THE PEW CHARITABLE TRUSTS

ISSUE BRIEF

Public Safety Performance Project

Leading on Public Safety

4 Governors Share Lessons Learned from Sentencing and Corrections Reform

After nearly four decades of explosive growth in prison populations and spending, more and more states are taking important steps to rein in the size and cost of their corrections systems.

When it comes to public safety, leadership matters. In the past seven years, more than a dozen governors have spearheaded research-based sentencing and corrections reforms that slow the growth of prison costs while reducing reoffense rates and keeping communities safer.

Known as "justice reinvestment," this approach is rooted in research about what works in corrections reform and is tailored to each state's unique challenges. The Pew Charitable Trusts recently spoke with four governors—Mike Beebe of Arkansas, Nathan Deal of Georgia, Neil Abercrombie of Hawaii, and Dennis Daugaard of South Dakota—about why they believe justice reinvestment is right for their states and about the challenges they overcame to achieve consensus and enact policies that provide a better public safety return on state corrections dollars.

GOVERNORS

Gov. Mike Beebe
Arkansas

Gov. Nathan Deal
Georgia

Gov. Neil Abercrombie
Hawaii

Gov. Dennis Daugaard
South Dakota

In this brief

Q What motivated you to tackle this difficult issue?

A **GOV. DEAL:** Several things. First, I come from a legal background, having been a prosecutor and juvenile court judge. So I was well-aware the problem was bigger than many people thought it was. Our Department of Corrections budget had gone from $492 million in 1990 to over a billion a year, and at the end of 2007, 1 in 70 adults in Georgia was behind bars, compared to a national average of 1 in 100. Despite the massive amount of money we were spending, our recidivism rates remained unchanged, so the problem clearly wasn't being fixed. It wasn't good fiscal policy, and it wasn't good public policy.

A **GOV. ABERCROMBIE:** When I was putting together my New Day in Hawaii plan, which was

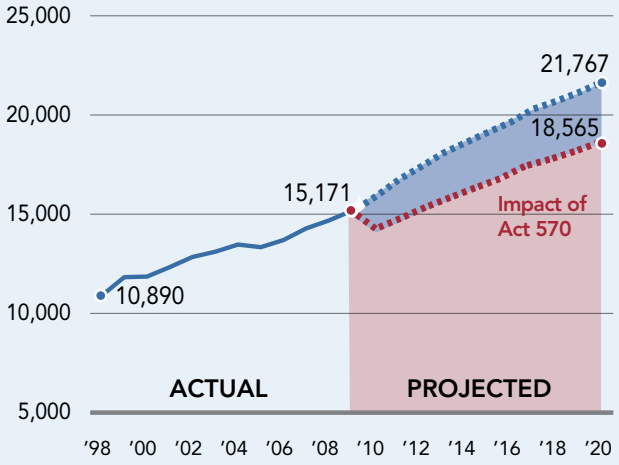
Arkansas

At the end of 2010, Arkansas' prisons were at capacity, reflecting a doubling of the incarcerated population over the previous 20 years. Annual corrections spending had topped $353 million, consuming 8 percent of the general fund. Despite this hefty price tag and the growing number of inmates behind bars, Arkansas was not seeing a commensurate public safety return. Recidivism rates were stuck at more than 40 percent, and violent crime had not dropped as significantly as it had in other states.

Reluctant to raise taxes or cut other public services to pay for rising prison costs, the state formed a working group that spent a year studying criminal justice and sentencing data and developing a road map for change. The bipartisan group concluded that Arkansas was underutilizing probation, increasing sentences for nonviolent offenses, and delaying the transfer of inmates to parole. Acting on the group's recommendations, two legislators introduced an omnibus bill, the Public Safety Improvement Act (Act 570), that fortified community supervision, concentrated prison space on violent and career criminals, and required data collection and performance measurement. The act is projected to save $875 million in avoided prison construction and operating costs through 2020. It will also improve public safety by reinvesting a portion of the savings in community-based supervision, services, and strategies to reduce reoffending.

