

COST OF CORRECTIONS IN PENNSYLVANIA



Prepared For
The Edna McConnell Clark Foundation

By The
Pennsylvania Economy League, Inc.

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Executive Summary

Executive Summary

Purpose of the Study

At the request of the Edna McConnell Clark Foundation, The Pennsylvania Economy League (PEL) conducted a study to determine the total cost of incarceration and of intermediate punishments in Pennsylvania. In addition, the study is intended to determine the potential cost savings to the Commonwealth if an extensive program offering intermediate punishments is implemented.

Data for the study were gathered from state agencies including the Department of Corrections, the Pennsylvania Commission on Crime and Delinquency, the State Board of Probation and Parole, the Pennsylvania Commission on Sentencing and the Governor's Budget Office. In all cases, the most recent data available were used and cost projections were based on the most conservative assumptions.

Incarceration cost data, both at the state and county level, were supplied by the Department of Corrections. Data reflecting the cost of intermediate punishments were developed by the Pennsylvania Commission on Sentencing from telephone interviews with county probation and parole authorities.

Corrections Spending Growth Rates

Corrections has become one of the fastest growing areas of state spending. Between FY 1982 and 1992, state general fund spending on the Department of Corrections grew by 259%, from roughly \$126 million to over \$453 million. During this same period, General Fund spending on all other programs grew by an average of 89%.

At the county level the situation was much the same. Between 1981 and 1991, county expenditures on jails and prisons grew by 192%, from \$103 million to \$303 million. Spending on all other county programs grew by 108% during the same period.

In addition to prisons, there has been growth in spending on probation and parole services as well. From FY 1982 to 1992, the State Board of Probation and Parole budget grew by 173%, from almost \$17 million to \$46 million. From 1984 to 1991, county probation and parole costs grew from \$25 million to almost \$51 million, or 103%.

Driving this spending has been an enormous influx of offenders into our county jails and state prisons. The state prison population grew by 171% between 1980 and 1990. The county jail population grew by 125%. As a result, prison overcrowding has become a serious issue in the Commonwealth. In 1991, the state prison population stood at 147% of capacity and county jails stood at 141% of capacity.

During the 1980s, much of the growth in the state prison population was among non-violent offenders. In 1980, 36% of state prisoners were incarcerated for non-violent crimes. By 1991, the percentage offenders in prison for non-violent crimes increased to about 50%.

Corrections Population Growth Rates

There are a number of factors which have influenced the growth in prison and jail populations. While the amount of criminal activity is usually thought to be a major factor, the index crime rate in Pennsylvania actually declined at the same time prison and jail populations increased. Index crimes are more serious offenses such as murder, non-negligent murder, and forcible rape. (Total crime in Pennsylvania increased by six percent during the 1980s.)

A better explanation lies with government policies intended to fight crime. In response to public fear of a perceived growth in criminal activity, state and local government adopted a "get tough" approach to crime. Out of this new approach have come more arrests, more convictions, and policies which send more offenders to prison or jail.

Not only are more offenders being sentenced to prison or jail at the "front-end", but many paroled offenders are returned to incarceration on both technical and criminal parole violations. In addition, the average state offender is staying in prison longer. The average minimum sentence increased during the 1980s, and more offenders served additional time beyond their minimum sentence, because inmates eligible for parole were either not able to be processed in a timely fashion or were considered too great a risk for parole.

For the most part, counties and the state have responded to this surge in the number of inmates by adding new prison space. Since the early 1980s, the State Department of Corrections has developed new cell space at an unprecedented pace. Between 1984 and 1992, eight new facilities were added to the state prison system. By 1995, construction on seven new prisons will be finished, adding 10,000 more cells to the prison system and raising the total number of state institutions to 24. By the time construction on the last new prison is completed, Pennsylvania will have added a total of 15 new state correctional facilities in just 11 years.

However, despite upgrades, conversions, and new construction, Pennsylvania's prison and jail population continues to exceed capacity; and the state prison system is expected to remain over capacity even as the seven new prisons are completed in 1995. Projected continued inmate population growth beyond 1995 necessitates further action to bring prison population and capacity into balance.

Alternatives for the Future

After witnessing dramatic growth in both the prison population and the cost of incarceration during the past decade, where should we go from here? The report identifies two basic alternatives.

Scenario 1: Status Quo

One possibility is to continue doing things as we have for the past 10 years, that is to rely heavily on incarceration. If Pennsylvania chooses this course of action, and the offender population in our prisons and jails continues to grow as projected (By the year 2000, the state prison system is expected to be over capacity by about 8,200 inmates.), the Commonwealth will be forced to build more prisons and incur the enormous costs associated with these facilities.

The cost of prison expansion is often expressed as merely the construction cost of a new facility. However, the total cost of building a new prison represents a substantial and long-term commitment that far exceeds the initial cost of construction. Servicing the debt used to fund the construction of a prison could take as long as thirty years, depending on the term of the bond issue; and once interest is included, the final cost of construction could be as much as three times the initial cost. In addition, annual operating costs such as salaries and benefits, utilities, routine maintenance, and food will add significantly to the cost of a prison; and, over the life of a prison, far exceed the cost of construction, including debt service costs. Therefore, the initial costs associated with the actual construction of a prison will be relatively small in comparison to the enormous operating and debt service costs the Commonwealth must bear for years to come once a facility is in operation. Any decision to build more prisons must take into consideration these total future costs.

Of more concern is the lesson from Pennsylvania's current experience with prison construction which shows new prisons provide no guaranteed solution to the overcrowding problem. If the inmate population continues to grow at its current pace into the next century, it is unclear how many prisons will ultimately be needed to incarcerate future numbers of offenders.

Scenario 2: Reduce the State Prison Population

An alternative to this first scenario is to reduce the inmate population so that new prison construction will not be necessary. There are three basic ways to accomplish this: (1) a reduction in the average time served by inmates in prison, (2) a diversion of offenders who would otherwise go to state prison into some other form of sanction, or (3) a combination of these two options. How these reductions in time served or diversions will actually be accomplished and which prisoners will be affected are policy decisions that should be made by our elected officials. However, several general options bear mentioning.

There are two ways to reduce the amount of time served. First, one can move up the date at which an offender is eligible for parole. This can be accomplished by adjusting the sentencing guidelines so that minimum sentences are shorter, by initiating an earned time program, or by initiating an accelerated release program. The second method of reducing time served involves increasing the rate of release of those who have served their minimum sentence. An example of this would be to initiate a presumptive release program.

Diverting more offenders from prison would require a change in the sentencing guidelines so that more offenders could be sentenced to intermediate punishments. The elimination of mandatory minimum sentences would also be an option. In addition, technical parole violators who would otherwise be returned to prison, instead could initially be placed in a more intensive form of supervision. Technical parole violators are parolees who have not committed any new crimes; rather, they have violated the terms of their parole. Diverting more offenders from prison or jail would also require judges to more frequently sentence eligible offenders to intermediate punishment programs they now have at their disposal, but fail to use regularly. A final option would involve the development of intermediate punishments for inmates who are eligible for parole, but who may be at risk of parole violation and would therefore not be released from prison. Funding for these intermediate punishments would have to be increased so that these programs could be expanded.

If the costs of new prison construction are to be avoided, the state must make a substantial reduction in the state prison population. As long as the state prison system is significantly over capacity there will be pressure to build more prisons. To avoid new construction, it will be necessary to balance the prison population with capacity. Current projections indicate that, in the year 2000, an 8,200 person reduction in the state prison population will be needed.

The Potential Effect of Upcoming Changes to the Sentencing Guidelines

The Pennsylvania Commission on Sentencing is now in the process of revising the Commonwealth's sentencing guidelines. Changes to the guidelines will most likely have the following effects on state and county correctional populations:

- The state prison population will be reduced, as some state offenders are shifted to county confinement and others serve shorter sentences.
- Despite receiving some state offenders, the county jail population should experience a net reduction, as some offenders are shifted to supervision in the community and others serve shorter sentences.
- The caseload of county probation and parole will increase as county offenders are shifted from jail to supervision in the community.
- As more county offenders are supervised in community-based intermediate punishments, the overall cost of county corrections will increase.

It must be stressed that, under the guidelines, the provision of intermediate punishments will be limited to the counties, which can use them to address the shift of county offenders into community supervision. Consequently, they are not a direct method of reducing the state prison population. The state prison population

will be reduced by changes to the guidelines alone, regardless of whether the county provides intermediate punishments.

Given the potential reduction to the state prison population as a result of the impending changes to the sentencing guidelines, now is an appropriate time to reconsider the need to construct SCI Clearfield and Chester. It is unlikely that the guideline changes alone will result in a reduction in the state prison population sufficient to avoid building these two facilities. But changes to the guidelines, combined with other measures, may result in the necessary reduction. One possible additional measure which the Commonwealth should consider is the initiation of a program of intermediate punishments for state offenders. Diverting appropriate state offenders to intermediate punishments could significantly reduce the prison population.

Fiscal Impacts of Reducing Prison Population Through Intermediate Punishments

A key part of the research effort for this project was to quantify the cost of incarceration and the cost of intermediate punishments. This information would then be available to calculate the potential net fiscal impact of a reduction of the state prison population through the use of intermediate punishments.

A substantial difference exists between the average cost of incarceration and the cost of intermediate punishments. In FY 1992, the average annual cost per offender of incarceration was over \$20,000. According to the Pennsylvania Commission on Sentencing, the average cost per offender of restrictive intermediate punishments (this is the most expensive form of alternative sanction and includes programs such as house arrest with electronic monitoring) is nearly \$4,400. However, the potential to realize net benefits from this cost differential will be achieved primarily by avoiding further prison construction or closing a significant part of an existing facility.

There also exists the potential for net **marginal savings** resulting from the removal of each offender from state prison; but these savings could be nullified, depending on the cost of the intermediate punishment program in which offenders are placed as an alternative to incarceration. The Department of Corrections estimates that the average marginal (avoidable) cost of incarceration is approximately \$2,720 per year, only about 13% of the total average annual cost of incarceration per inmate. Savings per offender equal to this amount would not cover the cost of the most expensive form of intermediate punishment (\$4,400). Hence, avoiding new prison construction or closing a significant part of an existing facility offer the surest methods of significantly reducing corrections costs.

