



# Report to the Law and Justice Interim Committee

## Statewide Reentry Task Force



April, 2016



## Montana Department of Corrections Director's Office

Steve Bullock, Governor  
Mike Batista, Director

Law and Justice Interim Committee  
Legislative Services Division  
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Dear Law and Justice Interim Committee members:

On behalf of the Statewide Reentry Task Force created by the 2013 Legislature, I am pleased to present the 2016 report detailing our findings and recommendations related to the development and support of successful offender reentry initiatives in Montana.

The Task Force began meeting in August 2013. Since that time, members have examined Montana's correctional system, researched initiatives from other states and monitored trends on a national level to ensure their recommendations are reliable and objective. They have heard presentations from former inmates who have successfully made the transition back into their communities and from offenders' family members and victims. They have discussed the barriers facing former inmates and what the potential partners in other state and local government agencies, as well as the nonprofit and private sectors, could do to help overcome those barriers. And they have researched potential program support for inmate reentry planning and preparation, as well as opportunities for restorative justice.

The Task Force and the Department of Corrections extend their sincere appreciation to the Law and Justice Interim Committee for its continued support in this undertaking and for the opportunity to bring together representatives of the many organizations that must work together to support successful inmate reentry and make Montana communities safer.

Sincerely,

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## I. Statewide Reentry Task Force Membership

The 14-member Statewide Reentry Task Force consists of:

|                        |   |
|------------------------|---|
| Chairman, Mike Batista | Department of Corrections Director  |
| Nancy Coopersmith      | Office of Public Instruction  |
| Stacy Collette         | Department of Commerce  |
| Carrie Lutkehus        | Department of Public Health & Human Services                                |
| Steve Olson            | Department of Labor and Industry  |
| Dr. Cody Warner        | Montana State University, university system representative                  |
| Matthew Dale           | Department of Justice, restorative justice representative                   |
| Derek VanLuchene       | Ryan United President/Founder, crime victims representative                 |
| Dr. Gary Mihelish      | NAMI Board of Directors, mental health advocate                             |
| Jason Smith            | Governor's Office, Director of Indian Affairs                               |
| Moe Wosepka            | Montana Catholic Conference, faith-based representative                     |
| Timothy Allred         | Montana Board of Pardons and Parole Executive Director                      |
| Mike Lahr              | Branch Assistant U.S. Attorney, Helena                                      |
| Donna Huston           | Center for Children & Families Executive Director, community representative |

The Task Force thanks Siri Smillie, Governor's Office Communities and Safety Policy Advisor, and Loraine Wodnik, Department of Corrections Deputy Director, for their consistent participation.

## II. Introduction

Montana's Statewide Reentry Task Force began work in August 2013 to address the responsibilities assigned in House Bill 68 as outlined in Title 46, Chapter 23, Part 9 (2012). The act tasked the Department of Corrections, in consultation with the Task Force, with the following responsibilities:

- (1) Examine and implement programs that will help bring community resources into prisons to support inmate reentry planning and preparation;
- (2) Develop partnerships with and contract with community-based organizations that provide needed services to released inmates in areas such as mental health, chemical dependency, employment, housing, healthcare, faith-based services, parenting, relationship services, and victim impact panels;
- (3) Coordinate with community restorative justice programs to ensure victim concerns and opportunities for restorative justice practices, including restitution, are considered during an offender's reentry; and
- (4) Collect data, conduct program evaluation, and develop findings and any recommendations about reentry and recidivism and include this information in an annual report to be made available to the Law and Justice Interim Committee.

The Department and Task Force recognize that more than 97 percent of all offenders are eventually released from prison into the community and it is the responsibility of the Department and service providers to prepare offenders in an effort to improve their chances of success upon release. The Task Force has focused on identifying evidence-based practices – the techniques or programs that have proven to reliably reduce the likelihood of criminal behavior – and assessing those practices for possible implementation in Montana.

Recidivism, defined as the return to prison for any reason within three years of release, is a threat to public safety, costly to the state and challenging for Montana families and communities. By using evidence-based practices and employing the Task Force's recommendations, Montana can expect improvements in public safety, a decrease in recidivism and more efficient use of resources. As fewer offenders recidivate, the impact will be evident at the state level as felony offenders supervised by the Department are more successful in the community. Likewise, we can expect the same trend in the adult misdemeanor population as diversionary programs at the county jail level lead to a decline in the local jail population.

Montana's enhanced emphasis on reentry requires a collaborative interagency response that creates new connections, provides continuity of services and reduces redundancy within state and local agencies. Recidivism reduction in Montana means less crime and fewer victims, safer correctional programs, more tax-paying citizens and a more skilled work force.

