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1. **Welcome** [Chairman Yeager]
 2. **ACAJ Justice Reinvestment Charge** [Chairman Yeager]
 - Governor Sandoval and leadership from the other two branches of government have charged the ACAJ with using:
 - “criminological research and our own criminal justice data to inform and motivate the development of comprehensive crime- and recidivism-reduction strategies, while shifting resources toward more cost-effective public safety strategies.”
 3. **Policy Discussion** [CJI and Chairman Yeager]
 - Community Supervision
 - Supervision Lengths
 - Responses to Behavior on Supervision
 - Supervision Decision Making
 - Reentry
 - Reentry Planning
 4. **Commission Calendar** [Chairman Yeager]
 - Reentry, Release, and Community Supervision Subgroup Meeting #2: December 18th at 9am
 - Final Full Commission Meeting: January 11th

Overall Community Supervision Findings

1. Revocations from supervision are driving the growth in prison admissions, with 39% of admissions coming from supervision failures in 2017
 - a. While the overall population of probationers has decreased since 2008, revocations for probation violators have increased 15%
 - b. Prison admissions increased 43% for parole violators
2. Despite lengthy sentences, probation failures occur within the first few months of supervision, and 64% of probation revocations in Washoe County occurred within the first year of an offender's supervision
3. A case-level file review determined that 75% of community supervision admissions to prison in 2017 were not associated with a new felony charge
 - a. 44% of community supervision admissions had substance abuse as a predominant factor leading to revocation
 - b. 73% of community supervision violators indicated behavioral health needs, either mental health issues, substance abuse issues, or both
4. There were 17,276 individuals on supervision and subject to revocation at the end of 2017

Research-Based Principles for Reducing Recidivism

Implement the Risk, Need, Responsivity Principle

- Target high-risk supervisees, address criminogenic needs, remove barriers to success¹
 - Target offenders most likely to reoffend
 - Use interventions that address characteristics proven to reduce recidivism
 - Identify and address barriers that impact success in programming and treatment interventions

Frontload Resources

- Focus supervision and programming resources during the initial weeks and months following release from prison when violations and arrests are most likely to occur²

Incentivize Positive Behavior

- Provide incentives for meeting case-specific goals of supervision to enhance individual motivation³

Use Swift, Certain, and Proportional Sanctions

- Use swift, certain, and proportional sanctions to address technical violations and change behavior⁴

Incorporate Treatment into Supervision

- Incorporate treatment and programming into supervision that target an individual's criminogenic needs mostly closely linked to recidivism⁵

¹ D.A. Andrews (2007)

² National Research Council (2007)

³ Wodahl, Garland, Culhane, & McCarty (2011)

⁴ Nagin & Pogarsky (2001)

⁵ Washington State Institute for Public Policy, Cost Benefit Analysis of ORCS, 2012

Relevant Research:

- Frontloading Resources: Providing the most support at the beginning of supervision reduces the likelihood of reoffending, because recidivism is most likely to occur within the first few months of supervision⁶
- Focus Supervision Resources on the Highest Risk Offenders: For low-risk offenders, intervention (both supervision and treatment) may not be necessary, and can actually increase their likelihood of reoffending if they are over-supervised or put in a program designed for high-risk offenders
 - Studies have found that longer probation terms are associated with increased failure rates, measured by revocation, re-arrest and technical violations⁷

Nevada Key Data Findings and Current Practice:

- The average probation sentence in Clark County is 45 months
 - This has increased over time, with indeterminate sentences growing by 2.1 months on average, and fixed sentences growing by 4.5 months between 2008 and 2017
- 93% of Clark County probation sentences are at least 3 years
- Probation failures occur early, despite lengthy sentences
 - Over half of Washoe County probation violation reports were filed in the first 6 months of an offender's supervision
 - 77% of Washoe County probation violation reports were filed within the first year of an offender's supervision
 - 1 in 3 probation revocations in Washoe County occurred within 6 months of an offender's supervision
 - 64% of probation revocations in Washoe County occurred within the first year of an offender's supervision
- Probation for eligible felonies is up to 5 years⁸

