

# CCJJ 2008 recommendations

The 66 recommendations below are organized into the following four categories: (1) Those that require legislative action; (2) General principles about improving work processes to ensure that efforts to reduce recidivism are consistent with research, justice, and the overall philosophy the Commission intends to promote; (3) Changes to business practices that are consistent with research-based recidivism reduction strategies; and (4) cost savings. The latter category provides only a few examples of recommendations that, if properly implemented, could lead to substantial cost savings.

For those interested in reviewing the recommendations by agency and by topic, please see Appendix L.

## LEGISLATIVE RECOMMENDATIONS

### **L-1 DRIVER'S LICENSE RETENTION**

**Because the loss of a driver's license is a significant barrier to employment, and because employment is linked to crime reduction, abolish those portions of a statute that require the mandatory revocation or suspension of the defendant's driver license for a conviction/adjudication of non-driving offenses.<sup>1</sup> This recommendation does not apply to child support enforcement.**

#### *DISCUSSION*

*Although loss of a driver's license may be intended to serve as a deterrent, many defendants are not aware that this is a possible sanction for their crime. In addition, the mandatory driver's license revocation creates an obstacle to the successful completion of supervision for a variety of reasons. Driver's license revocation inhibits one's ability to work, receive or attend treatment or other appointments in a timely manner, provide useful public service, or even meet with supervising officers. Public transportation is often inadequate and can create barriers to the successful completion of supervision for individuals who are prohibited from driving. The theory that the removal of a driver's license for non-driving offenses is a deterrent to specific criminal behaviors is not supported by research.<sup>2</sup> This recommendation excludes the loss of one's driver's license for failure to pay child support as good leverage to encourage payment.*

### **L-2 REVISE TRUSTEE CALENDAR STATUTE**

**Remove the word "calendar" from C.R.S. 17-26-115 to apply the Trustee statute to a 30-day period rather than a calendar month.**

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<sup>1</sup> The relevant statutes are as follows: C.R.S. 18-4-409 Aggravated motor vehicle theft; 18-4-501 Criminal Mischief; 18-4-509 Defacing Property (definitions); 18-5-118 Offenses involving forgery of a penalty assessment notice issued to a minor under the age of eighteen years – suspension of driving privilege; 18-18-404 unlawful use of controlled substance; 18-18-405 Unlawful distribution, manufacturing, dispensing, sale, or possession (this includes buying alcohol for a minor); and 18-18-406 Offenses relating to marihuana and marihuana concentrate.

<sup>2</sup> Andrews, D.A., Zinger, I., Hoge, R.D., Bonta, J., Gendreau, P., & Cullen, F.T. (1990). A human science approach or more punishment and pessimism – rejoinder. *Criminology*, 28, 419-429; Lipsey, M.W. (1989, November). *The efficacy of intervention for juvenile delinquency: Results from 400 studies*. Paper presented at the annual meeting of the American Society of Criminology, Reno, NV.

## DISCUSSION

*This modification allows for the equitable application of time credits in county jails and will moderately reduce the average length of stay.*

### **L-3 GOOD TIME CREDITS FOR JAIL INMATES**

**Clarify C.R.S. 17-26-109 to provide a standardized range of good time credits available to jail inmates.**

## DISCUSSION

*“Good time” is time subtracted from one’s sentence as a result of positive behavior and is awarded by the institutional administrator. This differs from “earned time” that is time awarded for program or work participation.*

*Jail administrators have few opportunities to provide incentives for extraordinary, positive behavior by inmates in county jails. This incentive for good behavior encourages offenders not to simply wait out their sentences.<sup>3</sup> Furthermore, it is believed by Commission members that the awarding of good time will have an immediate impact on the cost associated with burgeoning jail populations.*

*In 2006, a lawsuit was filed against the Denver County Jail that challenged the awarding of good time as discretionary departures from the strict wording of the existing good time statute. The consequence of this lawsuit, which removed community variations, increased the Denver County and Arapahoe County jail populations by ten percent. Other county jail populations may have increased as well. Consequently, case law interpretation is currently guiding good time practices in jails statewide. This recommendation is intended to make clear the intent and purpose of good time awards.*

### **L-4 EARNED TIME CREDITS FOR JAIL INMATES**

**Modify C.R.S. 17-26-109 to include the ability for jail administrators to award discretionary earned time of 3 to 5 days per 30-day period for the completion of certain programs or education, or for an unusual or extraordinary accomplishment by a jail inmate. This requires that each county sheriff develop an earned time schedule for their jail in keeping with community expectations and standards.**

## DISCUSSION

*C.R.S. 17-26-109 currently states that, with the exception of those that escape or attempt to escape from a county jail, any person “who performs faithfully the duties assigned to him during his imprisonment therein is entitled to a deduction from the time of his sentence of two days in each month.” It is the intention of this recommendation to allow sheriffs the discretion to vary the amount of earned time awarded to an inmate based on performance in programs as well as the demonstration of behaviors that are above and beyond requirements. This discretion will provide incentives to the inmates to behave in a positive manner as well as participate in programs. Furthermore, it can be developed such that this discretion is not in violation of a standardized range recommended in L-3.*

### **L-5 REMOVE BARRIERS TO EDUCATION FUNDING**

**Any statutory impediment to inmates’ access to or funding of post-secondary education should be eliminated.**

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<sup>3</sup> Council of State Governments, The. (2003). *Charting the safe and successful return of prisoners to the community*. New York, NY: Re-entry Policy Council.

## DISCUSSION

*Currently, most education programs in DOC facilities are administered and funded by the DOC. With the realization that increased educational attainment has a direct positive correlation with reduced levels of recidivism, the DOC and Department of Higher Education, through the Colorado Community College System (CCCS), are exploring (and currently piloting at one community college) a new approach to inmate education. Specifically, under this program inmates can enroll directly in a community college while still in prison and thus receive community college credit and a community college transcript upon completing a course.*

*While DOC has been able to fund this pilot project with CCCS using its own education program funding, a significant expansion to add community colleges for all interested inmates is not feasible at current funding levels.*

*Colorado provides funding for higher education institutions in part through the College Opportunity Fund (COF). The COF is not a loan, nor is it financial aid. Rather, COF vouchers are applied to a student's bill, irrespective of that student's age, income, or financial aid eligibility. Thus, inmates who are enrolled at a participating institution of higher education should be eligible for COF. Inmates should also have access to educational programs funded through other sources, for example, grants to DOC or to the state. However, current statutory language makes unclear an inmate's ability to have his/her higher education courses paid for by any state or other sources. Moreover, inmates are by federal law not eligible for federal financial aid, and often state financial aid follows federal guidelines. Colorado statute [C.R.S. 17-32-105] states that "Costs associated with the college-level academic programs shall be borne entirely by the person participating in the program." This statute, while referring to "academic" programs and not career technical education (the primary focus of the programs included in the DOC-CCCS partnership) impedes an inmate's access to post secondary education even though it should not impact an inmate's eligibility for COF.*

The following four recommendations concern bonding practices. Responding to the problems associated with bond requires addressing four distinct areas of concern: the use of summonses, establishing a bond-to-the-court system, creating bond commissioners, and developing bond schedules. Recommendations L-6, L-7, L-8 and L-9 address the various issues regarding bonding.

### **L-6 SUMMONS IN LIEU OF ARREST WARRANT**

**The commission encourages law enforcement agencies to enact policies that are consistent with C.R.S. 16-5-206 and 16-5-207, relative to issuing summonses rather than arrest warrants on appropriate Class 4, 5, and 6s. Pursuant to C.R.S. 16-5-206 and 16-5-207, a summons should be issued for misdemeanors, and class 4, 5 and 6 felonies, unless law enforcement presents in writing a basis to believe there is a significant risk of flight or that the victim or public safety may be compromised.**

## DISCUSSION

*The implementation of this recommendation would result in a reduction in the number of pretrial detainees without compromising public safety. Poor offenders are disproportionately unlikely to bond out of jail. In those cases, bonding becomes punitive and often results in loss of job, income, housing, and child custody.*

*This recommendation requires local law enforcement agencies to review current policies and practices in light of reserving the use of jail cells for the most serious incarceration population. Issuing a summons in lieu of arrest has been a recommended practice for decades. Incarceration is costly and may interfere with the individual's employment and family commitments.*

### **L-7 BOND-TO-THE-COURT SYSTEM**

**Draft legislation to permit judicial districts to develop a percentage bond-to-the-court (see HB 08-1382), as is provided by the federal court system. Such percentage bond does not eliminate other types of bonds.<sup>4</sup>**

## DISCUSSION

*The current bonding process creates a variety of difficult challenges for the inmate, the inmate's family, and the community. Specifically, there are disproportionate and punitive consequences simply from the inability to make bond (e.g., loss of job, income, housing, children, etc.). By allowing judicial districts to develop a percentage bond-to-the-court system, bond amounts could be made more reasonable and attainable for the individual.*

*National data show that two-thirds of criminal defendants are required to post bond in order to be released pre-trial and 87 percent of felony defendants are sufficiently indigent as to receive either a court-appointed attorney or a public-defender.<sup>5</sup> Thus, it is not surprising that 56 percent of the inmates being held in local jails have not been convicted of any crime but are instead simply awaiting adjudication of their case.<sup>6</sup> It is reasonable then to understand that financial bond requests should be attainable to the individual. This corresponds with bail standards set by the American Bar Association (ABA) and the National District Attorney's Association (NDAA). Specifically, it is stated that financial bail/bond should be used minimally or as a last resort (American Bar Association, 2003, Standard 10-5.3(a)). In addition, "there should be a presumption that the defendant is entitled to be released on order to appear or on personal recognizance" and that financial guarantees should only be applied when absolutely necessary (National District Attorney's Association, 1991, Standard 45.5(a)(1)). National Prosecution Standards: Second Edition Standard 45.5(a)(1)).<sup>7</sup>*

### **L-8 COURT RETENTION OF BOND IN BOND-TO-THE-COURT SYSTEM**

**When courts use the percentage bond-to-the-court, per Recommendation L-7, and the court plays the role of the surety, it shall retain a percentage of the bond.**

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<sup>4</sup> This bail bond alternative, which would require legislation by amendments to C.R.S. 16-4-104 and 105, is already in potential draft form in House Bill 08-1382 from the last legislative session.

<sup>5</sup> Cohen, T.H., & Reaves, B.A. (2006). *Felony defendants in large urban counties*. Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics.

<sup>6</sup> Sabol, W.J., Minton, T.D., & Harrison, P.M. (2007). *Prison and jail inmates at midyear 2006*. Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics.

<sup>7</sup> Jefferson County Justice Services, Criminal Justice Planning has been reviewing state and national research and practices on bonding for the past year and will be issuing a comprehensive report of findings and recommendations in early 2009. The Jefferson County report may identify other areas of reform that the working group on the statewide bonding schedule may want to consider. Representatives from Jefferson County who have been working on the bond project have been invited to participate in CCJJ task force discussions of this issue.

*DISCUSSION*

*Just as a bondsman keeps a set percentage of a bond for profit, this legislation would allow the court to retain a predetermined percentage of the bond to pay for programs, including the bonding program and other pretrial services.*

**L-9 BOND APPLIED TO PRIORITY OF PAYMENTS**

**Before any refund to the defendant at the conclusion of the case, the bond held by the court shall be applied according to the priority of payments per C.R.S. 18-1.3-204(2.5).<sup>8</sup>**

*DISCUSSION*

*The implementation of this recommendation will increase the collection of fees. The expansion of the practice described in this recommendation, in combination with implementing a statute that permits cash bond-to-the-court (see Recommendation L-7), has the potential to reduce violations and recidivism related to failure to pay fines, fees, costs, and restitution.*

**L-10 INCREASE “GATE MONEY”**

**Increase “gate money” for first-time parolees upon release.**

*DISCUSSION*

*It is known that offenders often have limited funds when released from prison. More specifically, an offender leaving the Department of Corrections currently receives \$100 upon their release in “gate money” for immediate essentials such as transportation, clothing, hygiene items, food, and sometimes even short-term housing. The \$100 gate money amount has not increased since 1972 and has not kept up with the rise of inflation. According to inflation calculations, items that cost \$100 in 1972 would cost \$490.53 in 2007. While an increase in gate money is supported by the Commission, it is important to note that this support is specifically for first-time parolees. Community corrections beds used for return-to-custody are excluded from this recommendation.*

**L-11 PROMOTE PARTNERSHIPS FOR CORRECTIONAL FACILITIES**

**Encourage the General Assembly to provide funding that promotes partnerships between local and state public or private entities for the construction on publically owned lands of multi-purpose correctional supervision and re-entry facilities.**

*DISCUSSION*

*Between May and July, 2008, Post-Incarceration Supervision Task Force Leader Christie Donner conducted interviews with more than 50 professionals and lay people involved in the Colorado criminal justice system. The intended scope of the project was to capture people’s vision for an ideal parole structure. An issue that was consistently raised was the need to expand the inventory of transition beds, and to include a work-release option.*

*Capital construction costs for prisons create a significant drain on state resources. A lengthy waiting list exists for DOC inmates who are eligible (but have not been accepted by local community corrections boards) yet for whom*

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<sup>8</sup> This statute specifies the order of priority for offender fees.

