

# final minutes

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## **Michigan Law Revision Commission Meeting**

Thursday, May 22, 2013 ▪ 11:00 a.m.  
Legislative Council Conference Room ▪ 3 Boji Tower  
124 W. Allegan ▪ Lansing, Michigan

### **Members Present:**

Richard McLellan, Chair  
Tony Derezinski, Vice-Chair  
Senator Vincent Gregory  
Representative Andrew Kandrevas  
Representative Tom Leonard  
John Strand  
George Ward  
Judge William Whitbeck

### **Members Absent and Excused:**

Senator Tonya Schuitmaker

### **Others Present:**

Andrew Barbee - Justice Center, Council of State Governments  
Connie Burgess - Representative Haveman's Office  
Bob Ciaffone  
Beth Clement - Governor's Legal Staff  
Cliff Flood - SBM  
Phil Goodrich - Representative Leonard's Office  
Jason Karpman - Justice Center, Council of State Governments  
Malcolm Kletke - Senate Democratic Staff  
Dan Levy - Department of Civil Rights  
Matt Morrow  
Michael Pandy - PAAM  
Carl Reynolds - Justice Center, Council of State Governments  
Griffin Rivers  
Bruce Timmons  
Dawn Van Hoek - Director, SADO  
Ellen Whelan-Wuest - Justice Center, Council of State Governments  
Jane Wilensky, MLRC Executive Secretary

### **I. Convening of Meeting**

Chairperson McLellan called the meeting to order at 11:00 a.m. and provided an overview of the purpose of today's meeting which is the result of requests made by the Senate Majority Leader, the Speaker of the House, and the Governor for the Commission to jointly take on with the Council of State Governments (CSG) a criminal sentencing guidelines study. He noted that agenda items include a presentation by CSG and a discussion of Commission priorities for 2013.

### **II. Roll Call**

The roll was taken and absent members were excused. A quorum was present.

### **III. Criminal Sentencing and Procedures Project**

The Chair called on Commissioner Derezinski to provide introductory comments. Commissioner Derezinski provided a brief history of the project and the background of the public members of the Commission which he noted includes working knowledge of the criminal justice system. He then introduced Mr. Carl Reynolds of the CSG Justice Center who highlighted the work background of himself and the CSG staff assigned to this project, and provided a history of the CSG Justice Center efforts with regard to their justice reinvestment work. A copy of the slide presentation by CSG is attached to these minutes. Mr. Andrew Barbee of the CSG Justice Center then illustrated some of the sentencing-type issues different states face that prompted their interest in the sentencing study and justice reinvestment. A discussion of the process for moving forward with the project followed. Mr. Reynolds added that the approach will include extensive record review, data analysis, and focus on Michigan's sentencing system including its collateral effects. A tentative timeline was discussed along with a discussion of possible stakeholders and open meetings act compliance.

**IV. Commission Priorities for 2013**

The Chair provided a memorandum outlining the list of issues he suggests be reviewed in 2013. A discussion followed. A copy of his memorandum is attached to these minutes.

**V. Public Comment**

The Chair asked if there were any public comments. Mr. Bob Ciaffone offered positive comments regarding the meeting. Mr. Bruce Timmons offered comments regarding maximum and minimum sentences and 17-year olds.

**VI. Adjournment**

Having no further business, the meeting was adjourned at 1:10 p.m.

*(Approved at the June 20, 2013 Michigan Law Revision Commission meeting.)*

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THE COUNCIL OF STATE GOVERNMENTS



*Presentation to*  
**Michigan Law  
Revision Commission**



Initial Planning Meeting  
**Criminal Sentencing Study**

May 22, 2013

Carl Reynolds, Senior Legal & Policy Advisor  
Andrew Barbee, Research Manager  
Ellen Whelan-Wuest, Policy Analyst  
Jason Karpman, Program Associate

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## Organization of Presentation

**Justice Center Background**

**Sentencing Study and Justice  
Reinvestment**

**Process Moving Forward**

## Organization of Presentation

**Justice Center Background**

Sentencing Study and Justice  
Reinvestment

Process Moving Forward

## 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
- Justice Center provides practical, nonpartisan advice informed by the best available evidence



