



RESEARCH REPORT

# Reforming Sentencing and Corrections Policy

## The Experience of Justice Reinvestment Initiative States

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# Executive Summary

**After four decades of soaring prison growth and stubbornly high recidivism rates, the United States is rethinking its heavy reliance on incarceration. Individual states, recognizing that the fiscal and human costs of widespread imprisonment largely outweigh its public safety benefits, are leading this shift. Many state leaders are embracing a fresh approach to corrections guided by data and anchored in evidence about what truly works to change criminal behavior. Tough-on-crime rhetoric is being eclipsed by calls for a more data-driven criminal justice system that delivers increased public safety at a lower cost.**

The Justice Reinvestment Initiative (JRI) is a response to these calls and has been a strong catalyst for state reform. A public-private partnership between the Bureau of Justice Assistance (BJA) and The Pew Charitable Trusts (Pew), JRI was formally launched in 2010 to help states fully understand their unique correctional trends and adopt policies and practices to better manage their corrections populations. This report updates the findings presented in the *Justice Reinvestment Initiative State Assessment Report* released in January 2014 and summarizes what has happened in the 28 states that engaged in the JRI process between 2010 and 2016.

The array of actions and results in these states makes generalizations difficult. JRI states have made substantial legislative and administrative changes to their sentencing, release, and supervision policies in an effort to cut recidivism and control rising prison populations and costs. Many states are still in the early stages of implementing JRI, and attempts to draw firm conclusions are somewhat premature. That said, a review of state efforts shows that 2015 prison populations in more than half the JRI states were below previously projected levels. In other words, JRI strategies helped 15 states either decrease their prison populations or keep them below levels they were predicted to reach without reform. On the fiscal front, through 2016, JRI states reported a total of \$1.1 billion in savings or averted costs attributable to reforms.

These outcomes and others are promising and are covered in greater detail in this report. Also heartening is a culture shift toward placing data and evidence at the heart of modern correctional practice. Still, challenges remain, and some states have encountered barriers limiting their ability to pass reform legislation or fully translate policy to practice. These obstacles must be addressed to realize JRI's full potential, and vigilance is needed to document successful strategies and sound the alarm when reforms veer off track.

# The JRI Model

Justice reinvestment first emerged when the Council of State Governments Justice Center began experimenting with the model in a handful of states in the 2000s. The Justice Center aimed to use data-driven policies and practices to reduce corrections populations and reinvest subsequent savings in proven public safety strategies. After early work suggested the approach had promise, JRI was formally launched in 2010 with a mission to fund, coordinate, and assist state and local efforts.

The central principle of JRI is consensus-based decisionmaking guided by state-specific criminal justice data. After securing written commitments from key stakeholders in all three branches of government, a state establishes an interbranch, bipartisan working group of policymakers and other professionals both inside and outside the justice system. With technical help from national JRI partners, the working group analyzes the state's criminal justice data to understand the forces driving corrections populations and costs, then develops policy solutions to address those forces and works to codify solutions through legislation. In JRI's final phases, states put reforms in place, develop strategies to track progress, and reinvest savings.

## JRI Policy Reforms

Through JRI, 24 states have enacted a package of policy reforms to address the specific forces influencing their prison populations. Approaches vary, but policies typically aim to reduce the flow of people into prison, limit their time behind bars, streamline their release when appropriate, strengthen community supervision, and monitor the progress of state reforms.

### Amending Sentencing Laws

JRI states recognize that sentencing policy can have a strong impact on prison populations, and more states are amending their sentencing laws as a result. More than half have enacted such "front-end" reforms, diverting people who commit less serious offenses away from prison or shortening the time that those who do go to prison spend there. States have adjusted penalties for certain drug and property offenses and lower-level violent or person crimes (typically downgrading lesser offenses), repealed mandatory minimum sentences for certain crimes, revised sentencing enhancements, and created or expanded alternative sentencing options.

### Reforming Pretrial Practices

In response to research demonstrating the negative effects of pretrial detention on both people and public safety, some JRI states intend to reduce how many people are held in jail while awaiting trial.

States are using risk assessment tools to reserve detention only for those at high risk of failing to appear in court. States are also improving their pretrial supervision practices; reducing their reliance on monetary bonds, which disproportionately affect poor people; and expanding law enforcement's use of "citation in lieu of arrest."

## **Modifying Prison Release Practices**

Through JRI data analysis, many states learned that the average length of stay had increased over the previous decade. In response, states adopted several policies, such as expanding the types of offenses eligible for parole, increasing the availability of earned time credits that allow for shorter sentences through good behavior or program completion, establishing presumptive parole for certain people, establishing or expanding geriatric and medical parole, and requiring the use of risk assessment tools and structured parole guidelines to inform release decisions.

## **Strengthening Community Corrections**

Fortifying community supervision practices is a centerpiece of JRI efforts in many states, reflecting evidence that community programming and services can reduce recidivism. States have mandated and strengthened reentry supervision, required the use of risk and needs instruments to guide supervision decisions, expanded access to treatment and services, created intermediate responses to supervision violations, established earned discharge from supervision, and limited how much time people can spend behind bars for violating supervision rules.

## **Ensuring Sustainability of Reforms**

States recognize that oversight and monitoring are key to ongoing success. To date, reform packages have established data collection and reporting requirements, created oversight panels to monitor progress, and required that future legislative proposals include a fiscal impact statement.

## **Performance Measurement and Outcomes**

Measuring and reporting outcomes can help gauge progress under JRI reforms, identify problems, and highlight successful strategies. To evaluate performance, state stakeholders and JRI partners have tracked system-level trends on key outcomes, monitored policy-specific data trends, and studied the effects of individual reforms.

## System-Level Trends

At the system level, outcomes of interest include corrections population counts, averted costs or savings resulting from reforms, and dollars reinvested in proven public safety strategies.

### PRISON POPULATION TRENDS

Many reforms enacted through JRI aimed to limit incarceration where appropriate. As a result, state officials expected a slowdown in prison population growth or a decrease in the number of people behind bars. To assess progress, each state's prison population count is compared to its baseline projection, or "cost of doing nothing," which estimates what the prison population would look like with no changes to policy or practice.

In 15 of the 18 states where sufficient time has passed to warrant analysis, the 2015 prison population was below what experts estimated it would be without reform. And in seven of those states, the 2015 prison population was below what experts projected even if all JRI reforms were fully implemented. Nine states reported increases in their prison populations following reform, but the extent of those increases varied. It should be noted that many external factors, including state population trends, crime rates, prosecutorial decisions, and other reform efforts, may also influence prison populations.

### COMMUNITY SUPERVISION POPULATION TRENDS

Reforms enacted through JRI also have a direct effect on probation and parole populations, but these trends can be difficult to interpret. A new reform might increase or decrease the number of people under supervision; depending on the policy, either outcome might be an indicator of success.

The majority of states saw declines in their probation populations and increases in the number of people on parole, but context is needed to understand what those trends mean. South Dakota, for example, saw a 37 percent increase in its probation population after adopting JRI reforms, but that was a likely consequence of its decision to establish presumptive probation for many drug and property crimes. Similarly, North Carolina experienced the largest percentage increase in its postprison population (172 percent). This is because the state, which abolished parole in 1994, now mandates postrelease supervision for all people convicted of a felony offense.

### SAVINGS AND AVERTED COSTS

Tracking corrections populations is necessary because population counts drive averted cost projections. Following enactment of reform legislation, states estimated the anticipated decrease in their prison populations over a 5- to 18-year window and the associated costs that would be avoided if reforms were fully implemented.



Not surprisingly, projected averted costs varied among states, ranging from \$7.7 million over 5 years to \$875 million over 10 years. These include averted operational costs resulting from smaller prison populations and averted construction costs from the reduced need for new facilities or additional beds. Because most states are still within their projection windows, we do not know whether true averted costs will align with these estimates.

During this interim period, some states have attempted to quantify preliminary savings and averted costs. Interim savings are by definition conservative estimates, and there is a disincentive to identify savings that could result in budget reductions. However, 12 states reported estimated savings and averted costs ranging from \$2.5 million over three years to more than \$490 million over five years. To date, preliminary savings and averted costs resulting from JRI reforms total \$1.1 billion.

## REINVESTMENT

Despite the challenge of calculating savings, many states have invested in JRI reform priorities either up front during the legislative process or in subsequent budget cycles. Participating states have invested a total of \$450 million. Four states—Delaware, Missouri, New Hampshire, and South Carolina—have not reported any investments to date.

One surprising finding was the level of up-front investment: 16 states invested funds in JRI priorities as part of their legislative packages. Reinvestment has funded a wide range of priorities, including victims' services, drug and other problem-solving courts, community behavioral health treatment, county incentive grant programs, law enforcement grants, training on evidence-based practices, and risk assessment tool development and deployment.

## Policy-Specific Measures

Although population trends provide insight into how a system is functioning over time, more targeted metrics are needed to assess whether specific policies are achieving reform goals. More states are focusing on targeted performance measurement and have increased transparency around the measures used to track progress and results. Idaho, North Carolina, South Carolina, and South Dakota are among the states that issue regular reports documenting policy-specific outcomes.

## Policy Assessments

National JRI partners have also assessed specific policies in several states, with promising results. Studies suggest that Kentucky's mandatory reentry supervision policy contributed to a 30 percent decrease in recidivism. Missouri's earned compliance credit policy shortened supervision terms and decreased caseloads without affecting public safety. And South Dakota's expansion of presumptive probation for people convicted of low-level drug offenses contributed to a decline in prison admissions.

## **Expanding the Use of Evidence-Based Practices and Promoting Cultural Change**

In addition to the documented quantitative outcomes, JRI stakeholders consistently cite two less obvious benefits of the initiative: system-wide collaboration and a commitment to data-driven decisionmaking and evidence-based practices. Most JRI states adopted evidence-based practices as part of their reform packages, expanding problem-solving courts and implementing risk and needs assessments to guide criminal justice decisionmaking and best practices for supervision. Many stakeholders claim JRI has also contributed to a broader cultural shift toward evidence-based practice.

## **Challenges and Lessons Learned**

Despite the impressive progress made, reformers in some states have encountered barriers that limit their ability to legislate or fully implement comprehensive reform.

### **Policy Development and Legislation**

Several states faced challenges in the policy development phase. Common barriers included lack of support from key stakeholder groups, unanticipated changes in the political climate, and resistance from local jurisdictions concerned that reform would result in added costs. In some cases, these obstacles narrowed the scope of reform packages. In a handful of states, they contributed to the defeat of JRI legislation. Ultimately, these challenges underscore the importance of building and sustaining broad-based support for reform.

### **Implementation**

One of the greatest challenges for states is translating reform legislation into reality. New policies often require multiple agencies to change how they do business, and resistance is common. Educating stakeholders about reforms, securing buy-in, and changing daily practices takes time, and enthusiasm for reform can wane. States must also grapple with changes in the political climate (e.g., staff turnover or loss of administrative or legislative champions), pushback from key players such as judges or district attorneys, and aggressive efforts to undo reform provisions. In response, stakeholders have developed strategies to shore up support and push forward. Georgia is one example of how reform advocates, aided by a dedicated champion in the state's governor, can maintain support, institutionalize monitoring and oversight, and create a culture dedicated to steady progress.

## **Engaging Outside Systems and Community Perspectives in JRI**

Incorporating diverse perspectives into policy development and implementation has always been a hallmark of JRI, but states continue to expand outreach. States use feedback from mental and behavioral health experts to ensure that policy solutions effectively address unmet needs for those populations, and some JRI working groups have partnered with health departments to find new funding streams to serve justice involved people. States are also engaging more often with people directly affected by the criminal justice system, including victims of crime, formerly incarcerated people and their families, and advocates.

## **Justice Reinvestment as an Iterative Process**

A key lesson from this interim assessment is that JRI can be an iterative process, and several states have engaged with JRI multiple times. States typically return to build on successful reforms, pursue reforms that were not addressed or were rejected by legislature, or capitalize on a new and more favorable political climate.



# Introduction

In the past decade, the United States has experienced a sea change in the thinking around crime and punishment along with a concurrent, though less pronounced, shift in policy approaches to improving public safety. Criminal justice reform is now a prominent bipartisan issue, with champions on both sides of the aisle calling for “smart on crime” solutions to better respond to people who violate the law, a striking contrast with the political realities that characterized the correctional landscape for decades. An era of increasingly punitive sanctions and soaring imprisonment rates caused explosive growth in corrections budgets without commensurate improvement to public safety. Today, many jurisdictions are taking a hard look at the returns they receive on their investments in incarceration and moving toward a more broad based, evidence driven correctional strategy. A growing number of states are using data and research to expand and strengthen supervision and treatment options in the community while reserving incarceration for people convicted of serious crimes. Between 2009 and 2014, imprisonment rates declined in 30 states,<sup>1</sup> and many states have lowered their rates without experiencing increases in crime.<sup>2</sup>

Formally launched in 2010 with funding from the Bureau of Justice Assistance (BJA) and The Pew Charitable Trusts (Pew), the Justice Reinvestment Initiative (JRI) is a public-private partnership that offers states technical assistance and a structured reform process intended to reduce criminal justice costs and improve public safety. Through JRI, states analyze their criminal justice data to better understand the factors driving their corrections populations and costs and draw on research to craft evidence-based laws, policies, and practices. This report explores those outcomes and provides an update on JRI, which has been at the forefront of the nation’s criminal justice reform movement.

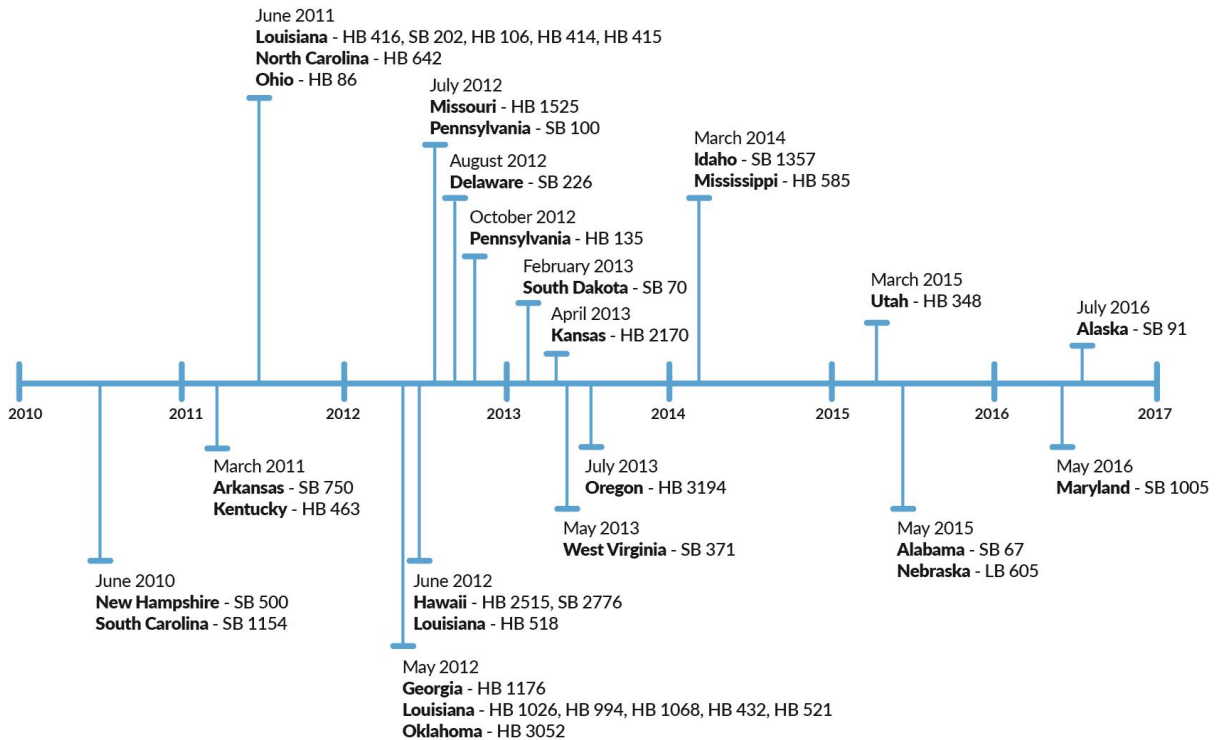
This report updates and extends the discussion presented in the *JRI State Assessment Report* released in January 2014 (La Vigne et al. 2014). It details the activities of the 28 states that formally engaged with JRI between 2010 and 2016 (see figure 1) and examines outcomes in a subset of those states.<sup>3</sup> The report begins with a brief overview of the initiative and the JRI model. It then summarizes key policy reforms JRI states have enacted in five core areas:

- amending sentencing laws
- reforming pretrial practices
- modifying prison release practices
- strengthening community corrections
- ensuring sustainability of reforms

The report then reviews JRI performance measurement efforts and outcomes and discusses system-level trends, changes in corrections populations, savings and reinvestment, and findings from rigorous policy assessments and qualitative measures. Finally, the report describes the challenges states have encountered while implementing reform and concludes with lessons learned from JRI.

FIGURE 1

**Timeline of JRI Reform Legislation Enactment**



**Note:** Four states—Indiana, Michigan, Rhode Island, and Washington—did not enact comprehensive legislation during their JRI engagement.

## The Justice Reinvestment Initiative

The justice reinvestment approach evolved as the criminal justice community embraced the use of research and evidence to guide policy and practice in response to consistently poor outcomes following decades of growth in the prison population. States were spending billions of dollars annually housing their prison populations, and recidivism rates remained high. But by the late 1990s, the evidence base for what works in rehabilitation was steadily growing. Researchers demonstrated that validated risk and needs assessments could identify people at risk of reoffending and the treatment and services that

would most effectively address their specific criminogenic risks and needs (Andrews, Bonta, and Wormith 2006; Lowenkamp, Latessa, and Holsinger 2006). This formed the core of a set of evidence-based practices that revolutionized the criminal justice community's approach to rehabilitation. Justice reinvestment built on the field's adoption of evidence-based practices and provided a new framework for reform.

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## BOX 1

### Technical Assistance Providers

Four organizations have provided phase I technical assistance: The Pew Charitable Trusts, the Council of State Governments Justice Center, the Crime and Justice Institute at Community Resources for Justice, and the Vera Institute of Justice. Pew funds its own work and joins BJA in funding phase I work done by the other three providers. BJA is the sole funder of phase II implementation work.

Several core components of JRI are consistent across states (see the JRI model in figure 2), but each technical assistance provider has developed its own approach and tailored assistance to the needs of each state. As a result, states differ in policy focus, the sequencing and frequency of working group meetings, who authors working group policy recommendations (e.g., the technical assistance provider or the working group), and whether and how they engage partners during the legislative process.

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JRI was designed to help states and localities reduce corrections costs and reinvest those savings in high-performing public safety strategies. Early efforts led by the Council of State Governments Justice Center in Connecticut, Kansas, and especially Texas showed promise. Texas, for example, averted \$523 million in prison construction and operating costs in 2008 and reinvested \$241 million in treatment and diversion programs (CSG Justice Center 2007). Congress took note of this early success and appropriated funding to BJA for JRI as part of the 2010 Omnibus Consolidated Appropriations Act. JRI launched in 2010 as a public-private partnership between BJA and Pew, two organizations that had funded earlier justice reinvestment work. The partnership and federal investment were intended to formalize efforts to fund, coordinate, assess, and disseminate information about state and local justice reinvestment efforts. Through fiscal year (FY) 2016, Congress appropriated a total of \$112.8 million to support JRI in states and localities.

The guiding principle of JRI is data-driven, consensus-based, bipartisan, and interbranch decisionmaking. Participating sites receive technical assistance in two phases to implement the justice reinvestment model. Technical assistance in phase I focuses on identifying prison population drivers,

assessing the implementation of evidence-based practices, and crafting policy solutions to control corrections costs while protecting public safety. Sites establish a bipartisan, interbranch working group, analyze data, and engage key stakeholders to develop policy solutions to address the unique drivers of their prison populations. This phase typically lasts one to two years and culminates in the passage of reform legislation, executive orders and court rules, and budget measures. States that successfully codify policy changes can apply for additional technical assistance in phase II to support implementation. Subaward funding is also available to support implementation of specific reform components. This phase usually lasts two to three years.

## The JRI Model

The JRI model (figure 2) is designed to help jurisdictions create more cost-effective criminal justice systems and reinvest their savings in high-performing public safety strategies. The model stresses the importance of using data, achieving consensus, and involving a wide array of stakeholders in the reform process. It provides a framework for JRI engagement and highlights the core components of the process, but implementation is ultimately tailored to each state.

### Engage Stakeholders

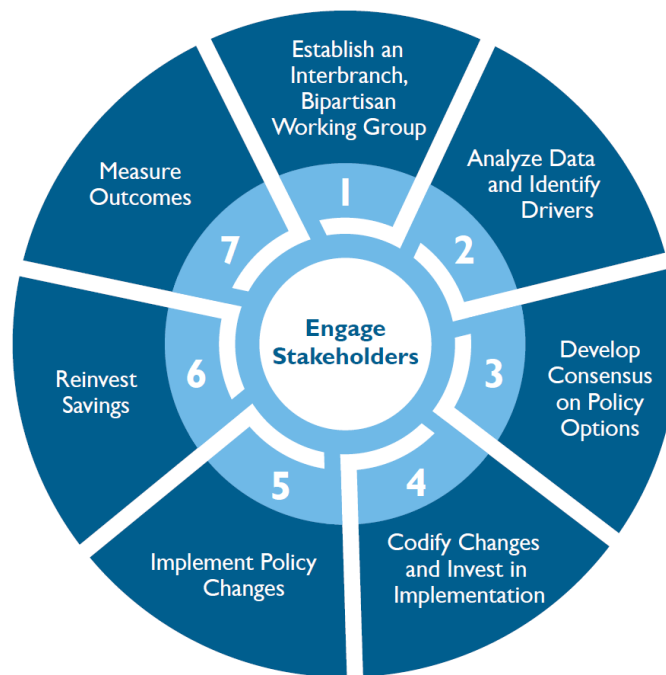
Stakeholder engagement and collaboration are central to the entire JRI process. States typically gather support for justice reinvestment through consultation and concentrated engagement efforts with the business community, service providers, law enforcement agencies, county officials, behavioral health treatment providers or agencies, community advocates, victims' advocacy groups, and other individuals and organizations. Engagement efforts include leading meetings and focus groups, delivering presentations to stakeholders, and hosting conference calls. Strategic public education can be a helpful tool, as can strong leadership by a JRI legislative or government champion or champions in the state.

### Establish an Interbranch, Bipartisan Working Group

States begin by convening an interbranch, bipartisan working group of policymakers and justice system stakeholders. This group develops a shared vision for reform, guides data analysis, encourages sharing of information, and develops a package of policy proposals to present to the state legislature.



FIGURE 2  
The JRI Model



A state may create a JRI working group by statute or appointment or charge an established criminal justice committee or commission with JRI tasks. Groups typically include, at minimum, representatives from the governor’s office, prosecutorial and defense bars, the state legislature, state and local law enforcement, state courts, and the state corrections agency. Working groups may also include nongovernment participants, such as business leaders, nonprofit service providers, private foundations, advocates, and community representatives, who offer additional viewpoints and resources.

### Analyze Data and Identify Drivers

To inform the working groups’ policy discussions, the state and its technical assistance (TA) provider comprehensively analyze state criminal justice data to determine what factors are driving corrections populations and costs. Analysts review 5–10 years of data from many sources, including case-level data on arrests and convictions, jail and prison admissions, length of stay and release data, probation and parole revocations, and outcome measures from existing programs. The analysis is supplemented by input from the working group, one-on-one meetings with key decisionmakers, and focus groups and surveys with stakeholders.

