Overview

1. Project Recap
2. Sentencing
3. Funding
4. Next Steps
In 2019, state leaders outlined specific challenges to be explored through the Justice Reinvestment Initiative.

Scope of Work

1. Review corrections and community supervision spending in Minnesota.

2. Analyze resources across the three community supervision delivery systems.

3. Coordinate resources across community supervision, victim services, the judiciary, and corrections.

4. Analyze population-based model for funding the DOC and impact on county partners and public safety.

5. Advance sustainability of Minnesota’s corrections system and improve service delivery effectiveness.

6. Ensure the equitable distribution of criminal justice system investments by both individual and location.
In 2021, the goal was refined to “describe how the state and counties can achieve an effective supervision system together, balancing local control with state support and collaboration.”

1. **A proposal for sustainable funding** of the state’s community supervision delivery systems
   - Recommended funding model and the associated costs
   - Alternative funding and delivery models
   - Mechanisms to ensure balanced application of increases in the cost of community supervision services

2. **Definition of core standards** in accordance with the state’s obligation to fund or provide supervision services that are
   - Geographically equitable
   - Reflect modern correctional practice

3. **A plan for tribal government supervision** of people on probation or post-release

State and local stakeholders are participating in several engagement activities as part of the Minnesota Justice Reinvestment Initiative.

**Data Analysis**
Exploring sentencing, prison, probation, and supervised release data from MN Sentencing Guidelines Commission and MN Department of Corrections (S³)

**Stakeholder Engagement**
Managing process and communications, ensuring inclusion of voices

**Supervision Assessment**
Interviewing staff and people on probation from 4–5 agencies from each delivery system (13 total)

**Policy and Funding Assessment**
Focusing on statutes, judicial policy, budgets, appropriations
Staff from the CSG Justice Center are assessing Minnesota’s supervision system.

Counties were selected to reflect the diversity of the state.

- 4–5 agencies from each delivery system—13 total
- Counties both large and small, by geography and population

<table>
<thead>
<tr>
<th>CPO Assessment</th>
<th>Completed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grant County</td>
<td>✔</td>
</tr>
<tr>
<td>Itasca</td>
<td>✔</td>
</tr>
<tr>
<td>Mower</td>
<td>✔</td>
</tr>
<tr>
<td>Wright</td>
<td>✔</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CCA Assessment</th>
<th>Completed</th>
</tr>
</thead>
<tbody>
<tr>
<td>DFO</td>
<td>✔</td>
</tr>
<tr>
<td>Arrowhead regional</td>
<td>✔</td>
</tr>
<tr>
<td>Morrison</td>
<td>✔</td>
</tr>
<tr>
<td>Hennepin</td>
<td>✔</td>
</tr>
<tr>
<td>Sherburn</td>
<td>✔</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>DOC Assessment</th>
<th>Completed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beltrami</td>
<td></td>
</tr>
<tr>
<td>Carver</td>
<td></td>
</tr>
<tr>
<td>Clay</td>
<td></td>
</tr>
<tr>
<td>Wright</td>
<td></td>
</tr>
</tbody>
</table>
Today’s presentation includes data and budgetary analysis to lay the groundwork for an examination of how more effective supervision can be achieved in the state.

Data analysis for a baseline of understanding, e.g.:
- The characteristics of people sentenced, on probation, in prison, and on supervised release
- The impact of supervised populations on the prison population

Fiscal information for the state, e.g.:
- Corrections spending overall
- Community corrections spending in states with county-funded probation
How people flow through the system

Entry into the System
- Crime
- Arrest
- Charges Filed
- Bail or Detention

Prosecution and Pretrial Services
- Trial
- Sentencing
- Plea Agreement

Court Process
- Diversion by Law Enforcement, Prosecution, Courts

Corrections
- Probation
- Prison
- Supervised Release
How people flow through the system: sentencing

Entry into the System
- Crime
- Arrest

Prosecution and Pretrial Services
- Charges Filed
- Bail or Detention

Court Process
- Trial
- Plea Agreement
- Sentencing

Corrections
- Probation
- Prison
- Supervised Release

Diversion by Law Enforcement, Prosecution, Courts
Types of Community Supervision

**Supervised release**: Community supervision for people who committed felony offenses and are released from prison on their court-ordered release date. In Minnesota, state law requires most people to serve two-thirds of their sentence in prison and one-third in the community under supervision. Some people who require greater supervision are placed on intensive supervised release.

