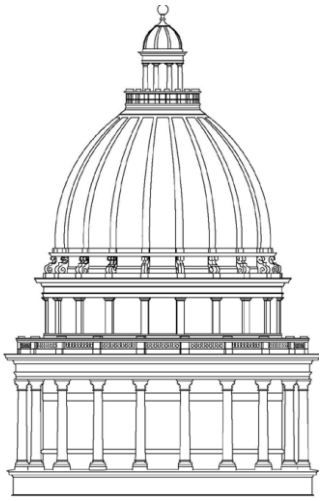
REPORT TO THE

UTAH LEGISLATURE

Number 2020-08



A Performance Audit of the Justice Reinvestment Initiative

October 2020

Office of the
LEGISLATIVE AUDITOR GENERAL
State of Utah

STATE OF UTAH

Office of the Legislative Auditor General

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KADE R. MINCHEY, CIA, CFE
AUDITOR GENERAL

October 13, 2020

TO: THE UTAH STATE LEGISLATURE

Transmitted herewith is our report, **A Performance Audit of the Justice Reinvestment Initiative** (Report #2020-08). An audit summary is found at the front of the report. The objectives and scope of the audit are explained in the Introduction.

We will be happy to meet with appropriate legislative committees, individual legislators, and other state officials to discuss any item contained in the report in order to facilitate the implementation of the recommendations.

Sincerely,

Kade Minchey

Kade R. Minchey, CIA, CFE
Auditor General

UTAH STATE LEGISLATURE

AUDIT SUMMARY

REPORT #2020-08 | OCTOBER 2020

Office of the Legislative Auditor General | Kade R. Minchey, Auditor General

PERFORMANCE AUDIT

The Justice Reinvestment Initiative

AUDIT REQUEST

The Legislative Audit Subcommittee requested that we evaluate the effects of Utah's Justice Reinvestment Initiative (JRI) on the distribution of prison and jail inmates statewide. To this end, we were asked to gather and report five years of county inmate statistics. We were also asked to evalute the extent to which each of the features of JRI had been implemented.

BACKGROUND

The goal of JRI was to slow the growing cost of the state's prison system by moving low-level, non-violent offenders out of prison and into community supervision. A portion of the savings from lower prison costs were to be reinvested in drug treatment and mental health services. JRI included the following policy recommendations:

- focus prison beds on serious and violent offenders,
- ensure oversight and accountability,
- support local corrections systems,
- improve and expand reentry and treatment services, and
- strengthen probation and parole supervision.

KEY FINDINGS

The Justice Reinvestment Initiative Has Not Been Fully Implemented

JRI Policy Recommendations	Status
Focus Prison Beds on Serious and Violent Offenders	Completed
Ensure Oversight and Accountability	Not Implemented
Support Local Corrections Systems	Not Implemented
Improve and Expand Reentry/Treatment Services	Partly Implemented
Strengthen Probation and Parole Supervision	Partly Implemented

RECOMMENDATIONS

To Improve Accountability the Legislature should:

- Consider creating a criminal justice information governing body to guide the creation of an integrated criminal justice information system.
- Require the Division of Substance Abuse and Mental Health (DSAMH) and CCJJ to collect the data needed to track recidivism rates.

To Support Local Corrections Systems the Legislature should:

- Consider creating local criminal justice coordinating councils.

To Improve the Quality of Offender Treatment Services and Community Supervision:

- DSAMH should help treatment providers improve their quality of treatment and performance outcomes.
- AP&P can enhance the use of evidence-based practices.

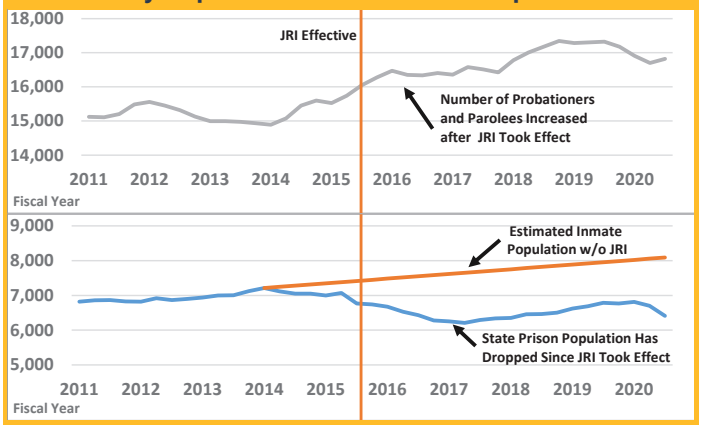
Summary continues on back >>

REPORT SUMMARY

Chapter II
Utah Has Achieved Its Goal to Reduce the Prison Population

One goal of JRI was to reduce the prison population by focusing prison beds on serious and violent offenders. The figure below shows this goal has been achieved.

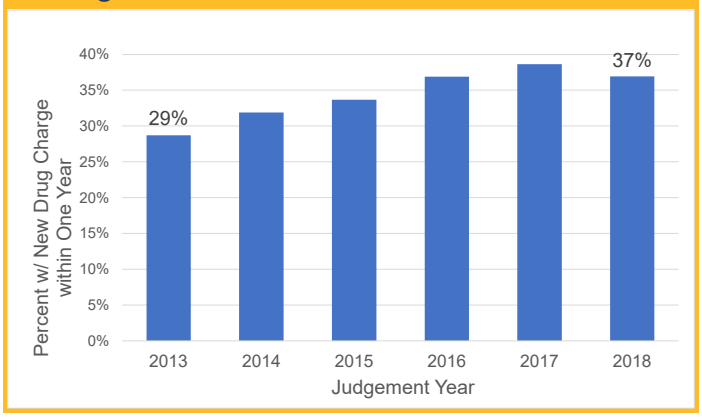
Prison Numbers are Down, While Community Supervision Numbers are Up



Utah Has Not Achieved Its Goal to Reduce Recidivism

A major group targeted by Utah's JRI reforms was low-level, non-violent drug offenders. Since JRI took effect, recidivism rates for this group has increased.

Recidivism Rates have Increased Among Low-Level Offenders



Chapter III
The Criminal Justice System Lacks the Accountability Called for by JRI

JRI was expected to produce a data-driven, results-oriented criminal justice system and this has not been achieved. Utah still lacks the performance data for individual offender treatment programs required by the JRI legislation.

Chapter IV
Stronger Local Oversight is Needed

Each region of Utah faces a unique set of challenges as they try to address crime in their communities. What works for one county in addressing criminal justice issues, may not be effective for another county. By creating local Criminal Justice Coordinating Councils, Utah can provide the help local officials need to address local criminal justice needs.

Chapter V
Offender Treatment Availability and Quality Fall Short of JRI Goal

Offender treatment services are not always available when needed. However, demand for treatment services is difficult to identify because all offenders needing treatment are not tracked. In addition, the effectiveness of current treatment is not monitored.

Chapter VI
JRI Success Could Improve with Better Offender Supervision

With greater numbers of offenders in community supervision, the increased workload for AP&P agents could be impacting the success of JRI's goal to reduce recidivism. Additionally, a lack of pretrial and probation services also hinders successful implementation of JRI reforms.

REPORT TO THE

UTAH LEGISLATURE

Report No. 2020-08

A Performance Audit of the Justice Reinvestment Initiative

October 2020

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Chapter I
Introduction

In 2014, the State of Utah launched a major criminal justice reform effort called the Justice Reinvestment Initiative (JRI). The initiative aimed to slow the growing cost of the state correctional system by moving low-level, non-violent offenders out of prison and into community supervision. A portion of the reduced prison costs was to be reinvested in programs and treatments proven to help offenders avoid new crimes. In 2019, the Office of the Legislative Auditor General was asked to evaluate the impact of JRI on Utah's county jails specifically, and on the criminal justice system in general. This report summarizes the results of that review.

The Legislature requested an evaluation of the Justice Reinvestment Initiative and its impact on Utah's criminal justice system, specifically, on the number of offenders in the state prison and county jails.

Another goal of this audit was to provide a comprehensive set of data elements to enable a reader to query, search, and manipulate the data to further explore, question, and illuminate critical and necessary criminal justice questions. This audit was only able to partially achieve that objective. As will be described in Chapter III, Utah has a serious and concerning gap in criminal justice data and coordination that prevented the full achievement of our audit objectives. This audit and a companion report, *A Performance Audit of Information Sharing within Utah's Criminal Justice System*, identify steps to establish Utah as a leader in criminal justice and transfer Utah's system into the data-driven, results-oriented system initially conceived in JRI.

To provide the reader with as much data as possible to support the conclusions and findings of the report to the best extent possible, we built a criminal justice information dashboard that can be viewed here.

For our criminal justice dashboard click here.

The data on that dashboard and in this report was gathered from multiple agencies, including the Administrative Office of the Courts, the Commission on Criminal and Juvenile Justice, the Department of Corrections and county sheriff offices. To provide the most accurate results possible and to present data within an acceptable level of audit risk, the audit team compared data provided by one agency to that provided by another for the same offender. When data problems were uncovered, adjustments and corrections to the data were made when possible. Agency data deemed unreliable was not used. However, because in some instances the data we obtained had not before been connected and holistically analyzed, we understand and expect that

further analysis will produce additional insights and questions that the audit team did not have time to consider. The objective of this report is to provide information that can be used as a starting point for a broad discussion of the success of the criminal justice system in achieving the goals of JRI. To that end we hope the data provided in this report will be considered a starting point for further and more in-depth analysis.

JRI's Goal Was to Reduce Recidivism While Controlling Prison Costs

Reducing costs of the state prison and recidivism rates were goals that motivated reform of the criminal justice system through the Justice Reinvestment Initiative.

In 2014, when the state's correctional system was experiencing large year-to-year cost increases, Utah's Governor focused executive branch resources toward finding a new approach to criminal justice. After months of research and study, Utah's Commission on Criminal and Juvenile Justice (CCJJ) presented its *Justice Reinvestment Report* in November 2014.[1] The main goals presented in the report included reducing prison costs and focusing on actions that would reduce recidivism. During the ensuing 2015 Legislative General Session, the Legislature adopted House Bill (H.B.) 348 that put most of the proposed reforms into effect.

Growing Prison Costs and High Recidivism Rates Led to Call for Reform

JRI was introduced at a time when policy makers were concerned by the growing cost of the state prison system. Lawmakers had been told that during the 10 years leading up to 2014, when JRI was introduced, the state's prison population had grown by 18 percent or six times the national average. If that trend continued, the state would need to house an additional 2,700 inmates by the year 2034 with an added cost of $542 million. It should be noted that Chapter II of this report shows that the prison population has decreased since 2014.

Policymakers were also concerned that Utah taxpayers were receiving little benefit from their investment in the state's correctional system. CCJJ reported that 46 percent of state inmates returned to

[1] CCJJ Justice Reinvestment Report: November 2014 The report says that reducing recidivism is a goal but targeting low-level drug offenders is a major objective of the report.

prison within three years of release and concluded that some offenders were caught in a "revolving door" in and out of the system.

These conditions led Governor Herbert to recommend that Utah take a new approach to criminal justice, one that focused less on incarceration and more on addressing offenders' underlying criminal behavior. During his 2014 State of the State Address, Governor Herbert said:

> There has been a great deal of discussion about relocating the state prison. This is a discussion worth having, but it must be done in the larger context of reforming our criminal justice system as a whole.
>
> I have asked for a full review of our current system to develop a plan to reduce recidivism, maximize offenders' success in becoming law-abiding citizens, and provide judges with the tools they need to accomplish these goals. The prison gates through which people re-enter society must be a permanent exit, and not just a revolving door.

Policy makers were concerned that Utah taxpayers were not receiving adequate benefit for their investment in the state's correctional system. Governor Herbert called for a new approach to criminal justice in Utah.

In response to the Governor's call for reform, CCJJ was asked to "develop a package of data-driven policy recommendations that will reduce recidivism and safely control the growth in the state prison population."

Chapter II provides evidence that recidivism has increased since JRI took effect, suggesting the revolving door to the criminal justice system has become worse since the 2015 passage of JRI legislation. Chapter III raises concern that the promised data-driven criminal justice system was never achieved. Utah policy makers still do not know what programs and services are the most effective at reducing recidivism.

CCJJ produced its Justice Reinvestment Report in 2014, which recommended five policy themes to be enacted to reform Utah's criminal justice system.

CCJJ Issued Utah's Reform Plan in November 2014

Shortly before the 2015 Legislative General Session, CCJJ introduced a package of policy reforms aimed at reducing recidivism, controlling prison costs, and holding offenders accountable. The proposed reforms were the result of a collaborative effort involving all stakeholders in Utah's criminal justice system. The plan included the following policy recommendations:

- Focus prison beds on serious and violent offenders
- Strengthen probation and parole supervision
- Improve and expand reentry and treatment services
- Support local corrections systems
- Ensure oversight and accountability

Chapter II described the current progress made towards completing steps with greater detail provided in Appendix A.

The Legislature passed House Bill 348 in its 2015 General Session, which is known as Utah's Justice Reinvestment Initiative.

JRI Legislation Passed in 2015 Legislative Session

During its 2015 Legislative General Session, the Legislature approved House Bill (H.B.) 348, "Criminal Justice Programs and Amendments." This bill was also known as Utah's Justice Reinvestment Initiative (JRI). CCJJ's analysis of the legislation included the assumption that the proposed Medicaid expansion would be used, in part, to fund the treatment of offender populations targeted by JRI.

JRI in Utah Began with House Bill 348. A main purpose of the bill was to remove low-level, non-violent offenders from the state prison and local jails. Statutory changes to penalties associated with drug-related violations and numerous traffic violations were a major focus. For example, the bill changed the penalty for certain drug-related offenses from a felony to a misdemeanor and eliminated a prison sentence for other offenses. Many traffic violations were reduced in severity to class C misdemeanors or infractions. Adult sentencing and release guidelines were also changed.

After House Bill 348 in 2015, additional legislation has been passed in subsequent legislative general sessions that have impacted JRI reforms of Utah's criminal justice system.

Other key areas of the criminal justice system that received attention in H.B. 348 were community supervision, treatment, county incentive grants, oversight and accountability, and jail reimbursement.

Other Legislation Addressed Issues Related to JRI. During the special session in 2015 and in later years, the Legislature approved additional bills affecting elements of JRI goals, including:

- House Concurrent Resolution (H.C.R.) 101, "Concurrent Resolution Approving Site for New State Correctional Facilities," 2015 First Special Session.

- Senate Bill (S.B.) 1003, "Criminal Law Amendments," 2015 First Special Session.

- S.B. 187, "Reclassification of Misdemeanors," 2016 Legislative General Session
- H.B. 3004, "Criminal Justice Reinvestment Amendments," 2016 Third Special Session.
- H.B. 157, "Justice Reinvestment Amendments," 2018 Legislative General Session
- H.B. 291, "Sentencing Commission Length of Supervision," 2018 Legislative General Session
- H.B. 238, "Crime Enhancement Amendments," 2020 Legislative General Session

CCJJ Recommended Medicaid Expansion in 2015; Incremental Changes to Medicaid Came a Few Years Later. Among other recommendations made in CCJJ's *Justice Reinvestment Report* was the adoption of the Governor's Healthy Utah Plan, which was the full expansion of Medicaid in Utah. Medicaid funds were relied upon in CCJJ's JRI analysis to provide treatment and services to the JRI population. While Medicaid expansion was a topic of debate during the 2015 Legislative General Session, no changes were made to it at that time. However, legislation passed in subsequent legislative sessions made changes to Medicaid that have impacted the federal dollars available to eligible offenders for treatment services. The following bills and initiatives made changes to the Medicaid program starting with the 2016 Legislative General Session.

Medicaid expansion was not passed in the 2015 General Session, but the Legislature has expanded Medicaid in subsequent legislative general sessions.

- H.B. 437, "Health Care Revisions," 2016 Legislative General Session
- H.B. 472, "Medicaid Expansion Revisions," 2018 Legislative General Session
- Utah Proposition 3, "Medicaid Expansion Initiative," 2018
- S.B. 96, "Medicaid Expansion Adjustments," 2019 Legislative General Session
- H.B. 460, "Medicaid Eligibility Amendments," 2019 Legislative General Session

Data Issues and Lack of Implementation Have Challenged JRI

Evaluating the impact of JRI on Utah's county jail populations was another audit objective. As will be discussed in Chapter III, we found that even though the county sheriffs were supportive and willing to provide information, obtaining the inmate data we needed proved difficult. The audit team found that inmate records at most county jails were not in an easily accessed format. Further, inconsistent reporting practices made it difficult for us to first compile the data and to then interpret it.

Inadequate data complicated any analysis of JRI's impact on prison and jail populations.

We also examined the progress made in implementing each of five broad reforms associated with JRI. As will be detailed in Chapter II, the only feature of JRI that has been implemented was to reduce the state prison population by prioritizing the use of prison beds for serious and violent offenders. While JRI has succeeded in reducing pressure on the state's prison system, the other goals associated with the legislation relate to managing low-level, non-violent offenders in a community setting. Because these aspects of JRI were not implemented, the burden has been shifted from the prison system to other areas of the criminal justice system.

Lack of Data Made it Difficult to Assess Impact of JRI on County Jails

While JRI has helped reduce Utah's prison population, county sheriffs have expressed concern that the reforms have also led to an increase in their county jail populations. The increase, they said, was caused by changes to the sentencing guidelines which reduced the penalties for many non-violent offenses. For example, before JRI, drug possession was a felony charge which often led to a prison sentence. According to some sheriffs, reducing the penalty to a misdemeanor charge led to more jail sentences for those offenders who previously would have been sent to prison. In effect, they said, JRI led to a shift of state inmates to county jails.

To verify the sheriffs' concerns, legislators had previously asked the county jails to provide them with data on inmate populations and the type of criminal offenses for each inmate being held. However, when the county jails were unable to provide that information, legislators asked the Legislative Auditor General to gather the data as part of an audit of JRI. In response, the audit team placed special emphasis on

the effect of JRI on drug possession cases generally, and their impact on the county jails specifically.

Concerns Exist Over the Lack of Funding for Treatment Programs

One Legislator expressed concern for the apparent lack of funding for treatment programs and observed that JRI had produced a large reduction in the cost of the state's prison system, but his committee had not seen much, if any, increased funding for offender treatment programs. He asked that the audit team determine whether the savings from JRI had actually been reinvested.

Concern over lack of funding for treatment programs also motivated this audit. Treatment and supervision recommendations are found in Chapters five and six of this report.

JRI Lacks Sufficient Data and Implementation

During the initial survey phase of the audit, the audit team found evidence suggesting that many features of JRI had not been fully implemented. Although the prison population was down, the Division of Adult Probation and Parole appeared to struggle with increased workload. Although additional funding had been provided for treatment programs, we found evidence that the funding was insufficient for the need. Finally, the county sheriffs we interviewed reported that the "revolving door" problem with chronic offenders being repeatedly arrested had become worse, not better, since JRI took effect. We prepared an audit plan to address these concerns and this report describes the evidence confirming these problems.

Audit Scope and Objectives

To address the above concerns, the Auditor General directed his staff to evaluate the implementation of JRI, the extent to which each of the features of JRI had been implemented, and its success in limiting the growth in prison costs and reducing recidivism. Auditors were also specifically asked to examine the impact of the law on county jail populations.

Chapter II provides a broad overview of the implementation of JRI and its effect on the state prison population and on recidivism. The chapter also describes the impact on county jail populations. Each remaining chapter describes the results of our review of the implementation of four major features of JRI with these specific scope areas:

Chapter III: Improved Accountability Within the Criminal Justice System

Chapter IV: Support and Oversight of Local Corrections Systems

Chapter V: Increased Availability of Treatment for Offenders

Chapter VI: Improved Offender Supervision by Adult Probation and Parole

Chapter II
Utah Has Not Fully Implemented JRI

Utah has not achieved all the goals of the Justice Reinvestment Initiative (JRI) because the initiative was not fully implemented. Although Utah made changes to its sentencing guidelines, which led to a drop in the state's prison population, features of JRI designed to provide strong alternatives to incarceration were not implemented.

We are optimistic that Utah can still accomplish its ambitious goal of creating a criminal justice system that focuses less on incarceration and more on helping offenders overcome their addictions and mental health problems so they can become law-abiding citizens. JRI was also expected to create a data-driven criminal justice system that is fully accountable for results. However, accomplishing these objectives will require implementing all the features of JRI.

JRI was not only designed to reduce the growth in Utah's prison population but also aimed to help offenders overcome their drug addiction and mental health issues.

This chapter describes the effects of not fully implementing JRI, which includes a growing rate of re-offense among low-level drug offenders. Each of the chapters which follow describes a feature of JRI that was not fully implemented. They include:

- Improved accountability (Chapter III)
- Support Local Corrections Systems (Chapter IV)
- Expanded and improved treatment services (Chapter V)
- Strengthened probation and parole (Chapter VI).

Utah Has Implemented Only One of Five Policy Recommendations Associated with JRI

When JRI was proposed in 2014, one of the Legislature's primary goals was to control the growth in the state's prison population. JRI accomplished this goal by making several changes to the sentencing guidelines and to the prison rules that led to more offenders receiving community supervision rather than prison time. However, as shown in Figure 2.1, less progress has been made towards implementing four other features of JRI that were not fully implemented.

Figure 2.1 Utah Has Not Implemented All Features of JRI.

JRI Policy Recommendations	Status
• Focus Prison Beds on Serious and Violent Offenders	Completed
• Ensure Oversight and Accountability	Not Implemented
• Support Local Corrections System	Not Implemented
• Improve and Expand Reentry/Treatment Services	Partly Implemented
• Strengthen Probation and Parole Supervision	Partly Implemented

Source: Policy Recommendations are listed Justice Reinvestment Report, (2014) CCJJ.

To provide an effective alternative to incarceration, the state intended to strengthen its probation and treatment programs so offenders might be supervised in their own communities.

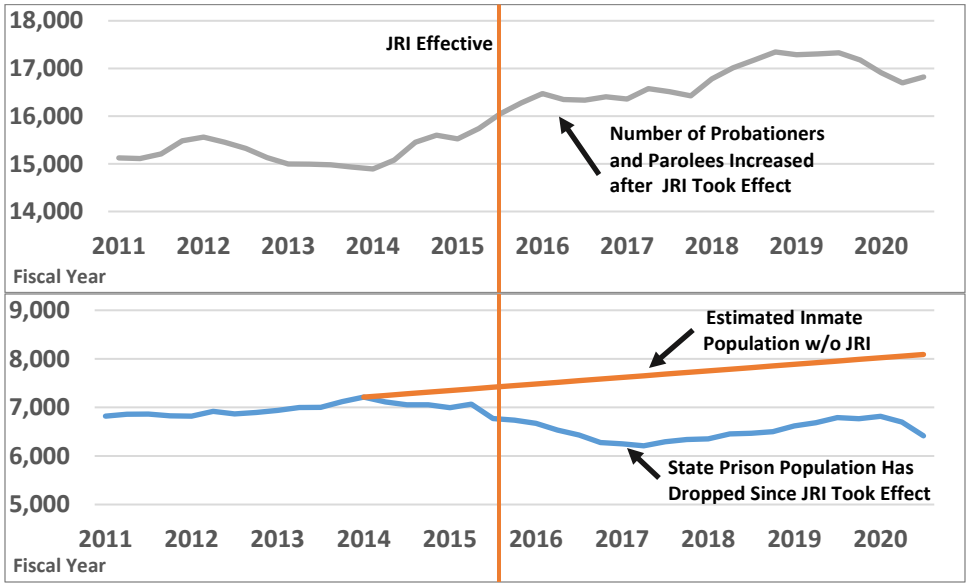
Commission on Criminal and Juvenile Justice (CCJJ) introduced the Justice Reinvestment Initiative as a reform package consisting of five major policy recommendations. Figure 2.1 shows only the first of the five was implemented.

The balance of this chapter describes the effects of reducing the state inmate population without fully implementing the other components of the reform initiative

JRI Has Succeeded in Reducing the State's Prison Population

Data supplied by the Utah Department of Corrections and CCJJ shows that Utah has reduced the number of offenders being sent to state prison and has increased the number supervised by the Division of Adult Probation and Parole (AP&P). See Figure 2.2.

Figure 2.2 A Drop in Utah's Inmate Population Has Shifted the Burden Away from the Prison System to AP&P. The data show the impact of Utah's new sentencing guidelines that were adopted as directed by the JRI legislation.



Source: Utah Department of Corrections, Commission on Criminal and Juvenile Justice

The reduced penalties for low level drug crimes is one reason the state prison population has declined in recent years.

Figure 2.2 shows that the decline in the state's prison population began in 2014, just as the concept of JRI was first proposed. The decline in the number of inmates continued through 2017. There appear to be many contributing factors behind the decline. One reason was the reduction in penalties for several categories of drug offense. For example, before the sentencing guidelines were changed, the recommended penalty for the possession of a controlled substance was a third-degree felony. After JRI took effect, that penalty was reduced to a class A misdemeanor for the first and second offenses. Unlike felony offenses, misdemeanor offenses rarely lead to a prison sentence.

JRI also reduced the prison population by allowing some high-risk offenders, under certain conditions, to receive an early release and be placed under community supervision. For example, a prison inmate who demonstrates good behavior can receive an early release for earned time credit. In addition, JRI also placed limits on the amount of time inmates could be returned to jail after violating the terms of their probation or parole. These and other changes brought about by JRI reflect Utah's new emphasis on providing treatment and community supervision to most offenders while reserving prison beds for the most serious and violent offenders.

To Achieve All the Goals of JRI, Utah Must Implement all the Proposed Reforms

JRI's three goals: (1) reduce recidivism, (2) control prison costs, and (3) increase offender accountability.

CCJJ presented JRI as a package of reforms that included three goals: (1) reduced recidivism, (2) control prison costs, and (3) increased offender accountability. By changing the sentencing guidelines and thereby reducing the number of offenders sent to state prison, the state has made progress towards achieving the second goal of controlling prison costs. However, it has not achieved its first goal to reduce recidivism. In fact, recidivism has increased since JRI took effect.

The rate of recidivism is a basic measure of performance for the criminal justice system. This chapter provides information on recidivism rates before and after JRI. We have also created a separate online data dashboard which provides more detail on recidivism rates by location. We believe a similar data dashboard should be created and regularly updated so legislators and the public can monitor the state's progress as it implements all the features of JRI and thereby reduce the rate of recidivism.

Utah Has Not Achieved Its Goal to Reduce Recidivism

The rise in recidivism rates may be due to the growing number of drug offenders under community supervision who have a greater opportunity to reoffend.

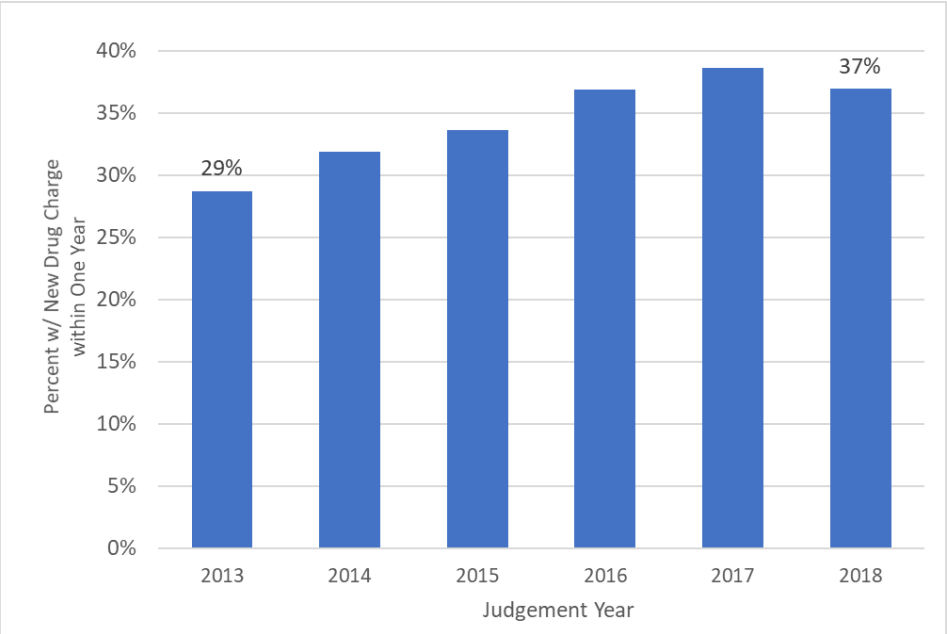
Although JRI was supposed to reduce the rate at which people commit new crimes, recidivism has increased since the law took effect. The high re-offense rate among chronic drug offenders is a special concern raised by some of Utah's county sheriffs. The sheriffs contend the reduced penalties for drug use has created a disincentive for offenders to stop using drugs and seek treatment. We believe the growth in recidivism may reflect the greater number of drug offenders who are no longer being incarcerated, who are not receiving adequate community-based supervision and treatment, and who now have a greater opportunity to reoffend. In our view, if Utah is to achieve its goal to reduce recidivism, the state will need to fully implement JRI. That means providing effective community supervision and treatment, which are discussed further in Chapters V and VI of this report.

Rate of Re-offense Increased After JRI Took Effect

One measure of success for the criminal justice system is the extent to which offenders commit new crimes. In fact, several sections of House Bill (H.B.) 348 refer to the goal to reduce recidivism. However, instead of reducing recidivism, the rate of re-offense has increased among the non-violent drug offenders targeted by the legislation. Figure 2.3 shows the statewide rate of re-offense for those convicted on drug possession and drug paraphernalia charges since 2013.

Recidivism is a basic measure of the effectiveness of the criminal justice system.

Figure 2.3 Recidivism Has Increased Since JRI Took Effect. The rate at which offenders convicted of drug possession or drug paraphernalia commit a new drug crime within one year has increased from 29 percent in 2013 to 37 percent in 2018.



Source: Recidivism Study by the Legislative Auditor General.

We focused our recidivism study on low-level drug offenders because that was one of the major offender groups targeted by JRI. Figure 2.3 shows that in 2013 (two years before JRI took effect), 29 percent of those convicted of drug possession were charged with another drug charge within a year. The rate of re-offense has risen steadily since that time. By 2018, 37 percent of offenders had been charged for a new drug crime within a year. Figure 2.3 shows the statewide data. Recidivism rates by court district and county can be found in Appendix B and at our online dashboard.

For more information see our criminal justice dashboard here.

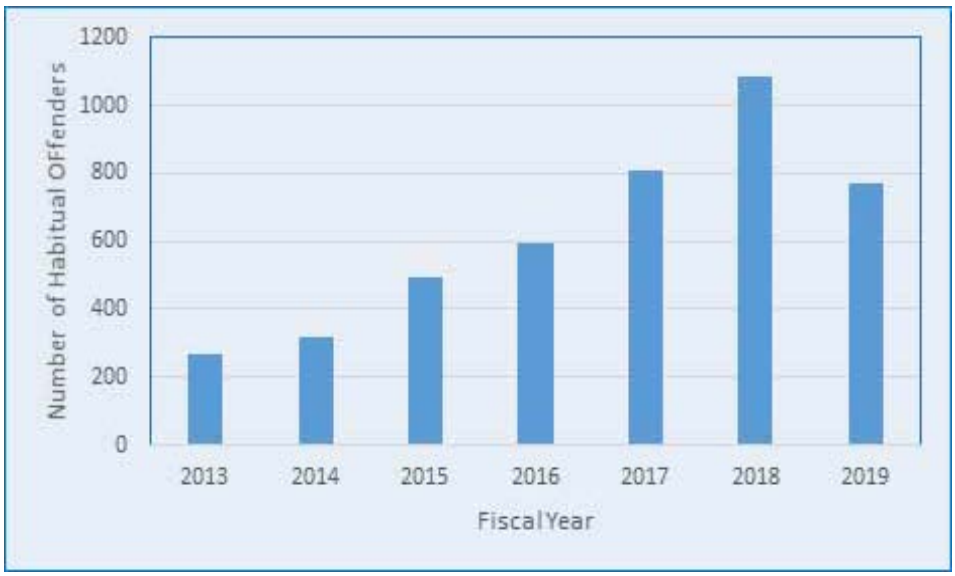
Number of Chronic Offenders Grew After JRI Was Implemented

The growth in chronic drug offenders suggests many are still caught in a "revolving door" in and out of the criminal justice system.

Another sign that JRI has not addressed the problem of recidivism is the growing number of chronic offenders in Utah. We recognize there are different ways to define chronic offenders. As explained in Chapter I, one of our objectives in providing the data and analysis in this report is to begin a conversation about how to solve criminal justice issues. To that end, in the analysis below we define chronic offenders as those who have been arrested four or more times for drug possession in a single year. This group, which numbered 3,720 individuals during our seven-year study period, deserves special attention. Because of their frequent arrests, court hearings, and jail sentences, these individuals place an oversized burden on Utah's criminal justice system. In fact, we found that chronic offenders were responsible for roughly 21,000 court case filings during our study period. This population commits many crimes that affect the community as well. For example, those 21,000 drug-related case filings also included 798 person crimes and 7,456 property crimes. Figure 2.4 shows the number of chronic offenders increased after JRI was implemented.

We found chronic drug offenders impose a disproportionate burden on the criminal justice system and on the community.

Figure 2.4 The Number of Chronic Drug Offenders Has Nearly Tripled. Since JRI was implemented, the number of chronic offenders (those with four or more drug possession arrests in year) has increased 286 percent from 270 in 2013 to 770 in 2019.



Source: LAG analysis of court records obtained from the Administrative Office of the Courts.

Figure 2.4 shows a growing number of chronic offenders peaked in 2018 but then declined in 2019. The drop in chronic cases in 2019 mirrors the overall drop in drug possession cases filed in court that year. See Appendix C for the breakdown by county of drug possession cases that involve chronic drug offenders.

Small Population of Chronic Offenders is having a Disproportionately Large Impact on County Jails. We found that chronic offenders not only place an added burden on Utah's courts but they also impact the county jails. The following information was gleaned from a study of the Salt Lake County jail population that was separate from the recidivism study described above which was based on data obtained from the courts. It shows that a relatively small population of frequent offenders are responsible for a disproportionate number of jail stays.

The data suggests Utah's criminal justice system has not yet developed an effective response for offenders who suffer from serious drug addiction.

- About 21 percent of inmates with drug-related charges have 4 or more jail commitments from 2013 through 2019
- The 21 percent account for 56 percent of all jail commitments for drug-related offenders
- Of the 21 percent, 83 inmates had between 20 and 35 jail commitments or 1,928 commitments in 7 years.

This data provides additional evidence that the criminal justice system works well for the majority of drug offenders who are arrested once or twice and never reoffend. However, it suggests the criminal justice system and the reforms enacted by JRI have not been effective in dealing with those offenders who suffer from serious drug addiction. It is this relatively small population of offenders who have the greatest impact on the courts, the jails, and our communities.

The criminal justice system works well for the majority of drug offenders who are arrested once or twice and never reoffend.

Case Studies Lend Support to Claims that JRI Has Not Stopped the Revolving Door for Some Offenders

Our review of actual offender cases lends additional support to our concern that a small number of offenders are having a large impact on Utah's criminal justice system. They appear to be caught in a cyclical pattern, moving in and out of the criminal justice system while suffering few consequences for the minor crimes they commit and their continued use of illegal drugs. This information, combined with the recidivism data in the previous sections, describes the effect of not

implementing those features of JRI designed to help offenders overcome their drug addiction while under community supervision.

In our opinion, the rise in recidivism rates and the growing number of chronic offenders does not suggest that JRI has been a failure. Prison and jail is still viewed as a poor option for non-violent drug offenders. However, the data does suggest that Utah's partial implementation of its JRI reforms has not produced the intended results, including a reduction in the rate of re-offense. In fact, several county sheriffs expressed concern that reducing the penalties for drug-related crime has actually created a disincentive for offenders to seek treatment for their addiction. Our review of recidivism rates and case histories of chronic offenders lends support to those claims.

Partial implementation of JRI has contributed to an increased rate of re-offense.

One Chronic Offender Had Criminal Charges Filed on 80 Occasions. To better understand offenders' interaction with the criminal justice system, we reviewed criminal records for about a dozen chronic offenders. With the number of repeated crimes committed in multiple jurisdictions, we concluded that Utah's criminal justice system has not developed an effective response to low-level offenders addicted to drugs.

During a seven-year period, one individual had charges filed against him on 80 separate occasions and served 33 different jail sentences.

Among the cases we examined, one 31-year old male had been arrested with charges filed against him on 80 separate occasions during a seven-year period. He was booked in the Salt Lake County Jail on 33 separate occasions for a total of 816 days. See Appendix D for a complete list of the offender's charges and commitments to jail. Figure 2.5 summarizes the 80 court filings by court location.

Figure 2.5 One Offender Had 80 Charges Filed Against Him in 13 Different Courts in 7 Years. This case exemplifies the type of chronic offender targeted by JRI. For whatever reason, the reforms made to the criminal justice system have not succeeded in curbing the offender's frequent criminal behavior.

Court Location**	2013	2014	2015	2016	2017	2018	2019	Grand Total
Draper JC			1					1
Midvale JC				2	3			5
Murray JC			5	4	1			10
SLC DC		1	2	3	1	4		11
SLC JC			2					2
SL Co JC	1		2		2			5
So Jordan JC				1				1
So Salt Lk JC				1	1	3	1	6
Taylorsville JC	2	2	1	6	1	1		13
Tooele DC	1							1
W Jordan DC		1	3	4	3	1		12
W Jordan JC			1	5	2		1	9
W Valley Cy JC						3	1	4
Grand Total	**4**	**4**	**17**	**26**	**14**	**12**	**3**	**80**

**Source: Courts*
***JC = Justice Court; DC = District Court*

According to Figure 2.5, 13 different courts administered cases for this offender. Court data shows that 45 percent of the offender's arrests included drug-related charges. Other charges included interference with arresting officer, shoplifting, criminal trespass, disorderly conduct, and burglary.

The person described in Figure 2.5 is the precise type of offender that JRI was intended to help. Clearly, no one benefits from having this person locked up in state prison. That is the very reason why the sentencing guidelines were changed to allow low-level offenders to be placed on probation and receive treatment for those behaviors contributing to their criminal behavior. As this example shows, and as described further in Chapters V and VI, Utah has not yet developed the capability of providing the level of supervision and treatment necessary to curb frequent, low-level criminal behavior. The intent of JRI was for probation officers to apply a swift, certain, and proportional response to offenders who violate the terms of their probation and for judges to revoke probation and send them to jail for limited stays if they continue to offend.

Probation officers are supposed to apply a swift, certain, and proportional response to those who violate the terms of their probation. Judges should revoke probation if they continue to reoffend.

County sheriffs told us that JRI has taken the "teeth" out of the law. Offenders are no longer motivated to seek treatment for their drug addiction.

Law Enforcement Officials Report that JRI Discourages Offenders from Seeking Treatment. Some of the county sheriffs and county prosecutors we interviewed said that JRI has created a disincentive for drug offenders to seek treatment. Several county sheriffs explained that before JRI, many charged with illegal drug possession would accept the opportunity to participate in drug court as an alternative to going to prison. Now that drug possession has been reduced to a misdemeanor offense, several county sheriffs told us that many offenders would rather spend less time in jail and get out sooner than spending the time participating in drug court. In effect, the sheriffs told us that JRI has taken the "teeth" out of the law and offenders are no longer motivated to seek treatment for their drug addiction.

County prosecutors also report that JRI has changed defendants' motivation to seek drug treatment. They explained that when they negotiate a plea bargain on a drug possession case, the drug court is no longer viewed as an attractive alternative because defendants are no longer at risk of receiving a lengthy prison term.

Reducing Recidivism Will Require Full JRI Implementation And Combined Efforts of Multiple Support Groups

Changes were made to the sentencing guidelines before the state was prepared to manage the growing number of drug offenders that required community supervision.

In summary, the growth in the rate of recidivism is a concern. Recidivism was identified as a basic measure of success when the Legislature adopted JRI reforms but the numbers have become worse, not better, since that time. One cause for the growing rate of recidivism is that Utah has not implemented all the reforms associated with the JRI. Changes were made to the sentencing guidelines, which put more non-violent drug offenders on probation before the state was fully prepared to manage and treat that population in a community setting. Therefore, one of the first steps to reduce recidivism must be to implement all the features of JRI described at the beginning of this chapter.

We recognize that the underlying causes for the growing rate of recidivism are complex, especially among chronic drug offenders. This population faces social, medical, and economic challenges that make it extremely difficult for offenders to return to a normal, productive life. Furthermore, what may have compounded the problem is that many offenders were placed on community supervision at the same time the state was experiencing an upsurge in opioid use. What this means is

that successful implementation of JRI will require more than simply improving the state's probation and treatment programs. It will require the joint efforts of many different community groups and human services agencies, as well as those involved in the criminal justice system.

To guide that community effort, in Chapter III we recommend that providing better crime data is needed so community leaders can know the conditions they face and whether their efforts are producing results. And, in Chapter IV, we recommend the creation of local councils comprised of representatives of different criminal justice agencies as well as other interest groups, to prepare strategies that combine their different resources to develop a unified crime reduction plan. We recommend the Legislature require CCJJ to report at least annually on the progress made towards implementing the features of JRI as well as on efforts to prepare local crime reduction plans.

Utah's chronic drug offenders face many social, medical and economic challenges that make rehabilitation difficult.

In addition to recidivism, we examined one additional effect of JRI which is described in the following section. It relates to the impact of JRI on the number of inmates in county jails. We found evidence suggesting that the change in sentencing guidelines has not led to an increase in the number of inmates sentenced to county jails.

Number on Probation Has Increased but County Jail Populations Have Remained the Same

We did not find a connection between the changes made to Utah's sentencing guidelines and the number of inmates in Utah's county jails. Statewide, the number of inmates held in county jails increased only slightly after sentencing guidelines were changed. In addition, the number of low-level drug offenders in Utah's county jails has declined since JRI took effect. Furthermore, the likelihood of a low-level drug offender being sentenced to county jail has not changed since JRI took effect.

Since JRI took effect, the population of Utah's county jails have increased at the same rate as the state's general population.

It is important to recognize that Utah's criminal justice system is complex and that there are too many factors involved to identify a direct link between a change in the law and the number incarcerated in county jails. To provide additional depth to our analysis, we supplemented our county jail data with a study of the sentencing data provided by the Administrative Office of the Courts. We found the

court data, in some respects, supports the conclusions we reached based on the jail data. As discussed in Chapter 1, our intent is to offer this information as a starting point for what hopefully will be an ongoing discussion regarding the effects of JRI. As Utah makes further progress towards becoming a truly data-driven criminal justice system, we anticipate additional data sources will be made available which provide further clarity.

There are too many factors at play to draw a direct link between JRI and the number incarcerated in county jails. We found it more insightful to examine local level jail data.

We also caution against using statewide data alone to make broad conclusions about the effects of JRI. Based on our analysis of the local data, it appears that day to day decisions made by local judges, county prosecutors and county sheriffs may have had a greater effect on inmate populations than do state level policies. For this reason, we provide local level data in the appendices and on our online dashboard.

For more county data click here.

In Chapter IV, we recommend that local coordinating councils rely on this information to craft a local strategy for achieving the goals of JRI in their own communities.

County Jail Populations have Changed Little Since JRI Took Effect

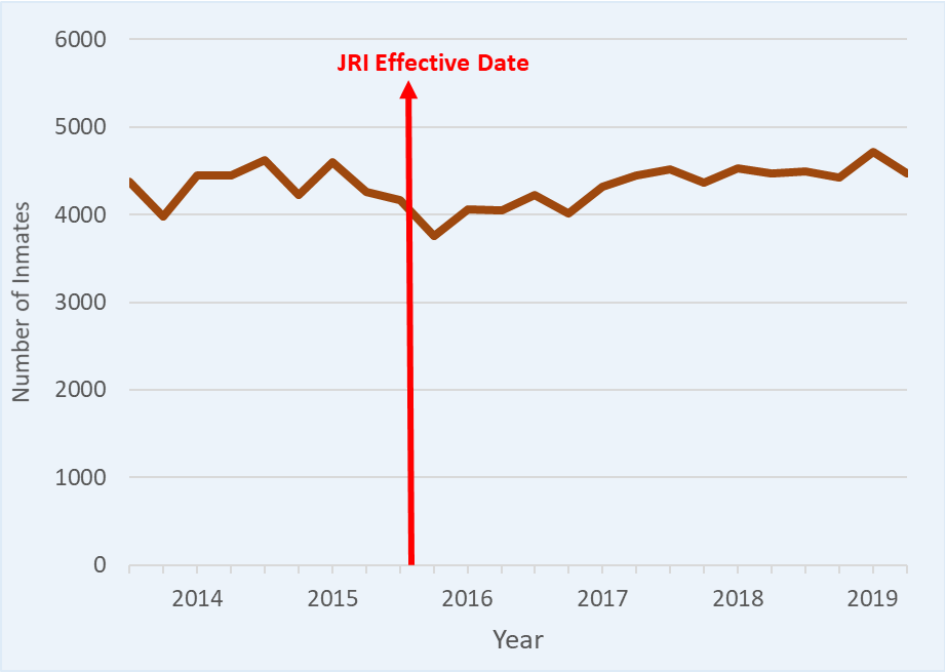
Some counties have seen increases in their county jail populations, while others have seen decreases.