## **Develop Consensus on Policy Options**

Following the data analysis, the state or the TA provider develops data-driven policy options and experts project how those options will affect corrections populations and costs. Tailored strategies are needed to address each state's unique challenges and gain broad-based and bipartisan support. The TA provider uses these estimates, developed in consultation with or directly by stakeholders in the state, to project the cost savings the state can expect to achieve depending on which policy options the legislature approves.

## **Codify Changes and Invest in Implementation**

After developing the policy framework, the working group drafts a legislative proposal, sometimes in partnership with the TA provider. Whether the working group or commission prepares the draft bill alone or together with the TA provider and the state's legislative counsel varies by state. From this point, legislative strategies vary. In some states, negotiations occur before introducing the bill; in others, legislation is introduced and then amended. Legislative provisions may include changes to the criminal code and state agency policies and procedures, as well as requirements for reinvestment (e.g., formulas for calculating available funds) and/or actual funding appropriations. Throughout the legislative process, states may need to confront and overcome entrenched opposition by relying on the data analysis and working group efforts to maintain support for reform.

During this time, state leaders work with the TA provider to educate policymakers, stakeholders, and the general public about JRI and proposed legislation through briefings, presentations, and media outreach. Sustained and broad-based engagement is crucial to passing legislation.

## **Implement Policy Changes**

Passing legislation is a critical step, but states still need to fully implement reforms before they see the expected benefits. Public and media outreach can help build momentum as new policies roll out. BJA also provides up to \$500,000 to each state for its implementation efforts, which begin with the development of an implementation plan. Implementation plans help states during a transition period that involves developing budget priorities and crafting a scope of work to best use BJA funding. TA providers help sites organize training and stakeholder education, adopt risk and needs assessments and other tools, engage subject matter experts, and create a reinvestment strategy.

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## BOX 2

### Report Methodology

The Urban Institute (Urban) collected information for this report using three methods: (1) a document review of information from JRI states, (2) semi-structured interviews with stakeholders and TA providers, and (3) data collection from state partners. The document review drew 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. Urban conducted dozens of interviews with working group members and other key criminal justice leaders and advocates to discuss their role in JRI, their state's experience with the initiative, and the successes and challenges they encountered. Urban also interviewed TA providers about their experiences. Data on key outcomes such as prison, probation, and parole population numbers; savings; and reinvestment were collected from publicly available documents, TA providers, and stakeholders.

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### Reinvest Savings

States reinvest in their justice systems by estimating the cost savings that will be generated or averted by policy reforms and investing some of those savings in evidence-based strategies to improve public safety. Some states make up-front investments before savings are realized or create new lines of revenue to generate funds for reinvestment. Other states wait to reinvest actual savings or subsequently invest in JRI priorities.

### Measure Outcomes

The final phase of JRI is measuring outcomes. To support the accountability and sustainability of reforms, states work with TA providers to develop targeted performance metrics. These metrics help policymakers track the impact of legislation on prison populations, incarceration rates, recidivism rates, parole and probation revocations, and justice system costs after technical assistance ends. States monitor changes in these metrics and in reinvestment outcomes over time, allowing them to identify areas where justice reinvestment policies are meeting goals and to highlight opportunities for further improvement. In many states, this work is monitored by oversight councils as required by legislation.

# JRI Policy Reforms

States that have engaged in JRI have deployed many criminal justice reform strategies in an effort to achieve the greatest value from their public safety investments. These initiatives include revised penalties for drug and property offenses, amended parole eligibility standards, and improved or expanded community-based treatment programs. In the early years of the initiative, states pursuing reform through JRI focused more on the “back end” of the correctional system. Many jurisdictions crafted policies that accelerated release from prison, when appropriate, while strengthening community corrections by encouraging use of evidence-based practices in supervision, increasing program options, and limiting the use of incarceration as a penalty for revocations. Over time, states have begun to target the “front end” of the system as well by reforming pretrial and sentencing practices to reduce prison population counts and average length of stay. Each state developed and advanced a set of reforms addressing the specific factors driving its corrections populations and costs. This section provides an overview of five categories of policy solutions:

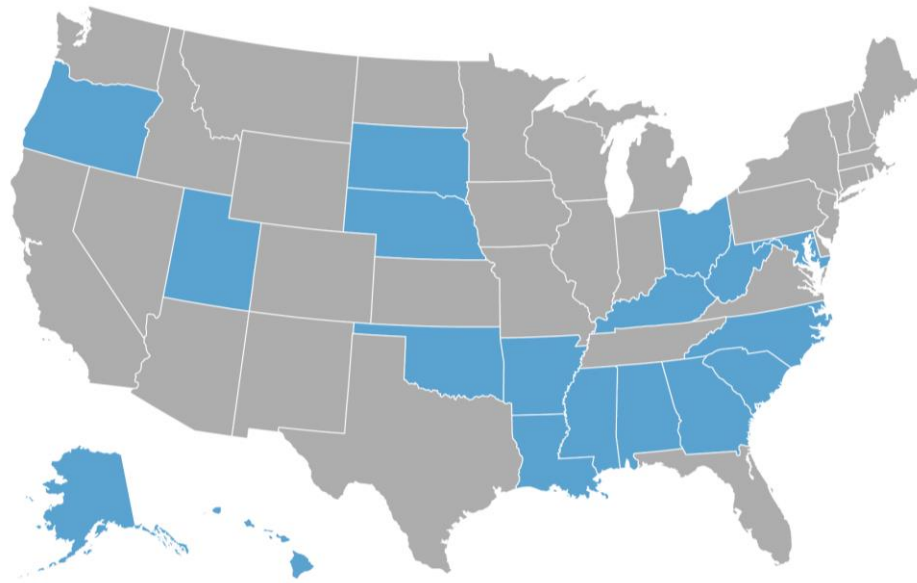
- amending sentencing laws
- reforming pretrial practices
- modifying prison release practices
- strengthening community corrections
- ensuring sustainability of reforms

## Amending Sentencing Laws

States are recognizing the impact sentencing policy has on prison population growth, and legislative packages enacted through JRI are including more changes to state sentencing laws. To date, more than half of participating states have enacted such front-end reforms, which typically address sentencing-related drivers such as the overuse of incarceration for lower-level offenses and increasing lengths of stay (figure 3).

FIGURE 3

**JRI States That Enacted Sentencing Reforms**



Alabama, Alaska, Arkansas, Georgia, Hawaii, Kentucky, Louisiana, Maryland, Mississippi, Nebraska, North Carolina, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Utah, and West Virginia

Through data analysis, many states found that their prisons held large—and growing—populations convicted of less serious offenses. In Kentucky, 25 percent of incarcerated people had been convicted of drug offenses, and about 75 percent of them were serving time for possession offenses or first-time trafficking crimes that other states often address through alternative sanctions (Pew Center on the States 2010). Similarly, almost one in three people in prison in South Dakota was incarcerated for a drug or alcohol offense (South Dakota Criminal Justice Initiative Work Group 2012).

Increased length of stay, a function of longer sentences and larger proportions of sentences served in confinement, also contributed to prison population growth (Pew Center on the States 2012). Mississippi increased sentence lengths by 28 percent between FY 2002 and FY 2012 (Pew 2014b). In Alabama, average length of stay for drug offenses had risen from 19 to 30 months (CSG Justice Center 2015). And in some states, including North Carolina and Oregon, increased lengths of stay were prompted by truth in sentencing or mandatory minimum statutes (e.g., North Carolina’s habitual felon statute and Measure 11 in Oregon).<sup>4</sup>

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### BOX 3

#### What Constitutes a JRI State?

Throughout this report, we refer to “JRI states.” JRI is a time-limited engagement, and each state that participates in the initiative has previously engaged in criminal justice policymaking and will continue to do so after its JRI engagement ends. States may also choose to participate in multiple rounds of JRI. “JRI state” is simply used as shorthand for states that have participated in the initiative and to distinguish them from states that have not. Similarly, the use of “JRI reforms” or “JRI policies” is not intended to suggest a defined set of policy reforms associated with JRI or a standard approach to reform across JRI states. In fact, the policy solutions states have crafted through JRI are more distinct than they are similar, and “JRI reforms” are simply policies developed during JRI engagement.

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## Policy Solutions

In response to these drivers, states adopted several sentencing policy changes.

### RECALIBRATING PENALTIES FOR CERTAIN OFFENSES

Through JRI, some states recalibrated the penalties associated with property, drug, or other offenses to ensure that punishment aligns with the community’s values regarding the nature and severity of the crime. For example, South Carolina, Nebraska, and Alaska raised their thresholds to qualify as felony theft from \$1,000 to \$2,000, \$500 to \$1,500, and \$750 to \$1,000, respectively.<sup>5</sup> Alaska also included a provision to make future adjustments for inflation. Similarly, some states downgraded low-level drug offenses, such as simple possession, and expanded opportunities for treatment. Others reclassified certain crimes from felonies to misdemeanors or recalibrated penalties for various drug offenses. In 2013, Utah reclassified drug possession offenses for all drug types, converting first and second convictions from felonies (with penalties of up to five years in prison) to Class A misdemeanors (with a maximum penalty of one year in jail).<sup>6</sup> Some states adjusted penalties for more serious crimes, including identify theft, burglary, commercial drug offenses, and lower-level person and violent offenses.<sup>7</sup>

### CHANGING MANDATORY MINIMUM SENTENCES OR PRESUMPTIVE SENTENCING

Several states revised mandatory minimums to allow judges to tailor sentences to each case. For example, Maryland passed legislation to repeal mandatory minimum sentences for all drug offenses (except volume dealing) that also authorized people serving a mandatory minimum drug sentence to apply for a reduction of that sentence.<sup>8</sup> Similarly, Mississippi gave judges new discretion to apply a

safety valve and sentence a person under the mandatory minimum prison term under certain circumstances when mandatory penalties for narcotics trafficking were determined to not be in the best interest of public safety.<sup>9</sup> Other states have changed presumptive sentencing for many felonies. Alaska, for example, reduced its presumptive minimum and maximum sentences for nearly all Class A, B, and C felonies that are not sex offenses.<sup>10</sup>

#### REVISING SENTENCING ENHANCEMENTS

States also revised sentencing enhancements, which allow or require a judge to impose a more punitive sentence than normal for some offenses based on circumstances surrounding the crime or the person being sentenced. Through JRI reforms, states both strengthened and limited enhancements. For example, South Carolina redefined how subsequent offenses for some drug crimes are counted, greatly decreasing the penalties for some less serious crimes while increasing penalties for more serious or violent crimes.<sup>11</sup> Other states, such as Alabama, revised the types of offenses that count toward increasing the severity of future sentences, allowing some people to avoid lengthy prison terms for lower-level offenses.<sup>12</sup>

#### CREATING OR EXPANDING ALTERNATIVE SENTENCING OPTIONS

States also expanded alternative sentencing options to allow criminal justice agencies to safely and effectively supervise more people convicted of lower-level offenses in the community. For example, Oregon, South Dakota, Nebraska, and Mississippi created or expanded presumptive probation for some crimes.<sup>13</sup> States also expanded the use of specialty or problem-solving courts, which manage cases involving drug offenses, DUIs, or military veterans. South Dakota established veterans and DUI courts and expanded its drug court capacity by almost 500 percent between FY 2011 and FY 2016.<sup>14</sup> Legislation in West Virginia mandated that drug courts be available statewide by 2016.<sup>15</sup>

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## BOX 4

### Spotlight on Success: Tackling Sentencing Reform

Through JRI, states are focusing more on the front end of the criminal justice system and legislating policy and practice changes to sentencing to get greater value from their public safety investments. Georgia and Utah adopted particularly significant sentencing reforms. Georgia, an early JRI leader, passed legislation in 2012, and Utah enacted its own comprehensive legislation in 2015.

In Georgia, data analysts found that rising costs were caused in part by the incarceration of many people convicted of low-level drug and property felonies (Special Council on Criminal Justice Reform for Georgians 2011). Seeking more cost-effective management of correctional resources, policymakers developed a package of recommendations, codified in HB 1176.<sup>a</sup> Specifically, the bill created separate degrees of burglary offenses to offer more sentencing options based on the severity of the crime. Drug offenses and property or forgery offenses sentences were reduced based on weight or amount stolen, respectively. Legislators created a graduated scale of penalties that considers factors such as the weight of the drugs possessed, the seriousness of the theft committed, or the severity of the forgery. Legislators also restricted drug possession from triggering the recidivist statute, allowing people to battle relapses without the threat of lengthy prison sentences. System-level trends suggest these reforms helped reduce the state's prison population by 3.5 percent between 2011 and 2015.<sup>b</sup> In 2015, Georgia recorded its lowest number of prison commitments (18,139) since 2002 (Georgia Council on Criminal Justice Reform 2016).

In Utah, data analysts found that 62 percent of people sentenced to state prison had been convicted of nonviolent offenses and that lengths of stay had increased by 20 percent from 2004 to 2013, driving up the prison population (Utah Commission on Criminal and Juvenile Justice 2014). Building on the precedent set by Georgia, policymakers developed a robust set of reforms that made multiple changes to sentencing policy and practice. These reforms were codified in HB 348 and signed into law in 2015.<sup>c</sup> Again following Georgia's lead, legislators opted to differentiate between lower- and higher-level crimes.<sup>d</sup> The law also required first and second convictions on third-degree felony drug possession charges be converted to misdemeanors. This change reduced sentences from a maximum of five years in prison to a maximum of just one year in jail with no time in prison. Policymakers also revised the method used to calculate criminal history scores. The state no longer "double counts" certain factors and omits factors related to crimes committed over a decade prior. Unlike Georgia, Utah instructed its sentencing commission to reduce sentencing guidelines for lower-level criminal offenses by four to six months.

<sup>a</sup> H.B. 1176, 2012 Reg. Sess. (Ga. 2012).

<sup>b</sup> "Profile of All Inmates," Georgia Department of Corrections, accessed November 7, 2016, [http://www.dcor.state.ga.us/Research/Monthly\\_Profile\\_all\\_inmates](http://www.dcor.state.ga.us/Research/Monthly_Profile_all_inmates).

<sup>c</sup> H.B. 348, 2015 Gen. Sess. (Utah 2015).

<sup>d</sup> Ibid.

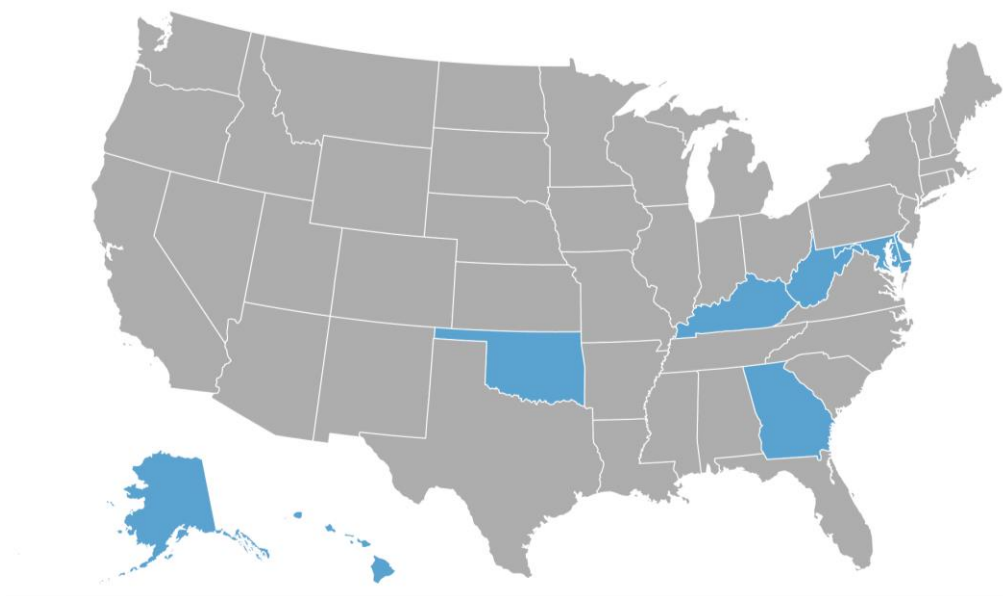


## Reforming Pretrial Practices

States are also focusing their attention on pretrial policies and practices that affect people between the time of their arrest and their case disposition (figure 4). This interest is fueled in part by growing jail populations—specifically pretrial populations—nationwide. Research demonstrates that people kept in custody prior to trial are more likely to be convicted and receive longer sentences than those who are not detained (Revicki, Brooks, and Bechtel 2015). Studies have also documented the negative effects of pretrial detention on public safety outcomes. In addition, pretrial detention disproportionately affects the poor; people with higher incomes, even high-risk individuals, can usually afford to pay monetary bail while those with lower incomes remain confined in jail. From both a cost-benefit and public safety perspective, reducing pretrial population growth has become a primary concern for many states.

FIGURE 4

### JRI States That Enacted Pretrial Reforms



Alaska, Delaware, Georgia, Hawaii, Kentucky, Maryland, Oklahoma, and West Virginia

Many factors fuel pretrial population growth, but the most common explanations include the absence of pretrial risk assessments to inform release decisions, delays in case processing, and reliance on a monetary bail system that gives more weight to income levels than to objective assessments of risk. These dynamics have created a nationwide context in which limited jail space is often filled by people posing a low public safety risk who might be better served by community supervision and service referrals or by no intervention at all. Before JRI reforms in Delaware, nearly a quarter of the prison

population was awaiting trial, and many of these people posed a low risk of failing to appear. Similarly, Alaska's pretrial population grew by 81 percent from 2005 to 2014, and its courts lacked the pretrial risk assessment tools to inform decisionmaking (Alaska Criminal Justice Commission 2015).

## Policy Solutions

States adopted several reforms to reduce their pretrial populations.

### IMPLEMENTING PRETRIAL RISK ASSESSMENTS

To ensure that pretrial detention is reserved for people at high risk of committing a crime before trial or failing to appear in court, many states now use validated pretrial risk assessment tools. For example, Delaware now requires a risk assessment and created a pretrial praxis to guide bail decisionmaking. Courts must state in writing any reasons for overriding risk assessment recommendations for pretrial release or a nondetention alternative.<sup>17</sup> Hawaii and West Virginia now require use of an objective risk assessment tool within three days of admission to jail to inform pretrial detention and release decisions.<sup>18</sup>

### IMPROVING PRETRIAL SUPERVISION PRACTICES

Some states also adopted reforms to implement best practices in pretrial supervision. These practices include creating a separate pretrial services program to oversee supervision; using telephone calls, reminder texts, and office visits to increase trial appearance rates; limiting oversight of low-risk individuals; and expanding court-ordered conditions of supervision such as electronic monitoring or substance use testing. Alaska mandated its Department of Corrections establish a pretrial services program to conduct risk assessments, make recommendations regarding release suitability and conditions, and reserve more restrictive supervision for people assessed as high risk or who face more serious charges. Per SB 91, the pretrial services office must impose the least restrictive level of supervision necessary to reasonably ensure court appearance and public safety.<sup>19</sup>

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## BOX 5

### Spotlight on Success: Overhauling Pretrial Systems

Kentucky and Alaska used JRI engagement to overhaul their pretrial systems, introducing reforms intended to ensure risk-based decisionmaking and appropriate pretrial supervision and reduce reliance on monetary bonds. But Alaska's approach was much more comprehensive and has more potential to significantly decrease the state's pretrial population.

Kentucky enacted legislation in 2011 intended to reform the state's pretrial system by formally defining pretrial risk assessment, implementing a validated assessment tool, requiring low-risk defendants be released on their own recognizance or with an unsecured bond, adopting the same guidelines for moderate-risk defendants with the possibility of additional supervision, setting maximum bail amounts, and granting eligibility for deferred prosecution to people charged with certain felony drug possession crimes (Klute and Heyerly 2012). Early indications suggest this approach resulted in expedited release for some people. In the first year after implementation of HB 463, the state saw a 5 percent increase in its pretrial release rate, representing an additional 11,000 defendants. Results were more significant when examining the relationship between pretrial release, risk level, and a defendant's ability to pay bail. In the first year of implementation, the nonfinancial release rate increased from 50 to 60 percent, the low-risk release rate increased from 76 to 85 percent, and the moderate-risk release rate increased from 59 to 67 percent. At the same time, court appearance rates increased slightly and recidivism declined slightly from the previous year (Heyerly 2013).

This approach was adopted and expanded by Alaska, which passed justice reinvestment legislation in 2016. From 2005 to 2014, Alaska experienced an 81 percent growth in its pretrial population that contributed significantly to its prison population growth and rising costs. In addition to creating a pretrial services program, Alaska's SB 91 placed hard limits on its courts' authority to order secured monetary bonds, limited the use of the state's most restrictive release conditions, (e.g., third-party custodians and electronic monitoring), and required the court system to issue hearing reminders to people released before trial. SB 91 also reformed the state's bail process by requiring that release decisions be based on risk, not ability to post monetary bond, and expanded use of discretionary cite-and-release strategies by law enforcement. It is too early to evaluate the effects of Alaska's JRI legislation, but the state's full package of reforms is projected to reduce the average daily prison and jail population by 13 percent over seven years.<sup>3</sup> The state's approach illustrates the evolution of pretrial reforms in JRI states: Delaware and Kentucky were successful in passing early, smaller-scale pretrial reforms, and Alaska, several years later, used the initiative to completely overhaul its pretrial system and greatly reduce its pretrial population.

<sup>3</sup> S.B. 91, 29th Leg., 1st Sess. (Alaska 2016).

## REDUCING RELIANCE ON MONETARY BONDS

Pretrial detention disproportionately affects lower-income people who cannot afford bail, and states are using several strategies to reduce this disparity. A common tactic is to develop risk-based detention guidelines to ensure that a defendant's release is conditional on risk level and not financial status.

Kentucky's House Bill (HB) 463 required that low-risk defendants be released on their own recognizance with an unsecured bond and that moderate-risk defendants be released with the same condition but with additional supervision options. In cases where individuals could not be released on their own recognizance, the bill set maximum bail amounts and established bail credits for people arrested for nonviolent offenses (Klute and Heyerly 2012). JRI legislation in Alaska explicitly prohibited the use of monetary bond for people arrested for nonviolent offenses and at low risk of failing to appear.

## ISSUING CITATIONS IN LIEU OF ARREST

States also began issuing citations in lieu of making arrests, most often in cases of lower-level offenses. Rather than arresting a person and booking them into jail, a police officer will issue a citation with details of that person's court date. Kentucky and Alaska included cite-and-release strategies in their legislative packages. Kentucky's reforms mandate citations for all misdemeanors except misdemeanor assault, sexual abuse, possession of a concealed weapon, DUI, violation of protective order, refusal to follow officer's orders, or danger to self or others.<sup>20</sup> Alaska's reforms expand officers' discretion to issue citations for nonviolent Class C felonies.<sup>21</sup>

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## BOX 6

### Scope and Scale of Reform Packages

Looking at policy reforms in specific areas across states obscures the scope and scale of JRI reform packages. In fact, there is significant variation among states. Some have taken a targeted approach and addressed specific policy areas; others have enacted more comprehensive packages that target as many as 20 different policy areas. Despite shared objectives, a state's policy solutions are ultimately derived from the drivers of population growth and informed by its unique political landscape.

Some states targeted reforms to specific populations and cost drivers by making changes to a smaller set of policy areas. For example, legislation in Pennsylvania and Missouri focused on strengthening community corrections and expanding the use of evidence-based supervision practices. Other states such as Mississippi, Utah, Nebraska, and Alabama took a more diversified approach, aiming to comprehensively address challenges across multiple policy areas.

