

# What is Justice Reinvestment? A Review of Policies and Practices

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## Abstract

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Justice reinvestment is a correctional approach to criminal justice, hinging on reducing prison populations while diverting prison-based funding into community programs (Tucker & Cadora, 2003). Justice reinvestment policies were first piloted in 2006 and have since led to federal legislation in the United States (Criminal Justice Reinvestment Act, 2010) and subsequent reauthorizations in 2015 and 2019. Since the passing of the initial legislation, Justice Reinvestment Initiative (JRI) programs have risen to nationwide popularity in the United States, with more than 30 states pursuing reinvestment-related policies. The following paper offers a critical review of the growing popularity of justice reinvestment in the United States to include the most common policies associated with the Justice Reinvestment Initiative and barriers to implementing the JRI approach. State policies and associated grant-based funding strategies are discussed, with recommendations offered for sustaining JRI policies. The current study also reviews other international approaches to justice reinvestment to highlight the widespread use of justice reinvestment.

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## Keywords

Justice Reinvestment, Community Corrections, Intermediate Sanctions, Prisons

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## INTRODUCTION

Justice reinvestment began as a criminal justice reform effort to address growing prison populations throughout the United States. Because of the increased use of prisons or jails and corresponding budget increases, calls for change garnered more attention (Austin & Coventry, 2001; Carroll, 2004; Malcolm, 2014; Tucker & Cadora, 2003), shifting the focus of criminal justice towards rehabilitation. With the passing of federal legislation and the corresponding grant funding, a standard definition has risen: a data-driven approach to improve public safety, examine corrections and related criminal justice spending, manage and allocate criminal justice populations more cost-effectively, reinvest savings in strategies that can hold offenders accountable, decrease crime, and strengthen neighborhoods (BJS, 2019a; Clements et al., 2011; Monteiro & Frost, 2015; Wong, 2016). Justice reinvestment was argued to be a solution to these problems (Tucker & Cadora, 2003). The premise of justice reinvestment stems from the investment in the community and community-oriented programs rather than investing in jails or prisons. Using this ideology, justice reinvestment was believed to improve criminal justice practices and programs to reduce overall prison populations and the associated excessive spending. Specifically, high-risk neighborhoods and areas with a greater concentration of crime became the focus of the initial concept to focus more efforts on diversionary programs and reduce formal adjudication.

Tucker & Cadora (2003) introduced justice reinvestment when the criminal justice system was feeling the effects of the previous decade's mass incarceration policies. Justice reinvestment was met with speculation but gained mainstream notoriety piquing both practitioners' and stakeholders' interests within the criminal justice system. The primary objective of the concept was to redirect funding allocated for general criminal justice uses, i.e., prison reconstruction and repairs, and use the budget to increase resources within communities. The original concept was intended to shift funds from traditional spending in the criminal justice system to high-risk or high-crime areas. Placing the focus on localized investments in the community and infrastructure was

believed to reduce the prison populations and corrections-based spending by providing community members more resources.

The justice reinvestment approach came at a pivotal time as both prison populations and criminal justice spending experienced significant increases throughout the country. The total prison population rose from 750,000 in 1985 to 1.7 million in 1997 (Austin & Coventry, 2001). The reliance on prisons continued into the 21st century, with an increase to 2.2 million individuals falling into the category of correctional control, with similar numbers for community supervision growing to a total of 4.5 million (BJS, 2019a). The growing use of corrections was also detailed through federal justice reinvestment legislation presented in 2009 and subsequently passed the following year (*Criminal Justice Reinvestment Act*, 2009). Among the growing concerns for the growth of the carceral state throughout the country were not only the population sizes but also the expenditures associated with the increased use of jails and prisons. The federal legislation argues that corrections-based spending rose from \$12.6 million in 1988 to over \$52 million in 2008, while incarceration rates also rose to a rate of 1 out of 100 Americans serving time in jails and prisons. Further illustrating the power of the carceral state, the legislation further defines the growing number of individuals experiencing some form of community-based supervision at approximately five million, equating to a rate of 1 out of 45 Americans. These numbers were used as a pivot point to thrust the need for justice reinvestment into the political arena and garner more calls for action.

Since the introduction of justice reinvestment in 2003, justice reinvestment became a leading approach to reducing prison populations and further incentivized legislatures through a federal initiative granting funding outlined by the federal legislation. The following paper offers a critical insight into the policies associated with justice reinvestment funding and the varying methods that states use to meet the JRI grant-based guidelines. There is a limited but growing base of literature related to justice reinvestment and the associated use of JRI funding. This paper furthers the discussion around JRI by presenting the origination and growth in popularity of justice reinvestment with a review of policies associated with justice reinvestment funding.

## LITERATURE REVIEW

### **Development of Justice Reinvestment**

Justice reinvestment is often described as using evidence-based practices to serve the public interest. When first introduced, Tucker & Cadora (2003) placed emphasis on reducing prison populations while maintaining aspects of public safety. The concept has since become a malleable policy that can be suited for the needs of the county, state, or jurisdiction that is seeking the use of justice reinvestment funding. Some scholars have argued that the current approach has missed the intended mark of the original intent (Austin et al., 2014). However, with the passing of federal legislation and the corresponding grant funding, a common definition has risen: a data-driven approach to improve public safety, examine corrections and related criminal justice spending, manage and allocate criminal justice populations in a more cost-effective manner, reinvest savings in strategies that can hold offenders accountable, decrease crime, and strengthen neighborhoods (BJS, 2019a; Clements et al., 2011; Monteiro & Frost, 2015; Wong, 2016).

