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Recidivism Reduction: Community-Based Supervision Alternatives to Incarceration

Summary

Across the United States, habitual offenders plague the country's courts, prisons and community-supervision programs. With high rates of recidivism, the broken system wastes taxpayer dollars, threatens the safety of our communities and demoralizes victims by leaving many offenders unaccountable. Louisiana Governor Bobby Jindal summed up the situation well when he said of Louisiana: "Every year we end up locking up about 15,000 of our people in prison. By the way – we release another 15,000. We end up re-arresting over half of them in the first five years."¹ Louisiana's situation is far from uncommon.

The American Legislative Exchange Council (ALEC) model policy, [The Recidivism Reduction Act](#), offers tested and proven methods that empower lawmakers to combat recidivism by instituting and maintaining corrections practices and programs that are proven to work.

The Problem

More than four in every ten offenders released from prison are back behind bars within three years of release.² These recidivism rates contribute to the exploding costs of cor-

rections, higher crime and the revolving door of offenders. A jurisdiction's recidivism rate is most simply defined as the rate at which offenders released from jail or prison relapse into criminal behavior within a set amount of time. In many jurisdictions, it is one of the key drivers of prison population growth.

In an effort to reduce recidivism, lawmakers have often increased the funding of the same broken programs with only the

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“In addition to the economic costs of high incarceration rates, the societal costs such as broken families, interrupted lives and permanent criminal records, are many.”

hope – not the likelihood – of improved results. Simply throwing more money at the system will not solve its problems. Instead, policymakers must demand that funding is allocated to programs that are proven to work; in this case, programs that are proven to reduce recidivism. *The Recidivism Reduction Act* ensures genuine accountability of government programs, protects communities by lowering recidivism rates and provides the highest public safety return on taxpayers’ investment.

The Solution

In response to record-level violent crime rates in the late 1980s and early 1990s, policymakers at all levels of government got “tough on crime” by passing legislation calling for broad mandatory minimum sentences, such as “three strikes” laws, and adopting strategies that called for the arrest and prosecution of all crimes large and small.

Since then, the United States has seen a decline in crime. The number of victims of violent crime in America has dropped from 758.2 per 100,000 in 1991 to 367.9 per 100,000 in 2013.³ The relationship between the rates of incarceration and crime is complex, and experts attribute the decline in crime rate to a variety of factors including population demographics, 1990s

economic growth and new policing strategies. Some estimates attribute approximately 25 percent of the decline in crime rate during the 1990s to increased imprisonment, while others approximate that increased imprisonment accounts for about 6 percent of the decline.^{4,5}

These policies of mass incarceration came at a high cost; taxpayers now spend \$80 billion per year on the criminal justice system.⁶ In addition to the economic costs of high incarceration rates, the societal costs such as broken families, interrupted lives and permanent criminal records, are many.

Unfortunately, this enormous investment has failed to deliver proportionate public safety returns. Forty percent of offenders released from prison wind up back behind bars for violating the terms of their supervision or committing a new offense.

In response, many states have implemented evidence-based programs to reduce recidivism, maintain public safety and limit corrections costs. Data and research show that communities can be better protected by reserving lengthy prison sentences for violent and serious offenders, while holding low-level offenders accountable through community-based supervision practices and programs that are shown to produce results. If the criminal justice system can safely supervise certain offenders in the community, those individuals can remain with their families, hold a job and contribute to society—and America can slow its costly addiction to incarceration.

ALEC members developed *The Recidivism Reduction Act*, which implements the best of these evidence-based practices to improve public safety outcomes across the country.

