

Montana Criminal Justice: Trends, Projections & Smart Solutions

Testimony before the Montana Modernization & Risk Analysis Committee

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About the Council on Criminal Justice



Nonpartisan Think Tank

Center of gravity in national criminal justice policy — bridge-building across the political spectrum



Evidence-Driven

Develops recommendations based on best available data; works with all 50 states



Montana Connection

Many CCJ staff have experience working on justice reinvestment — MT enacted 9 bipartisan bills in 2017



Four Shared Values

Safety · Accountability · Fairness
· Dignity
(CCJ Centering Justice Initiative with Princeton)

A Bipartisan Starting Point: Four Shared Principles

CCJ Centering Justice Initiative + Princeton School of Public Affairs



Safety

Communities deserve protection from crime. Effective public safety is government's core obligation.



Accountability

People who cause harm should be held responsible in ways that are fair, proportionate, and focused on behavior change.



Fairness

The system must treat everyone equally and apply the law consistently — regardless of wealth, race, or geography.



Dignity

Every person has inherent worth, value, and potential for change. All people should be treated with dignity and respect.

Credit Where It's Due: 2017 Justice Reinvestment

Montana enacted 9 of 12 bipartisan Justice Reinvestment bills in 2017 — a nationally recognized achievement.



Overhauled supervision violation thresholds — proportionate responses to lower-level violations



Professionalized Board of Pardons & Parole — full-time appointed board replacing part-time volunteers



Created supportive housing grant program for people returning from incarceration



Additional probation/parole officers funded through reinvestment savings



Presumptive deferred sentence for first-time drug possession $\leq 60\text{g}$ codified in statute

2025 Session Wins: Building on the Foundation

The 2025 Montana legislative session added meaningful additional reforms building on the 2017 JRI foundation.



SB70: P&P officers can now REMOVE conditions of supervision — directly reduces violation triggers



SB91: Driver's licenses and state IDs provided at release — removes a critical reentry barrier



HB718: Office of Reentry Services created within the Department of Labor



HB707: DOC must consider family ties when making out-of-state placement decisions



HB572/595: Prison industries training and correctional enterprises programming expanded

