JUSTICE CENTER
THE COUNCIL OF STATE GOVERNMENTS

April 2013

# Lessons from the States:

## *Reducing Recidivism and Curbing Corrections Costs Through Justice Reinvestment*

Over the past 20 years, state spending on corrections has skyrocketed—from $12 billion in 1988 to more than $52 billion in 2011.[1] Declining state revenues and other fiscal factors are putting a serious strain on many states' criminal justice systems, often putting concerns about the bottom line in competition with public safety. Strategies tested in numerous states and local jurisdictions, however, show that there are effective ways to address the challenge of containing rising corrections costs while also increasing public safety.

## Six Lessons

Many states under tight fiscal constraints face the challenge of growing corrections costs and increasing inmate populations. A number of these states have responded with "justice reinvestment" strategies to reduce corrections costs, revise sentencing policies, and increase public safety. Justice reinvestment is a data-driven approach that ensures that policymaking is based on a comprehensive analysis of criminal justice data and the latest research about what works to reduce crime, and is tailored to the distinct public safety needs of the jurisdiction. In the first phase, experts analyze a variety of state-specific data to develop practical, consensus-based policies that reduce spending on corrections and generate savings that can be reinvested in strategies to improve public safety. In the second phase, jurisdictions translate the new policies into practice and monitor data to ensure that related programs and system investments achieve their projected outcomes.

Since 2007, with support from the U.S. Department of Justice's Bureau of Justice Assistance and The Pew Charitable Trusts, 17 states have worked with the Council of State Governments Justice Center to develop justice reinvestment strategies. Of these states, four have recently adopted policies that are projected to generate more than $1 billion in savings over five years. Justice reinvestment efforts in Texas alone resulted in $1.5 billion in construction savings and $340 million in annual averted operations costs. Six lessons have emerged from these experiences that inform the work of other states tackling rising corrections costs and public safety challenges.

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|---|---|
| 1 | Conduct a Comprehensive Data Analysis |
| 2 | Engage Diverse Constituencies |
| 3 | Focus on the People Most Likely to Reoffend |
| 4 | Reinvest in High-Performing Programs |
| 5 | Strengthen Community Supervision |
| 6 | Incentivize Performance |

# Lesson 1 Conduct a Comprehensive Data Analysis

Policymakers often do not have information about what factors are driving crime, reoffense rates, and the growth of correctional populations. Many state policymakers are forced to make decisions about prison and public safety policies without comprehensive, independent analyses of their criminal justice data. State agencies often also lack the capacity to conduct regular evaluations and audits of programs and systems to determine if crime and recidivism are being reduced. Without comprehensive data and the ability to interpret them, states are unable to develop policies that respond to the unique criminal justice challenges they face.

For example since 2011, Wisconsin's Department of Corrections has maintained a reasonably modern and effective research and data analysis unit. Previously, however, budget cuts had forced the department to suspend research and data analysis for several years. This made it difficult to identify the root causes of the state's 14-percent prison growth from 2000 to 2007 and the 71-percent increase in corrections spending from 1999 to 2009.

States that have succeeded in reducing or averting corrections costs and improving public safety have analyzed a variety of state-specific data. By examining crime, arrest, conviction, sentencing, jail, prison, and probation and parole supervision data, policymakers can identify the key drivers of prison population growth and prioritize investments in specific areas of the system that need reinforcement. Additionally, analyzing the need for, and access to, various services (including substance abuse and mental health treatment programs) and resources critical to reducing recidivism ensures that services are deployed where they are most needed. To have a comprehensive picture of the drivers of prison growth, it is also important to examine sentencing practices and the subsequent implications for lengths of stay in confinement. State leaders from all three branches of government can work with experts to translate these data into practical policies that help save taxpayer dollars and enhance public safety.

## Kansas Justice Reinvestment Process

**1.2 million** data records analyzed

**75+** in-person meetings with stakeholders in the criminal justice system

**4** 2- to 3-hour meetings of the Justice Reinvestment Working Group

- **75** Police Chiefs, Staff & Officers
- **54** Sheriffs
- **23** Victims, Advocates & Survivors
- **15** Community Corrections Officers
- **22** Court Services Officers
- **24** Behavioral Health Care & Treatment Providers
- **7** Judges
- **4** Members of the Defense Bar
- **4** District & County Attorneys
- **20+** Hours with Kansas Sentencing Commission Members & Staff

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In Oklahoma, for example, a growing state prison population was projected to cost an estimated $249 million in additional spending by 2021. Facing these rising costs, state policymakers asked experts to collect and analyze vast amounts of state criminal justice, mental health, and substance abuse data. The data highlighted three challenges: high rates of violent crime, a high number of individuals released from incarceration without supervision, and growth in key segments of the prison population. By better understanding these issues, leaders in Oklahoma were able to develop and adopt policies that would slow the projected growth in the state prison population while reinvesting in strategic law enforcement initiatives to reduce violent crime.