**Probation**: A community supervision sanction imposed on a person by the court as an alternative to or in conjunction with confinement or intermediate sanctions. They may be convicted of felony, gross misdemeanor, or misdemeanor offenses.
There are three sentencing options for a felony.

**PROBATION**
(“stayed sentence”)

- **Stay of Imposition**
  - The court does not impose a prison sentence, and if the case is successfully discharged the conviction is deemed a misdemeanor.

**PRISON**
(“executed sentence”)

- **Stay of Execution**
  - A prison sentence is pronounced but is not executed, and a record of felony conviction is created even if probation is successfully discharged.

- **Executed Sentence**
  - The total amount of time for which someone is committed to the custody of the Commissioner of Corrections (sent to prison)

About three-quarters of all felony sentences are to probation.

CSG Justice Center analysis of Minnesota Sentencing Guidelines Commission data.
Minnesota’s correctional populations are concentrated in the community, not in prison or jail; this sentencing system demands high-quality supervision.

![Population Under Correctional Control, Dec 31, 2019 chart]

- Felony Probation: 45,384
- Gross Misdemeanor Probation: 32,495
- Misdemeanor Probation: 20,511
- Prison: 9,381
- Supervised Release: 7,566
- Jail: 6,519

Todd D. Minton, Lauren G. Beatty, and Zhen Zeng, Ph.D., Correctional Populations in the United States, 2019 – Statistical Tables (Washington, D.C.: Office of Justice Programs Bureau of Justice Statistics, July 2021); Minnesota Department of Corrections, Adult Prison Population Summary (St. Paul, Minnesota: Minnesota Department of Corrections, January 2020); Minnesota Department of Corrections, 2019 Probation Survey (St. Paul, Minnesota: Minnesota Department of Corrections, April 2020); CSG Justice Center analysis of MN DOC supervised release data.
Between 2009 and 2010 and 2018 and 2019, the largest percent increase in sentences occurred for low-severity offenses committed by people with more extensive criminal history.
The most common offenses are low-severity for both standard and drug offenses. The criminal history of people with drug sentences tends to be higher than those with non-drug offenses.

**CSG Justice Center analysis of Minnesota Sentencing Guidelines Commission data.**
Hispanic, Native American, and Black people receive sentences to prison more often than White or Asian people.

Sentences to Probation and Prison by Race and Ethnicity, 2017–2019

- **White**
  - Stay of Imposition: 39%
  - Stay of Execution: 41%
  - Prison: 21%

- **Asian**
  - Stay of Imposition: 36%
  - Stay of Execution: 42%
  - Prison: 22%

- **Hispanic**
  - Stay of Imposition: 35%
  - Stay of Execution: 39%
  - Prison: 27%

- **Native American**
  - Stay of Imposition: 30%
  - Stay of Execution: 45%
  - Prison: 25%

- **Black**
  - Stay of Imposition: 27%
  - Stay of Execution: 43%
  - Prison: 30%

CSG Justice Center analysis of Minnesota Sentencing Guidelines Commission data.
Black and Native American people are over-represented in probation, supervised release, and prison populations.