Montana's Growing Prison Population: The Numbers

65%+

Prison growth since 2000
vs 26% state pop. growth

3,413

May 12, 2026 Prison Pop.
Male + female combined

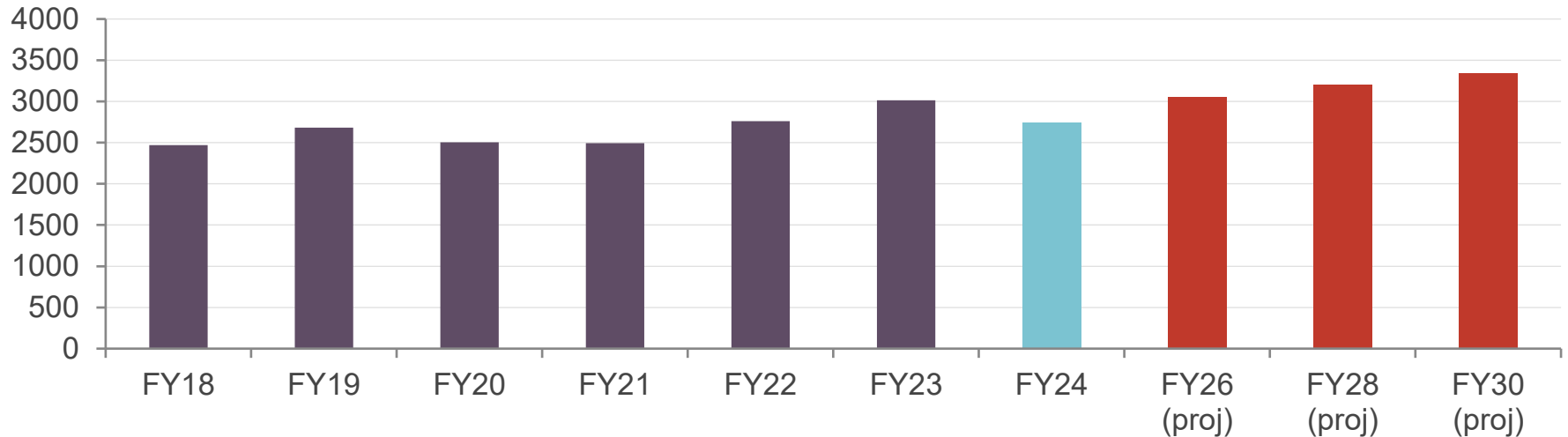
3,648

Projected w/jail holds by
2026

100s

Held in private prisons
in AZ & MS due to

Montana Prison ADP: Actual & Projected (JFA Institute)



Montana's Prison Trend: Rising Populations, Rising Costs



Montana's Numbers Are Growing

- While many states are still seeing declines in their populations, Montana is going the opposite direction
- Male pop. growing ~3.1%/yr; female pop. ~5.2%/yr (FY2018–2023)
- In 2025 session, MT lawmakers approved \$400 million in funds for new correctional infrastructure, including creating a new women's prison and two new housing units in Deer Lodge.



What Is Driving Growth?

- Rising admissions rate (~3–5% annually)
- Montana: 1 of only 2 states where supervision violation incarceration INCREASED 2018–2021 (CSG 2024)
- Sentence lengths creeping up as enhancements accumulate
- Short-run fiscal notes miss the long-term population cost

Can Montana See What's Coming? The Fiscal Note Problem

⚠ A "three strikes" law turning a 10-year into a 15-year sentence looks cheap in a 4-year budget window. The cost only appears when those extra years are actually served — often 10–20 years later.



The Short-Termism Problem

- Fiscal notes in MT cover the current fiscal year and following three years.
- Sentence enhancements take 10–20 years to show their full population cost
- Multiple bills in one session create compounding effects not captured in any single note



What Good Looks Like

- Create capacity to simulate effects of various policies, including over longer time horizons.
- Annual reporting: length-of-stay trends, revocation vs. new-offense ratios
- This aligns with MARA's long-range mandate

Improving Long-Range Projection Capacity: Recommendations



Require at least 10-year prison population impact statements for ALL sentencing bills



Build or work with a non-profit to create and utilize a standing policy simulation model



Increase granularity of existing DOC and court reporting to allow for analysis of nuanced policies, such as those that only affect people those with certain prior offenses



MARA is uniquely positioned — its long-range analytical mandate makes it the right oversight body for this work

Supervision Violations: A Costly Prison Driver

CSG Justice Center: Supervision Violations and Their Impact on Incarceration (2024)

44%

Of all prison admissions nationally

1 in 4

People in state prison on any given day

\$10B+

Annual national cost of incarcerating revocees

10

States cut violation admissions at least 50%



Montana's Specific Problem

- Of the current Montana prison population, approximately 14% were revoked from probation and 27% revoked from parole. No public data on new offenses vs. technical violations.
- Parole board: 19% fewer hearings, 46% fewer releases since the pandemic



What Other States Have Shown

- 10 states cut violation admissions by 50%+ with NO increase in violent crime
- Research: shorter, targeted supervision outperforms long, intensive supervision

Technical Violations: Billions Spent Without a Safety Return

Common MT revocation triggers: absconding, drug use, failure to report, no-association violations, missed appointments.

The Problem

- Someone can serve LONGER for technical violations than their original sentence
- Research: intensive supervision conditions for all but the highest-risk individuals INCREASE recidivism — not decrease it

The Cost

- \$3B+ spent nationally on technical-only violations — no new crime committed
- Each reincarceration disrupts housing, employment, family — the exact protective factors
- MT overcrowding forces expensive out-of-state private prison placements

Reforming Technical Violation Responses

Montana 2025: SB70 now allows P&P officers to remove supervision conditions — a good first step. Remaining priorities below.



