the supervisory authority—commonly the court for probationers and the parole board or corrections department for parolees—resentsences or returns an offender to prison for a violation.

Principles of Effective State Sentencing and Corrections Policy

- *Revocation proceeding* is the formal procedure for revoking a probationer or parolee.

Probation or parole violation occurs when an offender on community supervision violates one or more conditions of supervision or commits a new crime.

- *Probation or parole technical violation* occurs when an offender on community supervision violates one or more conditions of supervision that do not constitute a new crime, such as moving to a new residence without permission; missing parole or probation officer meetings, counseling sessions or substance abuse treatment classes; or failing to fulfill community service requirements.
- *Intermediate sanctions for probation and parole violations* are non-prison sanctions for violations that allow the probationer or parolee to remain in the community, continue to work, and pay restitution and child support while holding them accountable for breaking the rules. Sanctions commonly include residential and community-based treatment programs, specialty court supervision, house arrest, electronic monitoring, work release, community service, secure and residential facilities, increased monitoring and reporting, and short periods in jail.
 - *Graduated sanctions* are a specific type of intermediate sanctions that employ structured, swift and incremental responses to violations.
 - *Administrative sanctions* are a specific type of intermediate sanction where community supervision agencies are statutorily authorized to impose such sanctions for a technical violation in lieu of formal revocation proceedings.

Problem-solving courts are designed to address the specialized needs of a target offender population, such as adult drug courts, mental health courts, reentry courts, habitual offenders courts and veterans courts.

Recidivism is the arrest, conviction or incarceration of an individual who currently is on probation or parole or has previously been on probation, parole, or incarcerated in a state prison or local jail. Offenders can be incarcerated for committing a crime that results in a new conviction; or a technical violation of supervision, such as not reporting to their parole or probation officer or failing a drug test.

- *Recidivism rate* is the proportion of individuals released from incarceration or who have completed the term of probation or parole, who are rearrested, reconvicted or returned to incarceration within a specific time period.

Release authority refers to the government entity that makes recommendations and decisions about an inmate's suitability for release from incarceration. This can include corrections departments and parole boards.

Release from prison

- *Conditional release* is the release of an inmate under certain circumstances, such as furlough, medical parole or work release, before the expiration of his or her prison term.
- *Discretionary release* is the release of an inmate to parole that is determined by a parole board or other release authority.
- *Mandatory release* is the release of an inmate from prison to a period of post-prison supervision. Law regulates whether an inmate will be released before or after the expiration of the prison term.

Residential facilities are community-based group living facilities that provide structured programming and supervision.

Risk assessment is the process of determining the likelihood that an individual will commit future crimes. Risk assessment tools are used by courts, supervision agencies and release authorities to determine appropriateness of or level of community supervision and conditions, and the amount and kind of programs and services that will address issues that contribute to an offender’s criminal behaviors.

- *Actuarial assessments* are comprised of a set of risk factors that have been identified through research to be associated with criminal behavior. An risk-score is determined based on the number of risk factors an individual has.
- *Clinical assessments* rely on the professional judgment of the assessor.

Risk and needs assessments, often referred to as “fourth generation” assessments, are a particular type of assessment that use both actuarial and clinical assessment and consider both static and dynamic risk factors.

Risk factors are specific characteristics and behaviors that have been identified through research to be associated with criminal behavior.

- *Dynamic risk factors or criminogenic needs* are characteristics and behaviors that can change over time, such as criminal thinking, history of joblessness and lack of education.
- *Static risk factors* are characteristics and behaviors that do not change, such as age of first offense, gender, current offense and prior criminal history.

Risk level is a designation given to people based on the results of a risk assessment. The higher the risk, the more intensive the necessary services and supervision. Higher-risk neighborhoods and higher-risk times—at the start of a probation term or upon release from prison—also are factors used by supervision agencies as reasons to increase the intensity of services and supervision.

Second Chance Act of 2007 provides grants to states, local governments and nonprofit groups for innovative reentry programs to help reduce recidivism. Administered by the Bureau of Justice Assistance, funding options include employment assistance, substance abuse treatment, housing and family assistance, reentry courts, family-based treatment services, technology career training, and research on evaluation of effective reentry programs. To receive funding, states must have a structure in place to support evidence-based reentry policies and programs. Task forces create and oversee strategic plans; foster collaboration among correctional agencies, other government agencies and community-based organizations; and coordinate and evaluate state reentry efforts in line with the Second Chance Act.

Sentence is the punishment imposed by a court on a person convicted of a crime. A sentence can consist of a period of incarceration in a prison or jail, a fine, community supervision, restitution to the victim, or a combination.

