

# **Enhancing Public Safety Through Evidence-Based Responses to Criminal Behavior**

*Pennsylvania Department of Corrections*

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## **Introduction**

Good morning. Chairman Caltagirone, Chairman Marsico, Members of the House Judiciary Committee. Thank you for the invitation to testify before you today. I appreciate the opportunity to highlight a number of legislative and programmatic options that warrant your serious consideration based on their proven success with enhancing public safety while also prioritizing criminal justice system resources for the offenders who present the most substantial threat to our public.

## **What is the Status of PA's Criminal Justice System?**

Growth in the number of individuals under supervision by the criminal justice system continues to challenge the effectiveness of Pennsylvania's current policy and associated approaches for responding to criminal behavior. From 1940 through 1979, the Pennsylvania state prison population remained relatively stable. Yet, beginning in the 1980's, in response to our public's heightened concern surrounding perceived leniency with criminal offenders and beliefs relative to the rates of drug use, crime, and violence in our society, decision-makers were urged to pursue policies intended to increase the certainty and severity of criminal penalties. More conservative, more punitive policies were subsequently crafted in response to crime, embracing the "War on Drugs" approach and "Get Tough on Crime" ideology that resulted in the incarceration of more offenders for lengthier periods of time. These public policy decisions were directly responsible for significant, unprecedented growth in Pennsylvania's state prison system, which increased by 457% since 1980 (from 8,243 inmates in 1980 to 45,902 inmates YTD 2007). The growth has remained steady. In fact, over the past six years alone, the system has grown by 21% (from 36,810 in 2000 to 44,365 in 2006), and the pace has recently become more rapid. During 2005, the state prison population increased by 123 inmates each month, then by 160 inmates monthly during 2006. At present, the DOC confines nearly 46,000 inmates, and for the first six months of this year (2007), continued to incarcerate an additional 186 inmates each month. Our projections suggest that this growth will continue at an average rate of an additional 170 inmates monthly over the next 5 years.

The expanded use of incarceration as a response to crime has posed a significant burden on the capacity of the county prisons as well. More recently, local government practices in response to unprecedented population growth experienced by the county prison systems have also impacted state prison population growth rates. Specifically, there is an increased reliance on the state prison system to house inmates who had traditionally been incarcerated at the local level. While offenders sentenced between 2 to 5 years may be incarcerated under the jurisdiction of either the State or county at the discretion of the court, there has been a recent tendency for an increased number of those offenders sentenced within the 2-5 year discretionary timeframe to be sent to the State to serve their period of incarceration.

Our state prison system is currently operating 12% above capacity (i.e., housing nearly 5,000 more inmates than the point at which we operate most efficiently), the DOC is not prepared to keep pace with the current and projected rates of population growth. Therefore, we have initiated an aggressive capacity expansion effort to meet the needs of the steadily increasing population while continuing to maintain a safe and secure prison system. Our overall construction and expansion program

will create approximately 12,000 additional beds to safely accommodate this growth through 2012. This will cost more than \$672 million dollars in capital monies and more than \$180 million dollars annually in increased operating costs.

Yet, despite this expenditure of new money, our projections suggest that we will face the same challenges five years from now. Expecting that the inmate growth rate will continue at or near the current rate of growth, the DOC will lack sufficient bed space by December 2012, requiring an estimated cost of at least \$200 million dollars to construct another prison, and another \$50 million dollars in annual operating costs for each additional prison. And, if the growth still continues, we will be faced with the cost of building new prisons and the costs associated with operating them each year thereafter. These figures make it apparent that the capacity-building initiatives required to keep pace with a continued reliance on incarceration as the preferred response to criminal behavior will result in substantial, increasing, and unrelenting costs to Pennsylvania's taxpayers. And, what is most troubling is that there is **NO GUARANTEE OF INCREASED PUBLIC SAFETY AS A RESULT OF THIS RESPONSE ALONE.**

### **Is Pennsylvania's Current Response to Crime Working?**

Concerned by the persistent prison population growth and associated costs, our agency has made diligent efforts to examine whether or not our current approaches will ensure the safety of Pennsylvania's citizens as a return on its substantial investment in incarceration. Our comprehensive research efforts aimed at evaluating outcomes and referencing evidence-based practices confirm that our current strategy is not the most effective response to addressing criminal behavior if we truly wish to protect our public. An examination of not only our rate of prison population growth, but also the *composition* of our current inmate population and relative rates of re-offending by offender sub-population highlight this point. It is critical to my discussion today that you are cognizant of the fact that the profile of Pennsylvania's prison system has changed significantly as a result of our current response to crime. While our prisons are designed to house violent offenders, today more of that valuable space is being taken up by the less serious offenders. In fact, admissions for Part I offenders (murderers, rapists, etc.) have only increased by 2% over the last six years, while admissions for the less serious, Part II offenders (property and drug offenders, etc.) have gone up 55%. Fully 36% of our prison beds, at a cost of \$31,363 per inmate per year (\$85.93 per inmate per day), are now filled with these less serious offenders. Six years ago these less serious cases represented only 24% of the total. The rate of re-offending in this less serious sub-population of property and drug offenders responsible for population growth demands our attention as policy-makers. These offender types demonstrate some of the highest rates of recidivism among all offenders – *when they do not participate in appropriate intervention that identifies and addresses their crime-producing needs*. We should not be surprised by our current results knowing that a wealth of research over the past thirty years consistently advises practitioners that "confinement alone is not effective or sufficient for changing criminal behavior".