Evidence-Based Reforms

- Graduated sanctions grid: matched response for each violation — no prison for first technical offense
- Cap revocation length for technical-only violations (90–180 days maximum)
- Early discharge from supervision for sustained compliance milestones



State Models (All Bipartisan)

- Arkansas 2025: comprehensive package passed nearly unanimously
- Virginia 2025: structured sanctions + programming credits toward early discharge
- Missouri: graduated sanctions grid with data-reporting requirements

Earned Time Credits: Rewarding Rehabilitation

Individuals earn days off sentences by completing education, vocational training, substance use treatment, or CBT.

3.5%

Reduction in future
felonies in WA

\$1.88

Saved per \$1 spent
(Washington State)

30%

Reduction in re-offenses
under First Step Act

~18K

Released via FSA earned
time credits in 2024



Why It's Conservative

- Rewards behavior change — doesn't just punish violation
- Reduces prison population without releasing anyone involuntarily
- Encourages programming: improves prison safety and culture



Montana's Opportunity

- MT has good-time credits but limited earned time tied to specific programming
- Texas SB2405 (2025): programming near parole date — projected 1,700 fewer prisoners/year
- Virginia 2025: bipartisan, backed by law enforcement AND former Speaker Gingrich

Earned Time on Supervision: Incentivizing Compliance

Earn credits toward earlier discharge by meeting conditions, completing treatment, and staying violation-free.

The Problem It Solves

- Long supervision keeps compliant people at violation risk for years
- Large caseloads leave officers less time for real human support
- Research: long, intensive supervision INCREASES failure rates

How It Works

- X days violation-free = Y days of credit toward earlier discharge
- Officers redirect time to highest-risk cases
- MT SB70 (removing conditions) is a step — earned discharge is the logical next

Accountability Built In

- Credits only for positive behavior — never automatic
- Exclude highest-risk cases or require longer compliance windows
- Pair with swift, certain sanctions for violations — carrot and stick together

Drug Sentencing: Treatment, Accountability & Population Impact

#1

Drug possession among most common MT offenses

34%

Increase in MT fentanyl deaths from 2024 to 2025

6th

Drug possession rank as MT prisoner controlling offense

Gaps

Rural MT: hours from specialty BH provider



Montana's Current Framework

- Presumptive deferred sentence for first-time possession $\leq 60\text{g}$ already in statute
- 2025 session did NOT address drug sentencing specifically
- Crack/powder disparity still in MT law — Arizona addressed this in 2025 (HB2720)



Opportunities

- Ensure treatment diversion implemented consistently statewide — not just urban counties
- 23 counties and 8 judicial districts lack access to drug or other problem-solving court
- "Treatment first" presumption — accountability through program completion

Geriatric & Medical Release: High Cost, Low Risk

500%

Growth in 55+ prison population nationally over last two decades

2–3×

Higher healthcare cost for elderly prisoners

Low

Recidivism risk for geriatric prisoners

1,700

Fewer TX prisoners from expanding medical parole



Montana's Gap

- Medical release provisions exist but utilization has been very low
- MT parole board releases 46% fewer people since pandemic — medical cases included
- Current criteria may require terminal illness — excludes debilitating conditions



Best Practice Reforms

- Automatic periodic review for ALL incarcerated people 60+ — no individual petition needed
- Expand criteria: debilitating conditions limiting prison functioning, not only terminal illness
- Texas SB2405 (2025): bipartisan — streamlined medical parole, home/nursing home placement

Veterans & Justice: Montana's Opportunity

Montana ranks 3rd per capita for veterans (88,500+ residents) — yet the justice system often fails to identify and divert them from incarceration.

