

Rhode Island Halts Growth in the Inmate Population While Increasing Public Safety

By A.T. Wall

During the second half of the 1980s, a surge in the inmate population overwhelmed the Rhode Island Department of Corrections (RIDOC). As a unified correctional system encompassing the state's prisons, jails, probation and parole services, the agency felt the impact on every front. The repercussions were particularly severe in the institutions. Fueled by statutory changes resulting from the "war on drugs" and prosecutorial demands that all potential probation violators be held without bail, the inmate population climbed by 85 percent in just six years.

The department, which had been on the verge of resolving a longstanding federal court order regarding conditions of confinement, found itself mired in additional decrees from the court as the rising number of inmates compromised the gains that had been made in the previous decade. By 1990, with a population more than three times that of a decade ago, pressure from the federal bench culminated in the mandate to abruptly release hundreds of inmates. The scene reinforced the perception of disarray in the correctional system on the part of Rhode Island's citizenry.

Meanwhile, in a race against time, the state had embarked on a massive building campaign to add more beds to the system. Hundreds of millions of dollars in construction — and millions more in operational expenses down the line — boosted jail and prison capacity by 50 percent as of 1992. At a tremendous cost to the taxpayers, the bleeding was stanchied. Forced releases were halted and the expanded capacity afforded the department the breathing room to settle the federal court order after 20 years of litigation.

The inmate population continued to grow until, by the early years of the 21st century, it had consumed this additional bed space, and crowding began to make headlines again. After all the blood, sweat, tears, dollars spent and cost in public credibility, RIDOC was on the verge of repeating the same cycle. One reporter, who had covered the previous crisis, looked to Yogi Berra when he wrote, "It's like déjà vu all over again."

In the 15 years since 1992 the average daily population had risen by 35 percent until it was 5 percent shy of the agency's total operational capacity of 4,085 by July 2007. Due to restrictions associated with such issues as gender, protection and custody levels, no correctional system can make maximum use of all available beds, and there were a number of institutions operating at, and sometimes over, capacity on a routine basis.

The consequences were far reaching. Rhode Island's economy was fragile well before the current recession and soaring correctional costs were doing their part to wreak havoc on the state's budget. The rising tide of inmates was putting a strain on every aspect of institutional operations — from staffing and security to health services and programming. On the horizon, an even larger crisis loomed. The settlement order in the federal case stipulated maximum capacities at each institution, which, if exceeded for a set number of days, could trigger renewed judicial intervention. The Criminal Justice Oversight Committee, a statutory mechanism put in place as part of the federal court settlement, is responsible for monitoring the relationship of the inmate population to the court's settlement order. It is composed of leaders from every entity in the justice system. The committee was warned that if trends continued, the federally imposed cap would be triggered in the not-too-distant future.

Given the state's financial distress, there was no appetite for building and operating more correctional institutions. The state's leaders also realized that nibbling around the edges of criminal justice policy would not yield an outcome of the magnitude needed. At the same time, all involved were very well aware of the legitimate concerns and political sensitivity associated with public safety and the need to consider significant change in a thoughtful, rational and inclusive manner.

Investing in Justice Reinvestment

It was against this backdrop that in 2005 Gov. Donald Carcieri and the leadership of both houses in the legislature jointly wrote to the Justice Center of the Council of State Governments asking for its help. This organization was uniquely qualified to lend its support to resolving Rhode Island's dilemma. CSG is a nonprofit, nonpartisan membership association of officials from all three branches of state government. As such, it is ideally positioned to assist policymakers with data-driven and evidence-based solutions as they grapple with difficult and controversial issues. The Justice Center, with financial support from the U.S. Justice Department's Bureau of Justice Assistance and the Public Safety Performance Project of the Pew Charitable Trusts' Center on the States, had begun working with a few jurisdictions on a pioneering initiative known as justice reinvestment. The concept recognizes the predicament posed by growing prison populations coupled with mounting fiscal pressures on state budgets. It contemplates the development of state-specific ways to manage growth of correctional populations. The savings generated by averting projected spending are reinvested in strategies that serve to increase public safety.