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MODEL POLICY

The Recidivism Reduction Act:

- Requires within four years a certain percentage of offenders be supervised in accordance with evidence-based practices – Examples include: risk and needs assessment, individualized case plans and graduated sanctions
- Requires within four years a certain percentage of state funds for offender programming be spent on programs that are evidence-based
- Requires community corrections agencies to improve policies and practices for crime victims
- Requires agencies to provide employee training on evidence-based practices
- Sets aside a portion of agency funds for research on program effectiveness

Why it Works

Research and practice by a variety of stakeholders have identified new strategies and policies that slow the rate at which offenders return to criminal behavior. *The Recidivism Reduction Act* and similar reforms implement evidence-based programs such as graduated sanctions and personalized case programs informed by an offender's risk and needs assessment. These reforms measure outcomes to ensure policies are working as intended to reduce recidivism and protect public safety.

The following aspects of *The Recidivism Reduction Act*, taken together, can safely supervise low-level offenders in the community, slow the rate at which offenders return behind bars after their release and, ultimately, protect our communities.

>> Evidence-Based Practices

To enable measureable success and ensure accountability in the system, programs and practices should be grounded in methods proven to achieve results. Implementing evidence-based practices in criminal justice programs has decreased crime by an average of 10 to 20 percent, while programs that are not evidence-based saw no decrease and even a slight increase in crime.⁷

Many state statutes and administrative regulations specify that certain correctional services and programs must be evidence-based or that a specific percentage of the budget must



be used for evidence-based programming. In 2003, Oregon passed legislation that required at least 75 percent of all state programming funds to be spent on evidence-based programs.⁸ Research on the effectiveness of Oregon's programs informed methods to reduce the number of offenders violating the terms of their supervision. For example, Oregon found that drug courts reduced recidivism by 26 percent.⁹ Previously, policymakers depended on testimony by advocates and bureaucrats to determine where and how to allocate funds. Now lawmakers in Oregon can allocate money to programs based on the effectiveness of each program, and can hold funding and programs accountable for real results.



“The Recidivism Reduction Act minimizes the one-size-fits-all approach that is often found in the criminal justice system.”

>> Risk and Needs Assessment

Correctional programs are most effective at reducing an offender’s likelihood of re-offense when they accurately assess the offender’s risk and needs and use that assessment to assign supervision levels and programming.

Certain factors such as age and criminal history can help determine the likelihood that an offender will reoffend and therefore can help to assign an appropriate risk level for each offender. Using risk and needs assessments to ascribe risk levels and determine offender supervision conditions allows community corrections agencies to more efficiently allocate resources and concentrate on the most serious offenders. The assignment of an offender to the correct supervision level is crucial. Research shows that too much supervision of low-risk offenders is likely to lead to worse outcomes.¹⁰ High-risk offenders, on the other hand, need more intensive supervision to reduce their likelihood of re-offense.

In addition to an assessment of an offender’s risk of re-offense, risk and needs assessments also measure an offender’s specific criminogenic needs—the crime-producing factors that are strongly correlated with risk of criminal behavior.¹¹ Correction-

al programs should respond to an individual’s specific needs in order to have the best chance at rehabilitation. For example, if an offender has a substance use disorder, supervision programs should be aimed at treating that disorder.

>> Individualized Case Plans

The Recidivism Reduction Act minimizes the one-size-fits-all approach that is often found in the criminal justice system. It instead provides individualized case plans for each offender based on their criminogenic needs and risk level. The individualized case plan helps ensure offenders and their supervising officers focus their time, energy and resources on activities that are most likely to reduce the likelihood of future criminal behavior. Individualized plans address the different needs of each offender, whether it is housing assistance, mental health treatment, anger management, addiction treatment, or some other program. Plans should couple surveillance and treatment—which is proven to be more effective than surveillance alone—and be combined with more flexibility for the parole or probation officer to modify terms of supervision in response to the offender’s behavior.¹²

Some jurisdictions incorporate the individualized case plan into a signed agreement between the offender and their supervision officer known as a behavioral contract. The contract approach can boost the effectiveness of an individualized case plan by requiring the offender to discuss and agree to expectations set forth in the individualized plan and by outlining the consequences of violations of supervision.

