**Michigan Justice Reinvestment**
**Second Draft Population Impacts**
**Oct. 13, 2014**

Three policies have population impacts on jails and prison that can be anticipated: "risk" violation sanctions affecting jails; "noncompliance" violation sanctions affecting jails; and a combination of reduced revocations and greater parole certainty, affecting prisons.

Under the policies depicted, it is possible to achieve a more just and effective distribution of the Michigan taxpayer's correctional resources. Decreased pressure on jails overall, and decreased prison pressure and cost for the state would support complementary reinvestments in community corrections, jail reimbursement, victim services, pretrial and reentry innovation, and research.

This is possible only by leveraging certainty of sanctions for many offenders instead of severe sanctions for a few. Consider the use of 300 jail beds statewide, with these choices for responding to potential technical violations among a probation population of 48,000: (1) send 600 violators to jail for 6 months each; (2) sanction 18,000 violators twice apiece for 3 days each; or (3) sanction 600 violators with one month apiece and 6,000 violators twice apiece for 3 days each. The policies push toward the latter scenarios, emphasizing the importance of certainty over severity of response, and allowing Michigan to hold more offenders accountable for supervision violations.

## Jail Impact of Risk and Noncompliance Sanctions

**Risk violation sanctions.** Three scenarios for risk violation sanctions are presented in Table 1: a sixty day sanction for both probation and parole (60-60), a forty-five day sanction for both probation and parole (45-45), and a thirty day sanction (as in the second draft) for both probation and parole (30-30). It is assumed that all sanctions would be served in jail; totals reflect end of calendar year bed impacts and should not be added across years.

**Table 1. Jail Impacts of Three Sanction Policy Scenarios**

| Scenario | CY2015 | CY2016 | CY2017 | CY2018 | CY2019 | CY2020 | CY2021 |
|---|---|---|---|---|---|---|---|
| 60-60 | 790 | 190 | 460 | 589 | 602 | 612 | 623 |
| | | | | | | | |
| 45-45 | 641 | -145 | 17 | 108 | 113 | 117 | 122 |
| | | | | | | | |
| **30-30** | **492** | **-481** | **-426** | **-373** | **-376** | **-378** | **-379** |

The significant decrease in jail impact from CY2015 to CY2016 in all three scenarios is due to an assumed 18-month phase-in for the probation impacts to account for the fact that most probation violations on 'day one' will be comprised of those sentenced to probation prior to the effective date of the policy. Within 18 months of the effective date, the pool of probation violators will be comprised almost exclusively of those sentenced to probation on or after the effective date of the policy. Jail impacts increase from CY2016 to CY2017-18 due to the impact during that time of violators looping back into the system for subsequent sanctions.

Table 2 assumes the 30-30 scenario from the last row of Table 1 (as in the second draft) and depicts jail impacts by subpopulation: probation violators who would previously have served in jail; probation violators who would previously have served in prison and shift to jail; and parole violators who would previously have served in prison and shift to jail.

**Table 2. Jail Impacts by Subpopulation**

| Year End | CY2015 | CY2016 | CY2017 | CY2018 | CY2019 | CY2020 |
|---|---|---|---|---|---|---|
| **Probation Violator (formerly to jail)** | -177 | -812 | -830 | -793 | -801 | -809 |
| **Probation Violator (formerly to prison)** | 37 | 110 | 148 | 165 | 169 | 174 |
| **Parole Violator (formerly to prison)** | 632 | 221 | 256 | 255 | 256 | 258 |
| **Combination Impact Total** | **492** | **-481** | **-426** | **-373** | **-376** | **-378** |

**Noncompliance Violation Sanctions.** To model the impact of implementing swift and sure sanctions statewide, it is useful to examine the experience in Washington State, where a similar policy was just implemented statewide. In their 2013 report to the legislature, the Washington Department of Corrections notes: "What DOC experienced is what was expected: that there would be a significant decrease in the use of confinement beds, an increase in the number of arrests, and a significant decrease in the number of hearing processes. From the technical assistance provided by BJA, DOC has learned that these trends are similar to those found by other locations that have implemented the swift and certain principles."[1]

The following assumptions for violation dynamics are more aggressive than the reality observed in Washington, to avoid underestimating jail impact:

- 75% of 48,000 probationers will have one low-severity or "noncompliance" violation (followed by a non-custodial sanction)
- 40% will have a second compliance violation (followed by a 3-day jail sanction)
- 25% will have a third compliance violation (followed by a 3-day jail sanction)
- 15% will have a fourth compliance violation (followed by a 3-day jail sanction)
- 5% will have a fifth compliance violation (followed by a 3-day jail sanction)

Those assumptions yield 40,800 instances of imposing a 3-day jail sanction over the course of a year. Based on the seasonal flow of violations and responses spaced more or less evenly throughout the year, the number of jail beds needed to accommodate such sanctioning is equal to demand for approximately *335 jail beds* throughout the state on a given day. Obviously, the geographic distribution of those beds would need to be correlated with where the probationers are being sanctioned. It is assumed that this kind of distribution can continue to be accommodated through contractual arrangements, or some more creative collaboration. That usage can be subsidized by the County Jail Reimbursement Program, but may also be mitigated by the policy for sanctioning risk violations.

[1] "Community Corrections Practices; 2013 Report to the Legislature As required by Second Engrossed Second Substitute Senate Bill 6204, 2012," Washington DOC, December 1, 2013

## Prison Impact of Greater Certainty of Parole and Parole Sanctions

Estimating the impact of the Corrections Code revisions begins with identifying the volume of "new" paroles the Corrections Code proposal would generate. Looking six months ahead, there are 1,850 prisoners with a parole consideration due and no parole in hand, constituting the potential pool of new paroles that the proposal will create. Almost half, 47% or 878, fit the criteria in the proposal -- no pending charges or active detainers, high or middle probability under the parole guidelines, and lack of institutional misconduct. Yearly cohorts were then created based on the 878, beginning with the July 2015 start date. Finally, there is a computation of average length of time averted: 2.4 years.

With those parameters, the maximum impact of the proposal comes out to about -4,200 beds when stability is reached in 2025, with Table 3 showing impact in 2020 of -3,653.

Parole sanctions served in jail also relieve some prison capacity. This impact is modeled using a 15% parole technical violation rate based on past DOC experience, and by adding in the "new" paroles from the greater certainty policy to the parole population.

This impact should stabilize in the 2025 to 2030 timeframe at about -1,600 beds. Combined impact of the two policies in 2020 is -5317.

**Table 3. Yearly Prison Impacts**

| Policy | CY2015 | CY2016 | CY2017 | CY2018 | CY2019 | CY2020 |
|---|---|---|---|---|---|---|
| **Greater Certainty of Parole** | -10 | -316 | -1,045 | -1,930 | -2,771 | -3,653 |
| **Probation Violator** | -98 | -760 | -1,190 | -1,222 | -1,253 | -1,284 |
| **Parole Violator** | 0 | -1 | -32 | -132 | -244 | -380 |
| **Combination Impact Total** | -108 | -1,077 | -2,267 | -3,284 | -4,268 | -5,317 |

Figure 1 below shows current projections for prison population contrasted with the combined impact of the two policies.

**Figure 1. Combined Prison Impacts**