



Nebraska

CASE STUDY

Updated February 2007

Nebraskans are serious about public safety and long have been tough-as-nails on crime. Nowhere has this been more evident than in the strict penalties the state adopted to keep criminals in prison longer as part of the nation's war on drugs, and in response to crime concerns of the 1980s and early 1990s. Truth-in-sentencing, limits to early release and mandatory minimum sentences all were enacted in this hardworking heartland state. Crime subsequently went down in Nebraska—as it did in many other places.¹ As a result of these policy changes, however, Nebraska policy makers now face a new dilemma: in an era of fiscal belt-tightening, they must confront skyrocketing incarceration costs for prisons stretched beyond capacity, in large part by nonviolent offenders.

Officials initially responded to these challenges by repealing some of their earlier policies and adding new prison beds. Yet these moves did little to stem inmate population growth, prevent new crimes or ease the financial strain on the state's taxpayers. State leaders boldly and adamantly determined that a new approach was needed to bring prison growth and spending under control while at the same time maintaining public safety and holding offenders accountable.

Policy makers have launched an innovative strategy that sets Nebraska apart as a leader in thoughtful and deliberative policy change. The approach is characterized by strong, nonpartisan political support and leadership; it is informed by data and evidence; and it is guided by a new state entity charged with managing reform. Early analysis is encouraging: state officials concluded that, had several pending policies been in place in 2003, nearly half the inmates admitted to state prison might have instead been safely supervised and held accountable in the community.²

The Challenge

"...the [old] political mantra of 'lock 'em up' had long-term financial consequences and still wasn't achieving results."

—Former Speaker of the Legislature Kermit Brashear³

The Nebraska prison system currently operates at 138 percent of its design capacity.⁴

- The system has been over capacity since the 1980s. This condition persists despite the \$73-million, 960-bed Tecumseh prison that opened in December 2001.
- The corrections department estimates that, if nothing changes, the system will be at 155 percent of capacity by 2015.⁵

¹ Nebraska Crime Commission, Crime in Nebraska Series, 1995 – 2005 (<http://www.ncc.state.ne.us/>)

² Overton, M. (2006). Comparison of 2003 Sentenced Population to Sentences by Application of the Proposed Sentencing Guidelines. Presentation to the Nebraska Community Corrections Council, March 24, 2006.

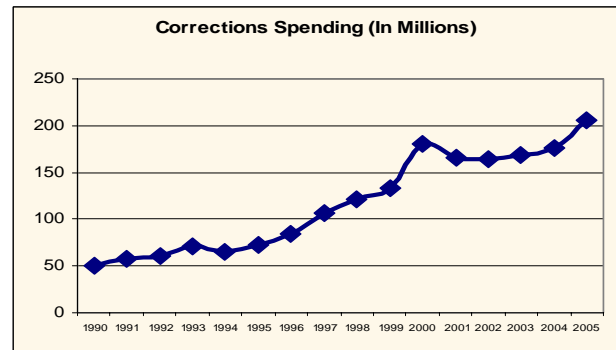
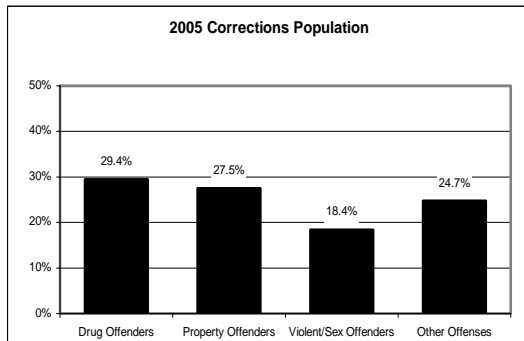
³ Henry J. Cordes, "Alternative to prison." *Omaha World-Herald*, November 28, 2006.

⁴ Nebraska Department of Correctional Services, inmate population statistics as of January 10, 2007.

⁵ Nate Jenkins, "Bulging prisons reach key mark," *Lincoln Journal Star*, June 20, 2006.

The cost of incarceration in Nebraska has increased nearly three-fold in the last 10 years.

- In 1995 the corrections budget was \$72 million; by 2005 it had grown to \$206 million.⁶ If this trend continues, the corrections budget will approach \$250 million by FY08/09.
- Between 1995 and 2004, corrections expenditures in Nebraska increased 119 percent, with a new prison causing a spike in 1999-2000. During the same period, total state spending increased just 52 percent.⁷



More than half the inmates in Nebraska's prisons are incarcerated for nonviolent offenses.⁸

- Twenty-nine percent of the state prison population is confined for drug offenses and 28 percent for property offenses.⁹

Nebraska's state budget remains under pressure.

