

THE
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Utah Criminal Justice System Assessment

Commission on Criminal and Juvenile Justice
June 12th, 2014
Salt Lake City, UT

Outline of Presentation

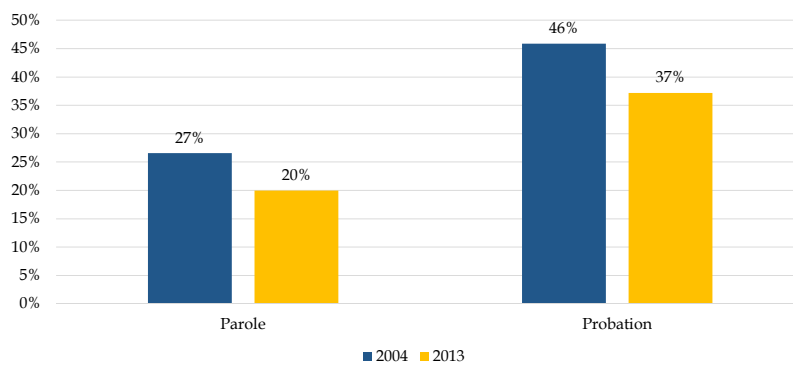
- Community Corrections and Recidivism
- Incarceration and Recidivism

COMMUNITY CORRECTIONS AND RECIDIVISM

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Declining Rates of Success for Probationers and Parolees

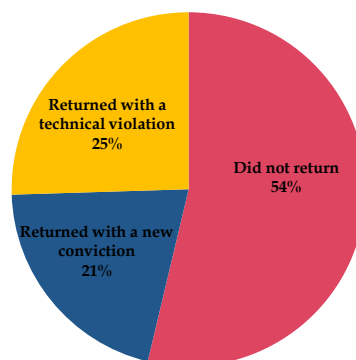
Parole and Probation Successful Discharge Rates, 2004 vs. 2013



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46% of Released Prisoners Return Within 3 Years, and Majority of Returns are for Technical Violations

3-Year Return to Prison Rate for 2010 Prison Releases, by Return Type



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Recidivism Reduction Principles

- Focus on high risk offenders and target criminogenic needs
- Incorporate rewards and incentives
- Use swift, certain, and proportionate sanctions for violations
- Frontload resources
- Balance surveillance with treatment

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FOCUS ON HIGH RISK OFFENDERS AND TARGET CRIMINOGENIC NEEDS

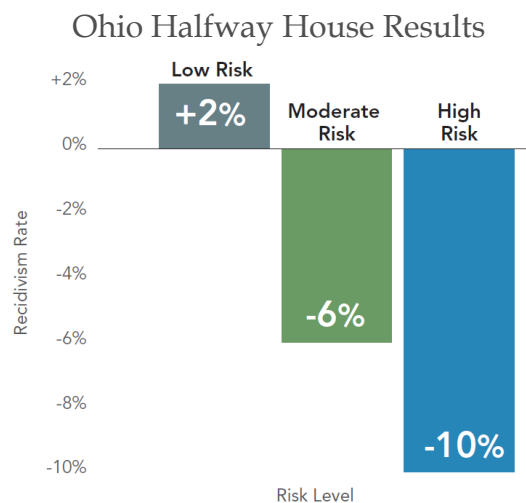
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Focus on High Risk Offenders and Target Criminogenic Needs: Concept

- Risk principle (who) - focus on offenders at the highest risk of reoffending
- Need principle (what) - identify the specific needs of the individual
- Responsivity principle (how) - use behavioral and treatment approaches that address risk and needs

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Focus on High Risk Offenders and Target Criminogenic Needs: Research



Source: Latessa et al., 2010

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Top Criminogenic Risk and Need Factors

1. History of anti-social behavior
2. Anti-social personality or temperament
3. Anti-social attitudes, values, or beliefs
4. Anti-social peers or companions
5. Family and/or marital stressors
6. Lack of pro-social leisure and recreation
7. Lack of employment and/or education
8. Substance abuse

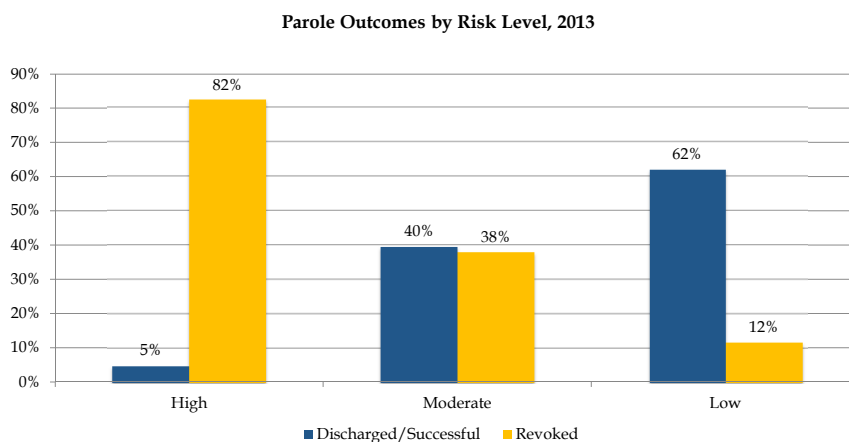
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Focus on High Risk Offenders and Target Criminogenic Needs: Current Practice in Utah

