

# Justice Reinvestment in Montana

## Overview



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## Background

In June 2015, Montana Governor Steve Bullock, Chief Justice Mike McGrath, Attorney General Tim Fox, Senate President Debby Barrett, Speaker of the House Austin Knudsen, House Minority Leader and Legislative Council President Chuck Hunter, Senate Minority Leader Jon Sesso, and Montana Department of Corrections (DOC) Director Mike Batista requested support from The Pew Charitable Trusts (Pew) and the U.S. Department of Justice's Bureau of Justice Assistance (BJA) to explore a "justice reinvestment" approach to reduce corrections spending and reinvest savings in strategies that can reduce recidivism and improve public safety. Despite declining crime in recent years, court cases involving felony offenses in Montana have increased significantly, and Montana's prison population is on the rise. The prison population currently exceeds capacity and is projected to continue to grow to 119 percent of capacity by FY2025. In partnership with Pew and BJA, The Council of State Governments (CSG) Justice Center will provide intensive technical assistance to help collect and analyze data and develop appropriate policy options for the state.

The Montana legislature had enacted Senate Bill 224 in April 2015 to establish the state's bipartisan, interbranch Commission on Sentencing, which calls upon designees

from all three branches of government, as well as state and local criminal justice system stakeholders, to study the state's criminal justice system, including the impact of existing sentencing policies and practices on the state's system. Senator Cynthia Wolken (D) chairs the commission, and Senator Kristen Hansen (R) serves as vice-chair of the commission.<sup>1</sup>

Under the direction of the 15-member commission, CSG Justice Center staff will conduct a comprehensive analysis of extensive data collected from various state agencies. To help build a broad picture of statewide criminal justice trends, additional data from local governments on county jails and county probation will be collected and analyzed where possible. CSG Justice Center staff also will convene focus groups and lead interviews with people working on the front lines of Montana's criminal justice system. Based on these exhaustive quantitative and qualitative analyses, the commission will develop policy options for the 2017 legislature's consideration.

This overview highlights some recent criminal justice trends in Montana that the commission and CSG Justice Center staff will explore in the coming months.

## Criminal Justice System Trends in Montana

### Montana's total index crime rate declined significantly in recent years.

- Between CY2008 and CY2013, Montana's resident population increased 5 percent, from 976,415 to 1,014,864 people.<sup>2</sup>
- During the same period, Montana's reported index crimes declined by 3 percent, from 29,313 to 28,520 reported index crimes.<sup>3</sup>

- Between CY2008 and CY2013, Montana’s total index crime rate declined 7 percent, from 3,030 to 2,810 reported index crimes per 100,000 residents. In the same period, the national index crime rate decreased 16 percent, from 3,673 to 3,099 index crimes per 100,000 residents.<sup>4</sup>
- Montana’s property crime rate has generally followed national trends, declining 6 percent between CY2008 and CY2013, from 2,719 to 2,557 reported property crimes per 100,000 residents.<sup>5</sup> The national property crime rate decreased 15 percent during the same period, from 3,215 to 2,730 reported property crimes per 100,000 residents.<sup>6</sup>
- Between CY2008 and CY2013, Montana’s violent crime rate decreased 19 percent, from 311 to 253 reported violent crimes per 100,000 residents.<sup>7</sup> During the same period, the national violent crime rate declined 20 percent, from 459 to 368 reported violent crimes per 100,000 residents.<sup>8</sup>

**Despite a decrease in reported index crimes, court cases involving felony offenses have risen sharply in recent years.**

- In CY2008, Montana had 7,264 cases involving felony offenses in the District Court, which by CY2014 had increased by 29 percent (9,339 cases).<sup>9</sup>

**Even with declining crime and arrests in the state, Montana’s prison population has increased, as has corrections spending.**

- Montana’s total prison population increased 7 percent between FY2008 and FY2014, from 2,373 to 2,537 people.<sup>10</sup>
- Total corrections spending increased 16 percent during the same period, from \$157 million to \$182 million.<sup>11</sup>