- *Determinate sentence* is sentence for fixed amount of time.
- *Indeterminate sentence* is a sentence for a range of time; the actual time served depends upon sentence credits and conditional or discretionary release.
- *Mandatory minimum sentence* is a minimum term of incarceration that must be served as required by law for offenders convicted of certain offenses.
- *Presumptive sentence* is specified in statute as the standard sentence, but the judge is allowed to deviate from that sentence if there are aggravating or mitigating circumstances.

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Sentence credits provide opportunities for some inmates to accelerate their release date. Good-time and earned-time are two common forms of sentence credits.

- *Good-time credits* generally are granted to inmates for following prison rules and participating in required activities.
- *Earned-time credits* are distinguished from and can be offered in addition to good-time for certain inmates who participate in or complete educational courses, vocational training, treatment, work or other productive activities.

Sentencing guidelines, also known as structure sentencing, typically use a matrix or grid that plots offense severity and prior criminal history to determine the sentence or sentence range.

State services organizations are state government-affiliated professional organizations that represent their state members by providing research and information exchange on state and federal issues. The National Conference of State Legislatures has, as its exclusive membership, state legislators and legislative staff of all states, commonwealths and territories.

Supervision agency refers to the government entity that has jurisdiction over an offender, such as a probation department, department of corrections, local criminal court or parole board.

Three-strikes refers to laws that require life in prison or other long, mandatory term upon a third conviction for a serious offense.

Time served refers to how long an inmate will spend in prison and when he or she may be released. The sentence imposed, truth-in-sentencing requirement, mandatory sentences, good-time and earned-time, and parole eligibility policies affect the portion of the sentence that will or must be served before release.

Truth in sentencing refers to laws that require inmates to serve a substantial portion of their prison sentence. Parole eligibility and sentence credits are restricted or eliminated.

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RESOURCES

Bureau of Justice Assistance

<http://www.ojp.usdoj.gov/BJA/>

The Bureau of Justice Assistance (BJA) in the Office of Justice Programs of the U.S. Department of Justice, informs state legislatures on corrections, sentencing, reentry, and related justice information and evidence-based policy initiatives. The Bureau of Justice Assistance is the federal agency that administers Edward Byrne Memorial Justice Assistance Grants and provides leadership on many crime, law enforcement, prevention, recidivism reduction and justice improvement efforts.

The Justice Reinvestment Initiative

http://www.bja.gov/topics/justice_reinvestment.html

The Bureau of Justice Assistance, with its national partners, provides technical and financial assistance to states, counties, cities and tribal authorities under the Justice Reinvestment Initiative (JRI). Justice reinvestment is a data-driven approach to reduce corrections and related criminal justice spending and reinvest savings in strategies designed to increase public safety.

Second Chance Act of 2007

<http://www.bja.gov/grant/SecondChance.html>

The Bureau of Justice Assistance administers federal grants to states, local governments and nonprofit groups for innovative reentry programs to help reduce recidivism. Under the Second Chance Act of 2007, funding options include employment assistance, substance abuse treatment, housing and family assistance, reentry courts, family-based treatment services, technology career training, and research on evaluation of effective reentry programs.

Bureau of Justice Statistics

<http://bjs.ojp.usdoj.gov/>

The Bureau of Justice Statistics, in the Office of Justice Programs of the U.S. Department of Justice, collects, analyzes, publishes and disseminates information on crime, criminal offenders, victims of crime, and the operation of justice systems at all levels of government.

Prisoner Recidivism Analysis Tool

<http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=2392>

The Bureau of Justice Statistics Recidivism Analysis Tool allows users to explore the recidivism patterns of those involved with the criminal justice system.

Council of State Governments

Justice Center

<http://www.justicecenter.csg.org/>

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

Justice Reinvestment

<http://justicereinvestment.org/>

The Justice Center provides intensive technical assistance to states to implement justice reinvestment strategies and produces publications on the work being done in those states.

National Reentry Resource Center

<http://www.nationalreentryresourcecenter.org/>

The National Reentry Resource Center, is a project of the Justice Center, provides education, training and technical assistance to states, tribes, territories, local governments, service providers, nonprofit organizations and corrections institutions that are working on prisoner reentry under the Second Chance Act of 2007.

