



Justice Reinvestment in West Virginia

Overview



Background

In 2012, Governor Earl Ray Tomblin, Chief Justice Menis Ketchum, legislative leaders from both parties, and other state policymakers requested technical assistance from the [Pew Center on the States](#) and the [U.S. Department of Justice's Bureau of Justice Assistance](#) to employ a data-driven “justice reinvestment” approach to reduce corrections spending and reinvest a portion of the savings generated in strategies that can increase public safety.

To guide the effort, these state leaders established the Justice Reinvestment Working Group, a bipartisan, inter-branch working group that includes state cabinet secretaries, Republican and Democratic lawmakers, court officials, and other stakeholders in the criminal justice system. State leaders have begun compiling extensive data from various agencies, which they have provided to the Council of State Governments (CSG) Justice Center. With help from the Pew Center on the States, CSG Justice Center staff will conduct a comprehensive analysis of these data. To help them interpret and understand the data they review, CSG Justice Center staff will also conduct focus groups and interview a range of people working on the front lines of the West Virginia criminal justice system.

Based on these exhaustive quantitative and qualitative analyses, CSG Justice Center staff will present findings to the working group and stakeholders from across the criminal justice system, who will review these findings and assist in developing options for policymakers' consideration that are designed to both increase public safety and reduce corrections spending.

This overview highlights recent trends in West Virginia that the CSG Justice Center will be exploring in the upcoming months.

Criminal Justice System Trends in West Virginia

Although violent crime rates nationally have declined over the last decade, violent crime has increased in West Virginia during this time period.

- Between 2001 and 2010, West Virginia's violent crime rate increased 13 percent, from 280 to 315 reported crimes per 100,000 state residents. During this same period, national violent crime rates declined 20 percent.
- The state's 2010 violent crime rate remains below the national rate of 404 per 100,000. It currently ranks 27th nationally for its violent crime rate; in 2001, the state ranked 38th.^{1,2}
- Between 2001 and 2010, West Virginia's property crime rate declined slightly, from 2,281 to 2,240 reported crimes per 100,000 state residents. During this period, the national property crime rate declined 20 percent, from 3,658 to 2,942. While the state's property crime rate remains one of the lowest in the nation, it increased from the third lowest property crime rate in the nation to ninth in the last decade.^{3,4}

West Virginia currently makes limited use of community supervision compared to other states, although the number of people under probation and parole supervision in West Virginia has increased over the past five years.

- In 2010, West Virginia had the third lowest rate in the nation of adults on probation (597 per 100,000 state residents compared to 1,721 per 100,000 in the U.S.).⁵
- In 2007, the number of people in prison or jail in West Virginia was comparable to the number of people on probation or parole. In contrast, the number of people on probation or parole nationally was approximately 2.5 times the number of people incarcerated.⁶
- Between 2007 and 2011, the number of people under parole supervision in West Virginia increased 17 percent, from 2,170 to 2,547.⁷
- During the same period, the total number of people under all forms of probation supervision—including probation with alternative sanctions and probation following jail incarceration—increased eight percent, from 7,677 in 2007 to 8,306 people in 2011.⁸
- In addition to probation, West Virginia law permits jurisdictions to establish community corrections programs as sentencing alternatives for individuals who require less than institutional custody. Community corrections programs vary across the state and could include pre-trial supervision, drug courts, day reporting centers, and may include probation supervision as part of the sentence. The number of people who participate in one of these community corrections programs has grown 27 percent, from 2,609 in 2008 to 3,324 in 2011.⁹

Approximately one-quarter of state-responsible inmates are incarcerated in the state's overcrowded regional jail system.

- The number of people incarcerated in West Virginia's regional jail system increased 25 percent, from 3,628 at the end of 2007 to 4,551 in 2011, exceeding its capacity of 2,784.¹⁰
- Approximately one-quarter of people sentenced to the West Virginia Division of Corrections (WVDOC) are incarcerated in regional jails because the state prison system is full. Between 2007 and 2011, the number of people that were committed to WVDOC but were housed in regional jails increased 46 percent, from 1,187 to 1,736.¹¹

Commitments to prison have increased over the past five years, partly due to an increase in the number of people whose probation was revoked.

