50 YEARS of INNOVATION 1961–2011

VERA INSTITUTE OF JUSTICE

CENTER ON SENTENCING AND CORRECTIONS

The Continuing Fiscal Crisis in Corrections

Setting a New Course

OCTOBER 2010

FROM THE CENTER DIRECTOR

In 1983, when the National Prison Overcrowding Project hired me to help states alleviate institutional crowding that was beginning to draw lawsuits from civil liberties organizations, the nation's prison population stood at 424,000. By 2008, 25 years later, more than 1.5 million people were in U.S. prisons. It was a precipitous rise, despite our best efforts, and one accompanied by a 674 percent increase in state corrections spending.

During this past quarter-century of prison expansion and longer sentences—what some have called the biggest social experiment in the nation's history—researchers and practitioners were quietly going about their own inquiries and experiments. They were discovering how corrections can be part of creating greater community safety and fewer victims. Now policy makers are paying attention.

As this report makes clear, many state governments are acting on those discoveries. After all, why spend taxpayer money—urgently needed for education, health care, and infrastructure—on long prison terms when shorter terms are actually more effective? Why build new prison cells for substance users when drug courts and treatment are better for the offenders, their families, and their communities?

The overall state prison population, property crime rates, and violent crime rates are down. The combined corrections appropriations of 44 states Vera surveyed are also down for the 2011 fiscal year. For those of us who have worked in the sentencing and corrections field for many years, the numbers are astonishing.

From my current position at the Vera Institute's Center on Sentencing and Corrections, I see lots of evidence that policy makers are finally demanding, measuring, and, in some cases, rewarding better safety outcomes from corrections. This report seeks to share that evidence.

How far we have come since 1983!

Peggy McGarry
Director, Center on Sentencing and Corrections

Executive Summary

In the 1980s, the number of people sent to prison or supervised on probation and parole in the United States began growing substantially. Not surprisingly, the overall cost of corrections increased as well. But an unexpected about-face during the past three years suggests that the age of expanding costs may be coming to a close. The fiscal crisis that began in December 2007 has spurred lawmakers to reconsider who is punished and how. High recidivism rates among formerly incarcerated people have also given officials cause to reevaluate existing policies.

To help legislators and other policy makers understand states' responses both to the fiscal crisis and to unsatisfactory outcomes of earlier policies and investments, the Vera Institute of Justice surveyed state corrections officials about their planned appropriations for fiscal year 2011. Staff from Vera's Center on Sentencing and Corrections assessed current spending plans and reviewed state legislative action in 2009 and 2010 to look for new trends in corrections policies. The first half of this report describes the immediate actions states have taken to reduce costs. The second half looks at legislative reforms aimed at reducing corrections spending over the long term.

A core lesson underlying all of this activity is that officials are recognizing—in large part due to 30 years of trial and error, backed up by data—that it is possible to reduce corrections spending while also enhancing public safety.

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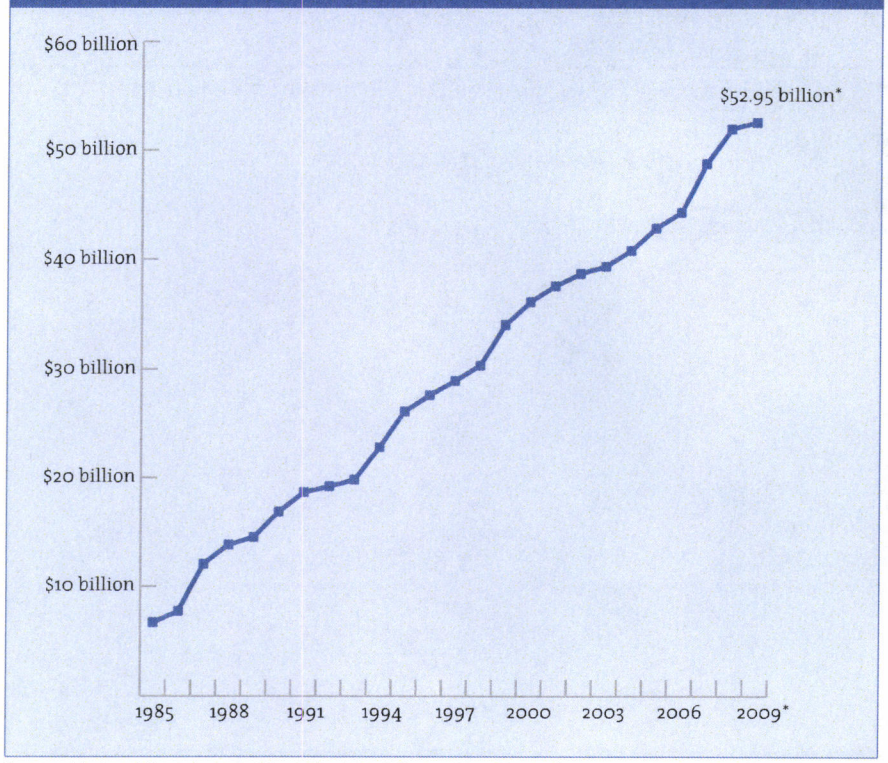
Introduction

During the past several decades, the United States has experienced an unprecedented expansion in the number of people sent to prison, the number of people supervised on probation and parole, and the overall cost of corrections. From 1985 to 2010, the aggregate state prison population increased by 204 percent, the number of people on state-supervised parole and probation rose by 158 percent and 122 percent, respectively, and states' corrections spending went up by 674 percent (see Figure 1).[1]

But a spate of developments in recent years prompts the question of whether, after decades of growth, the years of expansion in corrections have ended. Given states' responses to the worst economy in decades and their reconsideration of basic criminal justice policies, the corrections bubble may have burst.

