### JUSTICE CENTER THE COUNCIL OF STATE GOVERNMENTS





### Justice Reinvestment in North Dakota

### *First Presentation to the Incarceration Issues Committee: Initial Analysis*

January 26, 2016

#### The Council of State Governments Justice Center

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### The Council of State Governments Justice Center

- National nonprofit, nonpartisan membership association of state government officials
- Engages members of all three branches of state government
- Justice Center provides practical, nonpartisan advice informed by the best available evidence



### Justice reinvestment goals

## **JUSTICE REINVESTMENT**

A data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease recidivism and increase public safety

The Justice Reinvestment Initiative is supported by funding from the U.S. Department of Justice's **Bureau of Justice Assistance (BJA)** and **The Pew Charitable Trusts** 

### **Presentation overview**



### **Justice Reinvestment Overview**

#### **North Dakota System Trends**

#### **Next Steps**

North Dakota has enacted policies to address several criminal justice system areas in recent years



Reclassify some felony and misdemeanor offenses



Allow some exemptions from mandatory minimum sentences



Create a distinction between supervised and unsupervised probation



Create 10 new residential crisis treatment beds



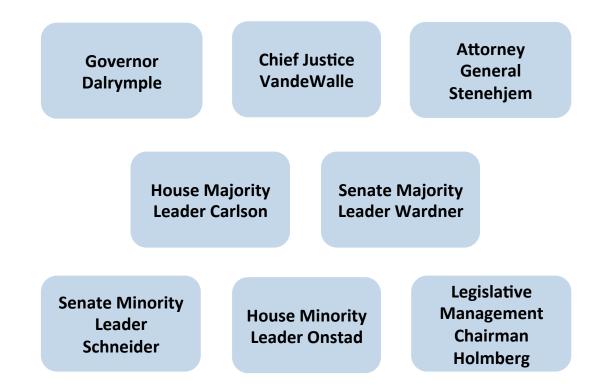
Other recent policy changes made

Source: North Dakota letter to the Bureau of Justice Assistance and The Pew Charitable Trusts requesting technical assistance from the Council of State Governments Justice Center.

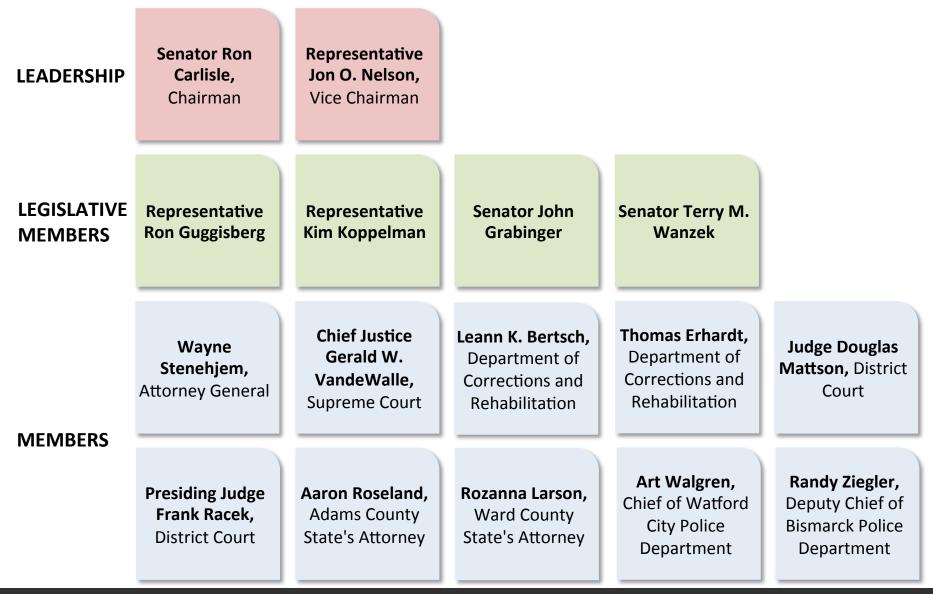
## North Dakota state policymakers enacted legislation and formally requested technical assistance for justice reinvestment



HB 1165 and HB 1015 created an interim committee to guide a justice reinvestment approach The State Legislature was joined by the Executive and Judicial branches to request technical assistance from the CSG Justice Center to use a data-driven justice reinvestment approach. The formal request was issued by:



## The Incarceration Issues Committee will help guide the justice reinvestment process



## Justice reinvestment includes a two-part process spanning analysis, policy development, and implementation

#### PHASE I

Data analysis, stakeholder engagement, and policy option development

	1	Bipartisan, Interbranch Working Group	Assemble practitioners and leaders; receive and consider information, reports, and policies
	2	Data Analysis	Data sources should come from across the criminal
	2		justice system for comprehensive analysis
	2	Stakeholder	Complement data analysis with input from
	5	Engagement	stakeholder groups and interested parties
	Л	Policy Option	Present a policy framework to reduce corrections
-	4	Development	costs, increase public safety, and project the impacts

#### **PHASE II**

Putting policy into practice and measuring performance

	5	Policy Implementation	Identify needs for implementation and deliver technical assistance for reinvestment strategies
	6	Monitor Key Measures	Monitor the impact of enacted policies and programs, adjust implementation plan as needed

Along with data analysis, justice reinvestment assesses core correctional practice and reviews subject-matter areas

#### Analyze Criminal Justice System Data

- Crime & arrest
- Sentencing
- Probation & parole
- Jail
- Prison
- Treatment and programs to reduce recidivism
- Recidivism

Assess Risk Assessment, Program, and Supervision Systems

- System-wide assessment & analysis
- On-site observation of current practice
- Administrative policy review & redesign
- Retraining, revalidation, & quality assurance
- Implementation

Focus on Diverse Criminal Justice Subject-Matter Areas

- Prosecutors
- Victim advocates & service providers
- Parole board members
- Law enforcement
- Sentencing policies & case law
- Behavioral health state officials and providers

