

Pennsylvania Intergovernmental Cooperation Authority



City Budget Behind Bars: Increasing Prison Population Drives Rapidly Escalating Costs

PICA Issues Report

March 22, 2007

**PENNSYLVANIA INTERGOVERNMENTAL
COOPERATION AUTHORITY**

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Introduction/Executive Summary

The rapid increase in Philadelphia's prisons population is not just a prisons problem, a new problem or even just a Philadelphia problem. The increasing prisons population is part of a nationwide criminal justice system problem that has led to overcrowding in facilities across the nation.

Like other state and county governments Philadelphia has not yet been able to implement a plan that has been effective in stopping or even slowing the growth in the prisons population.

It is not that Philadelphia has been oblivious to the problem. In fact, ten years ago, the FY98-FY02 Five-Year Financial Plan included the following quote: "The most serious problem facing the [Philadelphia Prisons System] over the coming years is the possibility of a further increase in its inmate population and the resulting financial impact on the City." The Plan went on to say that "Growth in population levels, especially the sharp increases experienced during population spikes, stretch PPS resources – financial, physical, and human – to the maximum."

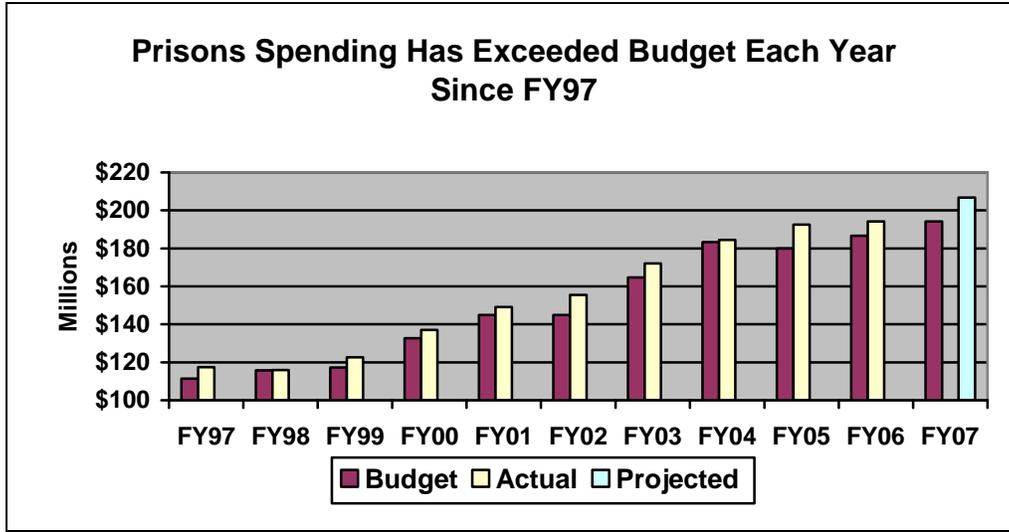
The Plan's fears were well founded. When that FY98-FY02 Plan was released, the City was projecting it would end the year with an average population of 5,670. In FY07, the City projects that it will have an average population of 8,850 – a 54 percent increase.

As the decade-old Plan projected, the growth in the inmate census has consumed more and more of the City's resources. Prisons expenditures have almost doubled since FY97 and are now projected to exceed \$200 million in FY07. The City has added new facilities and attempted to implement population control measures, but the growing number of inmates continues to present one of the most severe managerial and financial issues facing city government.

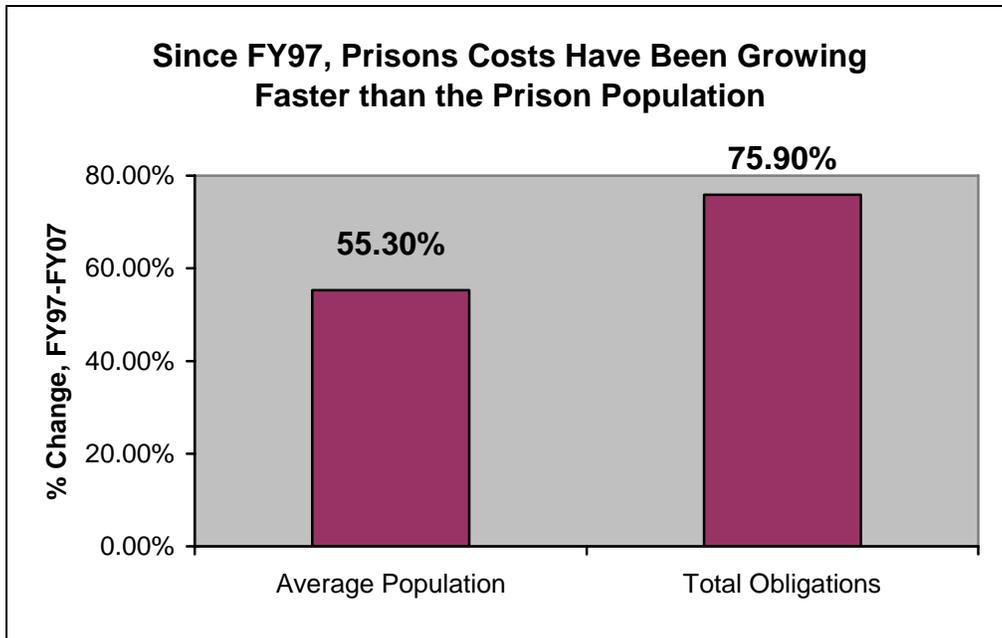
This report will document the growth in prisons costs over the last decade, look at the components of that growth, examine what is happening in correctional systems in other jurisdictions and discuss what steps those jurisdictions are taking to contain their populations' growth and costs. Finally, the report will recommend steps that Philadelphia can take to control the growth in its prisons population. The recommendations focus on alternatives to incarceration, readying inmates for life after incarceration and improving the efficiency of the criminal justice system.

History of Philadelphia Prisons System Costs

In FY97, the year covered by the Five-Year Plan quoted above, prisons costs came in over budget. Instead of the \$111.4 million projected in the budget, they were \$117.5 million. In FY07, the prisons budget, now far larger, is also likely to come in well above budget. While the prisons budget for FY07 was \$194.2 million, costs are now projected to be \$207 million. FY07 will continue a pattern of prisons costs increasing rapidly and faster than budgeted (the prisons system has exceeded its budget each year since FY97).



As the following graph shows, the increases in Prisons costs are driven by more than just increases in the Prisons census. While the average population has grown by just over 55 percent, costs have grown by just over 75 percent.



