



Idaho Justice Reinvestment Interim Committee

Third Meeting

December 12, 2013

Council of State Governments Justice Center

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Council of State Governments Justice Center

- National non-profit, non-partisan membership association of state government officials
- Engages members of all three branches of state government
- CSG Justice Center provides practical, nonpartisan advice informed by the best available evidence



Funding and partners

Justice Reinvestment

*a data-driven approach to reduce corrections spending
and reinvest savings in strategies that can
decrease recidivism and increase public safety.*



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A data-driven “Idaho Solution” for increased public safety and cost-effectiveness

IN THE SENATE
SENATE CONCURRENT
RESOLUTION NO. 128
BY JUDICIARY AND RULES
COMMITTEE

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE
LEGISLATURE AND AUTHORIZING
THE LEGISLATIVE COUNCIL TO
APPOINT A COMMITTEE TO
UNDERTAKE AND COMPLETE A
STUDY OF THE IDAHO CRIMINAL
JUSTICE SYSTEM.

Idaho Legislature enacts bipartisan resolution authorizing the establishment of an Interim Committee to undertake a study of the state’s criminal justice system.



Governor Otter, Chief Justice Burdick, Senate Pres. Pro Tem Hill, and legislative leaders launch justice reinvestment



Legislative Interim Committee and Justice Reinvestment Working Group formed, both chaired by Senator Lodge and Representative Wills

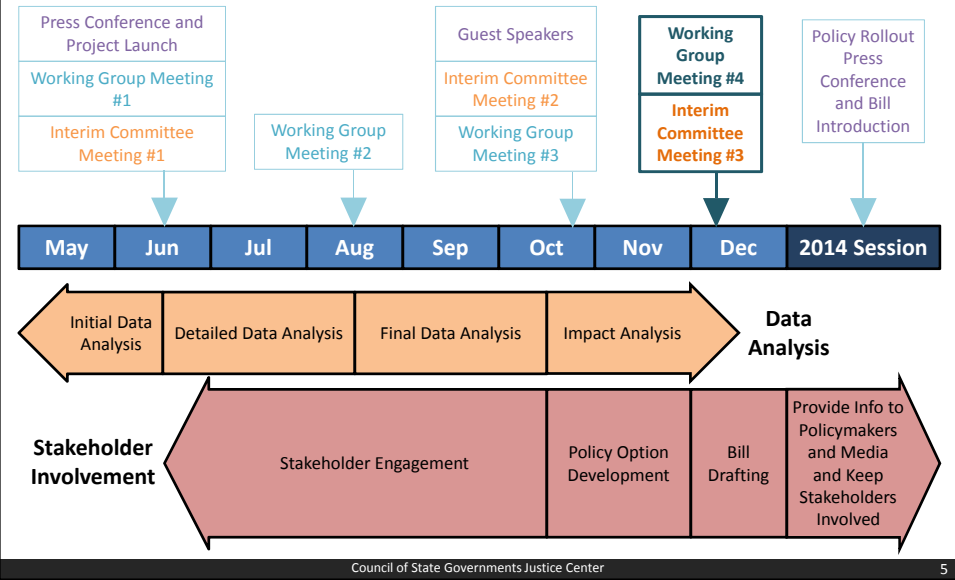
“Our corrections system is consuming an increasing share of our budget. We have a simple choice to make: continue down this path, or use data to find a smarter way to protect the public and be better stewards of tax dollars.”

Governor C.L. “Butch” Otter

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Proposed Timeline



Overview



Big Picture Summary of Analysis & Policy Framework

Detail of Policy Options & Reinvestment

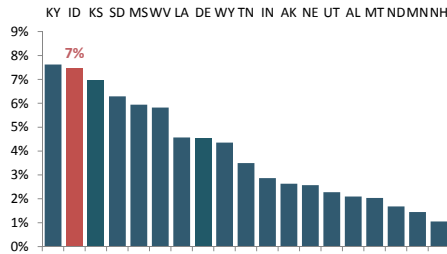
Impact on Recidivism, Public Safety & Corrections Costs

Despite a low crime rate, Idaho's prison rate is among the highest and growing faster than all but one state

Between 2010 and 2012, Idaho had the second-largest growth in prison population nationally

Idaho's adult prison incarceration rate rose to eighth highest in the country

Prison Population Percentage Change, 2010-2012



28 other states saw decreases in their prison population

Rank	Adult Prison Incarceration Rate			
	2011		2012	
1	Louisiana	1,144	Louisiana	1,179
2	Mississippi	921	Mississippi	954
3	Texas	866	Oklahoma	858
4	Alabama	848	Alabama	847
5	Oklahoma	838	Texas	820
6	Arizona	784	Arizona	773
7	Georgia	731	Georgia	723
8	Arkansas	718	Idaho	680
9	Florida	678	Missouri	674
10	Missouri	669	Florida	661
11	Idaho	666	Arkansas	651

Reducing recidivism a key to lowering incarceration rates—and increasing public safety

Paroles from Term

2,910 paroles
1,553 returns

Return Rate
53%

Successful Riders

3,151 probation placements
1,275 returns

Return Rate
40%

New Probation Placements

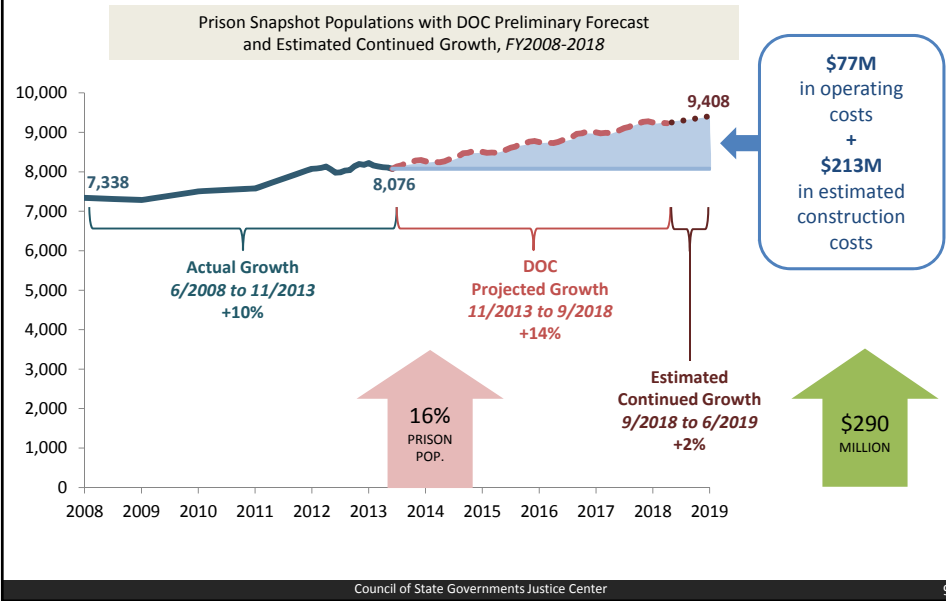
5,504 probation placements
1,353 returns

