



November 2014

Justice Reinvestment in North Carolina: Three Years Later



IN 2010, THE NUMBER OF PEOPLE incarcerated in North Carolina state prisons had climbed to more than 40,000, up 27 percent since 2000. During this same period, corrections spending rose 49 percent, to more than \$1.3 billion.¹ Looking forward, the state projected the need for more than \$500 million in additional spending by 2017 to accommodate the expected prison growth.

Since 2011, however, the prison population has *fallen* by nearly 3,400 people. A total of 10 prisons closed as a result and the state is using some of the savings generated to focus on improving supervision practices by adding 175 probation and parole officers and investing in cognitive interventions and substance use treatment for individuals with the greatest need for treatment and who are at the highest risk of reoffending.

How did the state achieve such a dramatic turnaround? And what has the impact been on public safety?

Between 2010 and 2011, state leaders came together across party lines to take a hard look at their criminal justice system. With assistance from national criminal justice experts, state leaders identified issues that were disturbing not just for taxpayers, but also for public safety: more than half of people entering prison were those who failed on probation; substance use treatment resources were spread thinly across the probation population; and 15,000 people who had been convicted of felony offenses were leaving prison every year without any supervision at all. In 2011, in a near

unanimous vote, the legislature passed the Justice Reinvestment Act (JRA), a comprehensive package of reforms that touched almost every aspect of the criminal justice system. Changes were made to how individuals were supervised on probation and upon release from prison, how they were sanctioned for violating supervision conditions, how they accessed substance use treatment, and how they were sentenced.

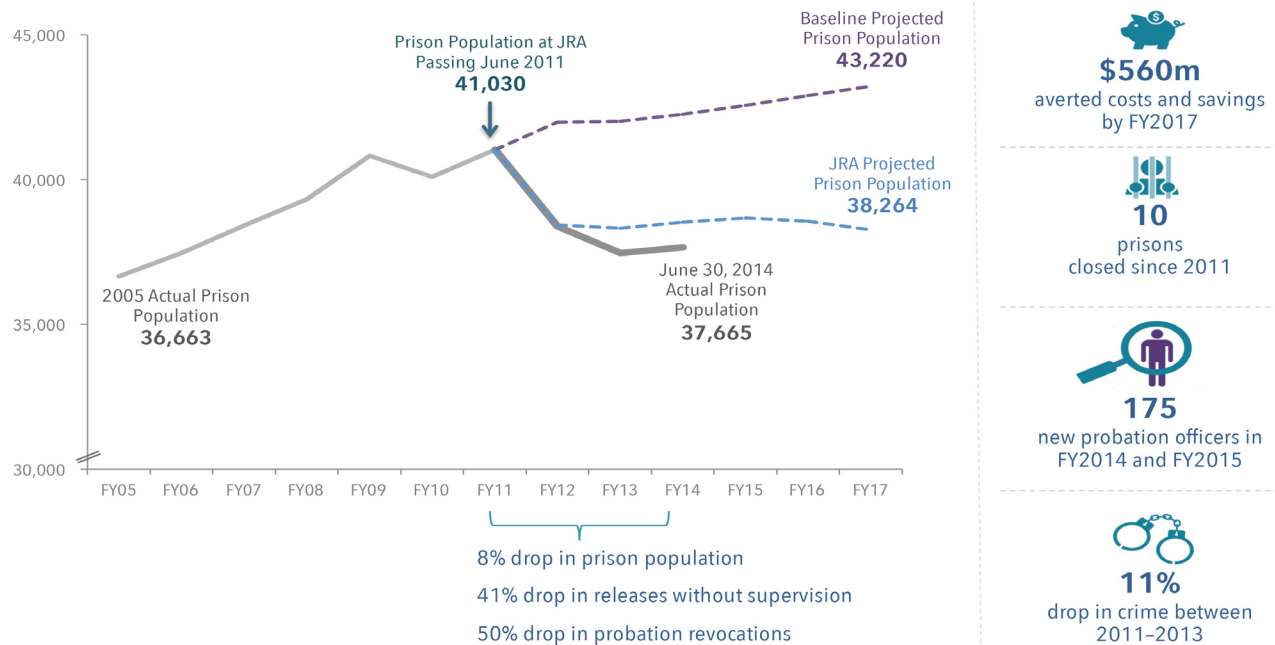
Background

In June 2011, North Carolina enacted comprehensive criminal justice legislation designed to increase public safety while saving taxpayer dollars. Using a data-driven “justice reinvestment” approach, the state received 14 months of intensive technical assistance from the Council of State Governments (CSG) Justice Center, in partnership with The Pew Charitable Trusts and the U.S. Department of Justice’s Bureau of Justice Assistance. Justice reinvestment is a data-driven approach to improve public safety, reduce corrections spending, and reinvest savings in strategies that can decrease crime and reduce recidivism. The resulting Justice Reinvestment Act contains a framework for strengthening supervision, increasing the number of people supervised after release from prison, and investing in substance use treatment in North Carolina.

