

**JOINT PUBLIC HEARING OF THE SENATE AND HOUSE JUDICIARY
COMMITTEES TO HEAR A PRESENTATION FROM THE COUNCIL
OF STATE GOVERNMENTS JUSTICE CENTER ON CORRECTIONS
ISSUES**

**JUNE 4, 2007
HEARING ROOM 1
NORTH OFFICE BUILDING
HARRISBURG, PA**

CHAIRMEN

**Senator Stewart J. Greenleaf, Senate Judiciary Committee
Rep. Thomas R. Caltagirone, House Judiciary Committee**

WITNESSES

Estelle B. Richman, Secretary, Department of Public Welfare

Justice Center Panel

**Dr. Tony Fabelo, Senior Research Consultant, CSG Justice Center
Dr. Fred Osher, Director of Health Systems and Services Policy, CSG
Justice Center**

Michael Thompson, Director, CSG Justice Center

**John S. Shaffer, Ph.D., Executive Deputy Secretary,
Department of Corrections**

**John Tuttle, Deputy Executive Director, Pennsylvania
Board of Probation and Parole**

John L. Heaton, Esquire, Secretary, Pennsylvania Board of Pardons

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE RESOLUTION

No. 125 Session of
2003 :

INTRODUCED BY THOMPSON, M. WHITE, GREENLEAF, WONDERLING,
RAFFERTY, HUGHES, COSTA, ORIE, CONTI, HELFRICK, KUKOVICH,
ERICKSON, TARTAGLIONE, PILEGGI, ARMSTRONG, KITCHEN, STOUT,
C. WILLIAMS AND LEMMOND, JULY 15, 2003

REFERRED TO PUBLIC HEALTH AND WELFARE, JULY 15, 2003

A CONCURRENT RESOLUTION

1 Directing the Legislative Budget and Finance Committee to
2 provide a comprehensive report to the General Assembly and
3 the Governor on data collected and evaluated by national
4 experts, with the support of the United States Department of
5 Health and Human Services and facilitated by the Council of
6 State Governments, of two county-based mental health
7 diversion programs and one program that works with offenders
8 with mental illnesses released from State prisons in this
9 Commonwealth and to demonstrate the fiscal impact of these
10 programs and the desirability, viability and appropriateness
11 of encouraging similar program development, implementation
12 and funding options throughout this Commonwealth.

13 WHEREAS, The Legislative Budget and Finance Committee is a
14 bipartisan, bicameral legislative service agency consisting of
15 12 members of the General Assembly established by statute to
16 conduct studies and make recommendations aimed at eliminating
17 unnecessary expenditures, to promote economy in the government
18 of the Commonwealth and to assure that Commonwealth funds are
19 being expended in accordance with legislative intent and law;
20 and

21 WHEREAS, The committee is authorized to conduct a wide range
22 of research activities pertaining to the operation and

1 performance of State-funded programs and agencies; and

2 WHEREAS, The inmate population in this Commonwealth grew at a
3 rate of 5.5% last year, up from zero growth in 1999, and now
4 tops 40,000 people; and

5 WHEREAS, Corrections officials have stated that this growth
6 rate is the equivalent of a new prison every year; and

7 WHEREAS, Many of these increased admissions are nonviolent
8 offenders and technical parole violators who have committed no
9 crime but have violated a condition of their parole; and

10 WHEREAS, The rate of mental illnesses in Commonwealth prisons
11 and local jails is between two and three times the rate in the
12 general population, with approximately three quarters of these
13 individuals having a co-occurring substance abuse disorder; and

14 WHEREAS, The growing number of inmates with mental illnesses,
15 and the difficulty of screening for and treating these
16 individuals, can weaken staff morale, jeopardize the proper
17 operation of correction facilities and contribute to jail and
18 prison overcrowding and the cost of operating corrections
19 systems; and

20 WHEREAS, The justice system offers in most cases no treatment
21 alternatives to incarcerations, and in most places in this
22 Commonwealth the mental health, substance abuse and criminal
23 justice systems offer an uncoordinated system of care or no
24 effective response for individuals with a serious mental illness
25 or co-occurring substance abuse disorder; and

26 WHEREAS, The use of newer psychotropic medications has
27 resulted in improved response to treatment for individuals with
28 a serious mental illness, and access to these new medications
29 has resulted in restored health and enhanced public safety; and

30 WHEREAS, Criminal justice, mental health and substance abuse

1 systems that do not provide a coordinated response to
2 individuals with serious mental illness often end up using
3 expensive public safety and emergency services to respond to
4 some of those individuals; and

5 WHEREAS, System integration between the mental health,
6 substance abuse and criminal justice systems at the county,
7 regional and State levels can provide prompt, appropriate
8 treatment and interventions to break the cycles of
9 decompensation and incarceration to successfully reduce the
10 number of individuals with serious mental illnesses entering
11 into, residing in and reentering the criminal justice system;
12 and

13 WHEREAS, The Council of State Governments in June 2002 issued
14 a comprehensive report, "The Criminal Justice/Mental Health
15 Consensus Project Report," designed to help State and local
16 government officials who are dealing with the problem of
17 significant numbers of people with a mental illness or a mental
18 illness with co-occurring substance abuse disorder in prison or
19 jail; and

20 WHEREAS, This report lists several instances in the criminal
21 justice system, from the initial call to police to a person's
22 release from prison to a person's parole violation, where State
23 and local government officials can take steps to improve the
24 response to people with mental illnesses who come into contact
25 with the criminal justice system; and

26 WHEREAS, National experts working with the support of the
27 United States Department of Health and Human Services in
28 conjunction with the Council of State Governments have assisted
29 Chester County officials in simulating the fiscal impact of a
30 planned mental health diversion program, Allegheny County

1 officials in evaluating the fiscal impact of a mental health
2 diversion program already under way and Philadelphia County
3 officials in evaluating the fiscal impact of the Gaudenzia
4 Forensic Intensive Recovery State Program; therefore be it
5 RESOLVED (the House of Representatives concurring), That the
6 General Assembly direct the Legislative Budget and Finance
7 Committee to work with the Council of State Governments to
8 secure any evaluation information that is developed regarding
9 the programs in Chester County, Allegheny County and
10 Philadelphia County and within 120 days of receipt of this
11 information provide a report, that has received comments from
12 appropriate staff at the Department of Corrections and the
13 Department of Public Welfare, to the General Assembly and the
14 Governor demonstrating the fiscal impact of these programs and
15 the desirability, viability and appropriateness of encouraging
16 similar program development, implementation and funding options
17 throughout this Commonwealth; and be it further
18 RESOLVED, That the Legislative Budget and Finance Committee
19 in its report also address the desirability and viability of
20 replicating the use of the simulation model being used in the
21 Chester County program.

Opening Remarks
Senator Stewart J. Greenleaf, Chairman, Senate Judiciary Committee

**Statement of Senator Stewart J. Greenleaf
Joint Public Hearing of the Judiciary Committees of the Senate
and House
Council of State Governments Justice Center
June 4, 2007**

On behalf of the members of the Senate Judiciary Committee, I would like to thank the representatives of the Council of State Government Justice Center for taking the initiative to work with commonwealth officials on pressing issues of criminal justice, including corrections spending, neighborhood safety and interaction between the criminal justice system and individuals with mental illness.

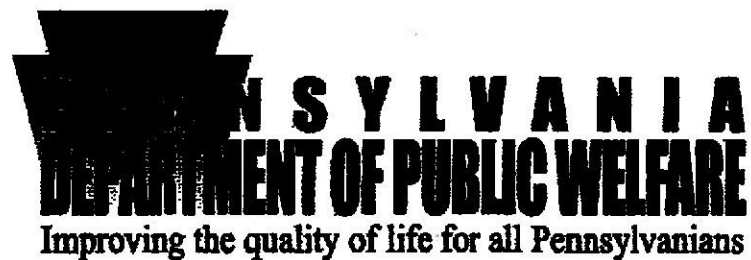
I want to note that it is always a pleasure to work with my colleague, Rep. Caltagirone, and the members of the House Judiciary Committee, and I would like to thank the witnesses who are providing testimony today. It is my hope that this public hearing will offer some new ideas on dealing with persistent problems and emerging issues in criminal justice.

Estelle B. Richman, Secretary, Department of Public Welfare

Testimony on the Council of State Governments Reports on Corrections Issues
Estelle B. Richman, Secretary of Public Welfare

Joint Senate and House Judiciary Committee

June 4, 2007



Good morning Chairmen Greenleaf, Caltagirone, Marsico and Costa, committee members and staff. Thank you for the opportunity to testify on the Council of State Governments (CSG) studies from Senate Resolution 125. The Department of Public Welfare works closely with many partners in and out of government to care for Pennsylvania's most vulnerable citizens, including persons living with mental illness or co-occurring substance abuse – the very people most directly affected by the issues we are going to talk about today.

Thank you to Secretary Beard, Deputy Secretary Shaffer, Chairman McVey and Deputy Executive Director Tuttle for their leadership on this issue and for their longstanding commitment to collaborate with the Department of Public Welfare.

The growth of the criminal justice system in the last four years has been staggering in both the state prisons and local jails. Currently there are approximately 44,000 inmates under the jurisdiction of the Department of Corrections (DOC) alone and this number is expected to grow to 51,000 by 2011, regardless of corrective measures. The General Assembly took a big step forward by looking at this issue and studying ways in which to address it through their passage of Senate Resolution 125 in July of 2003.

I want to thank the Council for State Governments for bringing the issue concerning the increasing number of people with mental illnesses involved in the criminal justice system to light and to help us use data to strategize a different response. According to the reports the increase in the number of people with mental illnesses involved in the criminal justice system represents a growing problem at the county and state level. With the continued expansion of the corrections system the issues surrounding mental illness and substance abuse continue to grow.

Too many individuals with mental illness are becoming involved with law enforcement agencies. There are more identified cases of individuals with mental illness spending time in jails and on court dockets, some winding up in the state prisons. It is

common knowledge that these individuals are less likely to receive parole, and when they do, they are more likely to recidivate.

The Rendell Administration along with the Department of Public Welfare and other agencies has been involved with a number of initiatives to respond to this anticipated and growing problem. We know, thanks to the studies commissioned by SR 125, there are alternative strategies for this population that improve public safety, help people succeed in the community, and in the long run, save taxpayers money.

Pennsylvania was the first of four states to be awarded a five year grant from the John D. and Catherine T. Mac Arthur Foundation to develop and support "A Model for Change" in the juvenile justice system. This is a rare opportunity to develop a replicable, system-wide change that will benefit Pennsylvania and serve as a model for reform in other states. Through various other grants and initiatives both within and outside of the Administration, we are looking at ways to increase communication among agencies and to work collaboratively toward solutions to these problems.

In addition to working with other state agencies, DPW has undertaken a variety of creative approaches to address these issues. DPW's Office of Mental Health and Substance Abuse Services (OMHSAS) convened a Forensic Work Group that developed a report that came to many of the same conclusions that we are discussing today. DPW was also awarded a State Incentive Grant called "COSIG" for treating people with co-occurring mental illnesses and substance use disorders. This grant provides funding to develop and enhance infrastructure to provide integrated treatment to persons with co-occurring substance abuse and mental health disorders. The department is working with counties across the Commonwealth to help identify best practices and provide support for initiatives to divert people from incarceration to treatment when possible, identify and treat people while incarcerated and provide comprehensive reentry planning to reduce recidivism and increase public safety.

Perhaps our most important recent accomplishment is that effective July 1, 2007, HealthChoices Behavioral Health Managed Care will be operational statewide. Letters of Agreements with the Department of Corrections and every Pennsylvania county prison are in place to lay out processes and responsibilities for community re-entry planning for people with mental illness or substance use disorder. People with co-occurring mental illness and substance use are most likely to be eligible for physical health and behavioral health care services through the Commonwealth's Medicaid program.

Despite the many activities going on throughout the Commonwealth, we have to do more to respond to this growing problem. The SR 125 studies provide data that identifies promising local initiatives that should be replicated across the Commonwealth and we should build on these successes.

- For example, we should learn from the highly successful Allegheny County mental health court system as lauded by the RAND Corporation. Allegheny County is leading the way in this area and offers a model for other counties.
- Bradford County deserves recognition for its active consumer involvement with inmates prior to their release and they stay connected after release resulting in successful reentry. Consumer's peers, serve as their local individual champions.
- In addition to following these good examples, we also need to challenge local communities that are not making progress. For example, too many jurisdictions lack Criminal Justice Advisory Boards and we need to insist that they change their ways and establish them.

Other core recommendations include:

- Studies have shown that the public safety can best be served by appropriately diverting those offenders who have mental health needs and who have not committed violent crimes into programs that help them cope with and stabilize their mental illness and where necessary address their addiction. Community behavioral health providers must develop sufficient capacity to meet all treatment and support needs of individuals diverted or released.

- **As part of this effort, we must all recognize that we have diligently built and staunchly defended silos. Our collective task needs to be to tear down the “silo mentality”.**
- **One way to tear down silos and work collaboratively is to develop a high level executive group consisting of representatives of the Supreme Court, Department of Corrections, Pennsylvania Probation and Parole, Pennsylvania Commission on Crime and Delinquency and the Department of Public Welfare to develop policies and operational strategies on diversion issues and to establish mental health courts. This group should also include District Attorneys, defense attorneys, state and local police, and trial judges. By bringing together senior level decision makers, we can insure that we are pursuing the same goals with the right strategies.**
- **Finally, we need to develop and provide cross training of mental health, law enforcement, local courts and local probation and parole. Without training, any gain we make is bound to be temporary.**

The grant program under discussion this morning would assist in getting a number of these types of programs started. I will continue to work with my colleagues at the Department of Corrections and Probation and Parole to make progress on these issues.

Thank you for this opportunity to discuss these issues and the ways in which we are currently working to address them and what we can continue to do into the future. I am ready to take any questions you may have at this time.

Justice Center Panel

Dr. Tony Fabelo, Senior Research Consultant, CSG Justice Center
Dr. Fred Osher, Director of Health Systems and Services Policy, CSG
Justice Center
Michael Thompson, Director, CSG Justice Center

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THE COUNCIL OF STATE GOVERNMENTS

Collaborative Approaches to Public Safety

Justice Reinvestment: Increasing Public Safety and Managing the Growth of Pennsylvania Prison Population

Dr. Tony Fabelo

Fred C. Osher, MD

Michael Thompson

June 4, 2007

Harrisburg, PA

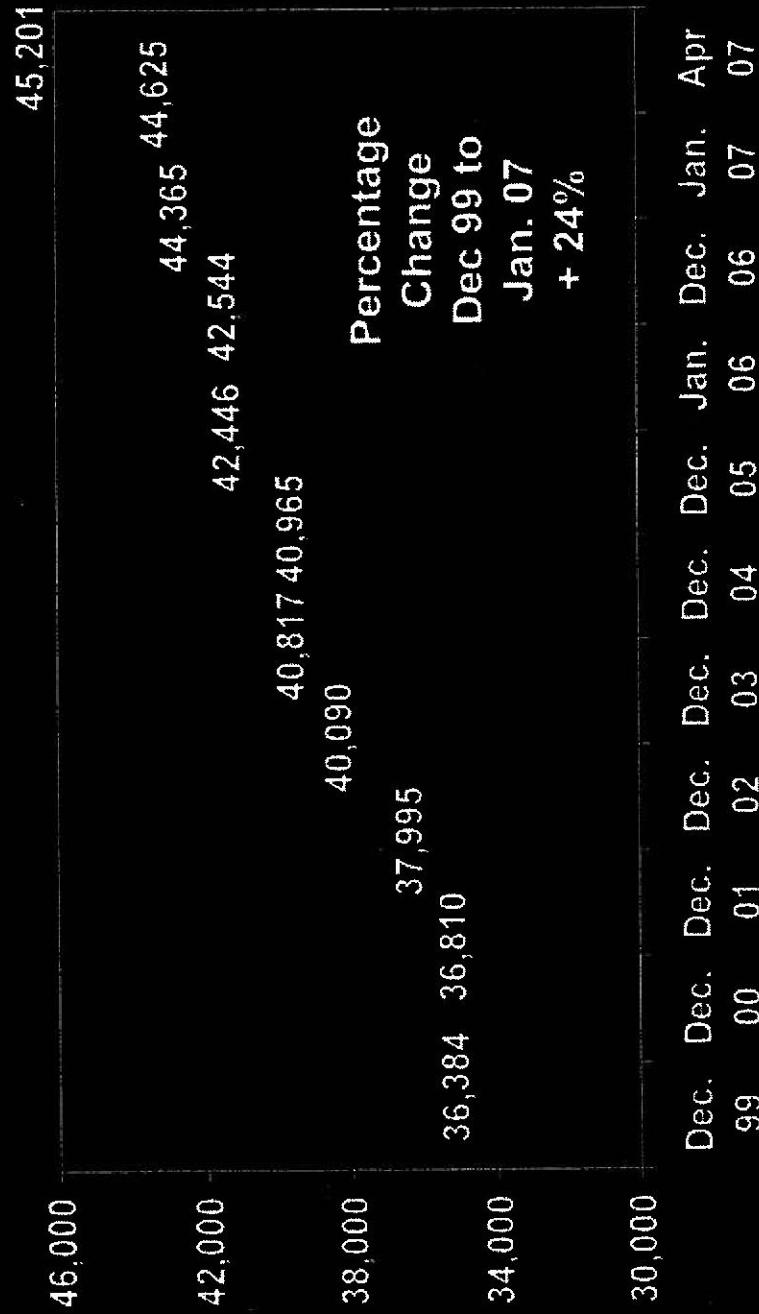
Overview

Challenge

Drivers

Options

The PDOC Population Has Grown Significantly Since 1999 and the Growth Has Accelerated in 2007



Monthly average increase

Dec. 1999 to Dec. 2005

92 inmates per month

Jan. 2006 to April 2007

177 inmates per month

Prison Expansion Plan Has Been Proposed by PDOC to Address Prison Population Growth

2,819 bed expansion approved
7,118 proposed

Total
9,937

Capital expansion cost: \$672.5 million

New annual operating expense: \$177.7 million

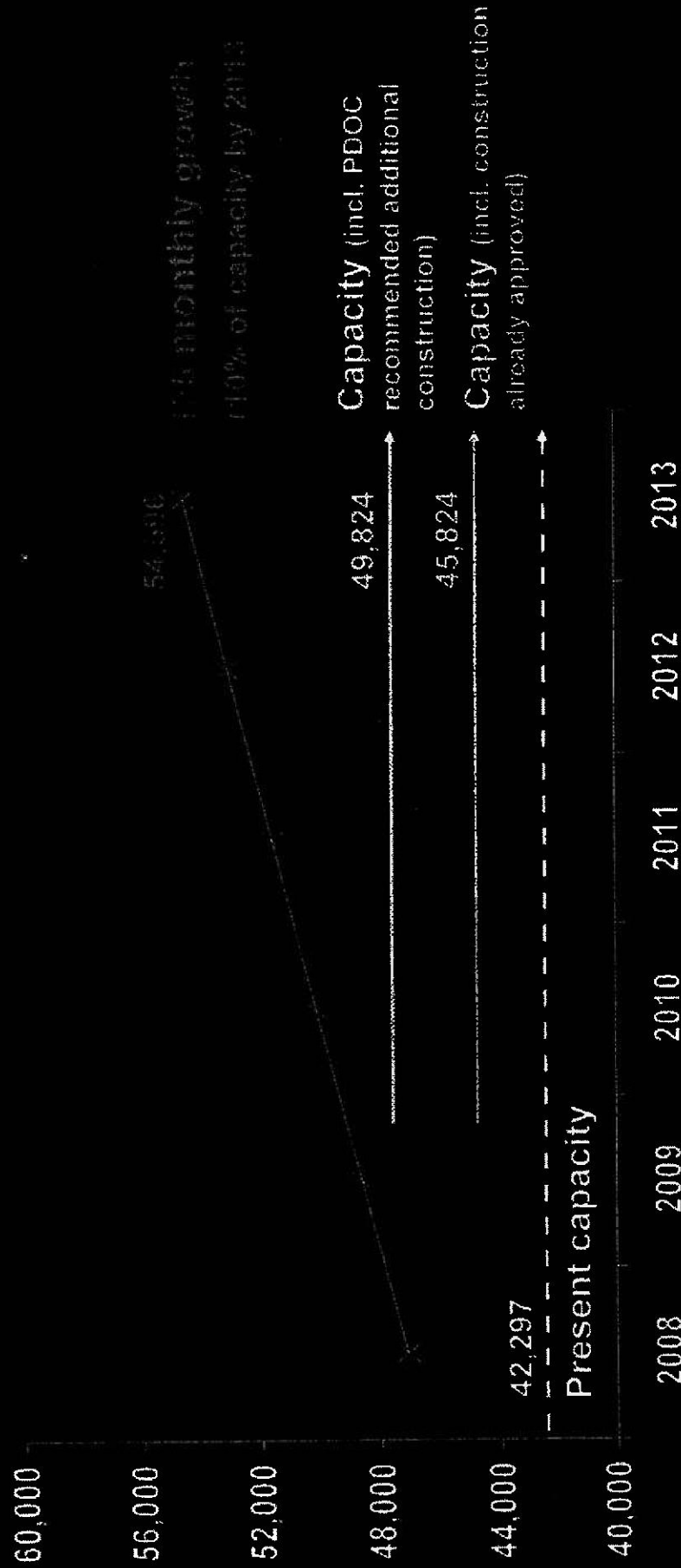
PDOC annual operating budget by 2012: \$1.8 billion