We found, statewide, the number of local offenders incarcerated in Utah's county jails has changed little since JRI took effect. In addition, the number jailed for the possession of illegal drugs declined just as it did in the state prison system. Perhaps what is most interesting about the local inmate data is the differences we see from county to county. Some counties have seen brief periods of increases in their county jail populations, while others have seen steady declines in their jail populations. These local differences seem to reflect the local approach to criminal justice and the decisions made by local judges, prosecutors, and law enforcement.

County Jail Populations Changed Little Since JRI took Effect. Figures 2.6 and 2.7 summarize the results of our study of the jail populations in seven county jails for which we were able to process the booking information. Those seven jails are in counties that represent 83 percent of the state population. Figure 2.6 shows that the number of inmates held in county jails has increased slightly during the past few years. The data includes local inmates who are being held while waiting for their cases to be adjudicated as well as those serving a jail

sentence. State and federal inmates held in county jails are not included.

Figure 2.6 The County Jail Populations Have Increased Slightly Since JRI Took Effect.



Source: Inmate data provided to LAG by 7 counties which collectively represent 83 percent of the state population. They include Davis, Salt Lake, Sevier, Utah, Wasatch, Washington and Weber Counties.

See Appendix E for inmate counts for individual county jails.

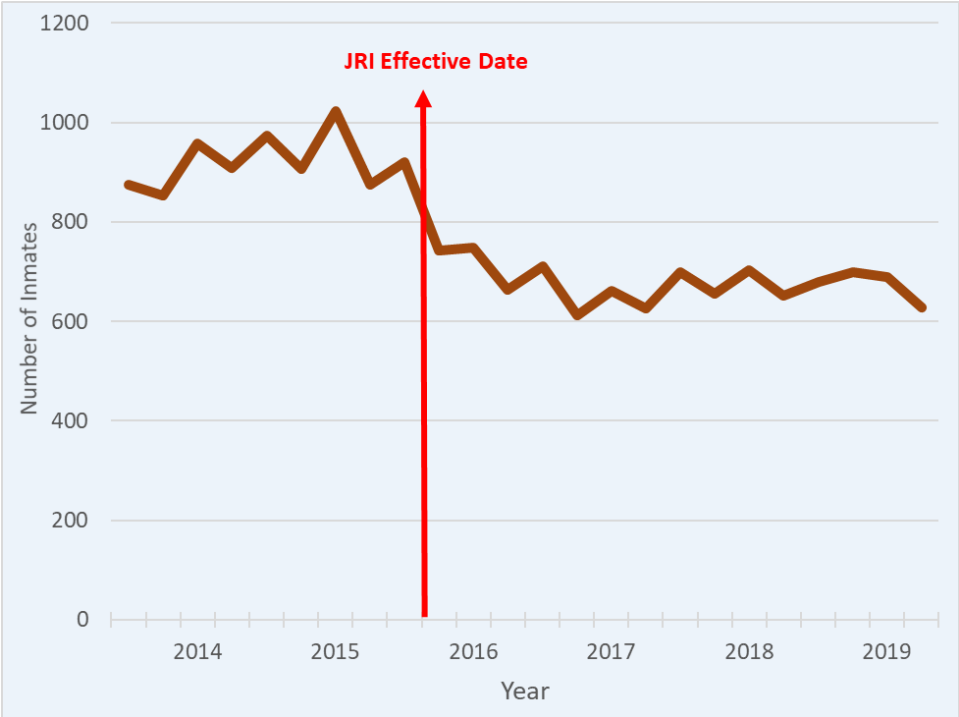
We were unable to detect any long-term effect from JRI on the total population of county jails. There was a brief decline in inmate numbers during third quarter of 2015 when JRI took effect. However, during the years of our study, the rate of growth in the combined county inmate population has been no greater than that of the state population. For the type and count of local inmates in each of the individual county jails in our study, see Appendix E and our online dashboard.

For more county data click here.

The Number of Low-Level Drug Offenders in County Jail Has Declined Since JRI Took Effect. We also identified the number of county inmates whose most serious offense was possession or use of a controlled substance. That is a common offense that was affected by the changes to the state sentencing guidelines. Figure 2.7 shows the number of county inmates held for a low-level drug offense has declined since JRI took effect. The data excludes Weber County which did not report the offense type prior to 2016.

See Appendix E for local inmate totals for individual county jails.

Figure 2.7 The Number of County Inmates held for Low Level Drug Offenses has Declined. Since JRI took effect, Utah's county jails have held fewer inmates whose most serious offense was drug possession or drug paraphernalia. This trend appears to reflect Utah's effort to increase its reliance on community supervision and treatment rather than incarceration.



Source: Inmate data provided to LAG by 6 counties which collectively represent 74 percent of the state population. These counties include Davis, Salt Lake, Sevier, Utah, Wasatch, and Washington County.

The data in Figure 2.7 shows the number of inmates held in county jails for drug possession and drug paraphernalia charges. Both Figures 2.6 and 2.7 include only inmates arrested by local agencies and excludes those held through a contract with other counties, the state prison, or a federal agency. The data shows a decline in the number of inmates held in county jails for possession of illegal drugs and paraphernalia. Some of the decline can be attributed to shorter jail stays. Conditions vary from county to county. Some counties have seen a larger decline in the numbers jailed for the possession of illegal drugs, while others have not. See Appendix E for a summary of the information we obtained from individual county jails and at our online dashboard for the complete data set.

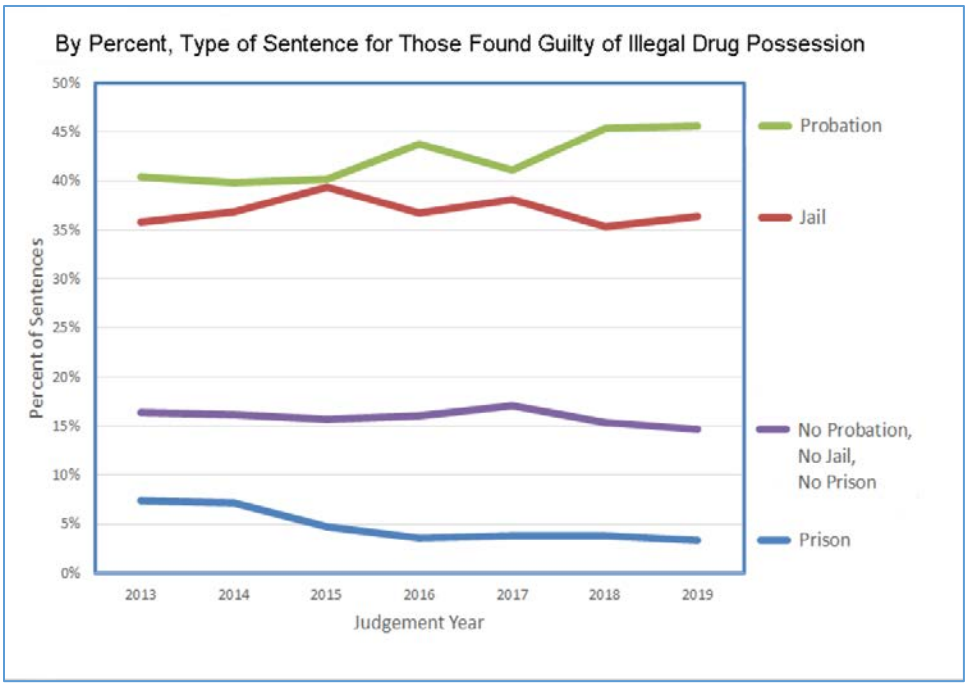
For more county data click here.

Changes to Sentencing Guidelines Have Not Affected the Likelihood Drug Offenders Will Be Sent to County Jail

We also used sentencing data provided by the Administrative Office of the Courts to supplement our analysis of the inmate populations in Utah's county jails. In some ways, the court data supports our conclusion that the changes in the sentencing guidelines have not led to a shift in the state prison population to the county jails. The same court data also raises additional questions that we cannot answer. Since JRI took effect, the percent of non-violent drug offenders sentenced to county jails has remained about the same. What we cannot explain is why the number of low-level drug offenders sentenced to a jail term has remained fairly steady even though the number actually housed in county jails has declined. This is one example of what we refer to in Chapter 1 when we say, "we understand and expect that further analysis will produce further insights and questions . . ."

Sentencing Data Shows the Percent Receiving a Jail Term has Remained Fairly Steady. Figure 2.8 describes our analysis of how court sentencing practices have changed since JRI took effect. It shows that individuals found guilty of illegal drug possession were more likely to be sentenced directly to probation since JRI and are less likely to receive a prison sentence. However, the percent receiving jail sentences has remained about the same.

Figure 2.8 Instead of Prison, More Low-level Drug Offenders Are Being Sentenced to Probation. Since JRI took effect, the likelihood of a drug possession charge resulting in prison time has gone down, the percent receiving jail sentences has stayed the same, and the percent sentenced to probation has increased.



Source: OLAG Analysis of Sentencing Data Provided by the Administrative Office of the Courts.

To see the sentencing rates at the county level, see Appendix F.

The data in Figure 2.8 show that the changes made to Utah's sentencing guidelines have reduced the rate at which drug offenders are sent to prison. Instead, the courts are more likely to sentence an offender directly to probation. The percent receiving a jail sentence has changed little since JRI took effect. It should be noted that 60 percent of those receiving a jail sentence are placed on probation after their release. Furthermore, we did observed some differences from county to county which can be observed in the charts in Appendix F and in our online dashboard.

For more county jail data click here.

County Jail Populations Largely Reflect The Local Approach to Criminal Justice

While many factors can affect the number held in a county jail, the greatest influence appears to be the local approach to law enforcement. That is, it is the day-to-day decisions made by judges, prosecutors, and local law enforcement that dictate more than any other factor how many offenders are held in Utah's county jails. At the same time, however, we need to recognize that the state's focus on less incarceration and more community supervision may have led some local officials to take a different approach to crime in general. The following list cites examples of how jail populations are influenced by local decisions.

The greatest influence on county jail populations appears to be the decisions made by local judges, prosecutors, and other local law enforcement officials.

- We found large differences in the way different courts and judges respond to low-level drug offenses. For example, court records show a large disparity in the average jail sentence issued by different courts and judges to individuals with the same offense. See Appendix G.
- During 2016 and 2017, Salt Lake County's jail population experienced a decline after the county sheriff stopped incarcerating anyone with only a misdemeanor offense.
- In 2017, the Sevier County jail experienced an increase in the number arrested for drug offenses after the county's new drug task force stepped up local efforts to combat drug use.
- Some judges told us they believe jail time is mandatory for a third drug possession offense while others say they never require jail time if drug possession is the only charge.

The examples above show how jail populations can be affected by local decisionmakers. While the changes to the sentencing guidelines did not directly affect the numbers sentenced to jail, it appears some local officials may have altered their general approach to criminal justice based on the statutory changes brought about by JRI. As a result, some counties saw periods of growth in the number of jail inmates, while other counties saw periods of decline. These differences can be observed in the charts included in Appendix E and online dashboard.

For more county jail data click here.

Recommendation

1. We recommend that the Law Enforcement and Criminal Justice Interim Committee require that the Commission on Criminal and Juvenile Justice report to them annually on the progress made toward implementing each goal of the Justice Reinvestment Initiative and on the progress made towards developing local crime reduction plans.

Chapter III
Criminal Justice System Lacks the Accountability Called for by JRI

One of the goals of the Justice Reinvestment Initiative (JRI) was to develop a data-driven, results-oriented approach to criminal justice. Judges would be provided with data showing which treatment programs would be the most effective at helping offenders avoid committing new crimes. Legislators were to receive data demonstrating the effectiveness of its policy to reinvest resources in treatment and supervision rather than incarceration. Unfortunately, the promised performance data was never produced. As a result, Utah still does not know which of the many treatment programs and intervention strategies are the most effective at reducing recidivism.

If the Legislature still wishes to create a data-driven, results oriented criminal justice system, we recommend the Legislature consider creating a criminal justice information governing body. The Legislature would give that group responsibility to create statewide data reporting standards, identify measures of performance, gather performance data and make it available to the public online.

A criminal justice information governing body could enhance Utah's ability to develop a data-driven, results oriented criminal justice system. We recommend that the Legislature consider creating one.

Goal of a Data-Driven Criminal Justice System Has Not Been Achieved

The objective of JRI was not only to reduce prison costs but also to reinvest those savings in programs and services shown to reduce recidivism. To measure the progress made in both areas, all those who play a role in Utah's criminal justice system, including private treatment providers, need to rethink their approach to data, accountability, and reporting. Each organization must hold itself accountable for producing measurable results in the lives of those who in some way become involved in the criminal justice system.

JRI Was Expected to Produce Data-Driven, Results-Oriented Criminal Justice System

When it was first proposed, one appealing aspect of JRI was that it included a commitment to create a criminal justice system that is accountable for results. "Data-driven" and "evidence-based" were

terms used to describe the new emphasis on performance and accountability. Agencies would produce hard data demonstrating whether the state's reinvestment in community-based programs and services had helped offenders avoid committing new crimes.

The original vision of JRI was to have a partnership between criminal justice and social services systems, working towards common goals and outcomes.

Performance Standards Would Measure the Effectiveness of Individual Treatment Programs. When JRI was proposed in 2015, there was little evidence that investing in mental health and drug treatment programs would produce the desired results. CCJJ warned that treatment programs in general had not been "assessed for quality or effectiveness." In response, the Governor, legislative leaders, and other state officials called on CCJJ to "…develop a package of data-driven policy recommendations that will reduce recidivism and safely control the growth in the state prison population." To ensure that Utah's reinvested funds would go to programs that work, CCJJ recommended "…establishing performance goals and measuring outcomes for reentry programming through a partnership between the Department of Corrections and the Division of Substance Abuse and Mental Health."

In response to CCJJ's recommendations, the Legislature approved House Bill 348, which required that

> …the Division of Substance Abuse and Mental Health, working with the courts and the Department of Corrections, establish performance goals and outcome measurements for treatment programs, including recidivism, …and make this information available to the public.

CCJJ Also Proposed Measures of the Systemwide Impact of JRI. In addition to holding treatment programs accountable for results, CCJJ recognized the need to monitor system-wide success in achieving the goals of JRI. CCJJ said:

> In order to track implementation of the criminal justice reforms recommended, …and to assess their ongoing impacts on public safety, recidivism rates, and the prison and community supervision populations, the state must commit to collection, analysis, and public reporting of all relevant data and information.

In effect, CCJJ was saying that by producing performance data for the state as a whole and for individual programs, and by making that data available to the public, there would be little doubt whether the state's reinvestment in offender treatment had produced the intended results.

Utah Still Lacks Performance Data for Individual Offender Treatment Programs

We found that Utah's criminal justice system still does not know which mental health and drug treatment programs are effective at reducing recidivism. The Division of Substance Abuse and Mental Health has not met the requirements of H.B. 348 to develop "…outcome measurements for treatment programs, including recidivism." In response, we set out to develop these measures ourselves. Although we were able to prepare recidivism data by county and court location (reported in Chapter II), we were unable to identify recidivism for individual treatment programs.

Recidivism data required by JRI legislation in 2015 was not available for this audit and is not being produced.

Criminal Justice System Is Not Reporting the Recidivism Data Required by H.B. 348. The performance reports issued by both the Division of Substance Abuse and Mental Health and the Commission on Criminal and Juvenile Justice (CCJJ) lack information regarding recidivism for individual treatment programs. It appears neither agency has met the requirements of H.B. 348 to monitor and report that information.

The Division of Substance Abuse and Mental Health issues an annual scorecard describing outcome measures for the state's regional Mental Health Authorities. See Appendix H for the fiscal year 2019 report. The report does describe a "decreased criminal justice involvement" during the time clients were enrolled in drug treatment programs. However, the report does not include recidivism data at the program level, which might help policymakers and judges know which programs and strategies offer lasting effectiveness.

CCJJ also prepares a document describing the key performance measures of Utah's criminal justice system. See Appendix I for the latest report. This document includes information submitted by the Division of Substance Abuse and Mental Health as well as other agencies involved in criminal justice. While the report includes measures of agency activity, it offers few measures of performance.

Recidivism is the key performance indicator required by H.B. 348 but is not reported either at the statewide or program level.

State and Local Agencies Were Unable to Provide Basic Program-Level Performance Data. Because state agencies were unable to provide recidivism data, we tried to gather the information ourselves. We asked the Administrative Office of the Courts, the Department of Corrections, the Division of Substance Abuse and Mental Health and Commission on Criminal and Juvenile Justice, as well as several local agencies, to help us answer the following questions:

The criminal justice system and treatment programs are not being held accountable for reducing recidivism as required by the 2015 General Session's House Bill 348.

1. Which drug offenders have received a court order to obtain mental health services or drug treatment?
2. If the offender obtained treatment, what treatment was provided and what was the name of the provider?
3. How many offenders who completed a treatment program committed new crimes?

For reasons explained below, none of the state and local agencies we contacted could provide the information needed to answer the above questions. What this means is that the criminal justice system in general, and treatment programs specifically, are not being held accountable for reducing recidivism as required by H.B. 348.

Creating More Accountable Criminal Justice System Will Require Changes to Agency Data Systems

In order to attain an accountable criminal justice system, one obstacle that needs to be addressed is the inability to link data systems.

There are obstacles that must be overcome before Utah can create a truly accountable criminal justice system. One obstacle is the inability of agency information systems to link client data. Agencies need to start using a common identifier so client information in one information system can be linked to that of another. Next, we found that agencies are not gathering the basic client information they need to track recidivism. Finally, we found agencies, especially the county jails, are not defining the terms they use in a consistent fashion and we also found many errors in the data. These problems raise concerns about the reliability of the information systems used by some agencies.

A Common Identifier Must Be Developed to Link Data from Different Agency Systems. We cannot overstate the difficultly we had working with data from multiple agencies which do not share a

common code for identifying clients and offenders they serve. It is common for agencies to maintain records of client names. Most agencies also record birth dates and social security numbers. However, we found this personal identifying information is not sufficiently accurate or complete to be used to link data systems. The lack of a common client identifier or code made it extremely challenging for us to do studies of recidivism and of some of the impacts of JRI on Utah's criminal justice system.

For example, we tried to use information from the Department of Corrections to fill in the gaps in the data we received from the county jails. Many agencies in the criminal justice system identify offenders using the State Identification Number which is identified when an offender is arrested and fingerprinted. Even though most of the jail management systems used in Utah have a place to enter the SID, we found only three of the state's 24 county jails record the SID when an offender is booked in jail. Because most county jails and the state prison do not use the SID or some other identifier for inmates, we tried to link the datasets using names, birth dates and social security numbers. However, due to the inconsistent recording of names and the occasional missing birth dates and social security numbers, we were unable to complete our study for many counties. Occasionally, we found it helpful when counties would enter the court case number in the booking record. However, most county booking records do not include the court case number.

Analysis of recidivism for JRI-related programs is very difficult without a common identifying data point across data-sets.

We faced a similar challenge when we tried to identify the rate of recidivism among those receiving treatment for substance abuse. That study required that we match records obtained from the Division of Substance Abuse and Mental Health with the client's court records. Again, we found it difficult to match the division's client information datasets with the court records. The two datasets do not use a common client identification number which means we had to rely on matching names, birth dates and social security numbers which are not always accurate or available. The Division expressed a willingness to have their programmers try to match names, birth dates, etc. for the different data sources. However, due to concerns about the accuracy and completeness of the results, we chose not to pursue that option.

The underlying problem is that each agency's management information system was designed only to serve that agency's unique needs, not to share data within a larger system. The term "data silos" is

sometimes used to describe the condition in which the units of a larger organization operate data systems that operate independently of one another. Increasingly, business, industry and government entities are recognizing the benefits of integrating their disparate data systems. The first step towards linking the data systems in Utah's criminal justice system is to create and use a common identifier that can be used by all agencies that play a role in Utah's criminal justice system.

Even with a common identifier to match datasets, the current condition of criminal justice data in Utah is incomplete and insufficient for data-analysis of the system as a whole.

The data silo problem appears to be one reason agencies have found it difficult to track recidivism. H.B. 348 requires DSAMH to track recidivism for those individuals under a court order to receive drug use and mental health treatment. However, to do that analysis, the division needs information from the courts regarding which offenders have a court order to receive treatment. But providing access to court data is only the first step. The offender information maintained by the courts needs to be linked to the client information in the mental health system. To overcome this data silo problem and to link data systems, the DSAMH, the courts and other agencies in the criminal justice system need to use a common client identifier.

Offender Data is Not Complete. Even if the data systems were linked together it would make little difference if the data was incomplete. We found that the data used by some agencies is not sufficiently complete to perform the type of analysis that has been requested by the legislature, including studies of recidivism.

For example, the courts may place the offender on probation and require that the offender obtain treatment for a drug addiction problem. The offender's probation officer should maintain a record of the offender's compliance with this requirement as well as the results of any drug tests done during the time on probation. However, when we requested the information, the Division of Adult Probation and Parole responded that their records were incomplete. As a result, we were unable to identify which probationers had been required to obtain treatment, whether they complied with the requirement and whether, after completing the treatment, they avoided committing a new offense.

Similarly, we found that client data maintained by the Division of Substance Abuse and Mental Health is incomplete because it only includes clients served by publicly funded treatment providers. Although the division has been directed by statute to perform

recidivism studies of all providers, they have not complied with this requirement because they believe they have no authority to require private treatment providers to submit the information the division needs to track recidivism.

Agencies Must Exercise their Statutory Authority and Work Together to Gather Recidivism Data. We disagree that DSAMH does not have authority to require data from private treatment providers. DSAMH has statutory authority to oversee all substance abuse and mental health providers who serve those required either by a court order or by the Board of Pardons to receive treatment. That oversight authority allows the division to require providers to submit the client information they need to track recidivism. See Appendix J for the legal analysis on which our conclusions are based. However, we must acknowledge that some providers may be reluctant to release their client information to the division. To address those concerns, some clarification in statute may be helpful. For example, legislators may want to clearly state in statute that treatment providers who serve justice involved clients have a responsibility to submit the identifying information for those clients to the division.

DSAMH should require all treatment providers to submit the client information needed to track recidivism.

Clearly, DSAMH needs to comply with the statutory requirement that they gather the data necessary to calculate recidivism rates among treatment providers. However, matching client data with the court's offense data may require assistance from other agencies more directly connected to the criminal justice system. We recommend DSAMH work with CCJJ to develop a method for calculating recidivism rates by matching client data submitted by treatment providers with the court filing information maintained by the courts.

Management Information Systems Used by Most County Jails Are Inadequate. The poor condition of county jail data is perhaps one of the greatest obstacles to developing a data-driven criminal Justice system. As reported in Chapter II, we were asked to identify the number of inmates incarcerated in each county jail during the past five years, and the type of offenses for which inmates are incarcerated. However, we found it extremely difficult to gather this information. In fact, due the problems we faced with the county jail data, this report was delayed by several months. Figure 3.1 lists some of the problems we found with the data provided by the county jails:

Data systems used by most county jails are not capable of producing necessary data for program analysis of the criminal justice system or JRI-related programs.

Figure 3.1 Data Problems Made It Difficult to Compile County Inmate Numbers.

- No State Identification Number (SID) or other identifier is used which might enable linking the jail data to other criminal justice data systems.
- Some booking records omit important information such as the charging offense, the severity of the offense or the release date.
- Booking records contain inconsistent data describing the offense type. For example, the offense recorded at booking may be described as "Possession of a Controlled Substance" but also references a section of statute for an entirely different offense.
- Those arrested and booked on a warrant show no information regarding the offender's original, underlying offense.
- The codes counties use to describe offense category or offense severity are not consistently applied.
- Booking reports may record an offender's booking dates with no matching release date or a release date with no matching booking date.

Source: Auditor observations of data submitted by county jails.

Due to the problems listed above, we concluded that most county jails will need to improve their jail management systems before their data can be used as part of a larger data-driven, results-oriented criminal justice system. The poor condition of the data made it difficult for us conduct the type of analysis we were asked to perform.

Data We Were Able to Gather Has Significant Value to Utah's Entire Criminal Justice System

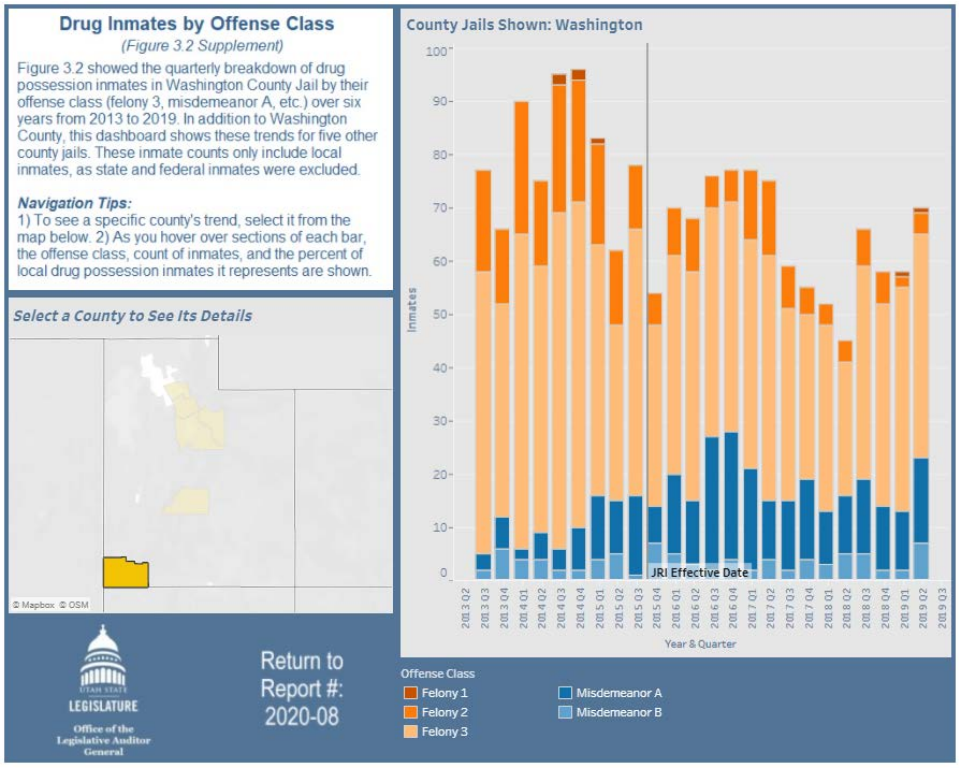
Despite data issues, much of the data we gathered from the court system and the county jails is valuable for policymakers. The data we were able to gather provides some insight into the effect of JRI on county jail populations. In addition, by posting this information on an online dashboard, we hope to demonstrate how the use of technology can enable legislators, local officials and the public to ask questions, access the data online, and find answers on their own. The results of our study of county inmate populations is summarized in Appendix E of this report with detailed information provided on a web-based dashboard here.

For more information see our criminal justice dashboard here.

For example, legislators, judges, county sheriffs, and even the general public should be able to find out what type of offenders are being housed in each county jail. We recommend that an online dashboard be developed identifying the number of offenders held for each type of offense and the severity of the offense. Figure 3.2

describes how that information might appear. It describes, during a six-year period, the quarterly count of inmates held for drug possession in the Washington County Jail by the severity or "class" of the offense.

Figure 3.2 The Number of Offenders held for Drug Possession Only in Washington County Jail by Offense Class. The number of inmates held for drug possession has declined since JRI took effect, with far fewer felony arrests (shown in shades of orange). However, there has been an increase in offenders jailed for a misdemeanor level offense (shown in blue).



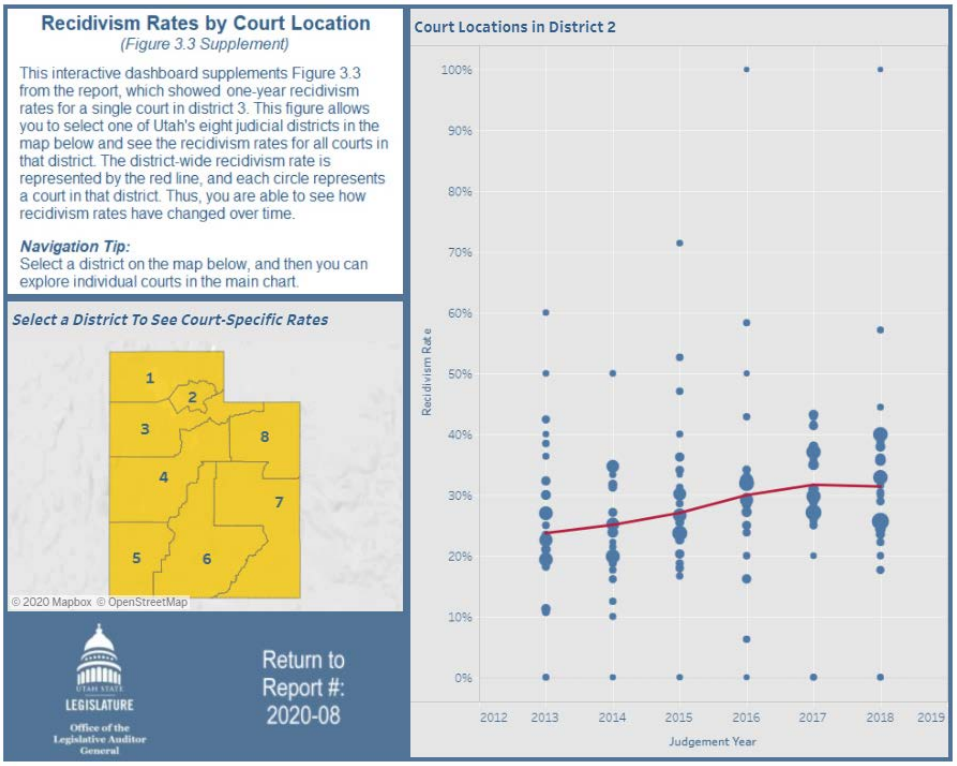
For more county jail data see our criminal justice dashboard here.

Figure 3.2 shows that the number of offenders held in the Washington County jail for drug possession has declined since 2014. The figure also shows that the portion of offenders held on misdemeanor drug charges (shown in blue) has increased since JRI took effect. We believe that providing this information on an online dashboard would be useful to both local law enforcement officials and policy makers. It would enable them to monitor the impacts of their policies, such as JRI, on the county jails. Another chart they might find useful is shown in Figure 3.3 below. It compares the recidivism rate for drug offenders by court location. The data could be used by legislators, other public officials, and the general public to identify

Having data available can improve transparency and decision making in the criminal justice system in Utah.

those communities where the re-offense rate has improved and where it has become worse.

Figure 3.3 Re-offense Rates May Differ from One Court Location to Another. The figure presents a screenshot of our online dashboard showing the rate of re-offense over time by court location. The dashboard enables the viewer to compare the historic recidivism rates of a single court location (shown in blue dots) to the district average (shown as a red line).



For re-offense rates by court district go here.

We believe the information described in the above figures should be reported on an ongoing basis all communities in Utah. To demonstrate the usefulness of this data, we have created an online dashboard which makes it possible for a legislator or member of the public to find answers to their questions about criminal justice in their communities. Our information, which is available on our online dashboard (here), provides the data for the latest six years available. We recommend that the state provide this information on a regular, ongoing basis. Doing so would help policy makers and the public determine whether policies such as JRI are having a positive or negative effect on the state's inmate populations. We believe the use of such a dashboard could be an important feature of a data-driven, results-oriented approach to criminal justice.

Create an Integrated Criminal Justice Information System

The idea of developing a data-driven, results-oriented criminal justice system was an important feature of JRI in 2014 and is still a valid concept today. In a companion audit report titled *A Performance Audit of Information Sharing in the Criminal Justice System* (#2020-09), we conclude that "…the poor flow of information is hindering Utah's criminal justice system from achieving its goals to reduce crime and help offenders become more productive members of society." Specifically, the report concluded that policy makers have not been getting the information they need to evaluate the effectiveness of their polices. Similarly, front line operators in Utah's criminal justice system, including judges, prosecutors, and law enforcement officers, are not getting information they need to fulfill their responsibilities. Finally, the public is also asking for greater accountability from law enforcement regarding its actions, particularly regarding matters of race.

Currently, key decision makers in the criminal justice system do not get information that is essential to carrying out their duties in a timely manner.

If the Legislature still wants to create a data-driven criminal justice system, there are several steps they should take. The first step would be to form a criminal justice information governing body. Because its members currently represent each of the stakeholder groups, CCJJ would be the natural choice to oversee the information governing body. Second, the governing body should be given authority to set data standards and prepare a plan for an integrated criminal justice information system. For example, each agency and service provider would need to use a common client identifier to link its data to that of other information systems and would need to use common definitions for the information recorded in their information systems. Third, the Legislature should require that the governing body submit its plan and periodically report on the progress made towards implementing that plan. To create an integrated system will require the cooperation of all the different agencies within Utah's criminal justice system.

Recommendations

1. We recommend that the Legislature consider forming a criminal justice information governing body comprised of representatives from each of the major agency groups within the criminal justice system and that this body receive oversight and be accountable to the Commission on Criminal and Juvenile Justice.

2. We recommend that the Legislature consider empowering the criminal justice information governing body with the authority to set data standards and to prepare a plan for an integrated criminal justice information system.

3. We recommend that the Legislature require the criminal justice information governing body to submit its plan and periodically report to a legislative committee on the progress made towards implementing that plan.

4. We recommend that the Division of Adult Probation and Parole, the Division of Substance Abuse and Mental Health, the Administrative Office of the Courts and the Board of Pardons and Parole work together to identify and share information regarding which offenders have received a court order to obtain mental health services and substance abuse services to identify whether those services have been provided.

5. We recommend that the Division of Substance Abuse and Mental Health gather the data needed to track recidivism by requiring all public and private service providers to submit the names of clients under a court order to receive services, the programs in which they were enrolled, and the date upon which the treatment was completed.

6. We recommend the Division of Substance Abuse and Mental Health work with the Commission on Criminal and Juvenile Justice to develop a method for calculating recidivism rates by matching client data submitted by treatment providers with the court filing information maintained by the courts.

7. We recommend the Legislature consider requiring all treatment providers who serve criminal justice involved clients to submit the client data needed to track recidivism to the Division of Substance Abuse and Mental Health.

Chapter IV
Legislature Should Consider Creating Criminal Justice Coordinating Councils to Fully Implement JRI

Greater local oversight was one of the founding goals of JRI and is essential if JRI is to be fully implemented. But, "support local corrections systems" is one of the features of JRI that has not yet been implemented. As a remedy, we recommend that the Legislature do two things. First, they should consider creating local Criminal Justice Coordinating Councils (CJCCs) to facilitate the planning, coordination, and accountability of criminal justice efforts at the county or regional levels. Second, the Legislature should consider directing any JRI-related funding to CJCCs in the form of grants.

Local oversight of criminal justice activities is vital, as each county and region in Utah faces a different set of challenges. In correlation, each Utah county and region also has a unique set of resources to respond to its challenges. Perhaps this is why CCJJ stated in its 2014 JRI Policy Recommendations that "counties and judicial districts are often best suited to identify the correctional programming, treatment, and services that would go farthest to reduce recidivism."

We recommend the Legislature consider requiring CJCCs in statute to facilitate planning, coordination, and accountability of criminal justice and enhance JRI implementation.

Since JRI was adopted, several Utah counties have formed coordinating councils for criminal justice. Three of these councils in Davis, Salt Lake and Washington Counties have developed programs aimed at specific criminal justice needs in their communities. Several other states also rely on local CJCCs to guide their criminal justice efforts. These states offer a blueprint for how Utah might do likewise.

Achieving Greater Local Oversight is Needed to Implement the Goals of JRI

One challenge of implementing a statewide policy initiative like JRI is that each region of the state faces a distinct set of circumstances. Therefore, as originally envisioned, the successful implementation of JRI will require each region to develop its own strategy for addressing crime. To act strategically, local leaders will need to work together, consider the key performance data described in the prior chapter,

identify local needs, and then develop strategies to address those needs.

Each Region of Utah Faces a Unique Set of Challenges as they try to Address Crime in their Communities

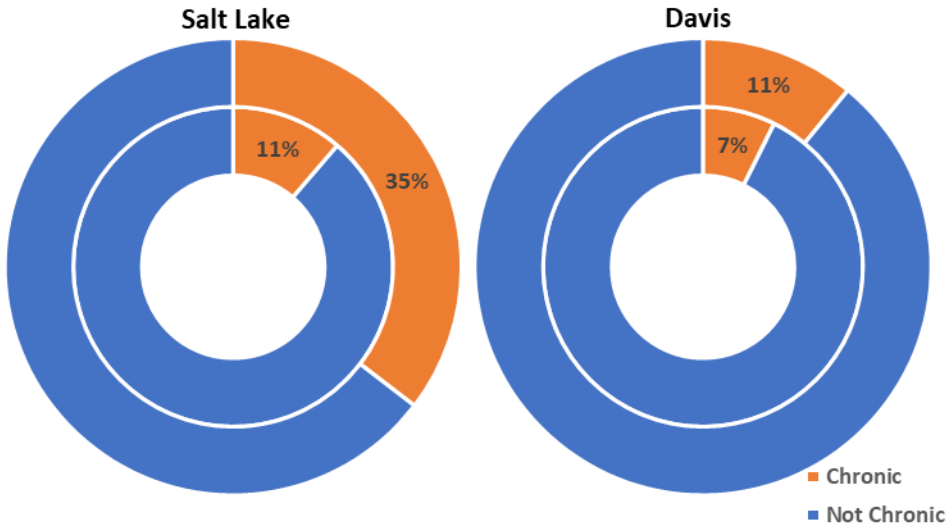
Each county and region faces unique challenges to criminal justice issues, requiring a locally driven approach that targets each county's specific needs.

Our analysis of chronic offenders in Chapter II underscores the impact that a specific population of offenders can have on the criminal justice system. However, it also demonstrates the need for locally developed strategies to reduce recidivism. For example, we found the number of chronic offenders varies significantly from county to county. Because of the unique challenges each county faces, the response to criminal behavior must be different as well. Consequently, a statewide, one-size-fits-all approach will not likely succeed in achieving the goals of JRI. Instead, a better role for state agencies may be to help local communities develop and execute their own JRI plans.

Chronic Offenders Present Great Challenges, In Some Counties More than Others. Figure 4.1 compares drug-related court case filings in Salt Lake County to those in Davis County. The inner circle of each chart shows chronic offenders (shown in orange) as a percent of all drug-related offenders. The outer circle shows chronic offender case filings as a percent of all drug-related case filings.

Figure 4.1. Salt Lake/Davis Counties Face Different Challenges with Chronic Offenders. A chronic offender has 7 or more case filings between 2013 and 2019, or 4 plus case filings in any year.

Chronic offenders impact each county, but at different degrees. Consequently, a one-size-fits-all approach may fall short in addressing chronic offender challenges from county to county.



Source: Courts

Figure 4.1 shows that criminal justice stakeholders in Salt Lake and Davis Counties are dealing with distinct offender populations. In Salt Lake County, 11 percent of all drug-related offenders between 2013 and 2019 are chronic. That population is responsible for 35 percent of all drug-related case filings in the courts. In contrast, 7 percent of Davis County offenders are chronic and are responsible for only 11 percent of all drug-related case filings. It may reflect differences in criminal justice approaches. The data suggests that by focusing on chronic offenders, Salt Lake County could greatly reduce drug-related case filings in its courts. In contrast, Davis county would not see the same level of benefit from a similar strategy.

Current Response to Criminal Activity Varies by Region and by Judge in Utah

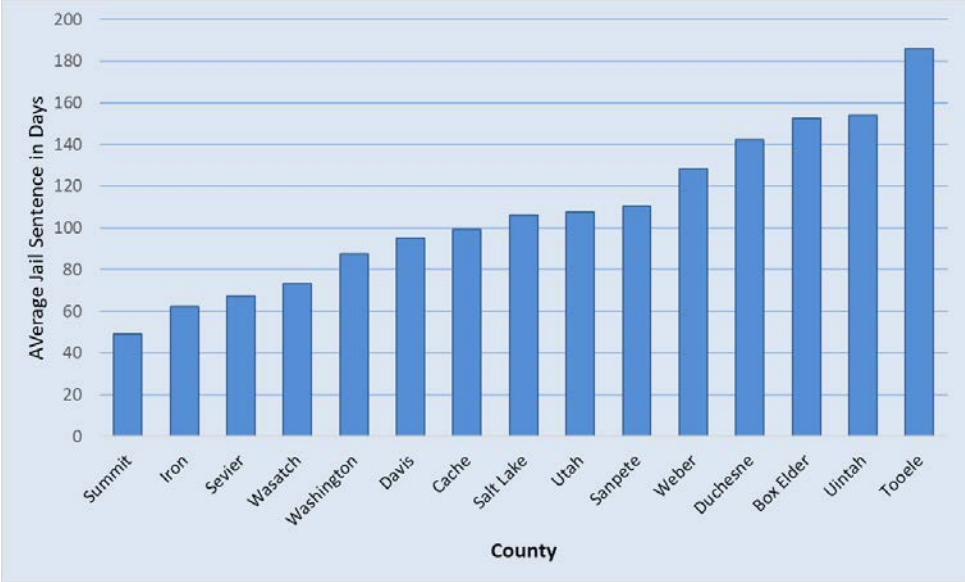
In addition to the differences in the type of criminal activity we found in each community, the data also show many differences in how local officials respond to low-level drug offenses in their communities. For example, depending on the location, we found differences in the length of jail sentences issued, the judgement issued and in the type of offenders held in jail. As shown in the example above with Salt Lake and Davis counties, some of the differences can be explained by differences in offender populations. However, some of the differences seem to be explained by the approach to criminal justice taken by individual judges, county prosecutors, and county sheriffs. Although we recognize the value in allowing local officials to make their own decisions, we believe they might make better decisions, which are consistent with the shared goals of the community, if they were required to participate as members of a local CJCC.

Not only do counties differ in the type of criminal activity experienced, but they differ in how they respond to criminal activity as well.

The Sentencing Data Show that Judges in Different Regions of Utah Respond Differently to Illegal Drug Use. We recognize the value of judicial discretion but understanding the differences in judicial decisions is also important. So, using four years of sentencing data, we identified the average jail term for each person sentenced on misdemeanor A drug possession charge. The results of that study, shown in Figure 4.2 below, and in Appendix G, reveal large differences in the length of the average jail sentences from one district court to another, from one judge to another and from one county to another.

See Appendix G for a summary of our study of sentencing practices. For the full details see our online dashboard here.

Figure 4.2. Average Jail Sentences Vary Significantly from County to County. The data show the average number of days offenders have been sentenced to the county jail for Misdemeanor A drug possession charges. It shows the sentencing practices vary significantly from one county to another.



Source: OLAG Analysis of Sentencing Data provided by the Administrative office of the Courts. Shown are the average jail sentence minus days stayed. The Figure only shows those counties with 40 or more sentences issued on Misdemeanor A Drug Possession Charges from 2016 through 2019.

Figure 4.2 shows the broad differences in the approach taken by judges in different parts of the state. In Tooele County the average sentence for a MA drug possession charge is roughly six months. In contrast, most sentenced on the same offense in Summit County receive a jail term of 49 days or less. See Appendix G and our online dashboard to see the differences in the average jail sentence by county, court location and judge.

