

Common Ground: How all of Oregon Contributes to Criminal Justice Reform

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Brief

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From the Center Director

Headlines about criminal justice reform typically focus on the passage of new legislation, the closing of a prison, or, increasingly, a success story focusing on an individual who benefited from the reform. What we hear little about is the critical work by state and local criminal justice agencies to win the hearts and minds of local decision-makers—essential work needed to ensure that reform is sustainable.

In this brief—the final in a series of three that focuses on activities launched as part of a more comprehensive reform effort—we turn our attention to efforts such as these. When Oregon passed its Justice Reinvestment Act in 2013, no one was under the illusion that the prison population would simply drop overnight and remain smaller. Instead, stakeholders in Oregon started working, diligently and strategically, to encourage local criminal justice leaders not just to improve what they were doing, but to take on the broader goal of stabilizing the state prison population and try something different.

We are inspired by the activities in Oregon that are described in this brief: using data to educate and encourage accountability, incentivizing performance through financial grants, and treating stakeholders as partners. We hope this brief affirms the work many jurisdictions around the country are doing and provides new ideas to many more.



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The Justice Reinvestment Initiative

In 2010, the U.S. Department of Justice's Bureau of Justice Assistance (BJA) launched the **Justice Reinvestment Initiative** (JRI), in partnership with the Pew Charitable Trusts. JRI is a data-driven approach to improve public safety, examine corrections and related criminal justice spending, manage criminal justice populations in a more cost-effective manner, and reinvest savings in strategies that can hold system-involved people accountable, decrease crime, and strengthen neighborhoods. At least 30 states have engaged in this process. From 2011 to 2016, BJA funded the Vera Institute of Justice (Vera) to provide technical assistance to eight of these states, helping them collect and analyze data on the drivers of criminal justice populations and costs, identify and implement policy and programmatic changes, and measure the fiscal and public safety impacts of those changes.¹

One JRI milestone is for states to pass comprehensive criminal justice reform legislation to usher in new policies, practices, and programs. A challenge for all states interested in criminal justice reforms is ensuring that enacted laws translate into sustainable reform on the local level. This brief focuses on some of the strategies Oregon used to engage local stakeholders through the state's justice reinvestment initiative. This is the final brief in a series of three that focuses on JRI activities in states where Vera has worked.

Justice Reinvestment in Oregon

From 2000 to 2012, Oregon's state prison population grew by nearly 50 percent, from almost 9,500 people to nearly 14,250.² During that period, the state's biennial corrections budget increased by nearly 40 percent, reaching more than \$1.3 billion in 2011-2013.³ The state prison population was estimated to grow by 2,300 people over the next 10 years, requiring the state to spend an additional \$600 million to build a new prison and reopen two vacant prisons.⁴ Unwilling to incur these costs, Governor John Kitzhaber reconvened and expanded the state's Commission on Public Safety to examine the drivers of Oregon's prison population and to recommend fiscally responsible evidence-based policy options to minimize anticipated growth.

In July 2013, following more than a year of work by the Commission, the governor signed a comprehensive criminal justice reform package—House Bill 3194—that is expected to accomplish three goals: slow the growth of Oregon's prison population, avert an estimated \$326 million in costs, and encourage investment in effective programs and practices that reduce recidivism, increase accountability among people who break the law, and improve public safety.⁵ The new law, known as the Justice Reinvestment Act, heralded a number of important changes, including the following:

- > It expanded presumptive probation for marijuana offenses and driving with a suspended or revoked license.
- > It reduced presumptive prison sentences for selected property offenses.
- > It removed mandatory minimum sentences for certain repeat drug offenders.
- > It expanded and strengthened transitional reentry leave, to allow the Department of Corrections to prepare certain people for release from prison with a 90-day period of community supervision.
- > It also introduced new community supervision programs and practices, such as mandating the use of a risk and needs assessment to determine supervision terms and conditions for people on probation.