1. North Carolina Department of Correction *Annual Statistical Report* (1999–2000, 2009–2010) (Raleigh: North Carolina Department of Correction, 2000, 2010). Spending increased from \$899 million in

FY2000 to \$1.338 billion in FY2010. The prison population increased from 31,581 in FY2000 to 40,102 in FY2010.


FIGURE 1. ACTUAL AND ESTIMATED IMPACT OF THE JUSTICE REINVESTMENT ACT ON PRISON POPULATION²



Since 2010, the U.S. Department of Justice’s Bureau of Justice Assistance (BJA) has supported the Justice Reinvestment Initiative (JRI), which has assisted state and local governments as they generate cost-effective, evidence-based policies to generate meaningful savings for states while maintaining a focus on public safety. In a public-private partnership with The Pew Charitable Trusts, BJA provides technical assistance and financial support for these system-wide criminal justice reform efforts.

North Carolina was one of the first sites accepted into the JRI. We at BJA are proud of the tremendous results state stakeholders have accomplished in a short time. In this report, the CSG Justice Center chronicles these achievements. Since North Carolina passed the Justice Reinvestment Act in 2011, the state has reduced the prison population by 8 percent, closed 10 prisons, saved or averted an estimated \$560 million in costs, funded 175 probation officer positions, increased the number of people released from prison who receive post-release supervision, and reduced probation revocations significantly, all while experiencing a decrease in crime of 11 percent. The report observes that system-wide change takes time. But by investing in the framework for reform through JRI, North Carolinians will experience the long-term cost savings and public safety benefits for years to come. Certainly, North Carolina will strive to continue to make its criminal justice system more effective and to make the state a safer place to live.

So it is fitting that, three years after the bill became law, we pause and reflect on the state’s successes.


 Denise O'Donnell, Director
 U.S. Department of Justice, Bureau of Justice Assistance

2. Actual and projected prison population, FY2005–FY2017, and baseline prison population projection from the North Carolina Sentencing and Policy Advisory Commission, *Current Population Projections FY2010/11 to FY2019/20* (Raleigh: North Carolina Sentencing and Policy Advisory Commission, 2011); Justice Reinvestment Act projections by the CSG Justice Center; impact calculations are based on FY2011–14 data

obtained by the North Carolina Department of Public Safety (DPS) Research and Planning Automated System Query, accessed on August 1, 2014, available at <http://webapps6.doc.state.nc.us/apps/asqExt/ASQ>; North Carolina State Bureau of Investigation, *Crime in North Carolina–2013* (Raleigh: North Carolina State Bureau of Investigation, 2014).

Transforming Probation Supervision

By 2010, few individuals convicted of nonviolent offenses were being sentenced to prison directly, but thousands eventually ended up in prison because they failed to comply with the conditions of their probation. More than half of all admissions to prison in FY2009 were probation failures, and three-quarters of those admissions were for violations of supervision conditions, not the result of a new conviction or absconding.³ Looking carefully at the reasons behind the high probation failure rates, state leaders found an outdated supervision system badly in need of repair and weighed down by high caseloads.

Despite research in the state that demonstrated how individuals identified as at a high risk for reoffending were three times more likely to be rearrested within a year than low-risk individuals,⁴ probation officers supervised everyone with the same level of intensity.

In addition, supervision officers were hindered in their ability to respond to violations of the conditions of supervision in a timely fashion. When responding to failed drug tests, missed appointments, or missed curfews, officers had a limited range of sanctions they could impose immediately after these violations occurred, thus violations often accrued until probationers were revoked to prison as a result.

Enhanced Training

The 2011 reforms and the work that has taken place since has transformed the probation system in North Carolina. To strengthen supervision officers' skills and enhance the quality of their interactions with probationers, the Department of Public Safety (DPS) continues to expand its use of evidence-based practices that reduce recidivism. Using risk assessments to identify an individual's likelihood of reoffense, supervision officers now focus the majority of their attention on those who are most likely to reoffend who also have strong antisocial behaviors.