Mississippi's legislation amended sentencing laws, expedited parole release from prison, strengthened community corrections, and included several provisions to ensure sustainability. HB 585 reduced penalties for lower-level drug and property offenses and let judges deviate from certain mandatory minimum penalties. It also implemented presumptive probation for certain lower-level offenses, empowered probation and parole officers to respond to violations of supervision with swift, certain, and proportional sanctions, and implemented an earned discharge program. The legislation also created an oversight council to monitor reforms, requiring future corrections and sentencing legislation to include a 10-year fiscal impact statement and mandating annual reports on performance measures from the Department of Corrections, Office of the Courts, and Parole Board.

Nebraska took a similar approach, amending sentencing laws, significantly expanding the use of community supervision, introducing a risk assessment tool, and creating sustainability measures. LB 605 increased felony thresholds for property offenses, reclassified felonies to distinguish nonviolent, nonsexual offenses, and reinvested \$12 million to strengthen community supervision. It also improved probation and parole supervision by requiring the use of intermediate sanctions and incentives to encourage compliance, authorizing short periods of incarceration for certain violations in lieu of revocation, and prioritizing resources for people most likely to reoffend.

The diversity demonstrated across states highlights how JRI is a state-specific and state-driven effort. Comprehensive and targeted reforms have both demonstrated promise in achieving reform goals.

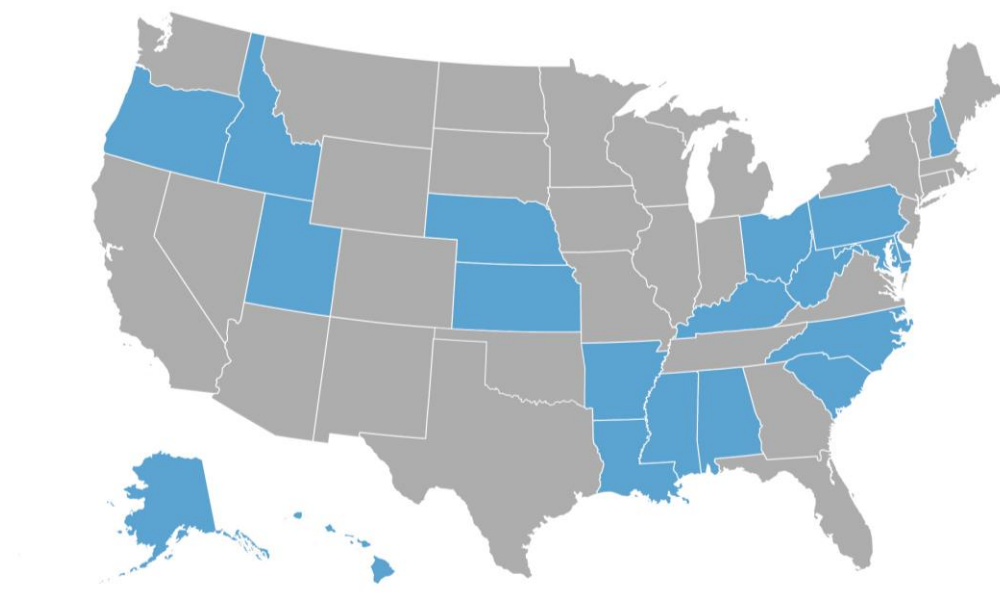
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## Modifying Prison Release Practices

Another common target for reform is the collection of back-end policies and practices that restrict the prison release valve (figure 5). Prison populations are driven by two key variables: the number of people admitted and their length of stay. Through JRI data analysis, many states found that average length of stay had gradually increased over time, driving growth in their standing prison populations. Length of stay is determined by the length of a person’s original sentence and the proportion of that sentence they serve in prison. Understanding the causes of longer prison stays has helped states seeking to prioritize expensive prison space for people convicted of serious offenses with higher risk of recidivism.

FIGURE 5

### JRI States That Modified Prison Release Policies



Alabama, Alaska, Arkansas, Delaware, Hawaii, Idaho, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Nebraska, New Hampshire, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Utah, and West Virginia

In many states, the rise in average length of stay was caused by falling parole grant rates and long delays in releasing people whose parole eligibility dates had passed. Two main factors were associated with these trends.

System-wide inefficiencies slowed processing of parole paperwork and delayed the transfer of eligible candidates from prison to parole supervision. In Maryland, JRI data analysis revealed that individuals eventually released on parole served an average of nine months beyond their eligibility dates (Justice Reinvestment Coordinating Council 2015). A review of Alaska Department of

Corrections files showed that few people eligible for parole applied for a hearing, likely because of the cumbersome application process (Alaska Criminal Justice Commission 2015).

JRI data analysis also identified a decline in discretionary releases by parole review boards. In Louisiana, the parole grant rate declined 56 percent between 2000 and 2009 and was highlighted as one of three main drivers of the state's rising prison population.<sup>22</sup> Hawaii's prison population also grew because of declining release rates, with parole grant rates declining from 40 to 34 percent between FY 2006 and FY 2010.<sup>23</sup>

## Policy Solutions

To remedy back-end problems, states used several strategies to amend their prison release policies and reserve incarceration—the most expensive sentencing option—for people at high risk of recidivism or convicted of serious offenses.

### CHANGING PAROLE ELIGIBILITY

Some states made more types of offenses eligible for parole and/or reduced time-served requirements for parole eligibility. For example, Alaska's Senate Bill (SB) 91 expanded discretionary parole to nearly all people in prison not convicted of a Class A or unclassified sex offenses or first-degree murder.<sup>24</sup> Under Louisiana's HB 1026, passed in 2012, people convicted of a second nonviolent offense become eligible for parole after serving just 33 percent of their sentence (previously 50 percent).<sup>25</sup>

### ESTABLISHING OR EXPANDING GERIATRIC OR MEDICAL PAROLE

Through JRI, states also created new policies to promote release for older or unwell people. For example, Mississippi enacted a geriatric parole provision that automatically grants parole hearings to certain people age 60 or older who had served at least 10 years in prison.<sup>26</sup> South Carolina's JRI legislation, SB 1154, stated that people could become eligible for release if the parole board deemed them "terminally ill" or "permanently incapacitated" or if they were age 70 or older.<sup>27</sup> Arkansas expanded medical parole eligibility to include not just the terminally ill but also those deemed "permanently incapacitated."<sup>28</sup>

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## BOX 7

### Spotlight on Success: Tackling Parole Reform in 2014

In 2014, both Mississippi and Idaho enacted parole reform. Mississippi adopted multiple policy reforms to expedite prison release after JRI data analysis concluded that a key factor driving prison population growth was a 17 percent increase in time served between FY 2002 and FY 2012 (Mississippi Corrections and Criminal Justice Task Force 2013). Previously adopted earned time and early release policies helped reduce the average amount of a sentence served in prison by 22 percent, but this decline was offset by increasingly longer sentences (Mississippi Corrections and Criminal Justice Task Force 2013). In 2014, the state expanded parole eligibility to people with sentencing enhancements for certain offenses, such as the sale of controlled substances near schools.<sup>a</sup> New laws also established administrative parole for people convicted of nonviolent offenses, effectively streamlining release once they had served 25 percent of their sentences (barring noncompliance with their case plans or institutional rules); implemented geriatric parole; and automated parole hearings for those who have served 10 years, were convicted of a nonviolent offense, and are age 60 or older. Finally, Mississippi's JRI legislation included a retroactive provision enabling people convicted of nonviolent offenses and previously ineligible for parole to petition for eligibility after serving 25 percent of their sentence.<sup>b</sup>

That same year, Idaho reformed its parole policies and fundamentally restructured its prison release decisionmaking process. SB 1357 required the use of risk assessments with all people being considered for parole, grounding release decisions in data. The law also gave priority to people who demonstrated a low risk of reoffending.<sup>c</sup> The Commissions of Pardons and Parole established new guidelines to reduce the amount of time served in prison for drug or property offenses (CSG Justice Center 2014a). The guidelines take into account any programming completed while in prison, the severity of the offense, and the person's risk level as determined by a risk assessment, then recommends how much of the sentence should be served. The success of this reform strategy hinges on its implementation, and Idaho has made strides so far, aided by the commitment of commission leadership.<sup>d</sup> The state has trained commissioners and institutional hearing officers on the guidelines and the research behind risk assessments.<sup>e</sup> Idaho also automated its decisionmaking guidelines and improved its data collection and publishing process. Idaho now publishes monthly reports that include overall parole grant rates and grant rates by crime type. These reports should help policymakers assess the effectiveness of reform and decide if more changes are needed. Idaho also trained 200 parole officers in evidence-based supervision practices, risk and needs assessments, and the graduated response matrix for violations of supervision conditions.

<sup>a</sup> H.B. 585, 2014 Reg. Sess. (Miss. 2014).

<sup>b</sup> Ibid.

<sup>c</sup> S.B. 1357, 62nd Leg., 2nd Reg. Sess. (Idaho 2014).

<sup>d</sup> Communication with the Council of State Governments Justice Center, September 2016.

<sup>e</sup> Ibid.



## USING RISK ASSESSMENT AND STRUCTURED GUIDELINES TO DRIVE PAROLE DECISIONS

To improve the objectivity and consistency of their parole grant processes, states revised policies to ensure that data guide release decisions. Most changes focused on the use of risk and needs assessments to guide decisionmaking, but many states also developed detailed guidelines for parole boards. In Alabama, SB 67 required the Board of Pardons and Paroles to develop guidelines that are actuarially based, reviewed every three years, and subject to public comment.<sup>29</sup> Idaho similarly required that risk assessments be conducted when people are considered for parole and that parole boards prioritize people determined to pose a lower risk of reoffending.<sup>30</sup> South Carolina, Nebraska, Hawaii, and Arkansas also required their parole boards to use validated risk and needs assessments to guide parole-granting decisions.<sup>31</sup> Idaho went one step further and now requires its Department of Correction to validate its risk assessment tools every five years, in consultation with the Commission of Pardons and Parole, and to ensure that assessment results guide parole decisions.<sup>32</sup>

## IMPROVING PAROLE ADMINISTRATIVE PROCESSES

States also streamlined administrative parole processes to improve the timeliness of parole reviews and expedite the release of people granted parole. For example, Kentucky addressed these issues by requiring its parole board to hear cases at least 60 days before a person's parole eligibility date. HB 463 also capped the maximum time allowed between parole hearings after a review found that people denied parole were often required to wait a significant amount of time for their next hearing.<sup>33</sup> Similarly, Arkansas's SB 750 required that case review begin six months before the eligibility date.<sup>34</sup> Mississippi, Maryland, and Alaska all established administrative parole provisions that presumptively grant parole for certain people.<sup>35</sup>

## EXPANDING AVAILABILITY OF EARNED TIME CREDITS

Some states also changed to their earned credit policies, which give people in prison a chance to earn time off of their sentences through good behavior (e.g., complying with disciplinary rules) or participating in programs. For example, Utah's HB 348 granted at least four months of earned time credit to people who complete the top-ranked priority program in their case plan and at least four additional months for finishing a second recommended program.<sup>36</sup> Louisiana and Delaware also increased the amount of earned time they offer, and Maryland expanded eligibility for earned time credits to people convicted of certain controlled substance offenses.<sup>37</sup>

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## BOX 8

### Sharing Strategies for Comprehensive, Statewide Juvenile Justice Reform

Recognizing the success of the justice reinvestment strategy in adult criminal justice systems, states are beginning to adopt a similar approach in their juvenile justice systems. These efforts come amid rising nationwide concern over the high cost and low return on investment of out-of-home placement for youth. In many jurisdictions, large numbers of youth are incarcerated for minor offenses, such as truancy, and outcomes for these youth are typically poor. There is no national recidivism rate for youth (Sickmund and Puzzanchera 2014), and, though findings vary widely, some studies show that more than half of youth placed out of home reoffend within the first three years (Annie E. Casey Foundation 2011). Most experts agree that community-based alternatives are less costly for youth at low or moderate risk of reoffending and produce equal or better outcomes (Pew 2015a).

Over the past four years, with assistance from Pew, the Crime and Justice Institute, and the US Department of Justice Office of Juvenile Justice and Delinquency Prevention, Georgia, Hawaii, Kansas, Kentucky, South Dakota, and West Virginia used justice reinvestment to implement comprehensive, statewide juvenile justice system reform. Their approaches varied, but each state sought to shift focus away from out-of-home placements, reserving that option for youth deemed to pose a public safety risk, while improving and expanding evidence-based community programs and services. These reforms are expected to reduce the number of youth in out-of-home placement, decrease recidivism, and improve public safety while averting millions in annual costs that can be reinvested in proven strategies.

The Office of Juvenile Justice and Delinquency Prevention is using JRI funding to help these states with training and technical assistance provided by the Crime and Justice Institute under the Smart on Juvenile Justice: A Comprehensive Strategy to Juvenile Justice Reform initiative, which supports state efforts to implement system-wide juvenile justice policies, reduce reoffending, ensure positive outcomes for youth, and end racial and ethnic disparities. The initiative emphasizes developmentally appropriate, trauma-informed, evidence-based programs, policies, and practices. Training and technical assistance includes supporting local and state planning efforts; educating staff and stakeholders about recently enacted reforms; developing and implementing training on evidence-based practice and reform principles; supporting the implementation of structured decisionmaking tools and risk and needs assessments; and helping states organize and deliver performance measurements.

Early indications are promising. Georgia, the first state to join the initiative, developed a performance incentive funding structure and implemented a validated assessment instrument to help place youth in appropriate settings based on their risk level and needs. Between 2013 and 2015, Georgia has seen a 33 percent drop in commitments to its Department of Juvenile Justice, a 17 percent decrease in its facility population, and a 51 percent decrease in youth awaiting placement. The reduced population allowed the state to close two detention centers and one Youth Development Campus. Georgia has invested more than \$7 million in community-based alternatives (Georgia Council on Criminal Justice Reform 2016).

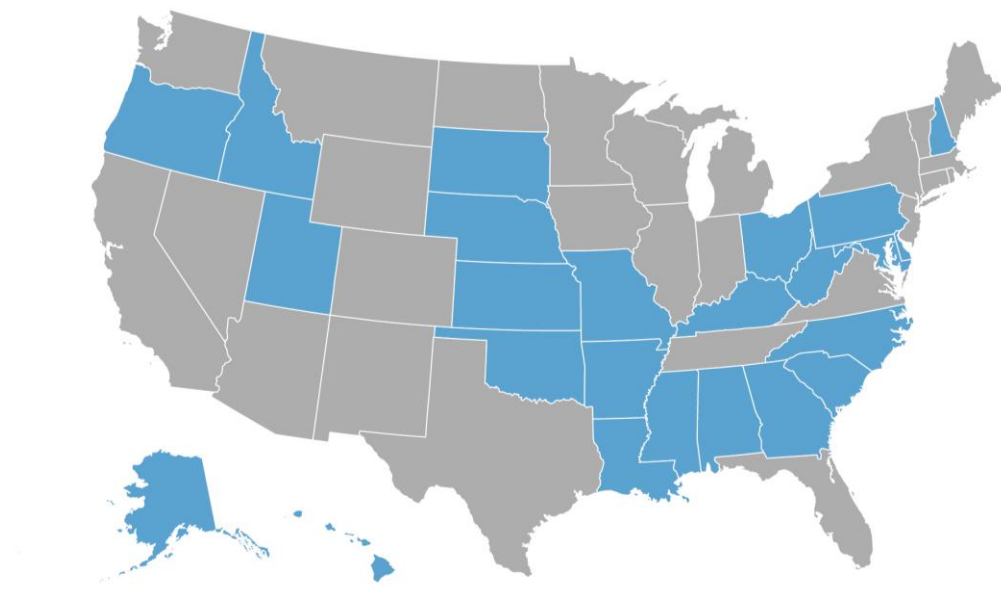
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# Strengthening Community Corrections

Community corrections encompasses the many sanctions and services used to manage people sentenced to a community alternative to incarceration or subject to a period of community supervision after their release from prison. Research shows that many people convicted of nonviolent crimes can be safely managed in the community and that programming and services delivered in the community and tailored to a person’s specific criminogenic risks and needs can reduce recidivism and promote better outcomes (Andrews, Bonta, and Wormith 2006; Lowenkamp, Latessa, and Holsinger 2006). In response, many states have focused their JRI reform efforts on strengthening community corrections to both fortify supervision and better support people returning to their communities (figure 6).

FIGURE 6

## JRI States That Enacted Community Supervision Reforms



Alabama, Alaska, Arkansas, Delaware, Georgia, Hawaii, Idaho, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Nebraska, New Hampshire, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Utah, and West Virginia

Two key forces have shaped these reforms. First, almost every participating state found that parole and probation revocations resulting in jail and prison time were spurring incarcerated population growth. In Michigan, supervision violations made up almost 60 percent of the state’s prison admissions at a cost of over \$300 million annually (McClellan et al. 2014). A substantial portion of revocations in many states were for technical violations, often involving alcohol and drug infractions. In Alaska, the

number of people incarcerated after a parole or probation revocation for a technical violation grew 32 percent in the decade before JRI reform (Alaska Criminal Justice Commission 2015).

JRI data analyses in most states also revealed problems surrounding the delivery of community supervision, programming, and services. States reported that many people in prison were “maxing out” their sentences behind bars and given no oversight after release. In Nebraska, for example, one-third of all releases from prison before JRI reform were mandatory discharges.<sup>38</sup> States also struggled with insufficient resource investment in community supervision and programming and inefficient use of those limited funds. Alabama’s Prison Reform Task Force found that many people under community supervision who were labeled “high risk” did not receive adequate supervision or treatment (CSG Justice Center 2015a). Moreover, Alaska’s Criminal Justice Commission found disparities in the availability of treatment programs across the state, which limited access for people who needed them (Alaska Criminal Justice Commission 2015). In West Virginia, the state’s spending on treatment for substance use disorders largely focused on the incarcerated population, with no funds allocated to the probation or parole populations. The lack of funding may have created an incentive to sentence people with treatment needs to incarceration rather than community-based sanctions (CSG Justice Center 2014c).

## Policy Solutions

JRI has been an effective vehicle for community corrections reform in many states, which have adopted a range of policy solutions:

### MANDATING AND STRENGTHENING REENTRY SUPERVISION

Though findings are mixed, some research suggests that people who are supervised in the community following release are less likely to recidivate than those who spend their entire sentences behind bars (Pew 2014a). As a result, some states now mandate postrelease community supervision. For example, Kentucky’s HB 463 mandated supervision for all people released from prison and carved that time out of prison for most of them.<sup>39</sup> It requires that people who are not paroled either be released to supervision six months before the end of their sentence or serve an additional year of postrelease supervision, depending on the nature of their crime and other factors.<sup>40</sup> A Pew analysis revealed that HB 463 reduced recidivism and resulted in significant savings.<sup>41</sup> Nebraska also created a period of mandatory postrelease supervision for low-level felony convictions and recommended at least nine months of parole supervision for people convicted of the most serious felonies.<sup>42</sup>

## REQUIRING OR IMPROVING RISK AND NEEDS ASSESSMENTS

Many states reformed laws and policies regarding the use of risk and needs assessments to guide supervision decisions, especially in matching the intensity of supervision, programming, and services to individual needs. North Carolina implemented a risk assessment tool to adjust the intensity of supervision for people on probation.<sup>43</sup> New Hampshire passed similar legislation requiring risk assessments for anyone placed on probation or parole.<sup>44</sup> Many states also invested in additional supervision officers and authorized administrative supervision of low-risk individuals to reduce caseloads and use resources more effectively. Kentucky established presumptive administrative supervision programs, pending completion of case plan requirements, for people convicted of low-level offenses.<sup>45</sup> North Carolina passed JRI legislation in 2011 and has since added 175 probation and parole officers (CSG Justice Center 2014b).

## IMPROVING AND EXPANDING COMMUNITY-BASED TREATMENT AND SERVICES

Most states invested or reinvested additional funds to expand community-based treatment and services and to improve existing programming for substance use, mental disorders, and related issues. Idaho passed legislation in 2014 that gave its Department of Corrections the resources to train parole and probation officers in evidence-based practices, including those related to treating substance use disorders.<sup>46</sup> The state also required the agency to conduct a gap analysis on available services at regular intervals to highlight the needs of the supervised population.<sup>47</sup> JRI legislation in Utah directed the Division of Substance Abuse and Mental Health within its Department of Human Services to create standards for the treatment of people involved with the criminal justice system and establish a certification for providers serving that community. Utah also required its Department of Corrections to create standards of treatment for people convicted of sex offenses and a process for certifying treatment providers.<sup>48</sup>

## IMPLEMENTING INTERMEDIATE RESPONSES TO SUPERVISION VIOLATIONS

Multiple states established intermediate responses to supervision violations, such as short jail or prison stays in lieu of full revocation, that ensure sanctions are more proportionate to the severity of the violation and any history of violations. Some states authorized probation and parole officers to impose intermediate sanctions. North Carolina provided supervision officers with the tools to respond to violations quickly, including administrative sanctions, additional electronic monitoring requirements, and placement in mental or substance use disorder programming.<sup>49</sup> Other states required supervision agencies to impose intermediate sanctions before resorting to revocation. Utah, for example, directed its Sentencing Commission to establish a system of intermediate sanctions and incentives and required

its Department of Corrections and Board of Pardons and Parole to use them.<sup>50</sup> Idaho also required its state board of corrections to establish a matrix of intermediate sanctions and rewards to guide responses to supervision violations.<sup>51</sup>

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## BOX 9

### **Spotlight on Success: Strengthening Community Supervision in North Carolina**

In 2011, the state of North Carolina adopted sweeping sentencing and corrections reforms with HB 642, the Justice Reinvestment Act.<sup>a</sup> During the fact-finding phase of JRI, the state's working group identified concerns surrounding community supervision policies and practices. The group identified probation revocations as a major factor driving prison population growth, accounting for more than half of admissions in 2010. Further, more than 75 percent of admissions for revocations were for technical violations and not new crimes (CSG Justice Center 2011). The JRI analysis also found that assignment of intensive supervision was inconsistent and did not reflect the risk level of individuals and treatment resources were allocated ineffectively (CSG Justice Center 2011). Finally, 85 percent of people released from prison were not receiving community supervision (CSG Justice Center 2011).

HB 642 put in place a comprehensive set of reforms to strengthen community supervision. The law made postrelease supervision mandatory for all people convicted of a felony. It also revised penalties for supervision violations and gave probation officers a wider range of intermediate sanctions to address noncompliant behavior. The law also capped incarceration for certain probation violations to 90 days.<sup>b</sup> To use resources more efficiently, the law prioritized program eligibility according to a person's risk and needs and expanded funding for community-based corrections and treatment programming.<sup>c</sup>

Results in North Carolina are promising. The state's prison population dropped almost 10 percent between 2011 and 2015, and revocations to prison declined 65 percent (NCDPS 2016). The decrease in the prison population allowed the state to close 11 prisons since the bill's passage, savings millions of dollars in averted costs and opening the door for significant reinvestment (NCDPS 2016).

<sup>a</sup> H.B. 642, 2011 Gen. Assemb. (N.C. 2011).

<sup>b</sup> Ibid.

<sup>c</sup> Ibid.

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## ESTABLISHING OR EXPANDING EARNED DISCHARGE FROM PROBATION OR PAROLE

Through JRI, many states reformed their policies to reward compliance with supervision requirements through earned discharge. In Oregon, HB 3194 created a program that allows people on probation to reduce their supervision terms by 50 percent by complying with requirements and participating in programming.<sup>52</sup> Mississippi, Arkansas, and Missouri instituted similar programs that grant earned time

for meeting certain conditions.<sup>53</sup> A Pew analysis found that more than 36,000 people on probation or parole in Missouri reduced their supervision terms by an average of 14 months in the first three years of the program without negatively affecting public safety (Pew 2016).