Focusing on the criminogenic effects of specific communities, the reinvestment concept would take the stance of other place-based theories in arguing that certain neighborhoods were producing higher levels of criminal activity. Following the Broken Windows (Wilson & Kelling, 1982) and hot-spots policing (Sherman & Weisburd, 1995) models, justice reinvestment was situated at the crossroads of political discourse by offering the possibility of reduced correctional spending while also decreasing the overall number of those incarcerated throughout the country. Seemingly a tall task but greeted with zest and vigor by many stakeholders in both the criminal justice and public sectors. These “million-dollar blocks” (Story, 2016: Tucker & Cadora, 2003) served as the catalyst for a new way of approaching the carceral state and carving a path forward that could meet the goals of the reinvestment concept. With external support from non-profits, agencies, and various departments, the current justice reinvestment model shows continued promise as both correctional populations and spending decrease across the nation (Doob & Webster, 2014; Petersilia & Cullen, 2015). What is often overlooked, though,

are the consequences of shifting the focus from the prisons and jails meant to house offenders to the communities and neighborhoods where these offenders reside. The use of diversionary approaches for offenders is well-documented and has been used in varying capacities for decades (Wodahl & Garland, 2009). The justice reinvestment model takes a slightly different approach by focusing on diverting funds into community-based, diversionary programs by promoting more informal mechanisms of supervision. Specifically, justice reinvestment seeks to incentivize the reduction in harsh sentencing practices and streamlined parole hearings (LaVigne et al., 2013; Murdock, 2016). By reducing mandatory sentencing strategies (e.g., technical parole violations) offenders are granted subsequent opportunities and not immediately returned to prison after minor violations. One example of the complex relationship between justice reinvestment and diversionary approaches is examined by Latessa and colleagues (2009). As documented by Latessa et al. (2009), community corrections facilities in Pennsylvania had minimal impact on recidivism rates. Specifically, the availability of services and interactions with treatment staff were found to be a contributing factor to the diminished return of rehabilitation in the community setting. The JRI program is designed to increase the effectiveness of community-based programs, and in some cases, revise the more restrictive sentencing practices, which have been noted to increase rates of recidivism which can be exacerbated by ineffective community supervision (see Cullen, Jonson, & Mears, 2016). By using both front and back-end approaches to reforming the administration of justice, JRI shifts the emphasis from more punitive sentencing strategies to shorter, rehabilitative-focused punishments.

During the 2000s, the criminal justice system began seeing profound changes in legislation that would later spur expansive laws such as the Obama administration's Fair Sentencing Act (2010), reducing the disparity in sentencing between crack and powder cocaine and the Sentencing Reform and Corrections Act (2019) which focused on reducing mandatory minimum sentences while expanding treatment in federal prisons. More recently, the Trump Administration signed the First Step Act (2018) expanding the previous reforms of the Sentencing Reform and Corrections Act (2017) to include compassionate release and restricts the use of restraints for pregnant inmates while in labor. There has been no shortage of reform efforts presented as criminal justice policy

(Tonry, 2019). From a broad perspective, these examples of legislation place the impetus of reform on the over-reliance of jails and prisons. States have followed suit with various forms of legislation specific to their needs and jurisdictions, but all with the bi-partisan mantra of reform, echoing that of the federal legislation that often informs state policy.

### **Difficulties in Implementing Justice Reinvestment Policy**

Before states embark upon implementing justice reinvestment, a baseline for both spending and correctional populations needs to be identified. During the original pursuit of justice reinvestment, the Council of State Governments (CSG) and Pew Foundation provided technical assistance for states seeking to implement reinvestment policies. Since the passing of the federal legislation, the Bureau of Justice Assistance (BJA), in partnership with the VERA Institute, have taken on collecting and reporting on the effectiveness of justice reinvestment across the country. At the time of this research, 36 states are pursuing the use of justice reinvestment and JRI funding. Taking a closer look at the requirements set forth by the Bureau of Justice Assistance in conjunction with the CSG, there is a great amount of flexibility for states and jurisdictions to pursue their own individually tailored approach to realizing savings under justice reinvestment practices. However, states must garner commitment from legislative leaders and other authorities within the criminal justice system. This level of participation indicates the importance of stakeholders and how much of an influence they have on the effectiveness and implementation of justice reinvestment.

Although justice reinvestment has garnered much attention, particularly as more states implement programs and policies meeting federal funding criteria, states are incentivized to pursue the justice reinvestment grants afforded through the BJS reinvestment program (BJS, 2019a). With the growing popularity of both politicians and varying stakeholders, it is no surprise that justice reinvestment continues to flourish as a sustainable and meaningful approach to prison-based reform (Brown, Schwartz, & Boseley, 2012; Taxman et al., 2014). There are many informational dashboards,<sup>1)</sup> all offering promising results

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<sup>1)</sup> For examples of the functional dashboards see the Vera Institute of Justice, National Council of State Governments, or the Urban Institute webpages under the justice reinvestment projects.

regarding justice reinvestment and the continued use of the JRI funding. Many examples depict the positive outcomes associated with justice reinvestment. Still, even as one of the original authors states, the purpose of diverting funding into the high-risk communities has been lost to political banter and the push for renewed grant funding (Austin et al., 2014). These critiques and criticisms should be more widely discussed to inform the JRI approach better.