Pew Center on the States

<http://www.pewcenteronthestates.org>

Public Safety Performance Project

<http://www.pewcenteronthestates.org/publicsafety>

The Public Safety Performance Project (PSPP) helps states advance fiscally sound, data-driven policies and practices in sentencing and corrections that protect public safety, hold offenders accountable and control corrections costs. The project provides expert, nonpartisan technical assistance to states to help achieve better returns on their public safety investments. More information is available at http://www.pewcenteronthestates.org/initiatives_detail.aspx?initiativeID=48884.

The project also produces reports on effective policies and practices that can help decision makers as they face critical choices in developing strategies to improve the public safety return on taxpayer dollars. Reports and publications are available at http://www.pewcenteronthestates.org/initiatives_detail.aspx?initiativeID=56212.

Results First

<http://www.pewcenteronthestates.org/resultsfirst>

The Results First project is an initiative of the Pew Center on the States and the John D. and Catherine T. MacArthur Foundation, with additional support from the Annie E. Casey Foundation. The project is partnering with states to implement cutting-edge cost-benefit analysis tools, that will help identify options that provide the best results for citizens while improving states' fiscal health. The project also provides technical assistance to help

states that are implementing the cost-benefit analysis tools, including compiling and analyzing data, interpreting the results, and presenting the findings to state leaders.

Urban Institute

Justice Policy Center

<http://www.urban.org/justice/index.cfm>

The Urban Institute's Justice Policy Center produces research, evaluates programs and analyzes data in an effort to guide federal, state, and local stakeholders in making sound decisions that will increase the safety of communities nationwide. Projects include providing technical assistance to local governments under the Justice Reinvestment Initiative and conducting and disseminating research on prisoner reentry.

Vera Institute of Justice

<http://www.vera.org/>

The Vera Institute of Justice combines expertise in research, demonstration projects and technical assistance to help leaders in government and civil society improve the systems people rely on for justice and safety. Vera is an independent, nonpartisan, nonprofit center for justice policy and practice.

Center on Sentencing and Corrections

<http://www.vera.org/centers/center-sentencing-corrections>

Vera's Center on Sentencing and Corrections (CSC) works with government leaders to advance criminal justice policies that promote fairness, protect public safety, and ensure that resources are used efficiently. CSC offers an array of services to help sentencing and corrections officials who are confronting challenges such as shrinking budgets, overextended staff and physical plants, and the churning of repeat offenders through the system.

Cost-Benefit Analysis Unit

<http://www.vera.org/centers/cba>

The Cost-Benefit Analysis Unit (CBAU) provides policymakers with clear, accessible information about the economic pros and cons associated with criminal and juvenile justice policies. The CBAU performs cost-benefit analyses and other cost-related studies, provides assistance to jurisdictions that are conducting their own studies, and carries out research to advance the knowledge and application of cost-benefit analysis in the justice system.

National Conference of State Legislatures

<http://www.ncsl.org>

The National Conference of State Legislatures is working with the Public Safety Performance Project of the Pew Center on the States on a project to help states tap the best research and information available on sentencing and corrections policies that meet both public safety goals and fiscal objectives. Highlights of project products and services include:

- A quarterly e-newsletter, *The E-Bulletin: Online Sentencing and Corrections Updates*, provides periodic updates on state sentencing and corrections legislation and budgets; highlights innovative policies and programs; and connects to reports and news of upcoming NCSL events.
- Tracking and analysis of significant state enactments related to sentencing and corrections and reporting the enactments in an online database.
- Meeting programs, publications and information services for lawmakers and legislative staff that provide information on recent research, legislation, and innovative policies.

This project is a part of the Criminal Justice Program in NCSL's Denver office. For information or assistance, call (303) 364-7700, e-mail cj-info@ncsl.org or visit <http://www.ncsl.org/?tabid=18400>.

Principles of Effective State Sentencing and Corrections Policy

State legislatures set both the tone and the framework for sentencing and corrections policies. Today, they face the challenge of considering strategies that both manage state spending and protect the public. A bipartisan NCSL work group discussed and identified overarching principles for effective state sentencing and corrections policy and identified key issues and approaches that explain and illustrate the recommendations. This publication is the product of that work.

“Our states are historically the incubators of new ideas. No party has a monopoly on good ideas and in the criminal justice and corrections arena we can profit from each other’s suggestions. Our common goal is greater public safety at less cost and our report offers the roadmap to that goal.”

*Representative Jerry Madden, Texas
Co-Chair, NCSL Sentencing
and Corrections Work Group*

“This group considered the interests and attitudes of the public. We’ve developed a set of principles that are objective in ideology and ever-green in guiding lawmakers on issues of rehabilitation, accountability and public safety.”

*Representative Janice Pauls, Kansas
Co-Chair, NCSL Sentencing
and Corrections Work Group*



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