In the 2013-2015 budget, lawmakers designated new funding to support the implementation of HB 3194, including \$5 million for county jails and \$15 million to launch the new

Justice Reinvestment (JR) Grant Program.⁶ HB 3194 created the JR Grant Program to support local counties' efforts to send fewer people to state prison and reduce rates of recidivism among justice system-involved people locally.

Now, more than three years after HB 3194 became law, stakeholders in Oregon agree that the Justice Reinvestment Act is having a positive impact on the state's correctional system. According to Oregon's Office of Economic Analysis, the law's impact is "sizable, both in terms of prison beds saved and costs avoided. As a gross measure, the number of prison beds in use today ... is about 400 beds below the projection [made in April 2013]...that preceded the passage of the bill."⁷ In October 2016, the Task Force on Public Safety reported to the legislature that intakes to prison decreased by 9.3 percent statewide (or 245) from July 2012 to June 2016.⁸ Based on an updated prison forecast in April 2016, Oregon will not need to construct a new men's prison until August 2025, eight years later than the estimate made in April 2013.⁹ The Oregon Department of Corrections calculates that by 2019 the state will have avoided costs of more than \$250 million due to HB 3194.¹⁰ Given this positive forecast, legislators have since doubled the size of the initial investment in the JR Grant Program to \$38.7 million in 2015-2017, and the Task Force on Public Safety has recommended that the program be funded with an additional \$52.7 million in 2017-2019.¹¹

Implementation strategies in Oregon

The successful implementation of state-level changes to sentencing laws and community supervision practices (such as those required by HB 3194) depends on the engagement and support of criminal justice practitioners at the county and municipal level. Although state-level reforms create the *possibility* of sending fewer people to prison, realizing or maximizing this goal rests on daily decisions made at the local level: by prosecutors who choose to pursue prison sentences; by judges who decide what type of sentence a person is to serve and for how long; by parole and probation officers who decide whether to seek incarceration for someone who violates the conditions of supervision; and by entire local justice systems that opt to invest in alternatives to incarceration. In the view of the Urban Institute, which assesses the federally funded Justice Reinvestment Initiative, successful change hinges on the engagement, collaboration, and support of local actors.¹² Securing buy-in from local stakeholders helps to ensure that local practices and policies

support the goal of reducing the state prison population.¹³ Without this buy-in, implementation may produce uneven results or, worse, unintended adverse consequences.¹⁴