Act 570 projected to avert prison growth, save millions

Figure 1: Arkansas prison population and projections, 1998-2020



Source: JFA Institute (projections)

my platform as I ran for governor, this was actually a key element. The most vivid problem we confronted was that we had about one-third of our offenders incarcerated on the mainland. Not only was this hugely expensive, but a high percentage of these people were of Native Hawaiian ancestry, and I felt strongly that it was crucial to have them in Hawaii and in programs geared toward their reintegration into the community. When I saw what justice reinvestment could do, it blended perfectly with my goals for reorganizing and redirecting the prison and judicial systems.

A **GOV. BEEBE:** The growth in the prison population in Arkansas, which had a direct correlation to our spending concerns, was certainly a motivating factor. But the data also suggest that if you ever want to rehabilitate someone, the best way to do it is after their first run-in with the law, before they've been exposed to incarceration. So we saw a lot of good reasons for investing more in community sanctions.

Q How did you achieve consensus across political parties and diverse stakeholders?

A **GOV. DAUGAARD:** The process we used was absolutely essential to our success. We started by engaging a lot of stakeholder groups to ask questions, propose solutions, and discuss why we were incarcerating at a higher rate than neighboring states but not getting better public safety. Then we formed a work group, and we made sure everyone studied our system's data along with research about how other jurisdictions were handling nonviolent offenses. Forcing everyone to learn the facts helped people modify positions that might have been based strictly on personal experience.

A **GOV. DEAL:** The secret was creating the Special Council on Criminal Justice Reform. By allowing this group to bring together people from all different political leanings and all different points of view, we let them discuss recommendations before the actual introduction of legislation. So instead of waiting until a legislative session, when time gets very constrained, our council met over an entire year. And when recommendations were put forward, it took much of the pressure off the committee process and gave members of the General Assembly confidence that these ideas had been thoroughly discussed and vetted.

A **GOV. BEEBE:** We don't do public policy in a vacuum. With any proposal, we engage people on the front lines who have to execute the policy, and in this instance those folks were a vast and varied constituency, from police officers to mayors to prosecuting attorneys to sheriffs, judges, and public defenders. We also took our time. We did it over about a year and a half; we listened to everybody's concerns, and fortunately each constituency group approached it from the standpoint of being constructive.

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>
> — **Gov. Nathan Deal,** Georgia

Q What were the major obstacles and how did you get past them?

A **GOV. ABERCROMBIE:** The principal obstacle was whether the Legislature would agree that this investment would actually enhance community safety and would have positive consequences, not just in dollar terms but also in human terms. So we had to build trust. We did that by constantly emphasizing that this was a data-driven process and that what we were proposing was built on a record established elsewhere. We also tried to avoid the ideological and partisan battles that can get you sidetracked.

A **GOV. DAUGAARD:** We're a heavily Republican state, and I'm sure there were some

Georgia

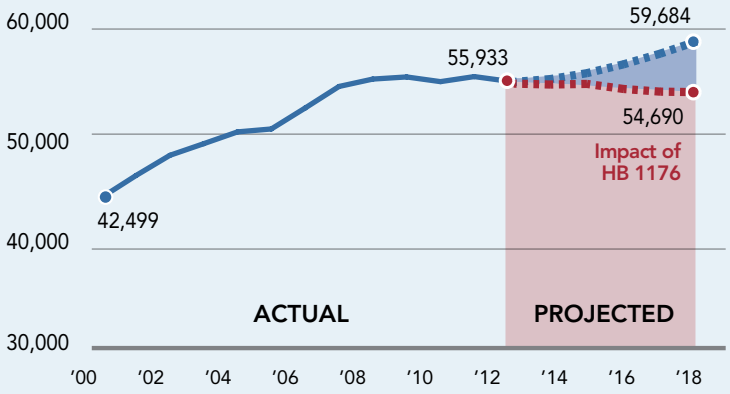
In fiscal 2010, Georgia spent more than $1.1 billion on a prison system holding nearly 56,000 inmates, a population that had doubled over the previous 20 years. With 1 in 70 adults behind bars, Georgia had the fourth-highest incarceration rate in the country. Throughout the past decade, its three-year recidivism rate had remained unchanged at nearly 30 percent.

