



UNLOCKING WASHINGTON'S PRISON CAPACITY SHORTFALL

by Amber Gunn, Budget Analyst



A SPECIAL REPORT FROM THE EVERGREEN FREEDOM FOUNDATION'S ECONOMIC POLICY CENTER

Executive Summary

The following report by the Evergreen Freedom Foundation details the current prison capacity quandary and the massive capacity shortages Washington is facing in the next ten years. Steady population growth and tougher sentencing laws have added pressure to the already-saturated prison system, which has led to criminals being released early. Without immediate action on the part of legislators, the state can expect a shortfall of 4,077 prison beds by 2017.

The shortages are endangering the safety of inmates, staff, and neighboring communities. The state's prisons have an operational capacity of 14,440 beds, but the actual number of prisoners in these facilities stands at 15,552—meaning the system is stretched to 107.7 percent capacity. The shortage has reached hazardous levels at some facilities, such as the Washington Corrections Center, currently at 152.3 percent capacity. In addition, the state has to rent nearly 1,600 beds from out-of-state facilities or county jails to house the remaining offender population.

The report identifies four major obstacles facing Washington's prison system.

- Overcrowding
- Augmenting costs of confinement and treatment
- High rate of recidivism

- Sanctions for community correction violators

With a \$700 million annual budget, nearly 18,000 inmates and 26,000 offenders on community supervision, there is no simple or fast way to address systemwide problems. However, lawmakers can be expected to respond efficiently and effectively to agency concerns and to fund facilities and programs that prioritize public safety.

Various short- and long-term policy alternatives and best practices are explored in the report to aid in the resolution of the four problems identified.

Key recommendations include:

- **Renting additional beds from Corrections Corporation of America (CCA) as a short-term solution to the immediate problem of overcrowding.**
- **Considering the construction of private prisons to reduce long-term costs.**
- **Privatizing some state-run facilities and county jails to conserve funds.**
- **Funding re-entry programs identified by the Washington Institute for Public Policy that have proven to be effective rehabilitative tools, to reduce the recidivism rate and subsequently lower the demand for new prison space.**

Unlocking Washington's Prison Capacity Shortfall

Adequate bed space should be first funding priority

By Amber Gunn

Prisons do not usually garner the same level of attention as education, healthcare, transportation, or other recognizable community concerns. However, public health and safety are core functions of government that should be at the top of every lawmaker's radar. Recent events have catapulted our state's prison quagmire to the front page of newspapers across Washington.

The deaths of three officers last year, at the hands of offenders who had been sought for violating terms of their release, prompted Governor Christine Gregoire to order an investigation into the policies and events surrounding the tragedies. In addition, the highly publicized early release of eighty-three convicted criminals because of overcrowding triggered a chain reaction of finger-pointing and questions among lawmakers, media, and citizens alike. The decision to release the violators was a clear breach of the mission statement of the Department of Corrections (DOC): "to contribute to staff and community safety and hold offenders accountable through administration of criminal sanctions and effective re-entry programs."

These incidents are symptoms of much larger, systemwide problems that have been gathering force for several years. Using multiple reports and statistics released by DOC, the Office of Financial Management, and other independent organizations, this report identifies four major obstacles facing Washington's prison system and explores various short- and long-term policy alternatives and best practices to aid in their resolution.

Ultimately, legislators should use the Priorities of Government (POG) budget process to address this growing crisis. POG requires budgeters to prioritize all potential spending while determining which purchase strategies have the biggest impact on delivering expected performance outcomes. If lawmakers were to use POG in crafting the 2007-09 budget, addressing the prison capacity shortfall would outrank funding for lower priorities. Public health and safety concerns that affect all residents of Washington should be given the highest priority.

Diagnosing the Problem

I. Overcrowding on the Rise

Protecting citizens from crime is one of the state's most important responsibilities. Public safety is essential to a prosperous society, and it is ensured by an effective criminal justice system. Maintaining an efficient prison system that includes sufficient capacity to house offenders ensures that violent criminals are sequestered from the public in a safe and humane way and that taxpayers see their dollars used efficiently and effectively.

DOC is the agency responsible for carrying out one of the government's most important charges: protecting the public from crime. With a \$700 million annual budget, nearly 18,000 inmates, and 26,000 offenders on community supervision, there is no simple or fast way to address systemwide problems. The underlying causes of crime are complex; one agency cannot be expected to address them single-handed. However, lawmakers can be expected to respond efficiently and effectively to agency

concerns and to fund facilities and programs that prioritize public safety.