⁶ National Research Council (2007); Nagin & Pogarsky (2001)

⁷ Olson & Stalans (2001); (Olson & Lurigio, 2000)

⁸ NRS § 176A.500

State Examples:

Florida – *Fla. Stat. § 948.04*

- Florida limits the maximum term of probation for felony offenses to two years

Delaware – *Del. Code tit. 11 § 11-4333*

- Delaware limits the maximum term of probation as follows:
 - Violent felonies – 24 months
 - Controlled substance offenses – 18 months
 - All other felonies – 12 months
- Exceptions to these terms of probation exist:
 - Probation can be extended up to 90 days for the purpose of treatment
 - For sex offenses and violent felonies, term may be extended if court finds that a longer period would enhance public safety
 - However, the total period of probation still cannot exceed the maximum term of commitment provided by law for the offense

Policy Options:

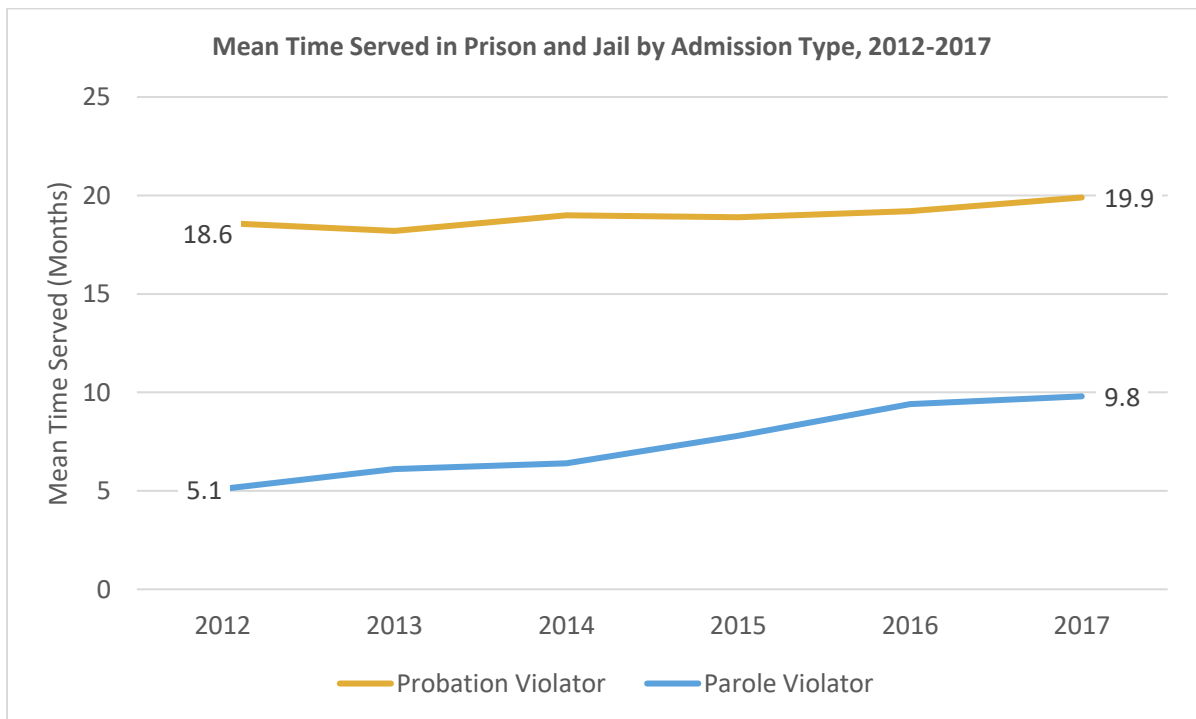
1. **Reduce the maximum term** of probation, in order to focus limited parole and probation resources on the highest risk offenders during the first days, weeks and months of supervision when they are most likely to re-offend or fail
2. **Create graduated probation terms**, by placing offenses into tiers and lowering probation terms for each category, creating a tailored, stair-stepped set of probation lengths

Relevant Research:

- Swift, Certain and Proportional Sanctions: Research shows that responses to violations are more effective at changing behavior when the consequences for violations are communicated **clearly in advance**, and when the responses to violations are **swiftly** and **consistently** applied, and are **proportional** to the violation.
- Incentivize Positive Behavior: Studies show that recidivism can be reduced by **incentivizing and rewarding pro-social behavior**. Using **incentives** and **rewards** at a higher rate than sanctions increases the likelihood of success.