The recommendations outlined in this report represent the strategies the Task Force believes to be important in furthering the state's offender reentry initiative. Some recommendations may require legislative changes, others additional funding and staff resources beyond the department's existing levels, and some could lead to a reduction in state revenue.

What is needed to implement the various requirements of each recommendation is indicated in the report by the following notations:



Indicates legislative approval needed for statutory change



Indicates legislative approval needed for additional funding or staff



Indicates legislative approval needed for a decrease in state revenue

### III. Review

In August 2013, the Statewide Reentry Task Force began building a foundation for improved reentry services and programs in Montana. The Task Force has studied the complexities of the criminal justice system in Montana, interviewed former inmates who had experienced varying levels of success in the transition from prison to community, and listened to presentations from professionals within the academic, victim advocacy, criminal justice, and service-based fields. Presenters to the Task Force have included individuals with knowledge or experience of barriers affecting the successful transition of populations such as youth, Native Americans, males, females, and those with mental health and chemical dependency problems.

Following the publication of its first annual report in 2014, the Task Force has continued to focus on the initial recommendation of creating a framework for successful reentry programs in Montana: **community-based reentry centers and programs**. Furthermore, the Task Force recognizes that efforts to assist returning citizens may be duplicative among government agencies, such as the Departments of Public Health and Human Services and Corrections, or between state and community-based organizations. To streamline efforts, government and community partnerships must encourage information sharing and a cohesive effort to provide uninterrupted services to offenders. This ongoing effort and its repeated inclusion in reports and discussion, have led to increased awareness and the following results:

- **Homelessness** is closely associated with recidivism and offenders face significant barriers in locating and maintaining affordable housing. The Task Force discussed the lack of public housing available to former inmates and, as a result, staff at Department of Commerce assessed the application of Section 8 housing standards and regulations to determine if Montana imposed more restrictions than necessary on offender eligibility. The Department of Commerce found that the state Administration Manual restricted the eligibility of specific offenders to a greater degree than required under federal law. The program will be continually assessed to reduce excessive limitations on housing eligibility for some criminal offenders and modifications have included:
  - HUD regulations require the state to consider the past three years of specific criminal activity when determining eligibility. The Administration Manual required the state to consider the past five years until 2015 when Commerce modified the guide to match the three-year federal regulation.
  - HUD allows the state discretion in determining which type of offenses might prohibit participation; however the state set a low tolerance policy that excluded potential participants.
- In response to the 2014 annual report, the Department of Corrections created the Office of Offender Reentry staffed with a cross-section of professionals representing the Director's office, probation and parole, information technology, and secure care custody. These individuals have coordinated department-wide efforts to:
  - Develop a three-tiered individualized case plan structure that addresses unique challenges faced by offenders at each stage of the reentry process and helps plan for institutional goals, reentry and community life

- Increase internal communication and information sharing between agencies and offices across the state
- Embrace a team-oriented approach that focuses on individualized reentry planning for offenders
- Better understand evidence-based practices in relation to recidivism
- Engage in the initial steps to develop mentoring programs for offenders
- Consider programming that is sensitive to and addresses trauma
- Improve access to health insurance literacy and coverage upon release
- Task Force recommendations have resulted in initiatives designed to address victim concerns, enhance resources available to community providers and expand communication to the community.
  - The Department of Corrections is currently working with stakeholders to produce publications that will be available online and throughout the state for community-based reentry efforts. These publications will include 'bookmarks' that cover topics such as incentives for employers to hire offenders, housing opportunities and mentoring.
  - The Board of Crime Control, Department of Corrections and nonprofit organization Ryan United are collaborating in an effort to obtain grant funding and private matching funds to create informational vignettes. The videos will be designed to provide information to victims about pre-adjudication, sentencing and incarceration, as well as the various resources available to victims and their families during these criminal justice junctures. In addition, the project will include a lengthier video intended for training purposes.

Due to the Law and Justice Interim Committee's support of Task Force recommendations in 2014, the 2015 Legislature passed Senate Bill 10. Sponsored by Senator Driscoll, SB 101 authorized the Department of Corrections to set a percentage of earnings not to exceed 25 percent that an inmate worker is required to save in a reentry subaccount. The legislation also allows the Department to disburse those funds directly to the inmate's landlord, the inmate, or approved recipients including service providers. The Department expects that the legislation will increase the involvement of services providers, which will improve the continuum of care and the financial resources available to inmates upon release.

