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Locked Up: Corrections Policy in New Hampshire

Paper 2: Options for Reducing the Prison Population and the Cost of Incarceration

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Executive Summary

The New Hampshire Department of Corrections (DOC) needs to reduce its spending during the 2004-2005 biennium. The most effective way to do so will be to begin to reduce significantly the number of people incarcerated in the state prisons.

Strategies for reducing the prison population should include:

- reducing the number of parole violators serving time in state prison
- increasing the number of offenders sentenced to the Academy program rather than state prison (The Academy is an alternative-sentencing program for nonviolent offenders with alcohol and other drug problems; it combines intensive community-based supervision with life-skills classes, counseling, and treatment.)
- increasing the number of low-risk offenders sentenced to “administrative home confinement”—wearing an electronic monitoring device—rather than prison
- increasing the effectiveness of training programs in prison and re-entry programs to ensure that offenders who leave prison have the skills and supports needed to get and keep a job, stay away from crime, and avoid further incarceration
- increasing the capacity of half-way houses to accelerate the release of inmates who are eligible for parole.

Some have suggested reducing the length of prison sentences. One proposal to re-instate “good-time” for inmates could reduce the prison population by as many as 500 inmates within a few years.

The improvements the department needs to make will require aggressive management by both the department and the legislature. Most of the changes will require an up-front investment in order to save money in subsequent years. The sooner the department makes those investments and begins reducing the size of the prison population, the more successful it will be in meeting the legislature’s directive in the FY 04-05 budget to reduce costs during the biennium without simply reducing the quality and safety of prison supervision and programming. The administration and the legislature should attend to this challenge as quickly as possible.

The analysis in this report and the recommendations that follow are the product of more than two years of work with the Department of Corrections and its county-run counterparts. The Center published the first paper in this series, *The Fiscal Consequences of Incarceration Policies, 1981 to 2001*, in September 2001 and two reports on crime, alcohol, drugs, and treatment in 2002 and early 2003.¹

¹ Richard A. Minard, Jr., *Locked Up: Corrections Policy in New Hampshire; Paper 1: The Fiscal Consequences of Incarceration Policies, 1981-2001*, NH Center for Public Policy Studies, Concord NH, Sept 2001; Richard A. Minard, Jr. and Katherine B. Merrow, *Under the Influence: Alcohol, Drugs, Crime, and Treatment in New Hampshire*, NHCPPS, July 2002; Katherine B. Merrow and Richard A. Minard, Jr., *Under the Influence, Part 2: Treating Addictions, Reducing Corrections Costs*, NHCPPS, Feb 2003.

The Center strongly recommends the following steps:

- DOC should increase participation and investment in the Academy. Doing so will require the department to spend more on the Academy program providers and their associated treatment programs in FY 2004 in order to save in FY 2005.
- DOC should manage the Academy program by tracking each provider's enrollment, and each judge's use of the Academy. The Division of Field Services should work with judges, prosecutors, and providers to maximize the value of each of the county-based, privately operated, programs. The department's monthly statistical reports to the governor and legislature should show explicitly how many people are in the Academy programs and *not* in prison.
- As an alternative to seeking revocation of parole for some individuals abusing alcohol or other drugs, DOC's parole and probation officers should send many of them to the Academy program for counseling, treatment, and supervision. The department will have to pay providers for this service, but doing so should make savings possible within the prisons.
- The administration should allow the department to begin immediately hiring staff for the "re-entry" program, a federally funded project to reduce recidivism. Hiring freezes have already delayed the effort by 18 months.
- The parole board should seek alternatives to re-incarceration for parole violators, particularly those who are employed and pose minimal risk to public safety. The board should refrain from using state prison as an alternative to treatment for offenders with alcohol and other drug problems.
- The legislature should invest more money in evidence-based alcohol and drug treatment programs that will be accessible to adults and juveniles with criminal records and without.
- DOC needs to hire a more diverse group of parole and probation officers to include those with training in alcohol and drug counseling and social work.
- DOC needs to complete the screening of inmates to identify those who are most likely to succeed on administrative home confinement—electronic monitoring at home as an alternative to incarceration. The commissioner can order AHC for any inmate, though political pressures make it difficult for commissioners to put low-risk offenders convicted of serious crimes on AHC until their sentences are nearly complete. The legislature and the Governor's Office should support the commissioner's use of the tool in such cases, putting public safety first and cost-saving second.
- The legislature should refrain from lengthening prison sentences or imposing new mandatory minimum sentences.
- Any legislative changes in sentencing practices should retain or increase judicial discretion to treat each offender in the most appropriate way.
- The legislature should work with the judiciary and other groups to review sentencing requirements with an eye on reducing the prison population while maintaining public safety, rehabilitation potential, and an appropriate degree of punishment. The process should ensure that the state maintains a corrections system in which the public can have confidence while avoiding any pretense that the system can be infallible.

This report is being published during a useful public debate on the merits of privatizing all or parts of the state's corrections system. The Center has not researched the privatization issue and

takes no position on the issue at this time. This report focuses on *what* the corrections system needs to do, not on *who* should do it, and that focus remains intensely relevant as the administration and legislature seek ways to save state resources and allocate them where they will accomplish the most good.

1. A System Under Pressure

The New Hampshire Department of Corrections is in the midst of what may be its biggest management challenge since its formation in the early 1980s. The FY04-FY05 budget for the department calls for reductions in spending on what has been the third-fastest growing function of state government.² Halfway through FY 2004, the Governor's Office has asked the department—and all others—to describe how it would cut an additional 10 percent from its budget this fiscal year if necessary. Yet the state's prisons are still full, the half-way houses backed up, and the very programs that help offenders stay out of prison are being reduced.

This paper examines why spending on corrections has increased steadily for more than 20 years and what options the department has to reduce spending while also fulfilling its mission.

Those options include the ones the legislature spelled out in the current budget:

- increasing the number of people serving time at home on “administrative home confinement” monitored by an electronic “bracelet”
- increasing the number of people serving time in the community while participating in the “Academy,” a rigorous program of alcohol-and-drug counseling, life-skills classes, and close supervision
- increasing the successful re-entry of offenders back into their families, jobs, and communities and thus decreasing the number of people returned to state prison for violations of their parole or probation orders
- eliminating the “Transformations” program, which provided inmates in Laconia with advanced educational offerings to increase their chances of success upon release.

At the end of the second quarter of FY 04, the department had moved on the last item, reducing programming, but not on the others. Indeed, in the first half of FY 04, the department eliminated not only the Transformations program but also much of the industrial trades instruction it offered in Concord and Goffstown—thus making it harder for returning offenders to find jobs and more likely that the inmates would get into trouble during their long idle hours. The department has also eliminated drug and alcohol counseling for parole violators, thus making it harder for returning offenders to control their addictions and succeed when they are released.

The Governor's Office had delayed the approval of contracts implementing a \$1.8 million federal “re-entry” grant to improve the chances that offenders from Hillsborough County will stay crime-free when they get out of prison.

² Douglas Hall, *Six Programs Fueled State Spending Increases, 1993-2003*, NH Center for Public Policy Studies, Concord NH, September 2002.

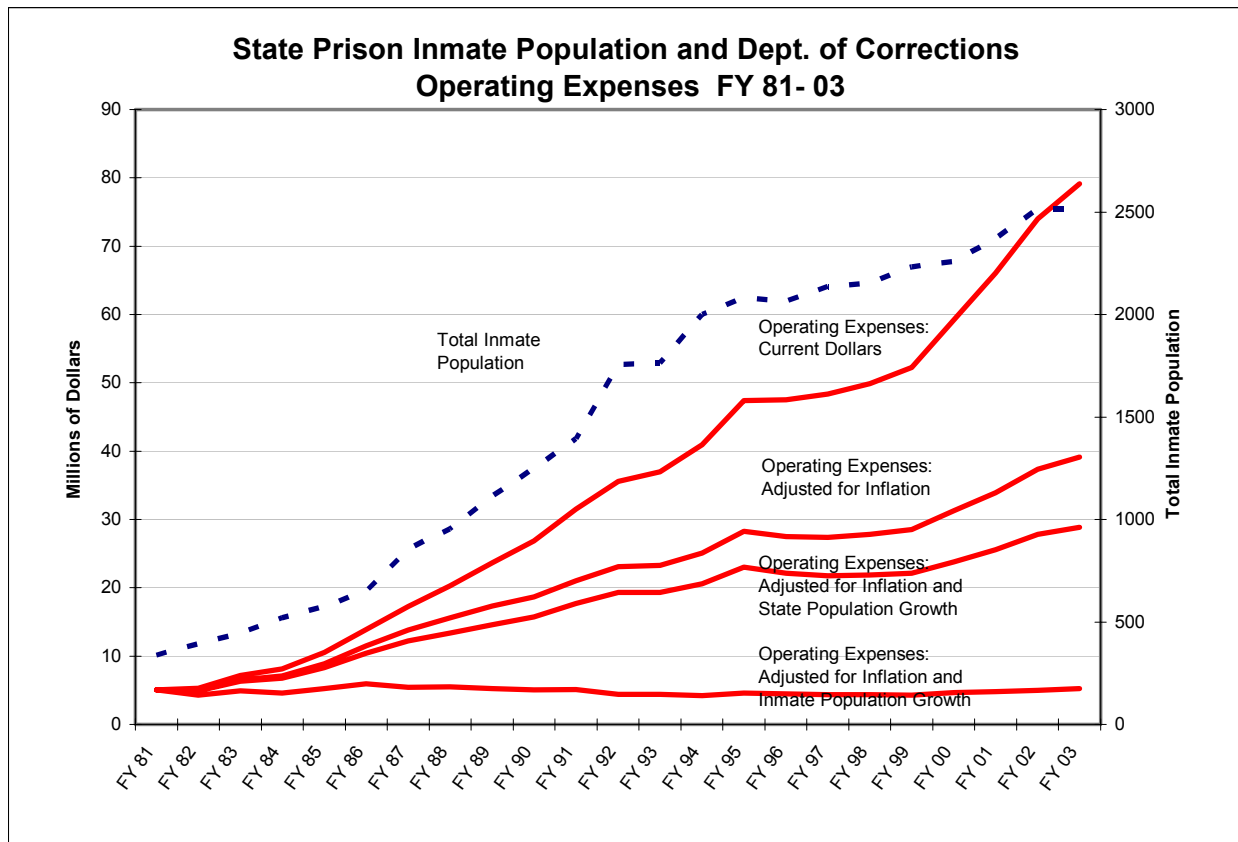
Although the budget directed the department to expand its use of the Academy and thus reduce the prison population, to date, it has not done so.

Meanwhile, a legislative committee is studying ways to reduce the size of the prison population. This paper identifies several strategies for achieving that goal.

2. The Prison Population Has Driven Corrections Spending

Figure 1 graphs the department’s growth since FY 1981, when it was created, through the end of FY 03. The dotted line tracks the growth in the inmate population; the solid lines show spending in current dollars (top line), real dollars (adjusted for inflation using the Consumer Price Index), real dollars per capita (adjusted for inflation and the growth in the state population) and real dollars per inmate (adjusted for inflation and the number of inmates behind bars).

Figure 1: The NH prison population grew 600% in two decades and spending followed



The driver behind the growth in the department’s budget has been the growth in the number of inmates serving time in state prisons. The prison population has grown 600 percent since 1981, while the state population has grown only 35.5 percent. This trend was repeated across the country, and in New Hampshire’s county houses of correction.

That growth has been driven largely by two phenomena: in 1982, the legislature increased the length of time offenders must serve for their crimes, and the department and the NH Parole Board have chosen to re-incarcerate hundreds of probation and parole violators in state prison each year. Those phenomena are examined in more detail in the following sections of this paper.

What is *not* driving the growth in the state prison population is any apparent growth in serious crime in New Hampshire. Crime statistics for the period are incomplete, so we base this assertion on the actual admissions to the state prison system.³ According to the department’s annual reports, the number of people admitted to state prison for new crimes peaked in FY 1994. The number of inmates admitted for new crimes in FY 03 was 24 percent lower than the peak in FY 94.

