THE SENTENCING PROJECT
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Downscaling Prisons

Lessons from Four States

Judith Greene
Justice Strategies

Marc Mauer
The Sentencing Project

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JUSTICE STRATEGIES

For further information:

The Sentencing Project
514 10th St. NW
Suite 1000
Washington, D.C. 20004
(202) 628-0871
www.sentencingproject.org

This report was produced by The Sentencing Project and Justice Strategies. It was written by Judith Greene, Principal of Justice Strategies, and Marc Mauer, Executive Director of The Sentencing Project.

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As states around the nation grapple with the effects of the fiscal crisis a major area of attention has been the cost of corrections. Over the past 25 years the four-fold rise in the prison population has caused corrections expenditures to escalate dramatically. These increased costs now compete directly with higher education and other vital services within a climate of declining state revenues.

Even prior to the onset of the latest fiscal crisis, though, legislators in many states had become increasingly interested in adopting evidence-based policies directed at producing more effective public safety outcomes. In contrast to the "get tough" climate that had dominated criminal justice policy development for many years, this new political environment has focused on issues such as diversion of people charged with lower-level drug offenses, developing graduated sanctions for people on probation and parole who break the rules, and enhancing reentry strategies.

Despite these developments, prison populations have continued to rise in the past decade, albeit not as dramatically as in the preceding decades. From 2000-2008 the number of people incarcerated in state prisons rose by 12 percent from 1,176,269 to 1,320,145, although with a broad variation around the nation. At the high end, six states expanded their prison populations by more than 40 percent – West Virginia (57 percent), Minnesota (51 percent), Arizona (49 percent), Kentucky (45 percent), Florida (44 percent), and Indiana (41 percent).

By the end of this period, growth in state prisons appeared to have largely stabilized. In 2008, the national total remained steady, and 20 states experienced a modest reduction in their populations that year.

While a growing trend towards stability may be emerging, this development needs to be assessed in context. Even if there should be a leveling of population growth, that would still leave prison populations at historic highs that are unprecedented in American history or that of any other democratic nation. The consequences of such a situation for fiscal spending, public safety prospects, and impact on communities is very troubling.

In this regard it is particularly instructive to examine the four states that are the focus of this report – Kansas, Michigan, New Jersey, and New York. In contrast to the 12% growth in state prison populations since 2000, these states have actually achieved significant declines in their prison populations in recent years, and therefore offer lessons to policymakers in other states about how this can be accomplished. These declines have spanned the following periods:

- New York: A 20% reduction from 72,899 to 58,456 from 1999 to 2009
- Michigan: A 12% reduction from 51,577 to 45,478, from 2006 to 2009
- New Jersey: A 19% reduction from 31,493 to 25,436, from 1999 to 2009
- Kansas: A 5% reduction from 9,132 to 8,644, from 2003 to 2009

This report contains a description of the many pragmatic reforms and policies that have helped to produce these prison population reductions. What is clear in each of these cases is that the reductions only came about through conscious efforts to change policies and practices, that these states relied on many different types of reform initiatives to improve their criminal justice systems, and that these initiatives had the twin goals of reducing the prison population and promoting cost-effective approaches to public safety.

The initiatives described in this report cover a range of policy changes that should provide a framework for policy advocacy in other states as well. They include the following:

Sentencing Reforms

- New York: Scaled back the Rockefeller Drug Laws substantially to reduce the scope of mandatory sentences.
- Michigan: Reformed the "650 Lifer Law" that had previously imposed life sentences for 650 gram drug offenses, even for first-time offenders. Eliminated most mandatory minimum sentences for drug offenses and incorporated sentencing provisions into the guidelines system, with enhanced judicial discretion. Restructured community corrections planning expectations to create incentives to target "straddle-cell" cases in sentencing guidelines for intermediate sanctions.
- Kansas: Amended state sentencing guidelines to divert people convicted of drug possession to mandatory treatment rather than prison, and eliminated sentencing enhancements for persons with prior convictions for drug possession.

Alternatives for "Prison Bound" People

- New York: Drug Treatment Alternative to Prison program established by the Brooklyn District Attorney's Office to divert prison-bound defendants into treatment programs helped to reduce use of incarceration, and was expanded to other prosecutor's offices statewide. Statewide network of Alternatives to Incarceration programs utilized data to target prison-bound offenders for sentencing alternatives.
- New Jersey: Attorney General revised plea negotiation guidelines to permit "open pleas" in lower-level drug-free zone cases, giving judges discretion at sentencing. Expanded drug court model statewide, and encouraged judges to consider "open plea" cases for treatment.

Reducing Time Served In Prison

- New York: Implemented "merit time" credits and other incentives for participation in education and vocational training, treatment and other services to speed parole consideration.

Parole Release Rates

- New Jersey: Adopted risk assessment instruments to aid parole board in considering release issues, along with day reporting and electronic monitoring in community, resulting in increased rate of granting parole.
- Michigan: Use of data-driven policies to identify lower-risk cases for release, establishment of greater range of intermediate sanctions for rule violators, and designation of two "reentry prisons" to assist in planning for release.

Reducing Revocations

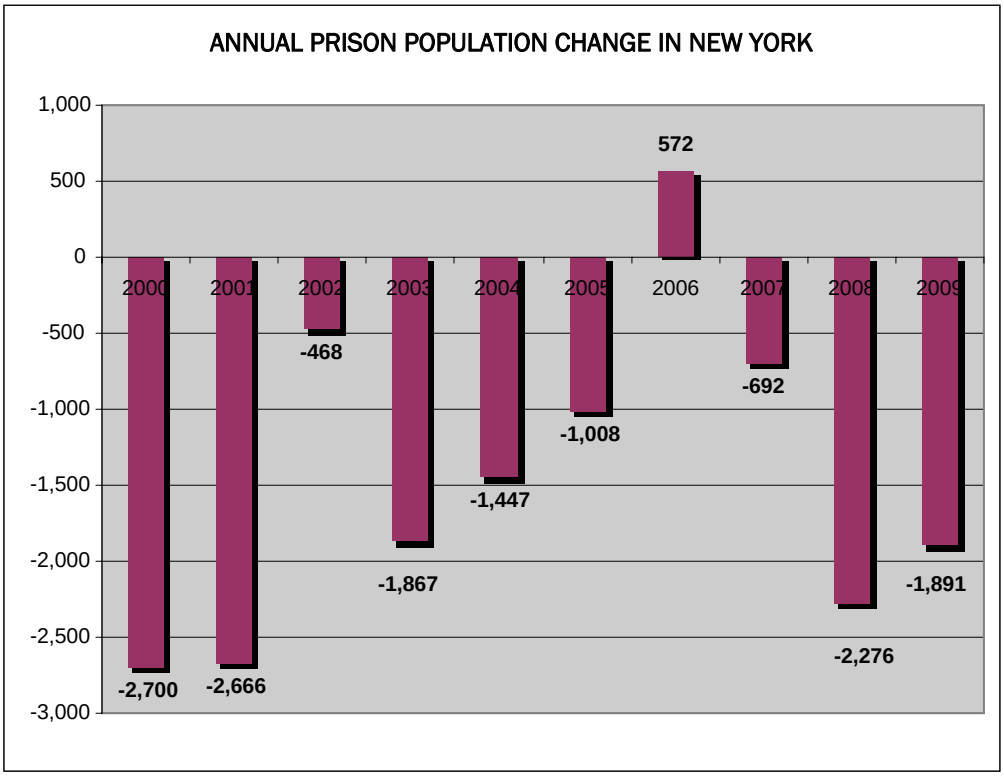
- New Jersey: Established Regional Assessment Centers to provide input to parole board in determining if parole violators should be allowed to continue on parole supervision.
- Michigan: Established the Michigan Prisoner Reentry Initiative to develop locally-based planning focusing on services in housing, employment, substance abuse, and other areas designed to increase prospects for successful reentry.
- Kansas: Justice Reinvestment strategy to provide services under community supervision to reduce revocations for rule violations. Risk Reduction Initiative provides funding to county-operated programs that emphasize neighborhood revitalization, substance abuse and mental health treatment, and housing services.

NEW YORK

PRISON POPULATION REDUCTION: 20% DECLINE FROM 72,899 IN 1999 TO 58,456 IN 2009

Strategic Initiatives:

- Refocusing police enforcement priorities
- Diversion of "prison bound" cases to treatment and other alternatives to incarceration
- Scaling back drug sentencing laws
- Increased use of release programs and incentives to shorten time served in prison for people convicted of drug violations and other non-violent crimes



One of the nation's most closely watched experiences with prison system "downsizing" has taken place in New York, where the number of people in state

prison has decreased by 20 percent over the past decade. New York's prison system held 58,456 prisoners at the end of 2009, down from 72,899 in 1999. Between 1999 and 2008, the state's incarceration rate fell by 23 percent, from 400 per 100,000 residents to 307. This decline followed decades of prison population growth and prison construction, substantially driven by two sentencing laws that launched the U.S. war on drugs.

In 1973, Gov. Nelson Rockefeller pushed a harsh program of mandatory minimum drug laws through the New York State Legislature. Under the Rockefeller Drug Laws, sale of just two ounces, or possession of just four ounces, of a narcotic drug was made a Class A felony, carrying a minimum sentence of 15 years and a maximum of life in prison.

While most people convicted of drug crimes are sentenced to lesser prison terms after conviction for Class B, C or D sales or possession offenses, the Second Felony Offender Law, enacted in tandem with the Rockefeller Drug Laws, mandated a prison sentence for a person convicted of any two felonies within 10 years, regardless of the circumstances or the nature of the offenses. Together, these harsh sentencing laws flooded New York's prisons with people convicted of lower-level drug offenses. Street drug enforcement was intensified from the mid-1980s through the 1990s, and annual drug commitments to prison, which had totaled 470 in 1970, rose to 8,521 in 1999.[1]

New York's crack-down on drug crime proved to be extremely expensive, driving the proportion of people in state prison for drug offenses up from just 11 percent when the Rockefeller Drug Laws were enacted, to a high of 34 percent. And the impact on communities of color was stark: African Americans and Latinos constitute 90 percent of all people incarcerated for a drug offense.[2]

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[1] New York State Department of Criminal Justice Services. "1999 Crime and Justice Annual Report."

[2] Correctional Association of New York. "Drop the Rock" fact sheet, online at http://www.correctionalassociation.org/publications/download/ppp/factsheets/DTR_Fact_Sheet_2009.pdf

Other "get-tough" measures also contributed to an overcrowding crisis in the state prison system over the next two decades. In 1978 the legislature enacted tough new laws that lengthened sentences for "violent felony offenders" and "persistent violent felony offenders," along with a new "juvenile offender law" that increased the likelihood that young people convicted of violent crimes would end up in prison.

In 1994, George Pataki sparked his gubernatorial campaign against Mario Cuomo with a pledge to reinstate the death penalty, and a call for "truth in sentencing." After taking office Pataki convinced legislators to approve fixed "determinate" sentences with no possibility of parole for two-time ("persistent") violent offenders.

Then, in 1998 Gov. Pataki signed "Jenna's Law," a bill that abolished parole for *all* prisoners convicted of violent offenses, and he pressed his parole board to be more restrictive in making parole decisions for people who remained subject to parole release who had criminal records that included any history of violent crime. Between fiscal years 1994 and 1999, the parole grant rate at first hearings dropped from 60 to 40 percent. By 2000 only one in five people convicted of a violent crime was being released at their first parole hearing.[3]

To keep up with the effects of these "get tough" measures, New York officials – Cuomo and Pataki alike – made huge investments in prison expansion. Between 1988 and 1999 the Department of Correctional Services (DOCS) added two maximum security prisons, 14 medium security prisons, and four minimum security prisons, increasing overall system capacity from 41,242 to 72,951. Crime rates began to decline in 1991, however, and within a decade residents of New York City were celebrating a 64 percent drop in reported violent crimes.[4] Yet by 1999, New

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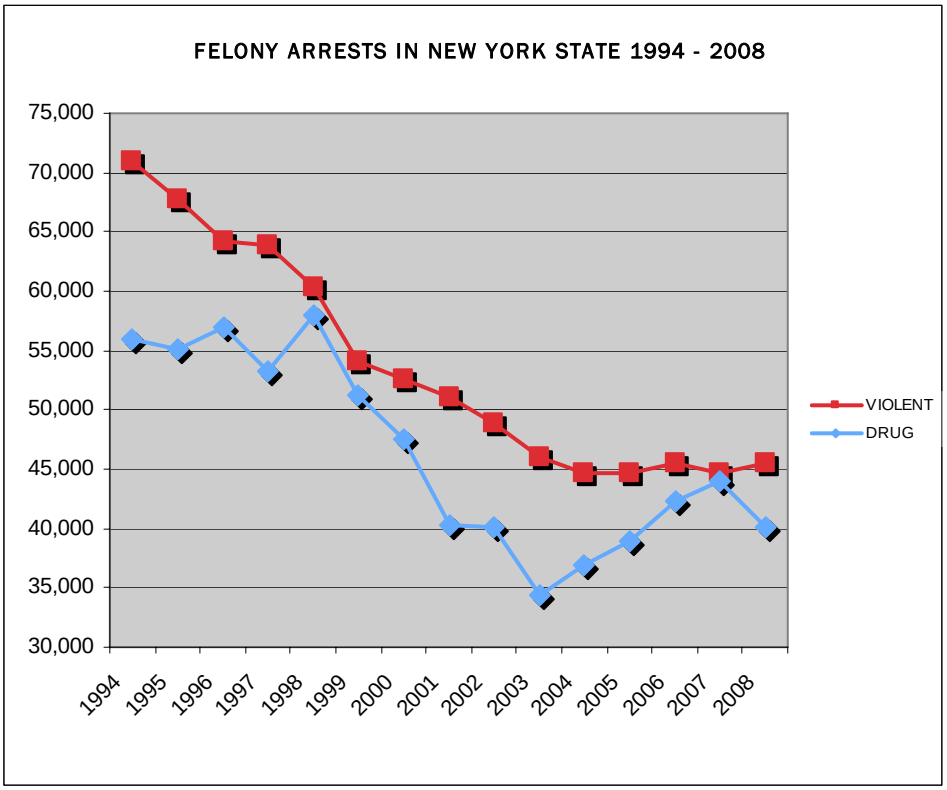
[3] Pfeiffer, Mary Beth. "Parole denials negate crime drop." *Poughkeepsie Journal,* November 16, 2000

[4] The actual causes of the "New York Miracle" have been hotly debated since ex-Mayor Rudy Giuliani and ex-Police Commissioner William Bratton first laid claim by asserting that the decrease in crime was entirely explained by introduction of COMPSTAT and related police reforms. For a detailed critique of their claims, see "Zero Tolerance: A Case Study of Police Policies and Practices in New York City," by Judith Greene, in *Crime and Delinquency,* Vol. 45 No. 2, April 1999.

York taxpayers were spending $100 million more on prisons than on the state college system.