Rhode Island was fortunate enough to be selected as one of the first jurisdictions to implement the justice reinvestment model. Consistent with the project's approach, work began with a thorough analysis of the reasons for Rhode Island's inmate growth. This analysis was undertaken by James Austin, Ph.D., of JFA Associates/The JFA Institute. The Justice Center asked him to conduct this research because his firm was thoroughly familiar with the state's correctional system, having done its annual population

projections for almost 20 years. In addition, Austin was working with the Rhode Island Parole Board to develop risk-based guidelines for granting parole applications. In keeping with a state-centered approach, which recognizes that the drivers of correctional populations differ according to each jurisdiction's specific statutes, policies, practices and culture, Austin focused explicitly on these factors as they played out in Rhode Island.

Austin presented his findings on the threshold of the 2006 session in a forum at the state House. Leaders of all three branches, criminal justice officials, community leaders and members of the media were in attendance. His conclusions, as described at the session and in a subsequent analysis conducted during the following months, were sobering:

- The jail and prison population, which had risen by 15 percent from 1997 to 2007, was projected to grow at an accelerated rate in the next decade;
- The inmate census would increase by an additional 25 percent in the next decade; and
- Unless policymakers acted, the state would need to appropriate an additional \$300 million in operating costs at the adult correctional institutions during the coming 10 years to accommodate the projected increases.

Austin also pointed out that the outcomes of the current system were not particularly good: Nearly one-third of inmates released from the institutions were reincarcerated within 12 months of release on new sentences or violations of conditions of supervision. In addition, if the figures were included for released offenders who were back in corrections custody within one year but still awaiting trial, the number rose to 46 percent.

Faced with this evidence, the governor, legislative leadership and the judiciary's administrative judges asked the Justice Center to follow up by proposing options that could reduce projected growth by 500 beds within one year of their implementation (see Table 1). The center's staff delved into the data and generated a menu of ideas that, taken in the aggregate, would both accomplish this goal and would augment bed and dollar savings in subsequent years. Finalized in the spring of 2007, options ranged from expanding home confinement eligibility criteria and reforming the terms and conditions of probation supervision to reducing the number of offenders held awaiting trial and changing the length of stay for sentenced inmates. Given the sensitivity of the topic and the need for all affected parties to have an opportunity to weigh in on these ideas before a final set of options was agreed upon, the general assembly adjourned in June 2007 without acting on the package.

Although the initiative had been delayed, it certainly was not dead. Through the summer and fall, Gov. Carcieri, Senate Majority Leader Teresa Paiva-Weed and House Speaker William Murphy all expressed their resolve to pursue the justice reinvestment approach. As the inmate census soared to all-time highs in the summer and fall of 2007, the DOC sought the approval of chief counsel for the plaintiffs in the federal litigation to increase the capacities at

Table 1. Justice Center Proposed Policy Options to Reduce Projected Growth

<u>Policy Options</u>	<u>Estimated</u>	
	FY 2008 Bed Savings	FY 2017 Bed Savings ¹
1. Expand the capacity of the residential substance abuse treatment system to reduce the number of people approved for parole but awaiting treatment slots. ²	100	118
2. Improve the parole board's use of data regarding offender's risks/needs to ensure that release decisions are science-based.	4	18
3. Improve the effectiveness of parole supervision.	27	75
4. Target probation resources to supervise offenders when they are most likely to reoffend.	27	75
5. Make probation supervision responsive to the risks/needs of offenders.	55	81
6. Ensure that people in prison complete programs such as drug treatment and job training to reduce their risk to public safety before they are released.	20	20
7a. Provide less serious offenders with the same incentive for good behavior as more serious offenders.	84	288
7b. Make the standardized "earned time" policy retroactive for all currently sentenced offenders. ³	97	0
8. Ensure the payment of restitution to victims.	8	10
9. Reduce the number of people held at the ACI awaiting trial with bail set at less than \$500. ⁴	10	10
10. Increase the number of people placed on home confinement who would otherwise be held at the ACI.	70	70
Estimated Combined Impact Averted Costs (The cost of implementing the policy options is not included.)	502 FY 2008 \$4 million	765 FY 2008-2017 \$58.6 million