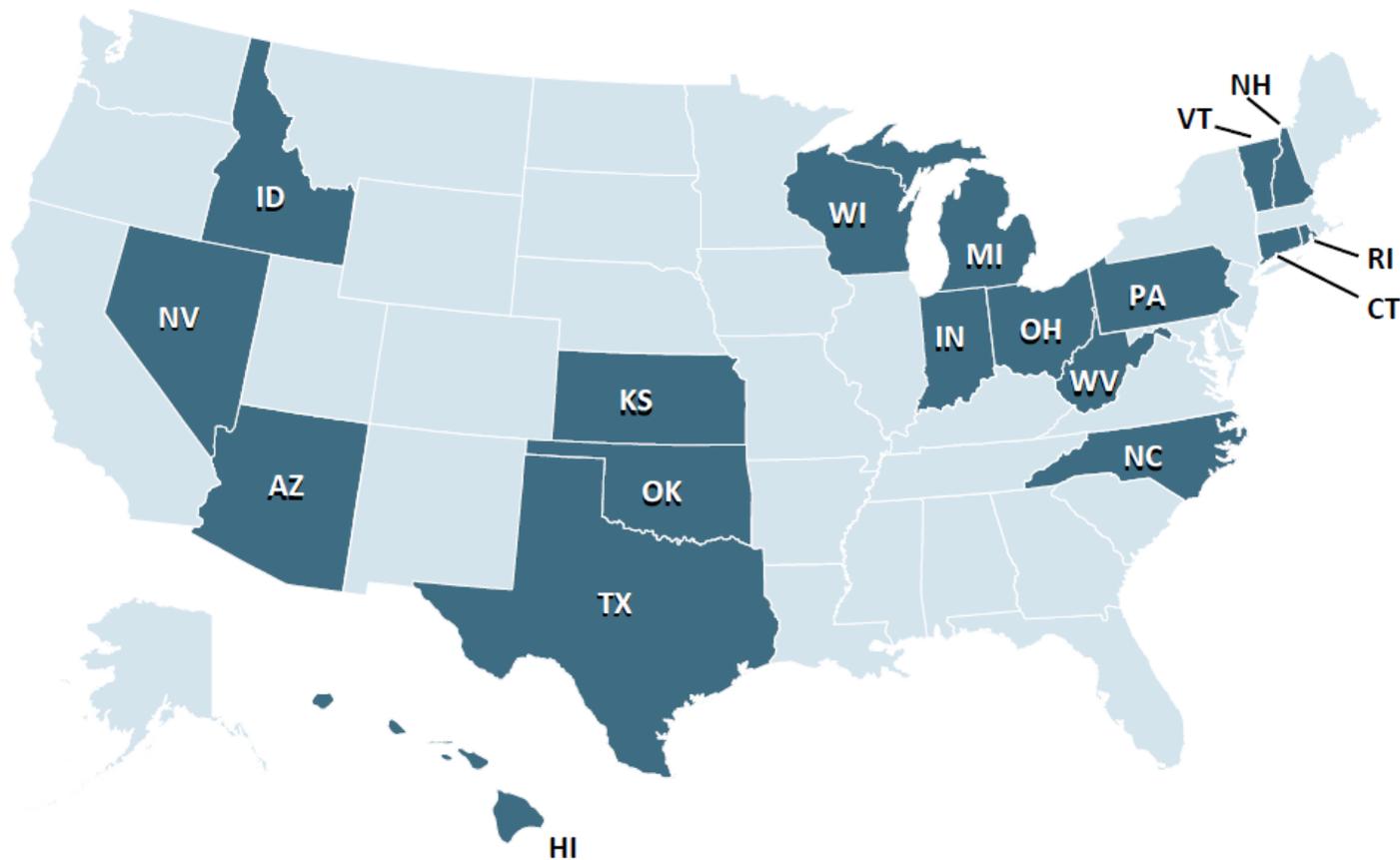
You May Know Us from Our Justice Reinvestment Work