As violent crime rates fell in New York, felony arrests for violent crime fell accordingly. In 1994 there were 70,880 arrests for violent felonies in New York State (52,815 in New York City). By 2008 that figure had fallen to 45,491 (28,296 in the City). In 1999, NYPD enforcement priorities shifted, and felony drug arrests also began a sharp decline, hitting bottom at 34,394 in 2003 (23,711 in the City), though they climbed back up to 40,123 in 2008 (28,765 in the City).[5]

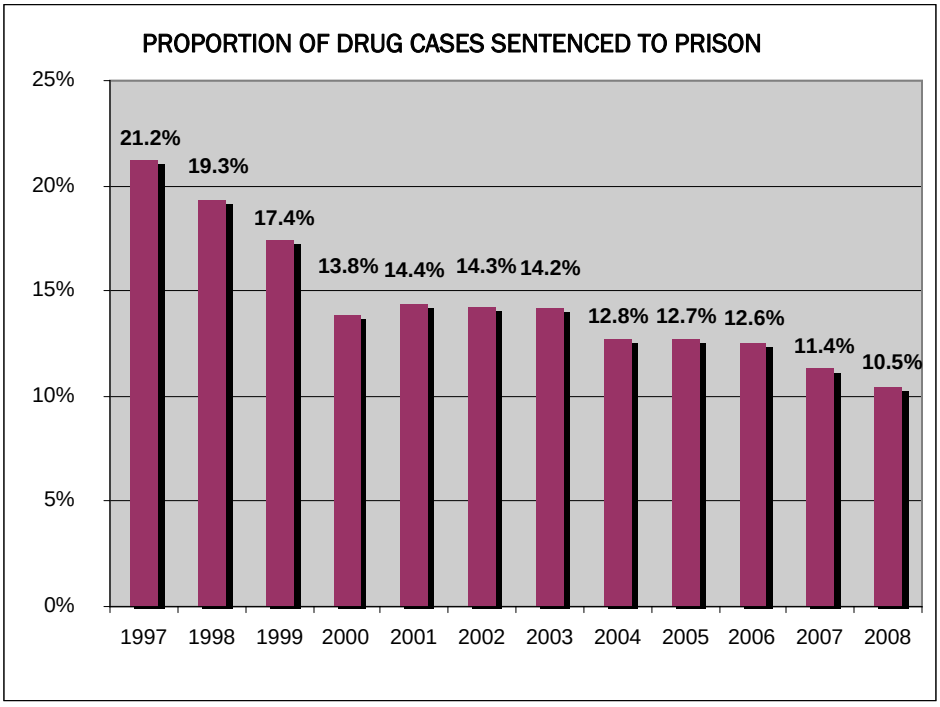


Source: New York Division of Criminal Justice Services

[5] New York State arrest patterns, as well as conviction and sentencing patterns, are largely driven by operation of the criminal justice system in the City. "Non-New York City" violent felony arrests also fell – but far less dramatically – between 1994 and 2008 (from 18,030 to 17,161). Felony drug arrests outside of the City fell from 11,437 in 1994 to a low of 9,965 in 2001, and rose again to 11,353 in 2008.

The drop-off in felony drug arrests was associated with an increase in misdemeanor drug arrests. The shift came on the heels of evidence that public support for the drug war was waning. In 1999 a widely-publicized poll of New York State voters conducted by Zogby International revealed that twice as many said they would be *more* inclined to vote for state legislators who would reduce sentences and give judges greater discretion in drug cases than the number who said they'd be *less* inclined.[6] That same year the number of drug arrests in New York City fell by almost 6,000. It seems only logical to assume that increasing public dissatisfaction with the drug war contributed to the shift of NYPD resources reflected in felony drug arrest trends.

Even before drug enforcement patterns began to shift in New York City, statewide sentencing trends in drug cases were showing a marked decline in prison sentencing patterns. The proportion of people sentenced statewide to prison for felony drug crimes fell from 21 percent in 1997 to just 11 percent in 2008:



Source: Division of Criminal Justice Services

[6] Zogby International. April 28, 1999. Online at http://www.drugpolicy.org/library/publicopinio/zogby.cfm

The first significant path around sentencing roadblocks contained in the Rockefeller Drug Laws had been blazed back in 1990 by Kings County (Brooklyn) District Attorney Charles J. Hynes. Hynes created the Drug Treatment Alternative-to-Prison Program (DTAP) on the premise that many people facing a mandatory prison term as repeat felony offenders might benefit from diversion to treatment instead of imprisonment, improving their chances of rehabilitation at far less cost to taxpayers.

Gabriel Sayegh, Director of the State Organizing and Policy Project at the Drug Policy Alliance, says that DTAP represented an important early signpost on the way to reform of the Rockefeller laws:

> *Hynes is a veteran prosecutor and a savvy politician. He understood that damage was being done to families and communities in Brooklyn by mass incarceration policies and strict adherence to the Rockefeller Drug Laws. He listened and responded to consistent, vocal pressure from his constituents, who were demanding that alternatives be provided for their children, neighbors and friends.*

A study of the Brooklyn DTAP program, sponsored by the National Institute on Drug Abuse, and conducted by researchers at Columbia University's Center on Addiction and Substance Abuse (CASA), found that diversion to treatment was effective, even for people with serious drug problems and very significant criminal histories.[7] The program was diverting repeat felony offenders addicted to heroin, crack and powder cocaine who had already spent an average four years behind bars. Despite their prior history, more than half successfully graduated from the program.

CASA researchers found that DTAP participants remained in treatment six times longer than those in a national study of long-term residential treatment. DTAP participants who received 15 to 24 months of residential drug treatment were far less likely to be re-arrested or re-incarcerated than members of a matched comparison

[7] Belenko, Stephen. "Crossing the Bridge: An Evaluation of the Drug Treatment Alternative-to-Prison (DTAP) Program" (March 2003) Online at http://www.casacolumbia.org/download.aspx?path=/UploadedFiles/sy3s3hdz.pdf

group who were sentenced to prison. After two years, those placed in DTAP were 26 percent less likely to be arrested, 36 percent less likely to be reconvicted and 67 percent less likely to return to prison than a matched comparison group. Sayegh says the CASA research report helped advocates to build a stronger case for fundamental drug policy reform in New York:

> *The importance of Hynes' DTAP program was amplified and underscored by the evaluation findings. For the first time, we had evidence that diversion was not only possible, we had proof that it* worked. *In the political climate back then, the people that the Brooklyn DA was willing to approve for a treatment alternative to prison were seen as the* worst *candidates for diversion. They had been arrested and convicted at least once before, many had even gone to prison before, and they had gone back to the streets and were selling drugs again. Yet given an opportunity through DTAP, most were succeeding and turning their lives around.*

The success of the DTAP program with people who would otherwise have served a mandatory prison term helped to increase availability of treatment for thousands of other people who were prison bound under the Rockefeller Drug Laws. Other prosecutors across the state secured funding to establish their own DTAP programs. New York's well-established network of "Alternative to Incarceration" (ATI) programs was expanded with a specific mandate from state and city officials to further widen the route to diversion of prison-bound people through sentencing advocacy in the court system.

The vital network of community-based ATI programs emerged from early efforts in New York City, going as far back as the 1960s, to provide judges and prosecutors with community-based (as opposed to court- or probation-based) interventions for diversion of people from jail and prison. Pretrial release and diversion programs developed at the Vera Institute of Justice served as national models for alternatives to incarceration for young people who – if successful in completing treatment, educational, or vocational programs – might avoid a criminal conviction altogether.

By the 1980s, a number of program initiatives were providing "defender-based advocacy" services in the New York courts, helping defense attorneys convince judges to divert defendants to community-based rehabilitation programs, or to non-custodial penalties such as community service and restitution.

The 1980s and 90s saw a proliferation across the US of court- and corrections-based non-custodial sentencing alternatives, then termed as "intermediate sanctions," to fill an apparent "gap" between traditional probation and prison. Program models such as intensive probation supervision and "boot camps" were soon replicated in many jurisdictions, despite the fact that research on their effectiveness was less than encouraging.[8]

Critics of the "alternatives" movement argued that these program options were largely being misused by the courts to "widen the net" of criminal justice control. People who ended up getting an "alternative" sentence would probably not have been sent to jail or prison in the first place. But experience with sentencing and correctional alternatives in New York was informed by the work of program planners, managers and researchers at the Vera Institute of Justice, who helped to foster more successful models for ATI programs operated by independent non-profit organizations. A variety of non-profit organizations began operating programs designed as alternatives to jail and prison, patching together funding from a variety of foundations and government sources.[9]

New York's "Classification/Alternatives to Incarceration Act" was established in 1984 – in the midst of a huge expansion of jail and prison capacity – to provide state funding for an array of fledgling ATI programs. State corrections officials responsible for management of the initiative prodded local program administrators to

[8] Petersilia, Joan R. and Susan Turner. "Intensive probation and parole." *Crime and Justice,* vol. 17, 1993; Parent, Dale G. *Correctional Boot Camps: Lessons from a Decade of Research.* Washington, DC: National Institute of Justice. 2003.

[9] These included programs developed at Vera and its "spin-off" agency, the Court Employment Project (the agency now known as CASES), as well as at the Osborne Association and the Fortune Society.

focus these resources on people who faced a real likelihood of being sentenced to jail or prison. The hallmark of Vera's work during this period was development of objective statistical tools, drawn from research on sentencing patterns, for identifying "jail- and prison-bound" defendants so that program advocacy and interventions could actually help to reduce reliance on incarceration.

"Smart" Reforms Gain Ground over Get-Tough Policies

New York's prison population peaked in 1999, and after the tragic events of September 11, 2001, legislators struggled to trim spending in the face of projected sharp budget shortfalls. Calls for repeal of the Rockefeller Drug Laws went unheeded at the state capitol, but a number of more modest reforms were nonetheless won in both sentencing and correctional policy over the next few years.

With a well-established array of credible, well-targeted alternative programs working to reduce reliance on incarceration and the DTAP model demonstrating remarkable success, many New York prosecutors were increasingly willing to send people facing serious drug charges to a treatment alternative. The volume of admissions to prison of people convicted of drug crimes fell steadily though the first decade of the new century.

Admission of people sentenced to prison for drug violations by the courts fell from 8,227 in 2000 to 5,190 in 2008.[10] In 2000, more than 22,000 prison beds were occupied by people convicted of drug violations, comprising 31 percent of the population behind bars. By 2008, with some 8,800 fewer drug prisoners, that proportion had dropped to just 21 percent.[11] New court commitments to prison fell by 15 percent overall during the period, but commitments for drug sales convictions

[10] New York State Department of Correctional Services. (2000 – 2008 annual reports) "Statistical Overview of Court Commitments."

[11] New York State Department of Correctional Services. (2000 – 2008 annual reports) "HUB System: Profile of Inmate Population Under Custody on January 1."

led the trend by far, declining by 54 percent, compared to just four percent for violent convictions.

From the beginning of 2000 to the beginning of 2008, the number of people in prison fell by more than 8,800. While the number of people rose in some crime categories and fell in others, the decline in people convicted of drug violations can be said to explain the entire decline.

While Gov. Pataki maintained his tough stance on people convicted of violent crimes, his managers at DOCS sought a "right-sizing" approach to population management. They used a number of tools to help them gain more control of prison population levels, that also provided motivational incentives for people in DOCS custody to maintain good behavior and engage in constructive activities. These measures served to shorten sentences for people convicted of less serious crimes while preparing them for release. Operating as a correctional mitigation of the harsh Rockefeller laws, they have contributed to the "downsizing" trend.

In October 2000, Glen Goord – then serving as Pataki's DOCS commissioner – announced that 14 prisons were being targeted for "bed-take-downs." This would entail both removal of "squeeze beds" from units that had been double-celled during the overcrowding crisis, and "take-downs" to reduce staffing by attrition. Goord projected a $20 million savings due to attrition of 614 staff positions.[12]

The DOCS Toolkit for Prison Population Control

The oldest of the state's prison population-control programs is the Shock Incarceration Program (Shock). Predating the Pataki administration, Shock was established in 1987, during the Cuomo administration, to allow younger prisoners

[12] DOCS Press release. "Governor's prison policies succeeding in "right sizing" the system
Focus on locking up violent felons is reducing the need for beds for nonviolent felons," October 20, 2000.

"in need of substance abuse treatment and rehabilitation" to enter a structured six-month program. Successful completion usually results in parole release.

Unlike the "boot camp" programs in many states that allow judges to sentence people as an alternative to prison, New York's Shock program was designed to avoid "widening the net" (subjecting people to a short period of confinement who would have probably been sentenced to probation if the program did not exist). Selection of candidates for Shock was made by correctional officials from those already confined in prison.

An evaluation of Shock conducted by DOCS research staff determined that Shock graduates earn a GED at a rate of 80 percent, much higher than the 41 percent rate for people incarcerated in minimum security prisons. As originally enacted, Shock was restricted to people aged 23 and younger. Those charged with the most serious violent crimes were excluded, as were people who had previously served time in prison. By 1989 the age limit had been raised to 34, and in 1999 the age was raised to 39.

A second tool that has shortened sentences for many people in DOCS custody is the "Earned Eligibility Program." People serving indeterminate sentences with a minimum term of six years or less can apply for a certificate that enhances their chances of release at their first parole hearing. Candidates are evaluated by DOCS staff, who consider such factors as disciplinary record, participation in treatment programs and completion of work assignments. Issuance of an earned eligibility certificate makes parole release presumptive, unless the parole board finds a reason to decide otherwise.

Most people who can be considered for a certificate by DOCS staff receive one. Since 1999 the denial rate has fluctuated between 13 and 29 percent. The rate at which the parole board grants release to those who receive a certificate has also fluctuated during the period, from roughly half to two-thirds during the period. But

less than a quarter of those denied a certificate have won release from the parole board, and the proportion has fallen over time, with less than 10 percent of those who were denied a certificate between October 2008 and March 2009 winning release by the parole board.

A third measure that has helped to reduce the prison population is the "Merit Time Program." Signed into law by Gov. Pataki in August 1997, "Merit Time" allows people serving prison sentences for a nonviolent, non-sex crime to earn a one-sixth reduction off their minimum term, qualifying them for parole consideration sooner, through achievement of a "milestone" goal. People can qualify by obtaining a GED or a vocational training certificate, completing an alcohol or drug abuse program, or performing 400 hours of service on a community work crew.

Between October 1997 and December 2006, 37,914 people had earned a "merit" hearing at the parole board. Sixty-three percent were released.[13] The great majority (78 percent) of them were serving time for a drug violation. Research on return-to-prison rates for those earning merit release indicates a lower rate of recidivism, 31 percent after three years, compared to the 39 percent rate of return for other people after release from prison.[14]

The Rockefeller Drug Laws Begin to Crumble

Amid intense pressure from reform advocates, a partial revision of the harsh 1973 drug laws was won in 2003. Facing a budget deficit, Gov. Pataki inserted a number of modest provisions in the state's 634-page budget bill that reduced prison sentences. People serving a class A1 mandatory sentence under the Rockefeller Drug Laws became eligible to receive a "merit time" reduction of their minimum sentence, provided that they complied with the requirement of good behavior, and participated

[13] The parole board approved merit release for 69 percent who had earned a merit hearing, but because the hearing usually precedes the actual release, not all are released before their normal parole eligibility date.

[14] New York State Department of Correctional Services. (2007) "Merit Time Program Summary: October 1997 – December 2006." Online at http://www.docs.state.ny.us/Research/annotate.asp#merit

in work or treatment programs.[15] The reform also moved up parole eligibility for some 75 people who were serving a 15-to-life sentence for an "A1" Rockefeller Drug Law conviction, and who had already served 10 years behind bars. Between September 2003 and October 2006, 98 people gained release from prison through the merit time provisions. On average, they left DOCS custody 42 months before their parole eligibility date.

A second measure enacted in the 2003 budget bill expanded the DOCS "earned eligibility" program. Prior to 2003, eligibility to earn a parole presumption had been restricted to people serving a minimum sentence of six years or less. Eligibility was expanded in 2003 to include those serving terms of up to eight years.

The 2003 budget bill also included a measure that allows eligible people who have no prior violent felony record, and who are serving time for conviction of a nonviolent crime, to apply for "presumptive release" after serving five-sixths of their minimum term. The DOCS Commissioner was given power to grant their release to parole supervision, provided that they have maintained a clean disciplinary record, without having to go before the parole board.

