



PO BOX 201706
Helena, Montana 59620-1706
(406) 444-3064
FAX (406) 444-3036

Legislative Council

64th Montana Legislature

SENATE MEMBERS

DEBBY BARRETT
EDWARD BUTTREY
ROBYN DRISCOLL
TOM FACEY
JON SESSO
JANNA TAYLOR

HOUSE MEMBERS

BRYCE BENNETT
JEFF ESSMANN
STEPHANIE HESS
CHUCK HUNTER
AUSTIN KNUDSEN
MARGARET (MARGIE) MACDONALD

COMMITTEE STAFF

SUSAN FOX, Executive Director
TODD EVERTS, Legal Division Director
FONG HOM, Secretary

June 30, 2015

Juliene James
Senior Policy Advisor
Bureau of Justice Assistance
810 Seventh Street NW
Washington, DC 20531

Adam Gelb
Project Director
Pew Center on the States
901 E Street NW, 10th Floor
Washington, DC 20004-1409

Dear Ms. James and Mr. Gelb:

Montana political leaders and criminal justice system stakeholders have long been willing to explore the system's performance and to suggest changes to laws and policies to make the system operate efficiently, fairly, and with public safety as a primary concern. Our previous work in this area demonstrates Montana's ongoing commitment to understanding the current pressures on the criminal justice system and to using evidence-based, data-driven models to create solutions that fit Montana.

For example, the Governor and the Department of Corrections worked in 2014 with the National Governors Association Center for Best Practices (NGA) and The Pew Charitable Trusts to generate and review data related to the state's increasing prison population and to suggest policy options to improve public safety, hold offenders accountable, and address rising corrections costs. Also, a dedicated task force works with the Department of Corrections to study recidivism and safe, effective ways to ease offenders' transitions from secure facilities back to communities. In 2013-2014, a legislative committee studied the structure, role, and impact of the Board of Pardons and Parole on the corrections system and suggested changes that were approved by the 2015 Legislature. The Montana Department of Justice is a leader in engaging communities on best practices and training for investigating and prosecuting sexual assaults, as well as in the realm of reducing trafficking of persons in Montana. For its part, the Judicial Branch maintains

and uses data to track and address workload issues that affect Montana's judges as well as citizens' access to justice through the court system. The Judicial Branch has also established numerous treatment courts for chemically dependent offenders around the state and looks to secure a vision for how those courts fit in the larger criminal justice system.

Our willingness to innovate is reflected in the unique sentencing option in Montana that allows judges to "commit" an offender to the Department of Corrections, at which time the corrections professionals at the Department make a placement decision for the offender. It shows in our investment in Montana's extensive system of community corrections programs and treatment facilities that make this sentencing option workable.

Despite these efforts, Montana has not undertaken a broad analysis of the criminal justice system since a sentencing commission concluded its work in 1997. Understanding that this analysis is needed, the State of Montana requests formal justice reinvestment technical assistance from the Bureau of Justice Assistance, the Pew Center on the States, and the Council of State Governments Justice Center (CSG) to ensure Montana has the best opportunity to achieve the goals of increasing public safety while lowering corrections costs and reinvesting the savings in proven measures that help reduce crime.

The timing of this request could not be better as we recently initiated a systemwide review process. Senate Bill No. 224, approved by the Montana Legislature and signed by the Governor, creates a Commission on Sentencing. The bill requires the Commission to conduct an empirical study of the impact that existing sentencing policies and practices have on Montana's criminal justice system, including impacts to state prisons, local jails and detention facilities, the court system, the public defender system, and law enforcement agencies. In addition, the Commission on Sentencing is charged with:

- identifying strategies to safely reduce incarceration and to promote evidence-based diversion programs and other effective alternatives to incarceration;
- investigating factors contributing to recidivism, evidence-based recidivism reduction initiatives, and cost-effective crime prevention programs;
- considering disparity issues in the criminal justice system, such as racial and ethnic disparities; and
- identifying opportunities to streamline the criminal code and to balance sentencing practices with budget constraints.

In short, the Commission on Sentencing will undertake work that aligns closely with justice reinvestment goals: increasing public safety while reducing corrections and related criminal justice spending and reinvesting resources in strategies to reduce crime and create stronger communities.

Montana is not unique among states in its challenge to balance public safety, criminal justice, and budgetary concerns. Despite efforts of all branches of state government and our local governments, Montana still experienced growth in its prison population during the past 15 years

and in the amount of the state's general fund budget dedicated to maintaining the corrections system.