- Research summary:
 - » Resources should be targeted to higher risk offenders and interventions should focus on the offender's criminogenic factors
- Utah findings:
 - » Utah uses a variety of screening and assessment tools to identify risk of reoffending and treatment needs, and has made strides to connect these tools to supervision practice
 - » However, high risk offenders have dramatically high rates of failure on supervision and many supervision resources are still directed to low risk offenders

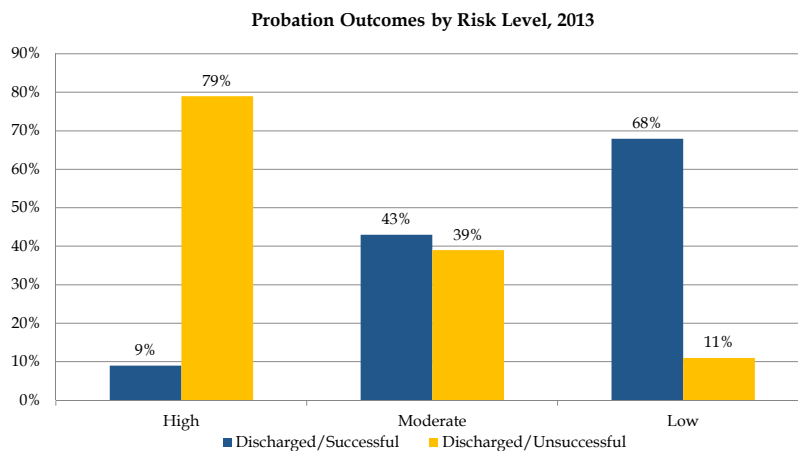
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More than 80% of High Risk Parolees are Revoked



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Nearly 80% of High Risk Probationers are Unsuccessful Discharges



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Key Assessment Tools in Utah's Criminal Justice System

- Primary tool in Utah is LSI-R, one of the most widely utilized risk/needs assessment tools in the U.S.
 - » Incorporated into pre-sentence investigation process
 - » For those who go to prison, not used again until offender is released on supervision
 - » Ongoing work on validation and training/oversight of instrument
 - » AP&P currently developing new tools for sex offenders and female offenders
- Screening for substance abuse and mental health needs exists for select offenders, but there is no system-wide tool

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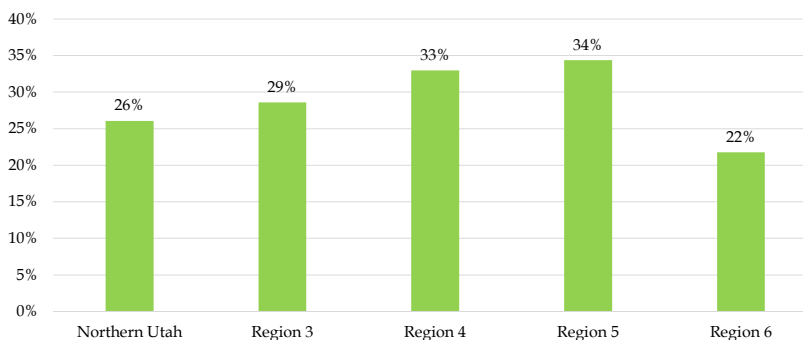
Supervision Standards Based on Risk Level

- AP&P has implemented policies differentiating supervision standards based on offender risk level
 - » Low risk: Office and field contact once every 3 months
 - » Moderate risk: Monthly office contact; field contact every other month
 - » High risk: Monthly office and field contact
 - » Supervision intensive: 2 office contacts and 2 residence visits per month
- However, low risk offenders still account for a significant portion of AP&P caseloads

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Depending on Region, Nearly One-Quarter to One-Third of Actively Supervised Offenders Are Low Risk

Percent of Active Supervision Caseloads Who Are Low Risk, 2013



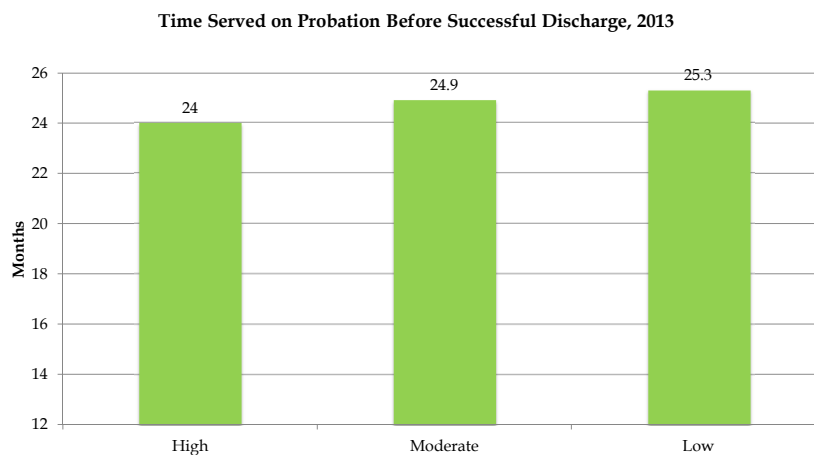
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AP&P Policy on Discharge from Probation Supervision is Based on Risk