*there is no transition bed space available. These community-eligible inmates remain in the custody of the Department of Corrections.*

*Local communities frequently resist the expansion of community corrections facilities. However, some local officials are willing to share construction costs and the management of facilities built on property adjacent to county jails. Under these circumstances, both zoning and the potential for greater public acceptance of the facility could permit construction.*

*These facilities also could provide a local resource for intermediate sanctions including work release for technical parole violations allowing the parolee to maintain employment with greater structure and allowing a period of stabilization.*

## **L-12 EARLY TERMINATIONS OF PAROLE**

**The Commission requests that the Department of Corrections develop and implement a standardized policy regarding early terminations of parole and require parole officers to submit such requests to the parole board when a parolee has served at least half of the parole period and has met other risk reduction benchmarks. In addition, the Department of Corrections should provide data on the numbers and decisions of early termination requests to the Division of Criminal Justice. The Commission further requires that such request comply with the Victim's Rights Act.<sup>9</sup>**

### *DISCUSSION*

*There is no meaningful or statistical connection between the length of time required on parole and successful completion of parole. In fact, researchers assert that discretionary parole release should be reinstated where it has been abolished as a way to reverse the trend toward automatic mandatory release.<sup>10</sup> Petersilia (2003) has found that prisoners released through discretionary parole have higher rates of success than those released automatically when their sentences expire, even when controlling for the type of crime, criminal history, and personal characteristics.<sup>11</sup> Furthermore, Latessa and Lowenkamp (2006) have found that continuing supervision beyond the point where someone has met the goals of supervision can be counterproductive.<sup>12</sup> With that in mind, a mechanism should be available for the early termination of parole for those who have met the specific goals of supervision.*

## **GENERAL PRINCIPLES**

### **GP-13 PROBATION'S RESPONSE TO TECHNICAL VIOLATIONS**

**The Commission supports the efforts of the Division of Probation Services and district probation offices to enhance the consistent use of appropriate incentives and intermediate sanctions, in court and out of court, particularly in response to technical violations.**

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<sup>9</sup>In a focus group conducted with representatives from the victims' community, participants were comfortable with this recommendation only if this applies to nonviolent offenders, excluding offenders using the Victim Rights Amendment definition of violent crime. Also, representatives wanted to ensure that the victim is informed of every request for early termination, and that these requests should be limited to one per year per offender.

<sup>10</sup> Petersilia, J. (2003). *When prisoners come home: Parole and prisoner reentry*. New York, NY: Oxford University Press.

<sup>11</sup> *Ibid.*

<sup>12</sup> Latessa, E.J., & Lowenkamp, C. (2006). What works in reducing recidivism? *University of St. Thomas Law Journal*, 3, 521-535.

## DISCUSSION

*The systematic use of evidence-based practices increases the likelihood that offenders will successfully reintegrate into the community. Evidence-based programs and practices rely on sound theory and are considered to be effective according to rigorous scientific evaluation.<sup>13</sup> However, the key term here is “systematic.” Petersilia (1999) has found in a nationwide study that planned treatments are often not delivered.<sup>14</sup> Offenders who did receive their planned treatment in addition to surveillance had lower (10-20 percent) recidivism rates than those that did not receive this ideal combination.*

*Research shows that the systematic use of evidence-based practices can reduce recidivism and improve public safety.<sup>15</sup> Significant efforts are underway to improve district court probation services in Colorado by applying the principles of evidence-based practices in case management and the response to technical violations. The Commission supports these efforts.*

### **GP-14 STANDARD CONDITIONS OF PROBATION**

**The 19 standard conditions of probation should be reviewed by the Probation Advisory Committee.<sup>16</sup> The Probation Advisory Committee should consider requiring only those conditions that are tailored to each individual, and based on criminogenic risks/needs, and victim and community safety. The PAC should invite members of the CCJJ Re-Entry Probation Task Force to participate in this review. The condition to remain crime-free is reasonable for all offenders.**

## DISCUSSION

*Currently there are 19 standard conditions of probation that are applied to every probationer across the state. However, all of these conditions may not be appropriate for every individual on probation, and may be counterproductive to the offender’s successful completion of probation.*

*Empirically-based risk/needs assessment instruments should direct the development of individual conditions of supervision. Research shows that supervision resources should be targeted to high-risk probationers who require a structured environment, intensive supervision, and firm accountability for program participation.<sup>17</sup> For instance, minimal resources should be devoted to the lowest risk offenders. The development of meaningful and individualized conditions of probation will make efficient use of resources, provide offender accountability, and enhance public safety.*

### **GP-15 CASE PLAN IMPLEMENTATION**

**Every case plan shall be fully implemented and updated regularly to reflect treatment progress and new skills learned.**

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<sup>13</sup> Center for Substance Abuse Treatment. (2007). *Understanding evidence-based practices for co-occurring disorders. COCE Overview Paper 5.* DHHS Publication No. (SMA) 07-4278. Rockville, MD: Substance Abuse and Mental Health Services Administration, and Center for Mental Health Services.

<sup>14</sup> Petersilia, J. (1999). A decade of experimenting with intermediate sanctions: What have we learned? *Corrections Management Quarterly*, 3, 19-27, also available at [http://www.seweb.uci.edu/users/joan/Images/A\\_Decade.pdf](http://www.seweb.uci.edu/users/joan/Images/A_Decade.pdf).

<sup>15</sup> Latessa, E.J., & Lowenkamp, C.T. (2006). What works in reducing recidivism? *St. Thomas Law Journal*, 3, 521 - 535.

<sup>16</sup> The national average number of supervision conditions is eleven, according to probation researcher and Professor Faye Taxman at Virginia Commonwealth University.

<sup>17</sup> Gendreau, P., & Little, T. (1993). *A meta-analysis of the effectiveness of sanctions on offender recidivism.* Unpublished manuscript, University of New Brunswick, Saint John.

## DISCUSSION

*The individualized case plan is a fundamental component of evidence-based practice. It must focus on the individual's deficits and strengths in education, employment, family ties and responsibilities, positive peer associates, financial situation, and needs for services and treatment. The case plan should describe the actions required to prepare the individual for release from incarceration. Latessa and Lowenkamp (2006) have found that targeting services and programming to a minimum of four criminogenic need domains is critical to reducing recidivism.<sup>18</sup>*

### **GP-16 INVEST IN EVIDENCE-BASED PROGRAMS**

**Invest in evidence-based programs and emerging best practice, treatment and education so that there is sufficient programming available to meet the needs of the offender population.**

## DISCUSSION

*Regarding programming, the Commission finds that there are significant weaknesses in the following:*

- *Conformity of supervision and treatment practices with established case plans;*
- *Conformity of treatment programs with evidence-based models and theories;*
- *Continuity of care in education and treatment as offenders move throughout incarcerated placement;*
- *Exchange of treatment and education records within and across agencies; and*
- *Availability of treatment and education programs in facilities.*

*The criminology research has clearly identified the types of programs and practices that reduce recidivism.<sup>19</sup> It has been found that individuals who receive substance abuse treatment immediately after being released from prison have a reduced risk of frequently using drugs.<sup>20</sup>*

### **GP-17 TRANSFERABILITY OF PROGRAM AND TREATMENT PARTICIPATION**

**When possible, participation in programs and treatment phases by offenders in jail or prison should be transferable and accepted across agencies.**

## DISCUSSION

*This recommendation is intended to address the efficient use of resources. Programs offered to offenders and completed in one agency are not always transferable and accepted in another agency. For example, an offender in the Department of Corrections may complete a course in domestic violence; however, when that same offender is transferred to parole or community corrections he may be required to take that agency's specific course on domestic violence. When treatment has been completed and the offender's behavior has been modified, mandating redundant treatment is an inefficient use of resources. However, when an offender's performance indicates the*

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<sup>18</sup> Latessa, E.J., & Lowenkamp, C. (2006). What works in reducing recidivism? *University of St. Thomas Law Journal*, 3, 521-535.

<sup>19</sup> For a comprehensive review of the literature, see Pryzybylski, R. (2008). *What works, effective recidivism reduction and risk-focused prevention programs*. Denver, CO: Division of Criminal Justice, Office of Research and Statistics.

<sup>20</sup> Visher, C.A. & Courtney, S.M.E. (2007). *One year out: Experiences of prisoners returning to Cleveland*. Washington, D.C.: The Urban Institute.



*need for additional or further treatment, it is sensible to continue or require additional treatment. This includes, but is not be limited to, treatment related to domestic violence, sex offenses, substance abuse, parenting and mental health.*

#### **GP-18 MATCH INSTITUTIONAL PROGRAMS WITH OFFENDER NEEDS**

**To identify the gaps between available services and needs, survey the availability and capacity of all programs in the Department of Corrections, local jails, and community corrections, and compare these with the assessed needs of the corresponding populations.**

##### *DISCUSSION*

*This recommendation is based on the observation by the CCJJ Incarceration Task Force members that offender needs are not always met by the available resources. Thus, it is important to identify what services currently exist and then compare this availability to the needs of the corresponding offenders.*

#### **GP-19 EVALUATION OF TREATMENT PROVIDERS**

**Provide resources to evaluate the assessment practices and program delivery of community-based and institutional treatment providers.**

##### *DISCUSSION*

*The practices of treatment providers remain relatively unknown, with the exception of a handful of program evaluations. For example, The Division of Criminal Justice, Office of Research and Statistics, evaluated the Department of Corrections' Youthful Offender System<sup>21</sup> and its sex offender therapeutic community.<sup>22</sup> However, the findings from these evaluations can be generalized only to the time period of each study. This lack of knowledge about the range of treatment assessments and service delivery makes it difficult to assess the value of any single program. Also, understanding the specific information about services delivered provides the first step toward continuity of correctional treatment so that programming in the community can build on institutional programming.*

#### **GP-20 INCREASE IN MENTAL HEALTH AND SUBSTANCE ABUSE TREATMENT**

**The state should invest in community-based, evidence-based mental health and substance abuse treatment for all citizens to prevent the need for incarceration, and to provide such treatment as an alternative to incarceration where appropriate.**

##### *DISCUSSION*

*Significant deficits exist in the availability of substance abuse and mental health treatment options for people in Colorado (including, but not limited to offenders in the criminal justice system). In 2001, Colorado ranked 31 among the 50 states in state expenditures for mental health services, spending \$64.00 per capita.<sup>23</sup> According to the*

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<sup>21</sup> Trolio, E.D., Rodriguez, J.M., English, K., & Patrick, D.C. (2002). *Evaluation of the youth offender system (YOS) in Colorado: A report of findings per C.R.S. 18-1.3-407*. Denver, CO: Division of Criminal Justice, Office of Research and Statistics; Rosky, J.W., Pasini-Hill, D., Lowden, K., Harrison, L., & English, K. (2004). *Evaluation of the youthful offender system (YOS) in Colorado: A report of findings per 18-1.3-407, C.R.S.* Denver, CO: Division of Criminal Justice, Office of Research and Statistics.

<sup>22</sup> Lowden, K., Hetz, N., Harrison, L., P., D., English, K., & Pasini-Hill, D. (2003). *Evaluation of Colorado's prison therapeutic community for sex offenders: A report of findings*. Denver, CO: Division of Criminal Justice, Office of Research and Statistics.

<sup>23</sup> [www.statemaster.com](http://www.statemaster.com), accessed September 3, 2008.

