

North Dakota

Justice Reinvestment Initiative Reentry Study Work Group

October 2024



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Work Group Membership

The North Dakota Justice Reinvestment Reentry Study Work Group (Work Group) included 15 members representing many different agencies, organizations, partnerships, and leaders involved in reentry work throughout the state. The members listed below were involved in evaluating key criminal justice data findings, research, and best practices in other states to ultimately form recommendations for improving reentry outcomes in North Dakota.

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Acknowledgements

With the support of the Crime and Justice Institute (CJI), the Work Group conducted interviews and roundtable discussions with more than 100 stakeholders across North Dakota to learn more about pressing reentry needs and opportunities in the state. Representatives from the following groups provided critical information, insight, and assistance throughout the Justice Reinvestment Initiative process:

Bismarck Police Department

Bismarck Transition Center

Burleigh County Sheriff Office

Burleigh-Morton Detention Center

Cass County Jail

Center Inc., Fargo

Center Inc., Mandan

Commission on Legal Counsel for Indigents

F5 Project

Free Through Recovery

Good Road Recovery Center

Heart River/Bridges of Hope

Hope Manor

Human Services Research Institute

Job Service North Dakota

Management and Training Corporation

Ministry on the Margins

Minot Area Recovery Community Organization

NATIVE, Inc.

North Dakota Council on Abused Women's Services

North Dakota Department of Corrections and Rehabilitation, including the offices of Administrative Services, the Special Assistance Unit, Education Services, Parole and Probation, Pre-trial Services, Specialty Court Coordination, and Transitional Planning Services

North Dakota Department of Health and Human Services including Behavioral Health Division, Regional Human Service Centers

North Dakota Indian Affairs Commission

North Dakota Peace Officers Association

Office of Governor Doug Burgum

Office of the Cass County State's Attorney

Office of the North Dakota Attorney General Criminal Division

State of North Dakota Courts including State Court Administration, Specialty Court Judges, and District Court Judges

Executive Summary

North Dakota's prison population is growing at an alarming rate, against national trends. As the number of incarcerated adults in the U.S. declined by approximately 25 percent between 2011 and 2021, North Dakota's prison population increased by over 18 percent.¹ More pressingly, much of North Dakota's prison population growth has occurred in just the past few years. According to data from the Department of Correction and Rehabilitation (DOCR), from 2020 to 2023, the prison population climbed from 1,401 to 1,899—an increase of 36 percent.² As a result, DOCR facilities have become overwhelmed, leading county jails to operate as overflow centers for state-sentenced individuals.

Recognizing the urgency of this issue, the 68th Legislative Assembly passed House Concurrent Resolution (HCR) 3026 in 2023 authorizing an interim study to assess the landscape of reentry services in the state and identify research-based strategies to improve reentry outcomes.³ To implement the mandates of HCR 2036, North Dakota Governor Doug Burgum, Senator Donald Schaible, Representative Dennis Johnson, and Supreme Court Chief Justice Jon Jensen, requested technical assistance through the Justice Reinvestment Initiative (JRI) grant funded by the Bureau of Justice Assistance (BJA), a component of the Department of Justice's Office of Justice Programs, to establish the North Dakota Justice Reinvestment Initiative Reentry Study Work Group ("Work Group"). With assistance from the Crime and Justice Institute (CJI), the Work Group discovered:

- North Dakota's prison population growth is driven by a 10 percent increase in admissions over the past decade.
- Admissions are largely comprised of community supervision violations (48 percent in 2023) and alcohol and drug offenses (36 percent in 2023).
- Significantly, Black and Native American individuals are entering DOCR and beginning community supervision at higher rates, as well as have higher percentages of supervision revocations.
- Unmet behavioral health needs drive the majority of community supervision revocations as well as admissions to prison.