## A CLOSER LOOK AT THE ROLE OF JRI

Clear (2011) offered one of the first critiques of justice reinvestment as he noted that an incentive-based initiative may produce more lasting outcomes. Specifically, Clear (2011) shifted the focus from state initiatives to a hot-spots ideology. High-risk communities would be offered incentives for participating at local levels and not state-wide initiatives. Using this ideological basis for criminal justice, individually tailored working groups would need to be further refined to incorporate city-level stakeholders representing the specific community and not just the state-level stakeholders. As Story (2016) argues, the mapping of these hot spots becomes a critical component of realizing justice reinvestment but a facet that has focused solely on racialized areas. Perhaps one of the most challenging aspects of achieving the intended goals and savings of justice reinvestment has been the influence of stakeholder groups and the working groups charged with planning and coordinating the policies. Because of the varying stakeholders and the different possibilities of representation for each state, the justice reinvestment model is treated almost as a one size fits all policy yet is given the flexibility to meet each working group's identified needs.

The use of stakeholders ensures representation when convening for policy implementation or large-scale changes. Still, it may serve to further the divide between the communities in need of reinvestment and the stakeholders who are appropriating the funding. The criminal justice system often relies on politicians and elected officials to act in the best interest of the constituents they represent. Yet, the JRI presents a unique opportunity to meet the data-driven expectation of JRI and use the funding in broad, sweeping policies. Many of

these policies tend to appropriate funding for innovative law enforcement and revised sentencing assessments used in conjunction with sentencing guidelines. In keeping with Clear's (2011) suggestion that stakeholders should be at the local level where the actual programs are designed to make a difference, practitioners and front-line providers should be provided more of a voice when determining the actual needs of the community.

Sabol & Baumann (2020) argue that justice reinvestment and the justice reinvestment initiative created an incentive-heavy push for states to meet the BJS guidelines for eligibility in receiving grant money for corresponding programs. Once the concept became associated with funding through technical assistance provided by external agencies (i.e., BJS, CSG, Urban institute), the general approach then shifted from what was originally intended to reduce prison spending and populations. Instead, it became a means to receive funding to pursue the policies and programs associated with justice reinvestment. The pursuit of the policies through partial implementation and a lack of support from every stakeholder-led some states to fall well short of the intended goals. Yet, the policies and programs continued as the pursuit of the outcome became more important than the path itself. Much of this happened as a result of the legislation authorizing the grant-based programs meeting the BJS criteria. Similarly, the estimated outcomes (both savings and prison populations) were over-stated and led the working groups to continue pursuing these evidence-based programs from the state level (Austin & Coventry, 2014; Clear, 2011; Clements et al., 2011; Sabol & Baumann, 2020). A common theme found in the critical literature is that local-level stakeholders have been overlooked but face the brunt of the success or failure of the policies and programs (see LaVigne et al., 2013). Another aspect presented by Sabol & Baumann (2020) is that although justice reinvestment has shown some problematic returns in investment, the prevailing fact remains that states are continuing to follow federal funding through technical assistance initiatives. Thus, the justice reinvestment initiative has been incredibly successful at enrolling and recruiting states to participate in the data-driven approach.



## Tracking the Funding

According to the BJS guidelines, states pursuing grant funding need to demonstrate the use of evidence-based practices that are centered on data-driven approaches (BJS, 2019b). In the fiscal year 2018, the BJS notes that as many as 36 states are using funding based on technical assistance related to JRI, with a total of \$5.5 million awarded towards the use of these programs (BJS, 2019c). Washington and Maine received the highest amounts of grant funding (\$464,852 and \$426,101 respectively), while New York and Indiana (\$33,276 and \$21,848 respectively) received the lowest. Most states fall in the \$100,000-\$200,000 range for funding, even while prison rates decline from the 1990s and early 2000s. According to BJS records beginning in 2010, when the federal legislation incentivized justice reinvestment, forty-eight states (including Alaska and Hawaii) have applied for and received grant funding to pursue JRI policies. Twenty of those states receive funding each year. Table 1 presents the annual BJS allotment for grant awards by the highest awarded ten states beginning in 2010 when funding was first made available. The states are listed in alphabetical order and further listed by grant award year, with the highest awarded states provided in table 1. Washington was the highest awarded state during JRI funding, with a total of \$1.47 million over nine reported years. The next highest awarded state was Michigan (\$1.28 million) followed by Kentucky (\$1.23 million), and finally Iowa (\$1.06 million), all equaling over \$1 million dollars in total funding. The remaining six states all received well over \$700,000 in total funding, with Missouri (\$793,703) having the lowest average during the time frame.

Table 1. BJS State Grant Awards

Fiscal Year	District of Columbia	Illinois	Iowa	Kentucky	Maryland	Michigan	Missouri	Oregon	Pennsylvania	Washington
2018	150,000	177,035	187,924	228,434	212,927	224,043	66,000	208,069	224,960	464,852
2017	150,000	114,334	152,146	209,738	63,348	208,221	156,298	222,940	209,967	116,339
2016	149,375	101,394	181,040	188,709	206,437	209,966	97,729	61,517	119,080	149,317
2015	60,000	58,676	163,205	189,959	56,444	209,549	210,951	59,900	100,995	184,334
2014	60,000	58,848	83,808	189,140	59,940	208,818	51,412	59,742	59,984	298,131
2013	60,000	78,159	74,935	60,000	73,365	58,246	44,367	56,624	79,288	64,960
2012	60,000	76,978	75,000	60,000	83,097	59,815	59,861	60,277	70,000	57,228
2011	60,000	72,646	75,000	60,000	71,982	59,066	59,861	72,000	73,000	58,177
2010	50,000	68,208	68,094	50,000	85,195	50,000	47,224	105,115	48,050	85,555
Totals	799,375	806,278	1,061,152	1,235,980	912,735	1,287,724	793,703	906,184	985,324	1,478,893

*Note.* Numbers are listed in dollar amounts.

