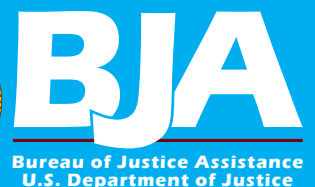




# Justice Reinvestment Initiative State Assessment Report

*Nancy LaVigne (principal investigator),  
Samuel Bieler, Lindsey Cramer,  
Helen Ho, Cybele Kotonias,  
Deborah Mayer, David McClure,  
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# Foreword

Following a recent evolution in criminal justice policy and practice, justice reinvestment provides jurisdictions an opportunity to implement cost-effective and evidence-based strategies to manage the corrections population while enhancing public safety.

The Bureau of Justice Assistance (BJA) funded the Justice Reinvestment Initiative (JRI), in a public-private partnership with the Pew Charitable Trusts, to provide technical assistance and financial support for systemwide criminal justice reform efforts. Under the JRI model, a bipartisan working group comprising key policymakers uses comprehensive data analyses to identify the drivers of the local corrections population and costs and foster support for a set of cost-effective policy options addressing those drivers. In recognition of the hard work of implementation that follows sweeping system changes, the JRI model emphasizes support for implementation and the achievement of long-term justice system realignment. Jurisdictions then reinvest the cost savings into high-performing initiatives that make communities safer.

This JRI State Assessment Report, funded by BJA, describes the progress, challenges, and preliminary outcomes of 17 JRI states from 2010 to summer 2013. While it is too early to assess the full impact of justice reinvestment reforms, states have enacted policies that hold great promise to reduce prison populations or avert future growth, generating savings while enhancing public safety. In addition to population changes, justice reinvestment has encouraged states to shift toward a culture of greater collaboration, data-driven decision-making, and increased use of evidence-based practices.

This report demonstrates that justice reinvestment is a smart approach to enacting criminal justice reform that not only effectively manages corrections populations, but also enhances public safety. It is my hope that this report inspires further change efforts surrounding criminal justice policy in the states.



Denise E. O'Donnell  
Director, Bureau of Justice Assistance

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# Executive Summary

States across the country are increasingly seeking cost-effective and evidence-based strategies to enhance public safety and manage their corrections and supervision populations. One such effort emerged in the mid-2000s, when several states experimented with a criminal justice reform effort built on a foundation of bipartisan collaboration and data-driven policy development. This model—justice reinvestment—yielded promising results, supporting cost-effective, evidence-based policies projected to generate meaningful savings for states while maintaining a focus on public safety. In response to these early successes, Congress appropriated funds to the Bureau of Justice Assistance (BJA) to launch the Justice Reinvestment Initiative (JRI) in 2010 in partnership with the Pew Charitable Trusts (Pew). The initiative formalized the process and provided both financial support and in-kind technical assistance for states to engage in this work. This report describes the JRI model and the experiences and interim outcomes in 17 participating JRI states: Arkansas, Delaware, Georgia, Hawaii, Kansas, Kentucky, Louisiana, Missouri, New Hampshire, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, and West Virginia.

## The JRI Model

States participating in JRI first secure support for the initiative from key policymakers in all branches of government and request technical assistance through a formal request to BJA. Once a state is selected to receive assistance, it establishes a bipartisan, interbranch working group of elected and appointed state and local officials to work with criminal justice analysts and policy experts.

States develop data-informed policy solutions that target justice system population and cost drivers identified through compre-

hensive data analysis. Through legislative changes and other policy modifications, these solutions are incorporated into the state's criminal justice operations, both to protect public safety and to contain corrections costs. States also engage a wide array of stakeholders such as judges, prosecutors, defense attorneys, victims' advocates, corrections staff, law enforcement agencies, and service providers to build support for and consensus on JRI policy solutions.

Following the passage of JRI legislation, states may allocate upfront investment to support implementation of evidence-based



efforts or reinvest a portion of the resulting savings after reforms are enacted. Training and technical assistance are provided to help states implement JRI policy solutions and develop methods to track the impact of these strategies.

### **Population and Cost Drivers**

Each state's criminal justice system is unique, requiring the justice reinvestment process to identify the specific factors behind prison growth and corrections spending in the state. However, the following common drivers have been found across a number of JRI states.

**Parole and probation revocations.** Probationers and parolees were returning to jail and prison for failing to comply with the terms of community supervision, either by committing new crimes or by violating the terms of their release. Justice system analysis in 17 JRI states found that the revocation of supervision was a key population and cost driver. In some JRI states, a substantial portion of revocations—sometimes more than half—was for technical violations rather than new crimes.

**Sentencing policies and practices.** Analyses of sentencing types, sentence lengths, and offender characteristics revealed that sentencing policies and practices played a significant role in prison growth in 14 JRI states. Many states had high or increasing incarceration rates in lieu of probation and state-specific diversion programs. Increased lengths of stay—a function of longer sentences and a greater percentage of sentences being served in confinement—also contributed to prison population growth over time.

**Insufficient and inefficient community supervision and support.** Eleven JRI states found that they had insufficient community supervision and services for released offenders. Some states also lacked assessment tools to target supervision and reentry support to those who need it most.

#### **Parole system processing delays and denials.**

In eight JRI states, the operation of the parole and probation system was found to be a significant cost and population driver. Parole boards in some states had reduced their discretionary parole grant rates over time. Some states identified long delays in the release of inmates after their parole eligibility dates owing to release procedures. System-wide inefficiencies slowed parole processing and delayed the transfer of eligible candidates to less costly parole supervision.

### **Policy Responses**

JRI states used various strategies to address their cost and population drivers; many of the strategies exemplified the themes of evidence-based practices (EBPs) and data-driven decisionmaking. The following are some of the most common JRI legislative provisions and policy reforms.

**Risk and needs assessments,** implemented in 16 JRI states, help predict a person's risk to reoffend through the identification of criminal risk factors. These assessments inform decisions about detention, incarceration, and release conditions as well as the allocation of supervision and treatment resources.

**Accountability measures,** such as mandatory reporting and certification, were adopted by 15 JRI states. These include ensuring the use of EBPs, requiring that departures from sentencing guidelines be justified, and developing new data reporting requirements to facilitate the evaluation of justice system operations.

**Earned credits** include both good time and earned time credits. These credits provide sentence reductions for inmates who maintain good behavior or participate in prison programs. Earned credits were adopted by 15 JRI states.

**Intermediate and graduated sanctions** establish swift and certain responses, such as short jail stays, for parole and probation technical violators. These sanctions are alternatives to reincarceration. The HOPE (Hawaii Opportunity Probation with Enforcement) model for probationers, which couples swift and certain punishment with drug testing, is being piloted in three JRI states. Some states have developed response matrices that include both punitive and incentive-based responses designed to promote offender accountability and positive behavior change. Fifteen JRI states adopted intermediate and graduated sanctions.

**Community-based treatment** programs were developed or expanded in 11 JRI states. States expanded the availability of programming and services by increasing funding for key services such as substance abuse treatment, and many encourage the use of these programs by requiring that reentry plans be developed for exiting prisoners.

**Sentencing changes and departure mechanisms** reorient and reclassify/redefine offenses, revise mandatory minimums, provide safety valves and departure mechanisms, and expand nonincarceration options. A variety of these changes were adopted among the 11 states that made sentencing changes.

**Mandatory supervision requirements** ensure that certain exiting prisoners receive post-release supervision. States may use risk assessments to target serious offenders or those at high risk of reoffending for supervision. This type of policy change was adopted by seven states.

**Problem-solving courts** use an evidence-based approach to provide treatment for offenders with specific needs. To better address the needs of these populations, states either expanded existing problem-solving courts or created new ones. Often, problem-solving courts in JRI states focus on those with substance abuse and mental health disorders. Six JRI states created or expanded problem-solving courts.

**Streamlined parole processes and expanded parole eligibility** facilitate the release of eligible offenders to parole supervision, shortening lengths of stay while ensuring that appropriate supervision conditions are met to protect public safety. Six states streamlined the parole processes, and five expanded eligibility for parole.

## Projected and Preliminary Outcomes

JRI states expect that the policies and practices they implement will have positive effects on their justice system populations, costs, and cultures. Policies enacted by JRI states are predicted to either reduce the overall prison population or slow its growth. States projecting a reduction in total incarcerated population expect the decrease to range from 0.6 to 19 percent. States that do not project a decrease in population expect to slow incarcerated population growth by 5 to 21 percentage points.

In 8 of the 17 JRI states, JRI policies have been in effect for at least one year, allowing for a preliminary examination of impacts. Since enacting JRI, all eight states—Arkansas, Hawaii, Louisiana, Kentucky, New Hampshire, North Carolina, Ohio, and South Carolina—have experienced reductions in their prison populations since the start of JRI.

Projected savings vary across states and time periods, ranging from \$7.7 million (over 5 years) to \$875 million (over 11 years). Total projected savings amount to as much as \$4.6 billion. These savings take two forms: averted operating costs as a result of incarcerating a smaller population and averted construction costs as a result of not having to build new facilities to incarcerate larger justice system populations.

In addition to providing states with population and cost reductions, JRI supports the integration of EBPs into state justice system operations, which is a key component of BJA's 2013–16 strategic plan. The EBPs include risk and needs assessments; problem-solving courts; immediate, swift, and certain responses for community supervision violations; and the monitoring of justice system operations for effectiveness through oversight councils, mandated use of EBPs, and performance measurement.

JRI also promotes enhanced accountability, systemwide collaboration, and an increased interest in justice system reform. The creation or expansion of data collection and reporting requirements, with oversight committees to monitor this information and make decisions based on it, will enhance justice system accountability. Frequently engaging stakeholders during the JRI process encourages cross-system collaboration and supports the development of new agency relationships. These relationships generate interest in learning about and supporting new and expanded criminal justice reforms.

## Reinvestment

The JRI process has enabled states to identify and realize savings through reduced corrections and justice system spending. These savings result from a number of reforms, including reducing prison operating costs, averting spending on new prison construction, and streamlining justice system operations. JRI states reinvest some portion of savings into evidence-based and high-performing criminal justice programs; states have planned to reinvest more than \$398 million in public safety initiatives. To date, reinvestment has taken two forms: reinvestment of tangible savings and upfront investment.

**Reinvestment of tangible savings** occurs when states track avoided justice spending and reinvest those savings. The reinvestment of actual savings requires a waiting period for savings to be realized before investment in other programs can occur.

**Upfront investment** in public safety occurs when states fund programs on the basis of projected future savings. This strategy addresses the time lag between policy enactment and realization of savings. Some states, after recognizing the need to construct a new prison without any change in policies, decided to invest in alternatives to incarceration instead, eliminating the need to construct a facility and saving money that can be allocated toward more evidence-based public safety measures.

Thus far, a total of \$165.8 million has been reinvested: \$142.1 million in upfront investment and \$23.7 million in reinvestment of tangible savings. JRI is still in the early stages; states anticipate greater reinvestment once reforms have had time to accrue savings.

## Challenges and Strategies

Although JRI states have enjoyed both measurable successes and positive cultural and organizational changes as a result of their reform efforts, they have also encountered a number of challenges in the process. Developing and sustaining consensus on JRI reforms was complicated in the face of policymaker turnover, high-profile incidents, and lack of public education.

Creating justice system reform and supporting cultural change in organizations takes time and energy, as well as constant efforts to educate and engage stakeholders. This process can be further challenged by funding constraints or a lack of immediate results.

## Conclusion

The Justice Reinvestment Initiative has successfully promoted interest in justice system reform and the use of

## *JRI State Assessment Report*

EBPs across the 17 JRI states. These preliminary results indicate that enacted reforms have the potential to reduce or limit the growth of justice system populations and, thus, produce savings. If all the savings and reinvestments projected for JRI states materialize, they will represent a massive return on the federal and private resources invested in the initiative, which total more than \$17 million to date. However, further assessment will be necessary to determine the full extent of JRI's impact on state justice systems, as well as how well the impact aligns with projected population reductions and cost savings.

# Introduction

In recent decades, the criminal justice community has experienced an evolution in philosophy surrounding criminal justice policies and decisionmaking. Emphasizing the use of research and evidence to guide policy and practice, this evolution has offered innovative ways to maximize the efficient use of limited justice system assets, from identifying hot spots of crime to allocate police resources to employing risk and needs assessments to guide the efficient use of limited treatment and supervision resources. In tandem, states are pursuing greater justice system accountability with new determination, making increased efforts to assess the impact and cost-effectiveness of criminal justice policies and practices.

Much of this shift in focus coincided with the information technology boom of the late 1990s. Advances in information technology made the computer hardware and software to support data analysis more affordable and user-friendly, providing an infrastructure for data-driven decision-making across a host of public agencies.

At the same time—following a long period in which it was broadly accepted in criminal justice circles that “nothing works” in rehabilitating offenders and supporting their successful transition to the community<sup>1</sup>—an increasing body of evidence was developing to refute this conventional wisdom. This research has also become more broadly accessible with the advent of the Internet, which provides ready access to best-practice research databases.<sup>2</sup>

The psychology of criminal conduct, and its applications to supporting successful reentry into the community from prison, also underwent a dramatic transformation during this period. Researchers introduced new models for changing offender behavior

based on the use of validated risk and needs assessments and a focus on matching the delivery of treatment and services to an offender’s specific risks, needs, personality, and motivational level—a concept termed “responsivity.”<sup>3</sup> These advances offered new strategies and avenues for reducing recidivism and encouraging successful reentry.

The advent of new methods for supporting prisoner reentry coincided with increased political support for the concept. With then-President George W. Bush arguing that convicted felons deserved a second chance,<sup>4</sup> notable scholars observing that “[prisoners] all come back,”<sup>5</sup> and a multimillion-dollar federal grant initiative to promote reentry appropriated by Congress through the Second Chance Act,<sup>6</sup> prisoner reentry programs proliferated. This new generation of programs put risk and needs assessments, and the evidence-based practices (EBPs) to address those needs, at the core of reentry program development and delivery.

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These evidence-based initiatives came at a time when US prison populations were continuing to grow and place increasingly untenable strains on state budgets. Since the 1970s, state and federal corrections populations had surged by 700 percent, accompanied by dramatic increases in corrections costs. From 1972 to 2011, the state prison population rose by 700 percent; by 2012, states were spending more than \$51 billion a year on corrections.<sup>7</sup> States, already facing increasingly strained budgets, were frustrated with stubbornly high recidivism rates, the attendant public safety concerns, and the costs associated with both. Moreover, money spent on corrections draws resources away from investment in public services crucial to a state's long-term prosperity, such as education and infrastructure. The climate was ripe for a new strategy that could enhance public safety and manage corrections populations cost-effectively.

Justice reinvestment was developed in response to this need, building on the criminal justice field's growing adoption of data-driven decisionmaking and EBPs. In the first formulation of justice reinvestment, laid out in the 2003 article by Susan B. Tucker and Eric Cadora from the Open Society Institute's After Prison Initiative, enhanced use of EBPs would create savings by reducing incarcerations; these savings would be reinvested into neighborhoods that generated significant criminal justice costs, resulting in further reductions in incarcerations and additional savings to be reinvested.<sup>8</sup> This idea set out the core principles on which the current justice reinvestment model is based: an emphasis on data analysis to drive justice system decisionmaking and the use of cutting-edge research to promote efficiency and generate cost savings that can support the adoption and expansion of additional EBPs and reduce the strain on state budgets.

Initial efforts to implement and test the justice reinvestment concept, with some modifications, began in Connecticut in 2004, with Kansas and Texas following suit in 2007. Prominent successes in states such as Texas—which averted \$684 million in new prison construction and operating costs in 2007 and reinvested \$241 million of those savings into in-prison and community-based treatment and diversion programs<sup>9</sup>—spurred the adoption of justice reinvestment in several other jurisdictions.<sup>10</sup> Both the Bureau of Justice Assistance (BJA) and the Pew Charitable Trusts (Pew) supported these initial efforts. Early justice reinvestment initiatives, often facilitated by the Council of State Governments Justice Center (CSG Justice Center), garnered tremendous attention as a novel model for criminal justice reform. The model's success was highlighted in a series of congressional hearings in 2009, followed by a national summit in January 2010, spearheaded by Representatives Alan B. Mollohan and Frank Wolf, chair and ranking member, respectively, of the US House Appropriations Subcommittee on Commerce, Justice, and Science.<sup>11</sup>

In 2010, noting the promise of these early justice reinvestment experiences, Congress appropriated funding to BJA

### **REPORT METHODOLOGY**

The Urban Institute collected information for this report using two methods: (1) a document review of information from JRI states, and (2) semistructured interviews with stakeholders and TA providers in JRI states. The document review drew information from policy briefs and memos from TA providers, media reports from JRI states, JRI legislation, and reports from state agencies on the development, implementation, and impact of JRI policies. Additionally, the Institute conducted more than 100 interviews with stakeholders involved with JRI, including working group members and other key criminal justice leaders and advocates in each state. These interviews covered the stakeholder's role in JRI, the state's experience with the initiative, and successes and challenges encountered throughout the process. The Institute interviewed a broad cross-section of people, including state legislators and legislative staffers; judges; institutional and community corrections officials; prosecutors and district attorneys; leaders of professional organizations such as sheriffs', prosecutors', and victims' advocate associations; parole board members; and Governors' Office representatives. Many of these individuals were members of the state JRI working group. The Institute also interviewed TA providers about their experiences with JRI states.

for the Justice Reinvestment Initiative (JRI)<sup>12</sup> as part of the 2010 Omnibus Consolidated Appropriations Act. JRI was launched as a public-private partnership between BJA and Pew to formalize efforts to fund, coordinate, assess, and disseminate state and local justice reinvestment efforts across the United States. Under the JRI model, state and local policymakers—with the support of a technical assistance (TA) provider (either the CSG Justice Center, Pew, or the Vera Institute of Justice [Vera] for state JRI efforts)—conduct a comprehensive analysis of the jurisdiction's criminal justice data, identify drivers of corrections populations and costs, and adopt policy changes designed to ensure public safety and support offender accountability. Bipartisan, interbranch justice reinvestment working groups are convened by each state to drive this process.

Through JRI, BJA also provides funding to support the implementation of policy changes, the documentation of outcomes and savings, and the sustainability of justice reinvestment over time. The current JRI model offers states a strategy to revise sentencing and corrections policies, reduce corrections costs, and increase public safety. It is a data-driven approach that ensures that policymaking is based on a comprehensive analysis of criminal justice data and the latest research about what works to reduce crime. Although it is a national initiative, JRI efforts are tailored to the public safety needs of each state.

This assessment report presents the activities and outcomes of the 17 JRI states that enacted legislation between January 1, 2010, and July 31, 2013 (figure 1).<sup>13</sup> JRI also includes a local component in 17 cities or counties with a different set of technical assistance providers; these experiences will be documented in a subsequent publication.

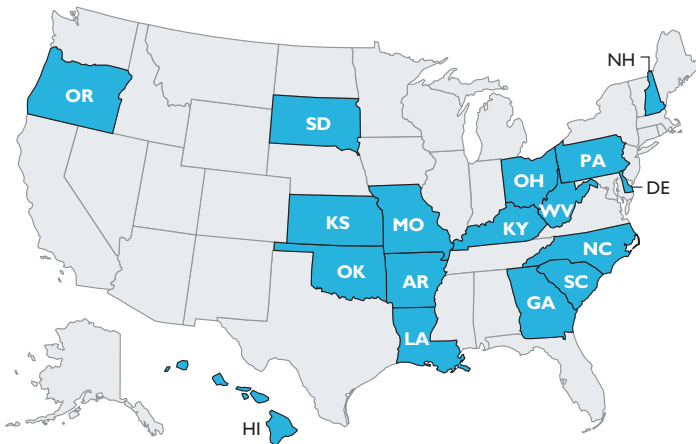
The report begins with a description of the reasons states sought assistance through JRI. It then turns to a discussion of the justice reinvestment process, with a focus on the process of convening bipartisan, interbranch working groups; identifying state champions to spur reform efforts; engaging critical stakeholders; and educating the public to build support and enthusiasm for reform. The report documents states' efforts to identify criminal justice cost and population drivers and attendant inefficiencies, along with the policy responses they developed to address these drivers.

The report then presents the outcomes of implemented justice reinvestment policies—the projected and preliminary population and cost impacts of states' reforms as well as the cultural and organizational changes that resulted from JRI. Finally, the report describes states' implementation of EBPs, reinvestment activities, and the challenges states encountered during JRI. Individual state experiences are detailed in appendix A.

## Impetus for Joining JRI

While several factors contributed to states' interest in engaging in justice reinvestment, the key reason was a growing dissatisfaction with current returns on public safety investment. With each passing year, states were channeling additional general-fund expenditures into their ever-expanding corrections systems. At the same time, a growing number of offenders were being incarcerated, and they were recidivating at the same or higher levels than in the past. Results such as these made it clear to policymakers that the status quo was not sustainable—that investments in current justice system programs and practices were not producing the desired returns. JRI offered a viable solution to this problem. Its multifaceted approach to criminal

**FIGURE I**  
Justice Reinvestment Initiative States



justice reform—which requires collaboration, data analysis, and data-driven policy development—offered states an opportunity to enact evidence-based reforms designed to be both sustainable and cost-effective in the long term.

Much of the initial interest in JRI was generated by the successes of early adopters such as Texas, Connecticut, and Kansas,<sup>14</sup> which were well publicized and prompted governors, chief justices, attorneys general, and legislative leaders from prospective JRI states to follow suit. Many of these decisionmakers sought information from early justice reinvestment states about how they engaged in the process and the types of programs and reforms they implemented.

This section discusses the impetus for state engagement in JRI. Although different states joined for different reasons, all were motivated by a desire to manage their growing corrections systems and reduce their recidivism rates. Witnessing the successes of early justice reinvestment adopters, states were drawn to the opportunity to convene justice system leaders to devise data-driven criminal justice reforms designed to increase efficiencies and generate cost savings that could be reinvested in more effective public safety measures.

## Increasing Corrections Populations

In detailing the reasons states elected to become JRI sites, the context of historical growth of prison populations and accompanying costs cannot be overlooked. While the national prison population has recently begun to decline,<sup>15</sup> the United States has been grappling with growing prison populations and increasing costs for the past 30 years. JRI states in particular experienced significant growth in their prison populations from 2000 through 2011. During this period, the national prison population grew by 14.7 percent, while JRI states on average experienced a growth of 24.7 percent in their prison populations. This growth was more pronounced in certain JRI states. West Virginia, for example, has a relatively small prison population but nevertheless experienced a 77 percent increase from 2000 to 2011.<sup>16</sup>

## Rising Corrections Costs

Perhaps not surprisingly, state corrections costs were rising in lockstep with prison population growth. States were concerned that they were spending millions—and even billions—of dollars each year on ever-expanding corrections systems with little or no demonstrable improvements in offender outcomes. Table 1 shows that states spent between 4 and 12 percent of their total expenditures on corrections in the years they started JRI. These percentages translate to sums ranging from \$80 million in South Dakota to \$2.1 billion in Pennsylvania.

States faced rapid growth in corrections spending year after year. Georgia spent \$492 million on its corrections

system in 1990 and over \$1 billion in FY 2012.<sup>17</sup> Likewise, in Arkansas, corrections spending accounted for roughly 3 percent of general-fund expenditures two decades ago but 8 percent (\$353 million) of general-fund spending in FY 2011.<sup>18</sup> The experiences of Georgia and Arkansas mirror those in the other JRI states.

## Growing State Budget Crises and Shortfalls

Most states faced extensive budget crises and shortfalls in the year before engaging in JRI. As figure 2 illustrates, JRI states experienced budget shortfalls as large as \$5 billion in the year that they started JRI. Arkansas, with the smallest budget shortfall among JRI states, was \$107 million in deficit the year it began JRI.

Table 2 reveals the extent of the fiscal crises across JRI states by illustrating budget shortfalls as a percentage of the states’ total budgets.

In Louisiana, North Carolina, Georgia, and Oregon, budget shortfalls made up approximately a quarter of the states’ overall budgets. Spending on corrections contributed to deficits in these and other JRI states.

## Enhancing Public Safety

The potential threat to public safety—in the form of stagnant recidivism rates and, in some cases, concerns about increasing crime—was another key reason for JRI involvement. These concerns were coupled with a keen interest in identifying and adopting research-based strategies for improving public safety.

### Recidivism Rates

State recidivism rates were high in the years leading up to the states’ early adoption of justice reinvestment and remained high until the launch of JRI in 2010. A survey conducted by Pew and the Association of State Correctional Administrators in 2011 tracked cohorts of released offenders in 1999 and 2004 for three-year follow-up periods, defining recidivism as a new crime or a technical violation of supervision.<sup>19</sup> Despite the huge increase in corrections spending over a decade, more than 4 out of 10 adult American offenders returned to prison within three years of their release.<sup>20</sup> Examining JRI states, the survey found that three-year recidivism rates increased from the 1999 cohort to the 2004 cohort in 6 of the 12 JRI states included in the survey.

### Crime Trends

A smaller share of JRI states also cited concerns about rising crime rates, which were often unique to cities or certain counties rather than statewide trends. For example, because of variable crime rates across regions in the

**TABLE 1**

## General-Fund Corrections Spending in the Year JRI Started

State	Year Started JRI	Share of Expenditures (%)	Corrections Spending
AR	2009	8	\$353,000,000
DE	2011	8	\$245,000,000
GA	2011	8	\$1,278,000,000
HI	2011	4	\$207,000,000
KS	2012	5	\$332,000,000
KY	2010	5	\$441,000,000
LA	2010	9	\$761,000,000
MO	2011	8	\$571,000,000
NH	2009	6	\$87,000,000
NC	2010	7	\$1,264,000,000
OH	2010	7	\$1,879,000,000
OK	2011	6	\$378,000,000
OR	2012	12	\$817,000,000
PA	2012	8	\$2,098,000,000
SC	2009	8	\$471,000,000
SD	2012	7	\$80,000,000
WV	2012	5	\$214,000,000

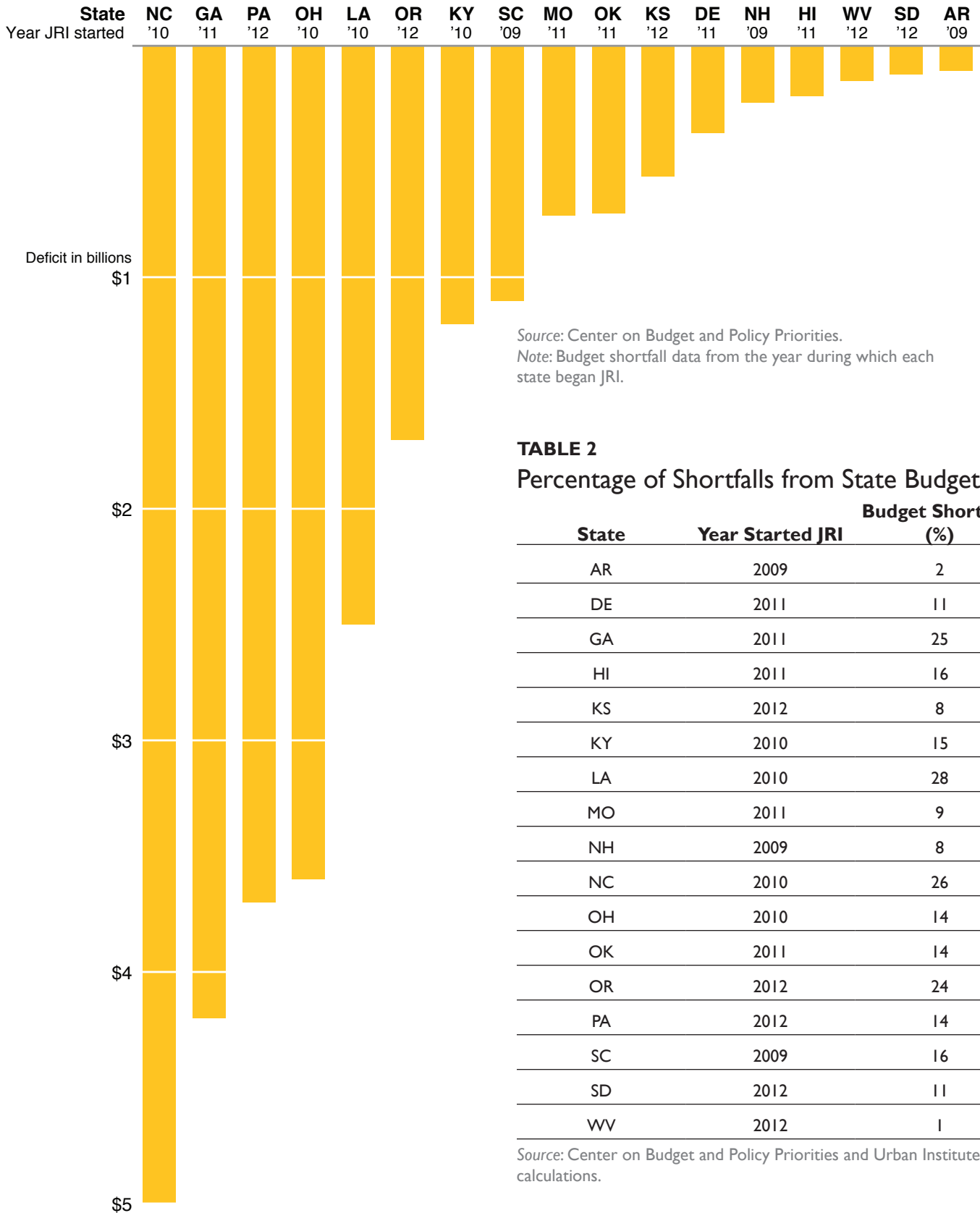
Source: National Association of State Budget Officers State Expenditure Reports. For states that started JRI in 2012, figures are FY 2012 estimates.

Notes: “Share of expenditures” represents corrections general-fund expenditures as a percentage of total general-fund expenditures. “Corrections spending” represents spending from the state’s general fund.

### CONVENING IN ANNAPOLIS

Many state leaders became more interested in the prospects of becoming a JRI state after participating in a forum on sentencing and corrections policies convened in Annapolis, Maryland, in 2010. The forum was hosted by Pew, the National Governors Association, the National Council of State Legislators, and the National Center for State Courts. Its purpose was to convene justice policy experts and government officials to discuss evidence-based sentencing, recidivism reduction, and cost-effective decisionmaking. For instance, a number of justice system leaders from Oklahoma (which was not a JRI state at the time) attended the conference, where they learned about the principles and mechanics of JRI and heard about other states’ experiences.

**FIGURE 2**  
State Budget Shortfalls



**TABLE 2**  
Percentage of Shortfalls from State Budgets

State	Year Started JRI	Budget Shortfalls (%)
AR	2009	2
DE	2011	11
GA	2011	25
HI	2011	16
KS	2012	8
KY	2010	15
LA	2010	28
MO	2011	9
NH	2009	8
NC	2010	26
OH	2010	14
OK	2011	14
OR	2012	24
PA	2012	14
SC	2009	16
SD	2012	11
WV	2012	1

Source: Center on Budget and Policy Priorities and Urban Institute calculations.



state, policymakers in Kansas were interested in conducting a mapping analysis of high-crime areas to identify underlying causes of crime.<sup>21</sup> As part of their efforts to enhance public safety through JRI, policymakers in JRI states sought to identify and implement EBPs and generate cost savings that could be invested in additional crime-control efforts.

### Expanding Previous Reform Efforts

Some states had enacted and implemented reforms aimed at reducing corrections populations and spending before joining JRI and wanted to build upon previous successes. JRI offered states an opportunity to improve upon past experiences and expand previous successes to make substantial and lasting changes to corrections policies and practices. While some of these previous efforts were successful and were held up as examples of the promise of JRI, others did not yield the intended impacts. Reasons for the limited or short-lived results of these efforts include insufficient support from criminal justice stakeholders; inadequate funding for treatment alternatives to incarceration and for EBPs; and the absence of data-driven decisionmaking.

Other states saw JRI as an opportunity to improve upon previous reforms that had not been fully funded. For instance, in the years before Pennsylvania became a JRI site, the state enacted two separate pieces of legislation designed to reduce the corrections population. One legislative provision required the Pennsylvania Commission on Sentencing to develop a risk assessment tool for judges to use at sentencing. The development of this tool was not, however, fully funded. Through JRI, Pennsylvania criminal justice leaders hoped to identify the necessary funding for this and other evidence-based tools for controlling corrections population growth and ensuring that scarce and expensive prison space was used for those who posed the greatest risk to public safety.

### Enhancing Data-Driven Decisionmaking

State leaders were also drawn to JRI because it offered the opportunity to work with a neutral, third-party technical assistance provider to conduct a comprehensive review of criminal justice system drivers and devise data-driven policy options. Through JRI, states sought answers to long-standing questions, such as which types of offenders are contributing to the growth of the system and why—questions for which only anecdotal evidence was available in many states. Often, it was not for lack of interest that such issues had not been thoroughly investigated but rather a lack of resources or capability in the state to conduct detailed data analyses. Like many JRI states, Hawaii had a number of data systems housed in different agencies that

#### JRI: A PUBLIC-PRIVATE PARTNERSHIP

JRI is supported by a public-private partnership between BJA and Pew. These two partners, along with JRI TA providers, bring to the initiative extensive experience and leadership in justice system reform. Together, BJA and Pew allocate resources toward the development and passage of JRI legislation. BJA's resources support data analysis and implementation of reform efforts while Pew is able to use its resources to engage state and local government officials and the media in select JRI sites to help build bipartisan consensus around JRI policies. The education and advocacy efforts made possible by this partnership have helped engage stakeholders and facilitate the adoption of JRI policies.

had not been joined together for cross-cutting analysis. Hawaii did not have the capacity to build a fully integrated system with data-sharing capabilities, but JRI enabled the state to combine the disparate data sources to track and help improve offender outcomes.

### Codifying Criminal Justice Reform

Because JRI requires demonstrated bipartisan support at the outset, states viewed it as a productive venue for devising broad-based criminal justice reform legislation. This was a particularly compelling opportunity for a number of states that had previously been unsuccessful in passing criminal justice reform legislation. Before the advent of JRI in West Virginia, a bill was introduced in 2011 to enhance prison-based substance abuse treatment programs, implement swift responses to criminal reoffending, reform sentencing practices, and increase community supervision programs; however, the bill did not garner sufficient support in the legislature to pass.

Other states hoped to build upon and expand previous reform work. For years, Ohio has had an extensive array of community corrections programs and routine collaboration between institutional and community corrections. The Community Corrections Act of 1981 codified ongoing financial support for these efforts, providing \$21 million in FY 2010 in grant funding for prison diversion programs, including intensive supervision for those on probation.<sup>22</sup> Through the JRI process, Ohio stakeholders sought to review and refine the community corrections system by determining which offenders were best suited for community-based treatment.

### The Justice Reinvestment Initiative

To help states engage in justice reinvestment, BJA formalized JRI in 2010. JRI is a program to support states, cities, and counties in reducing corrections costs and reinvesting funds into high-performing public safety strategies. The

guiding principle of JRI is data-driven, consensus-based, bipartisan, and interbranch decisionmaking. Under JRI, jurisdictions receive technical assistance to implement the justice reinvestment model and, potentially, a subaward to implement justice reinvestment policy changes.

While states have many compelling incentives for joining JRI, it is critical that their readiness to engage in the process is thoroughly assessed. The assessment process begins when a state expresses interest in participating in JRI, at which point one of the TA providers conducts a preliminary assessment before recommending that the state be selected as a JRI site. The TA provider holds orientation calls and makes site visits, speaking with key policymakers such as the governor's office, attorneys general, corrections leadership, legislative leaders, and members of the judiciary to familiarize them with JRI and assess state leadership interest in participating.

The TA provider then determines whether the goals of state leadership are aligned with those of JRI, evaluating the suitability of potential JRI sites on six criteria: (1) commitment of state leadership to JRI, as evidenced by a letter of interest signed by key state leaders that includes a well-articulated and compelling problem statement addressing the state's need for justice reform; (2) commitment to information sharing and demonstration of sufficient data capacity to support analysis, including information on criminal justice populations and outcomes, such as arrests, average daily prison population, admissions and length of stay, and revocation rates; (3) participation of an influential leader or leaders to drive systems change and interagency collaboration; (4) existence of information, data, and personnel infrastructure to support the comprehensive data analysis and execution of JRI; (5) a systemwide partnership in the form of an interbranch and bipartisan working group, or plans to develop such an entity; and (6) knowledge about and use of EBPs demonstrated through previous EBP implementation activities.<sup>23</sup> In addition, states are assessed for their overall need for JRI, with a particular focus on those states that have had large increases in corrections populations and costs. On the basis of these selection criteria, the TA provider prepares a recommendation for BJA and Pew outlining the state's strengths as a JRI site and potential barriers to JRI implementation.

Approved states receive intensive, in-depth technical assistance for establishing a JRI working group, engaging stakeholders in JRI, analyzing data, and developing policy options. After states pass legislation to codify policy options, they can apply for further technical assistance. TA providers assess site suitability for continued support on four criteria: (1) completion of all pre-legislation activities, including data analysis and policy option development; (2) the presence of an agreed-upon reinvestment strategy; (3) the political and programmatic feasibility of implementing reforms as demonstrated by broad support

## TECHNICAL ASSISTANCE PROVIDERS

JRI technical assistance providers support justice reinvestment states by engaging stakeholders, analyzing data, and guiding policy development and implementation. Two state TA providers are funded to engage in this work: the CSG Justice Center and Vera. In addition, Pew's Public Safety Performance Project provides initial TA to states, after which states transition to Vera for implementation TA once they enact JRI legislation. Pew also supports the CSG Justice Center sites with analysis, policy development, and education efforts.

for the proposed policy options; and (4) capabilities to track cost and population impacts of intervention.<sup>24</sup> Post-legislation technical assistance is intended to support a comprehensive implementation of all JRI reforms. The TA approach has evolved through the experiences of early JRI states; it emphasizes focusing on implementation from the beginning of the JRI process. TA providers work with states for up to two years after legislation is enacted to maximize and sustain justice system reforms.

If states are approved for post-legislation technical assistance, they can also apply for a subaward from BJA. TA providers help states identify implementation priorities and apply for a subaward. BJA determines whether a state will receive a subaward for its justice reinvestment policy changes.



# The JRI Model

The JRI model is a multistaged undertaking in which a jurisdiction increases the cost-effectiveness of its criminal justice system and reinvests savings into high-performing public safety strategies (figure 3). The model emphasizes the importance of using data, achieving consensus, and involving a wide array of bipartisan and interbranch policymakers in the reform process.

## **Establish Interbranch Bipartisan Working Group**

A state begins by convening an interbranch and bipartisan working group of policymakers and justice system leaders. This working group develops a shared vision of justice reform, guides data analysis, encourages information sharing, and engages in policy option development. It is imperative that the working group is interbranch and bipartisan, enabling it to take a system-level approach to criminal justice reform that will be politically feasible.

Working groups are formed through a variety of mechanisms—such as statute or appointment— or an established criminal justice committee or commission can be repurposed. In Pennsylvania, the Pennsylvania Commission on Crime and Delinquency convened the working group;<sup>25</sup> in Louisiana, the Louisiana Sentencing Commission, established by statute, served as the state’s JRI working group.<sup>26</sup>

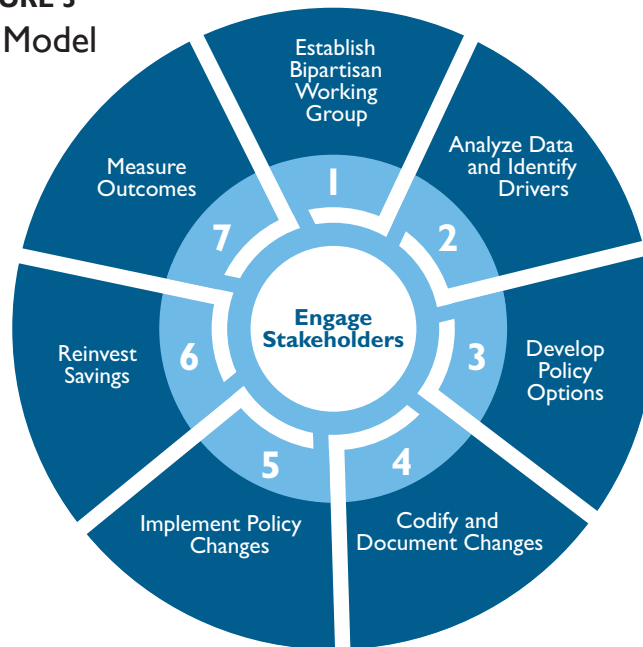
Delaware’s working group illustrates the breadth of opinion and expertise that can be engaged in the JRI process. In Delaware,

with input from the Delaware Criminal Justice Council, the governor convened a bipartisan, bicameral, interbranch task force. The group, which worked closely with the TA providers throughout the JRI process, consisted of representatives from the governor’s office, the attorney general’s office, the state legislature, state law enforcement, local law enforcement, multiple levels of state courts, the Delaware Department of Correction, and representatives from the Department of Safety and Homeland Security and the Victims’ Compensation Assistance Program.<sup>27</sup> Working groups in other states have also included county-level representatives such as sheriffs, prosecutors, and members of judges’ associations. Working groups can include nongovernment participants, such as victims’ advocates, business leaders, nonprofit service providers, and private foundations. These members provide additional viewpoints and resources for achieving reform.

## **Engage Stakeholders**

Stakeholder engagement and collaboration is a key step that remains critical throughout the life of the initiative. In many states, justice reinvestment garners support through consultation and concentrated

**FIGURE 3**  
JRI Model



engagement efforts with a broad range of stakeholders, including the business community, service providers, law enforcement agencies, and victims' advocacy groups. Engagement efforts include hosting conference calls, leading meetings, holding focus groups, and presenting at association meetings with various stakeholders. Leaders in South Carolina focused their efforts on involving district attorneys, victims' advocates, and law enforcement. Across all JRI states, state leaders and TA providers maintained close contact with stakeholders and legislators, answering questions, consulting on strategies, delivering presentations, and addressing concerns when questions were raised during the legislative process.

While broad-based stakeholder engagement is central to the JRI model, strong leadership is equally essential. Diverse stakeholder engagement is often accomplished through the efforts of a JRI champion or champions. In Georgia and Arkansas, the governors' commitment to JRI was an essential driver of the successful passage of a reform bill. In Louisiana, the secretary of the Department of Public Safety and Corrections, the chair and vice-chair of the Louisiana Sentencing Commission, and a representative from the Louisiana House Judiciary Committee played crucial roles in the success of the legislation. Often, JRI champions have previous experience with their state's criminal justice committees or have demonstrated a historical commitment to criminal justice issues through their work. For example, Oklahoma's speaker of the house championed the JRI legislation after spearheading his own legislative action on corrections and criminal justice reform.

Stakeholder engagement includes broader public engagement, which makes strategic public education campaigns a

helpful tool. For example, newspaper editorials in West Virginia helped garner public support for justice reinvestment. Justice reinvestment also had extensive media coverage in Oklahoma, and the justice reinvestment working group there hosted community forums throughout the state to discuss findings and policy options.<sup>28</sup>

## Analyze Data and Identify Drivers

To inform the working groups' policy discussions, the state works with its TA provider to conduct a comprehensive analysis of the state's criminal justice data, identifying corrections population and cost drivers. To conduct this analysis, 5 to 10 years of data from a diverse array of sources in all parts of the justice system are reviewed; the data may include case-level data on arrests, convictions, and attributes of offenders; jail and prison admissions; length of stay and release data; probation and parole revocations; and outcome measures from existing programs.

Working group input, one-on-one meetings with key decisionmakers, and focus groups with stakeholders (including those who are not part of the JRI working group) supplement the quantitative analysis. West Virginia, with the help of its TA provider, analyzed more than 650,000 individual records from corrections, parole, state police, and Federal Bureau of Investigations (FBI) databases, and held more than 84 focus groups and meetings with victims' advocates, judges, probation and parole officers, prosecutors, behavioral health and substance use treatment providers, defense attorneys, and representatives of local government and communities.<sup>29</sup>

The data analysis process is collaborative and iterative. The working group reviews multiple rounds of analysis from the TA provider, offering feedback and recommendations based on the analysis. In Pennsylvania, a preliminary analysis was conducted, followed by two rounds of intermediate analyses and then a final summary of the analysis. The TA provider presented to the working group after each iteration. Additionally, the TA provider solicited feedback on the analyses from key stakeholders and agencies before his or her presentations. This process gave agencies an opportunity to ask questions and refine the analysis and findings based on the data.

## Develop Policy Options

Following the data analysis, the TA provider and working group members develop practical, data-driven policy options and review the projected impact of these options on the justice system population and costs. Georgia addressed justice system cost drivers by creating a tiered sentencing approach that targets serious offenders with long prison stays, while sentencing less serious offenders to short sentences or community supervision. These policies focus prison space on more serious offenders; strengthen probation and alternative sentencing options; and develop procedures to streamline the process for moving inmates from jail to prison, reducing the burden on local jails.<sup>30</sup>

Working group members meet regularly during policy development to narrow the set of policies that best fits their specific political and justice system. Each JRI state uses its own tailored framework to address its justice system needs. State-specific frameworks are essential for addressing the unique challenges faced by each state and for gaining broad bipartisan support. Through this deliberative process, working groups arrive at consensus regarding the proposed policies and develop a set of recommendations for legislative consideration and enactment.

In the case of state-level reforms that are projected to have significant effects on local governments, state officials meet with local leaders to coordinate efforts. In North Carolina, a justice reinvestment strategy was devised to house misdemeanor offenders sentenced to state prison in county jails. After discussions with local government and jail representatives, state policymakers adjusted the program to alleviate its disproportionate impact on counties. Instead of mandating participation, counties can opt to accept those sentenced to prison and are reimbursed for housing state inmates. So far, the program has been well received by counties.<sup>31</sup>

After developing policy options, TA providers help the working group estimate the impact of the strategies on criminal justice population and costs. On the basis of these estimates, the working group projects the cost savings it can expect to achieve, depending on which options are included

in the legislation. Armed with the projected cost savings, the working group can begin to design a reinvestment strategy or series of strategies.

## Codify and Document Changes

After the working group has developed a policy framework, a legislative proposal is drafted that reflects the policy options. In some states, the bipartisan, interbranch working group or commission prepares the draft legislation; in other states, the legislative members of the working group, together with the TA provider and the state's legislative counsel, translate the policy recommendations into a proposed bill.

