



# Idaho's Justice Reinvestment Approach: Strengthening Probation and Parole, Structuring Parole Decision Making, and Measuring Recidivism-Reduction Efforts

Facing one of the fastest-growing state prison populations in the country, in March 2014, Idaho policymakers from across the political spectrum enacted Senate Bill (SB) 1357. The law implements policy changes developed through “justice reinvestment,” a data-driven approach designed to improve public safety, reduce corrections spending, and reinvest savings in strategies that can decrease crime and reduce recidivism. Throughout the process, the state received intensive technical assistance from the Council of State Governments Justice Center (CSG Justice Center), in partnership with The Pew Charitable Trusts and the U.S. Department of Justice’s Bureau of Justice Assistance (BJA). With continued support, Idaho leaders are now working to implement the legislation and track the impact of these new policies.

## Background

Idaho’s crime rate was among the lowest in the nation in 2012. Recidivism in the state, however, was higher than national rates, and adults sentenced to prison for committing property and drug crimes did twice as much time as adults sentenced to prison for similar crimes in other states. In 2012, Idaho’s incarceration rate was the eighth highest in the country.<sup>1</sup>

Between 2008 and 2013, the state’s prison population increased by 10 percent and was projected to grow an additional 16 percent by FY2019. [See Figure 1] Increasing the capacity of the prison system to absorb this growth was projected to cost Idaho an estimated \$288 million in operating and construction costs.<sup>2</sup> In June 2013, Idaho Governor C.L. “Butch” Otter, Chief Justice Roger Burdick, and legislative leaders from both parties requested assistance from the CSG Justice Center to pursue justice reinvestment to address the state’s rising corrections costs and high rate of recidivism.

### Key Public Safety Provisions in SB 1357

- Establishes swift, certain, and graduated sanctions for responding to probation and parole violations
- Requires the Parole Commission to create guidelines that will ensure that prison space is reserved for people who commit violent offenses and have the greatest risk of reoffending
- Increases community-based treatment for probationers and parolees with substance use treatment needs
- Requires people in prison to make restitution payments to victims of crime



Idaho Governor C.L. “Butch” Otter (center) joins (from left) Senator Bart Davis, Senator Patti Anne Lodge, and Representative Rich Will at the justice reinvestment bill signing in March 2014.

To guide this effort, the interbranch Justice Reinvestment Working Group, which was composed of state policymakers, corrections and court officials, and other criminal justice system stakeholders, and the bipartisan Interim Legislative Committee were established to review analyses conducted by the CSG Justice Center and to discuss policy options to slow growth in the prison population and reduce recidivism.<sup>3</sup> In preparing its analyses, the CSG Justice Center drew on information systems maintained by various state agencies, in total analyzing more than 570,000 individual records.<sup>4</sup> The CSG Justice Center also convened focus groups and meetings with numerous criminal justice system stakeholders, including more than 100 in-person meetings with roughly 250 individuals.

Based on these quantitative and qualitative analyses, the Interim Legislative Committee and Working Group developed a policy framework designed to strengthen probation and parole supervision, improve community-based substance use and cognitive behavioral treatment programs, provide structure to the parole decision-making process, and ensure the impact of recidivism-reduction strategies. This report provides a summary of the justice reinvestment policy framework and the resulting legislation.<sup>5</sup>

## Summary of Challenges

### The state's supervision and Rider terms were not reducing recidivism.

- In 2012, Idaho sentenced 84 percent of people convicted of felonies to probation or a Rider term;<sup>6</sup> however, as much as 30 percent of the population ended up serving prison time either by failing in the Rider program or by being revoked from probation.
- Responses to supervision violations were often slow and inconsistent.
- Investments in substance use treatment, while significant, were still insufficient to ensure that the thousands of people on probation and parole who needed substance use treatment received it.

### The majority of the prison population comprised people whose community supervision was revoked, people sentenced to Rider terms, and people convicted of nonviolent crimes who were eligible for parole but had not yet been released.