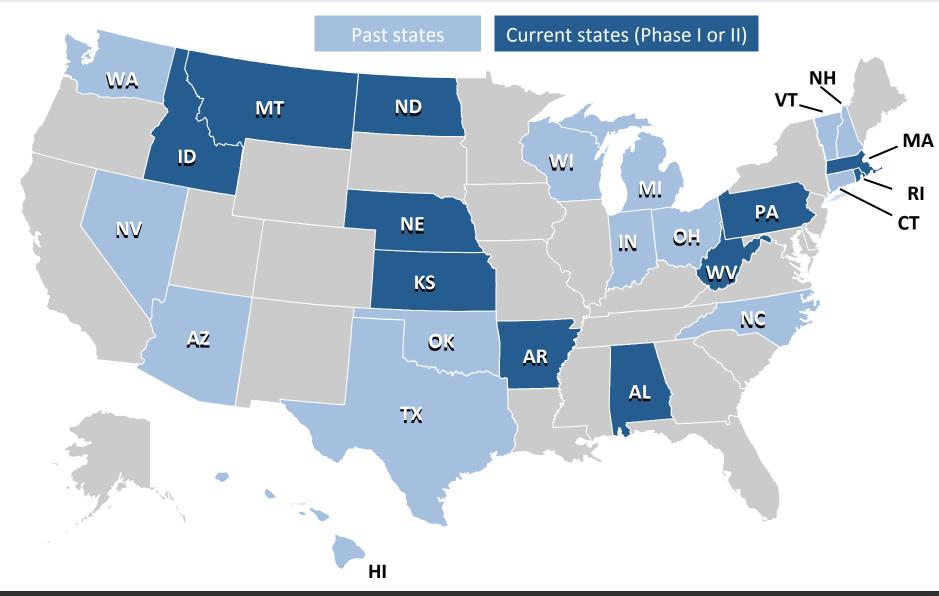
Focus Resources based on risk & need



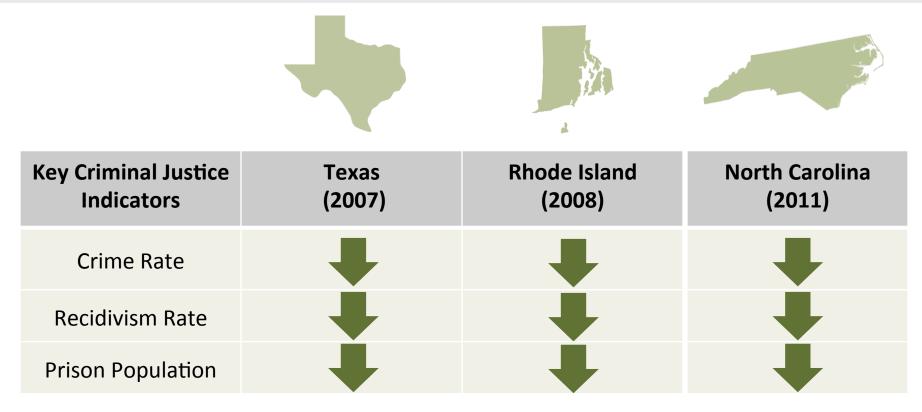
Generate Savings resulting from more effective practice



Reinvest in public safety strategies North Dakota is the 25<sup>th</sup> state to use the justice reinvestment approach with CSG Justice Center assistance



States using justice reinvestment have achieved gains across multiple criminal justice indicators



Trends Post-JR	тх	RI	NC
Policy Enactment	2007–2014 Change	2008–2014 Change	2011–2014 Change
Index Reported Crimes	-16%	-22%	-14%
Prison Population	-8%	-17%	-9%

Source: E. Ann Carson, Prisoners in 2013 (Washington, DC: Bureau of Justice Statistics, September 30, 2014), <a href="http://www.bjs.gov/index.cfm?ty=pbdetail&iid=5109">http://www.bjs.gov/index.cfm?ty=pbdetail&iid=5109</a>; U.S. Department of Justice and Federal Bureau of Investigation, "Unified Crime Report Data Online," accessed January 22, 2016, <a href="http://www.ucrdatatool.gov/Search/Crime/State/StateCrime.cfm">http://www.bjs.gov/index.cfm?ty=pbdetail&iid=5109</a>; U.S. Department of Justice and Federal Bureau of Investigation, "Unified Crime Report Data Online," accessed January 22, 2016, <a href="http://www.ucrdatatool.gov/Search/Crime/State/StateCrime.cfm">http://www.ucrdatatool.gov/Search/Crime/State/StateCrime.cfm</a>.

# Four aspects of justice reinvestment that help tackle criminal justice system challenges

Intensive data analysis helps uncover previously unexplored challenges



Nebraska discovered a prison "revolving door" of people convicted of low-level offenses, mostly for nonviolent offenses, serving short sentences before returning to the community.

Stakeholder input critical to defining the challenge and reaching consensus solution

Large bipartisan majorities lead legislative approval



In West Virginia, prosecutors, judges, and law enforcement championed a reinvestment package that has led to \$9M over 3 years in expanded community-based substance use treatment.

In 30 states, justice reinvestment reforms have received more than 5,700 "aye" votes in state legislatures, compared with fewer than 500 "no" votes.\*



Pennsylvania's corrections and parole agencies maximized impacts, generating millions of additional savings for reinvestment in victim services, probation, and law enforcement.

Source: \*Pew Charitable Trusts, "Bipartisan Support for Justice Reinvestment Legislation," June 17, 2015, http://www.pewtrusts.org/en/multimedia/data-visualizations/2015/bipartisan-support-for-justice-reinvestment-legislation.

## South Dakota's 2011 "Public Safety Improvement Act" is showing promising results



"Basically, these weren't people we were afraid of; these were people we were mad at. So we asked, 'Is there a way other than incarceration to hold them accountable?'" —South Dakota Governor Daugaard

#### Findings

- People convicted of nonviolent offenses make up a large percentage of prison admissions
- Parole violators occupy a growing number of prison beds
- High rate of recidivism

#### **Policy Solutions**

- Focus prison space on violent and career criminals
- Strengthen supervision and interventions
- Focus supervision resources on those most at risk to reoffend

#### Impact

- Stabilized the prison population—averting growth and avoiding new construction
- Expansion of problemsolving courts, funding to offset potential jail impacts, a tribal-parole pilot project, and more

Source: Pew Charitable Trusts, "Leading on Public Safety," <u>http://www.pewtrusts.org/~/media/legacy/uploadedfiles/pcs\_assets/2013/pewpsppgovernorsqapdf.pdf;</u> State of South Dakota, "Overview," June 17, 2015, <u>http://psia.sd.gov/PSIA Overview.pdf</u>.