Funding for the JRI policies remains a crux for state legislators as they navigate various programs and diversionary alternatives to meet the goals for reapplication in the subsequent years. State legislators and working groups pursue grant-based funding to improve their criminal justice systems with the overarching goal of reducing the reliance on prisons and exorbitant spending. Many of these policies follow what can be considered an evidence-based and data-driven framework, ultimately focusing on reforming the justice system. The programs and policies associated with each state must show a promising return to be considered for future funding, which presents a problematic equation. As working groups present the needs of their respective jurisdictions, the associated grant application must show promising results or the possibility of effective strategies regarding the administration of justice. Thus, programs must be presented as being effective and working towards meaningful reform to be continually funded with BJS awards. This pressure could influence some of the decision-making and policy decisions of both practitioners and administrators working within the justice system. Justice reinvestment working groups often reflect state officials, which presents the opportunity for a top-down scenario where front-line practitioners may be pressured to meet the goals of the JRI programs they are implementing. Similarly, prison populations have been

declining since the early 2000s, when the justice reinvestment concept was first introduced, potentially posing a threat to the efficacy of justice reinvestment-associated policies.

### **Were Prison Populations Already Declining?**

Reviewing the common policies associated with justice reinvestment, common themes emerge with each state. Many of these themes focus on initial entry into the system (e.g., sentencing strategies) and recidivism rates. To further explore the impact of justice reinvestment on the custody levels, court commitments, parole violations, and sentences greater than one year are graphed using national prisoner statistics (Department of Justice, 2020). Custody is defined as total inmates in local jails, prisons, private facilities, and centers (to include halfway houses and hospitals) operated by the state. Court commitments are defined as new court sentences within the past year. Parole violations are defined as sentences within the past year for violations while under supervision. Finally, sentences greater than one year refer to the harshness of punishment and are defined as sentences that require punishment of greater than 1 year or 12 months. All numbers were aggregated for both men and women for graphing purposes to offer a visual aid. The variables show trends prior to the federal legislation and the subsequent years leading up to the reauthorization of justice reinvestment. Figure 1 shows nationwide incarceration trends beginning in 2006 when justice reinvestment was first piloted as a criminal justice policy in Connecticut.

Trends reveal rates of recommitment and custody levels for men were decreasing prior to the federal legislation, which incentivized the use of justice reinvestment. Overall, custody rates decreased from 1,289,485 in 2006 to 1,228,171 in 2015, with 2008 producing the highest level at 1,303,505. Other rates remained relatively stable as both recommitments to court and parole violations presented little change through 2006-2015. However, when graphing the changes for new sentences based on parole violations, data show a decrease beginning in 2009 (45,213) and continuing to the lowest levels in 2015 (25,181). Female offenders showed similar trends as reported custody levels, commitments, and sentences greater than one year decreased from 2006 to 2012. Figure 2 shows that in the years following 2012, trends increased

nationwide, with only rates of parole violations decreasing. These variables are graphed in ascending order, as shown in Figures 1 & 2.