# Justice Reinvestment

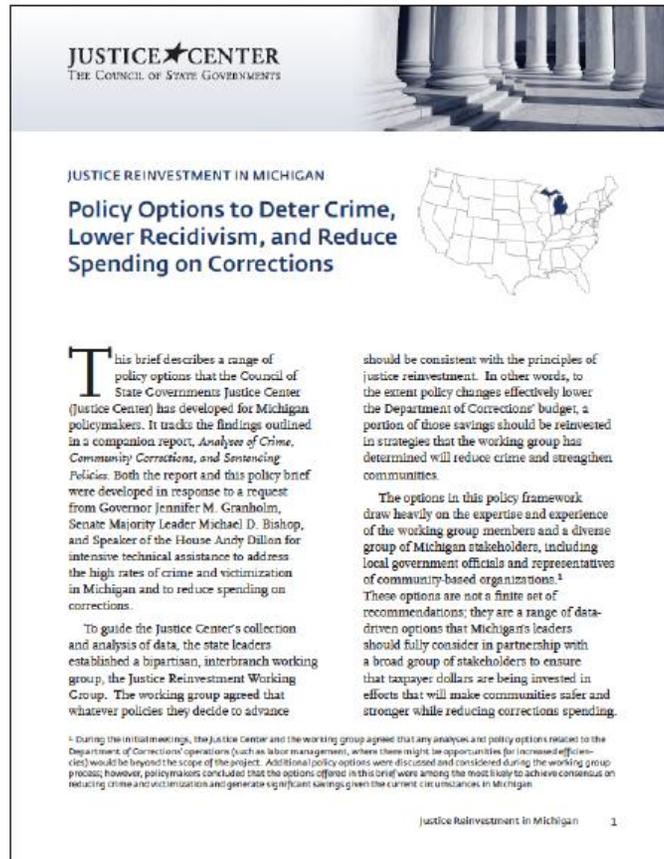
*a data-driven approach to reduce corrections spending  
and reinvest savings in strategies that can  
decrease recidivism and increase public safety.*



## CSG Justice Reinvestment States to Date



## Summary Michigan Justice Reinvestment from 2008-10



**2008:** Working Group formed and research conducted

**2009:** Final report and policy options delivered

**2010:** Despite not making any statutory changes, State invested in the following:

- Law enforcement strategies to reduce crime
- Risk reduction strategies for high-risk probationers
- Additional parole agents
- GPS electronic monitoring
- Reentry programming

