DECARCERATION STRATEGIES

How 5 States Achieved Substantial Prison Population Reductions

THE SENTENCING PROJECT

RESEARCH AND ADVOCACY FOR REFORM

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EXECUTIVE SUMMARY

From 1980 until its peak in 2009, the total federal and state prison population of the United States climbed from about 330,000 to more than 1.6 million - a nearly 400% increase - while the total general population of the country grew by only 36%, and the crime rate *fell* by 42%.[1] The catalyst of this prison expansion was policy changes that prioritized "getting tough" on crime.

The national prison population began a gradual descent after 2009, lessening by nearly 113,000 (6%) from 2009 through 2016. Several factors contributed to this decline: ongoing decreases in crime rates leading to fewer felony convictions; scaling back "war on drugs" policies; increased interest in evidence-based approaches to sentencing and reentry; and growing concerns about the fiscal cost of corrections and its impact on other state priorities. The state of California alone was responsible for 36% of the overall population decline, a function of a 2011 U.S. Supreme Court ruling declaring its overcrowded prison system to be unconstitutional and subsequent legislative responses to reduce the use of state incarceration.

Despite the decline, the overall pace of change is quite modest. A recent analysis documents that at the rate of change from 2009 to 2016 it will take 75 years to reduce the prison population by half. And while 42 states have experienced declines from their peak prison populations, 20 of these declines are less than 5%, while 8 states are still experiencing rising populations.[2]

To aid policymakers and criminal justice officials in achieving substantial prison population reductions, this report examines the experience of five states — Connecticut, Michigan, Mississippi, Rhode Island, and South Carolina — that have achieved prison population reductions of 14-25%. This produced a cumulative total of 23,646 fewer people in prison with no adverse effects on public safety. (While a handful of other states have also experienced significant population reductions —

including California, New York, and New Jersey — these have been examined in other publications, and so are not addressed here.[3]

The five states highlighted in this report are geographically and politically diverse and have all enacted a range of shifts in policy and practice to produce these outcomes. All five were engaged in the Justice Reinvestment Initiative process, spearheaded by the Pew Charitable Trusts and the Council on State Governments, which was designed to work with stakeholders to respond to the driving forces of prison expansion in each state and to develop strategies for change in policy and practice.

This report seeks to inform stakeholders in other states of the range of policy options available to them for significantly reducing their prison population. While we provide some assessment of the political environment which contributed to these changes, we do not go into great detail in this area since stakeholders will need to make their own determinations of strategy based on the particularities of their state. We note, though, that the leaders of reform varied among states, and emerged among governors, legislators, criminal justice officials, and advocacy organizations, often benefiting from media coverage and editorial support.

The prison population reductions in these five states were achieved through data-driven policy reforms that pursued bipartisan consensus. Changes were advanced in the areas of risk and needs assessment, community supervision, alternatives to incarceration, sentencing and sanctions, prison release mechanisms, prisoner reentry and community reintegration.

Five key strategies and practices that were employed in these states are summarized below, followed by extensive reviews for each of the five states.

FIVE KEY STRATEGIES AND PRACTICES THAT REDUCED PRISON POPULATIONS

1. Measures to Get Justice Reforms Underway and Maintain Momentum

- High-profile leadership, bipartisanship and inter-branch collaboration (all 5 states).
- Leveraging outside technical assistance and research findings on evidence-based practices (all 5 states).
- Community engagement as a foundation of successful reentry and community reintegration (CT, MI, RI).
- Pilots or staged implementation as innovation incubators (CT, MI).

2. Decreased Prison Admissions via Fewer New Prison Commitments

- Crime reduction helped in all 5 states – but reduced crime is no guarantee of less imprisonment.
- Reductions in criminal penalties or adjusting penalties according to seriousness (all 5 states).
- Elimination of various mandatory minimum sentences, sometimes retroactively (CT, MI, RI, SC).
- Creation or expansion of specialty courts and/or other alternatives to incarceration (CT, MI, MS, SC).
- Modifications of responses to at-risk youth to disrupt school-to-prison pipeline (CT, SC).

3. Decreased Prison Admissions via Reduced Incarceration for Failure on Community Supervision

- Implementation of graduated intermediate sanctions for non-criminal violations (CT, MI, MS, SC).
- Engagement with community service providers and employers before release from prison (CT, MI, RI).
- State and local collaboration regarding case management and supervision (CT, MI, RI).
- Greater focus on intermediate outcomes (CT, MI, RI).
- Imposition of shorter terms of community supervision (MS, RI, SC).

4. Increased Prison Releases via Increasing the Feasibility and/or Efficiency Of Release

- Incorporation of dynamic risk and needs assessment into justice processes (all 5 states).
- Inclusion of releasing authorities in planning/implementation (CT, MI, RI, SC).
- Expanded initiatives to overcome barriers to the feasibility of release (CT, MI, RI, SC).
- Conditional release approval earlier in the process before eligibility for release (CT, MI, RI).
- Feedback to releasing authorities regarding outcomes to build trust in reentry (CT, MI, RI).
- Centralized reentry planning, trained specialists, and a goal of release at first opportunity (CT, MI, MS).
- Simplified and/or expedited release processing especially when backlogs in processing (CT, MI, RI).

5. Increased Prison Releases via Requiring Less Time Served Before Eligibility for Release

- Allowance or expansion of sentence credits through a variety of measures (CT, MS, RI, SC).
- Reduction of criminal penalties even though still prison-bound (CT, MI, SC).
- Modifications to sentence enhancements for aggravating factors (MS, SC).
- Reductions in time served prior to eligibility for repeat paroles after revocation (MI, MS).

LESSONS LEARNED

Even with the population reductions achieved in these states, they continue to have prison populations that average more than three times those of 1980. Most of these jurisdictions expect to make additional gains based on current trends and justice reforms, but much of the changes enacted to date are experiencing diminishing returns and the next layer of effort will be even more challenging.

To advance decarceration further these and other jurisdictions will need to heed six lessons that we've learned from the states that have been successful in achieving effective and sustainable prison population reduction reforms:

- **Adequate funding is critical to achieving reforms:** Acquiring supplemental funding for implementation was a commonly reported obstacle to compliance with statutory requirements enacted in the state reforms. Mandates without sufficient dollars for implementation inevitably meant that some reforms were delayed, failed to achieve the full benefits, or were never implemented.

- **Projected cost savings are difficult to achieve and actual savings are often overstated:** Projections of the anticipated impact of reforms were occasionally off-the-mark. This was especially true of forecasts regarding expected cost savings, in part because of either faulty assumptions or overly optimistic projections of the benefits, but also because of offsetting cost increases in other areas that were either missed or unanticipated when calculating presumed impact – such as escalating prison health care costs.

- **It is critical to target specific goals such as reduction of racial disparity**: Explicit attention and goal setting must be focused on problems meant to be impacted by justice reform, as evidenced by only modest progress in these states on alleviating racial disparity (and primarily as a by-product of the reforms rather than because of directly addressing the problem). A couple of the states are now targeting the lessening of racial disparity as a new goal.

- **The promise of Justice Reinvestment needs to be re-examined and augmented with other achievable and significant goals:** The original concept of Justice Reinvestment referred to the goal of routing back into distressed communities the savings generated by closing prisons to address the precursors to crime and help neighborhoods recover from overuse of incarceration by financing housing, health care, education, and jobs. While most of these states have been successful in transferring resources within the justice system from prisons to community supervision, the goal of achieving broader redistribution of resources remains.

- **Broad reforms require additional focus on issues beyond prison population reduction:** Overcoming barriers to enable sustained or deeper prison population reductions include the need for:

  - Post-incarceration employment solutions – still a struggling metric critical to reentry success.

  - Release and reentry solutions for more serious or higher risk cases – typically excluded from reforms.

  - Adequate community funding solutions – a poor stepchild compared to state-level reforms.

  - Rigorous monitoring and evaluation of justice reform implementation to propel change.

Prison Population Reductions in the Five States

State	Peak Prison Population		Prison Population Year-End 2016	Reduction in Prison Population	
	Peak Year	Population		Decrease	% Change
Connecticut	2007	19,438	14,532	**-4,096**	**-25.2%**
Michigan	2006	51,454	41,122	**-10,332**	**-20.1%**
Mississippi	2008	22,831	18,833	**-3,998**	**-17.5%**
Rhode Island	2008	4,045	3,103	**-942**	**-23.3%**
South Carolina	2008	24,326	20,858	**-3,468**	**-14.3%**

- **Enhancing penalties for violent offenses reduces the impact of sentencing reforms:** Policymakers in some states have enacted harsher penalties for violent offenses as part of a reform "package" that includes reduced penalties for non-violent offenses. This is a problematic strategy for two reasons: 1) it inherently reduces the potential decarceration impact of sentencing reform; and, 2) research has documented that enhancing *already* harsh sentences adds little crime deterrent effect and produces diminishing returns for incapacitation effects.

Policymakers around the country have much to learn from the population reduction successes of the five states documented in this report, as well as others that have achieved double-digit reductions in recent years. While crime rates have declined in all states during the period examined in this report, many states have only experienced a modest decline in prison populations and some are still experiencing growing populations. This reinforces the finding that just as prison populations rose during the 1980s and 1990s due to policy choices, so too can they decline as policymakers adopt targeted goals and strategies.

1. The national crime rate declined consistently throughout the 37-year period, except for a gradual uptick of 17% between 1985 and 1991 (during which the rate remained lower than in 1980).
2. Nazgol Ghandnoosh, (March 2018). Can We Wait 75 Years to Cut the Prison Population in Half? The Sentencing Project: https://www.sentencingproject.org/publications/can-wait-75-years-cut-prison-population-half/
3. The handful of other states that have also experienced similar reductions since their peak populations includes: California, Alaska, Colorado, Hawaii, Indiana, New Jersey, New York, Massachusetts, and Vermont. Examples of the research and media attention that some of the larger states have already received include the following:
    - Fewer prisoners, less crime: A tale of three states: https://www.sentencingproject.org/wp-content/uploads/2015/11/Fewer-Prisoners-Less-Crime-A-Tale-of-Three-States.pdf
    - California, New York & New Jersey crime rates and prisoners plunge: https://www.prisonlegalnews.org/news/2016/aug/4/california-new-york-new-jersey-crime-rates-prisoners-plunge/
    - How three states are beating the prison population boom: http://maltajusticeinitiative.org/how-three-states-are-beating-the-prison-population-boom/
    - The mass incarceration problem in America: https://news.vice.com/article/the-mass-incarceration-problem-in-america
    - Overcrowding and overuse of imprisonment in the United States: http://www.ohchr.org/Documents/Issues/RuleOfLaw/OverIncarceration/ACLU.pdf

CONNECTICUT

25% PRISON POPULATION REDUCTION FROM 2007-2016

KEY PRISON POPULATION TRENDS SINCE 2007

- Prison population: -25% through calendar 2016 to 14,532 from 19,438 in 2007.

- Index crime rate: -27% through 2016 — including both violent and property crime rates — pushing overall crime in Connecticut to a 50-year low.[1]

- Arrests: -32% through 2016.[2]

- New prison commitments: -27% through 2016.

- Returns to prison: -55% through 2016 across all community release violator return types.[3]

- Downsizing: Closure of 3 correctional facilities, a juvenile detention center, and housing units in 3 other facilities.

- Cost savings: $39.8 million per year estimated savings generated by closed facilities and units.[4]

BACKGROUND

Since 1980, increases in Connecticut's prison population[5] resulted in overcrowding and contributed to the state's growing budget crisis. Beginning in 1999, Connecticut's Department of Corrections transferred hundreds of people to prisons in Virginia, including a "supermax" where two men died over 18 months. The transfers resulted in a lawsuit from the American Civil Liberties Union, protests back home from family members, a critical report from the Connecticut Commission on Human Rights and Opportunities, and an investigation of mental health conditions at the facility by the Connecticut Office of Protection and Advocacy for Persons with Disabilities. In 2001, under pressure, the state announced it would stop transfers to the supermax prison but continue to house people in another Virginia facility.

In 2004, Connecticut, which has a unified system with all forms of supervision, detention, and incarceration under state authority, took a different approach. It became the first state in the nation to pass bipartisan legislation through the Justice Reinvestment Initiative (JRI), developed by the Council of State Governments and the Pew Charitable Trusts/Center for the States to help states stabilize their corrections population and reduce expenditures. The JRI in Connecticut resulted in a reform package, the "Act Concerning Prison Overcrowding," which increased prison releases, reduced probation and parole technical violator admissions to prison, and reduced overall lengths of stay. Some of the savings were expected to be reallocated into reentry programs and community supervision. The legislative package was projected to end prison population growth and even reduce the prison population by up to 2,000 over time.[6] By year-end 2005, the prison population had indeed decreased by 3% (-594) and Connecticut had stopped sending prisoners out of state.

However, an 8% resurgence in the prison population (+1,510) occurred from 2006-2007, driven by public reaction to a high-profile case involving the murder of three family members during a home invasion committed by two persons on parole supervision. The state responded with a ban on parole for individuals with violent histories, and other stringent measures, such as classification of home invasion as a violent crime, and expanded penalties for repeat offenses.[7]

A 351% increase in the Connecticut prison population from 1980 to 2007 resulted in a record high population. The related costs of increased incarceration served as a catalyst for change as the state embarked on an unprecedented era of justice reform.

JUSTICE REFORM LEADERSHIP

Connecticut's executive branch took important steps in 2006 and 2007 to analyze and improve the state's criminal justice system. A Criminal Justice Policy and Planning Division was created within the Governor's Office of Policy and Management and a Connecticut Sentencing and Parole Review Task Force was formed. These initiatives built on sustained advocacy for drug policy and criminal justice reform by Community Partners in Action, the Drug Policy Alliance, and other key groups in the state.

The efforts led to successful legislative and executive actions that contributed directly to reducing crime, lowering the prison population, and decreasing costs. Continuing leadership by Governor Dannel P. Malloy helped maintain and reinforce the state's results. In 2015, the Governor initiated Connecticut's "Second Chance Society" (a collection of both innovative reentry strategies and bipartisan legislative reforms), which has boosted the momentum for change.[8] The Commissioner of Corrections, Scott Semple, praised the governor's efforts:

> Governor Malloy has expended enormous political capital on corrections reform and he's made it a hallmark of his administration... trying to bring the culture along and giving the Department of Correction the opportunity to implement change... and he has even pushed many colleagues in other states regarding the Second Chance Society concepts.[9]

Connecticut's organizational efforts at comprehensive planning, combined with the advocacy of the state's top leadership, have produced a broad array of ongoing initiatives that with steadily declining crime rates have reduced the prison population nearly every year since 2007.