### CAP REVOCATION TIME

Some states also implemented a cap on how much time a person can serve when supervision is revoked and they are sent to prison. In 2014, Mississippi passed HB 585, which included a provision to cap incarceration at 90 days for the first technical revocation and at 120 and 180 days for the second and third, respectively.<sup>54</sup> The law also set up technical violator centers for people whose community supervision is revoked for technical violations.<sup>55</sup> Idaho and Oklahoma passed similar limits on how long a person can be confined for revocation because of a technical violation.<sup>56</sup> Alaska imposed the shortest cap, limiting prison time to just 3 days for the first technical revocation, 5 days for the second, and 10 days for the third.<sup>57</sup>

## Ensuring Sustainability

Developing and passing JRI legislation requires an enormous commitment from lawmakers and the criminal justice community, but adopting reforms is only the beginning. To ensure system improvements deliver their full potential, policymakers and stakeholders must provide consistent oversight and monitor success over time. Change is often a slow process, and initial enthusiasm for reforms may waver over time. Legislatures and the public may expect immediate results and may drop support for justice reinvestment when those results are not realized right away.

Many states recognize this and also understand the importance of including oversight and sustainability initiatives, such as fiscal impact statements, data collection and reporting requirements on key performance metrics, and oversight councils, in JRI reform packages. Oversight efforts allow stakeholders and lawmakers to establish measurable performance goals and track progress as reforms take hold. Below are some strategies states have employed to ensure sustainability of their JRI reforms.

### FISCAL IMPACT STATEMENTS

Comprehensive fiscal impact statements can help ensure that costs are a central part of the discussion surrounding legislation by requiring transparency about the effect proposed initiatives might have on the state budget.<sup>58</sup> Mississippi's JRI legislation required future proposals that could impact the prison population to include a fiscal impact statement summarizing the projected cost to the state.<sup>59</sup> Similarly,

South Carolina's SB 1154, known as the Omnibus Crime Reduction and Sentencing Reform Act, mandated fiscal impact statements for legislation that creates or amends a criminal offense.<sup>60</sup>

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## BOX 10

### Spotlight on Success: Oversight and Sustainability in South Carolina

With the passage of SB 1154, South Carolina enacted a comprehensive package of provisions aimed at ensuring the effective implementation and sustainability of JRI reforms. The state was among the first to adopt strong requirements for oversight, data collection, performance measurement, and fiscal impact evaluations.<sup>a</sup>

South Carolina was also the first JRI state to formally establish an oversight body to supervise policy implementation, review data, and report its findings to state officials. Each year since the implementation of SB 1154, the Sentencing Reform Oversight Committee has released a report on the status of the state's criminal justice system (The South Carolina Sentencing Reform Oversight Committee 2013, 2014, 2015). The council is also charged with calculating partial savings of state expenditures resulting from JRI reforms, reporting these savings to state officials, and making recommendations for reinvestment.

SB 1154 also mandated the reporting of criminal justice statistics. The Department of Probation, Parole and Pardon Services is required to collect data on administrative sanctions imposed on people on supervision, and the Office of Pretrial Intervention Coordinator must collect data on pretrial diversion programs. These data are provided to the Oversight Committee, which incorporates the information into its reports and recommendations.

Evaluating the impact of reform is an ongoing priority in South Carolina, and external researchers have provided technical expertise to help state government entities conduct these evaluations. To generate estimates of the state expenditures avoided through reform efforts, the Oversight Committee obtained research support from the Vera Institute of Justice. The Vera Institute developed a methodology that can be used in future years to calculate expenditure savings based on data from the Department of Corrections and the Department of Probation, Parole and Pardon Services. In addition, a regional development economist at Clemson University prepared a report estimating the economic impact of Sentencing Reform Act initiatives and concluded that reforms contributed to the creation of 982 new jobs and a \$37 million increase in the state's gross product (Hughes 2014).

<sup>a</sup> S.B. 1154, 2010, 118th Sess. (S.C. 2010).

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## BOX 11

### JRI: Maximizing State Reforms, 2014

In 2014, the Bureau of Justice Assistance launched the JRI: Maximizing State Reforms grant program to help JRI states cement the sustainability of their efforts or fill identified gaps in implementation. Grants awarded a maximum of \$1.75 million over three years and, unlike phase II JRI funding, were made directly to the states. Five awards were made in 2014, three in 2015, and four in 2016. States receiving grants are also eligible for technical assistance through BJA's National Training and Technical Assistance Center and, as of FY 2016, the Center for Effective Public Policy and the University of Cincinnati Corrections Institute.

Maximizing State Reforms grant funding helps states implement policies or follow policy recommendations developed during JRI. Grants have been used to fund expansions of prison reentry programs and develop risk and needs assessments, prison diversion programs, and data systems infrastructure. A few states have used the funding to focus on one initiative, but most used their award to pursue multiple projects.

2014 grantees and activities:

- **Delaware.** Validating the Delaware pretrial risk assessment tool and expanding pretrial release options, including piloting the use of kiosks for pretrial supervision and purchasing electronic monitoring equipment for people under supervision.
- **Georgia.** Enhancing the Prisoner Reentry Initiative by hiring seven additional in-reach specialists to meet with eligible participants before release and develop reentry case plans.
- **Louisiana.** Developing a criminogenic risk-needs-responsivity tool and integrating it into the state's data management system. Adding a new reentry program and day reporting center for those on community supervision.
- **Oregon.** Expanding a prison diversion program, which includes treatment and enhanced supervision for people who agree to plead guilty to a property offense and have a substance abuse disorder, to two additional counties.
- **Ohio.** Creating a centralized repository for all local and state probation agency data to fill an information gap highlighted during the JRI process and inform state and local decisionmaking regarding treatment and program services for people on supervision.

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## BOX 12

### JRI: Maximizing State Reforms, 2015–16

2015 grantees and activities:

- **North Carolina.** Serving an additional 1,500 high-risk people with the Pathway to Successful Reentry program. Increasing the capacity of field staff to use risk-needs-responsivity tools and fill gaps in evidence-based programs for people in minimum custody and under community supervision.
- **Oklahoma.** Improving the state’s presentencing screening program by funding risk assessment training for treatment facilities, increasing the percentage of people diverted to Intermediate Revocation Facilities, and improving programming at those facilities.
- **Pennsylvania.** Implementing a pilot pretrial diversion program to provide drug and alcohol treatment and intensive supervision to people alleged to have committed nonviolent offenses and clinically diagnosed with a substance use disorder. The program, which will be piloted in up to seven counties, is based on a successful postsentencing diversion program targeting the same population.

2016 grantees and activities:

- **Ohio.** Piloting a kiosk reporting system for people under supervision who are classified as low risk, enhancing pre-release programming, and improving community supervision strategies and evidence based programming for those on supervision.
- **Oregon.** Hiring and training six coordinators for 14 county Local Public Safety Coordinating Councils charged with coordinating local criminal justice policy.
- **Nebraska.** Developing a model program, Project Integrate, that will provide housing and services to people assessed as high risk to reoffend who are leaving prison in Douglas County. The program will target those with behavioral health disorders and who do not have housing postrelease.
- **South Dakota.** Planning to serve 144 women through the Intermediate Correctional Intervention Program, which will provide intensive case management and cognitive behavioral therapy delivered in a stable living environment and then a period of supervision and evidence based community services. This program will be an intermediate correctional response, a level between prison and community supervision.

## DATA COLLECTION AND PERFORMANCE MEASUREMENT REQUIREMENTS

Once reforms are adopted, agencies must track and communicate progress on core outcome measures to demonstrate effectiveness. Strong performance measurement and regular data collection and reporting are critical to success, and states are increasingly incorporating these requirements in their legislative packages. Maryland's JRI legislation required that an oversight board create performance measures to track reform implementation and outcomes.<sup>61</sup> Kentucky's 2011 legislation required the state Department of Corrections to submit an annual report to the General Assembly with figures on crime reduction, recidivism, and other public safety concerns. It also defined performance measures for system accountability and cost effectiveness.<sup>62</sup>

## ESTABLISHING OVERSIGHT BODIES

Some states went a step further and established oversight councils to monitor progress. This has become increasingly common. Initially, only 3 of the 15 states that passed legislation between 2010 and 2012 created oversight boards, compared with 9 of the 11 states that enacted legislation between 2013 and 2016.<sup>63</sup> South Carolina established the South Carolina Sentencing Reform Oversight Committee and charged it with finding ways to use tax dollars more effectively while improving public safety.<sup>64</sup> Similarly, Maryland established the Justice Reinvestment Oversight Board in 2016 as part of SB 768. The group, made up of state representatives and criminal justice stakeholders, is tasked with developing data-driven reform proposals, especially strategies to contain spending and safely reduce the prison population.<sup>65</sup> In Nebraska, LB 605 created the Committee on Justice Reinvestment Oversight as a special legislative committee to track the implementation of evidence-based strategies; monitor performance measure outcomes; and review policies to improve public safety, reduce recidivism, and curtail spending.<sup>66</sup>

# Performance Measurement and Outcomes

Through JRI, states made significant legislative and administrative changes to sentencing, release, and supervision policies to improve key criminal justice outcomes. These policy reforms, informed by analyses conducted in each state, tackled state-specific drivers of growing corrections populations and costs, such as high recidivism rates, increased admissions, and rising lengths of stay. Measuring and reporting the outcomes reforms produce allows states to review their progress and helps them determine what additional policy or administrative changes are needed. Reporting outcomes can also highlight successful strategies and lessons learned for other states. As a systems approach to criminal justice reform, JRI's impact in each state cannot be captured only through quantifiable system metrics; rather, JRI contributes to cultural and organizational changes as states embrace and implement evidence-based practices (La Vigne et al. 2014).

Performance measurement is becoming more of a focus for JRI sites and stakeholders, and the approach to performance measurement has evolved over time along with the tracking and reporting mechanisms. Several states are devoting resources to improve how they collect and report performance measurement data, which are used to inform JRI oversight bodies and state legislatures. Initiative partners, recognizing that reforms can potentially and unintentionally increase bias against people of color in the justice system, are also beginning to consider how policy reforms affect racial and ethnic minority groups and women. Progress is assessed through three primary approaches: tracking system-level trends on key outcomes, monitoring policy-specific data trends, and conducting more rigorous assessments of the effects of specific policies.

## System-Level Trends

Broadly speaking, JRI states aim to implement evidence-based policy solutions to more cost-effectively manage corrections populations and reinvest a portion of resulting savings in public safety strategies. Thus, at the state system level, core outcomes of interest include corrections population counts, savings, and levels of reinvestment in proven and promising crime reduction strategies (box 13). Examining trends in these broad measures over time provides important insight into how systems are responding to reform.

BOX 13

**JRI’s Eight Core System-Level Metrics**

The JRI Steering Committee, drawing on input from stakeholders, TA providers, and funders, identified eight system-level performance measures for the initiative.<sup>a</sup> Each indicator suggests—but cannot prove—a relationship between reforms and outcomes. States can use these measures to identify encouraging or troubling trends but must couple them with more targeted analyses to help policymakers better understand what is driving change.

Domain	Outcome	Goal	Metric(s)
Population	Prison	Document trends in the prison population, including comparison to the JRI baseline and projected level	Sentenced prison population Baseline projection Projected prison population
	Community supervision	Document trends in community supervision populations	Parole population Probation population Other community supervision populations (e.g., those on diversion)
	Jail and jail backlog	Document trends in the jail population and the backlog of individuals awaiting transfer to prison	Jail population Jail backlog
	Prison composition	Document how many prison beds are occupied by people convicted of serious and violent crimes	Percentage of admissions and population: <ul style="list-style-type: none"> <li>• convicted of a serious or violent crime,</li> <li>• deemed chronic, or</li> <li>• previously convicted of a serious or violent crime</li> </ul>
Public safety	Overall crime	Document general crime trends	Total crimes and rate per 100,000 residents Index crimes and rate per 100,000 Violent crimes and rate per 100,000 Drug arrests and rate per 100,000
	Three-year recidivism	Document trends in recidivism of people released from prison and/or probation	Overall three-year recidivism rate for people released from state prison Overall three-year recidivism rate for people sentenced to probation
Spending and savings	Corrections spending	Document trends in corrections spending that may not be captured in standard agency budgets	Overall Department of Corrections budget Probation budget Parole budget Total alternative program funding
	Total savings and reinvestment	Document taxpayer savings from costs avoided through sentencing and corrections reforms	Total estimated cost savings/avoidance Total reinvestment or up-front investment Percentage share of savings reinvested

<sup>a</sup>“Justice Reinvestment Initiative: Assessing Progress through Data Tracking and Analysis,” US Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, last modified September 22, 2015, <https://www.bja.gov/programs/justicereinvestment/files/JRIassessingstateprogressthroughdatatrackingandanalysis.pdf>.

## Prison Population Trends

Examining changes in a state's prison population after reform can yield information about the effectiveness of those reforms. Not all reforms enacted through JRI aimed to reduce prison populations, but many sought to identify ways to safely manage individuals in the community and limit the use of incarceration. In general, successful JRI reforms will result in slower growth in the prison population relative to expectations absent reform or a decline.

To use prison population counts as a metric of success, it is important to compare counts to each state's baseline projection absent any reform. Prison population and cost projections are a central component of JRI and each state developed population projections used to establish the "cost of doing nothing," or the expected prison population growth over the next several years if there were no changes to policy or practice. These projections, which traditionally account for preexisting trends in corrections populations, are particularly important because they drive estimates of how much states might save by enacting various reforms. Some states had preexisting population projections from internal agencies, but others required the assistance of TA providers to develop projections. Most state projections predicted growth in their incarcerated populations. The expectation was that using more cost-effective strategies to manage corrections populations could slow, or potentially reverse, this expected growth (La Vigne et al. 2014).

It is still too early in some states to track progress, even at the system level. But enough time has passed in the 19 states that enacted JRI legislation before 2015 to draw from at least two years of follow-up data.<sup>67</sup> The baseline year is the year before JRI legislation was signed, and the number of follow-up years is how many years have passed from the baseline year to 2015. Some states delayed implementation of key provisions to allow courts and agencies time to prepare, and most states are still in the process of carrying out reforms, so the full impact of JRI has not yet been realized. Table 1 summarizes preliminary findings.

In 15 of the 18 JRI states for which reliable projections are available, the 2015 prison population was below projected levels absent any reforms.<sup>68</sup> The size of these differences varied significantly by state, and figure 7 below captures the percentage differences between the actual 2015 prison populations and the projections absent any reform. Of the 12 states with at least four years of follow-up data and available baseline projections, 9 have prison populations below their projections. Missouri and Delaware, two of the three states with populations exceeding their projections, anticipated less growth than most states. Kentucky, the other state exceeding its projection, did so by only 0.1 percent.

TABLE 1

## Past, Current, and Projected Prison Populations

	Legislation year	Baseline population	2015 projection without reform	Actual 2015 population	Difference from baseline	Difference from projection
Arkansas	2011	16,176	19,222	17,684	9.3%	-8.0%
Delaware	2012	6,593	6,675	6,704	1.7%	0.4%
Georgia	2012	55,057	58,664	53,102	-3.6%	-9.5%
Hawaii	2012	6,071	6,193	6,024	-0.8%	-2.7%
Idaho	2014	8,221	8,506	8,160	-0.7%	-4.1%
Kansas	2013	9,374	10,154	9,822	4.8%	-3.3%
Kentucky	2011	20,280	21,448	21,479	5.9%	0.1%
Louisiana	2011	39,391	39,335	36,377	-7.7%	-7.5%
Mississippi	2014	22,492	23,230	18,789	-16.5%	-19.1%
Missouri	2012	30,833	30,777	32,330	4.9%	5.0%
New Hampshire	2010	2,778	3,029	2,837	2.1%	-6.3%
North Carolina	2011	40,102	42,562	37,794	-5.8%	-11.2%
Ohio	2011	50,857	53,858	50,651	-0.4%	-6.0%
Oklahoma <sup>a</sup>	2012	25,458	N/A	28,871	13.4%	N/A
Oregon	2013	14,285	14,981	14,655	2.6%	-2.2%
Pennsylvania	2012	51,290	51,693	50,366	-1.8%	-2.6%
South Carolina <sup>b</sup>	2010	24,734	27,903	22,315	-9.8%	-20.0%
South Dakota	2013	3,546	3,942	3,588	1.2%	-9.0%
West Virginia	2013	7,070	8,072	6,965	-1.5%	-13.7%

**Notes:** Baseline population numbers are from the year before JRI legislation was passed.

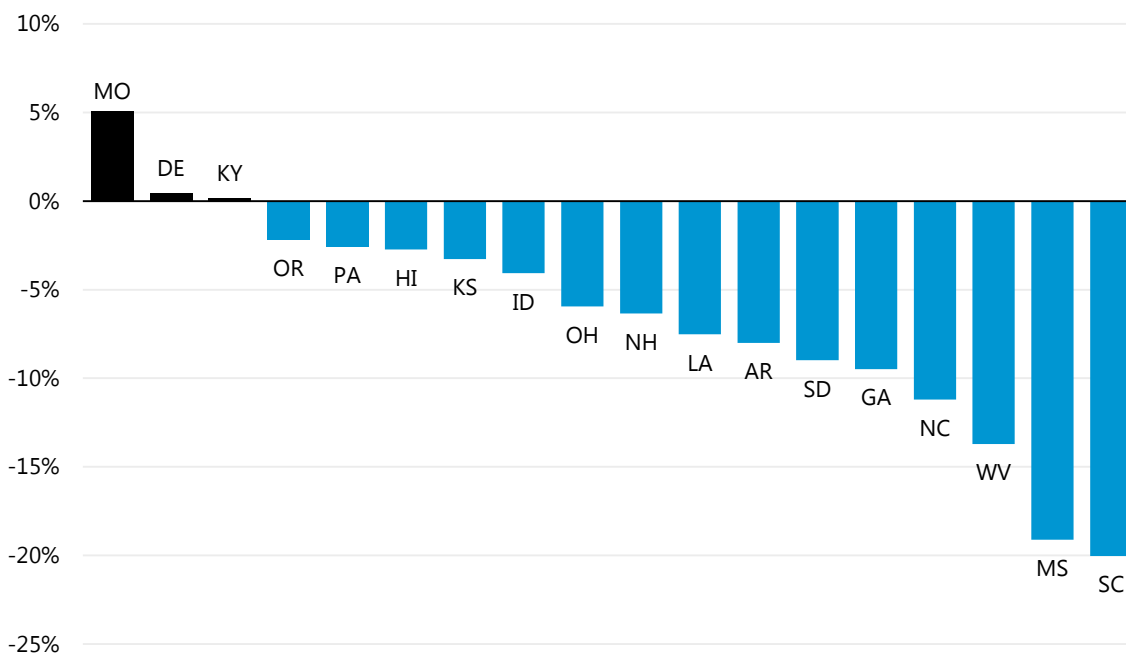
<sup>a</sup> Prison population projections for Oklahoma are unavailable.

<sup>b</sup> Projection and actual population numbers for South Carolina are only available through 2014.

Nine states—Arkansas, Delaware, Kansas, Kentucky, Missouri, New Hampshire, Oklahoma, Oregon, and South Dakota—saw growth in their prison populations between the baseline year and 2015. Growth varied significantly among states: Delaware and South Dakota saw increases of less than 2 percent, but Arkansas saw its population swell by 9 percent. In May 2013, a high-profile murder in Arkansas involved a suspect who was on parole supervision at the time. As a result, the Board of Corrections directed the Department of Correction to tighten its parole release criteria and policies on revocation proceedings. The state’s prison population was 15,035 in 2011 and fell to 14,627 in 2012. By 2015, two years after the policy changes, the population had grown to 17,684, an almost 18 percent increase from 2011 (Ware 2015; Ware and Ocker 2016). Oklahoma saw the largest increase in population from the baseline year to 2015, 13 percent. Motivated in part by this increase, the state embarked on a new JRI engagement in 2016 with the hope of enacting new legislation in 2017.

FIGURE 7

**Difference between Projected 2015 Prison Population without Reform and Actual 2015 Population**



**Source:** Population data collected from state reports. Projection data collected from each state’s technical assistance provider.

**Note:** Projection and actual population numbers for South Carolina are only available through 2014.

### Community Supervision Population Trends

Another outcome of interest to states is the number of people under community supervision. Ultimately, JRI is focused on all people in the criminal justice system, not just those in prison, so it is important to track how policies affect probation and parole populations as well. The size of community supervision populations is also an important driver of prison populations, as many people in prison are incarcerated for violating the terms of their community supervision. Through JRI, states enacted several policies expected to either increase that population (e.g. through increased use of split sentences or presumptive probation) or reduce it (e.g. through earned credits for early termination of parole supervision). This complicates the interpretation of supervision population trends, because increases and decreases in that population can both be indicators of progress.



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## BOX 14

### Important Considerations when Measuring Success through Prison Population Counts

Prison population trends provide important information about how criminal justice systems are responding to reform, but we must consider several factors to accurately interpret trends as indicators of success or failure:

**Implementation delays.** Almost every state experiences a lag between signing a bill and the effective date for reforms. Many reform strategies also require additional time to implement, delaying their effects on the prison population. Some reforms, for example, require agencies to develop new administrative procedures, such as guidelines for sanctions for parole violations; risk assessment training for decisionmakers; or structured decisionmaking processes for parole boards. Further, some policies can result in slight increases in returns to prison during the early implementation period. For example, short-term administrative incarceration sanctions or revocation caps can cause returns to prison to increase, particularly if they are implemented ahead of long-term strategies, such as changes to parole processing or earned release, which might take longer to execute.

**Recidivism reduction strategies take time.** Many reforms enacted through JRI have included policies aimed at reducing recidivism for those released from incarceration, which pushes the expected impact of these reforms even further into the future. Their effects will not be observable until people released from prison after implementation have had enough time to potentially recidivate. Depending on the observation period, this could be several years.

**Concurrent or subsequent legislation.** When adopting reforms through JRI, some states simultaneously or subsequently incorporated provisions into their statutes that are more punitive or legislated policy reforms independent of JRI that result in growth in the prison population.

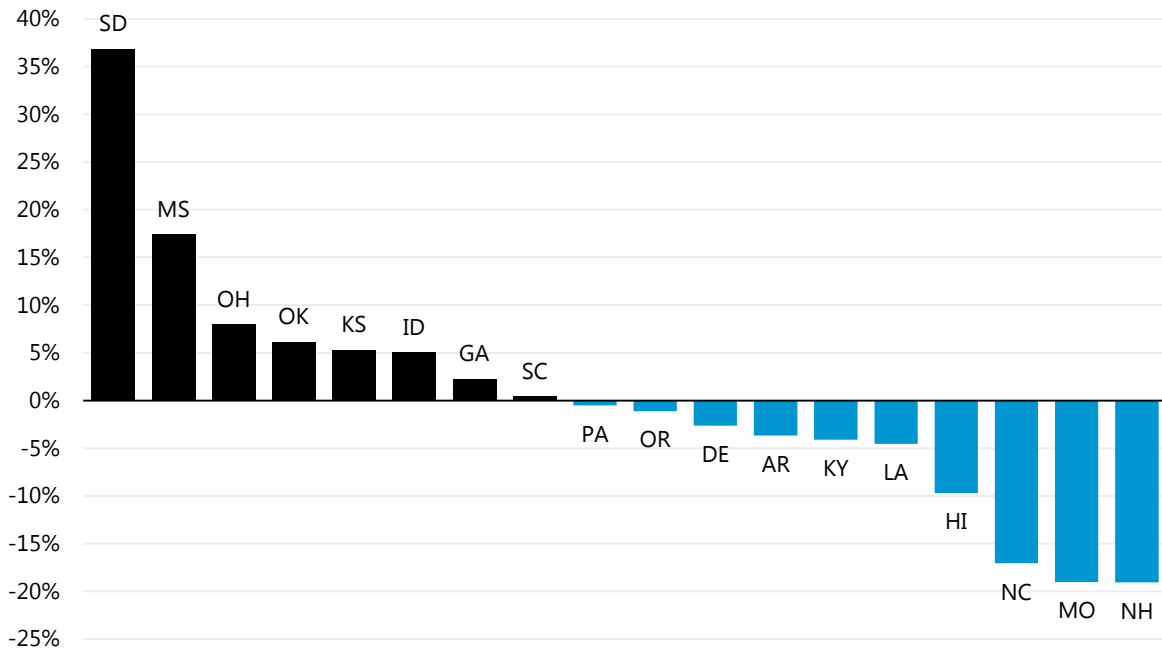
**Limited potential for prison population reduction.** Some states passed reforms that are not expected to significantly affect the prison population, or were expected to reduce a steep rate of growth. Some reforms intended to curb growth were not comprehensive or far reaching enough to roll back decades of expansion.