For more information see our criminal justice dashboard here.

Other Differences Found in How Local Officials Handle Drug Possession Cases. The differences we found in the length of jail terms described above, is just one example of the differences we observed in how local officials respond to drug possession charges. We also found differences in the judgements issued for drug possession cases. We obtained sentencing data from the courts which show that some judges rarely issue a guilty verdict on drug possession charges while other judges almost always issue a guilty verdict. See Appendix K.

Similarly, the inmate data we received from county jails showed large differences in the number incarcerated for a misdemeanor drug possession charge. Some county jails have a large number of drug offenders with misdemeanor level charges or convictions. Other county jails have relatively few with only a misdemeanor drug possession charge. See Appendix K for details. We have also created an online dashboard (here) which provides additional detail regarding how different courts and county jails handle drug possession cases.

See Appendix K for a summary of our study of judgement type and the rate of incarceration by offense severity

The different practices we observe from county to county reveals there is somewhat of a local flavor to how criminal justice is administered in Utah. It shows that local judges, prosecutors and county sheriffs have developed their own response to the use of illegal drugs in their communities. The differences in how communities respond to drug offenses may also reflect the differences in which types of treatment programs are available in each region of the state. However, what is most important is that local community leaders agree on the approach taken. As the following section suggests, many communities in Utah do not have a unified criminal justice approach.

For mor information see our criminal justice dashboard here.

Local Coordination of Criminal Justice Is Mixed in Utah and Needs Improvement

Recognizing the importance of having a unified local response to crime, we set out to assess the level of coordination and cooperation among local criminal justice stakeholders throughout the state. We found that only a few counties have what we would describe as a high level of cooperation and coordination among local criminal justice stakeholders. This is concerning because a coordinated and cooperative approach to criminal justice at the local level is imperative to implementing all that was intended with the passage of JRI. On the whole, Utah lacks a formally structured process for coordinating criminal justice at the local level and the result is a lack of coordination and cooperation in a number of counties.

Utah lacks a formally structured process for coordination of criminal justice at the local level.

The Level of Coordination Varies from County to County. Through interviews, surveys, and our review of relevant documents, we found evidence that criminal justice stakeholders in several Utah counties are communicating and coordinating with each other. Successful coordination has led to new programs in response to JRI reforms. Successes we documented are mostly in Utah's more populous counties like Salt Lake, Utah, Davis, Washington, and Weber. However, even in counties where a high level of coordination

was reported, we found evidence suggesting that the level of coordination was not as high as reported.

In many counties, data and information sharing between local stakeholders is lacking.

In a survey we conducted of local behavioral authorities and private providers, some indicated that coordination with criminal justice stakeholders was the same or had become worse since JRI took effect. Several county sheriffs told us that there is no coordination with their local mental health authority or other treatment providers and that the funding for drug offenders was not reaching the populations they served. We therefore conclude that in some counties, the level of cooperation and coordination is not at the level anticipated by JRI.

Furthermore, even in counties where coordination is successful, we are concerned that their current success is based largely on the strength of the personal relationships between county sheriffs, judges, and other local officials. Without a formal, unifying structure, we fear that past successes may fade away as new individuals are elected or are appointed to key positions. To provide stronger coordination in communities where it does not exist, and to preserve the cooperative efforts where it does, the Legislature could consider creating local decision-making bodies called Criminal Justice Coordinating Councils.

Improved Coordination and Communication At The Local Level Needed to Achieve JRI Goals

Criminal Justice Coordinating Councils are used in other states to coordinate criminal justice efforts at the local level.

To overcome the lack of coordination between criminal justice stakeholders in some Utah communities, and to achieve the goals of JRI, the Legislature could consider local Criminal Justice Coordinating Councils, or CJCCs. CJCCs facilitate a cooperative approach to criminal justice where crime and criminal justice intersect—in local communities. In our research to understand how other states address the lack of coordination and communication at the local level, the National Conference of State Legislatures (NCSL) and CCJJ provided us a list of other states where CJCCs are currently used. These states provide examples of how Utah might approach implementing a similar policy.

Insufficient Coordination at Local Level Creates Communication Gap, Inhibits JRI Implementation

In its 2015 JRI legislation, the Legislature recognized the need to support local criminal justice efforts. However, we believe more can be

done to provide the level of local support that was envisioned by that legislation. Instead of funding directed to locally developed programs to reduce recidivism, most of the funding was given to state-level entities attempting to administer state-sponsored programs for all Utah communities. Additionally, the grants were not performance based. Some other states have provided this local support by creating local CJCCs, which facilitate local planning, oversee the use of funds for crime reduction programs, and monitor the effectiveness of local supervision and treatment.

Provisions in the JRI Legislation Recognized the Need to Fund Local Solutions but Was Not Implemented. One way that JRI was intended to "support local corrections systems" was through a county performance-incentive grant program. Utah's 2015 JRI legislation requires a state grant program aimed at reducing recidivism. The bill states that CCJJ shall:

> (17) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated.

A performance incentive grant program to support local corrections systems, as envisioned with JRI, has not been implemented.

This feature of JRI has not been implemented. We found that some financial support has been offered through state appropriations and Medicaid. However, the funding has not been consistent with what was proposed in 2015. That is, it was rarely directed to locally developed programs to reduce recidivism. For example, CCJJ attempted to implement a state-sponsored screening program through county jails. However, difficulties in administering it led to its funding being dropped in June 2019.

Funding was not Performance Based. Another example of a JRI-related grant program that was not performance based are treatment appropriations made to the Department of Substance Abuse and Mental Health. That agency administers and distributes this funding to local behavioral health authorities. While some success has been reported, as described in Chapter V, we were unable to track treatment performance or outcomes for offender groups that were targeted with the funding. Recidivism data was not available for individual treatment programs. Multiple sheriffs commented to us that even though the state has appropriated this JRI money through the

State sponsored programs associated with JRI have had limited success so far.

local behavioral health authorities, they were not involved in the decisions for its use and didn't know how it had been spent.

The above examples show recent state sponsored programs associated with JRI that have had limited success. One reason, we believe, is that JRI funding has not been used as originally envisioned. The U.S. Department of Justice and several other states have shown a formula for ensuring funds are used for programs that work, centers on forming local CJCCs, requiring local planning and program development, providing grants to support local crime reduction programs, and then holding CJCCs accountable for results. As we show with the example of a CJCC in Oregon, this is achievable, and cooperation can improve among agencies.

CJCCs Connect Local Stakeholders to Individual Offenders and Community Criminal Justice Needs

CJCCs facilitate coordination and cooperation of criminal justice stakeholders.

The U.S. Department of Justice has suggested that forming local CJCCs can be an effective means of implementing the goals of JRI. Several other states have created these local entities and offer a blueprint for how Utah may do the same.

CJCCs Coordinate Criminal Justice and Help Facilitate Better Communication Among Stakeholders at All Levels. In order to improve communication and coordination among separate criminal justice entities, the U.S. Department of Justice and the National Institute of Corrections recommends the development of CJCCs for local jurisdictions. A local CJCC should include representatives from all functional components of the justice system, including representation from city, county and state levels of government operating within a county or defined region and may even be established by an intergovernmental agreement.

Benefits that CJCCs bring to a county criminal justice system are:

- better understanding of crime and criminal justice problems,
- greater cooperation among criminal justice providers,
- clearer objectives and priorities,
- more effective resource allocation,
- better quality criminal justice programs,
- eliminate duplication, and filling service gaps.

DOJ guidance stresses comprehensive planning and improving systemwide coordination. In place of a centralized statewide approach, DOJ guidance "honors the independence of elected and appointed officials from the different branches and levels of government." To take a systemic approach to addressing criminal justice issues, the Justice Management Institute found that a formalized CJCC should be authorized by statute and have authority to direct policy and administer and implement it. Additionally, official CJCCs can facilitate collaboration with treatment providers to accomplish the goals of JRI. Utah's Commission on Criminal and Juvenile Justice (CCJJ) is a state level organization, that in form and function, is a CJCC. CCJJ's structure is what CJCCs at the local level could look to, as well as similar councils used in the other states.

CJCCs can enhance collaboration between treatment providers and criminal justice stakeholders.

CJCCs in Other States Provide a Blueprint For How Utah Might Form Similar Councils

Given that one stated JRI goal, to "support local corrections systems", has not been implemented we recommend that the Legislature consider requiring CJCCs in statute, direct state support to local CJCCs, and that funding for treatment be used on priorities identified by CJCCs. With authorized CJCCs, an official entity is in place to stabilize state and federal resources, and to provide accountability for use of funding received. CCJJ leadership agrees and from our discussions, sees CCJJ as an important support for local agencies to establish CJCCs successfully.

We recommend the Legislature consider requiring CJCCs in statute to enhance implementation of JRI across the state.

We found two approaches to CJCCs used by other states that the Utah legislature should consider. First, some states require the creation of CJCCs in statute and provide them with financial support through performance-based grants. Second, other states do not require CJCCs in statute, but encourage their formation and participation by requiring them to be grantees for state and federal grants. These states leave the administration and fiscal support for CJCCs to local government.

Some States Require CJCCs in Statute, Provide Funding. In some states, CJCCs are required by statute. For example, in 1995 the Oregon Legislature approved legislation mandating criminal justice coordination councils for each of its counties. Similarly, New Mexico's 2019 legislation, predicated on a 2016 New Mexico Supreme Court Order, requires judicial districts to organize CJCCs. Both states fund

Some other states require CJCCs in statute and provide state resources to administer JRI programs.

CJCCs through performance incentive grants, which are awarded through state-level agencies.

Oregon has a well-established system where more than $30 million in Justice Reinvestment Grant money is distributed by a grant review committee, comprised of local and state-level criminal justice stakeholders. The grant review committee is supported by a state-level agency similar to Utah's CCJJ. The agency provides the committee with administrative and staff support, manages the grant application process, and monitors the performance of programs funded by the grants.

Some states provide standards for CJCCs and require them to be grantees for state and federal resources.

The coordinating council in Oregon's largest county is an example of what can be achieved with state resources, combined with buy-in at the local level. Multnomah County's coordinating council provides data-driven, evidence-based research and analysis. For example, in its initial 2015 data analysis of a JRI program in the county, it found the program decreased the rate of prison usage, increased the rate of local jail usage, and increased community stays for program participants which reduced their time in prison. MCJRP participants were found to have similar recidivism rates (32 percent) to comparable offenders (34 percent) and that when they do commit crimes they are non-violent crimes. Started as a pilot program, MCJRP is running now and continues to provide up-to-date analysis and research for JRI and criminal justice efforts.

New Mexico's system is in its infant stages and currently has limited resources. Conceptually, state resources are distributed through state agencies that are deemed "grant agencies." Grant agencies distribute state resources to CJCCs through performance incentive grants. New Mexico also has an agency that is equivalent to Utah's CCJJ which manages the process of accepting and awarding grants and monitors performance.

Utah's 2015 JRI legislation requires support for local corrections systems through a performance driven grant process. Oregon and New Mexico are examples of how the State of Utah might implement that requirement. A crucial piece lacking in most Utah communities is an accountable entity that provides strategic guidance for local criminal justice issues and accountability for funding received by local stakeholders. This is one reason we believe the Legislature should consider requiring CJCCs in statute. CCJJ leadership expressed the

opinion that to implement CJCCs effectively will require financial resources, similar to the appropriation CCJJ received in the 2020 Sixth Special Session. Our research into Oregon and New Mexico also shows that when state resources are provided, greater strides in implementing JRI goals can be made.

Some States Encourage CJCCs Through Funding and Advisory Functions. Instead of a statutory requirement for CJCCs, in Pennsylvania and Wisconsin a state-level organization oversees the grant process and distribution of funds to local CJCCs. A key in both states is that CJCCs are required to be grantees through which local criminal justice programs receive funding. Wisconsin has a state-level CJCC and a bureau in the Attorney General's office provides staff and administrative support to it. More closely aligned with Utah's structure, Pennsylvania has taken it a step further by creating a department within its CCJJ-equivalent that is focused specifically on promoting, advising, and aiding the creation and operation of CJCCs.

Utah's current approach resembles the model used by Wisconsin and Pennsylvania. Utah does not have a statutory requirement for CJCCs. Instead, CCJJ, a state-level entity, is the granting agency for many federal criminal justice grants, and it oversees the distribution of those funds. However, there is no requirement that a CJCC be the grantee for local entities to receive grant awards. As a result, counties like Salt Lake and Washington that currently have CJCC-like organizations, also interface regularly with CCJJ and benefit from their strong communication ties by receiving grant awards. Intuitively, the creation of CJCCs in other Utah communities could help local governments better qualify for available grant funding from federal, state, and other organizations.

The creation of CJCCs in other Utah communities could help local governments better qualify for available grant funding from federal, state, and other organizations.

We recommend the Legislature consider requiring CJCCs in statute. If this is not desired, we recommend that the Legislature consider requiring CJCCs to be the grantees of state and federal grants, like in Wisconsin and Pennsylvania, which provides incentive for local stakeholders to actively participate in achieving JRI goals.

Furthermore, as a central facilitator of criminal justice and JRI policy at the state level, CCJJ is well positioned to fill the advisory and support roles, that exist in other states' criminal justice offices, to local CJCCs. Coupled with its role as a granting agency for the state, one role might be to provide minimum standards, based upon best

practices from other states, by which CJCCs should operate. Additionally, an option the Legislature could consider is to create a grant review committee that includes a wide swath of local government and state-level membership, as in Oregon. CCJJ has the technical and professional staff to consult with and provide administrative support to the committee, and to provide training and ongoing aide to CJCCs. In these ways, the Legislature can provide for oversight of state resources that are distributed to local CJCCs.

Recommendations

1. We recommend the Legislature consider requiring the creation of local Criminal Justice Coordinating Councils and consider requiring the Commission on Criminal and Juvenile Justice to identify minimum standards for their operation.

2. We recommend that in conjunction with its consideration of CJCCs, that the Legislature consider requiring CJCCs to be the grantees of state resources when grant money is distributed by CCJJ for JRI purposes and other crime reduction and recidivism measures.

Chapter V
Offender Treatment Availability and Quality Fall Short of JRI Goal

As one of the many changes the Justice Reinvestment Initiative (JRI) made, Utah policy makers adopted an entirely new response to nonviolent, low-level drug offenders. Instead of incarceration, offenders would receive treatment for any mental health and drug addiction issues that were contributing to their criminal behavior. Since 2015, when JRI took effect, funding for treatment services has increased and many offenders have received additional drug addiction and mental health services. However, we found both the availability and the quality of the drug addiction and mental health treatment are still inadequate. It is also unclear whether the state's recent Medicaid expansion will improve the availability of treatment services.

Instead of incarceration, offenders were to receive treatment for any mental health and drug addiction issues that were contributing to their criminal behavior.

Concerns about the availability and quality of treatment options and their impact on recidivism were raised when JRI was first proposed. To this end, House Bill (H.B.) 348 required CCJJ to "…study and report on programs initiated by state and local agencies to address recidivism, …and resources required to meet goals for providing treatment as an alternative to incarceration."

If reducing recidivism by providing treatment in a community setting is the goal, the availability and quality of that treatment must be a primary concern. This chapter concludes that current treatment services available to low-level drug offenders are still lacking treatment options in some areas and the quality of treatment needs to improve to meet the expectations of H.B. 348.

If reducing recidivism by providing treatment in a community setting is the goal, the availability and quality of that treatment must be a primary concern.

Offender Treatment Services Are Not Always Available

Employees on the front lines of the criminal justice system, who work with offenders, report that the availability of treatment services remains inadequate. We reached the same conclusion through an independent survey of probation officers, our own discussions with

county sheriffs and district court judges, and our survey of treatment providers described in this chapter. In recent years, the Legislature approved additional funding for treatment services, which led to an increase in the number of offenders receiving treatment. However, until we have better data regarding which offenders were required to seek treatment and how many completed their treatment programs, we will be unable to measure the adequacy of funds available for treatment.

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AP&P Agents, Sheriffs, Judges, and Providers Indicate Additional Treatment Options Are Still Needed

A 2019 PEW survey of Utah's Adult Probation and Parole (AP&P) agents showed that AP&P's clients have difficulty obtaining the substance abuse and mental health treatment they need. In survey responses, 28 percent of agents reported that clients needing treatment were able to access substance use disorder treatment "sometimes" or "rarely." Furthermore, substance use disorders are often compounded by co-occurring mental health disorders. Thus, it is even more concerning that, in this same survey, 47 percent of agents reported that clients were able to access mental health treatment only "sometimes" or "rarely."

Six county sheriffs we interviewed echoed concerns about the need for more treatment options, especially mental health treatment. One county sheriff described his county jail as "[the] mental health facility for the county" because low-level offenders were simply incarcerated there because mental health facilities had no beds available. We also talked with nine district court judges who expressed concerns about the lack of options to treat offenders. One judge put it succinctly by saying "we are not meeting the treatment needs of the individuals".

One judge put it succinctly by saying "we are not meeting the treatment needs of the individuals."

In our own independent survey, we sampled over 40 treatment providers concerning treatment needs and found the top three services needed were housing, in-jail treatment, and aftercare services. This survey and discussions with sheriffs and judges revealed that treatment and other service needs vary by county. The reported lack of residential treatment facilities in some rural communities may explain why a jail sentence is often the only option for some offenders.

It remains to be seen if the new funds made available by the 2019 Medicaid expansion will be sufficient to cover treatment needs going forward.

It remains to be seen if the new funds made available by the 2019 Medicaid expansion will be sufficient to cover the treatment needs going forward. It is also unknown how many offenders use their

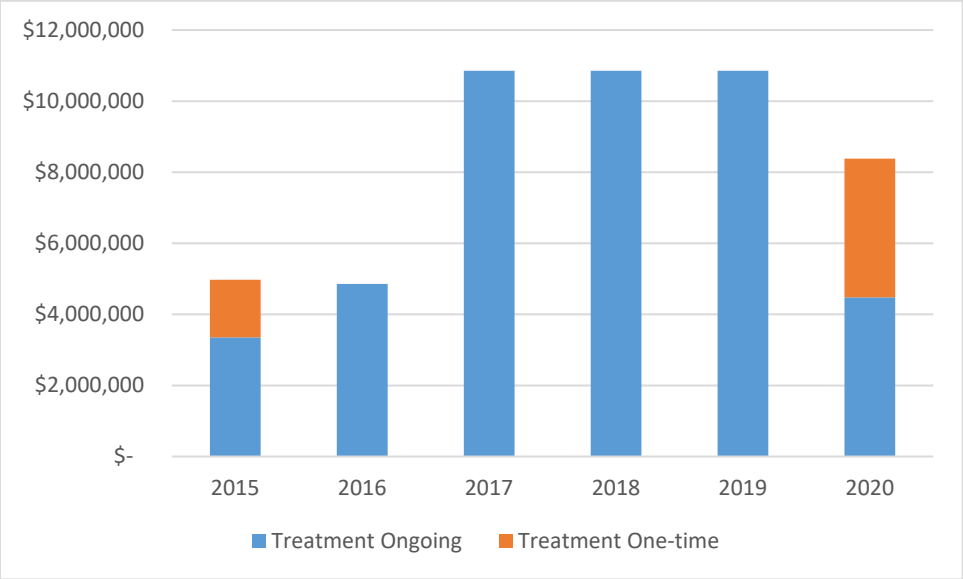
private health plans to obtain treatment from private health care providers. However, treatment options like mental health services and different types of drug programs are still needed, especially in rural areas. Since the availability of treatment programs and other services vary from county to county, we recommend they be addressed locally. Chapter IV suggests that such matters be taken up by local Criminal Justice Coordinating Councils, who are the most capable of assessing local needs. We also recommend that state funding for treatment be used to address the priorities set by the local coordinating councils.

Since the availability of treatment programs and other services needed vary from county to county, we recommend they be addressed locally.

JRI Funding for Treatment Was Slow in Coming

Treatment funding for JRI was originally intended to come from Healthy Utah but was not passed in the 2015 Legislative session. Beginning in fiscal year 2015, the Legislature appropriated $5 million for JRI criminal justice treatment programs. The funding for treatment services were appropriated to help cover increased treatment costs attributable to JRI. Medicaid expansion in 2019 is also expected to further help provide treatment funding. Figure 5.1 shows how Legislative funding for JRI treatment jumped to nearly $11 million by 2017.

Figure 5.1 Legislative Funding for JRI Treatment Jumped from Around $5 Million to Nearly $11 Million in Fiscal Year 2017. Six million dollars in additional funding continued in fiscal year 2018 and 2019, then was dropped and replaced in fiscal 2020 with Medicaid expansion funds.



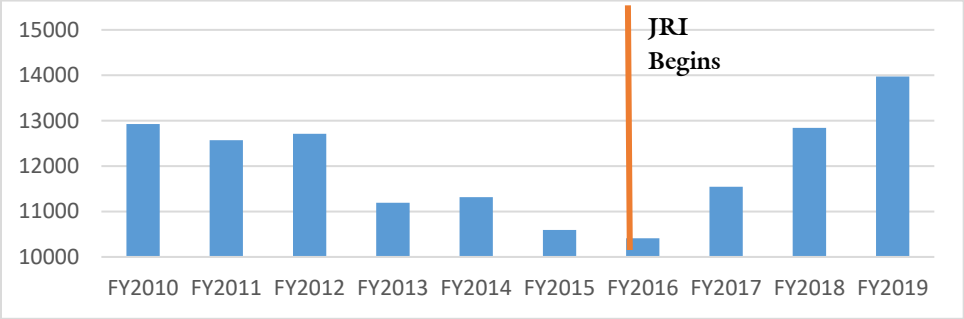
Source: Legislative Fiscal Analyst

In 2017, the Legislature provided an additional $6 million in ongoing funds. That additional $6 million in treatment funding for JRI was eventually eliminated in FY 2020 when Medicaid became the primary source of funding for offender treatment programs. We recognize that treatment needs are important, as demonstrated by nearly all those we interviewed identified it as such. It is still too early to know the impact of additional Medicaid funding for treatment needs.

Number of Offenders Receiving Treatment Has Increased

The number of offenders in public drug treatment programs has increased by nearly a third since October 2015 when JRI took effect. The Division of Substance Abuse and Mental Health (DSAMH or division) tracks the yearly total number of those receiving substance disorder treatment with public funds at each local substance abuse authority. Near the start of JRI, the number in treatment was at the lowest with just over 10,000 justice-involved persons in public substance use treatment programs. As Figure 5.2 shows, the number of offenders in treatment increased 32 percent with the help of the additional JRI treatment funding.

Figure 5.2 DSAMH Reports the Number of Offenders in Public Substance Abuse Treatment Is Increasing. Nearly 3,400 more offenders received treatment in fiscal year 2019 than in fiscal year 2016.



Source: This is un-audited data from DSAMH

An additional 3,400 offenders are receiving substance use disorder treatment since JRI began.

Much of JRI became effective on October 1, 2015 (the second quarter of fiscal year 2016). In fiscal year 2015, just over 10,500 offenders received publicly funded treatment. That number increased to just under 14,000 by fiscal year 2019 with the help of the increased funding for public treatment programs. Thus, an additional 3,400

offenders were receiving substance use disorder treatment since JRI began.

The $11 million in additional JRI funding for treatment appropriated by the Legislature in fiscal years 2017 to 2019 is a small part of overall funding for court-ordered drug addiction and mental health services. Offenders can also receive treatment services through private providers paid for by the offender, private insurance, or Medicaid. Unfortunately, as explained next, DSAMH does not track the number of offenders receiving treatment in the private sector. However, since the number of certified providers has been increasing, the division believes the number receiving private sector treatment is also increasing. In this case, the total receiving substance abuse treatment most likely increased more than 32 percent. Though more offenders are receiving treatment, surveys and discussions with criminal justice stakeholders show that there is still a need for additional treatment service options.

Offenders can also receive treatment services through private providers paid for by the offender, private insurance or Medicaid.

Demand for Treatment Services Will Be Difficult to Identify Until All Offenders Needing Treatment Are Tracked

The total number of offenders receiving treatment for their substance abuse is unknown because those receiving treatment from private providers are not tracked. DSAMH tracks treatment data for those receiving publicly funded substance abuse treatment through local substance abuse authorities. The division does not collect treatment data from private entities because they do not believe they have legal authority to collect protected health information from private providers.

The division does not collect treatment data from private entities because they do not believe they have legal authority to collect protected health information from private providers.

We believe that DSAMH, as part of its authority to certify treatment providers, has also been authorized to collect treatment outcome data from private providers. H.B. 348, which implemented JRI, requires the division to certify private providers to treat individuals involved in the criminal justice system. When an offender is ordered by a court to have substance use treatment, the offender has the option of seeking treatment by a local public substance abuse authority or with a certified private sector provider. As of September 2019, the division had certified 193 private substance abuse treatment providers. An annual review of certified private providers is conducted by the Division of Licensing, but DSAMH does not currently collect treatment data from these private providers.

H.B. 348 required that private providers also meet standards for treating offenders and required the division to establish performance goals and outcome measures for all treatment programs. ***Utah Code*** 62A-15-103(i)(iii) also requires "…that all public and private treatment programs meet the standards…" and further required the division to:

> "…establish performance goals and outcome measures for **all** treatment programs…" and to "…collect data to track and determine whether the goals and measurements are being attained and make this information available to the public." ***Utah Code*** 62A-15-103(l)(i) and (ii). (emphasis added)

To determine if goals and measurements were being attained, such as recidivism, by all treatment programs, public and private, the division would need to collect outcome data for offenders from certified private providers.

Until we account for the number of offenders who have enrolled and successfully completed a private treatment program, we cannot accurately assess the availability of treatment services or the effectiveness of these treatment programs in reducing recidivism

The need to obtain data from private treatment providers is part of a larger problem discussed in Chapter III that relates to the goal of developing a more of a data-driven, results-oriented criminal justice system. Until we account for the number of offenders who have enrolled and successfully completed a private treatment program, we cannot accurately assess the availability of treatment services or the effectiveness of these treatment programs in reducing recidivism. In Chapter III of this report, we make several recommendations to address the need for data in order to track treatment and recidivism.

Drug Treatment Effectiveness in Doubt

Even if funding for additional treatment is provided, if that treatment is not effective, it would do little to promote achieving JRI's goal of reducing recidivism.

In addition to looking at the availability of treatment services, we also looked at the quality of services. Even if funding for additional treatment were provided, if that treatment is ineffective, it would do little to promote achieving JRI's goal of reducing recidivism. An outside review, as well as our own surveys, casts some doubt on the effectiveness of Utah's substance use disorder treatment programs. We concluded the following:

- Criminogenic treatment[2] is not yet adequately addressed
- Program performance measures are not consistently tracked
- Fidelity monitoring of programs is lacking

Baseline Review of Substance Abuse Treatment Providers Gave Low Scores in Quality Assurance

A 2017 evaluation by the Utah Criminal Justice Center (UCJC) of 13 public treatment providers concluded that, overall, the treatment services provided by the group were ineffective. The UCJC was contracted in 2015 and 2016 by CCJJ to evaluate substance use disorder treatment providers' adherence to evidence-based practices.[3] The report concluded that low scores in the quality assurance domain largely contributed to the overall capability being within the "needs improvement" range. The report stated that "all of the programs [reviewed] would benefit from strengthened internal quality assurance processes." Improving the quality of treatment by more closely adhering to evidence-based practices should improve treatment outcomes and improve the public's confidence in treatment efficacy.

UCJC concluded that low scores in the quality assurance domain largely contributed to the overall capacity being in the "needs improvement" range.

As of this report the division has again contracted with UCJC to conduct another evaluation of treatment programs. In the meantime, we conducted surveys to evaluate whether these areas were still a concern in 2020. One survey was sent to substance use disorder treatment providers and another to their clinicians. Our surveys reveal that quality concerns still exist in the three areas mentioned above.

Treatment Programs Are Not Addressing Personal Issues Leading to Criminal Behavior

Our survey and UCJC's report reveal that there is still room for significant progress in improving the frequency and quality of treatment for offenders when it comes to addressing their criminal behavior. Our survey was not designed to be statistically representative, but rather designed to obtain qualitative data to determine if previously identified concerns were being addressed. Only half of the clinicians we surveyed said they were consistently addressing criminal behavior through criminogenic treatment with

Only half the clinicians we surveyed said they were consistently addressing criminal behavior through criminogenic treatment with offenders.

[2] Criminogenic treatment addresses an offender's traits, problems, and issues that contribute to criminal behavior.
[3] Evidence-based practices focuses on approaches demonstrated by empirical research to be effective.

offenders. Criminogenic treatment addresses an offender's traits, problems, and issues that contribute to their criminal behavior. These traits include antisocial attitudes, peer relationships, personality, and history. Criminogenic treatment is now required by JRI as part of treatment for all offenders seeking substance use disorder treatment.

Criminogenic treatment addresses an offender's traits, problems, and issues that contribute to their criminal behavior.

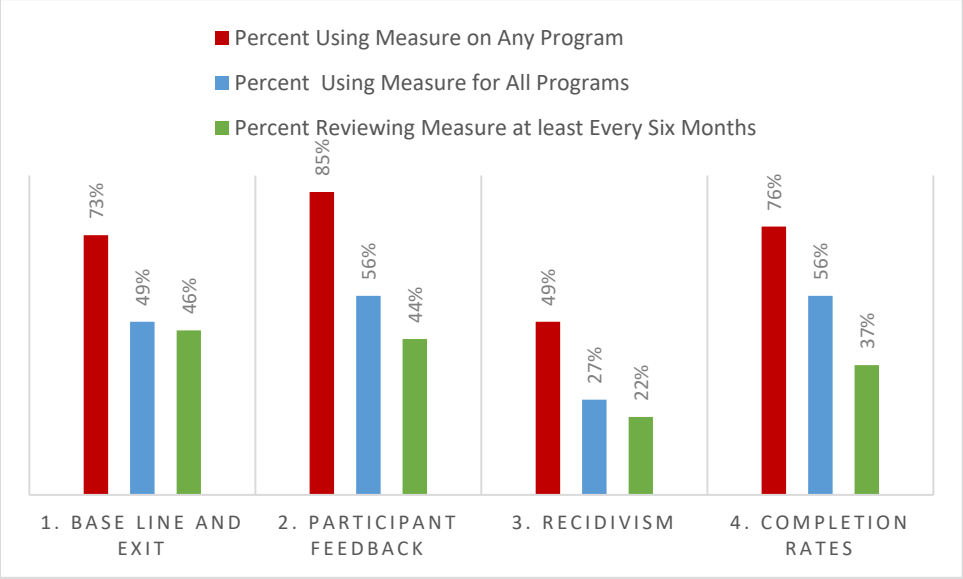
The 2017 UCJC report found that providers were ineffective at individualizing criminogenic treatment and having clients practice new prosocial behaviors through role-playing and simulations. In our survey, 43 percent of clinicians reported always individualizing treatment and only 17 percent reported always having clients rehearse prosocial behaviors. Further details of our survey results can be found in Appendix L. We recommend that DSAMH continue to assess the frequency and quality of criminogenic treatment and focus training on needed areas.

Program Performance Measures Not Consistently Tracked

Our survey showed that providers were not consistently tracking performance across all programs frequently enough. Measuring performance is essential to maintain the quality of treatment programs. The UCJC report identified four performance measures that were not tracked adequately by surveyed providers. Figure 5.3 shows the results of our survey of executive directors and clinical directors who were asked whether they used each of the four performance measures (explained in the figure footnote) and their frequency of use.

Measuring performance is essential to maintaining quality of treatment programs.

Figure 5.3 Providers Did Not Regularly Track All Four Recommended Performance Measures for All Programs. As the green bars show, less than half of providers surveyed reviewed the measures at least every six months.



Source: Auditor Survey.

Measure 1: Base Line and Exit: the targeted behavior is measured at the beginning and end of treatment
Measure 2: Participant Feedback: participants give their evaluation of the treatment
Measure 3: Recidivism: Subsequent criminal behavior is tracked to verify if treatment reduces crime
Measure 4: Completion rates: The percent of participants completing treatment

The bars on the chart show the percent of 40 respondents who said they separately tracked each measure (base line and exit, participant feedback, recidivism, and completion rates), whether they used the measure to track all programs, and how frequently the measures were reviewed. Except for recidivism, which was discussed in Chapter III, the red bars show that over 70 percent of respondents reported tracking the change from base line to exit, participant feedback, and completion rates on at least one program.

For further understanding of how they used the measures, we asked if they were using the measures to evaluate their organizations' performance across **all** basic organizational treatment units such as programs, levels of care, and facilities. The blue bars on the graph show that about half used each measure to evaluate all their basic organizational treatment units. Our separate survey of clinicians supported this result with just half the clinicians reporting that they always assessed the targeted behavior at baseline and exit. The green bars in the graph show that even fewer providers were reviewing the measures on a timely basis or at least every six months.

The blue bars on the graph show that about half use each measure to evaluate all their basic organizational treatment units.

Another concern is that nearly a third of surveyed providers said they evaluated all their programs collectively. One provider we talked with depended on the yearly Treatment Episode Data sent to DSAMH as their performance measure tracking system. This data is used to summarize a provider's outcomes as a whole and is not sufficient to determine the effectiveness of individual programs. We recommend that DSAMH monitor the use of performance measures by local authority management to ensure that measures adequately represent programs, levels of care and/or facilities and are reviewed by management frequently enough to effect needed changes.

Our discussions with public providers reveal that they have made attempts to track recidivism but access to the data has been difficult to obtain.

Recidivism Is Difficult for Providers to Track with the Current System. Our discussions with public providers revealed that they have made attempts to track recidivism but access to the data has been difficult. Private providers would also not have the ability to track recidivism. In our survey, we did not define whether providers looked at recidivism during or after treatment, so some may be tracking recidivism during treatment. However, the division had doubts that providers can track recidivism data, and if they did, it would be very inconsistent. Recently, CCJJ has been working with DSAMH, the Department of Corrections, and the Utah Association of Counties to address this issue. We were told that getting access to all sources of recidivism data and having additional personnel to track the data were addressed in bills recently passed during the 2020 Legislative General Session. In Chapter III of this report we discuss the need to track recidivism and make recommendations to facilitate the collection of data needed to track recidivism.

Fidelity Monitoring of Treatment Programs Lacking

Results of our third survey area indicated that most providers were not verifying whether their treatment programs were being implemented as designed.

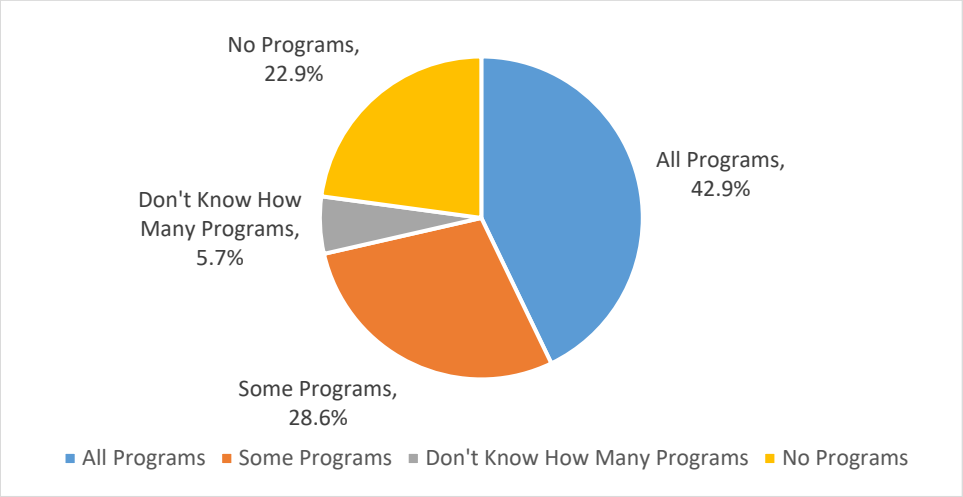
Results of our third survey area indicated that most providers were not verifying whether their treatment programs were being implemented as designed. If a treatment program or approach to therapy was administered incorrectly, it would not likely produce the desired results. Fidelity monitoring verifies that treatment programs are carried out as designed.

In our survey results, less than half of providers reported conducting fidelity monitoring on all evidence-based programs[4] they operated. This result was not surprising after discussions with providers and regulators revealed that fidelity monitoring was not conducted consistently on all programs. Evidence-based programs require that practitioners undergo specialized training and sometimes certification as well as adhere to standards of quality and assurance for that particular program. Maintaining the training and quality of a program as designed can be difficult because of changes in staff and leadership, program drift, and other obstacles. Fidelity monitoring must be conducted to give an objective appraisal of treatment interventions to determine whether they are continually executed appropriately as designed by the research.

Fidelity monitoring must be conducted to give an objective appraisal of treatment interventions to determine whether they are being executed appropriately as designed by the research.

Figure 5.4 shows that, while more than three fourths of providers surveyed did have some form of monitoring (see blue, orange, and grey slices), many did not monitor the performance of all their evidence-based programming (EBP).

Figure 5.4 The Percent of Providers Reporting They Conducted Fidelity Monitoring of Their Programs. Many of those that conducted fidelity monitoring did not use it on all their evidence-based programs as shown by the orange slice.



Source: Auditor Generated

As shown by the blue slice, only 43 percent of providers surveyed conduct fidelity monitoring on all programs.

[4] Evidence-based programs are those interventions that are supported by documentation that it has been effectively implemented in the past multiple times, in a manner attentive to scientific standards of evidence and with results that show a consistent pattern of credible and positive effects.

Just under one quarter of providers surveyed report that they did not conduct fidelity monitoring.

Just under one quarter of surveyed providers reported that they did not conduct fidelity monitoring, as shown by the yellow slice. However, even for those that did conduct some fidelity monitoring, not all were monitoring all their EBPs, as shown by the orange slice. Only 43 percent (blue slice) reported they conduct fidelity monitoring on all their EBPs. We recommend that DSAMH encourage and evaluate the use of fidelity monitoring by providers on all their evidence-based programs.

Smaller organizations typically have fewer resources to conduct fidelity monitoring while larger organization may have to devote full-time positions to properly monitor the fidelity of their programs.

More Resources May Be Needed to Track and Evaluate Treatment Performance. Conducting fidelity monitoring requires qualified personnel to observe treatment delivery and conduct file reviews. Smaller organizations may have fewer resources to conduct fidelity monitoring while larger organization may have to devote full-time positions to properly monitor program fidelity. The collection and analysis of performance measures also uses resources and funding has been a concern in implementing monitoring. For providers and DSAMH to expand their quality assurance monitoring, resources may have to be taken from current treatment funds unless additional funding sources can be found.

Considering Recent Treatment Quality Reviews, DSAMH Should Update Its Treatment Standards and Certification Process. A goal of JRI was to ensure treatment quality by establishing statewide standards and a certification process for community-based providers. ***Utah Code*** 62A-15-103(2)(i) states that the division shall "…establish by rule…minimum standards and requirements for the provision of substance use disorder and mental health…."

DSAMH does have treatment standards and created a certification process for private providers after JRI was enacted. Criminogenic treatment, certifying private providers, and tracking recidivism are relatively new programs and processes required by JRI. The large changes in treatment oversight required by JRI necessitate more collaboration and a quicker response to standards development. We recommend that DSAMH collaborate with the Department of Corrections and the Utah Substance Use and Mental Health Advisory Council to update their standards and certification process to ensure treatment quality is more in line with current evidence-based practices.

Recommendations

One of the original goals of JRI was to increase the availability and quality of treatment. The recommendations in this chapter focus on improving the quality of treatment so that JRI will have a greater impact in reducing recidivism.

1. We recommend that DSAMH continue to assess the frequency and quality of criminogenic treatment and focus training on needed areas.

2. We recommend that DSAMH monitor the use of performance measures by local authority management to ensure that measures adequately represent programs, levels of care and/or facilities and are reviewed by management frequently enough to effect needed changes.

3. We recommend that DSAMH encourage and evaluate the use of fidelity monitoring by providers on all evidence-based programs.

4. We recommend that DSAMH collaborate with the Department of Corrections and the Utah Substance Abuse and Mental Health Advisory Council to update its standards and certification process to ensure treatment quality is in line with current evidence-based practices.

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Chapter VI
JRI Success Could Improve with Better Offender Supervision

One goal of the Justice Reinvestment Initiative (JRI) was to reduce recidivism by evidence-based supervision and offender treatment in the community rather than by prison sentences. Chapter V presented our concerns with the quality and availability of treatment offered to offenders suffering from mental illness or drug addiction. This chapter raises concerns about the state's ability to supervise offenders in the community. We found that Adult Probation and Parole (AP&P) agents are having difficulties in applying the new graduated sanctions. Heavy agent workloads may be contributing this by limiting agents' time in applying evidence-based practices to reduce recidivism. Recent increases in Legislative funding for AP&P should help reduce agent workloads. We are also concerned about the lack of accountability for offenders sentenced to court probation and ordered to receive treatment.

We found that Adult Probation and Parole (AP&P) agents are having difficulties in applying the new graduated sanctions.

AP&P Can Better Implement Its New Approach to Community Supervision

JRI required the development of a graduated sanctions and incentives which became the Response and Incentive Matrix (RIM) that constituted a new approach to community supervision. This predefined set of incentives and sanctions allows agents to provide a swift, certain, and proportional response to offender violations and was created using evidence-based practices. Evidence-based practices are those approaches that research has demonstrated to be effective. In the past, AP&P has had difficulty implementing evidence-based practices as explained in our 2013 audit report of AP&P. Since that audit, we have seen evidence that AP&P has made significant progress in implementing other evidence-based practices. However, the more time-intensive RIM combined with higher workloads and the overall challenges of implementing evidence-based practices in large organizations may contribute to agents' low confidence in RIM's usefulness.

The Response Incentive Matrix (RIM) is a predefined set of incentives and sanctions that allow agents to provide a swift, certain, and proportional response to offender violations.

Implementing Evidence-Based Community Supervision Is Difficult for Many Organizations

The research community has recognized the challenges in implementing evidence-based practices in larger community settings.

There are evidence-based practices (EBP) for community-based supervision. However, the science of applying such practices in large community supervision settings is still maturing, such that many have difficulty effectively implementing these practices. The research community has recognized the challenges in implementing evidence-based practices in larger community settings. One Justice Research and Policy article summarized the problem this way:

> The transition to an evidence-based practices model represents nothing short of cultural change for most organizations….community supervision officers must become proficient in the use of cognitive-behavioral strategies, motivational interviewing, offender assessment, and case planning and must learn how to fully engage in a process of evidence-based decision making.

Because EBPs require such large skill set changes, the struggle to implement evidence-based practices reliably is a challenge faced by adult community supervision programs. Our 2013 report on AP&P reported that agents have also struggled with implementing evidence-based programs with fidelity. Though agents report they are now more consistently applying many previously introduced evidence-based practices, they continue to struggle with fully implementing the RIM.

Agents Struggle to Fully Apply the RIM

As will be explained later in this chapter, heavy workloads make the time-intensive Response Incentive Matrix (RIM) difficult to apply. In addition, its perceived ineffectiveness for high-risk offenders may be limiting its broad use. One goal of JRI was to create a system of graduated sanctions and incentives to ensure that responses to supervision violations were "swift, certain, and proportional". These graduated sanctions, developed as the RIM, are based on evidence-based practices that have been shown to reduce recidivism. The RIM forms the support for using sanctions and rewards to manage client behavior.

With larger caseloads, an agent may adhere to the RIM less closely. For example, a technical violation of parole may be the failure to submit to a drug test. Depending on the risk level of the offender (high, moderate, or low), the offender could be placed on home restriction for 72 hours or have up to a 60-day curfew. Verifying that these sanctions are occurring uses agents' time, and with larger workloads, less follow through may occur.

With larger caseloads, an agent may adhere to the RIM less closely.

Agents are less confident that RIM is effective for high-risk offenders. According to the PEW survey of Utah agents, 72 percent consider RIM "somewhat" effective, or only "a little" effective. Our own interviews revealed similar agent opinions, with many agents expressing concern that the new RIM sanctions were not effective for much of the higher-risk population they deal with. As one agent put it, hardened criminals were not bothered by sanctions like a few days in jail.

Agents are less confident that the RIM is effective for high-risk offenders.