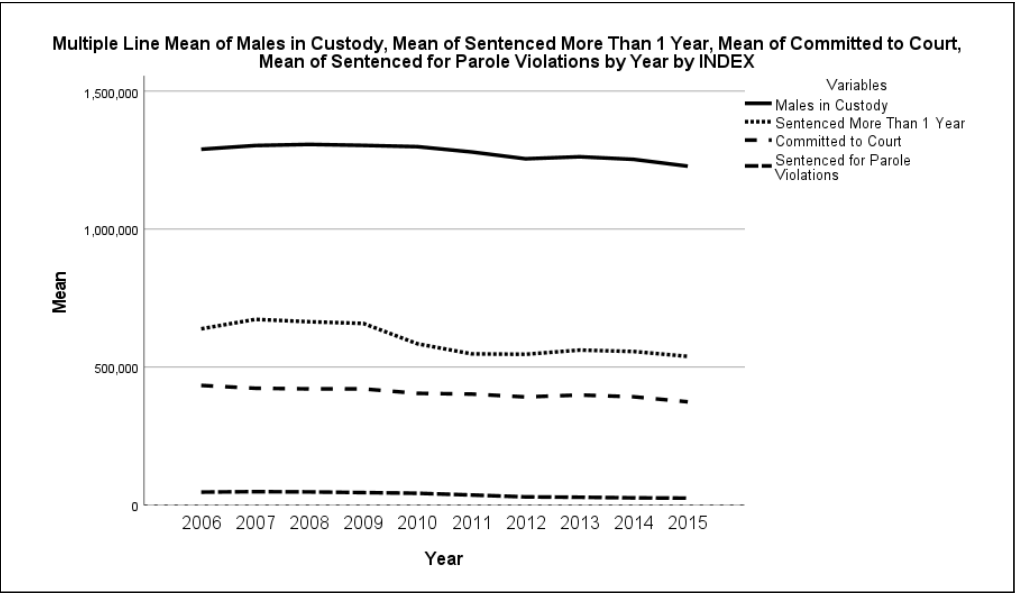


Figure 1. Nationwide rates for male offenders

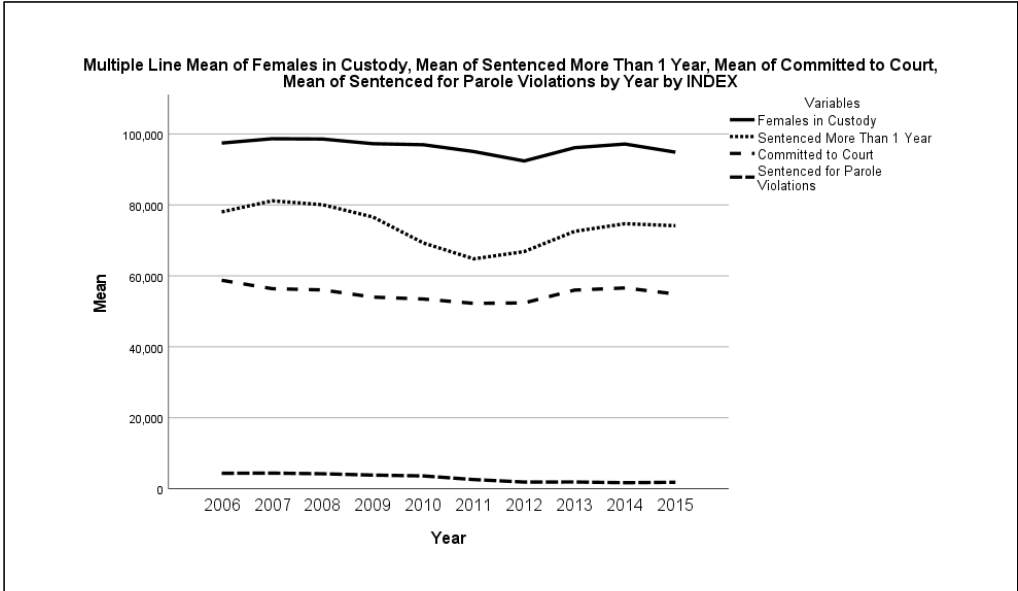


Figure 2. Nationwide rates of female offenders

With the primary focus of justice reinvestment being to reduce prison populations while diverting funding to community-based programs, many argue that justice reinvestment has offered promising results through reduced parole revocation (Fabelo, 2010), re-imagined structured sentencing strategies (Murdock, 2016) and greater availability to correctional-programming (Taxman et al., 2014). As one of the overarching goals being to reduce prison populations, JRI can be touted as a success. However, these trends appear to be decreasing before the federal legislation and incentivized grant funding associated with the initiative. Justice reinvestment may have helped with the declining populations, but it should not be credited as the sole cause for the declining numbers. Although the JRI federal program was helping to increase the efficacy of community-programs, there are multiple explanations that could influence prison populations and crime rates. For example, Murdock (2016) notes the previous attempts in state-based sentencing strategies in the name of reform which were implemented in the 1990s. Similarly, other reform efforts aligned with JRI may have influenced the declining prison populations and reduced correctional spending prior to the federal incentives (Clear, 2011). Many factors influence the effectiveness of JRI as states continue pursuing criminal justice reform. The success of JRI is a complex topic that is not easily understood considering that many states and jurisdictions can pursue varying approaches to evidence-based policy, which makes them eligible for the JRI funding. For some jurisdictions, the focus becomes public-facing dashboards depicting the trends in correctional control and prison populations (Clement, Schwarzfeld, & Thompson, 2011). Using the interactive dashboards provided by external agencies and individual state agencies, JRI shows promising returns for the investment. These dashboards show the current and projected populations, funding diverted from the use of these policies, and other jurisdictional information relevant to the use of JRI as a means of transparency and public awareness. One of the overlooked aspects of these dashboards is that maintaining the statistics and creating public-facing websites is considered eligible for funding under the JRI (BJS, 2019a), potentially influencing the need to show successful outcomes of jurisdictional policies.

Table 2 presents a list of states using what can be considered back-end policies associated with justice reinvestment. Back-end policies are designed to

reduce the volume of violations parolees/probationers face while under supervision. Namely, technical violations and general conditions are often altered to reduce the sentence if an offender does commit a violation. Back-end approaches also include the use of short-minimum sentencing for violations that rely on community corrections centers as opposed to reincarceration (Bergstrom & Bucklen, 2016). According to data from Pew Foundation (2019), the most popular back-end policies were related to streamlining the parole process to reduce the time an eligible offender waits for a hearing and subsequent release. Following the parole efforts, states also placed emphasis on early-release credits allowing for more offenders to become eligible for release earlier in their sentence.

Table 2. States using “Back-End” policies

Release Strategies: Streamline Parole Process and Eligibility for Parole	Release Strategies: Expanding Good-Time Credits and Earned-Time Credits
Alabama	Alaska
Alaska	Georgia
Arkansas	Kansas* (2007)
Georgia	Louisiana
Hawaii	Maryland
Idaho	Mississippi
Kansas	Nevada* (2007)
Kentucky	North Carolina
Louisiana	Ohio
Maryland	Oregon
Michigan	Rhode Island
Mississippi	South Carolina
Montana	Utah
Nebraska	
New Hampshire	
Rhode Island	
South Carolina* (2010)	
South Dakota	
Utah	

Source: PEW Charitable Trust: 35 States Using Justice Reinvestment.  
Note. \* = Indicates the first state to pass legislation with associated year.