For example, the overall state prison population declined during 2009 for the first time in nearly 40 years.[2] The combined corrections appropriations of 44 states for the 2011 fiscal year are lower—a change in course for corrections spending, which has experienced annual growth since 1985. At the same time, crime rates, which have an impact on public safety and corrections, have continued to drop. From 2000 to 2009 the country's violent crime rate fell by 39 percent. Violent and property crime rates in 2009 were at their lowest levels since 1973.[3]

Figure 1: Combined State Corrections Expenditures (Capital Inclusive)



Source: National Association of State Budget Officers, State Expenditure Reports: 1987–2008.

*Projected fiscal year 2009 Expenditures

Drug use is still a serious concern, but the focus of both policy makers and judges has been shifting from punitive sentencing to sanctions that demonstrate a more nuanced understanding of addiction and a greater emphasis on treatment. Since the first drug court opened in 1989, more than 3,000 problem-solving courts have opened throughout the United States, revealing judges' interest in taking a different approach to a variety of criminal behaviors.[4] State legislatures and governors have created commissions

and task forces to develop solutions that reduce high recidivism rates and offer taxpayers more cost-effective sentencing options and criminal justice systems.

There can be little question that the fiscal crisis, which began in December 2007 and is projected to continue at least until fiscal year 2012, has served as a catalyst for lawmakers to reconsider who is punished and how. In what may be a new era of sentencing and corrections policy, many states have made cuts to corrections appropriations, long seen as untouchable because of the perceived impact on public safety.

But more than fiscal pressure may be at work. Dissatisfaction with the outcomes of earlier policies and investments—especially the high rates of return to prison among those released—has also driven state policy makers' willingness to effect change. Increasingly, officials have turned to the results of research, analysis, and evaluation for guidance about making more effective use of the funds they do have. Congressional passage of the Second Chance Act, which incorporates many of those findings, responds to state pleas for assistance with prisoners returning home. A federal court ordered California to reduce its prison crowding—much of it the result of the state's high rate of parole revocations. These are but two examples prompting state policy makers to enact and implement changes that go well beyond cost-saving measures. So many states have adopted new strategies during the past decade that reforms in sentencing and corrections seem almost commonplace.[5] State policy makers appear less inclined to be reflexively "tough on crime." Indeed, it is becoming more typical—if not expected—that policies are driven by the growing body of evidence about effective responses: a "smart on crime" approach.

ANATOMY OF A CORRECTIONS BUDGET

Overall appropriations are a combination of several revenue streams, including general state funds, federal funds, and other state funds. State general funds are the main source of funding for state services, including corrections, and are typically a good indicator of financial health. It is instructive to look at overall appropriations, however, because they indicate the total cost of state operations. It is particularly important to take into account the large sums of money disbursed to the states through the American Recovery and Reinvestment Act (ARRA), which provided $135 billion in temporary relief for the 2010 and 2011 fiscal years. In effect, the stimulus funding skews general fund figures when comparing them to previous years.

Key Terms

> **Appropriations:** funds designated for a specific use by a governing body, such as a state legislature

> **Expenditures:** the amount of money spent on operations and other projects

> **Federal Funds:** also known as federal aid, these funds are provided by the federal government, typically in the form of grants and loans, and directly support public services. In recent years, this aid has included ARRA funds.

> **General Funds:** a state's primary revenues gained from taxes, including personal and corporate income, sales, and capital gains taxes

> **Other State Funds:** funds restricted for a specific purpose and established under laws, ordinances, and/or legislation

Research-based responses that keep offenders in the community—whether through drug and other problem-solving courts or intermediate, targeted sanctions for parole violators—have been shown to maintain or enhance public safety at less expense.[6] People support these ideas: recent research shows that voters believe the size and cost of prison systems can be reduced while keeping communities safe.[7]

To help legislators and other policy makers, the Vera Institute of Justice set out to better understand both the range of state responses to the economic environment and how states are reexamining some basic criminal justice policy approaches. Accordingly, Vera conducted a survey of state corrections departments, requesting a breakdown of their appropriations for the 2011 fiscal year and the cost-saving measures they planned to implement. Vera also conducted a scan of legislative action from 2009 and 2010. The survey results from 44 states and the legislative scan of all 50 states show that many jurisdictions are both cutting costs and taking a new look at their criminal justice systems.

States are:

> cutting costs through operational efficiencies such as reducing personnel costs and downsizing programs;

> collaborating with one another to make purchases on a larger scale;

> using new technologies to reduce energy costs;

> closing entire facilities or housing units;

> decreasing the number of people who enter the system and reducing the time they remain behind bars; and

> striving to reduce the number of people who return to prison by using evidence-based policies and programs to lower recidivism and improve outcomes.

The first half of this report describes the economic environment and the immediate actions that states have taken to reduce corrections costs. The second half looks closely at recent legislative reforms in sentencing and corrections that can result in savings over the long term. States are finding that they can reduce their budgets while improving their corrections system by expanding mandatory supervision and treatment programs, creating laws that give courts more flexibility in sentencing placement, and developing policies that give offenders incentives to complete programming.

The Fiscal Environment: A State of Crisis

After nearly three years of recession, states are facing the toughest economic landscape since the Great Depression. An increased demand for public services and a decline in state revenues mean that budgets must be stretched dramatically. Fiscal year 2010 was particularly challenging for state finances, with aggregate budget gaps totaling a record $192 billion or 29 percent of total state budgets.[8]

Unfortunately, the outlook for fiscal year 2011 has not improved significantly. In the 2011 budget cycle, states face shortfalls totaling $121 billion or 19 percent of total state budgets.[9] States typically address their budget gaps in three ways: by increasing taxes, tapping "rainy day" funds, or making budget cuts. The American Recovery and Reinvestment Act (ARRA), passed by Congress in February 2009, gave states a fourth option by providing them $135 billion in emergency stimulus funds. The Act allocated two-thirds of that amount to nondiscretionary areas (such as Medicaid) and approximately one-third to a State Fiscal Stabilization Fund, intended to help states minimize cutbacks and layoffs. Although ARRA earmarked 81.8 percent of each state's allocation for education, the remaining 18.2 percent was reserved for other government services, notably public safety.[10]

