

MEMORANDUM

DATE: March 21, 2013

TO: Parliament of Australia
Senate Legal and Constitutional Affairs Committee

FROM: Marshall Clement, Director of State Initiatives
Council of State Governments Justice Center

RE: Value of a Justice Reinvestment Approach to Criminal Justice

Thank you for the opportunity to submit information on the Justice Reinvestment Initiative in the United States in response to your inquiry regarding the value of a justice reinvestment approach to criminal justice for Australia.

Why Justice Reinvestment?

Americans have made it clear they want a correctional system that holds offenders accountable and keeps communities safe. However, they also want and deserve a system that makes the most of their tax dollars – especially in perilous economic times, when public funds are scarce and there are competing needs such as education and health care that must be addressed. By these measures, many states have been falling short, reaping a disappointing public safety return from their substantial investment in corrections. States recognize that policies that rely on simply building more prisons to address community safety concerns are not sustainable. Determined to find a better way, a growing number of policymakers across the country are asking what's working well in crime and corrections policy, and under what conditions a different approach may be warranted.

Over the past twenty-five years, the United States prison and jail population has skyrocketed to an all-time high, with over 2.3 million people incarcerated.¹ “Tough-on-crime” policies meant to address fears of skyrocketing crime rates have been implemented at every stage of the criminal justice process, leading to a rapid increase in both the number of people incarcerated and the rate at which people are incarcerated. These aggressive policies have in turn drained critical state resources and produced dismal results in addressing the root causes of the crimes they seek to prevent. Correctional spending has followed a steep upward

¹ Pew Center on the States Public Safety Performance Project, *One in 100: Behind Bars in America 2008* (Washington, DC: The Pew Charitable Trusts, February 2008).

trajectory, keeping pace with rising prison costs. By 2008, annual state spending on corrections had topped \$50 million.²

The Justice Reinvestment Approach

Justice Reinvestment is a term used to refer to a data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease crime and strengthen neighborhoods. The Justice Reinvestment Initiative is the formal implementation strategy spearheaded by the Council of State Governments Justice Center and its principal funders, Pew Charitable Trusts and Bureau of Justice Assistance. The Justice Center provides assistance to jurisdictions where elected leaders have demonstrated bipartisan, inter-branch interest in justice reinvestment, a willingness to provide access to data, and financial commitment to support some of the costs associated with technical assistance. To date, 27 states in the United States have participated in the Justice Reinvestment Initiative, and approximately 18 of those states have enacted Justice Reinvestment legislation for the purpose of stabilizing corrections populations and budgets.³

Justice Reinvestment encourages collaboration among policymakers through the creation of high-level, bipartisan teams of elected and appointed officials to work with the Justice Center's nationally recognized criminal justice policy experts. In consultation with stakeholders within the jurisdiction, this collaborative group works through the three phases of the justice reinvestment approach:

- Analyze existing data and develop policy options
- Adopt new policies and implement reinvestment strategies, and
- Measure performance following implementation

Justice Reinvestment in Pennsylvania: An Example From the Field

In October 2012, state leaders in Pennsylvania enacted comprehensive legislation designed to increase public safety and save hundreds of millions in taxpayer dollars. Using a data-driven justice reinvestment approach, Pennsylvania received 10 months of intensive technical assistance from the Council of State Governments Justice Center (CSG Justice Center), in partnership with the Pew Center on the States and the U.S. Department of

² National Association of State Budget Officers, *Fiscal Year 1988 State Expenditure Report* (Washington, D.C.: National Association of State Budget Officers, 1989), p. 71, <http://www.nasbo.org/Publications/StateExpenditureReport/StateExpenditureReportArchives/tabid/107/Default.aspx>; National Association of State Budget Officers, *Fiscal Year 2008 State Expenditure Report* (Washington, DC: National Association of State Budget Officers, 2009), p. 54, <http://www.nasbo.org/Publications/StateExpendituresReport/tabid/79/Default.aspx>.

³ For the purposes of this document, we consider the following 27 states to have participated in Justice Reinvestment: Alabama, Arizona, Arkansas, Connecticut, Delaware, Georgia, Hawaii, Indiana, Kansas, Kentucky, Louisiana, Michigan, Missouri, Nevada, New Hampshire, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Vermont, West Virginia, and Wisconsin. We consider the following 18 states to have enacted Justice Reinvestment legislation: Arizona, Arkansas, Connecticut, Georgia, Kansas, Kentucky, Louisiana, Missouri, Nevada, New Hampshire, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Texas, and Vermont.

Justice's Bureau of Justice Assistance. The resulting legislation contains a framework for reinvesting a portion of the savings generated by more effective corrections and parole policies in strategies that assist local law enforcement in crime prevention, provide more resources to probation departments, support crime victim services, and expand the utilization of risk assessment.