Connecticut Prison Population, 2003-2016
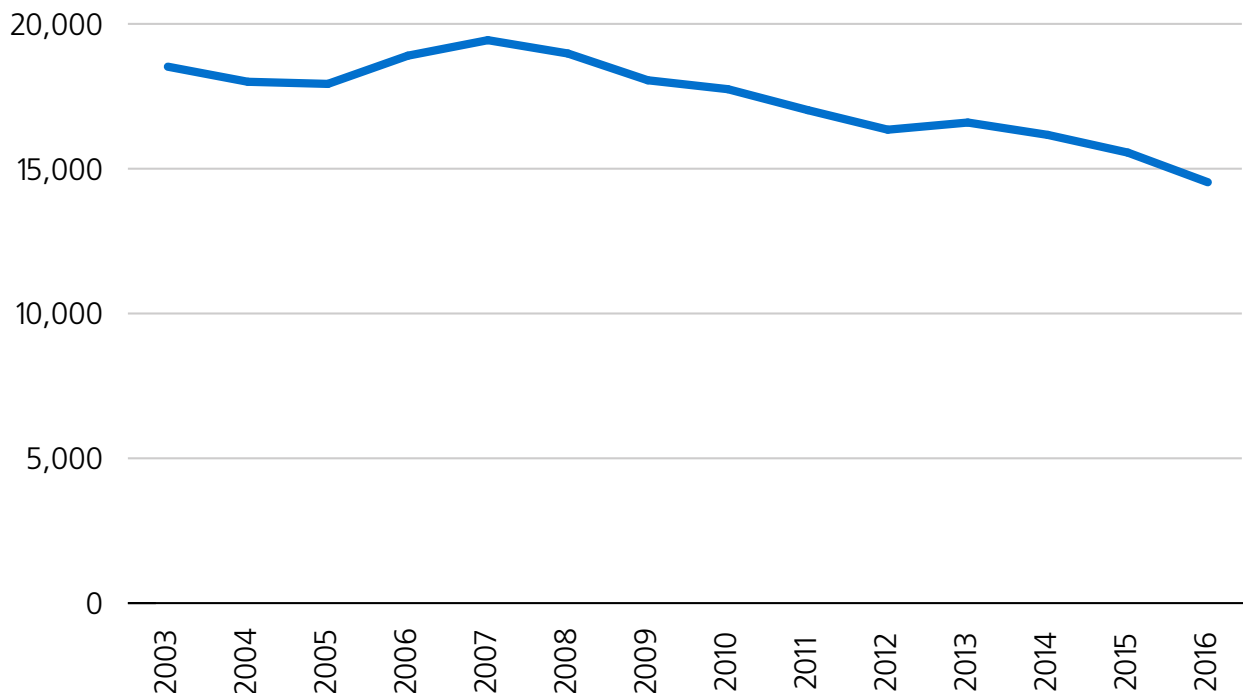
Source: Online State Data

HOW CONNECTICUT REDUCED THE SIZE OF ITS PRISON POPULATION

Over the past 10 years Connecticut policymakers have adopted four intervention methods that have been shown to reduce prison populations through a combination of bipartisan legislative justice reform, judicial discretion, and executive action.

A key theme of the reform effort is the importance of reducing the number of young people entering the criminal justice system. Given the high rate of recidivism for people sentenced to prison, officials in the state believe that stemming the flow of new admissions can produce substantial short-term and long-term results. Initiatives designed to accomplish this goal have included "raise the age" legislation, addressing the "school to prison pipeline," and expanding community engagement.

Key changes in policy and practice included:

Focus on reducing young people's contact with the criminal justice system

- Reduced youth arrests by 63% from 2009-2016 by adopting policy changes to reduce school suspensions and expulsions, and changing criteria for detention. Impact extended to young adults as well, with a 60% reduction in corrections pretrial admissions for defendants under 25, compared to a 31% reduction for those 25 and older;

- Adopted Raise the Age legislation to successively raise the age of adult jurisdiction from 16 to 18.

Increased releases from prison

- Established Community Release Unit to shift release decisions and transition planning from custody staff to professionals trained in reentry processes, as well as establishing discharge planners in every facility; resulted in increased parole approval rates, shortened wait times for release, and coordinated reentry programming;

- Enacted Risk Reduction Earned Credit program to allow sentence reductions of five days per month for program participation.

Reduced returns to prison

- Achieved a 55% reduction in returns to prison, accounting for more than a third of the overall admissions decline, by strengthening collaboration between reentry staff and local officials in the state's major urban communities; this led to the creation of reentry councils and focus on higher risk and higher need cases

Enacted statutory changes

- The legislature eliminated mandatory sentences and reclassified certain drug possession crimes to misdemeanors

A. Increasing the Feasibility and/or Efficiency of Release

Nearly 50% of Connecticut's prison population reduction occurred after 2013, primarily due to the accumulating impacts of more effective prisoner reentry coordination brought about by executive action to support the Second Chance Society concepts. One set of those concepts is to ensure that release from incarceration can be responsibly earned, efficiently approved, and made to happen as close to first eligibility for release as reasonably possible. The change which led to the largest increase in prison releases after 2013, was the creation of a Community Release Unit in 2015 within the existing authority of the Department of Correction (DOC). This Unit centralized reentry planning by shifting the release decision and movement to transition services from custody staff to specialized professionals trained in reentry processes.

Centralized reentry planning in addition to standardized decision-making and accountability improved the coordination of reentry programming, increased release approval rates, and improved administrative efficiencies to shorten wait times for release. These changes led to both a significant increase in the prison release rate and, as an added benefit, fewer negative incidents during the shortened waiting period.

Adding to the impact of these reforms has been the development of processes for graduated reductions in security classification in advance of transfers to the reintegration unit, and placing "discharge planners" in every facility.[10]

Efforts to restructure parole processing in Connecticut have also contributed to an estimated 15% of the overall prison population reduction since 2007:

- Starting in 2007 the Sentencing and Parole Review Task Force conducted a comprehensive review of release and supervision processes. They recommended changes to strengthen decision-making and improve efficiency including, *"…the elimination of administrative reviews, the establishment of full panel hearings for all parole cases, an expansion of staffing, and a greater utilization of information and communications technology."*[11] In response to their recommendations, the Board of Pardons and Parole reorganized and streamlined the parole process, lifted the temporary ban on parole consideration for violent offenses, and reinstated a 45-day reentry furlough pre-release readiness process for end-of-sentence cases. As a result, the backlog of parole-eligible cases was significantly reduced.

- The Second Chance Society initiative also contributed to the efficiency of releases after 2013 by statutorily establishing a simplified pardon process and expedited parole hearings for nonviolent offenses.[12]

B. Reduced Incarceration for Failure on Community Supervision

Another set of Second Chance Society concepts focuses on reducing returns to prison. The 55% reduction in returns to prison in Connecticut accounts for more than a third of the state's overall decrease in admissions.

After working for a number of years to broaden the range of sanctions and diversionary alternatives for community release violators, when the DOC centralized its reentry decision-making and implementation, it also took steps to increase local collaboration. This was most evident in the state's major urban communities, including New Haven, Hartford, and Bridgeport. The improvements included providing communities with advance information and data about pending releases and better alignment of services with other state non-justice agencies.

This concentrated focus on achieving local buy-in resulted in partnerships with urban mayors who became more proactive about reentry. They formed reentry councils that assisted with higher risk and higher need cases through their community provider networks. Local reentry program funding from non-justice agencies allowed community service providers to blend resources with services and funding from many different partners and to determine on a case-by-case basis the details of improved individualized case planning and management.

Actual reinvestment of cost savings as a result of prison population reductions has been difficult to achieve due

to ongoing state budget challenges, particularly the costs of health interventions. Consequently, the primary focus is on continued crime reduction to preserve progress. The need for more community engagement to focus on higher-risk cases has been partly addressed by adding more DOC staff and lowering caseloads to enable greater opportunity for interaction with community advocates and providers on the specific risks and needs of each case.

This individualized approach to crime reduction has resulted in positive outcomes, while safely mitigating the prison population crisis created in response to the notorious 2007 murders.[13]

C. Fewer New Prison Commitments

New court commitments to prison in Connecticut have declined since 2007 for two primary reasons: (1) the state's strategic effort to reduce youth crime in order to break the pattern of repeated re-incarceration (data shows that if an individual is not sentenced to prison by age 25, then it's likely they never will be), have led to a 27% lower index crime rate overall; and, (2) new statutory initiatives which address the drivers of crime and provide new approaches when crimes occur:

- Raise the Age legislation was adopted, which increased the age of adult criminal jurisdiction in Connecticut from age 16 to 17 in 2010 and then to age 18 in 2012. The legislation was augmented with policy changes to reduce school suspensions and expulsions, conduct juvenile assessments via juvenile review boards, and change criteria for detention.[14] As a result of this change in approach for handling at-risk youth, 2009-2016 arrests for youth under age 18 decreased by 63% and incarceration by 77%,[15] directly impacting prison admissions. The impact appears to extend even beyond the youngest at-risk youth (those 18 and under), as the ongoing decline in Connecticut prison admissions is notable for a reduction in the number of young adults as well.[16] For example, between 2008 and 2015 new admissions to DOC on pretrial status fell by 31% for defendants 25 and older, but were reduced by 60% for defendants under 25 years of age.[17]

- The Connecticut General Assembly passed other justice reform legislation over the years to enact changes in the state's responses to crime, such as the elimination of mandatory minimum sentences, and reclassification of nonviolent drug possession to a misdemeanor. A Driving Under the Influence (DUI) Home Confinement Program[18] that was instituted in 2012 resulted in fewer incarcerations and reduced recidivism.[19] These statutory changes were the result of long-term advocacy both within the state government and from outside non-profit groups. Both promoted reforms to drug treatment policy, drunk driving diversion, and other alternatives to incarceration. These efforts have contributed to fewer new court commitments via diversion, more effective sanctions/programs, and shorter lengths of stay for those sentenced to prison.

D. Requiring Less Time Served Before Eligibility for Release

In 2011, a statutorily enacted Risk Reduction Earned Credit (RREC) program was established to allow for a sentence reduction of up to five days per month for adherence to program accountability plans and participating in a specified set of treatment programs and/or educational classes. Negative behaviors led to revocation of the credits. Thousands of qualified individuals earned relatively modest numbers of credits under this program, yet the cumulative effects shortened lengths of stay and increased releases to the community. Despite these increased releases, returns to prison for violations declined an average of 21% following enactment of the RREC program. [20]

Additional reduction in time-served factors that increased Connecticut releases in recent years include expanded use of Transitional Placement (with peaks of 100-250 individuals in approved community placements or private residences following successful halfway house terms) and some early releases to non-prison nursing homes for prisoners with Medicaid eligibility. The latter strategy grew out of legislation permitting the DOC authority, "...to release the severely incapacitated for 'palliative and end of life' care."[21]

IMPACT ON RACIAL DISPARITY

Racial disparity persists in justice system populations throughout the country, as individuals of color have long been convicted in numbers disproportionate to their presence in the general population. Connecticut is no exception, but the 25% reduction in the state's prison population between 2007 and 2016 did modestly reduce racial disparity within the system.

Department of Correction officials noted that the reduction in racial disparity was mostly a by-product of the overall prison population decline. However, it is clear that policy changes certainly contributed, in large part due to the disproportionate representation of people of color at the affected points of the justice system, including:

• Changes made to drug sentencing and mandatory minimum sentencing;

• Raise the Age legislation – where there was a large disparity in the impacted age group;

• Bail bond reform – where there was a 3:1 people of color-to-white ratio in bond denial;

• Enacting Project Longevity to address gun violence – adopted in the major cities by identifying and serving young people who are the most likely to become involved; and,

• Establishing local reentry councils which supported solutions from people formerly incarcerated that were incorporated by Connecticut criminal justice agencies.

Despite the modest reduction in racial disparity, incarceration rates for black residents remain 9 times higher, and for Hispanic residents 4 times higher, than for white residents of Connecticut. The Governor supports examining and addressing the issue in proactive, direct ways. For instance, Connecticut applied for and received a $2.5 million Safety and Justice Challenge grant in 2016 from the John D. and Catherine T. MacArthur Foundation. The project is working to address racial imbalance in pretrial jail facilities due to disparities in the rates of custodial arrest in urban communities of color.

Improving racial balance in the pretrial facilities is expected to carry over into the prisons as well since incarcerated people pass through the Connecticut pretrial settings to prison.[22] Among the pretrial reforms to be implemented is a court processing pilot to divert defendants, reduce lengths of stay, screen and refer to detention alternatives, and expand diversion programs.

In addition, the state has proposed to expand implicit bias training for police, prosecutors, public defenders, community providers, and key decision makers and to evaluate current racial and ethnic disparities in order to establish a baseline for improvement. [23]

POLITICAL ENVIRONMENT FOR REFORMS

Connecticut officials indicated that most of these legislative reforms have been bipartisan, with the added benefit of strategic leadership by Governor Malloy and the Undersecretary for the Criminal Justice Policy and Planning Division, Michael Lawlor, who made them a priority. Lawlor previously served as a long-term and respected co-chair of the Judiciary Committee in the General Assembly. Support for the reform agenda is also credited to the state's unified criminal justice system. Local stakeholders who commonly present opposition in other states, either do not exist in Connecticut (county sheriffs) or are not elected (prosecutors). The state budget crises also helped bring all sides to the table. Early successes increased confidence in the potential for further reform. Significant ongoing decreases in crime rates curbed the potential for opposition as well. And lastly, the nature of the reforms – and their impact – helped to solidify support:

• Raise the Age statutory change resulted in reduced imprisonment and continued crime declines;

• Enactment of risk reduction earned credits was somewhat controversial, so adjustments were made to ease political opposition; and

• The DUI home confinement program was supported through a partnership with Mothers Against Drunk Driving, which reduced pushback.

There has been little resistance to prison closings in the state. Connecticut is a small and densely populated state, and the prison facilities are close to each other. None of the affected communities are inordinately dependent on prisons economically, and staff reductions have been through attrition. In the 1990s, 10,000 prison beds were added in the state, and at that time, new employees could retire with full pensions after 20 years. It is now 20 years later, so many retirements coincided with the facility closings and no layoffs have been necessary.[24]

PROSPECTS FOR FURTHER DECLINE

In January 2017, the Connecticut Office of Policy and Management (OPM) within the Governor's Office reported:

Our expectation, today, is that the prison population will continue to decline over the coming year… due to the fact that the system, as a whole, is contracting. Virtually every measure from criminal arrests to discharges has tracked consistently lower over the past several years. Taken in sum, these factors suggest that the prison population, barring any major external developments, is heading down… the most pressing question is when will the population bottom out.[25]

The expectation of continued prison population reduction in 2017 has been borne out. As of October 2017, Connecticut's prison population was approaching 14,000 - another 4% drop since 2016. The projection is for this trend to continue and additional bed closings are forecast for 2018. Undersecretary Lawlor (whose agency conducts the data analyses and projections for the system) observed that "the school to prison pipeline is fading," as the numbers of 18-21 year-olds in the justice system in Connecticut have become progressively smaller for years.[26]

DOC officials have indicated that "low-hanging fruit" remains for addressing additional prison population control mechanisms that can sustain the downward trend for some time:

- The female prison population has been comparatively flat, so a commensurate 25% reduction among women would reduce the overall prison population further. DOC officials indicated they may be able to address the unique risks and needs for women within a year.