PEL calculated the potential for savings by avoiding new prison construction which could be realized through the use of an intermediate punishment program. The results of this analysis reflect the cost of intermediate punishment programs needed to bring the projected state prison population in the year 2000 into balance with existing capacity versus the cost of leasing and operating five new 1600-bed prisons needed to house the excess population.

By performing calculations using the **most expensive scenario** for an intermediate punishment program, an **upper-limit cost** was established. By definition, any other policy would be less expensive. The most expensive method of bringing prison population into balance with capacity would divert offenders from prison and provide intermediate punishments for the period of time the offenders would otherwise have been incarcerated. PEL also used the annual per offender cost of restrictive intermediate punishments (\$4,380), assuming that this number represented the most expensive form of intermediate program.

Based on the assumptions above and using the year 2000 for the purpose of illustration, the single-year cost of an intermediate punishment program -- large enough to bring state prison population into balance with capacity -- would be \$36 million in constant dollars. In contrast, based on the Department of Corrections' latest prison-construction program, the annual cost of leasing and operating five new prisons would total over \$172 million in constant dollars, for a net savings of over \$136 million.

It must be stressed that "savings" in the present context is the avoidance of future prison construction costs less any cost from an intermediate punishments program. It does not mean any year-to-year reductions in total spending. It simply means that we can expect state corrections expenditures to be less in the future than what they would have been had new prisons been constructed. The cost of operating existing state prisons will continue to increase, but at a slower rate.

Finally, placing offenders in intermediate punishments will result in an immediate cost increase in overall corrections spending in Pennsylvania. Increasing the number of intermediate punishments will require investment in equipment and personnel needed to operate these programs. At the same time, the cost of operating existing prisons will remain. (Corrections spending will only decrease if the size of the reduction in the state prison population is large enough to close an entire prison or a significant part of a prison.)

Other Benefits of Intermediate Punishments

This report has estimated the cost-savings which can be realized through an intermediate punishment program; however, there are other benefits as well.

- Intermediate Punishments Make Offenders Pay Their Debt to Society
- Intermediate Punishments Force the Offender to Pay the Cost of His or Her Supervision
- Intermediate Punishments Reduce Pressure to Build Prisons
- Intermediate Punishments May Be a Better Way to Rehabilitate Offenders
- Savings from Intermediate Punishments Can be Used for Other Government Programs
- Intermediate Punishments Offer Sentences Which Fit the Crime
- Offenders Pay Taxes
- Intermediate Punishments Allow Offenders (Not Government) to Support Their Families
- Intermediate Punishments Force "Deadbeat Dads" to Support Their Children

Directing Savings to Other Programs

If the Commonwealth spends less on corrections in the future, it could redirect the savings to other programs. Among the possible uses for these funds are programs that could have a potential impact on factors which may influence criminal behavior, i.e., low educational attainment, lack of job skills, and drug abuse. The potential savings from avoiding future prison expansion could provide substantial increases over current funding levels for many of these programs.

To the extent that additional spending on these programs would reduce criminal behavior, there exists the potential for less spending on corrections in the future.

Policy Issues Relating to Reducing State Prison Population

As indicated previously, there are several options available to the Commonwealth to reduce its prison population. However, each has policy implications that must be recognized and understood as these options are considered. Some of the major policy issues raised are:

1. Should the state prison population be reduced?
 - Is incarceration effective as a method to reduce crime?
 - Are offenders rehabilitated in prison?
 - To what extent are prison and jails used to incarcerate non-violent offenders who could be supervised in the community at less cost?
 - Would public safety be compromised by an intermediate punishments program?
 - Does length of time served influence recidivism?
 - Are there non-cost benefits that can be gained from intermediate punishments?

2. Removing an offender from state prison to an intermediate punishment program does not eliminate the cost of supervising that offender, it simply shifts the cost to a different government authority. Depending on the policy, moving offenders out of state prison may result in increased costs to county jails and prisons, as well as both state and county probation and parole.
 - Will the respective costs be recognized and funded adequately on a fair and rational basis?
 - Can the system provide intermediate punishments effectively to the large number of offenders who must be involved to avoid future prison construction?
 - Can the system provide intermediate punishments effectively on a timely basis to avoid future prison construction?
 - As the capacity of intermediate punishment programs grow, will some offenders who ordinarily would have received probation be sentenced to intermediate punishments instead? To the extent that this occurs, it will expand the population to be supervised in intermediate punishments beyond the number of offenders diverted from prison and thus drive up the cost of the program. The potential for this to occur should be monitored.
3. Should a program of intermediate punishments be provided for appropriate state offenders?
4. Will the public support the placement of more offenders in intermediate punishments?

Summary

If the Commonwealth continues to incarcerate offenders in state prison at the present pace, then the cost of building and operating more prisons will be unavoidable. To avoid the cost of future prison construction, the state prison population must be brought into balance with capacity. One way to accomplish this would be to expand the use of intermediate punishments. An expansion of these programs will require additional expenditures; consequently, the overall cost of corrections in Pennsylvania will increase. However, because the cost per offender of these programs is much less than the cost per offender of incarceration, an immediate expansion of intermediate punishments will, in the long-run, be less expensive than the cost of building and operating more prisons. In other words, by expanding intermediate punishments, we can expect state corrections expenditures to be less in the future than what they would have been had new prisons been constructed. The overall cost of all corrections activities in Pennsylvania will continue to increase, but at a slower rate.

A rational intermediate punishment program, one which is limited to non-violent offenders and provides an adequate system of supervision, should not result in undue risk to the public. While one can assume that placing more offenders in the community will result in greater risk, because only non-violent offenders will be supervised in these programs, the risk will be minimized. To be successful, an expanded commitment to intermediate punishment programs in Pennsylvania will require adequate funding. For this reason, consideration should be given to the development of a sound and rational funding mechanism.

Finally, the decision to implement a program to reduce prison population raises many policy questions. The answers to these policy questions should be sought to assure that our future corrections program protects the public and provides the most effective services at the most affordable cost.

Cost of Corrections In Pennsylvania

Purpose of the Study

At the request of the Edna McConnell Clark Foundation, The Pennsylvania Economy League conducted a study to determine the cost of incarceration and of intermediate punishments in Pennsylvania. In addition, the study is intended to determine the potential cost savings to the Commonwealth if an extensive program offering intermediate punishments is implemented.

Incarceration cost data, both at the state and county level, were supplied by the Department of Corrections. Data reflecting the cost of intermediate punishments were developed by the Pennsylvania Commission on Sentencing from telephone interviews with county probation and parole authorities.

The Pennsylvania Economy League would like to thank administrators and staff at the following Commonwealth agencies for their cooperation and assistance in the preparation of this report:

Department of Corrections
Board of Probation and Parole
Pennsylvania Commission on Sentencing
Governor's Budget Office

We want to express our special appreciation to the Pennsylvania Commission on Crime and Delinquency for their invaluable assistance and information.

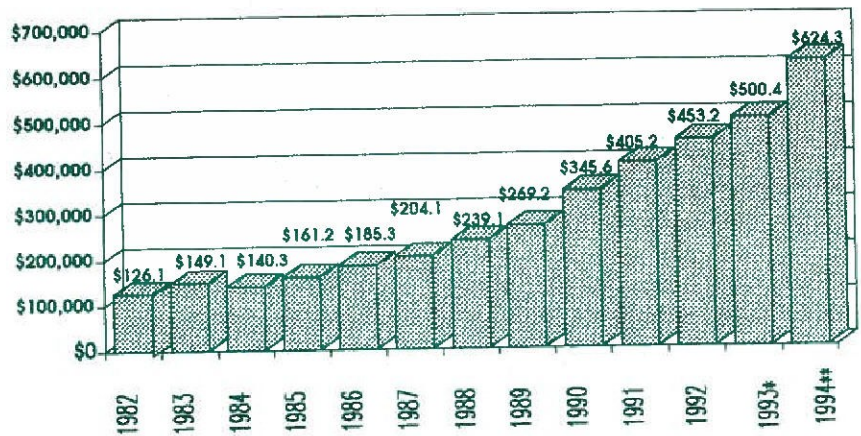
This report was prepared by David R. Forrest under the supervision of Robert E. Greenwood. Layout and graphics were designed by Karen J. Reside.

Corrections Spending Growth Rates

In recent years, corrections has been one of the fastest growing areas of state and county spending in Pennsylvania. Between FY 1982 and 1992 total state corrections spending increased by 259%, from \$126 million to \$453 million. By comparison, total funding of all other state programs grew by an average of only 89% during the same period (Figure 1). In FY 1994 the Governor has requested over \$624 million for the Department of Corrections, a 38% increase over FY 1992.

Figure 1.

**State General Fund Corrections Spending:
FY 1982-1994 (Millions)**



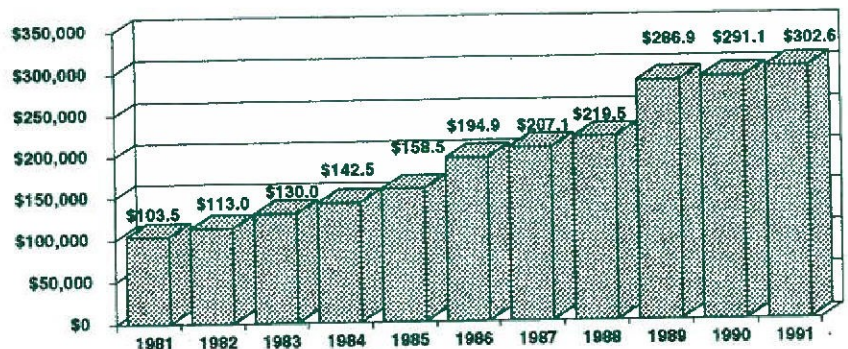
**BETWEEN 1982-1992
STATE SPENDING
FOR CORRECTIONS
GREW BY 259%.
SPENDING ON ALL
OTHER PROGRAMS
GREW BY 89%.**

*Appropriated
**Governor's Request

At the county level, the situation was much the same. Between 1981 and 1991, county expenditures for jails and prisons grew by 192%, from \$103 million to about \$303 million (Figure 2). Spending on all other county programs grew by 108% during the same period.

Figure 2.