Recent research examining the relationship between incarceration rates and crime rates provides further support for the position that incarceration is not one of the more effective or cost-efficient strategies for combating crime. An increase in the number of offenders sent to prison has actually been found to decrease the benefit imprisonment contributes to promoting public safety. Generally, a 10% increase in the incarceration rate has been associated with a 2–4% reduction in the crime rate. However, a report published earlier this year by the Vera Institute of Justice suggests that continued growth in the incarceration rate prevents fewer, if any, crimes than past increases achieved, and will cost taxpayers significantly more money. Further, the findings of the report suggested that there is an "inflection point" at which the crime rate may increase when a state incarcerates a certain ratio of its population; that is, between 325 to 492 inmates per 100,000 citizens.

According to statistics reported in the Pennsylvania Abstract (2006), Pennsylvania has incarcerated more than 325 out of every 100,000 civilians in its population since 1990, and more than 492 out of every 100,000 citizens since 1998. The realization that taxpayers are financially burdened by an expanded reliance on incarceration, without any promise of a long-term solution for addressing growth in the prison population or combating crime, stresses the importance of reviewing our current strategy and developing more effective public policy.

### **What Can Be Done to Enhance Public Safety in Pennsylvania?**

Knowing that what we have been doing, although costly, is not the best solution, we have conducted a comprehensive review of research findings and evidence-based practices. For example, research demonstrates that it is the “certainty” of punishment, rather than the “severity” of punishment that produces the desired deterrent effect. This information, coupled with the consistent finding that quality treatment programming to address crime-producing needs will reduce re-offending, must guide our public policy response to criminal behavior.

We have also explored options for reform by reviewing and drawing from promising approaches and best practices in other states that have addressed this same issue with greater success. A report published this past February by the PEW Charitable Trusts indicated that the prison populations in all but three states are projected to increase through 2011. The success experienced by these jurisdictions in promoting public safety through smart public policy has proved valuable to Pennsylvania by contributing to the development of our current legislative proposals. Specifically, New York State’s legislative efforts during 1997 – aimed at “right sizing” its prison population while also improving public safety – have proven informative to the development of the fiscally sound, evidence-based package of legislative initiatives being proposed here in Pennsylvania. NY’s success with the implementation of “merit time”, through which offenders earn time off their minimum sentence for programmatic and behavioral compliance, provides one example of smart policy-making. A two year follow-up study of this program found that inmates released earlier than expected due to merit time had recidivism rates 12 percentage points lower than non-merit releases. Additionally, from 1997 through 2004, New York saved \$258 million in operational costs and \$15 million in construction avoidance as a result of this program. Another successful New York initiative is presumptive release, through which it is assumed that an inmate will be released at the expiration of his/her minimum sentence absent a compelling reason not to release him/her. Finally, based on the premise that most re-offending occurs within the first year following release, New York limited the length of time less serious offenders spent under community supervision. While most every other state has faced the public safety, fiscal, and operational challenges associated with an increased reliance on incarceration throughout the past decade, the NY State DOCS prison population decreased by 10%, reducing the number of inmates from 70,000 in 1998 to 63,000 today. Most noteworthy, however, is the fact that the crime rate in NY State has simultaneously *decreased*, reaching the lowest level experienced since Uniform Crime Reporting began in 1975, to include a 46% decrease in *violent crime* (1994 to 2001).

The resulting legislative package proposed for our Commonwealth has been designed to advance evidence-based practices that are not only fiscally sound, but more importantly, effective in ensuring the safety of Pennsylvania’s citizens and reducing victimization. Five “State” legislative initiatives, coupled with five additional “County” legislative initiatives intend to hold offenders accountable and protect the public while allocating tax dollars most responsibly.

First, the proposed legislation would allow for increased access to the State Intermediate Punishment (SIP) program. Although full utilization of this program could have resulted in 200 fewer victimizations last year, the program continues to be

underutilized. Nearly 80% of the offenders who are eligible for this crime-reduction program are not recommended by the courts to be evaluated by the DOC for placement. Therefore, the proposed legislation will target this underutilization by allowing an otherwise eligible offender who was not initially placed in SIP to be reconsidered for program participation if the DOC recommends such placement to the court, and there is no opposition from the District Attorney.

Second, legislation would provide less serious offenders with the opportunity to earn "risk reduction credit" if they successfully complete all prescribed programs, maintain appropriate conduct, and earn satisfactory work performance reports. Only less serious offenders, defined as those who have not committed a personal injury crime, a sex crime, or a crime involving a firearm would be eligible for this credit. The incentive would be a 25% reduction in the minimum sentence length each year for those offenders sentenced to serve 3 years or less, and a 15% reduction in the minimum sentence length each year for those sentenced to serve more than 3 years. At the time of sentencing, the court would give the offender two minimum sentences – a "risk reduction incentive" minimum and the standard minimum. Hypothetically, as example, an eligible offender who receives a 2 – 4 year sentence would receive two minimum sentence lengths at sentencing – the typical 2 year minimum and an 18 month minimum. Knowing that the completion of appropriate, relevant, and quality programming results in a reduction in recidivism of 10 – 30%, this strategy offers a strong incentive for inmates to complete needed programming and, in turn, decrease their likelihood of re-offending.