Capacity Expansion Projects Required					
Opening Date	Institution	Type	Capacity Gain	Capital Costs	Annual Operating Costs
Aug-07	Princeton	Prison Construction	1,000		\$ 47,770,000
Aug-07	Laurel Highlands	Modular Unit	160	\$ -	\$ 346,000
Aug-07	Pine Grove	Modular Unit	160	\$ -	\$ 348,000
Aug-07	Retreat	Modular Unit	160	\$ -	\$ 348,000
Jan-07	Laurel Highlands	New Housing Unit	250	\$ 19,500,000	\$ 957,000
Jan-07	Retreat	New Housing Unit	250	\$ 19,500,000	\$ 957,000
Aug-07	Laurel Highlands	New Housing Unit	250	\$ 19,500,000	\$ 957,000
Jan-07	Princeton	New Housing Unit	179	\$ 19,000,000	\$ 1,000,000
Dec-07	Laurel Highlands	New Housing Unit	250	\$ 19,500,000	\$ 957,000
Dec-07	Princeton	New Housing Unit	250	\$ 19,500,000	\$ 957,000
Dec-07	Princeton	New Housing Unit	250	\$ 19,500,000	\$ 957,000
Dec-07	Princeton	New Housing Unit	250	\$ 19,500,000	\$ 957,000
Dec-07	Princeton	New Housing Unit	250	\$ 19,500,000	\$ 957,000
	Total		9,937	\$ 672,447,000	\$ 177,714,000

* Female Inmates Only

If Most Recent Growth Rate Continues PA Faces Significant Challenges Even with Capacity Expansion

Project PDOC Population Assuming Population Growth Rate of 2006
(175 Monthly Growth) and Lower Growth Rate (125 Monthly Growth)



PDOC Population Growth is Driven by Practices and Policies Not by State Population Growth or Crime

Pennsylvania Population	2000 12,281,054	→	2005 12,429,616	→	+ 1.2%
Reported Index Crimes	2000 367,858	→	2005 353,205	→	- 3.9%
Crime Rate	2000 2,995	→	2005 2,841	→	- 5.1%
Sentences	2001 81,173	→	2006 91,804	→	+ 13%
Prison Admissions	2000 12,545	→	2006 18,141	→	+ 45%
Prison Population	2000 36,810	→	2006 44,365	→	+ 21%

Overview

Challenge

Drivers

Options

Main Drivers of Growth

Pressure of jail overcrowding

More offenders admitted to prison for less severe offenses

Higher percentage of offenders being sentenced to prison than jail, particularly those with short sentences

Low utilization of some prison diversion programs

Low utilization of State Intermediate Punishment (SIP) and intermediate sanctions for parole

Recycling of offenders back to prison

Increase in parole violators admitted to prison

Shortage of prison programs and intermediate sanction capacity to reduce recidivism

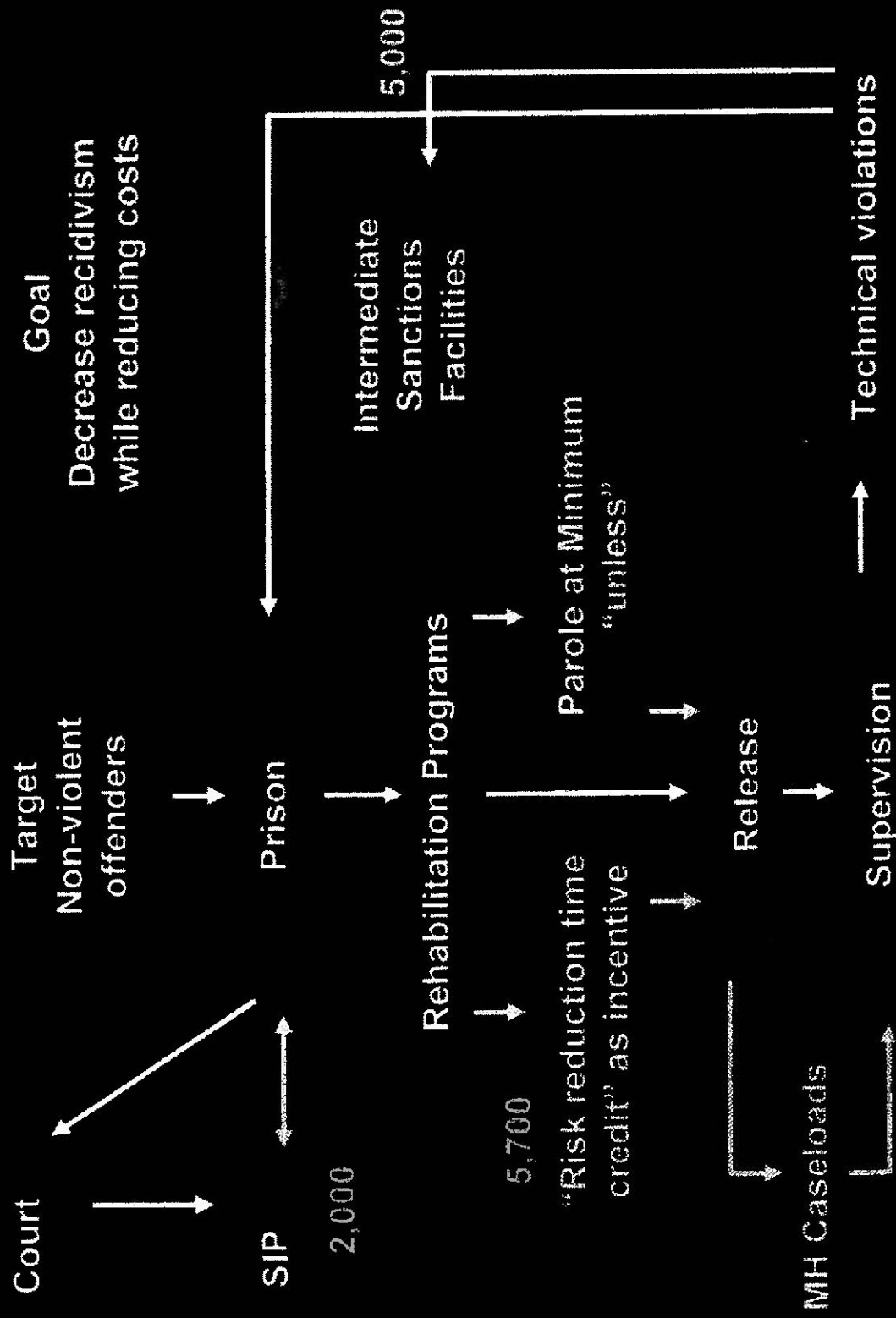
Overview

Challenge

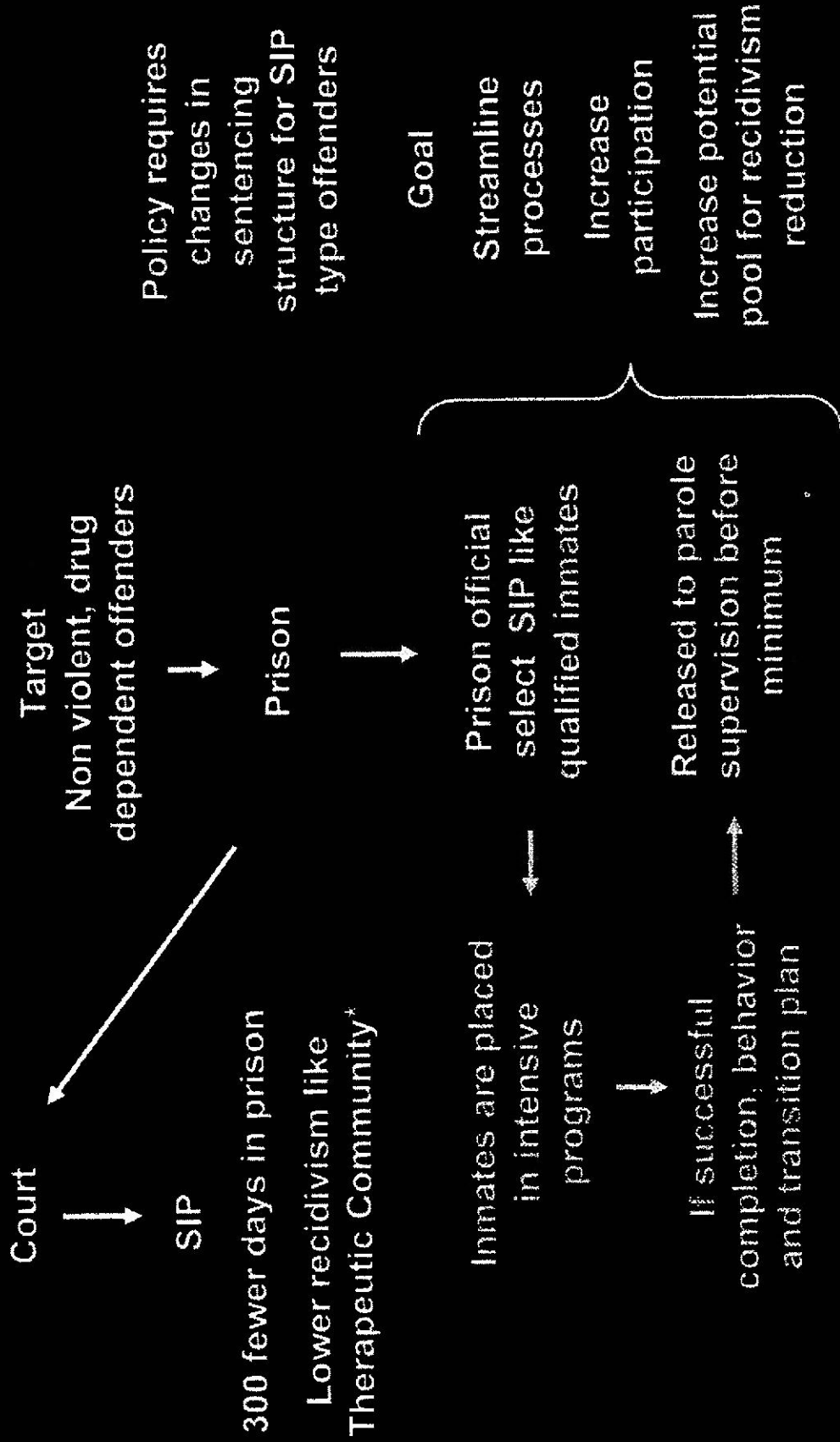
Drivers

Options

Policy Elements of Any Short Term Reform

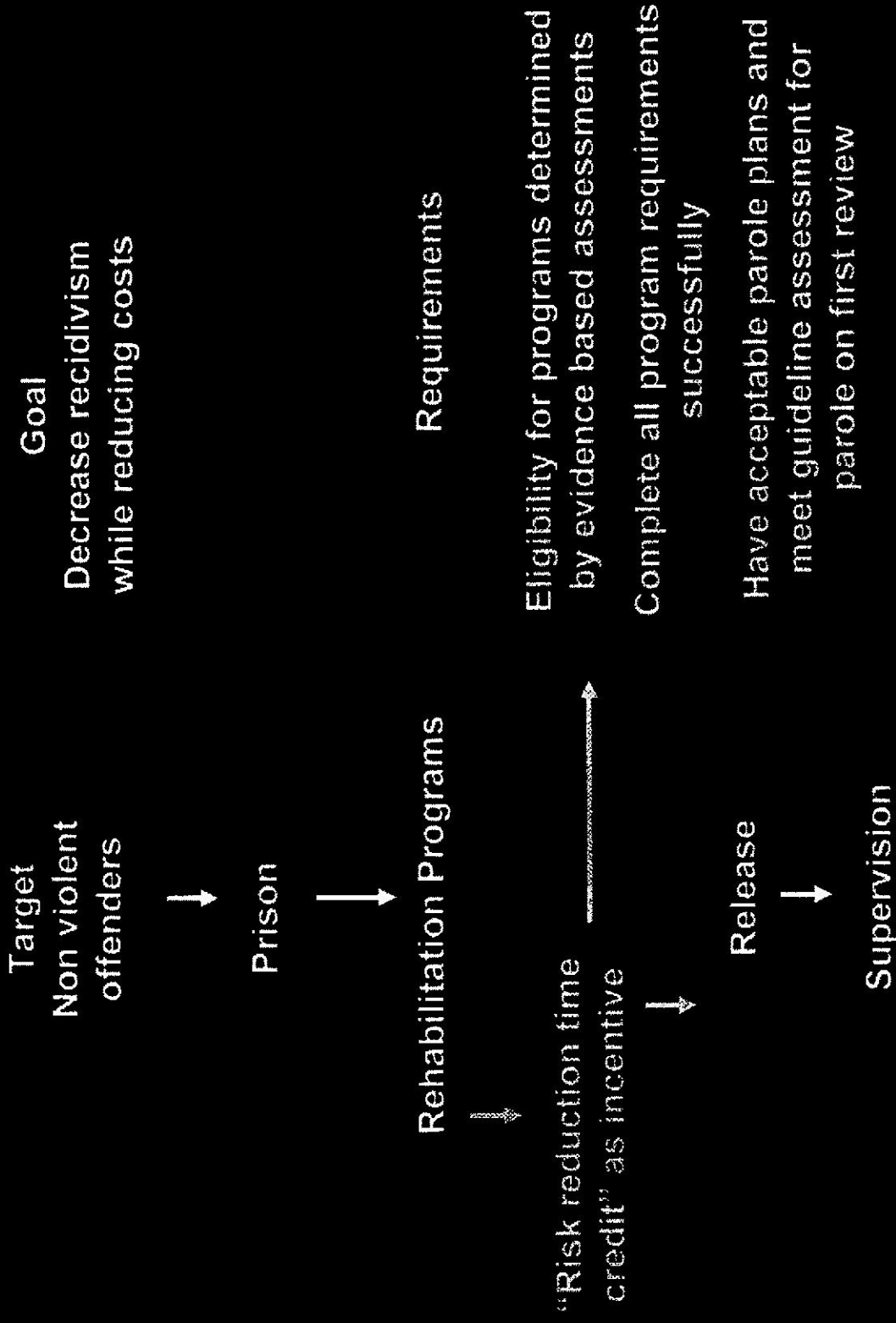


Restructuring of SIP an Issue to Explore

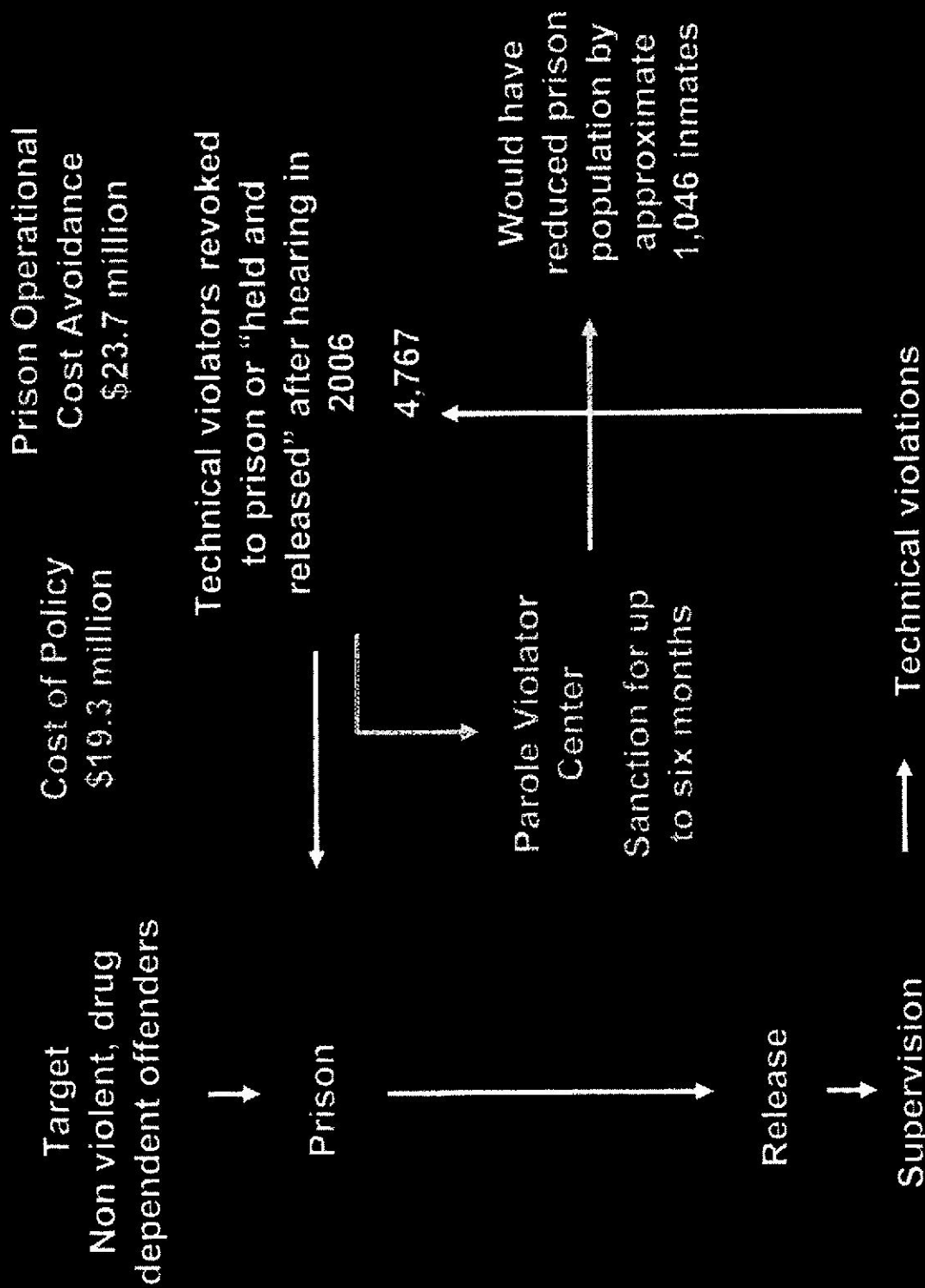


* Recidivism rate for this group to be studied by DOC

Risk Reduction Earned Time as Policy to Encourage and Reward Successful Program Completion

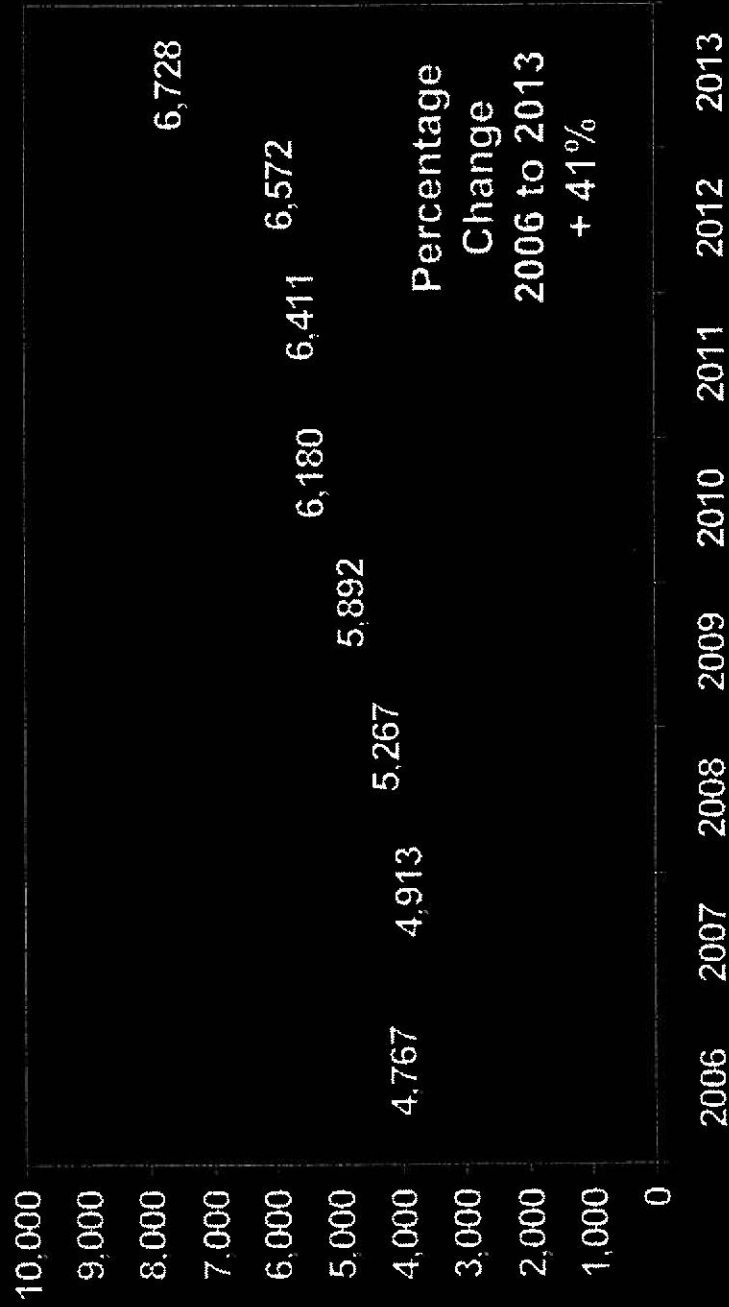


Parole Intermediate Sanction Capacity a Key Policy to Sanction Violators Short of Prison Revocation