National Research Council (2008), in the 1960s and 1970s, hospitals for people with mental illness were closed mainly because of the belief that providing medications and case management could occur in the community in a more “normalized” environment.<sup>24</sup> However, the community-based mental health system was never fully funded. The lack of community facilities for mentally ill people has had the unintended consequence of making the criminal justice system the primary public response to problem behaviors associated with severe mental illness. Colorado Department of Corrections statistics show that in 2005, 25 percent of Colorado inmates were found to have significant mental health needs.<sup>25</sup> The symptoms of mental illness often contribute to individuals becoming involved with the criminal justice system and also keep them incarcerated longer than other people.<sup>26</sup> The Commission believes increased funding for both substance abuse and mental health treatment for all of Colorado’s citizens will have a significant impact on offenders in the criminal justice system as well as those at risk of becoming involved in the criminal justice system.

Skeem and Loudon (2006) found that a link between mental illness and supervision failure is indirect and complex.<sup>27</sup> These researchers also found that officers who blended the dual role of therapist/supervisor, compared to those using traditional supervision approaches, were more effective at reducing short-term risk for re-arrest due to technical violations for both probationers and parolees with mental illness. In addition, these agencies were found to be better at connecting the offender with the treatment they needed as well as at improving the individuals’ emotional and physical well-being. Although this type of specialized supervision for mentally ill offenders may not be feasible in all jurisdictions, it is important for the state to provide the needed mental health and substance abuse services. The discussion in GP-20 also addresses the issues raised in GP-21.

## **GP-21 INCREASE FUNDING FOR SUBSTANCE ABUSE AND MENTAL HEALTH TREATMENT**

**The General Assembly must substantially increase state funding for evidence-based and promising practices in substance abuse and mental health treatment.**

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<sup>24</sup> National Research Council. (2008). *Parole, desistance from crime, and community integration*. Washington, D.C.: National Academies Press.

<sup>25</sup> Schnell, M.J., & Leipold, M.O. (2006). *Offenders with mental illness in Colorado*. Colorado Springs, CO: Colorado Department of Corrections.

<sup>26</sup> Council of State Governments, The. (2003). *Charting the safe and successful return of prisoners to the community*. New York, NY: Re-entry Policy Council.

<sup>27</sup> Skeem, J.L., & Loudon, J.E. (2006). Toward evidence-based practice for probationers and parolees mandated to mental health. *Psychiatric Services*, 57, 333-342.

## **GP-22 IDENTIFY AND ADDRESS RE-ENTRY SERVICE GAPS**

**Each judicial district should be required to conduct an inventory of the services and resources, including available housing and the capacity of those resources, to address the needs of offenders reentering the community. This information should be paired with an analysis of the risk/needs of offenders releasing from the Department of Corrections. Re-entry service gaps must be identified, along with the costs to fill those gaps. Using this information, a plan should be developed that identifies the appropriate parties to provide services and a funding scheme. Inventory reports should be provided to the Division of Criminal Justice, which will forward the information to the Commission.**

### *DISCUSSION*

*Sound discharge planning is a critical component to ensure continued care for offenders as they transition from incarceration to the community. Currently there are inadequate assessments and case plans completed on offenders prior to release from incarceration. Also, there are no standards requiring this practice.*

*At the same time there is also a need to inventory resources and the capacity for release across Colorado communities. Research suggests that “front-loading” the available services upon release from incarceration will provide the most optimistic outcome.<sup>28</sup> In most jurisdictions, however, no single entity or agency has the clear responsibility to connect released prisoners to health care systems and other support systems. Consequently, efforts to ensure continuity of care after release from prison and jail are often inadequate.*

## **GP-23 EXPAND EXISTING APPRENTICESHIP PROGRAMS**

**The Commission supports efforts by the Department of Corrections to expand existing apprenticeship programs.**

### *DISCUSSION*

*Offenders transitioning out of the Department of Corrections may not have had the opportunity to develop market-relevant job skills while incarcerated. Most people in prison have low levels of educational achievement, limited job skills and also report low earnings prior to their incarceration. About one-third of prisoners participate in vocational programs at some point during their incarceration. However, according to the Council of State Governments (2003)<sup>29</sup> and Travis, Keegan and Cadora (2003)<sup>30</sup>, demand for programming often exceeds supply, resulting in waiting lists for many programs. Researchers show that offenders who have participated in work programs are more likely to be employed following release and tend to earn more than nonparticipants.<sup>31</sup> To ensure that the education and training provided to inmates in prison and jail corresponds with the prevailing job market, it is critical that corrections officials work closely with community-based workforce and employment services providers.*

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<sup>28</sup> Grattet, R., Petersilia, J., & Lin, J. (2008). *Parole violations and revocations in California*. Irvine, CA: Center for Evidence Based Corrections.

<sup>29</sup> Council of State Governments, The. (2003). *Charting the safe and successful return of prisoners to the community*. New York, NY: Re-entry Policy Council.

<sup>30</sup> Travis, J., Keegan, S., & Cadora, E. (2003). *A portrait of prisoner re-entry in New Jersey*. Washington D.C.: The Urban Institute.

<sup>31</sup> Adams, K., et al. (1994). A large-scale multidimensional test of the effect of prison education on prisoners' behavior. *The Prison Journal*, 74, 433-449; Steurer, L.S., Smith, L., & Tracy, A. (2001). *Three-state recidivism study*. Lanham, MD: Correctional Educational Association.

## **GP-24 EDUCATIONAL OPPORTUNITIES FOR OFFENDERS AND STAFF**

**Post secondary educational opportunities should be expanded for both inmates and staff.**

### *DISCUSSION*

*The Commission believes the Departments of Corrections and Higher Education should collaboratively develop more educational opportunities for inmates and staff. Research from the Council of State Governments (2003) shows that individuals who have the ability to meet the requirements for postsecondary education that prevail in today's labor market are more likely to obtain and maintain employment, which in turn has been shown to reduce recidivism.<sup>32</sup>*

*The Council of State Governments further recommends that given the increasing number of jobs that require postsecondary education, correctional institutions, educational institutions and state governments should study the feasibility of establishing agreements with in-state colleges and universities.*

## **GP-25 EDUCATE HOUSING AUTHORITIES**

**Educate and encourage housing authorities to be no more restrictive than the HUD guidelines in refusing public housing to people with criminal records.**

### *DISCUSSION*

*Access to affordable housing can be challenging for the majority of offenders released from incarceration. It is often difficult for offenders to work with landlords and the housing authority and housing issues are even more complex for special populations (e.g., sex offenders). More than 10 percent of people leaving prisons and jails are homeless in the months before and after their incarceration, with rates higher for those in urban areas.<sup>33</sup> One year after release many offenders are living with family; however, they are often living in very unstable housing situations or in less-than-desirable neighborhoods.<sup>34</sup>*

*Due to a combination of federal and local policies, many people with criminal histories are excluded from federally subsidized housing. Furthermore, the Council of State Governments (2003) finds that Public Housing Authorities have substantial local discretion and can use their authority to make wholesale rejections of applications by people with criminal histories.<sup>35</sup>*

*To help with this problem, some communities have launched community development corporations (CDCs) and nonprofit housing providers have stepped into the role of proactively creating housing for people leaving incarceration. For example, in Maryland the Druid Heights CDC partnered with the Maryland Department of Corrections and dozens of other community-based service providers to establish the Re-Entry Partnership initiative. By working together these organizations develop strategies to successfully reintegrate individuals being released from Baltimore's Metropolitan Transition Center.*

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<sup>32</sup> Council of State Governments, The. (2003). *Charting the safe and successful return of prisoners to the community*. New York, NY: Re-entry Policy Council.

<sup>33</sup> Langan, P. & Levin D. (2002). *Recidivism of prisoners released in 1994*. Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. Available at <http://www.ojp.usdoj.gov/bjs/re-entry/recidivism.htm>.

<sup>34</sup> Visher, C.A., & Courtney, S.M.E. (2007). *One year out: Experiences of prisoners returning to Cleveland*. Washington, D.C.: The Urban Institute.

<sup>35</sup> Council of State Governments, The. (2003). *Charting the safe and successful return of prisoners to the community*. New York, NY: Re-entry Policy Council.

## **GP-26 COMMUNITY CORRECTIONS INSTEAD OF PAROLING HOMELESS**

**Encourage the use of discretionary parole to community corrections in lieu of homeless parole plans to provide a stable living situation prior to the offender’s mandatory parole date (MRD). Six to eight months prior to the MRD, a case manager should submit an application to community corrections for individuals who are likely to parole homeless.**

### *DISCUSSION*

*As stated in the discussion for the previous recommendation, access to affordable housing is a major obstacle for many offenders released from incarceration. Offenders released from the Department of Corrections without a place to live are often released to a “homeless parole plan.” The Commission recognizes the limitations and challenges of local community corrections boards, but the large amount of individuals who leave DOC homeless pose a significant problem. Currently in the metropolitan area, some shelters have refused to accept individuals from prison. The intent of this recommendation is to proactively limit the number of individuals who leave prison without a place to live—this instability is a public safety concern.*

## **GP-27 SUPPORT FOR THE GOVERNOR’S COMMUNITY CORRECTIONS ADVISORY COUNCIL**

**The Commission supports the work of the Governor’s Community Corrections Advisory Council in the following initiatives:**

- **The assessment techniques used to establish the treatment needs of community corrections offenders should be evidence-based and implemented as required. This requires training of community corrections staff. The accuracy and completeness of individual offender assessments should be a part of the community corrections performance auditing process.**
- **The development of individualized treatment plans should directly reflect the identified criminogenic needs of individual offenders. The individualized treatment plans should address offender risk/needs and should be assessed as part of the community corrections performance auditing process.**
- **The treatment provided to each community corrections offender should be consistent with the individualized treatment plan developed for that offender. The quality of such treatment and its fidelity to the treatment plan should be a part of the community corrections performance auditing process.**
- **Because criminogenic needs can change during the course of treatment, reassessment of community corrections offenders should be performed in a standardized fashion and at appropriate intervals. Such information should be used to adjust the treatment plans of community corrections offenders, as required. The quality of such reassessments and plan adjustments should be a part of the community corrections performance auditing process.**
- **The efficacy of community corrections treatment plans in the prevention of recidivism should undergo formal evaluation by the Office of Research and Statistics of the Division of Criminal Justice, with appropriate funding provided for the study.**

## GP-28 COMMUNITY CORRECTIONS GRACE PERIOD STUDY

The Commission supports an initiative by the Governor's Community Corrections Advisory Council to pilot a carefully controlled study to address the value of providing a two to four week "grace period" in which fees and subsistence payments are delayed until the offender is stabilized in the community. After appropriate data is collected and analyzed, the Advisory Council should determine whether further recommendations to the executive and legislative branches are appropriate.

### DISCUSSION

Research shows the time period immediately following release from prison is the riskiest for the offender and the public. The National Research Council (2008) reports the peak rates for reoffending occurs in the first days and weeks out of prison.<sup>36</sup> Similarly, in most community corrections programs, the time period at greatest risk for re-offense is often the first few weeks of residential treatment, during which many offenders abscond or commit technical violations. Despite this early risk, offenders are expected to find employment immediately upon arrival at the program in order to pay the required subsistence fee of \$17 per day. Furthermore, Pearson and Davis (2001) found that the average Colorado parolee owes approximately \$16,600 in child support when they are released from prison.<sup>37</sup> Furthermore, national research shows that most individuals returning to the community have difficulty finding employment immediately.<sup>38</sup> These financial pressures and paycheck garnishment that result from unpaid debt can increase the likelihood that an offender will participate in illegal activities and in turn discourage legitimate employment.<sup>39</sup> The Commission believes this recommendation would give the offender a stabilization period before starting to pay subsistence.

Subject matter experts report that offenders would experience fewer failures if they underwent a period of stabilization lasting between two to four weeks after arrival at a community corrections program. The period of stabilization would include careful assessment of criminogenic needs, life skills training, stabilization with medication, and other individually appropriate treatment.