Like other states, Washington has experienced regular growth in its offender population. The prison population more than doubled in the last two decades, from 7,009 in 1986 to 17,973 in 2006.^{1[i]} Tougher sentencing laws and general population growth are two of the main drivers.

Offender population growth has put a major strain on the state's prison facilities. As of February, 2007, Washington's 15 confinement facilities were overflowing, at 107.7 percent capacity. The shortage was the most egregious at the Washington Corrections Center, at 152.3 percent capacity. This is a threat to the safety of staff, inmates, and surrounding communities. The state's prisons have an operational capacity of 14,440 beds, but the actual number of prisoners in these facilities stands at 15,552. In addition, the state has to rent nearly 1,600 beds from out-of-state facilities or county jails to house the remaining offender population.^{2[i]}

Some efforts are underway to address the current shortfall. The Washington State Penitentiary is adding space for 892 inmates, which should be completed by the middle of this year. In addition, the Coyote Ridge Corrections Center will add 1,792 beds by 2009. However, the added beds are not sufficient to address the projected increase in the number of offenders.

According to a study released in February by Pew Charitable Trusts, Washington will see a 28 percent increase in its prison population by 2011.^{3[iii]} The state does not have the capacity to meet this demand. The legislature recently passed a DUI felony law and enacted more stringent

penalties for sex offenders. These laws will add over 1,400 offenders to the prison system through June 2017, but the legislature only funded enough beds for half of that amount.^{4[iv]} The only alternative to building more prison space is to reduce demand for prison cells immediately by altering sentencing laws so that fewer people go to prison or prisoners spend less time there.

DOC has warned of the impending shortage in its Re-Entry Initiative, a program designed to reduce demand for more prison space by increasing the number of adult offenders participating in rehabilitation programs such as adult basic education, sex offender treatment, and drug treatment. "The growing number of incarcerated men and women requires the state to provide expensive new prison space in order to maintain a correctional environment that is safe and humane for staff, offenders, and the public." The projected deficit will only widen with time. According to DOC projections, the state can expect a shortage of 4,077 beds by 2017, even with current expansions. Additionally, this estimate does not include community correction violators.

Source: DOC Re-Entry Initiative

II. Augmenting Costs of Confinement and Treatment

Washington taxpayers will spend nearly \$1.3 billion in 2006 and 2007 to confine, treat, and supervise 17,730 inmates, or about \$36,400 per inmate per year.^{5[iv]}

The cost per inmate per year varies widely among Washington's 15 prison facilities, from a statewide low of \$20,421 at Coyote Ridge Corrections Center—a minimum security facility—to a high of \$49,705 at Ahtanum View

Correctional Complex—an assisted living institution for disabled prisoners.

DOC is responsible for the incarceration, healthcare, and rehabilitation of inmates through various treatment programs such as basic skills education and chemical dependency treatment. The agency also supervises about 26,000 felony and gross misdemeanor offenders at a cost of about \$95 million per year. During the 1995-97 biennium, the DOC budget was roughly half of what it is today, at \$754,713,000.^{6[v]} Budget growth shows no signs of slowing. Governor Gregoire has requested \$1.76 billion in appropriations for the 2007-09 biennium.

The cost of housing the growing prison population is a concern at both the state and federal level. Nationwide, prison costs are soaring. Pew Charitable Trusts predicts that the estimated 192,000 new prisoners predicted over the next five years come with a price tag of \$27.5 billion. States are scrambling to find ways to ease the costs of incarceration.

III. High rate of recidivism

One of DOC's primary objectives is to provide rehabilitative programs that reduce the likelihood that offenders will repeat their past mistakes, but the number of offenders who commit new crimes after being released from prison is 37 percent—and rising. DOC and the governor are funneling money into rehabilitating prisoners rather than building new prisons, in an effort to make sure fewer of them return.

The Department offers chemical dependency treatment, sex offender treatment, mental health treatment, and basic skills education to a limited number of offenders. Although the DOC budget is ballooning each

year, the state not only lacks sufficient prison space, but also the resources for treatment and education for offenders who need it. This is an agency struggling to meet demands to reduce recidivism and find space for prisoners without sufficient funds.