Number of Violators Revoked or Held Projected to Increase Under Status Quo

Projected Technical Violators Revoked to Prison and Violators "Held and Released" with No Recommitment Action



Reform Scenarios

Target: Non-Violent Offenders

Scenario 1

SIP

- Judges and DA stay involved in process
- 20% of potential SIP eligible will participate in program

Risk Reduction Credit

- 20% of minimum sentence credit
- 50% of eligible population receives credit

Technical Parole Violators

- 70% of technical parole violators diverted to new Violation Centers
- 25% failure rate

Scenario 2

SIP

- Alternate method to be determined for direct DOC program selection
- 50% of potential SIP eligible will participate in program

Risk Reduction Credit

- 25% of minimum sentence credit
- Same

Technical Parole Violators

- 100% of parole technical violators diverted to new Violation Centers
- Same

Projected Impact of Policy Reform Scenarios

INMATE POPULATION REDUCTION BY 2013

Scenario 1

Scenario 2

- 194

- 510

SIP Impact

- 900

- 1,042

Time Credits Impact

- 1,067

- 1,476

Parole ISFs Impact

- 2,161

- 3,028

Total Impact

Projected Impact on Population and Operating Percentage of Capacity – High Growth

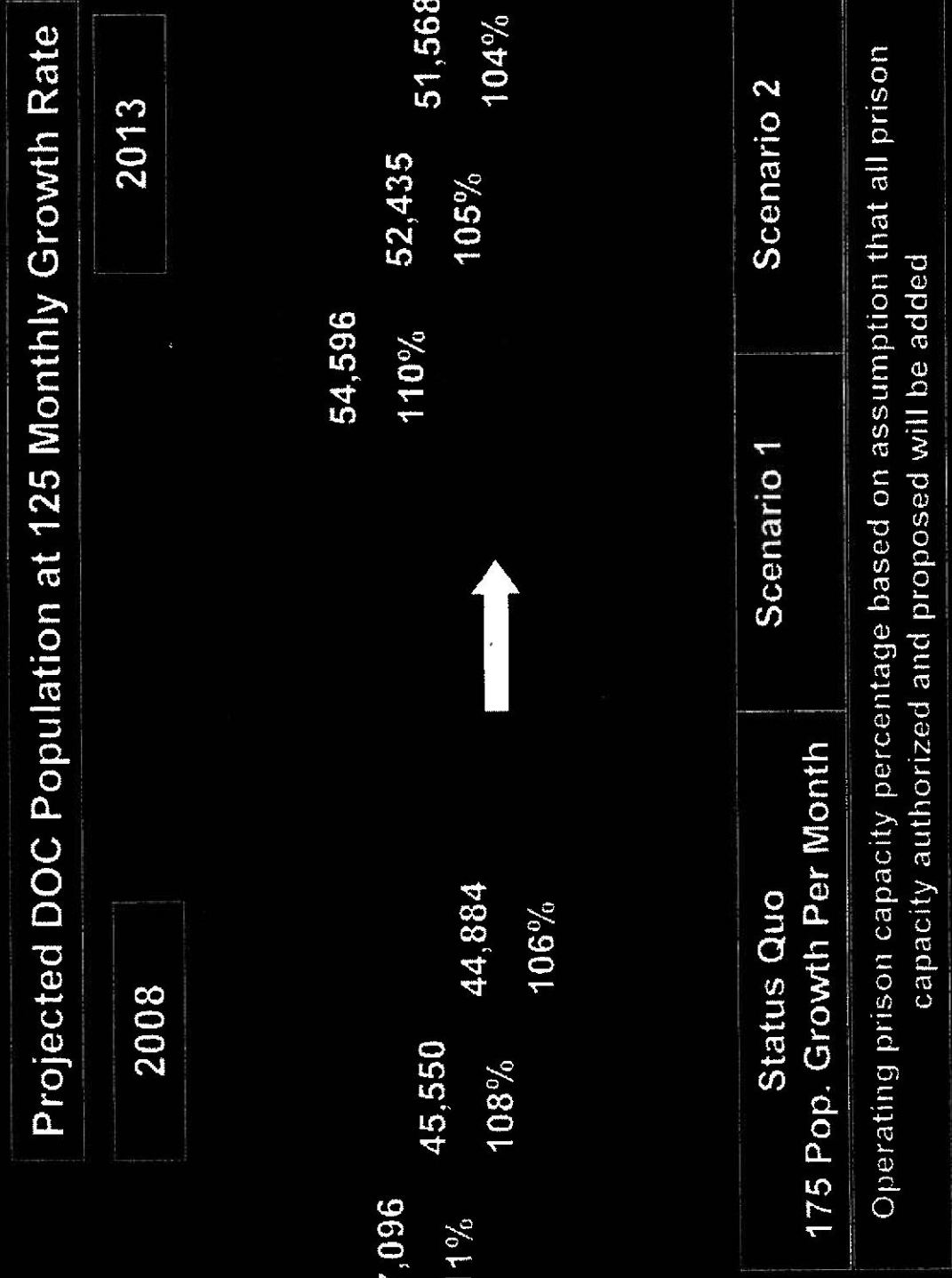
Projected DOC Population at 175 Monthly Growth Rate

2008		2013	
48,603		59,103	56,942
115%	47,057	119%	114%
	46,391		56,075
	111%		113%
	110%		



Status Quo	Scenario 1	Scenario 2
175 Pop. Growth Per Month		
Operating prison capacity percentage based on assumption that all prison capacity authorized and proposed will be added		

Projected Impact on Population and Operating Percentage of Capacity – Low Growth



Projected Cost Avoidance Due to Reduction in Prison Population

Projected Cost Avoidance

2009

2013

Reform Scenario 1
\$48.5 million

Reform Scenario 2
\$67.8 million

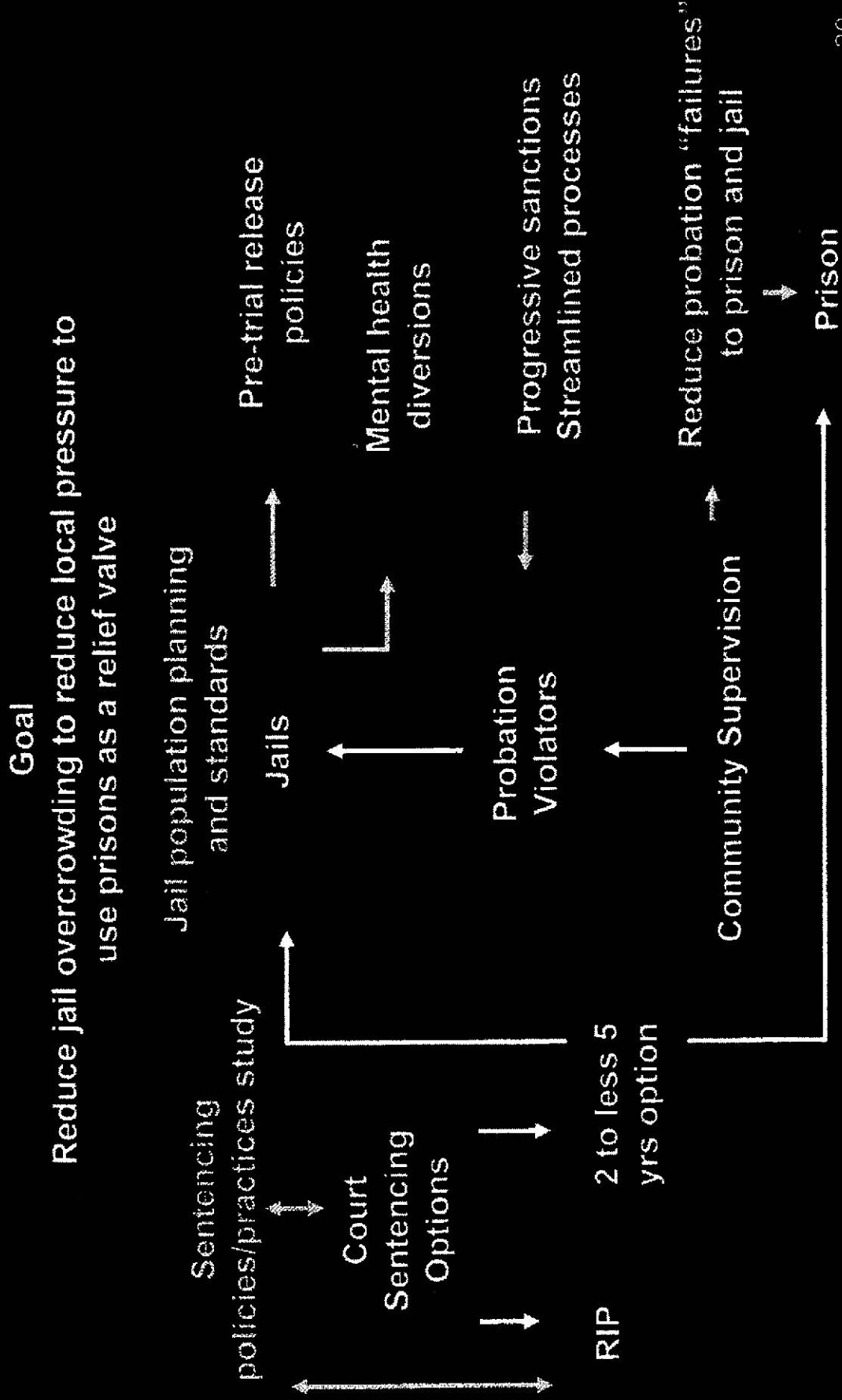
Reform Scenario 1
\$69.4 million

Reform Scenario 2
\$95 million

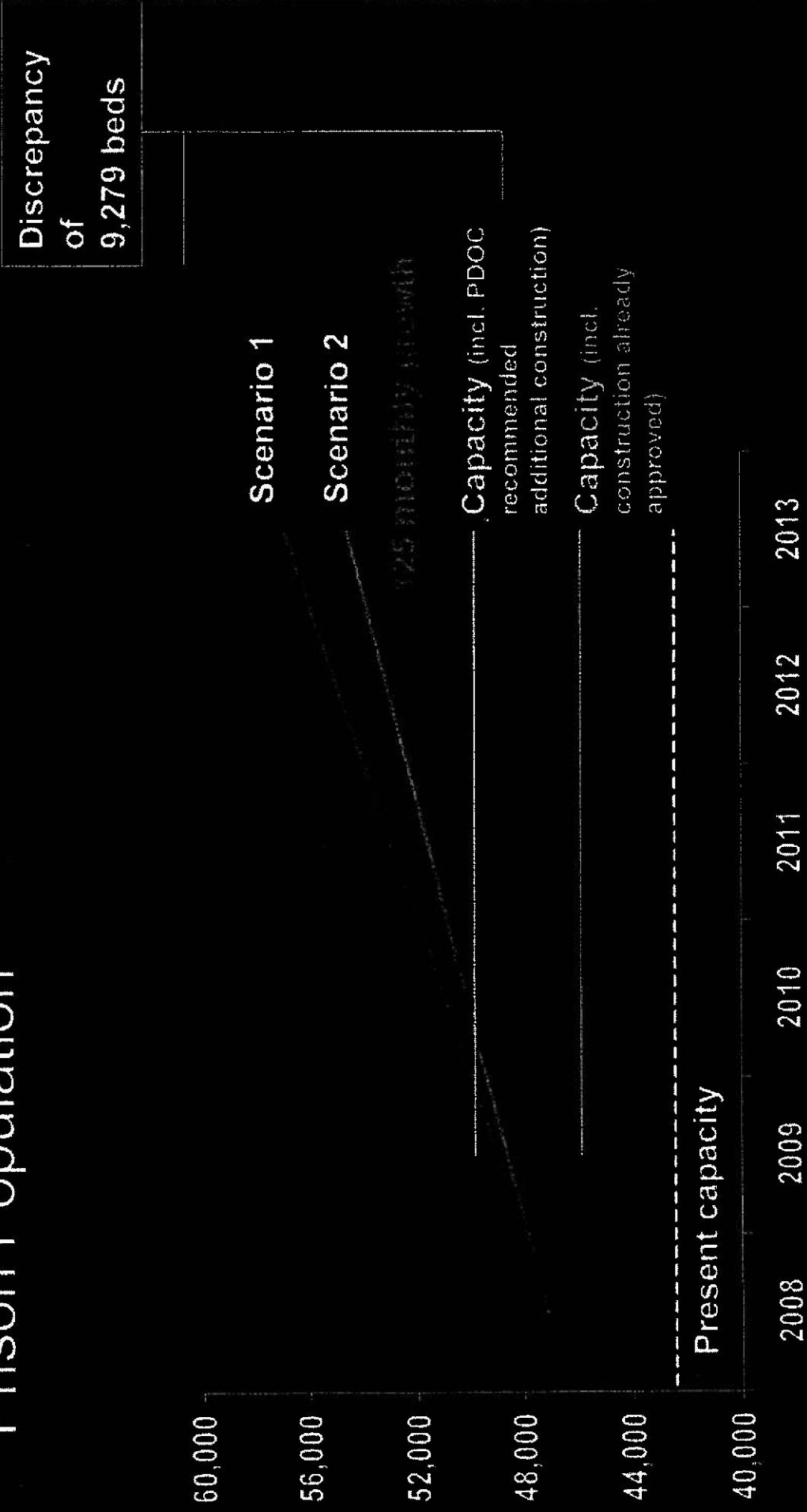


Based on an average prison operational cost of \$86 per day

Policy Elements to Explore for Long Term Reforms



Projected Impact of Policy Options on Prison Population



Overview

Challenge

Prison population growth

Drivers

- Pressure of jail overcrowding impacting sentencing and number of offenders sentenced to prison
- Low utilization of front-end & back-end diversion programs
- High recidivism of offenders released from prison

Options

- Re-examination of SLP program to increase participation
- Adoption of risk reduction time credits and establishment of Parole Violator Centers for non-violent offenders
- Examination of long-terms issues dealing with sentencing, pre-trial, mental health and jail overcrowding

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Collaborative Approaches to Public Safety

Pennsylvania's Opportunity to Improve Public Safety Through Effective Treatment

Fred C. Osher, MD
Director of Health Systems and Services Policy

June 4, 2007

Overrepresentation of People with Mental Illnesses in the Criminal Justice System: How Did We Get Here?

Arrested at disproportionately higher rates

Co-occurring substance use disorders

Jails as housing of last resort

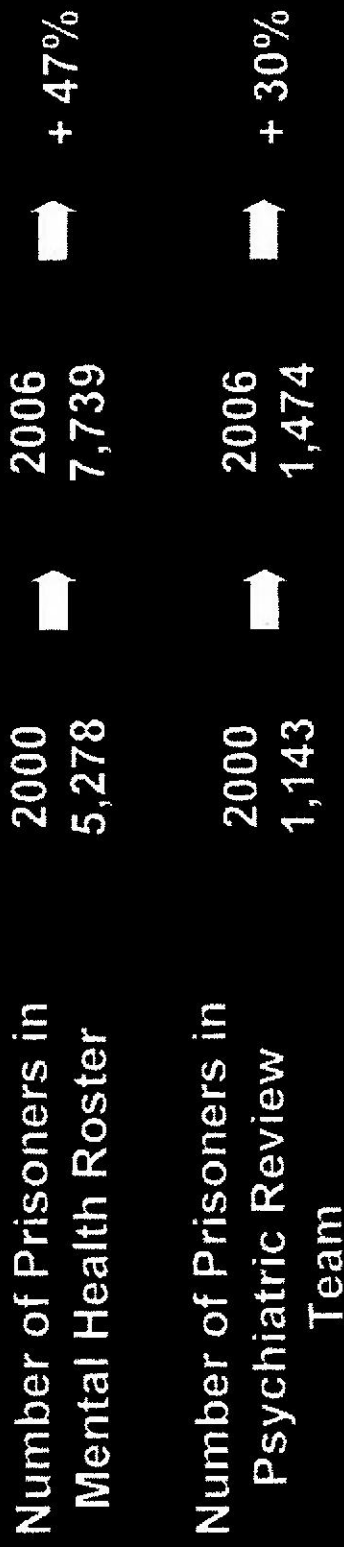
Pathogenic nature of incarceration environments

Longer lengths of stay

Inadequate behavioral health services

Higher recidivism rates

Pennsylvania: Increasing rates of individuals with mental illnesses in prison



Inmates with Mental Illness Are Less Likely to Be Granted Parole

Parole Rate



(PBPP Spreadsheet: November, 2006)

Senate Resolution 125

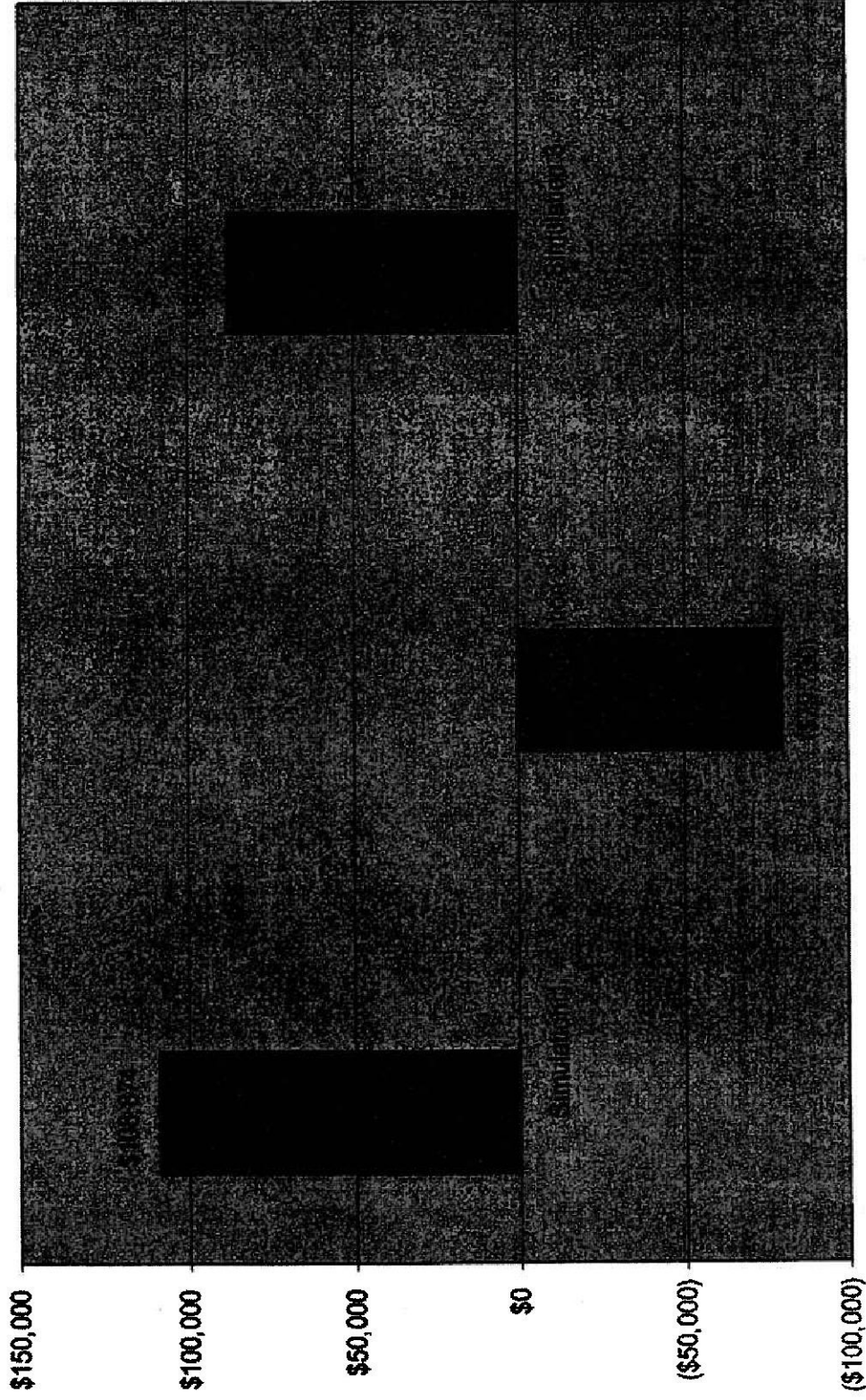
Evaluate fiscal impact of three collaborative programs