Failure to Prison Rate
24%

Recidivism defined as incarceration within three years

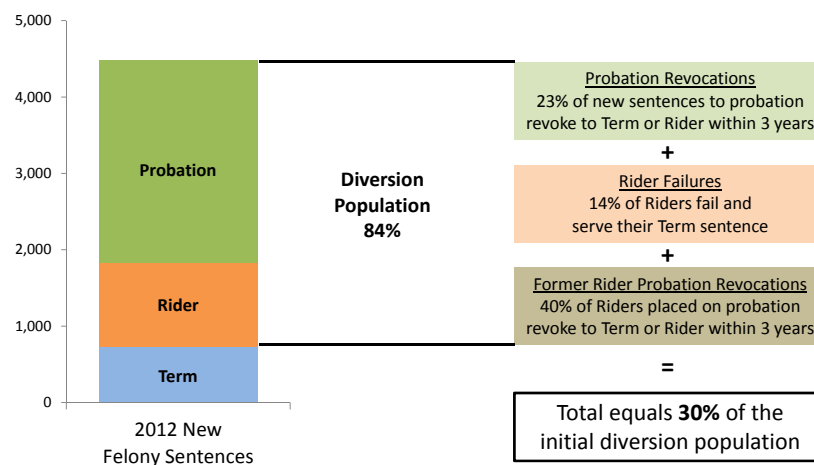
2008 and 2009 cohorts combined Returns include new Term or Rider sentences, and parole violator stays

Status quo trajectory is unsustainable;
 additional costs to taxpayers would reach \$290 million by 2019



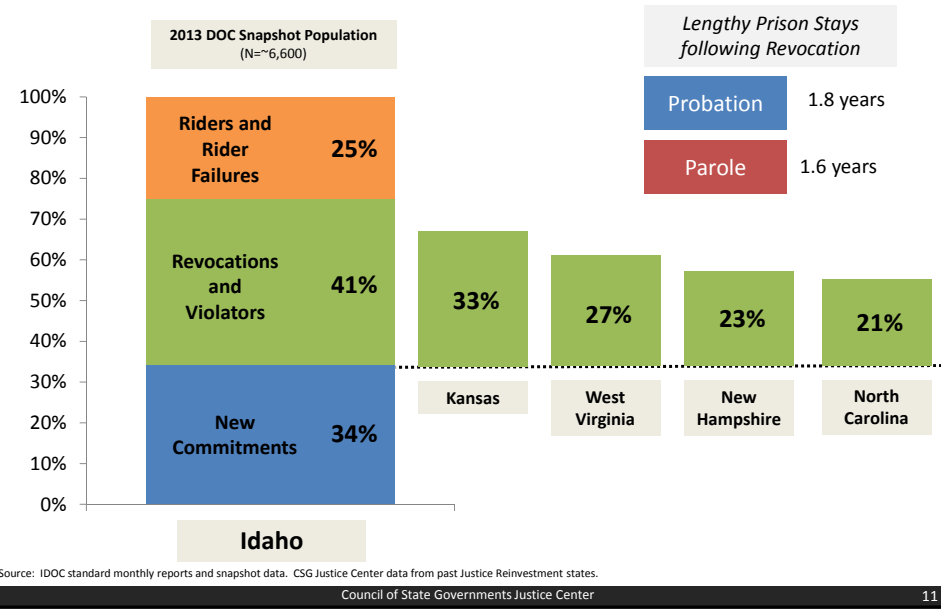
Drivers of Idaho's Prison Growth

- A revolving door of recidivism from supervision and diversion programs is costly and ineffective