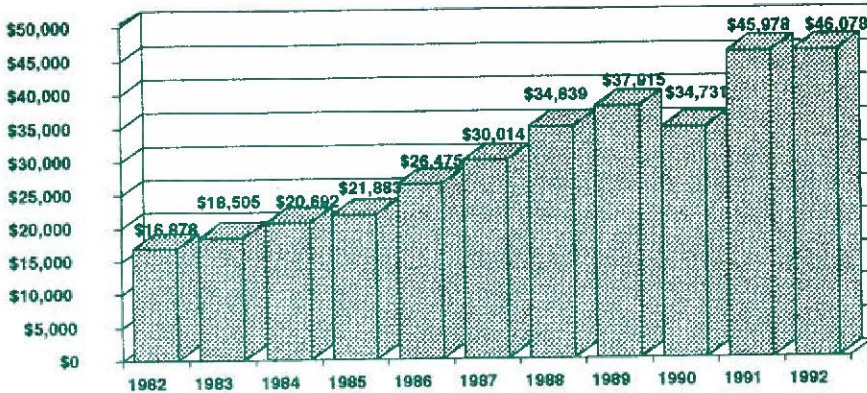
County Prison Expenditures: 1981-1991 (Millions)



In addition to incarceration, expenditures on probation and parole witnessed similar growth. Between FY 1982 and 1992, the budget of the State Board of Probation and Parole grew by 173%, from roughly \$17 million to over \$46 million (Figure 3).

Figure 3.

**State Board of Probation and Parole Budget Growth:
FY 1982-1992
(Thousands)**

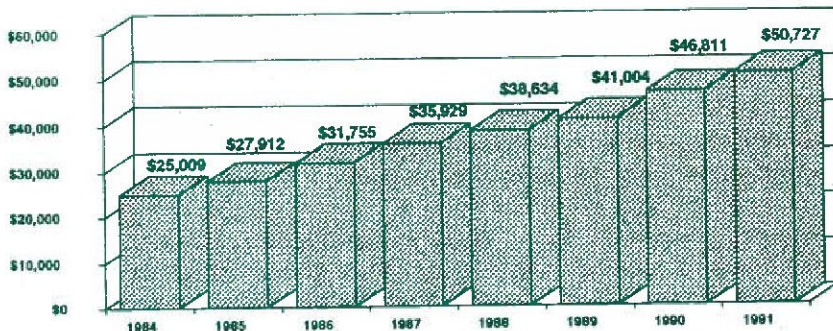


BETWEEN 1981 AND 1991, COUNTY SPENDING ON JAILS GREW BY 192%, WHILE SPENDING ON OTHER PROGRAMS GREW BY 108%.

County probation and parole expenditures also increased dramatically during the 1980s. Between 1984 (the earliest year for which data are available) and 1991, county probation and parole expenditures grew by 103%, from \$25 million to almost \$51 million (Figure 4).

Figure 4.

**County Probation and Parole Expenditures: 1984-1991
(Thousands)**



All together, in FY 1992, the state spent more than \$499 million on incarceration and probation/parole. In calendar year 1991, the counties spent \$354 million on incarceration and probation/parole.

Corrections Population Growth Rates

State and County Corrections Population Growth Drives Increase in Expenditures

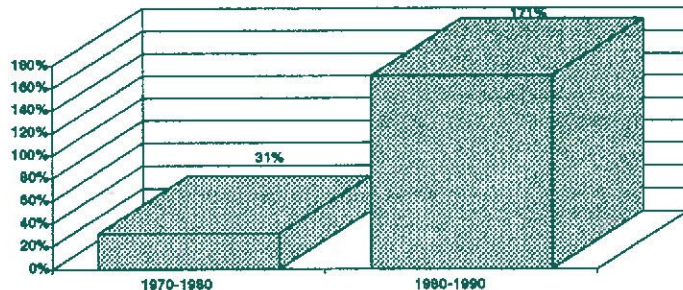
Accounting for the increase in state and county corrections expenditures is the dramatic growth in the number of offenders who are entering Pennsylvania's prisons and jails.

While the total population of Pennsylvania grew by less than one percent between 1980 and 1990, the number of inmates in Pennsylvania's state prisons grew by 171%, from 8,243 to 22,325 during the same period (Figure 5). The greatest single-year increase occurred in 1989, when the state prison population grew by 2,500 inmates. In contrast, from 1970 to 1980, the prison population grew by only 31%, from 6,289 to 8,243. As a result of this dramatic increase in the number of prisoners, the state prison system has become overcrowded. In 1991, the state prison population stood at 147% of capacity.

**STATE PRISON
POPULATION GREW
BY 171% BETWEEN
1980 AND 1990.**

Figure 5.

Percent Change in State Prison Population: 1970s versus 1980s



**MUCH OF THE
GROWTH IN THE
STATE PRISON
POPULATION WAS
AMONG NON-VIOLENT
OFFENDERS.**

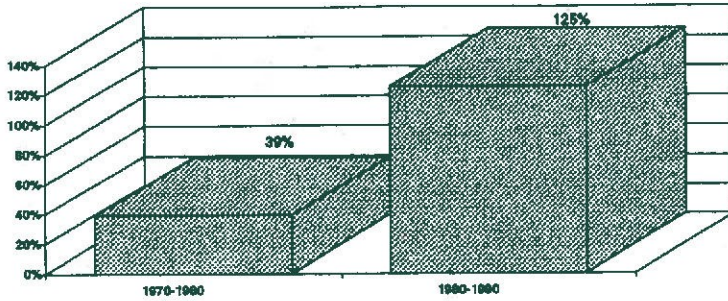
Much of the growth in the state prison population was among non-violent offenders. In 1980, 36% of state prisoners were incarcerated for non-violent crimes. By 1991, the percentage of offenders in prison for non-violent crimes increased to about 50%.

County prison and jail populations also experienced rapid growth during the 1980s (Figure 6). From 1980 to 1990, the total county jail and prison population grew by 125%, from 7,553 to 17,032. The largest single-year increase in population came in 1989, when the number of inmates jumped by almost 1,800 persons. In comparison, during the 1970s, the jail population grew at a much slower rate, increasing by only 39%, from 5,421 inmates in 1970 to 7,553 inmates in 1980.

The increase in the jail population resulted in overcrowding at the county level as well. In 1991, the county jail population stood at 141% of capacity.

Figure 6.

**Percent Change in County Jail Population:
1970s versus 1980s**

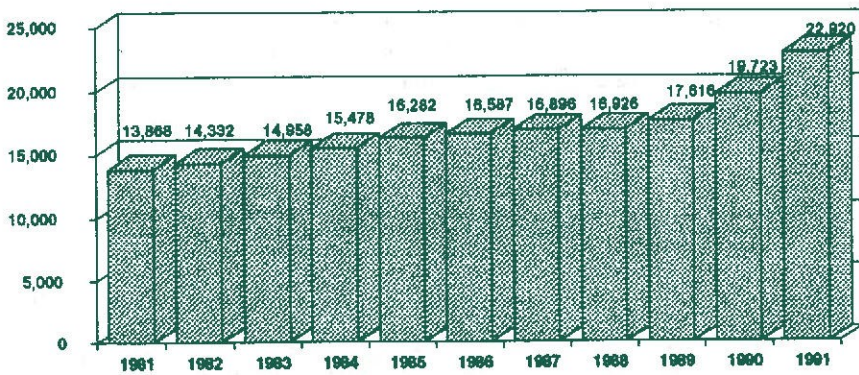


The number of offenders on state probation or parole also increased during the 1980s. Between 1981 and 1991, the caseload increased 65%, from almost 14,000 offenders to roughly 23,000 (Figure 7).

**FROM 1980-1990
TOTAL COUNTY JAIL
POPULATION GREW
BY 125%**

Figure 7.

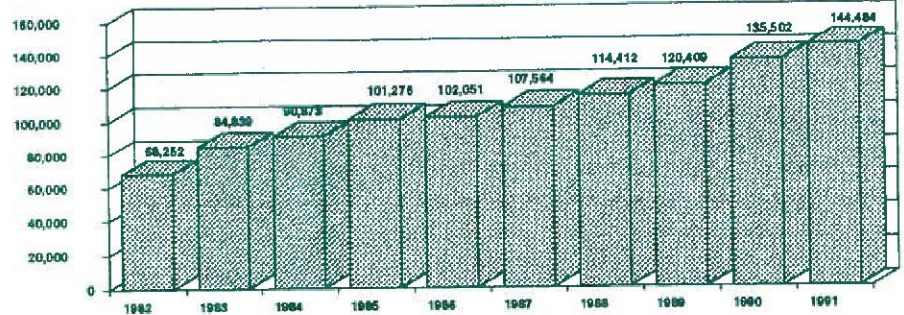
**State Probation and Parole Caseload:
December 31, 1981-1991**



The county probation and parole caseload increased by 112% between 1982 and 1991, from about 68,000 persons to over 144,000 (Figure 8).

Figure 8.

County Probation and Parole Caseload: December 31, 1982-1991



PRISON AND JAIL POPULATIONS GREW DRAMATICALLY DESPITE A DECLINE IN THE INDEX (SERIOUS) CRIME RATE AND ONLY A 6% INCREASE IN TOTAL CRIME.

All together, in 1991 there were over 208,000 offenders either incarcerated or on probation or parole in Pennsylvania.

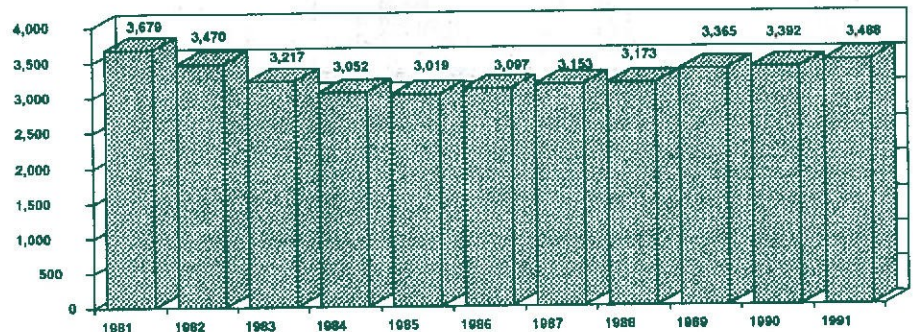
Factors Influencing Corrections Population Growth

Crime Rate

There were a number of factors which influenced the enormous influx of offenders into our county jails and state prisons during the 1980s. The amount of criminal activity is usually thought to have a strong influence; however, while the state prison population grew by 171% during the 1980s, the amount of serious criminal activity actually declined. Figure 9 shows that the index crime rate per 100,000 population grew during much of the 1980s, but it was still five percent less in 1991 than it had been in 1981. Index crimes are offenses which are the most serious and most likely to be reported. Index crimes include murder, non-negligent murder, and forcible rape. (Total crime in Pennsylvania increased by only six percent.)