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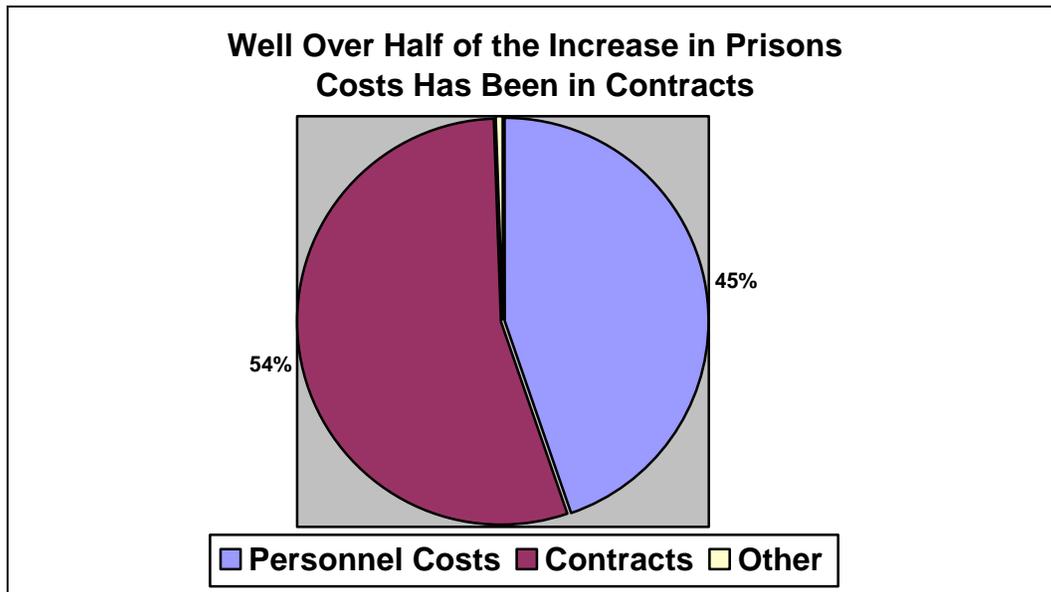
That increase in costs has meant that the prison system's general fund cost per inmate has grown. In FY97, the cost per inmate was about \$20,600 per year. In FY07 the cost per inmate is projected to be over \$23,300 per year, a 13 percent increase.

Causes of Philadelphia Prisons System Cost Increases

While the average population is directly linked to cost drivers such as the number of posts that have to be manned and the number of meals that have to be served, costs are also driven by items like increases in employee compensation, inflationary pressures on contracts, and rising health care costs. This section of the report will look at contractual and staffing costs, which have accounted for at least 95 percent of the prisons systems' costs in each year since FY97.

Contract Costs

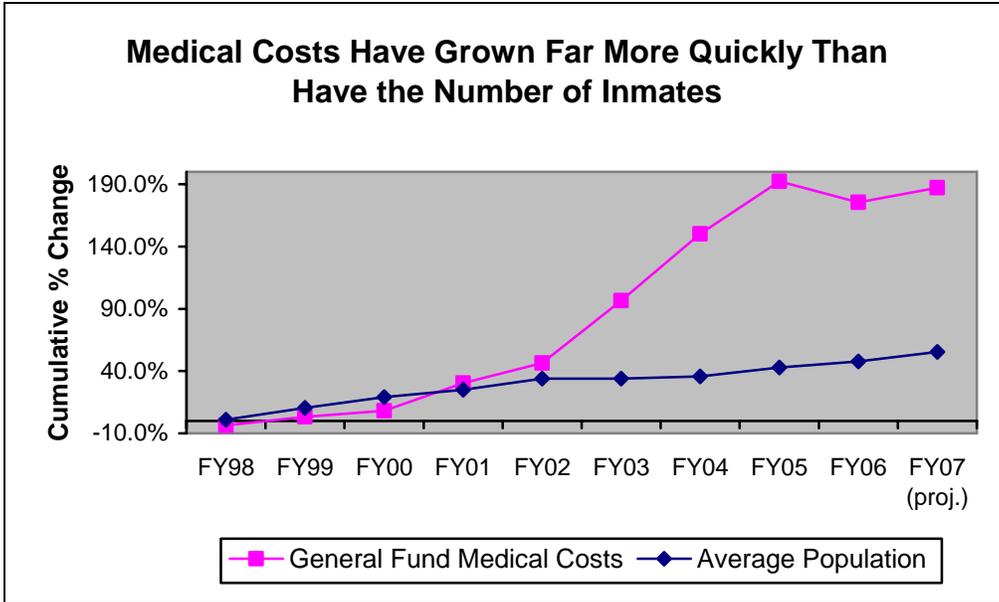
Of the almost \$90 million increase in Prisons general fund costs since FY97, nearly \$50 million was in contracts. (The general fund increase in contracts costs is slightly understated because about \$3.5 million in contracts were shifted to grants funds.)



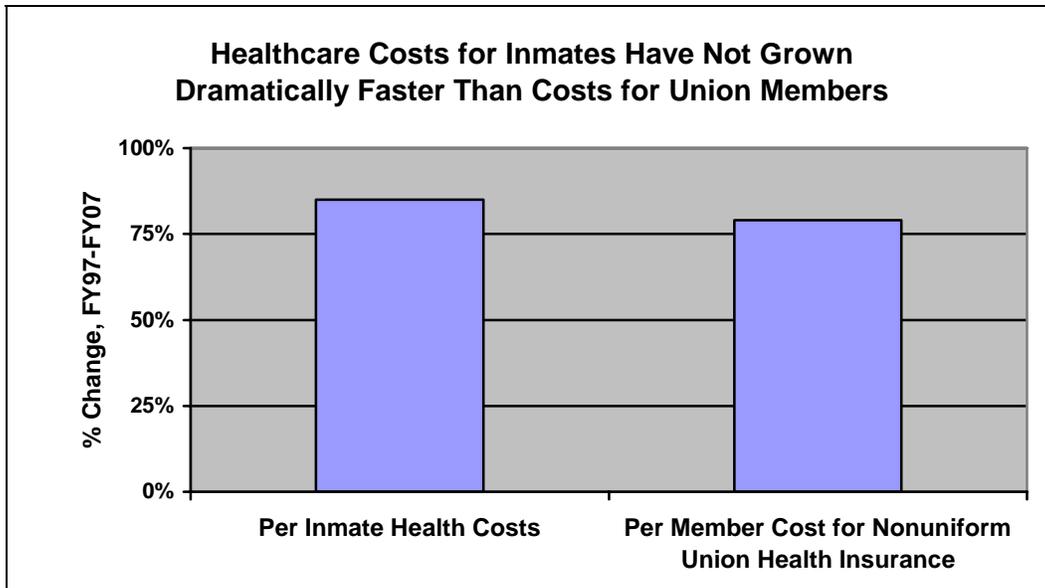
Inmate Healthcare Costs

Of the increases in general fund contract expenditures, by far the largest portion has been for healthcare costs. The growth in general fund healthcare costs is a combination of the increase in the cost per inmate and in the number of inmates, with the growth in the cost per inmate being a far bigger factor. Since FY97, the cost for healthcare has grown almost 190 percent while the average inmate population has grown just over 55 percent.