After the proposed bill is drafted, legislative strategies vary. In some states, negotiations occur before the bill's introduction; in other states, amendments are proposed after the legislation is introduced. Legislative provisions may include changes to the criminal code, state agency policies and procedures, or court rules, as well as a reinvestment strategy.

Some states codify changes to the criminal code to target justice resources more efficiently. Georgia, which found that low-risk offenders constituted almost 60 percent of prison admissions, changed its sentencing code to create different degrees of severity for burglary and forgery and revised its penalties for simple drug possession.<sup>32</sup> South Dakota enacted similar changes, creating a tiered sentencing structure for drug offenses and changing the felony classification for nonviolent property offenses, allowing the state to use its prison space for the most serious offenders.<sup>33</sup>

Often, justice reinvestment legislation changes state agencies' policies or practices. Legislation in Arkansas and South Dakota mandated the use of EBPs for parole and probation supervision.<sup>34</sup> In several states, justice reinvestment legislation requires probation officers to use graduated sanctions and incentives to encourage clients to adhere to the terms of their supervision. Another common measure is the requirement that state agencies adopt validated risk and needs assessments to more effectively link offenders to services and to guide decisions about which offenders to place under community supervision.

Throughout the codification process, states work with TA providers to educate policymakers, stakeholders, and the general public about the JRI process and any legislative proposals through briefings, presentations, and media outreach. Sustained and broad-based engagement of stakeholders and the public is crucial to the passage of legislation. In Pennsylvania, justice reinvestment working group meetings were open to the public, allowing for extensive media coverage; the justice reinvestment bill passed with unanimous support in the state, and stakeholders felt that

public education was key to its success.<sup>35</sup> Stakeholders in Oklahoma and Ohio believed that recent attempts to pass criminal justice reform also aided in stakeholder education and building public support. In Oklahoma, the champion for JRI had spearheaded previous criminal justice bills that attracted media attention, so reporters were already well educated on criminal justice issues and terminology.<sup>36</sup> In Ohio, a previous attempt to pass reform legislation had educated legislators about criminal justice issues in a manner that made them more prepared to support justice reinvestment legislation.<sup>37</sup>

## Implement Policy Changes

Passage of legislation, while a critical and significant step in criminal justice system change, is by no means the end of the justice reinvestment process. It is crucial that the legislated policy changes are implemented as intended. Public education and media attention surrounding JRI not only help bolster support for legislation, they also can help sustain momentum as new policies are implemented.

As part of JRI, BJA also funds TA providers to assist the state in implementation planning and provides funding (subawards)—at an average of \$325,000 per state—for state implementation efforts. In the first few months after the passage of legislation, the state will work with the TA provider to prepare an implementation plan for executing policy changes. In the implementation plan, the state identifies the responsible agency, accomplishments, challenges, and performance measures for each legislative provision. The implementation plan supports the state’s transition from pre- to post-legislation and guides how resources will be used to support the new JRI policies.

Another component of the implementation plan is helping states develop budget priorities, execute budget changes, and craft a scope of work to make the most efficient use

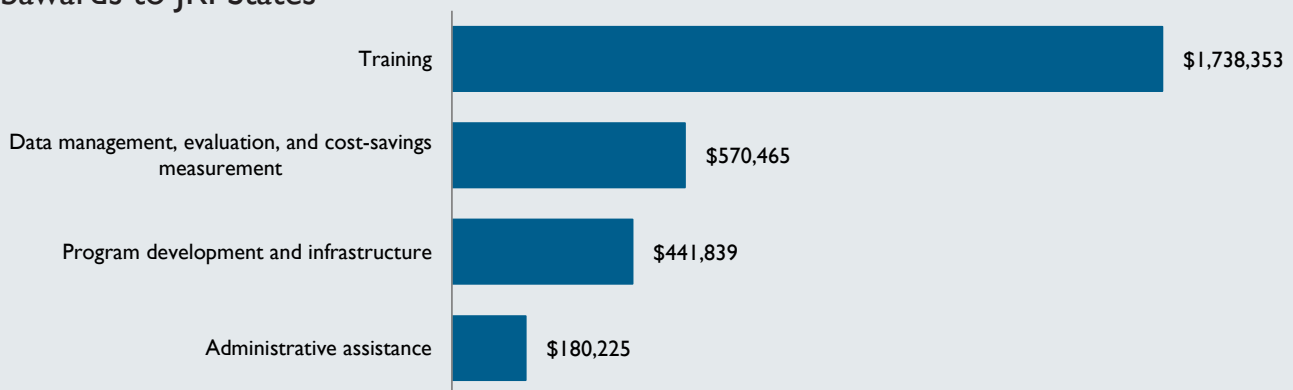
of BJA funding to support the implementation of key JRI policies. TA providers help sites finalize a reinvestment strategy and resolve any reinvestment issues remaining from the early stages of JRI. As of September 2013, BJA had approved subaward funding for nine states<sup>38</sup> to supplement the cost of implementation activities. To receive these funds, states must produce an implementation plan, a reinvestment strategy, and a performance measurement plan.

Once an implementation plan is developed, states prepare for implementation, identifying initial needs such as training and stakeholder education. In consultation with TA providers, states adopt tools such as risk and needs assessment instruments and training modules such as Effective Practices in Community Supervision (EPICS) to support the implementation of JRI policies. If necessary, TA providers also help states engage external contractors to provide specific expertise (e.g., parole board consultant). In South Carolina, three areas were designated as needing targeted support: (1) training on using a violations and incentives matrix for community supervision; (2) a broader continuum of evidence-based community treatment options; and (3) a framework for calculating savings from the JRI reforms.<sup>39</sup> Similarly, Delaware officials sought assistance in devising a new policy for earned compliance credits, piloting a newly developed pretrial risk assessment instrument, and employing in-prison risk assessments.<sup>40</sup>

As shown in figure 4, 59 percent of the \$2,930,882 currently obligated<sup>41</sup> in subawards is for training. Trainings were delivered to staff working in corrections, community supervision, and pretrial services, as well as judges, prosecutors, and defense attorneys. Some training was program-based, such as EPICS; other training was developed to educate stakeholders about state-specific justice reinvestment statutes.

Data management, evaluation, and cost-savings measurement accounted for 19 percent of the subaward expenses. Items in this category include costs associated with

**FIGURE 4**  
Subawards to JRI States



Source: States’ subaward funding requests submitted to BJA.  
Note: The total amount obligated is \$2,930,882.

processes and technology to capture and report metrics fundamental to policy implementation and performance measurement. Representing 15 percent of total subaward funds, program development and infrastructure expenditures include costs to develop pilot programs and their related tools, such as risk assessment instruments. Administrative assistance, including funding an administrative coordinator to oversee justice reinvestment activities, accounted for 6 percent of the total subawards granted.

## Reinvest Savings

States reinvest in their justice systems by estimating the amount of cost savings generated by policy reforms and identifying a portion of those savings to invest in evidence-based public safety strategies and programs. States may opt to make an upfront investment before savings are realized or may reinvest actual savings. Upfront investment is typically appropriated in the same year that JRI legislation passes. When making upfront investments, states often fund programs on the basis of projected savings. In the first year after passing JRI legislation, on the basis of anticipated savings, Hawaii's legislature invested \$3.4 million to expand community-based treatment programs, support victims' services, reestablish a research and planning division, and support risk assessments.<sup>42</sup> South Dakota's JRI legislation expanded probation officer training, substance and mental health treatment programs for offenders, and drug and DUI courts by reinvesting \$8 million in the first year of JRI, with the expectation that these reforms would be supported by future savings and averted spending.<sup>43</sup>

Reinvesting actual savings requires calculation and documentation of actual savings and averted spending. South Carolina's JRI legislation requires an oversight committee to report on spending avoided by reductions in probation and parole revocations for technical violations by offenders under supervision; the legislature can then decide whether to reallocate up to 35 percent of any cost savings from corrections to community supervision.<sup>44</sup>

## Measure Outcomes

To support the accountability and sustainability of JRI policy efforts, states work with TA providers to develop a dashboard of justice system performance metrics.<sup>45</sup> The dashboard is designed to help policymakers track the impact of enacted legislation on jail and prison populations, crime and incarceration rates, recidivism rates, parole and probation revocations, and justice system costs after technical assistance ends. Many dashboards monitor the changes in key justice system metrics, as well as reinvestment outcomes, over time. This enables states to identify the areas in which justice reinvestment policies are successfully attaining goals and the opportunities to build upon previously enacted policies.

Several states have developed detailed performance measures to monitor monthly prison admissions, populations, and releases. These dashboards also track the impact of state-specific JRI policies. New Hampshire's dashboard will include tracking of parole board and revocation hearing implementation, while North Carolina will track the types of admissions and releases from prison, the use rate of administrative jail sanctions, and the number of people served by the state's Treatment for Effective Community Supervision program.<sup>46</sup>

Some JRI states have begun using performance measures to assess the impact of justice reinvestment. After implementing its JRI reforms, Hawaii realized a nearly 4 percent decrease in its prison population between June 2012 and June 2013, including a 15 percent reduction in the number of prisoners housed out of state in Arizona.<sup>47</sup> South Carolina conducted initial impact assessments of its JRI reforms and found that, under policy changes encouraging the use of intermediate sanctions and compliance practices, 1,114 individuals under supervision were not returned to prison during 2011 and 2012. In 2011, South Carolina calculated that this saved the state \$4,229,456.<sup>48</sup> In 2012, based on a cost calculation methodology developed by Vera, state savings amounted to \$2,993,340 in avoided costs.<sup>49</sup> Based on numbers from these two cost calculations, savings for 2011 and 2012 were \$7,222,796. States also plan to track the execution and impact of reinvestment through performance measures. South Carolina's departments of Corrections and Probation, Parole and Pardon Services worked with the TA provider to develop a formula to guide reinvestment in community supervision.<sup>50</sup>

The basis for measuring impacts of justice reinvestment policies and statutory changes on populations, costs, and savings is derived from the initial analyses that states conduct to identify population drivers and costs. Although each state has its own array of population drivers and inefficiencies, several drivers and responses were common across sites.





# Population and Cost Drivers and Responses

Many factors have contributed to the historical and projected growth trends in state corrections populations and costs across the country. Each state identified corrections population and cost drivers that reflect nuances unique to the state’s criminal justice system. However, many similarities exist across states, with drivers representing four main categories: parole processing delays or denials, parole and probation revocations, sentencing practices, and insufficient or inefficient community supervision or support (figure 5 and table 3). States used various strategies to address these common drivers; many of the strategies exemplify the themes of EBPs and data-driven decisionmaking (figure 6 and table 4). The following section describes the most common population and cost drivers states identified through data analysis, and the strategies they used to address those drivers.<sup>51</sup>

## **Driver: Parole and Probation Revocations**

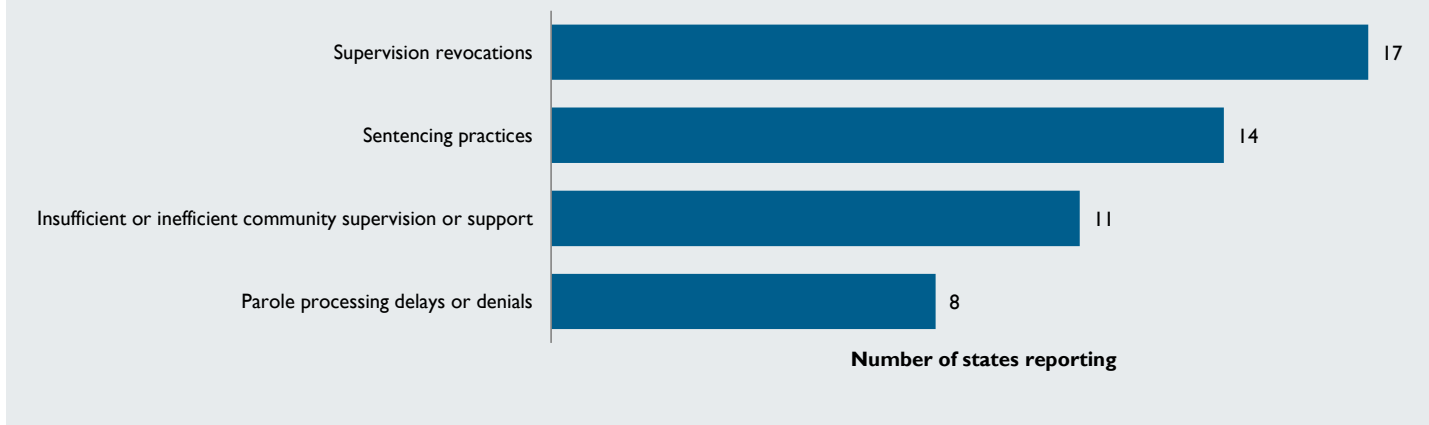
Parole and probation revocations resulting in returns to jail and prison were identified as a key corrections population and cost driver in all JRI states. Incarceration was often the outcome for offenders who failed to comply with the terms of community supervision, even among those who had violated the conditions of their release without committing new crimes.

JRI states that identified revocations as a driver of their prison costs and population are highlighted in figure 7 on page 22.

High revocation rates in JRI states were a function not only of offender behavior but also of system behavior, in the form of supervision, law enforcement, and judicial practices. For example, New Hampshire found that offenders revoked from parole supervision constituted the “largest and fastest-growing category of admissions to prison” in the state as of January 2010.<sup>52</sup> New Hampshire has one of the lowest crime rates in the nation, but total prison admissions for parole revocations increased from 35 to 43 percent between 2000 and 2009.<sup>53</sup>

A substantial portion of revocations across JRI states was for technical violations, often involving alcohol and drug infractions. In Missouri, technical violations made up just over 80 percent of probation revocations

**FIGURE 5**  
**Common Drivers**



to prison between 1995 and 2010.<sup>54</sup> Substance abuse features prominently in technical violations in JRI states. In 2011, nearly 80 percent of technical parole revocations in West Virginia involved alcohol or drug use or possession.<sup>55</sup>

The experiences of JRI states mirror those of other states: Offenders who are under community supervision tend to be revoked at higher levels for engaging in technical violations than for committing new crimes. In the absence of targeted policy reforms, jails and prisons across the country were likely to continue to swell—and corrections spending likely to grow—as increasing numbers of noncompliant offenders on parole and probation supervision were incarcerated.

## Responses to Parole and Probation Revocations

States that identified parole and probation revocations as a driver of the prison population enacted policies to reduce both violations and the use of revocation to prison. The main component of the revocation-reduction strategy was the

**TABLE 3**  
**States Identifying Common Drivers**

Driver	States
Supervision revocations	AR, DE, GA, HI, KS, KY, LA, MO, NH, NC, OH, OK, OR, PA, SC, SD, and WV
Sentencing practices	AR, DE, GA, HI, KS, KY, LA, NC, OH, OK, OR, PA, SC, and SD
Insufficient or inefficient community supervision or support	GA, KS, KY, NH, NC, OH, OK, OR, PA, SC, and WV
Parole processing delays or denials	AR, HI, KY, LA, NH, PA, SC, and WV

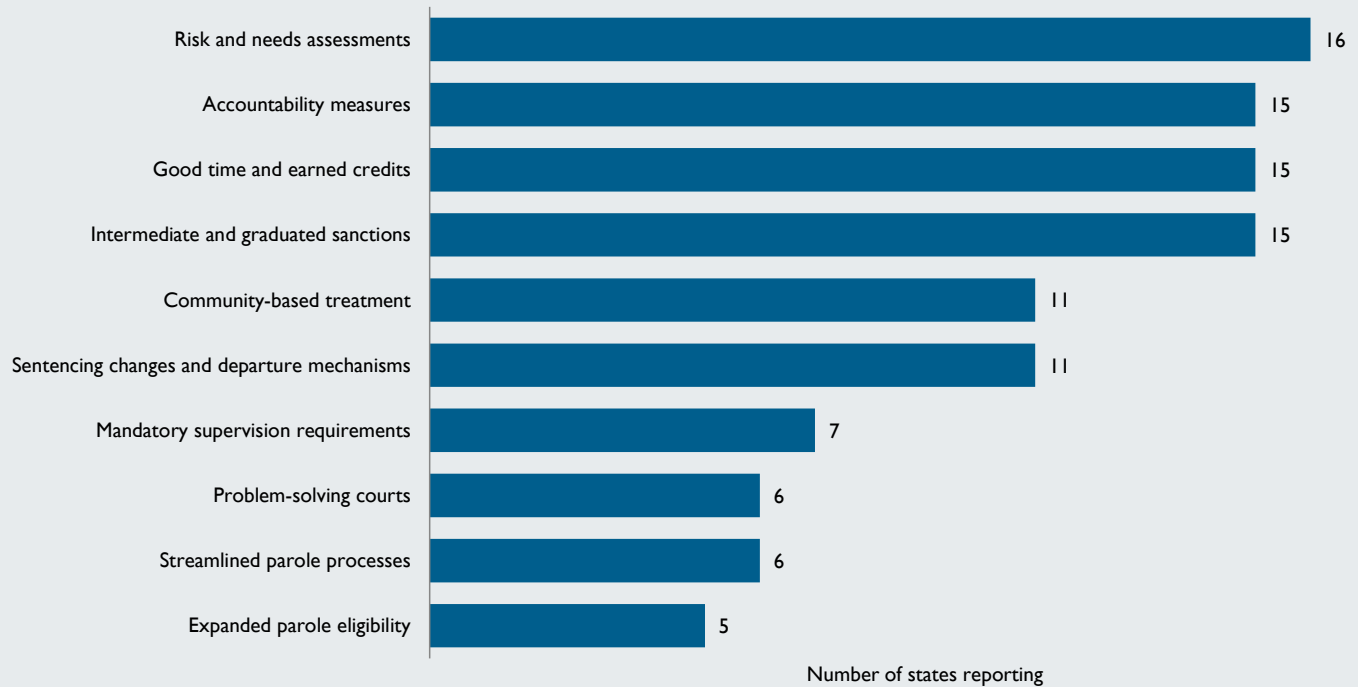
Note: This list does not distinguish between primary and secondary drivers.

support of nonrevocation responses to violations. In addition to expanded sanction options, probation and parole officers were encouraged to use incentives to elicit positive behavior and were given the authority to respond swiftly to violation behaviors. To target those at a higher risk of reoffending, states used risk and needs assessments to guide supervision decisions and supported risk-reduction programs. States sought not only to change offender behavior but also to change the criminal justice system’s behavior. States created

**TABLE 4**  
**States Identifying Common Responses**

Response	States
Risk and needs assessments	AR, DE, GA, HI, KS, KY, LA, NH, NC, OH, OK, OR, PA, SC, SD, and WV
Accountability measures	AR, DE, GA, HI, KS, KY, LA, MO, NC, OH, OK, PA, SC, SD, and WV
Good time and earned credits	AR, DE, GA, KS, KY, LA, MO, NH, NC, OH, OR, PA, SC, SD, and WV
Intermediate and graduated sanctions	AR, DE, GA, KS, KY, LA, MO, NH, NC, OK, OR, PA, SC, SD, and WV
Enhanced community-based treatment	AR, DE, HI, KS, KY, NC, OH, OK, PA, SD, and WV
Sentencing changes and departure mechanisms	AR, GA, HI, KY, LA, NC, OH, OR, PA, SC, and SD
Mandatory supervision requirements	KS, KY, NC, OH, OK, SC, and WV
Problem-solving courts	AR, GA, KY, LA, SD, and WV
Streamlined parole processes	AR, HI, KY, LA, PA, and WV
Expanded parole eligibility	AR, KS, LA, NH, and SC

**FIGURE 6**  
Common Responses



system-level incentives to promote the use of recidivism-reduction strategies and reduce the use of revocations. Some states also put limits on revocation and revocation terms to further curtail revocations.

The lack of intermediate or graduated responses to violations was a potential cause for high revocation rates for technical violations. States created intermediate sanctions so that supervision officers could use sanctions that were proportional to the violation rather than revoking supervision altogether. These intermediate sanctions included mandatory treatment, home confinement, and short jail stays. Some states created a system of graduated sanctions in which probationers and parolees would receive more punitive sanctions after each additional violation.

Some states paired expanded sanction options with the use of incentives or earned time credits to encourage positive behavior. This policy was in line with research suggesting that supervision officers should focus on rewarding positive behavior rather than on punishing negative behavior.<sup>56</sup> Arkansas implemented a series of recognition-based incentives for achievements such as consistently paying supervision fees, maintaining employment, and attaining a GED.<sup>57</sup> In South Carolina, offenders who complied with supervision conditions and had no new arrests for 30 days could receive up to 20 days off their supervision period.<sup>58</sup>

States enacted policies to allow swift and certain responses to offender behavior in accordance with EBPs.<sup>59</sup> Several states accomplished this by delegating authority to probation and parole officers to use administrative sanctions.

Previously, only the courts or parole boards could incarcerate offenders for violations, often meaning that offenders spent significant time in jail before a hearing and then an official sanction. With administrative sanctions, probation and parole officers can quickly impose a number of sanctions if an offender waives his or her right to a hearing. Three states—Arkansas, Kentucky, and South Dakota—have piloted or plan to pilot the HOPE (Hawaii Opportunity Probation with Enforcement) model in a few locations. In the HOPE model, judges meet with probationers

#### PAROLE AND PROBATION

Offenders on parole serve a remaining portion of their sentences in the community after being released from incarceration. They are required to meet certain conditions of release that may include submitting to drug testing, paying court fees or other fines, and participating in treatment programs. Parole can be revoked and the parolee sent back to prison if he or she (1) commits a new crime, or (2) does not adhere to the conditions of release, thereby committing what is known as a “technical violation.”

Offenders on probation, on the other hand, are either sentenced to prison and granted probation in lieu of incarceration or are sentenced to probation. These individuals serve their sentences in the community under the purview of probation agencies. They can have their probation revoked and be sent to prison for either (1) committing a new crime, or (2) violating the terms of probation supervision (e.g., committing a technical violation such as testing positive for drug use).

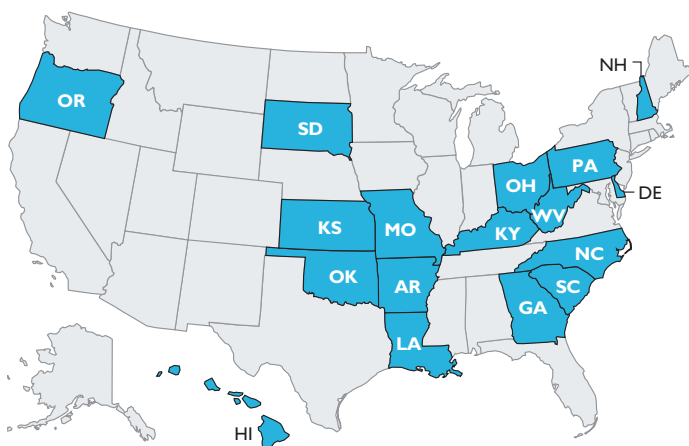
immediately after any violation and respond to their negative behaviors swiftly. This model has been proven to reduce violation behaviors.<sup>60</sup>

The increased use of risk and needs assessments was an underlying feature of the new approach to supervision decisionmaking. For example, Kentucky's Department of Corrections was required to administer risk and needs assessments before inmates appeared in front of the parole board and to use assessment results to develop case plans.<sup>61</sup> In both North and South Carolina, probation officers use actuarial risk and needs assessments to make supervision and treatment decisions consistent with EBPs.<sup>62</sup>

States funded risk-reduction programs to help supervision officers target an offender's specific risk and needs. Kansas Department of Corrections leaders plan to increase the availability of services such as substance use treatment, mental health care, and cognitive behavioral therapy by investing \$2 million in community behavioral health treatment in FY 2014.<sup>63</sup> South Dakota will invest \$3.2 million a year in years 2 through 10 of JRI implementation in substance abuse, mental health, and cognitive treatment programs for its probation and parole populations.<sup>64</sup>

These changes in probation and parole practices represent a major culture shift from a monitoring approach to a recidivism-reduction approach. To encourage this new supervision philosophy, some states have created financial incentives for criminal justice practitioners. Ohio created an incentive-based funding program for local probation departments.<sup>65</sup> Under this program, probation departments could apply for grants to improve supervision practices and programs. Approved applications received base-level funding, but in order to receive additional funding, the probation department had to reach a revocation-reduction

**FIGURE 7**  
JRI States Identifying Supervision Revocations as a Driver



goal. Pennsylvania created incentives for its community corrections contractors by tying funding to reduced recidivism.<sup>66</sup>

In addition to incentivizing lower revocation use, some states have limited revocations by statute. These states allow revocations only after a certain number or type of violation, or they limit the length of stay for revocations. In North Carolina, probationers and parolees can only be revoked by the court or Parole Commission after a new offense, absconding, or receiving two court- or parole-board-ordered extended incarceration sanctions.<sup>67</sup> Hawaii has limited the length of incarceration for first-time parole violators.<sup>68</sup>

Although states have sought to reduce the number of revocations to prison through changes in probation and parole policies, implementation of these changes might not result in enormous reductions in revocation admissions to prisons. This is because many states mandated post-release supervision for certain offenders at the same time they created alternatives to revocation. By increasing the number of people on supervision, more offenders are at risk of being revoked to prison. States anticipate, however, that new supervision practices will change offender behavior and prevent crimes that would have been committed had the person not received mandatory post-release supervision.

## Driver: Sentencing Policies and Practices

Analyses of the JRI states' prison populations—examining elements such as sentence type, sentence length, and offender characteristics—revealed that sentencing policies and practices played a key role in corrections population growth in 14 of the 17 JRI states. JRI states that identified sentencing policies and practices as a driver of their prison costs and population are highlighted in figure 8. The majority of sentencing-related drivers can be divided into two broad categories: (1) high or increasing incarceration rates, and (2) increased lengths of stay, often for nonviolent or low-risk offenders.

Incarceration is one of many sentencing options, but JRI states had high or increasing incarceration rates in lieu of probation and state-specific diversion programs. For example, 57 percent of Kentucky's convicted felony offenders received a prison sentence, compared with 41 percent of all felony offenders nationwide.<sup>69</sup> Analyses found that 75 percent of incarcerated drug offenders in Kentucky were in prison for possession offenses or first-time drug trafficking offenses that were often addressed by alternative sanctions in other states.<sup>70</sup>

Trends in judicial decisionmaking that favor incarceration also contributed to high numbers of offenders sentenced to prison in JRI states. In both Kansas and Arkansas, judges

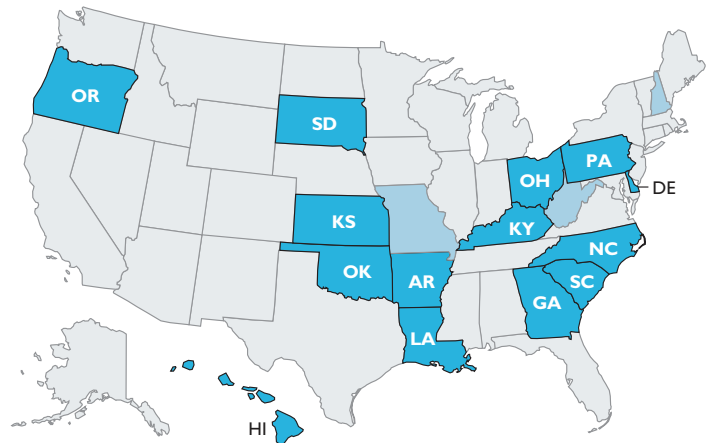
often imposed more punitive sentences than those recommended by state sentencing guidelines. In Kansas, 26 percent of new sentences to prison were for offenders who, according to the Kansas sentencing grid, fell into the category of presumptive (recommended) probation.<sup>71</sup> In 2009, more than 1,200 offenders in Arkansas were sentenced to prison when the sentencing guideline grid did not include prison as a recommended sentence; in cases for which guidelines did recommend incarceration, the average sentence was twice as long as that prescribed by the guidelines.<sup>72</sup>

An examination of offender characteristics in JRI states revealed that large portions of their prison admissions were low-risk, nonviolent offenders. In some states, this resulted from mandatory sentencing laws. In North Carolina, 80 percent of felony convictions in 2009 were for nonviolent, property, or nontrafficking drug offenses.<sup>73</sup> In Oregon, prison admissions in 2011 were less serious than those in 2000, both in terms of offense type and the percentage of low-risk offenders.<sup>74</sup> North Carolina and Pennsylvania were two of the nine states that housed some misdemeanants with longer sentences in prison. This practice contributed to a third of Pennsylvania's prison admissions in 2010 being "short mins" (i.e., minimum sentences ending less than a year after admission to prison). These offenders remained, on average, 200 days beyond the minimum sentence, often because they did not have enough time to participate in mandatory programming and prepare for parole release.<sup>75</sup>

Increased length of stay—a function of longer sentences and a larger proportion of sentences served in confinement—also contributed to prison population growth over time. In Georgia, the average length of stay for drug and property offenses more than tripled between 1990 and 2010.<sup>76</sup> In 2010, the average length of stay in Delaware state prisons was three years, compared with the national average of about two years.<sup>77</sup> In states such as Oklahoma, North Carolina, and Oregon, increased lengths of stay were prompted by truth-in-sentencing or mandatory minimum statutes (e.g., the 85 percent rule in Oklahoma, North Carolina's habitual felon statute, and Measure 11 in Oregon).<sup>78</sup> Also in Oklahoma, judges were restricted in their ability to modify sentences after a year, even though sentenced programming interventions often required more than a year to complete.<sup>79</sup>

Another identified driver was the absence of the information and data necessary for judges to make informed sentencing decisions. In Ohio, eligibility criteria for diversion programs and community-based corrections facilities did not target high- and medium-risk offenders who could most benefit from these programs, thereby reducing the programs' effectiveness.<sup>80</sup> In many JRI states, sentencing decisions were not informed by risk level, because assessments were not conducted before sentencing or assessment results were not shared with judges.

**FIGURE 8**  
JRI States Identifying Sentencing Practices as a Driver



## Responses to Sentencing Policies and Practices

States took multifaceted approaches to addressing sentencing policies and practices that drove corrections populations and costs. These approaches included (1) sentencing changes and departure mechanisms, (2) problem-solving courts, (3) risk-based sentencing, (4) earned credits, (5) performance incentive funding (PIF) programs, and (6) accountability measures.

Sentencing changes and departure mechanisms reoriented penalties and reclassified or redefined offenses, revising mandatory minimums, providing safety valves, and expanding nonincarceration options. In South Carolina, JRI legislation removed mandatory minimums for first-time drug possession offenses.<sup>81</sup> In Kentucky, JRI legislation modified the state's Controlled Substances Act by using presumptive probation for first- and second-time drug possession offenses and establishing a quantity-based scale of penalties for drug sales offenses.<sup>82</sup> Arkansas increased the felony theft threshold from \$500 to \$1,000 to reduce the number of felony convictions for low-level offenders.<sup>83</sup> Other sentencing changes encouraged substance abuse treatment rather than incarceration for certain offenders. In Ohio, JRI legislation expanded the pool of individuals eligible for diversion from prison.<sup>84</sup>

To address growing incarceration rates for low-level offenders, JRI legislation frequently expanded or improved problem-solving courts, an evidence-based approach to providing treatment for offenders with specific needs. Georgia's legislation requires the establishment of statewide policies to guide the operation and certification of problem-solving courts for offenders with substance abuse and mental health disorders.<sup>85</sup>

In West Virginia, JRI legislation mandated expansion of drug courts from 31 to all 55 counties.<sup>86</sup>

JRI legislation frequently increased the availability of risk and needs assessments to support risk-based sentencing. Risk and needs assessments are evidence-based actuarial instruments that determine an individual's risk of reoffense and criminogenic needs. Through risk-based sentencing, judges can review assessment results when weighing different sentencing options. In Kentucky, JRI legislation required the Department of Corrections to develop an online data system with objective information, including an offender's risk assessment rating, for use in plea negotiations and sentencing.<sup>87</sup> Georgia invested \$175,000 to develop a risk assessment tool to assist judges with sentencing by identifying lower risk, nonviolent offenders who could be safely kept out of prison.<sup>88</sup>

To address increasing lengths of stay, JRI legislation commonly expanded earned credits, offering sentence reductions to inmates who maintain good behavior or participate in prison programs. In North Carolina, JRI legislation established a new sentencing option—advanced supervised release—that created a reduced sentence for certain offenders who completed risk-reduction programming.<sup>89</sup> In Delaware, JRI legislation reduced lengths of stay by allowing offenders to reduce their time served by up to 60 days a year on the basis of successful completion of recidivism-reduction programs.<sup>90</sup> Louisiana revised its good time and earned credit statutes: The amount prisoners could earn in sentence diminution for good time was increased. To promote transparency, the rate of earning good time was set at one and a half days of good time earned for every day served.<sup>91</sup>

Performance incentive funding programs can be used to incentivize local jurisdictions to send fewer low-level offenders to prison. In Pennsylvania, PIF will reward local jurisdictions for housing low-level offenders in jails (a more cost-effective alternative than prisons) and for other local sanctioning options. PIF in Pennsylvania will incentivize counties to send fewer misdemeanants to state prison, thereby lowering prison commitments and reducing costs.<sup>92</sup> As the result of a report conducted by the Pennsylvania Department of Corrections that showed that parolees released to privately operated community correction centers had higher rates of recidivism than parolees who returned home,<sup>93</sup> Pennsylvania rebid all contracts for community corrections centers to allow contractors to be compensated at higher rates if they decreased the recidivism rates of parolees in their centers.<sup>94</sup>

In some states, JRI legislation enhanced accountability measures, such as mandatory reporting and certification. In Arkansas, JRI legislation required judges to document their justification for sentences departing from the sentencing guidelines and increased the sentencing commission's reporting requirements.<sup>95</sup> In Georgia, legislation created a

drug court certification and peer review process to ensure adherence to EBPs.<sup>96</sup>

## Driver: Insufficient or Inefficient Community Supervision or Support

Research indicates that community support and behavioral health programs are important for successful reentry and supervision outcomes.<sup>97</sup> Despite the importance of high-performing community-based programs and supervision practices, data analyses in 11 of the 17 JRI states revealed several shortcomings warranting improvement. First, many states lacked resources for community supervision and support. Second, some states found that certain offenders were not supervised at all after being released from prison, especially those who had served their maximum sentences in prison. Third, resources were ineffective or improperly targeted to the appropriate offenders. These issues were linked to ineffective or unnecessary spending and higher rates of rearrest and revocation, leading to increased criminal justice costs. States that identified insufficient or inefficient community supervision or support as a driver of their prison costs and population are highlighted in figure 9.

Analyses and stakeholder discussions in 9 of the 11 states identified insufficient behavioral health services, recidivism-reduction programs, and community supervision as cost drivers. Inadequate capacity or resources stemmed from growth in the population needing services or supervision, budget cuts to programs, and a historical lack of funding. In Kentucky, funds used for recidivism reduction and sanctions for community supervision decreased from \$1,191 per offender in FY 2005 to \$961 per offender in FY 2009.<sup>98</sup> In New Hampshire, the number of people under supervision increased while the number of supervision officers remained the same, significantly increasing officer caseloads. Additionally, no state funds were appropriated for important supervision tools, such as intermediate sanction facilities, electronic monitoring, rapid drug testing, or community-based substance use treatment.<sup>99</sup> In Georgia, the felony probation population increased 22 percent between 2000 and 2011. Without an accompanying expansion in service capacity, supervision officers often referred clients to programs that were insufficient or unavailable in many areas of the state.<sup>100</sup> In Kansas, community mental health centers lost \$20 million in state mental health reform grants between 2008 and 2012.<sup>101</sup> Budget cuts also affected law enforcement efficiency; in Oklahoma, a reduction in the number of crisis stabilization beds for people with mental health needs led to a 45 percent increase in miles driven by police officers for mental health transports between FY 2009 and FY 2011.<sup>102</sup>

A few states found that a substantial share of high-risk and high-need individuals did not receive supervision or community supports after being released from prison. In Oklahoma, 51 percent of those released from prison did not receive supervision, although 43 percent of them were assessed at a high risk of reoffending. Of these high-risk offenders, 63 percent were rearrested within three years of release.<sup>103</sup> Similarly, North Carolina's data analyses found that more than 85 percent of released prisoners returned to the community with no supervision.<sup>104</sup>

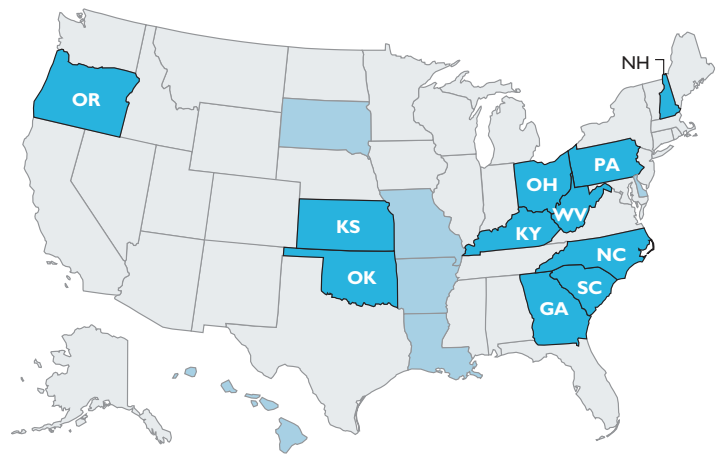
Through JRI data analyses, states discovered that funds for supervision and behavioral health were not used cost-effectively. A common source of inefficiency was focusing resources on populations that were less likely to benefit from them. Evidence suggests that services are more effective when they are targeted toward reducing recidivism among high-risk individuals.<sup>105</sup> In fact, intensive programs for low-risk individuals may actually increase recidivism.<sup>106</sup> Thus, spending the same amount of resources for low- and high-risk individuals, or spending more for low-risk individuals, is inefficient. In Kansas, 74 percent of moderate- and high-risk probationers revoked to prison in FY 2011 had at least one behavioral health problem. Additionally, low-risk offenders were supervised for the same amount of time as or longer than high-risk offenders.<sup>107</sup> Similarly, North Carolina concentrated supervision resources on those who were less likely to reoffend: One-third of felony offenders on a very stringent form of supervision were low risk, while one-third of those on a less stringent form of supervision were high risk.<sup>108</sup> In Oklahoma, funding for substance abuse treatment services for people under community supervision was allocated according to need but not to risk.<sup>109</sup> In Pennsylvania, community-based programs were not targeted to particular offender needs or risk levels, and research showed that many of the programs being funded were ineffective in reducing recidivism.<sup>110</sup>

## Responses to Insufficient or Inefficient Community Supervision or Support

After data analyses revealed shortcomings in community supervision and programming, states took steps to enhance community supports. They (1) increased the availability of services, (2) incorporated EBPs into their programs, (3) targeted services and supervision resources to higher risk and higher need offenders, and (4) mandated post-release supervision for certain offenders.

First, to increase the availability of risk- and need-reduction services to offenders, states funded and expanded the use of programs and practices. For example, Georgia, Hawaii, Kentucky, and South Dakota increased funding for substance

**FIGURE 9**  
JRI States Identifying Community Supervision and Programs as a Driver



abuse treatment programs.<sup>111</sup> New Hampshire is training its probation and parole officers and corrections counselors in EPICS.<sup>112</sup> Pennsylvania emphasized the importance of community supports by requiring a reentry plan for every prisoner.<sup>113</sup>

Second, states were deliberate about using EBPs to improve the effectiveness of community-based supervision and services. Some states mandated that service providers must use EBPs to receive state funds. States also required their own departments to use EBPs to supervise offenders and increased EBP training opportunities. In addition to mandating the use of EBPs, Arkansas raised supervision fees to support community-based programs that use EBPs and to train staff in EBP.<sup>114</sup>

Third, states increased the cost-effectiveness of their investments in community-based supports by targeting services and supervision resources to higher-risk and higher-need offenders. A key strategy was to conduct a validated risk and needs assessment on offenders and use the results to inform supervision intensity and program eligibility. Pennsylvania created a high-intensity supervision program for those assessed as high risk.<sup>115</sup> North Carolina targeted its community-based program funding to programs that serve high-risk and -need populations.<sup>116</sup> States also reduced the resources they spent on low-risk offenders. New Hampshire established shorter supervision sentence lengths for low- and medium-risk offenders compared with high-risk offenders.<sup>117</sup> Kansas offered early termination to low-risk offenders who complied with probation conditions and fully paid their restitution obligations.<sup>118</sup>

Fourth, states mandated post-release supervision for certain classes of offenders to help them transition from prison to the community while ensuring public safety. Kentucky



mandated post-release supervision for serious offenders, while Ohio targeted mandatory post-release supervision to those assessed at a high risk of reoffending.<sup>119</sup>

## Driver: Parole Processing Delays or Denials

Parole allows eligible prisoners to serve the remaining term of their sentences under community supervision; it is significantly less expensive to the state than incarceration. For example, the cost of parole supervision in Georgia for FY 2012 was \$4.94 per parolee per day, compared with \$51.19 per inmate per day to incarcerate an offender with the Georgia Department of Corrections.<sup>120</sup> Despite the potential for cost savings, in the years leading up to JRI, some states experienced significant reductions in parole grant rates and long delays in the release of inmates after their parole eligibility dates had passed. Data analyses in eight JRI states revealed that parole processing delays and denials had contributed to prison population growth and rising costs. Two main factors were associated with reductions in parole grant rates. First, systemwide inefficiencies slowed parole paperwork processing and delayed the transfer of eligible candidates from prison to parole supervision. Second, discretionary release rates had declined as parole review boards granted parole to fewer offenders. JRI states that identified parole processing delays or denials as drivers of their prison costs and population are highlighted in figure 10.

System inefficiencies in parole processing have contributed to prison costs and increased the total inmate population by delaying the transfer of eligible offenders to community supervision. Parole delays occurred at different stages in the release process across JRI states. In Hawaii, data analyses showed that two-thirds of all inmates eligible for parole were held beyond their release eligibility date so they could complete prison-based programming. However, a closer look at this programming bottleneck showed that only 14 percent of the inmate population eligible for parole required in-custody programming based on their needs assessments.<sup>121</sup> Systemic parole delays were also illuminated through data analysis in West Virginia. From FY 2008 through FY 2010, hearings were postponed by one month or more for 2,914 inmates eligible for parole.<sup>122</sup> Many administrative delays were caused by limited staff resources in a number of West Virginia's regional jails, which the West Virginia Department of Corrections (WVDOC) contracts to house a portion of its inmate population. In these circumstances, WVDOC was frequently unable to complete the required documentation for parole hearings to proceed as scheduled.<sup>123</sup> Similar processing delays were identified in Pennsylvania. An analysis of 2011 parole board data found that 69 percent of the parole interviews not completed on schedule were delayed for system-related reasons, and 41

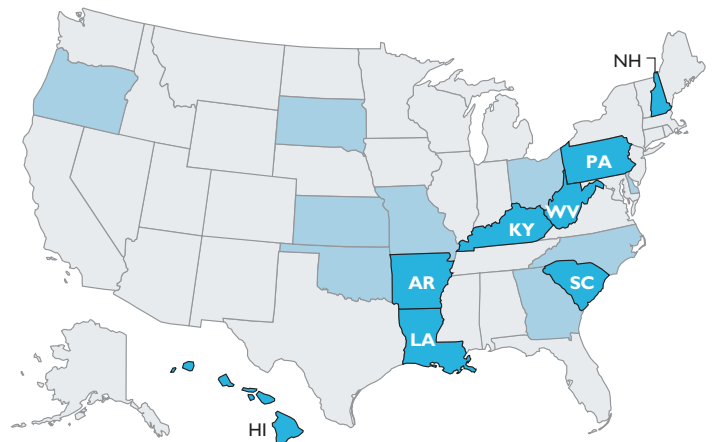
percent of those delays were due to missing paper files from criminal justice agencies. In contrast, only 20 percent of the delays were linked to inmate-related reasons such as disciplinary confinement.<sup>124</sup>

Processing delays were not the only impediment to parole release: A high rate of discretionary parole denials also contributed to growing prison populations and increasing costs. Through parole, states can maintain surveillance of released offender populations and sanction parolees who violate supervision conditions. At the same time, parole can facilitate connections between parolees and needed social services by incentivizing or requiring participation in employment, treatment, or education. However, some JRI states have substantially cut the rates at which eligible inmates are released to parole. In South Carolina, the parole board has granted steadily decreasing percentages of parole applications: In 1980, 63 percent of applications were approved; in 2000, 27 percent; and in 2008, only 10 percent.<sup>125</sup> Similar downward trends in the parole hearing rate and grant rate were observed in Louisiana. Despite increasing prison populations, the total number of Louisiana parole hearings decreased 17 percent from 2000 to 2009. In that same period, the parole grant rate decreased 56 percent.<sup>126</sup>

## Responses to Parole Processing Delays or Denials

States have implemented a range of responses to the parole processing delays and denials identified as prison population and cost drivers. Common responses across states include (1) streamlining parole processing through system refinements,

**FIGURE 10**  
JRI States Identifying Parole Processing Delays or Denials as a Driver



(2) implementing presumptive parole for eligible offenders and expanding parole eligibility, (3) integrating risk-assessment data to inform parole board decisions, and (4) enhancing accountability measures. While states employ similar responses, the design and implementation of the responses vary according to state-specific contexts and needs.

In some states, JRI legislation mandates organizational changes to streamline parole release, which is often hampered by administrative time lags and inefficient processing. Arkansas's legislation modified parole requirements to permit the release of eligible inmates on the basis of a file review, without an in-person hearing.<sup>127</sup> In Louisiana, JRI legislation consolidated the Board of Pardons and the Board of Parole into a single body to improve effectiveness and cost-efficiency. Pennsylvania introduced advanced communication technology to the parole hearing process to reduce delays, facilitating the timely transmission of case files.<sup>128</sup> West Virginia's data analysis showed that missing paperwork frequently delayed parole hearings, increasing the number of people completing their sentences in prison despite parole eligibility.<sup>129</sup> In particular, many inmates lacked a home plan—a document verifying a place of residence upon release. In response, West Virginia's legislation enabled the parole board to grant parole contingently without the need for an additional hearing, provided that a home plan was completed in advance of the actual release.<sup>130</sup> These system refinements are intended to facilitate parole processing in states in which organizational inefficiencies slow the release of eligible offenders.