Figure 2: Admissions for new crimes peaked in FY 1994

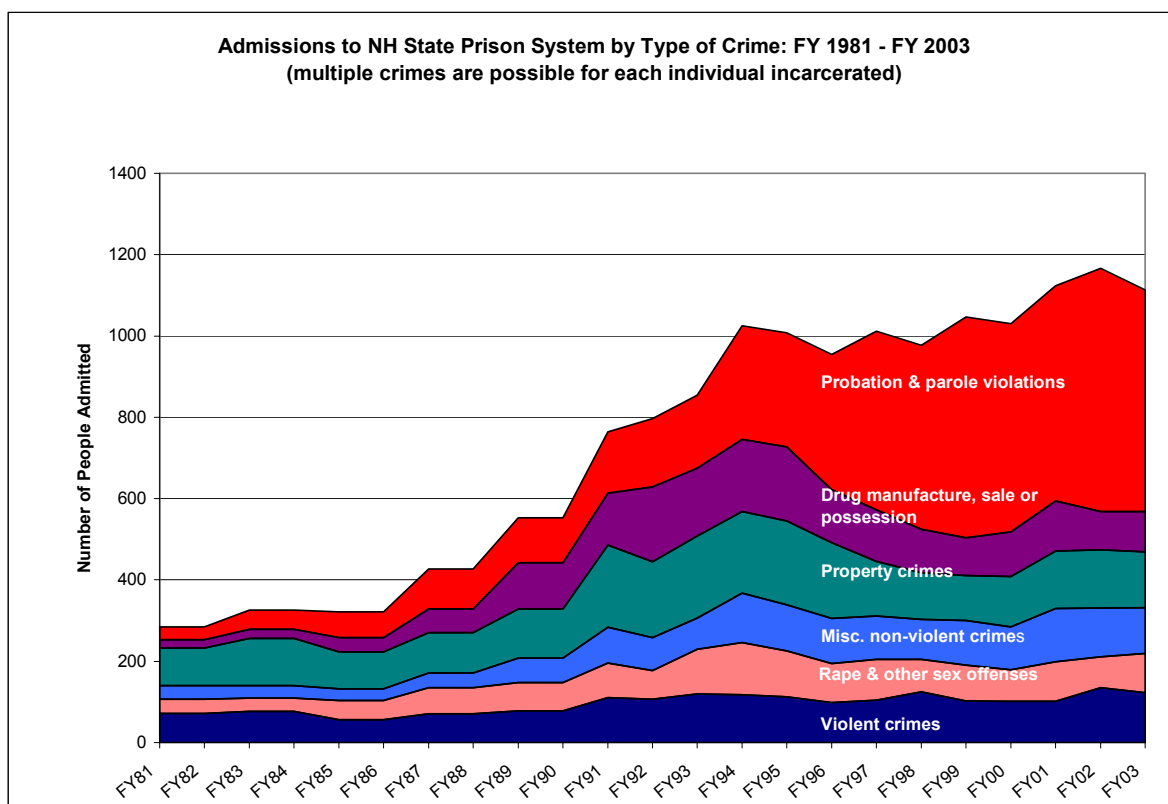


Figure 2 graphs these data, underscoring the point that parole and probation violations have dominated as the reason for new admissions. In FY 03, 49 percent of all admissions to the state prison were for parole or probation violations and these violators made up 27.2 percent of the total inmate population.

With the state’s four prisons above capacity, any increase in the inmate population is contributing to pressure to expand existing facilities. Increasing facilities, however, not only

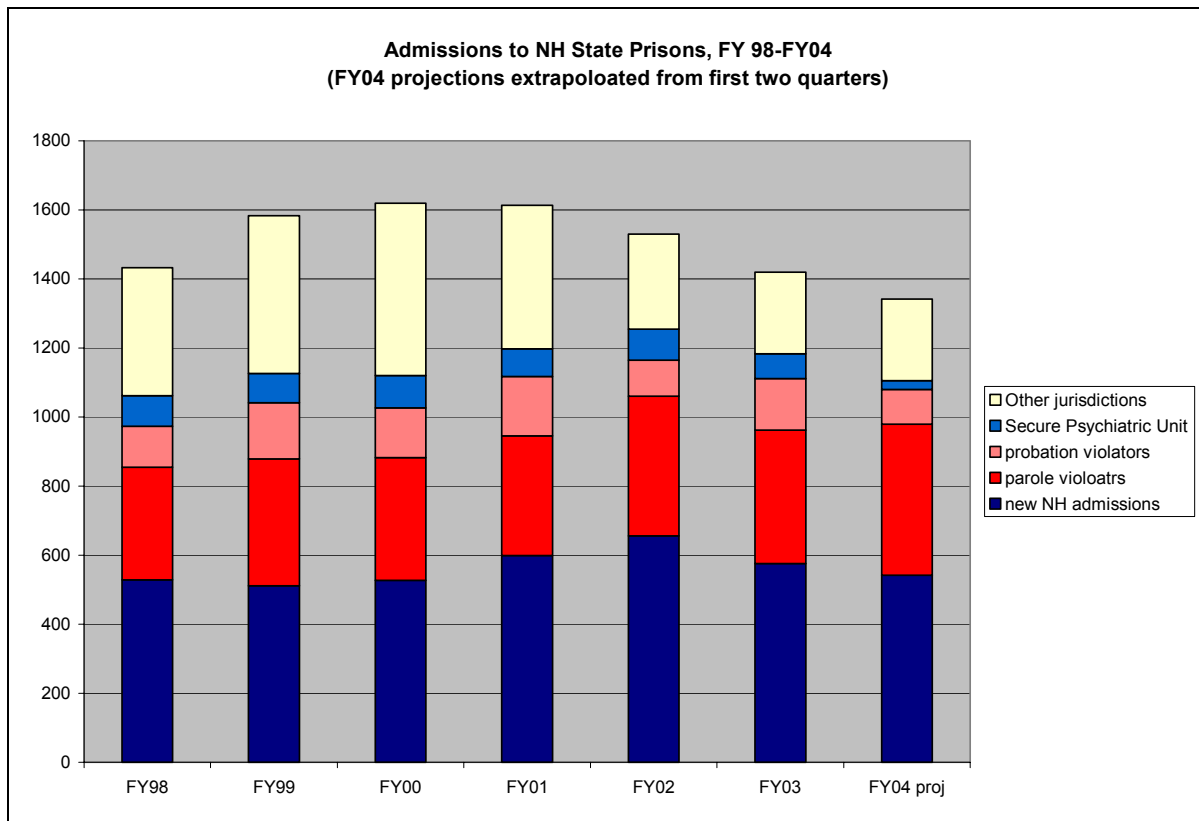
³ See Appendix A for a list of admissions by specific crimes, and a breakdown of the current prison population by the types of crime for which inmates were incarcerated.

adds millions in capital costs, but also adds millions in operating expenses each year, as was the case when the Northern Correctional Facility in Berlin opened in 1999. Despite the addition of 500 beds, the entire prison system was soon again at capacity. An expression in the corrections world circulates with the force of truth: If you build it, they will come.

In his introduction to the department’s FY 2003 annual report, DOC Commissioner Phil Stanley concluded that “plans need to proceed with the construction of the next 500 beds at the Berlin prison,” unless there is a “fundamental change in sentencing practices in New Hampshire.”⁴

Overcrowding has eased somewhat in recent months. The prison population as of December 31, 2003, was 2,438, down almost 4 percent from the high of 2,534 in October 2002. Figure 3 shows part of the reason why: the continued decline in admissions (here, projected through FY 2004 based on the first six months of the fiscal year and showing the portion of prison admissions made up by patients in the secure psychiatric unit and by inmates from other jurisdictions: a mixed group of federal prisoners, inmates transferred in from other states, and female inmates housed by the state for several of the counties). There has been no corresponding drop in releases during the period, so the resident population is declining gradually, as shown in Figure 8 in Appendix A.

Figure 3: Admissions to the state prisons continue to fall



⁴ NH Department of Corrections, *Annual Report for the Fiscal Year Ending June 30, 2003*, Concord, published December 2003, page 2.

3. The Legislature Budgets for Fewer Inmates

The budget for the current biennium, adopted in September 2003, will either slow or reverse the department’s growth in spending for the first time in more than 20 years. Fiscal 2003’s appropriation was \$79.1 million; the department said it needed \$87.6 million in FY 04 just to maintain its current programs; the legislature appropriated \$82.9 million for FY 04 (a 5 percent increase over FY 03) and \$84.5 million for FY 05 (a 2 percent increase over FY 04). In section 12 of the budget act, however, the legislature called on the department to reduce its spending during the biennium by \$3.4 million. Table 1 illustrates two ways the department could implement that reduction: by taking half of it in each year of the biennium, thus holding the rate of growth in the department’s budget to roughly the rate of inflation (the “even reduction” scenario), or by using the first year of the biennium to invest in program and policy changes that would allow the department to save all \$3.4 million in the second year (the “spend to save” scenario).

The “spend to save” alternative is consistent with the legislature’s budget, which directs the department to consider “the diversion of parole and probation violators to the Academy Program, expanding Academy Program usage, and expanded use of home confinement sentencing alternatives, with a goal of reducing the prison population by 300 inmates and closing the north or south wing of the state prison at Concord.”⁵

Table 1: DOC Must Manage a \$3.4 M Reduction During the Biennium

Budget Options	FY 03	FY 04	FY 05	change from	
				03 to 04	04 to 05
Gross Appropriation	\$ 79,146,860	\$ 82,888,786	\$ 84,508,432	5%	2%
“Even Reduction”		\$ (1,700,000)	\$ (1,700,000)		
Net Appropriation		\$ 81,188,786	\$ 82,808,432	3%	2%
“Spend to Save”			\$ (3,400,000)		
Net Appropriation		\$ 82,888,786	\$ 79,408,432	5%	-4%

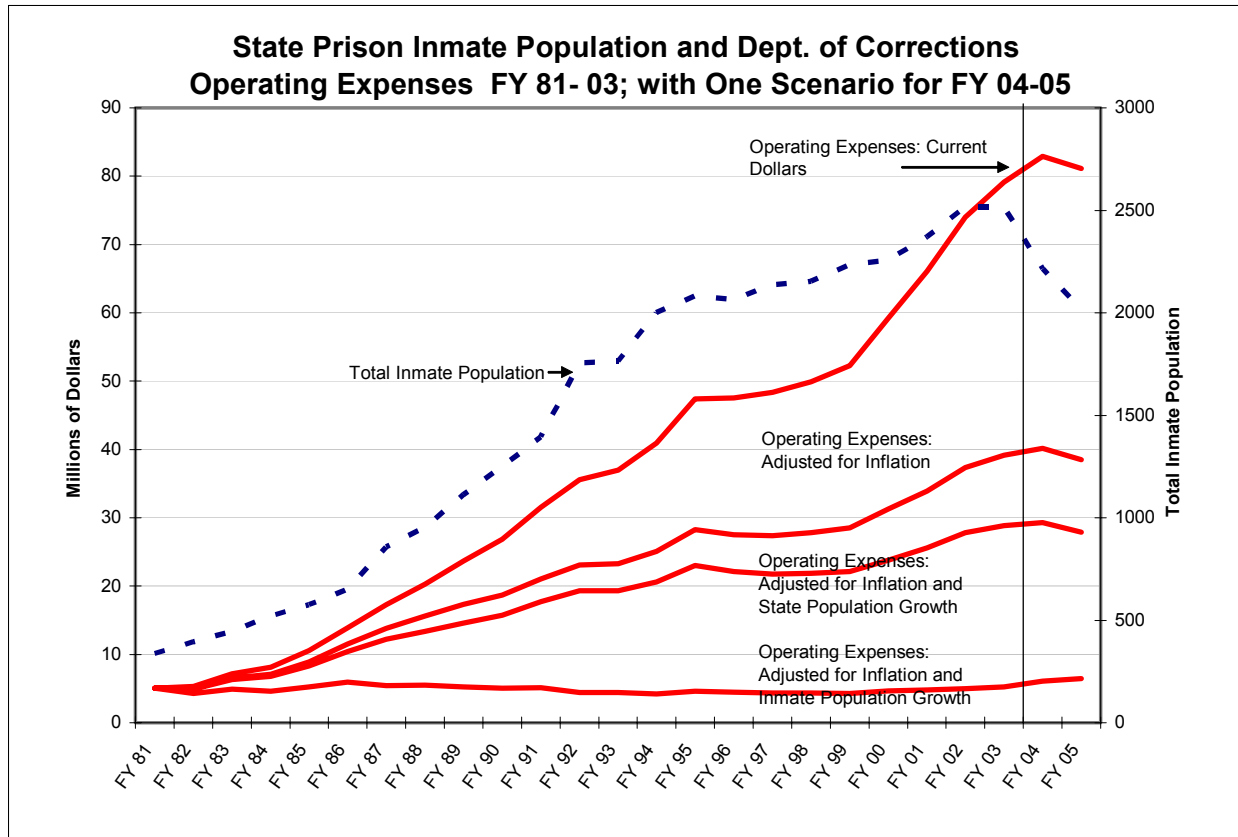
The budget recognizes that community-based sentencing, such as the Academy, is far less expensive than incarceration. The Center concluded that every dollar the state invests in the Academy’s treatment and counseling programs reduces the Department of Corrections’ spending on incarceration by three dollars, for a net savings of about two dollars.⁶ Expanding the Academy and other community-based sentencing programs would require an investment in 2004,

⁵ Section 12 of the budget act reads in full: “The department of corrections is hereby directed to reduce state general fund appropriations by \$3,400,000 for the biennium ending June 30, 2005, excluding [the line item the department uses to contract for Academy services]. In implementing the reduction, the commissioner shall consider options that include, but are not limited to, the diversion of parole and probation violators to the Academy Program, expanding Academy Program usage, and expanded use of home confinement sentencing alternatives, with a goal of reducing the prison population by 300 inmates and closing the north or south wing of the state prison at Concord. The commissioner shall report to the fiscal committee of the general court at least every 60 days during the biennium on the department’s progress in meeting the reductions required by this section.”

⁶ Merrow and Minard, *Under the Influence, Part 2*.

but they would pay off immediately and throughout 2005. This “spend to save” scenario is illustrated in Figure 4.

Figure 4: To reduce the prison population in the biennium, DOC needs to invest in FY 04



A. How the department has responded

The department has rejected the “spend to save” approach and instead has taken aggressive steps to reduce its spending immediately without reducing staffing or supervision at the prisons or in field services. It has cut or eliminated many of the programs intended to reduce recidivism and the size of the prison population. The department has not expanded the utilization of the Academy, nor consistently monitored changes in participation across the county-based programs. As of the start of 2004, the department had not submitted to the legislature any of the periodic reports it required in section 12 of the budget act.