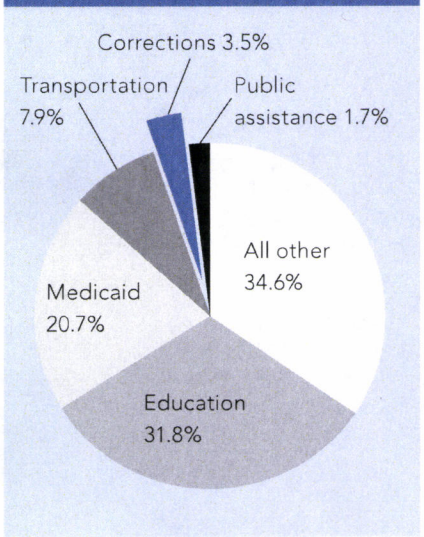
THE COST OF CORRECTIONS

State corrections systems expend a significant portion of public resources and constitute the fourth-largest category of states' collective spending, following education, Medicaid, and transportation. As noted, states' corrections spending has increased by 674 percent since 1985, the second-fastest-growing state expenditure after Medicaid.[11] In fiscal year 2008, states spent $52 billion on corrections, accounting for 3.5 percent of total state spending (see Figure 2). A considerable number and array of discretionary programs compete for state general funds, 7 percent of which went to corrections that year. States projected that the percentage in fiscal year 2009 would climb to 7.2 percent.[12] (The most recent figures available on actual spending of this type are from fiscal year 2009.) The vast majority of funds that go to state corrections systems—9 out of 10 dollars—are allocated to prisons.[13] (For a description of related funding terms, see "Anatomy of a Corrections Budget," page 5.)

OVERALL APPROPRIATIONS FOR CORRECTIONS

In fiscal year 2011, total corrections appropriations for the 44 states that responded to the Vera survey, including federal aid and state general funds, declined by 1.05 percent—a reduction of more than $360 million from the previous fiscal year (see Figure 3). Despite this overall decrease, a significant number of these states—19—increased their corrections budgets (see Table 1).

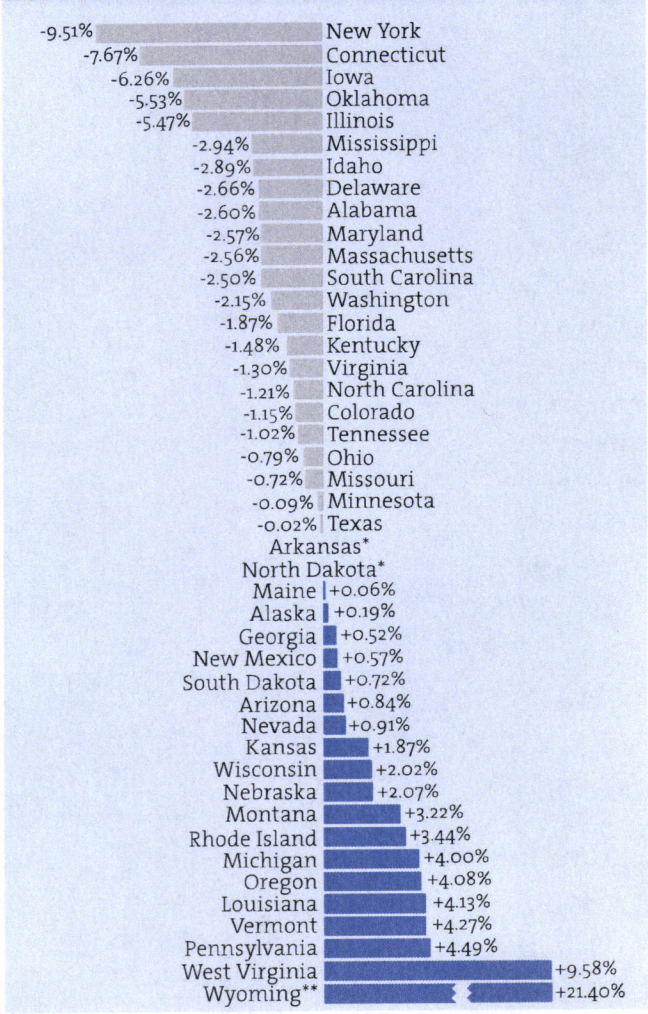
Figure 2: Fiscal Year 2008 Combined State Expenditures by Category



Note: Percentages do not total 100 due to rounding.

Source: National Association of State Budget Officers, State Expenditure Reports: December 2009.

Figure 3: Percentage Change in State Corrections Appropriations, Fiscal Year 2010 to Fiscal Year 2011



Source: Vera Institute of Justice, Center on Sentencing and Corrections, *Fiscal Year 2011 Corrections Appropriations Survey.*

*Arkansas and North Dakota operate on a biennial budget cycle and did not experience cuts or increases to their planned allocations.

**According to budget officers at the Wyoming Department of Corrections, the significant increase that Wyoming reported for fiscal year 2011 is attributed to the opening of a new facility in January 2010. The additional funds allocated for fiscal year 2011 are for the associated operational costs of that facility.

But nearly half of the states that reported increases saw only marginal increases; seven states' corrections budgets grew by less than 1 percent. Some of these states appear to be holding steady after having made steep reductions the previous year. In Arizona, for example, the budget for its Department of Corrections increased by 0.8 percent for fiscal year 2011, but that followed a decrease of 8.6 percent in appropriations for fiscal year 2010. Indeed, Arizona's 2011 corrections budget is more than $83 million less than its initial fiscal year 2009 appropriations.[14]

Although overall corrections appropriations in fiscal year 2011 decreased or remained steady for most states, the 44 states that participated in this survey received a 0.76 percent increase in their general fund allocations for corrections, amounting to an increase of nearly $232 million. This increase is explained in part because some states used stimulus funds in the past for certain recurring costs. Altogether, 33 of the 44 states that participated in this survey spent more than $1.35 billion of federal stimulus money on corrections in fiscal year 2010. In fiscal year 2011, however, only 22 states surveyed plan to use ARRA funds in their corrections budgets, and the total amount they expect to spend on corrections has decreased to approximately $733 million (see Table 1), a reduction of approximately $614 million. In both fiscal years, many states funded corrections by using ARRA funds instead of general funds, preventing further cuts to programs, staffing, and general operations. Some states relied heavily on these funds. Almost 30 percent of Alabama's corrections budget was supplanted by ARRA funds in fiscal year 2010, for example. However, using temporary funds for recurring costs (such as staffing and operating costs) means that a state will face stark choices in the years ahead; it will need to increase its use of general funds in later years, find funding for future budget cycles through other sources, or make cuts later if funding is unavailable.