Seeking to protect public safety while controlling prison costs, the Georgia General Assembly created a bipartisan, interbranch panel to analyze the state's criminal justice and sentencing data. The panel found that drug and property offenders represented almost 60 percent of prison admissions, that judges had few sentencing options other than prison, and that probation and parole agencies lacked the resources to effectively supervise offenders in the community.

In May 2012, Gov. Nathan Deal signed House Bill 1176, which passed unanimously in the Georgia General Assembly. The law focuses prison space on serious offenders, expands cost-effective sentencing options, and requires government agencies to report performance outcomes. Through the reforms, Georgia expects to cut recidivism and avoid spending $264 million on new prison capacity over the next several years. Companion budget measures have reinvested $17 million of that savings into programs to reduce reoffending.

HB 1176 projected to avert prison growth, save millions

Figure 2: Georgia prison population and projections, 2000-2018



Source: Georgia Department of Corrections (historical data); Applied Research Services Inc. (projections)

who worried that the Republicans would be afraid to look soft on crime. So from the beginning, we had to be careful to point out that this approach was a way to be smart—not soft—on crime. We also had to emphasize the fiscal side of it. And we stressed that we're still holding people accountable, that they're not being mollycoddled. They're just being held accountable in a more effective and responsible way.

A **GOV. BEEBE:** The last obstacles were primarily the prosecuting attorneys. They were the ones we had to ultimately convince at the eleventh hour that the legislation would improve public safety. And we did that. And you always take the politics into consideration. I was aided by the fact that I had credibility to begin with, and that helps you on any controversial issue. I built that up over the years. There were folks who said, "I don't know if I agree with you, but I trust you, and so I'm going to go along with you." So credibility allows you to accomplish this without being labeled "soft on crime." And when you get law enforcement engaged, it further enhances your ability to combat the label.

A **GOV. DEAL:** We always knew the allegation of being soft on crime was something too easily thrown out there as part of the discussion. The best way to overcome those objections was to look at the facts. And we felt the facts were very strong and allowed us to tell the public that what we had been doing was not achieving the results we wanted and that we thought there was a better way. We also knew we needed to have prosecutors who were willing to step up and say, "Let's deal with nonviolent offenders differently." That gave great credibility to the argument we were making.

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— **Gov. Dennis Daugaard,** South Dakota

Q What part of your state's reforms will have the biggest impact and why?

A GOV. ABERCROMBIE: It's hard to break it down because this is a whole package. We are increasing community-based treatment programs, hiring staff to do risk assessment, supporting better reentry, providing more victim assistance through restitution, and so forth. These offenders are coming back to our communities, and we believe that by committing people and resources through our justice reinvestment initiative, we will see positive dividends.

Hawaii

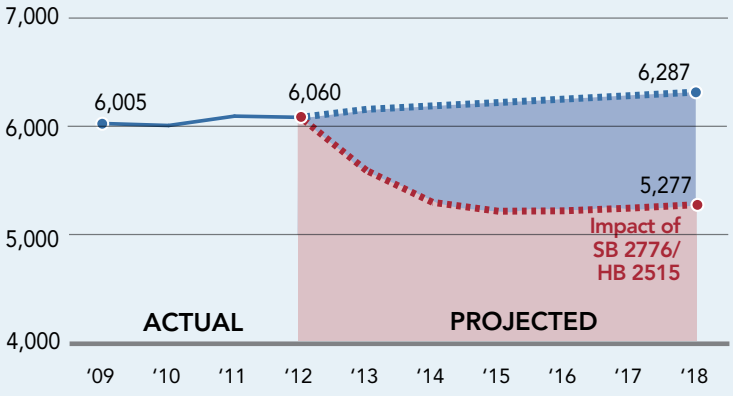
Hawaii experienced significant growth in its inmate population and corrections spending during the decade ending in fiscal 2010. Lacking space in its own prisons and jails, Hawaii was sending about one-third of its offenders to facilities in other states, at a cost of $60 million a year.

