Increasing Public Safety And Reducing Spending: Applying a Justice Reinvestment Strategy in Texas and Kansas

By Crystal Garland

Last January, lawmakers in Texas and Kansas faced a grim picture of the future of their correctional systems. State prison populations in both states were projected to make large jumps in the next 10 years, putting significant pressure on taxpayers and correctional agencies in both states. The legislators faced a choice. They could spend millions in tax dollars to build and operate more prisons to accommodate this growth. Or, they could fund programs that would staunch the skyrocketing prison population and at the same time increase public safety, reduce recidivism and save taxpayers money.

Working with the Council of State Governments Justice Center, and with the support of federal and private grantmaking entities, such as the Bureau of Justice Assistance and the Public Safety Performance Project of the Pew Center on the States, policymakers in Texas and Kansas chose the second option and used a justice reinvestment strategy. During the 2007 session, legislatures in both states enacted policies and established programs to improve outcomes for people on probation and parole. The aim was to to lower the risk of re-offending for people about to be released from prison by ensuring they complete drug treatment and vocational programs prior to release.

A History of Prison Growth

In the early 1990s, public concerns about rising crime rates and declining public safety led policymakers to enact criminal justice policies that resulted in longer prison sentences and larger prison populations. Many states instituted policies requiring offenders to serve a greater percentage of their sentences. However, state policymakers soon found that such public safety measures came with a substantial cost. Even with federal support for prison construction, state taxpayers assumed responsibility for the lion's share of the cost attached to these new measures. According to the National Association of State Budget Officers, between 1984 and 2004, annual state spending on corrections increased from $9 billion to $41 billion and increased an additional 10 percent in fiscal year 2006.[1]

Despite an increase in spending on corrections, recidivism rates remained unacceptably high across the country, with more than half of people released from prison being recommitted within three years.[2] Analyses of prison admissions identified high rates of failure among people on community supervision, a key factor driving prison admissions. Between 1980 and 2000, the number of people recommitted to prison for violating the terms of their parole supervision increased 652 percent. Consequently, parole violators, as a share of all prison admissions, increased from 17 percent in 1980 to 35 percent in 1999.[3]

Tougher criminal justice policies and high rates of recidivism led to exponential growth in state prison populations, which has placed considerable pressure on correctional facilities and budgets in many states, including Texas and Kansas. Across the country, prison populations rapidly

approached or even exceeded capacity, leading to prison overcrowding crises for policymakers. Recent projections make clear that these problems are only expected to worsen. A report released by the Public Safety Performance Project of the Pew Center on the States forecasts that the nation's prison population will grow an additional 13 percent by 2012 at a cost of $27.5 billion in construction and additional operating expenses.[4] Such growth has a significant impact on states' ability to pursue strategies that reduce recidivism and improve public safety.

Several states are combating this growth by applying a justice reinvestment strategy. Justice reinvestment is a data-driven strategy that provides policymakers with analyses on factors driving the growth of the prison population, options to reduce spending on corrections, and opportunities to increase public safety and improve conditions in the neighborhoods to which most people released from prison return. The Justice Center is currently providing intensive technical assistance to several jurisdictions interested in pursuing this strategy, including Texas and Kansas.

Texas

Texas is known as a state with some of the toughest criminal justice policies in the country. As in many other states in the early 1990s, policymakers in Texas passed laws to incarcerate serious, violent offenders for longer periods. Following the enactment of these policies, the incarceration rate in Texas — which had grown significantly during the 1980s — continued to increase and today is the second highest in the country.

Between 1985 and 2005, the state's prison population grew 300 percent, causing the state to add 108,000 prison beds at a cost to taxpayers of $2.3 billion. Faced with a law prohibiting state prisons from operating at more than 100 percent capacity, officials at the Texas Department of Criminal Justice (TDCJ) turned to county administrators for additional, temporary capacity in local jails for 2,000 people at an annual cost of $27.5 million. Despite the construction of additional facilities and the use of local jails, by December 2006 TDCJ was in danger of exceeding capacity.

According to an official state projection released in January 2007, the state prison population was expected to grow by 14,000 people by 2012. New prisons to accommodate this growth were estimated to cost $523 million, which would cover construction and operating costs for two years once the prisons were opened. Many policymakers were hesitant to build additional prisons, given the continued fiscal pressure it would place on the state. In an interview with the *Austin-American Statesman*, state Sen. John Whitmire, D-Houston, chair of the Senate Criminal Justice Committee, said, "If [Texas policymakers] don't change the course now, we will be building prisons forever and ever — prisons we can't afford."[5] What happened next would mark a shift in criminal justice policy which many consider to be the most significant redirection in state corrections policy since the early 1990s.