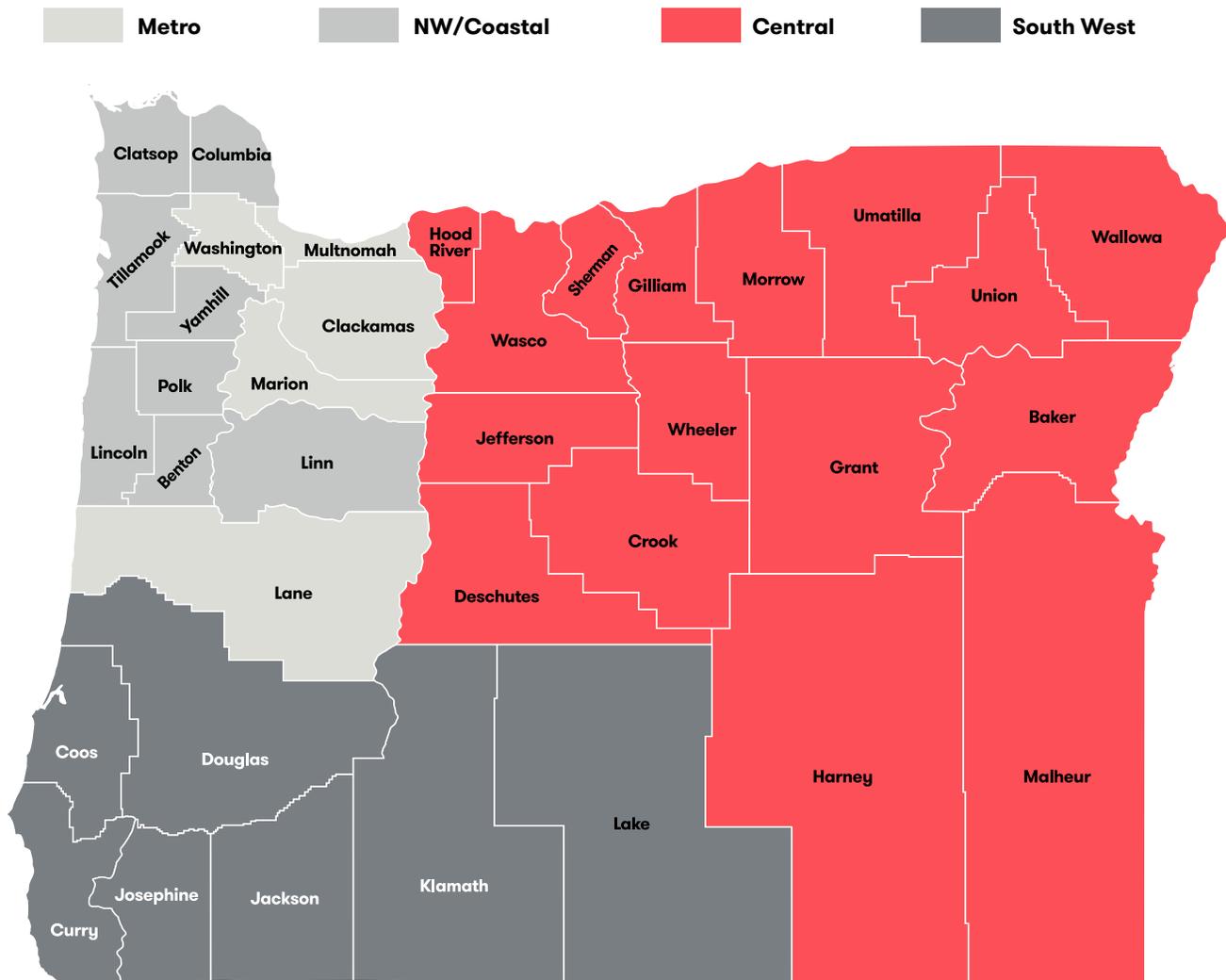
In its oversight of various components of the Justice Reinvestment Act statewide—including administering the JR Grant Program—the Oregon Criminal Justice Commission (CJC) sought to engage and mobilize local stakeholders to foreclose the potential gap between state and local public safety goals. The CJC recognized that the law’s success depended on local stakeholders prioritizing its main objective: reducing the size of the state prison system by keeping and effectively treating people at the local level. The following section describes some of the strategies the CJC employed to help align local public safety priorities with the state’s goals under HB 3194 and foster sustainable change.

Creating an infrastructure to support local buy-in and collaboration

A key strategy the CJC used to gain local buy-in was the creation of four Regional Implementation Councils (RICs).¹⁵ Run by the CJC, four RIC meetings occur on a quarterly basis throughout the state and aim to do the following:

- > facilitate the dissemination of information about the Justice Reinvestment Act and the JR Grant Program;
- > share information about prison use on the state and regional level; and
- > provide a forum for counties to interact and share information about their justice reinvestment programs, such as how they are using grant money and with what results.

Justice Reinvestment Program regions



Membership in an RIC is not formal; instead the CJC invites all members or representatives from each county's local public safety coordinating council to attend and participate in the meetings.¹⁶ RIC attendees most often include representatives from local community corrections agencies, prosecutors, defense attorneys, judges, representatives from sheriff's offices, and county commissioners.¹⁷

Although the structure of the quarterly meetings has evolved since RICs launched in 2013, they typically follow a framework described by CJC's executive director as follows: "We give them information; they give us feedback; and they talk to each other." This simple formula has helped create an environment that encourages innovation and change.