- Probation: default term is 36 months without violation, but have early discharge policies based on risk level
 - » Intensive: 24 months
 - » High: 18 months
 - » Sex/violent offenders (non-mandatory life): 18 months (6 months post-sex offender treatment completion)
 - » Moderate: 12 months
 - » Low: 6 months

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However, in Practice Successfully Discharged Probationers Serve Same Time Regardless of Risk Level



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INCORPORATE REWARDS AND INCENTIVES

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Incorporate Rewards and Incentives: Concept

- Provide incentives for meeting case-specific goals of supervision to enhance individual motivation
- Strategically allocate resources by tailoring conditions of supervision (reduced reporting, less frequent drug testing, etc.)
- Allow probationers and parolees to step-down their supervision or earn their way off supervision for compliance with court-ordered conditions
 - » Earned discharge encourages offenders to “play by the rules,” thereby reducing violations

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Incorporate Rewards and Incentives: Current Practice in Utah

- Research summary:
 - » Rewards and incentives encourage pro-social behavior and improve supervision outcomes

- Utah findings:
 - » There is no formal structure in place for rewarding positive behavior on supervision, including no way to earn time off of a supervision sentence

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**USE SWIFT, CERTAIN, AND
PROPORTIONATE SANCTIONS**

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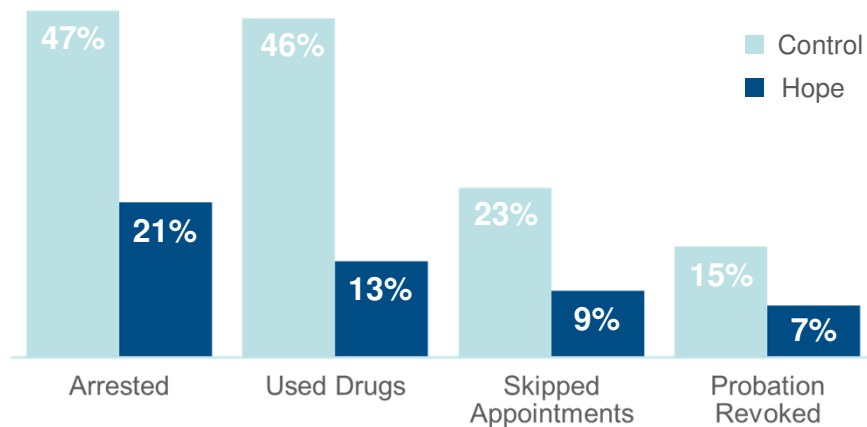
Swift, Certain, and Proportionate Sanctions: Concept

- Respond to violations or criminal behavior with sanctions or sentencing that holds offenders accountable and confronts behavior in a way that will change it
- Deterrence: swift, certain, proportionate > delayed, random, severe
- Develop range of sanctions – from low-intensity community-based options to prison time – and apply according to the frequency and seriousness of the violations
- Communicate a credible and consistent deterrent threat
- Streamline procedures to allow for a swift response

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Swift, Certain, and Proportionate Sanctions: Research

Hawaii's HOPE Program Outcomes



Source: Hawken and Kleiman 2009

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Swift, Certain, and Proportionate Sanctions: Current Practice in Utah

- Research summary:
 - » Responding with immediacy, certainty, and proportionality to negative behavior induces behavior change more effectively than delayed, random, and severe sanctions

- Utah findings:
 - » There is a system in place for revoking offenders, but no statewide system for graduated or intermediate sanctioning
 - » Some sanctioning processes are inconsistent with swift, certain, and proportionate principles

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Swift, Certain, Proportionate Model Utilized in Problem Solving Courts

- Drug courts and mental health courts utilize sanctions and incentives
 - » Swift: offenders receive an immediate response to violations
 - » Certain: judges are consistent in their responses to negative and positive behavior
 - » Proportionate: graduated responses are based on the frequency/level of violations

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Swift, Certain, and Proportionate Sanctioning Not Used Consistently in Supervision

- Variation across the state in the number of violations for an offender prior to revocation
 - » Low end average: 4.1
 - » High end average: 15.4
- Inconsistency at two decision points:
 - » AP&P alternative event requests
 - » Judge or Board agreement with recommendations

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Many Violation Responses Are Inconsistent with Swift, Certain, and Proportionate Sanctioning

- “Revoke and reinstate” jail sanction and restart probation
 - » Huge range in potential jail time (1 day – 12 months) makes sanction uncertain
- “Zero tolerance” probation: judges threaten incarceration for subsequent violation
 - » Not proportionate to the severity of violation
 - » No opportunity for swift, graduated responses