State responses also address the impact of discretionary parole release on rising prison populations and costs. Presumptive parole release was expanded in Pennsylvania by enabling judges to sentence eligible individuals to the Recidivism Risk Reduction Incentive (RRRI) initiative. After completing the RRRI program and meeting conditions, individuals are presumptively paroled on the minimum eligibility date. Pennsylvania's legislation authorizes eligible defendants to receive an RRRI minimum sentence even if a mandatory sentence is authorized by law.<sup>131</sup> In addition, some states have expanded parole eligibility. South Carolina expanded parole eligibility to allow the early release of terminally ill, geriatric, and permanently incapacitated inmates.<sup>132</sup> Louisiana revised parole eligibility for first-time offenders from 33 percent of sentence to 25 percent, and for second-time offenders from 50 percent of sentence to 33 percent.<sup>133</sup>

Risk-assessment instruments are used to increase efficiency and objectivity in parole board decisionmaking. Arkansas now requires risk-assessments for all parole-eligible offenders.<sup>134</sup> Louisiana eliminated its risk review panels, which were viewed as ineffective, and had its parole reviews use risk-assessment tools.<sup>135</sup> South Carolina's Department of Probation, Parole and Pardon Services completes a validated actuarial risk and needs assessment for the parole board

to use in parole grant and condition decisions.<sup>136</sup> Hawaii created two additional part-time positions on the parole board specifically tasked with ensuring adequate consideration of the risk and needs profiles of parole-eligible inmates.<sup>137</sup>

Finally, some states have incorporated enhanced accountability measures for parole boards into their justice reinvestment legislation. In Arkansas, JRI legislation imposed monthly reporting requirements on the parole board, which previously submitted only annual reports.<sup>138</sup> Other states enhanced accountability through training. Legislation in South Carolina and Louisiana mandates training for all parole board members regarding the use of risk assessment to inform parole grant decisions.<sup>139</sup> Accountability measures are coupled with other legislative actions to track implementation progress and assess agency compliance with JRI laws.



# Projected and Preliminary Outcomes

The primary goals of JRI are to implement reforms that represent more cost-effective criminal justice practices and to reinvest the savings generated from those reforms in strategies designed to further enhance public safety. With these outcomes in mind, consideration of the impact of justice reinvestment policies on corrections populations and costs is essential. This chapter first takes a preliminary look at corrections population trends in some states and focuses on population and cost-savings projections produced by JRI states in collaboration with TA providers in light of the recent implementation of justice reinvestment policies nationwide.<sup>140</sup> The second portion considers the integration of EBPs as an important outcome in JRI states. The third portion focuses on what stakeholders emphasize as cultural impacts of JRI, such as a heightened awareness of criminal justice reform, systemwide collaboration, and enhanced accountability measures for criminal justice agencies and programs. These types of positive developments may not be identified through population, cost, and recidivism trends, but they enhance the ability of criminal justice agencies to increase public safety.

## Projected Population and Cost Savings

Corrections population and cost projections<sup>141</sup> are essential to the data-driven JRI approach; they provide stakeholders and policymakers with a tool to assess the estimated impact of JRI policies before they are implemented and to garner support for the proposed policies. Detailed analyses of the cost and population drivers inform the development of policy recommendations for each state. Policymakers use population and

cost projections to measure the anticipated outcomes of these policy options, aid in the passage of final legislation, and guide plans for reinvestment.

## Population and Cost Projections

To create policy impact projections, TA providers and states estimate how the proposed policy changes would affect the prison population. States that have available research

staff calculate their own projections with varying levels of assistance from the TA provider. After projections are developed, states calculate potential cost savings according to their prison operating budgets and capital cost estimates for new prisons.<sup>142</sup> Table 5 displays projected populations for each state with and without JRI reforms. The state projections span different periods, depending on the date of JRI policy implementation and the number of years incorporated in the estimate.

The projected impact of JRI policies on incarcerated populations varies from state to state (table 6). Without JRI reforms, most states expected their incarcerated populations to grow and aimed to either slow the population growth or reduce current population levels. In total, state JRI policies are (over different time frames) projected to yield a 0.8 to 25 percentage-point reduction in population growth compared with projected population growth without JRI reforms—or what might called “business as usual.”

The majority of states implemented policy packages designed to reduce their incarcerated populations below their sizes at the time of enactment. For example, with JRI reforms, Hawaii projected a 14 percent reduction in its prison population, from 6,101 inmates in 2012 to 5,277 in 2018. Delaware, Georgia, Kentucky, Louisiana, Missouri, New Hampshire, North Carolina, Ohio, and Pennsylvania also projected reductions in corrections populations due to JRI legislation, estimating a 0.6 to 19 percent decrease in their populations.

Other states enacted policy packages that were projected to avert growth rather than reduce the population overall. For example, Arkansas was projected to experience a 43 percent increase in its corrections population between 2009 and 2020.<sup>143</sup> The state is expecting a 22 percent increase—about half the original projection—because of JRI legislation.<sup>144</sup> With JRI reforms, Arkansas, Kansas, Oklahoma, Oregon, South Carolina, South Dakota, and West Virginia estimated

**TABLE 5**  
Projected Impact of JRI Policies on Prison Populations

State	Projection Start Year	Projection End Year	Total Years Projected	Initial Population	Population with JRI	Population without JRI
AR	2009	2020	11	15,171	18,565	21,767
DE	2012	2017	5	6,600	5,910	6,650
GA	2012	2017	5	55,933	54,690	59,684
HI	FY 2012	FY 2018	6	6,101	5,277	6,287
KS	FY 2013	FY 2018	5	9,581	9,971	10,423
KY	2010	2020	10	20,763	16,939	22,132
LA	2013	2024	11	39,229	38,067	39,906
MO	FY 2012	FY 2017	5	30,729	30,542–30,119	30,787
NH	FY 2010	FY 2015	5	2,878	2,342	2,988
NC	FY 2011	FY 2017	6	41,811	38,264	43,220
OH	FY 2011	FY 2015	4	51,297	48,177	53,858
OK	FY 2012	FY 2021	9	27,165	28,029	29,788
OR	FY 2012	FY 2023	11	14,234	15,639	16,509
PA <sup>a</sup>	FY 2012	FY 2016	4	51,722	48,744	51,151
SC	2009	2014	5	24,612	26,117	27,903
SD	2012	2022	10	3,636	3,864	4,580
WV	2013	2018	5	7,531	7,943	8,893

Sources: State population reports, Bureau of Justice Statistics’ *Prisoners’ Series*, and TA provider projections.

<sup>a</sup> These population projections reflect the proposed policies, not enacted legislation and implemented policies (Markosek 2013a).

According to the Governor’s 2013–14 Executive Budget, Pennsylvania’s JRI legislation is expected to reduce the prison population by 1,200 inmates between 2013 and 2018 (Corbett 2013).

between 5 and 21 percentage-point reductions in population growth, although their prison populations are still projected to grow between 3 and 22 percent.

The population reductions and averted population growth from JRI are estimated to save \$4.6 billion over 11 years (table 7). These gross savings include reduced operating costs and averted construction costs. Operating cost savings were calculated from state corrections budgets and amounted to about \$1.9 billion.<sup>145</sup> Some states had budgeted or were anticipating the construction of new prisons to accommodate prison population growth and ease overcrowding. After the enactment of the JRI policy packages, prison populations were projected to grow at a slower rate or decrease, alleviating the need for additional facilities. States estimated averted construction costs at \$1.7 billion.<sup>146</sup> The accuracy of construction cost estimates varied by state. Some states had previously budgeted a set amount

for construction, while others had no firm estimates for construction material and labor purchases.

## Actual Population Changes

It is too early to assess the impact of justice reinvestment policies in a majority of JRI states, as many have only begun to implement JRI legislation. In eight states, at least one year has passed since JRI legislation has been in effect, enabling an early exploration of impact. These eight states—Arkansas, Hawaii, Kentucky, Louisiana, New Hampshire, North Carolina, Ohio, and South Carolina—are all still engaged in the implementation phase. None of the JRI states have reached the end of their projection years, so the full impact of JRI has yet to be realized. In this section, we offer a preliminary discussion of population changes and cost savings in these eight states, including

**TABLE 6**  
Projected Percentage Changes in Prison Population

State	Projection Start Year	Projection End Year	Total Years Projected	Growth with JRI (%)	Growth without JRI (%)	Difference (percentage points)
AR	2009	2020	11	22	43	-21
DE	2012	2017	5	-10	1	-11
GA	2012	2017	5	-2	7	-9
HI	FY 2012	FY 2018	6	-14	3	-17
KS	FY 2013	FY 2018	5	4	9	-5
KY	2010	2020	10	-18	7	-25
LA	2013	2024	11	-3	2	5
MO	FY 2012	FY 2017	5	-0.6–2.0	0.2	-0.8–2.2
NH	FY 2010	FY 2015	5	-19	4	-22
NC	FY 2011	FY 2017	6	-8	3	-12
OH	FY 2011	FY 2015	4	-6	5	-11
OK	FY 2012	FY 2021	9	3	10	-6
OR	FY 2012	FY 2023	11	10	16	-6
PA <sup>a</sup>	FY 2012	FY 2016	4	-6	-1	-5
SC	2009	2014	5	6	13	-7
SD	2012	2022	10	6	26	-20
WV	2013	2018	5	5	18	-13

Sources: State population reports, Bureau of Justice Statistics population reports, and TA provider projections.

<sup>a</sup> These population projections reflect the proposed policies, not enacted legislation and implemented policies. According to the Governor's 2013–14 Executive Budget, Pennsylvania's JRI legislation is expected to reduce the prison population by 1,200 inmates between 2013 and 2018 (Corbett 2013).

contextual factors influencing each state’s ability to meet its population projection.

Comparing projected population changes and cost savings with actual population changes and cost savings is a delicate task. Multiple factors can affect prison population levels, such as changes in policy and practice outside JRI and changes in crime rates. These factors are difficult to foresee at the time a projection is created. One cannot attribute all population changes, or lack thereof, to JRI.<sup>147</sup>

## Arkansas

Arkansas’s JRI legislation was passed in March 2011, with most of its provisions becoming effective in July 2011. From FY 2006 to FY 2010, Arkansas’s population increased more than 3 percent each year, growing to 16,204 in FY 2010, a 7 percent increase from the previous year.<sup>148</sup> In FY 2011, that trend reversed. From FY 2011 to FY 2012, Arkansas’s prison

population decreased by 9 percent, from 16,108 to 14,654 inmates (figure 11).<sup>149</sup>

A corollary to the reduction in Arkansas’s prison population is the reduction in its jail backlog; that is, the number of state prisoners held in county jails owing to lack of prison capacity. In FY 2012, the average jail backlog was 637 inmates, a dramatic decrease from an average backlog of 1,613 in FY 2011.<sup>150</sup> This reduction created state savings in the jail reimbursement fund. In FY 2011, Arkansas spent \$15.9 million to house state inmates in county jails; in FY 2012, the state spent \$9.6 million, a reduction of 40 percent.<sup>151</sup> In reaction to a May 2013 high-profile murder suspected to have been committed by a parolee with multiple felony arrests, policy changes tightening pre-revocation hearing release and parole release criteria resulted in an increase in state jail bed use from 400 to 1,000 between June and August 2013.<sup>152</sup> It is unclear whether this spike was temporary or will have long-term effects.

**TABLE 7**  
Projected Savings

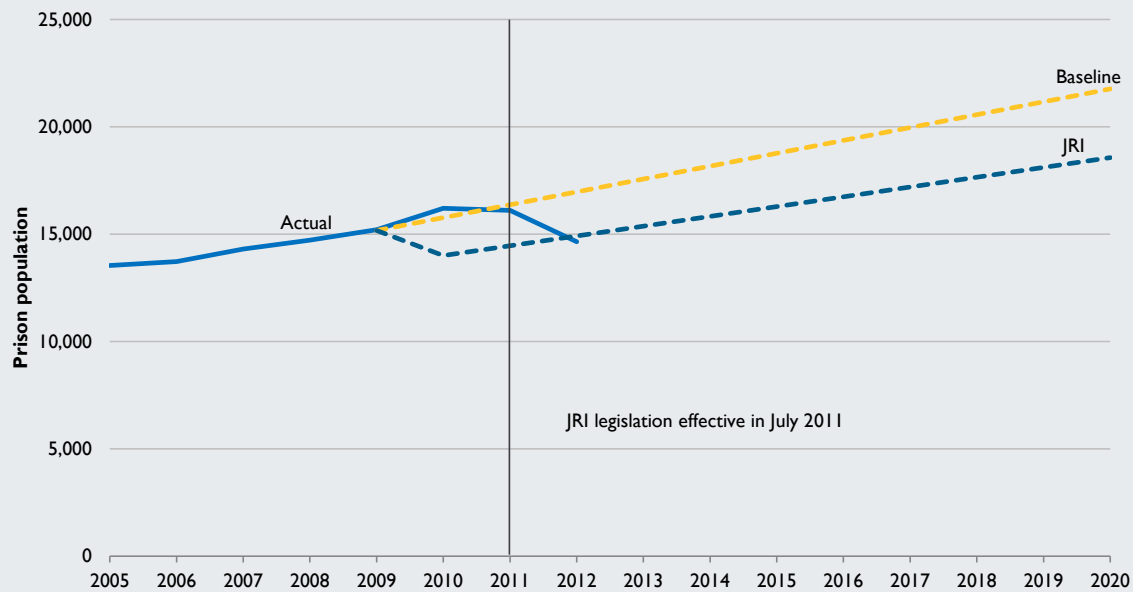
State	Projection Start Year	Projection End Year	Total Years Projected	Total Projected Savings (millions)	Projected Operating Savings (millions)	Projected Construction Savings (millions)
AR	2009	2020	11	\$875	\$646	\$229
DE	2012	2017	5	\$27.3	\$27.3	\$0
GA	2012	2017	5	\$264	--	--
HI	FY 2012	FY 2018	6	\$130	\$130	\$0
KS	FY 2013	FY 2018	5	\$181	\$56	\$125
KY	2010	2020	10	\$422	--	--
LA	2013	2024	11	\$103.8	\$103.8	\$0
MO	FY 2012	FY 2017	5	\$7.7–16.6	\$7.7–16.6	\$0
NH	FY 2010	FY 2015	5	\$160.8	\$10.8	\$150
NC	FY 2011	FY 2017	6	\$560	\$346	\$214
OH	FY 2011	FY 2015	4	\$578	\$78	\$500
OK	FY 2012	FY 2021	9	\$120	\$120	\$0
OR <sup>a</sup>	FY 2012	FY 2023	11	\$326	--	--
PA <sup>b</sup>	FY 2012	FY 2016	4	\$139	\$139	\$0
SC	2009	2014	5	\$241	\$66	\$175
SD	2012	2022	10	\$207	\$81	\$126
WV	2013	2018	5	\$287	\$87	\$200

Source: TA provider projections.

<sup>a</sup> Breakdown for savings unavailable at the time of the report, denoted by blank cells.

<sup>b</sup> These savings estimates reflect enacted legislation and implemented policies, not proposed policies. (Markosek 2013a).

**FIGURE 11**  
Arkansas Prison Population



Sources: JRI and baseline population projection values were extrapolated from available data calculated by the JFA Institute in Arkansas Working Group on Sentencing and Corrections (2011). Actual population data are from Bureau of Justice Statistics' *Prisoners Series*.

Note: Dotted lines represent projections.

## Hawaii

Hawaii has a unified system in which the state Department of Public Safety is responsible for administering prisons as well as jails. Before the JRI legislation, Hawaii's corrections population grew over 18 percent between 2000 and 2011 and was projected to increase 3 percent between 2012 and 2018 (figure 12).

JRI legislation addressing both prison and jail populations was signed into law in June 2012 and went into effect in July 2012. Preliminary numbers from FY 2013 suggest that Hawaii has begun to experience population reductions that can be attributed to JRI policy changes, such as permitting judges to sentence second-time drug offenders to probation rather than incarceration. As of June 30, 2013, Hawaii's pretrial population remained at the December 31, 2010 levels.<sup>153</sup>

Hawaii saved an estimated \$2.5 million in FY 2013 by housing fewer offenders on the mainland.<sup>154</sup> A portion of the savings is due to the rededication of space for low-risk offenders to complete work-release programs on the island of Oahu, a policy that was created outside of JRI. Hawaii's population reduction is not yet large enough to reduce corrections costs by closing a unit or facility.<sup>155</sup>

## Kentucky

From 2000 to 2009, Kentucky's state corrections population increased from 14,919 to 21,638 inmates. With an

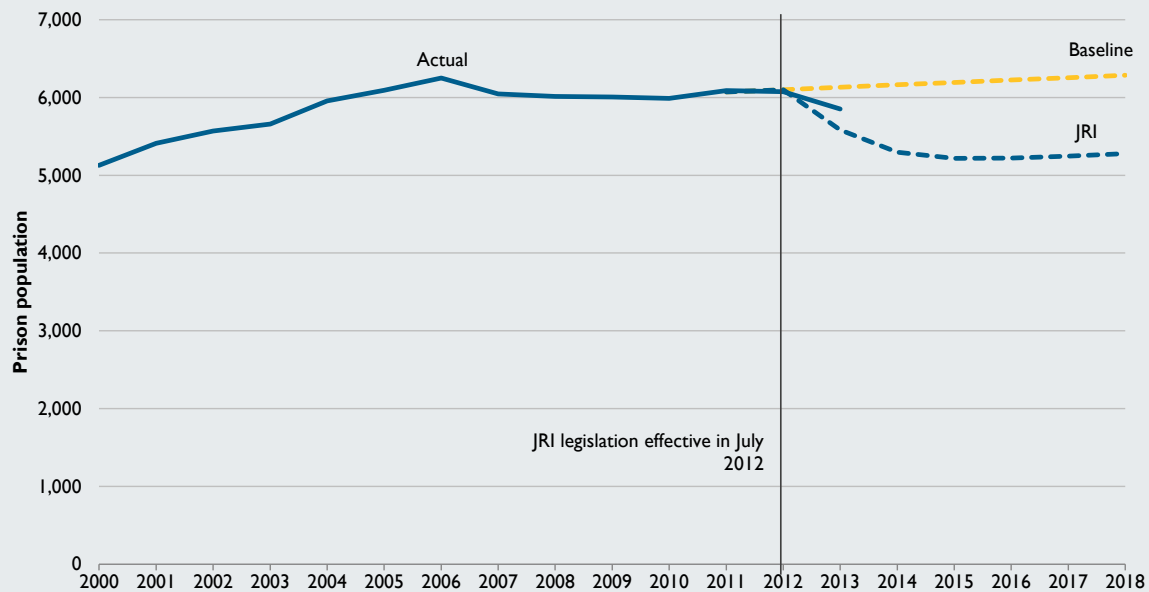
average increase of 4.2 percent year, Kentucky had the fifth-fastest growing prison population in the nation.<sup>156</sup> Kentucky's JRI legislation, House Bill (HB) 463, was signed into law in March 2011 and was phased in from March 2011 through November 2013 (figure 13).

From 2011 to 2012, Kentucky's prison population increased 2.6 percent, from 21,545 to 22,110 inmates.<sup>157</sup> Kentucky state criminal justice leaders convened in February 2013 to discuss why the state was not meeting population reduction targets and to develop solutions to implementation challenges. At this meeting, data were shared indicating that since the passage of HB 463, the parole grant rate had declined and prison admissions and sentence lengths had increased.<sup>158</sup> Recent data indicate that Kentucky's state corrections population is declining: the Department of Corrections' internal performance measurement dashboard indicates a 7.5 percent decline between January and September 2013.<sup>159</sup> While Kentucky's prison population has declined in 2013, a recent report concludes that reduction is due to increases in the parole grant rate, rather than JRI provisions.<sup>160</sup>

Changes to pretrial policies have increased the pretrial release rate through the use of global positioning system (GPS) monitoring, bail ceilings, and a risk assessment tool to guide release decisions. Comparing rates a year before and a year after enactment of HB 463, the pretrial release rate has increased by 5 percent, resulting in nearly 11,000 additional defendants released<sup>161</sup> and saving counties approximately \$25 million in jail costs.<sup>162</sup> Even with that

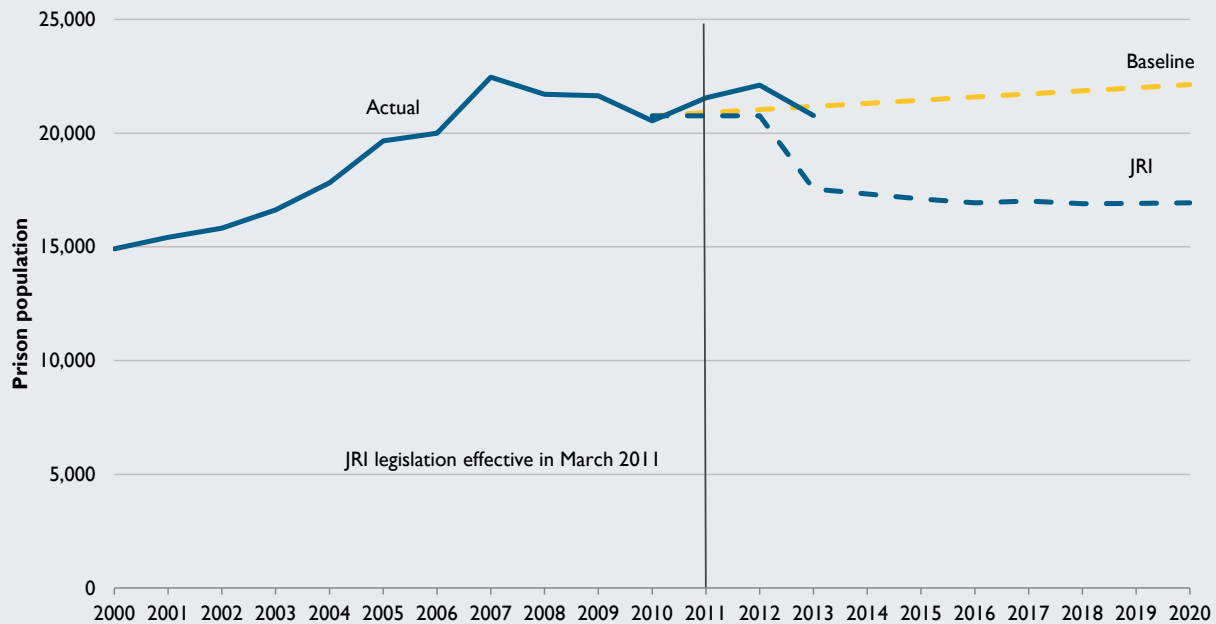


**FIGURE 12**  
Hawaii Prison Population



Source: Council of State Governments Justice Center, email message, July 19, 2013.  
Notes: Since prisons and jails form one integrated system in Hawaii, data include total jail and prison population. Dotted lines represent projections.

**FIGURE 13**  
Kentucky Prison Population



Sources: Baseline population projection values were extrapolated from available data calculated by the JFA Institute in Pew Center on the States (2010a). JRI population projection values calculated from available data in Kentucky Legislative Research Commission (2011b). Actual population data from 2000 to 2012 are from Bureau of Justice Statistics' *Prisoners Series*. Prison population numbers for 2013 are an average of monthly counts for January through September 2013 from the Kentucky Department of Corrections.  
Note: Dotted lines represent projections.

increase, the number and percentage of defendants who fail to appear had declined, as had the number and percentage of new crimes committed by pretrial defendants.<sup>163</sup>

## Louisiana

Louisiana enacted JRI legislation in both 2011 and 2012. The last effective date for the most recent round of legislation was August 2012. With the passage of the 2012 legislation, sufficient reforms were in place for Louisiana to move forward with TA provider–supported implementation efforts.

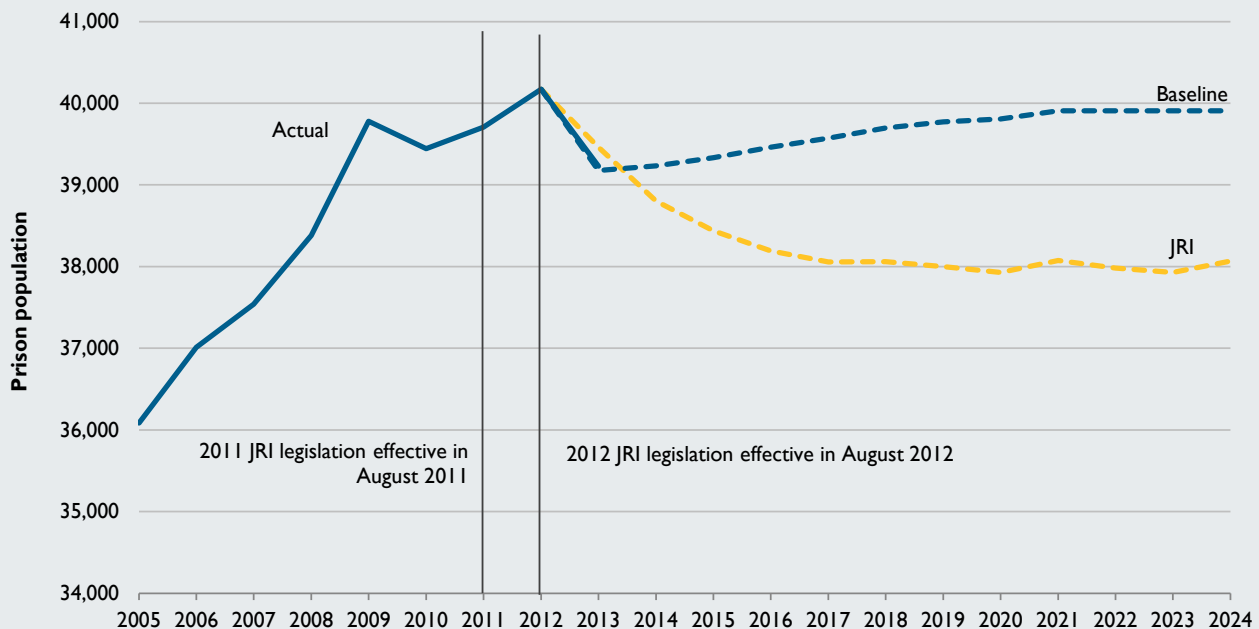
Louisiana created population projections in 2010 and 2013. The 2010 projection represents the expected change in Louisiana’s incarcerated population absent subsequent reforms in 2011 and 2012, while the 2013 projection estimates the impact of JRI policies and other changes on the criminal justice system since 2011 (figure 14). In 2010, Louisiana’s prison population was expected to increase 2 percent between 2013 and 2024. Because of policy changes in 2011 and 2012, including JRI legislation, Louisiana’s prison population is expected to decrease by 3 percent between 2013 and 2024. By 2024, this population reduction is projected to save Louisiana \$103.8 million.<sup>164</sup>

## New Hampshire

Between 2005 and 2009, New Hampshire’s prison population grew 11 percent (figure 15). The state’s JRI legislation, Senate Bill (SB) 500, was enacted in June 2010 with different effective dates for different provisions. The JRI provisions related to parole decisionmaking, which were projected to have the largest impact on the prison population, went into effect in October 2010. Over the first year of implementation, New Hampshire’s prison population reduction outperformed projections. The Department of Corrections reported that it had approximately \$225,000 remaining in its budget allocation after the first year of implementing JRI.<sup>165</sup>

However, some policymakers were critical of some JRI provisions and sought to repeal parts of SB 500. In June 2011, SB 52 went into effect. It removed mandatory parole release for inmates who otherwise would have been released at the end of their sentence with no supervision, restoring parole board discretion and limiting the use of intermediate sanctions for parolees. This legislation reduced the projected impact of the JRI provisions regarding parole decisionmaking, and New Hampshire’s prison population has increased to a level above the original JRI projection. However, the

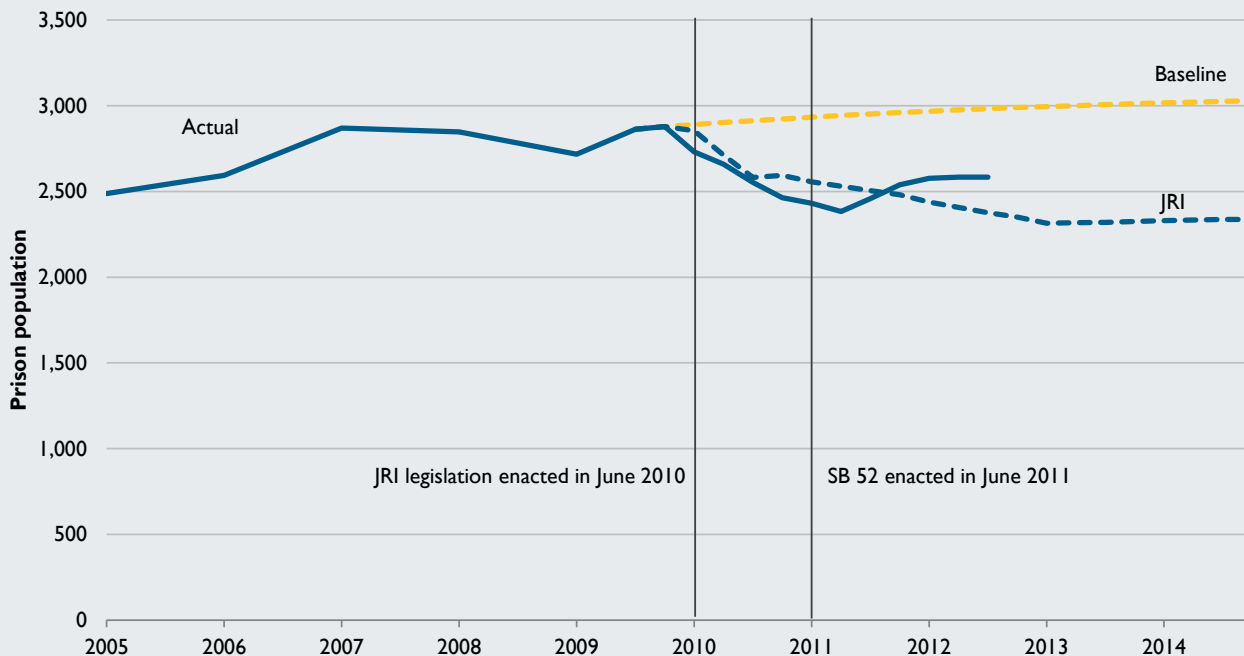
**FIGURE 14**  
Louisiana Prison Population



Sources: Actual population data from JFA Institute (2012). Baseline and JRI projection data are from JFA Institute email message, January 21, 2014.

Note: Dotted lines represent projections.

**FIGURE 15**  
New Hampshire Prison Population



Source: Duran-Mitchell, Pealer, and Derrick (2013).  
Note: Dotted lines represent projections.

population is still below the baseline projection had the JRI legislation not passed. In response to the restoration of parole discretion, the parole board has worked with the TA provider to receive training on using risk assessments and developing parole guidelines to incorporate EBPs into release decisions.

## North Carolina

Between 2007 and 2010, North Carolina’s prison population grew over 5 percent; between 2010 and 2011, it decreased almost 2 percent. North Carolina’s JRI legislation—the Justice Reinvestment Act (JRA)—was enacted in June 2011, with additional clarifying legislation enacted in 2012 and 2013. North Carolina’s prison population decline has exceeded projections: about 4,000 people in the past two years (figure 16). As a result, the state is slated to close five prisons.<sup>166</sup>

The prison population began decreasing in June 2011, even though the earliest effective date for the provisions in JRA was December 1, 2011. This suggests other factors may have also contributed to a decline in the prison population. The North Carolina Sentencing and Policy Advisory Commission attributed some of the population decline to JRA and some to other factors: a change in the felony punishment chart in 2009, changes to earned time credits early in 2011, a decrease in the growth rate of the number of men ages

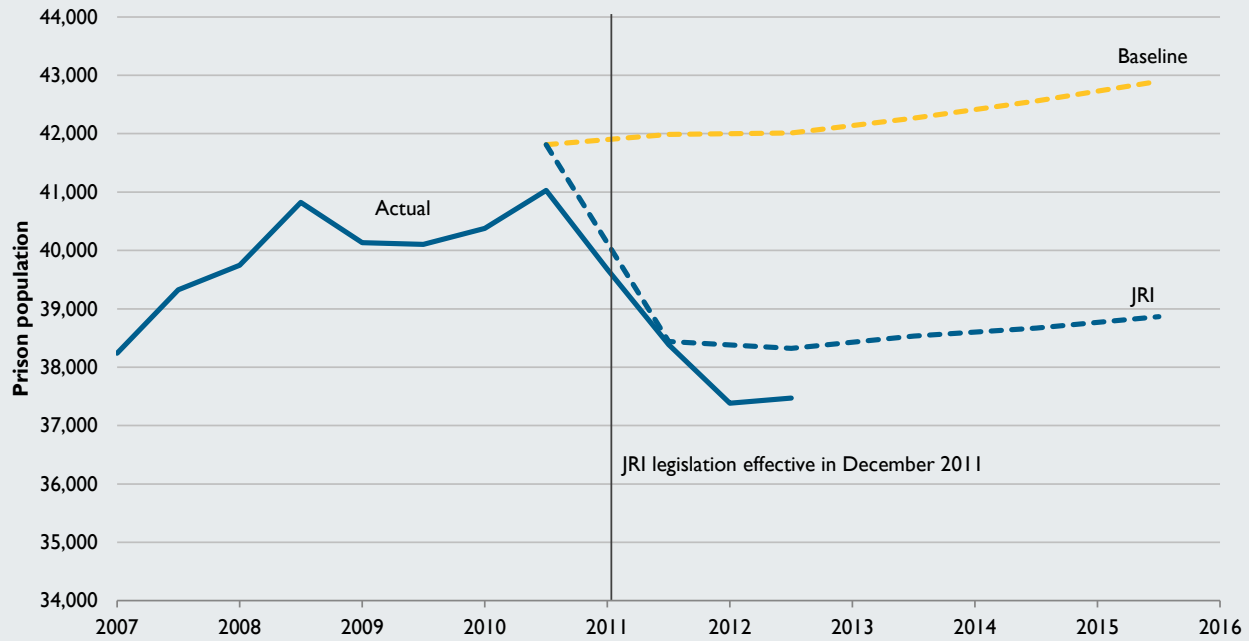
16 to 24 in the state, and overall decreases in crime.<sup>167</sup> It appears that a confluence of factors that include JRI, other criminal justice reforms, and shifts in demographic and crime trends reduced North Carolina’s prison population and criminal justice costs.

## Ohio

Ohio’s prison population grew 9 percent between 2006 and 2011. It has decreased since the state’s JRI legislation went into effect on September 1, 2011, with declines consistent with forecasted reductions through September of the following year (figure 17). In October 2012, however, the prison population began to increase; by April 2013, it had risen but remained below the original baseline projection. Ohio’s Department of Rehabilitation and Correction is attempting to determine the causes of the increase; some stakeholders have speculated that implementation challenges were greater than anticipated, especially with regard to educating judges on the JRI reforms.<sup>168</sup>

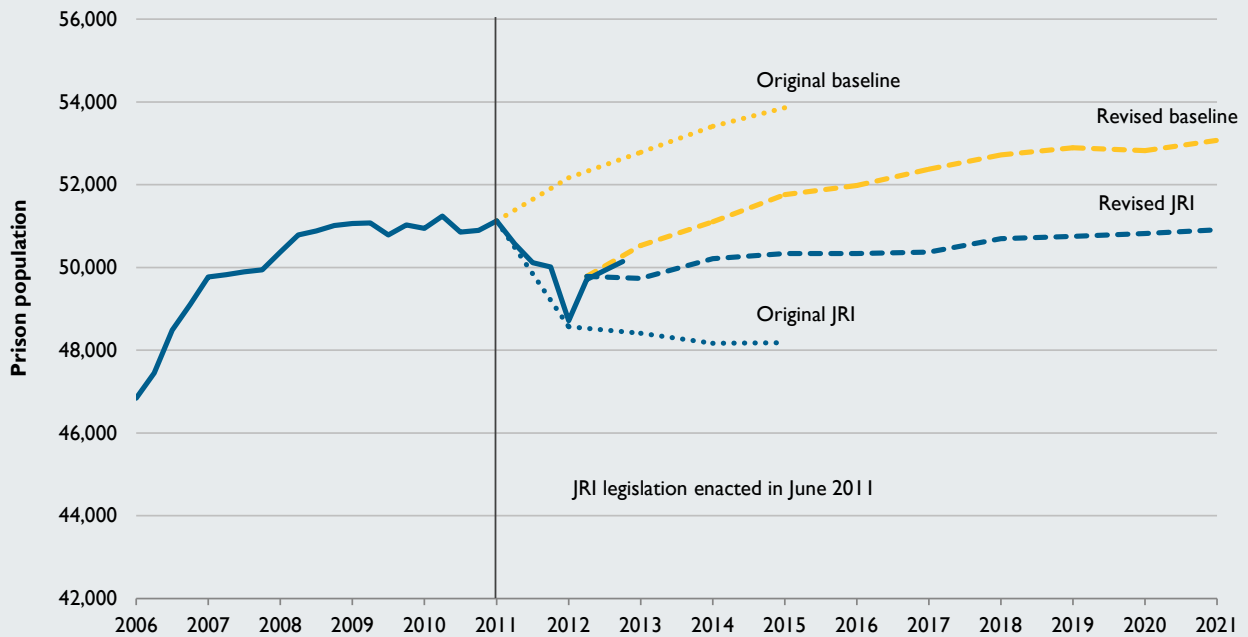
In November 2012, Ohio’s Department of Rehabilitation and Correction revised the baseline and JRI projections to reflect a more modest estimate of the impact of JRI. The revised baseline projection was lower than the original projection, while the revised JRI projection showed a smaller impact on the prison population than the original projection.

**FIGURE 16**  
North Carolina Prison Population



Sources: JRI and baseline population projection data are from Council of State Governments Justice Center (2011b). Actual population data are from North Carolina Department of Public Safety Office of Research and Planning (2013).  
Notes: Data do not include individuals in the statewide misdemeanor confinement program. Dotted lines represent projections.

**FIGURE 17**  
Ohio Prison Population



Sources: Actual prison population data are from Ohio Department of Rehabilitation and Correction (2013). Original baseline and JRI projection data are from Council of State Governments Justice Center (2011c). Revised baseline and JRI projection data are from Martin and Van Dine (2012).  
Note: Dotted lines represent projections.

## South Carolina

South Carolina’s prison population grew almost 5 percent between 2006 and 2010. After the JRI legislation was enacted in June 2010 and went into effect in January 2011, the state’s average daily prison population over the fiscal year declined well beyond what was forecast; in fact, post-JRI projections had forecast a slowing of prison population growth rather than an actual decline (figure 18). Reductions in parole revocations resulted in cost savings of approximately \$4.1 million and \$3 million in 2011 and 2012, respectively.<sup>169</sup> These savings resulted from 579 offenders not returning to prison as a result of new supervision practices in 2011 and 535 offenders not returning to prison in 2012.<sup>170</sup> The population decrease allowed prisons to shift populations among facilities and led to the closure of one prison and half of another.<sup>171</sup>

### Summary of Actual Population Changes

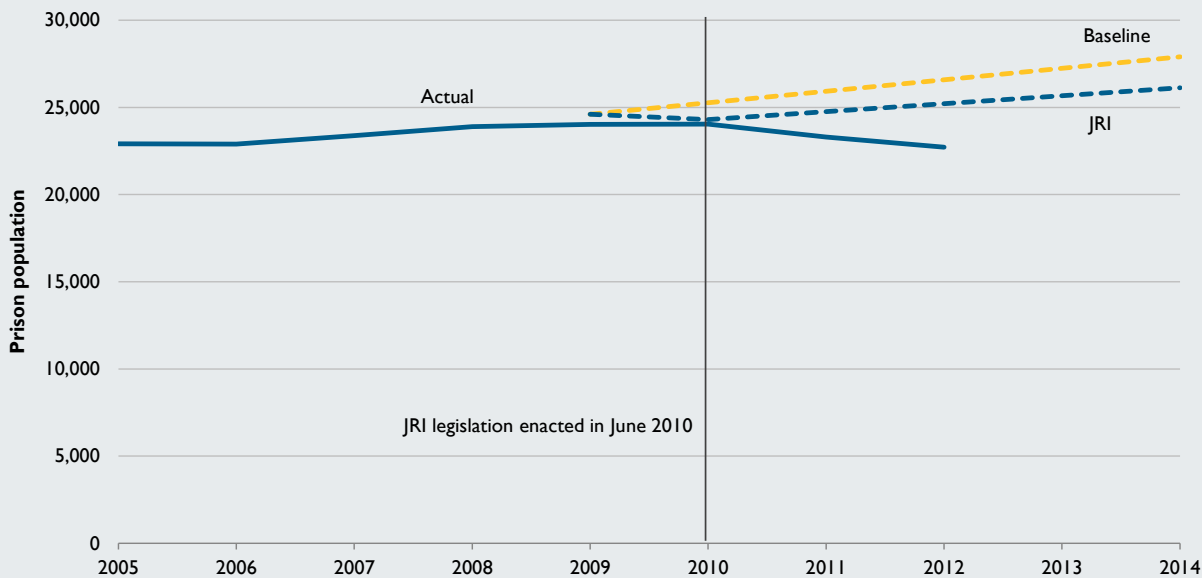
In eight of the 17 JRI states, JRI policies have been in effect for at least one year, allowing for a preliminary examination of impacts. A definitive assessment of JRI’s impact on populations and costs is difficult, as projections are a function of available information and assumptions made at the time they are generated. Unforeseeable policy, practice,

demographic, and criminal activity changes can undermine the accuracy of projections. Thus, any conclusions from comparing actual and projected population impacts should be made with caution. It would be more accurate to examine specific measures, if possible, about policy use to pinpoint a specific JRI provision’s impact. Still, total incarceration population figures can be informative in assessing the impact of JRI.

Since enacting JRI legislation, all eight states have decreased their prison populations and outperformed their business-as-usual projections. Because the incarcerated populations in six of these states were projected to grow, these reductions suggest that JRI policies had some success in reducing incarcerated populations and generating cost savings. However, it is difficult to estimate with certainty what the corrections population trends would have been without JRI. Additionally, two states have exceeded their goals of slowing population growth, three have more or less met their projections, and three have not met their reduction goals.

Many factors contributed to underperformance in meeting population projections, including post-JRI policy changes that neutralized JRI provisions and underutilization of JRI policies. Some states experienced greater implementation challenges than they expected and were overly optimistic about how quickly changes would be adopted, especially those that permitted discretion. These results illustrate the

**FIGURE 18**  
South Carolina Prison Population



Sources: JRI and baseline population projections were extrapolated from available data from Pew Center on the States (2010b). Actual population data are from South Carolina Department of Corrections (2012).  
Note: Dotted lines represent projections.

difficulty in implementing policy changes that may be unpopular with those who are intended to use them (such as judges) and that represent a dramatic transformation of an organization’s culture. As a result of the challenges they encountered in implementing JRI reforms, states realized the need to focus on implementation earlier in the JRI process.

Population projections provide benchmarks for states to assess their progress and encourage accountability. In states that have not met their projections, the comparisons between actual and projected populations have sparked conversations about barriers to implementation and potential solutions. Moreover, other less tangible benefits have been experienced by these and other JRI states with regard to the adoption of EBPs and the cultural and organizational transformations that accompanied them.

## Evidence-Based Practices

An important component of JRI is expanding the use of EBPs as a response to justice system population and cost drivers. Encouraging the adoption of EBPs is a key component of BJA’s 2013–16 strategic plan, which calls for the promotion and sharing of evidence-based and promising practices and programs.<sup>172</sup> Integrating key EBPs into JRI policy responses allows states to improve the efficiency of their criminal justice systems and allocate limited resources effectively.

A number of definitions are used to classify a practice or program as “evidence-based.” Some of the most rigorous definitions of EBPs originate from Crimereolutions.gov and the What Works in Reentry Clearinghouse. These databases evaluate and rank the effectiveness of criminal justice programs to provide policymakers with guidance in selecting strong, evidence-based programs. Some states that mandate the use of EBPs define them by statute. Arkansas’s JRI legislation defines EBPs as “policies, procedures, programs, and practices proven by scientific research to reliably produce reductions in recidivism.” Such a definition of EBPs can be oriented to emphasize a particular facet of program success, such as decreased recidivism, that policymakers want to achieve.

EBPs used by JRI states fall into four key categories, listed in table 8: (1) monitoring for effectiveness; (2) using immediate, swift, and certain responses; (3) implementing risk and needs assessments; and (4) establishing problem-solving courts to work with key populations.

During data analysis, some states found that their community-based treatment and other programs were ineffective or had varying or unknown levels of quality. In Georgia, the Department of Corrections tracked information on case flow (e.g., cases received, discharges, and active); activity counts (e.g., number of contacts completed, number of drug tests

administered); and point-in-time snapshots (e.g., average caseload size, types of case). This information did not clearly demonstrate whether community-based treatment programs were achieving results, such as reducing recidivism.<sup>173</sup>

To ensure that programs and reforms are effective, states monitor for effectiveness by requiring programs to be evidence-based and instituting quality assurance measures such as performance metrics and oversight councils. South Dakota’s JRI legislation mandates the use of EBPs for probation supervision programs and a pilot parole supervision program on tribal lands. The legislation also requires that probation officers be trained in EBPs and methods to target criminal risk factors in order to reduce recidivism.<sup>174</sup> South Carolina’s Department of Probation, Parole and Pardon Services instituted performance measures to track the impact of the South Carolina Omnibus Crime Reduction Act, including prison admissions, releases, and revocations.<sup>175</sup> Missouri created an oversight council, the Sentencing and Corrections Oversight Committee, to evaluate and report on the effects of JRI activities. The committee includes judicial, law enforcement, community corrections, and legislative representatives.<sup>176</sup>

Many states found that a large volume of revocations for probation and parole were a key driver of prison population. To address this driver, states have created immediate, swift, and certain responses, which have been found to improve offender compliance with the terms of their supervision.<sup>177</sup> These responses take the form of incentives and sanctions for probationers and parolees. Arkansas’s Department of Community Corrections developed the Arkansas Accountability Intervention Matrix to guide its sanction responses and a similar tool to guide incentives. Sanctions available to

**TABLE 8**  
Evidence-Based Practices by State

Practice	States
Monitor for effectiveness	
Require evidence-based practices	AR, DE, GA, KY, PA, OH, and SD
Data collection and performance measurement	AR, GA, HI, KS, KY, LA, NC, OH, OK, SC, SD, and WV
Oversight councils	GA, MO, SC, SD
Immediate, swift, and certain responses	AR, DE, GA, KS, KY, LA, MO, NC, NH, OK, OR, PA, SC, SD, and WV
Risk and needs assessments	AR, DE, GA, HI, KS, KY, LA, NC, NH, OH, OK, OR, PA, SC, SD, and WV
Problem-solving courts	AR, GA, KY, LA, SD, and WV

officers range in severity from written warnings to revocation, while incentives range from verbal recognition to early discharge from supervision.<sup>178</sup> Arkansas, Kentucky, and South Dakota have supported immediate, swift, and certain responses by piloting or planning to pilot the HOPE model with their probationers. HOPE is a successful probation model in Hawaii that combines swift and certain sanctions with drug tests and referral to treatment when needed.<sup>179</sup>

In some states, analysis revealed that criminal justice resources were inefficiently targeted. For example, Ohio's community corrections programs did not have clear or data-driven criteria to inform the selection of program participants. Thus, although the state invested more than \$130 million annually in diversion programs, it was difficult for judges to be certain that they were sentencing individuals to programs that would provide the greatest benefit to them.<sup>180</sup> Hawaii found that its recidivism prevention programs were not focusing on the people most likely to reoffend,<sup>181</sup> while in Delaware, analysis using a pretrial risk assessment tool found that some detention admissions could be candidates for release while awaiting trial rather than being detained. This could reduce the prison population, saving criminal justice resources while maintaining public safety.<sup>182</sup>

To allocate justice system resources more efficiently, states are using risk and needs assessments (sometimes called actuarial assessments) to determine which offenders should be diverted and which released, and how offenders should be supervised and treated. Risk and needs assessments inform justice system decisionmaking by providing information about an individual's risk of offending, his or her criminogenic needs, and what services will meet those needs. These assessments are more effective than professional judgments about risk and service alone.<sup>183</sup> To date, 16 states have adopted risk and needs assessments or improved their existing assessment tools. South Carolina included a requirement in its JRI legislation that probation officers conduct actuarial assessments of offenders' risks and needs, and use EBPs to make recommendations about services and supervision.