Jail diversion program in Chester County

Mental health court in Allegheny County

Re-entry program in Philadelphia

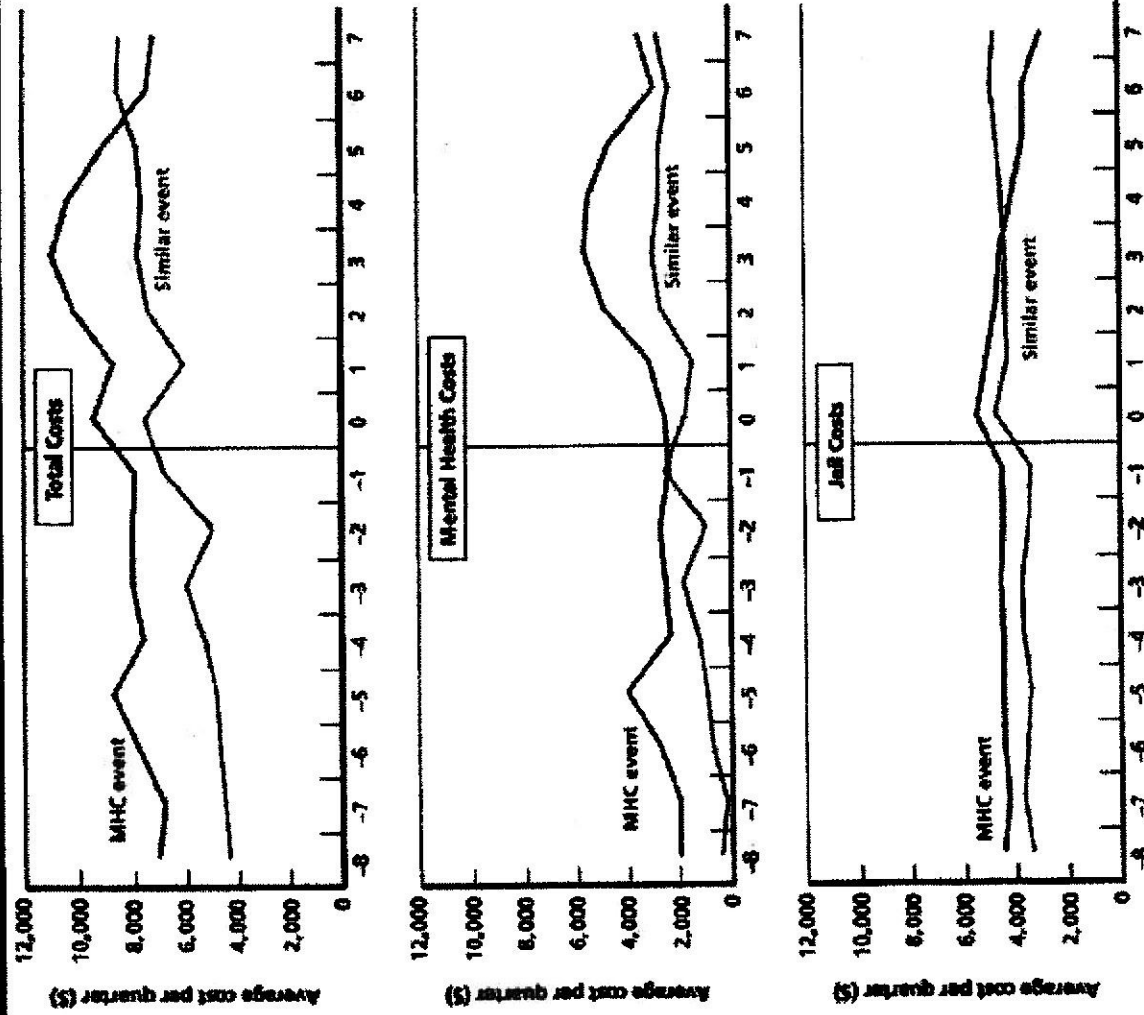
Chester County Simulation Planning Tool for Jail Diversion: Projecting Costs and Savings



Savings to the County

(Griffin, 2007)

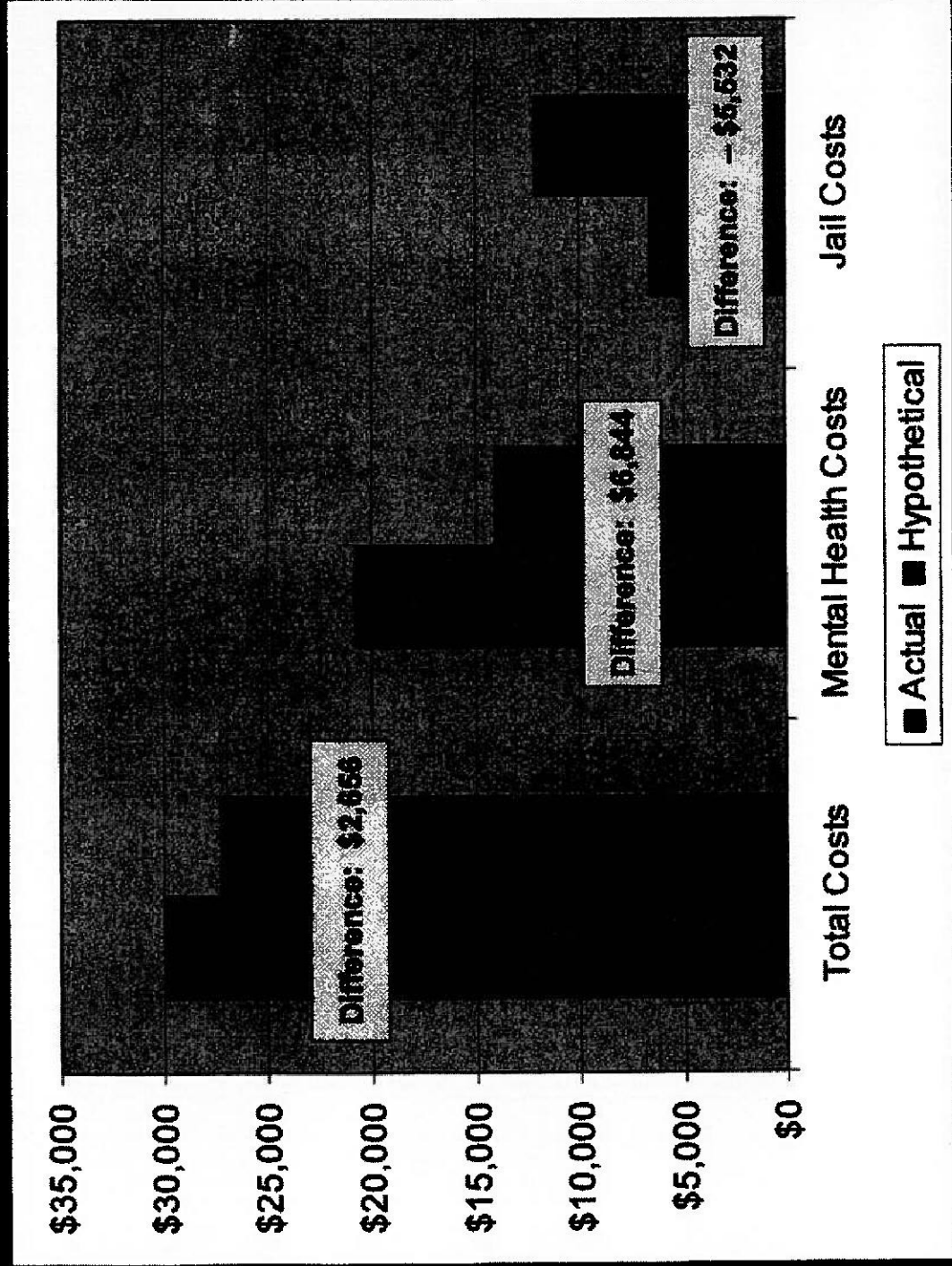
Justice, Treatment, and Cost: An Evaluation of the Fiscal Impact of Allegheny County Mental Health Court



Quarters (Jail or arrest starts at the beginning of quarter 0)

(Ridgely et al., 2007)

Justice, Treatment, and Cost: An Evaluation of the Fiscal Impact of Allegheny County Mental Health Court



(Ridgely et al., 2007)

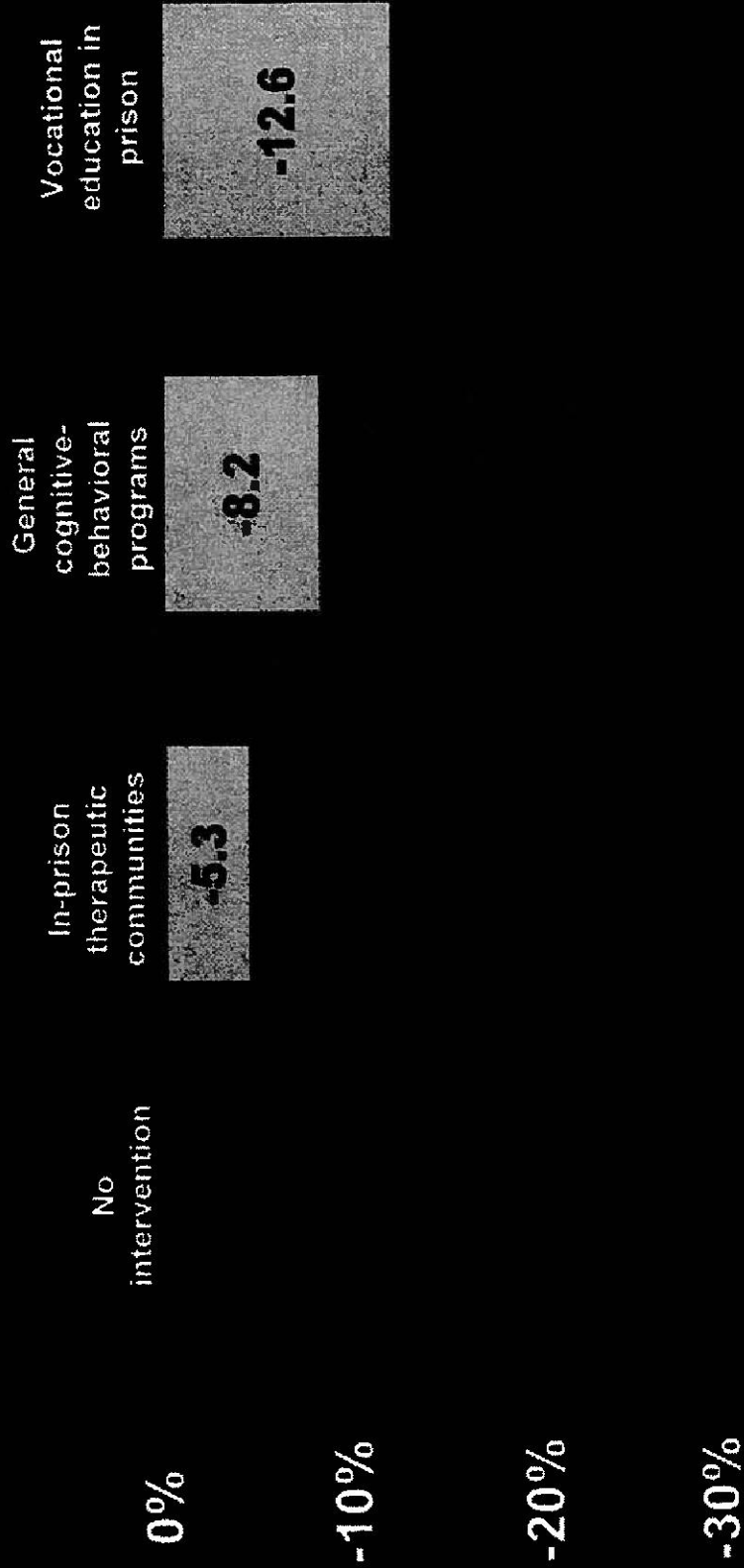
Mental Illness and Reincarceration among Persons
Released from Pennsylvania State Prisons to Philadelphia
Locations in 2001

Significantly more likely to be reincarcerated (jail or prison) two
years post release period, even after adjusting for differences in
population characteristics

Gaudenzia FIR-St. sample size too small to determine effects of
specialized residential programming

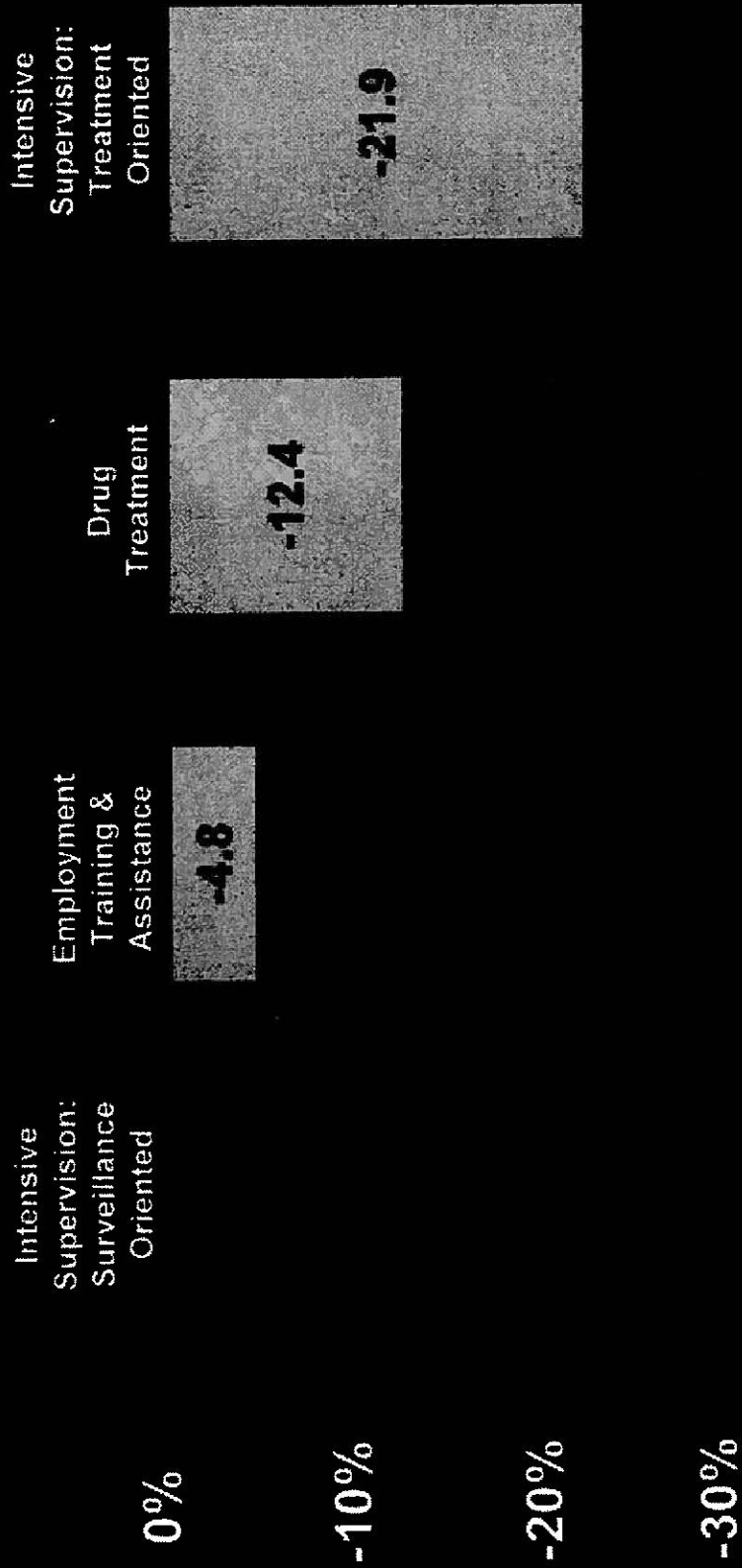
Well-managed Prison Programs Can Reduce Recidivism

Change in Recidivism Rates for Adult Offenders



Programs Supplementing Supervision Can Also Have a Positive Impact in Reducing Recidivism

Change in Recidivism Rates for Adult Offenders



Recommendations

Front end:

A statewide grant program to improve response to people with mental illness in contact with police, courts, and jails.

Back end:

Making the transition from prison to community more successful.

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Collaborative Approaches to Public Safety

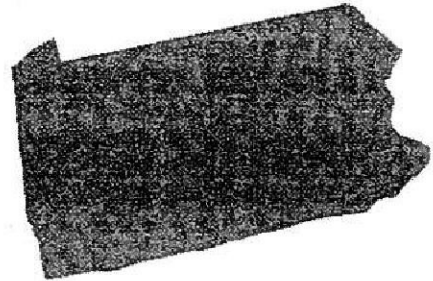


BJA Bureau of
Justice Assistance



Staff Contact:
LaToya McBean
Tel: (646) 383-5721

Increasing Public Safety and Generating Savings: Options for Pennsylvania Policymakers



I. Background

Republican and Democratic leaders from the Pennsylvania House and Senate have requested technical assistance from the Council of State Governments Justice Center (“Justice Center”) to determine why the state prison population is growing. They have also asked the Justice Center to provide them with policy options, which, if implemented successfully, would increase public safety and curb spending on corrections.

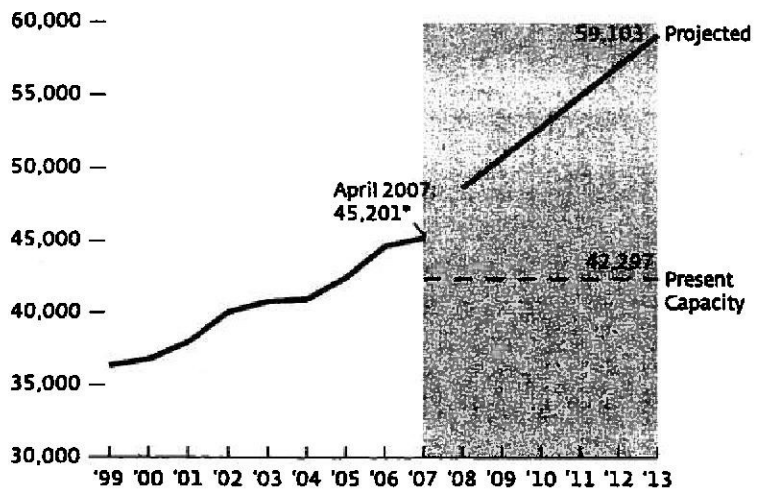
This policy brief summarizes increases in the Pennsylvania prison population (and corresponding increases in spending on the corrections system) over the past several years, reviews the most recent prison population projections for the state, and explains factors that have contributed to recent and projected growth of the prison population. This brief also provides policy options for policymakers interested in increasing public safety and averting some of the current growth projected for the state’s prison population.

II. Recent and Projected Growth of the Prison Population

Pennsylvania’s state prison population has grown significantly since 1999 and is projected to grow at an even faster rate over the next several years.

- Between December 1999 and April 2007, the prison population increased 24 percent.¹
- The growth in the state prison population has outpaced the growth of the Commonwealth’s resident population.

FIGURE 1: Pennsylvania Department of Corrections Inmate Population: Historical Growth (FY 1999 – 2007) and Projected Growth (FY 2007 – 2013)

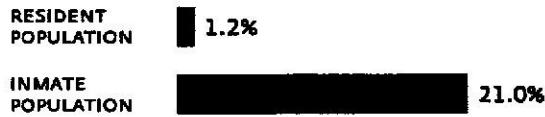


*Includes Community Corrections Centers.

The Justice Center is providing intensive technical assistance to Pennsylvania and a limited number of other states that demonstrate a bipartisan interest in justice reinvestment—a data-driven strategy for policymakers to reduce spending on corrections, increase public safety, and improve conditions in the neighborhoods to which most people released from prison return.

From 2000 to 2006, the prison population increased 21 percent, faster than the 1.2 percent increase in the resident population during that period.²

FIGURE 2: Percentage Change in Pennsylvania Resident Population and Department of Corrections Population (2000–2005)



- From 2008 to 2013, the prison population is projected to grow 30 percent, from 45,201 to 59,103 prisoners.³
- Between February and March 2007, the state prison population increased by 424 people, the single largest increase over a one-month period that the state has experienced over the past two years.⁴

Corrections expenditures have increased significantly in recent years, and the PDOC has recently requested additional funding to build and operate more prisons.