DOC clearly expressed concern over these issues in the aforementioned Re-Entry Initiative: "Investment in Washington's correctional system has failed to keep pace with growth in the offender population. That means DOC must lease beds in out-of-state prisons—a need that is projected to grow in future years. Meanwhile, offenders who are released to communities across the state are unable to participate in effective offender programs because of resource shortages."

The Washington State Institute for Public Policy (WSIPP) released a report in October, 2006, that examined 571 studies of various rehabilitative programs meant to reduce recidivism. The report found that certain programs, such as adult basic education, vocational education, drug treatment, and sex offender treatment, can yield positive outcomes that can reduce the need for future prison construction.^{7[vii]}

The report also noted that DOC re-entry programs are limited, and therefore "the Department will lose ground in impacting an offender's criminal behavior as populations increase."^{8[viii]} This means that the 64 percent of Washington's incarcerated offenders who were convicted of a violent or sex offense are not, and will not, be getting needed treatment.^{9[ix]}

Source: Government Management Accountability and Performance Forum, "A Re-Entry Focused Correctional System," Presentation by Harold W. Clark, Nov. 1, 2007

In addition, according to DOC's own projections, expanding re-entry programs will only reduce prison demand by 1,000 beds by 2017. This is not an insignificant number, and funding for programs that effectively reduce recidivism should be provided; however, this clearly shows a shortfall of 3,000 prison beds, even with effective re-entry programs. The capacity problem should be addressed immediately to prepare for the increased number of offenders.

DOC currently offers various programs intended to reduce recidivism and help offenders adjust to community life. Many lawmakers see these programs as the most effective way to reduce prison demand and cost over the long term; however, DOC "lacks sufficient resources to make them available to all offenders who might benefit from them." For example, about 4,100 offenders require instruction in Adult Basic Education or English as a Second Language, but DOC resources only allow 2,400, or 59 percent, to receive the instruction. Additionally, over 500 sex offenders are currently waiting to enter the 14-month sex offender treatment program. Because of capacity limitations, DOC only provides treatment to about 16 percent of the total sex offender population that could benefit from the program.^{10[x]}

Community supervision seems to be an effective deterrent against re-offense. Statewide, 92 percent of offenders committed no new offense while under supervision. Of those who re-offended, 83 percent did not receive any type of treatment. The numbers are similar for sex offenders. Only 7 percent committed a re-offense while under supervision, of which, 94 percent did not receive sex offender treatment.^{11[x]}

IV. Sanctions for Community Correction violators

In February, DOC was called to account

for felons released early from county jails because of overcrowding. Initial reports stated that 83 offenders were released from two King County jails after the DOC population approached 300. The state only contracts with King County for 220 beds.

The number of released offenders was later revised to 93 and changed again to 55.^{12[xii]} The Seattle Times later reported that the actual number of felons released was 65 and that all had instructions to report back within a week. Only 25 reported back on time, 5 were rearrested, and 27 were still missing in the following days.^{13[xiii]}

Last year, the agency ordered 3,144 conditional releases, which are used for felons who have been arrested for violating terms of their release.^{14[xiv]} Under the program, if felons under Community Corrections supervision admit guilt, they are released before a hearing on the violation. Governor Gregoire has approved of conditional releases, as long as they are not done because of overcrowding.

Conditional releases have been part of DOC policy for five years. In the last four years, 122 felons were convicted of violent crimes—including murder, child rape, armed robbery, and assault—after they were released early by DOC. The state also paid out more than \$22 million in damages to victims. The Department has defended the policy as necessary to make room for higher-risk offenders.

The state contracts with 14 jails around the state to rent about 850 beds. Many county jails are already overflowing with offenders, even without corrections inmates. King County only has two facilities, and county officials have expressed concern about having to send their misdemeanor offenders out of the area because of lack of space. The problem is only exacerbated by corrections inmates consistently

exceeding the allotted 220 beds. Seattle police Assistant Chief Linda Pierce reported to the *Seattle Post-Intelligencer* in February, “Jail space is definitely an issue for this region; it’s something that this highlights. We need more bed space in the jail, or we need more jails.”^{15[xv]}

On average, each day, approximately 1,200 offenders are back in jail or prison for breaking the terms of their release. This number is expected to rise over the next two years to about 1,600. Usually, it is because they failed a drug test or failed to meet with their corrections officer, but sometimes it is because they have committed new crimes. Some lawmakers are considering modifying state policy to enable offenders who violate their conditional release to avoid confinement time altogether, thereby eliminating the need for those beds. Violators would have to report more often, take more drug tests, or be sent to drug treatment as an alternative to being sent back to jail or prison.^{16[xvi]}

Exploring Solutions

The four problems identified in this report are all connected. The high cost of constructing new prisons has pushed lawmakers into exploring alternatives. Many legislators have put their faith in programs that reduce recidivism, which should decrease the demand for prison space. But the lack of consensus on whether to invest in new prisons or better programs has stalled decisive action on the part of the legislature.

