

Justice Reinvestment in North Dakota

Overview

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Background

Over the past decade, North Dakota has experienced increases in reported crimes and arrests; jail and prison populations; and probation and parole populations. State and county governments have spent tens of millions of dollars expanding existing correctional facilities and building new ones to accommodate these increases. The North Dakota Department of Correction and Rehabilitation (DOCR) projects that its prison population will continue to climb by 75 percent by 2025 unless action is taken to curb growth.¹

To help address these issues, in October 2015 North Dakota Governor Jack Dalrymple, Chief Justice Gerald VandeWalle, Attorney General Wayne Stenehjem, Senate Majority Leader Rich Wardner, House Majority Leader Al Carlson, Senate Minority Leader Mac Schneider, House Minority Leader Kenton Onstad, and Legislative Management Chairman Raymond Holmberg requested support from the U.S. Department of Justice's Bureau of Justice Assistance (BJA) and The Pew Charitable Trusts (Pew) to explore a "justice reinvestment" approach to reduce corrections spending and reinvest savings in strategies that can reduce recidivism and improve public safety. As public-private partners in the Justice Reinvestment Initiative (JRI), BJA and Pew approved North Dakota's request and asked The Council of State Governments (CSG) Justice Center to provide intensive technical assistance to help collect and analyze data and develop appropriate policy options to address the challenges identified in North Dakota's criminal justice system.

In 2015, Governor Dalrymple signed legislation (House Bill 1165 and House Bill 1015) requiring that an interim committee be established to guide North Dakota's justice reinvestment effort.² This 16-member Incarceration Issues Committee, which consists of representatives from the three branches of state government along with state and local criminal justice system stakeholders, will study the state's criminal justice system. Senator Ron Carlisle will serve as chair and Representative Jon Nelson as vice-chair.

Under this committee's direction, CSG Justice Center staff will conduct a comprehensive analysis of extensive data sets collected from various state agencies to provide a broad picture of criminal justice trends. Data from county governments will be requested and analyzed where possible. CSG Justice Center staff will also convene focus groups and lead interviews with people working on the front lines of North Dakota's criminal justice system. Based on the findings from these quantitative and qualitative analyses, the committee will develop policy options for the 2017 legislature's consideration that will address the state's key criminal justice challenges.

This overview highlights some recent criminal justice trends in North Dakota that the Incarceration Issues Committee and CSG Justice Center staff will explore in the coming months.

Criminal Justice Trends in North Dakota

North Dakota's resident population has grown in the last decade.³

■ From 2005 to 2014, the state's resident population increased 14 percent, from 646,089 to 739,482 people.⁴

■ Over the same period, the Midwest's resident population grew 3 percent, from 65.8 million to 67.7 million people, and the U.S. population grew 8 percent, from 295.5 million to 318.8 million people.⁵

Reported index crime and arrest rates have increased over the last decade.⁶

- Between 2005 and 2013, North Dakota's index crime rate increased 6 percent, from 2,038 to 2,168 reported index crimes per 100,000 residents.⁷
- During the same time period, the index arrest rate increased 26 percent, from 398 to 501 arrests per 100,000 residents.⁸

North Dakota's violent crime rate has doubled.⁹

- From 2005 to 2013, the violent crime rate increased 99 percent, from 108 to 215 reported violent crimes per 100,000 residents.¹⁰
- Over the same period, the aggravated assault rate more than doubled, increasing by 129 percent, from 70 to 160 aggravated assaults per 100,000 residents.¹¹

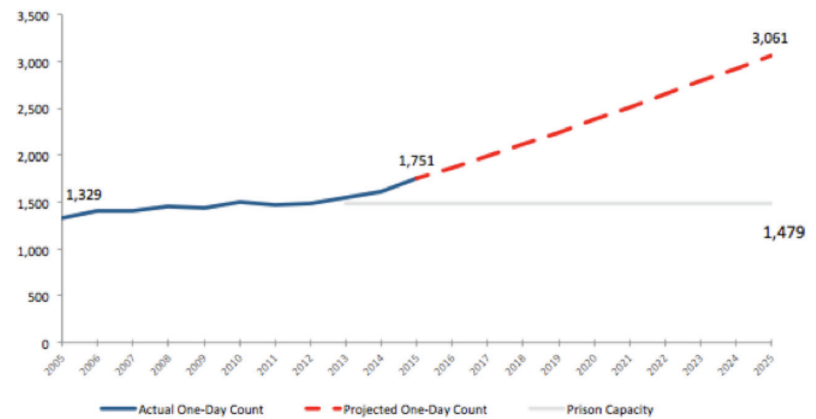
Over the past decade, the county jail population nearly doubled, compelling a number of counties to begin expanding jail capacity.

