

MEMORANDUM

TO: GiveWell / Good Ventures

FROM: The Pew Charitable Trusts, Public Safety Performance Project

RE: Comparing Prison Population Trends Across States

DATE: March 06, 2014

As part of its assessment of the Public Safety Performance Project, GiveWell attempts to quantify the project's impact on state prison populations by comparing prison population trends in states that did and did not receive assistance from PSPP as part of the overall Justice Reinvestment Initiative (JRI).¹ This memo summarizes the significant pitfalls of such an analysis and concludes that the impact of JRI is best understood through a deeper evaluation of the policy and political environments in each of the participating states.

- **Vast Differences Among States**

- State justice systems and criminal penalty laws vary tremendously. This variation has enormous impact on the two determinants of prison populations: admissions and length of stay.
- The political environment in states is vastly different as well. In some states, top elected officials are unanimous in their desire for and commitment to reform; in others, there is no consensus for change. Beyond leadership, there are varying levels of interest in reform among other influential policy makers and stakeholders.
- Since these myriad and in many cases unquantifiable state-specific factors help drive prison populations, a simple comparison of prison trends in one group of states with another group can raise questions but offer no answers for why the trends are similar or different.
- For instance, the fact that the New York prison population dropped due to the reduction in felony arrests in New York City has no bearing on what happened to the prison populations in Georgia or North Carolina or why. If California radically reduces its prison population under order from the federal courts, that does not diminish (or enhance) the importance of comprehensive reform efforts in Oregon or Ohio, which did not face such a mandate.
- The differences among states are dramatized by the fact that in 2012, four years after the national prison population peaked, several states were posting significant population drops while prison counts still continued to climb in nearly half (24) of the states.²

¹ JRI is a public/private partnership between Pew and the U.S. Department of Justice, Bureau of Justice Assistance, under which Pew, the Council of State Governments Justice Center, the Vera Institute of Justice, the Crime and Justice Institute, and other partners provide intensive technical assistance on sentencing and corrections reform to selected states.

² <http://www.bjs.gov/content/pub/pdf/p12tar9112.pdf>, Table 17.

- **Contamination of Non-JRI States**

- There may be some national trends in policy making by governors and legislators, and in case-level decision making by individual judges, prosecutors, parole board members, probation officers and other system actors, that are influenced by an overall climate of reform and general attitudes toward crime and punishment.
- While Pew, JRI partners and others working in the field cannot claim anything near exclusive credit for creating an environment for reform, changing the national conversation from “tough vs. soft on crime” to “public safety return on investment” is a key goal of our broader work. This work has included hundreds of research publications, extensive media outreach, and scores of convenings with leading policy makers across the country.
- These national efforts “contaminate” the group of non-JRI states by exposing policy makers in those states to justice reinvestment data and strategies. Comparing them to the intensive assistance states effectively counts these broader national efforts against the impact of work in intensive JRI states. This is unfortunate since any policy change effort should seek to maximize change with available resources.
- Beyond these broad national impacts, Pew and its partners have provided limited assistance in some states, including California, Florida and Colorado. Counting these states among the non-JRI group further complicates comparison of JRI vs. non-JRI states. California, for instance, picked up the Performance Incentive Funding (PIF) concept from 2008 JRI work in Arizona and fashioned it with very light assistance from PSPP into SB 678 of 2009.³ In its first year of implementation, the California PIF program cut the number of probation revocations to state prison by nearly 6,200, a nearly the identical number by which the state’s prison population dropped from 2009 to 2010.

