



Sentencing and Justice Reinvestment Initiative



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Michigan Law Revision Commission

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Council of State Governments Justice Center www.csgjusticecenter.org

Council of State Governments Justice Center and Justice Reinvestment Partners

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

Justice Reinvestment:

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

Partner with Bureau of Justice Assistance and Pew Charitable Trusts





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Michigan Faces Persistent Criminal Justice Challenges

- Some of the most violent communities in the US
- Significant loss of law enforcement resources during the past decade
- Corrections exceeds one-fifth of the State's budget

Recent Efforts

- Michigan Prisoner Reentry Initiative (MPRI)
- Safe Cities Initiative

State leaders ready to look at sentencing to have deeper understanding of what the drivers are and whether improvements can be made to be more effective.

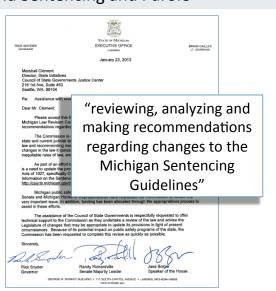
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Michigan Helped Fund the Project and Specifically Asked for Recommendations Around Sentencing and Parole

January 2013: SB 233, Section 351

"The funds appropriated ...shall be used for a contract [between the Michigan Law Revision Commission and] 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."



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CSG Has Undertaken Extensive Research through Data Analysis and Stakeholder Engagement

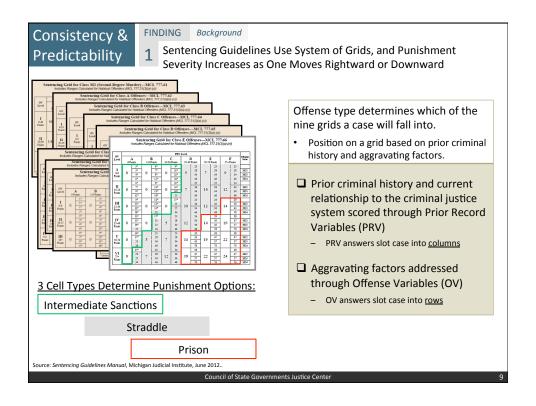
May 2013 through April 2014:

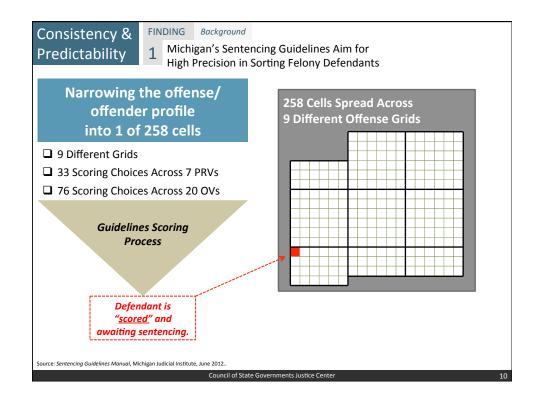
- √ 7.5 million records from 10 databases representing more than 200,000 individuals
- √ 15 site visits to Michigan
- √ 100+ meetings and 150+ conference calls
- √ 6 presentations to MLRC
- √ 10 presentations to prosecutors, judges, defense attorneys, victim advocates, sheriffs, and county officials

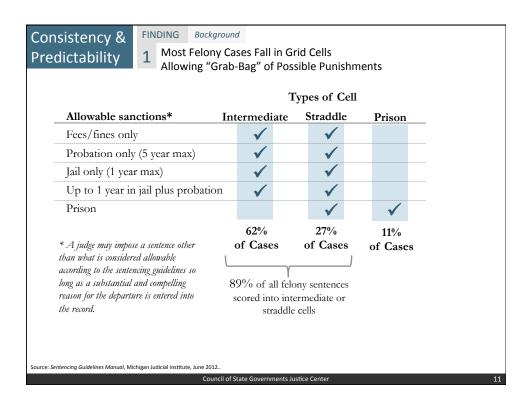
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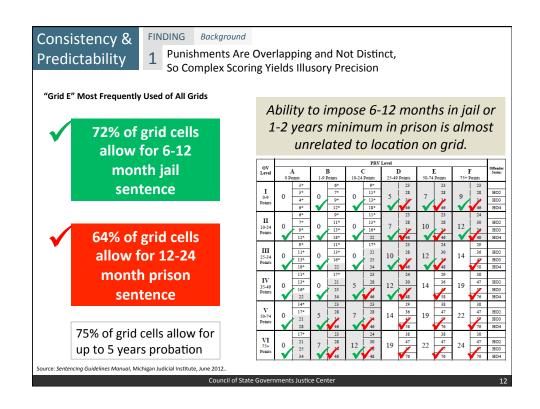
Consistency and Predictability Public Safety and Cost Evaluation and Monitoring Michigan's sentencing system can be more consistent and predictable Precise scoring and sorting, but varied and inconsistent punishments. Effective time served can be more predictable.