>> Management of Size and Nature of Caseloads

The size of caseloads for parole and probation officers should reflect the level of risk and the individual needs of the supervised offenders. Caseload size should also reflect an analysis of the workload and available resources of the agency. Varying caseload size based on the risk profile of offenders allows probation and parole officers to focus their resources on higher-risk offenders, and use less intense supervision for low-risk offenders.

Many jurisdictions are also adopting geographically based caseloads known as “place-based supervision.” Rather than meeting with offenders in bureaucratic and often far-removed government buildings, supervision officers work with offenders

directly in the offenders' communities. By supervising offenders where they live, probation and parole officers can foster relationships with an offender's friends and family, become familiar with local resources and high-risk areas and develop a deeper understanding of the challenges they face. This better positions supervision officers to manage their caseloads and provide higher levels of treatment and supervision.

>> Graduated Sanctions

Research has shown that proportionate, swift and certain sanctions can increase offender compliance and save taxpayer dollars by helping to prevent long and costly prison stays for minor violations. The immediate and certain response to a violation of the conditions of supervision helps reduce the mentality that offenders can break the rules without consequences. In addition, positive reinforcement, such as rewards, can incentivize offenders to stay on track.

The practice is used in many jurisdictions to reduce crime and drug use among offenders supervised in the community. In Hawaii, Judge Steven Alm instituted a successful swift and certain sanctions system for probation violations—Hawaii's Opportunity Probation with Enforcement (HOPE) Court. Participants in the HOPE Court were 55 percent less likely to be arrested for a new crime, 72 percent less likely to use drugs and 53 percent less likely to have their probation revoked than nonparticipants.¹³

>> Outcome and Performance Measurements

Finally, all community-based supervision programs should undergo regular evaluation to ensure they are successful in their goal of reintegrating offenders into society. *The Recidivism Reduction Act* requires a portion of the correction agency's budget to be used for data collection, analysis and research. The appraisal of the effectiveness of the agency's programs and practices is a critical component of the use of evidence-based practices in community-based supervision. Yearly reporting requirements on what programs are working or oversight councils established to monitor progress are necessary to gauge success and ensure community-based supervision programs are performing as intended.

Hand-in-hand with the monitoring and reporting of outcomes must be the appropriation of funds to only the programs that work. By providing practitioners and lawmakers with data upon

which to base funding and resource allocation decisions, the performance measurement of programs and practices ensures taxpayers are getting the most public safety per taxpayer dollar.

Throwing money at a broken system will only perpetuate its problems. Policymakers cannot allow public safety spending to go unevaluated because the protection of our communities is so vital. Rather, a careful eye must be turned to these programs because they are so important.

"All community-based supervision programs should undergo regular evaluation to ensure they are successful in their goal of reintegrating offenders into society."





Recidivism Reduction at Work in North Carolina

In 2010, the number of inmates in North Carolina state prisons had risen 27 percent over 10 years while corrections spending skyrocketed by 49 percent to more than \$1.3 billion per year.¹⁴ The state faced a projected prison population growth of an additional 10 percent and an estimated \$378 million in additional costs by Fiscal Year 2020.¹⁵ In response, the North Carolina General Assembly worked with state leaders and diverse criminal justice stakeholders to study the corrections population and the driving factors behind the increase. The state found that more than half of people entering prison were probationers who violated the terms of supervision. The state also found substance use disorder treatment options were spread thinly across the probation population and 15,000 convicted felons were leaving prison every year with absolutely no supervision.¹⁶ As a result of these findings, the North Carolina General Assembly passed comprehensive criminal justice reform—the Justice Reinvestment Act of 2011—almost unanimously.