Because the stimulus is scheduled to be depleted by the end of fiscal year 2011, states have increased their use of general funds to replace the temporary assistance that ARRA funds provided.[15] Instead of using stimulus funds to cover recurring costs, some states have allocated onetime

Table 1: Corrections Appropriations (in Millions) for Fiscal Year 2010 and Fiscal Year 2011

State	Fiscal Year 2010		Fiscal Year 2011		% Change in Total Initial Corrections Appropriations from FY2010 to FY2011
	Total Initial Corrections Appropriations	Total ARRA Funds Allocated to Corrections	Total Initial Corrections Appropriations	Total ARRA Funds Allocated to Corrections	
Alabama	$426.7	$119.9	$415.6	$0	- 2.60
Alaska	$257.7	$0	$258.2	$0	+0.19
Arizona	$984	$50	$992.3	$0	+0.84
Arkansas*	$348.7	$0	$348.7	$0	0
Colorado	$741.7	$89	$733.2	$0.02	-1.15
Connecticut	$709.6	$1.4	$655.1	$1	-7.67
Delaware	$255.3	$1.1	$248.5	$0	-2.66
Florida	$2,438.7	$5	$2,393.2	$1.7	-1.87
Georgia	$1,096.4	$97.2	$1,102.1	$84.9	+0.52
Idaho	$171.6	$0.1	$166.7	$2	-2.89
Illinois	$1,304.8	$20	$1,233.4	$5	-5.47
Iowa	$370.6	$14	$347.4	$0	-6.26
Kansas	$272.2	$43.1	$277.3	$44	+1.87
Kentucky	$476.2	$75.4	$469.1	$16.2	-1.48
Louisiana	$660.6	$0	$687.9	$0	+4.13
Maine	$165.5	$0.2	$165.6	$0.02	+0.06
Maryland	$1,274.5	$54.3	$1,241.7	$53.2	-2.57
Massachusetts	$515.2	$0	$502	$0	-2.56
Michigan	$1,930.2	$0	$2,007.5	$0	+4.00
Minnesota	$487.2	$38	$486.8	$0	-0.09
Mississippi	$342	$4	$332	$0	-2.94
Missouri	$664.8	$1	$660	$0	-0.72
Montana	$174	$1.6	$179.6	$2.1	+3.22
Nebraska	$180.7	$35	$184.4	$17	+2.07
Nevada	$297.3	$72.2	$300	$0	+0.91
New Mexico	$294.6	$0.2	$296.3	$0	+0.57
New York	$2,783.9	$0	$2,697.4	$0	-9.51
North Carolina	$1,508.4	$16.4	$1,490.2	$3.6	-1.21
North Dakota*	$79.6	$0.3	$79.6	$0.3	0
Ohio	$1,779.2	$110	$1,765.2	$214.5	-0.79
Oklahoma	$551.8	$0.6	$521.2	$0.6	-5.53
Oregon	$687.9	$50.9	$716	$52.9	+4.08
Pennsylvania	$1,592.9	$172.9	$1,661.8	$172.9	+4.49
Rhode Island	$188.9	$0	$195.4	$0.7	+3.44
South Carolina	$330	$22	$343.2	$40.4	-2.5
South Dakota	$106.2	$8.8	$107	$8.3	+0.72
Tennessee	$685.7	$46.9	$678.7	$0	-1.02
Texas	$3,113.5	$1.2	$3,112.9	$0	-0.02
Vermont	$138.3	$0	$144.2	$0	+4.27
Virginia	$1,020.9	$0	$1,007.7	$0	-1.30
Washington	$900.2	$182.4	$880.9	$0	-2.15
West Virginia	$163.6	$0	$179.2	$11.6	+9.58
Wisconsin	$1,279.5	$11.8	$1,305.3	$0	+2.02
Wyoming**	$121.9	$0	$148	$0	+21.40
Totals	**$34,337**	**$1,346.9**	**$33,976.8**	**$732.9**	**-1.05**

Note: Figures do not include funds for capital projects (such as facility construction). Corrections budgets are given for informational purposes only. Some budgets include appropriations for probation, parole, and/or juvenile corrections, though others include only appropriations for adult corrections. Numbers in the Totals row are based on actual figures, though numbers listed for state appropriations have been rounded.

Source: Vera Institute of Justice, Center on Sentencing and Corrections *Fiscal Year 2011 Corrections Appropriations Survey*.

*Arkansas and North Dakota operate on a biennial budget cycle and did not experience cuts or increases to their planned allocations.

**According to budget officers at the Wyoming Department of Corrections, the significant increase that Wyoming reported for fiscal year 2011 is attributed to the opening of a new facility in January 2010. The additional funds allocated for fiscal year 2011 are for the associated operational costs of that facility.

or start-up funding for projects and programs that are expected to contribute to cost savings in the future. The Connecticut Department of Correction, for example, used stimulus funds to collaborate with the Board of Pardons and Paroles and the Judicial Branch to institute and expand the use of videoconferencing for court and parole hearings and probation interviews. This will contribute to future savings by reducing the cost of transportation while expediting the case review process and increasing security.