Although this presentation is based largely on published reports, independent analyses will drive future presentations

Data Type	Source
<ul> <li>Crime and Arrests</li> <li>Criminal History Information</li> </ul>	Attorney General Bureau of Criminal Investigation
- Filing, Disposition, and Sentencing	Administrative Office of the Courts
<ul> <li>Probation Supervision</li> <li>Problem Solving Courts</li> <li>Community-Based Programs</li> </ul>	Department of Corrections and Rehabilitation
- Prison - Parole Supervision	Department of Corrections and Rehabilitation
- County Jail Population and Trends	North Dakota Association of Counties
<ul> <li>County Jail Booking and Releases</li> </ul>	North Dakota Association of Counties

Roadblocks that sometimes arise

- Agencies unaccustomed to sharing data with outside groups
- Data is insufficient for analysis

- Shortage of "data staff"
- Challenges creating a research-ready dataset

### **Presentation Overview**

### **Justice Reinvestment Overview**



#### North Dakota System Trends

#### **Next Steps**

### Initial analysis will address three key questions

3

What elements of the criminal justice system have changed over the last decade?

How have these changes impacted pressures
 in the system, public safety, and state
 spending?

What opportunities are there for justice reinvestment to help reduce critical pressures and costs and improve public safety?

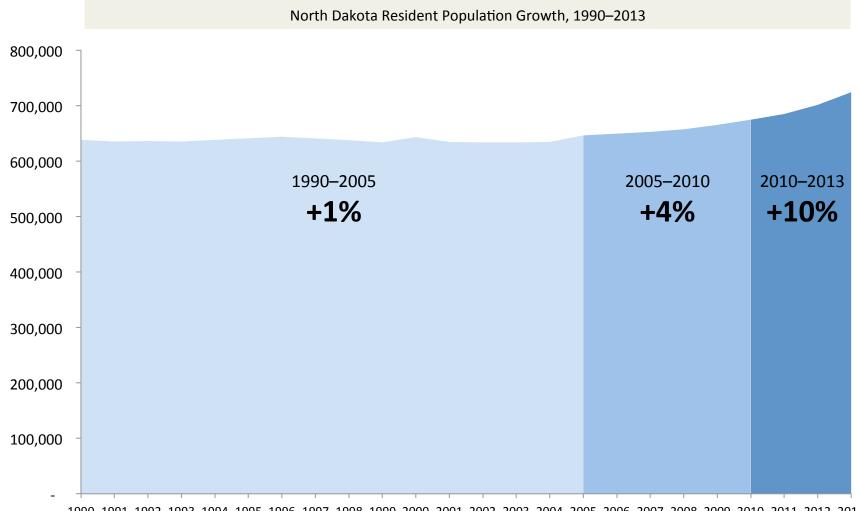
### Initial analysis

What elements of the criminal justice system have changed over the last decade?

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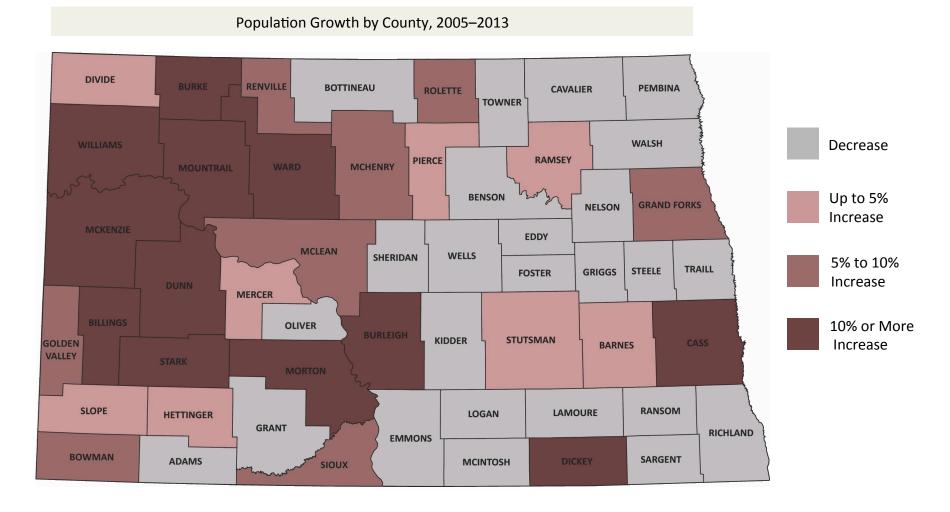
## After decades of minimal growth, North Dakota's resident population became one of the fastest-growing nationally



1990 1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013

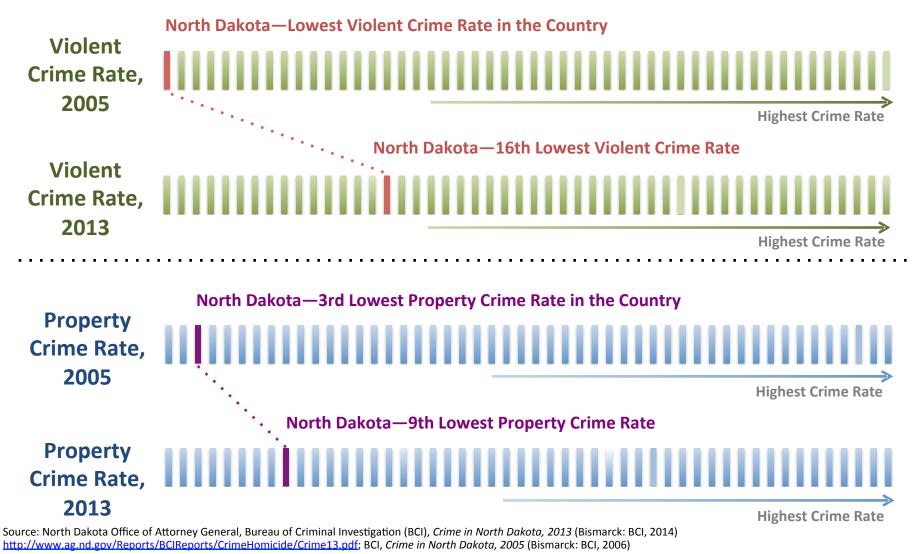
Source: North Dakota Office of Attorney General, Bureau of Criminal Investigation (BCI), Crime in North Dakota, 1999 (Bismarck: BCI, 2000); BCI, Crime in North Dakota, 2005; BCI, Crime in North Dakota, 2013; BCI, Crime in North Dakota, 2013