Table 3 presents states that are using front-end justice reinvestment policies. The front-end of the justice reinvestment approach shifts the emphasis from offenders going back to jails or prisons and tries to prevent them from incarceration altogether. The front-end policies are often the second wave of legislation as states implement their tailored justice reinvestment approach. The front-end policies focus on sentencing strategies and the discretionary powers afforded to judges during the trial's sentencing phase. States using front-end policies focus their efforts on revising the codified statutes and definitions for low-level crimes, particularly drug and property offenses. Similarly, mandatory sentencing strategies are often a key factor for continually high prison populations (Petersilia & Cullen, 2015; Tonry, 2014). The states listed in Table 3 are pursuing legislation to reduce or revise the use of mandatory sentencing strategies and rely more heavily on discretionary guidelines.

Table 3. States using “Front-End” policies

Sentencing Strategies: Re-classify Low Level Crimes: Drugs and/or Property Offenses	Sentencing Strategies: Enhancements and/or Presumptive Guidelines	Sentencing Strategies: Mandatory Minimum Policies
Alabama	Alabama	Alaska
Alaska	Alaska	Georgia
Arkansas	Georgia	Hawaii
Georgia	Hawaii	Louisiana
Hawaii	Kentucky	Maryland
Kentucky	Louisiana	Montana
Louisiana	Mississippi	Oregon
Maryland	Montana	South Carolina (2010)*
Mississippi	Nebraska	
Montana	North Dakota	
Nebraska	Ohio	
North Carolina	Oregon	
North Dakota	South Carolina (2010)*	
Ohio	Utah	
Oregon		
Rhode Island		
South Carolina (2010)*		
South Dakota		
Utah		

Source: PEW Charitable Trust: 35 States Using Justice Reinvestment.

Note. \* = Indicates the first state to pass legislation with associated year.

The final policy associated with justice reinvestment is the reliance on community corrections facilities and improving treatment plans for individual offenders (Bergstrom & Bucklen, 2016; Taxman et al., 2014). Specifically, states adhering to justice reinvestment from the community corrections aspect recognize the need for appropriate assessment and development of specific rehabilitation goals for each offender and not simply a general approach where each type of offender is grouped together. For these states, the goals become developing risk-needs assessments and ensuring that the agreed-upon measurement tool meets the needs outlined by the working group. Other popular policies stem from the recognition of mental health and behavioral needs in a correctional population. Thus, states have adopted legislation that introduces or improves upon the in-patient/out-patient treatment resources and availability to these resources. Table 4 shows the various legislative approaches to justice reinvestment in a community-corrections setting.

Table 4. Community Corrections Policies

Risk Needs Assessments	Behavioral and Mental Health Policies	Graduated Sentencing for Parole/Probation Violation
Alabama	Alabama	Alabama
Alaska	Alaska	Alaska
Arkansas	Connecticut	Arkansas
Connecticut (2008)	Delaware	Delaware
Delaware	Georgia	Georgia
Georgia	Hawaii	Hawaii
Hawaii	Idaho	Idaho
Idaho	Kansas* (2007)	Kansas
Illinois	Kentucky	Kentucky
Kentucky	Louisiana	Louisiana
Louisiana	Michigan	Maryland
Maryland	Mississippi	Mississippi
Michigan	Montana	Montana
Mississippi	Nebraska	Nebraska
Montana	Nevada* (2007)	Nevada* (2007)
Nebraska	North Carolina	North Carolina
North Carolina	North Dakota	North Dakota
North Dakota	Ohio	Oregon
Ohio	Oregon	Pennsylvania
Oregon	Pennsylvania	South Carolina
Rhode Island* (2008)	Rhode Island	South Dakota
South Carolina	South Dakota	Texas* (2007)
South Dakota	Texas* (2007)	Utah
Utah	Utah	West Virginia
West Virginia	Vermont	
	West Virginia	
	Wisconsin	

Source: PEW Charitable Trust: 35 States Using Justice Reinvestment.

Note. \* = Indicates the first state to pass legislation with associated year.



To date, 36 states are using some form of justice reinvestment legislation (CSG, 2019), with additional states pursuing related funding. As justice reinvestment policies continue receiving attention, and more states are applying for funding, the initial goals seemingly have been met. One aspect that seems not to receive much focus, however, is the reinvestment aspect of the approach. For jurisdictions to receive justice reinvestment funding through federally grant-based incentives, the legislature must adopt and present policies adhering to data-driven, evidence-based policies associated with the BJS funded initiative (BJS, 2019b).

## INTERNATIONAL PERSPECTIVES ON JUSTICE REINVESTMENT

Justice Reinvestment is a global phenomenon observed across different countries, including the United Kingdom and Australia (Homel, 2014; Willis & Kapira, 2018). In a report written for the New South Wales Parliament, Roth (2016) offers a review of justice reinvestment and details the successes that have occurred thus far with American states and local jurisdictions. Applying justice reinvestment to Aboriginal populations, the New South Wales (NSW) approach seeks to reduce the high rates of incarceration, particularly with younger generations of the Aboriginal population (Willis & Kapira, 2018). One initiative is coined the Maranguka and emphasizes a small indigenous community that experiences high rates of imprisonment. The Maranguka justice reinvestment approach focuses on building trust within the community and relying on data-driven outcomes to reduce the incarceration rate (Roth, 2016). Another justice reinvestment approach used in Australia is being utilized in the community of Cowra. The Cowra approach to justice reinvestment aims to reduce rates of imprisonment by creating more meaningful lives and abstaining from criminal acts (Roth, 2016). Other approaches are being used throughout Australia, all of which focus on specific communities and reduce the funding and resources used for imprisonment. Criticism for the use of justice reinvestment in Australia is the lack of definitions and the specific allocations for funding generated from savings (Brown et al., 2012). Austin and Coventry

(2014) note considerable disproportionate incarceration rates between indigenous populations and nonindigenous populations. This point is juxtaposed to the United States incarceration rate and the current prison population's varying demographics. Austin and Coventry (2014) find that the incarceration in Australia is approximately 1/6 the rate of the incarceration rate in the United States. Although many aspects of policing and expenditures remain comparable between the two countries, Austin and Coventry (2014) pose the argument that Australia does not rely on incarceration as a punishment to the extent of the United States.