Eager to reduce spending and reliance on mainland prisons, state leaders formed a bipartisan, interbranch working group and asked experts to identify inefficiencies and other problems in Hawaii's criminal justice system. The research uncovered unnecessary delays in Hawaii's pretrial process and found that programs designed to reduce recidivism were not targeting people most likely to reoffend. Armed with the data, the working group developed a policy framework to improve public safety, reduce recidivism, and hold offenders accountable. Legislators used the framework to develop two measures—House Bill 2515 and Senate Bill 2776, and both passed with bipartisan support.

The comprehensive reforms improve pretrial risk assessment, focus parole and probation resources on high-risk offenders, strengthen victim services, and provide appropriate sanctions for repeat felony drug offenders. The changes will allow Hawaii to bring back inmates housed in mainland prisons and save the state an estimated $130 million over five years. Already $3.4 million in anticipated savings has been reinvested in expanded community-based treatment programs and other strategies to reduce recidivism and increase public safety.

Legislation projected to avert prison growth, save millions

Figure 3: Hawaii prison population and projections, 2009-2018



Source: Hawaii Department of Public Safety (historical data); Council of State Governments Justice Center (projections)

A **GOV. BEEBE:** Sometimes the fear of punishment is worse than punishment itself. I think for the right offenders holding the possibility of incarceration over their heads without actually exposing them to prison may have a bigger impact on turning their lives around and may reduce the chance they'll commit other crimes. Also, we can always send them to prison later if our initial approach fails.

A **GOV. DEAL:** It's too early to say what the full impact will be, but we think one of the most important parts of it is the data collection and evidence-based practices, essentially making sure we're spending money where results are predictable and the best results will be achieved. We think this will make a big impact, along with ensuring we have an assessment of the effects of the reforms in order to sustain the effort and see if there are things we can build on.

A **GOV. DAUGAARD:** One thing we learned from our fact gathering was that a huge percentage of our newly incarcerated prisoners were not violent, but were nonviolent property crime or drug and alcohol offenders. Basically, these weren't people we were afraid of; these were people we were mad at. So we asked, "Is there a way other than incarceration to hold them accountable?" And that led us to presumptive probation or making sure judges look for an alternative sanction for certain nonviolent offenders. That is clearly the major reform that will have the biggest impact on population and costs.

"Sometimes the fear of punishment is worse than punishment itself. I think for the right offenders holding the possibility of incarceration over their heads without actually exposing them to prison may have a bigger impact on turning their lives around and may reduce the chance they'll commit other crimes. Also, we can always send them to prison later if our initial approach fails."

— **Gov. Mike Beebe**, Arkansas

Q Do you see a shift in public attitudes toward crime and punishment in your state and across the country?

A **GOV. DEAL:** I think there are some absolutes the public has not changed on, and those are they expect government to keep them safe and they expect law enforcement and the judicial system to protect them from violent offenders. What has changed is a greater awareness that the attitude of "lock 'em up and throw away the key" does not achieve that goal of keeping them safe and may in fact have produced a contrary result.

South Dakota

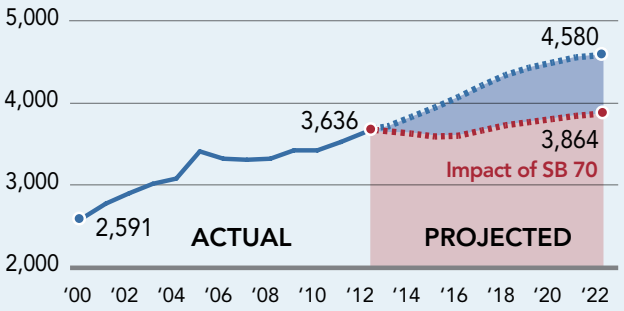
In 1977, South Dakota's prisons held just a few hundred inmates. By mid-2012, the incarcerated population had ballooned by 500 percent—outpacing the national growth rate—to more than 3,600 inmates. Without reforms, projections indicated the prison population would grow by another 25 percent over the next decade, requiring the state to build two new correctional facilities costing taxpayers $224 million in construction and operating expenses.

Searching for options, state leaders created a bipartisan working group to examine the state's sentencing and corrections data and to propose reforms. The analysis revealed that 8 out of 10 prison admissions in 2012 were for nonviolent convictions and that offenders in prison for drug possession outnumbered every other type of offense. It also found that parole violators had grown steadily as a share of the incarcerated population. In response, the South Dakota Legislature approved a set of reforms that focused prison space on violent and career criminals and emphasized probation as appropriate sanctions for some nonviolent offenders.