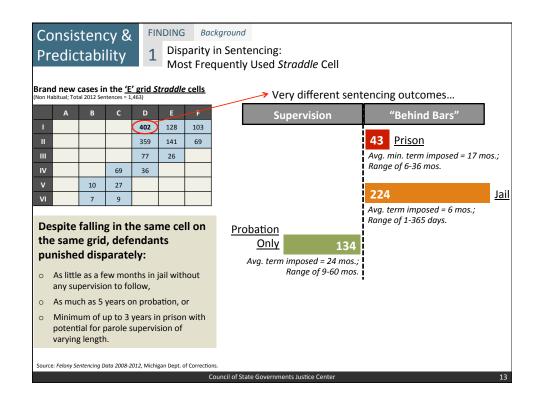
People with similar criminal histories convicted of similar crimes receive significantly different sentences.

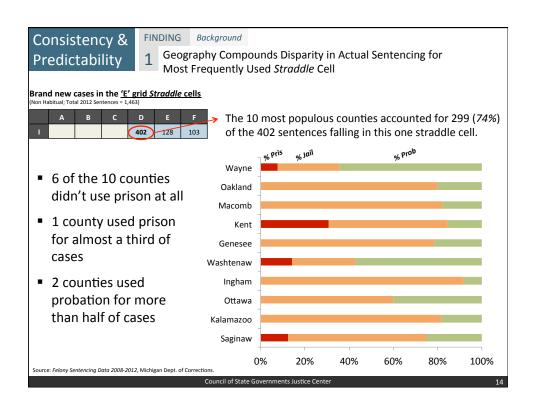












Consistency & Predictability

POLICY OPTION 1

Structure sanctions in the guidelines to produce more consistent sentences.

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1

Consistency & Predictability

POLICY OPTION

Structure use of probation, jail and prison within the guidelines to increase predictability.

RELATED GOALS:

- Punish predictably
- Hold offenders accountable Reduce criminal behavior

- Each guidelines cell should have a single presumptive sentence of probation, jail or prison.
- Instead of using straddle cells, the guidelines should clearly assign jail or prison as the presumptive sentence.
- For individuals with little or no criminal history who are convicted of less serious crimes, the presumptive sentence should be probation.
- Judges should retain their current ability to depart from the guidelines

Prior Record Variable Level

A B C D E F
I Probation Jail

Offense
Variable
Level

VI U Prison

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Consistency & Predictability

POLICY OPTION

Reduce the wide ranges in possible sentence lengths in cells that include the possibility for a prison sentence.

RELATED GOALS:

- · Punish predictably
- Hold offenders accountable Reduce criminal behavior
- Reduce the degree of overlapping sentencing ranges in guidelines cell within the same grid.
- Discretion should remain for judges to establish sentence lengths tailored to individual cases within narrowed ranges.
- Discretion should remain for prosecutors to request habitual enhancements in eligible cases, but without counting prior criminal history twice.