- Between 2005 and 2015, the county jail population increased 82 percent, from 959 to 1,754 people.¹²
- Between 2006 and 2013, North Dakota county jails had the third highest rate of growth in the country.¹³
- In September 2015, 47 percent of people held in county jails were awaiting trial.¹⁴
- In 2015, 9 of North Dakota's 23 county jails reported that efforts were underway to increase the state's county jail capacity by 48 percent by adding 840 beds.¹⁵

North Dakota's prison population has grown substantially in recent years.

- From 2005 to 2015, North Dakota's prison population increased 32 percent, from 1,329 to 1,751 people.¹⁶ [See Figure 1]
- During the same period, North Dakota had the fourth highest rate of prison population growth in the country.¹⁷
- Over the last decade, DOCR expanded the use of contract beds in county jails and privately owned facilities to accommodate this growing population.¹⁸ Between 2005 and 2013, the DOCR budget for contract beds increased 83 percent, from \$12 million to \$22 million.¹⁹

FIGURE 1: HISTORICAL AND PROJECTED PRISON POPULATION, 2005–2025²¹



- From 2015 to 2025, the prison population is projected to continue to grow 75 percent, from 1,751 to 3,061 people.²⁰

State spending on corrections has more than doubled in the last decade.

- From biennial budget years 2005 to 2015, General Fund appropriations to DOCR increased 114 percent, from \$83 million to \$178 million.²²
- Special funds for corrections spending increased 110 percent from biennial budget years 2005 to 2015, from \$14 million to \$29 million.²³

The racial and gender composition of the prison population differs from that of the resident population in North Dakota.

- In 2014, 5 percent of the resident population and 21 percent of the state's prison population were Native American.²⁴
- In the same year, 2 percent of the state's resident population and 6 percent of the prison population were black.²⁵
- Hispanics and Latinos made up 3 percent of the resident population and 5 percent of the prison population in 2014.²⁶
- Caucasians made up 87 percent of the state's resident population and 68 percent of the prison population in the same year.²⁷
- Asians, Native Hawaiians or other Pacific Islanders, and individuals of two or more races made up 3 percent of the state's resident population in 2014 and less than 1 percent of the prison population.²⁸
- In 2014, males made up 51 percent of the state's resident population and 89 percent of the prison population, while females accounted for 49 percent of the state's resident population and 11 percent of the prison population.²⁹

The number of people on supervision has grown significantly in the last decade.³⁰

- Between 2005 and 2014, North Dakota's supervision population increased 39 percent, from 4,208 to 5,831 people.³¹

The Justice Reinvestment Approach

Step 1: Analyze data and develop policy options

Under the direction of the Incarceration Issues Committee, CSG Justice Center staff will conduct a comprehensive analysis of crime, arrest, conviction, sentencing, probation, incarceration, behavioral health, parole, and recidivism data, using tens of thousands of individual data records. Examples of analyses that will be conducted include supervision and prison population trends; length of time served in prison and on supervision; statutory and administrative policies; and availability and use of treatment and programs to reduce recidivism. To the extent data are available, CSG Justice Center staff will also assess how sentencing trends impact supervision and prison populations; explore recidivism trends; and examine county jail trends. The analyses will result in findings related to the sources of the growth in prison populations; capacity in prison and jails; and effectiveness of agency policies and procedures.

To incorporate perspectives and recommendations from across the state, the CSG Justice Center will collect input from criminal justice system stakeholders, including state's attorneys, public defenders, judges, law enforcement officials, supervision officers, behavioral health service providers, victims and their advocates, people who are involved with the criminal justice system along with their families and advocates, local officials, and others.

In collaboration with CSG Justice Center staff, the Incarceration Issues Committee will review the analyses and develop data-driven policy options focused on increasing public safety and reducing spending on corrections. Policy options will be available for consideration before the next biennial legislature's session begins in early 2017.