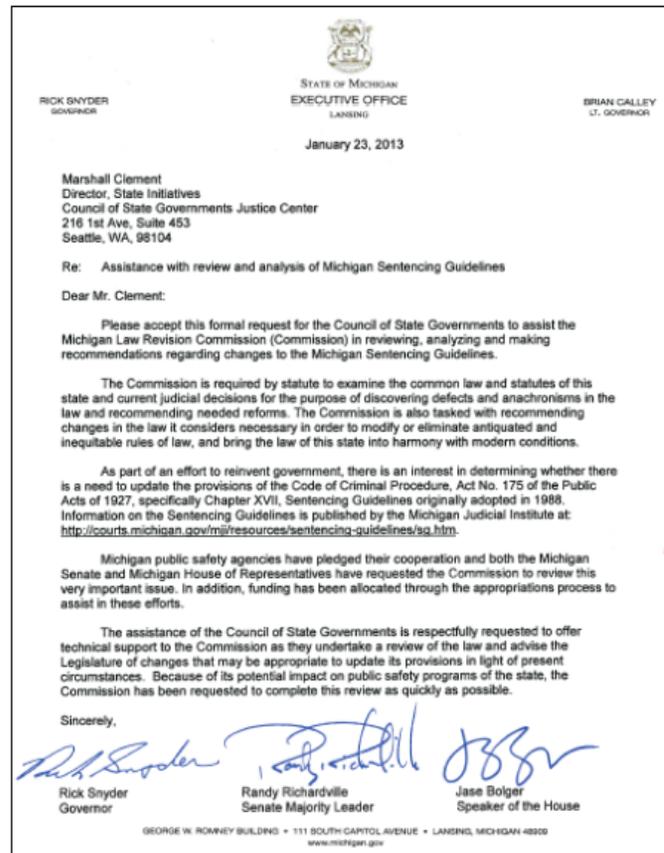
## Organization of Presentation

Justice Center Background

**Sentencing Study and Justice  
Reinvestment**

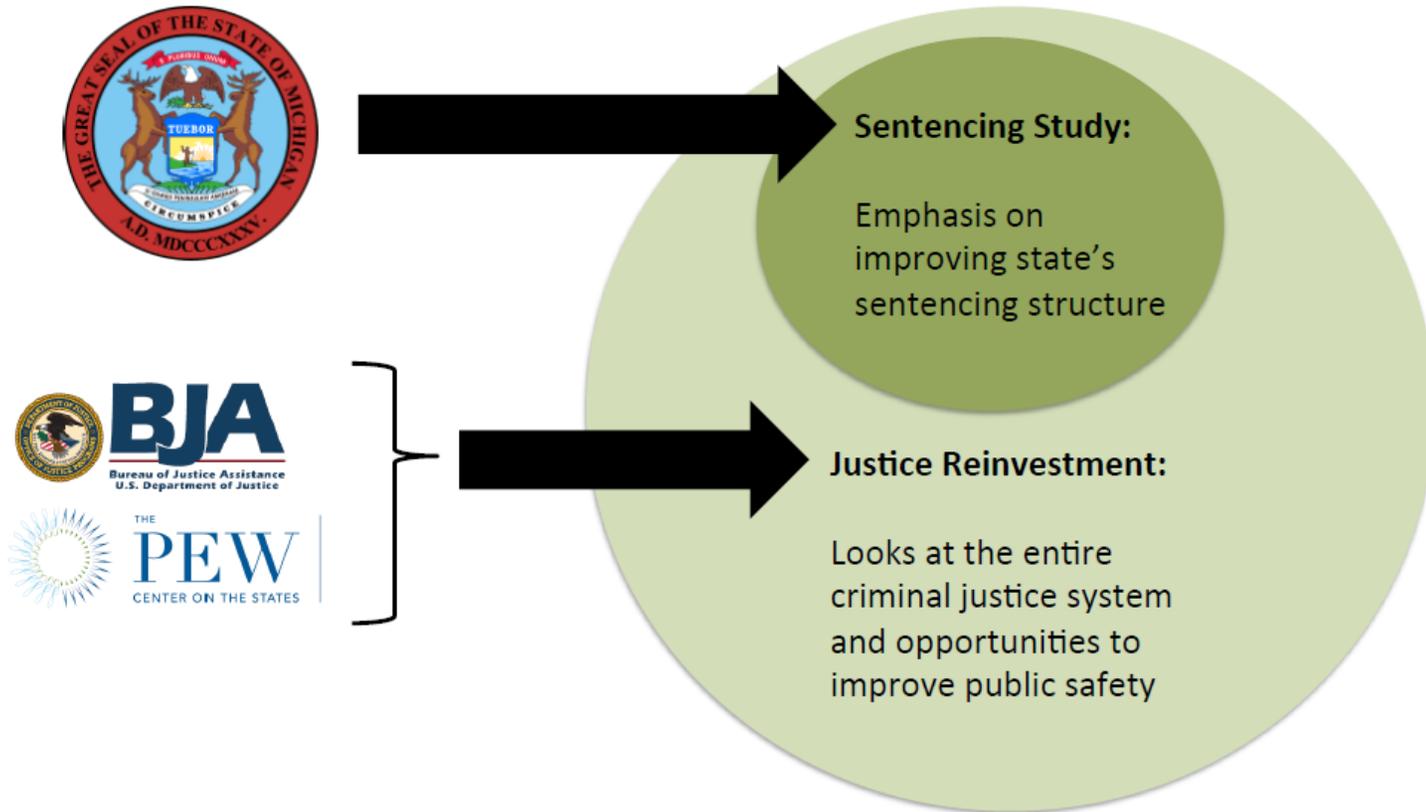
Process Moving Forward

## State Leaders Request Assistance with Sentencing Study



**SB 233**  
Sec. 351. The funds appropriated in part 1 for the legislative council shall be used for a contract with the Council of State Governments to continue its review of Michigan's sentencing guidelines and practices, including, but not limited to, studying length of prison stay and parole board discretion.