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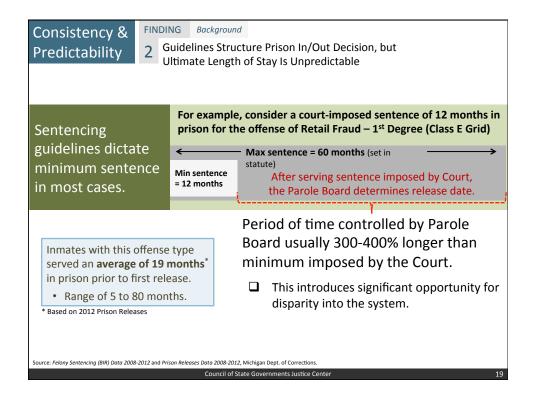
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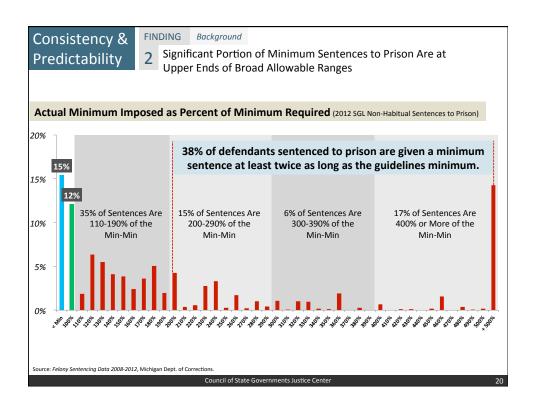
Consistency & Predictability

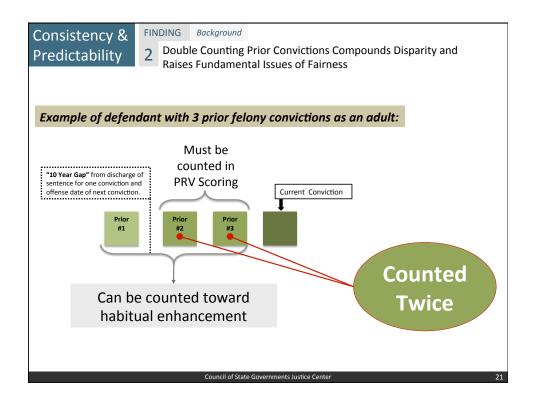
FINDING 2

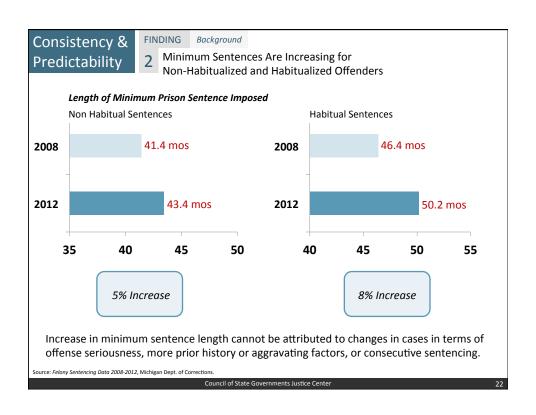
After a person is sentenced, it remains unclear how much time they will actually serve.

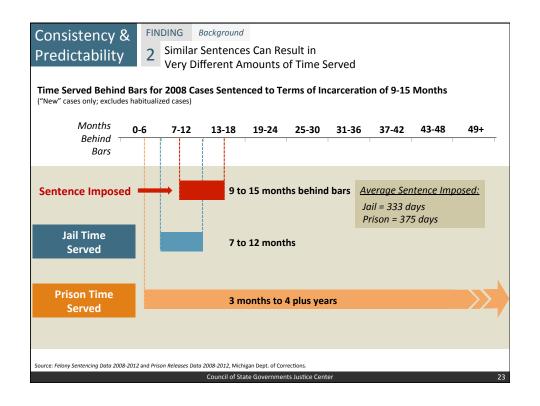
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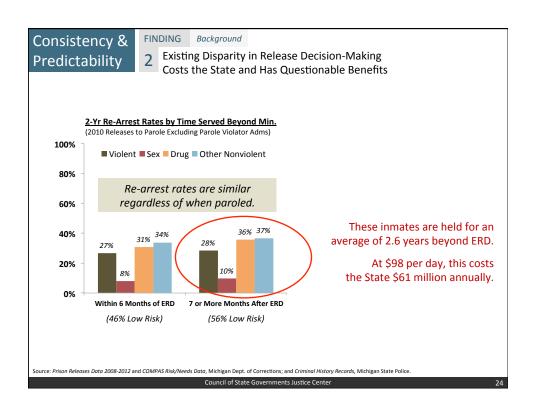












Consistency & Predictability

POLICY OPTION 2

Make the length of time a person will serve more predictable at sentencing.

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Consistency & Predictability

POLICY OPTION

Truth in sentencing should be enhanced by establishing minimum and maximum periods of incarceration at sentencing.