Heavy workloads may contribute to these concerns by limiting the amount of time agents have to fully apply RIM sanctions and rewards, conduct motivational interviewing, and even search for offenders who have absconded. On the other hand, the RIM may have to be adjusted in the future to make it more effective as new evidence of what works improves. We recommend that Utah Department of Corrections continue to require the use of current evidence-based practices among agents and continue to monitor the quality of instituted evidence-based practices.

In Response to Our 2013 Audit Report, AP&P Management Monitored Agents' Use of Evidence-Based Practices. The PEW Research Center's 2019 survey of AP&P agents evaluated agent use of evidence-based practices. The survey revealed that risk and needs assessments were widely used by agents, with 95 percent of current caseloads reported to have received a risk and needs assessment. Behavioral health assessments were also regularly used, with 76 percent of current caseloads having received a substance abuse assessment and 58 percent having received a mental health assessment. Case action plans were also widely used by agents, with 89 percent of caseloads reported to have a completed case action plan. Though clients should be involved in their case plan development, roughly half of agents reported that clients were "somewhat" or just "a little" involved in case plan creation. Management reports holding regular training on the application of evidence-based practices and monitors

their use and effectiveness, such as using a private contractor to evaluate agent motivational interviewing skills.

Increase in AP&P Workloads Have Challenged Agents' Ability to Apply Evidence-Based Supervision

JRI required the application of additional evidence-based approaches to supervision to reduce recidivism. However, probation officers' workloads have increased due to the higher percentage of high-risk offenders on their caseloads. As a result, probation officers have had difficulty balancing the increased workload while applying the new graduated sanctions approach to supervision. Recent budget increases should allow AP&P to alleviate some of the workload. AP&P needs to verify that agents adhere to the additional evidence-based practices required by JRI.

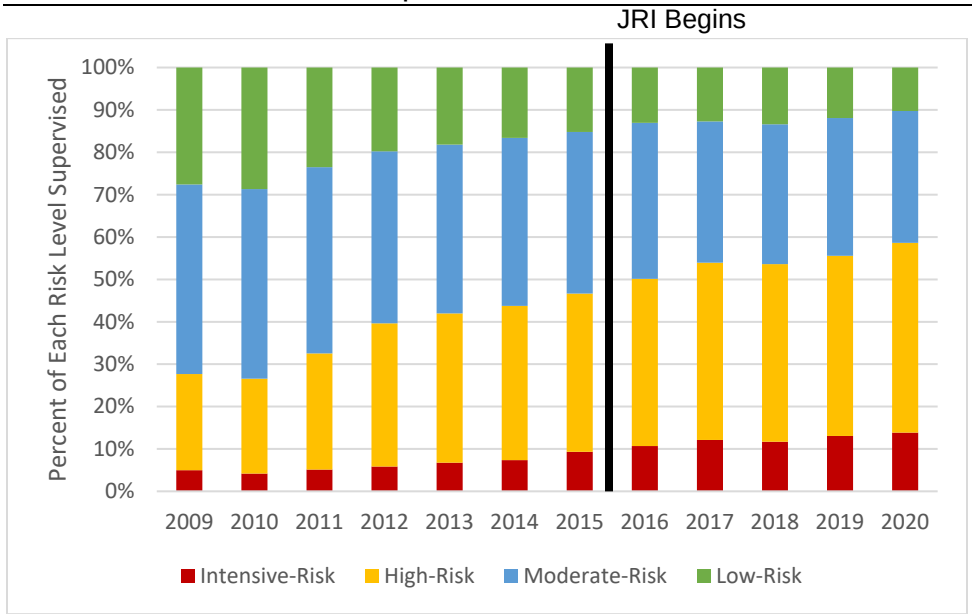
AP&P Has Struggled Balancing Increased Agent Workloads and Implementing New Graduated Sanctions

AP&P agents are now required to manage more high-risk offenders than they did before JRI took effect.

Although the number of cases managed by each agent has not changed significantly since 2014, AP&P agents are now required to manage more high-risk offenders than they did before JRI took effect. High-risk offenders require closer supervision than do other probationers, thereby adding to the agents' workload. Heavy workloads leave less time to apply evidence-based practices.

The diversion of inmates from prison sentences to community-based treatment increased the number of those on intensive supervision. To relieve the workload on agents, AP&P began reducing the number of low-risk offenders who received their services. Figure 6.1 shows that the proportion of intensive and higher-risk offenders (red and yellow bars) has increased since JRI began in October 2015.

Figure 6.1 Caseload Intensity Has Increased for AP&P Agents. Agents now have a higher percentage of intensive and high-risk offenders[5] in their caseloads. The mix of intensive and high-risk offenders has increased 15 percent since 2014.



Source: Unaudited Department of Corrections Data

Figure 6.1 depicts agent caseloads by risk levels of supervised offenders. Those classified in the intensive-risk category require the most supervision time. Thus, the red bars show that the proportion of intensive offenders began to rapidly increase after JRI began, now occupying 14 percent of caseloads. At the same time, the percentage of low-risk offenders (in green) decreased.

Offenders classified in the intensive-risk category require the most supervision time.

Increase in Offenders Requiring Intensive Supervision Places Higher Demand on Probation Officers' Time. AP&P standards of supervision require only one face-to-face office or field visit every 180 days with a low-risk offender, or one monthly office visit and a field visit every other month for a moderate-risk offender. In contrast, an office visit is required every month and a field visit once a month for high-risk offenders. Those classified as an intensive risk require two office contacts per month and two field contacts per month. As Figure 6.2 shows, the number of office visits and field contacts increases

[5] Risk levels are assessed using tools like the LS/RNR that look at criminal history, education/employment, family/marital, leisure/recreation, companions, alcohol/drug problems, procriminal attitude/orientation and antisocial pattern.

dramatically with higher-risk offenders on the caseload even when the total number supervised remains the same.

Figure 6.2 Agent Workloads Are Affected by the Number of Higher Risk Offenders Supervised. A higher-risk workload means more office visits and field contacts for agents.

		Number of Supervised at Each Risk Level					
	# Supervised	Low	Moderate	High	Intensive	# office visits/month	# field contacts/month
Low-Risk Workload	60	30	20	10		35	50
High-Risk Workload	60		10	30	20	80	150

Source: Auditor Generated

As workloads increase, agents have less time to conduct motivational interviewing or properly apply graduated sanctions and incentives.

As the figure shows, two agents with caseloads of 60 offenders each can have very different overall workloads. If one agent had a low-risk workload consisting of 30 low, 20 moderate, and 10 high-risk offenders, the agent would be required to conduct 35 office visits and 50 field contacts each month. Another agent with the same caseload but with higher risk offenders consisting of 10 moderate, 30 high, and 20 intensive offenders, would be required to conduct 80 office visits and 150 field contacts each month. Field contacts require the presence of two agents for safety. An increase in the number of higher risk supervisees quickly increases an agent's workload. As workloads increase, agents have less time to conduct motivational interviewing or properly apply graduated sanctions and incentives.

Our interviews with agents revealed that when workloads increased, agents tended to focus on public safety and were less inclined to follow the graduated sanctions matrix, which is more time consuming.

Increased Workload Has Further Frustrated the Implementation of Some Evidence-Based Practices

As evidenced in our 2013 audit of AP&P the division has struggled to implement evidence-based practices in the past. Currently, increased workloads appear to further frustrate the implementation of some evidence-based practices. A 2019 PEW Research Center survey examined the use of evidence-based practices by Utah AP&P agents. The report concluded that agent workload affected supervision quality. Our interviews with agents revealed

similar concerns that when workloads increased, agents tended to focus on public safety and were less inclined to follow the graduated sanctions matrix, which is more time consuming. One agent frankly admitted that he was so busy with his large caseload that he focused on public safety and did not follow the graduated sanctions as required.

The PEW researchers also asked agents if their caseload size enabled them to supervise clients in a way that promoted successful supervision completion. Over 75 percent of agents said that their caseload was such that they were able to successfully supervise clients only "somewhat," "a little," or "not at all." Agents also identified heavy caseloads as their greatest challenge. With two thirds of agents having been with AP&P for five years or less, agent turnover also contributes to the workload problem. As agents leave, others must take up larger caseloads. If AP&P could decrease workloads, agents would have more time to properly apply graduated incentives and sanctions and give community supervision a better chance of success. This would be consistent with the goals of JRI.

Agents identified heavy caseloads as their greatest challenge.

2020 Session Increased AP&P Funding But Impact Needs to Be Evaluated

During the 2020 Legislative General Session, legislators recognized the need to provide additional funding for AP&P officers, increasing ongoing AP&P funding by $5.6 million. However, because of the COVID-19-induced recession, a Legislative Special Session eventually increased funding by $3 million. The division informed us that these funds would be used to fund an additional 12 AP&P agents, 12 case workers, 2 AP&P supervisors, 2 therapist supervisors, and 2 support staff. Before this funding increase, average caseloads had been at 58 to 64 cases per agent for the past 6 years. As of July 2020, the average caseload had dropped to 55. As Figure 6.3 shows, compared to other western states, Utah's average per-agent caseload put Utah at the higher end of what some western states consider to be their upper limit.

Figure 6.3 Utah Caseloads Compared to Western States with Agent Caseload Limits. Recognizing that caseload size affects effectiveness, some states limit the number of cases per agent.

State	States That Limit the Number of Offenders per Agent
UT	Current average caseload 55 offenders
AZ	No more than 65 on average, for two-person intensive no more than 25
CO	No official policy for caseload limits. Unofficial limit of 50 high risk or 25 very high risk.
ID	Not to exceed an average of 50 offenders
NM	Maximum case load of 40 offenders
NV	No maximum case load

Source: NCSL

Arizona and Colorado have a 25-person limit for high risk offenders.

The additional agent resources should increase the number of field agents with active caseloads by 5.2 percent and decrease workloads. However, to reduce recidivism, caseload reductions must also be accompanied by agents' use of evidence-based practices to be effective. We believe that the heavy workload certainly limited agents' ability to closely adhere to evidence-based practices. Unfortunately, full acceptance and use of evidence-based practices by community supervision personnel has been an issue with many community supervision organizations.

Lack of Pretrial and Probation Services for Many Offenders May Hinder JRI Reforms

As mentioned in Chapter III, JRI was intended to lead to a more data-driven approach to criminal justice in which agencies, programs, and individuals would be held accountable for results. We found there is little accountability for offenders who are sentenced to unsupervised court probation. For example, 25 percent of those on unsupervised probation are ordered to receive substance abuse assessments and treatment. However, there is no way to verify that the offender obtained the required treatment. Also, research has shown that the use of evidence-based practices such as assessments and targeted interventions, can reduce recidivism. The application of these evidence-based practices earlier during pretrial has great potential. However, many counties lack pretrial and probation services that can

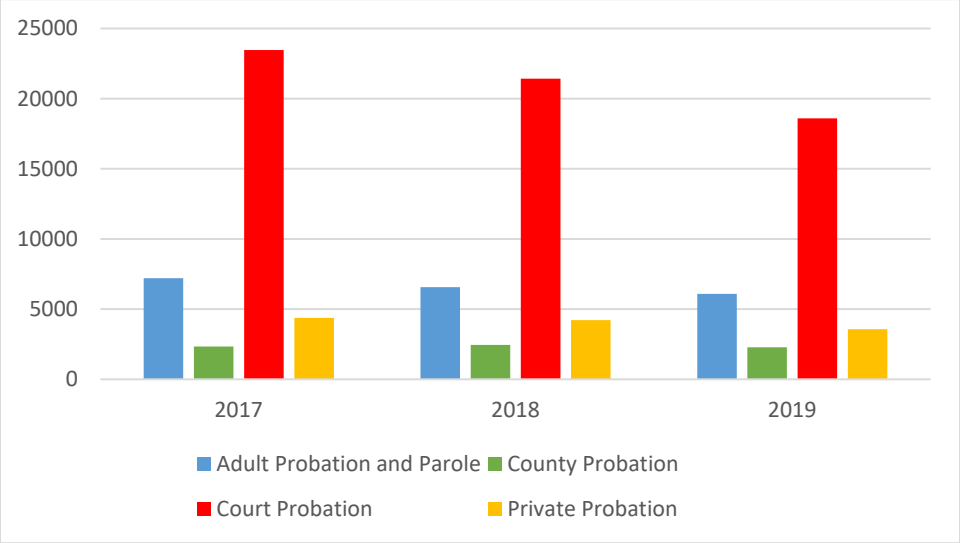
be used to help offenders avoid committing new offenses before their court date.

Impacts of Probation on Offenders Is Not Evaluated

We are concerned that there are offenders placed on unsupervised court probation and ordered for treatment whose treatment outcomes are not evaluated. Unlike AP&P, which tracks several outcomes for those they supervise, offenders on good behavior probation are not tracked to assure outcome or completion of treatment requirements. Figure 6.3 shows that the majority of those placed on probation are placed on unsupervised court or good behavior probation. Many of these individuals are first-time offenders or low-risk individuals.

We are concerned that there are offenders placed on unsupervised court probation and ordered for treatment, whose treatment outcomes are not evaluated.

Figure 6.4 Court-Ordered Probation by Category Shows Court Probation, Also Known as Good Behavior Probation, Is by Far the Most Common Probation. Those offenders on court probation are not tracked to determine if treatment outcomes were achieved.



Source: Auditor summary of Utah Court data

The red bars represent the largest number of probationers who are on court probation or good behavior probation and are unsupervised.

The green bars represent the number of offenders on county probation, most of which are with Salt Lake County Probation Services because few counties have probation departments. The yellow bars show the number of probationers with private probation and the blue bars represent the number of probationers with AP&P. The red bars represent the largest number of probationers who are on court probation or good behavior probation and are unsupervised. In 2019, those on court probation represented 61 percent of all those on probation that year.

We were not able to tell from court records if individuals required to complete substance abuse treatment completed it. Twenty-five percent of those placed on court probation are typically required by the courts to get substance abuse assessment and treatment. Most placed on court probation should be low-risk individuals, and evidence shows that treatment services for low-risk individuals should be kept to a minimum. However, from 2017 to 2019, there were 17,161 individuals placed on court probation and ordered to be assessed and, if needed, complete substance abuse treatment. Some county probation officers and Sheriffs we spoke with expressed concern over these unsupervised individuals who may need treatment and services. By tracking the outcomes of low-risk individuals, we may be able to prevent further recidivism and involvement with the criminal justice system with the use of targeted treatment and services.

We are not able to tell from court records if individuals required to completed substance abuse treatment completed it.

Between 2017 to 2019 there were 17,161 individuals placed on court probation and ordered to be assessed and, if needed, complete substance abuse treatment.

JRI has placed emphasis on treatment in the community and a data-driven criminal justice system, but the outcomes of a large portion of those on probation and ordered to receive treatment are simply not tracked. The Division of Substance Abuse and Mental Health is also tasked with tracking treatment outcomes. However, for privacy concerns, as explained in Chapters III and V, the division has not tracked the treatment for many individuals receiving treatment in the private sector. We recommend that the courts coordinate with the Commission on Criminal and Juvenile Justice and the Division of Substance Abuse and Mental Health to track in the least impactful way the treatment outcomes of those on court probation who are required to receive treatment.

County Pretrial Services Needs Further Review

Many counties lack pretrial and other services that could help reduce recidivism early on. Judges have expressed to us the need for pretrial services and sheriffs have expressed the need for supervision services in their communities. Only a few counties report having county probation services and only a few offer pretrial services. Pretrial services can include court-ordered assessments, treatment services, diversion programs, and other services that offenders need to comply with soon after arrest. With JRI's emphasis on community supervision and treatment, it would make sense to review county pretrial and probation services so that services and treatment can be given early to limit future offending. Courts at the federal level, as well as some other states, have begun applying evidence-based practices in pretrial

With JRI's emphasis on community supervision and treatment, it would make sense to review county pretrial and probation services so that services and treatment can be provided early on to limit future offending.

services. As part of their JRI efforts, nine states invested in pretrial services, assessments, and diversion programs.

In Utah, we have identified three counties that have implemented some type of pretrial services. Davis County has recently opened a receiving center where officers can bring individuals that meet certain criteria immediately upon arrest. These individuals can avoid prosecution by agreeing to enter and complete treatment. Salt Lake County has had pretrial services for some time. Part of these services include contacting offenders about their court hearings, making sure they have time off work, childcare, and transportation so they can attend court hearings. Washington County does pretrial assessments of offenders so they can get offenders into treatment soon after arrest. The full impact of many of these services still needs to be determined but assessment and targeting of offender needs are evidence-based practices.

As mentioned in Chapter III, JRI was promised to be data-driven so all programs created to address criminal justice concerns should be evaluated to determine their outcomes and effectiveness in reducing recidivism. The types and amounts of pretrial and probation services a county needs should be determined by local Criminal Justice Coordinating Councils (CJCCs). In Chapter IV, we recommended the formation of CJCCs in counties and regions throughout Utah. CCJJ should assist local CJCCs in evaluating the need for pretrial and probation services and support counties in the funding, implementation, and evaluation of these services.

The types and amounts of pretrial and probation services a county needs should be determined by local Criminal Justice Coordinating Councils (CJCCs).

Recommendations

1. We recommend that Utah Department of Corrections continue to require the use of current evidence-based practices among agents and continue to monitor the quality of instituted evidence-based practices.

2. We recommend that the courts coordinate with the Commission on Criminal and Juvenile Justice and the Division of Substance Abuse and Mental Health to track, in the least impactful way, the treatment outcomes of those on court probation who are required to receive treatment.

3. We recommend that the Commission on Criminal and Juvenile Justice, in concert with local Criminal Justice Coordinating Councils, study county needs for pretrial and probation services and support the counties in the funding, implementation, and evaluation of these services.

Appendices

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Appendix A

Justice Reinvestment Report Summary

November 2014

For the Full Report go to:

https://justice.utah.gov/Documents/CCJJ/Justice%20Reinvestment%20Initiative/Justice%20Reinvestment%20Report%202014.pdf

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Cost of doing nothing: $542 million

Utah's prison population has grown by 18 percent since 2004. Without action, the state will need to house an additional 2,700 inmates - a 37 percent growth in the prison population - by 2034.

Utah taxpayers currently spend $270 million annually on corrections. The relocation of the state prison at Draper is projected to cost more than $1 billion, with half this cost tied to inmate growth alone.

For all this spending, taxpayers have not been getting a strong public safety return. Almost half (46%) of Utah's inmates who are released from state prisons return within three years.

The challenges facing Utah

In April 2014, at the charge of the Governor, Chief Justice, Attorney General, and legislative leaders, the Utah Commission on Criminal and Juvenile Justice (CCJJ) began a seven month policy development process, beginning with a comprehensive review of the state's sentencing and corrections data. CCJJ found:

- **Utah's prison population has grown 18 percent since 2004** – six times faster than the national average during the same period.
- **A significant number of Utah's prison admissions are for nonviolent offenses –** Sixty-two percent of offenders sent directly to prison from court in 2013 were sentenced for nonviolent crimes.
- **Offenders on probation and parole supervision are failing at higher rates than they did 10 years ago –** Revocation from supervision—being sent back to prison for a violation of probation or parole—accounted for 46 percent of Utah's prison population in January 2014.
- **Despite research demonstrating the diminishing public safety returns of longer prison sentences, prisoners are spending 18 percent longer in prison than they did 10 years ago** – This growth in time served has occurred across all offense types, including nonviolent offenses.

Policy options in the Commission's report

The Commission recommended a comprehensive policy package that reduces recidivism, controls prison costs, and holds offenders accountable. CCJJ recommends:

- **Focusing prison beds on serious and violent offenders** by revising the sentencing guidelines for some low-level offenders and the criminal history scoring system in order to avoid double counting and to limit factors to those most relevant to the risk of re-offense; revising penalties for drug offenders in order to target chronic felony offenders and drug dealers who sell to minors; establishing graduated revocation caps for technical probation and parole violators; and establishing a standard system of earned time credits for inmates who participate in certain programming.
- **Strengthening probation and parole supervision** by implementing a graduated sanctions and incentives matrix to ensure responses are swift, certain, and proportional; and allowing offenders to earn time off their supervision sentences for engaging in behavior that reduces their risk of committing another crime.
- **Improving and expanding reentry and treatment services** by increasing the availability of mental health and substance abuse treatment services across the state; ensuring quality by establishing statewide standards and certification processes for community-based providers; and implementing transition planning and reentry services for offenders returning to their communities.
- **Supporting local corrections systems** by reclassifying lower-level moving vehicle misdemeanors to focus jail resources on high-level offenders; establishing evidence-based jail treatment standards; increasing services for crime victims; and establishing a performance incentive grant program to provide funding for counties working to reduce recidivism and expand alternatives to prison.
- **Ensuring oversight and accountability** by training criminal justice decision makers on evidence-based practices; and requiring data collection and reporting of key performance measures.

The policy options will NOT:

- decriminalize or legalize the possession, sale, or trafficking of any controlled substance.
- require the resentencing of any offender.

What is the expected impact of these policy options?

Together, the 18 policy recommendations in the Commission's report will avert nearly all of the anticipated growth in prison population and will save taxpayers $542 million dollars over the next 20 years. The CCJJ recommends reinvesting in practices that reduce recidivism and support crime victims.

Only partially implementing the Commission's policy options will mean that the prison population and correctional costs continue to grow. This will leave policy makers with the difficult choice of raising taxes or cutting funding to other key priority areas.

How will these recommendations impact localities?

The CCJJ identified the following policy options and reinvestment priorities to improve public safety and criminal justice systems at the local level:

- **Expand treatment services** to increase community substance abuse and mental health treatment capacity for offenders to meet demand for services statewide.
- **Increase resources to reduce recidivism** by creating a grant program for counties to create locally-determined programs and practices that reduce recidivism and expand alternatives to prison.
- **Invest in victim services** to expand the number of victim advocates and services in rural and remote areas of the state.

Background on the Utah Commission for Criminal and Juvenile Justice

From April to November 2014, the Utah Commission on Criminal and Juvenile Justice (CCJJ) conducted a rigorous review of Utah's sentencing and corrections data, evaluated current policies and programs across the state, explored best practices from other states, and engaged in policy discussions. This diverse group of criminal justice stakeholders included representatives from corrections, law enforcement, victim advocacy, the legislature, judiciary, the prosecutorial and defense bars, and community based practitioners.

In his 2014 State of the State address, Governor Herbert called for a "full review of our current system to develop a plan to reduce recidivism, maximize offenders' success in becoming law-abiding citizens, and provide judges with the tools they need to accomplish these goals." Governor Herbert, Chief Justice Matthew Durrant, Senate President Wayne Niederhauser, House Speaker Becky Lockhart, and Attorney General Sean Reyes tasked the Utah Commission on Criminal and Juvenile Justice (CCJJ) with "develop[ing] a package of data-driven policy recommendations that will reduce recidivism and safely control the growth in the state prison population."

The CCJJ held six public hearings across the state and two roundtables of victims, survivors, and victim advocates to identify key priority areas for reform. The Commission submitted a report of its findings and policy options to the Governor and Legislature for consideration and action in the 2015 session.

Appendix B

Recidivism Rates by Judicial District, Court Location and County

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One Year Recidivism Rates by Judicial Court District and Court Location

For the three years before and after JRI took effect, the percent of individuals who are convicted on drug possession only or possession of drug paraphernalia charges and who have new charges filed within one year of the judgement date for the first charge. The recidivism rate reflects the success the community has made towards curbing low-level illegal drug use.

Court Location	Before JRI 2013 – 2015	After JRI 2016 – 2018
District 1	**22%**	**30%**
Brigham City District	20%	25%
Logan District	25%	38%
Randolph District	0%	13%
District 1 Justice Courts	20%	24%
District 2	**25%**	**31%**
Bountiful District	20%	33%
Farmington District	25%	32%
Layton District	26%	33%
Morgan District	30%	21%
Ogden District	21%	28%
District 2 Justice Courts	28%	32%
District 3	**39%**	**46%**
Salt Lake City District	40%	45%
Silver Summit District	11%	16%
Tooele District	19%	40%
West Jordan District	32%	43%
District 3 Justice Courts	40%	47%
District 4	**33%**	**39%**
American Fork District	37%	46%
Fillmore District	25%	25%
Heber City District	24%	36%
Nephi District	24%	29%
Provo District	35%	42%
Spanish Fork District	36%	41%
District 4 Justice Courts	31%	36%
District 5	**24%**	**28%**
Beaver District	16%	31%
Cedar City District	13%	34%
St. George District	31%	37%
District 5 Justice Courts	19%	21%
District 6	**17%**	**26%**
Junction District	50%	67%
Kanab District	13%	14%
Loa District	14%	45%
Manti District	**25%**	30%

Court Location	Before JRI 2013 – 2015	After JRI 2016 – 2018
Panguitch District	6%	13%
Richfield District	23%	34%
District 6 Justice Courts	11%	19%
District 7	**22%**	**28%**
Castle Dale District	9%	24%
Moab District	17%	32%
Monticello District	5%	12%
Price District	43%	47%
District 7 Justice Courts	18%	27%
District 8	**29%**	**35%**
Duchesne District	37%	41%
Roosevelt District	35%	40%
Vernal District	31%	38%
District 8 Justice Courts	22%	28%
Statewide	**32%**	**38%**

Note: The data show recidivism rates by the court locations in which the charges were originally filed and adjudicated. The re-offense may have occurred in the same or another court district.

One Year Recidivism Rates by County

The figure describes the percent of individuals who received a guilty judgement on a drug possession only or possession of drug paraphernalia charge and who are then rearrested within one year of the judgement date of the initial arrest. Data is summarized by the year of the initial judgement date.

Year	Before JRI 2013 – 2015	After JRI 2016 – 2018
Beaver	13%	14%
Box Elder	18%	25%
Cache	24%	33%
Carbon	39%	39%
Daggett	0%	33%
Davis	25%	31%
Duchesne	34%	36%
Emery	7%	15%
Garfield	10%	23%
Grand	12%	23%
Iron	12%	23%
Juab	14%	22%
Kane	10%	12%
Millard	25%	18%
Morgan	23%	12%
Piute	29%	57%
Rich	44%	0%
Salt Lake	41%	47%
San Juan	9%	11%
Sanpete	24%	26%
Sevier	17%	28%
Summit	13%	16%
Tooele	21%	38%
Uintah	26%	34%
Utah	34%	40%
Wasatch	25%	26%
Washington	29%	31%
Wayne	15%	46%
Weber	26%	31%
Statewide	32%	38%

Note: The data show recidivism rates by the county in which the charges were originally filed and adjudicated. The re-offense may have occurred in the same or another county in Utah.

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Appendix C

Number and Percent of Chronic Offenders By County

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Number of Chronic Drug Offenders
By County

This table show the number of court filings involving a chronic drug offender according to the county where the charges were filed. A chronic drug offender is someone charged with possession of illegal drugs or drug paraphernalia four or more times in a single year.

County	2013	2014	2015	2016	2017	2018	2019
Beaver	0	0	0	0	0	0	6
Box Elder	1	4	4	11	6	19	16
Cache	3	9	19	24	38	67	6
Carbon	31	0	11	39	18	62	55
Daggett	0	0	0	0	0	0	0
Davis	53	48	56	96	107	146	103
Duchesne	8	14	28	29	22	55	11
Emery	0	0	4	3	0	0	2
Garfield	0	0	0	0	0	1	0
Grand	0	0	0	0	3	5	6
Iron	9	3	8	24	11	58	36
Juab	3	7	2	8	10	16	16
Kane	0	0	3	5	3	2	0
Millard	3	0	1	1	0	0	8
Morgan	2	0	0	1	0	3	0
Piute	0	0	0	0	0	0	0
Rich	0	0	0	0	0	0	0
Salt Lake	690	941	1792	1758	2603	3751	2507
San Juan	0	1	1	0	2	4	3
Sanpete	0	6	1	3	12	3	4
Sevier	1	0	7	5	20	17	15
Summit	4	7	10	2	13	15	4
Tooele	9	2	14	34	44	59	58
Uintah	20	11	61	47	85	100	79
Utah	273	253	267	558	783	827	532
Wasatch	2	1	15	18	10	30	15
Washington	57	73	33	130	150	161	97
Wayne	0	3	0	0	2	0	0
Weber	41	33	35	69	77	113	147
Grand Total	1210	1416	2372	2865	4019	5514	3726

Chronic Drug Offenders as a Percent of All Individuals Charged with Possession of Illegal Drugs By County

The figure shows the percent of court filings by county which involve a chronic drug offender. A chronic drug offender is someone charged with possession of illegal drugs or drug paraphernalia four or more times in a single year.

County	2013	2014	2015	2016	2017	2018	2019
Beaver	0%	0%	0%	0%	0%	0%	7%
Box Elder	1%	2%	2%	4%	2%	6%	6%
Cache	1%	2%	4%	4%	4%	8%	1%
Carbon	11%	0%	3%	9%	4%	12%	13%
Daggett	0%	0%	0%		0%		0%
Davis	3%	3%	3%	5%	5%	7%	6%
Duchesne	3%	5%	9%	8%	5%	15%	5%
Emery	0%	0%	6%	3%	0%	0%	4%
Garfield	0%	0%	0%	0%	0%	2%	0%
Grand	0%	0%	0%	0%	2%	3%	3%
Iron	3%	1%	1%	5%	2%	11%	9%
Juab	2%	5%	1%	4%	4%	9%	10%
Kane	0%	0%	3%	5%	3%	3%	0%
Millard	3%	0%	1%	1%	0%	0%	4%
Morgan	3%	0%	0%	4%	0%	5%	0%
Piute	0%	0%	0%	0%	0%	0%	0%
Rich	0%	0%	0%	0%	0%	0%	0%
Salt Lake	9%	11%	17%	16%	21%	27%	21%
San Juan	0%	1%	1%	0%	1%	2%	1%
Sanpete	0%	5%	1%	2%	6%	2%	3%
Sevier	0%	0%	2%	1%	4%	6%	5%
Summit	1%	2%	2%	1%	3%	5%	1%
Tooele	2%	1%	4%	6%	7%	10%	12%
Uintah	5%	2%	10%	8%	14%	14%	11%
Utah	8%	7%	7%	13%	15%	15%	12%
Wasatch	1%	0%	5%	5%	3%	7%	6%
Washington	5%	6%	2%	7%	7%	9%	6%
Wayne	0%	27%	0%	0%	12%	0%	0%
Weber	2%	2%	2%	3%	4%	5%	6%

Appendix D

Chronic Offender Example – Figure 2.5 Detail

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Appendix D.1. Chronic Offender Detail. This figure provides greater detail for Figure 2.5. It shows the types of charges associated with the offender's different drug related cases, their severity, and final judgement for the charges. It excludes offenses for non-drug-related cases.

Location	Offense Description	Severity	Judgement
Draper JC	THEFT	MB	Guilty Plea
	BAIL-JUMPING	MB	Dism. w/prej
	USE OR POSSESSION OF DRUG PARAPHERNALIA	MB	Dism. w/prej
	DISORDERLY CONDUCT	INF	Dism. w/prej
	INTOXICATION	MC	Guilty Plea
Midvale JC	CRIMINAL TRESPASS	MB	Guilty
	USE OR POSSESSION OF DRUG PARAPHERNALIA	MB	Guilty
	FAIL TO APPEAR ON CITATION	MB	Guilty
Murray JC	USE OR POSSESSION OF DRUG PARAPHERNALIA	MB	Guilty
	USE OR POSSESSION OF DRUG PARAPHERNALIA	MB	Dism. w/o prej
	USE OR POSSESSION OF DRUG PARAPHERNALIA	MB	Guilty Plea
	INTOXICATION	MC	Dism. w/o prej
	INTOXICATION	MC	Dism. w/prej
	CRIMINAL TRESPASS	MB	Guilty
	CRIMINAL TRESPASS	MB	Dism. w/prej
	INTERFERENCE WITH ARRESTING OFFICER	MB	Guilty
	RETAIL THEFT (SHOPLIFTING)	MB	Dism. w/o prej
SLC DC	POSSESSION OR USE OF A CONTROLLED SUBSTANCE	F2	Guilty
	POSSESSION OR USE OF A CONTROLLED SUBSTANCE	F3	Guilty
	POSSESSION OR USE OF A CONTROLLED SUBSTANCE	F3	Plea in Abeyance
	POSSESSION OR USE OF A CONTROLLED SUBSTANCE	F3	Transferred
	POSSESSION OR USE OF A CONTROLLED SUBSTANCE	MA	Guilty
	POSSESSION OR USE OF A CONTROLLED SUBSTANCE	MA	Transferred
	USE OR POSSESSION OF DRUG PARAPHERNALIA	MB	Dism. w/prej
	USE OR POSSESSION OF DRUG PARAPHERNALIA	MB	Transferred
	OBTAIN/ASSIST OBTAINING AN IDENTIFYING DOCUMENT OF ANOTHER	MA	Dism. w/o prej
	CRIMINAL TRESPASS KNOWING UNLAWFUL PERSON/UNMANNED AIRCRAFT	MB	Dism. w/prej
	PUBLIC URINATION	MC	Transferred
	DRIVE ON REVOCATION	MC	Dism. w/o prej
	OBSTRUCTING JUSTICE	F3	Guilty
	DRIVING UNDER THE INFLUENCE OF ALCOHOL/DRUGS	MB	Guilty
	CRIMINAL TRESPASS ENTER / REMAIN-PERSON OR UNMANNED AIRCRAFT	MB	Dism. w/prej
	FALSE PERSONAL INFO W/INTENT TO BE ANOTHER ACTUAL PERSON	MA	Dism. w/o prej
	RETAIL THEFT (SHOPLIFTING)	MB	Transferred
	UNLAW ACQUISITION/POSSESS/TRANSFER-CARD	F3	Dism. w/o prej
	BURGLARY	F2	Guilty
	INTERFERENCE WITH ARRESTING OFFICER	MB	Dism. w/prej
	INTOXICATION	MC	Transferred
SLC JC	RETAIL THEFT (SHOPLIFTING)	MB	Guilty
	THEFT OF SERVICES	MB	Dism. w/prej
	CRIMINAL TRESPASS	MB	Guilty
SLCO JC	USE OR POSSESSION OF DRUG PARAPHERNALIA	MB	Dism. w/prej
	USE OR POSSESSION OF DRUG PARAPHERNALIA	MB	Guilty Plea
	CRIMINAL TRESPASS KNOWING UNLAWFUL PERSON/UNMANNED AIRCRAFT	MB	Guilty Plea
South Jord. JC	RETAIL THEFT (SHOPLIFTING)	MB	Guilty Plea
	FAIL TO STOP AT COMMAND OF LAW ENFORCEME	MB	Dism. w/prej
	USE OR POSSESSION OF DRUG PARAPHERNALIA	MB	Guilty Plea
	FAILURE TO APPEAR	MB	Dism. w/prej
	INTOXICATION	MC	Dism. w/prej

Location	Offense Description	Severity	Judgement
South SL JC	CRIMINAL TRESPASS	MB	Dism. w/prej
	USE OR POSSESSION OF DRUG PARAPHERNALIA	MB	Guilty
	INTOXICATION	MC	Dism. w/prej
Taylorsville JC	USE OR POSSESSION OF DRUG PARAPHERNALIA	MB	Guilty
	USE OR POSSESSION OF DRUG PARAPHERNALIA	MB	Dism. w/prej
	USE OR POSSESSION OF DRUG PARAPHERNALIA	MB	Set Aside
	INTERFERENCE WITH ARRESTING OFFICER	MB	Dism. w/prej
	INTERFERENCE WITH ARRESTING OFFICER	MB	Set Aside
	INTOXICATION	MC	Dism. w/prej
	FAILURE TO DISCLOSE IDENTITY	MB	Dism. w/prej
	RETAIL THEFT (SHOPLIFTING)	MB	Guilty
Tooele DC	JOYRIDING/UNAUTH CONTROL FOR EXTENDED TIME	F3	Guilty
West Jord. DC	USE OR POSSESSION OF DRUG PARAPHERNALIA	MB	Dism. w/o prej
	USE OR POSSESSION OF DRUG PARAPHERNALIA	MB	Dism. w/prej
	USE OR POSSESSION OF DRUG PARAPHERNALIA	MB	Guilty
	USE OR POSSESSION OF DRUG PARAPHERNALIA	MB	Transferred
	POSSESSION OR USE OF A CONTROLLED SUBSTANCE	F3	Guilty
	POSSESSION OR USE OF A CONTROLLED SUBSTANCE	F3	Transferred
	POSSESSION OR USE OF A CONTROLLED SUBSTANCE	MA	Guilty
	INTERFERENCE WITH ARRESTING OFFICER	MB	Dism. w/prej
	INTERFERENCE WITH ARRESTING OFFICER	MB	Guilty
	INTERFERENCE WITH ARRESTING OFFICER	MB	Transferred
	RETAIL THEFT (SHOPLIFTING)	MB	Dism. w/prej
	RETAIL THEFT (SHOPLIFTING)	MB	Guilty
	INTOXICATION	MC	Dism. w/prej
	PUBLIC URINATION	MC	Dism. w/prej
	FAIL TO STOP AT COMMAND OF LAW ENFORCEME	MA	Guilty
	CRIMINAL TRESPASS ENTER/REMAIN-PERSON OR UNMANNED AIRCRAFT	MB	Transferred
West Jord. JC	USE OR POSSESSION OF DRUG PARAPHERNALIA	MB	Dism. w/o prej
	USE OR POSSESSION OF DRUG PARAPHERNALIA	MB	Dism. w/prej
	USE OR POSSESSION OF DRUG PARAPHERNALIA	MB	Guilty Plea
	CRIMINAL TRESPASS ENTER/REMAIN-PERSON OR UNMANNED AIRCRAFT	MB	Guilty Plea
	INTERFERENCE WITH ARRESTING OFFICER	MB	Guilty Plea
West VC JC	USE OR POSSESSION OF DRUG PARAPHERNALIA	MB	Guilty

Source: Auditor Generated from Courts Data

Appendix D.2. One Offender Had 33 Jail Commitments During a Seven Year Period. Length of stay data is provided in terms of days served, the equivalent number of months for total days served, average days served per commitment, as well as the minimum and maximum number of days served for a single commitment within each year.

Year	# of Commits	Days Served	Month Equivalent	Avg Days/ Commit	Min Days	Max Days
2013	1	25	1	25	25	25
2015	3	35	1	12	0	35
2016	13	343	11	26	0	202
2017	7	92	3	13	0	86
2018	8	206	7	26	0	92
2019**	1	115	4	115	115	115
Tot.	**33**	**816**	**2 years 3 months**	**25**	**0**	**202**

Source: Auditor-generated study of Salt lake County jail inmate populations
**2019 only includes data up to August and is not a complete year of data

To illustrate, total time served for all 33 commitments is a little more than two years for this offender. In 2015 he/she had three jail commitments and served a total of 35 days, which is the equivalent of about one month. The average number of days served per commitment was 12. However, the lowest number of days served for one of these commitments was less than one day, shown by a 0 in the Min Days column. The largest number of days spent during one of these commitments was 35. Taken together, we can infer that at least two of the commitments lasted less than one day, but one lasted for almost 35 days. The data confirms this. Two lasted for about six and four hours respectively, and one just under 35 days.

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Appendix E

County Jail Inmate Populations Before and After JRI

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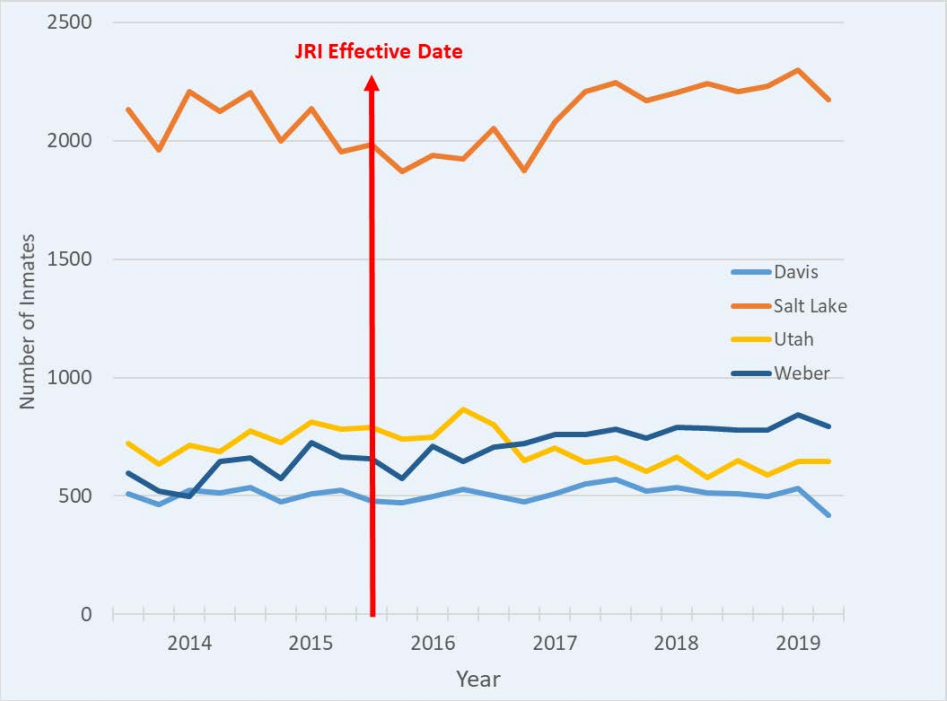
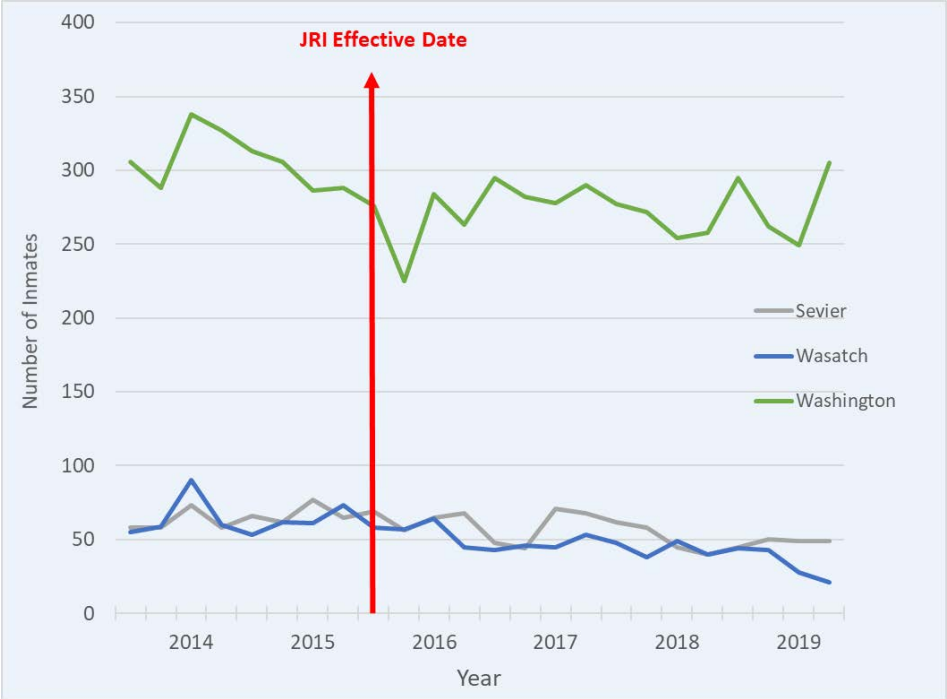
Local County Jail Inmate Populations
Before and After JRI

Local Inmates Only – State, Federal and other County Inmates are Excluded

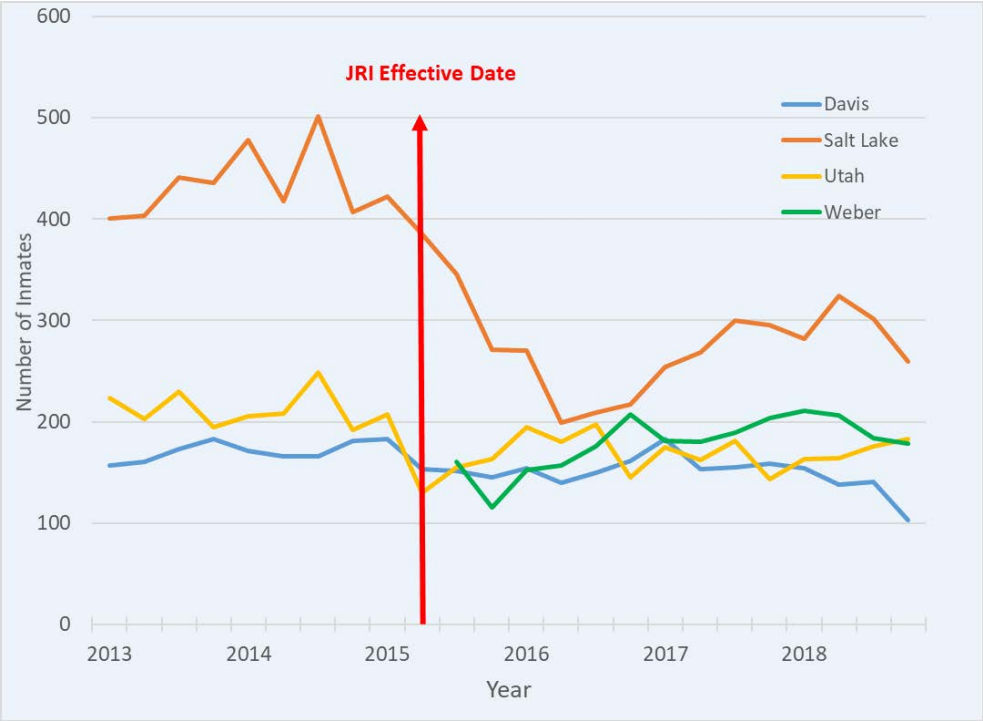


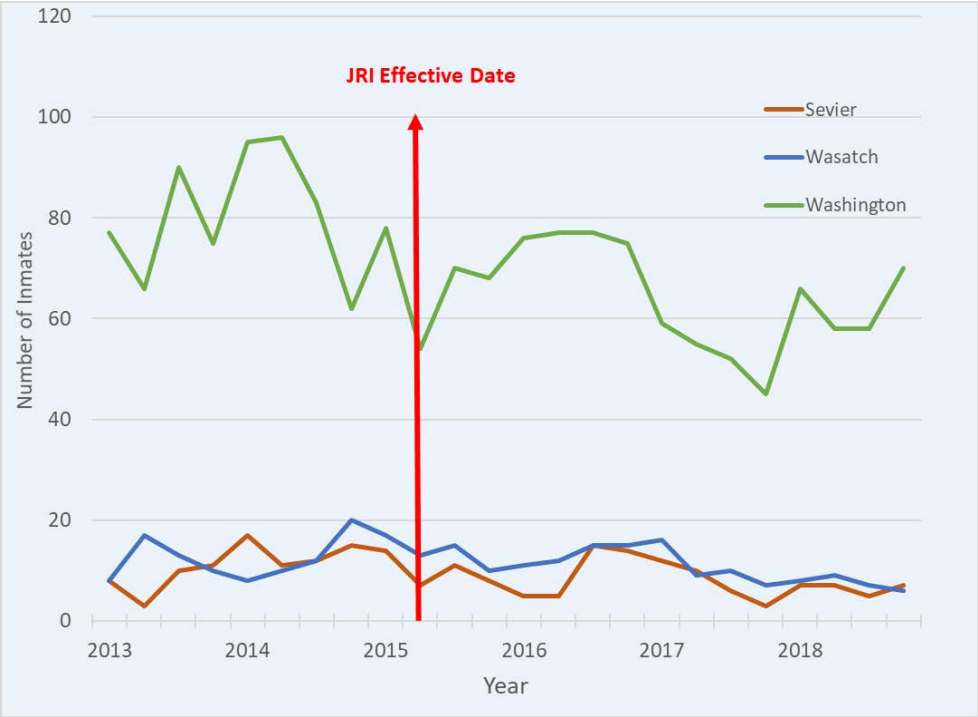


Since JRI took effect, some counties have seen rising inmate populations, while others have seen a decline in the number held in the county jail. The data excludes state prison inmates held in the county jail or inmates held in behalf of federal agencies.