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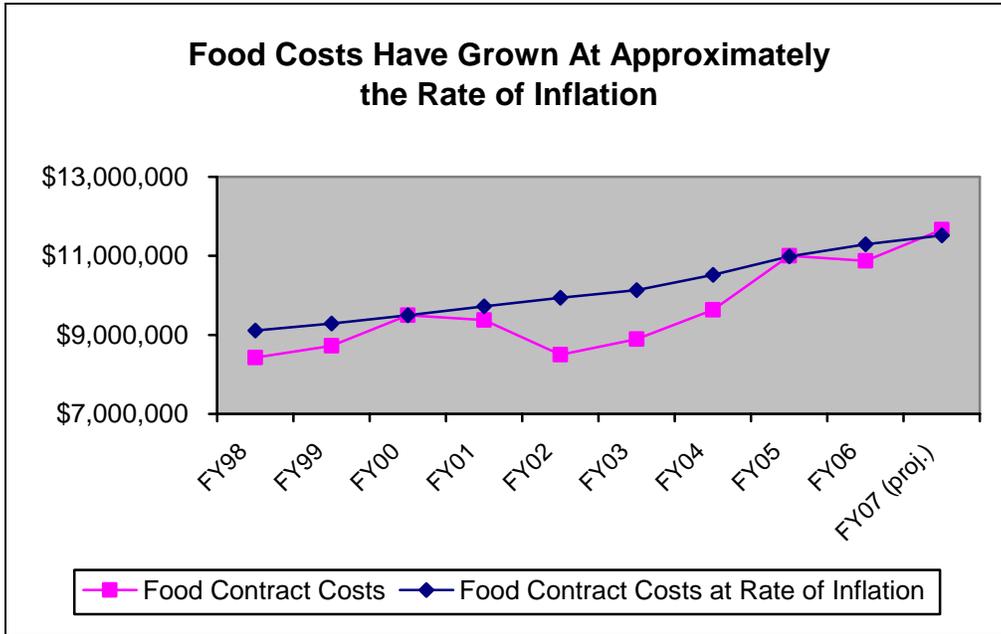


Prisons healthcare contracts have two components – physical health and mental health. In FY97, the general fund cost of the health contract at the prisons was \$17.9 million, roughly \$3,140 per inmate. In FY07, the combined cost of the physical and mental health contracts (the two contracts were separated beginning in FY05) is projected to be \$51.4 million, roughly \$5,800 per inmate, an increase of 85 percent. To put that per person increase in context, since FY97, the employee healthcare costs for the union that represents prison guards has increased by 79 percent. The two growth rates would seem to indicate that the increase in the cost of inmate health care is largely driven by systemic increases in health insurance costs, rather than costs that are particular to the prisons system.

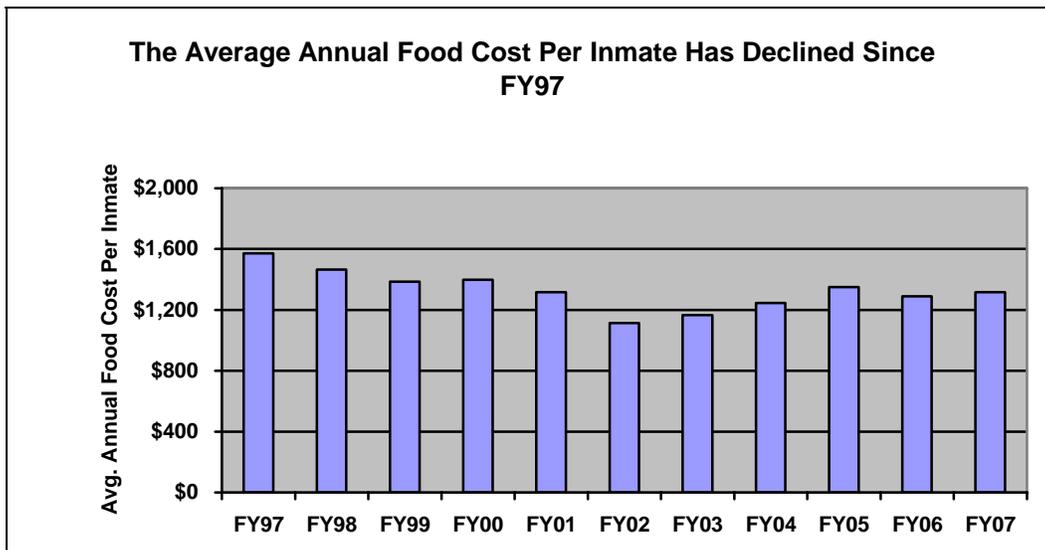


Prison Food Service Costs

The second largest contract expense area is for prison food services. Unlike prison healthcare costs, general fund food service costs have not grown quickly. Since FY97, prisons food costs have risen only slightly faster than inflation.



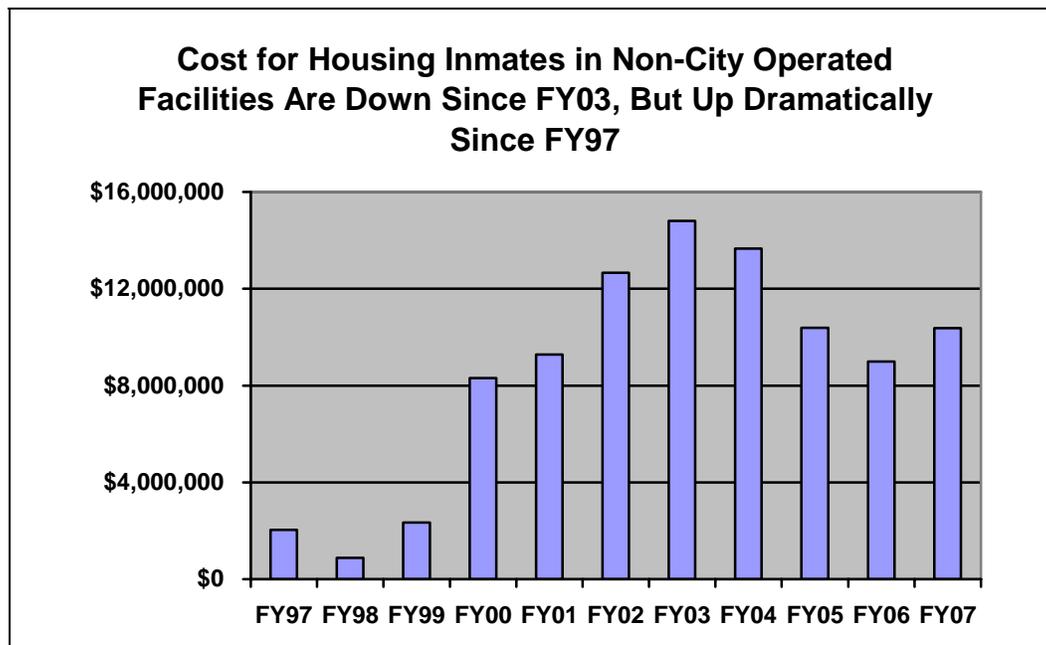
The fact that costs have only grown at roughly the same rate as inflation is more notable when it is compared to the over 55 percent growth in the average daily census at the prisons. When costs are shown on a per inmate basis, they have actually declined by almost 16 percent since FY97.



Housing Contracts

The third largest general fund contract expense for the prisons system is for housing. Over the last ten years, as the growth in the prison population put more and more pressure on prisons facilities, the City turned to housing contracts with non-city run facilities. In FY07, the City will spend roughly \$10.4 million on housing contracts – over five times more than the \$2 million it spent in FY97.