- By the end of 2006, the Pennsylvania Department of Corrections (“PDOC”) was operating at 115 percent of capacity.⁵
- PDOC’s budget request for FY2007–08 includes \$672 million to construct an additional 9,937 prison beds between July 2007 and December 2010. The new operational costs associated with this request will be \$177 million.⁶
- The total FY2007–08 budget request of \$1.6 billion reflects a 13 percent increase in corrections spending over the preceding fiscal year.⁷
- Even if the General Assembly approves PDOC’s proposed expansion plans, and assuming recent growth trends remain constant and current policies are left unchanged, PDOC will still be short approximately 9,279 beds by 2013.⁸

FIGURE 3: Department of Corrections Projected Fiscal Year Costs (2007–2012)

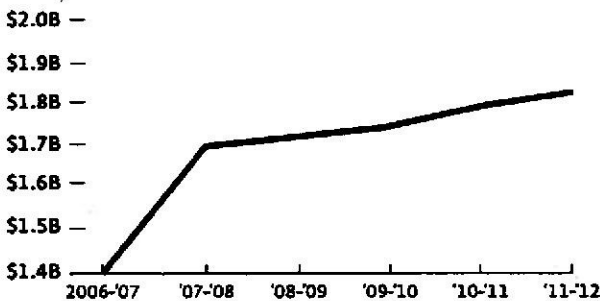
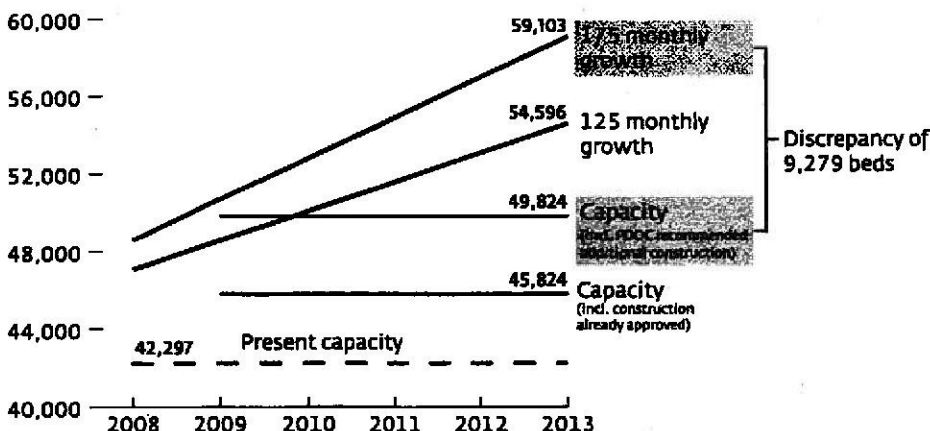


FIGURE 4: Projected PDOC Population Assuming Population Growth Rate of 2006 (175 Monthly Growth) and Lower Growth Rate (125 Monthly Growth)

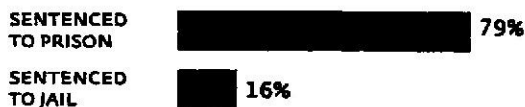


III. Factors Driving the Increase in the Prison Population

Jail overcrowding is contributing significantly to the growth of the state prison population.

- A higher percentage of offenders with “less severe offenses” are being admitted to prison instead of jail. Since 2000, new prison admissions for less severe offenses increased 43 percent, compared to only 16 percent for more severe offenses.⁹
- In Pennsylvania, judges sentencing offenders who are facing sentences that range from two to five years have the discretion to send them either to jail or to prison. In these instances, judges are using the jail option relatively infrequently. In 2006, 79 percent of offenders eligible to be sentenced to jail or prison were sentenced to prison, while only 16 percent were sentenced to jail.¹⁰

FIGURE 5: Utilization of “Jail Option” for Discretionary Sentences



High failure rates among people under community supervision are placing significant pressure on the prison population.

- Between 2000 and 2006, the number of people admitted to prison because of parole revocation increased 37 percent.¹¹
- The percentage of prison admissions that result from probation revocations is unknown, but it is estimated that half of those who were admitted to PDOC directly from the courts in 2006 were the result of such revocations.¹²
- Parole officials responding to offenders that violate the conditions of their supervision have few options for sanctioning these offenders, other than returning them to prison.

In-prison program capacity is limited and contributing to a greater percentage of parole refusals.

- There is insufficient availability of in-prison programs such as educational, vocational,

substance abuse and mental health treatment, which have been shown to reduce risk and lower recidivism.

- In 2006, of those who were denied parole, 75 percent of them were refused because of their failure to participate in, or to complete, in-prison programs, in addition to other reasons cited.¹³

Existing diversion programs, such as the State Intermediate Punishment (“SIP”), program are underutilized.

- In 2006, approximately 2,000 offenders were eligible to receive substance abuse treatment in the SIP program. Only 314 of these eligible offenders, however, were in fact diverted to the program.
- The process to divert eligible offenders to the SIP program requires an initial motion by the district attorney and an assessment by the PDOC, which makes the process time consuming and complex.

The number of state prisoners identified to have a mental illness is increasing significantly, faster than the growth rate of the prison population generally.

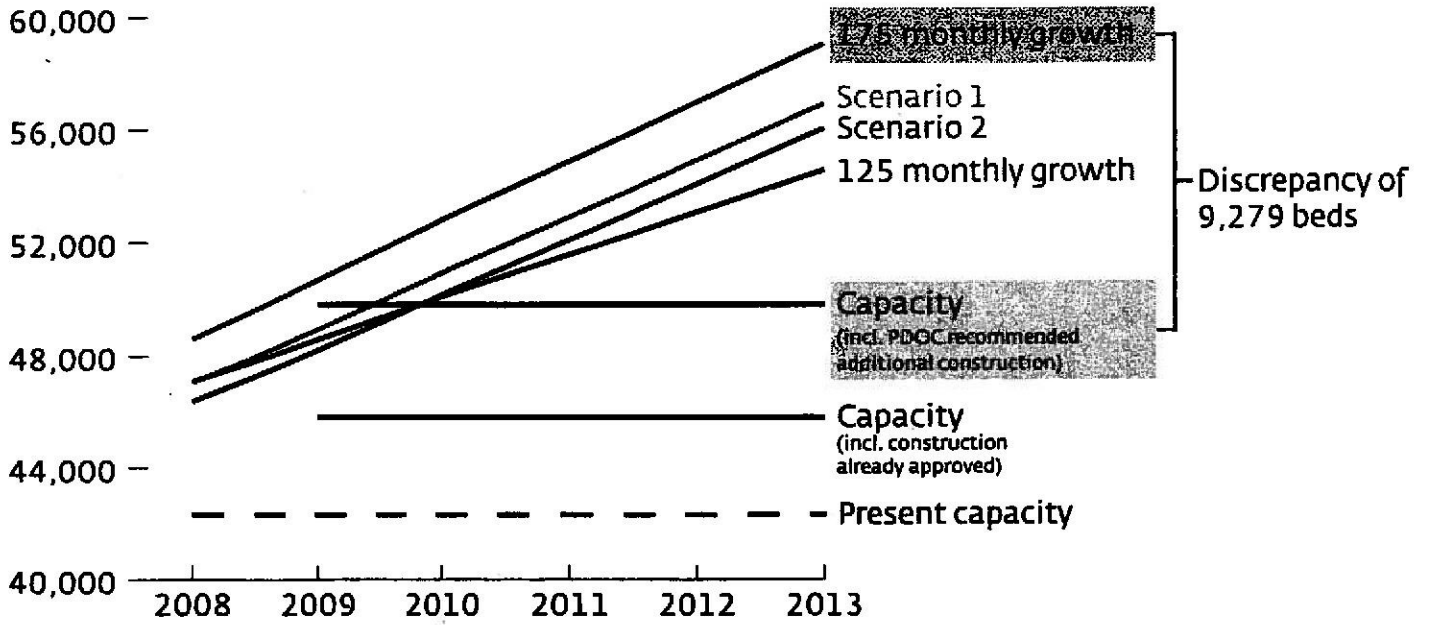
- Since 2000, there has been a 47 percent increase in admissions of individuals with a mental health indicator. During the same period, this population has gone from occupying 14.3 percent of prison beds to 18 percent of the beds.¹⁴
- People with mental illnesses are less likely to be granted parole than people without a mental illness. Individuals with serious mental illness received parole at a rate of 21 percent in 2006 compared to a rate of 61 percent for offenders in the general population.¹⁵
- Costs associated with treating someone with mental illness while he or she is in prison, such as medication and access to a psychiatrist, and the facilities used to house people who are particularly ill, make this population especially expensive to incarcerate. Furthermore, whereas these costs are absorbed by the state exclusively when the person is incarcerated, at least some of these treatment costs could be shared by the federal government when the person is housed and treated in the community.

IV. Options for Policymakers

The two scenarios outlined in this brief include projections of the impact that each policy would have on the prison population and provides estimates of cost savings for the purposes of comparing the options against one another. The estimates provided are based upon the Justice Center's analysis of data provided by the Pennsylvania Department of Corrections and the Pennsylvania Board of Probation and Parole.

POLICY OPTIONS	SCENARIO 1	SCENARIO 2
<p>1. Increase utilization of diversion programs such as the State Intermediate Punishment (SIP) program</p>	<p>Judges and prosecutors remain involved in the process of determining offenders eligible to participate in the SIP program.</p> <p>20 percent of potential SIP eligible offenders will participate in the program.</p> <p>Bed Savings: 194</p>	<p>Restructure SIP to direct the PDOC to select eligible offenders to participate in the program.</p> <p>Based on the assumption that 50 percent of eligible SIP population will participate in the program.</p> <p>Bed Savings: 510</p>
<p>2. Create a risk reduction credit for offenders who successfully complete educational, vocational, and substance abuse and mental health treatment programs while in prison</p>	<p>Apply a 20 percent risk reduction credit on minimum sentence to offenders who complete in prison programming.</p> <p>Based on the assumption that 50 percent of the eligible population will receive this credit.</p> <p>Bed Savings: 900</p>	<p>Apply a 25 percent risk reduction credit on minimum sentence to offenders who complete in prison programming.</p> <p>Based on the assumption that 50 percent of the eligible population will receive this credit.</p> <p>Bed Savings: 1,042</p>
<p>3. Reduce the percentage of parole violations by expanding intermediate sanction facilities (ISF)</p>	<p>Divert 70 percent of technical parole violators to a new Violation Center.</p> <p>Based on the assumption that 25 percent of parolees will not successfully complete the conditions of supervision.</p> <p>Bed Savings: 1,067</p>	<p>Divert 100 percent of technical parole violators to a new Violation Center.</p> <p>Based on the assumption that 25 percent of parolees will not successfully complete the conditions of supervision.</p> <p>Bed Savings: 1,476</p>
<p>Total Bed Savings by 2013</p>	<p>2,161</p>	<p>3,028</p>

FIGURE 6: Projected Impact of Policy Options on Prison Population



1. Department of Corrections Spreadsheet, September 15, 2006, Worksheet 1, Admissions by Year/ Updated, May 2007; includes Community Corrections Centers in count.

2. Pennsylvania Department of Corrections Spreadsheet, Admissions by Year/ Updated, February 2007; PA Population, US Census; PA Crime, FBI Crime in US.

3. Department of Corrections Spreadsheet, December 06 update; updated line projections based on starting population count of December 2006. Based on a projected growth rate of 175 inmates per month.

4. This represents the largest one month gain in the PDOC population over the past two years. See Department of Corrections Spreadsheet, "March 2007 Population Increase."

5. Pennsylvania Department of Corrections Secretary Budget Presentation, 2007.

6. Operating costs reflects the number of beds that will be brought online between July 2007 and December 2010 under the proposed expansion plan.

7. Pennsylvania Department of Corrections Secretary Budget Presentation, 2007.

8. Ibid.

9. Less severe offenses as defined in Pennsylvania are Part II offenses, which include crimes such as fraud, stolen property, forgery, narcotic drugs, and drunken driving. 4,296 offenders were admitted to prison for less severe offenses in 2000 compared to 6,162 in 2006. New prison admissions among the more severe offenses (Part I) category increased 1.6 percent since 2000.

10. Most serious offenders sentenced to two to less than fives for maximum incarceration.

11. Pennsylvania Department of Corrections Spreadsheet, September 15, 2006, Worksheet 1, Admissions by Year/ Updated, May 2007 by PBPP staff, calendar year numbers.

12. Pennsylvania Department of Corrections spreadsheet, Admissions to PDOC by Type and Percentage, 2006.

13. Pennsylvania Department of Corrections Spreadsheet 2006 for refusal cases.

14. Pennsylvania Department of Corrections Spreadsheet, December 06 update.

15. Pennsylvania Board of Probation and Parole ("PBPP") Spreadsheet, September 2006. Based on a 3-month study conducted in 2006. The parole rate for offenders on the Psychiatric Review Team Roster ("PRT") roster was 21 percent; the parole rate for offenders on the mental health active roster was 37 percent; and the parole rate for offenders on the mental health inactive roster was 44 percent. This is compared to a 61 percent parole rate for offenders not on the mental health rosters.

About this Report

The Council of State Governments Justice Center is a national nonprofit organization that serves policymakers at the local, state, and federal levels from all branches of government. The Center provides practical, nonpartisan advice and consensus-driven strategies, informed by available evidence, to increase public safety and strengthen communities. The Justice Center contracted with Dr. Tony Fabelo and the IFA Associates to assist Republican and Democratic leaders in the executive and legislative branches of Pennsylvania's state government.

Research and analysis described in this report has been funded by the Bureau of Justice Assistance, a division of the U.S. Department of Justice and The Pew Charitable Trusts. Through its Public Safety Performance Project, which assists select states that want better results from their sentencing and corrections system, Pew's project provides nonpartisan research, analysis and expertise to help states identify data-driven, fiscally responsible options for protecting public safety, holding offenders accountable, and controlling corrections costs. Points of view, recommendations, or findings stated in this document are those of the authors and do not necessarily reflect the official position or policies of the Bureau of Justice Assistance, U.S. Department of Justice, The Pew Charitable Trusts, Council of State Governments Justice Center, or the Council of State Governments' members. © 2007

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Justice Reinvestment

Justice reinvestment is a data-driven strategy for policymakers to reduce spending on corrections, increase public safety, and improve conditions in the neighborhoods to which most people released from prison return.

STATE SPENDING ON CORRECTIONS HAS RISEN FASTER OVER 20 YEARS THAN SPENDING ON NEARLY ANY OTHER STATE BUDGET ITEM—INCREASING FROM \$9 BILLION TO \$41 BILLION A YEAR.¹

Despite mounting expenditures, recidivism rates remain high and by some measures have actually risen. These failure rates are a key reason prison populations continue to swell nationally; the fastest growing category of admissions to prison are people already under some form of community-based supervision (many of whom were recently released from jail or prison). Any real effort to contain spending on corrections must have as its centerpiece a plan to manage the growth of the prison population.

ELECTED OFFICIALS CONCERNED ABOUT CRIME ROUTINELY REFER TO THE RECORD NUMBERS OF PEOPLE RETURNING TO THE COMMUNITY FROM PRISON OR JAIL: IN 2004 ALONE, MORE THAN 670,000 PEOPLE WERE RELEASED FROM PRISONS, AND AN ESTIMATED 9 MILLION WERE RELEASED FROM JAILS.²

Of those released from prison, half are returned within three years. Even more are rearrested.³ To increase public safety, policymakers must improve the success rates for people released from prisons and jails.

IN EVERY STATE THERE ARE A HANDFUL OF "HIGH-STAKES" COMMUNITIES TO WHICH MOST PEOPLE RELEASED FROM PRISONS AND JAILS RETURN; THESE ARE ALSO THE COMMUNITIES WHERE TAXPAYER-FUNDED PROGRAMS ARE DISPROPORTIONATELY FOCUSED.

State and community agencies often provide costly uncoordinated services to the same neighborhoods, and to the same families, without successful outcomes. To improve results and accountability, policymakers must identify which distinct programs overlap in particular neighborhoods, integrate these efforts, and then employ place-based strategies to increase the capacity for receiving people returning from prison and for engaging individuals at risk of becoming involved in crime.

1. National Association of State Budget Officers, *State Expenditure Report 2004* (Washington, D.C.: National Association of State Budget Officers, 2005). This study provides an analysis of state spending, including corrections expenditures, for fiscal year 2003 and fiscal year 2004, and estimated data for fiscal year 2005. The state spending numbers for 1984 come from the National Association of State Budget Officers, *State Expenditure Report 1987* (Washington, D.C.: National Association of State Budget Officers, 1987). From 1991 to 2001, state spending on corrections grew faster than any other state budget item except Medicaid expenditures, according to the National Conference of State Legislatures, "State Spending in the 1990s," report available at <http://www.ncsl.org/programs/fiscal/stspend90s.htm>.

2. The number of people released from prisons has been steadily increasing—from about 600,000 in 2000 to more than 670,000 in 2004. See P. M. Harrison and A. J. Beck, *Prison and Jail Inmates at Midyear 2005*, U.S. Department of Justice, Bureau of Justice Statistics, NCJ213133 (Washington, D.C.: U.S. Government Printing Office, 2006). The jail numbers (2004) come from A. J. Beck, "The Importance of Successful Reentry to Jail Population Growth," presented at the Jail Reentry Roundtable of the Urban Institute, Washington, D.C., June 27, 2006.

3. Two out of three people released from prison are rearrested within three years. See P. A. Langan and D. J. Levin, *Recidivism of Prisoners Released in 1994*, U.S. Department of Justice, Bureau of Justice Statistics, NCJ193427 (Washington, D.C.: U.S. Government Printing Office, 2002).

How Justice Reinvestment Works

1 Analyze the prison population and spending in the communities to which people in prison often return.

Justice reinvestment experts review prison admission data to determine what is driving increases in the population. They calculate the length of stay for various categories of people incarcerated, determine when and how people are released from prison, assess compliance rates for people under probation and parole supervision, and identify categories of people particularly likely to recidivate. Using mapping technology, these experts provide geographic analyses to pinpoint which neighborhoods receive people released from prison. These maps also highlight how spending on programs—Temporary Assistance to Needy Families (TANF), food stamps, child support, unemployment insurance, housing subsidies, Medicaid, and others—often converges on the same families and communities. These data highlight opportunities to manage the prison population growth, increase the integration of government programs and funding streams, and strengthen particular “high-stakes” neighborhoods.

2 Provide policymakers with options to generate savings and increase public safety.

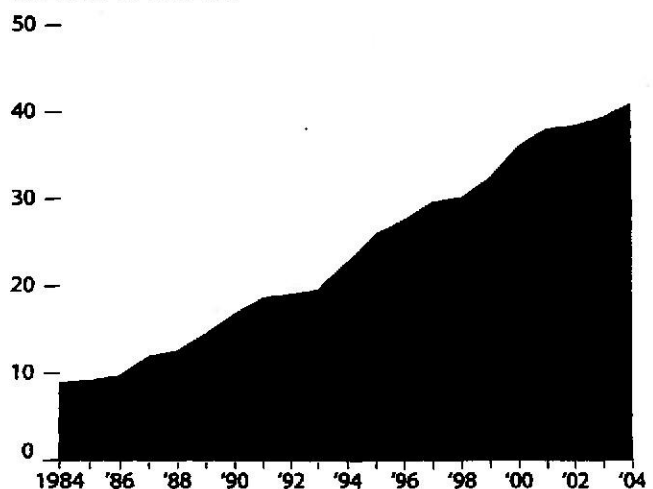
The justice reinvestment experts generate various options that recognize the uniqueness of each state’s criminal justice system and tailor them to that jurisdiction, such as strategies to

- reduce parole and probation revocations,
- focus supervision resources where they can have the greatest impact, and
- hold offenders (and service providers) accountable for the successful completion of programs such as drug treatment and job training.

When implemented correctly, these and other options moderate the growth of a state’s prison population and make programs more effective and efficient—results that help policymakers contain and cut spending. At the same time, using data to focus resources on those people most likely to re-offend makes communities safer.

“We’ve got a broken corrections system. Recidivism rates are too high and create too much of a financial burden on states without protecting public safety. My state and others are reinventing how we do business by employing justice reinvestment strategies that can put our taxpayers’ dollars to better use.” — U.S. SENATOR SAM BROWNBACK (R-KANSAS)

State Spending on Corrections by Year
BILLIONS OF DOLLARS



Data Source: National Association of State Budget Officers, State Expenditures Report 1985-2004

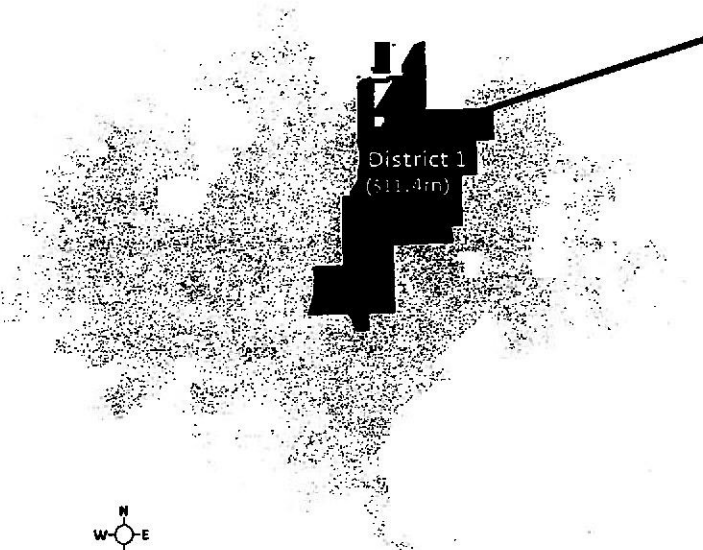
Quantify savings and reinvest in select high-stakes communities.