Texas legislators convened a rare joint hearing of the Senate Criminal Justice Committee and the House Corrections Committee in late January 2007 to consider policy options to reduce recidivism and increase public safety. At the hearing, they responded to research findings by the state Sunset Commission, which concluded that TDCJ would negate the state's efforts to reduce recidivism if it continued to inadequately address offenders' substance abuse needs.

At the invitation of leading legislators, the Justice Center and its expert consultant Tony Fabelo, Ph.D., presented an analysis of the Texas prison population that revealed high rates of failure among people on probation supervision, lack of in-prison and community-based treatment and diversion programs, and inefficient use of parole to be among the key factors driving the growth. Between 1997 and 2006, the number of probation revocations to prison increased 18 percent, despite a 3 percent decline in the total number of people under community supervision. Based on the analysis and policy options presented during the hearing, Whitmire and Rep. Jerry Madden, R-Plano, chair of the House Corrections Committee, developed an enhanced treatment and diversion plan to provide resources to people released from prison, which would increase successful outcomes and lower recidivism rates.

In May 2007, under the leadership of Whitmire and Madden, the Texas Legislature passed a package of criminal justice legislation, making the largest investment in treatment and diversion programs of any state this year. The package included more than 8,700 new in-prison and community-based beds and slots in treatment and diversion programs that target parole and probation technical violators and people with behavioral health needs.[6]

Lawmakers also modified probation and parole policies and procedures to establish a maximum limit for parole caseloads and to reduce maximum probation terms from 10 years to five years for nonviolent drug and property offenders. Additionally, the Legislature established a permanent, joint Criminal Justice Legislative Oversight Committee to monitor the implementation of new criminal justice policies and programs and to provide ongoing analyses of the criminal justice system and policy recommendations.[7] According to the May 7, 2007, Texas Legislative Budget Board's Conference Committee Projection Scenario, this approach reduced the requested budget for corrections by $210 million in the next two fiscal years and, if no new prisons are constructed, will result in an additional savings of $233.4 million. The savings represent the difference between the original request for appropriations by the administration and the final adopted plan and do not consider potential future savings or cost-avoidance due to the impact of the plan on the projected prison bed shortfall and reductions in recidivism.

Kansas

Policymakers in Kansas faced a situation similar to their counterparts in Texas — a burgeoning prison population and escalating correctional expenses. According to projections, the prison population in Kansas was expected to increase 26 percent by 2016 at a cost of approximately $500 million in additional construction and operating costs.[8]

In 2006, Kansas policymakers requested intensive technical assistance from the Justice Center to understand their growing prison population. Sen. John Vratil, R-Leawood, chair of the Judiciary Committee, asked, "Why is our prison population growing while other states with declining crime rates, like ours, have shrinking prison populations?"[9] Analyses of

the prison population revealed that people who violated the conditions of their parole and probation supervision accounted for 65 percent of prison admissions. In addition, the majority of people released from prison had not completed any vocational training or substance abuse treatment, which would have reduced their chances of recidivating.[10]

Following these analyses, House and Senate leaders convened a bipartisan task force to identify policy options to avert as much of the projected growth as possible and increase public safety in Kansas' communities. Rep. Michael O'Neal, R-Hutchinson, Judiciary Committee chair and task force member, said, "We've already spent millions ensuring that Kansans are safe by locking up offenders for longer periods of time. Now it's time to make Kansas safer by making sure that when offenders inevitably finish their sentences, they are productive, taxpaying members of our community."[11]

Policymakers interested in understanding public perception about these and other criminal justice issues commissioned the "Kansas Criminal Justice Public Opinion Survey" in April 2007. The survey revealed that Kansans overwhelmingly support providing access to treatment programs to people in prison and assumed, incorrectly, that most people receive such services prior to their release. Poll results also indicated that the public supports strategies that would improve success rates for people on probation supervision as a means to prevent the anticipated growth in the prison population. Survey respondents favored splitting corrections budgets to fund both these policies and the construction of new prisons, rather than spending their tax dollars just on prison construction.

In May 2007, state policymakers passed a package of legislation — Senate Bill 14, An Act Concerning the Department of Corrections — which established a performance-based community corrections grant program to reduce revocation rates by 20 percent and a 60-day program credit that people in prison could earn for successfully completing risk reduction programs. The analyses the Justice Center provided served as the basis for the package. Because the Kansas Department of Corrections had successfully supported reentry efforts in the past, legislators were confident the approach would be effective.