More Effective Tools for Supervision

These officers also have additional tools and the authority to respond to violations swiftly, holding individuals immediately accountable for their

actions. To modify certain supervision conditions, officers used to be required to request a hearing with the court, but now they can immediately place probationers in cognitive behavioral programming, a substance use treatment program, or under electronic monitoring. The JRA also provided a range of confinement sanctions to respond to violations of supervision. Working closely with judges who delegate authority to supervision officers, DPS officers are now able to respond promptly to minor violations by placing a probationer in jail for two to three days. Probationers in North Carolina who repeatedly violate conditions of their supervision but are not committing new crimes or absconding are sent back to prison for three months, followed by a return to supervision upon release.

Real-Time Data Collection

DPS developed a smartphone app to help officers manage their caseloads in the field. The app provides officers with the ability to search their caseloads, schedule visits, and access contact information and driving directions. Officers are also able to check a probationer's criminal history, identify any upcoming court appearances, and learn if there are any known safety issues, such as gang affiliation or history of domestic violence, before meeting with the probationer. The app enables officers to record their findings at the time of their visit, resulting in better real-time data collection. Officers can take updated photos of clients on their caseload, as well as of any relevant evidence or associates, which can then be linked to that probationer in a database. All officers now have a smartphone with this app, which permits them to perform their duties more effectively and efficiently while increasing their own safety.

These changes to supervision practices are helping to transform North Carolina's probation system from an ineffectual and outdated system to a model of effective supervision. By applying evidence-based practices to reduce recidivism, supervision officers are helping more probationers succeed on probation.

3. CSG Justice Center analysis of North Carolina Department of Correction FY2009 prison admissions data.

4. North Carolina Department of Correction, Office of Research and Planning, *Verification of Offender Traits Inventory (OTI) Scores to Likelihood*

of Re-Arrest for Probationers (Raleigh: North Carolina Department of Correction, 2009); NCDOC began changing supervision practices to use risk/need assessments to inform supervision beginning in 2010.

Reinventing How Treatment Is Funded and Delivered

Research shows that pairing effective supervision and quality treatment in the community can have a significant impact on reducing recidivism. North Carolina had an established community-based treatment and supervision program aimed at reducing recidivism, however, the treatment resources were funded by an outdated formula and were spread thinly across the entire probation population instead of being targeted toward those with the greatest need for treatment. About half of individuals on probation needed substance use or mental health treatment, but only 25 percent of people on probation received services.⁵ In addition, the quality and types of services provided varied greatly. Despite spending \$9 million annually on treatment and other community-based programs for probationers, there was so little impact data being collected that it was difficult to assess whether these programs were helping to improve outcomes for the people they served.

Prioritized Substance Use Treatment

The state's new treatment program prioritizes substance use treatment for individuals under supervision who have the greatest need for treatment and who are at the highest risk of reoffending. Research shows that focusing too much supervision or intensive resources on low-risk individuals can actually increase their likelihood of committing a crime. Therefore, eligibility criteria have been

established to prioritize high-risk individuals for this program. When officers identify probationers who meet the criteria for treatment, they are able to connect people directly to the services they need. The program requires the use of a cognitive behavioral approach that focuses on changing the characteristics or circumstances that research shows are associated with recidivism, such as criminal thinking and antisocial behavior. Of the state's total funding for treating people under supervision, 80 percent is now allocated for cognitive behavioral services in community-based programming.⁶ The state also now requires treatment providers to submit to stringent quality assurance metrics, including program evaluations and data collection.

Higher-Quality Treatment

These new requirements dramatically changed how treatment would be delivered and who would receive services. However, overhauling a statewide system requires sufficient numbers of treatment providers with the appropriate skills and capacity to provide these services. When few treatment providers responded to the initial request for proposals, DPS staff worked with providers to create a delivery system for treatment that considers current resources while building capacity and improving quality over time. After these efforts, numerous treatment providers from across the state responded to the second solicitation and they are now providing treatment to qualified probationers.

Reserving Prison Space for the Most Serious Offenders

The JRA made a number of sentencing changes, including:

- **Institutional programming:** The JRA created a sentencing option called Advanced Supervised Release (ASR) to encourage individuals to participate in and complete prison-based cognitive behavioral programs that are designed to reduce the likelihood of reoffending. Individuals who successfully complete these programs are eligible for reduced sentences that are determined at the time of sentencing. Unlike other early release programs where the sentence length is unknown at sentencing, ASR allows

prosecutors, victims, and offenders to know what the length of sentence will be if they participate in these programs.

- **Habitual felon:** The JRA modified an existing habitual felon law to create gradations in the sentence enhancement, making it more proportional to the severity of the underlying conviction. The law also created a new habitual felon sentencing option to increase the penalty for individuals convicted of a second breaking and entering or burglary offense.

