

Delaware

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Between 2002 and 2012, Delaware's corrections budget increased 40 percent, and the state faced overcrowded and aging corrections facilities. Drivers of the corrections spending and population increases included a high number of pretrial detainees and probation revocations, and long lengths of stay for the sentenced population.¹ To address these drivers, Delaware passed legislation that is projected to reduce the corrections population by up to 740 inmates. The legislation expanded and created risk and needs assessments, earned time credit in prison, earned compliance credit for probation, standardized responses to probationers' behavior, and intermediate sanctions. These policies are projected to save the state up to \$27.3 million by 2017.

Impetus for Justice Reinvestment

Although its prison population has remained stable over the past several years, Delaware's corrections budget has been growing consistently over the past decade. The Department of Correction's \$254 million budget in 2012 was 40 percent larger than its budget in 2002.² The rising cost of incarceration contributed to this increase in corrections spending. Between 2005 and 2010, the annual cost of incarcerating an adult in Delaware rose from \$28,000 to \$34,000.³ In addition, Delaware's prisons have been perpetually overcrowded for several years, which, coupled with an antiquated prison infrastructure and aging facilities, would likely have required the construction of new facilities without large-scale reforms.⁴

Justice reform is not a new concept in Delaware; the state has made previous attempts to address these important public safety and fiscal issues. In the past, Delaware reformed its pretrial procedures by creating guidelines to assist with bail and pretrial detention decisions.⁵ The governor also created the Individual Assessment Discharge and Planning Team (I-ADAPT) in 2009, which helped coordinate reentry and facilitate information sharing among various state agencies and community organizations.⁶

Despite these efforts, Delaware had not been able to curb its increasing criminal justice spending nor reduce its need for system expansion. Under the governor's leadership, and with support from state officials and criminal justice stakeholders, Delaware joined the Justice Reinvestment

HIGHLIGHTS

- Delaware's corrections spending increased 40 percent in 10 years and the state's corrections facilities were overcrowded.
- JRI policies expanded and created risk and needs assessments, earned time credit in prison, earned probation credit, responses to probationers' behavior, and intermediate sanctions.
- These policies are projected to reduce the state's corrections population by 740 inmates in five years.
- The state is projected to save \$27 million from this decrease.
- Delaware plans to reinvest savings into community-based services.

Initiative (JRI) in April 2011. These leaders sought through JRI to evaluate the drivers of corrections spending, identify better decisionmaking tools for Delaware's criminal justice agencies, and ensure that investments in the corrections system were being used effectively to achieve public safety.⁷

Establish Interbranch Bipartisan Working Group

The governor created the Justice Reinvestment Task Force in July 2011. The task force was made up of state criminal justice leaders and representatives from all three branches of government, including the governor's office, the Department of Correction (DOC), four levels of state courts, the

state police and local law enforcement, and the legislature.⁸ The Vera Institute of Justice (Vera) provided Delaware with JRI technical assistance and worked closely with task force members.

The governor requested that the task force review data on the criminal justice system and develop a set of policy responses to the drivers of corrections system growth by March 2012. This task force first convened in August 2011 and met on a regular basis until March 2012.⁹

Engage Stakeholders

To solicit input from a broader array of stakeholders, Vera also met with, surveyed, and conducted focus groups with probation and corrections personnel, representatives of the court, and victims' advocates.¹⁰

Analyze Data and Identify Drivers

In a matter of months, Vera and the task force had analyzed court, law enforcement, and DOC data; information on procedures and policies from various state agencies; and historical data and reports from the Delaware Statistical Analysis Center (SAC) to gain a thorough understanding of the state's criminal justice system. By March 2012, the task force identified the following key drivers of the corrections population and spending: a high number of pretrial detainees, many probation revocations, and long lengths of stay for the sentenced population.¹¹

Develop Policy Options

In March 2012, the task force developed policy options that focused corrections resources on high-risk individuals by using risk and needs assessments; holding offenders accountable by strengthening probation policies and responses to violations of supervision; strengthening reentry programming; and supporting crime victims.¹²