Meanwhile, steady population growth and tougher sentencing laws have added pressure to the already saturated prison system, which led to criminals being released early. Eventually, 122 violent crimes were committed by these offenders, including the murders of three police officers.

It should be noted that Washington is not the only state facing severe overcrowding. According to the latest nationwide census of correctional facilities by the Bureau of Justice Statistics, federal facilities are at 134 percent capacity and state facilities are at 101 percent capacity. Only private facilities have any available space, at 89 percent capacity.^{17[xvii]}

California is facing a prison shortfall of disastrous proportions. Currently, 171,600 inmates are being squeezed into correctional facilities meant for only 100,000. About 16,000 of the state’s 150,000 inmates released early from jail in 2005 committed new crimes, including homicide, robbery, and sex crimes. San Joaquin county alone was forced to release 5,752 inmates early last year because of overcrowding.

Governor Arnold Schwarzenegger is discussing a \$10.9 billion plan to relieve overcrowding. The governor’s package calls for \$1.1 billion in matching local funds to add 45,000 new county jail beds, 16,000 beds in state correctional facilities, and 5,000 beds in prisons for juveniles.^{18[xviii]}

In contrast, Governor Gregoire’s Re-Entry Initiative focuses on reducing demand for prison beds, rather than increasing the supply. The problem is that demand already exceeds supply in Washington, and nothing short of changing sentencing laws, deterring population growth, or building new facilities will fix this.

Recommendations:

1) *DOC should consider renting additional beds from Corrections Corporation of America (CCA) as a short-term solution to the immediate problem of overcrowding. Washington already contracts out nearly 1,000 out-of-state beds to the privately owned and operated company. CCA is the fifth largest corrections*

system in the nation, behind only the federal government and three states. Altogether, the company manages approximately 70,000 inmates, including males, females, and juveniles at all security levels, and does business with all three federal corrections agencies, almost half of all states, and more than a dozen local municipalities.

This is a safer alternative than permitting offenders to go free with impunity when they have violated the terms of their release. It is an unacceptable risk to the public to release offenders because of lack of space.

2) To reduce costs long-term, the state should also consider allowing the construction of private prisons. In 2003, a study released by the Washington Policy Center researched how states can improve quality and control cost by taking advantage of private prison services. The study also addressed common concerns over privately run prisons and provided detailed information on how private prisons would benefit the state's budget, taxpayers, and prison system

Government-run prisons would also benefit from the increased competition that private facilities would bring. Competition increases quality, accountability, efficiency, flexibility, and innovation. As the Washington Policy Center reports, "When a government seeks dynamic competition over a monopoly status quo, its culture changes. Instead of performing many functions with limited expertise, governments that are open to competition liberate themselves to perform a smaller set of core functions better than ever before, while leaving much of the routine work to contractors."¹⁹[xix]

3) Washington should privatize some state-run facilities and county jails

to conserve funds. The extra money could then be used to build needed prison space or to provide education or rehabilitative treatments to additional inmates.

Some limited correctional privatization that is already working in the state. The Washington Policy Center reports that Security Specialists Plus has owned and operated a 50-bed work release facility for Whatcom County since 1991. They charge \$28 per day to house and care for each inmate. The same services for an inmate would cost \$60 in a county jail. With an average of 38 inmates per day over 10 years, the arrangement has gained a documented savings of over \$4 million.²⁰[xx]

States such as Oklahoma, Wyoming, and New Mexico already house significant portions of their prison populations in private facilities. Twenty-eight studies analyzing prison cost data found private prison costs to be between 5 and 15 percent lower, without reducing quality of services. If Washington were to follow Oklahoma's lead and house 30 percent of its prison population in private facilities, taxpayers would save at least \$8 million a year on the low end (5%) and just over \$23 million on the high end (15%).²¹[xxi]

4) To reduce Washington's high recidivism rate, programs identified by the Washington Institute for Public Policy that have proven to be effective rehabilitative tools should be given the necessary funding. Eighty-three percent of females and 71 percent of males enter the prison system with less than a ninth-grade education. Only 18 percent of offenders had verified high school diplomas and 47 percent had GED certificates. But the targeted number of offenders completing basic skills education each quarter dropped from about 1,900 during the 2003-05

biennium to less than 400 in the 2005–07 biennium.