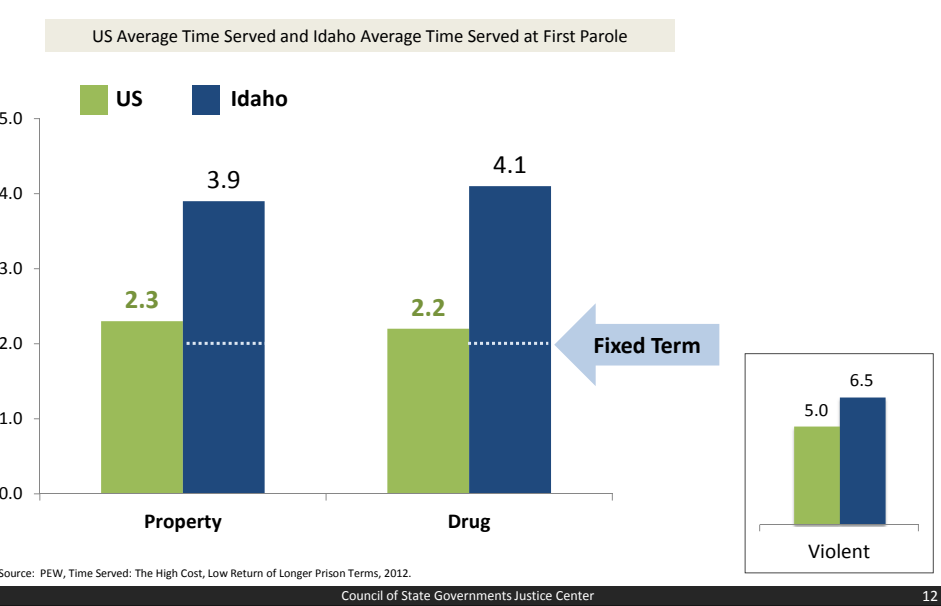
Drivers of Idaho's Prison Growth

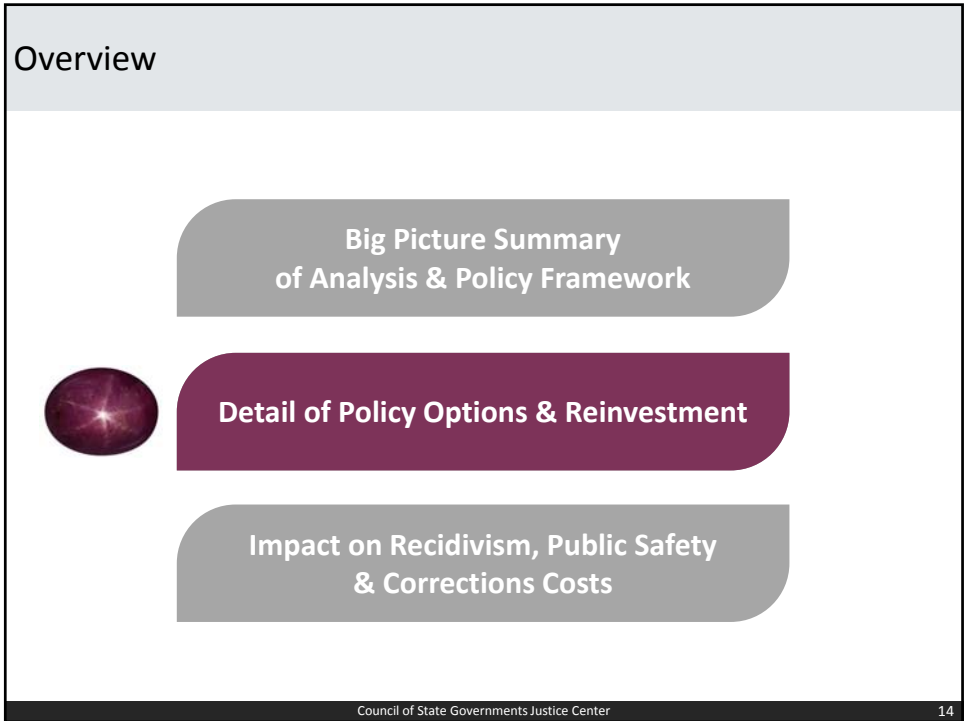
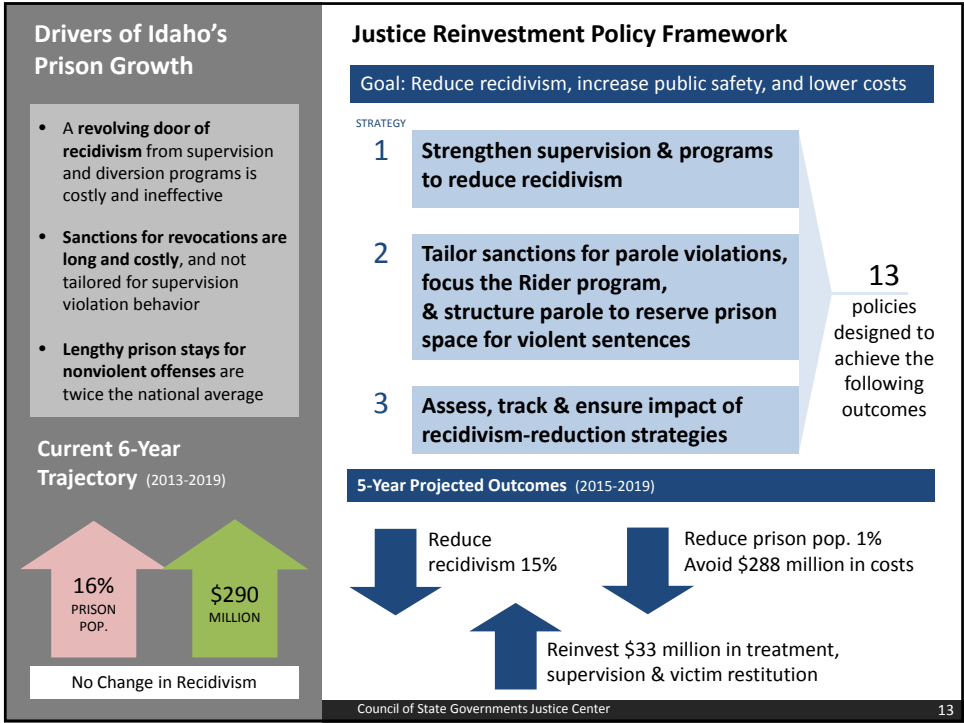
- Sanctions for revocations are long and costly, and not tailored for supervision violation behavior



Drivers of Idaho's Prison Growth

- Lengthy prison stays for nonviolent offenses are twice the national average





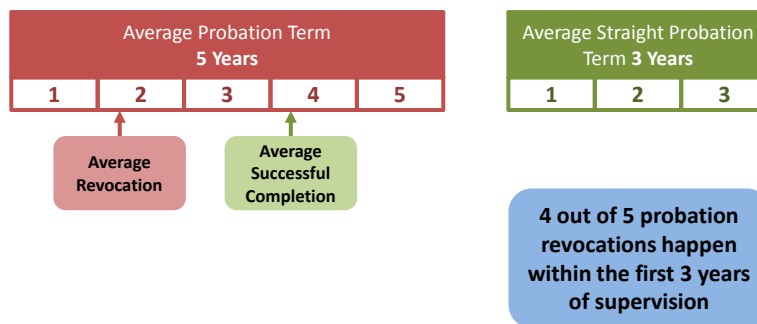
Justice Reinvestment Policy Framework

Goal: Reduce recidivism, increase public safety, and lower costs

STRATEGY

- | | | |
|---|--|--|
| 1 | Strengthen supervision & programs to reduce recidivism | <ul style="list-style-type: none"> a) Structure swift & certain responses to violations b) Increase community-based risk-reduction programming c) Focus probation supervision d) Train probation and parole officers on evidence-based strategies e) Improve the collection & swift payment of victim restitution |
| 2 | Tailor sanctions for parole violations, focus Rider program, & structure parole to reserve prison space for violent sentences | |
| 3 | Assess, track & ensure impact of recidivism-reduction strategies | |

Five-year probation terms stretch resources, making it difficult to focus resources on greatest risk of recidivism



Sex Off.
6%

2013 Idaho Snapshot Supervision Population, N ≈ 11,500

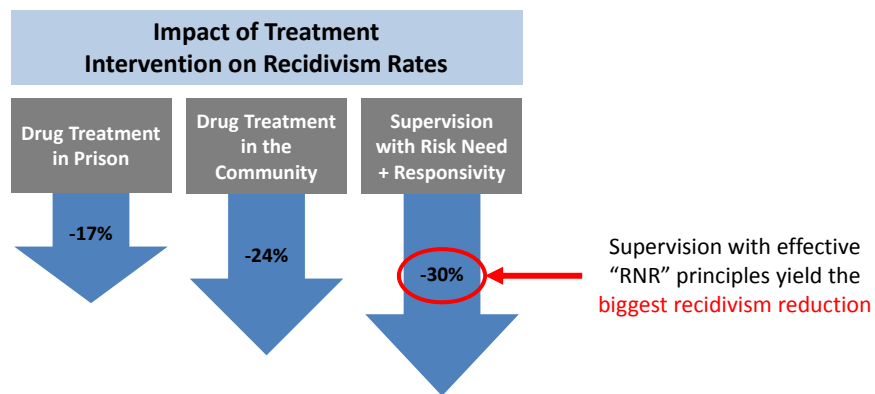
Currently in Supervision Years 1 to 3: 67%