Racial Composition of Justice-Involved Populations Compared to Total Adult Population

<table>
<thead>
<tr>
<th></th>
<th>Total Adult</th>
<th>Probation</th>
<th>Supervised Release</th>
<th>Prison</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black</td>
<td>62%</td>
<td>27%</td>
<td>38%</td>
<td>6%</td>
</tr>
<tr>
<td>Native American</td>
<td>51%</td>
<td>18%</td>
<td>8%</td>
<td>8%</td>
</tr>
<tr>
<td>White</td>
<td>6%</td>
<td>6%</td>
<td>1%</td>
<td>1%</td>
</tr>
<tr>
<td>Asian</td>
<td>3%</td>
<td>3%</td>
<td>3%</td>
<td>3%</td>
</tr>
</tbody>
</table>
How people flow through the system: prison

Entry into the System
- Crime
- Arrest

Prosecution and Pretrial Services
- Charges Filed
- Bail or Detention

Court Process
- Trial
- Plea Agreement
- Sentencing

Corrections
- Probation
- Prison
- Supervised Release

Diagram:
- Diversion by Law Enforcement, Prosecution, Courts
The prison population was below 100 percent capacity in 2020 and 2021.
More than half of White, Black, and Native American people admitted to prison in Minnesota are assessed as positive for drug or alcohol use.

Percentage of People Admitted to Prison with Drug or Alcohol Use
Less than 10 percent of people are released from prison without a form of supervision.

**Prison Releases by Type, 2019–2021**

- **Supervised Release**: 77%
- **Community Program**: 14%
- **Discharge**: 9%

CSG Justice Center analysis of MN DOC prison release data.
Many of the people released onto supervised release are assessed as high or very high risk.

MnSTARR Risk Level of Prison Releases by Release Type, 2019–2021

- **Supervised Release**
  - Very High: 46%
  - High: 28%
  - Medium: 17%
  - Low: 9%

- **Community Program**
  - Very High: 8%
  - High: 25%
  - Medium: 32%
  - Low: 34%

- **Discharge**
  - Very High: 77%
  - High: 16%
  - Medium: 6%

CSG Justice Center analysis of MN DOC prison release data.
How people flow through the system: probation and supervised release

Entry into the System

- Crime
- Arrest

Prosecution and Pretrial Services

- Charges Filed
- Bail or Detention

Court Process

- Trial
- Plea Agreement
- Sentencing

Corrections

- Probation
- Prison
- Supervised Release

Diversion by Law Enforcement, Prosecution, Courts
Minnesota’s total probation population has declined, but the felony probation population has remained consistent.
The criminal history of people sentenced to probation increased from 2009 to 2019.

Criminal History of People Sentenced to Felony Probation

Prior Convictions

- Prior Felony 61%
- No Prior 24%
- Prior Misdemeanor 15%

Mean Criminal History Score

- 2009: 1.3
- 2019: 2.0

CSG Justice Center analysis of Minnesota Sentencing Guidelines Commission data.
The number of people sentenced to probation for drug offenses increased 54 percent from 2009 to 2019.

CSG Justice Center analysis of Minnesota Sentencing Guidelines Commission data.
More than 60 percent of admissions to prison are due to supervision failures.

**Prison Admissions by Commitment Type, 2017–2020**

- **New Commitment**: 38%
- **Release Revocation - No New Offense**: 35%
- **Probation Revocation**: 22%
- **Release Revocation - New Offense**: 5%

CSG Justice Center analysis of MN DOC prison admissions data.
A larger percentage of Native American prison admissions are due to supervision failures compared to people of other races.

Prison Admissions by Commitment Type and Race, 2017–2020

- **Native American**: 27% New Commitment, 41% Release Revocation - No New Offense, 27% Probation Revocation, 5% Release Revocation - New Offense
- **White**: 38% New Commitment, 30% Release Revocation - No New Offense, 27% Probation Revocation, 5% Release Revocation - New Offense
- **Hispanic**: 39% New Commitment, 36% Release Revocation - No New Offense, 17% Probation Revocation, 8% Release Revocation - New Offense
- **Black**: 42% New Commitment, 41% Release Revocation - No New Offense, 12% Probation Revocation, 5% Release Revocation - New Offense
- **Asian**: 48% New Commitment, 29% Release Revocation - No New Offense, 18% Probation Revocation, 6% Release Revocation - New Offense

CSG Justice Center analysis of MN DOC prison admissions data.
More than 40 percent of prison admissions of women are due to probation revocations.