The reforms were based on data-driven approaches to improve public safety while reducing corrections spending. Among other aspects of the legislation, North Carolina HB 642 (2011):

- expanded the use of administrative graduated sanctions
- required the use of a validated assessment of each offender's risk of re-offense and the placement of that offender to supervision level based on that risk level
- limited the caseloads of community supervision officers supervising high and medium-risk offenders
- authorized the creation of incentives to be placed on advanced supervised release if the offender participated in recidivism reduction programs such as treatment, education and rehabilitative programs¹⁷

Instead of seeing the projected increase, in North Carolina's prison population fell by 8 percent from 2011-2014 and the state averted \$560 million in spending.¹⁸ Most importantly, North Carolina, like many other states, was able to make this reduction to its prison population while maintaining the safety of its communities. Between 2011 and 2013, probation revoca-

tions dropped 50 percent and the overall crime rate dropped 11 percent.¹⁹ Further, because the state realigned spending, the number of convicted felons released from prison without community supervision dropped from 84 to 48 percent.²⁰

Conclusion

Accountability and transparency are necessary for an efficient government that best serves taxpayers. Unfortunately, one of the most broken areas of government—criminal justice—has escaped needed scrutiny. *The Recidivism Reduction Act* implements the commonsense principle of supporting programs that work and defunding programs that fail. These types of reforms will bring genuine accountability to government funding with the use of evidence-based practices such as appropriate case management, assignment of risk and needs and outcome measurements. Implementing programs and practices that are proven to work will help to combat the high recidivism rates that increase crime in neighborhoods and stretch tight corrections budgets. With resources such as *The Recidivism Reduction Act*, lawmakers can help fix the revolving door of offenders.

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MODEL POLICY

The Recidivism Reduction Act:

Summary

Research and practice over the past 25 years have identified new strategies and policies that can make a significant dent in recidivism rates. Implementing these research-backed programs and procedures is called “evidence-based practice.” This Act requires that a to-be-determined percent of offenders be supervised in accordance with evidence-based practices within four years, as well as that a to-be-determined percent of state funds for offender programming be spent on programs that are evidence-based within four years. This Act also requires community corrections agencies to improve policies and practices for crime victims, to provide employees training on evidence-based practices, and to set aside a portion of funds for research on program effectiveness.

Section 1. {Definitions}

(A) “Agency” means:

- (1) The Department of Corrections or the state agency responsible for supervising individuals placed on probation by the courts or serving a period of parole or post-release supervision from prison or jail; and
- (2) Any regional, local or county governmental agencies responsible for supervising individuals placed on probation by the courts or serving a period of parole or post-release supervision from prison or jail provided such agencies receive state funding.

(B) “Evidence-based practices” means supervision policies, procedures, programs and practices that scientific research demonstrates reduce recidivism among individuals on probation, parole, or post-release supervision.

(C) “Community supervision” means:

- (1) The placement of a defendant under supervision, with conditions imposed by a court for a specified period during which:
 - (a) criminal proceedings are deferred without an adjudication of guilt;
 - (b) a sentence of imprisonment or confinement, imprisonment and fine, or confinement and fine, is probated and the imposition of sentence is suspended in whole or in part; or
- (2) The placement of an individual under supervision after release from prison or jail, with conditions imposed by the releasing authority for a specified period.

- (D) “Supervised individual” means an individual placed on probation by a court or serving a period of parole or post-release supervision from prison or jail.
- (E) “Supervision officer” means a person appointed or employed by the Agency to supervise individuals placed on community supervision.
- (F) “Criminal risk factors” means characteristics and behaviors that when addressed or changed affect a person’s risk for committing crimes. Scientific research identifies these characteristics and behaviors as including: antisocial attitudes, values, and beliefs; poor impulse control; criminal personality; substance abuse; criminal peers; dysfunctional family; and lack of employment or education.
- (G) “Case plan” means an individualized accountability and behavior change strategy for supervised individuals that:
 - (1) Targets and prioritizes the specific criminal risk factors of the offender;
 - (2) Matches programs to the offender’s individual characteristics, such as gender, culture, motivational stage, developmental stage, and learning style;
 - (3) Establishes a timetable for achieving specific behavioral goals, including a schedule for payment of victim restitution, child support, and other financial obligations;
 - (4) Specifies positive and negative actions that will be taken in response to the supervised individual’s behaviors.
- (H) “Program” means an intervention that:
 - (1) is intended to reduce recidivism by supervised individuals; and
 - (2) is funded in whole or in part by the state or administered by any agency of state government;
 - (3) “Program” does not include medical services.

