



# MONTANA COALITION FOR PUBLIC SAFETY

The Montana Coalition for Public Safety is a diverse group of Montanans united to build a just, fair, smart and accountable criminal justice system in our state. The coalition believes Montana's justice system must be guided by the following principles:

## Policy Principles

### **Investment in Mental Health and Substance Use Disorder Treatment**

Untreated mental health and substance use issues are a root cause of criminal legal system involvement in Montana. In 2017, one in-depth study of the probation and parole system found that nearly 50% of currently and formerly incarcerated people interviewed self-identified as having mental health issues, substance use disorders, or both. These respondents also identified a lack of access to treatment services as one of the greatest reasons for their initial or continued involvement in the criminal legal system. Four out of the top 10 offenses leading to imprisonment in Montana are drug- and alcohol-related.

To solve this problem, the state must expand the availability of mental health and substance abuse treatment in our communities to divert people away from jails and prisons and into helpful programs for these underlying causes. If we do not, people with unmet treatment needs will continue to cycle in and out of our criminal legal system. Mental health and substance abuse are public health issues and it is more humane and cost effective to treat them as such.

#### *Policy Reform Options*

#### **Expand access to mental health and substance use disorder treatment**

Policymakers should reevaluate program funding, Medicaid reimbursement, professional licensure, and regulation for the provision of community-based mental health and substance use treatment services. We must ensure that Montana's system supports the development of

innovative and effective services throughout our state so people in every community can get treatment while keeping their homes, their relationships, and their employment intact.

#### **Investment in non-punitive, non-law enforcement interventions**

Across the country, communities are investing in various crisis response measures to help people in a mental health or substance use crisis. One example are mobile crisis teams of trained mental health and treatment professionals who seek out people in crisis and help them to get the services they need. Some models, like CAHOOTS in Oregon, has resulted in a nearly 20% reduction in law enforcement responses to people experiencing mental health issues, substance abuse, homelessness, and suicidality. These teams can be effective in any setting, both urban and rural, and are especially helpful in places where other mental health services are limited. These teams work with law enforcement to develop effective, non-confrontational interventions.

### **Rethinking Pre-trial Detention**

Reforming our money bail system is a timely and essential policy issue. Reliance and overuse/misuse of money bail as a requirement for pre-trial release runs contrary to well-established principles of our justice system – that those charged with a crime are presumed innocent and that the state should need to prove something substantive in order to restrict someone's liberty. Current uses of money bail discriminate based on wealth, intensify racial disparities, result in over-incarceration, and cost individuals and governments significant tax



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dollars without producing positive outcomes. In fact, they produce worse: those that pose little to no public safety risk or flight risk stay behind bars if they cannot afford bail, while those that are a high risk of flight or danger to their communities can buy their way out.

### *Policy Reform Options*

#### **Decrease use of money bail**

To improve public safety, Montana needs a pre-trial system based on risk rather than ability to pay which allows for low-risk individuals to stay in their communities while higher-risk individuals can be closely monitored or detained pre-trial. Additionally, dollars saved from reduced pre-trial populations should be used to expand and enhance pre-trial services. This policy allows individuals who are a low risk to public safety to continue to work, participate in their community, care for family, and take part in enhanced pre-trial services. Over 65% of those incarcerated across the country are in custodial care prior to a conviction and shifting resources from custodial care to necessary supervision and pre-trial services is a significant cost-savings to cities, counties, and the state.

#### **State/Locality pays costs associated with pre-trial supervision**

In many jurisdictions, people who have been arrested and charged with a crime and released in between their arrest and their trial are charged for their supervision by local law enforcement. This may include paying the costs of an ankle monitor or drug testing. The financial burden of paying the costs of pre-trial supervision often leads to lower-income individuals remaining in jail or incurring significant debt. It is more equitable and cost-effective for the localities to pay the cost of pre-trial supervision since jail is much more expensive than placing someone on home supervision or electronic monitoring.

### **Data Gathering and Transparency**

To better understand and create lasting solutions to the problems surrounding the criminal justice system, data that is robust, uniform, comparable, and transparent across the state is critical. Currently, Montana does not have a uniform criminal justice data collection system, making review and improvement of current policies incredibly difficult. In order for Montana lawmakers and other stakeholders to make more informed decisions that will ultimately lead to increased public safety, better return on tax dollars, and less racial disparity, it is imperative to collect and report criminal justice data across all facets of the system.

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The Montana legislature should pass a bill that establishes a comprehensive and transparent data collection process. Specifically, the legislation should require annual data collection on key points for each important criminal justice actor, including:

- Policing
- Prosecution
- Sentencing
- Public Defenders (including publicly funded contract defense attorneys)
- County Detention Facilities (Jails)
- Department of Correction Facilities (including contracted facilities)
- Department of Probation and Parole

The data should then be funneled up to the appropriate statewide department to publish publicly on an electronic format. This would ensure transparency not only for those in government, but for the public at large. These key pieces of data offer an invaluable comparative analysis allowing corrective measures to be taken using an evidence-based approach to criminal justice reform while



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guaranteeing a sufficient level of privacy for the citizens involved in the justice system.

## Moving Montanans off supervision and back into work

The majority of those currently in Montana's justice system are there due to violations of their probation or parole terms.<sup>1</sup> Successful re-entry into society post-conviction is difficult, but even more so when employment is scarce. And even for those who have demonstrated good behavior and remained crime free, past criminal convictions carry with them a stigma and collateral consequences that act as a major barrier to employment.

The sooner formerly incarcerated individuals are employed, the less likely they are to commit future crimes.<sup>2</sup> We need to reduce the collateral consequences of conviction which act as barriers to employment and help move those who've earned it back into Montana's workforce.

## *Policy Reform Options*

The Montana Legislature should pass **Clean Slate Legislation**<sup>3</sup>, creating an automatic process to seal or expunge criminal records for people who remain crime free for a set period of time. This would reduce the state's administrative workload, save taxpayers money, and make those who have earned it more likely to be employed.

Enact **Certificates of Rehabilitation**<sup>4</sup>, attesting to a formerly incarcerated individual's rehabilitation and exempting them from mandatory consequences for professional licensing. This would provide peace-of-mind for rehabilitated job seekers with criminal records that their record will not be held against them, and reassurance for the employers that may hire them.

Incentivize good behavior with **Earned Compliance Credits**, creating an automatic reduction in probation or parole terms for those who show continued compliance with the conditions of their sentences. This would speed up the process for individuals with good behavior to move off of supervision, making them more likely to find steady employment.<sup>5</sup>

1

<https://cor.mt.gov/Portals/104/Resources/Reports/2019BiennialReport.pdf>

2

<https://www.realclearpolitics.com/articles/2015/06/11/immediate-access-to-employment-reduces-recidivism-126939.html>

3

<https://www.americanprogress.org/issues/poverty/reports/2018/11/15/460907/clean-slate-toolkit/>

4 <https://ylpr.yale.edu/inter-alia/effectiveness-certificates-relief-collateral-consequence-relief-mechanisms-experimental>

5

<https://www.pewtrusts.org/~media/assets/2016/08/missouri-policy-shortens-probation-and-parole-terms-protects-public-safety.pdf>