As part of the package, Kansas lawmakers reinvested $7 million that would have been spent on prison construction to fund additional treatment programs and strengthen community supervision in high-crime neighborhoods. Assuming the new policies are implemented successfully, the state of Kansas will avoid having to add 1,292 additional prison beds in the next 10 years and save $80.2 million in five years in avoided construction and operating costs (depending on when the state decides to build additional facilities).

Community-Based Strategies

With the money Texas and Kansas are expected to save during the next few years, policymakers in each state are looking to reinvest in strategies designed to improve outcomes in the communities to which most people released from prison return. Geographical analyses of prison admissions reveal that a handful of communities in each state receive most of the people released from prisons and jails. Analyses of the Texas state prison population revealed that just five counties produced more than half of all people sent to state prison annually, costing taxpayers more than one-half billion dollars. These are the same communities where state and community agencies provide overlapping and uncoordinated services, often without a marked improvement in neighborhood outcomes.

Texas policymakers have identified the Nurse-Family Partnerships Program as a reinvestment opportunity that will improve outcomes for children and families and prevent violence. The program, based on a nationally recognized model and funded by the Texas Legislature this past session, will provide services to 2,000 families by pairing nurses with first-time, low-income mothers during their children's first two years. It will increase maternal self-sufficiency, improve the health and well-being of low-income families, and reduce crime by decreasing the incidences of child abuse and neglect and maternal arrests.[12] To fund these efforts, legislators appropriated $4.3 million for the initial two years of operation.

Kansas policymakers are currently reinvesting in the New Communities Initiative, a major neighborhood reinvestment project in Wichita that is coordinated by state, county, community and city leaders. The initiative will combine funding streams from several state, county and city agencies to increase public safety, redevelop the neighborhood's housing stock, integrate and improve the delivery of services to support families, and expand employment opportunities for neighborhood residents.

Sharing the Justice Reinvestment Strategy

With its emphasis on bipartisanship and reliance on data-driven strategies, the justice reinvestment strategy appeals to state policymakers across the geographic and political spectrum. Currently, an array of states, including Nevada, Pennsylvania, Arizona and Rhode Island, are tailoring the strategy to forestall projected growth in their prison populations and relieve current overcrowding. For instance, policymakers in Nevada recently passed legislation designed to provide incentives for people to successfully complete their terms of probation and parole supervision. These measures are expected to save the state $11.3 million by 2009.

Policymakers in other states have expressed interest in pursuing a justice reinvestment strategy. As noted by Kansas Gov. Kathleen Sebelius, "Building more prisons does not solve our problems. We must continue to identify and pursue the most cost-effective ways of reducing recidivism and increasing public safety."[13]

ENDNOTES

[1] National Association of State Budget Officers. 2006. *State expenditure report 2005*. Washington, D.C.: National Association of State Budget Officers.

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[3] Travis, Jeremy and Sarah Lawrence. 2002. Beyond the prison gates: The state of parole in America. Washington, D.C.: Urban Institute. Available at http://urban.org/publications/310583.html.

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[6] Council of State Governments Justice Center. 2007. J*ustice reinvestment Texas: A case study*. New York: Council of State Governments Justice Center.

[7] Texas Legislature. House Bill 3736, An Act Relating to Establishing Parole Officer Maximum Caseloads, enacted June 15, 2007.

Texas Legislature. House Bill 1678, An Act Relating to the Operation of a System of Community Supervision, enacted June 15, 2007.

Texas Legislature. Senate Bill 909, An Act Relating to the Continuation and Functions of the Texas Board of Criminal Justice, the Texas Department of Criminal Justice, and the Correctional Managed Health Care Committee, and to the Functions of the Board of Pardons and Paroles, enacted June 15, 2007.

[8] Kansas Sentencing Commission. 2006. *Fiscal year 2007 adult inmate prison population projections*. Topeka, Kan.: Kansas Sentencing Commission. (August).

[9] Vratil, John. Jan. 27, 2007. As I see it: State must prepare inmates for life outside cell. *Kansas City Star*.

[10] Fabelo, Tony. 2006. Tough and smart: Opportunities for Kansas policymakers to reduce crime and spending. Presentation during policy discussion on prisoner reentry and justice reinvestment, 12 December in Lawrence, Kan.

[11] O'Neal, Michael. March 25, 2007. Be smart on crime. *The Wichita Eagle*.

[12] The NFP program was identified as one of eleven proven models to prevent violence following a rigorous evaluation of 600 model programs by the Colorado Blueprints for Violence Prevention, a national initiative to identify models that provide effective violence prevention and intervention strategies. To learn more, visit www.colorado.edu/cspv/blueprints/.

[13] Kansas Department of Corrections. Dec.12, 2006. *State and local policymakers consider options to avert rise in prison costs*, press release.

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