Data, data, and more data

Prior to the enactment of HB 3194, county decision-makers did not usually examine how many people they sent to prison, nor were they aware of the breakdown by offense or sentence types. Now, through the RIC meetings, CJC gives a comprehensive data presentation to local attendees, focusing on prison usage and, in particular, the drug and property crimes explicitly targeted by HB 3194. The presentation includes information on statewide prison usage by crime; regional and county average length of stay; regional and county sentence types (probation, jail, prison) for drug and property convictions; and statewide and county changes on the use of prison for property and drug convictions. An RIC attendee explained that the data "helps us visually see what our efforts are doing locally, regionally, and as a state. It makes it clear and gives us motivation to work harder."

The RIC meetings provide counties the data and the forum to examine the effect of their practices on the state prison system. According to CJC staff and RIC participants, when local actors know how they are using prison, it makes them consider their policies and practices more carefully and reflect on their consequences. As one RIC participant confessed, without the numbers, "I don't think we would be paying as much attention to what we should be doing." The RIC attendees usually share the CJC's data presentation at their local public safety coordinating council meetings, when all of the local criminal justice actors examine their performance in the context of the region and the state. If they see that their county is an outlier on any data points, it often prompts discussion and subsequent action.

Accountability

The CJC—at RIC meetings and beyond—persistently and explicitly makes the connection between prison growth and local investment: The longer the state can delay building and opening a new prison, the more likely it is that money—and more of it—will be available to local communities on the front end. The data presentations are designed to inform attendees about their counties' use of prison, but also to hold them accountable for their performance and their contribution to the greater goal of stabilizing the size of the state prison population.

Increased accountability also leads to a shared sense of purpose. Although the meetings foster some healthy competition among the counties, they encourage the participants of each county—small or large—to contribute to achieving the overall goals of HB 3194. RIC attendees and other county actors are urged to take responsibility for reducing the prison population, whether counties send only a handful or hundreds of people to prison each year. According to a prosecutor in one metropolitan region, "People would ask themselves, 'If you want this to succeed—and make sure that resources continue to flow to your community—what are you going to do to make this work?'"

Sustained engagement

The RIC meetings are useful not only because they provide opportunities for local stakeholders to examine relevant data and measure their performance but because they allow attendees from different parts of the state to learn from one another and hear about other counties' successes and challenges. RIC attendees emphasized and value this aspect of the meetings. As one said, "It allows us to understand what other communities are doing in terms of investing their team and resources in justice reinvestment. We get an opportunity to learn new ideas [and] how other communities are being entrepreneurial. Even better, to understand their gaps and challenges. That creates a platform for dialogue for how to tackle those problems. This can be the biggest outcome."¹⁸

As local engagement with the Justice Reinvestment Act grows, there is a risk that the RICs will outlive their original purpose. To prevent this from happening, the CJC is adjusting the framework of the RIC meetings to ensure continued attendance and commitment. For example, some meetings are now used to delve into specific programs or initiatives counties are implementing (such as pre-sentencing assessments) and discuss the strategies counties are using to achieve positive results.¹⁹ The CJC has also started using the

RIC meetings to coordinate a statewide advocacy effort aimed at preserving justice reinvestment and ensuring that the JR Grant Program continues to exist—and to grow and thrive. State budgets are precarious; the amounts available can vary with economic highs and lows, and priorities often change when new legislators take office. Making legislators aware of HB 3194's outcomes and successes is critical to ensuring that they do not step away from the JR Grant Program. The RIC meetings are an ideal forum to plan a strategy and enlist the assistance of local stakeholders in thoughtful efforts to make sure local legislators know about the impact justice reinvestment is having on their county and the state.