Section 2. {Implementation of Evidence-Based Practices to Reduce Recidivism}

- (A) The Agency shall adopt policies, rules and regulations that within [four] years of the effective date of this Act result in at least [X percent] of supervised individuals being supervised in accordance with evidence-based practices.
- (B) The policies, rules and regulations shall include:
 - (1) Adoption, validation and utilization of an objective risk and needs assessment tool;

- (2) Use of assessment scores and other objective criteria to determine the risk level and program needs of each supervised individual, prioritizing supervision and program resources for offenders who are at higher risk to re-offend;
 - (3) Definitions of low, moderate and high risk levels during the period of supervision;
 - (4) Development of a case plan, based on the assessment, for each individual who is assessed to be moderate to high risk;
 - (5) Swift, certain, proportionate and graduated responses that an Agency employee will apply in response to a supervised individual's compliant and non-compliant behaviors;
 - (6) Caseload size guidelines that are based on offender risk levels and take into account Agency resources and employee workload; and
 - (7) Establishment of protocols and standards that assess the degree to which Agency policies, procedures, programs and practices relating to offender recidivism reduction are evidence based.
- (C) Within [four] years of the effective date of this Act, [X percent] of state monies expended on programs shall be for programs that are in accordance with evidence-based practices.
- (D) Within [four] years of the effective date of this Act, the Agency shall eliminate supervision policies, procedures, programs and practices intended to reduce recidivism that scientific research demonstrates do not reduce recidivism.

Section 3. {Improvement of Policies and Practices for Crime Victims}

- (A) The Agency shall adopt policies, rules and regulations that improve crime victim satisfaction with the criminal justice system, including:
- (1) Payment by supervised individuals of victim restitution and child support;
 - (2) The opportunity for victims to complete victim impact statements or provide input into pre-sentence investigation reports;
 - (3) Providing victims information about their rights and services, and referrals to access those rights and services;
 - (4) Offering victims the opportunity to complete a "victim satisfaction survey," with data used to measure Agency performance; and
 - (5) Facilitate victim-offender dialogue when the victim is willing.

Section 4. {Professional Development}

- (A) The Agency shall provide its employees with intensive initial and on-going training and professional development services to support the implementation of evidence-based practices.
- (B) The training and professional development services shall include assessment techniques, case planning, risk reduction and intervention strategies, effective communication skills, substance abuse and other topics identified by the Agency or its employees.

Section 5. {Data Collection, Analysis and Research}

- (A) The state [Department of Corrections] shall allocate a minimum of [X] percent of its operating budget to support data collection, analysis and research on supervision and programmatic effectiveness.
- (B) The state [Department of Corrections] may form partnerships or enter into contracts with institutions of higher education or other qualified organizations for assistance with data collection, analysis and research.

Section 6. {Agency Report}

- (A) By [March 1] of each year, beginning in 201X, the Agency shall submit to the Governor, the Legislature and the judicial branch a comprehensive report on its efforts to implement this Act. The report shall include:
 - (1) The percentage of supervised individuals being supervised in accordance with evidence-based practices;
 - (2) The percentage of state monies expended for programs that are evidence based, and a list of all programs with identification of which are evidence based;
 - (3) Specification of supervision policies, procedures, programs and practices that were eliminated;
 - (4) The results of victim satisfaction surveys administered under Section 4 of this title;
 - (5) The Agency's recommendations for resource allocation, and any additional collaboration with other state, regional or local public agencies, private entities, or faith-based and community organizations.
- (B) The Agency shall make the full report and an executive summary available to the general public on its website.

Section 7. {Severability Clause}**Section 8. {Repealer Clause}****Section 9. {Effective Date}**

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