## While resident population growth outpaced regional and national growth, changes varied from county to county



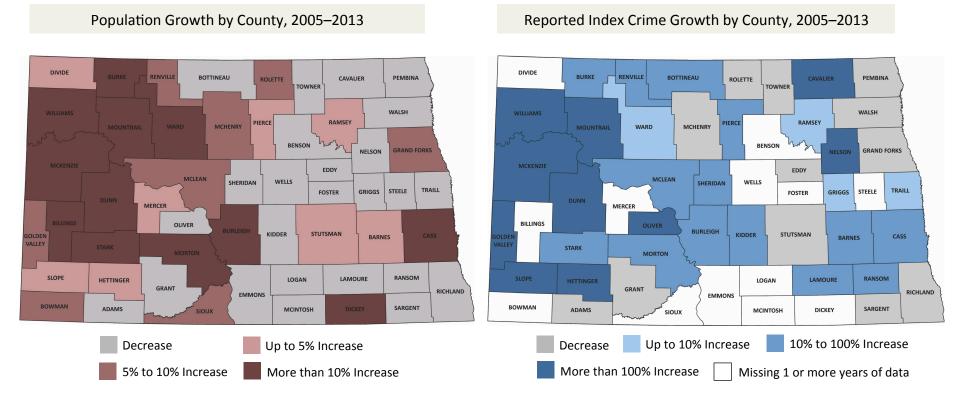
Source: North Dakota Office of Attorney General, Bureau of Criminal Investigation (BCI), *Crime in North Dakota, 2013* (Bismarck: BCI, 2014) http://www.ag.nd.gov/Reports/BCIReports/CrimeHomicide/Crime13.pdf; BCI, *Crime in North Dakota, 2005* (Bismarck: BCI, 2006) http://www.ag.nd.gov/Reports/BCIReports/CrimeHomicide/Crime05.pdf.

## Despite an increase in index crime rate, North Dakota remains below the national average



http://www.ag.nd.gov/Reports/BCIReports/CrimeHomicide/Crime05.pdf.

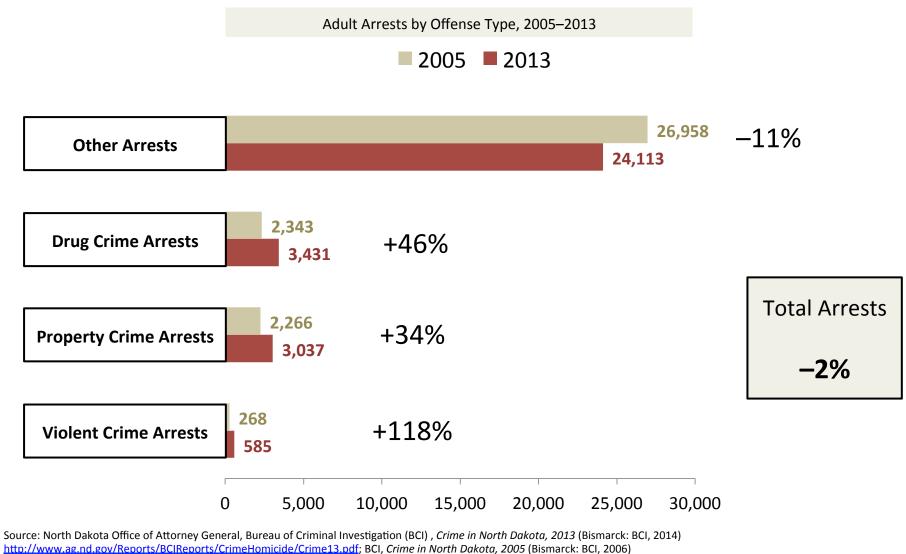
County population and index crime changes create a more complex picture, especially in the east, than state-level trends



## While population changes coincided with increases in index crime, population changes alone are not the cause of changes in crime.

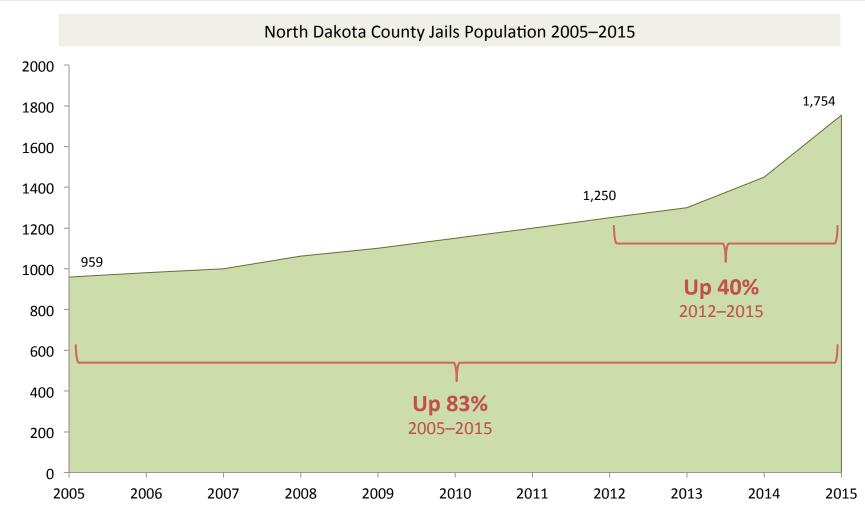
Source: North Dakota Office of Attorney General, Bureau of Criminal Investigation (BCI), *Crime in North Dakota, 2013* (Bismarck: BCI, 2014) <a href="http://www.ag.nd.gov/Reports/BCIReports/CrimeHomicide/Crime13.pdf">http://www.ag.nd.gov/Reports/BCIReports/CrimeHomicide/Crime13.pdf</a>; BCI, *Crime in North Dakota, 2005* (Bismarck: BCI, 2006) <a href="http://www.ag.nd.gov/Reports/BCIReports/CrimeHomicide/Crime05.pdf">http://www.ag.nd.gov/Reports/BCIReports/CrimeHomicide/Crime13.pdf</a>; BCI, *Crime in North Dakota, 2005* (Bismarck: BCI, 2006) <a href="http://www.ag.nd.gov/Reports/BCIReports/CrimeHomicide/Crime05.pdf">http://www.ag.nd.gov/Reports/BCIReports/CrimeHomicide/Crime13.pdf</a>; BCI, *Crime in North Dakota, 2005* (Bismarck: BCI, 2006) <a href="http://www.ag.nd.gov/Reports/BCIReports/CrimeHomicide/Crime05.pdf">http://www.ag.nd.gov/Reports/BCIReports/CrimeHomicide/Crime05.pdf</a>.