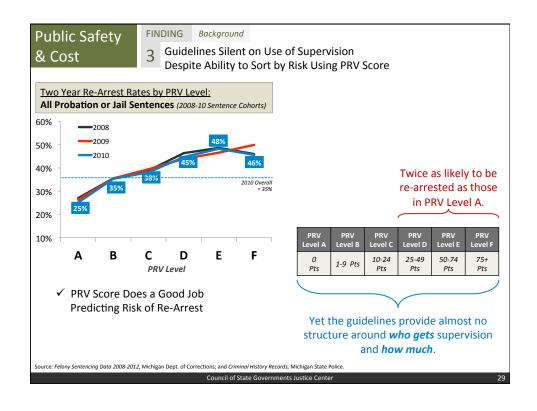
RELATED GOALS:

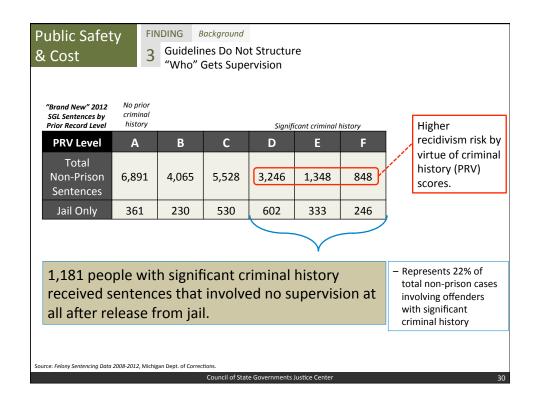
- Punish predictably
- Hold offenders accountable Reduce criminal behavior
- The maximum period of incarceration established at sentencing should be specific to each individual case rather than defaulting to the most severe penalty allowed by statute.
- The difference between minimum and maximum prison sentences should be narrow enough to provide greater predictability about time served, while still allowing for consideration of institutional behavior in final release decisions.
- Probation sentences should specify a maximum period of incarceration in jail or prison that can be applied as a sanction in response to probation violations.

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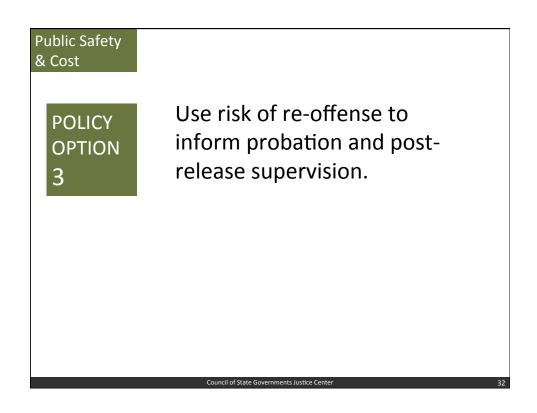
Consistency and Predictability Public Safety and Cost Evaluation and Monitoring Michigan's sentencing system can reduce recidivism and costs to taxpayers Sentencing can allocate and guide probation supervision to reduce recidivism Funding can be targeted to achieve better public safety outcomes

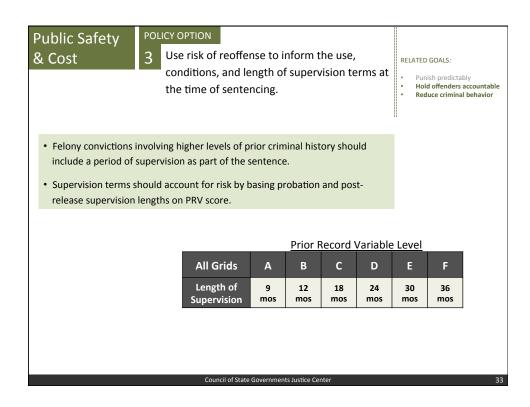
Public Safety & Cost Supervision resources are not prioritized to reduce recidivism. Council of State Governments Justice Center 28