The data analysis done in 2014 by The Pew Charitable Trusts and the NGA show that Montana's prison population grew 32 percent between 1998 and 2013. During the same 15-year period, the total offender population — those offenders on probation, in prison, or on parole — increased 48 percent. These increases were not clearly driven by a corresponding increase in crime. Instead, a 15 percent increase in admissions to prisons and a 20 percent increase in the average length of stay in prison contributed to the overall prison population growth. The analysis also noted that admissions to programs that provide alternatives to prison increased 190 percent in the same time period and that revocations from community supervision or placements were the leading cause for the increase in prison intakes. As a result, projections from the Department of Corrections show that Montana could exceed its existing corrections capacity soon, possibly even by November 2015.

Montana's general fund spending on corrections also increased. According to data provided by the Montana Legislative Fiscal Division, general fund appropriations to the Department of Corrections rose from \$75.4 million in fiscal year 1998 to \$177.4 million in fiscal year 2013, a 135 percent increase.

Because of these trends and our desire to combat rising prison populations and corresponding costs while making Montana a safer place to live and do business, we support using the justice reinvestment process to analyze our criminal justice system and to develop evidence-based policies to address our corrections challenges. We also understand the importance of dedicating a portion of any savings identified through this process to investments in criminal justice programs and projects that are proven to reduce recidivism.

The Commission on Sentencing provides the perfect vehicle to work closely with the CSG during the justice reinvestment process. The 15 members of the Commission represent a wide range of stakeholders in the Montana criminal justice system and include legislators, a district court judge, the director of the Department of Corrections and other corrections professionals, law enforcement representatives from state and local agencies, and three public members who represent various other stakeholders, such as crime victims, mental health providers, community businesses, offenders, and indigent people. The members will include at least two members of state-recognized or federally recognized Montana Indian tribes. All of the members will provide engaged, enthusiastic direction and input for the CSG team.

If our request for assistance is granted, we commit to:

- providing CSG and its partners timely access to complete, accurate data about the corrections and criminal justice system;
- supporting the work of the Commission on Sentencing to ensure CSG has an effective working group to provide stakeholder input and bipartisan guidance as the study progresses;

- providing staff support to CSG as it provides technical assistance to the Commission, including qualitative and quantitative research, policy analysis, stakeholder engagement, communications support, targeted training, and project management;
- coordinating in-state meetings, focus groups, and interviews with state leaders and other stakeholders; and
- using the Commission's recommendations as the catalyst for legislative proposals to be considered in the 2017 legislative session and for administrative actions that could further our goals of increased public safety, reduced corrections populations and costs, and increased commitment to and investment in data-driven criminal justice policies.


Because of our biennial legislative sessions, Montana's timeline to initiate and complete justice reinvestment differs from many other states that have sought justice reinvestment assistance. However, we believe that the Commission on Sentencing and CSG can complete the justice reinvestment process in a manner that takes into account Montana's biennial legislative sessions and respects the demands for CSG time and staff assistance. We propose that initial work start in the fall of 2015, with intense engagement in the process starting in early spring of 2016. Our goal is to have legislation ready in November 2016. We will fine-tune this timeline in conjunction with CSG if our application is accepted.

If Montana's request for technical assistance is accepted, the initial news conference to launch the justice reinvestment process to the public and to signal our commitment to this intensive review of Montana's criminal justice system can occur in 2015. Another option is to hold the official launch in early 2016 before the bulk of the work with CSG would occur. Either way, we commit to providing communications support to engage stakeholders in the process and to communicate to the public the importance of the justice reinvestment goals and study process.

Although Montana has made and continues to make strong efforts to ensure we have a criminal justice system that uses evidence-based best practices to create an efficient, predictable corrections system while balancing public safety and budget realities, we know there is always more work to do. We believe justice reinvestment technical assistance will help us greatly in this work.

As state leaders, we are committed to working with the Bureau of Justice Assistance, the Pew Center on the States, and CSG to provide complete and accurate data and research and to ensure that the policy options that result from the effort are data-driven, state-based, and supported by the criminal justice community as a whole. Thank you for this opportunity to demonstrate how Montana meets the criteria to request justice reinvestment assistance and for your consideration of our request.


Sincerely,




Governor Steve Bullock



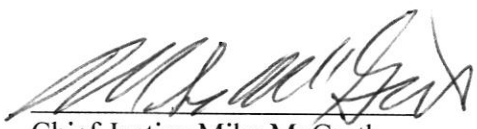
Attorney General Tim Fox



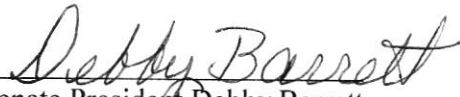
Speaker of the House Austin Knudsen



House Minority Leader and
Legislative Council President Chuck Hunter



Chief Justice Mike McGrath



Senate President Debby Barrett



Senate Minority Leader Jon Sesso



Mike Batista, Director, Department of
Corrections