Providing incentives

Many states that have enacted justice reinvestment strategies have created performance incentive funding programs, which allow local entities to receive funding from the state when they send fewer people to state prison or reduce recidivism.²⁰ Through these programs, the hope is that counties will implement or enhance strategies that will produce better justice outcomes and that local stakeholders will focus their energies on policies and practices consistent with the state's goals.

To receive money under the JR Grant Program in Oregon, counties must propose to plan, implement, or expand a program that meets one of the three goals of HB 3194. Thus far, funding provided under the grant program has played a significant role in prompting counties to shift their priorities toward creating and sustaining local solutions that keep and successfully treat people in the community. For instance, in Multnomah County, the most populous county in the state, grant funding gave the county the extra capacity—and incentive—to create an intensive supervision program. The program focuses on two types of people: those charged with a nonviolent felony offense for which a prison sentence is recommended, based on the state's sentencing guidelines; and people who are on community supervision but face being sent to prison for violating a condition of their supervision or because of an arrest for a new crime. Prior to Multnomah County implementing its justice reinvestment program, 55 percent of these cases led to prison sentences; under the new program, only 25 percent of these cases result in sentences or revocations to prison.²¹ The county has reduced the number of people it sends to prison by 34.3 percent from July 2012 to June 2016.²²

For smaller counties, such as Lake County (with fewer than 8,000 residents), it was a challenge to focus on the goals of HB 3194 because the jurisdiction sent only a handful of people to prison each year. According to a local

actor from Lake County, “The funding, plus the priorities of HB 3194, forced people to think differently: not about our budget gaps, given what we already do, but what...we want to do differently in order to reduce the number of people we send to prison and treat people in the community with positive results.” Leaders in Lake County decided to use its justice reinvestment grant to develop a treatment court that provides comprehensive treatment and supervision services to a variety of people with medium and high risk and need.²³ The funding provided under the JR Grant Program gave decision-makers in Lake County the nudge needed to consider a solution that was otherwise beyond its reach.

Creating a partnership

At the end of 2013, when the CJC announced the creation of the RICs, some people raised concerns that the state was regionalizing public safety, infringing on counties' independence, and acting beyond its authority.²⁴ This perception dissipated quickly, due to the leadership role and the tone the CJC has taken so far as the overseer of HB 3194 and the steward of the JR Grant Program. For example:

- > The CJC has demonstrated its investment and support by convening the RIC meetings in person and in the region, and by rotating the host location from one county to the next. This is quite burdensome to the CJC staff, who travel to all four regions every quarter, with some locations more than six hours away from Salem, the state capital. But for RIC attendees who live in rural regions hundreds of miles from Salem, the in-person presence of the CJC staff is more than symbolic. In some instances, the CJC staff were told that it had been years since someone from the state had come there. This is meaningful to local stakeholders and demonstrated the state's interest in and commitment to investing in their regions. It really demonstrated that “Yes, they had some skin in the game,” as one RIC participant said.
- > During the data presentations at the RIC meetings, CJC staff typically express neither judgment nor criticism. Although CJC staff point out where and how counties are meeting, surpassing, or falling behind their projections and baselines, for the most part, the numbers speak for themselves. RIC meetings are not, in the words of one participant, a “shame on you” session. Rather, the CJC presents the data to assess, not blame.

- > In the CJC's work beyond the RIC meetings, including providing technical assistance to counties about specific issues or implementation challenges, the commission has made great efforts so that county actors feel that they are in a partnership—and not being told what to do by the state government. The CJC and the county work together to solve problems and improve outcomes.

Conclusion

Oregon's justice reinvestment initiative—like many states' criminal justice reform efforts—sinks or swims based on the support and engagement of local actors. At least three strategies were employed to some success in Oregon:

- > creating an infrastructure—the RICs—to support local buy-in and collaboration;
- > providing incentives—with the JR Grant Program; and
- > creating a partnership, facilitated by the commitment and collaborative efforts of the CJC.