In a number of states, certain special populations, such as drug offenders, make up a significant proportion of the state prison population. To divert special populations, states have reformed or piloted problem-solving courts. Problem-solving courts (e.g., drug, mental health, or veterans' courts) have been found to generate significant reductions in both relapse and recidivism for offenders.<sup>184</sup> Seven states have integrated a form of problem-solving court into their JRI projects. West Virginia's JRI legislation expanded the state's drug court program, requiring all judicial circuits to participate in a drug court or regional drug court.<sup>185</sup> Georgia's legislation mandates the establishment of statewide policies to guide the operation and certification of problem-solving courts focusing on offenders with

substance abuse and mental health disorders to ensure the adoption of sound practices.<sup>186</sup>

## **Cultural and Organizational Impact of Justice Reinvestment**

In addition to the increased adoption of EBPs, stakeholders across JRI states recognized additional measures of progress that have expanded their capacity to enhance public safety cost-effectively. Although outcomes varied, stakeholders recognized some common benefits of JRI. These include enhanced accountability measures for criminal justice agencies and programs, an increase in systemwide collaboration, and a heightened focus on prison populations and costs.

While the impact of these system changes cannot be easily isolated by quantitative data analysis, qualitative evidence collected through stakeholder interviews suggests that justice reinvestment has yielded preliminary successes by helping states increase the effectiveness of their criminal justice agencies.

## **Accountability**

One of the goals of JRI is to promote the use of data and evidence to make decisions and measure outcomes; thus, a critical component is the implementation of performance measurement and accountability mechanisms. In many cases, these accountability measures are proxies for the initial data analyses that identified the cost and population drivers that guided development of the JRI legislation. The continued monitoring of measures related to the identified cost and population drivers and the performance of their respective strategies is designed to help ensure that the state's JRI efforts are producing the intended results.

Most JRI states implemented new reporting requirements or expanded existing ones to encourage more frequent, meaningful data collection and analysis. In Kentucky, the Department of Correction is now required to report treatment and recidivism data for the state's probation and parole populations to the legislature and to the Kentucky State Corrections Commission.<sup>187</sup> As a component of the state's JRI legislation, the Ohio Department of Rehabilitation and Corrections collects data from local probation agencies regarding recidivism and revocation.<sup>188</sup> Other states have revised and expanded existing reporting requirements. Arkansas's parole board now reports data monthly rather than annually, and JRI legislation provided additional specification regarding the data measures reported.<sup>189</sup>

Many JRI states tasked oversight committees with new responsibilities for data analysis and review. The Kansas Sentencing Commission must periodically review data to determine the impact and effectiveness of supervision and make recommended changes.<sup>190</sup> The North Carolina Sentencing and Policy Advisory Commission is required to produce biennial reports for the General Assembly and governor on recidivism rates for those participating in JRI programs. The North Carolina Sentencing and Policy Advisory Commission and the Department of Public Safety are required to submit an annual report on implementation to state legislators.<sup>191</sup> Other states have formed oversight committees to perform data review. West Virginia required the establishment of a committee to ensure that community-based supervision agencies adequately share information and mandated a statewide interagency committee to oversee implementation of EBPs, conduct assessments, and report to the legislature annually.<sup>192</sup>

Stakeholders reflected on the value of expanded accountability measures. Those from Kentucky observed that data analysis is driving pretrial decisionmaking since the implementation of JRI reforms.<sup>193</sup> Stakeholders in New Hampshire made similar observations and noted that the state's criminal justice agencies are increasingly making decisions based on data, crediting the justice reinvestment process for providing the technical expertise to understand which data to consider and how those data can be analyzed and understood.<sup>194</sup> Louisiana's JRI Oversight Committee adopted a performance measurement tool created by the Louisiana Department of Public Safety and Corrections and established a reporting schedule. The Department of Public Safety and Corrections will report the data to the committee quarterly.<sup>195</sup> A Georgia stakeholder explained that JRI technical assistance helped the state understand the wealth of data already available in its system and learn how to compile and analyze those data. Georgia now has the capacity to read its own data without the assistance of TA providers.<sup>196</sup> Another Georgia stakeholder noted that the JRI data analysis also helped broaden the overall goals of the state for its data capacity; following JRI implementation, Georgia's criminal justice agencies are working to increase their internal data expertise, expand capacity to answer statewide data questions, and move the whole criminal justice system to use data for everyday decisionmaking.<sup>197</sup>

## Systemwide Collaboration

Many stakeholders said that JRI was the most comprehensive collaborative effort for adult criminal justice reform ever implemented in their states. While some states had preexisting cross-agency criminal justice collaborations, JRI required collaboration at two stages: stakeholders from multiple agencies and organizations were convened to (1)

inform the development of policy options, and (2) address the implementation of reforms. By creating a venue for cross-agency collaboration, JRI is helping state agencies and employees communicate and solve problems together.

Multiple stakeholders across states noted that the single most important step to a successful JRI initiative was the early and frequent engagement of multiple stakeholders in examining the state's data and developing policy options and plans for implementation of reforms. States identified the inclusion of all three branches of government and multiple state agencies as unique to JRI and critical in fostering effective collaboration. While many stakeholders mentioned previous collaborative efforts, JRI has been unique in its reach.

Pennsylvania's criminal justice stakeholders, for example, had a strong history of collaboration before JRI. The Pennsylvania Commission on Crime and Delinquency—an organization devoted to improving the criminal justice system in the state—played a central role in establishing the working group and cooperative efforts during JRI. Despite previous collaboration, it was noted that a large group of key stakeholders had never before worked together on such a far-reaching criminal justice initiative in the state.<sup>198</sup> While Ohio also has had a history of collaboration on criminal justice issues, stakeholders in the state noted that the level of engagement in JRI was unprecedented for adult corrections.<sup>199</sup> In West Virginia, stakeholders spoke of the importance of interagency collaboration and cited lack of buy-in across criminal justice agencies as a key barrier to previous reform efforts.<sup>200</sup>

State policymakers also described the role JRI played in fostering productive and collaborative relationships across agencies to increase systemwide effectiveness. One Kentucky stakeholder said that JRI opened the door for new cross-agency relationships, allowing departments to share resources such as training opportunities and setting the stage for productive, everyday conversations between employees in separate agencies.<sup>201</sup> Georgia state leaders said that JRI enhanced cooperation between the Department of Corrections and the parole board, and increased information-sharing and communication throughout the criminal justice system.<sup>202</sup> In West Virginia, stakeholders said JRI strengthened some cross-agency relationships and set the stage for future collaboration between groups that had not previously worked together, such as substance abuse treatment providers and the corrections system.<sup>203</sup>

## Education on Criminal Justice Issues and Additional Reforms

JRI was a major initiative in each state that sought the input of many different stakeholders. Through the process



of stakeholder engagement, individuals and groups outside the states' corrections agencies became more informed about and interested in corrections reform. In New Hampshire, one stakeholder reported that prosecutors and the courts became more engaged in corrections policy. Many of Louisiana's reforms authorized changes to sentencing and the calculation of good time and earned time. As a result, implementation efforts have focused extensively on educating stakeholders across the criminal justice system about the implications of these and other reforms.<sup>204</sup> In Pennsylvania and other states, TA providers have educated and built support among non-working-group stakeholders—including members of law enforcement and victims' advocacy groups—through presentations, focus groups, and online presentations.<sup>205</sup> In many states, JRI working group meetings were open to the public and the press, which helped the initiative garner public support. Stakeholders said these efforts were critical to educating participants and the public on criminal justice reform, and the enhanced media attention allowed for broader public education on criminal justice issues.

This new interest in corrections reform spurred additional criminal justice legislation. In Ohio, the momentum from passing the JRI legislation led to legislation addressing how to reduce or eliminate many of the civil collateral sanctions, such as revoking licenses or losing eligibility for public assistance, of a criminal conviction.<sup>206</sup> According to one Ohio stakeholder, these two pieces of legislation were remarkable because they were the only bipartisan bills to be passed in recent memory. Following the passage of Georgia's initial JRI reforms to the adult corrections system, the state also passed reforms to its juvenile system, along with legislation allowing for departure from mandatory minimums. Georgia stakeholders spoke of these later reforms as integral components of an ongoing justice reform and reinvestment process in the state, originating with JRI.<sup>207</sup> Additional criminal justice reforms seem imminent in other states; Louisiana, for example, is developing standards for home incarceration as an alternative to a prison stay.<sup>208</sup>

# Reinvestment

A key component of the JRI model is the reinvestment of savings from the implementation of criminal justice reforms. JRI legislation is designed to help lower corrections costs by using data-driven changes in policy and practice to attain a larger return on public safety spending. This cost reduction, generally from reduced operational costs and averted prison construction, can then be reinvested in evidenced-based public safety strategies and programs.

## Proposed Reinvestment

Across the 17 JRI states, working groups proposed a variety of reinvestment priorities (see table 9 on page 44). Many states planned to reinvest cost savings into substance abuse treatment, mental health services, and alternatives to incarceration. States also planned to use cost savings to expand corrections data and research capacity. The total amount of proposed reinvestment exceeded \$398 million over multiple years across the states.

## Reinvestment Mechanisms

States use different mechanisms to re-invest: (1) authorization legislation, (2) appropriation legislation, and (3) reallocation. One mechanism for accomplishing reinvestment is enacting authorization legislation that guides reinvestment appropriations. Although legislators are not necessarily mandated to reinvest savings under the authorization legislation, describing reinvestment

in legislation creates an opportunity to build consensus and prioritizes reinvestment. The specificity of reinvestment-related legislative language varied from state to state. In its JRI legislation, South Dakota listed the types of programs that should be invested in, such as treatment programs for probationers and parolees, but did not specify how to distribute funds or how to calculate savings in future years.<sup>209</sup> Oklahoma created a local law enforcement grant program in its justice reinvestment authorization legislation, and the legislature then appropriated funds to support the grant program in its normal appropriation process.<sup>210</sup> Pennsylvania, on the other hand, mandated future reinvestment and specified the distribution of savings in legislation that tasked the state's budget office with calculating savings. Those savings would then be transferred to Pennsylvania's Justice Reinvestment Fund and distributed according to a formula established in the legislation.<sup>211</sup>

In states in which legislatures were not mandated to reinvest, budgetary and political situations influenced whether reinvestment occurred. Although mandating reinvestment in authorization legislation increases the

likelihood of reinvestment, some states have been reluctant to do so because it constrains legislators. States may instead appropriate reinvestment in the current legislative session without mandating future reinvestment. While this compromise restores some legislative flexibility to the process, it also makes the commitment to future reinvestment tenuous.

South Carolina’s legislation specifies which programs should be funded through savings but allows the legislature to make the final appropriation. The South Carolina Sentencing Reform Oversight Committee (SROC) is responsible for calculating cost savings and recommending the allocation of up to 35 percent of savings for reinvestment. South Carolina

**TABLE 9**  
**Proposed Reinvestment**

<b>State</b>	<b>Proposed Amount</b>	<b>Period</b>	<b>Proposed Priorities</b>
AR	Not specified	Not specified	Substance abuse, mental health, employment, education, cognitive behavioral therapy, and family services in two areas of the state.
DE	Not specified	Not specified	Treatment and program capacity, pretrial services, and corrections staff training.
GA	Not specified	Not specified	Accountability courts, residential treatment beds, day reporting centers, external audits of programs, a performance measurement system, improvement of state and local criminal justice systems, drug testing for those on community supervision, and global positioning system monitoring.
HI	\$42 million	6 years	Pretrial services and risk and needs assessment, evidence-based supervision and reentry practices, a corrections research and planning office, parole operations, and victims’ services.
KS	\$30 million	5 years	Community corrections, court services, and post-release supervision programming.
KY	100 percent of estimated savings resulting from drug-related policy reforms. FY 2013: \$6.8 million; FY 2014: \$11.5 million	Annual	Community and prison treatment programs that employ evidence-based or promising practices designed to reduce the likelihood of future criminal behavior.
	Up to 75 percent of savings resulting from non-drug-related policy reforms. FY 2013: \$3.6 million; FY 2014: \$5.7 million	Annual	Treatment programs, probation and parole services, pretrial services, and drug court case specialists necessary as a result of the provisions in the new law.
	25 percent of savings resulting from non-drug-related policy reforms. FY 2013: \$3.4 million; FY 2014: \$5.5 million	Annual	Local corrections assistance fund to aid local corrections facilities and programs.
LA	Not specified	Not specified	No proposed reinvestment strategy.
MO	Not specified	Not specified	Reimbursements for administrative jail sanctions.
NH	Not specified	Not specified	Community-based drug treatment, mental health services, and rapid drug testing.
NC	\$60 million	6 years	Prison-based programming, community-based treatment programs for high-risk offenders on supervision, and additional probation officer positions.
OH	\$20 million	4 years	Probation improvement grant and probation incentive grant programs.
OK	\$110 million	9 years	Law enforcement grant programs, victim/witness services, probation improvements, risk and needs assessment, and substance abuse treatment.
OR	Not specified	Not specified	

**TABLE 9 CONTINUED**

State	Proposed Amount	Period	Proposed Priorities
PA	75 percent of savings	FY 2013–14	Victims’ services, risk assessment models, innovative policing grants, county incentive funding, county probation and parole, streamlining parole efficiencies, and safe community reentry program.
	Up to \$21 million of savings	FY 2014–15	Victims’ services, risk assessment models, innovative policing grants, county incentive funding, county probation and parole, streamlining parole efficiencies, and safe community reentry program.
	25 percent of savings	FY 2015–16 and 2016–17	Sentencing commission, victims’ services, county incentive funding, innovative policing, safe community reentry, and county probation and parole.
SC	Up to 35 percent of savings	Annual	Evidence-based practices (EBPs), victims’ services, and risk reduction programs, including substance abuse treatment.
SD	\$53 million	10 years	EBP training, HOPE and Department of Corrections transitional housing pilot programs, victim notification, offender financial accountability, drug court expansion, community-based services, and jail cost offsets.
WV	\$25.5 million	5 years	Housing plan assistance, training and sustainability for justice reinvestment policies, and community-based substance use treatment.

Source: TA provider reports.

developed a cost-calculation methodology that estimated that reducing revocations for technical violations saved the state almost \$4.2 million in 2011. On the basis of this estimate, the SROC recommended that \$1,067,630 be reinvested in the South Carolina Department of Probation, Parole and Pardon Services (PPP).<sup>212</sup> However, the legislature opted not to reallocate any savings from the South Carolina Department of Corrections to PPP to fund any of the other established reinvestment priorities in 2011.<sup>213</sup> This highlights one of the challenges of relying on annual appropriations as a reinvestment strategy: the legislature retains the ability to change the amount or destination of the reinvested funds or to forgo reinvestment altogether.

Reinvestment can also occur outside legislation. One approach is to prioritize budgeting within an agency or between agencies to mirror the priorities of JRI legislation. For instance, an agency may reallocate its funding to emphasize certain programs that align with the goals of JRI and deemphasize others. Calculation methodologies may be determined by a commission or by a department within an agency. For example, North Carolina redirected \$16 million from the Department of Public Safety’s budget to community-based treatment programs to target high-risk offenders,<sup>214</sup> while Arkansas reallocated \$500,000 in 2012 from the Department of Corrections to the Department of Community Corrections to fund transitional housing for certain offenders. Although budget reallocation is less formal than legislation, it allows for flexibility during the reinvestment process.

## Actual Reinvestment

Thus far, JRI states have reinvested \$165.8 million (table 10). States invested savings in two ways, either as an upfront investment or as a reinvestment of actual savings. With upfront investment, states estimated how much money they would save through justice reinvestment policies in the future and chose to reinvest a portion of that amount. This eliminated the waiting period between policy implementation and reinvestment, but it required an expectation of a certain level of future savings. For example, confidence in anticipated savings led Hawaii’s legislature to invest over \$3 million upfront in the first year after JRI legislation passed. This funding helped expand community-based treatment programs, hire additional staff to complete risk and needs assessments, reestablish a research and planning unit at the Department of Public Safety, and support 22 new staff positions for victims’ services.<sup>215</sup> South Dakota officials invested \$8 million upfront in the first year after legislation was passed for expanded probation and parole officer training, substance abuse and mental health treatment programs for offenders, drug and driving under the influence (DUI) courts, a victim notification system, and pilot programs.<sup>216</sup> Through the governor’s budget<sup>217</sup> and legislative appropriations, Oregon invested \$58 million of averted corrections expenditures to support public safety programs, including investments in victims’ services, sheriff departments, law enforcement training, and community corrections, and the creation of a Justice Reinvestment Account to fund county public safety programs that reduce recidivism and prison use.<sup>218</sup>

Some states have reinvested actual savings. These states reinvested funds after justice reinvestment policies were implemented, given time to take effect, and then generated cost savings. Because most states are relatively early in the JRI process, there has been very little reinvestment of actual savings to date. North Carolina reinvested \$18 million into additional probation officer positions to support an increase in supervision populations created by justice reinvestment policies and \$4 million to support a statewide community-based treatment program for high-risk offenders, which was previously supported through

upfront investment.<sup>219</sup> Pennsylvania reinvested \$43,000 in FY 2014 for victims' services. This reinvestment amount was calculated from the prison population reduction the state experienced in FY 2013 and transferred to the Justice Reinvestment Fund as mandated by legislation.<sup>220</sup> For other states, capturing savings for reinvestment has been difficult. New Hampshire accrued \$225,000 in savings in FY 2012, but these savings were deposited in the general fund and not reinvested according to the state's proposed reinvestment priorities.<sup>221</sup>

**TABLE 10**  
**Actual Reinvestment to Date**

State	Legislation Year	Reinvestment Year	Amount	Description
AR	2011	2012	\$2.4 million	Upfront investment: Transitional housing, behavioral health treatment, electronic monitoring, and reallocation from Arkansas Department of Correction to the Arkansas Department of Community Correction to fund transitional housing for certain offenders.
DE <sup>a</sup>	2012	None to date	--	--
GA	2012	2012	\$17.5 million	Upfront investment: Mental health and drug accountability courts, residential substance abuse treatment programs, and front-end risk assessment tool development.
HI	2012	2012	\$3.4 million	Upfront investment: Expand community-based treatment programs, hire additional corrections staff to for risk and needs assessments and reentry efforts, establish a corrections research and planning office, and add victims' services staff positions.
KS	2013	None to date	--	\$2 million planned for upfront investment in FY 2014 for community behavioral health treatment.
KY	2011	2011	\$1.2 million	Upfront investment: Offender management system.
		2012	\$13.9 million	Upfront investment: Department of Corrections funding for evidence-based programs.
LA	2012	2013	\$1.7 million	Reinvestment from actual savings: Community-based substance abuse treatment.
MO	2012	None to date	--	--
NH	2010	None to date	--	--
NC	2011	2011	\$16 million	Upfront investment: Allocated over two years for community-based treatment targeted at high-risk offenders.
		2013	\$22 million	Reinvestment from actual savings: Additional probation officer positions and continued funding for community-based treatment targeted at high-risk offenders.
OH	2011	2011	\$14.5 million	Upfront investment: Allocated over two years for probation improvement grants to reduce recidivism and rewards for departments that were successful in achieving grant proposal goals and reducing recidivism.
OK	2012	2012	\$3.7 million	Upfront investment: Law enforcement grant program, mental health crisis stabilization beds, and probation officer equipment improvements.

**TABLE 10 CONTINUED**

<b>State</b>	<b>Legislation Year</b>	<b>Reinvestment Year</b>	<b>Amount</b>	<b>Description</b>
OR	2013	2013	\$58 million	Upfront investment: Community corrections, county jail, victims' services, drug courts, state police, law enforcement training center, Justice Reinvestment fund.
PA	2012	2013	\$43,000	Reinvestment from actual savings: Justice Reinvestment Fund for victims' services.
SC	2010	None to date	--	--
SD	2013	2013	\$8 million	Upfront investment: DUI courts; HOPE pilots; additional probation and parole staff; staff training; use of EBPs in supervision; substance abuse, mental health, and cognitive-based treatment services for supervision; parole supervision pilot program in tribal communities; housing pilot program for parolees; crime victim notification system; improved financial obligation/restitution collection system; and funding for sheriffs.
WV	2013	2013	\$3.5 million	Upfront investment: Substance abuse treatment and staff training.
Total reinvestment to date: \$165.8 million				

Sources: Stakeholder interviews, TA provider reports, and state budget documents.

<sup>a</sup> Information for the reinvestment amount and description is not applicable, denoted by blank cells.



# Challenges

Although JRI states have enjoyed both measurable successes and positive cultural and organizational impacts through their reform efforts, they have also encountered a number of challenges throughout the process. This chapter examines these challenges and some of the strategies states have employed to address them.

## Consensus Building

Although JRI requires demonstrated support from state leaders such as the governor, judges, legislators, and the head of the Department of Corrections, developing additional stakeholder consensus and buy-in is often an early challenge encountered by states, and one that can remain pertinent throughout the life of the initiative. TA providers and many state officials emphasized the importance of including representatives from all stakeholder groups in justice reinvestment work from the beginning. State leaders face the initial tasks of developing a working group, choosing participants, and determining how to engage other stakeholders. Without buy-in throughout the system, passing and implementing legislation can be challenging.

Engaging stakeholders who did not have a voice in developing the policy framework can present a critical challenge during implementation. Arkansas's Board of Corrections, which oversees both the Department of Corrections and the Department of Community Corrections, was not represented on the JRI working group, despite the fact that it would play a key role in implementing any legislation. While TA providers have directly engaged the Board of Corrections in implementation management through

planning meetings, earlier engagement in the process could have enabled the board to contribute both insight and support in the development and implementation of reforms.

Consensus can be difficult to attain from agencies that are concerned that justice reinvestment legislation might limit their effectiveness. It can also be difficult to engage all the players who will be responsible for supporting and implementing legislative provisions. In New Hampshire, JRI reforms faced opposition from some members of the parole board. This group (which had not been represented on the working group) was concerned that JRI legislation would reduce its discretionary powers by mandating parole for offenders who otherwise would have been released at the end of their sentence without any supervision. However, the composition of the parole board has changed, and the current group is actively involved in reviewing EBPs and structured decisionmaking to adopt parole release guidelines. Although implementation moved forward, New Hampshire's experience highlights the challenges to consensus in a broad-based initiative such as justice reinvestment.

States sometimes found that while the working group engaged representatives



from a given stakeholder group, this did not guarantee that the legislation would receive support from all members of that group. In Ohio, the working group included the chief justice of the State Supreme Court, an associate justice, and the state director of the courts, all of whom approved the policy changes. However, some judges in Ohio were critical of the new sentencing provisions mandated in the final legislation.<sup>222</sup> Work continues in Ohio to educate all judges on the sentencing provisions.

However, while the skepticism of particular stakeholders can slow the implementation of JRI policies, early input can also encourage JRI champions to more clearly articulate the purpose of reforms and guide the process so the final policy framework is more likely to be implemented successfully. One result of this may be that certain policies are revised, or even excluded, from the package of proposed policy options in order to reach consensus.

## **Data Collection and Analysis**

Data collection and analysis are critical to the justice reinvestment process. Although a state's data capacity and commitment to sharing data were assessed before the state are accepted into JRI, data system issues still emerged, complicating the data analysis process. For example, many data collection systems did not have a data dictionary describing content, and data administrators sometimes lacked the detailed knowledge of the system that would enable them to facilitate the analysis process. Additionally, some data systems were not designed to be queried, further complicating analysis.

Several states had to address such challenges during the data analysis process. In Oklahoma, for example, some data had to be hand-coded because it was not collected electronically. Several states also had inconsistencies in data collection across counties.<sup>223</sup> Hawaii did not have a dedicated research unit in the Department of Public Safety at the beginning of its JRI work, making data collection difficult.<sup>224</sup> To address this limitation, part of Hawaii's JRI legislation allocated resources to staff a research and planning unit within the Department of Public Safety. Similarly, Ohio did not have any statewide data regarding the probation population and outcomes, as probation is undertaken by county agencies, and the state lacked a systematic means of collecting data from each of the 187 probation agencies.<sup>225</sup> In response to this challenge, the Ohio Department of Rehabilitation and Correction now collects standard information from each probation department for individuals sentenced to probation, under supervision, and exiting supervision. Thus, JRI fostered awareness of the need for systems to collect and analyze Ohio's statewide criminal justice data.

## **Education and Public Relations**

Some states encountered difficulties educating the public and engaging media. Consistent media engagement can broaden the public's understanding of a state's justice system and build support for reforms. To build support for legislation, state leaders promoted the benefits of JRI to prominent state media outlets. In addition to mentioning JRI in the media, North Carolina's Department of Public Safety created a JRI web page to explain the legislative changes. Oklahoma's leaders held town hall meetings across the state to educate the public, local law enforcement officials, and local judges about the initiative.<sup>226</sup>

Despite media engagement, high-profile incidents can undermine support for JRI policies. In May 2013, an Arkansas parolee accused of murder generated a spate of bad press for the Department of Community Corrections. Although the incident was unrelated to justice reinvestment provisions, it diminished support for the JRI bill; key stakeholders believed the loss could have been mitigated by earlier communication about JRI successes.<sup>227</sup> It is difficult to respond to high-profile criminal incidents, but an open and unified response by state policymakers when such an incident occurs is one effective strategy to help preserve public support for JRI. Proactively developing talking points to clearly explain the nature and scope of justice reinvestment reforms can help state leaders respond to the full spectrum of possible media attention.

## **Policy Implementation**

As these challenges illustrate, justice reinvestment is not an easy process. And even with successful data analysis and passage of legislation, implementation presented challenges of its own. In retrospect, some states would have allowed more time for implementation to address these challenges. In Ohio, a provision regarding the use of risk-assessment results to allocate community corrections resources was challenged on legal grounds. Although the state overcame the legal challenge, it slowed the implementation of that provision.<sup>228</sup> In North Carolina, the proposed timeline for implementation was very short. The state needed additional time to convene meetings with various stakeholders and educate the myriad agencies and players involved in implementation.<sup>229</sup> As was the case in other JRI states, North Carolina's legislation included staggered effective dates. Frontline staff involved in implementation were unsure which changes applied to which cases, because the bill included three different effective dates for a variety of policies, some of which applied to all cases with offenses committed on or after the effective date and some of which applied to all cases on the effective date regardless of the of-

fense date. North Carolina created a mobile application for frontline staff that explained the policy changes in detail.<sup>230</sup>

Those involved in implementing justice reinvestment policies must be well-educated about the policy changes and the roles they will play in implementation. Without this education, implementation can be difficult. One Kentucky stakeholder reported that several groups—including judges and law enforcement—were unclear about how justice reinvestment provisions would affect their day-to-day operations and decisionmaking.<sup>231</sup> It is critical that information is disseminated broadly, from leadership to frontline staff, in the many agencies and bodies involved in justice reinvestment implementation.

Occasionally, implementers require sustained support, especially when change represents a cultural shift in an organization's practices. In North Carolina, changes to supervision practices represented a shift from punishment-oriented supervision to risk reduction-oriented supervision. To smooth that change, the Department of Public Safety held two rounds of training for probation officers. The first round was to help officers implement the policy changes, and the second round was to troubleshoot issues they encountered in using the new approach. North Carolina also hired an EBP coordinator to address questions from probation departments and support the use of EBPs statewide.<sup>232</sup>

Finally, stakeholders in some states expressed concern about the funding available for justice system reforms. States receive funding from BJA (\$325,000 on average), but these resources are intended to help build capacity rather than fund all aspects of policy implementation outlined in legislation. Louisiana's Department of Public Safety and Corrections has been able to maintain support for community corrections despite multiple rounds of budget cuts, but the ongoing funding constraints have put a significant strain on justice system reform.<sup>233</sup> The Oklahoma working group recommended additional funding to create intermediate revocation facilities, but those funds were not appropriated. Instead, the Department of Corrections has repurposed prison beds to house and provide programming to technical supervision violators.<sup>234</sup> North Carolina did not appropriate funds to hire additional probation officers in the first two years of JRI implementation. To overcome this challenge, the Department of Public Safety reclassified vacant positions to supervision positions for FY 2012 and 2013. North Carolina has appropriated additional funds for probation officers for FY 2014 and 2015 to further ease caseload sizes.<sup>235</sup>

## Sustainability

For justice reinvestment to be successful, states must sustain their reforms and continue to emphasize data-driven,

evidence-based policies. In states with strict term limits, there can be high turnover among legislators, reducing the number of legislators with ties to JRI legislation and thus threatening the sustainability of the initiative. In Arkansas, for example, term limits have prevented some JRI champions from remaining in the legislature, leading stakeholders to express concern that some justice reinvestment provisions will be challenged in upcoming legislative sessions.<sup>236</sup> Similarly, stakeholders in Ohio and Oklahoma expressed concern about the sustainability of JRI reform in their states because of term limits and the potential lack of legislative champions.<sup>237</sup>

Other factors can also jeopardize the sustainability of JRI reforms. In some cases, state leaders believe their work is done when the bill is passed, even though implementation is just as crucial to success. For example, states may discontinue their interagency working groups once the legislation is passed. In an effort to ensure sustained attention to the implementation of reforms, North Carolina's Department of Public Safety hired full-time justice reinvestment and EBP coordinators.

A related challenge is impatience over a lack of immediate results. Justice reinvestment can be a lengthy process, and state leaders and champions must balance the expectation of positive impacts with the reality that such impacts may take several years to be fully realized.

It is also important for states to ensure that they have adequate funding to implement policies. Louisiana's Department of Public Safety and Corrections has experienced multiple budget cuts, both annual and midyear; it has taken the presence of dedicated leadership to successfully maintain the focus on community corrections.<sup>238</sup>

Because of the interwoven nature of justice reinvestment and state politics, some states have faced increased political pressure that has affected the sustainability of their legislation. As a result of opposition that arose during the 2010 gubernatorial race, New Hampshire's legislature nullified the effects of some justice reinvestment reforms enacted in the previous year. State stakeholders pointed to the challenge of educating the public and legislators about the justice reinvestment bill in a politicized climate and expressed frustration with the mischaracterization of the legislation.<sup>239</sup>

## Realizing Reinvestment

The reinvestment process can be complicated for several reasons. Before legislation is passed, the working group must create reliable projections for how much money will be saved. However, the bulk of cost savings are often realized over many years following passage of legislation. States may be reluctant to allocate reinvestment funds before realizing savings, while JRI supporters may be wary of promises of future reinvestment.

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Consensus and communication must be built for reinvestment strategies to ensure that planned reinvestment is actually accomplished. In South Carolina, reinvestment was designed to operate through the partial transfer of savings as a result of changes in supervision practices from one agency's budget to another, but the two agencies had difficulty agreeing on how to calculate savings.<sup>240</sup> The TA provider was instrumental in facilitating the development of a calculation method that was acceptable to both agencies; however, there was no reinvestment in either 2011 or 2012.<sup>241</sup> Other states, such as New Hampshire and Missouri, allude to reinvestment in their JRI bills but do not detail specifics about the portion of savings to be reinvested.<sup>242</sup>

## Conclusion and Implications

Preliminary findings from the 17 JRI states suggest that the Justice Reinvestment Initiative has successfully promoted interest in justice system reform and the use of EBPs. Early results indicate that enacted reforms have the potential to reduce or limit the growth of justice system populations and, in doing so, produce savings. Indeed, if the savings and reinvestments projected for JRI states materialize fully, they will represent a massive return on the federal investment of \$17 million. However, a long-term assessment will be necessary to determine the full extent of JRI's impacts on state justice systems, as well as how these impacts align with projected population reductions and cost savings.

Key to the success of JRI has been driving reform with interbranch, bipartisan working groups and engaging stakeholders from across the justice system in policy development and implementation. This inclusiveness has enabled justice reinvestment efforts to move forward in a variety of political climates and circumstances, supporting the passage of reforms that might have been resisted had the efforts been less inclusive. Moreover, the broad engagement has helped educate numerous state justice system leaders on best practice policy solutions, supporting an important culture shift.

The culture shift that JRI has helped facilitate is one of the initiative's greatest successes. States engaged in reform efforts have become part of a larger movement within the criminal justice field to emphasize the use of research and data to make decisions. JRI states have integrated a broad array of EBPs into their justice systems and have educated justice system leaders and policymakers about the importance

of doing so. This education has sparked state enthusiasm for further reform efforts.

This report's preliminary findings on population reductions and cost savings should be interpreted with care. Data are still limited—for most states, it is too early in the implementation process to offer definitive conclusions on what actual population and cost reductions will look like or how they will compare with projected cost and population impacts. State populations and cost savings can be affected by political, economic, and social changes, factors that could not be accounted for when the projections were made. Challenges in implementation can also alter the impact of JRI on costs and populations, distancing actual numbers from the original projections.

With these qualifications, JRI reforms appear to have successfully reduced—or mitigated the growth of—incarcerated populations. In eight states, sufficient data exist to offer preliminary findings on justice

system population impacts. In all these states—Arkansas, Hawaii, Louisiana, Kentucky, New Hampshire, North Carolina, Ohio, and South Carolina—incarcerated populations have declined below the population count at the start of JRI. This suggests that JRI has had some early success in reducing or limiting the growth of incarcerated populations, although these successes are subject to two caveats. First, reductions in population have not been as large as anticipated in all states, nor have successes been uniformly distributed across states. Second, in some cases, population reductions were influenced not only by JRI but also by other political, economic, or social changes not connected to JRI policies and practices.

Similarly, it is far too early to draw conclusions about the efficacy of JRI in producing cost savings for state justice systems. Some states that have experienced early incarcerated population declines have also realized savings as a result of these reductions. However, because cost savings projections include components that may not be realized for several years, a comprehensive comparison of projected and realized cost savings will have to occur further along in the JRI implementation process.

However, an important JRI success has been the allocation of funds, through upfront investment or reinvestment, into EBPs. States have directed new streams of funding toward the use of EBPs, offering states a better opportunity to improve efficiencies and enjoy positive justice outcomes. Implementing these practices with fidelity will be an important component of sustaining JRI. Assuming that these practices are fully implemented and projected cost savings are realized, JRI will show a massive return on the public-private investment supporting the initiative.

States have found that the implementation of JRI reforms can pose significant challenges, but they will have to build and maintain support for JRI to sustain improvements. Ensuring that the partners and agencies responsible for implementing JRI are engaged throughout the process is crucial to efficient implementation.

Implementation can be particularly challenging in the face of outside pressures on the justice system and its stakeholders; for example, JRI reforms are often vulnerable in election years and in the aftermath of high-profile criminal incidents. In the presence of such outside pressures, additional support may be important to maintain momentum and stakeholder enthusiasm.

Assessing the full impact of JRI on populations, savings, practices, and culture will be an ongoing process. Tracking population and spending figures as JRI states complete their implementation will provide a more complete account of the full impact of JRI and how that impact aligns with projected cost and population estimates. The impact of these policies on public safety will also need to be studied.

Building a complete picture of JRI will require assessing the sustainability of JRI policies and practices. This includes documenting the extent to which adopted policies and practices are maintained or altered, implemented with fidelity, and institutionalized. This line of inquiry will help explain how justice reinvestment unfolded in these states and the accompanying savings and reinvestment realized. In cases in which reinvestment is successful, researchers should note which strategies facilitated success; this information can be used to inform future JRI efforts.

Continued assessment will support two important goals. First, for future JRI states, the information will improve the JRI process, enabling states to use strategies that offer a strong chance to sustain JRI reforms and reinvest in practices that improve justice system efficiency and public safety. Second, further assessment of JRI's impact will maintain a focus on, and interest in, additional justice system reform after the passage of legislation. All this information will be important in determining how to use the momentum and enthusiasm JRI has created to spur further reforms. Building on JRI's initial progress has the potential to leverage the invested time and resources to promote tremendous improvements in the operation of the US criminal justice system.

# Appendix A

## Case Studies



# Arkansas

In 2010, Arkansas's state leaders determined that by 2020, the state would need an additional \$128 million annually to accommodate a growing prison population that had already reached full capacity. A Justice Reinvestment Initiative (JRI) working group, formed by the governor and chief justice, developed policy recommendations that included requiring community corrections to use evidence-based practices, increasing reporting requirements, streamlining parole release, and reorienting drug and theft penalties to differentiate between low- and high-level offenders. Act 570, passed in 2011, codified these recommendations and was projected to avert \$875 million in prison costs by reducing prison growth by 3,200 inmates over 10 years. Since implementing reforms, Arkansas has seen its prison population reduced 9 percent from 2011 to 2012 and invested \$2.4 million for transitional housing, behavioral health treatment, electronic monitoring, and transitional housing.

## Impetus for Justice Reinvestment

In 2010, the prison population in Arkansas was approximately 16,000, more than double the population in 1990. During this same period, the state's corrections budget rose from \$45 million to more than \$349 million. As a result of this expansion, the state's prison system was at full capacity, causing delays for a large number of inmates who were in jail awaiting transfer to the state's prison system to serve their sentences. By 2010, this jail backlog included an unprecedented 2,000 inmates, which would have cost the state an additional \$15 million over the following year. Further, this backlog burdened local jurisdictions, as they had to allocate space and resources for the prisoners.<sup>243</sup>

The governor created a task force in 2009 to address the overcrowding in state prisons and the corresponding backlog in local jails. As a result of the task force's effort, the state augmented the amount it reimbursed local jurisdictions for housing state inmates. These changes, though, did not address the systemic drivers of the state's prison population. Without additional reform, the cost of building and operating enough new facilities to accommodate the rising prison population would have exceeded \$1.1 billion by 2020.<sup>244</sup> In response to this dire situation, the governor, together with the chief justice and leaders of the Arkansas legislature, joined JRI in November 2009.

### HIGHLIGHTS

- In 2010, Arkansas's prison system was at full capacity, causing delays for 2,000 inmates in jail awaiting transfer to the state's prison system.
- JRI legislation includes required use of evidence-based practices, increased reporting requirements, streamlined parole release, and reoriented penalties to differentiate between low- and high-level offenders.
- Since the passage of Act 570, Arkansas has seen its prison population reduced 9 percent from 2011 to 2012.
- In FY 2011, ADC reimbursed county jails \$15.9 million for housing ADC inmates; in FY 2012, that number was \$9.6 million, a 40 percent reduction.
- In 2012, Arkansas invested \$2.4 million in transitional housing, behavioral health treatment, electronic monitoring, and transitional housing.

## Establish Interbranch Bipartisan Working Group

In March 2010, the governor and chief justice formed the Arkansas Working Group on Sentencing and Corrections. This bipartisan working group consisted of 17 leaders from several different state and local agencies, including the state legislature, the state's supreme and circuit courts, the



Arkansas Department of Correction (ADC), the Arkansas Department of Community Correction (DCC), the state sentencing commission, and the governor's office, as well as a chief of police, a former sheriff, and a district attorney. The working group received JRI technical assistance (TA) from the Pew Charitable Trusts, the Crime and Justice Institute, and the JFA Institute. The group was tasked with developing reforms that would limit prison growth, save money, and bolster public safety. It first convened in March 2010 and continued to meet monthly through January 2011.

## Engage Stakeholders

The working group and its partners examined sentencing and corrections data, policies, and practices; consulted with local stakeholders throughout Arkansas, including prosecutors, defense attorneys, judges, and law enforcement; and met with national experts and stakeholders in neighboring states to develop a better understanding of best practices.

## Analyze Data and Identify Drivers

After analyzing corrections and sentencing data and consulting with an array of stakeholders, the working group identified key drivers of the growth in the prison population. The working group found substantial underutilization of probation (23 percent below the national average), increasing sentences for nonviolent offenders (up 26 percent in severity levels three to five since 2001), noncompliance with the state's voluntary sentencing guidelines, and unexplained delays in transfer to parole.<sup>245</sup>

## Develop Policy Options

In January 2011, the working group proposed policy recommendations to strengthen community supervision by requiring the DCC to use evidence-based practices (EBPs) and risk assessments on probationers and parolees. The group also proposed several reforms to improve government performance by enhancing victim restitution, raising probation and parole fees, and establishing performance standards for drug courts. In addition, several policies were proposed to focus prison resources on serious offenders, including the revision of drug and property offense statutes, performance-based funding to community corrections, release to electronic monitoring for nonviolent offenders, and parole for prisoners who are terminally ill and do not pose a threat to the public.<sup>246</sup>

## Codify and Document Changes

Public Act 570, the Public Safety Improvement Act, codified the working group's policy recommendations. Introduced by the chair of the Senate Judiciary Committee and the House Speaker, the legislation passed both chambers with bipartisan majorities and was signed into law by the governor in March 2011. Act 570 required the DCC to link risk and needs assessment results with supervision intensity and treatment, develop graduated sanctions and incentives for offenders on community supervision, and establish an earned discharge policy. Act 570 also created several pilots based on the Hawaii Opportunity Probation with Enforcement (HOPE) program, increased reporting requirements, streamlined parole release, and reoriented drug and theft penalties to differentiate between low- and high-level offenders. Act 570 was projected to avert \$875 million in prison costs by reducing prison growth by 3,200 inmates over 10 years, from 2010 to 2020.<sup>248</sup>

## Implement Policy Changes

The majority of Act 570's provisions became effective on July 27, 2011; certain policies—such as the parole board's requirement to conduct risk and needs assessments and the use of an integrated sentencing commitment and departure form—were effective on January 1, 2012. After the passage of Act 570, an oversight working group, chaired by the director of the DCC, was established to monitor and oversee implementation.

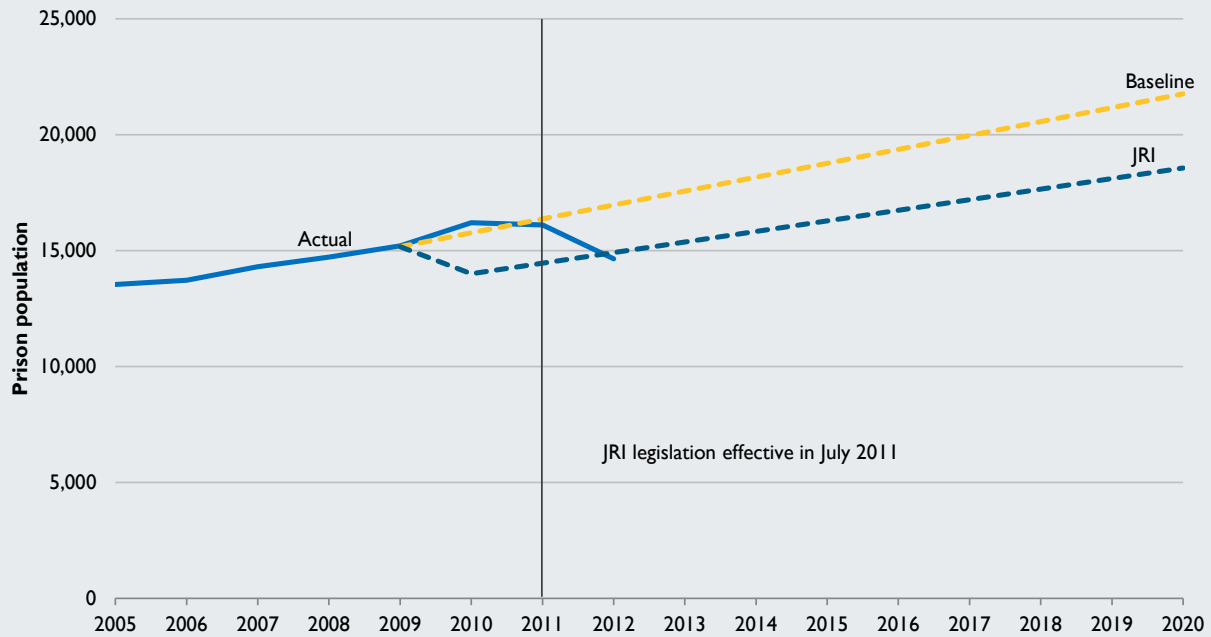
The Vera Institute of Justice (Vera) provided TA to support implementation of Act 570's provisions. With Vera, the DCC created an implementation roadmap to outline tasks associated with each provision in Act 570. The oversight group adopted the implementation roadmap as a tracking tool, allowing each criminal justice agency to share a unified document to map their progress in implementing Act 570's provisions. One provision—the development of a performance incentive funding (PIF) program—has been put on hold.<sup>249</sup>

Arkansas received subaward funding from the Bureau of Justice Assistance to support implementation. These funds will support training DCC and ADC staff in EBPs, implementing a place-based supervision pilot program, automating the accountability interventions matrix, and developing a dashboard of agency performance measures.

# Arkansas

**FIGURE A.1**

## Arkansas Prison Population



Sources: JRI and baseline population projection values were extrapolated from available data in Pew Center on the States (2011b). Actual population data are from Bureau of Justice Statistics' *Prisoners Series*.  
Note: Dotted lines represent projections.