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FRONTLOAD RESOURCES

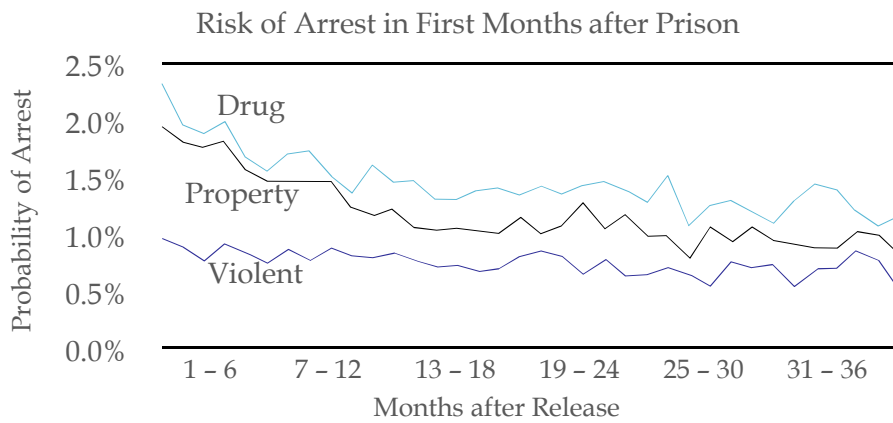
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Frontload Resources: Concept

- Focus community supervision resources in the first days, weeks, and months when offenders are most likely to commit a new crime
- Identify offenders who warrant enhanced supervision and those who do not
 - » Reduce reporting requirements/conditions for successful offenders to offset costs of frontloading
- Deter future crime and technical violations by changing offender behavior early in the supervision process

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Frontload Resources: Research



Between months 1 and 15 after release from prison, the chance of arrest drops by **40%**

Source: Rosenfeld and Fornango, National Research Council, 2007

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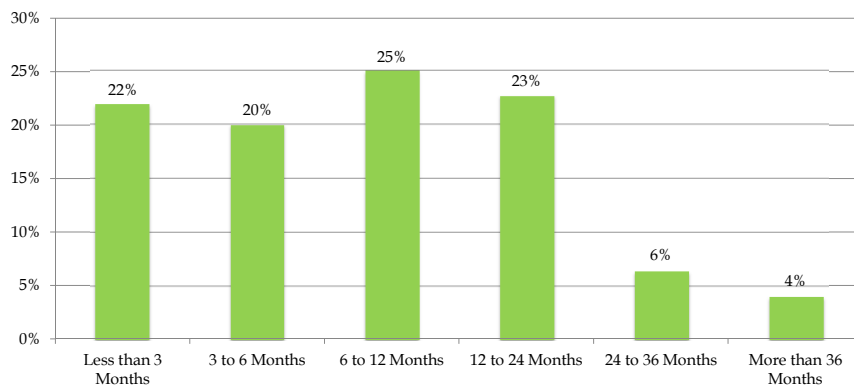
Frontload Resources: Current Practice in Utah

- Research summary:
 - » Because recidivism is most likely to occur in the first few months of supervision, focusing resources at the beginning of supervision reduces the likelihood of reoffending
- Utah findings:
 - » Majority of parolees are revoked within their first year of supervision
 - » Nearly one-third of offenders are released from prison without supervision

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Majority of Revoked Parolees Return Within First Year of Supervision

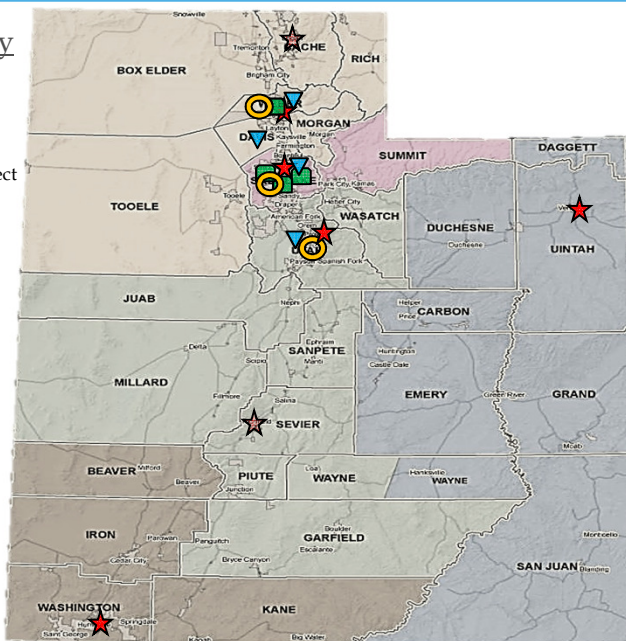
Time Served on Parole Before Revocation, 2013