State and city leaders work with the justice reinvestment team to determine how much they will save, and avoid spending, by adopting some or all of the options identified by the experts. Policymakers and the team's experts develop plans for reinvesting a portion of these savings in new or enhanced initiatives in areas where the majority of people released from prisons and jails return. For example, officials can reinvest the savings and deploy *existing* resources in a high-stakes neighborhood to redevelop abandoned housing and better coordinate such services as substance abuse and mental health treatment, job training, and education. Unlike a prison reentry program, which residents may perceive negatively as prioritizing limited resources for people released from prison, these efforts are viewed generally as benefiting everyone in the community, regardless of their involvement in the criminal justice system.

Measure the impact and enhance accountability.

For each policy adopted, an appropriate state agency is charged with setting performance measures and projected outcomes, such as the amount of corrections costs saved or avoided, recidivism rates, and indicators of community capacity. Policymakers can use these measures to determine whether agencies are implementing the new policies effectively, assess how closely the actual impact of these new policies corresponds to projections, and make any necessary adjustments. The appropriate state agency is also charged with establishing systems that can span multiple agencies to collect and analyze data and provide periodic reports to policymakers. These integrated reports provide a comprehensive portrait of the effectiveness of state expenditures to increase public safety and build stronger neighborhoods.

Overlapping Spending in District 1, Wichita, Kansas



State spending on corrections for offenders from Wichita is approximately \$28.9 million. Of that sum, 39 percent (\$11.4 million) is spent on offenders who lived in a single district—Council District 1. In that same district, \$8.7 million in additional taxpayer dollars is spent on food stamps, unemployment insurance, and Temporary Assistance to Families (TAF).

Data Sources: Kansas Department of Corrections, "Prison Admissions 01/01/04–12/30/04." Kansas Department of Labor, "Unemployment Insurance Recipients in December 2004." Kansas Department of Social and Rehabilitation Services, "Temporary Assistance to Families Recipients in December 2004" and "Food Stamp Recipients in December 2004."

Pursuing a Justice Reinvestment Strategy

The Council of State Governments Justice Center, with support from the U.S. Department of Justice's Bureau of Justice Assistance and private grant makers such as The Pew Charitable Trusts, the JEHT Foundation, and the Open Society Institute, is providing intensive technical assistance to a limited number of states that demonstrate a bipartisan interest in justice reinvestment.

Policymakers in Connecticut, facing an unprecedented budget deficit and a prison population growing faster than any other state, were presented with two options: release people from prison early or contract with other states for additional prison beds to relieve crowding. Instead they chose a third way—a justice reinvestment strategy. With nearly unanimous support in the legislature, the state enacted laws that streamlined the parole process for low-risk offenders, addressed the high rate of probation violations, and developed a comprehensive strategy to reduce recidivism. Almost \$13 million of the nearly \$30 million saved was reinvested in community-based pilot projects. Probation violations dropped from 400 in July 2003 to 200 in September 2005. The decrease in the prison population over a two-year period was steeper than that seen in almost any other state while the crime rate continued to drop.

In Kansas, violations of parole and probation accounted for 68 percent of state prison admissions in 2004; 50 percent of the violations were classified as drug/alcohol use or failure to report to supervision. The state, as part of a justice reinvestment strategy started in 2005, is making a concerted effort to cut these violations in half. If successful, the initiative could help policymakers avoid spending millions of dollars on new prison construction and operating costs. Geographical analyses illustrate that one-third of people completing their prison terms in Kansas return to a single county; within that county, people disproportionately return to one neighborhood. Using some of the anticipated savings, state and local officials are partnering to reinvest in the transformation of a neighborhood with numerous boarded-up houses, high crime rates, and a large number of prison admissions. The joint effort seeks to redevelop the neighborhood's housing stock, integrate and improve the delivery of services to support strong families, and expand employment opportunities for neighborhood residents (including those recently released from prison and jail).

"It's always been safer politically to build the next prison, rather than stop and see whether that's really the smartest thing to do. But we're at a point where I don't think we can afford to do that anymore. . . . We have to look for a better solution to the problem, and that isn't more new prisons." —TEXAS STATE SENATOR JOHN WHITMIRE (D-HOUSTON), CHAIRMAN OF THE SENATE CRIMINAL JUSTICE COMMITTEE

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The Criminal Justice/Mental Health Consensus Project: Improving the Response to Individuals with Mental Illnesses Involved with the Criminal Justice System

The Criminal Justice/Mental Health Consensus Project, coordinated by the Council of State Governments Justice Center (Justice Center), is an unprecedented national effort to help local, state, and federal policymakers and criminal justice and mental health professionals improve the response to people with mental illnesses who come into contact with the criminal justice system.

The landmark Consensus Project Report, which was written by Justice Center staff and representatives of leading criminal justice and mental health organizations, was released in 2002. Since then, Justice Center staff working on the Consensus Project have supported the implementation of practical, flexible criminal justice/mental health strategies through on-site technical assistance; the dissemination of information about programs, research, and policy developments in the field; continued development of policy recommendations; and educational presentations.¹

I. Justice and Mental Health Collaboration Program

The Justice Center is the technical assistance provider for the Bureau of Justice Assistance (BJA) Justice and Mental Health Collaboration Program (JMHC). The JMHC is designed to increase public safety by facilitating collaboration among the criminal justice, juvenile justice, mental health treatment, and substance abuse systems and to improve access to effective treatment for people with mental illnesses involved with the criminal justice system. The JMHC was authorized by the Mentally Ill Offender Treatment and Crime Reduction Act (PL 108-414), and through funds appropriated in FY 2006, the Bureau of Justice Assistance awarded 27 grants in 19 states and the District of Columbia. Grantees received funding to plan, plan and implement, or implement and expand collaborations to improve responses to people with mental illnesses involved in the criminal justice system. BJA will announce a 2007 cohort of grantees later this year. More information on the JMHC is available at <http://consensusproject.org/jmhcp/info/About-JMHC>.

II. Law Enforcement/Mental Health Partnership Program

The Bureau of Justice Assistance (BJA) and the Justice Center, in partnership with the Police Executive Research Forum (PERF), are helping law enforcement and mental health professionals develop and enhance collaborative programs. Such programs enable officers to acquire special expertise in responding to encounters with people with mental illnesses, de-escalate tensions on the scene, minimize the use of force, and link individuals to treatment and supports when appropriate. The Justice Center is producing training resources, describing the essential elements of any specialized police-based response to people with mental illnesses, identifying some promising statewide efforts to coordinate local law enforcement programs, and facilitating peer-to-peer assistance through an online database of specialized law-enforcement-based programs.

III. Mental Health Court Learning Sites

The Bureau of Justice Assistance (BJA) and the Justice Center have identified five mental health court "learning sites" to provide peer-to-peer assistance to local and state officials interested in planning a new—or improving upon an existing—mental health court. The Justice Center assists the mental health court learning sites in their capacity as a peer support network and in improving their own programs' designs and operations. In providing technical assistance to the learning sites, the Justice Center draws upon years of experience developing the *Essential Elements of a Mental Health Court* and other publications on mental health court design, implementation, and data collection; a database of mental health court programs across the country; and technical assistance to the BJA mental health court grantees.

IV. Increasing Collaboration between Corrections and Mental Health Organizations

The National Institute of Corrections (NIC) and the Justice Center are working together to foster partnerships between corrections and mental health agencies. These partnerships are designed to improve the continuity of care for people with mental illnesses returning to the community after incarceration or under community supervision, reduce recidivism, and make communities safer and healthier. The Justice Center and NIC are working intensively in a number of jurisdictions where corrections and mental health leaders have

made it a priority to increase collaboration between their systems. These jurisdictions have demonstrated a history of innovation, have focused on a specific issue area around which they would benefit from technical assistance, and have expressed a willingness to share their successes and setbacks with other jurisdictions. To date, the states of Rhode Island and Kansas, and the municipalities of Orange County, Florida; Philadelphia, Pennsylvania; and Travis County, Texas have served as learning sites. The Justice Center and NIC have also developed an online tool (available at: <http://consensusproject.org/assessment/>) that helps jurisdictions determine the level of collaboration between their corrections and mental health systems.

V. Victims of Crime Committed by People with Mental Illnesses

The Justice Center has entered into a cooperative agreement with the Office for Victims of Crime (OVC) to help state and local government officials better serve people victimized by individuals with mental illnesses. Working with a broad-based, bipartisan group of leading practitioners and policymakers, the Justice Center and OVC will suggest services, policies, and laws that should be in place to protect the rights of, and ensure delivery of services to, this group of crime victims and translate these recommendations into policy and practice. The Justice Center is also working with partners to develop a handbook on how to involve crime victims in the planning and implementation of mental health courts.

VI. Violence against Women with Mental Illnesses

The Justice Center, through a grant from the Center for Mental Health Services, Substance Abuse and Mental Health Service Administration, is coordinating a project to address the unmet needs of women with mental illnesses who have been victimized. The Justice Center has released an issue brief on this topic (available at <http://consensusproject.org/downloads/vaw-brief.pdf>) that provides an overview of research on this population of women, provides information on relevant programs and resources, and proposes elements of a federal agenda to improve services for women with mental illnesses who have been victimized. As a companion to this issue brief, the Justice Center is developing a policy guide that offers recommendations to representatives from mental health agencies, victim service providers, and criminal justice agencies on initiating and developing collaborations to improve services to these women.

VII. Promoting Research-Based Policy and Program Design

The Justice Center will convene prominent researchers, along with policymakers and practitioners, to identify and integrate the most compelling research findings, determine how these findings can be used by agents of change to help design effective programs and promote sustainability, and pinpoint gaps in the knowledge base. The initiative emerged from conversations with federal and private funding agencies, including the John D. and Catherine T. MacArthur Foundation, the National Institute of Justice, National Institute of Mental Health, Substance Abuse and Mental Health Services Administration, National Institute on Drug Abuse, and the Bureau of Justice Assistance.

VIII. The Advocacy Handbook

The Justice Center, working with NAMI, the National Association of State Mental Health Program Directors, the National Mental Health Association, and the Bazelon Center for Mental Health Law, has developed a handbook to help mental health advocates reach out to potential criminal justice, mental health, and legislative partners to collaboratively address the issue. The *Advocacy Handbook* is available at www.consensusproject.org/advocacy/.

IX. Criminal Justice/Mental Health Information Network

The Criminal Justice/Mental Health Information Network (InfoNet) is a new online database that will provide a comprehensive inventory of collaborative criminal justice/mental health activity across the country and serve as a platform for peer-to-peer networking. The InfoNet builds and expands on previous efforts to collect program information as a resource for policymakers, practitioners, and advocates working to improve outcomes when people with mental illnesses come into contact with the criminal justice system. The InfoNet looks at programs in the broad context of criminal justice/mental health activity. It catalogs media articles, which may describe and bring greater profile to a program; research studies, which may examine program outcomes and processes; legislation, which may provide critical funding; state-level efforts, which are designed to support and guide programs within the state; and advocacy initiatives, which support and enhance program activities. To give a visitor a broader understanding of the context within which a program works, Justice Center staff have established links between the various content items that refer to one another.

1. The 400-page report can be accessed and searched online at http://consensusproject.org/the_report. Report recommendations and related text can be viewed by criminal justice and mental health disciplines or through

a visual flowchart representing the sequence of events that may occur for an individual with mental illnesses who comes into contact with the criminal justice system.



To access the materials described in this document, visit www.consensusproject.org

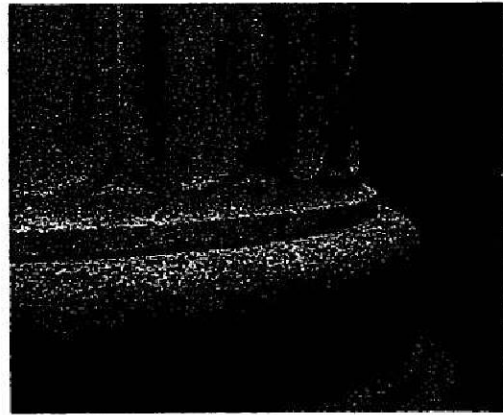
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JUSTICE CENTER

THE COUNCIL OF STATE GOVERNMENTS

Collaborative Approaches to Public Safety

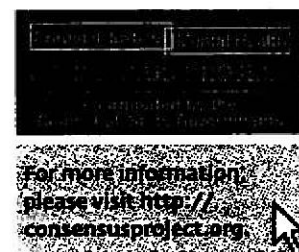


The Council of State Governments Justice Center is a national nonprofit organization that serves policymakers at the local, state, and federal levels from all branches of government. It provides practical, nonpartisan advice and consensus-driven strategies—informed by available evidence—to increase public safety and strengthen communities. The Justice Center specializes in taking on complex issues at the intersection of the criminal justice, public health, and other systems. Staff and members are committed to bringing a diverse range of professions and perspectives together to ensure that recommended policy reforms are practical and effective.

NATIONAL PROJECTS

Criminal Justice/Mental Health Consensus Project

The Consensus Project is a national effort to help local, state, and federal policymakers and criminal justice and mental health professionals improve the response to people with mental illnesses in contact with—or at risk of contact with—the criminal justice system. Consensus Project activities include a law enforcement/mental health partnership program, a mental health court learning site program, a chief justice leadership initiative, technical assistance related to the Mentally Ill Offender Treatment and Crime Reduction Act, and a corrections/mental health learning site project.



For more information,
please visit [http://
consensusproject.org](http://consensusproject.org)

Re-Entry Policy Council

The Re-Entry Policy Council (RPC) is a national effort to chart the safe and successful return of prisoners to the community. The RPC assists state government officials and others grappling with the increasing number of people returning to their communities from prisons and jails, and has two specific goals: develop bipartisan policies and principles to help elected officials and other policymakers improve the likelihood that adults released from prison or jail will avoid crime and become productive, healthy members of families and communities; and facilitate coordination and information sharing among organizations implementing re-entry initiatives, researching state policy trends, communicating about related issues, or funding re-entry programs.

Re-Entry
POLICY COUNCIL

For more information,
please visit [http://
www.reentrypolicy.org](http://www.reentrypolicy.org)

Justice Reinvestment Initiative

The Justice Reinvestment Initiative is a national effort to increase public safety, reduce spending on corrections, and improve conditions in the neighborhoods to which most people released from prison return; these "high stakes" neighborhoods are also the communities where taxpayer-funded programs are disproportionately focused. The Justice Reinvestment Initiative provides data-driven strategies for policymakers working to make these communities safer, stronger, and healthier. Staff are currently providing technical assistance to a limited number of states that demonstrate a bipartisan interest in this strategy.



For more information, please visit http://justicecenter.csg.org/resources/justice_reinvestment/

JUSTICE CENTER SERVICES

The Justice Center provides a range of services to its members and other policymakers across the country. Staff also offers support to front-line professionals from diverse disciplines and to other change agents in the community. Examples of these services include the following:

To learn more about each of these services, please visit <http://justicecenter.csg.org/Services/>

- Consensus building/ problem solving
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- Publications
- On-site technical assistance
- Peer-to-peer learning opportunities
- Forums for education and information exchange
- Government affairs support
- Communications services

"The hallmark of the Justice Center is its translation of data and research into recommendations that are workable and applied easily to policy and program design."

— REPRESENTATIVE MICHAEL E. FESTA (MA), JUSTICE CENTER CHAIR

"We all know that there is a need for trusted sources of information that are based on available evidence and the latest innovations in the field; the Justice Center helps fill that gap. The staff and their expert consultants also provide a wide range of services and technical assistance to policymakers and professionals in many states."

— PRESIDING JUDGE SHARON KELLER (TX), JUSTICE CENTER VICE-CHAIR

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Recent and Projected Growth of the Pennsylvania Prison Population

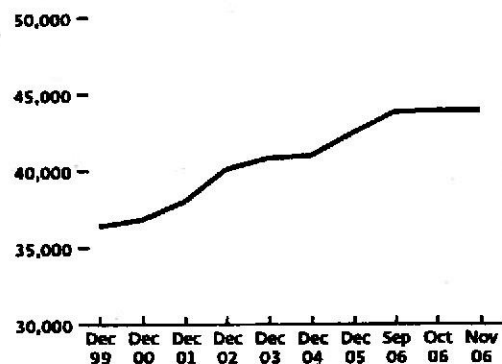
I. Pennsylvania's prison population has grown significantly since 1999.

- Between December 1999 and January 2007, the prison population increased 23 percent.¹
- By the end of 2006, the Pennsylvania Department of Corrections was operating at 115 percent capacity.²
- The growth in the prison population has outpaced the growth of the Commonwealth's resident population. From 2000 to 2006, the prison population grew 21 percent, a rate that exceeds the 1.2 percent rate of the resident population during that period.³

FIGURE 2: Percentage Change in Pennsylvania Resident Population and Department of Corrections Population (2000–2005)



FIGURE 1: Pennsylvania Department of Corrections Population (1999–2006)

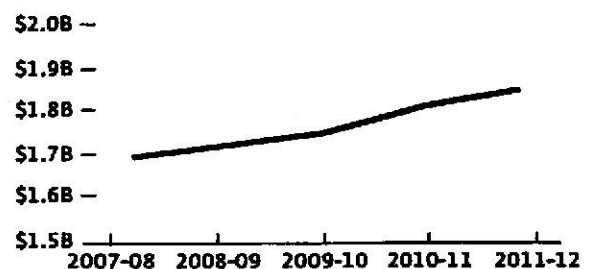


Prison admissions in the Commonwealth increased **45 percent** between 2000 and 2006.

II. Corrections expenditures have increased significantly in recent years.

- The Department of Corrections FY2007–08 budget request of \$1.6 billion represents a 13 percent increase in corrections spending over the current fiscal year. Total fiscal year costs are projected to increase to \$1.8 billion by 2012.⁴
- The FY2007–08 budget request includes \$672 million in construction costs to add an additional 9,937 prison beds.⁵

FIGURE 3: Department of Corrections Projected Fiscal Year Costs (2007–2012)



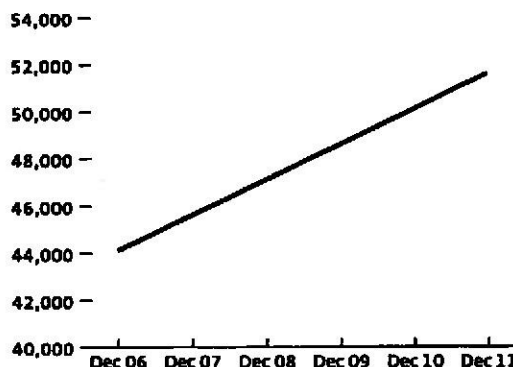
III. The prison population is projected to increase significantly in the next five years.

- The prison population is projected to grow 17 percent by 2011. The Department of Corrections is projected to experience a capacity shortfall of 11,041 beds by 2011.⁶
- Pennsylvania's prison population growth rate ranks 18th in the nation.⁷

IV. The population growth is driven by several factors, including parole revocations and a growing number of people sentenced to prison for "less serious" offenses.

- Since 2000, prison admissions for less severe offenses increased 8.4 percent.⁸
- Prison admissions for parole violators increased 40 percent since 2000.⁹
- The percentage of prison admissions that result from probation revocations is unknown, but it is estimated that half of court commitments are the result of these revocations.

FIGURE 4: Short Trend Projections by the Pennsylvania Commission on Crime and Delinquency (December 2006–December 2011)¹⁰



1. Department of Corrections Spreadsheet, September 15, 2006, Worksheet 1, Admissions by Year/Updated, February 2007; includes Community Corrections Centers in count.

2. Department of Corrections Secretary Budget Presentation, 2007.

3. Department of Corrections Spreadsheet, Admissions by Year/Updated, February 2007; PA Population, US Census; PA Crime, FBI Crime in U.S.

4. Department of Corrections Secretary Budget Presentation, 2007.

5. *ibid.*

6. Department of Corrections Spreadsheet, December 06 update; updated line projections based on starting population count of December 2006.

7. The Pew Charitable Trusts, Public Safety Performance Project, *Public Safety, Public Spending: Forecasting America's Prison Population 2007–2011*, February 2007.

8. Less severe offenses as defined in Pennsylvania are Part II offenses.

9. Department of Corrections Spreadsheet, September 15, 2006, Worksheet 1, Admissions by Year/Updated, February 2007; PBPP, Table 9, Requested Data, 9/06.

10. The Pew Charitable Trusts, Public Safety Performance Project, *Public Safety, Public Spending: Forecasting America's Prison Population 2007–2011*, February 2007. This short trend projection is based on the assumption that the prison population will grow by 125 inmates a month. The Department of Corrections is collaborating with the Pennsylvania Commission on Crime and Delinquency to develop a simulation model that will provide a more comprehensive methodology for projections in the near future.