Education is key to getting adult offenders out of the prison system and into community life permanently. About 270 sex offenders re-offended between January and June 2006. Of those who re-offended, 93 percent had not received sex offender treatment. Funding for select programs proven to reduce recidivism should be adequate to provide for those who need it.

Conclusion

Washington's prisons are overflowing capacity. Because of the lack of space, DOC has handled the problem by releasing low-risk felons to make room for high-risk ones. This is a gamble that has been routine state prison policy for the last five years. This is an unacceptable risk to

the public. Legislators must use Priorities of Government to address this problem. With a \$2 billion surplus, prison capacity can be fixed during this budget cycle

Lawmakers are currently hammering out plans for offender re-entry, with the ultimate goal of reducing recidivism and thereby the need for new prison beds. SB 5070 would require DOC to create individual re-entry plans that would detail job training, drug treatment, and educational goals for every inmate; but a consensus has not been reached on the specifics, and there are currently no plans to address the present and future prison bed shortages.

Although it is an admirable goal to reform and rehabilitate offenders, the state must provide sufficient funding and space to sequester nonrehabilitated criminals from the public.

(Endnotes)

- 1 ^[i] The DOC Re-Entry Initiative: Smart on Crime, <http://www.doc.wa.gov/docs/reentrywhitepaper.pdf>, December 22, 2006.
- 2 ^[ii] DOC Statistical Brochure (Monthly), February 28, 2007.
- 3 ^[iii] “Public Safety, Public Spending: Forecasting America’s Prison Population 2007-2011,” Pew Charitable Trusts, February 14, 2007.
- 4 ^[iv] DOC Re-Entry Initiative.
- 5 ^[v] Costs include confinement, healthcare, rehabilitation, supervision, administration, and re-entry services. Number of inmates based on average daily population of 2005-2007 biennium. Source: Office of Financial Management, Agency Activity Inventory 2005-2007, Department of Corrections.
- 6 ^[vi] Historical Expenditure/FTE Reports, 1995-97 through Governor’s Proposed 2007-09, Legislative Evaluation & Accountability Program Committee (LEAP).
- 7 ^[vii] “Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs, and Crime Rates,” Washington Institute for Public Policy, October 2006.
- 8 ^[viii] “A Re-Entry Focused Correctional System,” Government Management, Accountability and Performance Forum, Presentation by Harold W. Clarke, November 1, 2006.
- 9 ^[ix] “Public Safety—DOC,” Government Management, Accountability and Performance, June 28, 2006.
- 10 ^[x] DOC Re-Entry Initiative.
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- 13 ^[xiii] “It’s time we got SMART about managing offenders,” *The Seattle Times*, March 20, 2007.
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- 15 ^[xv] Castro, Hector. “State’s release of felons raises concerns,” *Seattle Post-Intelligencer*, February 28, 2007.
- 16 ^[xvi] Turner, Joseph. “State gets space for ex-cons,” *Tacoma News Tribune*, March 6, 2007.
- 17 ^[xvii] Census of State and Federal Correctional Facilities, 2000, Bureau of Justice Statistics. Revised Oct. 15, 2003.
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- 19 ^[xix] Guppy, Paul. “Private Prisons and the Public Interest: Improving Quality and Reducing Cost through Competition,” Washington Policy Center, February 2003.
- 20 ^[xx] *Ibid.*
- 21 ^[xxi] Moore, A. and Segal, G. “Weighing the Watchmen: Evaluating the Costs and Benefits of Outsourcing Correctional Services (Parts I and II),” Reason Public Policy Institute, January 2002.



About the Evergreen Freedom Foundation

The Evergreen Freedom Foundation is a non-profit, educational research organization based in Washington state.

The Foundation's mission is to advance individual liberty, free enterprise and limited and accountable government. EFF staff conduct research and publish analysis and policy alternatives in the areas of state budgets; governance and citizenship; and health, education and welfare reform.

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Source: DOC Re-Entry Initiative