The department has:

- made deep program cuts, particularly in education and prison industries; the prison industries program at the women’s prison is gone; the building trades program at Laconia is gone; the prison industries program in Concord is significantly reduced; less programming leaves offenders less well prepared to get jobs when they leave prison and more likely to cause trouble while they are in prison with nothing productive to do
- eliminated much of the substance-abuse programming within the prisons, including care for parole violators

- the department expects to eliminate all remaining substance-abuse programming within the prisons by September 2004 if the U.S. Senate concurs with the House-passed appropriation bill for the U.S. Department of Justice. That bill zeroes out \$70 million in grants to the states for in-prison substance-abuse treatment.⁷ The legislature's budget for the biennium had counted on \$740,000 in federal grants for those programs
- coped with staff shortages in the prisons by attempting to eliminate the third shift for correctional officers by persuading them to work three 12-hour days in a row, then three days off and an 8-hour day; the plan should reduce overtime expenses. Staff shortages are the result of a hiring freeze and the call-up of correctional officers and parole officers who serve in the National Guard.
- reduced staff training, including canceling an entire session of the training program for new correctional officers; this has put untrained officers on the job who must pair up with a trained officer, reducing efficient staffing in order to save money in the short term.

At the close of 2003, the managers at the department were developing plans to eliminate all prison programming if the administration requires the department to trim its budget by an additional 10 percent.

The department was also making some headway on efforts to reduce costs by keeping offenders from re-offending:

- The department was attempting to build a program of community-based substance-abuse treatment and counseling for parolees, including a short-term residential period in a halfway house for those parolees who relapse; the program is intended to reduce the number of parole violators who return to prison.
- The department had begun training its parole and probation officers to administer and use an evaluation tool known as the "level of services inventory" or LSI. The officers will use the evaluation to identify which parolees need the most supervision.
- The department has not yet attempted to reclassify inmates according to their potential threats to public safety and use that information as a basis for putting low-risk offenders on administrative home confinement.

Meanwhile, directives from the Governor's Office have stalled the "re-entry project," a federally funded pilot to help inmates move successfully from prison to home, thus reducing parole violations and other crimes that might land the offenders back in prison. The \$1.8 million pilot will be focused on the Manchester area, continue for three years, and deploy a staff of nine people. A hiring freeze initiated in January 2003 prevented the department from hiring the staff. In mid-2003, the Executive Council authorized the positions, but as of the end of the year, the Governor's Office had not yet asked the Executive Council to authorize the department to hire staff and tackle the re-entry problem.

Finding cost-effective approaches to helping parolees succeed is a critical step in reducing the state's corrections budget over the short and long term, yet 18 months into the three-year re-entry grant period, the department has been unable to do anything more than purchase a few computers

⁷ "Funding Bill Cuts Grants to State and Local Police," in *Criminal Justice Newsletter*, PaceCom Inc., Jan 2, 2004, page 1.

for staff it has not yet hired. DOC has been working with the U.S. Department of Justice officials who manage the federal re-entry grant and anticipate their approval to conduct the pilot as planned, if the governor and council allow them access to the federal funds.

In short, the state appears to be moving away from the money-saving goals of a smaller prison population.

B. Estimating the costs and cost-effectiveness of incarceration

Any discussion of the department's management and policy options needs to involve some estimate of the costs associated with incarceration, and the relative effectiveness of different programs and approaches to sentencing. The Department of Corrections' budget documents and annual reports detail the costs of incarceration. There is, however, virtually no data about the effectiveness of most of New Hampshire's corrections programs, making most cost-effectiveness comparisons impossible.

Working with the department's budget staff in 2002, the Center estimated that the *marginal cost* of adding a single inmate to one of New Hampshire's prisons was about \$5,791 per year.⁸ That cost included the inmate's food, clothing, medical care, and some programming. If only a few inmates come or go, the only change in prison costs is in these marginal costs.

If, however, a prison's population changes by a few dozen people, the prison might have to hire or fire correctional officers at an additional cost or savings of about \$9,143 per inmate. Thus, for larger groups of inmates, the marginal cost equals approximately \$14,934 per inmate.

The department's annual report for FY 02 concluded that the average cost of incarceration per inmate was \$24,866,⁹ including supervision and a share of the administrative costs of running the department. The report for FY 03 repeated the calculation and arrived at \$25,341.

To derive a very conservative estimate of the cost of incarceration, the Center considered only the costs of running each prison, exclusive of any department-wide functions (see Appendix B). That approach yields a useful low estimate: the FY 2003 general-fund cost per New Hampshire inmate in the state prisons was \$21,911 and the budgeted amount for FY 04 was \$23,238.¹⁰

In contrast, the cost of keeping someone in one of the state's halfway houses for a year was only \$11,519. That figure does not include any of the overhead needed to run the department, however.

⁸ Katherine Merrow and Richard A. Minard, Jr., *Under the Influence, Part 2: Treating Addictions, Reducing Corrections Costs*, NH Center for Public Policy Studies, Concord NH, February 2003.

⁹ The Center's review of the calculation found that the department had inadvertently counted residents in the secure psychiatric unit (SPU) and halfway houses as part of the denominator, without including the costs of those facilities in the numerator. Excluding those populations and their costs yields an estimated cost of incarceration in the prisons of \$26,877.

¹⁰ Most of the increase between FY 2003 and FY 2004 is the result of the legislature's addition of funds to the women's prison in Goffstown. The FY 2004 estimates will probably prove to be high because they do not include any of the \$3.4 million reduction, which the budget had not allocated among the prisons.

None of these estimates includes any of the capital costs the state continues to pay for the Berlin and Laconia facilities, though doing so would provide a more complete estimate of the cost of incarceration. The Berlin facility will cost the state \$47 million over 22 years, or \$4,300 per Berlin inmate per year on top of the costs described above.¹¹ That makes the cost per inmate in Berlin approximately \$30,000 per year. Those capital costs would remain even if the prison were empty.

In the pages that follow, the Center shows how policy changes could raise or reduce the prison population by hundreds of inmates. In those examples, we will use the conservative estimate of \$22,000 per inmate per year or compare the aggregate costs of the option to the costs of running one of the state prisons.

C. The Academy saves money

Cost-effectiveness data exist for two of the department's programs: the Academy and traditional incarceration for first-time nonviolent offenders. In its 2003 report, *Under the Influence Part 2: Treating Addiction, Reducing Corrections Costs*,¹² the Center demonstrated that the Academy was far more cost-effective than traditional incarceration, having saved the state roughly \$10 million between 1996 and 2002 by keeping approximately 200 people per year out of prison.

The Academy is a privately operated, community-based rehabilitation program designed for nonviolent offenders with alcohol or other drug problems. Judges sentence offenders to the Academy and supervise their progress. Participants live in their own homes and keep their jobs. They also must attend frequent counseling sessions, take at least two drug tests a week, and report as often as every day to their local police or Academy provider. The intensive supervision has proved effective at protecting public safety. Judges send participants who violate the rules of the program to jail for short periods or, in some cases, to prison to complete their regular sentences.

The Center's 2003 analysis reviewed the records of 575 offenders convicted of nonviolent crimes and sentenced either to the Academy or state prison. The review showed that inmates and Academy participants had roughly the same rates of re-arrest three years after completing their sentences. The Academy costs taxpayers roughly one third as much as incarceration, however.

In February 2003, the Center wrote: "In each of the last few years, there have been roughly 260 offenders—or about 10 percent of the prison population and 20 percent of the potential new prison admissions—enrolled in the Academy. Since its inception, 649 people have graduated from the Academy."

Almost a year later, the size of the Academy population remains much the same. As of January 1, 2004, there were 293 offenders participating in the 10 county-based programs, as shown in Table 2. Sullivan and Cheshire counties continued to use the Academy much more aggressively

¹¹ Richard A. Minard, Jr., and Katherine Merrow, *Under the Influence, Part 1: Alcohol, Drugs, Crime, and Treatment in New Hampshire*, NH Center for Public Policy Studies, Concord NH, July 2002, page 65.

¹² *Under the Influence, Part 2*.

on a population basis than the other counties, as indicated by the number of offenders sentenced in 2002 and 2003. DOC terminated Belknap County's program in 2003 for lack of use.

Table 2: Judges sentenced 233 people to an Academy program in 2003

Academy Program	Sentenced		Active as of Jan 1, 2004
	2002	2003	
Carroll	6	3	8
Cheshire	27	22	33
Coos	4	6	7
Grafton	21	17	26
Hillsborough North	33	42	48
Hillsborough South	16	24	30
Merrimack	26	31	33
Rockingham	11	9	10
Strafford	24	16	22
Sullivan	61	63	76
Total	229	233	293

Although there were almost 300 people enrolled in the Academy at the start of 2004, it would be a mistake to conclude that without the Academy, the state would need an additional 300 prison beds. The Center concluded in its previous analysis of the Academy, that judges were sentencing some minor offenders to the Academy for treatment rather than to a county house of corrections. In other words, not all Academy participants are truly *prison-bound*. A portion of the Academy population fails to meet the rigorous standards of the program and returns either to prison or a county facility. Thus, the only real reduction in the prison population achieved by the Academy comes from the *graduates* who would otherwise have been prison-bound. (The Center estimates that 77 percent of the graduates were prison-bound.¹³) Each of those graduates avoids a prison term averaging 2.2 years.

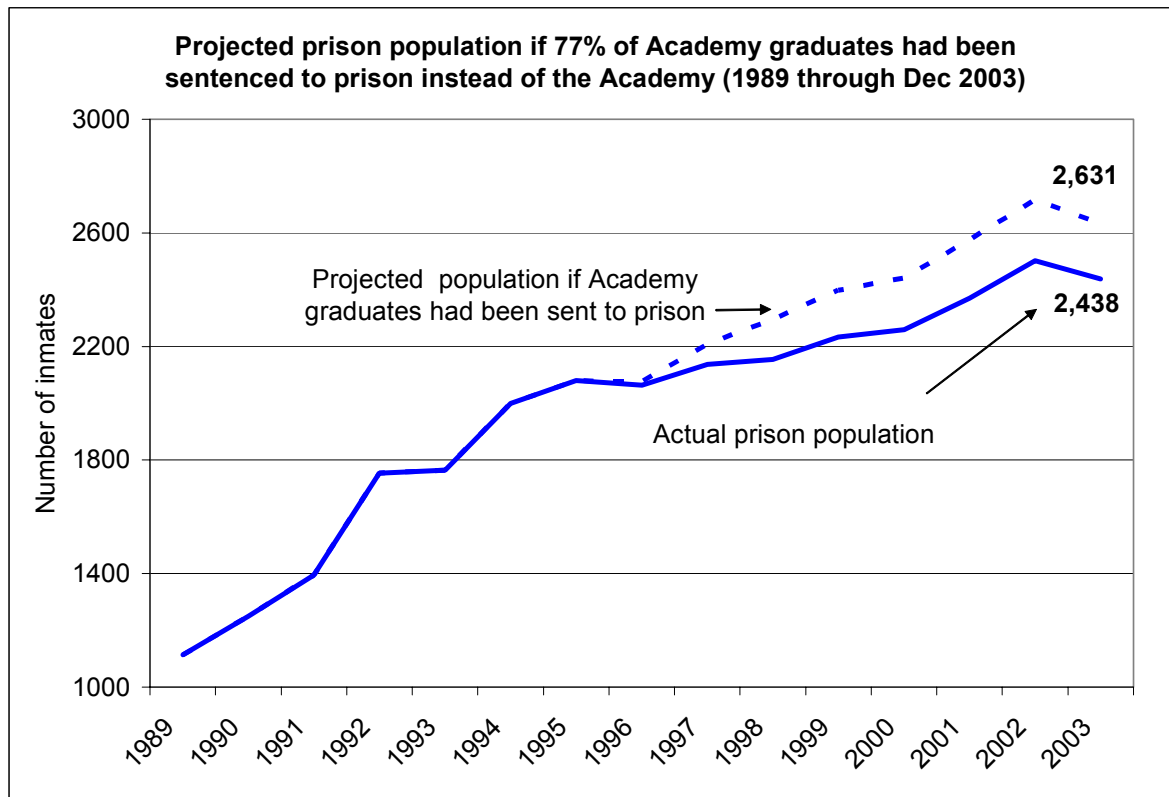
As a result, the state's prison population has been about 200 people lower than it would have been without the Academy, as illustrated in Figure 5. Without the Academy, the prison population would have peaked at more than 2,700 inmates in the summer of 2002.

If all counties used the Academy at the same rate as Sullivan County, for example, the result would be a larger population serving their sentences in the community while receiving treatment and life-skills training, a significantly reduced prison population, and significant financial savings to the state's general fund.

The Center's earlier analysis showed that the Academy programs had not compromised public safety.

¹³ The Center derived this estimate from a review of the sentences received by a sample of 105 offenders who were removed from the program between 1996 and 2002. See Figure 11, *Under the Influence Part 2*.

Figure 5: Without the Academy, the prison population would have been 200 people higher¹⁴



4. Parole Violators’ Impact on System Costs

Parole violators make up approximately 15 percent of the New Hampshire state prison population and cost approximately \$8.5 million each year to incarcerate. Most of those people, however, were not returned to prison for committing a serious new crime. As few as 13 percent of those inmates whose parole was revoked in 2002 had committed new felonies while on parole.¹⁵

Parole and probation officers (PPOs) working for the department’s Division of Field Services supervise the offenders on parole and have the authority to return them to prison at their discretion. The department has no standards for what constitutes a violation worthy of re-incarceration. The independent Parole Board reviews each case at a formal hearing and decides whether to revoke the offender’s parole. Since FY 1998, the board has refused to revoke the parole of between 7 and 12 percent of those whom the officers sent back to prison.

¹⁴ The dotted line shows what the prison population would have been if 77 percent of those who graduated from the Academy had instead been sentenced to prison and each had served an average of 2.2 years. The Center concluded in its previous analysis that approximately 23 percent of the Academy graduates would probably have been sentenced to county facilities, not prison, if the Academy were not available to judges. See Table 10 in Appendix 2 of *Under the Influence, Part 2*.

