

Agenda

1. **Policy Discussion** – Pew

- Effective sanctioning practices
- Incentivizing good behavior and recidivism reduction program completion in institutions
- Mental Health

2. **Upcoming meetings**

- Full SROC (afternoon): SROC report-out meeting
- *5th subgroup meeting*: Nov. 27, 10-12pm
- Final meeting: TBD

Follow Up Questions:

POLICY: Effective Sanctioning Practices

South Carolina Data on revocations for compliance violations:

- Supervision revocations make up 31% of all prison admissions
- Prison admissions for revocations have declined over time: 2010: 3,872 revocations -- 2016: 2,717
- Over 80% of revocations resulting in a prison admission are due to compliance violations; 1 in 4 prison admissions are for compliance violations
- Average sentence length for compliance violation revocations is 35 months

State Examples

Revoked from supervision	Alaska (Alaska Stat. §12-55-110)	Louisiana (La. R.S. § 15:574.9)	Mississippi (Miss. Code Ann. §47-7-37)
1 st revocation	Up to 3 days	15 days	Up to 90 days
2 nd revocation	Up to 5 days	30 days	Up to 120 days
3 rd revocation	Up to 10 days	45 days	Up to 180 days or remainder
4 th and subsequent	Up to remainder		Up to remainder

➤ Is there data on the success of graduated revocations?

- A number of studies have examined whether incarceration reduces recidivism more than non-custodial sanctions. This research has found that prison does not reduce recidivism more than the use of alternatives to incarceration and incarceration can potentially have a negative, criminogenic effect (making offenders more likely to recidivate after their release).¹ This criminogenic effect has been found in several studies of lower-level offenders including technical violators. A 2012 study by Drake and Aos found that technical violators of probation serving a period of confinement (jail or prison) had significantly higher recidivism than offenders sanctioned in the community.²
- Behavior change research also demonstrates that offenders are more responsive to sanctions (or incentives) that are swift and certain rather than those that are delayed and inconsistently applied, no matter how severe. Swift and certain responses work both because they help offenders see the response as a consequence of their behavior rather than a decision levied upon them, and because offenders heavily weigh the present over the future (consequences that come months and years later are steeply discounted). Certainty establishes a credible and consistent threat (or promise), creating a clear deterrent (or incentive) due to the definite nature of the response.³

¹ Nagin, Daniel, Francis T. Cullen, and Cheryl Leo Jonson (2009). Imprisonment and Reoffending. The University of Chicago; Villettaz, Patrice, Glwadys Gilleron, and Martin Killian (2015), "The Effects on Reoffending of Custodial vs Non-Custodial Sanctions: An Updated Systematic Review of the State of Knowledge," Campbell Systematic Reviews, accessed at: <http://www.campbellcollaboration.org/lib/project/22/>.

² Drake, Elizabeth K., Robert Barnoski, and Steve Aos (2009). "Increased Earned Release From Prison: Impacts of a 2003 Law on Recidivism and Crime Costs, Revised." Olympia: Washington State Institute for Public Policy, Document No. 09-04-1201.

³ Nagin, Daniel and Greg Pogarsky (2000), "Integrating Celerity, Impulsivity, and Extralegal Sanction Threats into a Model of General Deterrence: Theory and Evidence", <https://www.ssc.wisc.edu/econ/Durlauf/networkweb1/London/Criminology1-15-01.pdf>; Wodahl, Garland, Culhane & McCarty (2011), Utilizing Behavioral Interventions to Improve Supervision Outcomes in Community-based Corrections, Criminal Justice and Behavior, vol. 38 no. 4, pp. 386-405.

- The following states have adopted revocation caps:
Alabama, Alaska, Georgia, Hawaii, Idaho, Louisiana, Maryland, Mississippi, Missouri, Nebraska, North Carolina, Oklahoma, Oregon, Pennsylvania, and Utah

Data on the use of revocation caps:

- In Louisiana, an evaluation found that the state saved \$17.6 million in FY2013. This evaluation also shows that recidivism and new arrests both declined for the group of supervisees subjected to the new policy (compared to similarly situated individuals before the policy was enacted).⁴
- In Mississippi, revocation caps have been one of the most significant drivers of a 4,000 bed reduction in the prison population since the beginning of their JRI process.

⁴ *Reducing Incarceration for Technical Violations in Louisiana*, Oct. 2014, available at <http://www.pewtrusts.org/~media/assets/2014/11/psppreducingincarcerationfortechnicalviolationsinlouisiana.pdf>.