The Administration had assumed that its housing costs would decrease in FY07 and included only \$4.9 million in the budget, but the persistently high prisons population forced the City to enter into contracts for up to 400 inmates to be housed in non-city run facilities. The general fund cost of those contracts is budgeted to increase to just under \$18 million in FY08 because while they were not in place for a full year in FY07, the contracts will likely be needed for all of FY08.

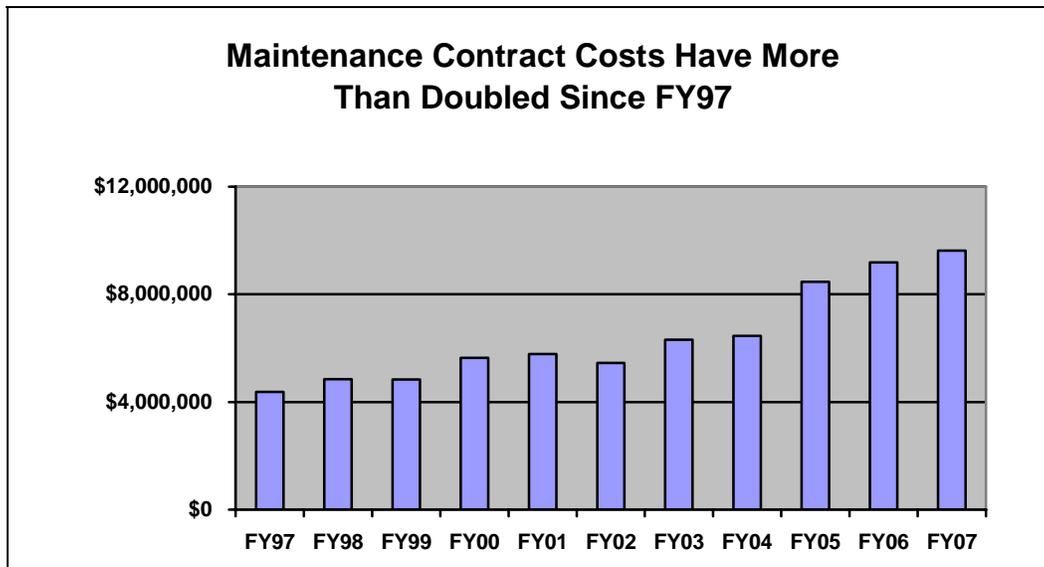


Maintenance Contracts

The other large contract expense in the general fund is for maintenance of two facilities – the Curran Fromhold Correctional Facility (CFCF) and the new women’s detention facility - the Riverside Correctional Facility (RCF). These costs have also grown substantially, in part because costs have increased for CFCF as it gets older, but more significantly because of the opening of RCF. The costs for RCF are a direct result of the increase in the number of women in the prisons system. RCF was built as the number of female inmates in the system jumped from fewer than 500 in FY96 to 760 in FY01. The facility was designed to house 768 females. Unfortunately, the increase in the average number of female prisoners has continued and by FY07 the average female prisoner census was 860 women.

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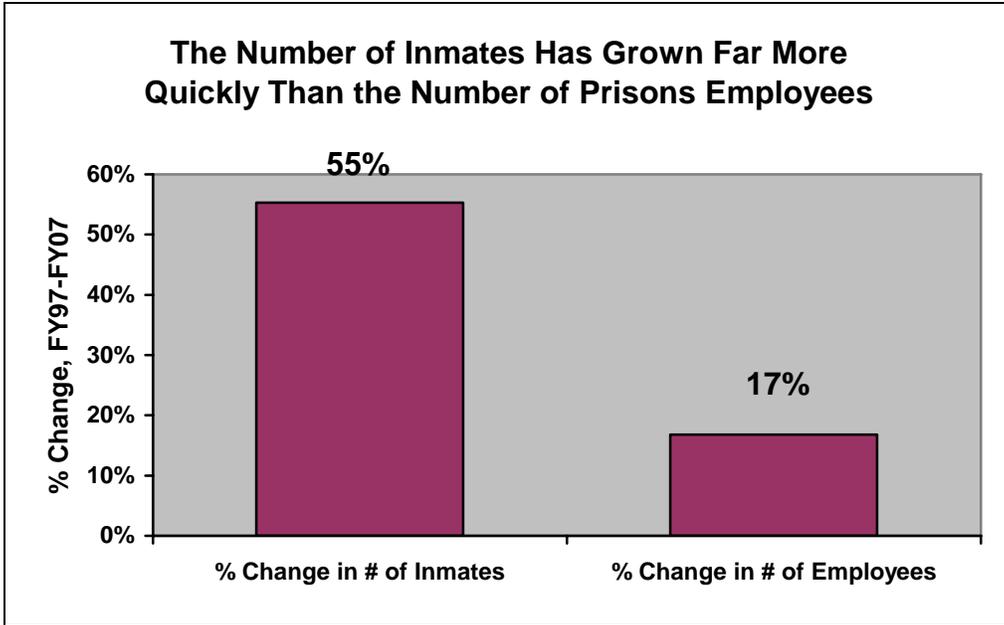
The FY07 cost of the maintenance contract for RCF and CFCF is projected to be \$9.6 million, more than double FY97's \$4.3 million cost.



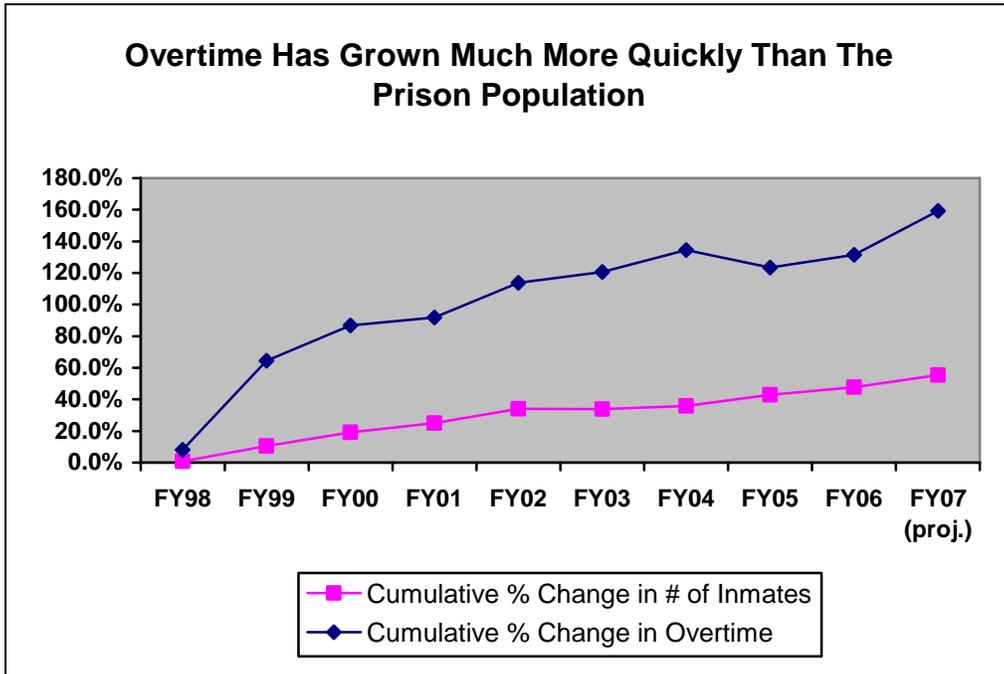
Personnel Costs

In response to the rapid increase in the number of inmates, the prisons system has been forced to increase its personnel costs. As the population grew and the City added facilities, for example, PPS needed more correctional officers to secure its facilities and more social workers to provide services to inmates.