- Governor Dave Heineman has adopted a flat-line budget that does not allow for growth in state spending. This has led to cuts by state agencies totaling \$23 million.¹⁰

The Approach

To tackle these problems and to ensure public safety, officials in Nebraska recognized the need to re-examine the state's sentencing and corrections policies. They saw that the difficult and politically charged nature of such an undertaking required a high degree of collaboration among a diverse group of stakeholders with sometimes divergent interests. They also understood that the process needed to be informed by evidence and rigorous analysis. And they knew that safe and successful reform had to draw on proven practices to alleviate prison crowding and rising costs by encouraging appropriate use of community corrections.

To carry out this policy audit, in 2001, then-Governor Mike Johanns established a Community Corrections Working Group. With federally funded support from the Vera Institute of Justice, the working group carefully evaluated the current operation of the state's sentencing and corrections laws. The group identified two key areas where change could lead to better

⁶ National Association of State Budget Officers State Expenditure Reports, 1997–2004. Includes juvenile and capital costs.

⁷ Ibid.

⁸ Nebraska Department of Correctional Services, FY2005 Annual Report and Statistics (<http://www.corrections.state.ne.us/administration/statistics/annual.html>).

⁹ Ibid.

¹⁰ Governor Heineman's letter to the legislature with line-item reductions to LB 1060, April 3, 2006. Last accessed December 4, 2006, at http://www.budget.ne.gov/das_budget/deficits06/veto1060.pdf

outcomes: Nebraska's sentencing structure (the laws that determine who goes to prison and how long they stay) and its approach to community corrections (the policies that dictate how offenders are punished in non-prison settings).

Their recommended changes became law in 2003 through LB 46, which:

- Established the blueprint for voluntary sentencing guidelines designed to ensure that limited prison beds are available for the violent and repeat offenders who pose the greatest risk to public safety.

Guidelines will help judges to wisely allocate prison space by holding low-risk, nonviolent offenders accountable through community-based sanctions. Because of the high volume of drug offenders currently in state prison, and the body of research that demonstrates how many in this group can be punished safely and more efficiently in the community, felony drug sentencing guidelines were the first to be developed. Subsequent guidelines will target other nonviolent offender groups.

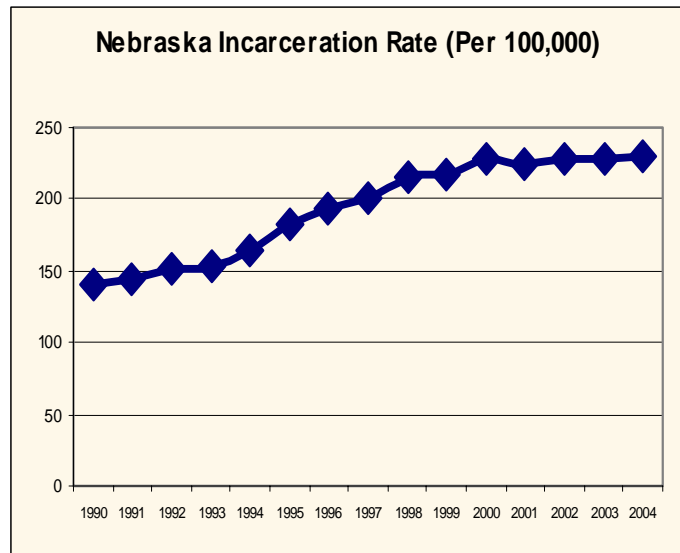
- Created a new approach to community corrections that combines state leadership and local oversight within a performance-oriented continuum of oversight and punishment that can be tailored to the assessed risk level of individual offenders.

Correcting behaviors through restitution, rehabilitation, reintegration and restoration is key to a "citizen accountability" definition of community corrections in Nebraska.

The state's model is informed by research indicating that offender success is greater in communities that provide the support of families, friends and social networks.¹¹ The use of specific and enhanced programming and treatment by probation and parole agencies is paid for through reasonable offender fees.

- Built institutional capacity to manage change over the long haul.

LB 46 transformed the working group into a permanent Community Corrections Council within state government to oversee and ensure the development of sentencing guidelines and a continuum of community corrections. The Council is an independent body made up of key political leaders and criminal justice stakeholders. It's charged by statute with the collection and analysis of data on crimes and offenders to identify appropriate policy recommendations. This task is underwritten by modest court fees.



¹¹ Ibid.

The Results

“Beginning with its first meeting in December 2001, the Working Group recognized ... the need for a swift, effective strategy for both curbing the number of offenders in prison and strengthening alternatives to incarceration”

—Former Speaker Brashear¹²

While Nebraska’s efforts are still a work in progress, changes in the state’s sentencing and corrections policies already have yielded positive results.

As part of the effort to divert appropriate low-level offenders from prison to the community, a new Specialized Substance Abuse Supervision (SSAS) drug treatment program has been developed and is being piloted in seven cities across the state. SSAS seeks to break the relationship between drug abuse and crime through treatment, life skills training and intensive monitoring by specially trained probation officers. “One-stop” reporting centers for offenders also have been established in those seven cities. Along with drug testing and drug and alcohol treatment, these centers provide offenders with classes in job skills, conflict resolution and relapse prevention.¹³

Sentencing guidelines for felony drug offenders have been developed by the Council and passed on to the State Supreme Court for adoption by court rule. The guidelines seek to help the courts effectively distinguish between serious and low-level felony drug offenders, and divert the low-level offenders from prison to a variety of community-based punishments. Training programs for these guidelines are in development and implementation is expected in 2007.