England and Wales have also adopted the use of justice reinvestment with a focus on diversionary programs and community-based services. In a report presented to Parliament by the Ministry of Justice (2010), the focus for justice reinvestment would be decentralizing the current criminal justice method and moving towards a more individualized approach (Allen, 2011; Homel, 2014; Ministry of Justice, 2010). Payment by results method would be adopted in which the reinvestment would incentivize the reduction of prison and jail populations. This approach coincides with the cost-benefit aspect of justice reinvestment and offers the freedom for local jurisdictions to specifically tailor their approach to their population's needs. Similarly, a focus on youthful offenders and the development of diversionary programs was also implemented through the payment by results method (Ministry of Justice, 2010). The popularity of justice reinvestment has continued to spread across the globe with various governments, such as England, Wales, and Australia, adopting the data-driven, cost-effective reform movement. Austin and Coventry (2014) note that the rise in popularity of justice reinvestment practices has spread into other nations such as Ireland, Canada, and New Zealand.

## DISCUSSION

The popularity of justice reinvestment has become a sticking point for its success. Specifically, concerning the JRI funding, states show important declines in both correctional populations and the subsequent spending on jails/prisons (Sabol & Baumann, 2020; NCSL, 2019). With over 30 states using justice reinvestment in various policies, the JRI program is producing the intended outcomes that it was designed to do: create a path toward meaningful criminal justice reform. The impact and overall influence of the JRI program may be somewhat overstated, though. As correctional populations began declining in the 2000s, the justice reinvestment approach seemed to offer the best of both worlds by maintaining public safety while also reducing prison populations and using the diverted funding for high-risk communities. The current use of the program may not be entirely in line with that initial goal as the diverted funding seems to focus on criminal justice strategies and not community-based programs, which was the original allure of the effort.

The justice reinvestment push has led to numerous legislative changes across the country as states such as Arizona implement policies to increase treatment for probationers and parolees (Safe Communities Act, 2008) while other states seek to streamline the parole process and improve effective placement (Bergstrom & Bucklen, 2016; Fabelo, 2010; Murdock, 2016). Non-contiguous states have pursued justice reinvestment (Armstrong, 2016) as the concept spreads throughout the world to countries like England and Australia (Allen, 2011). The theoretical framework is situated in a common goal but implementing the policies and pursuing JRI funding varies greatly to include a divergence from the community-funded approach of the original concept.

We propose that the JRI programs can benefit by incorporating crime mapping or geospatial analyses. Criminologists have shown that the use of geographic information systems (GIS) mapping technology is useful in identifying and understanding crime patterns (Brantingham & Brantingham, 1999; Eck, Chainey, Cameron, & Wilson, 2005; Ratcliffe & McCullagh, 1999). Scholars have pointed out unique spatial distributions of incarceration in communities (e.g., high-incarceration communities) and some potential factors associated with

the phenomena (e.g., employment rates) (Clear, 2011; Homel, 2014; Tucker & Cadora, 2003). However, systematic understanding of geospatial patterns involving the areas marked by high incarceration areas is very limited. These findings can provide the groundwork for justice reinvestment in a community-corrections setting. Presently, many states and jurisdictions provide public-facing dashboards that show the efforts of the justice reinvestment initiative. However, few of these dashboards focus on the high crime areas as originally suggested by Tucker & Cadora (2003).

### **Barriers to Justice Reinvestment**

The JRI movement has led many states to note the funding and availability for technical assistance to submit for federal funding through the initiative. Although many programs and policies are tied to incentive-based funding throughout the criminal justice system, none has risen to the popularity and widespread use quite like justice reinvestment. Sabol & Baumann (2020) note that states continue pursuing the evidence-based programs throughout the initiative, yet budgets have remained modest throughout the last decade, even declining in some states. Similar trends occurred in prison populations as states like California were ordered to reduce prison populations due to extreme over-crowding (*Brown v. Plata*, 2011), yet most of the population were moved to county jails. Crime rates were also decreasing across the nation as justice reinvestment rose to prominence creating a situation in which justice reinvestment may not be able to take full responsibility for the claims of reducing prison populations. The prison populations may have only been influenced marginally by the methods found through each working group. With prison populations decreasing prior to the use of JRI and budgets remaining stable from year to year, the JRI approach may have been introduced during a time when positive results were occurring without the incentivized programs. The use of JRI funding to facilitate evidence-based programs may not have caused the goals of justice reinvestment, but these goals seem to have been in motion before federal legislation (Criminal Justice Reinvestment Act, 2010).