Three additional legislative initiatives will be presented by Chairman McVey. These include rebuttable parole release, qualified parole supervision, and the adoption of new sentencing guidelines by the Pennsylvania Commission on Sentencing to inform parole release decision-making and re-sentencing following revocation of parole, probation, or intermediate punishment. Every one of these initiatives is consistent with the highly proven notion mentioned previously – that it is the "certainty" of a sanction, rather than its "severity" that achieves deterrence. These efforts will promote consistency and continuity in applying an evidence-based response to criminal behavior throughout the justice process.

Further legislation would serve to streamline the process by which seriously ill inmates may be transferred to alternative facilities by allowing the Department of Corrections to petition the court to remove a seriously ill prisoner to a hospital or long-term living facility.

Recognizing the importance of providing relief at not only the state, but also at the county level, the legislative package includes a number of initiatives that intend to decrease the burden placed on our county prison systems while promoting safe communities and reducing victimization. The county legislative package consists of four proposals in addition to the initiative aimed at increasing RIP D&A usage rates.

First, legislation would require "state sentenced" inmates (those with 2-5 year sentences) to be housed in a state prison unless the county prison administrator certifies that the inmate population of the respective county's prison system is under 110% of its capacity and is willing to receive these offenders. The immediate result of this effort would be relief for overcrowded county systems. Additionally, we could expect this effort to achieve longer-term public safety gains through a decreased rate of recidivism. Recognizing that the DOC generally has greater programmatic resources than most county prison systems, state incarceration will ensure that the offender's crime-producing needs are addressed to decrease the probability of future criminal behavior.

Second, legislation would encourage increased use of the Restrictive Intermediate Punishment Drug and Alcohol (RIP D&A) program. Although successful completion of this program is associated with at least a 10% reduction in the likelihood of future victimization, judges are oftentimes reluctant to sentence offenders to RIP due to the procedures required in responding to program failures. Under current law, state-sentenced offenders (sentenced between 2-5 years) who fail RIP D&A are sent to county jail, which may be crowded and offer little opportunity for treatment. Therefore, the proposed legislation will promote increased use of this program by permitting RIP D&A violators with state sentences to return to state, rather than county prison.

Third, legislation would provide for the aggregation of consecutive sentences in determining place of confinement. Under current law, sentences are aggregated only for the purpose of determining whether the judge or Pennsylvania Board of Probation and Parole (PBPP) will exercise paroling authority. Aggregation is not currently applied to determine an offender's place of confinement. This legislation would change that by treating aggregation for place of confinement determination the same as aggregation for paroling purposes. Consistent with the objectives targeted by the first initiative comprising the county legislative package, this effort would relieve overcrowded conditions at the county level and free-up county prison beds for less serious offenders while ensuring that inmates in need of rehabilitation have access to programmatic resources necessary for promoting a crime-free re-entry.

Fourth, while discretionary parole release decisions are currently made by the PBPP for all state-sentenced inmates retained at the county level, legislation would re-assign paroling authority to the sentencing judge for these cases. The PBPP would retain supervisory authority of these cases while under parole supervision, and would return them to state prison, rather than county jail, in the event they violate their conditions of parole and/or commit a new crime.

Fifth, legislation would require that videoconferencing be used for court appearances of state-incarcerated offenders wherever allowable by law. When videoconferencing is not possible, the DOC would transport the inmate to the state correctional institution closest to the location of the scheduled court appearance. In such an instance, the county requesting the temporary transfer may still be responsible for the cost of transportation between state correctional institutions. Since counties are responsible for the significant travel and housing expenses associated with court events, a reduction in the amount of travel and in the need for housing would result in a cost savings for the counties.

## **Closing**

I appreciate the opportunity to share this proposal with you today. I applaud your willingness to review current practices and to consider reforms intended to implement more effective, cost-efficient public policy in ensuring the safety of our Commonwealth's citizens. Continuation of Pennsylvania's historically preferred response to criminal behavior cannot be justified by our current results. We must challenge our existing practices and implement more effective, fiscally sound strategies. The proposed legislative package represents an evidence-based, tested solution from which we can expect to achieve better public safety results overall.

Enactment of the proposed laws will serve to align criminal justice resources most appropriately and responsibly – prioritizing resources to ensure Pennsylvania's citizens are protected from those offenders who pose the most significant risk to our public. Simultaneously, we can expect that this shift will also serve to reduce the recidivism rate of the offender sub-population driving our prison growth. This comprehensive strategy will slow growth of our prison systems and, in turn,

achieve a cost savings by delaying – or even eliminating – the need to create additional capacity. Instead of funding the costs associated with expansion of our prison system - building more prisons for a price of \$200 million each for construction with an additional \$50 million annually in operating costs – Pennsylvania's taxdollars could be spent on more promising approaches.