- From 2007 to 2011, total commitments to prison increased nine percent, from 3,051 to 3,324.¹²
- Over this period, new commitments remained stable, with 1,665 new commitments in 2007 and 1,704 in 2011.¹³

- During this same period, revocations from probation increased 35 percent, from 566 people whose probations were revoked in 2007 to 762 in 2011, while revocations from parole increased only slightly, from 476 people in 2007 to 490 in 2011.¹⁴
- More than half of people whose parole or probation was revoked were returned to prison for a technical violation of their condition of release, not because they were convicted of committing a new crime.¹⁵
- Between 2009 and 2011, the number of people whose probations were revoked from and returned to prison for “technical violations” increased 35 percent, from 267 in 2009 to 361 in 2011, while the number of people whose probations were revoked for committing new crimes increased 22 percent, from 212 to 260.¹⁶

West Virginia’s prison population has increased rapidly and this growth is projected to continue.

- Over the past decade West Virginia has had one of the fastest growing prison populations in the U.S. even though its resident population is aging and only increased 2.5 percent between 2000 and 2010.¹⁷
- Between 2000 and 2009, the state’s prison population grew an average of 5.7 percent per year. By comparison, the national average increased 1.7 percent per year.¹⁸
- The growth rate in the state’s prison population is more than three times higher than the national rate. Among states in the South, West Virginia’s prison population grew faster than any of its neighbors.¹⁹
- The state’s prison population increased 73 percent, from 3,772 people in 2000 to 6,531 people in 2010. The population is expected to grow 45.7 percent by 2020, with an expected population of 9,732 people.²⁰
- While West Virginia’s incarceration rate is lower than the national rate (363 compared to 500 people incarcerated per 100,000 residents), its incarceration rate grew 57 percent between 2001 and 2010. During this same period, the national incarceration rate grew just six percent.^{21 22}

A portion of those incarcerated in West Virginia and eligible for parole release remain incarcerated because WVDOC cannot complete all requirements necessary to hold parole hearings in a timely manner.

- Between FY 2008 and FY 2010, 2,914 people eligible for parole release had their hearings postponed for one month or more because of missing or incomplete documentation from WVDOC. Many of those delays were the result of WVDOC inmates incarcerated in regional jails, where WVDOC has limited staff to complete requirements to prepare people for parole.²³
- Delays in the parole process have worsened over the past four years: the number of people whose parole consideration date was delayed increased from 371 in 2007 to 1,120 in 2011.²⁴

The growth in the correctional population will cost taxpayers if current policies remain unchanged.

- WVDOC spending (including payments to regional jails and federal prisons) has increased from \$138 million in FY 2007 to \$158 million in FY 2011.²⁵
- WVDOC estimates that adding prison beds to ease existing crowding and ensure space for the additional anticipated growth will cost up to \$200 million in construction costs and an additional \$70 million annually in operation costs by FY 2020.^{26 27}

Although reincarceration rates for people released from state prison in West Virginia are lower than most states, recidivism rates have increased.

- The number of people reincarcerated within three years of release from prison has increased from one out of five (19.6 percent) people in 2001 to almost one out of three (30 percent) by 2007, an increase of 50 percent.²⁸

The Justice Reinvestment Approach

STEP 1

Analyze Data and Develop Policy Options

The CSG Justice Center staff will comprehensively analyze West Virginia’s crime, arrest, conviction, sentencing, jail, prison, behavioral health, probation, parole, and community corrections data. The analyses will complete an examination of movements through West Virginia’s criminal justice system and produce findings regarding capacity, pressures, and effectiveness. Outcomes will be evaluated concerning effectiveness at preventing future crime and lowering recidivism, while holding offenders properly accountable.

To incorporate perspectives and recommendations from across the criminal justice system, the CSG Justice Center will solicit input from stakeholders, including district attorneys; public defenders; judges, corrections, and law enforcement officials; service providers and community leaders; victims, survivors, and their advocates; local officials; probation and parole offices; and others.

In collaboration with the Justice Reinvestment Working Group, which will review analyses and share recommendations, the CSG Justice Center staff will develop data-driven policy options that increase public safety and reduce spending on corrections.

STEP 2

Adopt New Policies and Put Reinvestment Strategies Into Place

Once the policy options have been enacted, West Virginia policymakers will need to verify that the policies are adopted effectively. The CSG Justice Center will assist West Virginia with translating the new policies into practice and ensuring related programs and system investments achieve projected outcomes. This assistance includes developing implementation plans with state and local officials and keeping policymakers apprised through frequent progress reports and testimony to relevant legislative committees.