The Community Corrections Council enjoys support from policy leaders and other key state figures. The chair of the Council is former Speaker of the Legislature Kermit Brashear, whose tenure in elected office concluded in early 2007 because of term limits. The Council’s membership includes leaders from the legislature and judiciary along with directors of important agencies such as corrections, probation and those from law enforcement. Nebraska has the only nonpartisan, unicameral legislature in the United States, and this unique approach to policy making has translated to a highly collaborative and efficient process within the Council.

Officials anticipate that their strategies will save the state money and produce better outcomes for offenders and communities. Analysis of court sentencing data, for example, shows that if sentencing guidelines had been used in every drug case in 2003, only 32—rather than 437—of the 913 sentenced offenders would have been sent to prison (a decrease of 93 percent).¹⁴ While there are up-front costs associated with developing stronger community supervision and programming, some of those costs are partially offset by modest offender fees and, more important, a substantial change in prison

¹² Nebraska Community Corrections Working Group Final Report, December 2002. Last accessed January 2, 2007, at: <http://www.ncc.state.ne.us/pdf/others/Community%20Correction%20Working%20Group%202002.pdf>

¹³ Costs for the SSAS program and reporting centers are relatively modest at approximately \$2.2 million (\$1 million for treatment costs and \$1.2 million in start-up costs for the reporting centers). Officials predict the program will result in a 60-percent reduction of felony re-arrests during the first two years following offenders’ successful completion of the program.

¹⁴ Overton, M. (2006). Comparison of 2003 Sentenced Population to Sentences by Application of the Proposed Sentencing Guidelines. Presentation to the Nebraska Community Corrections Council, March 24, 2006.

admissions will likely have a positive impact on overall state corrections spending. Prison costs approximately \$23,000 per offender per year compared to probation costs of approximately \$360 to \$1,500 per offender per year.

The Next Steps

“Nebraska’s prison population is projected to grow in the coming years, and the concept we’ve embraced through community corrections is that there are better solutions to this challenge than to simply build another maximum-security prison.”

—Governor Dave Heineman¹⁵

Nebraska has made meaningful strides in revising its sentencing and corrections practices over the past several years. These reforms have been based on evidence and research findings, with a focus on public safety and cost savings. But Nebraska’s prisons remain above capacity, and state leaders say there is still much work to be done. Among the priorities they have identified:

- Sentencing guidelines for drug offenders have been developed and are pending adoption by the State Supreme Court. Subsequent sentencing guidelines for other offenses await development.
- State criminal justice data systems must be refined and unified. Better sharing of data will provide courts, corrections and law enforcement agencies with the information they need to make better decisions about individual offenders and the capacity to track outcomes. Information gleaned from improved data systems also will be used to inform future policy changes.
- Community corrections programs, currently piloted in select areas, should be implemented throughout the state to ensure that needed services are universally available and that public safety is uniformly guaranteed. And community options must be expanded so that additional low-risk, carefully identified offenders, especially the mentally ill, can be held accountable and monitored safely and effectively outside prison walls.
- Finally, partnerships with researchers at the Vera Institute of Justice and the University of Nebraska at Omaha will ensure that evaluations of sentencing policies, corrections practices and community corrections programming will be completed and results put into practice to guarantee efficiency and improve outcomes.

With the reforms already in place and strong momentum behind additional progress, Nebraska is on course to make smart and lasting changes that protect public safety, hold offenders accountable and control corrections costs.

¹⁵ Associated Press, February 12, 2007

PUBLIC SAFETY PERFORMANCE PROJECT

An operating project of The Pew Charitable Trusts, the Public Safety Performance Project seeks to help states advance fiscally sound, data-driven policies and practices in sentencing and corrections that protect public safety, hold offenders accountable and control corrections costs.

The project helps states diagnose the factors driving prison growth and provides policy audits to identify options for reform, drawing on solid research, promising approaches and best practices in other states. The initiative also helps state officials, practitioners and others share state-of-the-art knowledge and ideas through policy forums, public opinion surveys, multi-state meetings, national, regional and state-level convenings, and online information about what works.

The project works with the Pew Center on the States and a number of highly respected external partners, including the Council of State Governments and the Vera Institute of Justice, to provide expert, nonpartisan information and assistance to states.

NEBRASKA PARTNERS

The Public Safety Performance Project currently is working in Nebraska with the Vera Institute of Justice, one of the nation's most venerable organizations specializing in criminal justice. The Vera Institute is a private, nonprofit organization dedicated to advancing safety and justice, promoting fair and efficient policy and practice, and working with leaders of government and civil society to improve the systems people rely upon for safety, security, and justice.

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