Past Year 3: 33%

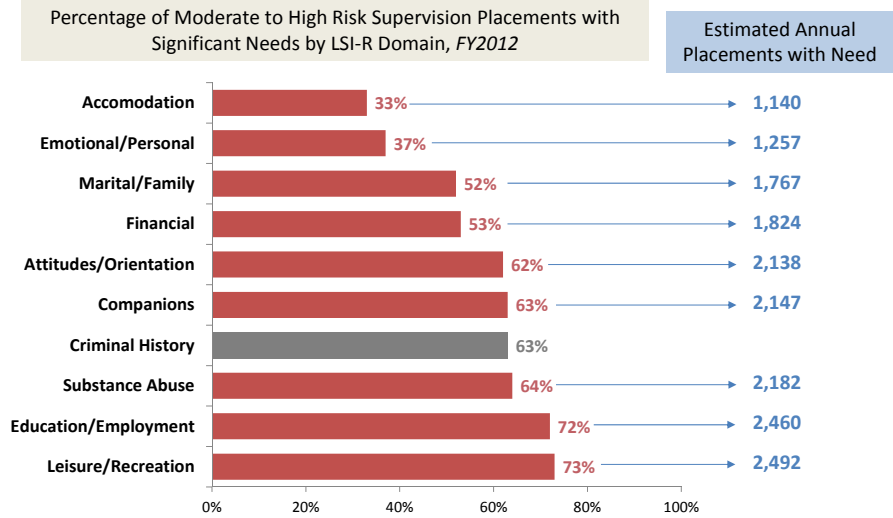
Structure swift & certain responses to violations

- Delegate authority, in statute, for probation and parole officers (PPOs) to deliver administrative responses to violations with swiftness and certainty, and require that this authority is established as part of each sentence imposed.
- Revise current violation sanctions grid so that it creates a set of meaningful responses (e.g. requiring cognitive behavioral treatment, rapid assignment into substance use treatment, or discretionary jail time in two- or three-day stays) that PPOs can use without a court hearing to respond to probation condition violations. The severity of the sanction should increase in proportion to the nature of the violation and the offender's assessed risk level.
- Establish procedures to protect the due-process rights of individuals on supervision while imposing jail sanctions, such as extending the right to a court hearing if the probationer and parolee does not agree to the sanction imposed. Also, require administrative approval before such action can be taken to ensure the authority is used appropriately.
- Enable PPOs also to use discretionary jail time as a sanction for people on parole, invoking the same procedural due-process protections.
- When the county government agrees to use jail beds for probation and parole violations, the state shall provide reimbursement for the costs incurred.
- Increase rapid drug testing capability to ensure that probationers and parolees are being held accountable to conditions of supervision.

Where and how treatment is delivered impacts the degree of recidivism reduction



Areas where higher risk probationers and parolees show greatest level of need



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STRATEGY

1

Strengthen supervision & programs to reduce recidivism

A

B

C

D

E

Increase community-based risk-reduction programming and accountability

- Broaden the authorized expenditure of felony probation and parole substance use disorder services (SUDS), which will be renamed "Treatment Supervision," to include services addressing the criminogenic needs most closely associated with recidivism (e.g. criminal thinking and attitude) as well as the main responsibility factors (e.g. mental health and co-occurring disorders) impeding service delivery.
- Increase funding for Treatment Supervision within §19-2524 both as a sentencing option courts may impose, to require that individuals serve a term of probation while being required to complete programs and treatment addressing criminogenic needs, and as response to condition violations.
- Require the Idaho Department of Rehabilitation and Correction (IDOC) to analyze the criminogenic needs of its supervision population based on subdomain scores of the GAIN Core and LSI assessments, and conduct a gap analysis to determine barriers to addressing this population's criminogenic needs and responsibility factors.
- Focus these community-based programs on probationers and parolees who are assessed as higher-risk.
- Increase rapid drug testing capability to ensure that probationers and parolees are being held accountable to conditions of supervision.

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Focus probation supervision

- Cap the maximum length of a probation supervision term at 3 years except for cases in which the court provides written findings that there is undue risk that the defendant will commit another crime beyond that 3 year period. In these cases, the maximum probation term length will remain the maximum period for which the defendant might have been imprisoned.
- Transfer probationers and parolees to the Limited Supervision Unit (LSU) provided the following conditions are met: no reported major violations or supervision revocations, is not serving probation for an offense categorized as violent, sexual, or driving under the influence (DUI), and is not high risk according to the most recent assessment.
- Shift applicable moderate-risk probationers and parolees to an LSU caseload after 12 months.
- Shift low- and low-moderate-risk probationers and parolees to LSU after 6 months.
- Support effective PPO/offender interactions by reducing reliance on cost of supervision for personnel and operating expenses.
- Recommend probationers and parolees discharge from LSU after 12 months provided no reported major violations or supervision revocations have been reported and provide court/Commission an opportunity to review for extension of supervision.

Train probation and parole officers on evidence-based strategies

- Require that all current and new PPOs be trained within two years on how to apply core correctional practices, including motivational interviewing, cognitive restructuring, structured skill building, problem solving, reinforcement and use of authority.
- Establish a train-the-trainer approach to ensure all PPOs are trained on evidence-based strategies and to develop long-term training capacity.

Improve the collection & swift payment of victim restitution

- Require IDOC to collect a minimum of 20 percent from deposits made into the inmate trust accounts of individuals in prison who owe restitution, and use the amount collected to defray outstanding restitution orders.
- Establish a state-administered fund that victims to whom restitution is owed may opt in to and receive proactive payments from the state for amounts up to \$10,000. The state, using all methods of debt collection—including tax and lottery intercepts, wage garnishments, and termination of hunting and fishing licenses—will then collect the amount of court-ordered restitution owed under the restitution order.
- Create a subcommittee under the Interagency Criminal Justice Commission (ICJC) to study the following topics related to legal financial obligations (LFOs): priority of collections; rules and guidelines concerning the monitoring, collection, and disbursement of financial obligations; and processes for collecting outstanding debts from individuals who have completed terms of supervision and incarceration yet still owe financial obligations. The task force shall submit a report for review by the 2015 legislative session.