- A statutorily required Juvenile Justice Policy and Oversight Committee regularly provides additional policy and process recommendations. One consideration is to "raise the age" for juvenile jurisdiction as high as age 21 (which the governor supports). In addition, an innovative project was adapted from Germany in 2017. "Emerging adults" (ages 18-24 years old) receive services based on best practices (such as bringing in mentors, increasing family engagement, and shifting the culture as to staff responsibilities) that help reduce impulsivity and behavioral incidents, which also reduces recidivism.

- Bail reform may reduce the incarcerated population by another 250 individuals.[27]

Connecticut officials expressed optimism that the efforts that led to a 25% population reduction from 2007 to 2016 can be enhanced, and they can achieve a 50% reduction in the coming years. There is a recognition that to do so will require not only further evolution of reentry practices but also expanding the measures to address populations that are perceived as more challenging. This includes individuals convicted of serious and/or repeat offenses, but for whom excessively lengthy prison terms have become counterproductive.

Endnotes

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3. The calendar year-end population data are based on data from Connecticut. The calendar year statistics on admissions and releases used in this publication are based on data reported by the U.S. DOJ BJS National Statistics (NPS) program for consistency of definitions and timeframes. Statistics self-published by the states are sometimes based on varied definitional criteria, and either on monthly averages or on fiscal years for which the start/end points can vary depending on the state.
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MICHIGAN
20% PRISON POPULATION REDUCTION FROM 2006-2016

KEY PRISON POPULATION TRENDS SINCE 2006

- Prison population: -20% through calendar 2016 to 41,122 from 51,454 in 2006.

- Index crime rate: -37% through 2016 – including both violent (-19%) and property (-41%) crime rates.

- Arrests: -23% through 2016.[1]

- New prison commitments: -23% through 2016.

- Discretionary moves to parole: +17% higher average annual number through 2016 compared to 2006.

- Returns to prison: -41% through 2016 across all parole violator return types.[2]

- Downsizing: Closure and consolidation of more than 26 prison facilities and corrections camps.

- Cost savings: $392 million in savings via closures and operating costs, along with cost avoidance because the 2006 projections had forecasted additional prison population growth absent reforms.[3]

BACKGROUND

The War on Drugs intensified in Michigan in the 1970s as some of the most severe mandatory minimum sentences in the country were enacted for drug offenses, and a 2-year consecutive sentence was added to the penalty for any felony committed while possessing a firearm. Michigan's prison population nearly doubled from 1970 to 1980. Deteriorating prison conditions, exacerbated by overcrowding, led to court orders and consent decrees that would linger for years. The state passed a Prison Overcrowding Emergency Powers Act to trigger reductions in time-served and increase prison releases whenever capacity was reached.[4] A ballot proposal to increase taxes for prison construction failed in 1980.[5] After prison riots in 1981 and a release under the Emergency Powers Act led to a parolee committing two murders in 1984, major prison construction began.[6]

The Emergency Powers Act was repealed in 1988, and a Community Corrections Act was passed to fund local alternatives to incarceration. Parole board members were changed from civil servants to political appointees in 1992, and by 2000 the parole approval rate had fallen to under 50% from an average of 66% in prior years. In 1998, to obtain federal Violent Offender Incarceration and Truth in Sentencing (VOI/TIS) grants which required more imprisonment for serious offenses, the state enacted a harsher "truth in sentencing" law than was required to qualify for the federal funding. The state set the time-served requirement before eligibility for parole consideration to 100% of the minimum sentence (instead of 85%) and applied it to *all* sentences (instead of just sentences for violence). Subsequently, Michigan received nearly $110 million in VOI/TIS grants for prison

expansion. The state eliminated community residential programs that had transitioned low-risk individuals to community corrections placements before parole eligibility. It replaced sentencing guidelines established by the judiciary with more restrictive legislative ones that mandated sentence lengths within narrow grid ranges for either (1) presumptive probation or jail, (2) choice of sanction type within the range, or (3) presumptive prison.[7]

Sustained prison growth and related state fiscal challenges eventually built support for a change in direction. Property crime sanctions were reduced in 2001 by adjusting the dollar amounts that determined seriousness, and most of the mandatory minimum drug laws were repealed in 2002 in favor of drug sentences based on the sentencing guidelines. Changes like these temporarily reduced the prison population by 3% for a couple of years.[8]

But long indeterminate sentences and low parole approval rates had extended average time served to 79% longer than in 1990.[9] By 2003, more than 15,000 people were still imprisoned beyond their earliest potential release dates,[10] nearly half of released individuals were violated back to prison, and the population peaked in 2006 at 240% higher than in 1980. Forecasts predicted even more growth. Given these facts, Governor Jennifer Granholm directed state justice leaders to develop what became known as the Michigan Prisoner Reentry Initiative, to transform corrections policies and practices and "create safer neighborhoods and better citizens."[11]

JUSTICE REFORM LEADERSHIP

Under Governor Granholm's leadership, the executive branch created the Michigan Prisoner Reentry Initiative (MPRI) in 2003 with a mission, *"…to reduce crime by implementing a seamless plan of services and supervision developed with each individual – delivered through state and local collaboration – from the time of their entry to prison through their transition, reintegration, and aftercare in the community."* Planning for the MPRI was grounded in a combination of reentry model approaches, policy statements, and recommendations developed by several national enterprises, including the VOI/TIS initiative, the National Institute of Corrections' (NIC) Transition from Prison to Community Initiative, the National Governor's Association (NGA), and the Council of State Governments' Reentry Policy Council.

The Michigan Department of Corrections leveraged multiple external research, training and funding resources (such as NIC, NGA, the Center for Effective Public Policy, the state's major universities, national, state and local philanthropies, the Michigan Council on

Michigan Prison Population, 2003-2016
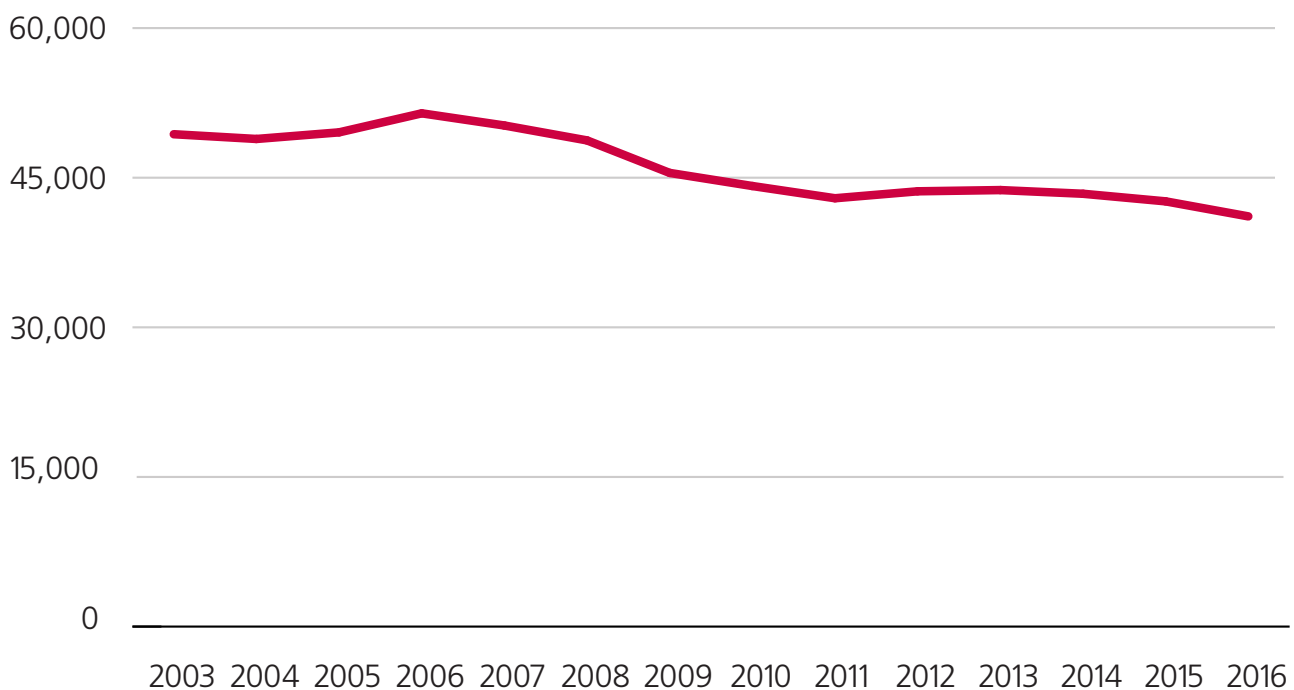
Source: Online State Data

Crime and Delinquency and Public Policy Associates), and formed partnerships with a wide range of private and public organizations to develop an evidence-based model. In order to build capacity, the state formed a national advisory panel of experts for technical assistance and oversight and forged broad representation of community groups and local leaders throughout the state into a large MPRI advisory council, an MPRI implementation steering team, and regional planning teams to build enthusiasm for change and promote collaboration. It also established work groups to plan a sweeping restructuring of Michigan's corrections policies and practices in the areas of assessment and classification, prison programming, preparation for release, release decision-making, supervision and services, revocation decision-making, and aftercare upon discharge. Completion of planning and capacity-building enabled the Initiative to be implemented in pilot counties around the state in 2005 and expanded statewide in 2008.[12]

HOW MICHIGAN REDUCED THE SIZE OF ITS PRISON POPULATION

Michigan employed intervention methods that led to prison population reduction through state executive action and engagement with local stakeholders. These stakeholders – including local government, advocacy and faith-based organizations, community service providers, law enforcement, prosecutors, and the courts – were full partners in the MPRI. Michael Thompson, Director of the Council of State Governments Justice Center, observed in 2010:

Michigan has developed one of the most comprehensive statewide reentry initiatives in the United States. The Michigan Prisoner Reentry Initiative draws on extensive research demonstrating how public safety can be enhanced when people returning from prison are appropriately supervised and engaged in risk reduction interventions. Other states are learning from the Michigan experience.[13]

Key changes in policy and practice included:

Increased parole grant rate

• Increased parole approval rate from 47% in 2000 to 72% in 2016 by: temporarily increasing the number of parole board members in order to enable parole consideration of individuals who had served their minimum sentence for a nonviolent crime; placing restrictions on further parole denials for this group as long as risk assessment scoring did not reflect high risk, and increasing board confidence in outcomes given proven successes.

Reduced parole returns to prison

• Capacity building and community engagement before release not only increased board confidence in parole plans but also yielded better outcomes on parole. Reductions in return to prison accounted for about 15% of the state's overall prison population decline.

• Established Technical Rule Violator and Reentry Centers to house both parole violators (as an alternative to revocation and to provide additional programming/services with 97% returning to community parole), and individuals approved for release (contingent on completing mandated programs).

A. Increasing the Feasibility and/or Efficiency of Release

The immediate challenge addressed by the MPRI in 2003 was how to safely increase the number of discretionary parole releases in order to reverse prison population growth. Michigan lacked methods to reduce time-served before release eligibility because of the statutory truth-in-sentencing requirement. But there were release-eligible cases to target for new parole consideration because thousands of individuals who had served their minimum sentences had been denied parole. The approval rate had fallen to under 50% for three consecutive years. The average time-served before release increased to 140% of the minimum sentence.[14,15] Many individuals returned to prison because of violations of parole conditions were eligible for re-parole.

The time between hearings following a denial of parole was set by the Parole Board and adjustable, so there was an opportunity for accelerating reconsideration. However, the parole board indicated that they wanted more realistic release plans and greater assurance of successful community reintegration. So, the Department of Corrections selected and implemented a validated risk and needs assessment to aid the development of individualized transition accountability planning to achieve better parole outcomes. The MPRI needed to ensure that parole supervision and community services resources were equipped to appropriately handle greater numbers of releases using evidence-based training and practices and prioritizing resources for medium to high-risk cases.

In particular, communities needed sufficient capacity for substance abuse and mental health treatment programs, education, and job training and placement. Not completing prison programming had been a barrier to parole approval, especially for cases serving short minimum terms. Without funding for capacity-building and infrastructure, community providers of recovery housing, employment-readiness, transportation, and other critical local services would not be able to meet an increased demand. Grants from the JEHT Foundation provided seed funding to supplement community capacity, after which further expansion was funded through increased state appropriations as more people were released through the MPRI.

To ease the process of transition accountability planning and capacity building, reentry units were created in prisons designated as "in-reach" facilities, based on their proximity to Michigan's population centers. Individuals nearing parole were transferred to reentry units nearest to their home communities, enabling consolidation of pre-release programming in fewer prisons, direct community provider engagement on-site, and easier access for family visits to promote reunification. Later in the MPRI's evolution, individuals approved for parole were transferred to facilities that were repurposed as reentry centers, where release on parole was contingent upon completion of program requirements.

Over time, Michigan also addressed the earlier phases of the MPRI model. Risk/needs assessment and transition accountability plans were moved back to the prison intake stage. Parole board members began interviewing new arrivals and adjusting and approving transition accountability plans on the front end of the process, to align prison program delivery with preliminary conditional parole approval. Prison programs were inventoried and redesigned to address each individual's criminogenic factors under a cognitive behavioral approach and were prioritized based on time remaining to eligibility for parole consideration.

An executive order by the governor in 2009 temporarily increased the number of parole board members from 10 to 15 to enable parole reconsideration for individuals who had already served their full minimum sentences for a nonviolent offense (comprising 29% of all cases that had served beyond the minimum term). Restrictions were placed on further denial of parole for these cases based on the amount of time already served beyond the minimum term, as long as risk assessment scoring did not reflect very high risk. The goal was to safely reduce the prison population enough to close some prisons and help reduce an enormous state budget deficit.[16] This executive order helped increase discretionary parole releases by 13% during 2009-2010.[17]

MPRI innovations and the resultant success of community reintegration of formerly incarcerated individuals enabled Michigan's parole approval rate to gradually increase from a low of 47% in 2000 to 72% in 2016.[18] The number of annual prison releases due to discretionary parole averaged 17% higher than in the

peak prison population year of 2006, and prison releases exceeded prison admissions for 9 of the 10 years from 2006 through 2016. These achievements accounted for nearly half of Michigan's prison population decline.