Obtaining local buy-in and engagement is a critical undertaking without an end date. Oregon's strategies are ongoing and even being improved. Most recently, CJC developed a series of interactive dashboards that include data on prison use, reported crime, and recidivism. These dashboards are publicly available through the CJC website.²⁵ Additionally, all of the justice reinvestment programs are summarized on the Oregon Knowledge Bank, a public website that serves as a clearinghouse for local criminal justice resources in Oregon.²⁶ In addition, Attorney General Loretta Lynch announced in September 2016 that the CJC was awarded a federal grant to hire and train data analysts to work directly with a select number of local public safety coordinating councils in planning and implementing evidence-based practices.²⁷

All of these efforts and resources make it possible for public safety officials and policymakers—on the state or local level—to measure their performance, examine their use of prison, and make better-informed decisions about public safety resources. If local counties' programs do not align with Oregon's goal of controlling the state prison population, the goals of HB 3194 will not be achieved. By using effective implementation strategies, Oregon is moving toward continued success.

Endnotes

- 1 Vera worked with Arkansas, Delaware, Georgia, Kentucky, Louisiana, Oregon, South Carolina, and South Dakota.
- 2 Commission on Public Safety Report to the Governor, December 17, 2012, 7, <https://perma.cc/4FPB-SZH3>.
- 3 Ibid. Oregon has biennial budgets, which cover a period of two years, beginning on July 1 of odd years and ending on June 30 two years later.
- 4 Ibid.
- 5 Justice Reinvestment Grant Program application (Salem, OR: Criminal Justice Commission, 2015), <https://perma.cc/M9NP-3BAX>.
- 6 The 2013-2015 biennium budget also funded new investments in several other areas of public safety, including more than \$7 million for victim services, nearly \$9 million for drug courts, and almost \$3.5 million for state police. In response to the detrimental impact that budget cuts in 2011 had on local community corrections agencies, the budget also included an extra \$17 million for community corrections.
- 7 *Oregon Corrections Population Forecast* (Salem, OR: Office of Economic Analysis, 2016), 10, <https://perma.cc/BF9P-94SQ>.
- 8 Task Force on Public Safety, *Justice Reinvestment Report to the Legislature*, (Salem, OR: 2016), 5. <https://perma.cc/Q6LB-2S67>. The Task Force on Public Safety was created by HB 3194 and is responsible for overseeing the implementation of the Justice Reinvestment Act and reporting to the legislature. Its 13 members are appointed by the governor, leaders of the state legislature (the president of the Senate and the speaker of the House of Representatives), and the chief justice of Oregon's Supreme Court. Members include state legislators, judges, a county commissioner, a district attorney, a criminal defense attorney, a community corrections director, a representative of a community-based crime victims organization, and members of law enforcement. See <https://perma.cc/4X9C-HXUS>.
- 9 Ibid., 31.
- 10 Ibid., 56 (Appendix A). The Oregon Department of Corrections calculated and forecast the fiscal impact of HB 3194 from 2013 through the 2021-23 biennium. When looking at the first three budget periods (2013-15, 2015-17, and 2017-19), the total cost avoidance to the DOC is more than \$250 million. This includes \$147 million in averted costs related to constructing or opening a new prison and more than \$100 million in reduced operating costs (due to housing, feeding, and supervising a smaller incarcerated population).
- 11 Ibid., 52.
- 12 Elizabeth Davies, Samantha Harvell, and Lindsey Cramer, *The Justice Reinvestment Initiative: Thinking Local for State Justice Reinvestment*, (Washington, DC: Urban Institute, 2015), 2, <https://perma.cc/S5TJ-T4QR>.