The Council of State Governments Justice Center is a national nonprofit organization that serves policymakers at the local, state, and federal levels from all branches of government. It provides practical, nonpartisan advice and consensus-driven strategies—informed by available evidence—to increase public safety and strengthen communities. The Justice Center specializes in taking on complex issues at the intersection of the criminal justice, public health, and other systems. Staff and members are committed to bringing a diverse range of professions and perspectives together to ensure that recommended policy reforms are practical and effective.

Research and analysis described in this report has been funded by the Bureau of Justice Assistance, a division of the U.S. Department of Justice.

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Report Identifies Prison Problems

Study: Create more treatment programs.

By Mike Ward
AMERICAN-STATESMAN STAFF
Wednesday, January 31, 2007

The state's criminal justice system came under intense criticism Tuesday as legislative leaders made clear that business as usual — building prisons every few years — will no longer be a solution to an increasing shortage of cells and operating problems.

A new study and testimony at the Capitol on Tuesday appeared to portray the system as seriously ailing. Lawmakers heard about crime-ridden neighborhoods whose residents are filling prisons at disproportional rates, a mushrooming prison population and growing prison costs.

"We are working to change the course of Texas," said House Corrections Committee Chairman Jerry Madden, R-Plano.

Senate Criminal Justice Committee Chairman John Whitmire, D-Houston, echoed him. "If we don't change the course now, we will be building prisons forever and ever — prisons we can't afford," he said.

In a historic joint hearing of the Senate and House panels, committee members expressed frustration with the prison and parole systems over an assortment of operational issues that they insist have backlogged thousands of convicts in prison cells long after they have been approved for parole.

The growing consensus: Fund more rehabilitation and treatment programs to cut recidivism rates and keep more low-risk convicts from filling expensive maximum-security beds.

Tuesday's meeting seemed to mark a significant shift in legislative support for rehabilitation and treatment programs, perhaps the greatest in two decades.

In 1991, lawmakers approved 12,000 drug-treatment beds as part of an initiative by then-Gov. Ann Richards, but most of the beds were never funded or built.

A study undertaken by the Council of State Governments' Justice Center that was made public Tuesday found that if Texas were to expand treatment and rehabilitation programs, it could avoid building any expensive maximum-security prisons.

Although the 6,550 new treatment and rehabilitation beds would cost an estimated \$78 million in 2008 and 2009, the study says, putting inmates in less expensive facilities and avoiding costly prison construction would save taxpayers more than \$543 million by 2012.

Even if lawmakers should decide to build prisons, officials and statistics suggested at the hearing that the state might not be able to hire enough guards to staff them.

Brad Livingston, executive director of the Texas Department of Criminal Justice, acknowledged that the system is currently 3,200 guards short and that some prisons are operating at only 62 percent of proper staffing.

But the report highlighted much deeper problems in the state's current corrections policies.

Texas had 6,910 empty prison beds in December 2001, but they were filled within a year. And the 13,083 beds that have been added since 1997 have been insufficient for the fastest-growing prison system in the United States, said Tony Fabelo, a former Texas criminal justice statistician who oversaw the study.

While the state's crime rate dropped 19 percent from 1980 to 2005, the incarceration rate

ballooned 206 percent even though its population grew only 61 percent. That was higher than California, Florida and New York, the next-largest prison systems, the report showed.

The study also said several "high-stakes communities" in Houston and other cities are disproportionately filling Texas prisons.

Ten of 88 neighborhoods in Houston account for almost \$100 million in prison costs annually, the study said.

Those neighborhoods have low-rated or poor-performing schools, high dropout rates, poverty levels of 40 percent or more, and high numbers of parolees and probationers living there, Fabelo said.

To successfully redirect the corrections system, the study recommends that treatment and rehabilitation programs for both probationers and felons be greatly expanded, that parole rates be increased by following to follow mandated approval guidelines for nonviolent offenders and that thousands of prisoners already approved for parole be let out.

At least 1,900 people are filling prison cells because treatment programs are unavailable, Whitmire said. Expedite the development of additional programs now, he bluntly ordered Livingston. "Make it happen."

Reps. Pat Haggerty, R-El Paso, and Jim McReynolds, D-Lufkin, asked why more programs cannot be developed more quickly to alleviate growing waiting lists.

McReynolds cited one case in which a convict was No. 131 on a waiting list a year ago. He is now 207. He suggested legislation that would require prison officials to release a convict 90 days after his parole is approved as a way to get new programs in place.

"This whole thing doesn't make any sense," he said. "We need to cut to the chase and get there."

mward@statesman.com

Criminal Justice Trends from 1980 to 2005

State	Incarceration rate	Population increase	Crime rate
Texas	+206 percent	61 percent	-19 percent
California	+188 percent	50 percent	-40 percent
Florida	+106 percent	82 percent	-31 percent
New York	+74 percent	10 percent	-54 percent

Note: Incarceration rates are per 100,000 residents.

Source: Council of State Governments, Justice Center.

Lawmakers Locking in Prison Policy Change

By Mike Ward
American-Statesmen Staff
February 9, 2007

Don't expect lots of bills; they aim to boost rehab by shifting cash

Billed as the biggest shift in Texas corrections policy in years, proposals to greatly expand rehabilitation and treatment for convicts have made headlines for months as legislative leaders grapple for a way to avoid building expensive new prisons.

A month into the legislative session, the massive bills have yet to be filed. And they probably won't be, say lawmakers pushing the changes.

"Most of the changes we want are already allowed in current law," said House Corrections Committee Chairman Jerry Madden, a Plano Republican. "We're going to do most of (the changes) this time through Appropriations."

For the first time in decades, a change in the way Texas deals with its nonviolent lawbreakers could soon come about, not as a result of inches-thick legislation or boisterous public policy hearings, but in quiet, behind-the-scenes budget discussions.

Reform by decimal point, some lawmakers are calling it.

Madden and his Senate counterpart, Criminal Justice Committee Chairman John Whitmire, D-Houston, said a few bills might soon emerge that will address such topics as expanded drug court procedures, progressive punishment levels and parole rules.

But the more substantive changes will be made when Appropriations Committee members start to allocate state dollars.

In recent days, the focus of legislative attention on the changes, has shifted from the House and

Senate committees that oversee corrections policy to the Senate Finance Committee and

House Appropriations Committee, where the budget decisions are made. Senate and House leaders agree that the attention mostly will stay there throughout the legislative session that ends in May.

Whitmire said, "We need to change the way we're operating our criminal justice system. - - You don't need to write a lot of new laws to fix that."

In their blueprint for change, Whitmire and Madden want to expand: -

- In-prison therapeutic drug programs by 1,500 beds.
- Transitional treatment centers by 1,400.
- Parole counseling by 1,800.
- Specialized drug treatment programs by 1,000.
- Halfway houses by 900.

All are existing programs, all allowed by current law. The total cost will be \$149.5 million.

On Wednesday, prison officials confirmed plans to double the amount of faith-based rehabilitation programs in the prison system in coming months.

It's the latest of several signals that a prison system once known for its tough-on-criminals reputation chain gangs, no air conditioning, solitary confinement, scant programs — was beginning to soften to embrace therapy and counseling, job training, addiction treatment, even after-care programs to help convicts adjust to civilian life.

Even Gov. Rick Perry, who two years ago vetoed probation changes that were designed to accomplish much of what the current changes will do, seemed open to the policy shift. In his

State of the State speech to the Legislature on Tuesday, Perry, sounding much kinder and gentler-than before, suggested a new "approach to crime that is both tough and smart."

Perry proposed spending \$1258 million for two new medium-security lockups to add 1,000 beds and converting a Texas Youth Commission lockup to a prison for adults to add 600 more. Whitmire and Madden earlier proposed much the same, using all those beds for treatment programs.

Perry also proposed \$14 million in additional spending for rehabilitation and parole placement programs — which help ex-cons get jobs and housing — for as many as 5,000 prisoners in the next two years. Ditto from Madden and Whitmire, essentially.

Whitmire, who spearheaded an overhaul of Texas' criminal code in 1993 and has chaired the Criminal Justice Committee for a decade, says that the changes are not about overhauling the system as much as fine-tuning it.

"It's about how we spend our money, where we spend our money," he said. "We can't continue building new prisons and expect to ever solve the problems we're facing.

"This is about spending our' money more wisely."

mward@statesman.com

March 31, 2007

REDUCE POPULATION

Ex-warden: No more prisons

Texas' crowding 'crisis' is self-made

By RICHARD WATKINS, Houston Chronicle

AFTER decades of hard experience, experts have finally figured out that simply putting lots of petty criminals in prison for long terms is exorbitantly costly and mostly ineffective in reducing crime. Alternatives such as progressive sanctions, treatment for addiction, and careful supervision cost less and reduce crime more.

Yet now that Texas prisons are filled to capacity, a few powerful state policy-makers still want to add to the state's bloated 106-prison system. Texas is at a crossroads. The wrong decision could have tremendous ripple effects on our economy, public safety and overall welfare. The state must not elect to construct new prisons.

Evidence shows that many prisoners can be safely released, easing our self-made "crisis." "Trustees" are a case in point. Without adequate staff for our existing prison facilities (we need about 2,700 additional corrections officers) TDCJ uses inmates instead. TDCJ allows 6,200 prisoner "trustees" off prison grounds without any identification to carry out duties for guards and other staff. The vast majority of trustees, about 5,700, are eligible for parole.

The three proposed new prisons will house about 4,000 total inmates. If we simply were to spend our money to properly staff existing facilities and release parole-eligible trustees, Texas would completely eliminate the immediate need for new facilities without further policy changes. With the addition of appropriate treatment for addiction and a stronger system of probation, we could start thinking about closing older, expensive and less safe prisons.

Since the early 1990s we have added more than 100,000 prison beds, including 13,000 added since the late '90s. Although there was a nationwide drop in crime during this time, Texas' crime rate dropped significantly less than other large states although we incarcerated significantly more people. Meanwhile, researchers attribute only about one-fourth of Texas' drop in crime to prison expansion. Newly released research from the Vera Institute suggests that increased incarceration may even lead to more crime.

Ultimately, prison expansion fails to make us safer and perpetuates a cycle of criminality that can be broken with a different approach to punishment. More than half of TDCJ prison admissions annually are revoked parolees and probationers. Serving time in prison prevents individuals from becoming independent, contributing members of society, and prisons do not offer programs that rehabilitate individuals so they can succeed in the job market and provide for their families upon release.

People we put in prison who get no treatment or rehabilitation actually leave prison slightly more likely to commit new crimes, while individuals who receive treatment are far less likely to re-offend.

If someone in your family is addicted to alcohol or a drug, you know that it's hard to kick an addiction, but that when you kick, you can become a fully functioning and responsible person again. Drug and alcohol treatment, supported and guided by a strong system of probation, can give Texas back a lost resource — the economic value, creativity and responsibility of thousands who allowed their addiction to get the better of them for a time.

Instead of new prisons, the state should strengthen probation and support the expanded use of drug courts to divert people from prison to better alternatives, while seeing that the parole board follows its own guidelines to make room in our existing facilities for the violent offenders that need to be there. We already know how to make Texas safer and also reduce our prison population to the benefit of our families and our communities. Now we just need the Texas Legislature to act on the facts when it debates the budget in the coming days.

Watkins was the senior warden of the "Holliday Unit," a Texas state prison, where he was responsible for the operations of that 2,000-bed facility, the conduct of 500 employees and the annual budget of \$9.3 million until his retirement in February 2005.

THE ARIZONA REPUBLIC

Arizona part of prison, crime study

Amanda J. Crawford

February 7, 2007

Facing burgeoning prison growth that will cost taxpayers billions over the next decade, Arizona has been selected to take part in a multimillion-dollar research project examining crime and prison trends and developing possible policy solutions.

The Council of State Governments' Justice Center announced Tuesday that Arizona was one of five states selected as part of the new initiative that will look for ways to curb prison population growth projected to be as high as 50 percent over the next decade. A new analysis unveiled to launch the research project shows that left unchecked, growth could cost taxpayers and additional \$3 billion over the next decade. That's on top of a corrections budget that is approaching nearly \$1 billion per year.

The Justice Reinvestment project, funded by the Pew Charitable Trusts and the U.S. Department of Justice, plans to release a detailed report on crime and prison trends and policy options for Arizona next month. The hope is that the report could help state officials find ways to address the root cause of crime and invest money in the most fruitful ways.

"There should be a discussion on what does the data show that will have the biggest impact on crime in the state," said James Austin, of the JFA Institute, a researcher for the project. "That's something that Republicans and Democrats agree we need to do before just doing more of the same."

Arizona's prison system grew by more than 50 percent over the past decade, and corrections spending has doubled from \$409 million in fiscal 1997 to \$817 million in fiscal 2007. The prison population, now around 35,000 could grow to nearly 57,000 if current trends continue, the group estimates. That would be a huge strain on the state budget, prison capacity and manpower.

The state prison system is already understaffed. It is underfunded by more than 4,000 beds. And corrections officials are asking for more money to place nearly 2,000 inmates in temporary private prison cells elsewhere, while planning to squeeze about 1,300 inmates into existing facilities by double-bunking or using tents, Corrections Director Dora Schriro said.

Some legislators involved in the project said they hope to find ways to target state resources to reduce crime and address prison growth. The suggestions from the experts could range from sentencing reforms to changes in incarceration practices to community-intervention strategies.

Sen. John Huppenthal, a Chandler Republican who chairs the Senate Judiciary Committee, said researchers are developing maps that show which neighborhoods spawn the most criminals. That could allow policymakers to target state dollars for intervention programs and encourage more community outreach in those areas. He also looks forward to learning from experts involved in programs in other states, like New York, where violent crime has fallen.

"I think it is an incredible opportunity to bring the best research to Arizona on how we can reduce violent crime," said Huppenthal, who also serves on the Justice Center's board of directors. But he was quick to point out that he's not "soft" on crime and is not as interested in recommendations that could address Arizona's sentencing policies, which are among the toughest in the nation.

Austin points out that Arizona is unique in the nation by having long sentences and no parole for many non-violent offenses.

In Texas, where the Justice Reinvestment project released its findings last week, legislators have been holding hearings to discuss policy suggestions from the group. Among the recommendations in Texas: more drug and alcohol treatment and releasing non-violent substance abusers from prison earlier into halfway houses.

Rep. Bill Konopnicki, R-Safford, said he hopes the group's work in Arizona gets the public thinking more about tough-on-crime policies that have grown prison numbers but may not be reducing crime. Konopnicki led a legislative work group whose lengthy report in 2005 recommending alternatives to prison and sentence reductions for non-violent offenders went nowhere.

"It's easy to say on TV, 'Lock them up let them do the time,'" said Konopnicki, who believes the state needs more balanced approach, including electronic monitoring to allow for more intensive probation. "Our report was objective, but people said the people that did it were soft on crime. This is going to have facts and numbers and compare us to other states. . . . This is huge."

Be Smart On Crime

March 25, 2007

BY REP. MICHAEL O'NEAL

Despite recent declines in crime, the growth of the state's prison population is not leveling off. The Kansas Sentencing Commission projected earlier this year that during the next 10 years we would need to construct another 2,000 prison beds at a cost of \$186 million.

But will spending that money make Kansans that much safer?

To answer this question, Senate President Steve Morris, R-Hugoton, and House Speaker Melvin Neufeld, R-Ingalls, established a bipartisan task force that brought in national experts and commissioned an exhaustive review and analysis of data about who is admitted to prison, for how long, and what happens when they are released. As chairman of the task force, I'm pleased to share our findings.

The data show that although we keep offenders behind bars longer than ever, we aren't doing any better increasing the likelihood that these people will succeed once returned to the community.

More than 95 percent of people currently in prison will one day finish their sentence and be released. Sixty percent of people released from prison in 2003 were re-incarcerated for a new crime or a violation of their post-release supervision during the ensuing 3 years.

These high rates of failure are one of the key reasons the prison population continues to climb. Two-thirds of all prison admissions last year were people who had violated the conditions of their probation or post-release supervision, but did not necessarily commit a new crime.

Part of the problem is what we don't do while people are in prison.

Most voters assume people in prison get treatment for their addictions and training for a job after release. In fact, nearly three-quarters of offenders in need of vocational education, and half of those

offenders in need of substance abuse treatment, do not participate in these programs before their release. Unlike many other Midwestern states that provide offenders the incentive of time off their sentence for completing programs, Kansas offers no such incentive.

The second part of the problem is a weak post-release supervision and community corrections system that hasn't seen the same types of increases in funding that our prisons have. Without additional officers needed to keep caseloads low, without the infrastructure to train officers in the latest evidence-based approaches, and without the resources to connect parolees and probationers to the services they need to stay clean, parole and community corrections officers are unable to reduce the risk that people under supervision pose to communities.

Based on these findings, the task force concluded that taking scarce resources we have in the state to grow the prison system further, without doing anything to make incarceration and community supervision any more effective, isn't being smart on crime. Instead, the task force recommended investing in stronger and smarter supervision at the community level and implementing effective programs.

We've already spent millions ensuring that Kansans are safe by locking up offenders for longer periods of time. Now it's time to make Kansas safer by making sure that when offenders inevitably finish their sentences, they are productive taxpaying members of our community.

Strengthening our approach to fighting crime by reducing recidivism will also save taxpayer dollars. The approach recommended by the task force requires investing now, but over the next 5 years will result in a net savings of \$28 million. Not a bad price tag for a safer Kansas.

Rep. Michael O'Neal, R-Hutchinson, is chairman of the Judiciary Committee.

**John S. Shaffer, Ph.D., Executive Deputy Secretary,
Department of Corrections**

**Testimony of John S. Shaffer, Ph.D.
Executive Deputy Secretary
PA Department of Corrections**

Joint Judiciary Committee

June 4, 2007

THANK YOU'S

- **Chairman Greenleaf, Chairman Caltagirone, and the Judiciary Committee** for inviting us to discuss these important issues, and **their colleagues in the Senate** who passed Resolution 125, which provided the basis for the data-driven strategies that Dr. Osher discussed earlier
- **Secretary Richman, Chairman McVey, and Executive Director Tuttle** for their leadership on this issue and their commitment to collaborating with the Department of Corrections
- **The Council of State Governments Justice Center, and Dr. Fabelo and Dr. Osher** for strategizing with us on this issue

THE PROBLEM

- As a backdrop, and in order to emphasize the need for alternatives, the issue of overcrowding in both State and county prisons cannot be ignored. In addition appropriate treatment for certain offenders is both prudent and reasonable in addressing concerns for public safety and our responsibility to taxpayers.

The Pennsylvania Department of Corrections population has grown significantly since 1999 and the growth accelerated in 2005-2006: DOC projects that the prison population will grow 17 percent by 2011, and projecting an additional 9,937 beds that would include building three new prisons by 2011, at a total construction cost of approximately \$672 million.
- County jail overcrowding has resulted in significant increases in jail construction and operating costs in just the last five years: Eight new jails will have opened in Pennsylvania since 2000, including the new Franklin County jail that opened last week, and a new jail in Butler County scheduled to open next year.
- As Dr. Fabelo and Dr. Osher discussed earlier, it's true that we have a growing problem in Pennsylvania: people with mental illnesses are coming into increasing contact with our jails and prisons.

- The number of state prisoners with mental illnesses is increasing: DOC data shows at least a 47 percent increase since 2000 in admissions of offenders with a mental health indicator and a 30 percent increase of offenders with serious mental illnesses on DOC's Psychiatric Review Team roster; during the same period, this population has gone from occupying 14.3 percent of beds in the system to 18 percent of the beds.
- People with mental illnesses are especially expensive to incarcerate due to increased medication requirements, treatment and other services. Placement of people with mental illnesses in correctional facilities is expensive, due to intensive staffing requirements and the demand for high-cost psychiatric services.
- Individuals with mental illnesses are returning to our communities from state prisons and county jails, and they are not always linked with the services that can help them succeed in the community. Without that community mental health support, many of these individuals are destined to return to jail or prison

WHAT WE'RE ALREADY DOING TO RESPOND TO THE PROBLEM

- Ongoing Forensic Interagency Task Force, through which all the counties and service providers have forum to interact
- The Gaudenzia FIR-St. program that Dr. Osher mentioned in his summary of the SR 125 studies
- Special needs units in all DOC facilities
- Five DOC facilities with Mental Health Units
 - FRA
 - CRE
 - MUN
 - GRA
 - ROC
- SSNUs
 - CRE
 - CAM
 - GRA
 - PIT (to be activated in 2008)
- Waymart – Forensic Treatment Center, Intermediate Care Unit, Special Assessment Unit

- **Special Observation Unit at Camp Hill, where individuals with mental illnesses from county facilities enter state facilities are observed at the front end**
- **COMPASS program provides online determination of eligibility for serious medical and mental health needs to ensure continuity of services**

WE NEED TO DO MORE

- **We need to improve communication between the state and counties: Act 84 requires counties to pass mental health treatment information along to the state, but this is not necessarily happening on a consistent basis**
- **The statewide grant program that Dr. Osher and Secretary Richman mentioned is another step in the right direction. Encouraging counties to plan, implement, and/or expand front-end diversion initiatives will have an impact on county and state overcrowding issues.**
 - **The PCCD can administer the grant program to incorporate performance benchmarks and data collection requirements so that we can make sure that the programs are doing what they say they are going to do**
 - **We have a wealth of expertise in our state, often based in local universities, and part of the grant program described today would include “Centers of Excellence” to provide assistance to the grantees**

CLOSING

- **Looking forward to ongoing collaboration at the state level among DOC, PBPP, DPW, and the legislature on this important issue, where the data suggests that we can improve public safety, link people with the treatment they need, and potentially avoid costs to the counties and state.**

**John Tuttle, Deputy Executive Director, Pennsylvania
Board of Probation and Parole**

Pennsylvania Board of Probation and Parole

Deputy Executive Director John Tuttle

**Testimony Before the
Joint Public Hearing of the House and Senate Judiciary Committees on
the Presentation from the Council of State Government's Justice Center on
Corrections Issues**

June 4, 2007



PBP

The Pennsylvania Board of Probation and Parole

illness who are incarcerated. Individuals in prison or in jail with mental illnesses have special needs and require unique services.