Step 2: Adopt new policies and put reinvestment strategies into place

If the policy options are enacted as legislation, the CSG Justice Center will work with North Dakota policymakers, courts, and agencies for a period of 24 to 36 months to translate the new policies into practice. This assistance will help ensure that related programs and system investments achieve projected outcomes and are implemented using the latest research-based, data-driven strategies. CSG Justice Center staff will develop implementation plans with state and local officials, provide policymakers with frequent progress reports, and deliver testimony to relevant legislative committees. North Dakota will also have the opportunity to apply for federal grant funding to meet important one-time implementation needs, such as information technology upgrades and ongoing quality assurance outcomes.

Step 3: Measure performance

Finally, the CSG Justice Center will continue to assist North Dakota officials by identifying metrics to assess the impact of enacted policies on prison populations and rates of incarceration, criminal activity, and recidivism, and to develop strategies for monitoring these outcomes. Typically, this includes a "dashboard" of multiple indicators that make it easy for policymakers to track the changes occurring in various components of the criminal justice system.

Notes

1. North Dakota Department of Corrections and Rehabilitation (DOCR) estimated prison population projection. DOCR one-day inmate population snapshots for 2005–2007 are as of January 1 of each fiscal year. DOCR one-day inmate population snapshots for 2008–2015 and projected population snapshots for 2016–2025 are as of the last day of each fiscal year (June 30). Email correspondence between CSG Justice Center and DOCR, 2015 and 2016.
2. House Bill 1015, North Dakota Legislature (2015), <https://legiscan.com/ND/bill/1015/2015>; House Bill 1165, North Dakota Legislature (2015), <https://legiscan.com/ND/bill/1165/2015>.
3. Dates represent calendar years.
4. U.S. Census Bureau, "State Intercensal Estimates (2000–2010)," retrieved on December 22, 2015, from <http://www.census.gov/popest/data/intercensal/state/state2010.html>; U.S. Census Bureau, "National Totals: Vintage 2014," retrieved on December 22, 2015 from <http://www.census.gov/popest/data/national/totals/2014/index.html>.
5. *Ibid.*
6. Dates represent calendar years. Increases in reported crime and arrests can be the result of population changes, changes in sentencing laws, longer periods of probation, stricter supervision requirements, changes in behavioral health services, or increases in criminal activity.
7. Starting in 2014, North Dakota's Bureau of Criminal Investigation (BCI) began producing a NIBRS-based report, which differs from UCR-based reports in offense definitions and reporting requirements, and is therefore not comparable to previous years. BCI, *Crime in North Dakota, 2013* (Bismarck: BCI, 2014). <http://www.ag.nd.gov/Reports/BCIReports/CrimeHomicide/Crime13.pdf>; BCI, *Crime in North Dakota, 2005* (Bismarck: BCI, 2005) <http://www.ag.nd.gov/Reports/BCIReports/CrimeHomicide/Crime05.pdf>.
8. *Ibid.*
9. Dates represent calendar years.
10. Starting in 2014, BCI began producing a NIBRS-based report, which differs from UCR-based reports in offense definitions and reporting requirements, and is therefore not comparable to previous years. BCI, *Crime in North Dakota, 2013* (Bismarck: BCI, 2014) <http://www.ag.nd.gov/Reports/BCIReports/CrimeHomicide/Crime13.pdf>; BCI, *Crime in North Dakota, 2005* (Bismarck: BCI, 2005) <http://www.ag.nd.gov/Reports/BCIReports/CrimeHomicide/Crime05.pdf>.
11. *Ibid.*
12. 2015 jail survey population information was used because it included more detailed information than previous years' surveys. Preskey Hushka, Donnell. "Behind Bars: Finding a Solution to Overcrowding in Jails." North Dakota Association of Counties (NDACo) Annual Convention. Bismarck Convention Center, Bismarck, ND. 26 October 2015.
13. The 2006–2013 timeframe is the most recent for national data comparisons. Excludes the unified jail and prison systems in Alaska, Connecticut, Delaware, Hawaii, Rhode Island, Hawaii and Vermont. U.S. Department of Justice, Bureau of Justice Statistics (BJS) *Census of Jails: Population Changes, 1999–2013* (Washington DC: BJA, 2015).