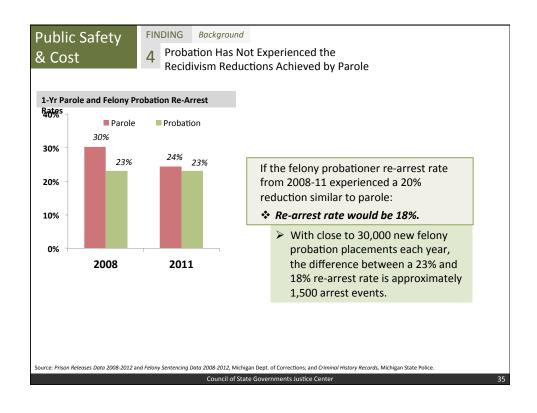


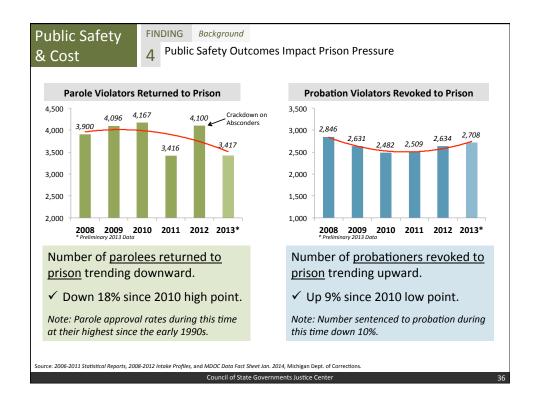


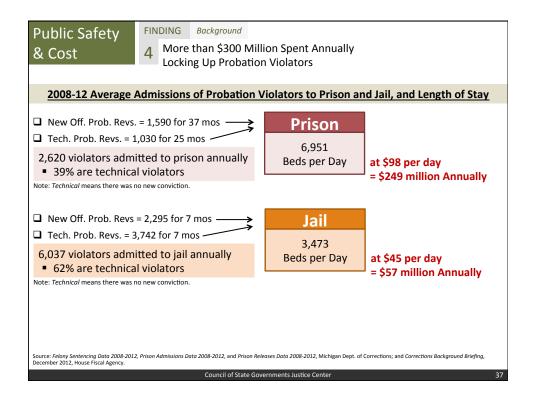


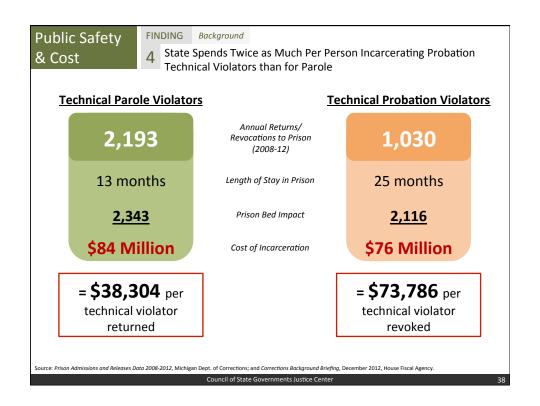


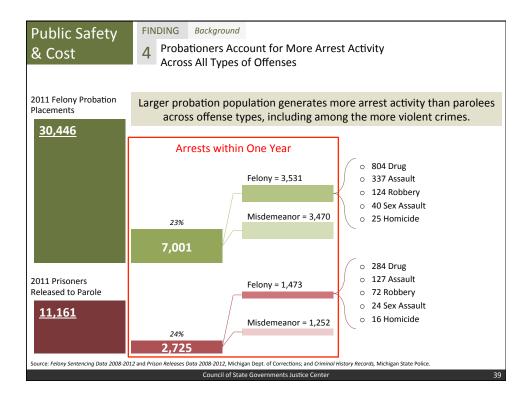


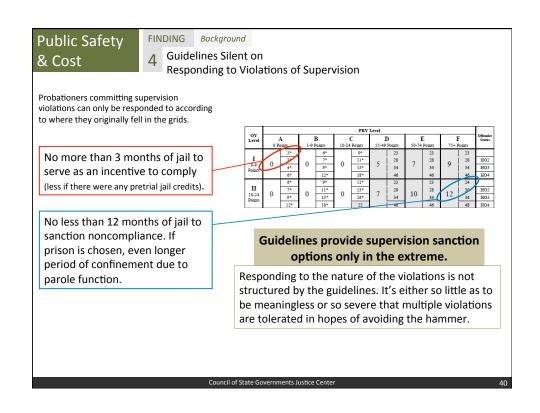


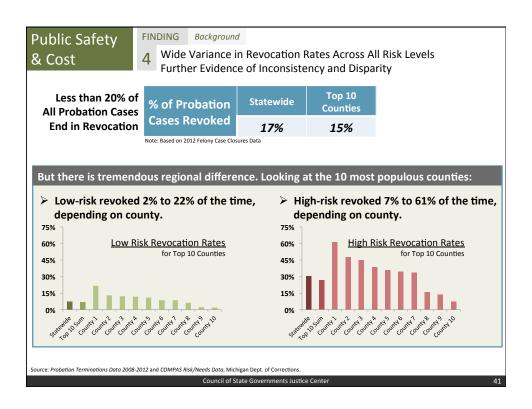


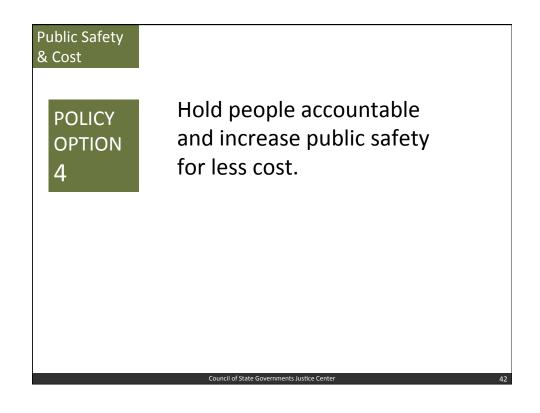












Public Safety & Cost

POLICY OPTION

- Incorporate swift and certain principles in community supervision practices and set clear parameters around length of confinement as a response to parole and probation revocation.
- Strengthen responses to probation supervision violations by granting probation agents the authority and resources to supervise all felony probationers under the principles of swift and certain responses to violations.
- Hold probationers and parolees who violate the terms of their supervision more accountable by establishing sanction periods at the time of their original sentencing.

RELATED GOALS:

- Punish predictably
- Hold offenders accountable
 Reduce criminal behavior

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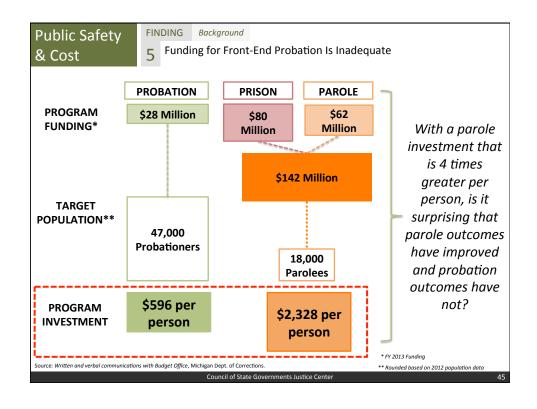
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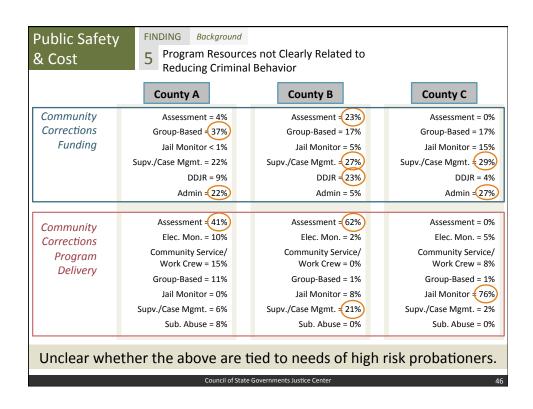
Public Safety & Cost

FINDING 5

Funds to reduce recidivism are not targeted to maximize the effectiveness of programs and services.

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Public Safety & Cost

POLICY OPTION 5

Concentrate funding on those programs most likely to reduce recidivism.

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Public Safety & Cost

POLICY OPTION

Focus resources and measure performance based on the goals of reduced recidivism and improved public safety.

RELATED GOALS:

- Punish predictably
 Hold offenders accountable
- Reduce criminal behavior
- Adopt definitions and measures for evaluating the success of correctional and judicial efforts to reduce recidivism, ensuring that rearrest rates are part of the definition.
- Funding that MDOC administers and makes available for probation and parole programs and services should be prioritized to achieve the following:
 - Reallocate and increase program funding based on the criminogenic needs of people who will most benefit from the programs.
 - Support programs that adopt evidence-based practices and strategies for reducing recidivism
 - Evaluate community-based programs based on goals and metrics for reducing recidivism.
 - Encourage local innovation, testing new strategies, and increased local capacity to deliver services.