## Reinvest Savings

In 2012, the DCC received \$1.9 million in upfront investment to use for transitional housing, behavioral health treatment, and electronic monitoring.<sup>250</sup> In the same year, the Board of Corrections, which oversees the budget of the ADC and DCC, reallocated \$500,000 from ADC to DCC to fund transitional housing for certain offenders.<sup>251</sup> In March 2013, the DCC's best practices fund contained more than \$3 million.<sup>252</sup> This fund, generated from raising monthly supervision fees from \$25 to \$35, ensures that the DCC is using evidence-based programs and supervision practices.

## Measure Outcomes

Vera has been working with the DCC to develop a dashboard to track performance measures. To improve the DCC's capacity to report on outcome measures, part of Arkansas's subaward request included funding to increase the DCC's data system capacity to capture and report key legislation implementation metrics.

Act 570 also mandated increased reporting requirements for other criminal justice agencies. The state's Sentencing Commission is now responsible for reporting annually on sentencing guideline compliance, and the parole board must produce monthly performance reports on parole applications and outcomes.

Since the passage of Act 570, Arkansas has seen its prison population decrease from 16,108 inmates on December 31, 2011 to 14,654 inmates on December 31, 2012, a 9 percent decline (figure A.1). With lowered revocation rates and improved parole release practices, Arkansas's jail backlog has also declined. In the fall of 2012, DCC reported that county jail back-up numbers were down to 300 from a high of 2,500.<sup>253</sup> In FY 2011, ADC reimbursed county jails \$15.9 million for housing ADC inmates; in FY 2012, that number was \$9.6 million, a 40 percent reduction.<sup>254</sup> In reaction to a May 2013 high-profile murder suspected to have been committed by a parolee, policy changes affecting parolee release resulted in an increase in state jail bed use from 400 to 1,000 between June and August 2013.<sup>255</sup> It is unclear whether this spike will be temporary or have long-term effects.



# Delaware

Between 2002 and 2012, Delaware's corrections budget increased 40 percent, and the state faced overcrowded and aging corrections facilities. Drivers of the corrections spending and population increases included a high number of pretrial detainees and probation revocations, and long lengths of stay for the sentenced population.<sup>256</sup> To address these drivers, Delaware passed legislation that is projected to reduce the corrections population by up to 740 inmates. The legislation expanded and created risk and needs assessments, earned time credit in prison, earned compliance credit for probation, standardized responses to probationers' behavior, and intermediate sanctions. These policies are projected to save the state up to \$27.3 million by 2017.

## Impetus for Justice Reinvestment

Although its prison population has remained stable over the past several years, Delaware's corrections budget has been growing consistently over the past decade. The Department of Correction's \$254 million budget in 2012 was 40 percent larger than its budget in 2002.<sup>257</sup> The rising cost of incarceration contributed to this increase in corrections spending. Between 2005 and 2010, the annual cost of incarcerating an adult in Delaware rose from \$28,000 to \$34,000.<sup>258</sup> In addition, Delaware's prisons have been perpetually overcrowded for several years, which, coupled with an antiquated prison infrastructure and aging facilities, would likely have required the construction of new facilities without large-scale reforms.<sup>259</sup>

Justice reform is not a new concept in Delaware; the state has made previous attempts to address these important public safety and fiscal issues. In the past, Delaware reformed its pretrial procedures by creating guidelines to assist with bail and pretrial detention decisions.<sup>260</sup> The governor also created the Individual Assessment Discharge and Planning Team (I-ADAPT) in 2009, which helped coordinate reentry and facilitate information sharing among various state agencies and community organizations.<sup>261</sup>

Despite these efforts, Delaware had not been able to curb its increasing criminal justice spending nor reduce its need for system expansion. Under the governor's leadership, and with support from state officials and criminal justice stakeholders, Delaware joined the Justice Reinvestment Initiative (JRI) in April 2011. These leaders sought through JRI to evaluate the drivers of corrections spending,

### HIGHLIGHTS

- Delaware's corrections spending increased 40 percent in 10 years and the state's corrections facilities were overcrowded.
- JRI policies expanded and created risk and needs assessments, earned time credit in prison, earned probation credit, responses to probationers' behavior, and intermediate sanctions.
- These policies are projected to reduce the state's corrections population by 740 inmates in five years.
- The state is projected to save \$27 million from this decrease.
- Delaware plans to reinvest savings into community-based services.

identify better decisionmaking tools for Delaware's criminal justice agencies, and ensure that investments in the corrections system were being used effectively to achieve public safety.<sup>262</sup>

## Establish Interbranch Bipartisan Working Group

The governor created the Justice Reinvestment Task Force in July 2011. The task force was made up of state criminal justice leaders and representatives from all three branches of government, including the governor's office, the Department of Correction (DOC), four levels of state courts, the state police and local law enforcement, and the legislature.<sup>263</sup> The Vera Institute of Justice (Vera) provided

Delaware with JRI technical assistance and worked closely with task force members.

The governor requested that the task force review data on the criminal justice system and develop a set of policy responses to the drivers of corrections system growth by March 2012. This task force first convened in August 2011 and met on a regular basis until March 2012.<sup>264</sup>

## Engage Stakeholders

To solicit input from a broader array of stakeholders, Vera also met with, surveyed, and conducted focus groups with probation and corrections personnel, representatives of the court, and victims' advocates.<sup>265</sup>

## Analyze Data and Identify Drivers

In a matter of months, Vera and the task force had analyzed court, law enforcement, and DOC data; information on procedures and policies from various state agencies; and historical data and reports from the Delaware Statistical Analysis Center (SAC) to gain a thorough understanding of the state's criminal justice system. By March 2012, the task force identified the following key drivers of the corrections population and spending: a high number of pretrial detainees, many probation revocations, and long lengths of stay for the sentenced population.<sup>266</sup>

## Develop Policy Options

In March 2012, the task force developed policy options that focused corrections resources on high-risk individuals by using risk and needs assessments; holding offenders accountable by strengthening probation policies and responses to violations of supervision; strengthening reentry programming; and supporting crime victims.<sup>267</sup>

## Codify and Document Changes

The state codified these policy recommendations into law in Delaware Senate Bill (SB) 226. After receiving strong bipartisan support in the legislature, SB 226 was signed into law in August 2012. The bill expands the use of risk and needs assessments at several points in the system, including sentencing and case planning. The bill also incentivizes

rehabilitation and strengthens reentry by expanding the use of good and earned time credits in prison and by creating earned compliance credit for probation. It further requires the development of guidelines to improve and standardize the responses to probationers' behavior, including expanding the use of intermediate sanctions. It also requires the state to produce one-, two-, and three-year recidivism reports to better measure the effects of these policies.<sup>268</sup> Figure A.2 depicts the projected impact of these policies on the state's corrections population.

Delaware's corrections population remained relatively stable between 2005 and 2011.<sup>269</sup> This trend was projected to continue between 2012 and 2017, with the population growing slightly from 6600 to 6650 inmates.<sup>270</sup> The JRI policies outlined in SB 226 were enacted in August 2012. While it is too early to determine the actual impact of these policies, they are projected to reduce the corrections population by up to 18 percent, or 740 inmates.<sup>271</sup>

## Implement Policy Changes

Delaware is currently implementing SB 226. Two work groups were created to facilitate the implementation of the bill's provisions that affect pretrial, DOC, and court procedures. In addition, the state has developed, and is currently testing, a pretrial risk assessment tool; trained DOC staff on the use of the Level of Service Inventory-Revised (LSI-R) tool; and drafted policies for addressing earned compliance and supervision response guidelines. Efforts are also under way to educate and engage stakeholders on the policy reforms resulting from this legislation.<sup>272</sup>

Delaware plans to use funding from the Bureau of Justice Assistance (BJA) to create a position responsible for bringing the pretrial risk assessment online and coordinating the reporting of performance measures required by JRI. The state will also use BJA funding for the DOC's Effective Intervention Initiative, which will improve assessment, case planning, and interventions by determining training needs and providing additional training. BJA funding will also be used to implement the Risk-Needs-Responsivity Simulation Tool to match offenders to services and programs.<sup>273</sup>

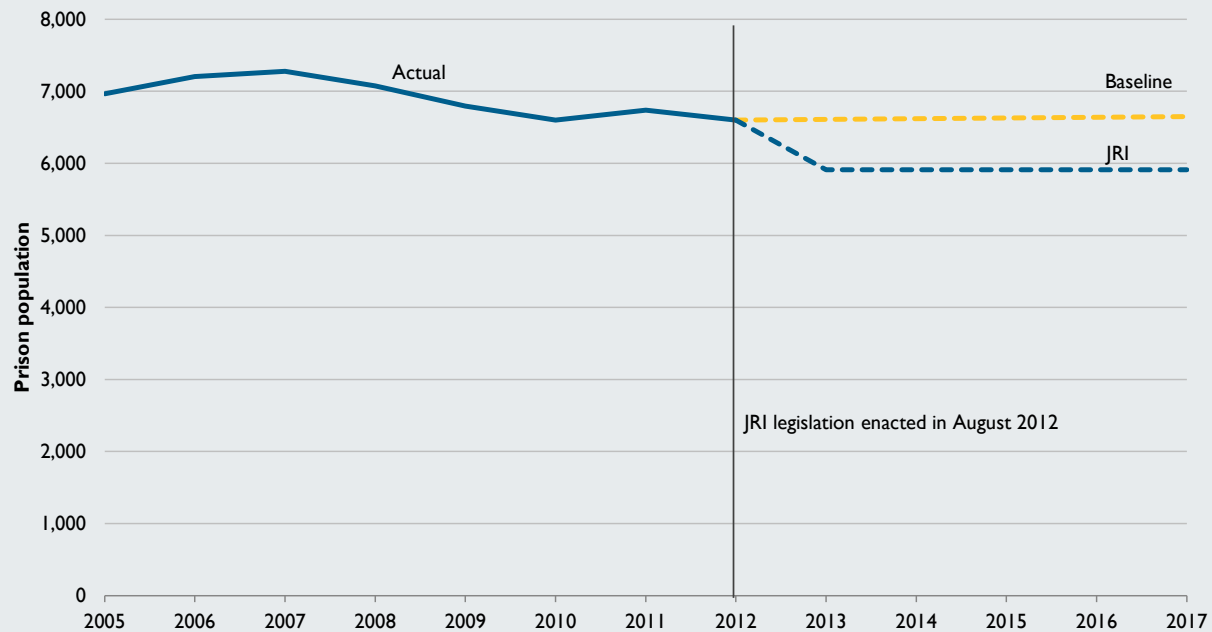
## Reinvest Savings

Through the impact of SB 226 policies on the corrections population, Delaware is projected to save \$27.3 million by 2017 for justice reinvestment efforts.<sup>274</sup> Although SB 226 does not mandate specific reinvestment plans, the state

# Delaware

**FIGURE A.2**

## Delaware Prison Population



Sources: JRI and baseline population projection values were extrapolated from available data in Pew Center on the States (2011b). Actual population data are from Bureau of Justice Statistics' *Prisoners Series*.  
Notes: Since prisons and jails form one integrated system in Delaware, data include total jail and prison population. Dotted lines represent projections.

has made it a priority to develop a plan for reallocating resources. Both the governor and the DOC commissioner have committed to reinvesting savings within the DOC to develop community-based resources.<sup>275</sup>

## Measure Outcomes

The state is working with Vera to develop performance measures and dashboards to help track outcomes resulting from justice reinvestment legislation. Efforts are also under way to create a sustainable system of data collection and performance tracking.<sup>276</sup>

SB 226 required the state to measure recidivism and, in July 2013, Delaware released the findings of its first recidivism study since 2000.<sup>277</sup> Because of its commitment to implement these requirements and develop performance measures and dashboards, Delaware is well poised to continually assess the impacts of its justice reinvestment efforts.



# Georgia

Georgia's prison population more than doubled between 2000 and 2011 to nearly 56,000 inmates. Without reform, prison population projections showed an additional 8 percent growth by 2018 at a cost of \$264 million. Through the Justice Reinvestment Initiative (JRI), Georgia developed policies to focus prison beds on serious offenders, expand alternative sentencing options for judges, strengthen probation officers' ability to respond to violations, and relieve local jail overcrowding through streamlined information transfers and effective use of probation detention centers. These reforms are expected to save taxpayers at least \$264 million dollars by reducing the prison population by nearly 5,000 beds over five years. Using anticipated savings from the reforms, Georgia has invested more than \$17 million into accountability courts and residential substance abuse treatment programs.

## Impetus for Justice Reinvestment

Over the course of two decades from 1990 through 2011, Georgia's prison population more than doubled to nearly 56,000 inmates; this growth was also experienced fiscally, as corrections expenditures increased from \$492 million in 1990 to \$1 billion in 2011. While corrections populations and associated costs continued to grow, Georgia's citizens did not experience a marked increase in public safety. Recidivism rates remained stagnant near 30 percent from 2000 through 2011, and population projections indicated that Georgia's prison population would continue to grow steadily. In the absence of meaningful reform, Georgia could expect to house nearly 60,000 inmates in its prisons by 2018, at an additional cost of \$264 million.<sup>278</sup>

Along with stakeholders across the political spectrum, the newly elected governor recognized the immense cost to taxpayers of doing nothing to change the criminal justice system.<sup>279</sup> In April 2011, the governor signed House Bill 265, which created the 2011 Special Council on Criminal Justice Reform for Georgians and the Special Joint Committee on Georgia Criminal Justice Reform. By the following month, the governor, chief justice, lieutenant governor, and speaker of the Georgia House of Representatives had outlined a plan of action to bring together a 13-member council representing all three branches of government.<sup>280</sup>

### HIGHLIGHTS

- Georgia's prison population more than doubled between 1990 and 2011.
- JRI legislation focuses prison beds on serious offenders, expands sentencing and probation sanction options, and relieves local jail crowding while improving statewide performance measurement.
- These policies are projected to reduce the prison population by nearly 5,000 inmates over five years.
- JRI reforms are expected to save taxpayers at least \$264 million over five years.
- Using anticipated savings from the reforms, Georgia has invested more than \$17 million into accountability courts and residential substance abuse treatment programs.

## Establish Interbranch Bipartisan Working Group

With technical assistance (TA) from the Pew Charitable Trusts (Pew), the Special Council on Criminal Justice Reform for Georgians commenced meetings in June of 2011 and continued to meet on a monthly basis for the next five months. Organized as an interbranch, bipartisan group,



the Council engaged representatives from the executive, legislative, and judicial branches. A state coordinator was appointed to organize monthly meetings and liaise with Pew TA providers.<sup>281</sup>

## Engage Stakeholders

The monthly Special Council meetings served as a venue for members to hear the perspectives of a diverse group of criminal justice stakeholders, including district attorneys, public defenders, and judges. The meetings were also an opportunity for Pew to present data findings and audits of state sentencing and corrections policies.<sup>282</sup>

In addition to the Special Council, stakeholders were also engaged through the Joint Committee on Georgia Criminal Justice Reform, an 18-member Committee of legislators, including both leadership and chairs of relevant committees.<sup>283</sup>

## Analyze Data and Identify Drivers

Working alongside the Special Council and a state data coordinator, Pew, its partners at Applied Research Services, Inc., and the Crime and Justice Institute completed a thorough analysis of drivers of the state's prison population. Data informing the analysis included crime and arrest rates, court disposition rates and sentence lengths, offender characteristics, parole grant rates and time served in prison, probation and parole revocation rates, time served on community supervision, and recidivism rates.

Data analysis found that much of the growth in Georgia's inmate population was the result of policy decisions regarding who would be sent to prison and how long they would stay there. Drug and property offenders, many of whom were at low risk to reoffend, represented nearly 60 percent of all prison admissions. Meanwhile, Georgia's prison population continued to grow, and the length of sentences increased. Judges had few sentencing options aside from prison. The state's probation and parole agencies lacked the authority and capacity to adequately supervise offenders in the community or to deliver interventions to reduce the likelihood of reoffending.<sup>284</sup>

## Develop Policy Options

Findings from the analysis exposed opportunities for reform, and the Special Council set to work developing a

package of policy options. Council members divided into three working groups focused on specific reform recommendations in sentencing and prison admissions, prison length of stay and parole, and community supervision. The working groups reviewed relevant data analyses, assessed existing policies, and explored possible policy options before presenting their proposals to the larger Council.

Through the November 2011 Report of the Special Council on Criminal Justice Reform for Georgians, the Council shared its findings and recommendations with the Joint Committee on Georgia Criminal Justice Reform. The Council's policy options were numerous and extended throughout the criminal justice system, with reform recommendations intended to ensure access to effective community-based sanctions, strengthen community supervision, ensure that Georgia's resources are used effectively to improve systemwide performance, and focus expensive prison beds on serious offenders.

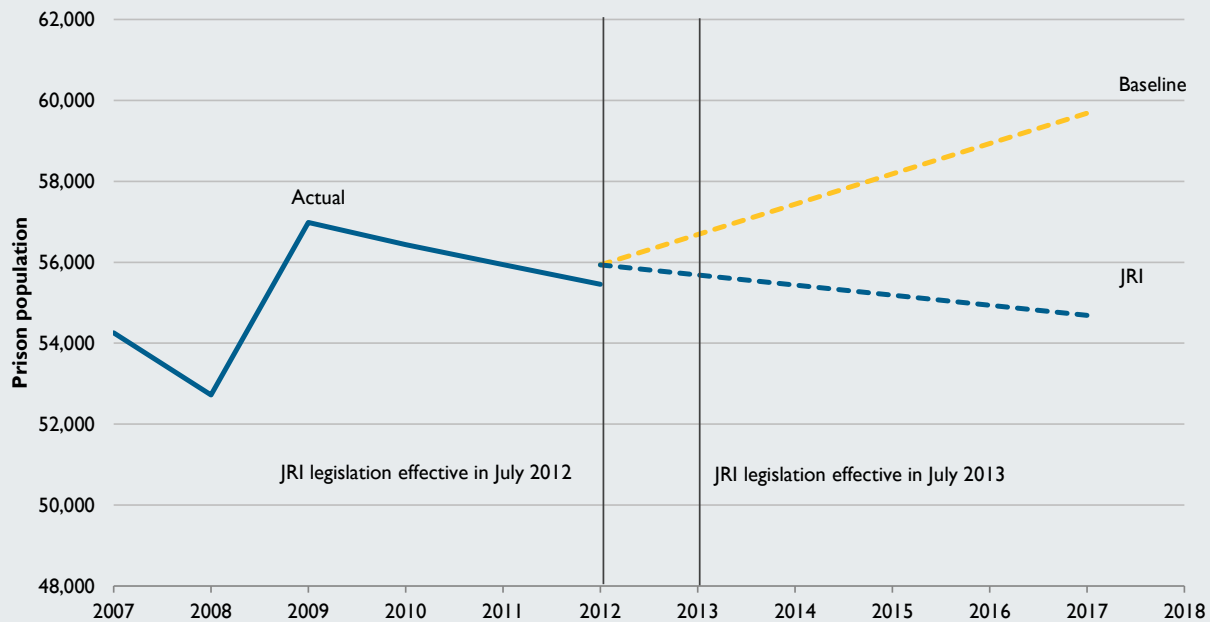
## Codify and Document Changes

With the Report of the Special Council in hand, one of the co-chairs of the Special Joint Committee translated policy options into legislation and introduced the package as House Bill (HB) 1176. After unanimous passage through both chambers of the General Assembly, HB 1176 was signed into law by the governor in May 2012. While the final legislation did not include all recommendations put forth by the Special Council, it enacted considerable reform of Georgia's criminal justice system. The codified bill creates degrees of burglary and forgery and levels of theft; revises penalties for simple drug possession; allows courts to order electronic monitoring; enables probation to impose graduated sanctions; requires the use of evidence-based practices and reinvests monies in evidence-based programming; requires quality assurance processes and accountability measures; streamlines information transfer; caps sentences to probation detention centers to ensure their effective use; and expands accountability courts and requires the adoption and implementation of a certification process for these courts.<sup>285</sup>

The enacted legislation is expected to avert the projected eight percent increase in Georgia's prison population over five years and reduce the prison population from present levels (see figure A.3). Without JRI reforms, the prison population is projected to grow from 55,933 in FY 2012 to 59,684 in FY 2018. The reforms are estimated to reduce

# Georgia

**FIGURE A.3**  
**Georgia Prison Population**



Sources: JRI and baseline population projection values were extrapolated from available data in Pew Center on the States (2012a). Actual population data are from Bureau of Justice Statistics' *Prisoners Series*.  
Note: Dotted lines represent projections.

the FY 2018 population to 54,690 and save at least \$264 million.<sup>286</sup>

## Implement Policy Changes

Since the passage of HB 1176 in May 2012, Georgia has made significant progress in implementing the policy changes required by the legislation. The state has launched an electronic portal for the submission of sentencing packets from local jails to the Georgia Department of Corrections (GDC), streamlining the transfer of inmates between facilities. The GDC has also expanded its use of probation detention centers as an intermediate sanction for probation violators, residential drug treatment centers, and day reporting centers. In addition, probation detention centers have implemented a 180-day length-of-stay cap to ensure that the facilities are used only as an intermediate sanction. Further, the Administrative Office of the Courts has produced a comprehensive set of accountability court standards and outlined a process for peer review and certification.

The legislation provided for a phased implementation of the bill's significant policy changes and requirements, and

implementation has moved steadily forward. In September 2013, Georgia was approved for subaward funding from the Bureau of Justice Assistance to hire a project manager to coordinate the electronic sentencing packet project between the GDC and the state's superior courts; hire a system analyst and Java developers to program the presentence assessment and electronic sentencing packets; engage a consultant to provide technical assistance to the Presentence Risk and Needs Assessment Work Group; provide training sessions for staff on certification of the accountability courts; and fund peer review evaluation visits.<sup>287</sup>

## Reinvest Savings

Through budget initiatives that accompanied HB 1176, the Georgia General Assembly invested \$11.6 million of averted corrections expenditures to fund mental health and drug accountability courts; \$5.7 million into new residential substance abuse treatment (RSAT) programs; and \$175,000 to develop a front-end risk assessment tool.<sup>288</sup>

## Measure Outcomes

To measure the outcomes of HB 1176, the Vera Institute of Justice (Vera) is assisting Georgia in the creation of a performance measurement tool that will help the state track JRI policy implementation, measure outcomes, and identify notable impacts. The Georgia Criminal Justice Reform Council was also charged by the Governor with overseeing the implementation of HB 1176 and the measurement of its outcomes.<sup>289</sup>

Although it is too early to ascertain JRI's impact on prison growth and corrections costs in the state, Georgia is working actively with Vera to implement a performance measurement system to inform impact assessments and support routine data collection and analysis. Stakeholders across the criminal justice system have expressed confidence that the reforms will have positive effects in the state.

# Hawaii

Hawaii's prison and jail populations<sup>290</sup> experienced rapid growth between 2000 and 2011. This led to overcrowded corrections facilities and by 2011, approximately 1,700 prisoners were housed out of state. With Justice Reinvestment Initiative (JRI) technical assistance from the Council of State Governments Justice Center (CSG Justice Center), stakeholders in Hawaii determined the drivers of the state corrections population as growing pretrial population, long periods of detention for parole violations, mandatory sentencing for drug offenses, and a high number of parole denials. The state passed two pieces of legislation in May 2012 that address these drivers by requiring the use of a pretrial risk assessment tool, reducing sentences for certain parole violations and drug offenses, expanding the parole board, and enhancing community-based treatment and victims' services. After the first year of implementation, the state reduced its corrections population 4 percent, averted \$2.5 million in costs, and allocated \$3.4 million into its reinvestment strategies, which include expanding treatment programs, hiring additional corrections and victims' services staff, and initiating plans to establish a research and planning office in the Department of Public Safety (PSD).

## Impetus for Justice Reinvestment

Between 2000 and 2011, the number of crimes, arrests, and convictions in Hawaii had decreased. During this same period, however, the corrections population increased by 18 percent, which led to overcrowded corrections facilities, reduced funding for programs, parole backlogs, and prisoners being housed in out-of-state facilities. In 2011, Hawaii housed almost a third of its approximately 6,000 inmates in Arizona, which cost the state more than \$40 million.<sup>291</sup>

Previous criminal justice reform efforts include the creation of the Interagency Council on Intermediate Sanctions (ICIS) in 2002 to address the state's corrections inefficiencies and growing population. ICIS informs the use of intermediate sanctions through best practices. Additionally, Hawaii's Opportunity Probation with Enforcement (HOPE) was developed in 2004 to divert offenders from prison while increasing accountability. These programs have contributed to a significant reduction in recidivism and have promoted a data-driven approach to justice reform.<sup>292</sup>

### HIGHLIGHTS

- Prison and jail populations grew 18 percent between 2000 and 2011, and one-third of prisoners were housed out of state.
- JRI legislation requires the use of a pretrial risk assessment, reduces sentences for certain parole violations and drug offenses, expands parole, and enhances community-based treatment and victims' services.
- Hawaii's incarcerated population declined 4 percent after the first year of implementation.
- The state saved \$2.5 million from corrections population reductions in FY 2013.
- The state allocated \$3.4 million in FY 2013 for expanding treatment programs and victims' services, and initiating plans to establish a research and planning office.

Through the efforts of the governor, state officials, and the Community Alliance on Prisons, Hawaii joined the Justice Reinvestment Initiative (JRI) in April 2011. The state's justice reinvestment goals were to reduce the prison population, lower recidivism, improve public safety, and bring prisoners home from mainland facilities.<sup>293</sup>

## Establish Interbranch Bipartisan Working Group

State leaders designated a JRI working group that first convened in June 2011. This initial meeting was attended by nearly 40 members, including key leaders from the governor's office, the state legislature, PSD, the circuit and supreme courts, the state's Crime Victim Compensation Commission, police departments, and prosecutors' offices. At its initial meeting, the working group met with the CSG Justice Center which provided Hawaii and the working group with JRI technical assistance, to discuss preliminary analyses and establish a timeline for developing policy responses.<sup>294</sup>

## Engage Stakeholders

The working group and the CSG Justice Center met bi-monthly from June 2011 through January 2012. During this time, Justice Center representatives also attended a state-wide PSD conference, conducted a focus group roundtable with victims' advocates and survivors, and met with additional local criminal justice stakeholders such as mayors, judges, and attorneys.<sup>295</sup>

## Analyze Data and Identify Drivers

In collaboration with members of the working group, the CSG Justice Center collected and analyzed data from the PSD, judicial branch, Hawaii Paroling Authority, and attorney general. These data included information on corrections releases and admissions, court dispositions, probation, granted and denied paroles, and risk assessments. From these analyses, the working group identified key population drivers, including a quickly growing pretrial population, long periods of detention for parole violations, mandatory sentencing for drug offenses, and a high number of parole denials owing to unavailable programming and some unnecessary parole requirements.<sup>296</sup>

## Develop Policy Options

The working group developed policy recommendations in November 2011 and January 2012. The recommendations focused on using risk and needs assessments to inform pretrial, programming, and parole decisions; reducing the length of detention for parole violators and for individuals who are to be released before trial; and improving offender accountability by requiring a period of supervision after release, increasing the tracking and collection of restitution payments, and creating victim liaisons to improve safety planning and notification.<sup>297</sup>

## Codify and Document Changes

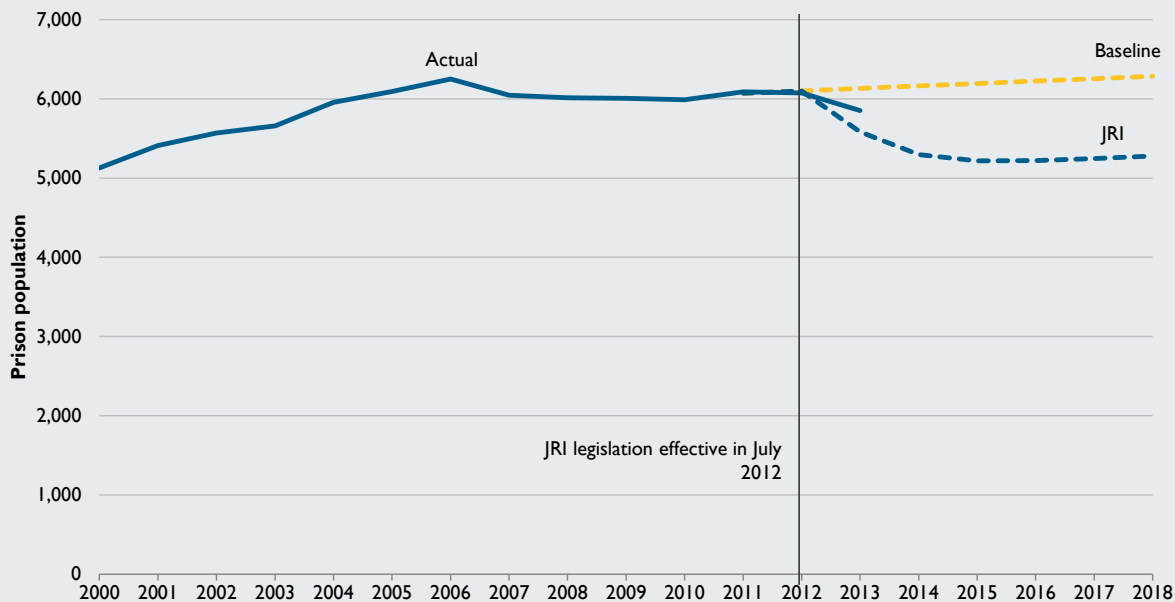
In May 2012, the state passed two pieces of JRI legislation: Senate Bill (SB) 2776 and House Bill (HB) 2515. Both bills were signed into law in June 2012. SB 2776 requires the use of a risk assessment tool to screen pretrial defendants for release, reduces the length of incarceration for first-time parole violations, increases the number of members of the Hawaii Paroling Authority, and provides additional funding to enhance community-based treatment programs. The bill also supports victims' services by increasing the percentage of any deposit made to an inmate's account that goes toward restitution and adding 15 additional victims' service personnel to improve victim notification, restitution, and safety planning.<sup>298</sup> HB 2515 allows judges to use probation for certain second-time drug offenses and shortens the amount of probation given for less serious felonies.<sup>299</sup>

## Implement Policy Changes

To facilitate implementation of these two bills, Hawaii assembled a core implementation team to monitor and assess the overall implementation effort, convened working groups to address specific provisions, and continued to use the CSG Justice Center's technical assistance.<sup>300</sup> The state developed a recertification/training program for corrections staff to improve the fidelity of the Level of Service Inventory-Revised (LSI-R), which is used for offender treatment and planning and, since the enactment of JRI legislation, presumptive parole decisions. In the process of developing a refresher-training curriculum for users of the LSI-R, the state reviewed and updated its LSI-R scoring guide with approval from the author of the tool. More than 200 users of the LSI-R have participated in the recertification process.<sup>301</sup>

# Hawaii

**FIGURE A.4**  
**Hawaii Prison Population**



Sources: Data are from Council of State Governments Justice Center; email message, July 19, 2013.

Notes: Since prisons and jails form one integrated system in Hawaii, data include total jail and prison population. Dotted lines represent projections.

The state also implemented the Ohio Risk Assessment System Pretrial Assessment Tool (ORAS-PAT) to assess each incoming defendant for risk of flight and risk to public safety. An interagency group of pretrial stakeholders from Oahu, represented by PSD, the judiciary, the Office of the Prosecuting Attorney of Honolulu, and the state public defender, piloted a strategy for using risk assessment information to expedite decisions regarding pretrial detention and release. The interagency group, along with the CSG Justice Center, continues to monitor data to measure progress toward the goal of reducing the average length of stay for pretrial detainees. The group will continue to review its strategy and make adjustments to the pretrial decisionmaking process to ensure that resources are being used effectively and efficiently. To inform stakeholders throughout the state of these changes, Hawaii plans to use subaward funding from the Bureau of Justice Assistance (BJA) to train judges, prosecutors, and public defenders on changes to the pretrial process as well as pretrial principles.<sup>302</sup>

The Crime Victim Compensation Commission (CVCC) is also using BJA funds, in addition to reinvestment funds, to develop a restitution database to collect restitution data

that will help paint a comprehensive picture of restitution collection that can highlight opportunities to improve collection processes. To ensure that the database will capture a comprehensive range of data, CVCC has been drawing on technical assistance from the CSG Justice Center. In its role as a technical assistance provider, the CSG Justice Center has had the opportunity to help broker agreements between CVCC and other agencies for data sharing. The restitution development project has already garnered national attention.<sup>303</sup>

## Reinvest Savings

The impact of Hawaii's JRI legislation is expected to result in a savings of \$130 million by 2018. For these savings to be realized, Hawaii will reinvest \$42 million during the same period into victims' services, prison and community-based treatment programs, and probation and parole supervision. While it is too early to determine the direct effects of the JRI legislation, Hawaii has already seen some promising signs of success. During the first year of implementation, Hawaii averted \$2.5 million in costs based on the projec-

tion of costs that the state would have incurred without JRI. Also during this time, Hawaii allocated \$3.4 million into its reinvestment strategies, which include expanding treatment programs, hiring additional corrections and victims' services staff, and initiating plans to establish PSD's research and planning office.<sup>304</sup>

## Measure Outcomes

Part of Hawaii's JRI legislation allocated resources to staff a research department within the PSD. The state also created several databases and dashboards to measure incarcerated and supervised populations and victim restitution. These systems have been used to conduct analyses on the placements, terminations, and lengths of stay for the pretrial, probation, and prison populations.<sup>305</sup> Figure A.4 depicts the actual and projected corrections population in Hawaii.

Hawaii's incarcerated population was projected to increase 3 percent between 2012 and 2018.<sup>306</sup> Preliminary numbers from FY 2013 suggest that Hawaii has begun to experience population reductions that can be attributed to JRI policy changes, such as permitting judges to sentence second-time drug offenders to probation rather than incarceration. Between July 2012 and May 2013, Hawaii reduced its total corrections population by 4 percent, from 6,073 to 5,848. This included a 15 percent drop in the number of prisoners housed in out-of-state facilities, which saved the state an estimated \$2.5 million in FY 2013.<sup>307</sup> As of June 30, 2013, Hawaii's pretrial population remained at the December 31, 2010, levels.<sup>308</sup>

A portion of the \$2.5 million in savings is due to the rededication of space for low-risk offenders to complete work-release programs on the island of Oahu, a policy that was created outside of JRI. Hawaii's population reduction is not yet large enough to reduce costs by closing a unit or facility.<sup>309</sup>

# Kansas

In April 2012, Kansas's prisons were at 100 percent capacity with a projected 23 percent increase over the next 10 years. In order to control this growth—estimated to cost more than \$125 million—Kansas formed a working group to examine corrections population and cost drivers. Justice Reinvestment Initiative (JRI) provisions, developed through the working group's analysis, included basing supervision intensity and treatment on offenders' risk levels; increasing funding for and availability of community-based treatment; using swift, certain, and graduated sanctions for probation violators; and requiring postrelease supervision for individuals reincarcerated for probation revocations. These reforms are projected to save Kansas an estimated \$125 million in averted construction costs and \$56 million in averted operating costs over five years by slowing prison growth from 9 percent to 4 percent between 2013 and 2018. Upfront investment is under way in Kansas; the state plans to invest \$2 million in 2014 for behavioral health treatment for high-risk individuals.

## Impetus for Justice Reinvestment

By the spring of 2012, Kansas's prisons were at capacity, with a projected 23 percent increase over the next 10 years. This unsustainable projected growth, estimated to cost more than \$125 million,<sup>310</sup> prompted Kansas leaders to request technical assistance to employ the justice reinvestment model.

Kansas was already familiar with the justice reinvestment approach, having worked with the Council of State Governments Justice Center (CSG Justice Center) in 2006 to analyze its criminal justice system drivers and identify policies to maintain or increase public safety while reducing spending. Legislation was passed in 2007, focusing largely on reducing technical violations for offenders on community supervision. Policies established a performance incentive grant program to reward community corrections agencies for reducing revocation rates, as well as credits for incarcerated offenders who successfully completed programming. The state estimated that prison population reductions from this legislation saved \$80 million in averted costs, but subsequent developments, including funding reductions and penalty enhancements, reversed these trends and increased prison commitments.<sup>311</sup>

### HIGHLIGHTS

- By spring of 2012, Kansas's prisons were at capacity with a projected 23 percent increase over the next 10 years estimated to cost more than \$125 million.
- Kansas's JRI legislation bases supervision intensity and treatment on offenders' risk levels; increases funding for and availability of community-based treatment; uses swift, certain, and graduated sanctions for probation violators; and requires post-release supervision for individuals reincarcerated for probation revocations.
- JRI reforms are projected to save Kansas an estimated \$125 million in averted construction costs and \$56 million over five years by slowing the prison growth rate from 9 percent to 4 percent between 2013 and 2018.
- Kansas plans to invest \$2 million in 2014 in community-based behavioral health programming.

In April 2012, the governor, legislative leaders, the chief justice, and the attorney general submitted a request to receive justice reinvestment technical assistance. Through JRI, the state hoped to explore the causes of new court commitments, treatment resources available for mentally ill offenders, community corrections revocations, and crime reduction.



## Establish Interbranch Bipartisan Working Group

Kansas's technical assistance provider, the CSG Justice Center, held a kick-off meeting in June 2012 with the JRI working group. This group, established by House Bill 2684, was composed of 17 members, including representatives from both branches of the legislature, corrections, local law enforcement, the Kansas Bureau of Investigation (KBI), local service providers, and a prosecutor. The group was tasked with studying policies and practices to increase public safety and reduce recidivism; it met four times between June 2012 and December 2012.

## Engage Stakeholders

To garner systemwide input, the CSG Justice Center conducted focus groups and meetings with stakeholders outside the working group, including frontline staff from corrections, probation, and treatment providers as well as prosecutors, victim advocates, judges, and local law enforcement.<sup>312</sup>

## Analyze Data and Identify Drivers

The working group meetings held in September and October of 2012 focused on data analysis to identify prison population drivers. Data presentations focused on crime and arrest trends, sentencing trends, probation trends, and reentry and victim issues.

Data analysis identified key challenges to Kansas's criminal justice system, which included strained and inefficiently allocated probation and reentry resources as well as increased crime rates in half of Kansas counties.<sup>313</sup>

## Develop Policy Options

At the working group's final meeting, in December 2012, the CSG Justice Center presented a series of policy options to address prison population drivers. The policy framework—developed through data analysis and stakeholder feedback—comprised a series of strategies to strengthen probation supervision, encourage successful prison reentry, and make communities safer. These policies included

basing supervision intensity and treatment on offenders' risk level; increasing funding for and availability of community-based treatment; using swift, certain, and graduated sanctions for probation violators; requiring post-release supervision for individuals reincarcerated for probation revocations; establishing grant funding for law local enforcement agencies; and supporting a new forensic facility for the KBI.<sup>314</sup>

## Codify and Document Changes

House Bill (HB) 2170, crafted by the Kansas Department of Corrections (KDOC) and the Kansas Sentencing Commission, was introduced to the legislature in January 2013. It contained all the strategies outlined in the policy framework, with the exception of funding requests for local law enforcement and KBI, which require appropriations. HB 2170 passed in April 2013 and is projected to save Kansas an estimated \$125 million in averted construction costs and \$56 million over five years<sup>315</sup> by slowing prison growth from 9 percent to 4 percent between 2013 and 2018 (see figure A.5).<sup>316</sup>

## Implement Policy Changes

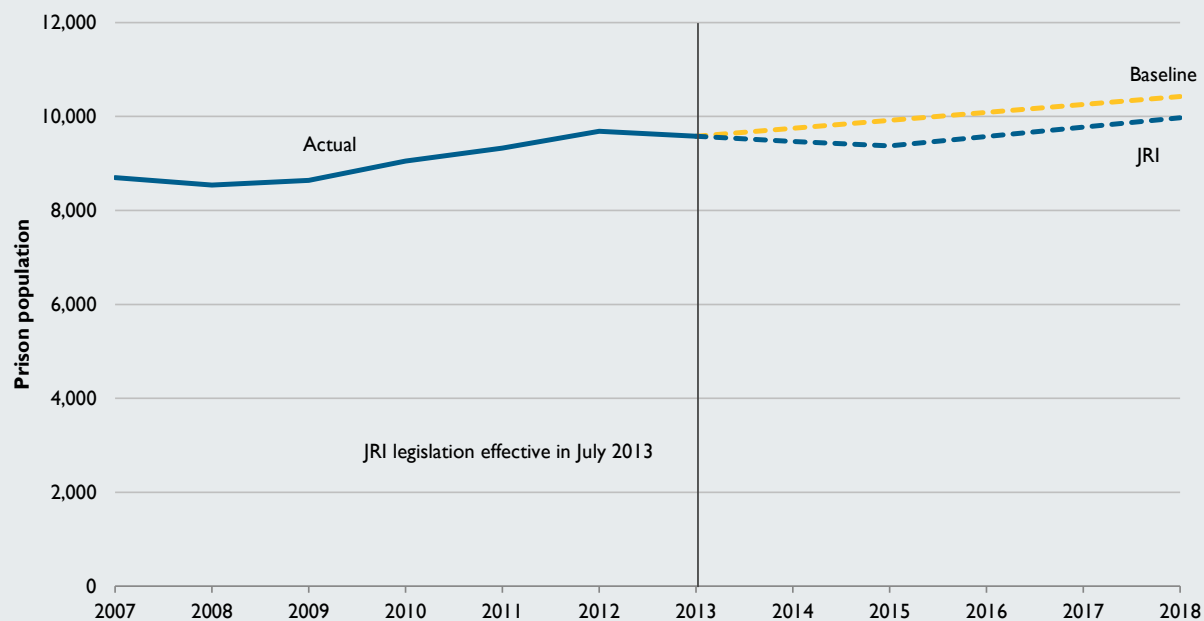
The CSG Justice Center will continue supporting Kansas as the state implements the provisions of HB 2170, which became effective on July 1, 2013.

A three-tiered governance structure focused on implementing the policy changes has been established; it includes five issue-specific work groups: Outcomes and Data, Admissions, Staff Training and Accountability, Stakeholder Education, and Community Behavioral Health. These groups are charged with streamlining admissions and diagnostic processes for offenders returned to prison to serve 120- or 180-day sanctions; developing workforce skills; and engaging stakeholders—including judges, prosecutors, and community corrections officers—in the changes under HB 2170. The state is developing plans for using a subaward, along with the continued technical assistance from the CSG Justice Center, to focus on improving the quality of risk and needs assessments, strengthening probation officers' skills in risk reduction, and increasing collaboration among community corrections and behavioral health treatment providers.<sup>317</sup>

# Kansas

**FIGURE A.5**

## Kansas Prison Population



Sources: JRI and baseline population projection values were extrapolated from available data in Kansas Sentencing Commission (2013). Actual population data are from Bureau of Justice Statistics' *Prisoners Series*.

Note: Dotted lines represent projections.

## Reinvest Savings

Upfront investment is under way in Kansas; the state plans to invest \$2 million in 2014 for behavioral health treatment services to high-risk individuals who need treatment and who reside in the counties with the highest volume of probationers and rates of probation revocations. The CSG Justice Center will work with Kansas stakeholders to calculate savings and decide where to reinvest funds.<sup>318</sup>

## Measure Outcomes

To monitor implementation progress and eventual outcomes of HB 2170, Kansas has developed a number of metrics that will be tracked on a monthly basis. The Kansas Sentencing Commission has modified sentencing documents to ensure proper categorization of sanctioned offenders, and the KDOC has enhanced data systems to allow for detailed collection and reporting.<sup>319</sup>



# Kentucky

Because of a rising prison population, Kentucky's corrections spending grew to \$440 million in FY 2010, an increase of 214 percent over the past two decades.<sup>320</sup> Through comprehensive data analysis, a state task force determined the rising corrections population was not due to an increase in crime, but rather to corrections policies and practices. Kentucky's Justice Reinvestment Initiative (JRI) legislation, the Public Safety and Offender Accountability Act, directs resources toward serious offenders, strengthens community supervision, and makes systemwide improvements across Kentucky's corrections system. As a result of JRI reforms, Kentucky has realized a total savings of \$34.3 million: \$25 million in averted jail costs and \$9.3 million from its mandatory reentry supervision program. Kentucky has invested \$13.9 million in evidence-based programs, including educational program, substance abuse treatment, and sex offender treatment programs. Although Kentucky's prison population increased 2.6 percent the year after JRI legislation was passed, the prison population declined 7.5 percent between January and September 2013.

## Impetus for Justice Reinvestment

From 2000 to 2009, Kentucky's prison population increased from 14,919 to 21,638 inmates. With an average increase of 4.2 percent per year, Kentucky had the fifth fastest growing prison population in the nation.<sup>321</sup> The growing number of inmates, however, did not stem from a corresponding increase in crime. In fact, Kentucky's crime rate in 2009 was about the same as in 1974, and well below that of other southern states.<sup>322</sup> Between FY 1990 and FY 2010, Kentucky increased its corrections spending from \$140 million to \$440 million, a jump of 214 percent.<sup>323</sup> By 2010, leaders in Kentucky were interested in maintaining public safety while decreasing the high costs required to house so many inmates in state prisons. Justice reinvestment promised the opportunity to take a second look at the policies that led Kentucky to such high incarceration and spending rates, and to develop a more efficient, appropriate, and cost-effective way to deal with offenders in the state.

## Establish Interbranch Bipartisan Working Group

In early 2010, Kentucky's General Assembly established a bipartisan, interbranch working group to address issues of

### HIGHLIGHTS

- Kentucky's prison population increased 45 percent between 2000 and 2009, the fifth-fastest growing prison population in the nation.
- Kentucky's JRI legislation directs resources toward serious offenders, strengthens community supervision, and makes systemwide improvements across the state's corrections system.
- While Kentucky's prison population increased 2.6 percent between 2011 and 2012, the prison population began declining in 2013.
- Due to JRI reforms, Kentucky has realized a total savings of \$34.3 million.
- Kentucky has invested \$13.9 million in evidence-based programs.

criminal justice reform and reinvestment. This group, the Task Force on the Penal Code and Controlled Substances Act, was co-chaired by a Republican senator and a Democratic representative, the chairs of the Senate and House Judiciary Committees, respectively. It included a former prosecutor and public defender, a county judge, and the secretary of the Justice and Public Safety Cabinet. To support data analysis and policy development, the Pew Charitable Trusts (Pew), the Crime and Justice Institute

(CJI), and the JFA Institute provided technical assistance (TA) to the task force.