5. Council of State Governments Justice Center, *Justice Reinvestment in North Carolina: Analysis and Policy Framework to Reduce Spending on Corrections and Reinvest in Strategies to Increase Public Safety* (New York: Council of State Governments Justice Center, 2011).

6. Correspondence with North Carolina Department of Public Safety staff, March 11, 2014.

Crafting a Win-Win for Counties and the State

While every state's correctional system is different, North Carolina was one of only two states in the country that sent people convicted of misdemeanors to state prison instead of a local jail when their sentence exceeded just 90 days. As a result, misdemeanants accounted for almost one-quarter of admissions to prison and only stayed for very short periods, approximately 3 months on average or up to a maximum of 300 days.

The state wanted to prevent misdemeanants from entering prison and instead house them in local jails without imposing an unfunded mandate on counties. In consultation with sheriffs and county leaders, the state developed an innovative solution through the creation of the Statewide Misdemeanant Confinement Program (SMCP). Operated by the North Carolina Sheriffs' Association, the SMCP provides funding to local jails that volunteer to house misdemeanants with sentences of 91–180 days, who previously would have gone to prison. The program is funded through a new district court fee for misdemeanor convictions and a

fine on certain motor vehicle violations. To date, the jails volunteering to house misdemeanants have more capacity than individuals in need of housing. In August 2014, the legislature expanded the SMCP to include all misdemeanants with sentences greater than 90 days and people convicted of impaired driving.

"It's been an extremely successful program for the state, the counties, and the whole criminal justice system—and even for the inmates. The state doesn't have to build more prisons, jails with available beds get used, and incarcerated individuals stay closer to home. They aren't mixing with people convicted of more serious offenses and learning how to commit more serious crimes."

– EDMOND CALDWELL,
EXECUTIVE VICE PRESIDENT AND GENERAL COUNSEL,
NORTH CAROLINA SHERIFFS' ASSOCIATION

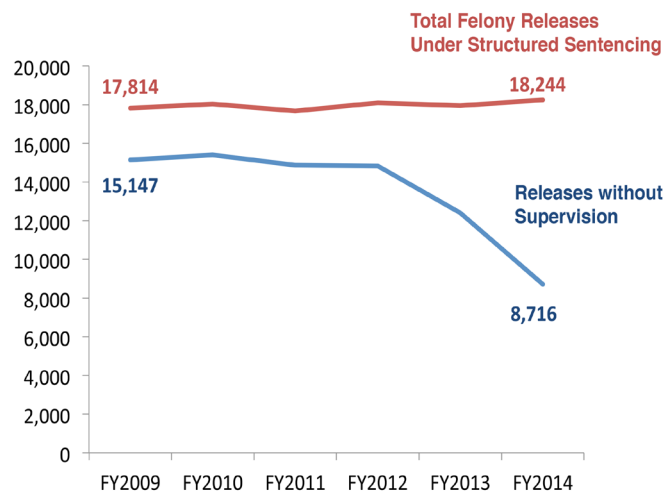
Supervising the Reentry Process

An unintended consequence of the state's elimination of parole supervision and move toward structured sentencing in 1994 was that few individuals received supervision upon release from prison.⁷

In FY2009, more than 85 percent of people leaving prison who had been convicted of felony offenses under structured sentencing—about 15,000 people—left prison without any supervision as they transitioned back into the community, despite having significantly higher rearrest rates than individuals who received supervision after release.⁸

Recognizing that public safety and the chance of success upon reentry could be improved by increasing supervision requirements, the JRA requires every person with a felony conviction to receive 9 or 12 months of post-release supervision. In FY2011, only 16 percent of people who had been convicted of felonies received post-release supervision after leaving prison; by FY2014, that number had increased to 52 percent and will continue to grow.⁹ (See Figure 2)

FIGURE 2. THE NUMBER OF PEOPLE RELEASED FROM PRISON WITHOUT SUPERVISION¹⁰



7. Structured sentencing applies to felony and misdemeanor offenses committed on or after October 1, 1994.

8. North Carolina Department of Correction *Annual Statistical Report 2008–2009*; North Carolina Sentencing and Policy Advisory Commission, *Correctional Program Evaluation: Offenders Placed on Probation or Released from Prison in FY2005/06* (Raleigh: North Carolina Sentencing and Policy Advisory Commission, 2010).