## Additional Opportunity to Incorporate Sentencing Study Within Justice Reinvestment Initiative



## Recent JR Projects in West Virginia and Kansas Further Illustrate Sentencing Issues versus JR Issues



### **West Virginia SB 371**

#### Sentencing

Statutory sentence ranges give parole board more influence over length of incarceration, but generous good time incentivized max-outs.

#### Broader JR

Failure to use risk assessment and fund community based treatment causes increasing recidivism.



### **Kansas HB 2170**

#### Sentencing

Lack of statutory sentencing options forced judges to choose between doing nothing or full revocation as response to purely technical violations

#### Broader JR

Inadequate funding of community-based treatment and failure to focus resources on higher risk probationers led to poor outcomes

## Organization of Presentation

Justice Center Background

Sentencing Study and Justice  
Reinvestment

**Process Moving Forward**

## Key Components of the Process: Data, Collaboration and Leadership

### Data

Justice Center synthesizes and conceptualizes the data that Michigan provides

- System flow/dynamics
- Guideline scoring
- Risk reduction capacity

### Collaboration

Justice Center supports in convening state leaders to participate in active discussions

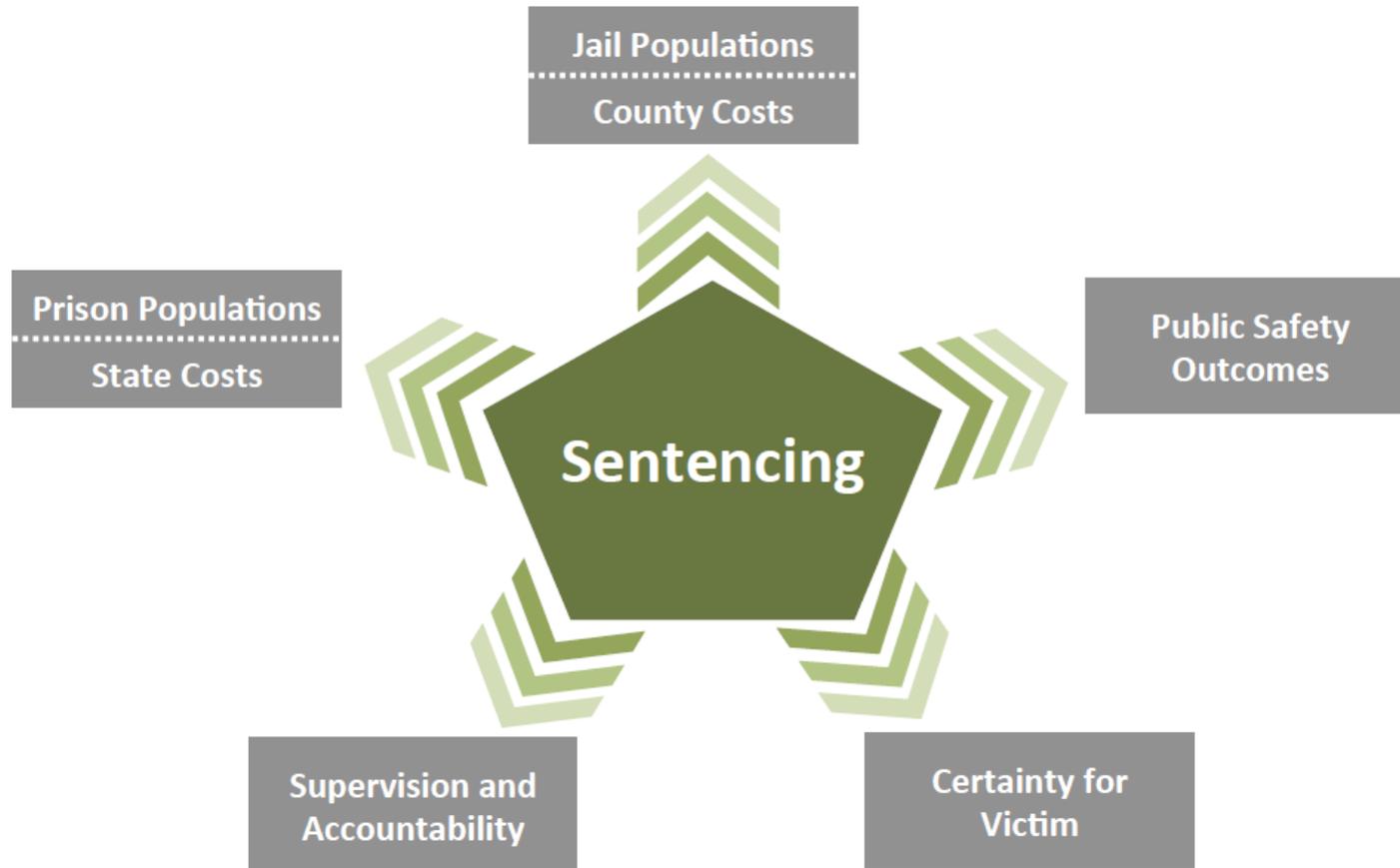
- Bipartisan
- Inter-branch
- Inter-disciplinary