Justice Reinvestment Policy Framework

Goal: Reduce recidivism, increase public safety, and lower costs

STRATEGY

1

Strengthen supervision & programs
to reduce recidivism

2

Tailor sanctions for parole
violations, focus Rider program,
& structure parole to reserve prison
space for violent sentences

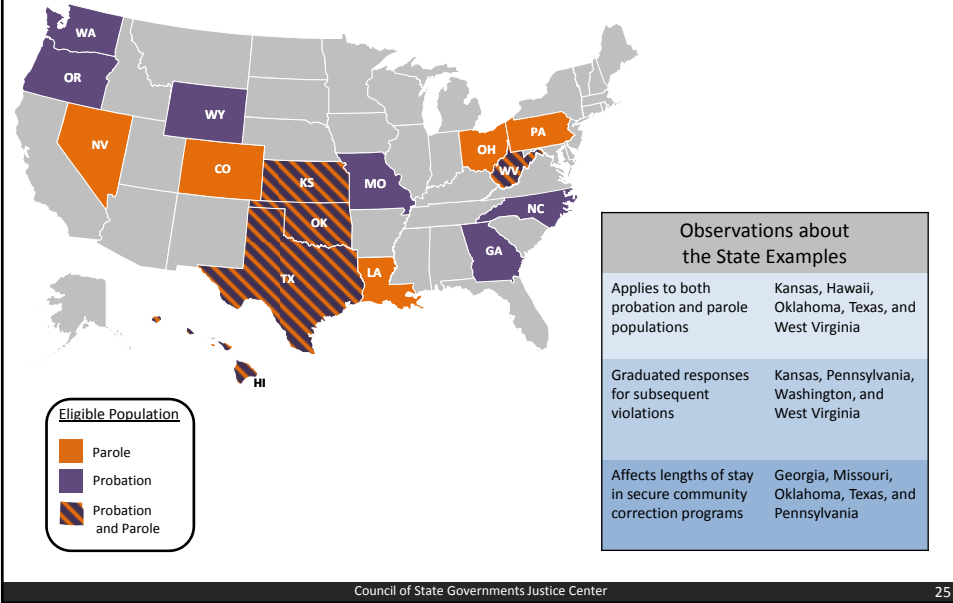
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Assess, track & ensure impact of
recidivism-reduction strategies

- Tailor sanctions for parole violations
- Focus Rider capacity on people that would otherwise go to prison
- Use risk assessment to inform the parole decision-making process
- Calibrate time served for nonviolent sentences to 100-150% of the fixed term

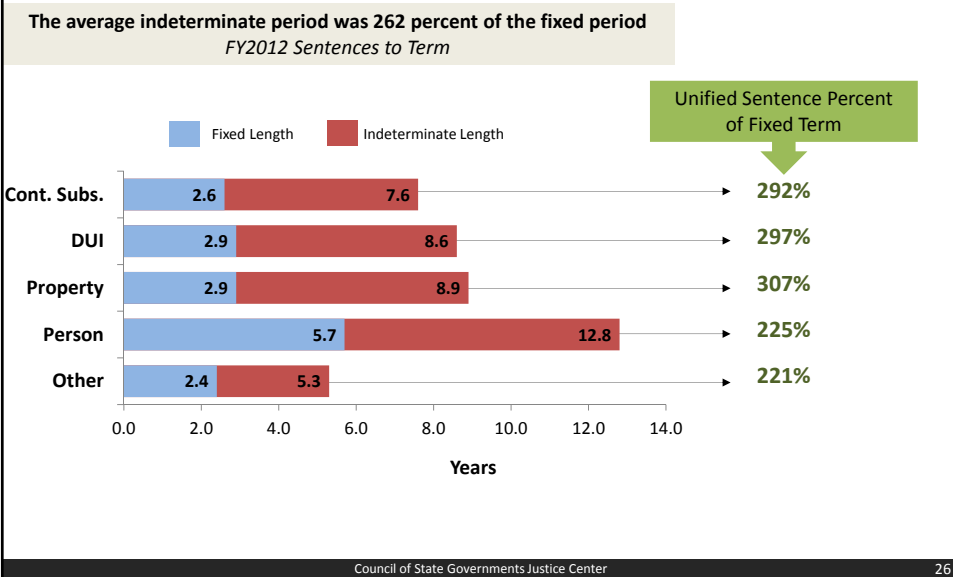
Second Challenge

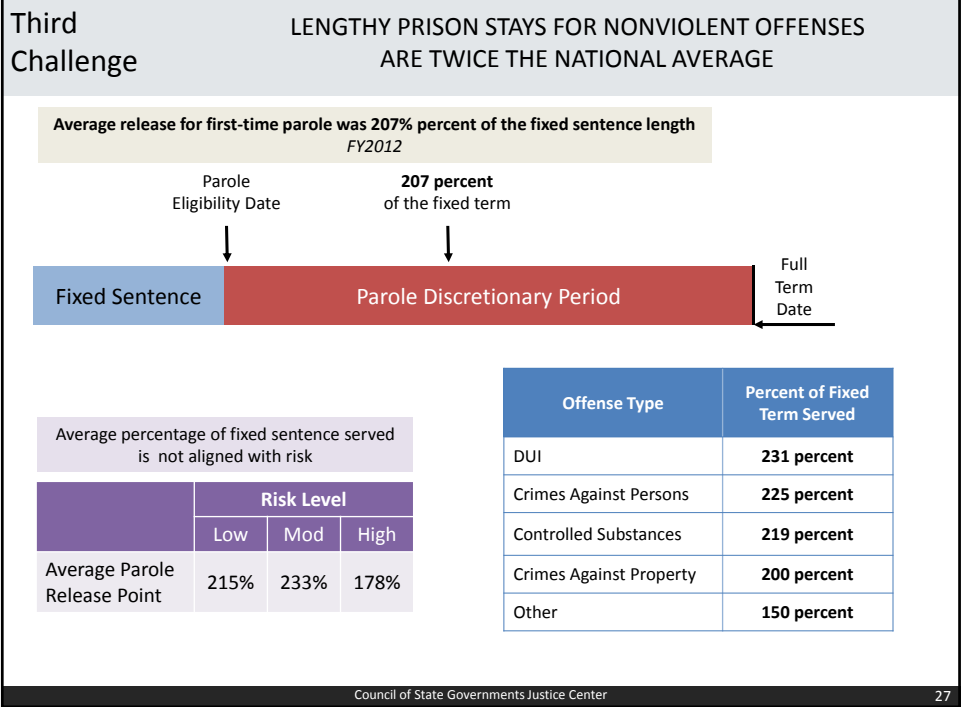
SANCTIONS FOR REVOCATIONS ARE LONG, COSTLY, AND NOT TAILORED FOR VIOLATION BEHAVIOR



Third Challenge

LENGTHY PRISON STAYS FOR NONVIOLENT OFFENSES ARE TWICE THE NATIONAL AVERAGE





STRATEGY 2 Tailor sanctions for parole violations, focus Rider program, & structure parole

A B C D

Tailor sanctions for supervision violations

For probation violators:

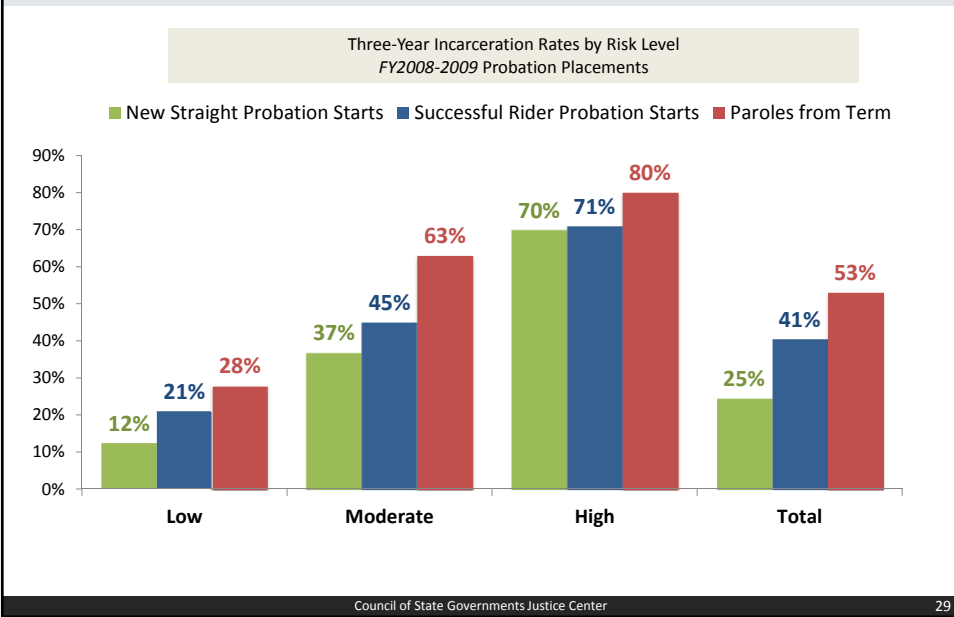
- Create the presumption that community-based sanctions and treatment options will first be exhausted before responding to probation violations with a revocation to Rider or prison term.

For parole violators:

- Respond to significant or repeat violations of the conditions of parole with a sanction of confinement. Allow confinement for up to 90 days as the initial response, up to 180 days for the second response, and an indeterminate period subject to the discretion of the Commission on Pardons and Parole ("the Commission") for any subsequent responses.
- Require parole violators charged with absconding to serve up to 180 days in confinement.
- Require continuation of remaining parole term upon release from confinement.
- If confinement occurs in prison, also permit the IDOC director to extend confinement by up to one month as a result of institutional misconduct.

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Sentencing to Rider results in lower recidivism rates than prison, but higher rates than probation



STRATEGY 2 Tailor sanctions for parole violations, focus Rider program, & structure parole

A B C D

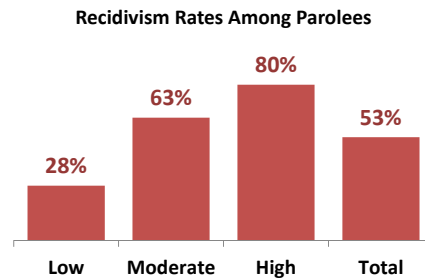
Focus Rider capacity on people that would otherwise go to prison

- Present in the presentencing investigation (PSI) report current recidivism outcomes for the following offender populations: individuals who first participate in the Rider program and then serve a term of supervision, those sentenced directly to supervision without first participating in the Rider program, and those sentenced to prison.
- Differentiate the reported recidivism rates based on offender risk level, including those of lower-risk offenders, for whom recidivism is higher among individuals who participated in the Rider program followed by a term of supervision than individuals who received a direct sentence to probation.

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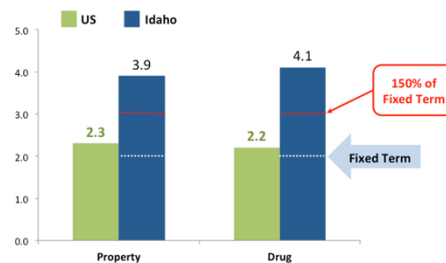
Use risk assessment to inform the parole decision-making process

- Require that the results of a standardized risk assessment instrument be central among the criteria used by the Commission for release decision-making.



Calibrate time served for nonviolent sentences to 100-150% of the fixed term

- Require that, prospectively, people sentenced to term for nonviolent offenses be paroled between 100 and 150 percent of the fixed term, and then be placed under the supervision of a PPO.
- Establish, for the initial two-year period following legislative enactment, a joint goal involving IDOC and the Commission that people sentenced to a prison term for nonviolent offenses be paroled between 100 and 150 percent of the fixed term. In 2015, the goal will be set at 50 percent of people sentenced for nonviolent offenses and, in 2016, this goal will increase to 75 percent.



Justice Reinvestment Policy Framework

Goal: Reduce recidivism, increase public safety, and lower costs

STRATEGY

- 1 Strengthen supervision & programs to reduce recidivism
 - 2 Tailor sanctions for parole violations, focus Rider program, & structure parole to reserve prison space for violent sentences
 - 3 **Assess, track & ensure impact of recidivism-reduction strategies**
- a) Designate oversight committee to measure and assess policy impacts
 - b) Require risk & need assessments to be routinely reviewed for quality
 - c) Streamline corrections & parole processes by analyzing key indicators
 - d) Assess the quality of offender programs and use results to improve outcomes

STRATEGY

3

Assess, track & ensure impact of recidivism-reduction strategies

A

B

C

D

Designate oversight committee to measure and assess policy impacts

- Designate a justice reinvestment inter-branch committee to monitor and evaluate the policies and budget implications of enacted justice reinvestment policies.

Require risk & need assessments to be routinely reviewed for quality

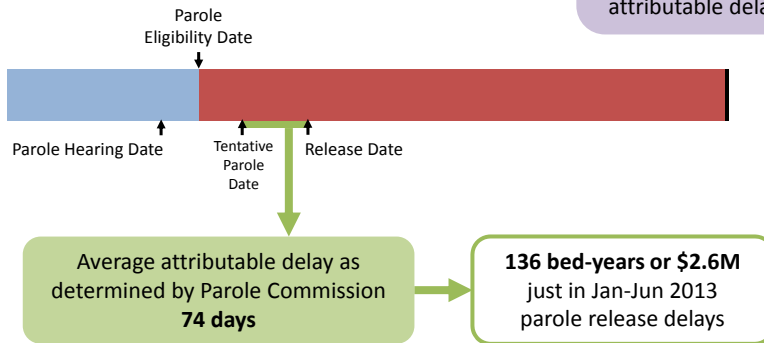
- Engage an independent entity with expertise in risk assessment evaluation to assess the predictive validity of the state's risk and need instrument, reliability of the assessors, and standards for certification every five years.
- Present the results to key criminal justice system stakeholders, including the courts, IDOC, and the Commission.

Delays in release following a parole approval may cost \$5 million in 2013 alone

Jan-Jun 2013 Commission of Pardons and Paroles Log of Releases and Delays

673 total parole releases
 475 with releases past Tentative Parole Date
 389 with attributable days of delay

Delay in Program Entry or Completion affected **64%** of those with attributable delays



Source: Parole Commission release delay data.

