



APA Policy Statement on State-Based Model Practices

The Association of Prosecuting Attorneys (APA) is a national association dedicated to supporting and enhancing the effectiveness of prosecutors in their efforts to create safer communities, ensure justice and uphold public safety. APA has created this policy statement demonstrating support for evidence-based sentencing and prosecutorial practices that prevent crime, ensure equal justice, and ultimately make communities safer.

STATEMENT OF PRINCIPLES:

1. Criminal sentences should be proportionate to the seriousness of the crime committed and incarceration should be limited to cases where its use improve public safety.
2. Diversion programs are only sustainable if community resources exist to treat, rehabilitate and address the needs of individuals who commit offenses, in lieu of incarceration.
3. Optimal selection of individuals into diversion programs requires leveraging a data-driven scientific approach to ensure maximum reductions in the rate of recidivism.
4. Regardless of whether an individual is ultimately incarcerated or diverted, the top priority of sentencing should be rehabilitation and re-integration, and individuals should face minimum collateral consequences upon re-entering society.
5. Incarceration is one of many instruments of social justice. By utilizing a community-based problem-solving framework, key partners can work collaboratively in creating and implementing strategies for safer communities.

APA SUPPORTS:

LIMITED USE OF PRISON RESOURCES BY OFFERING ALTERNATIVES TO INCARCERATION AND DEFERRED PROSECUTION FOR THOSE WHO CAN REMAIN IN THE COMMUNITY

Prison resources should be limited to the most serious crimes. There must be a greater increase in the use of specialty courts, probation, and other prison alternatives for individuals whose crimes make a community sanction appropriate. Probation should be considered for a wide range of low-level offenses, and information regarding the availability of and the evidence for alternatives to incarceration should be widely disseminated. Prosecutors must prioritize treatment, alternative programs, and seek to reduce recidivism by safely diverting individuals from arrest and jail booking into community-based programs. Alternatives should be available for anyone who does not pose a public safety threat.

Moreover, individuals who suffer from substance abuse and mental health issues often become entangled in the criminal justice system. Community-based treatment programs and other supports are the most appropriate method for addressing their needs, while community supervision also may be necessary in certain circumstances. Prosecutors, along with other community partners, must ensure that treatment is easily accessible and at the scale that each community needs to address drivers of crime and limit

unnecessary criminal justice involvement. Individuals on probation should have risk-managed supervision by jurisdictions utilizing data-driven risk assessment tools. But importantly, proactive approaches are needed to reach individuals with mental illness and substance abuse before they become part of the justice system, or are continuously recycled through it.

There must be greater awareness within communities and among justice system practitioners about those suffering from a dual diagnosis of mental health and substance abuse issues. Such individuals should have access to effective treatment that will combat both mental health and substance use through integrated dual disorder treatment. States must improve and properly fund their systems by utilizing data-based programs that have proven successful results. Law enforcement and other community agencies should work together to plan, implement, sustain, enhance, and evaluate drug and mental health treatment programs as an alternative to incarceration, and to prevent deeper justice system involvement.

Preferably, justice, health, and community resources should be allocated to intensive and comprehensive services that demonstrate the greatest capacity to reduce recidivism, protect public order and safety, and promote public health, while also mitigating the need for costly justice supervision. These deflection and diversion programs are necessary to shift resources and create rehabilitative community services, allowing justice system practitioners to steer low-risk individuals towards appropriate benefiting resources. Programs, such as Seattle's Law Enforcement Assisted Diversion (L.E.A.D.), should be implemented across the country to avoid criminal justice involvement and more effectively treat mental health and substance abuse issues. Studies have shown that bringing low-risk individuals into the criminal justice system may have a negative impact on their behavior and increase their likelihood of recidivism.

Prosecutors should also continue to expand diversion beyond individuals with first-time and low-level offenses. Jurisdictions can develop or adopt strategies and interventions that focus on individuals who are most likely to recidivate, and consider factors other than just current charge and criminal history in determining an intervention plan. The next generation of diversion programs should be able to determine and provide the appropriate level of services and, where necessary, justice supervision for each individual through validated risk-and-needs assessments and other scientific tools.