Nevada Key Data Findings and Current Practice:

- Revocations from supervision are driving the growth in prison admissions, with 39% of admissions coming from supervision failures since 2008
- In 2017, probation violators who were released from prison had served an average of 19.9 months, up 7% from 2012
- Time served in prison and jail for both parole and probation violators has grown since 2012:



- The median time spent in custody awaiting a probation revocation hearing in Washoe County after a violation report was filed was 2.3 months over the last ten years
 - Around 27% of probationers who were eventually revoked in Washoe County had to wait more than 6 months from the filing of a violation report, including approximately 11% who waited over a year
- The file review conducted at the request of the ACAJ found that 34% of community supervision violators admitted to prison in 2017 were sent back on a technical violation of their conditions of supervision, meaning a violation of a supervision condition other than a new criminal charge or absconding
 - Among violators sent to prison to serve out their sentences following a new felony charge, the most common offense was a drug crime – often possession of a controlled substance – or a property crime
 - For violators sent back to prison on a new misdemeanor charge, the most common offense was a public order violation, including charges like lewdness or disorderly conduct
- Nevada has recently implemented swift, certain, and proportional sanctions through the use of graduated sanctions. However, there are no statutory requirements or uniform standards for the use of alternative sanctions, and no criteria ensuring consistency in responding to violations or recommending incarceration through revocation

State Examples:

Graduated Responses

Georgia – *Ga. Code Ann. § 42-8-23*

- Authorizes the Department of Corrections to impose graduated sanctions as an alternative to judicial modification or revocation of probation.

Mississippi – *Miss. Code Ann. § 47-7-38*

- Establishes administrative sanctions which include a two-day jail stay and limits jail sanctions to a maximum of four days a month for technical violations

Maryland – *Md. CORRECTIONAL SERVICES Code Ann. § 6-111*

- Requires the Division of Parole and Probation to impose graduated sanctions in response to technical violations and exhaust all possible least restrictive alternative sanctions prior to seeking revocation

Technical Violation Definition

Louisiana – *La. R.S. § 15:574.9*

- A “technical violation” is defined as any violation except an allegation of a criminal act that is subsequently proven to be a felony, an intentional misdemeanor directly affecting the person, a violation of a protective order issued against the offender to protect a household or family member or a dating partner, being in possession of a firearm or other prohibited weapon, or absconding

Florida – *Fla. Stat. § 948.06*

- A technical violation means any alleged violation of supervision that is not a new felony offense, misdemeanor offense, or criminal traffic offense

Violation Hearing Timelines:

State	Jail wait time limits
Massachusetts <i>Mass. Gen. Laws. Ch. 127, §149A.</i>	Parolees can be arrested on a temporary custody warrant and held for a minimum of 15 days
Oregon <i>Or. Rev. Stat. §144.341</i>	Offenders arrested for a violation can be held in a county jail for no more than 15 days, unless the offender is being held pending prosecution on new criminal charges, or pursuant to an agreement with the local authority
Montana <i>Mont. Code Ann. §46-23-1012</i>	Probationers may be detained without bail for 72 hours. Within 72 hours, the probation and parole officer shall: authorize the detention center to release the probationer; hold an intervention hearing; or arrange for the probationer to appear before a magistrate to set bail
Indiana <i>Ind. Code §35-38-2-3</i>	Offenders not admitted to bail pending a revocation hearing may not be held in jail for more than 15 days without a hearing on the alleged violation of probation

Revocation Caps:

	Maryland Caps ⁹	Mississippi Caps ¹⁰	Louisiana Caps ¹¹
1 st Technical Revocation	Up to 15 days	Up to 90 days	Up to 15 days
2 nd Technical Revocation	Up to 30 days	Up to 120 days	Up to 30 days
3 rd Technical Revocation	Up to 45 days	Up to 180 days or remainder	Up to 45 days
4 th and Subsequent Technical Revocation	Up to remainder	Up to remainder	Up to 45 days
Offense eligibility	All eligible	All eligible	Parolees not convicted of a crime of sex or violence

Policy Options:

While Nevada's system includes some elements of swiftness, proportionality and certainty, there are opportunities to continue to integrate the research and build on the current system.

1. Require the use of graduated responses and establish standard practice in statute to **limit regional disparities** and **create certainty and sustainability**
2. Review sanction severity to incorporate effective responses for changing offender behavior
 - a. Establish statutory **definition of a technical violation**
 - b. **Prohibit offenders from being revoked** for certain conduct that is **unrelated to public safety**
 - c. For chronic or serious technical violations, **restrict sanctions to short-term periods of incarceration** rather than revocation to prison for remainder of sentence
3. Limit the **number of days** an individual can be held in custody awaiting resolution for a technical violation
4. Incentivize compliance with conditions and completion of programs by authorizing parolees to receive credits for programs and treatment similar to probationers

⁹ MD Crim. Proc §6-223

¹⁰ MS §47-7-37

¹¹ La. R.S. § 15:574.9

Policy Discussion:

How can responses be more proportionate to the behavior?

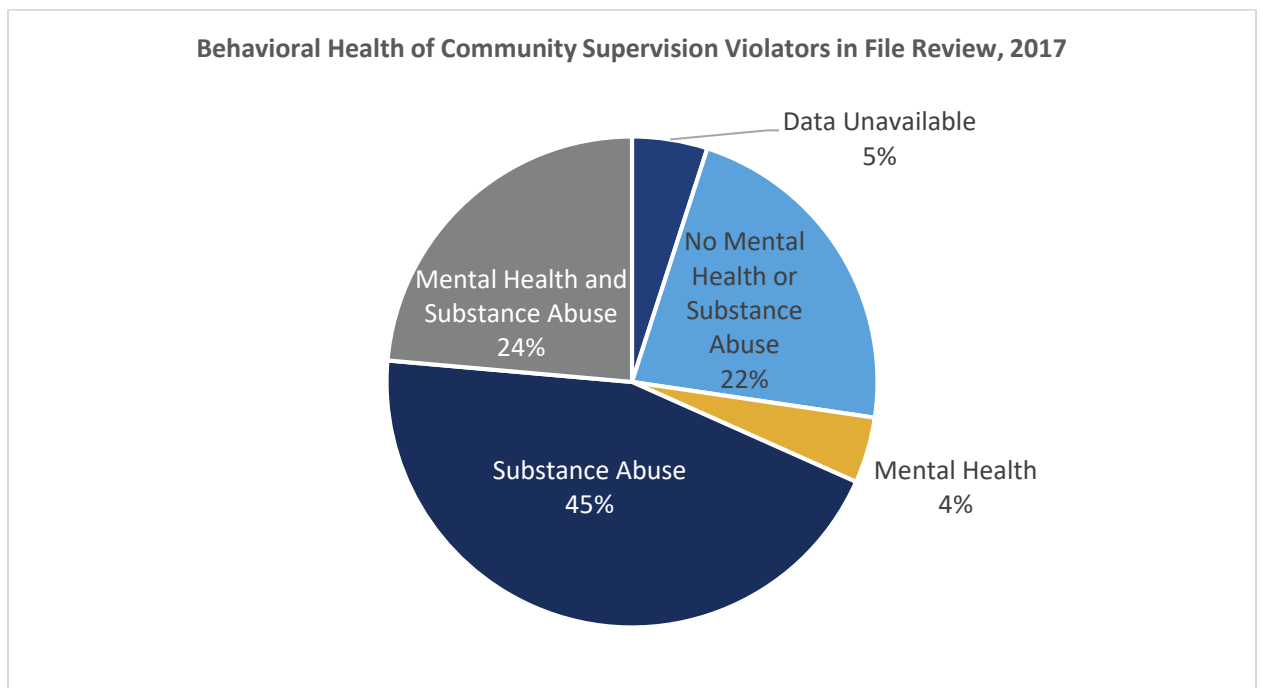
How can revocation hearings be held swiftly, minimizing time incarcerated pre-hearing?