¹ Bed savings indicated for each policy are for the year identified and are not cumulative. For example, policy option 2 will require 43 fewer beds than projected in FY 2008 and 64 fewer beds than projected in FY 2017.

² Assumption: Additional treatment resources are sufficient to eliminate the backlog of people scheduled for release on parole who currently are held past their release date for a residential substance abuse treatment bed to become available. Further funding of the substance abuse treatment system could, if targeted appropriately, have an additional unknown impact on the prison population if used by judges to divert offenders who would otherwise have been sentenced to a term of incarceration.

³ The estimated bed savings for policy option 7b represents the impact this policy could have on the population at the ACI in addition to the impact stated in policy option 7a. The bed savings estimated in policy option 7b may be reduced by any increase in the parole grant rate if policy option 2 is adopted.

⁴ The estimate of bed savings associated with policy option 9 is based on data from calendar year 2006 and extrapolated over the 10 year period, unlike the rest of the bed savings estimates, which utilize a statistical model of the prison population.

several institutions in order to avoid violating the terms of the settlement order. He agreed, but stated in a meeting with the governor and in subsequent remarks to the media that his consent was explicitly contingent on his understanding that the state would enact solutions to the crowding crisis in the next legislative session.

Also in the fall of 2007, the Criminal Justice Oversight Committee convened a meeting in the state House to vet the options put together the previous spring. Present were the governor; the Senate president; a key aide to the House speaker; leaders of the Legislature's Finance and Judiciary committees; the chief judges of the state's trial courts and top staff to the Supreme Court chief justice; the parole board chair; the chief of the Criminal Division for the attorney general (who serves as Rhode Island's chief prosecutor); the state's public defender; the superintendent of the state police; and Rhode Island's leading victims' advocate. Recognizing the importance of consensus, they agreed that any option that met with resistance from any of those gathered would be tabled.

Key Solutions

Ultimately, all parties coalesced around three key ideas, which were introduced into the General Assembly in a series of budget articles that became known as the "Correctional Options" package. Enacted in May 2008 by an overwhelming majority, Correctional Options included three major reforms:

Standardization of earned time. Austin had highlighted a statutory scheme used by Rhode Island whereby inmates earned credit off sentences for complying with institutional rules. Under this inverted and illogical system, inmates who abided by the rules were given the number of days off each month that corresponded to the years of their sentence (up to a maximum of 10). This policy greatly benefited the inmates with long sentences for the most serious crimes while affording those serving short terms for petty crimes almost no time off. For example, an inmate with a three-month sentence served every single day of that term while an inmate doing 10 years saw his or her sentence reduced by one-third. The Legislature standardized the formula so that all inmates (except those serving only one month or less, sex offenders and lifers) could earn the same 10 days each month.

Inauguration of risk reduction program credits. Rhode Island's rehabilitative programs had been offered cafeteria-style: Interested inmates could sign up for available programs and were wait-listed when the slots were filled. Rhode Island law provided very limited incentives for the offender population to complete programs that would reduce their risk of re-offending upon release. Under the new legislation, inmates (except those excluded in the option above) who fully participated in programs that addressed their criminogenic factors are eligible for up to five days credit off their sentences each month. Completion of a program can earn an inmate up to 30 additional days. RIDOC staff prequalify each program by deciding the maximum amount of days credit that can be earned for each program and then awarding participating offenders the number of days justified by their performance. As this

author explained at a meeting of the state's police chiefs, these inmates would of course be released eventually. It is preferable to discharge an offender a few weeks earlier knowing that he or she had dealt with addiction and other issues than waiting and discharging the inmate untreated. The chiefs are realists and they understood the advantages of this approach to public safety.