Local Inmates Incarcerated in County Jail For Possession of Illegal Drugs or Drug Paraphernalia

Local Inmates Only – No State, Federal and other County Inmates are included





The above charts show the changes over time in the number of low-level drug offenders incarcerated in various county jails. The data excludes state prison inmates held in the county jail or inmates held in behalf of federal agencies.

Appendix F

Type of Sentence Issued to Those Found Guilty of Possession of a Controlled Substance

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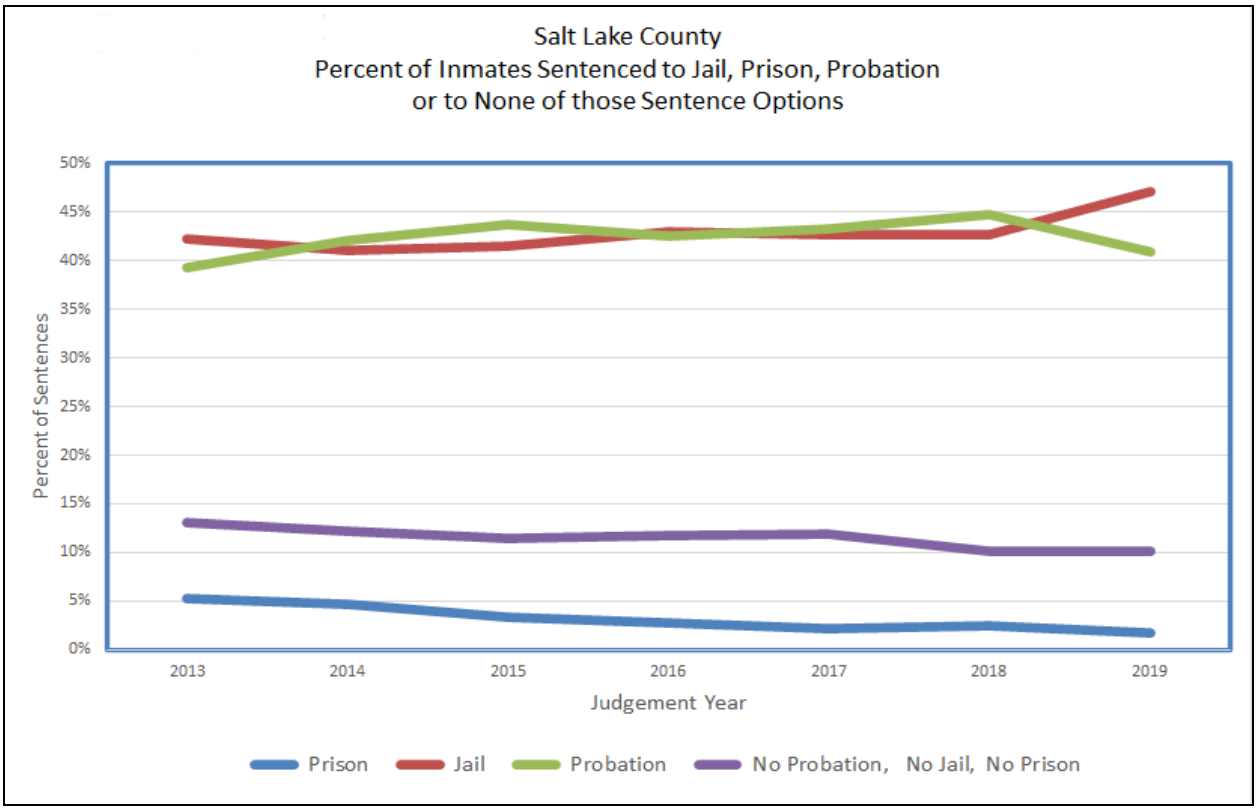
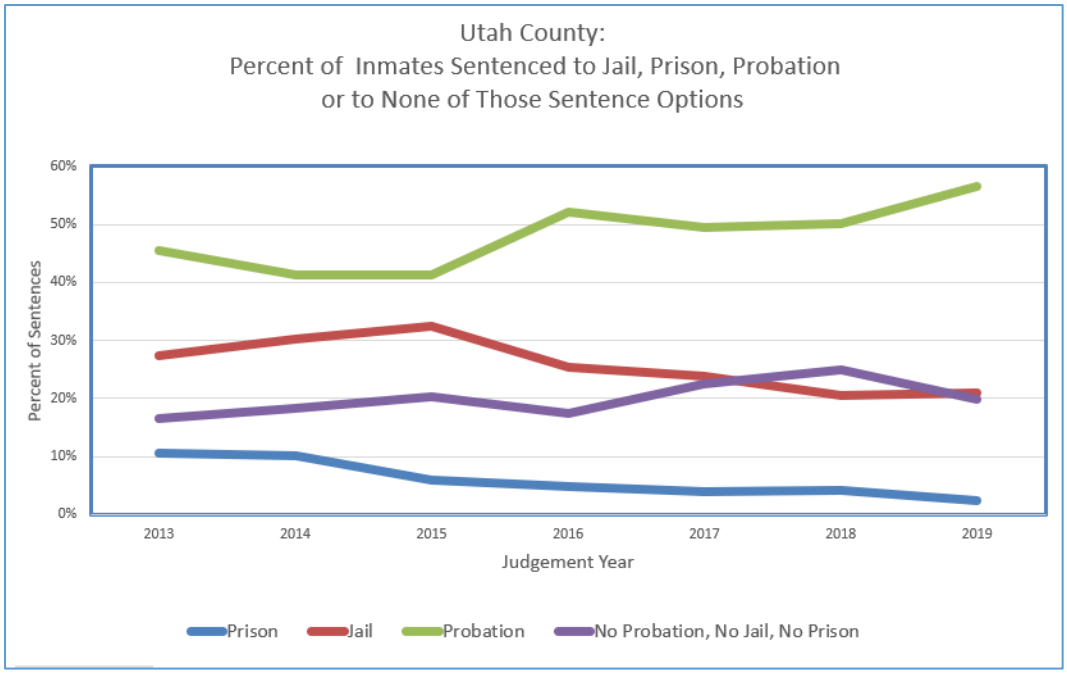
Type of Sentence Issued to Those Found Guilty of Possession of a Controlled Substance

Data shown describes the differences observed in how courts in different counties respond to illegal drug possession. Each chart shows the percent of offenders sentenced to probation, county jail, the state prison or who received no probation, jail or prison sentence at all. Of those sentenced to jail, 60 percent are placed on probation after their release. Of those sentenced to probation, 93 percent also had a suspended jail or prison sentence. Those with no jail, prison or probation typically had stayed sentence and were issued a fine. The data shown is for the five largest counties in Utah. For information for other counties, as well as by district court, court location and judge, see olag.utah.gov/olag-web/.

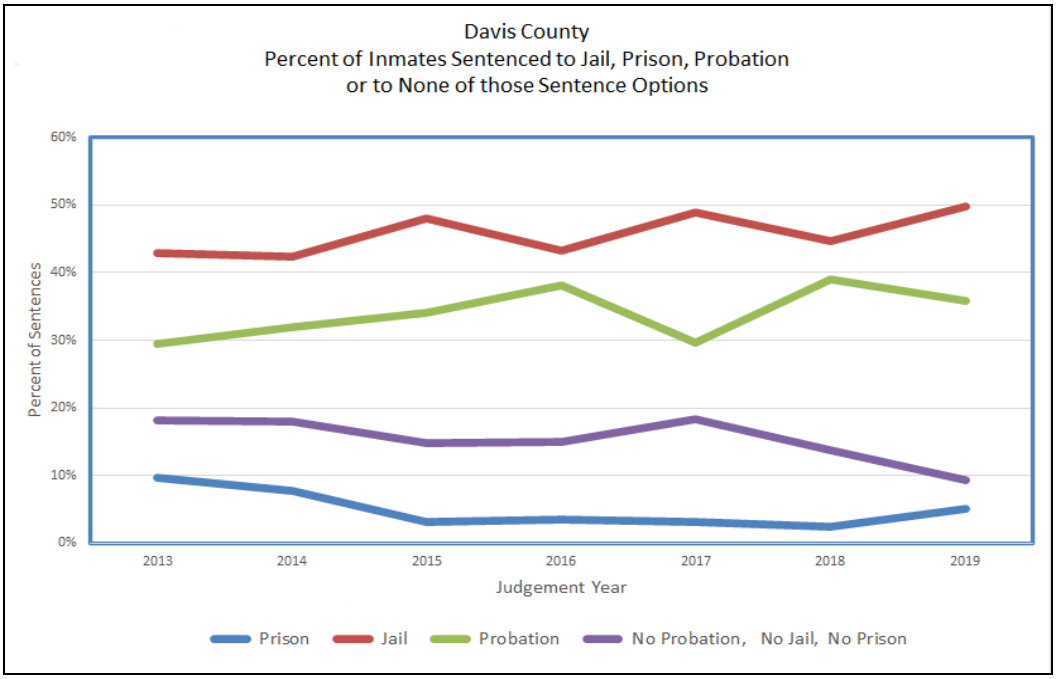


The figure shows that sentences issued to those found guilty of illegal drug possession in Salt Lake County have not changed much over the years. Offenders face an equal likelihood of receiving a jail sentence as a sentence to probation.

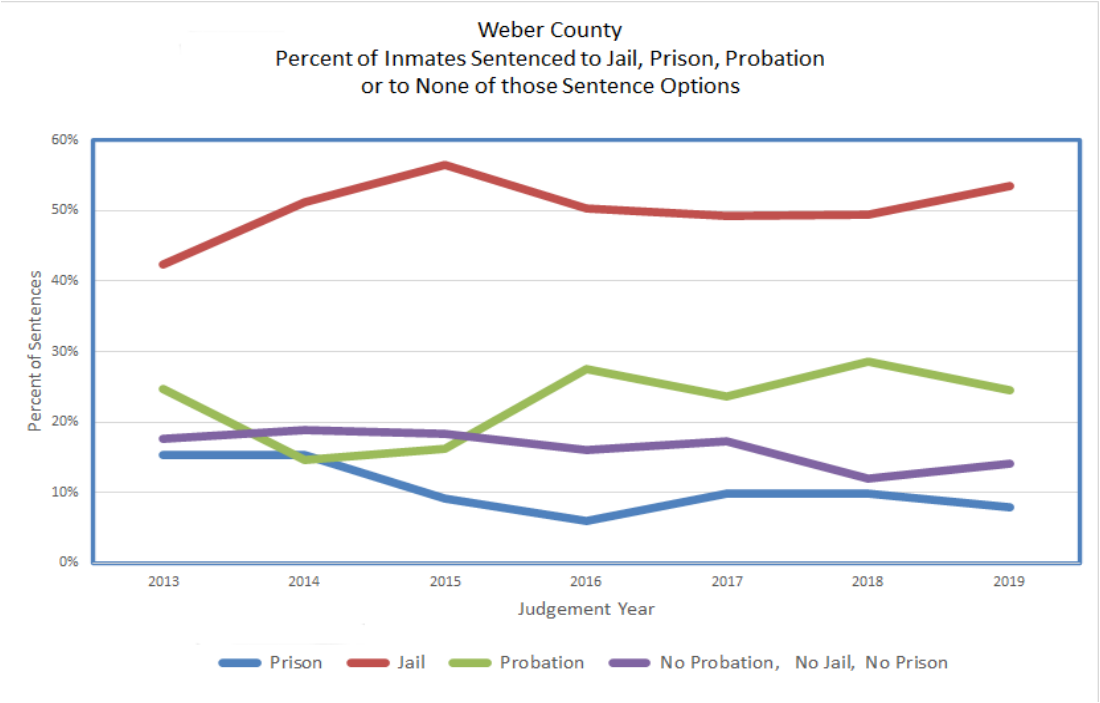
Source: The sentencing data shown was provided by the Administrative Office of the Courts. The data shown includes all cases filed in Utah courts from FY 2013 to FY 2019 in which drug possession was the most serious offense. The data for FY 2013 does not include cases filed in 2012 and adjudicated in 2013.



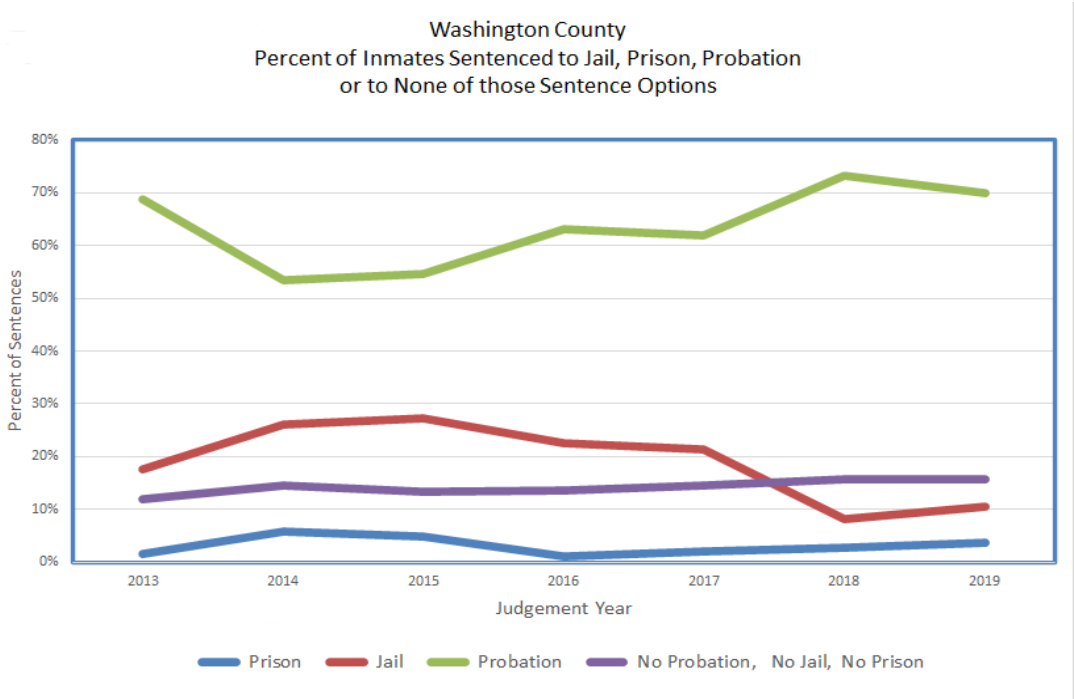
In Utah County, those found guilty of illegal drug possession are less likely to receive a jail sentence (red line) or a prison sentence (blue line) than in past years. Instead, more are sentenced to probation (green line).



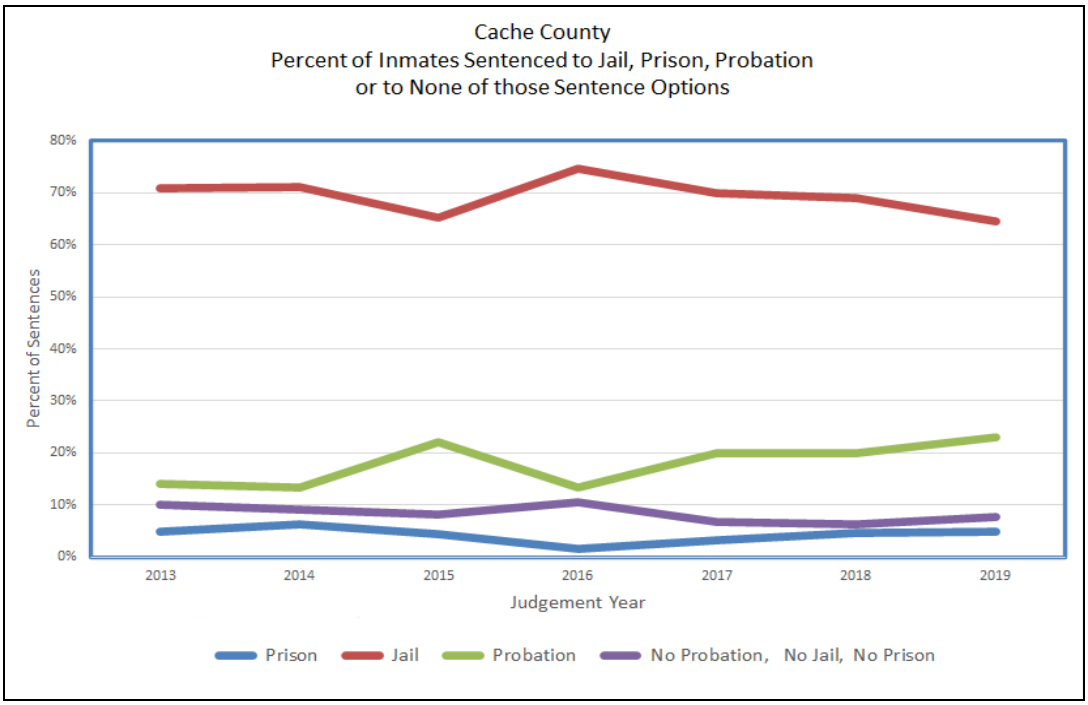
In Davis County, those found guilty of illegal drug possession are more likely to receive a jail sentence (red line) than probation (green line).



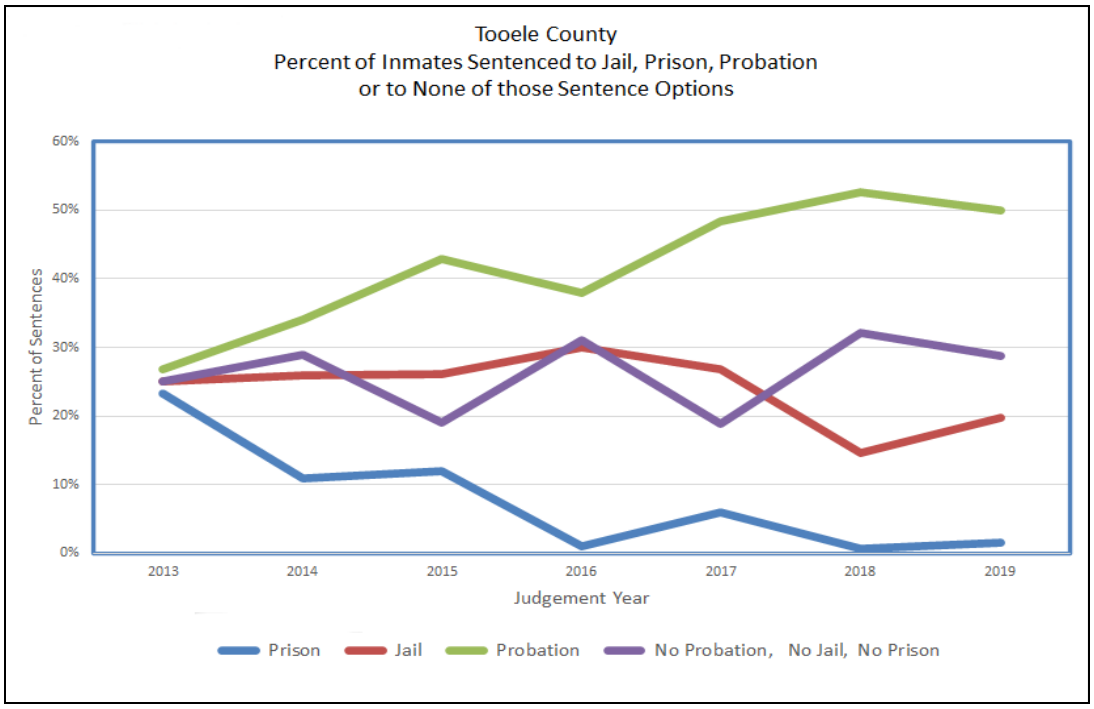
In Weber county, most found guilty of illegal drug possession are sentenced to jail (red line). Offenders are less likely than in other counties to receive a sentence to probation.



In contrast to Weber County, in Washington County few found guilty of illegal drug possession are sentenced to the county jail (red line) or to prison (blue line). Most are sentenced to probation.



In Cache County, most found guilty of illegal drug possession are sentenced to jail (red line). Offenders are less likely than in other counties to receive a sentence to probation.



In Tooele County, most found guilty of illegal drug possession are sentenced to probation (green line). The likelihood of a jail or prison sentence has declined in recent years.

Appendix G

Average Jail Sentence in Days

MA Drug Possession Charges Fiscal Years 2016 to 2019
By Selected Court Location and Judge

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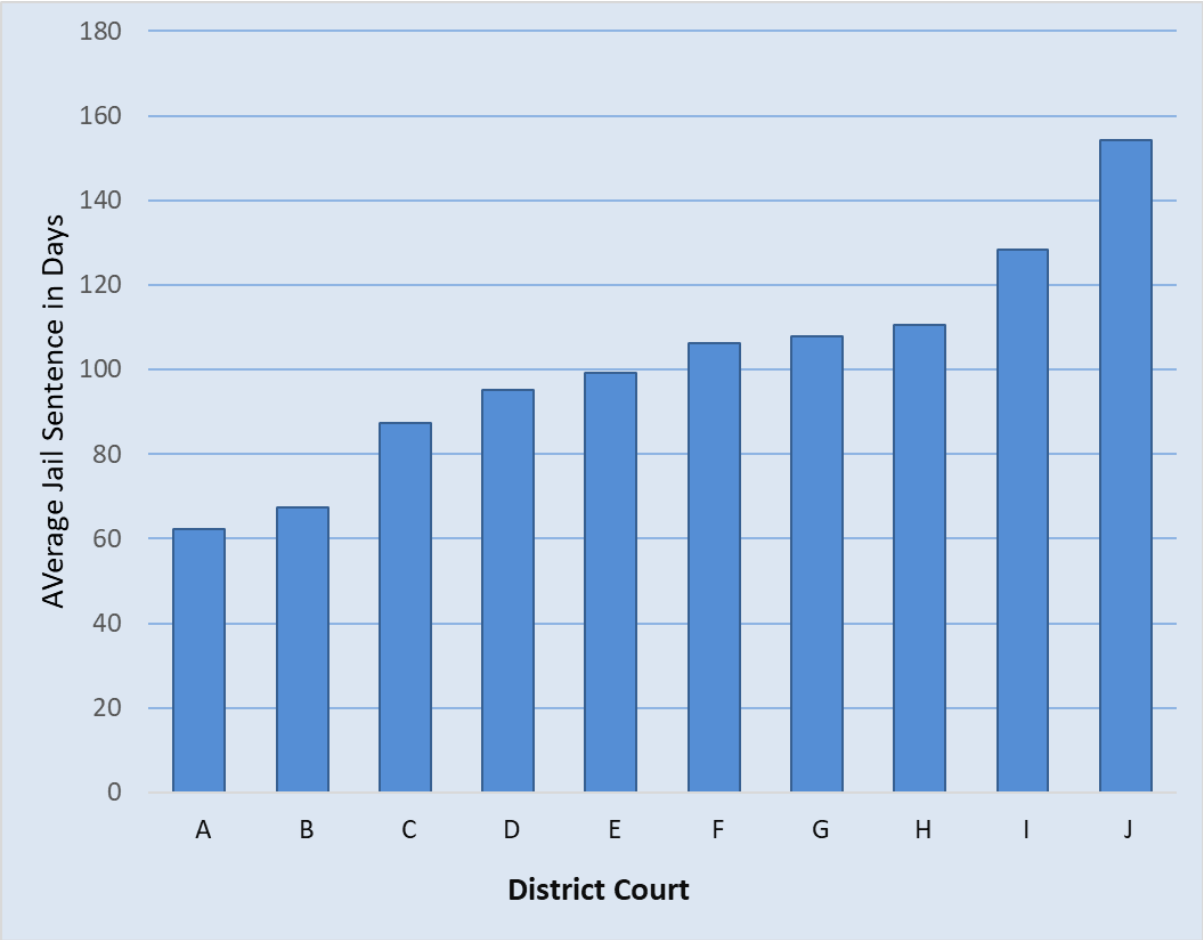
Average Jail Sentence for those Convicted on a Misdemeanor A Possession and Use of Illegal Drugs Charge

The sentencing data shows a large disparity in the average sentence issued at both the district court level and individual judges. The data shown is the average number of days sentenced for all those sentenced to jail on Misdemeanor A charges for Possession and Use of an Illegal Substance, 58-37-8(2)(A)(I) from 1/2016 to 3/20. Only districts and judges with more than 100 cases are shown. To avoid identifying the judges involved, judge names and some location names are not identified.



Source: Sentencing data provided by the Administrative Office of the Courts

Court Location	Judge	Average Jail Sentence in Days
Court A		
	Judge A	62
Court B		
	Judge T	69
Court C		
	Judge AF	102
Court D		
	Judge AH	78
	Judge AI	86
	Judge AJ	139
Court E		
	Judge B	76
	Judge C	83
	Judge D	84
	Judge E	105
	Judge F	106
Court F		
	Judge G	73
	Judge H	87
	Judge I	137
Court G		
	Judge U	82
	Judge V	84
	Judge W	95
	Judge X	109
	Judge Y	116
	Judge Z	121
	Judge AA	124
	Judge AB	133
	Judge AC	138
	Judge AD	146
	Judge AE	151
Court H		
	Judge Q	66
	Judge R	83
	Judge S	104
Court I		
	Judge J	108
	Judge K	111
	Judge L	126
	Judge M	132
	Judge N	133
	Judge O	139
	Judge P	171
Court J		
	Judge AG	143

County	Average of Jail Sentence in Days	Number of Cases
County J	51	48
Iron	66	192
Sevier	70	212
County I	72	7
County D	79	9
Wasatch	89	64
Washington	89	283
Grand	95	2
County A	95	23
Davis	98	804
Cache	101	531
Sanpete	110	87
County F	110	8
Salt Lake	112	2,925
Utah	113	676
Weber	130	1,064
Duchesne	139	73
County H	149	11
County B	153	77
Uintah	160	196
County G	163	13
County K	171	5
County E	183	16
Tooele	201	60
Carbon	324	46
County C	365	2

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Appendix H

Utah Substance Abuse Treatment Outcome Measures for All Clients

A Report by the
Division of Substance Abuse and Mental Health

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FY2019 Utah Substance Abuse Treatment Outcomes Measures Scorecard for all clients

10/1/2019

Process Measures

	Initial Admissions		Number of Clients Served		Percent of Admissions in Outpatient/IOP/ Residential/Detox		Number of Completed Treatment Episodes, excluding Detox		Median Days in Treatment		Percent of clients retained in treatment 90 or more days		Percent Completing Treatment Episode Successfully	
LSAA	FY2018	FY2019	FY2018	FY2019	FY2018	FY2019	FY2018	FY2019	FY2018	FY2019	FY2018	FY2019	FY2018	FY2019
Bear River	602	680	972	1,111	85/15/0/0	88/12/0/0	530	606	117	94	60.2%	52.6%	50.9%	59.2%
Central Utah	353	384	521	574	97/2/1/0	88/11/0/1	323	376	141	121	69.7%	64.6%	70.6%	73.4%
Davis County	1,136	1,295	1,548	1,784	75/19/6/0	78/19/3/0	1,007	954	90	135.5	50.0%	61.1%	59.1%	54.9%
Four Corners	217	306	557	584	61/37/2/0	64/35/0/1	234	258	273.5	238.5	86.8%	85.3%	39.3%	39.9%
Northeastern	22	326	684	650	99/0/1/0	99/0/1/0	190	184	92.5	129.5	51.6%	60.9%	26.3%	31.0%
Salt Lake County	5,136	5,891	7,497	8,013	30/17/17/36	25/14/18/43	3,345	3,739	92	93	54.9%	58.9%	48.1%	45.6%
San Juan County	12	41	82	62	100/0/0/0	100/0/0/0	24	25	403	105	83.3%	56.0%	37.5%	36.0%
Southwest Center	336	402	596	624	53/28/19/0	48/28/24/0	334	307	239.5	220	73.1%	72.0%	47.9%	44.6%
Summit County	110	107	288	269	76/24/0/0	61/37/2/0	128	81	156	142	72.7%	64.2%	60.9%	51.9%
Tooele County	236	256	464	549	55/44/1/0	64/35/1/0	163	240	132	155.5	62.6%	67.9%	25.2%	37.1%
Utah County	755	809	1,229	1,135	33/27/21/18	33/27/25/15	301	706	155	119	72.4%	60.8%	39.9%	46.3%
Wasatch County	204	164	277	260	81/17/2/0	80/16/4/0	171	165	64	77	39.8%	46.7%	63.7%	62.4%
Weber Human Services	1,059	1,112	1,757	1,695	73/22/5/0	72/19/10/0	1,118	1,133	134	126	61.8%	59.8%	41.2%	40.5%
State Average/Total	10,048	11,569	16,224	16,950	44/19/14/23	40/16/15/29	7,868	8,774	104	112	58.8%	59.6%	48.6%	47.8%
State Urban Average/Total	7,995	8,975	11,878	12,423	38/19/15/27	34/16/16/34	5,771	6,532	94	104	56.3%	63.4%	48.3%	46.2%
State Rural Average/Total	2,086	2,663	4,428	4,667	76/19/4/0	76/19/5/0	2,097	2,242	142	132	65.4%	60.6%	49.5%	52.4%
National Average/Benchmark														
Male	6,346	7,280	9,908	10,396	42/17/13/27	38/15/14/33	4,924	5,414	97	102	58.0%	59.3%	50.9%	49.3%
Female	3,702	4,289	6,316	6,554	48/23/14/14	44/20/15/20	2,944	3,360	120	129	60.0%	62.6%	44.8%	45.3%
Adolescents	605	622	1,002	902	72/20/8/0	77/15/8/0	653	563	103	106	56.4%	56.0%	42.4%	44.9%
DORA	545	549	852	852	54/27/13/6	53/28/14/5	422	501	168	167	58.4%	68.1%	51.4%	54.7%
Drug Court	1,151	1,235	2,246	2,220	41/31/24/4	36/30/28/6	920	1,120	247	261	71.2%	79.5%	47.1%	58.1%
Justice Involved	8,006	9,504	12,842	13,973	45/22/14/19	41/19/16/24	6,650	7,572	105	115	60.3%	62.3%	50.5%	50.2%
Heroin & Other Opiates Primary	3,134	3,506	4,898	5,321	39/20/17/23	40/17/18/25	2,164	2,423	93	125	55.4%	62.6%	40.2%	42.1%

Outcome Measures

	Increased Alcohol Abstinence - Percent increase in those reporting alcohol abstinence from admission to discharge		Increased Drug Abstinence - Percent increase in those reporting other drug abstinence from admission to discharge		Increase in Stable Housing - Percent increase in non-homeless clients admission to discharge		Increased Employment - Percent increase in those employed full/part time or student from admit to discharge		Decreased Criminal Justice Involvement - Percent decrease in number of clients arrested prior to admission vs. prior to discharge		Social Support Recovery - Percent increase in those using social recovery support		Tobacco Use Percent decrease in number of clients reporting tobacco use from admission to discharge	
LSAA	FY2018	FY2019	FY2018	FY2019	FY2018	FY2019	FY2018	FY2019	FY2018	FY2019	FY2018	FY2019	FY2018	FY2019
Bear River	98.6%	85.8%	258.8%	251.5%	0.2%	0.2%	17.2%	18.4%	54.9%	58.2%	384.6%	114.8%	0.2%	8.5%
Central Utah	47.7%	31.1%	179.1%	121.6%	1.0%	2.0%	14.4%	11.0%	65.7%	68.2%	13.4%	42.3%	1.0%	1.3%
Davis County	25.3%	24.0%	157.0%	177.9%	0.3%	1.2%	15.8%	23.3%	59.1%	78.4%	21.9%	17.0%	-33.0%	-7.6%
Four Corners	31.8%	19.6%	121.6%	178.4%	3.6%	3.3%	36.1%	71.4%	59.3%	61.5%	57.7%	30.8%	-9.6%	7.8%
Northeastern	50.7%	40.6%	149.8%	148.0%	1.7%	4.0%	43.5%	38.2%	54.1%	59.0%	-54.8%	-48.6%	1.6%	-0.5%
Salt Lake County	15.2%	14.8%	92.1%	90.4%	12.8%	20.5%	26.4%	44.8%	53.2%	52.5%	66.5%	66.5%	12.8%	7.5%
San Juan County	63.8%	114.3%	56.8%	80.0%	0.0%	4.2%	16.6%	17.6%	60.0%	83.3%	-14.2%	294.7%	-13.3%	0.0%
Southwest Center	70.7%	88.0%	163.2%	459.8%	4.3%	4.4%	25.1%	27.7%	29.9%	35.2%	24.1%	29.1%	0.3%	-2.2%
Summit County	40.7%	36.2%	25.0%	27.7%	*	0.0%	-1.1%	5.0%	6.0%	0.0%	73.9%	100.0%	8.9%	-3.2%
Tooele County	11.8%	8.4%	58.2%	47.2%	0.0%	-0.4%	4.4%	0.0%	9.8%	11.3%	-12.2%	46.5%	8.7%	3.8%
Utah County	1.1%	4.6%	44.4%	55.6%	0.3%	5.6%	35.6%	37.1%	65.0%	55.2%	23.3%	5.9%	13.7%	6.1%
Wasatch County	40.0%	53.1%	151.2%	128.1%	0.6%	*	11.3%	9.6%	45.3%	56.7%	28.5%	19.8%	-6.7%	4.2%
Weber Human Services	56.3%	45.6%	375.4%	348.5%	3.7%	1.9%	29.4%	29.5%	62.8%	54.8%	5.5%	6.7%	-0.3%	-0.6%
State Average/Total	28.8%	24.5%	129.7%	123.6%	5.9%	9.1%	23.1%	30.6%	55.9%	61.1%	38.2%	37.7%	3.8%	4.2%
State Urban Average/Total	22.0%	18.8%	121.5%	113.9%	7.8%	12.1%	25.4%	36.6%	57.0%	62.4%	45.1%	39.9%	5.2%	4.3%
State Rural Average/Total	54.6%	47.1%	154.9%	154.9%	1.4%	1.7%	18.7%	20.3%	52.6%	57.7%	26.2%	29.8%	0.2%	4.0%
National Average/Benchmark	10.8%	10.5%	17.3%	19.7%	3.4%	2.8%	13.0%	14.5%	30.1%	35.7%	44.1%	36.4%		
Male	31.9%	28.0%	125.3%	115.8%	7.1%	10.2%	21.2%	27.5%	54.5%	61.8%	53.3%	41.4%	5.3%	5.1%
Female	23.9%	19.8%	139.0%	137.5%	4.2%	7.3%	27.0%	38.2%	58.1%	60.3%	21.7%	31.7%	1.0%	2.7%
Adolescents	26.2%	24.3%	178.5%	212.9%	-1.1%	-0.9%	0.1%	-3.0%	68.6%	59.9%	51.7%	5.3%	3.2%	-0.2%
DORA	30.7%	25.0%	168.1%	167.6%	1.5%	3.3%	17.8%	19.1%	71.1%	73.1%	64.1%	30.7%	-10.6%	-7.9%
Drug Court	26.1%	20.3%	205.7%	147.1%	6.3%	10.3%	71.0%	107.5%	68.9%	64.1%	39.2%	48.0%	4.3%	2.8%
Justice Involved	29.5%	24.9%	133.4%	125.0%	6.1%	9.5%	22.5%	31.9%	56.8%	62.9%	43.6%	39.1%	5.7%	4.8%

Heroin & Other Opiates Primary	**6.6%**	**4.9%**	**253.9%**	**184.1%**	**8.5%**	**13.1%**	**50.0%**	**69.8%**	**57.5%**	**55.1%**	**30.5%**	**34.3%**	**1.4%**	**3.0%**

Note: Outcomes exclude detox discharges
Salt Lake, Davis, Weber (Mogan is included in Weber County), and Utah Counties are reported as Urban. All other counties are reported as rural.

Green = 90% or greater of the National Average or meets/exceeds division standards.
Yellow = Greater than or equal to 75% to less than 90% of the National Average.
Red = Less than 75% of the National Average or not meeting division standards.

*** No one homeless at admission so no opportunity for change.**
**** No one reported at discharge.**
^ Unknown count too high (above 50%)
Decreased Use and Completing Modality Successfully are not national measures and are not scored.

State Total for Clients Served is an unduplicated client count across all modalitites and is not a sum of the clients served for the providers listed.
Final Discharges are reported by treatment episode.

Initial Admissions are the number of unduplicated non-transfer admissions to a treatment modality that occurred within the fiscal year. Clients served are an unduplicated count of clients served during the fiscal year. Due to a change in reporting procedures, The numbers on this chart may not be the same as reported in previous years.

Justice Involved includes DORA, Arrests, Compelled for Treatment, probation & parole, justice referrals and Drug Court

Calculations for SA Outcomes:

All outcomes are percent increase or decrease. Specific percentages are calculated as follows using FY final discharges, excluding detox-only clients. Percents at admission and discharge are calculated by dividing the number of clients reporting the outcome divided by the total number of discharged clients with valid, non-missing, data for that measure:

Abstinence (Percent Increase):
(Percent abstinent at discharge ***minus*** percent abstinent at admission) ***divided by*** percent abstinent at admission

Stable Housing (Percent Increase):
(Percent not homeless at discharge ***minus*** percent not homeless at admission) ***divided by*** percent not homeless at admission.

Employment/School (Percent Increase):
(Percent employed/student at discharge ***minus*** percent employed/student at admission) ***divided by*** percent employed/student at admission.

Criminal Justice (Percent Decrease):
(Percent arrested at 30-days prior to admission ***minus*** percent arrested 30-days prior to discharge) ***divided by*** percent arrested 30-days prior to admission.