## Engage Stakeholders

Through a series of public forums and consensus-building sessions, Pew sought input from stakeholders across the state, including law enforcement officials, probation and parole officers, judges, prosecutors, defense attorneys, crime victims, treatment providers, and community and business leaders.<sup>324</sup>

## Analyze Data and Identify Drivers

The task force, with help from TA providers, began sifting through Kentucky's sentencing and corrections data in the summer of 2010. The group confirmed that the state's incarceration rates and spending increases were not due to a rise in crime rates but to current sentencing policies. The main cost and prison population drivers identified were an increase in arrests and court cases, a high percentage of offenders being sentenced to prison rather than to other sanctions, an increase in the percentage of admissions that were drug offenders, and a larger number of parolees returning to prison as a result of technical violations. The task force found that although reported crime remained constant between 2001 and 2009, there was a 70 percent increase in arrests for drug offenses, as well as a 22 percent increase in arrests for Part I offenses (serious crimes such as murder and burglary) and a 33 percent increase in arrests for Part II offenses (lesser crimes, such as simple assault). The group also found that Kentucky was sentencing approximately 57 percent of all convicted felons to prison terms rather than probation or other sanctions, a proportion far above the national average of 41 percent. Drug offenders accounted for 25 percent of prison inmates, but 75 percent of those offenders were in prison for possession or first-time trafficking, offenses that are often punished less stringently in other states. Additionally, the number of parolees sent back to prison as a result of a technical violation increased more than 90 percent between 1998 and 2010.<sup>325</sup>

## Develop Policy Options

The task force developed a package of reforms designed to improve public safety, lower costs, and reduce recidivism while still holding offenders accountable. One focus was

to direct resources toward serious offenders by creating distinctions for different types of drug offenses and increasing alternative sanctions for low-level, nonviolent offenders, such as allowing them to finish their sentences in local jails, serve time in the community with global positioning system (GPS) monitoring, and earn compliance credits for successful parole time. Another focus was to strengthen community supervision by establishing mandatory reentry supervision, implementing a pilot Hawaii's Opportunity Probation with Enforcement (HOPE) program based on Hawaii's successful model, creating graduated administrative sanctions for community supervision violators, and allocating funding for performance-based community corrections programs. The final broad policy focus was to make systemwide improvements by requiring implementation of risk and needs assessments and evidence-based practices (EBPs) throughout the criminal justice system and developing an online database to provide stakeholders with objective information for use in sentencing.<sup>326</sup>

## Codify and Document Changes

From the policy options developed by the working group and input from other task force members and key stakeholders, the co-chairs drafted House Bill (HB) 463, the Public Safety and Offender Accountability Act. The bill was supported overwhelmingly on both sides of the aisle, despite the politicized climate around a gubernatorial race, and passed unanimously in the Senate and by a vote of 96 to 1 in the House. The 150-page bill codified each recommended policy into legislation. HB 463 was signed into law in March 2011. It was expected to save Kentucky \$422 million dollars over the next decade and reduce the number of prison inmates by 3,824 by 2020.<sup>327</sup>

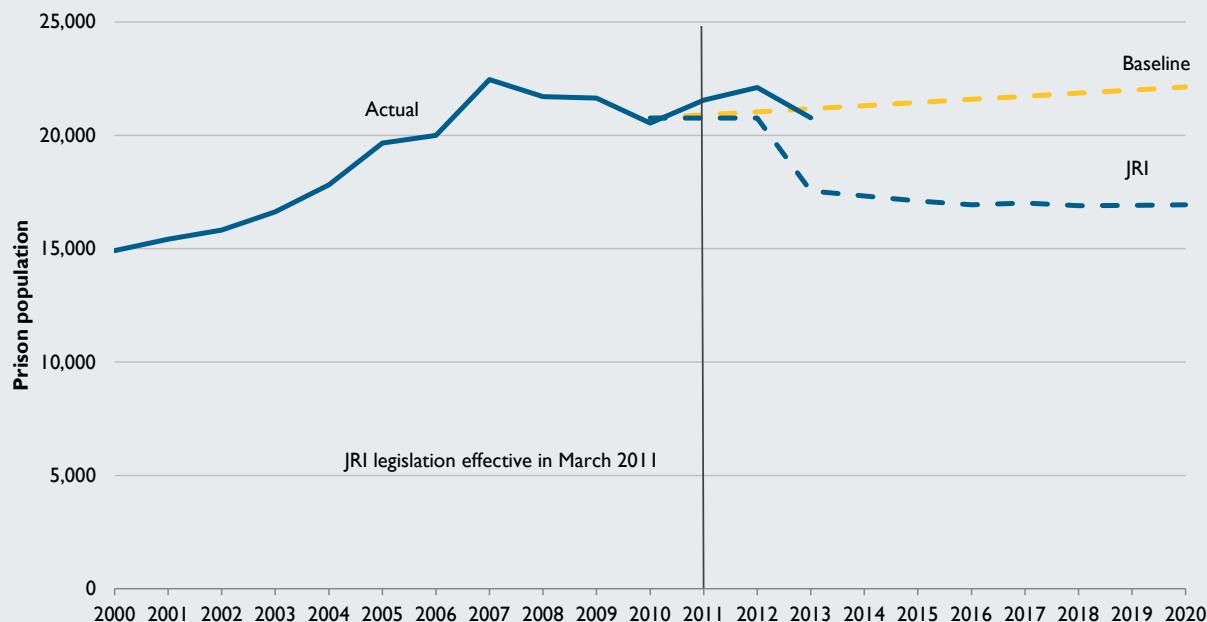
## Implement Policy Changes

Following passage of JRI legislation, state leaders convened the Kentucky Criminal Justice Council, made up of representatives from the agencies tasked with implementing the bill's policies. This group, headed by members of the Administrative Office of the Courts (AOC) and the Department of Corrections (DOC), continued to work in partnership with the task force to oversee implementation of HB 463. The state also enlisted the Vera Institute of Justice (Vera) to provide TA with evaluating the effectiveness of current programs, implementing EBPs, and preparing training

# Kentucky

**FIGURE A.6**

## Kentucky Prison Population



Sources: Baseline population projection values were extrapolated from available data calculated by the JFA Institute in Pew Center on the States (2010a). JRI population projection values calculated from available data in Kentucky Legislative Research Commission (2011b). Actual population data from 2000 to 2012 are from Bureau of Justice Statistics' Prisoners Series.

Note: Prison population numbers for 2013 are an average of monthly counts for January through September 2013 from the Kentucky Department of Corrections. Dotted lines represent projections.

materials for judges and court clerks on alternatives to incarceration.

Kentucky received a subaward from the Bureau of Justice Assistance to support training in EBPs for DOC and AOC staff, revise the pretrial risk assessment instrument, evaluate corrections programs to ensure that they are evidence based, and measure the cost savings resulting from HB 463. Since the enactment of the law, the AOC has assessed, revised, and implemented a pretrial risk assessment instrument, and the DOC has implemented a validated risk and needs assessment tool and a case management plan integrated with the offender management system. AOC and DOC trainings have included Motivational Interviewing, Thinking for a Change, Effective Practices in Community Supervision (EPICS), Tools for Risk Reduction, and 24/7 Dads.<sup>328</sup>

## Reinvest Savings

The reinvestment strategy codified in HB 463 requires that all savings generated from reduced rates of incarceration for drug offenders (estimated at \$6.8 million in FY 2013 and \$11.5 million in FY 2014)<sup>329</sup> be reinvested into substance abuse treatment programs. As of April 2013, 890 beds had been added to substance abuse treatment facilities and 2,000 outpatient treatment slots had been added through community mental health centers. HB 463 also stipulates that 25 percent of all nondrug savings (estimated at \$3.4 million in FY 2013 and \$5.5 million in FY 2014) be allocated to the local corrections assistance fund. Additionally, the General Assembly has discretion to use other savings (estimated at \$3.6 million in FY 2013 and \$5.7 million in FY 2014)<sup>331</sup> to expand treatment programs, community supervision, and pretrial services. In FY 2012, the DOC invested \$13.9 million in EBPs, including educational and program programs, substance abuse treatment, and sex offender treatment programs.<sup>332</sup>

## Measure Outcomes

With support from Vera, Kentucky developed dashboards to monitor legislation implementation. The AOC tracks appropriate use of alternative sentencing through analysis of convictions and sentencing data, and the DOC uses the Kentucky Offender Management System to track the availability of community programs and the progress of offenders through these programs, including their completion and recidivism outcomes.

With JRI reforms, Kentucky's prison population was projected to experience a reduction of 3,824 inmates by 2020.<sup>333</sup> From 2011 to 2012, Kentucky's prison population increased by 2.6 percent, from 21,545 to 22,110 inmates (figure A.6).<sup>334</sup> Kentucky state criminal justice leaders convened in February 2013 to discuss why the state was not meeting population reduction targets and to develop solutions to implementation challenges. At this meeting, data was shared indicating that since the passage of HB 463, the parole grant rate had declined and prison admissions and sentence lengths had increased.<sup>335</sup> Current data indicate that Kentucky's state corrections population is declining—the DOC's internal performance measurement dashboard indicates a 7.5 percent decline between January and September 2013.<sup>336</sup> While Kentucky's prison population has declined in 2013, a recent report concluded that reduction was due to increases in the parole grant rate, rather than JRI provisions.<sup>337</sup>

Changes to pretrial policies have increased the pretrial release rate through the use of GPS monitoring, bail ceilings, and a risk assessment tool to guide release decisions. Comparing rates a year before and a year after enactment of HB 463, the pretrial release rate had increased by 5 percent, resulting in nearly 11,000 additional defendants released<sup>338</sup> and saving counties approximately \$25 million in jail costs.<sup>339</sup> Even with that increase, the number and percentage of defendants who fail to appear had declined, as had the number and percentage of new crimes committed by pretrial defendants.<sup>340</sup> As of March 2013, 4,157 offenders had been released on mandatory reentry supervision, with a total recidivism rate of just 15.3 percent. This program has saved the state an estimated \$9.3 million dollars.<sup>341</sup>

# Louisiana

From 1990 to 2010, Louisiana’s prison population more than doubled while its corrections costs more than tripled. The key factors driving this growth were incarceration of nonviolent non–sex offenders, technical parole violations, and the declining use of parole. In response to these challenges, Louisiana adopted justice reinvestment policies to improve the use of good time and earned time credits, increase parole eligibility for certain offenders, and improve probation and parole operations. In 2013, Louisiana also invested \$1.7 million in community-based treatment services. These policies are projected to save the state \$103.8 million over the next 11 years. By 2024, Louisiana is expected to reduce its prison population by over 1,100 inmates.

## Impetus for Justice Reinvestment

For Louisiana, which joined the Justice Reinvestment Initiative (JRI) in 2010, the process offered a strategy for addressing the state’s growing corrections population and costs. In the 20 years leading up to 2010, the state’s prison population more than doubled, and its prison costs tripled. In 2008, Louisiana had the highest incarceration rate in the country (one out of every 55 adults was in jail or prison); in 2011, the state’s prison population stood at 39,709 inmates. Per person incarceration costs per year were \$21,838; by June 2012, the total corrections budget was \$670 million. These spiraling costs came at a time when Louisiana’s budget was already under immense strain.<sup>342</sup>

By reviewing sentencing and corrections practices, Louisiana hoped to reduce prison populations and spending. In the summer of 2010, Louisiana requested assistance in the review process, which was provided through the JRI.<sup>343</sup>

## Establish an Interbranch Bipartisan Working Group

To address costs while ensuring public safety, the legislature passed two bills in 2008 (Acts 916 and 629) that reactivated and restructured the Louisiana Sentencing Commission, which had been founded in 1987 to develop felony sentencing guidelines. Act 916 reduced the size of the commission and redefined its membership.<sup>344</sup> Act 629 broadened the commission’s research mandate to include justice system outcomes, recidivism reduction, and the use of corrections programming to facilitate reentry.<sup>345</sup> The commission has 22

### HIGHLIGHTS

- From 1990 to 2010, Louisiana’s prison population doubled; in 2008, it had the highest incarceration rate in the nation.
- JRI policies improved the use of good time and earned credit and the operation of probation and parole.
- Prison population reductions due to JRI are projected to save Louisiana about \$103.8 million over 11 years.
- By 2024, Louisiana’s prison population is expected to decline by over 1,100 inmates.
- Louisiana reinvested \$1.7 million into community-based treatment in 2013.

members, including the secretary of Louisiana’s Department of Public Safety and Corrections (DPS&C), legal academics, sheriffs, district attorneys, victims’ advocates, defense attorneys, members of the judiciary, and legislators.<sup>346</sup>

## Engage Stakeholders

Throughout the policy development process that took place in 2011 and 2012, the commission convened discussions with elected officials, criminal justice experts, practitioners, and other key public safety stakeholders. All the effort put into engaging stakeholders resulted in broad approval for policies: Louisiana’s 2012 JRI legislation was approved by numerous key stakeholder groups, including the Louisiana Sheriff’s Association, Louisiana District Attorneys Association, Louisiana Conference of Catholic Bishops, DPS&C, and key members of the judiciary.<sup>347</sup>



## Analyze Data and Identify Drivers

To analyze Louisiana's crime data and identify the key justice system cost and population drivers, the Vera Institute of Justice (Vera) and Pew Charitable Trusts worked with the JFA Institute to help the commission conduct an in-depth review of state justice data. Results from this data analysis found three key factors driving the ongoing growth of Louisiana's prison population. The first driver was incarceration of nonviolent, non-sex offenders, who constituted 61.1 percent of admissions to prison in 2009. The second driver was technical violations of parole, which accounted for 23.6 percent of all admissions to prison. The third driver was declining use of parole, both hearings and grant rates. While the prison population increased by 15 percent between 2000 and 2009, the total number of parole hearings decreased by 17 percent, and parole grant rates dropped by more than 56 percent in the same period.<sup>348</sup>

## Develop Policy Options

To translate the results of the data analysis into policy recommendations, the Louisiana Sentencing Commission gathered information on national best practices and held deliberations with a broad array of Louisiana public safety stakeholders, legal academics, practitioners, elected officials, and criminal justice experts. These meetings provided a forum for obtaining feedback on potential policies and for building consensus around an eventual set of recommendations.<sup>349</sup>

## Codify and Document Changes

Louisiana passed justice reinvestment legislation in both 2011 and 2012. In 2011, the state passed Acts 104, 153, 168, 186, and 285. Act 104 authorizes probation and parole officers to impose administrative sanctions for technical violations of parole and probation; Act 153 mandates evidence-based practice (EBP) training for parole board and pardon board members and requires DPS&C to conduct a risk and needs assessment on every parole-eligible offender for the parole board to use in making parole decisions; Act 168 requires electronic monitoring and home incarceration service providers to report outcomes of home incarceration; Act 186 simplified and consolidated the good time and earned credit statutes for nonviolent, non-sex offenders; and Act 285 made first-time nonviolent, non-sex offend-

ers convicted of a felony eligible for parole after serving 25 percent of their sentence, down from 33 percent under the previous law. All these acts were signed by the governor in June 2011.<sup>350</sup>

By May 2012, the legislature had passed a second set of JRI legislation to support and build on the 2011 projects: Acts 110, 123, 158, 159, 160, 399, and 714. Act 110 creates transparency in the earning of good time, setting the rate of time earned at one and a half days for every day served; Act 123 eliminated costly and underused state risk review panels; Act 158 prevents notification of administrative sanctions from being introduced as evidence so that sanctions could be implemented as the legislature intended without triggering additional penalties; Act 159 allows the parole board to consider second-time nonviolent, non-sex offenders after they have served 33 percent of their sentences; Act 160 provides that mandatory minimums can be waived for certain nonviolent, non-sex crimes if the prosecutor, defense counsel, and judge agree; Act 399 expands Louisiana's reentry courts as a means to rehabilitate nonviolent, non-sex offenders; and Act 714 merged the functions of the boards of pardon and parole to save money and improve efficiency.<sup>351</sup>

## Implement Policy Changes

To facilitate the implementation of JRI policies, the commission created the JRI Oversight Committee, which approved a comprehensive implementation plan. Louisiana's implementation efforts focused on teaching justice system practitioners how to make use of administrative sanctions. Ensuring that sanctions are used properly has required close collaboration with local sheriffs, who have been cooperative and have allocated bed space for individuals serving an administrative sanction. Louisiana educated judges and probation and parole officers on the use of administrative sanctions and identified the need for additional trainings. Louisiana is one of the first states in the nation to examine home incarceration practices and develop new standards.<sup>352</sup> Finally, Vera is working with the commission to consider new drug legislation for 2014.<sup>353</sup>

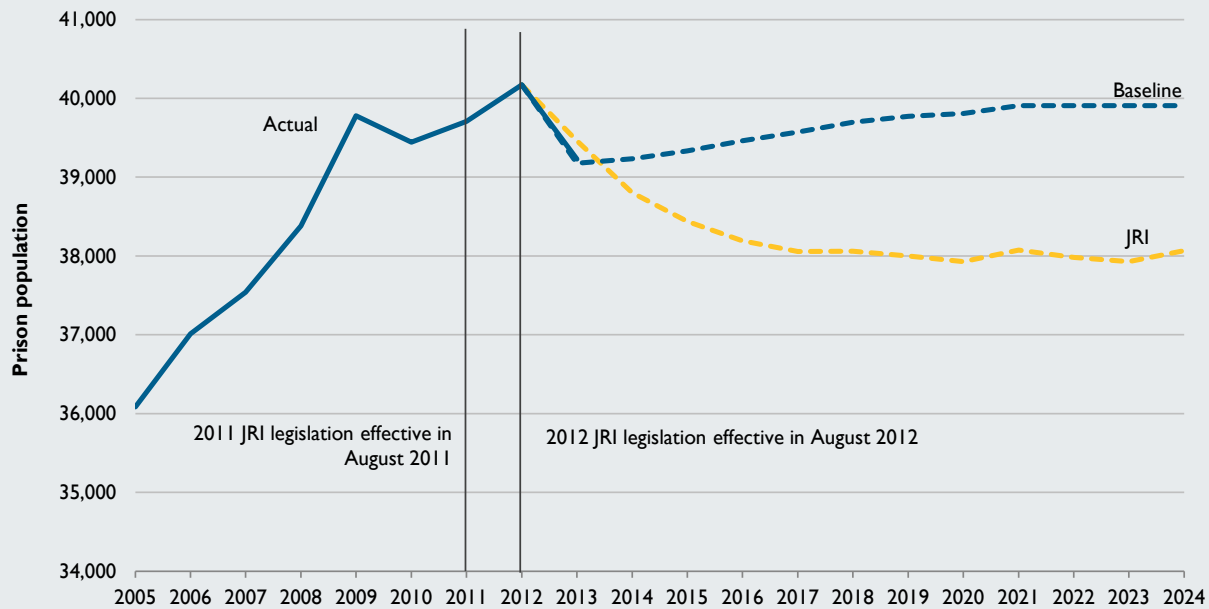
Louisiana has adopted EBPs to improve probation and parole operations. Risk and needs assessments were part of corrections operations before JRI; when the parole and pardon boards were merged in 2012, they adopted such assessments as well.<sup>354</sup>

The JRI Oversight Committee and Vera have been preparing for the receipt of a subaward, which will support the creation of a training assessment and training plan for

# Louisiana

**FIGURE A.7**

## Louisiana Prison Population



Sources: Actual population data from JFA Institute (2012). Baseline and JRI projection data are from JFA Institute email message, January 21, 2014.

Note: Dotted lines represent projections.

judges and probation officers on the use of administrative sanctions; the training for judges and probation officers on these sanctions; training for judges, district attorneys, and defense attorneys on discretionary waivers of mandatory minimum sentences; research on the impact of those sentences; and the development of standards for home incarceration providers.<sup>355</sup>

## Reinvest Savings

While Louisiana has not developed a formal reinvestment plan, state leadership has maintained a strong commitment to supporting probation, parole, and reentry: \$1.7 million was allocated to DPS&C in 2013 to provide opportunities for community-based treatment for offenders identified by the court as having substance abuse addictions as the underlying cause of their offense.<sup>356</sup>

## Measure Outcomes

The DPS&C is working with Vera to measure the impacts of JRI legislation. Vera has helped the department develop a dashboard of key performance measures. The metrics also

track performance of local jails, where approximately 50 percent of the state felony offender population is housed. Measures on the dashboard are reported quarterly, with the first report developed in August 2013.<sup>357</sup> Key performance measures on the dashboard include total offender, prison, and local jail counts; number of new prison admissions, releases, new parolees, and new probationers; new paroles under the good time parole program; and percentage changes in performance measures from the base year (2011).<sup>358</sup> The JRI Oversight Committee has developed a reporting schedule for measuring performance measures, and DPS&C has started reporting these measures to the committee.<sup>359</sup>

Louisiana created population projections in 2010 and 2013. The 2010 projection represents the expected change in Louisiana's incarcerated population absent subsequent reforms while the 2013 projection estimates the impact of JRI policies passed in 2011 and 2012. In 2010, Louisiana's prison population was expected to increase 2 percent between 2013 and 2024. Because of JRI policy changes in 2011 and 2012, Louisiana's prison population is expected to decrease by 3 percent between 2013 and 2024 (figure A.7). This population reduction will save \$103.8 million over 11



years. From 2012 to 2013, Louisiana’s prison population declined slightly and is expected to decline until 2016 to 2017 when population declines will begin to stabilize.<sup>360</sup>

# Missouri

Missouri's prison population more than doubled from 14,074 inmates in 1990 to 30,729 inmates in 2011. Corrections costs tripled over the same time period, reaching more than \$660 million by FY 2011. Through the Justice Reinvestment Initiative (JRI), Missouri made targeted reforms expected to reduce the prison population by between 245 and 677 inmates, and save the state between \$7.7 million and \$16.6 million by 2017. The enacted policies provide earned credits for probation compliance, allow supervision officers to impose swift and certain jail sanctions, and cap the amount of time nonviolent offenders can serve for technical probation violations.<sup>361</sup>

## Impetus for Justice Reinvestment

Missouri joined JRI after enduring decades of growth in its prison population and corrections spending without commensurate improvements in public safety. Missouri's prison population was 14,074 in 1990; by 2011, it exceeded 30,000 inmates. And while the population doubled, corrections spending tripled over the same period. By FY 2011, corrections spending exceeded \$660 million. And although the prison population and costs soared, Missouri failed to realize the decline in crime rates seen nationally: The United States experienced an 18 percent drop in violent crime from 1990 to 2000, but violent crime in Missouri dropped only 2 percent.<sup>362</sup>

State leaders decided it was time to take action to reduce recidivism, improve public safety, and lower the burden of corrections costs on Missouri taxpayers. The state requested technical assistance from the Pew Charitable Trusts (Pew) and the Bureau of Justice Assistance to pursue these goals. In early 2011, state leaders developed the Missouri Working Group on Sentencing and Corrections, a bipartisan, interbranch collaborative tasked with advancing JRI in Missouri. With the working group's establishment, Missouri set out to advance state policies, programs, and practices to reduce its prison population and improve public safety while continuing to hold offenders accountable.

## Establish Interbranch Bipartisan Working Group

With technical assistance from Pew, the working group held its first meeting in June 2011; it met monthly through December 2011. A Republican senator and a Democratic representative co-chaired the group, which included members

### HIGHLIGHTS

- Missouri's prison population more than doubled and corrections spending more than tripled between 1990 and 2011.
- Through JRI, Missouri adopted reforms that strengthen supervision and cap time served for technical violations.
- These reforms are projected to reduce the Missouri prison population by between 245 and 677 inmates by 2017 at a savings of between \$7.7 million and \$16.6 million.

from the legislative, executive, and judicial branches of state government as well as local government representatives.

## Engage Stakeholders

In developing policy recommendations, the working group engaged a diverse group of stakeholders—from district attorneys and victims' advocates to public defenders and circuit court judges—to inform its deliberations. Stakeholder engagement in Missouri served multiple purposes: It ensured that critical voices had direct input into the process, introduced a local perspective to state-level policy development, and preemptively identified funding concerns for new initiatives.<sup>363</sup>

## Analyze Data and Identify Drivers

With data drawn from multiple state agencies, the working group and Pew, along with partners at Applied Research Services, Inc., and the Crime and Justice Institute, completed a thorough review of state data and programs to inform an analysis of the drivers of Missouri's prison population and corrections costs. The analysis included a

review of national corrections and sentencing trends alongside an evaluation of Missouri-specific data, discussions of evidence-based practices in community supervision, and an audit of corrections policy and state law.

Data analysis found that probation or parole violations accounted for 71 percent of the state's 2010 prison admissions. The majority were technical violations rather than new criminal convictions. In total, technical violation revocations accounted for 43 percent of Missouri's 2010 prison admissions. Findings also showed that the probation population was largely nonviolent, with only 13 percent convicted for a violent or sex offense. The working group found that 83 percent of revoked probationers were placed on probation for a nonviolent offense conviction.<sup>364</sup>

## Develop Policy Options

The working group's data analysis shed light on areas for reform within Missouri's criminal justice system. With concrete data on drivers of the growing prison population in hand, the group focused its policy recommendations on addressing supervision violation revocations. In its December 2011 Consensus Report, the working group shared six policy recommendations intended to strengthen community supervision and reduce revocations to prison while ensuring quality implementation, sustainability, and ongoing oversight of reforms. The working group recommended (1) earned discharge from probation and parole; (2) administrative jail sanctions; (3) caps on revocation time; (4) the development of an oversight body to monitor reform implementation; (5) encouraging the legislature to emphasize the right to victim restitution; and (6) a review and possible revision of Missouri's Criminal Code.<sup>365</sup>

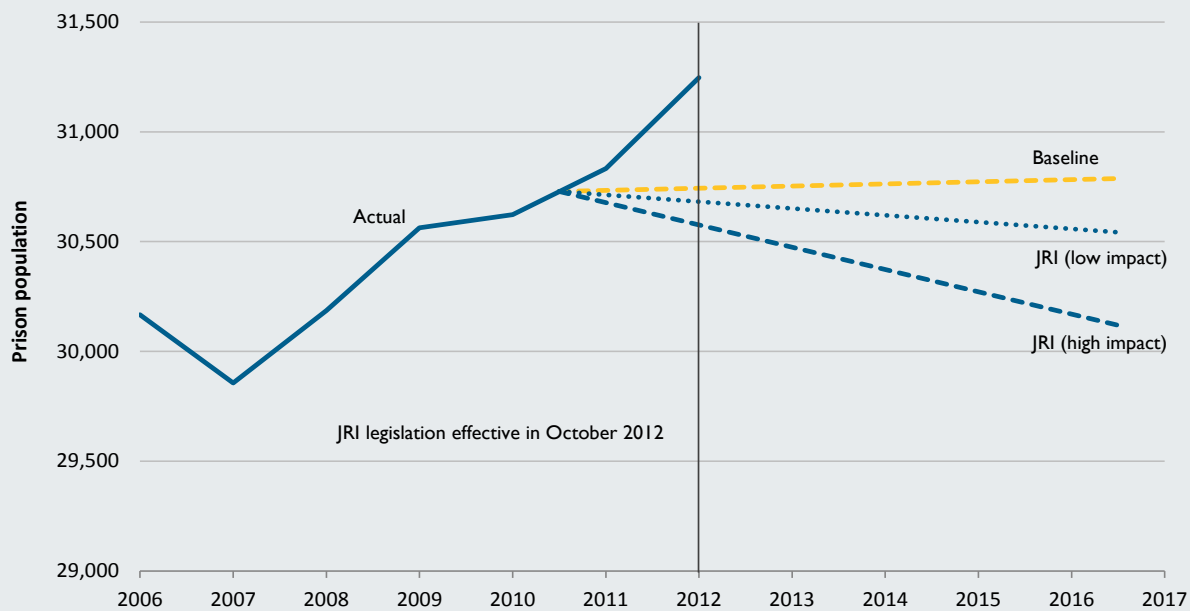
## Codify and Document Changes

On the basis of these recommendations, the Missouri legislature enacted House Bill (HB) 1525, the Justice Reinvestment Act, in 2012. The bill passed with near unanimous support and included measures aimed at reducing recidivism and strengthening community supervision. Signed into law on July 6, 2012, HB 1525 makes the following reforms: provides offender incentives for supervision compliance; allows supervision officers to impose swift and certain jail sanctions; caps the amount of time nonviolent offenders can serve for technical probation violations; and creates a monitoring body to oversee the law's implementation and review cost savings.<sup>366</sup>

The enacted legislation is expected to reduce Missouri's prison population by between 245 and 677 inmates by the end of 2017 (figure A.8). The reduction in prison population is estimated to save between \$7.7 million and \$16.6 million.<sup>367</sup> These impact projections were produced in 2011, though JRI legislation did not take effect until October 2012. Between 2011 and 2012, the prison population grew faster than projected and exceeded the baseline predictions created in 2011. The projections were not revised to account for the increase in population, but JRI policies are still expected to reduce the prison population by the same number of inmates.

# Missouri

**FIGURE A.8**  
**Missouri Prison Population**



Sources: Projected population values were extrapolated from available data in Missouri Working Group on Sentencing and Corrections (2011). Actual population data are from Bureau of Justice Statistics' *Prisoners Series*.

Note: Dotted lines represent projections.



# New Hampshire

In 2009, New Hampshire's inmate population reached 2,731 inmates, a 21 percent increase since 2000. Data analysis of the state's corrections system identified three key drivers responsible for prison population growth: increased recidivism rates for parolees, inefficiencies in the parole process, and limited community-based behavioral health resources. Justice Reinvestment Initiative (JRI) legislation, passed in 2010, addressed these drivers by establishing a 90-day recommitment period for technical violations; requiring parole for nonviolent, property, and drug offenders who had served 120 percent of their minimum sentence; and mandating presumptive parole nine months before most inmates reached their maximum term of sentence. Though New Hampshire's prison population has been increasing since October 2011, the population initially decreased 12 percent, saving the state \$225,000 during the first year of JRI implementation. New Hampshire state leaders attribute the corrections population increase to 2011 legislation that modified key JRI provisions.

## Impetus for Justice Reinvestment

From 2000 to 2009, New Hampshire's prison population increased from 2,257 to 2,731 inmates, a 21 percent increase.<sup>368</sup> Over the same period, the state's corrections budget almost doubled.<sup>369</sup> Seeking to reverse this trend and reduce recidivism, the governor, along with the attorney general and legislative leaders, requested technical assistance to develop policy recommendations to lower the recidivism rate and increase public safety.

The Council of State Governments Justice Center (CSG Justice Center) began working with New Hampshire in June 2009, with supplemental funding provided by the New Hampshire Charitable Foundation.

## Establish Interbranch Bipartisan Working Group

A working group, formed to guide data analysis and identify policy options, worked closely with the CSG Justice Center throughout the justice reinvestment process. The group, chaired by the state attorney general, was composed of leaders from the judiciary, legislature, executive office, and corrections.<sup>370</sup>

### HIGHLIGHTS

- From 2000 to 2009, New Hampshire's prison population increased 21 percent, and its corrections budget almost doubled.
- JRI legislation established a 90-day recommitment period for technical violations, required parole for certain offenders, and mandated presumptive parole.
- After a year of implementation, new legislation was passed in the 2011 session to modify key JRI provisions.
- Over the first year of JRI implementation, New Hampshire's prison population decreased 12 percent, but the prison population has been rising since October 2011.
- After the first year of implementing JRI, the New Hampshire Department of Corrections reported \$225,000 in savings, which were used to balance the state's overall budget.

## Engage Stakeholders

To receive wider stakeholder input, the CSG Justice Center also met with judges, attorneys, local law enforcement, victims' advocates, and county officials.<sup>371</sup>



## Analyze Data and Identify Drivers

Data analysis of New Hampshire's criminal justice system revealed three key drivers for the rising prison population. First, increased recidivism rates for parolees contributed to a growing percentage of the prison population (e.g., the number of offenders revoked from parole grew by 50 percent from 2000 to 2009). Second, inefficiencies in the parole process led to offenders being held past their minimum sentence, with an associated cost of \$20 million a year. Third, limited community-based treatment resources for behavioral health did not meet the needs of individuals on community supervision, thus increasing their likelihood of reoffending.<sup>372</sup>

## Develop Policy Options

On the basis of data analysis, the CSG Justice Center and the working group developed a policy framework to reduce corrections spending, reduce recidivism, and reinvest in community-based treatment and supervision. The policy options focus supervision on high-risk offenders, establish intermediate sanctions for probationers and parolees, increase access to behavioral health and treatment programs, mandate post-release supervision, and ensure that nonviolent, property, and drug offenders serve between 100 and 120 percent of their minimum sentence.<sup>373</sup>

## Codify and Document Changes

The working group's policy recommendations were codified in Senate Bill (SB) 500, introduced to the legislature in February 2010. The legislation, co-sponsored by a bipartisan group of nine legislators in the Senate and House, was signed into law by the governor on July 1, 2010. It was projected to save New Hampshire between \$7.8 and \$10.8 million by reducing the prison population by 16 to 19 percent over five years, between FY 2010 and FY 2015, in addition to estimated savings of \$150 million in averted construction costs.<sup>374</sup>

Key pieces of legislation, focusing on parole release, became effective on October 1, 2010. These policies established a 90-day recommitment period for technical violations; required parole for nonviolent, property, and drug offenders who had served 120 percent of their minimum sentence;

and mandated presumptive parole nine months before most inmates reached their maximum term of sentence.<sup>375</sup>

SB 500 became a contentious issue in the 2010 gubernatorial and legislative elections, and owing to changing political will, legislation was passed in the 2011 session to modify SB 500. SB 52 gave the parole board discretion to deny parole, which permitted offenders to serve their entire sentence in prison and be released without supervision, and limited the use of intermediate sanctions for parolees.

## Implement Policy Changes

Following the passage of SB 500, the CSG Justice Center continued to work with New Hampshire stakeholders to support implementation. After creating an implementation roadmap, New Hampshire secured subaward funding from the Bureau of Justice Assistance (BJA) to build capacity through skill-building trainings and database upgrades. Corrections, community corrections, and community supervision staff have received training in Effective Practices in Community Supervision (EPICS) and the use of the Ohio Risk Assessment System (ORAS) risk and needs assessment tool. The parole board, with intensive technical assistance, is reviewing evidence-based practices (EBPs) and structured decisionmaking in order to adopt parole release guidelines.<sup>376</sup>

## Reinvest Savings

The Department of Corrections reported that it had approximately \$225,000 remaining in its budget allocation after the first year of implementing JRI. While language in SB 500 asserts that a portion of corrections savings are to be applied to behavioral health treatment for probationers and parolees, the savings were used instead to balance the state's overall budget.<sup>377</sup>

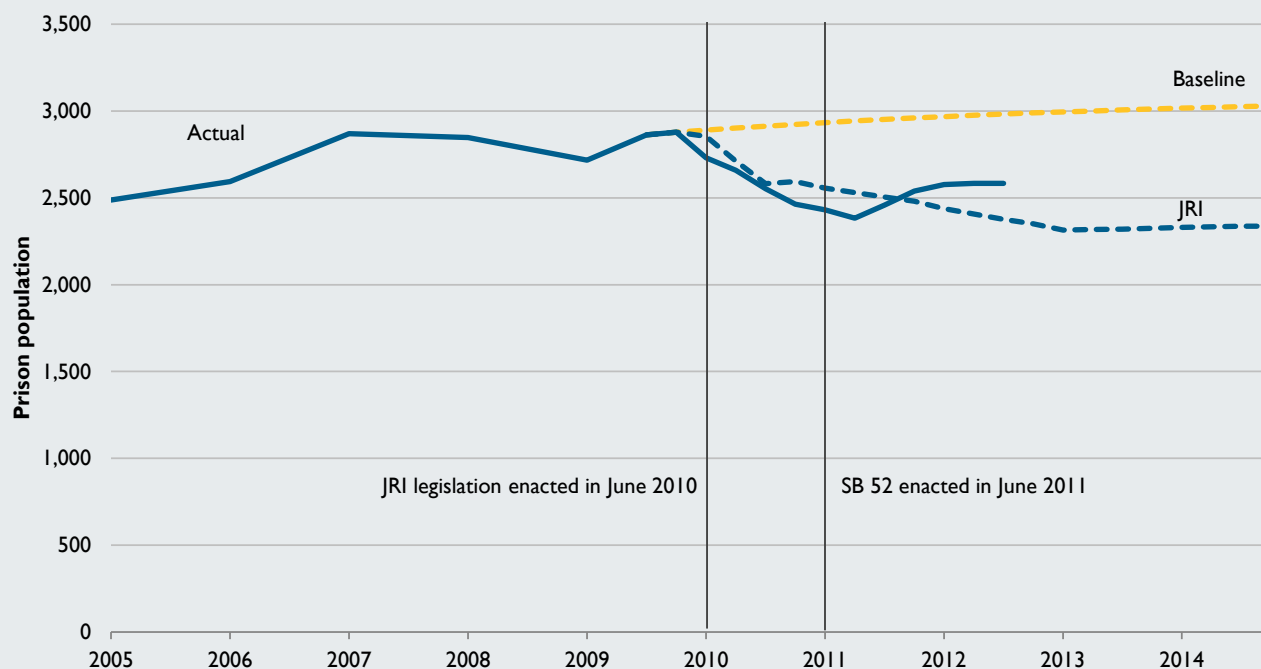
## Measure Outcomes

New Hampshire is helping the CSG Justice Center compile monthly reports on key performance measures across the criminal justice system. These reports, which facilitate data-driven decisionmaking, also enable data sharing with the legislature, governor's office, and media. To increase data capacity, subaward funding has been allocated to upgrade the Division of Field Services database, to improve the data quality and track policy implementation and metrics related to EBPs.

# New Hampshire

**FIGURE A.9**

## New Hampshire Prison Population



Source: Duran-Mitchell, Pealer, and Derrick (2013).

Note: Dotted lines represent projections.

The JRI provisions related to parole decisionmaking, which were projected to have the largest impact on the prison population, went into effect in October 2010. Over the first year of implementation, New Hampshire's prison population decreased by 12 percent and outperformed projections (figure A.9).<sup>378</sup> Since October 2011, the prison population has been rising, which the Department of Corrections attributes to the effects of SB 52.<sup>379</sup>



# North Carolina

North Carolina's prison population grew 29 percent in a decade and was expected to grow another 10 percent by 2020, costing the state hundreds of millions of dollars. Through the Justice Reinvestment Initiative (JRI), North Carolina enacted policies that were projected to save taxpayers \$560 million between 2011 and 2017. These policies include improving responses to probation violations, housing misdemeanants in jail instead of prison, and targeting resources to those at higher risk of reoffending. In the two years since enacting its reforms, North Carolina's prison population levels fell over 5 percent. As a result, the state was able to prevent new prison construction and close five correctional facilities.

## Impetus for Justice Reinvestment

North Carolina's prison population climbed 29 percent between 2000 and 2011, and was expected to rise another 10 percent by FY 2020. This increase was projected to cost the state approximately \$378 million in new prison construction and additional operating costs.<sup>380</sup> In 2009, North Carolina leaders, including the governor, the Supreme Court chief justice, the chairman of the Sentencing and Policy Advisory Commission, and a bipartisan group of legislators requested technical assistance (TA) to confront these problems. The Council of State Governments Justice Center (CSG Justice Center) provided TA to North Carolina.

## Establish Interbranch Bipartisan Working Group

With the support of technical assistance, state leaders established the North Carolina Justice Reinvestment Working Group, which consisted of representatives from both chambers of the General Assembly, the Administrative Office of the Courts, the Sentencing and Policy Advisory Commission, the Conference of Clerks of Court, the Conference of District Attorneys, the governor's policy office, the Department of Public Safety (DPS), and the Division of Mental Health, Developmental Disabilities and Substance Abuse Services.<sup>381</sup>

## Engage Stakeholders

The working group, in collaboration with the CSG Justice Center, conducted meetings and focus groups with various

### HIGHLIGHTS

- Prison population grew 29 percent between 2000 and 2011.
- JRI reforms included improving responses to probation violations, housing misdemeanants in jails rather than in prisons, and targeting resources to those at higher risk of reoffending.
- JRI reforms were projected to reduce the prison population by 8 percent over six years and save \$560 million.
- The prison population has declined over 5 percent in the past two years, allowing the state to close five correctional facilities.
- North Carolina reinvested \$38 million of its savings to support probation and community-based treatment over four years.

additional stakeholders, including judges, defense attorneys, treatment providers, victim advocates, community members, and law enforcement and probation officers.<sup>382</sup>

## Analyze Data and Identify Drivers

Through data analysis, the working group determined that in 2009, 53 percent of prison admissions in North Carolina were for probation revocations, and 76 percent of these did not involve convictions for a new offense. The working group found that probation officers did not have the resources to respond to violations effectively. Additionally, supervision resources were misallocated across risk to reoffend. A third of felony offenders on intensive supervision were low-risk while a third under less intensive supervision were high-risk. More than 85 percent of inmates were being released from prison unsupervised, despite data that

showed these offenders have higher rates of recidivism than those sentenced to probation.<sup>383</sup>

The working group also found that community-based treatment resources were allocated ineffectively. There was no allocation of treatment on the basis of criminogenic risk and needs. The available resources were spread evenly across all levels of offenses without regard to preventing recidivism most effectively.<sup>384</sup>

## Develop Policy Options

After nearly a year of data analysis and stakeholder discussions, three broad goals for policy in North Carolina emerged: strengthening probation supervision, holding offenders more accountable, and reducing recidivism. To reduce revocations, the North Carolina working group put forth policy options that would give probation officers the authority to respond to violations in a systematic way, focus their resources on offenders most likely to commit future crimes, and provide low-level drug offenders with incentives to complete probation successfully. To hold offenders more accountable, the working group recommended that every felon serve a mandatory period of supervision upon release from prison and that those who misbehave while incarcerated serve additional prison time. Additionally, the working group recommended reducing the possible sentence enhancements for those convicted of four or more felonies. At the time, prosecutors had the ability to enhance the sentence for habitual felons to the Class C level, regardless of the severity of the underlying offense.

The working group proposed capping the enhancement to four class levels for nonviolent offenses. For example, a Class I felony could be enhanced up to a Class E felony, but not up to a Class C or D felony. At the same time, the working group proposed lowering the number of convictions necessary to be convicted under a habitual breaking and entering status from four prior convictions to two. To reduce the risk of reoffending, the working group suggested that inmates be incentivized to complete risk reduction programs and that community-based treatment resources be focused on evidence-based practices (EBPs) that have been shown to reduce the risk of re-offense.<sup>385</sup>

These three main policy goals formed the basic justice reinvestment framework in North Carolina, but the working group put forth three additional policy options projected to save the state considerable money. Those three options were to limit the maximum length of sentences for probation violations, increase the length of post-incarceration

supervision for serious offenders, and have misdemeanants serve time in jail or on probation rather than in prison.<sup>386</sup>

## Codify and Document Changes

In June 2011, a bipartisan coalition in North Carolina passed House Bill (HB) 642, The Justice Reinvestment Act (JRA). The bill included every policy option recommended by the working group that required legislation to implement. The bill was shepherded through the legislature by a legislative champion and a bipartisan group of co-sponsors. JRA was projected to save North Carolina \$214 million in averted construction costs and \$346 million in reduced and averted operations costs by FY 2017, as well as to decrease the incarcerated population by nearly 5,000 inmates.<sup>387</sup>

## Implement Policy Changes

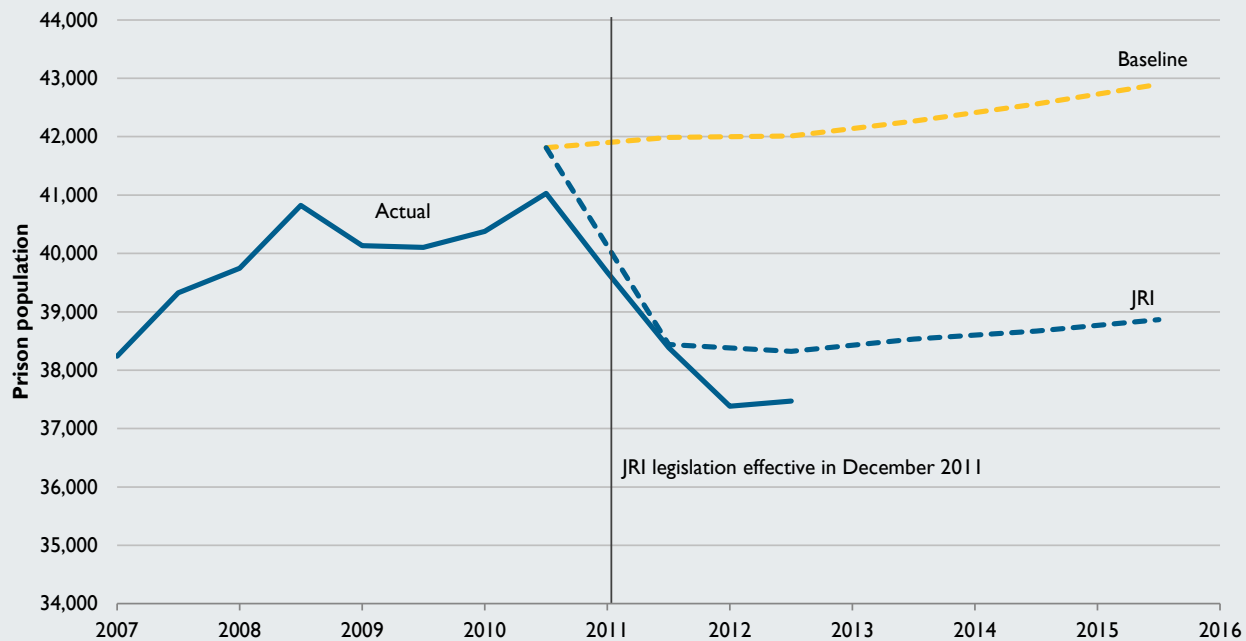
In addition to receiving technical assistance from the CSG Justice Center, DPS requested assistance from the University of North Carolina (UNC) School of Government to provide training to state and local government officials. UNC included JRA training in its semiannual judicial training conferences and disseminated materials explaining JRA's policy changes. The JRA working group continues to act as the oversight entity for implementation, while the Core Implementation Team oversees the day-to-day operational tasks of implementation throughout the state. Nine issue-specific working groups were convened to assist with implementation, and a JRI coordinator was hired to coordinate and manage the overall implementation of JRA. The North Carolina Sheriff's Association was tasked with implementing the misdemeanor confinement program, in which county jails house misdemeanants who would otherwise serve time in prison.<sup>388</sup>

North Carolina received BJA subaward funding to train corrections staff, judges, defense attorneys, and prosecutors on JRA changes; to train corrections staff on EBPs; to purchase videoconference equipment for probation revocation hearings; and to update DPS's corrections population forecasting model.<sup>389</sup>

Implementation of HB 642 has been an ongoing process in North Carolina since 2011. State leaders and stakeholders have decided that the original timeline for implementation was too ambitious. More time was needed to train agency leaders, frontline staff, and community-based service providers, and to explain the implications of the new policies

# North Carolina

**FIGURE A.10**  
North Carolina Prison Population



Sources: JRI and baseline population projection data are from Council of State Governments Justice Center (2011b). Actual population data are from North Carolina Department of Public Safety Office of Research and Planning (2013).

