

Justice Reinvestment Initiative

Commission on Criminal and Juvenile Justice
and
The Pew Charitable Trusts

Presented to the Prison Relocation Commission
October 22, 2014

Summary Takeaways

While Utah's incarceration rate still remains below the national average,

- Utah's prison population has grown 22% in the past 10 years and is projected to grow 37% in the next two decades
- The Department of Correction budget grew 34% in the last decade
 - » The majority of new dollars went to institutions while a minority went to community supervision

Summary Takeaways

While the majority of Utah's prison beds are filled with violent or sex offenders,

- Nonviolent 2nd and 3rd degree offenders are driving prison growth with more admissions and longer time served
- Drug possession offenders continue to occupy a large number of prison beds because of longer time served
- 33% of property offenders and 30% of drug offenders entering prison had one or no prior felony convictions

Summary Takeaways

- Almost half (46%) of prison population is made up of people revoked from supervision
- A majority of the revocations to prison are for technical violations of supervision
- Probation technical revocations take up 67% more prison bed space than a decade ago
 - » Driven by growth in admissions (up 34%) and time served in prison (up 24%)

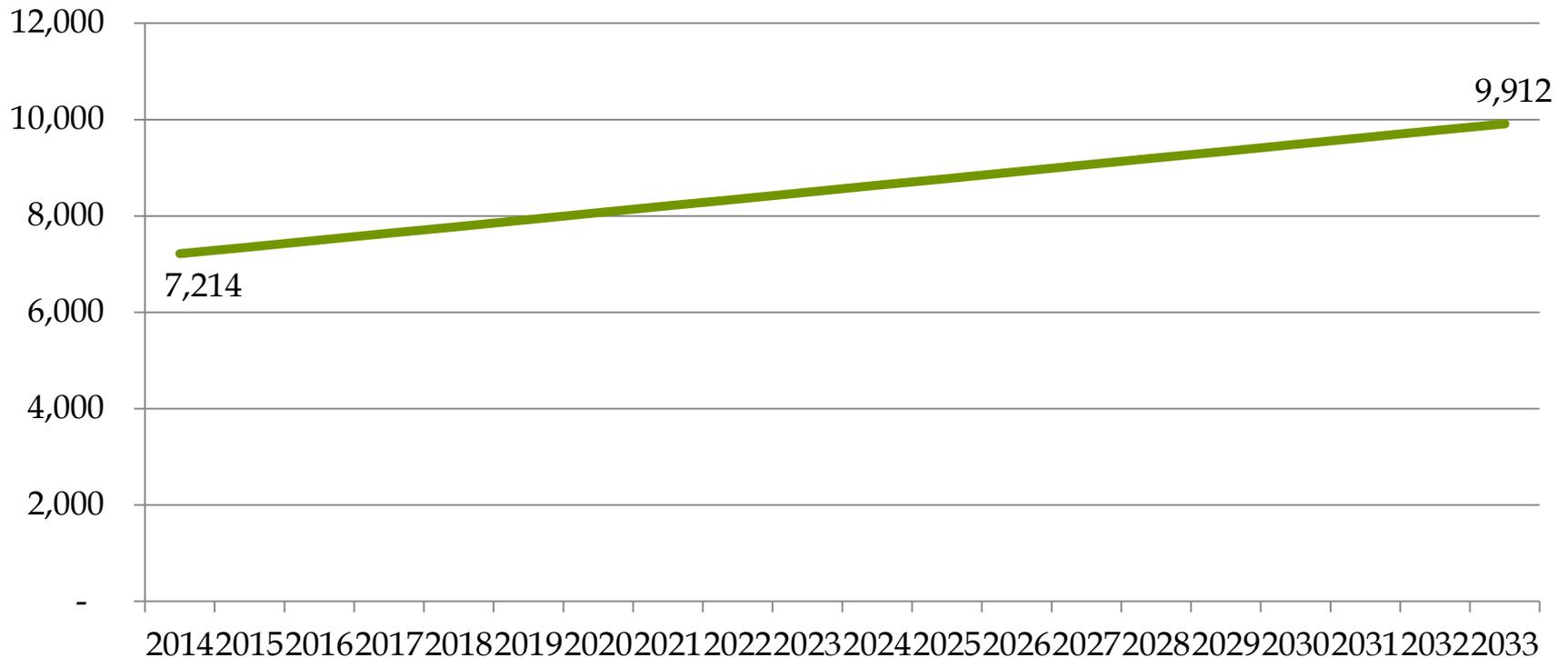
Summary Takeaways

Finally, while Utah has made great strides in implementing evidence-based practices in the corrections system,