The Board's most fundamental responsibility is to enhance public safety. In meeting this responsibility, offenders with mental illnesses or dual diagnoses pose particular challenges because of the complexity of their emotional and physical problems, and compliance with conditions of release can prove difficult. These offenders face significant obstacles to employment, housing, and access to treatment. Limited research suggests that they are more likely to be re-incarcerated after release compared to those with no record of mental illness.

In addition, as the data from Dr. Osher's work indicates, offenders with mental illness usually achieve parole at lower rates than individuals without mental illness. As noted above, this is partly because of the barriers they face with employment and housing. These two factors are fundamental to a reentry home plan and, generally, the traditional supports for housing, such as immediate family members or other relatives, have been exhausted. When these offenders leave prison at the expiration of their maximum sentence, they run the risk of re-entering society without the full array of treatment services and lack supervision services.

The good news is that positive efforts are underway to more effectively address these issues at three key levels: front end, during confinement, and post-release. On the front end, mental health courts are being created in increasing

I would like to highlight a few of our efforts as part of this management approach. Last year, our parole agents were provided training by the Department of Public Welfare (DPW) regarding how to effectively work with individuals who have a diagnosis of mental illness. The training included how to facilitate collaboration with county mental health programs, focusing on locating and accessing community mental health services. In addition, we have been working closely with DPW to educate our agents about the new behavioral health contracts to ensure that we are making the appropriate connections to services for these individuals.

Building on our efforts to engage all stakeholders in the proper management of these offenders, we began a landmark pilot project in November 2005 in collaboration with DOC and DPW's Office of Mental Health and Substance Abuse Services (OMHSAS) that involves mentally ill offenders at the State Correctional Institution at Waymart. This project exemplifies the recommendation from the Joint State Government Advisory Committee on Geriatric and Seriously Ill Inmates report that prison in-reach is imperative in order to put a model of treatment in place before an individual is released. The project identifies seriously mentally ill inmates who are scheduled to max out of prison unless approved transitional plans can be developed for them. Currently, we have 30 offenders from 16 counties involved in the project. All of the partners meet monthly and

established a Mental Health Unit (MHU) within this district, which consists of a supervisor and four agents. The agents supervise 25 offenders each. Mentally ill offenders are identified in the Philadelphia Community Corrections Centers (CCC) and transition to the MHU for supervision for 6 months to a year until they are stable in the community.

The parole agents within the MHU and additional parole staff from the Philadelphia CCCs have participated extensively in mental health trainings. Ten staff members have completed the Basic Crisis Intervention Specialist Training and the Advanced Intervention Specialist Training sponsored by Montgomery County Emergency Services. In addition, 6 staff members attended training hosted by the Philadelphia Office of Behavioral Health to provide an overview of the mental health system in Philadelphia and Targeted Case Management Principles. So far the training for staff within this unit and the Philadelphia CCCs total more than 600 hours.

We have made a lot of progress; however more needs to be done and can be done. For those mentally ill offenders who are incarcerated, we will continue to enhance partnerships at the state and local level to ensure their proper management and treatment. We will strengthen the existing network of services and seek ways to add needed services. Plans are already underway to expand the Waymart project to other institutions to provide intensive supervision and case management

John L. Heaton, Esquire, Secretary, Pennsylvania Board of Pardons

**TESTIMONY OF THE SECRETARY OF THE
PENNSYLVANIA BOARD OF PARDONS BEFORE THE
JOINT PUBLIC HEARING OF THE HOUSE AND SENATE
JUDICIARY COMMITTEES REGARDING SENATE BILL 232 OR
SIMILAR LEGISLATION PROVIDING FOR THE EXPUNGEMENT
OF CERTAIN CRIMINAL RECORDS**

**JUNE 4, 2007
HEARING ROOM 1
NORTH OFFICE BUILDING
HARRISBURG, PA**

Submitted by:

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Board of Pardons
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Good afternoon, Senators Greenleaf and Costa, Representatives Caltagirone and Marsico and members of the respective Judiciary Committees. I am John Heaton, Secretary of the Pennsylvania Board of Pardons ("Board"), the administrator of the Board, having served in that capacity since September 2003. Thank you for the opportunity to testify about Senate Bill 232, which is identical to Amendment 02250, which was added to Senate Bill 386, which passed the House on July 2, 2005, by 198-0.

At the outset, let me emphasize that I am not here today to speak on behalf of the Board or its individual members. I address you as an attorney, with extensive experience in both the public and private sectors, who has had the privilege for the last 4 years of administering the Board's caseload, managing its office and attending each of its public hearings. My testimony is derived from that experience and consists of information I feel the General Assembly needs to be made aware of as it considers expungement legislation.

First and most importantly, I can advise you without any hesitation that the demand for pardons in Pennsylvania has far exceeded the ability of our part-time Board to keep up with it. The reason is that, unless someone is 70 years of age, a pardon is the only way under existing law to achieve expungement of a criminal conviction. Due to the large number of our citizens now needing expungements, mostly for employment purposes, it takes over two years for a case to be "merit reviewed" by the Board. Merit review is the vote by the Board whether or not to grant a public hearing -- for the 40 cases merit reviewed on May 10, 2007, it took an average of 25 months from the date of receipt of the application until that vote. That does not even count the time involved in scheduling the public hearing, between 1 and 3 months, and, if the applicant is recommended for a pardon, the Governor's review time which can take up to an additional year. Hardly a day

goes by that I or my staff are not asked to move an applicant to the front of the line because of some compelling personal reason. Out of fairness to other applicants, I have refused to do that, but it is readily apparent to me that our Board is fast becoming inaccessible to our citizens by virtue of the long wait, which, unless something is done, will rapidly get longer.

The General Assembly's first attempt to address this problem came in 2005.

Senate Bill 386 was amended in the House on July 2, 2005 to include Amendment 02250, which would have permitted courts in their discretion to expunge summary offenses after 5 years and second and third degree misdemeanors after 10 and 7 years, respectively. It was passed 198-0 and returned to the Senate, where it was pending before the Senate Rules and Executive Nominations Committee at the end of the session. This Amendment appeared to me to cover approximately 30 percent of the Board's caseload (that is my estimate only since I would have to survey over a thousand cases to be sure since we do not keep statistics by type and grade of offense) and would have enabled any covered pardon applicant to go directly to court and petition for an expungement, thereby immediately reducing the Board's backlog.

Clemency applications filed with the Board of Pardons generally fall into one of two categories, commutation applications (for reduction of a sentence currently being served by an inmate) and pardon applications (to relieve an individual of consequences other than incarceration, of a conviction for a crime, e.g., loss of employment, loss of firearm rights, etc.). Between 80 and 90 percent of the clemency applications received by the Board are for pardons and the remaining 10 to 20 percent are for commutations (both types of applications have steadily increased in recent years). Surprisingly, about 20 percent of the clemency applications received by the Board are for pardons of summary

offenses only (the most common summary offense in pardon applications being Retail Theft).

For those of you who are unfamiliar with our backlog, for the last 8 years the Board has experienced an unprecedented and sustained increase in its caseload. The number of applications for clemency received by the Board has between doubled and tripled during that period, from 261 in 1999 to 668 in 2006. See the following chart showing the increase each year during the period 1999-2006, the greatest increase by far taking place between 2001 – 2002.

CLEMENCY APPLICATIONS RECEIVED BY BOARD

1999 – 261 applications received
2000 – 332 applications received
2001 – 368 applications received
2002 – 488 applications received
2003 – 564 applications received
2004 – 578 applications received
2005 – 617 applications received
2006 – 668 applications received

We are frequently asked the reasons for the dramatic increase in recent years. The increase started in a significant way in the late 1990's at about the time the Pennsylvania State Police achieved the capability to do the instant checks required under the federal Brady Bill to purchase and/or carry firearms. After September 11, 2001, though, it became clear that the increase was caused by much more than just the loss of firearm rights. Employers are much more likely now than before 9/11 to screen applicants by means of background checks and to refuse to hire or keep persons with criminal records, whether required by law to do so or not. While pardons may have been intended to relieve people of the "legal disabilities" that resulted from their crimes, it's obvious now that pardons are

being sought to relieve people of a myriad of non-legal disabilities that are being imposed by choice largely in reaction to 9/11. Under current Pennsylvania law, an applicant who has been screened out for employment consideration as a result of a criminal record, regardless of how minor or long ago, has no other recourse than to apply to our Board for a pardon.

And a great deal of the offenses are minor. According to a survey I did two years ago at the request of then-Chairman O'Brien, (enclosed), 18 percent of the applications received and 27 percent of the Board's public hearings, for the period of April 2004 – April 2005, were for summary offenders, the overwhelming bulk of whom were retail theft first offenders. I am constantly amazed by the harshness of the penalties being imposed on our young people for a single shoplifting offense in college – it frequently is being permanently denied access to the teaching and nursing professions or to a successful business career – unless they are granted a pardon. Too many of our young people's lives are being put on hold for 3 years or more in minimum wage jobs waiting for a pardon. Some are even being forced out of Pennsylvania by their inability to teach or otherwise be hired or promoted here. As a more recent example, on December 2, 2006, 11 of our public hearings were for summary offenders, 10 of them shoplifters, out of a total of 28 cases. Believe it or not, the Board spent its valuable time that day on a case involving the theft of a \$.39 pack of novelty matches!

The result is an ever-growing backlog of cases before our Board. Enclosed for your information is a copy of our caseload breakdown by stages, updated through April 26, 2007. We now have almost 400 cases waiting to be "merit reviewed" (the vote whether or not to grant a public hearing) by the Board. With the part-time Board disposing of them at

the rate of 40 per meeting, currently 9 meetings per year, it is easy to see how it now takes over 2 years on the average to go through the Board, not even counting the Governor's period of review. As stated earlier, this wait is rapidly getting longer. Unless something is done, an application filed today will take 31 months to be merit reviewed by the Board.

I can assure you that the Board has made every reasonable effort over the last 4 years to deal with its backlog before I now suggest to you the need for legislative action. The actual number of cases disposed of by the Board has increased from 218 in 1999 to a high of 406 in 2004, an 87 percent increase. See the following chart showing the increase in the Board's workload per year since 1999, particularly between 2002 and 2004:

CLEMENCY APPLICATIONS MERIT REVIEWED BY BOARD

(Merit Review is the public vote whether or not to grant a public hearing, following review of the entire file by each of the Board members. Applications denied a public hearing are denied. Applications granted a public hearing are scheduled for a hearing at the next meeting and, after the hearing, they are either recommended to the Governor for clemency or denied. So, effectively, the Board's merit review numbers represent its output for any given years.)

1999 – 218 (average 24 per meeting)
2000 – 245 (average 27 per meeting)
2001 – 275 (average 30 per meeting)
2002 – 314 (average 34 per meeting)
2003 – 355 (average 39 per meeting)
2004 – 406 (average 45 per meeting)
2005 – 360 (average 40 per meeting)
2006 – 360 (average 40 per meeting)

Unfortunately, despite the Board's efforts reflected above, we continue to fall further behind because of the ever-increasing caseload. The applications are coming in at a rate, (last year at the rate of 74 per meeting), that no reasonable person could or would expect our part-time Board to merit review and/or afford public hearings. Approximately

half of those merit reviewed over the last 8 years receive a public hearing (see the Board's statistic sheet enclosed).

In conclusion, it is neither right nor ultimately sustainable, to expect our distinguished constitutional Board that has served its important function since 1874 to bear the full brunt of the proliferation of background checking that has occurred since 9/11. Senate Bill 232 for the first time authorizes the Courts to share a portion of that burden with the Board and, accordingly, will provide some much needed relief to the Board. There is no doubt in my mind that this is the wisest and best choice when we consider the alternatives. It would take a constitutional amendment to transform our Board into a full-time entity capable of staying current with this type of caseload. It would require a new state agency with a whole new bureaucracy to issue "certificates of employability" to persons now applying for pardons. Rather than a constitutional amendment or a new bureaucracy, the courts are in place, have the needed expertise and are equipped to handle this responsibility. S.B. 232 does not provide for expungements "...as a matter of right" as has been suggested at the previous hearing. There is no reason why an expungement proceeding before a common pleas judge, with notice and opportunity to be heard by the District Attorney in every case, cannot be just as meaningful and serve the public interest just as well as the current Board proceedings. Unless something is done, though, our Board is fast heading in the direction of becoming so backlogged with cases that our citizens will be deprived of its use.

March 31, 2005

Honorable Dennis M. O'Brien, Member
Chairman, House Judiciary Committee
100 Main Capitol Building
Harrisburg, PA 17120

Dear Chairman O'Brien:

During my testimony at the Informational Meeting held by the House Judiciary Committee on March 22, 2005, you requested that I provide the Committee with statistical data regarding the number and types of summary offenses before the Board of Pardons.

Please be advised that the Board does not maintain statistics by either grade or type of offense and, therefore, there was no ready source of the information you requested. Accordingly, I requested our staff to search Board records for one full year, from April 2004 to April 2005, to provide you with the requested information for that year only, which is enclosed.

This data shows that the total number of cases "merit reviewed" by the Board during that period was 446 and, of that number, 81 cases or 18 percent of the total, involved summary offenses only. Of the total number of cases granted a public hearing by the Board during that period, 210, 58 or 27 percent of all the public hearings held, were for summary offenses only.

I would suspect that this breakdown of one year's output by the Board is fairly representative of its caseload in all recent years, at least in the period since 1999 in which our caseload has more than doubled. Should the Committee need this information for additional years please let me know, and we will endeavor to search it out.

Thank you for inviting me to address the Committee and if I can be of any further assistance please feel free to call upon me.

Sincerely,

John L. Heaton, Esquire
Secretary
Board of Pardons

JLH/jlg

Enclosure

cc: Board of Pardons Members (w/attachment)
Michael S. Schwoyer, Chief Counsel, Judiciary Committee (w/attachment)
Alison Taylor, Deputy General Counsel (w/attachment)

PRESENT BOARD OF PARDONS CASELOAD BREAKDOWN BY STAGES AS OF 4/26/07 COMPARED TO 6/16/06 and 12/31/06

As of 6/16/06	As of 12/31/06	As of 4/26/07
Backlog of applications received by Board, but not yet filed by Board Staff. ¹		
68	21	51 ²
Filed applications, but waiting for receipt of reports from Department of Corrections (DOC) and/or Board of Probation Parole (PBP&P).		
504	500	536
Applications Merit Review Ready (Ready to be "merit reviewed" by the Board.		
385	420	394 ³
Total Caseload (from Receipt through Merit Review Ready Status)		
957	941	981 ⁴

¹ Filing involves checking applications for completeness, entering the case in the Case Management System ("CMS") and sending out all required notifications, including Judge, District Attorney, Department of Corrections and Board of Probation and Parole, to prepare necessary reports or provide opinion, as appropriate.

² We have required applicants to submit amendments on 37 of the 51 cases pending processing, and are awaiting receipt. 14 applications have not been reviewed as yet.

³ As of the Board's 5/10/07 meeting, it took an average of 25 months from time of receipt to date of merit review by the Board. Because of the constantly increasing number of cases in our system and the fixed number of cases presently being merit reviewed, this waiting period gets longer each month, a case received today, 4/26/07, will take 31 months to be merit reviewed. In 2004, 568 applications were received. In 2005, 617 applications were received. In 2006, 658 applications were received.

*All figures generated by the Pennsylvania Board of Pardons, John Heaton, Esq., Secretary as of 2/8/07.

1999 Governor Ridge

Clemency Applications Received:	261
Cases Merit Reviewed:	218
Public Hearings Held:	111
Pardons Recommended:	90
Pardons Denied:	19
Commutation of Min/Max Rec.:	1
Pardons Granted by Governor:	77
Pardons Denied by Governor:	14

2000 Governor Ridge

Clemency Applications Received:	332
Cases Merit Reviewed:	245
Public Hearings Held:	104
Pardons Recommended:	87
Pardons Denied:	16
Commutation of Life Denied:	1
Pardons Granted by Governor:	85
Pardons Denied by Governor:	2

2001 Governor Ridge/Governor Schweiker

Clemency Applications Received:	367
Cases Merit Reviewed:	275
Public Hearings Held:	138
Pardons Recommended:	122
Pardons Denied:	15
Commutation of Min/Max Denied:	1
Pardons Granted by Governor:	121
Pardons Denied by Governor:	1

2002 Governor Schweiker

Clemency Applications Received:	488
Cases Merit Reviewed:	314
Public Hearings Held:	164
Pardons Recommended:	127
Pardons Denied:	34
Commutation of Parole Recommended:	1
Commutation of Life Granted by Gov.:	1
Special Max Granted by Governor:	1
Pardons Granted by Governor:	123
Pardons Denied by Governor:	4

2003 Governor Schweiker/Governor Rendell

Clemency Applications Received: 564
Cases Merit Reviewed: 355
Public Hearings Held: 179
Pardons Recommended: 154
Pardons Denied: 22
Commutation of Min/Max Denied: 1
Commutation of Life Recommended: 1
Pardons Granted by Governor: 133
Pardons Denied by Governor: 20
Commutation of Life Granted by Gov. 1

2004 Governor Rendell

Clemency Applications Received: 578
Cases Merit Reviewed: 406
Public Hearings Held: 200
Pardons Denied: 45
Pardons Recommended: 151
Commutation of Life Denied: 3
Commutation of Life Recommended: 1
Pardons Granted by Governor: 140
Pardons Denied by Governor: 11

2005 Governor Rendell

Clemency Applications Received: 617
Cases Merit Reviewed: 360
Public Hearings Held: 183
Pardons Denied: 40
Pardons Recommended: 140
Commutation of Life Denied: 2
Commutation of Life Recommended: 0
Minimum Granted by Governor: 1
Min/Max Recommended: 1
Pardons Granted by Governor: 124
Pardons Denied by Governor: 16

2006 Governor Rendell

Clemency Applications Received: 668
Cases Merit Reviewed: 360
Public Hearings Held: 183 (4 cases are HUA as of 12/14/06)
Pardons Denied: 35
Pardons Recommended: 144 (3 HUA cases)
Commutation of Life Denied: 0
Commutation of Life Recommended: 0 (1 HUA case)
Minimum Granted by Governor: 0
Min/Max Recommended: 0
Pardons Granted by Governor: 27 (as of 12/14/06)
Pardons Denied by Governor: 2 (as of 12/14/06)

For additional information, contact John Heaton at 717-787-8125

**LIFER CASES GRANTED A PUBLIC HEARING
SINCE THE 1997 CONSTITUTIONAL AMENDMENT**

- May 1998 – Vincent Johnson, Denied at Public Hearing, Vote 2-3
- May 1999 – Charles Goldblum, Denied at Public Hearing, Vote 0-4
- December 2000 – Cyd Berger, Denied at Public Hearing, Vote 0-5
- March 2002 – Phyllis Krout, Denied at Public Hearing, Vote 3-2
- December 2002 – Ricki Pinkins, Recommended, Vote 5-0, Signed by Gov.
Schweiker in January 2003
- April 2003 – Michael Anderson, Recommended, Vote 4-0, Signed by Gov.
Rendell on February 8, 2007
- March 2004 – Phoebe Tomasek, Denied at Public Hearing, Vote 0-4
(Psychologist – Vacant)
- April 2004 – George Orłowski, Recommended, Vote 4-0, Pending in Gov.
Office (Psychologist – Vacant)
- June 2004 – Phyllis Krout, Denied at Public Hearing, Vote 3-1
(Psychologist – Vacant)
- December 2004 – Jackie Lee Thompson, Denied at Public Hearing, Vote
4-1
- April 2005 – Jackie Lee Thompson, Denied at Public Hearing,
(Reconsideration Granted 3/3/05) Vote 4-1
- May 2005 – Keith O. Smith, Denied at Public Hearing, Vote 4-1
- February 2006 – Tyrone Werts, Held Under Advisement, Vote 4-0

*All information generated by the Pennsylvania Board of Pardons, John
Heaton, Esq., Secretary as of 12/1/05*

For additional information, contact John Heaton at 717-787-8125