- In 2013, more than 40 percent of Idaho's prison beds were occupied by people whose probation or parole supervision had been violated or revoked.<sup>7</sup>
- On average, people released from prison in 2012 served 1.8 years in prison if they were revoked from probation, while people revoked from parole served 1.6 years. As a result of these revocations, resources that had been focused on community-based recidivism-reduction efforts had to be reallocated to prison-based treatment and programming for these individuals.
- Between FY2008 and FY2009, low-risk individuals who successfully completed a Rider term followed by a term of probation returned to prison within three years at almost twice the rate of low-risk individuals who were sentenced directly to probation.<sup>8</sup>
- In 2012, time served at first parole release for nonviolent offenses was close to double the national average and twice as long as the average minimum term required by the sentence.
- Regardless of the type of offense committed and risk level, most people stayed in prison well beyond their fixed term in 2012.
- In an assessment of 2013 parole releases, people often remained in prison after their parole was approved, largely due to delays in completing required in-prison programming.

### Idaho lacked a system to track outcomes, measure quality, and assure effectiveness of recidivism-reduction strategies, so policymakers were unsure whether the state's investments were having their intended impact.

- The Idaho Department of Correction (IDOC) and the Idaho Commission of Pardons and Parole (Parole Commission) lacked adequate data systems and staff to review interagency processes, such as determining delays in releases following parole approvals.
- The network of privately contracted substance use treatment providers was not evaluated based on certification standards for effective interventions with individuals in the criminal justice system.
- Risk assessment tools had not undergone a rigorous, current evaluation to test for validity and reliability.

## Proposed Justice Reinvestment Policy Framework

### Strengthen Supervision Practices and Programs

- Respond to supervision violations with swiftness and certainty
- Increase community-based treatment and programming
- Prioritize supervision resources based on risk of reoffending
- Train probation and parole officers in evidence-based strategies to change individual behavior
- Improve the management of victim restitution and other legal financial obligations

### Tailor Sanctions and Parole Decision Making

- Tailor confinement responses for probation and parole violations
- Provide judges with information on recidivism rates based on risk of reoffending and sentencing option
- Use risk assessment to inform parole decision making
- Reserve prison space for individuals convicted of violent offenses by regulating the percent of time above the minimum sentence that people convicted of nonviolent offenses may serve

### Assess and Track Recidivism-Reduction Strategies

- Establish an oversight committee to assess policy impacts
- Require that risk and need assessments be routinely reviewed for quality
- Increase the capacity of state agencies to collect and analyze data in order to reduce inefficiencies and cut costs
- Evaluate the quality of programs to improve effectiveness

## Developing Policy Solutions Legislation

To address these challenges, the Interim Legislative Committee voted to submit the justice reinvestment policy framework to the full legislature for its consideration. With extensive input from the Working Group, Senator Patti Anne Lodge (R-District 11) and Representative Richard Wills (R-District 23) introduced the resulting legislation, SB 1357.

To strengthen probation and parole supervision, SB 1357 provides IDOC with funding to train probation and parole officers (PPOs) in evidence-based strategies that will help increase accountability and change probationer and parolee behavior. PPOs are authorized to respond to supervision violations in a swift, certain, and proportionate manner that research demonstrates is effective in reducing recidivism.<sup>9</sup> Increased funds for community-based substance use treatment will also help ensure that higher-risk individuals on probation and parole receive the treatment they need.

Since there was no consistent policy for collecting victim restitution payments in prison, SB 1357 requires that 20 percent of any deposits made into incarcerated individuals' in-prison accounts be disbursed to victims for restitution owed.

SB 1357 also establishes a parole release decision-making process that prioritizes consideration for individuals with a lower risk of reoffending in order to reserve prison space for people convicted of violent offenses.<sup>10</sup> The legislation requires the Parole Commission to set structured guidelines that achieve a reduction in the overall percentage of time served for people convicted of property and drug offenses, while maintaining appropriate discretion in individual cases.

To assess, track, and ensure the impact of recidivism-reduction strategies, SB 1357 mandates that state-funded recidivism-reduction programs be evaluated biannually. It also requires routine validation of the risk and need assessment tool used by the state's criminal justice system and expands data and IT capacity.

SB 1357 passed unanimously in both legislative chambers and was signed into law on March 19, 2014. Shortly thereafter, state policymakers made upfront investments for FY2015, including more than \$4 million in funds for new PPO positions, PPO training, community-based substance use and cognitive behavioral treatment programs, and IT staff for both the Parole Commission and IDOC.