State Responses: Seeking Operational Efficiencies

With most states still facing a serious budget crisis in fiscal year 2011, corrections departments again crafted budgets with a goal of saving costs, using many of the same operational tactics they used in fiscal year 2010.[16] These ongoing strategies include reducing personnel costs, downsizing or eliminating programs, and closing facilities. States are also turning toward other administrative efficiencies as a means of cutting costs, including changes in food services, implementing new technology, and exploring strategies to save on energy costs (see Table 2).

PERSONNEL SAVINGS

Of the 44 states that responded to Vera's survey, 36 reported some type of personnel cuts, such as reducing staff salaries, benefits, or overtime; reducing the number of full-time equivalent positions; and/or instituting hiring freezes. Six states cited reducing or managing overtime as a cost-saving measure. Although some simply instituted a policy of reduced overtime, other states, such as Illinois, are trying to reduce overtime by hiring additional correctional officers but at lower salaries. At least 32 states have reduced the number of full-time equivalent positions and/or instituted hiring freezes. In making staff reductions, several agencies, including the Texas Department of Criminal Justice and the New Mexico Corrections Department, are excluding correctional and parole officers from any hiring freezes so that they do not risk compromising safety. Similarly, Arizona excluded correctional officers from performance pay elimination and a required unpaid furlough day.

DOWNSIZING PROGRAMS

Similar to the fiscal year 2010 findings, 22 states surveyed have eliminated or reduced programs for fiscal year 2011.[17] Although many states, like Arizona, Wisconsin, and New Mexico, are trying to maintain their programs by lowering costs and renegotiating contracts, other states have suspended or eliminated programs entirely. In Colorado, a 100-bed military-style boot camp for

Table 2: Cost-Saving Measures Adopted Through Fiscal Year 2011

State*	Decreasing Health Services (Medical, Mental Health, or Dental)	Reducing Food Services	Eliminating Pay Increases, Using Furloughs, Reducing Benefits, or Decreasing Overtime Pay	Implementing Staff Reductions or Hiring Freezes	Eliminating/ Reducing Programs or Discontinuing/ Renegotiating Program Contracts	Closing Facilities or Reducing Number of Beds	Delaying Expansion or Construction of New Facilities	Utilizing Private Prisons
Alabama		•	•	•			•	•
Alaska	•							
Arizona	•	•	•	•	•	•		•
Arkansas				•			•	
Colorado			•		•			
Connecticut			•	•	•	•		
Delaware		•		•	•	•		
Florida				•	•			•
Georgia				•	•	•		•
Idaho		•	•	•		•	•	
Illinois			•		•			
Iowa	•	•	•	•	•			
Kansas	•			•	•			
Kentucky			•	•	•	•	•	•
Louisiana	•	•	•	•	•	•		
Maine	•	•	•	•	•	•		
Maryland			•	•				
Minnesota				•	•			
Mississippi			•	•	•	•		
Missouri			•	•	•			
Montana				•	•	•	•	
Nebraska			•	•				
Nevada			•	•		•	•	
New Mexico	•	•	•	•	•	•	•	•
Ohio		•	•	•	•			
Oklahoma			•	•	•	•	•	
Oregon			•	•			•	
Rhode Island		•	•	•		•		
South Carolina			•					
South Dakota			•	•				
Tennessee		•		•	•			
Texas			•	•				
Virginia			•	•			•	
Washington		•	•	•	•	•		
West Virginia		•	•					
Wisconsin			•	•				
Wyoming	•			•	•			
Totals	**8**	**13**	**27**	**32**	**22**	**15**	**10**	**6**

Source: Vera Institute of Justice, Center on Sentencing and Corrections *Fiscal Year 2011 Corrections Appropriations Survey*.

Note: Vera's survey asked about cost-saving measures adopted in fiscal year 2011. Most responses specified such measures, though some states' responses described measures adopted before fiscal year 2011. If states marked any of the categories in this table as measures adopted or continued in fiscal year 2011, their responses are shown above.

*North Dakota provided only fiscal information and did not indicate the use of cost-saving measures. Several states were able to report their appropriations figures shortly before this publication went to press and were not asked to report any specific cost-savings measures, including Massachusetts, Michigan, New York, North Carolina, Pennsylvania, and Vermont.

EXPANDING PROGRAMS INTENDED TO CUT RECIDIVISM

Providing evidence-based educational, job-training, and treatment programs for individuals who are incarcerated or under community supervision is critical to reducing recidivism and improving public safety. Many states know that cutting effective programs does not serve their purposes in the long term because such programs help people succeed on supervision. Nine states reported expanding programs and projects. In Montana, a women's community corrections facility added a kitchen to provide culinary arts training, while the Montana Women's Prison partnered with a local university to provide additional job-skills training classes. Similarly, the Tennessee Prison for Women is adding a college program that will provide scholarships for as many as 30 prisoners annually to earn an associate's degree while incarcerated.

Several states reported expanding substance use treatment, mental health services, and other alternatives to incarceration. Kentucky has increased treatment capacity in more cost-effective, community-based facilities, and Tennessee has added 200 beds for substance use treatment. The Colorado State Penitentiary is expanding its mental health services, and Arizona will increase its transition program, allowing twice the number of nonviolent felons (about 1,000 additional people) to be released up to three months earlier and providing more structure upon release.

young nonviolent offenders in Buena Vista was closed—eliminating 33 full-time positions and leading to a projected $900,000 savings.[18]

CLOSING FACILITIES

Fifteen states of the 44 surveyed reported plans to close facilities or reduce their number of beds in fiscal year 2011, many as a result of a decreasing prison population. Six of these states have already closed facilities or parts of them. Delaware closed part of one facility by moving prisoners to a more staff-efficient housing unit; this has cut costs by eliminating 10 full-time positions. Rhode Island—which made several policy changes in 2008 designed to keep its inmate population from growing—has been able to shut some housing units, thereby decreasing staff overtime. Entire facilities have been shuttered in Georgia, Louisiana, and Connecticut. In Georgia, the 700-bed Bostick State Prison was closed; the state expects to save $6.7 million annually. In Louisiana, the Steve Hoyle Rehabilitation Center was closed, reception centers were consolidated, and the number of beds reduced at the Forcht-Wade Correctional Center.