An expanded notion of public safety will require funding for Pennsylvania to support investments in those areas associated with more significant reductions in the crime rate and achieved at a lower cost to taxpayers – to include policing strategies, decreasing unemployment, increasing wages, and promoting education. The importance of funding these initiatives should not be discounted and cannot be overemphasized. Research studies demonstrate that a 10% increase in the size of a city's police force is associated with an 11% lower violent crime rate and a 3% lower property crime rate. Research has also found that a 10% decrease in the unemployment rate corresponds with a 16-17% reduction in the rate of property crime. Other recent studies have found that a 10% increase in graduation rates is associated with a 9.4% lower index crime rate. Funding these areas serves to not only enhance public safety, but also succeeds in improving the general quality of life for Pennsylvanians.

We CAN achieve a safer Pennsylvania if we implement a smart public policy response today. Enactment of the proposed legislation will succeed in reducing victimization and in keeping our citizens safe by decreasing the rate of re-offending. In turn, taxdollars will be saved when fewer offenders are returned to Pennsylvania's prison systems.

I look forward to working with you to enhance public safety in our State, and would be pleased to respond to any questions you may have. Thank you.

## INTRODUCTION

The following legislative proposals will improve public safety in Pennsylvania by reducing the number of victimizations. Currently, approximately half of offenders released from state prison return to state prison within three years of release. The legislative proposals discussed below are designed to reduce the revictimization rate and make our communities safer.

This legislative package is based on research and successful crime-reducing legislation from other states. It includes provisions to:

- provide more access to crime-reducing drug treatment programs;
- provide incentives to less violent offenders to complete programs that provide them with the tools to help them not to victimize anyone else;
- allow the Board of Probation and Parole to focus its energy and resources on offenders in their critical first year on parole and subsequently on those offenders whose ability to remain crime free will be improved by such focused supervision; and
- authorize the Pennsylvania Commission on Sentencing to recommend any necessary changes to the legislation and to develop guidelines for those who violate parole, probation or intermediate punishment.

This comprehensive legislation will mean safer communities, less crime, and fewer victims. This will result in fewer offenders returning to prison that Pennsylvanians will have to support with their taxpayer dollars. Between December, 1999 and December, 2006, the number of people incarcerated in Pennsylvania's prisons has increased by 22 percent, from approximately 36,000 to more than 44,000. There has been a similar rise in the number of people under the supervision of the Pennsylvania Board of Probation and Parole. Between December 1999 and December 2006, the number of people under the supervision of the Pennsylvania Board of Probation and Parole increased by 33 percent, from 22,093 to 29,392.

This legislation is both tough and smart on crime. It will make Pennsylvania safe and reduce victimizations by reducing crime and therefore reducing the number of those returning to Pennsylvania's prisons.

These proposals are as follows:

- Increasing Access to Crime-Reducing State Intermediate Punishment (SIP) Program
- Providing Less Violent Offenders Crime-Reducing Incentives: Risk Reduction Incentive Credit
- Increasing Access to Crime Reducing Restrictive Intermediate Punishment Drug and Alcohol Treatment (RIP D&A)
- Providing Less Violent Offenders Crime-Reducing Incentives: Rebuttable Parole
- Streamlining Parole Supervision to Reduce Crime and Victimizations: Qualified Parole Supervision
- Improving Crime-Reduction Legislation by authorizing new guidelines by the Pennsylvania Commission on Sentencing

## **Increasing Access to Crime-Reducing State Intermediate Punishment (SIP) Program**

- Communities are safer and victimizations are reduced when less violent offenders addicted to drugs or alcohol are treated for their addictions before they are released. Currently, almost 70 percent of offenders entering PA prisons are dependent on drugs or alcohol. But those who complete appropriate drug and alcohol treatment are 30 percent less likely to victimize again.
- Pennsylvania's State Intermediate Punishment currently provides the treatment that will help reduce future victimizations. Unfortunately, it is underutilized; 80% of offenders who are eligible for this crime-reduction program are not recommended by the courts to be evaluated by the Department of Corrections for entry to the SIP program. If all those eligible for SIP were admitted to it, there likely would have been 200 fewer victimizations last year.
- The reason that most of those eligible for SIP are not placed in it is that a court may only recommend that an offender be evaluated by the DOC for entry to SIP if it, the district attorney, and offender all consent to that recommendation.
- This legislation will allow more such eligible offenders to enter the program.
- This proposal will allow additional eligible less violent offenders into SIP. It will permit an otherwise eligible offender who is not initially placed in SIP to subsequently be reconsidered for SIP if the Department of Corrections recommends such placement to the court. Placement would require that the court, DA and eligible offender agree to converting the sentence to SIP.