Data analysis is not comprehensive unless it is put into context through dialogue with justice system stakeholders. In Kansas, for example, conversations with police, sheriffs, and other law enforcement officials helped determine the most relevant areas for policy development.

# Lesson 2 Engage Diverse Constituencies

Policymakers faced with high recidivism rates and increasing corrections costs must confront a complicated set of issues. The justice reinvestment process calls for states to establish a high-level, bipartisan, inter-branch team of elected and appointed state and local officials to work with researchers and criminal justice policy experts. This working group then consults with a broad range of stakeholders in the jurisdiction, which may include prosecutors, public defenders, judges, corrections and law enforcement officials, service providers, community leaders, victims and their advocates, and people who have been incarcerated. Bringing this diverse group of experts, officials, and stakeholders to the table increases buy-in from those involved in the process and is essential to accurately diagnosing systemic issues and effectively responding to them.

Engaging county and city officials and criminal justice stakeholders such as sheriffs, police chiefs, county commissioners, and local probation and treatment providers is critical to ensuring that policies developed help reduce costs, improve outcomes across the system, and do not shift risks or costs to other parts of the system.

County officials played a significant role in shaping the reforms that were enacted in Kentucky in 2011. Because Kentucky holds approximately one-third of the people for whom the state is responsible in local jails, the state's rising prison population and the associated costs had a significant impact on counties. Guided by The Pew Charitable Trusts, the Kentucky working group, which included a county executive, worked closely with counties to identify challenges and develop solutions that would benefit corrections systems at both the state and county levels. The resulting legislation assists counties in several ways. It improves the bail and pretrial release and supervision systems, allows a peace officer to issue a citation instead of making an arrest for minor misdemeanor offenses, and allows for the placement of people in local jails closer to their communities for the last part of their sentences.

Then North Carolina Governor Beverly Perdue signs the Justice Reinvestment Act into law in 2011.

District attorneys and victim advocates are particularly helpful in assessing issues at the local level, in part because they see the impact when individuals are released from incarceration without effective community supervision and reentry services. Moreover, their connection to victims is a constant reminder of a fundamental goal of the criminal justice system, which is to reduce victimization.

Victim advocates in Hawaii, for example, were quick to point out the deficiency in how victim restitution was collected in the state-run facilities. Because restitution is intended to assist in repaying victims for expenses related to the crime they suffered and to hold individuals accountable for their actions, the insight of victim advocates helped to focus policymakers' efforts. As a result, Hawaii is recasting its restitution collection infrastructure to improve the collection practices in state facilities and increase the percentage of monies repaid to victims.

# Lesson 3

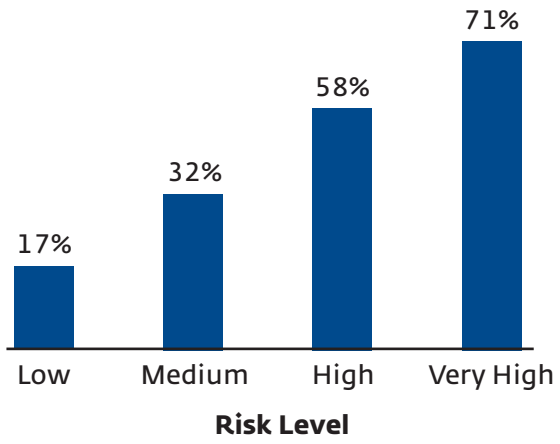
# Focus on the People Most Likely to Reoffend

As growing prison and jail populations increasingly strain states' corrections budgets, policymakers must focus scarce resources where they can have the biggest return on investment for public safety. In spite of this, many states fail to focus their incarceration, treatment programs, and supervision priorities on the people most likely to commit future crimes. Research emphasizes the need to focus supervision services on individuals at high risk of reoffense, and the importance of using scientifically validated risk-assessment tools to identify these individuals.[2]