At the end of the 2004 legislative session, after prolonged wrangling between the Governor and legislators, they came to agreement on more substantial changes to the Rockefeller Drug Laws that provided significant relief from some of the harshest features. That year's reform bill ended indeterminate sentences for drug crimes, and doubled the drug amount thresholds that trigger the harshest mandatory prison sentences.

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[15] Between 2003 and 2005, eligibility for "merit time" grants was extended and/or enhanced in a variety of ways. In 2003, people convicted of class A1 drug crimes became eligible to earn a "normal merit time" grant off their minimum sentence. In 2004, the conversion of drug sentences from indeterminate to determinate included provision of one-seventh "good time," and those normally eligible for "merit time" could earn another one-seventh off in addition to "good time." And those still serving an indeterminate sentence were allowed additional "supplemental merit time" of one-sixth off their minimum sentence. Finally, in 2005, those convicted of an A2 drug crime began eligible for "normal merit time."

For class "A1" drug crimes, the weight threshold was raised from four to eight ounces, and from two to four ounces for class "A2." The harsh "A1" indeterminate sentence of 15-to-life was replaced by a determinate sentence to be imposed by the judge within a range of eight to 20 years. More than 400 people then serving 15-to-life were granted the right to petition their judge for resentencing under the terms of the new law. Within two years a total of nearly 200 people were resentenced and released under this provision. On average, they were released from prison 47 months before their earliest possible release date under the old law.

Legislators also shortened prison terms for drug offenders, who now serve determinate sentences and are granted one-seventh "good time" off their term. Those eligible for "merit time" can get another one-seventh reduction on top of their "good time." For those still serving an indeterminate drug sentence, legislators created "supplemental merit time," allowing them to get a one-sixth reduction in their minimum term by completing two of five "milestones" (the four specified for regular merit time plus a fifth: completing three months of work release). By 2006 1,847 people had been released through "supplemental" merit time.

In 2005, legislators modified the Rockefeller Drug Laws again, adding another "merit time" allowance for people convicted under class "A2," and granted them the right to petition judges for resentencing. They also increased judges' discretion in handling resentencing by broadening the range for determinate sentences.

DOCS Estimates of Cost Savings

According to DOCS researchers, Shock produces substantial savings in correctional costs. The 35,102 people who had completed the program between 1987 and 2006 shaved an average of 11.3 months off the minimum prison sentence set by the court.

The cumulative total savings (including cost-avoidance by averting prison construction) was estimated to be $1.18 billion.[16]

DOCS researchers estimate that on average those released through "merit time" earn more than six months off their minimum sentence, saving an average of $15,464 each, for a total savings between 1997 and 2006 of $372 million:[17]

Type of Merit Time	Number	Time Saved	Per Person	Total Saved
Normal Merit Time	22,108	5.6 months	$13,533	$299 million
Class A-1 Drugs	98	41.5 months	$100,292	$10 million
Supplemental Merit	1,847	14.1 months	$34,075	$63 million
Total	24,053	6.4 months	$15,464	$372 million

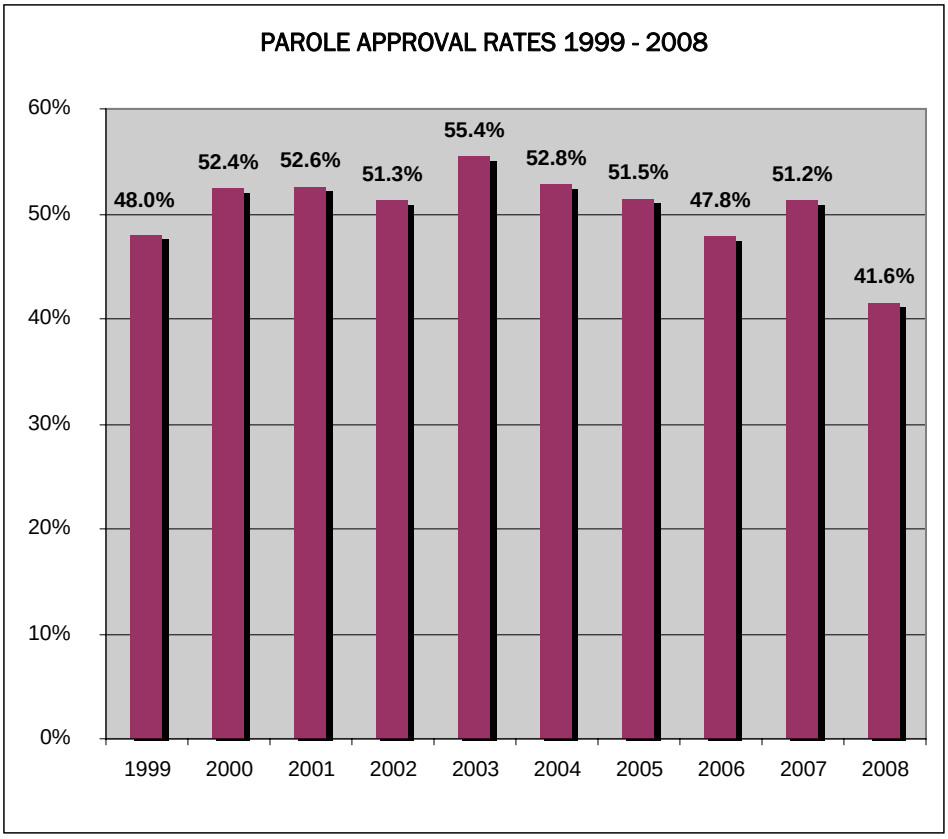
While a good deal of "right-sizing" was undertaken by the Pataki administration to decrease prison system capacity and control correctional costs, the cost savings estimated by DOCS do not translate directly into reduced expenditures on the prison system overall. The cost reduction initiative announced by Commissioner Goord in 2000 did bear fruit, with an expenditure reduction of $279 million in 2001, followed by a $55 million reduction in 2002. But in 2003 DOCS spending started to climb again, soaring from nearly $2.7 billion that year, to $3.4 billion in 2008.[18] The prison population fell steadily, and the executive branch proposed closure of a few entire prisons, but the politics of prison closure proved thorny, and other elements of the prison budget swamped the cost savings achieved though DOCS population control measures.

[16] New York State Department of Correctional Services. (2007) "The Nineteenth Annual Shock Legislative Report." Online at http://www.docs.state.ny.us/Research/annotate.asp#shock

[17] DOCS. "Merit Time Program Summary"

[18] National Association of State Budget Officers. "State Expenditure Reports" for fiscal years 2001 through 2008, online at http://www.nasbo.org/Publications/StateExpenditureReport/tabid/79/Default.aspx

The parole reforms that have shown such good results in Kansas, Michigan and New Jersey have not been pursued with success in New York. Many people (both those serving time for violent crimes, as well as for drug violations) lost parole eligibility over the decade due to the sentencing law shifts from indeterminate to determinate sentencing. The number of people considered for parole fell by 29 percent between 1999 and 2008, but approval rates for those who were considered *also* decreased through the period:

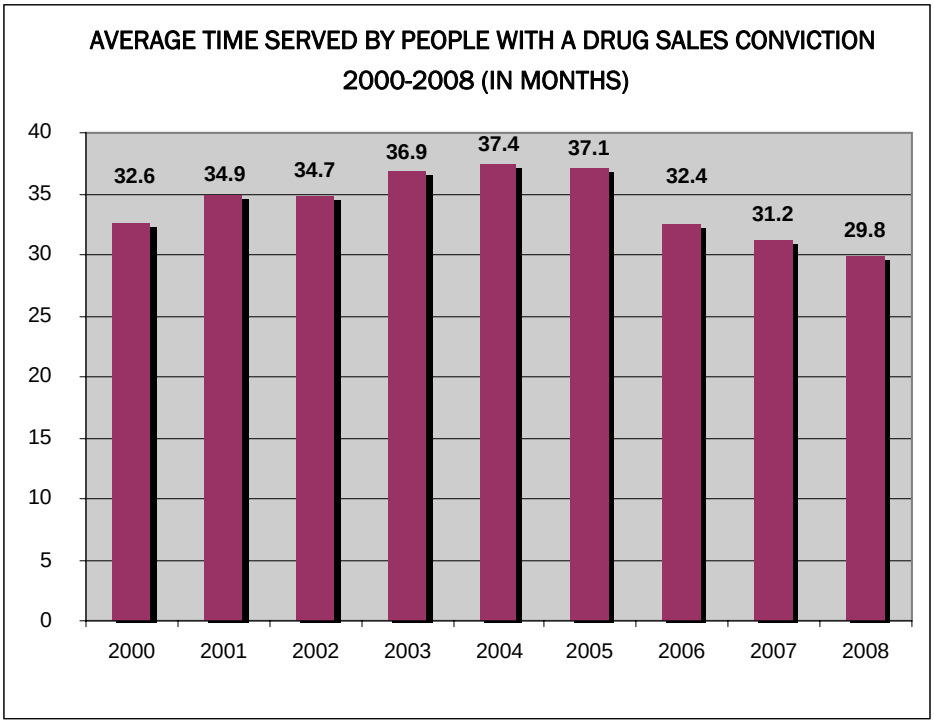


Source: New York DOCS

The share of prison admissions for people returned to prison for revocation of parole increased during the same period, from 31 percent of all admissions in 1999, to 36 percent in 2008.[19]

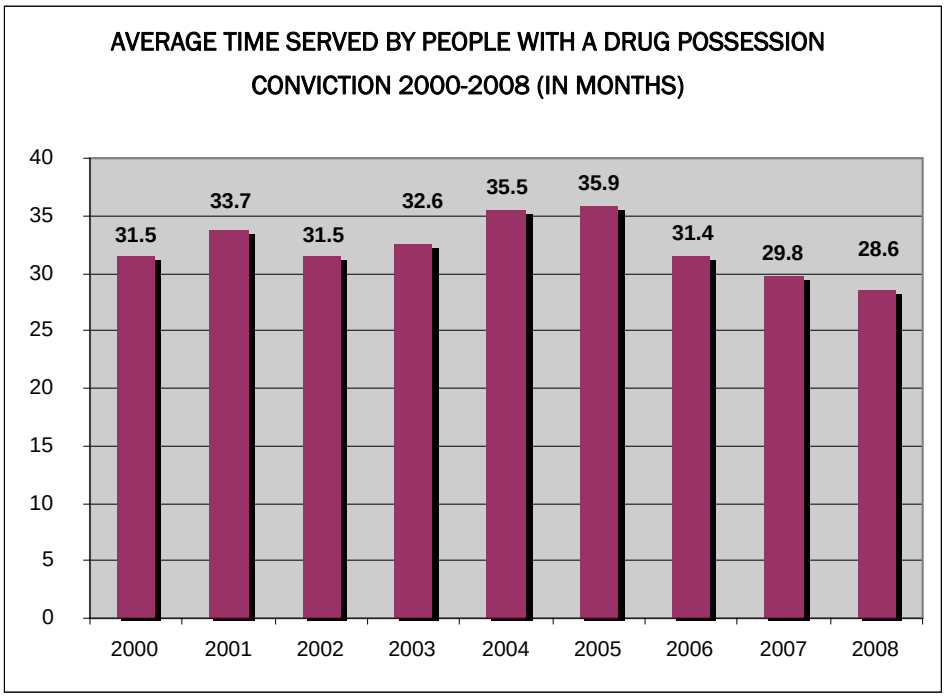
The Impact of the Reform Decade

The partial reforms won during the 2003-2005 period remain important milestones, however, as they brought a measure of welcome relief to people confined for drug crimes, and to their families, and they contributed significantly to the overall prison population reduction. The following charts illustrate their impact, in terms of time served behind bars for those sent to prison with convictions for both drug *sales* and *possession*:



Source: New York DOCS

[19] New York State, Department of Correctional Services, Statistical Reports on Inmate Populations, Court Commitments 2006, 2007, 2008,at http://www.docs.state.ny.us/Research/annotate.asp#pop



Source: New York DOCS

Gabriel Sayegh of DPA stresses that the mid-decade partial reforms of the Rockefeller Drug Laws marked how political debate about drug policy had shifted significantly during the period, sparked in part by a political upset in a closely-watched race for District Attorney in the state capital:

> *The election of David Soares as DA in Albany in 2004 was a watershed event in the fight for Rockefeller reform. David ran on a platform that offered drug policy reform as the strongest plank. He rose up directly from the courtroom to challenge the policies of his boss – garnering support of voters from the urban core and the affluent suburbs alike, who responded to his bold declaration that the Rockefeller Drug Laws represented the wrong approach. He promised something different, and his campaign helped to galvanize support for change far and wide – resounding well beyond the boundaries of the state capital.*
>
> *David Soares' victory sparked a new growth of political muscle that gained unstoppable power when David Paterson assumed the state's Governorship, and Democrats – long in command of the New York State*

Assembly – won leadership in the State Senate in 2008. But it would be a mistake to think that drug policy is a purely partisan issue in New York. We should not forget that the early, partial Rockefeller reforms were enacted during the Pataki administration, with support of a State Senate where leadership on criminal justice issues was held by upstate Republicans whose districts were peppered with prisons built during the Cuomo administration.

The Ongoing Focus on Reform

The mid-decade reforms provided significant relief from some of the harshest provisions of the Rockefeller Drug Laws, but reform advocates insisted that they did not go far enough. People sentenced for drug crimes in New York charged with a class B felony (37 percent in 2008), along with those sentenced for a second non-violent felony conviction (67 percent in 2008), remained subject to rigid mandatory prison sentences. Judges still lacked discretion to decide whether treatment would be a more constructive choice than imprisonment, or whether a defendant might be a good candidate for an alternative to incarceration program that would involve them in education or job training.

In the fall of 2008, the New York State Assembly convened unprecedented joint hearings on the need for further reform of the Rockefeller Drug Laws. The combined leadership of six legislative committees (Assembly Standing Committee On Codes; Assembly Standing Committee On Judiciary; Assembly Standing Committee On Correction; Assembly Standing Committee On Health; Assembly Standing Committee On Alcoholism And Drug Abuse; and Assembly Standing Committee On Social Services) held day-long sessions in New York City and Rochester, taking testimony from national experts and advocates about the need to establish, in law and policy, a "health-based approach" to the drug issues affecting New Yorkers.