Figure 9.

UCR Pennsylvania Index Crime Rate



Consequently, criminal activity does not appear to be a strong factor in the growth of prison and jail populations.

"Getting Tough" on Crime

An alternative explanation lies with the public's perception of an explosion in criminal activity. Throughout the 1980s, large segments of the public held the view that not only was the increase in crime reaching crisis proportions, but the current law enforcement practices and policies of the time were too lenient to stop it. In response to public opinion, both state and local governments adopted a "get tough" approach to crime. Out of this approach have come more arrests, more convictions and policies that send more offenders to prison or jail.

More Arrests and Convictions

In contrast to the index crime rate decline of five percent, from 1981 to 1991, the number of arrests for index crimes grew by two percent during the same period. The arrest rate per 100,000 population for index crimes was 820 in 1981. In 1991 the rate was 840 per 100,000 population. Once arrested, offenders were more likely to be convicted. In 1980, 37% of defendants were convicted. In 1990, 57% of defendants were convicted.

More Offenders Sent to Prison

In addition to more arrests and convictions, the Commonwealth also began to sentence more offenders to prison or jail. Two major policy changes played an important role in Pennsylvania's increased reliance on incarceration: the adoption of sentencing guidelines and the passage of mandatory minimum sentences for certain offenses.

Sentencing Guidelines

Created by an act of the General Assembly in 1978, the Pennsylvania Commission on Sentencing was established to develop guidelines which judges would use when sentencing offenders. The first set of sentencing guidelines went into effect in 1982, and several amendments were made to the guidelines in subsequent years.

The guidelines were developed in response to a perceived disparity among sentences handed down for similar crimes, with some judges appearing to be too lenient in some cases. They were thus intended to limit the discretion judges had in sentencing.

Basically, the guidelines work this way: An offense gravity score is applied to the offense, with murder receiving a score of 10 and the least serious misdemeanors receiving a one. These scores are then combined with a prior record score from one to six depending on the extent and gravity of the offender's criminal history. For each combination of offense gravity score and prior record score there are three possible sentence ranges from which the judge can choose depending on the circumstances of the offender and the crime: (1) a standard range, when no outstanding circumstances are present, (2) an aggravated range, when aggravating circumstances are present, and (3) a mitigated range, when mitigating circumstances are present. A judge can deviate from the guidelines, but he or she must offer a written explanation for doing so.

**PRISON AND JAIL
POPULATION
GROWTH IS THE
RESULT OF
GOVERNMENT
POLICIES
INTENDED TO
FIGHT CRIME.**

Mandatory Minimum Sentences

During the 1980s, Pennsylvania also passed laws that prescribed mandatory minimum sentences for certain crimes. For drunk-driving, Act 289 of 1982 mandates a minimum prison sentence of 48 hours to not less than one year, depending on the number of prior convictions. Act 54 of 1982, prescribes a five-year mandatory minimum for the use of firearms during the commission of certain crimes. Finally, mandatory minimums for drug trafficking were set in Act 31 of 1988. This law prescribes a range of minimum sentences depending on the number of prior convictions, and also on the quantity of the particular drug involved. Minimum prison sentences under this law range from one year to as many as eight years.

The relative severity and more certain punishment associated with mandatory minimum sentences and sentencing guidelines were, in part, intended to reduce crime by deterring potential offenders. However, their unintended effect has been to contribute to prison and jail overcrowding. In 1980, before the enactment of these laws, only 32% of convicted offenders were sentenced to state prison or county jail. By 1990, following their passage, 64% were incarcerated.

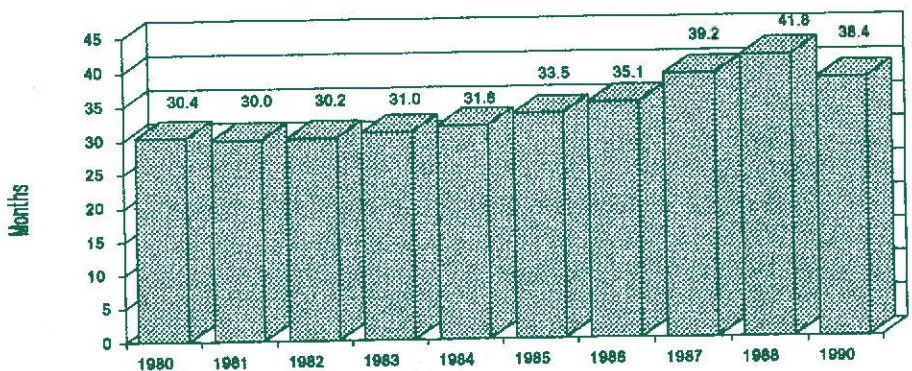
**IN 1980, ONLY 32%
OF CONVICTED
OFFENDERS WERE
INCARCERATED.
BY 1990, 64%
SERVED TIME
BEHIND BARS.**

Longer Sentences

In addition, the average minimum sentence for new court commitments increased during the 1980s. Figure 10 shows that, in 1981, the average minimum sentence to state prisons was 30 months. By 1988, the average had climbed to 41.8 months. (Data for 1989 are not available.)

Figure 10.

Average Minimum Sentence for Court Commitments to State Prison: 1980-1988 and 1990



Part of the reason for this increase in the average minimum prison sentence up until 1988 is the fact that fewer short-term prisoners (prisoners serving less than a two-year maximum sentence) were serving time in state facilities. During the 1980s, Pennsylvania's two short-term facilities were phased out. This decrease in the number of short-term prisoners helped push up the average minimum sentence. However, according to the Pennsylvania Commission on Crime and Delinquency (PCCD), even when short-term prisoners are removed from the calculations, the average minimum sentence still increased.

In 1990, the average minimum sentence to state prison finally declined for the first time in nine years. The PCCD suggests that this decrease may be the result of the heavy influx of drug offenders after 1988. These offenders are typically sentenced to shorter minimum terms than traditional state prisoners. In addition, since 1988 the Department of Corrections and the State Board of Probation and Parole have worked together to reduce the length of stay of certain inmates.

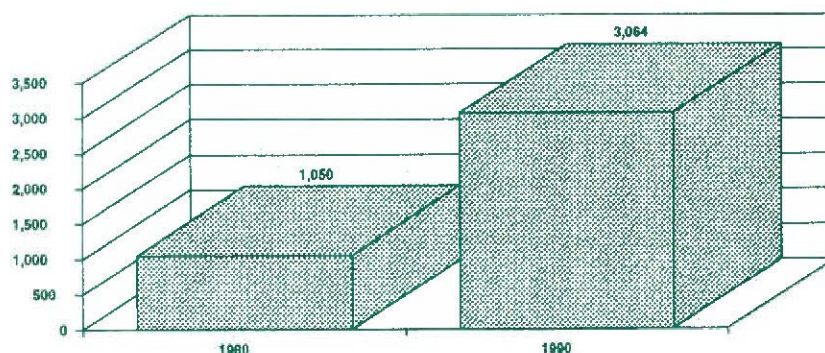
Not only did the average minimum sentence increase, but inmates served more time in prison beyond their minimum sentence. Stiffer requirements for parole, a growing percentage of the inmate population that was considered a more serious risk for parole violation, and administrative inefficiencies all combined to add six months to the average inmate's minimum sentence in 1989. According to the PCCD, this additional time served resulted in 1,500 more prisoners added to the Department of Corrections average daily population.

Increase in the Number of Parole Violators

Finally, the number of inmates released on parole who subsequently violate parole and are recommitted to prison or jail also contributes to growth in the prison population. In 1980, 52 of every 1,000 offenders paroled were returned to prison or jail for criminal or technical violations. In 1989, 104 of every 1,000 offenders were returned for violations. As a consequence, the number of inmates incarcerated in state prison for parole violations increased by 192%, from 1,050 in 1980 to 3,064 in 1990 (Figure 11). The State Board of Probation and Parole cites drug-related offenses as a major factor in the increase in the number of parole violators incarcerated in state prisons.

Figure 11.

Number of Parole Violators in State Prisons: 1980 and 1990



**DURING THE
1980S, THE
NUMBER OF STATE
INMATES
INCARCERATED
FOR PAROLE
VIOLATIONS
INCREASED BY
192%.**

The State and County Response to Overcrowding

In response to overcrowding, corrections officials in Pennsylvania initially reacted by double-celling inmates, putting two inmates in a cell designed for one. In addition, rooms that were intended for storage or some other purpose were often renovated into large multi-bed sleeping quarters. Efforts were also made to increase capacity by adding additions

or modular units, or building new facilities. By 1989, renovations were made or additional space was built at 15 county jails.

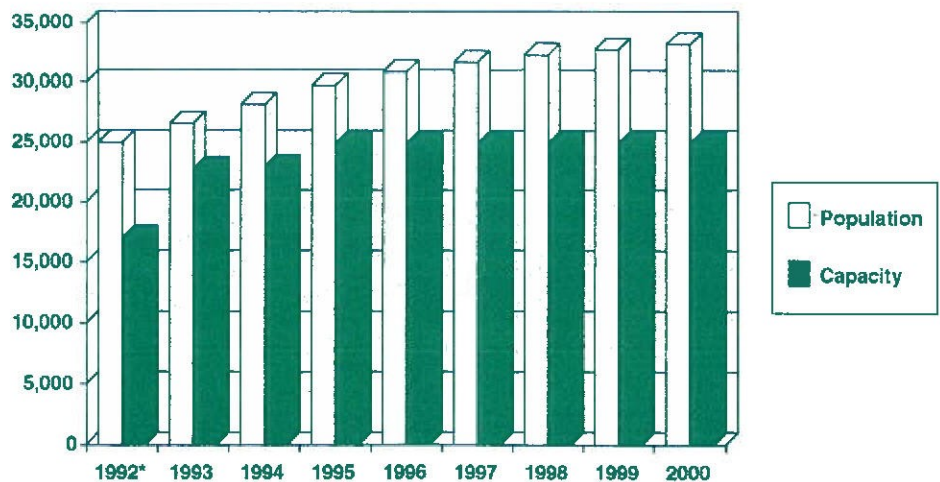
Since the early 1980s, the State Department of Corrections has developed new cell space at an unprecedented pace. In 1984, a youth development center was converted into a minimum-security prison. In 1987, a former center for the mentally retarded was converted into a medium-security institution. In 1988, the Department completed construction on three new prisons. In 1989, buildings that were formerly a part of Fairview State Hospital in Wayne County were converted into a prison. In 1992, a former college in Crawford County was converted and opened as a medium-security facility for female offenders. Also in 1992, a military-style motivational boot camp was opened. Finally, by 1995, construction on seven new prisons will be finished, adding 10,000 new cells to the prison system and raising the total number of state institutions to 24. By the time construction on the last new prison is completed, Pennsylvania will have added a total of 15 new state correctional facilities in just 11 years.