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Community Reentry Options

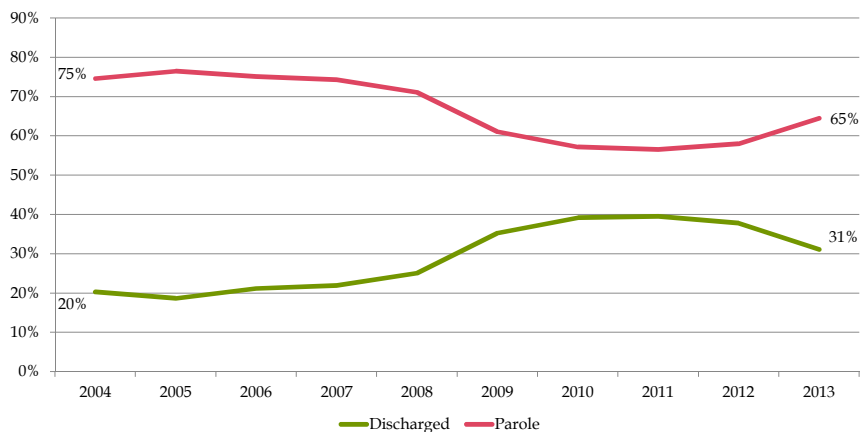
- ★ - Treatment Resource Centers
- - Halfway Houses
- - Employment Placement Project
- ▽ - Parole Access to Recovery



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Nearly One-Third of Offenders Are Released Without Supervision

Prison Releases by Type, 2004-2013



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BALANCE TREATMENT WITH SURVEILLANCE

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Balance Treatment with Surveillance: Concept

- Incorporate treatment and standard reporting, monitoring, and surveillance into supervision case plans
- Utilize cognitive behavioral treatment and community-based drug treatment, interventions shown to significantly reduce recidivism
- Design interventions (both surveillance and treatment) based on offenders' individually assessed risk and need factors

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Balance Treatment with Surveillance: Research

Surveillance and Treatment Outcomes, 2010

- Washington Institute for Public Policy conducts extensive national meta-analyses of cost-benefit outcomes for criminal justice interventions
 - » A review of the research found that intensive probation supervision with only surveillance reduced crime by 2 percent
 - » However, integrating treatment into that intensive supervision reduced crime by 18 percent
 - » The cost-benefit of intensive supervision was far better for taxpayers when the supervision incorporated treatment

Source: Washington State Institute for Public Policy, Steve Aos, 2010.

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Balance Treatment with Surveillance: Current Practice in Utah

- Research summary:
 - » Balancing treatment with surveillance has a far greater impact on recidivism than just surveillance
- Utah findings:
 - » Due to a variety of geographic and funding constraints, treatment needs are not met by the current state capacity
 - » Many of the available treatment providers are not required to target criminogenic needs

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Unmet Substance Abuse Treatment Needs in Utah

	Estimated # Adults With Substance Abuse Treatment Need	# Served	% Need Met
Bear River	5,447	1,232	23%
Central	2,259	386	17%
Davis	8,782	889	10%
Four Corners	1,214	554	46%
Northeastern	1,706	490	29%
Salt Lake	35,386	7,475	21%
San Juan	526	133	25%
Southwest	5,961	516	9%
Summit	1,106	304	27%
Tooele	1,644	400	24%
Utah	18,189	936	5%
Wasatch	664	129	19%
Weber	7,648	1,151	15%
Total	90,856	14,925	16%

Source: Division of Substance Abuse and Mental Health Annual Report, 2013

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Unmet Mental Health Treatment Needs in Utah

	Estimated # Adults With Mental Health Treatment Need	# Served	% Need Met
Bear River	14,090	1,902	13%
Central	6,193	685	11%
Davis	26,176	2,753	11%
Four Corners	3,800	890	23%
Northeastern	4,862	1,133	23%
Salt Lake	98,501	10,098	10%
San Juan	1,465	406	28%
Southwest	17,793	1,180	7%
Summit	3,311	436	13%
Tooele	4,819	1,151	24%
Utah	44,371	4,516	10%
Wasatch	1,940	324	17%
Weber	22,874	4,102	18%
Total	250,046	28,981	12%

Source: Division of Substance Abuse and Mental Health Annual Report, 2013

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Treatment-Based Sentencing Options Vary by County

County	DORA	Mental Health Courts	Drug Court
Beaver			
Box Elder		X	X
Cache			X
Carbon			X
Daggett			
Davis	X	X	X
Duchesne			
Emery			X
Garfield			
Grand			X
Iron		X	X
Juab			X
Kane			X
Millard			X
Morgan			
Piute			
Rich			
Salt Lake	X	X-2	X-5
San Juan			X
Sanpete			X
Sevier		X	X-2
Summit			X
Tooele			X
Uintah		X	X
Utah	X	X	X-2
Wasatch			X
Washington		X	X
Wayne			
Wayne			
Weber	X	X	X

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Treatment Not Always Incorporating Best Practices to Reduce Recidivism

- Because most substance abuse and mental health services are designed to serve the general population, many treatment programs:
 - » Are not designed to explicitly address criminogenic needs
 - » Mix low/medium/high risk offenders, which can increase recidivism in lower risk offenders
 - » Mix offenders with non-offenders
- State is making efforts to develop guidance for substance abuse, mental health and sex offender treatment, but no statewide standards for offender programming currently exist