Codify and Document Changes

The state codified these policy recommendations into law in Delaware Senate Bill (SB) 226. After receiving

strong bipartisan support in the legislature, SB 226 was signed into law in August 2012. The bill expands the use of risk and needs assessments at several points in the system, including sentencing and case planning. The bill also incentivizes rehabilitation and strengthens reentry by expanding the use of good and earned time credits in prison and by creating earned compliance credit for probation. It further requires the development of guidelines to improve and standardize the responses to probationers' behavior, including expanding the use of intermediate sanctions. It also requires the state to produce one-, two-, and three-year recidivism reports to better measure the effects of these policies.¹³ Figure 1 depicts the projected impact of these policies on the state's corrections population.

Delaware's corrections population remained relatively stable between 2005 and 2011.¹⁴ This trend was projected to continue between 2012 and 2017, with the population growing slightly from 6600 to 6650 inmates.¹⁵ The JRI policies outlined in SB 226 were enacted in August 2012. While it is too early to determine the actual impact of these policies, they are projected to reduce the corrections population by up to 18 percent, or 740 inmates.¹⁶

Implement Policy Changes

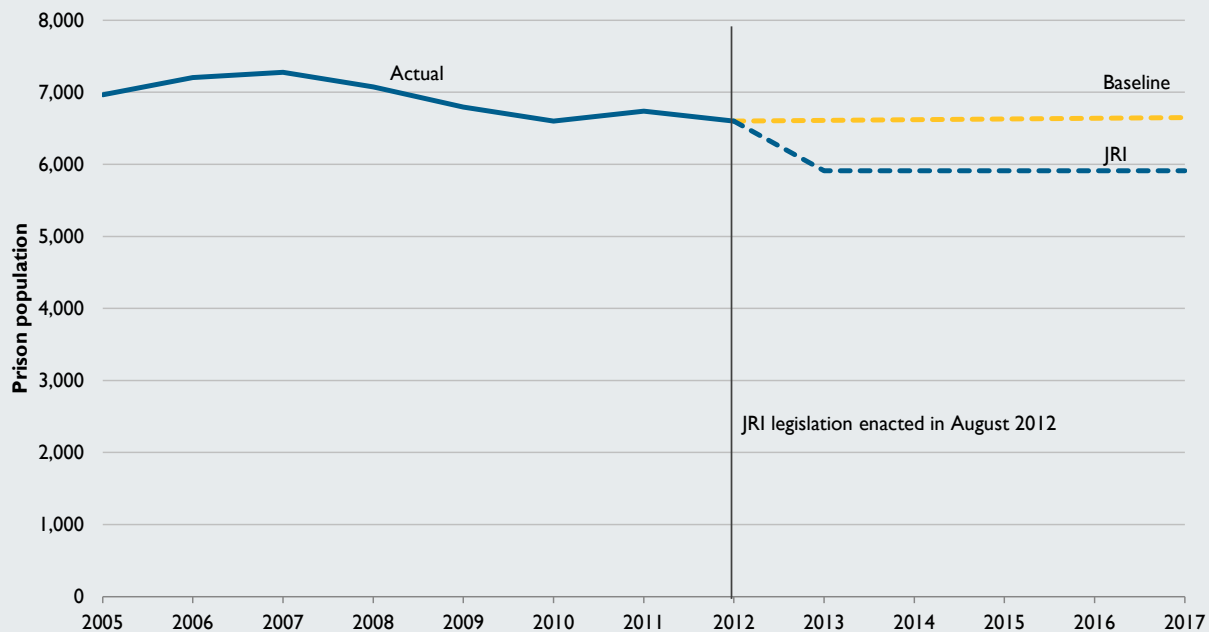
Delaware is currently implementing SB 226. Two work groups were created to facilitate the implementation of the bill's provisions that affect pretrial, DOC, and court procedures. In addition, the state has developed, and is currently testing, a pretrial risk assessment tool; trained DOC staff on the use of the Level of Service Inventory-Revised (LSI-R) tool; and drafted policies for addressing earned compliance and supervision response guidelines. Efforts are also under way to educate and engage stakeholders on the policy reforms resulting from this legislation.¹⁷