However, despite these upgrades, conversions, and new construction, Pennsylvania's prison and jail population continues to exceed capacity; and the state prison system is expected to be over capacity even after the seven new prisons are completed. Moreover, current estimates of inmate population growth by the Correctional Population Projection Committee indicate that, without creating additional prison capacity after 1995, overcrowding will become more severe during the remainder of the 1990s (Figure 12). By the year 2000, the state prison system will be over capacity by about 8,200 inmates (about the same as it is today).

**BY 1995,
PENNSYLVANIA WILL
HAVE ADDED 15
NEW STATE
CORRECTIONAL
FACILITIES (MAKING
A TOTAL OF 24) IN
JUST 11 YEARS.**

Figure 12

**Projected State Prison Population Versus Capacity
1992-2000**



* Actual

Alternatives for the Future

Given the dramatic growth in both the cost of incarceration during the past decade and projections of continued growth in prison population, the Commonwealth must develop a strategy for the future. There are two basic alternatives.

Scenario 1: Status Quo

One possibility is to continue doing things as we have for the past 10 years, that is to rely heavily on incarceration. If Pennsylvania chooses this course of action, and the offender population in our prisons and jails continues to grow as projected, the Commonwealth will be forced to build more prisons and incur the enormous costs associated with these facilities. By the year 2000, the Commonwealth will have to build enough cell space to house an excess state prison population of approximately 8,200 inmates (Figure 12).

The cost of prison expansion is often expressed as merely the construction cost of a new facility. However, the total cost of building a new prison represents a substantial and long-term commitment that far exceeds the initial cost of construction. Servicing the debt used to fund the construction of a prison could take as long as thirty years, depending on the term of the bond issue; and once interest is included, the final cost of construction could be as much as three times the initial cost.

If the Commonwealth chooses to build more prisons through lease-purchase arrangements similar to those used in the Department of Corrections' current prison-construction program, the initial construction costs will also be small relative to the final cost at the end of the 20-year lease (Figure 13). Using cost data from the Department of Corrections, and assuming that only medium-security prisons would be built, the initial cost of constructing five 1,600-bed prisons to meet a capacity shortfall of 8,200 beds in the year 2000 would be over \$400 million in constant dollars. However, the total payment at the end of the 20-year lease raises the effective cost of the five prisons to over \$1 billion in constant dollars.

**BY THE YEAR 2000,
THE STATE PRISON
SYSTEM WILL BE
OVER CAPACITY BY
8,200 INMATES.**

Figure 13
Lease Costs For State Prisons

<u>Original Cost of Constuction</u>	<u>Total Lease Payments Over 20 Years</u>
\$ 407,328,750	\$ 1,051,171,800

In addition, annual operating costs such as salaries and benefits, utilities, routine maintenance, and food will add significantly to the cost of a prison and, over the life of a prison, far exceed the cost of construction, including debt service costs. Figure 14 shows that after 20 years the estimated cumulative operating costs for five prisons will total \$2.4 billion in constant dollars, raising the total cost after 20 years to over \$3 billion in constant dollars.

**Figure 14.
Lease and Operating Costs For State Prisons**

Total Lease Payments Over 20 Years	\$ 1,051,171,800
Total Operating Costs Over 20 Years	2,400,000,000
Construction Costs+Operating Costs	\$ 3,451,171,800

**INITIAL
CONSTRUCTION
COSTS ARE SMALL
COMPARED TO THE
ENORMOUS
OPERATING AND
DEBT SERVICE
COSTS.**

Therefore, the initial costs associated with the actual construction of a prison will be relatively small in comparison to the enormous operating and debt service/lease costs the Commonwealth must bear for years to come once a facility is in operation. Any decision to build more prisons must take into consideration these total future costs.

Even more concerning, however, is the lesson from Pennsylvania's current experience with prison construction which shows new prisons provide no guaranteed solution to the overcrowding problem. If the inmate population continues to grow at its current pace into the next century, it is unclear how many prisons will ultimately be needed to incarcerate future numbers of offenders.

Scenario 2: Reduce the State Prison Population

An alternative to this first scenario is to reduce the inmate population so that new prison construction will not be necessary. There are three basic ways to accomplish this: (1) a reduction in the average time served by inmates in prison, (2) a diversion of offenders who would otherwise go to state prison into some other form of sanction, or (3) a combination of these two options. How these reductions in time served or diversions will actually be accomplished and which prisoners will be affected are policy decisions which should be made by our elected officials. However, several general options bear mentioning.

There are two ways to reduce the amount of time served. First, one can move up the date at which an offender is eligible for parole. This can be accomplished by adjusting the sentencing guidelines so that minimum sentences are shorter, by initiating an earned time program, or by initiating an accelerated release program. The second method of reducing time served involves increasing the rate of release of those who have served their minimum sentence. An example of this would be to initiate a presumptive release program.

Diverting more offenders from prison would require a change in the sentencing guidelines so that more offenders could be sentenced to intermediate punishments. The elimination of mandatory minimum sentences would also be an option. In addition, technical parole violators who would otherwise be returned to prison, instead could initially be placed in a more intensive form of supervision. Technical parole violators are parolees who have not committed any new crimes; rather, they have violated the terms of their parole. Diverting more offenders from prison or jail would also require judges to more frequently sentence eligible offenders to intermediate punishment programs they now have at their disposal. A final option would involve the development of intermediate punishments for inmates who are eligible for parole, but who may be at risk of parole violation and would therefore not be released from prison. Funding for these intermediate punishments would have to be increased so that these programs could be expanded.

**FUTURE
CONSTRUCTION CAN
BE AVOIDED BY
REDUCING THE
INMATE
POPULATION.**

The Potential Effect of Upcoming Changes to the Sentencing Guidelines

The Pennsylvania Commission on Sentencing is now in the process of revising the Commonwealth's sentencing guidelines. It is important to understand the potential effects of these changes on the state and county correctional population.

A Reduction in State Prison Population

An adjustment to the sentencing guidelines will likely reduce the state and county prison non-violent offender population. (Thus, the estimates of future state prison population contained in this report would need to be reduced.) Any adjustments which shorten sentences will allow these inmates to be paroled earlier. But shortening sentences could also result in some offenders who would have received a state prison sentence being placed in county jail instead.

Currently, an offender's place of confinement is determined primarily on the basis of sentence length. In general, offenders with a maximum prison sentence of two years or more are placed in state prison. Offenders with a maximum sentence of less than two years are placed in county jail. If sentences for certain crimes are reduced from a maximum of two years or more to less than two years, there will be a shift of state prisoners to county jails.

Despite a potential shift of state prisoners to county jails as a result of future guideline adjustments, it is possible that the counties will not experience a net increase in their jail populations. In fact, the Sentencing Commission's estimates of the effect of the 1991 guideline changes indicate that these adjustments may have actually resulted in a net reduction of the county jail population.

Using sentencing data from 1989, the Commission estimated that as a result of the 1991 guideline changes, county jails would receive an additional 7,983.5 prisoner months (665 prisoners per year) from a shift in the place of confinement from state prison to county jail.

However, the Commission also found that the total county jail population would experience an overall reduction because of the introduction of intermediate punishments. (A shortening of sentence lengths also played a role.) Intermediate punishments would shift some offenders from county jails to supervision in the community. In other words, the Commission's estimates indicated that the net effect of the changes to the sentencing guidelines was an **increase in the number of county offenders supervised in the community by probation/parole services.**

The estimated increase in county offenders supervised in the community (1,282) as a result of the 1991 changes to the guidelines would generate a corresponding increase in costs to county probation and parole services.

This cost was partially offset by the marginal savings (avoidable costs) per inmate the county jails realized from the reduction in the jail

ADJUSTMENTS TO SENTENCING GUIDELINES WHICH SHORTEN SENTENCES WILL ALLOW THOSE INMATES TO BE PAROLED EARLIER AND SHIFT SOME STATE PRISONERS TO COUNTY JAILS.

population (617). Based on these numbers, and using cost data presented later in this report, the estimated **upper-limit** net additional cost to the counties, due to changes to the sentencing guidelines in 1991, was about \$3.9 million.

It can be concluded that revised sentencing guidelines may result in a reduction of both the state and county prison population, but could increase the cost of county probation and parole because of the greater use of intermediate punishments.

Intermediate Punishments Will Be Provided at the County Level

Currently, Pennsylvania's sentencing guidelines limit the provision of intermediate punishments to a **county function** designed to permit the shift of **county inmates** out of jail and into the community. Under these conditions, an intermediate punishments program will have no effect on state offenders or efforts to reduce the state prison population. As demonstrated above, the state prison population will be reduced by changes to the sentencing guidelines alone, **regardless of whether or not the county provides intermediate punishments**. In short, changes to the sentencing guidelines will effectively shift some percentage of the state's population onto the county. It will then be for the county -- not the state -- to address this increase in the overall county corrections population (county jail and probation/parole) through intermediate punishments and other methods.

Intermediate punishments will only become a method to reduce the state prison population if they are used by the Commonwealth for state offenders. Similarly, these punishments will only represent an increased cost to the Commonwealth if they are used for state offenders (unless the Commonwealth chooses to subsidize the cost of intermediate punishments for county offenders).

**INTERMEDIATE
PUNISHMENTS WILL
HAVE NO EFFECT ON
THE STATE PRISON
POPULATION
UNLESS THEY ARE
USED BY THE
COMMONWEALTH
FOR STATE
OFFENDERS.**

Fiscal Impacts of Reducing the Prison Population Through Intermediate Punishments

Total Cost of Incarceration

Whatever specific policy the Commonwealth develops to reduce the state prison population, it is likely to involve more reliance on intermediate punishments. But will the increased use of intermediate punishments result in a net savings to the Commonwealth?