In FY 2001, the Office of Community Corrections of the Division of Criminal Justice, collaborated with Peer 1 and The Haven, two community corrections programs that provide therapeutic community services to high level drug offenders, to use Drug Offender Surcharge Funds to provide an enhanced per diem rate for offenders during the first six months of residential placement. The enhanced per diem offset the costs that would otherwise be levied against offenders for subsistence fees. This allowed offenders to delay seeking employment and thus avoided trips into the community to job-see early in their placement, allowing them to focus on treatment instead. Escape rates declined from 25.4 percent in FY 2000 to 15.28 percent in FY 2001.<sup>40</sup>

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<sup>36</sup> National District Attorney's Association. (1991). *National prosecution standards: Second edition standard 45.5(a)(1)*. Alexandria, VA: National District Attorney's Association.

<sup>37</sup> Pearson, J., & Davis, L. (2001). *Serving parents who leave prison: Final report on the work and family life center*. Denver, CO: Center for Policy Research.

<sup>38</sup> Steurer, L.S., Smith, L., & Tracy, A. (2001). *Three-state recidivism study*. Lanham, MD: Correctional Educational Association. ; Dietrich, S.M. (2002). Criminal records and employment: Ex-offenders thwarted in attempts to earn a living for their families. In A.E. Hirsch, S. M. Dietrich, R. Landau, P. D. Schneider, I. Ackelsberg, J. Bernstein-Baker, and J. Hohenstein (Eds.), *Every door closed: Barriers facing parents with criminal records*. Washington, D.C.: Center for Law and Social Policy and Community Legal Services; La Vigne, N., Visher, C., & Castro, J. (2004). *Chicago prisoners' reflections on returning home*. Washington, D.C.: The Urban Institute.

<sup>39</sup> Holzer, H.J., Offner, P., & Sorensen, E. (2004). *Declining employment among young, black, less-educated men*. Washington, D.C.: The Urban Institute.

<sup>40</sup> Personal communication with K. Gaipa at Peer 1 in 2001.

## **GP-29 STUDY STANDARD DIVERSION COMMUNITY CORRECTIONS VS. NON-RESIDENTIAL**

**The Commission supports the initiative proposed by the Governor's Community Corrections Advisory Council to pilot and study the outcome of two groups of offenders: (1) a control group sentenced to standard diversion residential community corrections, and (2) a study group sentenced to nonresidential status with enhanced services. After appropriate data is collected, the Advisory Council should determine whether further recommendations to the executive and legislative branches are appropriate.**

### *DISCUSSION*

*Most community corrections offenders remain in residential treatment for six to eight months, even though there is no clear connection between this length of stay and such performance measures as failure to successfully complete the program or recidivism. There is sufficient data to support the contention that a subset of offenders is both more likely to successfully complete a community corrections program and to avoid subsequent recidivism, especially when enhanced nonresidential services are provided. The characteristics of such offenders include: age 30 or more years, nonviolent criminal history, and stable employment and stability in the community through marriage or a committed relationship. If that subset of offenders could safely be placed in nonresidential community corrections before the completion of six to eight months of residential treatment, substantial resources could be saved.*

## **GP-30 NEW INITIATIVES FISCAL IMPACT**

**New budget requests should include an analysis and discussion of the full fiscal and non-fiscal impact of initiatives on other agencies (for example, the impact that a state-level initiative might have on a county jail).**

### *DISCUSSION*

*The Commission and Re-entry Oversight Committee raised the issue of agencies seeking resources for new initiatives in a way that documents the full fiscal and non-fiscal impact of those initiatives on other entities. Carefully analyzing and quantifying the full range of expected consequences reflects the systematic and unified approach that is at the core of the Commission's recidivism reduction efforts. This documentation can be revisited in the future for review and discussion, should unintended consequences surface.*

## **GP-31 SOA-R STUDY**

**The Commission supports the current work by the Interagency Committee on Adult and Juvenile Correctional Treatment and its study of the reliability and validity of the Standardized Offender Assessment-Revised (SOA-R).**

### *DISCUSSION*

*The Division of Behavioral Health, in the Department Human Services, is undertaking a study on behalf of the Interagency Committee on Adult and Juvenile Correctional Treatment to improve the Standardized Offender Assessment of those with substance abuse problems. The Division has received a Justice Assistance Grant (JAG) and has contracted with the National Drug Research Institute to work with stakeholders to develop a "next generation" standardized assessment protocol.*

## **BUSINESS PRACTICES**

### **BP-32 SPECIAL CONDITIONS OF PROBATION CRITERIA**

**The imposition of special conditions of probation should be based only on specific, individual needs/risk assessment information.**

#### *DISCUSSION*

*Judges sometimes impose special conditions of community service and treatment mandates as a matter of course rather than considering the risk/need level of the offender. Research shows that low risk offenders do not benefit from interventions,<sup>41</sup> and victims often prefer that community service be related to the nature of the crime (to encourage reparation). Recommendations provided in the presentence investigation report can promote the use of such conditions. Judicial and probation officer education about evidence-based correctional practices are important components in the implementation of this recommendation.*

### **BP-33 MANDATORY EARNED TIME ON PROBATION**

**As a way to provide incentives while enhancing public safety, a working group shall be formed of representatives from the Division of Probation Services, district court probation departments, prosecutors, defense attorneys, victim representatives, and judges to develop an *earned time schedule* that links specific behaviors, such as completing drug treatment and maintaining “clean” urinalysis tests, to specific reductions in the term of the probation sentence.**

#### *DISCUSSION*

*The decision to consider and grant early termination of probation is inconsistent across judicial districts. Mandatory earned time—in the sense that time off the sentence is mandatory and not discretionary when the offender meets specific behavioral expectations—can be an important tool to encourage the successful completion of supervision and can help make the implementation of early termination policies more consistent.*

*Research has found that incentives such as these result in higher success rates than do punishments. For instance, behavioral psychologists such as B.F. Skinner found that positive reinforcement is the most effective way to increase the likelihood of a desired behavior. This recommendation builds on the research that positive reinforcement is a powerful tool in supporting functional and adaptive behavior change, a concept that is widely supported by probation officers.<sup>42</sup> An example might be that offenders who, through formal assessment, have been found to be in need of substance abuse treatment and who then complete drug treatment might earn a number of days off their probation sentence. The working group must ensure that the protocol for implementation of an earned time schedule comports with the Victim Rights Act.*

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<sup>41</sup> Latessa and Lowenkamp (2006) conducted two large-scale studies of 26,000 offenders in over 100 correctional programs, including both residential and nonresidential. All of the offenders in the study had one of the following risk scores: low, low moderate, moderate, or high. Placing low risk offenders in high risk interventions actually increased recidivism by 29 percent. In fact, Latessa and Lowenkamp found that low-risk offenders placed in residential facilities had a four percent higher recidivism rate than their low-risk counterparts in the comparison group who were not placed in residential placements. Latessa, E.J., & Lowenkamp, C.T. (2006). What works in reducing recidivism? *St. Thomas Law Journal*, 3, 521-535.

<sup>42</sup> Chance, P. (2003). *Learning and behavior* (5th Ed.). Toronto, ON: Thomson-Wadsworth.



*Petersilia (2007) points out that the process of combining behavioral contracting and accelerated parole discharge will produce tangible benefits for public safety as well as recidivism reduction and resource allocation.*<sup>43-44</sup>

#### **BP-34 EXPAND JUDICIAL AND PROBATION OFFICER TRAINING**

**Judicial and probation officer training should be expanded to develop curricula that promote a culture of successful supervision of probationers.**

##### *DISCUSSION*

*Research suggests that a high-quality, positive relationship between the officer and offender is beneficial to a successful outcome on the part of the offender. Specifically, Skeem, Encandela, and Loudon (2003) found that relationships described as respectful, personal, and approachable were found to be more effective in achieving the desired successful outcome than were more authoritarian relationships that are often the norm.<sup>45</sup> Thus, it is important for probation officers to be trained in such a way that the general probation culture is designed to promote positive thinking as well as positive and respectful relationships with offender clients.*

#### **BP-35 POSITIVE REINFORCEMENT AND INCENTIVES**

**Research shows that positive reinforcement is an important component of behavior modification. The use of incentives to facilitate successful completion of probation should be encouraged. Such incentives should be interpreted as evidence-based efforts to encourage the offender's positive performance for the purpose of enhancing public safety and preventing victimization.**

##### *DISCUSSION*

*The use of incentives is a way to respond to behavior that is clear to the offender. Evidence-based research strongly suggests that positive incentives, along with techniques such as motivational interviewing, effectively enhance motivation for initiating and maintaining behavior changes.<sup>46</sup> The Commission believes this recommendation will emphasize a change and significant shift in the treatment of offenders and in turn positively affect recidivism reduction.*

#### **BP-36 PROBATION TECHNICAL VIOLATIONS SANCTION GUIDELINES**

**To increase consistency across the state in the response to probation technical and criminal violations, the Division of Probation Services should work with district probation departments to develop a range of probation sanction guidelines that hold offenders accountable while working toward successful completion of probation. These guidelines will be adopted and consistently implemented with the assistance of the court in each jurisdiction.**

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<sup>43</sup>Petersilia, J. (2007). Employ behavioral contracting for "earned discharge" parole. *Criminology and Public Policy*, 6, 807-814.

<sup>44</sup>Cox, Bantley and Roscoe (2005) found in their evaluation of Court Support Services Division's Probation Transition Program and Technical Violations Unit for the state of Connecticut, that criminal justice tends to be dominated by negative outcomes, such as violations or revocations of probation, and may thus inadvertently set up a mind-set of failure on the part of line officers. Focusing on positive outcomes, such as successful program completion and demonstrated attitude change can help to ameliorate this negative orientation and provide both concrete and positive markers to direct probation activities.

<sup>45</sup>Skeem, J.L., Encandela, J., & Loudon, J.E. (2003). Perspectives on probation and mandated mental health treatment in specialized and traditional probation departments. *Behavioral Sciences and the Law*, 21, 429-458.

<sup>46</sup>Miller, W., & S. Rollnick. (2002). *Motivational interviewing: Preparing people for change*. New York, NY: Guilford Press.

## DISCUSSION

Responses to probation technical and criminal violations appear to be inconsistent across the state. However, it is known that the positive reinforcement to punishment ratio should be 4:1.<sup>47</sup> Positive incentives for compliance have been found to be important complements to sanctions for violations. Andrews and Bonta (2003) discuss rewards in the corrections process as a means of encouraging compliance with program requirements.<sup>48</sup> One way of giving positive reinforcement in behavior modification is by providing compliments, approval, encouragement, and affirmation. This is generally seen as being effective in altering behavior in a desired manner.<sup>49</sup>

The National Institute of Corrections promotes a “new generation” of policy to guide officer decision making regarding technical violations.<sup>50</sup> Administrative violations are inevitable, particularly given that the issues that led an individual into the justice system will most likely continue until they learn new skills. The violation severity and offender’s risk to the community should direct the development of these guidelines. The development of guidelines should include the identification of a range of local sanctions that prioritize offender accountability.<sup>51</sup> Note that violation of a no-contact condition is a special condition of probation and should be considered a serious behavior.

### **BP-37 PRIORITIZE OFFENDER EMPLOYMENT OVER ROUTINE COURT REVIEW HEARINGS**

**Minimize court review hearings and appearances to reduce docket overload and interruptions to the offender’s employment. Educate judges and probation officers on the necessity of prioritizing support for the offender’s employment since research shows that stable employment is linked to recidivism reduction. This does not apply to specialty courts or dockets.**

## DISCUSSION

Some judges favor the use of court hearings during the course of probation so that offenders can “check in” with the judge. This practice varies considerably across jurisdictions and amongst judges. These meetings can increase docket schedules and may, for some offenders, create transportation and employment hardships that may lead to unsuccessful probation outcomes.

### **BP-38 RESOLVE NEW COUNTY COURT CASES QUICKLY**

**Resolve new county court cases as soon as possible because unresolved cases may interfere with the success of district court probation.**

### **BP-39 DEVELOPMENT OF STATEWIDE BOND SCHEDULE**

**A statewide committee should be formed to develop an advisory, statewide monetary bond schedule that is generally consistent across jurisdictions. Each judicial district should develop a committee of stakeholders to review the existing monetary bond schedule.**

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<sup>47</sup> Andrews, D.A., & Bonta, J. (2003). *Psychology of criminal conduct* (3rd Ed.). Cincinnati, OH: Anderson Publishing Co.

<sup>48</sup> Ibid.