The New York Department of Correctional Services plans to close three facilities and part of a fourth by April 2011. These closures are possible because of significant reductions in the state's inmate population: it declined by 8 percent from the beginning of 2007 to the end of 2009 and is projected to decline by another 1,000 individuals during the 2011 fiscal year. The state expects operational cost savings from these closures to total $3 million for the 2011 fiscal year and approximately $46 million for fiscal year 2012.[19]

For fiscal year 2011 some states are cutting back on their use of private prisons. Privately contracted facilities may or may not result in cost savings and as such are the subject of debate. It also appears that as prison populations decline in several states, the factors that may make private facilities appealing as a solution to overcrowding are less relevant. (The private-prison

industry maintains that its facilities give states the flexibility of short-term contracts and can make beds available faster.[20]) Kentucky reduced the number of privately contracted facilities from three to two. The number of beds increased at one of those prisons, resulting in a net loss of fewer than 50 beds. Arizona is eliminating more than 5,800 out-of-state beds administered by private contractors and adding 2,000 new private in-state beds and 4,000 state-operated beds.

Despite the more prominent trend of decreasing prison capacity, some states have opened new facilities and increased the number of prison beds. Colorado and Tennessee have added new facilities, replacing outdated and inefficient ones and in some cases increasing capacity. In Maryland, several new housing units have opened during the past few years without increasing capacity but allowing the state to close outdated facilities. A new facility opened in Colorado on September 1, 2010, providing additional administrative-maximum security beds.[21]

FOOD-SERVICE CHANGES

Thirteen of the surveyed states reported reducing food services as a cost-saving measure in fiscal year 2011. Arizona reported savings in food-service delivery by cutting staffing costs, while New Mexico reduced the number of calories served from 3,400 to 3,000.[22] Ohio started serving brunch in lieu of breakfast and lunch on weekends and holidays. State officials said that this practice does not reduce the type or amount of food, but cuts costs through payroll savings. However, a report from Ohio suggests that dissatisfaction with the new meal policy could be contributing to the increase in cell robberies at one facility since the change.[23]

Wisconsin and Minnesota have collaborated to reduce the cost of food services in both states. Wisconsin has followed Minnesota's menu standardization policy, and the two states use the same vendor, allowing them to leverage their purchasing power.[24] One example of this project is that Wisconsin now offers "Taco Tuesdays," which resulted in a cost decrease of 10 cents per meal, with an annual expected savings of $2 million.[25] Another is that the Minnesota Department of Corrections now buys milk from a Wisconsin prison dairy at an estimated savings of $125,000 annually.[26]

INNOVATION: NEW TECHNOLOGY AND ENERGY EFFICIENCY

Louisiana has invested in several types of technology expected to save an estimated $6.2 million annually.[27] In four state prisons, security officers in towers are being replaced with video surveillance systems and other measures.[28] Like Arkansas and Mississippi, Louisiana is also installing "shaker" fences with pressure-activated alarms as an additional safety measure.[29]

REENTRY INITIATIVES TO HELP REDUCE RECIDIVISM

Many states are focusing on reentry initiatives in fiscal year 2011, with the goal of reducing the rate of re-incarceration among people who leave prison. Eleven states surveyed plan to adopt or expand reentry programs and will use existing funds or additional grants to support them. Delaware Governor Jack A. Markell has instituted a statewide initiative to reduce recidivism by creating a partnership among state agencies and community organizations to create individual reentry plans. This program combines input from the departments of corrections, health and social services, education, labor, and housing into an Individual Assessment Discharge and Planning Team (I-ADAPT) to coordinate reentry plans based on each person's circumstances.[31] In Texas and Kentucky, reentry coordinators have been hired to help prisoners plan their transition by gathering critical identification documents, identifying residential and employment services, and addressing other needs that may help them successfully return to the community.

To reduce the nearly $10 million spent annually on transporting individuals to and from court, Louisiana is introducing the use of video conferencing in parishes with the most frequent requests for appearances: to date, this system has been implemented in Orleans, East Baton Rouge, and Lafayette Parishes.[30]

Louisiana, West Virginia, and Maine have developed energy and fuel conservation initiatives. Louisiana is investing in energy-efficient equipment. West Virginia is installing natural gas lines in one of its largest rural facilities and has removed inefficient energy devices from several others. The Maine Department of Corrections is using wood-pellet boilers, wind power, and solar technology. Although the impact of these energy initiatives is difficult to track over a short period, these states expect significant cost savings in the coming years.

Reconsidering Criminal Justice Policy

As the economic crisis continues, many states are using the occasion of new fiscal imperatives to take a fresh look at the way they punish criminals. Such moves are prompted not only by overwhelming budget deficits, but by persuasive research about addiction and rehabilitative programs—and for some states, a declining prison population.[32] Most commonly, states have revised their criminal codes to downgrade certain offenses or reclassify specific crimes, such as raising the threshold dollar amounts for property crimes or reducing penalties associated with certain types of drug possession.[33] For instance, Colorado passed legislation (HB1352, 2010) that reduced some crime categories for drug possession and use to misdemeanors or lesser felonies. This change will cut sentences by half or more, leading to a projected annual savings of $1.5 million, most of which will be reappropriated for offender substance use treatment.[34]

Moreover, states are increasingly using legislative approaches to reduce their prison populations, improve outcomes, and balance their budgets. These measures are intended to prevent or reduce prison sentences at the sentencing stage or expand release opportunities for those who are already incarcerated. Most of these recently enacted provisions apply only to nonviolent offenders and not to violent or sex offenders. (Unless otherwise stated, when this report refers to a provision that applies only to nonviolent offenders, it does not apply to sex offenders.) Many of the initiatives described below are supported by research and evidence suggesting that mandatory supervision and other prison alternatives are more effective and cost efficient for many lower-risk, nonviolent offenders.[35] The laws enacted in recent years often provide more discretion to sentencing judges to use alternatives to prison for appropriate

offenders and encourage a more focused use of lengthy, expensive prison terms for serious, chronic, and violent offenders.