Delaware plans to use funding from the Bureau of Justice Assistance (BJA) to create a position responsible for bringing the pretrial risk assessment online and coordinating the reporting of performance measures required by JRI. The state will also use BJA funding for the DOC's Effective Intervention Initiative, which will improve assessment, case planning, and interventions by determining training needs and providing additional training. BJA funding will also be used to implement the Risk-Needs-Responsivity Simulation Tool to match offenders to services and programs.¹⁸

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FIGURE I

Delaware Prison Population



Sources: JRI and baseline population projection values were extrapolated from available data in Pew Center on the States (2011b). Actual population data are from Bureau of Justice Statistics' *Prisoners Series*.

Notes: Since prisons and jails form one integrated system in Delaware, data include total jail and prison population. Dotted lines represent projections.

Reinvest Savings

Through the impact of SB 226 policies on the corrections population, Delaware is projected to save \$27.3 million by 2017 for justice reinvestment efforts.¹⁹ Although SB 226 does not mandate specific reinvestment plans, the state has made it a priority to develop a plan for reallocating resources. Both the governor and the DOC commissioner have committed to reinvesting savings within the DOC to develop community-based resources.²⁰

SB 226 required the state to measure recidivism and, in July 2013, Delaware released the findings of its first recidivism study since 2000.²² Because of its commitment to implement these requirements and develop performance measures and dashboards, Delaware is well poised to continually assess the impacts of its justice reinvestment efforts.

Measure Outcomes

The state is working with Vera to develop performance measures and dashboards to help track outcomes resulting from justice reinvestment legislation. Efforts are also underway to create a sustainable system of data collection and performance tracking.²¹

Notes

1. Delaware has a unified corrections system, which means the state operates both the prison and the jail systems.
2. Delaware Department of Correction. 2012. *Annual Report: July 1, 2011–June 30, 2012*. Dover: Delaware Department of Correction; Livengood, Chad. 2011. “Task force to study criminal justice system: Delaware chosen for federal program.” *The News Journal*, July 26.
3. Ibid.
4. Fennell, Drewry. “Phase I Letter of Interest.” January 31, 2011; James, Juliene, and Suzanne Agha. 2013. *Justice Reinvestment in Action: The Delaware Model*. New York: Vera Institute of Justice.
5. Delaware JRI stakeholder interviews, February 19, 2013.
6. Fennell, Drewry. “Phase I Letter of Interest.” January 31, 2011.
7. James and Agha (2013).
8. Ibid.
9. Ibid.
10. Vera Institute of Justice. “Delaware August Technical Assistance Monthly Tracking Form.” September 15, 2011; Vera Institute of Justice. “Delaware November Technical Assistance Monthly Tracking Form.” December 15, 2011.
11. James and Agha (2013).
12. Ibid.
13. Delaware Senate Bill 226, 2012.
14. Bureau of Justice Statistics. 2013. *Prisoners Series*. Washington, DC: Bureau of Justice Statistics.
15. James and Agha (2013).
16. Ibid.
17. James, Juliene. “Phase II Assessment Memo.” August 30, 2013.
18. Ibid.
19. James and Agha (2013).
20. Ibid.; Fennell, Drewry. “Phase II Letter of Interest.” August 24, 2012.
21. James, Juliene. Letter to Gary Dennis. August 30, 2013.
22. Delaware Criminal Justice Council and Statistical Analysis Center. 2013. *Recidivism in Delaware: An Analysis of Prisoners Released in 2008 and 2009*. Dover: Delaware Criminal Justice Council and Statistical Analysis Center.

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