Historically, identifying individuals most likely to reoffend was mostly educated guesswork, but recent research has shown that modern assessment tools are very effective at objectively predicting an individual's risk of reoffending. A risk assessment tool developed for Ohio found that the percentage of males who were rearrested within one year varied dramatically by risk level. Only 17 percent of those in the low-risk group were rearrested, while 71 percent of those in the very high-risk group were rearrested.[3] Because of the disproportionately higher risk of rearrest among a subsection of the population, spreading criminal justice resources equally across all risk levels does not maximize their impact. Research shows that low-risk individuals have an increased likelihood of recidivism when they are over-supervised or receive treatment or services in the same programs as medium- and high-risk individuals. There is a danger that scarce criminal justice resources may actually increase recidivism and victimization, if focused on the wrong people. Instead, resources should be targeted towards those individuals who are the most likely to reoffend.

## Predictive Validity of the Ohio Prison Intake Tool for Males

*Rearrest Rate by Risk Level*




Figures represent the percentage of males within each risk category rearrested within a one-year follow-up period after assessment.

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In 2011, for instance, North Carolina and Ohio both passed comprehensive legislation emphasizing this principle. In North Carolina, new legislation requires supervision agencies to concentrate resources on high-risk individuals and empowers probation officers to employ immediate sanctions to increase accountability in a manner that is both cost effective and proven to have a greater impact on reducing recidivism. In addition, the law ensures that treatment programs are targeted to people who have the greatest treatment needs and are most likely to reoffend. Finally, the legislation strengthens and expands an existing felony drug diversion program. Meanwhile, Ohio has embraced a similar approach by adopting criteria that instruct all of the state's community corrections agencies to prioritize placement for people who would benefit most from intensive supervision and treatment. Moreover, first-time property and drug offenders now face mandatory probation sentences and treatment attendance requirements. These requirements hold these individuals accountable in more meaningful ways and conserve prison space for the most serious and violent offenders.

Using supervision and treatment resources more efficiently, along with other strategies, is expected to pay dividends in both North Carolina and Ohio. State leaders in North Carolina project $560 million in averted costs and cumulative savings by 2017, and experts in Ohio estimate savings of $78 million by 2015.

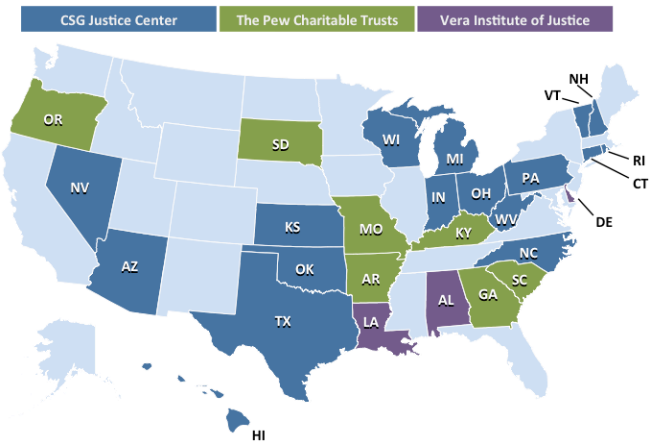
# Lesson 4 Reinvest in High-Performing Programs

Continuing state and local budget crises across the country require policymakers to be more focused than ever on smart spending. A key component of the justice reinvestment approach is the redirection of the savings and averted spending generated by new policies into strategies that reduce recidivism and improve public safety. The justice reinvestment process helps states and counties apply those resources to efforts that bring the most "bang for the buck" in a particular jurisdiction. Careful analysis of data helps to identify areas for investment in evidence-based policies and practices that are most effective and impactful.

While there are some trends in reinvestment strategies among various jurisdictions—such as expanding behavioral health care capacity or improving supervision—because each state is different and has its own distinct circumstances and characteristics, justice reinvestment does not result in the adoption of one-size-fits-all policies. Every state's challenges are unique, as are its reinvestment priorities. Reinvestment strategies must respond to those unique challenges and take an approach that reflects the range of needs and gaps identified by the comprehensive data analysis.

Additionally, it's critical for each state to carefully attend to the quality of programs. While many well-intentioned criminal justice programs have been designed over the years, not all of them have met their goal of reducing recidivism and protecting communities. Programs are often maintained because of a mistaken assumption about effectiveness or evidence of impact that is solely anecdotal. At best, ineffective programs waste limited resources. At worst, they may do harm by making participants more likely to reoffend. The need for better results coupled with a scarcity of resources has pushed states to invest in programs that can be assessed according to their impact.