B. Reduced Incarceration for Failure on Community Supervision

Many of the features of the MPRI model designed to increase the feasibility of parole were also designed to ensure successful community reintegration upon release. Mitigating risk and attending to criminogenic needs through the MPRI reforms increased parole success rates. The implementation of evidence-based responses to violations of community supervision was a dramatic change from Michigan's historically punitive approach to parole supervision, and resulted in reduced revocations to prison. Previously, nearly 50% of people on parole had been returned to prison for violation behavior.

Under the MPRI, the range of graduated sanctions available to parole agents was increased and the severity of sanction was tied to violation seriousness. More consequential or repeated violations of parole conditions led to placements of no more than 120 days (typically 30-90 days) in technical rule violator (TRV) centers. TRV centers were developed as an alternative to parole revocation and return to prison and served as a means of interrupting the cycle of behavior while remaining on parole status and receiving additional programs/ services. Ninety-seven percent of those sent to a TRV center returned to community parole. Over time, this concept evolved into today's residential and intensive-detention Reentry Centers, that house not only violators remaining on parole status but also cases approved for parole with release contingent on completing programs ordered by the board. The Reentry Centers serve as a way to avoid costly and comparatively longer additional time served in more expensive and less program-oriented prison facilities.[19]

As a result of both improved community reintegration outcomes and reforms to the violation responses, returns to prison fell by 41% through 2016, including eight consecutive years of decline in the number of new prison sentences incurred while on parole.[20] Recidivism rates controlling for time-at-risk have fallen from nearly half to less than a third returned to prison within three years after release.[21] Increased success rates despite more releases kept the prison population from rebounding and also directly accounted for roughly 15% of the population decline.

C. Fewer New Prison Commitments

In 1990, the Michigan Community Corrections Act was enacted to improve the use of jails and reduce prison admissions through state and local planning and partnerships. While the new law was quite successful, reductions in prison admissions were also due to reductions in crime. The index crime rate in Michigan has been declining ever since the peak prison population year, despite the increased releases from prison compared to historical norms. By 2016 the property crime rate was down by 41%, and the violent crime rate was down by 19%, resulting in a 37% drop in the index crime rate overall. Arrests in the state were also down by 23%, and new felony court dispositions were down by 20% during the period. Unsurprisingly, new commitments to prison also declined by 23% between 2006 and 2016.

Sentences to prison for crimes committed while on parole were down by 45% in 2016 compared to 2006, and contributed to fewer new prison admissions. In addition, the reforms spawned by the MPRI spread to Michigan's probation supervision practices and other alternatives to incarceration which became equally important contributors to the drop in new prison commitments. The number of people resentenced to prison for a probation violation or convicted of crimes committed while on probation declined by 38% after the peak prison population year, and fell from 30% of new prison admissions to 25%.[22] New measures that drove these results included:

- Extension of risk/needs assessment & collaborative case management into pre-sentence and probation.

- New Community Corrections Act incentives to prioritize violators and prison-bound cases for services.

- Graduated probation violation responses and specialized probation residential bed programs.

- Technological supervision innovations such as GPS monitoring & SCRAM remote alcohol monitoring.

- Diversionary specialty court adoption in some jurisdictions (such as drug and mental health courts).

- Incentives for local participation in Swift and Sure Sanctions programs modeled after national standards.

- Elimination of lifetime probation for certain offenses, reducing exposure to potential violations.[23]

Fewer new prison admissions from reduced crime rates, in addition to the new measures which improved parole and probation outcomes that averted new offenses, accounted for nearly a third of Michigan's prison population decline.

D. Requiring Less Time Served Before Eligibility for Release

Under Michigan's Truth in Sentencing (TIS) law, requiring less time served before first eligibility for release was nearly impossible given the 100% of minimum sentence requirement for all prison terms. The state's former Community Residential Programs (CRP) — which had allowed community placement in a corrections center or on electronic monitoring for some nonviolent convictions up to 2 years prior to eligibility for parole consideration — were eliminated when TIS was enacted, despite just a 1% felony recidivism rate for former CRP participants.

However, a lone exception to the 100% of minimum sentence requirement was retained when TIS was enacted. The Department of Corrections started a voluntary 90-day Special Alternative Incarceration (SAI) boot camp program for probationers in 1988 that featured release to community supervision after program graduation, and the program was eventually expanded to qualifying prisoners originally sentenced to 3 years or less. Evaluation of the military-style boot camp was negative, so the Department transformed it from a boot camp into an Intensive Reentry/In-Reach program in 2008 that adhered to the evidence-based practices of the MPRI.

Expanded court outreach and SAI recruitment efforts nearly doubled the average annual number of intensive reentry program graduates, and the 3-year success rate on post-program community supervision under the MPRI umbrella increased from 61% to 82%. SAI intensive reentry releases to mandatory parole supervision prior to eligibility for a parole hearing accounted for only a modest portion of Michigan's prison population decline because of the limitations on eligibility.[24] Other proposals to require less time served before eligibility for release failed to pass in the legislature over the years, including restrictions on time served beyond the earliest release date for nonviolent prisoners, various means of adjusting Michigan's sentencing guidelines for judges, and restricted lengths of stay before re-parole following return to prison for violating conditions of supervision

IMPACT ON RACIAL DISPARITY

Racial disparity persists in justice system populations throughout the country, as individuals of color have long been convicted in numbers disproportionate to their presence in the general population. Michigan has been no exception. While the 20% reduction in the state's prison population between 2006 and 2016 did positively impact all racial/ethnic groups, it had not been an objective of the reforms and did not reduce the racial disparity in the system.

Department of Corrections officials noted that rather than focusing on race and ethnicity challenges, they tried to be "color-blind" and instead focus on geographic and economic challenges — such as differences in urban versus rural barriers to reentry — including access to jobs, housing, services, and transportation.[25] The incarceration rate for black residents remains nearly 7 times as high as for white residents of Michigan and compares negatively to a national rate that is 5 times as high for blacks as whites.[26]

POLITICAL ENVIRONMENT FOR REFORMS

Unlike most other states, the approaches in Michigan that have successfully reduced the prison population to date were not the direct result of comprehensive bipartisan legislative packages of reforms.[27] Instead, the effort was led by the Governor in a broad-based approach to state leadership and community engagement supporting prisoner reentry reforms. The primary drivers of justice reform were the fiscal environment and the contribution of the ever-expanding prison system to the state's budget challenges. By the peak prison population year in 2006, Michigan's annual

expenditures on the Department of Corrections had grown from $172 million in 1980[28] to more than $1.8 billion.[29]

Prison closings often generated pushback, especially in areas where the local economy was dependent upon the prison. Many facilities were closed, so the Department of Corrections developed a list of explicit criteria to regulate the decisions (including criteria such as high cost to maintain/operate, high overtime expenditures, and proximity to other remaining facilities), and tried to spread the closings geographically around the state, and over time, to minimize disruption and staff layoff.

PROSPECTS FOR FURTHER DECLINE

The initial keys to Michigan's successful prisoner reentry initiative were risk/needs assessment, extensive community engagement, and funding for capacity building and maintenance of sufficient community programs and services to eliminate barriers and promote reintegration. As the MPRI evolved from an initiative to an ongoing way of doing business, risk/needs assessment began to be done at the pre-sentence investigation stage (though not used for sentencing) and pre-release programming was spread to additional prisons, allowing better preparation for initial Parole Board interviews and yielding higher parole approval rates.

The annual budget for reentry expenditures peaked in 2010 at $60 million, with 75% allocated to community funding, but by 2014 total funding was cut by more than half and the community funding allocation was shifted downward to only 53% of the total. Community engagement became less prominent and community reentry practices atrophied over time, with the Department of Corrections taking more direct control of local reentry planning, fiscal management, programs, and processes.[30] Return-to-prison rates within three years after release – a key measure of reentry success – have been consistently around 30% for all parole releases since 2008.[31] Employment when paroled – another crucial reentry metric – still hovers below 30%.[32]

Nevertheless, prior to passage of newly enacted justice reforms in 2017, prison population projections showed continued declines, though slower, through calendar 2018. The prison population was expected to be relatively steady through 2021, with a total anticipated 5-year population decrease of another 3.5%. This was based on anticipated stable prison admissions and releases for the first year or so, and fewer discretionary paroles in the later years due to a diminishing eligibility pool for parole consideration (because of the long-standing decline in both new prison commitments and parole revocations to prison).[33]

The primary sponsor of the 2017 justice bills suggested the potential for closing 1-2 more prisons, which would generate an estimated cost savings of up to $68 million.[34] However, the state's senate fiscal agency indicated that for the most part, the new bills would have either no impact or an indeterminate fiscal impact on Michigan's budget. This was because of uncertainty regarding funding levels necessary to implement the provisions, along with the observation that some of the requirements were not new, but rather were mere codifications into statute of already existing language in annual appropriations.[35]

Michigan remains fertile ground for sentencing reform, even though there has been no legislative appetite for reinstating any form of earned credit against the minimum sentence to be served (notably because of prosecutor insistence on the truth in sentencing law). But under the state's indeterminate sentencing structure, the average difference between the minimum sentence imposed and the statutory maximum sentence has been 11 years. That constitutes a potential 300-400% longer exposure to additional time-served once parole is denied or revoked, so narrowing this difference could significantly reduce time-served.[36]

Even though the state's complex sentencing guidelines system has now become advisory rather than prescriptive, judges usually follow it; so new attempts to modify the guideline grids or otherwise restructure sentencing in Michigan could yield further prison population reductions. Reportedly, there is some interest in more aggressive statutory reforms in future years.[37]

Endnotes

1. The crime rate and arrest statistics used in this publication are based on data reported by the U.S. DOJ FBI Uniform Crime Reporting (UCR) Program.
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MISSISSIPPI

18% PRISON POPULATION REDUCTION FROM 2008-2016

KEY PRISON POPULATION TRENDS SINCE 2008

- Prison population: -18% through calendar 2016 to 18,833 from 22,831 in 2008.

- Index crime rate: -5% in 2008-2016 — including both violent (-8%) and property (-5%) crime rates.[1]

- New prison commitments: -31% through 2015 (a 16% increase in 2016 still yielded the third smallest annual number of new commitments since 2008).

- Discretionary paroles: +153% in 1999 and +104% in 2014 (the 2 years of greatest population decline).[2]

- Downsizing: Vacated 3 private prisons,[3] closed 5 community work centers, scaled back regional jails and county work programs.[4]

- Cost savings: $6 million estimated saved from population drop caused by 2008 reforms;[5] $266 million anticipated savings within 10 years of the 2014 reforms, along with significant cost avoidance due to averting projected growth;[6] $40 million in reduced corrections expenditures since FY 2014.[7]

BACKGROUND

Mississippi's criminal justice system has experienced a pattern familiar to many other jurisdictions nationwide. By 1994, the state's prison population had been increasing for years, as concern about crime gradually brought about harsher sentences. At the same time, discretion in sentencing and time-served practices were being criticized for inconsistent application of punishment for similar offenses.

When the federal Violent Crime Control and Law Enforcement Act of 1994 encouraged states to increase imprisonment for crimes of violence by expanding prison capacity via federal grants, the U.S. Department of Justice restricted a portion of the funding eligibility to jurisdictions that required people convicted of violent crimes to serve at least 85% of the sentence imposed. Mississippi took that opportunity to restructure its sentencing practices in an even harsher manner than

was required to qualify under the DOJ Violent Offender Incarceration and Truth in Sentencing (VOI/TIS) grant program. The state passed a Truth in Sentencing law in 1995 that:

- Increased the requirement of prison time served from 25% of the imposed sentence (or 10 years for sentences of 30 years or more) to 85% for *all* crimes, not just those considered violent, and

- Abolished eligibility for discretionary parole for *all* crimes committed after the law's effective date.[8]

Subsequently and not surprisingly, Mississippi's prison population more than doubled between 1995 and 2008 to a record year-end high of 22,831 (+485% since 1980). A State Prison Emergency Construction and Management Board was created and charged with expediting the

contracting and construction of public and private prison facilities. The state faced chronic overcrowding, the potential for triggering the provisions of a Prison Overcrowding Emergency Powers Act,[9] and litigation regarding conditions of confinement. Between 1995 and 2008, the state added thousands of beds via expansion within the existing state prisons and the addition of numerous small regional correctional facilities, private prisons, and community work centers.[10]

Prison population projections forecast a need for another 5,000 beds over the next 10 years.[11] With the state's economy struggling, thereby making further capacity expansion untenable, a change in approach was critically needed. In 2008, the governor, legislature, and department of corrections began reform efforts with Senate Bill 2136, which entailed a retroactive reversal of some aspects of the state's Truth in Sentencing law, thereby gaining near-immediate population relief. In 2013, Mississippi embarked on a more comprehensive shift in its criminal justice system based on the findings of a state-appointed task force.[12]

JUSTICE REFORM LEADERSHIP

The reduction in overcrowding achieved after 2008 by the partial retroactive reversal of Mississippi's Truth in Sentencing law began to wane in 2011, and the prison population rebounded by over 5% through the end of 2012. In response, a bipartisan, inter-branch Corrections and Criminal Justice Task Force was created in 2013 by the enactment of House Bill 1231. The bill established broad stakeholder membership representing the legislature, judges, law enforcement, prosecutors, public defenders, the department of corrections, local government, and community justice/civil rights groups.