**Prison Admissions by Commitment Type and Gender, 2017–2020**

- **Women**:
  - New Commitment: 28%
  - Release Revocation - No New Offense: 26%
  - Probation Revocation: 43%
  - Release Revocation - New Offense: 2%

- **Men**:
  - New Commitment: 39%
  - Release Revocation - No New Offense: 36%
  - Probation Revocation: 19%
  - Release Revocation - New Offense: 6%
Funding 3
In 2020, Minnesota spent the lowest proportion of state general funds on corrections.

All states average 6.5 percent of general fund state spending on corrections.

Public Safety & Judiciary (PSJ) receives about $3.2 billion, or 3 percent of the state’s budget, and Corrections is 40 percent of PSJ.

Minnesota State Budget FY2022-2023

- Public Safety & Judiciary $3,190,000,000 (3%)

Public Safety & Judiciary Budget FY2022-2023

- Department of Corrections $1,314,000,000 (42%)
- Supreme Court (5%)
- District Courts (22%)
- Other (4%)
- Board of Public Defense (7%)
- Public Safety (20%)

Corrections Budget FY2022-2023

- Incarceration and Pre-Release Services $137,780,000 (22%)
- Community Supervision and Post-Release Services
- Organizational, Regulatory and Administrative Services (5%)

Probation and supervised release is 22% of the DOC Supervision budget. County grants and subsidies are 58%.

As of July 2021:
- 22 CCA agencies served 35 counties.
- CPO agencies served 23 counties.
- DOC provides adult felony probation and supervised release supervision in the 52 counties (23 of which they share with CPO).

Annual Funding for Community Supervision, FY2022–2023

<table>
<thead>
<tr>
<th>Category</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Probation &amp; Supervised Release (DOC)</td>
<td>22%</td>
</tr>
<tr>
<td>Pass-through Grants &amp; Subsidies to CPO and CCA</td>
<td>58%</td>
</tr>
<tr>
<td>Other</td>
<td>20%</td>
</tr>
</tbody>
</table>

Special Supervision
- Sentencing to Service
- Work Release
- Work Crews
- Reentry Services
- Risk Assess/Comm Notification
- Program Support and Evaluation
- Hearings and Release Unit

State probation funding subsidies and grants to counties involve seven funding streams.

### FY2020 DOC Funding Streams

<table>
<thead>
<tr>
<th>Stream</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. CCA Subsidy</td>
<td>$61,006,999</td>
</tr>
<tr>
<td>2. Alternative to Incarceration Grant</td>
<td>$160,000</td>
</tr>
<tr>
<td>3. Reentry HWH Grant</td>
<td>$300,000</td>
</tr>
<tr>
<td>4. Intensive Supervision ISR Grant</td>
<td>$3,869,000</td>
</tr>
<tr>
<td>5a. REAM Grant</td>
<td>$417,500</td>
</tr>
<tr>
<td>5b. REAM Grant</td>
<td>$185,500</td>
</tr>
<tr>
<td>6. CL/WL Reduction Grant</td>
<td>$1,314,812</td>
</tr>
<tr>
<td>7. CPO Reimbursement</td>
<td>$5,043,000</td>
</tr>
</tbody>
</table>

Communication from MN DOC to the CSG Justice Center on 10/08/2021.
Community corrections funding formulas are common and take various approaches.

Some states (e.g., California, Arizona, Illinois, and Arkansas) tie funding from probation to prison, an approach sometimes referred to as “performance incentive funding” or “PIF.”

Other states use sentencing guidelines, or risk assessment, or both to define a target population and tie funding to programs serving that population (e.g., Kansas and Michigan).

Minnesota, Pennsylvania, Texas, and Oregon all use a funding formula to compare counties and share funding across county or multi-county probation departments.

*“Performance Incentive Funding,” Vera Institute, accessed March 10, 2021, https://www.vera.org/projects/performance-incentive-funding/overview k to insert source; research by the CSG Justice Center.*
Oregon’s system is based on workload analysis.