Each state is permitted the flexibility in creating and maintaining a working group; however, each working group may consist of varying levels of legislators, court officials, and/or practitioners who are then labeled stakeholders

(Bergstrom & Bucklen, 2016; BJS, 2019a; CSG, 2012). Thus, the title of stakeholder could be used to fit a myriad of individuals who are directly influenced by the policies and practices of JRI. This becomes problematic because justice reinvestment is often credited as being a local-level solution. Stakeholders and the members of the working groups may also serve as a barrier to effectiveness in some regards. LaVigne and colleagues (2013) offered planning guides for local-level implementation, and Clear (2011) argues for incentivizing the communities using JRI effectively rather than a broad, over-arching approach. Yet, many of the working group members are comprised of state-level officials or executives. To meet the needs of the outcomes associated with justice reinvestment, working groups should solicit more participation from practitioners and executives at the county levels. Using this approach will likely lead to lengthier discussions of practical ways of meeting the BJS definition for funding. Still, it will likely also produce a more effective approach with more holistic policies that reduce the possibility of competing grants or programs.

During the rise of justice reinvestment and the corresponding federal initiative, other legislative changes were underway throughout the country. Namely, federal legislation curbing the sentencing disparity dramatically impacted drug offenders with the Fair Sentencing Act (2010). Varying forms of legislation were signed into law intended to directly impact reducing prison populations (e.g., First Step Act, 2018; Sentencing Reform and Corrections Act, 2017). States were also passing jurisdiction-specific legislation such as Pennsylvania with the signing of the Clean Slate Act (2018), which allowed the expungement of records for low-level offenders if they did not commit a new offense within the previous ten years. Similar approaches are happening at the county level with programs like the Safety and Justice Challenge, allowing incentive-based funding for counties seeking meaningful approaches to reducing prison and jail populations through the MacArthur Foundation. A similar goal is justice reinvestment. Currently, the MacArthur Foundation funds 52 cities or counties to understand better the use of the correctional system (Garduque, 2020). Many of the sites receiving funding are co-located in states using justice reinvestment as well.

## CONCLUSION

Prisons and jails are overcrowded, leading to risky and dangerous situations throughout correctional institutions nationwide. Justice reinvestment and the associated funding are designed to curb the correctional populations while emphasizing on maintaining public safety through incentivized programs. Although there are many reasons to support JRI programs, some caution should be taken when describing the sustainability and effectiveness of the approach. With the growing number of states using JRI, and the varying ways that states can choose to implement the policies or programs, many areas of the initiative remain relatively unknown even with the development of user-friendly dashboards and public access to specific data. This theoretical analysis of JRI policies shows that most states are relying on similar methods to achieve reduced prison populations. Although the programs and policies are rooted in the empirical literature, the prison populations appear to have been decreasing before the federal legislation. A positive aspect of correctional reform, and a goal of JRI, is reducing the need for correctional institutions in a traditional sense and instead focusing on community-oriented programs. Justice reinvestment is built upon the simple notion of reducing prison populations while maintaining public safety. The similarity in approaches across jurisdictions suggests the effectiveness of various policies associated with JRI, yet prison populations and crime rates were declining prior to the use of justice reinvestment. After all, if revised sentencing strategies, improved parole efficiency, and more accurate offender assessments lead to lower prison populations, states should emphasize these programs nationwide. More research is needed in the wake of JRI policies to determine the sustainability of the approaches and how much impact the associated grant funding has on implementing the programs. Although this review lacks a statistical analysis, it does push the critical literature of justice reinvestment forward as more information becomes available. Future studies should focus on an analytical cost-benefit of the funding associated with this research and determine where the allotted funding is going.

We suggest that there are several ways to evaluate the effectiveness of the

JRI programs. First, we can use a quasi-experimental research design to tease out the influences of confounding variables (Bunting, Staton, Winston, & Pangburn, 2019; Shadish, Cook, & Campbell, 2002). Many different statistical models (e.g., time series analysis) enable researchers to consider time trends to identify the effects of variables of interests. Second, researchers can evaluate individual correctional programs based on a randomized experiment (Ayoub, 2020; Petersilia, 1989). For instance, if diverted funds can be spent on implementing a particular community-based diversionary program, we can divide the community into smaller units and randomly choose units to implement the community-based program and compare the outcomes (e.g., recidivism rates). Third, we can consider other outcome variables to evaluate the success of the JRI programs (Hyatt & Han, 2018; Link, Ward, & Stansfield, 2019). For example, the percentage of individuals participating in community diversionary programs can be one outcome variable. If more people are participating in community diversionary programs since the JRI programs are implemented, it may signal the positive impact of the JRI legislature on corrections. Relatedly, subjective and objective outcomes from the participation in the programs are critical. Policymakers should keep track of the recidivism rates among those who participate in the programs. Also, understanding how participants feel about the programs can be very important because it is related to the future of the JRI programs.

According to the current fiscal year summaries, the use of JRI programs and incentive-based grant funding is not likely to dissipate. With a relatively stable budget of \$25 million made available each year (DOJ, 2019), JRI will likely continue as an approach to reducing prison populations as states continue the pursuit of the funding. Reports from the most recent program summary indicate that states have generated savings as high as \$491 million and a total of over \$1 billion nationwide (DOJ, 2019). The outcomes for JRI present an opportunity for substantial funding to be made available through alternative criminal justice avenues as reliance continues shifting towards rehabilitation and community-oriented programs. As JRI continues gaining momentum and as more states adopt the policies associated with justice reinvestment, the prison populations will likely continue decreasing, just as they were before justice reinvestment legislation.

## Note

1. There has not been landmark or major legislative changes from the Biden administration.

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