Early in 2009, a renewed state-wide campaign was launched by advocates seeking a major shift in sentencing policy. Gabriel Sayegh served as a key strategist among

many who steered the effort to victory. He says that the political climate had changed to a point where key stakeholders could finally take action:

> *There was a growing awareness that health issues needed to take center stage over the "business-as-usual" approaches taken by traditionalists within the criminal justice system. For the first time, a statewide coalition of service providers, policy advocates, treatment and medical professionals was poised to convince lawmakers that restoration of judicial discretion in drug sentencing and much broader access to a wide range of treatment options are good public policy.*

In January more than 300 people gathered in New York City to participate in a conference convened jointly by the Drug Policy Alliance and the New York Academy of Medicine. Sayegh says that the broad spectrum of people who were assembled to talk about drug policy issues at that meeting was unprecedented:

> *We had leaders of the medical society along with veterans from law enforcement; we had treatment professionals and representatives of VOCAL, the union of active and former drug users; we had reform advocates and elected public officials; we had academicians from the Columbia School of Public Health and farmers from upstate where farms were bordered by barbed-wire fences and prison gates. The consensus that emerged called for more than just a change in policy – it called for a change in thinking.*

Speaker Sheldon Silver of the New York State Assembly responded with a pledge that 2009 would be the year that "real reform" of the Rockefeller Drug Laws would be won. Advocates cheered on April 7, 2009, when New York's Governor David Paterson signed the promised reforms into law. Crucial elements of the 2009 drug law reforms include:

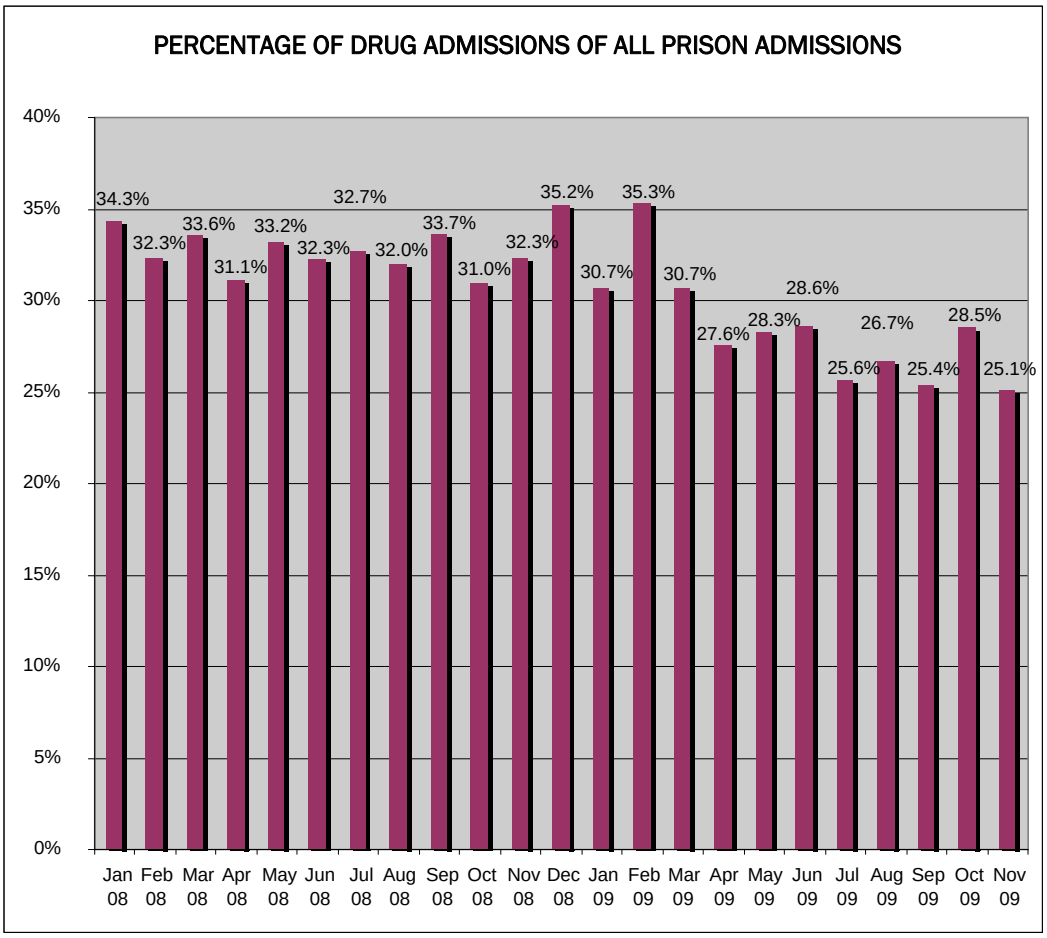
- Judicial discretion to place people convicted of drug offenses into treatment and to offer second chances when appropriate.

- Diversion for people who commit crimes other than drug offenses because of issues stemming from substance dependence.
- Diversion eligibility for people convicted of second felony offenses.
- Opportunities to try community-based treatment without the threat of a longer sentence for failure.
- Plea deferral options, especially for non-citizen green-card holders who would become deportable if they take a plea to any drug felony conviction, even if it is later withdrawn.
- Opportunities for re-sentencing for more than 900 people who received indeterminate sentences for drug convictions under the longer pre-2005 sentencing ranges and who are still serving those sentences in state prison.
- Sealing provisions that will protect people who finish their sentences from employment discrimination based on the past offense.
- The option to dismiss a case in the interests of justice when the accused has successfully completed a treatment program.

In addition to Rockefeller Drug Law reform, other reforms enacted in 2009 make it easier for certain people to gain release from prison. Eligibility for release through Shock will be extended to more people serving terms for non-violent crimes. Medical parole is now available for people suffering from a serious and permanent medical disability who do not pose a threat to public safety and who have served at least half of their prison term. And "merit time" credits have been increased for people who take college courses, enroll in state-approved apprenticeships, or work as a prison hospice aide.

Prison admissions for drug crimes declined noticeably as soon as the Rockefeller reform was enacted. Monthly admissions for drug violations between January 2008 through March 2009 averaged 431. In November 2009 the number admitted was just 270.[20]

[20] Data obtained from DOCS, on file with the authors.



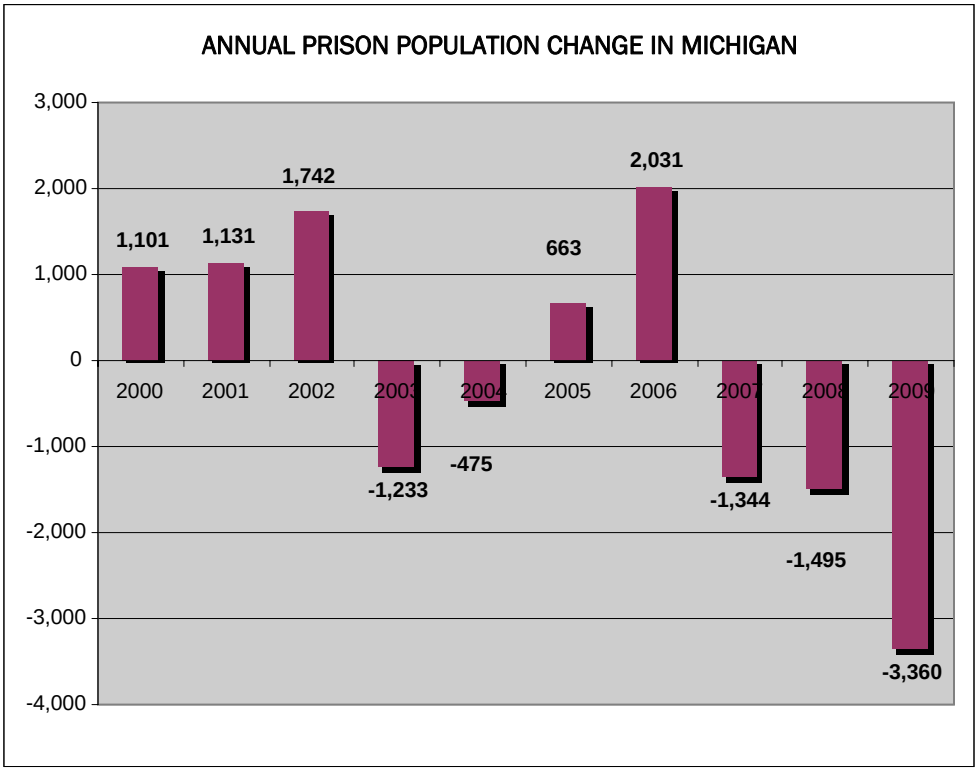
With thousands of empty prison beds, New York's correctional managers have continued to downsize prison capacity to save money. In the last three years some 2,700 dormitory beds have been deactivated. And the sweeping changes in the Rockefeller Drug Laws enacted in April 2009 are expected to further decrease the load on the prison budget. Last year saw the closure of three small minimum security prisons and the shuttering of annexes at six prisons that remain in operation, estimated to save New York taxpayers some $26.3 million in the 2010-2011 state budget.

MICHIGAN

PRISON POPULATION REDUCTION: 12% DECLINE FROM 51,577 IN 2006 TO 45,478 IN 2009

Strategic Initiatives:

- Scaling back mandatory drug sentences
- Increasing parole grants and reducing technical revocations
- Enhancing community corrections programming



Michigan operates the seventh largest prison system in the nation, and is one of four states in the U.S. that spends more on prisons than on higher education.[21]

[21] Sabol, William J., Heather C. West, and Matthew Cooper. (December 2009) "Prisoners in 2008." Washington, DC: Bureau of Justice Statistics; PEW Center on the States. (February 2008) "One in 100: Behind Bars in America 2008." Philadelphia, PA: Pew Charitable Trusts.

Michigan's prison population began to boom in the 1970s, rising from 10,855 in 1975 to a high of 51,577 at the end of 2006. With 488 people in prison per 100,000 residents, Michigan maintains the second highest incarceration rate in the Midwest.

The "get-tough" era was well underway in 1978 when Michigan voters approved a ballot measure in 1978 that eliminated "good time" credits that had been helping to shorten prison terms. Some of the nation's toughest mandatory minimum drug laws were already in place when, in 1992, Governor John Engler revamped the parole board, replacing professional experts with political appointees. Parole approval rates nosedived, driving a steady increase in the prison population until 2002, when historic sentencing reforms began to help reduce the number of people in state custody.

The state's prison capacity buildup began in the 1980s. Through the 1990s, a construction boom financed with approval of nearly $1 billion in prison bonds could not keep up with demand. By 1998 the state had shipped 1,500 prisoners to rented beds in Virginia until construction of new prison beds could allow their return. The prison budget ballooned, and is now taking up about $2 billion – more than one-fifth of all general fund spending, up from just three percent of the 1980 budget.[22]

Over the past eight years, Michigan policy makers have taken a series of steps to reduce reliance on imprisonment. Reforms enacted by legislators in 2002 provided judges with more discretion to sentence people in need of substance abuse to treatment, and allowed people sentenced under the harshest drug laws to be considered for parole. The reforms brought immediate relief to the state's crowded prison system, and continue to reduce the share of state prison beds occupied by people convicted of drug crimes to one of the lowest levels in the nation. More recent efforts by managers at the Michigan Department of Corrections (DOC) are helping to reduce prison admissions, increase parole release, and provide a statewide

[22] Cain, Charlie. "Michigan inmates fall to seven year low." *Detroit News*, May 18, 2009.

reentry initiative designed to increase parole success and avoid returning people to prison.

Abolition of Mandatory Minimums in Michigan

Near the end of his second term in 2002, Governor Engler signed legislation enacting landmark sentencing reforms long advocated by Families Against Mandatory Minimums (FAMM). With the solid support of Michigan's judges and prosecutors and endorsement from the Republican leadership that controlled both houses, legislators repealed almost all of the state's mandatory minimum drug statutes – long cited among the toughest in the nation – replacing them with drug sentencing guidelines that restored discretion back to Michigan's judges. The reforms signaled a bi-partisan consensus that heavy reliance on imprisonment for drug crimes was counterproductive.

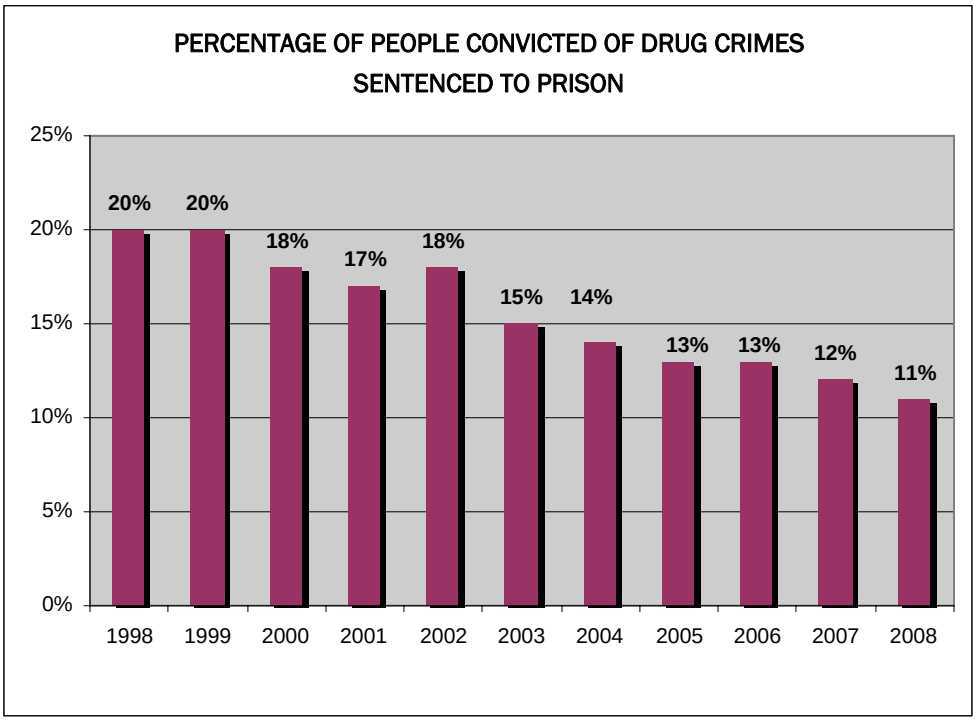
Since establishment of Michigan's Community Corrections Act in 1988, judges had been encouraged to make use of their limited discretion in low level possession cases to divert people to community-based treatment. But before the FAMM reforms took effect, someone convicted of drug sales, or conspiracy to sell drugs, or possession of large quantities of drugs with intent to sell, faced stiff statutorily-mandated penalties: mandatory minimum prison terms, imposed consecutively if multiple charges were involved, or – even in very low-level cases – lifetime probation. These sentences were based solely on the weight of the drugs involved. A person's prior record, role in the crime, or personal circumstances – all factors that are normally assessed by judges as they make sentencing decisions under Michigan's sentencing guidelines system – did not matter, because drug offenses were subject to rigid mandatory minimums and therefore were not covered under the guidelines.

FAMM's reform package eliminated almost all mandatory minimums and folded the sentencing process for drug offenders into the Michigan guidelines system. Drug weight remains important, but is not the *only* factor to be considered in selecting a sentence. Under the guidelines system, people with serious aggravating factors (e.g.,

those with an extensive criminal history, or those who used a weapon) still face a presumptive prison sentence, but judges have discretion to sentence those who possess or sell less than 50 grams of narcotics to an intermediate sanction instead of prison. The 2002 reform included "retroactive repeal" of mandatory sentences already imposed, allowing some 1,200 persons sentenced under the old mandatory minimum laws to become eligible for parole consideration.