PPS has not, however, been able to hire enough employees to keep pace with the added demands of an ever-growing census. While the average daily census has grown by about 55 percent, the number of employees has only grown by 17 percent.



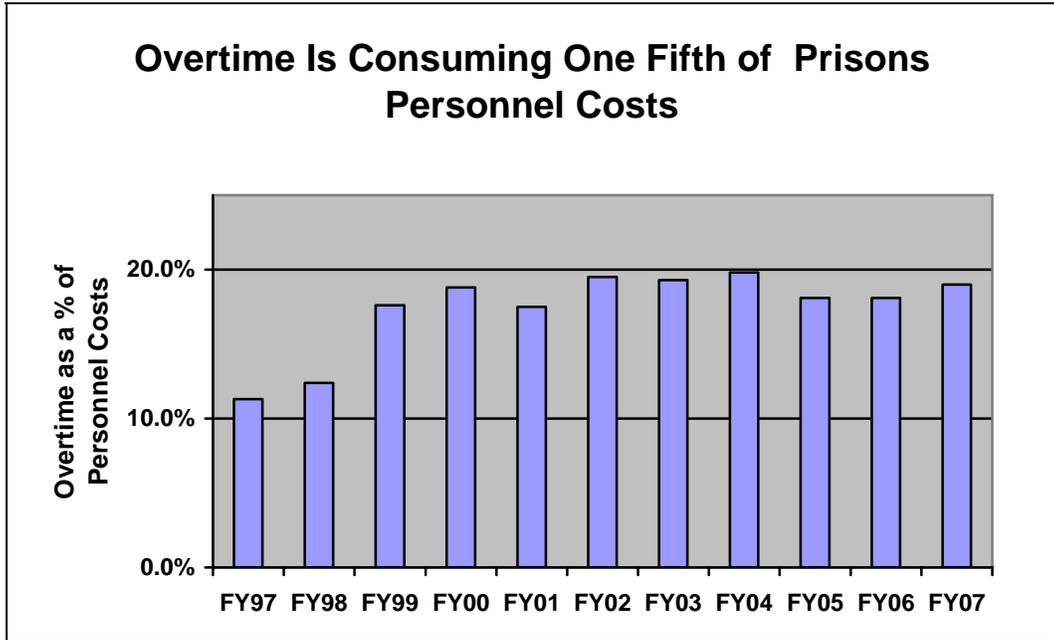
In order to compensate for the imbalance between the growth in the number of inmates and the growth in staffing, the prisons system has relied on overtime. As a result, overtime has grown much more quickly than the census.



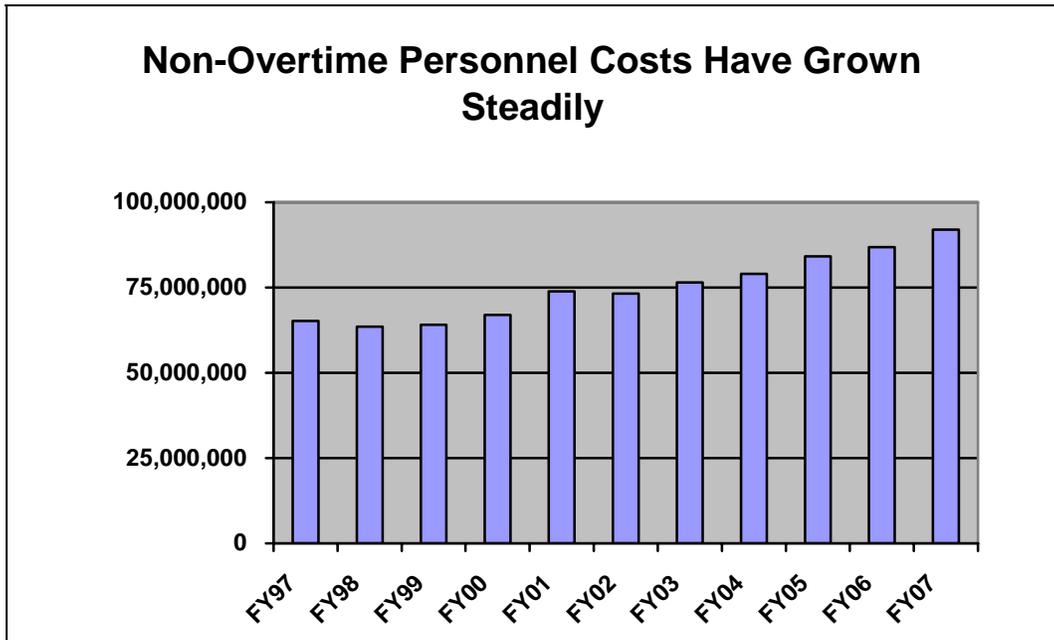
The growth in overtime as a percent of personnel costs shows the extent to which overtime has had to be used to compensate for the systems' inability to hire and retain a sufficient number of guards to keep pace with the rapid increase in the number of inmates. Overtime jumped from 11 percent of personnel costs in FY97 to 17.5 percent in

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FY99 and then remained at least that percent through FY07, when it is projected to be 19 percent.



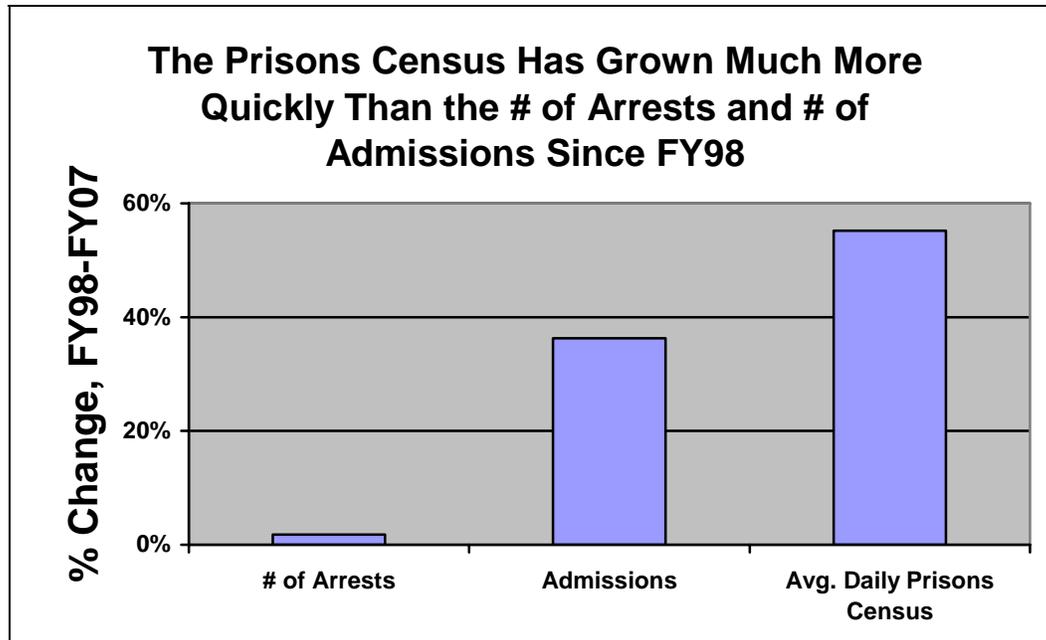
While non-overtime personnel costs have not grown as dramatically as overtime costs, they have still increased fairly consistently since FY97 -- growing almost 40 percent from just over \$65 million to a projected almost \$92 million in FY07.