1 in 3

U.S. veterans arrested at least once in lifetime

181,500

Veterans incarcerated nationally in state/federal facilities

~8%

State prison population are veterans — 6× their civilian pop. share

Only 9

Of 18,000 law enforcement agencies use veteran ID tools



CCJ Veterans Justice Commission

- Chaired by fmr. Defense Sec. Chuck Hagel; includes fmr. Def. Sec. Leon Panetta — 15-member bipartisan commission launched 2022
- Found that only 11% of jails use veteran ID tools — most rely on self-identification, which many veterans avoid due to shame or fear of benefit loss
- Only 36 of 2,300+ prosecutors' offices run veteran-specific diversion programs; just 14% of counties have Veterans Treatment Courts
- Issued 11 recommendations across 3 reports: front-end diversion, military transition support, and post-incarceration reentry
- Recommended a National Center for Veterans Justice that is now launching to coordinate best practices nationwide



ALEC Veterans Justice Act — Nebraska First to Adopt

- CCJ VJC published model policy framework (Spring 2023); ALEC adopted it as the Veterans Justice Act model legislation (Summer 2023)
- Nebraska LB 253 signed April 16, 2024 — first state in the nation to adopt it
- How it works: veterans who show service-related conditions contributed to their offense (PTSD, TBI) can be diverted to supervised treatment programs with deferred judgment; upon completion, charges dismissed and record sealed
- Nebraska estimate: ~half of 200+ incarcerated veterans could have been eligible for the program
- At least 10 other states in active discussions



Identify Veterans Early

Require veteran status verification at arrest & booking — complement existing rural justice reforms



Expand Diversion

Adopt Veterans Justice Act modeled on Nebraska LB 253 — PTSD/TBI-linked offenses diverted to treatment



Leverage the VA

Partner with Fort Harrison VA & vet centers statewide for treatment plans — connects to BH infrastructure



Track Outcomes

Require DOC to report veterans in custody — baseline data currently absent from MT reporting

Women in Prison: A Growing Challenge & the Survivor Justice Act

5.2%/yr

MT female prison pop.
annual growth (FY2018-
2023)

2x rate

Women's incarceration
growth vs. men nationally

~80%

Incarcerated women with
trauma or abuse histories

New Prison

MT approved new
women's prison in 2025 --

CCJ Women's Justice Commission

- Bipartisan commission examining distinct drivers of women's incarceration: trauma, abuse, mental health, and economic instability
- Most incarcerated women are survivors of domestic violence or sexual abuse -- the justice system must account for this context
- Women are the fastest-growing incarcerated population; MT's 5.2%/yr rate outpaces national trend

ALEC Model: Survivor Justice Act

Based on Georgia legislation adopted in 2025

- Allows survivors of domestic violence or trafficking to petition for sentence modification when the offense was connected to the abuse
- Courts must consider evidence of abuse, coercion, or trafficking at sentencing -- as relevant context, not an excuse
- MT opportunity: pair with gender-responsive programming, trauma-informed reentry, and child reunification support

Rural Montana's Justice Gap: A Distinct and Urgent Challenge

147,040 sq. miles, 1.1M residents. Montana's geography creates justice barriers unlike those in urban states — across legal representation, behavioral health, and treatment access.



Indigent Defense Gap

- MT OPD is state-funded, but heavy caseloads and attorney shortages limit quality
- Sixth Amendment Center: investment in improving services has been 'largely neglected'
- Rural residents may wait months for an attorney



Behavioral Health Desert

- Most of MT is a designated mental health shortage area
- Some residents drive hours on dirt roads to reach a specialist
- MT State Hospital lost federal Medicaid/Medicare certification in 2022



SUD Treatment Gap

- OUD diagnoses rose 31% from 2018–2022 (Medicaid data)
- Far fewer rural SUD providers than urban areas
- When treatment isn't locally available, incarceration becomes the default

Rural Justice Solutions: Closing the Gap



Strengthen Indigent Defense

- Create oversight commission with caseload standards independent of OPD director
- Dramatically expand John R. Justice loan repayment — MT currently has only 4 recipients
- Fund satellite public defender offices or remote/hybrid attorney models