These findings are the foundation of the Work Group's 26 comprehensive recommendations outlined in the following report. Their recommendations are encompassed by five central goals:

1. **Expanding pathways to alternatives to incarceration** including diversion programs for courts and deflection protocols for law enforcement;
2. **Decreasing the number of individuals entering prison due to a drug or alcohol offense, or revocation from supervision** including tiered sentencing for low-level offenses,

graduated sanctions for community supervision, and expanded presumption of probation to allow for community-based treatment;

3. **Reducing racial disparities in the criminal justice system** including collection of data about racial disparities and recruitment of community liaisons;
4. **Further supporting successful transition back into the community by increasing access to housing and healthcare** including expanded access to Medicaid for justice-involved people, and more housing resources for reentering North Dakotans; and
5. **Increasing cross-agency collaboration between system partners** including streamlined data collection across agencies and improved coordination between service providers and community supervisors.

Work Group Background

The North Dakota Justice Reinvestment Initiative Reentry Study Work Group (“Work Group”) included 15 stakeholders representing the state’s legislature, DOCR, the Department of Health & Human Services (DHHS), as well as courts, county jails, and direct service providers.

The group first convened in the fall of 2023 and met five times throughout 2024 to conduct a rigorous review of statewide prison and community supervision data, evaluate existing policies and programming, identify research-based practices, and engage in detailed policy discussions.

From the outset, the Work Group followed a wholistic approach when considering “reentry.” Rather than proceeding with the traditional understanding that reentry occurs upon release from prison, the group expanded their reentry definition to include productive reengagement with the community after *any* level of involvement with the criminal justice system. To discuss the complexities of reentry across North Dakota’s justice system, the Work Group split into two subcommittees focusing on (1) the front-end of system, including responses to crime and crises, pretrial diversion, and court system processing, and (2) the back-end of the system, including programming and treatment opportunities for people in custody, release planning, housing, healthcare, and the general transition from custody back to the community.

By examining the multiple entry points into the system, the Work Group was able to identify evidence-based alternatives to incarceration at every level of interaction that served the goals of accountability, public safety, and rehabilitation.

National/State Context

While most state prison populations across the country are decreasing, North Dakota's prison population is increasing.⁴ Between 2020 and 2021, North Dakota had the largest percent increase in prison population in the country, slightly over 20 percent.⁵ From 2011 to 2021, state prison populations in the United States fell by about 25 percent, but North Dakota's grew by just over 18 percent.⁶ This growth has continued with a 36 percent increase from December 31, 2020, to December 31, 2023.⁷ These trends are also reflected in imprisonment rates, with North Dakota's adult imprisonment rate increasing since 2013, compared to the nation's decreasing rate.⁸ As North Dakota's incarcerated population increased, defying national trends, the state's community supervision population also displayed different changes than those found nationally. On December 31, 2021, North Dakota's parole population declined more than the national average (about 11 percent compared to about seven percent), and the probation population increased almost three percent while the national average decreased nearly three percent compared to December 30, 2020.⁹

Despite the prison population trends in North Dakota, crime rates have remained relatively stable and have followed overall national trends.¹⁰ From 2013 to 2022, both North Dakota and the United States saw slight increases in their violent crime rates, an increase of approximately two percent for North Dakota and three percent nationally.¹¹ However, violent crime rates have decreased for both North Dakota and the United States since their peak in 2020, with North Dakota's violent crime rate decreasing 15 percent, and the national rate decreasing four percent. In 2022, North Dakota's violent crime rate ranked 35th out of all states, lower than their neighbors Minnesota (33rd), South Dakota (22nd), and Montana (16th). From 2013 to 2022, the national property crime rate decreased 28 percent, while North Dakota's property crime rate decreased six percent.¹²

As a result of its swelling prison population, North Dakota's correction's budget has increased 64 percent over the past four years, reaching upwards of \$445 million.¹³ The major increases in the most recent biennium budget are due to a \$131.2 million allocation for building a new women's facility and \$2.05 million to remodel and improve other facilities.¹⁴ Excluding these special funds, however, the budget has still increased approximately 16 percent since the 2017-2019 biennium.¹⁵

Another critical consideration to make when evaluating prison population trends is the composition of the incarcerated population compared to the general population. Nationally, certain racial groups are overrepresented within the incarcerated population. Black individuals had an incarceration rate of 1,196 per 100,000 residents and Native American individuals had