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Section Three Consistency and Predictability Public Safety and Cost Evaluation and Monitoring State and local officials need better tools to monitor and assess impacts of sentencing Policymakers are not informed about the impacts of sentencing guidelines Current data around crime, victimization and restitution are insufficient

FINDING 6 Policymakers and practitioners do not have an effective mechanism to track sentencing and corrections outcomes.

Evaluation & Monitoring

FINDING Background

- 6 Sentencing Guidelines Have Not Been Comprehensively Analyzed Since Taking Effect in 1998
- Original Sentencing Commission was meant to provide ongoing monitoring of the impact of the guidelines and any modifications to them over time, and intended to define probation revocation terms for guidance to practitioners.
- Commission was disbanded before it could achieve either of these goals.
- Legislature modifies sentencing without independent analysis of the public safety and fiscal impacts of these changes.

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5

Evaluation & Monitoring

POLICY OPTION 6 Monitor changes to the state's sentencing practices, along with their impact.

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Evaluation & Monitoring

POLICY OPTION

Establish a body and standards to independently and collaboratively monitor sentencing and system performances.

RELATED GOALS:

- Punish predictably
- Hold offenders accountable Reduce criminal behavior
- Establish a permanent criminal justice policy commission, sentencing commission, or a comparable presence in Michigan to monitor the impacts of modifications to the guidelines system, and provide policy makers with guidance related to sentencing and the effective implementation of criminal justice policies.
- Ensure appropriate stakeholder representation by including the following perspectives: victim, law enforcement, prosecution, defense, judicial, counties, community corrections, probation, jail, corrections, reentry, and possibly academic experts.

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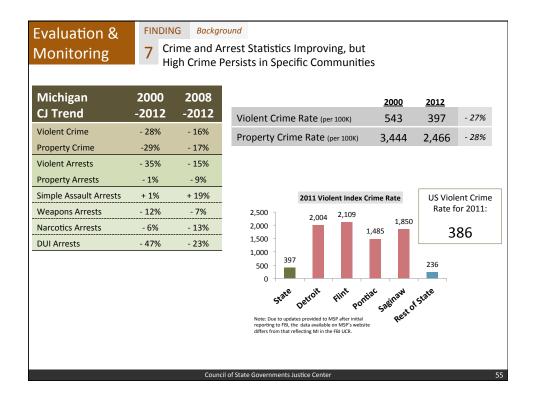
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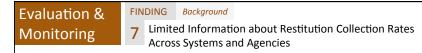
Evaluation & Monitoring

FINDING 7

Data currently collected do not sufficiently measure victimization or inform the extent to which restitution is collected.

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- Crime Victims Rights Act establishes victim restitution collection as responsibility of the court, but no single agency tracks and enforces restitution orders
- Existing coordination between the State Court
 Administrator's Office and the Attorney General's office
 to improve collection tracking and data, but rates of
 collection remain unknown.

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Evaluation & Monitoring

POLICY OPTION 7

Survey levels of statewide victimization and track restitution collection.

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5

Evaluation & Monitoring

POLICY OPTION

- 7 Collect information about victimization beyond traditional crime reporting data, and establish restitution assessment and collection as performance measure for the courts and MDOC.
- Construct and administer a statewide victimization survey to identify crime not captured by uniform reporting.
- Adopt the measurement of restitution assessment and collection as a court and MDOC performance measure with regard to collection among probationers, prison inmates, and parolees.

RELATED GOALS:

- Punish predictably
 Hold offenders accountable
- Hold offenders accountable Reduce criminal behavior

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Summary of Policy Options

Consistency and Predictability

- lacksquare Structure guidelines to produce more consistent sentences
- ☐ Make prison time served more predictable

Public Safety and Cost

- ☐ Use risk of re-offense to inform use of supervision
- ☐ Hold people accountable and increase public safety for less cost
- ☐ Concentrate funding on programs most likely to reduce recidivism

Education and Monitoring

- ☐ Monitor changes to sentencing practices and their impact
- ☐ Survey victimization and track restitution assessment and collection

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59

Thank You



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