Streamline corrections & parole processes by analyzing key indicators

- Increase the capacity of data and information technology staff at IDOC and the Commission on Pardons and Parole to analyze and report key indicators, including factors contributing to delays in corrections and parole processes; prison admissions, snapshots, and releases for all types of offences; gap analyses over community-based program needs; and recidivism.
- Improve communication between IDOC and the Commission by convening periodic joint meetings and trainings to problem-solve and learn cooperatively.

Assess the quality of offender programs and use results to improve outcomes

- Require routine assessments of state-funded institution- and community-based programs to assess fidelity to models of effective interventions.
- Random program quality audits should be conducted on contracted and state-run programs designed to reduce recidivism, at least every one to two years.

Overview

Big Picture Summary
of Analysis & Policy Framework

Detail of Policy Options & Reinvestment



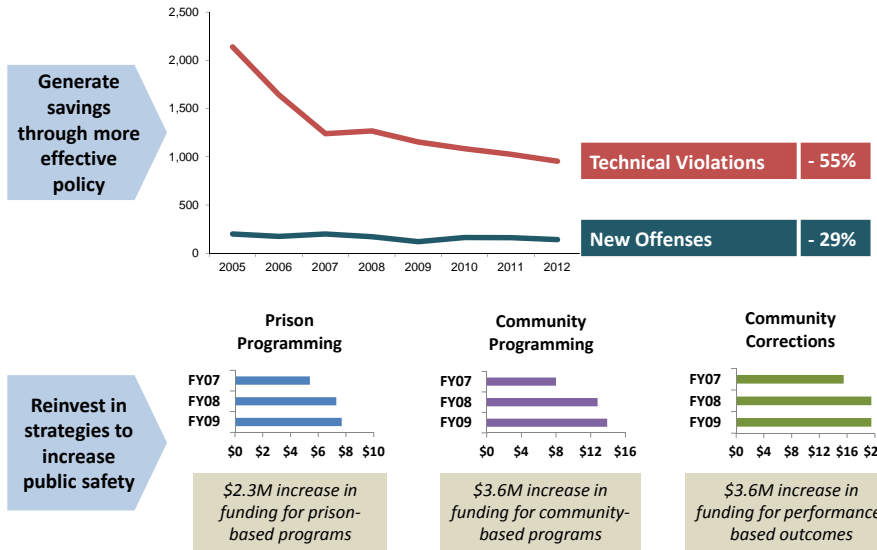
Impact on Recidivism, Public Safety
& Prison Costs

Change in crime rate among CSG Justice Reinvestment states

State	Implementation Year	Implementation Year Index Crime Rate	2012 Index Crime Rate	% Change
Connecticut	2004	2,973.9	2,423.0	-19%
Nevada	2007	4,539.8	3,417.0	-25%
Kansas	2007	4,150.5	3,497.8	-16%
Texas	2007	4,632.3	3,770.4	-19%
Arizona	2008	4,569.0	3,968.1	-13%
Vermont	2008	2,698.2	2,541.3	-6%
Rhode Island	2008	3,089.8	2,824.7	-9%
New Hampshire*	2010	2,353.3	2,511.8	+7%
North Carolina	2011	3,876.6	3,722.9	-4%
Ohio	2011	3,662.1	3,417.1	-7%

* New Hampshire parole violations are down, probation violations are flat, new crime committed by people not under supervision has increased.

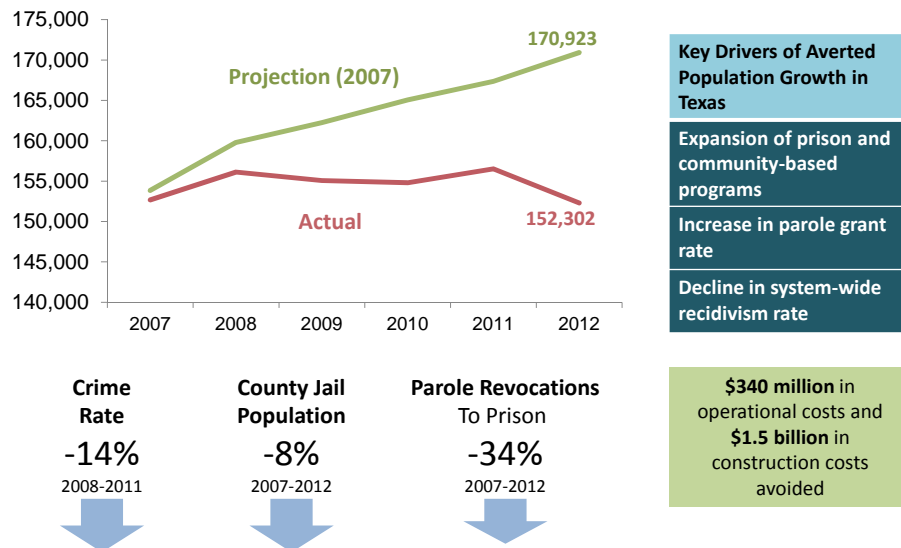
Kansas dropped technical violations in half and reinvested savings in programs to reduce recidivism



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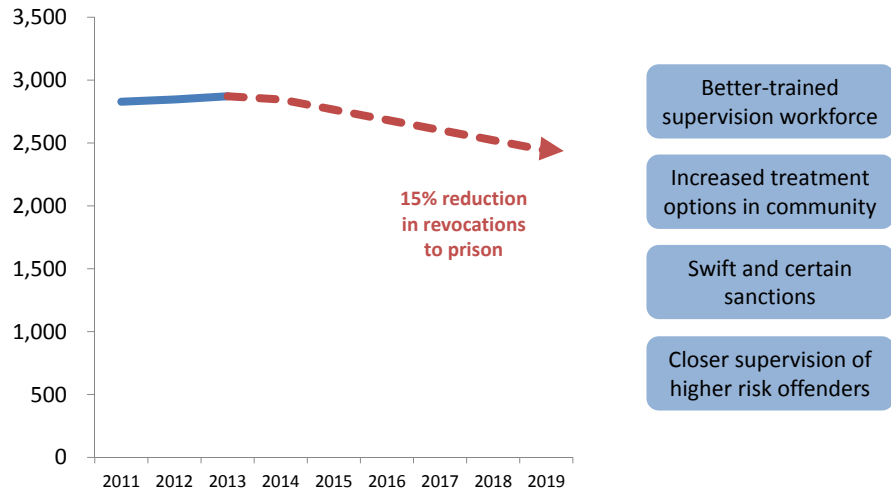
Texas prison population trends post-justice reinvestment