### Projected Impact

IDOC had forecast that without changes to existing policies and procedures, the prison population would increase 16 percent from 8,076 people in FY2014 to 9,408 people by FY2019.<sup>11</sup> Depending on the degree and speed of implementation, the impact of SB 1357 is projected to range from a 1-percent decrease to a 4-percent increase in the

### FY2015 Upfront Investments

- Expand community-based services to reduce recidivism: \$2.5 million
- Hire an IT programmer and upgrade computer systems for the Parole Commission: \$225,000
- Develop a web-based probation and parole reporting system: \$299,000
- Hire a training specialist, a business analyst, and a system integration analyst for DOC: \$198,300
- Create five new PPO positions: \$369,200
- Train PPOs in evidence-based practices: \$500,000

prison population by FY2019 and to avert state spending on corrections between \$221 and \$288 million. [See Figure 1]

By improving community supervision, the state expects to see a reduction in recidivism of up to 15 percent as a result of increased community-based sanctions, additional treatment capacity, better-trained PPOs, and greater PPO capacity to manage caseloads.

“We realized that unless we made some important changes, the prison population would continue to grow significantly,” said Governor Otter. “That would mean spending much more without actually addressing the causes. I applaud everyone who worked tirelessly to produce the legislation that I was pleased to sign [in March]. For the people of Idaho, it will mean safer communities and better use of taxpayer dollars.”

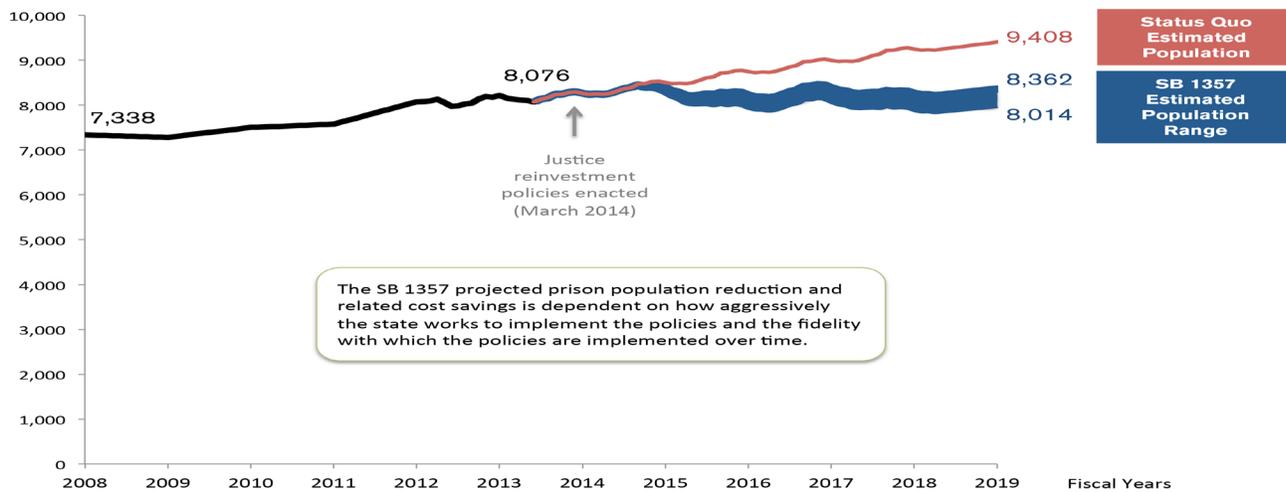
### Looking Ahead

The state enacted additional legislation to establish a 10-member legislative committee to monitor SB 1357's performance until the end of the 2019 legislative session. Idaho state leaders are now working to translate SB 1357 into practice, to ensure that the legislation achieves projected outcomes.

In order to enable prompt passage of the legislation, some provisions in SB 1357 will be addressed through administrative rules rather than by statute, with certain rules to be developed by IDOC or the Parole Commission, in consultation with the Idaho Supreme Court.<sup>12</sup> Policymakers have committed to facilitating any necessary interagency coordination and swiftly resolving challenges as they arise to ensure the effective implementation of the administrative rules; however, any delays in adopting administrative rules or revisions to the rules language will have an impact on the projected reductions for the prison population and may prevent Idaho from realizing the full projected cost savings of \$288 million. [See Figures 1 and 2.]

To enhance the state's ability to implement SB 1357, CSG Justice Center is working closely with officials from across the state's criminal justice system to assist in developing administrative rules. The state has the opportunity to request funding from BJA to support additional capacity-building efforts, such as workforce training, IT support, and ongoing quality-assurance efforts.