¹⁵ Parole officers have considerable discretion in how they respond to and classify parolees’ behavior, so it is possible that some parolees’ “technical violations” could instead have been handled as new felonies.

The PPOs working for the department today are nearly all former corrections officers, men and women who worked inside the prisons to maintain order. Their first obligation as PPOs is to protect the public safety. Their second is to help parolees make a successful transition to civil society. The latter is made more difficult by the high caseloads PPOs carry, the general lack of support services available to parolees—particularly, the lack of alcohol and drug treatment, as the Center documented in *Under the Influence, Part 1*¹⁶—and the PPOs general lack of training in skills related to social work or alcohol or drug counseling.

A. Parole violators could fill the Lakes Region Facility

In Fiscal Year 2003, according to DOC’s monthly statistics, the department released 772 inmates on parole and re-admitted 387 people for parole violations (excluding the 31 parolees it admitted and held until the Parole Board decided *not* to revoke their parole).

The department’s records of admissions and releases show that most offenders are paroled, and that roughly half of them are subsequently re-admitted to prison for violating the conditions of their parole. Table 3 presents the data for the last six fiscal years and projects the totals for FY 2004 based on data for the first six months of the fiscal year.

Table 3: More than half of the inmates released on parole are readmitted for violations

	Parole and Probation Admissions and Releases				
	released on parole	admitted for parole violation	parole violations as a percentage of parole releases	admitted for probation violation	maxed out or court-ordered release
FY1998	636	327	51%	118	285
FY1999	606	368	61%	162	299
FY2000	702	355	51%	145	301
FY2001	716	347	48%	171	305
FY2002	631	405	64%	104	323
FY2003	772	387	50%	148	305
<i>FY2004 proj</i>	<i>900</i>	<i>438</i>	<i>49%</i>	<i>100</i>	<i>238</i>

Comparing the number of people released on parole and admitted for parole violations in each year gives an approximation of the percentage of parolees who are readmitted for violations. That number has consistently been close to 50 percent since the mid-1990s.

The average parole violator serves roughly a year in prison for the violation. The parole violators released in FY 03 served an average of 388 days. Probation violators released in FY 03 served an average of 614 days.

The Lakes Region Facility (LRF) in Laconia provides a useful benchmark for estimating the cost of incarcerating parole violators. In the last fiscal year, there were almost exactly as many

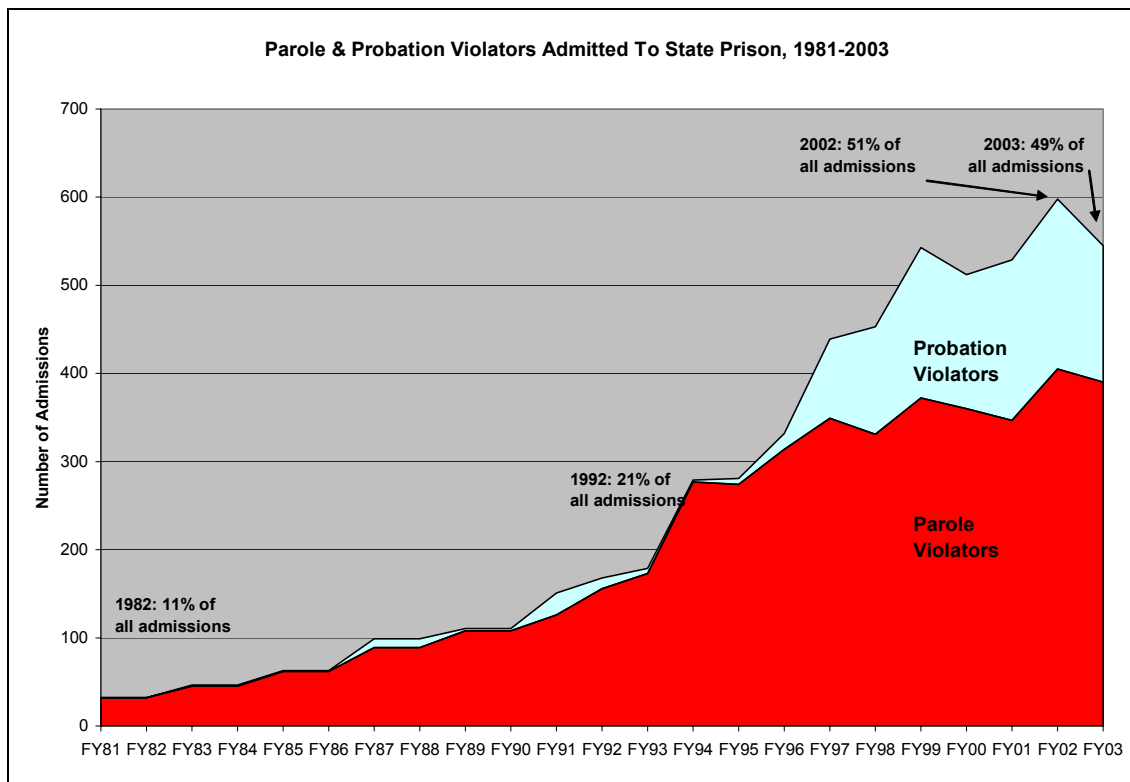
¹⁶ Richard A. Minard, Jr., and Katherine Merrow, *Under the Influence, Part 1: Alcohol, Drugs, Crime, and Treatment in New Hampshire*, NH Center for Public Policy Studies, Concord NH, July 2002.

people in prison for parole violations (387) as there were inmates at the Lakes Region Facility (LRF) in Laconia in FY 2002 (381). In FY 2002, the budget for LRF was \$8.7 million; in FY 2003, its budget was \$8.5 million, not including capital costs.¹⁷ Thus, it is reasonable to conclude that incarcerating parole violators in state prison cost at least \$8.5 million last year.¹⁸

B. Parole violations dwarf other reasons for admission to prison

In 1991, burglary was the most common reason for admission to prison in New Hampshire, but since then, the most frequent reason for admission by far has been parole violations. Even when the number of people admitted to prison for new crimes began to decline in 1994, the number of parole violations generating prison time continued to rise, as illustrated in Figure 2 (above) and Figure 6, which also shows the growth in admissions for probation violations.

Figure 6: Parole violations are the largest single offense leading to incarceration



Although more than half of all admissions are parole and probation violators, those offenders make up a much smaller percentage of the prison population because their time in prison is relatively brief. The DOC annual report for FY 03 includes a table showing that parole violators comprised 15 percent of the prison population on June 30, 2003. Sex offenders were the largest group at 22 percent of the population. Probation violators were the third largest group with 12 percent.

¹⁷ LRF’s general fund appropriation for FY 03 was \$8.5 million; its appropriation for FY 04 is \$9.4 million.

¹⁸ Alternatively, multiplying the 387 inmates times \$22,000 per inmate-year yields a total annual cost of \$8.51 million.

C. Two-thirds of the violations are not new crimes

The Department of Corrections' annual reports and monthly statistics shed little light on who the violators are or what they did to cause their return to prison. A spreadsheet maintained by the Parole Board administrator, however, records several salient details from which the following tables and charts are drawn.

According to those records, the Parole Board revoked parole for 317 people in calendar year 2002, of whom 293 (92 percent) were male, and 24 (8 percent) were female. On average, the violators had spent 9.9 months out of prison before their violations; the median time before re-incarceration, however, was just six months.

The board's data indicate whether the violation was the result of a new crime, absconding (moving away), or a different technical violation. As shown in Table 4, less than one-third of the violations are for new crimes. And, contrary to the impression that all parolees end up back in prison for new crimes, only 15 percent of those paroled in 2002 were arrested for a new crime.¹⁹

Table 4: 15% of those on parole were arrested for new crimes

Type of violation	number	% of those violated	% of those paroled
New Arrest	103	32%	15%
Absconded	76	24%	11%
Technical Violation	138	44%	20%

The data also show that out of 108 violators arrested, 41 (38 percent of those arrested) were charged with a new felony, and 67 (62 percent) with a misdemeanor or violation.²⁰ Among the 24 women violators, only one (4 percent) was charged with a felony and four (17 percent) were charged with misdemeanors.

The board's statistics identify the original felony offense for which each violator had been incarcerated. The data show that those violators who were originally incarcerated as habitual offenders are much more likely to be rearrested for a new felony than any other group. Thirty-two percent of the habitual offenders whose parole was revoked were arrested for felonies, compared to 12 percent of those originally incarcerated for drug crimes and 4 percent of those originally incarcerated for sex offenses. Table 5 presents this tabulation, which is shown graphically in Figure 7. Both include "absconding" with other technical violations.

The low rate of re-arrests for sex offenders may seem counter-intuitive in light of news reports focusing on sexual predators—particularly pedophiles—who commit crime after crime. The

¹⁹ The department's data show that it paroled 676 people in calendar 2002. The Center uses this population as the denominator in its calculation of the arrest rate for 2002.

²⁰ The Parole Board's data base includes a minor inconsistency: it identifies 103 people as having "new arrests" and 108 people as having been arrested for either a felony or misdemeanor.

Figure 7: Habitual offenders have highest rate of new felonies leading to parole revocation

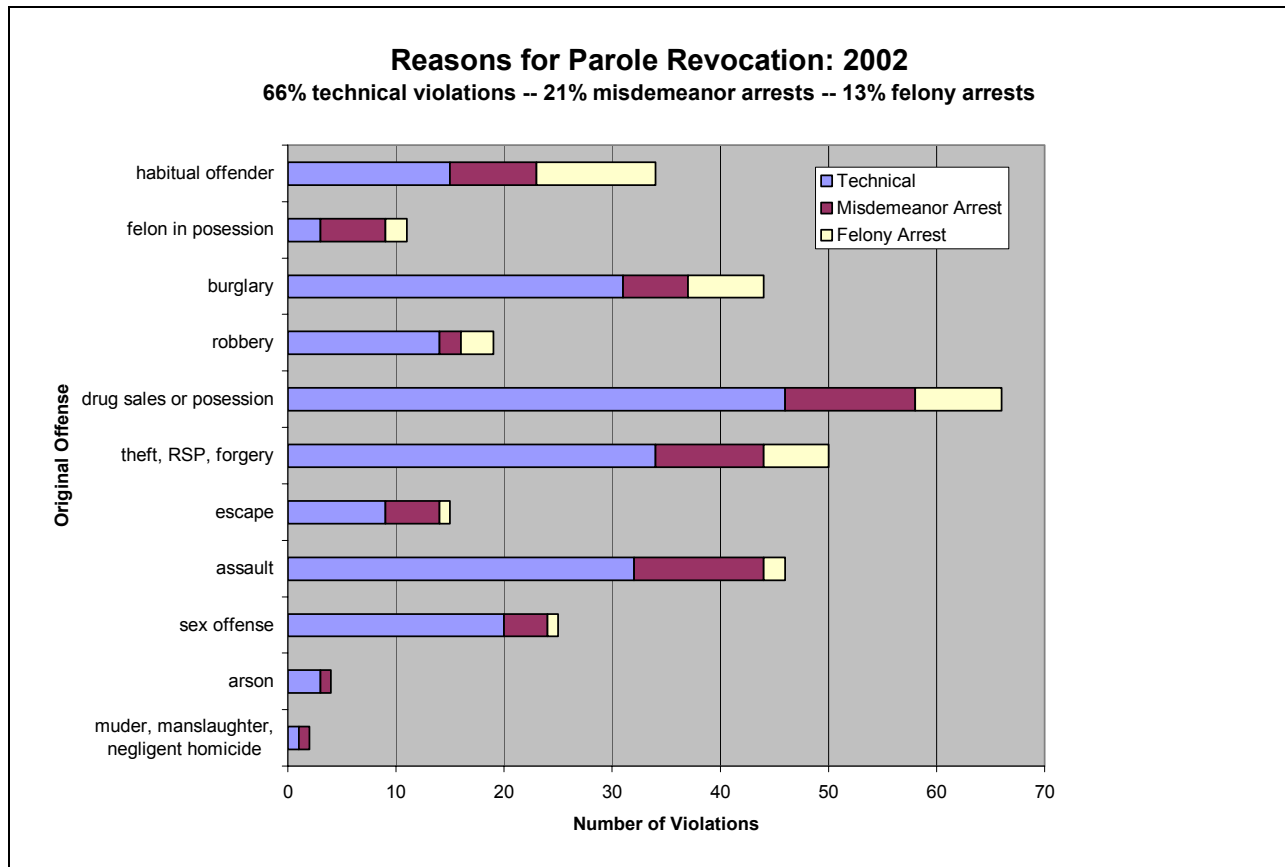


Table 5: Most revocations are for technical violations; new felony arrests are relatively rare

Original Offense	Reason for Revocation: 2002					
	Technical violation	Misdemeanor Arrest	Felony Arrest	Total Violations	Percent of violators	Felony arrests as % of violations
murder, manslaughter, negligent homicide	1	1		2	1%	0%
arson	3	1		4	1%	0%
sex offense	20	4	1	25	8%	4%
assault	32	12	2	46	15%	4%
escape	9	5	1	15	5%	7%
theft, RSP, forgery	34	10	6	50	16%	12%
Drug sales or possession	46	12	8	66	21%	12%
Robbery	14	2	3	19	6%	16%
Burglary	31	6	7	44	14%	16%
felon in possession	3	6	2	11	3%	18%
habitual offender	15	8	11	34	11%	32%
Total	208	67	41	316	100%	13%
Total percent	66%	21%	13%	100%		

New Hampshire data, however, are consistent with a recent national study that found relatively low re-arrest rates for sex offenders.²¹

In 2003, the department's Division of Field Services reviewed the records of a random sample of parole violators to learn more about their cases and the reasons for their violations. The qualitative study showed that many of the violations were indeed serious and that many of the parolees had received some form of alcohol or drug treatment in the past.