- Offenders on supervision are failing at higher rates than 10 years ago
- Evidence-based practices are still inconsistently applied across the state and lack coherent budgetary support
 - » Many existing resources are not focused on high risk offenders or on criminogenic needs
 - » Significant shortfalls in treatment and reentry resources

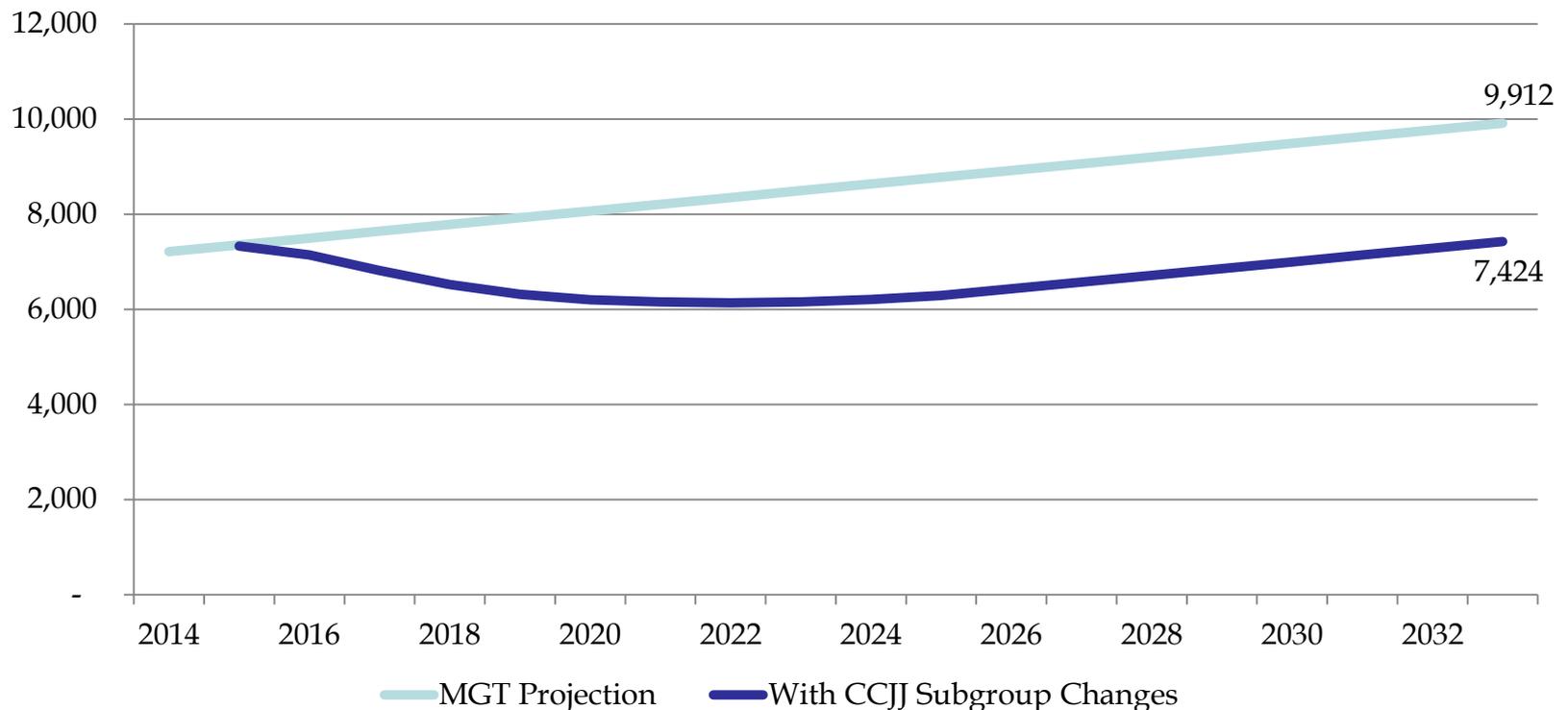
Prison Population Projected to Grow 37% in Next 20 Years

**MGT Prison Population Forecast, 2014-2033
(Average Daily Population)**



Current Policies Under Consideration Projected to Avert 97% of Growth

MGT Prison Population Forecast and Forecast Including Initial CCJJ Policy Changes, 2014-2033 (Average Daily Population)



Note: Policy impacts were calculated individually and do not include overlaps between policies which may increase or decrease the total calculated impact.