**FIGURE 1. ESTIMATED IMPACT OF SB 1357 ON IDAHO'S PRISON POPULATION**



Source: IDOC Preliminary Forecast and Estimated Growth, FY2008–2018; IDOC and CSG Justice Center analysis, November–February 2014.

**FIGURE 2. SUMMARY OF FULL PROJECTED IMPACT, SAVINGS, AND RECOMMENDED REINVESTMENT**

	FY2015	FY2016	FY2017	FY2018	FY2019	Total
SB 1357 Estimated Impact on Prison Population	-203	-770	-885	-1,320	-1,395	-1,395
Impact on Operating Costs	-\$0.8M	-\$10.3M	-\$15.8M	-\$21.6M	-\$26.4M	-\$74.9M
Impact on Construction Costs					-\$213.2M	-\$213.2M
SB 1357 Cost Impact	-\$0.8M	-\$10.3M	-\$15.8M	-\$21.6M	-\$239.6M	-\$288.1M
Total Recommended Reinvestment	\$5.5M	\$6.5M	\$7.0M	\$7.0M	\$7.0M	\$33.0M
SB 1357 Net Cost Impact	\$4.7M	-\$3.8M	-\$8.8M	-\$14.6M	-\$232.6M	-\$255.1M

**Endnotes**

1. Incarceration rate is the number of people in jail or prison per 100,000 residents.
2. The “cost of doing nothing” is based on IDOC’s forecasted prison population through FY2019, the IDOC FY2012 operational costs per day, and IDOC’s estimated construction costs to accommodate the population forecast.
3. The bipartisan Interim Committee consisted of 11 state policymakers from both houses of the Idaho legislature. The Working Group consisted of approximately 30 members from across the criminal justice system. Each group met regularly between the June 2013 justice reinvestment project launch and the March 2014 bill signing.
4. At the time of analysis, state mental health data was not available to CSG Justice Center staff.
5. Additional information is available in the CSG Justice Center’s report: *Justice Reinvestment in Idaho: Analyses & Policy Framework*. The full report is available at [csjusticecenter.org/jr/id/](http://csjusticecenter.org/jr/id/).
6. A “Rider term” is a sentence in which the court retains jurisdiction over individuals for up to 365 days. Individuals sentenced to a Rider term are those who the court thinks might benefit from a short period of incarceration together with programming and further evaluation rather than an immediate sentence to a prison term. During the Rider period, IDOC is responsible for

- determining programming, treatment, and education needs. Upon completion of a Rider term, the court decides if the individual should be placed on probation or sentenced to a prison term. If the latter, the individual remains in the custody of IDOC.
7. CSG Justice Center analysis of IDOC FY2008–2012 prison admissions and releases data; the Idaho snapshot prison population data used for this analysis was gathered in 2013.
8. CSG Justice Center analysis of IDOC FY2008–2012 prison admissions and releases data.
9. Eric Wodahl, et al., “Utilizing Behavioral Interventions to Improve Supervision Outcomes,” *Criminal Justice and Behavior*, 38(4) (2011), 386–405.
10. Although there is often debate about what constitutes violent versus nonviolent crimes, the CSG Justice Center categorized crimes in Idaho for analysis purposes based on Idaho Department of Correction (IDOC) data describing each offender’s most serious offense for the current sentence. Analyses on “violent crimes” include assault/battery, sex crimes, crimes against children, rape, murder, manslaughter, kidnapping, terrorism, robbery, aggravated arson, cruelty to animals, and other person crimes. “Nonviolent crimes” include all other offenses.
11. As the state underwent the justice reinvestment process, the prison population growth began to level off, but the state recognized the need to address the ongoing issue of recidivism and to continue to avert the projected prison population growth.
12. For more information about Idaho administrative rules, please visit [adminrules.idaho.gov/](http://adminrules.idaho.gov/).



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The Council of State Governments Justice Center (CSG Justice Center) is a national nonprofit organization that serves policymakers at the local, state, and federal levels from all branches of government. The CSG Justice Center provides practical, nonpartisan advice and evidence-based, consensus-driven strategies to increase public safety and strengthen communities. The CSG Justice Center’s work in justice reinvestment is done in partnership with The Pew Charitable Trusts and the U.S. Department of Justice’s Bureau of Justice Assistance. These efforts have provided data-driven analyses and policy options to policymakers in 21 states. For additional information about Justice Reinvestment in Idaho, please visit [csjusticecenter.org/jr](http://csjusticecenter.org/jr).