**External factors.** Many factors other than policy reform influence changes in prison populations, including broader state population trends, crime rates, and prosecutorial decisionmaking.

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FIGURE 8

Change in Probation Population from Baseline Year to 2015



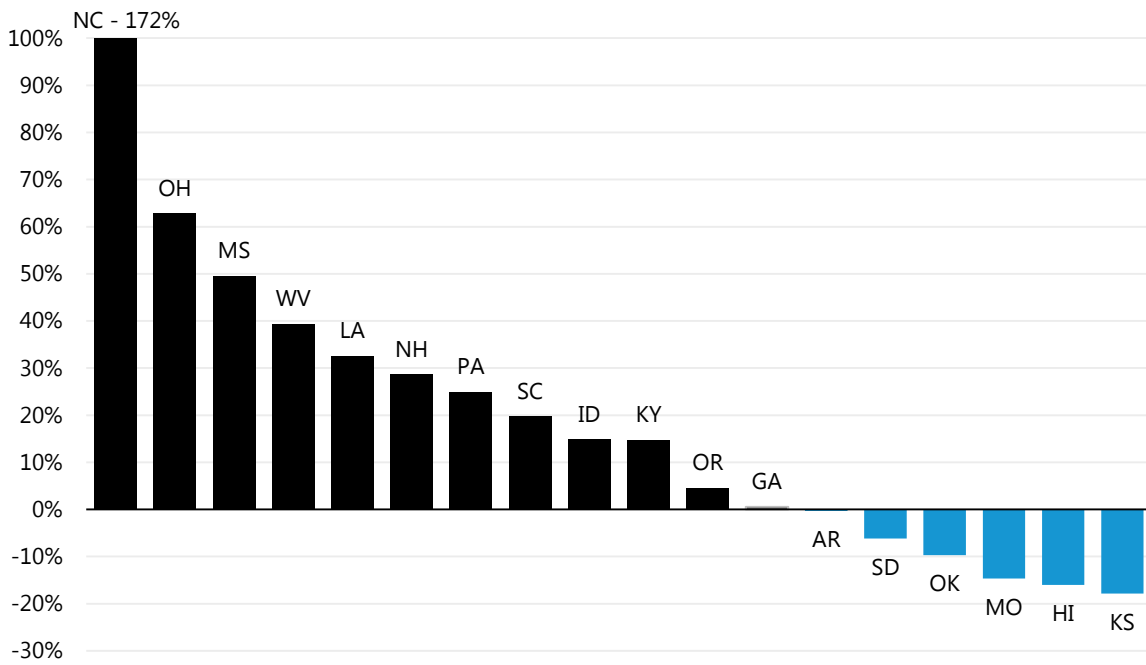
Source: Population data collected from state reports.

Note: Baseline population numbers are from the year before JRI legislation was passed. Probation population counts include people supervised at the state level and may or may not include those supervised by localities.

Of the 18 states with publicly available probation data and at least two years of follow-up data, 10 saw their probation populations decrease from the baseline year (figure 8).<sup>69</sup> Missouri and New Hampshire saw 19 percent decreases, North Carolina saw a 17 percent decrease, and Hawaii saw a decrease of almost 10 percent. South Dakota (37 percent) saw the largest increase, which is not surprising given that the state reclassified a number of drug offenses and created presumptive probation for all Class 5 and 6 felonies. Class 5 and 6 felonies accounted for nearly 70 percent of all felony convictions in 2015 (Elderbroom et al. 2016). Idaho, Kansas, Ohio, and Oklahoma all had increases of 5–8 percent, and Georgia and South Carolina saw growth of less than 3 percent.

FIGURE 9

Change in Parole Population from Baseline Year to 2015



Source: Population data collected from state reports.

Note: Baseline population numbers are from the year before JRI legislation was passed.

Of the 18 states with at least two years of follow-up data, 12 saw their parole or postprison population increase from the baseline year (figure 9). Populations increased by 20 percent in South Carolina (2,950 to 3,532) and 29 percent in New Hampshire. Ten states saw increases of more than 10 percent. Three states—Hawaii, Kansas, and Missouri—saw their parole populations decrease by more than 10 percent. The largest decrease occurred in Kansas, where the postincarceration management population declined 18 percent from 5,848 to 4,804. The postincarceration management population contains, in approximately equal numbers, people released through parole and those released to supervision (Goddard et al., n.d.). North Carolina also has a supervision category other than parole, which it calls postrelease supervision. Combined postrelease supervision and parole population trend data is used in figure 9. North Carolina eliminated parole in 1994, but new JRI legislation requires people convicted of a felony to receive 9–12 months of postrelease supervision (CSG Justice Center 2014b). This change resulted in a 172 percent increase in the combined postprison supervision population, from 4,329 in 2010 to 11,762 in 2015, by far the largest percentage increase in a postprison supervision population in any state.<sup>70</sup>

As noted previously, it is important to interpret changes in community supervision populations within the context of a state's policy reforms. For example, West Virginia saw a 39 percent increase in its parole population,<sup>71</sup> likely due in part to the creation of structured release decisionmaking guidelines and improved correctional and parole release processes (CSG Justice Center 2014c). Ohio saw a 63 percent increase in its parole population and an 8 percent increase in its probation population. Mississippi observed a similar increase of almost 50 percent in its parole population and 17 percent in its probation population. Both states might have expected increases in these populations after reforms, considering each expanded the availability of earned time credits and other avenues for earned release from prison to parole supervision.<sup>72</sup> As detailed in the policy reform chapter, Mississippi's JRI legislation contained more policies aimed at increasing the number of people on parole relative to prison than legislation in most other states.

Overall trends in incarcerated and supervised populations in states paint a complicated picture. Most prison populations were below projected levels, but only half of all states saw absolute decreases in their populations compared to the baseline. Most states saw at least some reduction in their probation populations, but a majority saw increases—sometimes substantial increases—in their parole or postrelease supervision populations. The trend in total supervised populations is complicated, but the most important metric for determining costs averted through JRI is the difference between projected and actual prison populations.

## **Savings and Averted Costs**

Tracking imprisonment trends is important when assessing progress on reform because the prison population drives projections of costs and potential savings. Projected savings are often based on the expectation that states will need fewer prison beds after policy reforms. States begin their JRI process by calculating the costs of projected population growth absent reform, known as the “cost of doing nothing.” In states anticipating population growth, these projected costs can include new prison construction or new contracts to secure additional beds. Once a final JRI package is enacted, each state projects how reforms will affect its prison population and then estimates the savings associated with any population decrease.

Because it can take time to fully implement a policy reform, prison population and savings projections are typically estimated over a 5- to 10-year window.<sup>73</sup> Most JRI states are still inside their projection windows. For that reason, it is not possible to say with certainty whether prison population numbers (and, by extension, the associated savings) have met, exceeded, or fallen short of projections.

But it is possible to look at a state’s prison population to see if it has remained below the JRI projection. In 2015, the prison population was lower in 7 states and higher in 11 states relative to what experts projected after implementation of JRI reforms (table 2).<sup>74</sup>

TABLE 2

**Projected and Reported Averted Costs in States That Enacted JRI Legislation from 2010 to 2016**

	Year	Projection window	Total projected savings (millions)	2015 Prison Population		Savings reported through September 2016
				Projected after full JRI reform	Actual	
Alabama	2015	FY 2016–21	\$380	–	25,201	N/A
Alaska	2016	2017–27	\$380	–	5,147	N/A
Arkansas	2011	2009–20	\$875	16,279	17,684	\$–
Delaware	2012	2012–17	\$27	N/A	6,704	\$–
Georgia	2012	2012–16	\$264	54,723	53,102	\$264,000,000
Hawaii	2012	FY 2013–18	\$130	5,222	6,024	\$2,500,000
Idaho	2014	FY 2015–19	\$157	8,470	8,160	\$17,725,165
Kansas	2013	FY 2014–18	\$81	9,175	9,822	\$2,463,092
Kentucky	2011	2010–20	\$422	17,794	21,479	\$55,700,000
Louisiana	2011	2013–24	\$103.8	N/A	36,377	\$17,249,098
Maryland	2016	2017–27	\$80.5	–	20,515	N/A
Mississippi	2014	2014–24	\$266	22,222	18,789	\$–
Missouri	2012	2012–17	\$7.7–\$16.6	N/A	32,330	\$–
Nebraska	2015	FY 2016–20	\$302	–	5,345	N/A
New Hampshire	2010	FY 2010–15	\$160	2,342	2,837	\$–
North Carolina	2011	FY 2011–17	\$560	38,671	37,794	\$164,678,859
Ohio	2011	FY 2011–15	\$578	48,177	50,651	\$–
Oklahoma	2012	FY 2012–21	N/A	N/A	28,871	\$–
Oregon	2013	2012–23	\$326	14,384	14,655	\$18,408,538
Pennsylvania	2012	2011–16	\$253	49,584	50,366	\$12,858,000
South Carolina	2010	2009–14	\$241	25,677	22,315	\$491,000,000
South Dakota	2013	2012–22	\$207	3,591	3,588	\$41,328,334
Utah	2015	2015–33	\$517.8	–	6,752	N/A
West Virginia	2013	2013–18	\$287	7,314	6,965	\$24,895,115
<b>Total</b>						<b>\$1,112,806,201</b>

**Sources:** Projection windows, total projected savings, and 2015 projected prison populations were collected from each state’s technical assistance provider. Actual prison populations are from published state reports. Reported savings through September 2016 are from relevant state agencies.

**Notes:** States use different methodologies to calculate projected and actual savings and averted costs. Reported savings include any savings or averted costs the state documented as a result of JRI reforms. Actual and projected prison populations for South Carolina are from 2014.

– is used for states that passed JRI legislation in 2015 or 2016. Not enough time has passed to warrant analysis.

N/A is used where projection information is not available.

\$– is used for states that have not disclosed any reported savings to date.

Most states are still within their projection windows. During this interim period, states have struggled to calculate savings from JRI policies for several reasons:

- **Most savings are actually averted costs.** Averted costs represent resources a state does not need to spend, but they do not represent budgeted funds that can be repurposed within an agency or state budget.
- **There are disincentives to calculating savings.** Agencies may be reluctant to identify savings for fear of triggering budget reductions, particularly when facilities are overcrowded, agencies have been historically underfunded, staffing shortages must be addressed, or other needs for adequate funding remain.
- **Marginal costs are not always clearly defined.** Accurate savings calculations rely on marginal costs, or the actual cost of providing for each additional person for one year. Fixed costs, the costs that remain unchanged even if the population decreases, often significantly outweigh marginal costs. Marginal cost estimates are not always clearly defined or readily available in some states.
- **Capturing savings often requires significant prison population reductions.** In many cases, significant savings only accrue once a population decreases enough to warrant closure of a unit or entire facility that reduces the associated fixed costs, including staff. Even when facilities or units close, costs associated with building maintenance may remain.
- **Many states had prison populations far exceeding designed capacity before JRI reform.** Given widespread overcrowding in some states, a significant drop in prison populations might not necessarily result in closures, but might avert the need for new construction or paying staff overtime. Before JRI reform in Alabama, the state's prisons were at 195 percent capacity (CSG Justice Center 2015). Alabama would therefore need to cut its prison population almost in half before it could realistically consider closing facilities.
- **States may only track the effects of a subset of policy provisions.** Many states only track and report savings resulting from a subset of policies that may not capture the full effect of JRI reform on resources. Often, this narrowing occurs because states focus on policy reforms associated with clearly quantifiable costs—estimating reduced need for prison beds and the associated cost savings from a decrease in probation revocations is much easier than isolating cost savings from reduced recidivism resulting from increased alignment of supervision efforts with evidence-based practices.

As noted above, many external factors outside JRI reforms influence prison populations, and it is difficult to account for these forces when calculating savings.

Despite these challenges, 12 states have calculated savings and/or averted costs from JRI reforms that, combined, total \$1.1 billion. State totals range from \$2.5 million in Hawaii and Kansas to more than \$490 million in South Carolina. South Carolina and Georgia have reached the end of their projection windows. Prison populations in both states remained below what experts estimated after full

implementation of reforms, and both states realized the full potential of their projected averted costs. Though North Carolina is still within its projection window, the state reported significant savings partly because it has closed 11 prisons since passing its JRI legislation (facility closures and conversions account for \$123 million of total savings). In FY 2015, the state calculated a net savings of \$6.9 million in averted corrections operating costs. Its prison population stood 4,768 people below projections.<sup>75</sup>

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## BOX 15

### Calculating Savings from JRI Reforms: State Approaches Vary

States use several methods to calculate savings from JRI reforms. Some states have codified in legislation directives for how and when to calculate savings; others have empowered agencies to make their own decisions about methods and frequency of calculations. Some states lack evidence that they are calculating savings at all.

Maryland established an oversight panel as part of its JRI legislation, enacted in 2016, and charged it with calculating savings from JRI reforms annually.<sup>a</sup> The Justice Reinvestment Oversight Board, in collaboration with the state's Department of Public Safety and Correctional Services, will determine annual savings from reforms based on the difference in the prison population as measured on October 1 of the current year and October 1 of the previous year, multiplied by the variable cost.

In Pennsylvania, HB 135 of 2012 directed the Office of the Budget to develop a formula to calculate savings within the Department of Corrections budget from FY 2013–14 to FY 2017–18 and deposit a clearly specified percentage of those savings into a justice reinvestment fund to support programs that improve criminal justice service delivery. The legislation says the calculation may include decreases in the prison population resulting from diversion to counties, the elimination of prerelease programs, and efficiencies in the parole system directly resulting from SB 100, Pennsylvania's companion JRI legislation enacted in 2012.<sup>b</sup> HB 135 therefore requires the Office of the Budget to calculate savings for four years while giving the office latitude in deciding how those savings should be calculated.

Kentucky's HB 463 directed the state Department of Corrections to document cost savings resulting from specific provisions in the bill. The baseline population for savings calculations was specified as people in penitentiaries and local jails in FY 2010–11. The legislation then detailed how average costs for incarceration and community supervision should be calculated—specifying, for example, that such costs should include health care expenses. The legislation also directed that savings be calculated for the decrease in the incarcerated population from mandatory reentry supervision and accelerated parole hearings as well as the decrease in people under community supervision through parole credit. It further specified that net savings should take into account the cost of supervision for people released because of these policies.<sup>c</sup> Kentucky is a good example of how savings calculations might be limited by legislation specifying what effects of policies to consider and how to do so.

<sup>a</sup>S.B. 1005, 2016 Reg. Sess. (Md. 2016).

<sup>b</sup>H.B. 135, 2011 Reg. Sess. (Pa. 2012).

<sup>c</sup>H.B. 463, 11th Reg. Sess. (Ky. 2011).

## Reinvestment

Despite the challenges of capturing and documenting savings, many states identified ways to reinvest or invest up front in promising and proven strategies. This report defines reinvestment as any investment in JRI reform strategies. Generally, there are three mechanisms through which states reinvest: authorization legislation, appropriation legislation, and reallocation.

### GUIDING REINVESTMENT THROUGH AUTHORIZATION LEGISLATION

Some states took a structured approach to reinvestment by including directive language in their JRI legislation. They either simply laid out priorities or specified a set percentage of savings to be reinvested in certain programs or practices. In one of its 2012 JRI bills, HB 135, Pennsylvania established a formula to determine the percentage of savings to be reinvested and identified programs that reinvestment must fund.<sup>76</sup> Pennsylvania calculated that its JRI legislation generated \$56,000 in averted costs in FY 2012–13, and 75 percent of those savings were reinvested. After revising a justice reinvestment policy related to technical violations of parole supervision, averted costs increased dramatically to \$11,812,000 in FY 2014–15.<sup>77</sup> Twenty-five percent of those savings were reinvested in the subsequent year in victims' services, law enforcement grants, probation improvements, and incentives to county jails to voluntarily house people with short sentences who would otherwise go to prison.<sup>78</sup>

Legislation was less prescriptive in most states. For example, South Dakota's JRI legislation simply listed the types of programs that should be funded with savings—specifically, treatment programs for those on supervision. Legislation did not specify how to calculate savings or apportion reinvestment funding, but the state has reinvested nearly \$9.5 million.<sup>79</sup> Similarly, Alaska set out a plan for how to reinvest savings if the state matches its projected total over six years following legislation, appropriated nearly \$8 million in up-front funding, and attached a six-year fiscal note to their return package that estimates \$98 million in total reinvestment using funds from expected savings from JRI and tax revenue expected from the sale of marijuana.<sup>80</sup>

### APPROPRIATING REINVESTMENT RESOURCES YEAR BY YEAR

Some states choose to preserve more legislative flexibility and make reinvestment decisions each year or budget cycle. This flexibility also means that reinvestment itself is more tenuous and more likely to be influenced by the state's broader budget situation (La Vigne et al. 2014). Alabama decided to make its reinvestments through annual appropriations. The state appropriated investments of \$16 million in FY 2016, a prorated amount to account for a legislative decision to postpone the justice reinvestment



bill's effective date to later in the fiscal year.<sup>81</sup> The state legislature recently passed the state's FY 2017 budget, which includes \$27 million in reinvestments.<sup>82</sup> Hawaii and South Carolina also make reinvestment decisions each fiscal year. Hawaii reinvested \$3.4 million in FY 2013 for staff positions, community treatment programs, and JRI implementation support. In FY 2014 and 2015, the state reinvested \$7.2 million.<sup>83</sup> South Carolina's Sentencing Reform Oversight Committee can recommend appropriations of up to 35 percent of the saved expenditures for reinvestment, but the legislature has not appropriated any reinvestment funding to date (The South Carolina Sentencing Reform Oversight Committee 2013).

TABLE 3

Reported Reinvestments in States That Enacted JRI Legislation between 2010 and 2016

	Year	Years since legislation	Up-front investment	Postreform investment	Total investment
Alabama	2015	1	\$16,000,000	\$26,600,000	\$42,600,000
Alaska	2016	0	\$7,754,000	\$0	\$7,754,000
Arkansas	2011	5	\$0	\$2,400,000	\$2,400,000
Delaware	2012	4	\$0	\$0	\$0
Georgia	2012	4	\$15,257,130	\$41,250,564	\$56,507,694
Hawaii	2012	4	\$3,400,000	\$7,200,000	\$10,600,000
Idaho	2014	2	\$5,924,869	\$0	\$5,924,869
Kansas	2013	3	\$2,000,000	\$6,000,000	\$8,000,000
Kentucky	2011	5	\$15,100,000	\$54,517,700	\$69,617,700
Louisiana	2011	5	\$0	\$1,700,000	\$1,700,000
Maryland	2016	0	\$8,000,000	\$0	\$8,000,000
Mississippi	2014	2	\$10,850,000	\$0	\$10,850,000
Missouri	2012	4	\$0	\$0	\$0
Nebraska	2015	1	\$3,100,000	\$12,100,000	\$15,200,000
New Hampshire	2010	6	\$0	\$0	\$0
North Carolina	2011	5	\$0	\$30,308,962	\$30,308,962
Ohio	2011	5	\$10,000,000	\$12,600,000	\$22,600,000
Oklahoma	2012	4	\$3,667,000	\$3,266,539	\$6,933,539
Oregon	2013	3	\$58,000,000	\$40,000,000	\$98,000,000
Pennsylvania	2012	4	\$0	\$3,986,000	\$3,986,000
South Carolina	2010	6	\$0	\$0	\$0
South Dakota	2013	3	\$3,746,247	\$5,718,607	\$9,464,854
Utah	2015	1	\$14,908,000	\$13,500,000	\$28,408,000
West Virginia	2013	3	\$3,500,000	\$8,100,000	\$11,600,000
<b>Total</b>			<b>\$181,207,246</b>	<b>\$269,248,372</b>	<b>\$450,455,618</b>

Source: State-reported JRI-related investments.

REALLOCATING RESOURCES WITHIN AND ACROSS AGENCIES

A few states have also reinvested outside of legislation by prioritizing JRI efforts within an agency's budget or by moving funds between agencies. Specifically, agencies can unilaterally shift funding to programs that follow recommendations made during the JRI process while reducing funding for

programs that are not JRI priorities. In Arkansas, agencies shifted \$500,000 from the Department of Correction to Arkansas Community Correction for transitional housing.<sup>84</sup> This approach gives states more flexibility to cope with changing legislative priorities but requires the buy-in of relevant agencies and staff. This approach is also dependent on the organizational structure of the relevant agencies in each state.

#### STATE REINVESTMENT THROUGH 2016

Overall, participating states have invested more than \$450 million to date (table 3). Kentucky has reinvested the largest share of its actualized savings, a total of \$54.5 million, partly because its legislation was passed in 2011 and its averted costs have accrued over four years (Kentucky Department of Corrections 2012, 2015; Kentucky Justice and Public Safety Cabinet Criminal Justice Council 2015). Oregon made the largest up-front investment, \$58 million over two years (Pew 2014c). Arkansas, Louisiana, and Pennsylvania have reinvested less than \$5 million. Four states—Delaware, Missouri, New Hampshire, and South Carolina—have not documented any reinvestments.

One surprising finding of JRI is the level of up-front investment among states. Given their constricted budgets, it was expected that states would wait for savings to materialize before reinvesting in JRI strategies. Ultimately, 8 states chose to wait. The other 16 states invested when they passed their JRI legislation, often following the recommendations developed during JRI as well as the relevant research supporting the effectiveness of community-based supervision and treatment as a safe alternative to incarceration. Alabama, Georgia, Kentucky, Maryland, Mississippi, Ohio, Oregon, and Utah all made up-front investments of between \$8 million and \$58 million. In fact, approximately 40 percent of the reinvestment to date (\$181 million out of a total \$450 million) has been through up-front allocations.

Up-front investments can be particularly useful if states expect JRI legislation to produce temporary increases in the number of people under community supervision. States can better manage those increases by expanding services aimed at reducing recidivism, such as substance use disorder treatment. Utah's up-front investment included \$1 million in FY 2016 for Adult Probation and Parole treatment agents.<sup>85</sup> In FY 2017, Utah appropriated another \$1 million for treatment agents.<sup>86</sup>

Through JRI, states have reinvested their savings or made up-front investments in several areas, including community corrections staff positions, victims' services, drug and problem-solving courts, community behavioral health treatment, county incentive grant programs, law enforcement grants, training in evidence-based practices, and risk assessment tool deployment and development. Oregon's up-front investment focused on community corrections and victims' services (Pew 2014c). Idaho made

several up-front investments, including \$2.5 million for expanded community-based treatment (Idaho Department of Correction 2016). Alabama made significant reinvestments in community supervision and treatment, including \$29.5 million appropriated between FY 2016 and FY 2017 for the Alabama Board of Pardons and Paroles to train and hire additional probation and parole officers and fund community-based treatment.<sup>87</sup> Alabama also appropriated \$12.5 million between FY 2016 and FY 2017 to accommodate an influx of people convicted of low-level offenses to community corrections programs.<sup>88</sup>

## Policy-Specific Measures

System-level trends offer important insights into how state justice systems function over time, but they are not as useful when determining whether a specific policy reform is working and achieving reform goals. Legislators, stakeholders, and the public justifiably want to know if JRI policies are working, and many in the broader research and policy communities are looking to JRI states to see which strategies are most effective. Answering these questions requires more targeted analysis, and more detailed policy assessments have been completed and are under way in a handful of states. Findings from that research are summarized in the “Policy Assessments” section below.