**Montana’s prison population currently exceeds the capacity of the state’s facilities, and is projected to continue to grow.**

- As of 2015, Montana’s prison population exceeds the state’s facilities’ capacity of 2,573 people by 2 percent.
- The state’s prison population is currently projected to increase to 3,080 by FY2025, reaching 119 percent of existing capacity.<sup>12</sup>

**Native Americans are disproportionately represented in Montana’s correctional facility population.**

- In FY2014, Native Americans accounted for 7 percent of the state’s general population but consisted of 17 percent of the overall adult correctional facility population.<sup>13</sup>

**Montana’s supervision population has decreased in recent years, yet is projected to increase.**

- Between FY2008 and FY2014, Montana’s probation and parole supervision population decreased 5 percent, from 8,884 to 8,437 people, yet by FY2025, it is projected to grow by 32 percent, to 11,156 people.<sup>14</sup>

**The alternative placement population has increased significantly in recent years and is projected to grow.**

- The number of people in alternative placements increased by 25 percent between FY2008 and FY2014, from 1,605 to 2,009 people, and is projected to grow another 31 percent by FY2025, to 2,634 people.<sup>15</sup> [See Box: Alternative Placements]

**Alternative Placements**

People assigned to alternative placements are in residential facilities in the community that include seven prerelease centers and seven drug and alcohol treatment programs (privately contracted) and the state-run boot camp facilities.<sup>16</sup> These people include those who require treatment or other programming prior to parole, those who have violated conditions of parole or probation supervision, and those who received a “DOC commit” sentence. [See Box: DOC Commit Sentences]

## DOC Commit Sentences

In Montana, judges have the option to sentence people convicted of felonies to “DOC commit,”<sup>17</sup> in which cases the DOC has the discretion to determine these individuals’ appropriate placement into the corrections system.<sup>18</sup> People who receive a DOC commit sentence may go to prison, be assigned to an alternative placement, or be placed on probation supervision. The Missoula Assessment and Sanction Center (MASC), which operates under an agreement between DOC and the Missoula County Detention Facility, assesses most people sentenced to DOC commit.<sup>19</sup> Between FY2010 and FY2014, 21 percent of placements from MASC were sent to prison, 10 percent were sent to prerelease centers, 10 percent were sent to boot camp, and 37 percent were placed in the Connections Corrections Program, a chemical dependency treatment program.<sup>20</sup> Between FY2008 and FY2014, DOC commit sentences grew by 71 percent, from 224 to 933.<sup>21</sup>

## The Justice Reinvestment Approach

### Step 1: Analyze data and develop policy options

Under the direction of the Commission on Sentencing, CSG Justice Center staff will conduct a comprehensive analysis of crime, arrest, conviction, sentencing, probation, prison, behavioral health, parole, and recidivism data, using thousands of individual data records. Examples of analyses that will be conducted include the following: supervision, prison, and alternative placement population trends; length of time served in prison and on supervision; statutory and administrative policies; and availability of treatment and programs to reduce recidivism.

To the extent data are available, CSG Justice Center analysis will also assess how felony sentencing trends impact supervision, prison, and alternative placement populations; explore contributors to recidivism trends; and examine county jail trends. The analyses will result in findings related to the sources of the growth in prison and alternative placement populations; capacity in prison, jails, and alternative placement facilities; and effectiveness of agency policies and procedures.

To incorporate perspectives and recommendations from across the state, the CSG Justice Center will collect input and recommendations from criminal justice system stakeholders, including county attorneys, public defenders, judges, law enforcement officials, probation and parole officers, behavioral health service providers, private alternative facility contractors, victims and their advocates, families and advocates of people involved with the criminal justice system, local officials, and others.

In collaboration with CSG Justice Center staff, the Commission on Sentencing will review the analyses and develop data-driven policy options focused on increasing public safety and reducing spending on corrections. Policy options will be available for consideration before the next biennial legislature’s session begins in early 2017.