### Leadership

Michigan provides leadership and the Justice Center provides support

- Communication
- Policy adoption
- Sustainability

# Project to Focus on Numerous Areas Impacted by Sentencing



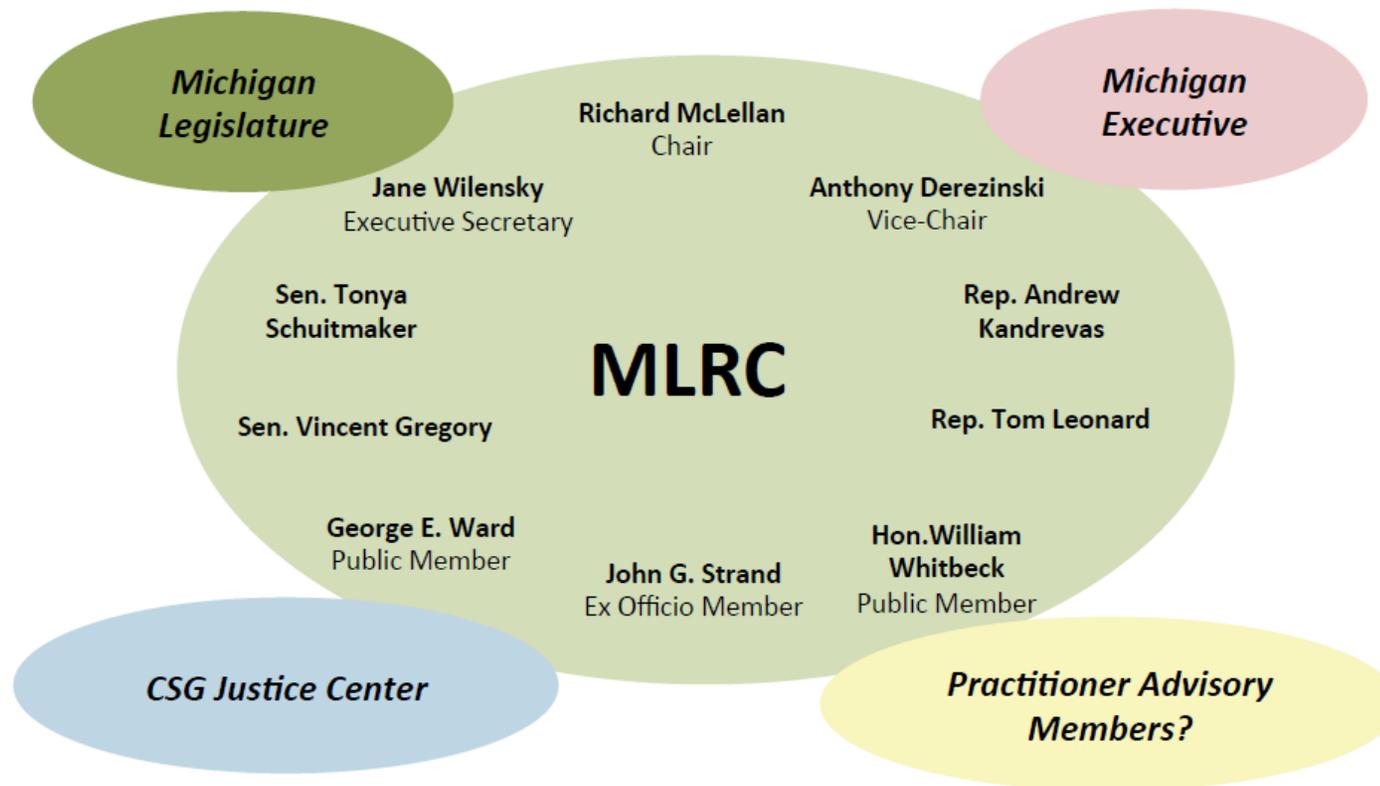
## Justice Center Data Requests Are Underway