Meaningful performance measurement requires states to select or develop measures tailored to the policy reforms they enact, collect and analyze relevant data consistently, and publish findings on a regular basis. This has become more of a focus for states, and more states are being transparent about the measures they use and the successes and challenges they identify.

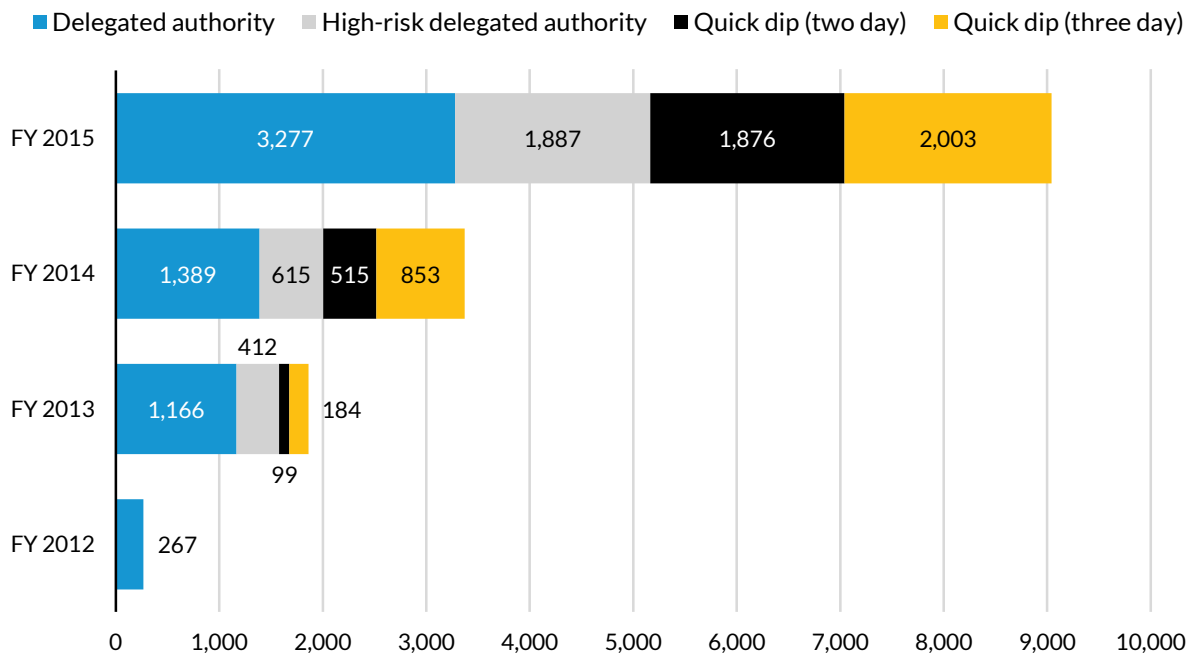
- Idaho developed a behavior response matrix to guide sanctions for people on probation and parole who commit certain technical violations.<sup>89</sup> The state is tracking the use of both 90- and 180-day confinement in lieu of revocation from parole on a monthly basis, and data from the fourth quarter of 2015 demonstrate increased use of these alternatives.<sup>90</sup>
- West Virginia enacted several reforms to improve efficiency in the parole release process.<sup>91</sup> The state is tracking annual parole board activity, including delayed hearings, and the monthly parole grant rate. West Virginia documented a 20 percent decline in delayed hearings between 2012 and 2015 and a 2 percent increase in the parole grant rate over the same period.<sup>92</sup>
- Mississippi established earned discharge credits for people on probation and parole who comply with their conditions of supervision. The state is tracking a number of measures,

including the total number and percentage of people who receive earned discharge credits, mean days of credits earned, and the total number and percentage of people discharged from supervision early.<sup>93</sup> Findings suggest that almost 5,000 people were discharged from supervision early in the first year, saving more than 1 million supervision days.<sup>94</sup>

States differ in how they share their performance information but are improving transparency and publishing data more consistently in easily accessible formats. One of the best examples is North Carolina, which published a comprehensive report on its JRI performance measures in March 2016 (NCDPS 2016). In addition to releasing system-level trends summarizing changes in arrests, crime, and the prison population, the state published data on several policy-specific measures. North Carolina enacted multiple reforms to strengthen community supervision in its Justice Reinvestment Act of 2011 (see box 9 on page 26). Among other things, the state’s JRI legislation authorized probation officers to use a broader range of swift and certain sanctions, including short administrative jail stays, in response to supervision violations.

FIGURE 10

**Justice Reinvestment Act Performance Measure: Utilizing Swift and Certain Sanctions**



Source: Reproduced from NCDPS (2016, 13) with permission from the North Carolina Department of Public Safety.

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## BOX 16

### Suggested Policy-Specific Measures for Common JRI Policy Reforms

The JRI Steering Committee worked to develop proposed performance measures for nine of the most commonly enacted policy reforms. States must ultimately craft or adapt measures to fit their specific systems, but these represent minimum data elements that typically need to be tracked to assess the impact of a given policy over time. Effective implementation of these measures requires a comparison of trends with a prereform baseline level and regular analysis (ideally annually, at minimum). Example measures include the following:

#### Good/earned time prison credits

- Number of people eligible for credits
- Number of people who received credits
- Average reduction in time served as a result of credits
- Average percentage of sentence served for those who received credits
- Recidivism rate for people who received credits

#### Intermediate responses to violations, including administrative sanctions

- Number of people eligible for graduated sanctions
- Number of people who received a sanction
- Average number of sanctions imposed
- Number of people sanctioned to jail
- Average time served in jail as a result of sanctions
- Number of people revoked to prison as a result of sanctions
- Average time served in prison on revocation as a result of sanctions
- Recidivism rate for individuals who received intermediate sanctions

#### Capped revocation time

- Total number of revocations
- Number of revocations for a technical violation
- Number of revocations eligible for capped revocation time
- Average time served in prison for eligible revocations
- Average time served in prison for all revocations
- Recidivism rate for individuals who served time in prison on a revocation

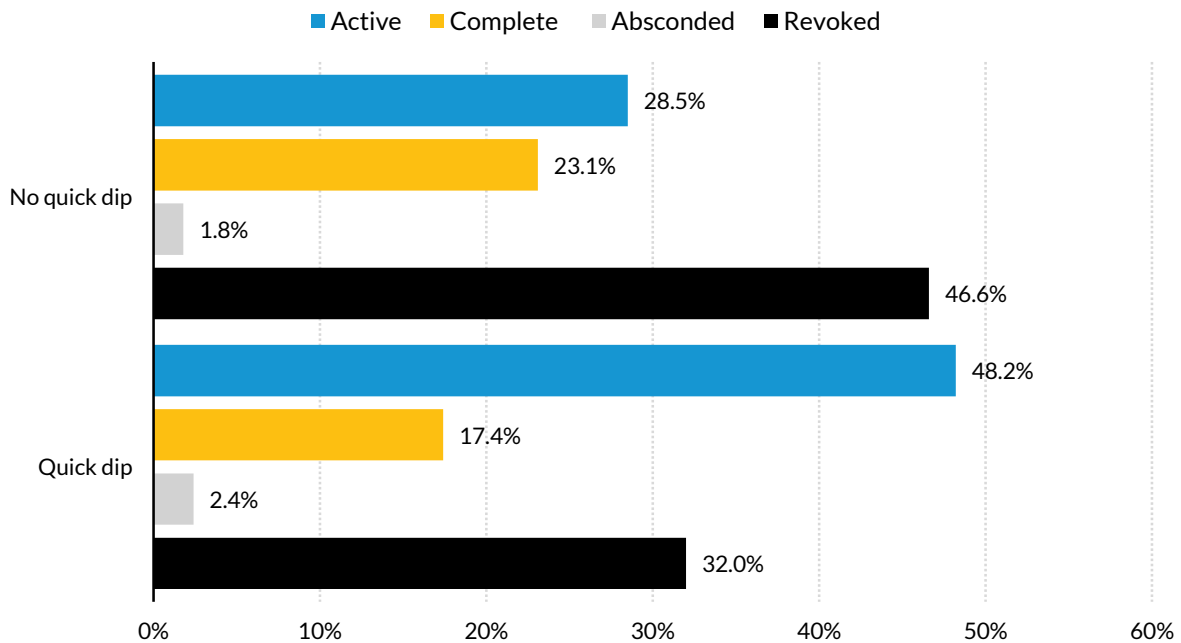
#### Mandatory reentry supervision (MRS)

- Total number of releases
- Number of people who “max out”
- Number of people released to MRS
- Average length of stay reduction because of MRS
- Recidivism rate for individuals released to MRS

To track the effects of these reforms, North Carolina provided detailed data on the use of intermediate sanctions (figures 10 and 11). The state’s analysis indicated that use of interim sanctions increased dramatically following implementation, more than doubling in the past year alone. Use of short jail stays tripled between FY 2014 and FY 2015, and preliminary analyses suggest that revocations for people subject to these administrative jail stays were lower compared to a matched group of people who did not receive them as an interim sanction. Further, revocation rates in North Carolina have consistently declined for people at all levels of risk to reoffend (NCDPS 2016).

FIGURE 11

One-Year Outcomes for Offenders with Quick Dips Compared to Offenders without Quick Dips



Source: Reproduced from NCDPS (2016, 14) with permission from the North Carolina Department of Public Safety.

## Policy Assessments

As noted previously, documenting outcomes of specific JRI reforms is crucial to understanding the impact of the initiative and what policies work best to reduce correctional control and improve public safety. The third prong of JRI’s approach to performance measurement involves deeper dives into the impact of specific reforms on key outcomes of interest. In-depth policy assessments are intended to discern whether specific policies have had a direct and measurable effect on corrections populations. In

determining those effects, it is essential to evaluate a policy's implementation. Specifically, states must evaluate whether a policy was developed with fidelity to evidence-based principles, structured to maximize its efficacy, and implemented consistently and according to the intent of the legislation.

Policy assessments completed to date indicate that some reforms are having their intended impact on corrections outcomes. In Kentucky, legislators passed a mandatory reentry supervision policy that requires people leaving state prisons to undergo a period of postrelease supervision.<sup>95</sup> The policy reflects research showing that recidivism risk is highest immediately following release (Durose, Cooper, and Snyder 2014) and was intended to reduce recidivism by ensuring formerly incarcerated people receive support and monitoring during reentry. The assessment in Kentucky indicated that the reform reduced the risk of recidivism by 30 percent for affected individuals. As of 2014, the reform had generated net savings of approximately 872 prison beds per year (Pew 2014a). Missouri's JRI reform legislation established an earned compliance credit policy that allows people to shorten their time on supervision by 30 days for every calendar month they are in compliance with supervision requirements. An analysis of the policy concluded that more than 36,000 people reduced their supervision terms by an average of 14 months in the first three years with no negative impact on public safety (Pew 2016). Although it was not passed as part of JRI reform efforts, an evaluation of Louisiana's 90-day cap on incarceration for technical supervision violations, which is similar to policy changes in other JRI states, showed significant reductions in the average length of stay for first-time technical revocations (Pew 2014d). These findings suggest a change of course, as returns to incarceration for technical violations were a leading contributor to decades of growth in the state's prison population before reform (Pew 2014d).

Policy assessments can also help discern the unintended consequences of reforms. As a component of its JRI reform package, the South Dakota legislature passed a presumptive probation law that required sentencing courts to impose a probation term in lieu of incarceration for most Class 5 and Class 6 felonies.<sup>96</sup> The reform was intended to address a major driver of South Dakota's prison population growth: admissions for nonviolent offenses. As intended, the reform reduced prison admissions and increased the use of alternative sanctions. But policy analysis also showed an increase in the overall number of felony convictions in the state, driven largely by dramatic increases in Class 5 and Class 6 drug offense convictions (Elderbroom et al. 2016). Such analyses can help states consider appropriate next steps and serve as valuable lessons for lawmakers in other states that might undertake similar reforms.

# Expanding the Use of Evidence-Based Practices and Promoting Cultural Change

Understanding the full impact of systems change efforts like JRI requires an examination of broader cultural and organizational effects that are difficult to capture through performance measurement alone. The goal of JRI is to identify and implement policy solutions to more efficiently and effectively manage people involved in the criminal justice system. A central tenet of JRI is the bipartisan, interbranch working group that brings together leadership from all key agencies to identify and implement these tailored policy solutions. Interviews with dozens of stakeholders over the course of assessment suggest that one of the greatest successes of JRI is this system-wide collaboration and subsequent commitment to data-driven decisionmaking and evidence-based practices. Shifting the culture of leadership and staff on the ground is the only way to ensure that reforms are sustained well after implementation.

## Expanding Use of Evidence-Based Practices

One goal of JRI is to expand the use of proven and promising programs and practices. Grounding practice in research on what works ensures that systems function efficiently, maximizes states' return on their justice investments, and improves outcomes for system-involved people and their communities. Most states implemented several evidence-based practices as part of their JRI reforms (table 4). As discussed in the second chapter, many states found ways to monitor progress by requiring or expanding the use of evidence-based programs and practices, implementing performance measurement data collection and reporting requirements, and creating and tasking formal bodies with overseeing implementation. States also implemented risk and needs assessments to identify people at high risk of recidivism and target resources appropriately. Many states, including Alabama, Georgia, Hawaii, Idaho, Louisiana, Mississippi, Nebraska, North Carolina, Oregon, and West Virginia, require the use of a validated risk and needs tool to inform probation and parole decisions regarding placement, programming, and release. Alaska, Delaware, and Hawaii implemented pretrial risk assessments to inform release and supervision decisions before case disposition.<sup>97</sup> Some states focused on creating, expanding, or strengthening problem-solving courts. For example, Utah's legislation directed the Judicial Council to develop drug court requirements based on risk and needs assessments instead of severity or type of sentence.<sup>98</sup> Similarly, Oregon's HB 3194 implements statewide, evidence-based standards for specialty courts. These standards must "be designed to reduce recidivism in a cost-effective manner and target medium- and high-risk individuals."<sup>99</sup>



TABLE 4

**Evidence-Based Practices by State**

<b>Practice</b>	<b>States</b>
Require evidence-based practices	Alabama, Arkansas, Delaware, Georgia, Kentucky, Nebraska, Ohio, Pennsylvania, South Dakota, and Utah
Data collection and performance measurement	Alabama, Arkansas, Georgia, Hawaii, Idaho, Kansas, Kentucky, Louisiana, Mississippi, Nebraska, North Carolina, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Utah, and West Virginia
Oversight councils	Alabama, Georgia, Idaho, Mississippi, Missouri, Nebraska, Oregon, South Carolina, South Dakota, and Utah
Graduated sanctions and incentives	Alabama, Arkansas, Delaware, Georgia, Idaho, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, New Hampshire, North Carolina, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Utah, and West Virginia
Risk and needs assessments	Alabama, Arkansas, Delaware, Georgia, Hawaii, Idaho, Kansas, Kentucky, Louisiana, Mississippi, Nebraska, New Hampshire, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Utah, and West Virginia
Problem-solving courts	Arkansas, Georgia, Kentucky, Louisiana, Mississippi, Oregon, South Dakota, and West Virginia

**Promoting Cultural Change**

The widespread codification of evidence-based practices through JRI reforms is a testament to the cultural shift among agency leadership caused by JRI, but success ultimately hinges on effective implementation. Stakeholder and practitioner buy-in is critical, as the policy strategies that states craft often require fundamental changes in how practitioners respond to people in the system. Reforms may require judges to rethink their approach to determining appropriate punishment or force probation and parole officers to change how they respond to supervision violations, giving them more flexibility but also more responsibility in doling out alternative sanctions. This sort of change often requires a cultural shift in how criminal justice practitioners—from Department of Corrections heads and judges to case managers and probation officers—approach their work and a commitment to grounding their efforts in established best practices.

Stakeholders in several states pointed to this shift as one of the greatest successes of JRI. An analyst in Alaska said JRI had “done more to promote a commitment to evidence-based decisionmaking than anything I have seen here.”<sup>100</sup> Staff in Alabama and Maryland pointed to their ability to pull together a partnership across all three branches of government and ensure that everyone bought into the process and committed to the goals as a key accomplishment.<sup>101</sup> A stakeholder in South Dakota pointed to the success of cultivating a cultural shift in both the legislative and executive branches from a

tough-on-crime approach to a data-driven approach in such a short time.<sup>102</sup> And stakeholders in both West Virginia and Kansas shared that they are no longer “implementing reforms” because JRI has just become how they do business.<sup>103</sup>

# Challenges and Lessons Learned

JRI reforms have led to measurable successes and shifts in how states view and manage their criminal justice systems. Despite considerable progress, however, states have encountered barriers that limit their ability to either legislate or fully implement comprehensive reforms as intended. These experiences show that success is not guaranteed even when key stakeholders in the legislative, executive, and judicial branches unite and commit to engage in justice reinvestment. JRI work is painstaking under the best of circumstances, and lessons learned in participating states that have hit roadblocks can help inform future smart justice reform efforts.

## Codifying Change: Challenges with Policy Development and Legislation

Though the vast majority of participating states succeeded in passing reform legislation, several states faced setbacks during the policy development stage. In some instances, these setbacks prevented states from passing legislative packages; in others, the final legislation excluded or narrowed key recommendations of the state's working group. Contextual challenges varied from state to state, but there were several common barriers. During the policy development stage, these included reluctance from key stakeholders to support specific reforms or even the general concept of reform, unforeseen changes in the political climate of the state, negative media coverage of reform efforts, and concerns that local jurisdictions would bear the costs of state-level reform.

Although strong, collaborative support from state leaders and legislators is an essential aspect of JRI, some states experienced opposition from key stakeholders and system actors during the legislative process. Political support for Washington's justice reinvestment bill, SB 5755, dwindled in part because counties feared that proposed reforms focused on reducing sentences for low-level property crimes would lead to an increase in jail populations and costs.<sup>104</sup> Despite data indicating otherwise, these concerns were magnified by an assessment from the Washington State Institute for Public Policy that was positive overall but indicated that some parts of the legislation could lead to an increase in crime if enacted without the rest of the package.<sup>105</sup> The Washington Association of Prosecuting Attorneys supported the legislation, and SB 5755 passed the Senate in March 2015 with bipartisan support. However, in April 2015, after facing opposition from the Washington Association of Sheriffs and Police Chiefs, the champion and lead sponsor of JRI in the House dropped support for the bill.<sup>106</sup> Lacking key

legislative support in the House and facing the looming possibility of a government shutdown due to budget concerns, the Speaker was unwilling to bring the bill to a vote on the House floor.<sup>108</sup> In this case, stakeholder opposition from a single association was strong enough to reverse bipartisan support for the bill and stymie reform.

Similar setbacks occurred in Indiana, where opposition from district attorneys to changes in the state's drug possession laws diminished support for JRI legislation. In addition, the state's Criminal Code Evaluation Commission—a separate entity tasked with evaluating the state's criminal justice system—had not completed its comprehensive review of Indiana's criminal code, complicating the debate over proposed JRI policies. Although the Commission supported the recommendations of the Indiana Justice Reinvestment Project in 2010 and later adopted many of the same recommendations, the timing of the proposed legislation and the significant opposition it experienced from stakeholders prevented reforms from passing. However, in the years following the state's unsuccessful justice reinvestment effort, the Commission helped pass subsequent criminal justice reform, some of which drew directly from the recommendations of the state's JRI working group (Brady, n.d.). In this case, stakeholder opposition and existing reform efforts in the state affected the justice reinvestment process, but the state was able to pass significant reform in subsequent years based on the intensive work done in 2011.

Most recently, Rhode Island experienced significant setbacks in passing JRI reforms during its 2016 legislative session. The state initiated the justice reinvestment process in 2015 with a focus on its probation system, which had the third-highest probation rate in the country.<sup>109</sup> Although the proposed JRI legislation passed unanimously in the Senate and garnered significant support from the governor, the chief justice of the Supreme Court, the Senate president, and key champions in the House, internal political tensions ultimately caused the six proposed bills to die in the House without ever being brought to a vote.<sup>110</sup> Some aspects of the reform will still be implemented through court rules successfully adopted and through an up-front appropriation made by the legislature. Other reforms can be implemented without legislative action through administrative changes and budget shifts. Again, this setback demonstrates how even widely supported reforms can be halted by outside political tensions.

The lessons learned from these and other state experiences are clear: despite efforts by working groups to build consensus in support of reform, securing stakeholder buy-in during the policy development stage can be daunting. Some states overcame the challenge by giving all relevant stakeholder groups representation early in the process. Other states, after facing these obstacles, were able to pass reform in later legislative sessions either by reengaging in justice reinvestment or by using previous JRI experience to guide future policy development efforts.

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## BOX 17

### The Value of Thinking Local in State Justice Reinvestment

Although justice reinvestment is spearheaded by state leaders, support from local officials is critical to success. City and county criminal justice practitioners largely control arrest, charging, and sentencing decisions; manage community supervision in many states; and often assume custody of people who violate the terms of their probation or parole. Local practices thus directly shape state-level criminal justice trends, and local agency data are critical to understanding what drives state corrections populations and costs.

Recognizing the role that local officials play in changing state-level criminal justice trends, some states have taken concrete steps to engage city and county practitioners in reform efforts. Oregon convened regional implementation councils to disseminate information to counties on the impact of local practice on the state prison population (Davies, Harvell, and Cramer 2015). Alabama's Criminal Justice Oversight and Implementation Council, which oversees justice reinvestment, established a local engagement and implementation subcommittee to involve local stakeholders in policy development.<sup>a</sup>

Other states allocated funding to support counties as they implement new policies and practices. Utah established a \$2.2 million incentive grant program to help counties deliver evidence-based recidivism reduction interventions and expand diversionary programs (Pew 2015b). Oregon allocated \$40 million to counties in the 2015–17 budget biennium to reduce prison admissions, including through establishing pretrial alternatives to prison. With funding from BJA through the maximizing state awards stream and using local district attorneys as the official gatekeepers, three Oregon counties launched pretrial diversion programs that target people with substance use disorders who have been convicted of repeat property offenses.<sup>b</sup>

<sup>a</sup> Alabama Justice Reinvestment Year 1 Implementation Oversight Structure.

<sup>b</sup> Interview with a stakeholder from Oregon, February 11, 2016.

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## Putting Policy into Practice: Implementation Challenges

Passing legislation is only the first step in JRI reform. Translating legislation into practice is difficult and often requires multiple stakeholders and agencies to change how they do business (See box 19 on page 63 for additional information on the implementation process). Educating practitioners about policy changes, securing buy-in, and facilitating adoption of new practices can be a lengthy undertaking. It can also take time for agencies to develop new administrative procedures (such as guidelines for sanctions for parole violations), train decisionmakers in the use of risk assessments, and develop a structured decisionmaking process for parole boards.

In some states, the predictable challenges of reform are made more complex by other dynamics. These include the loss of political support for reform, changes in the broader political climate of the state, resistance from key criminal justice officials, and lack of oversight for reform efforts.

## Changes in Political Context

Justice reinvestment is an inherently political process, and its success is inevitably subject to the political climate of the state. Although passing legislation is the most obvious hurdle, the ongoing work of implementing policies can be slowed as administrations change, legislative champions leave office, critical incidents occur, or stakeholders fear being perceived as being “soft on crime.”