The Parole Board's data for 2002 show that alcohol and drugs continue to play a huge role in parole violations, as the Center has found in previous analyses.²² The board's data indicate that 93 percent of the parole violators used both alcohol and other drugs.

Many of the parole violators have been through the routine more than once. As Table 6 shows, 208—or roughly 66 percent of the violators—had been incarcerated in the state prison *once* before: for their original offense. The others were repeat offenders. Some 117 of the violators (37 percent) had a prior parole violation as well.

Table 6: Two thirds of the 317 violators have only one previous incarceration

Number of incarcerations or violations	Number of Violators with Previous Incarcerations	Number of Violators with Previous Parole Violations
1	208	74
2	65	27
3	27	12
4	12	4
5	4	0

D. Policy implications

The Adult Parole Board met in November 2003 to rethink its strategy on parole revocations. The department had recently eliminated a program for parole violators that had provided treatment for alcohol and drug problems. The board had seen that program as one of the benefits of re-incarcerating violators. Without the program, the re-incarcerated violators would get no rehabilitative benefit from their time in prison and would probably re-emerge with their problems unaddressed. Board members were interested in getting more value out of the state's resources, and discussed favorably the potential of programs like the Academy which provide more rehabilitative services than prison and at a lower cost.

The department and its parole officers already have the authority to move parolees into the Academy, and the 2004 budget identified the practice as one of the specific approaches the department should take to manage the reduction in the prison population.

²¹ U.S. Bureau of Justice Statistics, *Recidivism of Sex Offenders Released from Prison in 1994*, summarized in *Criminal Justice Newsletter*, Dec 1, 2003.

²² See Minard and Merrow, *Under the Influence, Part 1*, NHCPPS, October 2002.

A program to reduce the prison population could combine a set of policies, including diverting parole and probation violators to the Academy, diverting a larger percentage of new offenders to the Academy, and diverting more offenders to Administrative Home Confinement, either at the beginning of the sentence or after a period of time in prison. Relatively modest changes in this direction would cause the prison to admit fewer inmates than it releases each month. Over the course of a year or two, it would be possible to reduce the prison population by several hundred people, provided the department carefully maximized its use of the Academy providers and invested in additional services where needed. Appendix C includes a spreadsheet showing how such changes, if implemented in January 2004, could reduce the prison population to 1,969 people by June 30, 2005—a return to levels not seen since FY 1993.

5. The Cost of Longer Sentences

At the same time that the legislature's finance committees were trying to frame a budget for the Department of Corrections that would reduce the prison population through alternatives to incarceration, two other legislators introduced a bill to dramatically reduce the population behind bars by reinstating a system of "good time" that could shave years off inmates' sentences and save the state tens of millions of dollars over the next decade. That bill is still in committee. However, a bill that emerged in 2003 and is now law does the opposite: extending the sentences courts may impose on some people convicted of manslaughter. The two bills help illustrate the economic impact of sentencing choices over time. The Center takes no position on either bill.

A. The manslaughter bill

HB 277, signed into law by Governor Benson, had the title, "An Act relative to an extended term of imprisonment for manslaughter and relative to jury findings which warrant an extended term of imprisonment."

The law, on January 1, 2004, replaced a similar statute (RSA 651:6). Both versions make repeat offenders liable to extended sentences under certain conditions. The extended sentences would apply if, for example, the offender had an earlier conviction for a sex offense, a hate crime, was a law-enforcement officer, had used a police scanner during the commission of a crime, or had two or more DWI offenses and been convicted of negligent homicide. In the old version, the court made the determination; in the new version, a jury has to make the determination (beyond a reasonable doubt).

The new law also creates a separate category for manslaughter and adds 10 years to the minimum and maximum sentence for those repeat offenders. The old version implicitly included manslaughter along with "any felony other than murder."

The old version said, "an extended term is, for a person convicted of any felony other than murder, a minimum to be fixed by the court of not more than 10 years and maximum to be fixed by the court of not more than 30 years." The new version says: "Manslaughter, a minimum to be fixed by the court of not more than 20 years and a maximum to be fixed by the court of not more than 40 years."

The fiscal note attached to the bill is supposed to give legislators some idea of how much the bill would cost if passed into law. The note attached to this bill offered no bottom line. The Judicial Council explained that the bill would probably push more cases to juries rather than pleas, because of the threat of the extended term, and that would increase court costs, public-defender costs, and the like. The Judicial Council estimated an hourly rate for these expenses but did not estimate how many hours would be involved. In any case, the court costs would pale in comparison to the costs of extended incarceration.

The note goes on:

“The Department of Corrections estimates no more than two persons per year would have extended terms of imprisonment as a result of this change in legislation. Average cost of incarceration is \$24,866 per inmate, per year. Assuming an average marginal cost of \$8,000 per inmate, per year, and two inmates per year, additional costs are estimated at \$16,000 annually.”

The fiscal note ignores the obvious fact that extending the length of sentences piles up more inmates behind bars every year. That impact will start to be felt 10 years from now when additional inmate-years start to accumulate, as shown in Table 7. A decade later, there won't be two “additional” inmates but 20. Thus, the additional *annual* costs won't be \$16,000 but \$160,000, and the accumulated additional expense for all those inmates for a decade would be some \$880,000, using the department's assumptions. If there are three offenders per year who receive these extended sentences, then the result in 20 years is 30 additional prisoners.

Table 7: Longer sentences are like higher compound-interest rates

Estimating the cost of adding 10 years to certain manslaughter sentences			
Number of cases per year:	2	Additional years per case: 10	
Marginal cost of prison/year	\$8,000 (2003 dollars, not adjusted for inflation)		
Calendar Year	No. of Inmates serving extended sentences	Annual cost of those inmates	Accumulated costs
Year 1: 2014	2	\$16,000	\$16,000
Year 2: 2015	4	\$32,000	\$48,000
Year 3: 2016	6	\$48,000	\$96,000
Year 4: 2017	8	\$64,000	\$160,000
Year 5: 2018	10	\$80,000	\$240,000
Year 6: 2019	12	\$96,000	\$336,000
Year 7: 2020	14	\$112,000	\$448,000
Year 8: 2021	16	\$128,000	\$576,000
Year 9: 2022	18	\$144,000	\$720,000
Year 10: 2023	20	\$160,000	\$880,000
Year 11: 2024	20	\$160,000	\$1,040,000
Year 12: 2025	20	\$160,000	\$1,200,000
Year 13: 2026	20	\$160,000	\$1,360,000
Year 14: 2027	20	\$160,000	\$1,520,000
Year 15: 2028	20	\$160,000	\$1,680,000

Just as higher compound-interest rates make a bank account grow, longer sentences for crimes make the prison population grow, as demonstrated in Table 7, which uses the assumptions in the bill’s fiscal note and comes to a more complete estimate of the fiscal impact of the legislation.

B. ‘Good time’ could close a prison

The “good-time bill” pending in the House Criminal Justice and Public Safety Committee could, if enacted, reduce the prison population sufficiently to close an entire prison within a few years. HB1347, “an act implementing a ‘good time’ sentence reduction system for inmates in the state prison system,” would reward inmates who exhibit “meritorious” conduct with reductions of up to one-third of their sentence. The system would apply to all inmates except a few categories of murderers. Thus, its potential impact is significant.

The bill would essentially reduce each year in a sentence by 121 days, so someone sentenced to serve one to two years would be eligible for release after 244 days in prison (365-121=244). Corrections officers could, however, reduce that year’s good-time to zero if the inmate created any disciplinary problems during the year.

The impact of the legislation would depend on how many people are being sentenced to prison each year and on the lengths of their sentences. The Center has compiled those annual statistics starting with the FY1981-1982 biennium.²³ The first two columns in Table 8 provide the most recent history of sentencing in New Hampshire. On average, in *each* of the last three fiscal years, the prison has admitted 180 people with minimum sentences of one year, 264 people with minimum sentences of two years, and so on. In sum, in each of the last three years, the prison has added 574 inmates with sentences totaling 1,533 inmate-years. HB 1347 would shorten the length of each inmate-year to 244 days, a reduction of as many as 508 years to be served by each year’s new admissions to the prisons.

Table 8: The ‘Good-Time’ bill could reduce annual sentences by up to 508 years

Minimum Sentence	Number of new sentences (annual average, FY 01-03)	Minimum resulting inmate-years (current system)	Minimum resulting inmate-years (HB1347 system)	Potential reduction in years to be served
.5 years	10.0	5	3	2
1 year	180.3	180	121	60
2 years	264.3	529	353	175
4 years	51.0	204	136	68
6 years	31.3	188	126	62
8 years	4.7	37	25	12
10 years	23.3	233	156	77
15 years	6.0	90	60	30
25 years	2.7	67	45	22
Total years	573.7	1,533	1,025	508

²³ Sentencing data are taken from the Department of Corrections’ annual reports from FY 1981 through FY 2003.

Once fully implemented, HB 1347 could reduce the prison population by up to 508 people per year, eliminating the need for the 500-bed facility in Berlin or at least one wing of the men's prison in Concord. The FY 04 operating budget for the Berlin facility is \$13.2 million, so it is fair to say that the annual fiscal impact of HB 1347 could be as much as \$13.2 million after it were fully implemented. Even at the conservative estimate of \$22,000 per inmate per year, the savings could reach \$11.2 million per year.

These savings would be reduced by inmates' bad behavior and failure to keep their good time. The savings could also be reduced if the department were to fill the empty cells with other offenders who are not generally going to prison today, such as parole violators or the participants in the Academy. Of course, any changes in the underlying crime rate and judicial sentencing tendencies could increase or decrease the number of offenders bound for state prison.

The implementation schedule for HB1347 is difficult to predict because it would apply to inmates already serving their sentences if they had shown meritorious behavior. Presumably, some fraction of the prison population would immediately be eligible for release upon passage of the bill, generating savings the moment they left the facilities. Without access to those records, the Center takes a more conservative approach and considers only the impact on newly sentenced inmates. Just as with the manslaughter law, the impact of HB1347 would play out over many years, as shown in Table 9.

Assuming that no inmate loses any of his or her good time, the effects of HB 1347 would begin to be felt quickly because the majority of sentences for prison inmates have minimums of two years or less. By the end of FY 2006, there could be as many as 237 fewer inmates in the prison system; by the end of FY 2007, when the first wave of four-to-six-year sentence recipients would be eligible for parole, the population could drop by 304. By 2022, when the people sentenced to 25-year terms in 2004 would be eligible for release, the prison population could be 508 people smaller than it would be otherwise and the state would have avoided some 7,300 inmate-years, or \$160 million (at \$22,000 per inmate per year).

There are other costs and benefits associated with incarceration, however, and these must play a critical part in evaluating the potential of a statute like the HB 1347. One issue is the value society places on punishment for its own sake. Reducing sentences or awarding good time may seem inappropriate to many, despite the costs associated with maintaining prison populations.

The most important public issue, however, is likely to be public safety and the potential risks that might flow from allowing inmates out of prison sooner. There is always the chance that a former inmate will commit another crime, perhaps a monstrous crime. No one wants to be responsible for such a crime, even indirectly. So it is difficult for political leaders, judges, and public managers to take the risk of letting inmates out "early." There is no way any public official can promise zero risk, however, so it is important that everyone associated with these issues be candid about the tradeoffs between cost, risk, and the ideals of a free society. Reducing the number of people behind bars increases the number of past offenders who are at large. Some of them will commit new crimes.

Table 9: Reinstating ‘good time’ would reduce the prison population in the short and long term

Minimum Sentence	No. of sentences (annual avg FY 01-03)	Minimum resulting inmate-years (current system)	Minimum resulting inmate-years (HB1347)	Potential annual reduction in years to be served	2005	2006	2007	2008	2009	2010
.5 years	10.0	5	3	2	2	2	2	2	2	2
1 year	180.3	180	121	60	60	60	60	60	60	60
2 years	264.3	529	353	175		175	175	175	175	175
4 years	51.0	204	136	68			68	68	68	68
6 years	31.3	188	126	62					62	62
8 years	4.7	37	25	12						12
10 years	23.3	233	156	77						
15 years	6.0	90	60	30						
25 years	2.7	67	45	22						
Total years	573.7	1,533	1,025	508						
Cumulative reduction in inmate-years					61	237	304	304	367	379

Minimum Sentence	2011	2012	2013	2014	2015	2016	2022	2025	2030
.5 years	2	2	2	2	2	2	2	2	2
1 year	60	60	60	60	60	60	60	60	60
2 years	175	175	175	175	175	175	175	175	175
4 years	68	68	68	68	68	68	68	68	68
6 years	62	62	62	62	62	62	62	62	62
8 years	12	12	12	12	12	12	12	12	12
10 years		77	77	77	77	77	77	77	77
15 years					30	30	30	30	30
25 years							22	22	22
Total years	379	456	456	456	486	486	508	508	508
Cumulative reduction in inmate-years	2,031	2,488	2,944	3,401	3,887	4,373	7,312	8,837	11,379

It is beyond the scope of this paper to present an analysis of the relationship between the lengths of sentences, public safety, and recidivism. Suffice it to say that these issues are being debated across the United States as states like New Hampshire look for ways to spend less on corrections. Many states have concluded in recent years that they went too far with mandatory minimums and are either reducing those sentences, replacing incarceration with treatment, or reforming their parole systems.

Until 1983, New Hampshire used a system very much like the one proposed in HB 1347, though its starting point was 150 days of good time per year rather than 121. The truth-in-sentencing act, enacted in 1983, eliminated the good-time reductions from inmates' minimum sentences. The law required inmates to serve their full minimum sentence before being eligible for parole. The law still allows inmates to earn time off for good behavior, but only *after* they serve their minimums.