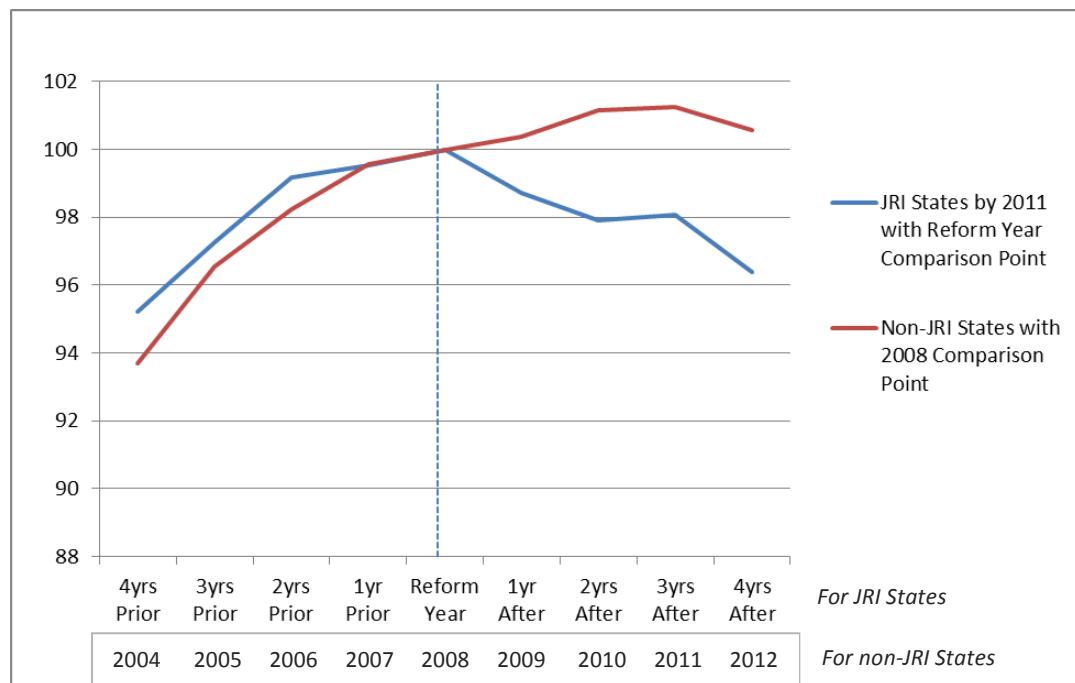
- **State Selection Bias**

- JRI selects states for project participation based, in part, on the potential for individual states to achieve meaningful reforms that will protect public safety, hold offenders accountable, and control corrections costs.
- One of the major motivating factors for state leaders to consider reform has been the significant cost of projected prison growth in their states. So high projected growth is one of the factors considered in selecting JRI states.
- This introduces substantial “bias” into comparisons of JRI and non-JRI states. Even if there were similarities among groups of states on many of the crucial system and political dimensions, this selection bias means that JRI states in general were facing steeper growth curves than other states.
- That JRI states tend to have fast-growing prison populations is illustrated by the GiveWell analysis: some of the states with the highest post-2008 growth indices (South Dakota, West Virginia, and Idaho) have since become JRI states.

³ http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0651-0700/sb_678_cfa_20090427_164719_sen_comm.html.

- **Other Methodological Obstacles**

- Base year: A central assumption of the GiveWell analysis is that the national prison population peaked in 2008 and began to fall, making 2008 an appropriate reference year for comparing JRI and non-JRI states. However, a more valid reference point for impact in JRI states would be the year in which the reforms were enacted in each state. That would take more of the individual state factors into account, including the projected prison population.
 - When that analysis is performed, growth patterns in JRI states are found to be similar to non-JRI states in the four years prior to reform but then diverge significantly in the following four years, with JRI states showing a prison population drop of 4 percentage points compared to the non-JRI states.
 - *Please note: This analysis is provided solely to demonstrate the sensitivity of the outcomes to a single parameter or assumption. Our view is that an intensive state-specific analysis is the most valid approach to assessing JRI impact.*



- In Arkansas, which was a particular focus of the GiveWell assessment, the prison population was the eighth fastest growing in the nation in 2009, and growth accelerated during 2010, the year in which the JRI reforms were being developed.
- Early vs. later states: Evaluating the impact of JRI reforms on prison populations necessarily requires emphasis on states that adopted reforms further in the past. It is too soon to gauge results in the most recent states such as Kansas, South Dakota, Oregon, and West Virginia since those reforms have been in effect for less than a year. It is important to note, however, that the JRI process has evolved substantially since it was first introduced in 2007. The more recent states have received a more robust package of technical assistance and, in part because of that,

have enacted more comprehensive reforms which, if well implemented, would produce larger population impacts than were achieved in the earlier states.

- **Projection Accuracy and External Validation**

- The prison population projection methods used by JRI partners, subcontractors and state agencies have a strong track record of accuracy. In Oregon, for instance, the last 20 two-year forecasts (prior to October 2012) were, on average, accurate within one percentage point.⁴
- All JRI population projections and policy impact estimates are reviewed and approved by state officials prior to publication.
- An assessment by the Urban Institute⁵ of the impact of JRI raised no concerns about the accuracy of the projections calculated by JRI partners or subcontractors. Rather, the report calculated that total projected savings across all 17 states amount to as much as \$4.6 billion.⁶ Correctly noting the importance of successful reform implementation, the Urban report concludes that: “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.”⁷

- **Conclusion and Recommendation for Further Research**

- On its face, a comparison of JRI and non-JRI seems to make sense. One set of states received an intervention, and another didn't, so looking at the before-and-after trends in each group might yield a reasonable assessment of the impact of the intervention.
- For that to be true, however, two groups of states would have to be similar. This memo has made the case that they were not—that they have fundamentally different criminal justice systems and political ecology; that the JRI states were selected in part because they were different in that they were facing steep projected growth; that population trends in the non-JRI states were affected by national and multi-state efforts of the Pew/JRI initiatives; and that other methodological issues further confound attempts to compare the two groups.
- Pew and JRI partners are currently redoubling efforts to measure the impact of reform. A central part of this effort is to assist as many participating states as possible in constructing a robust set of performance measures to track the overall impact of the reforms on prison populations and costs, on the profile of offenders in prison, and on various measures of recidivism.
- Beyond these real-time tracking mechanisms, the partners are ramping up the more rigorous policy evaluations necessary to gain a deeper understanding of whether and why specific reforms succeeded or failed. These evaluations will include quantitative analyses of data and qualitative components that assess implementation and help provide valuable context.

⁴ Oregon Office of Economic Analysis (OEA), October 2012.

⁵ <http://www.urban.org/publications/412994.html>.

⁶ These figures do not include impacts in states such as Texas that participated in the project in 2007-2009, before the Justice Reinvestment Initiative was formally established at the U.S. Department of Justice.

⁷ Urban report, p. 54.