## While total arrests decreased slightly, arrests for violent crimes doubled



http://www.ag.nd.gov/Reports/BCIReports/CrimeHomicide/Crime15.pdf, BCI, Crime in North Dakota, 2005 (Bishlarck, BCI, 2006)

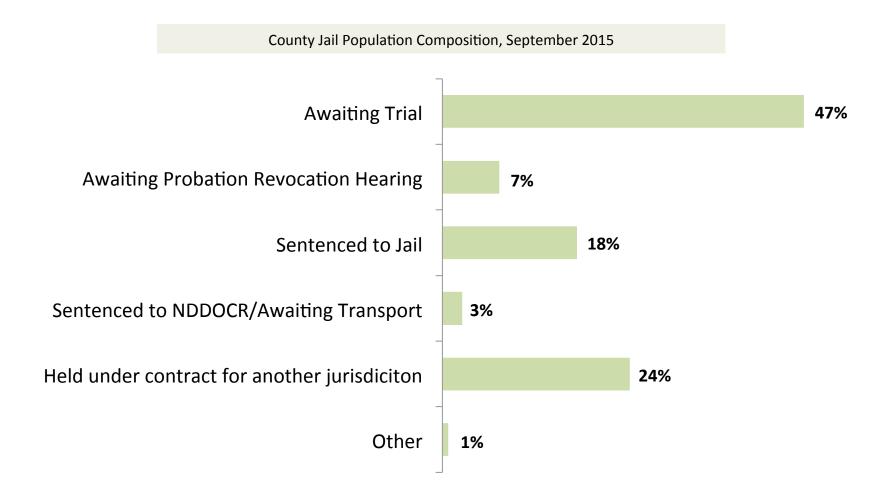
# The county jail population has nearly doubled in the past decade



County jails report the number of individuals physically present in their facilities, including individuals who are held awaiting transport to DOCR or under contract for DOCR. As DOCR prison population counts include all individuals sentenced to DOCR and not just those present in traditional facilities, there may be some overlap in individuals represented in this chart and those counted by DOCR.

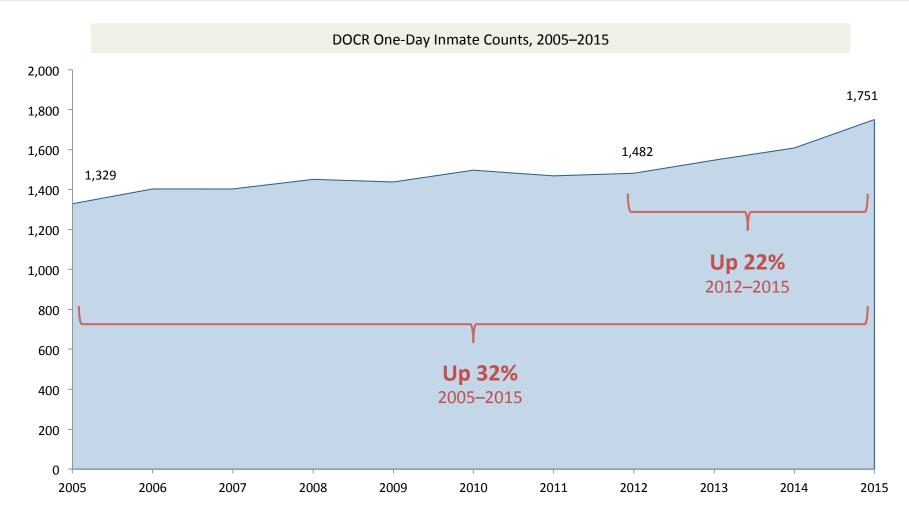
Source: Preskey Hushka, Donnell. "Behind Bars: Finding a Solution to Overcrowding in Jails." North Dakota Association of Counties (NDACo) Annual Convention. Bismarck Convention Center, Bismarck, ND. 26 October 2015.

## The county jail population is composed of a diverse set of subgroups



Source: NDACo survey of Grade 1 & 2 county jail facilities in North Dakota, September 2015.

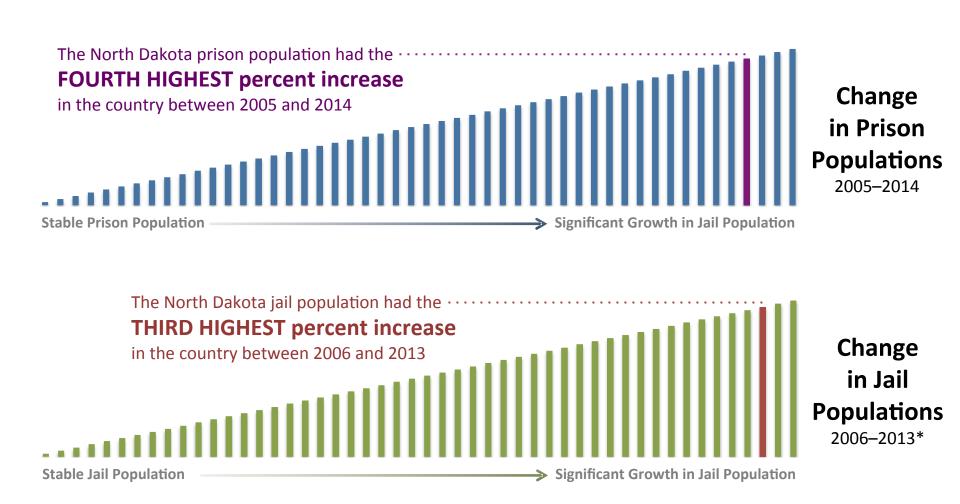
### North Dakota's prison population is up 32 percent since 2005



Prison population counts include all individuals sentenced to DOCR custody, including individuals in traditional state prison beds, those in non-traditional beds such as a bed in a treatment facility, and individuals in contract beds at county jails or other facilities. County jails report the number of individuals physically present in their facilities, so there may be some overlap in individuals represented in this chart and those counted by county jails.

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). Source: Email correspondence between CSG Justice Center and DOCR, 2015 and 2016.