## **Providing Less Violent Offenders Crime-Reducing Incentives: Risk Reduction Incentive Credit**

- Research demonstrates that public safety is enhanced when less violent offenders complete appropriate programs during incarceration and follow all the rules. Such offenders are less likely to victimize anyone else after they are released.
- This proposal provides incentives to such less violent offenders to complete the programs that will help them to behave well and participate in crime-reducing programming during incarceration and ultimately remain crime-free after release.
- The risk reduction incentive credit would work as follows:
  - Only less violent offenders, defined as those who have not committed a personal injury crime, a sex crime, or a crime with a firearm are eligible for the risk reduction risk incentive.
  - The incentive would be the opportunity to receive 25% off a less violent offender's sentence for offenders serving up to 3 years, and 15% off for offenders serving sentences greater than 3 years.
  - At the time of sentencing, the court would prescribe two minimum sentences, one would be the risk reduction incentive minimum and the other the regular minimum. For example, for a less violent offender who is eligible for the incentive and receives a typical 2 year to 4 year sentence, the risk reduction minimum would be 18 months, and the regular minimum 2 years.
  - In order to be eligible to be considered for this credit, the Department of Corrections must certify to the Parole Board that the less violent offender has:
    - successfully completed all prescribed programs;
    - maintained a good conduct record; and
    - maintained a satisfactory work performance record.

## **Increasing Access to Crime Reducing Restrictive Intermediate Punishment Drug and Alcohol Treatment (RIP D&A)**

- Restrictive Intermediate Punishment drug and alcohol treatment is an important program that provides funding to counties for drug and alcohol assessments and treatment of certain offenders with drug and alcohol dependency. Those who successfully complete RIP are at least 10% less likely to victimize anyone else after they are released.
- Under current law, however, anyone placed in RIP who has a maximum sentence of between 2-5 years but fails RIP may be returned to county jail. County jails are not as effective at treating drug and alcohol addictions as state prison. The result has been that some judges are less inclined to sentence someone to RIP because they would prefer the person to receive treatment in state prison if he or she does not successfully complete RIP.
- This legislation addresses this disincentive to sentence an offender to RIP by requiring such RIP violators to return to state prison, where they can receive effective drug and alcohol treatment if they do not successfully complete RIP.
- Ensuring that those who can be helped by RIP get sentenced to RIP is a critical component to reducing victimizations. Removing this barrier to placement in RIP will help break the cycle of addiction that contributes to victimizations in Pennsylvania.

## **Providing Less Violent Offenders Crime-Reducing Incentives: Rebuttable Parole**

- Research shows that less violent offenders are less likely to victimize anyone else if, during incarceration, they follow all the rules, have a good conduct record, and complete appropriate programs before they are released. Research also shows that a less violent offender is less likely to commit new crimes when he or she can reasonably anticipate his or her release date, he or she can work to secure employment, housing and treatment.
- This legislation will make our communities safer providing an incentive for less violent offenders to complete all appropriate programming and follow all the rules when they are incarcerated and by further streamlining the parole process so that these offenders are paroled in an efficient, timely manner that will allow them to sufficiently prepare for his or her return to the community.
- This legislation will provide a system of rebuttable parole, which would provide that less violent offenders who meet established criteria and successfully complete prison programming would be paroled at his or her minimum sentence date. Rebuttable parole will motivate offenders to comply with programming, such as educational and vocational programs, and to maintain a good conduct record.
- Rebuttable parole would work as follows:

An eligible offender would be paroled at his or her minimum sentence date if the PBPP confirms the following:

- The less violent offender has successfully completed all programs required by the Department of Corrections, or it is determined that they can effectively be completed in the community, and has maintained good conduct.
  - The less violent offender has an adequate reentry plan to the community that addresses the needs for housing, employment, or treatment and established conditions of parole.
  - There is no compelling reason why releasing the offender on parole would be dangerous or detrimental to public safety.
- Only less violent offenders are eligible for rebuttable parole. Offenders who have committed a personal injury crime, a sex crime, or a crime with a firearm are not eligible for rebuttable parole.
  - An eligible offender who fails to meet any of these criteria is not eligible for rebuttable parole and would be subject to the current parole process.
  - An eligible offender released on rebuttable parole who violates the terms of his or her parole is subject to the current sanctions for parole violations, including recommitment.

## **Streamlining Parole Supervision to Reduce Crime and Victimitizations: Qualified Parole Supervision**

- Research shows that a parolee needs the most focused case management and solid supervision during his or her first year on parole and that those who receive such supervision are less likely to victimize anyone else. Research also shows that less violent offenders who receive such parole management and supervision for the first year do not benefit from a continuation of this type of parole supervision. In fact, continued focused supervision can actually increase the victimization rate.
- This proposal will enhance the safety of the public by allowing for more intensive supervision and treatment services to be targeted to all offenders during their first year on parole and to only those for whom more focused case management will decrease the likelihood of victimizing anyone else in subsequent years.
- Qualified parole would work as follows:
  - Only less violent offenders, defined as those who have not committed a personal injury crime, a sex crime, or a crime with a firearm are eligible for qualified parole. Anyone who has violated the terms of his or her parole is not eligible as well.
  - A less violent offender would only be eligible if there is no compelling information indicating dangerousness or that placing the person on qualified parole would compromise public safety.
  - A less violent offender who complies with the terms and conditions of his or her first year of parole will be placed on administrative parole for the remainder of his parole term. Administrative parole requires that the offender provide updated contact information and contact his or her parole agent no less than once per year.
  - A less violent offender who violates the terms of his probation or parole after qualifying for the one-year supervision period may be removed from such supervision and be recommitted to incarceration, have the length of his active parole supervision extended for as long as his maximum sentence date, or both.