Why Has the Prisons Census Been Growing in Philadelphia?

Arrests Are Only Part of the Reason

While arrests and admissions to prisons are important factors in determining the size of the prison population, they are not the only factors. The following graph shows that since FY98 (the first year for which the prisons has reliable admission information) the prisons census has grown much more rapidly than the number of arrests and the number of admissions.



The prison census can only grow faster than the number of admissions if the average amount of time an inmate is incarcerated increases. A recent study done for the City by the Temple University Crime and Justice Research Center confirms that inmates are spending more time in prison and provides some detail that helps explain what is prolonging inmates' stays. The report found that:

- The median number of days that inmates stay in confinement has increased almost 80 percent since 1991 -- going from 50 days to 89 days. Most of that increase happened from 1991 to 1995 when the median number soared from 50 to 81.
- In November 2005, almost 40 percent of inmates had been in detention at least 120 days, up from only about a quarter who had been in prison that long in 1995.
- The inventory of municipal court cases that are not disposed by the end of the year has grown from under 7,500 in 1995 to over 26,944. As more cases remain open, it becomes more likely that inmates will wait in prison longer before their cases are

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adjudicated. The Temple report projects that the end-of-the-year inventory will continue to grow, surpassing 42,000 by 2012.

- The increases in the number of open cases have coincided with a doubling of the number of inmates held on bail from just under 2,000 in 1995 to over 4,700 in 2005.
- More inmates are being held for more than one reason. In 1995, only 17 percent of inmates were being held for multiple reasons (reasons include bench warrants, serving sentences, probation and parole detainers, and not having paid bail). By 2005, the number of inmates being held for multiple reasons had more than doubled to 43 percent. When inmates have more than one reason for being held, it makes it harder to resolve all of their issues and secure their release.
- Over a quarter of the cases have five or more continuances. If the defendants in those cases are being detained, it means that every one of those continuances has lengthened the amount of time the inmate will be incarcerated before trial.
- The maximum length of a sentence in county prisons in Pennsylvania is supposed to be 24 months, but less than a third of sentenced inmates had sentences of under 23.5 months. That means that almost 70 percent of sentenced inmates at the facility had a sentence that was as long as is technically permissible in a county jail.

The reasons for prisons overcrowding makes it apparent that the increase in the average population is not merely a prisons problem. Instead, it is a criminal justice system problem. The prisons system cannot contain the census by itself – it will need the help of all the parties in the criminal justice system including the courts, the Police Department, prosecutors and defense lawyers.

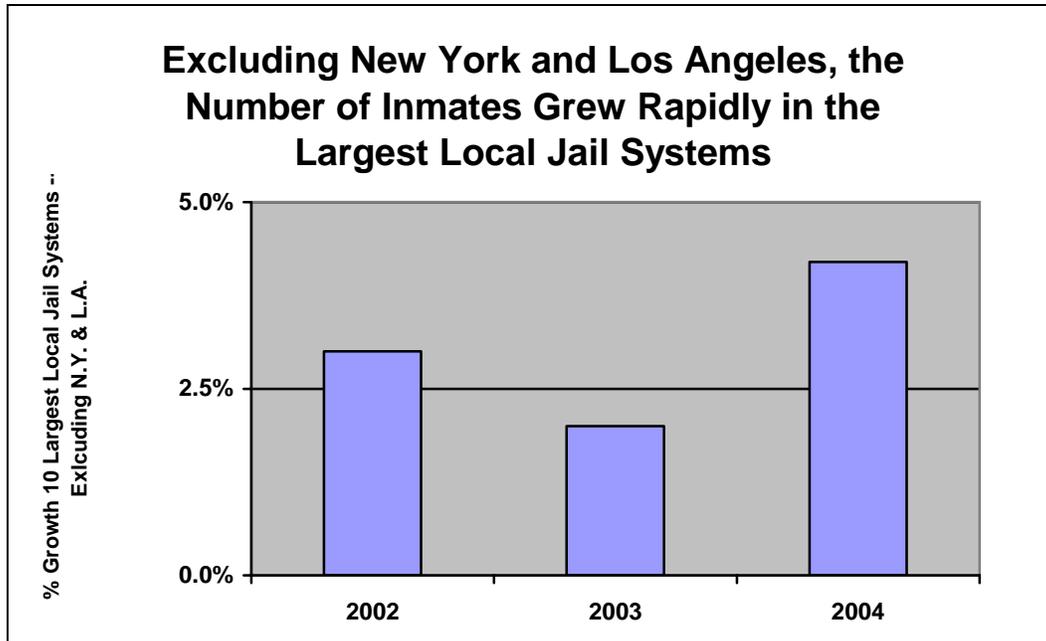
Chronic Prisoners

Another reason that the prison census is increasing is that individuals cycle through the system repeatedly. A 2006 Urban Institute study found that of the 106,849 individuals who were incarcerated in Philadelphia between 1996 and 2003, only half of the inmates were only in the system once. By 2003, more than two thirds of the inmates released from the prisons had been incarcerated at least one other time since 1996. Additionally, almost one fifth of the inmates released during a year had been released at least one other time during that year.

The numbers are even more striking for inmates who are sentenced. Of the 8,780 inmates who were released in 2003 after serving a sentence, just under 80 percent had been released from the system at least one other time since 1996. Unless measures are implemented that will reduce the number of times individuals return to jail, it will be extremely difficult to make meaningful reductions in the prisons census.

What’s happening with prison population and costs in other cities/counties/states?

Philadelphia is not the only major local jurisdiction dealing with an increasing prison population. While Justice Department data shows that the two largest local jail systems – the ones in New York and Los Angeles – had census decreases from 2001 to 2004, each of the other 10 largest systems had population increases. The combined average census increase of the eight other largest jail systems was almost ten percent.



While the Justice Department statistics show a decline in Los Angeles system’s average daily census, that system was still facing an overcrowding problem. Federal court orders allow Los Angeles to release inmates early in order to combat overcrowding. In November, the *Los Angeles Times* reported that since early 2002 nearly 200,000 inmates have been let go early – “the vast majority after serving no more than 10% of the time ordered by a judge.”