The task force benefitted from expertise provided by the Public Safety Project of the Pew Charitable Trusts and the Crime & Justice Institute at Community Resources for Justice, through sponsorship of the federal Justice Reinvestment Initiative of the U.S. Bureau of Justice Assistance. For the most part, the 19 wide-ranging recommendations made by the task force were incorporated into House Bill 585 of 2014. The reforms focused on sentencing penalties,

Mississippi Prison Population, 2003-2016
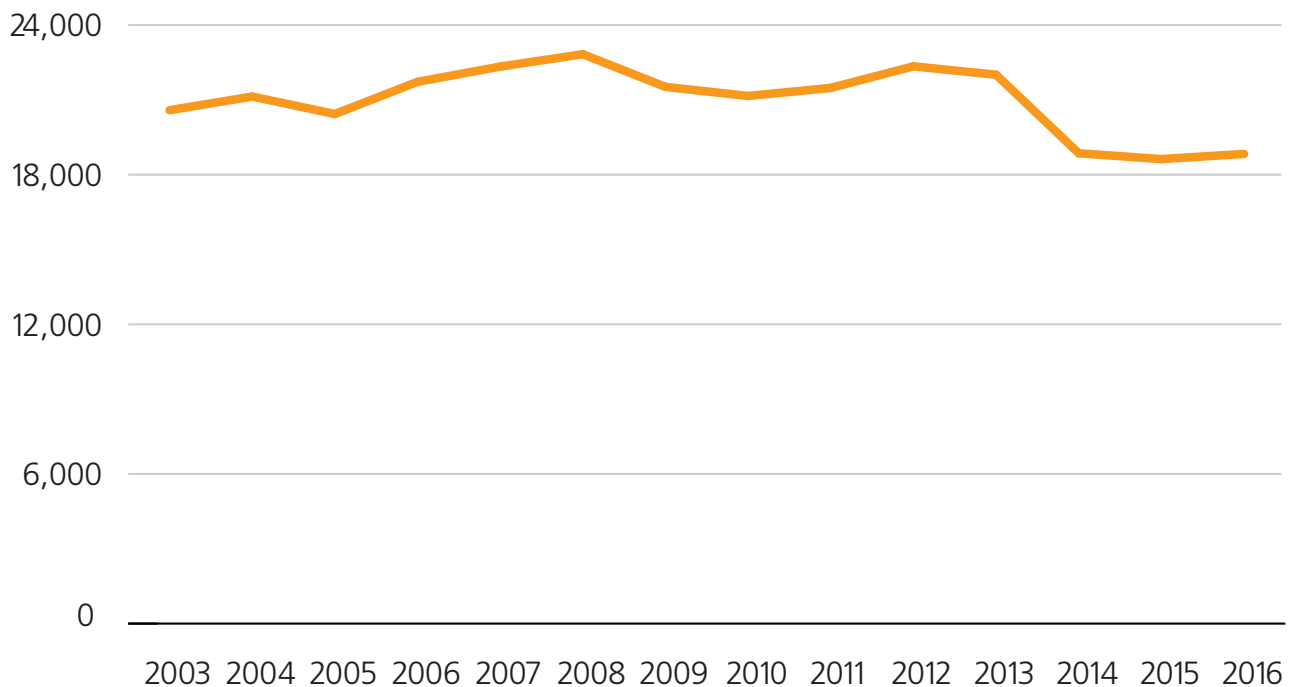
Source: Online State Data

diversion from incarceration through judicial discretion, prioritization of prison space for the most serious crimes, reduction in recidivism, coordination of implementation, and measurement of outcomes.[13] In support of the reform legislation, Governor Phil Bryant said:

> We cannot continue down the path we are on. By enacting these policies, we will improve public safety by keeping violent and career criminals behind bars, putting the appropriate resources into alternatives for nonviolent offenders, and ensuring our citizens get the best results for their tax dollars.[14]

To their credit, Mississippi state leaders ensured continuity of the reform effort by transitioning a subset of the original Corrections and Criminal Justice Task Force members into an ongoing Oversight Task Force in 2014. The Oversight Task Force is responsible for monitoring both the implementation of the reforms and the criminal justice system's outcomes, issuing an annual report to assess detailed proof of performance, and making recommendations for future legislative, policy or operational changes.[15]

HOW MISSISSIPPI REDUCED THE SIZE OF ITS PRISON POPULATION

On both occasions when major criminal justice legislative reforms were considered, the same overarching theme was cited as the impetus: too many people convicted of low-risk nonviolent offenses were in prison for too long, and once released recidivism was likely. Incarcerating people for low-level crimes was seen as exhausting scarce corrections resources needed to address violent and recurrent serious crime. The intervention methods discussed below were eventually addressed by the partial reversal of Mississippi's Truth in Sentencing law in 2009, the state's comprehensive 2014 criminal justice reform legislative package, and the judicial discretion and executive action that carried out the reforms.

Key changes in policy and practice included:

Reduced time served in prison

- Legislature scaled back "truth in sentencing" policy from 85% time served to one year or 25%, whichever was longer, for nonviolent convictions, and applied changes retroactively; resulted in substantial increase in paroles, accounting for two-thirds of population reduction.

- Eliminated minimum time-served requirements (varying from a minimum of 1 year to 10 years) above the 25% mark regardless of sentence length.

- Adoption of a risk assessment instrument contributed to doubling of parole approval rate to more than 50%, and then further statutory expansion of eligibility pushed the rate to 65%.

Reduced admissions to prison

- Created graduated sanctions for felony property offenses and drug offenses, leading to fewer and shorter prison terms.

- Changed responses to technical violations of parole supervision, including placement in technical violation centers, contributing to more than a third of the decline in prison admissions.

A. Requiring Less Time Served Before Eligibility for Release

Mississippi more than doubled the number of discretionary releases to parole in 2009 and 2014, by 153% and 104% respectively. Statutory changes that reduced time served in prison were the primary drivers of the increase in paroles. The larger number of releases accounted for about two-thirds of the state's overall prison population reduction through 2016.

The first reform, Senate Bill 2136 of 2009, shortened the time to parole consideration for nonviolent convictions from 85% of the sentence imposed to either 1 year or 25% of the sentence imposed, whichever was longer, and conditional on behavior while incarcerated. The changes were applied retroactively. National research which shows that shorter lengths of stay are not associated with increased recidivism helped persuade lawmakers to support the legislation. Retroactivity was significant because it produced a rapid decline in the prison population. Many people had already served more than 25% of their sentence and thus qualified for immediate parole board review.[16]

In the year after SB 2136 was enacted, additional statutory changes to time-served requirements also helped drive prison population reductions. Restrictions on earned time eligibility and limits on earned time credits were relaxed, and new meritorious earned credits were established for educational/vocational program completion and satisfactory participation in work projects or special incentive programs. [17] Ultimately, the state prison population decreased 7.3% through 2010.

However, shortly thereafter, the prison population increased again by 5.6% through 2012. Two factors contributed to the rebound:

- Retroactivity of the Truth in Sentencing repeal was estimated to have generated over 4,000 releases earlier than otherwise would have occurred (by an average of 13 months sooner). This left a comparative lack of parole-eligible cases in subsequent years because those who could have paroled during that later time had already left prison.

- While the overall revocation rate did not increase, the upward spike in paroles increased the overall number of additional parolees. This, in turn, increased the total number of violators that ultimately returned to prison.[18]

The second statutory change, House Bill 585 of 2014, further shortened time-served by eliminating the statutory minimum time-served requirements (which were at least 1 year, or at least 10 years - depending on the length of sentence imposed). Parole consideration became dependent upon having served 25% of the sentence imposed regardless of sentence length. For example, 2-year sentences became eligible for parole consideration after 6 months instead of 1 year, and 30-year sentences for nonviolent offenses became eligible for parole consideration after 7.5 years instead of 10 years.[19],[20]

B. Fewer New Prison Commitments

About one-third of the state's overall prison population reduction through 2016 was due to smaller annual numbers of prison admissions. Fewer new prison commitments were the most prominent reason for the decline in admissions. Returns to prison actually increased through most of the years and only declined in 2013-2014. But, annual new prison commitments fell by 31% from 2008 through 2015 with two-thirds of the decline occurring after 2013. (They began to climb again in 2016, as described later.)

Reduced crime rates in Mississippi played a role in reducing new prison commitments. This was a relatively small role, though, since crime rates fluctuated within a narrow range over the years, and the state's overall index crime rate declined by just 5% from the peak prison population year through 2016. The reforms of HB 585 of 2014 were of greater significance to the drop in new prison commitments than falling crime rates:

- The reforms created graduated sanctions based on dollar thresholds for felony property offenses (including mandated presumptive probation for under $1,000), and on amounts of controlled substances and aggravating factors for drug offenses. These changes led to fewer sentences to prison and shorter prison sentences, and

- The reforms increased the use of alternatives to incarceration (such as the state's drug court and intensive supervision programs) by expanding eligibility opportunities for people with a broader range of offense types and with prior convictions.[21]

C. Increasing the Feasibility and/or Efficiency of Release

Increasing the feasibility of release was responsible for an estimated 25% of the growth in releases from prison in Mississippi. The change first took place after enactment of SB 2136 of 2009, which reformed the state's Truth in Sentencing statute:

- An estimated one-quarter of the state's prison population, who had become non-parolable under Mississippi's Truth in Sentencing provisions, had their eligibility for parole consideration restored retroactively (including nonviolent cases, cases with prior convictions, and selected cases sentenced to 30 or more years who were made eligible after at least 10 years had been served);

- The parole board nearly doubled its approval rate to over 50% in the two years following enactment of SB 2136 (in part because the new law required the use of a parole risk instrument to help assess which cases had good prospects for release).[22]

The 2014 legislative justice reform package further expanded eligibility for consideration of parole and thereby also increased releases from prison. In spite of a lack of full implementation of these measures, the parole approval rate again climbed to 65% in 2015.[23] HB 585's reforms:

- Retroactively allowed consideration of parole for more types of crime and for cases where certain aggravating circumstances had previously prohibited consideration. Also, individuals deemed "nonviolent habitual offenders" were allowed to petition the sentencing court to apply for parole consideration.

- Mandated that case management plans begin during incarceration and be driven by actuarial risk and need assessment tools to prepare for reentry (not yet fully implemented).[24]

- Created a presumption of parole for certain crimes absent specified circumstances that would necessitate parole hearings (not yet fully implemented).[25]

- Allowed consideration of parole for individuals age 60 or older, who had served at least 10 years and were parolable under other provisions of the law.[26]

D. Reduced Incarceration for Failure on Community Supervision

In all but two of the years since Mississippi's peak prison population in 2008, the number of returns to prison from community supervision increased. Reportedly, the rates of revocation generally held fairly steady, so the cause of higher annual numbers of returns to prison was tied to the size of the community supervision population. The two upward spikes in prison releases in 2009 and 2014 increased the number of people on community supervision. The number of annual revocations roughly mirrored that pattern, with returns to prison peaking 2-3 years after each of the high release years.

The state's lowest annual returns to prison occurred in 2014 when revocations decreased by 29%. This was linked to provisions in HB 585 of 2014 that changed Mississippi's responses to technical violations of community supervision requirements. The decrease in returns to prison accounted for more than a third of the decline in prison admissions, and about 15% of the overall prison population decline.

The courts, the parole board, and community supervision staff were all charged with implementing a graduated sanctions grid under the reform law, based on risk levels and the severity and frequency of violations, along with new incentives for successful reintegration. The range of available sanctions was increased considerably and included the potential for short jail stays in immediate response to violations. The new incentives included earned discharge credits against the term of community supervision that could cut the time to discharge in half, not only encouraging positive outcomes but also narrowing the exposure to potential revocation.

HB 585 also imposed limits on additional incarceration time imposed by the courts and the parole board.

Revocations to restitution centers or technical violation centers, instead of prison, were mandated for the first two revocations and made optional on the third revocation, with incrementally longer time served permitted for each revocation (before allowing revocation to prison all the way to full discharge from the sentence).

To facilitate successful outcomes on community supervision, HB 585 also allowed reinvestment of prison funding for the expansion of treatment programs and reentry services for those released from incarceration. But supplemental appropriations for reentry did not occur because the Department of Corrections had been severely underfunded for years. So the savings generated by prison population reduction could only keep expenditures in check and allow for minimal internal reallocation to the community supervision side of department operations. In the meantime, the administration sought grant development partnerships with service providers to begin improving reentry services, a process that has its own set of challenges.[27]

IMPACT ON RACIAL DISPARITY

Racial disparity persists in justice system populations throughout the country, as individuals of color have long been convicted and incarcerated in numbers disproportionate to their presence in the general population. Mississippi is no exception, but the 18% reduction in the state's prison population between 2008 and 2016 did modestly reduce racial disparity within the system. There was a 22% decline in the prison population among blacks and a 9% decline among Hispanics, compared to only a 3% decline among whites.

Department of Corrections officials noted that since racial disparity was not directly addressed by the state's justice reform legislation, the reduction in disparity was a by-product of the factors that drove the overall prison population decline. Of greatest consequence were the reforms to penalties and time-served requirements for drug crimes because black residents were disproportionately incarcerated under those laws and were more likely to have been made ineligible for parole consideration due to past sentence increases for second or subsequent controlled substance offenses.[28]

Despite the modest reduction in racial disparity, incarceration rates remain 3 times higher for black residents than for white residents of Mississippi (while Hispanics held steady at just 1% of the prison population) compared to national rates which are 5 times higher for blacks than for whites.[29] In November 2017, the state's coordinator of drug courts expressed concern to the Oversight Task Force that while 65% of the prison population were people of color, 63% of drug court participants were white.[30]

After vetoing a new justice reform bill in early 2017 that would have, among other things, created a Mississippi Sentencing Disparity Task Force with broad stakeholder membership,[31] Governor Bryant formed the task force by executive order shortly thereafter to examine the issue of racial disparity and report back to the legislature and the governor with recommendations for change.[32]

POLITICAL ENVIRONMENT FOR REFORMS

The statutory justice reforms enacted in Mississippi were consistently developed with strong bipartisan consensus and passed with near universal support. The state continues to explore methods to drive additional justice system innovation and improve reentry outcomes, as new recommendations from both the Oversight Task Force and the Mississippi Reentry Council continue to be reviewed. Implementation has been the most difficult part of the reform process. Department of Corrections officials noted that further reforms will require reinvestment funding and may be more challenging to accomplish because of:

- Severe fiscal obstacles to expansion of case management tools, prison education and treatment programs, facility/probation/parole staffing levels, community engagement, and reentry resources to improve community reintegration and reduce recidivism.[33] For example, the Department decided to build their own risk and needs assessment tool, and it took years and substantial funding for external consultants to develop the tool.[34]

- Opposition by law enforcement to addressing more sentencing and release policy options that would yield additional reductions in the prison population.[35]

PROSPECTS FOR FURTHER DECLINE

The prison population in Mississippi reached its contemporary low point in 2015 and then increased by 1.5% in 2016-2017 due to increased prison admissions for both new court commitments and community supervision revocations. The increased revocations were reportedly exacerbated by declining use of the state's technical violation centers to divert prison-bound cases. Expectations are for the prison population to continue trending upward gradually unless the current reforms are fully and aggressively implemented and/or other additional reforms are enacted.[36]

A new justice reform bill was passed in 2017 to restore some momentum generated by HB 585 but was then vetoed by the governor because of a typographical error in habitual offender sentencing. If not for the veto, the new legislation would have facilitated job skill development while incarcerated, changed reentry practices to minimize obstacles to job retention in the community, and eliminated automatic prison time for failure to pay fines. It is expected that these bill provisions are likely to be reintroduced in the next legislative session.[37]

During enactment of SB 2136 of 2009 and HB 585 of 2014, some additional crimes were designated as "violent" which subjected them to longer time-served requirements, and some higher level property and drug crime penalties were also increased. These offsets to the de-incarceration goals, had been negotiated as a compromise between less imprisonment for low-risk cases in exchange for increased punishment for more serious cases (a common occurrence in the legislative arena). But such tradeoffs can weaken or even reverse the anticipated impact of reforms when the penalties for violent offenses may already be sufficient or even excessive, based on the findings of research into incarceration outcomes. To ensure against outcomes contrary to the reform goals and evidence-based practices, HB 585 mandated that future criminal justice legislation include fiscal impact statements by the DOC if requested by any legislator.