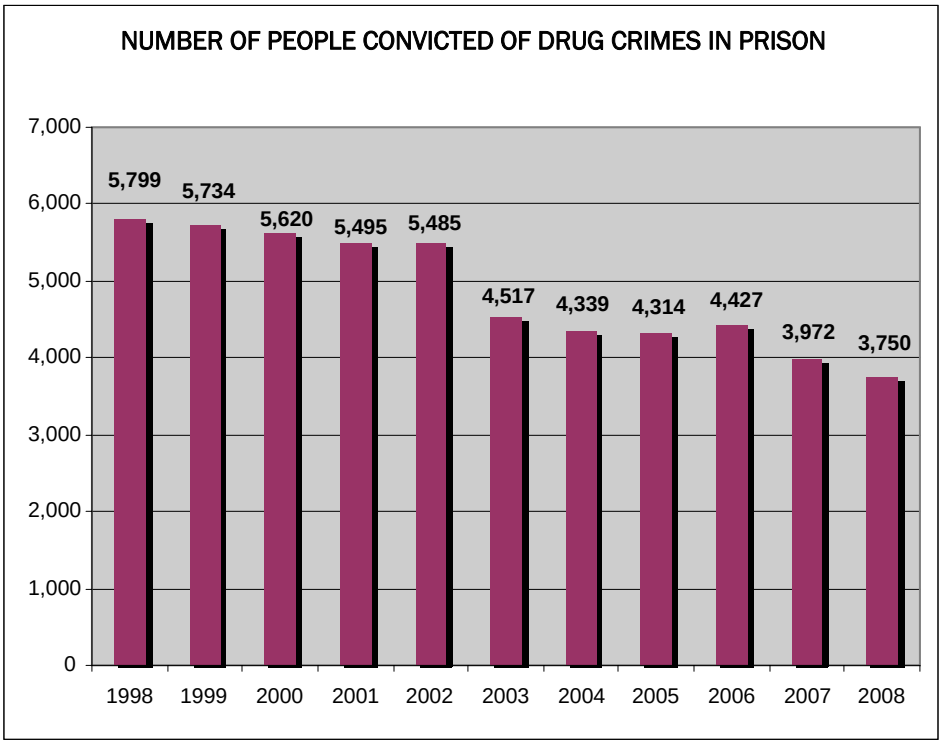
The Impact of the Reforms on Michigan's Prison Population

The charts displayed below illustrate that the reforms worked quickly to reduce the number of people in prison for drug crimes. The first chart shows that since judges gained discretion in sentencing people convicted of drug crimes, they have been sending fewer and fewer such people to prison:



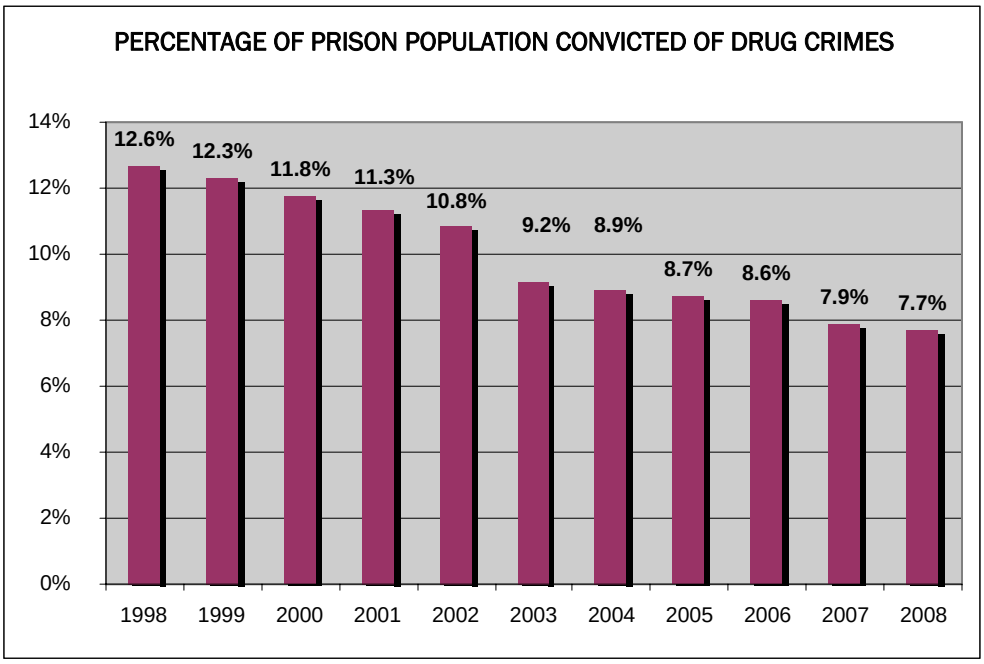
Source: Michigan DOC

The sharpest reduction in the number of people in prison for drug crimes came in the first year – due in large part to the "retroactive repeal" of mandatory drug sentences:



Source: Michigan DOC

Reduced reliance on imprisonment has significantly reduced the proportion of prison beds occupied by people convicted for drug offenses:



Source: Michigan DOC

The Need for Parole Reform

Within three years after the law change the overall prison population was on the rise again. While crime rates for murder and rape declined in 2005, up-ticks in other categories were followed by a modest increase in the prison population that year. The following year, a spike in homicides, including three murders committed by a parolee, shocked the criminal justice system into "crack-down" mode, producing more sentences to prison, a lower rate of parole approvals, and more people revoked for violation of probation and parole rules.

Parole board practices had done much to drive prison population growth in the 1990s. Michigan's get-tough parole policies took hold in 1992, after a series of rape-murders by a parolee led to replacing a longstanding civil-service parole board comprised of corrections professionals with a board of political appointees. Parole grant rates fell from 68 percent in 1990 to 48 percent by 2002.

The Citizens Alliance on Prisons and Public Spending (CAPPS) was established in 2000 to focus on the need for parole reform.[23] Barbara Levine, CAPPS executive director, says that the decline in parole rates reflected a fundamental shift in philosophy:

> *In the past, the board employed a rebuttable presumption that the prisoner would be released after serving the minimum sentence imposed by the judge, unless there was poor institutional conduct or an objective reason for finding a current risk to the public. Sentencing judges relied on this practice, as did prosecutors and defense attorneys when they negotiated guilty pleas. Prisoners were encouraged to believe they could earn their release.*[24]

Levine says that after the composition of the board was changed, the members effectively placed the burden on the person seeking parole release to prove that he or she was not a risk and should not be required to serve the maximum sentence. The board placed the most emphasis on the crime and on prior record, two factors that cannot be changed, and the primary factors on which the original sentence had already been based.

> *After the board's membership was changed to political appointees in 1992, it was given a mandate to get tough, especially on people convicted of assaultive and sex offenses. Parole approval rates dropped dramatically. It didn't matter that people were at low risk for re-offending and had excellent institutional records. They were effectively resentenced for their crimes. As a consequence, as recently as December 2008, there were 9,000 prisoners with indeterminate sentences who had served beyond their first parole eligibility dates.*

[23] See CAPPS website, online at http://www.capps-mi.org/index.html

[24] Barbara Levine, email communication, December 27, 2009.

Improving Data Analysis and Planning

While parole grant rates fell, the rate of persons admitted to prison for parole revocations rose. The primary problem was technical violations – failure to abide by the rules of parole supervision. Between 1994 and 2000 the rate of violations for new crime convictions dropped to levels lower than in the 1980s. During the same period, the number of technical violators burgeoned, from 1,916 in 1995 to 3,111 in 2000.

During 2005, managers at the DOC began new efforts to address these problems. Dennis Schrantz, former Deputy Director for Planning and Community Development, built a consolidated base within the DOC for planning, development, and management of local programs under the state's Community Correction Act. Schrantz secured a $2 million foundation grant in 2006 for a pilot test of the Michigan Prisoner Reentry Initiative (MPRI) in a few localities across the state.

> *In 2003, I was Chief Deputy Director of Field Operations (probation and parole). In 2004, we created a new administration that I headed up called the Policy and Planning Administration. In 2005 we reorganized the agency for the second time, to respond to an evolving environment of planning for execution of evidence based practices.*
>
> *We put all planning and community organization in one spot. We brought in the Office of Community Corrections, then administered under Field Operations, to form a new Planning and Community Development Administration, which also included the policy and legal office, and the research office. This proved to be very, very productive.*
>
> *The MPRI was created under this umbrella. Our reentry paradigm was designed in parallel to the early 1990s Community Corrections Act process for working with local jurisdictions. This involved a state/local planning process resulting in a tailored reentry strategy for each locality, and distribution of funding to the local level that ties dollars to*

> *performance. And we brought the parole board into the center of the planning process.*[25]

DOC involvement in the local MPRI "Steering Teams" helps to provide a level of state-wide consistency, while ensuring that key decisions about design and implementation include local officials and community leaders.

> *These Steering Teams are responsible for developing and reaching consensus in a collaborative manner [on] a local, community-based Comprehensive Prisoner ReEntry Plan that is submitted to the Administrative Agency's Governing Body for approval. The Plan must address 16 service areas such as housing, employment, substance abuse services, mental health, transportation, victim services, and the involvement of local law enforcement and faith-based institutions. For each of these 16 service areas, the Comprehensive Plan describes the local assets that are in place to increase the potential for success for former prisoners, barriers that impede maximum use of these assets, gaps in services, and proposed solutions to address the barriers and gaps. Thus, the plan builds upon existing services and embeds their use within the context of comprehensive service delivery.*[26]

At the state level, MPRI provides better training and more sophisticated assessment instruments for parole board members to raise their confidence in parole plans and expected outcomes, thus enabling higher parole approval rates. During 2007, DOC managers initiated a review by the parole board of people who were serving active sentences for only drug or other nonviolent, non-weapon crimes and who were past their earliest release dates.

Once MPRI was expanded statewide, an expanded strategy was introduced to reduce, as much as possible, the number of people who remain in prison past their earliest release dates (ERD) due either to denial of parole, or because they have been

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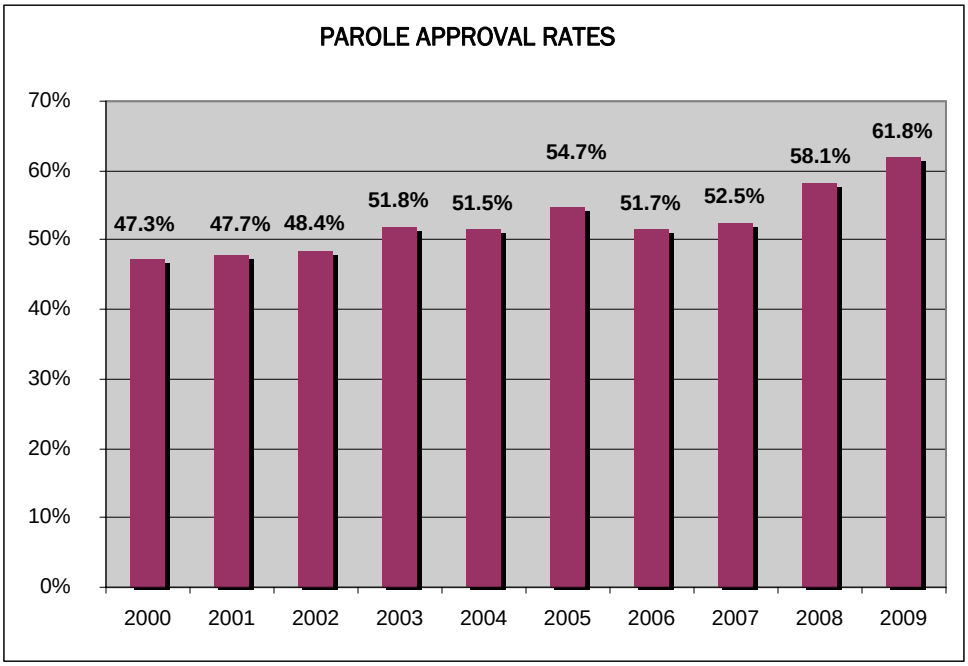
[25] Dennis Schrantz, interview with Judith Greene on December 24, 2009.

[26] DOC Issues Brief, "MPRI Local Governance Structure," September 22, 2008

returned to prison for parole violations. Within two years these efforts have increased approval rates by 15 percent:[27]



Source: Michigan DOC

The parole board now uses more "data-driven" release policies to identify people who pose lower risks to public safety, and parole officers make more use of intermediate sanctions to handle rule violations. Two prisons near Detroit have been designated "reentry prisons," allowing people who are nearing parole dates to be assisted in planning for release by staff of local housing and employment agencies.[28]

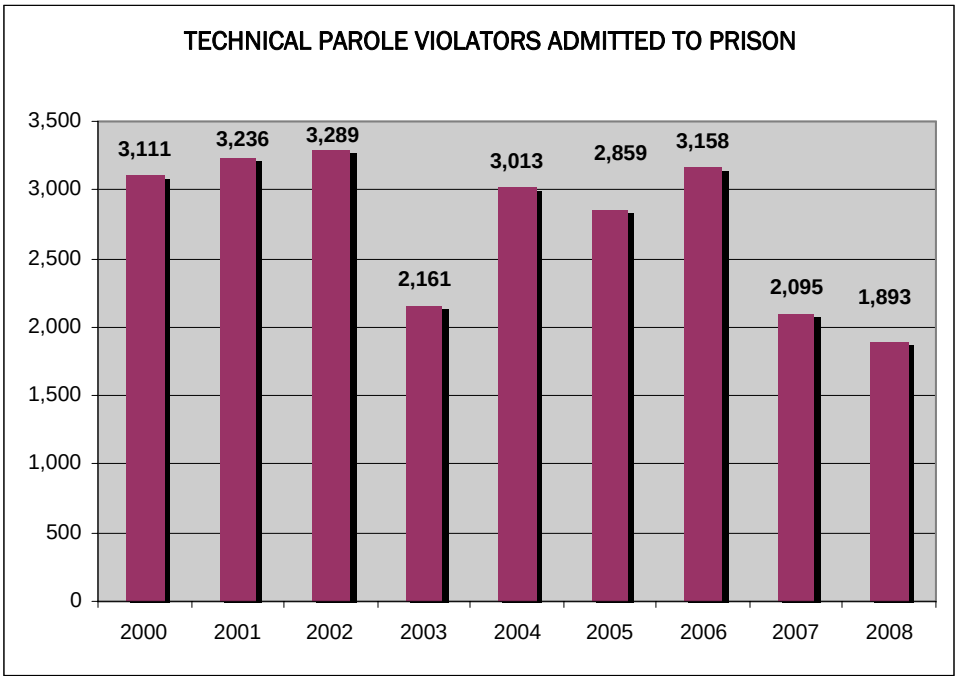
Collaborative case management approaches help to reduce violation rates. Under MPRI, those who break the rules can be punished with use of electronic monitoring, a short stint in a local jail or in one of the state's two "residential re-entry centers"

[27] Michigan Department of Corrections. "Prison Population Projection Report" (January 2009) Lansing, MI.

[28] Editorial. State plan can safely cut prisons." *Detroit Free Press*, March 13, 2009.

instead of being shipped back to prison. By the end of 2007 MPRI had been expanded to the entire state.[29]

The number of people admitted to prison for a technical violation of parole fell by 22 percent after MRPI was taken to scale, representing 47 percent of the net reduction in all prison admissions between 2006 and 2008:



Source: Michigan DOC

Technical parole revocations are down by 42 percent since the record high year of 2002, despite a 40 percent increase in the size of the parole population.[30] There are now more than 21,000 people on parole, yet they commit fewer violations than

[29] Michigan DOC. "Policy Reforms that Reduce Corrections Spending." (October 2009) Powerpoint document obtained from Dennis Schrantz, on file.

[30] Ibid.

when the parole population was below 16,000.[31] The rate of people under parole supervision who are returned to prison is the lowest on record, just 194 per 1,000.[32]

MPRI's budget has received rapid increases in its funding stream – more than $56 million this fiscal year -- from the legislature. Nearly 130 new parole and probation officers have been hired since October 2008.[33] By the end of 2009 corrections officials expected to parole nearly 13,000, compared to just 7,173 people released from prison on parole in 2000.

More Effort at the "Front End" is Spurring a Drop in Prison Admissions

Other "front end" reform efforts have helped to curb population growth and reduce the need for prison beds. Use of graduated sanctions and services that respond to the level of risk and need have improved outcomes for people sentenced to probation. Less than seven percent fail and go to prison. The annual number of probation violators admitted to prison has fallen by 16 percent since 2000.

In 2008, felony court dispositions decreased for the first time, following eight consecutive years of growth.[34] Dennis Schrantz, the principal architect of MPRI, had already taken steps to increase diversion for people who could be effectively handled by the state's network of community corrections programs.

> *Part of the recent effort to reduce the prison population involved our community corrections agencies in targeting diversion of people for whom judges are given discretion in sentencing under Michigan's sentencing guideline system.*[35]

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[31] Eggert, David. "Mich. Official expects under 500 prison layoffs." *Chicago Tribune*, June 9, 2009.

[32] Grasha, Kevin. "State, Lansing officers take proactive role on parolees." *Lansing State Journal*, November 22, 2009.

[33] Ibid.

[34] DOC. "Prison Population Projection Report."

[35] Dennis Schrantz, interview with Judith Greene on December 24, 2009.