There is no detailed state-wide information yet available on the cost of intermediate punishments. However, based on cost estimates done by the Pennsylvania Commission on Sentencing, the average cost per offender of intermediate punishments appears to be far less than the average cost per offender of incarceration.

According to the Commission, the state-wide average annual cost per offender of non-restrictive intermediate punishments such as community service or victim restitution is roughly \$1,500. Restrictive programs such as house arrest with electronic monitoring can cost over \$4,000. However, these costs can vary depending on the particulars of each program. The cost of electronic monitoring or drug testing, for example, can be defrayed through the collection of a fee from each offender using these technologies. Conversely, individual outpatient drug and alcohol therapy can increase the cost of a program by an average of \$40-\$50 per day, and inpatient treatment can range from a low of \$40 per day to as much as \$200 per day. However, the cost of hospital inpatient treatment for eligible persons can be partially offset by federal Medicaid matching funds. Finally, most offenders in an intermediate punishment program pay a monthly \$25 dollar fee that offsets the cost of supervision.

In contrast to the cost of intermediate punishments, in FY 1992, the State Department of Corrections reported that it cost taxpayers an average of \$18,463 to incarcerate each offender in state prison for one year. (It is estimated that the average annual cost of maintaining an offender in county jail was almost \$14,000 in 1991.) However, there are additional costs that increase further the price of incarceration.

The largest among these additional costs is the outstanding debt the Commonwealth owes for major corrections construction projects. According to the State Budget Office, as of the end of June 1992, Pennsylvania owed approximately \$298 million for capital construction projects for the Department of Corrections. On an annual basis, outstanding debt adds approximately \$1,400 per inmate to the cost of incarceration.

In FY 1992, the Department of Education spent over \$7 million -- or roughly \$314 per inmate -- on education and training programs in state prisons. An additional \$1 million was spent in FY 1992 on a Department of Corrections contract for laboratory testing for drug and medical problems among inmates. This contract added another \$52 to the annual cost of keeping an inmate in state prison.

IN 1992, THE AVERAGE ANNUAL COST PER OFFENDER OF INCARCERATION WAS MORE THAN \$20,000, WHILE THE ANNUAL COST OF THE MOST EXPENSIVE INTERMEDIATE PUNISHMENT WAS LESS THAN \$4,400.

Together, these costs increased the average annual cost of state incarceration to \$20,262 per inmate (Figure 15).

Figure 15.

Annual Cost per Inmate in FY 1992

Department of Corrections Cost Per Inmate/Year	\$	18,463
Annualized Outstanding Debt per Inmate		1,433
Department of Education Cost per Inmate/Year		314
<u>Laboratory Contract Cost per Inmate/Year</u>		<u>52</u>
Total Cost per Inmate/ Year	\$	20,262

Exhibit I: The Hidden Costs of Incarcerating Women Offenders

In certain cases, the incarceration of women offenders results in additional indirect costs to the Commonwealth that are not reflected in the Department of Corrections expenditure figures. Though they are difficult to quantify, they bear mentioning here.

National estimates of the number of children who are left behind by inmate mothers each year range from approximately 170,000 to 250,000. In most cases these children go to live with grandparents or other relatives, but it is not uncommon for them to enter foster care. (In most cases, inmate fathers who live with their families leave behind a spouse or other domestic partner to care for the children in the home. Inmate mothers are usually single parents.)

There are potential consequences resulting from the separation of female offenders from their children. To the extent that an inmate mother was a responsible parent before being incarcerated, separation from mothers can be damaging to children. A number of academic journals and female prisoner advocacy groups point to the psychological problems and the increased potential for delinquent behavior children sometimes exhibit when their mothers are put behind bars.

To the extent that an inmate mother was self-supporting at the time of her sentencing, placing her dependent children in foster care, group homes, or residential facilities results in increased costs for county government. There can be a cost when children are placed with a relative, too. If the relative is already receiving public assistance, he or she may receive further assistance to help support the children. Court costs can also be involved. If the county is unable to place a child with a relative, then the authority needed to place a child in foster care or another arrangement must be granted by a judge in a court of law.

(To the extent that an inmate father was a responsible parent and a source of financial support to the family, his incarceration can also be psychologically damaging to children and result in negative consequences for family income. In some cases, the incarceration of fathers could result in the family being placed on some form of public assistance.)

INCARCERATION RESULTS IN INDIRECT COSTS TO SOCIETY AND OTHER GOVERNMENT PROGRAMS.

The Cost of Intermediate Punishments and the Potential for Savings

It is sometimes concluded from the relative cost differences between intermediate punishments and incarceration that for each offender removed from prison or jail and placed in an intermediate punishment, the Commonwealth would realize a cost-savings equal to the difference between the average annual cost per offender in prison and the average annual cost per offender in an intermediate punishment. Applying this logic to the cost data for Pennsylvania presented above would mean that for each offender removed from state prison and placed in a intermediate punishment, the Commonwealth would save \$15,882 ($\$20,262 - \$4,380 = \$15,882$). This conclusion is misleading.

In reality, most of the costs associated with incarceration are essentially fixed. As a result, small changes in the size of the prison population will not change these costs. For example, constructing a prison represents a major fixed cost. Removing an inmate from the prison does not decrease that cost. The cost of electricity does not change with marginal reductions in the number of prisoners. Personnel costs for guards and administrative employees will not change dramatically either.

Small reductions in the number of prisoners will yield some savings, but only in terms of **marginal cost**. For each offender removed from prison, the cost of items which he or she would have directly consumed while incarcerated (e.g. food, clothing, and medicine) can be avoided. The Department of Corrections estimates that the average annual marginal cost per offender in state prison is approximately \$2,719.

However, whether achieving marginal savings by removing small numbers of offenders from prison would result in any net savings to the Commonwealth depends on the cost of the intermediate punishments in which these offenders would be placed as an alternative to incarceration. As stated above, the average annual cost per offender of these programs range from approximately \$1,500 to over \$4,000. If only high-cost punishments were used, there would be no savings. On the other hand, if only low-cost punishments were used, the saving could be substantial. Consequently, achieving net savings depends on the mix of both low-cost and high-cost punishments. Savings are also affected by who pays for the intermediate punishments. Currently, the counties pay for these programs so the amount the Commonwealth could save depends on whether it chooses to subsidize the cost of intermediate punishments at the county level.

Regardless the impact of marginal reductions on the prison population, the major savings from placing offenders in alternative sanctions will result from an accompanying reduction in the size of the prison population sufficient to reduce fixed costs by either (1) avoiding the costs of future prison construction or (2) closing down a significant portion of an existing facility -- in other words, decreasing our reliance on incarceration so that the Commonwealth won't have to build and operate as many prisons in the future.

In the short-run, an expansion of the use of intermediate punishments will actually increase the overall cost of corrections. Increasing the number of intermediate punishments in Pennsylvania will require investment in equipment and personnel needed to operate these

TO REALIZE SAVINGS FROM USING INTERMEDIATE PUNISHMENTS, FURTHER PRISON CONSTRUCTION MUST BE AVOIDED OR SIGNIFICANT PARTS OF EXISTING FACILITIES MUST BE CLOSED.

programs. At the same time, the cost of operating existing prisons will remain.

If the costs of new prison construction are to be avoided, the state must make a substantial reduction in the projected state prison population. As long as the state prison system is significantly over capacity there will be pressure to build more prisons. To avoid new construction, it will be necessary to balance the prison population with capacity. Current projections indicate that, in the year 2000, a 8,200 person reduction in the state prison population will be needed (Figure 12). Capacity will equal 24,910 beds, but the projected population, as calculated currently, will equal 33,154 ($33,154 - 24,910 = 8,244$.)

Savings from Avoiding the Cost of New Prison Construction as a Result of Implementation of Intermediate Punishments

THE MOST EXPENSIVE METHOD OF BRINGING THE PRISON POPULATION INTO BALANCE WITH CAPACITY WOULD DIVERT OFFENDERS FROM PRISON AND PROVIDE INTERMEDIATE PUNISHMENTS FOR THE PERIOD OF TIME THE OFFENDERS WOULD OTHERWISE HAVE BEEN INCARCERATED.

The actual amount of savings that can be achieved by bringing the prison population into balance with capacity depends on the type of policies employed. (Nevertheless, these policies will contain the three basic elements discussed under scenario two, that is (1) a reduction in the average time served by prison inmates, (2) a diversion of offenders who would otherwise go to state prison into some other form of sanction, (3) a combination of these two options.) Similarly, which offenders and how many will be affected is also dependent on the policy chosen, though it is likely that offenders with shorter terms will be affected first, assuming these shorter terms indicate a less serious offender.

Note: The analysis presented below uses prison population estimates based on current sentencing guidelines. Those guidelines are now under review and may be subject to change. Changes to the guidelines would affect current and future prison population levels and would require new estimates of potential savings to be developed.

Given these limitations, this analysis will focus on the most expensive method of reducing the prison population. By so doing, an **upper-limit cost** will be established. Any other strategies to reduce the prison population will, by definition, be less expensive. Also, instead of determining the number of offenders who would be affected by this policy, this analysis will discuss the number of 12-month intermediate punishment program slots which will be needed, regardless of the actual number of offenders who will be diverted. The number of offenders who would actually participate in intermediate punishments may be significantly greater than the number of program slots because their average time served in these programs would typically be less than a year.

The most expensive method of bringing the prison population into balance with capacity would divert offenders from prison and provide intermediate punishments for the period of time the offenders would otherwise have been incarcerated. (It is likely that the prison population could exceed capacity by some percentage without the necessity of building more prisons. However, for the purpose of illustration, we will assume that the inmate population should approximate 100% of capacity.) On the basis

of the population and capacity projections in Figure 12, this policy would involve the creation of 12-month intermediate punishment program slots in the sequence found in Figure 16.

Figure 16.

Intermediate Punishment Program Slots Needed to Reduce Prison Population

<u>Year</u>	<u>Alternative Sanction Program Slots</u>
1996	5,922
1997	6,735
1998	7,351
1999	7,822
2000	8,244

The average annual cost per person of the most expensive intermediate punishments is \$4,380. Programs that fall under this category are generally the most expensive to operate. As discussed in an earlier section, depending on the particulars of the program, this number could vary. Nevertheless, it offers a reasonable baseline for this cost analysis. Multiplying \$4,380 by the number of annual program slots results in the annual cost of intermediate punishments under the scenario described above. In the year 2000, the total cost of 8,200 intermediate punishment program slots would be over \$36 million in constant dollars.