Risk assessment in parole decisions. The new legislation mandated that the parole board consider not only the seriousness of the crime and the offender's institutional behavior but also the potential to re-offend as determined by a validated risk instrument. This tool provides support to members of the board as they make the difficult decisions about whom to parole.

Improving Services

In keeping with the philosophy that underlies justice reinvestment, the legislation did not eliminate the full savings associated with these reforms from RIDOC's budget. Instead, it retained a portion of the funds and redirected them to three areas of need:

Increased programming. Recognizing that the number of institutional programs must be expanded for inmates to earn risk reduction credits and leave better prepared to be law-abiding citizens, money was reinvested to increase the number of slots for such programs as substance abuse treatment, anger management and cognitive restructuring.

Investment in community corrections. As it was evident that Correctional Options would shift more offenders onto post-release probation and do so more quickly, money was reserved to augment discharge planning services and increase the number of probation officers. RIDOC implemented a process to place the inmates released pursuant to Correctional Options on a heightened level of supervision until such time as they would otherwise have left an institution.

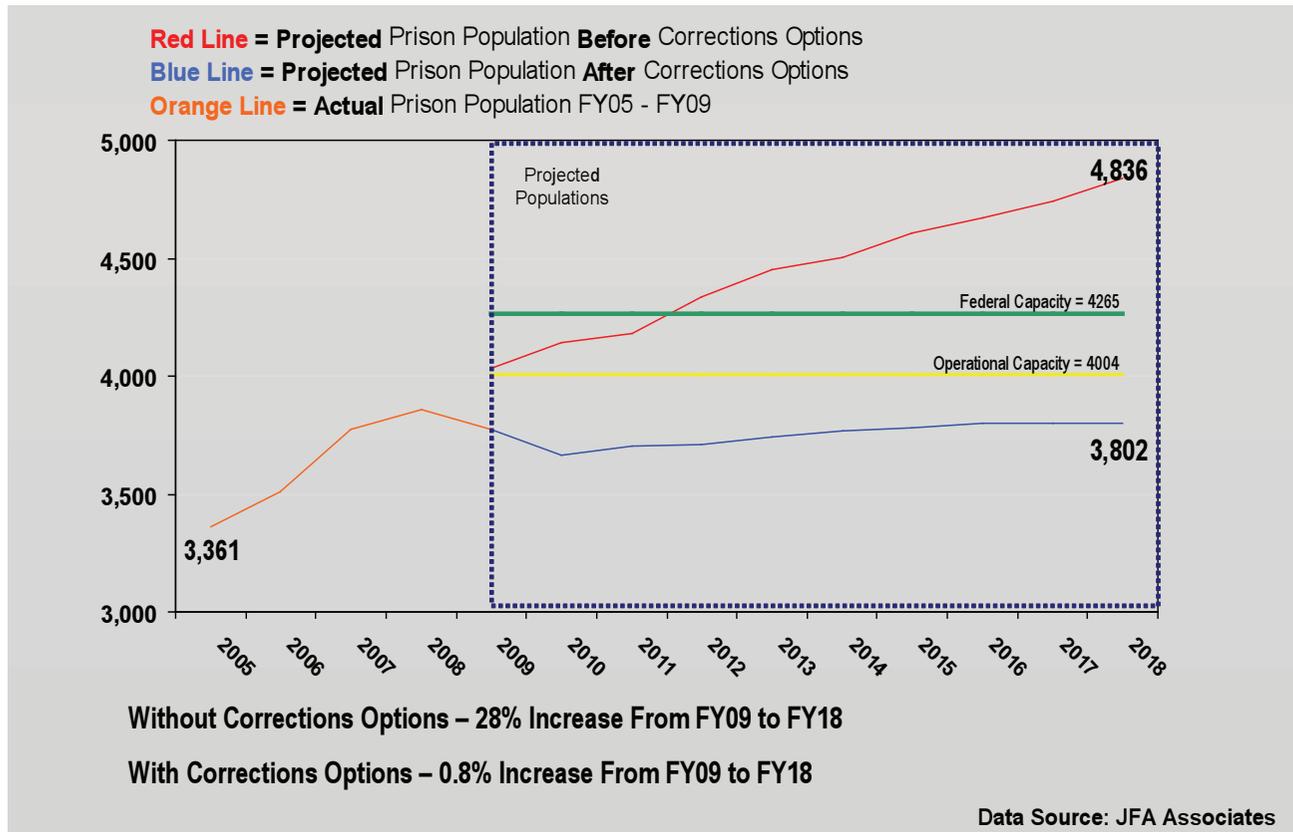
Computer enhancements. Money was provided for a one-time enhancement to the agency's databases in order to recalculate release dates using the new criteria established in the legislation. These upgrades were completed in November 2008.