<sup>49</sup> Gendreau, P. (1996). The principles of effective intervention with offenders. In A. T. Harland (Ed.) *Choosing correctional options that work: Defining the demand and evaluating the supply*. Thousand Oaks, CA: Sage Publications.

<sup>50</sup> Carter, M. (Ed.). (2001). *Responding to parole and probation violations: A handbook to guide local policy development*. Silver Spring, MD: Center for Effective Public Policy.

<sup>51</sup> This statement reflects a sentiment expressed during the CCJJ victim focus group conducted on September 2, 2008.

## DISCUSSION

*A survey of monetary bond schedules undertaken on behalf of the Commission found extraordinary variation across judicial districts. Furthermore, while one county had no monetary bond schedule another's schedule was dated February 1963. The Commission seeks clarity in the use of bonding decisions even as it prioritizes the use of summons rather than arrest and bond.*

### **BP-40 ESTABLISH BOND COMMISSIONERS**

**Each judicial district should be encouraged to establish a bond commissioner and process that give authority to the specially trained commissioner or their designee to undertake an individual assessment of the accused and set bonds and/or summonses as appropriate.**

## DISCUSSION

*This recommendation prioritizes the use of individual-level assessments that consider public risk, ties to the community, employment, and the offender's ability to pay when setting bond, rather than setting bond according to a schedule. Larimer County currently uses a process consistent with this recommendation.*

### **BP-41 SUMMONS IN LIEU OF ARREST FOR PROBATION REVOCATIONS**

**Implement existing statutes (C.R.S. 16-5-206 and 16-5-207) encouraging the use of a summons rather than arrest for probation revocations.**

## DISCUSSION

*In a survey conducted by a Commission and Task Force member, judges identified barriers that prevent successful completion of probation which result in more frequent and longer periods of incarceration.<sup>52</sup> The judges also voiced concern about victim and community reparation. In addition, imposing jail as a condition of probation was felt to possibly inhibit long-term success, especially when an individual loses his or her job as a result of incarceration. This is consistent with the criminology literature which links unemployment and recidivism,<sup>53</sup> and research by the Division of Criminal Justice consistently finds unemployment related to failure under supervision.<sup>54</sup>*

*Judicial review hearings are sometimes used by the judge as a "check in" with the probationer. These hearings can significantly burden an offender who must find transportation to court and be released from employment, creating barriers to successful completion of supervision.*

*Frequently judges may briefly incarcerate offenders facing a probation revocation. However, even short-term incarceration is expensive for the community and does little to enhance public safety and may lead to the offender's job loss, cause family hardships, and result in other destabilization events that ultimately increase the offender's risk for recidivism. Research by the National Research Council (2008) shows that employment and stable family*

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<sup>52</sup> This information was gathered from a survey distributed to district court judges via Judge Gil Martinez, Commission member.

<sup>53</sup> Sampson, R.J., & Laub, J.H. (2003). Desistance from crime over the life course. In J.T. Mortimer and M.J. Shanahan (Eds.), *Handbook of the life course*. New York, NY: Kluwer Academic/Plenum.

<sup>54</sup> Burrell, N.H., & English, K. (2006) *Community corrections in Colorado: A study of program outcomes and recidivism, FY00-04*. Denver, CO: Colorado Division of Criminal Justice, Office of Research and Statistics; Constatino, M., Harrison, L., & English, K. (in progress). *2008 Colorado actuarial risk assessment scale*. Denver, CO: Colorado Division of Criminal Justice.

*relationships are factors associated with reductions in recidivism.<sup>55</sup> In addition, in FY 2007 the Colorado Division of Probation Services (2008) found that 4 out of 5 of offenders facing revocation remained in the community, meaning that every effort should be made by the court to support the offender's employment by avoiding arrest and incarceration when possible.<sup>56</sup>*

*Furthermore, significant variation exists across the state in the use of jails for offenders facing probation revocation. Each local judicial district should develop and implement guidelines for the use of summonses, arrest, and incarceration. According to the Mentally Ill Inmates Task Force of the Metropolitan Area County Commissioners (County Commissioners, Inc., 2008), the average daily cost of incarceration in 2007 within the seven metropolitan area jails was \$59.27.<sup>57</sup> On the other hand, offenders with Axis 1 mental disorders cost an average of \$76.57 to house and treat<sup>58</sup>. Efforts to reduce the use of jail for offenders pending probation revocation hearings will result in local cost savings and in many cases will allow offenders to continue to work and pay taxes, restitution, and court-related fees.*

#### **BP-42 ARREST ALTERNATIVES FOR OFFENDERS ON REVOCATION STATUS**

**Encourage the use of “cash only” bonds rather than arrest and incarceration for offenders on revocation status for nonpayment when the total amount of fees and costs owed is minimal. The judge can convert the cash bond into costs owed should the offender fail to comply with conditions of supervision.**

#### **BP-43 EXPAND USE OF HOME DETENTION IN LIEU OF JAIL**

**When appropriate, and considering public safety and the safety of the victim, expand the use of home detention in lieu of jail, as a condition of probation or for a probation revocation.**

#### *DISCUSSION*

*Judges should be encouraged to use home detention, when appropriate, rather than jail time as a condition of probation. This minor change in practice would allow offenders to maintain their jobs which in turn will help to reduce recidivism.*

#### **BP-44 OFFENDER RELEASE ASSESSMENT COUPLED WITH SERVICES**

**Using the Level of Supervision Inventory-Revised (LSI-R) and other tools as appropriate, DOC shall conduct a comprehensive risk/needs assessment of each offender prior to release for the development of a case plan. This plan will form the basis of providing vouchers (or other approved mechanisms) that assist the offender in accessing immediate services, including housing, medication (for example, insulin), mental health services, addiction treatment, and related programs.**

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<sup>55</sup> National Research Council. (2008). *Parole, desistance from crime, and community integration*. Committee on Community Supervision and Desistance from Crime. Committee on Law and Justice, Division of Behavioral and Social Sciences and Education. The National Academies Press, Washington, D.C.

<sup>56</sup> Division of Probation Services (2008). *Technical violations work group report*. Denver, CO: Colorado Judicial Department.

<sup>57</sup> Mentally Ill Inmates Task Force for the Metropolitan Area County Commissioners Mentally Ill Inmates Task Force (2008, June). *Axis I January quarterly impact report third snapshot*. Paper presented at the meeting of the Metro Area County Commissioners, Northglenn, CO.

<sup>58</sup> County Commissioner, Inc. (2008). *2007 mentally ill inmates in metro counties data*. Denver, CO.

## DISCUSSION

*The National Research Council (2008) has found that prisoners face enormous challenges when they are released, including finding jobs and housing as well as staying sober and avoiding high-risk persons and places.<sup>59</sup> One key to successful re-entry is identifying the challenges prior to release and developing individualized re-entry plans that identify appropriate services.*

*These findings emphasize the importance of conducting detailed needs assessments shortly before release and periodically after release to develop appropriate individualized services. However, comprehensive risk/needs assessments and case plans are not completed consistently on offenders prior to release from incarceration and the extent to which appropriate services are available to offenders across the state remains unknown.*

*This recommendation builds on similar recommendations that call for the system-wide implementation of a comprehensive needs/risk assessment that is updated regularly and completed prior to release from incarceration (see GP-15). Presently, the LSI is conducted prior to release only at DOC's Cheyenne Mountain Correctional Re-Entry Center.*

### **BP-45 RELEASE ASSESSMENT INFO PROVIDED TO PAROLE AND COMMUNITY CORRECTIONS BOARDS**

**Ensure current (within the last six months) release assessment information is provided to the parole board and community corrections boards.**

## DISCUSSION

*This recommendation is meant to complement and support recommendations GP27 and BP44. As stated in the discussion for those recommendations, access to appropriate housing is a major obstacle for many offenders reentering the community. Offenders released from the Department of Corrections without a place to live are often released to a "homeless parole plan" which poses a significant problem for the offender and the community. The intent of this recommendation is to ensure that accurate and current assessment information is not only gathered from the inmate prior to their release from prison, but that it is also furnished to the parole board and community corrections boards in a timely manner to assist them in making sound release decisions. Community corrections boards often reject a homeless parolee on the grounds that they may be "high risk"; however, an accurate risk assessment tool would take the guess work out of decision making.*

### **BP-46 STANDARDIZED COMPREHENSIVE OFFENDER PROFILE**

**Determine the cost and feasibility to develop a standardized comprehensive profile for each convicted felon, to include a Pre-Sentence Information Report (PSIR) that is entered into an automated system and made accessible to authorized personnel.**

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<sup>59</sup> National Research Council. (2008). *Parole, desistance from crime, and community integration*. Washington, D.C.: National Academies Press.

## BP-47 OFFENDER PROFILE TO FOLLOW THROUGHOUT SYSTEM

Representatives from probation, community corrections, DOC, and local jails must work together to develop and implement a protocol whereby a standardized, comprehensive profile of an offender, the offense, and the victim impact--which may include the PSIR--and individual empirically-based assessment information (such as the Level of Supervision Inventory, and specialized assessments), should follow all individuals convicted of a felony throughout the system, from pre-sentence to release. This assessment should be regularly updated, at a minimum prior to significant decision points in custody or during community supervision, to assure that program placement is linked to criminogenic needs and to document treatment progress and new skills obtained. A systematic quality assurance procedure must be implemented with this initiative. Protocols to share this information while protecting the privacy of the individual must be developed and implemented within and across agencies.

### DISCUSSION

*It is important that comprehensive assessments be conducted for each individual whose previous screenings have identified psychological and mental health issues, physical health problems, and substance abuse and dependence.<sup>60</sup> According to Taxman, et al in a 2004 National Institute of Corrections report, the guiding principles for assessment and case management are as follows: (1) Supervision staff should consider the offender's current stage of change in assigning supervision and/or treatment services; (2) The key to identifying supervision and/or treatment services is to match the offender's dynamic factors with appropriate services. For offenders with multiple criminogenic needs, programs that address four or more of the factors will yield better results; (3) The offender's risk factors should determine the supervision services. The higher the risk, the more external controls such as curfews, drug testing, face-to-face contacts, etc.; (4) The supervision plan should be a behavioral contract. The offender should be part of the team to develop the plan to ensure ownership and acceptance of the quarterly progress measures. The offender should sign this contract; (5) The behavioral contract should prioritize the accomplishments that an offender should achieve on a quarterly basis. Progress should be tied to clear behavioral objectives (e.g., obtain weekly drug testing, obtain an assessment, etc.). Prioritization should first address areas of interest to the offender as a tool to facilitate change; (6) The behavioral contract should encompass supervision requirements, court and/or parole mandated conditions, treatment services, and expected sanctions and incentives. Included should be the requirements and expected consequences for positive and negative progress; and (7) Supervision staff should use problem-solving techniques with the offender to assist the offender in learning alternative behaviors and reactions to triggers (e.g., people, places, and things) that contribute to criminal behavior and/or substance abuse.<sup>61</sup>*

*Based on surveys completed by 73 public agencies representing 44 states, 24 localities or regional/district entities, and a variety of community corrections functions, the National Institute of Corrections (2003) found that approximately half of the agencies that recently changed their general population instrument had adopted the Level of Service Inventory--Revised (LSI-R) instrument whereas the other half implemented new, in-house instruments.<sup>62</sup>*

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<sup>60</sup> Council of State Governments, The. (2003). *Charting the safe and successful return of prisoners to the community*. New York, NY: Re-entry Policy Council.

<sup>61</sup> Taxman, F.S., Shepardson, E.S., Delano, J., Mitchell, S., Byrne, J.M., Gelb, A., & Gornik, M. (2004). *Tools of the trade: A guide to incorporating science into practice*. Washington, D.C.: U.S. Department of Justice: National Institute of Corrections.

<sup>62</sup> National Institute of Corrections. (2003). *Topics in community corrections: Offender assessment*. Washington, D.C.: U.S. Department of Justice.