The sentencing guidelines system works within an indeterminate sentencing structure. Where a prison term is warranted, the judge imposes a maximum term as set by statute for the crime, and then chooses a minimum term, within a recommended guidelines range, that the offender must serve before becoming parole-eligible.

Statutory offenses are classified into six crime categories and nine crime classes. Individual defendants are scored for placement within a guidelines grid by application of 20 different offense variables and seven prior record variables. The sentencing grid contains three types of dispositional "cells." The most serious require a prison sentence. The least serious prescribe a non-custodial penalty. The third type, called "straddle" cells, allow the judge to choose either a prison sentence or an "intermediate" sanction. Schrantz describes this as follows:

> *We thought that the discretion afforded under the guideline system was not being used as effectively as possible. When our guidelines commission created "straddle cells," they estimated that only about 20 percent of the cases that fell into this category would be sentenced to prison. But when we looked at the actual sentencing practice, we found that a much higher percentage of the people in this category were sent to prison – 43 percent in 2001, although it had previously been much higher. So we decided to restructure the community corrections comprehensive planning expectations to create incentives for targeting straddle-cell cases for diversion to "best-practice" alternative sanctions, and we saw that figure drop to just 33 percent.*

Spurred by more targeted use of community corrections resources for "straddle cell" cases, new court commitments to prison fell by 11 percent between 2006 and 2008. Meanwhile, Michigan's rate of violent crime fell by 11 percent.

At the beginning of 2008, the Council of State Governments (CSG) was invited to convene a workgroup of Michigan policymakers under CSG's national "Justice Reinvestment" initiative. The Justice Reinvestment workgroup includes

representatives from the Governor's Office, the DOC, and members of both the House and Senate. Their review of correctional policies and data trends has helped to build a strong consensus for pragmatic options to reduce the prison population. As the state fiscal crisis deepened, DOC managers were able to implement immediate changes in response.

During fiscal year 2008, the parole board granted about 25,000 paroles, compared to fewer than 19,000 for fiscal year 2000. Yet at the beginning of 2009, thousands of parole-eligible prisoners remained behind bars.[36] Prison costs $90 per day in Michigan, compared to $6 for parole supervision.[37] Facing a $1.8 billion deficit in the 2010 fiscal year, Governor Granholm expanded the parole board from 10 to 15 members to rev up the review process and urged the board to take a closer look at them.[38] Barbara Levine is measured in her assessment of progress made to date:

> *Finally, under pressure from enormous budget deficits and increased public focus on Michigan's high incarceration rate, in 2009, the parole board began large-scale reconsideration of people who had been denied release. It is relying more on risk assessment scores and approval rates are climbing even for assaultive and sex offenders.*
>
> *While a corner has clearly been turned, there is a lot of pushback from prosecutors and others who predict dire consequences from the governor's willingness "to free dangerous criminals in order to save money." Efforts to address these concerns by requiring prisoners to take additional programming have created a bottleneck in treatment service delivery and slowed the actual release on parole."*

In June 2009, DOC managers announced plans to lower the prison population by 3,500 to 4,000 people, allowing closure of three prisons, including a maximum

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[36] Editorial. "State should expand parole board to cut prison stays and costs." *Detroit Free Press,* February 4, 2009.

[37] Bell, Dawson. "Are savings from freeing felons worth the risk to safety?" *Detroit Free Press,* May 24, 2009.

[38] Bouffard, Karen. "State bills offer cost savings for prisons." *Detroit News, April 28, 2009;* Eggert, David. "Analysis: Granholm's prison plan is ambitious." *Crains Detroit,* February 16, 2009.

security facility at Standish, along with five prison camps.[39] Budget savings were projected at $118 million.[40] Schrantz says that the effort to close prisons has not simply involved front and back-end strategies.

> *Over the course of Michigan's downsizing effort we were able to close nine prison facilities by consolidating operations and redesigning use of existing space. A more sophisticated classification system using typologies that assign people according to their particular correctional risks and needs can reduce the need for static high-security single-bunked housing, facilitating many cost-saving efficiencies of scale.*

[39] Christoff, Chris. "Michigan to close 8 prison facilities." *Detroit Free Press,* June 5, 2009.

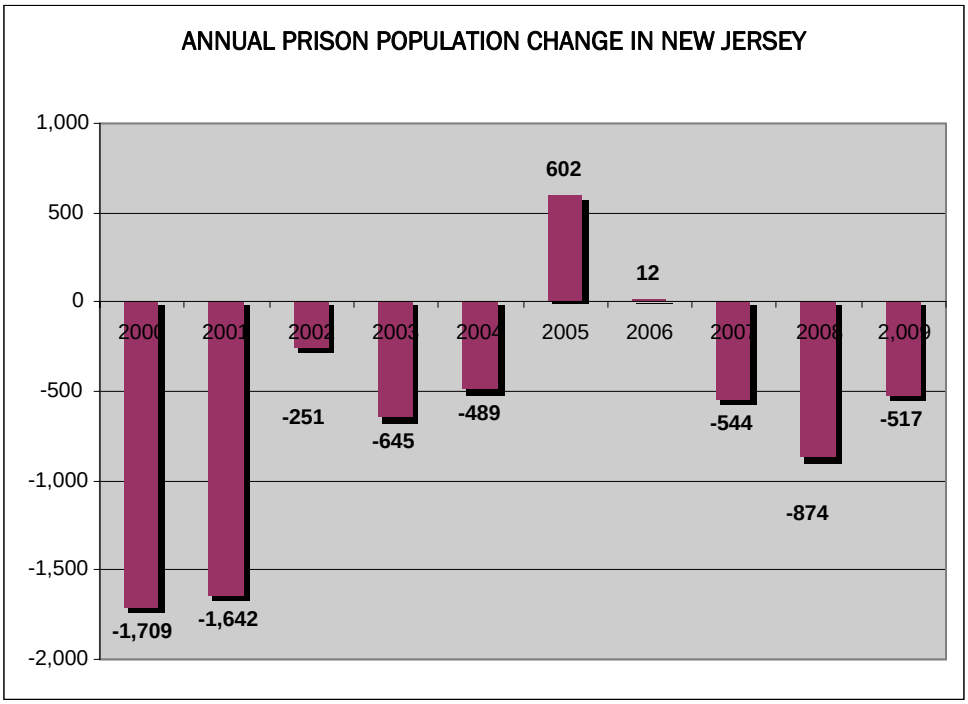
[40] Eggert, David. "Michigan to announce closure of prison facilities." *Chicago Tribune,* June 5, 2009.

NEW JERSEY

PRISON POPULATION REDUCTION: 19% DECLINE FROM 31,493 IN 1999 TO 25,436 IN 2009

Strategic Initiatives:

- Scaling back prosecutorial plea negotiation guidelines for "drug free zone" cases
- Increasing parole grants and reducing technical revocations



In August of 1999, New Jersey's prison population hit an all-time high of 31,962, up from just 5,886 in 1980. In May 2000, three men who were confined at the Riverfront State Prison in Camden filed a class action lawsuit in the United States District Court for the District of New Jersey against the State Parole Board. They complained that the Parole Board was failing to meet deadlines required by state law for preparation of pre-parole reports and for timely hearings. As a result, thousands of people remained incarcerated past their respective parole eligibility dates. Their

complaint spurred an investigation, revealing that at the peak of the problem, hearings were behind schedule for approximately 5,800 eligible people.

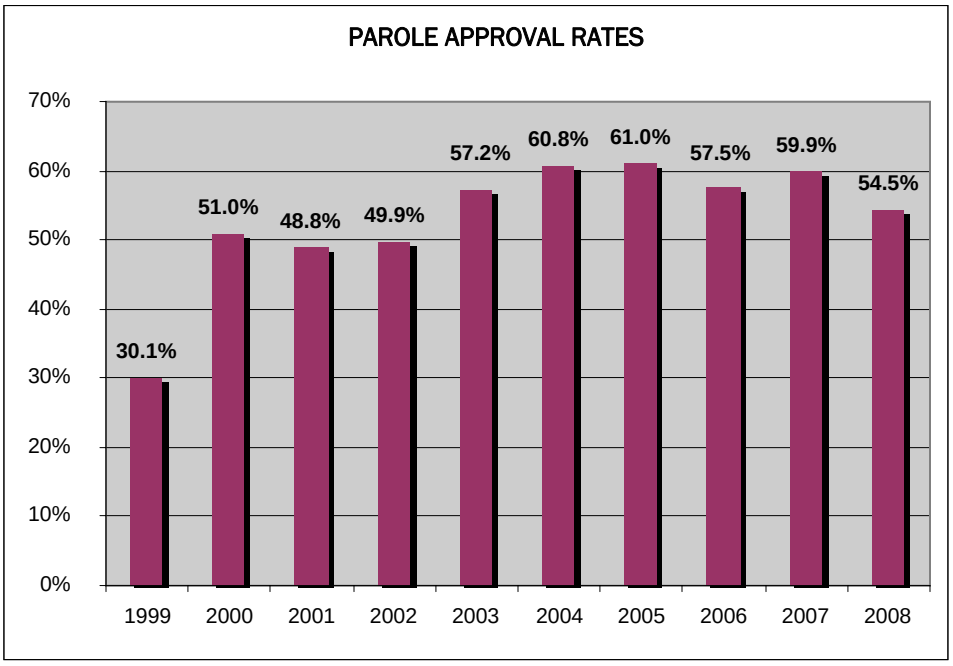
Soon after the case was filed a settlement agreement was approved by the court. Under the terms of the agreement, the parole board stipulated that it would conduct more timely hearings, and that no such backlog would be allowed to build up again.[41] Mario Paparozzi, an Assistant Professor at the College of New Jersey who had previously served as Assistant Commissioner at the Department of Corrections (DOC), was brought in to reform the parole system. Along with changes at the board level, he also established a set of administrative policies designed to bring agency operations into line with evidence and findings drawn from research and evaluation literature about the most effective methods and strategies for supervision of people on parole:

> *When I was appointed as Chair of the Parole Board in December 2000, the prison budget was crushing the state. Many things needed to change, but my first challenge was meeting a two-year deadline that had been set for elimination of the hearings backlog. We streamlined the process, got the staff working around the clock, and introduced video teleconferencing to cut down on the time it took to bring people before the board for a hearing. We managed to get the job done before the deadline.*
>
> *Eliminating the backlog was easy compared to the challenge of changing the mindset within the agency. I managed to move parole out of the DOC as an independent agency with its own budget, and I engaged the leading international experts to help us retool our operations with evidence-based practices.*
>
> *We understood that "zero tolerance" policies toward issues like drug use and non-compliance with parole rules didn't make sense, and we embraced ideas such as day reporting and electronic monitoring to address these issues. We introduced a state-of-the-art risk assessment instrument. I assured the staff that if and when 'something bad' happened (as*

[41] Hawker v. Consovoy, 198 F.R.D. 619, 626 (D.N.J. 2001)

inevitably, from time to time, it will) we would not be slammed in the press, so long as we could assure the public that we'd done everything possible to avoid such difficulties.[42]

Paparozzi's reforms increased the number of people who won parole release from just 3,099 in 1999 to 8,277 in 2000, and 10,897 in 2001. And the new decision-making tools and improved methods of supervision helped to spur the board toward significantly higher rates of parole approval:

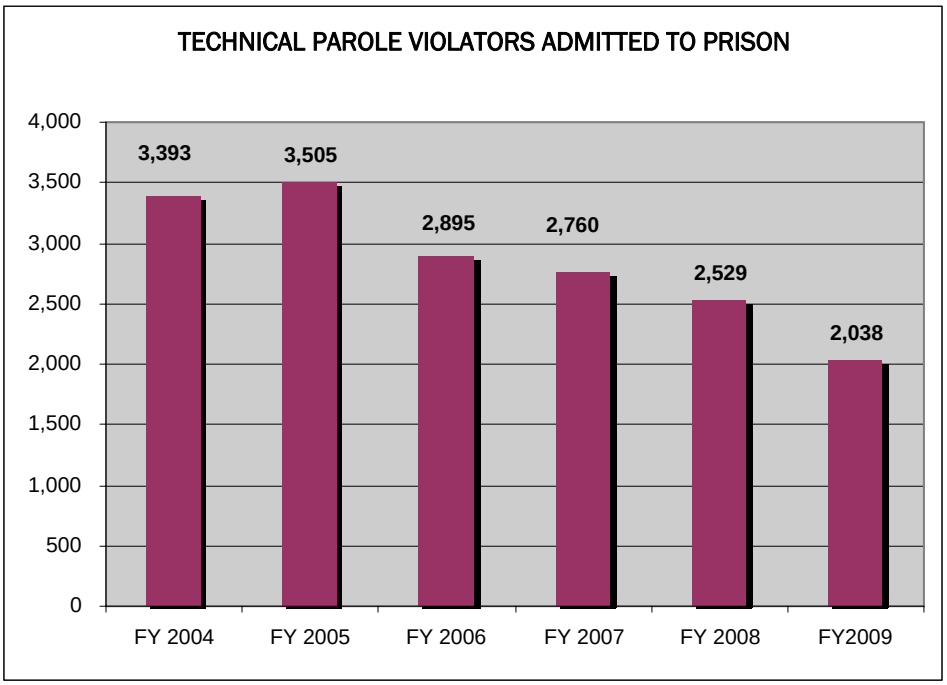


Source: New Jersey Parole Board

Reducing Parole Revocations to Prison

Paparozzi returned to academia in 2003, but the success of his effort to change the organizational "mindset" within the parole agency is reflected in recent statistics that show that even though many more people are gaining parole release, far fewer are being sent back to prison for parole violations:

[42] Mario Paparozzi, personal interview with Judith Greene on November 22, 2009.



Source: New Jersey Parole Board

More than eight in ten people sent back to prison by the parole board are technical violators – those who break the rules imposed on them by the authorities. Until recently, rule violators were confined in local jails, "doing dead time" until they were taken back before the parole board for a violation hearing. Beginning in July 2008, the continuing effort to reduce returns to prison for rule violators was further augmented by establishment of Regional Assessment Centers (RAC), residential facilities designed to confine up to 45 people at a time for 15 to 30 days of lockdown. During this period, they are subjected to a battery of tests that aid the parole board in determining whether they should be allowed to continue under parole supervision. As described in the program materials:

> *Evaluations focus on mental health, social, familial, and economic needs as well as actuarially ascertained risk. The evaluations provide the [parole board] with data about the criminogenic risks and needs of the individual at the time that they demonstrate problem behaviors. This increases the ability of the [board] to make a more informed decision about whether to revoke an individual's parole and send them back to prison or to continue the individual's parole supervision in the community. For those parolees that do not have their parole revoked, the RAC allows for more appropriate and informed triaging.*[43]

By February 2009, 810 people had passed through the RAC system. Just 46 percent were returned to prison, compared to the normal return-rate of 81 percent for rule violators. The current budget for the RAC programs is $3,786,000.[44]

The effort to reduce imprisonment of people on parole for rule-breaking has made a significant contribution to the overall decrease in New Jersey's prison population. Since the beginning of 2000, the number of prison beds occupied by rule-breakers has fallen by 68 percent, accounting for 56 percent of the overall net reduction in the prison population.

Drug Policy Reform has also helped to Reduce the Prison Population

As in the rest of the nation, "get tough" laws enacted in New Jersey during the 1980s to crack down on people who commit drug crimes made a major contribution to prison population growth through the 1990s. After enactment of the Comprehensive Drug Reform Act (CDRA) in 1986, the proportion of people serving time for drug offenses rose steadily, as did the proportion serving mandatory minimum terms. Conversely, the proportion of people in prison who were incarcerated for a violent offense (homicide, sexual assault, assault, robbery, kidnapping, and other sex or person offenses), declined from 64 percent the year that CDRA was enacted to 42 percent by 2003.