Current Outcomes

Key outcomes to date of this fundamental change in Rhode Island's correctional policy are:

Impact on the census. Eighty-one percent of the sentenced inmates discharged in fiscal year 2009 were released earlier than they would have been under the old law. There were no significant changes in either the number of commitments and discharges or in the length of sentences between fiscal year 2008 and fiscal year 2009. The overall population dropped between the two years because of the decrease in length of time served. In other words, Correctional Options has had the intended effect on length of stay. This decline reversed longstanding trends. The dip in the average daily population has accelerated as the effects of the legislation continue to reverberate in the current fiscal year. The census for 2010 to date is 3,643; it was 3,860 in fiscal year 2008 and 3,773 in fiscal year 2009.

Figure 1. Population Projections Before and After Corrections Options Fiscal Year 2005 to Fiscal Year 2018



Impact on costs. The DOC’s costs have decreased. While significant portions of the reduction have been due to the constraints on hiring and purchases because of the state’s deteriorating financial picture, the savings are also census-driven. For example, Rhode Island has been able to close housing units at several of its largest male institutions on a periodic basis since the enactment of this legislation.

Impact on public safety. Insufficient time has elapsed for a credible study of the legislation’s effect on recidivism. In order to calculate the impact, a group of inmates need to leave the system and be allowed a certain amount of time out in the community before a composition of their return rates and comparisons to past departmental recidivism studies can be undertaken. The earliest one-year group released under the new earned time calculations encompasses releases from July 1, 2008 through June 30, 2009. Therefore, the return rates for the first one-year group released under this initiative will be calculated sometime after July 1, 2010.

Seeing Results

The fact that the number of admissions has not increased, even as inmates are being released earlier, is an encouraging sign. Larger numbers of inmates are better equipped for reintegration into the community as a result of the risk reduction program credits. The programs that awarded the most credits were high school equivalency,

residential substance abuse treatment, and adult basic and special educational services.

An interview with a former inmate from Pawtucket, R.I., published by the Associated Press on Oct. 15, 2009, put a human face on the impact. As reported in the article, 24-year-old Joshua Gomes has been working, passing drug screens, continuing substance abuse treatment and keeping appointments with his probation officer since his release from incarceration in June 2009. He acknowledges that the prospect of accelerated release through program credits gave him the added incentive to complete his drug treatment regime behind walls “for the sake of going home a couple of months earlier.” In the process, he credits the program with changing his attitude about his behavior and its effect on others.

Rhode Island’s experience shows that debates over correctional policy need not pit public protection against the costs of incarceration. Although corrections is a particularly volatile component of the public domain, a careful process, shaped by evidence and conducted among thoughtful leaders with the requisite political will, can yield a balance that respects both fiscal responsibility and public safety. For correctional professionals, it is an encouraging development indeed.

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