## **Improving Crime-Reduction Legislation and Authorizing New Guidelines by the Pennsylvania Commission on Sentencing**

This legislation authorizes the Pennsylvania Commission on Sentencing to adopt guidelines and recommendations, similar to the current sentencing guidelines, to use in informing parole release decisions and where someone's parole, probation, or intermediate punishment has been revoked. Specifically, this legislation:

- Authorizes the Pennsylvania Sentencing Commission to:
  - adopt guidelines to inform parole release decision-making;
  - adopt guidelines for re-sentencing following revocation of parole, probation, county intermediate punishment, or state intermediate punishment; and
  - develop recommitment time ranges to determine the length of re-incarceration for those whose parole has been revoked.
- Provides that if the Board of Probation and Parole deviates from these recommitment ranges, it must provide a contemporaneous written statement explaining why it deviated from these ranges.
- The guidelines and recommitment time ranges by the Sentencing Commission resentencing shall take into account:
  - the safety of the public;
  - the seriousness of the crime and the violation;
  - the rehabilitative needs of the defendant; and
  - capacities of state and local correctional facilities.



Enhancing Public Safety  
Department of Corrections (DOC) and PA Board of Probation and Parole (PBPP)

Getting smart on crime means treating the underlying needs of offenders who are at significant risk of committing additional offenses. The Administration's legislative package is designed to do just this using evidence-based approaches in an efficient way.

**Restricted Intermediate Punishment Drug and Alcohol (RIP D&A)**

- RIP D&A is a non-incarceration alternative for offenders with significant D&A issues who would otherwise be sentenced to county jail or state prison.
  - While a recent evaluation of RIP D&A shows solid results with respect to reducing recidivism, this sentencing option has not been fully utilized to date.
  - One of the reasons that sentencing judges may be reluctant to use this option is because offenders who fail RIP D&A are sent to a county jail which may be overcrowded and offer little in the way of treatment.
  - This legislation allows the judge to commit offenders who have a 2-5 year maximum sentence to state prison if they fail in RIP/D&A or other diversion programs.

**"State Sentenced" Inmates**

- Currently, an inmate with a maximum sentence of 2-5 years may be confined either in a county jail or state prison.
  - Housing these offenders in jails contributes to overcrowding. Another problem with jails is that they have limited resources to target inmates' crime producing needs, which adversely impacts recidivism rates.
  - The legislation addressed these issues by requiring in counties where the jail population exceeds 110 percent of capacity, that all offenders with a 2-5 year maximum be sent to state prison where their underlying needs can be addressed thus increasing their likelihood of success in the community.

**Sentence Aggregation**

- Under current court decisions, offenders' sentences are aggregated only for the purpose of determining whether the sentencing judge or the PBPP has paroling authority.
- Aggregation does not apply to determining whether an offender is housed in a jail or a prison except in limited circumstances.
- This legislation would change that by treating aggregation for place of confinement determination the same as aggregation for paroling purposes.
- This initiative would allow for offenders to receive needed treatment programs while freeing-up space in county jails for less serious offenders.

**Paroling Authority**

- The decision to parole a "state sentenced" offender housed in county jail now rests with the PBPP.
- Under the proposed legislation, any state-sentenced offender who is retained in a county's jail will be paroled at the discretion of the sentencing judge.
- As is now the case, this category of offenders will be supervised by the PBPP.
- The legislation requires that if an offender is in violation of parole conditions and/or commits a new crime, the PBPP can return the person to state prison, but not to a county jail.
- This legislation allows the county to retain a higher degree of control for its population.

**Transportation and Housing**

- Transportation and housing of state offenders for court appearances pose significant costs for counties.
- This legislation requires that videoconferencing be used for court appearances of state-incarcerated offenders wherever allowable by law.
- When videoconferencing is not possible, the DOC will transport offenders to the state correctional institution closest to where the court appearance is scheduled.
- While counties are still responsible for the transportation costs, it is much less expensive than having sheriff's deputies provide the transportation as is customary now.
- This cuts down on the amount of travel by county staff and costs of housing for the counties.

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## DIVERSION – Restrictive Intermediate Punishment Drug and Alcohol (RIP D&A)

- Restrictive Intermediate Punishment Drug and Alcohol (RIP D&A) is an alternative to incarcerating someone in county jails (guidelines level 3) or state prison (guidelines level 4).
- Research revealed that offenders sentenced to probation and county jails are more likely to recidivate (71.9% and 79.1%, respectively) than are offenders who successfully completed RIP/D&A.<sup>1</sup>
- For 2007-2008, the state budget added \$2.2 million to expand the capacity of RIP D&A from 1,615 to 1,850 offenders.
- One lingering problem which must be addressed concerns offenders who fail out of the RIP D&A program:
  - Currently, the only option judge's have for inmate's who fail the program is to place him/her into a county jail,
  - County jails are often overcrowded and have limited resources for treatment,  
\*Judges are concerned about these restrictions and therefore may not consider RIP D&A as a viable sentencing option
- The legislation under consideration proposes to allow judges to sentence offenders, who have a maximum sentence of 2 to 5 years and who fail multiple times in RIP D&A or other diversion programs to state incarceration.