*Because conducting empirically-based assessments is the first step in the implementation of evidence-based correctional practice, this recommendation is intended to hold all entities in the criminal justice system responsible for doing assessments, from pretrial services through parole. In addition, the Commission encourages the exchange of empirically-based assessment information as well as objective, third-party information (e.g., pre-sentence information report, or the PSIR) within and across agencies. Quality assurance and training related to the proper implementation of empirically-based risk/needs assessments and the development of case management plans are also needed.*

*A commitment to quality assurance can be highly beneficial to an organization, but the creation and implementation of a quality assurance plan requires effort and attention to detail. Because the process of quality assurance requires a great deal of collaborative effort to succeed, it is necessary that all stakeholders be committed to ongoing quality assurance, with the ultimate goal of creating a “culture of quality.” Furthermore, specific measurable outcomes and their precise indicators should be well defined. Proper data management systems should be in place, should allow for data sharing, and should be used appropriately.<sup>63</sup>*

#### **BP-48 IMPROVE DOC’S INMATE TRANSPORTATION/DROP-OFF SYSTEM**

**Develop an efficient system for transferring an offender from DOC institutional custody to the custody of community corrections and/or parole supervision.**

##### *DISCUSSION*

*The Department of Corrections routinely drops off released inmates at a predetermined location on Smith Road in Denver. The drop-off times vary and offenders can be dropped off in a variety of weather conditions. There are no services available at the Smith Road drop-off location and an offender is often left on his or her own to find their way from the drop-off site to a required location (e.g. parole office and/or place of residence). The Commission feels there should be a more methodical drop-off procedure that would maximize the offender’s ability to immediately access available re-entry services.*

#### **BP-49 DEVELOP ADDITIONAL HOUSING RESOURCES FOR OFFENDERS**

**Form a collaborative of public and private agencies to identify and develop additional housing resources for special populations who have a criminal record (for example, the aging, those with mental illness, people with developmental disabilities, sex offenders, and those medical problems).**

##### *DISCUSSION*

*It has been found that securing long-term housing is a predictor of successful re-entry into the community for individuals released from prison.<sup>64</sup> Thus, if fulfilled, this recommendation will help individuals maintain stable housing in more positive neighborhoods which in turn will help to keep them from recidivating.*

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<sup>63</sup> Howe, M., & Joplin, L. (2005). *Implementing evidence-based practice in community corrections: Quality assurance manual*. U.S. Department of Justice, National Institute of Corrections, Community Corrections Division.

<sup>64</sup> Visher, C.A. & Courtney, S.M.E. (2007). *One year out: Experiences of prisoners returning to Cleveland*. Washington, D.C.: The Urban Institute.

## **BP-50 VERIFIABLE IDENTIFICATION FOR ALL OFFENDERS LEAVING INCARCERATION**

Whenever feasible, ensure every offender leaving jail and prison may obtain a driver's license or verifiable state identification upon release to the community by implementing the following business practices:<sup>65</sup>

- A. For the Department of Revenue (DOR) to issue a Colorado driver's license or state identification card to an individual incarcerated in a Department of Corrections (DOC) facility, the DOR will accept a certified state or county issued birth certificate and a DOC photo inmate identification card if the name and date of birth on the DOC photo inmate identification card match the name on the birth certificate. A match is permissible if the DOC card bears the date of birth and the full name of the incarcerated individual, and this name matches the first and last names on the birth certificate. The lack of a middle name or initial on one of these documents will not disallow a match.**
  - If an incarcerated individual previously had a Colorado driver's license or state identification card and the DOR retains that person's image, signature, and fingerprints in electronic storage, upon submission of a certified state or county issued birth certificate the DOR may determine a match in order to issue a state identification card or driver's license.
  - The Department of Revenue will work to ensure that its database will combine and link all known driving records associated with that person so law enforcement can review the person's complete driving history during traffic stops.
- B. The Colorado Department of Corrections (DOC) will apply for birth certificates in every state (including U.S. territories) on behalf of incarcerated individuals who request this service. Legal citizens born abroad may also qualify, depending upon the funding level of the DOC program.**
  - a. If sufficiently funded by the state, the DOC will not charge the incarcerated individual for this service. If the DOC does not receive additional funding for this recommendation, the DOC will apply for birth certificates if the inmate has sufficient funds in his/her inmate banking account.
  - b. The Administrative Regulation will be amended to reflect this recommendation.
  - c. All prisons in Colorado, including the private prisons, will comply with this policy.
  - d. Inmates who request a birth certificate will be provided with a standardized advisory statement written by the office of the Colorado State Public Defender.
- C. When the DOC determines that the full legal name of the incarcerated individual differs from the name on that person's sentencing mittimus, the DOC will include that name with the individual's file. Upon release of that individual, the DOC will issue the individual a DOC photo inmate identification card bearing both the name entered on the individual's sentencing mittimus as well as the full legal name of that individual.**
  - All prisons in Colorado, including the private prisons, will comply with this policy.

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<sup>65</sup> On behalf of the Commission, an Identification Working Group met with stakeholders to develop an implementation plan for BP-50. The working group convened stakeholders who were involved in efforts to address this re-entry barrier. The specific recommendations stated in A-P were prepared by the Working Group and approved by the Commission.



- D. The DOC should sign the newest memorandum of understanding with the Social Security Administration and include all prisons, including the private prisons, on the MOU in order to apply for Social Security cards on behalf of incarcerated individuals whose full legal name they are able to confirm. Eligibility cannot be confined to the name on the mittimus.
  - a. The Administrative Regulation will be amended to note the changes in this recommendation.
  - b. The application for a Social Security card will be initiated at least 120 days prior to an individual's expected date of release.
- E. Arresting entities should confirm and use a person's full legal name on all documents. This may require training on how to properly identify a person upon arrest.
- F. The law enforcement community, including state patrol, local police, sheriffs, and community corrections, should develop a statewide standard regarding the retention of (and consequences for the destruction of) primary identification documents.
- G. If the district attorney's office receives information from law enforcement or the defense counsel concerning a defendant's true name and identity, the district attorney's office will review the documents and, when appropriate, notify the Court so that the mittimus may reflect the defendant's true name and identity.
- H. If the defense counsel receives information concerning a defendant's true name and identity, the defense counsel will review the documents and, when appropriate, notify the district attorney's office and the Court so that the mittimus may reflect the defendant's true name and identity.
- I. The importance of placing the full legal name on an individual's court record, including the mittimus, as an AKA at the request of a party, should be underscored to judges and clerks.
- J. The state court system should investigate whether the court record, if filed in a name other than the individual's full legal name, could contain a field to record the individual's full legal name in addition to listing the full legal name as an AKA, at the request of a party.
- K. The Department of Public Health and Environment's Office of Vital Records should develop a memorandum of understanding with departments of corrections in every state. This will allow departments of corrections in states other than Colorado to apply for birth certificates on behalf of inmates born in Colorado.
- L. Jail and DOC personnel should provide a one-page explanation to all individuals leaving these facilities who will need to appear at a Division of Motor Vehicle office in order to obtain a driver's license or state identification card.
  - a. The one-page information sheet, to be developed by the Department of Revenue with the purpose of preparing individuals to successfully obtain an ID at the first visit, will outline local DMV location(s), suggested "best" times to visit, map, and clear information about necessary documents.

- M. The General Assembly should provide the DOC and jails with the necessary funding to accomplish the tasks explained here, including fees to purchase birth certificates, dossiers, and other required documents.
- N. The Commission supports the effort of the Legislative Oversight Committee for the Study of the Treatment of Persons with Mental Illness Who Are Involved in the Justice System to obtain and fund a van that will travel to jails and other locations in the seven-metro county area to provide identification documents.
- O. The Commission supports the DOC's pilot ID project with the DOR involving mobile units that issue identification to individuals releasing from incarceration.
- P. All parties addressed in these recommendations should report their progress back to the Commission in February 2009.

#### DISCUSSION

Many prisoners no longer have their birth certificates and social security cards and are thus unable to obtain legal identification.<sup>66</sup> This lack of valid identification is an impediment to the successful re-entry of an offender because these barriers to identification prohibit access to public services as well as employment and housing (e.g., homeless shelters will not accept an individual without identification). Promoting access to services through this action is a step towards ensuring continuity of care.<sup>67</sup> On November 10, 2008 the Colorado Department of Revenue promulgated new rules that will facilitate offenders obtaining identification. Please see Appendix M for further information.

#### BP-51 STANDARDIZE DRIVER'S LICENSE RESTRICTIONS

**Any limitation or restriction of an offender's driver's license while on parole and community corrections must be based on specific, written, and standardized criteria.**

#### DISCUSSION

The DOC does not currently have a written policy that addresses this recommendation. A policy should be developed to standardize driver's license restrictions.

#### BP-52 OFFENDER EMPLOYMENT COLLABORATION

**Because the research is conclusive that stable and meaningful employment is critical to recidivism reduction, the Department of Corrections should work with the Department of Labor and the Division of Vocational Rehabilitation, private businesses, trade unions, along with city, county, state and private employers to expand the number and scope of vocational programs offered in prison, and to ensure that the job skills offered by these programs are relevant and transferable to the current job market. Job placement and job readiness programs should be added in the Department of Corrections, and should be a priority for offenders approaching their release date. A focus on creating jobs for individuals coming from the Department of Corrections should be a priority for the collaborating entities.**

<sup>66</sup> National H.I.R.E. Network. (2003). *Nationwide survey of identification requirements for newly released prisoners*. [www.hirenetwork.org/ID\\_survey\\_summary.htm](http://www.hirenetwork.org/ID_survey_summary.htm).

<sup>67</sup> Council of State Governments, The. (2003). *Charting the safe and successful return of prisoners to the community*. New York, NY: Re-entry Policy Council.

## DISCUSSION

Research shows that a strong tie to work can lead to desistance from crime.<sup>68</sup> However, offenders released from the Department of Corrections often have not developed market-relevant job skills while incarcerated<sup>69</sup> and have a difficult time finding employment.<sup>70</sup> There are significant weaknesses in job training and placement that impede meaningful and sustainable employment and career opportunities for released inmates.<sup>71</sup> Kuehn (2008) explains that even when jobs are obtained they are often in low-skill industries that may or may not lead to long-term progress (e.g., food services, maintenance and repair, construction) and they are often for much lower wages than the individual was earning prior to incarceration.<sup>72</sup>

In 2000, MacKenzie conducted a meta-analysis of 26 studies to evaluate the overall effectiveness of vocational and work programs in increasing employment and reducing recidivism.<sup>73</sup> It was found that vocational training increased an offender's likelihood of finding post-release employment while decreasing the offender's likelihood of recidivating. Correctional Industries and other work programs did not have the same positive effect. A more recent study in 2006 had similar findings.<sup>74</sup>

Taxman (1998) also found that correctional education programs are most successful when they are part of a systematic approach that includes employment programs as well as training in social skills and other specialized programs.<sup>75</sup> In addition, participation in various prison programs including education, job training and placement are associated with improved outcomes, including reduced recidivism.<sup>76</sup> More specifically, Bushway (2003) and Hull (2000) have found that those who participate in prison education, vocational, and work programs may have recidivism rates that are 20-60 percent lower than those who have not participated.<sup>77</sup>

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<sup>68</sup> Sampson, R.J., & Laub, J.H. (2003). Desistance from crime over the life course. In J.T. Mortimer and M.J. Shanahan (Eds.), *Handbook of the life course*. New York, NY: Kluwer Academic/Plenum.; Visher, C.A. & Courtney, S.M.E. (2007). *One year out: Experiences of prisoners returning to Cleveland*. Washington, D.C.: The Urban Institute.

<sup>69</sup> Holzer, H.J., & Martinson, K. (2005). *Can we improve job retention and advancement among low-income working parents?* Washington, D.C.: The Urban Institute.

<sup>70</sup> Kuehn, D. (2008). *The challenges of prisoner reentry: Fact and figures*. Washington, D.C.: The Urban Institute, also available at [www.urban.org/url.cfm?ID=411683](http://www.urban.org/url.cfm?ID=411683).

<sup>71</sup> The Re-Entry Police Council (2003) has made recommendations similar to those presented here. Specifically, it has been recommended that 1) programs be developed to enable inmates to be functionally literate and capable of receiving high school or postsecondary credits; 2) the job market be analyzed and examined in the areas to which offenders will be returning; 3) ensure that vocational and educational classes target the needs of the job market; 4) offenders should be encouraged to participate in educational and job training programs; 5) community-based agencies should be encouraged to provide institutional job-skills programs; and 6) when appropriate, offenders should be given the opportunity to gain occupational competence through postsecondary education.