SUBGROUP RECOMMENDATIONS

CCJJ Subgroups

- 1) Sentencing
- 2) Release
- 3) Treatment & Supervision

SENTENCING

Recommendations

#1: Drug Possession Sentences

Focus prison beds on serious and violent offenders by:

Reclassify simple drug possession offenses as Class A misdemeanors

- Can be enhanced if defendant has at least 4 prior convictions for drug possession or two prior convictions for commercial drug offenses

OR

Establish new penalty for third degree felony drug possession and facilitate alternatives to prison.

Recommendations

#2: *Commercial Drug Sentences*

Focus prison beds on serious and violent offenders and distinguish between commercial drug offenders whose conduct is driven by serious substance abuse problems and those who are in the business of dealing drugs by:

Reclassify commercial drug offenses as 3rd degree felonies, unless:

- The defendant has at least two prior commercial drug convictions
- The transaction occurs in structure with dangerous fortifications

Recommendations

#3: *Drug-Free Zones*

Eliminate unintended consequences of drug sentence enhancements by:

Restructuring drug-free zone enhancements to ensure they are focused on drug dealers targeting children.

- Restrict drug-free zone enhancements to commercial drug offenses
- Eliminate non-children areas from the drug-free zone criteria
- Maintain “in the presence of a child” zone

Recommendations

#4: *Criminal History Scoring*

Focus prison beds on serious and violent offenders by adjusting criminal history factors that influence the upward departure of lengths of stay to:

- 1) **Ensure that criminal history factors are not double-counted, resulting in inflated lengths of stay**
- 2) **Eliminate criminal history factors that are not relevant to the public safety risk**

Recommendations

#5: Adjusting Sentencing Guidelines

Focus prison beds on serious and violent offenders by restructuring sentencing guidelines for certain lower-level crimes:

Reduce recommended length of stay by 2-4 months for non-violent crimes where guidelines recommendations is not prison.

Recommendations

#6: Probation Technical Revocations

Respond to technical violations of probation with swift, certain, and proportional sanctions by:

Establishing guidelines for maximum terms of incarceration for technical probation revocations:

- 1st technical revocation: 30 days
- 2nd technical revocation: 90 days
- 3rd technical revocation: 180 days

Recommendations

#7: *Misdemeanor Classification*

Focus jail beds on more serious offenders and relieve fiscal burdens on localities by:

Reclassifying certain moving vehicle misdemeanors from:

Class B → Class C

Class C → Infraction

- Handheld device offenses as well as any DUI/alcohol-related offenses will be excluded from reclassification

Recommendations

#8: *Non-Prison Treatment Options*

Focus jail and prison beds on more serious offenders and reduce recidivism by expanding access to treatment by:

Increasing availability of non-prison treatment options at sentencing:

- Enable judges to place technical probation revocations in residential treatment facilities when behavioral health treatment is identified as driver of criminal activity.
- Expand availability of residential treatment beds.
- Create incentive funding program to relieve pressure on local jails.

RELEASE

Recommendations

#1: Earned Time Credits

Incentivize offenders to engage in programming that targets their individualized criminogenic needs by:

Establishing a standard earned time policy :

- Standard minimum time cut:
 - 4 months for completion of cognitive behavioral programming
 - 4 months for completion of top Case Action Plan priority
- Time cuts above the standard minimum at the Parole Board's discretion
- Not an entitlement, can be forfeited
- Eligibility limited to offenders with long enough sentences to complete programming

Recommendations

#2: *Parole Revocation Caps*

Focus prison beds on serious and violent offenders by:

Establishing a graduated sanctions policy for revocations based on technical violations of parole conditions:

- 2 months for first revocation
- 4 months for second revocation
- 6 months for any subsequent revocation
- Board may override the length of stay cap for good cause (alleged criminal activity, treatment that cannot be safely provided in the community, stabilization of acute mental health crisis, etc.)

Recommendations

#3: *Support Successful Transitions*

Support successful transition from prison to the community by:

- Instituting collaborative transition planning for high-risk offenders
 - Both for offenders who are paroled and discharged
- Ensuring that the offender's Case Action Plan evolves and carries over from the institution to parole
- Placing offenders on treatment waitlists prior to release
- Suspending rather than terminating Medicaid during incarceration
- Increasing halfway house capacity by utilizing empty beds at Parole Violator Center and alternative residential treatment settings

Recommendations

#3: Support Successful Transitions

Reinvest in transition services and support by:

Creating and funding Transition Specialist positions to:

- Provide quality pre- and post-release transition planning and support for high-risk offenders who are released from prison
- Help the offender with housing, employment, treatment, and family reintegration
- Connect the offender to agencies and service providers to support long-term success and stability
- Assist with early placement on treatment waitlists and enrollment in Medicaid, SSI, etc.