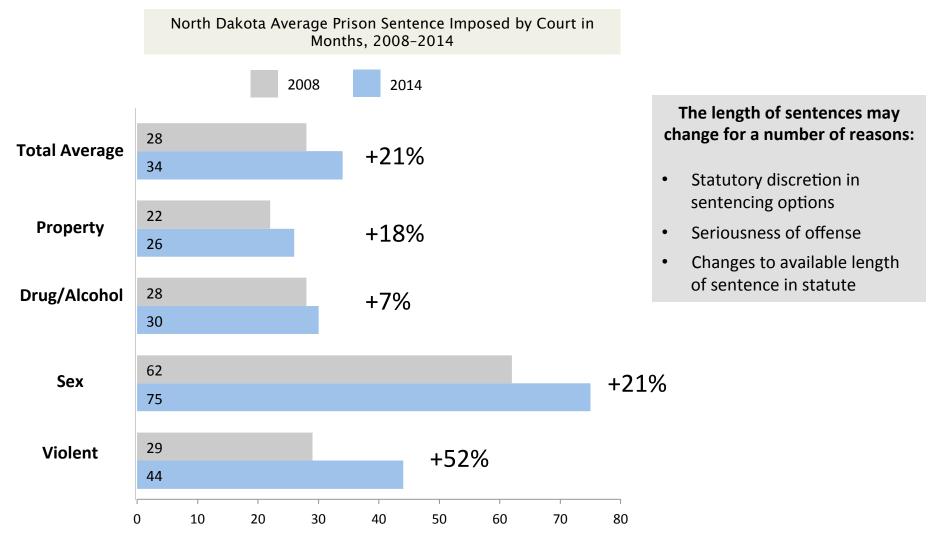
### Incarceration populations in North Dakota increased at one of the highest rates in the country



\*The 2006-2013 timeframe is the most recent data available for national data comparisons on jail populations.

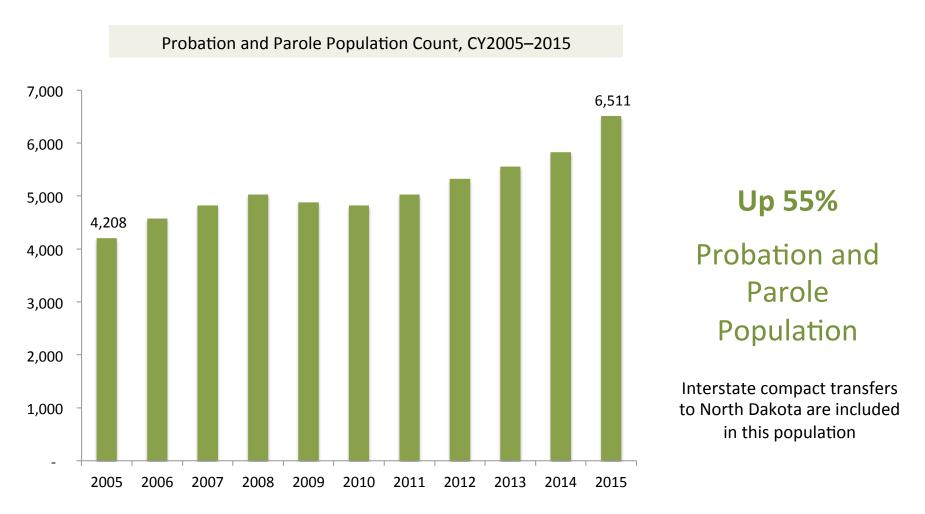
Source: U.S. Department of Justice, Bureau of Justice Statistics (BJS) Census of Jails: Population Changes, 1999-2013 (Washington DC: BJA, 2015). *Excludes the unified jail and prison systems in Alaska, Connecticut, Delaware, Rhode Island, Hawaii and Vermont*. BJS, "Correctional Statistical Analysis Tool (2005–2014)," retrieved on January 21, 2016, from <a href="http://www.bjs.gov/index.cfm?ty=nps">http://www.bjs.gov/index.cfm?ty=nps</a>.

## The length of some sentences to prison imposed by North Dakota courts has increased



The "average length of sentence imposed by courts" is the average sentence imposed by the court. It does not consider mechanisms that may shorten a sentence such as good time, credit for time served, parole relief, or any other method of shortening a sentence except Pardon Advisory Board recommendations adopted by the Governor, which can change the sentence. Source: DOCR, 2010 Fact Sheet (2005–2008) (Bismarck: DOCR, 2010); DOCR, 2014 Fact Sheet (2009–2014) (Bismarck: DOCR, 2014).

## The number of probationers and parolees grew significantly in the last decade



Source: Email correspondence between CSG Justice Center and DOCR, 2005 and 2015. Dates are January 1.

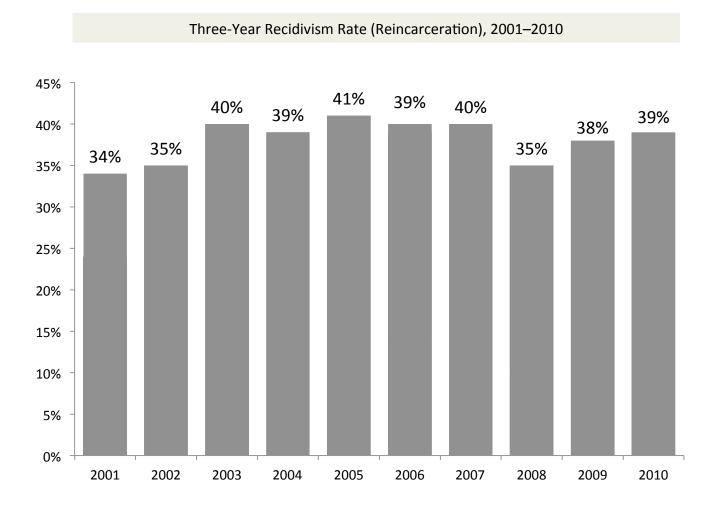
### Initial analysis

What elements of the criminal justice system have changed over the last decade?

How have these changes impacted pressures in the system, public safety, and state spending?

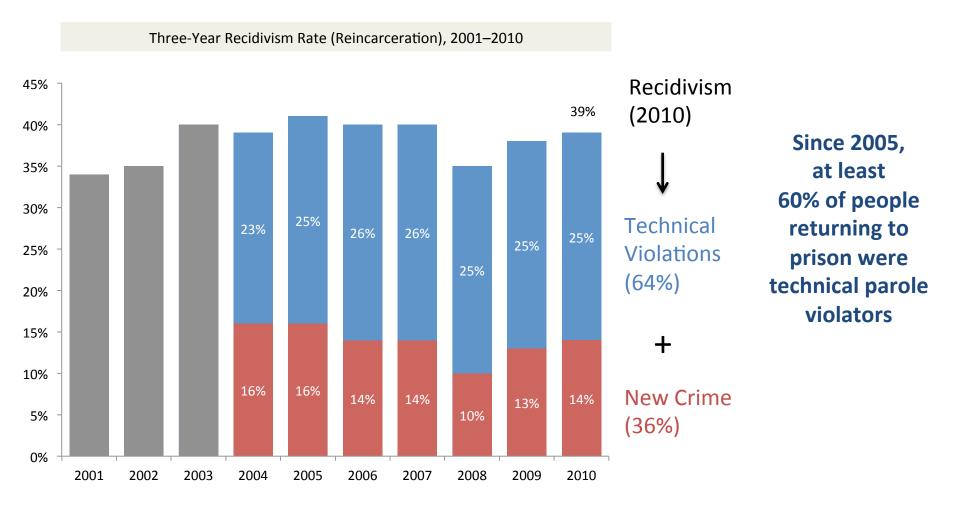
What opportunities are there for justice reinvestment to help reduce critical pressures and costs and improve public safety?