Table 10 offers a rough estimate of the impact of the truth-in-sentencing statute. Under the current system, someone serving a two-to-four-year sentence will serve at least two “inmate-years” (and perhaps as many as four). Under the old system, that person would have served a little more than one inmate-year. The table compares the total number of inmate-years under the current system and the old system, assuming that all inmates would have kept all their good time; the final column shows the difference. Eliminating good-time has added as many as 11,000 inmate-years to New Hampshire’s prison system since 1983. In round numbers, that translates into about 500 additional people in prison in each year and a total cost of up to \$242 million in current dollars (at \$22,000 per inmate per year, a figure not deflated for prior years).

Table 10: Truth-in-Sentencing increased the prison population

Minimum Sentence	Number of Sentences	Minimum resulting inmate-years (current system)	Minimum resulting inmate-years (old system)	Potential increase in years served
.5 years	435	218	128	89
1 year	3316	3,316	1,953	1,363
2 years	4684	9,368	5,518	3,850
4 years	908	3,632	2,139	1,493
6 years	609	3,654	2,152	1,502
8 years	57	456	269	187
10 years	261	2,610	1,537	1,073
15 years	165	2,475	1,458	1,017
25 years	79	1,975	1,163	812
Total years	10,514	27,704	16,319	11,385

Long-time observers of the criminal justice system in New Hampshire disagree about the impact of the truth-in-sentencing act on judicial decisions. Some maintain that judges responded to the law by giving shorter sentences to offenders so that their total time in prison would remain about the same as before. Others saw no such adjustment. Figure 11 in Appendix A displays data on

the length of sentences back to 1981. On the whole, judges handed out a greater proportion of *longer* sentences *after* the act's adoption. The department's data do not allow a comparison by type of crime, however, and the Center does not have data before 1981 that would give a clearer picture of sentencing practices before the act's adoption.

C. Other options

The truth-in-sentencing act and its mirror image, the proposed good-time bill, address sentencing in a systemic, across-the-board way, in contrast with the focused manslaughter bill discussed earlier. Efforts to reduce the prison population through sentencing changes could be just as focused. The most obvious targets would be where most of the inmate-years come from: the two-to-four-year sentences.

Many of these shorter sentences are for nonviolent crimes. To the extent that the department expands the Academy program or its administrative-home-confinement system, the new slots are likely to be used by this population.

Another systemic approach to reducing the prison population would simply be to eliminate the bottlenecks that currently keep relatively low-risk inmates behind bars past their minimum sentences. A chronic shortage of half-way house beds keeps inmates in prison cells. At one time, the legislature included money in the DOC budget to open another half-way house. Difficulties in siting the facility caused delays and the money is now gone. The need remains, however, and the state could save substantial amounts by keeping more people in half-way houses and fewer in prison. As shown above, it costs less than half as much as prison to keep an inmate in a halfway house.

D. Actions in other states

The *New York Times* reported on November 10, 2003, that during the previous year, 25 states had restored early release for parole and began offering treatment in place of incarceration for nonviolent drug offenders.²⁴ Budget pressures have motivated many of the changes.

Washington State reversed part of its "three-strikes" law, shortening sentences and providing drug treatment for certain offenders. The state expects to save \$45 million per year. Kansas passed a bill mandating treatment in lieu of prison for first-time non-violent drug offenders. Michigan eliminated its mandatory-minimum sentences for drug offenders.

Colorado adopted a new law that limits the amount of time nonviolent offenders can be sent back to prison to 180 days.

A commission appointed by the Maine Legislature was preparing recommendations in November to reduce the number of probation violators sent to prison. The commission's draft recommendations included eliminating the use of probation for low-risk, misdemeanor offenders

²⁴ A summary of the *New York Times* article is available at www.jointogether.org/y/0,2521,567611,00.html.

except those convicted of domestic violence or sex offenses, and reducing the length of time people can be sentenced to probation.²⁵

And in California, which spends \$5.3 billion a year on prisons and parole, Governor Schwarzenegger is “exploring moves that would all but eliminate parole conditions for nonviolent, non-serious offenders and eventually—through early release and lighter penalties—dramatically shrink the prison population,” according to *The Sacramento Bee*.²⁶

The commissioner of corrections in New York announced on January 23, 2004, that he would be asking the state legislature to close three prisons, a work-release facility, and parts of six medium-security prisons for a total of 1,420 inmate beds over the next 14 months because of reductions in the prison population. The commissioner said the reduction was the result of programs allowing nonviolent offenders to reduce their sentences through rehabilitative programs and good behavior. The programs include academic and vocational classes and substance abuse treatment. The department expects to save \$18 million per year from the reductions.²⁷

6. Privatization?

As part of a cost-saving strategy, the Governor’s Commission to Assess the Operating Efficiency of State Government has suggested that the State of New Hampshire should privatize all or part of the Department of Corrections.²⁸ The Center has not conducted its own research into the experience in other states with privatization, so this report offers no recommendations on the larger policy question.

The research and analysis contained here should, however, be included in the policy debate. What the department generally does best is security—both within its prisons and in its management of parolees. What it has done less well, however, is manage contractual services and performance data.

The Center’s research shows that the department does a fairly good job running its prisons. Violence within the walls is rare, and with the notable exception of the escape of three inmates from the Men’s State Prison in June 2003, it appears that the DOC manages the prisons with care, compassion, and reasonable efficiency.

Its management of private contractors, however, is a different story. The audit of the Division of Field Services prepared by the NH Office of Legislative Budget Assistant documents the problems that have ensued because of a poorly managed contract to build a new computer system to track parolees and probationers.

²⁵ David Hench, “Probation Violators Overcrowd Jails,” in the *Maine Sunday Telegram*, Portland, Nov. 23, 2003.

²⁶ Gary Delsohn, “Major Parole Moves on the Table,” in *The Sacramento Bee*, Sacramento, Dec. 27, 2003.

²⁷ Joel Stashenko, “New York Looks to Close Three Prisons,” Associated Press; and James M. Odatto and Dennis Yusko, “Prison System Plans to Shrink,” in the *Albany Times Union*, Jan. 24, 2004.

²⁸ Governor’s Commission to Assess the Operating Efficiency of State Government, *Final Report*, December 2003.

The Academy is a set of privately operated programs that have successfully saved New Hampshire millions of dollars by supervising approximately 200 people per year in their communities rather than prison. The Center's earlier reports on the Academy concluded that the program is a success overall, despite the department's hands-off approach to working with the providers with whom it contracts. The Center concluded that the department needs to set and track more rigorous performance measures for the program in order to maximize its utilization and potential cost savings. The department has not yet acted on those recommendations, though it has taken preliminary steps to gather and analyze periodic reports from Academy providers.

The department's management of hospital contracts to provide medical care for inmates aroused considerable legislative attention in 2002 and 2003.

The department has invested considerable time in straightening out the computer and medical contracts and believes that much of the computer system will be in operation in by summer. The department also believes that the current approach to hospital care is working well and saving money.²⁹

These experiences are a reminder that any approach to corrections that would require DOC to manage more contracted private services will require a considerable investment in management capacity within the department or whatever organization of state government is assigned the task. The department will need to measure the performance of the privatized programs in terms of their impact on offenders' ability to succeed in society, to get and keep decent jobs, to stay away from crime. Even if none of the department's functions is privatized, that investment is imperative. New Hampshire needs a corrections system that succeeds in all of its major roles: protecting the public from dangerous people, rehabilitating those people, and reintegrating them into society when they are ready.

7. Conclusions and Recommendations

The Department of Corrections and the legislature have numerous opportunities to constrain the cost of corrections while continuing to protect public safety and improve the likelihood that offenders will re-enter society successfully.

The improvements the department needs to make, however, will require more aggressive management by the department, the administration, and the legislature. Most of the changes will require an investment of money up front in order to save money. The department's slow response to the legislature's directive in the FY 04-05 budget to reduce the prison population will make it more difficult to reduce costs without simply reducing the quality and safety of prison supervision and programming. The administration and the legislature should remedy that situation as quickly as possible.

The Center strongly recommends the following steps:

²⁹ Interviews with Les Dolecal, deputy commissioner, and Larry Blaisdell, director of field services, Dec. 24, 2003.

- DOC should increase participation and investment in the Academy. Doing so will require the department to spend more on the Academy program providers and their associated treatment programs in FY 2004 in order to save in FY 2005.
- DOC should manage the Academy program by tracking each provider's enrollment, and each judge's use of the Academy. The Division of Field Services should work with judges, prosecutors, and providers to maximize the value of each of the county-based, privately operated, programs. The department's monthly statistical reports to the governor and legislature should show explicitly how many people are in the Academy programs and *not* in prison.
- As an alternative to seeking revocation of parole for some individuals abusing alcohol or other drugs, DOC's parole and probation officers should send many of them to the Academy program for counseling, treatment, and supervision. The department will have to pay providers for this service, but doing so should make savings possible within the prisons.
- The administration should allow the department to begin immediately hiring staff for the "re-entry" program, a federally funded project to reduce recidivism. Hiring freezes have already delayed the effort by 18 months.
- The parole board should seek alternatives to re-incarceration for parole violators, particularly those who are employed and pose minimal risk to public safety. The board should refrain from using state prison as an alternative to treatment for offenders with alcohol and other drug problems.
- The legislature should invest more money in evidence-based alcohol and drug treatment programs that will be accessible to adults and juveniles with criminal records and without.
- DOC needs to hire a more diverse group of parole and probation officers to include those with training in alcohol and drug counseling and social work.
- DOC needs to complete the screening of inmates to identify those who are most likely to succeed on administrative home confinement—electronic monitoring at home as an alternative to incarceration. The commissioner can order AHC for any inmate, though political pressures make it difficult for commissioners to put low-risk offenders convicted of serious crimes on AHC until their sentences are nearly complete. The legislature and the Governor's Office should support the commissioner's use of the tool in such cases, putting public safety first and cost-saving second.
- The legislature should refrain from lengthening prison sentences or imposing new mandatory minimum sentences.
- Any legislative changes in sentencing practices should retain or increase judicial discretion to treat each offender in the most appropriate way.
- The legislature should work with the judiciary and other groups to review sentencing requirements with an eye on reducing the prison population while maintaining public safety, rehabilitation potential, and an appropriate degree of punishment. The process should ensure that the state maintains a corrections system in which the public can have confidence while avoiding any pretense that the system can be infallible.

Appendix A: The state prison population

There were fewer inmates in New Hampshire’s state prisons on December 31, 2003, than at any time since January 1, 2002, as illustrated in Figure 8. As the following set of graphs shows, the prison population is also aging dramatically. The data in the figures are from the Department of Corrections’ unpublished monthly reports and its FY 2003 annual report to the legislature.

Figure 8 tracks the prison population—the men and women housed in any of New Hampshire’s four prisons—in monthly increments between July 1, 1997, and December 31, 2003. The graph shows the steady increase in the population following the opening of the Northern Correctional Facility in Berlin in 2000 and the gradual decline over the last six months. The department tracks its inmates by the type of conviction that originally sent them to prison, be it a violent offense, a non-violent offense, or a drug crime. Those designations do not necessarily relate to the inmates’ current state of mind or their potential risk to the community. A small group is held in the Concord prison’s Secure Psychiatric Unit and the prisons also house a larger group of offenders from other jurisdictions: some women convicted of misdemeanors whose counties’ have no facilities for females, and inmates who are the financial responsibility of other states but who are transferred to serve some of their sentence in New Hampshire for a variety of reasons. Some of New Hampshire’s prisons serve parts of their sentences in other states as well.