POLICY: Incentivizing Good Behavior and Recidivism Reduction Program Completion in Institutions

South Carolina Data Findings:⁵

- The average time served for people in prison has increased 29% since 2010 (55 months in 2010 compared to 71 months in 2016).
- This increase is driven in part by a greater number of inmates serving long sentences. Since 2010, the number of longest serving inmates has increased (3,420 in 2010 to 4,290 in 2016) and fewer are parole eligible.
- Common offenses among longest-serving inmates are: murder, armed robbery, 1st degree burglary, and trafficking of controlled substances.
- 59% of the longest-serving inmates have no prior commitments to prison (41% have prior commitments)

State Example:

- Louisiana: in the last few years, the state dropped its time served requirements for its violent, non-life inmates:
 - Allowed its violent, non-life inmates to be eligible for parole at 65%⁶
 - An inmate with two or more convictions for a violent offense or a sex offense, parole eligibility is based on serving 75% of the sentence imposed
 - Allowed people to be released on good time credits at 75% of sentence served⁷

➤ **Does Louisiana limit earning of additional credits based on certain crimes?**

- For people convicted of violent offenses⁸:
 - Diminution of sentence is calculated at the rate of one day for every three days in actual
- Individuals that *cannot* earn a diminution of sentence:
 - People convicted of violent offenses with prior violent offense convictions
 - People convicted of violent offenses and sentenced under the habitual offender statute
 - People convicted of a sex offense

➤ **Are there specific categories of offenses that correspond to higher recidivism rates?**

- Determining risk to recidivate is based on a risk and needs assessment that is validated for a specific community. Currently, South Carolina uses a risk tool – PPP uses COMPAS – but it has not been validated on South Carolina’s population.
- It is difficult to make claims about categories of offenses that are associated with higher risk. Determination of risk often includes both static and dynamic factors such as: age, number of prior offenses, mental health and addiction issues, trauma history, education, social supports, etc.

⁵ Prison population on June 30th 2010 and June 30th 2016 are compared. Time served is time between admission date to release date; it does not include jail time. “Longest serving” defined as those whose time served is longer than 10 years.

⁶ L.A. Code Ann. R.S. § 15:574(A)

⁷ L.A. Code Ann. R.S. § 15:571.3

⁸ La. R.S. § 15:571.3

Policy: Addressing Mental Health Needs

The ideal response to individuals with mental health disorders is to address those behavioral health needs before an individual enters the criminal justice system. Collateral consequences that arise from a criminal conviction can often hinder the progress of someone with mental health and/or substance use disorders. Given that, there have been three main approaches to address these concerns:⁹

I. Diversion at the law enforcement phase¹⁰

➤ How effective are programs at the law enforcement phase?

Two notable examples of this are:

- Crisis Intervention Team (CIT) model:
 - Specialized police-based first responder program (verbal de-escalation skills; tools from mental health professionals; and scenario-based training on responding to crisis)
 - Model can incorporate: law enforcement, mental health providers, hospital emergency departments and individuals with mental illness and their families to improve responses to people in crisis
 - Can include co-response units where mental health professionals respond with police officers together
 - Often provides pre-arrest booking diversion for individuals deemed to be having a mental health crisis
- Impacts¹¹:
 - After CIT was introduced in Memphis, TN → officer injuries sustained during responses to “mental disturbance” calls dropped 80%
 - After CIT was introduced in Albuquerque, NM → crisis intervention calls requiring SWAT team involvement declined by 58%; additionally, policy shootings declined
 - CIT programs have proven effective in rural counties as well.
 - Individuals who encounter a CIT-trained officer are able to connect to services and receive more counseling, medication and other treatment than individuals who are not diverted. Diversion options are less costly than incarceration and hospital stays.
- Law Enforcement Assisted Diversion (LEAD): An initiative in Seattle, WA to divert individuals with substance use disorders, prostitution, and other low-level offenses to case management and treatment services instead of prosecution.
 - Impacts¹²:
 - One study gathered a sample of low-level drug offenses and prostitution – 203 received LEAD and 115 proceeded along the usual criminal justice system path.
 - The analysis looked six months out and two years out:

⁹ Center for Health & Justice at TASC, *No Entry: A National Survey of Criminal Justice Diversion Programs and Initiatives*, December 2013, available at:

http://www2.centerforhealthandjustice.org/sites/www2.centerforhealthandjustice.org/files/publications/CHJ%20Diversion%20Report_web.pdf.

¹⁰ Tallon, Jennifer A., Labriola and Spadafore, *Creating Off-Ramps: A National Review of Police-Led Diversion Programs*, Center for Court Innovation (2016): available at <http://www.courtinnovation.org/sites/default/files/documents/Creating%20Off-Ramps%20A%20National%20Review%20of%20Police-Led%20Diversion%20Programs.pdf>.