Data	Source	Status
Crime and Arrest	State Police	
Criminal History	State Police	
Court Dispositions	Judiciary; DOC	Requested
Jail	Kent and Jackson Counties; DOC	
Community Corrections	Kent and Jackson Counties	
Probation	Department of Corrections	Requested
Prison	Department of Corrections	Requested
Parole	Department of Corrections	Requested
Parole Board Decision-Making	Department of Corrections	Requested
Behavioral Health Treatment	???	

## Project Will Require *Stakeholder Engagement*



## Project Will Require *Collaboration and Leadership*



## Project Will Require *Significant Commitment*



**Four**

2-3 hour meetings with the  
Justice Reinvestment  
Working Group

**75+**

in-person meetings with  
stakeholders in the  
criminal justice system

**1.2 million**

data records analyzed



**Four**

2-3 hour meetings with the  
Justice Reinvestment  
Working Group

**100+**

in-person meetings with  
stakeholders in the  
criminal justice system

**650,000+**

data records analyzed



**At Least Five**

2-3 hour meetings with the  
Michigan Law  
Revision Commission

**???**

in-person meetings with  
stakeholders in the  
criminal justice system

**???**

data records analyzed

## Tentative Project Timeline

Dates	Activity
May – October 2013	Data Collection
<b>June 20</b>	<b>MLRC Meeting – Kick off</b>
June	Begin soliciting stakeholder input
July-August	Finish data collection & begin detailed data analysis
<b>September</b>	<b>MLRC Meeting – Review Findings</b>
September-October	Additional data analysis & meetings with stakeholders
<b>November</b>	<b>MLRC Meeting – Review Findings</b>
December 21, 2013	 at 
<b>January 2014</b>	<b>MLRC Meeting – Review Findings</b>
January – March 2014	Model potential policy options
<b>March 2014</b>	<b>MLRC Meeting – Discuss Policy Options</b>
March – October	Brief state leaders & stakeholders on policy options