Figure 8: Roughly half of those in prison were originally convicted of a violent offense

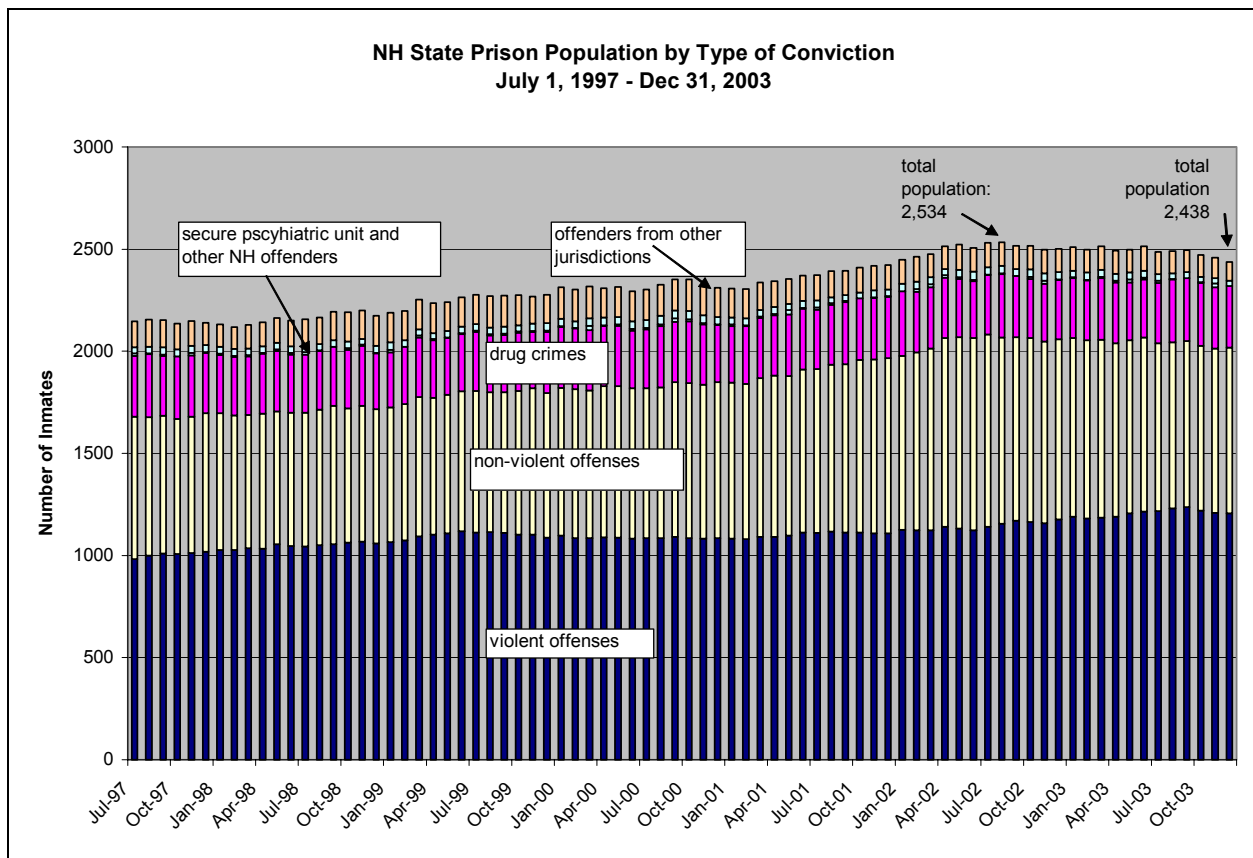


Figure 9: The overall prison population is getting older

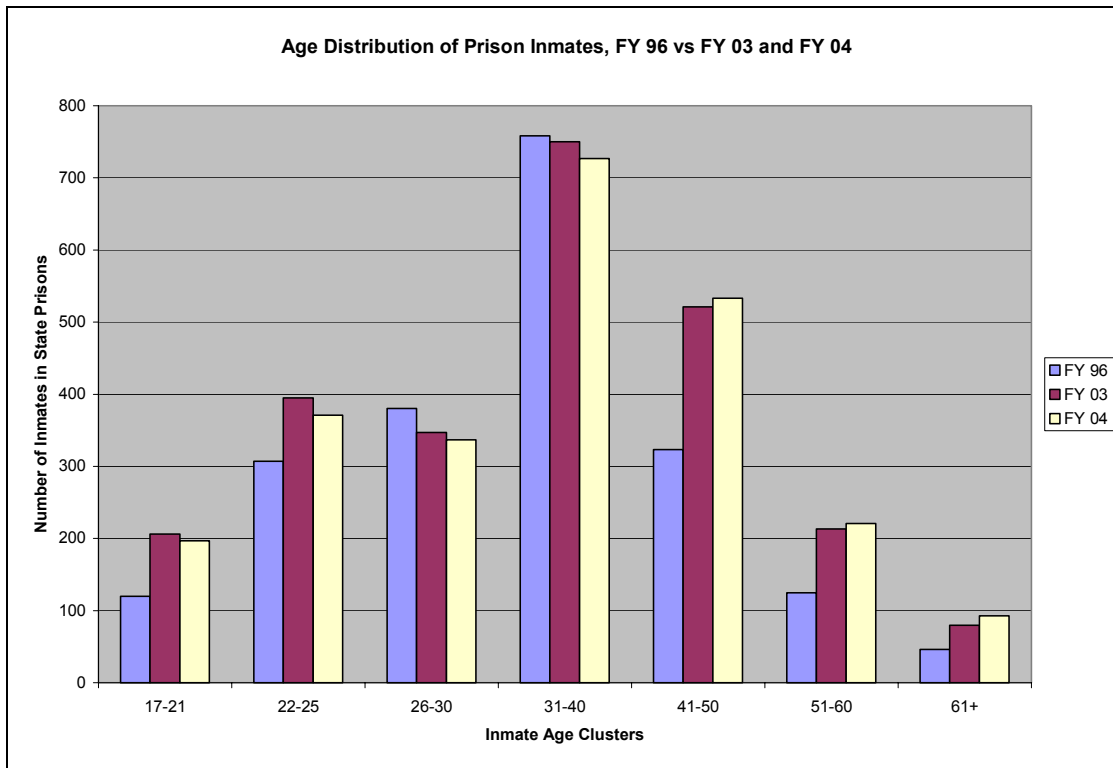


Figure 10: In FY 03, almost 25% of the new admissions were over 40 years old

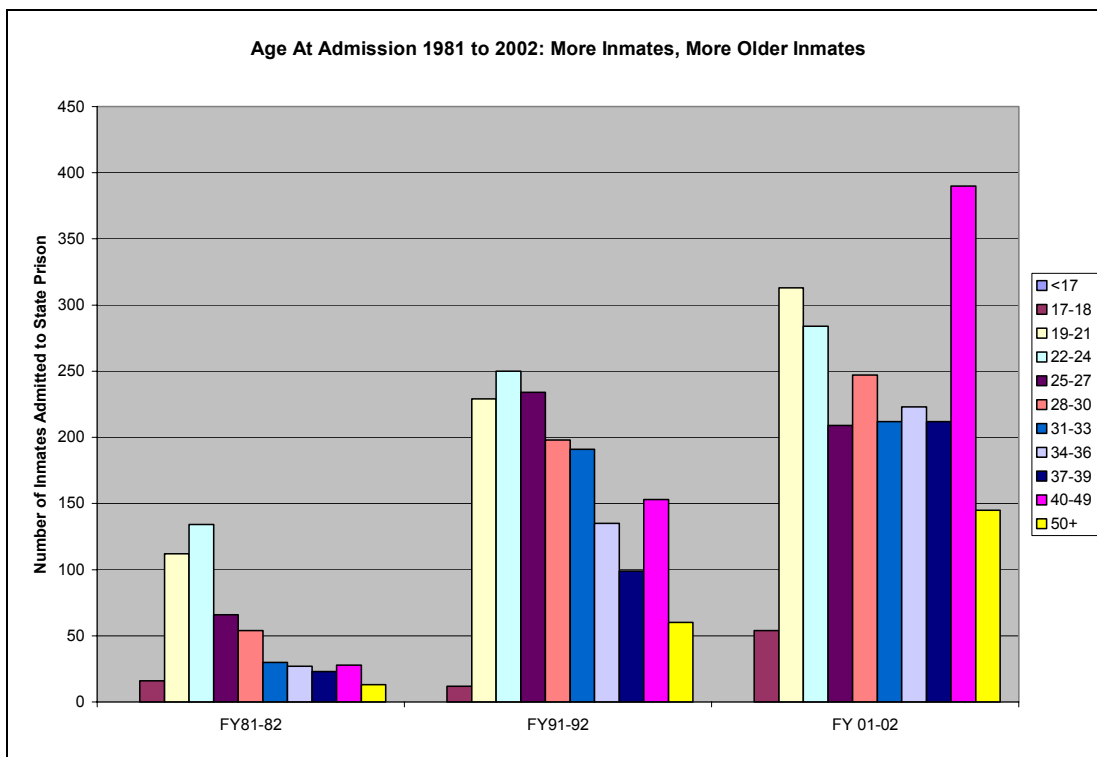


Table 11: Admissions to New Hampshire prisons by type of conviction, FY 81-FY 03

Description (from DOC report)	FY81-82	FY83-84	FY 85-86	FY87-88	FY89-90	FY 91	FY 92	FY93	FY94	FY95	FY96	FY97	FY98	FY99	FY00	FY01	FY02	FY03
violation of parole (including drug use)	64	90	124	178	216	126	156	173	277	274	314	349	331	372	360	347	405	390
violation of probation		3	2	20	5	25	12	6	2	7	18	90	122	171	152	182	193	155
Probation & Parole Violations	64	93	126	198	221	151	168	179	279	281	332	439	453	543	512	529	598	545
Drug Offenses	42	45	71	116	227	128	185	167	178	182	130	128	106	93	109	123	94	99
rape, "sex offenses" from 96 on	69	63	51	117	137	78	69	109	127	111	97	101	80	89	78	98	76	96
other sexual offenses		3	42	11	1	7	1		1	1								
Sex Offenses	69	66	93	128	138	85	70	109	128	112	97	101	80	89	78	98	76	96
armed robbery	12																	
robbery	48	70	47	55	54	39	37	39	36	49	39	23	39	22	25	30	39	31
aggravated assault	38	44	31	32	51	34	45	44	55	42	41	63	66	58	51	52	70	68
murder	14	18	9	26	28	12	13	18	9	12								
homicide											16	17	18	15	21	18	22	21
negligent homicide	8	7	20	20	14	14	8	12	9	3								
manslaughter	8	5	3	4	4	4	2	3	1	2								
kidnapping	10	9	3	5	5	8	2	4	8	5	2	1	2	7	4	1	4	3
accomplice to robbery	2																	
accomplice to robbery w/ deadly weapo	1																	
attempted robbery, murder, or assault	3																	
Violent Crimes	144	153	113	142	156	111	107	120	118	113	98	104	125	102	101	101	135	123
burglary	107	109	136	141	183	141	135	125	112	152	86	68	43	43	52	47	53	57
forgery & counterfeiting	12	17	17	31	26	34	25	28	22	16	18	14	13	13	9	15	17	13
stolen property	12	29	16	17	24	21	19	20	22	24	30	29	42	38	47	58	50	27
arson	9	11	10	9	9	4	7	7	9	14	8	4	7	5	6	13	10	4
larceny		58	1								40	12	5	6	8	5	7	30
motor vehicle theft			1					1	0		2	1		1	1	1		5
unauthorized use of food stamps		1	1			1	0											
theft, theft by unauthorized taking	37							21	35									
attempted burglary	2																	
attempted arson	1																	
criminal mischief	1	6																
theft of high explosive	1																	
embezzlement											2	2						
property damage											1	4	3	5	1	2	6	1
malicious explosion			1															
extortion													2					
Property Crimes	182	232	182	198	242	201	186	202	200	206	187	134	115	111	124	141	143	137
criminal liability	4	7	9	15	7	20	14	16	13	12								
witness tampering	3	3	2	1	6	4	2	2	1	1								
conduct after accident	1		2	3	3	6	0	1	2									
conspiracy	6	2	4	2	1	1	1	3	0	1								
felonious use of firearm	7																	
jumping bail	3							1	0									
hindering apprehension	2																	
criminal solicitation	1																	
leaving the scene of accident	1																	
habitual offender	13	6	13	27	55	38	44	34	80	61								
traffic offenses											80	58	62	73	74	80	74	70
driving while intoxicated						0	2											
misc										1								
obstructing the police											5	8	8	8	6	5	2	4
riot											2							
trespassing											1							
failure to appear												3	4	3	2	7	4	2
hit and run			1															
criminal restraint			4															
weapons: carrying, possession			11	12	7	22	11	9	5	10	19	11	12	9	12	23	20	10
escape, aiding & abetting escape	27	27	13	12	21	5	6	10	7	10	3	7	6	4	4	4	6	4
endangering welfare of child								1										
public peace													2	2		1	1	3
conservation													1					1
fraud	1	1	3	6	7	3	3	4	9	9	8	18	6	6	8	10	11	9
bribery														1		1		1
obscenity																	2	6
family offenses																		3
Misc. Non-Violent Crimes	69	62	58	73	122	88	81	77	122	114	110	106	98	109	106	131	120	113
TOTAL	570	651	643	855	1106	764	797	854	1025	1008	954	1012	977	1047	1030	1123	1166	1113

Appendix B: Estimating the cost of incarceration

The discussion of inmate costs in section 2 of this report is based on the following details:

- Over the last few years, the average ratio of inmates to officers was about 4.5:1, and in FY 03, the average salary and fringe benefits of a correctional officer cost the state approximately \$41,143 or about \$9,143 per inmate.
- The department’s annual report for FY 02 included a detailed analysis comparing the costs per inmate in each prison. The analysis divided the cost of running each prison by its average population and added a share of the department’s administrative expenses. The result was an annual average cost per inmate of \$24,866, which the Center believes should have been reported as \$26,877 (see footnote 9, above).
- To arrive at a very conservative estimate of the cost per inmate, the Center excluded all overhead expenses and considered only the appropriations approved to run each facility. Table 12 shows the FY 2003 general-fund appropriation for each prison and the halfway houses. These figures are less than the total cost of running each facility because they exclude any revenues the facilities might receive from housing inmates from other jurisdictions. The women’s prison is an exception: nearly a quarter of the inmates there are county inmates held in Goffstown because most of the counties do not have facilities to house women. The department receives no reimbursement for those women, however, so this calculation treats all of the women in Goffstown as “New Hampshire inmates.” The Center divided the costs by the number of New Hampshire inmates in each facility to generate the average cost per New Hampshire inmate: \$22,378.

Table 12: FY 03 general fund appropriations for major DOC facilities

Facility	FY 03 budget for facility	NH inmates in the facility	All inmates in the facility	Average cost, NH inmates FY 03
Concord	\$ 25,871,357	1,320	1,395	\$ 19,600
LRF	\$ 8,542,580	317	317	\$ 26,948
NCF	\$ 12,442,765	499	509	\$ 24,935
Goffstown	\$ 2,268,500	77	106	\$ 29,461
All prison inmates	\$ 49,125,202	2,213	2,327	\$ 22,378
Halfway houses	\$ 1,555,047	135	141	\$ 11,519
Secure Psychiatric Unit	\$ 3,222,172	14	48	\$ 67,129

The department’s total general fund expense in FY 03, minus the cost of running the Division of Field Services (the halfway houses, and parole and probation) and the cost of the Secure Psychiatric Unit was \$64.6 million. That “fully loaded” sum, divided by the 2,215 inmates for whom the state was financially responsible, yields an average annual cost of \$29,185 per prison inmate.