ENSURED PROPORTIONALITY IN SENTENCING AND NECESSARY TREATMENT TO THOSE INCARCERATED

When imprisonment is warranted, it should be used only long enough to accomplish the goals of sentencing: incapacitation, deterrence, retribution, and rehabilitation. Many states have already successfully enacted legislation which ensures proportionality in sentencing and increased judicial discretion during the sentencing phase. State reform efforts to ensure proportionality in sentencing



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occurs across the country, as should continued discussions about the expansion of judicial discretion and what are appropriate sentences based on factual considerations. Possessory offense penalties should be reduced, and judicial discretion should be used to create individualized sentences.

Incentivize program participation by offering accelerated release. In non-diverted/deflected cases, prosecutors must maximize prosecutorial discretion at every decision point to impact behavioral change, thereby reducing the risk of recidivism and ultimately making our communities safer.

States should utilize objective, data-driven risk assessment tools, to inform judicial discretion and to determine the earliest possible release-time for individuals. Risk assessments should be updated periodically to reflect the best available evidence about how to minimize bias. Not only will this decrease the amount of time for individuals who are incarcerated pending trial, but it will also improve release decision processes as well. Moreover, non-violent offenders should be able to participate in recommended programs, and practice good conduct in order to reduce their sentencing. Not only will this programming be cost effective, but it will also be a public safety initiative, designed to reduce recidivism and victimization. By providing more access to crime-reducing programs, individuals will be provided with tools to help them live productive, law-abiding lives.

EARNED DISCHARGE FROM SUPERVISION AND REDUCED INCARCERATION FOR TECHNICAL VIOLATIONS

Prosecutors must ensure that community corrections, including probation, parole, and pretrial supervision – focus on promoting success, and not punishing failure. Success should be defined as reducing recidivism, and supervision officers should be held accountable to that standard of success. Conditions of release should also be realistic, and should only include those rules for which the agency is prepared to consistently hold supervisees accountable. Conditions should be limited to those items which are related to the offending behavior(s) and are reasonable in scope and duration. Moreover, relapse needs to be recognized as a common part of the treatment process. Communities must work harder to support individuals and focus on relapse response and prevention. The conditions must also be tailored and relevant to the individual risks and needs most likely to result in positive behavioral changes. Conditions must also be research-based, and supported by evidence that shows that compliance with such conditions will change behavior and result in improved public safety or reintegration outcomes.

Probation and parole agencies should adopt risk reduction and behavior changing strategies and measure their performance against the standard of recidivism, reduction, substance abuse, employment, victim restitution and other reintegration outcomes. Public safety and rehabilitation are best achieved through meaningful incentives for participation in needed evidence-based programming. The most powerful incentive—earned time off one's

sentence—should be used to encourage participation in addiction treatment, cognitive behavioral therapy, educational classes, faith-based programs, and other self-betterment activities prescribed in accordance with individualized case plans. And those who have served substantial time behind bars should be subject to a review of their sentences and circumstances with the opportunity for sentence reduction.

Individuals on probation, parole, and pretrial supervision should be rewarded for positive or improved behavior with incentives such as earned early release and reduced or eliminated fines and fees. When violations occur, supervised individuals should not have their supervision revoked for minor infractions and incarceration for technical violations should be prohibited in most cases. Those being supervised pretrial should have opportunities to show their compliance with release conditions and not punished for minor violations.

Ultimately, community corrections should be informed by experience, but driven by scientific evidence regarding effective practices. When individuals' circumstances are improved, this will serve to reduce disparities and enhance public safety. Community corrections agencies should be viewed as a critical voice during the development of public safety plans, and these agencies should be utilized as an apparatus towards combatting crime, substance abuse, and mental illness.

Supervision resources should be targeted towards those who pose a high risk of recidivism, and only for a just and appropriate period of time, which studies suggest is within 24 to 36 months. Resources must be focused on higher risk individuals, which will result in better outcomes for both the individual and the community. By focusing supervision and services to those who present greater risk, probation and parole agencies will be devoting resources to what will most benefit public safety. Supervision resources should be frontloaded, specifically in the first few days and weeks of supervision, including reaching into correctional institutions to begin the case planning process for those who will be supervised after release.