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INCARCERATION AND RECIDIVISM

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Incarceration and Crime

- Research indicates that increased incarceration contributed to the large crime decline since the 1990s, but was responsible for only one-tenth to one-third of the change
 - » Many other factors impacted the crime decline, including advancements in policing and community corrections, economic improvement, and the waning of the crack epidemic
- Recent research has focused on the marginal impact of incarceration, or the value to society of sending one more person to prison
 - » Marginal impact has declined as the use of incarceration has increased

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Societies Use Incarceration for Multiple Purposes

- The commonly cited purposes for incarceration are incapacitation, deterrence, retribution, and rehabilitation
- Incarceration can be used to affect public safety by:
 - » Incapacitation: Reducing current criminal involvement by holding offenders in prison where they cannot commit crimes against the public
 - » Deterrence: Reducing the likelihood of future criminal involvement by increasing the punishment for the current offense
 - » Rehabilitation: Reducing the likelihood of recidivism by offering effective programming and treatment during the period of incarceration

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PRISON ADMISSIONS AND RECIDIVISM

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Meta-Analyses Show Increased Recidivism Associated with Incarceration Compared to Community-Based Sanction

- Jonson's (2010) meta-analysis, which included 57 studies and weighted effect sizes, found that custodial sanctions increased recidivism 14% compared to a noncustodial sanction
 - » Sentences to probation with conditions had largest reduction in recidivism compared to straight probation, community service, and other non-custodial sanctions
- Gendreau et. al.'s (2000) meta-analysis of 103 studies found that incarceration had a 7% increase in recidivism compared to a community-based sanction, and no effect when controlling for sample size
- Nagin et. al. (2009) found a mild criminogenic effect, or no effect, of custodial sentences in 5 RCTs, 11 comparison group studies

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Impact of Prison on Recidivism for Nonviolent, First-Time Offenders and Technical Violators

- Spohn and Holleran (2002) found that drug offenders sentenced to prison were 5-6 times more likely than probationers to be rearrested and charged, controlling for offender characteristics
- Nieuwbeerta, Nagin, and Blokland (2009) found first-time imprisoned offenders who served less than 1 year were 1.9 times as likely to be reconvicted within 3 years, compared to offenders sentenced in the community
 - » Property crimes: 2 times as likely
 - » Other nonviolent crimes: 1.8 times as likely
- Drake and Aos (2012) found that technical violators of probation serving a period of confinement (jail or prison) had significantly higher recidivism than offenders sanctioned in the community

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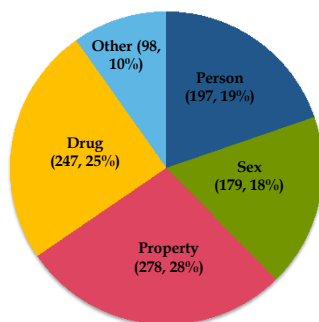
Prison Admissions and Recidivism: Current Practice in Utah

- Research summary:
 - » Incarceration can increase recidivism, particularly for nonviolent, low risk offenders
- Utah findings:
 - » Utah has experienced significant growth in admissions for nonviolent, low-risk offenders
 - » Probation and parole technical revocations account for a significant and growing portion of prison admissions

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63% of New Court Commitments Admitted to Prison Were for Nonviolent Crimes

Prison Admissions by Offense Type
(NCC Only, 2013)



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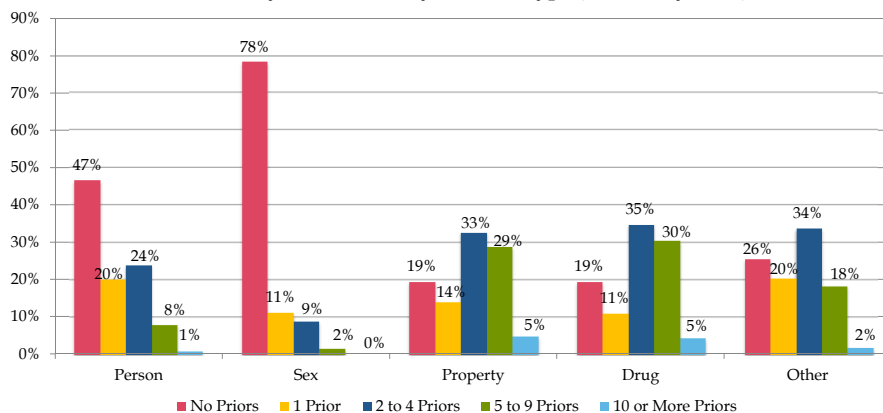
8 of Top 10 Offenses at Admission Were Nonviolent