<sup>72</sup> Kuehn, D. (2008). *The challenges of prisoner reentry: Fact and figures*. Washington, D.C.: The Urban Institute. [www.urban.org/url.cfm?ID=411683](http://www.urban.org/url.cfm?ID=411683).

<sup>73</sup> MacKenzie, D.L. (2000). *What works in corrections: Reducing the criminal activities of offenders and delinquents*. New York, NY: Cambridge University Press.

<sup>74</sup> Wilson, D.B., Gallagher, C.S., & MacKenzie, D.L. (2006). A meta-analysis of corrections-based education, vocation, and work programs for adult offenders. *Journal of Research in Crime and Delinquency*, 37, 347-368.

<sup>75</sup> Taxman, F.S. (1998). *Reducing recidivism through a seamless system of care: Components of effective treatment, supervision, and transition services in the community*. College Park, MD: University of Maryland.

<sup>76</sup> Adams, K., et al. (1994). A large-scale multidimensional test of the effect of prison education on prisoners' behavior. *The Prison Journal*, 74, 433-449; Gaes, G.G., Flanagan, T.J., Motiuk, L.L., & Stewart, L. (1999). Adult correctional treatment. *Crime and Justice: A Review of Research*, 26, 361-426; Hull K.A., Forrester, S., Brown, J., Jobe, D., & McCullen, C. (2000). Analysis of recidivism rates for participants of the academic/vocational/transition education programs offered by the Virginia Department of Corrections Education. *Journal of Correctional Education*, 51, 256-261; Steurer, L.S., Smith, L., & Tracy, A. (2001). *Three-state recidivism study*. Lanham, MD: Correctional Educational Association.

<sup>77</sup> Bushway, S. (2003, May). *Reentry and prison work groups*. Paper presented at the Urban Institute's Reentry Roundtable; Hull K.A., Forrester, S., Brown, J., Jobe, D., & McCullen, C. (2000). Analysis of recidivism rates for participants of the academic/vocational/transition education programs offered by the Virginia Department of Corrections Education. *Journal of Correctional Education*, 51, 256-261.

*The recommended vocational development effort should include matching skills and educational needs with the requirements of licensure exams. For example, entrance into many trades requires math and reading skills. Offenders in vocational programs therefore must be assessed for the necessary educational requirements, and directed into programs accordingly. Furthermore, this recommendation should incorporate community organizations, including faith-based initiatives, whenever possible.*

### **BP-53 JOB RECOMMENDATIONS FOR DOC INMATES**

**Upon request and as appropriate, job supervisors at the Department of Corrections should be encouraged to write job recommendations for individuals being released from incarceration.**

### **BP-54 EXPLORE LONG DISTANCE LEARNING OPPORTUNITIES**

**Technological advances should be explored to provide long distance learning opportunities so that to individuals registered in these classes will not lose time or momentum when transferred to a different facility.**

### **BP-55 TREATMENT PROVIDERS TO EXPAND THEIR HOURS OF OPERATION**

**As part of the contract award process, the Department of Corrections will give preference to private service vendors (for example, for treatment, drug tests, etc.) who provide extended hours of operation during the week and/or weekend hours. The Department of Corrections can waive this requirement for vendors in under-served areas of the state, or for those providers for whom this requirement would prevent the delivery of services.**

#### *DISCUSSION*

*A condition of parole supervision often includes drug and alcohol testing. However, the testing locations vary and hours of operation are often during traditional work hours which can create problems with employment for the offender. Extended hours of operation on the part of the test facilities would allow the offender to meet the requirements of their parole without risking their employment.*

### **BP-56 FUNDING FOR THE PAROLE BOARD**

**Provide funding to enhance the technology available to the parole board members, hearing officers, and administrative law judges so that they may obtain items such as laptop computers, other hardware, software, and video conferencing, to improve the efficiency and effectiveness of parole board hearings and operations. Allow electronic requests for modifications of conditions of parole.**

#### *DISCUSSION*

*The data gathered from interviews undertaken on behalf of the Post-Supervision Task Force regarding the structure of the parole process in Colorado found that interviewees were concerned that the parole board has been overburdened and under resourced for many years. Specific concerns included that the board is not adequately resourced, is technologically isolated and is removed from the rest of the criminal justice system. At present, the parole board does not have the necessary funding to purchase adequate technology to support its operations.*

## **BP-57 OUTSIDE AGENCY ANALYSIS AND ASSISTANCE FOR THE PAROLE BOARD**

The Commission requests that an independent agency with expertise in paroling authorities (in particular, the Center for Effective Public Policy) provide technical assistance to the parole board to increase efficiency and effectiveness. This assistance would involve bringing to Colorado experts in parole and release to engage in the following tasks:

- Review parole guidelines, policies, procedures, sanction grids, and training standards;
- Review the use of assessments, the decision making process, and how parole decisions are communicated to interested parties;
- Review the parole board's internal capacity for data collection and reporting;
- Review forms used by the parole board;
- Conduct a work-load survey to identify inefficiencies and possible remedies; and
- Review the opportunities for inmate supporters and victims to participate in the parole hearing.

The Commission requests that the Department of Public Safety, on behalf of the Colorado Criminal and Juvenile Justice Commission, apply for funding from the JEHT Foundation to provide the aforementioned assistance.

### *DISCUSSION*

*In the above-mentioned interview conducted by Christie Donner between May and July, 2008 (see BP-56), professionals and lay people involved in the Colorado criminal justice system provided their view of an ideal parole system. Specific concerns raised included the following:*

- *Lack of guidelines in decision-making by parole board members and administrative hearing officers;*
- *Lack of sanction guidelines to guide parole revocation decisions;*
- *Not using the correct assessment tool(s) in decision-making either for release or for setting appropriate conditions of release (i.e. "cookie-cutter" conditions);*
- *Lack of evaluation of parole board members; and*
- *Lack of performance measures.*

*Significant advancements in the field have been made in evidence-based practice and structured parole release decision making. The parole board members can promote public safety and successful offender reintegration by using evidence-based practice in their decision making. For instance, it is possible to predict the risk of recidivism of groups of offenders by using well-researched assessment tools that are capable of identifying a wide range of criminogenic needs. The use of comprehensive, reliable, and valid assessment instruments offer significant improvements and advantages over guessing about future risk and recidivism. But perhaps more importantly, it also provides information pertaining to offender needs.<sup>78</sup>*

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<sup>78</sup> Przybylski, R. (2008). *What works, effective recidivism reduction and risk-focused prevention programs*. Denver, CO: Division of Criminal Justice.

## **BP-58 PAROLE SUPERVISION POLICIES AND TRAININGS**

**To promote continuity of supervision, the Department of Corrections should develop consistent policies and trainings that promote uniformity in establishing and implementing discretionary conditions and privileges of parole supervision.**

### *DISCUSSION*

*Supervising officers can have a powerful influence on offenders' attitudes and behaviors throughout the course of supervision. For this reason, it is essential that officers positively encourage the successful completion of supervision. Understanding this influence and the importance of a positive relationship between the offender and the supervising officer is one of the key distinctions between the surveillance-oriented and the success-driven approaches to supervision.<sup>79</sup>*

*During the course of supervision, many parolees are assigned a number of different parole officers. Different supervision styles and philosophies sometimes result in changes in the conditions of supervision, simply by virtue of the assignment to a new officer. Bonta, Rugge, Scott, Bourgon, and Yessine (2008) examined interviews between 62 probation officers and offenders and found very little adherence to the basic principles of effective intervention on the part of the officer.<sup>80</sup> Specifically, the researchers found that the majority of meeting time was spent on the enforcement aspect of supervision and very little time was spent on service delivery. In fact, antisocial attitudes held by the offenders, as well as needed social supports, were fundamentally ignored and the probation officers displayed very few of the skills that, if modeled, may influence a positive behavioral change in their clients (e.g., pro-social modeling, differential reinforcement). However, the study found that increased time spent discussing a few of the offender's specific criminogenic needs was associated with significantly lower recidivism rates. This study speaks to the variation across supervising officers and how officer style can affect recidivism.*

*To ensure consistency and promote successful re-entry into the community, changes in supervision conditions (particularly in transportation, housing, and employment) should be reviewed and approved by a supervisor. Limiting the number of parole officers assigned to each offender may help promote both a better working relationship and continuity of supervision and may also help to reduce recidivism.*

## **BP-59 FLEXIBLE REPORTING OPTIONS FOR PAROLEES**

**The Commission supports the Department of Corrections' effort to develop more flexibility in reporting options for parolees.**

### *DISCUSSION*

*This recommendation refers to efforts by DOC to provide evening and weekend parole office hours, the elimination of single reporting days, and an emphasis on placing more officers in the field to replace office visits. The Commission also supports further exploration of the use of reporting kiosks for lower risk offenders.*

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<sup>79</sup> Center for Effective Public Policy. (2007). *Increasing public safety through successful offender reentry: Evidence-based and emerging practices in corrections*. Silver Spring, MD: Center for Effective Public Policy.

<sup>80</sup> Bonta, J., Rugge, T., Scott, T., Bourgon, G., & Yessine, A.K. (2008). Exploring the black box of community supervision. *Journal of Offender Rehabilitation, 47*, 248-270.

## **BP-60 DATE-CERTAIN RELEASE FOR COMMUNITY CORRECTIONS AND INTENSIVE SUPERVISION PAROLE**

**With limited exceptions, when someone has been transitioned out under inmate status, provide a date-certain release for offenders in community corrections while retaining the authority of the parole board to conduct a rescission hearing and extend or vacate the parole date in the event of noncompliance. Specifically, when an inmate is accepted in community corrections as a transition client, the parole board should set a parole date no later than 12 months from the date of placement in residential community corrections. Likewise, when an inmate has been placed in the Intensive Supervision Program-Inmate (ISP-I), the parole board should set a date for parole at 180 days from the placement on ISP-I.**

### *DISCUSSION*

*The lack of a “date-certain” parole date for inmates transitioning through community corrections impedes the ability of offenders, victims, and other stakeholders to prepare for release. Release planning would be improved by a step-down transition process where the offender’s structure status is gradually reduced (i.e., from prison, to community corrections, to intensive supervision parole and, finally, parole) based on a transparent, pre-determined time frame. Such a process can provide incentives to offenders who successfully complete the residential phase of community corrections.*

## **BP-61 DEFER SUBSISTENCE PAYMENTS FOR INDIGENT OFFENDERS IN COMMUNITY CORRECTIONS**

**For individuals entering community corrections facilities, provide the opportunity to defer the first two to four weeks of subsistence payments for those who are indigent.**

### *DISCUSSION*

*Many individuals leave prison without means, yet must make payments to a host of agencies upon release, including victim restitution, criminal justice agencies, and child support. One study of offenders released on parole in Colorado found that they owed an average of \$16,000 in child support.<sup>81</sup> Financial pressures and paycheck garnishment resulting from unpaid debt can increase participation in the underground economy and discourage legitimate employment.<sup>82</sup> The stress and even hopelessness that can result from these obligations can undermine efforts to remain sober and compliant with supervision conditions.*

*In Colorado in FY 2003, state budget cuts to community corrections programs were offset by a 25 percent increase in the offenders’ daily subsistence fee to providers. As illustrated in a recidivism study by DCJ’s Office of Research and Statistics, escape rates increased significantly.<sup>83</sup> In FY 2000, DCJ’s Office of Community Corrections collaborated with two community corrections programs that provide therapeutic community services to high risk drug offenders, to provide an enhanced per diem rate to address the needs of this population. The enhanced rate relieved offenders from paying subsistence fees and allowed them to focus on treatment during their first six months, avoiding trips into the community to seek work. Escape rates declined from 25.4 percent to 15.3 percent during this period.<sup>84</sup>*

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<sup>81</sup> Pearson, J. & Davis, L. (2001). *Serving parents who leave prison: Final report on the work and family center*. Denver, CO: Center for Policy Research.

<sup>82</sup> Holzer, H.J., Offner, P., & Sorensen, E. (2004). *Declining employment among young, black, less-educated men*. Urban Institute, Washington, D.C.

<sup>83</sup> Burrell, N.H. & English, K. (2006). *Community corrections in Colorado: A study of program outcomes and recidivism, FY00-FY04*. Denver, CO: Office of Research and Statistics, Division of Criminal Justice, Department of Public Safety.

<sup>84</sup> Ibid.