### Recidivism climbed 5 percentage points over 10 years



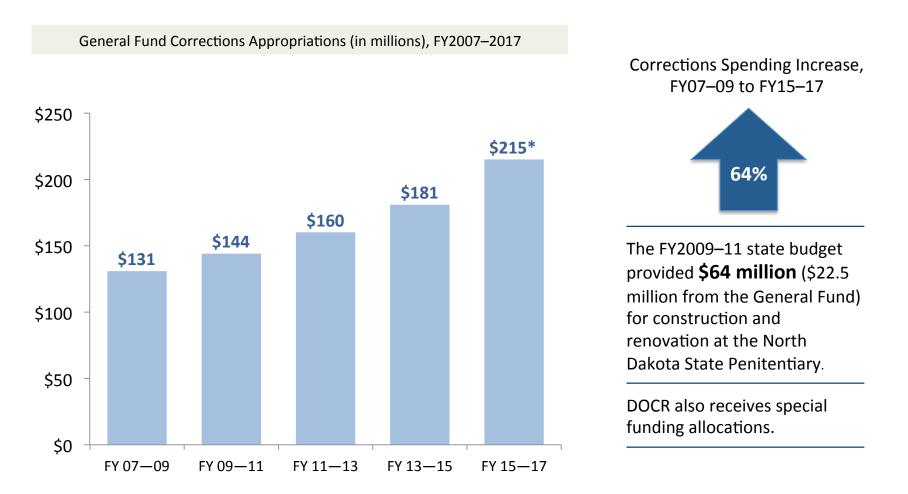
Changes in recidivism: In 2004, North Dakota adopted the Association of State Correctional Administrator's Performance-Based Measurement system definition and reporting requirements for recidivism. Source: Rebecca Donovan, DOCR "The Insider," 2012, http://www.nd.gov/docr/media/newsletter/archive/JULY2012.pdf.

## Technical violations account for most of the people who are reincarcerated



The methodology for calculating recidivism rates changed in 2004; breakdowns between technical violations and new crime are not available for 2001 through 2003. Source: Rebecca Donovan, DOCR "The Insider," 2012, http://www.nd.gov/docr/media/newsletter/archive/JULY2012.pdf.

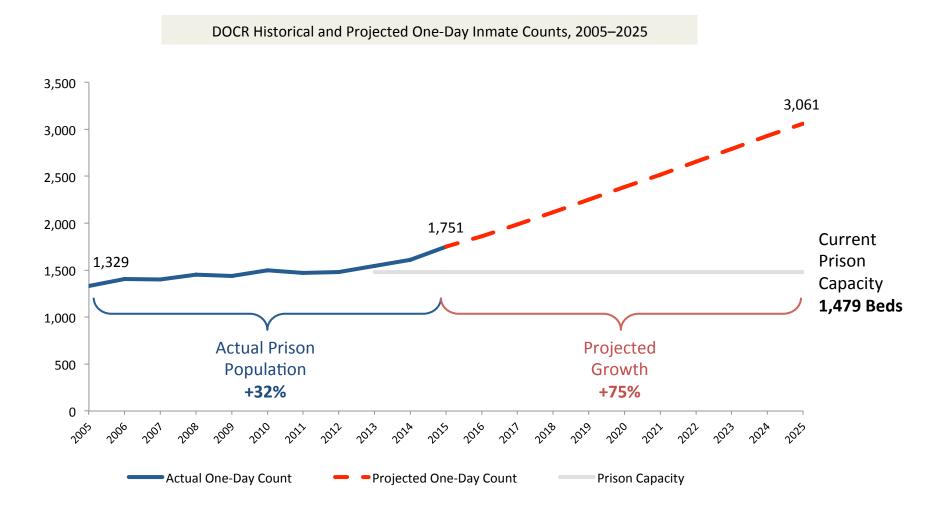
## Corrections appropriations increased 64 percent in the last decade



\*Budgeted, not spent for 2016 and 2017.

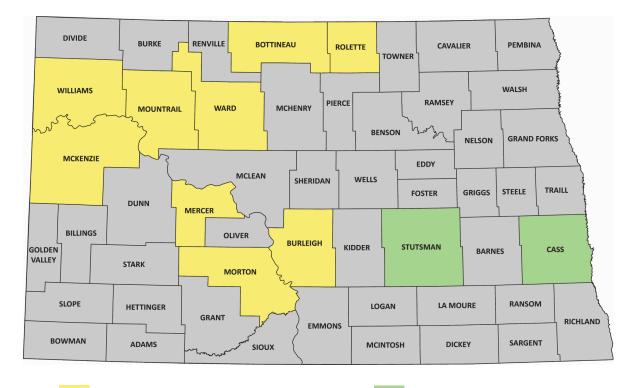
Biennial budgets run on a two-year cycle. Budget information cited here is from July 1, 2003 to June 30, 2005 and the most recent running from July 1, 2013 to June 30, 2015. Source: DOCR, Biennial Report 2003–2005. (Bismarck: DOCR, 2005); DOCR, Biennial Report 2013–2015. Actual General Fund appropriations were \$83,458,031 for 2005 and \$178,475,785 for 2015.

## North Dakota's prison population is projected to grow by three-fourths by 2025



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 one-day inmate population projections for 2016-2025 are as of the last day of each fiscal year (June 30). Source: Email correspondence between CSG Justice Center and DOCR, 2015 and 2016.

# County jail capacity could increase by almost half after the completion of current construction projects



Nine counties are currently engaged in construction or expansion projects for their jails. Once completed, these new facilities will provide an anticipated **48% increase** in statewide jail capacity.

Replacement or expansion in progress

Considering expansion

Source: 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

### Initial analysis

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How have these changes impacted pressures in the system, public safety, and state spending?