AVOIDING FUTURE PRISON EXPANSION COSTS COULD RESULT IN NET ANNUAL SAVINGS OF \$136 MILLION BY THE YEAR 2000.

The alternative to placing these offenders in intermediate punishment is to build more prisons. Using cost data from the Department of Corrections' latest prison-construction program of lease-purchase facilities and assuming that only medium-security prisons would be built, the estimated total annual cost of leasing and operating five new 1,600-bed facilities, needed to meet a capacity shortfall of 8,200 beds in the year 2000, would be over \$172 million in constant dollars (Figure 17). (This figure assumes that all of these prisons would be complete and operational in the year 2000.) Thus, the total costs avoided by implementing an intermediate punishments program would be over \$136 million in constant dollars.

Figure 17.

**Cost of Intermediate Punishments Versus Incarceration:
Single-Year Comparison in the Year 2000**

Cost of New Prisons (Lease Costs+Operating Costs)	\$ 172,558,590
<u>Cost of Alternative Sanctions</u>	<u>36,108,720</u>
Total Costs Avoided	\$ 136,449,870

There exists a potential for even greater savings:

1. Extending the cost differential in Figure 17 beyond the year 2000 results in a similar annual savings in the future. The savings will diminish to the extent that more offenders are placed in intermediate punishments in each year after the year 2000. However, if the construction of more prisons would be needed at a future time, the difference in costs would again widen.
2. Figure 17 assumes that the Commonwealth would pay 100% of the cost of these intermediate punishments. To the extent that other levels of government pay all or part of the cost, the savings to the Commonwealth will be greater.
3. Figure 17 presents an upper limit cost for intermediate punishments. Any other policy designed to achieve the same reduction in the prison population would be less expensive; therefore, the potential exists for greater savings.
4. As stated in an earlier section, offenders in intermediate punishments can be expected to pay from 0% to 100% of the cost of their supervision. Also, most offenders supervised in the community now pay a \$25 supervision fee. In addition, offenders who use electronic monitoring or drug testing usually pay all or part of the cost of using these technologies.

There also exists a potential for the costs of the intermediate punishments program to be greater, thus reducing any savings:

1. To the extent that more offenders are placed in outpatient or inpatient drug and alcohol treatment, the cost of intermediate punishments will increase. The cost of outpatient treatment can range from \$15 to \$50 per session, while inpatient treatment can range from \$40 per day to \$200 per day. However, to the extent that private insurance, employee assistance programs, or federal Medicaid dollars can offset these costs, their impact can be minimized.
2. It is possible that as more intermediate punishment programs become available, offenders who ordinarily would have received a sentence of probation will be sentenced to an alternative sanction instead. To the extent that this happens, the costs of the program will increase.

It must be stressed that "savings" in the present context is primarily the avoidance of future prison construction costs less any cost from providing an intermediate punishment program. (As discussed in a previous section, there exists the potential for marginal cost savings from a reduction in the prison population without closing a facility, but these savings may be offset by the cost of supervising these prisoners in an intermediate punishment program.) Therefore, the Commonwealth will not be likely to realize any year-to-year reductions in total spending. It simply means that we can expect state corrections expenditures to be less in the future than what they would have been had new prisons been constructed. The cost of operating existing state prisons will continue to increase -- though at a slower rate. This avoided increase in spending on prisons in the future will create the potential for more funds to be made available for other programs.

**"SAVINGS" ARE
DERIVED FROM THE
AVOIDANCE OF
FUTURE PRISON
CONSTRUCTION,
LESS ANY COSTS OF
AN INTERMEDIATE
PUNISHMENT
PROGRAM.**

Exhibit II: The Effect of Sentencing Guidelines on Future Prison Construction: SCI Clearfield and Chester

Five of the seven new state prisons which the Commonwealth is constructing will become operational in 1993. The remaining two prisons, SCI Clearfield and Chester, are not yet under construction, but are scheduled for completion in 1994. Given the potential reduction to the state prison population as a result of the impending changes to the sentencing guidelines, this is an appropriate time to reconsider the need to construct one or both of these two facilities.

Once construction has begun at Clearfield and Chester, the Commonwealth will be committed to a long-term financial burden and the opportunity to realize substantial savings by not building these prisons will be lost. Over twenty years, the cost of debt service and operations for these facilities will total over \$1 billion (Exhibit Figure).

Exhibit Figure

Total Costs of SCI Chester and Clearfield Over 20 Years

	Constuction Costs Over 20 Years	Operating Costs Over 20 Years (Constant Dollars)	Total Cost Over 20 Years
Chester	\$180,180,000	\$320,000,000	\$500,180,000
Clearfield	\$187,000,000	\$480,000,000	\$667,000,000

In order to avoid the construction of either or both of these prisons, changes to the sentencing guidelines would have to bring the state prison population into balance with capacity, either immediately or at some time in the near future. Though these changes would probably bring a single-year reduction in the state prison population and a slower rate of population growth in succeeding years, it is not expected that they alone will result in a reduction in prison population sufficient to avoid the construction of SCI Clearfield and Chester. Other measures, in addition to guideline changes, will have to be employed.

Some of these other measures include the items mentioned previously in this report: initiating an earned time or accelerated release program, creating a presumptive release program, eliminating or shortening mandatory minimum sentences, and placing technical parole violators in a more intensive form of supervision rather than returning these persons to incarceration.

In addition to these measures, the Commonwealth should consider initiating a program of intermediate punishments for state offenders. Diverting selected offenders to intermediate punishments could significantly reduce the state prison population. In combination with the other measures mentioned above and changes to the sentencing guidelines, such a program may result in a large enough reduction in the prison population so that SCI Clearfield and/or Chester (or future prisons) may not have to be built. Given a sufficient reduction in the prison population, closing an existing prison, or a significant part of a prison, may also be possible. By employing a variety of programs -- including intermediate punishments for state offenders -- Pennsylvania can maximize its ability to lessen the rate of spending on corrections.

INTERMEDIATE PUNISHMENTS COULD REDUCE STATE PRISON POPULATION ENOUGH TO AVOID BUILDING SCI CHESTER AND/OR CLEARFIELD.

Other Benefits of Intermediate Punishments

This report has estimated the cost-savings which can be realized through an intermediate punishment program; however, there are other benefits as well.

While offenders in prison do very little to atone for their crimes, intermediate punishments offer a very different approach, one which compels the offender to take responsibility for himself/herself and his/her crime and provides real opportunities for rehabilitation.

These punishments usually allow the offender to live in the community under the supervision of community corrections authorities. Offenders who participate in these programs take responsibility for their lives and their crimes by working to pay for their living expenses and the cost of their supervision, doing unpaid community service, paying restitution to their victims, participating in substance abuse treatment programs, receiving educational training -- or all of the above.

Advantages of Intermediate Punishments

**INTERMEDIATE
PUNISHMENTS
FORCE OFFENDERS
TO TAKE
RESPONSIBILITY
FOR THEIR CRIMES.**

1. Intermediate Punishments Make Offenders Pay Their Debt to Society

The corrections system does not expect the inmate to do much more than simply serve time and be released. In prison or jail, offenders often spend much of the day idle. This is not really tough on the crime or the criminal. Intermediate punishments, such as victim restitution or community service, compel the offender to pay his debt either through a cash payment or unpaid work on public projects. These sanctions force the offender to take responsibility for his or her crime.

2. Intermediate Punishments Force the Offender to Pay the Cost of His or Her Supervision

Taxpayers pay almost the entire cost of an inmate's incarceration. Because most intermediate punishments require the offender to find employment in the community, he or she is expected to pay all of his living expenses and all or part of the cost of his supervision.

3. Intermediate Punishments Reduce Pressure to Build Prisons

The greatest growth in the state prison population in Pennsylvania has been among non-violent offenders. Without the addition of large numbers of these persons, prison and jail construction during the past decade would have been much less extensive. Placing non-violent offenders in intermediate punishments can reduce the need to build more prisons and allow more of the existing capacity to be used for violent criminals.

4. Intermediate Punishments May Be a Better Way to Rehabilitate Offenders

In prison, there are few opportunities to change an offender's behavior so that he or she will return to the community less likely to commit new crimes. Prisons do not teach offenders self-reliance and self-discipline, skills they will need to survive in the community. Inmates do not have to work to meet their needs. Food, shelter, clothing, and medical care are all provided.

Community-based intermediate punishments, on the other hand, may provide a better opportunity to rehabilitate offenders. Programs such as drug/alcohol treatment and job training are less expensive to provide in the community than in prison. Consequently, more offenders can participate in these programs through intermediate punishments. Moreover, intermediate punishments attempt to teach offenders to behave responsibly: In most cases, offenders must work, pay for their own living expenses, participate regularly in a variety of self-improvement programs, observe a curfew, and routinely report to corrections officials.

There is no definitive evidence that intermediate punishments will be more effective than incarceration in rehabilitating offenders. However, by providing more opportunities for offenders to participate in rehabilitation programs, intermediate punishments should perform no worse than incarceration in this regard and, in most cases, cost significantly less.

5. Savings from Intermediate Punishments Can be Used for Other Government Programs

Savings from a reduction in the number of prison and jail inmates will allow governments to spend more funds in other programs areas such as education, public health, and economic development. Increased spending in these areas may reduce the incidence of criminal behavior.

6. Intermediate Punishments Offer Sentences Which Fit the Crime

By choosing from a broad range of intermediate punishments, a judge can develop a sentence which fits the characteristics of the criminal and the crime. For example, offenders with drug and alcohol problems often go to jail or prison where the opportunities for treatment are limited. Depending on the seriousness of the crime, these individuals could be managed better in the community, where they could be supervised while they receive drug or alcohol treatment.

7. Offenders Pay Taxes

While working in the community, offenders sentenced to intermediate punishments pay taxes. Inmates in jail or prison pay no taxes.

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8. Intermediate Punishments Allow Offenders (Not Government) to Support Their Families

While in prison or jail, inmates are unable to support their families because they are not earning an income. In many cases, government must provide assistance to these families. For inmates who supported their families prior to incarceration, community-based intermediate punishments allow them to remain employed, so that they can continue to support their families.