## IV. Task Force Recommendations

### A. To create community-based reentry centers and programs

The Task Force continues to recommend resources for community-based reentry centers and programs. The most beneficial vehicle for ensuring successful reintegration of individuals into the community is based on grassroots collaboration with members of the community. Several Montana communities have embraced this responsibility and, to maximize benefits, they require assistance. The recommendation is based on a model described in the Council of State Governments' *Report of the Reentry Policy Council* that combined suggestions from the U.S. Department of Justice, the U.S. Department of Labor and the U.S. Department of Health and Human Services. The Reentry Policy Council advocates for a multi-disciplinary and collaborative approach to primary areas of focus including housing, employment and mental health services.

To varying degrees, these efforts are already underway in the Montana communities that have taken an active role in creating their own reentry coalitions. The Task Force and Department are eager to learn from the successes of these community-based efforts and incorporate the solutions communities have identified into the statewide framework. Individuals from backgrounds that include faith-based organizations, law enforcement, county attorneys, mentors, previously incarcerated individuals, landlords, and other service providers have coordinated for several years in Bozeman, Missoula and Billings. In the last year, new programs to build local reentry services have been established in Helena and on the Flathead Reservation and Fort Belknap Reservation. Despite scarce resources, these local volunteers coordinate their efforts to support offender reintegration and increase community safety – **efforts that could be greatly enhanced with assistance from the state.**

To ensure that each community benefits, solutions must be broad and adaptable. Communities are encouraged to incorporate a framework that provides strategies for recidivism reduction. These strategies:

- are applied using a scientifically endorsed framework to reduce barriers to reintegration and address risks associated with formerly incarcerated individuals
- require multi-level supports to prepare individuals for transition (Woods, Lanza, Dyson & Gordon, 2013)

The Task Force has met with a variety of stakeholders across the state for guidance to develop a **community-based reentry tool box** that provides information about best practices in:

- culturally relevant programs
- pre-release planning
- developing community coordination
- addressing victim concerns
- engaging offender support groups, especially family members
- developing resources such as housing, employment, restorative justice programs, and vocational and educational programs

Public outreach is a critical component of a community-based tool box. For reentry efforts in Montana to become successful, communities to which recently incarcerated individuals are returning must understand the barriers that threaten successful reintegration, as well as the types of offenders who are returning.

- Nationally, more than half of inmates have an addiction, mental illness, or both. Without appropriate support systems and community-based care, this puts them at an increased risk for recidivism (Rich, Chandler, Williams, Dumont, Wang, Taxman, & Western, 2014). While offenders are often rejected by a community that may lack empathy and an understanding of risk factors, public education about programming completion, real or imagined threats to public safety, job skills development and reentry efforts, decreases the likelihood that an offender will face undue discrimination (Snider & Reysen, 2014).
- Returning citizens who are able to connect with community-based agencies and organizations are less likely to recidivate, which helps to cut system costs (Bouffard, Mackenzie, and Hickman 2000; Visher and Courtney 2007; Wexler et al. 1999).
- Steps are necessary to provide crime victims a greater awareness of the rights and services available to them as their offenders prepare to reenter the community, as well as a better understanding of how reentry efforts increase public safety.
- Considerable dollar-for-dollar federal tax credits are available to private entities that develop and maintain low income properties, but public housing authorities oftentimes misunderstand federal guidelines and restrict assistance further than those guidelines actually require.



**Proposal:** The Task Force recommends that the Department and Task Force members work to develop and disburse educational materials on reentry with focused audiences including the general public, victims of crime, landlords and private employers.



**Proposal:** The Task Force recommends embracing a model currently used by several states wherein the Department of Corrections is provided a temporary appropriation to be awarded directly to community reentry alliances to enhance reentry services. These awards are generally contingent upon positive performance and utilizing performance-based practices. Examples of this model include:

- Missouri DOC – awards several million to nonprofit partners through offender-funded intervention fees
- Virginia Department of Criminal Justice Services – finances community projects through a state appropriation to provide support services and guidance to adults upon release from prisons and jails into communities. These projects are required to incorporate research-informed recidivism reduction services that focus on job readiness and employment services.
- New York Division of Criminal Justice Services – supports 19 county reentry task forces with state funding. This model supports community efforts with community coordinators to ensure use of evidence-based practices including behavioral interventions and employment-focused goals.

## B. Access to Housing

Some have called stable housing the “lynchpin that holds the reentry process together” (Bradley et al 2001). Existing research shows that homelessness and recidivism are closely associated and trap offenders in a vicious cycle. Several studies have demonstrated that offenders’ homelessness and use of shelters, both before and after spending time in jail or prison, increase re-incarceration rates between 17% and 23% (Michaels, Zoloth, Alcabes, Braslow & Safyer, 1992). In addition, homeless individuals are more likely to become prisoners, and former prisoners are more likely to become homeless (Geller and Curtis 2011; Metraux 2004).