STEP 3

Measure Performance

Finally, the CSG Justice Center will ensure that West Virginia officials receive brief, user-friendly, and up-to-date information that explains the impact of enacted policies on jail and prison populations, and on rates of reincarceration and criminal activity. Typically, this includes a “dashboard” of multiple indicators that make it easy for policymakers to track—in real time—the changes in various components of the criminal justice system.

1. United States Department of Justice, Federal Bureau of Investigation, *Crime in the United States*. Retrieved April 2012 from <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2010/crime-in-the-u.s.-2010>.
2. The FBI Uniform Crime Report includes under its violent crime category the following offenses: murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault.
3. United States Department of Justice, Federal Bureau of Investigation, *Crime in the United States*. Retrieved April 2012 from <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2010/crime-in-the-u.s.-2010>.
4. The FBI Uniform Crime Report includes under its property crime category the following offenses: burglary, larceny-theft, and motor vehicle theft.
5. United States Department of Justice, Bureau of Justice Statistics, *Probation and Parole in the United States 2010* (Washington, DC: United States Department of Justice, Bureau of Justice Statistics, November 2011).
6. The Pew Center on the States, *One in 31: The Long Reach of American Corrections* (Washington, DC: The Pew Charitable Trusts, March 2009).
7. West Virginia Division of Corrections, *Annual Reports* (FY 2007-2011).
8. West Virginia Judiciary, West Virginia Division of Probation Services, Annual Reports (2007-2011).
9. West Virginia Community Corrections data provided by the West Virginia Division of Justice and Community Services.
10. West Virginia Regional Jail Authority data provided by the West Virginia Office of Technology.
11. West Virginia Division of Corrections data for calendar years 2007 – 2011 provided by the West Virginia Division of Corrections.
12. Ibid.
13. Ibid.
14. West Virginia Division of Corrections data for calendar years 2007 – 2011 provided by the West Virginia Division of Corrections. West Virginia Judiciary, West Virginia Division of Probation Services Annual Reports (2007-2011) indicate the number of people revoked from probation to prison increased 20 percent from 516 in 2007 to 621 in 2011.
15. West Virginia Judiciary, West Virginia Division of Probation Services, *Annual Reports* (2007-2011); West Virginia Division of Corrections, Annual Reports (FY 2007-2011); West Virginia Parole Board, Annual Reports (FY 2007-2011).
16. West Virginia Judiciary, West Virginia Division of Probation Services, Annual Reports (2009-2011).
17. United States Census Bureau, *State & County QuickFacts*.
18. United States Department of Justice, Bureau of Justice Statistics, *Prisoners in 2010* (Washington, DC: United States Department of Justice, Bureau of Justice Statistics, February 2012).
19. Ibid.
20. Simon Bauer-Leffler and Stephen M. Haas, *West Virginia Correctional Population Forecast, 2010-2020* (Charleston, WV: Office of Research and Strategic Planning, Criminal Justice Statistical Analysis Center, February 2011).
21. United States Department of Justice, Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics Online*.
22. Incarceration rate per 100,000 residents.
23. West Virginia Legislative Auditor, Performance Evaluation and Research Division, *Department of Military Affairs & Public Safety Parole Board Agency Review* (Charleston, WV: West Virginia Legislative Auditor, Performance Evaluation and Research Division, January 2012).
24. West Virginia Parole Board, Annual Reports (FY 2007-2011). The *Department of Military Affairs & Public Safety Parole Board Audit Review* indicates that the Parole Board changed procedures in FY 2009 so that in FY2008, more than 700 people were in "pocket parole" status, where an inmate could be granted parole but remain incarcerated due to an incomplete home plan. Therefore, the number of people whose parole consideration was delayed could be larger in FY 2007 and FY 2008 than indicated in the West Virginia Parole Board Annual Reports.
25. West Virginia Division of Corrections, *Annual Reports* (FY 2005-2011).
26. West Virginia Division of Corrections.
27. Operation cost estimates are based on FY 2011 costs (\$23,674 cost per inmate per year) and projected 2020 prison population.
28. West Virginia Division of Corrections, *Recidivism Reports* (2001-2003 and 2007).

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To learn more about the justice reinvestment strategy
in West Virginia and in other states, please visit:
justicereinvestment.org



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To learn more about the Public Safety Performance Project, please visit: <http://www.pewpublicsafety.org/>.

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Council of State Governments Justice Center

The Council of State Governments Justice Center is a national nonprofit organization that serves policymakers in the local, state, and federal levels from all branches of government. The Justice Center provides practical, nonpartisan advice and consensus-driven strategies, informed by available evidence, to increase public safety and strengthen communities.

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