14. There are 26 county jail facilities in North Dakota. 23 of those jails are Grade 1 & 2 facilities, the other 3 are not licensed to hold more than 96 hours. NDACo survey of Grade 1 & 2 county jail facilities in North Dakota, September 2015.
15. *Ibid.*
16. 2015 prison population numbers included to match the years provided in the prison projection estimate. DOCR one-day inmate population snapshots for 2005–2007 are as of January 1 of each fiscal year. DOCR one-day inmate population snapshots for 2008–2015 are as of the last day of each fiscal year (June 30). Email correspondence between CSG Justice Center and DOCR, 2015 and 2016.
17. BJS, "Correctional Statistical Analysis Tool (2005–2014)," retrieved on January 21, 2016, from <http://www.bjs.gov/index.cfm?ty=nps>.
18. Leann K. Bertsch, "Locking Up North Dakota: More is Not Always Better," (Bismarck: Department of Corrections, September 2015). Email correspondence between CSG Justice Center and DOCR, 2015.
19. Biennium budgets run on a two-year cycle. Budget information cited here is from July 1, 2005–June 30, 2007 and July 1, 2013–June 30, 2015. This budget includes contracts for transitional/community beds, contract treatment, and contract jail and prison beds. The contract for the Dakota Women's Correctional and Rehabilitation Center is not included in these numbers. Email correspondence between CSG Justice Center and DOCR staff, December 2015.
20. DOCR estimated prison population projection. DOCR one-day inmate population snapshots for 2005–2007 are as of January 1 of each fiscal year. DOCR one-day inmate population snapshots for 2008–2015 and projected population snapshots for 2016–2025 are as of the last day of each fiscal year (June 30). Email correspondence between CSG Justice Center and DOCR, 2015 and 2016.
21. Prison capacity is for the DOCR traditional facilities only and does not include contracted facilities. *Ibid.*
22. Biennial budgets run on a two-year cycle. Budget information cited here is from July 1, 2003 to June 30, 2005 and the most recent running from July 1, 2013 to June 30, 2015. Actual General Fund appropriations were \$83,458,031 for 2005 and \$178,475,785 for 2015. DOCR, *Biennial Report 2003–2005*. (Bismarck: NDOCR, 2005); DOCR, *Biennial Report 2013–2015*.
23. Actual Special Fund appropriations were \$13,991,496 for 2005 and \$29,446,421 for 2015. *Ibid.*
24. Census definitions for Hispanic and Latino ethnic categories are updated from census to census, and are therefore not comparable across years. A snapshot of the 2014 population is provided to show racial/ethnic composition based on the most recent census definitions. U.S. Census Bureau, "State & County QuickFacts" retrieved on December 22, 2015, from <http://quickfacts.census.gov/qfd/states/38000.html>; DOCR, *Organizational Characteristics*, (Bismarck: DOCR, 2014) retrieved on December 22, 2015 from <http://www.nd.gov/docr/media/stats/archive/2014%20PBMS%20Report%20Data%20DOCR%20Website.pdf>.
25. *Ibid.*
26. Hispanic and Latino are used interchangeably in the census and DOCR reports. They are also counted and reported as one category. U.S. Census Bureau, *Census Brief: The Hispanic Population: 2010* (Washington DC: Economics and Statistics Administration, U.S. Census Bureau, 2010). *Ibid.*
27. *Ibid.*
28. *Ibid.*
29. U.S. Census Bureau, "State & County QuickFacts" retrieved on December 22, 2015, from <http://quickfacts.census.gov/qfd/states/38000.html>; DOCR, *2010 Fact Sheet (2005–2008)* (Bismarck: DOCR, 2010); DOCR, *2014 Fact Sheet (2009–2014)* (Bismarck: DOCR, 2014).
30. Dates represent fiscal years.
31. This includes people on probation and parole, as well as people being supervised under the Interstate Compact, the sole statutory authority for regulating the transfer of adult parole and probation supervision across state boundaries. Email correspondence between CSG Justice Center and DOCR, 2016.



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The Council of State Governments (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'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 22 states. For additional information about Justice Reinvestment, please visit csgjusticecenter.org/jr/.



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