Offense	NCC in 2004	NCC in 2013	% Change
Poss/Use Of Controlled Substance	151	120	-21%
Theft	62	71	15%
Poss W/ Intent To Dist Cont Substance	60	70	17%
Retail Theft (Shoplifting)	12	51	325%
Driving Under The Influence Of Alc/Drugs	52	47	-10%
Aggravated Sexual Abuse Of A Child	41	44	7%
Aggravated Assault	47	43	-9%
Burglary	38	43	13%
Distrib/Arrange Dist Cont Substance	36	41	14%
Theft By Receiving Stolen Property	27	39	44%

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20% of Property and Drug New Court Commitments Admitted to Prison Had No Prior Felony Convictions

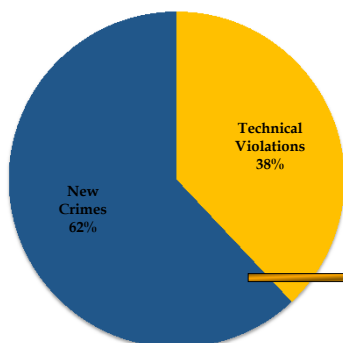
Prior Felony Convictions by Offense Type (NCC Only, 2013)



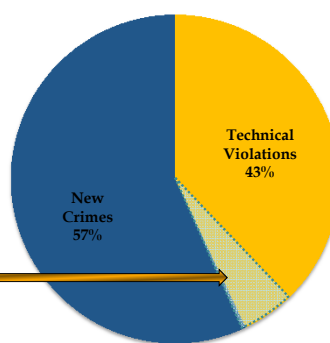
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43% of Offenders Were Admitted to Prison with No New Criminal Conviction, Up From 38% in 2004

Prison Admissions, 2004



Prison Admissions, 2012



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LENGTH OF STAY AND RECIDIVISM

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Meta-Analyses Show Weak Relationship Between Length of Incarceration and Recidivism

- Nagin et. al.'s (2008) systematic review of length of custodial sanctions found few and contradictory significant effects
 - » RCT and comparison group studies suggest weak or no relationship between length of sentence and recidivism
- Gendreau et. al.'s (2000) meta-analysis identified 222 studies comparing impact of offenders' length of stay on recidivism
 - » Groups of offenders who spent more time in prison (30 months on average) versus less (17 months on average) time in prison had 3% higher recidivism rates

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Recent Studies Reinforce Length of Stay Has Limited Impact on Recidivism

- Pew's Time Served report (2011) followed offenders released from three states and estimated the individual incapacitation and deterrent effects of prison on their future behavior
 - » 28%-57% of prisoners could have either never gone to prison or been released early without any loss of public safety
- Hunt and Peterson (2014) compared federal drug offenders serving their full sentences with those released early due to the retroactivity of the 2007 Crack Cocaine Amendment
 - » There was no difference in recidivism between groups, despite the resentenced group serving approximately 1 year less than the comparison group

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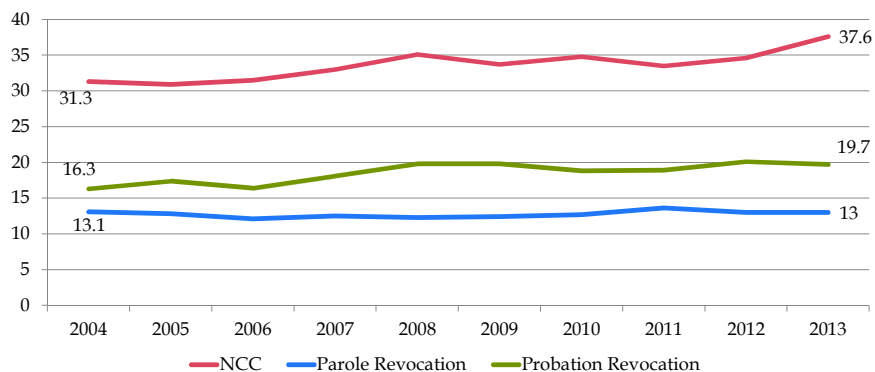
Length of Stay: Current Practice in Utah

- Research summary:
 - » Longer lengths of stay in prison do not necessarily lower recidivism, and may increase reoffending
- Utah findings:
 - » Time served has grown 20% for new court commitments and probation revocations over the past decade
 - » Time served for technical probation violations increased 24%

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20% Growth in Time Served for New Court Commitments and Probation Revocations

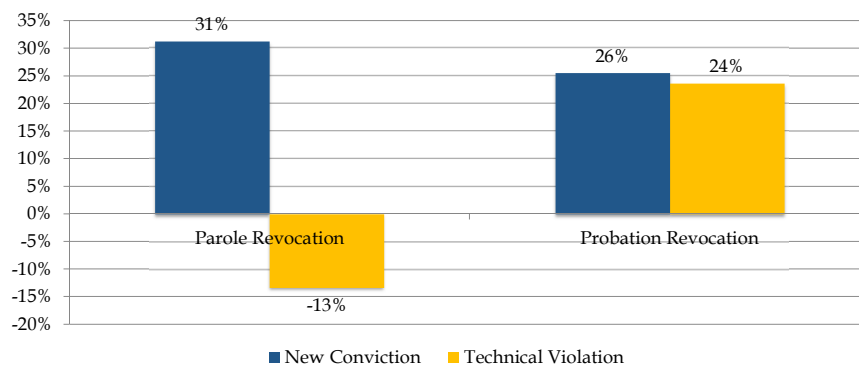
Mean Time Served by Admit Type (Months)