### Step 2: Adopt new policies and put reinvestment strategies into place

If the policy options are enacted as legislation, the CSG Justice Center will work with Montana policymakers, courts, and agencies for a period of 12 to 24 months to translate the new policies into practice. This assistance will help ensure that related programs and system investments achieve projected outcomes and are implemented using the latest research-based, data-driven strategies. CSG Justice Center staff will develop implementation plans with state and local officials, provide policymakers with frequent progress reports, and deliver testimony to relevant legislative committees. Montana will also have the opportunity to apply for federal grant funding to meet important one-time implementation needs, such as information technology upgrades and ongoing quality assurance outcomes.

## Step 3: Measure performance

Finally, the CSG Justice Center will continue to assist Montana officials by identifying metrics to assess the impact of enacted policies on prison and alternative placement populations; to determine rates of reincarceration, criminal activity, and recidivism; and to develop strategies for monitoring these outcomes. Typically, this includes a “dashboard” of multiple indicators that make it easy for policymakers to track the changes occurring in various components of the criminal justice system.

## Notes

1. Senate Bill 224, Montana Legislature (April 2015), <https://legiscan.com/MT/text/SB224/2015>.
2. United State Census Bureau, American FactFinder, <http://factfinder.census.gov>.
3. U.S. Department of Justice, Federal Bureau of Investigation, Unified Crime Report Data Online, <http://www.ucrdatatool.gov/Search/Crime/State/StateCrime.cfm>; Index crimes consist of crime categories collected by law enforcement and reported to the FBI as part of the Uniform Crime Reporting Program and considered representative of the most serious crimes. The crime categories are violent crimes of murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault, and the property crimes of burglary, larceny-theft, and motor vehicle theft. The FBI publishes reported index crime data for each calendar year.
4. U.S. Department of Justice, Federal Bureau of Investigation, Unified Crime Report Data Online, <http://www.ucrdatatool.gov/Search/Crime/State/StateCrime.cfm>.
5. *Ibid.*
6. *Ibid.*
7. *Ibid.*
8. *Ibid.*
9. Montana Supreme Court, “District Court Case Filings and Dispositions,” (2008, 2011, 2014) (Helena, MT: Montana Supreme Court, 2008, 2011, 2014); The Montana Supreme Court publishes court data for each calendar year.
10. DOC, “Adult Population Summary Actual—FY2008 to 2025; Projected FY 2015 to 2025” (Helena, MT: DOC, 2015).
11. DOC, “Montana Department of Corrections 2011 Biennial Report” (Helena, MT: DOC, 2011); DOC, “Montana Department of Corrections 2015 Biennial Report” (Helena, MT: DOC, 2015).
12. DOC, “Adult Population Summary Actual—FY2008 to 2014; Projected FY2015 to 2025” (Helena, MT: DOC, 2015).
13. DOC, “Montana Department of Corrections 2015 Biennial Report” (Helena, MT: DOC, 2015).
14. DOC, “Adult Population Summary Actual—FY2008 to 2014; Projected FY2015 to 2025” (Helena, MT: DOC, 2015).
15. *Ibid.*
16. DOC, “Montana Department of Corrections 2015 Biennial Report” (Helena, MT: DOC, 2015).
17. Montana Code Annotated § 46-18-201(3)(a)(iv)(A).
18. Montana Code Annotated § 46-18-201(3)(a)(iv)(A).
19. DOC, “Montana Department of Corrections 2015 Biennial Report” (Helena, MT: DOC, 2015).
20. DOC, “Montana Department of Corrections 2015 Biennial Report” (Helena, MT: DOC, 2015).
21. CSG Justice Center analysis of DOC data FY2008–2014.



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The Council of State Governments (CSG) Justice Center is a national nonprofit organization that serves policymakers at the local, state, and federal levels from all branches of government. The CSG Justice Center’s work in justice reinvestment is done in partnership with The Pew Charitable Trusts and the U.S. Department of Justice’s Bureau of Justice Assistance. These efforts have provided data-driven analyses and policy options to policymakers in 22 states. For additional information about Justice Reinvestment, please visit [csgjusticecenter.org/jr/](http://csgjusticecenter.org/jr/).



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