- 13 Ibid., 4.
- 14 For instance, if a statewide policy ties funding to reducing the number of revocations from community supervision, some people are concerned that in borderline cases supervising officers will be discouraged from initiating revocation proceedings when the interests of public safety warrant such an action. See Alison Shames, *Performance Incentive Funding: Aligning Fiscal and Operational Responsibility to Produce More Safety at Less Cost* (New York: Vera Institute of Justice, 2012), 16, <https://perma.cc/FHC6-PW5V>.
- 15 CJC staff travel to each of the four regions to conduct the RIC meetings. The five largest, mostly metropolitan, regions that account for more than 60 percent of the state prison population are part of the Metro Region. The remaining regions are geographic. The CJC structured these meetings as regional convenings to avoid duplicating efforts of local public safety coordinating councils.
- 16 Every county in Oregon is statutorily required to convene a Local Public Safety Coordinating Council (LPSCC). LPSCCs are charged with (1) coordinating local criminal justice policy and planning; (2) making recommendations to the county board of commissioners regarding the use of state and county resources to supervise local offenders; and (3) since 2014, developing and approving their county's Justice Reinvestment Grant program. LPSCC members must include a police chief, the county sheriff, the district attorney, a judge, a public defender, the director of community corrections, a city councilor, and representatives from the Oregon State Police and Oregon Youth Authority. See <https://perma.cc/5QK5-TEUP>.
- 17 In Oregon, community corrections is a function of state government but operated by a county-based agency, under the administration of either a county commissioner or the local sheriff's office. The only exception is that the Oregon Department of Corrections operates community corrections in two of Oregon's 36 counties (Linn and Douglas counties). The state provides the bulk of community corrections funding. Community corrections agencies are responsible for the supervision of convicted adult felons on probation or parole/post-prison supervision and often provide day reporting, correctional treatment, and work-release programs.
- 18 Although this quote is from a prosecutor from a metropolitan region, many other stakeholders who were interviewed for this report expressed a similar sentiment.
- 19 For an example of pre-sentencing assessments, see "Yamhill County SMART Sentencing Initiative," <https://perma.cc/M3G6-7PTH>.
- 20 Shames, 2012, 8-9; Nancy LaVigne, Samuel Bieler, Lindsey Cramer et al., *Justice Reinvestment Initiative State Assessment Report* (Washington, DC: Urban Institute, 2014), <https://perma.cc/QQ68-7UHF>.
- 21 "Multnomah County Justice Reinvestment Program (MCJRP)," Oregon Knowledge Bank, <https://perma.cc/82M5-HQ6A>.
- 22 Task Force on Public Safety, 2016, 5, 36-37.
- 23 "Lake County Treatment Court," Oregon Knowledge Bank, <https://perma.cc/V8LL-T4LN>.
- 24 Interview with Michael Schmidt, executive director, Oregon Criminal Justice Commission, August 4, 2016.
- 25 State of Oregon: Criminal Justice Commission website, <https://perma.cc/3Z28-87JG>.
- 26 Oregon Knowledge Bank, <https://perma.cc/4FE9-4BC9>; the website is managed in partnership by the CJC and the state's Center for Policing Excellence, <https://perma.cc/7HHU-2P6B>.
- 27 U.S. Department of Justice, Office of Public Affairs (OPA), "Justice Department Announces \$17.5 Million in Grants to Support Correctional Reform, Enhance Public Safety," press release (Washington, DC: OPA, September 13, 2016), <https://perma.cc/YXJ4-DQ GK>.

For more information

The Vera Institute of Justice is a justice reform change agent. Vera produces ideas, analysis, and research that inspire change in the systems people rely upon for safety and justice, and works in close partnership with government and civic leaders to implement it. Vera is currently pursuing core priorities of ending the misuse of jails, transforming conditions of confinement, and ensuring that justice systems more effectively serve America's increasingly diverse communities. For more information, visit www.vera.org.

For more information about justice reinvestment in Oregon, contact Mike Schmidt, executive director of the CJC, michael.schmidt@oregon.gov, or Ross Caldwell, justice reinvestment liaison at the CJC, ross.caldwell@oregon.gov.

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An electronic version of this report is posted on Vera's website at www.vera.org/common-ground.

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