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<sup>ii</sup> Kramer, John H., Tara Williams and Carrie Williamson. "Evaluation of RIP D&A Treatment." A report to the Pennsylvania Commission on Sentencing and the Pennsylvania Commission on Crime and Delinquency, September 2006.



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## "STATE SENTENCED OFFENDERS" IN COUNTY JAILS

- A 2006 report concluded that PA counties do not have an adequate strategy in place to control and plan for jail populations.<sup>1</sup>
- Overcrowding is a concern in about one-half of PA county jails.
- Currently, judges have sole discretion to confine offenders with maximum sentences falling between 2-5 years in either a state prison or a county jail.
- The County Commissioners of PA say that these offenders contribute to jail overcrowding and would prefer they are diverted to state prisons; in most other states offenders serving longer than one-year automatically are sentenced to state prison.
- This legislation provides for offenders with maximum sentences from between 2-5 years to be placed in a state facility unless the county prison administrator certifies that a county prison is under 110% of capacity and is willing to receive these offenders. The sentencing court will be notified for a determination of place of confinement.
- This legislation requires if a county jail is operating above 110% of its capacity and the offender is serving a maximum sentence between 2 to 5 years, the sentencing judge must place the offender in a state facility, unless the individual is being diverted to RIP or some other non-incarceration sanction.
- The Department of Corrections shall reimburse to counties the reasonable cost of confinement of persons committed to a county prison who are participating in an approved work release program. (No more than \$2,500,000 shall be expended annually for this program, and if exceeded, reimbursement shall be made on a pro rata basis.) County prisons may require reimbursements from counties or the DOC for inmates voluntarily accepted at mutually agreeable rates.
- State prisons, compared to county jails, have more resources to meet an inmate's treatment needs.
- This section becomes effective three years after passage of the bill. This time period allows other initiatives under this legislation to free up space in state correctional institutions for these additional offenders.

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## AGGREGATION CASES

- This legislation calls for the aggregation of consecutive sentences for purposes of determining the place of confinement.
- Under current law, these sentences are aggregated, except in limited circumstances, only for purposes of determining whether the judge or the PBPP exercises paroling authority.
- This legislation will change that by treating aggregation for place of confinement the same as aggregation for parole purposes.
- The purpose of this initiative is to decrease county's jail population and to ensure offenders' treatment needs are met.

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## RELEASE DECISION AND SUPERVISION

- The draft legislation will allow for the sentencing judge, instead of the PBPP, to parole offenders who are serving a maximum sentence between 2 to 5 years in a county jail; the PBPP will retain community supervision of this population.
- Those offenders who are paroled from jail, but violate the conditions of parole or commit a new crime, will be returned to a SCI.
- This initiative gives a county jail greater degree of control over its own population,
- Saves PBPP resources by no longer needing to review and make parole decisions on state-sentenced offenders housed in county jails; PBPP can concentrate efforts on more serious cases.

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## TRANSPORTATION AND HOUSING

- Transportation and housing of state offenders for court appearances pose significant costs for counties.
- This legislation requires that videoconferencing be used for court appearances of state-incarcerated offenders wherever allowable by law.
- When videoconferencing is not possible, the DOC will transport offenders to the state correctional institution (SCI) closest to where the court appearance is scheduled.
  - The DOC will have the authorization to select the SCI.
  - The county court that has requested the temporary transfer may still be responsible for the cost of transportation between SCIs.
- Savings, as a result of this legislation, can be expected through:
  - Reducing the amount of travel by county staff.
  - Decreasing the costs related to housing offenders for the counties.



## PA DOC Changes Over the Past Several Decades

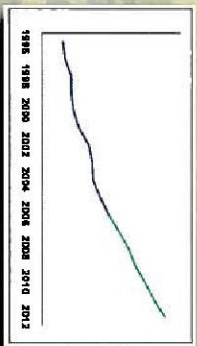
	1980 - 81	1990 - 91	2000 - 01	2007 YTD
Correctional Institutions	9	15	26	27
Inmate Population	8,243	22,325	36,816	45,935
General Fund Staff	3,175	6,567	14,546	15,170
Corrections Officers	1,563	4,360	8,492	8,921
Expenditures	\$94,358	\$407,863	\$1,170,631	\$ 1,420,259
Annual Cost Per Inmate	\$11,447	\$18,269	\$28,762	\$ 31,610

**Notes:**

- # institutions and staff are based on December 31st data
- # inmates and cost/inmate figures are based on annual average
- cost per inmate data does not include costs for parolees, institution leases or capital construction expenditure amounts are in thousands
- # institutions includes Quehanna Boot Camp

# Legislative Impact on Prison Population Growth

## PRISON POPULATION CONTINUES TO INCREASE



The state prison population grew by 28% over the past ten years (an additional 11,000 inmates) over the next five years.