Notes: Data do not include individuals in the statewide misdemeanor confinement program. Dotted lines represent projections.

for day-to-day practice. In response to implementation challenges, DPS instituted a second round of training for its staff after practitioners had gained some experience under the new law. In 2013, DPS hired an EBP coordinator to support the use of EBPs in the department. DPS also hired a permanent justice reinvestment administrator.<sup>390</sup>

With support from the CSG Justice Center, North Carolina implemented a pilot project in four counties to thoroughly examine the effectiveness of administrative responses. Probation officers in the four counties are using a grid of rewards and sanctions based on EBPs to reduce the number of people being revoked from probation to prison. Every response is recorded in a behavior log that will be used as a primary data source to evaluate probationer outcomes in the pilot sites. North Carolina will continue its pilot on a rolling basis to reach out to additional probation officers. Data will be examined throughout the pilot and at its conclusion to determine whether administrative responses were effective in changing offender behavior.<sup>391</sup>

North Carolina has also developed a statewide community treatment program, Treatment for Effective Community

Supervisions (TECS), to replace the locally based Criminal Justice Partnership. TECS funding requires vendors to target high-risk or high-need offenders and to use EBPs.<sup>392</sup>

The new probation guidelines in North Carolina have promoted a culture shift among probation officers from a retribution framework to a risk-reduction philosophy. Shifting the culture in DPS, though fueled by JRI, began before JRI and has been slow but successful.<sup>393</sup>

## Reinvest Savings

On the basis of projected savings from JRA, the working group recommended a reinvestment of \$10 million annually for prison-based and community-based programs directed toward those most at risk of re-offense, and for additional probation officer positions.<sup>394</sup> In both FY 2012 and 2013, North Carolina appropriated \$8 million for community-based treatment programs that target criminogenic risk and need. For FY 2014 and 2015, North Carolina reinvested \$4 million over two years for community-based treatment programs, as well as \$18 million for 175 new

probation officer positions.<sup>395</sup>

## Measure Outcomes

Delays in implementation have limited the amount of information available to measure outcomes of the legislation, but preliminary data are positive. Between December 2011 and June 2013, North Carolina's prison population decreased almost 5.6 percent, from 39,678 to 37,369 prisoners, exceeding population reduction projections (see figure A.10).<sup>396</sup> This decrease has enabled the state to close five prisons.<sup>397</sup> Additionally, in FY 2012, 63 percent of all felony admissions to prison were the result of a new crime, and only 37 percent were due to technical violations on community supervision.<sup>398</sup>

The prison population had begun decreasing in June 2011, even though the earliest effective date for the provisions in JRA was December 1, 2011. This suggests that there may have been other factors that contributed to a decline in the prison population. In April 2012, the North Carolina Sentencing and Policy Advisory Commission released a legislatively mandated report assessing the impact of JRA.<sup>399</sup> The report noted that while it was too early to realize the full benefit of JRA, the prison population decline could be attributed to a confluence of factors, including previous criminal justice reforms, changes in demographics, changes in crime trends, and JRA.

The CSG Justice Center will develop a dashboard to track the impacts of new legislation on crime, court dispositions, and corrections populations. The Department of Corrections, the Administrative Office of the Courts, and the Sentencing and Policy Advisory Commission all required modification of their data collection systems to track outcomes effectively. These changes were accomplished with existing resources. The departments are committed to tracking probation revocation rates, percentage of prison admissions due to probation revocations, and recidivism rates of low-level offenders, as well as community-based treatment participation and completion rates.<sup>400</sup> The Sheriff's Association is committed to tracking the misdemeanor confinement program.<sup>401</sup>

# Ohio

Ohio's prison population reached a record high of 51,273 in 2008. The rising prison population was projected to cost taxpayers \$925 million by 2018. With assistance from the Justice Reinvestment Initiative (JRI), state leaders developed and implemented reforms to reduce the prison population. JRI reforms included expanding the use of probation as an alternative to prison, adopting a validated risk assessment, and incentivizing prisoners to complete risk-reduction programming. These reforms were projected to save \$578 million over four years. In anticipation of these savings, Ohio invested \$14.5 million in a probation improvement and incentive grant program. So far, the prison population has declined two percent, which was smaller than projected.

## Impetus for Justice Reinvestment

Although Ohio had enjoyed a decline in its prison population from 1998 through 2004, the population rose by 16 percent in the following years, to a record high population of 51,273 in 2008. By December 2009, the prison population exceeded the corrections system's capacity by 30 percent. This rise in prison population increased costs: The budget of the Ohio Department of Rehabilitation and Correction (ODRC) grew by 18 percent (approximately \$239 million) between 2000 and 2008. These trends were not expected to abate: By 2018, the prison population was projected to climb 9 percent to 55,734 inmates. This would have imposed \$925 million in additional cumulative costs—\$424 million in construction costs for facilities and \$501 million in annual operating costs. And yet, Ohio's property crime rate was higher than the Midwest average and its violent crime rate had increased four percent between 2000 and 2008.<sup>402</sup>

To reduce justice spending and reinvest in programs to improve public safety, Ohio's governor, senate president, house speaker, and state supreme court chief justice requested assistance from the Council of State Governments Justice Center (CSG Justice Center) in 2008. The CSG Justice Center supported the operations of a bipartisan justice reinvestment working group that analyzed the state's criminal justice system and developed policy options.<sup>403</sup>

### HIGHLIGHTS

- Ohio's prison population reached a record high of 51,273 in 2008.
- Ohio's JRI legislation expanded the use of probation as an alternative to prison, mandated the use of a risk assessment, and incentivized prisoners to complete risk-reduction programming.
- JRI reforms were projected to reduce the prison population by 6 percent over four years and save \$578 million.
- Since July 2011, the prison population has declined almost 2 percent, a smaller reduction than was projected.
- Ohio reinvested \$14.5 million over two years in recidivism reduction grants to improve local probation practices.

## Establish an Interbranch Bipartisan Working Group

Ohio established an interbranch, bipartisan justice reinvestment working group to guide the CSG Justice Center's analysis of the state justice system and the development of policy options. The group included members of both parties and all three branches of government, as well as both chambers of the General Assembly. State leaders appointed members to this working group in January 2010.<sup>404</sup>



## Engage Stakeholders

Engagement continued during the analysis and policy development process through focus groups and interviews with hundreds of practitioners and stakeholders. During the policy development process, a conference was convened at which the CSG Justice Center presented findings to cabinet officials, state lawmakers, state Supreme Court justices, service providers, public defenders, prosecutors, victims' advocates, and local government representatives. These groups provided feedback, comments, and ideas on how to address the drivers identified in data analysis.<sup>405</sup>

## Analyze Data and Identify Drivers

Data analysis took place between January and July of 2010. The analysis used information from ODRC, the Ohio Department of Mental Health, the Ohio Department of Alcohol and Drug Addiction Services, the Ohio Supreme Court, County Probation Departments, and the FBI Uniform Crime Reports. This quantitative review was supported by focus groups and interviews with hundreds of practitioners and stakeholders from across Ohio, including prosecutors, public defenders, service providers, victims' advocates, judges, local government officials, community corrections officials, and law enforcement executives.<sup>406</sup>

Three key drivers of Ohio's prison population were identified. First, property and drug offenders in Ohio constituted a costly revolving door: Offenders were sentenced to state prison for short periods and then released to the community without supervision. In 2008, more than 10,000 low-level offenders were sentenced to state prison for an average of nine months, costing the state \$189 million and offering few improvements in public safety. Second, community corrections programs were not targeted to ensure that the right populations received services, meaning that Ohio was not obtaining as strong a benefit as possible from the \$130 million invested annually in diversion programs. Third, the policies of Ohio's probation system were inconsistent, and no statewide standards governed the use of evidence-based practices such as graduated response grids or risk and needs assessments.<sup>407</sup>

## Develop Policy Options

To transform findings from the data analysis into actionable policy, cabinet officials, state lawmakers, state supreme court justices, community-based providers, and

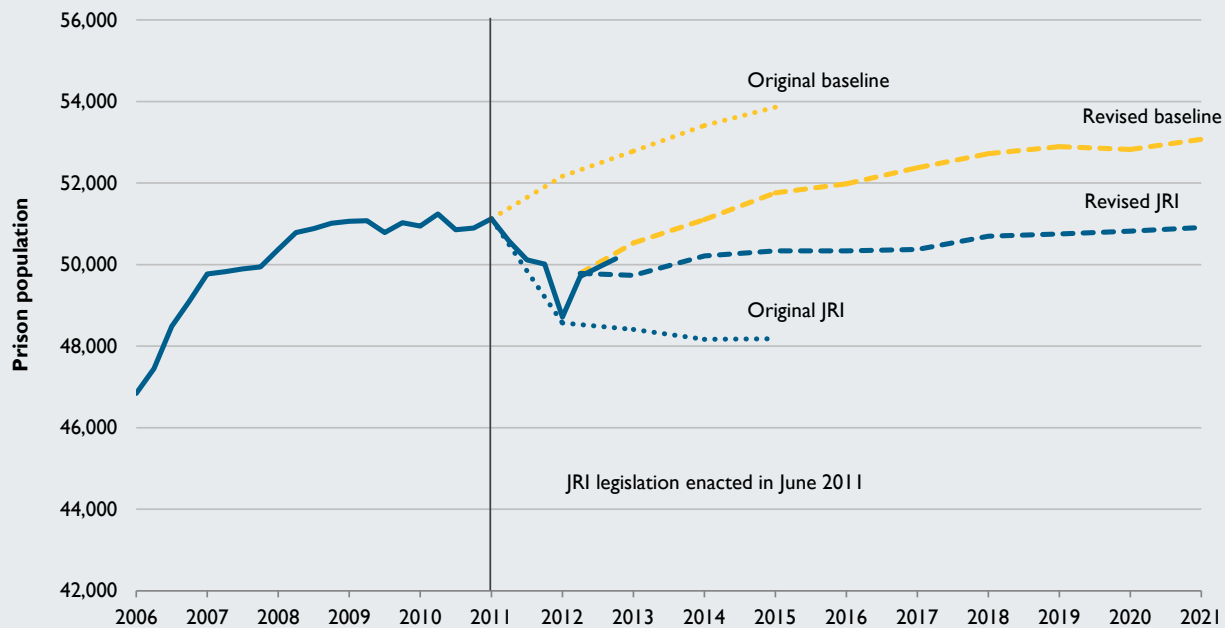
local government representatives reviewed the CSG Justice Center's policy analysis at a July 2010 conference, providing feedback and comments. Conference participants offered recommendations on managing the growth of prison population and costs, improving cost-effectiveness, and reinvesting in strategies to improve public safety. These recommendations were translated into three policy objectives: holding offenders accountable in meaningful ways, using community corrections programs more effectively, and strengthening probation supervision. Guided by the Justice Reinvestment Working Group and additional feedback from interviews and meetings with stakeholders and practitioners, the CSG Justice Center helped develop a policy framework that addressed these goals and had the support of the working group.<sup>408</sup>

## Codify and Document Changes

Ohio codified its JRI policies with the passage of House Bill (HB) 86, which took effect in September 2011. HB 86 built on previous legislative efforts to reform the justice system. It realigned the priorities of the system to hold offenders accountable in meaningful ways, make more effective use of community corrections programs, and strengthen probation supervision. It holds offenders accountable by allowing for risk-reduction sentencing, which provides the option of releasing low-risk offenders who serve 75 percent of their sentence and allowing judicial release of inmates who have served 80 percent of sentences longer than a year. Community corrections are used more effectively through codification of the ODRC reentry planning process, which requires ODRC to adopt a validated risk assessment tool and train staff in its use, and establishes community alternative sentencing centers. HB 86 also strengthens probation supervision by requiring GPS monitoring for offenders released with the accumulation of more than 60 days of credit, establishing statewide standards for probation, and increasing the options available to probation to deal with offenders who abscond.<sup>409</sup> The CSG Justice Center projected that HB 86 would reduce Ohio's prison population by six percent over four years, saving taxpayers \$78 million in operating costs and \$500 million in averted construction costs.<sup>410</sup>

HB 86 also supported reinvestment through two grant programs that strengthen probation—an improvement grant program to support the adoption of best practice policies and an incentive grant program to departments that successfully reduce the number of revocations to prison.<sup>411</sup>

**FIGURE A.11**  
Ohio Prison Population



Sources: Actual prison population data are from Ohio Department of Rehabilitation and Correction (2013). Original baseline and JRI projection data are from Council of State Governments Justice Center (2011c). Revised baseline and JRI projection data are from Martin, Brian and Steve Van Dine (2012).

Note: Dotted lines represent projections.

## Implement Policy Changes

Since the passage of HB 86, Ohio has made strong progress in establishing probation training standards and training probation officers using modules developed by the University of Cincinnati. The state is also in the process of completing a train-the-trainer process and plans to complete these trainings in 2013.<sup>412</sup>

Ohio has also adopted a new risk assessment tool, the Ohio Risk Assessment System (ORAS), to facilitate placing people into community-based corrections facilities. Current implementation efforts focus on encouraging the use of the 80 percent judicial release option and the use of presumptive probation for certain classes of low-level felony charges. To facilitate the use of policies that require judicial discretion, Ohio is developing trainings to educate judges and other decisionmakers about sentencing options.<sup>413</sup> State stakeholders hope that the coming years will see full implementation of all provisions of HB 86.<sup>414</sup>

In Ohio, BJA subaward funding supported database upgrades, course development and training in evidence-based practices for probation officers and supervisors, and travel and rental costs to support JRI activities.<sup>415</sup>

## Reinvest Savings

In the first two years of implementation, Ohio invested \$14.5 million in strengthening probation: \$8 million in probation improvement grants to municipal and county probation departments to reduce recidivism, \$4 million to the departments that were most successful in the first year, and \$2.5 million in incentive grants to reward high-performing departments that achieve recidivism-reduction goals and seek further reductions.<sup>416</sup> By 2015, Ohio expects to reinvest a total of \$20 million into improved felony probation supervision.<sup>417</sup>

## Measure Outcomes

Ohio is working with the CSG Justice Center to develop a dashboard, or set of performance measures, to ascertain the impact of HB 86. Drawing from ODRC statistics and information from ORAS, the dashboard will provide information on the following:

- Admissions to prison, including direct sentences to prison, and community corrections violators.

- Use of HB 86 sentencing options, including
  - Risk reduction sentence admissions and releases;
  - Number of offenders with earned credits and days saved with earned credits; and
  - 80 percent judicial release sentences.
- Probation and community correction populations.<sup>418</sup>

In early 2013, with implementation ongoing, Ohio's prison population has decreased since its JRI legislation went into effect in September 1, 2011; these declines are consistent with forecasted reductions through September of 2012 (see figure A.11). In October 2012, however, Ohio's prison population began to increase and by April 2013, the prison population count rose but remained below the original baseline projection.<sup>419</sup> ODRC is determining the causes of the increase, though some stakeholders speculated that implementation challenges were greater than anticipated, especially with regard to educating judges on the JRI reforms.<sup>420</sup>

In November 2012, ODRC revised the baseline and JRI projections to reflect a more modest estimate of the impact of JRI. The revised baseline projection is lower than the original baseline projection, and the revised JRI projection indicates a smaller impact on the prison population than the original JRI projection.<sup>421</sup>

With a system for measuring the full impacts of HB 86 in place and a full implementation of the law's provisions continuing, Ohio expects to develop a more accurate understanding of the impact of JRI in the next year, though it will take several more years to determine the impact of certain policies such as the discretionary 80 percent judicial release.<sup>422</sup>

# Oklahoma

Oklahoma's prison population grew 17 percent and its corrections spending increased 41 percent between 2000 and 2010. To address the growing prison population, state leaders enacted many reforms through the Justice Reinvestment Initiative (JRI), including setting aside space for technical supervision violators to take risk reduction programs and instituting risk and needs assessments to inform sentencing decisions. JRI reforms are projected to slow prison population growth by six percentage points over nine years, saving taxpayers \$120 million. Oklahoma invested \$3.7 million of its projected savings into various public safety improvement programs.

## Impetus for Justice Reinvestment

Oklahoma's prison population grew by 17 percent between 2000 and 2010, with a 41 percent increase in corrections spending over the same time period. In 2009, the state had the third-highest incarceration rate in the country and the highest incarceration rate for women. Despite the wide use of and increased spending on corrections, Oklahoma had not seen a corresponding reduction in crime; the rates of violent crime and property crime were higher in Oklahoma than the national average. To address these issues, Oklahoma applied for JRI technical assistance (TA) in January 2011 and began receiving TA from the Council of State Governments Justice Center (CSG Justice Center).<sup>423</sup>

## Establish Interbranch Bipartisan Working Group

Before applying to participate in JRI, key stakeholders sought a legislative champion with demonstrated interest in and knowledge of the criminal justice system. The Speaker of the House was identified as such a champion, because he had sponsored previous criminal justice legislation, including bills involving community corrections and incarcerated women.<sup>424</sup> State leaders established a bipartisan and interagency working group, co-chaired by the Speaker and the chairman of the Oklahoma Christian University Board of Trustees. A senior program officer from the George Kaiser Family Foundation (GKFF) played a key role in engaging stakeholders in the initiative and served on the working group. Members of this working group represented several government entities, including the legislature, Oklahoma District Attorneys Council, attorney general's office, governor's office, Department of Mental Health and Substance

### HIGHLIGHTS

- Oklahoma's prison population grew 17 percent between 2000 and 2010.
- JRI legislation set aside space for risk-reduction programming for technical supervision violators and for instituting risk and needs assessment to inform sentencing decisions.
- JRI reforms are projected to slow the growth of Oklahoma's prison population by 6 percentage points over nine years.
- Slowing the growth of the prison population is estimated to save Oklahoma \$120 million.
- Oklahoma reinvested \$2 million for the law enforcement grant program, \$0.7 million for a felony jail screening tool, and \$1 million in probation improvements.

Abuse Services (DMHSAS), Pardon and Parole Board, Court of Criminal Appeals, Department of Corrections (DOC), and Sheriff's Association. The working group first convened in June 2011 and met an additional four times through January 2012.<sup>425</sup>

## Engage Stakeholders

The CSG Justice Center and the members of the working group also met and conducted focus groups with an array of criminal justice stakeholders, including police chiefs and officers, sheriffs, Oklahoma DOC staff, members of the Pardon and Parole Board, judges, public defenders and members of the defense bar, district attorneys, victims' advocates, and behavioral health and treatment providers.<sup>426</sup> The working group also sought input from the public through three town hall meetings across the state in

October 2011. GKFF provided support for media, policy-maker, and public engagement.<sup>427</sup>

## Analyze Data and Identify Drivers

With the help of the CSG Justice Center, the working group used data from the courts, the DOC, law enforcement, and district attorneys' offices to analyze crime trends, sentencing, and rates of incarceration and community supervision. The group conducted an online survey of probation officers regarding their supervision practices. From these analyses, the working group identified several drivers of the state's high incarceration rate. For instance, over half the prison population had been convicted of nonviolent offenses. In addition, the population was expected to grow owing to an accumulation of serious and violent offenders who were required by law to serve at least 85 percent of their sentences but who were serving longer than the 85 percent requirement.<sup>428</sup>

The working group also found that more than half of the offenders being released from prison were released unsupervised. This, coupled with the fact that the number of law enforcement officers per capita had decreased in many of the state's major cities, contributed to the above-average crime rate in Oklahoma.<sup>429</sup>

## Develop Policy Options

In January 2012, the working group developed policy recommendations that focused on strengthening supervision, containing prison costs, and improving public safety. To strengthen supervision, the group proposed mandatory supervision for all offenders leaving prison, and presentence risk and needs assessment for all individuals in county jails charged with felonies. They also recommended providing additional resources and improved access to treatment for supervision. Policy options for containing prison costs included allowing judges a longer period to modify an individual's sentence after conviction and changing the way good time is calculated for inmates who are required to serve 85 percent of their sentence, allowing them to earn credits before they reach the required 85 percent. Money saved on prison beds would primarily be used to improve public safety by funding a law enforcement grant program, increasing substance abuse treatment, and strengthening probation supervision. The working group also recommended funding for crisis stabilization beds for people with mental health needs, to minimize burdens on law enforcement.<sup>430</sup>

## Codify and Document Changes

Many of the policies developed by the working group were codified into law in Oklahoma House Bill (HB) 3052, championed by the House Speaker. The bill was signed into law by the governor in May 2012. HB 3052 required all offenders to receive at least nine months of supervision after their release from prison and created intermediate revocation facilities that would provide substance abuse treatment for probationers and parolees who violate the terms of their supervision. The bill also instituted risk and needs assessments to inform sentencing decisions for felonies; established a grant program for local law enforcement that could provide as much as \$40 million over 10 years; and allowed judges to alter sentences two years after conviction if the offender meets certain conditions. The legislation did not include the working group's recommendations to modify drug offense sentences and the rules regarding applying good time credits to time served for those required to serve 85 percent of their sentences.<sup>431</sup> The bill also did not include the crisis stabilization centers, but that effort was pursued separately and funding was secured for the DMHSAS services.<sup>432</sup>

The enacted legislation is projected to slow the growth of Oklahoma's prison population by six percentage points over nine years (see figure A.12). Without JRI reforms, the prison population is projected to grow from 27,176 in FY 2012 to 29,788 in FY 2021. The reforms are estimated to reduce the FY 2021 population to 28,029 and save \$120 million.<sup>433</sup>

## Implement Policy Changes

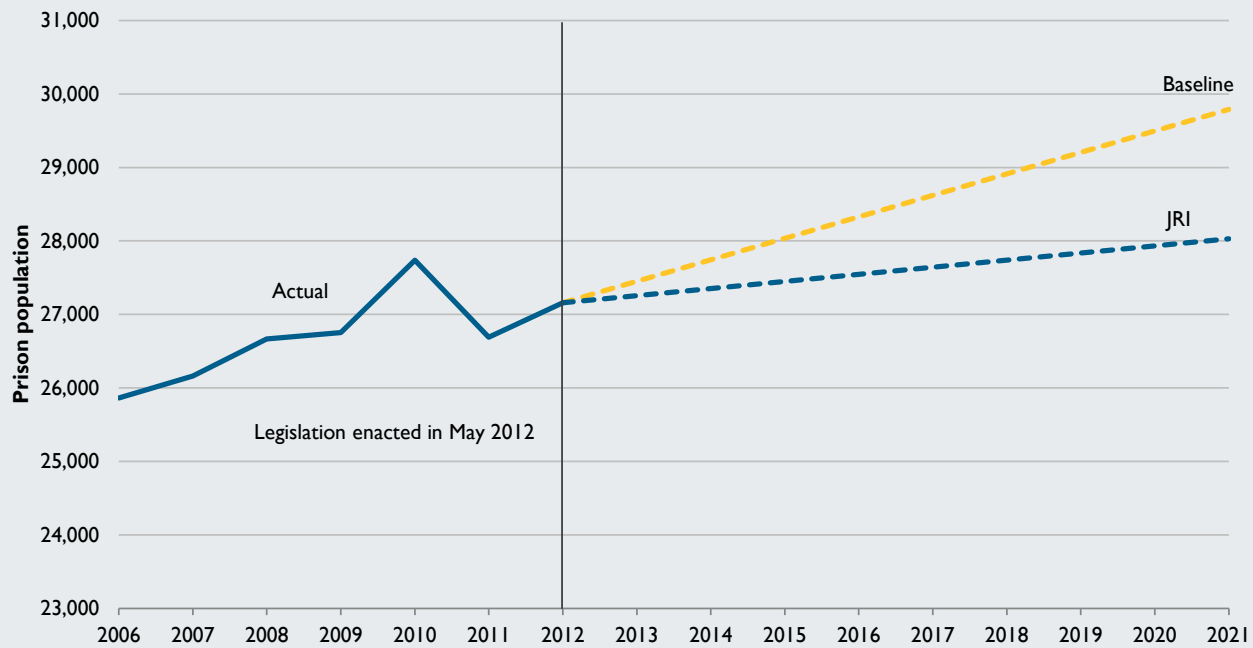
After HB 3052 passed, Oklahoma created an implementation working group to facilitate implementation of the bill. The group was co-chaired by the former Speaker (who was no longer eligible to serve in the State House because of term limits) and a district attorney, and began the process of coordinating implementation. In February 2013, the governor declined to request subaward funding for implementation and has not submitted a written request for technical assistance to the CSG Justice Center. The implementation group discontinued meeting in March 2013.<sup>434</sup>

The departments responsible for implementing each provision of the bill have continued implementation without an interagency implementation group. DMHSAS has begun to train employees in 17 counties to conduct risk and needs assessments. The attorney general's office released a re-

# Oklahoma

**FIGURE A.12**

## Oklahoma Prison Population



Source: JRI and baseline population projection data are from Council of State Governments Justice Center, email message, July 19, 2013. Note: Dotted lines represent projections.

quest for proposals for the FY 2013 law enforcement grants and awarded the initial grants in August 2013. The DOC has designated beds in existing corrections facilities to serve as intermediate revocation facility beds, but the beds are being used at a lower rate than expected. Mandatory post-release supervision has been included in the sentences for only a small percentage of eligible offenders.<sup>435</sup>

## Reinvest Savings

Without any changes, Oklahoma's prison population was expected to grow by 9 percent between 2013 and 2021, with a corresponding increase of \$259 million in corrections spending during this period. The provisions in HB 3052 were projected to reduce prison population growth to 2 percent, saving the state up to \$120 million. The working group proposed that \$110 million be reinvested over 10 years into the law enforcement grant program, probation improvement, victim/witness services, a felony jail screen, and substance abuse treatment.<sup>436</sup> For FY 2013, Oklahoma appropriated \$2 million for the law enforcement grant program, \$0.7 million for the felony jail screen, and \$1 million in probation improvements.<sup>437</sup>

## Measure Outcomes

The departments responsible for implementing JRI changes, including the DOC and DMHSAS, are collecting data to measure the utilization rate of JRI policies and their effects on the prison population. HB 3052 mandated that the attorney general's office collect relevant data to assess the impact of JRI in Oklahoma.<sup>438</sup>

Although it is too early to assess the impact of HB 3052, preliminary discussions with Oklahoma stakeholders suggest that the utilization rate of JRI policies has been much lower than expected. Stakeholders believe more training and information sessions for key decisionmakers across the state are needed to fully implement HB 3052.<sup>439</sup>



# Oregon

Between 2000 and 2010, Oregon’s prison population increased nearly 50 percent, with a biennial corrections budget of \$1.4 billion in 2010. With technical assistance from the Pew Charitable Trusts (Pew), state leaders determined that the increased use of prison for less serious offenders and longer lengths of stay were driving the growth of the prison population. Oregon passed justice reinvestment legislation in July 2013 to slow this growth. This legislation removed mandatory minimums for repeat drug offenders, reduced sentences for certain crimes, strengthened reentry programming, and required risk and needs evaluations for probation decisions. These policies are expected to reduce the growth of Oregon’s prison population by 870 inmates, leading to savings of \$326 million in averted costs by 2023. Oregon allocated \$58 million in upfront investment for victims’ services, law enforcement training, community corrections, and the state’s justice reinvestment account.

## Impetus for Justice Reinvestment

Oregon’s incarceration rate grew four times that of the national average between 2000 and 2010. During this period, Oregon’s prison population increased by nearly 50 percent and grew to more than 14,000 inmates.<sup>440</sup> Oregon’s total biennial corrections budget in 2010 was over \$1.4 billion.<sup>441</sup> Further, according to a forecast conducted by the Oregon Office of Economic Analysis, the state’s prison population was projected to increase by 2,000 inmates between 2012 and 2022, which would have cost the state an additional \$600 million in corrections costs.<sup>442</sup> Increased funding to prisons had resulted in fewer dollars for community corrections and local public safety programs.<sup>443</sup> For example, the state’s 2009–2011 biennial budget saw a 20 percent decrease in funding used by Oregon counties to supervise probationers and individuals on post-prison supervision.

Oregon had attempted to address these issues in July 2011, when the governor organized the Commission on Public Safety. The commission was a bipartisan, interagency working group tasked with analyzing the state’s corrections and sentencing policies to understand how they affected the growth of the prison population. While the findings from this working group’s analyses did not lead to legislation, they paved the way for future discourse on criminal justice reform.<sup>444</sup> In May 2012, Oregon joined the Justice Reinvestment Initiative (JRI).

### HIGHLIGHTS

- Oregon’s prison population grew 50 percent between 2000 and 2010.
- JRI policies reduced mandatory minimums and sentences for certain crimes, strengthened reentry programs, and improved probation decisions.
- These policies are projected to reduce the growth of the prison population by 870 inmates by 2023.
- Oregon is projected to save up to \$326 million over 10 years.
- The state invested \$58 million for public safety improvements, such as law enforcement training.

## Establish Interbranch Bipartisan Working Group

After Oregon joined JRI, the governor reconvened the Commission of Public Safety and directed its members to address the current JRI efforts by developing evidence-based policy options that would limit the expanding use and cost of corrections while improving public safety. The commission consisted of bipartisan leaders in the three branches of state government, including the Oregon Supreme Court, the state legislature, and the Department of Corrections (DOC). The commission also included local criminal justice stakeholders, such as a sheriff, a director of a county community



justice agency, a district attorney, a circuit court judge, a criminal defense lawyer, and a community advocate. The commission received technical assistance from Pew.<sup>445</sup>

## Engage Stakeholders

After its first meeting in June 2012, the commission met 10 times through December of that year. To improve dissemination to and engagement of stakeholders across the state, the commission's meetings were held in three different cities (Bend, Salem, and Roseburg), were open to the public, and were archived online. The commission and Pew organized interviews with sheriffs, community corrections directors and DOC personnel, parole board members, and judges. They also organized two roundtables with victims' advocates and survivors in October 2012.<sup>446</sup>

## Analyze Data and Identify Drivers

Between June and December 2012, the commission, with assistance from Pew, analyzed corrections and sentencing data and assessed how related policies impacted Oregon's corrections system. After these data and policies were extensively reviewed, the commission was divided into two subgroups—sentencing and corrections—focused on developing targeted policies in those two areas. The subgroups met three times in the fall of 2012, and Pew interviewed stakeholders across the public and private spectrums, including victim advocates, law enforcement, judges, and members of the parole board.<sup>447</sup>

By December, the commission had identified key drivers of the state's growing corrections budget and populations. Oregon had increased its use of prison for less serious offenders, such as those convicted of property crimes and technical violations, as well as low-risk offenders. Moreover, offenders were staying in prison for longer periods as a result of sentence length increases for drug offenses, sex offenses, and technical violations.<sup>448</sup>

## Develop Policy Options

In December 2012, the commission developed several policy options that would affect the prison population by reducing sentences for marijuana offenses and driving while suspended; removing mandatory minimums and creating

sentencing ranges for certain property, robbery, assault, and sex abuse offenses; reducing time served by expanding transitional leave and earned time; enhancing alternatives to incarceration; and allowing all youth offenders sentenced as adults to be reviewed by a judge after they serve half of their sentence to determine eligibility for community placement.<sup>449</sup>

These policy options were bundled into three packages and presented to the legislature. The most comprehensive package included all the options and would have had the largest impact on the prison population; the other two included a subset of the policy options and would have had more limited effects on the prison population.<sup>450</sup>

## Codify and Document Changes

Thirteen of the 19 policy options proposed by the commission were codified into House Bill (HB) 3194, which passed in July 2013. This bill reserved prison for more serious offenders by removing mandatory minimums for repeat drug offenders and reducing sentences for marijuana offenses, driving while suspended, and certain property crimes. HB 3194 also strengthened reentry programming by expanding transitional leave for individuals returning from prison from 30 to 90 days and implementing earned discharge in community corrections. The bill required the use of risk and needs evaluations in making probation decisions. Figure A.13 depicts the projected impact of these policies on Oregon's prison population.<sup>451</sup>

Oregon's prison population increased from 13,707 in 2006 to 14,234 in 2012.<sup>452</sup> The state had projected this increase to continue over the next decade, leading to a prison population of 16,509 inmates by 2023.<sup>453</sup> The JRI policies included in HB 3194 became effective upon passage of the legislation in July 2013 and are projected to reduce the growth of the prison population by 870 inmates.<sup>454</sup>

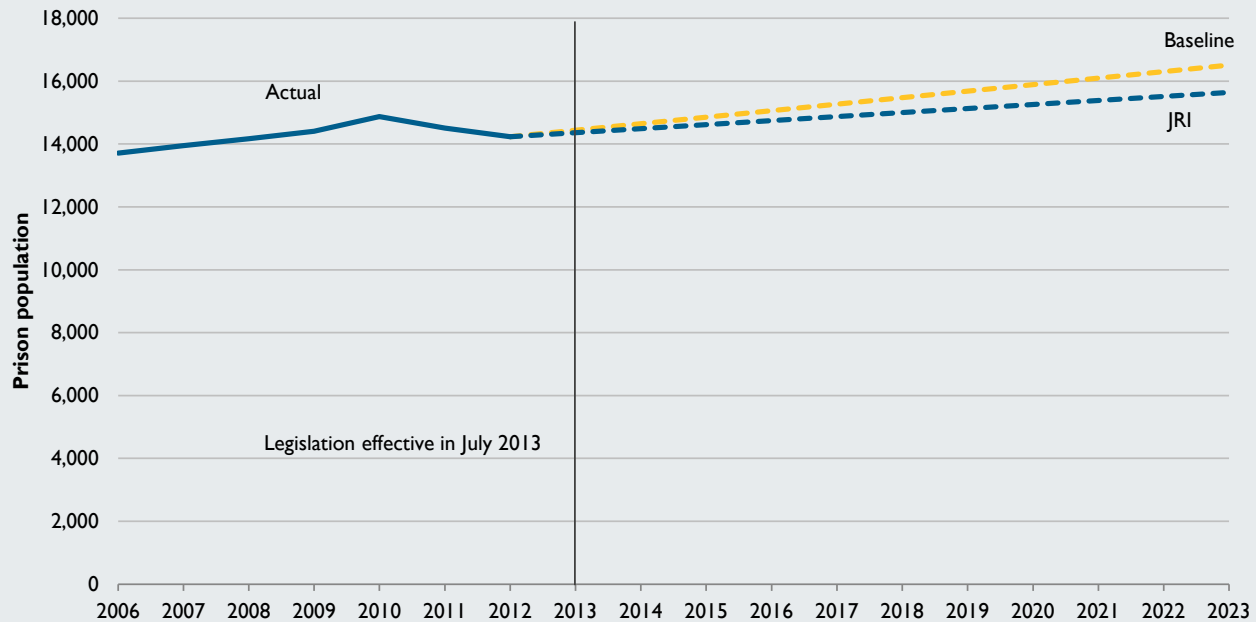
## Implement Policy Changes

Officials in Oregon are in the process of implementing the policy changes established in HB 3194. The state established and began funding the Justice Reinvestment Program and has created several workgroups and task forces to oversee the implementation of specific policies.<sup>455</sup>

# Oregon

**FIGURE A.13**

## Oregon Prison Population



Sources: JRI and baseline population projection data are from Oregon Office of Economic Analysis (2012). Actual population data are from Bureau of Justice Statistics' *Prisoner Series*.

Note: Dotted lines represent projections.

## Reinvest Savings

The Oregon Legislative Assembly invested \$58 million of averted corrections expenditures to support public safety programs recommended as part of the work from the commission. These programs include investments in victims' services, sheriff departments, law enforcement training, and community corrections, as well as the creation of a justice reinvestment account to fund county public safety programs that reduce recidivism and prison utilization.<sup>456</sup>

## Measure Outcomes

While it is too early to determine the full impact of HB 3194, the bill is projected to cut the estimated \$600 million increase in Oregon's corrections budget by \$326 million by reducing the growth of the prison population. These savings will continue to be reinvested into local community corrections departments, treatment programs, victims' services, and domestic violence protection services.<sup>457</sup>



# Pennsylvania

Pennsylvania's prison population had increased 12 percent between 2007 and 2011, which led to overcrowded prisons and plans to build new facilities. The state joined the Justice Reinvestment Initiative (JRI) and, with technical assistance from the Council of State Governments Justice Center (CSG Justice Center), determined that its population drivers included inefficiencies in prison-based programming, parole, and community corrections. The state's JRI legislation creates new sentencing guidelines for probation and parole revocations, expands recidivism-reducing programs, diverts low-level misdemeanants from prison, eliminates prerelease of parolees, revises parole board policies, and reduces processing delays. These reforms are projected to reduce the state's prison by more than 1,200 inmates, resulting in gross savings of \$139 million by 2018.<sup>458</sup> A portion of the savings will fund local law enforcement, probation and parole, and victims' services. Pennsylvania has reinvested \$43,000 from savings realized during the first months of implementation into the Pennsylvania Commission on Sentencing and into victims' services.

## Impetus for Justice Reinvestment

Between 2007 and 2011, Pennsylvania's prison population grew by more than 5,600 inmates,<sup>459</sup> even as crime rates remained stable or declined. In 2011, state officials faced a stark reality: criminal justice spending had increased by 77 percent since 2001; the state had a projected \$4.5 billion deficit for FY 2012–13; and the prison population had filled prisons beyond capacity. Although the state had plans to create new prison beds, Pennsylvania leaders knew that was only a stopgap measure.<sup>460</sup>

Pennsylvania had attempted to enact comprehensive and permanent solutions to these long-standing problems in previous reform efforts. In 2007, the state began to work with the CSG Justice Center and the Pew Charitable Trusts to analyze criminal justice data and devise methods to reduce corrections population and cost drivers. The findings informed a set of policy options that culminated in a 2008 legislative package known as the Prison Reform Package, which was expanded in 2010. However, these legislative reforms did not have the intended effects; key legislative provisions were not completely implemented, few offenders were being diverted from prison, and the populations of state and county jails continued to swell.<sup>461</sup>

### HIGHLIGHTS

- Pennsylvania's prison population grew 12 percent over four years.
- JRI legislation standardizes sentencing decisions for probation and parole revocations, expands in prison programming, diverts low-level misdemeanants from prison, eliminates prerelease of parolees, revises parole board policies, and reduces parole processing delays.
- Pennsylvania's JRI legislation is projected to reduce the prison population by 1,200 inmates by 2018.
- The state is expected to save \$139 million from reduced prison operating costs.
- The state reinvested \$43,000 in the Pennsylvania Commission on Sentencing and victims' services.

With the leadership of a newly elected governor, the support of a recently appointed Department of Corrections (DOC) secretary, and the momentum for change, the time was ripe in 2011 for a new approach to criminal justice reform. In January 2011, the governor submitted a request on behalf of the state to join JRI. Through JRI, the state hoped to find strategies to curb the projected prison population growth and spending, identify ways to divert offenders to community-based sanctions, and reduce recidivism, while at the same time maintaining public safety.<sup>462</sup>

## Establish Interbranch Bipartisan Working Group

The CSG Justice Center began its technical assistance (TA) work in the spring of 2011. The TA provision followed a timeline set by the governor at a JRI kick-off event at the governor's mansion in January 2012; he requested that his office be provided with a set of JRI policy options in six months—a timeline that would allow a potential JRI bill to be included in that year's legislative budget cycle.<sup>463</sup>

The JRI working group met for the first time in January 2012 and then each month for the next four months. The working group was organized by the Pennsylvania Commission on Crime and Delinquency—an organization devoted to improving the criminal justice system in the state—and included representatives from the governor's office, cabinet agencies, probation and parole, Democratic and Republican lawmakers' offices, county officials, the courts, the Pennsylvania Commission on Sentencing, and other key agencies.<sup>464</sup>

## Engage Stakeholders

In advance of these meetings, the CSG Justice Center met with JRI working group stakeholders to discuss, and correct any errors in data findings. In addition, the CSJ Justice Center convened focus group meetings with non-JRI working group stakeholders—including victims' service providers and advocate groups, parole agents, and chiefs of police—to receive additional input.<sup>465</sup>

## Analyze Data and Identify Drivers

By May 2012, the working group had identified population and cost drivers and constructed a set of policy recommendations to address them. The data showed that counties were particularly overburdened by overcrowded jails and funding cuts, that offenders with minimum sentences of up to one year were being sent to prison but not completing prison-based programming, that parole inefficiencies were delaying parole granting and processing, that community corrections facilities were treating offenders of all risk levels rather than targeting those who stood to benefit most from treatment, and that victims were not being provided with adequate services.<sup>466</sup>

## Develop Policy Options

The data analysis guided a set of policy options that would help reduce Pennsylvania's prison population: assist law enforcement by providing funding for data-driven crime prevention efforts, strengthen victims' services, offer counties financial support to expand community-based sanctions and treatment for offenders of different risk levels, identify and reduce inefficiencies in the parole process, eliminate the pre-release program for offenders not yet approved for parole, and use community-based facilities to hold and treat higher risk offenders transitioning to parole and parolees who commit technical violations.<sup>467</sup>

## Codify and Document Changes

Many of the working group's policy recommendations were codified into law in two legislative vehicles: Senate Bill (SB) 100 and House Bill (HB) 135. SB 100 included the substantive JRI provisions, whereas HB135 outlined a funding framework to direct the reinvestment of JRI savings. SB 100, which was signed into law in July 2012, created new sentencing guidelines for probation and parole revocations, expanded existing programs designed to reduce recidivism, mandated that offenders convicted for the lowest level misdemeanor offenses not serve their sentences in prison, eliminated the pre-release program, revised parole board policies regarding sanctions for parole violators, and increased the use of technology to reduce processing delays, among other provisions.<sup>468</sup> The impact of these policies on the state's prison population is depicted in figure A.14.

Had Pennsylvania implemented all of the policies proposed by the JRI working group, the state was expected to see its prison population reduced to 48,744 inmates by 2016.<sup>469</sup> The state's JRI legislation did not include all of the proposed policies, so the impact projections were revised accordingly. The policies included in SB 100 are expected to reduce the prison population by 1,200 inmates between 2013 and 2018.<sup>470</sup>

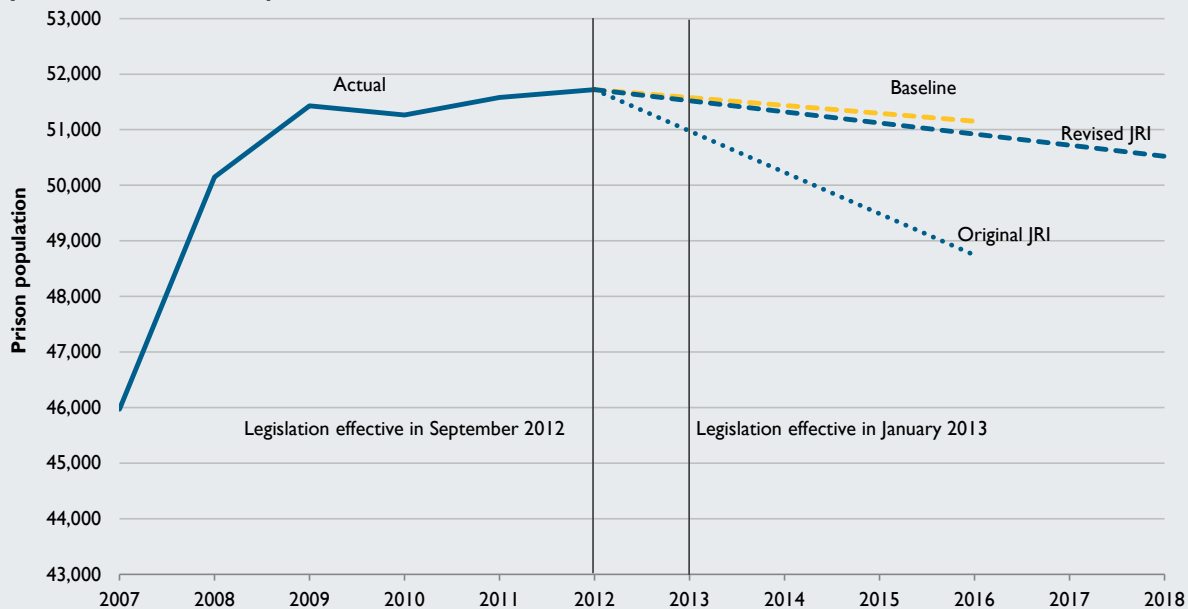
## Implement Policy Changes

State officials are currently implementing the provisions of these two laws. They started by improving the collaboration between DOC and the Pennsylvania Board of Probation and Parole (PBPP) to improve reentry and community corrections and reduce the high parolee failure rate in Pennsylvania. These two agencies restructured Pennsylvania's

# Pennsylvania

FIGURE A.14

## Pennsylvania Prison Population



Sources: Original JRI and baseline projections are from Council of State Governments (2012c). Actual population data are from Bureau of Justice Statistics' Prisoner Series.

Note: Dotted lines represent projections.

community corrections system, which was a network of private residential programs exclusively for parolees. Despite approximately \$100 million of state funding for these residential programs, a recent DOC study concluded that parolees who transitioned through a community corrections center had higher recidivism rates than parolees who returned directly home.<sup>471</sup> In 2013, DOC rebid its contracts with these residential community corrections centers, requiring them to reduce recidivism or risk losing their contract.<sup>472</sup>

DOC has also issued bids for nonresidential services designed to fill gaps in community-based risk-reduction programs, including cognitive behavioral interventions, outpatient and intensive outpatient substance abuse treatment, sex offender treatment and monitoring, housing support, and employment readiness assistance, among others. Community corrections in Pennsylvania will now provide a range of services specifically focused on reducing recidivism and tied into PBPP's graduated responses to address parolee violation behavior.<sup>473</sup>

## Reinvest Savings

The reductions in the prison operating costs, which are expected to result from the impact of SB 100 on the prison

population, were estimated to result in gross savings of \$139 million by 2018.<sup>474</sup> Pennsylvania's second piece of JRI legislation, HB 135, which was signed into law in October 2012, codified a funding structure to expand victims services at the county and state level, and offered financial support to counties that were willing to increase the number of low-risk offenders (with minimum sentences of up to one year) housed in county facilities, use data-supported law enforcement strategies to prevent crime, and strengthen probation services.<sup>475</sup> From savings realized during the first several months of implementation, Pennsylvania reinvested \$43,000 into its justice reinvestment fund, including \$12,000 for the Pennsylvania Commission on Sentencing and \$31,000 for victims' services.<sup>476</sup>

## Measure Outcomes

In addition to the recent DOC recidivism report, Pennsylvania will measure important JRI outcomes with data that will be provided by the PBPP to enhance a set of existing metrics used to evaluate the offender population. These metrics will include the specific elements of justice reinvestment, and the data will be made available to the public via a web site hosted by the Pennsylvania Council on Crime and Delinquency.<sup>477</sup>



# South Carolina

In the past 25 years South Carolina's corrections population had tripled and its corrections spending had increased 500 percent. The drivers of the state's growing prison population were an increasing number of offenders incarcerated for nonviolent offenses, increasing parole and probation revocations for technical offenses, and declining use of probation and parole. To address these challenges, South Carolina integrated staff trainings on evidence-based practices, risk assessment tools, and graduated response matrices into its probation and parole practices. Since implementing JRI reforms, South Carolina has saved more than \$7 million and prevented the return of more than 1,000 probationers and parolees to prison.