The Task Force recommends that the Law and Justice Interim Committee and additional state stakeholders examine solutions to homelessness specific to high-risk offenders, with the goal of:

- supporting inmate reentry planning and preparation
- reducing the negative impacts of homelessness on communities

The Task Force has reviewed Utah’s *‘Housing First’ model*, which provides housing to chronically homeless individuals. This tenant assistance is not contingent on any particular factor, such as mental health or substance abuse issues. Such an approach is distinctly different from housing programs that mandate the successful completion of various treatment programs as a condition of receiving assistance. Under the *Housing First* model, in return for housing assistance, tenants pay \$50 or 30% of their monthly adjusted income every month, whichever is higher.

By utilizing this approach, Utah has emerged as a leader in homelessness reduction, establishing a statewide priority to end chronic homelessness. In just eight years, Utah has reduced the chronic homeless population by 91%, and is on target to reach its 100% reduction goal within its specified timeframe. Lloyd Pendleton, the Director of Utah’s Homeless Taskforce, estimates the *Housing First* program costs approximately \$10,000 per person, about half the \$20,000 it costs to treat and care for homeless people on the street. We could anticipate similar cost savings in Montana. It is estimated to cost \$24,000 annually to incarcerate an individual in a county jail, and many communities completely lack the resources to treat and care for homeless individuals.

A *Housing First* program model in Montana would reduce the likelihood that a recently released individual will recidivate. Furthermore, the use of these models in other states has illustrated that these strategies would also likely benefit populations that are not yet involved in the justice system. For instance, with access to stable housing, victims of crime, veterans and those who suffer from mental illness and substance abuse have been able to avoid criminal justice contact.



**Proposal:** The Task Force recommends that the Law and Justice Interim Committee engage in an interim study to discuss permanent solutions to chronic homelessness and the lack of affordable housing for the offender population.



**Proposal:** The Task Force recommends that the Law and Justice Interim Committee provide housing assistance to Montanans through one or more of the following actions:



- Establish in whole or in part a model based upon Utah's *Housing First* program by providing state-subsidized public housing to chronically homeless individuals.
- Consider a state-operated, short-term transitional housing facility or program that would allow for 30-to-60-day affordable housing for individuals moving from various levels of incarceration or custody. This would serve individuals who do not require additional costly programming but need a short-term solution to avert acute homelessness.
- Consider creating a state-operated transitional living pilot project that offers services for co-occurring disorders for hard-to-place offenders. This pilot would be offered in conjunction with the Department of Health and Human Services.



**Proposal:** The Task Force recommends that the Law and Justice Interim Committee consider state tax credits for private landlords who provide housing to an individual who is under the supervision of the Department of Corrections or who has a prior felony.



### C. Collateral Consequences

Direct consequences of conviction include jail or prison sentences, imposition of fines and community supervision (Pinard, 2004). Collateral consequences are not handed down by the judicial system; they are indirect and apply to both felony and misdemeanor convictions and often outlast the direct sentences imposed on defendants (Pinard & Thompson, 2005). Collateral consequences of conviction can prevent returning citizens from resuming full citizenship even after they have served their full sentence. Some collateral consequences are valuable and designed to increase public safety – others apply broadly to anyone with a criminal conviction. Some of these consequences complicate offenders' participation in their community and often relegate offenders to the margins of society, further stigmatizing them and increasing the chance of recidivism (Pinard & Thompson, 2005). There is no formal means within the justice system to address issues related to collateral consequences and, oftentimes, because these issues are not common knowledge, defendants plead guilty to crimes completely unaware of the sweeping and lifelong consequences that will follow their conviction (Chin & Holmes, 2002).

In Montana, an existing statute provides an excellent example of how to reduce collateral consequences to incarceration. As stated within 37-1-201, MCA:

It is the public policy of the legislature of the state of Montana to encourage and contribute to the rehabilitation of criminal offenders and to assist them in the assumption of the responsibilities of citizenship. The legislature finds that the public is best protected when offenders are given the opportunity to

secure employment or to engage in a meaningful occupation, while licensure must be conferred with prudence to protect the interests of the public. The legislature finds that the process of licensure will be strengthened by instituting an effective mechanism for obtaining accurate public information regarding a license applicant's criminal background.

Unfortunately, broad interpretation and infrequent evaluation still allow collateral consequences to occur in statute and administrative rule. Currently, 569 examples of collateral consequences exist in Montana, according to the National Inventory of the Collateral Consequences of Conviction.



**Proposal:** The Task Force recommends that the Law and Justice Interim Committee consider an interim study of collateral consequences within statute and administrative rule, to develop recommended changes to present to the 2019 Legislative Session.

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