California’s problems with overcrowding are not limited to Los Angeles. In a press release announcing a “comprehensive prison reform proposal” designed to “confront California’s dangerous prison overcrowding crisis and reduce the high recidivism rate,” the California Governor’s Office said that 20 of California’s 58 county jails are under court-ordered population caps and 12 more have self imposed caps. The Governor’s Office also said that in 2005 alone, 233,388 individuals avoided incarceration or were released early from jail sentences solely because of a lack of jail space.

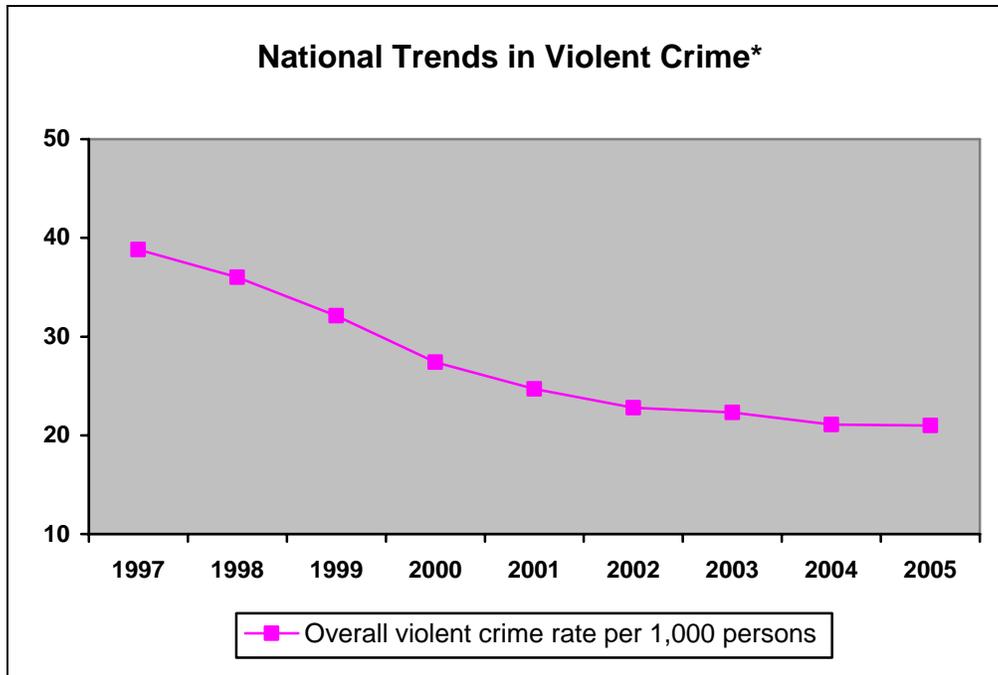
Like the facilities in California, many of the largest county systems in the nation face overcrowding issues:

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- Harris County Texas, ranked fifth nationally in the latest Justice Department list, faces pressure to reduce its prison population. The system was fined by the Texas Commission on Jail Standards for overcrowding as inmates slept on floors because of a lack of space and the guard to inmate ratio was out of compliance with state standards. In response to the fines the County was forced to transfer inmates to other jurisdictions, which cost about \$1 million per month for housing contracts. Harris County faces many of the same problems other large county prison system face: a large population of drug offenders; a population with mental health needs and a large population of pretrial detainees.
- In its adopted FY06-07 budget, Miami-Dade County, which ranked eighth in the Justice Department list, shows an average daily inmate population of at least 6,875 for each of the last three years, hundreds of inmates above the authorized capacity it reports.
- Maricopa County, which includes Phoenix and has the fourth largest jail system in the country, listed reducing the daily average inmate population and the average length of stay for inmates as one of the focuses in the coming budget year. The budget projects that that average daily population, which was well under 8,000 as recently as FY02, will top 10,000 this fiscal year.
- Cook County, which includes Chicago and has the third largest jail system, has seen its jail population grow from 6,825 inmates in 1990 to about 10,000. Since 1991, Cook County has built three new jail additions and added a day reporting center. But, according to Cook County's budget "Even with the construction of new detention facilities, the County potentially still faces a jail overpopulation problem."

Justice Department figures also show that the increasing prison population is not limited to large counties. At the close of 2005 the Department of Justice released nationwide statistics showing that in the United States the number of people incarcerated and on probation or parole reached seven million for the first time. Of those seven million, over two million were incarcerated.

While the number of people incarcerated is reaching unprecedented levels, the nation's violent crime rate has been falling.



* Violent crime includes rape, robbery, aggravated assault, and simple assault. After 1997, the overall violent rate decreased, reaching a low of 21.0 in 2005.

The Bureau of Justice statistics attributed this dynamic to several factors, including mandatory drug sentences, “three-strikes-and-you’re-out” laws for repeat offenders, and “truth-in-sentencing” laws that restrict early releases. The longer sentences mean that prisons are facing an aging population with longer sentences and often no chance for parole.

Prison populations are also being driven up by an increase in female prisoners. The number of women under the jurisdiction of State or Federal prison authorities increased 3.4% from midyear 2004 to 2005, reaching 106,174. In Philadelphia, from FY96 through February 2004, the female census grew approximately 70%.

In Pennsylvania, an increase in the number of parole violators has also contributed to the increase in the prisons census. Between 1992 and 2002, the number of parole violators increased by 112 percent. Technical parole violations increased over 87 percent between 1996 and 2000. A study by the Pennsylvania Department of Corrections (PADOC), which was completed in May 2006, examined 548 parole violators, 186 former inmates who successfully remained on parole, 36 Community Correction Center/Community Contract Facility participants and 44 parole agents. It concluded that parole violators tended to:

- Hold unrealistic expectations about life outside of prison;
- Maintain anti-social attitudes, values, and beliefs that support their offending or violating behavior; and

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- Possess inadequate coping or social problem solving skills, especially when faced with the emotional instability of daily life problems.

If prisons systems hope to prevent parolees from committing violations, they need to take actions to change all three of these tendencies.

What steps are other jurisdictions taking to limit growth in their prison populations and control their costs?

In late December, **California** announced a multi-pronged “comprehensive reform proposal” that included:

- \$10.6 billion in bond financing and \$300 million in general fund spending to expand the state’s prison and jail capacity by 78,000 beds. The funding was for both state and county facilities and would include \$1 billion for specialized beds and treatment and program space for mental health and medical services;
- Placing some low-level juvenile offenders in county facilities rather than state facilities to allow offenders who pose a minimal risk to public safety to serve their sentences closer to home;
- \$30 million in FY06 and another \$75.6 million annually thereafter to screen inmates to determine whether they should be categorized as sexual predators, providing GPS monitoring for paroled sex offenders and reducing parole caseloads through additional hires so that agents can more closely monitor sex offenders;
- Establishing a sentencing commission to evaluate the state’s sentencing structure to ensure violent criminals who pose a risk to public safety stay behind bars while non-violent, non-serious offenders serve appropriate sentences;
- Changing the parole system so that law enforcement can best supervise those who are higher risk for committing another crime. The Governor’s Office said that California is one of just two states where every offender serves a mandatory period, which means that parole officers spend some of their time with parolees who are less likely to reoffend;
- Almost doubling (from \$53 million to \$93 million) funding for drug treatment, counseling, housing assistance and other anti-recidivism programs; and
- Investing \$100 million annually to improve adult probation services.