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Probation and Parole Revocations With New Convictions Serving Longer

Change in Mean Time Served for Probation and Parole Revocations (2004-2013)



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Time Served Growing for Most Nonviolent Offenders

Change in Mean Time Served by Criminal Category
(Offenders with a New Criminal Conviction, 2004-5 to 2012-13)

	Criminal History	I	J	K	L
		2 nd Degree Other	2 nd Degree Possession	3 rd Degree Other	3 rd Degree Possession
V		22%	8%	2%	7%
IV		46%	16%	27%	-3%
III		42%	43%	17%	1%
II		26%	21%	28%	32%
I		34%	-24%	2%	12%

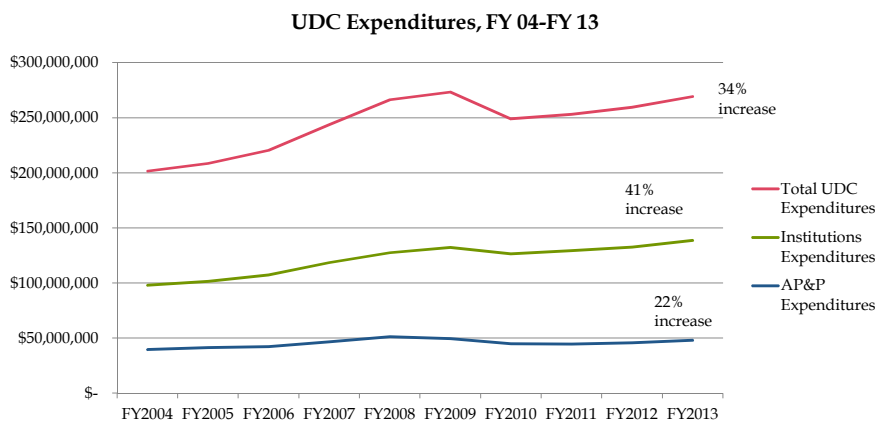
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Offender Characteristics Do Not Explain Growth in Length of Stay

- An offender released in 2013 was likely to serve 4.6 months longer than an offender released in 2004, even if (s)he has the same:
 - » Demographics (race, age, sex)
 - » Criminal history
 - » Offense characteristics (type, degree, number of current felonies and misdemeanors)
 - » Sentencing type (concurrent vs. consecutive)
 - » Release type (parole vs. release without supervision)
 - » Sentencing court district

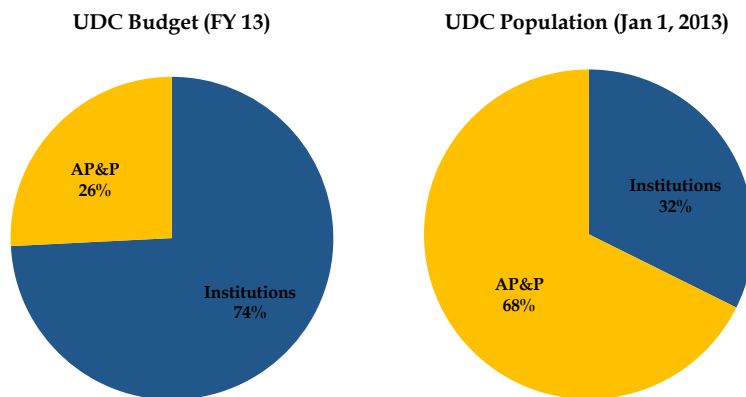
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Growth in Funding for UDC Prisons Outpacing AP&P Supervision



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26% of UDC Budget, 68% of UDC Population on AP&P Supervision



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KEY TAKEAWAYS

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Recidivism Reduction in Community Corrections Challenged by...

- Lack of statewide structure to support evidence-based practices
 - » No statewide intermediate sanctioning program to effectively respond to violations
 - » No statewide incentives program to encourage compliance on supervision
- Lack of budgetary support for evidence-based practices
 - » Many existing resources not focused on high risk offenders or on criminogenic needs
 - » Significant shortfalls in treatment and reentry resources

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Meanwhile, Growth in Utah's Prison Population is ...

- Unlikely to achieve reductions in recidivism
 - » Despite research demonstrating the diminishing public safety returns of sending more offenders to prison, admissions are on the rise for probation revocations and many first time and nonviolent offenders
 - » Despite research demonstrating the diminishing public safety returns of keeping offenders in prison longer, length of stay is on the rise for all offense groups and probation revocations
- Coming at great cost to state taxpayers
 - » The UDC budget grew 34% in the last decade and the majority of new dollars went to institutions while a minority went to community supervision
- Projected to continue
 - » Utah's prison population is projected to grow 37% in the next decade

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