Close Rural SUD Gap

- MAT access in rural courts and jails; mobile treatment units proven in frontier states
- Telehealth SUD counseling bridges geography at low cost
- Ensure drug diversion programs exist in ALL counties — not just urban areas



Expand Behavioral Health

- Leverage Montana's \$225M Behavioral Health Future Generations fund to fund diversion
- Mandate BH screening in all presentence investigations with treatment referrals



Pretrial & Supervision Access

- Rural areas have fewer pretrial service programs — people jailed due to geography
Expand 2017 JRI pretrial grant program to all underserved counties
- Technology (check-in apps, GPS) can extend officer reach across vast territories

Solving More Violent Crimes: Why Clearance Rates Matter

~50%

National homicide
clearance rate

6–11%

Chicago nonfatal shooting
clearance rate

30→67%

Denver nonfatal shooting
clearance rate

3

States enacted clearance
grant programs
programs 2025–26



Why This Matters

- Every unsolved violent crime leaves a dangerous offender free and denies victims justice
- Low clearance erodes community trust and reduces witness cooperation — a vicious cycle
- Deterrence research: solving more crimes matters **MORE** than longer sentences alone



Montana's Rural Dimension

- Rural sheriffs and small-town PDs lack the detective capacity of urban departments
- Utah's grant program passed this year sets aside at least 10% of funds for rural law enforcement agencies
- Forensic lab turnaround times can be improved with targeted state investment

A Montana Violent Crime Clearance Grant Program: State Models



Utah HB137 (2026)

Violent Crime Clearance Rate Fund — administered by state CJ commission, rural set-asides, bipartisan



Pennsylvania VICTIM Act (2025)

Grants to local agencies for solving violent crimes; 10% reserved for rural departments



Missouri HB225 (2025)

Violent crime clearance grants with mandatory data-reporting requirements for all recipients



Montana design: rural county set-asides essential; fund detective capacity, forensic labs, digital forensics, and witness support services.

AI in Criminal Justice: CCJ's Five Guiding Principles

CCJ Task Force launched June 2025, chaired by former TX Chief Justice Nathan Hecht, in partnership with RAND

CCJ released Guiding Principles (Oct. 2025) and a Decision Guide (March 2026). AI is entering law enforcement, courts, and corrections — with or without guardrails.



Safe & Reliable

Thoroughly tested, monitored, and managed to avoid errors.



Confidential

Protect sensitive personal data, preserve privacy, and operate with appropriate transparency.



Effective & Helpful

Adopt tools only when they provably improve outcomes — not merely because they exist.



Fair & Just

Identify and mitigate bias. AI must not amplify existing disparities in the justice system.



Accountable

Human decision-makers retain control. AI must not undermine due process or democratic accountability.

AI & Montana: Adopt Guardrails Before the Tools Arrive

Early legislative guardrails are far easier to enact than retroactive restrictions once agencies have purchased and deployed AI systems.



Risk assessment tools used in bail, sentencing, and parole decisions must have bias audits and human override requirements



Facial recognition and predictive policing: accuracy standards and transparency required before any deployment



AI-assisted report writing: efficiency gains are real but hallucination risks must be actively managed



Any AI system affecting a person's liberty must be explainable, challengeable, and subject to democratic oversight

7 Recommendations for the MARA Committee

1

Enhance Data and Fiscal Note Capacity

10-15 yr impact analysis for sentencing bills; policy simulation capacity

2

Reform Tech Violations

Graduated sanctions grid; cap revocation length; early compliance discharge

3

Earned Time Credits

Programming → sentence reduction (prison) and early discharge (supervision)

4

Geriatric/Medical Release

Auto review for 60+; expand criteria; Texas SB2405 as model

5

Close Justice Gaps

Women's Justice Act, Veterans Justice Act, Indigent defense oversight; telehealth BH/SUD;

6

Clearance Grant Fund

State grant with rural set-asides: detectives, forensics, witness support

7

Harness Potential of A.I. But With Guardrails

CCJ framework: testing, bias audits, human override, transparency