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Maricopa County is also taking a number of steps to try to reduce its inmate census including:

- Hiring a consulting group to study ways to reduce inmates' length of stay. From FY02 to FY06, the average length of stay increased from 23.8 days to 28.4 days;
- Establishing a program to divert seriously mentally ill individuals who commit crimes to care other than jails;
- Increasing funding for probation to keep up with increasing caseloads and to try to improve results; and
- Attempting to increase the percentage of cases that are resolved within 180 days from 83 percent in FY05 to 88 percent in FY07.

Cook County's budget says the county is developing programs that focus on rehabilitation, reducing recidivism and providing violent offenders with the tools to reintegrate into society. Among the county's programs designed to help control its inmate population are a work alternative program, an electronic monitoring program and a pre-release center.

New Jersey began to address its prisons issues as a result of mounting pressure on the state budget. Between 1980 and 2000 annual admissions to New Jersey's prisons grew from 4,000 to 15,000. According to a report published by the New Jersey Re-entry Roundtable, over the past 25 years spending on corrections and parole has grown at twice the rate of the rest of the state budget. In an attempt to control the population boom the state looked at parole and reentry issues and increased the availability of community treatment programs for inmates ready for release. In addition, courts were discouraged from revoking parole for technical violations, such as failing drug tests or failing to check in with parole officers. Parole officers now use a system of graduated sanctions that may include increased supervision. Another effective tool available for parole officers is "halfway back programs," which provide services to technical parole violators based on the needs of each individual offender. In 1999, more than 5,400 parole violators were sent back to prison. By contrast, in 2005, fewer than 2,900 were sent back.

New Jersey has gone even further to prevent recidivism by ensuring that the majority of all prisoners released have at least a short period of intense supervision. The Urban Institute found that in 2002 two-thirds of all prisoners released in New Jersey were released to a period of supervision. The state has several supervision programs that are based on individual needs and take into account myriad factors including the seriousness of the crime committed; the mental health of the inmate; substance abuse problems and job training needs. The state has found success through a pilot program aimed at low-risk offenders, the Intensive Supervision Program (ISP). ISP has stringent guidelines for the offenders, including: frequent drug testing; community service requirements; full-time

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employment; substance abuse treatment; a curfew and regular check-ins with a parole officer. Over 10,000 ex-offenders have participated in the program, 4,600 have graduated and about 4,200 have not completed the program. ISP calculated the program's recidivism rate by looking at those participants who were convicted of a new indictable offense, and found a 7.9 percent rate. According to the report, "A Portrait of Prisoner Reentry in New Jersey", the program has been estimated to save the state \$300 million.

In October 2004, **Pennsylvania** enacted legislation to divert certain prisoners to an "intermediate punishment" program rather than prison. After a minimum of seven months in prison, these prisoners would be eligible to spend at least two months in a community-based therapeutic facility and then a minimum of 24 months in a halfway house or group home while receiving treatment. The sentenced inmates are either directed to an Intermediate Punishment (IP) program if they are non-violent offenders, or to drug and alcohol treatment-based restrictive intermediate punishment (D&A RIP), if they are offenders with a substance abuse problem. During Fiscal Year 2005-2006, 1,130 offenders were sentenced to D&A RIP, saving an average of 335 days of incarceration per offender. If the offenders would have been sentenced to county jail instead of the sentencing alternative it would have cost \$17,592 per active offender; and in state prison it would have cost \$28,443 per active offender. The D&A RIP programs spent an average of \$9,327 per offender.

New York City In 2005 the FBI released a report showing that New York City was the nation's safest large city. The City achieved a 70 percent drop in homicides while reducing the number of people incarcerated. The number of prisoners in the city has fallen from 21,449 in 1993 to 14,129 as of November 2006. During that same period, the Bureau of Justice Statistics shows, national prisons admissions have increased by 72 percent. New York did not add substantial funding to its criminal justice budgets in order to build more facilities to accommodate growing populations. Working with both state and local criminal justice systems, the Bloomberg Administration instead set an agenda to make policy changes in order to positively impact the number of people circulating through their prisons, probation and parole systems.

The first policy change addressed two types of prisoners that comprise a large portion of the prison population; drug offenders and mentally ill inmates. One component of the City's success in reducing its prison population is its Alternative to Incarceration (ATI) programs, which enable judges to sentence offenders to a program that provides treatment, education and employment training in the community. Those sentenced will receive all of these services while still remaining under strict supervision, but without becoming an additional burden on prison facilities. The program still allows the courts to sentence offenders to incarceration if they do not succeed in the programs. In addition to lowering the prison system's population, ATI's have produced financial savings for New York City. If the program's participants would have spent one year incarcerated they

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would have cost the City on average \$62,595 each, whereas under the ATI programs the costs of annual services range from a minimum of \$1,400 to a maximum of \$13,000.

Recommendations

The experience of Philadelphia and other large jurisdictions make it clear that in order to slow or reverse the growth of prison systems' populations, criminal justice systems must take a number of steps, including the following:

- Provide alternatives to incarceration where appropriate;
Among the alternates that are used by jurisdictions are electronic monitoring, psychological treatment, and drug and alcohol counseling.
- Ensure that cases are processed through the criminal justice system as quickly as possible;
In addition to moving cases through the system quickly, the participants in the criminal justice system should seek ways to lessen the amount of time that non-violent offenders are incarcerated only because they cannot pay their bail.
- Prepare inmates for reentry into society;
Jurisdictions, including Philadelphia, offer a wide variety of programs to inmates including high school equivalency courses, employment training and drug treatment. Steps should be taken to ensure that the programs Philadelphia offers are sufficient to meet the needs of its inmates.
- Enhance probation and parole;
Jurisdictions have taken a variety of actions including increasing the number of parole officers and ensuring that inmates are not returned to custody for technical violations of parole. Philadelphia should pursue both of these actions.
- Review sentencing to ensure that guidelines are appropriate and are followed.
Sentenced inmates should not be sent to Philadelphia facilities if they are convicted of offenses that would normally carry sentences that would require incarceration in a state facility.

In addition to implementing those changes, all members of the criminal justice system should commit to tracking data including not just the rate of recidivism, but also:

- Inmates' success at finding and maintaining employment;
- the average daily population in correctional facilities;
- the average length of stay for inmates in correctional facilities;
- the number of admissions to and releases from correctional facilities;
- the number and percent of accused offenders detained at bail hearings;

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- the number and outcome of bail reduction petitions filed by the public defender;
- the number and percent sentenced to jail compared to the number and percent receiving probation and the number and percent sentenced to state prison by common pleas court judges; and
- the number of probation and parole revocation petitions.

That data would allow the participants in the criminal justice system to understand and anticipate trends and see whether changes have their anticipated impact on the prisons system's population.