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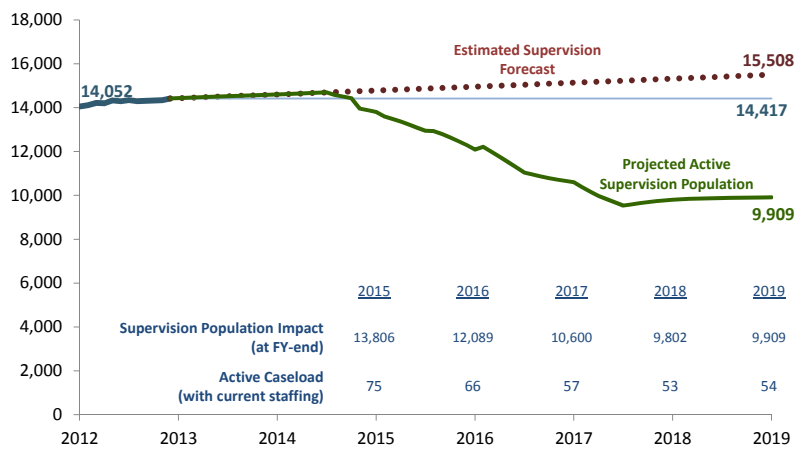
A portion of the estimated impact of policy options based on slowing the revolving door of recidivism



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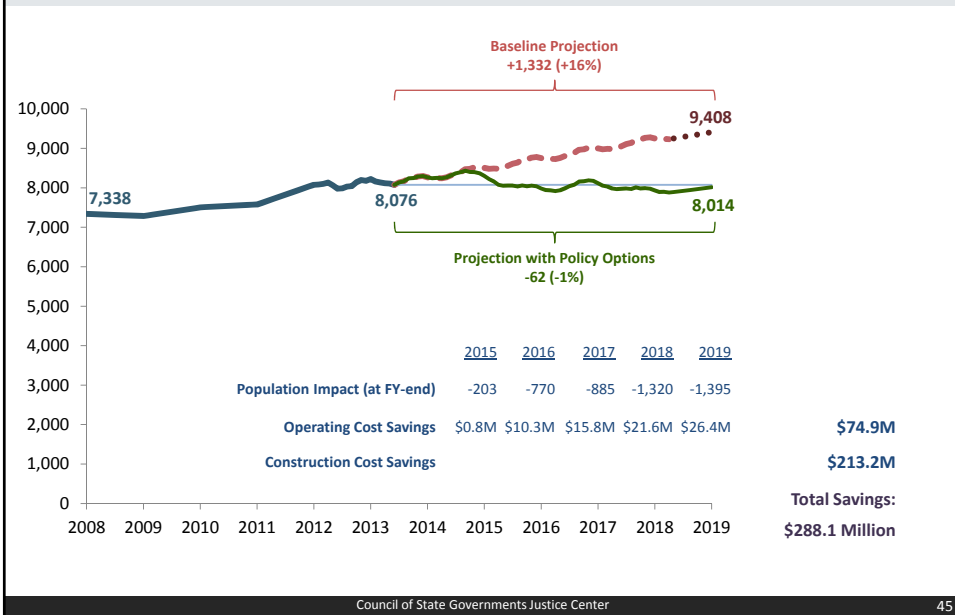
Proposed policies will also reduce the active supervision caseload of probation/parole officers by nearly a third



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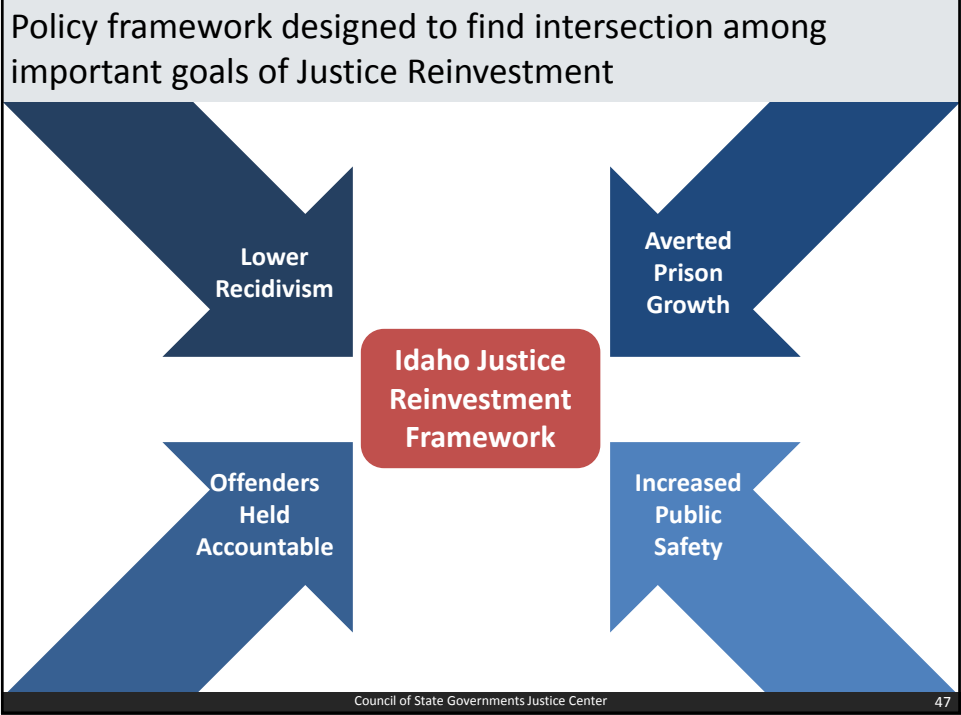
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JR policy framework would stabilize the prison population and save Idaho \$288 million in operating & construction costs



Summary of impact, savings, and reinvestment

	2015	2016	2017	2018	2019	Total
Operating Cost Savings	-\$0.8M	-\$10.3M	-\$15.8M	-\$21.6M	-\$26.4M	-\$74.9M
Construction Cost Savings	← \$213.2M →					-\$213.2M
Total Savings	-\$0.8M	-\$10.3M	-\$15.8M	-\$21.6M	-\$239.6M	-\$288.1M
Treatment Supervision (1b)	\$2.5M	\$3.0M	\$3.0M	\$3.0M	\$3.0M	\$14.5M
Strengthen Supervision (1c and 1d)	\$2.0M	\$2.0M	\$2.0M	\$2.0M	\$2.0M	\$10.0M
Proactive Restitution Collection (1e)	\$0.5M	\$1.0M	\$1.5M	\$1.5M	\$1.5M	\$6.0M
Quality Assurance and Data / IT Capacity (3b, 3c, 3d)	\$0.5M	\$0.5M	\$0.5M	\$0.5M	\$0.5M	\$2.5M
Total Reinvestment	\$5.5M	\$6.5M	\$7.0M	\$7.0M	\$7.0M	\$33.0M
Net Savings	\$4.7M	-\$3.8M	-\$8.8M	-\$14.6M	-\$232.6M	-\$255.1M



Thank You



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