3 What opportunities are there for justice reinvestment to help reduce critical pressures and costs and improve public safety?

### Key takeaways from ten-year trends



North Dakota's jail and prison populations are experiencing some of the largest rates of growth in the country



The state's correctional system is over capacity and has significant growth forecasted over the next decade



Without action, public safety dollars will be consumed trying to keep up with growth rather than invested in crime and recidivism reduction strategies Key questions justice reinvestment can help to address



What strategies can reduce crime and recidivism and improve public safety?



What factors explain the growth in jail and prison populations?



What options are there for the state to avert growth in incarcerated populations?

The Incarceration Issues Committee will help establish priorities for the scope of the project

## Of all the possible issues, which feel the most pressing and important?



### **Presentation Overview**

#### **Justice Reinvestment Overview**

#### North Dakota System Trends



## Subsequent presentations will be based on independent analyses of case-level data submitted by North Dakota

Data	Source	Status
Crime and Arrests, Criminal History Information	Attorney General Bureau of Criminal Investigation	Pending
Filing, Disposition, & Sentencing	Administrative Office of the Courts	Received
Probation Supervision, Problem Solving Courts, Community Based Programs	Department of Corrections and Rehabilitation	Pending
Prison, Parole Supervision	Department of Corrections and Rehabilitation	Pending
County Jail Population & Trends	North Dakota Association of Counties	Pending
County Jail Bookings & Releases	North Dakota Association of Counties	Scoping

Roadblocks that sometimes arise	<ul> <li>Agencies unaccustomed to sharing data with outside groups</li> </ul>	<ul><li>Shortage of "data staff"</li><li>Challenges creating a</li></ul>
	<ul> <li>Data is insufficient for analysis</li> </ul>	research-ready dataset

### Examples of analyses that typically appear in presentations

Data analysis of trends from across the criminal justice system

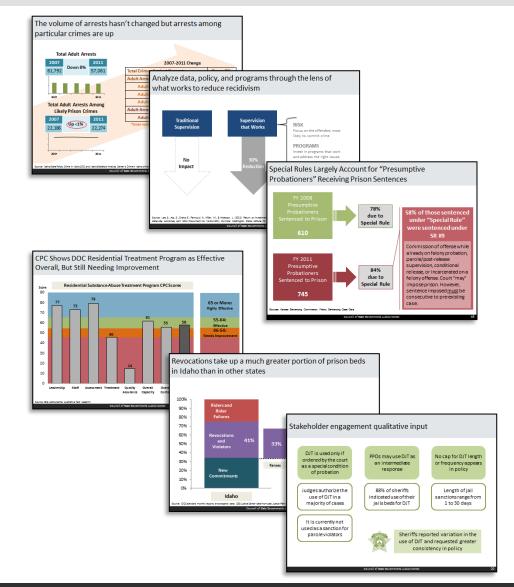
Impact of correctional interventions on reducing cost, recidivism, and crime

Review of statutory and administrative policy

Analysis of supervision and programs according to "what works" to change offender behavior

Benchmark policies and systems against other states and national averages

Qualitative input from survey and focus groups



### Types of Justice Reinvestment publications and reports

JUSTICE CENTER



#### 2<sup>nd</sup> Working Group Meeting September 5, 2012 Council of State Governments Justice Cente Andy Barbee, Research Manage Anne Bettesworth, Policy Analyst JUSTICE CENTER Justice Reinvestment in West Virginia Third Work Group Meeting December 10, 2012 Megan Grasso, Policy Analyst Carl Reynolds, Senior Legal & Policy Advisor Ed Weckerly, Database Analyst ason Karpman, Program Associa

Justice Reinvestment

in Kansas

#### **Working Group** Presentations

Interim reports illustrating data and policy analysis, and stakeholder input

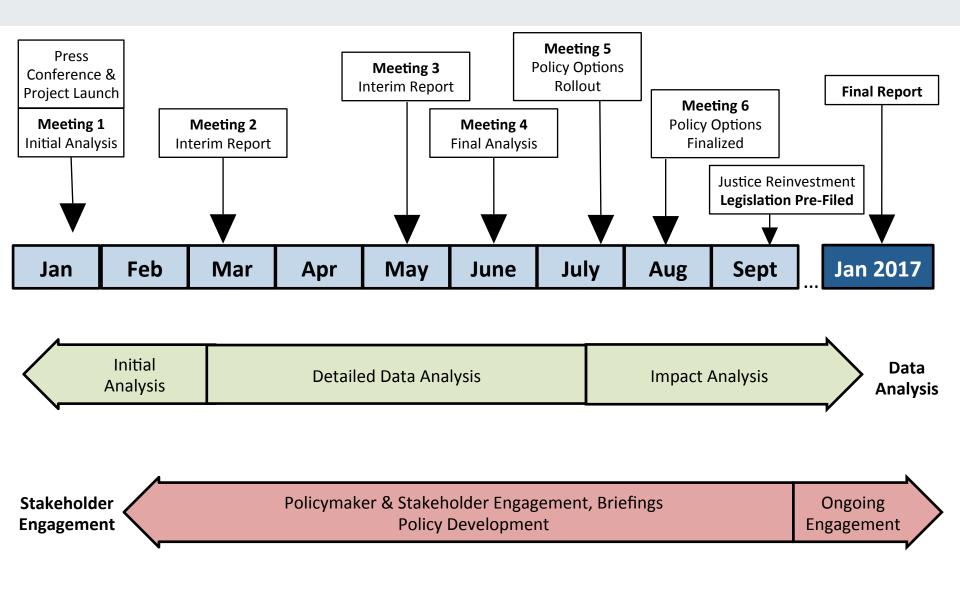


Report that summarizes analysis, presents policy options, projects impacts of reinvestments

#### **Overview Publication**

Introductory report released at project launch to provide big-picture overview of system trends

### North Dakota justice reinvestment timeline



Outside of the Incarceration Issues Committee process, criminal justice system stakeholders will be engaged

Statewide Forum?

**Regional Meetings?** 

**Focus Groups?** 

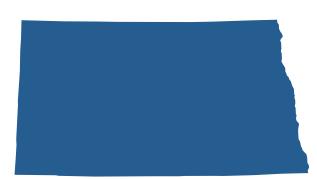
**Discussion Panels?** 

**Public Meetings?** 



### **Thank You**

#### Cassondra Warney, Policy Analyst <a href="mailto:cwarney@csg.org">cwarney@csg.org</a>



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