New Hampshire’s JRI efforts, for instance, were affected by gubernatorial politics and the withdrawal of legislative support during implementation. Although the state’s JRI legislation enjoyed support initially, the law became politically contentious in the 2010 gubernatorial race, when many of its provisions became effective. Key legislators revoked their support, claiming they were unaware of the implications of the bill. In 2011, the legislature nullified many of the bill’s provisions by passing SB 52, which provided wide discretion to the parole board to revoke parole.<sup>111</sup>

Oklahoma also experienced challenges implementing its 2012 JRI legislation. After HB 3052 passed, the governor declined to request subaward funding for implementation, which contributed to the chairmen of the justice reinvestment working group’s resignation.<sup>112</sup> Before this, political momentum for reform had also diminished. Absent technical assistance, an oversight body, and federal seed funding, HB 3052 reforms were not implemented as intended.

Even with the limited success of initial efforts, criminal justice reform as a whole is moving forward in Oklahoma, in part because of vocal advocacy and support from the governor. In 2015, the governor established the Justice Reform Steering Committee, tasked with developing plans to reduce the state’s growing prison population. The committee’s recommendations were incorporated into four justice reform bills that passed in the 2016 session. In 2016, the state received approval to engage in JRI again with a focus on building on recent reforms and reducing the state’s prison population.<sup>113</sup> This new JRI effort will be enhanced by the state’s maximizing award, which will fund state efforts to increase diversion at various points in the system and strengthen supervision strategies,

Thus, although fluctuating political contexts can present a challenge, they may also create openings for reform. Such was the case in Oklahoma, a typically tough-on-crime state that has reconsidered its approach to criminal justice in the face of budget deficits and evolving leadership priorities.

## Active Efforts to Undo Reforms

Maintaining political support for reform is key. Although some states simply stalled in implementation, others were affected by aggressive efforts to roll back reforms. Many states succeeded in protecting core reforms, but some did not.

Arkansas's first engagement with JRI was derailed when media coverage of a serious crime prompted efforts to roll back reform provisions. In May 2013, a person on parole committed a high-profile murder, triggering a wave of bad press for the Department of Correction and complicating implementation of the state's JRI reforms. Although the law had successfully reduced the number of prison beds and revocations early on, these trends were reversed. In response to political pressure and widespread concerns about public safety, the Board of Corrections directed Arkansas Community Correction to tighten revocation policies. Reversal of the law's provisions was also influenced by the departure of key staff from the governor's office, causing collaboration with the chiefs of police, the Sheriff's Association, and some prosecutors to deteriorate.<sup>114</sup> Arkansas's reform package was comprehensive, but the political landscape greatly compromised the state's ability to carry out reform and maintain political momentum for change. Fortunately, however, such shifts in political context are often only temporary setbacks, and Arkansas is now engaging with JRI for a second time.

Conversely, the evolution of JRI reforms in Georgia demonstrates how state actors can proactively work to maintain and strengthen reforms. In this case, the governor championed sustained criminal justice reform and made the issue a pillar of his campaign and political platform. In addition to vocally supporting JRI reforms and several other criminal justice reform efforts, he institutionalized the Georgia Council on Criminal Justice Reform to periodically review criminal laws and procedure, sentencing laws, adult corrections issues, juvenile justice issues, enhancement of probation and parole supervision, and other issues related to criminal proceedings and accountability courts. He also spearheaded the creation of the Georgia Prisoner Reentry Initiative and signed into law a bill creating the Department of Community Supervision to oversee probation and parole practices.<sup>115</sup>

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## BOX 18

### Common Opposition and Strategies to Overcome It

Stakeholder collaboration is an integral part of justice reinvestment, but building consensus around reform is a challenging task often met with hesitancy or opposition from key state actors. Overcoming opposition is a core part of JRI, and TA providers and partners have developed strategies to address opposition at all stages of the initiative.

Opposition to JRI reforms can stem from several sources and substantive concerns, but some groups are more likely to resist reform. Judges and prosecutors, for instance, are often hesitant to support packages that limit their discretionary decisionmaking. Victims may oppose reforms over concerns about overly lenient treatment for perpetrators or perceived disregard for victims' rights. Finally, county representatives and sheriffs can be reluctant to support reform if it could mean moving people in state prisons to local jails, shifting corrections costs to localities and local taxpayers. Although opposition has diminished support for JRI packages in some states, it has played a vital role in shaping reforms and ensuring stronger, more balanced packages in others.

TA providers address stakeholder opposition in several ways: (1) engaging stakeholders early in the policy development phase, (2) holding roundtables with stakeholders to address concerns, (3) assigning stakeholders as representatives to task forces, (4) polling stakeholders about current practices or opinions on potential policy changes, (5) identifying reforms that are win-wins for multiple parties, and (6) keeping stakeholders engaged during and after implementation.

These strategies work best when tailored and developed in partnership with stakeholders. In Hawaii, roundtables held with victims, survivors, and advocates helped shape reform efforts. The state worked directly with these advocates to examine its restitution collection process, and the resulting legislation increased restitution collection from 10 percent of convicted people's earnings to 25 percent of all wages and cash deposits to their accounts. The state also hired staff to improve restitution collection, services to victims, and victim notification.

To address opposition from judges, some reforms have blended statutes that reduce judicial discretion with those that increase it (e.g., eliminating mandatory minimums, expanding drug courts and probation eligibility, and providing more tools in sentencing people to treatment). This was the case in Maryland and South Carolina, where reform packages eliminated several mandatory minimums, giving judges more discretion to sentence individuals to less prison time or to treatment.

To ensure local system actors are not burdened by statewide reforms, several JRI efforts created local task forces or crafted budgetary packages that redirect savings to local programs and treatment options. In Alabama, the Association of County Commissions helped form a task force to track and discuss JRI progress. Georgia's reform package required expedited transfers to state prisons so jails do not incur the costs of detaining people sentenced to prison. Utah's reform package decriminalized more than 200 minor traffic misdemeanors to ensure these violations no longer result in jail time.

These examples demonstrate how stakeholder opposition can actually improve JRI reforms, leading to increased collaboration, compromise, and stronger legislative packages. But this collaboration does not always occur and is not always consistent across stakeholder groups. JRI requires consistent collaboration with a diverse array of actors and is ultimately subject to the precarious support of key stakeholders and unpredictable political climates.



## Building Consensus and Training

Although JRI policy development requires input from a wide range of stakeholders and legislative champions, those who translate policy into reality are often not engaged in the early phases and may be unaware of the reasons behind certain reforms. This disconnect presents a serious challenge to implementation, which some states are beginning to address by better coordinating JRI policy development and implementation.

Judges, a stakeholder group critical to the successful rollout of JRI, have demonstrated varying levels of acceptance when confronted with reforms in their courts. In Hawaii, a key provision of JRI legislation gave judges discretion to sentence people convicted of a second drug possession crime to probation rather than incarceration, thus allowing people to receive treatment and maintain connections to their community. Because of a lack of community-based treatment and a commitment to in-prison programming, many judges were reluctant to use the policy option, believing that individuals would not be properly supervised and treated in the community. As a result, only 16 eligible people were diverted to probation in 2014.<sup>116</sup> Judicial skepticism of reform was also evident in pretrial proceedings, as judges in certain jurisdictions disregarded risk assessment scores and required people to obtain sponsorship to gain release, regardless of their risk level.<sup>117</sup> Legislative champions introduced two new bills to combat these challenges (SB 1331 to correct delays in pretrial decisionmaking and SB 1332 to address limited use of the revocation cap), but neither bill passed because of opposition from some stakeholder groups, including victim advocates, prosecutors, the Department of Public Safety, and the Hawaii Paroling Authority.<sup>118</sup>

Kansas faced similar pushback when implementing HB 2170 but successfully passed legislation to address its challenges. In particular, judges and the district attorney believed graduated sanctions would only apply to offenses committed after the legislation's effective date instead of applying to all people currently on supervision. They also expressed concerns that limiting judicial discretion and instituting shorter intermediate sanctions would result in more people returning to the community with less stability and access to programming. As a result, the sanctions option in the bill was not used as intended and did not result in the predicted decrease in probation revocations sent to prison.<sup>119</sup> Rather than accept this outcome, state leaders revised the legislation to clarify the effective date for using sanctions. The revisions in HB 2448 passed the legislature and have helped address initial implementation challenges.

These examples underscore the importance of fully educating and training groups charged with translating justice reinvestment from policy into reality. Without a strong understanding of the

evidence base behind JRI reforms, these people will be less committed to their success. Although follow-up legislation can address challenges down the road, states mitigate that roadblock altogether by ensuring coordination and common understanding among all parties from the start.

## Sustainability and Oversight

Once JRI reforms are in place, whether they produce results depends largely on two factors: proper implementation and oversight. One popular mechanism that helps ensure accountability and full implementation is the use of core implementation bodies or oversight boards. These groups have been successful in many states, but they are also vulnerable to challenges. Legislative restraints may prevent members of the judicial and executive branches from serving on the board and providing critical input during implementation. Political pressure, funding concerns, vague requirements or reporting mechanisms, and internal group dynamics may also influence the effectiveness of oversight boards.

In Arkansas, the JRI oversight body was a valuable tool for sharing information and fostering collaboration but was less efficient at actual oversight. Established by the governor in 2011 as a continuation of the state's original working group, the oversight body lacked reporting requirements, experienced difficulties with structure and leadership, and had no enforcement power.<sup>120</sup> As noted previously, sustainability in Arkansas was uniquely threatened by the highly publicized political pushback against SB 750. If the oversight body had more specific reporting mechanisms and a viable leadership structure, it may have helped sustain reforms.

This experience demonstrates the challenges states face as they commit to oversight and sustainability and also highlights some important lessons learned. Oversight committees must bring a diverse range of stakeholders to the table, hold enough power to regulate and reinforce reporting mechanisms, and maintain a clear leadership structure. Alabama's oversight board, the Alabama Criminal Justice Oversight and Implementation Council, has been essential to sustaining JRI reforms. The board established four issue-specific subcommittees consisting of diverse groups of stakeholders to oversee planning and development in key provisions of JRI reforms. The oversight board includes representation from each agency and branch charged with implementation, providing clearly appointed leadership dedicated to successful implementation.<sup>121</sup>

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## BOX 19

### Implementing Policy Changes

Following successful passage of JRI legislation, states quickly move to the next phase of justice reinvestment: implementation. Although states receive intensive technical assistance and subaward funding from BJA to assist with implementation, the goal is to ensure that states drive the reform process and are well-positioned to lead and sustain successful implementation without assistance.

In the initial months after legislation passes, the state works with TA providers to outline an implementation plan for executing policy changes. The state identifies the agencies responsible for various reforms, maps out implementation goals and anticipated challenges, and develops performance measures for each legislative provision. The plan also identifies budget priorities and a scope of work designed to most efficiently use BJA subaward funding. Once priorities are set, states receive targeted technical assistance over several months to help with organizing trainings, adopting tools (like risk assessments or service gap analysis assessments), assessing current programs, engaging external contractors, and creating a reinvestment plan. Implementation assistance lasts for two to three years, after which the state is expected to oversee and sustain reforms on its own.

During the implementation phase, TA providers gradually reduce the frequency of site visits and intensity of assistance. In the transition from pre- to postlegislation, subaward funding is crucial in helping sites remain invested in and accountable to implementation priorities.<sup>a</sup> States have considerable discretion over how they use funding, and funds have been allocated for training staff, evaluating programs, developing data dashboards to monitor change, establishing quality assurance mechanisms, and coordinating implementation work (figure 12). To date, just over half the total funds have been used to support training for various stakeholders, including staff in corrections, community supervision, and pretrial services, as well as judges, prosecutors, and defense attorneys. Almost 23 percent of funds have supported data management, evaluation, and efforts to measure cost savings; 15 percent have supported program development and infrastructure, including the development of pilot programs and required tools; and 11 percent have supported administrative assistance, including a JRI coordinator. In several sites, subaward funding has supported a JRI coordinator position or a JRI oversight group, contributing not only to successful implementation but to oversight and sustainability as well.<sup>b</sup>

In Delaware, a significant amount of implementation assistance was directed toward preparing the state's oversight council, the Justice Reinvestment Oversight Group, to direct the implementation of SB 226. SB 226, passed in 2012, addressed Delaware's pretrial population, concentrating detention resources on high-risk defendants and focusing supervision on moderate- to high-risk people. To accomplish these goals, the TA provider helped the oversight council and other key implementers (1) craft an implementation plan; (2) develop, pilot, and test a pretrial risk assessment tool; (3) develop performance measures specific to SB 226; and (4) develop recommended projects to pursue with subaward funding. The TA provider worked with the Oversight Group to prioritize funding needs and used subaward funding to hire a JRI coordinator, validate Department of Corrections classification tools, train staff on assessment and evidence-based practices, and implement a risk-needs-responsivity

tool. The state also hired the Crime and Justice Institute to conduct an independent validation study of the pretrial risk assessment. Based on their results, the state decided to develop a new pretrial risk assessment tool, expected to roll out in early 2017. The Oversight Group was also tasked with developing a plan to measure the cost impacts of SB 226, but this could not be accomplished within the implementation phase because cost savings had not yet been realized.<sup>c</sup> The state may still pursue this goal at a later date, as it successfully applied for additional implementation funding from BJA.

Hawaii, another state that completed its implementation phase, relied on technical assistance to aid in implementation planning and sustainability and also to address challenges encountered during implementation. After passing JRI legislation in 2012, Hawaii received technical assistance for pretrial, parole, and victim restitution policies. Over two years, the TA provider helped the state (1) develop a strategy to implement a pretrial risk assessment tool and reduce delays in the pretrial decisionmaking process, (2) develop pretrial metrics for the state to monitor, (3) strengthen the risk assessment process for presumptive parole, and (4) develop a database to track restitution orders, collections, and disbursements. The TA provider identified several barriers to successful implementation and worked with key implementers to address them. Despite setbacks in implementing pretrial and parole strategies, the state made progress with restitution reform: since enactment of JRI legislation, the amount of restitution collected by Department of Public Safety institutions has nearly doubled, and more than 15,000 services were delivered to victims of crime. To guide implementation efforts and address challenges moving forward, the state reconvened the Hawaii Reentry Commission in 2015 with plans to convene quarterly until 2019.<sup>d</sup>

Although the primary goals of policy implementation have remained consistent throughout the initiative, lessons learned have influenced and altered how states approach implementation. Most notably, TA providers are educating stakeholders about implementation much earlier, fusing it with policy development to ensure all stakeholders are engaged and committed from the outset.<sup>e</sup> In states like Alaska, this may have helped the transition from pre- to post-legislation and allowed the state to pass a more aggressive legislative package knowing that implementation assistance would be available.<sup>f</sup> Additionally, states have begun to incorporate key implementers earlier in the policy development process to ensure that their perspectives are heard. TA providers have also begun to infuse implementation science principles into trainings with stakeholders, allowing them to be invested in policy-specific implementation goals and better understand principles of effective implementation. This movement to embed implementation planning earlier in the JRI process should help states and working groups ensure the uptake and sustainability of reforms before moving to policy implementation.

<sup>a</sup> Notes from a phase II technical assistance provider conference call conducted in June 2016

<sup>b</sup> Authors' analysis of state subaward funding requests submitted to BJA and TA provider reports on subaward expenditures; notes from a phase II technical assistance provider conference call conducted in June 2016

<sup>c</sup> Communication with the Vera Institute of Justice, February 2015.

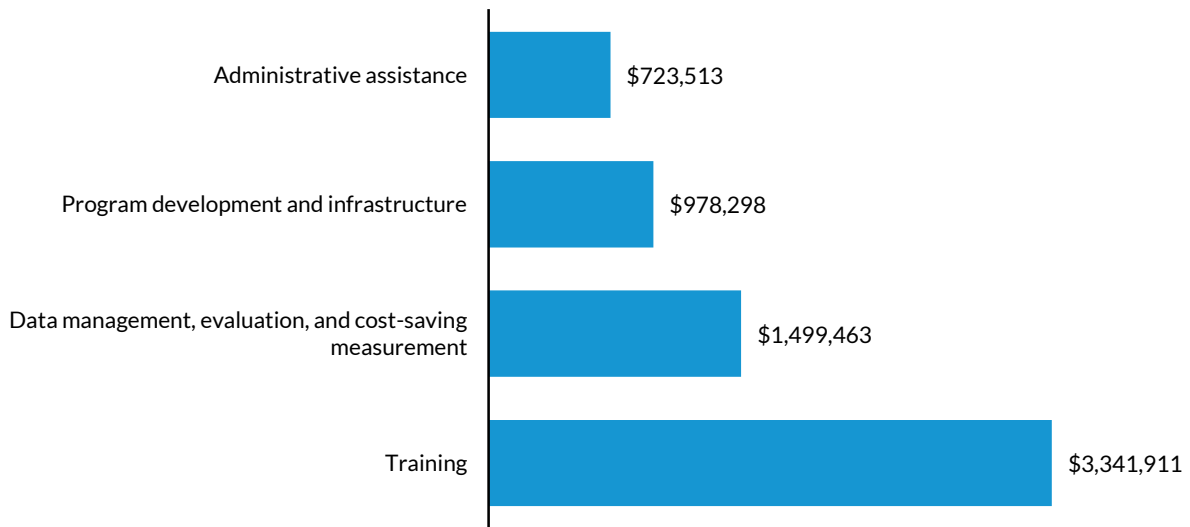
<sup>d</sup> Communication with the Council of State Governments Justice Center, January 2016.

<sup>e</sup> Notes from a phase II technical assistance provider conference call conducted in June 2016.

<sup>f</sup> Ibid.

FIGURE 12

Subawards to States through Spring 2016



Source: State subaward funding requests submitted to BJA and technical assistance provider reports to the Urban Institute.

Note: The total amount obligated is \$6,543,185.

## Engaging Outside Systems and Community Perspectives in JRI

### Cultivating Outside Partnerships

As more states take part in JRI, they are recognizing the importance of folding new system stakeholders and outside entities into reform efforts. Given the overlap between behavioral and mental health needs and criminal justice system involvement, some states have leveraged partnerships with health departments and used Medicaid expansion to address health-related concerns with justice-involved people. These partnerships have been particularly successful when external agencies are brought into the policy development phase early on.

During JRI policy development, Utah included stakeholders from its Division of Substance Abuse and Mental Health in its working group and was able to make comprehensive treatment services and reentry planning a core aspect of its reform legislation. Among other things, HB 348 (2015) established statewide treatment standards and a certification process under the Division of Substance Abuse and

Mental Health. It also enhanced transition planning, recovery, and reentry processes by creating transition specialist positions within the Department of Corrections. To support reforms, the state invested \$3.35 million in the Department of Corrections to expand access to behavioral health treatment and \$4.97 million in the Division of Substance Abuse and Mental Health to expand treatment, develop standards, and provide trainings (Pew 2015b). This demonstrates how strong interagency partnerships can promote successful implementation, especially if partnerships are forged in the initial phases of reform.

Alabama and West Virginia also leveraged outside partnerships to address mental and behavioral health concerns. As part of its behavioral health treatment reinvestment strategy, Alabama's Board of Pardons and Paroles worked with the Department of Mental Health to develop and release a joint request for proposals for treatment providers to serve individuals on probation and parole. The partnership and pass-through contract arrangement helped streamline access to the Department of Mental Health's network of community providers and made it possible to leverage additional treatment dollars for individuals eligible for Medicaid reimbursement.<sup>122</sup> In West Virginia, state leaders contracted with the Center for Health Care Strategies to develop plans to leverage Medicaid as part of the state's reinvestment in substance use disorder treatment.<sup>123</sup>

Alabama and North Carolina partnered with subject matter experts to implement training and educate stakeholders on serving justice-involved people with mental and behavioral health needs. In Alabama, state leaders presented at the Alabama School of Alcohol and Other Drug Studies to inform treatment providers about the request for proposals and invited experts to lead 40 practitioners in a course on evidence-based approaches to serving justice-involved people with behavioral health needs.<sup>124</sup> North Carolina teamed up with the University of North Carolina School of Social Work to launch a pilot program to help probation officers better recognize and respond to the needs of people with mental disorder diagnoses and help them complete their terms of supervision (Hall et al. 2015).

Outside partnerships can help make reform efforts more holistic and comprehensive. Criminal justice officials are often limited in their ability to address all prison population drivers, and outside partnerships provide additional opportunities for treatment, prevention at the front end of the system, and a more integrated approach to reform.

## Incorporating Community Voices in JRI

Although JRI efforts rely on key legislators, top criminal justice stakeholders, and other system actors to adopt and implement changes to policy and practice, more states are recognizing the importance of incorporating people directly affected by the criminal justice system: formerly incarcerated people, families of justice-involved people, victims, and advocates. This is especially relevant in states where proposed JRI reforms align closely with existing efforts born out of community-based advocacy and efforts on the ground.<sup>125</sup> Incorporating these perspectives can strengthen legislative packages and foster community buy-in and sustainability.

The importance of incorporating community voices has become more salient in the past several years, and at least seven states—Alabama, Georgia, Louisiana, Maryland, Mississippi, and Nebraska—have tried to more fully incorporate community perspectives in JRI by creating formal representation for community advocates within their working groups. This is just one way to involve affected communities and does not necessarily allow for many voices to be heard. Still, initial experiences from these states demonstrate that formal working group representation may help (1) ensure that reforms have community backing and reflect the desires of those affected by the justice system, (2) improve task force dynamics and contribute to diversity of thought and expertise, (3) represent community priorities for how reinvestment should be directed to community programs, and (4) obtain community buy-in for sustaining reforms.<sup>126</sup>

In Mississippi, for instance, the Southern Poverty Law Center, a nonprofit legal advocacy organization specializing in civil rights and equal justice,<sup>127</sup> and the Office of Capital Defense Counsel were involved throughout the JRI process and were instrumental in passing and sustaining successful reform. A Southern Poverty Law Center representative served on the state's Corrections and Criminal Justice Task Force and helped bridge communication barriers between community members and legislators, garner support from other civil rights organizations, and improve overall task force dynamics.<sup>128</sup> Most significantly, the Southern Poverty Law Center contributed to the sustainability of reforms by hiring staff to conduct direct outreach in facilities to identify and assist people who could benefit from the retroactive provisions in the law.<sup>129</sup> In Maryland, the Justice Reinvestment Coordinating Council also worked to ensure community perspectives were incorporated in the JRI process. In addition to having community advocate representation on the task force, the state also held three town hall meetings where advocates and formerly incarcerated people could give testimony. Alaska's JRI task force traveled to rural and remote areas of the state to meet with tribal communities disproportionately affected by the system (Alaska Criminal Justice Commission 2015). This kind of on-the-ground involvement represents an added layer of direct outreach that would likely not have been

possible without community partnerships. Although states are still experimenting with different ways to incorporate community perspectives, initial successes point to the importance of fostering these community partnerships and listening to those directly affected by the criminal justice system.

## Justice Reinvestment as an Iterative Process

Another key lesson learned is that JRI is an iterative process. Several states have engaged with the initiative multiple times and often benefit from the good and bad experiences from their earlier reform efforts. States may reengage with JRI for several reasons, including

- a desire to pursue reforms that were considered off the table during the first round of JRI,
- an interest in pursuing additional reform after a successful first JRI engagement,
- a willingness to provide additional funding or fill a service gap identified in the wake of reform,
- an interest in strengthening JRI legislation that was watered down or poorly implemented, and
- a change in political climate allowing for more robust reforms.

At least five states—Arkansas, Georgia, Louisiana, Oklahoma, and Pennsylvania—are currently reengaging with JRI.