## Justice Reinvestment States




Since 2005, The Pew Charitable Trusts, the Vera Institute of Justice, and the Council of State Governments Justice Center have provided expert assistance to 27 states interested in the justice reinvestment approach.

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Researchers have made great strides in identifying the best practices and components shared by successful programs. Many states are using this research to guide their investments in high-performing programs. The Washington State Institute of Public Policy estimated the costs and benefits of 545 adult corrections, juvenile corrections, and prevention programs.[4] The study found that some of the state's programs produce more favorable returns on investment. For example, supervision using best practices focused on higher-risk individuals was found to yield a 31-percent reduction in recidivism, while supervision without treatment led to no decrease. The study was used by state policymakers to prioritize investment in the programs and approaches with demonstrated track records of success.

This research has caused states to reexamine all aspects of programming decisions, including who is prioritized for enrollment, what types of programs are prioritized for funding, and how closely programs adhere to principles of risk reduction. For example, in Kentucky, legislation passed in 2011 requires that by 2016, 75 percent of state expenditures on supervision and intervention programs for pretrial defendants, inmates, and individuals on parole and probation must be evidence based. In North Carolina, state leaders redirected funding for community-based interventions and treatment services for individuals on supervision from programs operating under an outdated formula-based grant system to performance-driven contracts for services. This approach helps ensure programs apply evidence-based practices, better serve the intended target populations, and reduce recidivism.

# Lesson 5 Strengthen Community Supervision

Over the last 25 years, the rate of growth of community supervision populations has exceeded that of prison and jail populations. Despite this trend, community corrections agency budgets have typically failed to increase in proportion to this population growth. Today, 4.8 million people—1 in 50 adults—are on probation or parole in the United States. This is more than twice the population of prisons and jails in this country.[5]

The research and development of supervision strategies in recent years has led to a more concrete understanding of the elements that make community supervision effective at reducing recidivism. Current research points to the "Risk-Need-Responsivity" model as the most effective way for corrections authorities to identify and prioritize individuals to receive appropriate interventions.

- **Risk:** Research shows that prioritizing supervision resources for individuals at moderate or high risk of reoffending can lead to a significant reduction in recidivism among this group. Conversely, intensive supervision interventions for individuals who are at low risk for recidivism will have little impact on those individuals' likelihood of committing future criminal acts.
- **Need:** The need principle states that individuals have two types of needs: criminogenic needs, or those that contribute to the likelihood of reoffending; and noncriminogenic needs, or those with no statistical relationship to criminal behavior. Treatment and case planning should prioritize the core criminogenic needs that can be changed through treatment, supervision, or other services and supports. Research indicates that the greater the number of criminogenic needs addressed through interventions, the greater positive impact the interventions will have on the likelihood of recidivism.
- **Responsivity:** The responsivity principle highlights the importance of reducing barriers to learning by addressing learning styles, reading abilities, cognitive impairments, and motivation when designing supervision and service strategies.

## Swift and Certain Responses

The Urban Institute released a report in 2008 that identified 13 ways for parole agencies and line officers to incorporate the Risk-Need-Responsivity model into community supervision strategies.[6] The report highlighted the need to focus resources on moderate- and high-risk parolees because this population is more likely to benefit from treatment and supervision, resulting in a decreased threat to public safety. The report also discussed the importance of concentrating supervision resources and programming in the initial months of the period of supervision. Parolees' substance abuse, mental health, unemployment, and other service needs are especially high in the first days, weeks, and months after release from prison. Supervision strategies should address the early risk of recidivism and better align resources during the period immediately after release, when individuals are most likely to commit new crimes or violate the conditions of their supervision.

Officers need access to a range of options for administering appropriate sanctions and incentives to individuals who violate or comply with conditions of supervision and these responses must occur swiftly and with a consistency that lets them know with certainty that they are being held accountable for their behavior. Many parolees and probationers are sent to prison for technical violations of their supervision conditions (such as missing an appointment or failing to attend drug treatment) rather than for committing a new criminal offense. A significant number of states have tested strategies that hold these violators accountable in the community without compromising public safety. This has helped to conserve prison beds for higher-risk offenders.