Length of Stay:
Median length of stay calculated from admission date to date of last contact for those discharged in the fiscal year

Appendix I

Key JRI Quarterly Performance Measures
Master Quarterly List

A Report by the Commission on
Criminal and Juvenile Justice

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Key JRI Quarterly Performance Measures - Master Quarterly List (FY2017-20)

		FY2017						FY2018						FY2019						FY2020									
Source	Measure	Q1	Q2	Q3	Q4	AvgQ	Annual	Q1	Q2	Q3	Q4	AvgQ	Annual	Q1	Q2	Q3	Q4	AvgQ	Annual	Q1	Q2	Q3	Q4	AvgQ	Annual	Base AvgQ	JRI AvgQ	%ΔBase*	Trend
DOC-DIO	Prison Population (End of Quarter Snapshot)	6,250	6,209	6,294	6,339	6,273.0		6,353	6,455	6,466	6,501	6,443.8		6,619	6,686	6,789	6,767	6,715.3		6,816	6,698	6,413		4,981.8		6,933.0	6,464.5	-6.8%	
	% Nonviolent	33.2%	31.8%	31.9%	32.2%	32.3%		32.0%	32.7%	33.2%	33.7%	32.9%		34.7%	35.0%	35.1%	34.3%	34.8%		34.2%	33.6%	32.7%		25.1%		40.3%	33.7%	-16.3%	
	% Drug Possession Only	2.7%	2.3%	2.1%	2.1%	2.3%		2.1%	2.2%	2.5%	2.3%	2.3%		2.3%	2.0%	2.2%	2.0%	2.1%		2.0%	1.9%	1.8%		1.4%		4.7%	2.5%	-47.3%	
	Prison Population (Average Daily Population)	6,258	6,244	6,214	6,322	6,259.5	6,260	6,352	6,375	6,465	6,476	6,417.0	6,417	6,584	6,638	6,713	6,783	6,679.5	6,679					0.0		4,833.4	6,452.1	33.5%	
			87.2%																			89%							
	Estimated Growth in Prison Population w/o JRI																												
DOC-DIO	Prison Admissions	895	808	995	979	919.3	3,677	952	942	947	948	947.3	3,789	948	903	1,019	1,039	977.3	3,909	1,059	936	976		742.8	2,971	764.6	905.9	18.5%	
	New Court Commitments (NCC)	195	182	198	197	193.0	772	168	196	191	201	189.0	756	171	183	190	213	189.3	757	184	171	168		130.8	523	238.4	187.7	-21.2%	
	From Parole	494	420	546	519	494.8	1,979	506	485	481	460	483.0	1,932	528	499	566	569	540.5	2,162	634	538	596		442.0	1,768	323.7	485.9	50.1%	
	% Parole ADP	13.2%	11.1%	14.2%	13.6%	13.1%	52.2%	13.1%	12.2%	12.0%	11.1%	12.1%	48.3%	12.9%	12.1%	13.7%	13.6%	13.1%	52.3%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	42.8%	13.5%	12.4%	-7.7%	
	From Probation	205	204	251	263	230.8	923	278	261	274	287	275.0	1,100	249	220	261	255	246.3	985	241	227	212		170.0	680	200.8	231.2	15.1%	
	%Probation ADP	1.6%	1.6%	2.0%	2.1%	1.8%	7.3%	2.2%	2.0%	2.1%	2.2%	2.1%	8.4%	1.9%	1.7%	2.0%	1.9%	1.9%	7.5%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	5.2%	2.4%	1.8%	-25.4%	
	NCC Only - Most Serious Offense:																												
	All Drug Offenses	27	17	36	39	29.8	119	30	24	31	34	39.7	119	27	27	23	26	25.8	103	22	27	14	0	15.8	63	52.9	28.3	-46.6%	
	Drug Possession Only (DPO)	6	6	6	8	6.5	26	8	7	6	7	7.0	28	9	3	7	3	5.5	22	5	7	6		4.5	18	23.8	6.0	-74.8%	
	Other Drug	21	11	30	31	23.3	93	22	17	25	27	22.8	91	18	24	16	23	20.3	81	17	20	8		11.3	45	29.1	22.3	-23.4%	
	Property	40	44	41	29	38.5	154	31	45	41	38	38.8	155	34	38	33	29	33.5	134	36	30	25		22.8	91	63.7	37.5	-41.2%	
	Nonviolent	93	80	97	89	89.8	359	86	91	89	100	91.5	366	85	88	80	81	83.5	334	84	77	58		54.8	219	144.4	87.5	-39.4%	
	Violent	101	102	101	108	103.0	412	82	105	102	101	97.5	390	86	95	110	132	105.8	423	100	94	110		76.0	304	93.8	100.1	6.7%	
	%Nonviolent	47.7%	44.0%	49.0%	45.2%	46.5%	46.5%	51.2%	46.4%	46.6%	49.8%	48.4%	48.4%	49.7%	48.1%	42.1%	38.0%	44.1%	44.1%	45.7%	45.0%	34.5%	#DIV/0!	41.9%	41.9%				
DOC-DIO	% CAP Initiated w/in 120 Days of Admission	98.7%	98.1%	98.9%	98.3%	98.5%	98.5%	98.4%	98.1%	97.1%	98.2%	98.0%	98.0%													95.3%	98.1%	2.9%	
DOC/BOPP	Earned Time Credits (Prison)																												
	Total Offenders Receiving Mandatory Time Cuts	112	157	145	155	142.3	569	126	137	95	131	122.3	489	105	103	139	160	126.8	507	137	162			74.8	299		147.4		
	Mandatory Credit (Total Days)	12,605	16,850	15,322	16,277	15,263.5	61,054	11,102	12,096	7,139	11,050	10,346.8	41,387	9,814	8,071	12,131	13,192	10,802.0	43,208	11,666	12,746			6,103.0	24,412		14,403.3		
	Mandatory Credit (Mean Days)	112.5	107.3	105.7	105.0	107.3	107.3	88.1	88.3	75.1	84.4	84.6	84.6	93.5	78.4	87.3	82.5	85.2	85.2	85.2	78.7	#DIV/0!	#DIV/0!	81.6	81.6		97.7		
	Total Offenders Receiving Discretionary Time Cuts	90	62	58	56	66.5	266	37	39	38	43	39.3	157	27	39	24	46	34.0	136	23	32			13.8	55		48.3		
	Discretionary Credit (Total Days)	13,880	5,009	4,454	4,087	6,857.5	27,430	2,169	2,698	4,004	5,407	3,569.5	14,278	3,700	3,263	2,512	3,956	3,357.8	13,431	1,994	3,997			1,497.8	5,991		4,575.3		
	Discretionary Credit (Mean Days)	154.2	80.8	76.8	73.0	103.1	103.1	58.6	69.2	105.4	125.7	90.9	90.9	137.0	83.7	104.7	86.0	98.8	98.8	86.7	124.9	#DIV/0!	#DIV/0!	108.9	108.9		94.8		
	Offenders Receiving Forfeitures	1	4	1	4	2.5	10	5	6	2	2	3.8	15	5	2	7	3	4.3	17	5	4			2.3	9		3.4		
	Total Incarceration Days Cut Less Forfeitures	26,359	21,481	19,762	19,923	21,881.3	87,525	12,767	14,292	10,954	16,205	13,554.5	54,218	12,968	11,271	13,985	16,286	13,627.5	54,510	13,401	16,358			7,439.8	29,759	16,980.3	18,611.5	9.6%	
DOC-DIO	Prison Releases	897	848	910	938	898.3	3,593	936	840	938	911	906.3	3,625	840	828	923	1,068	914.8	3,659	999	1,051	1,264		828.5	3,314	787.2	900.5	14.4%	
	Released to Parole	668	672	719	758	704.3	2,817	777	674	761	767	744.8	2,979	677	677	785	889	757.0	3,028	844	870	1,068		695.5	2,782	498.8	708.7	42.1%	
	Discharged/Expired (No Parole)	222	170	185	170	186.8	747	157	155	172	136	155.0	620	154	145	132	172	150.8	603	145	173	192		127.5	510	280.3	184.6	-34.1%	
	Net (Admissions - Releases)	-2	-40	85	41	21.0	84	16	102	9	37	41.0	164	108	75	96	-29	62.5	250	60	-115	-288	0	-85.8	-343	-22.5	5.4	-124.0%	
DOC-AP&P	Supervison Population (End of Quarter Snapshot)	16,358	16,578	16,512	16,426	16,468.5		16,782	17,013	17,179	17,346	17,080.0		17,288	17,304	17,328	17,177	17,274.3		16,909	16,699	16,822		12,607.5		15,564.9	16,825.5	8.1%	
	% High/Intensive Risk	52.3%	52.8%	53.1%	53.7%	53.0%		53.2%	52.8%	53.3%	53.9%	53.3%		53.9%	55.0%	55.1%	55.5%	54.9%		56.4%	58.1%	59.3%		43.5%		41.3%	52.9%	28.2%	
	Probation	12,634	12,748	12,755	12,632	12,692.3		12,868	13,054	13,136	13,209	13,066.8		13,220	13,249	13,226	12,962	13,164.3		12,644	12,435	12,326		9,351.3		12,178.4	12,924.5	6.1%	
	% Low Risk	12.1%	12.4%	12.3%	12.0%	12.2%		12.3%	12.6%	12.3%	11.8%	12.3%		11.9%	11.1%	11.2%	10.6%	11.2%		9.9%	9.3%	8.9%		7.0%		20.0%	12.1%	-39.4%	
	Felony	9,378	9,277	9,208	8,984	9,211.8		8,962	8,956	8,812	8,836	8,891.5		8,780	8,776	8,676	8,460	8,673.0		8,274	8,139	8,112		6,131.3		9,289.9	9,068.1	-2.4%	
	Class A	2,534	2,736	2,829	2,911	2,752.5		3,146	3,301	3,464	3,507	3,354.5		3,538	3,545	3,602	3,575	3,565.0		3,433	3,316	3,233		2,495.5		2,188.3	3,055.3	39.6%	
	Parole	3,724	3,830	3,757	3,794	3,776.3		3,914	3,959	4,043	4,137	4,013.3		4,068	4,055	4,102	4,215	4,110.0		4,265	4,264	4,496		3,256.3		3,386.5	3,900.9	15.2%	
	Supervision Population (Average Daily Population)	16,385	16,507	16,631	16,501	16,506.0	16,506	16,631	17,002	17,132	17,318	17,020.8	17,021	17,311	17,332	17,413	17,287	17,335.8	17,336					0.0	17,336	10,786.8	16,844.4	56.2%	
	Probation	12,650	12,720	12,796	12,697	12,715.8	12,716	12,757	13,022	13,110	13,192	13,020.3	13,020	13,215	13,223	13,283	13,088	13,202.3	13,202					0.0	13,202	8,380.8	12,933.7	54.3%	
	Parole	3,735	3,787	3,835	3,804	3,790.3	3,790	3,874	3,980	4,022	4,126	4,000.5	4,001	4,096	4,109	4,130	4,199	4,133.5	4,134					0.0	4,134	2,406.1	3,910.7	62.5%	
DOC-AP&P	AP&P Agent Average Caseload	62.1	59.8	60.8	61.4	61.0	61.0	62.1	61.4	60.2	62.1	61.5	61.5													60.2	61.4	2.0%	
DOC-AP&P	Supervison Starts	2,163	2,174	2,416	2,487	2,310.0	9,240	2,544	2,411	2,583	2,590	2,532.0	10,128	2,336	2,438	2,633	2,651	2,514.5	10,058	2,613	2,469	2,680		1,940.5	7,762	2,102.4	2,386.7	13.5%	
	Probation	1,447	1,453	1,649	1,660	1,552.3	6,209	1,696	1,677	1,764	1,773	1,727.5	6,910	1,607	1,698	1,778	1,681	1,691.0	6,764	1,703	1,563	1,562		1,207.0	4,828	1,534.8	1,619.1	5.5%	
	Felony	850	799	934	885	867.0	3,468	871	873	879	956	894.8	3,579	864	891	936	892	895.8	3,583	917	841	899		664.3	2,657	1,031.9	888.1	-13.9%	
	Class A	471	544	612	651	569.5	2,278	685	657	727	665	683.5	2,734	593	645	677	654	642.3	2,569	604	534	507		411.3	1,645	397.8	597.0	50.1%	
	Parole	716	721	767	827	757.8	3,031	848	734	819	817	804.5	3,218	729	740	855	970	823.5	3,294	910	906	1,118		733.5	2,934	567.6	767.6	35.2%	
DOC-AP&P	% CAP Initiated w/in 90 Days of Prob/Par Start	64.9%	64.6%	69.6%	71.8%	67.8%	67.8%	73.8%	73.6%	76.7%	72.5%	74.2%	74.2%													42.9%	68.6%	59.7%	
DOC-AP&P	Successful Supervision Discharges																												
	Probation	793	646	875	911	806.3	3,225	675	722	862	913	793.0	3,172	932	933	1,085	1,177	1,031.8	4,127	1,262	1,102	1,106		867.5	3,470	869.8	887.2	2.0%	
	Rate	55.6%	50.7%	55.5%	52.4%	53.6%	53.6%	48.1%	50.0%	53.3%	55.3%	51.7%	51.9%	58.7%	60.5%	61.4%	62.0%	60.7%	60.8%	64.0%	65.3%	68.3%		49.4%		54.3%	57.0%	5.0%	
	Parole	146	130	209	178	165.8	663	153	142	172	191	164.5	658	209	188	160	197	188.5	754	204	236	197		159.3	637	155.9	170.4	9.3%	
	Rate	22.3%	22.8%	26.6%	25.2%	24.4%	24.4%	23.0%	22.2%	25.7%	29.0%	25.0%	25.0%	28.2%	26.8%	21.9%	25.5%	25.6%	25.6%	24.2%	30.2%	24.7%		19.8%		27.7%	25.5%	-7.9%	
DOC-AP&P	Supervision Matrix Incentives & Sanctions (RIM)																												
	Total Offenders with Incentives and/or Sanctions						10,833																						
	Total Offenders Receiving >= 1 Incentive						3,674																						
	Total Incentives Awarded		4,270	6,440	4,353		15,063	3,688	2,927	3,889	6,326	4,207.5	16,830	5,994	5,781	5,391	5,125	5,572.8	22,291	5,108	4,410	5,905		3,855.8	15,423				
	Mean Incentives/Offender Receiving						4.10																						
	Offenders Receiving Incentive-No Sanction						1,624																						
	Total Offenders Receiving >= 1 Sanction						9,209																						
	Total Sanction Responses		4,484	11,226	10,615		26,325	9,668	11,593	10,539	9,503	10,325.8	41,303	9,793	9,665	9,115	8,249	9,205.5	36,822	7,597	6,679	6,791		5,266.8	21,067				
	Mean Sanctions/Offender Receiving						2.86																						
	Offenders Receiving Sanction-No Incentive						7,159																						
	Offenders Receiving Mix of Incentives AND Sanctions						2,050																						
	Early Termination Incentives Granted		93	239	166		498	161	163	187	197	177.0	708																
	Jail Sanctions Imposed (1-3 Days)		99	178	229		506	161	223	231	241	214.0	856																
DOC-AP&P	Board Warrants Issued for Parole Violations	518	388	554	507	491.8	1,967	571	561	518	543	548.3	2,193	581	589	570	601	585.3	2,341					0.0	0	378.1	497.2	31.5%	
	% of parole population (ADP)	13.9%	10.2%	14.4%	13.3%	13.0%	51.9%	14.7%	14.1%	12.9%	13.2%	13.7%	54.8%	14.2%	14.3%	13.8%	14.3%	14.2%	56.6%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	0.0%	15.7%	12.7%	-19.1%	
	Average Offenders on Fugitive Status (Probation/Parole)	1,815	1,945	1,943	1,893	1,899	1,899	1,874	1,957	2,006	1,952	1,947	1,947													1,300.7	2,290.4	76.1%	
	% of overall supervised population	11.1%	11.8%	11.7%	11.5%	11.5%	11.5%	11.3%	11.5%	11.7%	11.3%	11.4%	11.5%													8.3%	11.2%	34.8%	
						JRI2						JRI3						JRI4						JRI5		B	JRI		

Key JRI Quarterly Performance Measures - Master Quarterly List (FY2017-20)

Source	Measure		FY2017 Q1	FY2017 Q2	FY2017 Q3	FY2017 Q4	FY2017 AvgQ	FY2017 Annual	FY2018 Q1#	FY2018 Q2	FY2018 Q3	FY2018 Q4	FY2018 AvgQ	FY2018 Annual	FY2019 Q1	FY2019 Q2	FY2019 Q3	FY2019 Q4	FY2019 AvgQ	FY2019 Annual	FY2020 Q1	FY2020 Q2	FY2020 Q3	FY2020 Q4	FY2020 AvgQ	FY2020 Annual	Base AvgQ	JRI AvgQ	%ΔBase*	Trend
Courts	Case Filings	**Total Non-Traffic**	28,132	25,940	26,567	28,132	27,192.8	108,771	30,327	26,862	27,331	28,181	28,175.3	112,701	28,321	24,590	24,895	27,408	26,303.5	105,214	28,031	25,200	25,166		19,599.3	78,397	18,997.2	26,892.2	41.6%	
		District Court	10,154	9,488	10,507	10,498	10,161.8	40,647	10,487	10,101	11,142	10,538	10,567.0	42,268	10,566	9,792	10,139	10,462	10,239.8	40,959	10,617	9,814	9,940		7,592.8	30,371	6,363.0	10,174.2	59.9%	
		Justice Court	18,683	16,452	16,060	17,634	17,207.3	68,829	19,840	16,761	16,189	17,643	17,608.3	70,433	17,755	14,798	14,756	16,946	16,063.8	64,255	17,414	15,386	15,226		12,006.5	48,026	12,634.2	16,757.2	32.6%	
		Total Felony Cases																			5,505	5,310	5,225							
		%Non-Traffic																			19.6%	21.1%	20.8%	#DIV/0!						
		Overall Drug	7,960	8,015	9,119	9,326	8,605.0	34,420	9,850	9,405	10,112	9,634	9,750.3	39,001	9,328	8,000	8,089	8,323	8,435.0	33,740	8,126	7,724	7,842		5,923.0	23,692	4,531.5	8,566.4	89.0%	
		%Non-Traffic	28.3%	30.9%	34.3%	33.2%	31.6%	31.6%	32.5%	35.0%	37.0%	34.2%	34.6%	34.6%	32.9%	32.5%	32.5%	30.4%	32.1%	32.1%	29.0%	30.7%	31.2%	#DIV/0!	30.2%	30.2%	23.9%	31.9%	33.5%	
		Drug-Free Zone	68	58	90	84	75.0	300	81	39	81	55	64.0	256	61	81	44	46	58.0	232	47	23	27		24.3	97	782.3	61.5	-92.1%	
		Drug Possession Only^	5,088	5,239	5,945	6,193	5,616.3	22,465	6,322	6,236	6,852	6,388	6,449.5	25,798	6,260	5,488	5,479	5,735	5,740.5	22,962	5,548	5,367	5,504		4,104.8	16,419	2,942.2	5,712.0	94.1%	
		Felony	722	699	817	861	774.8	3,099	830	829	981	942	895.5	3,582	936	849	911	958	913.5	3,654	981	894	884		689.8	2,759	1,250.0	831.8	-33.5%	
		%Felony	14.2%	13.3%	13.7%	13.9%	13.8%	13.8%	13.1%	13.3%	14.3%	14.7%	13.9%	13.9%	15.0%	15.5%	16.6%	16.7%	15.9%	15.9%	17.7%	16.7%	16.1%	#DIV/0!	16.8%	16.8%	42.5%	14.6%	-65.7%	
		MA	1,792	1,784	1,934	2,063	1,893.3	7,573	2,165	1,980	2,387	2,119	2,162.8	8,651	2,192	1,787	1,973	2,014	1,991.5	7,966	1,970	1,695	1,766		1,357.8	5,431	277.7	1,949.7	602.1%	
		%MA	35.2%	34.1%	32.5%	33.3%	33.7%	33.7%	34.2%	31.8%	34.8%	33.2%	33.5%	33.5%	35.0%	32.6%	36.0%	35.1%	34.7%	34.7%	35.5%	31.6%	32.1%	#DIV/0!	33.1%	33.1%	9.4%	34.1%	261.6%	
		MB	2,546	2,736	3,176	3,262	2,930.0	11,720	3,312	3,422	3,471	3,312	3,379.3	13,517	3,122	2,848	2,590	2,759	2,829.8	11,319	2,590	2,773	2,851		2,053.5	8,214	1,405.4	2,918.4	107.7%	
		%MB	50.0%	52.2%	53.4%	52.7%	52.2%	52.2%	52.4%	54.9%	50.7%	51.8%	52.4%	52.4%	49.9%	51.9%	47.3%	48.1%	49.3%	49.3%	46.7%	51.7%	51.8%	#DIV/0!	50.0%	50.0%	47.8%	51.1%	7.0%	
		Drug Paraphernalia^	2,066	2,090	2,395	2,371	2,230.5	8,922	2,853	2,388	2,406	2,436	2,520.8	10,083	2,429	1,952	1,938	1,955	2,068.5	8,274	2,003	1,747	1,737		1,371.8	5,487	1,615.2	2,143.4	32.7%	
		Drug Possession w/Intent^	489	440	496	466	472.8	1,891	420	520	566	540	511.5	2,046	421	401	434	429	421.3	1,685	395	443	431		317.3	1,269	284.8	464.2	63.0%	
		Drug Distribution/Manufacturing^	312	238	280	294	281.0	1,124	249	251	280	263	260.8	1,043	213	156	229	196	198.5	794	173	158	166		124.3	497	182.5	240.7	31.8%	
		Person/Sex	5,096	4,524	4,531	4,675	4,706.5	18,826	5,237	4,463	4,635	4,865	4,800.0	19,200	5,023	4,691	4,716	5,086	4,879.0	19,516	5,429	4,890	4,840		3,789.8	15,159	3,134.4	4,804.9	53.3%	
		Felony	1,312	1,153	1,279	1,282	1,256.5	5,026	1,319	1,241	1,296	1,348	1,301.0	5,204	1,398	1,373	1,462	1,474	1,426.8	5,707	1,685	1,539	1,448		1,168.0	4,672	678.7	1,341.1	97.6%	
		Property	6,889	6,804	7,034	7,068	6,948.8	27,795	7,151	6,883	7,083	6,648	6,941.3	27,765	6,748	6,395	6,732	6,636	6,627.8	26,511	6,390	6,307	6,307		4,751.0	19,004	4,589.2	6,778.9	47.7%	
		Felony	2,210	2,080	2,494	2,147	2,232.8	8,931	2,032	1,989	2,259	1,940	2,055.0	8,220	1,945	1,896	1,897	1,854	1,898.0	7,592	1,790	1,862	1,822		1,368.5	5,474	1,378.5	2,024.7	46.9%	
		Traffic-General	89,479	79,632	90,664	96,148	88,980.8	355,923	92,095	88,545	94,784	91,638	91,765.5	367,062	86,775	83,061	93,108	97,687	90,157.8	360,631	97,810	90,109	85,836		68,438.8	273,755	69,842.5	90,287.2	29.3%	
		MB	2,111	1,851	2,029	2,081	2,018.0	8,072	2,104	2,011	1,792	1,718	1,906.3	7,625	1,691	1,493	1,699	1,902	1,696.3	6,785	2,152	2,022	1,972		1,536.5	6,146	6,980.6	1,940.7	-72.2%	
		MC	13,902	12,959	14,390	14,295	13,886.5	55,546	13,952	13,620	14,621	13,383	13,894.0	55,576	13,520	12,445	13,068	12,589	12,905.5	51,622	12,531	11,890	11,532		8,988.3	35,953	55,635.5	18,896.9	-66.0%	
		IN	73,230	64,627	73,988	79,536	72,845.3	291,381	75,821	72,694	78,099	76,304	75,729.5	302,918	71,303	68,880	78,078	82,977	75,309.5	301,238	82,913	75,979	72,068		57,740.0	230,960	7,059.9	69,217.3	880.4%	
DPS-BCI	Arresting Incidents	**Total**	24,110	22,899	24,475	22,891	23,593.8	94,375	25,692	20,400	21,701	21,618	22,352.8	89,411	23,092	20,360	20,757	22,235	21,611.0	86,444	23,739	21,431			11,292.5	45,170	16,592.8	22,798.3	37.4%	
		Rate (per 100,000 pop)						3,093.0						2,882.5						2,734.6										
		Felony	5,899	5,684	6,317	6,682	6,145.5	24,582	6,715	5,599	5,805	5,886	6,001.3	24,005	6,002	5,226	5,349	5,681	5,564.5	22,258	5,912	5,366			2,819.5	11,278	4,371.8	5,807.1	32.8%	
		Drug	7,634	7,376	8,589	8,749	8,087.0	32,348	10,256	8,457	9,052	8,851	9,154.0	36,616	9,135	7,674	7,778	8,203	8,197.5	32,790	8,582	7,785			4,091.8	16,367	4,708.6	8,369.2	77.7%	
		Rate						1,060.2						1,180.5						1,037.3										
		Felony	1,758	1,617	1,776	1,899	1,762.5	7,050	1,922	1,623	1,687	1,689	1,730.3	6,921	1,676	1,313	1,302	1,486	1,444.3	5,777	1,483	1,399			720.5	2,882	1,977.6	1,670.9	-15.5%	
		Property	6,754	6,655	6,853	7,013	6,818.8	27,275	7,914	6,222	6,445	6,393	6,743.5	26,974	6,892	6,122	6,310	6,612	6,484.0	25,936	6,745	6,289			3,258.5	13,034	5,226.0	6,847.5	31.0%	
		Rate						893.9						869.6						820.5										
		Felony	2,241	2,272	2,580	2,878	2,492.8	9,971	2,794	2,219	2,281	2,245	2,384.8	9,539	2,189	1,981	1,981	2,053	2,051.0	8,204	2,066	1,954			1,005.0	4,020	1,494.8	2,261.2	51.3%	
		Person/Sex	4,546	3,925	3,986	4,188	4,161.3	16,645	4,833	3,875	3,995	4,232	4,233.8	16,935	4,521	3,971	4,114	4,483	4,272.3	17,089	4,851	4,332			2,295.8	9,183	2,903.3	4,199.5	44.6%	
		Rate						545.5						546.0						540.6										
		Felony	1,380	1,242	1,268	1,369	1,314.8	5,259	1,410	1,250	1,262	1,346	1,317.0	5,268	1,406	1,250	1,380	1,450	1,371.5	5,486	1,599	1,392			747.8	2,991	722.2	1,299.2	79.9%	
	Drug-Related Citations		5,126	5,588	6,646	6,708	6,017.0	24,068	10,030	7,866	7,164	6,792	7,963.0	31,852	8,586	5,706	5,513	5,796	6,400.3	25,601	5,751	5,594			2,836.3	11,345	2,615.2	6,468.1	147.3%	
		Rate						788.8						1,026.9						809.9										
DSAMH	**Admissions**																													
		Justice-Involved SA Total	2,801	2,735	2,640	3,352	2,882.0	11,528	3,025	2,956			3,638.0	14,552													2,411.6	3,013.5	25.0%	
		Justice-Involved MH Total																												
		Drug Court	501	480	567	533	520.3	2,081	582	455			669.5	2,678					567.5	2,270							472.4	557.7	18.1%	
	Clients Served																													
		Justice-Involved SA Total	5,032	5,456	6,213	6,880		11,546	6,658	7,611				12,842																
		Justice-Involved MH Total						8,806	1,687	1,565																				
		Drug Court	873	985	1,192	1,391		2,032	1,327	1,503				2,299																
	Successful Completion of Treatment Episode (%)																													
		Justice-Involved SA Total					47.3%	47.3%					46.7%	46.7%																
		Drug Court					46.9%	46.9%					42.1%	42.1%																
	Number of Certified Treatment Sites (N)																													
		Public (cumulative)						38																						
		Private (cumulative)						115																						
		Justice-Involved Served by Certified Providers																												
		% of Justice-Involved Total																												
Counties/DOC	**County Jail Reimbursement Days (COP)**		94,142	95,269	91,584	95,099	94,023.5	376,094	86,722	82,972	76,388	76,949	80,757.8	323,031													104,755.1	96,915.1	-7.5%	
	County Jail MA Days (Non-Reimbursed)																													
	County Jail Contracting (Average Daily Pop)		1,593	1,590	1,561	1,496	1,560.2	1,560																			1,602.7	1,582.4	-1.3%	
CCJJ/Counties	**County Jail Offender Screening (CPIP)**																													
		Total Completed Screens	9,005	8,179	9,009	9,604	8,949.3	35,797	11,179	9,860	9,974		15,506.5	31,013														9,155.8		
		%Low Risk (LSIR-SV)	34.1%	33.1%	33.1%	33.8%	33.5%	33.5%	30.2%	32.6%	32.4%		31.7%															32.9%		
		%Mod Risk (LSIR-SV)	49.6%	48.9%	48.1%	47.2%	48.5%	48.5%	49.0%	48.1%	49.3%		48.8%															48.7%		
		%High Risk (LSIR-SV)	16.4%	18.0%	18.7%	19.0%	18.0%	18.0%	20.8%	19.3%	18.3%		19.5%															18.4%		
		%Substance Use Referrral (TCUD)	46.8%	49.1%	50.2%	50.5%	49.2%	49.2%	54.2%	51.9%	52.4%		52.8%															51.6%		
		%Psych Assessment Referrral (CMHS)	39.0%	41.4%	39.2%	40.2%	40.0%	40.0%	41.2%	39.5%	38.3%		39.6%															40.1%		
							JRI2						JRI3						JRI4						JRI5		B	JRI		

*Comparisons b *Comparisons between JRI and baseline use the quarterly average (AvgQ). Exceptions to this include measures where only annual numbers are available (e.g., arrest rates). Additionally, the AvgQ for FY16 only includes the JRI quarters (Q2-4).

**Numbers are **Numbers are not available prior to JRI implementation (new data/program)

Operation Rio # Operation Rio Grande in Salt Lake City started in August 2017 and accounts for much of the significant increase in arrests and case filings in Q1 of FY2018 (highlighted in red font), as well as increased jail screenings (including more high risk offenders and substance use/mental health issues)

^ For the drug crime categories, the numbers displayed reflect the number of cases where the given category was the highest drug charge in the case. The drug categories are ranked by severity, from highest to lowest (Distribution = 1; Possession w/Intent = 2; Possession Only = 3; Paraphernalia = 4). For example, if a case had both possession and parapher

Appendix J

Letter Related to the Collection of Data Related to Recidivism

Office of Legislative Research and General Counsel

September 1, 2020

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OFFICE OF LEGISLATIVE RESEARCH AND GENERAL COUNSEL

John Q. Cannon, Director
John L. Fellows, General Counsel

September 1, 2020

Legislative Auditor General
C/O Jim Behunin
State Capitol Complex
House Building, W315
Salt Lake City, UT 84114

RE: Collection of Data Related to Recidivism by the Division of Substance Abuse and Mental Health

Dear Mr. Behunin,

On August 17, 2020, you asked our office to determine whether the Division of Substance Abuse and Mental Health ("DSAMH") within the Department of Human Services has authority under the Utah Code and the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) to collect data related to recidivism from private mental health and substance abuse treatment providers working with individuals involved in the criminal justice system. The following provides a response to your question based on the applicable law.

1. **Collection and Disclosure of Data Related to Recidivism under State and Federal Statutes and Regulations**

   a. <u>DSAMH's Responsibilities under Utah Code</u>

DSAMH's general responsibilities as a state agency are described in Utah Code § 62A-15-103. In addition to other general duties and oversight functions, DSAMH is required under Utah Code § 62A-15-103(2) to: (1) contract with "public and private entities for…services for individuals involved in the criminal justice system" and establish administrative rules regarding the contracts; (2) establish "minimum standards…for the provision of substance abuse and mental health treatment to an individual who is incarcerated or who is required to participate in treatment by a court or the Board of Pardons and Parole;" (3) require "public and private treatment programs to meet" the minimum standards before receiving public funds allocated to DSAMH, the Department of Corrections ("DOC"), or the Commission on Criminal and Juvenile Justice ("CCJJ"); (4) establish "performance goals and outcome measurements" for the treatment providers that are subject to the minimum standards that include "recidivism data and data regarding cost savings associated with recidivism reduction, that are obtained in collaboration with the Administrative Office of the Courts and the Department of Corrections;" (5) collect data to track whether the performance goals and outcome measurements are being met; (6) establish requirements by administrative rule based on the minimum standards for "certification of licensed public and private providers…who provide substance use disorder and mental health treatment to an individual involved in the criminal justice system;" and (7) require a "public or

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private provider of treatment" to obtain certification to qualify for funds allocated to DSAMH, DOC, or CCJJ.[1]

In sum, under Utah Code § 62A-15-103(2), it appears DSAMH is required to set minimum standards that a public or private substance abuse or mental health treatment provider must meet when working with an incarcerated individual or an individual ordered to participate in treatment by a court or the Board of Pardons and Parole, and based on those minimum standards, is required to create a certification process for treatment providers working with an individual involved in the criminal justice system. In monitoring whether a treatment provider meets the performance goals related to recidivism for the minimum standards, DSAMH is required to "collect data" from the treatment providers.

b. HIPAA Regulations

As part of the data collection and oversight functions described in Utah Code § 62A-15-103(2), it is possible DSAMH would be required to request private patient information from treatment providers who are subject to HIPAA. Generally, HIPAA prohibits a covered entity from sharing an individual's protected health information.[2] Under HIPAA, "protected health information" is defined as "individually identifiable health information" that is transmitted or maintained electronically or in any other form[3] and "covered entity" is defined as a health plan, a health care clearinghouse, or a health care provider.[4]

A covered entity that is prohibited from sharing protected health information under HIPAA may be able to share the information if an exception under HIPAA applies. Specifically, under 45 C.F.R. § 164.512(d), a covered entity may disclose protected health information to:

> "[A] health oversight agency for oversight activities authorized by law, including audits…licensure…or other activities necessary for appropriate oversight of…[e]ntities subject to government regulatory programs for which health information is necessary for determining compliance with program standards…."

"Health oversight agency," as used in the above exception, is defined under 45 C.F.R. § 164.501 as:

> "[A]n agency or authority of…a State…that is authorized by law to oversee the health care system (whether public or private) or government programs in which health information is necessary to determine eligibility or compliance…."

DSAMH appears to fall under the definition of "health oversight agency" because it is a state agency that has authority to oversee compliance with the minimum standards, performance goals, and certification process applicable to treatment providers working with individuals

[1] While each of these requirements are found in Utah Code § 62A-15-103, there may be room for reorganization and clarification of the section for easier readability.
[2] *See generally* HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA), P.L. No. 104-191, 110 Stat. 1938 (1996).
[3] 45 C.F.R. § 160.103.
[4] *Id.*

involved in the criminal justice system.[5] It follows that HIPAA would likely not prohibit a private treatment provider that is a covered entity from sharing recidivism-related data with DSAMH that includes protected health information; collection of the recidivism-related data is "authorized by law" under Utah Code § 62A-15-103(2) and 45 C.F.R. § 164.512(d) contemplates data sharing for a state agency's oversight of entities that are subject to government regulatory programs like DSAMH's certification process and minimum standard requirements.

c. Substance Abuse Confidentiality Regulations

Although your question did not request this information, it is important to note that in addition to HIPAA, disclosure of health information relating to an individual's substance use disorder may be subject to additional confidentiality requirements under 42 U.S.C. § 290dd-2 and 42 C.F.R. Part 2 ("Part 2"). Generally, Part 2 prohibits disclosure of information, including "patient identifying information,"[6] that would identify an individual as having or having had a substance use disorder.[7] To be a "program" subject to the requirements described in Part 2 ("Part 2 Program"), an individual or entity must hold itself out as providing and provide "substance use disorder diagnosis, treatment, or referral for treatment" and be federally assisted.[8]

Some exceptions apply to the protection against disclosure of patient identifying information under Part 2, including an exception allowing a Part 2 Program to disclose the information for purposes of audits or evaluations by a state or local governmental agency.[9] Under 42 C.F.R. § 2.53(g), patient identifying information may be disclosed to "state, or local government agencies…in the course of conducting audits or evaluations mandated by statute or regulation, if those audits or evaluations cannot be carried out using deidentified information."[10]

[5] *Supra* Para. 1.a. Note, DSAMH, dubbed under Utah Code § 62A-15-103(1) as the "substance abuse authority and mental health authority for this state," may also qualify as a "health oversight agency" by virtue of its authority to monitor and oversee provision of substance abuse and mental health treatment in the state, arguably an element of the "health care system." There does not appear to be a definition of "health care system" as the term is used in the definition of "health oversight agency."

[6] "Patient identifying information means the name, address, social security number, fingerprints, photograph, or similar information by which the identity of a patient…can be determined with reasonable accuracy either directly or by reference to other information." 42 C.F.R. § 2.11.

[7] 42 C.F.R. § 2.12.

[8] *Id.* A program is "federally assisted" if it is "carried out under a license, certification, registration, or other authorization granted by any department or agency of the United States…or…is supported by funds provided by any department or agency of the United States by being: (i) [a] recipient of federal financial assistance in any form…; or (ii) conducted by a state or local government unit which, through general or special revenue sharing or other forms of assistance, receives federal funds which could be (but are not necessarily) spent for the substance use disorder program." 42 C.F.R. §§ 2.11, 2.12.

[9] 42 C.F.R. § 2.53(c). Audits and evaluations include, but are not limited to, activities by a state or local government agency to: (1) "[i]dentify actions the agency…can make, such as changes to its policies or procedures, to improve care and outcomes for patients with SUDs who are treated by part 2 programs;" (2) "[e]nsure that resources are managed effectively to care for patients;" or (3) "[d]etermine the need for adjustments to payment policies to enhance care or coverage for patients with SUD." *Id.*

[10] *See also* 42 C.F.R. § 2.53(a) (stating that patient identifying information may be disclosed for review on the premises of a Part 2 Program or other lawful holder to an individual or entity who agrees in writing to not redisclose the information and performs an audit or evaluation on behalf of a state or local government agency "that provides financial assistance to a part 2 program or other lawful holder, or is authorized to regulate the activities of the part 2 program or other lawful holder."); 42 C.F.R. § 2.53(b) (stating that an individual or entity may download, remove, or forward patient identifying information from the premises of a Part 2 Program or other lawful holder, if the individual or entity agrees in writing to maintain and destroy the information in accordance with Part 2 and comply with other Part 2 limitations on disclosure, and performs the audit or evaluation on behalf of a state or local government agency "that provides financial assistance to the part 2 program or other lawful holder, or is authorized by law to regulate the activities of the part 2 program or other lawful holder.").

While DSAMH may be required under Utah Code § 62A-15-103 to request recidivism-related data that is classified as patient identifying information from a Part 2 Program to determine compliance with the minimum standards and performance outcomes described above in Paragraph 1.a, it appears that the exception under 42 C.F.R. § 2.53(g) would likely not prohibit the Part 2 Program from disclosing the information so long as the data could not be collected through deidentified information because the functions of DSAMH in collecting the data fall within the scope of an "audit or evaluation" of the program.

2. **Conclusion**

Utah Code § 62A-15-103 requires DSAMH to collect data from private treatment providers who work with certain individuals involved in the criminal justice system when determining whether performance goals related to recidivism have been met and it is unlikely that HIPAA or other federal confidentiality regulations relating to substance use disorder patients would prevent private treatment providers from providing the data.

Ericka A. Evans
Associate General Counsel
Office of Legislative Research and General Counsel

Appendix K

Local Difference Observed in The Response to Drug Possession Only Charges

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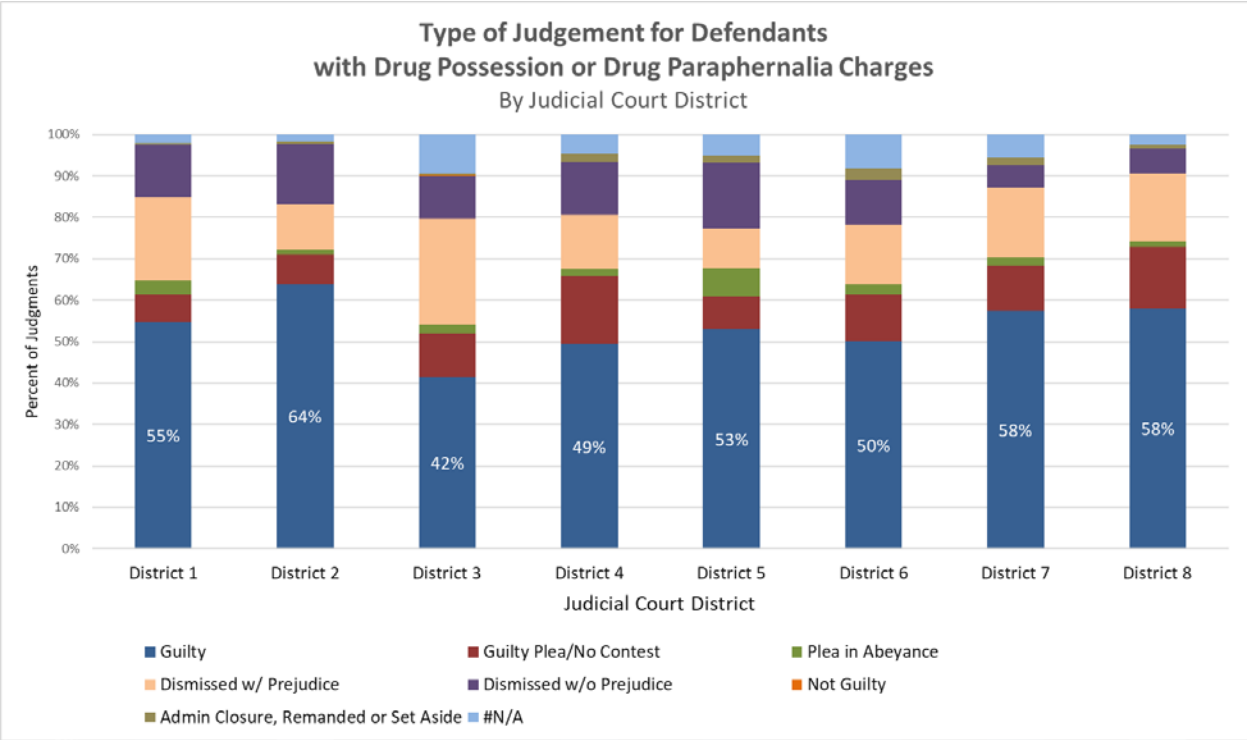
Differences in the Judgements Issued for Drug Possession Cases by Court District and Judge

Court records were used to identify the type of judgement issued for each case in which drug possession or drug paraphernalia charge was the most serious offense in a court filing. The following figure shows differences among judicial court districts. The dark blue portion of each bar shows the percent of all cases in which a guilty judgement was issued.

Differences Observed in how Local Court Districts Respond to Drug Possession Only Cases:

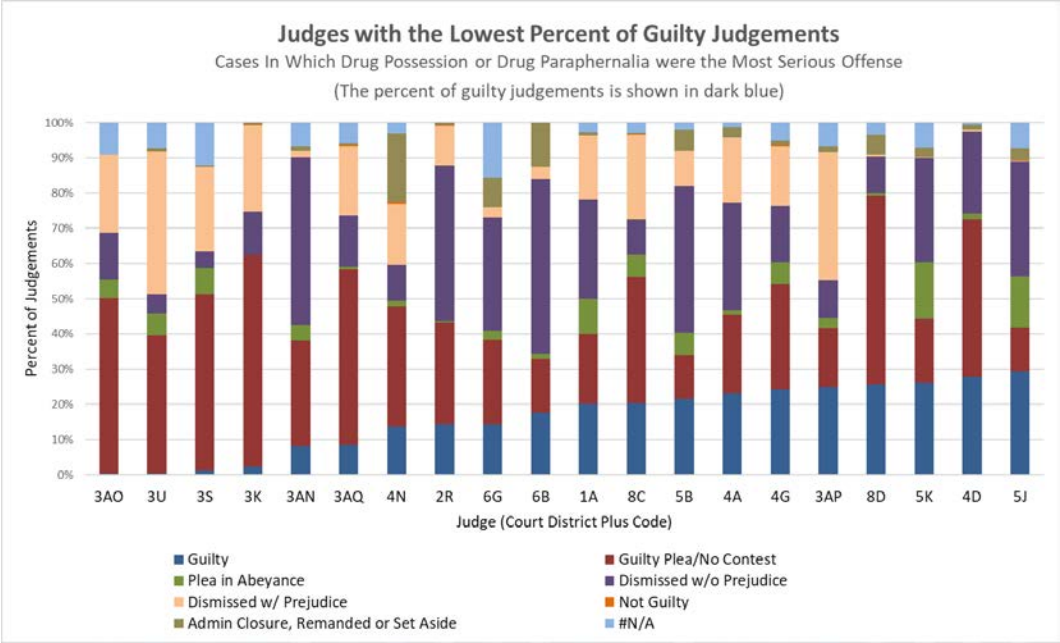
The following chart summarizes our study of 73,000 cases filed during fiscal years 2016, 2017 and 2018 in which possession or use of a controlled substance or drug paraphernalia were the most serious offense. The chart highlights the differences in the approach taken towards cases involving possession and use of controlled substances and drug paraphernalia. In District 2, the court issues a guilty verdict in 64 percent of the cases. In contrast, District 3 issues guilty verdicts in 42 percent of its cases.



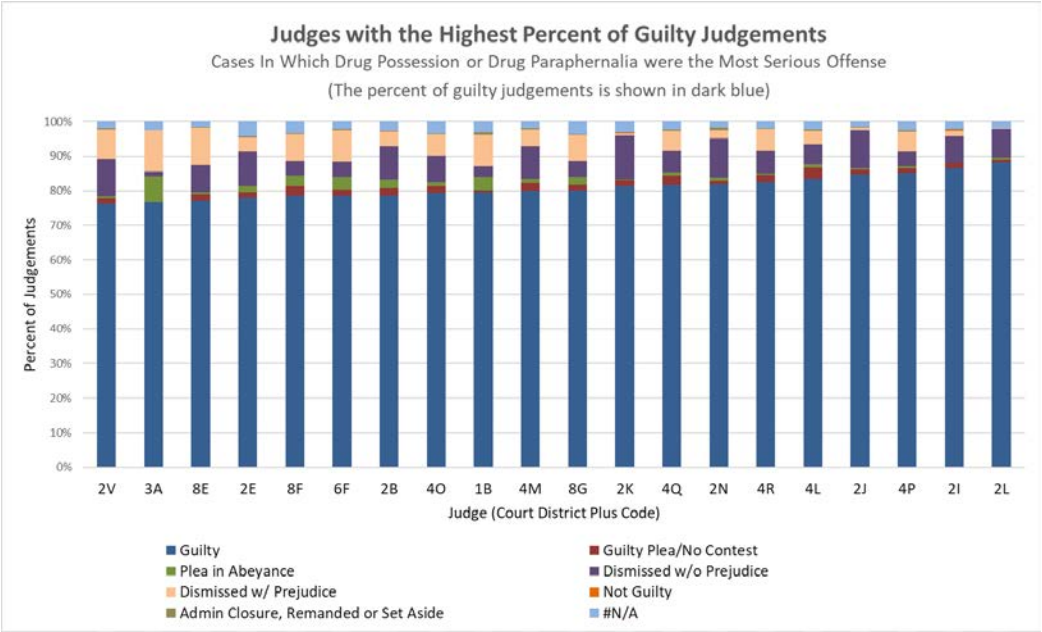
Source: OLAG Study of court sentencing data provided by the Administrative Office of the Courts.