Pennsylvania is pursuing reforms that were largely unaddressed by the state's first round of JRI, including sentencing reform, pretrial practices, county probation and parole supervision, jails, substance use and mental disorders, and community-based treatment and programs to reduce recidivism. Although its 2012 JRI legislation, SB 100 and HB 135, improved state correctional and parole systems and led to the largest one-year drop in the state's prison population since 1971, state leaders have since recognized the need to focus on the front end of the criminal justice system.<sup>130</sup> This demonstrates how states have the opportunity to address additional areas of criminal justice reform based on an evolving environment and new or emerging issues or trends.

Louisiana is another state following this pattern. Its 2012 JRI efforts focused on expanding earned time credit in prison, waiving some mandatory minimum sentences, creating administrative sanctions, revising parole eligibility, expanding reentry courts, and restructuring the Board of Parole under the Board of Pardons to create the Board of Pardons and Parole.<sup>131</sup> These reforms led to an 8 percent decrease in the state's prison population. Despite this success, Louisiana still has the highest incarceration rate in the country and is facing a \$600 million deficit in 2017.<sup>132</sup> The state hopes that reengaging with justice reinvestment will help further reduce its prison population.<sup>133</sup>



While Pennsylvania and Louisiana aim to build upon successful reform efforts, Oklahoma and Arkansas are working to overcome implementation challenges faced during their first JRI engagement. Oklahoma has experienced a new wave of momentum for criminal justice reform, spurred in part by the state's \$1.3 billion budget deficit in the wake of collapsing oil prices.<sup>134</sup> During its first iteration of JRI engagement, the governor turned down federally funded implementation assistance and the working group dissolved. But she, along with several key criminal justice stakeholders, has since backed a number of reforms, such as eliminating mandatory minimums for some drug possession charges, raising the threshold for property crimes, and expanding the availability of drug courts and community sentencing. Arkansas, too, has reinvigorated bipartisan support for criminal justice reform that includes a new governor and a task force established by new legislation.<sup>135</sup> Both states plan to introduce reforms in their 2017 legislative session. Despite their earlier implementation challenges, the renewed wave of support for criminal justice reform in Oklahoma and Arkansas illustrates the iterative and flexible nature of justice reinvestment and demonstrates that unforeseen landmines and complex political and implementation barriers can be overcome as political contexts and administrative priorities shift.

# Conclusion

Findings from the first six years of the Justice Reinvestment Initiative are not definitive but suggest that JRI has spurred significant criminal justice reform in many of the 28 participating states and resulted in a cultural shift toward data-driven, evidence-based practices. Though savings and reinvestment vary from state to state, nearly half the participating states have documented averted costs, and even more have found ways to invest in proven and promising public safety strategies. As of 2016, states have reported more than \$1.1 billion in savings and averted costs and invested more than \$450 million in JRI reform efforts. Because most states are still implementing reforms, the full impact of JRI has yet to be realized, and work remains to be done to track progress and document lessons learned for the broader field.

Through JRI, states enacted a wide range of tailored policy solutions to more efficiently manage their criminal justice systems. Every state strengthened and expanded community supervision to more effectively monitor people at home. Many found ways to expedite release from prison by expanding parole eligibility, streamlining administrative processes, and implementing or expanding earned time credits for good behavior. More states are looking to the front end of the system to identify reform opportunities and making changes to sentencing by reducing penalties for some drug and property offenses, eliminating mandatory minimum statutes or establishing safety valves, revising sentencing enhancements, and expanding alternative sanctions. States hope these reforms can stem the flow of people into prisons who could be supervised safely and effectively in the community. A handful of states looked to reduce the number of people unnecessarily detained pretrial, enhancing release options and reducing use of monetary bonds. States have also dedicated attention to sustainability provisions, legislating oversight boards, and more consistently requiring data collection and performance measurement.

For many states, sufficient time has passed to assess the effects of reform on key outcomes of interest, and findings vary. Population trends at the system level suggest progress. In 15 of the 18 states tracked, the prison population in 2015 was below what experts projected it would be absent any reforms. In 7 states, the prison population was below expected levels with full JRI implementation, and in 10 states, it was smaller than it was in the year before JRI reform. Most JRI policies aimed to reduce or avert growth in the prison population, but states also enacted reforms expected to both increase community supervision populations (e.g., expanding presumptive probation) and reduce them (e.g., implementing earned credit for parole) where appropriate, thus complicating interpretation of system-

level trends. Although there was variation from state to state, on balance, probation populations shrunk in 10 of the 18 states tracked while the number of people on parole grew in 12.

Population trends seem to be headed downward, but states have been slow to calculate actual savings, which often come in the form of averted costs. Given that most states are still within their projection windows, it is difficult to determine interim costs they have averted. In seven states, the prison population has remained below what experts estimated it would be with full implementation of JRI reforms. Savings estimates were typically based on unused prison beds from these population reductions, and early indications in these states suggest they are on track. As noted above, states have encountered challenges in identifying and publishing actual savings resulting from JRI reforms. Still, 12 states have reported a total of \$1.1 billion in savings, ranging from \$2.5 million in Kansas and Hawaii to more than \$490 million in South Carolina. The bulk of these dollars are averted costs, which are real in the sense that they are funds a state does not have to spend, but they cannot easily be repurposed or reinvested in other strategies.

Some states have struggled to identify and recoup savings from their JRI reforms, but many others found ways to reinvest—or invest up front—in proven and promising strategies. One of the most surprising findings continues to be the level of up-front investment, which accounts for 40 percent of the \$450 million invested to date. Sixteen states recognized the importance of investing up front in effective implementation and appropriated funds to support those efforts.

But system-level trends cannot tell the full story, and more targeted performance measures suggest promising interim results in many states. States are dedicating more attention to strong performance measurement and transparency with stakeholders and the public about reform progress. Findings from rigorous analyses of specific policies in a handful of states show that JRI reforms are having their intended effects. Point-in-time analyses suggest that people spent less time in prison because of supervision revocations in Louisiana and less time on supervision in Missouri with no harm to public safety. Mandatory supervision in Kentucky reduced the risk of recidivism for people released to the community within the first year. And prison admissions fell in South Dakota in the first two years after reform as more people with lower-level drug offenses were sentenced to probation in lieu of incarceration.

But some states have yet to document success, underscoring the difficulty of this work and providing key lessons for the field. Legislating and implementing criminal justice reform of this scale is challenging under even the best of circumstances, and states have encountered several roadblocks, including shifting political climates, opposition from key stakeholder groups, and pushback from local

agencies fearing an increased burden on local communities. But enacting legislation is only the first step, and implementation comes with its own challenges. Some states have struggled with maintaining support for reform efforts in the face of new or continued opposition, educating key practitioners on the ground and securing their buy-in, and setting up effective oversight structures to ensure accountability. Many states have overcome these challenges and seen the benefits of engaging outside systems and community perspectives in the process.

Luckily, states are not limited to one attempt at JRI, and some are reengaging with the initiative either to overcome challenges that limited their first reform efforts or to build on previous success. At least five states are formally approved to initiate the JRI process for a second time and are currently working to introduce reform efforts in their 2017 legislative sessions. Georgia, Louisiana, and Pennsylvania are aiming to build on previous success, and Arkansas and Oklahoma are taking a fresh look at options to address their growing prison populations.

The evidence suggests that JRI is having an impact, and though it is virtually impossible to establish causation, it is difficult to imagine the current reform environment absent this effort. JRI was born out of a desire to make smarter justice investments and change the national conversation about crime and punishment in an era dominated by rhetoric rather than research. State efforts demonstrate that it is possible to safely reduce prison populations and show the value of basing policy and practice on evidence about what works to promote behavior change on an individual level. Over the past decade, we have seen the emergence of strong conservative voices demanding a smart-on-crime approach through the Right on Crime initiative and other outlets. Criminal justice funders have come together to invest in Cut50, a national bipartisan effort to cut the US prison population in half over five years, and the Open Society Foundation committed \$50 million to launch the American Civil Liberties Union's Campaign for Smart Justice, which has the same goal. Increased attention at the federal level is evidenced by the recent Charles Colson Task Force on Federal Corrections, which released a roadmap to reforming the federal prison system (Charles Colson Task Force on Federal Corrections 2016). These recent efforts are, of course, building on years of work by other organizations like the Sentencing Project and Families Against Mandatory Minimums. But one of JRI's greatest legacies may be that it paved the way for new efforts and expanded opportunities for comprehensive, consensus-based reform.

But the work is far from over, and ongoing assessment is critical for documenting successes, identifying areas in need of course correction or additional reform, and disseminating lessons learned for the broader field. Assessing the impact of JRI will be a continuing process that requires careful tracking of key system indicators, investment in more rigorous impact analyses, and attention to the

sustainability of reforms. States must prove they can institutionalize reforms and track progress on their own long after TA providers end their support and external funding has been spent. If states can build on their successes, learn from their challenges, and pursue additional or more aggressive reforms, JRI could become a strong engine of system-level change across the country.

# Notes

1. Based on the imprisonment rate of sentenced people under the jurisdiction of state or federal correctional authorities per 100,000 US residents, generated using the Corrections Statistical Analysis Tool at “All Data Analysis Tools,” Bureau of Justice Statistics, accessed December 5, 2016, <https://www.bjs.gov/index.cfm?ty=daa>. The imprisonment rate of sentenced people fell from 504 per 100,000 US residents in 2007 to 471 in 2014, a decline of 6.5 percent.
2. “Most States Cut Imprisonment and Crime,” The Pew Charitable Trusts, November 10, 2014, <http://www.pewtrusts.org/en/multimedia/data-visualizations/2014/imprisonment-and-crime>.
3. The 28 states included in this report are Alabama, Alaska, Arkansas, Delaware, Georgia, Hawaii, Idaho, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, Nebraska, New Hampshire, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Utah, Washington, and West Virginia. This report excludes states that engaged in justice reinvestment in 2007–09 and were thus not formally a part of the initiative. In 2015 and 2016, eight additional states—Arkansas, Georgia, Louisiana, Massachusetts, Montana, North Dakota, Oklahoma, and Pennsylvania—were approved for a phase I engagement and are working to introduce legislation in their 2017 sessions. Five of these states previously participated in JRI, but activities and outcomes related to this latest round are not discussed in this report.
4. Under § 14-7.12 of the North Carolina General Statutes, someone 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 people convicted of serious felonies such as murder, assault, rape, robbery, arson, and kidnapping.
5. S.B. 1154, 2010, 118th Sess. (S.C. 2010); Legis. B. 605, 104th Legis., 1st Sess. (Neb. 2015); S.B. 91, 29th Leg. 1st Sess. (Alaska 2016).
6. H.B. 348, 2015 Gen. Sess. (Utah 2015).
7. H.B. 3194, 77th Leg. Assemb., 2013 Reg. Sess. (Or. 2013); H.B. 1176, 2012 Reg. Sess. (Ga. 2012); S.B. 1005, 2016 Reg. Sess. (Md. 2016); H.B. 348, 2015 Gen. Sess. (Utah 2015); S.B. 91, 29th Leg. 1st Sess. (Alaska 2016).
8. S.B. 1005, 2016 Reg. Sess. (Md. 2016).
9. H.B. 585, 2014 Reg. Sess. (Miss. 2014).
10. S.B. 91, 29th Leg., 1st Sess. (Alaska 2016).
11. S.B. 1154, 2010, 118th Sess. (S.C. 2010).
12. S.B. 67, 2015 Reg. Sess. (Ala. 2015).
13. H.B. 3194, 77th Leg. Assemb., 2013 Reg. Sess. (Or. 2013); Legis. B. 605, 104th Legis., 1st Sess. (Neb. 2015); S.B. 70, 88th Legis. Assemb. (S.D. 2013); H.B. 585, 2014 Reg. Sess. (Miss. 2014).
14. “Overview,” State of South Dakota, June 17, 2015, <http://psia.sd.gov/PSIA%20Overview.pdf>.
15. S.B. 371, 81st Leg., 2013 Reg. Sess. (W. Va. 2013).
16. Communication with the Vera Institute of Justice, February 2015.
17. Communication with the Vera Institute of Justice, February 2015.
18. S.B. 2776, 26th Legis., 2012 Sess. (Haw. 2012); S.B. 371, 81st Leg., 2013 Reg. Sess. (W. Va. 2013).
19. S.B. 91, 29th Leg., 1st Sess. (Alaska 2016).

20. H.B. 463, 11th Reg. Sess. (Ky. 2011).
21. S.B. 91, 29th Leg., 1st Sess. (Alaska 2016).
22. "Justice Reinvestment Initiative: Louisiana," accessed December 5, 2016, Vera Institute of Justice, <http://www.vera.org/justice-reinvestment-initiative-louisiana>.
23. Communication with the Council of State Governments Justice Center, January 2016.
24. S.B. 91, 29th Leg., 1st Sess. (Alaska 2016).
25. H.B. 1026, 2012 Reg. Sess. (La. 2012).
26. H.B. 585, 2014 Reg. Sess. (Miss. 2014).
27. S.B. 1154, 2010, 118th Sess. (S.C. 2010).
28. S.B. 750, 88th Gen. Assemb., Reg. Sess. (Ark. 2011).
29. S.B. 67, 2015 Reg. Sess. (Ala. 2015).
30. S.B. 1357, 62nd Leg., 2nd Reg. Sess. (Idaho 2014).
31. S.B. 1154, 2010, 118th Sess. (S.C. 2010); Legis. B. 907, 103rd Legis., 2nd Sess. (Neb. 2014); S.B. 2776, 26th Legis., 2012 Sess. (Haw. 2012); S.B. 750, 88th Gen. Assemb., Reg. Sess. (Ark. 2011).
32. S.B. 1357, 62nd Leg., 2nd Reg. Sess. (Idaho 2014).
33. H.B. 463, 11th Reg. Sess. (Ky. 2011).
34. S.B. 750, 88th Gen. Assemb., Reg. Sess. (Ark. 2011).
35. H.B. 585, 2014 Reg. Sess. (Miss. 2014); S.B. 1005, 2016 Reg. Sess. (Md. 2016); S.B. 91, 29th Leg., 1st Sess. (Alaska 2016).
36. H.B. 348, 2015 Gen. Sess. (Utah 2015).
37. S.B. 1005, 2016 Reg. Sess. (Md. 2016); S.B. 226, 146th Gen. Assemb. (Del. 2012); H.B. 1026, 2012 Reg. Sess. (La. 2012).
38. Legis. B. 605, 104th Legis., 1st Sess. (Neb. 2015).
39. H.B. 463, 11th Reg. Sess. (Ky. 2011).
40. Ibid.
41. Ibid.
42. Legis. B. 605, 104th Legis., 1st Sess. (Neb. 2015).
43. H.B. 642, 2011 Gen. Assemb. (N.C. 2011).
44. S.B. 500, 2010 Sess. (N.H. 2010).
45. H.B. 463, 11th Reg. Sess. (Ky. 2011).
46. S.B. 1357, 62nd Leg., 2nd Reg. Sess. (Idaho 2014).
47. Ibid.
48. H.B. 348, 2015 Gen. Sess. (Utah 2015).
49. H.B. 642, 2011 Gen. Assemb. (N.C. 2011).
50. Ibid.
51. S.B. 1357, 62nd Leg., 2nd Reg. Sess. (Idaho 2014).

52. H.B. 3194, 77th Leg. Assemb., 2013 Reg. Sess. (Or. 2013).
53. H.B. 585, 2014 Reg. Sess. (Miss. 2014); S.B. 750, 88th Gen. Assemb., Reg. Sess. (Ark. 2011).
54. H.B. 585, 2014 Reg. Sess. (Miss. 2014).
55. Ibid.
56. S.B. 1357, 62nd Leg., 2nd Reg. Sess. (Idaho 2014); H.B. 3052, 53rd Leg., 2nd Sess. (Okla. 2012).
57. S.B. 91, 29th Leg., 1st Sess. (Alaska 2016).
58. "Preparation of Fiscal Analysis," National Conference of State Legislatures, accessed December 14, 2016, <http://www.ncsl.org/research/elections-and-campaigns/fiscal-impact-statements.aspx>.
59. H.B. 585, 2014 Reg. Sess. (Miss. 2014).
60. S.B. 1154, 118th Sess. (S.C. 2010).
61. S.B. 1005, 2016 Reg. Sess. (Md. 2016).
62. H.B. 463, 11th Reg. Sess. (Ky. 2011).
63. "33 States Reform Criminal Justice Policies Through Justice Reinvestment," The Pew Charitable Trusts, November 2016, [http://www.pewtrusts.org/~media/assets/2016/12/33\\_states\\_reform\\_criminal\\_justice\\_policies\\_through\\_justice\\_reinvestment.pdf](http://www.pewtrusts.org/~media/assets/2016/12/33_states_reform_criminal_justice_policies_through_justice_reinvestment.pdf).
64. S.B. 1154, 118th Sess. (S.C. 2010).
65. S.B. 1005, 2016 Reg. Sess. (Md. 2016).
66. Legis. B. 605, 104th Legis., 1st Sess. (Neb. 2015).
67. These states are Arkansas, Delaware, Georgia, Hawaii, Idaho, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Hampshire, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, and West Virginia.
68. South Carolina only projected the baseline population and projected population after reform through 2014, and its 2014 population was below what experts projected. Prison population projections for Oklahoma are unavailable.
69. Delaware does not report its parole and probation populations separately. Its community supervision population decreased by approximately 3 percent between 2011 and 2015.
70. Communication with the North Carolina Department of Public Safety, August 2016.
71. The probation population count for West Virginia is currently unavailable.
72. "Justice Reinvestment in Ohio: How Ohio Is Reducing Corrections Costs and Recidivism," Council of State Governments Justice Center, accessed December 14, 2016, [https://csgjusticecenter.org/wp-content/uploads/2013/08/REVOhio\\_summary-FINAL.pdf](https://csgjusticecenter.org/wp-content/uploads/2013/08/REVOhio_summary-FINAL.pdf).
73. Some states project prison populations and savings over a longer window. Utah's projection window, the longest among the JRI states, spans 18 years (2015–33).
74. This analysis examines trends in the 19 states that passed legislation between 2010 and 2014 and either have a JRI impact projection available or have a 2015 population above the baseline prison population. Delaware, Missouri and Oklahoma do not have JRI impact projections available, but their 2015 prison populations were above their baseline prison populations. There is no detailed JRI impact projection available for Louisiana, and its 2015 prison population was below their baseline prison population, so it is not included in this analysis.



75. Communication with a representative from the North Carolina Department of Public Safety, September 2016.
76. H.B. 135, 2011 Reg. Sess. (Pa. 2012).
77. "JRI Measures," Pennsylvania Commission on Crime and Delinquency, accessed December 5, 2016, <https://jridashboardpa.net/pajsjpm/Dashboard/JRI/tabid/2042/Default.aspx>.
78. Communication with the Council of State Governments Justice Center, March 2016.
79. Communication with a representative from the Office of South Dakota Governor Dennis Daugaard, August 2016.
80. This information is available at the website of the Alaska State Legislature: [http://www.akleg.gov/basis/get\\_documents.asp?session=29&docid=66442](http://www.akleg.gov/basis/get_documents.asp?session=29&docid=66442).
81. Communication with the Council of State Governments Justice Center, September 2015.
82. This information is available at the website of the Alaska State Legislature: [http://www.akleg.gov/basis/get\\_documents.asp?session=29&docid=66442](http://www.akleg.gov/basis/get_documents.asp?session=29&docid=66442).
83. Communication with the Council of State Governments Justice Center, January 2016.
84. S.B. 750, 88th Gen. Assemb., Reg. Sess. (Ark. 2011).
85. Communication with the Utah Governor's Office, August 2016.
86. H.B. 2, 2016 Gen. Sess. (Utah 2016).
87. Communication with the Council of State Governments Justice Center, September 2015 and April 2016.
88. Ibid.
89. S.B. 1357, 62nd Leg., 2nd Reg. Sess. (Idaho 2014).
90. Communication with the Council of State Governments Justice Center, January 2016.
91. S.B. 371, 81st Leg., 2013 Reg. Sess. (W. Va. 2013).
92. Communication with the Council of State Governments Justice Center, January 2016.
93. Communication with the Crime and Justice Institute at the Community Resources for Justice, February 2015.
94. Communication with the Crime and Justice Institute at the Community Resources for Justice, July 2016.
95. H.B. 463, 11th Reg. Sess. (Ky. 2011).
96. South Dakota's presumptive probation law allows the sentencing court to consider aggravating circumstances and impose an alternative sentence other than probation. S.B. 70, 88th Legis. Assemb. (S.D. 2013).
97. S.B. 91, 29th Leg. 1st Sess. (Alaska 2016); S.B. 226, 146th Gen. Assemb. (Del. 2012); S.B. 2776, 26th Legis., 2012 Sess. (Haw. 2012).
98. H.B. 348, 2015 Gen. Sess. (Utah 2015).
99. H.B. 3194, 77th Leg. Assemb., 2013 Reg. Sess. (Or. 2013).
100. Interview with a stakeholder from Alaska, June 3, 2016.
101. Interview with a stakeholder from Alabama, April 21, 2016, and an interview with a stakeholder from Maryland, June 3, 2016.
102. Interview with a stakeholder from South Dakota, May 3, 2016.

103. Interview with a stakeholder from West Virginia, April 22, 2016, and an interview with a stakeholder from Kansas, April 25, 2016.
104. Communication with the Council of State Governments Justice Center, March 2016.
105. Ibid.
106. Communication with the Council of State Governments Justice Center, June 2015.
107. Linda Brady, "Indiana's Justice Reinvestment Journey: A Revamped Criminal Code," accessed December 14, 2016, <http://gopopai.org/admincontentmanagement/wp-content/uploads/2016/03/Indianas-Justice-Reinvestment-Journey.pdf>.
108. Communication with the Council of State Governments Justice Center, June 2015.
109. Communication with the Council of State Governments Justice Center, July 2016.
110. Communication with the Council of State Governments Justice Center, July 2016.
111. S.B. 52, 2011 Sess. (N.H. 2011).
112. Interviews with stakeholders in Oklahoma, July 2014.
113. Information drawn from Oklahoma's phase I letter of interest, submitted May 10, 2016.
114. Communication with the Vera Institute of Justice, February 2014.
115. H.B. 310, 2015 Reg. Sess. (Ga. 2015).
116. Communication with the Council of State Governments Justice Center, January 2016.
117. Ibid.
118. Ibid.
119. Information drawn from an unpublished report from the Council of State Governments Justice Center.
120. Communication with the Vera Institute of Justice, February 2014.
121. Information drawn from an unpublished report from the Council of State Governments Justice Center.
122. Communication with the Council of State Governments Justice Center, March 2016.
123. Communication with the Council of State Governments Justice Center, March 2016.
124. Ibid.
125. Notes from a meeting of the JRI Steering Committee on July 14, 2016.
126. Notes from a meeting of the JRI Steering Committee on July 14, 2016.
127. "What We Do," Southern Poverty Law Center, accessed December 5, 2016, <https://www.splcenter.org/what-we-do>.
128. JRI Steering Committee Notes, July 14, 2016.
129. Ibid.
130. Information drawn from Pennsylvania's phase I letter of interest, submitted September 2015.
131. "Justice Reinvestment Initiative: Louisiana," Vera Institute of Justice, accessed December 5, 2016, <http://www.vera.org/justice-reinvestment-initiative-louisiana>.
132. Information drawn from Louisiana's phase I letter of intent, submitted April 29, 2016.
133. Communication with The Pew Charitable Trusts, April 2016.

134. Rory Carroll, "Oklahoma Budget Crisis Opens Door to Criminal Justice Reform," *Reuters*, April 8, 2016, <http://www.reuters.com/article/us-oklahoma-prisons-reform-idUSKCN0X514O>.
135. Information drawn from Arkansas's phase I letter of intent, submitted July 16, 2015.

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