States that have implemented swift, certain, and graduated sanctions for certain violators have found more success at preventing future offenses, while also delivering a greater return on investment. Research shows that providing immediate consequences when a person does not comply with conditions of release

has a measurably greater impact on preventing future criminal behavior than the degree of punishment that is applied.[7]

Several states allow supervising officers to respond to noncompliance by utilizing a designated range of graduated sanctions (such as required community service, increased reporting to supervising officers, or short jail stays) without initiating a revocation process through the courts. This enhances the timeliness and effectiveness of the sanction while reducing the burden on the rest of the criminal justice system.

For example, a 2011 North Carolina law authorized community corrections staff to impose intermediate responses to violation behavior, including two- to three-day jail sanctions. The new approach is intended to reduce the number of minor violations brought to court. The law also reduced to 90 days the length of time that someone on felony supervision could be sanctioned for technical violations, thereafter requiring the person to return to supervision for the remainder of his sentence. This shift has led to shorter lengths of stay, increased accountability for people under supervision, and reduced costs.

## Applying Evidence-Based Practices

Supervision agencies must commit to implementing evidence-based policies and practices that researchers and practitioners have proven to be effective.

For example, in Ohio there are more than 250,000 people on probation supervision who are supervised by one or more of the 187 different probation agencies in the state. Without any statewide probation standards, policies and practices varied substantially. Many departments did not use evidence-based practices such as risk assessment and no data were collected statewide about who was on probation or how well they did. In 2011, the state adopted a series of policies to strengthen probation supervision by establishing the first set of statewide standards for probation agencies, and an incentive grant program to spur performance among probation departments to bolster training and improve supervision outcomes.

Ohio Governor John Kasich signs the state's justice reinvestment legislation into law in 2011.

In Pennsylvania, the Board of Probation and Parole (PBPP) has established a Violation and Sanctions Grid that outlines how supervision officers are to respond to technical violations of supervision conditions. Decades of research have shown that behavior—including criminal behavior—is learned as a result of the consequences of one's actions,[8] and that behavior can be changed by controlling those consequences through the use of incentives and punishments.[9] As part of the state's justice reinvestment efforts, PBPP will be examining ways to incorporate incentives into their Grid in order to apply research on behavior change.

# Lesson 6 Incentivize Performance

A number of states are realigning their fiscal relationships with municipalities and counties, as well as with criminal justice agencies, in ways that reward performance. By working closely with key entities to develop cost-effective policies and practices and then sharing some of the savings generated with the successful agencies, states can help build more effective criminal justice systems without necessarily appropriating new funds.

Incentive funding is most commonly used to encourage local authorities to utilize and improve community-based sanctions for individuals under supervision who might otherwise be returned to prison for violations of the conditions of their release.[10]

If state agencies save money by lowering the number of prison admissions while protecting public safety, then some of those cost savings can be channeled back to those agencies that produced the savings so they can continue to cut crime and reduce recidivism. This mechanism can be used to implement evidence-based practices, support victim services, and provide effective substance abuse treatment and other risk-reduction programs. In 2011, The Pew Charitable Trusts partnered with the Vera Institute of Justice to bring together states that have enacted legislation creating performance incentive funding for supervision agencies. The subsequent report, *Performance Incentive Funding*,[11] highlighted the challenges and opportunities for successfully using this approach to improve agency outcomes. Several states have applied this approach to funding as part of their justice reinvestment efforts.

Pennsylvania Governor Tom Corbett signs the state's justice reinvestment legislation into law in 2012.

For example, in 2012 Pennsylvania policymakers established a performance-incentive funding system to divert offenders who received short sentences for misdemeanors and felonies from being sentenced to prison. The state has committed to providing new funding to those counties that in turn voluntarily expand their local capacity to reduce the risk of recidivism among these offenders.

# Conclusion

As states work to reduce rising corrections costs and growing prison and supervision populations, they must also balance these challenges with the need to maintain or increase public safety. The six key lessons highlighted here have been used by states to achieve this balance. While many states have implemented research, policy, and practices along these lines, other states and local jurisdictions are just beginning to do so and are utilizing these lessons as guidance in the process.

The justice reinvestment approach has yielded results in public safety and cost savings in states across the country since 2005. States can address both public safety and fiscal challenges with evidence-based, data-driven, non-partisan guidance on the most effective policies and programmatic investments for corrections systems.