The Public Safety Improvement Act also established an oversight council and performance measures to ensure the quality and sustainability of reforms, and authorized reinvesting some funds saved by averting prison growth into proven recidivism-reduction strategies. The legislation, Senate Bill 70, was endorsed by the state associations of police chiefs, state's attorneys, and sheriffs.

Projected prison growth levels off, saves millions following reforms

Figure 4: South Dakota prison population and projections, 2000-2022



Source: South Dakota Department of Corrections (historical data); The Pew Charitable Trusts (projections)

A **GOV. ABERCROMBIE:** Yes. People have seen that some of these "get tough" policies don't necessarily end up being tough at all. They end up being a burden on the taxpayer and not accomplishing anything. So I think some of that has sunk into the public consciousness. Also, the public has become aware to a degree that much of what constitutes criminal activity is associated with drugs. And they wonder, "Are high-security incarceration facilities the best approach for addressing offenders with drug addiction?"

A **GOV. DAUGAARD:** When I was in the Legislature, we always had proposals to create a minimum mandatory sentence for this or that crime. I haven't seen one of those in years, so there may be a shift away from that. I think that, especially in this state, people like to see themselves as tough on crime. But I think people are starting to see there are consequences to that, and that it is emotionally satisfying but not always intellectually sensible to lock someone up and throw away the key.

A **GOV. BEEBE:** It's hard to say whether I see any national shifts. But the way we sold this was by confronting people with the fiscal reality of it. We recognize that there are really bad guys out there we need to keep locked up. But unless we raise taxes to build more prisons, we better figure out an alternative mechanism for nonviolent folks.

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— **Gov. Neil Abercrombie**, Hawaii

Q What advice do you have for other governors about taking on justice reinvestment?

A **GOV. BEEBE:** For this to be successful in other states, you need to have leadership with credibility. You've got to involve all the players; you've got to be able to sell the issue of the fiscal effects of continued prison growth, and you need to distinguish between those who should be in prison and those who can be handled with other sanctions. If the argument is made correctly, the voters will understand and support it.

A **GOV. DAUGAARD:** I would encourage them strongly to follow the process we followed. It's a governor's prerogative to unveil an initiative that the executive branch has developed in isolation, and that approach may be satisfying in the sense that it is that governor's initiative, it's the governor's legacy, and if it goes successfully through the legislative process, it is the governor's victory. That's fine and good. But in the end, if you want a better product, you engage more stakeholders in the process; you educate them and yourself as well, and in the end, you will probably get better legislation than you might have offered by yourself.

A **GOV. DEAL:** Do it, and do it as soon as possible, because if you don't tackle the problem as quickly as you can, then it will continue to get bigger and bigger. And more people will be ensnared in the trap of incarceration that we know, in and of itself, does not necessarily change their course of conduct in the future. My advice would be to build a consensus on the direction you want to go, get the disparate points of view together, and move forward. Our experience shows it will prove to be the right thing to do.

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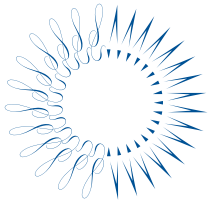
>
> — **Gov. Nathan Deal,** Georgia

A **GOV. ABERCROMBIE:** You have to be committed to it. There's an iron rule in politics: When you're explaining, you're losing. Make sure your data is correct, that's first. Don't go off on some generality that you can't back up. Stick with the facts. Have a positive narrative. Involve everybody. Focus on the overall goal, not just whether this is good for the prosecutors or a certain legislator. Then trust yourself that you're on the right track.

Justice Reinvestment Initiative

Justice reinvestment is a data-driven approach to improve public safety, hold offenders accountable, and control corrections costs. The Justice Reinvestment Initiative is supported by The Pew Charitable Trusts and the U.S. Department of Justice, Bureau of Justice Assistance. Intensive technical assistance is provided to selected states each year by Pew, the Council of State Governments Justice Center, the Vera Institute of Justice, the Crime and Justice Institute, and other partners.



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