

## Justice Reinvestment on the Ground

**Author :** Jamie Markham

**Categories :** [Sentencing](#), [Uncategorized](#)

**Tagged as :** [advanced supervised release](#), [asr](#), [delegated authority](#), [jra](#), [justice reinvestment](#), [probation](#), [quick dips](#)

**Date :** August 26, 2014

Among the two dozen or so states that have participated in Justice Reinvestment, North Carolina has become something of a darling. The goal of the initiative (summarized in [this infographic](#)) is to reduce spending on corrections, and North Carolina has done that. Since the day the law came into effect, we have 2,000 fewer prison inmates, and—in something of a surprise—10,000 fewer probationers. (As I was looking into this, I noticed that there are 20,000 fewer probationers in North Carolina today than there were in early 2008!) The general view is that the initiative is working well here, and other states are looking to copy our model. Commissioner of Adult Correction David Guice [has appeared before congressional staff](#) to talk about North Carolina's experience, and just last week [spoke to Alabama's Association of County Commissioners about our success](#), highlighting our use of short confinement periods (quick dips) to respond to technical violations of probation.

With all this attention, it seemed a good time to share some data that show how Justice Reinvestment Act (JRA) "tools" are being used in practice in North Carolina. (Previous statistical reviews are available [here](#) and [here](#).) All figures come from the excellent research staff of the Division of Adult Correction and Juvenile Justice.

**Delegated authority.** Probation officers can, after the JRA, impose more conditions on probationers through delegated authority than they could before the law came into effect. Without action by the court, officers can impose conditions like community service, substance abuse treatment, electronic house arrest, a curfew, and educational programs. The officer may impose any of those conditions in response to a violation, or (unlike pre-2011 law) without a prior violation if the probationer has been "determined to be high risk based on the results of the risk assessment." [G.S. 15A-1343.2\(e\) and \(f\)](#). Probation officers refer to the latter option as "high risk delegated authority." Since the start of 2013, officers used delegated authority over 3,000 times, with over two-thirds of that being the post-violation variety. Officers used high risk delegated authority 969 times.

**Quick dips.** The JRA added a new form of delegated authority through which probation officers can jail certain probationers for two or three days in response to a violation of probation. Officers may only do that after following a special procedure that includes the offender's waiver of the rights to a hearing and counsel. [G.S. 15A-1343.2\(e\) and \(f\)](#). Quick dips were scarcely used at all in 2012, but things have picked up considerably since then. In fiscal year 2013/14, officers imposed 1,448 quick dips. Almost two-thirds of them (903) were of the 3-day variety.

My understanding is that very few judges take the affirmative step of "un-delegating" the authority for a probation officer to impose a quick dip, although there are a handful that do so in every case. I have not heard of any litigation regarding the constitutionality of officer-imposed dips, which I wrote a little bit about [here](#).

A *preliminary* analysis of the effectiveness of quick dips shows promise: a group of offenders who received one quick dip in response to noncompliance were less likely to get revoked and less likely to abscond than a matched group of undipped offenders. A summary of the analysis, shared with DAC's permission, is available [here](#). It's a small sample, but the results are interesting and encouraging.

**ASR.** Another new arrow in the JRA quiver is Advanced Supervised Release (ASR). The law, which allows a person serving an active sentence to earn an early release by completing certain "risk reduction incentives" in prison, is

summarized [here](#). Statewide, over 300 ASR sentences have been entered since the law came into effect. Unlike quick dips, however, there are indications that ASR usage has actually slowed in recent months. An ASR sentence cannot be imposed over the objection of the prosecutor, so it's possible that the law is not being used because most prosecutors object. Or it may just be that nobody brings it up. It's too soon to have any meaningful data about whether ASR risk reduction incentives actually reduce risk.

I would love to hear your thoughts about how these new legal tools are being used in practice. Officials in Alabama, Michigan, and other states thinking of taking the JRA plunge might also learn from our collective experience.