HB 585 also mandated that the courts, the department of corrections, and the parole board submit annual reports to the Oversight Task Force regarding the tracking of outcome measures and proof of performance, to help gauge progress toward continued implementation of the reforms. In its 2017 annual report, the Corrections and Criminal Justice Oversight Task Force reviewed the latest data and findings, called for expanded use and better implementation of the state's technical violation centers, and for the creation of evidence-based "reentry courts," and observed that:

> *The 2013 Task Force recognized the underfunding of community corrections. This situation has worsened with the increased demands placed on probation and parole agents under H.B. 585. The expectations placed on this aspect of the system cannot be met without proper support… The total reduction in expenditures for incarceration is approximately $40,000,000 since FY 2014. We can and should reinvest a small portion of that to ensure this progress continues.[38]*

The unmet promise of reinvestment and the challenges of implementing reforms without the needed funding have created a difficult situation for state leaders.

Endnotes

1. The crime rate statistics used in this publication are based on data reported by the U.S. DOJ FBI Uniform Crime Reporting (UCR) Program.
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RHODE ISLAND

23% PRISON POPULATION REDUCTION FROM 2008-2016

KEY PRISON POPULATION TRENDS SINCE 2008

- Prison population: -23% through calendar 2016 to 3,103 from 4,045 in 2008.

- Index crime rate: -31% through 2016 — including both violent (-6%) and property (-33%) crime rates.

- Arrests: -22% through 2016.[1]

- New prison commitments: -28% through 2016.

- Prison releases: +27% on average during the record-high release period of 2008-2010 following passage of legislation in 2008 that had the effect of reducing the length of incarceration before release.

- Returns to prison: -37% through 2016 across all community release types.[2]

- Downsizing: Occasional partial closure of some facilities to generate savings on operational expenses.[3]

- Cost savings: Primarily through cost avoidance. Some potential savings were reinvested in other improvements, though negotiated state compensation changes and pension restructuring offset the rest of the savings.[4]

BACKGROUND

Rhode Island is among a handful of states that have unified correctional systems where all of the components are under the jurisdiction of the state: detainees awaiting trial, all sentenced offenders, probation, community corrections (including community confinement), prisons and parole. Despite having one of the lowest incarceration rates in the nation historically (and one of the highest community supervision rates, with probation/parole terms far longer than most states), Rhode Island's prison population grew by nearly 400% between 1980 and 2008 (from 813 in 1980 to 4,045 in 2008).

Leading up to and during that time of relentless expansion, the Rhode Island prison system faced federal court orders, settlement agreements, and population restrictions because of overcrowding, poor conditions of confinement, and the need for a more objective classification system. A Criminal Justice Oversight Committee was created by statute in 1993 for compliance monitoring, and prison capacity was increased over the

years by various means such as construction and double-bunking to accommodate the population growth.[5] In addition to the responsibility for maintaining the state's secure institutions within their capacities, the work of the Oversight Committee served as a vehicle for implementing many elements of the eventual reform effort.[6]

By 2005, the state encountered fiscal challenges that precluded further capacity expansion, the prison population was again nearing total occupancy, and forecasts were projecting at least several years of unsustainable population increases. These circumstances led Rhode Island to become an early adopter of the Justice Reinvestment Initiative (JRI) process that was developed by the Council of State Governments, the Pew Charitable Trusts, and the Center for the States to help states stabilize corrections populations and reduce expenditures.[7]

JUSTICE REFORM LEADERSHIP

The Criminal Justice Oversight Committee housed in the Rhode Island Department of Public Safety meets at least once a year, and has 17 members (prescribed within statute) to represent a broad range of system stakeholders —judges, the attorney general, public defenders, state police, corrections officials and officers, parole board members, public safety grantees, the governor's office, legislators, victims' rights advocates, and a qualified elector appointed by the governor as chairperson.[8]

From 2005 – 2007 the Rhode Island Justice Reinvestment Initiative developed and conducted analyses of criminal justice data and introduced legislation corresponding to the JRI recommendations. A "Correctional Options" package of reforms was passed by the General Assembly as part of the state's appropriations act for 2008 (HB 7204), with an emphasis on measures to reduce the length of stay in correctional facilities while ensuring a successful transition to the community for the anticipated increased number of releases.[9]

In 2015 policymakers in Rhode Island decided to engage in a second round of JRI planning. Governor Gina Raimondo signed an executive order to create a Justice Reinvestment Working Group, with even broader representation among stakeholders and partners in criminal justice, treatment services, and community advocacy. Among other topics, the working group was charged with conducting a thorough examination of the state's probation system, which had been deferred in the first round of JRI to keep the scope of the initial effort manageable.[10]

Even as the new round of JRI planning was heading toward additional legislative action, the executive and judicial branches took the lead in implementing some reforms through their own policy-making authority. The executive action included requiring Department of Corrections staff to develop and work on the implementation of a probation strategic plan[11] and use risk assessments to guide community supervision and services.[12] Administrative steps taken by the courts included efforts to shorten probation terms and allow for early probation termination when in compliance with probation conditions.[13]

Rhode Island's commitment to comprehensive planning, the advocacy of the state's leadership, and the early administrative adoption of best practices even before they were successfully incorporated into statute, have served to reduce the prison population, maintain progress, and lay the groundwork for further reductions.

Rhode Island Prison Population, 2003-2016
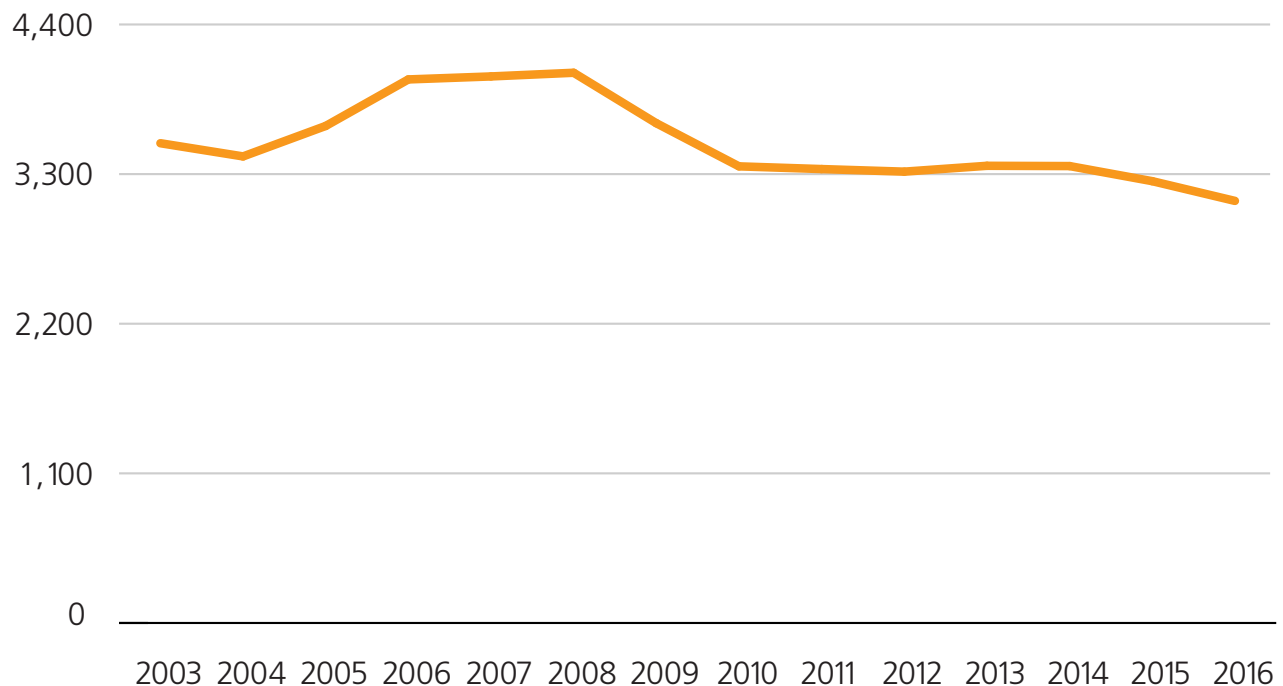
Source: Online State Data

HOW RHODE ISLAND REDUCED THE SIZE OF ITS PRISON POPULATION

Since reaching its peak population in 2008, Rhode Island adopted four intervention methods that helped reduce prison population through a combination of bipartisan legislative justice reform, judicial discretion, and executive action. The state implemented major new initiatives to control the growth of the population during two periods of time (2009-2010 and 2015-2016). In the intervening years, the prison population held steady. Each intervention is discussed below in general order of the magnitude of impact.

Rhode Island's justice leaders embraced partnerships with outside experts to conduct data analysis of the state's unique justice issues and identify promising approaches to reform. In a 2010 article summarizing the initial JRI end result in Rhode Island, the Department of Corrections Director Ashbel T. Wall II closed with, "… a careful process, shaped by evidence and conducted among thoughtful leaders with the requisite political will, can yield a balance that respects both fiscal responsibility and public safety."[14] In 2015, when launching the working group for the state's second JRI effort, Governor Gina Raimondo said, "It's time that we come together as a community to examine our criminal justice system and move us toward a more data-driven, outcome-oriented system, where I believe in the end, you can save money, bring about justice and help folks get reintegrated into the community more effectively and efficiently."[15]

Key changes in policy and practice included:

Reduced time served in prison

- Established earned-time credits of 10 days per month of incarceration (with some exclusions); established risk reduction program credits for participation in work assignments and educational or treatment programs.

Reduced prison admissions

- Achieved a 59% decrease in new court admissions for drug crimes by eliminating mandatory minimum sentences for all drug crimes and changing possession of small amounts of marijuana to a civil infraction.

Reduced probation revocations and reduced returns to prison

- Reduced probation revocations by implementing probationer risk assessment and by capping the maximum length of probation terms to reduce exposure to potential revocation.

- Reduced returns to prison for new sentences from 54% to 48% between 2004 and 2009 by coordinating agency and stakeholder organizations to contribute to more effective reentry strategy, along with training on evidence-based practices.

A. Requiring less time served before eligibility for release

In the 2008 package of reforms, the most significant change was to shorten time-served in prison in two ways:

- Expanding regular earned-time-credits for good behavior, allowing 10 days credited toward release for every month of incarceration (with some eligibility exclusions).

- Establishing Risk Reduction Program Credits offering additional monthly time-served credit for participating in correctional facility work assignments and approved educational or treatment programs, along with an additional 30 days of credit for successful completion of each program qualifying for the credit.[16]

Eight of every 10 individuals who were returned to their communities in the first full year following the changes had their length of stay reduced.[17] Releases from prison spiked to record highs in 2009 and 2010. According to the Department of Corrections' 2017 Annual Population Report, the Risk Reduction Program Credits have continued to impact the state's prison population. During FY17, 1,992 people participated in and/or completed one or more rehabilitative programs and were awarded a total of 72,021 program credits (or days off sentence; -- an average of about 36 program credits per person). Substance Abuse Treatment, High School Equivalency Program (GED), Adult Basic Education Program (ABE), and Cognitive Restructuring/Anger Management programs awarded the most program credits in FY17.[18]

The emphasis on sound programming and reduction credits created the opportunity for justice leaders to communicate to the public that treatment is important. For example, Corrections Director Wall observed that it is, "… better to have someone released … who has dealt with the reason for committing their crime than to release them untreated."[19]

B. Increasing the feasibility and/or efficiency of release

The feasibility and sustainability of Rhode Island's reforms to shorten time-served in prison were dependent on successful implementation. The General Assembly redirected funding allowing the Department of Corrections to: (1) upgrade their data systems to accommodate the changes to earned time and risk reduction credits, (2) expand availability of the most impactful prison programming to maximize participation, and (3) invest in parole and probation resources to accommodate the increased demand for discharge planning and supervision.

Two key features of the reforms increased the feasibility of release by the parole board, a state entity separate from the Department of Corrections. First, the reforms required the board to incorporate assessments of risk to re-offend when making release decisions. Second, the Risk Reduction Program Credits incentivized completion of programs designed to mitigate risk, thereby addressing criminogenic factors and demonstrating to the board that prospects for post-release success had improved.[20] Record high releases for a period of time after the reforms and unusually long periods of community supervision combined to cause historical highs in supervision caseloads.[21]

C. Fewer new prison commitments

Even during the time when there were a record number of releases in 2009-2010, the state's index crime rate declined, ultimately falling 31% by 2016. While concern is often expressed that more releases from incarceration could increase crime rates, the state's experience shows that advanced planning for reentry can net successful outcomes.

Since 2008, the state has experienced a 28% decline in new court commitments because of the lower index crime rate and new drug laws.

- In 2009, Rhode Island eliminated mandatory minimum sentences for all drug crimes, restoring judicial discretion in sentencing. Drug offenses once subject to at least 10-year or 20-year mandatory minimum sentences can now range from probation up to the maximum allowable term of incarceration.[22]

- In 2013, possession of small amounts of marijuana became a civil infraction subject only to a fine.[23] This change helped reduce incarceration because Rhode Island's unified corrections system includes

people serving misdemeanor offenses (like those previously incarcerated for low-level marijuana possession).

The Department of Corrections' Annual Population Report for 2017 indicated that these legislative changes led to a 59% decrease in new court commitments for drug crimes since 2009. However, the pace of decline has slowed since the onset of the opioid crisis.[24]

A second period of prison population decline in 2015-2016 was driven by actions of the Rhode Island Supreme Court and the Department of Corrections that led to fewer prison commitments:

1. The state Supreme Court modified court rules regarding new limits to maximum terms of probation for future nonviolent cases (with exceptions for cause), termination of existing probation terms (upon verification of acceptable behavior) once the new maximum length has been reached, and the level of evidence necessary to prove disputed probation violation charges. These court rule changes were designed to reduce incarceration of probationers by narrowing their exposure to potential revocation.[25]

2. Building on the use of specialized caseloads for sex crime cases, domestic violence cases, mental health cases, and gender-responsive supervision that had been implemented previously, the Department of Corrections administratively created a risk assessment unit for probation. The goal was to promote successful outcomes for higher risk cases and thereby reduce revocations to incarceration.[26]

In concert with the drop in crime rates, these legislative, executive and judicial branch actions all helped to reduce new court commitments in the state "... to levels not seen for the better part of the last two decades."[27]

D. Reduced incarceration for failure on community supervision

A 2013 Rhode Island Department of Corrections study found that people released in 2009 had a lower rate of return to sentenced status compared to 2004 (dropping from 54% to 48%).[28] As the number of individuals being released from incarceration was growing, the rate of return was declining.[29] In subsequent years, the state has pursued additional strategies to achieve better release outcomes:

*   2011 – A Governor's Steering Committee on Prisoner Reentry was formed, "...designed to bring together government agencies and other stakeholders to develop a comprehensive strategy to facilitate prisoner reintegration into the community and to reduce recidivism rates."

*   2012 – The Rhode Island Department of Corrections was awarded a Second Chance Act Recidivism Reduction Grant from the U.S. Department of Justice to improve reentry services and substantially reduce recidivism.