This section presents a summary of notable trends in state sentencing policy during the 2009 and 2010 state legislative sessions.

REDUCING PRISON TERMS FOR NONVIOLENT OFFENDERS

Many recent legislative reforms aim to divert nonviolent offenders from prison and provide greater opportunities for treatment and services. The changes also target certain populations, such as technical parole or probation violators, and limit the term for which they may be sent back to prison.

TECHNICAL VIOLATORS: A significant portion of national prison admissions every year are not for the commission of new crimes, but for technical violations of parole or probation. (A technical violation is a violation of the rules governing an offender's supervision that can lead to revocation of parole or probation and to re-incarceration.) These numbers vary from state to state, but recent estimates suggest that at least one-third of all new prison admissions are for violations of community supervision; perhaps more than one-third of those are purely for technical violations, such as failure to report to a parole or probation appointment or failing a drug test.[36] In some states, such as California, these percentages are even higher. In 2008, nearly 55 percent of the state's prison admissions were the result of parole revocations, 43 percent of which were for technical parole violations.[37]

In an effort to conserve resources and reduce their prison population, many states have curtailed the use of prison as a response to probationers or parolees who violate the conditions of their supervision. Specifically, states are limiting the use of prison sanctions. Alabama now limits the sentence for eligible nonviolent technical violators of probation to 90 days incarceration (SB 325, 2010). The law is retroactive and permits eligible nonviolent offenders serving a revocation sentence for a technical violation to petition the court for resentencing.

For technical violations of parole, Kentucky gave its parole officers the discretion to confine a person in county jail for up to 10 days and no more than 30 days total within a 365-day period. This intermediate sanction applies only to those who sign a statement admitting to the violation (HB 1, 2010 [Special Session]). Colorado legislators voted to allow community punishment rather than incarceration for technical violators of parole who are low-level, nonviolent offenders with no pending felony warrants or charges (HB 1360, 2010). For probation violators in Iowa, the courts now have the option of revoking probation and sending people to prison or extending the period of probation for up to one year, including one year beyond the statutory maximum period of probation (HB 2377, 2010).

ALTERNATIVES TO INCARCERATION: Some state legislatures have explicitly stated their preference for alternatives to prison and non-prison sentences for certain nonviolent offenders. For example, Vermont made clear that a sentence of probation is to be standard for misdemeanors and nonviolent felonies (SB 292, 2009). Although judges may deviate from this standard, the legislature stated that the decision to do so should be used judiciously and sparingly. In a similar move, Florida eliminated prison sentences for certain third-degree felonies that do not involve the use or threat of violence, as long as the court finds that a non-prison sanction would not pose a danger to the public (SB 1722, 2009).

Many states have recognized that providing treatment and services in the community is a better use of resources than incarceration for certain offenders.

Many states have expanded or created alternative sentencing programs. The alternatives vary in structure, ranging from home confinement to formal diversion programs for specialized populations, such as drug offenders and offenders who are parents.

Four states have expanded the availability of home incarceration. The Louisiana legislature authorized courts to sentence offenders to a period of home confinement instead of, or in addition to, time in prison, provided a court hearing finds that home confinement will best serve the interests of justice. The state also increased the length of time a felony offender can be sentenced to house arrest from two to four years (HB 225, 2009). Vermont also gave its courts authority to sentence certain offenders to home confinement for up to 180 days instead of prison (SB 292, 2009).

Many states have recognized that providing treatment and services in the community is a better use of resources than incarceration for certain offenders. Florida appropriated funds for a statewide alternative sentencing program to divert nonviolent offenders to a variety of recidivism-reduction services, including employment assistance and counseling (HB 5001, 2010). The program will be instituted only in communities where the courts and the Florida Department of Corrections agree to collaborate with community stakeholders to implement evidence-based practices in programming and develop a system of graduated incentives. Vermont codified a system of community reparative boards to determine alternative sentences for offenders who plead guilty to a nonviolent felony or misdemeanor. The legislation also expanded eligibility for the adult court diversion program to include second-time misdemeanants and not just first-time offenders (HB 792, 2009).

Some states have created sentencing alternatives that target specific populations. South Carolina authorized a diversion sentence for certain drug offenses (SB 1154, 2010). Washington developed the Family and Offender Sentencing Alternative for some nonviolent offenders who have not committed sex offenses and who have custody of children under the age of 18; the program incorporates parenting classes, substance use and mental health treatment, and life skills classes (SB 6639, 2009).

RELAXING MANDATORY SENTENCES: Recent repeals and amendments of mandatory sentencing laws represent a significant shift in the sentencing framework. Such reforms are often driven by concerns about equity and fairness, but they are also expected to result in cost savings. On the federal level, the congressional repeal in June 2010 of a five-year mandatory minimum for first-time simple possession of crack cocaine—a change made with bipartisan support—is expected to save the federal prison system approximately $42 million over the next five years.[38]

Many states have also moved toward relaxing mandatory sentences. In 2009, New York passed landmark legislation to undo its Rockefeller Drug Laws, eliminating mandatory minimums and reinstating judicial discretion in low-level drug cases (SB 56-B, 2009). This series of reforms reduced certain minimum penalties and eliminated prison sentences for specific low-level categories of offenses, resulting in retroactive resentencing for approximately 1,500 inmates. New Jersey amended a law that had required judges to sentence drug offenders to a mandatory minimum for distributing or possessing with intent to distribute a controlled substance within 1,000 feet of a school (SB 1866, 2009). With the change, the courts now have the discretion to apply the mandatory minimum or place the offender on probation, provided that the offender did not commit the crime while on school premises, use or threaten violence, or possess a firearm. For low-level drug cases, Minnesota afforded judges the discretion to deviate from mandatory-minimum sentences upon motion by the prosecutor, and Rhode Island removed certain mandatory minimums (SB 802, 2009; SB 39, 2009, respectively). Delaware amended its mandatory sentencing policies by allowing the court to alter sentences of one year or less for individuals who have such a serious medical need that they need continuous treatment and do not pose a substantial risk to the community (HB 338, 2009).