AN IMPROVED FOCUS ON REENTRY & PREVENTING RECIDIVISM

If diversion or deflection efforts are unsuccessful, or if incarceration is necessary for certain public safety purposes, APA believes that investments in reentry are critical; the reentry process should begin at intake, and services should be frontloaded upon release. Not only is the risk of recidivism greatest during this period, but offenders often have a heightened need for substance abuse treatment, mental health, housing, and other services, as well. Reentry specialists should work with incarcerated individuals to create tailored plans of action that include a comprehensive services component that are in place prior to release to ensure successful reentry, and provide the necessary support to promote success and reduce recidivism.



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Successful reintegration demands close coordination between correctional facilities and supervision agencies. Law enforcement should also engage with a broad-based coalition of local and state agencies as well as community and family members, in undertaking reentry efforts. The ultimate goal of reentry should be to encourage family involvement and reunification, remove undue collateral barriers like access to public housing and public benefits, and ensure that those individuals who need medical follow-up have easy access to care.

Additionally, custodial facilities must provide rehabilitative programming, as well as access to academic and career technical education. Facilities should engage with local education institutions to offer various types of educational programs. It is important to provide people with the necessary tools to live responsibly, which will reduce the risk of recidivism and ultimately make communities safer.

Prosecutors also realize that the collateral consequences of a criminal conviction are serious and long-lasting, and can impact access to housing, employment, education, public benefits, and other resources. To remove unnecessary barriers to living successfully in the community, judges should grant relief when appropriate, including through orders of nondisclosure and expunction. Collateral consequences, if they must exist, should be narrow in scope and must directly relate to the individual's commitment offense.

HEALING FOR SURVIVORS OF CRIME

Survivors of crime should have access to trauma-informed care. Failure to address their needs may lead to depression, substance abuse, or entanglement in the criminal justice system. When surveyed about prevention and rehabilitation, victims prefer investments in education, mental health treatment, drug treatment, and job training over prisons and jails. Most victims- even victims of violent crime – prioritize crime prevention, rehabilitation, and treatment. Recognizing that there are those violent criminal cases that warrant prison confinement, prosecutors can prioritize prevention and rehabilitation when recommending case dispositions for most crimes including certain felonies.

To succeed in reaching victims of crime, states must focus on data-driven, trauma-informed care for successful recovery. To advance the interest of victims, prosecutors should aim to reduce incarceration and investment in prevention, treatment, and rehabilitation to stop the cycle of crime.

USE DATA AND PERFORMANCE MEASURES TO MONITOR AND IMPROVE PROSECUTOR DECISION MAKING PROCESS

To ensure success, prosecutors' offices should operate collaboratively to carry out reforms in pursuit of the twin goals of minimizing incarceration and reducing recidivism. Performance measures and ongoing oversight of programs are necessary to improve outcomes, hold agencies accountable for results, and enhance the effectiveness of the entire criminal justice system.

Success should be defined by recidivism reduction and measure performance probation and parole agencies. Programs must be driven by clear criteria for success and benchmarks should be set for performance.

THE PROSECUTOR'S ROLE IN FOSTERING A GREATER SENSE OF CITIZENSHIP

Prosecutors have a responsibility to work collaboratively with others to develop problem-solving initiatives to create safer communities. Community-based interventions and supervisions are strengthened when the community prosecution model is incorporated into diversion efforts on the front end. In using this problem-solving framework, prosecutors also strengthen the ties of the community, with providers from public health and other areas, such as schools and community reinvestment from the private sector, as key partners in creating and implementing strategies for safer communities.

By involving community members, prosecutors will foster a greater sense of citizenship in seeking ways to prevent and reduce crimes through alternative initiatives to incarceration. Each respective community should work to identify target problems within their jurisdiction and address solutions used to assess these problems. Through joining forces with other community agencies, there can be better integration of services, as well resources. Consequently, all members of the community will have a greater stake in the outcome, and will be able to provide a meaningful contribution to the overall goal of improved community safety.



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