9. Out of 17,664 people convicted of felony offenses under structured sentencing leaving prison in FY2011, 14,864 left prison without

supervision. By FY2014, out of 18,244 people convicted of felony offenses who left prison, 8,716 returned to the community without supervision. FY2014 numbers do not include individuals previously under supervision who had been sanctioned to prison for three months. North Carolina Department of Public Safety Research and Planning Automated System Query, accessed on August 1, 2014, available at <http://webapps6.doc.state.nc.us/apps/asqExt/ASQ>.

10. *Ibid.*

Impact on Prison Population, Public Safety, and Costs

The reforms that began in 2011 in North Carolina are having a significant impact on the state's criminal justice system. The prison population has dropped 8 percent, or by almost 3,400 people, since FY2011. Overall prison admissions have dropped by 21 percent as a result of fewer people entering prison for misdemeanor convictions and probation revocations. In FY2011, more than 9,700 people convicted of misdemeanor offenses entered prison, but by FY2014, that number had dropped to about 3,300 people. In addition, the overhaul of probation supervision has reduced the number of probationers being revoked to prison by 50 percent since FY2011.¹¹

Like most of the country, North Carolina's crime rate declined between 2000 and 2010, and continued to decline another 11 percent between 2011 and 2013, after enactment of the JRA.¹²

The closure of 10 prisons since the passage of the JRA is projected to save the state \$48 million in FY2014, contributing to the state's averting more than \$500 million in construction and operating costs for new prison facilities. North Carolina reinvested a portion of these savings into increasing the number of probation and parole officers, providing electronic monitoring of sex offenders and certain other probationers, and focusing treatment opportunities for probationers who need it most.

Such sweeping, system-wide change is difficult, takes time, and occasionally requires repeated efforts before new processes could be instituted. Judges, prosecutors, public defenders, and jail administrators are working to modify their practices to conform to the new policies. To help this process, DPS facilitates meetings to provide a forum for local stakeholders to discuss the JRA; since February 2013, DPS has hosted 27 meetings with participants from 45 counties. DPS is focusing on training supervision officers to help probationers to be successful on probation.

"We're trying to increase public safety and that's hard work. We're asking our officers to help people who have made mistakes in the past to make better choices today. We're trying to give people on supervision the resources they need to succeed, including better quality substance use treatment and support when they leave prison. We're already seeing significant success and other states are looking to us as a model. I'm proud of what we've done so far and I look forward to continue making North Carolina a safer place."

– W. DAVID GUICE

COMMISSIONER OF ADULT CORRECTION AND JUVENILE JUSTICE, NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY

11. Felony and misdemeanor probation revocations declined from 15,118 in FY2011 to 7,491 in FY2014. North Carolina Department of Public Safety Research and Planning Automated System Query, accessed on November 5, 2014, available at <http://webapps6.doc.state.nc.us/apps/asqExt/ASQ>.

12. North Carolina State Bureau of Investigation, *Crime in North Carolina–2013*; index crimes consist of seven crime categories collected by law enforcement and reported to the FBI as part of the Uniform Crime Reporting Program, and are considered representative of the most serious crimes. The seven crime categories are murder and non-negligent manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny-theft, and motor vehicle theft.

Summary of Legislation

Justice Reinvestment Act

Transforming Probation Supervision

- Requires officers to assess probationers for their risk of reoffending and supervise them accordingly
- Allows officers to confine a probationer in jail for two to three days as a response to non-compliant behavior
- Limits the length of incarceration to 90 days for people convicted of felony offenses who violate the conditions of probation, but have not committed a new crime or absconded

Reinventing How Treatment is Funded and Delivered

- Creates a new treatment program to provide substance use treatment, cognitive behavioral services, and other evidence-based programs to individuals under supervision
- Prioritizes services for higher-risk individuals who are most in need of treatment

Crafting a Win-Win for Counties and the State

- Creates the Statewide Misdemeanant Confinement Program to provide funding to local jails that volunteer to house misdemeanants who previously would have gone to prison

Reserving Prison Space for the Most Serious Offenders

- Modifies an existing habitual felon law to create gradations in the sentencing enhancement, making it more proportional to the severity of the underlying conviction
- Creates a new habitual felon sentencing option to increase the penalty for individuals convicted of a second breaking and entering or burglary offense
- Creates a new sentencing option for judges to encourage individuals to complete prison-based cognitive behavioral programs designed to reduce the likelihood of reoffending

Supervising the Reentry Process

- Requires that everyone convicted of a felony will receive 9 to 12 months of post-release supervision
- Limits the length of incarceration to three months for people who violate conditions of post-release supervision, but do not commit a new crime or abscond

To learn more about the justice reinvestment strategy
in North Carolina and other states, please visit: csgjusticecenter.org/jr



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