9. Intermediate Punishments Force "Deadbeat Dads" to Support Their Children

Divorced or separated fathers in jail or prison are not compelled to support their children. As a condition of intermediate punishments, these fathers can be expected to work and pay child support.

Finally, though a program of intermediate punishments would result in both cost-savings and other benefits, it would entail some additional risk to the public as more offenders are placed in the community. However, a rational intermediate punishment program, one which is limited to non-violent offenders and provides an adequate system of supervision, would minimize this risk.

Directing Savings to Other Programs

The analysis presented previously demonstrates that by bringing the state prison population into balance with capacity, the Commonwealth could avoid large annual expenditures on new prisons. Figure 17 indicates \$136 million in avoided costs in the year 2000. Annual savings approximately equal to this number would continue into the future.

If the Commonwealth spends less on corrections in the future, it could direct the savings to other programs. However, it must emphasize that \$136 million in savings does not represent a reduction from current spending levels. It is simply the difference between two future cost levels.

Presented below is a list of programs to which the savings from corrections could be directed. These programs were selected on the basis of their potential impact on factors which may influence criminal behavior, i.e., low educational attainment, lack of job skills, and drug abuse. This is not a complete list, but rather a sample of some of the possibilities.

Education

The Governor's FY 1993-1994 budget proposes an additional \$100 million in basic education funding for less wealthy school districts. Potentially, 228 school districts could receive this equity funding for an average supplement of over \$438,000 per district, or \$118 per student. If the Commonwealth added \$136 million to the original \$100 million, the average supplement per district would increase to over \$1 million, or \$278 per student.

Higher education could also benefit from increased funding. For FY 1993-1994, the Pennsylvania Higher Education Assistance Agency has \$188 million budgeted for grants to 140,000 full-time students in colleges and universities. The average grant per student is \$1,300. If \$136 million were added, the average grant per student would rise to approximately \$2,300. Alternatively, the number of students who receive the average grant of \$1,300 could be expanded by about 100,000.

The \$136 million could also be used to reduce tuitions at Pennsylvania's schools in the state system of higher education, the state-related schools, and community colleges. Assuming the \$136 million were divided among these schools using the same proportions as is used in the FY 1993-1994 budget to divide the current higher education funding, students at the state system of higher education institutions could receive a \$500 tuition reduction. Students at state-related colleges and universities could receive a \$540 tuition reduction, and students at community colleges could receive a \$216 reduction.

Job Training

Additional funding could also be used to expand job training programs. The Department of Public Welfare's "New Directions," program encompasses several sub-programs. For FY 1993-1994 it has a budget of over \$90 million and serves almost 20,000 clients on public assistance. Under the current design of the program, it is likely that only modest gains in the number of clients would accompany a large funding increase. However, additional funding could be used to expand the number of

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services available. Funds could also be used to subsidize the wages of program graduates, making them more attractive to the private sector as potential employees.

The Pennsylvania Conservation Corps is administered by the Department of Labor and Industry. The program provides a meaningful work experience for disadvantaged younger Pennsylvanians up to age 25. Clients work on projects with a team of peers and a team leader. The FY 1993-1994 budget calls for \$6 million in funding for this program. Roughly 2,000 to 3,000 persons participate in the program on an annual basis. The Department reports that if funding were doubled, the number of participants in the program could increase proportionately. Additional funding could also be used to offer participants literacy training or prepare them for the graduate equivalency exam.

Drug and Alcohol Prevention and Treatment

National studies indicate that, in 1989, 80% of state prisoners had a drug abuse problem. Moreover, many crimes are drug-related. For this reason, drug treatment can be an effective way to reduce criminal behavior. However, successful rehabilitation depends on the length of time the offender is in treatment. The longer the offender participates in a treatment program, the better the chances of recovery. The Department of Health serves approximately 70,000 clients in its drug or alcohol treatment programs. In FY 1993-1994, the state has budgeted over \$34 million with a federal match of over \$72 million. Officials at the Department suggest that if state funding were doubled, the number of clients served would more than double.

Health Care

There are several important health-related programs to which more funding could be applied:

- As enacted, Pennsylvania's Children's Health Insurance Program only covers 30,000 of the Commonwealth's estimated 90,000 children without health insurance. An additional \$42 million per year would be enough to cover the remaining 60,000 children.
- An additional \$5.5 million would provide vaccinations for 60,000 Pennsylvania children who are not now receiving this service.
- Increased funding of \$25 million would provide lead testing and treatment for 20,000 children in Pennsylvania who are unable to afford these services. Also included in this funding would be the removal of lead paint from the homes of these children.
- An additional \$15 million would provide annual mammograms for 300,000 women in Pennsylvania ages 40 to 64.

To the extent that additional spending on certain of these programs would reduce criminal behavior, there exists the potential for less spending on corrections in the future.

Finally, if it was determined that additional funding of other programs was unnecessary, the potential savings could be used to reduce or not raise taxes in the future.

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Policy Issues Related to Reducing State Prison Population

On the basis of the above analysis, it appears that reducing the state prison population to bring it into balance with capacity will result in significant savings to the Commonwealth. Implementing a program of intermediate punishments provides one method to accomplish this. However, any intermediate punishments program has policy implications that must be recognized and understood. Some of the major policy issues include the following:

1. Should we reduce the state prison population?

- Is incarceration effective as a method to reduce crime?

One of the goals of a prison term is to deter potential offenders from committing crime, but does incarceration actually have this effect? Moreover, does the enormous cost associated with incarceration make a prison sentence a cost-effective tool to deter criminal behavior?

- Are offenders rehabilitated in prison?

Because approximately 90% of Pennsylvania's prison inmates eventually return to the community, a major goal of a term in prison should be the rehabilitation of the offender so that he is less likely to commit new crimes once outside. Are prison terms the most cost-effective way to accomplish this goal? Furthermore, is a prison environment conducive to rehabilitation?

- Does length of time served influence recidivism?

Presumably, longer prison sentences are intended to more effectively punish the offender and reduce the likelihood of further criminal activity once he is released. However, an increase in the average minimum sentence during the 1980s contributed to the dramatic growth in the state prison population, resulting in the costly necessity of building more prisons. Thus, given the relationship between the cost, the length of sentence and the size of the inmate population, policy-makers should be certain that longer sentences actually reduce recidivism.

- To what extent are prison and jails used to incarcerate non-violent offenders who could be supervised at less cost in intermediate punishment programs in the community?

In 1991, almost half of the offenders held in state prison were sentenced for committing non-violent crimes. Is it reasonable to use limited and expensive cell space to incarcerate these individuals?

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**PLACING STATE
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A DIFFERENT
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- Though there are cost benefits from using an intermediate punishments program, placing offenders in community-based intermediate punishments involves some risk to the public. What is an acceptable level of risk? What types of offenders could be placed in intermediate punishments and what types of offenders should be restricted from these programs? Once an offender is in the community, is the range of supervision techniques available to corrections officials adequate to minimize the risk to the public.
 - Are there non-cost benefits that can be gained from intermediate punishments? Will offenders placed in intermediate punishments be less likely to commit new crimes? Will their participation in programs such as community service or victim restitution result in a substantial benefit to the community and the victim. Will these programs also have a positive impact on the offender?
2. Removing an offender from state prison to an intermediate punishment does not eliminate the cost of supervising that offender, it simply shifts the cost to a different government authority. Depending on the policy, moving offenders out of state prison may result in increased costs to county jails and prisons, as well as both state and county probation and parole.
- Given the potential for a shift in costs from the state prison system to other corrections authorities, will the respective costs of each authority be recognized and funded adequately on a fair and rational basis?
 - Can the system provide intermediate punishments effectively to the large number of offenders who must be involved to avoid future prison construction?
 - Can the system provide intermediate punishments effectively on a timely basis to avoid future prison construction?
 - As the capacity of intermediate punishment programs grow, will some offenders who would have received probation be sentenced to an intermediate punishment instead? To the extent that this occurs, it will expand the population to be supervised in intermediate punishments beyond the number of offenders diverted from prison and thus drive up the cost of the program. The potential for this to occur should be monitored.
3. Should an intermediate punishment program be provided for certain state incarcerated offenders?
- At present, intermediate punishments are available only for county offenders. This precludes the use of

an intermediate punishment program from having any potential to reduce or control state prison population levels (except as the result of sentence guideline changes).

4. Will the public support the placement of more offenders in intermediate punishments?

- The concept of using intermediate punishments as a way to reduce Pennsylvania's prison and jail population has the potential of creating a great amount of controversy. If the public perceives that an intermediate punishment program would result in substantial and serious risk to the community, it is not likely to support the program.
- Public support among Pennsylvanians for intermediate punishments was recently gauged by the Public Agenda Foundation (PAF), a public opinion research organization. In a study commissioned by the Edna McConnell Clark Foundation as a companion to PEL's report, PAF found that Pennsylvanians showed a "strong willingness" to use intermediate punishments for certain non-violent offenders. The study reported that 92% of Pennsylvanians surveyed were in favor of intermediate punishments once they were educated about the issues.

Summary

If the Commonwealth continues to incarcerate offenders in state prisons at the present pace, then the cost of building and operating more prisons will be unavoidable. To avoid the cost of future prison construction, the state prison population must be brought into balance with capacity. One way to do this would be to expand the use of intermediate punishments. An expansion of these programs will require additional expenditures; consequently, the overall cost of corrections in Pennsylvania will increase. However, because the cost per offender of these programs is much less than the cost per offender of incarceration, an immediate expansion of intermediate punishments will, in the long-run, be less expensive than the cost of a building and operating more prisons. In other words, by expanding intermediate punishments, we can expect state corrections expenditures to be less in the future than what they would have been had new prisons been constructed. The overall cost of all corrections activities in Pennsylvania will continue to increase, but at a slower rate.

A rational intermediate punishment program, one which is limited to non-violent offenders and provides an adequate system of supervision, should not result in undue risk to the public. While one can assume that placing more offenders in the community will result in greater risk, because only non-violent offenders will be supervised in these programs, the risk will be minimized. An expanded commitment to intermediate punishment programs in Pennsylvania will require adequate funding to be successful. For this reason, consideration should be given to the development of a sound and rational funding mechanism.

Finally, the decision to implement a program to reduce prison population raises a number of policy issues. The answers to these policy questions should be sought to assure that our future corrections program protects the public adequately and provides the most effective services at the most affordable cost.

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