## Savings & Reinvestment

| STATE | PROJECTED SAVINGS* (TIME PERIOD) | REINVESTMENT (TIME PERIOD) |
|---|---|---|
| Hawaii | $130 M (6 years) | $3.4 M (1 year) reinvested in victim services, treatment, parole supervision, and research and planning |
| Kentucky | $ 422 M (10 years) | $30 M (3 years) reinvested to expand interventions in the community, treatment programs, probation and parole services, and provide for additional pretrial services and drug court case specialists |
| North Carolina | $560 M (6 years) | $8 M redirected to existing community-based programs |
| Ohio | $78 M (4 years) | $10 M (2 years) reinvested in strengthening probation supervision |
| Pennsylvania | $253 M (5 years) | $21 M reinvested in law enforcement, victim services, and probation |

*Figures in millions (M)* Council of State Governments Justice Center

* Projected savings estimate includes both averted costs and reductions in state spending on corrections.

# Notes

**1.** National Association of State Budget Officers, State Expenditure Report 1988 (Washington: National Association of State Budget Officers, 1989), 71. National Association of State Budget Officers, State Expenditure Report 2010 (Washington: National Association of State Budget Officers, 2011), 54.

**2.** Christopher Lowenkamp and Edward Latessa, "Understanding the Risk Principle: How and Why Correctional Interventions Can Harm Low-Risk Offenders," *Topics in Community Corrections* (Washington: National Institute of Corrections, 2004).

**3.** Edward Latessa, Paula Smith, Richard Lemke, Matthew Makarios, and Christopher Lowenkamp, *Creation and Validation of the Ohio Risk Assessment System: Final Report* (Cincinnati: University of Cincinnati Center for Criminal Justice Research, 2009), 36.

**4.** Stephanie Lee, Steve Aos, Elizabeth Drake, Annie Pennucci, Marna Miller, and Laurie Anderson, *Return on Investment: Evidence-Based Options to Improve Statewide Outcomes April 2012 Update* (Olympia: Washington State Institute for Public Policy, April 2012).

**5.** Bureau of Justice Statistics, *Probation and Parole in the United States, 2011* (Washington: Bureau of Justice Statistics, November 2012).

**6.** Amy Solomon, Jenny Osborne, Laura Winterfield, Brian Elderbroom, Peggy Burke et al., *Putting Public Safety First: 13 Parole Supervision Strategies to Enhance Reentry Outcomes* (Washington: The Urban Institute, December 2008). Although the report didn't look at probation agencies and populations, many of the same principles apply. The Urban Institute and the Pew Center on the States also issued a complementary policy brief addressing improved supervision generally. *Putting Public Safety First: 13 Strategies for Successful Supervision and Reentry* (Washington: The Pew Charitable Trusts, 2008).

**7.** E.J. Wodahl, B. Garland, S.E. Culhane and W.P. McCarty, "Utilizing Behavioral Interventions to Improve Supervision Outcomes in Community-Based Corrections," *Criminal Justice and Behavior* 38 (2011): 386-405; Hawken and Kleiman, *Managing Drug Involved Probationers with Swift and Certain Sanctions: Evaluating Hawaii's HOPE* (Washington: National Institute of Justice, 2009); Michael Spiegler and David Guevremont, *Contemporary Behavior Therapy* (Belmont: Wadsworth Publishing, 2009).

**8.** Two main types of consequences can be used to change behavior—positive reinforcements (incentives) and punishments. Incentives increase the probability that behavior will be repeated and punishments decrease the likelihood a behavior will be repeated. Michael Spiegler and David Guevremont, *Contemporary Behavior Therapy* (Belmont: Wadsworth Publishing, 2009).

**9.** While both punishments and incentives should be used to promote behavioral change, the most effective application of these consequences is for incentives to outweigh punishments by a ratio of at least 4:1; behavior change is more likely to occur if a person is rewarded for positive behavior four times as often as they are punished for a negative behavior. P. Gendreau, "The Principles of Effective Intervention with Offenders," *Choosing Correctional Options that Work* (Thousand Oaks: Sage, 1996), 117-130.

**10.** Pew Center on the States, *Policy Framework to Strengthen Community Corrections* (Washington: The Pew Charitable Trusts, December 2008).

**11.** Vera Institute of Justice, *Performance Incentive Funding: Aligning Fiscal and Operational Responsibility to Produce More Safety at Less Cost* (New York: Vera Institute of Justice, 2012).

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To learn more about the justice reinvestment strategy, please visit:
www.justicereinvestment.org

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## Council of State Governments Justice Center

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

Points of view, recommendations, or findings stated in this document are those of the authors and do not necessarily reflect the official position or policies of the Council of State Governments Justice Center or the Council of State Governments' members.

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