Survey of 1,500 law enforcement agencies, looking at models for specialized police response to mental health issues; found even short-term jail sentences may actually increase likelihood of future offending, police agencies should develop programs to reduce exposure to the traditional justice system.

¹¹ National Alliance on Mental Illness, *Crisis Intervention Team Toolkit: CIT Facts*, available at: <http://nisonger.osu.edu/wp-content/uploads/2016/11/NAMI-CIT-FACT-Sheet.pdf> and see also <https://www.nami.org/Law-Enforcement-and-Mental-Health/What-Is-CIT>.

¹² Collins, Susan E., Heather S. Lonczak, and Seema L. Clifasefi, *Seattle’s Law Enforcement Assisted Diversion (LEAD): Program effects on recidivism outcomes*, March 2017, available at https://docs.wixstatic.com/ugd/6f124f_f4eed992eaff402f88ddb4a649a9f5e6.pdf.

- LEAD participants had 60% lower odds of arrest during the six months subsequent to evaluation entry; and both a 58% lower odds of arrest and 39% lower odds of being charged with a felony over the longer term.

II. Diversion at the pretrial or prosecution phase

South Carolina's current practice:

- South Carolina has Pre-Trial Intervention (PTI) and Alcohol Education (AEP) Program

III. Diversion at the problem-solving/specialty court phase

South Carolina's current practice:

- There are seven mental health courts in South Carolina:
 - 1) Marlboro (4th Circuit)
 - 2) Richland (5th Circuit); also includes a Juvenile Mental Health Court
 - 3) Charleston (9th Circuit)
 - 4) Anderson (10th Circuit)
 - 5) Greenville (13th Circuit)
 - 6) Horry (15th Circuit – serves Myrtle Beach and Georgetown)

Under South Carolina law¹³, the Office of Pretrial Intervention Coordinator collects data on all programs administered by a circuit solicitor, the Commission on Prosecution Coordination, or a court, which divert offenders from prosecution to an alternative program or treatment. Regarding mental health courts, the following information is collected:

1. Number of individuals who applied/referred
2. Number of original criminal offenses applied/referred.
3. Number of individuals accepted
4. Number of individuals who successfully completed within a twelve-month period
5. Number of individuals who did not complete within a twelve-month period, but who are still participating

Policy Discussion:

- *Policy Option: Establish a grant fund available for counties, agencies, local providers, and nonprofit organizations that would request proposals for programs or practices to reduce recidivism and support treatment providers, specifically targeting mental health providers*
 - *Recidivism reduction programming in the community: County and locally focused organizations are often best suited to identify the types of programming, treatment, and services that would best impact that community and go farthest to reduce recidivism, hold offenders accountable, and control costs. With this in mind, some states have created performance incentive grant programs that provide funding to support programs and practices that reduce recidivism, revocations, and the eventual impact on state prison populations. These grant programs help enhance the local public safety infrastructure through housing, employment, treatment, problem-solving courts, and re-entry services.*
 - *Could include:*
 - *Mental Health Courts for remaining counties*
 - *In addition to the data currently being collected in problem solving courts, track recidivism data for those individuals that successfully complete mental health court and provide incentives to mental health courts for successful completions.*

¹³ S.C. Code Ann. § 17-22-1120

- *Establish a gap analysis or a sequential intercept model that maps the community's health organizations and at what points they could intersect with the criminal justice system at the various stages of arrest, pre-trial, reentry, and community supervision.*
- *S. 173 was passed by the General Assembly and will be effective upon approval by the Governor. The bill authorizes the Law Enforcement Training Council to establish and maintain a crisis intervention training center and to govern and supervise crisis intervention team training¹⁴. It also creates a Technical Assistance Center Council that will:*
 - *identify funds to support local crisis intervention teams, law enforcement agencies, and evaluations of crisis intervention team training;*
 - *create a Statewide Crisis Intervention Team Advisory Committee;*
 - *assist rural counties in creating crisis intervention teams;*
 - *provide training and technical assistance; and*
 - *maintain records that includes an evaluation of outcomes and best practices to achieve crisis intervention team goals*

Policy questions:

- *Does the Technical Assistance Center Council report its evaluation to the Sentencing Reform Oversight Council?*
- *Can positive evaluations be quantified and incentivized to provide additional support of CITs?*

Other Release Subgroup Policy Considerations:

- *Administrative release*
- *Parole eligibility calculation*
- *Geriatric parole*
- *Medical parole*

¹⁴ 2017 Bill Text SC S.B. 173