*   2013 – Rhode Island was selected as a partner state to participate in the Pew-MacArthur Results First Initiative, which helps states assess the costs and benefits of policy options and use that data to make decisions based on results. The Results First's policy modeling tools and technical support allow state officials to evaluate the adult and juvenile justice programs to determine the most effective and cost-efficient methods to improve rehabilitation efforts and reduce crime.[30]

These strategies enabled Rhode Island to implement evidence-based practices through a variety of actions that were all expanded and continue to expand:

*   Renewed use of risk/needs assessment instruments to help guide decision-making, which had been eliminated for a period of time because of insufficient capacity for services and budgetary restraints;

*   Expansion of training in the use of evidence-based practices via dedicated funds under the Recidivism Reduction Grant, such as Effective Practices In Community Supervision (EPICS) and Risk-Need-Responsivity (RNR) focused training;

*   Further reinforcement of the robust statewide reentry council and regional/local reentry councils, that had incorporated law enforcement and social services engagement following the regionalization of probation and parole in 2007;

- Expansion of discharge planning contracts and state-funded grants for special discharge services more focused on mental health and regional linkages; an

- Enhancements to the transition-from-prison-to-community information system for sharing data access with discharge planners and adult counselors.[31]

These efforts to improve reentry served as a foundation for the Department of Corrections to expand and enhance its evidence-based services. The end result contributed to 37% fewer returns to prison across all community release types between 2008 and 2016. The state expects these reforms to continue expanding.

IMPACT ON RACIAL DISPARITY

Racial disparity persists in justice populations throughout the country as persons of color have long been present in these populations in numbers that are disproportionate to their presence in the general population. Rhode Island has been no exception. While the 23% reduction in the prison population did positively impact all racial/ethnic groups, it did not reduce the racial disparity in the system, and it was not a stated objective of the reforms.

Incarceration rates in Rhode Island remain 8 times higher for black residents and 2.5 times higher for Hispanic residents than for white residents of the state, compared to the national rates that are 5 times higher for blacks, and 1.4 times higher for Hispanics, than for whites.[32] In its 2016 presentation for JRI planning in the state, the Council of State Governments Justice Center indicated that:

Rhode Island's Justice Reinvestment Working Group expressed concern about the disproportionate representation of people of color in the state's criminal justice system as compared to the state's general population. A review of data in Rhode Island revealed that race information is not uniformly collected throughout the system, hampering efforts to analyze racial disproportionality in the system or to consider the related impact on the state's criminal justice policies…If the state wants to understand how criminal justice policies are impacting people of color, it must begin by improving data collection and reporting on race.[33]

POLITICAL ENVIRONMENT FOR REFORMS

The state's legislative reforms achieved strong bipartisan consensus. Rhode Island officials noted that any disagreements were largely due to differences between the House and the Senate rather than partisanship. State budget challenges helped bring all sides to the table, and subsequent successes increased confidence in the potential for further reform. Significant ongoing reductions in crime rates have offset potential opposition as well. And, on several occasions, the state has taken advantage of expert technical assistance to help shape many of the recommendations for reform.[34]

It is also noteworthy that since 1993 Rhode Island law has required certain forms of proposed legislation to include a prison impact statement, "… which sets forth the estimated dollar effect thereof taking into consideration additional bed space, staff, and programs required if enacted."[35] Some state officials believe that the impact statement requirement may be one reason harsh sentencing legislation has not been proposed in the state - such as truth-in-sentencing and three-strikes laws that have been common in many other jurisdictions.[36]

PROSPECTS FOR FURTHER DECLINE

The state's second round of JRI led to a legislative package of criminal justice reforms passed in October of 2017. The changes are focused on allowance for a pre-trial services unit out of the courts (to focus in part on pre-trial risk assessment), establishing a more evidence-based system for managing probationer risk levels (such as regulating the length and intensity of supervision based on risk), and providing additional options for diversion and treatment, while allowing shorter maximum sentences for a few crimes.

The impact of the new reforms on the size of the state's prison population is expected to be less consequential than previous reforms, in part because of a projection of renewed growth. The Council of State Governments Justice Center estimated that the new legislation will offset an initial forecast that

projected an 8% larger prison population within the next 5 years due to a rebound in new court commitments caused by probation revocations, and will instead reduce the prison population by less than 2%.[37]

The revised forecast for a marginally smaller prison population is based on reversing the trend in probation revocations that was otherwise expected, increasing the use of pre-trial diversion programs, and shortening time-served for new convictions of the crimes for which maximum sentences were reduced.

Beyond that, a Rhode Island Department of Corrections representative indicated that there is also the potential for further prison population decline as the state proceeds with more improvements to community reentry – enabling higher parole rates and better release outcomes. Examples of future reentry enhancements under development include: (1) greater linkage of risk assessment to objective progression through prison classification levels, case management, and the independent parole board's decision making; (2) stronger interaction with community agencies; (3) more improvements to discharge planning; and (4) greater attention to adjusting implementation strategies based on the tracking of performance metrics.

Endnotes

1. The crime rate and arrest statistics used in this publication are based on data reported by the U.S. DOJ FBI Uniform Crime Reporting (UCR) Program.
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SOUTH CAROLINA
14% PRISON POPULATION REDUCTION FROM 2008-2016

KEY PRISON POPULATION TRENDS SINCE 2008

- Prison population: -14% through calendar 2016 in an ongoing decline to 20,858 from 24,326 in 2008.

- Index crime rate: -25% through 2016 – including both violent (-31%) and property (-23%) crime rates.

- Arrests: -12% through 2016.[1]

- New prison commitments: -17% through 2016.

- Returns to prison: -57% through 2016 across all community release types.[2]

- Downsizing: Closure of 7 correctional facilities, including prisons and other smaller facilities such as pre-release centers.[3]

- Cost savings: Real savings of $33 million in operating costs for the closed and downsized facilities. An additional $458 million estimated to be "saved" by avoiding more prisons reflected hypothetical future costs rather than actual tangible savings. Averting unsustainable projected costs was itself a major catalyst for reform.[4]

BACKGROUND

South Carolina's experience leading up to its criminal justice reform efforts was similar to other jurisdictions nationwide. The state's prison population had grown by over 200% from 7,862 in 1980 to its year-end peak of 24,326 in 2008). Rising costs of incarceration pushed corrections expenditures up by more than 500% from 1983 through 2008, and the Department of Corrections ran a deficit for three consecutive years, representing a major contributor to the state's worsening budget challenges.[5]

A Senate Criminal Justice Task Force appointed in 2006 observed that sentencing inconsistencies, lack of alternative sanctions, and high numbers of revocations from community supervision for mostly non-criminal violations were filling the state's prisons with persons convicted of low-level crimes. The approach was jeopardizing the state's ability to focus imprisonment on the most serious cases.

The Task Force predicted 15% prison population growth in just two years (an increase of 3,000). This would have necessitated further increases in prison capacity and millions of dollars in construction and operating costs. The Task Force concluded that the issues were severe and complex enough to propose the creation of a bipartisan and inter-branch Sentencing Reform Commission – which was established by statute in 2008 – to thoroughly examine the system and make recommendations for change.[6]

South Carolina's prison population stabilized during 2009 and then in 2010 began a steady multi-year decline as adopted reforms were implemented. In early 2018, a prison riot causing seven deaths and multiple injured prisoners demonstrated the continuing challenges of running even a more condensed corrections system. Investigation and analysis of the incident will be

necessary to address the underlying causes of this tragedy even as the state continues to pursue decarceration strategies.

JUSTICE REFORM LEADERSHIP

The chair of the South Carolina Sentencing Reform Commission, state Senator Gerald Malloy, observed that among the things to be addressed by reforms were,

> …*a hodgepodge of laws enacted in recent decades, often as knee-jerk reactions to a particular local crime. Inmates are most commonly in prison on drug charges, burglary, check fraud and driving under suspension, in that order. Providing education and supervision, rather than just throwing low-level offenders in prison, can turn them from being a tax burden to a taxpayer.* [7]

Three Commission work groups were formed to examine sentencing guidelines, the parole system, and alternatives to incarceration. The Commission partnered with external organizations – the Pew Center on the States, the Criminal Justice Institute, and Applied Research Services, Inc. – for expertise in data gathering, analysis, development of potential reform approaches, and forecasts of reform impact on population and costs.

After a year of information gathering and data analysis, the Sentencing Reform Commission issued its final recommendations that were incorporated into the Omnibus Crime Reduction and Sentencing Reform Act of 2010 (SB 1154), enacted by the South Carolina General Assembly with nearly unanimous support.[8]

Among an expansive set of legislative provisions (detailed further below) that addressed numerous front-end, back-end and systemic criminal justice system reforms was the establishment of a Sentencing Reform Oversight Committee composed of four legislators from the General Assembly, two members of the general public, and an appointee of the Governor (which has been the Director of the Department of Corrections since the Committee's inception). South Carolina chose to take advantage of the continuity that comes from experienced leadership and appointed Senator Malloy, the chair of the Sentencing Reform Commission, as the chair of the Oversight Committee as well.

The Oversight Committee's charge is broad-ranging and includes: monitoring revocation rates and new felony offense conviction rates; calculating cost avoidance in state expenditures resulting from reductions in incarceration; and recommending whether and to what extent up to 35% of avoided expenditures should be added to the annual appropriations for prescribed community supervision services.[9]

South Carolina Prison Population, 2003-2016
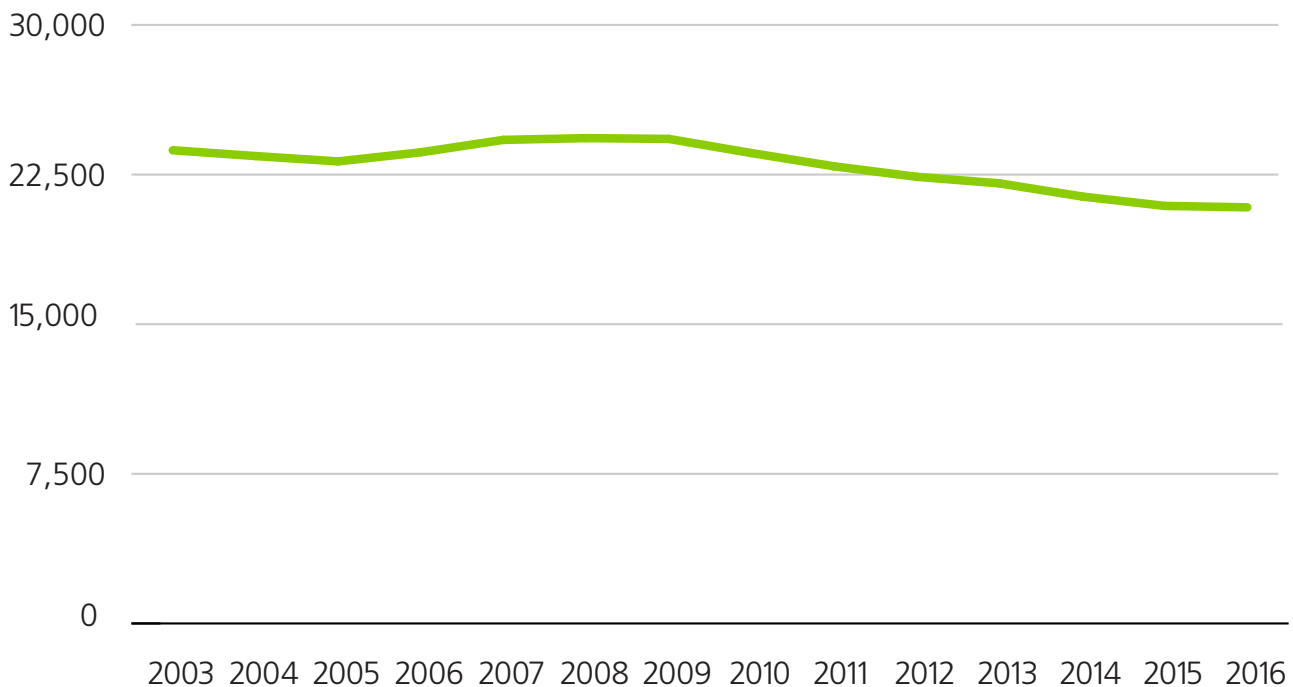
Source: Online State Data

HOW SOUTH CAROLINA REDUCED THE SIZE OF ITS PRISON POPULATION

By far the most significant factors in South Carolina's prison population decline were policy shifts that decreased prison admissions. Admissions fell for seven consecutive years following the peak year-end population in 2008, declining by 36% through 2015.

The state's efforts to reduce the size of its prison population exceeded the expectations of the Sentencing Reform Commission's recommendations. The projection had only anticipated slower population growth, not an actual decline.[10] In a report detailing its sweeping 24 recommendations, the Sentencing Reform Commission summarized South Carolina's central theme regarding all-encompassing criminal justice reform:

> *It is only through a systemic and total review of all of the correctional system that wholesale changes can be made for the better and with no unintended consequences. As stated previously, the Commission's ultimate goals are to make South Carolina better and safer; reduce recidivism and the revolving door to the prisons; provide fair and effective sentencing options, use tax dollars wisely, and improve public safety by ensuring that prison beds are available for violent offenders who need to be in prison and remain in prison.[11]*

Key changes in policy and practice included:

Reduced admissions to prison

- Admissions declined by 36% through 2015 as a result of a number of initiatives: a 57% reduction in parole revocations to prison (including both technical violations and new offenses) through diversion to alternative sanctions; adoption of risk/needs assessments to determine type and intensity of supervision and services; probation incentives of 20 days in term reduction for every month of compliance.

Reduced returns to prison for 17-25 year-olds

- Reduced recidivism rates for this age group from 55% to 21-30% by employing risk reduction and reentry services programming, Intensive Aftercare Program upon release, and prison programming to match job training with available work.

Adopted sentencing reforms

- Eliminated mandatory sentencing for drug possession crimes, expanded alternatives to incarceration for drug offenses, equalized penalties for crack and powder cocaine sentences, and reclassified many property crimes as misdemeanors by increasing the dollar amount threshold for felony charges.

A. Reduced Incarceration for Failure on Community Supervision

Reducing admissions to prison by decreasing the revocation of individuals previously released from prison to community supervision was the most impactful intervention method adopted by South Carolina to bring down the size of its prison population. A broad variety of measures combined to cut revocations by 57% from 2008 to 2016. The decline came about through a 60% reduction in technical violations of supervision and a 35% reduction in revocations for new sentences. Fewer crimes were committed while under supervision, and more of the remaining offenses that did occur were either diverted to alternatives to incarceration or sentenced to non-prison sanctions. Targeting reduced revocations as a major goal, the Omnibus Crime Reduction and Sentencing Reform Act:

- Facilitated successful reentry by mandating community supervision for 180 days in advance of sentence termination for all nonviolent releases if not paroled or not parolable, as long as at least two years had been served.