Recommendations

#4: Further Study on Aging/Mentally Ill Prison Population

Request CCJJ study the needs of aging prisoners and prisoners with serious mental health disorders and developmental disabilities, and develop proposals for diversion, in-prison programming and services, and release and re-entry policies.

(Undecided)

#5: *Re-Hearings*

Create opportunities for re-hearings when parole decisions depart significantly upward from the Sentencing Guidelines:

- **OPTION 1: Decisions to expire a life sentence:** automatic re-hearing every 10 years
- **OPTION 2: Upward departures of 5 years or more:** automatic re-hearing every 2 years
- **OPTION 3: Upward departures of 12 months or more:** opportunity to request a re-hearing before a different Hearing Officer within 30 days
- For all re-hearing options: an opportunity to request assistance from a DOC staff member in preparing for the re-hearing
- These policy options do not create an entitlement to parole. Nor do they create an entitlement to release at the Sentencing Guideline date.

TREATMENT & SUPERVISION

Recommendations

#1: Graduated Sanctions & Incentives

Reduce recidivism and increase success rates on probation and parole by:

Authorizing the Sentencing Commission to create a graduated sanctions and incentives matrix using swift, certain, and proportional responses and authorizing AP&P to use the matrix when responding to technical violations of supervision

- Include incarceration as a sanction not to exceed 5 days per month

Recommendations

#2: *Earned Compliance Credit*

Reduce caseloads, focus resources on high-risk offenders, and incentivize compliance with supervision case plans by:

Establishing a system of earned compliance credits that allow probationers and parolees to earn day for day credits and terminate supervision early *if* the offender is:

- Compliant with the conditions of his/her supervision and
- Engaged in programming that addresses the offender's risk and needs, as identified by the Case Action Plan.

Recommendations

#3: Evidence-Based Treatment Standards

Ensure treatment for offenders adheres to evidence-based principles proven to reduce recidivism by:

- Authorizing the Commission on Criminal and Juvenile Justice, in partnership with the Utah Substance Abuse Advisory Council (USAAV) and the Division of Substance Abuse and Mental Health (DSAMH), to **establish statewide treatment standards for substance abuse and mental health**
- Authorizing the Department of Corrections (DOC) to **establish statewide treatment standards for sex offenders.**
- Authorizing agencies to **establish performance and oversight measures to ensure fidelity**

Recommendations

#4: *Certification for Treatment Providers*

Ensure treatment providers apply evidence-based practices that are specific to criminal justice involved persons and address their criminogenic needs by:

- Authorizing the Division of Substance Abuse and Mental Health (DSAMH), in partnership with the USAAV to **establish a certification process for treatment providers administering substance abuse and mental health treatment to people involved in the criminal justice system**
- Authorizing the DOC to **establish a certification process for treatment providers administering sex offender treatment**
- Authorizing both agencies to **establish performance and oversight measures to ensure fidelity**

Recommendations

#5: Evidence-Based Jail Standards

Ensure treatment for offenders adheres to evidence-based principles proven to reduce recidivism by:

- **Establishing standards for programming in jail settings**, including education, treatment and rehabilitation, through a collaboration with the DOC and Sheriff's Association, and
- **Developing performance and oversight measures** by both entities to ensure the fidelity of the programming offered and the use of evidence-based practices.

Recommendations

#6: Improve Re-Entry Support

Ensure treatment is focused on addressing an offender's criminogenic needs and is consistent with best practice for criminal justice involved persons by:

- Authorizing the DOC, in partnership with DSAMH, to **establish performance goals and measurement outcomes for recovery and reentry programming**

Recommendations

#7: *Reinvestment Priorities*

Invest dollars from averted prison growth into programs proven to reduce recidivism, restore victims, and cut crime:

- **Expand capacity and geographic scope of treatment options.** (e.g. additional licensed clinicians, develop services and programming at Treatment Resource Centers, etc.)
- **Develop performance incentive funding** for county-based pilot projects. (e.g. problem-solving courts, reentry programming, transitional housing options / additional halfway house beds)
- **Improve responses to mentally ill offenders** throughout the criminal justice system

VICTIM/SURVIVOR/ADVOCATE ROUNDTABLE PRIORITIES

Top Priority: Invest in Victim Advocates

Reinvestment Priority:

Victim Advocates:

- To address the many challenges that preclude the provision of quality victim services in rural and remote regions of the state, reinvest cost savings in additional victim advocates

Additional Priorities

- Improve victims' rights and services including notification and restitution collection
- Enhance statewide training of criminal justice officials and allied professionals about victims' rights, services, and sensitivity