None of these estimates includes any of the capital costs the state continues to pay for the Berlin and Laconia facilities, nor the cost of health care for retired corrections officers, though doing so would provide a more complete estimate of the cost of incarceration.

The state's Secure Psychiatric Unit (SPU) is inside the men's prison in Concord. It houses criminal offenders and others who are committed there. The Department of Corrections' budget includes the full cost of *all* of the unit's residents, not just the "New Hampshire inmates" so in the Table 12, the "average cost per inmate" is actually the average cost of all unit residents.

Appendix C: The impact of small changes over time

The spreadsheet below, Table 13, calculates changes in the state prison population that could result from increased use of the Academy and administrative home confinement (AHC). The box on top allows one to change assumptions about how many parole violators or “new” offenders could be diverted to the Academy rather than prison each month, for example. In this iteration, six of the 35 parole violators who would otherwise be sent to prison are diverted to the Academy each month, and the department makes a one-time release of 30 inmates to AHC. The example assumes that 30 percent of those sent to the Academy will fail and be returned to prison and that 70 percent will graduate after a year in the program.

The columns under the “base case” heading show how the prison population has been changing for the 12 month period from January 1, 2003, through December 31, 2003. The population is actually shrinking by about five people per month or 60 per year; if these rates of admissions and releases continue through the biennium, there would be a total inmate population of 2,395 at the end of FY 2005, as shown in the column labeled “base case, FY 05.” If the policy changes were implemented on January 1, 2004 and remained in effect through June 2005, and all other rates remained unchanged, the prison population would fall to just 1,969 and the Academy population would grow from about 290 to 542. The sooner the changes go into effect, the greater the population reduction would be by the end of the biennium. The Center will email a copy of this Excel file to anyone who requests a copy.

Table 13: A population simulator projects the impact of policy changes over the biennium

Policy Changes/targets								
Parole Violators diverted to Academy/month		6						
Probation Violators diverted to Academy/month		5						
New Crimes diverted to Academy/month		10						
Current inmates released to AHC		30	(one-time release of selected inmates with 1 year or less left to serve)					
New Crimes diverted to AHC/month		4						
Prison population (as of July 1, 2003)		2515						
Academy population (estimated, end of FY 03)		290						
AHC population (as of Dec 31, 2003)		12						
% of Academy returned as Probation Violators		30%	(increases number of violators admitted in FY05)					
Admissions		starting point	base case (no policy change)			spend-to-save scenario		
			Monthly avg (2003)	FY04	FY05	Monthly avg 04-05	FY04	FY05
	New Crimes		48	576	576	34	492	408
	Parole Violations		35	420	420	29	384	348
	Probation Violations		11	132	132	6	102	72
	SPU		3	36	36	7	60	84
	Other Juris		21	252	252	20	246	240
	TOTAL		118	1416	1416	96	1284	1152
Releases		starting point	base case (no policy change)			spend-to-save scenario		
			Monthly avg (2003)	FY04	FY05	Monthly avg 04-05	FY04	FY05
	Parole		71	852	852	71	852	852
	not violated		4	48	48	4	48	48
	Maxed Out		16	192	192	16	192	192
	Judicial Order		6	72	72	6	72	72
	Death		0	0	0	0	0	0
	SPU		4	48	48	4	48	48
	Transfer		22	264	264	22	264	264
	one-time release to AHC						30	0
	TOTAL		123	1476	1476	123	1506	1476
Prison Population	change	prisons	base case (no policy change)			spend-to-save scenario		
			Monthly avg (2003)	FY04	FY05	Monthly avg 04-05	FY04	FY05
		2515	-5	-60	-60	-27	-222	-324
				2455	2395		2293	1969
Academy Pop	change	Academy	base case (no policy change)			spend-to-save scenario		
			Monthly avg (2003)	FY04	FY05	Monthly avg 04-05	FY04	FY05
		290	0	0	0	21	126	252
			290	290	290	416	416	542
AHC	change	AHC	base case (no policy change)			spend-to-save scenario		
			Monthly avg (2003)	FY04	FY05	Monthly avg 04-05	FY04	FY05
		12	0	0	0	4	54	48
			12	12	12	66	66	60
TOTAL DOC CUSTODY		2817		2757	2697		2775	2571

Appendix D. The county system

In New Hampshire, each county manages its own house of corrections to house people awaiting trial and people convicted of crimes for which the sentence is no more than 365 days. Counties have been expanding their houses of correction to meet a rising population and they have experimented with pre-trial release programs and diversion programs similar to the Academy to keep their populations and expenses down. Table 14 presents the results of a census taken in the fall of 2003 by the NH House Committee Research Office.

Counties make financial reports to the state each year, showing their appropriations on their corrections programs and any revenues they may derive from housing inmates from other counties. The latest data sheets show that the counties had appropriated a net total of \$38.3 million in 2003 (after subtracting revenues), as illustrated in Figure 13.

The costs of the county system are paid by the county governments which derive their revenues from local property taxes collected from the towns in each county. Figure 14 shows that the costs per resident in each county—the taxpayers, not the inmates—is generally much higher in the smaller counties.

Table 14: The counties have more than 1,500 people incarcerated

	County House of Correction Capacity	County HOC Population as of 9/30/03
Belknap County	80	52
Carroll County	30	55
Cheshire County	59	94
Coos County	40	32
Grafton County	108	82
Hillsborough County	752	477
Merrimack County	72	168
Rockingham County	300	336
Strafford County	68	150
Sullivan County	65	78
Total County	1574	1524

Source: House Committee Research Office

Figure 13: Total county corrections spending minus any revenues was \$38.3 million in 2003

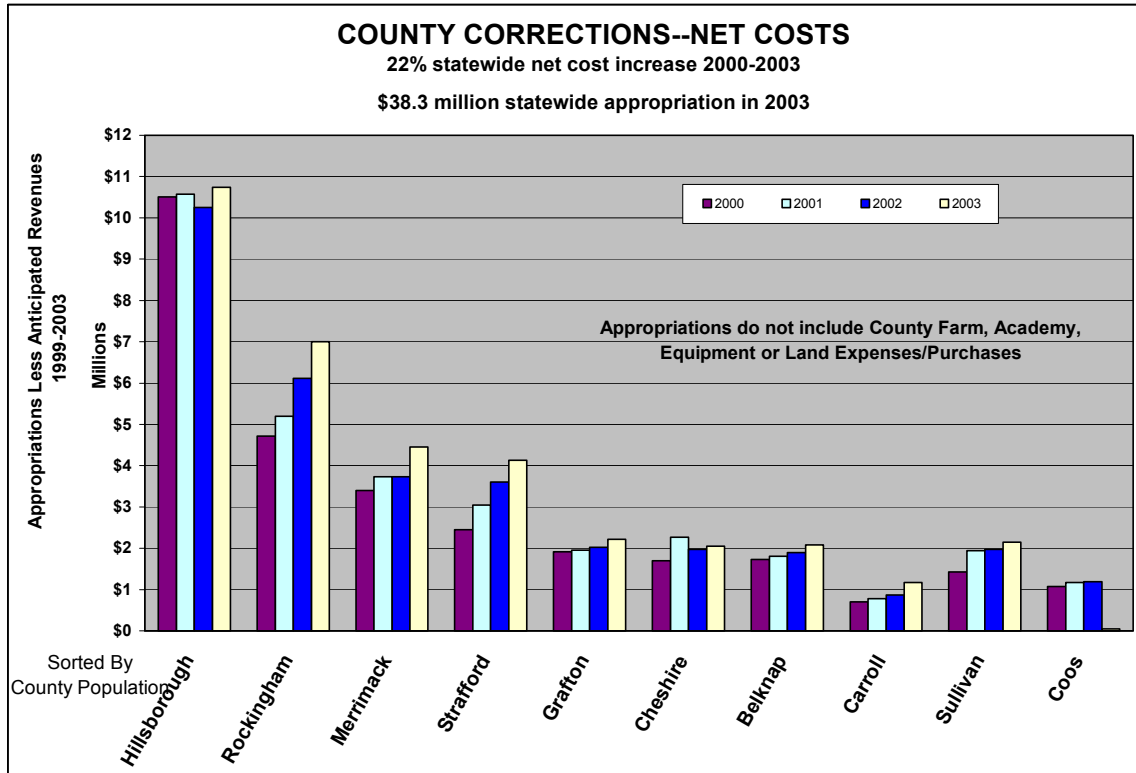
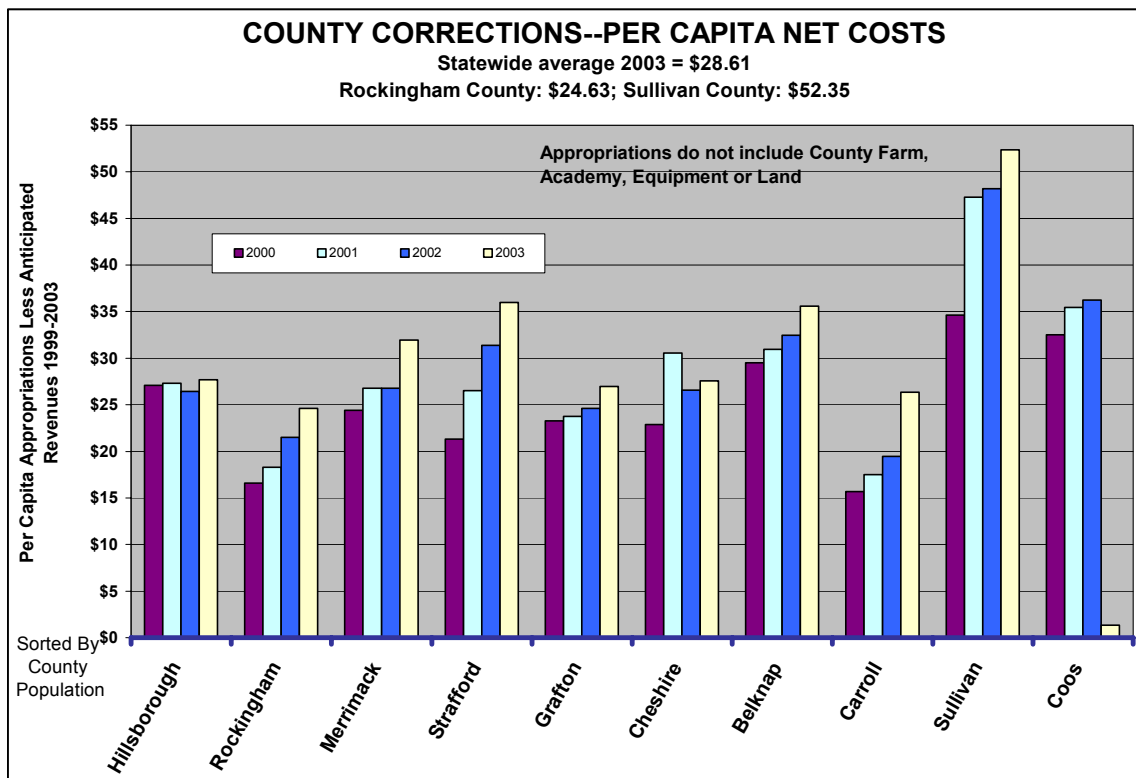


Figure 14: Corrections costs per taxpayer are higher in smaller counties



Appendix E: Essential data for managers

The Department of Corrections' managers need more timely and comprehensive information to manage their programs effectively. The problems are systemic and the solutions difficult to achieve, as the NH Office of Legislative Budget Assistant recently confirmed.³⁰ In the context of reducing the prison population, however, relatively simple steps could be implemented to keep track of the department's progress and focus attention where it is needed.

The department's Academy programs had a total of roughly 200 participants at any given time during 2002, as the Center showed in *Under the Influence, Part 2*. Program utilization rates varied enormously across the 11 county-based programs, however. Maximizing the value of the Academy will require the department to identify and work with specific judges, prosecutors, and defense attorneys who are reluctant to use the program. Doing so will require much more timely data entry and analysis to track Academy participation rates and outcomes. The department has built a database to track Academy participants and it brought the data up to date to help the Center prepare this report and to answer internal questions about the impact of new providers on participation in several counties. To date, however, the department has not attempted to track on a monthly basis how many offenders are involved in each program.

Each month the department's data management team does produce a useful set of reports on prison admissions, releases, and the like. The reports track the population resident in each prison facility and half-way house, and the number of offenders on administrative home confinement. The reports show how many people each month are paroled and how many have their parole revoked. Those reports contain the data used in many of the tables and graphs in this paper.

The reports do not include the number of people on parole or probation, either statewide or by district office. A computer snafu that has continued for many years in the Division of Field Services has made it impossible for the department to assemble that data each month. Generating the reports by hand-counting paper records would divert too much staff time away from more pressing priorities, a problem that arises in other parts of the department and other state agencies. The department's monthly reports do not mention the Academy. Managers and legislators concerned with the overall workings of the department and the pressures on the prison system will find no information about the Academy in the department's monthly reports.

The department should extend its various monthly reports on the offender population to include each Academy program. Doing so would encourage more aggressive management of the program and a greater appreciation of the role it plays in reducing the population behind bars. Of course, more detailed record-keeping and analysis of the participants, their offenses, and any subsequent arrests would enable the department to make judgments about each program's effectiveness and cost-effectiveness.

The lack of useful data and the resources needed to acquire them are not unique to the Department of Corrections. State government—both the executive branch and the legislature—has put too low a priority on information systems and performance-based management.

³⁰ *State of New Hampshire Department of Corrections Division of Field Services, Performance Audit Report*, NH Office of Legislative Budget Assistant, December 2003.

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