At this rate of growth, the Commonwealth will be required to build 3 new prisons by 2012 at a cost of \$600 million in capital monies, as well as an additional prison per year after 2012 at a cost of \$200 million per prison. The annual operating cost for each new prison is \$50 million each.

The following initiatives in S.B. 1045 and H.B. 4 and 6 can curb prison population growth, reduce taxpayer costs, and enhance public safety:

- State Intermediate Punishment (SIP) re-sentencing - Expand SIP by re-sentencing eligible, non-violent offenders to the program
- Recidivism Risk Reduction Incentive (RRRI) Minimum Sentence - Impose a shorter minimum sentence on eligible non-violent offenders and compliance with prescribed treatment
- Rebuttable Parole - Presumptively parole at their minimum sentence certain inmates who pose a low risk to public safety, maintain good conduct in prison, and meet parole requirements
- Administrative Parole - Require less frequent parole supervision contact for certain parolees who maintain good behavior and demonstrate no evidence of dangerousness to the community during their first year of supervision

## IMPACT OF LEGISLATION

Offenders impacted by this legislation are those who have committed less serious crimes, who maintain good institutional behavior and comply with supervision requirements, and who complete treatment that has a proven track record of success

### Enhance public safety through less crime and fewer victims by:

- providing incentives for offenders to participate in and complete programs that have a demonstrated record of effectiveness in reducing re-offending
- prioritizing criminal justice resources towards offenders who pose the greatest risk to public safety
- implementing incentives that encourage offenders to abide by the rules and conditions of prison and parole conduct

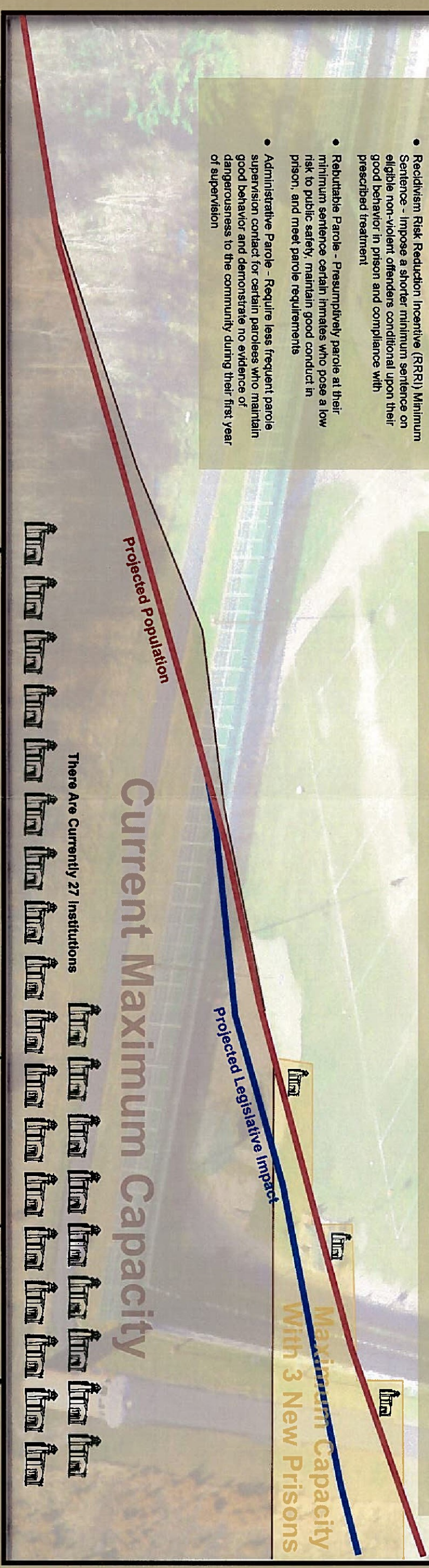
### Save taxpayer dollars by:

- reducing the prison population by an estimated 2,687 inmates by year-end 2012
- at an average daily cost of \$102.60 per inmate over the next five years, this reduced prison population would save approximately \$100.6 million in annual operational costs by 2012 and delay/prevent construction of future prisons

Each major component of the legislation will have the following impact:

- SIP re-sentencing - will reduce lengths of stay in prison since SIP participants serve an average of approximately 30 fewer months in prison
- RRRI minimum sentence - will reduce lengths of stay in prison by creating shorter minimum sentences for eligible offenders
- Rebuttable parole - will reduce lengths of stay in prison since eligible offenders will serve 25 to 30 percent shorter sentences due to being released right at their minimum date
- Administrative parole - will allow resources to be devoted to more serious offenders

Estimated Contribution of Each Component to Overall Prison Population Reduction	
SIP re-sentencing	35%
RRRI	52%
Rebuttable Parole	6%
Administrative Parole	7%



## Current Maximum Capacity

There Are Currently 27 Institutions



Jun '04  
Jun '07  
Dec '10  
Jul '11  
Jan '12  
Dec '12

SCI Pittsburgh Re-Opens  
1 New Prison Open  
1 New Prison Open  
1 New Prison Open