- Required adoption of actuarial assessment of risk and needs to objectively determine the suitability for community supervision as well as the type and intensity of supervision and services provided.

- Required training of probation and parole officers in evidence-based practices shown to address risk and needs to reduce recidivism, and gave officers discretion to make individualized supervision decisions, and judges discretion to make revocation decisions, all on the basis of objective criteria.

- Created an incentive for good behavior while on probation and narrowed exposure to potential revocation by allowing 20 days of credit against the probation term for every month served in compliance without arrest, and reduced probation supervision to administrative monitoring of financial obligations once all other probation conditions were met.[12]

South Carolina's executive branch expanded the range of administrative sanctions available to respond to violations of supervision. Moreover, the state was awarded a Justice Reinvestment Initiative grant from the federal Bureau of Justice Assistance in 2012 that included support from the Crime and Justice Institute and the Vera Institute of Justice to develop plans for the state to accomplish seven evidence-based and related practices:

1. Implement a graduated sanctions matrix;

2. Align assessment of offender risks and needs between agencies;

3. Develop Department of Probation, Parole and Pardon Services capacity for implementing evidence-based practices;

4. Develop evidence-based practices curriculum and outreach strategy among trainers, peer coaches, agents, and community service providers;

5. Develop and implement a quality assurance tool;

6. Assess agency data systems and evaluation capacity; and

7. Measure cost avoidance.[13]

The state was expected to implement these across agencies, but the results to date have been mixed.

In 2011, South Carolina also took steps to lower returns to prison among 17-25 year-olds sentenced under the state's Youthful Offender Act, which allows record expungement after five years of successful community reintegration. The potential benefits of the Act had been impaired by a 55% recidivism rate among the participants, so the Department of Corrections reorganized the approach into a risk reduction and reentry services program that incorporated a focus on cognitive restructuring while incarcerated followed by intensive supervision upon release based on an Intensive Aftercare Program model that features proactive supervision strategies with limited caseload sizes.[14] Corrections Director Bryan Stirling indicated that the overhaul of the state's Young Offender Parole, Reentry, and Intensive Supervision Services program:

… has led to better screening of young convicts to determine how long they should stay behind bars and enhanced monitoring in the community to make sure they were adhering to curfews, staying off drugs and getting jobs… Inside the prisons, corrections staff have worked to match job training with available positions in the state, use telepsychiatry to better connect mentally

ill inmates with outside help and begin video visitation sessions to keep inmates connected with their families who can't make it to the prisons.[15]

Recidivism among participants in the revamped Young Offender Reentry program has since fallen from the former 55% level to a range of 21-30% in recent years.[16]

B. Fewer New Prison Commitments

Another component contributing to the drop in prison admissions was a 17% reduction in new prison commitments caused by both less crime and the sentencing reforms in the Omnibus Crime Reduction and Sentencing Reform Act. Crime rates in the state declined steadily following the peak prison population year. Through 2016, the violent crime rate was down by 31% and the property crime rate was down by 23%, resulting in an overall index crime rate decrease of 25%. South Carolina officials attributed these results to the state's efforts to improve public safety, a rebound in manufacturing in the state leading to low unemployment, and other positive benefits of general economic improvement.[17]

The Omnibus Reform Act made numerous sentencing changes including eliminating some sentences to prison entirely in favor of alternatives to incarceration, while also reducing the length of certain prison sentences. Among some of the most impactful sentencing changes were:

- Modifications to the state's drug laws: eliminating mandatory minimum sentences for simple drug possession; permitting alternatives to incarceration for all controlled substance offenses not classified as "drug trafficking" under state law; equalization of crack and powder cocaine sentences; establishing time limits on using prior drug convictions to enhance subsequent penalties; and adding "intent" language to enhanced penalties for drug crimes committed near schools and other designated locations.

- Reduced penalties for other less serious crimes, such as reducing many property crimes to misdemeanors by doubling the dollar amount that had triggered felony charges, and cutting the maximum sentence for non-aggravated burglary by one-third.[18] A subsequent analysis found that the dollar threshold reform did not result in increased property crime and that the number of people sentenced to prison for property crime declined by 15%.[19]

As a result of declining crime rates and the reforms to sentencing, not only did new prison commitments decline by 17% through 2016, but also the composition of the state's prison population changed in a manner that South Carolina's decision makers had intended (i.e., to impose harsher punishments for violent offenses). The proportion of the population whose most serious sentence was for a nonviolent crime fell from 54% in 2002[20] to 32% in 2017.[21]

C. Requiring Less Time Served Before Eligibility for Release

Imprisonment for drug and property crimes under the Omnibus Reform Act was subjected to less time served simply by shortening prison sentences for those offenses, and the Act also expanded eligibility for parole consideration to all controlled substance offenses other than drug-trafficking. In addition, for certain more serious crimes with long sentences that lacked specified aggravating circumstances (such as any criminal sexual conduct), a provision in the Act provided eligibility for participation in work release programs during the last three years of the sentence.[22]

Despite shorter sentences in some cases, expanded eligibility for parole consideration, and revised work release provisions, overall annual prison releases nevertheless decreased in all but one year subsequent to the peak prison population year. This was predominately due to fewer cases being eligible for release simply because prison admissions also fell throughout the period. However, the legislature's negotiations when passing the Omnibus Reform Act also decreased releases by classifying more crimes as "violent" and by prescribing harsher penalties for certain violent crimes (including a "three-strikes" provision). These changes offset the potential impact of the reduced penalties for drug and other nonviolent crimes. As a result, sentences for violent crimes are now being served by 68% of the South Carolina prison population, and the average length of incarceration (>14 years) and average time remaining to be served in prison (>6 years) have increased by 9% over the past five years.[23]

D. Increasing the Feasibility and/or Efficiency of Release

Provisions of the Omnibus Reform Act are intended to increase the feasibility and efficiency of release, but have not been fully enacted:

- The Act required the parole board to adopt validated risk and needs assessment criteria about whether to approve parole and when to set parole conditions – this reform is yet to be implemented.

- The Act also required the adoption of risk and needs assessment and evidence-based practices when making parole supervision decisions, which would (1) give the parole board greater assurance that reaching parole eligibility actually means achievement of parole readiness, and, (2) Increase the prospects for risk reduction and successful community reintegration.

Another provision in the Act created an opportunity for early release via medical parole for the terminally ill, geriatric, or permanently incapacitated, but this has not been a significant factor in prison population reduction given the relatively restrictive eligibility criteria.

The parole approval rate climbed from 11% in 2009[24] to 33% in 2017[25] (though the effective release rate is lower because of rescinded paroles), and the number of cases approved for parole more than doubled as the parole board worked to be a contributing partner in the reform effort. Nevertheless, the approval rate remains very low compared to many states. If parole is denied, other forms of release can apply under South Carolina law depending on the minimum time-served requirements relative to the type and length of sentence imposed.

Examples of other forms of release include community supervision releases under the Truth in Sentencing statute, mandatory supervised reentry for qualified nonviolent sentences in advance of full sentence completion, and discharge after expiration of sentence.[26] Since average sentence length and average time left to serve both have been increasing, that has reduced the number of cases approaching parole consideration and thereby decreased the proportion of releases represented by parole. Data for 2016 show that while 48% of the prison population was serving parolable sentences,[27] only 7% of the releases left prison via parole.[28]

IMPACT ON RACIAL DISPARITY

Racial disparity persists in justice populations throughout the country as persons of color have long been present in these populations in numbers that are disproportionate to their presence in the composition of the general population. South Carolina has been no exception, but the 14% reduction in the prison population of the state between 2008 and 2016 did reduce racial disparity in the system. There was a 21% decline in the prison population among blacks compared to only a 4% decline among whites. This difference reduced the proportional representation of African Americans in the prison population by 5% (while Hispanics held steady at just 2% of the prison population).

While there were no apparent formal attempts to directly address racial disparity in the South Carolina prison system, Department of Corrections officials hypothesized that the larger decline in the incarceration numbers for African Americans may be due to disproportionately consequential impacts from: (1) the statutory changes in the state's drug laws, especially the elimination of mandatory minimum sentences and the equalization of crack and powder cocaine penalties, (2) the implementation of graduated sanctions for community supervision violations, and (3) the adoption of evidence-based reentry practices that facilitate better access to jobs, health care (especially for women), housing and transportation in disadvantaged communities.[29]

Despite the modest improvement in racial disparity, incarceration rates for black residents remain 4 times higher than for white residents of the state.[30] Nationally, blacks are incarcerated at a rate over 5 times higher than whites and Hispanics 1.4 times higher.[31]

POLITICAL ENVIRONMENT FOR REFORMS

South Carolina's Omnibus Crime Reduction and Sentencing Reform Act passed overwhelmingly in

2010 with near-total bipartisan consensus, largely due to worsening state budget challenges at the time and recognition that even the already much-expanded prison capacity could not accommodate the forecast of sustained population growth for many years into the future. Something had to change. State officials noted that, in the time since enactment and implementation of the Omnibus Reform Act, the continuously declining crime rates, the significant cost avoidance/savings and other positive benefits derived from closing prisons, and a much-improved economy in the state have combined to forestall objections to reform and keep public opinion satisfied with the reforms as implemented.[32]

PROSPECTS FOR FURTHER DECLINE

The Omnibus Reform Act included a unique provision that requires the state's Sentencing Reform Oversight Committee to submit an annual state expenditure savings report to the General Assembly, the Governor, and the state Supreme Court. The report calculates total Department of Corrections (DOC) expenditures that have been avoided because of reductions in compliance revocations resulting in admission to the DOC which may recommend appropriations of up to 35% of those circumvented expenditures to the Department of Probation, Parole and Pardon Services for justice reinvestment. Recommendations for justice reinvestment were restricted to (1) Implementation of evidence-based practices, (2) Increasing the availability of risk reduction programs for supervised individuals, or, (3) Providing grants to nonprofit victim services organizations.

Over the years, the Oversight Committee has made recommendations for justice reinvestments in accordance with the stipulations, but the General Assembly has not appropriated the supplemental funds. The executive branch has worked to leverage its regular appropriations to implement the reinvestments recommended by the Oversight Committee but with less available funding.[33]

South Carolina's prison population declined again in 2017 and fell below 20,000, as prison admissions and releases have both continued to trend in positive directions. There is some concern, however, that the longer-term benefits of the Omnibus Reform Act may

eventually run their course, as the number of low-risk cases with shortened lengths of stay stabilizes, while the number of cases with harsher penalties for more serious conviction histories continues to accumulate in the system. In an interview in January 2018, S.C. Corrections Director Bryan Stirling acknowledged the shift in the prison system's composition:

We used to be 60 percent nonviolent prisoners and 40 percent violent, but the number has flipped – now we are at 68 percent violent," Stirling said. In part, that is because sentencing reforms, adopted since 2011, have resulted in more nonviolent criminals serving non-prison sentences. [34]

Despite the sentencing and corrections reforms initiated in South Carolina over the past decade, the need for more far-reaching change became painfully clear in April 2018 as seven prisoners were killed and 17 were wounded in a violent uprising at the Lee Correctional Institution. The disturbances continued a pattern of rising assaults in the state's prisons, an increase of 68% from 2013-2017,[35] as well as chronic staffing shortages in the system, with 627 positions being vacant at the time.

Prisoner advocates have called attention to ongoing sentencing problems and poor prison conditions as creating the conditions of unrest. One of every ten individuals in prison is serving a life sentence, and the state's truth in sentencing policy requires 85% time served on long-term sentences. In addition, ongoing concern about the quality of food and limited programming has contributed to the unrest. Corrections Director Stirling has blamed the disturbances on the presence of cellphones and a higher proportion of individuals being imprisoned for violent offenses, although those challenges are similar to conditions in many other state prison systems.

Research on best practices in corrections suggest that addressing violence within institutions calls on leadership to engage in a review of security classification systems, dynamic risk assessments, supervision methods, service delivery, staff training, and facility management.

In looking ahead to a next round of reforms Director Stirling concludes:

South Carolina has made progress reducing its prison population and saving taxpayers money. In September, Pew Charitable Trusts reported the inmate count declined 14 percent from 2010 to 2015, dropping the state's incarceration rate to 19th in the nation from 11th. That was a result of a 2010 reform bill that focused on expanding alternatives to prison for non-violent offenders and reducing recidivism. Legislators are now looking for a second round of reform... That new effort must address the escalating violence.[36]

The prison population is forecast to level off at about 18,000 based on current trends and the reforms implemented to date. Additional reforms are now being considered since the state began to embark on a second Justice Reinvestment Initiative starting in 2017. Beyond examining prison management challenges to ensure that the continuing shift in the composition of the prison population does not complicate efforts to curtail escalating violence in the facilities, South Carolina leaders clearly believe more reforms remain to be implemented.

In an August 2017 article, the chair of the Sentencing Reform Oversight Committee said:

I feel immense pride in the work we've done. But we haven't crossed the finish line. Even with improvements, our prisons remain overcrowded. We still lock up far too many people for violations of conditions of supervision rather than a new offense. We still lock up far too many people for low-level crimes who could be safely managed in the community. [37]

Additional reforms now being implemented and considered include:

- Continuing to examine ways to reduce nonviolent admissions to prison – especially for women. Despite declines stemming from the first round of reforms, 78% of prison admissions are for nonviolent crimes. Female prison admissions have increased, and 88% of these admissions are for nonviolent crimes. [38]

- Working with the parole board to build confidence in release outcomes that would enable significantly higher parole approval rates and increasing the board's use of actuarial risk and needs assessment as one of many inputs into the release decision

– expectations of the first round of reforms that have not been implemented yet.[39]

- Additional advances in reentry and risk reduction programs targeting the young adult offender population. Perhaps expanding feasibility of release to higher risk cases than those who are currently being released to curtail the now increasing average length of stay.[40] Establishing an evidence-based framework for prisoner reentry in the state that spans the prison and parole supervision systems which continue to be siloed. Examples of best practices being considered include shorter supervision terms to enable concentration of resources early in the terms when most violations occur and because research has shown that incentives yield superior outcomes,[41] focusing more on rewards (such as earlier termination for compliance) rather than on sanctions

- Bills to reduce the 85% time-served requirement to 65% for some categories of prisoners sentenced under the state's Truth in Sentencing law have been introduced in past years but have not yet gained traction in the General Assembly.[42]

Endnotes

1. The crime rate and arrest statistics used in this publication are based on data reported by the U.S. DOJ FBI Uniform Crime Reporting (UCR) Program.
2. The calendar year-end population data and the calendar year statistics on admissions and releases used in this publication for South Carolina are based on data reported by the U.S. DOJ BJS National Statistics (NPS) program for consistency of definitions and timeframes. Statistics self-published by the states are sometimes based on varied definitional criteria, and either on monthly averages or on fiscal years for which the start/end points can vary depending on the state.
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