EXPANDING RELEASE OPPORTUNITIES

Twenty of the states examined have reconsidered how and when people are released from prison, with more than half of these states instituting or expanding "good time" credit policies and the others expanding parole eligibility requirements.

USE OF CREDITS: One of the most effective ways to shrink prison populations is to broaden the use of credit systems that allow eligible inmates to reduce their total sentence. Individuals earn such credit by demonstrating good behavior, participating in certain educational opportunities, or completing specified treatment programs.

Three states have revamped their use of educational credits, and seven have made changes to their good-time compliance credits. Oregon and Mississippi expanded eligibility for education-based credit to offenders who were not

INVESTMENT IN PROBLEM-SOLVING COURTS

Despite unprecedented budget crises, many states are using their limited resources to create problem-solving courts. This demonstrates that states are willing to invest in innovative programs expected to save them money in the long run. Indiana (HB 1271, 2010) approved a statewide framework of problem-solving court models, aiming to establish and certify drug court, mental health court, family dependency drug court, community court, reentry court, domestic violence court, and veterans court.[39] Pennsylvania passed similar legislation, which created a framework for drug courts, mental health courts, and "driving under the influence courts" (SB 383, 2009).

Research suggests that drug courts can reduce criminal recidivism: recent studies show that drug courts reduce crime rates by an average of 8 to 26 percent, with the best drug courts reducing crime by as much as 35 to 40 percent.[40] Drug courts are also cost effective: a recent study concluded that drug courts produce an average of $2.21 in direct benefits for every dollar invested.[41] To that end, Alabama has authorized judges to establish drug courts for nonviolent offenders who are not charged with sex offenses or distribution, manufacturing, or trafficking of controlled substances. The court may now withhold charges or order probation, a suspended sentence, or a reduced period of incarceration upon successful completion of the drug court program (HB 348, 2010).

Veterans courts are quickly emerging as a hybrid model of drug and mental health courts, an approach that has particular import given that nearly one in five veterans who have served in Iraq or Afghanistan report symptoms of either posttraumatic stress disorder or major depression, and one in four ages 18 to 25 meet the criteria for substance abuse.[42] Illinois legislators created a judicial intervention process for veterans, passing the Veterans and Service members Court Treatment Act (HB 5214, 2009). Using federal funding, Colorado also authorized a treatment court for veterans and active military personnel (HB 1104, 2010).

convicted of specified high-level offenses (respectively, SB 1007, 2010; HB 1136, 2010). Louisiana passed a measure making its good-time credits retroactive to 1992, excluding violent and sex offenders (SB 312, 2010), and Colorado increased the number of good-time days a nonviolent, program-compliant inmate may earn per month from 10 to 12 days (HB 1351, 2009).

RESTRUCTURING CONDITIONS OF RELEASE: Some states have restructured their corrections procedures so that specified categories of offenders are eligible for conditional early release, either through early discharge, home confinement discharge, or release to community supervision or a work-release program.

Indiana amended a statute to require the Department of Correction to identify inmates who have served 21 years and earned four years of credit time to refer them to the parole board for rehabilitative release (SB 415, 2010). Kansas created an early-release policy for terminally ill inmates who meet certain criteria, such as functional incapacitation and posing no significant threat to the community (HB 2412, 2009). Kentucky now allows nonviolent offenders convicted of low-level felonies (excluding sex offenses) with 180 days left of their prison term to be released to home incarceration and requires them to participate in discharge planning to address issues such as education, employment, and housing (HB 564, 2010).

As part of the South Carolina Omnibus Crime Reduction and Sentencing Reform Act, the state now requires that nonviolent offenders who have been incarcerated for at least two years be released to mandatory supervision 180 days before their prison release date (SB 1154, 2010). The new law also makes

certain offenders (including nonviolent and some violent offenders, but not sex offenders) eligible for parole or work release within three years of their release date, including certain drug offenders who were not previously eligible. In New Hampshire, offenders who have not been previously paroled are now automatically released nine months prior to their maximum sentence (SB 500, 2010).

Other states have sought to reduce their prison populations by expanding eligibility for parole. Louisiana lowered the requirements for parole, now requiring a majority vote by parole board members rather than unanimity (HB 195, 2010). West Virginia instituted an accelerated parole program that makes certain inmates eligible for early release through parole if they have completed an individualized rehabilitative treatment program (SB 218, 2010). The bill also extended annual parole review to those who are eligible and serving life sentences. Vermont has opted to vastly expand its furlough program, instructing the Department of Corrections to release all nonviolent inmates and put them on furlough if they have served their minimum sentence and have satisfied rehabilitative programming obligations (SB 292, 2009). Inmates are now also eligible for this type of release 180 days—double the previous amount—before the end of a minimum sentence, as long as those serving less than one year have served at least half their minimum sentence (HB 792, 2009).

Future Outlook for Corrections

The fiscal crisis is far from over: 39 states have already projected gaps that total $102 billion for fiscal year 2012.[43] In all areas, including corrections, taxpayers will continue to demand the highest possible return on their investment whenever public money is spent. For corrections agencies, this means operating facilities in the most efficient ways possible and reducing costs by identifying offenders who can be safely supervised in the community at less cost than in a prison cell. The fiscal crisis will continue to prompt states and the federal government to reexamine their policies and practices. Through efforts to reduce spending, policy makers are learning about less punitive, more effective ways to treat individuals who commit crimes, especially nonviolent crimes. By looking for evidence of what works and striving to be "smart on crime," policy makers may be defining a new framework for sentencing and corrections that can make substantial differences during economic hardship and prevail even in prosperous times.

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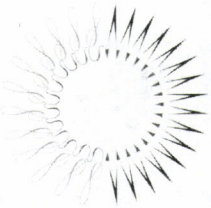

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