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[43] RAC Description – on file

[44] Megerian, Chris. "New state initiative seeks to reduce prison overcrowding." *Newark Star Ledger*, May 10, 2009.

A principal feature of CDRA is the "drug free zone law." Distributing, dispensing, or possessing drugs with intent to sell on school property, within 1,000 feet of a school, or on a school bus is a third-degree offense that – until January 2010 – carried a three-year mandatory minimum. Distributing, dispensing, or possessing drugs with intent to sell within 500 feet of a public park, a public housing project, or a public building will not trigger a mandatory minimum, but this offense is a second-degree crime for which a prison term is the presumptive sentence.

New Jersey ranks number three in the nation for the degree of racial disparity in its incarcerated population.[45] More than a third of the people in prison for a drug crime were convicted of a drug free zone offense.[46] Ninety-six percent of them are people of color.[47] Spurred by members of Families Against Mandatory Minimums who raised concerns about the impact of the drug free zone law on urban communities, state legislators established a sentencing commission in 2004 that made the law the subject of its first investigation.

The commission's report detailed the "urban effect" of the drug free zone laws. In urban areas where schools, parks, and public housing developments are numerous and closely spaced, overlapping zones turn entire communities into prohibited zones. By blanketing densely populated African American and Hispanic neighborhoods while most suburban and rural geographic areas remain relatively zone-free, the laws create unwarranted racial disparity in the use of incarceration for people convicted of drug offenses.[48]

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[45] Mauer, Marc and Ryan King. *Uneven Justice: State Rates of Incarceration by Race and Ethnicity.* Washington, DC: The Sentencing Project. July 2007. Online at http://www.sentencingproject.org/doc/publications/rd_stateratesofincbyraceandethnicity.pdf

[46] Families Against Mandatory Minimums fact sheet, "The High Cost of the Drug Free School Zone Law in New Jersey: Is it Worth the Money?" online at http://www.famm.org/Repository/Files/Bang_for_the_Buck_Fact_Sheet__3-16-09__FINAL%5B1%5D.pdf

[47] GEAR Task Force report, online at www.state.nj.us/governor/pdf/gear_school_zone_report.pdf; New Jersey State Profile, online at http://www.pewcenteronthestates.org/.../New Jersey state profile 07-08.pdf

[48] "Report on New Jersey's Drug Free Zone Crimes & Proposal For Reform." Trenton, NJ: The New Jersey Commission to Review Criminal Sentencing. December 2005. Online at http://sentencing.nj.gov/publications.html

Even before the commission completed its study, the New Jersey Office of the Attorney General revised the guidelines that govern plea negotiations by county prosecutors in drug cases. The revision exempted people charged with the lowest level drug free zone offenses from strict application of the law. The change authorized prosecutors to offer "open pleas," of guilt that left determination of a sentence to the discretion of the judge.[49] That same year, the court system expanded the New Jersey drug court model statewide, encouraging judges to consider "open plea" cases for treatment in the drug court.[50]

The number of people serving prison time for drug crimes has steadily declined since these policy reforms were introduced, dropping from 9,177 (35 percent of the prison population) in 2004 to 7,377 (29 percent of the prison population) in 2009. During the same period the proportion of African Americans in the prison system dropped from 64 percent to 61 percent, suggesting that the reforms may have mitigated some degree of racial disparity.[51]

Advocates at FAMM, the Drug Policy Alliance and the ACLU continued to press for more fundamental change. In 2009, eight former New Jersey Attorneys General expressed support for increasing judicial discretion, and policy makers responded. Near the end of the year, legislators approved Senate Bill 1866, a measure that would allow judges to take account of factors such as whether a school zone offense occurred when school was in session, its proximity to school grounds, and whether children were present, as they decide whether to reduce the required minimum sentence or to impose probation. A sentence could not be reduced if the offense took place on school grounds or if it involved violence or a gun.[52] The Assembly approved a companion bill, AB 2762, in January 2010, just in time for outgoing Gov. John

[49] Brimage Guidelines 2, available online: http://www.state.nj.us/lps/dcj/agguide/directives/brimagerevision.htm

[50] Bill Burrell, personal interview with Judith Greene, November 19, 2009.

[51] NJDOC statistical reports, online: http://www.state.nj.us/corrections/offstats.html

[52] Megerian, Chris. "Repeal of mandatory minimums in drug cases clears N.J. Senate," *Star Ledger,* December 10, 2009.

Corzine to sign it into law. The new law allows retroactive relief to those currently serving a mandatory term time under the law, who will be allowed to appeal the sentence they received under the old law.[53]

New Jersey taxpayers spend $46,000 to incarcerate someone in prison for one year. About one-third of the DOC's $1 billion budget is spent to incarcerate nonviolent drug offenders.[54] Since 1999, a combination of drug policy reforms and parole system improvements have opened the door to significant fiscal savings with no apparent adverse impact on public safety. Between 1999 and 2008, the rate of violent crime dropped by 21 percent, while property crime fell by 23 percent. In June, 2009, DOC managers closed the Riverfront State Prison, a 1,000-bed prison in Camden, with annual operating costs of $42 million.[55]

Devon Brown, who served as New Jersey's Commissioner of Corrections from 2002 to 2005, says that New Jersey's declining prison population reflects a major shift in correctional policy, "from a retributive model to one placing increased emphasis on rehabilitative programming." As Commissioner, Brown was tireless in his advocacy for progressive reforms, working hard to sensitize New Jersey policy makers, elected officials and the public about the need for more effective programs concentrated on educational growth, vocational development, drug and mental health treatment. Brown was especially outspoken about the problem of racial disparity in the prison system, and he was an early, vocal supporter of proposals to reform the "drug free zone laws," which finally became law in early 2010.

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[53] Megerian, Chris. "N.J. Assembly approves ending mandatory prison sentences for school zone drug offenses." *Star Ledger,* January 10, 2009.

[54] Kleykamp, Meredith, Jake Arosenfeld and Roseanne Scotti. *Wasting Money, Wasting Lives: Calculating the Hidden Costs of Incarceration in New Jersey.* Trenton, NJ: Drug Policy Alliance.

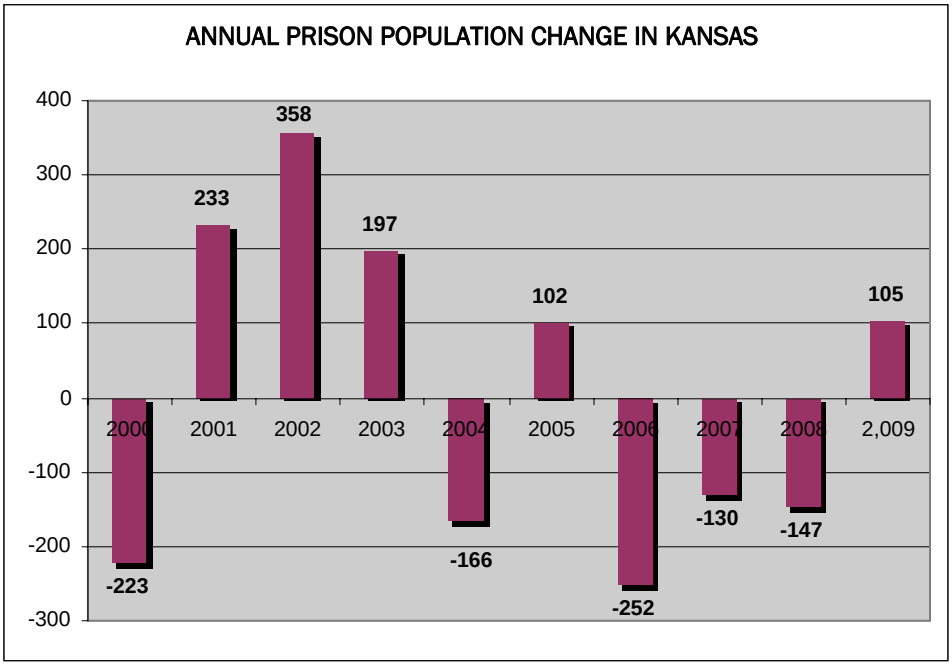
[55] Associated Press Wire Service, January 15, 2009

KANSAS

PRISON POPULATION REDUCTION: 5% DECLINE FROM 9,132 IN 2003 TO 8,644 IN 2009

Strategic Initiatives:

- Scaling back drug sentencing guidelines
- Improving community supervision and reducing technical revocations
- Building safer communities through Justice Reinvestment



In 2002, the prison population growth rate of 4.2 percent in Kansas was almost double the growth rate for the nation as a whole. Kansas had exceeded regional and national averages for the preceding decade, with population growth of 56 percent – from 5,727 in 1993 to 8,935 at the end of 2002. Tougher drug laws were contributing to the pattern. In 1993 the percentage of the prison population convicted of drug crimes was 16 percent; by the end of 2002 it was 23 percent.

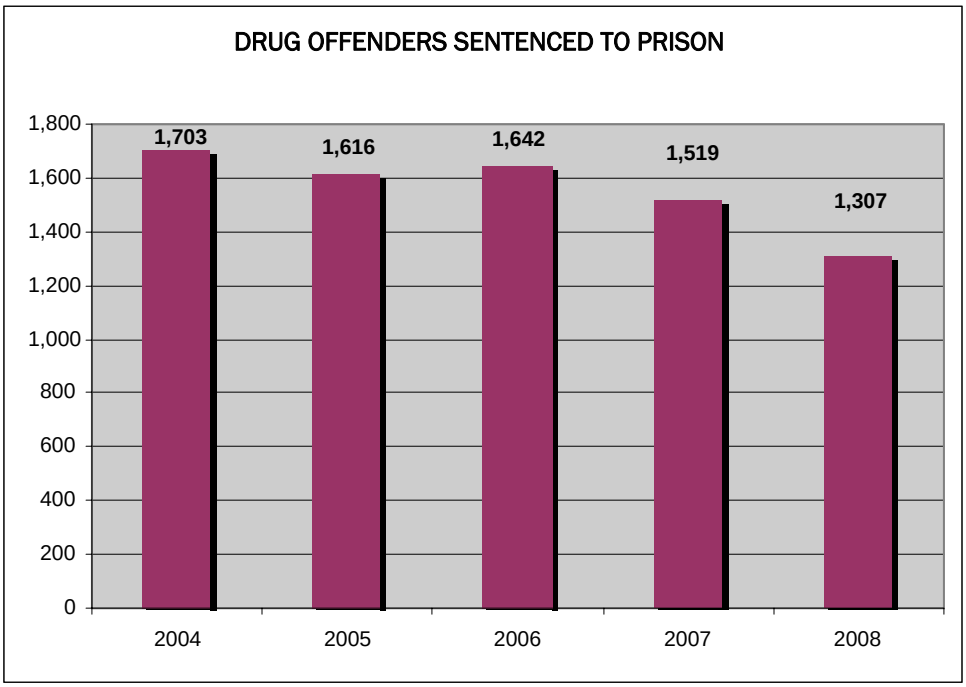
Facing a budget crisis at the beginning of her first term, newly-elected Gov. Kathleen Sebelius asked the Kansas Department of Corrections (DOC) to absorb a $6.8 million budget cut in 2003. Prison programs were slashed by $2.7 million; community corrections by $1 million; and community-based drug treatment program capacity was reduced by 75 percent.

The Kansas Sentencing Commission sponsored a public opinion survey on the heels of these drastic cuts to gauge public attitudes about drug policy options. They found that the vast majority of Kansans (more than 85 percent) believed that drug users could and should be given a chance for rehabilitation. Seventy-two percent of state residents favored treatment over prison for people convicted of drug possession.

Confident that the public would support change, commissioners proposed changes in the state's sentencing guidelines designed to divert people convicted of drug possession from prison to a sentence involving mandatory treatment, and they eliminated harsh sentencing enhancements for those with prior drug possession convictions.

Managers at the DOC supported the commission's drug diversion proposal, warning that without the reform, the state would need to build an additional 508 prison beds at a cost of $14 million for construction. Operating the expansion would add $7 million to annual prison operating costs. Legislators agreed to adopt Senate Bill 123, which included both the diversion proposal and authorization of more than $5.7 million to expand community supervision and treatment program capacity.

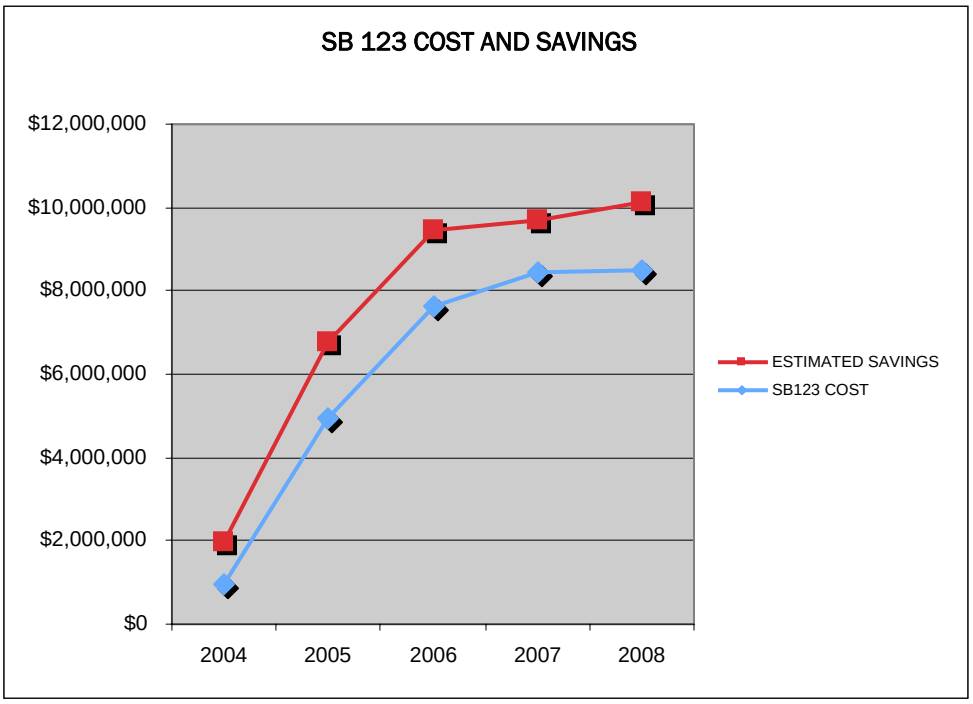
SB 123 took effect in November 2003. In 2004 the prison population dropped for the first time since the beginning of the decade. Since then, prison sentences for people convicted of drug crimes have declined by 23 percent:



Source: Kansas Sentencing Commission

Revocations to prison of people sentenced under SB 123 have also been reduced, producing a steady increase in prison bed savings associated with the reform (estimated at 405 in 2008).[56] In addition to averting construction of new prison beds, the reform has produced annual budget savings well above the costs for supervision and treatment:

[56] Kansas Sentencing Commission 2009 Report to the Legislature, online at http://www.accesskansas.org/ksc/documents/2009 Report to the Legislature.pdf



Source: Kansas Sentencing Commission

By the end of fiscal year 2008 the cumulative net budget savings from SB 123 were estimated at nearly $7.5 million.[57]

Justice Reinvestment in Kansas

While prison sentences for people convicted of low level drug crimes continued to decline, the prison population ticked up again in 2005. Prison population projections indicated that absent policy reforms, the state would need almost 1,300 new prison beds within the next decade. Correctional managers responded in 2006 by embarking on an ambitious experiment with "justice reinvestment." Seeking technical assistance from the Council of State Governments (CSG), they identified factors driving prison growth and set strategies in motion to address them.

[57] Ibid.