## **BP-62 INMATE PARENTING AND BONDING PROGRAMS**

**The Commission supports the Department of Corrections' effort to expand parenting and bonding programs.**

### *DISCUSSION*

*The incarceration of parents has been found to have significant adverse effects on children.<sup>85</sup> Latessa and his colleagues (2004, 2006) have found that family programs can reduce the cycle of criminal culture and that these programs can reduce recidivism.<sup>86</sup> Moreover, Dowden and Andrews (1999) found in a meta-analysis of 220 program evaluations that human service programs and programs that focused on family interactions decreased recidivism among women offenders.<sup>87</sup>*

*Stern (2004) reports that many states offer mothers a chance to keep their babies with them in prison for a predetermined amount of time.<sup>88</sup> Specifically, Illinois has one residential program in which 15 qualified inmates can keep their babies for up to 24 months. South Dakota allows incarcerated mothers to keep their baby for 30 days whereas Nebraska, Washington, Massachusetts and New York allow infants to stay with their mothers for 12-18 months. In addition, in the state of New York there are two prison nursery programs, both of which address concrete needs and parenting skills.*

## **COST SAVINGS**

### **CS-63 TECHNICAL VIOLATIONS PROGRAM WITHIN PROBATION**

**To reduce the number of offenders with probation violations resulting in a prison sentence, the Division of Probation Services should implement a technical violations program<sup>89</sup> that focuses on these offenders and encourages them to become compliant with probation supervision.**

### *DISCUSSION*

*The Division of Probation Services convened a working group to examine probation technical violations resulting in a prison sentence. According to this working group, in FY 2006 over 1,578 adult offenders were revoked from probation for technical violations and sentenced to the Department of Corrections; another 4,217 were sentenced to county jails. That same year, 760 probationers were sentenced to DOC for a new crime, and another 574 were sentenced to county jails. DCJ court data<sup>90</sup> further shows that the original crime for those returned to prison was*

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<sup>85</sup> Gabel, S. & Shindledecker, R. (1993). Characteristics of children whose parents have been incarcerated. *Hospital and Community Psychiatry*, 44, 656-660; Parke, R., & Clarke-Stewart, K.A. (2002, January). *Effects of parental incarceration on young children*. Paper presented at the National Policy Conference, Washington, D.C.

<sup>86</sup> Latessa, E.J. (2004). From theory into practice: What works in reducing recidivism. *State of crime and justice in Ohio*. Columbus, OH: Office of Criminal Justice Services; Latessa, E.J., & Lowenkamp, C.T. (2006). What works in reducing recidivism. *St. Thomas Law Journal*, 3, 521-535.

<sup>87</sup> Dowden, C., & Andrew, D.A. (1999). What works for female offenders: A meta-analytic review. *Crime and Delinquency*, 4, 438-452.

<sup>88</sup> Stern, A.H. (2004). *Information packet: Babies born to incarcerated mothers*. New York, NY: National Resource for Foster Care and Permanency Planning.

<sup>89</sup> For example, the Technical Violation Unit (TVU) in Connecticut targets people who are failing under standard probation supervision (Justice Strategies, 2006). These individuals are referred by their probation officer and unit chief for intensive, 30 to 60 days of supervision. Caseloads in the TVU are capped at 25, and TVU participants receive specific services under tightened supervision requirements. Once the person's progress is stabilized, he or she is transferred back to a standard probation caseload. The project was evaluated by a research team at Central Connecticut State University (Cox & Bantley, 2006). In the 12 months following program participation, technical violations were 14 percent compared to 26 percent for the comparison group.

<sup>90</sup> In 2007, a team of DCJ researchers collected criminal court data from 10 Judicial Districts (JD) throughout Colorado (i.e., districts 1, 2, 4, 8, 10, 17, 18, 19, 20, and 21). These 10 JD's were selected because they had the largest number of adult criminal case (CR) filings in calendar year (CY) 2005. A 10 percent sample of cases was then identified within these 10 JDs that were sentenced in CY 2006 and had a filing date that was no earlier than 2 years prior to the sentencing date (2004, 2005, and 2006). Finally, this sample was stratified by placement (DOC and Probation),



nonviolent for 56 percent, drug or alcohol related for 26 percent, violent for 17 percent and an escape crime for less than one percent. Furthermore, 68 percent had a violent criminal history whereas 18 percent had a drug crime history, two percent had an escape criminal history, and nine percent had a nonviolent criminal history.

The group recommended that consequences should be delivered closer in time to the violation, and the use of intermediate sanctions and incentives should be increased. These recommendations would be accomplished by improving communication between the probation officer and the court, training officers on the appropriate use of intermediate sanctions and incentives, as well as increasing the use of sanctions that do not require a court order. The Probation Services group also recommended an increase in intensive supervision capacity. Research in other states (e.g., California) has suggested the creation of a technical violation matrix.<sup>91</sup> Specifically, it was recommended that a decision-making matrix and graduated community-based sanctions be used when addressing individual violations. This system would allow for consistent and effective responses to technical violations.

Costs averted assuming 10 percent reduction in technical violations to prison:

- Year 2 savings 136 Beds \$ 2.7 M
- Year 3 savings 376 Beds \$ 7.6 M
- Year 4 savings 611 Beds \$12.3M<sup>92</sup>

#### **CS-64 CREDIT FOR TIME SERVED**

**Clarify the statute and mandate that parolees receive credit for the time spent in jail pending a technical parole revocation.**

##### *DISCUSSION*

Current statutes are unclear and time is credited inconsistently regarding credit for jail time served for parolees detained due to a pending parole revocation hearing. A person who is confined in jail pending a hearing for a violation of parole should be given credit for that period of confinement. This recommendation targets technical violators who have not been convicted of a new crime.

#### **CS-65 DOC (PAROLE) TECHNICAL VIOLATIONS UNIT**

**The Commission supports the Department of Corrections' effort to establish a technical violations unit with the goal of enhancing consistency, preserving public safety, and reducing parole revocations for technical violations.**

##### *DISCUSSION*

In FY 2007, 28.6 percent of those entering prison in Colorado were parole violators, accounting for over 3,000 offenders; another 9.6 percent returned to prison with a new criminal conviction.<sup>93</sup> Technical violation programs used in other states can provide a helpful example of how Colorado might reduce violations that result in incarceration without reducing public safety. For example, the Technical Violation Unit (TVU) in Connecticut targets

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technical violations (TV), as well as an oversampling of escape cases. Offense, arrest, filing, sentencing, demographic, and criminal history information was ultimately collected for 3254 district court criminal cases.

<sup>91</sup>Grattet, R., Petersilia, J., & Lin, J. (2008). *Parole violations and revocations in California*. Irvine, CA: Center for Evidence Based Corrections.

<sup>92</sup> Analysis conducted by the Division of Criminal Justice, Office of Research and Statistics using Department of Corrections' data and DCJ's population projection methodology. The method assumes that the revocation-to-prison rate decreases every year by 10 percent from the previous year. These costs are projected and subject to error.

<sup>93</sup> Harrison, L. (2008). *The status of the parole violator population in Colorado*. Denver, CO: Colorado Division of Criminal Justice, Office of Research and Statistics.

people who are failing standard probation supervision. These individuals are referred by their probation officer and unit chief for intensive 30 to 60 days of supervision by the special TVU. Caseloads in the TVU are restricted to 25, and TVU participants receive specific services under tightened supervision requirements. Once the person's progress is stabilized, he or she is transferred back to a standard probation caseload. The project was evaluated by a research team at Central Connecticut State University.<sup>94</sup> In the 12 months following program participation, Cox and Bantley (2006) found that technical violations were at 14 percent compared to 26 percent for those who had not participated in the special TVU.<sup>95</sup> A similar program would likely work for parolees.

Costs averted assuming parole technical violations (no new crime) reduced by 15 percent each year over the previous year.

- Year 2 savings      228 Beds      \$ 4.6 M
- Year 3 savings      431 Beds      \$ 8.7 M
- Year 4 savings      517 Beds      \$ 10.4 M<sup>96</sup>

### **CS-66 GRANT 30/60 DAYS BEHAVIOR-BASED EARNED TIME CREDIT FOR NEW INTAKES AND CURRENT POPULATION (EXCLUDING TECHNICAL VIOLATIONS) SERVING TIME FOR NON-PERSON CRIMES**

Since implementation of evidence-based practices requires the reallocation of existing state resources, and because research shows that incentives are a powerful and important method to modify behavior, business practices should be amended to accomplish the following:

- To allow for enhanced release planning and services, DOC case managers, time computation staff, and members of the parole board should schedule for release a certain category of offenders up to 60 (class 4 and 5) or 30 days (class 6) prior to MRD. This *earned release* time is available for individuals serving a sentence for a non-person offenses<sup>97</sup> conviction crime who meet the following criteria:
  - No Code of Penal Discipline (COPD) violations;
  - In compliance with recommended programming;
  - No prior convictions for a person offense.

Those individuals released in this manner will be classified by DOC as *earned releases* (not discretionary or mandatory releases). The parole board retains discretion over the final release decision.

**Note that additional earned time will move up the date that the individual becomes eligible for community corrections, and this may reduce the size of the prison population.**

<sup>94</sup> Cox, S.M. & Bantley, K. (2006). *Addendum to the final report of the Court Support Services Division's Probation Transition Program and Technical Violation Unit*. Central Connecticut State University, Department of Criminology and Criminal Justice.

<sup>95</sup> Ibid.

<sup>96</sup> Analysis by Division of Criminal Justice, Office of Research and Statistics using Department of Corrections' data and DCJ's population projection methodology. The scenario makes an ambitious assumption that the revocation-to-prison rate decreases every year by 15 percent from the previous year.

<sup>97</sup> Nonperson offenses are defined as those identified in the Victim Rights Act plus false imprisonment, violation of a custody order, enticement of a child, internet luring of a child, internet sexual exploitation of a child, wrongs to children (C.R.S 18-7-402 through 18-7-407), arson, first degree burglary, weapons/explosives/incendiary devices (C.R.S. 18-12-102 through 109).

**Any savings that results from the application of earned time from these changes in practice should be placed in a designated fund for recidivism reduction programming.**

#### DISCUSSION

*Positively reinforcing appropriate behavior is at the center of evidence-based programming. The primary reason to choose to implement evidence-based programming is to increase the likelihood of the reduction of crime and victimization. This recommendation is intended to provide additional incentives for in-prison program participation with the intention to reduce recidivism and prevent victimization.*

*Rigorous research has found that longer periods of incarceration (compared with shorter periods) were associated with higher recidivism rates.<sup>98</sup>This information, combined with the emphasis on using earned time as an incentive for positive behavioral change, emphasizes the Commission’s commitment to enhance public safety. But there is a need to expand both in-prison and community-based programs and services and to provide those services to individuals who have been objectively assessed to need them. Incarceration costs averted by the implementation of this recommendation should be placed in a specific fund to expand offender services and implement additional recidivism reduction initiatives.*

*60 Days good time for non-violent new intakes and current population class 4 and 5 felons, excluding technical violations:*

- Year 2 savings    498 Beds    \$ 10.1 M
- Year 3 savings    602 Beds    \$ 12.2 M
- Year 4 savings    622 Beds    \$ 12.6 M<sup>99</sup>

*30 Days good time for non-violent new intakes and current population class 6 felons, excluding technical violations:*

- Year 2 savings    250 Beds    \$ 5.1 M
- Year 3 savings    299 Beds    \$ 6.0 M
- Year 4 savings    305 Beds    \$ 6.2 M<sup>100</sup>

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<sup>98</sup> Lipsey, M.W., & Cullen, F.T. (2007). The effectiveness of correctional rehabilitation: A review of systematic reviews. *Annual Review of Law and Social Science*, 3, 297-320; Przybylski, R. (2008), *What works: Effective recidivism reduction and risk-focused prevention programs*. Denver, CO: Colorado Department of Public Safety, Division of Criminal Justice, Office of Research and Statistics.

<sup>99</sup> Analysis conducted by the Division of Criminal Justice, Office of Research and Statistics assumes that the revocation-to-prison rate decreases every year by 10% from the previous year.

<sup>100</sup> Analysis conducted by the Division of Criminal Justice, Office of Research and Statistics assumes that the revocation-to-prison rate decreases every year by 10% from the previous year.