Differences Observed in how Local Judges Respond to Drug Possession Only Cases:

The figures below compare the judgments issued by the 20 judges with the lowest percent of guilty judgements to the 20 judges with the highest percentage of guilty judgements.



Source: OLAG Study of 150,000 court cases involving drug possession only and drug paraphernalia cases, FY 2013 through FY 2019.

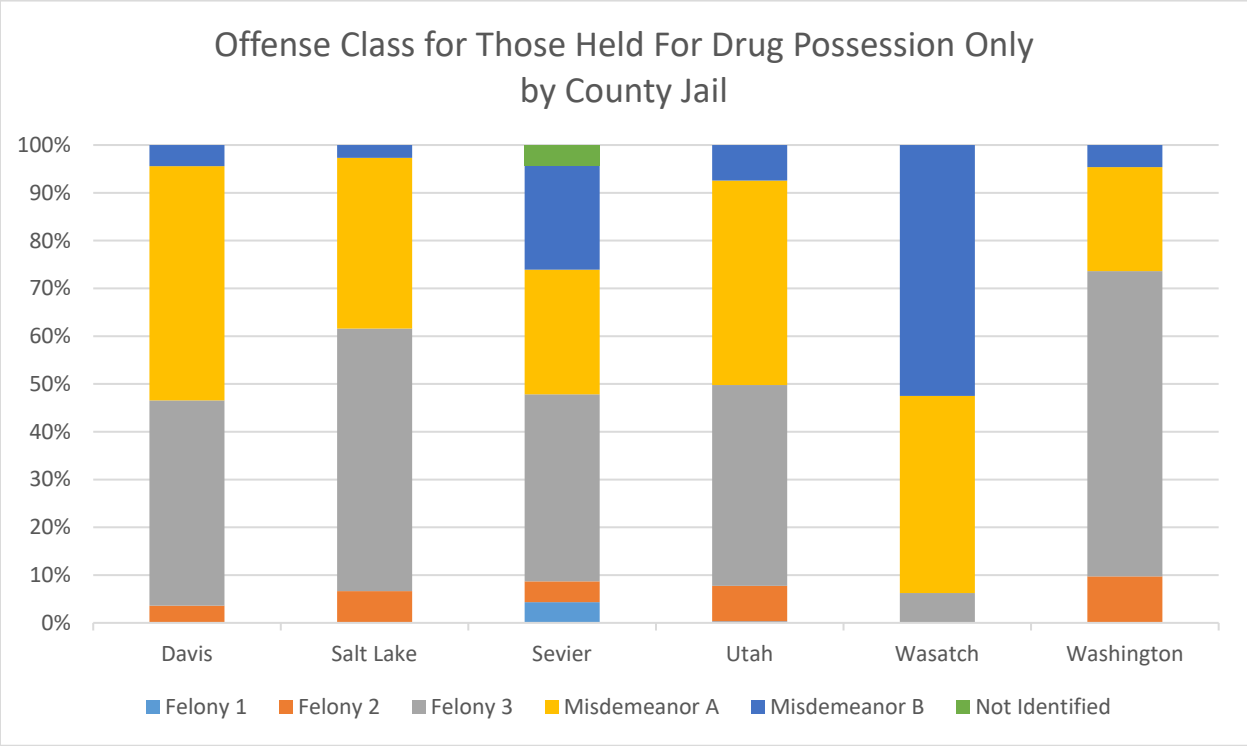


Source: OLAG Study of 150,000 court cases involving drug possession only and drug paraphernalia cases, FY 2013 through FY 2019.

In addition to the disparity in the percent of guilty judgements, the two charts on the prior page reveal large differences in the percent of cases in which a guilty plea or plea of no contest is issued by the court. This information could be of use to policy makers, judges, and other state and local officials as they examine the effects of the judiciary's different approaches to drug crimes.

Differences Observed in the Offense Level of County Jail Inmates Held for Drug Possession Only

The data shown in the following chart include those inmates held during four quarterly snapshot study periods from the year 2018. The data show that of 94 percent of inmates held for drug possession in the Wasatch County Jail were Misdemeanor A and B offenders. In contrast, roughly 75 percent of offenders in Washington County Jail were held on Felony charges. The differences we see in the makeup of the different county jail populations reflect the local differences we see in the approach taken towards criminal justice.



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Appendix L

OLAG Survey of Substance Abuse and Mental Health Treatment Providers

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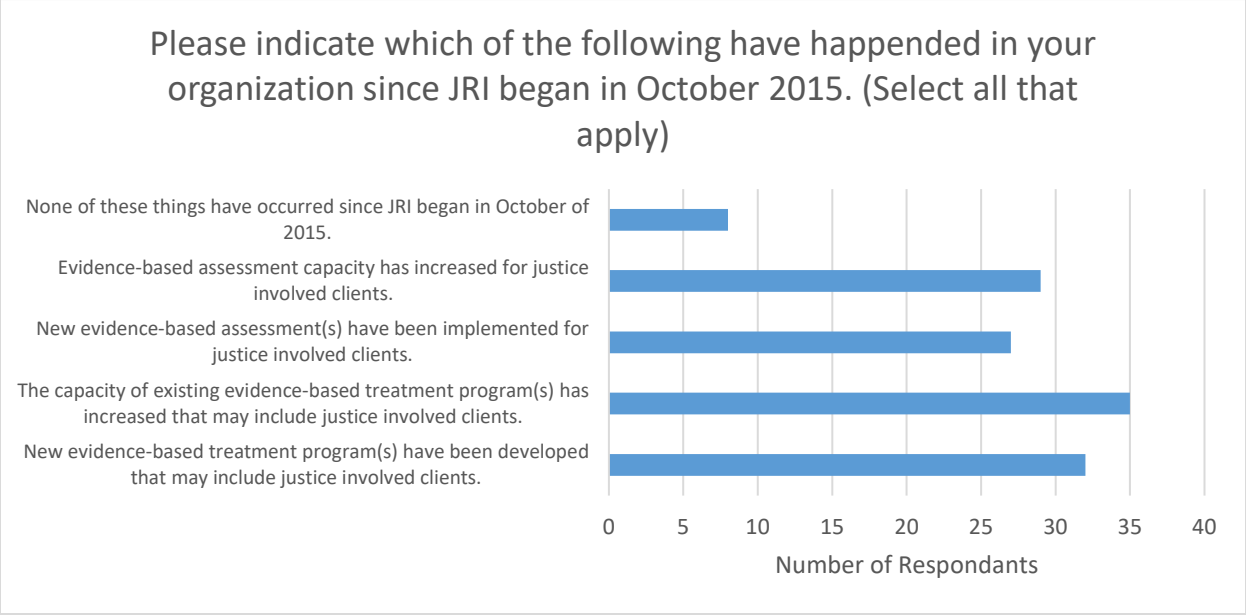
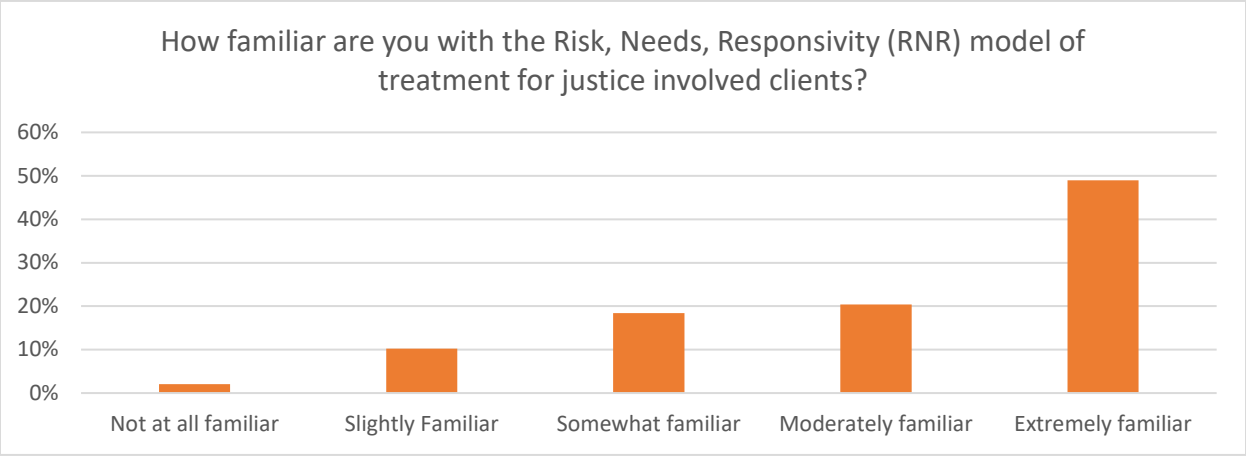
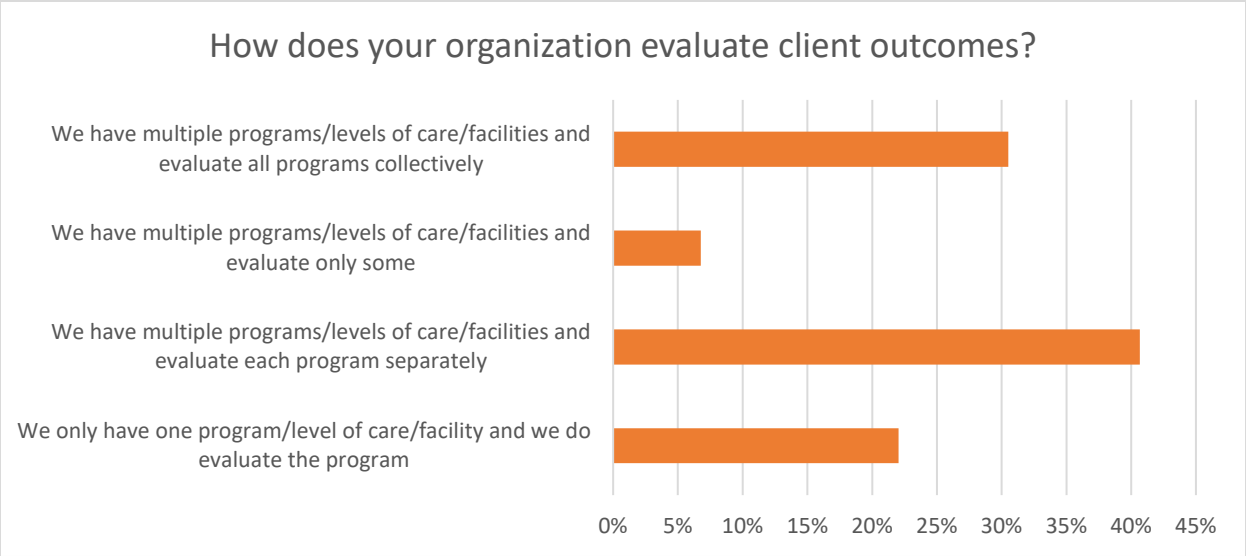
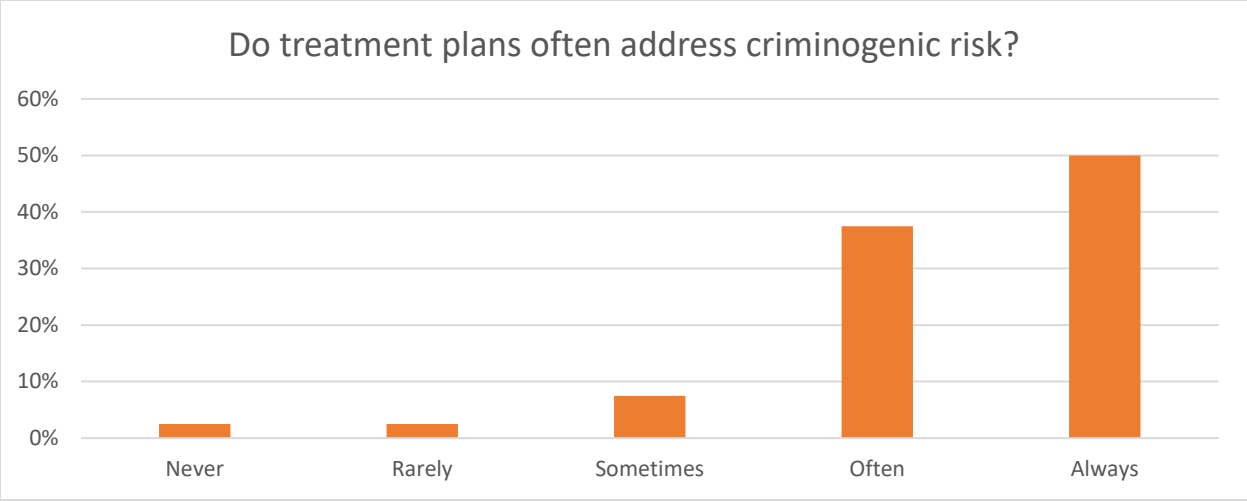
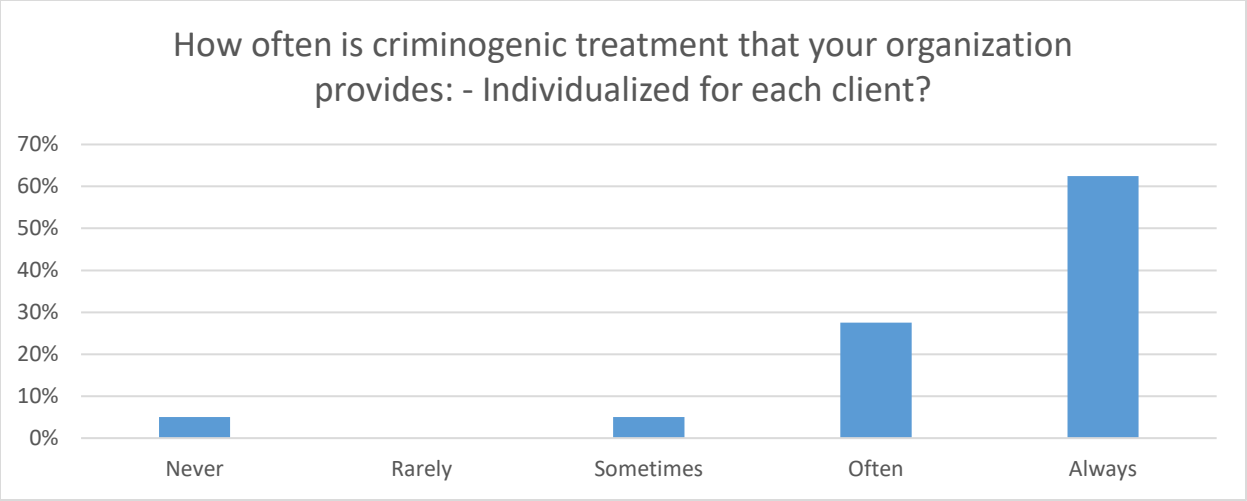
Provider Survey

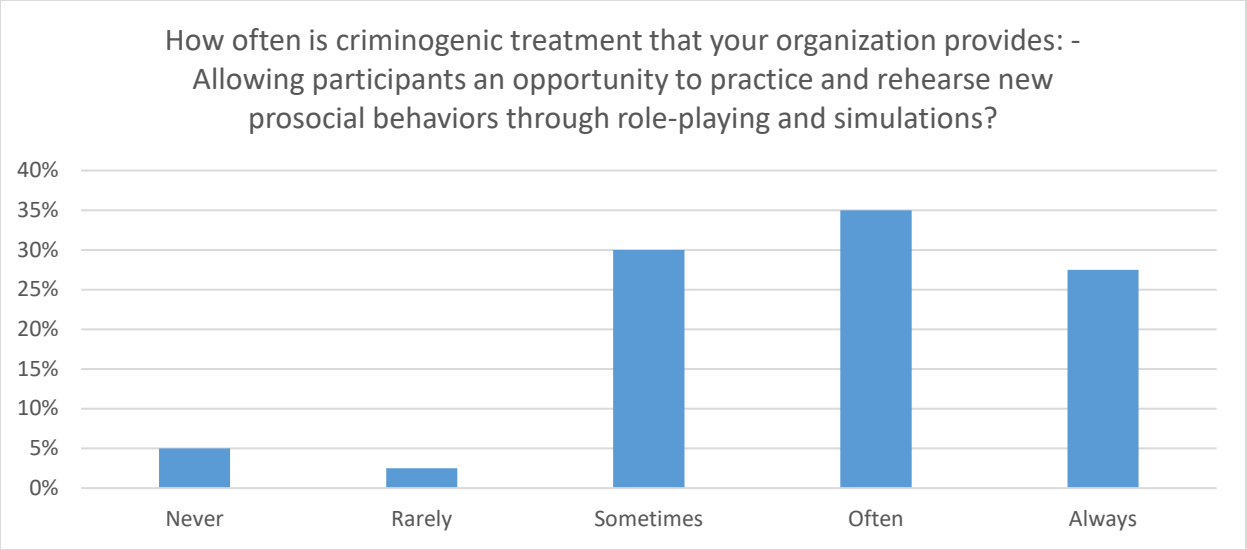


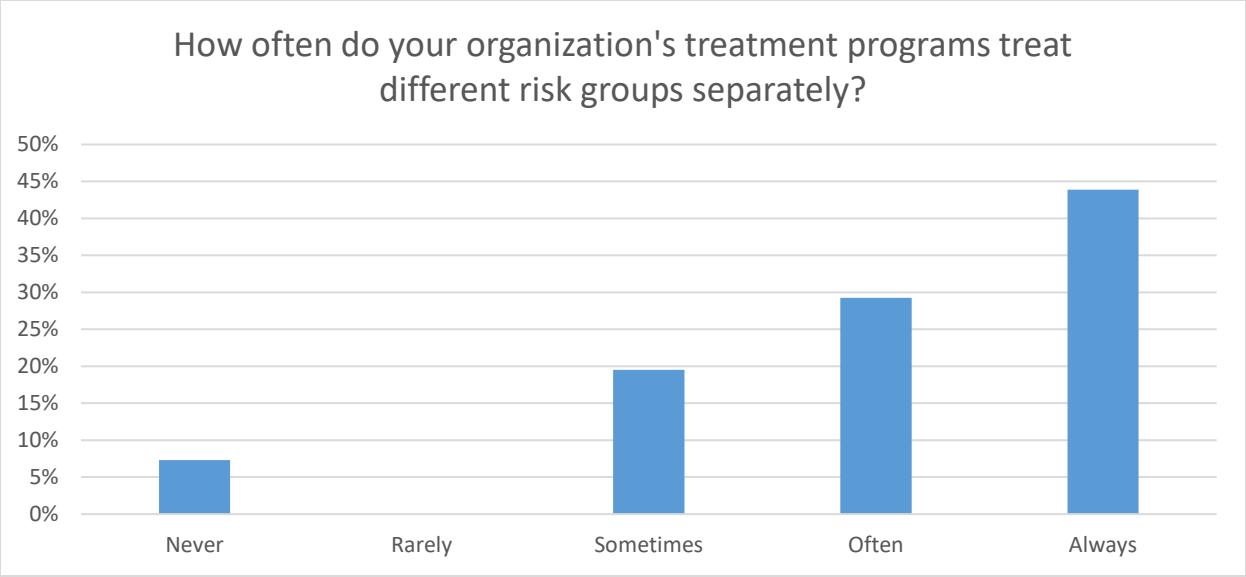


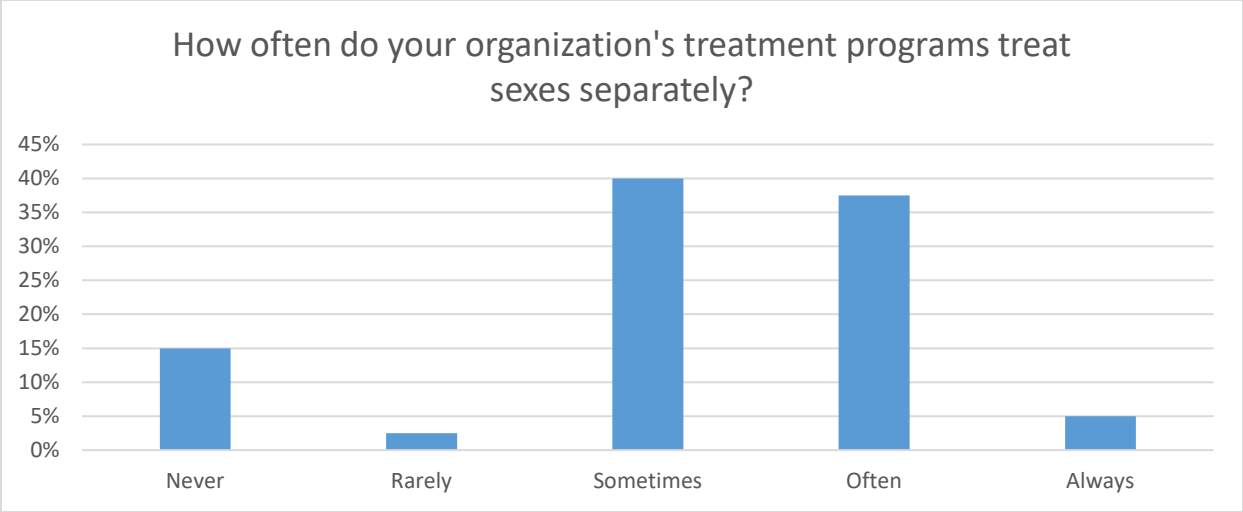



Do treatment plans often address criminogenic risk?
60%
50%
40%
30%
20%
10%
0%
Never
Rarely
Sometimes
Often
Always

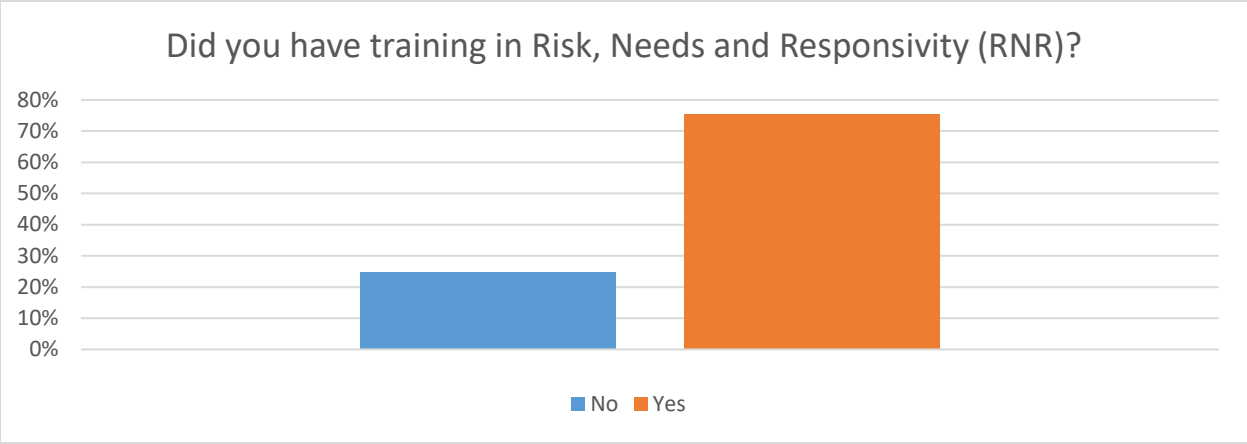

How often is criminogenic treatment that your organization provides: - Individualized for each client?
70%
60%
50%
40%
30%
20%
10%
0%
Never
Rarely
Sometimes
Often
Always

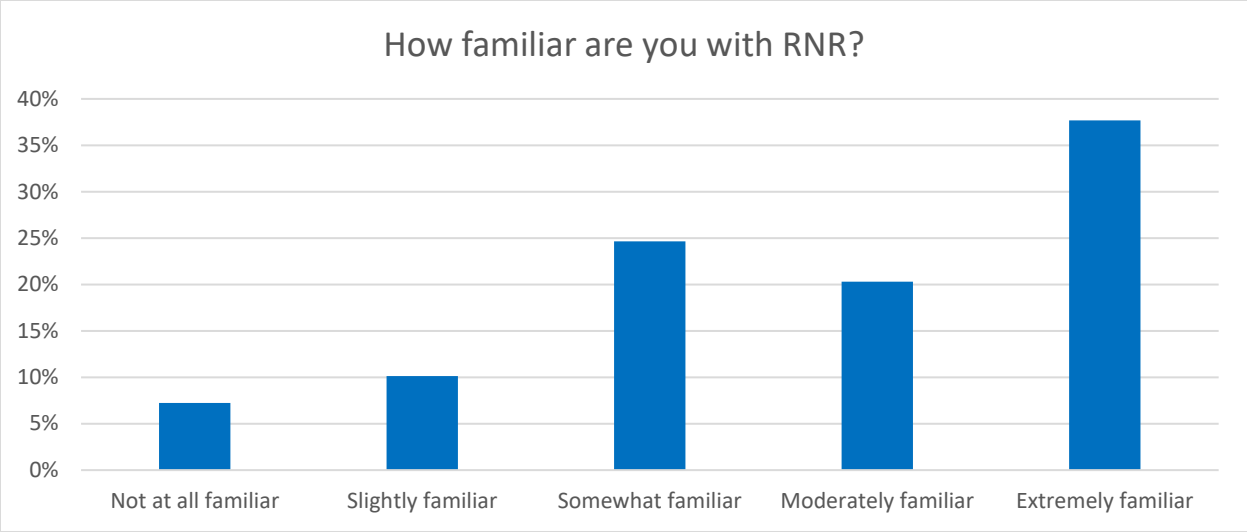

How often is criminogenic treatment that your organization provides: - Allowing participants an opportunity to practice and rehearse new prosocial behaviors through role-playing and simulations?
40%
35%
30%
25%
20%
15%
10%
5%
0%
Never
Rarely
Sometimes
Often
Always

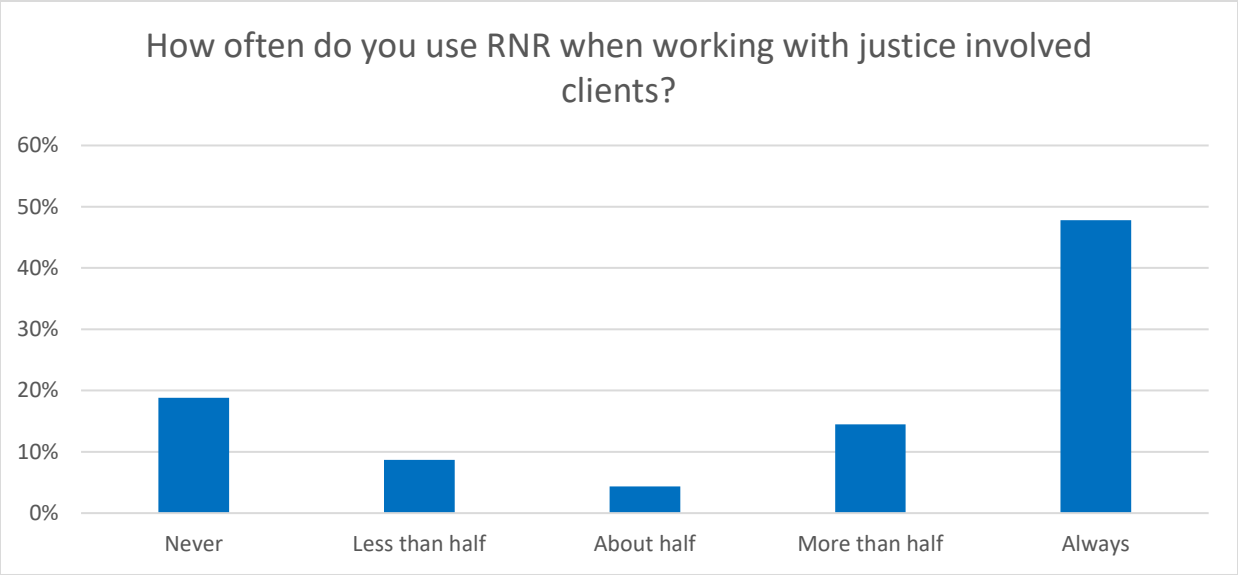

How often do your organization's treatment programs treat different risk groups separately?
50%
45%
40%
35%
30%
25%
20%
15%
10%
5%
0%
Never
Rarely
Sometimes
Often
Always

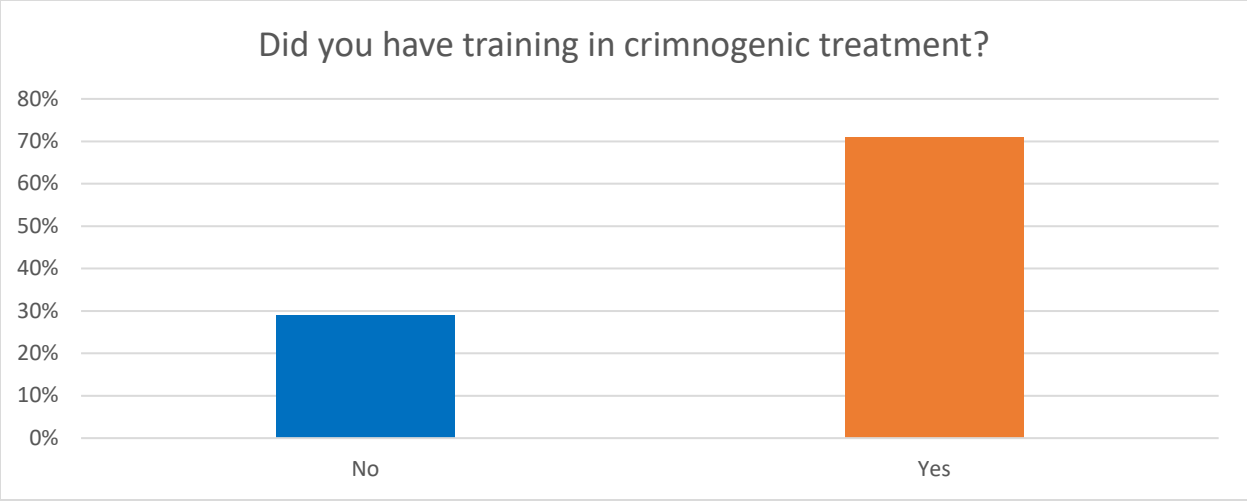

How often do your organization's treatment programs treat sexes separately?
45%
40%
35%
30%
25%
20%
15%
10%
5%
0%
Never
Rarely
Sometimes
Often
Always

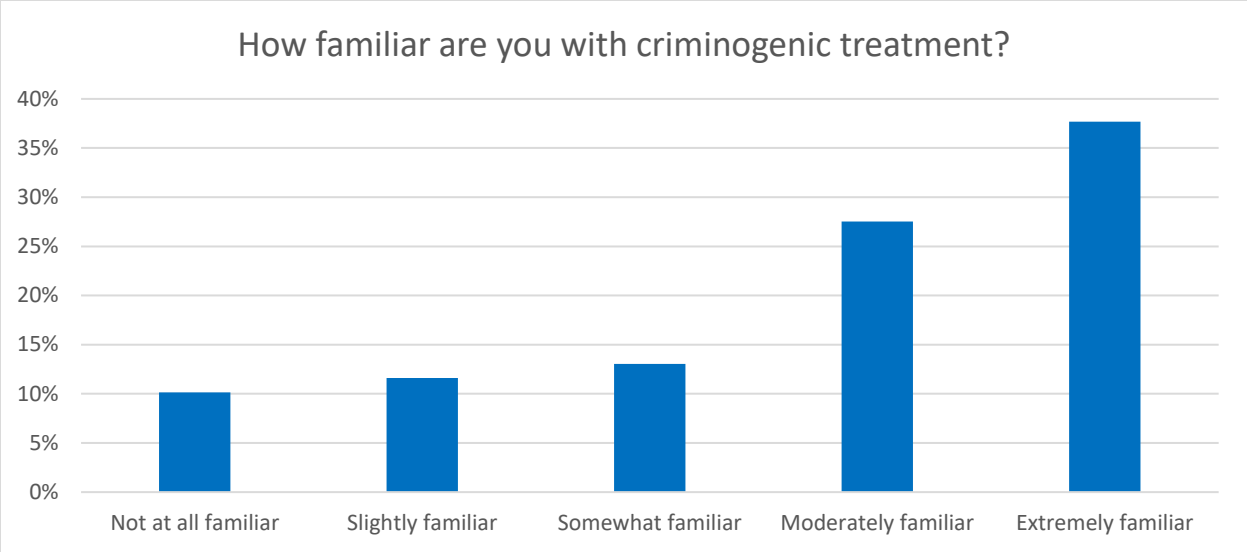
Clinician Survey

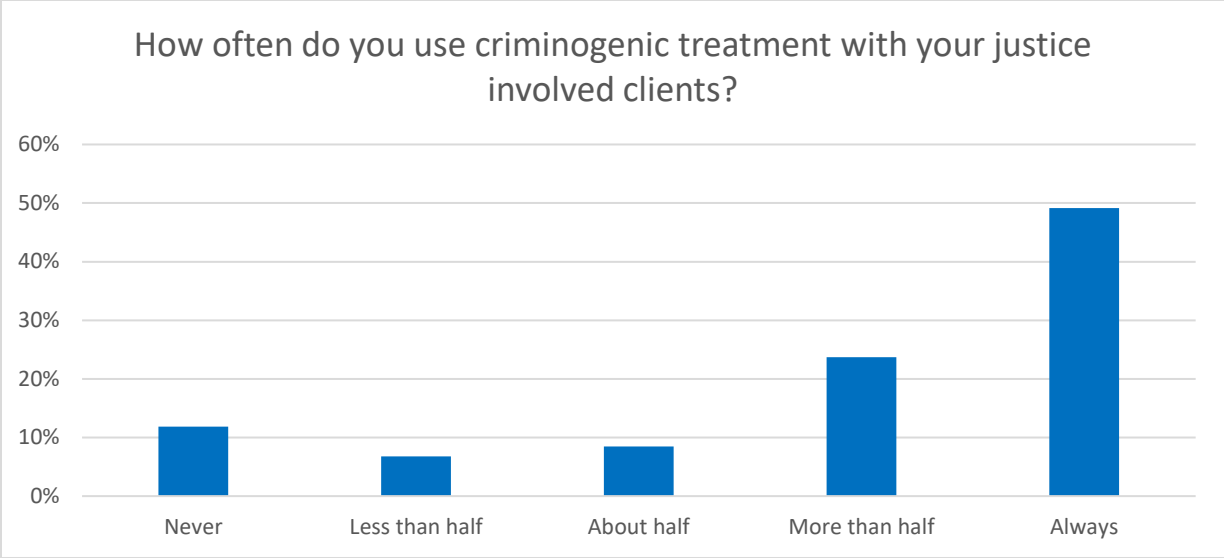


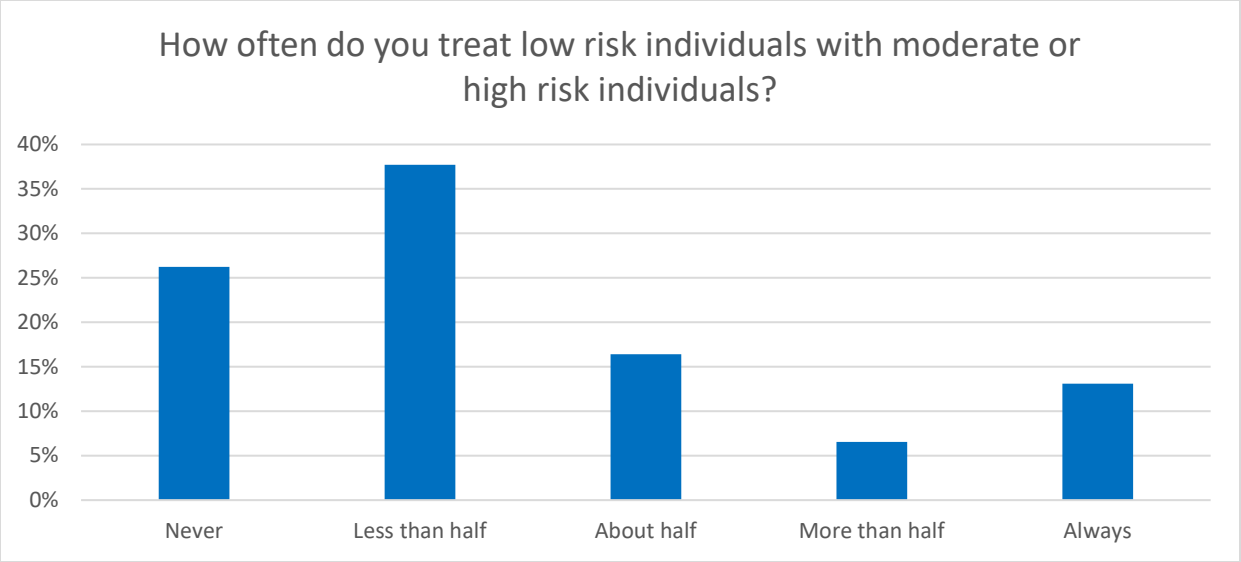


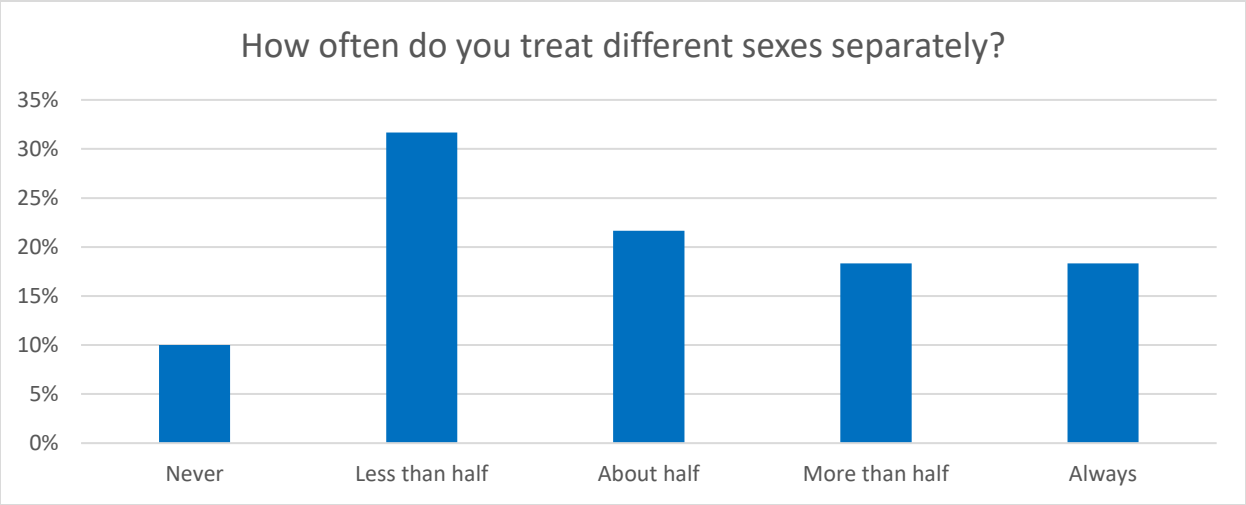


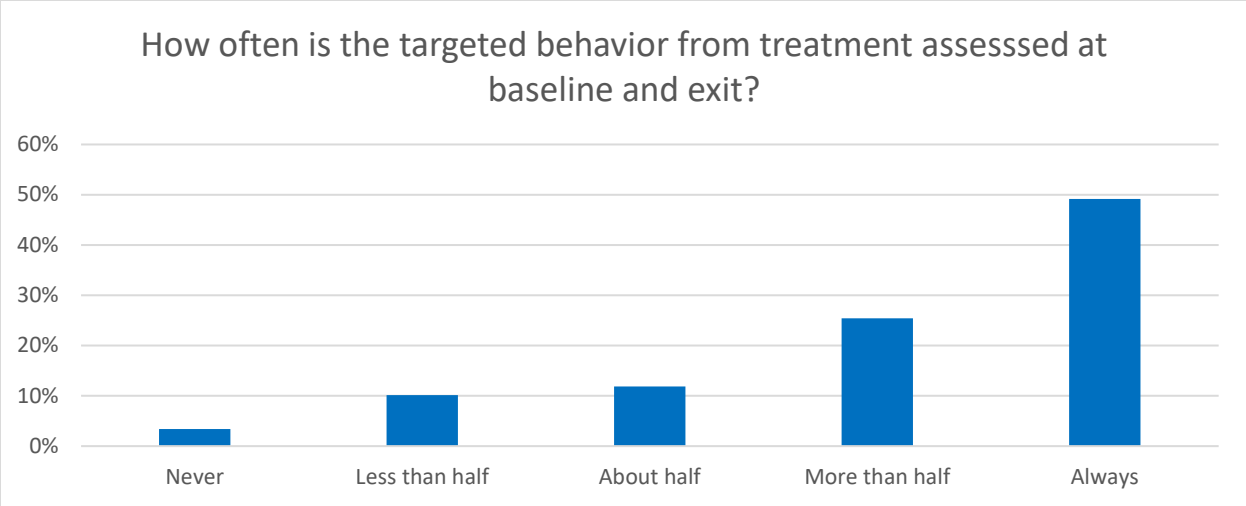

Did you have training in crimnogenic treatment?
80%
70%
60%
50%
40%
30%
20%
10%
0%
No
Yes

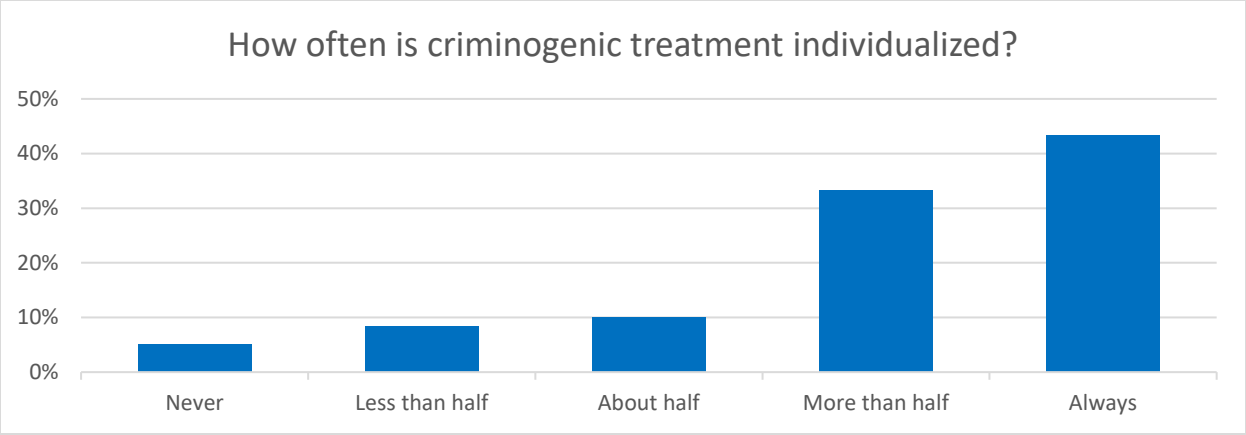

How familiar are you with criminogenic treatment?
40%
35%
30%
25%
20%
15%
10%
5%
0%
Not at all familiar
Slightly familiar
Somewhat familiar
Moderately familiar
Extremely familiar