The idea of justice reinvestment springs from a realization that mass incarceration impacts many urban neighborhoods in ways that serve to perpetuate cycles of crime and incarceration. Millions of dollars are spent each year to imprison large numbers of people from impoverished urban neighborhoods. Yet the investment in prisons provides relatively little in terms of public safety, when compared with the positive benefits that might be gained by providing substance abuse treatment, housing, education, and jobs in local communities. Justice reinvestment involves reducing spending on prisons and investing a portion of the savings into infrastructure and civic institutions located in high-risk neighborhoods.

Reducing Revocations to Prison

Analysis of Kansas prison data showed that two-thirds of people admitted to Kansas prisons were being sent for failure under community supervision – probation and parole – and that 90 percent of revocations involved technical rule violations, of which about one-third were related to use of alcohol and drugs.[58]

In 2007 legislators created the Community Corrections Statewide Risk Reduction Initiative (RRI). Funding for FY 2008, under Senate Bill 14 (SB14), included $4 million in new grants to local community corrections agencies. The funds were available to any agency that pledged to reduce revocation rates by at least 20 percent.[59]

Kansas has 31 county-operated Intensive Supervision Probation (ISP) programs, serving all 105 counties in the state. These agencies are required to aid people who are identified as "medium and high risk" of failure under probation supervision. The

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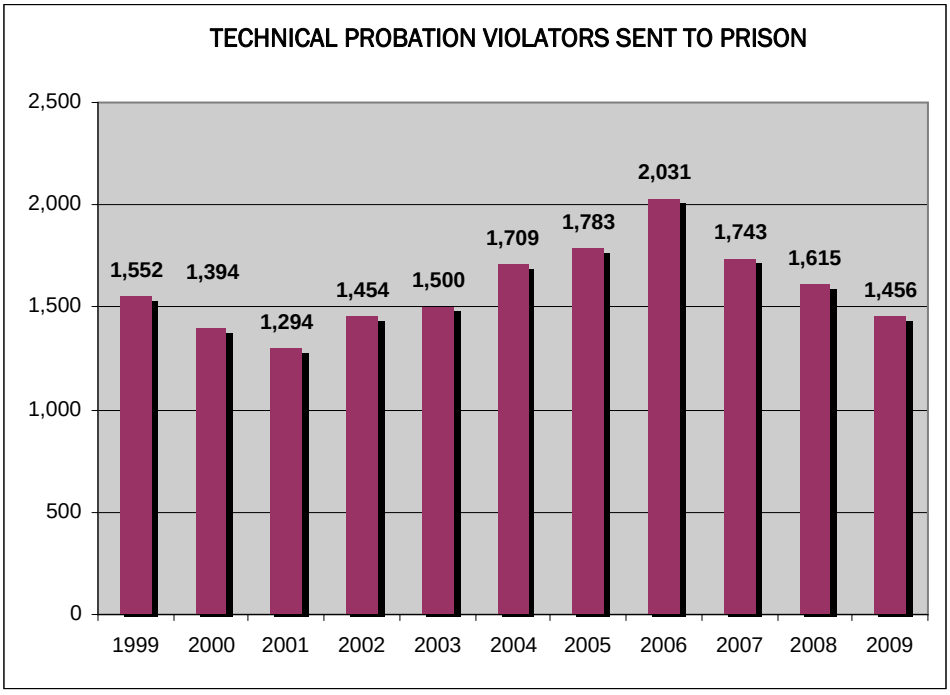
[58] Council of State Governments. "Kansas: Implementing the Strategy." Online at http://www.justicereinvestment.org/states/kansas/how-ks/

[59] Kansas Department of Corrections. Kansas Community Corrections Statewide Risk Reduction Initiative. Annual Report, January 12, 2009. Online at http://www.doc.ks.gov/publications/the-senate-bill-14-risk-reduction-initiative/SB_14_Risk_Reduction_Initiative_Report_2009.pdf/

new services available under RRI are designed to refocus ISP supervision beyond the traditional surveillance routine, to target criminogenic factors using evidence-based community supervision methods and practices. New case management tools were introduced and supervision agents were given training in risk assessment and release planning, motivational interviewing, cognitive behavioral interventions and workforce development strategies. ISP agents must seek approval from their supervisors before seeking revocations for technical violations.

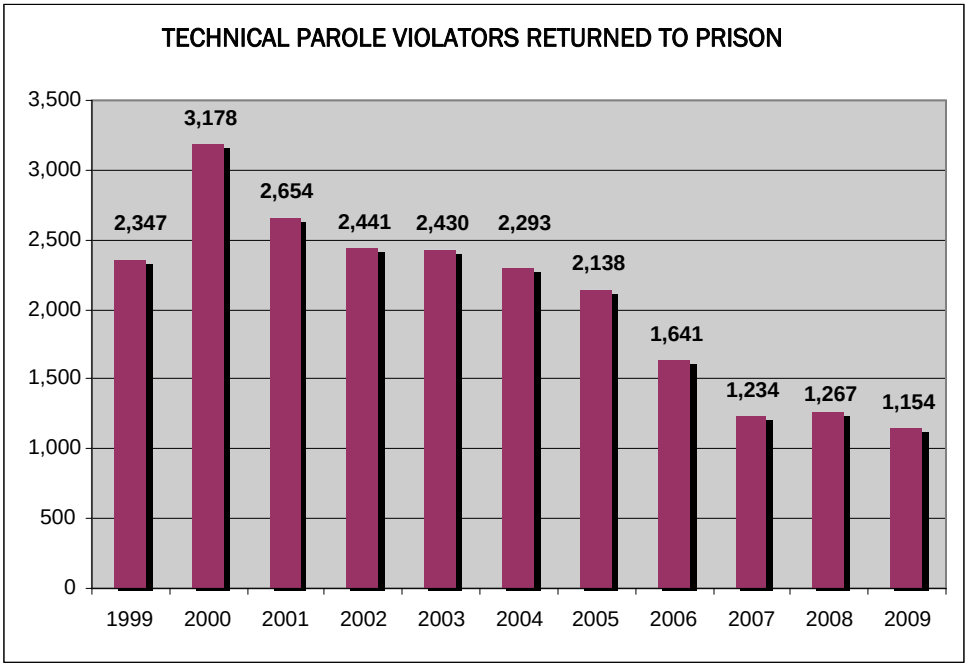
The effort is bearing fruit. While just 46 percent of people whose cases were closed in FY 2006 successfully completed probation, the proportion increased to 61 percent in FY 2008. Revocations for technical violations have fallen steadily since 2006, more than meeting the goal set for reduction statewide:



Source: Kansas DOC

DOC data indicate that two-thirds of the Kansas community corrections agencies exceeded the 20 percent reduction goal, while 20 percent achieved a level of reduction that fell short. Four agencies showed a small increase in revocations.[60]

Correctional managers have been working since the beginning of the decade to reduce the number of people returned to Kansas prisons for a parole violation. This effort has cut revocations by almost two thirds:



Source: Kansas DOC

Reentry Initiatives

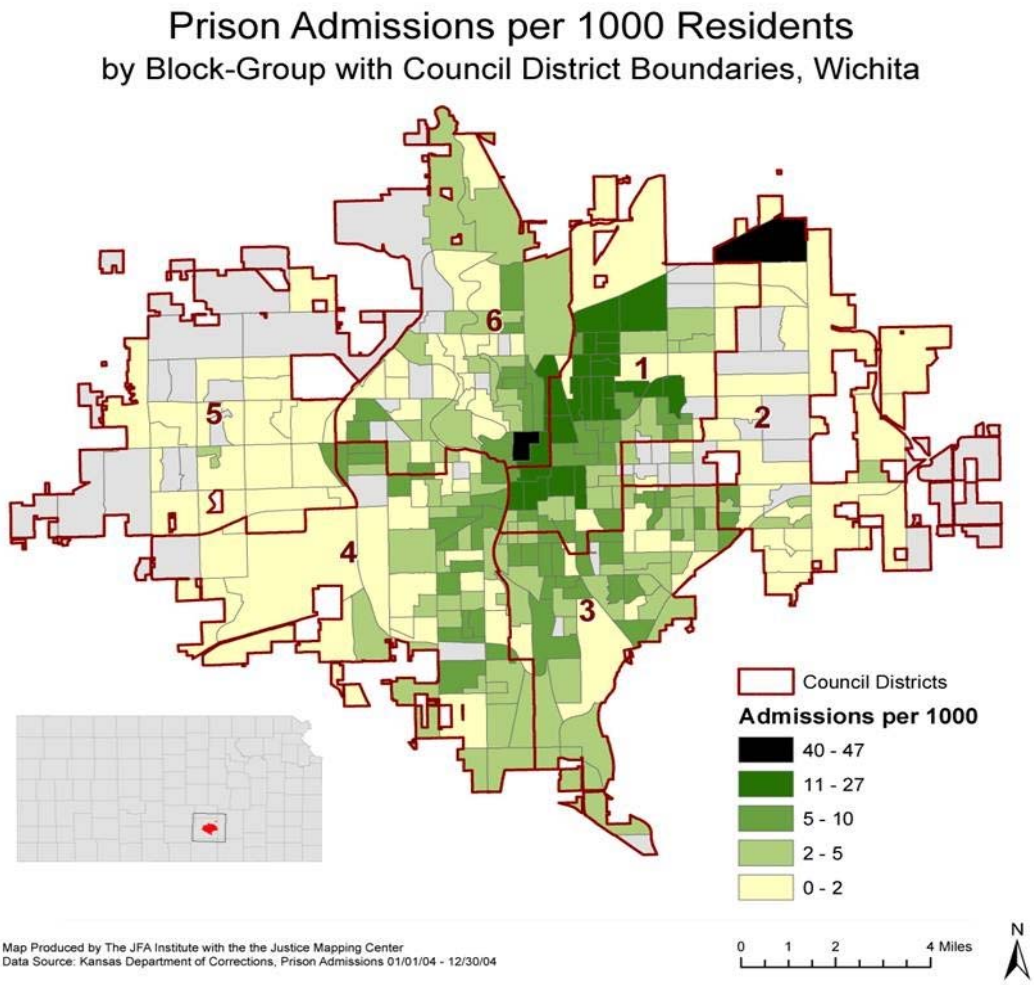
State officials set ambitious goals for reducing revocations for people under community supervision, but they also realized that lasting reductions in recidivism would depend on neighborhood revitalization, and on the provision of substance

[60] Kansas Department of Corrections. Kansas Community Corrections Statewide Risk Reduction Initiative. Annual Report. (January 12, 2009)

abuse, mental health, employment, and housing services in the communities where people return to from prison.

As policy makers turned their attention to conditions in local communities, the Justice Mapping Center created maps that helped to illustrate the problems in "high stakes" neighborhoods. Wichita's Council District 1, with the highest incarceration rate in Kansas, accounted for $11.4 million in spending for its prison commitments over the course of a single year. People returned to prison for failure under probation and parole supervision added another $5.5 million in prison costs. People from District 1 used more than twice the number of prison beds as any other Wichita council district.[61]

[61] Michael Thompson, Tony Fabelo and Eric Cadora, "Building Community Capacity to Reduce Crime and Save Prison Space" (Council of State Governments PowerPoint presentation to the Wichita Summit, April 18, 2005).



Source: Justice Mapping Center

A new Reentry Program was established in Wichita in March 2006, and a reentry specialist has been based there to develop access to affordable housing under a DOC collaboration with the state Housing Resources Commission and the Department of Social and Rehabilitation Services.[62] State officials are working with staff at local government agencies to plan for neighborhood revitalization. A community advisory committee has been formed that brings members of the state legislature together with

[62] Kansas Department of Corrections 2009 Annual Report, online at http://www.doc.ks.gov/publications/2009 Annual Report KDOC.pdf

members of the city council and representatives of the local housing and police departments, along with people from the faith community.

Nearly a third of the people returning to District 1 from prison are homeless, or lack appropriate housing options. The advisory committee is working on development and implementation of a neighborhood-based housing development project in District 1 that will target a neighborhood with hundreds of abandoned, boarded-up houses and blighted properties. Leaders of several banks, hospitals, private foundations, schools, and universities joined government officials in Wichita to announce commencement of the "New Communities Initiative."

Kansas Corrections Secretary Roger Werholtz has championed the justice reinvestment concept, and he reports that the effort to reduce revocations and recidivism is working well. The number of parolees being returned to prison dropped by half from 203 a month in 2003 to just 100 a month in 2007, and the number convicted of a new felony dropped by almost half.[63] Probation violations have also been reduced. In fiscal year 2006, 54 percent of people on probation were sent to prison. By 2008 that figure had dropped to 39 percent.[64]

A combination of new sentencing standards and parole policy reforms have helped to avert costly prison expansion that otherwise might have resulted from prison population pressures. In 2008, corrections managers were able to close a women's camp, saving $480,000.[65] In 2009 the DOC took 447 minimum security prison beds offline.[66] The state has ample room in its prison system to handle the current prison population, and the Kansas Sentencing Commission estimates that the prison system will have excess capacity until fiscal year 2016.[67]

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[63] Ash, Lucy. "Kansas rethinks its prison policies." BBC News, February 4, 2009.

[64] Associated Press. "Prisons official: Cuts undo progress." *Wichita Eagle,* March 3, 2009.

[65] Manning, Carl. "2 prison units to close earlier than planned." *Fort Mill Times,* January 23, 2009.

[66] Hanna, John. "Kansas prisons chief: Budget cuts may shorten sentences." *Kansas City Star,* August 24, 2009.

[67] Kansas DOC 2009 Annual Report.

CONCLUSION

The experience of the four states profiled in this report demonstrates that controlling prison growth is not an intractable problem. Over a period of years policymakers and practitioners have come together to assess the sources of growth in incarceration and developed policy responses that have reversed those trends while promoting public safety.

Initial indications are that these trends may continue in these states and others. In January 2010, New Jersey Governor Corzine signed into law a measure removing the mandatory penalties for school zone drug offenses, thus restoring discretion to sentencing judges to consider the circumstances of each case. The school zone penalties had imposed unduly harsh sentences in many cases, as well as exacerbated racial disparities in incarceration. In Michigan, the legislature is considering a bill that would restore the practice of awarding "good time" credits in prison that were eliminated in 1998 through adoption of the state's "truth in sentencing" law. And at the national level there has been a great deal of interest in legislation proposed by Virginia Sen. Jim Webb that would establish a national commission to examine the prison system and the policies that have contributed to its vast expansion.

Encouraging as these developments are, we should not lose sight of the scale of incarceration and the degree to which current policies have become institutionalized in many states. A steady decline in crime rates in all four states during the period of "descaling" demonstrates that reducing reliance on incarceration does not diminish public safety. But the record on cost savings is less positive. Overall prison expenditures in New York increased markedly over a decade of prison population reductions. Many thousands of beds remained empty in upstate prisons, but correctional managers were not able to close any prisons until 2009, when a dramatic decrease in state revenues finally trumped the political pressures to preserve prison jobs.

Across the nation, most states still employ a range of mandatory sentencing policies, make near-record numbers of drug arrests, and have in place a series of policies that have extended the length of time that persons spend in prison. These policies and practices run counter to the findings of a substantial body of research that documents the diminishing impact on public safety of large-scale incarceration and its negative consequences for community stability.

The renewed interest in evidence-based programming, along with the harsh realities of the fiscal crisis, offers an opportunity to take a broad look at the use of incarceration and the prospects for reducing its scale in ways that better promote public safety. The public would be well served by a new strategy that gets beyond political rhetoric and promotes policies that better serve our communities.

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FURTHER READING at www.sentencingproject.org:

Incarceration and Crime: A Complex Relationship

Lessons of the "Get Tough" Movement in the United States

The Hidden Problem of Time Served in Prison

No Exit: The Expanding Use of Life Sentences

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514 Tenth Street, NW Suite 1000

Washington, DC 20004

Tel: 202.628.0871 • Fax: 202.628.1091

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