## Impetus for Justice Reinvestment

Rising public safety costs and prison populations brought South Carolina to JRI in February 2009. In the 25 years before 2009, the state's corrections population had tripled to 24,612 individuals. Since 1983, state spending on prisons had increased by more than 500 percent to \$394 million. The prison population was expected to grow by more than 3,200 inmates by 2014, adding \$141 million in South Carolina Department of Corrections (SCDC) operating costs and requiring \$317 million for the construction of a new prison. Yet, despite increasing public safety expenditures, South Carolina recidivism rates were increasing, and from 2002 to 2008 the state had the highest reported violent crime rate in the country. In February 2009, the Sentencing Reform Commission (SRC) requested assistance from the Pew Charitable Trusts (Pew) to analyze sentencing and correction trends and to develop policy options to maintain public safety while controlling spending and holding offenders accountable.<sup>478</sup>

## Establish an Interbranch Bipartisan Working Group

The legislature created the SRC during the 2008 legislative session. The SRC included three state senators, three state representatives, three members of the judiciary, and the director of the SCDC. The commission's role was to investigate and devise solutions for South Carolina's rising criminal justice costs and populations.<sup>479</sup>

### HIGHLIGHTS

- Corrections spending increased 500 percent and corrections population increased 300 percent.
- JRI reforms integrated risk assessments, graduated response matrices, and other evidence-based practices into parole and probation supervision.
- South Carolina saved \$4.2 million in 2011 and \$3.0 million in 2012.
- Prison population has declined below projected levels, and more than 1,000 parolees and probationers have not been revoked due to new practices.
- Up to 35 percent of savings can be reinvested in probation and parole, but South Carolina has not made any reinvestments to date.

## Engage Stakeholders

To engage stakeholders, the SRC held more than 14 hearings, as well as numerous working group meetings, and obtained input from law enforcement, victims' advocates, prosecutors, and defense attorneys to help develop ideas and strategies; stakeholder approval was solicited for every recommendation that eventually went into the state's JRI legislation.<sup>480</sup>

## Analyze Data and Identify Drivers

To identify the drivers of South Carolina's prison population, Pew and its partners—Applied Research Services (ARS) and the Crime and Justice Institute (CJI)—developed a database



with information from SCDC, the Department of Probation, Parole and Pardon Services (PPP), South Carolina Court Administration, South Carolina Law Enforcement Division, and the Statistical Analysis Center of the South Carolina Department of Public Safety. This database was used to identify the key prison growth drivers: significant increases in the number of offenders in prison for nonviolent crimes, primarily drug and property crimes (49 percent of the population in 2010); increases in prison admission (up 26 percent since 2000), a large portion of which was for low-level offenders admitted for short sentences; increasing numbers of parolees and probationers returned to jail for technical violations (66 percent of all revoked offenders in 2009); and declining use of parole (from a 63 percent grant rate in 1980 to a 10 percent grant rate in 2008).<sup>481</sup>

## Develop Policy Options

On the basis of the data analysis, the SRC began soliciting input from stakeholders on strategies to address these drivers. Prosecutors, crime victims, law enforcement, and other key members of the criminal justice community were consulted in the development of recommendations. Pew informed these discussions by providing research on how the policy options under discussion would affect population and cost drivers and, if applicable, how such policies had worked in other states. After nearly a year of deliberation, the SRC submitted a set of 24 recommendations to the legislature in February 2010.<sup>482</sup>

## Codify and Document Changes

Recommendations from the SRC were codified in Senate Bill (SB) 1154, the Omnibus Crime Reduction and Sentencing Reform Act of 2010. The legislation, co-sponsored by 26 senators, was signed by the governor on June 2, 2010. The Act restructures the penalties for violent, property, and controlled substances offenses, orienting the criminal code to focus prison space on the most serious offenders. The bill also strengthens parole and probation by authorizing the use of administrative sanctions for technical violations of terms of supervision and requires the use of risk assessments to guide parole and probation release, supervision, and services decisions. To supply oversight for the implementation of these activities, the bill established the Sentencing Reform Oversight Committee (SROC) to oversee reports generated about SB 1154 activities and to conduct additional research and evaluations of sentencing reform issues.<sup>483</sup>

Finally, SB 1154 created a system of performance incentive funding that gives the legislature the option to reallocate resources from SCDC to PPP. The Oversight Committee is required to report savings generated by reductions in revocations and new felony convictions by those under supervision. The Oversight Committee can recommend to the legislature that up to 35 percent of the savings be reallocated from SCDC to PPP.<sup>484</sup>

## Implement Policy Changes

To implement the requirements of SB 1154, PPP has begun training probation officers on evidence-based practices (EBPs), including administering the agency's risk and needs assessment instrument, the Correctional Offender Management Profiling for Alternative Sanctions (COMPAS)<sup>TM</sup> tool. PPP has also trained the Parole Board on the risk and needs assessment. The EBP training will include the Effective Practices in Correctional Settings II curriculum and will be provided to 200 agents, 10–20 peer coaches, and 10–25 trainers. The training effort is supported by Core Correction Solutions and the Center for Effective Public Policy (CEPP).<sup>485</sup>

PPP will also implement a graduated response matrix for probation and parole, the development of which began in July 2013 with technical assistance from CEPP. Additionally, CEPP is working with PPP to develop a framework for implementing EBPs, a stakeholder curriculum for internal and external trainings on EBPs to support outreach to community-based service providers, and a quality assurance tool to assess adherence to EBPs among those providers.<sup>486</sup>

Bureau of Justice Assistance subaward funding in South Carolina has supported the implementation of a graduated sanctions matrix; training on EBPs for PPP; development of an EBP curriculum, an outreach strategy, and a quality assurance tool for stakeholders; and a review of PPP and SCDC's approaches to measuring cost savings.<sup>487</sup>

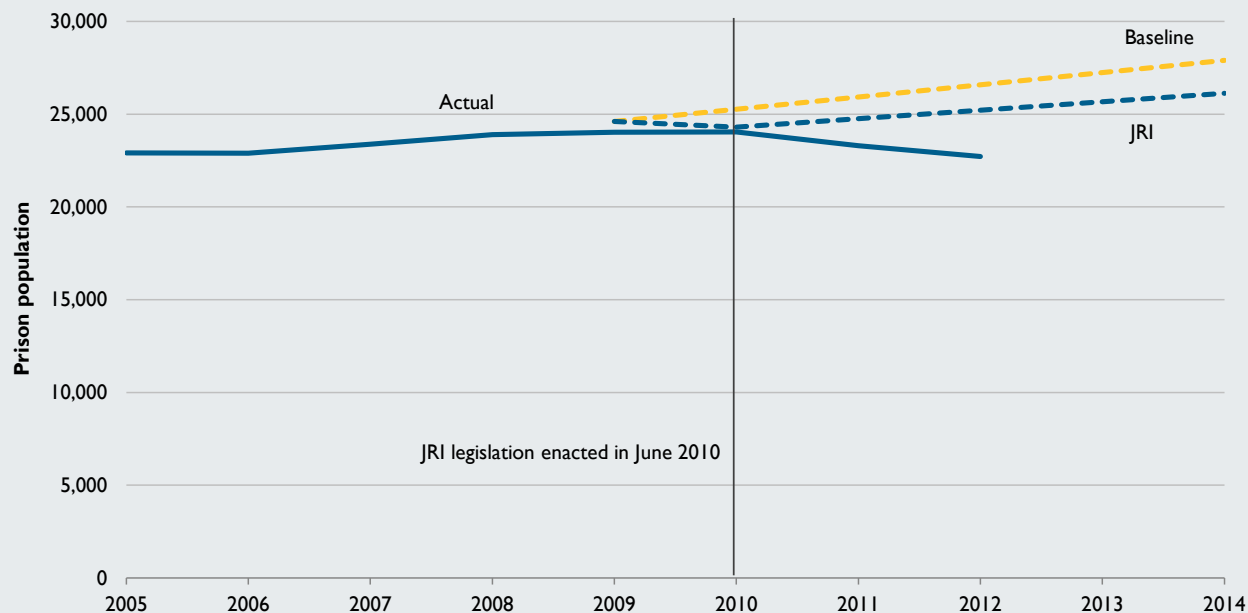
## Reinvest Savings

SB 1154 requires the SROC to annually calculate the savings generated through reduced revocations of probation and parole and to recommend that the legislature reinvest up to 35 percent of those savings from SCDC to PPP. Thus far, the savings calculation has been completed twice—for 2011 and 2012—and it demonstrated that PPP saved money in both years.<sup>488</sup>

In 2011, PPP and SCDC developed a cost-calculation

# South Carolina

**FIGURE A.15**  
South Carolina Prison Population



Sources: JRI and baseline population projections were extrapolated from available data from Pew Center on the States (2010b). Actual population data are from South Carolina Department of Corrections (2012).  
Note: Dotted lines represent projections.

methodology and used it to determine that SB 1154 policies generated \$4,229,456 in savings. The SROC recommended \$1,067,630 for reinvestment to PPP.<sup>489</sup>

In 2012, the SROC requested technical assistance from Vera Institute of Justice (Vera) to develop a revised cost-calculation methodology in which the calculation is based on the reduction of technical and new crime revocations to SCDC from probation and parole compared with the statutory baseline year of 2010. The methodology calculates the number of avoided bed days by the marginal daily cost of a bed day, \$8.93 in 2012. This marginal cost includes daily variable costs of inmate food and health care, as well as stepped fixed costs for corrections officers that are avoided if a certain service threshold reduction in the inmate population is reached. In 2012, PPP and SCDC identified \$2,993,340 in avoided costs, with up to 35 percent of this (\$1,047,669) available for reinvestment. However, the state legislature has not made reinvestments for either year.<sup>490</sup>

## Measure Outcomes

To track the impact of SB 1154, Vera helped PPP develop a dashboard of key performance measures. The dashboard

displays five years of quarterly trends, aligning with the lifetime of the SROC, which is scheduled to disband in 2015, five years after its first meeting.<sup>491</sup> Key performance measures include the total number of individuals in prison or on supervision, the number of new prison admissions and new parolees and probationers, the number of revocations for new crimes and technical offenses, and the percentage change in each of these statistics since 2010. PPP also developed an evaluation plan for tracking the impact of SB 1154 that includes more comprehensive measurements.<sup>492</sup>

After JRI legislation went into effect, the state's average daily prison population declined below levels predicted in the forecast, which had predicted a slowing growth rate rather than the actual population decline the state experienced (figure A.15).<sup>493</sup> Reductions in parole revocations resulted in a total of more than \$7 million in cost savings in 2011 and 2012 as a result of more than 1000 probationers and parolees not being returned to prison in those two years.<sup>494</sup> Due to population decreases, South Carolina was able to close one and a half prisons.<sup>495</sup>



# South Dakota

From 1977 to 2013, South Dakota's prison population increased by more than 500 percent. If this trend continued, corrections spending would cost the state \$224 million over the next 10 years. The main drivers of this surge in population were the incarceration of nonviolent drug offenders and parole violators. South Dakota addressed these challenges by improving its behavioral health service and community supervision infrastructure, developing drug and DUI courts, and adopting evidence-based supervision practices. Justice reinvestment legislation also changed the criminal code to reserve prison space for the most serious offenders. These policy changes are expected to save taxpayers \$207 million over 10 years and to eliminate the need for 716 prison beds.

## Impetus for Justice Reinvestment

The prison population in South Dakota has increased over the past few decades from 546 inmates in 1977 to more than 3,600 inmates in 2013, a rise of more than 500 percent. Allowing current trends to continue would have led to approximately 4,580 inmates by 2022, projected to cost the state \$224 million over 10 years, including \$126 million for the construction of two new prisons. South Dakota imprisons more of its population than any neighboring state, and the rate of females imprisoned is 100 per 100,000—far higher than the national average of 59 per 100,000. Baseline projections indicate that space for female inmates will reach capacity by 2015, and men's prisons will be at 95 percent capacity before the end of the decade.<sup>496</sup>

With the increase in incarceration over the past several decades has come higher spending on corrections, amounting to more than \$100 million in FY 2013, up from just \$26 million in FY 1991. However, higher costs have not been accompanied by corresponding improvements in public safety. Despite an increase in the imprisonment rate far above the national average (15 percent versus two percent), South Dakota's crime rate decrease between 2001 and 2011 did not match the national average (11 percent versus 21 percent). Additionally, a 2011 study by the Pew Charitable Trusts (Pew) found that South Dakota's recidivism rate was 45.5 percent between 2004 and 2007, just above the national average of 43.2 percent and an increase of 11.8 percentage points from the previous sample period of 1999 to 2002.<sup>497</sup>

By 2012, South Dakota had been facing a structural deficit in the state budget for several years, and its leaders

### HIGHLIGHTS

- South Dakota's corrections population had increased 500 percent, and the growing population would have cost \$224 million over 10 years.
- State leaders invested millions of dollars in community-based service infrastructure and focused prison space on the most serious offenders.
- JRI reforms are projected to save taxpayers \$207 million over 10 years.
- JRI reforms are projected to avert the need for 716 prison beds.
- Total planned reinvestment amounts to \$53 million over 10 years.

examined key budget items. The recent increases in corrections spending led the governor and chief justice to consider whether current practices were ensuring public safety enough to justify their large costs. They determined to follow the lead of other states and join the Justice Reinvestment Initiative (JRI). Pew and the Crime and Justice Institute (CJI) provided technical assistance to South Dakota during the justice reinvestment process.<sup>498</sup>

## Establish Interbranch Bipartisan Working Group

Between March and June 2012, the governor and chief justice held 36 meetings across the state to seek the input from more than 400 criminal justice stakeholders. Subsequently, the governor and chief justice, along with the Senate and

House majority leaders, chose 18 key stakeholders to serve on the Criminal Justice Initiative Working Group. The group included members of the state’s executive, legislative, and judicial branches, as well as law enforcement officers, prosecutors, defense attorneys, and treatment providers.<sup>499</sup>

## Engage Stakeholders

In addition to the working group, a nine-member Council of Advisors—including former state legislators and attorneys general, a current and a former supreme court justice, a law professor, the South Dakota Bar Association president, and a presiding circuit court judge—reviewed and provided feedback on key findings and recommendations. The working group encouraged the engagement of other stakeholders by holding a victim, survivor, and advocate roundtable and convening a Native American Subcommittee to conduct meetings and outreach with tribal representatives from across the state. Stakeholder engagement throughout the process was essential to successful analysis, legislation development, and implementation.<sup>500</sup>

## Analyze Data and Identify Drivers

With the leadership of the governor, chief justice, and majority leaders, the working group analyzed extensive criminal justice data, including information on prisons, parole and probation, sentencing, and recidivism. The group found that the majority of inmates in South Dakota prisons were nonviolent offenders, with drug possession the most common offense. New commitment admissions for drug offenses had increased by more than 70 percent from 2000 to 2012. Nearly 28 percent of male offenders and 55 percent of female offenders were incarcerated on drug and alcohol charges. Of these drug offenders, data from the Department of Corrections showed that more than 71 percent were serving time for possession, as opposed to the more serious crimes of manufacture or distribution.<sup>501</sup>

The working group found that the second population driving prison overcrowding was parole violators. Parole violators (rather than those incarcerated for a new offense) made up 25 percent of the prison population in 2012. The working group identified 768 people admitted to prison in 2012 who had violated the conditions of their parole, compared with 270 in 2000. Analysis showed that 65 percent of parole violations occur in the first year after release on supervision and 84 percent occur by the end of the second year.<sup>502</sup>

## Develop Policy Options

To address these drivers, the working group developed 18 policy options in three broad areas. The first set of policy options addressed strengthening supervision and intervention. Working group members encouraged legislators to develop a bill to improve the probation and parole system by focusing resources on those most likely to reoffend, implementing evidence-based practices (EBPs), increasing community-based interventions, and allocating funding for a housing option for certain parolees. They also advocated for the expansion of alternative sanctions such as drug and DUI courts, as well as other supervision models such as a program similar to Hawaii’s Opportunity Probation with Enforcement (HOPE) program and a community supervision pilot program tailored toward the state’s tribal populations.<sup>503</sup>

The second set of policy recommendations focused on using prison space for violent and career criminals. In this area, members of the working group encouraged state legislators to create tiered levels of punishment for different drug crimes. They also encouraged the creation of more targeted punishments for certain property crimes, including increasing penalties for the most serious grand theft offenses while reducing and subdividing sentences for third-degree burglary and grand theft of less than \$5,000. The group suggested creating an additional penalty for chronic DUI offenders, as well as presumptive probation for Class 5 and 6 (lower level) felony offenders.<sup>504</sup>

The working group proposed a third set of policy options that would ensure the quality and sustainability of the reforms. The group members recommended education and training for decisionmakers and supervisors in the corrections system, as well as for legislators. They also proposed that a committee be assigned responsibility for monitoring data collection and implementation of EBPs in the state. Finally, they recommended the development of a statewide victim notification and restitution collection plan and a plan to invest justice savings back into the system to pay for new local program costs.<sup>505</sup>

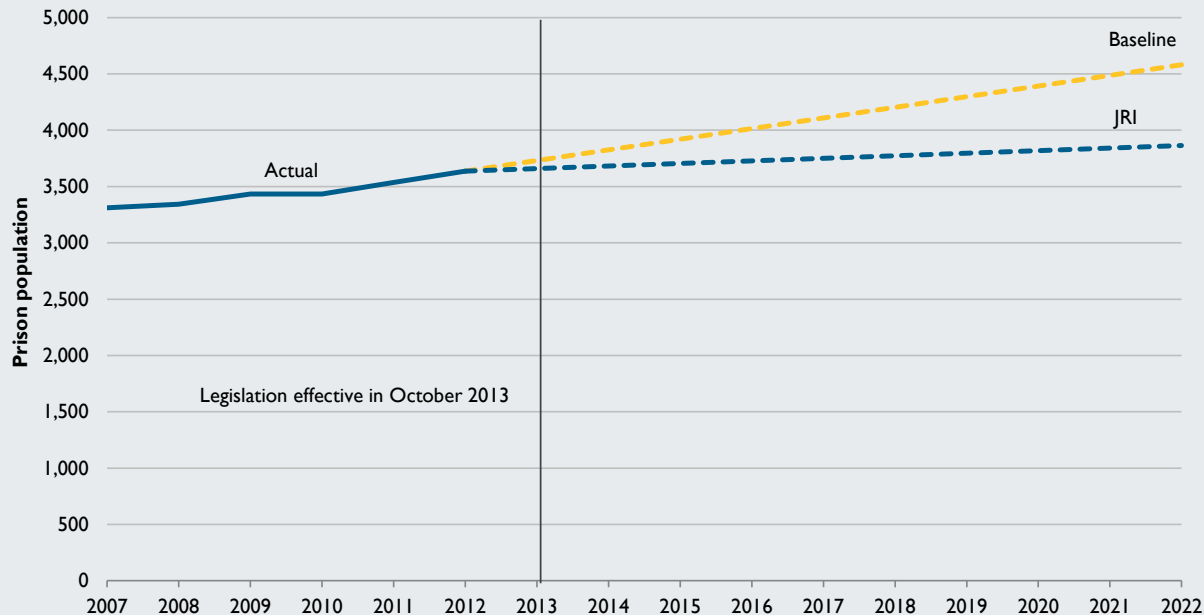
## Codify and Document Changes

In early 2013, South Dakota passed Senate Bill (SB) 70, the Public Safety Improvement Act, with clear bipartisan support. It passed by a vote of 31–2 in the Senate and 63–7 in the House, and the governor signed it into law on February 6, 2013. SB 70 required policy changes in the three broad areas outlined by the working group: strengthening offend-

# South Dakota

**FIGURE A.16**

## South Dakota Prison Population



Sources: JRI and baseline population projections were extrapolated from available data from Pew Charitable Trusts (2013a). Actual population data are from Bureau of Justice Statistics' *Prisoner Series*.

Note: Dotted lines represent projections.

er supervision and accountability, focusing prison space on violent and career criminals, and ensuring the quality and sustainability of reforms. Many of the working group's recommendations were enacted into law through SB 70. Specifically, the Act expanded the punishment and rehabilitation options available to sentencing judges and the parole board. It allowed prison space to be dedicated to serious, violent, and repeat offenders by creating a tiered sentencing structure for drug crimes and reducing the felony classification of various nonviolent property crimes. Finally, SB 70 encouraged the sustainability of reforms by requiring accountability and performance measure reports throughout the system and creating an Oversight Council to supervise implementation of the legislation.<sup>506</sup>

## Implement Policy Changes

To begin the implementation process, South Dakota has applied for additional technical assistance and the Oversight Council has held its first meeting. Projected impacts of SB 70 (figure A.16) include reducing prison growth by 716 beds, which will save taxpayers \$207 million over 10 years in decreased operating costs and avert construction costs for two new prisons.<sup>507</sup>

## Reinvest Savings

In the next 10 years, the South Dakota Legislature plans to reinvest \$53 million of the \$207 million projected savings, with \$8 million from the FY 2013 and 2014 budgets allocated for reinvestment. An additional \$4.9 million is planned to be invested per year in the following years. The reinvestment plan includes allocations for training and implementation of EBPs; pilot programs for alternative sentencing options and community-based support programs; statewide systems to ensure victim notification and restitution accountability; expanded DUI and drug courts; expanded substance abuse, mental health, and cognitive-behavioral treatment services; increased probation and parole staff; and a pool of funds to support additional costs to counties.<sup>508</sup>

## Measure Outcomes

Although it is too early to fully assess the impact of SB 70, the work of South Dakota's leadership and its criminal justice stakeholders, and the technical assistance of Pew and CJI have enabled the state to enact criminal justice reforms that promise to improve system efficiency and ensure public safety.



# West Virginia

West Virginia's prison population growth rate—5.7 percent a year between 2000 and 2009—was the highest in the nation. After previous efforts to reduce the prison population proved unsuccessful, state leaders sought technical assistance (TA) through the Justice Reinvestment Initiative (JRI) to conduct a comprehensive analysis of the state's corrections system. JRI legislation, drawn from the working group's recommendations, bases supervision intensity and treatment on risk and needs assessment results; mandates reporting on program quality and evidence-based practices; establishes mandatory supervision for all felons; develops intermediate sanctions, reduces parole delays; improves substance abuse treatment programs; and requires all judicial districts to establish drug courts. These reforms are projected to save West Virginia \$200 million in averted construction costs and \$86.9 million over five years by slowing prison growth from 18 percent to 5 percent. The governor's FY 2014 budget invests \$3 million in substance abuse treatment for high-risk probationers and parolees and \$500,000 for training related to justice reinvestment goals.

## Impetus for Justice Reinvestment

From 2000 to 2009, West Virginia's prison population ballooned at a rate of 5.7 percent per year, giving the state the highest percentage growth rate in the nation over this period.<sup>509</sup> From 1990 to 2009, the inmate population more than tripled, growing from 1,575 to 6,250 prisoners.<sup>510</sup> The state, unable to house the growing number of prisoners, employed regional jails to handle the overflow. In 2011, regional jails held 25 percent of the inmates sentenced to the West Virginia Division of Corrections.<sup>511</sup> In tandem with the prison population boom, state corrections spending increased by more than 69 percent from 2000 to 2011.<sup>512</sup>

Although numerous studies examined West Virginia's prison overcrowding, efforts to reduce the prison population were unsuccessful, including recommendations from the Governor's Commission on Overcrowding in 2009. A new prison, estimated to cost \$200 million, appeared to be necessary if prison growth could not be contained. Faced with prison overcrowding and increased corrections spending, the governor, legislative leaders, the chief justice, and state policymakers submitted a request for justice reinvestment TA in May 2011.<sup>513</sup>

### HIGHLIGHTS

- West Virginia's prison population increased 5.7 percent a year between 2000 and 2009, the highest percentage growth rate in the nation.
- West Virginia's JRI legislation bases supervision intensity and treatment on assessment results, mandates reporting on program quality and evidence-based practices, establishes mandatory supervision for all felons, develops intermediate sanctions, reduces parole delays, improves substance abuse treatment programs, and requires all judicial districts to establish drug courts.
- JRI reforms are projected to save West Virginia \$200 million in averted construction costs and \$86.9 million over five years by slowing prison growth from 18 percent to 5 percent.
- The governor's FY 2014 budget invests \$3 million in substance abuse treatment and \$500,000 for training related to justice reinvestment goals.



## Establish Interbranch Bipartisan Working Group

West Virginia's TA provider, the Council of State Governments Center (CSG Justice Center) Justice, held the justice reinvestment kick-off meeting in June 2012 with the JRI working group. The group had 22 members, including leaders from the governor's office, both branches of the legislature, corrections, the parole board, the prosecutors' association, public defender's office, county associations, the Supreme Court of Appeals, and other stakeholder groups and government agencies, including the Bureau for Behavioral Health and Health Facilities. The governor's chief of staff was appointed to chair the group, reinforcing the state's commitment to JRI. The group met five times between June 2012 and January 2013, with the goal of devising a set of policy options by February 2013, the start of the West Virginia legislative session.<sup>514</sup>

## Engage Stakeholders

Lack of buy-in across the criminal justice system had stymied previous reform efforts, therefore the CSG Justice Center sought to engage with a cross-section of stakeholders, often through connections from working group members. The CSG Justice Center reached out beyond state and local government to conduct focus groups and meetings with prosecutors, defense attorneys, community leaders, victims and victim advocates, judges, probation and parole officers, parole board members, law enforcement executives, and others. Working group meetings were open to the public, which enabled stakeholders to stay informed and provide input to the JRI process.<sup>515</sup>

## Analyze Data and Identify Drivers

Three of the working group meetings, held between September and December 2012, concerned data analysis to identify prison population drivers and focus the working group discussions. Data analysis identified three key challenges to West Virginia's criminal justice system. The first challenge was substance abuse, which contributed to prison population growth in both new offenses and community supervision revocations. The second was supervision revocations, which had grown by 47 percent between 2005 and 2011 and were a significant driver of prison population growth. The third challenge was that the number of

offenders released from prison into the community without supervision had increased 33 percent from 2007 to 2011.<sup>516</sup>

## Develop Policy Options

Through data analysis and stakeholder feedback, a framework of policy options was developed to address prison population drivers. In January 2013, these strategies were presented to the working group at its final meeting. The policy framework offered a series of specific proposals to strengthen community supervision, improve accountability, and reduce substance use. These proposals included basing supervision intensity and treatment on risk and needs assessment results, mandating reporting on program quality and evidence-based practices, establishing mandatory supervision for all felons, developing intermediate sanctions, reducing parole delays, and improving and expanding substance abuse treatment programs in the community and in prison.<sup>517</sup> The working group unanimously approved this policy framework.

## Codify and Document Changes

Senate Bill (SB) 371, passed by the West Virginia legislature in April 2013 and signed into law by Governor Tomblin in May 2013, codified the policy options recommended by the working group. SB 371 largely maintained the strategies outlined in the working group's policy framework, with the addition of requiring all judicial circuits to establish drug courts. Other policy changes supported by the justice reinvestment process had been put in place even before the passage of legislation. These included the parole board's ability to grant conditional parole upon completion of a home plan and required presentence risk and needs assessments for convicted felons.<sup>518</sup> SB 371 is projected to save West Virginia \$86.9 million between 2014 and 2018 by slowing prison growth from 18 percent to 5 percent (figure A.17).<sup>519</sup> It is also projected to save \$200 million in averted construction costs.<sup>520</sup>

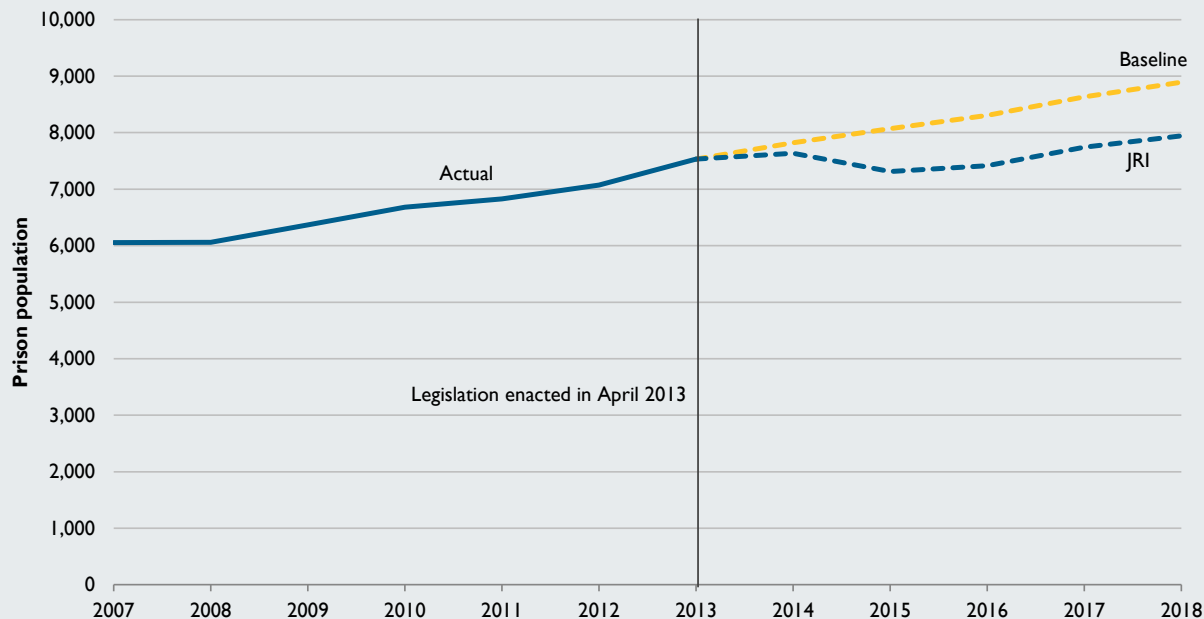
## Implement Policy Changes

Soon after the passage of SB 371, leaders from the executive, judicial, and legislative branches requested continued TA for implementation from the Bureau of Justice Assistance (BJA). The CSG Justice Center will continue working with West Virginia to implement the provisions of SB 371, the bulk of which became effective on July 12, 2013.

# West Virginia

**FIGURE A.17**

## West Virginia Prison Population



Sources: JRI and baseline population projection are data from Council of State Governments Justice Center, email message, July 12, 2013. Actual population data are from Bureau of Justice Statistics' *Prisoner Series*.

Note: Dotted lines represent projections.

In the initial months of implementation, TA has been focused on helping state officials create a foundation for effective implementation. Officials from the executive and judicial branches have been working with the CSG Justice Center to develop an interbranch implementation oversight structure to track the progress of SB 371 implementation. At the request of state officials, the CSG Justice Center has been providing learning opportunities to critical implementation groups (e.g., corrections staff, behavioral health providers, and the judiciary) on SB 371 and the fundamentals of evidenced-based practice. Finally, the CSG Justice Center has been working with state officials to develop priorities for seed funding, made available by BJA, to support one-time costs associated with the implementation of SB 371.<sup>521</sup>

## Reinvest Savings

Although SB 371 does not outline formal reinvestment plans, the JRI process highlighted the need for funding to address substance abuse treatment, which is outlined in the policy framework. The governor's FY 2014 budget supports \$3 million in substance abuse treatment for high-risk probationers and parolees and \$500,000 for training related to justice reinvestment goals.<sup>522</sup>

## Measure Outcomes

West Virginia is poised to roll out a new database management system through the Department of Corrections that will enhance the state's capability to track and measure progress. The state will work with the CSG Justice Center to develop a set of metrics to measure outcomes of justice reinvestment.<sup>523</sup>



# Notes

1. Criminologist Robert Martinson (1974) provides one of the best exemplars of this viewpoint.
2. Anthony Petrosino (2013) provides an example of how one such easily accessible repository of evidence-based practices, the Campbell Collaboration, was developed.
3. See Andrews and Bonta (2007) or Andrews, Bonta, and Wormith (2006).
4. Bush (2004).
5. Travis (2005).
6. “Making Appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for the Fiscal Year Ending September 30, 1996, and for Other Purposes,” H.R. 1593, 110th Cong., 2nd Sess., 2008.
7. Pew Center on the States (2012c).
8. Tucker and Cadora (2003).
9. Council of State Governments Justice Center (2007).
10. Early justice reinvestment states include Arizona, Connecticut, Kansas, Nevada, Pennsylvania, Rhode Island, Texas, Vermont, and Wisconsin.
11. Council of State Governments Justice Center (2011e).
12. The formal name of the initiative, as launched through a solicitation to identify technical assistance providers and an oversight and assessment coordinator, is “Criminal Justice Improvement and Recidivism Reduction through State, Local, and Tribal Justice Reinvestment.”
13. The 17 JRI states featured in this report are: Arkansas, Delaware, Georgia, Hawaii, Kansas, Kentucky, Louisiana, Missouri, New Hampshire, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, and West Virginia. Since July 31, 2013, three states (Idaho, Michigan, and Mississippi) have begun the JRI process and have not yet enacted legislation.
14. Kansas’s justice reinvestment work began in 2006 and resulted in 2007 legislation. Since 2007, funding reductions and penalty enhancements have increased prison commitments, prompting Kansas to engage in another round of justice reinvestment beginning in 2012.
15. In Carson (2012), the Bureau of Justice Statistics reported that the United States experienced a 0.9 percent decline in its national prison population during 2011, representing the second consecutive year that the US prison population has decreased. The continuing downward trend is particularly notable when considered within its historical context: the 2010 decrease marked the first drop in the national prison population since 1972. The California Public Safety Realignment significantly impacted the decreasing size of the national prison population; the sentenced US state prison population decreased by 21,663 inmates in 2011, and California contributed 15,188 inmates (70 percent) to the total decrease.
16. Ibid. and Beck (2001).
17. Pew Center on the States (2012a).
18. Pew Center on the States (2011b).
19. Pew Center on the States (2011c).
20. According to the Pew survey results, 45.4 percent of people released from prison in 1999 and 43.3 percent of those released in 2004 were reincarcerated within three years.
21. Brownback, Sam. “Phase I Letter of Interest.” April 3, 2012.
22. Council of State Governments Justice Center (2011c).

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23. Bureau of Justice Assistance (2012a).
24. Ibid.
25. Council of State Governments Justice Center (2012c).
26. Louisiana Sentencing Commission (2012).
27. Markell (2011).
28. Oklahoma JRI stakeholder interviews, June 21, 2012.
29. Council of State Governments Justice Center (2013b).
30. Pew Center on the States (2012a).
31. North Carolina JRI stakeholder interviews, December 3, 2012.
32. Georgia HB 1176, 2012.
33. Pew Charitable Trusts (2013a).
34. Ibid. and Arkansas Act 570, 2011.
35. Pennsylvania JRI stakeholder interviews, November 5, 2012.
36. Oklahoma JRI stakeholder interviews, June 21, 2012.
37. Ohio JRI stakeholder interviews, December 3, 2012.
38. The 9 states that have received subaward funding to date are Arkansas, Delaware, Georgia, Hawaii, Kentucky, New Hampshire, North Carolina, Ohio, and South Carolina.
39. Byars, William R., Jr. "Phase II Letter of Interest." May 9, 2011.
40. Vera Institute of Justice. "Delaware March Technical Assistance Monthly Tracking Form." April 15, 2013.
41. The total amount for subawards is the amount obligated, not necessarily the amount disbursed to the states.
42. Council of State Governments Justice Center (2012a).
43. Pew Charitable Trusts (2013a).
44. Pew Center on the States (2010b).
45. In some states, reinvesting savings and measuring outcomes are reversed because through measuring outcomes, states calculate the amount of savings available for reinvestment.
46. Council of State Governments Justice Center. "State-Specific Dashboard Drafts." August 3, 2012.
47. Hawaii Department of Public Safety. "End of Month Population Report: June 30, 2012." 2012; Hawaii Department of Public Safety. "End of Month Population Report: June 30, 2013." 2013.
48. South Carolina Department of Probation, Parole, and Pardon Services (2011).
49. Vera Institute of Justice. "FY12 Cost Avoidance Calculation." Letter to J. J. Gentry, Staff Attorney, South Carolina Senate Judiciary Committee. December 18, 2012.
50. Gentry (2012).
51. This is not a comprehensive list of all drivers identified and responses undertaken by states. Refer to individual case studies for detailed information about each state's drivers and response.
52. Council of State Governments Justice Center (2010a).
53. Ibid.
54. Meredith and Speir (2011).
55. Council of State Governments Justice Center (2013b).
56. Wodahl et al. (2011).
57. Arkansas Department of Community Correction (2012).
58. Pew Center on the States (2010b).
59. Hawken and Kleiman (2009).
60. Ibid.
61. Kentucky HB 463, 2011.
62. North Carolina HB 642, 2011; South Carolina SB 1154, 2010.
63. Council of State Governments Justice Center. Email message. September 20, 2013.
64. Pew Charitable Trusts (2013a).
65. Ohio HB 86, 2011.
66. Pennsylvania SB 100, 2012.
67. North Carolina HB 642, 2011.
68. Ibid.; Hawaii SB 2776 and HB 2515, 2012.
69. Pew Center on the States (2011a).
70. Ibid.
71. Barbee and Bettsworth (2012c).
72. Pew Center on the States (2011b).
73. Council of State Governments Justice Center (2011b).
74. Pew Center on the States (2012b).
75. Council of State Governments Justice Center (2012c).
76. Special Council on Criminal Justice Reform for Georgians (2011).
77. James and Agha (2013).
78. According to Title 21 of the Oklahoma Statutes and Codes, individuals convicted of serious crimes such as murder, rape, robbery, and arson are required to serve 85 percent of their prison sentence before they are eligible for parole and are not eligible to receive credits that would reduce their sentence length to less than 85 percent of the original sentence. Under section 14-7.12 of the North Carolina General Statutes, individuals convicted of being a violent habitual felon must be sentenced to life imprisonment without parole. Measure 11 in Oregon applies mandatory minimum prison sentences to individuals convicted of serious felonies such as murder, assault, rape, robbery, arson, and kidnapping.

79. Council of State Governments Justice Center (2012b).
80. Council of State Governments Justice Center (2011c).
81. South Carolina SB 1154, 2010.
82. Pew Center on the States (2011a).
83. Pew Center on the States (2011b).
84. Ohio HB 86, 2011.
85. Pew Center on the States (2012a).
86. West Virginia SB 371, 2013.
87. Kentucky HB 463, 2011.
88. Pew Center on the States (2012a).
89. North Carolina HB 642, 2011.
90. James and Agha (2013).
91. Louisiana Sentencing Commission (2012).
92. Pennsylvania HB 135, 2012.
93. Pennsylvania Department of Corrections (2013).
94. Commonwealth of Pennsylvania Department of General Services, Bureau of Procurement (2013).
95. Arkansas SB 750, 2011.
96. Georgia HB 1176, 2012.
97. Bahr, Masters, and Taylor (2012); Braddock, Lehman, and Maclean (2002); Lamb, Weinberger, and Gross (1999); Landenberger and Lipsey (2005); Minnesota Department of Corrections (2010); Swanson et al. (2001).
98. Pew Center on the States (2011a).
99. Council of State Governments Justice Center (2010a).
100. Special Council on Criminal Justice Reform for Georgians (2011).
101. Council of State Governments Justice Center (2013a).
102. Council of State Governments Justice Center (2012b).
103. Ibid.
104. Council of State Governments Justice Center (2011b).
105. Lowenkamp, Latessa, and Holsinger (2006).
106. Bonta, Wallace-Capretta, and Rooney (2000).
107. Council of State Governments Justice Center (2013a).
108. Council of State Governments Justice Center (2011b).
109. Council of State Governments Justice Center (2012b).
110. Council of State Governments Justice Center (2012d).
111. Clement, Barbee, and Coombs (2011); Pew Center on the States (2012a, 2013).
112. New Hampshire Department of Corrections (2013).
113. Pennsylvania SB 100, 2012.
114. Arkansas SB 750, 2011.
115. Pennsylvania SB 100, 2012.
116. Council of State Governments Justice Center (2011b).
117. New Hampshire SB 500, 2010.
118. Kansas HB 2170, 2013.
119. Kentucky HB 463, 2011; Ohio HB 86, 2011.
120. Georgia State Board of Pardons and Paroles (2013).
121. Clement, Barbee, and Coombs (2011).
122. West Virginia Legislative Auditor, Performance Evaluation and Research Division (2012).
123. Council of State Governments Justice Center (2012e).
124. Eleven percent of the cases were not seen due to “other” reasons. Council of State Governments Justice Center (2012d).
125. Pew Center on the States (2010b).
126. Costantino (2011).
127. Arkansas SB 750, 2011.
128. Pennsylvania HB 100, 2012.
129. Council of State Governments Justice Center (2012e).
130. West Virginia SB 371, 2013.
131. Pennsylvania SB 100, 2012.
132. South Carolina SB 1154, 2010.
133. Louisiana HB 1026, 2012; Louisiana HB 416, 2011.
134. Arkansas SB 750, 2011.
135. Louisiana HB432, 2012; Louisiana SB 202, 2011.
136. South Carolina SB 1154, 2010.
137. Hawaii SB 2776, 2012.
138. Arkansas SB 750, 2011.
139. Louisiana SB 202, 2011; South Carolina SB 1154, 2010.
140. It is too early to determine the impact of justice reinvestment policies in a majority of participating states because they are still implementing policy changes.
141. Projected population and estimated cost savings figures were provided in TA provider documents, presentations, and reports. Actual criminal justice population figures were taken from states’ respective annual corrections population reports unless otherwise noted.
142. Cost savings presented in this report are based on information provided by the TA providers. These figures do not distinguish between marginal and fully loaded costs of incarceration. Cost savings methodologies also vary across states.

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143. Pew Center on the States (2011b).
144. Ibid.
145. This figure does not include Georgia, Kentucky, and Oregon, which did not provide a breakdown of cost savings between operating and construction costs.
146. Ibid.
147. At a minimum, isolating the impacts of JRI requires more detailed data about the utilization rate and effect of specific policies. For example, if a policy allows for intermediate sanctions in lieu of revocations, the proportion of technical violators who received intermediate sanctions rather than a revocation would indicate how many beds were saved. This detailed information was not available to the assessment team in most instances.
148. Bureau of Justice Statistics (2013).
149. Ibid.
150. Arkansas Department of Corrections. Email message. March 26, 2013.
151. Ibid.
152. Vera Institute of Justice. Email message. August 27, 2013.
153. Hawaii Department of Public Safety. "End of Month Population Report: December 31, 2010." 2010; Hawaii Department of Public Safety. "End of Month Population Report: June 30, 2013." 2013.
154. Council of State Governments. Email message. July 19, 2013. Savings were estimated by the CSG Justice Center based on the reduction of offenders housed in mainland prisons. The number of offenders by which the mainland population decreased was multiplied by the number of days (based on when reduction occurred) and by the per diem cost to house an offender.
155. Hawaii Department of Public Safety. Email message. July 29, 2013.
156. Guerino, Harrison, and Sabol (2011).
157. Carson and Golinelli (2013).
158. Vera Institute of Justice. "HB 463 Implementation Check-In Meeting Memo." March 5, 2013.
159. Vera Institute of Justice. "Kentucky Department of Corrections Performance Monitoring Spreadsheet." October 1, 2013.
160. JFA Institute (2013).
161. Klute and Heyerly (2012).
162. Vera Institute of Justice. Email message. August 16, 2013.
163. Ibid.
164. JFA Institute. Email message. January 21, 2014.
165. New Hampshire Department of Corrections. Email message. July 19, 2013.
166. North Carolina General Assembly Fiscal Research Division (2013).
167. Hall, Hevener, and Madler (2013).
168. Ohio JRI stakeholder interviews, December 3, 2012.
169. South Carolina Department of Probation, Parole, and Pardon Services (2011); Vera Institute of Justice. "FY12 Cost Avoidance Calculation." December 18, 2012.
170. South Carolina JRI stakeholder interviews, May 7, 2012.
171. South Carolina Department of Corrections. Email message. September 20, 2013.
172. Bureau of Justice Assistance (2012b).
173. Pew Center on the States (2012a).
174. South Dakota SB 70, 2013.
175. Vera Institute of Justice. Email message. July 9, 2013.
176. Missouri HB 1525, 2012.
177. Andrews and Janes (2006); Burke (2004); Harrell et al. (2003); Hay (2001); Taxman, Soule, and Gelb (1999); Taylor and Martin (2006).
178. American Probation and Parole Association (2013).
179. Hawken and Kleiman (2009).
180. Council of State Governments Justice Center (2010b).
181. Council of State Governments Justice Center (2012a).
182. James and Agha (2013).
183. Andrews and Bonta (2007); Andrews et al. (2006); Harris (2006); Grove and Meehl (2006).
184. Barnoski and Aos (2003); Belenko (2001); Rossman et al. (2011).
185. West Virginia Office of the Governor (2013).
186. Pew Center on the States (2012a).
187. Kentucky HB 463, 2011.
188. Ohio HB 86, 2011.
189. Arkansas SB 750, 2011.
190. Kansas HB 2170, 2013.
191. North Carolina HB 642, 2011.
192. West Virginia SB 371, 2013.
193. Kentucky JRI stakeholder interviews, April 25, 2013.
194. New Hampshire JRI stakeholder interview, June 10, 2013.
195. Vera Institute of Justice. "Louisiana August Technical Assistance Monthly Tracking Form." September 15, 2013.
196. Georgia JRI stakeholder interview, June 18, 2013.
197. Georgia JRI stakeholder interview, June 27, 2013.

198. Pennsylvania JRI stakeholder interviews, November 5, 2012.
199. Ohio JRI stakeholder interviews, December 3, 2012.
200. West Virginia JRI stakeholder interviews, January 22, 2013.
201. Kentucky JRI stakeholder interview, April 12, 2013.
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