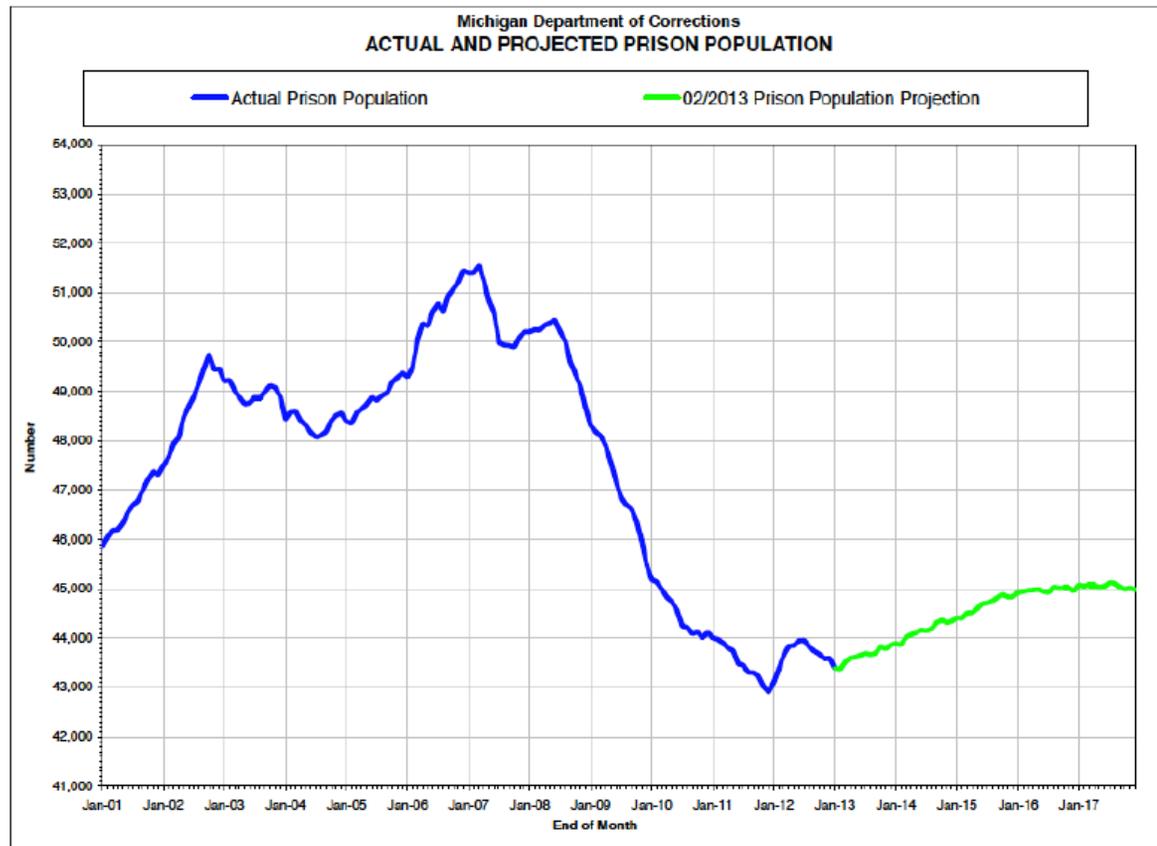
## Thank You

**Carl Reynolds**  
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This material was prepared for the State of Michigan. The presentation was developed by members of the Council of State Governments Justice Center staff. Because presentations are not subject to the same rigorous review process as other printed materials, the statements made reflect the views of the authors, and should not be considered the official position of the Justice Center, the members of the Council of State Governments, or the funding agency supporting the work.

## Prison Population Has Declined, but Is Expected to Rebound



Source: MDOC Office of Research & Planning 2/07/2013

# RICHARD D. McLELLAN

Chair, Michigan Law Revision Commission

## MEMORANDUM

Date: May 21, 2013

To: Commissioners, Michigan Law Revision Commission

From: Richard D. McLellan

Re: 2013 Priorities

Since I missed the last meeting of the Commission, I wanted to give you my sense of priorities for the remainder of 2013. I hope that we will be able to accomplish the following:

1. Initiate the **Sentencing Guideline Project** as requested by the legislative leadership. This is the first time we have been asked to take on a specific project by the House and Senate leadership. Our vice chair, Tony Derezinski, is going to be coordinating this with Jane Wilensky.
2. **International Lawyers** legislation. Senator Schuitmaker has the draft of the international lawyer licensing legislation prepared by the Commission. The concept is supported by both the State Bar and the Governor's Office and I am hoping Sen. Schuitmaker can arrange a hearing this year.
3. **Open Meetings Act** ("OMA"). Jane is working with Jack Dempsey to look into modernizing the Michigan OMA since the law is more than 30 years old. If we have resources, we may also look into the Freedom of Information Act ("FOIA").
4. **Federal Immigration Reform**. In the event federal immigration reform is enacted, it will have a potential impact on state laws and government. There may be a large number of non-citizens who will be legally in the State of Michigan with the right to work, attend school, receive government benefits, become licensed, etc. These people will be residents of Michigan and lawfully present in the United States, but will not be entitled to vote, make political contributions, or run for office. The Commission has done similar projects, e.g., addressing needed changes when Detroit's population went under 1,000,000, and looking at state law implications of the passage of the anti-affirmative action constitutional amendment.
5. Judge Whitbeck's suggestion that we address the Carp case, about **juvenile mandatory life sentences** without parole.