Between 2000 and 2011, Pennsylvania's spending on corrections increased 76 percent, from \$1.1 billion to \$1.9 billion. During the same time period, the number of people in prison increased 40 percent, from 36,602 to 51,312 people. By the end of 2011, the amount of federal and state funding awarded to local law enforcement projects across the state had decreased 87 percent, from \$15 million in 2007 to \$2 million in 2011. These cuts hindered the ability of police departments to implement data-driven crime prevention strategies, such as intelligence-led, "hot spot," and problem-oriented policing.

In response to the growing strain of corrections costs on the state's budget and the negative impact of budget cuts on local law enforcement, in 2011, Governor Tom Corbett, Chief Justice Ronald Castille, and legislative leaders asked the CSG Justice Center to conduct a detailed analysis of Pennsylvania's criminal justice system and develop a comprehensive policy framework to cut crime and reduce recidivism, both at a lower cost to Pennsylvania taxpayers. The Pennsylvania Commission on Crime and Delinquency established a bipartisan, inter-branch working group to oversee the data analysis and policy development provided by the CSG Justice Center.

The policy priorities that emerged were organized around three objectives:

- **Reduce the number of people sent to state prison for sentences under one year**

A third of individuals sentenced to prison had less than one year remaining to serve on their minimum sentences, leaving little time for them to participate in treatment programs in prison and making it challenging for the Parole Board to review their cases in a timely manner. The number of prison admissions with such short sentences has more than doubled, increasing 138 percent between 2000 and 2011, from 1,641 to 3,903 people. The policy options identified would reduce the number of people admitted to prison for very short sentences by 30 percent by 2017 by enabling counties to volunteer to house these offenders at a lower cost to the state than would have been paid to incarcerate them in state prison. They would also require people convicted of the two lowest-level misdemeanor offense categories to serve a local sanction rather than a prison sentence.

- **Heighten the efficiency of the corrections and parole systems**

Each Pennsylvania prison inmate must be considered for parole after reaching his or her minimum sentence. Thus, the rising number of prison admissions resulted in a growing backlog of parole cases for review. For

example, 70 percent of the parole reviews that should have taken place each month were delayed due to inefficiencies that likely could have been avoided with greater coordination between agencies. In addition, despite having been approved for parole, thousands of offenders remained in prison because of delays in identifying housing plans, completing required programs, or paying fees and fines. The policy options identified would address inefficiencies in the current corrections and parole systems by increasing the number of parole cases reviewed each month by 20 percent by 2015. They would also hold people on parole more accountable for violations of conditions of supervision with shorter, more cost-effective, community-based sanctions.

- **Refocus costly community-based residential programs to target high-risk and high-need individuals**

Community-based residential programs funded by the state at over \$100 million each year to reduce recidivism were not being used to target individuals on parole who could benefit most. As a result, thousands of parolees continued to fail to complete their supervision in the community and were returned to prison at a huge cost to the state, despite Pennsylvania's significant investment in residential programs. At the same time, district attorneys, victim advocates, and others raised public safety concerns over the significant number of people who, even though they had not reached their minimum prison sentences, were nevertheless participating in these programs. The policy options identified would prioritize costly intensive residential programming for a target population that will benefit the most. They would also prohibit the early release of people from prison to these residential programs.

Through these key changes in policy and practice, this policy framework is projected to increase public safety and generate up to \$253 million in cost savings by fiscal year 2017. The enacted legislation established a formula that requires a portion of these cost savings to be reinvested in public safety improvements over the next six years. For example, under the law, a portion of the savings generated in fiscal year 2013 and up to \$21 million in fiscal year 2014 must be reinvested in police officer training, department accreditation, and competitive grants for data-driven law enforcement strategies; competitive grants to county probation and parole departments to implement evidence-based practices; improvements to victim notification and statewide technology; and the development of risk assessment at sentencing, among other initiatives.

The Justice Reinvestment legislation was passed in two parts. SB 100 was approved by unanimous votes in the House and Senate before being signed into law by Governor Corbett on July 5, 2012. HB 135, also approved unanimously in the General Assembly, was signed into law on October 25, 2012.

Additional Resources

To supplement our submission, we are including the following three documents:

- *The National Summit On Justice Reinvestment and Public Safety: Addressing Recidivism, Crime and Corrections Spending*, released by the Council of State Governments Justice Center, in partnership with the Pew Center on the States, the Bureau of Justice Assistance, and the Public Welfare Foundation.
- *When Offenders Break the Rules: Smart Responses to Parole and Probation Violations*, released by The Pew Center on the States Public Safety Performance Project.
- *Policy Framework to Strengthen Community Corrections*, released by The Pew Center on the States Public Safety Performance Project.

We hope the committee finds this information useful as you consider a justice reinvestment approach to criminal justice in Australia. If you need further information regarding our perspective on the United States' experience with the Justice Reinvestment Initiative, please let us know. We would be happy to provide additional information in electronic form, or through remote testimony.