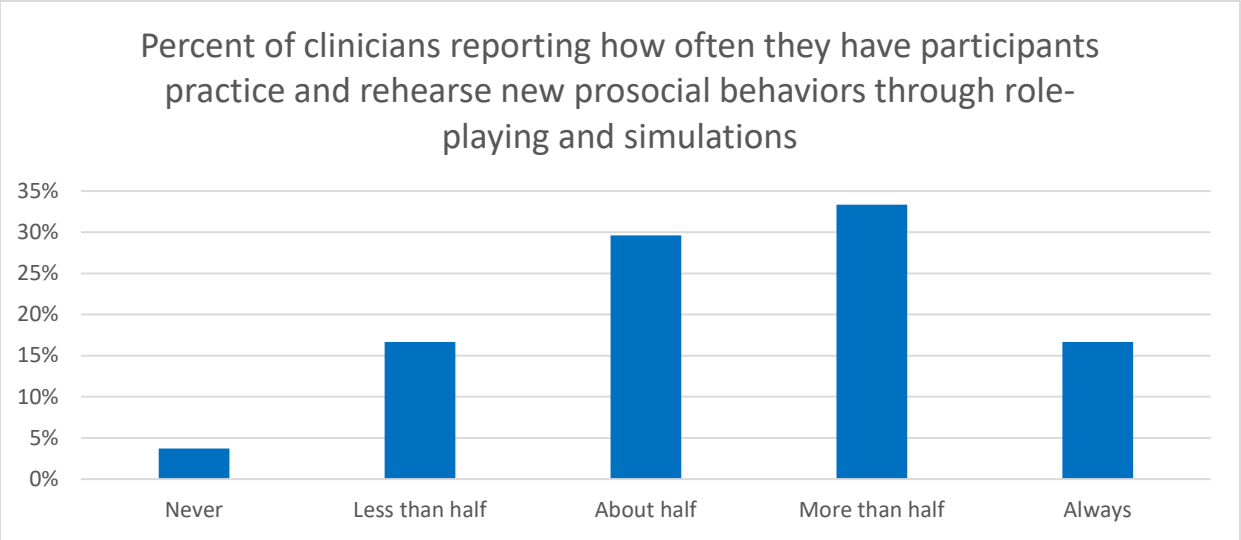

How often do you use criminogenic treatment with your justice involved clients?
60%
50%
40%
30%
20%
10%
0%
Never
Less than half
About half
More than half
Always

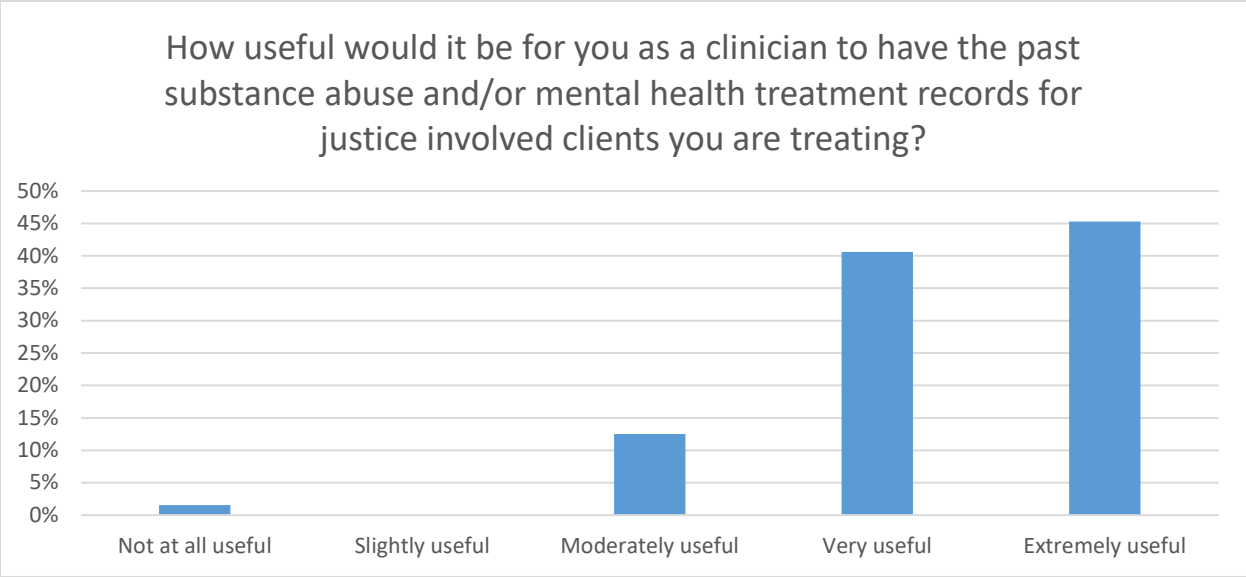

How often do you treat low risk individuals with moderate or high risk individuals?
40%
35%
30%
25%
20%
15%
10%
5%
0%
Never
Less than half
About half
More than half
Always

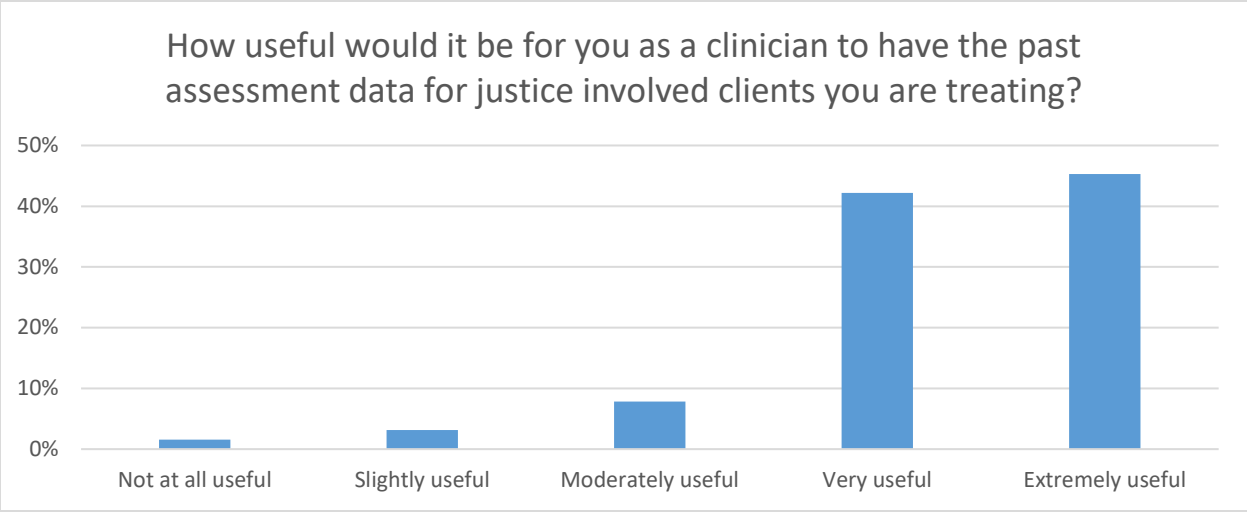

How often do you treat different sexes separately?
35%
30%
25%
20%
15%
10%
5%
0%
Never
Less than half
About half
More than half
Always

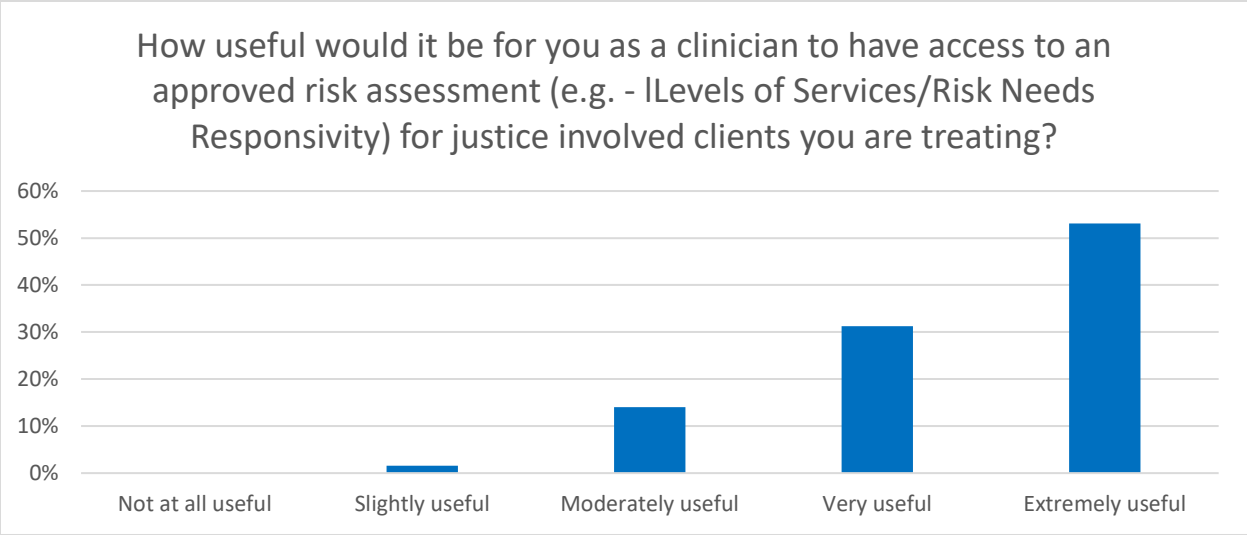

How often is the targeted behavior from treatment assesssed at baseline and exit?
60%
50%
40%
30%
20%
10%
0%
Never
Less than half
About half
More than half
Always

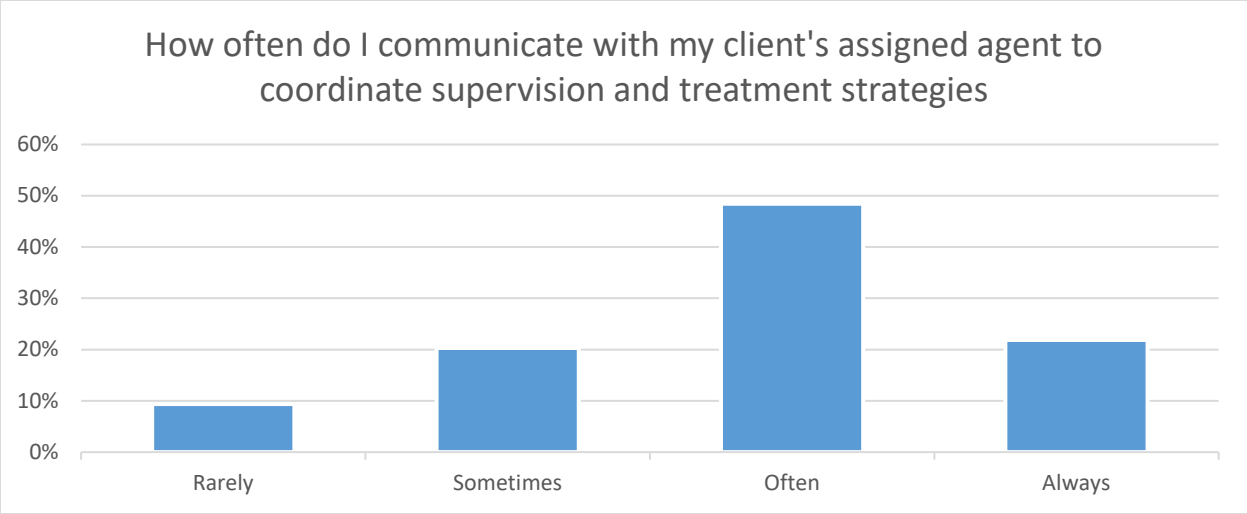

How often is criminogenic treatment individualized?
50%
40%
30%
20%
10%
0%
Never
Less than half
About half
More than half
Always

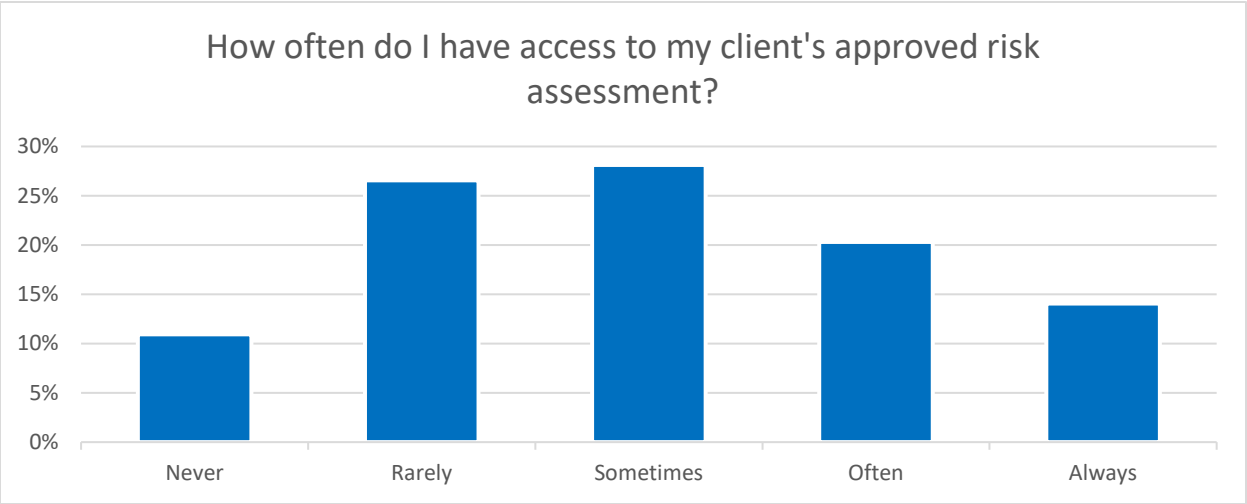

Percent of clinicians reporting how often they have participants practice and rehearse new prosocial behaviors through role-playing and simulations
35%
30%
25%
20%
15%
10%
5%
0%
Never
Less than half
About half
More than half
Always


How useful would it be for you as a clinician to have the past substance abuse and/or mental health treatment records for justice involved clients you are treating?
50%
45%
40%
35%
30%
25%
20%
15%
10%
5%
0%
Not at all useful
Slightly useful
Moderately useful
Very useful
Extremely useful


How useful would it be for you as a clinician to have the past assessment data for justice involved clients you are treating?
50%
40%
30%
20%
10%
0%
Not at all useful
Slightly useful
Moderately useful
Very useful
Extremely useful


How useful would it be for you as a clinician to have access to an approved risk assessment (e.g. - lLevels of Services/Risk Needs Responsivity) for justice involved clients you are treating?
60%
50%
40%
30%
20%
10%
0%
Not at all useful
Slightly useful
Moderately useful
Very useful
Extremely useful


How often do I communicate with my client's assigned agent to coordinate supervision and treatment strategies
60%
50%
40%
30%
20%
10%
0%
Rarely
Sometimes
Often
Always


How often do I have access to my client's approved risk assessment?
30%
25%
20%
15%
10%
5%
0%
Never
Rarely
Sometimes
Often
Always

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Agency Responses

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OFFICE OF THE SHERIFF

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Richfield, Utah 84701

Phone (435) 896-2600
Fax (435) 896-6081

SHERIFF NATHAN J. CURTIS

10-5-2020

Office of the Legislative Auditor General

To whom it may concern,

I want to formally thank the legislative auditors for this report and their effort to give clear assessments of the current situation in this matter. I feel they have taken a careful and measured approach to their fact finding and evaluation of the contents found in this audit.

As a sheriff, I find it important to make decisions based on quantified and credible data. Data, trends, and facts drive decisions and processes to implement decisions. Contained in this report is data showing the results of laws passed and their effects. Some of the effects of the Justice Reinvestment initiative were expected and showed promise. However, there were unexpected results. The unexpected results show where we fell short of the goals, where we were overconfident, where we were shortsighted, and where we need to step up if we truly want to make a difference.

This audit revealed we did not slow the flow into the criminal justice system; rather we passed it down the line. To make effectual change we must take the time to evaluate what we really want to do, how to get there, and then be willing to back it with real support. This will take time and money, and a lot of both to do it right.

Again, I thank those in the legislative auditor's office for their time and commitment to put this audit together and taking the time to ask questions.

Sincerely,

Sheriff Nathan J. Curtis

Sevier County Sheriff

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State of Utah
Commission on Criminal and Juvenile Justice

Gary R. Herbert
Governor
Spencer J. Cox
Lieutenant Governor

Kim Cordova
Executive Director

Utah State Capitol Complex, Senate Building, Suite 330 • Salt Lake City, Utah 84114
801-538-1031 • Fax: 801-538-1024 • www.justice.utah.gov

October 05, 2020

Office of the Legislative Auditor General

I write on behalf of the Commission on Criminal and Juvenile Justice (CCJJ) in response to the audit performed on the Justice Reinvestment Initiative (JRI) and data sharing in the criminal justice system.

The report on data sharing in the criminal justice system clearly identifies the challenges CCJJ has encountered over the last several years. While some state and local agencies partner well and collaborate on data sharing in order to complete projects and reports, others can be more challenging. CCJJ does, however, present the information given in the most comprehensible and useful manner. Nevertheless, the result is one dimensional and is not as comprehensive as it needs to be in order to give policy makers all the information needed to make decisions. The recommendations given in the report are very similar to ideas this agency has been working on as a solution and path forward. Consequently, CCJJ is in full agreement and supports the recommendations.

The report on JRI also clearly identifies the challenges encountered with the implementation of JRI's policy goals. Particularly, the report recognizes all of the agencies that were part of the creation of the policy recommendations and highlights the collaboration and communication needed for its success in implementation. The criminal justice system is not one system but rather an ecosystem of various state and local partners reliant and interwoven with each other. Each agency requires support and resources from the others to be successful. Local collaboration is an essential component that creates success for the larger whole, however, there needs to be clear directives on who is responsible for what and to whom for oversight and accountability.

As noted in the report, there are specific holes in terms of data collection that need to be addressed in order to give a full and accurate picture of the criminal justice system. In order to fulfill any reporting recommendations, CCJJ must rely on agencies to give information. As such, CCJJ requests that a reporting recommendation of any kind require agencies to give the data specifically and a deadline to ensure compliance. Otherwise, CCJJ agrees with and supports the recommendations.

Sincerely,

Kim Cordova
Executive Director for the Commission
on Criminal and Juvenile Justice

State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Utah Department of Corrections
Executive Office

MIKE HADDON
Executive Director

October 5, 2020

Kade R. Minchey, Auditor General
Office of the Legislative Auditor General
315 House Building
P.O. Box 145315
Salt Lake City, Utah 84114-5315

Dear Mr. Minchey,

The Utah Department of Corrections (Department) is pleased to respond to the Office of the Legislative Auditor General regarding Audit Report Number 2020-08, "***A Performance Audit of the Justice Reinvestment Initiative***." I would like to begin by thanking you and your staff for their professionalism and tremendous work on this important audit. It was a pleasure to work with your office, and we sincerely appreciate the time and effort that was clearly invested in this work.

The Department was intimately involved in the Justice Reinvestment Initiative (JRI) from its inception, and we remain strong advocates of the work and approach to this fundamental shift in Utah's criminal justice system. The discussion and recommendations contained within the audit are on target, and we are convinced that implementing the recommendations will strengthen and improve upon the work that has already begun.

Within this response, the Department will discuss recommendations that specifically apply to our operations and, more generally, our involvement as one of many criminal justice stakeholders. It is our intent to discuss steps we are already taking in responding to the audit's recommendations, as well as thoughts relating to how we can assist to more effectively address more general recommendations made within the audit.

Prior to reviewing specific recommendations from the audit, the Department would like to provide some context, from our experience, in terms of the development and the implementation of JRI. We would further like to discuss the historic status Utah is in today and the importance of taking positive action now to sustain what our Department and state is experiencing.

JRI developed as a collaboration of criminal justice stakeholders through the Commission on Criminal and Juvenile Justice (CCJJ), with the assistance of the Pew Charitable Trust who reviewed Utah-specific data to develop evidence-based approaches to criminal justice decisions and operations. The work culminated in the passage of legislation during the 2015 General

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Legislative Session, which implemented many significant adjustments to Utah's criminal justice system, to include many operations of our Department. Our Department actively engaged with CCJJ and Pew in the development of the recommendations, and then actively engaged in implementing those recommendations that applied to our operations. From a high-level perspective, JRI focused on many systemic changes, based on research, to improve the operation and outcomes of Utah's criminal justice system. A by-product of JRI was an intentional and thoughtful decrease in Utah's prison population, which is discussed in this audit.

Structural changes in Utah's justice system did, indeed, lead to historic prison population reductions. On October 1, 2013, Utah experienced its highest prison population at 7,221 incarcerated individuals. The prison population had fairly regularly increased, year to year, over the course of several decades. JRI began implementation in 2015, and by January 11, 2017, Utah's prison population had decreased from its highest point of 7,221 incarcerated individuals to a population of 6,132 (a decrease of 1,089 incarcerated individuals). The reduction experienced was both historic and intentional.

However, after this initial decrease in incarcerated individuals, Utah's prison system began to experience growth. This was anticipated, but the velocity of the increase was not anticipated. By April 16, 2019, the incarcerated population had reached 6,840 -- an increase of 708 (from 6,132 on January 11, 2017) -- within approximately two and a half years. This audit effectively describes many areas of JRI that were not fully implemented, or not implemented at all, which likely contributed to this rapid prison population increase. As discussed within the audit, most of those coming into the prison system during this period were individuals who had violated conditions of probation or parole supervision, rather than an increase in new prison commitments. It is apparent that interventions to help individuals succeed while on probation or parole either were not implemented, not effective, or not available.

Today, Utah is once more in a historic situation. The state's prison population is currently around 5,700 incarcerated individuals. This is not only lower than Utah's previous high, but it is also below the lowest incarcerated population experienced after implementation of JRI.

The current status of Utah's prison population is one of many reasons why this audit is so timely, and why it is critical for Utah to follow the recommendations outlined within the audit itself. Our Department's concern is that without adjustments, many of which are outlined within this audit, Utah will once again experience rapid growth in its prison population, at a time when other interventions might effectively interrupt criminal behavior and assist in moving individuals out of the criminal justice system.

The following are responses to specific recommendations contained in this audit, including our Department's perspectives related to some recommendations that may not appear to include our operations.

Chapter 2: Utah Has Not Fully Implemented JRI

1. We recommend that the Law Enforcement and Criminal Justice Interim Committee require that the Commission on Crime and Juvenile Justice report to them annually on the progress made toward implementing each goal of the Justice Reinvestment Initiative and on the progress made towards developing local crime reduction plans.

This chapter in the audit, as well as this recommendation, focuses on key elements of JRI that either have not been implemented or have only been partially implemented. Many of the JRI recommendations either directly or indirectly involved our Department, and work on implementation began as soon as the 2015 Legislative Session adjourned. This was a collaborative effort, and much was accomplished according to the timelines outlined in new statutory language.

The Department could have better anticipated some of the collateral consequences of JRI's implementation. Perhaps the most obvious potential impact would be felt by our Division of Adult Probation and Parole (AP&P). With incarcerated individuals released from prison to parole supervision at an increasing pace, and with offenders diverted from prison for community-based services including probation supervision, the volume of individuals AP&P supervises in the community was bound to increase. Although the increase was not as dramatic as anticipated, the risk level of those being supervised increased more than anticipated. Over the past several years, that has led to significant workload increases for our AP&P staff because higher risk individuals require more in office and in home visits than lower risk individuals.

Since JRI's implementation, the Department, with support from the Governor and Legislature, has taken several proactive steps to attempt to mitigate this impact. The Department received 20 AP&P agents in 2015 - ten (10) to establish a transition/re-entry team and ten (10) to support treatment resource center case management. This initial funding also added 12 support staff, 15 therapists, and two therapist supervisors to community supervision. During 2016, we received 15 field agents and two support staff.

To address a steadily increasing presentence investigation workload, the Department received funding for 22 civilian investigators during the 2019 session (later adding two civilian supervisors through internal adjustments). The creation of these positions allowed us to shift several agents from presentence report writing to community supervision. During the 2020 General Legislative Session, partial funding was allocated to further strengthen community case management, including 12 agents, 12 case workers, four supervisors, and two support staff. While these resources are tremendous steps towards improving community corrections, the higher risk population continues to present workload challenges.

Additional steps taken by the Department to address workload increases include revision of the presentence investigation report format and eligibility criteria, and a significant reduction of the number of low-risk individuals under supervision.

Finally, the audit points to a specific case study of one offender that had 80 criminal charges filed against him within a seven-year period. Situations such as this call for more and better information sharing among state and local criminal justice agencies. However, apart from criminal justice stakeholders, the justice-involved individuals we collectively work with also need support services from stakeholders typically outside of the criminal justice system, such as access to medical care, employment assistance, housing assistance, transportation assistance, and mental health services. This specific case study, and others like it, could shed light on underlying issues such as mental illness or substance use disorder - or possibly both. It could shed light on accountability concerns in terms of justice professionals not knowing about behavior that may have occurred across agencies with different jurisdictions. It is essential as we work to change lives and protect the community that we actively and broadly consider cases such as this in order to target our efforts on the underlying causes of the behavior, rather than what might be the symptoms of multiple or chronic engagements with the criminal justice system.

Chapter 3: Criminal Justice System Lacks the Accountability Called for by JRI

4. We recommend that the Division of Adult Probation and Parole and the Division of Substance Abuse and Mental Health, the Administrative Office of the Courts and the Board of Pardons and Parole work together to identify and share information regarding which offenders have received a court order to obtain mental health services and substance abuse services to identify whether those services have been provided.

The Department supports this recommendation. We are prepared to work with the other stakeholders identified in this recommendation to develop a method for tracking these offenders. We currently have data sharing agreements with many agencies outside of our Department and will collaborate to create additional agreements where needed.

The Department's data related to individuals under supervision does include specific supervision conditions, where appropriate, to obtain mental health or substance use treatment. We recognize that obtaining accurate data on treatment completion outcomes in the community remains a challenge. Probationers and parolees may receive treatment from private providers, county programs, or Department resource centers (Treatment Resource Centers and Community Correctional Centers). The Department is committed to accurately track treatment outcomes of individuals participating in our own programs and is supportive of active partnerships with the Division of Substance Abuse and Mental Health (DSAMH), county providers, and private providers to obtain timely and accurate outcome information.

We believe this would be a good trial project for the Information Sharing Environment (ISE) discussed in this audit, as well as in the companion audit related to information sharing in the justice system. Creating such an environment will take time both for technology development and policy development for governance. For agencies as large as the Department, providing funding for dedicated staff to focus on submitting and receiving data from the ISE would likely accelerate its development and operation. In the interim, the Department will work with DSAMH, the Courts, and the Board of Pardons and Parole to create a mechanism for tracking court orders for substance use disorder treatment and mental health treatment. This

tracking will need to identify the individual in order to follow progress and completion of the recommended treatment.

Chapter 4: Legislature Should Consider Criminal Justice Coordinating Councils (CJCC) to Fully Implement JRI

Though the Department is a state agency and this recommendation calls for local Criminal Justice Coordinating Councils (CJCCs), our responsibility is statewide and often involves close partnerships with local entities. This is especially true with AP&P and its community supervision responsibilities. AP&P supervises individuals across the state and regularly collaborates with local government as case management occurs and needed services are accessed. A few counties in Utah have been operating organizations similar to the recommended CJCCs, and our Department regularly participates in and serves as members of these councils. This is a strong model, and the Department stands ready to participate in and collaborate as additional local councils are created.

Chapter 5: Offender Treatment Availability and Quality Fall Short of JRI Goal

One of the original goals of JRI was to increase the availability and quality of treatment. The recommendations in this chapter focus on improving the quality of treatment so that JRI will have a greater impact in reducing recidivism.

4. We recommend that DSAMH collaborate with the Department of Corrections and the Utah Substance Abuse and Mental Health Advisory Council to update its standards and certification process to ensure treatment quality is in line with current evidence-based practices.

The Department supports this recommendation. We recognize the importance of not only using evidence-based treatment programs but also monitoring these programs for fidelity. We have engaged in preliminary discussions with other criminal justice agencies to better monitor program fidelity. Specifically, the Programming Division in the Department is developing enhanced standards for monitoring jail-based programs, as well as empowering an internal audit function that is responsible for monitoring institutional and community programs.

Chapter 6: JRI Success Could Improve with Better Offender Supervision

1. We recommend that Utah Department of Corrections continue to require the use of current evidence-based practices among agents and continue to monitor the quality of instituted evidence-based practices.

The Department fully supports this recommendation. We have made significant progress toward adoption of evidence-based practices, with a foundation started 20 years ago through the adoption of risk and need assessments (LSI-r 2000 and later the LS/RNR 2015), motivational interviewing (2006), and case action plans (2008). The Department has instituted cognitive-behavioral programs for individuals under correctional supervision, adopted a response and

incentive matrix as established by the Utah Sentencing Commission, and expanded reentry transition services for inmates to build ongoing support as they enter the community. We are also committed to measuring and evaluating relevant practices to adopt effective correctional principles. Our Department will continue to seek and adopt quality control and fidelity measures to support implementation of evidence-based practices, including collaboration with CCJJ and the Sentencing Commission on standards, guidelines, and critical outcome measures.

As noted previously, the Department, with the assistance of the Governor's Office and the Legislature, has taken several proactive steps to help address the increased workload of AP&P that is primarily due to the increased proportion of higher risk individuals being supervised. Additionally, we are committed to maintaining the use of validated risk assessments, motivational interviewing techniques, core correctional practices, and associated intervention tools. These are focused on ensuring individuals receive the right services, at the right time, and in the right amount (dosage). They also focus on incentives for positive behavior and active participation and ownership in the case action plan development by those being supervised.

The Department is also committed to ongoing fidelity monitoring, especially through a structured quality assurance and coaching program for staff responsible for conducting assessments. Similar processes are in place to assist in motivational interviewing skills. It is essential that the Department continue these efforts. Though much of the structure is in place for quality assurance and coaching, there is always room for improvement.

Once again, the Department wishes to express its appreciation for the work and recommendations included in this important audit. Similarly, we express our appreciation for all of the partners, both at the state and local level, who we work with on a daily basis. Implementing the recommendations of this audit collaboratively will lead to better outcomes for those justice-involved individuals within Utah.

Sincerely,

Mike Haddon, Executive Director
Utah Department of Corrections

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State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

DEPARTMENT OF HUMAN SERVICES
ANN SILVERBERG WILLIAMSON
Executive Director

Division of Substance Abuse and Mental Health
DOUG THOMAS
Director

October 5, 2020

Department of Human Services
Division of Substance Abuse and Mental Health
Response to Recommendations

DRAFT RESPONSE: A Performance Audit of the Justice Reinvestment Initiative (Report#2020-08).

Thank you for the opportunity to respond to the audit titled: *A Performance Audit of the Justice Reinvestment Initiative (Report#2020-08).* The Department of Human Services Division of Substance Abuse and Mental Health (DHS-DSAMH) concurs with the recommendations in this report. Our response describes the actions the DHS-DSAMH plans to take to implement the recommendations.

DSAMH appreciates the thoughtful work of the Legislative Auditors and looks forward to working collaboratively to implement the recommendations made in this report. The DSAMH is committed to the efficient and effective use of taxpayer funds and values the insight this report provides on areas needing improvement.

Chapter III Criminal Justice System Lacks the Accountability Called for by JRI

Recommendation 5*:* We recommend that the Division of Substance Abuse and Mental Health gather the data needed to track recidivism by requiring all public and private service providers to submit the names of clients under a court order to receive services, the programs in which they were enrolled, and the date upon which the treatment was completed.

Department Response: We concur with this recommendation.

DSAMH currently gathers sufficient data from providers who receive funds from DSAMH to match treatment records with criminal history records. DSAMH will begin working on the development of a limited data set that could be submitted by all private programs certified to provide treatment services to individuals involved in the justice system. DSAMH will work with the Attorney General's Office to explore feasibility of collecting data from providers. Recidivism rates for substance use disorders and mental health conditions will be compared with rates of relapse for other chronic relapsing diseases to compare treatment interventions and outcomes.

Contact: Brent Kelsey, Assistant Director 801-540-5242

Division of Substance Abuse and Mental Health 195 N 1950 W Salt Lake City, Utah 84116
Telephone (801) 538-3939 Facsimile (385) 465-6040

Implementation Date: July 1, 2021

Recommendation 6*: We recommend the Division of Substance Abuse and Mental Health work with the Commission on Criminal and Juvenile Justice to develop a method for calculating recidivism rates by matching client data submitted by treatment providers with the case filing information maintained by the courts.*

Department Response: We concur with this recommendation.

DSAMH has discussed this finding with CCJJ and has begun work to implement this recommendation.

Contact: Brent Kelsey, Assistant Director 801-540-5242

Implementation Date: July 1, 2021

Recommendation 7: *We recommend the Legislature consider requiring all treatment providers who serve criminal justice involved clients to submit the client data needed to track recidivism to the Division of Substance Abuse and Mental Health.*

Department Response: We concur with this recommendation.

DSAMH believes that legislation would help clarify what data should be submitted to DSAMH. One issue that needs to be resolved is the definition of "justice-involved." Some individuals have a court order. Other individuals may have an arrest but no specific court order to participate in treatment. Providers will need clarity about whose data is required to be submitted to DSAMH. It will also be important to clarify which providers are required to submit data. Is it limited to providers who receive any public funds (funds provided through DSAMH, Medicaid, County Local Authorities, Correctional programs inside and outside of incarceration), or does it include all providers, examples may include, primary care physicians treating mental or substance use disorders with medications or people using their private health insurance.

Contact: Brent Kelsey, Assistant Director 801-540-5242

Implementation Date: July 1, 2021

Chapter V Offender Treatment Availability and Quality Fall Short of JRI Goal

Recommendation 1: *We recommend that DSAMH continue to assess the frequency and quality of criminogenic treatment and focus training on needed areas.*
Department Response: We concur with this recommendation.

DSAMH is in the process of developing a new online training that will be mandatory for all certified providers. This training has been developed with materials and input created by the University of Utah Criminal Justice Center. The training focuses on the principles of risk, need and responsivity which is the current model endorsed by Corrections. Completion of this training will be mandatory.

DSAMH has also contracted with University of Utah Criminal Justice Center to once again complete an evaluation of all local authority treatment programs using the Correctional Programs Checklist which is the gold-standard for overall program evaluation.

Contact: Brent Kelsey, Assistant Director 801-540-5242

Implementation Date: July 1, 2021

Recommendation 2: *We recommend that DSAMH monitor the use of performance measures by local authority management to ensure that measures adequately represent programs, levels of care and/or facilities and are reviewed by management frequently enough to effect needed changes.*

Department Response: We concur with this recommendation.

DSAMH regularly evaluates performance measures with local authorities through both monthly meetings and annual site visits. This item will be an agenda item for discussion in an upcoming monthly meeting with the local authorities and will be regularly reviewed to ensure that measures adequately represent programs and levels of care.

Contact: Brent Kelsey, Assistant Director 801-540-5242

Implementation Date: July 1, 2021

Recommendation 3: *We recommend that DSAMH encourage and evaluate the use of fidelity monitoring by providers on all evidence-based programs.*

Department Response: We concur with this recommendation.

DSAMH will work with the Local Authorities to find the best way to add annual evaluation on the use of fidelity monitoring of evidenced based programs to the Local Authority monitoring visits and required annual Area Plan.

Contact: Brent Kelsey, Assistant Director 801-540-5242

Implementation Date: July 1, 2021

Recommendation 4: *We recommend that DSAMH collaborate with the Department of Corrections and the Utah Substance Abuse and Mental Health Advisory Council to update its standards and certification process to ensure treatment quality is in line with current evidence-based practices.*

Department Response: We concur with this recommendation.

DSAMH will begin work to update the standards and certification requirements with USAAV and other stakeholders. Utah Administrative Rule R523-4 outlines the current standards and certification process.

Contact: Brent Kelsey, Assistant Director 801-540-5242

Implementation Date: July 1, 2021

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Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

Hon. Mary T. Noonan
State Court Administrator

Catherine J. Dupont
Deputy Court Administrator

HON. MARY T. NOONAN, State Court Administrator
Administrative Office of the Courts
450 South State Street
Salt Lake City, Utah 84114
Phone: (801) 578-3800
mnoonan@utcourts.gov

October 5, 2020

MR. KADE R. MINCHEY, Auditor General
315 House Building
P.O. Box 145315
Salt Lake City, Utah 84114-5315
Via email to:
Kade Minchey (kminchey@le.utah.gov)
Darin Underwood (dunderwood@le.utah.gov)
Jim Behunin (jbehunin@le.utah.gov)

Re: Response to final exposure draft of "A Performance Audit of the the Justice Reinvestment Initiative" (report no. 2020-08, dated September 25, 2020)

Dear Mr. Minchey,

Thank you for the opportunity to respond to the final exposure draft of "A Performance Audit of the the Justice Reinvestment Initiative" (report no. 2020-08, dated September 25, 2020). As always, your team was professional and a pleasure to interact with throughout the audit process.

We have eagerly anticipated the insight and perspective provided by this audit report. As expected, the report highlights many issues that deserve our collective attention. The report specifically contains a number of recommendations that are directed toward or that potentially involve the judiciary. To the extent these recommendations are adopted by the legislature, we wish to take this opportunity to state publicly that the Administrative Office of the Courts:

- stands ready to particpate as an active member of the recommended "criminal justice information governing body" (Report, pp. 25, 35; Chapter III – Recommendations 1, 2, and 3);
- welcomes the opportunity to participate as members of local criminal justice coordinating councils (Report, p. 39; Chapter IV – Recommendations 1 and 2);

- is committed to identifying and using a common client identifier in order to assist in linking various data sets (Report, pp. 28-30, 35);
- will fully cooperate in the effort to develop a method for calculating recidivism rates (Report, p. 31);
- will work with DSAMH, AP&P, and BOPP to devise a method for tracking whether ordered treatment services have been provided (Report, p. 36; Chapter III – Recommendations 4 and 6);
- will coordinate with CCJJ and DSAMH to track, in the least impactful way, the treatment outcomes of those on court probation who are required to receive treatment (Report, p. 71; Chapter VI – Recommendation 2); and
- supports the recommendation to study the need for pretrial and probation services throughout the state (Report, pp. 70 and 72).

We understand that a signficant portion of the information used in the audit was derived from court data. We agree with the statements in the audit that the data in the report is "a starting point for further and more in-depth analysis" with an expectation that "further analysis will produce additional insights and questions" (Report, p. 2).

We note that complex aggregate data often presents reporting challenges. The sentencing data in the report is a good example of the challenges posed by such data (see Appendix F, Appendix G, and Appendix K). Sentencing is a multi-facted and complex process that often includes a combination of multiple cases per individual (each with multiple offenses of varying degree), incarceration in prison or jail, credit for time served, restitution, treatment, fines and other financial penalties, community service, probation in differing levels of supervision and duration, and more. Some of these conditions may be ordered, but not imposed (i.e., suspended) at sentencing, but then ultimately be imposed later if the person is found to have violated the terms of probation. And this entire process is heavily influenced by any number of factors, including: the individual's risk, needs, history, and financial circumstances; the individual's future conduct; the resources available in a particular community; local approaches to law enforcement, prosecution, and defense; and judicial discretion applied to the unique facts and circumstances of each case. While it is a challenge to provide understandable aggregate data on all of these details, we believe it is not insurmountable.

We appreciate the careful efforts you made in attempting to extract meaningful conclusions from court sentencing data. We remain concerned that because the aggregate court data is difficult to parse, it cannot, in its present form, tell the entire story. In reviewing the data, we find ourselves in the same position as you, where the aggregate sentencing data does not readily lend itself to clear interpretation and reporting. In part, these challenges are rooted in the gradual and organic shift from paper-based case files to electronic data sets. As noted in "A Performance Audit of Information Sharing in the Criminal Justice System" (report no. 2020-09), "[e]ach agency has developed an information system that meets their unique needs but are not necessarily designed to be shared with other entities." For courts, the form of records has primarily been designed to accurately detail the events of a particular case. Over time, the need to share and analyze court data has increased in importance. We recognize that need.

We wanted to report on one positive development that has transpired since this audit process commenced. This positive development serves as an example of how incremental improvements can be made with concerted effort and collaboration around a unified purpose. The report notes that "[e]ven though most of the jail management systems used in Utah have a place to enter the [State Identification Number or SID], we found only three of the state's 24 county jails record the SID when an offender is booked in jail" (Report, p. 29). Our most recent data shows that the courts are now receiving SID data from each of the 24 county jails. For warrantless arrests, we receive this information approximately 70%-75% of the time. This is the result of combined significant effort by court staff and law enforcement officials in each county, for which we are grateful. This SID data makes it possible for the court to provide more relevant information to judges as they make important pretrial decisions. It also permits a judge to see a unified list of each case involving that individual, which improves the courts ability to coordinate appropriate judicial case responses that promote public safety, enhance judicial economy, and minimize unnecessary negative system impacts on the individual. Increased use of the SID also increases our ability

to understand and report on recidivism—"a key performance indicator of H.B. 348" (Report, p.28)—into the future.

Thank you again for the opportunity to respond to the audit report. We reaffirm our commitment to continued collaboration with all of our criminal justice system partners in this important effort.

Best,

Judge Mary T. Noonan
State Court Administrator

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State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Department of Public Safety

JESS L. ANDERSON
Commissioner

October 1, 2020

Kade R. Minchey
Auditor General
315 House Building
Utah State Capitol Complex
Salt Lake City, Utah 84114

Dear Mr. Minchey:

Thank you for the opportunity to review and respond to performance audit number 2020-08, "A Performance Audit of the Justice Reinvestment Initiative." The Department of Public Safety (DPS) agrees with the recommendations and appreciates the investment in time and resources committed to completing this report.

As stated in the report, the goal of the Justice Reinvestment Initiative (JRI) was to reduce recidivism while controlling prison costs. DPS advocates for programs that reduce recidivism and continues to support this initiative. We believe the recommendations outline a strategy that can help the program achieve this goal by strengthening accountability, oversight, treatment services, and the probation and parole system. Furthermore, when implementing the recommendations, DPS is committed to continuing our coordination and collaboration with other stakeholder groups.

That being said, the audit report focused mainly on those convicted of drug possession, which represented a small portion of the state's prison population. The report shows the number of habitual drug offenders has doubled since 2013 (Figure 2.4). Additionally, the number of intensive-risk and high-risk parolees being managed by AP&P agents has continued to increase (Figure 6.1). DPS would support further examination of the potential impacts of these trends on public safety.

I appreciate you and your team's efforts to compile the information and data as part of the audit, which allowed for a thorough review of JRI. More importantly, the report provides guidance to stakeholders about what critical steps need to be taken to ensure this valuable program is effective and uses state resources efficiently.

Sincerely,

Jess L. Anderson
Commissioner

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Carrie L. Cochran
Chair

Clark A. Harms
Vice Chair

Greg E. Johnson
Member

Denise M. Porter
Member

Marshall M. Thompson
Member

STATE OF UTAH
BOARD OF PARDONS AND PAROLE

October 6, 2020

Kade R. Minchey, Legislative Auditor General
Office of the Legislative Auditor General
W315 Utah State Capitol Complex
Salt Lake City, Utah 84114

Dear Mr. Michey:

The Board of Pardons and Parole (Board) appreciates the professionalism of the Legislative Auditor General staff and their concerted effort to understand the complexities involved in the Justice Reinvestment Initiative (JRI). The Board acknowledges the time and effort devoted to obtain the information necessary to complete this comprehensive review. The Justice Reinvestment Initiative implemented several years ago was an initial step in an ongoing process of continued improvement. The Legislative Auditor General are making current recommendations that identify needed improvement and will ultimately enhance successful outcomes throughout Utah's criminal justice system.

With regard to the review's findings related to needed collaboration and communication, the Board is committed to continued involvement and ongoing enhancement in our working relationships with our criminal justice partners to implement effectively the direction and recommendations of the legislature. Our agency supports and maintains our commitment to accountability, transparency, collaboration, and process improvement.

The Board will continue to implement strategies that utilize evidence-based practices and research in our decision-making process. Using these approaches, the Board will continue to work closely and diligently with our partners to make decisions using alternatives to incarceration that do not compromise public safety. The Board will also continue its work to implement an electronic records management system that will increase the ease in data tracking and measuring and monitoring agency performance.

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The Board continues to monitor and implement earned time cuts for incarcerated individuals who successfully complete approved evidence-based programs and demonstrate needed risk reduction. The Board has worked with the Department of Corrections to identify appropriate programs that are evidence-based and qualify for these mandated time cuts. Completion of these effective and targeted treatment programs will aid in rehabilitative efforts and promote success for individuals when they return to their communities.

The Board will continue to be good stewards with the taxpayer money in accomplishing our agency goals to provide fair and balanced release, supervision, and clemency decisions that address community safety, victim needs, offender accountability, risk reduction, and reintegration.

Thank you for your time and efforts committed to improvement with this review. The Board appreciates and supports the recommendations outlined in this review and our agency looks forward to the work and collaboration ahead. The resulting recommendations will undoubtedly benefit all stakeholders involved in the Utah criminal justice system.

Sincerely,

Carrie L. Cochran
Board Chair

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