Relevant Research:

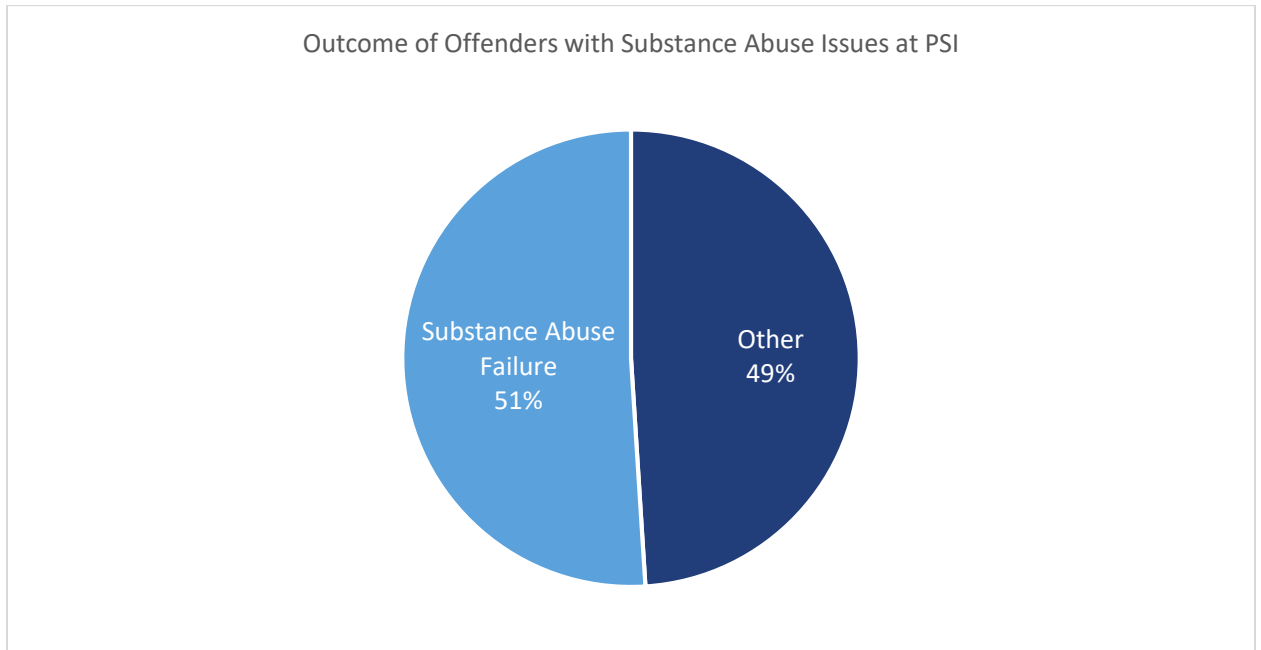
- Risk, Need and Responsivity Principle: In order to have the greatest impact on reducing recidivism, resources must be focused on higher-risk offenders, targeting the factors most closely tied to recidivism, and the barriers that impact the likelihood of an individual being successful in a program, intervention or service must be removed
- Incorporate Treatment: Treatment and programming that target an individual's criminogenic needs should be incorporated into supervision practices in order to have the greatest impact on reducing recidivism

Nevada Key Data Findings and Current Practice:

- The fastest growing population admitted to prison in the last decade are parole violators, whose admissions grew 43% to 794 individuals, followed by probation violators, whose admissions grew 15% to 1,566 individuals
- In the case-level file review, 55% of technical violations that led to a revocation involved either a positive drug test or a treatment or programming failure
- Of the violation reports reviewed, 73% of community supervision violators reported behavioral health issues related to mental health, substance abuse or both:



- In the case-level file review, 51% of community supervision violators whose substance abuse issues were first identified at the sentencing stage were ultimately revoked for substance abuse violations, indicating those needs went unaddressed on supervision:



- There is no requirement that supervision practices and resources be focused on higher-risk offenders or tailored to the factors that are most likely to cause recidivism
- A validated risk and needs assessment tool is not used to establish conditions of supervision, guide decision-making related to treatment or programming needs, or to develop an individualized case plan for individuals on supervision
- Standard conditions are imposed for all offenders, regardless of risk level, criminogenic needs, or responsivity factors
 - The Nevada Risk Assessment System (NRAS) is conducted after conditions are imposed in order to determine supervision levels
- Parole and Probation officers must get approval from the judge or the Board of Parole Commissioners to modify conditions
- The Day Reporting Centers in Las Vegas and Reno provide job placement, education support and counseling services to individuals on supervision. However, they are currently serving as the last response to a supervisee's non-compliant behavior by a Parole or Probation officer before revocation rather than functioning as a resource center at the start of the supervision term
 - The Day Reporting Center in Las Vegas Day Reporting Center has a capacity of 200 individuals, while the Reno Day Reporting Center has a capacity of 50 individuals

State Examples:

Risk and Needs Assessment, Case Plans, and Treatment

Kentucky – *KRS § 439.3101*

- Requires the Department of Corrections to administer a validated risk and needs assessment for all supervised individuals at regular intervals to determine their risk factors and identify intervention targets
 - Requires the use of the assessment scores to determine risk level and program needs of each supervised individual
 - Requires the development of a case plan for each individual who is assessed to be moderate to high-risk in the assessment

Maryland – *Md. CORRECTIONAL SERVICES Code Ann. § 6-111*

- Requires the Division of Parole and Probation to administer a risk and needs assessment and develop an individualized case plan for each individual who has been screened as moderate- or high-risk to reoffend

Arkansas – *A.C.A. § 16-93-306*

- Requires probation officers to conduct a validated risk and needs assessment and to develop a case plan for each individual who is assessed to be moderate to high-risk to reoffend that targets the criminal risk factors identified in the assessment, is responsive to individual characteristics, and provides supervision of offenders according to that case plan
- Requires decisions regarding supervision to target the individual's risk factors with appropriate supervision and treatment

South Carolina – *S.C. Code Ann. § 24-21-10*

- Requires the Department of Probation, Parole and Pardon Services to develop a plan to establish a process for adopting a validated risk and needs assessment tool consistent with evidence-based practices and factors that contribute to criminal behavior
 - This plan must also establish procedures for the Department of Probation, Parole and Pardon Services on the use of the validated assessment tool to guide the department, parole board, and agents of the department in determining supervision management and strategies for all offenders under the department's supervision, including offender risk classification, and case planning and treatment decisions to address criminal risk factors and reduce offender risk of recidivism

Imposing Conditions of Supervision

Kentucky – KRS § 439.335

- Requires the use of the results of an individual's validated risk and needs assessment and any other scientific means for personality analysis to establish any terms or conditions of supervision imposed

Arkansas – A.C.A. § 16-93-712

- The Department of Community Correction is required to use a risk and needs assessment to set conditions of supervision and to assign programming as part of an overall strategy for improving supervision practices

Ohio – *American Parole and Probation Association, August 2018*

- Limited standard parole conditions:
 - Obey the law
 - No contact with the victim
 - Follow the instructions of your parole officer
 - Do not leave the state without permission
 - Do not possess firearms or deadly weapons
 - Obey special conditions
 - Subject to warrantless searches
 - Must pay supervision fees

Georgia – *Georgia Department of Community Supervision*

- Limited standard parole conditions:
 - Obey the law
 - Subject to warrantless searches
 - No firearm or deadly weapon
 - Need permission to leave the state or change residence
 - Must pay fees, restitution, child support
 - If unemployed and does not have a high school diploma, must work on obtaining GED
 - Must participate in the plan created by your parole or probation officer, which includes working and being subject to drug testing