- SB 1145 (1995) transferred management of people sentenced or sanctioned to prison terms of 12 months or less, and all those under community supervision, to the counties.
- Counties are permitted to opt out and two have; DOC operates supervision in those counties.
- Every six years, the DOC conducts a workload study of cost and time required to provide community corrections in five categories: pre-sentence assessment, intake, high/medium/low supervision, investigation, and pre-release planning.
- The 2018 study revealed changes in practice including more time spent on preparation and planning for reentry, pre-sentence assessments, and intakes.
Oregon provides county funding through this system.

- The 2021–2023 **capitated rate is $12.42**, and the budget is $284.1M, which incorporates the following:
  - $234.4M based on the forecasted population (CSL)
  - $7M for a new funded population of DV Assault 4/Menacing Misdemeanors and Sex Abuse 3 misdemeanors (CSL)
  - $10M to offset the loss of supervision fee revenue as the result of HB 2002 (2021 legislative session)
  - $32.7M personal services inflation—this was to recognize the increased personnel costs identified in the 2018 workload study.
- Counties also receive $53M from Justice Reinvestment grants via the Criminal Justice Commission for diverting prison-eligible property and drug cases.
The MN DOC does workload studies limited to DOC counties, and a full system workload study is achievable by the state.

This 1997 report provides a template for such a study.

It proposes six components:
1. Adults convicted of felonies on probation
2. Intensive probation supervision cases
3. Adult gross misdemeanor cases
4. Adult misdemeanor cases
5. Juvenile cases
6. Diversion

Measuring diversion cases was a problem in 1997 and remains a challenge today because of data collection practices for cases not processed through the court system.
Key Findings

1. The percentage of people sentenced who have prior felonies and the average criminal history score have increased in recent years.

2. The overwhelming majority of people sentenced for felony offenses are sentenced to probation supervision.

3. Black and Native American people are over-represented in probation, supervised release, and prison populations.

4. Most admissions to prison are because of failures on community supervision.

5. Oregon’s workload-based model is one to examine further.
Next Steps 4
### Calendar of meetings and deadlines

<table>
<thead>
<tr>
<th>Date</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sept. 28</td>
<td>First Delivery System Working Group Meeting</td>
</tr>
<tr>
<td>Oct. 21</td>
<td>Second Delivery System Working Group Meeting</td>
</tr>
<tr>
<td>Nov. 18</td>
<td>Third Delivery System Working Group Meeting</td>
</tr>
<tr>
<td>Dec. TBD</td>
<td>Fourth Delivery System Working Group Meeting</td>
</tr>
<tr>
<td>Jan. TBD</td>
<td>Final Delivery System Working Group Meeting</td>
</tr>
<tr>
<td>(week of) Jan. 3</td>
<td>Behavioral Health Summit</td>
</tr>
<tr>
<td>Feb. 1</td>
<td>Report Due to Legislature</td>
</tr>
</tbody>
</table>
Minnesota’s Justice Reinvestment Initiative will run through 2022.

- **Project Launch**
  - September 2021

- **CSG Justice Center staff**
  - September–December 2021
  - Conduct independent data analysis and extensive stakeholder engagement, facilitate working group meetings, and develop policy recommendations.

- **Minnesota’s 2022 legislative session begins**
  - February 2022

- **Summary report of Justice Reinvestment Initiative policy recommendations released**
  - March 2022

- **Justice Reinvestment Initiative policy recommendations are introduced**
  - Spring 2022

- **Ongoing technical assistance and data monitoring to ensure the policy recommendations are successfully implemented**
  - 2022

The Council of State Governments Justice Center | 44
Thank You!

Join our distribution list to receive updates and announcements:

https://csgjusticecenter.org/resources/newsletters/

For more information, please contact Michelle Rodriguez at mrodriguez@csg.org

This project was supported by Grant No. 2019-ZB-BX-K002 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the SMART Office. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice. To learn more about the Bureau of Justice Assistance, please visit bja.gov.

© 2021 The Council of State Governments Justice Center

Cover photo credit: Wikimedia Commons