Administrative Caseload

Pennsylvania – 61 Pa.C.S. § 6137

- Requires that eligible paroled offenders be placed on an administrative caseload one year after release and until the maximum sentence date. This type of parole requires the offender to make supervision contact at least once per year, provide updated contact information upon change of employment or residence, continue to pay restitution, and comply with any other requirements imposed by the board

Kentucky – KRS § 439.3105

- Establishes an administrative caseload supervision program for supervised individuals whose results from a risk and needs assessment indicate that they are low-risk offenders. A supervised individual on a higher level of supervision who fulfills certain criteria is required to be presumptively placed on administrative supervision. This caseload requires one record check per quarter and the offender is required to provide documentation regarding financial obligations monthly to his or her officer

Florida – Fla. Stat. § 948.013

- Allows the Department of Corrections to establish procedures for transferring eligible offenders to administrative probation. This type of supervision is non-contact and non-reporting

Policy Options:

1. Require the use of a **validated risk and needs assessment tool** in statute to guide supervision decision-making and establish supervision conditions
2. Allow the Division of Parole and Probation to **modify conditions** based on the results of the risk and needs assessment that is conducted by the Division to guide supervision, without requiring a return to court or the Parole Board of Commissioners
 - a. Require **responsivity factors** be considered when establishing conditions
3. Require the Division of Parole and Probation to develop **individualized case plans** for all offenders, based on the results of a risk and needs assessment tool
4. Expand treatment available on supervision to address programming and treatment identified in an individual's case plan
5. Allow the Division of Parole and Probation to focus limited resources on high-risk offenders by creating an **administrative supervision level** for low-level offenders who have proven they can be successful on community supervision

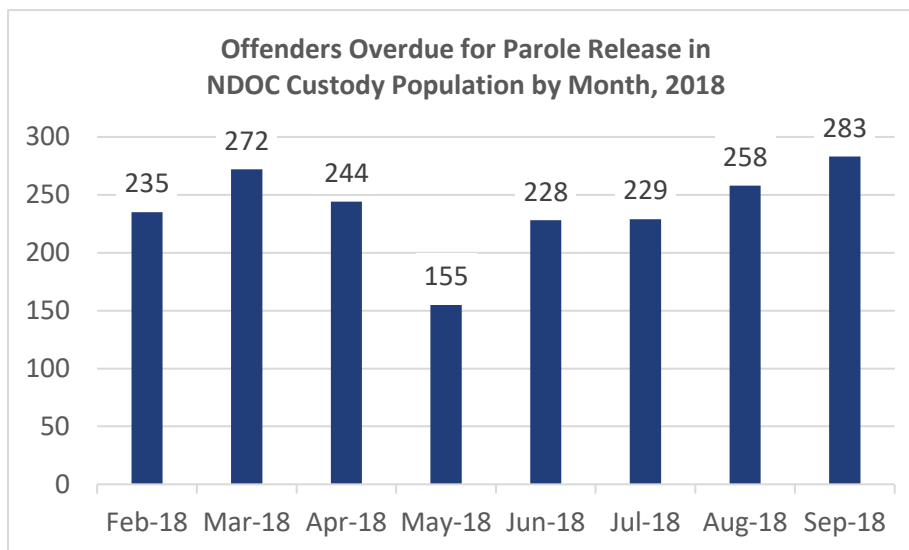
Reentry Planning

Relevant Research:

- Frontloading Resources: Providing the most support at the beginning of supervision reduces the likelihood of reoffending, because recidivism is most likely to occur within the first few months of supervision¹²
- Risk, Needs and Responsivity Principle: Responsivity factors must be addressed in order to remove the barriers to an offender's successful reintegration into society¹³

Nevada Key Data Findings and Current Practice:

- In Nevada, 29% of the individuals released from prison in 2014 returned to prison within 3 years, amounting to just over 1,500 people
- In September 2018, at least 283 individuals who had been granted parole remained in prison pending reentry plan approval:



- Nevada statute requires inmates who have been granted parole to develop a reentry plan, which must be approved by the Division of Parole and Probation in order to be released
 - Statute does not outline the criteria that should be included in the reentry plan
 - The Division of Parole and Probation is responsible for approving the reentry plan, but Specialists at the Nevada Department of Corrections (NDOC) are responsible for reentry programming

¹² National Research Council (2007); Nagin & Pogarsky (2001)

¹³ Lowenkamp & Latessa (2005)

- The reentry plan is focused on securing housing and considers no other reentry services such as education, treatment, job placement, etc.
- Obstacles to an inmate’s ability to secure appropriate housing include:
 - Waiting for indigent funding
 - Waiting for interstate compact acceptance
 - Restrictions on housing due to sex offender status
 - Disciplinary action taken by NDOC since parole was granted
 - Family residence occupied by individuals with a prior record
- Reentry resources provided by NDOC are discretionary:

Area	Practices
Clothing, Food, and Transportation	NDOC <u>may</u> work with inmates to obtain clothing, food, and transportation
Financial	NDOC <u>may</u> provide a sum of up to \$100 at departure from the institution
ID and Important Documents	NDOC <u>may</u> work with an inmates to provide them with a photo ID. Staff works to secure social security cards, identification cards, and birth certificates for inmates prior to reentry
Housing	NDOC <u>may</u> place the offender in a transitional housing for released offenders
Employment and Education	Specialists must review opportunities for educational programming as well as availability for inmates to participate in college courses
Healthcare	NDOC <u>in practice</u> provides inmates with a 30 day supply of medication and makes referrals to a federally qualified healthcare service provider, however this is not required by statute

- Responsivity factors such as housing, transportation, and mental health issues are not considered when preparing an individual for release
 - Beginning 24 months before an individual’s parole eligibility date, NDOC begins reentry planning programming for offenders

State Examples:

South Dakota – *South Dakota Department of Corrections, 1.4.B.1 Individual Program Directives (IPD)*

- Requires that within 30 days of an inmate’s admission to the Department of Corrections, an individualized case plan is created for the inmate including individual program directives
 - Policy allows for an inmate’s individual program directives to be revised when there are changes in program or work needs, risk level and classification, housing status, medical or mental health needs and resource availability

Mississippi – *Miss. Code Ann. § 47-7-33.1*

- Requires the Department of Corrections to create a discharge plan for any offender returning to the community, based on the results of a pre-release assessment
- The pre-release assessment identifies whether an inmate requires assistance obtaining:
 - Transportation
 - Clothing and food
 - Financial resources
 - Identification documents
 - Housing
 - Employment
 - Education
 - Healthcare
 - Support systems
- The discharge plan includes information necessary to address those needs and the steps being taken by the Department of Corrections to assist in that process
 - The discharge plan for parole-eligible offenders also details supervision conditions and the intensity of supervision based on the assessed risk to recidivate, and whether there is need for transitional housing

Arizona – *Department Order 1001, Inmate Release System*

- Policy requires the Department of Corrections to develop a release packet up to 180 days prior to an inmate's release, which is then forwarded to Community Corrections, who make contact with the inmate's family and discuss options for the inmate upon his or return
- In order to make an offender's transition to the community positive and productive, the following needs are addressed by prison staff:
 - Education and GED
 - Skills necessary to obtain employment
 - Housing
 - Transportation
 - Employment
 - Identification documents
 - Enrollment in Arizona's state health care
 - Co-occurring disorders and chronic mental health needs

Policy Options:

1. Create **statutory guidelines** for reentry planning
 - a. Require the development of the reentry plan **to include factors, other than housing, that impact an individual's success upon reentry**
 - b. Include **list of responsivity factors** in reentry plan that need to be addressed upon release
2. Establish **requirements for medication supply** post-release

Policy Discussion:

How can Nevada improve reentry planning to frontload resources and better address responsivity factors to facilitate offenders' successful reintegration into society?